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COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT

FEB 24 1988

THE PEOPLE OF THE STATE OF CALIFORNIA,	)	
	)	
PLAINTIFF-RESPONDENT,	)	
	)	SUPERIOR COURT
VS.	)	NO. A-090435
	)	
JOE HUNT, AKA JOSEPH HUNT,	)	
AKA JOSEPH HENRY GAMSKY,	)	
	)	
DEFENDANT-APPELLANT.	)	

REC'D 2 25 1988

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY  
HONORABLE LAURENCE J. RITTENBAND, JUDGE PRESIDING  
REPORTERS' TRANSCRIPT ON APPEAL

APPEARANCES:

FOR PLAINTIFF-RESPONDENT: JOHN K. VAN DE KAMP  
STATE ATTORNEY GENERAL  
3580 WILSHIRE BOULEVARD  
ROOM 800  
LOS ANGELES, CALIFORNIA 90010

FOR DEFENDANT-APPELLANT: IN PROPRIA PERSONA

VOLUME 19 OF 101  
(PAGES 2564 TO 2627, INCLUSIVE)

COPY

ROSEMARIE GOODBODY, CSR NO. 932  
SALLY YERGER, CSR NO. 2008  
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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT WEST C

HON. LAURENCE J. RITTENBAND, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA, )

PLAINTIFF, )

VS. )

NO. A-090435 )

JOSEPH HUNT, )

DEFENDANT. )

REPORTERS' DAILY TRANSCRIPT

TUESDAY, DECEMBER 9, 1986

VOLUME 19

(PAGES 2564 TO 2627, INCLUSIVE)

APPEARANCES:

FOR THE PEOPLE:

IRA REINER, DISTRICT ATTORNEY  
BY: FREDERICK N. WAPNER, DEPUTY  
1725 MAIN STREET  
SANTA MONICA, CALIFORNIA 90401

FOR THE DEFENDANT:

ARTHUR H. BARENS, ESQ.  
10209 SANTA MONICA BOULEVARD  
LOS ANGELES, CALIFORNIA 90067

AND

RICHARD C. CHIER, ESQ.  
10920 WILSHIRE BOULEVARD  
LOS ANGELES, CALIFORNIA 90024

ROSEMARIE GOODBODY, CSR NO. 932  
SALLY YERGER, CSR NO. 2008  
OFFICIAL REPORTERS

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TUESDAY, DECEMBER 9, 1986      VOLUME 19      PAGES 2564 TO 2627

A.M.      2564

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PROCEEDINGS

MOTION IN LIMINE      2564

MOTION ON QUESTIONNAIRE      2581

1 SANTA MONICA, CALIFORNIA; TUESDAY, DECEMBER 9, 1986; 10:36 A.M.  
2 DEPARTMENT WEST C HON. LAURENCE J. RITTENBAND, JUDGE  
3 (APPEARANCES AS NOTED ON TITLE PAGE.)  
4

5 THE COURT: ALL RIGHT. WHAT DO WE DO HERE FIRST, THE  
6 MOTION IN LIMINE?

7 MR. WAPNER: YES.

8 THE COURT: ALL RIGHT.

9 MR. WAPNER: YOUR HONOR, I AM MAKING A MOTION IN LIMINE  
10 TO PRECLUDE VOIR DIRE OF THE JURORS ON THE THREE SUBJECTS THAT  
11 WERE DISCLOSED TO COUNSEL IN CHAMBERS: THE HOMICIDE IN  
12 HOLLYWOOD, IN WHICH THE NAME OF DEAN KARNY HAS SURFACED.

13 THE DISCLOSURE BY MR. --

14 THE COURT: GO AHEAD.

15 MR. WAPNER: THE DISCLOSURE BY MR. TITUS THAT MR. BARENS  
16 APPARENTLY SAID TO HIM THAT THEY WERE GOING TO PROCURE A  
17 WITNESS.

18 AND THE WITNESSES IN ARIZONA WHO SAY THAT THEY SAW  
19 SOMEONE WHO RESEMBLES RON LEVIN.

20 AND FIRST OF ALL, I FILED THE WRITTEN MOTION WITH  
21 RESPECT TO THAT PART OF IT THAT DEALS WITH MR. KARNY AND HAVE  
22 CITED CASES THAT SAY THAT A WITNESS CAN BE IMPEACHED BY  
23 SPECIFIC ACTS, IF THEY SHOW HE WAS CONVICTED OF A FELONY, BUT  
24 ABSENT THAT, THAT THAT WITNESS CAN'T BE IMPEACHED WITH THOSE  
25 THINGS. AND THERE IS NOTHING WHATSOEVER AT THIS POINT IN THE  
26 CASE THAT ANY WITNESS WHO WILL --

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1 WELL, FIRST OF ALL, MR. KARNY HASN'T BEEN CONVICTED  
2 OF ANYTHING. THAT IS THE MOST IMPORTANT THING. HE HAS NOT  
3 BEEN ARRESTED OR TRIED.

4 THIS EVIDENCE IN MY VIEW, IS COMPLETELY INADMISSIBLE  
5 TO PUT IT BEFORE THE JURY IN TERMS OF VOIR DIRE IS PLACING  
6 SOMETHING IN THEIR MINDS WHICH WILL NEVER GET OUT. IT WILL  
7 BE IMPOSSIBLE TO UNRING THE BELL.

8 I AM ASKING THE COURT, BASED ON THIS MOTION, TO  
9 PROHIBIT ANY QUESTIONS DIRECTLY OR BY INFERENCE THAT HAVE TO  
10 DO WITH THAT SUBJECT.

11 SECOND OF ALL, WITH RESPECT TO THE WITNESSES IN --  
12 THE COURT: IT IS A MATTER OF KARNY'S ALLEGED  
13 IMPLICATION IN SOME MATTER, AN ONGOING INVESTIGATION. ISN'T  
14 THAT GOING TO COME UP IN THE MOTION ON THURSDAY?

15 MR. WAPNER: YES.

16 THE COURT: BUT, KEEP THAT OUT OF IT FOR THE MOMENT.

17 MR. WAPNER: WELL, EXCEPT THAT BEFORE WE GET TO THAT,  
18 WE ARE GOING TO HAVE VOIR DIRE OF JURORS TOMORROW.

19 THE COURT: ALL RIGHT. GO AHEAD.

20 MR. WAPNER: SO I DON'T WANT ANY QUESTIONS ASKED OF  
21 JURORS TOMORROW OR AT ANY TIME ABOUT HIS ALLEGED INVOLVEMENT.

22 MY POSITION IS THAT NOTWITHSTANDING ANYTHING THAT  
23 MIGHT BE DISCLOSED ON THURSDAY AND THE COURT HAS NOT MADE  
24 A DETERMINATION WHETHER ANYTHING WILL BE TURNED OVER -- BUT  
25 ON THURSDAY, YOU ARE ONLY GOING TO DECIDE WHETHER OR NOT  
26 COUNSEL IS ENTITLED TO SOME OR ANY DISCOVERY WITH REGARD TO  
27 THAT.

28 AND REGARDLESS OF WHETHER THEY GET POLICE REPORTS

1 OR NOT, THE IMPORTANT QUESTION IN MY MIND, IS THAT MR. KARNY  
2 HAS NOT BEEN CONVICTED OF A FELONY AND THEREFORE, IS NOT GOING  
3 TO BE ABLE TO BE IMPEACHED WITH THAT MATTER AND THEREFORE,  
4 THE JURORS CAN'T BE ASKED ABOUT IT.

5 I AM ASKING THE COURT SPECIFICALLY, TO PROHIBIT  
6 ANY QUESTIONS IN THAT REGARD. SECOND OF ALL, WITH RESPECT TO  
7 ANY WITNESSES WHO MAY BE CALLED FROM TUCSON -- AND WE DON'T  
8 KNOW AT THIS TIME WHETHER WITNESSES WILL BE CALLED -- BUT  
9 ASSUMING ARGUENDO THAT --

10 THE COURT: WHY CAN'T IT JUST BE LIMITED IN THE VOIR  
11 DIRE, WHEN I ASK THEM AS I NORMALLY DO -- THAT IS, I WILL  
12 ASK YOU FOR A LIST OF ALL PROSPECTIVE WITNESSES WHOM YOU  
13 PROPOSE TO CALL SO I MAY INQUIRE OF THE PROSPECTIVE JURORS  
14 WHETHER THEY KNOW ANY OF THEM. YOU WILL GIVE ME A LIST OF  
15 THEM.

16 SIMILARLY WITH RESPECT TO THE DEFENSE, I WILL ASK  
17 THEM FOR A LIST OF ALL POSSIBLE OR EXPECTED WITNESSES WHOM  
18 THEY PROPOSE TO CALL. ALL THEY WILL DO AND ALL YOU WILL DO  
19 IS JUST GIVE ME THE NAMES, WITHOUT SAYING WHO THEY ARE AND  
20 WHAT THEY ARE GOING TO TESTIFY. THAT IS THE WAY I PERMIT IT  
21 TO BE DONE.

22 THAT IS ALL I WILL ASK. AND THE ONLY THING THAT  
23 I WILL PERMIT AT THIS PARTICULAR MOMENT IS THAT.

24 THIS IS A POSSIBLE WITNESS WHOM THEY ARE GOING TO  
25 CALL OR TWO OF THEM. WE WILL ASK THEM WHETHER OR NOT THEY  
26 KNOW ANY OF THE WITNESSES, INCLUDING THOSE WHOSE NAMES WILL  
27 BE GIVEN TO THEM, WITHOUT EXPLAINING WHO THEY ARE OR WHAT  
28 TESTIMONY THEY ARE GOING TO GIVE, IF ANY.

1 MR. WAPNER: WELL, I AM SATISFIED WITH THAT. I WILL  
2 PROVIDE --

3 THE COURT: THAT IS WHAT I NORMALLY DO. I ALWAYS DO IT  
4 TO MAKE SURE THAT THERE IS NOBODY WHO KNOWS ANY OF THE  
5 WITNESSES.

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1 THE COURT: I NEVER HAVE PERMITTED ANY QUESTION TO BE  
2 ASKED AS TO WHAT TESTIMONY ANY OF THESE WITNESSES ARE GOING  
3 TO GIVE.

4 MR. WAPNER: WELL, IF THE COURT WILL SPECIFICALLY MAKE  
5 THE ORDER THAT THEY ARE PROHIBITED FROM ASKING --

6 THE COURT: WELL, I WANT TO HEAR FIRST ON THE OTHER SIDE.  
7 BUT I AM TELLING YOU WHAT MY NORMAL PRACTICE IS  
8 ON A VOIR DIRE.

9 I WILL ASK YOU THE NAMES OF ALL WITNESSES WHOM  
10 YOU PROPOSE TO CALL AND ASK YOU TO DESIGNATE WHETHER OR NOT  
11 THEY ARE LAW ENFORCEMENT OFFICERS AND YOU WILL GIVE ME THE  
12 NAMES OF ALL PROSPECTIVE WITNESSES. AND I WILL ASK THE JURORS  
13 WHETHER OR NOT THEY KNOW ANY OF THEM.

14 SIMILARLY, WITH RESPECT TO THE DEFENSE, I WILL ASK  
15 THEM WHO THE PROSPECTIVE WITNESSES ARE, IF THEY WANT TO  
16 REVEAL THAT ON THE BEGINNING OF VOIR DIRE. IF THEY WANT TO  
17 DO THAT, IF THEY DO IT, THEY WILL TELL ME WHO THEIR WITNESSES  
18 ARE WITHOUT TELLING ME OR MY TELLING THE JURORS WHAT THESE  
19 WITNESSES ARE GOING TO TESTIFY TO. THAT GOES IN THE OPENING  
20 STATEMENT. IT IS NOT PROPER ON VOIR DIRE.

21 MR. WAPNER: WELL, I THINK THAT IS FINE BUT I AM NOT  
22 SURE THAT THAT GOES FAR ENOUGH, UNLESS AFTER HEARING FROM  
23 MR. BARENS AND MR. CHIER, THAT IS AN ORDER THAT THEY NOT ASK  
24 THE JURORS SPECIFIC QUESTIONS ABOUT -- I UNDERSTAND EXACTLY  
25 WHAT THE COURT IS SAYING.

26 THE COURT: ALL RIGHT.

27 MR. WAPNER: AND THE THIRD THING HAS TO DO WITH --

28 MR. CHIER: ARE YOU MAKING A FACE THAT I AM STANDING UP

1       HERE?

2               THE COURT:   YES.

3               MR. CHIER:   I WOULD LIKE THE RECORD TO REFLECT THAT,  
4       YOUR HONOR, YOU MADE A SOUR FACE, YOUR HONOR.

5               THE COURT:   I MADE A FACE BECAUSE OF THE FACT THAT YOU  
6       STOOD UP.

7                       ALL RIGHT.   IS THERE ANYTHING FURTHER YOU WANT TO  
8       HAVE A RECORD ON?

9               MR. CHIER:   YES, YOUR HONOR.

10              THE COURT:   GO AHEAD.

11              MR. WAPNER:   COUNSEL, I AM NOT THROUGH.   I HAVE ONE  
12     OTHER ISSUE --

13              MR. CHIER:   I AM SORRY.

14              MR. WAPNER:   -- THAT I WANTED TO DISCUSS.

15              THE COURT:   GO AHEAD.

16              MR. WAPNER:   THE OTHER THING IS WITH RESPECT TO ANYTHING  
17     HAVING TO DO WITH THE TESTIMONY OR POSSIBLE TESTIMONY OF MR.  
18     TITUS.  LIKEWISE, WE DON'T KNOW THAT THAT IS GOING TO BECOME  
19     AN ISSUE IN THIS CASE AND I HAVE NO --

20              THE COURT:   DO YOU PROPOSE TO CALL TITUS AS A WITNESS?

21              MR. WAPNER:   WELL, AT THE MOMENT I DON'T.

22              THE COURT:   ALL RIGHT.

23              MR. WAPNER:   BUT NONE OF US ARE ABLE TO FORESEE THE  
24     FUTURE OR PREDICT EXACTLY WHAT IS GOING TO HAPPEN.

25              THE COURT:   DO YOU WANT HIS NAMED MENTIONED AT ALL  
26     IN CONNECTION WITH THE VOIR DIRE OF THE JURY?

27              MR. WAPNER:   WELL, I DON'T MIND IF WE MENTION HIS NAME  
28     IN THE LIST WITH THE OTHER WITNESSES WITHOUT IDENTIFYING WHO

1 HE IS.

2 THE COURT: HOW WILL HIS TESTIMONY BE RELEVANT AT ALL?

3 MR. WAPNER: WELL, AT THIS POINT WE DON'T KNOW, YOUR  
4 HONOR.

5 THE COURT: WELL, LET'S LEAVE HIS NAME OUT OF IT THEN.

6 MR. WAPNER: I DON'T HAVE ANY OBJECTION TO PUTTING HIS  
7 NAME ON THE LIST OF THE WITNESSES WITH THE OTHERS, WITHOUT  
8 IDENTIFYING WHO HE IS.

9 THE COURT: WELL, HE IS NOT A PROSPECTIVE WITNESS, IS  
10 HE, OR A POSSIBLE WITNESS?

11 MR. WAPNER: WELL, HE IS A POSSIBLE WITNESS.

12 THE COURT: ON WHAT WILL HE BE A POSSIBLE WITNESS?

13 MR. WAPNER: WELL --

14 THE COURT: NOT IN THIS PROCEEDING.

15 MR. WAPNER: I AM ONLY SPECULATING, YOUR HONOR.

16 I DON'T KNOW WHETHER OR NOT HE WILL BE A WITNESS  
17 OR NOT. BUT THE SUBSTANCE OF HIS STATEMENT --

18 THE COURT: WE WILL KEEP HIS NAME OUT OF IT UNLESS IT  
19 BECOMES MATERIAL LATER ON AND THEN IT CAN BE ADDED IF IT HAS  
20 TO BE ADDED.

