

1 separate rooms.

2 Q. Then you were interviewed, right?

3 A. Correct.

4 Q. And then at some point that interview
5 stopped and you said there was a pause then before
6 you were shown the photographic lineup, right?

7 A. Uh-huh.

8 Q. Uhmm, do you recall talking to anyone
9 in the hallway prior to viewing that photographic
10 lineup?

11 A. No.

12 Q. Do you ever recall being introduced to
13 and talking to a Detective McColgin?

14 A. Yes, I can't remember if it was at that
15 time or another time.

16 Q. Do you ever remember that detective in
17 the hallway approaching you and being introduced by
18 someone before you looked at that photographic
19 lineup?

20 A. I can't remember.

21 Q. Do you recall being asked do you know
22 Nathan in that hallway before looking at the
23 lineup?

24 A. No.

25 Q. Do you recall ever telling one --
26 anyone before the lineup, looking at the lineup,
27 that there was a reason that you thought maybe it
28 wasn't Nathan Medina; and again, this is in the

1 hallway?

2 A. No.

3 Q. So am I safe to assume then that you
4 don't ~~remember the detective telling you that she,~~
5 ~~the mom, positively identified, identified,~~ she
6 ~~said it was Nathan?~~

7 And you said in response to that "she said
8 it was Nathan for sure"?

9 ~~Do you remember that?~~

10 ~~A. No, I don't.~~

11 Q. You don't remember the detective then
12 saying, "yeah, she did. He wasn't wearing a mask.
13 It was just a hat. A hat and a beanie rolled up in
14 front."

15 A. Nope.

16 Q. Do you recall that?

17 A. I don't.

18 Q. You don't recall the detective saying
19 she said, "hey, man it's him. It was him. She
20 positively I.D.'d him".

21 Do you recall being told that by the Walnut
22 Creek Police detective in the hallway before you
23 were then asked to go look at a lineup?

24 A. No.

25 Q. And you in fact testified at the
26 preliminary hearing that that never occurred, you
27 don't recall that occurring, right?

28 A. I don't know, did I?

1 MR. MANOUKIAN: I apologize your Honor,
2 just give me a moment.

3 THE COURT: Sure.

4 BY MR. MANOUKIAN:

5 Q. Do you recall discussing that at all at
6 the preliminary hearing; do you recall me asking
7 you the question, did anyone indicate to you --

8 THE COURT: It's 107.

9 MR. MANOUKIAN: It's 107, Counsel, line
10 three.

11 Q. Do you recall me asking you the
12 "question prior to you -- prior to looking at the
13 photographic lineup, did anyone talk to you about
14 who had been identified as a suspect or who, or who
15 they believe was the guy"?

16 And you said, "not at all"?

17 A. I guess I'm confused. I don't know.

18 Q. Okay.

19 A. I guess I don't understand the
20 question?

21 Q. My question was: Do you remember
22 testifying to that at the preliminary hearing?

23 A. To what?

24 Q. That --

25 A. Can you repeat it?

26 Q. Yes, sir.

27 That my question was, hey, did anyone talk
28 to you or tell you that someone's been identified

1 prior to you looking at the lineup, and you said
2 "not at all"?

3 A. ~~I don't remember anybody telling me~~
4 ~~that somebody had positively identified Medina,~~
5 no.

6 Q. And do you recall my asking you if you
7 were sure about that, and you said, ~~"yes, I'm a~~
8 ~~hundred percent positive about that"?~~

9 A. I must have been.

10 Q. And I asked you, "are you sure about
11 that as anything you have testified to today"?

12 MR. MOAWAD: Objection, improper
13 impeachment as to the last question.

14 MR. MANOUKIAN: Let me just ask that then.

15 Q. Are you -- are -- at the preliminary
16 hearing were you sure as anything you testified to
17 that day that no one ever said that to you?

18 A. I'm confused. I don't understand the
19 question.

20 Q. ~~Are you here today positive that no one~~
21 ~~ever told you before showing you a lineup that~~
22 ~~Nathan Medina had been positively identified?~~

23 A. ~~Yes.~~

24 Q. And you're as sure of that as anything
25 else you have testified to here today?

26 A. Uhmm, I mean, there is things that I
27 said today that I couldn't remember, so I don't
28 know if that's fair to say that.

1 Q. The things that you are sure about?

2 A. I do not remember anybody mentioning
3 they positively identified -- that anybody had
4 positively identified him as Nathan Medina before I
5 had seen the photo lineup, no.

6 Q. You're sure of that?

7 MR. MOAWAD: Objection, argumentative.

8 THE COURT: I think that question has been
9 asked and answered.

10 MR. MANOUKIAN: I'll move on.

11 Q. Now, after this, as you described it, a
12 pause in the interview you then looked at a
13 photographic lineup, right?

14 A. Correct.

15 Q. And when you were shown that
16 photographic lineup you immediately recognized the
17 picture that you had seen a little earlier in the
18 police car as the same picture, right?

19 A. I recognized it, yes.

20 Q. You recognized that as Nathan Medina,
21 right?

22 A. Yes.

23 Q. And you spent some time looking at that
24 photographic lineup, right?

25 A. Correct.

26 Q. And you in fact discussed the process
27 that you went through where you eliminated some and
28 kind of got it down to two people, right?