

1 courtroom? At this point we don't intend to recall him as a  
2 witness.

3 THE COURT: If he's not going to be called as a  
4 witness then he may remain in the courtroom. You're not  
5 intending to call him back; is that correct?

6 MR. ROBERT: I express no opinion as to whether Dr.  
7 Bagli will ever testify in this matter again.

8 THE COURT: Well, I take that to mean that he's not  
9 going to be a witness, and he can remain in the courtroom.

10 MS. GOULD: Thank you.

11 THE COURT: Please come forward and take your seat.

12 JESUS HERNANDEZ

13 after having been first duly sworn under oath,  
14 was questioned and testified as follows:

15 DIRECT EXAMINATION

16 BY MS. GOULD:

17 Q. Good morning.

18 A. Good morning.

19 Q. Can you please state your name for the record?

20 A. Jesus Hernandez.

21 Q. Mr. Hernandez, how are you employed?

22 A. I'm employed by the city of Sunland Park Police  
23 Department, and I've been assigned to the DEA task force for  
24 the past four years, ma'am.

25 Q. Were you on duty back on February 22nd of the 2006?

1 A. Yes, ma'am.

2 Q. Did you have incident to respond to the Lordsburg  
3 Border Patrol station regarding the seizure of marijuana?

4 A. Yes, ma'am.

5 Q. Did that incident involve Mr. and Mrs. Quaintance and  
6 Mr. Kripner?

7 A. Yes, ma'am.

8 Q. I'm going to just cut to the chase here.  
9 Approximately how much marijuana was seized from Mr. and Mrs.  
10 Quaintance and Mr. Kripner on that day?

11 A. Approximately 177 pounds, I believe, ma'am.

12 Q. I've heard 172, does that sound correct?

13 A. Correct.

14 Q. Now, that translates to 77 kilograms of marijuana,  
15 doesn't it?

16 A. Yes, ma'am.

17 Q. In your experience, about how much marijuana does it  
18 take to make the common, what we would call, say, joint or  
19 marijuana cigarette weightwise?

20 A. It's approximately about one gram, ma'am.

21 Q. So to do the math on 77 kilograms of marijuana, are  
22 there approximately 1,000 grams in a kilogram?

23 A. Yes, ma'am.

24 Q. So 77 kilograms would represent approximately 77,000  
25 joints; correct?

1 A. Yes, ma'am.

2 Q. Are you also familiar with the companion case on  
3 Joseph Butts, now it's all one case, of course, by indictment?

4 A. Yes, ma'am.

5 Q. Are you aware of the fact that seized from his  
6 vehicle was 152 kilograms of marijuana?

7 A. Yes, ma'am.

8 Q. In your experience as a DEA agent, approximately how  
9 many marijuana cigarettes would that make?

10 A. I'd have to do the math.

11 Q. I'll take you through it. You had testified already  
12 that it takes approximately one gram to make a marijuana  
13 cigarette; right?

14 A. Right.

15 Q. And there is a thousand grams in a kilogram; correct?

16 A. Yes, ma'am.

17 Q. So 152 kilograms would be 152,000 cigarettes?

18 A. Correct.

19 Q. All right. So between the two seizures, in your  
20 estimation, would one kilo, or one gram being a marijuana  
21 cigarette, would you estimate that there is 229,000 marijuana  
22 cigarettes in those loads?

23 MR. ROBERT: Your Honor, this is pretty leading.

24 THE COURT: It is.

25 MS. GOULD: I'll just leave it at that, Your Honor, I

1 think the Court can do the math.

2 Q. (By Ms. Gould) In your investigation of this case  
3 did you have incident to visit the Church of the Cognizance  
4 website?

5 A. Yes, ma'am.

6 Q. Can you explain how you came across that website in  
7 your investigation?

8 A. It's written on several documents that we seized from  
9 Mr. Quaintance. I believe it's haoma, spelled H-A-O-M-A.org,  
10 and anybody can visit that site.

11 Q. Okay. In the process of visiting that website did  
12 you come across certain pictures and print those off for  
13 purpose of the investigation?