21 MR. WAPNER: YOU DON'T WANT HIS NAME INCLUDED IN THE  
22 LIST OF POTENTIAL WITNESSES?

23 THE COURT: NO. I DON'T SEE WHAT THE POTENTIALITY OF  
24 HIS TESTIMONY IS GOING TO BE.

25 WHAT IS HE GOING TO TESTIFY TO, THAT HE MADE A DEAL  
26 WITH MR. BARENS AND MR. BARENS TRIED TO SUBORN PERJURY AND  
27 SO FORTH?

28 MR. BARENS ISN'T ON TRIAL.

1 MR. BARENS: ARE WE GOING TO HAVE A WITNESS FROM RIO  
2 COME IN AND SAY THAT HE SAW MR. LEVIN SOME TWO YEARS AGO WHEN  
3 THAT CONVERSATION ALLEGEDLY TOOK PLACE?

4 MR. WAPNER: YOUR HONOR, I CAN'T -- I CAN'T PREDICT.

5 THE COURT: WELL, I THINK WE WILL KEEP HIM OUT OF IT  
6 COMPLETELY. I DON'T THINK THAT IT HAS ANY MATERIALITY IN THIS  
7 PARTICULAR TRIAL. IT IS SOMETHING THAT IS COMPLETELY OUTSIDE  
8 THE ISSUES IN THIS CASE.

9 MR. WAPNER: THANK YOU, YOUR HONOR. MAY I RESERVE THE  
10 RIGHT TO RESPOND TO COUNSELS' ARGUMENTS?

11 THE COURT: YES.

12 MR. WAPNER: THANK YOU.

13 THE COURT: ALL RIGHT, I WILL HEAR FROM COUNSEL.

14 MR. BARENS: MR. CHIER, RESPECTFULLY, IS PREPARED ON THESE  
15 ISSUES AND PROCEEDING, WE HAD PREPARED OUR ARGUMENT FOR  
16 THURSDAY MORNING, WHICH IS NOT INVOLVED IN RESPONDING ON THE  
17 KARNY MATTER, SO I AM GOING TO DEFER TO MR. CHIER AND HE IS  
18 PREPARED ON THAT.

19 THE COURT: LET'S KEEP THAT PHASE OUT OF IT AT THIS  
20 PARTICULAR TIME AND WE WILL HEAR THAT ON THURSDAY MORNING.

21 MR. BARENS: ALL RIGHT, MR. CHIER WILL RESPOND.

22 THE COURT: LET'S HEAR THE OTHER MATTERS THAT HAD BEEN  
23 MENTIONED BY THE DISTRICT ATTORNEY.

24 MR. BARENS: THANK YOU, YOUR HONOR.

25 MR. CHIER: THE MATTERS ARE SOMEWHAT INTERRELATED. TO  
26 THE EXTENT THAT I CAN SEPARATE THEM I WILL, YOUR HONOR.

27 AS I UNDERSTAND IT, THE PEOPLE HAVE REQUESTED THE  
28 COURT TO MAKE A RULING, CERTAIN RULINGS IN ADVANCE OF THE ENTIRE

1 PANEL BEING GATHERED TOGETHER, TO PROHIBIT REFERENCES IN THE  
2 COURSE OF VOIR DIRE TO CERTAIN FACTS.

3 THE FIRST ITEM WHICH THE PEOPLE SEEK TO PRECLUDE  
4 REFERENCE TO WOULD APPEAR TO BE THE MATTERS CONCERNING DEAN  
5 KARNY AND THIS INCUBATING MURDER INVESTIGATION.

6 THE COURT: I THOUGHT WE WERE GOING TO LEAVE THAT FOR  
7 THURSDAY.

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1 MR. BARENS: YOUR HONOR, THEN THE DEFENDANT IS RESERVING  
2 COMMENT ON VOIR DIRE QUESTIONING ON KARNY AND YOU ARE  
3 RESERVING A RULING ON THE VOIR DIRE QUESTIONING?

4 THE COURT: THAT'S RIGHT, UNTIL WE HEAR IT.

5 MR. BARENS: MY INQUIRY THEN, YOUR HONOR, IS, WHAT DO  
6 WE DO TOMORROW IN GENERAL VOIR DIRE ON THIS ISSUE?

7 THE COURT: DO YOU INTEND TO VOIR DIRE ON KARNY?  
8 IN WHAT RESPECT WOULD YOU VOIR DIRE ON KARNY?

9 MR. BARENS: YOUR HONOR, THE QUESTIONS -- WE HAVE NOT  
10 PREPARED OUR QUESTIONS, AS YET, ANTICIPATING YOUR RULING.

11 BUT I AM SURE THERE WOULD BE QUESTIONS --

12 THE COURT: WELL, KARNY IS UNDOUBTEDLY GOING TO BE A  
13 WITNESS. THE PEOPLE ARE GOING TO MENTION KARNY AS ONE OF  
14 THE WITNESSES WHOM THEY PROPOSE TO CALL. I WILL ASK WHETHER  
15 OR NOT THEY KNOW MR. KARNY OR ANY OTHER NAMES OF WITNESSES.

16 I WILL NOT PERMIT ANYBODY TO SAY HOW THE TESTIMONY  
17 IS GOING TO BE.

18 MR. BARENS: I DIDN'T PLAN TO DO THAT IN VOIR DIRE.

19 THE COURT: WELL, WHAT IS IT YOU EXPECT TO DO IN VOIR  
20 DIRE SO FAR AS KARNY IS CONCERNED?

21 MR. BARENS: YOUR HONOR, CERTAINLY THE JURY COULD BE  
22 QUESTIONED ABOUT THEIR ABILITY TO UNDERSTAND IMPEACHMENT  
23 QUESTIONS OF A WITNESS, BASED ON HIS CONDUCT PRIOR TO AND  
24 SUBSEQUENT TO THE MATTER HE IS TESTIFYING ABOUT.

25 ISSUES OF BIAS CONCERNING THAT WITNESS IN TERMS  
26 OF IMMUNITY TRANSACTIONS, IN TERMS OF FURTHER IMMUNITY  
27 TRANSACTIONS, THE DESIRE -- THE POTENTIAL DESIRE OF THE  
28 WITNESS TO COOPERATE WITH THE PEOPLE IN HIS TESTIMONY, TO

1 AVOID FURTHER PROSECUTIONS FOR SUBSEQUENT ACTS, CERTAINLY  
2 THOSE ARE AREAS I WOULD VOIR DIRE ABOUT.

3 MR. WAPNER: WELL, I AM NOT OBJECTING TO THAT. WHAT  
4 I AM TRYING TO ASK THE COURT TO PROHIBIT --

5 THE COURT: COUNSEL FOR DEFENSE WILL MENTION KARNY AND  
6 ALL OF THE THINGS HE HAS DONE AND ASK THEM WHETHER OR NOT  
7 THEY WILL BE INFLUENCED BY ALL OF IT?

8 MR. WAPNER: LET ME MAKE IT A LITTLE MORE SPECIFIC.  
9 I DON'T WANT COUNSEL STANDING UP IN FRONT OF THE JURY AND  
10 SAYING THAT IF THEY HEAR EVIDENCE MR. KARNY WAS JUST INVOLVED  
11 IN ANOTHER MURDER IN HOLLYWOOD, ARE THEY GOING TO TAKE THAT  
12 INTO CONSIDERATION IN DECIDING HIS CREDIBILITY.

13 THE POINT IS, THAT THEY MAY NEVER HEAR THAT  
14 TESTIMONY. BUT ONCE COUNSEL MENTIONED IT, THAT IS TOO LATE.

15 MR. BARENS: I WON'T ASK THAT QUESTION, YOUR HONOR.  
16 I DIDN'T SAY THAT I WOULD ASK THAT QUESTION. I WOULD AGREE  
17 THAT THAT IS A BIT MUCH.

18 THE COURT: TELL ME A TYPICAL QUESTION YOU WOULD ASK.

19 MR. CHIER: YOUR HONOR, I --

20 THE COURT: I ASKED COUNSEL. HE IS TALKING TO ME NOW.  
21 I AM ASKING HIM THE QUESTIONS.

22 IF YOU WANT TO WHISPER SOMETHING TO HIM, YOU ARE  
23 AT LIBERTY TO DO SO.

24 MR. BARENS: BASICALLY, IT IS WHAT I SAID BEFORE YOUR  
25 HONOR, THAT WE WOULD BE PROBING FOR BIAS AND PREJUDICE, BASED  
26 ON HIS RELATIONSHIP WITH THE POLICE. KARNY --

27 THE COURT: YOU MEAN IN THIS OTHER MATTER?

28 MR. BARENS: ACROSS THE BOARD, YOUR HONOR. MR. KARNY

1 HAS THREE DIFFERENT, DISTINCT RELATIONSHIPS WITH THE POLICE  
2 INVOLVING THREE DIFFERENT FACTUAL SITUATIONS OF AN ONGOING  
3 NATURE.

4 THIS HAS NOT TO DO WITH IMPEACHMENT, BUT RATHER  
5 GOES TO SHOWING BIAS AND PREJUDICE IN HIS TESTIMONY, WHICH  
6 IS WHAT I TRIED TO SUGGEST A FEW MOMENTS AGO, YOUR HONOR.

7 WE ARE RELYING ON THIS, ON A CASE THAT WILL BE  
8 SIGNIFICANT FOR THURSDAY, WHICH IS DAVIS V. ALASKA, WHICH  
9 HAS A LENGTHY EXPOSITION ON THE RIGHT OF COUNSEL TO INQUIRE  
10 INTO BIAS AND PREJUDICE, WHILE AT THE SAME TIME, NOT GENERALLY  
11 CALLING CHARACTER INTO QUESTION.

12 THE COURT: WILL YOU PUT DOWN THE CITATION AND GET IT  
13 FROM THE LIBRARY? IT IS THE UNITED STATES SUPREME COURT  
14 REPORTS. I THINK THAT THEY'D -- JUST GIVE US THE LAW  
15 EDITION. WHAT IS THE CITE ON THAT?

16 MR. CHIER: WHICH CITATION DO YOU WANT, YOUR HONOR?

17 THE COURT: I DON'T KNOW. WHICH ONE ARE YOU GOING TO --

18 MR. CHIER: THE OFFICIAL CITATION IS 415 U.S. 308.

19 THE LAWYER'S EDITION IS 39 LAWYER'S EDITION 2ND  
20 347. AND THE WEST --

21 THE COURT: WE DON'T NEED THAT. THEY HAVE GOT THE  
22 SUPREME COURT REPORTS THERE. I CAN GET IT THAT WAY. I NEED  
23 THAT ANYWAY FOR THE MOTION ON THURSDAY.

24 MR. BARENS: FOR THIS MORNING'S REFERENCE, I AM AT  
25 PAGE 351 OF THAT CITATION. THEREFORE, WITHOUT CALLING HIS  
26 GENERAL CHARACTER INTO QUESTION OR TRYING TO IMPEACH HIM ON  
27 THAT BASIS, WE ARE PROBING FOR BIAS AND PREJUDICE.

28 YOUR HONOR, I AM SURE --

1 THE COURT: HOW WOULD YOU PROBE FOR BIAS AND PREJUDICE  
2 IN ASKING THEM IF MR. KARNY TESTIFIES, WOULD YOU BE BIASED  
3 AGAINST HIM BECAUSE OF THE FACT THERE ARE ONGOING INVESTIGATIONS  
4 AGAINST HIM OR THAT HE HAS PARTICIPATED IN THE CRIME AND HAS  
5 GOTTEN IMMUNITY? WHAT WOULD YOU ASK THEM?

6 MR. BARENS: OR WHETHER THEY ARE BIASED FOR HIM BECAUSE  
7 OF THE FACT THAT ON SEVERAL OCCASIONS HE HAS BEEN A  
8 COOPERATING INFORMANT FOR THE POLICE DEPARTMENT AND HAS  
9 WORKED IN EFFECT, AS AN AGENT FOR THE POLICE DEPARTMENT FOR  
10 ALMOST TWO YEARS NOW.

11 MR. WAPNER: MAYBE I MISLED COUNSEL AND THE COURT.  
12 I DID NOT INTEND TO. I THINK THAT COUNSEL HAS EVERY RIGHT  
13 TO INQUIRE OF THE JURORS ABOUT THEIR GENERAL OPINIONS ABOUT  
14 MR. KARNY AS A WITNESS WHO HAS GOTTEN IMMUNITY AND SUBJECTS  
15 OF THAT NATURE.

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1                   THIS MOTION IS SPECIFICALLY LIMITED TO PROHIBITING  
2 COUNSEL FROM MAKING ANY REFERENCE WHATSOEVER TO ANY ALLEGED  
3 INVOLVEMENT BY MR. KARNY IN THIS LATEST HOMICIDE THAT TOOK  
4 PLACE. THAT IS WHAT I AM CONCERNED ABOUT. I THINK THAT COUNSEL  
5 HAS EVERY RIGHT TO INQUIRE OF THE JURORS ABOUT HOW THEY MIGHT  
6 FEEL ABOUT THE GENERAL SUBJECT OF MR. KARNY'S CREDIBILITY.

7                   BUT IN THE SPECIFIC SENSE, IT IS ALL I AM ASKING  
8 WITH REGARD TO MR. KARNY, THAT THE COURT SPECIFICALLY  
9 PROHIBIT ANY QUESTIONS THAT GIVE TO THE JURY ANY FACTUAL  
10 INFORMATION ABOUT A NEW HOMICIDE TO WHICH MR. KARNY ALLEGEDLY  
11 MAY BE CONNECTED.

12                   HIS NAME MAY HAVE COME UP, BECAUSE --

13                   THE COURT: WELL, I WILL RESERVE THAT FOR TOMORROW.

14                   MR. BARENS: TO SAVE THE COURT EVEN HAVING TO DO THAT,  
15 AS I INDICATED BEFORE, I AM NOT GOING TO ASK THAT QUESTION.  
16 I AM NOT TROUBLING THE COURT WITH THAT.

17                   I NEVER SAID THAT I WAS GOING TO ASK THAT QUESTION.  
18 I AM REPRESENTING I NEVER INTENDED TO ASK THAT QUESTION.  
19 I DON'T THINK THAT THAT IS APPROPRIATE VOIR DIRE QUESTIONING.

20                   THE COURT: I AGREE WITH YOU.

21                   MR. BARENS: NOW, IT IS A DIFFERENT MATTER AS TO  
22 DISCOVERY, YOUR HONOR.

23                   THE COURT: THAT IS A DIFFERENT MATTER. THAT IS WHY  
24 I SAID WE WOULD SAVE THAT FOR TOMORROW.

25                   MR. BARENS: THANK YOU.

26                   MR. WAPNER: SO, I APPRECIATE MR. BARENS' STATEMENT FOR  
27 THE RECORD THAT THAT SUBJECT WILL NOT COME UP AND --

28                   THE COURT: YOU CONCEDE THAT HE HAS THE RIGHT IN

4B-2

1 QUESTIONING THE JURORS AS TO WHETHER OR NOT THEY WERE -- HOW  
2 THEY WOULD BE AFFECTED BY THE WITNESS, ONE OF THE PRINCIPAL  
3 WITNESSES OF THE PROSECUTION, WHO HAD RECEIVED IMMUNITY FOR  
4 HIS OFFENSE AND ADMITTEDLY HAD PARTICIPATED IN THE AFFAIR,  
5 HOW THEY WOULD TREAT HIS TESTIMONY. IS THAT WHAT YOU SAID?

6 MR. BARENS: PRECISELY.

7 THE COURT: YOU SAID SO, TOO.

8 MR. WAPNER: AS FAR AS THE IMMUNITY GOES, THAT IS  
9 ABSOLUTELY CORRECT. ANY CHARACTERIZATIONS OF HOW MUCH HE  
10 PARTICIPATED OR WHATEVER.

