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COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,)
)
PLAINTIFF-RESPONDENT,)
)
VS.)
)
JOE HUNT, AKA JOSEPH HUNT,)
AKA JOSEPH HENRY GAMSKY,)
)
DEFENDANT-APPELLANT.)

SUPERIOR COURT
NO. A-090435

OCT 09 1987

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 38 OF 101
(PAGES 5600 TO 5621, INCLUSIVE)

COPY

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

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.)

JOSEPH HUNT,)

DEFENDANT.)

NO. A-090435

REPORTERS' DAILY TRANSCRIPT

MONDAY, JANUARY 26, 1987

VOLUME 38

PAGES 5600 TO 5621, INCL.

APPEARANCES:

FOR THE PLAINTIFF: 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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MONDAY, JANUARY 26, 1987

VOLUME 38

PAGES 5600 TO 5621

A.M.

5600

MOTIONS

PROCEEDINGS

5600

1 SANTA MONICA, CALIFORNIA; MONDAY, JANUARY 26, 1987; 10:37 A.M.
2 DEPARTMENT WEST C HON. LAURENCE J. RITTENBAND, JUDGE
3 (APPEARANCES AS NOTED ON TITLE PAGE.)
4 (ROSEMARIE GOODBODY, OFFICIAL REPORTER.)

5
6 (THE FOLLOWING PROCEEDINGS WERE HELD
7 OUT OF THE PRESENCE OF THE JURY:)

8 THE COURT: ALL RIGHT, THE DEFENDANT IS PRESENT. COUNSEL
9 ARE PRESENT.

10 MR. BARENS: GOOD MORNING.

11 THE COURT: YOU HAVE HAD THE OPPORTUNITY OF READING
12 THE PAPERS WHICH WERE TURNED OVER TO YOU?

13 MR. BARENS: I DID AND THANK YOUR HONOR FOR HAVING THOSE
14 AVAILABLE ON THURSDAY, AS THE COURT REPRESENTED.

15 YOUR HONOR WILL -- I DID WANT TO SAY FOR THE
16 RECORD BEFORE THE COURT ACCESSED THESE MATERIALS, I WAS NOT
17 AWARE THAT THEY CONTAINED POLICE REPORT MATERIALS OR THINGS
18 THAT ARE TANTAMOUNT TO POLICE REPORTS WHICH, OF COURSE, YOUR
19 HONOR REALIZES THE DEFENSE WOULD OBJECT TO THE COURT OR
20 ANYONE ELSE READING THAT IS INVOLVED IN THE TRIAL.

21 UNDER THE CODE, POLICE REPORTS ARE NOT TO BE READ
22 BY THE COURT OR THE DISTRICT ATTORNEY.

23 THE COURT: WELL, ONLY AS IT AFFECTS THE GRANTING OF
24 THE SEARCH WARRANT, IT IS LIMITED ONLY TO THAT PURPOSE.

25 MR. BARENS: I UNDERSTAND THAT, YOUR HONOR.

26 I AM JUST FOR THE RECORD DECLARING WHAT I BELIEVE
27 I AM OBLIGED TO DECLARE, YOUR HONOR.

28 THE COURT: OF COURSE, SURE.

1 MR. BARENS: YOUR HONOR, WE WOULD ALSO NOTE TO THE COURT
2 THAT THIS IS NOT A DECLARATION UNDER OATH BY MR. BREILING
3 BUT, RATHER, A LOT OF STATEMENTS THAT HE MAKES THAT I BELIEVE
4 ARE ILL-FOUNDED AND WHICH THE DEFENSE WOULD CHALLENGE, BOTH
5 IN THE NATURE OF WHAT WAS SAID TO HIM AND WHAT TRANSPIRED
6 AT THE RESIDENCE, WHICH CONFLICTS WITH OTHER WITNESSES THAT
7 WOULD TESTIFY TO THE CONTRARY.

8 THE COURT: WELL, THEN WE WANT TO HAVE AN EVIDENTIARY
9 HEARING BEGINNING TOMORROW.

10 MR. BARENS: TOMORROW, YOUR HONOR?

11 THE COURT: YES.

12 MR. BARENS: YOUR HONOR, I WOULD LIKE THAT ON WEDNESDAY
13 SO I COULD HAVE AN OPPORTUNITY TO PREPARE WITNESSES.

14 THE COURT: NO, WE WILL START IT TOMORROW. WE WANT
15 TO GET THROUGH ON FRIDAY SO WE CAN PROCEED WITH THE TRIAL
16 OF THE CASE IF THE MOTION TO CONTINUE THE MATTER IS DENIED.

17 MR. BARENS: I AM, FOR THE RECORD, NOT PREPARED TO
18 PRODUCE THE WITNESSES. I WOULD NEED TOMORROW.

19 THE COURT: YOU WON'T NEED THE WITNESSES TOMORROW. THEY
20 WILL PREPARE THEIR WITNESSES FOR TOMORROW AND YOU CAN PREPARE
21 YOUR WITNESSES FOR WEDNESDAY.

22 MR. BARENS: ALL RIGHT. YOUR HONOR IS SAYING THAT THE
23 PEOPLE -- HAVE YOU SPOKEN TO THE PEOPLE IN THIS REGARD?

24 THE COURT: NO. I AM TELLING HIM NOW.

25 MR. BARENS: IN OTHER WORDS, YOUR HONOR, THE POLICE
26 OFFICERS, WHAT ABOUT THE OFFICERS FROM NORTHERN CALIFORNIA,
27 WHO WERE PRESENT? I WOULD LIKE TO SPECIFICALLY INQUIRE OF
28 MR. BREILING, WHO WROTE THIS DOCUMENT.

1 THE COURT: YES, YES, I AM ORDERING THE DISTRICT ATTORNEY
2 TO SEE THAT MR. BREILING IS HERE TOMORROW.

3 MR. BARENS: HE WOULD BE SOMEWHAT PIVOTAL, I THINK,
4 YOUR HONOR.

5 THE COURT: OF COURSE, I AGREE WITH YOU. THAT IS WHY
6 I WANT TO HAVE HIM HERE TOMORROW.

7 THAT IS AN ORDER FOR YOU.

8 MR. WAPNER: YES, YOUR HONOR. I SPOKE TO MR. BREILING
9 ON THE PHONE THIS MORNING AND TOLD HIM THAT I THOUGHT IT WOULD
10 BE SOMETIME THIS WEEK AND I DIDN'T KNOW WHEN AND I WOULD LET
11 HIM KNOW AS SOON AS I FOUND OUT.

