

1 entire face.

2 But I thought of an example, in listening to
3 the entire tape. If you think of someone that you have
4 known for 20 plus years. And, Mr. Manoukian, I thought
5 of an example for you, your law partner, knowing for over
6 20 years. If he was wearing a hat over his head, but you
7 could see the rest of him, and you could see how he
8 moved, and if he answered the door -- or if you answered
9 the door and he was on the threshold of the door, even if
10 he had part of his face covered, would you recognize who
11 it was immediately, even though within moments he sprayed
12 you in the face with something that obscured your vision?

13 I think if you know someone well enough, and
14 have known someone for a great deal of time, you can
15 recognize them almost instantaneously. And you can
16 recognize them even when you don't see every part of
17 them, because you recognize not only entire features, but
18 you recognize how they stand, how they hold themselves.
19 You can recognize body parts of them, and you recognize
20 how they move.

21 That is different than someone that you have
22 only seen a few times, or that you know casually. So I
23 think that is a significant factor here in the strength
24 of an identification, and particularly for the context
25 of whether there's enough probable cause here for the
26 affidavit.

27 She repeats over and over again during the
28 course, I lost track at about ten times, during the

1 course of this conversation. And I would note that this
2 appears to take place both still at her home as well as
3 after she's been transported to the hospital. So there
4 was no time during this interview where she is showing
5 any hesitation. She is very clear that she got pepper
6 sprayed, and early on, right at the door, and that it
7 obscured her vision after that happened. But she's also
8 clear that she makes the recognition who it is as she
9 opens the door before the pepper spray takes place.

10 So I don't see that there is anything, first of
11 all, that law enforcement does in, or has omitted in,
12 telling me, the magistrate, in terms of her
13 identification. And I think that based on the time that
14 she has known Mr. Medina, and the fact that there is,
15 from the -- what she has described as her interaction
16 over those years with Mr. Medina and his family, this is
17 a constant interaction. And she describes at one point
18 that she had made arrangements; aside from the contract
19 that went bad for the construction work on the house,
20 there was also some, I believe, electrical work, an
21 electrical job, or telephone work, at her house that she
22 contracts with Mr. Medina's stepfather, and she makes a
23 special arrangement that she didn't want Mr. Medina doing
24 the work because he had done some previous work that
25 didn't work out.

26 So there's obviously been interaction between
27 Ms. Rhoads and Mr. Medina that brought her into regular
28 contact with him, so this isn't a casual contact. I

1 think that is significant in terms of the quality of the
2 contact, and it gives strength to her ability to identify
3 him.

4 I think her identification is corroborated, for
5 ~~purposes of the warrant~~, by Ms. Longfellow, who is Mr.
6 Mendell's girlfriend, who is also present during this
7 event. Her identification from the six pack is that,
8 quote, Number two is what best fits my memory. And Mr.
9 Mendell -- excuse me, Mr. Medina is in the number two
10 position. And interestingly enough, her description
11 corroborates -- her description, physical description, of
12 Mr. Medina corroborates what Ms. Rhoads has described.

13 I think the troubling part, obviously, is Mr.
14 Mendell. Certainly, if law enforcement has left out --
15 well, back up.

16 ~~If, in fact, anyone from law enforcement made a~~
17 ~~comment to any witness in any case, but in particular~~
18 ~~this case, telling them what any other witness has said,~~
19 I don't know what they were thinking. That's clearly
20 something you don't do. It certainly taints any
21 identification, no matter how well the witness knew the
22 subject of the identification. I don't know what they
23 were thinking if that's, in fact, what happened.

24 The practice of showing one photograph,
25 although it's not the best practice, it is not
26 automatically an improper procedure to use, particularly
27 under the circumstances. You have a obvious homicide
28 scene with other victims. You have at least three other