11 THE COURT: WE DON'T NEED TO GO INTO THAT ON VOIR DIRE.

12 MR. BARENS: I AM NOT INTENDING TO DO THAT, YOUR HONOR.

13 THE COURT: OR ANY OPENING STATEMENT AND SO FORTH, YOU  
14 WILL HAVE THE RIGHT TO --

15 MR. WAPNER: MAY I JUST ASK THE COURT TO ASK MR. BARENS  
16 TO INCLUDE THAT IN A STATEMENT WHICH HE GRACIOUSLY MADE TO  
17 THE COURT, THAT NOT ANY DIRECT QUESTIONS BE ASKED NOR ANY  
18 INFERENCE BE MADE THAT THERE WAS ANY NEW CRIME TO WHICH  
19 MR. KARNY MAY BE CONNECTED.

20 MR. BARENS: ANYTHING I WOULD NOT DO DIRECTLY IN GOOD  
21 FAITH, I WILL NOT DO INDIRECTLY.

22 THE COURT: I AM SURE YOU WON'T.

23 MR. BARENS: NOW, COULD MR. CHIER PROCEED WITH THE  
24 BALANCE?

25 THE COURT: YES.

26 MR. BARENS: THANK YOU, YOUR HONOR.

27 MR. CHIER: WELL, THE BALANCE IS THAT HE SEEKS SOME  
28 SORT OF PROTECTIVE ORDER WITH RESPECT TO THE TITUS MATTER

1 AND THE MATTER INVOLVING THE WITNESSES FROM TUCSON, ARIZONA.

2 FIRST OF ALL, I DON'T KNOW WHETHER THE PEOPLE  
3 INTEND TO PUT ON MR. TITUS. BUT IN THE EVENT THAT THEY DO  
4 INTEND TO PUT ON MR. TITUS, WE HAVE --

5 THE COURT: I WILL RULE NOW THAT MR. TITUS WILL NOT  
6 BE A WITNESS IN THIS CASE.

7 MR. CHIER: I DON'T THINK YOU CAN DO THAT IN ADVANCE,  
8 YOUR HONOR.

9 THE COURT: WELL, I AM TELLING YOU IN ADVANCE. I KNOW  
10 WHAT THE FACTS ARE WITH RESPECT TO MR. TITUS. IT HAS NO  
11 PLACE IN THIS PARTICULAR CASE.

12 MR. CHIER: WELL THEN, I NEED NOT ADDRESS MYSELF TO  
13 THAT ISSUE.

14 THE COURT: THAT'S RIGHT. I AM MAKING THAT RULING UNLESS  
15 ANYTHING IS ADDUCED BY THE DEFENDANTS.

16 BUT I DOUBT VERY MUCH WHETHER THERE WILL BE ANYTHING  
17 ADDUCED BY THE DEFENDANTS.

18 MR. CHIER: WE INTEND TO CALL THE PEOPLE FROM TUCSON,  
19 ARIZONA.

20 THE COURT: WELL, FINE. YOU CAN ASK ON VOIR DIRE --  
21 ALL YOU CAN DO IS GIVE THE NAMES OF THOSE PEOPLE. I WILL  
22 ASK THEM WHETHER THEY KNOW THEM.

23 AS TO WHAT THEY WILL TESTIFY TO, THAT WILL BE  
24 PROPERLY ON OPENING STATEMENTS THAT WILL BE MADE.

25 MR. CHIER: BUT, PEOPLE V. WILLIAMS GIVES US A CERTAIN  
26 LATITUDE IN ASKING QUESTIONS.

27 THE COURT: WHAT?

28 MR. CHIER: DESIGNED TO AID US IN MAKING INTELLIGENT

1 PEREMPTORY CHALLENGES THAT --

2 THE COURT: YOU MEAN TELL THEM WHAT THE TWO WITNESSES  
3 ARE GOING TO TESTIFY TO?

4 MR. CHIER: NOT IN SO MANY WORDS.

5 THE COURT: WELL, NOT IN SO MANY WORDS OR ANY WORDS.

6 MR. CHIER: WELL, FIRST OF ALL, THE PEOPLE ARE  
7 HISPANIC. THAT IS AN ISSUE. THE PEOPLE READ ESQUIRE MAGAZINE.  
8 SOME PEOPLE WOULD FROWN ON THEM FOR READING ESQUIRE MAGAZINE.

9 THE WOMAN IS MAKING -- IS HAVING EYE CONTACT WITH  
10 ALLEGED HOMOSEXUAL MEN.

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1 THE COURT: THAT IS ON VOIR DIRE GENERALLY WITH RESPECT  
2 TO WHAT THEY READ AND SO FORTH. IT HAS NOTHING TO DO WITH  
3 THESE PARTICULAR WITNESSES.

4 I WILL PERMIT YOU TO ASK WHAT MAGAZINES THEY READ,  
5 OR IF THEY READ ESQUIRE OR ANY OTHER MAGAZINE, I WILL PERMIT  
6 YOU TO DO THAT.

7 MR. CHIER: I UNDERSTAND THAT.

8 BUT WOULD THEY BE BIASED FROM THE ARIZONA --

9 THE COURT: NO, NO, I DON'T WANT ANY WITNESSES BY NAME  
10 MENTIONED SPECIFICALLY OR ANY OTHER PLACE, THAT WILL NOT BE  
11 MENTIONED.

12 MR. CHIER: WELL, I DON'T HAVE TO MENTION THEIR NAMES,  
13 THAT IS NOT IMPORTANT, BUT I ANTICIPATE --

14 THE COURT: ON VOIR DIRE, I DON'T WANT ANYTHING EXCEPT  
15 THE NAMES OF POSSIBLE WITNESSES AND NOT WHAT THEY ARE GOING  
16 TO TESTIFY TO.

17 MR. CHIER: WELL, YOUR HONOR, I ANTICIPATE THEY ARE  
18 GOING TO TESTIFY THAT THEY READ ESQUIRE MAGAZINE AND THEY  
19 MADE AN IDENTIFICATION BASED ON THIS.

20 THE COURT: NO.

21 MR. CHIER: NO, WHAT?

22 THE COURT: I WILL NOT PERMIT YOU TO DO THAT.

23 MR. CHIER: I AM ENTITLED TO DO THAT.

24 THE COURT: I AM TELLING YOU I WON'T PERMIT YOU TO DO  
25 THAT. THIS IS AN ORDER.

26 IF HE IS CONVICTED, THEN YOU CAN HAVE ME REVERSED  
27 ON APPEAL.

28 MR. CHIER: BUT THAT IS NOT --

1 THE COURT: I WILL NOT PERMIT YOU TO ASK ANY PROSPECTIVE  
2 JURORS WHETHER THEY READ ESQUIRE -- IF THEY READ ESQUIRE  
3 MAGAZINE, YES, YOU HAVE A RIGHT TO DO THAT AND WE HAVE ALREADY  
4 INTERROGATED ALL THESE JURORS ON WHAT THEY READ, IF THEY READ  
5 IT OR WHERE THEY FOUND IT OR HEARD ANYTHING ABOUT THIS CASE.  
6 THERE IS NO SENSE IN GOING INTO ALL OF THAT AGAIN.

7 MR. CHIER: WE NEED TO DO IT AGAIN. THERE HAS BEEN NEW  
8 PUBLICITY.

9 THE COURT: NONE IN ESQUIRE MAGAZINE.

10 MR. CHIER: NONE IN ESQUIRE, BUT IN THE LOS ANGELES  
11 TIMES, WHICH I SUBMIT IS A LITTLE CLOSER TO HOME.

12 THE COURT: WELL, YOU CAN ASK THEM WHETHER THEY HAVE  
13 READ ANYTHING ELSE ABOUT THE CASE.

14 I ENJOINED UPON THEM NOT TO READ ANYTHING ABOUT  
15 IT.

16 MR. CHIER: THAT DOESN'T ALWAYS WORK.

17 THE COURT: WELL, THEN YOU CAN ASK THEM IF THEY READ  
18 ANYTHING ELSE ABOUT THE CASE.

19 MR. CHIER: ONCE THEY ANSWER IN THE AFFIRMATIVE, THEN --

20 THE COURT: WELL, ASK THEM WHETHER THEY READ IT.

21 MR. CHIER: THAT HAS TO BE DONE INDIVIDUALLY, YOUR HONOR.  
22 YOU CAN'T DO IT IN FRONT OF THE WHOLE PANEL.

23 THE COURT: EVERYTHING IS GOING TO BE IN FRONT OF THE  
24 ENTIRE PANEL.

25 MR. CHIER: YOUR HONOR, I AM MAKING A SPECIFIC REQUEST.

26 THE COURT: IF YOU WANT TO ASK THEM IF THEY READ ANYTHING  
27 ABOUT THE CASE, YOU HAVE THE RIGHT TO ASK THEM IN FRONT OF  
28 THE ENTIRE PANEL.

1 MR. CHIER: I HAVE A RIGHT NOT TO ASK THEM IN FRONT OF  
2 THEM.

3 THE COURT: I AM TELLING YOU NOW, YOU WILL ASK THEM  
4 BEFORE THE ENTIRE PANEL. I AM NOT GOING TO HAVE THESE  
5 SECRET INTERROGATIONS ANYMORE IN CHAMBERS OR ON THE STAND  
6 OUTSIDE OF THE PRESENCE OF THE REST OF THEM.

7 THESE PEOPLE HAVE -- THEY HAVE ALL BEEN  
8 INTERROGATED, THEY ARE QUALIFIED AND ANY QUESTIONS YOU HAVE  
9 GOT TO ASK WILL BE ASKED IN FRONT OF EVERYBODY.

10 MR. CHIER: CAN I SAY, YOUR HONOR, I THINK MR. WAPNER  
11 MIGHT CONCUR WITH RESPECT TO THE NEED FOR HAVING SOME FURTHER --

12 THE COURT: WHAT?

13 MR. CHIER: SOME PROPHYLACTIC VOIR DIRE IN THAT  
14 RESPECT.

15 THE COURT: NO, THERE WON'T BE ANY PROPHYLACTIC VOIR  
16 DIRE. WE HAVE GONE OVER THE LIST OF QUESTIONS YOU WANT TO ASK  
17 AND I AM GOING TO RULE UPON EACH ONE OF THEM.

18 MR. CHIER: WE DON'T KNOW ALL OF THE QUESTIONS WE ARE  
19 GOING TO ASK.

20 THE COURT: I WILL NOT PERMIT IT.

21 MR. CHIER: DO I UNDERSTAND THE COURT IS GOING TO REQUIRE  
22 US IN ADVANCE TO PROVIDE A LIST OF ANY QUESTIONS THAT MIGHT  
23 BE ASKED?

24 THE COURT: YOU DID.

25 MR. CHIER: WE DIDN'T.

26 THE COURT: YES, YOU DID.

27 MR. CHIER: THIS IS ONLY A PARTIAL LIST. THIS IS NOT  
28 A COMPLETE LIST, YOUR HONOR.

1 VOIR DIRE IS --

2 THE COURT: WILL YOU ENLIGHTEN YOUR COLLEAGUE, PLEASE?  
3 HAVEN'T WE GONE OVER THE QUESTIONS YOU PROPOSE TO ASK THE  
4 JURORS?

5 MR. BARENS: YES, WE WENT OVER A PROPOSED LIST, WHICH  
6 I WILL ABSOLUTELY REPRESENT WAS NOT A COMPLETE LIST NOR DID  
7 WE REPRESENT IT AS A COMPLETE LIST.

8 MR. CHIER: IT IS A QUESTIONNAIRE TO BE HANDED OUT TO  
9 THE JURORS IN ADVANCE OF ANYTHING.

10 MR. BARENS: ONE MINUTE.

11 THE COURT: I AM NOT GOING TO HAVE ANY MORE PROCEDURES  
12 WHEREBY ALL OF THE JURORS ARE EXCLUDED FROM HEARING ANY ONE  
13 PARTICULAR JUROR'S ANSWERS.

14 MR. BARENS: THE ONLY REASON THE DEFENSE MENTIONED THAT,  
15 YOUR HONOR, I BELIEVE DUE TO THE POTENTIAL FOR INFECTION OF  
16 THE BALANCE OF THE JURORS BY COMMENTS THAT ANOTHER JUROR COULD  
17 MAKE ABOUT WHAT THEY HAVE READ AND WHAT THEY INTERPRETED, WE  
18 COULD HAVE A PROBLEM.

19 LET ME GIVE YOUR HONOR A VERY RECENT EXAMPLE.

20 THE COURT: YOU MEAN YOU WANT ME TO GO THROUGH THE ENTIRE  
21 PROCESS AGAIN?

22 MR. BARENS: NO, YOUR HONOR.

23 THE COURT: WITH EACH OF THE 71 OF THESE PROSPECTIVE  
24 JURORS AND ASK THEM WHAT THEY HAVE READ SINCE THAT TIME?

25 MR. BARENS: NO, YOUR HONOR.

26 THIS MORNING AND PRIOR TO THE PROCEEDINGS, MR.  
27 WAPNER AND MR. CHIER AND MYSELF HAD A DISCUSSION ON THIS  
28 QUESTION, AT WHICH TIME MR. WAPNER INTELLIGENTLY SUGGESTED

1 THE WAY TO HANDLE THAT WOULD BE WHEN THE PANEL WAS TOGETHER,  
2 SIMPLY HAVE A SHOWING OF THE HANDS OF WHO WOULD ADMIT HAVING  
3 READ SOMETHING ABOUT THIS CASE AFTER YOUR HONOR ADMONISHED  
4 THEM NOT TO DO SO.

5 THE COURT: ALL RIGHT. WITHOUT TELLING ME WHAT THEY READ,  
6 I WILL ASK THEM THE SPECIFIC QUESTION, WHETHER OR NOT ANYTHING  
7 THEY READ IS GOING TO INFLUENCE THEM IN THE SLIGHTEST.

8 MR. BARENS: YES, THAT IS SINCE YOU MADE THE INQUIRY,  
9 YOUR HONOR.

10 THE COURT: YES. AND IF THEY HAVE READ IT, ASK THEM  
11 WHERE THEY READ IT AND WOULD THAT IN ANY WAY INFLUENCE THEM  
12 IN THEIR SERVING AS A FAIR AND IMPARTIAL JUROR.

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1 MR. BARENS: YOUR HONOR, COUNSEL CANNOT BE SATISFIED WITH  
2 YOUR INQUIRY OF THEM MAKING THE DECISION WITHOUT BEING  
3 QUESTIONED AS TO WHETHER IT WILL INFLUENCE THEM OR NOT.

4 THE COURT: ALL RIGHT, I WILL ASK THEM WHETHER OR NOT  
5 IT WILL INFLUENCE THEM OR NOT.

6 MR. BARENS: YOUR HONOR, IT WOULD BE INCUMBENT UPON  
7 COUNSEL TO PROBE FURTHER THAN THAT BECAUSE WE HAVE SEEN  
8 JURORS IN THESE PROCEEDINGS THAT SAID THEY WOULD NOT BE  
9 INFLUENCED BUT LATER ON, WE FOUND IT WAS AN INFLUENCE ON  
10 THEM.

11 I DON'T INTEND TO TAKE UP THE COURT'S TIME WITH  
12 THIS BUT BY THE SAME TOKEN, WHAT ARE WE GOING TO DO?

13 THE COURT: I ADMONISHED THEM -- WHICH IF THEY WENT  
14 AGAINST MY ADMONITION -- THAT THEY WEREN'T TO READ ANYTHING  
15 ABOUT THE CASE AND NOT TO HEAR ANYTHING ABOUT IT -- IF THEY HAVE,  
16 I WILL ASK THEM WHETHER OR NOT ANYTHING THEY READ IN THE  
17 SLIGHTEST INFLUENCED THEM IN THIS PARTICULAR CASE AND IF THEY  
18 SAY NO TO ME THAT IT WILL NOT, THAT IS THE END OF IT SO FAR  
19 AS I AM CONCERNED.

