

1 THE COURT: Thank you, sir, you may step down.

2 (Whereupon, the witness stepped down)

3 THE COURT: Plaintiff, you may call your witness.

4 MR. CERVINI: Judge, I would like to read from the
5 criminal proceeding, if I may, from the certified
6 transcript.

7 THE COURT: Yes, please, identify what it is for
8 the record.

9 MR. CERVINI: This is the plea of guilty by the
10 defendant.

11 The People of the State of New York against Waldo
12 Vargas. In the caption, Mr. Vargas being the defendant in
13 this case. On April 2, 2009 at 125-01 Queens Boulevard in
14 Kew Gardens New York, in front of the Honorable Dorothy
15 Chin-Brandt, Justice of the Supreme Court. Mr. Vargas was
16 represented by an attorney named William Ezerski, and
17 Kathleen O'Connell represented the district attorney's
18 office. And the clerk called the case in the calendar,
19 Judge, and I am reading from page 2 line 1:

20 "The Clerk: No. 31 on the plea calendar, Waldo
21 Vargas SCI 834/09, appearances, please.

22 "Mr. Ezerski: May it please the Court, William
23 Ezerski." It is spelled out phonetically.

24 "Ms. O'Connell: Katherine O'Connell, on behalf of
25 the People. Good afternoon, your Honor.

1 "The Clerk: Defendant is going to plead guilty to
2 vehicular manslaughter, second degree 125.12, he is
3 going to get five years probation with 20 days
4 community" --

5 MR. LEONE: Objection.

6 THE COURT: Sustained.

7 MR. CERVINI: What type of felony, I am sorry,
8 Judge.

9 "Miss O'Connell:" -- I will try to skip, Judge.
10 Parenthetical, "the defendant was sworn by the clerk of the
11 Court."

12 "The defendant: Yes, sir.

13 "The Court: All right, Waldo Vargas, I have
14 before me a Superior Court information and also a
15 waiver of right to appeal. Did you just sign these
16 documents here before me in open Court with your lawyer
17 by your side?

18 "The defendant: Yes, ma'am.

19 "The Court: Did your lawyer discuss these
20 documents with you? You understand what it was you
21 were signing, what rights you were giving up by signing
22 these documents?

23 "The defendant: Yes.

24 "The Court: Did you sign of your own free will?

25 "The defendant: Yes, ma'am.

1 "The Court: I find the waivers and consents were
2 knowingly and voluntarily executed by this defendant.

3 "The Clerk: Waldo Vargas, the district attorney's
4 office of Queens County has filed a Superior Court
5 Information No. 834/09 charging you with the D felony,
6 the D non-violent felony of vehicular manslaughter,
7 second degree. Mr. Ezerski, waive further reading?

8 "Mr. Ezerski: Yes.

9 "The Clerk: Plea is guilty?

10 "Mr. Ezerski: Yes.

11 "The Court: Waldo Vargas, I understand you wish
12 to plead guilty. Are you pleading guilty of your own
13 free will?

14 "The defendant: Yes, ma'am.

15 "The Court: You talk to your lawyer about taking
16 this plea?

17 "The defendant: Yes, ma'am.

18 "The Court: You understand you are giving up your
19 right to go to trial and all your rights you would have
20 at trial?

21 "The defendant: Yes, ma'am.

22 "The Court: The district attorney of Queens has
23 filed Superior Court information No. 834 of the year
24 2009 charging you with the crime of vehicular
25 manslaughter in the second degree in violation of

1 125.12 of the penal law, a class D felony. How do you
2 plead to this charge? Guilty or not guilty?

3 "The defendant: Guilty.

4 "The Court: By your plea of guilty you admit that
5 on or about August 11th of 2008, here in Queens with
6 criminal negligence caused the death of Elvia Collado,
7 spelled, phonetically spelled out, "Elvia A. Collado,
8 and the death of such person by operation of a vehicle
9 in violation of subdivision 2304 of section 11.92 of
10 the Vehicle and Traffic Law, is all this true?

11 "The defendant: Yes, ma'am.

12 "The Court: Is the plea acceptable to the People?

13 "Ms. O'Connell: Your Honor, with the permission
14 of the Court if I may I have two questions?

15 "The Court: Go ahead, Miss O'Connell.

16 "Mr. Vargas, on the date and time in question were
17 you intoxicated at the time of the collision?

18 "The defendant: Yes, ma'am.

19 "Miss O'Connell: And you were driving in excess
20 of 60 miles an hour?

21 "The defendant: Yes, ma'am.

22 "Miss O'Connell: Thank you, Judge.

23 "The Court: The plea is acceptable?

24 "Miss O'Connell: Yes, it is."

25 That ends my reading of Mr. Vargas's plea.

1 I would ask to enter into evidence at this time a
2 certified Certificate of Disposition of the defendant in
3 this case and in that case, Waldo Vargas, as to the charges
4 that I just read, Judge.

5 THE COURT: All right, marked for identification,
6 the document, as plaintiff's 1.

7 MR. CERVINI: They are both originals. I would
8 offer both, Judge.

9 THE COURT: We'll have them both marked 1 and 2
10 for identification.

11 (Whereupon, items marked as Plaintiff's Exhibits 1
12 and 2 for identification, as of this date.)

13 THE COURT: Any objection to admission of the
14 Certificate of Disposition, certified?

15 MR. LEONE: Yes, your Honor.

16 THE COURT: No objection.

17 MR. LEONE: There is an objection, if I may
18 approach.

19 THE COURT: Okay, counsel, approach, please.

20 (Off-the-record discussion at side bar between
21 counsel and the Court)

22 THE COURT: All right, with respect to Plaintiff's
23 1 and 2 for identification, the documents are admitted into
24 evidence, subject to redaction.

25 (Whereupon, Plaintiff's Exhibits 1 and 2 marked