

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

OCT 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 82 OF 101
(PAGES 12940 TO 13080 , INCLUSIVE)

COPY

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

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT WEST C HON. LAURENCE J. RITTENBAND, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,)
)
 PLAINTIFF,)
)
 VS.)
)
 JOSEPH HUNT,)
)
 DEFENDANT.)

NO. A-090435

REPORTERS' DAILY TRANSCRIPT

WEDNESDAY, APRIL 15, 1987

VOLUME 82

PAGES 12940 TO 13080, INCLUSIVE

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

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1 WEDNESDAY, APRIL 15, 1987 VOLUME 82 PAGES 12940 - 13080

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6 PROCEEDINGS

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8 ARGUMENT BY MR. BARENS

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11 CLOSING ARGUMENT BY MR. WAPNER 13015

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1 SANTA MONICA, CALIFORNIA; WEDNESDAY, APRIL 15, 1987; 10:43 A.M.
2 DEPARTMENT WEST C HON. LAURENCE J. RITTENBAND, JUDGE
3 (APPEARANCES AS NOTED ON TITLE PAGE,
4 EXCEPT MR. CHIER IS NOT PRESENT.)
5

6 THE COURT: ALL RIGHT, GOOD MORNING, LADIES AND
7 GENTLEMEN.

8 YOU MAY PROCEED.

9 MR. BARENS: THANK YOU, YOUR HONOR.
10

11 ARGUMENT (RESUMED)

12 BY MR. BARENS:

13 GOOD MORNING, LADIES AND GENTLEMEN.

14 YESTERDAY, WE HAD SOME DISCUSSION ABOUT WHETHER
15 OR NOT IT IS LEGITIMATE OR REASONABLE FOR US TO ACCEPT IN
16 THIS PROCESS WORDS FOR ACTION OR SUSPICIONS FOR PROOF.

17 IN A TRIAL WHERE WE HAVE CIRCUMSTANTIAL EVIDENCE,
18 THE PROBLEM IS, AND WHY CIRCUMSTANTIAL EVIDENCE MANY TIMES,
19 AT LEAST IN MY OPINION, PALES IN COMPARISON TO DIRECT
20 EVIDENCE, IS THAT CIRCUMSTANTIAL EVIDENCE MANY, MANY TIMES,
21 AND PARTICULARLY THROUGHOUT THIS CASE, CAN GO EITHER WAY.

22 WE HAVE TIME AND TIME AGAIN HEARD EXAMPLES OF
23 WHERE, WHEN MR. WAPNER TALKS ABOUT A SUBJECT WITH THE WITNESS,
24 IT LOOKS ONE WAY AND WHEN I CROSS-EXAMINE ON THE SAME SUBJECT,
25 IT LOOKS ENTIRELY A DIFFERENT WAY. BE CONSCIOUS OF THAT
26 WHEN YOU ARE EVALUATING YOUR DECISIONS AND BE CAUTIOUS OF
27 CIRCUMSTANTIAL EVIDENCE BECAUSE IT EXISTS IN AN ENVIRONMENT
28 AND ONLY MEANS SOMETHING BASED ON ASSUMPTIONS YOU HAVE TO

1 CREATE, BASED ON ARGUMENTS SUBMITTED TO YOU BY BOTH SIDES.

2 WHEN WE SAY IT IS CIRCUMSTANTIAL EVIDENCE, WE
3 ARE ALSO TELLING YOU IN AND OF ITSELF IT MEANS NOTHING UNTIL
4 IT IS CONNECTED BY A CONTEXT CREATED FOR YOU EITHER THROUGH
5 WITNESSES OR ARGUMENT OF COUNSEL OR, BEST OF ALL, YOUR OWN
6 LOGIC AND REASONING. THESE THINGS HAVE NO MEANING.

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1 I SUBMIT TO YOU THAT THE SAME MUST APPLY IN TERMS
2 OF THE SEVEN PAGES. QUESTIONS RELATIVE TO THOSE SEVEN PAGES
3 HAVE TO INCLUDE WHETHER OR NOT THE ITEMS ON THE SEVEN PAGES
4 EVER OCCURRED. IF IT WAS A PLAN, WAS IT IMPLEMENTED?

5 WE ARE GOING TO LOOK AT THIS MORNING, THE DETAILS
6 OF THE PLAN, IF IT BE A PLAN. IF YOU ARE TO CONVICT ON A PLAN,
7 WE MUST FIND OUT WHETHER THAT PLAN WAS IMPLEMENTED. WERE THE
8 THINGS DONE? DOES THE ENVIRONMENT PRESENT IN RON LEVIN'S
9 APARTMENT SUGGEST TO YOU THAT THE THINGS WERE DONE?

10 WERE THE ACTS OF THE PARTIES CONSISTENT WITH
11 WHETHER OR NOT THOSE THINGS WERE DONE? AGAIN, WE HAVE TO
12 RECALL THAT IT IS YOUR MINDS AND YOUR IMAGINATIONS PERFORCE,
13 THAT GIVE MEANING TO WHETHER OR NOT THAT IS A RECIPE FOR MURDER,
14 AS THE PROSECUTION HAS CONTENDED THROUGHOUT, WITH THAT THE
15 KEYSTONE OF THEIR EVIDENCE.

16 I RECALL AS I SPEAK TO YOU, THE STORY ABOUT THE
17 BROADCAST BY H. G. WELLS OF THAT FAMOUS WAR OF THE WORLDS
18 BROADCAST. WITHOUT INTRODUCTION OR CONTEXT, THE ANNOUNCER
19 BEGINS TO DESCRIBE THE INVASION OF THE PLANET BY ALIENS.

20 IN VIVID DETAIL, IT IS DESCRIBED HOW OUR PATRIOT
21 ARMIES ARE OVERWHELMED BY THE SUPERIOR TECHNOLOGIES OF ALIENS.
22 DESPITE THE FACT THAT THERE WERE NO CORROBORATING FACTS, A
23 STEM OF EMOTION AROSE. THERE WAS MASS HYSTERIA THROUGHOUT
24 THE UNITED STATES.

25 MILLIONS OF PEOPLE SUCCUMBED TO A PANIC ABOUT A
26 BROADCAST OF MERE WORDS WITHOUT ANY FACT OR FOUNDATION.

27 I ADVANCE THIS ILLUSTRATION FOR YOUR BENEFIT BECAUSE I WANT
28 YOU TO CONSIDER IT VERY CAREFULLY. AGAIN, WE MUST CONSIDER

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1 THE CONTEXT WHICH GIVES VALUE AND MEANING TO WORDS.

2 HOW MUCH DO WE KNOW ABOUT THE WRITER? WHAT DO
3 WE KNOW ABOUT HIS OBJECTIVES? WE MUST CONSIDER THESE THINGS
4 WHEN A WRITER IS COMMUNICATING.

5 AND LASTLY, DOES IT OR DOES IT NOT SERVE TO SHOW
6 US A PLAN OF ACTION THAT WAS IMPLEMENTED? DOES IT SHOW ANY
7 ACTIONS AT ALL, IN FACT? THE ISSUE ABOUT WHAT DO WE KNOW ABOUT
8 THE WRITER, IS ONE OF THOSE PERSONALITY TYPE ISSUES. WE HAVE
9 TO SAY TO OURSELVES, WELL, IS THE PERSON WHO IS CREATING THAT
10 WRITING, PREDISPOSED OR INCLINED TO DO SOMETHING? THEN WE
11 FIGURE OUT THAT SOMETHING.

12 IF WE HAVE A CASE WHERE THERE IS A DEAD PERSON
13 WITH BULLETS AND BALLISTICS AND BODIES AND BLOOD, YOU DON'T
14 REALLY EVER APPROACH THAT PSYCHOLOGICAL FACTOR AT ALL. NO
15 ONE HAS TOLD YOU THAT, BUT THAT IS REALLY WHAT YOU ARE
16 APPROACHING IN THIS CONTEXT.

17 WHAT DO YOU KNOW ABOUT JOE'S PSYCHOLOGY? WHAT
18 DO YOU KNOW ABOUT LEVIN'S PSYCHOLOGY? WHAT DO YOU KNOW ABOUT
19 DEAN KARNY'S PSYCHOLOGY? IN AN AREA WHERE IT IS MORE ART THAN
20 SCIENCE, I CAN ONLY SUBMIT THAT IF YOU ARE GOING TO MAKE A
21 DETERMINATION ON THAT TYPE OF AN ISSUE OF PSYCHOLOGICAL
22 PREDISPOSITION, ONE NEED BE CAUTIOUS BECAUSE WE DON'T HAVE
23 ANY TESTIMONY OR EVIDENCE ON THAT.

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1 THERE ARE A NUMBER OF THINGS LISTED ON THE SEVEN
2 PAGES THAT WOULD HAVE TO BE DONE AT LEVIN'S HOUSE.

3 NOW, BY THE BYE, AS I GET INTO THE SEVEN PAGES
4 WITH YOU, I AM NOT EVEN GOING TO ATTEMPT TO DEAL WITH THOSE
5 CHARTS. INSTEAD OF FUMBLING AROUND WITH THEM, WE WILL NOW
6 SUGGEST THAT YOU LOOK AT YOUR OWN LIST THAT YOU WERE PROVIDED
7 WITH WHICH, FOR SAKE OF CONVENIENCE AT THIS POINT, MIGHT
8 BE AN EASIER WAY TO GO.

9 AND I AM NOT GOING TO DO THIS IN ANY PARTICULAR
10 ORDER WITH YOU. I THINK YOU PROBABLY KNOW EVERY WORD ON
11 THOSE PAGES BUT NOW AND THEN I WILL REFERENCE THEM SOMEWHAT
12 RANDOMLY.

13 NOW BEAR THIS IN MIND, YOU HAVE BEEN TOLD THROUGH-
14 OUT THAT THIS IS WHAT? WHAT IS IT? IT IS A LIST THAT THE
15 WRITER, JOE HUNT, SUPPOSEDLY CONCOCTS TO EXECUTE A MURDER.
16 NOW, BY ITS VERY NATURE, IF WE HAVE A LIST WHICH PROVIDES
17 US WITH AN AGENDA, ONE WOULD PERFORCE FOLLOW IT OUT AND BE
18 AWARE OF AND HAVE THE LIST SOMEWHERE.

19 THINK TO YOURSELF, YOU GO TO THE MARKET WITH
20 A LIST OF THINGS YOU ARE GOING TO BUY. YOU CERTAINLY HAVE
21 TO HAVE THE LIST AVAILABLE TO YOU TO REFER TO FOR YOUR
22 PURCHASES. ALLEGEDLY, HE FORGETS IT. BUT IT SAYS, FOR
23 INSTANCE "SET ALARM ON DEPARTURE." WELL, IF THAT IS THE
24 LAST THING YOU ARE SUPPOSED TO USE THE LIST FOR AND YOU DEPART,
25 HOW DO YOU LEAVE THE LIST BEHIND?

26 THE INFORMATION ABOUT THE AIRLINE FLIGHT. SOMETHING
27 CLEARLY TO HAVE BEEN DONE AFTER THE ACTIVITIES AT LEVIN'S.

28 IF THE MAP WAS DRAWN FOR ANY PURPOSE CONSISTENT

1 WITH THE PROSECUTION'S THEORY, THINK ABOUT IT. IF YOU ARE
2 SUPPOSED TO TAKE THE MAP TO SHOW YOU HOW TO GET TO SOLEDAD
3 CANYON, WHAT IN THE WORLD IS THE MAP DOING IN THE APARTMENT?

4 IF YOU ARE SUPPOSED TO TAKE THE MAP AS A GUIDE
5 TO SOLEDAD, WOULDN'T YOU NOTICE IT? THEY TELL YOU THAT THEY
6 DRIVE UP TO SOLEDAD THERE, WELL, BUT THE MAP IS BACK AT THE
7 APARTMENT. WHAT CAN YOU CONCLUDE ABOUT IT?

8 TIME AND TIME AGAIN, WE ARE GOING TO ASSESS,
9 AS WE GO THROUGH THIS EXERCISE, THAT YOU REALLY COULDN'T
10 CONCLUDE ANYTHING THAT IS CONSISTENT WITH THE ACTUAL FACTS
11 THAT THEY SAY OCCURRED.

12 NOW IT WOULD OCCUR TO ME THAT THE PERSON WHO
13 WAS RELYING ON THAT LIST, ALLEGEDLY, HAS GOT TO KNOW HE HASN'T
14 GOT IT. WHEN YOU GO TO SET THE ALARM, WHEN YOU GO TO
15 SUPPOSEDLY DRIVE UP TO SOLEDAD, IF YOU HAVE THE LIST FOR
16 THOSE PURPOSES, DO YOU MEAN TO TELL ME YOU ARE NOT GOING
17 TO REALIZE YOU DON'T HAVE THE LIST? AGAIN, I SUBMIT TO YOU,
18 THINK ABOUT IT.

19 NOW AGAIN, IN THE CONTEXTUAL SETTING, SUPPOSEDLY
20 JOE HUNT GETS A MILLION -- A MILLION FIVE HUNDRED THOUSAND
21 DOLLAR BAD CHECK, THE CHECK IS BAD. JOE GETS NOTHING. WHAT
22 DOES LEVIN GET? LEVIN GETS AN AIR-TIGHT ALIBI TO DISAPPEAR.
23 LEVIN IS NEVER LOOKED AT. HE AVOIDS ALL OF HIS CRIMINAL
24 PROSECUTION.

25 EVEN WHEN TWO PEOPLE COME FORTH FROM ARIZONA,
26 DOES ANYONE CHECK FOR HIM, OTHER THAN THE MOST CURSORY OF
27 SENSES? THINK ABOUT THE OTHER SIDE OF THE COIN. THINK ABOUT
28 HOW CONVINCING IT IS FOR LEVIN.

1 THE ONLY THING YOU CAN BE SURE OF AS WE GO THROUGH
2 THE SEVEN PAGES, AND SEE THAT THEY CREATE MORE QUESTIONS
3 THAN ANSWERS, IS IT IS IRREFUTABLE ABOUT WHAT THEY DO FOR
4 LEVIN, BUT QUESTIONABLE ABOUT WHAT THEY DO FOR ANY CONSISTENT,
5 INTERNALLY MEANINGFUL PROSECUTION THEORY.

6 IN THE SEVEN PAGES, WE FIND SEVERAL ELEMENTS
7 OF RON LEVIN'S FINANCIAL CONDITION REFERENCED: THE OPTION
8 ON HIS HOUSE, THE SWISS CASHIER'S CHECK AND A DOCUMENT WHEREBY
9 LEVIN IS CAST TO BE A DEBTOR. IF YOU LOOK THROUGH, AND WHEN
10 YOU DELIBERATE, YOU WILL SEE THOSE THREE ARE FINANCIAL
11 CONDITIONS AND THE ONLY FINANCIAL CONDITIONS ABOUT LEVIN
12 THAT ARE REFERENCED. NEVER ONCE DO WE SEE A REFERENCE TO
13 THE MICROGENESIS OPTION. NO PART OF IT REFERS TO AN OPTION.
14 THE ONLY PART WHERE YOU SEE THE WORD "OPTION" IS NEXT TO
15 THAT SECTION MARKED "NOTATION" ON THE QUOTE "PACK SUITCASE"
16 PAGE WHICH IS CLEARLY REFERRING TO THE OPTION ON LEVIN'S
17 HOUSE.

18 AND LIKE EVERYTHING ELSE ON THESE PAGES, NO
19 NOTATION WAS EVER MADE.

20 THE ISSUE HERE IS TO CONSIDER IF WE ARE SAYING
21 THAT THE SEVEN PAGES ARE PLANS TO ACQUIRE SOMETHING FROM
22 LEVIN BY TRICK OR EXTORTION, THAT IS WHAT WE ARE TOLD.

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1 IF THAT IS WHAT WE ARE DOING, THEN IT HAS TO BE
2 ONE OF THOSE THREE ITEMS. STAY WITHIN THE DOCUMENT. ARE WE
3 TALKING ABOUT, DOES HUNT REQUIRE ANY OF THOSE THREE ITEMS
4 PURSUANT TO WHAT IS SUPPOSED TO BE HIS PLAN OF ACTION?

5 A PLAN WHICH AGAIN, DOESN'T TALK ABOUT A MILLION
6 FIVE MICROGENESIS CHECK OR CONTRACT. THE BUSINESS ABOUT DATE
7 STAMPING THE DOCUMENTS, NOT DONE. KARNY APPEARS TO BE HIDING
8 ELEMENTS FROM US IN HIS TESTIMONY ABOUT WHAT IS REALLY GOING
9 ON HERE WHEN WE TRY TO MATCH UP HIS TESTIMONY WITH THE SEVEN
10 PAGES.

11 TRY TO RECALL HOW MANY TIMES IN SPECIFIC RESPONSE
12 TO QUESTIONS THAT KARNY IS ASKED, HE SAYS, "I DON'T KNOW."
13 THINK BACK WHEN MR. WAPNER HAS HIM AS HIS PROSECUTION WITNESS
14 AND HE TELLS YOU, YOU KNOW, ALL ABOUT THE SEVEN PAGES.

15 HE TELLS YOU THAT HE LOOKS AT EVERY ONE OF THEM.
16 HE TELLS YOU THAT HE IS A SOUNDING BOARD FOR HUNT'S PREPARATION
17 OF THE SEVEN PAGES. HE TELLS YOU HE MAKES SUGGESTIONS FOR
18 INPUT ON THE SEVEN PAGES.

19 HE QUALIFIES HIMSELF AS AN ALLEGED EXPERT ON THE
20 SEVEN PAGES WHILE HE IS THE GOVERNMENT'S WITNESS.

21 WHAT HAPPENS ON CROSS-EXAMINATION? ON CROSS-
22 EXAMINATION, KARNY DID NOT KNOW. AND I AM GOING TO GO THROUGH
23 THE LITANY OF THIS BECAUSE IT IS SO STARTLING WHEN CONTRASTED
24 TO THE DIRECT EXAMINATION AND WHAT HE TELLS YOU IN DIRECT.

25 MR. KARNY DID NOT KNOW WHAT THE REFERENCE TO
26 R. MICHAEL WETHERBEE MEANT. HE DID NOT KNOW WHY IT WAS
27 UNDERLINED OR WHY THERE WAS AN ARROW TO THE WORD "RESERVATION."

28 HE DID NOT KNOW WHY THE LIST SAID "J. H. CANCELS

A-2
1 HIS RESERVATIONS FROM PHONE." HE DID NOT KNOW WHETHER "HIS
2 PHONE" MEANT LEVIN'S.

3 HE DID NOT KNOW WHY THE LIST SAID "SWISS CASHIER'S
4 CHECKS." HE DID NOT KNOW WHY THE LIST REFERRED TO
5 AGREEMENTS IN THE PLURAL. HE DID NOT KNOW WHY L. RAYMOND AND
6 ASSOCIATES WAS WRITTEN ON THE TOP OF THE "GET ALARM CODE" PAGE.
7 HE DIDN'T KNOW WHY L. RAYMOND'S PHONE NUMBER WAS ON THE TOP
8 OF THE PAGE.

9 HE COULDN'T REMEMBER WHAT "XEROXES WASTE BASKET"
10 MEANT. HE CAN'T SAY WHETHER THE LIST REFERRED TO A HALLIBURTON
11 SUITCASE OR NOT, THAT WAS TO BE TAKEN. HE DOESN'T RECALL WHAT
12 THE NOTATION AT THE BOTTOM OF THE PAGE MEANT, WHAT IT WAS
13 SUPPOSED TO BE ON.

14 HE CAN'T TELL US A THING AT ALL ABOUT THE
15 RESERVATIONS PAGE, YET, HE SAYS HE SAW IT. ON THE "TO DO AT
16 LEVINS", HE CAN'T TELL US ANYTHING ABOUT WHAT THOSE XEROXES
17 ARE SUPPOSED TO BE, WHAT THE AUTHORIZATIONS ARE SUPPOSED TO
18 BE ABOUT, WHAT THE CORPORATE SEAL IS SUPPOSED TO BE ABOUT.

19 HE COULDN'T UNDERSTAND, COULDN'T EXPLAIN TO US
20 WHY LEVIN IS TO BE CAST AS A DEBTOR. STOP THERE FOR A MOMENT
21 AND THINK. THE SEVEN PAGES SAY THAT WE ARE GOING TO MAKE LEVIN
22 A DEBTOR OF MICROGENESIS. IS THAT CONSISTENT OF SOMEONE WHO
23 IS PLANNING A MURDER?

24 YOU ARE GOING TO MAKE A SUPPOSED TO BE SHORTLY
25 DEAD MAN, A DEBTOR OF YOUR COMPANY? WHAT DO YOU DO THEN?
26 DOES IT MAKE ANY SENSE IF YOU HAVE GOT TO CAST THIS AS A MURDER
27 PLOT?

28 AGAIN, KARNY CAN'T EXPLAIN A SINGLE THING ON THE

1 DEBTOR PAGE IN HIS SITUATION. HE CAN'T EXPLAIN THIS
2 AUTHORIZATIONS PAGE. THINK BACK TO HIS TESTIMONY ABOUT THE
3 WITNESSES.

4 THE SEVEN PAGES SAY "GET TWO WITNESSES." WELL,
5 LADIES AND GENTLEMEN, WHO ARE THOSE TWO WITNESSES TO BE?

6 WAS IT HUNT AND PITTMAN? THE TWO GUYS THAT ARE
7 SUPPOSEDLY THERE? DO YOU EVEN SO MUCH AS SEE ANY LINES ON
8 THE MICROGENESIS OPTION AGREEMENT THAT SAY "SIGNATURES OF
9 WITNESSES"?

