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2 Law Offices of Barry O. Bernstein
3 3727 W. Magnolia Street, Suite 767
4 Burbank, California 91510
5 (818) 558-1717 - Facsimile (818) 526-7672

6 Attorney for Defendant, Ludovic Rosenberger

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF LOS ANGELES - TORRANCE

10 PEOPLE OF THE STATE OF
11 CALIFORNIA,

12 Plaintiff,

13 Vs.

14 LUDOVIC ROSENBERGER,

15 Defendant.

Case No.: YA048860

**SUPPLEMENTARY ADDENDUM TO
NOTICE OF MOTION TO DISMISS
FILED JANUARY 24, 2002**

(Pursuant to Penal Code §§995; 1385)

DATE: April 05, 2002

TIME: 0830 am

DEPT.: "G"

16 **TO THE ABOVE-ENTITLED COURT AND TO THE DISTRICT ATTORNEY OF LOS
17 ANGELES COUNTY, STATE OF CALIFORNIA:**

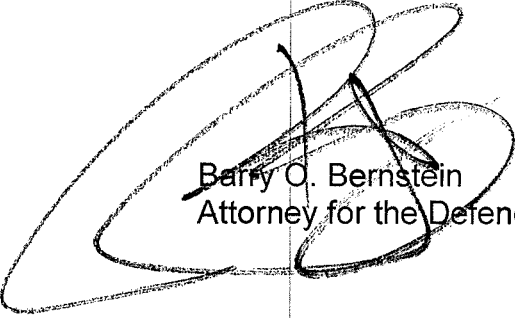
18 **PLEASE TAKE NOTICE** that on January 24, 2002, in Department "G" at 0830 hrs, or
19 defendant filed a Notice of Motion and Motion to Dismiss under Penal Code section
20 995. Based upon newly discovered evidence, defendant incorporates the facts,
21 arguments and Points and Authorities in the previous Motion with those argued in this
22 supplementary motion; and requests that this court accept this motion as an addendum
23 to the January 24, 2001 Motion.

24 Defendant renews the argument that the **statute does not contain language of**
25 **sufficient certainty to provide notice of what is prohibited and what may be done**
26 **without violating its provisions; and therefore violates the state and federal**
27
28

1 **Constitutions.**

2 This motion will be based on the attached memorandum of points and authorities, the
3 preliminary hearing transcript, and on argument at the hearing on this motion.
4

5 Dated: 04/01/02

6 
7 Barry O. Bernstein
8 Attorney for the Defendant
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2 **FACTS/BACKGROUND**

3 Defendant Ludovic Rosenberger, incorporates the facts stated and cited in the
4 previous Motion.

5 In the Summary of Arguments of the previous Motion, under item numbered "7"
6 defendant argued that:

7
8 (7). The Dangerous Weapons Control Laws (Roberti-Roos Assault
9 Weapons Control Act of 1989) – aka Penal Code sections 12275-12290
10 are extremely intricate, convoluted and difficult to understand to defense
11 counsel, that to expect a lay person to understand and follow them is
12 unreasonable and violates the notice requirements of due process.
13

14 Defendant reasserts this argument and supports said argument with the attached
15 newly found evidence which the District Attorney provided to this office in discovery on
16 March 26, 2002 via facsimile.

17
18
19 Defendant submits the following points and authorities in support of the motion
20 to dismiss:

21 **SUMMARY OF ARGUMENTS**

22 1. The Dangerous Weapons Control Laws (Roberti-Roos Assault Weapons Control
23 Act of 1989) – aka Penal Code sections 12275-12290 are extremely intricate,
24 convoluted and difficult to understand to defense counsel, that to expect a
25 layperson to understand and follow them is unreasonable and violates the notice
26 requirements of due process.
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1 **ARGUMENTS**

2

3 **THE STATUTE DOES NOT CONTAIN LANGUAGE OF SUFFICIENT**

4 **CERTAINTY TO PROVIDE NOTICE OF WHAT IS PROHIBITED AND WHAT MAY BE**

5 **DONE WITHOUT VIOLATING ITS PROVISIONS.**

6 Specifically, the Dangerous Weapons Control Laws (Roberti-Roos Assault

7 Weapons Control Act of 1989) – aka Penal Code sections 12275-12290 are extremely

8 intricate, convoluted and difficult to understand, that to expect a layperson to

9 understand and follow them is unreasonable and violates the notice requirements of

10 due process.

11 On March 26, 2002, DDA Steven Belis faxed defense counsel four separate

12 documents:

- 13
- 14
- 15 ▪ County of Los Angeles Sheriff Department Supplementary Report
 - 16 dated November 04, 2001,
 - 17 ▪ Letter dated October 04, 2001 from Sammy Jones, Captain to Lennox
 - 18 Sheriff's Station to the California Department of Justice, Assault
 - 19 Weapons Registration (attn: May Wright),
 - 20 ▪ A terminal printout of the NCIC weapons check,
 - 21 ▪ A facsimile dated December 18, 2001, to Detective Renfrow, Lennox
 - 22 Sheriff Department from May Wright, Supervisor of the Firearms
 - 23 Licensing and Permits Department of the California Department of
 - 24 Justice and attached Certification.

25 The significance of these documents to the defense are as follows.

26 As previously argued, the crux problem with defendant being charged with a

27 felony under the statute lies in the language of the statute itself. The statute is

28 extremely complicated and difficult for the reasonable person to figure out and

understand.

1 The incident occurred in July 2001. Three months later, it appears that Det,
2 Renfrow was still unclear regarding whether Mr. Rosenberger had violated the statute.
3 In the narrative of the Supplementary report dated October 04, 2001 and drafted by the
4 investigating officer (**Attached as an Exhibit is a copy**), Det. Renfrow stated that,
5 "Although satisfied that Rosenberger was in violation of 12280(b) PC [he] decided to
6 obtain added verification..."

7 Pursuant to this uncertainty, the detective contacted a Department of Justice
8 "expert" in assault weapons and who has the title of Criminal identification Specialist.
9 The detective explained that one of the weapons seized was a "copycat" of a Tec-9, but
10 was not listed by brand name under the statute as being the type that needs to be
11 registered. Additionally, the detective stated that it was registered to the defendant in
12 AFS, however, the state computer did not show it as an "assault weapon." The "expert"
13 then checked his records which showed that it was not registered. He further stated
14 that this weapon was required to be registered based upon its "characteristics" pursuant
15 to the statute.

16 To clear up the confusion, the detective then requested confirmation that the
17 weapons were in fact those that would fall under the statute (as cited, "in the event this
18 case goes to trial...").

19 Accordingly, in an opinion letter dated October 4, 2001, the California
20 Department of Justice, Assault Weapons Registration section sent written confirmation
21 that the described weapons by name were not registered as required under the statute.
22 (**Attached as an Exhibit is a copy**).

23 Det. Renfrow declared in the Affiant Statement (**Attached as an Exhibit is a**
24 **copy**) for the initial search warrant, that he,

25 "...is a Peace officer employed for the past 13 years by the Los Angeles
26 County Sheriff Department...attended the Los Angeles Sheriff' Academy for
27 approximately 20 weeks...received in excess of forty hours of training pertaining
28 to assault related crimes, and an additional forty hours involving weapons

1 training...including...types of weaponry, their usage in criminal assaults and
2 homicides, their ammunition capacities and destructive capabilities, and laws
3 regulating possession, sales, transportation, storage, and weapon
4 usage...received specialized training in the field of assault and weapons related
5 crimes from Field Training during six months of Patrol Training, and an additional
6 18 hours of training at Patrol School...in charge of an Infantry Company's Armory
7 and held responsible for numerous automatic and semiautomatic
8 firearms...previous certified as a Range Safety Officer and Range Officer In
9 charge for firearms qualification courses..."

10 There is no question that Det. Renfrow has overwhelming experience in firearm and
11 assault weapons. However, even with all of this experience, the detective still required
12 clarification from the Department of Justice "experts" regarding the classification of the
13 weapons belonging to Mr. Rosenberger in relation to the statute.

14 Mr. Rosenberger having none of this experience, could not therefore reasonably
15 be expected to understand the statute and whether it relates to his particular weapons.

16 The request for clarification for a Department of Justice "expert" reinforces the
17 uncertainty and murkiness of the statute.

18 Finally, the statute has changed so many times and so many advisory opinions
19 and amendments have been published. The dates and retroactivity and "grace periods"
20 complicate the notice element of the statute even more so, that even if a layperson can
21 understand that their weapons qualify, when they need to be registered becomes
22 another unreasonable hurdle.

1 POINTS AND AUTHORITIES

2
3
4 I.

5 **A STATUTE WHOSE LANGUAGE IS NOT SUFFICIENTLY CLEAR TO GIVE**
6 **NOTICE OF WHAT IS FORBIDDEN VIOLATES THE DUE PROCESS GUARANTEES**
7 **OF THE CONSTITUTION**

8 A criminal statute must contain language of sufficient certainty to provide notice of
9 what is prohibited and what may be done without violating its provisions. "[A] statute
10 which either forbids or requires the doing of an act in terms so vague that men of
11 common intelligence must necessarily guess at its meaning and differ as to its
12 application violates the first essential of due process of law." (Connally v General
13 Constr. Co. (1926) 269 US 385, 391, 70 L Ed 322, 46 S Ct 126.)

14 The test to be applied is that:

15
16 "A statute should be sufficiently certain so that a person may know what is
17 prohibited thereby and what may be done without violating its provisions, but it
18 cannot be held void for uncertainty if any reasonable and practical construction can
19 be given to its language.'" (People v Howard (1969) 70 Cal 2d 618, 624, 75 Cal Rptr
20 761, 451 P2d 401.)

21
22
23 Where the requisite certainty is not apparent on the face of the statute the deficiency
24 may be satisfied by " 'common understanding and practices,' " or " 'from any
25 demonstrably established technical or common law meaning of the language in
26 question.' " (People v Barksdale (1972) 8 Cal 3d 320, 327, 105 Cal Rptr 1, 503 P2d
27 257.)
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II.

STRICTER STANDARDS OF VAGUENESS ARE APPLIED TO STATUTES THAT POTENTIALLY INHIBIT THE EXERCISE OF CONSTITUTIONAL RIGHTS

A stricter standard of statutory vagueness must be applied to a statute that potentially may inhibit the exercise of a constitutionally protected right, such as freedom of speech. (Smith v California (1959) 361 US 147, 151, 4 L Ed 2d 205, 80 S Ct 215.)