12 THE COURT: LET HIM KNOW IT IS TOMORROW.

13 HE IS A PRINCIPAL WITNESS FOR THIS.

14 MR. BARENS: IF I MAY HAVE A MOMENT WITH COUNSEL,
15 YOUR HONOR, JUST TO REVIEW MY WITNESSES.

16 (UNREPORTED COLLOQUY BETWEEN MR. BARENS
17 AND MR. CHIER.)

18 MR. WAPNER: YOUR HONOR, I HAVE JUST HAD AN OPPORTUNITY
19 ONLY THIS MORNING TO BRIEFLY GLANCE THROUGH THE MATERIALS
20 THAT I SUBMITTED TO THE COURT IN A SEALED CONDITION LAST WEEK.
21 I HAVE NOT READ THE RETURN AND I DON'T INTEND TO READ IT BUT
22 IN A CURSORY GLANCE THROUGH --

23 THE COURT: I DON'T SEE WHY YOU ARE SO OBSESSIVE ABOUT
24 NOT READING THESE THINGS. I AM TELLING YOU NOW THAT IN ORDER
25 FOR YOU TO PREPARE FOR THIS PARTICULAR HEARING IT IS
26 MANDATORY THAT YOU READ IT AND KNOW WHAT IS GOING ON.

27 MR. WAPNER: YOUR HONOR, AS FAR AS THE REPORTS OF WHAT
28 HAPPENED ARE CONCERNED, I WILL EXAMINE THE REPORTS AS FAR AS --

1 THE COURT: I AM ASKING YOU AND ORDERING YOU TO READ
2 THE WHOLE THING, THE SAME AS COUNSEL HAS READ THE WHOLE THING,
3 SO YOU ARE THOROUGHLY FAMILIAR WITH WHAT WENT ON IN CONNECTION
4 WITH THIS SEARCH WARRANT. THAT IS AN ORDER.

5 MR. WAPNER: I WILL BE FAMILIAR WITH WHAT WENT ON IN
6 CONNECTION WITH THE WARRANT TO THE EXTENT THAT --

7 THE COURT: THERE WON'T BE ANY LIMITATION; DO YOU
8 UNDERSTAND THAT?

9 MR. WAPNER: YOUR HONOR, DO I UNDERSTAND WHAT?

10 THE COURT: YOU UNDERSTAND THAT THERE WON'T BE ANY
11 LIMITATION UPON YOUR READING THE ENTIRE DOCUMENT.

12 MR. WAPNER: WELL, IS THE COURT --

13 THE COURT: I AM ORDERING YOU TO DO IT.

14 MR. WAPNER: HAS THE COURT MADE A DETERMINATION THAT
15 BY READING THAT, IT IS NOT GOING TO REVEAL ANY CONFIDENTIAL
16 OR PRIVILEGED INFORMATION?

17 THE COURT: YES.

18 MR. WAPNER: WHAT I WANTED TO SAY WAS THAT ON A CURSORY
19 READING OF THAT, IT INDICATES THERE WAS A PERSON PRESENT
20 DURING THE SEARCH NAMED CURTIS ROBERTS. I DID NOT SEE A
21 DECLARATION FROM HIM IN THE ITEM SUBMITTED BY THE DEFENSE
22 AND I WOULD ASK THE COURT TO ASK COUNSEL, AS A COURTESY, TO
23 HAVE HIM PRESENT, RATHER THAN MY ATTEMPTING TO SUBPOENA HIM.

24 THE COURT: IF HE WANTS TO DO THAT IN SUPPORT OF HIS
25 MOTION, HE MAY DO THAT. I AM NOT GOING TO TELL HIM TO DO
26 ANYTHING.

27 MR. WAPNER: WELL, ALL RIGHT. IF I NEED TO SUBPOENA
28 HIM, I WILL TRY TO DO IT AS A COURTESY TO THE DEFENDANT.

1 THE COURT: I DON'T SEE THAT HE PLAYED ANY PART IN IT
2 EXCEPT HE WAS PRESENT AT SOME SEARCH AFTER HIS FATHER ASKED
3 THAT HE BE PERMITTED TO GO THROUGH THE REST OF THE PREMISES,
4 AS I UNDERSTAND.

5 MR. WAPNER: WHILE WE WERE DISCUSSING THIS, I HAVEN'T
6 FILED A WRITTEN MOTION IN RESPONSE, BUT MAY I ASK PERMISSION
7 OF THE COURT TO CITE SOME CASES?

8 THE COURT: YES.

9 MR. WAPNER: WILSON V. SUPERIOR COURT.

10 THE COURT: WILSON?

11 MR. WAPNER: AT 70 CAL.APP.3D.

12 THE COURT: 70 CAL.APP.3D?

13 MR. WAPNER: 751.

14 THE COURT: 751.

15 MR. WAPNER: PEOPLE V. GLOVER.

16 THE COURT: YES.

17 MR. WAPNER: 169 CAL.APP.3D, 689.

18 THE COURT: YES.

19 MR. WAPNER: AND PEOPLE V. TOWLER, T-O-W-L-E-R.

20 THE COURT: T-O--

21 MR. WAPNER: T-O-W-L-E-R.

22 THE COURT: TOWLER.

23 MR. WAPNER: 31 CAL.3D, 105.

24 THE COURT: ALL RIGHT, I WOULD SUGGEST THAT YOU READ
25 THOSE CASES IF ANYTHING COMES UP SO YOU WILL BE FAMILIAR WITH
26 THEM.

27 MR. BARENS: WE WILL, YOUR HONOR.

28 THE COURT: I WILL READ THEM THIS MORNING.

1 MR. BARENS: TWO OTHER POINTS.

2 THE FIRST TWO PAGES OF THE RETURN MATERIAL HAVE
3 A LIST OF PEOPLE THAT OBVIOUSLY THE DEFENDANT WOULD -- SOME
4 OF WHICH THE DEFENDANT WOULD PRESENT. OTHERS, INCLUDING A
5 VARIETY OF POLICE OFFICERS, WE WOULD LIKE THE COURT TO MAKE
6 IT CLEAR IN YOUR HONOR'S ORDER THAT THE PEOPLE ARE REQUIRED
7 TO PRODUCE ALL OF THE POLICE PERSONNEL THAT ARE LISTED ON
8 THE REPORT.