20 MR. BARENS: YOUR HONOR, FOR THE RECORD, THE DEFENSE --

21 THE COURT: I AM NOT GOING TO HAVE EACH SINGLE ONE OF THEM  
22 PROBED AND PROBED AGAIN. WE WILL NEVER GET THROUGH WITH THIS  
23 TRIAL EVER.

24 MR. BARENS: YOUR HONOR, THE DEFENSE RESPECTFULLY SUBMITS  
25 THAT WE FEEL IT APPROPRIATE THAT THE JURORS WHO SAY THEY HAVE  
26 READ SOMETHING SUBSEQUENT TO YOUR HONOR'S ADMONISHMENT THAT  
27 THEY NOT DO SO, THE DEFENSE AND THE PEOPLE SHOULD HAVE THE  
28 RIGHT TO EXAMINE THEM INDIVIDUALLY TO PROBE INTO THAT.

1 THE COURT: I AM NOT GOING TO PERMIT THAT TO BE DONE.

2 MR. BARENS: I UNDERSTAND YOUR POINT OF VIEW, YOUR  
3 HONOR. I ACCEPT THAT, YOUR HONOR.

4 MR. WAPNER: YOUR HONOR, I THINK MR. BARENS HAS STATED  
5 MY POSITION. BUT JUST FOR THE RECORD, I JOIN IN THAT BECAUSE  
6 I DON'T KNOW WHAT THEY HAVE READ IN ADDITION TO WHAT HAS  
7 ALREADY COME OUT, BUT, OBVIOUSLY, IT IS OF GREAT CONCERN TO  
8 ME IF THEY HAVE READ ANY OF THESE ADDITIONAL ALLEGATIONS AND  
9 I WOULD LIKE TO KNOW THAT AND I DON'T WANT --

10 IF THERE ARE FIVE OR TEN PEOPLE OUT OF SEVENTY-ONE  
11 WHO HAVE READ THIS, I WOULDN'T WANT THE OTHER SIXTY-FIVE,  
12 SIXTY OR SIXTY-FIVE TO HEAR IT.

13 THE COURT: THAT IS WHY I AM NOT GOING TO ASK THEM  
14 SPECIFICALLY WHAT THEY READ.

15 MR. WAPNER: BUT I DON'T THINK A GENERAL QUESTION IS  
16 GOING TO COVER IT BECAUSE YOU CAN'T FIND OUT.

17 THE COURT: I THINK IT WILL. THAT IS THE END OF IT.

18 MR. CHIER: CAN I TELL YOU WHAT THE SUPREME COURT SAYS  
19 ABOUT THESE GENERAL QUESTIONS, YOUR HONOR? THIS IS FROM  
20 PEOPLE V. WILLIAMS AT 29CAL.APP.3D, 392 AT PAGE 402 --  
21 401, I AM SORRY. IT SAYS:

22 "AS A RESULT,-- MOST COURTS' LIMITED  
23 VOIR DIRE BY ASKING BROAD QUESTIONS AT THE OUTSET  
24 ABOUT THE VENIREMEN'S IMPARTIALITY. UNDER EDWARDS" --  
25 REFERRING TO PEOPLE V. EDWARDS -- "THEY COULD THEN  
26 FORECLOSE AS UNLIKELY TO REVEAL BIAS OTHER  
27 QUESTIONS RELATED TO PARTICULAR AREAS IN WHICH  
28 BIAS WAS IN FACT LIKELY TO BE DISCOVERED. VOIR

1           DIRE THEREBY WAS OFTEN REDUCED TO A 'STARK LITTLE  
2           EXERCISE CONSUMING MINUTES RATHER THAN HOURS AND  
3           OFTEN ELICITING NO VERBAL RESPONSES AT ALL!"

4                   WILLIAMS RECOMMENDS AND URGES QUESTIONS THAT ARE  
5           SOMEWHAT OPEN-ENDED.

6           THE COURT:   WHAT ARE THE SPECIFIC QUESTIONS IN WILLIAMS  
7           THAT THE COURT DISCUSSED THAT COULD BE ASKED?

8           MR. CHIER:   WILLIAMS DISCUSSES A NUMBER OF QUESTIONS:  
9           THE ATTITUDE OF JURORS TOWARD THE LAW OF SELF-DEFENSE WAS  
10          ONE OF THE AREAS.

11          THE COURT:   THAT IS PERFECTLY PROPER, I WILL NEVER FORE-  
12          CLOSE THAT.

13          MR. CHIER:   THE DEFENSE COUNSEL WANTED TO ASK THE JURORS  
14          ABOUT A REASONABLE MAN'S STANDARD OF CONDUCT WITH RESPECT --

15          THE COURT:   THAT IS PERFECTLY ALL RIGHT.

16          MR. CHIER:   AT THE BEGINNING OF THE VOIR DIRE, THE  
17          PROSPECTIVE JURORS RESPONDED AFFIRMATIVELY TO THE TRIAL COURT'S  
18          INQUIRY OF THEM AS A GROUP WHETHER THEY WOULD FOLLOW THE  
19          COURT'S INSTRUCTIONS ON THE LAW, REGARDLESS OF THEIR PERSONAL  
20          OPINIONS ABOUT WHAT THE LAW IS OR SHOULD BE.   WILLIAMS SAYS  
21          THAT THAT INQUIRY DOESN'T END IT AND --

22          THE COURT:   I WILL PERMIT FURTHER INQUIRY ABOUT THAT BY  
23          COUNSEL.

24          MR. CHIER:   -- AND THAT COUNSEL -- OBVIOUSLY AT THIS  
25          POINT YOU DON'T KNOW WHAT A PARTICULAR JUROR --

26          THE COURT:   ALL OF THAT YOU MENTIONED FROM WILLIAMS  
27          HAS NOTHING TO DO WITH THE PROBLEM THAT WE HAVE AT THE  
28          MOMENT.

1                   IT IS NOT AUTHORITY FOR ANYTHING EXCEPT THAT  
2 EXPANDED VOIR DIRE SHOULD BE PERMITTED COUNSEL OTHER THAN  
3 WHAT THE COURT ITSELF WOULD INQUIRE.

4           MR. CHIER: WHAT I AM SAYING IS THIS, JUDGE, THAT YOU  
5 CANNOT RULE IN ADVANCE OF THE THING, WHICH IS A DYNAMIC  
6 CHANGING THING. IT IS NOT RIGID VOIR DIRE.

7           THE COURT: I HAVE ALREADY TOLD YOU WHAT I WILL SAY TO  
8 THE JURORS OR ASK THE JURORS OTHER THAN WHAT HAS ALREADY BEEN  
9 ASKED OF THEM.

10                   IF ANY ONE OF THEM HAS READ ANYTHING FURTHER ABOUT  
11 THE CASE SINCE THEY WERE VOIR DIRED BY THE COURT AND BY COUNSEL,  
12 IF THEY SAY THAT THEY HAVE, THEN I WILL SAY "WHERE DID YOU  
13 READ IT?" I WILL NOT ASK WHAT THEY READ BUT "WHERE DID YOU  
14 READ IT?"

15                   I AM AWARE AND YOU ARE ALL AWARE OF WHAT IS  
16 CONTAINED IN ANYTHING THAT HAS BEEN PUBLISHED ON THE SUBJECT.

17                   AND THEN I WILL ASK THEM THE QUESTION SPECIFICALLY:  
18 I WANT THEM TO SEARCH THEIR CONSCIENCE, IS THERE ANYTHING AT  
19 ALL THAT THEY READ WHICH IS GOING TO INFLUENCE THEM IN THE  
20 SLIGHTEST IN DETERMINING THE FACTS OF THIS PARTICULAR CASE?  
21 AND IF THEY TELL ME NO, I WILL TAKE THEIR WORD FOR IT.

22           MR. BARENS: YOUR HONOR, THE PERSON TELLING YOU --

23           THE COURT: WITHOUT ASKING.

24           MR. CHIER: WILLIAMS SPEAKS DIRECTLY TO THAT.

25           THE COURT: WE KNOW WHAT IT IS THAT HAS BEEN PUBLISHED.  
26 WE DON'T HAVE TO HEAR FROM THE JURORS WHAT THEY HAVE READ.  
27 WE KNOW EVERYTHING THAT HAS BEEN PUBLISHED IN THIS CASE,  
28 EVERY ONE OF US KNOWS WHAT HAS BEEN PUBLISHED.

1 MR. CHIER: DIFFERENT JURORS HAVE DIFFERENT  
2 RECOLLECTIONS.

3 THE COURT: THEN I WILL TELL THEM TO ELIMINATE THAT  
4 FROM THEIR MIND ENTIRELY AND THEY ARE NOT TO BE GUIDED BY WHAT  
5 THEY READ.

6 MR. CHIER: WILLIAMS TALKS ABOUT THAT WHEN THEY ASSESS  
7 THEIR OWN ABILITY TO BE FAIR.  
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1 MR. CHIER: IT SAYS:

2 "OUR COURTS HAVE BECOME INCREASINGLY  
3 AWARE THAT BIAS OFTEN DECEIVES ITS HOST BY  
4 DISTORTING HIS VIEW NOT ONLY OF THE WORLD AROUND  
5 HIM, BUT ALSO OF HIMSELF. HENCE, ALTHOUGH WE  
6 MUST PRESUME THAT A POTENTIAL JUROR IS RESPONDING  
7 IN GOOD FAITH WHEN HE ASSERTS BROADLY THAT HE CAN  
8 JUDGE THE CASE IMPARTIALLY, FURTHER INTERROGATION  
9 MAY REVEAL BIAS OF WHICH HE IS UNAWARE OR WHICH,  
10 BECAUSE OF HIS IMPAIRED OBJECTIVITY, HE UNREASONABLY  
11 BELIEVES HE CAN OVERCOME. AND ALTHOUGH HIS  
12 PROTESTATIONS OF IMPARTIALITY MAY IMMUNIZE HIM  
13 FROM A CHALLENGE FOR CAUSE, THEY SHOULD NOT  
14 FORECLOSE FURTHER REASONABLE QUESTIONING THAT MIGHT  
15 EXPOSE BIAS ON WHICH PRUDENT COUNSEL WOULD BASE A  
16 PEREMPTORY CHALLENGE."

17 THE COURT: WELL, I MADE MY RULING ON IT. WHAT I AM  
18 GOING TO DO IS ASK THE JURORS CATEGORICALLY, EACH ONE OF THEM  
19 WHO HAS SAID THEY HAVE READ SOMETHING MORE ABOUT THE CASE  
20 OTHER THAN WHEN THEY TOLD US, WHEN WE HAD THE HOVEY  
21 QUESTIONING --

22 MR. CHIER: IT ALSO SAYS THAT EXPEDITION SHOULD NOT  
23 BE SUBSTITUTED FOR A FAIR TRIAL.

24 THE COURT: I WILL ASK THEM WHERE THEY HAVE READ IT.  
25 I WILL ASK THEM THE QUESTION WHETHER OR NOT THEY HAVE READ  
26 WHATEVER IT IS THAT THEY DID READ -- WHETHER OR NOT IT WOULD  
27 INFLUENCE THEM IN THE SLIGHTEST IN THIS PARTICULAR CASE.  
28 IF THEY TELL ME NO IN GOOD CONSCIENCE, THAT IS THE END OF

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1 IT.

2 MR. CHIER: BUT YOUR HONOR, IT MIGHT TAKE A LITTLE MORE  
3 TIME THAN IT WOULD ORDINARILY. BUT WILLIAMS ALSO SAYS AT  
4 PAGE 402 THAT EXPEDIENCY SHOULD NOT BE PURSUED AT THE COST  
5 OF THE QUALITY OF JUSTICE.

6 THE COURT: WHAT IS IT THAT YOU WANT ME TO DO IN EACH  
7 CASE WHERE THE JUROR SAYS HE HAS READ SOMETHING IN ADDITION  
8 TO WHAT HE SAID HE ALREADY READ AND TOLD US ABOUT THAT HE  
9 READ. THEN WHAT DO YOU WANT TO SAY? THE D.A. JOINS IN THAT,  
10 A SEPARATE QUESTION THAT THE JUROR OUT OF THE PRESENCE OF  
11 THE JURORS, FIND OUT WHAT IT IS THAT THEY READ? ALL RIGHT.  
12 AND IT WILL ALSO BE WHETHER THEY WOULD BE AFFECTED.

13 MR. BARENS: YES, YOUR HONOR. YOUR HONOR SHOULD ALSO  
14 KNOW ONE OTHER THING THAT --

15 THE COURT: YOU SEE, MY WAY IS THAT THEN, NONE OF THE  
16 OTHER JURORS KNOW. SO THEREFORE, NONE OF THE OTHER JURORS  
17 THEN KNOW IF YOU DON'T ASK THEM WHAT IT IS THAT THEY READ.

18 MR. BARENS: LET ME TELL YOU ONE OTHER CONCERN THAT  
19 IS APPARENT. ANY JURORS THAT RAISE THEIR HANDS AND SAY THEY  
20 HAVE READ SOMETHING, THOSE ARE JURORS WHO PREVIOUSLY WERE  
21 UNTRUTHFUL BECAUSE YOUR HONOR TOLD THEM NOT TO READ ANYTHING.

22 IF THEY ARE NOW SAYING THAT THEY READ SOMETHING,  
23 HOW COULD YOUR HONOR BE SATISFIED WITH THEM SAYING NOW TO  
24 YOU BLITHELY THAT THEY ARE NOT GOING TO BE IMPRESSED BECAUSE  
25 THEY HAVE ALREADY NOT FOLLOWED THE COURT'S ORDERS?

26 THE COURT: LET'S SEE WHETHER ANY OF THEM ANSWER THE  
27 QUESTION THAT THEY HAVE READ SOMETHING.

28 MR. BARENS: IF THEY HAVE --

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1 THE COURT: IF THEY HAVE, WE WILL SEPARATELY QUESTION  
2 THEM. I WILL POINT OUT TO EACH ONE OF THEM THAT I THINK,  
3 I BELIEVE I TOLD YOU NOT TO READ ANYTHING MORE ABOUT THE CASE.

4 MR. BARENS: THAT IS MY POINT, YOUR HONOR.

5 THE COURT: ALL RIGHT. I WILL DO THAT.

6 MR. BARENS: THANK YOU.

7 THE COURT: DO YOU CONCUR IN THAT, SIR?

8 MR. BARENS: YES I DO.

9 THE COURT: ALL RIGHT. NOW, WHAT IS THE NEXT QUESTION?

10 MR. WAPNER: WELL, I DON'T THINK WE HAVE ANSWERED THE  
11 LAST TWO QUESTIONS WHICH IS WHAT IS PERMITTED AND NOT PERMITTED  
12 WITH RESPECT TO QUESTIONS ABOUT MR. TITUS AND QUESTIONS ABOUT --

13 THE COURT: I THOUGHT I HAD MADE A RULING. I SAID  
14 NOTHING WILL BE MENTIONED ABOUT TITUS ON THE VOIR DIRE.

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1 MR. WAPNER: WITH RESPECT TO THE SPECIFIC QUESTIONS  
2 ABOUT FACTS ABOUT WITNESSES SEEING -- OR ALLEGEDLY SEEING  
3 SOMEONE IN ARIZONA --

4 THE COURT: THERE WOULDN'T BE ANY QUESTION PERMITTED  
5 ON THAT SUBJECT. THE ONLY THING I WILL PERMIT THEM TO GO  
6 INTO SO FAR AS THE ARIZONA WITNESS IS CONCERNED, I WILL ASK  
7 THE JURORS WHETHER OR NOT THEY KNOW -- AND THAT IS IN CONNECTION  
8 WITH ALL OF THE OTHER WITNESSES WHO MAY BE POTENTIAL  
9 WITNESSES ON THE CASE, WHETHER THE JURORS KNOW ANY OF THEM.