III.

A COURT LACKS JURISDICTION TO PROCEED TO TRIAL UNDER A FACIALLY UNCONSTITUTIONAL STATUTE

A statute may be challenged as being unconstitutionally vague in the pretrial phase of the prosecution, because "a court lacks jurisdiction to proceed to trial under a facially unconstitutional statute." (Pryor v Municipal Court for Los Angeles Judicial Dist. (1979) 25 Cal 3d 238, 158 Cal Rptr 330, 245, 599 P2d 636.)

IV.

TO ENFORCE THE STATUTE AS IT NOW READS WOULD VIOLATE THE PROHIBITION AGAINST EX POST FACTO LAWS

In California, a statute may not be applied retrospectively to change the legal consequences of past conduct to the detriment of defendants. Article I, §9, of the California Constitution and Article I, §10, of the United States Constitution both prohibit the enactment of ex post facto laws.

A statute violates the ex post facto clause of the federal Constitution if it either: (1) makes criminal an act that was not criminal at the time it was done; (2) increases the penalty for a crime after its commission; or (3) alters the legal rules of evidence in order

1 to convict the offender. (Collins v. Youngblood (1990) 497 US 37, 111 L Ed 2d 30, 110
2 S Ct 2715; Cal. Dept. of Corrections v. Morales (1995) 514 US 499, 115 S. Ct. 1597,
3 1601-1602.)
4

5 The California Supreme Court has stated in defining the ex post facto clause found in
6 both the California and the federal Constitutions:
7

8 "Each prohibits retroactive application to a criminal defendant of a statute or
9 statutory amendment which enlarges the elements of an offense—making criminal
10 conduct that was encompassed within the statutory definition of the offense at the
11 time of the defendant's conduct, lessens the People's burden of proof, or increases
12 the penalty over that in effect at the time of the crime. [Citations omitted.]" (People v.
13 Jennings (1988) 46 Cal 3d 963, 984, 251 Cal Rptr 278, 760 P2d 475.)
14

15 "The purpose of the constitutional provisions prohibiting ex post facto laws is to assure
16 that the Legislature gives fair warning of the effects of the law and permit individuals to
17 rely upon the law until changed." (People v. Carrasco (1988, 2nd Dist) 202 Cal App 3d
18 1078, 1081, 249 Cal Rptr 154.)
19

20
21 V.

22 **A COURT HAS BROAD DISCRETION TO DISMISS AN ACTION UNDER PENAL**
23 **CODE §1385 IN FURTHERANCE OF JUSTICE**

24 A court has "broad" power to dismiss an action under Penal Code §1385 "[T]he
25 language of that section, 'furtherance of justice,' requires consideration both of the
26 constitutional rights of the defendant, and the interests of society represented by the
27 People, in determining whether there should be a dismissal. [Emphasis deleted.] ... At
28

1 the very least, the reason for dismissal must be "that which would motivate a reasonable
2 judge." (People v Orin (1975) 13 Cal 3d 937, 945, 120 Cal Rptr 65, 533 P2d 193.)

3
4
5 **CONCLUSION**

6 The court should exercise its broad discretion and dismiss this action under Penal
7 Code §1385 for the following reasons:

- 8
- 9 ■ The statute is vague and ambiguous and unclear to a reasonable person.
 - 10 ■ The statute does not contain language of sufficient certainty to provide notice
11 of what is prohibited and what may be done without violating its provisions;
12 and therefore violates the state and federal Constitutions.
 - 13 ○ Specifically, the Dangerous Weapons Control Laws (Roberti-Roos
14 Assault Weapons Control Act of 1989) – aka Penal Code sections
15 12275-12290 are extremely intricate, convoluted and difficult to
16 understand to defense counsel, that to expect a layperson to
17 understand and follow them is unreasonable and violates the notice
18 requirements of due process.

19
20 The defendant therefore moves for an order setting aside the information filed herein.

21
22 Dated: 04/01/02

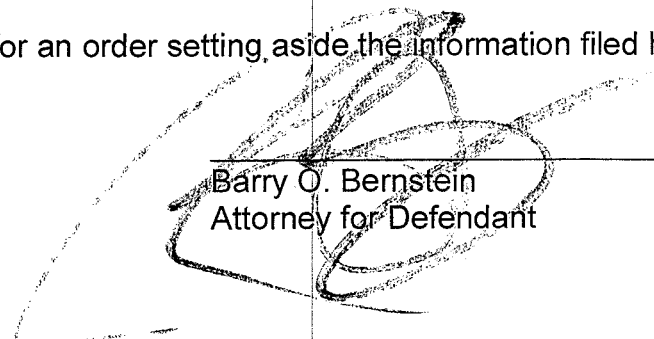
23 
24 Barry O. Bernstein
25 Attorney for Defendant
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Exhibit A

Exhibit A.

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF LOS ANGELES
TORRANCE BRANCH

FACSIMILE COVER SHEET

DATE: 3-26-2002

FAX NO: (310) 783-1684

NO. OF PAGES: 9
include cover sheet

LOCATION: 825 Maple Ave.
Torrance, CA 90503

TO:

FROM:

NAME: Barry Bernstein, Esq

NAME: Steven Belis

DIVISION: Law Offices

DIVISION: Asst Dist Atty

PHONE NO: 310-222-3552



MESSAGE

People v. Rosenberger YA 048860
Scrap npts in file.

NOTE: If the FAX you receive is incomplete or illegible, please contact the FAX operator at (310) 222-3464

COUNTY OF LOS ANGELES-SHERIFF'S DEPARTMENT-SUPPLEMENTARY REPORT**DATE:** 10-04-2001**FILE:** 401-08657-0372-151**C:** . Possession of an Assault Weapon, 12280(b) PC**ACTION:** ACTIVE/Additional Information**V:****S:** Rosenberger, Ludovic MW/01-12-1951 Booking # 6944-687**NARRATIVE**

In preparation for the preliminary hearing in the case of People vs. Ludovic Rosenberger, I decided to contact the California Department of Justice regarding all of the weapons seized from the Rosenberger home. This was in response to unsolicited comments from Rosenberger during the Search Warrant that "his attorney told him all of his guns were legal." Although satisfied that Rosenberger was in violation of 12280(b) PC, I decided to obtain added verification.

On 10-04-2001 at approximately 1630 hours, I was referred to Augie Rodriguez. Rodriguez is the California Department of Justice's "expert" in assault weapons, and has the title of Criminal Identification Specialist. I explained about the weapons seized from the Rosenberger home, and provided him with their make, model and serial numbers.

Of specific note was the Kimel Industries model AP9 that I recovered during the Search Warrant at the Rosenberger home. This weapon is a "copycat" of an Intertec Tec-9, but is not listed by brand name under 12276 PC. The weapon does however, fall within the banned assault weapons by definition under 12276.1 PC. I told Rodriguez that the weapon did show as being registered to Rosenberger in AFS, but it did not show as an "assault weapon." After checking the records via serial number, Rodriguez corrected me.

Rodriguez informed me that AFS had a "dealer's report of sale" (DROS) to Rosenberger for the Kimel, however, it WAS NOT registered as an assault weapon with the Department of Justice. Rodriguez told me this weapon was required to be registered based on its characteristics by 01-01-2001, pursuant to Senate Bill 23.

I read the serial number of the Norinco rifle to Rodriguez, giving him "84S403675." Rodriguez explained that the correct serial number was 403675. The preceding "84S" actually stood for the model. This particular weapon is in fact listed under 12276 PC by make and model, and Rodriguez said it was on an earlier banned list. This weapon (AK series or AK-47 copycat) was required to be registered as an assault weapon with the Department of Justice by 03-31-1992 as a category 1 weapon. Rodriguez checked and found that this weapon was not registered either. Additionally, all listed banned weapons not in the category list were required to be registered by 01-23-2001.

Report Continued**File # 401-08657-0372-151****Page 2**

Lastly, Rodriguez checked the serial number of the Tommy Gun and found that it was not registered as an assault weapon with the Department of Justice. By characteristic, this weapon fell under 12276.1 PC and was required to be registered as an assault weapon by 01-01-2001, pursuant to Senate Bill 23.

I informed Rodriguez I would need a certified document attesting to the fact that none of the above three mentioned assault weapons were registered as assault weapons, yet they were required to be, in the event this case goes to trial. Rodriguez supplied me with the information to obtain such documentation and a letter of request was mailed.

APPROVED: SGT. DICK MILLER #062339**BY:** DET. MARK RENFROW #274578**ASSIGNED:** LENNOX DETECTIVE BUREAU



County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169



LEROY D. BACA, SHERIFF

10-04-2001

California Department of Justice
Assault Weapons Registration
ATTN: May Wright
P.O. Box 903387
Sacramento, CA 94203-3870

Dear Agent Wright,

This letter is in response to a discussion of today's date between Detective Mark Renfrow and D.O.J. Criminal Identifications Specialist Augie Rodriguez. During this discussion, Detective Renfrow provided the serial numbers, brand names and models of three "assault weapons," which were checked in your records for registration. None of the weapons showed as registered.

Detective Renfrow is working a criminal case involving assault weapons and will need a certified document for trial from the Department of Justice, indicating these weapons have not been registered as "assault weapons," as required by the laws of the State of California.

The weapons in question are as follows:

1. Kimel Industries model AP9 (pistol and Tec-9 lookalike), 9mm, serial # 37286
2. Norinco model 84S (rifle), cal .223, serial # 403675
3. Thompson model 1927A (rifle), cal .45, serial # 22592

The person charged with violations of 12280(b) PC under Los Angeles Superior Court Case # YA048860 is Ludovic Rosenberger, D.O.B.: 01-12-1951.

If you require additional information, please contact Detective Mark L. Renfrow at (310) 680-5738, Wednesday through Saturday, between the hours of 5:00 P.M. and 3:00 A.M.. If possible, mail your response to the address listed below and fax a copy to (310) 677-7132 (ATTN: Detective Renfrow).

Thank you for your cooperation.

Sincerely,

LEROY D. BACA, SHERIFF

A handwritten signature in black ink, appearing to read "Sammy L. Jones".