9 THE COURT: SOME OF THEM HAVE NOTHING TO DO WITH ANYTHING
10 EXCEPT BEING THERE.

11 MR. BARENS: WELL, I DON'T KNOW THAT, YOUR HONOR.

12 THE COURT: WELL, THE REPORT INDICATES WHAT THEIR
13 FUNCTIONS WERE.

14 MR. BARENS: YOUR HONOR, OTHER THAN -- WELL, THERE IS
15 NO ONE THAT WAS THERE THAT DIDN'T DO SOMETHING, IN MY OPINION.

16 THE COURT: INCIDENTALLY, THE REPORT INDICATES THAT YOUR
17 ASSOCIATE, TOGETHER WITH BROOKE ROBERTS, YOUR ASSOCIATE
18 PARTICULARLY HAD EXAMINED EVERY SINGLE DOCUMENT THAT WAS TAKEN.

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1 MR. BARENS: WE DISPUTE THAT.

2 THE COURT: AND THAT HE HAD MADE A NOTE OF EVERY SINGLE
3 DOCUMENT THAT WAS TAKEN.

4 IF HE DIDN'T, THEN BROOKE ROBERTS DID.

5 MR. BARENS: WE DISPUTE THAT.

6 THE COURT: I DON'T KNOW THAT YOU DISPUTE IT BECAUSE
7 YOU TOLD ME CATEGORICALLY THAT THERE WERE 70, 75 --

8 MR. BARENS: SEVENTY-EIGHT.

9 THE COURT: -- DOCUMENTS THAT WERE LISTED THAT YOU
10 KNOW ABOUT SO, OBVIOUSLY, YOU MUST HAVE GOTTEN IT FROM THAT
11 LIST THAT WAS TAKEN DOWN BY YOUR ASSOCIATE.

12 MR. BARENS: NO, YOUR HONOR.

13 I MADE IT CLEAR TO THE COURT THAT --

14 THE COURT: OR BY BROOKE ROBERTS.

15 MR. BARENS: -- I GOT THAT INFORMATION FROM THE
16 DEFENDANT, BASED ON WHAT HE TOLD ME WAS NOT PRESENT IN THE
17 HOUSE.

18 THE COURT: IF HE WASN'T PRESENT, THEN HOW DOES HE
19 KNOW WHAT WAS TAKEN?

20 MR. BARENS: BASED ON WHAT WAS THERE AND WHAT WASN'T
21 THERE AFTERWARD.

22 THE COURT: THERE WAS A LIST MADE BY YOUR ASSOCIATE.

23 MR. BARENS: YES, YOUR HONOR.

24 THE COURT: NOW, I WANT THAT LIST --

25 MR. BARENS: YES.

26 THE COURT: -- TO BE SURE THAT THAT WAS TAKEN, AND
27 HE APPROVED EVERYTHING.

28 AT LEAST, HE DIDN'T OBJECT TO ANYTHING THAT WAS

1 TAKEN EXCEPT ONE DOCUMENT AND THAT HAD TO DO WITH --

2 YOU SIT DOWN. I DON'T WANT TO TALK TO YOU ANY
3 AT THIS TIME. SIT DOWN.

4 MR. CHIER: I HAVE A RIGHT --

5 THE COURT: I WANT YOU TO SIT DOWN, IF YOU ARE GOING
6 TO INTERFERE IN THIS MATTER.

7 AND YOU CAN'T BE COUNSEL HERE IF YOU ARE GOING
8 TO TESTIFY TO ANYTHING; DO YOU UNDERSTAND THAT?

9 MR. CHIER: I WISH TO ADDRESS THE COURT, AS IS MY RIGHT.

10 THE COURT: I DON'T WANT TO HEAR FROM YOU.

11 MR. CHIER: I HAVE BEEN MUZZLED FOR THREE WEEKS.

12 THE COURT: I DON'T WANT TO HEAR FROM YOU. I ONLY
13 WANT TO HEAR FROM COUNSEL.

14 MR. CHIER: COUNSEL DOESN'T KNOW WHAT I KNOW.

15 THE COURT: YOU TOLD HIM EVERYTHING YOU KNOW.

16 MR. CHIER: WELL, I DIDN'T, YOUR HONOR.

17 THE COURT: WILL YOU SIT DOWN?

18 MR. BARENS: ONE MOMENT, YOUR HONOR, IF WE MIGHT.

19 WE DISPUTE THE ACCURACY OF MR. BREILING'S ASSERTIONS AS TO
20 WHAT MR. CHIER PREPARED AND DIDN'T PREPARE IN THAT INSTANCE.

21 THE COURT: THEN YOU CAN CROSS-EXAMINE HIM AND FIND
22 OUT AT THAT TIME EXACTLY WHAT IT IS THAT HE DID OR DIDN'T
23 PREPARE.

24 MR. BARENS: YOUR HONOR MIGHT RECALL THAT AN HOUR AND
25 A HALF TO TWO HOURS HAD TRANSPIRED BEFORE MR. CHIER ARRIVED
26 AT THE RESIDENCE. YOU WILL RECALL THE INCIDENT OCCURRING
27 IN THE COURTROOM HERE WHEN I FIRST REALIZED WHAT WAS GOING
28 ON. MR. CHIER DIDN'T EVEN LEAVE FOR THERE UNTIL THE NOON

-3
1 HOUR. THEY HAD BEEN THERE APPROXIMATELY AN HOUR AND A HALF
2 TO TWO HOURS BEFORE HE ARRIVED.

3 THE COURT: WELL, ALL OF THOSE FACTS WILL BE BROUGHT
4 OUT IN CONNECTION WITH THIS EVIDENTIARY HEARING.

5 MR. BARENS: RIGHT.

6 YOUR HONOR, I DID NOT WANT YOUR HONOR TO BE
7 CONFUSED ABOUT WHAT WE REFERRED TO AS DEFENSE EXHIBITS AS
8 OPPOSED TO A REFERENCE TO WHAT THEY REMOVED THAT DAY. THOSE
9 ARE TWO DIFFERENT THINGS.

10 THEY REMOVED A LOT OF STUFF. THEY REMOVED --

11 THE COURT: PARDON ME. LET ME INTERRUPT YOU.

12 DO YOU INTEND TO SHOW THAT MR. BREILING HAD
13 MISSTATED WHAT HE PUT IN HIS RECORD: THAT UNDER NO
14 CIRCUMSTANCES WAS HE GOING TO EXAMINE ANYTHING WHICH HAD TO
15 DO WITH THIS CASE THAT WE ARE TRYING NOW AND ANY KIND OF A
16 DOCUMENT THAT WAS EVER SEEN THAT WAS CLAIMED TO BE PRIVILEGED
17 INSOFAR AS THIS CASE WAS CONCERNED, HE DID NOT EXAMINE AND
18 HE INSTRUCTED ALL OF THE PEOPLE THAT WENT WITH HIM NOT TO
19 EXAMINE ANY KIND OF DOCUMENTS WHICH HAVE TO DO WITH THE
20 CONFIDENTIAL RELATIONSHIP.

21 MR. BARENS: I THINK THE PROBLEM WE GET INTO IS UNTIL
22 THEY LOOK AT THEM, THEY DON'T KNOW WHAT THEY WERE.

23 THE COURT: LET'S FIND OUT ON THAT EVIDENTIARY HEARING
24 WHAT EXACTLY IT IS THAT THEY DID SEE, AND THAT GOES FOR ALL
25 OF THE WITNESSES THAT HAD TO DO WITH THIS PARTICULAR SEARCH.

26 MR. BARENS: THAT IS ALL I AM ASKING.

27 THE COURT: I AM ASKING FOR BREILING, HOWEVER YOU
28 PRONOUNCE HIS NAME.

2-4
1 MR. BARENS: BREILING.

2 THE COURT: AND I AM INTERESTED IN THE CITY DETECTIVE.

3 MR. BARENS: ZOELLER, ET AL., AND A FEW OTHER FELLOWS.

4 THE COURT: YES, LEE ZOELLER.

5 MR. BARENS: AND FELLOWS FROM LAPD. THIS RIZZO (SIC).

6 MR. WAPNER: IT IS ROZZI.

7 MR. BARENS: ROZZI, IN THIS INSTANCE, YOUR HONOR.

8 THE COURT: SURE, THE D.A. WILL HAVE EVERYBODY, THE
9 LAPD AND EVERYBODY HERE THAT HAS TO DO WITH THIS PARTICULAR
10 SEARCH.

11 MR. BARENS: YOUR HONOR, I WOULD ASK, BECAUSE OF THE
12 SHORT NOTICE ON THIS MATTER, IF WE COULD COMMENCE AT 1:30
13 INSTEAD OF 10:30, IN LIGHT OF THE FACT I WASN'T AWARE OF THIS.
14 I HAVE A FELONY ARRAIGNMENT IN THE MORNING. IT IS A MULTIPLE
15 DEFENDANT CASE WITH SIX PEOPLE.

16 THE COURT: HOW LONG WOULD THAT TAKE?

17 MR. BARENS: I WOULD NOT BE PREPARED TO BE HERE PRIOR
18 TO 11:15, I WOULD SAY, YOUR HONOR.

19 THE COURT: ALL RIGHT, COME HERE AT 11:15.

20 MR. BARENS: BECAUSE I AM DOWNTOWN ON THAT, YOUR HONOR.

21 THE COURT: COME HERE AT 11:15.

22 MR. BARENS: ALL RIGHT. THEN WE WILL COMMENCE THEN.

23 THE COURT: I WILL RESPECT YOUR ENGAGEMENT.

24 ALL RIGHT, WE UNDERSTAND EACH OTHER THEN.

25 ANYTHING FURTHER AT THIS PARTICULAR TIME?

26 MR. WAPNER: YOUR HONOR, ONLY THAT SOMETIME THIS WEEK
27 AFTER THIS HEARING, WE SHOULD FINISH ARGUING, WE SHOULD
28 PROBABLY NOW SET A DATE SO THAT WE CAN FINISH THAT ARCE

2-5
1 MOTION AND ANY OTHER MATTERS.

2 THE COURT: LET'S DO THAT NOW AS LONG AS WE HAVE GOT
3 THE TIME.

4 MR. WAPNER: WELL, I DIDN'T COME WITH MY MATERIALS
5 PREPARED TO DO IT AND I AM SURE COUNSEL DIDN'T.

6 THE COURT: HOW DO YOU KNOW WHETHER HE IS PREPARED
7 OR NOT?

8 MR. WAPNER: WELL, I DON'T KNOW.

9 THE COURT: ARE YOU PREPARED?

10 MR. BARENS: I AM NOT PREPARED.

11 YOUR HONOR, I MADE IT CLEAR TO THIS COURT THAT
12 THIS WHOLE ARCE BUSINESS, I HAVE NEVER BEEN PREPARED ON.
13 MR. CHIER HANDLED THAT EXCLUSIVELY AND DOES HAVE AN ARGUMENT
14 THAT HE HAD PREPARED TO SUBMIT TO THE COURT AND I ASK THE
15 COURT TO HEAR THE ARGUMENT AND THEN RULE.

16 THE COURT: ALL RIGHT, I WILL MAKE AN EXCEPTION ON
17 THAT PARTICULAR PART OF IT IF HE IS ONLY PREPARED AND YOU
18 ARE NOT.

19 MR. BARENS: I NEVER MADE ANY ATTEMPT.

20 THE COURT: I WILL LISTEN TO THE ARGUMENT ON THAT.

21 WHAT OTHER MOTIONS ARE THERE? ARE THERE ANY?

22 MR. WAPNER: NO, I THINK THAT IS PROBABLY IT.

23 THE COURT: HOW ABOUT THE PROPORTIONALITY?

24 MR. BARENS: THAT IS PART OF THE ARCE, AS FAR AS I
25 RECALL, YOUR HONOR.

26 THE COURT: WELL, THE ARCE QUESTION, THAT'S RIGHT.

27 MR. WAPNER: ISN'T THAT PROPORTIONALITY?

28 THE COURT: WAIT A MINUTE. I AM TALKING ABOUT THE

1 LIVESAY TESTIMONY. THAT IS THE PROPORTIONALITY, ISN'T IT?

2 MR. WAPNER: I THINK WE RESOLVED THAT, I BELIEVE.

3 THE COURT: THAT HAS BEEN WITHDRAWN.

4 MR. BARENS: NO, WE DIDN'T WITHDRAW IT. YOUR HONOR
5 RULED AGAINST THE DEFENSE ON THE LIVESAY MOTION. BUT IF YOUR
6 HONOR WOULD LIKE TO RECONSIDER THAT --

7 THE COURT: NO, I AM NOT GOING TO RECONSIDER THAT.

8 MR. BARENS: YOU REMEMBER THE LEO CASE, TO RESOLVE
9 THAT IN YOUR HONOR'S MIND?

10 THE COURT: YES, I REMEMBER THAT.

11 MR. BARENS: A CASE I SHALL LONG REMEMBER.

12 THE COURT: ALL RIGHT, THEN WE HAVE ARCE, WHEN ARE
13 WE GOING TO HEAR THAT?

14 MR. WAPNER: PROBABLY, I THINK WE SHOULD HEAR THAT
15 AFTER WE ARE FINISHED HEARING THAT OTHER THING.

16 THE COURT: I WANT YOU GENTLEMEN TO KNOW I WANT TO
17 FINISH ALL OF THIS EVIDENTIARY HEARING BEFORE THE END OF THE
18 WEEK.

19 MR. BARENS: THANK YOU, YOUR HONOR.

20 (RECESS.)

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1 THE COURT: YES?

2 MR. BARENS: THANK YOU FOR THE ADDITIONAL TIME, YOUR
3 HONOR.

4 OUT OF AN ABUNDANCE OF CAUTION, YOUR HONOR, I
5 WANTED TO MAKE SURE I UNDERSTAND WHAT I AM DOING HERE.

6 THE COURT: SURE.

7 MR. BARENS: YOUR HONOR, ONE OF THE DISABILITIES WHICH
8 I THINK BOTH SIDES HAVE IN PROCEEDING TOMORROW IS THAT WITHOUT
9 THE COPIES THAT WE ARE TRYING TO OBTAIN OF EVERYTHING THAT
10 THEY HAVE GOT UP NORTH, IT IS GOING TO BE AWFULLY DIFFICULT
11 FOR ME TO SHOW YOUR HONOR WHAT WE ARE TALKING ABOUT. IN OTHER
12 WORDS, THE SUBSTANCE, THE MATERIALS PER SE THAT THEY HAVE
13 GOT, WITHOUT HAVING THE COPIES AVAILABLE TO COUNSEL, IT IS
14 HARD TO DEMONSTRATE WHAT WE ARE TALKING ABOUT THAT THEY HAVE
15 SEEN AND ARE IN POSSESSION OF.

16 MR. WAPNER, COURTEOUSLY, HAS ADVISED ME THAT HE
17 CALLED MR. BREILING RIGHT NOW, WHO AGREED TO PREPARE A COPY
18 UNDER A SEALED BOX THAT WE COULD ACCESS.

19 MR. WAPNER: MAY I INTERRUPT FOR A SECOND?

20 MR. BARENS: SORRY.

21 MR. WAPNER: MAYBE SOMETHING GOT LOST IN THE
22 TRANSLATION.

23 I TALKED TO MR. BREILING IMMEDIATELY AFTER I LEFT
24 COURT. AND AS I TOLD THE COURT EARLIER THIS MORNING, I HAD
25 ASKED HIM -- AT LEAST I THINK I TOLD THE COURT I ASKED HIM
26 ABOUT PREPARING COPIES OF THE DOCUMENTS EARLIER AND I HAD
27 ALSO ASKED MR. VANCE ABOUT THAT, AT THE COURT'S REQUEST.

28 AND MY PREVIOUS REQUEST TO MR. VANCE TO MAKE A

3-2
1 COPY OF THE DOCUMENTS FELL ON DEAF EARS BECAUSE, WE HAD BEFORE
2 THAT, AGREED ON THIS PROCEDURE THAT EVERYTHING WOULD BE SEALED.
3 MR. VANCE APPARENTLY IS NOT AVAILABLE TODAY. HE IS NOT IN
4 THE OFFICE.

5 WHEN I CALLED MR. BREILING AFTER I LEFT COURT
6 THIS MORNING, I SAID, "THE JUDGE HAS SET THE HEARING FOR
7 TOMORROW MORNING, CAN YOU BE HERE?"

8 AND HE SAID, "I CAN BE THERE BUT IF YOU WANT COPIES
9 OF ALL OF THESE DOCUMENTS, ONE, I CAN'T PHYSICALLY HAVE THE
10 COPIES READY FOR YOU BY TOMORROW.

11 "AND TWO, I WON'T DO ANYTHING UNTIL I CHECK WITH
12 JOHN VANCE."

13 SO I WILL ATTEMPT TO GET HOLD OF MR. VANCE, BUT
14 LET ME SUGGEST THAT PERHAPS WE ARE BETTER SERVED BY JUST
15 PUTTING THE HEARING OVER UNTIL WEDNESDAY.

16 THE COURT: NO. WE CAN HEAR TESTIMONY ON TUESDAY. LET'S
17 FIND OUT WHAT THE DOCUMENTS ARE AND HAVE THEM DESCRIBE THEM
18 AND THEN IN THE MEANTIME, HAVE THEM PREPARE COPIES OF THESE
19 DOCUMENTS WHICH WERE SEIZED.

20 LET'S FIRST GET A FULL DESCRIPTION OF WHAT THESE
21 DOCUMENTS ARE. LET'S FIND OUT WHAT THEY ARE FIRST.

22 IF THEY HAVE NO RELEVANCY TO THIS PARTICULAR CASE
23 AND ONLY HAVE TO DO WITH RECORDS WHICH WERE SEIZED --

24 WILL YOU TELL HIM TO SHUT UP?

25 MR. BARENS: YOUR HONOR, EXCUSE ME. I WILL ADDRESS
26 THE POINT MOMENTARILY, YOUR HONOR.

27 MR. CHIER: YOUR HONOR, I -- I HAVE TO BE ABLE TO TALK
28 TO HIM IF I CAN'T TALK TO YOU.

1 THE COURT: DON'T TALK WHILE I AM TALKING.

2 YOU CAN TALK TO HIM WHILE I AM NOT TALKING.

3 MR. BARENS: WE UNDERSTAND THAT.

4 THE COURT: I AM SORRY, HE WILL JUST HAVE TO LEAVE.

5 I DON'T WANT HIM ANY MORE ON THIS CASE, I AM SERIOUS ABOUT
6 IT, BECAUSE HE HAS BEEN A DISRUPTIVE FORCE ALL THROUGH THIS
7 CASE AND I DON'T WANT HIM ANY MORE.

8 MR. BARENS: WE UNDERSTAND THAT MR. CHIER SHOULD ADDRESS
9 ME, NOT WHEN YOUR HONOR IS SPEAKING. WE ARE ADVISED, YOUR
10 HONOR.

11 MR. WAPNER: I AM NOT SURE I UNDERSTAND WHAT THE COURT
12 IS SAYING.

13 THE COURT: LET'S GET ALL OF THESE DOCUMENTS, GO AS
14 FAR AS WE CAN GO, FIND OUT FROM BREILING, HE CAN DESCRIBE
15 IN DETAIL WHAT WAS SEIZED.

16 AND THEN IF IT HAS ANY RELEVANCY IN THIS CASE,
17 WE CAN HAVE THESE DOCUMENTS PRODUCED.

18 MR. WAPNER: I UNDERSTAND WHAT THE COURT IS SAYING.
19 HOW CAN HE TESTIFY?

20 THE COURT: HE CAN TESTIFY ABOUT A LOT OF OTHER THINGS
21 AS TO WHAT HAPPENED THERE, HOW THEY WENT ABOUT THE INVESTIGATION,
22 THE WHOLE BACKGROUND OF IT. WE DON'T NEED THESE DOCUMENTS
23 FOR HIM TO TELL US THAT.

24 WHILE HE IS DESCRIBING ALL OF THESE MATTERS, THEN
25 WE CAN HAVE THESE DOCUMENTS COPIED. THEN WE CAN CONTINUE
26 WITH THAT. IN THE MEANTIME, HE CAN TELL US EXACTLY WHAT IS
27 CONTAINED IN HERE WITHOUT GETTING ACTUALLY ALL OF THOSE
28 DOCUMENTS.

1 MR. WAPNER: WHAT THAT IS GOING TO ENTAIL IS TO HAVE
2 MR. BREILING DOWN HERE TOMORROW.

3 THE COURT: YES.

4 MR. WAPNER: AND HE WILL PROBABLY HAVE TO GO BACK TO
5 SAN FRANCISCO TOMORROW NIGHT AND GET THE DOCUMENTS.

6 THE COURT: HE DOESN'T HAVE TO. HE CAN LEAVE THE
7 INSTRUCTIONS AS TO WHERE THEY ARE AND HAVE THEM BROUGHT DOWN
8 HERE. HE DOESN'T HAVE TO GO BACK THERE TO GET THEM.

9 MR. BARENS: COULD I ASK MR. WAPNER A QUESTION?

10 MR. WAPNER: I AM SOMEWHAT CONCERNED ABOUT --

11 (UNREPORTED COLLOQUY BETWEEN MR. WAPNER
12 AND MR. BARENS.)

13 MR. BARENS: THE QUESTION I POSED TO MR. WAPNER, YOUR
14 HONOR, IS I DON'T KNOW HOW BREILING CAN SPECIFICALLY IDENTIFY
15 EACH DOCUMENT THAT HE ACCESSED WITHOUT HAVING SOME SORT OF
16 INDEX OR INVENTORY OF THE DOCUMENTS.

17 THE COURT: HE HAS AN INVENTORY, IT SAYS SO IN HIS
18 PAPERS.

19 MR. BARENS: WELL, THEIR INVENTORY.

20 THE COURT: HE GAVE THAT INVENTORY TO YOUR ASSOCIATE.

21 MR. BARENS: QUITE SO. THE INVENTORY HERE IS A BIT
22 CURSORY, YOUR HONOR, THAT WE HAVE.

23 THE COURT: YES, BUT THE DESCRIPTION OF EACH ONE OF
24 THESE SEPARATE DOCUMENTS IS NOT HERE. HE GAVE THEM TO HIM,
25 HE TOOK IT. HE KNOWS ABOUT IT. I WANT TO FIND OUT FROM
26 BREILING WHAT HE GAVE HIM.

27 MR. BARENS: THAT IS A FAIR QUESTION TO ASK HIM, YOUR
28 HONOR, BECAUSE I DARE SAY THAT I DON'T FEEL, AND I AM JUST

1 SAYING FOR THE RECORD, COMPREHENSIVELY ABLE TO PREPARE AS
2 TO ALL OF THE DOCUMENTS WITHOUT SEEING THE DOCUMENTS.

3 THE COURT: I TOLD YOU AS TO THE DOCUMENTS, THE FACT
4 OF THE MATTER IS, HE CAN TESTIFY TO EVERYTHING ELSE EXCEPT
5 WHAT WAS CONTAINED IN THE -- WHAT THE DOCUMENTS CONSIST OF,
6 THE WHOLE BACKGROUND.

7 YOU MADE A POINT ABOUT THE FACT THAT THERE IS
8 AN ILLEGAL SEARCH AND SEIZURE, THEY CAME IN THERE AND THEY
9 THREW THEIR WEIGHT AROUND AND ABUSED EVERYBODY THAT WAS THERE.
10 I WANT TO FIND OUT WHAT HAPPENED.

11 MR. BARENS: I AGREE WITH THAT.

12 YOUR HONOR, I HAD A SECOND POINT OF CLARIFICATION
13 I WISH FROM THE COURT AT THIS POINT.

14 YOUR HONOR IS AWARE, OBVIOUSLY, THAT MR. CHIER
15 WAS THERE FOR A PERIOD OF TIME DURING THE INVESTIGATION.

16 THE COURT: YES.

17 MR. BARENS: WHICH MIGHT HAVE BEEN HALF OF THE TIME
18 OR THEREABOUTS OR 60 PERCENT OF THE TIME, I DON'T KNOW, AND
19 THE TESTIMONY OBVIOUSLY WILL DEMONSTRATE TO YOUR HONOR WHAT
20 PERCENTAGE OF THE WHOLE TIME FRAME MR. CHIER WAS PRESENT FOR
21 AND WHAT HE WAS ABLE TO OBSERVE.

22 THE DEFENDANT IS VERY SENSITIVE TO THE FACT THAT
23 MR. CHIER WOULD BE A PERCIPIENT WITNESS SOLELY AS TO THIS
24 MOTION AND THE PORTION THAT HE WAS A WITNESS TO IN THIS AREA
25 AND WOULD NOT WANT THE COURT TO FEEL IN ANY WAY THAT WOULD
26 PRESENT ANY CONFLICT AT LAW OR IN FACT AS TO MR. CHIER BEING
27 CO-COUNSEL IN THE CASE.

28

4-1

1 YOUR HONOR HAD MADE AN EARLIER COMMENT THAT I
2 WILL SAY CONFUSED ME JUST A BIT AND I DIDN'T UNDERSTAND WHAT
3 YOUR HONOR MEANT. BUT I AM SENSITIVE TO THE FACT THAT LAWYERS
4 OCCASIONALLY IF THEY ARE WITNESSES -- THIS COMES UP MORE IN
5 CIVIL CASES THAN IN CRIMINAL -- BUT A WITNESS-LAWYER CAN BE
6 PRECLUDED AS COUNSEL AND I DID NOT IN ANY WAY WANT TO GET
7 CLOSE TO THAT TYPE OF A SETTING AND I PRESUME I AM NOT IN
8 YOUR HONOR'S MIND.

9 THE COURT: WELL, LET ME SEE WHAT HE IS GOING TO TESTIFY
10 TO FIRST.

11 MR. BARENS: WELL, YOUR HONOR, I WOULD LIKE TO SANITIZE
12 THAT SITUATION RIGHT NOW, BECAUSE I DO NOT WANT TO BE IN A
13 POSITION WHERE --

14 THE COURT: WELL, I WILL PERMIT HIM TO TESTIFY WITHOUT
15 AFFECTING HIS POSITION IN THIS MATTER AS AN ASSISTANT TO YOU.

16 MR. BARENS: THAT IS ALL I AM ASKING.

17 THE COURT: IN CONNECTION WITH THIS PARTICULAR HEARING,
18 ALL RIGHT.

19 MR. BARENS: I WAS JUST TRYING TO LIMIT THE IMPACT
20 OF WHAT WE ARE DOING HERE, YOUR HONOR.

21 THE COURT: I DON'T KNOW. YOU MIGHT EVEN HAVE TO BE
22 PREPARED TO TESTIFY.

23 MR. BREILING SAID: "I GAVE MR. BARENS MY PERSONAL
24 WORD THAT THIS WAS MY PLAN AND INTENT --" IN OTHER WORDS,
25 WHEN HE TALKED TO YOU OVER THE TELEPHONE --

26 "I ASSURED BARENS THAT ALL OF THE
27 OFFICERS ASSISTING ME HAD BEEN EXTENSIVELY BRIEFED
28 AND HAD PERSONALLY READ NOT ONLY THE SEARCH WARRANT,

2
1 BUT ITS ASSOCIATED DOCUMENTS PRIOR TO INITIATION
2 OF THE SEARCH."

3 THIS IS ON PAGE 4:

4 "I ADVISED MR. BARENS THAT PRIOR TO
5 HIS TELEPHONE CALL, A STACK OF PAPERS THAT LOOKED
6 LIKE DEFENSE RELATED MATERIAL HAD ALREADY BEEN
7 SET ASIDE, UNREAD AND THAT THOSE AND ANY OTHER
8 SIMILAR MATERIALS WOULD ALSO BE SET ASIDE, UNREAD
9 AND UNSEIZED. I GAVE MR. BARENS MY PERSONAL WORD
10 THAT THIS WAS MY PLAN AND INTENT, TO WHICH MR.
11 BARENS RESPONDED 'YOUR WORD HAS ALWAYS BEEN GOOD
12 WITH ME IN THE PAST, OSCAR, AND I'LL TRUST YOU
13 FOR THIS ONE.'"

14 ARE YOU PREPARED NOW TO SAY THAT YOU DON'T TRUST
15 HIM ANYMORE?

16 MR. BARENS: I AM PREPARED TO SAY THAT I HAVE AN
17 ABSOLUTE DUTY REPRESENTING A DEFENDANT IN A CAPITAL CASE TO
18 EXAMINE THE ISSUE AND I AM NOT SAYING TO THIS COURT THIS
19 MAN IS A LIAR AND/OR I DON'T TRUST HIM. I AM NOT SAYING THAT
20 AT ALL.

21 I AM SAYING IT IS INCUMBENT UPON ME TO DO SO.

22 THE COURT: I EXPECT YOU TO EXPLORE ALL OF THE AVENUES
23 WHICH YOUR DUTY AS A LAWYER COMPELS YOU TO DO.

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

25 YOUR HONOR, COULD WE HAVE ONE MORE MOMENT, PLEASE?
26 I WANTED TO COMMENT AGAIN FOR THE RECORD THAT THE SENTENCES
27 OR THE PHRASES THAT YOUR HONOR JUST READ HAD THEIR GENESIS
28 IN A POLICE REPORT WHICH SHOULD NOT HAVE BEEN ACCESSED TO

4-3
1 THE COURT INTENTIONALLY UNDER 1204.5 OF THE CODE.

2 THE COURT: WELL, THEY ARE SAYING THAT MR. BREILING
3 HAD A CONVERSATION WITH YOU. IT HAS NOTHING TO DO WITH
4 POLICE REPORTS.

5 MR. BARENS: I UNDERSTAND THAT YOUR HONOR OBVIOUSLY
6 MAKES YOUR OWN DETERMINATION. BUT FOR THE RECORD, THE DEFENSE
7 DEEMS THIS A POLICE REPORT.