14 A. Yes, ma'am.

15 MS. GOULD: May I approach the witness, Your Honor.

16 THE COURT: Yes.

17 Q. I'm going to show you what I've marked as  
18 Government's Exhibit Number 1. Do you recognize that picture?

19 A. Yes, ma'am.

20 Q. Can you please tell me what that is and where you got  
21 it?

22 A. I got it off the website. It shows three children  
23 smoking marijuana.

24 Q. How did you get it off of that website? What were  
25 the steps you went through to get it?

1           A.    I clicked onto haoma.org and then I clicked onto  
2 another little, how can I say it, another little link they  
3 have there that you can enter through that website, and it  
4 shows just marijuana plants and these little children smoking  
5 marijuana.

6           Q.    Was it fairly easy to get to this picture?

7           A.    Yes, ma'am.

8           Q.    From that website?

9           A.    Yes, ma'am.

10          Q.    Okay.

11                MS. GOULD: Your Honor, I would present this to  
12 defense counsel at this time and move to introduce it into  
13 evidence. I think they've already seen it.

14                MR. ROBERT: I've seen it.

15                THE COURT: I'm sure they have. Any objection?

16                MR. ROBERT: No, Judge.

17                THE COURT: All right. Government's Exhibit Number 1  
18 is admitted.

19           Q.    (By Ms. Gould) Let's talk a little bit about your  
20 seizure from the Lordsburg station. Did you take possession  
21 of the marijuana that was found in the vehicles?

22           A.    Yes, ma'am.

23           Q.    Can you describe how it was packed? What did it look  
24 like when you picked it up?

25           A.    It was big bundles in burlap.

1 Q. What kind of burlap? What do you mean by burlap?

2 A. Big potato sacks or big chile sacks that they use.

3 Q. Inside those chile sacks what did you find?

4 A. We found big bundles of marijuana.

5 Q. Now, when you say big bundles, do you mean -- what do  
6 you mean by bundles, is it wrapped with string or --

7 A. I think those were -- I don't recall at this time how  
8 they were wrapped exactly. I need to refresh my memory with  
9 my notes, ma'am.

10 MS. GOULD: May I have a moment?

11 THE COURT: Yes.

12 MS. GOULD: Your Honor, may I approach the witness?

13 THE COURT: You may.

14 Q. Mr. Hernandez, do you recognize that photograph?

15 A. Yes, ma'am.

16 Q. Can you tell me what that is?

17 A. That's the marijuana we seized from the, from that  
18 Lordsburg case, ma'am.

19 Q. Does that help to refresh your recollection about the  
20 packaging?

21 A. Yes, ma'am.

22 Q. Can you describe the packaging for us?

23 A. It was a cord of foil and then rewrapped with brown  
24 packaging tape, ma'am.

25 Q. In your four years working for the DEA under the

1 Sunland Park Police Department, can you just estimate for us,  
2 I don't want an exact number, about how many drug seizure  
3 cases involving marijuana you've investigated?

4 A. Roughly, it would be over 100.

5 Q. Is it your experience that the marijuana you seized  
6 typically is packed in a certain way?

7 A. Yes, ma'am.

8 Q. Can you describe that, the packing for us that's the  
9 usual packing that you find?

10 MR. ROBERT: Your Honor, I object to the relevance of  
11 this. The way in which it's packed has nothing to say about  
12 the manner in which it's to be used or the purpose for which  
13 it's to be used.

14 THE COURT: Ms. Gould?

15 MS. GOULD: Your Honor, the reason we're going into  
16 the packing here is just to show that this is packed just as  
17 typically as any other load of marijuana that's been seized by  
18 the DEA at the Border Patrol checkpoint. That seems to  
19 indicate that this load is just like any other marijuana load  
20 and not necessarily from a monastery in Mexico at all.

21 MR. ROBERT: They're extrapolating from something  
22 that is absolute speculation and goes to no point. So I  
23 object to relevance and speculation, Your Honor.

24 THE COURT: Well, I, again, I think it's relevant so  
25 I will allow the testimony.

1 Q. (By Ms. Gould) Let me ask the question again. When  
2 -- or I'll ask a different question actually. When you look  
3 at something that's packed like this, is there certain process  
4 that needs to be gone through, according to your training, in  
5 order to get it in those bundles?

6 MR. ROBERT: Objection, unless the agent has had  
7 experiencing in packing it himself.

8 THE COURT: Lay a foundation.

9 Q. (By Ms. Gould) In the process of your training to be  
10 an investigator for the DEA did you learn about the packaging  
11 methods that big drug organizations use in bundling up  
12 marijuana?