Sammy L. Jones, Captain
Lennox Sheriff's Station
4331 Lennox Blvd.
Inglewood, California 90304

cc:

Inglewood District Attorney's Office

A Tradition of Service

MAR-26-2002 15:45 FROM LA CO D.A.

TO 18185267672

P.05/09

PAGE 01 10/04/01 16:15:12 LXPL PRINT REQUESTED BY TERMINAL LXOL
TO: LXOL FROM: CLETS 10/04/01 16:14:06
4AWMBLXOLR.IG
CA0190003 RE: QGB.CA0190003.SER/403675.CAL/2
RESPONSE TO QGB INQUIRY

NO RECORD IN AFS

CHECKING NCIC
END AFS RESPONSE.

*Correct Serial
Number of Noting.*

MAR-26-2002 15:45 FROM LA CO D.A.

TO 18185267672

P.06/09

PAGE 02

TO: LXOL FROM: NCIC

10/04/01 16:14:23

4AWMBLXOLR.IJ

1L01

CA0190003

NO RECORD SER/403675



BILL LOCKYER
Attorney General

State of California
DEPARTMENT OF JUSTICE

FAX TRANSMISSION COVER SHEET

IMPORTANT/CONFIDENTIAL: This communication is intended only for the use of the individual or entity to which it is addressed. This message contains information from the State of California, Attorney General's Office, which may be privileged, confidential and exempt from disclosure under applicable law. If the reader of this communications is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited.

DATE: 12/18/01 TIME: _____ NO. OF 3
(INCLUDING COVER SHEET)

TO: _____

NAME: Det Mark Renfrow

OFFICE: Lennox Sheriff's Station

LOCATION: Inglewood, CA

FAX NO: (310) 677-7132 PHONE NO.: (310) 680-5738

FROM: _____

NAME: May Wright, Supervisor

OFFICE: Firearms Licensing and Permits Unit

LOCATION: P.O. Box 820200 Sacramento, CA 94203-0200

FAX NO: (916) 227-3700 PHONE NO.: (916) 227-3694

MESSAGE/INSTRUCTIONS

As Requested: Ludovic Roscnberger DOB/01-12-1951

PLEASE DELIVER AS SOON AS POSSIBLE!
FOR ASSISTANCE WITH THIS FAX, PLEASE CALL THE SENDER

DEFENSE COPY

BILL LOCKYER
Attorney General

State of California
DEPARTMENT OF JUSTICE



FIREARMS DIVISION
P.O. BOX 820200
SACRAMENTO, CA 94203-0200
Public: (916) 227-3694
Facsimile: (916) 227-3700

December 18, 2001

Los Angeles County Sheriff's Department
Lennox Sheriff's Station
Sammy L. Jones, Captain
4331 Lennox Blvd
Inglewood, CA 90304
Attn: Detective Mark L. Renfrow

RE: Certification

Dear Captain Jones:

The enclosed certification is in response to a request by Detective Mark Renfrow pertaining to Assault Weapon Registration information for Ludovic Rosenberger, date of birth January 12, 1951 and weapons:

- 1) Kimel Industries Model AP9, 9mm, Serial Number 37286
- 2) Norinco Model 84S, cal .223, Serial Number 403675
- 3) Thompson Model 1927A, cal .45, Serial Number 22592

If you have additional questions, feel free to contact the Firearms Licensing and Permits Unit at (916) 227-5360.

Sincerely,

MAY WRIGHT, Supervisor
Firearms Licensing and Permits Unit

For: **BILL LOCKYER**
Attorney General

enclosure

CERTIFICATION

I, May Wright, do certify under penalty of perjury that I am the legal custodian of firearm records maintained by the Firearms Division, Department of Justice. This file contains records of Licenses to Carry Concealed Weapons (CCW), Assault Weapon Registration, Certificate of Eligibility, Dangerous Weapons Permits and Licenses, Explosive Permit Clearances and the Centralized List of Firearm Dealers.

On December 18, 2001, I made a diligent search of the firearm records for Ludovic Roscnberger, date of birth, January 12, 1951 and weapons:

- 1) Kimel Industries Model AP9, 9mm, Serial number 37286
- 2) Norinco, Model 84S, Cal .223 Serial Number 403675
- 3) Thompson Model 1927A, Cal .45, Serial Number 22592

And found no record of Assault Weapon Registration information for the person or weapons. This certification was prepared by personnel of the California Department of Justice in the ordinary course of business on the date stated above.

May Wright

MAY WRIGHT
Custodian of Firearm Records

12-18-01

DATE

Exhibit B

Exhibit B.

1 SW NO. _____

FILE NO. 401-08657-0372-151

2
3 STATE OF CALIFORNIA - COUNTY OF LOS ANGELES
4 LOS ANGELES COUNTY SHERIFF DEPARTMENT
5 SEARCH WARRANT AND AFFIDAVIT
6 (AFFIANT STATEMENT)
7

8 Your Affiant is a Peace Officer employed for the past thirteen years by the Los Angeles
9 County Sheriff's Department. For over the past 10 years, your Affiant has been
10 assigned to Lennox Sheriff's Station. Your Affiant is currently assigned as the Night
11 Detective at Lennox Sheriff's Station.
12

13 Your Affiant attended the Los Angeles Sheriff's Academy for approximately twenty
14 weeks, at which time your Affiant received in excess of forty hours of training pertaining
15 to assault related crimes, and an additional forty hours involving weapons training.
16 This training included but was not limited to types of weaponry, their usage in criminal
17 assaults and homicides, their ammunition capacities and destructive capabilities, and
18 laws regulating possession, sales, transportation, storage, and weapons usage.
19

20 Your Affiant further received forty hours of instruction in gangs and subcultures, which
21 included specific instruction in assaults, and weaponry used in such assaults. Your
22 Affiant worked as a Gang Investigator while assigned to Custody Division, and logged
23 approximately two thousand interviews with gang members. During the course of these
24 interviews, your Affiant obtained information pertaining to manners in which assaults
25 are committed, the motives for such assaults, the concealment of weapon(s) used in
26 such assaults, and the weaponry of choice by gang members in assaults.
27

28 Your Affiant has received specialized training in the field of assault and weapons

1 related crimes from his Field Training Officer during six months of Patrol Training, and
2 additional 18 hours of training at Patrol School. Your Affiant later served as a Field
3 Training Officer, and taught twenty-eight newly assigned deputies in the field of
4 assaults, weapons laws and firearms capabilities.
5

6 Prior to entry into the Los Angeles County Sheriff's Department, your Affiant was a
7 member of the United States Army after being made a Commissioned Officer at Marion
8 Military Institute. In this capacity, your Affiant received training in automatic and
9 semiautomatic firearms at Fort Knox, Fort Riley, Fort Irwin, Fort Hunter-Ligget, Fort
10 Benning, Fort Carson, Camp Roberts, Camp Pendleton, and from the Norwegian Army
11 while assigned in Norway for training. During your Affiant's many military duties, your
12 Affiant was in charge of an Infantry Company's Armory and held responsible for
13 numerous automatic and semiautomatic firearms. Additionally, your Affiant has
14 previous been certified as a Range Safety Officer and Range Officer In Charge for
15 firearms qualification courses at Fort Irwin, Fort Hunter-Ligget and at Camp Pendleton.
16

17 Your Affiant has also participated in the investigation and/or arrests of over a five
18 hundred individuals related specifically to assault crimes, and an additional five
19 hundred investigations and/or arrests weapons violations. Your Affiant has been the
20 Investigating Officer or Assistant Investigating Officer in over a hundred assault related
21 crimes, and in over two hundred weapons related crimes. Your Affiant has also written
22 and served both Ramey and Search Warrants for assault related crimes, as well as for
23 theft related crimes, wherein firearms were being sought.
24

25 As an Investigator, your Affiant has spoken to law enforcement officers, Homicide
26 Detectives, experts in the field of assault and weapons related crimes, and suspects
27 who have committed assaults and possessed assorted types of firearms. Additionally,
28 your Affiant has testified as an Investigating Officer and as an expert for the

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
DIVISION II HON. EUDON FERRELL, JUDGE

PEOPLE OF THE STATE OF CALIFORNIA,)
)
 PLAINTIFF,) NO. YA048860
)
 VS.)
)
 LUDOVIC ROSENBERGER,)
)
 DEFENDANT(S).)
)

REPORTER'S TRANSCRIPT
PRELIMINARY HEARING
OCTOBER 5TH, 2001

COPY

APPEARANCES:

FOR THE PEOPLE: STEVE COOLEY,
DISTRICT ATTORNEY
BY: KELLY FRITZ,
DEPUTY DISTRICT ATTORNEY
ONE REGENT STREET, FOURTH FLOOR
INGLEWOOD, CALIFORNIA 90301

FOR THE DEFENDANT: BARRY BERNSTEIN,
ATTORNEY AT LAW

HTA: OCTOBER 22ND, 2001
DEPARTMENT: "G"
REPORTED BY: RENEE D. SMITH
CERTIFIED SHORTHAND REPORTER NO.8915

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I N D E X

<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
JOHN SILVERSTEIN	5	15		
MARK RENFROW	18	26		

E X H I B I T S

PEOPLE'S

MARKED

RECEIVED

1 - PHOTO OF WEAPON

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1 CASE NUMBER: YA048860
2 CASE NAME: PEOPLE VS. LUDOVIC ROSENBERGER
3 INGLEWOOD, CALIFORNIA FRIDAY, OCTOBER 5, 2001
4 DIVISION NO. II HON. EUDON FERRELL, JUDGE
5 APPEARANCE: (AS HERETOFORE NOTED.)
6 REPORTER: RENEE D. SMITH, CSR NO. 8915
7 TIME: 10:27 A.M.

8
9 THE COURT: LUDOVIC ROSENBERGER.

