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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU : CRIMINAL TERM PART 36

-----X
THE PEOPLE OF THE STATE OF NEW YORK : Indictment
: No. 70208-20
-against- :
: JUNIOR MALDONADO, :
: Defendant. : Hearing
-----X

November 28, 2023
262 Old Country Road
Mineola, New York

B E F O R E:

HONORABLE HELENE GUGERTY,
Acting Supreme Court Justice

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

HON. ANNE T. DONNELLY
Nassau County District Attorney
BY: VERONICA GUARIGLIA, ESQ.
- and -
DANIEL BRESNAHAN, ESQ.
Assistant District Attorneys
For the People

GAITMAN & RUSSO
1103 Stewart Avenue
Garden City, New York
BY: JASON RUSSO, ESQ.
For the Defendant

* * *

CHRISTINE FREYEISEN
Senior Court Reporter

1 (Whereupon, People's Exhibit 1 was received
2 in evidence.)

3 (Whereupon, Defendant's Exhibit A was
4 received in evidence.)

5 THE CLERK: For the record, Indictment
6 70208-20, the People v. Junior Maldonado.

7 Appearances for the record, please.

8 MS. GUARIGLIA: Veronica Guariglia,
9 G-U-A-R-I-G-L-I-A.

10 Good morning.

11 MS. BRESNAHAN: Daniel Bresnahan, for the
12 People. B-R-E-S-N-A-H-A-N.

13 Good morning, your Honor.

14 MR. RUSSO: Good morning, your Honor, good
15 morning, People, Jason Russo, Gaitman & Russo, 1103
16 Stewart Avenue, Garden City, for Mr. Maldonado, who is
17 seated to my left.

18 THE CLERK: You are Junior Maldonado?

19 THE DEFENDANT: Yes.

20 THE CLERK: This matter is scheduled for a
21 hearing.

22 Are the People ready?

23 MS. GUARIGLIA: Yes, your Honor, the People
24 are ready. As the Court is aware, it is the
25 defendant's hearing, it is his burden.

1 THE CLERK: Defense ready?

2 MR. RUSSO: Yes.

3 THE COURT: This is a hearing to set aside
4 the verdict pursuant to CPL 330.30.

5 Mr. Russo, you filed a motion, it's your
6 burden to prove by a preponderance of the evidence.

7 Would you like to put anything on the record
8 before we begin in terms of premarking exhibits or
9 anything else?

10 MR. RUSSO: Judge, yes.

11 The People and I both had documents that we
12 intended on using, they were already part of the --
13 well, my set of documents was already part of my
14 motion that I filed. They included the E-mails back
15 and forth between Mr. Sendlein, who was the prosecutor
16 on the case, along with the Court and some of your
17 staff, which prompted the filing of this motion.

18 And the People asked to have marked into
19 evidence -- both of these are marked into evidence on
20 consent -- a message that I sent to Mr. Sendlein
21 disclosing a conversation that my investigator had
22 with Jerry Navarette, one of the witnesses in the
23 case, which sparked this hearing.

24 So upon consent between the People and I,
25 we've marked both of these documents into evidence.

1 One is People's 1 and mine is Defendant's A.

2 THE COURT: Ms. Guariglia, would you like to
3 put anything on the record?

4 MS. GUARIGLIA: Yes, your Honor.

5 The Defendant's A is, in fact, one of the
6 exhibits in his 330 motion.

7 You will notice in the 330 motion it's only
8 a total of three pages one-sided. What has been
9 marked into evidence is the same thing -- just
10 repeating a little bit -- both sides about six pages
11 but it's essentially the same E-mail exchange that you
12 have in the defense's motion.

13 Additionally, just for the record, ADA
14 Sendlein, who does have the underlying matter, he
15 since around September of this year and every month
16 has been asking defense counsel, knowing that the
17 hearing was coming up, for any discovery that he may
18 have in preparation for the hearing or any sort of
19 Rosario type material.

20 To date, the only thing we received was what
21 has been marked into evidence on consent as
22 People's 1, which is a synopsis of Mr. Febo, the
23 investigator for defense's conversation with Jerry
24 Navarette.

25 There was some mention early on about an

1 audio recording of that conversation between Mr. Febo
2 and Jerry Navarette but I believe in chambers earlier
3 this morning Mr. Russo clarified that there is no
4 audio recording. That the investigator thought he had
5 recorded but it malfunctioned. There was no audio
6 recording.

7 Is that correct, Mr. Russo?

8 MR. RUSSO: That is correct, there is no
9 audio recording.

10 The investigator informed me the device was
11 not working. What I did turn over to the People is
12 the entirety of anything that would have been
13 discoverable, although I'm not calling Mr. Febo to
14 testify or Mr. Navarette, I did turn over the notes
15 verbatim that I received from Investigator Febo to the
16 People. I turned that over to Mr. Sendlein in a text.
17 I believe they printed it out and that they've marked
18 as their exhibit, which I have no objection to.

19 THE COURT: All of that is noted for the
20 record.

21 You may call your first witness.

22 MR. RUSSO: At this time I call Prosecutor
23 Kirk Sendlein.

24 (Whereupon, the witness entered the
25 courtroom.)

1 K I R K S E N D L E I N, a witness called on behalf of
2 the People, after having first been duly sworn by the Clerk
3 of the Court, took the witness stand and testified as
4 follows:

5
6 THE CLERK: State your name for the record,
7 spelling your first and last name.

8 THE WITNESS: Kirk Sendlein. K-I-R-K. Last
9 name S-E-N-D-L-E-I-N.

10 THE COURT: Good morning, Mr. Sendlein. If
11 you could speak into the microphone in a loud, clear
12 voice so we can all hear you.

13 THE WITNESS: Yes, Judge.

14 THE COURT: You may inquire.

15 DIRECT EXAMINATION BY

16 MR. RUSSO:

17 Q. Good morning, Mr. Sendlein.

18 A. Good morning.

19 Q. Mr. Sendlein, by whom are you employed?

20 A. Nassau County District Attorney's office.

21 Q. What's the nature of your employment with the
22 Nassau County District Attorney's office?

23 A. I'm an Assistant District Attorney assigned to
24 the Homicide Bureau.

25 Q. For how long have you been an Assistant District

1 Attorney employed by Nassau County?

2 A. I believe it was March 26th of 2021 was my start
3 date. It was a Monday. The last Monday in March.

4 Q. When you were hired and began your work on
5 March 26th, 2021 --

6 A. I'm sorry -- yeah, 2021.

7 Q. When you began in 2021, what bureau were you
8 assigned to?

9 A. The same bureau, Homicide Bureau. Also Major
10 Offense Bureau. Goes by two names.

11 Q. So you've been in this Bureau since you began
12 your work with the Nassau County District Attorney's
13 office?

14 A. That's right.

15 Q. Prior to working at the Nassau County District
16 Attorney's office, did you work with any other
17 prosecutorial agencies?

18 A. Yes, the Queens District Attorney's office.

19 Q. What -- when did you begin your work at the
20 Queens District Attorney's office?

21 A. September 2nd I believe, it was right after Labor
22 Day, 2008.

23 Q. The date 2008 you said?

24 A. 2008, yes.

25 Q. Your work at the Queens County -- did you have

1 any other employment as an attorney prior to working for
2 the Queens County District Attorney's office?

3 A. I did not.

4 Q. Fair to say your first job out of law school was
5 working for the Queens County District Attorney's office?

6 A. That's correct.

7 Q. What bureaus did you work in in the Queens County
8 District Attorney's office?

9 A. Criminal court in intake. They split it in
10 Queens, so I was in criminal court intake for about
11 two-and-a-half years.

12 I was then assigned to be a rider, it's like a
13 person assigned a beeper responding to scenes, did that for
14 about six months.

15 I was in a felony trial bureau known as KG 1 for
16 a few years.

17 And then I was in the Gangs and Hate Crime Bureau
18 and then the Homicide Bureau.

19 Q. How long did you spend in the Homicide Bureau in
20 the Queens County District Attorney's office?

21 A. About three years.

22 Q. In your work as a prosecutor for the last 15
23 years or so, are you familiar with a case of Brady v.
24 Maryland?

25 A. Yes.

1 Q. What is your understanding of that case?

2 A. That if there is material exculpatory evidence,
3 that has to be turned over to the defense.

4 Q. Did there come a point in time that you were
5 assigned to handle the prosecution of Junior Maldonado?

6 A. Yes.

7 Q. When was that?

8 A. Sometime shortly after I came to be employed by
9 the Nassau County District Attorney's office. So I would
10 say sometime in the spring of '21. I don't know the exact
11 date.

12 Q. So you were not the initial prosecutor on the
13 case against Junior Maldonado; is that correct?

14 A. That's correct.

15 Q. When you were assigned the case in the spring
16 of 2021, did you take the opportunity to reach out to any
17 of your potential witnesses?