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4B 1 NOW, REMEMBER, WE ARE TOLD THIS IS ALL A PLANT
2 THERE. WELL, IF IT IS ALL TO BE PLANTED IN LEVIN'S APARTMENT
3 AND LEFT BEHIND, DON'T YOU GET THE TWO WITNESSES BEFORE YOU
4 GET THERE?

5 (MR. CHIER ENTERS THE COURTROOM.)

6 LOOK AT THE PRACTICAL LOGIC OF THE WORDS. YOU
7 DON'T GET THE WITNESSES AFTER THE FACT AND GET THEM TO GO BACK
8 TO THE PLACE AND THEN INSERT IT. IF YOU ARE REALLY PLANNING
9 THIS CON -- AGAIN, WE HAVE GOT TO ANALYZE IT.

10 NOW AGAIN, THERE WAS THE CURIOSITY ABOUT THIS MAP
11 OF SOLEDAD. KARNY OFFERED US NOTHING ON THAT. HE CONFIRMS
12 THAT HE HAD BEEN THERE. HUNT HAD BEEN THERE ON MULTIPLE
13 OCCASIONS.

14 YET, HE DOESN'T KNOW WHY THE MAP WAS DRAWN.
15 THINK TO YOURSELVES IF YOU WANT TO BELIEVE HIS STORY THAT
16 PITTMAN IS UP THERE IN SOLEDAD DIGGING A PIT THE DAY BEFORE,
17 THE WEEK BEFORE, THE MONTH BEFORE, WHAT DOES HE NEED A MAP
18 TO GET THERE FOR? IF YOU ARE TRYING TO BE SOLD A STORY THAT
19 HE IS UP THERE DIGGING A PIT JUST BEFORE THIS INCIDENT,
20 KARNY LEAVES YOU GUESSING ON THAT.

21 THE WHOLE SITUATION LEAVES YOU GUESSING ON THAT.
22 AND THAT IS JUST SITTING THERE LOOKING SINISTER, THOUGH
23 INACCURATE. THE POINT I COME TO, IS THAT KARNY IS A WITNESS
24 ON THE SEVEN PAGES AND IN TRYING TO EXPLAIN THEM, GIVES A PART
25 OF A STORY CONSISTENT WITH WHAT HE THINKS HE KNOWS FROM READING
26 THOSE POLICE REPORTS.

27 HE LEAVES YOU A WHOLE STACK OF UNRESOLVED
28 QUESTIONS WHICH WE THEN TRY TO BRUSH ASIDE BY THE TESTIMONY

1 WHERE HE SAYS WELL, THOSE THINGS ARE SELF-EVIDENT, THOUGH THEY
2 ARE NOT SELF-EVIDENT TO ANYONE IN THIS COURTROOM OR DISMISSED
3 AS A CONTINGENCY.

4 ONE MUST ASSUME, A CONTINGENCY FOR WHAT?
5 SUPPOSING THEY ARE PLANNING TOGETHER BUT THERE IS NO DISCUSSION
6 OF CONTINGENCIES? DID YOU EVER HEAR HIM ONCE SAY THEY
7 DISCUSSED A SINGLE CONTINGENCY?

8 BUT YET, WE RELY ON THAT THIN REED TO DISMISS
9 EVERYTHING THE PROSECUTION CAN'T EXPLAIN. I THINK THAT IT
10 WAS PLAIN TO ALL OF YOU AND IT CERTAINLY WAS TO ME AND IT WILL
11 BE MY PRIMARY RECOLLECTION OF THE SEVEN PAGES, THAT THERE IS
12 NOT A SINGLE WORD, NOT A SINGLE SENTENCE, NOT A PHRASE, NOT
13 A SECTION ON MURDER OR THE PLANS FOR MURDER.

14 WE WILL SEE AS WE PROCEED, THAT THE LIST SPEAKS
15 MORE LOUDLY BY ITS SILENCE IN TERMS OF MURDER, THAN IT DOES
16 BY ANYTHING IT SAYS. FOR SURELY, IT SAYS NOTHING ABOUT
17 MURDER.

18 WE ARE TOLD THAT THE MONSTER SEATED THERE, IS SUCH
19 A CLEVER OR RESOURCEFUL PLANNER THAT HE WRITES DOWN TO PICK
20 UP THE HOLES FROM THE PUNCH, SO THAT THEY ARE NOT DISCOVERED.

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1 WE ARE THAT GOOD. WE ARE THAT SMART. WE ARE
2 THAT THOROUGH. ARE WE?

3 IF HE IS THAT THOROUGH IN PLANNING SOMETHING
4 ABOUT FINANCIAL DOCUMENTS, WHY, PRAY, IS THERE NOT A SCINTILLA
5 OF PLANNING ABOUT MURDER? BECAUSE WE ARE ASSUREDLY HERE
6 ABOUT MURDER.

7 THERE IS NOT A WORD ABOUT SHOOTING LEVIN. THERE
8 IS NOT A WORD ABOUT GUNS OR THEIR USE. YOU SEE, THERE IS
9 NOT A REFERENCE TO A SILENCER. IT DOESN'T TALK ANYTHING
10 ABOUT SURGICALLY COMMITTING THIS ANTISEPTIC MURDER. HOW
11 REASONABLE IS THAT TO YOU, THAT THERE IS NOT ONE BIT OF
12 PLANNING TO AVOID THE INEVITABLE BLOOD, TO AVOID THE FORENSIC
13 EVIDENCE, TO SANITIZE THE PREMISES? NOTHING.

14 WHAT DO YOU DO? JUST COUNT ON GETTING LUCKY?

15 IT DOESN'T SAY TO BRING A PLASTIC TARP ON WHICH
16 TO SHOOT LEVIN SO THERE IS NO BLOOD. IT DOESN'T SAY ANYTHING
17 ABOUT CONCEALING OR ACCOMMODATING OR CONTAINING BLOOD FLOW
18 FOR EITHER LEVIN OR, I SUPPOSE, HIS DOG, IF THAT IS WHAT
19 WE ARE GOING TO SAY HAPPENED. IT DOESN'T TALK ABOUT WHERE
20 LEVIN IS TO BE SHOT, EITHER PHYSICALLY OR GEOGRAPHICALLY.

21 IT DOESN'T DISCUSS HOW THE BODY IS TO BE REMOVED.
22 IN AN APARTMENT IN THE MIDDLE OF BEVERLY HILLS, WE ARE NOT
23 GOING TO PLAN EGRESS OR INGRESS OR CONCEALING OUR ACTIVITY?
24 THERE IS NO DISCUSSION ABOUT WHERE THE BODY IS TO BE PUT.
25 IT DOESN'T DISCUSS REMAKING THE BED, TAKING OUT A NEW
26 COMFORTER.

27 IT DOESN'T DISCUSS A ROUTE, FRONT DOOR, BACK
28 DOOR, TO REMOVE THE BODY. IT DOESN'T DISCUSS DISFIGURING

1 THE BODY. YOU HEARD THAT GRIZZLY DISCUSSION BY THE PROSECUTOR
2 ABOUT PUTTING A SHOTGUN IN THE BODY'S MOUTH. YOU HEARD ALL
3 OF THAT. WE HEARD IT ARGUED BUT WE DON'T SEE ANY PLANNING.
4 AGAIN, NOT ONE WORD.

5 NO DISCUSSION ABOUT PUTTING THE BODY IN ACID,
6 CUTTING IT UP.

7 NOTHING ABOUT WHAT WE FIND IN THIS BOOK, WHICH
8 WE WILL DEAL WITH IN A FEW MINUTES. WE DON'T SEE ANY OF
9 THAT.

10 REMEMBER AS WE GO THROUGH THIS, THIS IS A GUY
11 WHO IS SUPPOSEDLY SAYING, "PICK UP THOSE LITTLE HOLES." DOESN'T
12 DISCUSS WHEN THE VIOLENCE IS SUPPOSED TO START.

13 NOW, REMEMBER THIS SCENARIO SUPPOSEDLY HAD THIS
14 TIME SEQUENCING FOR YOU, 9:00 O'CLOCK, 9:45, THIS HAPPENS,
15 THAT HAPPENS, ALL THAT HAPPENED.

16 WHAT ABOUT A REFERENCE TO WHEN THE MURDER IS
17 SUPPOSED TO HAPPEN? NOTHING. IT DOESN'T DISCUSS WHAT SORT
18 OF A CUE IS SUPPOSED TO BE GIVEN TO COMMENCE THE VIOLENCE.

19 IT DOESN'T DISCUSS PUTTING LEVIN FACE DOWN IN
20 SORT OF A POSITION CONVENIENT TO MINIMIZE BLOOD FLOW. IT
21 DOESN'T DISCUSS ANY OF THAT MYRIAD OF DETAILS ABOUT HOW THE
22 EXECUTION PER SE IS TO OCCUR.

23 IT DOESN'T DISCUSS HOW TO HANDLE SOMEONE KNOCKING
24 ON THE DOOR. THE PROSECUTION KEEPS TELLING YOU ABOUT HOW
25 LEVIN, TIME AND TIME AGAIN, HAS PEOPLE DROPPING IN AND OUT
26 OF THE HOUSE AT ALL HOURS. NO PLANNING TO AVOID THAT.

27 NO REFERENCE ON THE SEVEN PAGES ABOUT DRIVING
28 OUT TO SOLEDAD AFTERWARDS. NO DISCUSSION ABOUT DISPOSING

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1 OF AN IMAGINARY WEAPON. IT DOESN'T TALK ABOUT DESTROYING
2 THE LIST.

3 AND CURIOUSLY ENOUGH, CURIOUSLY ENOUGH, IT DOESN'T
4 EVEN TALK ABOUT MAKING AN APPOINTMENT WITH LEVIN TO GO OVER
5 TO HIS HOUSE WHEN NOBODY ELSE WAS THERE. THINK ABOUT IT,
6 LADIES AND GENTLEMEN, WE ARE GOING TO PLAN THIS MURDER,
7 ALLEGEDLY THE NIGHT BEFORE THE GUY WITH OTHER GUYS HE IS
8 SUPPOSED TO GO AWAY WITH, IS GOING TO BE THERE AND YOU HEAR
9 BRODER TALK ABOUT LEVIN CALLING HIM UP, ASKING HIM TO SPEND
10 THE NIGHT WITH HIM. I GUESS WE HAVE TO BELIEVE THAT IF BRODER
11 AND FACTOR ARE SLEEPING THERE THAT NIGHT, HE HAS GOT OTHER
12 FRIENDS THERE, KILL THEM ALL. KILL THEM ALL, BECAUSE IF YOU
13 DON'T BELIEVE WE ARE GOING TO KILL EVERYBODY THERE AND EVERY-
14 BODY THAT STOPS BY THERE, YOU DON'T HAVE A MURDER PLAN.

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1 THINK ABOUT WHAT YOU WOULD NEED TO WRITE ON A
2 LIST, IF THE INCONCEIVABLE WERE TO OCCUR AND YOU WERE GOING
3 TO DO SOMETHING LIKE THIS. YOU HAVE GOT TO ASK YOURSELVES
4 ALL OF THOSE QUESTIONS, WHEN YOU ASK YOURSELF THE ONE QUESTION
5 YOU MUST ADDRESS: IF BEYOND A REASONABLE DOUBT YOU HAVE A
6 MURDER PLAN. EVIDENTLY THAT IS THE SINGLE QUESTION IT COMES
7 DOWN TO: IF IT BE A MURDER PLAN, WHY ARE ALL OF THE IMPORTANT
8 DETAILS ABOUT MURDER LEFT TO CHANCE?

9 IF IT NOT BE A MURDER PLAN, THEN KARNY IS A LIAR.
10 YOU REALIZE THAT YOU CANNOT BRIDGE KARNY'S TESTIMONY ABOUT
11 THE SEVEN PAGES TO A MURDER PLAN THAT IS NOT FOUND ON THE
12 SEVEN PAGES.

13 IF I TOLD YOU I WAS BRINGING IN HERE A RECIPE
14 FOR COOKING SOME SORT OF A MEAT DISH, AND WE ANALOGIZE THIS
15 TO THIS RECIPE FOR MURDER, WOULD ANYBODY BELIEVE THAT I
16 WAS SHOWING YOU A RECIPE FOR COOKING A MEAT DISH IF NOT
17 IN ONE REFERENCE IN THIS WHOLE RECIPE THAT WE PUT BEFORE
18 YOU, IS THERE A REFERENCE TO ANY KIND OF MEAT?

19 IT IS COMPLICATED BUT WHEN IT GETS DOWN TO IT,
20 IT IS SIMPLE AND DIRECT. WHAT HAPPENS IS, ONCE AGAIN, YOU
21 ARE ASKED TO MAKE ASSUMPTIONS ABOUT THE SEVEN PAGES TO
22 CONFORM AND FIT INTO A PROSECUTION THEORY.

23 IT IS CURIOUS, TOO, THAT THE SEVEN PAGES AREN'T
24 DATED. NOW YOU ARE ASKED TO BELIEVE, AND THERE IS NO
25 PARTICULAR REASON WHY, THAT THOSE SEVEN PAGES ARRIVE THERE
26 THE NIGHT BEFORE LEVIN DISAPPEARED. I DIDN'T SEE ANYTHING
27 ABOUT THAT.

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6A-
1 THERE IS NO LOGICAL LINK. NOW, DOES THE
2 ENVIRONMENT AT LEVIN'S APARTMENT CONFIRM TO YOU THAT THE
3 CONTENTS OF THE SEVEN PAGES WERE ACTED OUT?

4 FIX IN YOUR MINDS NOW, THE PHYSICAL ENVIRONMENT
5 AT LEVIN'S THAT IS DISCOVERED. NO DATE STAMPS. IT SAYS "DATE
6 STAMP DOCUMENTS." WE HAVE YET TO SEE A DOCUMENT THAT WAS
7 DATE STAMPED.

8 THE DOG IS ALIVE. THAT IS A CRUCIAL POINT. IN
9 THIS AREA, I SUBMIT TO YOU THAT IF LEVIN COULD HAVE RISKED
10 TAKING THAT DOG ALONG WITH HIM, BUT FOR THE INCONVENIENCE,
11 I HAVE NO DOUBT THAT HUNT WOULD BE HERE ON TRIAL FOR CRUELTY
12 TO ANIMALS, TOO.

13 THAT IS, BECAUSE THE DOG IS NOT THERE. EVERYBODY
14 IS GOING TO SAY HUNT KILLED THE DOG. AGAIN, WE HAVE GOT TO
15 THINK ABOUT THE LOGIC. IF THE DOG IS MISSING, YOU BUY THIS
16 TOO. THE DOG IS DEAD.

17 LEVIN IS MISSING. LEVIN IS DEAD. IT IS THE SAME
18 THEME ADVANCED TO YOU EVERY TIME THROUGHOUT THE TRIAL.

19 WE ARE NOT DEALING WITH PLURAL AUTHORIZATIONS.
20 THERE IS NO EVIDENCE OF AUTHORIZATIONS AT ALL ASSOCIATED WITH
21 THE MICROGENESIS CONTRACT. WE DON'T FIND XEROXED AUTHORIZATIONS
22 IN LEVIN'S FILE.

23 WE DON'T SEE THE DOCUMENTS UTILIZING A CORPORATE
24 SEAL. NONE OF LEVIN'S CORPORATE SEALS ARE TOUCHED. THE ONLY
25 CORPORATE SEAL WE FIND IS ON THE MICROGENESIS MINUTES. BUT
26 THAT IS A SEAL THAT IS AT THE OFFICE.

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27 "AT LEVINS TO DO" WE HAVE TO TALK ABOUT THE SEAL
28 THAT WOULD BE AT THE OFFICE. AGAIN, IT IS INCONSISTENT.

6A- 1 AGREEMENTS ARE REFERRED TO THROUGHOUT. PLURALITY
2 IS THE EXPRESSION THROUGHOUT THE SEVEN PAGES. YET, YOU DON'T
3 SEE ANYTHING IN THE PLURAL THROUGHOUT THE AGREEMENTS.

4 IN SUMMARY, AS YOU GO THROUGH THE PAGES, YOU DON'T
5 FIND CORROBORATION IN THE ENVIRONMENT PRESENT. ON THE
6 RESERVATION PAGE, NEVER ONCE IS THERE ANY TESTIMONY THAT
7 ANYTHING IS DONE AT ALL ABOUT RESERVATIONS. YET, IT IS THERE.

8 ON THE "JIM DIGS PIT" PAGE, THERE IS NO
9 CANCELLATION OF RESERVATIONS AT THE CARLYLE HOTEL.

10 WHAT ABOUT THE TIME FREQUENCY? JIM ARRIVES AT
11 9:45. JOE IS THERE AT 9:00. THINK ABOUT THOSE PHONE CALLS
12 WHERE FACTOR CALLS HIM. THINK ABOUT WHERE HE CALLS BRODER.
13 THINK ABOUT MICHAEL BRODER.

14 IF THIS BE THE TIME SEQUENCE WHICH KARNY ACCEPTS
15 IN HIS TESTIMONY, WHAT IN THE WORLD IS LEVIN CALLING BRODER
16 UP AND INVITING HIM TO COME OVER AND SLEEP OVER FOR?

17 CHECKS ARE REFERRED TO IN THE PLURAL. ON THE
18 AUTHORIZATION PAGE AGAIN, AS WE SUMMARIZE THROUGH IT, THERE
19 IS NO USE OF WITNESSES.

20 THE MENTION OF JEFF ON THE LIST HAS NO RELEVANCE
21 WHATSOEVER. ON THE DEBTOR PAGE, FIVE ISSUES ARE REFERENCED
22 TO THE DEBTOR PAGE. NOT A SINGLE ONE WAS DONE.

23 ON THE "GET ALARM CODE" PAGE, YESTERDAY, I TALKED
24 TO YOU ABOUT THE BUSINESS THAT THAT WAS ONE OF THOSE, "ARE
25 YOU STILL BEATING YOUR WIFE" QUESTIONS.

26 EITHER WAY, HOW CAN THE DEFENSE RESPOND? WE
27 TALKED ABOUT IF IT IS ON, IT LOOKS LIKE SUPPOSEDLY THEY FORCED
28 THE CODE OUT OF HIM. IF IT IS OFF, THEN WE DIDN'T GET THE

6-7
1 CODE.

2 I SUBMIT THAT THE REASONABLE EXPLANATION IS THAT
3 YOU DON'T PUT ON AN ALARM CODE TO A RESIDENCE YOU ARE NOT
4 RETURNING TO. THAT IS THE OBVIOUS ONE.

5 THERE ARE NO XEROXES IN THE WASTE BASKET. WE ASKED
6 DETECTIVE ZOELLER ABOUT THAT. THERE WAS NOTHING ABOUT THE
7 MICROGENESIS AGREEMENT IN THE WASTE-PAPER BASKET.

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6-4
1 THE HALLIBURTON BRIEFCASE OR THE SUITCASE THAT
2 IS REFERENCED, BLANCHE STURKEY SAYS NO LUGGAGE WAS MISSING.
3 WE ARE TOLD NONE OF HIS CLOTHES ARE MISSING. WE HAVE ALL OF
4 THIS DIALOGUE ABOUT PACKED SUITCASES. BLANCHE STURKEY TELLS
5 US NONE OF THAT HAPPENED.

6 THEN THEY MENTIONED THE SHAVING KIT. THE SHAVING
7 KIT IS THERE, ACCORDING TO BLANCHE.

8 THE CASHIER'S CHECKS AT LEVIN'S WHERE ARE THEY?
9 ARE THEY STOLEN BY HUNT? NO. THEY ARE THERE. THERE ARE FOUND
10 IN LEVIN'S APARTMENT. THEY ARE UNMOLESTED, UNTOUCHED.

11 THERE IS THE MAP SUPPOSEDLY USED AT THE APARTMENT.
12 AGAIN, AS YOU ANALYZE THE SEVEN PAGES, THE PLAN IS SIMPLY NOT
13 IMPLEMENTED. I HAVE GONE THROUGH THE DISCUSSION AND I TOOK
14 THE TIME TO COUNT THEM OUT. THERE ARE 36 INDIVIDUAL ITEMS.

15 THERE ARE ONLY 40 THAT YOU CAN SEGREGATE THROUGH
16 THE USE OF LANGUAGE ON THE LIST. 36 ARE NOT DONE. 36 OUT
17 OF 40 AFFIRMATIVE STATEMENTS DON'T OCCUR, LET ALONE THAT THERE
18 IS NO MURDER PLAN. BUT THAT IS, IF THAT IS TO BE A PLAN AT
19 ALL, 36 OF THE 40 THINGS THAT THEY ARE DISCUSSING, DON'T
20 OCCUR.

21 YOU HAVE GOT TO LOOK ELSEWHERE FOR YOUR ANSWERS.
22 YOU HAVE GOT TO. NOW, YOU MIGHT SAY WELL, YOU SAID 36 OUT
23 OF 40, DIDN'T YOU? WHAT ABOUT THE OTHER FOUR THINGS? THOSE
24 FOUR THINGS IS THE DEFENSE'S UNDOING?

25 I AM GOING TO SUGGEST THAT AS YOU GO IN TO
26 DELIBERATE, LET'S TRY TO LOOK AT IT. I WILL POINT THEM OUT
27 FOR YOU, AS BEST I CAN, SO THAT WE CAN ANALYZE THOSE, AS WELL.