10 MR. BERNSTEIN: GOOD MORNING, YOUR HONOR.

11 THE COURT: LUDOVIC ROSENBERGER, IS THAT YOU, SIR?

12 THE DEFENDANT: YES.

13 THE COURT: COUNSEL, STATE YOUR APPEARANCES.

14 MR. BERNSTEIN: BERRY BERNSTEIN WITH MR.

15 ROSENBERGER.

16 MS. FRITZ: KELLY FRITZ ON BEHALF OF THE PEOPLE,

17 YOUR HONOR.

18 THE COURT: THANK YOU.

19 THE MATTER IS HERE FOR PRELIMINARY HEARING.

20 I SEE AN AMENDED FELONY COMPLAINT. DEFENSE COUNSEL HAS

21 THAT?

22 MR. BERNSTEIN: I HAVE GOT MY OWN COPY THIS

23 MORNING. WE WAIVE FORMAL ARRAIGNMENT AND WAIVE

24 STATEMENT OF RIGHTS. WE'RE READY TO PROCEED. ENTER A

25 PLEA OF NOT GUILTY ON THAT.

26 THE COURT: LET ME ASK THE PEOPLE, I DON'T SEE

27 ANY SIGNATURES ON THE COMPLAINT.

28 MS. FRITZ: YOUR HONOR, THAT'S BECAUSE YOUR COPY

1 IS RIGHT HERE.

2 THE COURT: OKAY. THE DEFENDANT IS CHARGED IN
3 COUNT ONE WITH A VIOLATION OF 12280 (B) OF THE PENAL
4 CODE, POSSESSION OF AN ASSAULT WEAPON. COUNT TWO
5 12280 (B) OF THE PENAL CODE, POSSESSION OF AN ASSAULT
6 WEAPON. AND COUNT THREE 12280 (B) OF THE PENAL CODE,
7 POSSESSION OF AN ASSAULT WEAPON.

8 COUNSEL, WAIVE FURTHER READING OF THE
9 COMPLAINT?

10 MR. BERNSTEIN: I DO, YOUR HONOR.

11 THE COURT: THANK YOU. PEOPLE MAY CALL THE FIRST
12 WITNESS.

13 MS. FRITZ: PEOPLE CALL DEPUTY SILVERSTEIN TO THE
14 STAND. MAY THE PEOPLE ALSO DESIGNATE DETECTIVE RENFROW
15 AS MY INVESTIGATING OFFICER IN THIS MATTER?

16 MR. BERNSTEIN: DEFENSE HAS NO OBJECTION.

17 THE COURT: OKAY. IS THAT OFFICER IN THE
18 COURTROOM THAT YOU ASKED?

19 DETECTIVE RENFROW WILL BE INVESTIGATING
20 OFFICER.

21

22 JOHN SILVERSTEIN,
23 CALLED BY THE PEOPLE AS A WITNESS, WAS SWORN AND
24 TESTIFIED AS FOLLOWS:

25 THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

26 YOU DO SOLEMNLY STATE THAT THE TESTIMONY YOU
27 ARE ABOUT TO GIVE IN THE CAUSE NOW PENDING BEFORE THIS
28 COURT SHALL BE THE TRUTH, THE WHOLE TRUTH AND NOTHING

1 BUT THE TRUTH SO HELP YOU GOD?

2 THE WITNESS: YES, I DO.

3 THE CLERK: PLEASE BE SEATED.

4 STATE YOUR FULL NAME, SPELLING YOUR FIRST
5 NAME AND YOUR LAST.

6 THE WITNESS: JOHN SILVERSTEIN. J-O-H-N
7 S-I-L-V-E-R-S-T-E-I-N.

8 THE COURT: THANK YOU.

9 GO AHEAD, COUNSEL.

10

11

DIRECT EXAMINATION

12 BY MS. FRITZ:

13 Q GOOD MORNING.

14 A MORNING.

15 Q WHAT IS YOUR OCCUPATION AND ASSIGNMENT?

16 A I'M A DEPUTY SHERIFF FOR L.A. COUNTY
17 SHERIFF'S DEPARTMENT.

18 Q HOW LONG HAVE YOU BEEN A SWORN PEACE OFFICER?

19 A FOR 10 YEARS.

20 Q WERE YOU WORKING ON JULY 14TH OF THIS YEAR AT
21 APPROXIMATELY 6:00 P.M., THAT WAS A SATURDAY?

22 A YES, I WAS.

23 Q WERE YOU WORKING WITH A PARTNER?

24 A YES, I WAS.

25 Q WHO WAS YOUR PARTNER?

26 A DEPUTY LEDESMA.

27 Q DID YOU AND YOUR PARTNER GO TO 1441 103RD

28 STREET IN THE UNINCORPORATED PART OF L.A. IN THE COUNTY

1 OF LOS ANGELES?

2 A YES, WE DID.

3 Q WHAT BROUGHT YOU TO THAT LOCATION?

4 A WE RECEIVED A CALL.

5 Q WHEN YOU ARRIVED AT THE LOCATION WHAT DID YOU
6 SEE?

7 A WHEN WE ARRIVED AT THE LOCATION WE WERE
8 FLAGGED DOWN BY SEVERAL INFORMANTS THAT CALLED FOR OUR
9 HELP.

10 Q DID YOU ASCERTAIN THE NAMES OF THE
11 INDIVIDUALS?

12 A YES. IT WAS AN INFORMANT GARCIA, SIMMONS AND
13 BLAKES.

14 Q DID YOU OR YOUR PARTNER SPEAK WITH EACH OF
15 THE INDIVIDUALS?

16 A YES, WE DID.

17 Q UPON SPEAKING WITH THEM WHAT DID THEY SAY?

18 A THE INFORMANT GARCIA, WHO IS THE ADULT OF THE
19 GROUP. THERE WERE TWO JUVENILES BLAKES AND SIMMONS,
20 GARCIA WAS THE ADULT. I SPOKE WITH HIM FIRST. HE
21 STATED THAT BOTH SIMMONS AND BLAKES HAD TOLD HIM THAT A
22 MALE WHITE WHICH LIVES DOWN THE BLOCK WAS POINTING A
23 HANDGUN AT THE KIDS OR THE KIDS TOLD HIM THAT, SIMMONS
24 AND BLAKES.

25 Q OKAY. DID YOU SPEAK WITH SIMMONS AND BLAKES?

26 A YES.

27 Q WHAT DID THEY TELL YOU?

28 A THEY BOTH SAID THEY WERE WALKING EASTBOUND ON

1 THE SOUTH SIDE OF THE STREET ON 103RD STREET, AND AS
2 THEY PASSED 1441 ON THE SOUTH SIDE A MALE WHITE WAS
3 POINTING A SILVER HANDGUN AT THEM.

4 Q BASED UPON THE INFORMATION WHAT DID YOU AND
5 YOUR PARTNER DO?

6 A WELL, BASED UPON THAT INFORMATION AND THE
7 FACT THAT THE INFORMANT WAS POINTING OUT TO THE EXACT
8 LOCATION OF WHERE THIS HAPPENED, WE LOOKED IN THE
9 DIRECTION OF THE HOUSE OF THAT LOCATION.

10 Q WHERE WERE YOU AND YOUR PARTNER AT THE TIME
11 THAT YOU WERE THERE?

12 A WE WERE AT 1424 103RD STREET ON THE SOUTH
13 SIDE OF THE STREET AND WE WERE LOOKING WESTBOUND ON THE
14 NORTH SIDE OF THE STREET.

15 Q ARE YOU AND YOUR PARTNER IN YOUR PATROL CAR?

16 A YES.

17 Q OR OUT OF IT?

18 A YES, WE ARE INSIDE OF THE PATROL CAR.

19 Q IS YOUR PARTNER THE DRIVER AND YOU WERE THE
20 PASSENGER?

21 A MY PARTNER WAS DRIVING.

22 Q AS YOU AND YOUR PARTNER LOOK WHAT DO EITHER
23 ONE OF YOU SEE?

24 A MY PARTNER SEES A MALE WHITE STANDING ON THE
25 FRONT YARD OF 1441 AND HE TELLS ME THIS.

26 Q WHY DOES HE TELL YOU THIS?

27 A HE TELLS ME IMMEDIATELY WHEN WE'RE SITTING
28 THERE IN THE CAR AT 1424 THAT HE SEES THE MALE WHITE IN

1 THE FRONT YARD.

2 Q WHAT ELSE DOES HE TELL YOU, IF ANYTHING?

3 A HE TELLS ME THAT HE IS CARRYING A BLACK
4 CYLINDRICAL OBJECT THAT LOOKS LIKE A RIFLE AND SAID HE
5 WAS HOLDING IT WITH TWO HANDS.

6 Q DOES HE TELL YOU ANYTHING ELSE?

7 A HE TELLS ME THAT HE HAD SEEN THIS PERSON
8 BEFORE FROM A PREVIOUS CALL.

9 Q BASED UPON WHAT YOUR PARTNER TELLS YOU DO YOU
10 LOOK IN THE DIRECTION?

11 A YES.

12 Q ARE YOU ABLE TO SEE THE AREA THAT YOUR
13 PARTNER IS LOOKING AT?

14 A I DON'T SEE THE PERSON.

15 Q IS THERE ANYTHING OBSTRUCTING YOUR VIEW AT
16 THIS TIME?

17 A YES, THERE IS.

18 Q WHAT?

19 A THERE IS CARS THAT ARE PARKED ON THE STREET.

20 Q WHAT, IF ANYTHING, DO YOU SEE?

21 A I CAN SEE THE ACTUAL HOUSE, BUT I DON'T SEE
22 ANYBODY -- I COULD SEE A PART OF THE FRONT YARD AND THE
23 HOUSE.

24 Q WHAT, IF ANYTHING, HAPPENS NEXT?

25 A AT THIS TIME WE REQUESTED ASSISTANCE BASED
26 UPON THE INFORMATION THAT WE RECEIVED AND BASED UPON MY
27 PARTNER'S OBSERVATIONS.

28 Q DID YOUR PARTNER TELL YOU THAT HE SAW THE

1 INDIVIDUAL REMAIN IN THE YARD?

2 A NO. MY PARTNER THEN AT THAT POINT TOLD ME
3 THAT HE WAS RUNNING INTO THE HOUSE.

4 Q DO YOU LOOK AT THAT POINT?

5 A YES, I DO LOOK AND I DO SEE A MALE WHITE RUN
6 INTO THE HOUSE.

7 Q WHAT HAPPENS NEXT?

8 A AT THAT TIME WE CONTINUE TO APPROACH THAT
9 ADDRESS 1441 AND SHORTLY AFTER WE APPROACH IT THAT SAME
10 MALE WHITE COMES OUT OF THE HOUSE.