13 A. Yes, ma'am.

14 Q. And what did you learn about that and where did you  
15 learn it?

16 A. There are several ways of packing it.

17 MR. ALMANZA: Objection, Your Honor, nonresponsive as  
18 to where he learned about it, and he hasn't answered that yet.

19 THE COURT: Could you just direct the witness to  
20 whatever it is you want him to answer? Just ask the witness  
21 to focus on the question.

22 Q. (By Ms. Gould) Where did you learn about packaging  
23 methods for marijuana?

24 A. At the Las Cruces resident office through other  
25 agents.



1 Q. And did you receive any formal training in addition  
2 to that?

3 A. I attended a two-week narc basic school in Las  
4 Cruces, New Mexico as well, ma'am.

5 Q. Who put on that school?

6 A. The Drug Enforcement Administration.

7 Q. Was that a precursor to your working as an agent for  
8 Drug Enforcement Agency?

9 A. Yes, ma'am.

10 Q. In that course did you learn about the packing  
11 methods?

12 A. It was talked about several times, yes, ma'am.

13 Q. So with regards to how marijuana is bundled, how do  
14 they do it?

15 A. Like I was stating, there are several ways that they  
16 use it. They either pack it in small bricks, it depends on  
17 the size. These big bundles, we see it a lot, it's just one  
18 big square, and then you wrap it with a certain cellophane,  
19 and then they do another layer of maybe mustard, coffee  
20 grinds, pickle juice, anything to mask the odor of marijuana  
21 in order to avoid the checkpoints and the K-9; brown packaging  
22 tape. A lot of foil is used also due to the x-ray machine  
23 that are used at some checkpoints, it reflects the x-ray.  
24 It's just several types of packaging, ma'am.

25 Q. Is it typically packed very densely into these

1 bundles?

2 A. Yes, ma'am, very tight.

3 Q. How is that done?

4 A. They make big, big molds and then they put the  
5 marijuana in there, and then they use something else to  
6 compact it. They hold it there, and then put another layer,  
7 compact it and put another layer, they compact it, until it  
8 gets to the size that they want.

9 Q. Do they do that for space efficiency?

10 MR. ROBERT: Objection, speculation.

11 THE COURT: As posed the question's speculation.

12 Q. (By Ms. Gould) Is there a reason that the marijuana  
13 would be compacted like it is?

14 A. It would be for a, to get a big quantity into a  
15 smaller space of where they need to conceal and take the  
16 marijuana to its destination.

17 Q. In this case how was the marijuana packaged?

18 A. It's packaged about the same way, ma'am, large  
19 bricks, a couple of layers of foil. Brown packaging tape to  
20 keep it all together.

21 Q. Did you, have you ever had incident to see a load  
22 where there was loose marijuana floating around in a potato  
23 bag?

24 A. No, ma'am, I haven't.

25 Q. Would you say that the method of packaging in this

1 case was consistent with other drug cases that you've seen  
2 that did not involve the allegation of a church activity?

3 A. Yes, ma'am.

4 MS. GOULD: Your Honor, I would mark this photograph,  
5 or a copy of this photograph, as Government's Exhibit Number  
6 11 for identification. I'll show it to defense counsel.

7 THE COURT: Any objection?

8 MR. ROBERT: No, Your Honor.

9 THE COURT: All right, Government's Exhibit 11 is  
10 admitted.

11 MS. GOULD: Your Honor, I have no further questions  
12 for this witness at this time.

13 THE COURT: All right. Mr. Robert?

14 MR. ROBERT: Yes, Your Honor.

15 CROSS-EXAMINATION

16 MR. ROBERT:

17 Q. You can compress marijuana in a factory, can't you,  
18 if you had the right equipment?

19 A. Yes, sir.

20 Q. Basically what you need is a box and some weight;  
21 right?

22 A. Correct, sir.

23 Q. You can put a -- well, you got to harvest the  
24 marijuana from the plant that grows there; right?

25 A. Correct.

1 Q. Put that in something, put more of it in, put some  
2 weight on top of it, squish it down?

3 A. Correct.

4 Q. Anyplace that you have a box and some weight you can  
5 do this?

6 A. Well, not just a typical box.

7 Q. Okay. A box that's strong enough to hold the weight?

8 A. Correct, sir.

9 Q. So you could have a box that's strong enough to hold  
10 the weight in your garage?

11 A. Correct, sir.

12 Q. You could do it in your kitchen?

13 A. Yes, sir.

14 Q. You could do it in a barn in a ranch in Mexico?

15 A. Yes, sir.

16 Q. You could do it in a monastery?

17 A. Yes, sir.

18 Q. The way in which something is packaged doesn't tell  
19 you a thing about the way that it's going to be used, does it?