18 A. No, not at that time.

19 Q. When did you begin reaching out to witnesses in
20 the case?

21 A. Maybe a month or a few weeks prior to the case
22 being set for trial.

23 Q. The trial was in the spring of this year, 2023,
24 correct, in March?

25 A. I believe it was in March of 2023, yes.

1 Q. So you're saying about a month prior to that --

2 A. I'm sorry, I want to make sure I get my dates
3 right. It was in March of 2023. So I apologize, I was
4 hired in 2020. I've been in the office for a little under
5 a year, it was about a year anniversary when this case was
6 tried. This was my first year. Earlier when I said 2021,
7 I had my dates wrong.

8 Q. 2022?

9 A. 2022 was when I started in the office because I
10 had been in the office just short of a year by the time
11 this case was tried, so when I said 2021 earlier, that was
12 an error. It's 2022.

13 Q. So about a month before the trial, is that when
14 you first reached out to your witnesses?

15 A. Yes.

16 Q. Had you reviewed the entire case file before
17 reaching out to the witnesses?

18 A. I reviewed the majority of it. I don't know if I
19 had reviewed in detail the entirety of it but I was
20 reviewing it. I don't know if it was the entirety by the
21 time that I made those initial phone calls to witnesses. I
22 was doing the review of the materials and reaching out to
23 the witnesses basically simultaneously. As I was going
24 through the materials, I was making phone calls.

25 So I had reviewed a majority of the information

1 by the time I made those phone calls but I don't think I
2 would have reviewed everything by that time.

3 Q. In the months leading up to the trial, did you
4 meet with or confer with the detectives who had been
5 working on the case?

6 A. Detective Brzeski was the case detective and he
7 was out sick. I had been working with Detective Malone on
8 a trial of a case the People v. Pechnona (sic), which you,
9 Counsel, was the defense counsel.

10 Malone -- Detective Malone, also had worked this
11 case with Detective Brzeski.

12 Q. Did you prepare with him?

13 A. So if I had spoken to anyone regarding the case
14 around that time period it would have been Detective Malone
15 being as I was trying that other case with you, Jason, and
16 also knowing that this case was going to be tried shortly
17 after that case was over. Which it was.

18 Q. Did there come a point in time that you spoke to
19 a witness by the name of Jerry Navarette?

20 A. Yes.

21 Q. When was the first time you spoke to Jerry
22 Navarette?

23 A. It was over the telephone in the weeks leading up
24 to the trial. I would say sometime in early February would
25 be my best guess.

1 Q. What was the purpose in calling Jerry Navarette?

2 A. The purpose was to see if he was around because I
3 was going to need him to testify, so I made a list of my
4 potential witnesses and I made an initial contact to make
5 sure they were around. If they don't call me back then I'm
6 going to need some assistance in locating the witnesses.

7 So my initial phone call to Mr. Navarette was to
8 make contact, introduce myself and let him know that the
9 trial was forthcoming if there was no plea and that I would
10 need him to testify.

11 Q. Do you recall that conversation that you had with
12 him?

13 A. I recall having the conversation, yes.

14 Q. Do you recall anything that he said to you after
15 you introduced yourself to him about testifying?

16 A. I don't.

17 Well, it was favorable, that initial contact. I
18 kept it short and that I would be contacting him shortly
19 thereafter. I don't want to overwhelm a witness with too
20 much information on that first call because it's a lot for
21 these witnesses to come in and testify, especially on these
22 cases. So when I make that initial contact it's basically
23 an introduction and I'll be calling you in a few days or in
24 a week or so and that's how I left it off with him.

25 Q. In that initial contact, did Mr. Navarette share

1 anything about his family?

2 A. Not that initial contact, no. There was a
3 subsequent contact in which he did.

4 Q. When was that subsequent contact?

5 A. It would have been a few days later after the
6 initial contact. I left it off with him I'd be calling him
7 back to try to schedule a time for us to meet.

8 Perhaps on that initial contact he indicated that
9 his wife had just had a baby. He might have indicated that
10 in the first conversation.

11 Q. Let me ask you this --

12 A. It's very possible that he did.

13 Q. At any point in time, did you seek to memorialize
14 that conversation that you had with Mr. Navarette?

15 A. Yes, I memorialized the second conversation I had
16 with Mr. Navarette. The conversation we're talking about
17 right now was not memorialized.

18 Then there was a subsequent conversation which I
19 memorialized on March 17th, 2023, the day after the
20 verdict. And I think that's what's in front of you now.

21 Q. And --

22 THE COURT: One second, I'm a little
23 confused.

24 Did you say you memorialized the second
25 contact or just the one after the trial?

1 THE WITNESS: There was this initial
2 conversation with Mr. Navarette, in which I introduced
3 myself and told him I would be contacting him.

4 Then I called him a few days later and that
5 is when he expressed -- he asked if he was eligible
6 for a CrimeStoppers reward. I think that's where
7 you're getting to.

8 So there was an initial conversation that
9 was about scheduling and letting him know the case was
10 going to trial.

11 He did not say anything whatsoever regarding
12 a \$5,000 reward during that conversation.

13 THE COURT: Was the second conversation
14 memorialized?

15 THE WITNESS: The second conversation was
16 memorialized. I did not memorialize it until
17 March 17th, the day after the trial, because at the
18 time I did not find it to be of any significance.

19 Given the events of the 16th I then used my
20 memory to the best of my ability to memorialize the
21 contact that I had with him the second time when he
22 first mentioned the \$5,000 reward.

23 Q. In your March 17th E-mail to myself and the
24 Court, you indicate a conversation that you have with
25 Mr. Navarette, is that correct?

1 A. Yes.

2 Q. And the conversation that you detailed in this
3 March 17th E-mail, is that the second conversation where
4 you discussed his family and the CrimeStoppers reward?

5 A. That's exactly right.

6 Q. How -- did you bring up the CrimeStoppers reward
7 to Mr. Navarette or did Mr. Navarette bring it up to you?

8 A. He brought it up to me.

9 Q. At what point in the conversation did he bring up
10 a -- withdrawn.

11 Did he give you a dollar amount?

12 A. He did. He didn't say the word CrimeStoppers.
13 What he said was he had spoken to his wife since our
14 initial conversation and he indicated that his wife just
15 gave birth. I don't know if he told me that the first
16 phone call but he definitely in the second.

17 He indicated that he spoke to his wife and they
18 just had a baby girl and he remembered that there was a
19 \$5,000 reward earlier on in the case and he wanted to know
20 if he was eligible for that, given that he had spoken to
21 the police in the infancy of the case. That he spoken
22 about the case right away. Infancy obviously is my word.

23 Q. Did he want to know if he was entitled to the
24 reward money?

25 A. Yes, if he was eligible or entitled to \$5,000

1 reward. If he was eligible or entitled to.

2 THE COURT: What date was this conversation?

3 THE WITNESS: This was in early February of
4 this year, about three weeks to a month prior to the
5 trial.

6 Q. Prior to the trial is the conversation?

7 A. Correct.

8 Q. Did you know at that time when he raised this
9 issue of the \$5,000 reward, questioning whether he's
10 entitled, were you aware that there was, in fact, a
11 CrimeStoppers reward of up to \$5,000 available?

12 A. I was not when he made that inquiry, I wasn't
13 sure.

14 Q. When he made that inquiry to you, did you contact
15 defense counsel, myself --

16 A. I did not.

17 Q. Let me finish the question.

18 And inform me of that conversation?

19 A. I did not.

20 Q. Did you call anybody after having that
21 conversation about the \$5,000 reward?

22 A. Yes.

23 Q. Who did you call?

24 A. I called Detective Malone.

25 Q. What was the sum and substance of your

1 conversation with Detective Malone?

2 A. I asked him -- I told him basically what
3 Mr. Navarette had said to me and asked how those things are
4 handled. I did not know how they were handled, so.

5 Q. Did you ask him if, in fact, there was a reward?

6 A. Yes. Yes and he said that there was.

7 Q. So Detective --

8 A. Yes, but I called him to ask if there was a
9 reward and he informed me that yes, there was a reward and
10 it was \$5,000.

11 Q. Which is the exact amount that Mr. Navarette had
12 asked if he would be entitled to?

13 A. Correct.

14 Q. After conferring with Detective Malone and
15 confirming there was, in fact, a \$5,000 reward, did you
16 convey that to my office?

17 A. I did not.

18 Q. Did you contact Mr. Navarette after speaking to
19 Detective Malone?

20 A. Yes.

21 Q. What did you tell Mr. Navarette regarding
22 the \$5,000 reward that he was questioning?

23 A. Told him that it's handled by the police
24 department and that these things are handled after trial.
25 That there's no -- I don't know what will happen basically

1 and that these things are determined by the police
2 department. I don't know if he'll get it or not get it but
3 these things are handled by the police department is the
4 gist of what I conveyed.

5 Q. Did you tell him that these things are handled
6 after the case is closed?

7 A. Yes.

8 Q. Did there come a point in time after the verdict
9 in the trial of Junior Maldonado that you contacted Jerry
10 Navarette?