11 Q WHEN THAT INDIVIDUAL -- WHEN THE MALE WHITE
12 COMES OUT OF THE HOUSE DO YOU SEE ANYTHING IN HIS HANDS?

13 A NO, NOTHING.

14 Q THAT MALE WHITE THAT YOU ARE DESCRIBING, IS
15 THAT PERSON IN COURT TODAY?

16 A YES, HE IS.

17 Q PLEASE IDENTIFY HIM BY DESCRIBING EITHER WHAT
18 HE IS WEARING OR BY POINTING HIM OUT?

19 A OKAY. IT IS THE DEFENDANT WEARING THE BLUE
20 SUIT.

21 THE COURT: INDICATING THE DEFENDANT.

22 BY MS. FRITZ:

23 Q WHAT DO YOU AND YOUR PARTNER DO NEXT?

24 A AT THIS TIME WE DETAINED THE DEFENDANT.

25 Q WHAT DO YOU DO NEXT?

26 A WE DO A PROTECTIVE SWEEP OF HIS RESIDENCE,
27 BECAUSE AT THAT TIME WHEN WE'RE DETAINING HIM WE SEE AN
28 ELDERLY FEMALE STANDING ON THE FRONT PORCH. BASED UPON

1 INFORMATION WE GOT FROM THE CALL AND BASED UPON MY
2 PARTNER'S KNOWLEDGE FROM PRIOR CALLS AND ALSO DUE TO
3 OFFICER'S SAFETY AND THE SAFETY OF THE NEIGHBORHOOD WE
4 TO DID A PROTECTIVE SWEEP THE HOUSE.

5 Q DOES YOUR PARTNER TELL YOU THAT THE
6 INDIVIDUAL HE SAW WITH SOMETHING IN HIS HAND DOES HE
7 TELL YOU WHETHER HE SEES THAT THING IN HIS HAND WHEN HE
8 GOES INTO THE HOUSE?

9 A MY PARTNER?

10 Q YES.

11 A YES. YES, HE DOES.

12 Q WHEN YOU SAY YOU CONDUCTED A PROTECTIVE SWEEP
13 WHAT EXACTLY DID YOU DO?

14 A BASICALLY WE WENT -- WE ENTERED THE HOUSE TO
15 MAKE SURE THAT THERE WAS NO IMMEDIATE THREAT TO US OR
16 THE NEIGHBORS. WE ARE LOOKING FOR OTHER PERSONS THAT
17 MAY BE IN THE HOUSE OR FOR ANYBODY THAT MIGHT HAVE A
18 WEAPON THAT WE BELIEVE TO BE WHAT WAS IN THE DEFENDANT'S
19 HANDS AS HE RAN INTO THE HOUSE.

20 Q WHAT ROOM DO YOU ENTER FIRST?

21 A THE ROOM WE ENTER FIRST IS THE LIVING ROOM.

22 Q DO YOU FIND ANYTHING OR ANYONE IN THE LIVING
23 ROOM?

24 A NO, WE DON'T.

25 Q WHERE DID YOU GO NEXT?

26 A THEN THERE IS THE TWO ROOMS INSIDE OF THE
27 HOUSE. THERE IS A SOUTH ROOM WHICH WE DON'T FIND
28 ANYTHING IN. AND THEN THERE IS ALSO A NORTH ROOM WHICH

1 HAS A CLOSET THAT IS OPEN.

2 Q SO YOU WALK IN THE NORTH ROOM, YOU SEE AN
3 OPEN CLOSET AND WHAT DO YOU DO?

4 A WE LOOK IN THE CLOSET AND WE SEE TWO RIFLES
5 INSIDE OF THE CLOSET.

6 Q WHERE WERE THE RIFLES IN THE CLOSET?

7 A THE RIFLES WERE SET IN A WAY WHERE THEY ARE
8 STANDING OR LEANING UP AGAINST THE INNER WALL INSIDE THE
9 CLOSET. THEY WERE LIKE IN PLAIN VIEW. REAL EASY TO
10 SEE.

11 Q WHAT, IF ANYTHING, ELSE DO YOU FIND IN THE
12 CLOSET OF IMPORTANCE TO YOU?

13 A THERE WERE OTHER MAGAZINES INSIDE FOR THE
14 RIFLES INSIDE OF THE CLOSET.

15 Q DO YOU KNOW HOW MANY OTHER MAGAZINES?

16 A NO, I DON'T. I'M SURE IT'S IN THE REPORT HOW
17 MANY MAGAZINES.

18 MS. FRITZ: YOUR HONOR, I HAVE IN MY HAND A WHITE
19 PIECE OF PAPER. IN THE MIDDLE THERE IS A COLOR DIGITAL
20 PHOTO. I'VE SHOWN IT TO DEFENSE. MAY I HAVE THIS
21 MARKED AS PEOPLE'S ONE FOR IDENTIFICATION?

22 THE COURT: SO MARKED.

23 MS. FRITZ: AND I ALSO HAVE IN MY HAND ANOTHER
24 WHITE PIECE PAPER WITH A COLOR DIGITAL PHOTO IN THE
25 MIDDLE. ON THAT ONE THERE IS A PERSON WHO APPEARS TO BE
26 HOLDING SOMETHING. MAY I HAVE THAT MARKED AS PEOPLE'S
27 TWO FOR IDENTIFICATION?

28 THE COURT: SO MARKED.

1 MS. FRITZ: MAY I APPROACH THE WITNESS?

2 THE COURT: YES.

3 BY MS. FRITZ:

4 Q SHOWING YOU WHAT I HAVE JUST MARKED AS
5 PEOPLE'S ONE. DO YOU RECOGNIZE THIS?

6 A YES, I DO.

7 Q HOW DO YOU RECOGNIZE IT?

8 A THAT IS ONE OF THE RIFLES THAT WE FOUND
9 INSIDE OF THE CLOSET.

10 Q WHEN YOU FOUND THIS RIFLE WHAT, IF ANYTHING,
11 DID YOU DO WITH IT?

12 A WE CLEARED IT TO MAKE SURE THAT IT WAS NOT
13 LOADED.

14 Q WAS IT LOADED?

15 A NO, IT WAS NOT.

16 Q SHOWING YOU WHAT I MARKED AS PEOPLE'S TWO.
17 DO YOU RECOGNIZE THIS?

18 A YES, I DO.

19 Q WHAT IS THIS?

20 A THAT IS THE SECOND RIFLE THAT WE FOUND INSIDE
21 OF THE CLOSET.

22 Q WHO IS THE PERSON HOLDING THAT RIFLE?

23 A IS MY PARTNER DEPUTY LEDESMA.

24 Q DID DEPUTY LEDESMA GO IN AND CONDUCT A
25 PROTECTIVE SWEEP WITH YOU?

26 A YES, HE DID.

27 Q WHAT DID YOU DO WITH THIS GUN AFTER YOU FOUND
28 IT?

1 A WE CLEARED THAT GUN TO MAKE SURE IT WAS NOT
2 LOADED.

3 Q WAS IT LOADED?

4 A NO, IT WAS NOT.

5 Q AFTER YOU FOUND PEOPLE'S ONE AND PEOPLE'S TWO
6 WHAT DID YOU DO?

7 A AT THIS TIME WE SECURED THE WEAPONS OUTSIDE
8 OF THE RESIDENCE. ACTUALLY WE RAN BOTH WEAPONS PRIOR TO
9 SECURING THEM IN THE AUTOMATED FIREARM SYSTEM, AND BOTH
10 DID NOT RETURN REGISTERED TO THE DEFENDANT.

11 Q WHERE IS THE DEFENDANT AT THIS TIME?

12 A THE DEFENDANT IS BEING DETAINED.

13 Q AT SOME POINT DO YOU OR YOUR PARTNER CONTACT
14 HIM?

15 A YES.

16 Q DID EITHER YOU OR PARTNER?

17 A YES, I CONTACTED HIM ACTUALLY.

18 Q DID YOU SPEAK WITH HIM?

19 A YES, I DID.

20 Q UPON SPEAKING WITH HIM WHAT DID YOU SAY?

21 A I ASKED HIM IF THE GUN -- IF THE RIFLES
22 BELONGED TO HIM.

23 Q WHAT DID HE SAY?

24 A HE SAID YES.

25 Q DID YOU ASK HIM ANYTHING ELSE?

26 A YES. I ASKED HIM IF THE RIFLES HAD BEEN
27 REGISTERED AS ASSAULT WEAPONS.

28 Q DID HE ANSWER?

1 A HE SAID THAT THEY WEREN'T REGISTERED, BUT
2 THAT THEY WERE PERFECTLY LEGAL.

3 Q AND WHY DID HE SAY THAT?

4 A HE SAID --

5 Q DID HE SAY ANYTHING MORE?

6 A YEAH. HE SAID HE PURCHASED THE FIRST RIFLE
7 THE AK SERIES RIFLE ABOUT 15 YEARS AGO I BELIEVE. AND
8 THEN THE SECOND RIFLE THE THOMPSON GUN HE PURCHASED
9 SEVEN YEARS.

10 Q WHEN YOU SAY THE FIRST RIFLE DO YOU MEAN
11 PEOPLE'S ONE?

12 A PEOPLE'S ONE, YES.

13 Q DID YOU BOOK PEOPLE'S ONE AND PEOPLE'S -- OR
14 ACTUALLY THE ITEMS DEPICTED IN PEOPLE'S ONE AND PEOPLE'S
15 TWO INTO EVIDENCE?

