

1 approximately 1 and a half hours before Mr. Mendell viewed a
2 photo lineup containing the defendant, Detective McColgin had the
3 following exchange with Mr. Mendell:

4 McColgin: Do you know uh, do you know (Nathan)?

5
6 Mendell: Yes.

7
8 McColgin: Did you recognize the person as (Nathan)?

9
10 Mendell: Uh, the problem is I haven't seen (Nathan).

11
12 McColgin: Okay.

13
14 Mendell: What happened is they showed me a picture of
15 (Nathan), (unintelligible). (Unintelligible).

16 McColgin: She positive - the mom positively (unintelligible)
17 - she's sure it's (Nathan).

18
19 Mendell: Is she?

20
21 McColgin: Yeah, (unintelligible) (Nathan). (Unintelligible).

22
23 While Detective McColgin informed Mr. Mendell of the fact that
24 another witness identified "Nathan Medina" as the attacker, which
25 depending on the circumstances may be deemed suggestive, the
26 standard remains that there be a "substantial likelihood of
27 irreparable misidentification." Again, the Court must weigh the
28 corrupting effect of the suggestive identification procedure