28 WE HAVE THIS "DATE STAMP THE LETTERS" AND NOW WE

1 KNOW IN THE FILE THERE ARE SOME DATE STAMPED LETTERS.

2 BUT THAT ARGUMENT IS AS CONVENIENT FOR THE
3 PROSECUTION AS IT IS FOR THE DEFENSE. KARNY, IN READING THE
4 POLICE REPORTS AND SEEING THE SEVEN PAGES ONLY HAVING TO DEAL
5 WITH THAT ITEM, COMES UP WITH THE SAME LOGIC THAT ANY OF OUR
6 CHILDREN OR ANY CHILDREN WOULD COME UP WITH.

7 WHAT IS THE ONLY THING HE CAN SAY ON THAT DEAL?
8 YOU HAVE GOT TO END UP SAYING THEY ARE PLANTED THERE. IT IS
9 A PLANT. YOU CAN'T EXPLAIN IT SO IT IS A PLANT.

10 WE'LL GET BACK TO THAT. THERE IS A FILE FOUND
11 BUT AGAIN, WE SEE CIRCUMSTANTIALLY, THAT IT GOES EITHER WAY.

12 WHAT ABOUT THE MISSING KEYS AND THE MISSING
13 WALLET? WELL, I DON'T KNOW. THERE HAVE GOT TO BE CERTAIN
14 THINGS WHERE YOU HAVE GOT TO SAY TO YOURSELF WHEN YOU DON'T
15 GET EVIDENCE, YOU DON'T KNOW.

16 NOW, KARNY WANTS TO SEE EVENTUALLY -- HE SEES
17 ONE OF THOSE KEYS FOR A MAILBOX. WHERE IS THE KEY? IT IS
18 CONVENIENT TO SAY THAT. BUT WHERE IS THE KEY?

19 NOW, THE WALLET BUSINESS GETS US BACK TO THAT
20 TRIP TO NEW YORK. I SUBMIT TO YOU THAT THERE IS NOT ONE
21 EMPLOYEE OF THAT HOTEL OR THE POLICE DURING THE BOOKING SEARCH
22 THAT I SAY, EVER CAME UP WITH LEVIN'S WALLET BEING IN THE
23 POSSESSION OF JIM PITTMAN.

24 THE MOST WE HEARD WAS THAT HE HAD CREDIT CARDS
25 AND A BUSINESS CARD. NOT A WALLET. YOU DIDN'T HEAR THAT,
26 SO DON'T THINK THAT YOU HEARD THAT.

27 NOW, THE QUESTION ABOUT WHETHER OR NOT HUNT
28 FORGETS THE LIST THERE IS ANOTHER MYSTERY IN THE CASE. IF

5-6
1 YOU WANT TO BUY IN THAT HE WRITES THE LIST, THEN HE HAS GOT
2 TO KNOW THAT THE LIST IS IN EXISTENCE.

3 IF YOU DON'T BURN THE LIST OR DO SOMETHING OF THAT
4 NATURE TO IT AND YOU DON'T HAVE IT ANY MORE, YOU RAPIDLY
5 CONCLUDE THAT YOU LOST THE LIST.

6 GO AHEAD. ASSUME THAT FOR A MINUTE WITH THE
7 PROSECUTION. THEN, HOW DO YOU ANSWER FOR YOURSELF WHY YOU
8 HAVE THE 6-24 MEETING? DO YOU THINK THAT IF YOU HAVE WRITTEN
9 A MURDER LIST AND LEFT IT AT THE SCENE OF THE MURDER, YOU THEN
10 GO AND HAVE THE 6-24 MEETING?

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1 IS THAT LOGICALLY CONSISTENT FOR YOU? DOES THAT
2 MAKE ANY SENSE TO YOU?

3 THE ONLY CONCLUSION YOU CAN MAKE WHEN YOU GO
4 THROUGH THE ANALYSIS IS THAT, QUITE SIMPLY, THE PLAN WASN'T
5 IMPLEMENTED BECAUSE YOU CAN'T FIND ANY EVIDENCE TO SUGGEST
6 THAT THE PLAN WAS IMPLEMENTED.

7 THE ONLY TESTIMONY YOU GET IS THAT BROOKE ROBERTS
8 SEES JOE WITH THE CHECK, WITH THE MICROGENESIS AGREEMENT
9 AT A TIME WHEN LEVIN IS CALLING BRODER TO COME SPEND THE
10 NIGHT. NOW, IT IS JUST THE UNCONTRADICTED TESTIMONY OF THE
11 DEFENSE WITNESSES.

12 NOW ANOTHER ONE OF THOSE "ARE YOU STILL BEATING
13 YOUR WIFE" QUESTIONS GOES INTO THIS BUSINESS OF THE PACKED
14 SUITCASE PAGE, BEFORE WE LEAVE THE TOPIC, WELL, THAT IS
15 ANOTHER ONE OF THOSE, LIKE THE ALARM CODE QUESTION. IF THERE
16 IS NOTHING MISSING IN THE APARTMENT, WELL THEN THEY ARGUE,
17 "WELL, LEVIN WOULDN'T LEAVE VOLUNTARILY WITHOUT TAKING HIS
18 CLOTHES."

19 BUT IF THE CLOTHES ARE MISSING, THEN YOU HAVE
20 GOT TO SAY "WELL, THE CLOTHES ARE MISSING BECAUSE HUNT TOOK
21 THEM."

22 BUT IT IS ONE OF THOSE RHETORICAL CUL-DE-SACS
23 THAT TIME AND TIME AGAIN YOU ARE FORCED INTO WHEN YOU START
24 REALLY CONSIDERING THE STATE OF THE EVIDENCE.

25 HOWEVER, PERHAPS WE HAVE GOT A WAY TO GO ON THAT.
26 PERHAPS THERE WAS TESTIMONY THAT TAKES US OUT OF THE
27 CUL-DE-SAC. LET'S GO BACK TO MR. FOULK. DO YOU REMEMBER
28 THAT YOUNG MAN THAT HAD THE SAME JOB AS MICHAEL BRODER,

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1 EXCEPT THEY NEVER MET? HE TESTIFIED THAT HE STOPPED BY LEVIN'S
2 ABOUT 7:00 P.M. ON THE 6TH OF JUNE AND SAID, AND I QUOTE
3 "THERE WERE THINGS THAT OBVIOUSLY HAD COME BACK FROM THE
4 CLEANERS OR WERE WRAPPED," CLOSE QUOTES, ON THE BED.

5 "THERE WERE THINGS LAYING OUT. THERE WAS SOME
6 SORT OF A GARMENT BAG AND ALSO SOME SHOES," CLOSE QUOTE.

7 AND I ASKED HIM WHETHER YOU WERE PUTTING YOUR
8 WARDROBE TOGETHER IF YOU WERE GOING TO GO AWAY.

9 AND HE SAID, "YES."

10 NOW I ASK YOU, THAT IS AT 7:00 O'CLOCK. WHAT HAPPENED
11 TO ALL OF THAT STUFF? WHERE IS IT?

12 BLANCHE STURKEY DOESN'T FIND IT. KARNY, NOT
13 HAVING HEARD FOULK TESTIFY, DOESN'T TELL US ANYTHING ABOUT
14 THOSE CLOTHES AND THE SHOES AND THE GARMENT BAG AND ALL OF
15 THAT STUFF THAT LEVIN HAS GOT OUT THERE ON THE BED AT
16 7:00 O'CLOCK. YOU DON'T SEE IT IN THE PHOTO. WHAT HAPPENED
17 TO IT?

18 BLANCHE, WHEN WE GO BACK TO HER, AGAIN SAYS THAT
19 NOTHING IS MISSING. THE QUESTION ABOUT THESE CLOTHES AND
20 WHAT IS GOING ON IS VERY, VERY PECULIAR. IT REMAINS ANOTHER
21 QUESTION THAT IS UNANSWERED BY THE EVIDENCE, THAT IS NOT
22 REFUTED, AND I CAN ONLY SUBMIT THAT I BELIEVE THOSE CLOTHES
23 TURN UP IN ARIZONA, BECAUSE THAT IS THE NEXT TIME YOU HEAR
24 ANYTHING ABOUT A DISCUSSION ABOUT LEVIN'S CLOTHES.

25 THINK ABOUT THAT UNUSUAL AMOUNT OF CLOTHING
26 PURCHASED THAT HAPPENED ON THAT AMERICAN EXPRESS CARD DURING
27 MAY. THINK ABOUT WHAT FOULK TELLS YOU.

28 NOW SOME MISCELLANEOUS POINTS. IT IS INTERESTING

1 TO ME THAT IF WE HAD ALL OF THIS TIME ON THE SEVEN PAGES
2 AND THE CONSTRUCT OF THIS MURDER PLAN, WHERE IS PITTMAN?
3 IS HE FOUND TO BE A PARTICIPANT IN THIS ELABORATE SCHEME?
4 WE ARE TOLD HE IS 50 PERCENT OF IT.

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1 DOES HE EVER PARTICIPATE IN THE PLANNING?

2 DOES KARNY TALK TO HIM?

3 DOES HUNT TALK TO HIM? DOES ANYBODY TALK TO
4 HIM?

5 HE IS SUPPOSED TO DO IT. WHEN DOES HE -- WHEN
6 IS HE CUED IN ON ALL OF THIS ELABORATION?

7 ARE HIS FINGERPRINTS ON THE SEVEN PAGES?

8 I WOULD BE REMISS IF I DIDN'T TALK ABOUT MR.
9 PITTMAN AND THE HIT MAN BOOK. WHY DO YOU BELIEVE -- WHY
10 DO YOU BELIEVE, IF YOU DO BELIEVE, THAT PITTMAN HAD THOSE
11 HIT MAN BOOKS WHEN THIS OCCURRED? DID ANY WITNESS EVER TELL
12 YOU HE DID?

13 WE TAKE LIBERTIES -- YOU GET THIS DIRECT
14 SUGGESTION -- THE PROSECUTOR READS TO YOU FROM THE HIT MAN
15 BOOK. YOU ARE ALL BEING TOLD HE HAD THE HIT MAN BOOK, HE
16 READ THAT. HE LOOKED AT THIS SECTION ON DISPOSING OF
17 BODIES, THAT IS WHAT THOSE GUYS WERE UP TO AND THAT IS WHERE
18 HE GOT HIS EDUCATION. THAT IS ARGUMENT.

19 DID YOU HEAR A WITNESS SAY THAT? DID ANYBODY
20 TELL YOU THAT?

21 OR ARE YOU BEING SOLD, ONCE AGAIN, SOMETHING
22 YOU CAN'T VERIFY?

23 YOU TAKE A CHEAP SHOT, BASED ON THE GUY'S READING
24 MATERIAL. YOU SAW THE BOOKS. THE BOOKS LOOK LIKE THEY HAD
25 NEVER BEEN OPENED. DID YOU SEE A CREASED PAGE? DID YOU
26 SEE AN UNDERLINED SECTION? DID YOU SEE THE BACK OF A BOOK
27 THAT HAD LOOKED LIKE IT HAD BEEN READ?

28 OR WHAT DO YOU DO? I WILL TELL YOU WHAT YOU

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1 DO WITH PITTMAN. YOU GET SOME LITTLE INFORMATION ON HIM
2 IN THIS TRIAL THAT YOU END UP WITH NOTHING BUT A CARTOON
3 VERSION OF A HUMAN BEING AND THEN ASSASSINATE THE CARTOON.

4 YOU LOOK AT PITTMAN. HE IS A BODYGUARD. HE
5 IS A BODY-BUILDER. PRIVATE INVESTIGATOR, AT LEAST HE HAS
6 THE CARD THAT SAYS HE IS A PRIVATE INVESTIGATOR.

7 IF YOU HAD MET PITTMAN AND SAW HIM WORKING AS
8 A PRIVATE INVESTIGATOR, AND SAID THAT WAS HIS CAREER AND
9 YOU WALKED IN HIS APARTMENT AND YOU SEE BOOKS OF THIS NATURE
10 ON THE SHELVES, DO YOU SAY TO YOURSELF "THE GUY IS A MURDERER"?
11 OR DO YOU SAY TO YOURSELF, "THOSE BOOKS ARE AS CONSISTENT
12 AND BELIEVABLE THAT A GUY WHO IS A BODYGUARD WOULD BE READING
13 AS ANYTHING ELSE"?

14 YOU WALK INTO MY OFFICE AND YOU SEE BOOKS ON
15 TRAFFICKING IN COCAINE IN AMERICA, ON DRUG DEPENDENCY PROBLEMS
16 IN AMERICA, BOOKS ON MONEY, ACCOUNTING PROBLEMS. DO YOU
17 SAY, "WELL, ANY LAWYER WHO HAS ALL OF THOSE BOOKS MUST BE
18 IN THOSE BUSINESSES?"

19 OR DOES IT HAVE SOMETHING TO DO WITH YOUR
20 BUSINESS?

21 CAN YOU MAKE THE LEAP THAT BECAUSE HE HAS THOSE
22 BOOKS, THOSE WERE SPECIFICALLY PURCHASED AS SOME KIND OF
23 A BYLINE, SOME SORT OF AN OUTLINE TO LEAD YOU IN TO RON
24 LEVIN?

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8A-
1 THAT IS AN AWFUL BIG JUMP, LADIES AND GENTLEMEN.
2 YOU HAVE NOT HAD ONE WITNESS TO ASSIST YOU IN THAT POLE VAULT.

3 BY THE BY, LASTLY, REMEMBER, ARE THE BOOKS
4 FINGERPRINTED? NOPE.

5 DO YOU EVEN FIND PITTMAN'S FINGERPRINTS ON THEM?
6 DO YOU FIND HUNT'S FINGERPRINTS ON THEM? DO YOU FIND KARNY'S
7 FINGERPRINTS ON THEM?

8 I WOULD SUBMIT THAT IT IS REASONABLE TO ME THAT
9 YOU WOULD HAVE FOUND PITTMAN'S ON THEM. THEY ARE IN A BLACK
10 BAG AND HE IS CARRYING IT AROUND OUTSIDE OF HIS HOUSE. SO
11 WHAT? SO WHAT IN A TRIAL FOR MURDER?

12 ARE YOU JUST GOING TO ACCEPT AND SAY OKAY, WE WILL
13 CONVICT SOMEBODY ON THAT? CAN YOU BELIEVE BEYOND A REASONABLE
14 DOUBT? WERE YOU GIVEN ENOUGH EVIDENCE IN A COURT OF LAW THAT
15 THOSE BOOKS HAVE ANYTHING TO DO WITH THE PROSECUTION'S CASE,
16 EXCEPT TO FURTHER ATTEMPT TO VILIFY AND SCARE YOU ABOUT
17 MR. PITTMAN? IT IS A CARTOON.

18 YOU KNOW THAT WHOLE BUSINESS WHEN PITTMAN WAS
19 BROUGHT INTO THIS COURTROOM, THAT WAS INTERESTING, TOO.
20 NOW, WE HAD A REAL GOOD PHOTOGRAPH OF PITTMAN, REAL GOOD.
21 WE HAD AS GOOD A PHOTOGRAPH AS WAS USED TO IDENTIFY LEVIN OR
22 HAS EVER BEEN USED TO IDENTIFY ANYBODY IN A TRIAL.

23 YOU FOLKS KNOW WHY HE WAS BROUGHT IN HERE. YOU
24 KNOW THAT HE IS IN CUSTODY AWAITING TRIAL. HE IS BROUGHT IN
25 HERE TO SCARE YOU.

26 HE IS BROUGHT IN HERE AGAINST THE WHITENESS OF
27 THE BBC BACKGROUND, TO SCARE YOU, TO SHOW YOU THIS BIG GUY,
28 BIG MUSCLES AND THE BIG CHEST, SO THAT YOU ARE SCARED, SO THAT

8A-
1 YOU LOOK AT HIM AND SAY, "GOOD GRIEF, LET'S CONVICT BECAUSE
2 HE LOOKS SCARY. LET'S NOT CONVICT ON THE EVIDENCE. LET'S
3 CONVICT THEM ON HOW THEY LOOK."

4 BECAUSE WE ARE DOWN TO THAT. WE ARE DOWN TO
5 CONVICTING ON APPEARANCES. BECAUSE YOU DON'T HAVE ANY FACTS.
6 SO, LET'S SCARE THEM. LET'S VILIFY THE DEFENDANTS. LET'S BRIDGE
7 ALL OF THOSE GAPS BECAUSE WE DON'T HAVE EVIDENCE.

8 LET'S GO TO THE 6-24 MEETING. I SUBMIT TO YOU
9 THAT THE BEST LIGHT ON THE 6-24 MEETING IS CAST BY A
10 PROSECUTION WITNESS, STEVE LOPEZ.

11 DO YOU REMEMBER THE GUY WHO SEEMS TO TRAVEL ALL
12 OVER THE WORLD AND HAS ALL KINDS OF BUSINESSES? NOW, LOPEZ
13 TELLS US THAT WHEN HE MEETS WITH HUNT IN JULY -- STRIKE THAT --
14 IN AUGUST, HE HAS A CONVERSATION WITH HUNT.

15 WHAT DOES HUNT TELL HIM AT THAT PARTICULAR TIME?
16 HE TELLS HIM -- HE ADMITS THAT HE SAID ON 6-24, THAT HE KILLED
17 LEVIN. WHAT DOES HE TELL HIM A MERE SIX WEEKS OR FIVE WEEKS
18 LATER? HE TELLS HIM IT WASN'T TRUE, THAT HE SAID IT FOR
19 EFFECT, THAT HE WAS TRYING TO MAKE THOSE GUYS BELIEVE THAT
20 HE WAS A TOUCH GUY AND THAT HE HADN'T BEEN CONNED ONCE AGAIN
21 BY RON LEVIN.

22 NOW, I AM NOT UP HERE TRYING TO MAKE AN EXCUSE
23 FOR HUNT ON THIS ELABORATE DECEPTION THAT BRINGS US ALL HERE
24 TODAY. BUT WHAT WE HAVE TO DO, IS UNDERSTAND WHAT HUNT TELLS
25 THE PROSECUTION'S WITNESS NOT DURING THIS TRIAL BUT WAY BACK
26 THERE IN 1984, WHEN THESE EVENTS ARE CURRENT AND FRESH.

27 STEVE LOPEZ CORROBORATES WHAT BROOKE ROBERTS TOLD
28 YOU ABOUT THE 6-24 MEETING. BROOKE ROBERTS TOLD YOU THAT HUNT

8A-
1 IS STALLING FOR TIME, HOPING THAT HE CAN GET THAT KIRKPATRICK
2 DEAL TOGETHER.

3 AND BY THE WAY, IF YOU LOOK THROUGH THE
4 PROSECUTION'S EXHIBIT NO. 94, YOU WILL SEE IN THERE, THE
5 KIRKPATRICK DEAL, WHICH IS PENDING, FOR MILLIONS AND MILLIONS
6 OF DOLLARS THAT THE BBC IS TO REALIZE IF IT COMES TO FRUITION.

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8B-
1 THAT IS WHAT IS GOING ON. YOU DON'T HEAR THAT
2 FOR THE FIRST TIME IN THE COURTROOM. YOU HEAR THAT FROM STEVE
3 LOPEZ IN 1984, TALKING TO JOE HUNT, NOT A CREATURE OF RECENT
4 CREATION BY THE DEFENSE.

5 THERE IS A LOT OF CONFUSION WE HEAR FROM THE
6 PROSECUTION'S WITNESSES OVER WHETHER A THREAT IS MADE OR NOT
7 AT THAT MEETING. IT IS INTERESTING. I DON'T KNOW WHAT IT
8 ESTABLISHES OR NOT.

9 BUT THEY BRING IN ALL OF THESE BBC WITNESSES TO
10 SAY TO YOU, WE HAVE THIS CONVERSATION AND HUNT SAYS TO US,
11 YOU KNOW, THAT IF YOU GO TO THE POLICE OR IF YOU TELL ANYBODY,
12 SOMETHING REALLY BAD IS GOING TO HAPPEN TO YOU. WE GET A LOT
13 OF INCONSISTENCY ON IT. IT IS REALLY BAD.

14 SOME GUYS SAY THAT YOU ARE GOING TO GO FISHING.
15 SOME GUYS SAY THAT YOU ARE GOING TO BECOME FISH BAIT. ISN'T
16 IT INTERESTING? DEAN KARNY NEVER HEARS THE THREAT.

17 THE PROSECUTOR NEVER EVEN ASKED BROOKE ROBERTS
18 IF SHE HEARS A THREAT. AND THEN I ASKED YOU, WHEN YOU ARE
19 CONDUCTING THIS RUSE, IN THE FIRST INSTANCE AND KARNY TELLS
20 YOU HOW THEY SPEND ALL THIS TIME HANDPICKING THESE PEOPLE,
21 WOULD YOU HAVE TO THREATEN HANDPICKED PEOPLE? THINK ABOUT
22 IT.

23 NO THREATS. THERE WAS NO NEED FOR THREATS. AND
24 AS I SAY THIS PIVOTS ON THE BASIC ISSUE IN THE CASE.

25 BUT AGAIN, WE GET THESE INCREDIBLE CUL-DE-SACS.
26 AGAIN, WE GET THINGS THAT ARE JUST INTERNALLY ILLOGICAL. WE
27 DO SAY HOWEVER THAT BROOKE ROBERTS TESTIFIES -- WELL, SHE SAYS
28 THAT DEAN AND JOE WERE IN THAT BEDROOM COOKING UP DETAILS TO

1 MAKE THE 6-24 MEETING BELIEVABLE.

2 DO YOU REMEMBER SHE TESTIFIED THAT NONE OF THE
3 BOYS, IF THERE WAS A DISCUSSION BETWEEN DEAN AND JOE, THAT
4 THEY HAD COME UP WITH SOME DETAILS BECAUSE OTHERWISE, NO ONE
5 FINDS THIS BELIEVABLE.