16 A YES.

17 Q WHILE YOU'RE AT THE LOCATION DO YOU CONTACT
18 ANY INDIVIDUALS FROM THE SHERIFF'S DEPARTMENT?

19 A YES. I CONTACTED DETECTIVE RENFROW.

20 Q WHY DID YOU DO THAT?

21 A TO CONFIRM THAT BOTH RIFLES WERE ON THE
22 ASSAULT WEAPONS BAN LIST.

23 Q DID YOU SPEAK WITH HIM ABOUT ANYTHING ELSE?

24 A BASICALLY JUST ABOUT THE WEAPONS.

25 MS. FRITZ: NOTHING FURTHER, YOUR HONOR.

26 THE COURT: THANK YOU.

27 CROSS EXAMINATION?

28 MR. BERNSTEIN: THANK YOU.

CROSS EXAMINATION

1

2 BY MR. BERNSTEIN:

3 Q OFFICER, DID YOU ALSO SEIZE A CAMERA?

4 A YES.

5 Q DID YOU ALSO SEIZE A BLACK STICK?

6 A I DID NOT. I DON'T BELIEVE WE SEIZED -- I
7 MEAN AS FAR AS -- WELL, WE TOOK CONTROL OF THE STICK,
8 YES.

9 Q DID YOU?

10 A YES.

11 MR. BERNSTEIN: MAY I APPROACH THE WITNESS, YOUR
12 HONOR.

13 THE COURT: YES.

14 MR. BERNSTEIN: THANK YOU.

15 BY MR. BERNSTEIN:

16 Q SHOWING YOU WHAT WE'RE GOING TO MARK AS
17 DEFENSE A.

18 THE COURT: SO MARKED.

19 BY MR. BERNSTEIN:

20 Q DO YOU RECOGNIZE THE PICTURES?

21 A YES.

22 Q CAN YOU TELL THE COURT WHAT THEY ARE?

23 A THE FIRST PICTURE IS A BLACK STICK AND THE
24 SECOND PICTURE IS A SILVER DIGITAL CAMERA.25 Q AND CAN YOU TELL THE COURT THE CIRCUMSTANCES
26 UNDER WHICH THE PICTURES WERE TAKEN?27 A THE PICTURE OF THE STICK WAS TAKEN BECAUSE MY
28 PARTNER HAD SEEN THE DEFENDANT CARRYING WHAT APPEARED TO

1 BE THE STICK INTO THE HOUSE.

2 Q OKAY. THANK YOU. AND THE CAMERA?

3 A AND A PICTURE OF THE CAMERA WAS TAKEN BECAUSE
4 THE DEFENDANT ADVISED US THAT HE WAS HOLDING THAT CAMERA
5 OUTSIDE AND HE WAS TAKING PICTURES OF THE NEIGHBORHOOD
6 KIDS --

7 Q OKAY.

8 A -- WITH THAT CAMERA.

9 Q AND THERE IS ALSO A DISC IN THE CAMERA; IS
10 THAT CORRECT?

11 A I BELIEVE SO.

12 Q AND BASICALLY THE DISC CAMERA DOES NOT TAKE
13 PICTURES ON FILM, IT TAKES THEM ON A DISC; IS THAT
14 CORRECT?

15 A THAT'S CORRECT.

16 THE COURT: COUNSEL, I'LL INTERRUPT YOU FOR A
17 MOMENT. ARE YOU PRESENTING THIS TO SOMEHOW CONTEST THE
18 ENTRY INTO THE HOUSE?

19 MR. BERNSTEIN: I'M JUST -- NO. I JUST WANT TO
20 UNDERSTAND WHAT IS GOING ON HERE. I DON'T KNOW WHAT
21 WE'LL DO WITH THIS YET. I WANT TO SEE WHAT WE HAVE.

22 MS. FRITZ: YOUR HONOR, THE PEOPLE WILL OBJECT.
23 THERE IS NO MOTION PENDING AT THIS TIME AS TO THE
24 SEARCH.

25 MR. BERNSTEIN: I CAN'T PLAN AND MAKE A MOTION AT
26 THIS POINT, YOUR HONOR.

27 THE COURT: THEN I DON'T UNDERSTAND THE RELEVANCE
28 OF WHAT YOU ARE DOING THERE. I SUPPOSE YOU ARE SAYING

1 OR AT LEAST YOUR OFFER OF PROOF IS THAT THE DEFENDANT
2 MAY HAVE BEEN STANDING IN THE YARD TAKING PICTURES?

3 MR. BERNSTEIN: YES.

4 THE COURT: HE MAY HAVE THIS STICK AND CAMERA OR
5 A CAMERA IN HIS HAND; IS THAT RIGHT?

6 MR. BERNSTEIN: EXACTLY. I HAVE THE PICTURES
7 FROM THE CAMERA ALSO.

8 THE COURT: BUT AS YOU KNOW UNLESS YOU ARE
9 ADVANCING A 1538.5 MOTION THAT NOTHING IS RELEVANT.

10 MR. BERNSTEIN: IF THAT'S THE COURT'S RULING THEN
11 I'LL --

12 THE COURT: THE COURT WILL MAKE THAT RULING.

13 MR. BERNSTEIN: I WON'T ENTER THE EXHIBITS AND
14 I'LL TAKE THEM BACK WHAT I MARKED AS EXHIBIT A.

15 THE COURT: THAT'S FINE.

16 MR. BERNSTEIN: I HAVE NO OTHER QUESTIONS.

17 THE COURT: THANK YOU.

18 REDIRECT?

19 MS. FRITZ: NOTHING FURTHER, YOUR HONOR.

20 THE COURT: THANK YOU. YOU MAY STEP DOWN.

21 THE WITNESS: THANK YOU, SIR.

22 THE COURT: ANY OTHER WITNESSES?

23 MS. FRITZ: YES, YOUR HONOR. THE PEOPLE CALL
24 DETECTIVE RENFROW TO THE STAND.

25

26 MARK RENFROW,

27 CALLED BY THE PEOPLE AS A WITNESS, WAS SWORN AND

28 TESTIFIED AS FOLLOWS:

1 THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

2 YOU DO SOLEMNLY STATE THAT THE TESTIMONY YOU
3 ARE ABOUT TO GIVE IN THE CAUSE NOW PENDING BEFORE THIS
4 COURT SHALL BE THE TRUTH, THE WHOLE TRUTH AND NOTHING
5 BUT THE TRUTH SO HELP YOU GOD?

6 THE WITNESS: I DO.

7 THE CLERK: PLEASE BE SEATED.

8 STATE YOUR FULL NAME, SPELLING YOUR FIRST
9 NAME AND YOUR LAST.

10 THE WITNESS: MARK RENFROW. M-A-R-K
11 R-E-N-F-R-O-W.

12 THE COURT: THANK YOU.

13 GO AHEAD, COUNSEL.

14

15 DIRECT EXAMINATION

16 BY MS. FRITZ:

17 Q WHAT IS YOUR OCCUPATION AND ASSIGNMENT?

18 A I'M A DETECTIVE FOR THE LOS ANGELES COUNTY
19 SHERIFF'S DEPARTMENT. I'M CURRENTLY ASSIGNED AS THE 9TH
20 DETECTIVE FOR LENNOX SHERIFF'S STATION.

21 Q HOW LONG HAVE YOU BEEN A SWORN PEACE OFFICER?

22 A A LITTLE OVER 13 YEARS.

23 Q WHAT IS YOUR BACKGROUND AND TRAINING AND
24 EXPERIENCE IN THE FIELD OF ASSAULT WEAPONS?

25 A MY BACKGROUND AND TRAINING AND EXPERIENCE IN
26 THE FIELD OF ASSAULT WEAPONS GOES ACTUALLY BACK TO THE
27 UNITED STATES ARMY WHERE I RECEIVED BASIC OFFICER'S
28 TRAINING AND COMMISSIONED OFFICER'S IN THE UNITED STATES

1 ARMY. I HAD EXTREME EXPOSURE TO SEMIAUTOMATIC AND
2 AUTOMATIC WEAPONS TO INCLUDE AK-47 RIFLES AND VARIOUS
3 RIFLES.

4 I HAVE BEEN A CERTIFIED RANGE OFFICER AT FORT
5 HUNTER LIGGET, FORT ORD, FORT BENNING, GEORGIA, FORT
6 IRWIN, CAMP PENDLETON UNITED STATES MARINE CORP. BASE.
7 I HAD AN ASSIGNMENT AS A COMPANY EXECUTIVE OFFICER
8 WHEREIN I WAS IN CHARGE OF THE UNITES ARMORY AND
9 ASSOCIATED SERIES OF SEMIAUTOMATIC AND AUTOMATIC WEAPONS
10 TO INCLUDE .45 CALIBER AND CALIBER .223.

11 I WENT IN THE LOS ANGELES COUNTY SHERIFF'S
12 DEPARTMENT WHERE I HAD IN EXCESS OF 80 HOURS OF WEAPONS
13 TRAINING TO INCLUDE EXPOSURE TO THESE TYPE OF FIREARMS.
14 THROUGH FAMILIARIZATION I'VE FIRED THE AK-47 SERIES
15 RIFLE. I'VE TAKEN IT DOWN AND BASICALLY TAKEN IT APART
16 AND PUT IT BACK TOGETHER AGAIN.

17 I'VE RECEIVED ADDITIONAL TRAINING FROM MY
18 FIELD TRAINING OFFICER WHEN I WAS A TRAINEE AT LENNOX
19 STATION. I WENT TO THE 40 HOUR GANG SUBCULTURE
20 INVESTIGATOR'S COURSE. DURING THAT COURSE I HAD
21 EXPOSURE TO VARIOUS TYPES OF WEAPONS CURRENTLY USED IN
22 THE STREETS IN THE COUNTY OF LOS ANGELES. THESE -

23 MR. BERNSTEIN: YOUR HONOR, FOR PURPOSES OF
24 PRELIM. WE'RE PREPARED TO STIPULATE THAT THIS OFFICER IS
25 AN EXPERT AS FAR AS ASSAULT WEAPONS ARE CONCERNED.

26 THE COURT: SO STIPULATED. THANK YOU.

27 BY MS. FRITZ:

28 Q ARE YOU THE INVESTIGATING OFFICER ON THIS

1 CASE?

2 A YES.

3 Q WHAT IS THE FIRST THING YOU DID WITH REGARD
4 TO THE CASE?

5 A I RECEIVED A PAGE WHILE I WAS ON MY WAY TO
6 WORK. I RETURNED THE PAGE AND SPOKE TO DEPUTY JOHN
7 SILVERSTEIN WHO TESTIFIED EARLIER THIS MORNING.

8 Q DID YOU AT SOME POINT EXAMINE THE WEAPONS
9 THAT WERE SEIZED BY DEPUTY SILVERSTEIN?

10 A YES, I DID.

11 Q SHOWING YOU PEOPLE'S ONE AND PEOPLE'S TWO.
12 COLLECTIVELY, ARE THESE THE WEAPONS THAT YOU EXAMINED?

13 A YES, THEY ARE. AND I KNOW BY THE FACT THAT I
14 AM THE ONE WHO PERSONALLY TOOK THESE PHOTOGRAPHS.

15 Q DID YOU CHECK IN THE CALIFORNIA LAW
16 ENFORCEMENT TELECOMMUNICATIONS SYSTEMS AND AUTOMATED
17 FIREARMS SYSTEMS TO SEE IF THEY WERE REGISTERED AS
18 ASSAULT WEAPONS?

19 A YES, I DID CHECK THAT.

20 Q WHAT DID YOU DETERMINE?

21 A THAT THERE WAS NO RECORD ON FILE FOR EITHER
22 WEAPON.

23 Q DOES "NO RECORD ON FILE" MEAN THAT THEY ARE
24 NOT REGISTERED?

25 A YES, IT DOES.

26 Q REGARDING PEOPLE'S ONE, IS IT REQUIRED TO BE
27 REGISTERED?

28 A YES, FOR TWO DIFFERENT REASONS.

1 Q PLEASE EXPLAIN REASON NUMBER ONE?

2 A REASON NUMBER ONE BY CHARACTERISTICS THIS
3 PARTICULAR WEAPON IS A CENTERFIRE SEMIAUTOMATIC RIFLE.
4 IT IS AN AK SERIES. IT HAS A PISTOL GRIP AND IT HAS A
5 DETACHABLE FORWARD MAGAZINE. THAT IS UNDER PENAL CODE
6 SECTION 12276.1 BY DEFINITION AN ASSAULT RIFLE.

7 FURTHER INVESTIGATION SHOWS THAT THIS
8 PARTICULAR NORINCO SERIES IS LISTED UNDER A MODEL 84S AS
9 IN SAM, WHICH IS LISTED SPECIFICALLY UNDER 12276 AS A
10 BANNED WEAPON WHICH WAS REQUIRED TO BE REGISTERED BY
11 MARCH 31ST, 1992, UNDER THE ROBERTI-ROSS WEAPONS CONTROL
12 ACT OF 1989.

13 IT WAS ALSO REQUIRED TO BE REGISTERED BY
14 DEFINITION UNDER THE FIRST SECTION I REFERENCED AS AN
15 ASSAULT WEAPON BY CHARACTERISTIC AS OF JANUARY 1ST OF
16 2001.

17 Q WHAT ABOUT --

18 A THAT WOULD BE PURSUANT TO SENATE BILL 23.

19 Q WHAT ABOUT PEOPLE'S TWO?

20 A PEOPLE'S TWO ALTHOUGH NOT DEFINED BY MODEL
21 UNDER 12276 IT IS BY DEFINITION UNDER 12276.1 OF THE
22 PENAL CODE BECAUSE IT HAS A PISTOL GRIP FORWARD AND A
23 DETACHABLE MAGAZINE. IT HAS A FLASH SUPPRESSOR AS IN
24 PEOPLE'S 1.

25 Q WHAT IS A FORWARD?

26 A A FORWARD PISTOL GRIP.

27 Q AND YOU SAID A --

28 A FLASH SUPPRESSOR. AND THIS WOULD HAVE BEEN

1 REQUIRED TO BE REGISTERED ALSO BY JANUARY 1ST, 2001,
2 PURSUANT TO SENATE BILL 23.

3 Q YOU NAMED FOUR REASONS. WHAT IS THE FOURTH
4 REASON? I DIDN'T HEAR YOU.

5 A ON PEOPLE'S TWO IT HAS A PISTOL GRIP. IT IS
6 SEMIAUTOMATIC CENTERFIRE RIFLE. BEING SUCH A PISTOL
7 GRIP IT HAS A DETACHABLE MAGAZINE, A FORWARD PISTOL
8 GRIP. AND IT HAS A FLASH SUPPRESSOR. ANY ONE OF WHICH
9 WOULD REQUIRE IT TO BE REGISTERED.

10 Q DID YOUR EXAMINATION OF THE ITEMS DEPICTED IN
11 PEOPLE'S ONE AND PEOPLE'S TWO CAUSE YOU TO DO ANYTHING
12 ELSE WITH RESPECT TO THE CASE?

13 A YES.

14 Q WHAT DID YOU DO?

15 A WELL, IN PEOPLE'S ONE I WILL NOTE AN EXTRA
16 MAGAZINE DEPICTED. THAT EXTRA MAGAZINE IS A CALIBER
17 7.62 MAGAZINE. THE MAGAZINE THAT'S ACTUALLY INSIDE OF
18 THE NORINCO 4S IS CALIBER .223. THIS GAVE ME CAUSE TO
19 BELIEVE SINCE THE DEPUTY DID NOT SEARCH THE ROSENBERGER
20 RESIDENCE, JUST A PROTECTIVE SWEEP, THAT THERE MIGHT BE
21 ADDITIONAL ASSAULT WEAPONS IN THE HOUSE.

22 I CHECKED MR. ROSENBERGER FOR WEAPONS
23 REGISTERED TO HIM UNDER THE CALIFORNIA LAW ENFORCEMENT
24 TELECOMMUNICATIONS SYSTEM AND AUTOMATED FIREARM SYSTEM
25 AND DID NOT SEE ANY ASSAULT WEAPONS REGISTERED TO HIM.
26 SO I THOUGHT THERE MIGHT BE AN ADDITIONAL WEAPON THERE
27 THAT THE DEPUTIES DID NOT SEE.

28 ADDITIONALLY, IN REVIEWING THE CIRCUMSTANCES

1 IN THE CASE THE INITIAL ALLEGATION THAT BROUGHT THE
2 DEPUTIES THERE WAS THAT A CHROME HANDGUN HAD BEEN USED.
3 YET WE ALSO HAD THE SILVER CAMERA THAT WAS OFFERED AS A
4 POSSIBLE REASON FOR WHAT WAS REPORTED.

5 I WANTED TO SEE IF THERE WAS A SILVER HANDGUN
6 IN THE LOCATION, BECAUSE THERE WAS A SILVER HANDGUN
7 REGISTERED TO THE DEFENDANT. SO I PREPARED A SEARCH
8 WARRANT, WHICH WAS GRANTED AND ISSUED BY THE HONORABLE
9 JUDGE RODNEY FORNERET OF THE INGLEWOOD SUPERIOR COURT
10 FOR MR. ROSENBERGER'S RESIDENCE ON 103RD STREET.

11 THAT SEARCH WARRANT WAS SERVED ON AUGUST 9TH,
12 2001, WITH PERSONNEL PRESENT: MYSELF, SERGEANT CLAUDINE
13 SANCHEZ, DEPUTY RUBEN LEDESMA, DEPUTY JOHN SILVERSTEIN
14 WHO WAS ALSO PRESENT HERE IN COURT EARLIER TODAY, DEPUTY
15 STEVEN LONGAN, AND DEPUTY JOSEPH GARRIDO.

16 Q UPON EXECUTING THE SEARCH WARRANT DID YOU
17 FIND ANYTHING?

18 A I DID.

19 Q WHAT WAS IT YOU FOUND?

20 A THERE WERE A NUMBER OF ITEMS FOUND. BUT IF
21 YOU ARE REFERENCING THE PISTOLS THAT WE DISCUSSED
22 EARLIER YES, I PERSONALLY FOUND THOSE.

23 MS. FRITZ: YOUR HONOR, I HAVE IN MY HAND A PIECE
24 OF PAPER. THERE IS COLOR DIGITAL PHOTO IN THE MIDDLE.
25 MAY I HAVE IT MARKED AS PEOPLE'S THREE FOR
26 IDENTIFICATION?

27 THE COURT: SO MARKED.

28 MS. FRITZ: I HAVE ANOTHER PIECE OF PAPER WITH

1 ANOTHER COLOR DIGITAL PHOTO. THIS HAS FOUR OBJECTS
2 DEPICTED IN THE PHOTO. MAY I HAVE THIS ONE MARKED
3 PEOPLE'S FOUR FOR IDENTIFICATION?

4 THE COURT: SO MARKED.

5 BY MS. FRITZ:

6 Q SHOWING YOU WHAT I JUST MARKED AS PEOPLE'S
7 THREE, DO YOU RECOGNIZE THIS?

8 A YES. I RECOGNIZE PEOPLE'S THREE. I
9 PERSONALLY TOOK THAT PHOTOGRAPH AND I FOUND THAT ITEM AT
10 THE ROSENBERGER HOME.

11 Q WHAT IS THAT ITEM?

12 A THAT ITEM IS A KIMMEL NINE-MILLIMETER AP-9
13 MODEL, COMMONLY REFERRED TO AS A TECH-9 COPYCAT.

14 Q DID YOU CHECK --

15 A AND ALSO IN THE PICTURE WE HAVE ONE MAGAZINE
16 THAT'S IN THE WEAPON AND THREE ADDITIONAL MAGAZINES
17 WHICH WERE LOADED AND BOOKED INTO EVIDENCE BY MYSELF.

18 Q DID YOU CHECK IN THE CALIFORNIA LAW
19 ENFORCEMENT TELECOMMUNICATIONS SYSTEM AND AUTOMATED
20 FIREARMS SYSTEM TO SEE IF PEOPLE'S THREE, THE WEAPON
21 DEPICTED IN PEOPLE'S THREE, WAS REGISTERED AS AN ASSAULT
22 WEAPON?

23 A THE WEAPON RETURNED IN THE AUTOMATED FIREARM
24 SYSTEM AS DEALER'S REPORT OF SALE TO LUDOVIC
25 ROSENBERGER. HOWEVER, IT IS NOT REGISTERED SPECIFICALLY
26 AS AN ASSAULT WEAPON AS REQUIRED BY PENAL CODE 12276.1
27 AND SENATE BILL 23. THIS WEAPON WOULD HAVE TO BE
28 REGISTERED AS A SPECIFIC ASSAULT WEAPON BY JANUARY 1ST,

1 2001, AND THAT IS NOT.

2 Q I'LL HAVE YOU TAKE A LOOK AT PEOPLE'S FOUR.
3 DO YOU RECOGNIZE PEOPLE'S FOUR?

4 A YES. PEOPLE'S FOUR IS ALSO A PISTOL. I
5 BELIEVE IT IS A BROWNING. I CHECKED IT IN C.L.E.T.S.
6 AND IT DOES COME BACK DEALER'S REPORT OF SALE TO THE
7 DEFENDANT LUDOVIC ROSENBERGER. IN THE PICTURE YOU'LL
8 SEE THREE MAGAZINES LOADED. THERE IS NO ILLEGALITY
9 ABOUT THIS PARTICULAR WEAPON. IT'S A SILVER HANDGUN
10 WHICH SUPPORTS THE INITIAL OBSERVATIONS THAT BROUGHT THE
11 DEPUTIES TO THE SCENE.

12 Q YOU FOUND THE HANDGUN IN THE RESIDENCE?

13 A PEOPLE'S THREE AND FOUR WERE WRAPPED UP IN
14 BLACK TRASH BAGS AND THEY WERE SECRETED IN THE GARAGE OF
15 THE RESIDENCE BEHIND A RED CAR THAT WAS THAT PARKED IN
16 BACK BEHIND THE BUMPER AGAINST THE WALL. AND OPENING
17 THOSE TRASH BAGS I FOUND THE WEAPONS. THEY WERE WRAPPED
18 SEPARATELY IN SEPARATE TRASH BAGS.

19 Q WAS THERE ANYTHING ELSE THAT YOU DID IN THE
20 COURSE OF YOUR INVESTIGATION?

21 A SIMPLY CONFIRMED MY FINDINGS WITH THE
22 DEPARTMENT OF JUSTICE.

23 MS. FRITZ: NO FURTHER QUESTIONS, YOUR HONOR.

24 THE COURT: THANK YOU.

25 CROSS EXAMINATION?

26 MR. BERNSTEIN: YES.

27

28

1 IN THE CASE THE INITIAL ALLEGATION THAT BROUGHT THE
2 DEPUTIES THERE WAS THAT A CHROME HANDGUN HAD BEEN USED.
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21 A SIMPLY CONFIRMED MY FINDINGS WITH THE
22 DEPARTMENT OF JUSTICE.

23 MS. FRITZ: NO FURTHER QUESTIONS, YOUR HONOR.

24 THE COURT: THANK YOU.

25 CROSS EXAMINATION?

26 MR. BERNSTEIN: YES.

27

28

CROSS EXAMINATION

1

2 BY MR. BERNSTEIN:

3 Q PEOPLE'S EXHIBIT ONE IS A PICTURE OF THE
4 NORINCO?5 A YES. IT IS A NORINCO 84S WEAPON WITH A
6 CALIBER 7.62 WITH AN EXTRA MAGAZINE WHICH DOES NOT GO
7 WITH TO THE .223 CALIBER.

8 Q AND PEOPLE'S EXHIBIT TWO IS A THOMPSON .45?

9 A YEAH, A THOMPSON. IN PEOPLE'S TWO DEPUTY
10 LEDESMA IS HOLDING THE THOMPSON CARBON CALIBER .45 WITH
11 DRUM MODEL 1927 A-1.12 Q AND I'M TRYING TO -- I APPRECIATE YOUR
13 DETAILS, BUT I'M JUST TRYING TO MATCH THE COMMON NAME
14 USED IN THE COUNTS WITH THE EXHIBITS SO WE'RE ALL ON THE
15 SAME PAGE.16 IN EXHIBIT THREE IS THE KIMMEL INDUSTRIES
17 NINE-MILLIMETER?

18 A YES.

19 Q THERE IS NO CRIMINAL CHARGES AS FAR AS YOU
20 ARE AWARE AS FAR AS EXHIBIT FOUR, THE BROWNING PISTOL?

21 A NO.

22 MR. BERNSTEIN: I HAVE NO OTHER QUESTIONS.

23 THE COURT: THANK YOU.

24 REDIRECT?

25 MS. FRITZ: NOTHING FURTHER, YOUR HONOR.

26 THE COURT: THANK YOU. YOU MAY STEP DOWN.

27 ANY OTHER WITNESSES?

28 MS. FRITZ: NOTHING FURTHER, YOUR HONOR. THE

1 PEOPLE ASK THAT PEOPLE'S ONE THROUGH FOUR BE ENTERED
2 INTO EVIDENCE BY REFERENCE ONLY.

3 MR. BERNSTEIN: NO OBJECTION.

4 THE COURT: PEOPLE'S ONE THROUGH FOUR ARE
5 ADMITTED INTO EVIDENCE BY REFERENCE ONLY.

6 PEOPLE REST?

7 MS. FRITZ: PEOPLE REST.

8 THE COURT: THANK YOU.

9 ANY AFFIRMATIVE DEFENSE?

10 MR. BERNSTEIN: NOT AT THIS TIME, YOUR HONOR.

11 THE COURT: ANY MOTIONS?

12 MR. BERNSTEIN: MOTION TO DISMISS, YOUR HONOR.

13 WE HAVE BASICALLY WEAPONS THAT ARE 100 PERCENT LEGAL AS
14 FAR AS THEIR ACQUISITION. WE THEN HAVE A LAW COMING IN
15 FORCE ON JANUARY 1ST, 2001, THAT SAYS THEY HAVE TO BE
16 RE-REGISTERED WITH THE ATTORNEY GENERAL AS ASSAULT
17 WEAPONS.

18 YOU'LL NOTE THE DATE OF THE VIOLATION IS JULY
19 14TH, 2001. THERE IS NO SHOWING OF NOTICE THAT BECOMES
20 EX POST FACTO AS FAR AS MY POSITION IS CONCERNED. AND I
21 FEEL THAT CHARGING MR. ROSENBERGER FOR SOMETHING THAT
22 WAS LEGAL AND IS NOW BEING DEEMED NOT ILLEGAL TO POSSESS
23 WHICH ONLY NECESSARILY NEEDS TO BE REGISTERED. ONCE IT
24 IS REGISTERED IT'S LEGAL TO POSSESS.

25 THERE IS NO ALLEGATION THAT ANYTHING HAS BEEN
26 DONE WRONG EXCEPT LACK OF ADMINISTRATIVE PAPERWORK WHERE
27 MR. ROSENBERGER HAS NO NOTICE OF THAT REQUIREMENT. AND
28 SUDDENLY HE IS NOW FACING THREE FELONY COUNTS WITHOUT

1 NOTICE. THAT IS EX POST FACTO AND AN UNCONSTITUTIONAL
2 DENIAL OF EQUAL PROTECTION, CRUEL AND UNUSUAL
3 PUNISHMENT. I MOVE NOT TO HAVE MR. ROSENBERGER BOUND
4 OVER TO SUPERIOR COURT FOR TRIAL.

5 THE COURT: COUNSEL, YOU UNDERSTAND THAT WAS THE
6 LEGISLATIVE INTENT AT THE TIME THAT THE LEGISLATION WAS
7 PASSED? IT WAS TO APPLY TO THOSE WEAPONS THAT WERE I
8 GUESS IN THE PUBLIC DOMAIN AT THAT TIME.

9 MR. BERNSTEIN: I THINK WE HAVE TO GIVE THE
10 PUBLIC NOTICE THAT THEY WERE DOING IT THOUGH. IN OTHER
11 WORDS, YOU KNOW OUT OF THE BLUE YOU CAN'T DO THIS ANY
12 MORE. IN FACT THEY DON'T SAY YOU CAN'T HAVE IT ANY
13 MORE, YOU'VE JUST GOT TO TELL US THAT HAVE YOU IT.

14 AND THE IRONY OF ALL OF THIS IS THEY WERE
15 PURCHASED LEGALLY OVER THE COUNTER. THESE GUNS THE
16 STATE ALREADY HAD NOTICE THAT THEY EXISTED. BUT I
17 APPRECIATE THE COURT'S COMMENTS AND THE COURT I'M SURE
18 UNDERSTANDS WHERE I'M COMING FROM.

19 THE COURT: THE COURT IS GOING TO DENY THE MOTION
20 TO DISMISS. BASED UPON THE TESTIMONY THERE IS
21 SUFFICIENT EVIDENCE TO HOLD THE DEFENDANT TO ANSWER AS
22 CHARGED. WOULD THE DEFENDANT PLEASE STAND.

23 IT APPEARING TO THE COURT FROM THE EVIDENCE
24 PRESENTED THAT THE FOLLOWING OFFENSES HAVE BEEN
25 COMMITTED AND THAT THERE IS SUFFICIENT CAUSE TO BELIEVE
26 THE DEFENDANT GUILTY THEREOF, TO WIT: LUDOVIC
27 ROSENBERGER, COUNT ONE VIOLATION OF 12280(B) OF THE
28 PENAL CODE. COUNT TWO 12280(B) OF THE PENAL CODE. AND

1 COUNT THREE PENAL CODE 12280(B) .

2 I, THEREFORE, ORDER THAT THE DEFENDANT BE
3 HELD TO ANSWER. AND THE DEFENDANT WILL BE PERMITTED TO
4 REMAIN O.R. PENDING THE MATTER'S ARRIVAL IN SUPERIOR
5 COURT FOR THE ARRAIGNMENT AND PLEA.

6 THE MATTER IS CERTIFIED TO THE SUPERIOR COURT
7 IN THE SOUTHWEST DISTRICT IN THE CITY OF TORRANCE FOR
8 ARRAIGNMENT AND PLEA ON OCTOBER 22ND, 2001, AT 8:30 A.M.
9 IN DEPARTMENT "G" AS IN GEORGE. THANK YOU.

10 MR. BERNSTEIN: THANK YOU, YOUR HONOR. I
11 APPRECIATE THE COURT'S TIME.

12 MS. FRITZ: THANK YOU, YOUR HONOR.

13 THE COURT: THANK YOU.

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
DIVISION II HON. EUDON FERRELL, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,)
)
PLAINTIFF,)
) NO. YA048860
VS.)
) REPORTER'S
LUDOVIC ROSENBERGER,) CERTIFICATE
)
DEFENDANT.)
)

I, RENEE D. SMITH, CSR #8915, OFFICIAL
REPORTER OF THE SUPERIOR COURT OF THE STATE OF
CALIFORNIA, FOR THE COUNTY OF LOS ANGELES, DO HEREBY
CERTIFY THAT THE FOREGOING PAGES 1 THROUGH 29 COMPRISE A
FULL, TRUE AND CORRECT TRANSCRIPT OF THE PROCEEDINGS
HELD IN THE ABOVE-ENTITLED MATTER ON OCTOBER 5, 2001.

THIS TRANSCRIPT COMPLIES WITH 237(A) (2) OF
THE CODE OF CIVIL PROCEDURE.

DATED THIS 13TH DAY OF OCTOBER, 2001.

Renee D. Smith, CSR #8915

OFFICIAL REPORTER