11 A. Yes.

12 Q. What was the purpose of contacting Jerry
13 Navarette?

14 A. To tell him the good news, that the defendant had
15 been found guilty of murdering his friend Alex.

16 Q. Did he ask you for anything?

17 A. Yeah, I mean, we had -- he said that's great, he
18 was very happy for the family and then he said what about
19 the sneakers. The sneakers were taken into evidence
20 because they had blood on them.

21 I said, well, the case is over so we'll start
22 filling out the paperwork and get that done for you and he
23 said, What about the \$5,000?

24 Q. What was your reaction when he first said, What
25 about the \$5,000?

1 A. At first I didn't know what he was talking about.
2 I laughed and then he said, No. He said, What about the
3 \$5,000?

4 Q. So when he asked for \$5,000 you laughed at that
5 comment?

6 A. I did. Because I never thought that he was under
7 the impression that he was getting money to testify. I
8 never thought that he was under the impression that
9 anything was guaranteed to him. I thought he was under the
10 impression, okay, I helped the police early on, am I
11 eligible, I just had a kid, \$5,000 would be nice. So I
12 thought he was under the impression maybe it happens, maybe
13 it doesn't.

14 When he asked what about the \$5,000 I still
15 hadn't given it any real mind. So that is why I laughed
16 and he said no. And that's when I realized maybe there's a
17 question as to what his mindset was and that's when I
18 contacted everyone.

19 Q. Did you realize at that point or come to believe
20 maybe that Mr. Navarette believed he was entitled to \$5,000
21 for his testimony?

22 A. I came to the point that there could be a
23 question as to what his mindset was and I wanted that
24 question answered by you and the Court.

25 Q. What was the question that you thought?

1 A. What his belief was. If he thought he was
2 promised something. If anything ever happened to make him
3 think that he was promised any money and that's why I --
4 because I was not under that impression.

5 So that is why after that I made sure everyone
6 knew as quickly as I could tell everyone so an inquiry
7 could be made.

8 Q. Well, about three weeks before the trial when you
9 had a conversation with Mr. Navarette, he brought up to you
10 a \$5,000 reward, right?

11 A. Yes, he asked if he was entitled or eligible.
12 Can he get it. He didn't use the word entitled or
13 eligible, it was basically -- do I qualify because I helped
14 the police early on.

15 Q. So he was aware there was a \$5,000 reward?

16 A. That's right.

17 Q. You then had a conversation with Detective
18 Malone; is that right?

19 A. Yes.

20 Q. And he confirmed that there was, in fact, a
21 \$5,000 reward, correct?

22 A. That's right.

23 Q. And you called back Mr. Navarette and sum and
24 substance you said I don't know anything about this, it
25 will be dealt with at the end of the case?

1 A. Not in sum and substance because you're leaving
2 something out.

3 Q. I'm leaving out what?

4 A. That it's the Police Department's decision. I
5 don't remember verbatim.

6 Q. Would it help refresh your recollection if I
7 showed you your E-mail saying back in March of 2023 of what
8 you told the Court and counsel what that conversation was?

9 A. You can show it to me. I'll look at it, sure.

10 MR. RUSSO: Judge, I show the witness what's
11 been marked into evidence as Defendant's Exhibit A.

12 THE COURT: Yes.

13 (Whereupon, the exhibit was handed to the
14 witness.)

15 Q. Mr. Sendlein, I ask you to take a look at that
16 and just review your opening paragraph, it's in evidence,
17 you can read it out loud.

18 MS. GUARIGLIA: Judge, may the witness read
19 it out loud? It's in evidence.

20 THE COURT: Sure.

21 A. I called Detective James Malone who informed me
22 that a reward had been posted and that these things are
23 handled after the case is over.

24 I called Jerry Navarette back and informed him in
25 sum and substance that these things are handled by the

1 police department after the case is closed. I never made
2 any promise of reward money. I did not take his question
3 to merit any significance at the time.

4 So in answer to your question, it's also that I
5 never made any promise of reward money. That's what I was
6 driving at.

7 I left that conversation under the impression
8 that he was under the impression that there was never any
9 guarantee that he was getting any money, that this is
10 handled by another agency and that these things --
11 according to that other agency, that these things are
12 handled after the trial is over.

13 Q. Could he have believed after that conversation
14 that he may be entitled to a \$5,000 reward when the case is
15 over?

16 A. I don't know what he could have believed,
17 however, given the conversation that I had with him about
18 an hour after the verdict in which he asked about the
19 \$5,000, I wanted an inquiry to be made into what his belief
20 was and at this point it seems he was under the impression
21 there was no promise given what he told your investigator
22 and what he told me.

23 Q. After getting that request from him in the first
24 conversation and when you told him there was a verdict, did
25 you then think that maybe he could have believed that he

1 was getting \$5,000 and that's why he's bringing it up
2 immediately after you tell him there's a verdict and you
3 told him it would be dealt with after the case?

4 A. I can't get into his mind.

5 What I realized, what could be a question as to
6 that and he would be the best one to answer where his mind
7 was, so I gave you the information, you had your
8 investigator and when your investigator spoke to him he
9 said he wasn't promised anything.

10 Q. You sent an E-mail out to the Court the next day,
11 correct?

12 A. Correct.

13 Q. And your opening line in the E-mail was, In the
14 abundance of caution?

15 A. That's right.

16 Q. What did you mean by that?

17 A. I meant in an abundance of caution here is the
18 information.

19 I wanted everyone to have this information in
20 case it leads to something. I obviously thought that it
21 would lead to an inquiry. That was my hope, that it would
22 lead to an inquiry.

23 I did not contact Mr. Navarette after that
24 conversation. I stayed back and I wanted you and your
25 investigator to conduct your investigation, which you did,

1 and then he called me -- he texted me and then I called him
2 back with another member of my office, Deputy Bureau Chief
3 Daryl Levy, in the office. I did not let Jerry Navarette
4 know anyone was there it was so he could be a witness to
5 the conversation so if you ever wanted to question whether
6 any shenanigans were going on there was a witness there.

7 I removed myself from the situation and you could
8 question as to where his mind was so if you had any
9 question in your mind you could have it answered. And now
10 we're eight months later.

11 Q. Mr. Sendlein, when you called Mr. Navarette to
12 tell him, as you say, the good news --

13 A. Yes.

14 Q. -- that there was a guilty verdict, the first
15 thing he asked you for is his sneakers and whether or not
16 he can get his \$5,000, right?

17 A. It was not the first thing he said but by the
18 point he asked the question, yes. But the first thing he
19 expressed was how happy he was for the family and for Alex.

20 Q. Is it fair to say that Mr. Navarette had a belief
21 that he was going to get \$5,000 after the case?

22 A. I don't think it's fair to say that. That would
23 be speculation, Counsel.

24 I do think it's fair that there would be a
25 question as to that which could be answered by

1 Mr. Navarette.

2 Q. Is it speculation when you laughed at him when he
3 asked for the \$5,000 and he repeats himself a second time
4 and says no, no, Mr. Sendlein, what about the \$5,000?

5 A. It is --

6 Q. He insists don't laugh about this, what about
7 the 5,000? Is it speculation?

8 A. Yes.

9 Q. And that's what's in his mind?

10 A. Yes, it's speculation because I did not know what
11 he was talking about in that moment. I didn't know what he
12 was talking about in that moment because it wasn't
13 forefront on my mind.

14 Q. Didn't he tell you three weeks before that he was
15 interested in getting the \$5,000 reward because he just had
16 a child and he spoke to his wife?

17 A. Counsel, we had just finished a couple week long
18 trial, I had been given over Brady disclosures regarding
19 the cooperator throughout the course of the trial. I did
20 not eat much, I did not sleep much. I had this
21 conversation after a very emotional verdict an hour
22 afterwards and when he's telling me this, my mind is not
23 exactly harkening back to a conversation I had with him
24 after I had a million conversations -- I'm exaggerating, I
25 shouldn't say a million -- after I had dozens of

1 conversations with many witnesses in preparation for this
2 trial and while this trial was going on, so in that split
3 second when he asked about it, I did not realize what he
4 was talking about. Because that's where my mind was.

5 Q. Fair enough.

6 In those very hectic days of preparation and
7 speaking to witnesses and detectives, did you ask Detective
8 Malone, or any other detective who worked on this case,
9 whether or not they had a discussion with Mr. Navarette
10 about \$5,000 being rewarded here?

11 A. No.

12 Q. Did you ever inquire about how Mr. Navarette
13 found out about the \$5,000 reward posted that Malone told
14 you was out there?

15 A. I never asked. I mean, these are made public --
16 these posters are made public for a reason. But I don't
17 want to speculate as to how he knew about it. I do not
18 have that answer.

19 Q. Would you agree that if Mr. Navarette believed he
20 was getting \$5,000 for his testimony that that is
21 information that would be required to be turned over to a
22 defense attorney?