6 AND REMEMBER, IF THEY DON'T BELIEVE IT, THE RUSE
7 THAT KARNY AND HUNT START OUT TO ACCOMPLISH, HAS TO FAIL. THEY
8 HAVE GOT TO BELIEVE THAT THEY HAD KNOCKED LEVIN OFF. AND THAT
9 THEY HAD SCAMMED LEVIN, RATHER THAN THE REVERSE BEING TRUE,
10 WHICH WE ALL KNOW WAS THE TRUTH, THAT LEVIN SCAMS TO THE TIME
11 HE DISAPPEARS.

12 IT WAS NOT JUST HUNT. HE SCAMS AMERICAN EXPRESS.
13 HE SCAMS BANKS. HE IS JUST SCAMMING AWAY, RIGHT UP UNTIL THE
14 LAST MOMENT THAT WE SEE HIM.

15 I THINK THAT THE EVIDENCE PROVES BEYOND A
16 REASONABLE DOUBT THAT ALL WE HAVE SEEN IN THIS TRIAL, ARE
17 DETAILS MADE UP AT THAT MEETING. THAT IS WHY SINCE THEY ARE
18 MADE UP, THERE IS SIMPLY NO EVIDENCE OF A CRIME, NO REAL WORLD,
19 HARD EVIDENCE.

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1 LET'S CONSIDER NOW DEAN KARNY AND HIS IMMUNITY
2 TRANSACTION. THE IMMUNITY PER SE DID NOT ARISE SPONTANEOUSLY.
3 IT DOESN'T JUST DROP FROM THE SKY. IT HAS TO BE CREATED
4 FROM SORT OF A CONTEXT, LIKE EVERYTHING ELSE WE HAVE TO
5 EVALUATE HERE.

6 THE D.A.'S OFFICE AND THE ATTORNEY GENERAL'S
7 OFFICE UP NORTH DID NOT CONTACT DEAN KARNY. THE REVERSE
8 IS TRUE. KARNY, AFTER GETTING A LAWYER, SEEKS THEM OUT TO
9 MAKE A DEAL, A BARGAIN. THE ATTORNEY GENERAL'S OFFICE HAD
10 NO INFORMATION FOR WHICH THEY WERE COURTING DEAN KARNY'S
11 SERVICES AS A WITNESS OR OFFERING HIM IMMUNITY FOR SAME.

12 HE DIDN'T GO TO LES ZOELLER. HE DIDN'T GO TO
13 MR. WAPNER. HE DIDN'T GO TO THE BEVERLY HILLS POLICE
14 DEPARTMENT. HE GOES TO SAN MATEO. HE MADE A DEAL.

15 BUT NOTABLY, WHEN HE MADE THAT DEAL AND BOUGHT
16 THAT IMMUNITY, THAT GETS HIM IN THIS COURT HERE AND IT IS
17 CLEAR TO YOU BEYOND A DOUBT THAT HE IS NOT HERE UNLESS HE
18 HAS MADE THAT BARGAIN, A BARGAIN ABOUT THIS, FOR A BARGAIN
19 ABOUT THE UNKNOWN UP NORTH.

20 DO WE SEE THE RESIDUE, THE SHADOW OF ANOTHER
21 TRANSACTION? IS THERE AN ECLIPSE BEFORE OUR EYES THAT HIDES
22 FROM US THE REALITY OF WHAT BACKDROPS THAT IMMUNITY DEALT
23 OR ARE WE GETTING MERELY A REFLECTION OF IT IN THIS COURTROOM?

24 WHEN THAT IMMUNITY DEAL WAS MADE, THE ATTORNEY
25 GENERAL'S OFFICE DIDN'T KNOW ABOUT CARMEN AND CHINO AND DIDN'T
26 KNOW ABOUT BROOKE AND LYNNE'S TESTIMONY AND NOBODY ASKED.
27 THAT WAS A COSTLY MISJUDGMENT.

28 ONE OF THE DRAWBACKS OF IMMUNITY IS GOING TO

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1 BE REFLECTED IN ONE OF THE JURY INSTRUCTIONS YOU ARE GOING
2 TO GET. IT IS THE ONLY SINGLE ADMONITION OF THIS STRENGTH
3 AND CHARACTER THAT YOU ARE GOING TO GET FROM THE JUDGE WHEN
4 YOU GO TO RETIRE TO CONSIDER THE TESTIMONY OF WITNESSES.
5 THERE IS A RED FLAG ON IT. THEY HAVE PUT A LABEL ON IT THAT
6 SAYS, "BUYERS BEWARE, CAVEAT EMPTOR, VIEW THE TESTIMONY OF
7 AN IMMUNIZED WITNESS WITH CAUTION," AND WE WILL GET TO A
8 DESCRIPTION OF IT. BUT THINK OF THAT, BECAUSE YOU ARE TOLD
9 BEFORE YOU LISTEN TO ONE WORD HE SAYS -- OF COURSE, BY THE
10 COURT IN JURY INSTRUCTIONS, THERE IS NOBODY HERE TO TELL
11 YOU THAT BEFORE HE TESTIFIES -- YOU HAVE TO NOW GO BACK TO
12 THAT TESTIMONY WITH A CAVEAT AND ADMONITION IN MIND.

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1 RECALL WHAT LED TO THE IMMUNITY DEAL, ACCORDING
2 TO KARNY'S TESTIMONY. HE DOESN'T SAY, "WELL, I SAW A PICTURE
3 OF RON LEVIN. I WAS SO OVERCOME WITH GRIEF AND CONSTERNATION
4 AND MORAL CONCERN AND CONSCIENCE THAT I CAME FORWARD."

5 HE TELLS US A STORY ABOUT SEEING A PICTURE OF
6 A MAN NAMED HADAYET ESLAMINIA. HE DIDN'T GET WORKED UP,
7 YOU WILL NOTICE, ABOUT A PICTURE OF A MAN WHO WASN'T REALLY
8 DEAD, RON LEVIN. HE GOES UP AND MAKES A DEAL ON A MURDER
9 HE SAYS HE PARTICIPATED IN BUT NOT THIS ONE.

10 WHAT STRIKES HIS CONSCIENCE? DO YOU HEAR SOME
11 CONCERN AND TERROR ABOUT RON LEVIN THAT BRINGS HIM OUT OF
12 HIS PARENTS' BED WHERE HE IS ALLEGEDLY COWERING THOSE DAYS
13 AWAY, CALCULATING HIS OPTIONS IN LIFE, THINKING ABOUT HIS
14 FUTURE AS A LAWYER? IS IT THE APPARITION OF LEVIN THAT
15 BRINGS HIM FROM HIS BED? I DARE SAY NOT.

16 DOES HE SAY THAT TO HIMSELF? NO. DID WE SEE
17 REMORSE FEIGNED ON THE STAND FOR LEVIN? DO WE SEE A WORD
18 OF CONCERN FOR LEVIN? NO. WHY NOT? HE IS NOT DEAD.

19 WE SEE THIS CHOKING AND STAMMERING. IMPEDED
20 DIALOGUE ABOUT HADAYET ESLAMINIA. WHO HAS MOTIVE TO TRY
21 TO IMPRESS YOU WITH HIS TESTIMONY?

22 YESTERDAY, WE CRUCIFIED CARMEN SANCHEZ FOR
23 CRYING ON THE STAND. CRYING, SHE IS A LIAR BECAUSE SHE CRIED.
24 THAT LITTLE GIRL, WE CAST DOUBT ON. KARNY SITS THERE, THE
25 PROFESSIONAL WITNESS, THE GUY WHO TELLS YOU HE HAS TOLD HIS
26 STORY TIME AND AGAIN IN COURT AND AT THE APPROPRIATE MOMENT,
27 HIS VOICE CRACKS, HE STAMMERS AND AGAIN, HE IS OVERWHELMED
28 WITH GRIEF OR OVERWHELMED WITH A CERTAIN REBORN MORAL FABRIC
29 ABOUT RON LEVIN. THINK ABOUT WHAT YOU SAW ON THE STAND.

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1 IS THERE ANYTHING ABOUT MORAL CONCERN? DID HE
2 EVER ONCE, LOOK LIKE OR ACT LIKE HE THOUGHT RON LEVIN WAS DEAD?
3 SO, WHAT HAS HE GOT TO DO? HE HAS GOT TO COOK UP FOR YOU,
4 BRAINS WITH WINGS.

5 THAT IS WHAT WE DO. AS IMPLAUSIBLE AS IT IS IN
6 THE HUMAN ANATOMY AND THE PHYSICS OF THAT WHOLE EXPLANATION,
7 WE'LL TERRORIZE THE LIFE OUT OF THE JURY.

8 WE'LL GIVE THEM A STORY. LET ME TELL YOU, I COULD
9 HARDLY THINK OF ONE THAT WOULD GET YOUR ATTENTION BETTER THAN
10 THAT. WE'LL GIVE YOU ONE THAT YOU KNOW, THE DEFENSE CAN'T
11 REFUTE.

12 HOW DO YOU REFUTE SOMETHING LIKE THAT? I COULD
13 GIVE YOU ONE OF THESE, "WE CHOPPED HIM UP IN LITTLE PIECES"
14 OR ONE OF THE USUAL ONES.

15 BUT, WE'LL WATCH STEVEN SPIELBERG AND WE'LL GIVE
16 YOU SOMETHING MORE SENSATIONAL BECAUSE THE CHOPPED UP, THAT
17 HARDLY GETS YOUR ATTENTION ANY MORE. WE'LL GIVE YOU THAT.

18 THINK BACK TO BROOKE ROBERTS' TESTIMONY ABOUT
19 DEAN KARNY, WHO ADMITS THAT HE HAS GOT THE POLICE REPORTS THAT
20 HE READS WAY BEFORE, WAY BEFORE HE EVER SEEKS OUT THE ATTORNEY
21 GENERAL'S OFFICE.

22 IT IS CLEAR THROUGHOUT HIS TESTIMONY, THAT HE KEYS
23 OFF OF THE POLICE REPORTS TO CREATE A STORY MOSTLY CONSISTENT
24 WITH THE FACTS HE KNOWS, WITH WHAT HE FINDS IN THE POLICE
25 REPORTS. AND THEN HE COMES HERE AND SELLS IT FOR AN IMMUNITY
26 TRANSACTION.

27 KARNY TELLS BROOKE AND I AM QUOTING FROM THE
28 TESTIMONY, WHEN BROOKE ASKS HIM, JUST TO GIVE YOU THE CONTEXT

10A 1 HERE, TO COME FORWARD AND TELL THE JURORS, DEAN GETS ANNOYED
2 ACCORDING TO HER TESTIMONY AND SAYS, "LOOK, I CAN'T TELL YOU
3 ANYTHING ABOUT WHAT I AM GOING TO DO RIGHT NOW UNTIL I READ
4 THE POLICE REPORTS."

5 AND THEN HE SAYS TO HER, "I HAVE A LOT OF PROBLEMS.
6 I HAVE A PROBLEM IN SAN FRANCISCO NOBODY CAN HELP ME WITH."
7 IT IS FOR THAT PROBLEM THAT HE WAS SEEKING A SOLUTION AND IT
8 IS FOR THAT PROBLEM THAT HE COMES TO THIS COURTROOM.

9 IF KARNY IS THE WITNESS UPON WHICH PROOF IS TO
10 BE LAID, I DON'T THINK THAT THERE HAS BEEN SUFFICIENT
11 INDEPENDENT CORROBORATION OF THE TESTIMONY OR ITS INTERNAL
12 LOGIC UPON WHICH TO BASE A CONVICTION.

13 HE COMES HERE AS AN ADMITTED MURDERER, AN
14 IMMUNIZED WITNESS THAT WILL NOT SPEAK TO THIS COURT WITHOUT
15 AN IMMUNITY PACKAGE.

16 AND HE TELLS A TALE, A TALE THAT WAS CONCEIVED
17 AND GIVEN BIRTH DURING THOSE WEEKS AFTER HE GETS THE POLICE
18 REPORT, THOSE WEEKS OF CONTEMPLATION AS HE CONFERS WITH HIS
19 LAWYER, WITH STORY IN HAND.

20 IT WAS INTERESTING REFERABLE TO KARNY, THAT HE
21 TESTIFIED THAT HE HAD ONLY TOLD HIS STORY FIVE TIMES. THAT
22 IS WHAT HE SAID. AND THAT THREE OF THOSE WERE IN COURT. DO
23 YOU WANT TO BELIEVE THAT?

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OR

1 I ASK YOU TO CONTRAST WHAT HE TOLD YOU, WITH THE
2 MULTIPLE INTERROGATIONS THAT CANCHOLA AND LOPEZ WENT THROUGH
3 IN THE SHORT TIME SINCE THEY CONTACTED THE POLICE IN ARIZONA.
4 THERE WERE HOURS AND HOURS AND MULTIPLE CONTACTS BY EVERY KIND
5 OF A POLICE OFFICER AND DISTRICT ATTORNEY WE CAN THINK OF.
6 ARE YOU PREPARED TO BELIEVE THAT KARNY IS BEING HONEST WITH
7 YOU WHEN HE TELLS YOU HE HAS ONLY TOLD HIS STORY FIVE TIMES?

8 NOW, THAT HAS GOT TO INCLUDE WHEN HE TALKS TO HIS
9 LAWYER AND WHEN HE TALKS TO THE PEOPLE UP NORTH, WHEN HE COMES
10 BACK DOWN HERE AND TALKS TO MR. WAPNER. ALL OF THOSE TIMES
11 PLUS TALKING TO ZOELLER. ALL OF THOSE TIMES HE IS GOING TO
12 TELL US.

13 I KNOW WHY. DON'T YOU? THEY DON'T WANT IT TO
14 SOUND REHEARSED. THEY DON'T WANT IT TO SOUND CANNED. THEY
15 DON'T WANT IT TO SOUND EXACTLY LIKE WHAT IT IS, A NEATLY
16 PREPARED, CONSTRUCTED STORY LINE.

17 ANOTHER CONTRAST WITH THE CANCHOLA PEOPLE, THINK
18 ABOUT IT AGAIN, KARNY TELLS US ABOUT A WALK AROUND THE BLOCK
19 WITH HUNT WHICH SUPPOSEDLY, HE TELLS HIM THIS STORY, THIS
20 GRUESOME STORY.

21 I NOTICED THAT THE PROSECUTOR DIDN'T SEEM THE LEAST
22 BIT INTERESTED ON HOW FAR THEY WALKED, WHERE THEY WALKED, WHAT
23 HE WAS WEARING, WHAT HUNT WAS WEARING, WHAT TIME OF THE DAY
24 IT WAS, WHAT KIND OF TREES WERE AROUND HIM, HOW TALL THEY WERE,
25 HOW SHORT THEY WERE, THE WEATHER CONDITIONS, THE LIGHTING AND
26 ALL OF THOSE THINGS BROUGHT INTO FOCUS WITH THE CANCHOLA
27 PEOPLE THAT SUPPOSEDLY ARE GIVEN US TO VERIFY OR DISCREDIT
28 THEIR TESTIMONY.

1 WE JUST AVOID IT WHEN IT COMES TO THESE TYPES OF
2 CONVERSATIONS, THAT WHOLE SHOW YOU GOT ABOUT USING EXTERNAL
3 DETAILS TO VERIFY WHETHER SOMEBODY SEES OR HEARS SOMETHING.
4 YOU DON'T GET THAT, HERE.

5 THIS IS OUT OF WHOLE CLOTH. THAT IS WHY. BECAUSE
6 YOU COULDN'T BE PROVIDED ANY OF THOSE KINDS OF DETAILS BECAUSE
7 IT IS NOT THE CONTEXT THAT ASSUMES ANY MEETING.

8 IT IS THOSE WORDS FOR THE STORY LINE. THAT IS
9 ALL WE NEED TO GIVE YOU. DROP IN HERE ANONYMOUSLY AND TELL
10 THE STORY. THAT IS ALL.

11 BUT THE QUESTION IS, WHAT IS THERE FOR YOU TO
12 TRUST? DO YOU MAKE A DECISION SOLELY BASED ON WHAT DEAN
13 KARNY TELLS YOU? DO YOU RELY ON WHAT HE SAYS HE HEARD OVER
14 WHAT LYNNE ROBERTS TELLS YOU, OVER WHAT BROOKE ROBERTS TELLS
15 YOU, OVER WHAT THE PEOPLE FROM ARIZONA TELL YOU?

16 THAT IS THE TYPE OF DECISION YOU ARE GOING TO HAVE
17 TO MAKE. YOU ARE GOING TO HAVE TO THINK ABOUT THE TOTALITY
18 OF THOSE PEOPLE.

19 YOU REACH A POINT WHERE THE DEFENSE TELLS YOU IN
20 THE TRIAL, WE HAVE GOT NOTHING MORE TO SAY. YOU HEARD THE
21 PEOPLE FROM ARIZONA. YOU HEARD THE OTHER STUFF. YOU START
22 SAYING, WHAT ELSE CAN YOU SAY?

23 THE INTERESTING SIDE THING ABOUT KARNY, IS BECOMING
24 A LAWYER. HARDLY ANYTHING SURPRISES ME ABOUT KARNY ANY MORE.
25 WE HEAR THAT NOT ONLY DO YOU WALK AWAY FROM MURDER, BUT YOU
26 ARE GOING TO GET SOME ASSISTANCE FROM THE ATTORNEY GENERAL'S
27 OFFICE TO BECOME A LAWYER IF WHAT? IF YOU TELL THE STORY,
28 TELL THE STORY.

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BECOME A LAWYER. WELL, THANK GOD THAT THE CALIFORNIA BAR LIKE YOU, IS NOT UNDER THE AUSPICES OF THE POLICE OR THE ATTORNEY GENERAL'S OFFICE OR KARNY WOULD SURELY BE HERE PRACTICING LAW AS HE WAS PRACTICING PERJURY.

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1 NOW, IN TERMS OF THE DETAILS OF KARNY'S TESTIMONY
2 AND WHETHER OR NOT THEY ARE CORROBORATED, WE NEVER HAD
3 INTRODUCED INTO EVIDENCE THE POLICE REPORTS HE LOOKED AT
4 BEFORE TELLING HIS STORY. WE DON'T KNOW WHAT IS IN THEM,
5 AT LEAST YOU DON'T, AND WHAT IS NOT IN THEM.

6 YOU KNOW WHO HAS GOT THE BURDEN OF PROOF HERE.
7 WHAT ABOUT THE ISSUE ABOUT WHAT HE READ BEFORE HE TOLD HIS
8 STORY AND WHAT HE DIDN'T?

9 ASSUMING HE WOULD BE TRUTHFUL ON THE POINT, WHAT
10 ABOUT WHAT HE LEARNED IN GENERAL FROM NEWSPAPER ARTICLES
11 ON THE BBC BEFORE HE TOLD HIS STORY? ALL OF THIS WAY BEFORE
12 NOVEMBER OF '84 WHEN HE STARTS TO TELL HIS STORY. ALL WE
13 HEARD WAS ONE REFERENCE, ONE THING. THE POLICE, DETECTIVE
14 ZOELLER, MR. WAPNER IN HIS ARGUMENT TELL YOU WHAT KARNY DID
15 FOR US, "KARNY GAVE US A TRIP TO NEW YORK. HE GAVE US
16 PITTMAN IN NEW YORK."

17 WHAT KARNY DOES, THOUGH, IS NOT GIVE HIM ONE
18 PIECE OF HARD EVIDENCE. NOT AN AMERICAN EXPRESS BILL, NOT
19 A POST OFFICE BOX KEY, NOTHING TO PHYSICALLY CORROBORATE
20 ANYTHING.

21 HE GIVES HIM WORDS, WORDS THAT BENEFIT HIM. WORDS,
22 NOT PROOF.

23 THAT MISSING AMERICAN EXPRESS BILLING FOR JUNE
24 '84, WE DON'T KNOW WHETHER KARNY READS THAT IN A POLICE REPORT
25 THAT IS MISSING OR WHAT. I JUST KNOW WE DON'T HAVE IT. HE
26 CERTAINLY DOESN'T PROVIDE IT.

27 THIS THING ABOUT JIM GOING TO WASHINGTON PROVIDES
28 ANOTHER GLARING EXAMPLE FOR YOU OF THE CONSTRUCT THAT IS

1 GOING ON IN THIS WHOLE TRIAL. YOU REMEMBER YESTERDAY, I
2 TALKED TO YOU ABOUT THE HELP I HAD. WELL, THINK ABOUT THAT
3 ONE. KARNY COMES IN THE COURTROOM AND TELLS YOU A STORY
4 THAT JIM SUPPOSEDLY IS GOING TO WASHINGTON ABOUT A GUY THAT
5 CAN HELP CASH A SWISS CHECK.

6 FIRST, YOU HAVE GOT TO BELIEVE THAT PITTMAN IS
7 IN A POSITION TO EVEN SAY HE KNEW SOMEBODY LIKE THAT AND
8 WE GET THAT AND THINK ABOUT IT AND KARNY SAYS THAT HUNT SAID
9 THAT PITTMAN SAID THAT A GUY IN WASHINGTON SAID, 'YOU HAVE
10 GOT A CONSTRUCT UP OF FOUR, HE SAYS, TO GET ANYTHING DONE. AND
11 WHAT DO YOU GET DONE? YOU GET SOMETHING IMPROBABLE DONE:
12 PITTMAN KNOWS A GUY, WHO SOMEHOW HAS INFORMATION ON SECRET
13 DEALINGS IN SWISS CASHIER'S CHECKS.

14 EVEN THOUGH AT THE TIME WE ARE TOLD IT ALL OCCURRED,
15 TO GO BACK THERE, SUPPOSEDLY, THEY ALL KNOW THAT THE CHECK
16 IS NSF. THEY KNOW THE SIGNATURE WON'T BE RECOGNIZED. SO
17 WHAT IS IT? PITTMAN HAS GOT SOME GUY BACK THERE IN WASHINGTON
18 WHO WILL MAKE A DEPOSIT TO THE ACCOUNT TO MAKE SURE THE CHECK
19 WILL CLEAR. WHAT HAVE YOU GOT THERE? DO YOU HAVE ANY PROOF
20 FROM THAT? DOES THE D.A.'S OFFICE BRING IN THE GUY FROM
21 WASHINGTON? DO WE SO MUCH AS GET HIS NAME? ALL YOU GET
22 IS A FABLE.

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1 DO YOU GET ONE SCENTILLA OF EVIDENCE? DO YOU
2 GET ANYTHING?

3 YOU GET A STORY THAT PITTMAN GOES TO WASHINGTON.
4 WELL, ONCE YOU KNOW HE IS IN WASHINGTON, YOU HAVE A LICENSE
5 TO SAY ANYTHING YOU WANT. BUT DID YOU GIVE THE JURY ANY
6 PROOF?

7 THIS BUSINESS ABOUT THE FILE BEING ASSEMBLED
8 AND LEFT CONVENIENTLY AT LEVIN'S APARTMENT. KARNY GIVES
9 YOU THAT IN BALD-FACE RELIEF. THE ONLY THING NOBODY TOLD
10 KARNY, THOUGH, THAT WASN'T ON THE POLICE REPORT WAS THAT
11 LEVIN'S FINGERPRINTS ARE ALL OVER THAT GREEN FILE FOLDER,
12 THE TOP, THE BOTTOM, AND KARNY DOESN'T KNOW THAT, SO HE TELLS
13 US THE WHOLE THING IS JUST PLANTED THERE.

14 AND HE GOES ON TO TELL US ABOUT THE BUSINESS
15 THAT HE HAS THESE DISCUSSIONS WITH HUNT WHEREBY HE IS TO
16 REMOVE THESE LETTERS FROM THE MAIL, AND WE DISCUSSED THAT
17 WITH YOU YESTERDAY, EVEN THOUGH IT CATEGORICALLY DISAGREES
18 WITH LORIE LEIS' TESTIMONY ON WHAT REALLY HAPPENED ABOUT
19 THOSE LETTERS.

20 LORIE LEIS TOLD US "JOE GAVE ME THEM," REFERRING
21 TO THE THREE LETTERS IN PEOPLE'S 94, "AND I WOULD TYPE THEM
22 AND GIVE THEM TO HIM."

23 JOE SAID, "WHEN YOU ARE FINISHED, DON'T MAIL
24 THEM. I WILL HAND CARRY THEM."

25 MR. WAPNER ASKED LORIE LEIS IN THIS REGARD, "DO
26 YOU RECALL ON EACH OF THOSE THREE LETTERS THAT HE SAID THAT?"

27 "A YES."

28 NOW, THIS, I CALL YOUR ATTENTION TO, IS A SERIOUS

1 MATTER. KARNY TELLS US THAT HE RETRIEVED THAT MATERIAL.
2 LORIE LEIS NEVER EVEN MENTIONED THAT.

3 LORIE LEIS TELLS US THAT SHE GIVES THE LETTERS
4 TO JOE HUNT. DEAN KARNY DIDN'T KNOW THAT THAT IS WHAT LORIE
5 LEIS WAS GOING TO TESTIFY TO WHEN SHE IS CALLED AS A
6 PROSECUTION WITNESS.

7 AGAIN, WHAT BECOMES, TIME AND TIME AGAIN, APPARENT
8 IS THAT WHEN KARNY DOESN'T KNOW SOMETHING FROM THE POLICE
9 REPORT BUT EVEN THROUGH THE PROSECUTION'S OWN WITNESSES,
10 HE GETS IMPEACHED. LORIE LEIS MAKES HIM A LIAR.

11 THE SAME PEOPLE THAT BROUGHT YOU LORIE LEIS,
12 BROUGHT YOU DEAN KARNY, THE PROSECUTION. THEY CAN'T HAVE
13 IT BOTH WAYS. WHY LIE AT ALL, IF HE HAS NOTHING TO HIDE?

14 NOW NEGATING THE EXISTENCE OF THOSE LETTERS IS
15 REAL IMPORTANT FOR THE PROSCUTION, BECAUSE UNLESS YOU BELIEVE
16 BEYOND A REASONABLE DOUBT THAT THOSE LETTERS WERE ALL PLANTS,
17 THEY HAVE OBVIOUS PROBLEMS. IF THERE IS LEGITIMATE
18 NEGOTIATION GOING ON BETWEEN HUNT AND LEVIN, WHAT ARE THEY
19 ALL DOING HERE?

20 WELL, YOU OPT FOR KARNY TO SAY, "THEY ARE A PLANT"
21 AND THEN YOU OPT FOR HIM TO SAY HOW HE KNOWS IT. NOW YOU
22 RUN INTO TROUBLE ON HOW HE KNOWS IT BECAUSE LORIE LEIS
23 IMPEACHES HIM.

24 WELL, THERE WAS ONE OTHER THING. KARNY KEEPS
25 TELLING US ABOUT THREE LETTERS. REMEMBER THAT, FOLKS? TIME
26 AND TIME AGAIN, HE TELLS US, "YEAH, YOU LOOK IN PEOPLE'S
27 64, THERE ARE THOSE THREE LETTERS THAT THAT CONNIVER HUNT
28 CREATES FOR OUR BENEFIT.

12A
1 WHEN YOU GO INTO THE JURY ROOM, DETERMINE FOR
2 YOURSELVES WHETHER HE TOLD YOU THE TRUTH OR TOLD YOU A LIE.
3 BECAUSE THERE ARE FOUR LETTERS AND I AM GOING TO PUT A CLIP
4 ON THE FOURTH ONE. IT IS IN THEIR EXHIBIT.

5 IT IS IN THEIR EXHIBIT BUT THEY WANTED TO STAY
6 AWAY FROM IT. IT IS THE MAY 1ST LETTER. IT IS THE ONE
7 KARNY DOESN'T TALK ABOUT. IT IS THE ONE LORIE LEIS REMEMBERS
8 TYPING. AGAIN, THIS IS A MAJOR LIE.

9 HE DOESN'T GET HIS STORY STRAIGHT. LOOK AT THE
10 MAY 1ST LETTER BETWEEN JOE AND RON. IT IS THE FIRST IN THE
11 SERIES. IT IS THE VERY FIRST TIME THAT THERE IS CORRESPONDENCE
12 REGARDING THIS WHOLE TRANSACTION.

13 THINK ABOUT HOW THAT IMPACTS KARNY'S TESTIMONY
14 FOR YOU AND WHETHER HE IS MAKING IT UP. YOU WILL GET THAT JURY
15 INSTRUCTION, ASIDE FROM THE ONE ON IMMUNIZED WITNESSES. YOU
16 WILL GET THAT JURY INSTRUCTION ABOUT "A WITNESS WILLFULLY
17 FALSE IN ONE MATERIAL PART OF HIS TESTIMONY IS TO BE
18 DISTRUSTED IN OTHERS." CONSIDER THAT INSTRUCTION AS IT
19 APPLIES HERE.

20 AS FAR AS THE SUBSEQUENT EFFORTS TO CASH THIS
21 ALLEGED CHECK, WE HAVE THE FURTHER PECULIARITY IN KARNY'S
22 TESTIMONY. WE ARE TOLD NOW -- BEAR IN MIND WHAT WE ARE TOLD
23 HERE. WE ARE TOLD THAT HE SEES ALL THESE BOYS UP THERE
24 PRACTICING THIS R SIGNATURE.

25 BUT THIS IS THE SAME GUY WHO TOLD YOU THAT THAT
26 IS THE VERY SIGNATURE DISHONORED BY THE BANK. WHAT ARE YOU
27 TO BELIEVE? THAT THESE GUYS -- THAT HUNT IS SAYING TO THESE
28 GUYS AND REALLY MEANS IT, LET'S ALL PRACTICE THIS SIGNATURE

12A
1 SO WE CAN PASS THE CHECK.

2 WELL, I HAVE NO DOUBT THAT THAT IS WHAT HUNT IS
3 TELLING THEM. HUNT WANTED THEM TO BELIEVE THAT THAT MONEY
4 WOULD BE MADE GOOD.

5 EXCEPT KARNY KNEW AND HUNT KNEW BECAUSE THEY
6 DISCUSSED IT, IT WAS HIS TESTIMONY, THAT THE CHECK WAS N.S.F.
7 AND THAT THE SIGNATURE WAS NO GOOD.

8 BUT YOU HAVE GOT TO HAVE THEM UP THERE PRACTICING
9 THAT SIGNATURE BECAUSE IF YOU DON'T GET MAY UP THERE AND
10 RAYMOND UP THERE AND TELL THEM LET'S PRACTICE A LITTLE BIT,
11 THOSE GUYS IN THE BBC ARE NOT GOING TO BELIEVE THE RUSE.
12 THAT IS SIMPLY, WHAT IS GOING ON.

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1 YOU DON'T THINK ANY OF YOU JURORS REALLY BELIEVE
2 THAT YOU ARE GOING TO FORGE THE SAME SIGNATURE THAT DIDN'T
3 WORK THE FIRST TIME, TO COLLECT A CHECK THAT YOU KNOW ISN'T
4 BACKED BY MONEY AND THE BANK CAN'T CONTACT THE MAKER BECAUSE
5 YOU CAN'T FIND HIM TO SEE WHETHER IT IS GOOD OR NOT.

6 OR, DO YOU HAVE EXACTLY WHAT THE DEFENSE WITNESSES
7 TOLD YOU? HUNT CONDUCTING A DECEIT, RIGHTLY OR WRONGLY, ON
8 THOSE BOYS AT THE BBC TO MAINTAIN HIS POSITION.

9 WHAT THIS BRINGS ME DOWN TO, IS THE WHOLE
10 OBSERVATION AND INCONSISTENCY THAT THE PROSECUTION MAKES ABOUT
11 JOE HUNT. ON THE ONE HAND, HE IS THE CLEVEREST OF DEVILS.
12 HE THINKS OF EVERYTHING. HE IS THE MASTER CON, THE MASTER
13 PLANNER, A GUY WHO MESMERIZES EVERYBODY HE MEETS.

14 ON THE OTHER HAND, WHEN THE PROSECUTION NEEDS HIM
15 TO BE INCREDIBLY DUMB, WE SAY THESE THINGS MUST HAVE HAPPENED
16 BECAUSE HE IS INCREDIBLY DUMB. NOW, HERE WE HAVE THE GUY WHO
17 WE SAY IS SMART ENOUGH TO THINK ABOUT ALL OF THESE LITTLE
18 PUNCH HOLES IN THE PAPER AND HE MESMERIZES ALL OF THESE BOYS
19 AND TAKES AWAY ALL THEIR MONEY. HE THINKS OF EVERYTHING.

20 HE IS IN CONTROL AND THIS AND THAT. THIS IS THE
21 SAME GUY THAT IS PRACTICING FORGING SIGNATURES ON A CHECK THAT
22 HAS ALREADY BOUNCED? THAT IS WHAT IS GOING ON.

23 WHEN YOU THINK ABOUT JOE HUNT, WHEN YOU THINK ABOUT
24 WHETHER HE IS GUILTY OR INNOCENT, LET'S TRY TO HAVE A UNIFIED
25 PERSON. HUNT CANNOT BE THE MAN FOR ALL SEASONS THAT KARNY
26 IS.

27 KARNY BRIDGES EVERY GAP FOR THE PROSECUTION. HE
28 FILLS IN ALL OF THE BLANKS AND GIVES THEM, WHENEVER THERE IS

1 A BLIND ALLEY, SOMEHOW WHETHER IT IS TRUTHFUL OR NOT, WHETHER
2 IT IS VERIFIED OR NOT, GIVES THEM A ROADMAP OUT.

3 BUT THEY HAVE GOT PROBLEMS RETAINING THAT TYPE
4 OF A CONSISTENCY WITH JOE HUNT. SO, WHAT DO THEY TELL YOU?
5 THEY HAVE TO TELL YOU THAT HE IS SMART AND DUMB SIMULTANEOUSLY,
6 TO MAKE IT WORK.

7 NOBODY TELLS YOU THAT. BUT, TO TAKE THAT FRAGMENTED
8 CONCOCTION ABOUT JOE HUNT AND PUT IT TOGETHER, TO TELL YOU
9 THAT THAT IS WHAT WE HAVE HAD TO DO AND THAT IS WHAT WE HAVE
10 DONE.

11 BEFORE WE LEAVE THIS AREA, THERE IS ONE OTHER THING
12 I WANT TO HAVE YOU LOOK AT IN TERMS OF THE EXHIBITS.
13 YESTERDAY -- AND I FORGOT TO MENTION THIS TO YOU YESTERDAY
14 WHEN I SHOWED YOU PEOPLE'S 68. REMEMBER, THAT IS ALL OF THE
15 EXHIBITS FROM THE PLAZA HOTEL I TALKED TO YOU ABOUT, THE
16 LIMOUSINE EXHIBIT THAT IS IN THERE AND WHETHER OR NOT
17 MR. PITTMAN IS REALLY TRYING TO SAY THAT HE IS RON LEVIN BACK
18 THERE AND REALLY TRYING TO BE UNDERCOVER AND CLANDESTINE
19 BACK THERE.

20 WELL, I HAVE CLIPPED FOR YOU, SIX PAGES OF THAT
21 EXHIBIT AND I WANT YOU TO LOOK AT THAT BECAUSE WHAT YOU ARE
22 GOING TO SEE THERE ARE SIX TELEPHONE CALLS. WE HAVE HEARD
23 ABOUT A COUPLE OF THEM. THE PROSECUTION DIDN'T TELL YOU ABOUT
24 THESE.

25 THE PHONE NUMBER AT THE MANNING WAS 470-8090 AND
26 PITTMAN'S PHONE NUMBER WAS --

27 MR. WAPNER: YOUR HONOR, I HAVE REFRAINED MANY TIMES
28 FROM OBJECTING. BUT I APOLOGIZE TO COUNSEL. THERE HAS NOT

1 BEEN ANY TESTIMONY AT ALL ABOUT WHAT THE PHONE NUMBER WAS AT
2 THE MANNING OR AT MR. PITTMAN'S HOUSE.

3 MR. BARENS: I BEG TO DIFFER.

4 THE COURT: WELL, THE JURY WILL LOOK AT THE EXHIBITS.
5 THE JURY WILL RECALL THE TESTIMONY ON THAT.

6 YOU ALL ARE THE FINAL JUDGES OF WHAT THE TESTIMONY
7 IS, NOT COUNSEL, EITHER ONE OF THEM.

8 GO AHEAD.

9 MR. BARENS: I DON'T KNOW WHO TO SAY THANK YOU TO, BY
10 THE WAY. OKAY.

11 IN ANY EVENT, YOU ARE GOING TO SEE THERE THAT
12 PITTMAN MAKES THREE PHONE CALLS TO THE WILSHIRE MANNING.

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1 HE CALLS HIS WIFE THREE TIMES ON TOLL CALLS.
2 IS THAT A GUY WHO IS BEING SURREPTITIOUS? IS THIS A GUY
3 WHO IS USING PAY PHONES, WHO IS REALLY STAYING OUT OF SIGHT?
4 IS THAT A GUY WHO IS BEING CASUAL AND NOT MAKING ANY ATTEMPT
5 WHATSOEVER TO AVOID DETECTION?

6 THE TOLL CALLS, THE THING YOU ALWAYS LOOK AT,
7 THE FIRST THING YOU HEAR IN THE MOVIES, THE FIRST THING YOU
8 HEAR ABOUT ANY OF THIS, AND PITTMAN IS BACK THERE CALLING
9 HIS WIFE.

10 THE CIRCUMSTANCES IN THAT WHOLE BUSINESS ABOUT
11 THE PLAZA HOTEL, MAYBE THEY APPEAR SUSPICIOUS WHEN CAST THAT
12 WAY BY THE PROSECUTION, BUT ARE THEY A BRIDGE FOR YOU FROM
13 THE SEVEN PAGES TO A MURDER?

14 JUST RECALL DEAN KARNY NEVER TESTIFIED AT ALL
15 THAT HUNT EVER TOLD PITTMAN TO GO TO NEW YORK AND IMPERSONATE
16 LEVIN OR DO ANYTHING ELSE. THERE WAS NO WITNESS WHO EVER
17 CAME HERE AND TOLD YOU THAT. THAT IS AN ARGUMENT MADE TO
18 YOU. THERE IS NOT ONE SCENTILLA OF EVIDENCE. THEIR STAR
19 WITNESS WASN'T ASKED THAT QUESTION. THE THEORY STOPS THERE.
20 THERE IS SIMPLY NO EVIDENCE FOR IT.

21 IT IS AN EXTRAPOLATION. IT IS A HYPOTHESIS.
22 IT IS WHERE WE TAKE A HYPOTHESIS AND TRY TO FIND EVIDENCE
23 THAT PROVES IT.

24 WELL, I SUBMIT TO YOU THAT IN OUR SOCIETY, THAT
25 IS THE OPPOSITE OF THE WAY WE DO IT. OUR METHOD WORKS IN
26 REVERSE. FIRST, YOU HAVE GOT TO FIND FACTS AND THEN MAKE
27 YOUR CONCLUSION.

28 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN OF THE

13-2

1 JURY, WE WILL TAKE OUT RECESS NOW UNTIL 1:30 THIS AFTERNOON.
2 THE SAME ADMONITION I GAVE YOU WOULD STILL APPLY.
3 (AT 12:00 NOON A RECESS WAS TAKEN TO RESUME
4 AT 1:30 P.M. OF THE SAME DAY.)
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1 SANTA MONICA, CALIFORNIA; WEDNESDAY, APRIL 15, 1987; 1:35 P.M.
2 DEPARTMENT WEST C HON. LAURENCE J. RITTENBAND, JUDGE
3 (APPEARANCES AS NOTED ON TITLE PAGE.)
4

5 THE COURT: PROCEED.

6 MR. BARENS: GOOD AFTERNOON.
7

8 ARGUMENT (CONTINUED)

9 BY MR. BARENS:

10 YOU HAVE ALL SEEN DURING THE PROCESS, THE
11 IMPORTANCE OF REBUTTAL. WE HAVE SEEN WITNESSES BEING HANDLED
12 BY MR. WAPNER AND THEN THE SOMEWHAT DIFFERENT APPEARANCE
13 THEY ASSUME WHEN THEY ARE ALL HANDLED BY THE DEFENSE.

14 IN THIS PROCEDURE, AFTER I CONCLUDE MY REMARKS,
15 YOU WILL HEAR REBUTTAL. IT IS THE LAST TIME I WILL HAVE
16 YOUR EAR.

17 I WILL ASK YOU TO TRY TO RETAIN WHAT THE DEFENSE
18 HAS TOLD YOU, WHAT WE HAVE ARGUED, WHAT WE BELIEVE, THROUGH
19 THE REBUTTAL. THAT IS, WHEN YOU GO INTO THE JURY ROOM. I
20 HOPE THAT YOU WILL.

21 REMEMBER THE DENT ON MR. VARMA'S CAR, THE BMW?
22 TAKE THAT PICTURE OUT WHEN YOU GET INTO THE JURY ROOM AND
23 STUDY IT AND DISCUSS IT. LOOK AT WHERE THE DENT IS.
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5-1

1 THE DENT IS NOT UP ON THE TRUNK LID WHERE IT
2 WOULD BE IF THERE WAS MR. LEVIN'S BODY IN THERE PUSHING UP
3 AGAINST IT.

4 WHERE DO YOU FIND THE DENT? LOOK AT IT. THINK
5 OF YOUR OWN LOCKING MECHANISM ON THE TRUNKS OF YOUR CARS.
6 IT IS FOUND BELOW THE LOCKING MECHANISM AND THE EDGE OF THE
7 LID. IT IS FOUND WHERE ABSOLUTELY NOTHING COULD BE INSIDE
8 PUSHING OUT.

9 LOOK AT THE PHOTOGRAPH. DON'T GET SOLD ON SOME-
10 THING THAT IS NOT THERE AND COULDN'T, IN A PHYSICAL SENSE,
11 REALLY OCCUR.

12 ALSO, PLEASE REMEMBER MR. VARMA'S TESTIMONY.
13 HE SAYS THAT WHEN HE PUTS HIS \$27,500 DOWN ON JUNE 19, 1984,
14 HE INSPECTS THE CAR AND HE DOESN'T SEE ANYTHING THERE.

15 MR. WAPNER ASKED HIM IF HE SAW ANY DAMAGE ON
16 THE CAR AT THAT TIME AND HE ANSWERED, "I WOULD HAVE. I DON'T
17 REMEMBER," CLOSE QUOTE.