20 A. No, sir.

21 Q. Now the vast majority of cases that you get involves  
22 marijuana that's going to be taken by somebody and sold  
23 somewhere to make money; right?

24 A. Yes, sir.

25 Q. And so you see that ongoing, regular, almost every

1 day; right?

2 A. Correct, sir.

3 Q. And so you assume that when you see something like  
4 that, that that's what it's for; right?

5 A. It depends on the weight, sir; yes, sir.

6 Q. Well, the weight doesn't tell you for sure what's  
7 going to happen to marijuana at the other end; right?

8 A. It tells me it's going to be distributed, sir.

9 Q. Okay. But it doesn't tell you for sure that it's not  
10 going to be used for religious purposes, does it?

11 A. No, sir.

12 Q. Assumptions; you told us a moment ago that this  
13 photograph shows three kids smoking marijuana?

14 A. Correct, sir.

15 Q. This photograph?

16 A. Correct, sir.

17 Q. It shows three kids?

18 A. Yes, sir.

19 Q. It shows one of them with something that looks like a  
20 cigarette-shaped object in her mouth?

21 A. Correct.

22 Q. You're assuming that that's marijuana?

23 A. Everything around it states it is, sir.

24 Q. There's nothing that says three children smoking  
25 marijuana?

1           A.    The sentence at the bottom, it says to raise your  
2 kids with loving due to the religion that they use marijuana  
3 as a sacrament, then I guess I would have to make the  
4 assumption that they are making and smoking marijuana.

5           Q.    Well, I guess that's my point, you're making an  
6 assumption, aren't you? The caption says "They may be raised  
7 with love and not play with guns," doesn't it?

8           A.    Correct, sir. The sentence below it, right above the  
9 marijuana plant, "and the children will grow strong and the  
10 truth that it contains."

11          Q.    Okay. This is a website about marijuana?

12          A.    Correct, sir.

13          Q.    And, but you're drawing some assumptions about that  
14 context about what's in this picture?

15          A.    Through the religion, yes, sir.

16          Q.    That's just my point. I mean you're assuming some  
17 things that you don't really know?

18          A.    Like I said, I go by what Mr. Quaintance has advised  
19 me, religion is based on sacrament that they use marijuana, a  
20 sacrament, I mean I would raise any other children to follow  
21 my feet.

22          Q.    Well, you also seized -- you saw the papers that he  
23 had in his possession at the time at which he was arrested?

24          A.    Correct.

25          Q.    And those papers said, "We do not give our sacrament

1 to anybody under 18;" right?

2 A. Correct.

3 Q. So, I mean, clearly that's not part of his religious  
4 belief?

5 A. It's coming off his website, sir.

6 Q. Ah, you told us that you got that picture by going to  
7 the website and then following a link to another website;  
8 right?

9 A. Correct.

10 Q. So that picture came from somebody else's website,  
11 not Mr. Quaintance's?

12 A. I would have to get through Mr. Quaintance to get to  
13 that.

14 Q. But you don't have to get through Mr. Quaintance,  
15 that was certainly the way you got there?

16 A. Correct.

17 Q. But certainly if there's a website you can get to it  
18 in other ways; right?

19 A. It's facilitated through Mr. Quaintance' website.

20 Q. That's where you started because that's the website  
21 you had during your investigation?

22 A. Correct.

23 THE COURT: If it helps, I understand how he got to  
24 the website.

25 MR. ROBERT: Sorry.

1           That's all I have, thank you.

2           I'm not sure if either of the other defense counsel  
3 have any cross.

4           MR. ALMANZA: I'd like to ask one question, Your  
5 Honor, if I may.

6           THE COURT: You may.

7                           CROSS-EXAMINATION

8 BY MR. ALMANZA:

9           Q. Well, sir, one of the answers that you had to the  
10 question posed by Mr. Robert was that you would raise your  
11 kids in the faith that you practiced, or something like that?