10 MR. WAPNER: ALL RIGHT. THEN THE THINGS LEFT FOR US  
11 TO DO THIS MORNING ARE TO GO OVER THE BALANCE OF THE  
12 QUESTIONNAIRE, WHEREVER WE LEFT OFF AND DECIDE WHICH QUESTIONS  
13 THE COURT IS GOING TO PERMIT.

14 THE COURT: ALL RIGHT. I THINK WHAT WE CAN DO IS, WE  
15 CAN GO OVER ALL OF THE QUESTIONS AGAIN. MAYBE I MIGHT CHANGE  
16 MY MIND ABOUT SOME OF THEM WHICH I SAID I WOULDN'T PERMIT  
17 TO BE ASKED. ALL RIGHT?

18 DO YOU WANT TO GO OVER THE ENTIRE LIST AGAIN?

19 MR. BARENS: I HAVE MY NOTES FROM OUR PRIOR CONVERSATION.  
20 WE HAD ALL AGREED WHICH ONES WERE SATISFACTORY AND --

21 THE COURT: WELL, ALL RIGHT. DO YOU WANT ALL OF THOSE  
22 WHICH I SAID YOU WERE NOT TO ASK?

23 MR. BARENS: I WOULD BE HAPPY TO REVIEW THE NO  
24 INDICATIONS FROM THE COURT.

25 THE COURT: ALL RIGHT. HAVE WE GOT THAT LIST?

26 MR. BARENS: DOES YOUR HONOR HAVE THE LIST?

27 THE COURT: YES.

28 MR. BARENS: YOUR HONOR, IF I MIGHT PROCEED WITH IT,

1 THE FIRST "NO" RESPONSE I SHOW FROM THE COURT WAS AT PAGE 4,  
2 QUESTIONS G, H AND I.

3 THE COURT: 4? YES.

4 MR. BARENS: AND I SUBMIT, YOUR HONOR, THAT MR. WAPNER  
5 HAS ALREADY ASKED THOSE QUESTIONS DURING THE HOVEY VOIR DIRE.

6 THE COURT: NO. NO, ALL HE ASKED THEM WAS IF THEY HAVE  
7 ANY RELIGIOUS OR MORAL CONVICTIONS ABOUT THE DEATH PENALTY.  
8 HE DIDN'T ASK WHETHER THEY WERE PROTESTANT OR CATHOLIC OR  
9 JEWISH OR MOHAMMEDAN.

10 MR. BARENS: I BELIEVE THE QUESTION IS PERMISSIBLE.  
11 AND THEN, HOW OFTEN THEY ATTEND RELIGIOUS SERVICES, THAT WILL  
12 SHOW, NO MATTER WHICH RELIGION, THE DEGREE THEY PARTICIPATE  
13 IN A FAITH.

14 THE COURT: AND YOU ASKED ABOUT POLITICAL AND I SAID  
15 "NO" TO THAT TOO?

16 MR. BARENS: NO. I HAVE A "YES" ON THAT, YOUR HONOR.

17 THE COURT: YES.

18 MR. WAPNER: YOU SAID THAT HE COULD ASK ONLY WHAT PARTY  
19 THEY BELONGED TO.

20 MR. BARENS: THAT IS WHAT I MEANT BY POLITICAL  
21 AFFILIATION.

22 MR. CHIER: WHAT ELSE COULD IT BE?

23 THE COURT: ALL RIGHT. MY RULING AS TO THE RELIGION  
24 IS STILL NO AND HOW OFTEN THEY ATTEND. IT IS TOO INTRUSIVE.  
25 I DON'T THINK IT HAS ANY BEARING ON THEIR ACTING AS A FAIR  
26 TRIAL JUROR.

27 MR. BARENS: YOUR HONOR, MOVING AHEAD TO THE NEXT "NO,"  
28 THE NEXT ONE I WOULD COME TO WOULD BE AT PAGE 7.

1 WE HAD CONSIDERABLE DISCUSSION ON QUESTIONS 14,  
2 15 AND 16. 14 WAS RELATIVE TO PREVIOUS MARRIAGES.

3 THE COURT: NO. I THINK GENERALLY I HAVE NO OBJECTION  
4 IF YOU ASK WHETHER THEY WERE PREVIOUSLY MARRIED. IF THEY  
5 SAY YES OR NO, THAT WILL BE THE END OF IT. BUT NOT FOR THE  
6 PERIOD. HOW LONG HAD THEY BEEN LIVING -- AND WHETHER IT WAS  
7 TERMINATED BY DIVORCE AND SO ON AND SO FORTH?

8 MR. BARENS: MY REASON FOR ASKING THAT, YOUR HONOR,  
9 IS TO ASK THE SPECIFIC QUESTION AS TO THE OCCUPATION OF THEIR  
10 PRIOR SPOUSE. IF THE PRIOR SPOUSE --

11 THE COURT: YOU CAN ASK THAT.

12 MR. BARENS: THANK YOU, YOUR HONOR.

13 AND YOUR HONOR, NOW WE ARE ON QUESTIONS 15 AND 16.

14 THE COURT: CONCERNING HOW MUCH THEIR INCOME IS? NO.  
15 I WON'T PERMIT THAT TO BE ASKED. I WON'T PERMIT IT TO BE  
16 DONE.

17 MR. BARENS: THE DEFENSE IS GOING TO ACCEPT THAT WITHOUT  
18 ARGUMENT.

19 THE COURT: ALL RIGHT.

20 MR. BARENS: THE SAME AS TO 16, I BELIEVE?

21 THE COURT: THAT'S RIGHT. 17 I PERMITTED YOU TO ASK.

22 MR. BARENS: YES, YOUR HONOR. MY NEXT "NO" COMES AT  
23 PAGE 9, QUESTION 21.

24 THE COURT: YES.

25 MR. BARENS: A AND B, AS WELL?

26 THE COURT: TELL ME AGAIN WHAT THE MATERIALITY OF THAT  
27 IS.

28 MR. BARENS: JUST A MOMENT, YOUR HONOR.

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(PAUSE.)

MR. BARENS: YOUR HONOR, AGAIN, IT GOES TO EXERCISING AN INTELLIGENT PEREMPTORY.

THE COURT: YOU MEAN WHETHER OR NOT ANY FAMILY MEMBER IS CURRENTLY ENLISTED IN ANY BRANCH OF THE ARMED SERVICES?

MR. BARENS: PEOPLE IN THE ARMY TEND TO DEVELOP VERY SPECIFIC BIASES, MIND SETS THAT ALMOST UNIVERSALLY APPEAR TO BE PROSECUTION ORIENTED.

THE COURT: YOU CAN ASK THE JURORS THEMSELVES WHETHER THEY HAVE BEEN IN ANY BRANCH OF THE SERVICE BUT NOT MEMBERS OF THEIR FAMILY.

MR. BARENS: NO. I AM NOT CONCERNED WITH THAT. THANK YOU.

1 THE COURT: THAT IS WHAT IS SAYS. THAT IS WHY I SAID  
2 IT NOW.

3 MR. BARENS: WE'LL TAKE OUT "MEMBER OF THE FAMILY".

4 THE COURT: THAT'S RIGHT. YOU CAN ASK THEM WHETHER  
5 THEY HAVE BEEN IN ANY BRANCH OF THE SERVICE.

6 MR. WAPNER: DOES ENLISTED INCLUDE DRAFTED?

7 MR. BARENS: WE BELIEVE YES.

8 MR. CHIER: IT IS NOT -- IT IS SEPARATE. BUT IT IS  
9 ALSO IN.

10 MR. BARENS: OKAY. NUMBER 19, WE'LL TAKE OUT "OR ANY  
11 MEMBER" IN THAT SECTION OF THE QUESTION.

12 THE COURT: NUMBER 19?

13 MR. BARENS: SORRY. THAT IS 21.

14 THE COURT: YES. "HAVE YOU EVER BEEN A MEMBER OF THE  
15 ARMED FORCES OF THE UNITED STATES?"

16 MR. BARENS: YES, YOUR HONOR.

17 THE COURT: ALL RIGHT.

18 MR. BARENS: ALL RIGHT.

19 THE COURT: YOU CAN ASK THEM WHAT BRANCH THEY WERE IN,  
20 AS A MATTER OF FACT.

21 MR. BARENS: THEN, MY NEXT "NO" --

22 THE COURT: PARDON ME. I MIGHT SUGGEST THAT INSTEAD  
23 OF ASKING EACH INDIVIDUAL JUROR, YOU ASK A GENERAL QUESTION  
24 IF ANY OF THEM HAVE BEEN IN THE ARMED FORCES.

25 MR. BARENS: ALL RIGHT, YOUR HONOR.

26 NOW YOUR HONOR, PAGE 10 QUESTION 23, WE ARE GOING  
27 TO WITHDRAW THAT QUESTION. MY NEXT "NO" IS QUESTION 8.5 AT  
28 PAGE 11. IT GOES INTO AN ISSUE OF THEIR PRIOR JURY EXPERIENCE.

1 THE COURT: WELL, I HAVE ASKED THEM WHAT KIND OF CASES  
2 THEY WERE ON AND I NEVER PERMIT ANY QUESTIONS TO BE ASKED  
3 WHETHER OR NOT THEY VOTED FOR OR AGAINST A CONVICTION, IF  
4 IT IS A CRIMINAL CASE.

5 MR. BARENS: YOUR HONOR, THIS IS AN AREA OF CONSIDERABLE  
6 INTEREST TO THE DEFENDANT AS FAR AS THEIR PRIOR EXPERIENCES  
7 AND HOW THOSE EXPERIENCES AFFECTED THEM AS FAR AS BEING ON  
8 JURIES.

9 YOU KNOW, SOME PEOPLE AFTER HAVING SERVED ON A  
10 JURY, GET AN ATTITUDE ABOUT THE JURY SYSTEM AND ABOUT WHAT  
11 THEY WOULD DO IF THEY EVER HAD TO SERVE ON A JURY AGAIN  
12 DIFFERENTLY THAN WHAT HAPPENED IN THE PRIOR EXPERIENCE.

13 SOME PEOPLE, AS YOU MAY IMAGINE, ARE VERY SOURED  
14 BY THOSE EXPERIENCES. WE HAVE ALSO HAD EXPERIENCES OF JURORS  
15 THAT HAVE BEEN CHASTISED BY THE COURT FOR THEIR VERDICTS,  
16 WHICH WE DID HAVE ON A CASE.

17 WE WOULD LIKE TO BE ABLE TO PROBE. I AM NOT GOING  
18 TO ASK THEM HOW THEY VOTED, YOUR HONOR. I WOULD JUST LIKE  
19 TO BE ABLE TO ASK THEM ABOUT THEIR EXPERIENCE AND ABOUT THEIR  
20 ATTITUDES.

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1 THE COURT: THAT IS ALL RIGHT, BUT DON'T ASK THEM HOW  
2 THEY VOTED.

3 MR. CHIER: NO.

4 MR. BARENS: OH, NO. NEVER, YOUR HONOR.

5 MR. WAPNER: THAT WAS THE REASON THE COURT DIDN'T WANT  
6 THAT QUESTION ASKED, BECAUSE HE SAID "THE NATURE OF THE  
7 VERDICT".

8 THE COURT: THAT IS RIGHT. THAT IS WHY I SAID THAT.

9 MR. BARENS: ALL RIGHT, YOUR HONOR.

10 THE COURT: ARE YOU ACQUAINTED WITH ANY PERSONS SERVING  
11 ON JURY DUTY?

12 WHAT IS THE MATERIALITY OF THAT? HOW DOES THAT  
13 GO TO BIAS AND PREJUDICE?

14 MR. BARENS: I BELIEVE I WITHDRAW THAT.

15 THE COURT: 23?

16 MR. BARENS: I WITHDRAW THAT, YOUR HONOR.

17 I WAS JUST ADDRESSING --

18 THE COURT: PARDON ME, MR. BARENS.

19 (OTHER COURT MATTER CALLED.)

20 THE COURT: ALL RIGHT, NEXT.

21 MR. BARENS: YOUR HONOR HAS JUST RESOLVED THE QUESTION  
22 AS TO PAGE 11(A).5, THAT HAS BEEN RESOLVED IN OUR IMMEDIATE  
23 DISCUSSION, YOUR HONOR?

24 THE COURT: YES.

25 MR. BARENS: MY NEXT "NO" IS PAGE 12, ITEM 26 CONCERNING  
26 A BANKRUPTCY PROCEEDING.

27 THE COURT: YES.

28 MR. WAPNER: YOUR HONOR, AS FAR AS THIS QUESTION ABOUT

1 BANKRUPTCY PROCEEDINGS IS CONCERNED, THERE IS LIKELY TO BE  
2 SOME EVIDENCE FROM THE DEFENSE ABOUT A BANKRUPTCY THAT MR.  
3 LEVIN WAS INVOLVED IN AND IT IS OF SOME CONCERN TO ME TO KNOW,  
4 TO GET SOME BACKGROUND FROM THE JURORS WHETHER THEY THEMSELVES  
5 HAVE BEEN INVOLVED IN A BANKRUPTCY, NOT NECESSARILY THE  
6 DETAILS OR AN ATTEMPT TO PRY INTO THEIR PERSONAL LIFE BUT A  
7 JUROR'S OPINION OF SOMEONE WHO HAS BEEN THROUGH A BANKRUPTCY  
8 PROCEEDING MIGHT BE DIFFERENT IF THEY THEMSELVES HAD GONE  
9 THROUGH ONE AS OPPOSED TO SOMEONE WHO HADN'T.

10 YOU MIGHT GET A JUROR, FOR EXAMPLE, WHO WOULD SAY  
11 "NO, I HAVEN'T GONE THROUGH BANKRUPTCY AND I NEVER WOULD. I  
12 AM VERY GOOD ABOUT PAYING MY CREDITORS." AND YOU MIGHT GET  
13 SOMEONE ELSE WHO WOULD SAY THAT THEY HAVE GONE THROUGH SEVERAL  
14 BANKRUPTCIES.

15 THE COURT: WELL, YES.

16 MR. WAPNER: IT GIVES SOME IDEA.

17 THE COURT: I DON'T UNDERSTAND YOU. YOU MEAN IT WILL  
18 BE DEVELOPED IN THIS CASE THAT LEVIN WENT THROUGH A BANKRUPTCY,  
19 IS THAT WHAT YOU ARE GOING TO SAY?

20 MR. CHIER: YES.

21 MR. WAPNER: WELL, I THINK --

22 THE COURT: WHAT IS THE MATERIALITY OF THAT, WHETHER HE  
23 WENT THROUGH A BANKRUPTCY OR NOT?

24 MR. BARENS: YOUR HONOR --

25 MR. WAPNER: WELL, I AM ANTICIPATING THAT IS GOING TO  
26 BE DEFENSE EVIDENCE SO MAYBE YOU CAN ASK THEM FOR AN OFFER OF  
27 PROOF AS TO WHAT THE MATERIALITY IS.

28 MR. CHIER: I CAN TELL HIM.

1 MR. BARENS: ALL RIGHT.

2 MR. CHIER: YOUR HONOR, I ANTICIPATE THAT THE EVIDENCE,  
3 THE PEOPLE CLAIM THAT MR. LEVIN WAS MURDERED AND THE DEFENSE  
4 CLAIMS THAT MR. LEVIN LIVES, STILL LIVES AND THAT HE IS BASKING  
5 SOMEWHERE ON A WARM BEACH. THE FACT THAT THERE WERE A SERIES  
6 OF BANKRUPTCIES BY MR. LEVIN IN WHICH -- IN ONE CASE WHERE HE  
7 GOT RID OF A MILLION DOLLARS WORTH OF DEBT, ALMOST AND IN  
8 ANOTHER CASE A FIGURE WHICH I CAN'T REMEMBER, AND HE LEFT AN  
9 ESTATE OF MINUS VALUE OR SOME NEGLIGIBLE VALUE, TOGETHER WITH  
10 ALL OF THE OTHER SCHEMES AND DEVICES THAT LEVIN DID TO GAIN  
11 MONEY.