18 MR. VARMA IS SAYING THAT HAD THERE BEEN DAMAGE
19 THERE, HE IS INCLINED TO THINK HE WOULD HAVE SEEN IT AT THAT
20 TIME. THINK OF YOURSELVES NOW WHEN YOU GO OUT TO BUY A NEW
21 CAR. THINK OF YOURSELF IF YOU WENT TO BUY A USED CAR AND
22 SOMEBODY TOLD YOU THAT CAR HAD BEEN DRIVEN FOR A WHILE.
23 WOULDN'T YOU CAREFULLY INSPECT IT BEFORE YOU PUT DOWN
24 \$27,500 ON THE CAR?

25 BUT WHAT HAPPENS LATER? WHAT HAPPENS IN AUGUST?
26 HE DOESN'T GET THE CAR BACK UNTIL THE 1ST OF AUGUST, FORTY-
27 ODD DAYS LATER, AND WHAT DOES HE TESTIFY THEN? WHAT DOES
28 HE SAY WHEN HE SEES THE CAR LATER?

5-2

1 HE SAYS, "I IMMEDIATELY NOTICED IT," CLOSE QUOTE.

2 "I IMMEDIATELY NOTICED IT." THIS DENT THAT IS
3 SUPPOSED TO BE SO APPARENT, THAT IS SUPPOSED TO BE A PRODUCT
4 OF WHAT HAPPENED TO LEVIN, SOMETHING, A STORY YOU ARE TOLD,
5 ONCE AGAIN, A FABRICATION AND AN IMAGINATION. THE FACTS
6 DON'T BEAR IT OUT.

7 WHAT ARE THE REASONABLE ASSUMPTIONS YOU CAN MAKE?
8 WHAT IS REASONABLE TO BELIEVE ABOUT SOMEONE INSPECTING A
9 CAR? THE GUY THAT SAYS, I WOULD HAVE, BECAUSE THAT IS WHAT
10 HE LOOKS LIKE WHEN HE IS PUTTING HIS MONEY DOWN AND THE GUY
11 WHO SAYS HE NOTICED IT IMMEDIATELY, FORTY-ODD DAYS LATER.

12 BUT DO YOU KNOW WHY IT WASN'T NOTICED? IT WASN'T
13 THERE. THE MAN DID NOT LOOK A FOOL ON THE STAND. THE MAN
14 LOOKED LIKE A GUY WHO DID JUST WHAT WE WOULD DO, WALKED AROUND
15 THE CAR AND TAKE A LOOK AT IT. IF THERE IS SOMETHING YOU
16 WOULD NOTICE IMMEDIATELY LATER ON, YOU WOULD HAVE NOTICED
17 IT THEN.

18 WHAT WE HAVE IS A FURTHER GRAPHIC EXAMPLE OF
19 THE PROSECUTION TRYING TO FIT A CASE THEY HAVE CONCOCTED
20 TO SOME FACTS AND ILLUSTRATIONS THEY CLAIM BEAR IT OUT.
21 THE ENTIRE CASE IS PUT TOGETHER ON A PRE-CONCEIVED IDEA,
22 COORDINATED WITH MR. KARNY, TO GET YOU TO PRE-JUDGE AND JUDGE
23 JOE HUNT A MURDERER.

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16 - 1 ARE YOU BEING GIVEN FACTS OR A SELF-FULFILLING
2 PROPHECY BASED ON A PRECONCEIVED PROSECUTION, A PROSECUTION
3 IMAGINED. THEN WE'LL TRY TO FIND THINGS TO FIT IN THOSE HOLES.
4 IF WE CAN'T FIND ANYTHING TO FIT IN THE HOLES, YOU CAN COUNT
5 ON THE FACT THAT WE'LL GET KARNY TO SAY IT.

6 THE SYSTEMIC PREJUDICE TOWARD HUNT THROUGHOUT THE
7 CASE, CAUSED A JAUNDICED INVESTIGATION. WHEN THERE WAS
8 INVESTIGATION CALCULATED SOLELY TO PROVE HIM GUILTY, WHEN THERE
9 WAS A CONTACT WITH CARMEN AND CHINO, WHAT ARE THEY TOLD?

10 ARE THEY LEFT OPEN-MINDED OR DOES LISA HART, THE
11 DISTRICT ATTORNEY'S OFFICE REPRESENTATIVE, GO DOWN THERE AND
12 TELL THEM, LISTEN, THE GUY YOU THOUGHT YOU SAW IS DEAD.

13 THE GUY WHOSE TESTIMONY YOU WOULD HELP, IS A
14 MURDERER. YOU TALK ABOUT LEAVING THEM OPEN-MINDED OR
15 PREJUDICED?

16 IS THAT GIVING THE DEFENDANT A FAIR CHANCE FOR
17 JUSTICE? AS A RESULT OF THAT, THE DEFENSE ALMOST LOST TWO
18 OF ITS MOST VALUABLE WITNESSES AND WAS FORCED AND COMPELLED
19 TO USE THE SUBPOENA PROCESS TO BRING THEM HERE TO CALIFORNIA.
20 WE HAD TO GO THROUGH A JUDGE AND A COURT TO GET THEM.

21 WHAT DID WE HEAR ABOUT THEM YESTERDAY? WELL, FIRST,
22 MR. WARNER MADE HIMSELF AN EXPERT ON EYEWITNESS TESTIMONY AND
23 READ TO YOU AN EXCERPT FROM A BOOK ON EYEWITNESS TESTIMONY,
24 SOMETHING OUT OF CONTEXT.

25 WHY WOULD YOU HAVE THAT KIND OF COMMENTARY BY
26 JUDGES? THOSE JUDGES ARE TALKING ABOUT THE POSSIBILITY OF
27 AN INNOCENT MAN BEING CONVICTED ON EYEWITNESS TESTIMONY. THAT
28 IS, BY AN EYEWITNESS WHO COMES INTO COURT AND IS UNSURE OR

16 1 IS MISTAKEN ABOUT THE IDENTIFICATION.

2 AND THEY SAY WELL, WE DON'T WANT THAT BEYOND A
3 REASONABLE DOUBT AS EVIDENCE TO CONVICT GUYS FACING CRIMINAL
4 PROSECUTION. BUT WHAT DO WE DO? THE PROSECUTION HERE WORKS
5 AT AND PERVERTS THAT FOR YOU, NOT TO MENTION THAT THE
6 PROSECUTION IS QUOTING FROM CASES ABOUT A SINGLE EYEWITNESS.

7 WELL, WHAT WOULD THOSE SAME JUSTICES HAVE SAID
8 WHEN CONFRONTED WITH TWO EYEWITNESSES AS YOU HAVE IN THIS
9 CASE? TWO EYEWITNESSES DON'T COME IN HERE AND SAY THAT THAT
10 IS POSSIBLY WHO I SAW. THE PEOPLE THAT COME IN HERE WITH NO
11 AX TO GRIND, WHO COME OUT OF A FEELING OF CIVIC RESPONSIBILITY
12 AND CARMEN TELLS YOU THAT SHE IS 99 PERCENT SURE. AND CHINO
13 MAKES A TOTALLY INDEPENDENT IDENTIFICATION AND TELLS YOU THAT
14 HE IS 95 PERCENT SURE.

15 THAT IS NOT WHAT HE WAS TALKING ABOUT. THAT TEXT
16 DIDN'T TELL YOU ABOUT PEOPLE LIKE THAT. BUT WHAT DOES THE
17 GOVERNMENT TELL YOU? THEY SAY WELL, DON'T BELIEVE CARMEN AND
18 CHINO ON THE MERE POSSIBILITY.

19 NOW REMEMBER THIS, IT IS THE MERE POSSIBILITY
20 THAT THEIR IDENTIFICATIONS ARE MISTAKEN. WE ARE DOWN TO
21 MERE POSSIBILITY NOW, PEOPLE. THEIR BURDEN OF PROOF IS
22 BEYOND A REASONABLE DOUBT, NOT A MERE POSSIBILITY THAT THESE
23 TWO YOUNG PEOPLE ARE MISTAKEN.

24 BUT THEY SAY EVEN WITH THOSE LEVELS OF CERTAINTY,
25 MAYBE THEY ARE WRONG. NOBODY, NOT THIS JUDGE, NONE OF THE
26 LAWYERS EVER TOLD YOU THAT THIS IS A MAYBE CASE.

27 WE HAVE A TEXTBOOK EXAMPLE OF A SITUATION AND
28 CIRCUMSTANCES SUSCEPTIBLE TO POSITIVE IDENTIFICATION. AND

6-7
1 IF YOU DIDN'T HEAR POSITIVE IDENTIFICATION FROM THESE
2 WITNESSES, THERE CAN'T BE POSITIVE IDENTIFICATION.

3 SO THE OTHER COMMENTS MADE ABOUT THEIR
4 IDENTIFICATION, DO YOU REMEMBER THIS? DO YOU REMEMBER THIS,
5 THAT FROM OVER HERE, YOU ARE TOLD THAT COULD BE PAT QUINN?

6 I WOULD LIKE TO PASS THE MAGAZINE THROUGH THE JURY
7 TO MAKE SOME COMMENTS ABOUT IT, YOUR HONOR.

8 THE COURT: GO AHEAD.

9 MR. BARENS: TAKE A LOOK CLOSEUP, LIKE YOU LOOK AT
10 PHOTOGRAPH.

11 THE COURT: PASS IT IN FRONT OF THEM. IT IS MUCH EASIER.
12 IT WILL SAVE A LOT OF TIME.

13 MR. BARENS: IT IS HARD TO ACCOMPLISH WHAT I AM TRYING
14 TO DO IF I PASS IT IN FRONT OF THEM. AS YOU GET THAT PASSED
15 AMONG YOU, LOOK AT IT AT THE SAME DISTANCE AND SCRUTINY AS
16 YOU WOULD A POLICE PHOTO LINEUP AND ASK YOURSELVES IF THAT
17 CONTINUES TO LOOK LIKE MR. QUINN.

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1 DOES THE GUY STANDING NEXT TO THE MODEL THERE
2 IN THE SKI CLOTHES, WHICH ARE THEMSELVES IDENTIFIABLE, DOES
3 THAT GUY LOOK LIKE HE IS SIX FOOT FOUR, LIKE MR. QUINN --
4 UNLESS WE ARE TO ASSUME THE YOUNG LADY IS SIX-THREE AND WE
5 PLAY BASKETBALL AFTER WE SKI.

6 LOOK AT IT. LOOK AT THE TYPE OF RHETORIC WE
7 ARE CONFRONTED WITH IN TRYING TO DEFEAT THE IDENTIFICATION
8 HERE.

9 IF WE ARE SAYING THAT WE WERE GOING TO TRY TO
10 PUT THE RIGOROUS CROSS-EXAMINATION ON ONE OF YOU IDENTIFYING
11 THESE PHOTOS, HOW MANY OF YOU WOULD LOOK AT THIS CLOSE-UP
12 AND SAY, "WE ARE SURE THAT IS PAT QUINN"? IF YOU DIDN'T
13 KNOW HEIGHT AND YOU DIDN'T KNOW WEIGHT AND YOU DIDN'T KNOW
14 THE HEIGHT OF THE GIRL AND YOU HADN'T SEEN HIM MOVE, WHAT
15 COULD YOU SAY? ABOUT 99 PERCENT? I SUBMIT THAT YOU MUST
16 REJECT THAT.

17 WHAT ABOUT CHINO'S IDENTI KIT IDENTIFICATION
18 SKETCH? CHINO NEVER CAME HERE AND TOLD YOU "THAT IS THE MAN
19 I SAW," THAT THE GUY IN THAT IDENTI KIT WAS THE MAN HE SAW.

20 ASA MATTER OF FACT, THE OFFICER WHO PUT THAT
21 TESTIMONY ON FOR YOU, TOLD YOU WHEN I ASKED HIM DIRECTLY,
22 "COULD YOU MAKE AN IDENTI KIT COMPOSITION OF THE BLACK AND
23 WHITE PHOTO OF LEVIN" HE SAID "NO."

24 SO WHAT DO YOU DO WITH THESE WITNESSES? YOU
25 DON'T GIVE THEM A CHANCE TO MAKE AN IDENTI KIT THAT IS
26 ACCURATE. THE KIT ITSELF, WE ARE TOLD, WOULDN'T DO IT.

27 NOW WE ARE TOLD THAT THEY CAN'T FIND THE MAN
28 DRIVING THE BEIGE CAR, THAT IS WHAT MR. WAPNER TELLS YOU.

7-2

1 HE TELLS US THAT SURPRISES HIM. ALL OF THE PHOTOS
2 THEY SHOWED THEM OF THE MEN DRIVING A BEIGE CAR OF THAT
3 DESCRIPTION WERE GUYS WITH BEARDS, WITH BEARDS.

4 AND REMEMBER THE PHOTO LINEUP THAT THESE FOLKS
5 ARE SHOWN. NOW THEY TELL THE POLICE THAT THEY SEE A BEARDLESS
6 MAN IN THE GAS STATION. THEY BOTH SAY THAT INDEPENDENTLY.
7 WHAT DO THE POLICE AND THE D.A.'S OFFICE SHOW THEM?

8 THEY ARE CLEVER. HOW DO YOU DISGUISE A GUY WITHOUT
9 A BEARD? HOW WOULD I DISGUISE MYSELF? I WOULD PUT A BEARD
10 ON. I WOULD GROW A BEARD.

11 WHAT DO THEY DO? THEY SHOW THE TWO ARIZONA PEOPLE
12 ALL OF THE PICTURES OF GUYS WITH A BEARD AND THEY SHOW THEM
13 A PICTURE OF LEVIN WITH A BEARD, BECAUSE HE IS IN DISGUISE
14 AS FAR AS ANYONE WOULD KNOW, WITH THAT BEARD.

15 OH, SURPRISE, SURPRISE. WHAT HAPPENS? BOTH
16 OF THEM INDEPENDENTLY, EVEN WITH THE DISGUISE OF THE BEARD,
17 PICK LEVIN'S PHOTO OUT. ON A STATISTIC OF ONE OUT OF TWELVE,
18 THEY ARE SHOWN TWELVE PHOTOS AND THEY EACH PICK INDEPENDENTLY
19 THE SAME GUY, EVEN THOUGH THE GUY THEY SEE HAS A BEARD IN
20 THE PHOTOS, NOT IN PERSON.

21 DO YOU KNOW WHAT THE PROBABILITIES ARE OF THAT?
22 IF WE TRIED TO CONSTRUCT THE SITUATION WHERE YOU WOULD HAVE
23 TO DO THAT, DO YOU THINK YOU COULD? DOES THAT TELL YOU
24 SOMETHING ABOUT THE ACCURACY, THE STUNNING OVERWHELMING
25 ACCURACY OF THEIR IDENTIFICATION?

26 IT PALES COMPARED TO THEIR INABILITY TO REMEMBER
27 WHICH SIDE OF THE COKE MACHINE YOU GET IN ON. DO YOU THINK
28 THAT IS WHAT LOCKED IN YOUR MIND?

17-3

1 YOU HEAR A LITTLE BIT ABOUT TRYING TO PLAY WORDS
2 WITH CHINO, ABOUT HOW THE GUY'S SHIRT FIT HIM, THAT HE WAS
3 WELL-BUILT, A MUSCLE BUILDER. I ASKED HIM THAT QUESTION.
4 HE WAS AWARE OF THOSE QUESTIONS. I ASKED HIM, "CHINO, DID
5 YOU SEE BICEPS? DID YOU SEE DEFINITION ON THAT GUY THAT
6 MADE HIM LOOK LIKE A WEIGHT-LIFTER?" HE SAYS, "NO."

7 HE SAID, "HE FILLED OUT HIS CLOTHES NICELY." HE
8 SAID, "HE LOOKED FIT."

9 HE SAID THAT HE LOOKED LIKE ME. I DON'T WORK
10 WITH WEIGHTS. TO CHINO, OBVIOUSLY, ANYBODY WHO IS TRIM WORKS
11 OUT. IN THIS CASE, HE WAS RIGHT.

12 THE BUSINESS OF PUMPING HIS OWN GAS, I PUMP MY
13 OWN GAS WHEN THERE IS NO OTHER CHOICE. AND WE HEARD THAT
14 THIS WAS AN ALL SELF-SERVICE STATION. HE TOLD YOU IN THIS
15 AREA, ALL OF THOSE STATIONS ARE ONLY SELF-SERVICE.

16 WELL, LEVIN IS THE KIND OF A GUY THAT WOULD NEVER
17 PUMP HIS GAS. DID YOU EVER HEAR A WITNESS SAY THAT IN THIS
18 COURTROOM, OTHER THAN THE PROSECUTOR?

19 GIVEN NO CHOICE, NO LESS A DANDY THAN LEVIN, I
20 WOULD PUMP MY OWN GAS AND THAT IS IT.

21 CARMEN'S DEMEANOR WAS ONCE AGAIN THRASHED THAT
22 SHE CRIED ON THE STAND. I DON'T THINK THERE IS ONE OF YOU
23 THAT WOULD ATTRIBUTE THAT TO BIAS OR INSINCERITY, BUT TO
24 THE RESULT OF HUMILIATION, AT BEING PICKED AT AND BERATED
25 AND BARRAGED WITH A SERIES OF QUESTIONS SOLELY CALCULATED
26 TO PORTRAY HER AS A LIAR TO YOU AND THE WORLD, SOLELY
27 CALCULATED TO MAKE IT APPEAR THAT SHE DIDN'T KNOW WHAT SHE
28 WAS TALKING ABOUT OR THAT SHE WAS SOME KOOK FROM OUTER SPACE.

17-4

1 WOULD YOU LIKE TO TELL SOMEBODY THAT YOU SAW
2 SOMETHING YOU BELIEVE IN? AND YOU GO THROUGH THIS EXPERIENCE
3 AND YOU ARE MADE TO LOOK LIKE SOMEONE WHO HAS SIGHTED A UFO?
4 BECAUSE THAT IS HOW SHE WAS TREATED.

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8A- 1 SHE SAID 99 PERCENT SURE. NO MATTER WHAT HAPPENED,
2 THAT WAS HER TESTIMONY. YOU ARE TOLD WELL, LOOK AT THIS
3 INNUENDO. SHE TALKED TO A GUY IN THE CLASSROOM AND SHE SAID
4 SHE DIDN'T KNOW WHETHER SHE SHOULD GO TO A REPORTER FRIEND
5 OF THE FAMILY OR GO TO THE POLICE.

6 THIS FRIEND OF HERS IN THE CLASSROOM SAID TO GO
7 TO THE POLICE. WHAT DID SHE DO? SHE WENT TO THE POLICE.

8 SHE HAD THE NORMAL, POSSIBLE CONFUSION THAT ANYBODY
9 WOULD HAVE. SHALL WE CONDEMN HER? SHALL WE SAY THAT THAT
10 INQUIRY OF HER CLASSMATE MADE HER IDENTIFICATION ANY LESS
11 CERTAIN?

12 DID SHE WAIVER IN HER BELIEF? DID SHE HAVE BELIEF
13 BEYOND A REASONABLE DOUBT? DID CHINO? DID THEY HESITATE FOR
14 YOU? DID THEY SHOW UNCERTAINTY OR DID THEY SHOW POSITIVE I.D.?

15 COULD YOU IMAGINE ANY TRIAL IN THIS LAND WHERE
16 THE ISSUE OF IDENTIFICATION IS RELEVANT, WHERE YOU WOULD HAVE
17 A MORE POSITIVE I.D. OF RON LEVIN THAN YOU DID IN THIS
18 COURTROOM?

19 NOW, ABOUT THE SUFFICIENCY OF THEIR IDENTIFICATION,
20 GO BACK WITH ME THROUGH THE TRIAL BECAUSE YOU KNOW WHO
21 CORROBORATED THEIR TESTIMONY FROM DAY ONE? THE PROSECUTION.
22 LISTEN TO THE WORDS THAT YOU HEARD. DO YOU REMEMBER DIANE
23 JAMES FROM PRUDENTIAL-BACHE? SHE HAD SEEN HIM ONCE. WHAT
24 DID SHE SAY ABOUT HIM? SHE SAID, "DISTINCTIVE LOOKING FELLOW.
25 A MEMORABLE FACE."

26 WHAT DID MARK GELLER TALK ABOUT? MARK GELLER
27 TALKED ABOUT HIS FASTIDIOUS HABITS AND HIS PASSION FOR
28 CLOTHING. WILLIAM COWDIN, DO YOU REMEMBER THE GUY ABOUT THE

1 PRESS PASS FROM LAPD, HOW HE DESCRIBED LEVIN? HE SAID THAT
2 HE WAS A DISTINCTIVE LOOKING FELLOW, A MEMORABLE LOOKING MAN.
3 HE SAID THAT HE WOULD REMEMBER WHAT HE LOOKED LIKE WITHOUT
4 ANY PROBLEM.

5 WHAT DID PAT TOWERS, THE OTHER LADY FROM THE BANK,
6 TELL YOU? SHE HAD SEEN HIM. "DISTINCTIVE LOOKING PERSON.
7 THE KIND OF FACE THAT I WOULD REMEMBER."

8 WHAT DID PHYLLIS BALDUZZI TELL YOU? SHE WAS
9 ANOTHER PROSECUTION WITNESS. SHE IS QUOTED AS SAYING THAT
10 HE WAS EXTREMELY FASTIDIOUS. HE HAD A DISTINCTIVE HAIR COLOR.
11 HE WAS WELL GROOMED. SHE SAID THAT SHE WOULD "ABSOLUTELY"
12 REMEMBER HIS LOOKS.

13 SHE ALSO SAID THE WORDS "DISTINCTIVE LOOKING."

14 TERE TEREBA DESCRIBED HIM AS UNIQUE LOOKING. JACK
15 FRIEDMAN, OUR FRIEND, DESCRIBED HIM AS DISTINCTIVE LOOKING.
16 SEVEN PROSECUTION WITNESSES WHO ARE BELIEVED BY THIS COURT
17 AND NEVER CHALLENGED ON THEIR DESCRIPTION OF LEVIN AND THEIR
18 MEMORY OF HIS FACE, ECHO FOR YOU AND FORESHADOW FOR YOU THE
19 VERY SAME WORDS YOU HEAR SPOKEN BY THOSE PEOPLE FROM TUCSON
20 WHO SPEAK THOSE WORDS TO THE DISTRICT ATTORNEY, WHO SPEAK THOSE
21 WORDS TO THE POLICE, NEVER HAVING HEARD A WORD OF THE
22 TESTIMONY IN THIS TRIAL.

23 LEVIN'S APPEARANCE AS IT TURNS OUT, WAS AS UNIQUE
24 AS HIS PERSONALITY AND SOMEWHAT WRETCHED DISPOSITION WAS
25 MEMORABLE.

26 THE LEAST PARTISAN, THE LEAST MOTIVATED, LEAST
27 BIASED WITNESSES OF ALL OF THESE WITH THE LEAST AMOUNT OF
28 CONCERN ABOUT THE OUTCOME OF THIS CASE, ARE THE ONES WHO TOLD

8A -

1 YOU THAT THEY SAW RON LEVIN IN THE GAS STATION. THEY DIDN'T
2 USE THOSE WORDS. THEY POINTED TO A PICTURE THAT WE KNOW IS
3 RON LEVIN'S PICTURE AND THEY SAY THAT IS WHO I AM 99 PERCENT
4 SURE AND THAT IS WHO I AM 95 PERCENT SURE, UNDER OATH, THAT
5 I SAW IN THAT GAS STATION.

6 NOW, THOSE WITNESSES PLACED THE PROSECUTION IN
7 SOMEWHAT OF A CLASSIC DOUBLE BIND. ONE WITNESS SAW JUST THE
8 ESQUIRE MAGAZINE SKETCH. THE OTHER DIDN'T. ONE WITNESS READ
9 THE ARTICLE. THE OTHER DIDN'T.

10 BUT THEY BOTH MADE THE SAME INDEPENDENT
11 IDENTIFICATION OF THE PERSON THAT THEY SAW IN THE GAS STATION.
12 NO MATTER WHAT WAS DONE TO THEM DURING THEIR INTERROGATION,
13 NO MATTER HOW THEY FELT ABOUT BEING SUBPOENAED BY THE DEFENSE,
14 THEY SAID THE SAME THING.

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1 I SUBMIT THAT THEIR IDENTIFICATION IS BEYOND ALL
2 REASONABLE QUESTION. CERTAINLY, IT IS BEYOND A REASONABLE
3 DOUBT. AND WE KNOW WHO THEY SAY THEY SAW.

4 THIS WHOLE BUSINESS ABOUT THE BEARD SHOULD CAUSE
5 YOU CONCERN ON THE ONE HAND ABOUT THE TACTICS UTILIZED BY THE
6 PROSECUTION AND THE POLICE WHEN THEY BOTH SAY THAT THEY WERE
7 SAYING, "WELL, SHOW US A PICTURE OF THE MAN WITHOUT A BEARD."
8 BUT THEY NEVER DO.

9 WHY DON'T THEY? YOU KNOW WHY THEY DON'T. BECAUSE
10 THEY DON'T WANT TO COME IN HERE HAVING HAD THOSE WITNESSES
11 LOOK AT A MAN WITHOUT A BEARD AND SAY THAT THAT IS WHO THEY
12 SAW. I AM 99 PERCENT SURE THAT IS WHO WE SAW. THEY DON'T
13 WANT THAT TO HAPPEN.

14 SO THEY NEVER GET TO SEE A PICTURE OF HIM WITHOUT
15 A BEARD. AND AS SOON AS THEY DO SEE A PICTURE WITHOUT A BEARD,
16 WE KNOW THEIR TESTIMONY. THEIR MEMORY IS NOT THAT OF COKE
17 MACHINES AND CURB HEIGHTS AND CASHIER'S STANDS. THEIR MEMORY
18 IS OF THE FACE THEY SAW IN THE GAS STATION.

19 NOW, IT IS AMAZING, ALMOST HUMOROUS, BUT FOR THE
20 CIRCUMSTANCES THAT HERE THE DISTRICT ATTORNEY OF ALL PEOPLE,
21 ATTACKING EYEWITNESS IDENTIFICATION AND SAYING THAT LINEUPS
22 CAN BE UNRELIABLE.

23 WHAT IN THE WORLD DO THOSE FOLKS DO IN ALL THEIR
24 PROSECUTIONS? THEY GET THOSE DEFENDANTS UP THERE IN LINEUPS.
25 THEY GOT THESE PEOPLE BEHIND ONE-WAY MIRRORS AND THEY SAY,
26 "PICK OUT A GUY."

27 THEY GET THEM ALL LINED UP THERE AND THEY DON'T
28 TELL THOSE GUYS TO DANCE. THEY TELL THEM TO STAND SOMETHING

1 LIKE THAT AND TURN SIDWAYS. BOOM! THEY ARE PICKED OUT.

2 THERE, THEY GIVE YOU MAYBE ONE IN FIVE OR ONE IN
3 SIX. WHAT DO YOU HAVE HERE? ONE IN TWELVE. ONLY INSTEAD
4 OF A LINEUP, WHAT DO THEY DO?

5 THE VICTIM OF A CRIME SAYS WELL, YOU KNOW, A
6 CAUCASIAN GUY, CLEAN SHAVEN, SO AND SO AND SO AND SO.

7 THEY GET A LINEUP OF GUYS THAT LOOK LIKE THAT.
8 HERE, YOU GET A DESCRIPTION. THEY GET A LINEUP. THEY GET
9 SANTA CLAUS FOR THEM. THEY GET A GUY WITH A BEARD.

10 THEY GIVE THEM A LINEUP OF PEOPLE THAT DON'T LOOK
11 LIKE WHAT IS DESCRIBED TO THEM. THEY PICK RON LEVIN'S PICTURE.

12 THE GIRL, CARMEN, LOOKS AT A BLACK AND WHITE OF
13 LEVIN, SEVEN OR EIGHT YEARS EARLIER AND STILL PICKS LEVIN AND
14 RECOGNIZES HIM WHEN SHE SEES HIM WITHOUT A BEARD.

15 WHAT WAS THE PHOTOGRAPH OF LEVIN THAT WAS SO
16 CONVINCING TO CHINO LOPEZ? THE ONE IN COLOR, THE ONE THAT
17 WAS THE BEST PHOTO.

18 THOUGH HE HAD A BEARD, IT IS INTERESTING TOO, THAT
19 ONE HAS TO CONSIDER THE ENTIRE PACKAGE OF THE IDENTIFICATION.

20 IT IS NOT JUST THE FACE. IT IS NOT JUST THE HAIR.
21 IT IS THE PACKAGE. IT IS THE FACT THAT HE IS IDENTIFIED AS
22 BEING WITH WHOM? A BOY, SOME 20 YEARS HIS JUNIOR, WITH HIS
23 KNOWN PENCHANT FOR ASSOCIATING WITH YOUNG GAY BOYS.

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1 WHAT DOES SHE SAY? SHE SAYS HE IS SIX-ONE IN
2 HER DESCRIPTION.

3 WHAT TURNS OUT TO BE TRUE? WELL, IT TURNS OUT
4 TO BE TRUE, HE IS SIX-ONE.

5 SHE DESCRIBES HIS WEIGHT AS BETWEEN 170 AND 175
6 POUNDS. IT IS TRUE, THAT IS THE WEIGHT.

7 THE ESQUIRE ARTICLE NEVER SAID HE HAD BLUE EYES.
8 SHE DID. IT IS TRUE.

9 SHE COULD ONLY KNOW THESE THINGS AS A RESULT
10 OF HER ACCURATE, DIRECT IDENTIFICATION.

11 THERE ARE TOO MANY COMPONENTS TO THE IDENTIFICATION,
12 YOU CAN'T SAY IN THE FACE OF THAT WEIGHT OF EVIDENCE IT IS
13 ALL WRONG, IT IS A MISTAKE, WE WILL JUST DISMISS IT AS A
14 MISTAKE, LIKE WE WILL DISMISS EVERYTHING ELSE. THAT IS NOT
15 REASONABLE. THAT IS NOT BEYOND A REASONABLE DOUBT.

16 HOW WOULD CARMEN KNOW HE IS A VERITABLE FASHION
17 PLATE? WE ALL HEARD THAT IN HERE FROM THE WITNESSES AND
18 THAT WHICH IS WHAT SHE SAID ATTRACTED HER, AS MUCH AS ANYTHING
19 ELSE, AT LEAST INITIALLY.

20 IT IS AN AUGMENTED IDENTIFICATION, THAT IS WHAT
21 WE HAVE, OF ALL OF THESE FACTORS OF NOT ONLY THE FACIAL
22 PRESENCE AND THE PHYSICAL APPEARANCE, BUT IT IS AUGMENTED
23 BY ALL OF THAT CONSTELLATION OF FACTORS SURROUNDING THE MAN
24 SHE SAW 50 MILES FROM THE MEXICO BORDER.

25 ALL OF THIS WE ARE GOING TO DISMISS AS A MISTAKE.
26 THE FACT THAT SHE THINKS THE GUY SHE SEES IS GAY. ALL OF
27 THIS IS A MISTAKE.

28 THE FACT THAT CHINO SAID ALL OF THE SAME THINGS

1 ON A TOTALLY INDEPENDENT BASIS, IT IS ALL A MISTAKE. NOT
2 JUST SHE IS WRONG. HE HAS TO BE WRONG, TOO, AND THEY HAVE
3 TO BE WRONG IN LITERALLY DOZENS AND DOZENS AND DOZENS OF
4 CONSISTENT DETAILS.

5 BUT CHINO IS ATTACKED ON TRIVIA, MINUTIA,
6 UNREMARKABLE DETAILS. HE NEVER WAIVERS IN HIS IDENTIFICATION.

7 THEY NEVER COMPARED NOTES. THEY WENT TO THE
8 POLICE WITHOUT DISCUSSION OF THE DETAILS OF THE MAN THEY
9 HAD SEEN. THEY WENT IN, STRAIGHTFORWARD, AND GAVE THEIR
10 DESCRIPTION AND IDENTIFIED THOSE PHOTOGRAPHS. THEY SAW LEVIN,
11 WE SUBMIT, AND WHATEVER THE SEVEN PAGES MAY MEAN OR MAY NOT
12 MEAN, LEVIN IS NOT DEAD, PLAIN AND SIMPLE.

13 YOU ARE GOING TO GET A JURY INSTRUCTION ON THIS
14 IDENTIFICATION, THAT IS HOW IMPORTANT IT BECOMES. THAT JURY
15 INSTRUCTION WILL RECITE, AT LEAST IN PART, THAT THE DEFENDANT
16 WILL BE ENTITLED TO A NOT GUILTY VERDICT IF YOU BELIEVE --
17 NOT IF YOU BELIEVE THAT THE DEFENSE HAS PROVEN FOR YOU,
18 PROVEN THAT THAT WAS RON LEVIN, BUT IT WILL GET DOWN TO
19 WHETHER YOU HAVE A REASONABLE DOUBT IN YOUR MIND ABOUT WHO
20 THEY SAW IN THAT GAS STATION.

21 YOU THINK ABOUT IT. YOU LISTEN TO THE INSTRUCTION.
22 YOU RECALL THE TESTIMONY YOU HEARD IN THIS COURTROOM THAT
23 IS IRREFUTABLE AND OVERWHELMING.

24 AND YOU KNOW, HAD YOU HEARD THAT KIND OF TESTIMONY,
25 IF THE TABLES WERE REVERSED, IF THEY WERE IDENTIFYING THE
26 PERPETRATOR OF A CRIME AND YOU WERE GOING TO CONVICT THE
27 GUY THEY WERE IDENTIFYING, THERE WOULD BE NO REASONABLE DOUBT
28 IN YOUR MIND THAT THE MAN THEY SAW IN THE GAS STATION WAS

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1 THE MAN THEY PICKED OUT OF THAT LINEUP. THERE COULD BE NO
2 DOUBT IN YOUR MIND AND THERE WOULDN'T BE A TRIAL ON THAT
3 CASE.

4 AS MEMBERS OF THE JURY, SIGNATORIES TO A SOCIAL
5 CONTRACT, THE PARTIES TO THIS CONTRACT ARE THE PEOPLE OF
6 OUR NATION WITH ITS PASSION FOR FREEDOM AND JUSTICE. THE
7 DISTRICT ATTORNEY, THE JUDGE AND THE DEFENDANT ARE PARTIES
8 TO THAT CONTRACT. YOU, AS A JURY, HAVE BEFORE YOU A SINGLE
9 PROMISE TO OUR COUNTRY, THE JUDGE, THE DISTRICT ATTORNEY
10 AND TO THE DEFENDANT, TO CONSCIENTIOUSLY DO YOUR DUTY AS
11 JURORS, TO LOOK AT THE EVIDENCE YOU HAVE HEARD AND CONSIDER
12 THE JURY INSTRUCTIONS YOU WILL RECEIVE.

13 YOU ARE NOT BEHOLDEN TO PLEASE ANYONE, NOT THE
14 DISTRICT ATTORNEY, NOT THE JUDGE AND CERTAINLY NOT THE
15 DEFENSE.

16 YOU HAVE ACCEPTED A DUTY THAT YOU WILL PERFORM.
17 THERE ARE OTHER MEMBERS TO THIS CONTRACT. HAVE
18 THEY FULFILLED THEIR RESPONSIBILITY?

19 HAS THE DISTRICT ATTORNEY FULFILLED THEIR PART
20 IN THE BARGAIN?

21 HAVE THEY BOUGHT AND PAID FOR IN THIS CONTRACT,
22 LUE HUNT'S LIFE WITH PROOF BEYOND A REASONABLE DOUBT?

23 IN THIS COUNTRY, ONLY FULL PAYMENT IS ACCEPTED.
24 UNLESS THERE HAS BEEN THAT FULL PAYMENT BY THE MARSHALING
25 OF THE EVIDENCE, THERE COULD BE NO CONVICTION, NO DAYS OF
26 SHAME THAT ARE UNENDING.

27 YOU MUST, WITH A CLEAR CONSCIENCE, DECIDE WHETHER
28 OR NOT YOU HAVE HEARD ENOUGH. IT IS NOT ENOUGH CATEGORICALLY

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1 FOR YOU TO HEAR THAT IT IS POSSIBLE THAT RON LEVIN RESTRUCTURED
2 HIS BAIL FOR SOME UNKNOWN REASON AND DISAPPEARED THE VERY
3 NEXT DAY.

4 THAT IT IS POSSIBLE THAT LEVIN'S UNACCOUNTED
5 FOR MONEY IS SITTING IN SOME UNDISCOVERED BANK ACCOUNT,
6 UNCLAIMED AND UNSPENT.

7 IT IS POSSIBLE THAT WE DON'T KNOW WHAT HAPPENED
8 TO ALL OF THOSE CLOTHES AND THAT LUGGAGE THAT HE BOUGHT IN
9 MAY OF 1984.

10 THAT IT IS POSSIBLE THAT HUNT WOULD TAKE A FLIER
11 ON A CHECK FROM A MAN WHO HARDLY WOULD WRITE A GOOD CHECK,
12 KNOWING THAT HE WAS A CON MAN AND WOULD NEED HIM ALIVE TO
13 MAKE SURE THAT THE CHECK WOULD CLEAR.

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1 THAT IT IS POSSIBLE THAT THE DATING OF LEVIN'S
2 SIGNATURE ON ONE OF THE MICROGENESIS AGREEMENTS ON JUNE 5,
3 WAS AN OVERSIGHT. THAT IT IS POSSIBLE -- THAT IT IS POSSIBLE
4 THAT HE WAS SURGICALLY AND ANTICEPTICALLY KILLED IN HIS
5 APARTMENT WITH NOT ONE SHRED OR SCINTILLA OF EVIDENCE AND NO
6 CORROBORATION. THAT IT IS POSSIBLE THAT THE SEVEN PAGES ARE
7 A SERIES OF CONTINGENCIES THAT WERE NEVER PERFORMED.

8 THAT IT IS POSSIBLE THAT LEVIN IS BURIED IN SOLEDAD.

9 THAT IT IS POSSIBLE THAT BROOKE AND LYNNE ROBERTS
10 ARE LYING BECAUSE THEY ARE UNDER SOME DARK SPELL THAT WANTS
11 TO MAKE THEM RISK EVERYTHING FOR THIS PERSON THAT THEY KNOW
12 TO BE A COLD-BLOODED KILLER.

13 THAT IT IS POSSIBLE THAT JIM WENT TO NEW YORK
14 TO IMPERSONATE LEVIN. THAT IT IS POSSIBLE THAT JOE LIED TO
15 STEVE LOPEZ BUT TOLD EVERYBODY ELSE THE TRUTH. THAT IT IS
16 POSSIBLE BESIDES ALL OF THE EVIDENCE TO THE CONTRARY, THAT
17 CHINO AND CARMEN ARE MISTAKEN.

18 ALL THAT IS POSSIBLE. IT IS NOT PROVEN. AND IT
19 IS CERTAINLY NOT PROVEN BEYOND A REASONABLE DOUBT. IT HASN'T
20 SHOWN BY FORCE OF ARGUMENT AND BY THE EVIDENCE THAT THE
21 CONTRARY IS MORE POSSIBLE.

22 FOUR PEOPLE INDEPENDENTLY TESTIFIED TO FACTS
23 WITHIN THEIR OWN PERSONAL EXPERIENCE, NOT THE HE SAID, WE SAID,
24 THEY SAID, QUADRUPLE SAID.

25 CHINO AND CARMEN TESTIFIED FROM THEIR OWN
26 EXPERIENCE. LYNNE ROBERTS AND BROOKE ROBERTS TESTIFIED FROM
27 THEIR OWN SENSORY EXPERIENCES. THE ONLY POSSIBILITY THAT
28 REMAINS IS THE POSSIBILITY THAT IF YOU WERE TO CONVICT, IT

1 WOULD BE A TERRIBLE TRAGEDY.

2 WHO WILL TELL CHINO THAT HE IS A LIAR, THAT THE
3 PERSON HE SAW WAS THE GHOST OF A DEAD MAN? WHO WILL TELL
4 CARMEN THAT THE FEELINGS SHE GOT IN THE PIT OF HER STOMACH
5 WHEN SHE SAW A PICTURE OF LEVIN, BEARDLESS IN MY OFFICE, WAS
6 NOT HER SOUL'S RECOGNITION OF THE FACE SHE SAW?

7 WHO WILL EXPLAIN TO LYNNE ROBERTS WHY SHE DIDN'T
8 HAVE THAT CONVERSATION WITH BROOKE AND JOE ON THAT NIGHT THAT
9 SHE TOLD HER DAUGHTER SHE WOULD RETURN FROM ALASKA. WHO WILL
10 TELL HER NO ONE BELIEVES HER?

11 WHO WILL EXPLAIN TO BROOKE THAT JOE WAS NOT REALLY
12 IN THE BATHROOM WHEN SHE CAME HOME FROM THE MOVIES AFTER SHE
13 SAW "STREETS OF FIRE"? WHO WILL TELL HER WHEN SHE SEES IN
14 HER MIND'S EYE, JOE STANDING THERE IN THE BATHROOM IN HIS
15 BATHROBE BRUSHING HIS TEETH EXCITEDLY DISCUSSING THE CONTRACT
16 THAT IS BUT AN ILLUSION?

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1 WHO WILL TELL LYNNE ROBERTS AMONG YOU, THAT THOUGH
2 SHE IS SURE OF HER RECOLLECTION AND THE MANIFEST INJUSTICE
3 THAT APPLIES TO HER, THAT BROUGHT HER FORWARD TO THIS
4 COURTROOM, THAT HER CERTAINTY SUFFICIENT FOR HER LIFE TO BRING
5 HER TO TESTIFY UNDER OATH TO TAKE JOE HUNT INTO HER HOME --
6 WHO IS GOING TO TELL HER THAT JOE HUNT IS GUILTY? WHO AMONG
7 YOU WILL SAY THAT YOU KNOW BETTER WHAT ANOTHER SAW? WHO
8 AMONG YOU WOULD CONSIDER PROLONGING THIS TRAGEDY?

9 FOR TWO AND A HALF YEARS MY CLIENT HAS LIVED
10 FIGHTING TO STAY ALIVE, TO KEEP HIS HEAD UP IN THIS VALLEY
11 OF SHAME, IN THIS TRAVAIL SO THAT ONE DAY, YOU MIGHT JUDGE
12 HIM AND FREE HIM.

13 IS THIS THE SORT OF SOCIETY WHERE A PERSON COULD
14 HAVE ONE STUPID IDEA AND ENGAGE IN ONE DECEIT WITH A BIG
15 MOUTH DURING A TIME OF STRESS AND MISGUIDANCE IN HIS LIFE?
16 JOE HUNT WHOSE ONLY CRIME WAS A HUMAN LIMITATION AND A BELIEF
17 IN HIMSELF THAT EXCEEDED HIS ABILITIES, IF HE CAN BE IN THIS
18 COURTROOM JUDGED GUILTY OF MURDER, THEN IT IS MY FAULT AS HIS
19 COUNSEL.