12          A. Correct, sir.

13          Q. Do you remember that?

14          A. Yes, sir.

15          Q. And that was based on, I think you're talking to Mr.  
16 Quaintance; is that correct?

17          A. Correct.

18          Q. Okay. In talking to Mr. Quaintance, do you believe  
19 that Mr. Quaintance sincerely believed in his faith?

20          A. Correct, sir.

21           MR. ALMANZA: Thank you.

22           THE COURT: Anything else?

23                           CROSS-EXAMINATION

24 BY MS. SEDILLO:

25          Q. Agent Hernandez, were you present with Mr. Kripner



1 when he debriefed with the government?

2 A. Yes, ma'am.

3 Q. Who else was present at that debriefing?

4 A. His attorney, both Miss, Mr. Martinez, Mrs. Gould and  
5 Task Force Officer Zarate.

6 MS. GOULD: Your Honor, I would object to this as  
7 outside the scope of direct examination.

8 MS. SEDILLO: Your Honor, it is cross-examination,  
9 and I believe that if he was present that I should be able to  
10 ask him questions with regards to, questions surrounding what  
11 he testified to with regard to the stop and the packaging.  
12 And some of the statements that Mr. Kripner may have said that  
13 were inconsistent from what he stated yesterday with regard to  
14 that.

15 THE COURT: Some of the statements that Mr. Kripner  
16 testified to yesterday that are inconsistent with what he said  
17 in the debriefing?

18 MS. SEDILLO: Well, which are related. For instance,  
19 I intend to ask him when he searched, when he searched the  
20 Kripner vehicle or the Quaintance vehicle, whether he found  
21 anything related to cocaine use.

22 THE COURT: Go a head.

23 MS. SEDILLO: You were present when the Kripner  
24 vehicle and the Quaintance vehicle were processed; correct?

25 A. Correct.

1 Q. Was there anything found in either of those vehicles  
2 related to cocaine use?

3 A. No, ma'am.

4 Q. Now, were you present when Mr. Kripner stated  
5 anything about cocaine use with regard to the Quaintances?

6 A. At the debrief ma'am, yes.

7 Q. Okay. Now Mr. Kripner stated that Mary Quaintance  
8 used cocaine; correct?

9 A. Correct.

10 Q. Mr. Kripner did not make any statements with regards  
11 to Danuel Quaintance using cocaine; correct?

12 A. I don't recall.

13 Q. You don't recall if he stated that or you just don't?

14 A. I don't recall if he stated that, ma'am.

15 Q. Did take you notes?

16 A. I took a few notes.

17 Q. At the debrief?

18 A. Yes, ma'am.

19 Q. Do you have them with you?

20 A. No, ma'am.

21 Q. Did you transcribe your notes into a report of the  
22 debrief?

23 A. We made one report, Officer Zarate and I basically  
24 had the same thing so he wrote the report.

25 Q. Okay. So both, basically, then, you compared notes

1 and you, it appeared that you both had reported everything  
2 correct, the same?

3 A. Correct.

4 Q. Okay. And then he drafted up a report. Have you  
5 seen his report?

6 A. Yes, ma'am.

7 MS. GOULD: Your Honor, I'm going to object to again  
8 as being beyond the scope of direct examination.

9 THE COURT: So far it does appear to be beyond the  
10 scope of direct examination.

11 MS. SEDILLO: Well, Your Honor, I think it's an area  
12 I would like to go into. I can try to recall him as a  
13 rebuttal after the government finishes.

14 THE COURT: Rebuttal?

15 MS. SEDILLO: Rebuttal to rebut Mr. Kripner's  
16 statements as inconsistent statements.

17 THE COURT: I guess procedurally that would be the  
18 way you'd have to do it unless there's no objection.

19 MR. ROBERT: Your Honor, maybe this will help. I  
20 intend to call Agent Zarate in rebuttal, so he wrote the  
21 report, maybe it's better to do it that way.

22 MS. SEDILLO: Okay. Nothing further, Your Honor.

23 THE COURT: All right.

24 REDIRECT EXAMINATION

25 BY MS. GOULD: