

COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

DOCKET
No. 88DA0269
Entered by _____
Date _____

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

NOV 9 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 **39** OF 101
(PAGES **5622** TO **5801** , 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.)

NO. A-090435

JOSEPH HUNT,)

DEFENDANT.)

REPORTERS' DAILY TRANSCRIPT

TUESDAY, JANUARY 27, 1987

VOLUME 39

PAGES 5622 TO 5801, 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

1 SANTA MONICA, CALIFORNIA; TUESDAY, JANUARY 27, 1987; 11:20 A.M.
2 DEPARTMENT WEST G HON. LAURENCE J. RITTENBAND, JUDGE

3 (APPEARANCES AS NOTED ON TITLE PAGE.)

4 (ROSEMARIE GOODBODY AND SALLY YERGER,
5 OFFICIAL REPORTERS.)

6
7 (THE FOLLOWING PROCEEDINGS WERE HELD
8 IN OPEN COURT OUT OF THE PRESENCE OF
9 THE JURY:)

10 THE COURT: STIPULATED THE DEFENDANT IS PRESENT, COUNSEL
11 ARE PRESENT.

12 IN CONNECTION WITH THE ARCE RULING, I WONDER IF
13 YOU GENTLEMEN HAVE READ THE MOST RECENT CASE OF THE SUPREME
14 COURT OF CALIFORNIA, O'HARE V. THE SUPERIOR COURT.

15 MR. WAPNER: I AM SORRY, YOUR HONOR?

16 THE COURT: O'HARE V. THE SUPERIOR COURT. I WILL HAND
17 IT TO YOU. I WILL GIVE IT TO THE D.A. FIRST.

18 AND THE TEXT OF IT IS IN THE SUPPLEMENT AND YOU
19 CAN READ IT AND THEN HAND IT TO COUNSEL AFTER YOU ARE FINISHED.

20 MR. BARENS: THANK YOU, YOUR HONOR.

21 THAT CAME OUT TODAY?

22 MR. WAPNER: NO. LAST WEEK.

23 THE COURT: THAT WAS ON THE 21ST.

24 (PAUSE IN PROCEEDINGS.)

25 THE COURT: ALL RIGHT, CALL YOUR FIRST WITNESS.

26 MR. WAPNER: YOUR HONOR, I WILL BE HAPPY TO CALL THE
27 WITNESSES. JUST FOR THE RECORD, SINCE IT IS A DEFENSE MOTION,
28 I THINK WE SHOULD BE CLEAR THAT THE BURDEN IS ON THE DEFENSE

1 TO GO FORWARD.

2 I UNDERSTAND, SINCE THE WITNESSES ARE HERE AND
3 I HAVE PRODUCED THEM, I WILL BE HAPPY TO CALL THEM BUT I JUST
4 WANT TO MAKE SURE THAT WE UNDERSTAND EACH OTHER.

5 THE COURT: ALL RIGHT, THAT WILL BE UNDERSTOOD.

6 MR. BARENS: THE DEFENSE WOULD HAVE A MOTION TO EXCLUDE
7 ALL OTHER WITNESSES WHILE THE WITNESSES TESTIFY.

8 THE COURT: ALL RIGHT.

9 MR. WAPNER: KURT KUHN.
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1 KURT E. KUHN,
2 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND TESTIFIED
3 AS FOLLOWS:

4 THE CLERK: PLEASE BE SEATED. STATE AND SPELL YOUR
5 NAME FOR THE RECORD.

6 THE WITNESS: KURT, K-U-R-T, MIDDLE INITIAL E, KUHN,
7 K-U-H-N.

8 MR. BARENS: RESPECTFULLY, MR. JOHN VANCE IS SEATED
9 IN THE COURTROOM. HE IS THE DEPUTY ATTORNEY GENERAL WHO I
10 PLAN TO CALL. HE WOULD BE A WITNESS, YOUR HONOR.

11 THE COURT: WELL, YOU HAVE A RIGHT TO CONFERENCE WITH
12 HIM IF YOU WANT TO HAVE HIM NEXT TO YOU.

13 MR. WAPNER: WELL, I DON'T NEED TO CONFER WITH MR. VANCE.
14 BUT I DON'T -- HE CERTAINLY IS NOT UNDER SUBPOENA BY THE
15 DEFENSE. I DIDN'T EVEN TELL MR. BARENS THAT HE WAS GOING
16 TO BE HERE. I DON'T KNOW --

17 MR. BARENS: I ASK YOUR HONOR TO --

18 THE COURT: WELL, SINCE HE IS COUNSEL IN THE MATTER,
19 YOU CAN'T EXCLUDE COUNSEL IN A MATTER PENDING UP THERE.

20 I WILL PERMIT HIM TO STAY.

21 MR. BARENS: THANK YOU, YOUR HONOR.

22 THE COURT: YOU MAY STAY.

23 MR. BARENS: JUST TO MAKE IT CLEAR, WE ASKED THE PEOPLE
24 TO PRODUCE EVERYONE WHO IS ON THAT LIST YESTERDAY THAT YOUR
25 HONOR HAD BEFORE HIM. MR. VANCE, OBVIOUSLY, IS ON THAT LIST.

26 THE COURT: THAT'S RIGHT. HE IS THE ATTORNEY IN THE
27 CASE. OBVIOUSLY, HE HAS A RIGHT TO STAY.

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EXAMINATION

1
2 BY MR. WAPNER:

3 Q BY WHOM ARE YOU EMPLOYED?

4 A BEVERLY HILLS POLICE DEPARTMENT, SENIOR
5 IDENTIFICATION SPECIALIST FOR THE CRIME LAB.

6 Q IN THAT CAPACITY, DID YOU GO TO A HOUSE LOCATED
7 AT 10984 BELLAGIO ROAD, CITY OF LOS ANGELES, JANUARY 8, 1987?

8 A YES, SIR. I DID.

9 Q WHAT WAS YOUR PURPOSE IN GOING THERE?

10 A TO PROVIDE PHOTOGRAPHIC ASSISTANCE AND DOCUMENTATION
11 FOR A SEARCH WARRANT THAT WAS TO BE SERVED BY THE DEPARTMENT
12 OF JUSTICE.

13 Q BEFORE GOING THERE, WERE YOU GIVEN A COPY OF THE
14 SEARCH WARRANT?

15 A YES, SIR.

16 Q DID YOU READ IT?

17 A YES, SIR. I DID.

18 Q WERE YOU ASKED TO SIGN AN ACKNOWLEDGEMENT THAT
19 YOU HAD IN FACT, READ AND UNDERSTOOD THE SEARCH WARRANT?

20 A YES, SIR.

21 Q DID YOU DO THAT?

22 A YES, SIR. I DID.

23 Q AND WHEN YOU WENT TO THE RESIDENCE AT BELLAGIO
24 ROAD, DID YOU TAKE ANY PICTURES WHILE YOU WERE THERE?

25 A YES, SIR. I DID.

26 Q DID YOU READ ANY OF THE DOCUMENTS AT THE HOUSE?

27 A NO, SIR.

28 Q DID YOU EXAMINE ANY OF THE DOCUMENTS AT THE HOUSE?

1 A NO, SIR.

2 Q DID YOU SEIZE ANY OF THE DOCUMENTS AT THE HOUSE?

3 A NO, SIR.

4 Q DO YOU KNOW THE CONTENTS OF ANY OF THE DOCUMENTS
5 THAT WERE AT THE HOUSE?

6 A IN TOTAL, NO, SIR.

7 THE COURT: WHAT DO YOU MEAN "IN TOTAL"?

8 THE WITNESS: I HEARD DISCUSSIONS SINCE OF SOME OF THE
9 ITEMS.

10 THE COURT: WHILE YOU WERE THERE, THOUGH?

11 THE WITNESS: NO, SIR.

12 THE COURT: ALL RIGHT.

13 MR. WAPNER: THANK YOU. I HAVE NOTHING FURTHER OF THIS
14 WITNESS.

15 THE COURT: GO AHEAD.

16
17 EXAMINATION

18 BY MR. BARENS:

19 Q GOOD MORNING, SIR. MR. KUHN, WHEN YOU WENT TO
20 THAT HOUSE, WHAT DID YOU UNDERSTAND YOU WERE TO SERVE FOR?

21 A MY PARTICULAR REASON FOR GOING TO THE HOUSE WAS
22 TO PROVIDE PHOTOGRAPHIC DOCUMENTATION AND ASSISTANCE IN
23 POSSIBLY COLLECTING IT.

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1 Q YOU READ THE SEARCH WARRANT?

2 A YES, SIR.

3 Q WHAT DID YOU UNDERSTAND FROM THE SEARCH WARRANT
4 YOU WERE TO SEARCH FOR?

5 A PAPERS THAT WERE RELATED TO THE BBC AND SPECIFIC
6 TIME FRAMES '83 AND '84.

7 Q WHEN WERE YOU FIRST NOTIFIED AT ANY TIME WHATSOEVER
8 THAT YOU WOULD PARTICIPATE IN THE EXERCISE OF A WARRANT AT
9 THAT LOCATION?

10 A A COUPLE OF DAYS PRIOR TO THE SERVICE OF THE
11 SEARCH WARRANT. I BELIEVE IT WAS JANUARY 5TH.

12 IF I CAN REFER TO MY NOTES?

13 THE COURT: YES.

14 Q BY MR. BARENS: IF YOU WOULD, SIR.

15 A IT WAS THE 5TH OF JANUARY, OF 1987 THAT I WAS
16 ADVISED.

17 Q AND WHAT NOTES ARE YOU REFERRING TO, OFFICER?

18 A IT IS A FOLLOW-UP REPORT THAT I WROTE IN REGARD
19 TO MY PARTICULAR DOINGS AT THE SERVICE OF THE SEARCH WARRANT.

20 MR. BARENS: JUST A MOMENT, I WOULD LIKE TO HAVE A
21 MOMENT TO SEE IF WE HAVE A COPY OF THE NOTICE HE IS REFERRING
22 TO, YOUR HONOR.

23 (UNREPORTED COLLOQUY BETWEEN MR. BARENS
24 AND MR. CHIER.)

25 MR. WAPNER: YES.

26 MR. BARENS: WHILE WE ARE LOOKING FOR THAT, I WILL
27 PROCEED, YOUR HONOR.

28 Q HOW WERE YOU FIRST CONTACTED, WHO SPOKE TO YOU

1 IN REGARDS TO PURSUING THIS SEARCH?

2 A DETECTIVE LES ZOELLER OF OUR DEPARTMENT.

3 Q AND WHAT DID HE TELL YOU?

4 A HE ASKED ME IF I COULD PROVIDE A COUPLE OF PEOPLE
5 FROM MY SECTION TO ASSIST THE DEPARTMENT OF JUSTICE IN A SEARCH
6 WARRANT TO BE SERVED LATER THAT WEEK.

7 Q AND DID HE TELL YOU HOW HE WAS INVOLVED IN THAT
8 CASE?

9 A ALL I KNOW IS THAT HE WAS GOING ALONG WITH AGENT
10 BREILING TO ASSIST.

11 Q AND DID YOU KNOW WHO THE DEFENDANT WAS?

12 A YES, SIR, I DID.

13 Q HOW DID YOU KNOW -- HAD YOU HAD PRIOR CONTACT
14 WITH MR. HUNT?

15 A WITH MR. HUNT, I DON'T BELIEVE SPECIFICALLY.
16 WITH ANOTHER CASE RELATING TO HIM, YES.

17 Q IT WOULD NOT BE THE CASE INVOLVING AN ALLEGED
18 VICTIM BY THE NAME OF RON LEVIN?

19 A YES, SIR.

20 Q IT DID INVOLVE HIM?

21 A YES, SIR.

22 Q YOU HAD PREVIOUSLY DONE PHOTOGRAPHIC WORK AT
23 THE LEVIN RESIDENCE?

24 A YES, SIR.

25 Q AND THAT WOULD HAVE BEEN SOMETIME DURING THE
26 SUMMER OF 1984?

27 A YES, SIR.

28 Q ALL RIGHT. DID YOU UNDERSTAND THAT THERE WAS

1 A SECOND CASE INVOLVING MR. HUNT?

2 A YES, SIR.

3 Q DID YOU UNDERSTAND THAT THIS WARRANT EXCLUSIVELY
4 HAD TO DO WITH THE SECOND CASE?

5 A YES, SIR.

6 Q AND WHY DID YOU THINK IN YOUR OWN MIND YOUR
7 DEPARTMENT WAS INVOLVED IN INVESTIGATING THE CASE IN SAN MATEO
8 COUNTY?

9 MR. WAPNER: OBJECTION. RELEVANCE.

10 THE COURT: SUSTAINED.

11 MR. BARENS: ALL RIGHT. YOUR HONOR, THE DEFENSE WILL
12 BE ASKING THESE TYPES OF QUESTIONS AS TO THE GOOD FAITH ISSUE.

13 THE COURT: I AM INTERESTED IN WHAT HAPPENED AT THE
14 HOUSE, WHETHER THE SEARCH WARRANT WAS PROPER, WHETHER THE
15 AFFIDAVIT IN SUPPORT OF IT WAS PROPER AND WHETHER EVERYTHING
16 DONE AT THE HOUSE WAS PROPER AND THAT IS ALL I AM INTERESTED
17 IN.

18 MR. BARENS: GOOD FAITH IS AN ISSUE IN THOSE DETERMIN-
19 ATIONS, YOUR HONOR.

20 THE COURT: WHETHER GOOD FAITH IS OR IS NOT HAS NOTHING
21 TO DO WITH IT, I HAVE SUSTAINED THE OBJECTION.

22 Q BY MR. BARENS: IN ANY EVENT, WERE YOU EVER TOLD
23 THAT THIS HAD TO DO WITH THE OTHER INVESTIGATION, OTHER THAN
24 THE LEVIN CASE, OR WERE YOU TOLD THAT?

25 A REPHRASE THE QUESTION.

26 Q DID YOU THINK THAT THE ACTIVITY YOU WERE GOING
27 TO CONDUCT AT THE BEL AIR RESIDENCE INVOLVED THE LEVIN, ONGOING
28 INVESTIGATION OF THE DISAPPEARANCE OF RON LEVIN?

1 A INITIALLY, ALL I KNEW IS I WAS ASSISTING IN A
2 DEPARTMENT OF JUSTICE SEARCH WARRANT.

3 Q I UNDERSTAND THAT.

4 DID YOU THINK IT HAD TO DO WITH THE FURTHER
5 INVSTIGATION OF THE DISAPPEARANCE OF RON LEVIN?

6 A I DON'T THINK I EVER REALLY THOUGHT ABOUT IT,
7 TO TELL YOU THE TRUTH.

8 Q YOU SAY INITIALLY IT WAS YOUR IMPRESSION THAT
9 YOU WERE ASSISTING THE DEPARTMENT OF JUSTICE; DID YOUR
10 IMPRESSION CHANGE?

11 A NO, SIR.

12 Q SO THE WORD "INITIALLY" DOESN'T MEAN ANYTHING
13 AT THIS MOMENT?

14 A NO.

15 Q ALL RIGHT. WERE YOU BRIEFED PRIOR TO GOING TO
16 THE RESIDENCE?

17 A YES, SIR.

18 Q AND WHO BRIEFED YOU?

19 A SPECIAL AGENT BREILING.

20 Q WHEN DID YOU FIRST SPEAK WITH HIM?

21 A THE MORNING OF THE SEARCH WARRANT, WHICH WAS
22 THE 8TH AND IT WAS PROBABLY ABOUT 8:30 IN THE MORNING.

23 Q NOW, WHAT DID MR. BREILING TELL YOU?

24 A ALL PEOPLE WHO WERE INVOLVED IN THE SEARCH
25 WARRANT WERE JUST TOLD THE ITEMS THAT WERE TO BE SEARCHED
26 FOR AND HE INDICATED WHAT EACH AND EVERYONE'S RESPONSIBILITY
27 DURING THE SERVICE OF THE SEARCH WARRANT WOULD BE.

28 Q WHAT ITEMS WERE YOU TOLD? WHAT DID YOU HEAR

1 HIM SAY BY WAY OF ITEMS?

2 A DOCUMENTS, PAPER WORK RELATING TO BBC AND ALSO
3 ANY PAPERS, DOCUMENTS THAT WERE DATED 1983 AND 1984.

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1 Q WERE YOU GIVEN ANY OTHER ADMONITION?

2 A NOT THAT I RECALL.

3 Q HOW WERE YOU TO RECOGNIZE SUCH DOCUMENTS AS
4 RELATING TO THE BBC?

5 A I SUPPOSE BY EXAMINING THEM.

6 Q SO, YOU WOULD HAVE TO EXAMINE THE GENERAL CORPUS
7 OF WHATEVER DOCUMENTS WERE THERE AND THEN DEDUCE FROM THEM,
8 WHICH YOU DETERMINED TO BE APPROPRIATE AND WHICH YOU DID NOT
9 DETERMINE TO BE APPROPRIATE?

10 A I WOULD GUESS SO. BUT MY PART IN THIS WAS NOT
11 TO DO ANY SEARCHING.

12 Q ALL RIGHT. I AM JUST AGAIN, TRYING TO FIND OUT
13 WHAT WAS HAPPENING.

14 AT THAT BRIEFING SESSION THAT YOU MAKE REFERENCE
15 TO, WERE YOU THE ONLY ONE MR. BREILING WAS ADDRESSING OR WAS
16 THERE SOMEONE ELSE PRESENT BEING ADDRESSED IN CONJUNCTION
17 WITH YOURSELF?

18 A IT WAS THE ENTIRE GROUP THAT WERE GOING ON THE
19 SEARCH WARRANT.

20 Q WHO AT THAT POINT -- WHERE DID THIS BRIEFING TAKE
21 PLACE?

22 A THE CONFERENCE ROOM IN THE BASEMENT OF THE BEVERLY
23 HILLS POLICE DEPARTMENT.

24 Q AND AT THAT CONFERENCE, WHO WAS PRESENT, ASIDE
25 FROM YOURSELF AND MR. BREILING?

26 A SPECIAL AGENT TULLENERS.

27 Q SORRY?

28 A SPECIAL AGENT TULLENERS FROM THE DEPARTMENT OF

1 JUSTICE. LET'S SEE. THERE WAS DETECTIVE LES ZOELLER FROM
2 OUR DEPARTMENT, DETECTIVE ROZZI, DETECTIVE ITO AND ANOTHER
3 DETECTIVE FROM LAPD.

4 Q DO YOU KNOW WHO THAT WAS, SIR?

5 A A SPANISH SURNAME IS THE BEST I CAN DO, OFF THE
6 TOP OF MY HEAD.

7 Q IS IT DIAZ, BY ANY CHANCE?

8 A YES. THAT SOUNDS FAMILIAR.

9 Q ANYONE ELSE THERE, SIR?

10 A JOHN VANCE.

11 Q ALL RIGHT. IN THAT BRIEFING SESSION, WAS
12 MR. BREILING THE ONLY ONE WHO PROVIDED YOU WITH BRIEFING?

13 A YES, SIR.

14 Q DID MR. VANCE?

15 A MR. VANCE MAY HAVE MADE A COMMENT OR TWO. I DON'T
16 REMEMBER WHAT HIS DIRECT COMMENTS WERE.

17 Q WAS THIS RECORDED BY CHANCE, SIR?

18 A NO, SIR, NOT TO MY KNOWLEDGE.

19 Q WAS ANYONE TAKING ANY NOTES?

20 (MR. VANCE EXITS THE COURTROOM.)

21 THE COURT: THE RECORD WILL INDICATE MR. VANCE HAS LEFT
22 THE COURTROOM.

23 MR. VANCE: THANK YOU, YOUR HONOR. YOUR HONOR MAY BETTER
24 APPRECIATE THE POINT THAT I WAS MAKING, BASED ON THIS
25 WITNESS'S TESTIMONY.

26 Q BY MR. BARENS: IN ANY EVENT, WAS ANYONE TAKING
27 NOTES THAT YOU SAW?

28 A THEY COULD HAVE BEEN, BUT NOT TO MY KNOWLEDGE.

3
1 Q WERE ANY BRIEFING NOTES OR MEMORANDA PASSED OUT
2 EITHER BY BREILING OR ANYONE ELSE AT THAT POINT?

3 A YES, SIR.

4 Q AND WHAT DID THAT CONSIST OF, SIR?

5 A A SEARCH WARRANT, THE AFFIDAVIT ON THE SEARCH
6 WARRANT AND A FORM THAT WE EVENTUALLY SIGNED IN REGARD TO
7 IT, THAT WE IN FACT, HAD READ BOTH OF THOSE AND UNDERSTOOD
8 WHAT WAS TO BE DONE.

9 Q AND BY "UNDERSTOOD WHAT WAS TO BE DONE," ARE YOU
10 AGAIN REFERRING TO YOUR EARLIER STATEMENT THAT IT WAS TO
11 INVOLVE THE BBC MATERIALS IN THE '83 AND '84 TIME FRAME?

12 A BY SIGNING THAT, ALL I INDICATED WAS THE FACT
13 THAT I HAD READ THE AFFIDAVIT AND SEARCH WARRANT.

14 Q HOW MANY PAGES DID THOSE DOCUMENTS CONSIST OF,
15 TO YOUR RECOLLECTION?

16 A THE AFFIDAVIT MIGHT HAVE BEEN A QUARTER TO THREE-
17 EIGHTHS OF AN INCH THICK. AND THE SEARCH WARRANT WAS A COUPLE
18 OR THREE PAGES.

19 Q ALL RIGHT, SIR. YOU THEN PROCEEDED TO THE BEL
20 AIR ADDRESS AFTER THIS BRIEFING SESSION?

21 A YES, SIR.

22 Q AND DID YOU GO BY YOURSELF OR IN THE COMPANY OF
23 SOMEONE?

24 A I WAS IN THE COMPANY OF ONE OF THE OTHER GUYS
25 FROM MY SECTION BY THE NAME OF CLARK FOGG, F-O-G-G.

26 Q CLARK FOGG?

27 A FOGG.

28 Q HE WAS NOT PRESENT DURING THE BRIEFING?

1 A SORRY. HE WAS ALSO PRESENT AT THE BRIEFING.

2 Q YOU DID NOT MENTION HIM EARLIER. SO YOU AND

3 MR. FOGG WENT TO THE ADDRESS?

4 A YES, SIR.

5 Q AND WERE YOU THE FIRST ONES TO ARRIVE?

6 A NO, SIR.

7 Q WHO WAS THERE WHEN YOU ARRIVED?

8 A WE WERE THE LAST TO ARRIVE.

9 Q OKAY. WOULD I BE CORRECT IN ASSUMING THAT EVERYONE
10 WHOSE NAME YOU MENTIONED EARLIER WAS ALREADY THERE WHEN YOU
11 GOT THERE?

12 A YES, SIR.

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1 Q WHEN YOU FIRST GOT THERE, HOW WERE YOU ADMITTED?

2 A ADMITTED TO THE PROPERTY OR ADMITTED TO THE HOUSE?

3 Q THE HOUSE, SIR.

4 A THERE WAS A MAID THAT ANSWERED THE DOOR TO THE
5 MAIN HOUSE AND AGENT BREILING IDENTIFIED HIMSELF AND SHE
6 ADMITTED US.

7 Q ALL RIGHT. I PRESUME BREILING WAS ALREADY THERE,
8 WAS HE NOT, BEFORE YOU GOT THERE?

9 A YES, SIR.

10 Q YOUR STATEMENT WAS THAT AGENT BREILING IDENTIFIED
11 HIMSELF. I DON'T THINK HE WAS -- WHAT YOU MEANT TO SAY WAS
12 THAT YOU MEAN THAT HE IDENTIFIED WHO YOU WERE?

13 A NO. HE IDENTIFIED HIMSELF.

14 Q ALL RIGHT. AND DID SOMEONE AT THAT TIME DIRECT
15 YOU TO GO SOMEPLACE?

16 A IN A SENSE. I HAD ALREADY BEEN DIRECTED AS TO
17 MY DUTIES AT THE BRIEFING.

18 Q WELL, BUT DID YOU HAVE AN ASSIGNMENT TO GO TO
19 A CERTAIN ROOM OR SERIES OF ROOMS OR WHAT WERE YOU ASSIGNED
20 TO DO?

21 A MY ASSIGNMENT WAS PHOTOGRAPHY OF THE ENTIRE HOUSE
22 PRIOR TO THE SEARCH WARRANT AND AFTER THE SEARCH WARRANT AND
23 PHOTOGRAPHY OF ANY ITEMS THAT MAY HAVE BEEN SEIZED DURING
24 THE WARRANT.

25 Q ALL RIGHT. WHAT WAS THE FIRST THING YOU DID WHEN
26 YOU GOT THERE?

27 A STARTED TAKING PICTURES.

28 Q I MEAN, DID YOU TAKE PICTURES OF THE ROOMS FIRST

1 IN A PANORAMIC VIEWPOINT OR DID YOU START PHOTOGRAPHING
2 DOCUMENTS? WHAT IS THE FIRST THING YOU ENGAGED IN?

3 A I TOOK A PICTURE OF THE OUTSIDE OF THE DOOR WE
4 ENTERED. I STARTED IN THE KITCHEN, WHICH WAS THE FIRST ROOM
5 THAT I HAD COME INTO AND I STARTED TAKING FOUR-CORNER
6 PHOTOGRAPHS OF THE VARIOUS ROOMS IN THE HOUSE.

7 Q OKAY. LATER ON, I PRESUME THAT YOU STOPPED TAKING
8 PHOTOGRAPHS OF THE ROOMS, I WILL CALL IT PANORAMICALLY AND
9 STARTED TAKING PICTURES OF DOCUMENTS?

10 A SPECIFIC DOCUMENTS, NO. GROUPS OF DOCUMENTS,
11 YES.

12 Q OKAY. I WANT TO TRY TO UNDERSTAND HOW THAT WAS
13 DONE.

14 WHEN YOU DID YOUR FIRST PICTURE OF DOCUMENTS,
15 WHO CALLED YOUR ATTENTION TO THE FACT THAT THE DOCUMENTS WERE
16 AVAILABLE NOW FOR PHOTOGRAPHING?

17 A SPECIAL AGENT BREILING.

18 Q WHAT WAS SAID TO YOU?

19 A THIS GROUP OF ITEMS NEEDS TO BE PHOTOGRAPHED.

20 Q AND WHERE IN FACT WITHIN THE RESIDENCE, WERE YOU
21 AT THAT MOMENT IN TIME?

22 A THE FIRST ITEM?

23 Q YES, SIR.

24 A I DON'T HAVE THE FAINTEST IDEA.

25 Q WAS THERE WHAT I MIGHT CALL A STAGING AREA WHERE
26 THE DOCUMENTS WERE ASSEMBLED IN A PACKAGED OR UNPACKAGED FORM,
27 WHERE THEY COULD ALL BE SOMEWHAT IN A GROUP AND YOU COULD
28 THEN START TAKING PHOTOGRAPHS?

1 A THEY WERE PHOTOGRAPHED IN THE GENERAL VICINITY
2 OF WHERE THEY WERE INITIALLY FOUND.

3 Q WOULD THAT BE IN TWO SOMEWHAT CONTIGUOUS BEDROOMS
4 ON THE SECOND LEVEL OF THE RESIDENCE?

5 A YES, SIR.

6 Q AND YOU WOULD THEN SOMEWHAT STAND THERE AND
7 SOMEONE WOULD HOLD UP A GROUP OF DOCUMENTS FOR YOU?

8 A NO, SIR. THE DOCUMENTS WERE EITHER PLACED ON
9 TOP OF AN ITEM AND I PLACED A NUMBER NEXT TO IT AND I ALSO
10 PLACED A LITTLE PLACARD THAT AGENT BREILING HAD MADE UP,
11 INDICATING I GUESS, THE CASE NUMBER OF HIS CASE AND TOOK THE
12 PHOTOGRAPH OF THE ITEMS AS DIRECTED.

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1 Q AND WAS MR. BREILING THE ONLY ONE WHO GAVE YOU
2 DIRECTIONS ON HOW TO PROCEED WITH YOUR PHOTOGRAPHIC WORK?

3 A YES, SIR.

4 Q NO OTHER PERSONS PRESENT SUGGESTED ANY PARTICULAR
5 PHOTOGRAPHS TO YOU?

6 A NO, SIR.

7 Q NOW, WHEN YOU WERE TAKING THE PHOTOGRAPHS, I
8 ASSUME NONE OF IT MEANT ANYTHING TO YOU IN PARTICULAR, RATHER,
9 IT WAS JUST A SUBJECT MATTER THAT YOU WERE ASKED TO PHOTOGRAPH?

10 A THAT IS TRUE.

11 Q DID YOU RECOGNIZE, WHILE YOU WERE PHOTOGRAPHING
12 THOSE MATERIALS, WHETHER THEY WERE CONSISTENT WITH THE SEARCH
13 WARRANT OR NOT?

14 A NO SIR, I DIDN'T.

15 Q YOU HAD NO WAY OF KNOWING, DID YOU?

16 A I DIDN'T EXAMINE THEM.

17 Q RIGHT.

18 YOU JUST PHOTOGRAPHED ANYTHING YOU WERE SHOWN
19 BY MR. BREILING AND TOOK PICTURES?

20 A THAT'S TRUE.

21 Q YOU MADE NO ATTEMPT TO ASCERTAIN, DID YOU, SIR,
22 THE NATURE OR CONTENT OF ANYTHING THAT YOU PHOTOGRAPHED OF
23 A DOCUMENTARY NATURE?

24 A NO SIR, I DID NOT.

25 Q WHO DEVELOPED THE PICTURES YOU TOOK?

26 A WE HAD THEM SENT OUT TO A ONE-HOUR PLACE IN TOWN.

27 Q IN LOS ANGELES?

28 A IN THE CITY OF BEVERLY HILLS.

1 Q WHAT DID YOU DO WITH THOSE PHOTOGRAPHS ONCE YOU
2 OBTAINED THEM?

3 MR. BARENS: THE RECORD WILL REFLECT MR. VANCE IS ONCE
4 AGAIN IN THE COURTROOM.

5 THE COURT: YES.

6 Q BY MR. BARENS: WHAT DID YOU DO WITH THE PHOTO-
7 GRAPHS ONCE YOU OBTAINED THEM FROM THE ONE-HOUR FACILITY,
8 OFFICER?

9 A ON THE BACK OF THE PHOTOGRAPHS, I MARKED THEM
10 FOR WHAT ROLL THEY WERE FROM FRAME NUMBERS SO THEY WOULD
11 CORRESPOND TO THE PHOTO LOGS THAT HAD BEEN COMPLETED. UPON
12 COMPLETION OF THE PHOTO LOGS, ALL OF THAT WAS SENT TO SPECIAL
13 AGENT BREILING VIA POSTAL SERVICE, EXPRESS MAIL.

14 Q HOW MANY ROLLS OF FILM DID YOU TAKE, SIR?

15 A MAY I REFER TO MY NOTES? I THINK IT WAS FOUR
16 OR FIVE.

17 Q IF YOU WOULD, SIR.

18 THE COURT: AREN'T THEY ALL CONTAINED IN THE RETURN
19 ON THE SEARCH WARRANT?

20 MR. BARENS: I AM ASKING FOR HIS TESTIMONY.

21 THE COURT: I AM ASKING YOU WHETHER THEY ARE ALL
22 CONTAINED IN THE SEARCH WARRANT RETURN.

23 MR. BARENS: NO, I DO NOT BELIEVE SO, YOUR HONOR.

24 THE COURT: ISN'T THERE A PHOTOGRAPHIC LOG HERE?

25 MR. BARENS: THERE IS, THERE IS A LOG BUT THERE IS
26 NO REPRESENTATION, YOUR HONOR, AS TO WHETHER THIS IS COMPLETE
27 OR INCOMPLETE OR WHETHER THIS IS ALL. THAT IS WHY I AM ASKING
28 HIM TO TELL ME HOW MANY ROLLS HE TOOK.

3
1 ALL I HAVE HERE IS WHAT -- THERE IS NO AFFIRMATIVE
2 REPRESENTATION AND CERTAINLY NONE UNDER OATH, YOUR HONOR.

3 THE COURT: WHAT APPEARS HERE, IT SAYS "MH-1, ROLL
4 NUMBER, MH-2, MH-3, MH-4, GH-1," THEY ARE ALL IN HERE.

5 MR. BARENS: HOW DO I KNOW THAT, YOUR HONOR?

6 THE COURT: WELL, ASK HIM.

7 MR. BARENS: I JUST DID, YOUR HONOR.

8 THE COURT: DID YOU SEE A COPY OF THE RETURN ON THE
9 SEARCH WARRANT?

10 THE WITNESS: YES, SIR. I FILLED OUT THE PHOTOGRAPHIC
11 LOG.

12 THE COURT: SO ALL OF THE PICTURES ARE CONTAINED
13 IN THE PHOTOGRAPHIC ROLL NUMBERS THAT I JUST INDICATED TO
14 YOU?

15 THE WITNESS: YES, SIR.

16 Q BY MR. BARENS: THIS IS YOUR REPORT, SIR, ISN'T
17 IT, THAT YOU PREPARED?

18 A YES, SIR.

19 Q NOW, ON THE ROLLS OF FILM THAT YOU UTILIZED --

20 MR. WAPNER: EXCUSE ME. I DON'T THINK THE RECORD IS
21 CLEAR WHEN THE QUESTION WAS ASKED "THIS IS YOUR REPORT," AND
22 THERE IS NO REFERENCE IN THE RECORD TO WHAT COUNSEL IS
23 REFERRING TO.

24 THE COURT: THE PHOTOGRAPHIC LOG, THAT IS WHAT YOU
25 ARE REFERRING TO?

26 MR. BARENS: WHAT YOUR HONOR IS REFERRING TO?

27 THE COURT: YES, THE PHOTOGRAPH LOG, THAT IS THE
28 REPORT MADE BY YOU; IS THAT CORRECT?

1 MR. BARENS: YOUR HONOR, THERE IS A SERIES OF PAGES
2 WITH A TOP CAPTION "PHOTOGRAPHIC LOG."

3 THE COURT: DO YOU SEE THAT?

4 THE WITNESS: YES, SIR.

5 THE COURT: THEY WERE MADE BY YOU, WEREN'T THEY?

6 THE WITNESS: YES, SIR, THEY WERE.

7 THE COURT: AND THAT CONSISTS OF ALL PHOTOGRAPHS THAT
8 WERE TAKEN AND YOUR IDENTIFICATION; IS THAT CORRECT?

9 THE WITNESS: YES, SIR.
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1 Q BY MR. BARENS: THIS IS A FOLLOW-UP POLICE REPORT,
2 IS IT NOT, SIR?

3 A THERE IS A FOLLOW-UP POLICE REPORT ATTACHED TO
4 THESE, YES SIR.

5 Q AND THIS IS A PART OF IT?

6 A YES SIR, IT IS.

7 Q THIS ISN'T A RETURN ON A WARRANT, IS IT?

8 THIS IS A POLICE REPORT, ISN'T IT?

9 A IT IS A FOLLOW-UP THAT I WROTE IN REGARDS TO
10 WHAT I DID DURING THE SERVICE OF THE SEARCH WARRANT.

11 Q ALL RIGHT, SIR, ON THE ROLLS OF FILM THAT YOU
12 UTILIZED, HOW MANY FRAMES WERE THERE PER ROLL?

13 A THIRTY-SIX.

14 Q ON EACH OF THE ROLLS?

15 A YES, SIR.

16 Q DID YOU HEAR ANY DISCUSSION BY ANY PERSONS PRESENT
17 DURING THIS ACTIVITY AS TO WHAT THINGS SHOULD OR SHOULD NOT
18 BE PHOTOGRAPHED?

19 A CAN YOU BE A LITTLE MORE SPECIFIC?

20 Q DID YOU EVER HEAR ANY PERSONS DISCUSSING WHETHER
21 IT WAS PROPER AND CORRECT TO PHOTOGRAPH CERTAIN THINGS AS
22 OPPOSED TO OTHERS OR THAT PERHAPS CERTAIN THINGS SHOULD NOT
23 BE PHOTOGRAPHED?

24 A I DON'T BELIEVE SO.

25 Q DID YOU EVER HEAR ANYONE SAY "PHOTOGRAPH THIS"?

26 A NO, SIR.

27 Q YOU WERE NEVER AT ANY TIME TOLD THAT THERE WAS
28 ANYTHING THAT YOU SHOULD NOT PHOTOGRAPH?

1 A NO, SIR.

2 THE COURT: WHAT YOU PHOTOGRAPHED WAS GIVEN TO YOU
3 TO PHOTOGRAPH, IS THAT WHAT YOU DID?

4 THE WITNESS: THE SPECIFIC ITEMS THAT I PHOTOGRAPHED,
5 YES.

6 EVERYTHING ELSE I PHOTOGRAPHED WAS FOR DOCUMENT-
7 ATION OF THE ENTIRE HOUSE.

8 THE COURT: ALL RIGHT.

9 Q BY MR. BARENS: AND YOU ARRIVED AT WHAT TIME,
10 SIR?

11 A IT WAS ABOUT 10:20, 10:30 IN THE MORNING.

12 Q AND YOU LEFT AT WHAT TIME, SIR?

13 A I BELIEVE IT WAS IN THE NEIGHBORHOOD OF 1:00
14 O'CLOCK.

15 Q IF YOU KNOW, WERE YOU THE FIRST OR LAST TO LEAVE?
16 YOU WERE THE LAST TO ARRIVE. WERE YOU THE FIRST TO LEAVE?

17 A EVERYONE LEFT AS A GROUP SO --

18 Q DID YOU HAVE ANY ACTIVITY INVOLVING THE PHOTOGRAPHING
19 OF A SINGLE DOCUMENT AS OPPOSED TO DOCUMENTS THAT WERE SOMEWHAT
20 IN A GROUPING?

21 A IN A SENSE, YES.

22 ONE OF THE ITEMS I PHOTOGRAPHED WAS A SINGLE
23 PIECE OF PAPER.

24 Q DO YOU REMEMBER WHAT THAT CONSISTED OF?

25 A IT WAS A YELLOW -- A YELLOW TYPE, RULED PIECE
26 OF NOTEBOOK PAPER.

27 Q AND DID IT HAVE A 1983 OR 1984 DATE ON IT?

28 A NO, IT DID NOT.

1 Q DID IT HAVE A 1987 DATE ON IT?

2 A THE ONLY ONE THAT I FOUND OUT THAT HAD THAT DATE
3 WAS DURING MR. CHIER'S DISCUSSION WITH SPECIAL AGENT BREILING.

4 Q SO THEN YOU DID HEAR SOMEONE HAVING A DISCUSSION
5 THAT SOMETHING SHOULD NOT HAVE BEEN PHOTOGRAPHED?

6 A NO SIR, IT WASN'T ANY DISCUSSION ABOUT WHETHER
7 OR NOT IT SHOULD HAVE BEEN PHOTOGRAPHED.

8 THE DISCUSSION WAS AS TO WHETHER OR NOT THAT
9 ITEM SHOULD HAVE BEEN TAKEN.

10 Q WELL, IT HAD ALREADY BEEN PHOTOGRAPHED?

11 A YES SIR, IT HAD.

12 Q AND THEREAFTER, YOU HEARD SOME CONVERSATION ABOUT
13 THE PROPRIETY OF A 1987 DOCUMENT BEING SEIZED?

14 A YES, SIR.

15 Q DID YOU FEEL THAT THE PHOTOGRAPH YOU HAD TAKEN
16 OF THAT 1987 DOCUMENT WAS APPROPRIATE IN LIGHT OF THE SEARCH
17 WARRANT AS YOU WERE FAMILIAR WITH IT?

18 A I DID NOT FEEL IT WAS MY RESPONSIBILITY TO MAKE
19 THAT DETERMINATION.

20 I HAD TAKEN THE PHOTOGRAPH AS REQUESTED BY
21 SPECIAL AGENT BREILING.

22 Q HAVE YOU SEEN THE PHOTOS SINCE THEY WERE
23 DEVELOPED?

24 A YES SIR, I HAVE.

25 Q AND WHO ELSE HAS LOOKED AT THEM, SIR, DO YOU
26 KNOW?

27 A THE GENTLEMEN THAT ACCOMPANIED ME, I.D. TECHNICIAN
28 FOGG, DETECTIVE ZOELLER HAS SEEN THEM AND SPECIAL AGENT BREILING

1 AND WHOEVER ELSE HE HAS SHOWN THEM TO.

2 Q ALL RIGHT. WHEN WERE YOU FIRST TOLD TO BE HERE
3 TODAY?

4 A YESTERDAY, MID-DAY WHEN I RETURNED FROM A MEETING.

5 MR. BARENS: THANK YOU, SIR. NOTHING FURTHER.

6 MR. WAPNER: I HAVE NOTHING FURTHER.

7 THE COURT: THANK YOU VERY MUCH. YOU MAY STEP DOWN.

8 THIS WITNESS MAY BE EXCUSED?
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1 MR. WAPNER: I HAVE NO OBJECTION.

2 MR. BARENS: NO OBJECTION.

3 THE COURT: ALL RIGHT.

4 MR. WAPNER: OSCAR BREILING.

5 YOUR HONOR, WHILE HE IS COMING IN, I HAVE A COPY
6 OF THE SEARCH WARRANT THAT WAS ISSUED; MAY THAT BE MARKED
7 AS COURT EXHIBIT 2?

8 THE COURT: IT WILL BE SO MARKED.

9
10 OSCAR A. BREILING,
11 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND TESTIFIED
12 AS FOLLOWS:

13 THE CLERK: WOULD YOU RAISE YOUR RIGHT HAND, PLEASE?

14 YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY YOU
15 MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL
16 BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH,
17 SO HELP YOU GOD.

18 THE WITNESS: I DO.

19 THE CLERK: IF YOU WOULD BE SEATED THERE AT THE
20 WITNESS STAND, PLEASE.

21 STATE AND SPELL YOUR NAME FOR THE RECORD.

22 THE WITNESS: OSCAR, O-S-C-A-R, MIDDLE INITIAL A, LAST
23 NAME BREILING, B, AS IN BOY R-E-I-L-I-N-G.

24
25 EXAMINATION,

26 BY MR. WAPNER:

27 Q MR. BREILING, BY WHOM ARE YOU EMPLOYED?

28 A THE STATE OF CALIFORNIA, DEPARTMENT OF JUSTICE.

1 Q IN WHAT CAPACITY?

2 A SPECIAL AGENT.

3 Q HOW LONG HAVE YOU WORKED AS A SPECIAL AGENT FOR
4 THE DEPARTMENT OF JUSTICE?

5 A SINCE 1974.

6 Q HOW LONG HAVE YOU WORKED IN LAW ENFORCEMENT
7 GENERALLY?

8 A TWENTY-FOUR, ALMOST TWENTY-FIVE YEARS.

9 Q ARE YOU THE INVESTIGATING OFFICER OR SPECIAL
10 AGENT IN THE CASE OF PEOPLE V. HUNT, ESLAMINIA, DOSTI AND
11 PITTMAN IN SAN MATEO COUNTY?

12 A YES, I AM.

13 Q IN CONNECTION WITH THAT CASE, DID YOU --

14 MR. BARENS: YOUR HONOR --

15 THE COURT: PARDON ME?

16 MR. BARENS: YOUR HONOR, THE DEFENSE WOULD LIKE TO
17 APPROACH BRIEFLY.

18 THE COURT: YES, SURELY.

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1 (THE FOLLOWING PROCEEDINGS WERE HELD
2 AT THE BENCH:)

3 MR. BARENS: YOUR HONOR, OUT OF AN ABUNDANCE OF CAUTION,
4 AS I ANTICIPATE THE TESTIMONY IS GOING TO THE ESLAMINIA MATTER
5 WHICH OBVIOUSLY HAS IMPLICATIONS FOR MY CLIENT, I WOULD LIKE
6 TO REQUEST THAT ANY PORTIONS OF THIS TESTIMONY INVOLVING MY
7 CLIENT IN THE ESLAMINIA MATTER, BE SEALED.

8 MR. WAPNER: WHAT IS THE POINT?

9 THE COURT: I DON'T SEE WHAT THE POINT IS.

10 MR. WAPNER: IT IS AN OPEN HEARING.

11 MR. BARENS: I REALIZE IT IS AN OPEN HEARING. BUT I
12 DON'T FEEL THAT THE PRESS SHOULD BE GIVEN IN LATER SEARCHES
13 OF THIS FILE, COPIES OF TRANSCRIPTS INVOLVING TESTIMONY THAT
14 COULD COME IN AT A TRIAL INVOLVING MY CLIENT LATER ON, WITH
15 THIS TRIAL ABOUT TO TAKE PLACE.

16 MR. WAPNER: WELL, HIS TESTIMONY --

17 MR. BARENS: HIS TESTIMONY WILL NECESSARILY INVOLVE
18 HIM MAKING COMMENTS ON THIS CASE.

19 THE COURT: WHAT?

20 MR. BARENS: HE IS GOING TO MAKE COMMENTS THAT ARE
21 NEGATIVE.

22 THE COURT: WELL, THAT IS NOT ADMISSIBLE IN THE OTHER
23 TRIAL AGAINST YOUR CLIENT. HOW COULD IT BE?

24 HE WOULD HAVE TO TESTIFY THERE IN ORDER FOR IT
25 TO BE ADMISSIBLE.

26 MR. BARENS: YOUR HONOR WILL NOT -- WELL SUPPOSING HE
27 SAYS YOUR HONOR, THAT MY CLIENT IS GUILTY OF COMMITTING A
28 MURDER IN --

1 THE COURT: I WILL STRIKE IT FROM THE RECORD.

2 MR. BARENS: WELL, STRIKING IT DOESN'T HELP ME IF THE
3 PRESS CAN LATER ON GET IT. IT IS STRICKEN, BUT IT IS THERE.

4 MR. WAPNER: WAIT A SECOND. WE ARE IN A PUBLIC HEARING.
5 MEMBERS OF THE PRESS ARE HERE TAKING NOTES.

6 WHAT IS THE PURPOSE OF --

7 MR. BARENS: I HAVE MADE A RECORD.

8 THE COURT: YOU MADE YOUR RECORD. WHEREVER IT IS
9 APPROPRIATE, I WILL MAKE A RULING.

10 MR. BARENS: THANK YOU, YOUR HONOR.

11 (THE FOLLOWING PROCEEDINGS WERE HELD
12 IN OPEN COURT:)

13 Q BY MR. WAPNER: AGENT BREILING, IN CONNECTION
14 WITH THE CASE ON WHICH YOU ARE THE SPECIAL AGENT, DID YOU
15 OBTAIN THE SEARCH WARRANT?

16 A YES.

17 Q SHOWING YOU WHAT HAS BEEN MARKED AS COURT'S
18 EXHIBIT 2, DO YOU RECOGNIZE THAT?

19 A YES I DO.

20 Q AND WHAT IS THAT?

21 A THE FIRST DOCUMENT IN ORDER IS THE AFFIDAVIT FOR
22 SEARCH WARRANT SIGNED BY ME.

23 THE SECOND DOCUMENT IN ORDER IS A STATEMENT OF
24 PROBABLE CAUSE SIGNED BY ME.

25 THE LAST DOCUMENT IN ORDER IS THE SEARCH WARRANT
26 SIGNED BY JUDGE V. GENE MC DONALD.

27 Q WHEN WAS THE WARRANT SIGNED BY JUDGE MC DONALD?

28 A THE DATE HERE IS THE 6TH DAY OF JANUARY, 1987.

1 Q AND IN CONNECTION WITH SERVING THAT WARRANT, DID
2 YOU HAVE DISCUSSIONS WITH DEPUTY ATTORNEY GENERAL JOHN VANCE,
3 WHO WAS THE PROSECUTOR -- PROSECUTING THE HUNT, ET AL. TRIAL
4 IN SAN MATEO COUNTY?

5 A YES I DID.

6 Q DID YOU TALK WITH ANYONE ELSE IN THE ATTORNEY
7 GENERAL'S OFFICE?

8 A YES I DID.

9 Q WHO DID YOU TALK TO?

10 A DEPUTY ATTORNEY GENERAL RONALD BASS, B-A-S-S,
11 AND SENIOR ASSISTANT ATTORNEY GENERAL JOHN GORDINER,
12 G-O-R-D-I-N-E-R.

13 Q ANYONE ELSE?

14 A I WAS ADVISED THAT THE CHIEF CRIMINAL DEPUTY FOR
15 THE ENTIRE STATE HAD REVIEWED IT.

16 Q WHAT WAS THE PURPOSE OF TALKING WITH ALL OF THESE
17 PEOPLE ABOUT IT?

18 A I WANTED TO MAKE SURE IT WAS BEING DONE PROPERLY.

19 Q AND DID YOU -- WERE YOU IN PART, RESPONSIBLE FOR
20 MAKING UP THE STATEMENT OF PROBABLE CAUSE AND THE WARRANT?

21 A I WAS ENTIRELY RESPONSIBLE.

22 Q DID YOU INCLUDE IN THE STATEMENT OF PROBABLE CAUSE,
23 INFORMATION FOR THE JUDGE IN NORTHERN CALIFORNIA ABOUT THE
24 FACT THAT THERE WAS A PENDING CASE ACTUALLY IN JURY SELECTION
25 IN LOS ANGELES?

26 A YES I DID.

27 Q AND THE SEARCH WARRANT WAS FOR A LOCATION IN
28 LOS ANGELES, IS THAT CORRECT?

1 A YES IT WAS.

2 Q ON WHAT DATE WAS THE SEARCH CONDUCTED?

3 A I BELIEVE IT WAS JANUARY THE 8TH, 1987.

4 Q BEFORE YOU CONDUCTED THE SEARCH, DID YOU HAVE
5 A BRIEFING OF THE PEOPLE WHO WERE GOING ALONG WITH YOU TO
6 CONDUCT THE SEARCH?

7 A YES I DID.

8 Q WHO CONDUCTED THAT BRIEFING?

9 A I DID.

10 Q WHERE WAS IT CONDUCTED?

11 A THE OFFICES OF THE BEVERLY HILLS POLICE DEPARTMENT.

12 Q AND IN CONDUCTING THAT BRIEFING, DID YOU PROVIDE
13 EVERYONE PRESENT WITH A COPY OF THE SEARCH WARRANT?

14 A YES I DID.

15 Q DID YOU ASK THEM TO READ IT?

16 A YES I DID.

17 Q AND AFTER THEY READ IT, DID YOU ASK THEM, THE
18 PEOPLE PRESENT THERE, TO SIGN SOMETHING?

19 A YES I DID.

20 Q WHAT WAS THAT?

21 A AN ACKNOWLEDGEMENT THAT THEY HAD READ NOT ONLY
22 THE SEARCH WARRANT BUT MY AFFIDAVIT AND MY STATEMENT OF PROBABLE
23 CAUSE AND THAT THEY UNDERSTOOD THE SCOPE OF THE SEARCH THAT
24 WAS BEING AUTHORIZED BY THAT WARRANT.

25 Q SHOWING YOU A GROUP OF DOCUMENTS THAT I HAVE
26 COLLECTIVELY MARKED AS COURT'S EXHIBIT 3 -- I WOULD ASK THAT
27 THEY BE MARKED COURT'S EXHIBIT 3, PLEASE, YOUR HONOR.

28 THE COURT: SO MARKED.

5
1 MR. WAPNER: A GROUP OF SEVEN DOCUMENTS, ALL LABELED
2 AT THE TOP, "ACKNOWLEDGEMENT" BEARING A DATE OF JANUARY 8,
3 BUT EACH ONE SIGNED BY A DIFFERENT PERSON.

4 Q AGENT BREILING, DO YOU RECOGNIZE THOSE DOCUMENTS?

5 A YES I DO.

6 Q WHAT ARE THEY?

7 A THIS IS THE ACKNOWLEDGEMENT THAT I PREPARED. THE
8 FIRST ONE IS SIGNED BY ANTONIO DIAZ. THE SECOND ONE IS SIGNED
9 BY RONALD J. ITO, I-T-O.

10 THE THIRD ONE IS ROBERT ROZZI, R-O-Z-Z-I.

11 THE NEXT ONE IS SIGNED BY L. H. ZOELLER.

12 THE NEXT ONE IS CLARK W. FOGG, F-O-G-G.

13 THE NEXT ONE IS SIGNED BY KURT KUHN, K-U-H-N.

14 THE LAST ONE IS SIGNED BY PAUL J. TULLENERS,
15 T-U-L-L-E-N-E-R-S.

16 Q WERE THOSE ALL SIGNED IN YOUR PRESENCE?

17 A YES THEY WERE.

18 Q AND DID YOU EXPLAIN TO THE PEOPLE PRESENT WHAT
19 IT WAS THAT YOU WERE LOOKING FOR IN SERVING THAT WARRANT?

20 A YES I DID.
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1 Q WHAT WAS THAT?

2 A EVIDENCE RELATING TO THE KIDNAP AND MURDER OF
3 HADAYET ESLAMINIA. THAT'S H-A-D-A-Y-E-T, E-S-L-A-M-I-N-I-A.

4 Q AND AFTER HAVING THAT BRIEFING, DID YOU GO TO
5 10984 BELLAGIO ROAD?

6 A YES WE DID.

7 Q WHO DID YOU GO THERE WITH?

8 A WITH DETECTIVE ZOELLER FROM THE BEVERLY HILLS
9 POLICE DEPARTMENT AND ALL OF THOSE PEOPLE MENTIONED IN THE
10 READING OF THE DOCUMENTS THAT YOU GAVE ME AND PLUS SOME
11 UNIFORMED PERSONNEL.

12 Q WHEN YOU GOT TO THE LOCATION, WHAT DID YOU DO?

13 A I PERSONALLY WENT TO THE BACK DOOR OF THE
14 RESIDENCE, WHICH AS I RECALL, WAS THE KITCHEN.

15 AND I KNOCKED UNTIL SOMEONE CAME TO RESPOND TO
16 MY KNOCKING.

17 Q DO YOU KNOW WHO IT WAS THAT RESPONDED?

18 A IT WAS A WOMAN WHO IDENTIFIED HERSELF TO ME AS
19 A PART-TIME DOMESTIC EMPLOYEE OF THE ROBERTS FAMILY. I BELIEVE
20 THAT HER NAME WAS MULLIN, M-U-L-L-I-N. I THINK HER FIRST
21 NAME WAS HATTIE.

22 Q WHEN SHE RESPONDED TO THE DOOR, WHAT DID YOU DO?

23 A I HAD ON MY JACKET, MY CALIFORNIA DEPARTMENT OF
24 JUSTICE SPECIAL AGENT BADGE SO THAT THAT WAS READILY VISIBLE.
25 BUT I DISPLAYED TO HER MY FOLD-OUT CREDENTIALS.

26 I IDENTIFIED MYSELF AS A PEACE OFFICER. I SAID
27 THAT WE HAD A WARRANT AUTHORIZING ME TO SEARCH THAT
28 RESIDENCE.

1 Q WHAT DID SHE DO?

2 A I ASKED FIRST BEFORE SHE DID ANYTHING -- I ASKED
3 IF THERE WAS ANYBODY ELSE IN THE RESIDENCE AT THAT TIME AND
4 SHE SAID BOTH MR. AND MRS. ROBERTS WERE THERE.

5 Q WHAT HAPPENED AFTER SHE SAID THAT?

6 A SHE CALLED THEM ON SOME SORT OF INTERIOR TELEPHONE
7 SYSTEM.

8 Q DID EITHER OF THEM RESPOND TO THE DOOR?

9 A YES, SIR. MR. ROBERTS DID.

10 Q HAD YOU EVER MET MR. ROBERTS BEFORE?

11 A YES I HAD.

12 Q WHEN MR. ROBERTS CAME TO THE DOOR, WHAT HAPPENED?

13 A I WAS IN THE KITCHEN. I STEPPED INSIDE THE DOOR
14 AS MS. MULLIN WAS MAKING THE PHONE CALL. SO I WAS ALREADY
15 INSIDE THE BUILDING.

16 AND HE CAME TOWARD ME, IDENTIFIED ME BY NAME AND
17 EXTENDED HIS HAND. I SHOOK HANDS WITH HIM.

18 THE COURT: HAD YOU MET HIM BEFORE?

19 THE WITNESS: YES, SIR. I HAVE.

20 Q BY MR. WAPNER: AND AFTER YOU SHOOK HANDS WITH
21 HIM, WHAT DID YOU DO?

22 A I IDENTIFIED MYSELF TO HIM BY AGAIN SHOWING HIM
23 MY CREDENTIALS.

24 I STATED THAT I HAD A WARRANT AUTHORIZING ME TO
25 SEARCH THAT RESIDENCE. AND THEN HE RESPONDED.

26 Q WHAT DID HE SAY?

27 A I DON'T RECALL HIS EXACT WORDS. BUT THEY WERE
28 TO THE EFFECT OF, "WE HAVE BEEN EXPECTING YOU. YOU AREN'T

1 GOING TO FIND WHAT YOU ARE LOOKING FOR IN THIS HOUSE."

2 MR. BARENS: I OBJECT TO THAT AS A CONCLUSION. I MOVE
3 TO STRIKE IT.

4 THE COURT: DENIED. I WILL LET IT STAND.

5 MR. WAPNER: THANK YOU, YOUR HONOR.

6 Q AFTER THAT, WHAT DID YOU DO?

7 A I SHOWED HIM THE ORIGINAL SEARCH WARRANT. I SHOWED
8 HIM THE SIGNATURE OF THE ISSUING JUDGE. AND THEN I GAVE
9 HIM AN EXACT COPY OF IT FOR HIS OWN RECORDS.

10 Q AFTER DOING THAT, WHAT DID YOU DO?

11 A FOLLOWED MR. ROBERTS. I PERSONALLY, ALONG WITH
12 A UNIFORMED OFFICER, FOLLOWED HIM TO AN UPSTAIRS ROOM THAT
13 HE IDENTIFIED AS THE BEDROOM THAT HE SHARED WITH HIS WIFE.

14 HE SAID THAT SHE WAS STILL UPSTAIRS AND HE WANTED
15 TO NOTIFY HER OF OUR PRESENCE AND INTENT.

16 Q AND AFTER DOING THAT, WHAT HAPPENED?

17 A MR. ROBERTS WENT INTO THE BEDROOM. I REMAINED
18 AT THE DOOR WITH THE UNIFORMED OFFICER. IT WAS COMPLETELY
19 DARK, SO I COULDN'T DESCRIBE IT TO YOU.

20 BUT HE DID GO TO THE LEFT AND THEN HE DISAPPEARED
21 IN AN OPENING TO THE LEFT OF ME. I ASSUMED IT WAS A BATHROOM.

22 Q ALL RIGHT. AND DID YOU WAIT THERE UNTIL HE
23 RETURNED?

24 A YES.

25 Q WHAT HAPPENED WHEN HE CAME BACK?

26 A HE TOLD ME THAT HIS WIFE WAS IN THE BATHROOM AND
27 HE HAD NOTIFIED HER.

28 I JUST ASKED THAT AFTER SHE WAS DECENT, THAT SHE

1 COME DOWNSTAIRS.

2 Q WHAT DID YOU DO THEN?

3 A I RETURNED DOWNSTAIRS.

4 Q AND DID YOU EVENTUALLY MAKE A CHECK OF THE
5 RESIDENCE TO SEE IF THERE WERE ANY OTHER PEOPLE THERE?

6 A YES I DID.

7 Q WHAT WAS THE PURPOSE OF THAT?

8 A SECURITY PURPOSES, PRIMARILY.

9 Q AFTER THAT WAS DONE, WHAT DID YOU DO?

10 A THE ASSIGNMENTS WERE MADE TO TAKE PHOTOGRAPHS
11 OF THE ENTIRE PREMISES PRIOR TO ANY SEARCH BEING INITIATED.

12 Q AND THAT WAS DONE BY?

13 A MR. KUHN.

14 Q MR. KUHN OF THE BEVERLY HILLS POLICE DEPARTMENT?

15 A THAT'S CORRECT.
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1 Q AFTER THAT, WHAT HAPPENED?

2 A I MADE ASSIGNMENTS AS FAR AS THE SEARCH CONCERNED.

3 Q WHO MADE THE ASSIGNMENTS?

4 A I DID.

5 Q WAS THERE A SEPARATE OUTBUILDING ON THIS RESIDENCE
6 THAT WAS SEARCHED?

7 A YES, THERE WAS.

8 Q WHO DID YOU ASSIGN TO SEARCH THAT PORTION?

9 A IT WAS DETECTIVE ZOELLER WAS IN CHARGE OF CHECKING
10 THAT.

11 I BELIEVE DETECTIVE DIAZ FROM THE LOS ANGELES
12 POLICE DEPARTMENT, DETECTIVE ITO OF THE LOS ANGELES POLICE
13 DEPARTMENT AND I.D. TECHNICIAN FOGG OF THE BEVERLY HILLS POLICE
14 DEPARTMENT WENT TO THAT LOCATION.

15 Q WHO STAYED IN THE MAIN RESIDENCE?

16 A AGENT TULLENERS, DETECTIVE SERGEANT ROZZI AND
17 MYSELF.

18 Q WHERE IN THE MAIN RESIDENCE DID YOU GO?

19 A INITIALLY, ALONG WITH MR. ROBERTS, I MADE A TOUR
20 OF THE DOWNSTAIRS FACILITY CHECKING EACH ONE OF THE ROOMS
21 AND WENT TO THE BASEMENT.

22 Q DID YOU OBSERVE ANY PAPERS OR DOCUMENTS IN THE
23 DOWNSTAIRS AREA, NOT INCLUDING THE BASEMENT?

24 A YES, I DID.

25 Q WHAT DID YOU SEE DOWN THERE?

26 A IN A LITTLE ROOM THAT LOOKED LIKE IT PROBABLY
27 WAS INITIALLY BUILT AS A BAR, MR. ROBERTS IDENTIFIED THAT
28 FACILITY AS ONE OF BEING USED FOR AN OFFICE AND ON THE LITTLE

1 BAR STRUCTURE WERE NUMEROUS DOCUMENTS AND PAPERS.

2 Q DID YOU INQUIRE OF MR. ROBERTS ABOUT THOSE PAPERS?

3 A I DIDN'T HAVE TO.

4 HE SAID, "THESE ARE ALL MINE."

5 Q WHEN HE SAID THAT, WHAT DID YOU DO?

6 A I LEFT THE ROOM.

7 Q DID YOU BASICALLY TAKE HIS WORD FOR IT?

8 A I TOOK HIS WORD FOR IT. I DIDN'T SEARCH THAT
9 ROOM.

10 Q AND YOU DIDN'T SEIZE ANYTHING FROM THAT ROOM?

11 A I DID NOT SEIZE ANYTHING FROM THAT ROOM.

12 Q AND OTHER THAN IN THAT ROOM WERE THERE ANY
13 DOCUMENTS THAT YOU SAW ON THE MAIN DOWNSTAIRS FLOOR?

14 A NOT OF ANY SIGNIFICANCE.

15 I WENT INTO THE LIBRARY, HE LED ME FROM ROOM
16 TO ROOM, AS I RECALL, AND I THINK I SAW SOME PAPERS THERE
17 BUT I WOULDN'T CONSIDER IT A LARGE VOLUME OF PAPER -- IT
18 WASN'T SIGNIFICANT -- OTHER THAN THE BOOKS THEMSELVES.

19 Q WERE THEY IN ANY WAY RELATED TO ITEMS IN THE
20 WARRANT?

21 A NO, THEY WERE NOT.

22 Q DID YOU SEIZE ANY OF THESE ITEMS?

23 A NO, I DID NOT.

24 Q DID YOU GO INTO THE BASEMENT?

25 A YES, I DID.

26 Q WAS THERE AN ITEM DOWN THERE THAT YOU EXAMINED?

27 A THERE WERE TWO AREAS DOWN THERE THAT WERE
28 EXAMINED.

1 Q ON THE WAY DOWN TO THE BASEMENT, I ASKED MR.
2 ROBERTS IF HE HAD A SAFE AND HE SAID YES, THAT WAS IN THE
3 BASEMENT.

4 Q DID YOU GO INTO THE BASEMENT TO EXAMINE THE SAFE?

5 A WITH MR. ROBERTS, YES.

6 Q WHAT HAPPENED WHEN YOU DID THAT?

7 A HE SAID THAT IT WAS A SMALL SAFE, IT WAS BEHIND --
8 FOR MR. ROBERTS' SAKE, I WILL SAY IT WAS SECRETED. IT WAS
9 NOT BLOCKED. IT WAS OPEN AND HE SAID, "ALL THAT IS IN IT
10 IS PAPERS OF MINE."

11 AND I SAID, "WELL, THEN DON'T WORRY ABOUT IT."

12 HE SAID, "NO. I WANT YOU TO SEE IT." SO HE
13 STARTED PULLING PAPERS OUT AND THEY ALL SEEMED TO RELATE TO
14 THE OWNERSHIP OF HIS RESIDENCE SO I SAID, "I DON'T NEED TO
15 SEE THESE. PUT THEM AWAY," SO HE DID.

16 Q YOU DIDN'T SEIZE ANY OF THOSE DOCUMENTS?

17 A NO, I DID NOT.

18 Q WHAT ELSE DID YOU SEE DOWNSTAIRS?

19 A ON A SHELF AT THE FOOT OF THE STAIRS, AS I CAME
20 DOWN THE STAIRS, I NOTED WHAT APPEARED TO BE AN ELECTRIC
21 TYPE OF TYPEWRITER.

22 Q AND DID YOU EXAMINE THAT?

23 A YES, I DID.

24 Q DID YOU TAKE ANYTHING FROM THE TYPEWRITER?

25 A YES, I DID.

26

27

28

1 Q WHAT?

2 A THE TYPING BALL AND THE RIBBON OR TAPE.

3 Q WHY?

4 A IN THE ESLAMINIA CASE, ONE OF THE EVIDENTIARY
5 PIECES THAT I POSSESS IS WHAT PURPORTS TO BE A FORGED GENERAL
6 POWER OF ATTORNEY. I WAS IN HOPE OF FINDING THE IMPLEMENTS
7 THAT TYPED THAT DOCUMENT.

8 Q OTHER THAN THAT, TAKING THE TYPING BALL AND THE
9 RIBBON, DID YOU LEAVE THE REST OF THE TYPEWRITER THERE?

10 A YES, I DID.

11 I DID NOT WANT TO DEPRIVE THE FAMILY OF THE MACHINE.

12 Q WHERE DID YOU GO AFTER YOU LEFT THE BASEMENT?

13 A WE MADE A GENERAL TOUR OF THE DOWNSTAIRS. WE
14 WENT THROUGH AN IRON GATE INTO A LIVING ROOM AND HE SAID THAT
15 PRIMARILY WAS THE FAMILY'S AREA AND I LOOKED IN A COUPLE OF
16 DRAWERS JUST TO MAKE SURE THAT THERE WERE NO REAL DOCUMENTS
17 OR ANYTHING THERE, IT WAS JUST A CURSORY THING.

18 AND FROM THERE, WE WENT INTO THE OTHER ROOMS
19 DOWNSTAIRS.

20 I RECALL THERE WAS A DINING AREA, THERE WAS THE
21 LIBRARY, THERE WAS THE LITTLE BAR, THERE WAS THE KITCHEN AREA.
22 NOTHING WAS SEARCHED IN ANY OF THOSE AREAS AND NOTHING WAS
23 SEIZED BECAUSE MR. ROBERTS SAID THAT ALL THE ITEMS THERE
24 BELONGED TO HE AND HIS FAMILY.

25 Q AND AFTER YOU WENT THROUGH THE DOWNSTAIRS, WHAT
26 DID YOU DO?

27 A DURING THAT PERIOD OF TIME, I ASKED HIM IF
28 JOSEPH HUNT LIVED IN THAT HOUSE AND HE SAID YES. HE SAID

1 HE OCCUPIED A COUPLE OF BEDROOMS UPSTAIRS, SO MY SEARCH WAS
2 DIRECTED TO THE UPSTAIRS.

3 THE COURT: I THINK WE WILL TAKE A RECESS AT THIS
4 PARTICULAR POINT.

5 MR. WAPNER: THANK YOU, YOUR HONOR.

6 THE COURT: IT WOULD BE APPROPRIATE.

7 MR. BARENS: YOUR HONOR, COULD YOUR HONOR PLEASE INSTRUCT
8 MR. VANCE AND MR. BREILING NOT TO DISCUSS ANYTHING THAT EITHER
9 MR. BREILING HAS SAID TODAY OR MR. VANCE HAS HEARD TODAY WITH
10 ANY OF THE OTHER WITNESSES?

11 THE COURT: SURE.

12 MR. BARENS: SO THAT MR. VANCE IS SO ADVISED?

13 MR. WAPNER: YOUR HONOR, THAT IS SO FAR AS WHAT HE
14 HAS TESTIFIED ON THE STAND.

15 BUT AS FAR AS DISCUSSING THE CASE, I ASSUME THAT
16 IS PROPER.

17 THE COURT: THAT IS RIGHT. HE OBVIOUSLY HAS DISCUSSED
18 THE MATTERS BEFORE THIS TIME.

19 MR. BARENS: I AM JUST SAYING ONLY AS TO THE TESTIMONY
20 MR. VANCE HEARD?

21 THE COURT: THAT HE GAVE.

22 MR. BARENS: YES.

23 THE COURT: YES, FINE, HE WILL BE SO DIRECTED.

24 THE CLERK: 1:45?

25 THE COURT: 1:30.

26 THE CLERK: 1:30, GENTLEMEN.

27 MR. BARENS: THANK YOU, YOUR HONOR.

28 (AN ADJOURNMENT WAS TAKEN UNTIL 1:45 P.M.
OF THE SAME DAY.)

1 SANTA MONICA, CALIFORNIA; TUESDAY, JANUARY 27, 1987; 1:35 P.M.
2 DEPARTMENT WEST G HON. LAURENCE J. RITTENBAND, JUDGE
3 (APPEARANCES AS NOTED ON TITLE PAGE.)
4

5 (THE FOLLOWING PROCEEDINGS WERE HELD
6 OUTSIDE THE PRESENCE AND HEARING OF
7 THE JURY.)

8 THE COURT: IT WILL BE STIPULATED THE DEFENDANT AND
9 COUNSEL ARE PRESENT. WE'LL PROCEED IF YOU WISH.

10 MR. WAPNER: THANK YOU.

11
12 OSCAR A. BREILING,
13 THE WITNESS ON THE STAND AT THE TIME OF ADJOURNMENT, RESUMED
14 THE STAND AND TESTIFIED FURTHER AS FOLLOWS:

15
16 EXAMINATION (CONTINUED)

17 BY MR. WAPNER:

18 Q AGENT BREILING, YOU TOLD US THIS MORNING THAT
19 YOU PUT IN THE SEARCH WARRANT, AN INDICATION THAT THERE WERE
20 PROCEEDINGS CURRENTLY GOING ON IN THIS CASE, SO THAT YOU COULD
21 LET THE JUDGE KNOW THAT. IS THAT RIGHT?

22 A THAT'S CORRECT.

23 Q WHEN YOU BRIEFED THE OFFICERS ON THE MORNING
24 OF JANUARY THE 8TH, BEFORE EXECUTING THE SEARCH WARRANT, DID
25 YOU SAY ANYTHING TO THEM ABOUT THE FACT THAT THERE WAS A
26 PENDING CRIMINAL CASE?

27 A YES, I DID.

28 Q WHAT DID YOU SAY?

1 A I TOLD THEM THAT JOE HUNT WAS CURRENTLY STANDING
2 TRIAL IN SUPERIOR COURT IN LOS ANGELES COUNTY ON CHARGES THAT
3 HE MURDERED RONALD LEVIN.

4 Q AND DID YOU MAKE ANY REFERENCE TO THE FACT --
5 DID YOU CAUTION THEM AT ALL IN TERMS OF THE POSSIBILITY THAT
6 DOCUMENTS MIGHT BE THERE THAT SHOULDN'T BE SEIZED?

7 A YES.

8 MR. BARENS: OBJECTION, LEADING, YOUR HONOR.

9 THE COURT: LET ME HEAR THE QUESTION, PLEASE.
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1 (WHEREUPON, THE RECORD WAS READ BY THE
2 REPORTER AS FOLLOWS:

3 "Q AND DID YOU MAKE ANY REFERENCE TO
4 THE FACT -- DID YOU CAUTION THEM AT ALL IN TERMS
5 OF THE POSSIBILITY THAT DOCUMENTS MIGHT BE THERE
6 THAT SHOULDN'T BE SEIZED?

7 "A YES.")

8 MR. BARENS: THE OBJECTION IS, YOUR HONOR, THAT IT
9 IS NOT ONLY LEADING BUT THE QUESTION CONTAINS THE ANSWER.
10 THE COURT: WELL, HE HAS ALREADY ANSWERED.

11 DO YOU WANT TO REPHRASE YOUR QUESTION?

12 Q BY MR. WAPNER: THANK YOU, YOUR HONOR.

13 DID YOU MAKE SOME CAUTIONARY REMARK TO THE
14 OFFICERS REGARDING THE PROCEEDINGS THAT WERE CURRENTLY PENDING
15 AGAINST MR. HUNT?

16 A YES, I DID.

17 Q WHAT WAS THAT?

18 A IN ESSENCE, I TOLD THEM THAT JOSEPH HUNT WAS
19 IN TRIAL IN SUPERIOR COURT AND I BELIEVE AT THAT TIME, THE
20 JURY SELECTION PROCESS WAS UNDER WAY. THAT HE POSSIBLY HAD
21 IN THE PART OF A RESIDENCE THAT HE OCCUPIED DOCUMENTS AND/OR
22 ITEMS THAT RELATED TO EITHER ATTORNEY-CLIENT COMMUNICATIONS
23 WHICH WOULD BE PRIVILEGED OR DOCUMENTATION AND/OR ITEMS THAT
24 RELATED TO HIS DEFENSE IN THIS CASE AND THOSE WERE NEITHER
25 TO BE READ OR SEIZED.

26 Q AND WITH REGARD TO THE SEARCH, I BELIEVE WE LEFT
27 OFF WHERE YOU WERE DOWNSTAIRS IN THE HOUSE AND ABOUT TO GO
28 UPSTAIRS. DID YOU TALK TO MR. BOBBY ROBERTS ABOUT THE FACT

1 THAT JOE HUNT LIVED IN THE RESIDENCE?

2 A YES, I DID.

3 I ASKED HIM IF HE DID LIVE IN THE RESIDENCE.

4 Q WHAT DID MR. ROBERTS SAY?

5 A HE SAID JOSEPH HUNT DID LIVE IN THAT HOUSE.

6 Q AND WHAT HAPPENED AFTER THAT?

7 A EVENTUALLY, I WENT UPSTAIRS, AFTER MAKING A
8 CURSORY CHECK OF THE DOWNSTAIRS PORTION OF THE HOME WITH MR.
9 ROBERTS, TO THE BEDROOMS THAT WERE OCCUPIED BY MR. HUNT.

10 Q HOW DID YOU KNOW THOSE WERE MR. HUNT'S ROOMS?

11 A THEY WERE IDENTIFIED AS SUCH TO ME BY MR. ROBERTS.

12 Q AFTER YOU DID THAT, WHAT DID YOU DO?

13 A I HAD AGENT PAUL TULLENERS FROM OUR LOS ANGELES
14 OFFICE GO INTO THE SECOND STORY BEDROOM TOWARD THE FRONT OF
15 THE HOUSE, WHICH WAS THE BEDROOM I WAS LED TO BELIEVE MR.
16 HUNT OCCUPIED AND THE BEDROOM, AND I HAD DETECTIVE SERGEANT
17 ROZZI FROM THE LOS ANGELES POLICE DEPARTMENT GO INTO THE SECOND
18 STORY BEDROOM TOWARD THE REAR OF THE HOUSE THAT I WAS LED
19 TO BELIEVE WAS BEING USED BY MR. HUNT AS AN OFFICE OR COMPUTER
20 ROOM WHERE HE WAS DOING HIS WORK.

21 MR. BARENS: YOUR HONOR, IF WE MIGHT, FOR SAKE OF
22 FACILITY IN THE TESTIMONY PROSPECTIVELY, REFER TO ONE AS A
23 BEDROOM AND ONE AS A COMPUTER ROOM?

24 THE COURT: YES.

25 MR. BARENS: IT WILL MAKE IT QUICKER. THANK YOU, YOUR
26 HONOR.

27 THE WITNESS: THANK YOU.

28 Q BY MR. WAPNER: ALL RIGHT. THE BEDROOM WOULD

1 BE THE ONE TOWARD THE FRONT OF THE HOUSE AND THE ONE THAT
2 MR. BARENS HAD SUGGESTED WE CALL THE COMPUTER ROOM WOULD BE
3 TOWARDS THE REAR OF THE HOUSE?

4 A THAT'S CORRECT.

5 Q AND WHAT DID YOU DO AFTER YOU DIRECTED THOSE
6 TWO OFFICERS TO THOSE LOCATIONS?

7 A I BELIEVE MY NEXT STEP WAS TO GO UPSTAIRS OUTSIDE
8 ACROSS THE DRIVEWAY TO THE LITTLE BEDROOM THAT WAS ATTACHED
9 TO THE GARAGE WHERE DETECTIVE ZOELLER AND HIS ASSISTANTS WERE
10 WORKING.

11 Q AND DID YOU TALK TO DETECTIVE ZOELLER AT THAT
12 POINT?

13 A YES, I DID.

14 Q WHAT DID YOU TELL HIM?

15 A I ASKED HIM IF HE HAD COME UP WITH ANYTHING IN
16 HIS SEARCH THERE. HE SAID THAT HE HAD NOT.

17 SO I DIRECTED HIM, AND I BELIEVE IT WAS DETECTIVE
18 ITO OF THE LOS ANGELES POLICE DEPARTMENT, TO COME WITH ME
19 TO THE UPSTAIRS PORTION OF THE MAIN HOUSE SO WE COULD FOCUS
20 OUR ATTENTION IN SEARCHING THERE.

21 Q AND WHEN YOU GOT BACK TO THE MAIN HOUSE, WHAT
22 HAPPENED?

23 A I TOOK DETECTIVE ZOELLER INTO THE COMPUTER ROOM
24 AND THERE WAS PAPERS THAT WERE LOCATED IN BOXES AND STACKS
25 ON THE FLOOR, ON THE BED. THERE WERE SHELVES THAT CONTAINED
26 LOOSE-LEAF BINDERS, ET CETERA. THERE WAS A PILE OF PAPER
27 ON THE FLOOR TOWARD THE FRONT OF THE BED IN THAT ROOM THAT
28 I BELIEVE ONE OF THE OTHER OFFICERS HAD STARTED LOOKING AT,

1 I CAN'T BE CERTAIN ABOUT THAT.

2 BUT I DIRECTED ZOELLER'S ATTENTION TO THOSE AND
3 ASKED IF HE WOULD START GOING THROUGH THAT PILE.

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1 Q AND UP TO THAT POINT, HAD YOU SEARCHED ANY PORTION
2 OF THAT ROOM?

3 A PERSONALLY, THE ONLY THING THAT I RECALL SEARCHING
4 AND I AM NOT SURE OF THE TIME FRAME -- WAS I NOTICED THERE
5 WERE SOME PAPERS ON THE BED.

6 I IDENTIFIED A PORTION OF THEM, WHAT APPEARED
7 TO ME TO BE THINGS THAT WERE UNSEIZABLE, PURSUANT TO THE
8 WARRANT AND I SET THEM ASIDE.

9 Q HOW DID YOU MAKE THAT DETERMINATION?

10 A I DIDN'T RECOGNIZE THEM AS ANYTHING THAT RELATED
11 TO MY CASE.

12 I DIDN'T SEE A 1984 DATE ON THEM. I DIDN'T SEE
13 ANYTHING THAT RELATED TO THE BBC, AS I RECALL. THE GENERAL
14 CONSENSUS OF MY THOUGHT WAS THAT THIS MATERIAL, WHATEVER IT
15 WAS -- AND I CAN'T TELL YOU WHAT IT WAS -- DIDN'T FALL UNDER
16 THE PARAMETERS OF MY SEARCH WARRANT.

17 Q DO YOU RECALL ANYTHING ABOUT THAT MATERIAL AT
18 THIS TIME?

19 A IT LOOKED TO ME LIKE IT MIGHT POSSIBLY BE SOMETHING
20 RELATED TO MR. HUNT'S DEFENSE.

21 Q DID YOU READ IT IN ANY DETAIL?

22 A NO I DID NOT.

23 Q CAN YOU RELATE THE CONTENTS OF IT AT ALL?

24 A I HAVE NO IDEA.

25 THE COURT: WHAT MADE YOU CONCLUDE THAT IT MIGHT HAVE
26 SOMETHING TO DO WITH THE DEFENSE IN THIS CASE?

27 THE WITNESS: I REALLY COULDN'T --

28 THE COURT: WHAT DID IT SAY THAT MADE YOU THINK THAT?

1 THE WITNESS: I REALLY CAN'T TELL YOU, YOUR HONOR. IT
2 WAS JUST AN IMPRESSION THAT I GOT GENERALLY THUMBING THROUGH
3 IT.

4 IT WAS NOT A MATTER OF READING EACH PAGE AND SEEING
5 THAT IT WAS DEFENSE RELATED.

6 IT WAS JUST AN OVERALL LOOK INDICATED TO ME THAT
7 IT WAS SOMETHING THAT POSSIBLY MIGHT BE RELATED TO IT.

8 THE COURT: WAS THIS IN HANDWRITING ONLY? IS THAT WHAT
9 IT WAS? OR WAS IT SOMETHING TYPED OR PRINTED?

10 THE WITNESS: THERE WERE TYPED PAGES THERE, I BELIEVE
11 AND HANDWRITTEN PAGES.

12 THE COURT: ALL RIGHT.

13 Q BY MR. WAPNER: DID YOU GLEAN FROM THAT, WHAT
14 THE STRATEGY OF THE DEFENSE WAS IN THIS CASE?

15 A NO.

16 THE COURT: WHATEVER IT IS THAT YOU MIGHT HAVE READ
17 AND ANY IMPRESSION THAT YOU GOT AT THAT TIME, DID YOU
18 COMMUNICATE IT TO ANYBODY THERE?

19 THE WITNESS: ONLY THAT IT WAS SOMETHING NOT TO BE LOOKED
20 AT BY ANYBODY ELSE.

21 THE COURT: ALL RIGHT. WHO DID YOU TELL THAT TO?

22 THE WITNESS: EVERYBODY PRESENT.

23 THE COURT: WAS DETECTIVE ZOELLER ONE OF THEM?

24 THE WITNESS: YES. I BROUGHT IT TO HIS ATTENTION
25 EITHER THERE, THEN, OR I BROUGHT IT TO HIS ATTENTION LATER.

26 THE COURT: ALL RIGHT.

27 Q BY MR. WAPNER: AND IN THE REPORT THAT YOU
28 PREPARED ABOUT THIS SUBSEQUENTLY, DID YOU MAKE ANY REFERENCE

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1 IN DETAIL OR OTHERWISE, TO THE DOCUMENTS THAT WERE ON THE
2 BED?

3 A NO, I DON'T THINK SO.

4 Q DID YOU SET OUT THE CONTENTS OF THOSE DOCUMENTS?

5 A NO.

6 Q YOU DID PREPARE A REPORT AFTER YOU COMPLETED YOUR
7 SEARCH?

8 A YES I DID.

9 Q IN THAT REPORT, ANYWHERE DID YOU MAKE ANY REPORTS
10 ON DOCUMENTS THAT WERE READ THAT MIGHT HAVE CONTAINED ANY
11 STRATEGY OF THE DEFENSE IN THIS CASE?

12 A NO.

13 Q AND AFTER LOOKING AT THOSE ITEMS, WHAT DID YOU
14 DO?

15 A I DID A LOT OF MOVING FROM ONE BEDROOM TO ANOTHER,
16 CHECKING WITH THE SEARCH TEAM, WHAT THEY WERE DOING.

17 I PROBABLY MOVED OFF BACK IN THE BEDROOM OF
18 MR. HUNT TO SEE WHAT WAS GOING ON IN THERE.

19 Q DID YOU EXAMINE ANY DOCUMENTS IN THERE?

20 A YES I DID.

21 Q WHAT DID YOU EXAMINE?

22 A AT THE FOOT OF THE BED ON THE WALL OPPOSITE THE
23 FOOT OF THE BED, WERE TWO LOOSE-LEAF BINDER KIND OF THINGS,
24 DARK COLORED.

25 AS I RECALL, THEY WERE A GREENISH COLOR AND
26 CONTAINED DOCUMENTS RELATING TO CORPORATE PAPERS.

27 Q WHAT KIND OF CORPORATE PAPERS?

28 A CORPORATE PAPERS RELATING TO ONE OF THE SUBSIDIARY

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1 COMPANIES OF THE BBC. I BELIEVE THEY WERE FIRE SAFETY COMPANY.
2 I CANNOT TELL YOU FOR CERTAIN AT THIS TIME WHICH ONE.

3 Q WHAT DID YOU DO WITH THOSE ITEMS?

4 A THOSE WERE SEIZED.

5 Q WHERE ARE THEY NOW?

6 A IN MY OFFICE IN SAN FRANCISCO.

7 Q AND WHAT CONDITION ARE THEY IN YOUR OFFICE?

8 A THE CONDITION THAT THEY WERE IN WHEN I TOOK THEM.
9 THEY ARE SEALED.

10 I HAVE NOT LOOKED AT ANY OF THE MATERIALS SINCE
11 THEY WERE SEIZED.

12 WHEN THEY WERE TAKEN FROM THE ROBERTS' RESIDENCE,
13 THEY WERE TAKEN TO OUR LOS ANGELES OFFICE AND SEALED. I HAVE
14 NOT OPENED THEM SINCE THEN.

15 Q THE ITEMS THAT YOU EXAMINED IN THAT BEDROOM, BEFORE
16 YOU REMOVED THEM FROM THE RESIDENCE, WHAT DID YOU DO WITH
17 THEM?

18 A HAD THEM PHOTOGRAPHED.

19 Q DOCUMENT BY DOCUMENT OR JUST --

20 A NO, JUST IN A PILE AND THEY WERE PHOTOGRAPHED
21 AT THE POSITION WHERE I LOCATED THEM, WHERE I WAS TAKING THEM
22 FROM.

23 Q HAVE YOU EXAMINED THE PHOTOGRAPHS SINCE THEY WERE
24 TAKEN?

25 A YES.

26 Q BY LOOKING AT THE PHOTOGRAPH, IF YOU LOOKED AT
27 THE PHOTOGRAPH, WOULD YOU BE ABLE TO KNOW THE CONTENTS OF
28 ANY PARTICULAR DOCUMENT?

1 A NO.

2 Q DOES THE PHOTOGRAPH BASICALLY REPRESENT WHERE
3 THE BOX WAS IN THE HOUSE?

4 A THAT'S CORRECT.

5 Q AND AFTER THEY WERE PHOTOGRAPHED, WERE THEY
6 REMOVED FROM THAT PLACE AND TAKEN TO ANOTHER SPECIFIC PLACE
7 IN THE RESIDENCE?

8 A YES.

9 Q WHERE WAS THAT?

10 A THEY WERE PLACED IN A BOX AND PRIOR TO LEAVING
11 THE RESIDENCE, THEY WERE SET IN THE OUTSIDE HALL, JUST OUTSIDE
12 OF THE COMPUTER ROOM.

13 Q DID YOU SEIZE ANYTHING ELSE FROM THE BEDROOM?

14 A I TOOK SOME INDICIA.

15 Q WHAT DOES THAT MEAN?

16 A IT WAS CORRESPONDENCE THAT WAS ADDRESSED TO JOSEPH
17 GAMSKY AT THAT ADDRESS.

18 Q DO YOU KNOW WHAT --

19 THE COURT: WHERE DID IT COME FROM?

20 THE WITNESS: I DON'T RECALL, YOUR HONOR.

21 Q BY MR. WAPNER: WHAT WAS THE PURPOSE OF TAKING
22 THAT?

23 A I KNOW JOE HUNT ALSO AS JOSEPH GAMSKY. IT WAS
24 TO ESTABLISH HIS RESIDENCE THERE AND TO ESTABLISH THAT HE
25 WAS KNOWN THERE BY THAT NAME.

26 Q DO YOU KNOW WHAT THE SUBSTANCE OF THAT CORRESPONDENCE
27 WAS?

28 A NO. I DID NOT LOOK AT IT. I JUST TOOK IT FOR

1 THE ADDRESS.

2 Q IS THAT LIKEWISE, IN THE BOXES THAT ARE SEALED
3 IN YOUR OFFICE AT THE MOMENT?

4 A THAT'S CORRECT.

5 Q DID YOU SEIZE ANYTHING ELSE FROM THE BEDROOM?

6 A YES, A PIECE OF YELLOW NOTE PAD, LEGAL SIZED OR
7 ROUGHLY LEGAL SIZED, SIMILAR TO THE ONE THAT YOU ARE WRITING
8 ON NOW THAT WAS LINED AND THAT HAD HANDWRITING ON IT.

9 Q AND THAT LIKEWISE, IS IN THE BOX THAT IS SEALED?

10 A THAT'S CORRECT.

11 Q ALL RIGHT. WHAT ELSE, IF ANYTHING, DID YOU SEIZE
12 FROM THE BEDROOM?

13 A AT THE LOCATION FROM WHERE THE CORPORATE PAPERS
14 WERE TAKEN, THERE WERE ENVELOPES CONTAINING OTHER DOCUMENTS
15 THAT RELATED TO THE SUBSIDIARY COMPANIES OF THE BBC, THE EXACT
16 NATURE OF WHICH AT THIS MOMENT, SINCE I HAVE NOT SEEN THEM
17 SINCE THAT DATE, I CANNOT DESCRIBE TO YOU. THOSE WERE ALSO
18 SEIZED.

19 Q AND WHAT ELSE, WHAT OTHER DOCUMENTS DID YOU
20 EXAMINE IN THIS BEDROOM BUT NOT TAKE?

21 A THAT PARTICULAR ROOM DIDN'T HAVE A GREAT DEAL
22 OF PAPERWORK IN IT. THE EXAMINATION PRIMARILY HAD TO BE DONE
23 BY AGENT TULLENERS AND THOSE THINGS WERE BROUGHT TO MY
24 ATTENTION.

25 SO I DON'T THINK I REALLY READ ANYTHING ELSE
26 PERSONALLY IN THAT ROOM. I REMEMBER LOOKING AT SOME PAPERS
27 ON SHELVES. BUT AS FAR AS GOING THROUGH PILES OF DOCUMENTS,
28 I DID NOT.

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1 Q WHAT ELSE DID YOU TAKE, SEIZE FROM THAT ROOM?

2 A AND AT THIS POINT, AS FAR AS I CAN RECALL, THAT
3 WOULD BE ALL: THAT HANDWRITTEN NOTE FROM THE SHELF, THE
4 INDICIA FROM THE OTHER SHELF, THE CORPORATE DOCUMENTS FROM
5 THE FLOOR.

6 Q AND WHAT DID YOU SEIZE FROM THE COMPUTER ROOM?

7 A IN THE COMPUTER ROOM, SITTING ON THE BED, WERE
8 THE DOCUMENTS THAT I DESCRIBED TO YOU EARLIER AS BEING WHAT
9 I CONSIDER TO BE POSSIBLY RELATED TO MR. HUNT'S DEFENSE OR
10 PRIVILEGE COMMUNICATIONS, THOSE WERE NOT SEIZED.

11 ALSO, ON THAT BED WAS A PILE OF DOCUMENTS WHICH
12 INCLUDED AT LEAST A HUNDRED, PERHAPS 200 OR MORE ORIGINAL
13 CHECKS ON BBC ACCOUNTS FROM THE TIME PERIOD OF 1984. THOSE
14 WERE SEIZED.

15 AND IN ADDITION TO THOSE DOCUMENTS, THERE WERE
16 SOME OTHER RELATED BBC MATERIAL IN THAT SAME PILE. THOSE
17 ALSO WERE SEIZED FROM THE BED.

18 Q ANYTHING ELSE FROM THE BED?

19 A NOT THAT I CAN RECALL.

20 Q WHAT ELSE FROM THE REST OF THE ROOM?

21 A ON THE FLOOR NEAR A TABLE OR POSSIBLY IT WAS
22 A DESK, THERE WERE SOME BOXES AND THEN THERE WERE STACKS OF
23 PAPERS, MANY OF THEM IN MANILA FOLDERS.

24 DETECTIVE ZOELLER HAD GONE TO THAT PILE AT MY
25 DIRECTION AND HE HAD STARTED REVIEWING SOME OF THOSE AND MANY
26 OF THEM CONTAINED DOCUMENTS RELATING TO THE BBC AND
27 INVESTORS, ET CETERA. THOSE WERE TAKEN.

28 THE MAJORITY OF THEM FROM THAT PILE AND IN THOSE

1 BOXES WAS NOT TAKEN.

2 Q DID YOU PERSONALLY EXAMINE ITEMS FROM THAT STACK?

3 A I JUST REVIEWED A COUPLE OF THEM TO DETERMINE
4 IF THEY WERE AS REPRESENTED TO ME.

5 Q AND DID YOU TAKE THOSE COUPLE?

6 A YES, I DID.

7 Q AND THOSE WERE DOCUMENTS THAT WERE IN FILES THAT
8 WERE ON THE FLOOR?

9 A YES.

10 Q DO YOU REMEMBER WHERE EXACTLY ON THE FLOOR THEY
11 WERE?

12 A THEY WOULD HAVE BEEN AT THE FOOT OF THE BED.

13 Q THE DOCUMENTS THAT YOU DECIDED NOT TO TAKE, DO
14 YOU REMEMBER WHAT THE CONTENTS OF THOSE WERE?

15 A NO.

16 Q DID THEY HAVE ANYTHING TO DO WITH, IF YOU RECALL,
17 ANY DEFENSE STRATEGY IN THIS CASE?

18 MR. CHIER: THAT CALLS FOR A CONCLUSION.

19 THE COURT: GO AHEAD. YOU MAY ANSWER.

20 THE WITNESS: NOT AS FAR AS I KNOW. I CAN'T TELL YOU,
21 I DON'T REMEMBER WHAT THEY WERE. THEY JUST OBVIOUSLY DIDN'T
22 RELATE TO THE MATERIAL THAT WAS ENUMERATED IN THE SCOPE OF
23 THE WARRANT SO I DIDN'T TAKE THEM.

24 Q BY MR. WAPNER: WHAT ELSE, IF YOU RECALL, DID
25 YOU SEIZE FROM THE BEDROOM?

26 A THERE WAS --

27 MR. BARENS: IN THE COMPUTER ROOM?

28 MR. WAPNER: I AM SORRY. THE COMPUTER ROOM.

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1 THE WITNESS: THE COMPUTER ROOM, RIGHT.

2 THE FURNISHINGS IN THERE WERE ANTIQUE, I GUESS
3 IS THE BEST WAY TO DESCRIBE THEM, AND THERE WAS AN ANTIQUE
4 HIGHBOY CLOSET TYPE OF AFFAIR AND BEHIND IT WAS A LARGE BOX.
5 INSIDE OF THAT BOX WAS A LARGE BROWN ENVELOPE. CONTAINED
6 IN THAT ENVELOPE, AMONG OTHER ITEMS, WERE AT LEAST TWO BLANK
7 CHECKBOOKS IMPRINTED WITH THE NAME "HADAYET ESLAMINIA," WHO
8 WAS THE VICTIM OF MY MURDER CASE IN NORTHERN CALIFORNIA. I
9 SEIZED THOSE TWO CHECKBOOKS AND THE ADDITIONAL CONTENTS OF
10 THAT ONE ENVELOPE.

11 Q DID YOU HAVE SOME DISCUSSION WITH MR. BOBBY
12 ROBERTS ABOUT THE REMAINING CONTENTS OF THAT BOX?

13 A YES.

14 MR. ROBERTS WAS LOOKING OVER MY SHOULDER AS I
15 WENT INTO THE BOX AND HE SAID THAT BOX OF MATERIAL WAS HIS,
16 SO AFTER I LOOKED AT THE ENVELOPE AND SAW THE CONTENTS OF
17 IT, I JUST BRIEFLY CHECKED TO SEE THAT THE REST OF THE MATERIAL
18 IN THAT BOX DID IN FACT BELONG TO MR. ROBERTS AND IT OBVIOUSLY
19 WAS DIFFERENT THAN WHAT I HAD IN MY HAND; THEREFORE, I CONCLUDED
20 MR. ROBERTS WAS TELLING THE TRUTH.

21 Q DID YOU EVER TELL MR. ROBERTS THAT HE COULD NOT
22 BE PRESENT DURING ANY PART OF THE SEARCH?

23 A ON THE CONTRARY, I TOLD HIM HE COULD BE WITH
24 ME AT EVERY MINUTE.

25 Q WAS HE OR SOMEONE FROM THE FAMILY WITH YOU OR
26 NEAR WHERE YOU WERE?

27 A AS FAR AS I KNOW.

28 Q DID YOU EVER TELL MRS. ROBERTS THAT SHE COULD

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1 NOT BE PRESENT DURING THE SEARCH OR IN ANY PART OF THE HOUSE?

2 A NO.

3 I WAS SPECIFICALLY ASKED BY MR. ROBERTS UPON
4 ENTRY INTO HIS HOME NOT TO MAKE CONTACT WITH HIS WIFE. HE
5 SAID SHE WAS RATHER EMOTIONAL AND I ASKED IF HE WOULD LIKE
6 ME TO GO UP AND EXPLAIN MY PRESENCE AND HE SAID, "NO, DON'T
7 TALK TO HER. I WILL TAKE CARE OF IT."

8 SO I NEVER DID CONTACT HER UNTIL I WAS LEAVING
9 AND I SAID GOOD-BYE.

10 Q AT SOME POINT HAD YOU DIRECTED THEM DOWNSTAIRS?

11 A WHEN WE INITIALLY ENTERED THE ROOM, I ASKED MR.
12 ROBERTS IF HE WOULD HAVE HIS WIFE GO DOWN INTO THE KITCHEN
13 AREA UNTIL WE CHECKED TO MAKE SURE THERE WAS NOBODY ELSE IN
14 THE HOME AT THAT TIME.

15 AFTER THE HOME HAD BEEN SECURED, I SAID THE
16 FAMILY WAS FREE TO GO WHEREVER THEY WANTED AND DO WHATEVER
17 THEY WANTED TO.

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1 Q COMING BACK TO THE SEARCH OF THE COMPUTER ROOM,
2 AFTER YOU TOOK THE ITEM FROM THE BOX BEHIND THE HIGHBOY, WHAT
3 DID YOU DO?

4 A I THINK THE ONLY AREA OF ITEMS THAT WERE TAKEN
5 WAS FROM A BOX ON THE FLOOR. AT THE TIME I WAS LOOKING THROUGH
6 IT, IT WAS IN FRONT OF THE FIREPLACE THAT WAS THERE, AND
7 MR. CHIER WAS STANDING BEHIND ME AS I WENT THROUGH THE
8 MATERIALS.

9 Q BY MR. CHIER, ARE YOU REFERRING TO SOMEONE WHO
10 IS IN THIS COURTROOM RIGHT NOW?

11 A YES SIR, MR. HUNT'S CO-COUNSEL -- OR MR. BARENS'
12 CO-COUNSEL.

13 MR. CHIER: I AM JUST AN ASSISTANT, SIR.

14 THE WITNESS: EXCUSE ME.

15 THE COURT: YES, HE IS AN ASSISTANT.

16 THE WITNESS: I BEG YOUR PARDON.

17 MR. BARENS: THAT IS A MATTER OF SPEECH, MR. BREILING.

18 Q BY MR. WAPNER: AND AT WHAT POINT DURING THE
19 SEARCH, IF YOU RECALL, DID MR. CHIER ARRIVE?

20 A I WOULD HAVE TO ESTIMATE. I DIDN'T LOOK AT MY
21 WATCH AND SEE THE EXACT TIME HE ARRIVED. I WOULD IMAGINE
22 IT WAS WITHIN THE FIRST HOUR.

23 THE COURT: BY THE FIRST HOUR, YOU MEAN BETWEEN WHAT
24 AND WHAT?

25 THE WITNESS: WE MADE ENTRY INTO THE HOME AT APPROXI-
26 MATELY 10:20 TO 10:30. I WOULD IMAGINE MR. CHIER WOULD HAVE
27 BEEN THERE AROUND 11:30, I GUESS.

28 IT IS JUST A GUESS. I COULDN'T SAY BECAUSE I

1 DIDN'T LOOK AT A WATCH.

2 THE COURT: AT ANY RATE, IT WAS BEFORE NOON , WASN'T
3 IT?

4 THE WITNESS: I WOULD GUESS BEFORE NOON, YES, YOUR
5 HONOR. I THINK THAT WOULD BE SAFE TO SAY.

6 MR. BARENS: I THINK YOUR HONOR IS PROBABLY AWARE OR
7 HAS SOME RECOLLECTION AS TO WHEN MR. CHIER LEFT THAT DAY.

8 THE COURT: YES.

9 MR. BARENS: THANK YOU.

10 THE WITNESS: LIKE I SAY, I DIDN'T LOOK AT MY WATCH
11 SO I DON'T KNOW.

12 HE JUST WAS THERE.

13 Q BY MR. WAPNER: BEFORE MR. CHIER GOT THERE, HAD
14 ANY ITEMS ACTUALLY BEEN REMOVED FROM THE RESIDENCE?

15 A NO.

16 Q BEFORE MR. CHIER GOT THERE, HAD YOU SPOKEN WITH
17 MR. HUNT'S OTHER ATTORNEY, ARTHUR BARENS, ON THE TELEPHONE?

18 A YES.

19 Q HAD YOU TALKED TO MR. BARENS ON OTHER OCCASIONS
20 ON THE TELEPHONE?

21 A YES.

22 Q WHEN YOU SPOKE TO HIM ON THE TELEPHONE ON JANUARY
23 THE 8TH, DID YOU CALL HIM OR HAD HE CALLED YOU?

24 A I DIDN'T INITIATE THE CALL.

25 I DON'T KNOW WHETHER HE CALLED ME OR HE CALLED
26 SOMEBODY ELSE. I WAS JUST DIRECTED TO THE PHONE AND MR. BARENS
27 WAS ON IT.

28 Q DID HE IDENTIFY HIMSELF?

1 A I BELIEVE SO. I THINK HE SAID "ARTHUR." HE,
2 WOULDN'T HAVE TO SAY. I RECOGNIZED HIS VOICE.

3 Q AND THAT IS BECAUSE YOU HAD TALKED TO HIM ON
4 THE PHONE ON OTHER OCCASIONS?

5 A THAT'S CORRECT.

6 Q WHEN YOU TALKED TO MR. BARENS ON THE TELEPHONE,
7 DID HE EXPRESS SOME CONCERN TO YOU ABOUT THE SCOPE OF THE
8 SEARCH?

9 A YES, HE DID.

10 Q WHAT DID HE SAY?

11 A HE SAID THAT HE WAS CONCERNED THAT EITHER I OR
12 MEMBERS OF THE INVESTIGATIVE TEAM THAT WERE WITH ME MIGHT
13 BE LOOKING AT, READING AND/OR SEIZING MATERIALS THAT HE
14 CONSIDERED TO BE ATTORNEY-CLIENT PRIVILEGED OR RELATED TO
15 THE DEFENSE OF MR. HUNT.

16 Q WHAT DID YOU TELL HIM?

17 A I ASSURED HIM THAT THE OFFICERS THAT I HAD
18 ASSISTING ME HAD BEEN THOROUGHLY BRIEFED PRIOR TO COMING TO
19 THE SEARCH. THAT NOT ONLY HAD THEY HAD AN OPPORTUNITY TO
20 REVIEW MY AFFIDAVIT AND STATEMENT OF PROBABLE CAUSE AND
21 WARRANT, BUT THEY HAD BEEN VERBALLY BRIEFED ON THAT VERY
22 MATTER AND I ASSURED HIM THEY WOULD BE ABLE TO DIFFERENTIATE
23 BETWEEN SEIZABLE AND UNSEIZABLE MATERIAL.

24 Q WHAT DID HE SAY?

25 A I TOLD HIM THAT THAT WAS MY INTENT. I GAVE HIM
26 MY WORD PERSONALLY THAT THIS IS WHAT I INTENDED TO TAKE PLACE
27 THERE.

28 AND HE MADE A STATEMENT TO ME TO THE EFFECT THAT

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"YOUR WORD HAS BEEN GOOD TO ME IN THE PAST, OSCAR. I WILL
TRUST YOU THIS TIME."

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1 Q AND AFTER TALKING TO HIM -- WELL, STRIKE THAT.
2 WHEN WAS IT IF YOU RECALL DURING THE SEARCH, THAT YOU SPOKE
3 WITH MR. BARENS ON THE PHONE?

4 A PRIOR TO THE ARRIVAL OF MR. CHIER AND AFTER I
5 HAD IDENTIFIED THE MATERIALS ON THE BED IN THE COMPUTER ROOM
6 THAT MIGHT POSSIBLY BE DEFENSE-RELATED.

7 BECAUSE DURING THE COURSE OF MY CONVERSATION TO
8 MR. BARENS, I TOLD HIM MATERIALS OF THE TYPE THAT HE WAS
9 DESCRIBING TO ME HAD ALREADY BEEN VIEWED BY ME, AT LEAST TO
10 IDENTIFY THEM AS SUCH AND THEY HAD BEEN SET ASIDE AND IT WAS
11 MY INTENTION TO DO THE SAME THING WITH ANY OTHER SIMILAR
12 MATERIALS.

13 Q AND AFTER MR. CHIER GOT THERE, DID HE IDENTIFY
14 FOR YOU ANY GROUP OR TYPE OF DOCUMENTS THAT MIGHT PERTAIN
15 TO THE DEFENSE AND REQUEST THAT YOU NOT LOOK AT THEM?

16 A YES HE DID.

17 Q AND WHAT WAS THAT?

18 A A GROUP OF LARGE, THREE-RING-TYPE BINDERS THAT
19 WERE FULL OF SOME SORT OF MATERIALS. HE SAID THEY WERE
20 DEFENSE MATERIALS.

21 Q AND WHEN HE SAID THAT, WHAT DID YOU DO?

22 A THE FIRST ONE I OPENED THE FIRST PAGE AND I SAW
23 A REPORT WRITTEN BY ME AND I IMMEDIATELY CLOSED IT.

24 I SAID, "ALL RIGHT, I WON'T TAKE A LOOK AT THE
25 REST."

26 Q AND DID YOU REFRAIN FROM LOOKING AT THE OTHER
27 ONES?

28 A I DID.

A-2

1 Q AT SOME POINT, DID MR. CHIER TELL YOU TO STOP
2 SEARCHING?

3 A YES HE DID.

4 Q WHAT DID HE SAY?

5 A HE SAID THAT JOE HUNT WAS IN COURT AT THAT TIME
6 APPEARING PRO PER AND THEREFORE, HIS SPACES IN THE HOME
7 OCCUPIED BY HIM, MUST BE CONSIDERED ATTORNEY OFFICES.

8 THEREFORE, I COULD NOT CONTINUE WITH MY SEARCH
9 AND THAT I WOULD HAVE TO AWAIT THE ASSIGNMENT OF A SPECIAL
10 MASTER.

11 Q WHAT DID YOU SAY?

12 A I SAID I WAS THERE UNDER THE AUTHORITY OF A SEARCH
13 WARRANT SIGNED BY A SUPERIOR COURT JUDGE AND THAT I WOULD
14 HAVE TO HAVE SOMEBODY OF AN EQUAL OR HIGHER AUTHORITY ADVISE
15 ME TO CEASE AND DESIST IN WRITING. UNTIL SUCH TIME, I WOULD
16 CONTINUE MY SEARCH.

17 Q AND DID YOU CONTINUE YOUR SEARCH?

18 A I DID.

19 Q AFTER DETERMINING THE ITEMS THAT YOU WERE GOING
20 TO SEIZE AND PLACING THEM IN THE BOX IN THE HALLWAY, DID YOU
21 COMMUNICATE TO MR. CHIER WHAT IT WAS YOU WERE GOING TO TAKE?

22 A YES. I TOLD HIM I WAS TAKING THE ITEMS IN THOSE
23 TWO BOXES. THERE WERE TWO.

24 Q DID YOU OFFER HIM AN OPPORTUNITY TO EXAMINE THEM?

25 A I DID.

26 Q TELL ME HOW THAT CAME ABOUT.

27 A INITIALLY, MR. CHIER ASKED ME IF THE MATERIALS
28 I WAS TAKING WAS GOING TO SOME INTERMEDIATE POINT.

1 I SAID NO, THAT I WAS TAKING THEM FROM HERE TO
2 THE LOS ANGELES OFFICE AND THEN TO SAN FRANCISCO. BUT WHAT
3 I THINK HE MEANT WAS, ARE YOU GOING TO ALLOW ME TO LOOK AT
4 THEM IN SOME LOCATION.

5 SO I PUT THEM IN THE HALL AND SAID IF HE WANTED
6 TO LOOK AT THEM, HE COULD LOOK AT THEM THERE.

7 Q AND DID HE LOOK AT THEM?

8 A YES.

9 Q WERE YOU PRESENT WHEN HE DID THAT?

10 A I WAS NOT PRESENT DURING THE FULL TIME, NO.

11 I WAS PUTTING THE PAPERS THAT WERE NOT SEIZED
12 BACK IN THE BOXES OR INTO NEAT STACKS. I WANTED TO LEAVE
13 THE SCENE IN A DECENT CONDITION.

14 THE COURT: DID HE MAKE A RECORD OF THE DOCUMENTS HE
15 WAS LOOKING AT?

16 THE WITNESS: I DON'T KNOW, YOUR HONOR. I DIDN'T SEE
17 HIM WITH A PEN IN HIS HAND.

18 THE COURT: WAS THERE ANYBODY THERE WITH HIM?

19 THE WITNESS: I DID SEE BROOKE ROBERTS AND I BELIEVE
20 AT THAT TIME, SHE WAS STANDING BEHIND HIM AND SHE WAS DOING
21 SOME WRITING. SHE MAY HAVE WRITTEN SOMETHING.

22 Q BY MR. WAPNER: DID YOU PLACE ANY LIMITATION TO
23 THE AMOUNT OF TIME HE COULD HAVE TO EXAMINE THE DOCUMENTS
24 THERE?

25 A NO.

26 Q HOW WAS IT DETERMINED WHEN HE WAS FINISHED?
27 I MEAN, DID YOU TELL HIM THAT HE HAD TO STOP NOW OR DID HE
28 COME TO YOU? WHAT HAPPENED?

1 A NO. HE VOLUNTARILY ABSENTED HIMSELF FROM THE
2 BOXES AND HE MOVED AWAY AND WAS STANDING BY THE RAILING WHEN
3 I WENT OUT.

4 I WAS COMPLETING PUTTING THE ROOM IN ORDER AND
5 MAKING OUT A RECEIPT FOR MR. ROBERTS. I HAD GOTTEN THROUGH
6 DOING ALL I WAS DOING. I WENT BACK IN THE HALL AND HE FINISHED.

7 THE COURT: EXCEPT FOR THAT ONE YELLOW SHEET, DID HE
8 MAKE ANY OBJECTION? I AM TALKING ABOUT MR. CHIER, ANY
9 OBJECTION TO ANY OF THE DOCUMENTS THAT YOU WERE TAKING OUT?

10 THE WITNESS: YES. HE OBJECTED TO THE ONE DOCUMENT
11 THAT WAS A DOCUMENT THAT I HAD FOUND IN THE BEDROOM ON THE
12 SHELF WHICH WAS THE YELLOW PAPER WITH THE HANDWRITTEN NOTES
13 ON IT.

14 HE WAS VERY VOCAL ABOUT IT.

15 THE COURT: THAT IS THE LAST PAGE OF YOUR -- THAT ONE?

16 THE WITNESS: THAT'S IT.

17 THE COURT: YOU HAVE INDICATED THE LAST PAGE.

18 THE WITNESS: HE SAID THAT IT WAS DEFENSE RELATED AND
19 I COULDN'T TAKE IT.

20 Q BY MR. WAPNER: WHAT DID YOU TELL HIM?

21 A I WAS IN THAT BEDROOM MAYBE FIVE FEET AWAY FROM
22 HIM. AND I HEARD HIM OBJECTING TO THAT DOCUMENT. I DIDN'T
23 KNOW WHAT IT WAS AT THE TIME.

24 I SAID IF HE FOUND ANYTHING IN THOSE BOXES THAT
25 HE THOUGHT WAS ATTORNEY/CLIENT PRIVILEGED OR RELATED TO THE
26 DEFENSE, THAT I HAD INADVERTENTLY TAKEN, I WOULD RETURN IT
27 TO HIM WITH MY APOLOGIES RIGHT THEN AND THERE.

28 AND WHEN I CAME IN TO WHERE HE WAS, HE HAD THAT

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1 PAPER IN HIS HAND. I ASKED HIM IF THAT IS WHAT HE WAS
2 OBJECTING TO AND HE SAID YES.

3 Q AND WHAT DID YOU SAY WHEN HE SAID THAT?

4 A I LOOKED AT IT. AND I SAID THAT I WAS GOING TO
5 SEIZE IT OVER HIS OBJECTION.

6 Q AND DID YOU DO THAT?

7 A YES I DID.

8 Q AND WHERE IS THAT PIECE OF PAPER NOW?

9 A IT IS SECURED IN MY OFFICE IN SAN FRANCISCO.

10 Q AFTER MR. CHIER HAD THE OPPORTUNITY TO GO THROUGH
11 THOSE BOXES, WHAT DID YOU DO WITH THEM?

12 A TOOK THEM FROM THE HOUSE.
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1 Q AND WHAT CONDITION WERE THE BOXES -- WERE THEY
2 SEALED AT THE HOUSE OR SOME TIME LATER?

3 A NO. THEY WERE SEALED LATER.

4 Q WHERE WERE THEY SEALED?

5 A IN THE ATTORNEY GENERAL'S OFFICE ON WILSHIRE
6 BOULEVARD IN LOS ANGELES.

7 Q HOW LONG AFTER THE SEARCH WERE THEY SEALED?

8 A EARLY THAT AFTERNOON, I BELIEVE, PROBABLY AROUND
9 3 O'CLOCK. I AM GUESSING.

10 MR. BARENS: MOVE TO STRIKE THE ANSWER AS ASSUMING FACTS
11 NOT IN EVIDENCE, THAT THE WITNESS IS COMPETENT TO TESTIFY.
12 THERE IS NO FOUNDATION THAT HE KNOWS WHEN THEY WERE SEALED.
13 AND HE JUST SAID THAT HE WAS GUESSING.

14 THE WITNESS: I WAS GUESSING AS TO THE TIME.

15 THE COURT: THAT IS YOUR BEST ESTIMATE?

16 THE WITNESS: I KNOW THEY WERE SEALED BECAUSE I WITNESSED
17 THEM BEING SEALED. BUT I WAS NOT LOOKING AT MY WATCH, TO
18 FIND OUT WHAT TIME IT WAS WHEN THEY WERE SEALED.

19 Q BY MR. WAPNER: HOW DID THEY GET FROM THE ATTORNEY
20 GENERAL'S OFFICE IN LOS ANGELES TO YOUR OFFICE IN SAN FRANCISCO?

21 A BY THE ATTORNEY GENERAL COURIER.

22 Q WHEN THEY GOT TO YOUR OFFICE IN SAN FRANCISCO,
23 DID THEY APPEAR TO BE IN THE SAME CONDITION THEY HAD BEEN
24 IN WHEN YOU SAW THEM BEING SEALED IN LOS ANGELES?

25 A YES.

26 Q AND HAVE THEY BEEN IN YOUR OFFICE IN
27 SAN FRANCISCO EVER SINCE THEN?

28 A YES.

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1 Q AT ANY TIME DURING THE SEARCH OF THE HOME, DID
2 MR. ROBERTS, BOBBIE ROBERTS, EXPRESS ANY OBJECTION TO YOU
3 ABOUT THE MANNER IN WHICH THE SEARCH WAS BEING CONDUCTED OR
4 ANY ITEMS THAT WERE SEIZED?

5 A NO. HE WAS MOST CORDIAL.

6 Q AFTER SEIZING THESE ITEMS, DID YOU PREPARE A RETURN
7 ON THE SEARCH WARRANT?

8 A I DID.

9 Q AND DID YOU FILE THIS WITH THE COURT IN NORTHERN
10 CALIFORNIA?

11 A YES I DID.

12 MR. WAPNER: YOUR HONOR, I HAVE AN EXHIBIT THAT I WOULD
13 LIKE TO HAVE MARKED AS COURT'S EXHIBIT NO. 4. IT SAYS
14 "SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN MATEO RETURN
15 OF SEARCH WARRANT."

16 IT CONSISTS OF THREE PAGES. THE LAST ONE OF WHICH,
17 BEING APPARENTLY A COPY OF SOMETHING THAT WAS TAKEN FROM THE
18 RESIDENCE.

19 THE COURT: ALL RIGHT.

20 MR. WAPNER: MAY IT BE MARKED AS COURT'S 4?

21 THE COURT: SO MARKED.

22 Q BY MR. WAPNER: MR. BREILING, DID YOU -- DO YOU
23 RECOGNIZE THE EXHIBIT MARKED AS COURT'S 4?

24 A YES. IT WAS PREPARED BY ME.

25 Q AND IS THAT THE RETURN OF SEARCH WARRANT THAT
26 YOU PREPARED?

27 A YES IT IS.

28 Q WHAT WITHOUT READING TO THE COURT WHAT IT IS --

1 WHAT IS THE LAST DOCUMENT ATTACHED TO THAT RETURN?

2 A IT IS A SAVIN COPY OF A YELLOW, LINED PAD, A PAGE
3 FROM THE PAD MR. CHIER OBJECTED TO SO STRENUOUSLY AT THE
4 SCENE.

5 THE COURT REPORTER: HOW DO YOU SPELL THAT?

6 THE WITNESS: S-A-V-I-N.

7 Q BY MR. WAPNER: AT ANY TIME DURING THE SEARCH
8 OF THE RESIDENCE, DID YOU LEARN WHAT THE DEFENSE STRATEGY
9 WAS IN THIS CASE?

10 A NO.

11 Q AT ANY TIME DURING THE SEARCH OF THE RESIDENCE,
12 DID YOU EXAMINE IN DETAIL, ANY COMMUNICATIONS THAT APPEARED
13 TO YOU TO BE PRIVILEGED?

14 A NO.

15 Q HAVE YOU OPENED THE BOX CONTAINING THE ITEMS THAT
16 WERE SEIZED SINCE IT WAS SEALED IN THE ATTORNEY GENERAL'S
17 OFFICE?

18 A NO.

19 Q AND IF IT IS THE ORDER OF THIS COURT, CAN YOU
20 HAVE THE BOX OPENED, COPIES MADE, RESEALED AND SENT TO THIS
21 COURT FOR EXAMINATION?

22 A YES.

23 MR. WAPNER: NO FURTHER QUESTIONS OF THIS WITNESS.

24 MR. BARENS: YOUR HONOR AT THIS TIME, THE DEFENSE WILL
25 NOT CROSS-EXAMINE BUT RATHER, ADVISES THE COURT THAT WE WOULD
26 BE CALLING MR. BREILING AS A DEFENSE WITNESS.

27 THE COURT: YOU CAN DO IT NOW. HE IS HERE NOW. LET
28 IT BE UNDERSTOOD THAT HE WILL BE YOUR WITNESS.

1 MR. BARENS: NOW, AS A TACTICAL MANEUVER, THE DEFENSE
2 WOULD LIKE --

3 THE COURT: I DON'T WANT ANY TACTICAL MANEUVERS. HE
4 IS HERE ON THE STAND. HE IS HERE TO BE CROSS-EXAMINED.

5 IF YOU WANT TO USE HIM AS YOUR OWN WITNESS, YOU
6 CAN DO THAT. LET'S GO ON.

7 MR. BARENS: IF I MIGHT JUST, I WILL PROCEED AS YOUR
8 HONOR WISHES. BUT I WOULD LIKE TO MAKE A RECORD ON THIS POINT.

9 THE COURT: ALL RIGHT. YOU MADE YOUR RECORD.

10 MR. BARENS: IF I MIGHT JUST CONTINUE A BRIEF MOMENT,
11 YOUR HONOR, YOUR HONOR MIGHT RECALL THAT THIS IS A DEFENSE
12 MOTION IN THE FIRST INSTANCE.

13 I BELIEVE THAT THE LAW ENABLES THE DEFENSE WHEN
14 THE DEFENSE MAKES A MOTION, TO PUT ON WITNESSES IN THE ORDER
15 IN WHICH THEY SEE FIT.

16 THE DEFENSE IS ACCOMMODATING --

17 THE COURT: LET ME REMIND YOU WHAT THE LAW IS. THE
18 LAW SAYS THAT THE JUDGE CAN DIRECT THE ORDER IN WHICH PROOF
19 HAS BEEN GIVEN. I AM DIRECTING YOU NOW TO ASK HIM THE
20 QUESTIONS YOU WOULD ASK HIM SOME OTHER TIME. ALL RIGHT?

21 MR. WAPNER: YOUR HONOR, I ABSOLUTELY AGREE WITH THE
22 COURT, AND I THINK THAT WE SHOULD PROCEED WITH THIS WITNESS.

23 BUT, SO THIS DOESN'T COME UP AGAIN, I SPOKE WITH
24 MR. BARENS JUST BEFORE WE STARTED AND FOR THE PURPOSE OF
25 SCHEDULING, BECAUSE THERE WERE SOME DETECTIVES FROM HOLLYWOOD,
26 WHO I TOLD NOT TO BE HERE THIS AFTERNOON BECAUSE WE EXPECTED
27 MR. BREILING TO BE ON THE STAND ALL AFTERNOON.

28 BUT IF THIS IS THE POSITION THAT MR. BARENS IS

1 GOING TO TAKE, THEN I THINK FROM NOW ON, I WILL LET HIM CALL
2 HIS WITNESSES, SINCE IT IS HIS MOTION.

3 BUT I THINK HE BETTER TELL ME NOW, SO THAT I CAN
4 GET THE PEOPLE HERE THAT HE WANTS TO HAVE HERE, IF HE WANTS
5 TO CALL THEM IN THE ORDER HE WANTS TO CALL THEM.

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1 MR. BARENS: WELL, YOUR HONOR, ALL I WAS SEEKING TO
2 DO --

3 THE COURT: IT DOESN'T MAKE ANY DIFFERENCE IN WHAT ORDER
4 THEY CAME. IF THEY ARE HERE AND THEY HAVE BEEN EXAMINED BY
5 YOU, IT IS HIS RIGHT TO EXAMINE THEM. HE CAN DO WHAT HE WANTS
6 TO DO AS HIS OWN WITNESS. YOU CAN CROSS-EXAMINE HIM, ^{IT} /DOESN'T
7 MAKE ANY DIFFERENCE TO ME. LET'S HEAR THE TESTIMONY.

8 MR. BARENS: OBVIOUSLY, AS A LAWYER I HAD SOMETHING
9 IN MIND TACTICALLY, YOUR HONOR. I WANT TO ENGAGE --

10 THE COURT: I AM NOT INTERESTED IN TACTICS. I AM
11 INTERESTED IN HEARING THE TRUTH AND THE EVIDENCE.

12 MR. BARENS: I UNDERSTAND THAT, YOUR HONOR. I JUST
13 HAD A SEQUENCE AND SINCE YOUR HONOR DOESN'T AGREE, THEN I
14 AM GOING TO PROCEED.

15 THE COURT: ALL RIGHT.

16 MR. BARENS: I AM GOING TO PROCEED BUT I WANTED TO
17 MAKE MY STATEMENT.

18 I AM NOW CROSS-EXAMINING THE WITNESS, YOUR HONOR.

19 THE COURT: DO ANYTHING YOU WANT.

20 MR. BARENS: ALL RIGHT, YOUR HONOR.

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CROSS-EXAMINATION

23 BY MR. BARENS:

24 Q WHEN DID YOU FIRST DEVELOP INFORMATION THAT
25 SUPPLIED THE INFORMATION FOR YOUR OBTAINING A SEARCH WARRANT
26 IN THIS MATTER?

27 A I BELIEVE THE EXACT DATE WAS DECEMBER 19, 1986
28 WHEN MATERIAL CAME INTO MY POSSESSION THAT WAS THE BASIS FOR

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1 THE WARRANT.

2 I DON'T BELIEVE I REVIEWED IT, HOWEVER, UNTIL
3 ABOUT DECEMBER 22ND OR 23RD OF 1986.

4 Q AND WHAT MATERIAL ARE YOU REFERRING TO, SIR?

5 A SOME DOCUMENTS THAT WERE PROVIDED TO ME BY A
6 MAN BY THE NAME OF DEAN KARNY.

7 Q AND COULD YOU BE MORE SPECIFIC IN TELLING ME,
8 AS I AM LOOKING FOR WHAT THE BASIS IS FOR YOUR PROBABLE CAUSE
9 TO THE WARRANT, SIR?

10 A I DON'T THINK I UNDERSTAND YOUR QUESTION.

11 Q WHAT INFORMATION DID YOU HAVE SPECIFICALLY, MR.
12 BREILING, THAT WOULD MAKE YOU BELIEVE THERE WAS SEIZABLE
13 MATERIAL AT THE ROBERTS RESIDENCE?

14 A THE MATERIAL THAT I HAD, I WAS LED TO BELIEVE,
15 WAS PART OF A LARGER VOLUME OF MATERIAL THAT WAS PRESENTLY
16 IN THE ROBERTS RESIDENCE.

17 Q AGAIN, SIR, I AM JUST TRYING TO SEE, TO BE MORE
18 SPECIFIC, WHAT YOU MEAN BY THAT.

19 WHAT MADE YOU BELIEVE THAT THERE WAS THIS MATERIAL
20 IN THE ROBERTS RESIDENCE?

21 MR. WAPNER: YOUR HONOR, I WOULD INTERPOSE AN OBJECTION.
22 SINCE THERE WAS A SEARCH THAT OCCURRED ON THE WARRANT, IS
23 THERE SOME ATTACK ON THE SEARCH WARRANT, SOME MOTION TO
24 QUASH OR TRAVERSE THE WARRANT? BUT THE WARRANT SPEAKS FOR
25 ITSELF. THE PROBABLE CAUSE IS CONTAINED IN THE WARRANT ITSELF.
26 IT IS EITHER THERE OR ISN'T AND UNLESS THERE IS SOME SHOWING
27 THAT THERE ARE MISSTATEMENTS IN THE WARRANT, SOMETHING LIKE
28 THAT, I DON'T KNOW THAT THIS IS A PROPER LINE OF INQUIRY.

1 THE COURT: YOUR AFFIDAVIT DOES GIVE US THE BASIS,
2 DOES IT NOT, FOR YOUR SEEKING THE SEARCH WARRANT?

3 THE WITNESS: YES, YOUR HONOR.

4 THE COURT: IN CONNECTION WITH INFORMATION GIVEN TO
5 YOU BY DEAN KARNY ABOUT SOME VALISE -- OR WHAT DO THEY CALL
6 IT?

7 THE WITNESS: A BRIEFCASE.

8 THE COURT: -- OR SOMETHING LIKE THAT, THAT HE GAVE
9 YOU.

10 THE WITNESS: THE AFFIDAVIT AND THE STATEMENT OF
11 PROBABLE CAUSE THAT I PRESENTED TO JUDGE MC DONALD OUTLINES
12 MY RECEIVING OF THE PROPERTY, WHAT PROPERTY WAS USED TO
13 DETERMINE PROBABLE CAUSE AND REFLECTED WHAT EVIDENCE IN THAT
14 PROPERTY RELATED TO MY CASE TO JUSTIFY THE PROBABLE CAUSE
15 AUTHORIZING THE SEARCH WARRANT.

16 MR. BARENS: WELL, WHAT I AM GOING TO DO, YOUR HONOR,
17 IS I WOULD LIKE TO GET A BETTER UNDERSTANDING IN MY OWN MIND.
18 I UNDERSTAND THE GENTLEMAN HAD YEARS BEFORE SEARCHED THE BBC
19 OFFICES FOR ALL OF THE MATERIALS, SEARCHED THE VARIOUS OTHER
20 LOCATIONS FOR THESE MATERIALS AND I AM WONDERING WHY AFTER
21 OUR TRIAL COMMENCED AND THE JURY SELECTION, ET CETERA, SOME
22 TWO YEARS LATER HE HAD REASON TO BELIEVE THAT MATERIALS THAT
23 HE DIDN'T FIND TWO YEARS EARLIER WERE SUDDENLY AT THE ROBERTS
24 RESIDENCE?

25 THE COURT: THERE WAS SOME REFERENCE MADE IN YOUR
26 AFFIDAVIT TO THE EFFECT THAT THE DEFENDANT'S FATHER WENT UP
27 TO THE PREMISES THERE, THE BBC OFFICES AND TOOK AWAY A LOT
28 OF MATERIALS; ISN'T THAT RIGHT?

1 THE WITNESS: YES, YOUR HONOR.

2 THE COURT: ALL RIGHT. NOW YOU NEVER HAD SEEN THAT
3 MATERIAL, HAD YOU?

4 THE WITNESS: NO, YOUR HONOR.

5 THE COURT: BECAUSE OF WHAT KARNY TOLD YOU, DID YOU
6 BELIEVE THERE WERE RECORDS AMONG THOSE PAPERS WHICH WERE TAKEN
7 BY HIS FATHER, RYAN, THAT YOU WANTED TO SEE; ISN'T THAT RIGHT?

8 THE WITNESS: THAT'S CORRECT.

9 THE COURT: GO AHEAD.

10 MR. BARENS: WELL, THANK YOU FOR THE HELP, YOUR HONOR.

11 YOUR HONOR, MY INQUIRY STILL GOES TO THE FACT
12 THAT -- ALL RIGHT, LET ME ASK THE WITNESS, YOUR HONOR.

13 Q DID YOU HAVE SOMEONE SPECIFICALLY TELL YOU,
14 "LISTEN, MR. BREILING, THE STUFF YOU ARE LOOKING FOR IS PARTLY
15 AT THE ROBERTS RESIDENCE"?

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1 A I CAN'T ANSWER YOUR QUESTION YES OR NO THE WAY
2 IT IS PHRASED.

3 Q IT IS A SIMPLE QUESTION, IT APPEARS.

4 THE COURT: WELL, GIVE YOUR OWN EXPLANATION OF IT,
5 WILL YOU?

6 THE WITNESS: THE MATERIAL THAT I AM MAKING REFERENCE
7 TO THAT I GOT FROM MR. KARNY, WHEN I GOT IT FROM MR. KARNY,
8 HE TOLD ME THAT WAS PART OF AN ORIGINAL VOLUME OF MATERIAL
9 THAT HAD BEEN AT THE BBC OFFICES. OTHER THAN WHAT I THEN
10 HELD IN MY HANDS, THOSE MATERIALS HAD BEEN SINCE TRANSFERRED
11 TO MR. RYAN HUNT, JOSEPH HUNT'S FATHER.

12 WHEN I SPOKE TO MR. RYAN HUNT, HE SAID "ALL OF
13 THAT MATERIAL HAD SINCE BEEN RETURNED TO JOE."

14 Q MR. BARENS: WELL, DID MR. RYAN HUNT EVER TELL
15 YOU HE HAD EXAMINED THE MATERIALS?

16 A I DON'T BELIEVE HE EVER DID, NO.

17 Q NO?

18 AND DID HE EVER TELL YOU HE KNEW WHAT THE MATERIALS
19 CONSISTED OF?

20 A HE JUST SAID THEY WERE PAPERS FROM THE OFFICE.

21 I DON'T KNOW THAT HE EVER DID READ THEM.

22 Q BY THE WAY, WHEN DID YOU SPEAK TO MR. RYAN HUNT?

23 A PROBABLY AROUND MARCH OF 1986, THEREABOUTS, EARLY
24 IN 1986.

25 Q SO IN 1986, MARCH, WELL BEFORE WE STARTED THIS
26 IN NOVEMBER, YOU BECAME AWARE THAT CERTAIN BBC MATERIALS HAD
27 BEEN TRANSFERRED FROM RYAN HUNT BACK TO MR. JOSEPH HUNT?

28 A THAT'S CORRECT.

1 Q AND WAS THERE A PARTICULAR REASON AT THAT POINT
2 YOU DIDN'T SEEK A WARRANT FOR THE ROBERTS RESIDENCE?

3 A YES.

4 Q WHAT WAS THAT, SIR?

5 A THE DOCUMENTS THAT I KNEW THAT RYAN HUNT HAD
6 TURNED -- OR I BELIEVED THAT RYAN HUNT HAD TURNED OVER TO
7 JOSEPH HUNT WERE ORIGINAL BBC CHECKS, CORPORATE DOCUMENTS,
8 ET CETERA.

9 AT THAT PARTICULAR TIME THAT I LEARNED ABOUT
10 THEM, THEY WEREN'T VERY HIGH ON MY PRIORITY LIST OF THINGS
11 TO DO AND I BELIEVED THAT SINCE THEY NOW WERE IN MR. HUNT'S
12 POSSESSION THAT THEY COULD BE OBTAINED ACTUALLY THROUGH YOU
13 BY SUBPOENA.

14 Q YOU DIDN'T ELECT THAT REMEDY?

15 A IT WASN'T SOMETHING THAT HAD TO BE DONE THEN.

16 Q DID SOMETHING OCCUR THAT CREATED THE URGENT
17 NECESSITY TO DO IT ON JANUARY 8TH?

18 A YES.

19 Q WHAT WAS THAT, SIR?

20 A THE RECEIPT OF THESE PAPERS FROM MR. KARNY THAT
21 I RECEIVED ON THE 19TH OF DECEMBER. THOSE PAPERS CONSISTED
22 OF A LARGE NUMBER OF THESE YELLOW NOTE PADS LIKE YOU HAVE
23 IN FRONT OF YOU.

24 Q RIGHT.

25 A COVERED WITH HANDWRITTEN NOTATIONS, NUMERICAL
26 COMPUTATIONS, ET CETERA, AND IN THOSE HANDWRITTEN NOTES
27 WERE THINGS THAT I DEEMED TO BE OF EVIDENTIARY VALUE IN THE
28 CASE OF THE PEOPLE OF THE STATE OF CALIFORNIA V. JOSEPH

1 HUNT IN THE MURDER OF HADAYET ESLAMINIA.

2 THOSE PAPERS I HAD NO PRIOR KNOWLEDGE OF EVER
3 HAVING EXISTED AND WHEN I WAS LED TO BELIEVE THAT THEY WERE
4 PART OF A LARGER VOLUME OF MATERIAL THAT NOW WAS IN MR. HUNT'S
5 POSSESSION, I THOUGHT I HAD BETTER GO AFTER THEM.

6 Q NOW, WHAT IS THE CONTENTS SPECIFICALLY OF WHAT
7 YOU ARE REFERRING TO, MR. BREILING, WHAT DO YOU MEAN?

8 A THE THINGS THAT ATTRACTED MY ATTENTION?

9 Q YES. IN OTHER WORDS, YOU SAW SOMETHING KARNY
10 PROVIDED YOU --

11 A YES.

12 Q -- PURSUANT TO HIS IMMUNITY AGREEMENT WITH YOU,
13 IS IT?

14 A NO -- I AM SORRY. I MISUNDERSTOOD YOUR INQUIRY.
15 SINCE MR. KARNY HAS BEEN GRANTED IMMUNITY, HE
16 HAS BEEN COOPERATING WITH ME THOROUGHLY, YES.

17 Q IS THERE SOME REASON HE TOLD YOU THAT HE HADN'T
18 GIVEN YOU THESE PAPERS TWO YEARS EARLIER WHEN HE HAD MADE
19 HIS BARGAIN WITH YOU, SIR?

20 A HE HAD FORGOTTEN HE HAD THEM BECAUSE HE HAS BEEN
21 ON THE WITNESS PROTECTION PROGRAM AND HE HAS BEEN MOVED FROM
22 WHERE THE PAPERS WERE AND HE JUST DIDN'T THINK ABOUT IT.

23 Q AND HE HAD COME ACROSS THEM AT SOME POINT?

24 A I BELIEVE THAT HE HAD BEEN VISITING PEOPLE WHERE
25 THESE PAPERS WERE, SAW THEM AND THEN BROUGHT THEM TO MY
26 ATTENTION.

27 Q ALL RIGHT. AND THESE PAPERS CONSISTED OF YELLOW
28 PADS IN THE HANDWRITING OF MR. HUNT?

1 A I DIDN'T SAY THAT.

2 Q WHAT DID THEY CONSIST OF?

3 A I SAID THEY WERE YELLOW NOTE PADS THAT CONTAINED
4 HANDWRITING.

5 I DIDN'T SAY THEY WERE MR. HUNT'S HANDWRITING.

6 Q AND IN WHOSE HANDWRITING WERE THEY?

7 A I HAVEN'T HAD THEM ANALYZED YET.

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1 Q WHOSE HANDWRITING WERE THEY REPRESENTED TO YOU
2 AS BEING?

3 A ARBEN DOSTI.

4 Q ARBEN DOSTI'S HANDWRITING?

5 A ARBEN DOSTI.

6 Q WAS THERE ANYTHING ELSE, ASIDE FROM HANDWRITING
7 OF ARBEN DOSTI, THAT WAS TURNED OVER TO YOU AT THIS POINT?

8 A EVERYTHING IN THIS BRIEFCASE.

9 Q WHAT ELSE WAS IN THERE?

10 A IT ALSO HAD SOME BLANK CHECKS BELONGING TO ARBEN
11 DOSTI.

12 Q AND?

13 A AND A PHOTOGRAPH OF A CHILD.

14 Q A PHOTOGRAPH OF A CHILD?

15 A A SMALL CHILD, YES.

16 THERE WERE SOME OTHER MISCELLANEOUS LEGAL PAPERS,
17 AS I RECALL.

18 Q NOW YOU ARE TELLING ME THAT THE HANDWRITTEN NOTES
19 OF ARBEN DOSTI GAVE YOU REASON TO BELIEVE THAT MR. HUNT WAS
20 IN POSSESSION OF CERTAIN MATERIALS?

21 A I SAID --

22 Q THAT HE WAS PRESENTLY IN POSSESSION OF THEM?

23 A THE HANDWRITTEN NOTES, YES.

24 I DON'T KNOW THAT THEY WERE WRITTEN BY ARBEN
25 DOSTI BECAUSE I HAVEN'T HAD THEM ANALYZED. I DON'T KNOW WHO
26 WROTE THEM.

27 ALL I KNOW IS THEY WERE HANDWRITTEN PADS, THE
28 CONTENTS OF WHICH LINKED THE WRITERS OF THOSE NOTES TO MY

1 CASE. I WAS LED TO BELIEVE THAT THOSE WERE PART OF THE LARGER
2 VOLUME OF MATERIAL AND I WANTED TO GET THE LARGER VOLUME OF
3 MATERIAL.

4 Q WHAT MADE YOU THINK HUNT HAD THE LARGER VOLUME
5 OF MATERIAL?

6 A AS I TRACED IT OUT IN MY AFFIDAVIT AND STATEMENT
7 OF PROBABLE CAUSE, I WAS LED TO BELIEVE BY MR. KARNY THAT
8 THESE PAPERS HAD BEEN PART OF THE LARGER VOLUME OF MATERIALS
9 THAT WERE IN THE BBC OFFICES. THOSE MATERIALS WERE SUBSEQUENTLY
10 TRANSFERRED TO JOSEPH HUNT'S FATHER, RYAN HUNT. I HAD THAT
11 CONFIRMED TO ME BY ATTORNEYS FROM THE SECURITY AND EXCHANGE
12 COMMISSION, WHO SAID THAT THEY HAD GONE TO MR. HUNT'S HOME,
13 OR WHEREVER HE HAD THOSE PAPERS.

14 THE COURT: RYAN HUNT, YOU MEAN?

15 THE WITNESS: RYAN HUNT, YES, YOUR HONOR.

16 AND TAKEN XEROX COPIES OF SEVERAL DOCUMENTS,
17 LEAVING ALL OF THE ORIGINALS WITH MR. RYAN HUNT.

18 THEY HAD NOT NECESSARILY CATEGORIZED OR CATALOGED
19 THE MATERIALS. ALL THEY TOOK WERE LEGAL DOCUMENTS AND THINGS
20 RELATING TO A SECURITIES EXCHANGE COMMISSION CASE THEY WERE
21 ATTEMPTING TO DEVELOP AGAINST MR. HUNT. THEREFORE, I HAD
22 NO WAY OF KNOWING FOR CERTAIN THAT THESE WERE NOT THERE. I
23 WAS LED TO BELIEVE THAT THEY WERE.

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1 Q NOW, YOU WERE LOOKING FOR THINGS OF EVIDENTIARY
2 VALUE, YOU ARE TELLING ME?

3 A THAT'S CORRECT.

4 Q AND EVIDENCE OF WHAT, SPECIFICALLY?

5 A EVIDENCE THAT WOULD LINK JOSEPH HUNT TO THE MURDER
6 OF HADAYET ESLAMINIA.

7 Q WHAT DO YOU MEAN BY THAT? SPECIFICALLY, WHAT
8 DOCUMENTS THAT YOU ARE NOT GOING TO GET PURSUANT TO A WARRANT,
9 WOULD LINK MR. HUNT TO A MURDER, SIR?

10 A I THINK WHEN WE PUT ON OUR CASE IN THE BAY AREA,
11 WE WILL SHOW THAT MR. ESLAMINIA WAS MURDERED BECAUSE MR. HUNT
12 NEEDED MONEY.

13 THEREFORE, THE DOCUMENTATION WOULD HELP SUPPORT
14 OUR CASE OR OUR CONTENTION THAT THESE DOCUMENTS RELATE TO
15 THE BBC AND ITS SUBSIDIARY COMPANIES, SHOWING THE MANIPULATION
16 OF FUNDS FROM ONE ACCOUNT TO ANOTHER AND THE FACT THAT THE
17 OPERATION APPARENTLY WAS A PONZI, WHICH WAS IMPLODING, MEANING
18 THAT MR. HUNT NEEDED MONEY.

19 Q I AM RIGHT WELL AWARE OF YOUR THEORIES UP THERE,
20 HAVING DONE THE PRELIMINARY HEARING WITH YOU, MR. BREILING.
21 THE POINT I AM LOOKING FOR NOW THOUGH IS, IN THE DOCUMENTS
22 THAT KARNY PROVIDES YOU, YOU ARE TELLING ME THAT SUGGESTS
23 TO YOU THAT THERE IS SOMETHING EVIDENTIARY OVER AT THE ROBERTS'.

24 LIKE, WHAT SPECIFIC THING WAS IN THOSE DOCUMENTS
25 KARNY GIVES YOU THAT SAYS THERE IS SOMETHING EVIDENTIARY OVER
26 AT THE ROBERTS'?

27 A ALL RIGHT. THERE IS A REFERENCE TO MR. LEON
28 KASSORLA AND A TELEPHONE NUMBER.

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1 MY INVESTIGATION HAS SHOWN ME THAT LEON KASSORLA
2 WAS THE GENTLEMAN WHO INTRODUCED ESLAMINIA TO THE BBC GROUP
3 THROUGH MR. JEROME EISENBERG. THAT WAS IMPORTANT TO ME.

4 Q BUT, WHAT IN THAT DOCUMENTATION TELLS YOU THERE
5 WILL BE SOMETHING EVIDENTIARY IN THAT REGARD OVER AT THE
6 ROBERTS' HOUSE?

7 A I AM CONVINCED MYSELF, BY READING THIS, THAT IF
8 THERE IS EVIDENTIARY MATERIAL HERE AND THIS IS PART OF A
9 LARGER VOLUME THAT I DON'T HAVE, IT IS REASONABLE TO BELIEVE
10 THAT THE LARGER VOLUME I DON'T HAVE WILL CONTAIN THE SAME,
11 SIMILAR TYPES OF MATERIALS. THEREFORE, I TARGET THAT.

12 Q WELL NOW, WITH THAT IN MIND, ALL I AM ASKING YOU
13 TO DO, MR. BREILING, IS TO TELL ME SPECIFICALLY, SIR, WHAT
14 DOCUMENTS YOU WERE LOOKING FOR AND BELIEVED YOU WOULD FIND
15 AT THE ROBERTS' HOUSE?

16 A ANYTHING THAT WAS HANDWRITTEN OF A SIMILAR NATURE
17 TO WHAT I HAD ALREADY IN MY POSSESSION, PLUS ANY FORMAL
18 DOCUMENTS RELATING TO THE BBC AND ITS INVESTMENTS AND ITS
19 CHECK WRITING AND ET CETERA.

20 Q YOU WENT OVER THERE THEN WITH THE STATE OF MIND
21 OF LOOKING FOR ANYTHING YOU COULD FIND THAT WOULD HELP YOU
22 OUT, BUT YOU HAD NOTHING SPECIFIC IN MIND THAT YOU BELIEVED
23 WOULD ACTUALLY BE THERE? ISN'T THAT TRUE?

24 A IT ISN'T, NO.

25 Q WHEN YOU TELL ME YOU WERE LOOKING FOR ANYTHING
26 AND THAT WAS YOUR FIRST OPERATIVE WORD, THAT SUGGESTS YOU
27 DIDN'T HAVE ANYTHING SPECIFIC THAT YOU HAD REASON TO BELIEVE
28 WAS IN FACT, THERE.

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1 JUST TELL ME THE SPECIFIC THINGS YOU HAD REASON
2 TO BELIEVE WERE IN FACT THERE, SIR?

3 A I HAD REASON TO BELIEVE THAT I WOULD FIND CHECKS
4 FROM THE BBC'S ACCOUNTS. I FOUND THEM.

5 I HAD REASON TO BELIEVE THAT I WOULD PROBABLY
6 FIND DOCUMENTS RELATING TO HIS CORPORATIONS. I FOUND THEM.

7 I HAD REASON TO BELIEVE THAT I MIGHT FIND INVESTOR
8 PAPERS. I FOUND THEM.

9 Q ALL RIGHT. NOW, DID YOU SPECIFY THESE THINGS
10 IN YOUR SEARCH WARRANT?

11 A I THINK I SPECIFIED IN THE SEARCH WARRANT, ALL
12 PAPERS RELATING TO THE BBC, THE INDIVIDUALS THAT WERE INVOLVED
13 THEN.

14 Q WELL, YOU PROBABLY COULD HAVE BEEN A BIT MORE
15 SPECIFIC IN TERMS OF THINGS YOU JUST DESCRIBED TO ME --

16 MR. WAPNER: OBJECTION, ARGUMENTATIVE.

17 THE COURT: SUSTAINED.

18 Q BY MR. BARENS: WERE THERE CHECKS AND PAPERS OF
19 THE NATURE YOU JUST DESCRIBED TO ME IN THE KARNY BRIEFCASE
20 THAT WAS PROVIDED YOU?

21 A NO.

22 Q DID KARNY TELL YOU, YOU WILL FIND CHECKS OVER
23 AT THE ROBERTS'?

24 A I WAS ALREADY AWARE THAT THEY WOULD PROBABLY BE
25 AT THE ROBERTS' FROM WHAT I FOUND OUT FROM THE SECURITIES
26 AND EXCHANGE COMMISSION.

27 Q BY THE WAY, WERE THE CANCELED CHECKS AVAILABLE
28 AT ALL TO YOU OR IN FACT, SIMPLY A LIST THERE THAT YOU MIGHT

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1 HAVE THROUGH LESS INTRUSIVE MEANS, FOR INSTANCE A SUBPOENA DT,
2 GOTTEN FROM THE BANK?

3 MR. WAPNER: OBJECTION, RELEVANCE.

4 MR. BARENS: WELL, HE CERTAINLY HAD ANOTHER WAY TO GO.
5 HE COULD HAVE GONE TWO YEARS EARLIER AND NOT HAVE DONE IT
6 DURING MY TRIAL.

7 MR. WAPNER: WHAT DIFFERENCE DOES IT MAKE? HE DIDN'T
8 CHOOSE TO DO THAT.

9 MR. BARENS: WELL, I WOULD LIKE TO KNOW WHY.

10 THE COURT: I THOUGHT HE ANSWERED THAT QUESTION. HE
11 SAID THAT IT WAS NOT UNTIL DECEMBER OF 1986 -- IS THAT RIGHT?

12 MR. BARENS: YOUR HONOR, I AM SURE MR. BREILING IN
13 TRUTH, WOULD TELL YOU TWO YEARS AGO, HE HAD THE SAME VIEW
14 AND THEORY OF THE CASE THAT HE DOES TODAY, ESSENTIALLY AS
15 FAR AS WHAT MR. HUNT'S MOTIVATIONS WERE, VIS-A-VIS
16 MR. ESLAMINIA.

17 AND CERTAINLY, HE WAS AWARE THERE WAS BANKING
18 TRANSACTIONS INVOLVED THAT HE WOULD ALLEGE, WOULD SHOW THAT
19 THE DEFENDANT AND HIS CORPORATIONS WERE IN NEED OF MONEY.
20 I AM SUBMITTING THAT. I AM JUST ASKING WHY, TWO YEARS EARLIER --

21 THE COURT: YOU ARE CLAIMING THAT THE SEARCH WARRANT.
22 IS IMPROPER BECAUSE IT CAME TOO LATE? IS THAT WHAT YOU ARE
23 TELLING ME?

24 MR. BARENS: IN PART, YOUR HONOR. IT WAS STALE, YOUR
25 HONOR. IT IS TWO YEARS AFTER HE HAS NOTICE OF WHAT HE IS
26 LOOKING FOR. IT WAS TWO YEARS EARLIER THAT --

27 THE COURT: DO YOU WANT TO ANSWER THAT, MR. BREILING?

28 THE WITNESS: TWO YEARS AGO, I WAS AWARE OF THE FACT

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1 OR BELIEVED THAT MR. HUNT WOULD HAVE THOSE ORIGINAL DOCUMENTS.

2 AS I STATED EARLIER, IT WASN'T A VERY HIGH
3 PRIORITY FOR ME TO GO AFTER THEM AT THAT TIME BECAUSE I HAD
4 REASON TO BELIEVE I COULD PROBABLY GET THEM THROUGH YOU.

5 SINCE I WAS GOING INTO MR. HUNT'S RESIDENCE THIS
6 TIME LOOKING FOR THESE OTHER THINGS, IT IS LOGICAL FOR ME
7 TO GET THESE OTHER THINGS THAT I WAS AWARE OF, THAT WOULD
8 BE THERE BECAUSE I HAVE TO PRESENT IN COURT, AS YOU ARE WELL
9 AWARE UNDER THE BEST EVIDENCE RULE, ORIGINAL DOCUMENTS.

10 SO I SEIZED THEM WHILE I WAS THERE, BELIEVING
11 THEY WOULD BE AND THEY WERE.

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1 Q BY MR. BARENS: SO WHAT YOU ARE DOING IS USING
2 THIS OPPORTUNITY FOR A SOMEWHAT GENERAL SEARCH SO YOU CAN
3 MAKE SURE YOU HAVE EVERYTHING IN ONE, NEAT PACKAGE TO TAKE
4 ADVANTAGE OF THIS SITUATION TO BE COMPREHENSIVE?

5 A WELL, I THINK IF YOU LISTEN TO MY TESTIMONY, IT
6 WAS NOT VERY GENERAL. I WAS VERY SPECIFIC. I HAVE NOT TAKEN
7 A LOT OF THINGS PROBABLY AVAILABLE TO ME.

8 I LEFT A GREAT DEAL OF MATERIAL THAT POSSIBLY
9 MIGHT BE RELEVANT, HAD I TAKEN THE TIME TO SIT DOWN AND CHEW
10 IT UP AND DIGEST IT.

11 I TOOK THINGS THAT WERE TO ME, QUITE OBVIOUSLY
12 RELATED TO MY CASE AND LEFT EVERYTHING ELSE.

13 Q ALL RIGHT. NOW, IN OBTAINING THIS WARRANT, YOU
14 SAY YOU GOT THIS MATERIAL FROM KARNY AND THEN YOU WROTE UP
15 YOUR AFFIDAVIT IN SUPPORT OF THE ISSUANCE OF THE WARRANT?

16 A THAT'S CORRECT.

17 Q DID YOU TALK TO ANYBODY AT THAT TIME BEFORE YOU
18 PRESENTED IT TO A JUDGE?

19 A YES I DID.

20 Q WHO DID YOU SPEAK TO?

21 A I HAD DEPUTY ATTORNEY GENERAL JOHN VANCE REVIEW
22 THE AFFIDAVIT AND STATEMENT OF PROBABLE CAUSE.

23 Q WHY DID YOU DO THAT?

24 A I ALWAYS HAVE AN ATTORNEY CHECK MY WORK BEFORE
25 I PRESENT IT TO THE COURT.

26 Q YOU HAVE DONE THIS A LONG TIME, HAVE YOU NOT?

27 A TWENTY-FIVE YEARS.

28 Q NOW, HOW MANY LAWYERS DO YOU USUALLY HAVE REVIEW

1 YOUR WORK BEFORE YOU SUBMIT IT TO A JUDGE?

2 A GENERALLY TWO, IF I CAN.

3 Q AND HOW MANY LAWYERS LOOKED AT YOUR WORK IN THIS
4 INSTANCE BEFORE YOU WENT TO A JUDGE?

5 A THREE.

6 Q AND WHY IS THAT? WHY DID YOU USE EXTRA
7 PRECAUTIONS HERE?

8 A BECAUSE OF THE UNIQUENESS OF THE SITUATION.

9 Q WHAT SEEMED UNIQUE TO YOU, MR. BREILING?

10 A THE FACT THAT MR. HUNT IS CURRENTLY IN COURT.

11 Q INDEED, UNIQUE. AND YOU USED THE WORD "RESERVATIONS"
12 EARLIER, THAT YOU HAD. WHAT RESERVATIONS DID YOU HAVE?

13 A I HAVE NEVER USED THAT WORD IN THIS HEARING.

14 Q YES, I BELIEVE YOU DID, EARLIER ON THIS MORNING,
15 MR. BREILING. YOU USED THAT WORD THAT YOU HAD SOME
16 RESERVATIONS.

17 MR. WAPNER: OBJECTION.

18 THE COURT: WELL --

19 THE WITNESS: THE ONLY RESERVATIONS I HAVE IS FOR AN
20 AIRLINE.

21 MR. BARENS: I AM SURE OF THAT, SIR.

22 Q WELL, DID YOU HAVE RESERVATIONS?

23 A NO.

24 Q ALL RIGHT. BUT YOU WENT OUT OF A SENSE OF GENERAL
25 CONCERN TO SEE THE THREE LAWYERS?

26 A I WOULDN'T EVEN SAY CONCERN.

27 Q NO CONCERN AT ALL?

28 A NOW COME ON, MR. BARENS. DON'T PUT WORDS INTO

1 MY MOUTH.

2 Q TELL ME WHICH IT WAS.

3 MR. WAPNER: OBJECTION, ARGUMENTATIVE.

4 THE COURT: SUSTAINED.

5 Q BY MR. BARENS: MR. BREILING, WHY DID YOU GO SEE
6 THREE LAWYERS WHEN YOU USUALLY SEE TWO?

7 A I WANTED TO MAKE SURE IF -- THAT MY UNDERSTANDING
8 OF PROBABLE CAUSE WAS SUFFICIENT, WOULD THEY AGREE TO IT.

9 IF I COULDN'T CONVINCЕ SOMEBODY IN MY OFFICE THAT
10 I HAD PROBABLE CAUSE, I DIDN'T WANT TO TAKE IT BEFORE A JUDGE.

11 Q AND DID YOU DISCUSS WITH THOSE THREE LAWYERS ANY
12 CONCERNS THAT YOU HAD ABOUT THE FACT THAT MR. HUNT WAS
13 ENGAGED IN TRIAL?

14 A I TALKED TO THEM ABOUT IT. I DON'T THINK THAT I
15 WOULD USE THE WORD "CONCERN." I AM NOT CONCERNED ABOUT THE FACT
16 THAT MR. HUNT IS IN TRIAL.

17 Q YOU ARE NOT, ARE YOU?

18 A NO.

19 Q YOU WEREN'T THEN, WERE YOU?

20 A WHAT? WHEN?

21 Q YOU WEREN'T CONCERNED ABOUT THE FACT THAT
22 MR. HUNT WAS STANDING TRIAL AT THAT TIME, WERE YOU?

23 A CONCERNED? MAYBE YOU AND I ARE LOOKING AT THE
24 WORD DIFFERENTLY.

25 I AM NOT CONCERNED THAT HE IS. IT ISN'T A CONCERN
26 OF MINE.

27 Q NOT AT ALL. AND DID IT SEEM TO BE A CONCERN OF
28 ANY OF THE THREE LAWYERS YOU SPOKE TO, THAT HE WAS A DEFENDANT

1 IN A COURTROOM AT THAT TIME?

2 A NO. I WOULDN'T SAY SO.

3 Q NONE OF THE FOUR OF YOU WERE CONCERNED, WERE YOU?

4 A THE ONLY -- LET'S USE YOUR WORD, "CONCERN" WOULD
5 BE THAT DURING THE DISCUSSION OF THE WARRANT, NOTHING BE DONE
6 THAT WOULD JEOPARDIZE MR. HUNT'S CASE HERE IN LOS ANGELES.

7 Q WELL, DID YOU GENTLEMEN DISCUSS THAT ISSUE?

8 A ONLY TO THE EXTENT THAT I WOULDN'T BE LOOKING
9 AT OR SEIZING ANYTHING THAT WAS ATTORNEY/CLIENT PRIVILEGED
10 OR DEFENSE-RELATED.

11 Q BY THE WAY, YOU HAVE KNOWN MR. WAPNER FOR A COUPLE
12 OF YEARS?

13 A I WOULD SAY TWO YEARS, YES.

14 Q AND YOU KNOW HIM IN CONJUNCTION WITH THIS
15 LITIGATION, SIR?

16 A THAT'S CORRECT.

17 Q WHEN DID YOU CALL MR. WAPNER ABOUT YOUR PLANNED
18 ACTIVITY TO COME DOWN HERE AND SEARCH MR. HUNT'S RESIDENCE?

19 A I NEVER DID.

20 Q YOU NEVER DID? WAS THERE A REASON WHY YOU DIDN'T?
21 THE COURT: THAT IS LIKE "WHEN DID YOU STOP BEATING
22 YOUR WIFE?"

23 TRY NOT TO ANSWER THOSE QUESTIONS. WHY DON'T
24 YOU ASK HIM, "DID YOU EVER TALK TO HIM ABOUT IT"?

25 AND NOT WHEN HE DID.

26 THAT IMPLIES THAT HE DID. LET'S ASK QUESTIONS --
27 NOT OF THIS KIND, IF YOU DON'T MIND.

28 IT IS NOT WORTHY OF YOU AS A LAWYER. SOME OTHER

1 LAWYER, BUT NOT YOU.

2 MR. BARENS: THANK YOU, YOUR HONOR. SORRY ABOUT THE
3 LAST QUESTION.

4 Q DID YOU EVER CALL MR. WAPNER ABOUT THIS ACTIVITY,
5 MR. BREILING?

6 A NO.

7 Q WHY DID YOU NOT CALL MR. WAPNER, KNOWING HIM TO
8 BE THE DISTRICT ATTORNEY WITH RESPONSIBILITY FOR HANDLING
9 THIS CASE?

10 A OKAY. I THOUGHT IT WAS IN THE BEST INTEREST OF
11 MY CASE AND THE BEST INTEREST OF MR. WAPNER THAT HE NOT BE
12 NOTIFIED IN ADVANCE.

13 Q ALL RIGHT. LET'S TAKE THOSE TWO, ONE AT A TIME.
14 WHY DID YOU THINK IT WOULD BE IN THE BEST INTEREST
15 OF YOUR CASE THAT MR. WAPNER BE KEPT INSULATED OR ISOLATED
16 FROM THIS ACTIVITY?

17 A I KNOW MR. WAPNER TO BE AN HONEST MAN.

18 MR. BARENS: I STIPULATE, SIR.

19 THE WITNESS: AND I BELIEVED THERE WAS A STRONG
20 POSSIBILITY THAT HE MIGHT LET YOU KNOW THAT I WAS GOING TO
21 SERVE THE WARRANT, AND THUS LET MR. HUNT KNOW. AND I DIDN'T
22 WANT TO HAVE ANYTHING TAKEN FROM THE RESIDENCE PRIOR TO THE
23 TIME I GOT THERE.

24 THE COURT: AS LONG AS YOU ARE TALKING ABOUT THIS, THERE
25 IS SOME REFERENCE IN YOUR PAPERS THAT WHEN YOU MET MR. ROBERTS,
26 HE SAID SOMETHING ABOUT HE WAS EXPECTING YOU. DID HE EXPLAIN
27 THAT TO YOU?

28 THE WITNESS: NO. HE JUST MADE THE SPONTANEOUS STATEMENT

1 WHEN I SAID I WAS THERE TO SERVE A WARRANT, HE SAID THAT HE
2 EXPECTED IT BUT I WOULDN'T FIND WHAT I WAS LOOKING FOR IN
3 THAT HOUSE. I DID NOT ASK HIM TO ELABORATE ON THAT
4 STATEMENT.

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1 Q TOO, AS I UNDERSTAND YOUR ANSWER, YOUR FIRST
2 CONCERN YOU HAD, YOU FELT IF YOU TOLD MR. WAPNER THAT YOU
3 WERE GOING TO SEARCH THE RESIDENCE, THAT MR. WAPNER WOULD
4 FEEL SOME INCUMBENCY TO TELL ME THERE WAS GOING TO BE AN
5 EXERCISE OF A SEARCH WARRANT BY A LAW ENFORCEMENT AGENCY?

6 A I DIDN'T SAY I FELT THAT HE WOULD FEEL SOME
7 INCUMBENCY.

8 I SAID I WOULD CONSIDER IT A POSSIBILITY.

9 ALSO, I WOULDN'T WANT MR. WAPNER TO HAVE KNOWLEDGE
10 THAT POSSIBLY LATER YOU MIGHT INDICATE TO THE COURT HE WAS
11 CONCEALING FROM THE COURT.

12 I WANTED MR. WAPNER TO FIND OUT AT THE SAME TIME
13 YOU DID SO THAT HE COULD HONESTLY STAND BEFORE THE JUDGE AND
14 SAY "I KNEW NOTHING ABOUT IT. I HAVE CONCEALED NOTHING."

15 SO I WAS ATTEMPTING TO LOOK OUT FOR HIS INTEREST.

16 THE COURT: THAT IS WHAT HE DID, BY THE WAY.

17 THE WITNESS: I AM SURE HE DID.

18 MR. BARENS: I, TOO, HAVE ALWAYS TOLD MR. WAPNER I
19 BELIEVED MR. WAPNER HAD NO PRIOR KNOWLEDGE, AS I SAID FROM
20 THE OUTSET, YOUR HONOR.

21 Q IN ANY EVENT, WHY WAS IT YOU WERE CONCERNED THAT
22 MR. WAPNER BE ABLE TO TELL THE JUDGE THAT HE DIDN'T KNOW
23 ANYTHING ABOUT THIS?

24 A I THINK IT IS JUST A PERSONAL OPINION.

25 Q COULD I HAVE WHAT THE GENESIS OF THAT OPINION
26 IS, SIR?

27 A LIKE I SAID, I THINK MR. WAPNER IS A VERY HONEST
28 MAN AND I THINK THAT HE HAS PROBABLY BEEN EXTREMELY OPEN IN

1 HIS COMMUNICATIONS, NOT ONLY WITH DEFENSE COUNSEL, BUT WITH
2 THE COURT. AND I WAS AFRAID HE MIGHT INADVERTENTLY SAY SOME-
3 THING IF HE DIDN'T DO IT INTENTIONALLY.

4 I DIDN'T WANT TO JEOPARDIZE MY POSITION AND I
5 DIDN'T WANT HIS POSITION WITH THE COURT JEOPARDIZED.

6 Q DID YOU EVER TELL LES ZOELLER, "LISTEN, LES,
7 BE SURE AND DON'T TELL FRED WAPNER WHO YOU ARE WORKING FOR
8 ON THIS. DO NOT LET MR. WAPNER KNOW WHAT YOU ARE DOING?"

9 A I DON'T THINK I SAID THAT TO ZOELLER.

10 I DID SAY, "I AM NOT TELLING FRED."

11 I DID NOT SPECIFICALLY TELL HIM NOT TO, BUT I
12 DID TELL HIM WHY I WASN'T AND ASSUMED HE WOULD GO ALONG WITH
13 MY FEELINGS.

14 Q YOU TOLD LES ZOELLER THAT YOU DIDN'T TELL
15 MR. WAPNER ABOUT THIS BECAUSE YOU WERE AFRAID THAT MR. WAPNER
16 WOULD LET THE JUDGE OR THE COUNSEL KNOW ABOUT THIS PLANNED
17 ACTIVITY?

18 A I WASN'T CONCERNED THAT HE TELL THE JUDGE.

19 I WAS CONCERNED THAT HE WOULD TELL YOU.

20 Q WHY WAS THAT? DID YOU PRESUME I WOULD IMMEDIATELY
21 TELL THAT TO MY CLIENT?

22 A I FELT THE TYPE OF ATTORNEY YOU ARE, THINKING
23 IT WAS IN YOUR CLIENT'S BEST INTEREST, YOU WOULD TELL YOUR
24 CLIENT, YES.

25 Q WHY DID IT OCCUR TO YOU THAT MR. WAPNER WOULD
26 KNOWINGLY TELL THE DEFENSE COUNSEL SOMETHING THAT WOULD
27 EFFECTIVELY -- COULD EFFECTIVELY DEFEAT THE EXERCISE OF YOUR
28 WARRANT; DOES THAT SEEM REASONABLE TO YOU, MR. BREILING?

1 A I SAID THAT HE MIGHT INADVERTENTLY DO THAT.

2 I DIDN'T SAY THAT HE WOULD DIRECTLY DO IT. IT
3 IS POSSIBLE HE COULD HAVE. I CONSIDERED THAT POSSIBILITY.

4 BUT AS I TRIED TO PREFACE THAT BY SAYING THAT
5 I THINK OUT OF AN ABUNDANCE OF CAUTION ON MR. WAPNER'S PART
6 TO TRY TO KEEP THIS CASE CLEAN DOWN HERE, HE MIGHT DO SOMETHING
7 LIKE THAT.

8 Q WERE YOU AWARE THAT MR. WAPNER HAD COME FORTH
9 TO THE COURT AND TOLD THE COURT ABOUT AN ALLEGED HOMICIDE
10 THAT DEAN KARNY WAS INVOLVED IN IN HOLLYWOOD?

11 A YES, I WAS.

12 Q WERE YOU CONCERNED THEN THAT IF HE WAS THAT FORTH-
13 COMING ABOUT THE KARNY HOMICIDE, HE MIGHT BE THAT FORTHCOMING
14 ABOUT YOUR SEARCHING THE ROBERTS RESIDENCE?

15 A I CONSIDERED THAT POSSIBILITY, YES.

16 Q HAD YOU CONSIDERED TELLING MR. WAPNER ABOUT YOUR
17 ANTICIPATED SEARCH OF THE ROBERTS RESIDENCE BEFORE YOU BECAME
18 AWARE THAT HE HAD DIVULGED THE SECRET OF THE KARNY HOMICIDE
19 IN HOLLYWOOD TO THE JUDGE?

20 THE COURT: WHAT?

21 THE WITNESS: I AM SORRY. I DON'T --

22 THE COURT: I DON'T GET THAT QUESTION.

23 MR. WAPNER: THERE IS AN OBJECTION. IT IS VAGUE AND
24 UNINTELLIGIBLE.

25 THE COURT: REPHRASE IT.

26 Q BY MR. BARENS: BEFORE YOU BECAME AWARE THAT
27 MR. WAPNER HAD TOLD THE JUDGE ABOUT THE POTENTIAL INVOLVEMENT
28 OF KARNY IN THE HOLLYWOOD HOMICIDE, AT THAT POINT IN TIME

1 HAD YOU DETERMINED WHETHER OR NOT YOU WERE GOING TO TELL MR.
2 WAPNER ABOUT YOUR ANTICIPATED SEARCH OF THE ROBERTS RESIDENCE?

3 A IF I UNDERSTAND YOUR QUESTION CORRECTLY, I WOULD
4 HAVE TO RESPOND THIS WAY: MY SEARCH WARRANT INFORMATION
5 DIDN'T COME TO ME UNTIL AFTER THE HOLLYWOOD HOMICIDE
6 INFORMATION THAT YOU ARE MAKING REFERENCE TO, SO I COULDN'T
7 HAVE KNOWN ABOUT IT BEFORE.

8 Q DID YOU EVER DISCUSS WITH MR. WAPNER THE FACT
9 THAT HE HAD DIVULGED THE HOLLYWOOD HOMICIDE INFORMATION
10 INVOLVING DEAN KARNY TO THE JUDGE?

11 A ME PERSONALLY, NO.

12 Q DID YOU EVER MAKE IT KNOWN TO ANY PERSON THAT
13 YOU TOOK EXCEPTION TO MR. WAPNER'S HAVING DIVULGED THAT TO
14 THE COURT?

15 A I HAVE NEVER TAKEN EXCEPTION TO ANYTHING MR.
16 WAPNER WOULD DO IN THE PRESENCE OF THE COURT.

17 Q ALL RIGHT. DID YOU FEEL THAT YOU SHOULD HAVE
18 DISCUSSED THE PROPRIETY OF YOUR EXERCISING A WARRANT, A
19 SEARCH WARRANT ON THE DEFENDANT'S RESIDENCE WITH A DEPUTY
20 DISTRICT ATTORNEY HANDLING THE CASE PRIOR TO THE TIME YOU
21 DID SO, IN A METHOD TO BE CAUTIONARY, IN ORDER TO AVOID ANY
22 DISRUPTION OF THE DEFENDANT'S RIGHTS IN THE TRIAL; DID THAT
23 EVER OCCUR TO YOU?

24 A I FIGURED THAT HE --
25 WELL, LET ME ANSWER YOUR QUESTION. NO.

26 Q IT NEVER OCCURRED TO YOU?

27 A WELL, NO.

28 I AM NOT CONCERNED THAT WHAT I WAS GOING TO BE

1 DOING WOULD VIOLATE THE DEFENDANT'S RIGHTS.

2 IF I FELT THAT I WAS GOING TO BE VIOLATING HIS
3 RIGHTS OR INTERFERING WITH DUE PROCESS OF LAW, AS I TOLD
4 MR. CHIER AT THE SCENE, I WOULD NOT HAVE DONE IT.

5 I THOUGHT THAT EVERYTHING THAT I WAS DOING WAS
6 LEGAL, ETHICAL AND MORAL.

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1 Q I AM SURE YOU DID HAVE THAT STATE OF MIND, MR.
2 BREILING, AND I DON'T DISPUTE YOUR OSTENSIVE -- THAT YOU
3 BELIEVED YOUR OUTLOOK WAS THAT YOU WERE ACTING PROPERLY, I
4 AM NOT DISPUTING THAT.

5 WHAT I AM ASKING ABOUT IS, AS A MATTER OF PROTOCOL
6 AND PROPER PROCEDURE, IT NEVER OCCURRED TO YOU THAT OUT OF
7 CAUTION YOU SHOULD PROBABLY MENTION TO THE D.A. DOWN HERE
8 "LISTEN, WE ARE GOING TO DO THIS, DO YOU THINK THERE IS ANYTHING
9 WE SHOULD DO TO BE CAUTIONARY SO THAT WE DON'T RESULT IN THE
10 REVERSAL OF YOUR TRIAL OR A MISTRIAL DOWN THERE IN L.A. OR
11 A DISMISSAL OF YOUR TRIAL DOWN IN L.A." IT NEVER OCCURRED
12 TO YOU TO DO THAT?

13 A I TOLD YOU I SAID I DID CONSIDER THE POSSIBILITY
14 OF EITHER TELLING HIM OR NOT. I CONSIDERED IT IN HIS BEST
15 INTEREST AND THE BEST INTEREST OF THE CASE THAT I DON'T, SO
16 IT WAS TAKEN INTO CONSIDERATION, YES.

17 Q DIDN'T YOU THINK YOU COULD HAVE TAKEN A PROPHYLACTIC
18 IN HAVING DISCUSSED THIS WITH MR. WAPNER AND SAID TO HIM,
19 "LISTEN, MR. WAPNER, I AM TELLING YOU, BUT BE SURE AND DON'T
20 SLIP INADVERTENTLY AND SAY ANYTHING TO DEFENSE COUNSEL ABOUT
21 OUR CONVERSATION."

22 THE COURT: WHAT DOES THAT HAVE TO DO WITH THE ISSUE
23 IN THIS CASE?

24 MR. BARENS: WELL, BECAUSE --

25 THE COURT: IT HAS NOTHING TO DO AT ALL WITH THE ISSUE
26 IN THIS CASE.

27 THE ISSUE IN THIS CASE IS VERY SIMPLE, AS YOU
28 KNOW: WAS THERE ANYTHING TAKEN IN THIS CASE WHICH IS

1 CONFIDENTIAL AND IMPROPER AND IN ANY WAY INTERFERES WITH THE
2 DEFENSE?

3 MR. BARENS: I THINK IT GOES BEYOND BEING TAKEN BUT
4 AS WE SAY --

5 THE COURT: OR EVEN READING IT.

6 MR. BARENS: YES, YOUR HONOR.

7 THE COURT: YOU CAN ASK HIM WHETHER HE READ IT AND
8 COMMUNICATED THAT TO ANYONE.

9 MR. BARENS: I AM PROCEEDING ALONG HERE, YOUR HONOR.

10 THE COURT: ALL RIGHT. LET'S MAKE HASTE.

11 Q BY MR. BARENS: NOW, DID YOU EVER DISCUSS WITH
12 EITHER OF ANY OF THE THREE LAWYERS THAT YOU REFERENCED WITH
13 YOUR AFFIDAVIT, THE FACT THAT WHETHER YOU WERE GOING TO TELL
14 MR. WAPNER OR NOT?

15 A YES.

16 Q WHOM DID YOU DISCUSS THAT WITH?

17 A JOHN VANCE.

18 Q AND WHAT DID MR. VANCE TELL YOU HIS OPINION WAS
19 ON THE PROPRIETY OF WHETHER OR NOT YOU OUGHT TO TELL MR. WAPNER?

20 A HE AGREED.

21 Q AND WHAT WAS HIS AGREEMENT -- WHAT DID HE TELL
22 YOU WHY HE AGREED WITH YOU?

23 A I DON'T RECALL ANY SPECIFIC REASONS THAT HE GAVE.

24 I ENUMERATED MY BELIEF TO HIM. HE AGREED.

25 Q THAT FRED MIGHT SLIP AND SAY SOMETHING -- MR.
26 WAPNER MIGHT SLIP AND SAY SOMETHING?

27 A HE MIGHT EITHER SAY INADVERTENTLY OR MIGHT DO
28 SOMETHING DIRECTLY, YES.

1 Q NOW, YOU NEVER DISCUSSED THAT ISSUE WITH THE
2 OTHER TWO LAWYERS, MR. BASS OR THE HEAD OF THE DEPARTMENT
3 THERE?

4 A I DID NOT DISCUSS IT WITH MR. BASS.

5 Q OR THE OTHER GENTLEMAN?

6 A I DON'T RECALL WHETHER I DISCUSSED IT WITH MR.
7 GORDINER OR NOT. I MAY HAVE.

8 Q DO YOU RECALL IF HE AGREED OR DISAGREED, IF YOU
9 DID DISCUSS IT WITH HIM, IF HE AGREED OR DISAGREED WITH YOUR
10 OPINION?

11 A IF HE HAD DISAGREED, IT WOULD HAVE BEEN DONE
12 DIFFERENTLY.

13 HE IS THE BOSS.

14 Q I DON'T KNOW.

15 A I AM JUST MAKING THAT STATEMENT.

16 Q ALL RIGHT. WERE YOU AWARE WHO THE TRIAL JUDGE
17 UP THERE IN SAN MATEO IS ON THE ESLAMINIA CASE, WEREN'T YOU?

18 A JUDGE MILLER, I BELIEVE, HAS BEEN ASSIGNED, THAT
19 IS CORRECT.

20 Q RIGHT.

21 HAD YOU EVER GOTTEN A SEARCH WARRANT FROM JUDGE
22 MC DONALD BEFORE?

23 A NO.

24 Q WHY IN THIS INSTANCE, INSTEAD OF GOING TO THE
25 TRIAL JUDGE FOR THE ISSUANCE OF THE WARRANT, DID YOU GO TO
26 JUDGE MC DONALD, WHO WASN'T INVOLVED WITH THE CASE?

27 A I CALLED THE SUPERIOR COURT CLERK'S OFFICE FROM
28 SAN FRANCISCO, THIS IS IN SAN MATEO, AND ASKED IF THEY HAD

1 A JUDGE AVAILABLE TO REVIEW THE WARRANT. THEY SAID THE ONLY
2 ONE AVAILABLE WAS JUDGE MC DONALD.

3 Q DID YOU EVER ASK JUDGE MILLER IF HE WAS AVAILABLE
4 TO REVIEW THE WARRANT?

5 A NO.

6 Q ANY PARTICULAR REASON YOU DIDN'T GO TO JUDGE
7 MILLER?

8 A I TOLD YOU, AS SOON AS MY WARRANT WAS AUTHORIZED
9 TO PRESENT IT TO A JUDGE BY MY SUPERIORS, I CALLED THE SUPERIOR
10 COURT CLERK'S OFFICE IN SAN MATEO COUNTY, ASKED THEM IF THEY
11 HAD A SUPERIOR COURT JUDGE AVAILABLE TO REVIEW MY WARRANT.
12 THEY SAID THE ONLY ONE THAT THEY HAD WAS MC DONALD, SO I TOOK
13 HIM.

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1 Q DID YOU MENTION TO JUDGE MC DONALD THAT
2 JUDGE MILLER WAS HANDLING THE CASE?

3 A NO. I DON'T THINK I DID.

4 Q WASN'T IT YOUR PRACTICE IN THE PAST TO GO TO THE
5 TRIAL JUDGE FOR YOUR WARRANT MATERIALS?

6 A NO.

7 Q YOU HAD NEVER DONE THAT IN THE PAST?

8 A NO. I CAN'T SAY THAT I HAVE.

9 THE OTHER WARRANTS THAT I HAVE GOTTEN DOING THIS
10 CASE, HAVE ALL BEEN THROUGH THE MUNICIPAL COURT.

11 I HAVE GONE TO MUNICIPAL COURT JUDGES IN SANTA
12 CLARA, SAN MATEO, AND SAN FRANCISCO COUNTIES.

13 Q DID YOU EVER DISCUSS WITH MR. VANCE, WHO YOU WERE
14 GOING TO GO BEFORE FOR THE ISSUANCE OF THE WARRANT?

15 A NO, NOT IN ADVANCE. I JUST TOLD HIM I HAD A JUDGE.

16 Q AFTER THE FACT, SIR?

17 A AFTER I FOUND OUT THAT MC DONALD WAS AVAILABLE.

18 Q SO YOU TELL ME TRUE, THAT THERE WAS NO PARTICULAR
19 REASON OTHER THAN SOME MECHANICAL REASON AS TO WHY YOU DIDN'T
20 GO TO JUDGE MILLER?

21 A THAT'S IT.

22 Q ALL RIGHT. NOW, PRIOR TO THE ISSUANCE OF THE
23 WARRANT, HAD YOU TALKED TO ANY POLICE OFFICERS IN SOUTHERN
24 CALIFORNIA?

25 A DURING MY 25-YEAR CAREER?

26 Q NO. NO, SORRY, SIR. WITH REFERENCE TO YOUR
27 INTENT AND I THINK YOU KNOW MR. BREILING, WHAT I AM REFERRING
28 TO, PRIOR TO THE TIME THAT YOU SOUGHT THE ISSUANCE OF THE

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1 WARRANT, DID YOU TALK TO ANY OFFICERS IN SOUTHERN CALIFORNIA
2 IN ANY WAY, IN CONJUNCTION WITH YOUR INTENTION TO EXERCISE
3 THIS WARRANT?

4 A YES I DID.

5 Q RIGHT. PRIOR TO THE ISSUANCE OF THE WARRANT?

6 A YES.

7 Q WHO DID YOU TALK TO?

8 A THE WARRANT WAS SIGNED ON THE 6TH. I THINK ON
9 THE 5TH OF DECEMBER, I TALKED TO LES ZOELLER FROM BEVERLY
10 HILLS P.D.

11 Q NOW, WERE YOU FAMILIAR WITH THE RELATIONSHIP BETWEEN
12 LES ZOELLER AND FRED WAPNER, VIS-A-VIS THE PROSECUTION OF
13 JOE HUNT IN LOS ANGELES?

14 A I KNOW THAT LES ZOELLER IS THE INVESTIGATING
15 OFFICER IN THAT CASE, YES.

16 Q WERE YOU FAMILIAR THAT HE WAS IN CONTACT WITH
17 THE DISTRICT ATTORNEY IN THIS CASE?

18 A I WOULD ASSUME SO, YES.

19 Q AND WERE YOU FAMILIAR WITH THE FACT THAT HE WAS
20 IN CONTACT WITH ALL OF THE PROSECUTION WITNESSES IN THIS CASE?

21 A I WOULD ASSUME SO, YES.

22 Q NOW, WERE YOU FAMILIAR WITH THE FACT THAT HE HAD
23 PREVIOUSLY SEARCHED VARIOUS LOCATIONS IN SOUTHERN CALIFORNIA
24 FOR MATERIALS INVOLVED WITH YOUR CASE?

25 A YES.

26 Q NOW, WERE YOU ALSO FAMILIAR AND HAD A STATE OF
27 MIND THAT THE DEFENDANT MIGHT HAVE IN HIS POSSESSION, ATTORNEY/
28 CLIENT MATERIALS REFERRABLE TO HIS DEFENSE IN THIS CASE?

1 A I HAVE ALREADY TESTIFIED TO THAT, YES.

2 Q YET NONETHELESS, YOU SOUGHT THE ASSISTANCE OF
3 THE CHIEF INVESTIGATING OFFICER IN THE PROSECUTION AGAINST
4 MR. HUNT IN THIS CASE, TO ASSIST YOU IN AFFECTING A SEARCH
5 WARRANT ON THE ROBERTS' RESIDENCE?

6 A THAT'S A CORRECT STATEMENT.

7 Q WHY DID YOU ASK ZOELLER TO ASSIST YOU IN THE
8 SEARCH?

9 A I HAVE KNOWN LES TWO YEARS, AS WELL, BECAUSE HE
10 HAS BEEN TREMENDOUSLY HELPFUL TO ME IN MY CASE.

11 AND AS A MATTER OF FACT, THE RECOVERY OF MY BODY,
12 WHAT WAS LEFT OF IT, WAS ACCOMPLISHED WHEN THE INFORMANT IN
13 THE CASE, WENT WITH LES OUT INTO THE ANGELES NATIONAL FOREST.

14 SO, HE IS VERY INTIMATE WITH MY CASE. THERE IS
15 NOBODY SOUTH OF THE TEHACHAPIS THAT KNOWS MORE ABOUT MY CASE
16 THAN LES ZOELLER.

17 IT WOULD ALMOST BE SAFE TO SAY THAT THERE IS NO
18 SWORN OFFICER IN THE STATE OF CALIFORNIA THAT KNOWS MORE ABOUT
19 MY CASE THAN LES ZOELLER.

20 Q THERE IS NO OFFICER SOUTH OF THE TEHACHAPIS WITH
21 MORE KNOWLEDGE ABOUT THE LEVIN CASE ALSO, IS THERE,
22 MR. BREILING?

23 A I WOULDN'T BE ABLE TO SAY THAT BECAUSE I DON'T
24 KNOW WHAT OFFICERS IN BEVERLY HILLS DO OR DO NOT KNOW.

25 Q WELL, YOU ARE PERSONALLY NOT AWARE OF ANY OFFICER,
26 ARE YOU, MORE INVOLVED IN THE LEVIN PROSECUTION THAN
27 MR. ZOELLER IS, MR. BREILING, ARE YOU?

28 A PRESENTLY, NO. HE IS THE LEAD OFFICER.

1 I KNOW ORIGINALLY, THERE WAS A DETECTIVE RICK
2 KING, I BELIEVE, WHO WAS INVOLVED WITH HIM.

3 AND I DON'T KNOW WHETHER LES HAD ANOTHER PARTNER
4 OR NOT.

5 Q WELL, YOU HAVE NOT HEARD ANYTHING ABOUT MR. KING
6 FOR TWO YEARS, HAVE YOU?

7 A YES, ABOUT TWO YEARS, I GUESS.

8 Q IT HAS BEEN TWO YEARS SINCE YOU HEARD HE WAS
9 INVOLVED IN THIS CASE?

10 A THAT'S TRUE.

11 Q FOR THE LAST TWO YEARS, THE ONE YOU HAVE ALWAYS
12 SEEN AS THE LEADING INVESTIGATING OFFICER FOR THE PROSECUTION
13 IN THIS CASE, IS LES ZOELLER?

14 A ABSOLUTELY.

15 Q WELL, DIDN'T YOU THINK IT WAS RISKY INVITING THE
16 CHIEF INVESTIGATING OFFICER ON THIS MURDER PROSECUTION DOWN
17 HERE, INTO THE DEFENDANT'S BEDROOM?

18 A NO, NOT REALLY. MR. BARENS, I BASED PART OF THAT
19 DECISION UPON REPRESENTATIONS MADE BY YOU IN COURT IN
20 SAN FRANCISCO.

21 YOU SAID IN COURT THAT IF MR. HUNT WAS ALLOWED
22 TO BE OUT ON BAIL, HE WOULD BE IN YOUR OFFICE ON A DAILY BASIS,
23 WORKING ON HIS DEFENSE.

24 Q YES, SIR.

25 A I WAS LED TO BELIEVE BY THOSE STATEMENTS THAT
26 THAT IS EXACTLY WHAT WOULD HAPPEN. THEREFORE, DEFENSE-
27 RELATED MATERIAL WOULD LOGICALLY BE FOUND FOR THE MOST PART,
28 IN YOUR OFFICES, IF ANYTHING. THAT IS, RATHER THAN HAVE

A-5 1 SOMETHING AT HOME. IF IT WAS, IT WOULDN'T BE OF ANY GREAT VOLUME

2 Q MR. BREILING, WOULD IT NOT BE FAIR TO SAY THAT
3 THROUGHOUT YOUR CAREER, YOU HAVE TAKEN HOMEWORK HOME WITH
4 YOU?

5 A CERTAINLY.

6 Q WOULD IT NOT BE FAIR TO SAY THAT AT ANY GIVEN
7 TIME, WERE I TO COME INTO YOUR HOME, IT IS VERY LIKELY THAT
8 I WOULD FIND MATERIALS THAT INVOLVE CASES YOU ARE WORKING
9 ON PRESENTLY IN YOUR HOME?

10 A QUITE POSSIBLY.

11 Q WOULDN'T IT BE FAIR TO SAY THAT IF YOU WERE ON
12 TRIAL FOR YOUR LIFE, THAT IT WOULD BE REASONABLE THAT YOU
13 WOULD HAVE A LOT OF MATERIALS YOU WERE WORKING ON AND
14 PREPARING FOR YOUR LAWYERS IN YOUR BEDROOM?

15 A NO. I WOULDN'T SAY THAT.

16 IF I HAD A LAWYER AND IF I WAS IN HIS OFFICES
17 EVERY DAY, I WOULD EXPECT THAT THE VOLUME OF MY MATERIAL WOULD
18 BE IN MY LAWYER'S OFFICES WHERE I WAS WORKING.

19 YES, I WOULD BRING HOME HOMEWORK. THEREFORE,
20 I WOULD HAVE A MUCH SMALLER VOLUME OF MATERIAL AT HOME THAN
21 IN MY LAWYER'S OFFICES.

22 Q AND IT WOULDN'T OCCUR TO YOU THAT YOU MIGHT KEEP
23 A MIRROR REFLECTION OF THE FILES THAT WERE AT THE LAW
24 OFFICE, AT HOME WITH YOU FOR FOLLOW-UP WORK? IT WOULD NEVER
25 OCCUR TO YOU THAT THAT MIGHT BE POSSIBLE?

26 A I HAVE NEVER BEEN A DEFENDANT IN A MURDER CASE,
27 SO IT HAS NEVER BEEN A SITUATION THAT I HAD TO FACE.

28 Q WELL, WOULDN'T IT BE REASONABLE TO YOU TO ASSUME

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1 IN YOUR STATE OF MIND, THAT A DEFENDANT IN A MURDER TRIAL
2 FACING A POSSIBLE EXECUTION, MIGHT HAVE A BIT MORE HOMEWORK
3 AT HOME THAN YOU MIGHT WHEN YOU ARE WORKING ON ONE OF YOUR
4 CASES?

5 A I THINK AS I TESTIFIED, I EXPECTED HIM TO HAVE
6 MATERIALS AT HOME. AND I DIDN'T WANT TO GET INTO THOSE
7 MATERIALS. AND I THINK WHAT YOU ARE LEADING UP TO IS, WHY
8 DID I TAKE LES ZOELLER.

9 HE WOULD HAVE A FAR BETTER KNOWLEDGE OF THOSE
10 MATERIALS THAN I AND BE ABLE TO IDENTIFY THEM EVEN MUCH
11 QUICKER THAN I.

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1 Q BUT HE COULDN'T IDENTIFY THEM, MR. BREILING, UNLESS
2 HE LOOKED AT THEM?

3 MR. WAPNER: OBJECTION, ARGUMENTATIVE.

4 Q BY MR. BARENS: HOW COULD HE?

5 THE COURT: SUSTAINED.

6 Q BY MR. BARENS: MR. BREILING, THE WAY HUMANS OPERATE,
7 TO IDENTIFY SOMETHING, I PRESUME ONE HAS TO LOOK AT IT, SIR?

8 MR. WAPNER: OBJECTION, ARGUMENTATIVE.

9 THE COURT: I WILL LET HIM ANSWER IT.

10 MR. BARENS: THANK YOU, YOUR HONOR.

11 Q IS THAT CORRECT, MR. BREILING?

12 A CERTAINLY, I CAN'T IDENTIFY SOMETHING BY SIGHT
13 WITHOUT LOOKING AT IT, THAT'S CORRECT.

14 Q WELL, YOU KNOW HE WAS NOT GOING UP THERE ON
15 BRAILLE, MR. BREILING. WE KNOW THAT HE WOULD HAVE TO LOOK
16 AT THINGS TO IDENTIFY THEM.

17 THE COURT: WELL, LET'S GET SPECIFIC. DO YOU KNOW OF
18 ANY DOCUMENTS WHICH WERE OF A CONFIDENTIAL NATURE, DEFENSE-
19 RELATED THAT YOU KNOW THAT MR. ZOELLER LOOKED AT AND READ?

20 MR. BARENS: OBJECTION, HEARSAY. BUT OBVIOUSLY, YOU
21 WILL PROCEED ANYHOW.

22 THE COURT: SURELY. I CAN ASK MY OWN QUESTIONS. YOU
23 DON'T THINK I WILL OVERRULE IT?

24 MR. BARENS: I KNOW. BUT I HAVE TO MAKE THE OBJECTION
25 FOR THE RECORD. IT IS A HEARSAY QUESTION.

26 THE COURT: YOU CAN ANSWER THAT QUESTION.

27 THE WITNESS: I DO NOT KNOW MR. ZOELLER SAW ANYTHING
28 DEFENSE-RELATED. HE HAS PERSONALLY TOLD ME THAT HE DID NOT.

1 I TAKE HIM AT HIS WORD.

2 Q BY MR. BARENS: WHAT CAN I DO? I CAN'T.

3 IN ANY EVENT, DID YOU EVER SEE MR. ZOELLER LOOK
4 AT ANYTHING THAT YOU GENTLEMEN DECIDED WAS SOMETHING HE
5 SHOULDN'T SEE?

6 A THE THINGS THAT I SAW MR. ZOELLER LOOKING AT,
7 I SEIZED.

8 THE COURT: YOU DID WHAT?

9 THE WITNESS: I SEIZED.

10 Q BY MR. BARENS: DID YOU SEE ANYTHING THAT
11 MR. ZOELLER LOOKED AT THAT YOU DID NOT SEIZE?

12 A NO.

13 Q SO IN OTHER WORDS, ZOELLER NEVER SAW ANYTHING
14 THAT WAS NOT SEIZED?

15 A TO THE BEST OF MY KNOWLEDGE, THE ONLY THING THAT
16 HE TOOK OR LOOKED AT IS WHAT I SEIZED. HE MAY HAVE PUT
17 SOME THINGS ASIDE. BUT I CAN'T TELL YOU THE REASONS THAT
18 HE WOULD HAVE SET THEM ASIDE.

19 THE COURT: DON'T YOU THINK WE OUGHT TO RESERVE THESE
20 QUESTIONS FOR MR. ZOELLER?

21 MR. BARENS: WELL, JUST A COUPLE MORE ON THIS, IF YOU
22 WOULD.

23 Q YOU AREN'T AWARE OF EVERYTHING MR. ZOELLER LOOKED
24 AT, ARE YOU?

25 A THAT'S CORRECT.

26 Q YOU WEREN'T PRESENT AT ALL TIMES DURING HIS
27 EXAMINATION OF MATERIALS, WERE YOU?

28 A THAT'S CORRECT.

1 THE COURT: AT ANY RATE, THE FACT IS, YOU DID ADMONISH
2 HIM, DID YOU NOT, NOT TO EXAMINE ANYTHING IN ANY WAY DEFENSE-
3 RELATED OR THAT MIGHT INVOLVE A CONFIDENTIAL COMMUNICATION
4 BETWEEN ATTORNEY AND CLIENT?

5 THE WITNESS: THAT'S CORRECT.

6 THE COURT: ALL RIGHT.

7 Q BY MR. BARENS: NOW, HOW DID YOU DETERMINE WHO
8 WAS GOING TO COMPOSE YOUR TEAM FOR THE SEARCH OF THE ROBERTS'
9 RESIDENCE?

10 A HOW DID I DETERMINE THAT?

11 Q YES.

12 A WELL, THE DAY BEFORE OR THE EVENING BEFORE THIS
13 SEACH, I HAD MR. ZOELLER DRIVE ME TO THE AREAS SO THAT I COULD
14 LOOK AT THE PLACE. IT IS SURROUNDED BY HEDGES. BUT I WAS
15 ABLE TO DETERMINE THAT THERE WERE AT LEAST TWO BUILDINGS THAT
16 LOOKED -- WELL, WHAT LOOKED LIKE TWO BUILDINGS.

17 Q HAD YOU NOT SEEN THE ROBERTS' RESIDENCE PRIOR
18 TO THIS OCCASION?

19 A I HAD BEEN BY IT. I HAD NOT LOOKED AT IT. I
20 HAD NOT BEEN INSIDE.

21 I HAD NO IDEA WHAT THE INSIDE WAS LIKE. INSIDE
22 THE GROUNDS, I DIDN'T KNOW HOW MANY BUILDINGS WERE THERE.
23 I HAD INITIALLY PLANNED TO SERVE THE WARRANT WITH ONE TEAM,
24 GOING TO ONE HOUSE.

25 THE DAY BEFORE, I WENT OUT AND I SAW THAT THERE
26 WAS AT LEAST ONE GARAGE OR OUTBUILDING. AND SO WHEN I SET
27 UP THE PLAN THE FOLLOWING MORNING, I REQUESTED THAT ZOELLER
28 GO TO THE DETACHED HOUSE, THINKING THAT THIS PROBABLY WOULD

1 BE WHERE MR. HUNT WOULD BE RESIDING.

2 Q BY THE WAY, WHEN HAD YOU BEEN BY THE HOUSE
3 PREVIOUSLY?

4 A WHEN DID I FIRST MEET YOU, MR. BARENS, DOWN HERE?

5 Q IT WOULD BE ROUGHLY I REMEMBER THE DAY VIVIDLY --
6 ACTUALLY, IT WAS THAT DAY YOU WALKED IN WITH THAT WARRANT
7 FROM UP NORTH. YES, INDEED, I KNEW IT WAS YOU BEFORE I MET
8 YOU.

9 I THINK IT WAS NOVEMBER 19, 1984.

10 A NO. I DIDN'T GET THE WARRANT UNTIL NOVEMBER 29.

11 Q NOVEMBER 29? SO IT WAS -- I STAND CORRECTED.
12 I WOULD SAY IT WAS AROUND THAT DAY.

13 A OKAY. SO I WOULD SAY PROBABLY THE FIRST PART
14 OF 1985, WHEN I CAME DOWN AND LOCATED THE BBC OFFICES, THE
15 ROBERTS' RESIDENCE, YOUR RESIDENCE AND YOUR OFFICES.

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1 Q BY MR. BARENS: WHY IN THE WORLD WERE YOU INTERESTED
2 IN MY RESIDENCE?

3 A CURIOUS.

4 Q WHY WAS THAT?

5 MR. WAPNER: OBJECTION. RELEVANCE. WHAT ARE WE DOING
6 HERE?

7 THE COURT: I WILL SUSTAIN THE OBJECTION.

8 Q BY MR. BARENS: WHAT IS THE RELEVANCE OF THAT TO
9 BEGIN WITH, MR. BREILING?

10 IN ANY EVENT, YOU DROVE BY THE ROBERTS RESIDENCE
11 BACK THEN IN DECEMBER?

12 A DROVE BY THE PROPERTY, THAT IS CORRECT.

13 Q IN DECEMBER OF '84?

14 DID YOU GO BY THERE ON MORE THAN ONE OCCASION?

15 A I WANT TO SAY NO BUT IN THE INTEREST OF SAFETY,
16 I WILL SAY I WENT MORE THAN ONCE.

17 Q HOW DID YOU PICK THE EXACT OFFICERS THAT WERE
18 GOING TO ACCOMPANY YOU ON THE SEARCH AT THE ROBERTS RESIDENCE?

19 A I HAVE ALREADY EXPLAINED TO YOUR SATISFACTION,
20 EVEN THOUGH PERHAPS YOU DON'T AGREE, LES ZOELLER, THAT IS
21 CORRECT.

22 Q I UNDERSTAND YOU PICKED MR. ZOELLER.

23 A RIGHT.

24 Q ASIDE FROM MR. ZOELLER, YOU HAD OTHER PEOPLE?

25 A RIGHT.

26 MR. WAPNER: I WANT TO OBJECT TO THIS ON THE GROUNDS
27 OF RELEVANCY.

28 MR. BARENS: I THINK IT IS QUITE WELL RELEVANT THAT

1 WE HAVE THE OFFICERS INVESTIGATING THE DEAN KARNY HOMICIDE,
2 AS PART OF THE SEARCH TEAM THAT GOES TO THE ROBERTS HOUSE,
3 WHY IN THE WORLD THOSE FOLKS THERE?

4 THE COURT: ALL RIGHT, THAT IS A QUESTION: WHY IN
5 THE WORLD WERE THOSE FOLKS DOWN THERE WITH YOU? TELL US
6 THAT, WILL YOU?

7 THE WITNESS: THOSE WERE THE ONLY TWO OFFICERS IN THE
8 ENTIRE L.A. POLICE DEPARTMENT THAT I KNOW.

9 I THOUGHT INITIALLY MR. ROBERTS' PROPERTY WAS
10 IN THE JURISDICTION OF BEVERLY HILLS. WHEN I FOUND OUT IT
11 WASN'T AND IT WAS IN LOS ANGELES, I GOT THOSE TWO.

12 Q BY MR. BARENS: AND YOU MEAN IT WAS JUST A
13 CONINCIDENCE THAT THE OFFICERS THAT ARE INVESTIGATING THE
14 KARNY MURDER IN HOLLYWOOD END UP SEARCHING JOE HUNT'S HOUSE?

15 A I DON'T UNDERSTAND WHAT YOU MEAN BY "KARNEY
16 MURDER".

17 THE COURT: WHAT DOES THAT MEAN?

18 MR. BARENS: WHAT DOES THAT MEAN?

19 THE COURT: YES.

20 MR. BARENS: THE ALLEGED --

21 THE COURT: WE HAVE GONE THROUGH ALL OF THAT. WE HAVE
22 INVESTIGATED ALL OF THAT. WE HAVE FOUND OUT IT WAS COMPLETELY
23 BASELESS, DIDN'T WE?

24 MR. BARENS: YOU MIGHT HAVE, YOUR HONOR.

25 THE COURT: YES. WE ALL DID.

26 MR. BARENS: NO, I DIDN'T. YOUR HONOR DID.

27 THE COURT: YOU DROPPED IT, DIDN'T YOU?

28 MR. WAPNER: FOR THE RECORD, YOUR HONOR, CAN WE JUST

1 HAVE A RULING FROM THE COURT THAT IT NOT BE REFERRED TO IN
2 THAT FASHION?

3 THE COURT: THAT IS RIGHT.

4 I WILL SUSTAIN THE OBJECTION TO THE QUESTION.

5 MR. BARENS: I WILL REFER TO IT AS THE INVESTIGATION IN
6 HOLLYWOOD THAT POTENTIALLY INVOLVED KARNY, DEAN KARNY AS THE
7 DEFENDANT IN A MURDER CASE.

8 THE COURT: AND OTHER PEOPLE, TOO.

9 MR. BARENS: THE ONLY ONE THAT WE WERE TOLD ABOUT BY
10 THE DISTRICT ATTORNEY WAS MR. KARNY, YOUR HONOR.

11 THE COURT: WELL, LET'S GO ON, WILL YOU?

12 Q BYMR. BARENS: IN ANY EVENT, IT WAS JUST A
13 COINCIDENCE, OFFICER ROZZI, WHO I BELIEVE WAS INVOLVED IN THAT,
14 AND OFFICER DIAZ, WHO WERE INVOLVED IN THAT, IT WAS JUST A
15 COINCIDENCE THAT THEY WENT TO THE ROBERTS RESIDENCE.

16 MR. WAPNER: ARGUMENTATIVE AND MISSTATES THE EVIDENCE.

17 THE COURT: HE CAN ANSWER IT. OVERRULED.

18 THE WITNESS: NO, IT WASN'T ANY COINCIDENCE.

19 I ASKED THEM SPECIFICALLY.

20 Q BY MR. BARENS: ALL RIGHT. DID YOU FEEL IN YOUR
21 MIND THAT ANY OF THEIR ACTIVITIES AT THE ROBERTS HOUSE THAT
22 DAY MIGHT THROW A LITTLE LIGHT ON THEIR INVESTIGATION ON THAT
23 HOLLYWOOD CASE?

24 A I HAD -- I DON'T KNOW WHAT IS GOING ON IN THAT
25 HOLLYWOOD CASE, OTHER THAN THAT I WAS ONE OF THE SUSPECTS,
26 TOO, MR. BARENS.

27 Q COULD YOU ANSWER MY QUESTION, MR. BREILING?

28 A WOULD YOU REPEAT IT, PLEASE?

1 MR. BARENS: IF YOU CAN READ IT BACK, PLEASE?

2 (WHEREUPON, THE PENDING QUESTION WAS
3 READ BY THE COURT REPORTER.)

4 THE WITNESS: I CAN'T SAY THAT THAT WOULD BE A FACTUAL
5 STATEMENT. IT WOULD BE NICE BUT I CAN'T SAY THAT THAT WAS
6 IT.

7 I SELECTED THEM SPECIFICALLY BECAUSE I KNEW THEM
8 IN HOLLYWOOD P.D. OR THE LOS ANGELES P.D., HOLLYWOOD DIVISION,
9 AND IT WAS IN THEIR JURISDICTION.

10 Q BY MR. BARENS: MR. BREILING, ISN'T IT A TRUE
11 STATEMENT THAT IT CROSSED YOUR MIND IN SELECTING THEM?

12 A OH, ABSOLUTELY TRUE, MR. BARENS.

13 Q YOU BET IT DID. IT CROSSED YOUR MIND, IF YOU
14 COULD ACCESS THOSE TWO FELLOWS IN HOLLYWOOD, IT MIGHT IN SOME
15 WAY ASSIST THEM IN THEIR INVESTIGATION INVOLVING THE HOLLYWOOD
16 CASE?

17 A WELL, NOW WAIT A MINUTE. YOU ARE STARTING TO
18 PUT WORDS INTO MY MOUTH.

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1 Q I DON'T MEAN TO.

2 THAT IS WHY I AM ASKING YOU THE QUESTION AND
3 YOU CAN TELL ME WHAT THE WORDS ARE.

4 A I SELECTED THEM TO CARRY OUT THE FUNCTIONS OF
5 MY WARRANT ON MY CASE.

6 Q RIGHT.

7 A THEY WERE SO INSTRUCTED.

8 Q YES, BUT WHAT WAS YOUR STATE OF MIND ABOUT WHAT
9 OTHER BENEFIT THAT MIGHT HAVE FOR THOSE OFFICERS, MR. BREILING?

10 A I TOLD THEM ALL IF THEY HAD THE OPPORTUNITY TO
11 SEE EVIDENCE OF ANY OTHER CRIME, AND I BELIEVE I USED THE
12 EXAMPLE OF NARCOTICS, SPECIFICALLY COCAINE, THAT YOU WILL
13 NOT BLIND YOURSELF TO THE EVIDENCE OF OTHER CRIMINAL ACTIVITY.

14 IF ANYTHING ELSE WAS SEEN, THE WARRANT WOULD
15 BE ENDED AT THAT POINT.

16 Q WHEN YOU SAID THAT, YOU HAD IN THE BACK OF YOUR
17 MIND THE HOLLYWOOD HOMICIDE, DIDN'T YOU?

18 A THE BACK OF MY MIND?

19 Q YES, SIR.

20 A IN THE BACK OF MY MIND, I GUESS YOU COULD SAFELY
21 SAY THAT, YEAH, IT WAS BACK THERE.

22 Q AND YOU THOUGHT THIS COULD DO NOTHING BUT HELP?

23 A WELL, NOW YOU ARE PUTTING WORDS IN MY MOUTH.

24 Q COULD HELP THEM. COULD HELP THEM, IS WHAT I
25 ASKED YOU, SIR.

26 A IF MR. HUNT IS INVOLVED IN THAT HOMICIDE AND
27 HE HAD EVIDENCE OF THAT AT THAT HOUSE AND THEY SAW IT, CERTAINLY
28 IT WOULD HELP THEM.

1 IF MR. HUNT IS NOT INVOLVED, THERE IS NO HELP
2 THERE AT ALL.

3 Q SURE. BUT ACCESSING THOSE SPECIFIC OFFICERS
4 WOULD HELP RESOLVE THAT QUESTION, WOULDN'T IT?

5 A I WOULD IMAGINE SO, MORE THEM THAN ANYBODY ELSE.

6 Q NOW LIKEWISE, WOULDN'T THE SAME STATEMENT BE
7 TRUE FOR YOUR ADMITTING LES ZOELLER TO THAT HOUSE, THAT PERHAPS
8 IN THE BACK OF YOUR MIND IT WAS THAT IF HE SAW ANYTHING THAT
9 MIGHT HELP HIM ON THE LEVIN PROSECUTION DOWN THERE, THAT THAT
10 COULD HAVE HELPED HIM OUT, TOO?

11 A WELL, CERTAINLY IT COULD HAVE.

12 IF I HAD COME UP WITH --

13 Q A WINDFALL; ISN'T THAT TRUE?

14 A NO.

15 MR. WAPNER: WAIT A MINUTE. HE DIDN'T FINISH ANSWERING
16 THE QUESTION.

17 THE COURT: LET HIM ANSWER THE QUESTION.

18 GO AHEAD AND ANSWER IT.

19 THE WITNESS: IF I HAD COME UP WITH ANYTHING RELATED
20 TO MR. LEVIN'S HOMICIDE, CERTAINLY MR. ZOELLER WOULD BENEFIT.
21 I DON'T KNOW HOW MANY TIMES I HAVE TO TELL YOU.

22 THEY WERE SPECIFICALLY INSTRUCTED: "LOOK FOR
23 THE ITEMS ONLY RELATED TO MY CRIME."

24 I AM NOT TAKING A BUNCH OF DUMMIES WITH ME WHEN
25 I SERVE A SEARCH WARRANT.

26 Q YOU BET. WE NOT ONLY DON'T HAVE A BUNCH OF
27 DUMMIES. WE HAVE A SUPERIOR, SOPHISTICATED, HEAD INVESTIGATING
28 OFFICER THERE ON THE LEVIN HOMICIDE AND HE CAN TAKE A LOOK

1 AROUND AND MAYBE HE WILL SEE SOMETHING THAT WOULD HELP HIM
2 ON THE LEVIN CASE, TOO, ISN'T THAT TRUE, THAT THAT WAS IN
3 FACT YOUR STATE OF MIND AND YOU WERE AWARE OF THAT?

4 MR. WAPNER: OBJECTION AND ARGUMENTATIVE.

5 MR. BARENS: IT IS NOT ARGUMENTATIVE AT ALL. I CAN
6 ASK HIM HIS STATE OF MIND ON THIS.

7 THE COURT: ALL RIGHT, ASK HIM. WAS THAT YOUR STATE
8 OF MIND?

9 THE WITNESS: MY STATE OF MIND, YOUR HONOR, WAS, AS
10 I STATED EARLIER, THAT LES ZOELLER KNEW MORE ABOUT MY CASE
11 THAN ANYBODY ELSE.

12 Q BY MR. BARENS: HOW ABOUT THE LEVIN CASE?

13 A I AM SURE HE KNEW MORE ABOUT LEVIN THAN ANYBODY
14 ELSE.

15 Q WASN'T IT A FACT THAT HE COULD HAVE, IN YOUR
16 OWN UNDERSTANDING, A WINDFALL IN THE INVESTIGATION OF THE
17 LEVIN CASE BY THE FACT THAT HE IS NOW PERMITTED TO BE IN THE
18 BEDROOM OF THE DEFENDANT?

19 A IF THE DEFENDANT HAD IN HIS BEDROOM EVIDENCE
20 TO SHOW THAT HE WAS GUILTY OF LEVIN'S HOMICIDE, YES, MR.
21 ZOELLER WOULD HAVE HAD A WINDFALL BECAUSE I WOULD HAVE HANDED
22 IT TO HIM.

23 Q YOU BET.

24 NOW EVEN THOUGH THERE WAS NOTHING ON YOUR SEARCH
25 WARRANT THAT AUTHORIZED IN ANY WAY ANY INVESTIGATION OF THE
26 LEVIN MURDER; IS THAT CORRECT?

27 A I AM NOT GOING TO BLIND MYSELF TO EVIDENCE OF
28 ANOTHER CRIME EITHER.

1 Q YOU ARE NOT GOING TO BLIND YOURSELF, ARE YOU?
2 SUPPOSING THERE WAS A STATEMENT THERE THAT SAYS,
3 "WHEN YOU ARE ASKED ON THE STAND, DID YOU KILL RON LEVIN,
4 HERE IS YOUR ANSWER" WOULD YOU BLIND YOURSELF TO THAT ONE?

5 A I THINK WHEN I SAW "WHEN YOU ARE ASKED ON THE
6 STAND," I WOULD HAVE STOPPED READING.

7 Q DO YOU REALLY THINK YOU WOULD HAVE, SIR?

8 A I AM GIVING YOU MY WORD. I AM UNDER OATH, MR.
9 BARENS.

10 Q HOW ABOUT MR. ZOELLER, DID HE TELL YOU HE WOULD
11 STOP READING?

12 A WHY DON'T YOU ASK MR. ZOELLER?

13 THE COURT: ASK HIM.

14 Q BY MR. BARENS: NOW THE FACT OF THE MATTER IS,
15 YOU KNOW THERE COULD BE DEFENSE MATERIAL THERE, THAT IS TRUE?

16 A THAT IS A POSSIBILITY, YES.

17 Q YOU KNOW THAT ZOELLER HAS AN INTEREST IN ACCESSING
18 AND GAINING ANY INFORMATION HE CAN TO INSURE THE CONVICTION
19 OF THE DEFENDANT IN THE LOS ANGELES CASE?

20 A I THINK THAT IS A SAFE ASSUMPTION, HE IS HAPPY
21 TO GET ANY EVIDENCE HE CAN AGAINST MR. HUNT.

22 Q ANY EVIDENCE HE CAN AT ALL THAT WOULD HELP HIM
23 SECURE A CONVICTION, YOU KNEW HE WOULD BE LOOKING FOR?

24 A NOW YOU ARE PUTTING WORDS IN MY MOUTH.

25 Q I AM ASKING YOU, SIR.

26 A I KNEW HE WOULD BE LOOKING FOR WHAT I TOLD HIM
27 TO LOOK FOR THAT RELATES TO MY CASE. THAT IS WHAT I KNEW
28 HE WOULD BE LOOKING FOR.

1 Q WHAT DID YOU THINK HE ALSO WOULD BE LOOKING FOR?

2 MR. WAPNER: THERE IS AN OBJECTION TO THAT. HE IS
3 ASKING FOR THIS WITNESS' STATE OF MIND ABOUT WHAT SOMEBODY
4 ELSE WAS GOING TO BE DOING. WHAT IS THE RELEVANCE OF THAT?

5 THE COURT: I WILL SUSTAIN THE OBJECTION.

6 WE ARE GOING TO HAVE ZOELLER HERE, YOU CAN ASK
7 HIM ALL OF THOSE QUESTIONS.

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1 Q IN ORDER FOR MR. ZOELLER TO FIND WHAT YOU TOLD
2 HIM TO LOOK FOR, WOULDN'T HE HAVE TO LOOK THROUGH EVERYTHING
3 THAT WAS THERE?

4 A HE WOULD HAVE TO LOOK THROUGH EVERYTHING HE WAS
5 ASSIGNED TO LOOK THROUGH, JUST THE SAME AS I WOULD.

6 Q SURE. AND YOU COULDN'T SANITIZE WHAT HE WAS GOING
7 TO LOOK THROUGH BEFORE HE LOOKED THROUGH IT, COULD YOU?

8 A NO.

9 Q ALL RIGHT. SO THEREFORE, BY THE WAY, WHAT DID
10 YOU TELL MR. ZOELLER TO LOOK FOR?

11 A THE SAME THING I TOLD EVERYBODY ELSE TO LOOK FOR.

12 Q TELL ME, WHAT DID YOU TELL HIM TO LOOK FOR?

13 A I TOLD THEM ALL TO LOOK FOR EVIDENCE THAT RELATED
14 TO THE ESLAMINIA HOMICIDE, THE HANDWRITTEN NOTES THAT MIGHT
15 RELATE TO THE ESLAMINIA HOMICIDE, ANY ORIGINAL BBC DOCUMENTS
16 AND CHECKS FOR SUBSIDIARY COMPANIES, CHECKS AND ANY DOCUMENTS
17 THAT RELATED TO INVESTOR INFORMATION FROM THE AREA OF THE
18 EXISTENCE OF THE BBC.

19 Q WELL, IN LOOKING AT THE HANDWRITTEN NOTES THAT
20 WERE RELATED TO THE ESLAMINIA MATTER, HOW WOULD ONE RECOGNIZE
21 THOSE?

22 A IF YOU HAVE WORDS ON PAPER, YOU START TO READ
23 THE WORDS ON PAPER AND THEY TELL YOU WHAT THEY SAY.

24 Q WELL, I UNDERSTAND THAT. BUT IT IS CONCEIVABLE
25 THAT YOU WOULD HAVE TO READ QUITE A BIT SOMETIMES, BEFORE
26 YOU COULD GET THE MEANING OF THAT, ISN'T IT?

27 A NOT NECESSARILY. YOU GAVE AN EXAMPLE EARLIER
28 THAT I RESPONDED TO.

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Q ALL RIGHT. OBVIOUSLY, IT IS A RATHER POINTED QUESTION. I DOUBT VERY MUCH THAT YOU WOULD SEE SOMETHING THAT SPECIFIC, HOWEVER.

THE COURT: HOW MUCH LONGER? DO YOU WANT TO TAKE A RECESS NOW?

MR. BARENS: I WOULDN'T MIND A RECESS.

THE COURT: ALL RIGHT. WE'LL TAKE A 10-MINUTE RECESS. THANK YOU.

(RECESS.)

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1 THE COURT: ALL RIGHT. THE DEFENDANT IS PRESENT WITH
2 COUNSEL.

3 MR. BARENS: THANK YOU, YOUR HONOR.

4 Q MR. BREILING, YOU INDICATED THAT PRIOR TO GOING
5 TO THE RESIDENCE IN BEL AIR, YOU HAD SOME BRIEFING SESSIONS
6 WITH SOME PEOPLE AT BEVERLY HILLS P.D.?

7 A THAT'S CORRECT.

8 Q WOULD YOU PLEASE DESCRIBE TO ME, ABOUT WHAT TIME
9 THAT DID COMMENCE, SIR?

10 A I THINK WE GOT THERE ABOUT 8:30. I HAD GOTTEN
11 THERE A LITTLE EARLY.

12 BUT IT PROBABLY COMMENCED ABOUT 8:30.

13 Q AND YOU CONVENE THIS AT 8 O'CLOCK OR DID YOU
14 CONVENE IT OR CALL THIS MEETING THE DAY BEFORE, SIR?

15 A I CALLED IT THE DAY BEFORE, TO BE THERE AT 8:30.

16 Q AND WHO DID YOU SPEAK TO IN THAT REGARD?

17 A I TALKED TO DETECTIVE ROZZI, DETECTIVE SERGEANT
18 ROZZI, DETECTIVE DIAZ, DETECTIVE ITO, DETECTIVE ZOELLER AND
19 I THINK ZOELLER PASSED IT ON TO TECHNICIAN KUHN AND FOGG.

20 Q AND BY THE WAY, WHAT WAS FOGG'S FUNCTION IN THIS
21 SETTING?

22 A JUST TO TAKE PICTURES.

23 Q AT WHAT TIME DID THE ACTUAL BRIEFING SESSION,
24 THE DIALOGUE CONSISTING OF THE BRIEFING COMMENCE, SIR?

25 A WELL, I INITIATED IT BY INTRODUCING EVERYONE TO
26 ONE ANOTHER. I FORGOT TO TELL YOU THAT AGENT TULLENERS FROM
27 OUR OFFICE, WAS ADVISED.

28 Q WHAT TIME WAS THAT, SIR?

B-2

1. A IT WOULD HAVE BEEN BETWEEN 8:30 AND A QUARTER
2 TO 9:00.

3 Q AND HOW LONG DID THAT PROCEEDINGS GO ON FOR?

4 A TILL ABOUT 10 O'CLOCK, I WOULD IMAGINE.

5 Q ABOUT AN HOUR AND A HALF OR LESS?

6 A ABOUT AN HOUR AND A HALF.

7 Q AND BY THE WAY, JUST TO DIGRESS FOR A MOMENT ON
8 THAT LINE OF QUESTIONING I WAS ASKING YOU ABOUT, YOU PICKED
9 YOUR TEAM TO EXECUTE THE SEARCH. WERE THERE OFFICERS THAT
10 WOULD HAVE BEEN AVAILABLE TO ASSIST YOU THAT WOULD HAVE BEEN
11 NEUTRAL IN TERMS OF THIS INVESTIGATION?

12 MR. WAPNER: OBJECTION, ARGUMENTATIVE. THAT IS ASSUMING
13 THAT THE ONES HE PICKED WEREN'T NEUTRAL.

14 MR. BARENS: WELL, I WILL PUT IT IN ANOTHER WAY.

15 Q WOULD IT HAVE BEEN POSSIBLE FOR YOU TO HAVE
16 OBTAINED THE ASSISTANCE OF OFFICERS IN THIS INVESTIGATION,
17 THAT HAD NO FAMILIARITY WITH THE PROSECUTION OF MR. HUNT IN
18 THE LEVIN CASE?

19 A THE SIZE OF THE BEVERLY HILLS AND LAPD, I WOULD
20 SAY PROBABLY, YES.

21 Q AND YOU HAD GUYS AVAILABLE FROM THE DEPARTMENT
22 OF JUSTICE IN LOS ANGELES, DID YOU NOT, THAT COULD HAVE
23 ASSISTED YOU?

24 A I HAD ONE. I GOT HIM.

25 Q WAS HE THE ONLY ONE THAT YOU HAD FROM THE
26 DEPARTMENT OF JUSTICE?

27 A YES. I CHECKED BEFOREHAND AND HE WAS ALL I COULD
28 GET.

RR-3

1 Q YOU COULD HAVE GOTTEN LAPD PEOPLE FOR INSTANCE,
2 OR POLICE PERSONNEL THAT WEREN'T INVOLVED IN THE PROSECUTION
3 OF MR. HUNT IN THE LEVIN MURDER?

4 A THAT IS TRUE AND I WOULD HAVE GOTTEN THEM.

5 Q ALL RIGHT. BUT YOU COULD HAVE MADE EFFORTS, COULD
6 YOU NOT, TO HAVE SECURED SUCH OFFICERS IF YOU WOULD HAVE WANTED
7 TO?

8 A IF I HAD WANTED TO, I SUPPOSE I COULD, YES.

9 Q THAT IS MY ONLY QUESTION.

10 A YES.

11 Q ALL RIGHT. SO IT WAS AVAILABLE TO YOU?

12 A I WOULD ASSUME SO. I WENT AFTER PEOPLE THAT I
13 KNEW.

14 Q I UNDERSTAND THAT, SIR. NOW, DURING THIS BRIEFING
15 SESSION, COULD YOU PLEASE TELL ME WHAT YOU TALKED ABOUT?

16 A THEY REVIEWED THE DOCUMENTS, AS WE DISCUSSED
17 EARLIER.

18 Q CONSISTING OF THE WARRANT AND THE AFFIDAVIT IN
19 SUPPORT THEREOF, SIR?

20 A YES.

21 Q ALONG WITH A DOCUMENT YOU PREVIOUSLY TESTIFIED
22 ABOUT, THAT YOU HAD THEM SIGN ACKNOWLEDGING THE REVIEW OF
23 THOSE DOCUMENTS?

24 A THAT'S CORRECT.

25 Q ALL RIGHT. AND WHAT ELSE DID YOU TALK ABOUT,
26 MR. BREILING?

27 A WE TALKED ABOUT THE DOCUMENTS THAT WE WERE GOING
28 TO BE LOOKING FOR.

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I TOLD THEM THE NATURE OF THE MATERIAL THAT I ALREADY HAD AND THAT I WAS LOOKING FOR THINGS OF A SIMILAR NATURE.

WE TALKED ABOUT THE TYPES OF LEGAL DOCUMENTS. WHEN I SAY "LEGAL" I AM TALKING ABOUT PRINTED DOCUMENTS THAT RELATED TO THE CORPORATIONS INVOLVED, CHECKING ACCOUNTS THAT RELATED TO THE COMPANIES THAT WERE INVOLVED, ET CETERA, GENERALLY TRYING TO FAMILIARIZE THEM NOT ONLY WITH THE WRITTEN WORD BUT THE SPOKEN WORD OF WHAT I WAS LOOKING FOR.

C F

C-1

1 Q SO, WOULD IT BE A FAIR STATEMENT THAT THE THINGS
2 THAT YOU TOLD THEM TO LOOK FOR, WERE OF A FINANCIAL NATURE?

3 A WELL, IF YOU WANT TO CONSIDER THE BBC AS FINANCIAL,
4 I WOULD SAY YES. BUT I WOULDN'T CONSIDER IT ALL FINANCIAL.

5 Q DIDN'T YOU TELL THEM TO LOOK FOR HANDWRITTEN NOTES?

6 A I TOLD THEM THAT I HAD HANDWRITTEN MATERIAL AND
7 TO KEEP THEIR EYES OUT FOR HANDWRITTEN MATERIAL THAT MIGHT
8 BE RELATED TO MY CASE, YES.

9 Q HOW DID YOU EXPECT THEM IN A BRIEFING OF THAT
10 NATURE, TO KNOW WHAT YOU WERE LOOKING FOR?

11 A IF I DIDN'T EXPECT THEM TO KNOW, WE WOULDN'T HAVE
12 GONE. I TOLD THEM WHAT WAS IN THE WARRANT. THEY LOOKED AT
13 WHAT WAS IN THE WARRANT.

14 I DESCRIBED WHAT I HAD IN THE AFFIDAVIT FOR THE
15 STATEMENT OF PROBABLE CAUSE. YOU WILL NOTICE THAT I HAD
16 OUTLINED THE SPECIFIC THINGS FROM THE DOCUMENTS THAT I HAD
17 AND THAT HAD ATTRACTED MY ATTENTION.

18 AND I SAID THAT THAT WAS WHAT I WAS LOOKING FOR,
19 THINGS OF A SIMILAR NATURE. THAT IS WHAT PRECIPITATED THE
20 SELECTION OF THE PEOPLE, ESPECIALLY DETECTIVE ZOELLER, BECAUSE
21 HE WAS FAMILIAR WITH MY CASE.

22 Q NOW, THERE IS A SENTENCE IN THE WARRANT THAT SAYS
23 AND I AM QUOTING FROM IT AT PAGE -- INDICATED AS W-1, YOUR
24 HONOR, AT LINES 24 AND 25 THAT SAYS, "ALL PAPERS, DOCUMENTS,
25 PHOTOGRAPHS, RECORDS AND NOTES RELATING TO ACTIVITIES OF
26 JOSEPH HUNT."

27 DO YOU SEE THAT SENTENCE? YOU SAW IT?

28 A I DON'T HAVE IT IN FRONT OF ME. IS THAT SENTENCE

1 COMPLETE OR ARE YOU EXCERPTING SOMETHING FROM IT?

2 Q IT IS PRECEDED BY A COLON AND FOLLOWED BY A COMMA.

3 A WHAT IS AFTER THE COMMA?

4 Q THERE ARE SOME MORE NAMES.

5 A OKAY. THE PAPERS AND THE DOCUMENTS THEN, SINCE
6 YOU ARE NOT GOING TO GIVE ME THAT, I WILL GO BY MY
7 INDEPENDENT RECOLLECTION.

8 MR. BARENS: I AM HAPPY TO SHOW IT TO HIM, YOUR HONOR.

9 THE COURT: WHERE IS IT? WHAT PAGE?

10 MR. BARENS: REFERRING TO W-1, YOUR HONOR, AT LINES --

11 THE COURT: W-1?

12 MR. BARENS: LINES 24 AND 25. IF I MIGHT APPROACH,
13 YOUR HONOR, I WILL SHOW IT TO YOUR HONOR.

14 THE COURT: W-1?

15 MR. BARENS: WELL, IT IS THE FIRST PAGE OF THE WARRANT,
16 PER SE. MR. WAPNER IS FAMILIAR WITH IT, YOUR HONOR.

17 MR. WAPNER: SHOW IT TO THE WITNESS.

18 MR. BARENS: I WAS GOING TO APPROACH THE WITNESS.

19 THE COURT: SHOW IT TO THE WITNESS.

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1 THE COURT: I HAVEN'T GOT THEM -- ALL RIGHT.

2 MR. BARENS: I KIND OF HIGHLIGHTED IT IN YELLOW FOR
3 THE WITNESS.

4 THE WITNESS: WHAT YOU HAVE HIGHLIGHTED SAYS "ALL PAPERS,
5 DOCUMENTS, PHOTOGRAPHS, RECORDS AND NOTES RELATING TO THE
6 ACTIVITIES OF JOSEPH HUNT."

7 WHAT YOU DO NOT, HAVE NOT HIGHLIGHTED SAYS
8 "ARBEN DOSTI, JAMES GRAHAM, REZA ESLAMINIA AND OTHER PEOPLE
9 AND STAFF OF THE BBC AND ALL RECORDS OF TRADING DONE AT E.F.
10 HUTTON AND ALL RECORDS" -- IT GOES ON TO THE NEXT PAGE W-2 --
11 "RELATING TO INVESTORS AND SEIZE THEM IF FOUND AND BRING THEM
12 FORTHWITH BEFORE ME." ET CETERA, ET CETERA.

13 Q RIGHT, THOSE --

14 A SO THERE WERE MORE THAN JUST PAPERS RELATING
15 TO THE ACTIVITIES OF MR. HUNT.

16 HIS CO-CONSPIRATORS IN THE ESLAMINIA HOMICIDE
17 ARE ALSO MENTIONED.

18 Q I UNDERSTAND THAT, BUT IT DOES SAY THE LANGUAGE
19 THAT I SAID IT DOES.

20 A YES, ABSOLUTELY. IT SAYS WHAT YOU SAID IT DOES.

21 THE COURT: HE IS POINTING OUT TO YOU THAT YOU DIDN'T
22 COMPLETE IT. IT HAS SOME SIGNIFICANCE. IT INVOLVES MORE
23 THAN MERELY MR. HUNT.

24 MR. BARENS: WELL, I THINK IT HAS SIGNIFICANCE AND
25 I DON'T PRESUME TO ARGUE THE CASE NOW BUT IT HAS SIGNIFICANCE
26 IN ITS GENERALITY IN ITS REFERENCE TO JOE HUNT.

27 THE COURT: ALL RIGHT.

28 MR. BARENS: WHEN YOU START TALKING ABOUT ALL PAPERS --

1 THE COURT: IT HAS BEEN CLEARED UP NOW, ALL RIGHT,
2 LET'S GO ON.

3 MR. BARENS: AGAIN, FOR THE RECORD, I HAVE MADE IT
4 CLEAR WHAT THE DOCUMENT SAYS ON ITS FACE AND IT WILL BE
5 ATTACHED AS AN EXHIBIT, I AM SURE, TO THESE PROCEEDINGS.

6 MR. WAPNER: AFTER ALL OF THAT, IS THERE A QUESTION
7 PENDING?

8 THE COURT: I DON'T KNOW. WE WILL KNOW AS SOON AS
9 HIS CO-COUNSEL TELLS HIM WHAT TO SAY.

10 Q BY MR. BARENS: NOW, WITH THAT SENTENCE IN MIND,
11 HOW DID YOU PRESUME THE OFFICERS WOULD BE ABLE TO RECOGNIZE
12 THE PAPERS BELONGING, FOR INSTANCE, TO ARBEN DOSTI AS OPPOSED
13 TO THE PAPERS BELONGING TO JAMES GRAHAM, AS OPPOSED TO THE
14 PAPERS BELONGING TO JOE HUNT?

15 A WELL, ONE SURE WAY IS IF YOU SAW THAT THEIR NAMES
16 WERE ON THERE, IF YOU SAW THEIR NAMES THERE, YOU WOULD READ
17 TO SEE IF THE CONTENTS WERE SUCH THAT INDICATED IT BELONGED
18 TO THEM OR WAS RELEVANT TO MY CASE AS IT RELATED TO THEM.

19 Q NOW, WHAT IF THERE WERE NO SPECIFIC NAMES ON
20 THERE, WHAT WOULD YOU DO?

21 A OKAY. AS I INDICATED EARLIER, FROM THE READING
22 OF THE MATERIAL, YOU COULD TELL WHETHER IT WAS APPARENTLY
23 AN ATTORNEY-CLIENT PRIVILEGED MATERIAL OR DEFENSE RELATED.

24 Q NOW, YOU WERE AWARE OF THE FACT, WERE YOU NOT,
25 SIR, THAT MR. LEVIN WAS INVOLVED AT THE BBC AND SOME OF ITS
26 SUBSIDIARIES?

27 A I WAS AWARE THAT MR. LEVIN HAD BEEN INVOLVED
28 WITH MR. HUNT.

1 I DON'T KNOW WHAT HIS ACTIVITIES WITH THE BBC
2 WERE AS AN ENTITY.

3 Q YOU NEVER HEARD THAT MR. LEVIN WAS INVOLVED WITH
4 MICROGENESIS?

5 A I CAN'T SAY I HAD. I MAY HAVE BUT IF I DID,
6 IT IS NOT IMPORTANT IN MY MIND.

7 Q I UNDERSTAND THAT.

8 BUT WHAT I AM LOOKING FOR IS YOUR STATE OF MIND.
9 YOU SEE WHAT I AM LOOKING FOR IS THIS, MR. BREILING: IF MR.
10 LEVIN WAS INVOLVED WITH THE BBC, MR. HUNT IS ON TRIAL FOR
11 ALLEGEDLY KILLING MR. LEVIN, OBVIOUSLY BBC MATERIAL IN
12 POSSESSION OF THE DEFENDANT WOULD GO TO --

13 THE COURT: WELL, FIRST OF ALL, IN WHAT WAY WAS LEVIN
14 INVOLVED WITH THE BBC, SO AS TO PUT IT IN CONTEXT?

15 MR. BARENS: THIS WHOLE BUSINESS, YOUR HONOR, --

16 THE COURT: WHAT BUSINESS?

17 MR. BARENS: WELL, YOUR HONOR, THAT WILL COME OUT DURING
18 THE TRIAL.

19 MR. WAPNER: WELL, AT THE MOMENT IT IS ASSUMING FACTS
20 NOT IN EVIDENCE.

21 THE COURT: I WILL SUSTAIN THE OBJECTION.

22 Q BY MR. BARENS: ALL RIGHT, YOUR HONOR.

23 MR. BREILING, YOU DID NOT HAVE A BELIEF IN YOUR
24 MIND THAT MR. LEVIN WAS SOMEHOW INVOLVED WITH THE BBC?

25 A NO, I DON'T HAVE ANY KNOWLEDGE OF HIM BEING
26 INVOLVED IN THE BBC.

27 I HAVE A KNOWLEDGE OF HIS ASSOCIATION WITH MR.
28 HUNT, BUT THAT IS ABOUT ALL.

1 Q DID YOU FEEL THAT ANY OF THE MATERIALS THAT YOU
2 WERE LOOKING FOR COULD POSSIBLY IN TRUTH OVERLAP WITH THE
3 MATERIALS INVOLVED IN THE LOS ANGELES HOMICIDE INVESTIGATION
4 AND TRIAL?

5 A IF MR. WAPNER IS GOING TO BE USING THE BBC, YES,
6 IT WOULD OVERLAP.

7 Q HOW DID YOU ATTEMPT, IF YOU DID, TO INSURE THAT
8 THE MATERIALS THAT WOULD BE INVOLVED IN THE LOS ANGELES TRIAL
9 WERE NOT EITHER SEIZED OR EXAMINED WHILE YOU WERE LOOKING
10 FOR ALL PAPERS, DOCUMENTS ET CETERA, AS I REFERENCED IN READING
11 FROM THE WARRANT?

12 A OH, IF THERE WERE MATERIALS THAT ARE GOING TO
13 BE USED IN THE LOS ANGELES TRIAL THAT ARE BBC RELATED?

14 Q YES, SIR.

15 A I WOULD HAVE SEIZED THEM ANYWAY BECAUSE THEY
16 RELATE TO MY CASE.

17 Q RIGHT.

18 A IF MR. WAPNER NEEDED THEM, I WOULD HAVE PROVIDED
19 THEM TO MR. WAPNER.

20 Q HOW ABOUT IF THE DEFENSE NEEDED THEM, SIR?

21 A AS I TOLD MR. CHIER AT THE SCENE, EVERYTHING
22 THAT I TOOK I WOULD DUPLICATE AND IMMEDIATELY UPON COMPLETION
23 OF THAT DUPLICATION, I WOULD PROVIDE IT BACK TO HIM.

24 Q IS IT STILL YOUR POSITION THAT YOU ARE WILLING
25 TO RETURN TO THE DEFENSE OR MAKE AVAILABLE TO THE DEFENSE
26 COPIES OF EVERYTHING THAT YOU REMOVED THAT DAY?

27 A ABSOLUTELY.

28 Q ALL RIGHT. SO I PRESUME YOU WOULD HAVE NO

1 DISAGREEMENT IN FORWARDING THAT TO THE DEFENSE AT THIS TIME?

2 A NONE AT ALL.

3 IT SHOULD COME OUT UNDER NORMAL DISCOVERY.

4 Q ALL RIGHT, NOW GOING BACK FOR A MOMENT TO THE
5 BRIEFING SESSION. SO YOU TOLD THEM WHAT YOU WERE LOOKING
6 FOR AND YOU LOOKED AT THE WARRANT, ET CETERA; WHAT ELSE DID
7 YOU DISCUSS WITH THE PEOPLE PRESENT?

8 A OKAY, AFTER TALKING ABOUT WHAT WE WERE GOING
9 TO BE LOOKING FOR, WE TALKED ABOUT WHAT WE WERE NOT GOING
10 TO BE LOOKING AT.

11 Q TELL ME ABOUT THAT.

12 A AND THAT WAS, I HAD TO BE VERY VAGUE ABOUT IT
13 BECAUSE I DIDN'T KNOW WHAT MIGHT BE THERE.

14 AS I STATED EARLIER I AM -- WAS -- LET ME
15 CORRECT MYSELF -- I WAS UNDER THE ASSUMPTION, OBVIOUSLY
16 ERRONEOUS, AT THIS POINT THAT THE VOLUME OF MATERIAL THAT
17 I EXPECTED THAT WOULD HAVE BEEN GENERATED IN MR. HUNT'S
18 DEFENSE BY YOU PEOPLE, THE MAJORITY OF IT WOULD HAVE BEEN
19 IN YOUR OFFICE.

20 Q THAT DIDN'T TURN OUT TO BE TRUE?

21 A YOU ARE ABSOLUTELY CORRECT.

22 Q THERE WAS A LOT OF DEFENSE STUFF THERE, WASN'T
23 THERE?

24 A I WAS AMAZED AT THE AMOUNT OF PAPER THAT WAS
25 THERE.

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A-1

1 I AM NOT SAYING IT WAS ALL DEFENSE-RELATED MATERIAL
2 BUT I WAS AMAZED AT THE VOLUME OF MATERIAL I SAW. I DIDN'T
3 EXPECT THAT MUCH VOLUME.

4 WHEN MR. CHIER SAID ALL OF THOSE BINDERS ARE
5 DEFENSE-RELATED, I SAID, "FINE. I DON'T -- I WON'T LOOK THROUGH
6 THEM."

7 Q WE HAVEN'T SAT AROUND FOR TWO YEARS, MR. BREILING.

8 A I AM PROUD OF YOU, MR. BARENS.

9 Q IN ANY EVENT, WHAT DID YOU SAY, VAGUE THOUGH IT
10 MAY BE, TO THOSE OFFICERS ABOUT DEFENSE MATERIAL?

11 A THAT IF THEY SAW ANYTHING THAT THEY BELIEVED TO
12 BE DEFENSE-RELATED, THAT IT WAS NOT TO BE READ. IT WAS TO
13 BE SET ASIDE AND IN SUCH A WAY THAT NOBODY ELSE WOULD LOOK
14 AT IT AND BRING IT TO MY ATTENTION SO I WOULD BE ABLE TO
15 SAY THAT WE DIDN'T TAKE THAT BECAUSE I WANTED TO SHOW THAT
16 BECAUSE OF THE MASS OF MATERIAL THAT WAS THERE, I ONLY TOOK
17 A SMALL PORTION.

18 Q WHAT CRITERIA DID THE OFFICERS HAVE THAT WAS MADE
19 AVAILABLE TO THEM TO DETERMINE WHAT WAS DEFENSE MATERIAL?

20 A WELL, YOU WOULD HAVE TO READ SOMETHING TO SOME
21 EXTENT, AS YOU HAVE BEEN ALLUDING TO ALL ALONG, TO FIND OUT
22 WHETHER IT WAS. AND YOU CAN TAKE A LOOK AT SOMETHING IN A
23 COUPLE OF SECONDS AND DETERMINE WHETHER IT WAS SOMETHING THAT
24 RELATES TO MR. HUNT'S DEFENSE OR NOT.

25 Q DID YOU AT ALL BRIEF THE OFFICERS AT ALL ON THE
26 LOS ANGELES PROSECUTION?

27 A AS A MATTER OF FACT, I DID.

28 I SAID THAT HE WAS CURRENTLY -- HE, BEING MR. HUNT --

A-2

1 WAS CURRENTLY IN TRIAL IN THE JURY SELECTION PROCESS IN THE
2 LEVIN HOMICIDE. I OUTLINED THE FACT THAT THE HUNT-LEVIN
3 SITUATION WAS A HOMICIDE THAT WAS BEING TRIED WITH NO BODY
4 INVOLVED, THEY HAD NOT COME UP WITH MR. LEVIN'S BODY AND THAT
5 THERE HAD BEEN A RELATIONSHIP BETWEEN MR. HUNT AND MR. LEVIN
6 WHEREIN SOME INVESTMENTS SUPPOSEDLY HAD BEEN MADE.

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2-1
1 Q AND HOW DID YOU GET ALL OF THAT INFORMATION?

2 A A LOT OF IT, I HAVE GOTTEN OUT OF THE NEWSPAPERS.

3 Q ANY OTHER SOURCE?

4 A I HAVE TALKED TO FRED WAPNER AND LES ZOELLER.

5 Q AND THEREFORE, YOU GOT FROM THAT DIALOGUE YOU
6 HAD WITH THOSE OFFICERS THAT THEY WOULD BE ABLE TO RECOGNIZE
7 DEFENSE MATERIALS?

8 A JUST AS WELL AS I COULD.

9 Q ALL RIGHT. DID ANYBODY ASK YOU ANY QUESTIONS
10 AFTER THE BRIEFING?

11 A THERE WERE QUESTIONS ASKED, BUT MY DELAY IS IN
12 TRYING TO REMEMBER WHAT SPECIFIC ONES MAY HAVE BEEN ASKED.
13 I CAN'T AT THIS MOMENT, THINK OF SPECIFIC QUESTIONS.

14 Q WERE ANY QUESTIONS ASKED OF YOU ABOUT SAFEGUARDING
15 OR FURTHER ARTICULATION AS TO HOW WE WOULD SAFEGUARD DEFENSE
16 MATERIALS?

17 A SAFEGUARD THEM? NO.

18 ALL I INSTRUCTED THEM TO DO WAS TO SET ASIDE --
19 SET THEM ASIDE UNREAD AND UNSEIZED.

20 Q DID ANY OF THE OFFICERS EXPRESS ANY QUESTION OR
21 CONCERN TO YOU ABOUT VIOLATING THE ATTORNEY/CLIENT PRIVILEGE?

22 A CONCERN? NO.

23 Q ANY INQUIRY WHATSOEVER ABOUT THAT SUBJECT?

24 A NO. THEY WERE PROFESSIONALS. THEY KNOW HOW TO
25 DO THEIR JOBS.

26 Q I UNDERSTAND THAT. BUT YOU ARE SAYING TO ME IN
27 TRUTH THEN THAT NOT ONE PERSON PRESENT AT THIS BRIEFING, ASKED
28 YOU ANY QUESTIONS ABOUT ATTORNEY/CLIENT PRIVILEGED MATERIALS?

A-2
1 A I CAN'T SAY THEY DIDN'T ASK THAT. I DON'T RECALL
2 ANY SPECIFICS. IF I COULD RECALL A SPECIFIC, I WOULD.

3 I KNOW THAT WE DISCUSSED THE POSSIBILITY THAT
4 THERE WOULD BE AND THEY SHOULD BE ALERT TO IT.

5 AND IF ANYTHING EVEN REMOTELY RESEMBLED IT, IT
6 WAS TO BE TREATED AS ATTORNEY/CLIENT PRIVILEGE AND NOT READ
7 AND NOT TOUCHED. ANY BENEFIT OF A DOUBT SHOULD GO TO MR.
8 HUNT.

9 Q RIGHT. BUT YOU WEREN'T ABLE TO TELL THEM WITH
10 ANY SPECIFICITY WHAT ANY OF THAT MIGHT HAVE LOOKED LIKE, WERE
11 YOU?

12 A I HAD NO IDEA WHAT IT WOULD HAVE LOOKED LIKE.

13 Q OF COURSE NOT. SO ALL YOU COULD DO IS, LOOK AT
14 EVERYTHING AND THEN SORT IT OUT?

15 A TO SOME EXTENT, YOUR STATEMENT IS CORRECT.

16 Q AND THE OFFICERS IN QUESTION WOULD HAVE TO DO
17 EXACTLY THE SAME THING?

18 A EXACTLY.

19 Q WAS OFFICER KUHN PRESENT DURING THAT BRIEFING?

20 A MR. KUHN IS NOT AN OFFICER. HE IS A SENIOR
21 IDENTIFICATION TECHNICIAN, I BELIEVE.

22 Q WAS HE PRESENT DURING THE BRIEFING?

23 A YES HE WAS.

24 Q HE HEARD ALL OF THIS BUSINESS YOU JUST TOLD ME
25 ABOUT?

26 A UH-HUH.

27 Q HE HEARD THE ADMONITION CONCERNING CAUTION ABOUT
28 DEFENSE MATERIALS?

A-3

1 A I WOULD ASSUME SO.

2 Q ALL RIGHT. NOW, DID YOU FIND ANYTHING AT THE
3 RESIDENCE DURING YOUR SEARCH AND SEIZURE, THAT CONFORMED WITH
4 WHAT YOU INDICATED IN YOUR WARRANT?

5 A I TOLD YOU WHAT I TOOK. I FELT THAT IT DID CONFORM
6 TO MY WARRANT.

7 Q YOU DID? ALL RIGHT. WERE THERE CORPORATE PAPERS
8 THAT YOU FOUND?

9 A THERE WERE CORPORATE PAPERS.

10 Q AND WERE THERE PAPERS RELATING TO FIRE SAFE (SIC)?

11 A FIRE SAFETY? YES.

12 Q AND WHERE DID YOU FIND THOSE?

13 A LIKE I STATED EARLIER, I THINK THOSE BINDERS WERE
14 FIRE SAFETY CORPORATE DOCUMENTS. THAT IS JUST AN INDEPENDENT
15 RECOLLECTION AT THIS POINT.

16 Q AND WERE THERE PAPERS RELATING TO MICROGENESIS
17 THAT YOU FOUND?

18 A YES. I DID SAY THE NAME MICROGENESIS.

19 Q NOW, ALL OF THESE THINGS WERE ALSO IN THE KARNY
20 BRIEFCASE?

21 THE COURT: WHAT?

22 Q BY MR. BARENS: IN THE KARNY BRIEFCASE?

23 A NO THEY WERE NOT.

24 Q ALL RIGHT. NONE OF THEM WERE?

25 A NO, NOTHING IN THE KARNY BRIEFCASE ABOUT FIRE
26 SAFETY OR MICROGENESIS.

27 Q WERE THERE -- WAS THERE ANYTHING IN THE KARNY
28 BRIEFCASE ABOUT E.F. HUTTON?

A-4

1 A THERE WAS SOMETHING ABOUT AN INVESTMENT COMPANY.
2 BUT I CAN'T SAY IT WAS E. F. HUTTON.

3 I AM AWARE MR. HUNT HAD AN ACCOUNT AT E. F. HUTTON
4 AT ONE TIME.

5 Q WERE THERE PAPERS RELATING TO JOE HUNT'S INVESTORS
6 IN THE KARNY BRIEFCASE?

7 A NO. I CAN'T SAY THERE WERE.

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B-1

1 Q DID IT EVER OCCUR TO YOU THAT ONE OF THE
2 CONTENTIONS OF THE PROSECUTION IN THE L.A. CASE MIGHT BE THAT
3 LEVIN MET HIS DEATH BECAUSE HUNT NEEDED MONEY AS A RESULT
4 OF AN ALLEGEDLY COLLAPSING PONZI SCHEME?

5 A I AM SORRY. I APOLOGIZE TO YOU. I LET MY MIND
6 WANDER AS YOU WERE ASKING THE QUESTION. WOULD YOU REPEAT
7 IT?

8 MR. BARENS: IF WE COULD HAVE IT READ BACK.

9 (THE RECORD WAS READ BY THE REPORTER.)

10 THE WITNESS: THE WAY YOU WORD THAT QUESTION, MY RESPONSE
11 WOULD HAVE TO BE NO.

12 Q BY MR. BARENS: IT NEVER CROSSED YOUR MIND?

13 A IT WAS -- I DON'T KNOW WHAT MR. WAPNER'S CASE
14 IS GOING TO BE.

15 Q HAD YOU EVER READ ANY PART OF OR ALL OF THE
16 PITTMAN TRIAL TRANSCRIPT?

17 A A LONG TIME AGO I READ THROUGH IT, YES.

18 Q SURE, YOU READ THAT. AND IN READING THAT, DIDN'T
19 YOU GET SOME SENSE OF WHAT THE PROSECUTION'S THEORY WAS IN
20 THE PITTMAN CASE?

21 A YES, MY UNDERSTANDING OF IT. WOULD YOU LIKE ME
22 TO TELL YOU WHAT IT IS?

23 Q I WILL ASK YOU MORE SPECIFICALLY, SIR. DID YOU
24 GET A SENSE FROM THE FATE MR. LEVIN MET, WHATEVER FATE THE
25 GOVERNMENT SAYS HE MET BECAUSE OF ANY MONEY SHORTAGE THAT
26 THE BBC OR PEOPLE ASSOCIATED WITH THE BBC MIGHT HAVE EXPERIENCED?

27 A IT WAS MY PERCEPTION AND UNDERSTANDING THAT JOE
28 HUNT MURDERED RON LEVIN BECAUSE RON LEVIN SUPPOSEDLY CHEATED

1 HIM OUT OF SOME MONEY.

2 Q THAT WAS IT?

3 A ESSENTIALLY. I CAN GO INTO MORE DETAIL, BUT I
4 ASSUME THAT YOU WANT TO ASK ME DIRECT QUESTIONS.

5 Q AND THAT IT HAD NOTHING TO DO WITH ANY FINANCIAL
6 GAIN, THAT IT WAS JUST SOME SORT OF REVENGE KILLING?

7 A WELL, I UNDERSTOOD THAT MR. HUNT WAS HAVING SOME
8 FINANCIAL PROBLEMS WITH HIS BUSINESSES.

9 BUT, WHAT HIS PRIMARY CONCERN WAS, THAT HE
10 SUPPOSEDLY HAD INVESTED SOME MONEY FOR MR. LEVIN IN THE MARKET.
11 APPARENTLY HE HAD RUN IT UP TO SOME ASTRONOMICAL FIGURE AND
12 WANTED HIS SHARE.

13 AND THEN WHEN MR. LEVIN TOLD HIM THAT THE ACCOUNT
14 WAS A PHONY, HE WAS UPSET. IT WAS HIS UNDERSTANDING THAT
15 LEVIN DID HAVE MONEY.

16 SO BEFORE HE KILLED HIM, HE GOT HIM TO SIGN A
17 CHECK OVER TO HIM.

18 Q AND THEREFORE, YOU CAN -- OR DO YOU DISCRIMINATE
19 IN YOUR OWN MIND, THAT THE ESLAMINIA HOMICIDE, IF THAT IS
20 IN FACT WHAT IT WAS, WAS A RESULT OF SEEKING GAIN OF MONEY,
21 BUT THE LEVIN HOMICIDE IF THAT EVER OCCURRED, WAS FOR OTHER
22 REASONS?

23 A THEY WERE BOTH FOR SEEKING GAIN OF MONEY.

24 THE COURT: HE JUST GOT THROUGH TELLING YOU THAT HE
25 GOT A CHECK FROM HIM. ISN'T THAT WHAT YOU SAID, THAT HE KILLED
26 HIM?

27 THE WITNESS: YES, SIR.

28 MR. BARENS: RIGHT.

1 Q NOW IF THEY WERE BOTH FOR GAIN OF MONEY, WOULDN'T
2 IT OCCUR TO YOU THAT THE BBC RECORDS AND FINANCIAL DATA THAT
3 WOULD ALLEGEDLY ESTABLISH THAT IN NORTHERN CALIFORNIA, WOULD
4 BE IDENTICAL IN THEIR USE AND PURPOSE IN THE SOUTHERN CALIFORNIA
5 TRIAL?

6 A CERTAINLY IT CROSSED MY MIND.

7 Q SO, THERE WAS INHERENTLY AND INEXTRICABLY, AN
8 OVERLAPPING BETWEEN THE EVIDENTIARY MATERIALS USED IN NORTHERN
9 CALIFORNIA AND THE EVIDENTIARY MATERIALS THAT WOULD BE USED
10 IN SOUTHERN CALIFORNIA?

11 A TRUE. BUT THEY AREN'T ATTORNEY/CLIENT PRIVILEGED.

12 Q WELL, I DON'T THINK YOU WILL MAKE THAT DECISION,
13 MR. BREILING.

14 A I HAVE ALREADY MADE THAT DECISION, MR. BARENS.
15 THAT IS WHY I SEIZED THEM.

16 Q I KNOW. BUT RIGHT NOW, YOU ARE ADDRESSING YOUR
17 OPINION I BELIEVE, AND SOME APPELLATE COURT WILL RULE ON THAT --

18 MR. WAPNER: COULD WE NOT HAVE A STATEMENT? IF THERE
19 IS A QUESTION, THEN IT CAN BE ASKED AND NOT ARGUMENT.

20 THE COURT: HE IS PREPARING HIS CONCLUDING ARGUMENT
21 NOW.

22 MR. WAPNER: THANK YOU.

23 MR. BARENS: I JUST DON'T WANT TO ACCEPT IN THE RECORD
24 A LEGAL DETERMINATION BY A POLICE OFFICER, ALTHOUGH WELL
25 INTENDED, AS TO WHAT CONSTITUTES ATTORNEY/CLIENT PRIVILEGE
26 AND WHAT DOESN'T. I DON'T WANT TO CONDONE THAT.

27 THE COURT: I UNDERSTAND PERFECTLY.

28 MR. BARENS; THANK YOU, YOUR HONOR.

1 Q NOW, WHEN YOU AND I SPOKE ON THE PHONE EARLY
2 ON THAT THURSDAY, DO YOU KNOW WHAT TIME IT WAS?

3 A ROUGHLY. I DON'T USE A WRISTWATCH. I HAVE A
4 POCKETWATCH AND I DON'T LOOK AT IT VERY FREQUENTLY.

5 Q WOULD IT BE A FAIR STATEMENT TO SAY THAT IT WAS
6 AROUND 11:30?

7 A I HAVE NO IDEA. IF YOU SAY THAT YOU CALLED ME
8 AT THAT TIME, I WILL TAKE YOUR WORD FOR IT.

9 Q I AM NOT SURE. BUT I THINK IT WAS AROUND THAT
10 TIME. I WANT TO BE HONEST WITH YOU. HIS HONOR MIGHT REMEMBER.

11 A WELL, YOU AREN'T GOING TO PUT ME IN THAT BOX
12 BECAUSE I DON'T KNOW.

13 Q I AM ASKING YOU IF YOU KNOW, SINCE I DON'T.

14 A NO.

15 Q HIS HONOR WAS KIND ENOUGH TO LET ME USE HIS PHONE,
16 AS I RECALL. I BELIEVE IT WOULD HAVE BEEN 11:30, TO BE
17 CANDID WITH YOU.

18 I KNOW FOR CERTAIN THAT IT WAS PRIOR TO THE LUNCH
19 BREAK, LET'S SAY.

20 AND YOU RECALL I VOICED A CERTAIN CONCERN TO YOU
21 AT THAT TIME ABOUT YOUR ACCESSING DEFENSE MATERIALS?

22 A YES YOU DID.

23 Q DID WE TALK ABOUT ANYTHING ELSE IN THAT
24 CONVERSATION?

25 THE COURT: PARDON ME?

26 Q BY MR. BARENS: DID WE TALK ABOUT ANYTHING ELSE
27 IN THAT CONVERSATION THAT I WAS CONCERNED ABOUT?

28 A THE IMPRESSION OF THAT WAS MORE LASTING THAN

1 ANYTHING ELSE WE MAY HAVE DISCUSSED. I WON'T SAY WE DIDN'T
2 DISCUSS ANYTHING ELSE.

3 Q PERHAPS I COULD HELP YOU. DID I DISCUSS ANY
4 CONCERN THAT I HAD WITH YOU ABOUT LYNNE ROBERTS?

5 A YES YOU DID.

6 THE COURT: LYNNE ROBERTS?

7 MR. BARENS: MRS. ROBERTS, BOBBY ROBERTS' WIFE, LYNNE
8 ROBERTS.

9 Q DO YOU RECALL WHAT I TALKED TO YOU ABOUT IN THAT
10 REGARD?

11 A YOU JUST SAID THAT SHE WAS A VERY DECENT,
12 CHRISTIAN WOMAN AND TO BE CAREFUL OR TO TREAT HER GENTLY.
13 I SAID THAT I WOULD.

14 Q AND THAT I EXPRESSED SOME CONCERN TO YOU THAT
15 SHE NOT BE UNNECESSARILY UPSET AND THAT SHE HAD NOTHING TO
16 DO WITH ALL THIS BUSINESS?

17 A YES, YOU PROBABLY DID BECAUSE I DO RECALL WE DID
18 DISCUSS HER AND YOU WERE VERY CONCERNED ABOUT HER WELFARE.

19 Q I EXPRESSED SOME APPRECIATION TO YOU ABOUT BEING
20 SENSITIVE IN THAT REGARD?

21 A YES YOU DID.

22 Q NOW, PRIOR TO THE TIME THAT MR. CHIER ARRIVED
23 AT THE RESIDENCE, HAD THE OFFICERS BEEN LOOKING AT MATERIALS?

24 A YES.

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1 Q AND THEY HAD BEEN LOOKING AT THE MATERIALS IN
2 BOTH THE BEDROOM AND WHAT I AM CALLING THE COMPUTER ROOM PRIOR
3 TO HIS ARRIVAL?

4 A YES.

5 Q AND IS IT NOT A FACT THAT LES ZOELLER HAD ACCESS
6 TO BOTH THE BEDROOM AND COMPUTER ROOM PRIOR TO MR. CHIER'S
7 ARRIVAL?

8 A IT IS POSSIBLE.

9 I DON'T KNOW EXACTLY WHEN HE CAME UP, WHETHER
10 IT WAS BEFORE CHIER OR AFTER, BECAUSE I KNOW THE FIRST TIME
11 THEY SAW ONE ANOTHER, MR. CHIER MADE SOME SORT OF A COMMENT
12 TO THE EFFECT, "WHAT ARE YOU DOING HERE?" OR HE WAS SURPRISED
13 TO SEE ZOELLER THERE.

14 Q I AM SURE HE WAS.

15 WHEN MR. CHIER WAS THERE, MR. ZOELLER WAS IN
16 BOTH OF THOSE BEDROOMS FROM TIME TO TIME?

17 A I WOULD ASSUME SO.

18 I REMEMBER --

19 AM I PRONOUNCING YOUR NAME WRONG? I SAY CHIER.
20 IS IT CHIER?

21 MR. CHIER: YES.

22 THE WITNESS: EXCUSE ME.

23 THE TIME I SAW MR. CHIER AND SPENT MOST OF THE
24 TIME WITH HIM WAS IN THE COMPUTER ROOM.

25 Q BY MR. BARENS: ALL RIGHT. YOU WEREN'T HOWEVER,
26 WATCHING EVERYTHING THAT MR. ZOELLER WAS LOOKING AT PRIOR
27 TO THE TIME MR. CHIER ARRIVED OR EVEN AFTER THE TIME MR. CHIER
28 ARRIVED?

1 A NO, BECAUSE I MOVED ABOUT. I DIDN'T JUST
2 SPECIFICALLY LOOK AT LES ZOELLER.

3 Q ALL RIGHT. NOW YOU MENTIONED THAT THERE WERE
4 SOME MANILA FOLDERS, I BELIEVE, IN THE COMPUTER ROOM THAT
5 MR. ZOELLER LOOKED AT THAT HE HAD REVIEWED PRIOR TO YOUR
6 LOOKING AT THEM.

7 A THAT IS CORRECT.

8 Q AND YOU MENTIONED THAT MOST OF THOSE, IF I AM
9 CORRECT, YOU DECIDED NOT TO SEIZE?

10 A NO.

11 AS I RECALL, SOME MATERIALS THAT LES HAD SEEN,
12 GOING THROUGH THOSE FOLDERS, HE DEEMED APPROPRIATE FOR
13 SEIZURE, SOME WERE NOT.

14 THE ONES HE DEEMED APPROPRIATE, I TOOK. THE
15 ONES THAT HE DEEMED INAPPROPRIATE, I DID NOT TAKE.

16 Q SO YOU TOOK MR. ZOELLER'S WORD FOR WHAT WAS
17 APPROPRIATE IN TERMS OF SEIZABLE UNDER THE WARRANT AND WHAT
18 WAS DEFENSE MATERIAL?

19 A YES.

20 I LOOKED AT ONE OR TWO TO SEE THAT IT WAS WHAT
21 HE SAID IT WAS.

22 Q SO IN FACT MR. ZOELLER HAD MADE DETERMINATIONS
23 ON ITEMS THAT WERE CONSIDERED TO BE DEFENSE MATERIAL?

24 A HE HAD MADE CONSIDERATIONS OF WHICH WERE DEFENSE
25 AS OPPOSED TO NOT DEFENSE, YES, AS ALL OF THE PEOPLE THERE
26 DID.

27 Q BUT I AM ONLY ASKING ABOUT HIM FOR NOW.

28 A YES. TO RESPOND TO YOUR QUESTION, IT WOULD BE

1 YES, HE DID MAKE THAT KIND OF A DECISION.

2 Q THEREFORE, HE WOULD, OF NECESSITY, HAVE HANDLED
3 AT LEAST, AND LOOKED AT MATERIALS THAT WERE LATER DETERMINED
4 TO BE DEFENSE MATERIALS?

5 A THE DEFENSE MATERIALS -- WHAT LATER WERE
6 DETERMINED TO BE DEFENSE MATERIALS, I CAN'T SAY THAT THAT
7 IS A FACT.

8 HE LOOKED THROUGH SOME MATERIALS. SOME, HE
9 DEEMED TO BE APPROPRIATE FOR SEIZURE, AND SOME NOT.

10 I AM NOT SAYING THE MATERIALS THAT WERE NOT
11 SEIZED WERE DEFENSE MATERIALS.

12 I AM JUST SAYING THEY WERE DEEMED NOT APPROPRIATE
13 FOR SEIZURE.

14 Q DID MR. ZOELLER LOOK AT MATERIALS HE DEEMED TO
15 BE DEFENSE MATERIALS AND DID NOT SEE?

16 MR. WAPNER: YOUR HONOR, I WOULD OBJECT TO THIS. IT
17 IS ASKING THIS WITNESS FOR SOMEONE ELSE'S STATE OF MIND.

18 WE HAVE MR. ZOELLER WHO WILL BE COMING HERE.

19 THE COURT: I WILL SUSTAIN THE OBJECTION. WE WILL HAVE
20 MR. ZOELLER HERE AND YOU ASK HIM ABOUT IT, WILL YOU?

21 MR. BARENS: DID MR. ZOELLER EVER TELL YOU THAT HE
22 LOOKED AT SOMETHING THAT HE DID NOT SEIZE BECAUSE HE DEEMED
23 IT DEFENSE MATERIAL OR WORDS TO THAT EFFECT?

24 A ON THE CONTRARY, MR. ZOELLER HAS TOLD ME HE NEVER
25 DID SEE ANYTHING THAT RELATED TO THE DEFENSE.

26 Q ALL RIGHT. NOW YOU SAID EARLIER ON THAT YOU
27 SAW COMPUTER OR WHAT APPEARED TO BE COMPUTER GENERATED MATERIALS
28 THAT YOU FELT WERE DEFENSE MATERIALS; IS THAT TRUE?

1 A I DON'T RECALL MAKING THAT STATEMENT DURING THIS
2 HEARING.

3 Q IS IT A TRUE STATEMENT?

4 A I DID SEE WHAT LOOKED LIKE COMPUTER GENERATED
5 PAPER, YES.

6 Q DID YOU SEE ANY PAPERS OF THAT DESCRIPTION THAT
7 APPEARED TO YOU TO BE DEFENSE MATERIALS?

8 A I DIDN'T EVEN LOOK AT IT.

9 I FIGURED IF IT WAS ON THE COMPUTER, IT MIGHT
10 BE SOMETHING HE WAS DOING FOR HIS DEFENSE SO I DIDN'T EXAMINE
11 IT.

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1 Q AND YOU SAID THAT YOU LEFT THOSE WHERE THEY
2 WERE?

3 A I NEVER EVEN TOUCHED THEM.

4 Q YOU LEFT THEM OUT IN THE OPEN?

5 A YES, OR WHEREVER THEY WERE.

6 Q YOU DID NOTHING TO -- STRIKE THAT.

7 ANY MATERIALS THAT YOU SAW THAT WERE DEFENSE
8 MATERIALS, AS YOU SAW THEM, YOU DID NOTHING TO PRECLUDE THEIR
9 BEING VIEWED BY ANY OTHER OFFICERS PRESENT?

10 A WELL, THAT ISN'T AN ACCURATE STATEMENT.

11 Q WHAT WOULD BE, SIR?

12 A IF ONE OFFICER WAS SEARCHING IN ONE AREA, HE
13 WAS RESPONSIBLE FOR LOOKING AT THAT VOLUME OF MATERIAL. HE
14 WOULDN'T MOVE TO SOMETHING ELSE AND CHECK SOMETHING ELSE THAT
15 SOMEBODY ELSE HAD ALREADY DONE.

16 SO IF I FOUND SOMETHING, AS I DID ON THE BED
17 IN THE COMPUTER ROOM, THAT I DEEMED TO BE POSSIBLY DEFENSE
18 RELATED, I JUST SAID, "DON'T ANYBODY ELSE LOOK AT THIS STUFF.
19 THIS MATERIAL IS TO BE SEIZED. THAT IS NOT."

20 AND I NEVER HEARD ANYBODY EVER TELL ME THEY SAW
21 ANYTHING THAT WAS RELATED TO THE DEFENSE, SO THERE WASN'T
22 THAT DUPLICATION OF THAT EFFORT IN THAT AREA.

23 Q I UNDERSTAND THAT NOBODY SAID ANYTHING LIKE THAT
24 TO YOU, MR. BREILING.

25 WHAT I AM LOOKING FOR IS THE REALITY OF WHAT
26 COULD HAVE HAPPENED UP THERE.

27 THE FACT OF THE MATTER IS, WHEN YOU SAW STUFF
28 ON THE END OF THE BED IN PLAIN VIEW THAT APPEARED TO BE

1 DEFENSE MATERIAL, IT IN FACT REMAINED IN PLAIN VIEW, DID IT
2 NOT, SIR?

3 A YES, IT DID.

4 Q NOW, DID YOU SEE ANY OR SEIZE ANY MATERIALS THAT
5 HAD AFFIXED TO THEM YELLOW POST-IT STICKERS?

6 A YES, I BELIEVE I SAW THEM. WHETHER I TOOK THEM
7 OR NOT, I DON'T RECALL BUT THERE WERE SOME YELLOW POST-IT
8 STICKERS.

9 Q DID YOU SEE ANYTHING THAT HAD YELLOW POST-IT
10 STICKERS ON IT WITH NUMBERS?

11 THE COURT: YELLOW WHAT?

12 MR. BARENS: YELLOW POST-IT STICKERS, LIKE THE EXHIBITS
13 WE HAVE, P-O-S-T I-T. THE LITTLE 3M THINGS, JUDGE, THAT YOU
14 STICK ON THINGS.

15 Q DID YOU SEE ANYTHING LIKE THIS, LIKE THE CLERK
16 HAS HOLDING UP, EXCEPT WE USE THE SMALLER ONES?

17 A YES, I SAW SOMETHING LIKE THAT.

18 Q YOU SAW SOMETHING LIKE THAT, DID YOU?

19 A RIGHT.

20 Q WHERE DID YOU SEE THOSE?

21 A AS I RECALL, THE ONLY ONES I CAN RECALL NOW,
22 WERE STICKING ON THE OUTSIDE OF A MANILA FOLDER.

23 Q WERE THOSE LOCATED ON THE BED?

24 A I AM SORRY. I DON'T INDEPENDENTLY RECALL.

25 Q HOW MANY OF THOSE DO YOU THINK YOU SAW?

26 A I HAVE NO IDEA.

27 IT WASN'T A LARGE VOLUME.

28 Q ALL RIGHT. WERE THE POST-IT STICKERS NUMBERED

1 IN ANY WAY THAT YOU SAW?

2 THE COURT: IN ANY EVENT, DID YOU SEIZE ANY OF THEM?

3 THE WITNESS: I CAN'T SAY WHETHER I DID OR I DIDN'T
4 AND I CAN'T RECALL WHETHER THEY HAD NUMBERS ON IT.

5 THE POST-IT STICKERS DIDN'T MEAN THAT MUCH TO
6 ME. I HAD TO LOOK INSIDE TO SEE WHAT WAS THERE.

7 Q BY MR. BARENS: IN TRUTH, YOU SEIZED CERTAIN
8 MATERIALS THAT HAD POST-IT STICKERS ON THEM, DID YOU?

9 A IT COULD VERY WELL BE.

10 IT IS SEALED AND I HAVEN'T LOOKED AT IT SINCE
11 I SEIZED IT.

12 THE COURT: AT ANY RATE, YOU WILL PRODUCE COPIES FOR
13 COUNSEL?

14 THE WITNESS: YES, YOUR HONOR.

15 MR. BARENS: NOT ALL OF THE COUNSEL, YOUR HONOR. I
16 DON'T BELIEVE MR. WAPNER WILL, UNTIL WE HAVE HAD FURTHER --

17 THE COURT: OH, NO, NO.

18 THEY INTEND TO GIVE YOU COPIES OF IT.

19 MR. BARENS: ALL RIGHT. WHY DON'T WE RESERVE THAT
20 TYPE OF AN ORDER UNTIL WE GET THIS THING RESOLVED A BIT FURTHER,
21 YOUR HONOR?

22 THE COURT: ALL RIGHT.

23 MR. BARENS: JUST A MOMENT.

24 (UNREPORTED COLLOQUY BETWEEN MR. BARENS
25 AND MR. CHIER.)

26 Q BY MR. BARENS: DID YOU EVER MAKE AVAILABLE TO
27 ANY COUNSEL, COPIES OF THE MATERIALS THAT WERE IN THE KARNY
28 BRIEFCASE?

1 A THEY HAVE ALL BEEN DUPLICATED FOR DISCOVERY.
2 THEY ARE IN SAN FRANCISCO. THEY HAVE NOT BEEN MAILED OUT
3 YET.

4 Q WERE YOU INTENDING TO MAIL THOSE OUT TO ME?

5 A NOT TO YOU, NO.

6 Q WHY NOT?

7 A YOU AREN'T DEFENDING MR. HUNT UP IN SAN FRANCISCO.

8 Q WERE YOU GOING TO SEND A COPY TO MR. WAPNER?

9 A NO, I HADN'T PLANNED TO SEND IT TO MR. WAPNER.

10 Q ALL RIGHT. WERE THE MATERIALS ON THE BED IN
11 THE COMPUTER ROOM IN SOME SORT OF A TRAY?

12 A NO, I DON'T REMEMBER SEEING ANYTHING ON A TRAY
13 ON THE BED.

14 Q A CARDBOARD TRAY, PERHAPS?

15 A A CARDBOARD TRAY, NO, NOT THAT I RECALL.

16 Q DID YOU EVER LEAVE ANY DOCUMENTS WITH LITTLE
17 POST-IT STICKERS BEHIND?

18 A COULD HAVE. I DON'T KNOW.

19 Q YOU MAY HAVE TAKEN THEM ALL, YOU MAY HAVE LEFT
20 SOME BEHIND; IS THAT FAIR?

21 A I DON'T KNOW HOW MANY THERE WERE.

22 AS I SAY, I TOOK SOME DOCUMENTS. I HAVEN'T
23 HAD AN OPPORTUNITY TO REVIEW THEM ALL. SOME HAD POST-IT
24 STICKERS ON IT, SOME DIDN'T. I DON'T KNOW WHETHER THERE WERE
25 ANY LEFT.

26 Q YOU MENTIONED EARLIER IN SOME TESTIMONY THAT
27 AFTER YOU REMOVED ALL OF THAT STUFF FROM THE PLACE THERE IT
28 HAD BEEN SEALED IN A BOX TILL THAT DATE TO THIS DATE?

29 A THAT'S CORRECT.

1 Q THE LAST EXHIBIT TO THE MATERIALS YOU PROVIDED
2 THE COURT IN THIS MATTER, IS OF A DOCUMENT WITH WHAT LOOKS
3 LIKE 1-5-87 ON THAT.

4 IF ALL THOSE MATERIALS ARE SEALED, HOW WERE YOU
5 ABLE TO PRODUCE THAT COPY?

6 A I TOLD YOU THAT THEY WERE SEALED IN THE L.A. OFFICE
7 OF THE ATTORNEY GENERAL.

8 I XEROXED THAT SINGLE SHEET OF PAPER BEFORE IT
9 WAS SEALED AND PUT IT BACK IN THERE, SINCE THAT WAS THE ONLY
10 DOCUMENT THAT MR. CHIER HAD OBJECTED TO, PRIOR TO ME TAKING
11 IT FROM THE OFFICE OR THE HOUSE.

12 AND I WANTED THE JUDGE TO SEE THAT WHEN I RETURNED
13 IT WITH THE WARRANT.

14 Q NOW, PRAY TELL, HOW DOES A 1-5-87 DOCUMENT,
15 MR. BREILING, RELATE TO ANYTHING WITHIN THE TIME PARAMETERS
16 OF YOUR SEARCH WARRANT?

17 A OKAY. THAT PARTICULAR DOCUMENT OBVIOUSLY, WAS
18 NOT MENTIONED ON THE SEARCH WARRANT. THE 1-5-87 DATE DIDN'T
19 COME TO MY ATTENTION UNTIL I HAD SEEN OTHER THINGS ON THAT
20 DOCUMENT THAT MADE ME BELIEVE THAT IT DID RELATE TO SOMETHING
21 THAT COULD BE SEIZED.

22 Q WELL, SIR, THE VERY FIRST THING I SEE, READING
23 IT FROM TOP TO BOTTOM AS I NORMALLY DO, IS THE DATE 1-5-87.

24 HAVING LOOKING AT THIS FROM TOP TO BOTTOM AS I
25 PRESUME YOU READ AS WELL, SIR, WOULD YOU NOT HAVE WANTED TO
26 STOP READING?

27 A WELL, I LEARNED TO READ IN THE UNITED STATES.
28 I READ FROM LEFT TO RIGHT.

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1 AT THE TOP ON THE LEFT, IS THE NAME PITTMAN.
2 OVER ON THE RIGHT IS THE DATE. IF I WAS RAISED IN CHINA,
3 I WOULD HAVE READ THAT FIRST.

4 Q IF I GO FROM LEFT TO RIGHT ACROSS THE TOP LINE,
5 I IMMEDIATELY ENCOUNTER, DO I NOT, ABOVE THE WORD "PITTMAN"
6 THE DATE 1-5-87?

7 A IT IS TO THE RIGHT. MY EYE WAS ATTRACTED TO
8 PITTMAN.

9 MY EYE DROPPED DOWN AND I CAME UP WITH SOME OTHER
10 THINGS I THOUGHT WERE PERTINENT.

11 THE COURT: WHERE IS THE WORD "PITTMAN"? IS THIS IT?

12 THE WITNESS: YOU CAN JUST BARELY SEE IT.

13 THE COURT: THIS ONE?

14 THE WITNESS: THAT'S CORRECT.

15 THE COURT: ALL RIGHT.

16 Q BY MR. BARENS: YOU ARE TELLING ME, SIR, THAT
17 AFTER YOU SAW THE DATE 1-5-87 ON THERE, YOU STILL SEIZED IT?

18 A THAT IS WHAT I AM TELLING YOU.

19 Q WHOSE HANDWRITING -- DID YOU HAVE AN OPINION AS
20 TO WHOSE HANDWRITING WAS ON THIS DOCUMENT?

21 A I CAN GIVE YOU AN ASSUMPTION.

22 Q WHO DID YOU ASSUME?

23 A I ASSUMED IT WAS MR. HUNT'S.

24 Q AND YOU ASSUMED IF HE WROTE SOMETHING ON 1-5-87
25 AFTER HIS TRIAL IN THIS MATTER HAD COMMENCED, THAT YOU WERE
26 ENTITLED TO SEE IT?

27 A YES.

28 Q YOU HAD SOME DISCUSSION WITH MR. CHIER ABOUT THIS

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1 DOCUMENT?

2 A YES WE DID.

3 Q ALL RIGHT. PRIOR THERETO WHEN MR. CHIER FIRST
4 ARRIVED, DID YOU HAVE SOME CONFRONTATION WITH MR. CHIER?
5 I USE THAT WORD NOT PERJORATIVELY, BUT DESCRIPTIVELY.

6 A BEFORE HE ARRIVED?

7 Q NO. BEFORE THIS, WHEN HE FIRST ARRIVED, DID YOU
8 HAVE SOME CONFRONTATION?

9 A WE HAD --

10 Q I DO NOT USE THE WORD "CONFRONTATION" IN AN
11 ACCUSATORY MANNER, MR. BREILING.

12 A NO. I MANAGED TO KEEP MY VOICE AT LEAST TWO
13 OCTAVES ABOVE HIS.

14 Q YOU ARE NOT THE ONLY ONE, MR. BREILING. IN ANY
15 EVENT, WHAT HAPPENED?

16 THE COURT: DO YOU MEAN HE PROVOKES IT WITH EVERYBODY?
17 IS THAT THE IDEA?

18 MR. BARENS: I SAID THAT IN JEST, OBVIOUSLY, YOUR HONOR.
19 AND I AM NOT SUBMITTING THAT MR. CHIER WAS ATTEMPTING TO BE
20 PROVOCATIVE IN ANY MATTER ON THIS OCCASION. BUT --

21 THE COURT: JUST THIS OCCASION, YOU MEAN? .

22 MR. BARENS: ON NO OCCASION DO I SUGGEST HE IS BEING
23 PROVOCATIVE.

24 Q BUT ON THAT OCCASION WHEN HE WAS ATTEMPTING TO
25 DO HIS JOB, AS I DEEM HIM TO BE AT ALL TIMES, WHAT OCCURRED?

26 A I DON'T REMEMBER.

27 THE COURT: HE SEEMS TO BE DOING YOUR JOB, TOO, MOST
28 OF THE TIME.

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1 MR. BARENS: I TRUST HE IS ASSISTING ME, YOUR HONOR.

2 THE COURT: ALL RIGHT.

3 THE WITNESS: I AM LOST NOW, MR. BARENS. YOU ARE GOING
4 TO HAVE TO GO BACK AND GIVE ME THAT ONCE AGAIN.

5 Q BY MR. BARENS: ALL I WANT TO KNOW IS, IRRESPECTIVE
6 OF WHOSE JOB HE WAS DOING, WHAT HAPPENED?

7 A WHEN WE HAD THIS VOICE-RAISING CONTEST?

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1 Q CALL IT WHAT YOU MAY.

2 A I DON'T REMEMBER THAT SPECIFIC INCIDENT, WHAT
3 IT WAS OVER. I KNOW AS I HAVE STATED EARLIER, MR. CHIER WANTED
4 ME TO CEASE AND DESIST WITH THE SEARCH.

5 HE WAS POINTING OUT THINGS TO THE OFFICERS THAT
6 WERE IN THE ROOM, THINGS THAT HE DEEMED TO BE DEFENSE-RELATED
7 OR ATTORNEY/CLIENT PRIVILEGED.

8 Q DID YOU EVER TELL HIM THAT IF HE DID NOT STAY
9 OUT OF THE WAY, HE WOULD BE ARRESTED?

10 THE COURT: I DIDN'T HEAR THAT.

11 Q BY MR. BARENS: DID YOU EVER TELL HIM IF HE DID
12 NOT STAY OUT OF THE WAY --

13 A I AM AWFULLY GLAD THAT YOU ASKED THIS QUESTION
14 AND --

15 THE COURT REPORTER: GENTLEMEN PLEASE, ONE AT A TIME.
16 MR. BARENS: I WAS TRYING TO FINISH THE QUESTION THAT
17 I HAD NOT FINISHED BEFORE THE RESPONSE COMMENCED.

18 Q AND MY QUESTION WAS, DID YOU EVER TELL MR. CHIER
19 THAT HE RAN THE RISK OF BEING ARRESTED?

20 A NOT THAT WAY. I DID TELL MR. CHIER THAT HIS
21 ACTIONS IN MY OPINION, WERE RESULTING IN HIM DELAYING AND
22 IMPEDING MY ABILITY TO CARRY OUT THE FUNCTIONS OF AN OFFICER
23 SERVING A SEARCH WARRANT.

24 AT THAT PARTICULAR TIME, I THINK MR. CHIER SAW
25 A 148 P.C. ARREST COMING AND HE BACKED OFF. I NEVER USED
26 THE WORD "ARREST."

27 I NEVER THREATENED TO ARREST HIM. I JUST TOLD
28 HIM WHAT THE ELEMENTS OF 148 WERE AND I CONSIDERED THAT HE

1 WAS VIOLATING THOSE ELEMENTS.

2 Q GENERALLY DESCRIBED AS OBSTRUCTION OF JUSTICE,
3 OBSTRUCTING AN OFFICER?

4 A NO. I WOULDN'T SAY OBSTRUCTION OF JUSTICE. HE
5 WAS OBSTRUCTING AN OFFICER IN THE PERFORMANCE OF HIS DUTY.

6 Q RIGHT. AND YOU MADE THAT CLEAR TO HIM SOMEWHAT
7 FROM THE OUTSET WHEN HE GOT THERE?

8 A NO.

9 Q NO?

10 A THAT IS NOT TRUE.

11 Q ALL RIGHT.

12 A NO. MR. CHIER WHEN HE FIRST SHOWED UP, I SHOWED
13 HIM THE ORIGINAL SEARCH WARRANT. I LET HIM READ IT.

14 I GUESS BOBBY ROBERTS HAD GAVE HIM THE COPY, BECAUSE
15 HE WAS SUBSEQUENTLY CARRYING A COPY AROUND WITH HIM.

16 MR. CHIER OBJECTED TO THE FACT THAT WE WERE THERE
17 BECAUSE OF THE ATTORNEY/CLIENT PRIVILEGE MATERIALS.

18 I IN MY CONVERSATIONS WITH HIM, I TOLD HIM THAT
19 I HAD JUST GOTTEN OFF THE PHONE WITH YOU AND EXPLAINED THE
20 SITUATION TO YOU AND TOLD HIM THAT YOU HAD TOLD ME THAT YOU
21 WOULD TRUST MY JUDGMENT IN THIS CASE.

22 SO, I DIDN'T OFFICIALLY TELL HIM THAT I WAS GOING
23 TO ARREST HIM. I NEVER DID TELL HIM THAT.

24 THE COURT: WAS IT THEN THAT HE TOLD YOU THAT THE
25 DEFENDANT IS IN PRO PER DOWN HERE?

26 THE WITNESS: IT WAS PRIOR TO THAT BECAUSE AFTER HE
27 TOLD ME THAT, I WENT DOWNSTAIRS AND MADE A TELEPHONE CALL
28 TO MR. VANCE, TO MAKE SURE THAT I WAS STILL STANDING ON FIRM

1 LEGAL GROUND.

2 MR. CHIER'S CONVERSATION WITH ME AFTER THAT WAS,
3 "DID YOU CALL MR. VANCE?"

4 I SAID, "YES I DID. JOE HUNT HAS YOU AND I HAVE
5 MR. VANCE."

6 Q EVERYONE HAS SOMEONE. MR. BREILING, DID MR. CHIER
7 USE THE EXPRESSION WITH YOU THAT MR. HUNT WAS MAKING A MOTION
8 TO BE PLACED IN PRO PER FOR PURPOSES OF SECURING THE
9 APPOINTMENT OF A SPECIAL MASTER RELATIVE TO THE DOCUMENTS
10 YOU WERE SEEKING TO OBTIAN?

11 A AS I STATED AT THE TIME THAT I TESTIFIED, I DON'T
12 RECALL HIS EXACT WORDS. THE MEANING THAT I OBTAINED FROM
13 HIS WORDS, WAS THAT JOE WAS IN THE STATE OF EITHER GOING
14 PRO PER OR WAS AT THAT TIME PRO PER. BUT HIS STATEMENT TO
15 ME WAS AS A RESULT OF WHATEVER WAS TAKING PLACE DOWN HERE,
16 I HAD TO STOP. IT WAS NOT SOMETHING THAT WAS TO OCCUR IN
17 THE FUTURE. IT WAS SOMETHING THAT I HAD TO DO AT THAT MOMENT.

18 THE COURT: HE MENTIONED A SPECIAL MASTER TO YOU AT
19 THAT TIME?

20 THE WITNESS: YES HE DID.

21 THE COURT: WHAT DID HE SAY?

22 THE WITNESS: HE SAID THAT THE OFFICES OR THE AREAS
23 THAT I WAS SEARCHING BELONGED TO HUNT, WHO WOULD NOW HAVE
24 TO BE CONSIDERED AN ATTORNEY, HIS OFFICES AND THAT I COULD
25 NOT SEARCH THEM AND A SPECIAL MASTER WOULD HAVE TO BE
26 APPOINTED TO SEARCH THEM.

27 Q BY MR. BARENS: IS IT POSSIBLE MR. BREILING, THAT
28 MR. CHIER USED THE EXPRESSION WITH YOU, THAT A MOTION WAS

1 BEING SOUGHT RELATIVE TO PRO PER STATUS?

2 A I DON'T RECALL HIM USING THE WORD "MOTION."

3 Q IS IT POSSIBLE THAT HE USED THAT WORD OR SAID
4 THAT HE WAS SEEKING AN ORDER IN THAT REGARD?

5 A IN FAIRNESS TO MR. CHIER, I WOULD SAY THAT IT
6 IS POSSIBLE. BUT THAT WAS NOT THE IMPRESSION THAT I WAS LEFT
7 WITH.

8 Q ALL RIGHT. I UNDERSTAND THAT. I AM JUST TRYING
9 TO SEE WHAT IS POSSIBLE AND WHAT IS NOT POSSIBLE.

10 I AM SURE WE WILL HAVE TESTIMONY ON THAT LATER.
11 ALL RIGHT.

12 (PAUSE.)

13 MR. BARENS: I HAVE A LOT OF NOTES, HERE. I HAVE A
14 COUPLE OF QUESTIONS ON THE TYPEWRITER MATTER THAT YOU
15 REFERENCED EARLIER.

16 Q YOU REMOVED A BALL FROM A TYPEWRITER?

17 A THAT'S CORRECT.

18 Q HAVE YOU MADE THE BALL FROM THAT TYPEWRITER
19 AVAILABLE TO OFFICERS DIAZ AND ROZZI?

20 A IT IS LOCKED UP IN THE BOX IN MY OFFICE.

21 Q I REALIZE THAT.

22 THE COURT: HE WANTS TO KNOW WHETHER YOU MADE IT
23 AVAILABLE TO THEM?

24 THE WITNESS: I HAVE NOT MADE IT AVAILABLE TO ANYBODY.

25 Q BY MR. BARENS: BEFORE IT WAS LOCKED UP, SIR,
26 DID YOU ACCESS ROZZI OR DIAZ OR ANY REPRESENTATIVES OR
27 PERSONS ASSOCIATED WITH THEM TO THE TYPEWRITER BALL?

28 A NO.

1 Q HAVE YOU EVER HEARD THAT THERE MIGHT BE AN ISSUE
2 IN THAT HOLLYWOOD HOMICIDE INVESTIGATION CONCERNING TYPEWRITTEN
3 MATERIALS?

4 A I HEARD THAT THEY HAD RECEIVED A TYPEWRITTEN LETTER
5 OR SOMEBODY HAD RECEIVED A TYPEWRITTEN LETTER, YES.

6 Q AND THAT THERE WAS SOME SEARCH, LOOKING FOR THE
7 GENESIS OF THAT TYPEWRITTEN DOCUMENT?

8 A NOBODY HAS TOLD ME THAT. I WOULD ASSUME THAT
9 A GOOD INVESTIGATOR WOULD, THOUGH.

10 Q DID DEAN KARNY EVER TELL YOU THAT TYPING EQUIPMENT
11 WAS TAKEN BY RYAN HUNT FROM THE BBC OFFICES?

12 A I CAN'T SAY THAT HE DID.

13 Q THAT CERTAINLY TYPEWRITING EQUIPMENT WAS NOT THE
14 SUBJECT OF YOUR SEARCH WARRANT, WAS IT, SIR?

15 A NO IT WAS NOT.

16 Q DID RYAN HUNT EVER TELL YOU THAT HE TOOK A
17 TYPEWRITER FROM THE OFFICE?

18 A I NEVER ASKED HIM. HE NEVER TOLD ME.

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1 Q DID ANYONE FROM THE SEC EVER TALK ABOUT TYPEWRITERS
2 WITH YOU?

3 A NO.

4 Q DID YOU HAVE REASON TO BELIEVE THAT THE TYPEWRITER
5 THAT WAS PRESENT IN THE ROBERTS HOUSE WAS THE TYPEWRITER
6 THAT MR. HUNT HAD EITHER USED OR HAD POSSESSION OF IN 1984?

7 A I HAD NO WAY OF KNOWING FOR SURE.

8 Q IT IS UNUSUAL IN YOUR PRACTICE, IS IT NOT, TO
9 SEAL ALL OF THE MATERIALS YOU OBTAINED PURSUANT TO THE SEARCH?

10 A NO, I CAN'T SAY THAT THAT IS MY USUAL CUSTOM.

11 Q IT IS NOT YOUR USUAL CUSTOM, IS IT?

12 A NO.

13 Q WHY IN THIS INSTANCE DID YOU SEAL EVERYTHING
14 YOU SEIZED?

15 A THE ORIGINAL REQUEST THAT I DO SO OR LEAVE IT
16 SEALED CAME FROM MR. WAPNER AND I HONORED THAT REQUEST.

17 Q AND WHEN DID YOU FIRST DISCUSS THIS WITH MR.
18 WAPNER?

19 MR. WAPNER: BY DISCUSS THIS, DOES THAT MEAN THE
20 SEALING OF THE DOCUMENTS?

21 MR. BARENS: DISCUSS ANYTHING ABOUT THE SEARCH AND
22 SEIZURE AT THE ROBERTS RESIDENCE.

23 THE WITNESS: AFTER I WAS BACK IN SAN FRANCISCO, LET'S
24 SEE, I THINK THE SEARCH WAS ON A THURSDAY AND THE FOLLOWING
25 MONDAY I THINK MR. WAPNER AND I SPOKE ON THE TELEPHONE AND
26 HE REQUESTED THAT IF THEY WERE SEALED, I TOLD HIM THEY HAD
27 BEEN SHIPPED UP AND HE ASKED IF THEY WERE SEALED, I BELIEVE,
28 AND I WOULD HAVE RESPONDED IN THE AFFIRMATIVE AND HE ASKED

1 IF I WOULD LEAVE THEM THAT WAY.

2 Q WHY DID HE TELL YOU HE WANTED THEM SEALED?

3 A YOU WILL HAVE TO ASK HIM.

4 Q DID HE TELL YOU WHY, SIR?

5 A I THINK HE WAS CONCERNED ABOUT THAT I MIGHT HAVE
6 TAKEN SOMETHING THAT WOULD RELATE TO THE LEVIN HOMICIDE, AS
7 PRIVILEGED.

8 Q DID HE TELL YOU THAT, SIR?

9 A WORDS TO THAT EFFECT, YES.

10 Q DID YOU EVER DISCUSS WHAT WAS SEEN OR OBTAINED
11 AT THE HOME THAT DAY WITH DETECTIVE ZOELLER SUBSEQUENT TO
12 THAT DATE?

13 A NO.

14 Q DID THE SUBJECT OF WHETHER MR. WAPNER WAS AWARE
15 OF THIS SEARCH EVER COME UP DURING YOUR BRIEFING SESSION IN
16 BEVERLY HILLS THAT THURSDAY MORNING?

17 A I DON'T BELIEVE SO.

18 Q DID MR. ZOELLER AT ANY TIME EXPRESS ANY CONCERN
19 TO YOU THAT HE, MR. ZOELLER, OR THAT YOU PERSONALLY SHOULD
20 TELL MR. WAPNER WHAT YOU WERE DOING?

21 A NO.

22 Q DID THERE EVER -- AT ANY TIME, DID ZOELLER PRIOR
23 TO THE SEARCH AND SEIZURE EVER EXPRESS ANY CONCERN THAT HE
24 HAD NOT TOLD THE D.A. HE WAS WORKING WITH ON THE LEVIN
25 PROSECUTION ABOUT HIM GOING TO THE ROBERTS HOUSE?

26 A WE NEVER DISCUSSED IT.

27 Q AT ANY TIME?

28 A WELL, I WOULDN'T SAY THAT WE NEVER DISCUSSED

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1 IT AT ANY TIME.

2 HE WAS JUST AWARE OF THE FACT THAT I HAD NOT
3 BROUGHT IT TO THE ATTENTION OF MR. WAPNER.

4 Q DID HE EVER EXPRESS TO YOU ANY QUESTION THAT
5 HE MIGHT HAVE HAD AS TO WHETHER HE SHOULD DISCUSS IT WITH
6 MR. WAPNER?

7 A IF HE DID, IT WAS NOT WITH SUCH IMPACT THAT IT
8 REMAINS IN MY MEMORY TODAY.

9 Q YOUR ANSWER THEN IS YOU ARE NOT SURE?

10 A I AM SAYING THAT HE COULD HAVE BUT I DOUBT IT.

11 Q HAS HE, SUBSEQUENT TO THE SEARCH, EVER DISCUSSED
12 THAT SUBJECT WITH YOU?

13 A IN A ROUNDABOUT WAY.

14 Q WHAT DO YOU MEAN BY THAT, SIR?

15 A HE SAID HE THOUGHT I DID THE RIGHT THING.

16 Q DID ANYONE SUGGEST THAT HE HADN'T?

17 A I BEG YOUR PARDON?

18 Q DID HE TELL YOU SOMEONE HAD SUGGESTED THAT HE
19 HADN'T DONE THE RIGHT THING?

20 A NO, I DIDN'T SAY "HE."

21 I SAID THAT HE THOUGHT THAT I HAD DONE THE RIGHT
22 THING.

23 Q THAT YOU HAD DONE THE RIGHT THING?

24 A THAT'S CORRECT.

25 Q BUT WHY WAS HE TALKING ABOUT YOUR DECISION NOT
26 TO ADVISE MR. WAPNER OF THE SEARCH PRIOR TO PROCEEDING?

27 A NO. WE WERE TALKING IN GENERAL ABOUT HOW THE
28 WHOLE WARRANT WAS HANDLED.

1 WE NEVER SPECIFICALLY, AS FAR AS I KNOW, HAVE
2 SAT DOWN AND HAD A CONVERSATION ABOUT HOW WE SHOULD KEEP
3 FRED WAPNER IN THE DARK.

4 Q ALTHOUGH YOU SUCCEEDED AT THAT, YOU ARE TELLING
5 ME YOU NEVER HAD ANY DISCUSSION ABOUT THAT?

6 A WE HAVE NEVER REALLY DISCUSSED THAT ISSUE, NO.
7 WE SPENT MORE TIME TALKING ABOUT HOW THE WARRANT
8 WAS GOING TO BE SERVED AS EXPEDITIOUSLY AND HONESTLY AS
9 POSSIBLE.

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1 Q WHAT I AM REALLY ASKING NOW IS, SUBSEQUENT TO
2 THE SEARCH BETWEEN JANUARY 8TH AND TODAY AS YOU SIT IN THE
3 WITNESS BOX, YOU ARE TELLING ME YOU HAVE NEVER DISCUSSED THE
4 PROPRIETY OR LACK THEREOF/ADVISING WAPNER OR NOT ABOUT THE
5 SEARCH UP TO THIS MOMENT IN TIME?

6 A I THINK THAT IS SAFE TO SAY THAT IS CORRECT,
7 I DON'T THINK I HAVE TALKED TO HIM MAYBE MORE THAN ONCE AND
8 I WAS ASKING HIM ABOUT SOMETHING ELSE.

9 Q DID THERE COME A TIME DURING THE SEARCH WHEN
10 MR. ZOELLER TOLD YOU HE HAD TO LEAVE?

11 A YES, HE DID MENTION THAT.

12 Q WHY DID HE TELL YOU HE HAD TO LEAVE?

13 A SUBSEQUENT TO THE TELEPHONE CALL THAT I HAD FROM
14 YOU, I WAS TOLD THAT MR. WAPNER WAS ON THE TELEPHONE.

15 Q WHO TOLD YOU THAT, SIR?

16 A I THINK IT WAS BOBBY ROBERTS, I AM NOT SURE,
17 BUT I WAS DIRECTED TO THE TELEPHONE AND I WAS TOLD THAT FRED
18 WAPNER WAS ON THE PHONE.

19 AND FRED ASKED ME, "WHAT ARE YOU DOING OVER AT
20 BOBBY ROBERTS?"

21 I SAID, "SERVING A SEARCH WARRANT."

22 Q YES?

23 A AND HE WANTED TO KNOW WHAT WAS GOING ON, I TOLD
24 HIM, AND HE SAID, "WELL, TELL LES TO FORGET WHAT I TOLD HIM."

25 BUT MR. WAPNER DIDN'T TELL ME WHAT HE HAD TOLD
26 LES. HE JUST SAYS, "TELL HIM TO FORGET IT."

27 SO WHEN I GOT THROUGH TALKING TO MR. WAPNER,
28 HE PUT YOU BACK ON THE TELEPHONE AND I TALKED TO YOU A SECOND

1 TIME.

2 AFTER I WAS THROUGH WITH YOU, I REMEMBER TRYING
3 TO HAND THE PHONE TO MR. CHIER TO SEE IF HE WANTED TO TALK
4 TO YOU BUT YOU HAD GOTTEN OFF THE PHONE.

5 SO THEN I TALKED TO LES AND I SAID, "FRED TOLD
6 ME TO TELL YOU THAT WHATEVER IT WAS HE TOLD YOU, FORGET ABOUT
7 IT."

8 AND AT THAT TIME, HE TOLD ME -- LES TOLD ME
9 "FRED TOLD ME TO LEAVE."

10 "AND HE TOLD ME TO TELL YOU WHATEVER IT WAS HE
11 TOLD YOU, TO FORGET ABOUT IT."

12 Q DID HE THEN STAY UNTIL THE REST OF YOU LEFT?

13 A HE WAS THERE UNTIL WE LEFT.

14 I DON'T THINK HE WAS ACTIVELY PARTICIPATING IN
15 THE SEARCH TO ANY EXTENT.

16 Q DID MR. ZOELLER EVER TELL YOU THAT HE SPOKE TO
17 FRED WAPNER THAT DAY ON THE PHONE?

18 A I JUST SAID THAT, THAT FRED HAD APPARENTLY TALKED
19 TO LES BEFORE HE TALKED TO ME, I AM ASSUMING.

20 AT ANY RATE, FRED --

21 THE COURT: YOU MEAN AT THE HOUSE?

22 THE WITNESS: YES, YOUR HONOR.

23 APPARENTLY THE PHONE CALL HAD GONE IN TO LES
24 ZOELLER OR LES AND FRED WAPNER HAD BEEN IN COMMUNICATION FIRST
25 AND I GATHER FROM WHAT LES SAID THAT MR. WAPNER HAD TOLD HIM
26 TO LEAVE.

27 WHEN I TALKED TO FRED, FRED TOLD ME TO TELL LES
28 "FORGET WHAT I TOLD YOU."

1 AND THEN I FOUND OUT --

2 Q BY MR. BARENS: WERE YOU EVER TOLD --

3 THE COURT: LET HIM FINISH.

4 THEN YOU FOUND OUT?

5 THE WITNESS: THEN I HEARD FROM LES THAT WAPNER TOLD
6 HIM TO LEAVE AND I SAID, "IF THAT IS WHAT HE SAID, FINE, BUT
7 HE TOLD ME TO TELL YOU TO FORGET IT."

8 Q BY MR. BARENS: NOW, DID HE EVER TELL YOU THAT
9 DURING THE CONVERSATION WHICH MR. ZOELLER WAS TOLD TO LEAVE
10 BY MR. WAPNER, THAT I WAS A WITNESS IN THAT TELEPHONE
11 CONVERSATION?

12 A YOU STARTED OUT, "DID HE EVER TELL YOU?"
13 WHO ARE YOU MAKING REFERENCE TO?

14 Q DID MR. ZOELLER EVER LET YOU KNOW THAT I WAS
15 A WITNESS TO THE TELEPHONE CONVERSATION IN WHICH HE WAS TOLD
16 TO LEAVE AND CEASE HIS ACTIVITIES BY MR. WAPNER?

17 A NO, HE NEVER TOLD ME.

18 Q ARE YOU TELLING ME THAT AFTER MR. ZOELLER GOT
19 OFF OF THE PHONE WITH MR. WAPNER -- STRIKE THAT.

20 HOW MUCH TIME ELAPSED BETWEEN THE TIME MR. WAPNER
21 TALKED TO MR. ZOELLER AND THE TIME THAT YOU TALKED TO MR.
22 WAPNER?

23 A I HAD NO IDEA THAT MR. ZOELLER AND MR. WAPNER
24 WERE COMMUNICATING SO IT CAME AS A SURPRISE TO ME.

25 I WAS TOLD "WAPNER WANTS TO TALK TO YOU ON THE
26 PHONE."

27 I DIDN'T KNOW THAT LES HAD BEEN TALKING TO HIM,
28 SO I HAVE NO IDEA WHAT KIND OF A TIME EXPANSE THERE WAS.

1 Q WHAT TIME WAS IT WHEN YOU TOLD MR. ZOELLER TO
2 FORGET ABOUT WHAT WAPNER TOLD HIM?

3 A I DIDN'T LOOK AT MY WATCH.

4 AS SOON AS I GOT OFF THE PHONE FROM FRED, I TOLD
5 HIM.

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1 Q HOW MUCH TIME ELAPSED BETWEEN THAT POINT IN TIME
2 AND WHEN YOU LEFT THE ROBERTS' PREMISES?

3 A I DON'T KNOW.

4 Q WAS IT MORE THAN AN HOUR?

5 A I DON'T KNOW. I REALLY DON'T KNOW. YOU WERE
6 PRIVY TO THE CONVERSATION, SO I WILL HAVE TO THROW THE QUESTION
7 BACK AT YOU.

8 IF YOU WERE THERE, DID YOU LOOK AT YOUR WATCH?
9 I DIDN'T.

10 Q I DID. AND YOU LEFT THE ROBERTS' RESIDENCE ABOUT
11 WHAT TIME?

12 A BETWEEN 20 MINUTES AFTER 1:00 AND 1:30, SOMEWHERE
13 ABOUT THERE.

14 Q AND IS IT YOUR STATEMENT THAT AS BEST YOU COULD
15 OBSERVE, THAT AFTER YOU HAD TALKED TO MR. WAPNER ON THE PHONE
16 AND WERE AWARE THAT MR. ZOELLER HAD TALKED TO MR. WAPNER ON
17 THE PHONE, THAT MR. ZOELLER NO LONGER ENGAGED IN ANY SEARCH
18 OF MATERIALS?

19 A I WAS NOT WATCHING HIM. I DON'T RECALL SPECIFICALLY
20 SEEING HIM. HE MAY HAVE.

21 HE MAY NOT HAVE. PROBABLY HE WAS ATTEMPTING TO
22 HONOR FRED'S REQUEST AND ALTHOUGH I DIDN'T SEE HIM LEAVING
23 THE PLACE --

24 MR. BARENS: WE'LL MOVE TO STRIKE THAT LAST COMMENT
25 STARTING WITH THE "PROBABLY" AS SPECULATION.

26 THE COURT: I WILL GRANT YOUR MOTION.

27 MR. BARENS: THANK YOU, YOUR HONOR. NOTHING FURTHER
28 OF THIS WITNESS.

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FURTHER EXAMINATION

BY MR. WAPNER:

Q WHY WAS IT THAT YOU TOOK THAT DOCUMENT THAT YOU HAVE ATTACHED TO THE RETURN OF THIS SEARCH WARRANT THAT HAS THE JANUARY 5, 1987 DATE ON IT?

A BECAUSE I FELT THAT IT WAS EVIDENCE IN MY CASE.

MR. WAPNER: THANK YOU. NOTHING FURTHER.

MR. BARENS: ONE LAST QUESTION.

THE COURT: GO AHEAD. ALL RIGHT.

FURTHER EXAMINATION

BY MR. BARENS:

Q ARE YOU ASSERTING IN ANY WAY IN YOUR TESTIMONY THAT MR. CHIER HAD A VETO POWER OVER WHAT YOU WERE DECIDING TO TAKE?

A A VETEO POWER? NO. I JUST RESPECTED HIS -- WHEN HE SAID SOMETHING WAS DEFENSE-RELATED OR ATTORNEY/CLIENT PRIVILEGE, I TOOK HIS WORD AS AN OFFICER OF THE COURT AND MR. HUNT'S DEFENSE ATTORNEY.

Q BUT IF YOU HAD DECIDED TO TAKE SOMETHING AND THERE WAS A DISAGREEMENT, YOU WON, DIDN'T YOU?

A WELL, THE ONE THING WE REALLY DISAGREED OVER, WE'LL FIND OUT WHETHER I WON AT THE APPELLATE LEVEL.

MR. BARENS: THANK YOU, SIR.

THE COURT: WELL, ON THE SUBJECT YOU WERE DISCUSSING WITH COUNSEL, ON PAGE 5 OF YOUR REPORT, YOU STATE:

"IT SHOULD BE NOTED HERE THAT DURING MY SEARCH, CHIER IDENTIFIED (PRIOR TO MY EXAMINATION)

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1 NUMEROUS BINDERS AND PAPERS AS REPRESENTING
2 DOCUMENTS RELATING TO THE DEFENSE OF HIS CLIENT.
3 I TOOK MR. CHIER AT HIS WORD AND DID NOT OPEN THOSE
4 MATERIALS, BASED UPON HIS REPRESENTATION TO ME AS
5 AN OFFICER OF THE COURT."

6 IS THAT CORRECT?

7 THE WITNESS: THAT'S CORRECT.

8 Q BY MR. BARENS: DIDN'T YOU EARLIER TESTIFY, SIR,
9 THAT YOU OPENED THEM AND THEN CLOSED THEM?

10 THE COURT: LET ME FINISH.

11 THE WITNESS: NO. I SAID THERE WAS ONE BINDER THAT
12 I OPENED AND I SAW THE FIRST PAGE, A REPORT WRITTEN BY ME
13 AND SIGNED BY ME AND THEN HE SAID ALL THOSE BINDERS.

14 SO I DIDN'T LOOK AT ANY OF THEM.

15 MR. BARENS: THANK YOU.

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1 THE COURT: AND THEN YOU GO ON:

2 "AFTER PHOTOGRAPHS HAD BEEN TAKEN OF
3 THE ENTIRE SCENE PRIOR TO AND AFTER THE SEARCH,
4 I PROVIDED MR. CHIER, WHO WAS ACCOMPANIED BY
5 BROOKE ROBERTS, AN OPPORTUNITY TO EXAMINE ALL OF
6 THE DOCUMENTS I INTENDED TO REMOVE FROM THE
7 RESIDENCE."

8 IS THAT CORRECT?

9 THE WITNESS: THAT'S CORRECT.

10 THE COURT: AND DID HE LOOK AT ALL OF THE DOCUMENTS
11 THAT YOU TOOK FROM THE PREMISES?

12 THE WITNESS: I DIDN'T WITNESS HIM GOING THROUGH THEM
13 ALL. BUT HE WAS IN THE BOX, GOING THROUGH THEM.

14 THE COURT: BUT DID HE OBJECT TO YOUR TAKING ANY OF
15 THOSE DOCUMENTS, EXCEPT FOR THAT ONE?

16 THE WITNESS: NO. THAT WAS THE ONLY ONE.

17 THE COURT: AND HE SAW ALL OF THE THINGS THAT YOU PUT
18 INTO THE BOX THAT YOU WERE TAKING?

19 THE WITNESS: HE HAD AN OPPORTUNITY TO. I DON'T KNOW
20 WHETHER HE AVAILED HIMSELF OF THE OPPORTUNITY TO LOOK AT IT
21 PAGE BY PAGE. BUT HE HAD AN OPPORTUNITY TO LOOK AT EVERYTHING
22 AND REMOVE IT HIMSELF FROM THE BOX.

23 THE COURT: DID YOU TELL HIM HE COULD NOT LOOK AT
24 ANYTHING?

25 THE WITNESS: NO.

26 THE COURT: ALL RIGHT. YOU GO ON TO SAY:

27 "MR. CHIER CONTINUED REVIEWING
28 DOCUMENTS BUT REGISTERED NO FURTHER COMPLAINTS

1 REGARDING ANY OF THE OTHER MATERIALS THAT I WAS
2 SEIZING."

3 THE WITNESS: THAT'S CORRECT.

4 THE COURT: YOU GO ON TO CONCLUDE:

5 "SINCE CHIER REGISTERED NO FURTHER
6 OBJECTIONS, I WAS LED TO BELIEVE THAT HIS APPROVAL
7 WAS GIVEN TO THE REMAINDER OF THE ITEMS SEIZED."

8 IS THAT CORRECT?

9 THE WITNESS: THAT'S CORRECT.

10 MR. BARENS: IF I MIGHT, YOUR HONOR?

11 THE COURT: GO HEAD. YOU CAN ASK HIM SOME QUESTIONS.

12 MR. BARENS: I AM NOT SURE WHY YOUR HONOR IS READING
13 THIS. BUT SINCE YOUR HONOR IS READING THIS, LET ME INQUIRE
14 ON IT.

15 THE COURT: SURE. I DIDN'T SAY THAT YOU CAN'T. YOU
16 CAN GO AHEAD.

17 MR. BARENS: THANK YOU, YOUR HONOR.

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19 FURTHER EXAMINATION

20 BY MR. BARENS:

21 Q DID MR. CHIER EVER TELL YOU THAT HE APPROVED OF
22 THE REMAINDER OF THE ITEMS?

23 A NO.

24 Q DID HE EVER TELL YOU THAT HE THOUGHT THE CASE
25 AGAINST MR. HUNT WAS GOING TO BE DISMISSED AS A RESULT OF
26 YOUR ACTIVITIES?

27 A NO. HE ASKED ME IF I REALIZED MY ACTIVITIES COULD
28 RESULT IN EITHER A CONTINUANCE OF THE CASE OR A DISMISSAL.

1 AND I SAID THAT I DIDN'T THINK SO BECAUSE I WAS DOING A LEGAL
2 SEARCH.

3 Q DID IT EVER OCCUR TO YOU THAT YOUR TIMING IN THE
4 EXECUTION OF THIS SEARCH, COULD BE TERRIBLY DISRUPTIVE TO
5 THE TRIAL GOING ON IN THIS COURTROOM?

6 MR. WAPNER: OBJECTION, ARGUMENTATIVE. RELEVANCE. WHAT
7 DIFFERENCE DOES IT MAKE?

8 THE COURT: SUSTAINED.

9 Q BY MR. BARENS: YOU WEREN'T CONCERNED ABOUT THE
10 SEARCH ON THE CASE UPSTATE, WERE YOU?

11 A I WAS CONCERNED ABOUT THE SEARCH AND IN THE NORTHERN
12 PART OF CALIFORNIA, AS EXPEDITIOUSLY AS POSSIBLE, AS SOON
13 AS I GOT THE INFORMATION THAT I THOUGHT JUSTIFIED THE WARRANT,
14 I ACTED UPON IT.

15 Q THE FACT OF THE MATTER IS, YOU DIDN'T HAVE ANY
16 CONCERN ABOUT THIS TRIAL, DID YOU, AT ALL? IT WAS NOT
17 RELEVANT TO YOUR THINKING?

18 A THAT'S NOT FAIR. NO.

19 Q IT IS NOT?

20 A NO, SIR, CERTAINLY NOT.

21 Q TELL ME WHAT IS FAIR?

22 MR. WAPNER: OBJECTION. YOUR HONOR, WE ARE GETTING
23 INTO AN ARGUMENT BETWEEN COUNSEL AND THE WITNESS. WE HAVE
24 GONE OVER THIS THREE OR FOUR TIMES. IT IS IRRELEVANT. IT
25 IS CUMULATIVE. IT IS ARGUMENTATIVE.

26 THE COURT: I WOULD LIKE TO KNOW ABOUT THE PAPERS THAT
27 YOU USED. WHEN ARE YOU GOING TO SEND THEM TO COUNSEL?

28 THE WITNESS: I TOLD MR. WAPNER THAT IF I GET OUT OF

1 HERE IN TIME TO CATCH A FLIGHT TONIGHT, I WILL SPEND TOMORROW
2 XEROXING THEM AND PUT THEM IN OUR OVERNIGHT COURIER. THEY
3 SHOULD BE DOWN HERE ON THURSDAY MORNING.

4 THE COURT: THAT IS FINE. WILL YOU DO THAT, PLEASE?

5 MR. BARENS: WHO ARE THEY BEING SENT TO? TO YOU?

6 THE COURT: TO YOU.

7 MR. BARENS: ONLY?

8 MR. WAPNER: MAY I SUGGEST AN ALTERNATIVE PROCEDURE,
9 PLEASE? BECAUSE THE CASES THAT I HAVE LOOKED AT AND
10 ESPECIALLY BECAUSE OF THE CASE THAT THE DEFENSE HAS CITED,
11 THEY CITED THE CASE OF BARBER V. MUNICIPAL COURT AND THIS
12 COURT HAS READ IT. IF I MIGHT --

13 MR. BARENS: YOUR HONOR, WHAT WERE YOU GOING TO --

14 THE COURT: I READ BARBER.

15 MR. BARENS: WHAT WERE YOU GOING TO COMMENT ON?

16 THE COURT: NO. I AM NOT SAYING ANYTHING ABOUT IT YET.
17 I AM NOT HEARING ARGUMENT.

18 MR. WAPNER: ALL I AM SUGGESTING, YOUR HONOR, IS THAT
19 ARGUMENT IS GOING TO BE MADE IN THIS CASE, THAT BECAUSE OF
20 WHAT WAS SEIZED AND WHAT WAS SEEN BUT NOT TAKEN, THAT THEREFORE,
21 THERE IS SOME VIOLATION OF THE ATTORNEY/CLIENT PRIVILEGE.

22 SO, I THINK THAT I HAVE NO OBJECTION TO COUNSEL
23 OBVIOUSLY BEING PROVIDED WITH A COPY OF THE DOCUMENTS. I
24 THINK THAT THIS COURT SHOULD GET ANOTHER COPY IN A BOX --

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1 THE COURT: YES.

2 MR. WAPNER: IN A BOX --

3 THE COURT: I AM GOING TO DO THAT.

4 MR. WAPNER: -- THAT IS SEALED AND THAT THIS COURT
5 SHOULD EXAMINE THOSE DOCUMENTS AND THEN THE COURT CAN MAKE
6 A DETERMINATION AS TO WHETHER THEY ARE PRIVILEGED.

7 MR. BARENS: WE ARE --

8 MR. WAPNER: THE REASON I SAY THAT IS, AND THE REASON
9 I ALLUDED TO BARBER THAT ONE OF THE PROBLEMS IN BARBER WAS
10 THAT THEY HAD THIS ISSUE FLOATING AROUND WHERE NOBODY COULD
11 QUANTIFY WHAT EXACTLY WAS THE PROBLEM.

12 IF THE COURT HAD HAD AN OPPORTUNITY TO READ SOME
13 OF THE CASES I CITED YESTERDAY --

14 THE COURT: I DID.

15 MR. WAPNER: -- THAT DISTINGUISHED BARBER BY SAYING THAT
16 IN THIS CASE, OR IN THAT CASE, BY SAYING THEY HAVE THINGS
17 THAT WERE ACTUALLY SEIZED, WE COULD LOOK AT IT AND WE COULD
18 MAKE A DETERMINATION.

19 IF THE DEFENSE IS SAYING THEY DON'T WANT THE
20 COURT TO EXAMINE THOSE --

21 THE COURT: I AM GOING TO EXAMINE THOSE, I HAVE TO.
22 I HAVE TO BECAUSE IF THEY ARE CLAIMING THAT THESE DOCUMENTS
23 WHICH WERE SEIZED ARE DEFENSE RELATED AND INVOLVED CONFIDENTIAL
24 COMMUNICATIONS, I WOULDN'T TAKE THEIR WORD FOR IT.

25 MR. WAPNER: ABSOLUTELY. I AGREE COMPLETELY.

26 THE COURT: I HAVE TO TAKE A LOOK AT IT MYSELF.

27 MR. WAPNER: I AGREE COMPLETELY.

28 MAY I HAVE A MOMENT, YOUR HONOR?

1 MR. BARENS: YOUR HONOR, FOR THE RECORD, AND I AM NOT
2 GOING TO GET INTO THIS WHOLE DIALOGUE NOW, I RESERVE THAT.
3 I THINK IT WOULD BE QUITE EXTREME ERROR FOR THE COURT TO
4 REVIEW THOSE DOCUMENTS.

5 THE COURT: I WILL TAKE THE EXTREME CHANCE ON ERROR,
6 ALL RIGHT?

7 MR. BARENS: I HAVE AN OBLIGATION.

8 THE COURT: YES, I UNDERSTAND.

9 MR. BARENS: I OBJECT.

10 THE COURT: HOW AM I GOING TO MAKE A DETERMINATION
11 AS TO WHETHER THE DOCUMENTS WHICH WERE SEIZED WERE DEFENSE
12 RELATED AND PREJUDICE YOU IN CONNECTION WITH THE TRIAL IN
13 THIS CASE UNLESS I SEE WHAT THESE DOCUMENTS ARE?

14 MR. BARENS: YOUR HONOR, THERE HAS BEEN ALL KINDS OF
15 LITIGATION ON THIS SUBJECT IN OTHER COURTS AND IN OTHER CASES.
16 I AM NOT SAYING THAT A JUDGE SHOULD NOT LOOK AT THESE DOCUMENTS.

17 THE DEFENSE ABSOLUTELY BELIEVES THAT THE TRIAL
18 JUDGE IN THIS CASE SHOULD NOT LOOK AT THOSE DOCUMENTS.

19 THE COURT: WELL, I AM GOING TO LOOK AT THEM.

20 MR. BARENS: YOUR HONOR DOES AS YOUR HONOR SEES FIT.

21 I HAVE TO MAKE THE OBJECTION FOR THE RECORD.
22 I AM MAKING AN OBJECTION.

23 THE COURT: YOU ARE MAKING AN OBJECTION. I AM TELLING
24 YOU THAT THE OBJECTION IS NOT A VALID ONE, IF THE ISSUE IN
25 THIS CASE IS THAT THERE WAS A SEIZURE OF THESE DEFENSE
26 RELATED DOCUMENTS AND, THEREFORE, THERE HAS BEEN A DISCLOSURE
27 MADE AS TO WHAT THE DEFENSE IS AND ANYTHING RELATING TO
28 ANY CONFIDENTIALITY THAT IS CLAIMED, I HAVE TO SEE WHAT WAS

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1 SEIZED.

2 MR. BARENS: THE MATTER IS SUBMITTED FOR THE RECORD,
3 YOUR HONOR.

4 THE COURT: ALL RIGHT, YOU CAN SUBMIT IT.

5 MR. BARENS: THANK YOU, YOUR HONOR.

6 THE COURT: I AM TELLING YOU HOW I AM RULING.

7 MR. BARENS: THANK YOU, YOUR HONOR.

8 THE COURT: ALL RIGHT, YOU WILL BE MADE AVAILABLE IN
9 ANY EVENT BECAUSE THERE WILL BE A DEFENSE, I ASSUME. THERE
10 WILL BE DEFENSE TESTIMONY AS TO WHAT HAPPENED THERE AND YOU
11 WILL BE AVAILABLE FOR REBUTTAL ON THAT, WILL YOU NOT?

12 THE WITNESS: YES. I AM GETTING --

13 MR. VANCE: YOUR HONOR, THE REASON I AM STANDING --
14 FOR THE RECORD, JOHN VANCE, DEPUTY ATTORNEY
15 GENERAL.

16 I TAKE IT THE COURT THEN AT THIS POINT WANTS
17 US TO DELIVER A COPY TO MR. BARENS AND TO THE COURT; IS THAT
18 CORRECT?

19 THE COURT: THAT'S CORRECT.

20 MR. VANCE: AND NOT TO MR. WAPNER?

21 THE COURT: NOT TO MR. WAPNER, NO, THAT'S RIGHT.

22 MR. VANCE: IF WE CAN GET OUT TONIGHT --

23 THE COURT: YOU CAN GO OUT NOW.

24 MR. VANCE: OKAY, WE WILL MAKE OUR BEST EFFORT. I
25 COULD ALMOST GUARANTEE THEY WILL BE IN THE OVERNIGHT COURIER
26 TO LOS ANGELES AND THEY WILL BE HERE THURSDAY MORNING AT
27 10:00 O'CLOCK.

28 AND I WAS JUST DISCUSSING WITH MR. WAPNER WHAT

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1 WAS THE MOST EXPEDITIOUS WAY TO GET THEM FROM THE ATTORNEY
2 GENERAL'S OFFICE DOWN ON WILSHIRE BOULEVARD TO THE COURTHOUSE
3 AND WE WILL WORK IT OUT WITH MR. WAPNER.

4 THE COURT: VERY GOOD.

5 MR. VANCE: BUT THEY WILL BE SEALED IN SAN FRANCISCO
6 AFTERWARDS AND DELIVERED THURSDAY MORNING.

7 THE COURT: VERY GOOD.

8 MR. WAPNER: WE ARE IN RECESS UNTIL TOMORROW MORNING?

9 THE COURT: YES.

10 MR. BREILING WILL BE MADE AVAILABLE, WON'T HE,
11 IF THERE IS ANY TESTIMONY, ANY REBUTTAL IS REQUIRED, HE WILL
12 BE AVAILABLE?

13 MR. BARENS: WE MIGHT ALSO WANT HIM, YOUR HONOR.

14 THE COURT: CERTAINLY.

15 MR. WAPNER: OF COURSE. SINCE HE IS GOING TO BE IN
16 SAN FRANCISCO, IF THE DEFENSE WANTS HIM AGAIN, IF THEY JUST
17 GIVE ME A DAY'S NOTICE, I WILL BE HAPPY TO HAVE HIM HERE.

18 THE COURT: VERY GOOD.

19 MR. VANCE: HE WILL BE AVAILALBE BECAUSE I WILL BE
20 IN SAN FRANCISCO ALSO.

21 THE COURT: VERY GOOD.

22 MR. BARENS: 10:30, YOUR HONOR?

23 THE COURT: 10:30, ALL RIGHT.

24 MR. BARENS: THANK YOU, YOUR HONOR.

25 (AT 4:37 P.M. AN ADJOURNMENT WAS TAKEN

26 UNTIL WEDNESDAY, JANUARY 28, 1987 AT

27 10:30 A.M.)
28