12 THE COURT: DO YOU HAVE COURT RECORDS TO SHOW HE WENT  
13 THROUGH BANKRUPTCY?

14 MR. CHIER: YES, YOUR HONOR.

15 THE COURT: IS THAT IT?

16 MR. CHIER: YES, CERTIFIED COURT RECORDS. THERE ARE  
17 MILLIONS OF DOLLARS THAT ARE UNACCOUNTED FOR.

18 THE COURT: MR. WAPNER, DO YOU THINK THAT THE RECORDS  
19 OF THE BANKRUPTCY PROCEEDINGS WOULD BE ADMISSIBLE IN THIS  
20 CASE?

21 MR. WAPNER: I AM NOT PREPARED TO MAKE A FULL ARGUMENT  
22 ON THAT AT THIS TIME, BUT THAT TO THE EXTENT THAT IT IS --

23 THE COURT: LET'S WAIT THEN AND HEAR YOUR ARGUMENT WHEN  
24 THEY OFFER IT OUTSIDE THE PRESENCE OF THE JURY. I WILL MAKE  
25 MY RULING AT THAT TIME.

26 MR. WAPNER: OKAY, SO WHAT YOU ARE SAYING --

27 THE COURT: I DON'T THINK IT HAS ANYTHING TO DO WITH  
28 THE VOIR DIRE, DOES IT?

7-4  
1 MR. WAPNER: WELL, ALL I AM SAYING IS THAT TO THE EXTENT  
2 THAT IT IS POSSIBLE --

3 THE COURT: PARDON ME. GO AHEAD. POSSIBLE WHAT?

4 MR. WAPNER: TO THE EXTENT THAT IT IS POSSIBLE THAT THE  
5 EVIDENCE WILL COME IN, IT MIGHT BE HELPFUL TO KNOW WHAT THEIR  
6 FEELINGS ARE.

7 IF THE EVIDENCE DOESN'T COME IN, WE HAVEN'T LOST  
8 ANYTHING.

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1 THE COURT: I WILL PERMIT YOU TO ASK WHETHER OR NOT THEY  
2 HAVE BEEN IN BANKRUPTCY.

3 MR. WAPNER: THANK YOU, YOUR HONOR.

4 MR. BARENS: THANK YOU, YOUR HONOR.

5 MY NEXT "NO" IS ON PAGE --

6 THE COURT: (READING:)

7 "HAVE YOU, ANY MEMBER OF YOUR FAMILY,  
8 OR ANY ACQUAINTANCE, EVER BEEN CONVICTED OF A  
9 MISDEMEANOR?"

10 NO, I WON'T ASK THAT. WHAT DIFFERENCE IS THAT?

11 MR. CHIER: FRED, ISN'T THAT YOUR SHEET?

12 MR. WAPNER: NO.

13 MR. BARENS: EXCUSE ME.

14 THE COURT: THAT IS NUMBER 28.

15 MR. BARENS: EXCUSE ME. ON QUESTION 28, YOUR HONOR  
16 RULED THAT THE WORD "MISDEMEANOR" WAS DELETED.

17 THE COURT: THAT IS RIGHT.

18 MR. BARENS: AND THE EXPRESSION "OR ANY ACQUAINTANCE"  
19 WAS CHANGED TO THE EXPRESSION "CLOSE PERSONAL FRIEND."

20 THE COURT: YES.

21 MR. BARENS: AND THE DEFENSE ACCEPTS THAT.

22 THE COURT: ALL RIGHT.

23 MR. WAPNER: AND IT IS MY UNDERSTANDING THAT THE COURT  
24 SAID THAT AS TO QUESTIONS 27, 28 AND 29, THAT THE COURT WAS  
25 GOING TO ASK THOSE QUESTIONS.

26 THE COURT: YES, I AM.

27 MR. BARENS: THAT IS MY UNDERSTANDING.

28 THE COURT: I WILL.

7-6

1 ALL RIGHT, YOU CAN ASK ABOUT THE BANKRUPTCY IF YOU  
2 WANT TO BUT I AM GOING TO ASK THEM: "HAVE YOU OR ANY MEMBER  
3 OF YOUR FAMILY OR CLOSE PERSONAL FRIEND EVER BEEN CONVICTED  
4 OF A FELONY," ALL RIGHT?

5 MR. BARENS: ALL RIGHT, YES, YOUR HONOR.

6 ALL RIGHT, QUESTION 30 ON PAGE 13.

7A 7 THE COURT: WAIT A MINUTE NOW. THE NEXT IS 29.

8 MR. BARENS: 29, I HAVE MARKED AS THE JUDGE WOULD ASK.

9 THE COURT: YES, BUT NOT ARRESTS. ONLY CONVICTIONS OF  
10 A FELONY.

11 MR. WAPNER: WELL, AS FAR AS THE JUROR'S STATE OF MIND,  
12 IT MIGHT BE KIND OF INTERESTING TO KNOW IF YOU HAD JURORS THAT  
13 WERE ARRESTED.

14 WE ARE NOT IMPEACHING THEIR CREDIBILITY.

15 THE COURT: ALL RIGHT.

16 MR. WAPNER: BUT WE ARE JUST TRYING TO FIND OUT --

17 THE COURT: (READING:)

18 "HAVE YOU, ANY MEMBER OF YOUR FAMILY,  
19 OR ANY ACQUAINTANCE EVER BEEN ARRESTED AND CHARGED  
20 WITH ANY CRIME?"

21 I AM GOING TO ASK THAT, I WILL ASK THAT QUESTION.

22 MR. BARENS: THANK YOU, YOUR HONOR.

23 MR. CHIER: YOU DON'T WANT TO ASK ABOUT THE BANKRUPTCY,  
24 JUDGE?

25 THE COURT: YOU ASK ABOUT IT.

26 MR. BARENS: YOU WROTE IT, YOU ASK IT, MR. CHIER.

27 THE COURT: THAT'S RIGHT.

28 MR. BARENS: NUMBER 30.

1 THE COURT: YES, WHAT IS THAT?

2 "HAVE YOU, ANY MEMBER OF YOUR FAMILY,  
3 OR ANY ACQUAINTANCE, EVER BEEN AN INMATE IN A  
4 FEDERAL, STATE OR COUNTY INSTITUTION?"

5 WHAT DOES THAT MEAN?

6 MR. BARENS: WELL, YOUR HONOR, IT SURE WOULD AFFECT ME  
7 IF A MEMBER OF MY FAMILY -- ACTUALLY, I FEEL LIKE THE  
8 PROSECUTION ON THIS ONE -- I THINK PEOPLE COULD DEVELOP VERY  
9 STRONG BIASES ABOUT THE PENAL SYSTEM IN GENERAL BASED ON  
10 CONVERSATIONS WITH A FAMILY MEMBER WHO HAD BEEN IN ONE. THEY  
11 MIGHT VOTE FOR DEATH TO AVOID THAT, YOUR HONOR.

12 YOU KNOW ACTUALLY, YOUR HONOR, WE HAD A COUPLE OF  
13 JURORS WHO SAID THAT THEY FELT THAT DEATH WAS FAVORABLE TO  
14 LIFE WITHOUT, AND THAT MAY BE BASED ON CONVERSATIONS THEY HAVE  
15 HAD WITH FAMILY MEMBERS THAT WERE INCARCERATED.

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1 THE COURT: WELL, I ONLY ASK IF THEY HAVE EVER BEEN  
2 CONVICTED OR ARRESTED FOR ANY SERIOUS OFFENSE; DOESN'T THAT  
3 COVER EVERYTHING?

4 WHAT DO WE NEED WHETHER OR NOT THEY HAVE EVER  
5 BEEN INCARCERATED?

6 I WILL ASK THE QUESTION: HAVE YOU OR ANY MEMBER  
7 OF YOUR FAMILY OR CLOSE PERSONAL FRIEND EVER BEEN CHARGED WITH  
8 OR ARRESTED FOR ANY SERIOUS OFFENSE OTHER THAN, YOU KNOW,  
9 SPITTING ON THE FLOOR OR ANY MISDEMEANOR?

10 MR. BARENS: I ACCEPT THAT, YOUR HONOR.

11 THE COURT: ALL RIGHT.

12 MR. BARENS: THE NEXT.

13 THE COURT: ALL RIGHT, 31.

14 MR. BARENS: THE NEXT "NO" I HAVE, YOUR HONOR, IS  
15 QUESTION 36 AT THE BOTTOM OF PAGE 14.

16 THE COURT: (READING:)

17 "DO YOU BELIEVE THAT OUR CRIMINAL  
18 JUSTICE SYSTEM FAVORS PERSONS IN THE PUBLIC EYE?"

19 MR. BARENS: THE DEFENSE WITHDRAWS THE QUESTION.

20 THE COURT: ALL RIGHT.

21 MR. BARENS: I BELIEVE THAT -- LET ME SEE. WE STOPPED  
22 AT THAT POINT, YOUR HONOR.

23 THE COURT: NO, NO. WE STOPPED AT THE TOP OF PAGE 17.

24 MR. BARENS: YES, YOUR HONOR.

25 THE COURT: YOU ARE NOT GOING TO ASK ALL OF THESE  
26 QUESTIONS. GENERALLY, YOU MIGHT -- GENERALLY, I WILL PERMIT  
27 YOU TO ASK WHAT RADIO STATIONS OR WHAT TELEVISION STATIONS  
28 THEY LISTEN TO ON A REGULAR BASIS. IF YOU WANT TO ASK THAT,

1 I HAVE NO OBJECTION TO THAT.

2 BUT I DON'T WANT YOU TO ASK EVERY SINGLE ONE OF  
3 THESE HERE.

4 MR. BARENS: I WOULD AGREE WITH THAT, YOUR HONOR.

5 THE COURT: ASK THE GENERAL QUESTION AND SEE WHAT THEY  
6 SAY.

7 MR. BARENS: YES, YOUR HONOR. AND THE SAME AS TO  
8 NEWSPAPERS AND ALL OF THAT, I WOULD AGREE WITH ALL OF THAT.

9 THE COURT: BOTH WHAT THEY READ, WHAT NEWSPAPERS THEY  
10 SUBSCRIBE TO, THAT IS ALL RIGHT WITH ME.

11 MR. BARENS: THAT IS FINE.

12 THE COURT: OR WHAT MAGAZINES THEY SUBSCRIBE TO.

13 MR. BARENS: I AGREE.

14 THE COURT: WITHOUT PARTICULARIZING EVERY ONE OF THEM.

15 MR. BARENS: AGREED, YOUR HONOR.

16 NUMBER "C" ON PAGE 18, THERE HAS BEEN SOME INQUIRY  
17 BY THE COURT OF THAT.

18 THE COURT: YES, YOU HAVE ALREADY ON THE HOVEY  
19 QUESTIONING ASKED THEM ALL ABOUT THAT QUESTION.

20 MR. WAPNER: WE HAVE ALREADY DISCUSSED IT.

21 THE COURT: WE DISCUSSED THAT AND THAT WILL BE  
22 SUPPLEMENTED BY ASKING THE JURORS WHETHER OR NOT THERE IS  
23 ANYTHING IN ADDITION.

24 MR. BARENS: I AM GOING TO EXPECT THAT THE JUDGE WILL  
25 COVER THAT ADEQUATELY.

26 THE COURT: YES.

27 MR. BARENS: THE REST OF THE QUESTION THEN IS ACADEMIC  
28 THROUGH 43.

29 THE COURT: YES.

1 THE COURT: YES. WE ALSO WENT OVER IT.

2 MR. BARENS: NOW, WHEN WE BROADENED IT TO CIVIL CASES  
3 INVOLVING RON LEVIN, I WOULD REPRESENT TO THE COURT THAT HE  
4 WAS INVOLVED IN OVER 1,000 CIVIL CASES.

5 THE COURT: ARE YOU GOING TO SHOW PROOF OR OFFER PROOF  
6 FOR EACH ONE OF THEM?

7 MR. BARENS: NO, YOUR HONOR. BUT SOME OF THEM  
8 CERTAINLY WILL BE GERMANE. THE MAN WAS A VIRTUAL LAWYER'S  
9 DREAM.

10 MR. CHIER: OR NIGHTMARE.

11 MR. BARENS: I THINK THAT NOTWITHSTANDING THAT YOUR  
12 HONOR --

13 THE COURT: HOW ARE YOU GOING TO GO ABOUT PROVING THAT?

14 MR. BARENS: YOUR HONOR, WELL, I WOULD LIKE TO ASK THE  
15 JURORS ARE THEY PERSONALLY AWARE OR AFFECTED BY ANY CIVIL  
16 SUITS INVOLVING RON LEVIN.

17 THE PROBLEM WAS THAT EVERY ONE OF THOSE 1,000  
18 OR SO PEOPLE INVOLVED WITH HIM LOST MONEY.

19 THE COURT: SUPPOSE THAT THEY ANSWER THAT THEY DON'T  
20 KNOW RON LEVIN AND NEVER HEARD OF HIM.

21 MR. BARENS: FINE.

22 MR. CHIER: WELL, THERE WERE A NUMBER OF CORPORATIONS.  
23 THERE WAS NETWORK NEWS AND L.A. NEWS AND GENERAL INFORMATION  
24 CORPORATION AND U.S. PATENT CORPORATION.

25 THERE WAS ABOUT A DOZEN OR MORE CORPORATIONS THAT  
26 HE HAD AS ALTER EGOS.

27 THE COURT: WELL, THEY WERE ALTER EGOS OF HIM. IF YOU  
28 ASK THEM WHETHER OR NOT THEY KNOW OF HIM OR ANY COMPANIES

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1 THAT HE IS ASSOCIATED WITH --

2 MR. CHIER: WELL, HE WAS THE COMPANY. THERE WERE NO  
3 OTHER CORPORATE OFFICERS.

4 MR. BARENS: I ACCEPT WHAT THE COURT HAS SAID.

5 THE COURT: OR ANY COMPANIES THAT HE ASSOCIATED WITH.

6 MR. BARENS: YES. I ACCEPT THAT.

7 QUESTION 44, I BELIEVE THE COURT AGREES WITH.

8 THE COURT: YES. THAT WILL BE OKAY. THAT IS THE THING  
9 THAT WE HAD PREVIOUSLY GONE OVER, THE NEWSPAPERS THAT YOU  
10 READ AND ANY MAGAZINES AND SO ON AND SO FORTH THAT YOU READ  
11 AND SUBSCRIBE TO AND ET CETERA, ET CETERA. YOU ASKED ABOUT  
12 PUBLICATIONS. BUT WE DON'T HAVE TO MENTION EVERY SINGLE ONE  
13 OF THEM OUTLINED HERE. THAT WILL TAKE HOURS.

14 MR. BARENS: QUESTION 46, YOUR HONOR --

15 THE COURT: WELL, THAT WOULD BE ALLOWED. WHAT MAGAZINES  
16 DO YOU SUBSCRIBE TO.

17 MR. BARENS: THE QUESTION ON BOOKS, YOUR HONOR, NUMBER  
18 47?

19 THE COURT: WELL, YOU MEAN SPECIFICALLY WHAT BOOKS THEY  
20 HAVE READ?

21 MR. BARENS: IT TELLS US TWO THINGS, YOUR HONOR. ONE  
22 IS THE INTEREST OF THE PARTY IN A VERY PERSONALIZED SENSE,  
23 PARTICULARLY --

24 THE COURT: WELL, ALL RIGHT. I SAID THAT WAS OKAY.

25 MR. BARENS: THANK YOU, YOUR HONOR.

26 THE COURT: 47 IS OKAY. 48 IS OKAY. 49 IS OKAY.  
27 50 IS OKAY.

28 THAT IS WHAT WE DISCUSSED BEFORE. 51 IS OKAY,

1 WITHOUT MEANING EVERY, SINGLE CHANNEL THAT THERE IS. THEY  
2 WILL TELL YOU WHAT THEY LISTEN TO.

3 YOU DON'T HAVE TO ASK THEM SPECIFICALLY IF IT  
4 IS CHANNEL 2, 4, 5, 7, 11, 13 OR ASK IF THEY LISTEN, WHAT  
5 CHANNELS THEY LISTEN TO.

