

1 hearing.

2 ~~After the two-hour interview~~ Mr. Mendell
3 leaves the interview room, the video camera remains
4 running and, of course, the audio portion of it,
5 ~~too. You can hear a conversation in the hallway~~
6 outside the interview room on the microphone of the
7 camera which is shooting an empty room.

8 Detective McColgin, that's M-C-C-O-L-G-I-N,
9 introduces himself to Mr. Mendell, or is introduced
10 to Mr. Mendell. Detective McColgin can be heard
11 asking "do you know Nathan"?

12 And Mr. Mendell says, "yes, vaguely".

13 The detective says "would you recognize the
14 person as Nathan"?

15 And Mr. Mendell is heard saying "the
16 problem is I haven't seen Nathan", and his voice
17 trails off, in other words, he is still talking,
18 but I could not make out the words despite turning
19 the volume up full blast, so I don't know what the
20 rest of that sentence was.

21 ~~And Detective McColgin is heard saying that~~
22 ~~"she", referring to Sam Rhoads, "positively~~
23 ~~identified Nathan". She said, "hey, man, that's~~
24 ~~him". She positively identified him.~~

25 At some point after this, apparently, it is
26 my understanding of the chronology, the form says
27 at 5:01 P.M. Mr. Mendell was shown a photo spread,
28 he was given the admonishment form with the usual

1 language relating to a photo lineup admonishment
2 and he viewed the photo spread that is closest of
3 the three, which it's a clear color copy of a photo
4 array. ~~He picked photo Number 2, which is,~~
5 ~~Mr. Medina's~~ photo.

6 And the form on the front quotes
7 Mr. Mendell as saying "I think it was number 2 that
8 tried to kill me".

9 And the photo of the defendant in the photo
10 spread is the same presumably arrest photo that the
11 sheriff's department or the sheriff's deputies had
12 pulled up on their laptop and shown Mr. Medina on
13 the scene, so he was essentially identifying the
14 same photo he identified a few hours earlier in the
15 the single photo display.

16 ~~Mr. Mendell did identify the defendant's~~
17 ~~photo as the person responsible for holding a gun~~
18 ~~to his head.~~

19 He testified ~~at the preliminary~~ hearing
20 that he was not 100-percent positive at the time of
21 the photo spread, but he -- but that the
22 defendant -- the defendant's photograph looked most
23 like the shooter.

24 At the preliminary hearing on March 30th,
25 2008, Mr. Mendell was asked to and with permission
26 of the Court and counsel got off the witness stand,
27 walked up to the defendant, had the defendant stand
28 up, they stood face to face approximately ten feet