23 THE COURT: I'm sorry, can you repeat that
24 question?

25 MR. RUSSO: Certainly.

1 Q. You would agree, sir, that if Mr. Navarette was
2 promised \$5,000 in reward money for his participation in
3 this case, that's information that would have to be turned
4 over, correct?

5 MS. GUARIGLIA: Objection.

6 THE COURT: Overruled.

7 A. I would turn it over. If there was a promise
8 made to a witness that they were getting \$5,000, I would
9 turn that over.

10 Q. Because you believe, correct me if I'm wrong,
11 that that would be considered Brady material under Brady
12 v. Maryland?

13 A. Or Giglio.

14 Q. Or Giglio?

15 A. I don't know what you want to call it, I would
16 turn it over. I don't know if I would go through the
17 process -- I would say, okay, this needs to be turned over.
18 I don't know if I would need to characterize it as Brady or
19 Giglio. If a promise was made to a witness of \$5,000 that
20 is something that I would turn over. I'll leave the
21 preclusion as to whether that's Brady to someone else,
22 because it also has to be material, so there's a two prong
23 analysis when it comes to Brady.

24 So I would agree that it would be information
25 that could go towards his credibility and for that reason I

1 would turn it over.

2 Q. Do you believe the credibility of Mr. Navarette
3 was material to the prosecution of Junior Maldonado?

4 MS. GUARIGLIA: Objection.

5 THE COURT: Overruled.

6 A. You're confusing -- you're using the word
7 material in a different context in your question.

8 Q. It's a yes or no.

9 MS. GUARIGLIA: Objection.

10 A. It's a legal determination.

11 THE COURT: I'm going to sustain the
12 objection.

13 You can rephrase it.

14 Q. Do you believe that the payment of money to a
15 witness can affect their credibility?

16 A. Yes.

17 Q. Do you believe that would be material in a trial,
18 if an eyewitness was being paid for their testimony?

19 A. I would turn it over.

20 THE COURT: That's not the question.

21 Answer the question.

22 Q. Because it's material to their credibility that
23 they're being paid?

24 A. If you could define material in this context.

25 Q. Mr. Sendlein, you've been a prosecutor for 18

1 years now, do you not know what it means to be material?

2 A. I want to get the question -- I want to properly
3 answer your question.

4 I know that --

5 Q. Do you think that would be important to turn
6 over?

7 A. Yes.

8 Q. And do you think that would be important for a
9 jury to know, to assess one's credibility, that they were
10 being paid?

11 A. Yes. That's why I would turn it over.

12 Q. And here, in this particular case, you made
13 absolutely no efforts to determine whether or not
14 Mr. Navarette was actually promised the \$5,000 he was
15 asking you about prior to the trial?

16 A. To my knowledge the only conversation that he had
17 was with me and I did not promise him anything. So the
18 impression I was under was that there was no promise.

19 Q. That wasn't the question.

20 THE COURT: I just have a question.

21 Is it accurate that a little while ago you
22 testified that you never asked Detective Malone if he
23 had a conversation with Mr. Jerry Navarette?

24 THE WITNESS: That's accurate.

25 THE COURT: You may continue.

1 Q. You never had a conversation with Detective
2 Malone about whether Malone spoke to Navarette about the
3 reward, correct?

4 A. That's right.

5 Q. Did you ever speak to any detective about whether
6 or not Navarette asked about the reward or was told about a
7 reward?

8 A. No.

9 Q. Did you ever ask Mr. Navarette how did you hear
10 about the reward?

11 A. No.

12 Q. When he told you about the reward or when he
13 asked you about his \$5,000 and you confirmed it with
14 Malone, you just put it aside and never addressed anything
15 with it?

16 A. That's right.

17 As far as your definition of did anything with
18 it, did I do anything with it? I did not inform you.
19 That's why my answer is no. No, I didn't do anything with
20 it.

21 Q. Well, not only did you not inform me, you didn't
22 even seek out to determine whether or not Mr. Navarette was
23 promised the \$5,000 he was asking for?

24 A. That's right.

25 Q. You took no steps to investigate that, correct?

1 MS. GUARIGLIA: Objection.

2 At what point in time?

3 Q. Prior to the trial.

4 A. Correct.

5 THE COURT: Rephrase the question, so it's
6 accurate for the record.

7 Q. You took no steps to determine, prior to the
8 trial, whether or not he was actually promised the \$5,000
9 he was asking for?

10 A. I had no reason to think that he had any
11 conversations with anyone and the answer is no, I didn't
12 follow-up, I didn't ask anyone else if they had
13 conversations with Mr. Navarette regarding it.

14 Q. You said you had no reason to believe he had a
15 conversation.

16 You took over this case from another prosecutor,
17 did you not?

18 A. That's right.

19 Q. Who was that?

20 A. I think it went through two predecessors.

21 Q. Who were they?

22 A. Tracey Keeton and Stefanie Palma.

23 Q. Did you speak to Ms. Palma or Ms. Keeton
24 regarding this question that the witness was asking you
25 about \$5,000 prior to the trial? Did you go to them and

1 say did you ever discuss this?

2 A. I don't remember doing that.

3 Q. Did you ask it with any of your bosses, your
4 superiors, that a witness just asked you -- this is prior
5 to the trial -- about getting a \$5,000 reward?

6 A. Yes.

7 Q. Who did you speak to?

8 A. I spoke to Jared Rosenblatt.

9 Q. Did he instruct you to turn this information
10 over --

11 A. No.

12 Q. -- to the defense?

13 A. No.

14 Q. After the verdict and the conversation about the
15 \$5,000 reward, did you reach out to the Nassau County
16 Police Department regarding the \$5,000 reward?

17 A. I'm sorry, can you restate the question?

18 Q. After your conversation with Mr. Navarette on
19 March 16th, this is after the trial, where he's asking you
20 for the \$5,000, do you reach out to the Nassau County
21 Police Department to inquire about his money?

22 A. I believe I placed a phone call to Detective
23 Malone who said that these things are handled by
24 CrimeStoppers and at some point I was given a telephone
25 number for CrimeStoppers but I did not make any phone calls

1 because I wanted you and your team to conduct your
2 investigation without any -- I never wanted you to make it
3 seem as though I was trying to get anyone to say anything.

4 I just stayed back and let everything develop so
5 you could do what you needed to do and I wasn't going to
6 make any calls to CrimeStoppers then to determine anything
7 that was going on with Mr. Navarette. I did not do that.
8 That was so I could sit here and say I haven't done
9 anything to get in the way of your investigation.

10 Q. Did you ensure in that phone call with
11 Mr. Navarette on the 16th after he asked you for
12 the \$5,000, did you assure him that you would reach out to
13 the Nassau County Police Department for him?

14 A. That's how I ended -- towards the end of that
15 conversation I said I would reach out to the Nassau County
16 Police Department. But I did not.

17 Q. But you basically told him that you were going to
18 reach out to the Nassau County Police Department about
19 getting his \$5,000, right?

20 A. I was going to reach out to them to find out what
21 happens.

22 Q. If he could get the \$5,000?

23 A. Yes. If he would get -- he has this question
24 about the \$5,000, is he eligible for it. I said I'll talk
25 to PD and get back to you.

1 Q. He actually asked you if he's getting the \$5,000
2 in that conversation, right?

3 A. I think he said what about the \$5,000.

4 Q. Didn't you memorialize it to the Court and to me
5 by saying that he asked if he would be getting \$5,000?

6 A. Okay. I memorialized what's in front of you, I
7 memorialized the day after --

8 Q. So you would agree --

9 MS. GUARIGLIA: Objection.

10 Let him finish his statement.

11 THE COURT: Let the witness answer.

12 MR. RUSSO: Sorry.

13 A. I would assume that the language is more spot on
14 back then so if my language was, was he getting the \$5,000
15 as opposed to would he be -- was he getting -- sure, I'll
16 go along with the language that's there.

17 The substance of it is all the same and if that's
18 the language I used on the 17th, that's probably a more
19 accurate reflection of the conversation, the exact wording.

20 Q. You memorialized it by saying he then asked if he
21 was getting \$5,000?

22 A. Okay. Yes.

23 Q. Right?

24 A. Yes.

25 Q. And you told him you'd get back to him next week

1 after you talked to the Nassau County Police Department,
2 that's what you told him, right?

3 A. Yes.

4 Q. And what you were referring to when you told him
5 I'll get back to you next week or I'll reach out to the
6 Nassau County Police, was him getting his \$5,000?

7 MS. GUARIGLIA: Objection. Form.

8 THE COURT: Rephrase.

9 Q. When you told him you would reach out to the
10 Nassau County Police Department the following week, you
11 were referring to his inquiry about getting \$5,000?

12 A. Yes, I'd give him an update on where they stood
13 or what the next steps were.

14 MR. RUSSO: Judge, I have nothing further.

15 THE COURT: Cross-examination.

16 CROSS-EXAMINATION BY

17 MS. GUARIGLIA:

18 Q. Good morning, Mr. Sendlein.

19 A. Good morning.

20 Q. Mr. Sendlein, you were asked a lot of questions
21 on direct examination regarding your contact with Mr. Jerry
22 Navarette.

23 Do you recall those questions?

24 A. I do.

25 Q. Who is Jerry Navarette briefly?

1 A. Jerry Navarette was a good friend of Alex. And
2 he was a witness at the trial or Alex's murder. Junior
3 Maldonado was the defendant.

4 Q. When you say good friend, what do you mean by
5 that?

6 A. They played soccer together, I think it was like
7 12 or 14, they stayed in touch, they were good friends.
8 They knew each others families and they were close.
9 Forgive me for not remembering, late 20s, early 30s when
10 this happened. They had been friends for a long time.

11 Q. They had been friends since their childhood,
12 correct?

13 A. Yes.

14 Q. And friends in that they played sports together,
15 hung out together?

16 A. Yeah, they met playing soccer together and after
17 Mr. Navarette moved away from the neighborhood they
18 remained friends throughout all those years and they would
19 socialize together as well as the soccer that originally
20 brought them together.

21 Q. So this was like a 15 year friendship between
22 Mr. Navarette and the deceased that carried over into their
23 grown up years, right?

24 A. Yes.

25 Q. And they, as grownups, maintained their

1 friendship by going to the family's homes?

2 A. Yes.

3 Q. And being part of each others grownup lives?

4 A. That's right.

5 Q. They were actually at the party where the
6 deceased was murdered together, right? Their plans were to
7 be there together? They had mutual friends there?

8 A. Yes, they had spent much of the evening together.

9 Q. Prior to the murder?

10 A. Prior to the murder, yes.

11 Q. So you knew all of this when you first made your
12 contact with Mr. Navarette back in early February of 2023,
13 right?

14 A. I did because I had reviewed the Grand Jury
15 minutes by that point in time and all of that information
16 was contained in the Grand Jury minutes, so before I made
17 that contact I had an understanding regarding their
18 relationship and the information that Mr. Navarette had.

19 Q. Now, of course, Mr. Sendlein, you've been a
20 prosecutor about 15 years?

21 A. That's right.

22 Q. This wasn't your first trial, right?

23 A. No, it was not.

24 Q. Approximately how many trials had you done to
25 that point?

1 A. Somewhere in the 30s.

2 Q. It wasn't your first homicide, right?

3 A. No.

4 Q. And you said you also worked in various units in
5 addition to homicide; some of those being hate crimes, gang
6 unit, units of that nature, right?

7 A. That's right.

8 Q. During your time in the Queens DA's office and
9 also here, the cases you dealt with, do you deal with
10 witnesses that are not cooperative?

11 A. All the time.

12 Q. Do you deal with witnesses where cooperation
13 agreements are had with them that kind of it's a negotiated
14 agreement to obtain their cooperation in a future
15 proceeding?

16 A. Yes, it happens on a good number of cases.

17 Q. Right.

18 Is Jerry Navarette one of those types of
19 witnesses?

20 A. Not at all.

21 Q. What do you mean by that?

22 A. Well, he was always wanting to come in to testify
23 because of his relationship with Alex and knowing that he
24 had information regarding what happened to his good friend
25 and he wanted to make sure that the person who did this was

1 held accountable. He's not picking somebody out of a hat.
2 He wanted to make sure he got this right and he wanted to
3 make sure he was doing justice to Alex.

4 MR. RUSSO: Objection.

5 THE COURT: Sustained.

6 This is beyond the scope of this hearing.

7 Q. So Mr. Navarette cooperated with the police prior
8 to any CrimeStopper tip?

9 A. From my review of the paperwork, they took a
10 statement from him 35 minutes after the shooting. That's
11 saying that after he had hurt his hand while the
12 perpetrator -- while the defendant's friends were fleeing
13 he hurt his hand trying to get one of them out of the car
14 so they could hold someone there --

15 MR. RUSSO: Objection.

16 Not responsive to the question.

17 THE COURT: Sustained.

18 Q. The CrimeStopper reward that's been the subject
19 of this hearing, this up to \$5,000 reward, that was posted
20 on or about August 20th of 2020; is that correct?

21 A. That's right.

22 Q. This murder happened prior to that, correct?

23 A. It did.

24 Q. And Mr. Navarette cooperated with the police
25 immediately, correct?

1 A. Yes, within 35 minutes of this happening they had
2 a signed 32-B statement from him.

3 Q. Without any money, right?

4 A. Correct.

5 Q. And additionally he was then interviewed a couple
6 of days after the murder by another member of the police
7 department, this time a detective, and he also cooperated
8 with them then, right?

9 A. That's correct.

10 Q. Without any money?

11 A. Correct.

12 Q. All before the CrimeStopper reward came out?

13 A. Before it was ever posted.

14 Q. Now CrimeStoppers, is that run by the Nassau
15 County District Attorney's office?

16 A. No, it is not.

17 Q. You have nothing to do with that, right?

18 A. Correct.

19 Q. So you knew all of this information prior to what
20 we just spoke about, about Mr. Navarette's relationship
21 with the deceased, right?

22 A. Yes.

23 Q. About him being cooperative from the get-go with
24 the police in regards to his dear friend being murdered,
25 right?

1 A. That's correct.

2 Q. So when you reached out to him in early February,
3 whether it was the first initial call or the second, a
4 little more detailed phone call with him, in your mind
5 you're dealing with someone who is very cooperative because
6 they were present for a murder and it involves their dear
7 friend?

8 MR. RUSSO: Objection to her testimony.

9 Is there a question?

10 THE COURT: Sustained.

11 Q. By the point in early February 2023 when you're
12 speaking with Mr. Navarette, it's either the initial
13 conversation saying, hey, I'm Mr. Sendlein, I'm doing this
14 trial, I'll call you a few days and then that second
15 conversation in early February 2023, you, in your mind or
16 actually in reality, you're dealing with a witness that is
17 cooperative, correct?

18 A. Yes.

19 Q. Now, when that issue first came up regarding the
20 reward, right, what, based on your direct conversations
21 with Jerry Navarette, did you at any point in time believe
22 that he was promised money for his cooperation or his
23 testimony at trial?

24 A. Absolutely not.

25 Q. Based on your direct conversations with

1 Mr. Navarette?

2 A. That's correct.

3 Q. You prepared for trial, Mr. Navarette testifies
4 at trial, right?

5 A. Yes.

6 Q. In addition to Mr. Navarette, other witnesses
7 testify, right?

8 A. Yes.

9 Q. And the jury returns the verdict, right?

10 A. Yes.

11 Q. That entire period of time, from those early
12 February conversations with Mr. Navarette through the trial
13 to the verdict, were there any additional conversations
14 with Mr. Navarette regarding any CrimeStopper money?

15 A. Yes.

16 Q. During the trial after February?

17 A. Leading up to the trial when he came in one day,
18 it was a Saturday morning, he may have -- I think he asked
19 anything with the CrimeStoppers or the reward and I
20 reiterated to him that this is a PD decision, that the
21 District Attorney has nothing to do with it and I don't
22 know what the result will be.

23 Q. So he's just asking, it's an inquiry?

24 A. Right.

25 Q. Did he ever say to you, yo, man, am I going to

1 get my money because I'm not going to testify if I'm not
2 getting my money?

3 A. No.

4 THE COURT: When was this conversation?

5 THE WITNESS: Prior to trial.

6 THE COURT: You said on a Saturday?

7 THE WITNESS: On a Saturday. On a Saturday,
8 he came in and while we were there we were talking
9 about his baby, I congratulated him and I think he
10 said something about the wife asking about the money
11 and I said but those things are determined -- I
12 reiterated what was placed in the March 17th E-mail,
13 that these things are handled by the police department
14 and that they -- they'll make the decision and there
15 are no promises. I don't know what's going to happen.
16 It's up to CrimeStoppers or the police department.

17 Q. At any point in time did he say well, I need it,
18 I'm not doing this if I'm --

19 A. No. Every time I met with him and spoke to him
20 he talked about his friendship with Alex.

21 MR. RUSSO: Judge, I'm going to object as to
22 relevance.

23 THE COURT: Sustained.

24 Q. The verdict comes down, Mr. Sendlein, and you
25 reached out and is it that same night that the verdict came

1 down that you reached out to Mr. Navarette?

2 A. Yes.

3 Q. Why did you reach out to Mr. Navarette to let him
4 know about the verdict?

5 A. Because he was personally invested in this, this
6 was his friend and I thought he needed to know what the
7 result was.

8 Q. Because it was his friend. That was his
9 investment in this case, correct?

10 MR. RUSSO: Objection. Relevance.

11 THE COURT: Sustained.

12 Q. Did you reach out to Mr. Navarette the second you
13 got the verdict because you knew that it's time to pay
14 him \$5,000?

15 A. Absolutely not.

16 Q. Because he testified at the trial and that was a
17 good friend, correct?

18 A. Yes. So he deserved to know the answer. He
19 deserved to be in the know as to what happened.

20 Q. Subsequent to when you advised Mr. Navarette of
21 the verdict, you testified that he then made two inquiries
22 of you; is that correct?

23 A. Yes.

24 Q. He inquired as to his sneakers?

25 A. Yes.

1 Q. Was any promise made to him, hey, bro, if you
2 don't testify you're not getting your sneakers back?

3 A. Absolutely not. I said it's evidence for now and
4 when the case is over you can get those back.

5 Q. So he just had an interest, an inquiry, as to
6 whether or not he was going to get his sneakers back?

7 A. Right.

8 Q. In the same breath he's talking to you about
9 that, after you discuss the verdict and a few other things,
10 and that's when the reward inquiry comes out, correct?

11 MR. RUSSO: Objection. Argument.

12 THE COURT: I'll allow it.

13 Q. Correct?

14 A. Yes, that's exactly right.

15 Q. Now once again, in regards to the reward inquiry,
16 Mr. Sendlein, at that point in time, does Mr. Navarette
17 say, okay, great, did my job, I testified, now do I get my
18 pay out?

19 A. No.

20 Q. Never said that?

21 A. No, he did not.

22 Q. Now, at that point you stated that it dawned on
23 you that the conversation about the money as opposed to can
24 I get my sneakers back, made you believe, you know what,
25 this may be a question, right, this may be a question out

1 there in the universe, I'm going to make sure that
2 Mr. Russo, the Court and all parties are aware of it,
3 correct?

4 A. That's right. I wanted everyone to -- I wanted
5 an inquiry made into what Jerry Navarette was thinking. If
6 he thought a promise was made.

7 Q. Because you already, you had that in inquiry, you
8 knew no promise was made to him, right?

9 MR. RUSSO: Objection.

10 That's not the testimony.

11 THE COURT: Sustained.

12 Q. Based on your conversations with Mr. Navarette,
13 whether it was in February of 2023, whether it was during
14 the trial in March or whether it was that day when you told
15 him about the verdict, did he ever give you personally the
16 impression that a promise was made to him for money in
17 consideration for his testimony?

18 A. Never.

19 Q. So by question you just wanted to be sure it
20 wasn't just you making sure, that if anybody wanted to be
21 sure, like Mr. Russo or the Court, that could be done?

22 A. Exactly.

23 Q. And you set the events in motion?

24 A. Yes, I was the one who let everyone know so an
25 inquiry of Mr. Navarette could be made to figure out where

1 his head was, if for whatever reason he thought there was
2 money that was promised.

3 Q. You memorialized in your E-mail to the Court and
4 Mr. Russo your conversation with Mr. Navarette on March 22
5 is when you sent an E-mail out which it details your
6 conversation with Mr. Navarette.

7 Do you recall that?

8 A. Yes.

9 Q. In the conversation Mr. Navarette asked you some
10 questions about Mr. Febo. Do you recall that?

11 A. Yes.

12 Q. What was that about?

13 A. I had a got a text message from Mr. Navarette
14 asking me to call him.

15 I then went into my Deputy Bureau Chief's office
16 on speakerphone and called him back. The purpose of going
17 in there on speakerphone with my Deputy Bureau Chief was so
18 no one could ever say I tried to make him say anything. I
19 wanted a fair inquiry to be made into where Mr. Navarette's
20 mind was regarding this issue.

21 So I go into my boss's office, I have it on
22 speakerphone and I call him and he says, listen, I got a
23 message from this investigator to my wife's phone.

24 While we're talking, I had the phone on my boss's
25 desk, a text message comes through and it's the text

1 message that it was Jose Febo, an investigator from the
2 defense, had sent to Mr. Navarette's wife.

3 Basically indicating I'm -- I forget the words he
4 used -- I'm Jose Febo, investigator. I'm a case consultant
5 with the law firm of Gaitman & Russo, I'd like to make some
6 inquiries into your experiences in your recent trial.

7 That might not be verbatim but that was the gist
8 of what the message was.

9 I read the message and I said I would call him
10 back, call Mr. Navarette back.

11 Again, I'm being as cautious as possible to not
12 take a wrong step here so a fair inquiry could be made of
13 Mr. Navarette.

14 So I hung up the phone. I have a brief
15 conversation with Deputy Bureau Chief Levy as to what we
16 should do.

17 I then call him back and I tell him --

18 Q. Him, being Mr. Navarette?

19 A. I call Mr. Navarette back. I tell him that the
20 person sending the message works for the defendant's law
21 firm. That sometimes these inquiries happen. That there's
22 nothing amiss by it, he's free to answer if he wants, not
23 answer if he doesn't want to, it's completely his decision.

24 I then said one of the experiences, given the
25 verbiage in the text message he wants to talk to him about

1 one of his experiences, one of the experiences he might
2 want to discuss with you is the CrimeStoppers reward.

3 As which point in time he cut me off and he says
4 something along the line of, Kirk, there was never any
5 promise made and I was never promised any money and I
6 didn't think I was getting money to testify.

7 That is something I did not throw out there. I
8 did not ask him a question were you promised money, did you
9 think you got money to testify. None of that happened. He
10 says that himself on speakerphone with my boss right there
11 and he has no idea my boss is there.

12 Q. Mr. Navarette is saying --

13 A. Yes, Mr. Navarette is saying. He reiterates that
14 a few times. Listen, there was no promise made, I didn't
15 think I was getting money to testify.

16 Like I said before, you can call back the
17 investigator, make sure you tell the truth. Whatever you
18 do, tell the truth. I hung up the phone. That was the
19 conversation that I had on March 27th.

20 I then reached out to both counsel and the Court
21 to let counsel and the Court know about the conversation I
22 just had. Again, not wanting to make any misstep so an
23 inquiry of Jerry Navarette could be made and that's not an
24 inquiry I wanted to do because I never wanted them to say I
25 was doing something wrong. It's their inquiry to make.

1 That's what happened on the 22nd.

2 Q. March 22nd of 2023 Mr. Navarette on his phone
3 without any prompting again tells you he never thought he
4 was under any sort of agreement or promise of money to
5 testify; is that correct?

6 A. That's exactly right.

7 Q. Of course Mr. Febo, Jose Febo, who had reached
8 out to Mr. Navarette's wife and Mr. Navarette, is a private
9 investigator hired by Mr. Russo?

10 A. That's the information I've been given by
11 Mr. Russo.

12 Q. To your knowledge, did Mr. Russo's investigator,
13 Mr. Febo, reach out to Mr. Navarette and have a
14 conversation with him?

15 A. That's my understanding, yes.

16 Q. What do you mean by your understanding? How do
17 you know this?

18 A. From Jason Russo, the defense attorney.

19 I've requested any notes that Mr. Febo would have
20 taken during those conversations, and audio recordings, if
21 there were any audio recordings. In response, Mr. Russo
22 sent me text messages late last week -- I've been asking
23 for these for months -- late last week he sent me text
24 messages summarizing, I suppose what he claims that these
25 conversations -- the substance of these conversations.

1 Those text messages were sent to me prior to the hearing.

2 I don't know if those are the entirety of the
3 materials from the investigator, but some materials were
4 sent to me. And some of those materials that were sent to
5 me document a conversation that Investigator Febo had with
6 Mr. Navarette and it indicates that conversation happened
7 on March 22nd and it would have been subsequent, given the
8 time given to me, subsequent to the time of the
9 conversation we just talked about where I was on
10 speakerphone with my boss and Mr. Navarette in which I
11 indicated my understanding of who Mr. Febo was and that he
12 could talk to him if he wanted to.

13 Q. Based on the information you received from
14 Mr. Russo, did you -- about his investigator's
15 conversations with Mr. Navarette, did you then print it all
16 out and put it on a one piece document?

17 A. I did.

18 Q. I'm going to show you what is already in evidence
19 on consent as People's 1.

20 (Whereupon, the exhibit was handed to the
21 witness.)

22 Q. Mr. Sendlein, if you could look at what's already
23 in evidence as People's 1.

24 What does that look like or what is it?

25 A. This is -- I copied and pasted the messages --

1 the text messages that were sent to me by defense counsel
2 Russo in which he indicated that -- this content was what
3 his investigator, Mr. Febo, gave him.

4 I don't know if it's the entirety of it but this
5 is what he represented is Mr. Febo's representation of the
6 conversations -- conversation he had with Mr. Navarette
7 after March 17th, 2023 when I alerted the Court and counsel
8 of Mr. Jerry Navarette's inquiry.

9 Q. Specifically, based on the information provided
10 to by Mr. Russo, did the investigator, Jose Febo, make a
11 specific annotation whether or not Mr. Navarette was asked
12 if he was promised anything in exchange for his testimony
13 by either the police, defense attorneys or prosecutors?

14 A. Yes.

15 Q. And that question was asked of Mr. Navarette and
16 did Mr. Febo write down what Mr. Navarette's answers were?

17 A. Yes, he did.

18 Q. What was that answer?

19 A. No reward was promised. That was Jerry
20 Navarette's answer to the defense investigator's question
21 of were you ever promised anything in exchange for your
22 testimony by police, defense attorneys or prosecutors. No
23 reward was promised.