6 MR. BARENS: YES, YOUR HONOR.

7 THE COURT: 52 IS OKAY. WE DON'T HAVE TO GO INTO THE  
8 RIDING TO AND FROM WORK OR DAILY OR ONCE IN A WHILE. WE DON'T  
9 NEED ALL OF THAT, THE SPECIFICS OF WHAT THEY LISTEN TO AND  
10 SO FORTH AND THE RADIO STATIONS.

11 53, I ALSO INDICATED NO, DIDN'T I?

12 MR. BARENS: I DID NOT RECALL YOU INDICATING NO.

13 THE COURT: YES. ALL RIGHT. THEN I WILL TELL YOU NOW.

14 AS A RESULT OF WHAT YOU HAVE HEARD OR READ --  
15 YOU WON'T ASK THEM WHETHER THEY THINK HE IS GUILTY OR NOT  
16 GUILTY ON A BASIS OF WHAT THEY READ? NO INTELLIGENT PERSON  
17 IS GOING TO SAY YES. WE HAVE ASKED THOSE QUESTIONS ALREADY.

18 MR. CHIER: BELIEVE IT OR NOT, PEOPLE CAN HAVE AN  
19 OPINION.

20 MR. BARENS: WE HAD A FIREMAN WHO FELT THAT HE WAS GUILTY  
21 BECAUSE HE WAS CHARGED.

22 THE COURT: WELL, WE GOT HIM OUT.

23 MR. BARENS: THANK GOD.

24 MR. WAPNER: WELL, WITH ALL DUE RESPECT, I DON'T THINK  
25 THAT IS EXACTLY WHAT HE SAID.

26 MR. BARENS: WELL, THERE WAS A SENSE OF THAT.

27 THE COURT: I WON'T PERMIT THAT QUESTION TO BE ASKED.

28 54 IS THE GENERAL ADMONITION ABOUT NOT READING

1 ANYTHING ABOUT IT. THEY WON'T HAVE ANY OPINION ON IT IF THEY  
2 DON'T READ ANYTHING. 54, NO. 55, NO. 56, NO.

3 WE HAVE ASKED A LOT OF THESE QUESTIONS, ANYWAY.  
4 THEY ARE ACADEMIC.

5 MR. BARENS: BEGGING YOUR HONOR'S PARDON. QUESTION  
6 54, PEOPLE DEVELOP CERTAIN BIASES ABOUT DEFENDANTS AND WHOLE  
7 CASES ON THE BASIS OF THEIR BEING NEWSWORTHY ALONE.

8 THE FACT THAT IT IS ATTRACTING A LOT OF ATTENTION  
9 HAS A SECONDARY IMPLICATION TO A LOT OF PEOPLE, WHETHER OR  
10 NOT IT IS TRUE OR NOT. THE FACT THAT IT IS GATHERING A LOT  
11 OF ATTENTION AND IS SO HIGHLY EXPOSED, TENDS TO MAKE IT MORE  
12 CREDIBLE TO PEOPLE. THAT IS WHY I WANTED TO INQUIRE ON THAT  
13 VERY POINT.

14 THE COURT: I DON'T KNOW WHAT THE MATERIALITY IS. IF  
15 THEY CATEGORICALLY ANSWER THAT THEY WOULD NOT READ OR LISTEN  
16 TO OR HEAR ANYTHING AT ALL ABOUT THE CASE, THEY WON'T KNOW  
17 WHETHER OR NOT IT IS CLOSELY FOLLOWED BY LOCAL, STATE,  
18 NATIONAL AND INTERNATIONAL ELECTRONIC MEDIA.

19 MR. BARENS: I SUBMIT THAT IT APPEARS TOO SIMPLISTIC  
20 TO THIS COUNSEL TO ASSUME JUST BECAUSE THEY SAY THEY WON'T,  
21 NUMBER ONE, THAT THEY WON'T AND NUMBER TWO, IT IS SIMPLY  
22 DESIGNED TO LOOK FOR BIAS. THIS QUESTION IS CALCULATED TO  
23 ELICIT THAT.

24 THE COURT: WHAT IS YOUR OPINION ON IT, MR. WAPNER?

25 MR. WAPNER: MY FEELING IS --

26 THE COURT: WHAT DOES THE FACT INDICATE TO YOU? I DON'T  
27 KNOW WHAT THAT MEANS. THAT THEY MIGHT THINK HE IS GUILTY?

28 MR. BARENS: ABSOLUTELY. THE CUMULATIVE WEIGHT OF THE

8B

1 PUBLICITY, THEY MIGHT SAY THAT ONE MAGAZINE COULD BE WRONG  
2 BUT IF 20 OF THEM ON A NATIONAL LEVEL ARE SAYING IT, THAT  
3 ADDS CREDIBILITY TO IT, YOUR HONOR.  
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1 MR. WAPNER: WELL, MY FEELING IS TWOFOLD. ONE, IT IS  
2 A DUMB QUESTION. BUT TWO, THERE IS NOT REALLY ANY HARM DONE  
3 BY ASKING IT. I MEAN, I DON'T KNOW BUT YOU MIGHT --

4 THE COURT: I DON'T KNOW. SUPPOSE THE QUESTION WERE  
5 ASKED OF YOU. WHAT WOULD YOUR ANSWER BE? WHAT DOES THAT  
6 FACT INDICATE TO YOU? WHAT WOULD BE YOUR ANSWER?

7 MR. BARENS: MY ANSWER?

8 MR. CHIER: I WAS WONDERING THAT, MYSELF. THAT IS,  
9 WHAT I WOULD SAY.

10 THE COURT: WHAT DOES THAT FACT MEAN TO YOU?

11 MR. BARENS: IT MEANS ABSOLUTELY NOTHING.

12 THE COURT: WELL, IT WON'T MEAN ANYTHING TO THE JUROR,  
13 EITHER.

14 MR. BARENS: BUT, I DON'T ASSUME --

15 THE COURT: ANY CASE THAT HAS A HIGH PUBLICITY VALUE --

16 MR. BARENS: BUT, I COULD NEVER HAVE QUALIFIED FOR THIS  
17 JURY, WITH MY POINT OF VIEW.

18 THE COURT: DO YOU OBJECT TO IT?

19 MR. WAPNER: I DON'T OBJECT TO IT. LIKE I SAID, I THINK  
20 IT IS A DUMB QUESTION BUT I DON'T SEE ANY HARM.

21 THE COURT: WELL, IF IT IS DUMB, IT SHOULDN'T BE ASKED.

22 MR. BARENS: I WOULD HOPE THAT MR. WAPNER --

23 MR. WAPNER: WELL, I HAVE MADE MY POINT OF VIEW CLEAR.

24 MR. BARENS: THE MATTER IS SUBMITTED.

25 THE COURT: I WILL STAY WITH NO.

26 MR. BARENS: THANK YOU, YOUR HONOR.

27 THE COURT: 55 IS NO. 56 IS, AS A RESULT OF WHAT YOU  
28 HAVE SEEN OR HEARD OR READ ABOUT THE CASE, HAVE YOU FORMED

1 ANY OPINION OR BELIEF CONCERNING THE WAY IN WHICH THE  
2 INVESTIGATION WAS HANDLED BY THE PROSECUTION.

3 MR. BARENS: YES.

4 THE COURT: NO.

5 MR. BARENS: NOT THE --

6 THE COURT: WE COVERED THAT, ANYWAY. I HAVE ASKED THEM  
7 WHETHER OR NOT EVERY ONE OF THEM -- WHETHER THEY HAVE READ  
8 ANYTHING AND WHETHER OR NOT THEY HAVE FORMED ANY OPINION AS  
9 TO THE GUILT OR INNOCENCE OF THE DEFENDANT. I THINK THAT  
10 COVERS IT BROADLY. 56 IS NO.

11 MR. BARENS: RESPECTFULLY, THAT IS A DIFFERENT QUESTION,  
12 YOUR HONOR. THE QUESTION IS NOT WHETHER THEY BELIEVE THE  
13 DEFENDANT IS GUILTY OR INNOCENT, BUT RATHER, IS ALL OF THE  
14 EVIDENCE BEFORE THEM THAT IS AVAILABLE TO THE PROSECUTION.

15 THE COURT: WELL, NO. NO, AS A RESULT OF WHAT YOU HAVE  
16 SEEN OR HEARD OR READ ABOUT THE CASE, HAVE YOU FORMED ANY  
17 OPINION OR BELIEF CONCERNING THE WAY IN WHICH THE INVESTIGATION  
18 WAS HANDLED BY THE PROSECUTION?

19 MR. BARENS: YES. THE WAY IN WHICH IT WAS HANDLED,  
20 WHETHER OR NOT ALL OF THE EVIDENCE AVAILABLE TO THE  
21 PROSECUTION WAS PUT BEFORE THE COURT.

22 THE COURT: NO. I WILL STILL STAY WITH NO ON THAT.

23 57, I HAVE ASKED THOSE QUESTIONS. HAVE YOU HEARD  
24 OTHERS EXPRESS OPINIONS? I ASKED THEM WHAT THEY HEARD FROM  
25 OTHER PEOPLE.

26 MR. BARENS: THE ONLY PROBLEM I HAVE YOUR HONOR, IS  
27 THAT YOU ASKED SOME OF THESE PEOPLE THAT QUESTION AS MUCH  
28 AS A MONTH OR THREE WEEKS AGO. AND OBVIOUSLY, THEY COULD

1 HAVE BEEN POLLUTED SINCE THEN WITH CONTACT ON THOSE QUESTIONS.

2 THE COURT: THAT IS WHY I SAID I WILL SUPPLEMENT THOSE  
3 QUESTIONS BY OTHER QUESTIONS ABOUT WHAT THEY HAVE READ OR  
4 HEARD OR IF THEY HAVE SPOKEN TO ANYBODY ABOUT THE CASE OR  
5 ANYTHING FURTHER. I WILL ASK THAT.

6 MR. BARENS: SO YOUR HONOR IS GOING TO DO A QUESTION  
7 SIMILAR TO THIS?

8 THE COURT: THAT'S RIGHT.

9 MR. BARENS: I SUBMIT IT, YOUR HONOR. I WILL SAY THE  
10 SAME AS TO QUESTION 58, YOUR HONOR.

11 THE COURT: ALL RIGHT.

12 MR. BARENS: I PRESUME YOUR HONOR WILL ASK THE QUESTIONS  
13 ON PAGE 24?

14 THE COURT: NO. HAVE YOU HEARD ANYTHING ABOUT JAMES  
15 PITTMAN?

16 MR. BARENS: YES.

17 THE COURT: NO.

18 MR. BARENS: WELL, CAN WE ASK THAT, YOUR HONOR?

19 THE COURT: NO.

20 MR. BARENS: WELL, WHAT IF THEY HAVE HEARD ABOUT  
21 MR. PITTMAN AND THEY HAVE AN OPINION ABOUT MR. PITTMAN?  
22 THESE JURORS COULD WELL HAVE A VERY STRONG OPINION ABOUT  
23 MR. PITTMAN.

24 MR. WAPNER: MAY I SUGGEST THE FOLLOWING? WE ARE GOING  
25 TO GIVE THEM THE LIST NOT ONLY OF THE WITNESSES, BUT I CAN  
26 INCLUDE IN THAT LIST, ANYBODY ELSE WHOSE NAME MAY COME UP  
27 IN THE TESTIMONY, EVEN THOUGH THEY MAY NOT BE A WITNESS IN  
28 THE CASE.

1 THE COURT: ARE YOU GOING TO INCLUDE JAMES PITTMAN?

2 MR. WAPNER: I WILL PUT MR. PITTMAN'S NAME ON THE LIST.  
3 WHEN YOU READ THE LIST, YOU CAN INDICATE THAT IT IS A LIST  
4 OF POTENTIAL WITNESSES AND OTHER PEOPLE WHOSE NAMES THEY MAY  
5 HEAR DURING THE COURSE OF THE TRIAL.

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1 MR. WAPNER: AND THEN IF WE GET AN AFFIRMATIVE RESPONSE  
2 ON ANY OF THOSE, THEN OBVIOUSLY COUNSEL -- WELL, MAYBE I  
3 SHOULDN'T USE THE WORD OBVIOUSLY -- IT SEEMS TO ME THAT  
4 COUNSEL SHOULD THEN BE PERMITTED FOLLOWUP QUESTIONS ON IF THEY  
5 KNOW THE PERSON, WHAT YOU KNOW? WHAT HAVE YOU HEARD?

6 THE COURT: ALL RIGHT, THAT WILL COVER IT, I THINK.

7 MR. BARENS: YOUR HONOR, AS A POINT OF CLARIFICATION AT  
8 THIS JUNCTURE, THE DEFENSE DOES NOT INTEND TO TURN IN A  
9 WITNESS LIST.

10 THE COURT: HOW AM I GOING TO ASK WHETHER OR NOT THEY  
11 KNOW ANY OF THEM?

12 MR. BARENS: WELL, YOUR HONOR, THAT IS VIRTUALLY  
13 UNPRECEDENTED FOR THIS DEFENDANT TO TURN IN A WITNESS LIST.

14 THE COURT: NO, NO.

15 THE QUESTION IS GOING TO FIND OUT WHETHER OR NOT  
16 THE PEOPLE KNOW ANY OF THESE PROSPECTIVE WITNESSES SO WE WILL  
17 KNOW WHETHER OR NOT THEY KNOW ANY OF THEM, WHETHER THEY HAVE  
18 A BIAS OR PREJUDICE. IF SOMEONE SAYS, IF MY BROTHER-IN-LAW  
19 IS GOING TO TESTIFY, I AM NOT GOING TO BELIEVE HIM.

20 MR. BARENS: THE DEFENSE RESPECTFULLY DECLINES TO DO  
21 THAT.

22 THE COURT: YOU SAY YOU REFUSE TO SUBMIT ANY WITNESSES?

23 MR. BARENS: I DIDN'T SAY WE ARE NOT GOING TO CALL  
24 WITNESSES.

25 I SAID I DON'T BELIEVE THAT EITHER THE FIFTH OR  
26 SIXTH AMENDMENT PROVISIONS OR THE ATTORNEY-CLIENT PRIVILEGE  
27 IS CONSISTENT WITH A DEFENDANT DISCLOSING A WITNESS LIST.

28 THE COURT: NO, NO.

9-2

1 THE ONLY PURPOSE OF THAT IS, WITHOUT SAYING WHAT  
2 THEY ARE GOING TO TESTIFY TO, THE ONLY PURPOSE OF THAT IS TO  
3 SEE WHETHER OR NOT THE JURORS KNOW THEM OR WOULD HAVE A BIAS  
4 OR PREJUDICE. THE PEOPLE HAVE A RIGHT TO KNOW.

5 MR. BARENS: WOULD YOUR HONOR BE TELLING ME THAT IF I --

6 THE COURT: PARDON ME. I WILL TELL YOU WHAT I CAN DO,  
7 I WILL ASK YOU WHETHER OR NOT YOU RESERVE YOUR RIGHT TO -- AT  
8 THE BEGINNING OF YOUR CASE -- NO, I WON'T SAY THAT EITHER.

9 MR. WAPNER: YOUR HONOR --

10 THE COURT: I WILL ASK YOU WHETHER OR NOT YOU RESERVE  
11 YOUR RIGHT TO SUBMIT ANY LIST OF PROSPECTIVE WITNESSES AND YOU  
12 WILL SAY YES.