8 THE COURT: THIS REPORT HERE?

9 MR. BARENS: YES, YOUR HONOR.

10 THE COURT: ALL RIGHT, WHATEVER YOU DEEM IT.

11 MR. BARENS: YOUR HONOR CAN DEEM IT AS YOUR HONOR SEES
12 FIT.

13 THE DEFENSE DEEMS IT AS A POLICE REPORT.

14 THE COURT: I DON'T DEEM IT AS A POLICE REPORT AND
15 THEY WILL BE TESTIFYING TO THIS, IN ANY EVENT, UNDER OATH
16 BECAUSE IT IS REQUIRED AND NECESSARY IN ORDER FOR ME TO MAKE
17 A DETERMINATION ABOUT THE SO-CALLED DOCUMENTS.

18 MR. BARENS: ALL RIGHT, LASTLY --

19 THE COURT: AND I WANT YOU ALSO TO BE PREPARED.

20 AND WHAT IS THE CLAIM THAT HE WAS IN PRO PER?

21 MR. BARENS: YOUR HONOR, I CAN RESPOND TO THAT NOW
22 IF YOU WOULD LIKE?

23 THE COURT: YES, YOU MAY.

24 MR. BARENS: YOUR HONOR WILL RECALL THAT DURING THE
25 TIME THAT WE KIND OF FIRST WERE DISCUSSING THIS THAT THURSDAY
26 MORNING, I RECEIVED A PHONE CALL FROM MR. CHIER WHO HAD ARRIVED
27 AT THE RESIDENCE AND AT THAT POINT, I MADE A MOTION -- AFTER
28 SOME DISCUSSION WITH MR. CHIER, I MADE A MOTION TO YOUR HONOR

1 THAT AN ORDER -- AND I THINK I HAD DISCUSSED IT WITH MR. WAPNER,
2 TOO -- THAT WE HAD DEEMED IT APPROPRIATE AT THAT TIME TO SEEK
3 THE APPOINTMENT OF A SPECIAL MASTER TO TAKE POSSESSION OF
4 THESE DOCUMENTS PRIOR TO THE TIME THEY LEFT OUR JURISDICTION
5 HERE AND WENT BACK UP NORTH.

6 AFTER DISCUSSION, WE FELT THAT BY ANALOGIZING
7 MR. HUNT'S QUARTERS TO THAT OF A LAW OFFICE, WE WOULD HAVE
8 QUALIFIED IT. YOU REMEMBER I MADE THIS MOTION.

9 THE COURT: I KNOW YOU DID, BECAUSE YOU WERE TOLD BY
10 HIM ON THE TELEPHONE, HERE IS WHAT HE SAYS ON PAGE 4:

11 "CHIER NEXT TOLD ME I MUST STOP THE
12 SEARCH BECAUSE HIS CLIENT, JOSEPH HUNT, WAS AT
13 THAT TIME IN COURT APPEARING IN PRO PER."

14 MR. BARENS: I DON'T BELIEVE THAT WAS SAID.

15 THE COURT: THERE ISN'T A SCINTILLA OF EVIDENCE, THERE
16 ISN'T A BIT OF EVIDENCE OF THAT IN THIS CASE.

17 MR. BARENS: YOUR HONOR, THE CORRECT STATEMENT IS THAT
18 AT THAT TIME, I WAS MAKING A MOTION IN PRO PER, FOR MR. HUNT
19 TO BE IN PRO PER AND FOR THE PURPOSES OF HAVING A SPECIAL
20 MASTER APPOINTED.

21 THE COURT: YOU WERE CALLED AFTER HE MADE THE STATEMENTS,
22 IN ORDER FOR YOU TO MAKE THAT MOTION BEFORE ME, AND THE TIME
23 SEQUENCE SHOWS THAT.

24 MR. BARENS: YOUR HONOR, I BELIEVE THAT MR. CHIER AND
25 I WERE ON THE PHONE AT A POINT IN TIME PRIOR TO THE TIME HE
26 SPOKE TO MR. BREILING ON THIS SUBJECT AND HE TOLD BREILING
27 I WAS MOTIONING THE COURT FOR PRO PER STATUS ON MR. HUNT SO
28 A SPECIAL MASTER WOULD TAKE POSSESSION OF EVERYTHING HE SEIZED

1 AT THAT POINT OR HAD SEIZED PRIOR TO THAT POINT AND I PROCEEDED
2 TO MAKE THE MOTION TO YOUR HONOR, WITH WHICH YOUR HONOR DIDN'T
3 AGREE.

4 THE COURT: HOW COULD HE HAVE BEEN IN PRO PER AT THAT
5 TIME?

6 MR. BARENS: YOUR HONOR WILL RECALL, WE WERE UNDER
7 A VERY UNUSUAL MOMENT AT THAT TIME, WITHOUT PRECEDENT IN MY
8 PRACTICE, AND WE WERE LOOKING FOR AN UNUSUAL SOLUTION OR A
9 SOLUTION THAT APPEARED UNUSUAL. IT WAS THE ONLY THING WE
10 COULD THINK OF.

11 THE COURT: ALL RIGHT.

12 MR. BARENS: YOUR HONOR, I WAS NOT TRYING TO BE
13 DECEPTIVE. I BROUGHT IT TO YOUR HONOR'S ATTENTION.

14 THE COURT: YES, I KNOW AT THAT TIME I MADE A DISPOSITION
15 OF IT, DIDN'T I?

16 MR. BARENS: I ALSO TOLD YOUR HONOR THAT I DIDN'T FEEL
17 COMFORTABLE WITH THE PROCEDURE EITHER BUT I COULDN'T THINK
18 OF ANY OTHER PROCEDURE UNDER THOSE CIRCUMSTANCES AT THAT
19 MOMENT IN TIME.

20 THE COURT: ALL RIGHT, LET ME FINISH READING THE CASES
21 THAT COUNSEL HAS CITED.

22 ANYTHING FURTHER?

23 MR. BARENS: THANK YOU, YOUR HONOR, FOR YOUR TIME.

24 THE COURT: ALL RIGHT.

25 (AT 11:20 A.M. AN ADJOURNMENT WAS TAKEN
26 UNTIL TUESDAY, JANUARY 27, 1987, AT
27 11:15 A.M.)
28