24 MS. GUARIGLIA: One moment.

25 (Whereupon, a pause was had in the record.)

1 Q. In any of your conversations, Mr. Sendlein, with
2 Mr. Navarette, did he ever tell you that any prosecutor
3 made him any promise for a reward or any kind of money in
4 exchange for his cooperation?

5 A. Not at all.

6 To me it seemed like it was --

7 THE COURT: Counselor, you've answered the
8 question.

9 A. Not at all.

10 THE COURT: Next question.

11 Q. Did Mr. Navarette ever indicate to you when the
12 specific date was that he was made aware of any sort of
13 CrimeStoppers reward?

14 A. No, he never did.

15 Q. You had testified already that he made a
16 statement to the police close in time to the murder,
17 correct?

18 A. Yes.

19 Q. That he made a statement --

20 MR. RUSSO: Objection. Relevance.

21 THE COURT: Sustained.

22 Q. You had mentioned a couple of statements that
23 Mr. Navarette made prior to any arrest in this case,
24 correct?

25 A. Yes.

1 Q. You also mentioned that Mr. Navarette testified
2 in the Grand Jury, correct?

3 A. Yes.

4 Q. So Mr. Sendlein, it's possible, since
5 Mr. Navarette never told you the exact date of when he was
6 made aware of this CrimeStoppers reward, that he provided
7 the statements in the Grand Jury, everything he did in this
8 case prior to his knowledge of CrimeStoppers?

9 MR. RUSSO: Objection.

10 THE COURT: Sustained.

11 MS. GUARIGLIA: May we be heard on that,
12 your Honor?

13 THE COURT: Yes.

14 You want to step down.

15 (Whereupon, the witness was excused from the
16 courtroom.)

17 * * * *

18 Whereupon, the following sidebar conference
19 took place outside the hearing of the jury:

20 THE COURT: Can you reread the question.

21 (Whereupon, the requested portion was read.)

22 THE COURT: What is the nature?

23 MR. RUSSO: It's calling for him to
24 speculate. He doesn't know.

25 MS. GUARIGLIA: To speculate --

1 MR. RUSSO: Is it possible this or possible
2 that. He said on direct examination and
3 cross-examination he never asked him if he saw
4 CrimeStoppers. He didn't know where he got it. He
5 never did an inquiry. So he's going to ask is it
6 possible. Anything is possible.

7 MS. BRESNAHAN: Counsel, it's your burden of
8 proof. You're acting on the assumption he knew about
9 this reward at every stage of these proceedings.

10 MR. RUSSO: He asked for \$5,000 in reward
11 money. That was his words.

12 MS. BRESNAHAN: Did he know that going into
13 the Grand Jury about the reward? You're saying this.

14 MR. RUSSO: He knew about the reward before
15 the trial. That's all I needed to show.

16 THE COURT: It's not necessarily a question
17 of his mindset, it's a question of whether there is a
18 breach of duty. That's all.

19 MS. BRESNAHAN: This all goes to the second
20 prong, your Honor, and that is the prejudice.

21 THE COURT: Correct.

22 MS. BRESNAHAN: If he's --

23 THE COURT: I'll allow the question.
24 You can redirect on that.

25 MR. RUSSO: Okay.

1 * * * *

2 Whereupon, the following took place back
3 within the hearing of the jury:

4 (Whereupon, the witness entered the
5 courtroom.)

6 THE COURT: Objection overruled.

7 You may ask the question.

8 MS. GUARIGLIA: Thank you, your Honor.

9 CONTINUED CROSS-EXAMINATION BY

10 MS. GUARIGLIA:

11 Q. Mr. Sendlein, so then it's possible that
12 Mr. Navarette, his statements to the police early on, his
13 Grand Jury testimony, his identification, all the things he
14 did to assist in this case, occurred prior to Mr. Navarette
15 having any knowledge about the CrimeStoppers reward?

16 A. Yes.

17 MS. GUARIGLIA: Thank you.

18 Nothing further.

19 THE COURT: Any redirect?

20 MR. RUSSO: Certainly, Judge.

21 REDIRECT EXAMINATION BY

22 MR. RUSSO:

23 Q. Mr. Sendlein, is it possible someone other than
24 yourself promised Mr. Navarette \$5,000 for his testimony?

25 A. I have no information to make me think that.

1 Q. That's not the question.

2 THE COURT: That's not the question.

3 Is it possible?

4 A. Anything is possible. I have no information to
5 make me think anyone promised him anything.

6 Q. Just like you had no --

7 MS. GUARIGLIA: Objection.

8 Q. When my colleague asked that question she said is
9 it possible he didn't know anything about the reward,
10 anything is possible, right?

11 MS. GUARIGLIA: Objection.

12 A. There's no timeline.

13 THE COURT: Counselor, I have to rule on the
14 objection.

15 THE WITNESS: Yes, your Honor.

16 THE COURT: The objection is overruled.

17 Answer the question yes or no.

18 A. Can you ask it again. I know it's a possible
19 question but I don't remember what the possible question
20 was.

21 THE COURT: I'll ask the reporter to read it
22 back.

23 (Whereupon, the record was read.)

24 A. Yes, anything's possible.

25 Q. So now you told us on cross-examination about

1 another conversation about money that Mr. Navarette asked
2 prior to the trial which took place on a Saturday.

3 Do you recall that?

4 A. Yes.

5 Q. How -- withdrawn.

6 The first conversation about the \$5,000 reward
7 money took place about three weeks before the trial; is
8 that correct?

9 A. Yes.

10 Q. How soon before the trial did this other
11 conversation about money take place?

12 A. Shortly thereafter. I remember it was a Saturday
13 because he was working and trying to take care of the
14 newborn so I said why don't you come in on a Saturday. I
15 don't know which Saturday it was.

16 Q. So you didn't inform the Court or myself about
17 that conversation where he asks about money --

18 A. That was not --

19 Q. -- until here in court?

20 A. That was not in the affirmation but I am pretty
21 sure that he said something because something about the
22 wife and the baby. And I think he said something about the
23 \$5,000 and I said, like I said on the phone, it's a PD
24 decision and I don't know what it's going to be.

25 Q. At the end of the case --

1 A. Basically the same thing I indicated to him over
2 the telephone was indicated then.

3 THE COURT: I think the question was, did
4 you inform the Court and defense counsel of this
5 conversation --

6 THE WITNESS: I did not.

7 THE COURT: -- that occurred on Saturday?

8 THE WITNESS: That was not in the
9 affirmation --

10 THE COURT: Counselor, you're interrupting
11 the Court and counsel.

12 THE WITNESS: I apologize.

13 THE COURT: As you know, the court reporter
14 can only take down what one of us says at a time.

15 So my question is, prior to your testimony
16 today, did you ever inform counsel or the Court as to
17 that conversation you had on that Saturday?

18 THE WITNESS: No, I did not.

19 THE COURT: Thank you.

20 Q. You answered on cross-examination when you were
21 asked did you have any belief that Mr. Navarette was
22 promised money for his assistance in this case, and you
23 said absolutely not.

24 Do you recall giving that answer to that
25 question?

1 A. Say it one more time.

2 Q. You were asked, did you ever have a belief that
3 Mr. Navarette was promised any money for --

4 A. Right.

5 Q. -- his testimony in this case and you said
6 absolutely not. Correct?

7 A. That's correct.

8 Q. Yet you had been, in the two conversations you
9 had with Mr. Navarette leading up to him testifying, in
10 both those conversations he's asking you about reward
11 money --

12 A. And he said --

13 Q. Yes or no?

14 A. He was asking, not saying oh, I'm promised it.
15 He was asking about it and the answer was never in the
16 affirmative that he was getting reward money. It was that
17 these things were handled by another agency after the case
18 is over.

19 There is no indication he was promised. It's
20 exact contrary to what you're saying which is why my answer
21 is absolutely not. He was never promised any money.

22 Q. No, no, no.

23 You were asked did you believe that Mr. Navarette
24 thought he was getting \$5,000? That was the question.

25 A. Right. Absolutely not.

1 THE COURT: Confine your answers to what's
2 being asked.

3 Next question.

4 Q. So notwithstanding that every time you've talked
5 to him leading up to the trial he's asking you
6 about \$5,000, you had no belief whatsoever that this guy
7 might have been promised \$5,000?

8 MS. GUARIGLIA: Objection.

9 A. It wasn't every time I talked to him.

10 THE COURT: Overruled.

11 A. It was not every time I talked to him. I talked
12 to him probably 10 times before he testified so it was not
13 every time. And he was never given an indication that he
14 was promised money.

15 I don't understand what you're driving at.

16 He asked about it and the answer that was given
17 to him was not yes, here's your money, sir, it's going to
18 be here for you. It's that these things are handled by a
19 separate agency and we don't know what they're going to
20 determine.