13 MR. BARENS: YOUR HONOR, I WILL NEVER DO THAT.

14 THE COURT: WELL, HERE, THE JURORS, I WILL ASK THE  
15 PROSECUTION WHO THE WITNESSES ARE GOING TO BE AND THE PURPOSE  
16 OF THAT IS TO FIND OUT IF THE JURORS KNOW ANY OF THEM AND  
17 WHETHER THERE IS ANY BIAS OR PREJUDICE.

18 MR. BARENS: I BELIEVE IT IS INCUMBENT UPON THE  
19 PROSECUTION IN EVERY CASE TO DO THAT.

20 THE COURT: ALL RIGHT, THEN I WON'T ASK YOU AT ALL ABOUT  
21 IT IF THAT IS WHAT YOU WANT.

22 MR. BARENS: I APPRECIATE THAT, YOUR HONOR. THANK YOU.

23 THE COURT: NOW, NUMBER 60:

24 "I HAVE HEARD THE FOLLOWING ABOUT  
25 RONALD GEORGE LEVIN:"

26 I AM NOT GOING TO ASK THAT.

27 I WILL ASK THEM WHETHER THEY HEARD ABOUT HIM OR  
28 ANY COMPANIES WITH WHICH HE WAS ASSOCIATED.

1 MR. CHIER: HE WAS THE SUBJECT OF A MAGAZINE ARTICLE IN  
2 LOS ANGELES MAGAZINE, AMONG OTHER THINGS.

3 THE COURT: THEN THEY WILL TELL ME THEY HAVE HEARD ABOUT  
4 HIM THEN.

5 60, NO.

6 61, NO.

7 ABOUT THE BEVERLY HILLS POLICE DEPARTMENT, NO.

8 HAVE THEY HEARD ANYTHING ABOUT FRED WAPNER? DO  
9 YOU WANT 63? IT AFFECTS YOU.

10 MR. WAPNER: WE ARE GOING TO ASK THEM IF THEY KNOW ANY  
11 OF THE PARTIES.

12 THE COURT: THAT IS RIGHT, ANY OF THE COUNSEL.

13 MR. WAPNER: I THINK IN A GENERAL SENSE, WITHOUT GOING  
14 THROUGH THE SPECIFIC QUESTIONS, TO ASK THEM -- AND I GUESS WE  
15 MOSTLY HAVE ALREADY -- IF THEY FORMED ANY OPINION BASED ON  
16 WHAT THEY HAVE READ OR HEARD. IF THEY DON'T KNOW THE PARTIES  
17 AND THEY HAVEN'T FORMED ANY OPINIONS BASED ON WHAT THEY HAVE  
18 HEARD, THEN I THINK WE HAVE SATISFIED THE ANSWERS TO THESE  
19 QUESTIONS, IN ANY EVENT.

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1 THE COURT: I AGREE.

2 MR. BARENS: I WILL AGREE WITH THAT, YOUR HONOR.

3 MR. CHIER: I DEFINITELY WANT TO HEAR 65.

4 THE COURT: CERTAINLY, NUMBER 65:

5 "I HAVE HEARD THE FOLLOWING ABOUT  
6 LAURENCE RITTENBAND:"

7 MR. CHIER: I WANT TO HEAR THAT.

8 THE COURT: WE HAVE ASKED A LOT OF THEM ABOUT IF THEY  
9 HAVE HEARD ABOUT THE BILLIONAIRES BOYS CLUB, THAT HAS ALREADY  
10 BEEN ASKED ABOUT.

11 MR. CHIER: I LOVE GOSSIP, ESPECIALLY IF IT IS ABOUT  
12 MYSELF.

13 THE COURT: NOT ABOUT MR. CHIER, I THINK IT MIGHT BE  
14 DISPARAGING SO I WON'T ASK THAT QUESTION.

15 MR. CHIER: I LOVE GOSSIP, ESPECIALLY IF IT IS ABOUT  
16 ME.

17 THE COURT: ALL RIGHT, 68, NO.

18 69, NO -- WHAT IS THIS NEXT ONE NOW? 69:

19 "AS TO EACH PERSON, ORGANIZATION,  
20 COMPANY OR FIRM ON THE LIST WHICH FOLLOWS, PLEASE  
21 SUPPLY THE REQUESTED INFORMATION BY CHECKING THE  
22 APPROPRIATE LETTER BELOW."

23 MR. CHIER: THAT IS THE EXERCISE I WAS DOING WITH  
24 JURORS, "STRONGLY IN FAVOR OR SOMEWHAT."

25 THE COURT: I SEE. THAT WILL BE NO. THAT GOES THROUGH  
26 PAGES 26, 27, 28 AND 29.

27 PAGE 30, POLICE OFFICERS. THE PEOPLE WILL TELL  
28 US THE NAMES OF THESE POLICE OFFICERS AND I WILL ASK THEM

9-5  
1 WHETHER OR NOT THEY KNOW ANY OF THEM. I WILL ASK THAT QUESTION.

2 MR. WAPNER: WHICH ONE IS THAT, YOUR HONOR?

BA  
3 THE COURT: DO YOU KNOW ANY POLICE OFFICERS WHO WILL BE  
4 CALLED IN THE CASE?

5 YOU WILL GIVE ME THE NAMES OF THOSE POLICE  
6 OFFICERS AND I WILL ASK THEM THAT.

7 MR. WAPNER: YES.

8 THE COURT: 70 IS OKAY.

9 71 IS OKAY.

10 72 IS OKAY.

11 PAGE 33, THAT HAS ALL BEEN COVERED ON THE VOIR  
12 DIRE ON HOVEY.

13 MR. BARENS: YOU ARE AT PAGE 33, YOUR HONOR?

14 THE COURT: YES.

15 "ARE YOUR VIEWS CONCERNING THE CRIME  
16 OF MURDER SO STRONG THAT YOU WOULD PREFER NOT TO  
17 BE A JUROR" AND SO ON AND SO FORTH.

18 WE HAVE COVERED THAT ON VOIR DIRE ON HOVEY.

19 MR. WAPNER: WHAT QUESTION ARE YOU ON?

20 THE COURT: THAT IS F ON PAGE 33.

21 MR. BARENS: DEFENSE CONCURS, YOUR HONOR.

22 THE COURT: THE ANSWER ON F IS NO.

23 WHAT DO YOU MEAN BY "SUCH CONDUCT," WHAT DO YOU  
24 MEAN BY "SUCH CONDUCT"?

25 MR. BARENS: MURDER ACTUALLY, YOUR HONOR.

26 THE COURT: WE HAVE COVERED THAT.

27 NOW NUMBER 73: "HAVE YOU READ OR HEARD ANYTHING  
28 ABOUT ANY OF THE RECENT ATTACKS ON OUR APPELLATE COURTS?"

1 ARE YOU TALKING NOW ABOUT THE SUPREME COURT?

2 MR. BARENS: YES.

3 THE COURT: YOU MEAN BIRD AND THE REST OF THEM?

4 MR. BARENS: YES.

5 THE COURT: NO.

6 MR. BARENS: WHY IS THAT, YOUR HONOR?

7 THE COURT: I DON'T WANT YOU TO, THAT IS ALL. THERE IS  
8 NO MATERIALITY TO THAT.

9 74 IS NO.

10 75 IS NO.

11 76 IS NO.

12 77 IS NO.

13 THESE ARE ALL BEFORE THE ELECTION ANYWAY.

14 78 IS NO.

15 ALL RIGHT, THAT COVERS EVERYTHING.

16 IS THERE ANYTHING ELSE YOU WANT TO TAKE UP AT THIS  
17 TIME, GENTLEMEN?

18 MR. BARENS: NO, YOUR HONOR.

19 MR. WAPNER: JUST --

20 MR. CHIER: YES, YOUR HONOR, THERE IS.

21 THE COURT: IF ANYTHING ELSE OCCURS DURING THE COURSE  
22 OF VOIR DIRE, YOU CAN COME TO THE BENCH AND WE WILL DISCUSS  
23 IT.

24 MR. BARENS: I APPRECIATE THAT, YOUR HONOR.

25 MR. CHIER: YOUR HONOR, IT IS MY IMPRESSION THAT YOU HAVE  
26 A PANEL OF 71 JURORS.

27 THE COURT: YES.

28 MR. CHIER: AND THAT WITH ALL PEREMPTORIES, ALTERNATES,

1 AND EVERYTHING THERE ARE 76 WITHOUT EVEN EXERCISE OF EVEN A  
2 SINGLE CHALLENGE FOR CAUSE.

3 THE COURT: WE WILL PLAY IT BY EAR. I AM NOT TCOSURE  
4 ANYWAY. YOU PROBABLY WILL EXERCISE 26 BUT MY FEELING IS THAT  
5 THE PROSECUTION WILL NOT EXERCISE ALL 26.

6 MR. WAPNER: I HAVE NO WAY OF KNOWING AT THIS POINT  
7 WHETHER I WILL EXERCISE ONE OR TWENTY-SIX.

8 THE COURT: I UNDERSTAND THAT. I UNDERSTAND THAT.

9 MR. BARENS: THANK YOU, YOUR HONOR.

10 MR. WAPNER: YOUR HONOR --

11 THE COURT: LET ME SEE.

12 MR. WAPNER: TWO THINGS THE COURT REQUESTED.

13 (UNREPORTED COLLOQUY BETWEEN COUNSEL.)

14 THE COURT: LET ME SEE IF I HAVE A RECORD OF HOW MANY  
15 CHALLENGES YOU EXERCISED IN THE PITTMAN CASE, DO YOU REMEMBER?

16 MR. WAPNER: YOUR HONOR, IT IS ALMOST IRRELEVANT AT THIS  
17 POINT.

18 THE COURT: AS A MATTER OF CURIOSITY, IT IS NOT A MATTER  
19 OF RELEVANCY.

20 ALL RIGHT.

21 MR. WAPNER: YOUR HONOR, TWO THINGS: FIRST OF ALL, THE  
22 COURT ASKED YESTERDAY TO PROVIDE IT A COPY OF THE REPORT THAT  
23 WE DISCUSSED IN CHAMBERS --

24 THE COURT: YES.

25 MR. WAPNER: -- INVOLVING MR. TITUS, AND I TOLD MR.  
26 BARENS THAT I WOULD INCLUDE IN THAT A FACE PAGE THAT WAS  
27 SUBSEQUENTLY PROVIDED TO HIM.

28 AND MAY THE RECORD REFLECT I AM TURNING THAT OVER

1 TO THE COURT AT THIS TIME?

2 THE COURT: YES.

3 MR. WAPNER: AND SECOND OF ALL, I HAVE SOME RECORDS THAT  
4 WERE SUBPOENAED THAT WERE DELIVERED TO MY OFFICE, I BELIEVE  
5 IN ERROR. I DON'T THINK THEY SENT A COPY TO THE COURT. I AM  
6 GOING TO FILE THEM WITH THE CLERK AND ASK COUNSEL FOR A  
7 STIPULATION THAT THEY CAN BE OPENED, COPIED AND COPIES PROVIDED  
8 TO COUNSEL.

9 THE COURT: DO YOU WANT THAT? DO YOU WANT THE PRESS TO  
10 LOOK AT IT, TOO? DO YOU WANT TO PUT IT IN THE FILE OR DO YOU  
11 WANT TO HAVE IT SEALED?

12 MR. WAPNER: I DON'T WANT THE PRESS TO LOOK AT IT BUT  
13 THE RECORDS THAT HAVE BEEN RECEIVED ARE IN A SEPARATE BOX, IN  
14 MY UNDERSTANDING AND I UNDERSTAND, OR AT LEAST IT IS MY HOPE  
15 THAT THE PRESS IS NOT GOING THROUGH THEM.

16 THE COURT: NO.

17 YOU KEEP THOSE THINGS WHICH ARE SUPPOSED TO BE  
18 A SECRET A SECRET.

19 THE CLERK: I WOULDN'T THINK OF GIVING ANYTHING TO THE  
20 PRESS BUT I DIDN'T KNOW IT WAS CLASSIFIED AS SECRET.

21 MR. CHIER: WELL, IT IS NOT EVIDENCE YET.

22 THE COURT: THERE WILL BE NO ACCESS.

23 THE CLERK: NO ACCESS. FOR YOUR HONOR ONLY?

24 THE COURT: WHAT DID YOU WANT TO DO WITH THAT?

25 MR. BARENS: I DON'T KNOW WHAT IT IS, YOUR HONOR.

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28

1 MR. WAPNER: ONE OF THEM HAS TO DO WITH RECORDS OF  
2 TRAVELER'S CHECKS FROM CHASE MANHATTAN BANK AND THE OTHER  
3 HAS TO DO WITH THE CREDIT REPORT OF MR. LEVIN FROM TRW.

4 MR. BARENS: WE WOULD LIKE COPIES.

5 THE COURT: WHAT IS THE QUESTION?

6 MR. WAPNER: WELL, COUNSEL SAID HE WANTS COPIES. THAT  
7 WAS THE WHOLE POINT. IF WE CAN GET THAT STIPULATION THAT  
8 THEY CAN BE OPENED AND COPIES PROVIDED --

9 MR. BARENS: YES.

10 THE COURT: ALL RIGHT, FINE.

11 MR. BARENS: I HAVE ONE OTHER REQUEST. YESTERDAY,  
12 MR. WAPNER GRACIOUSLY GAVE US SOME ADDITIONAL PAGES OF  
13 DISCOVERY ON THE ARIZONA PEOPLE.

14 UNFORTUNATELY AND INEXPLICABLY, I CANNOT FIND  
15 MY COPY OF WHAT HE GAVE ME OF THE ARIZONA MATERIAL. COULD  
16 I HAVE ANOTHER COPY?

17 THE COURT: HAVE YOU ASKED COUNSEL?

18 MR. BARENS: MR. CHIER WAS NOT HERE AT THE TIME. HE  
19 STEPPED OUT OF THE COURTROOM. I COULDN'T LOCATE HIM.

20 THE COURT: THE DEFENDANT HAS NOT DONE ANYTHING WITH  
21 IT?

22 MR. BARENS: NO. HE WOULD SHARE IT WITH ME.

23 MR. WAPNER: WELL, I AM ABLE TO DO THAT. BUT THAT IS  
24 A MATTER OF GREAT CONCERN TO ME THAT --

25 THE COURT: THAT IT WENT ASTRAY?

26 MR. BARENS: IT IS A MATTER OF CONCERN.

27 MR. WAPNER: I DON'T KNOW WHO HAS GOT IT. I WILL BE  
28 HAPPY TO PROVIDE COUNSEL WITH ANOTHER COPY. BUT I THINK THAT

1 WE SHOULD ALL EXERCISE GREAT CAUTION THAT THESE REPORTS BE  
2 TAKEN CARE OF BECAUSE IF THEY GET INTO THE WRONG HANDS, THE  
3 NEXT THING IS THAT WE WILL READ ABOUT IT IN THE NEWSPAPER.

4 THE COURT: WELL, THE HARM IS DONE SO FAR AS THE RECORDS  
5 ARE CONCERNED. THERE IS NOTHING YOU CAN DO. YOU MAKE A  
6 FURTHER SEARCH AND SEE IF YOU CAN FIND IT.

7 MR. BARENS: I QUITE WELL WILL DO SO. I AM SIMPLY  
8 ASKING MR. WAPNER TO MAKE ANOTHER COPY AVAILABLE. I HAVE  
9 NO EXPLANATION FOR IT.

10 THE COURT: ALL RIGHT.

11 MR. BARENS: THANK YOU, YOUR HONOR.

12 THE COURT: ALL RIGHT. THANK YOU. ANYTHING FOR THIS  
13 AFTERNOON? NOTHING?

14 MR. BARENS: MERCIFULLY, NOTHING.

15 (AT 11:50 A.M. AN ADJOURNMENT WAS TAKEN  
16 UNTIL WEDNESDAY, DECEMBER 10, 1986, AT 10 A.M.)  
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