21 Q. Did you tell him that, sir, you're not getting
22 money to testify?

23 Did you clarify to him, sir, we're not paying you
24 to testify. Did you tell him that?

25 A. I don't know if I told him that. I know that's

1 the impression I was under. Given that he talked about how
2 he had helped the police early on in the case. It was
3 never about testifying.

4 It was referenced in a way that, hey, I spoke to
5 the police early on. The implication being am I eligible
6 for the reward money because I helped early on.

7 So I never -- I don't remember ever saying
8 listen, you know you're not getting it for testifying but
9 the reason why I don't think I ever said that is the
10 conversation that was had prior to the question was about
11 his early cooperation in the case which was all said and
12 done.

13 Q. Sir, the CrimeStoppers was posted on
14 August 20th, 2020, the poster, correct?

15 A. Yes.

16 Q. As you sit here today, you have no idea whether
17 or not Mr. Navarette saw that, correct?

18 A. That's correct.

19 Q. But you do know that six days later on
20 August 26th Mr. Navarette picked Mr. Maldonado out of a
21 lineup, six days after the CrimeStoppers were posted,
22 correct?

23 A. I know it was shortly thereafter. I don't have
24 it in front of me but that sounds right. If it's six days
25 and that's what's in front of you.

1 Q. That's what you told us in your E-mails.

2 A. I don't have it in front of me but if that's what
3 it indicates, yes, that's correct.

4 Q. Now, you told this Court on cross-examination
5 that when you found out or when Mr. Navarette told you
6 about -- withdrawn.

7 You told this Court on cross-examination when
8 Mr. Navarette asked you about his \$5,000 when you called
9 him and at this point you were so concerned that an inquiry
10 be made, at this point, correct?

11 MS. GUARIGLIA: Objection. Form.

12 THE COURT: Sustained as to form.

13 Q. Did you tell this Court that after talking to
14 Mr. Maldonado on March 16th you became so concerned that an
15 inquiry should be made? A fair inquiry, I believe you
16 called it.

17 A. Mr. Navarette, yes.

18 Q. Did you ever think that a fair inquiry should
19 have been made prior to the trial about the \$5,000 he was
20 talking to you about, not once, but twice before the trial?

21 MS. GUARIGLIA: Objection.

22 THE COURT: What's the basis?

23 MS. GUARIGLIA: The basis is several, your
24 Honor; the form, redirect, outside the scope of cross.
25 Many reasons.

1 THE COURT: Overruled.

2 A. One more time.

3 MR. RUSSO: Can I have it read back?

4 THE COURT: Yes.

5 (Whereupon, the record was read.)

6 A. I was not under the impression that he was under
7 the impression that he would be getting that money. That
8 this was something that --

9 THE COURT: Counselor, that's not an answer
10 to the question.

11 A. It's not a very -- can you ask the question one
12 more time?

13 THE WITNESS: I don't know how to answer
14 this specific question, your Honor. I'm not trying to
15 be evasive.

16 Can I hear it one more time?

17 THE COURT: Can you read back the question.

18 (Whereupon, the record was read.)

19 THE WITNESS: I don't know how I can answer
20 that with a yes or no, your Honor.

21 If a fair inquiry could be made? I have to
22 explain on that question.

23 THE COURT: You can answer the question but
24 confine it to what was asked.

25 A. Did I think that a fair inquiry should be made?

1 I thought a fair inquiry -- I suppose if we want to use
2 that verbiage was made given that Mr. Navarette contacted
3 me and asked me and my answer was that the rewards were
4 handled by a separate agency after the case is done. That
5 you had cooperated early on but this is something that the
6 CrimeStoppers will deal with when the case is over and I
7 had no information to believe that anyone had ever made him
8 any other promise.

9 So I thought a fair inquiry was made because
10 there was nothing for me to look into. That maybe somebody
11 else had told him anything else under the sun with these
12 possible questions.

13 I'm really not trying to be evasive but that
14 question --

15 Q. Sir, you testified that you wanted a fair inquiry
16 after the trial to determine if perhaps he was promised
17 \$5,000 --

18 A. A hundred percent.

19 Q. -- because you had a reason --

20 A. Not that he was promised but that was under the
21 impression.

22 Q. Because you had a concern now that he's brought
23 it up to you for the third time, you had a conversation and
24 in the abundance of caution, as you write, you had a real
25 concern that this guy believed he was getting \$5,000,

1 right?

2 A. I thought there was a question that needed to be
3 answered. I don't know if you -- may be a concern.

4 I wanted to make sure that the inquiry was made
5 because --

6 Q. So it took --

7 MS. GUARIGLIA: Objection.

8 A. Yes, I was a little -- I wanted an answer to that
9 question and I didn't think it was proper for me to ask
10 that question because I thought it would be more proper for
11 defense counsel or the Court to ask him that question.

12 Q. How many times did he have to ask you about the
13 money before you believed you should have done an inquiry?

14 MS. GUARIGLIA: Objection.

15 THE COURT: Sustained.

16 Q. You said that Mr. Navarette called you after he
17 received the messages from my investigator, correct?

18 A. Yes.

19 Q. And you had a conversation with him about they
20 probably want to talk to you about your experiences, right?

21 A. Yes. Well, no, I said one of the experiences
22 they're going to want to talk to you about could be, given
23 your investigator said I want to talk to you some of your
24 experiences.

25 Q. And you testified on cross-examination that his

1 response, he cut you off when you raised the issue of
2 CrimeStoppers, he cut you off in this conversation on
3 March 22nd, 2023 and said I didn't think I was getting any
4 money. Right? Isn't that what he said to you?

5 A. He said it was never a promise and he never
6 thought he was getting money for testifying.

7 Q. So on March 22nd, 2023 when you raised this issue
8 of why the investigator is calling, he tells you he never
9 thought he was getting any money.

10 Did you think to question him then why were you
11 asking me for money on the 16th, in February, when I talked
12 to you, twice you asked me about money?

13 A. I wanted you to do that because I did not want to
14 be accused of trying to sway what his memory was. I wanted
15 to remove myself.

16 Q. Isn't it your burden as the prosecutor to uncover
17 what may be exculpatory information?

18 A. And that's what I did. When he said that it made
19 it appear that there was a question as to what his mindset
20 was. So I disclosed that to you so you could make that
21 determination. If you wanted me to do it you could have
22 called me, we could have had the phone call together. I
23 had no problem with getting to the root of this. But I
24 gave you the information hoping that you would do something
25 with it and you did and he said there was no promise made.

1 Q. But you never thought to get to the root of this
2 prior to the trial?

3 A. I didn't think it was an issue prior to the
4 trial.

5 When I realized it was an issue, that's when I
6 let everybody know.

7 Q. Let me understand this.

8 The first time or the second time you ever speak
9 to this witness he asks you about getting \$5,000, is that
10 right?

11 A. That's right.

12 Q. And then he comes in to meet with you in your
13 office prior to the trial and he again asks, he was talking
14 to his wife, how can I get my \$5,000, right?

15 A. It wasn't how can I get it --

16 Q. Am I going to get it?

17 A. Something along those lines, yes.

18 Q. And it doesn't occur to you, a prosecutor for 15
19 years, as a homicide prosecutor, extremely experienced,
20 that this guy may have been promised \$5,000?

21 MS. GUARIGLIA: Objection.

22 THE COURT: Overruled.

23 A. No because he was asking if he was eligible for
24 it or entitled, could he get it and I said I don't know,
25 it's a separate agency and it sounds, from what I'm

1 gathering from them, they figure this out after the case is
2 over.

3 MR. RUSSO: Nothing further, Judge.

4 MS. GUARIGLIA: Nothing, your Honor. Thank
5 you.

6 THE COURT: Thank you.

7 Counselor, you can step down.

8 Counselors, step up please.

9 (Whereupon, a discussion was held off the
10 record.)

11 THE COURT: Back on the record.

12 Mr. Russo, do you have any other witnesses?

13 MR. RUSSO: I do not, Judge.

14 At this time I rest.

15 THE COURT: Prosecution, do you rest?

16 MS. GUARIGLIA: Yes, your Honor.

17 MR. RUSSO: Judge, I have two requests.

18 My first request is, since I am assigned by
19 the Panel, I would ask for the Court to authorize the
20 court reporter to reproduce the minutes and provide
21 them to me so I can prepare, which is my second
22 request, prepare a closing argument and a brief
23 regarding the hearing and I would ask if the parties
24 could be given to January 2nd to submit that brief.

25 THE COURT: Both your applications are

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granted.

You can order the minutes 18-B. The Court also will request of the court reporter for the minutes. I'm assuming the prosecution will make arrangements as well.

Please have your briefs, both of your briefs in by January 2nd.

The Court will issue a written decision and will give further direction in the decision.

Thank you.

* * *

The foregoing is hereby certified to be a true and accurate transcript of the proceedings as transcribed from the stenographic notes.



CHRISTINE FREYEISEN
Senior Court Reporter