20 MY LIMITATIONS WOULD BE RESPONSIBLE. IF I COULD
21 BE SO INEPT IN SHOWING YOU PEOPLE OF THIS JURY THE INNOCENCE
22 OF MY CLIENT, WHICH IS SO OBVIOUS, THEN HOW COULD I FACE LYNNE
23 AND BROOKE ROBERTS WHO GAVE ME THIS CASE AND THE PROOF
24 TO SAVE HIM?

25 HOW COULD I TELL THEM THAT I WASN'T ENOUGH, EVEN
26 WITH THE PROOF SENT TO US BY A GREATER POWER IN THE FORM OF
27 CARMEN AND CHINO?

28 IF I CANNOT MAKE THIS POINT, IF I CANNOT UTTER

1 A SINGLE TRUTH AND BE UNDERSTOOD, THEN CONDEMN ME RATHER
2 THAN THIS YOUNG MAN. FOR I WOULD BE THE ONLY ONE GUILTY OF
3 THE CRIME OF MURDER IN THIS COURTROOM. I WOULD NOT BE WORTHY
4 OF MY PROFESSION AND I WOULD NOT BE THE MAN WHO I THINK MYSELF
5 TO BE.

6 I WOULD NOT WANT TO FACE BROOKE. I WOULD NOT WANT
7 TO FACE LYNNE. I WOULD NOT WANT TO FACE CARMEN. I WOULD NOT
8 WANT TO FACE CHINO. I WOULD NOT WANT TO FACE RICHARD.

9 I WOULD NOT WANT TO FACE JOE. I WOULD NOT WANT
10 TO FACE RICHARD.

11 I WOULD NOT WANT TO FACE JOE. I WOULD NOT WANT
12 TO FACE MYSELF AGAIN.

13 FIFTY YEARS AGO, IRVING BERLIN WROTE A SONG, "GOD
14 BLESS AMERICA." ITS WORDS ARE AN ANTHEM FOR OUR COUNTRY AND
15 FOR OUR GENERATION.

16 THE WORDS OF THAT SONG, I SEE THE SAME COUNTRY
17 YOU DO. I SEE A COUNTRY THAT IS WILLING TO FORGIVE THIS YOUNG
18 MAN HIS AMBITION. TO FORGIVE HIM FOR BEING RON LEVIN'S FOOL.

19 FORGIVE HIM FOR ATTEMPTING TO EXPLOIT RON LEVIN'S
20 DISAPPEARANCE. THIS COUNTRY, LONG ON JUSTICE, BARS FROM ITS
21 GATES, MERE SUSPICION.

22 JOE HUNT HAS PAID FOR HIS IMMATUREITY. HE PAID
23 FOR HIS FAILED DREAM. DO YOUR DUTY. SET HIM FREE. SET JOE
24 HUNT FREE. THANK YOU.

25 THE COURT: ALL RIGHT.
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CLOSING ARGUMENT

BY MR. WAPNER:

SOME PEOPLE ARE BAD IN ESTIMATING TIME. I THOUGHT THAT AT LEAST MR. BARENS WOULD BE UNTIL THE BREAK. THAT IS WHY I MADE AN EMERGENCY CALL TO DETECTIVE ZOELLER TO GO AND GET THE CHARTS WHICH I DIDN'T BRING HERE. MY BEST ESTIMATE WAS THAT HE PROBABLY WOULD GO UNTIL THE END OF THE DAY TODAY.

SO YOU HAVE HAD SEVERAL ESTIMATES, SEVERAL THINGS ABOUT THIS TRIAL, THE ESTIMATES THAT DIDN'T COME UP TO EXPECTATIONS.

A LOT OF THINGS THAT MR. BARENS SAID, AS YOU MIGHT IMAGINE, I WILL HAVE SOMETHING TO SAY ABOUT. AS FAR AS ESTIMATING HOW LONG HE WOULD BE TALKING, I DIDN'T REALLY KNOW. SOME OF THE THINGS WHEN YOU LISTEN TO THEM, KIND OF GET YOUR DANDER UP, TO SAY THE LEAST.

1 FORGIVE JOE HUNT HIS IMMATURITIES? HIS IMMATURITIES?
2 IT IS ALMOST AN OUTRAGE WHEN YOU HEAR SOMETHING LIKE THAT,
3 TO CALL WHAT WE ARE TALKING ABOUT HERE IMMATURITY. WE ARE
4 TALKING ABOUT MURDER. THIS ISN'T IMMATURITY.

5 LET'S GET DOWN TO SOMETHING A LITTLE MORE CONCRETE.

6 FIRST OF ALL, THE PLACE THAT I WANT TO START
7 GOES BACK TO, I THINK, IT WAS 1981 OR 1982, AND YOU ARE
8 PROBABLY GOING TO HAVE TO HELP ME ON THIS. IN TERMS OF THE
9 SKI TRIP IN COLORADO AND THEN THE TRIP TO FLORIDA WHERE JOE
10 HUNT FIRST STARTED TALKING ABOUT PARADOX PHILOSOPHY, AND
11 THEN IT CONTINUES WITH WHAT JOE HUNT DID, STARTING IN MAY
12 OF 1984, IN PLANNING THE MURDER OF RON LEVIN, WRITING THE
13 PHONY LETTERS THAT WERE TO BE HAND DELIVERED.

14 AND KEEP IN MIND, THAT WHILE ALL THIS PLANNING
15 WAS GOING ON, JOE HUNT KNEW THE MARK THAT HE WAS SHOOTING
16 AT AND HE KNEW LEVIN, SO ALL OF THE THINGS THAT MR. BARENS
17 TOLD YOU ABOUT, ABOUT MR. LEVIN WAS THIS AND MR. LEVIN WAS
18 THAT, ALL OF THOSE THINGS WERE IN JOE HUNT'S MIND AT THE
19 TIME THAT HE WAS PLANNING THIS CRIME.

20 AND AS DEAN KARNY TOLD YOU, JOE HUNT REALIZED
21 THAT SUSPICION MAY AT SOME POINT FALL ON HIM AND HE KNEW
22 THAT IF HE GOT INTO THIS POSITION, HE WAS GOING TO SAY OR
23 HAVE SOMEONE LIKE MR. BARENS SAY, LEVIN WAS ALL OF THESE
24 THINGS. HOW CAN YOU CONVICT SOMEONE OF KILLING SOMEONE WHO
25 WAS A CON MAN?

26 WELL, WE TALKED IN JURY SELECTION A LOT. DO
27 YOU REMEMBER THOSE EXAMPLES AD NAUSEAM ABOUT THE PRIEST AND
28 THE DRUG DEALER BEING VICTIMS OF A CRIME? IT DOESN'T MATTER

1 WHO THE VICTIM OF THE CRIME IS. NO, IT DOESN'T MATTER WHO
2 THE VICTIM OF THE CRIME IS.

3 THE POINT IS THAT WHEN YOU PUT TOGETHER THE PLAN
4 OF THE CRIME BY JOE HUNT AND THE PARADOX PHILOSOPHY, JOE
5 HUNT MUST HAVE BEEN IN HIS GLORY LISTENING TO MR. BARENS
6 BECAUSE WHAT HE GAVE YOU, WHAT HE GAVE YOU WAS PARADOX
7 PHILOSOPHY IN ITS GRANDEST FORM.

8 JUST LOOK AT THINGS, SHIFT YOUR FOCUS, REORIENT
9 YOUR PERSPECTIVE. LOOK AT IT A LITTLE DIFFERENT WAY AND
10 IT IS DIFFERENT ALL OF A SUDDEN. AND I AM COMING BACK TO
11 THAT A LOT OF TIMES IN A LOT OF THINGS I WANT TO TALK ABOUT.

12 AND ESPECIALLY -- ESPECIALLY WHEN WE TALK ABOUT
13 THE SEVEN PAGES, AND I THINK THAT MR. BARENS FELL WOEFULLY
14 SHORT OF TRYING TO EXPLAIN TO YOU WHAT WAS ON THOSE SEVEN
15 PAGES AND I HAVE A LOT TO SAY ABOUT THAT.

16 RIGHT NOW, I WANT TO TALK ABOUT MS. CANCHOLA
17 AND MR. LOPEZ IN THE GAS STATION AND I WANT TO USE -- ONE
18 OF THE THINGS I WANT TO USE IS THE DIAGRAM OF THE GAS STATION.

19 IT IS INTERESTING TO HEAR MR. BARENS SAY, "WELL,
20 WHY DO YOU ASK WITNESSES ALL OF THESE QUESTIONS, ALL OF THESE
21 DETAILS ABOUT WHAT THEY SAW?"

22 THEY SAID THEY SAW HIM, ISN'T THAT ENOUGH?

23 IT IS AMAZING FOR A DEFENSE LAWYER TO SAY, CAN
24 YOU IMAGINE, IF HE WERE DEFENDING SOMEONE CHARGED WITH A
25 CRIME, AN EYEWITNESS CRIME AND THEY SAID, "THAT IS THE GUY,
26 I DON'T HAVE ANY FINGERPRINTS TO BACK MYSELF UP, I DON'T
27 HAVE ANY GOOD CIRCUMSTANTIAL EVIDENCE LIKE THINGS LEFT AT
28 THE SCENE OR WE DIDN'T FIND ANY PROPERTY ON THIS DEFENDANT

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1 TO TIE HIM TO THE ROBBERY, JUST PEOPLE COMING IN AND SAYING,
2 "THAT IS THE GUY" AND MR. BARENS DEFENDING THE ROBBER AND
3 SAYING, "WELL, IF YOU SAY THAT IS HIM, I WON'T ASK YOU ANY
4 QUESTIONS, IT MUST BE HIM." I MEAN IT IS RIDICULOUS ON ITS
5 FACE.

6 SO WE DIDN'T ASK THESE QUESTIONS TO PUNISH PEOPLE,
7 TO TRIVIALIZE THINGS OR ANYTHING ELSE. BUT YOU HAVE TO TRY
8 AND GET AN ACCURATE PICTURE OF WHAT WAS GOING ON.

9 HOPEFULLY, I WON'T BEAT THIS TO DEATH. BUT KEEP
10 IN MIND THAT WE HAD THE DIAGRAM AND WE HAD THE PICTURES THAT
11 YOU WERE TO LOOK AT.

12 WHY IS IT IMPORTANT TO ASK THEM ABOUT WHAT THE
13 STATION LOOKED LIKE? FOR ONE THING, BOTH OF THEM SAID THAT
14 WHEN THEY FIRST TALKED TO THE POLICE, AND THAT IS IN NOVEMBER,
15 THEY WERE ABSOLUTELY SURE THAT THE CASHIER WAS IN THE CENTER
16 AND DETECTIVE MEYERS TELLS THEM, "NO, IT IS NOT. IT ISN'T
17 THE CENTER."

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1 DID THEY TAKE HIS WORD FOR IT? NO. THEY WENT
2 BACK THERE AND IT WAS ONLY AFTER DRIVING BACK THERE AND LOOKING
3 AT THE STATION, AH-HAH, IT IS NOT IN THE CENTER AT ALL, IS
4 IT? IT IS OVER HERE ON THE WEST SIDE.

5 WHY ASK CHINO THE DETAILS? WHY NOT JUST TAKE
6 HIS WORD FOR IT?

21A

7 WELL, HE SAYS HE SAW THE MAN AT THE CASHIER'S
8 BOOTH.

9 WELL, YOU ASK HIM, "WHERE DO PEOPLE PAY?"

10 HE SAYS, "WELL, I THINK THEY PAY ON THE SOUTH
11 SIDE," SO THEY WOULD STAND LOOKING NORTH.

12 IT IS NOT JUST FOR THE SAKE OF ASKING HIM THAT
13 QUESTION, BUT IF THE MAN IS STANDING LOOKING NORTH, CHINO
14 MIGHT SEE HIS PROFILE. BUT IT TURNS OUT YOU DON'T PAY THERE
15 AT ALL. YOU PAY ON THE EAST SIDE, SO THE MAN IS GOING TO
16 BE STANDING FACING AWAY FROM HIM.

17 IN FACT, WHEN HE TALKED TO THE POLICE THE FIRST
18 TIME, YOU WILL RECALL THE TESTIMONY WAS "WELL, I SAW THE
19 BACK OF HIS FACE." WHAT IS THE BACK OF HIS FACE, WHAT DOES
20 THAT MEAN? DOES THAT MEAN FROM THE EAR BACK? WHAT DOES
21 THAT MEAN? BUT THAT IS WHAT HE SAID.

22 HE TELLS THE POLICE INITIALLY THAT HE DOESN'T
23 RECALL THE PERSON WALKING OR SEEING A PERSON GO FROM THE
24 CASHIER'S BOOTH BACK TO HIS CAR.

25 NOW ALL OF A SUDDEN HE SAYS, "WELL, I REMEMBER
26 HE STOPPED HERE RIGHT NEXT TO ME AND HE HAD THIS CONVERSATION
27 WITH HIS FRIEND, WHO WAS HAVING A COKE."

28 AND THEN HE SAYS, "AND MY MEMORY NOW IS BETTER

1 THAN IT WAS CLOSER TO THE EVENT."

2 AND AS I DID ALMOST EVERY DAY DURING THE TRIAL,
3 I GO BACK TO MY OFFICE AND I HAVE POSTMORTEM OF THE DAY'S
4 TESTIMONY WITH FRIENDS OF MINE, COLLEAGUES OF MINE IN THE
5 OFFICE AND SOMEBODY JOKINGLY SAID, "GEE, YOU SHOULD PUT THE
6 TRIAL OFF A YEAR AND THEN HE WILL REMEMBER THE LICENSE PLATE
7 NUMBER ON THE CAR."

8 THE POINT IS, EVERYBODY KNOWS PEOPLE REMEMBER
9 THINGS BETTER THE CLOSER THEY ARE IN TIME TO THE EVENT.

10 SO AT THE TIME IN NOVEMBER WHEN HE IS STILL CLOSER
11 TO THE SEPTEMBER TIME, HE SAYS, "I DIDN'T SEE THE GUY WALKING
12 BACK FROM THE CAR. AND THE NEXT TIME I SAW HIM HE IS ALREADY
13 OVER HERE AND HE IS IN THE CAR."

14 YOU ALSO HAVE TO LOOK AT THIS IN A REALISTIC
15 SENSE OF WHAT ACTUALLY HAPPENED AT THAT GAS STATION.

16 I TOLD YOU I AM BAD AT ESTIMATING TIME. CARMEN
17 AND CHINO WERE IN THE GAS STATION FOR 20 MINUTES. I DON'T
18 KNOW HOW MANY OF YOU PUMP YOUR OWN GAS OR PAY MUCH ATTENTION
19 TO TIME, DO YOU KNOW HOW MUCH GAS YOU CAN PUT IN HOW MANY
20 CARS IN 20 MINUTES? I MEAN, HE COULD HAVE TAKEN THE ENGINE
21 APART AND PUT IT BACK TOGETHER ALMOST IN 20 MINUTES.

22 AND WHAT DOES HE SAY? HE SAYS, "I GOT TO THE
23 GAS STATION, PULLED IN, GOT OUT, PUT THE NOZZLE IN THE THING,"
24 AND YOU CAN PICTURE THIS, CAN'T YOU, IN POINT OF TIME?

25 "AND I STARTED LOOKING AROUND AND WHEN I STARTED
26 LOOKING AROUND, WHAT DO I SEE? THE GUY OVER HERE AT THE
27 CASHIER."
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1 WELL, HOW LONG CAN IT TAKE HIM TO GET OUT AND PUT
2 THE NOZZLE IN THE THING AND START LOOKING AROUND? THIRTY
3 SECONDS? MAYBE.

4 AND HE SAYS BY THAT TIME, THE GUY IS ALREADY OVER
5 HERE AT THE CASHIER. CARMEN SAYS THAT WHILE HE IS DOING THAT,
6 I AM LOOKING AROUND. THE GUY IS OVER HERE AT THE CAR.

7 ALSO, THE THINGS THAT MR. BARENS THINKS ARE
8 TRIVIAL, HE IS ENTITLED TO HIS OPINION.

9 CARMEN CANCHOLA, SHE IS -- WHAT DID SHE SAY? SHE
10 IS FIVE FOOT AND MAYBE ONE-HALF INCH OR MAYBE FIVE FOOT ONE.
11 SHE IS SITTING IN THIS LOW-SLUNG HONDA PRELUDE WITH A HEADREST.

12 NOW, TO SEE THE GUY, THE GUY IS AT THE BACK OF
13 A LARGE-SIZED AMERICAN CAR WHICH IS ALREADY PARKED BEHIND HER.
14 SHE SAYS WELL, THAT SHE JUST TURNED HER HEAD. IT IS IMPOSSIBLE.
15 IF SHE HAD JUST TURNED HER HEAD, SHE COULDN'T SEE HIM BACK
16 THERE. SHE IS GOING TO HAVE TO TURN HER WHOLE BODY AND ALMOST
17 LOOK THROUGH THE HEADREST AND THE BACK OF THE WINDOW IN THE
18 CAR.

19 SO, EITHER SHE IS NOT TELLING THE TRUTH OR SHE
20 IS JUST TRYING TO EMBELLISH ON WHAT SHE SAID SO THAT SHE WANTS
21 TO BE POSITIVE. SHE WANTS TO BE RIGHT. I DON'T THINK SHE
22 IS LYING ABOUT ANYTHING.

23 SHE JUST WANTS TO SAY THAT SHE WAS RIGHT. HER
24 ATTITUDE FROM THE BEGINNING WAS THAT I TOLD YOU IT IS HIM.
25 WHY DON'T YOU JUST BELIEVE ME? WHY DO YOU HAVE TO TRY TO MAKE
26 SURE THAT I AM ACCURATE?

27 THE POINT IS NOT TO BROWBEAT THESE PEOPLE AND
28 NOBODY WENT ANY PLACE TO BROWBEAT ANYONE. IT WAS ALWAYS AS

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1 IMPORTANT FOR THE DISTRICT ATTORNEY'S OFFICE TO FIND OUT IF
2 IT WAS LEVIN THERE, AS TO FIND OUT IF IT WASN'T LEVIN THERE.
3 I DON'T THINK THAT ANY OF YOU SITTING THERE, THINK THAT THE
4 DISTRICT ATTORNEY'S OFFICE IN THIS COUNTY OR ANY OTHER COUNTY
5 IN THE UNITED STATES WANTS TO PROSECUTE SOMEONE FOR A MURDER
6 THAT DIDN'T HAPPEN.

7 YOU GO THERE AND YOU FIND OUT IF WHAT THESE PEOPLE
8 ARE SAYING IS ACCURATE. AND YOU SAW CARMEN'S DEMEANOR ON THE
9 STAND. AND SHE IS A GO-GETTER. SHE REALLY IS.

10 SHE TALKS AND SHE TALKS AND SHE TALKS AND EVEN
11 THE JUDGE WAS NOT SUCCESSFUL IN SAYING ALL RIGHT, STOP. THAT
12 IS ENOUGH.

13 BUT SHE SAYS THAT WHEN LISA HART AND OTHER PEOPLE
14 FROM THE POLICE DEPARTMENT WENT DOWN TO TUCSON, THAT SHE
15 INSISTED ON NOT TALKING ABOUT IT. IT WAS ONLY LISA HART WHO
16 CONTINUED TO PRESS THIS CONVERSATION. THAT OF COURSE, IS IN
17 DIRECT CONTRADICTION TO MS. HART'S TESTIMONY THAT SHE SAID,
18 "I CAN'T TALK TO YOU ABOUT IT."

19 AND MS. CANCHOLA CONTINUED AND CONTINUED AND
20 CONTINUED TO TALK ABOUT IT. SO THE POINT OF GOING THROUGH
21 ALL OF THESE DETAILS AT THE STATION IS TO MAKE SURE THAT
22 PEOPLE CAN ACTUALLY SEE WHAT IT IS THAT THEY SAY THAT THEY
23 SAW.

24 AND WHEN YOU LOOK AT THE TOTAL TIME THAT MR. LOPEZ
25 HAD TO LOOK AT THIS PERSON, WE ARE TALKING ABOUT HE SAID MAYBE
26 TWO OR THREE SECONDS WHILE HE WAS AT THE CASHIER'S BOOTH AND
27 THEN HE SAYS WELL, 30 SECONDS THAT HE IS STANDING OVER HERE
28 BY THE COKE MACHINE. BUT THERE IS SOME QUESTION AS TO WHETHER

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1 THAT EVER HAPPENED.

2 YOU KNOW, NEITHER ONE OF THOSE CARS WAS IN THE
3 GAS STATION FOR THAT PERIOD OF TIME THAT THEY ARE SAYING AND
4 ALSO, IF YOU GET THE GAS FIRST AND PAY AFTERWARDS AND IF CHINO
5 JUST GOT OUT AND PUT THE PUMP IN AND THIS MAN WITH THE SILVER
6 HAIR WAS ALREADY PAYING, THEN HE WALKED BACK TO THE CAR AS
7 CHINO TOLD US WHEN HE MADE A STATEMENT IN NOVEMBER, HOW MUCH
8 LONGER ARE THEY GOING TO STAY AT THE CAR? NOT MUCH LONGER.

9 SO, THEY WEREN'T IN THAT OTHER -- THAT OTHER CAR
10 WAS NOT IN THE GAS STATION FOR ANYWHERE NEAR 20 MINUTES.

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1 THE OTHER THING IS, YOU KNOW SHE SAYS THAT SHE
2 IS 99 PERCENT SURE THAT THE PERSON SHE SAW WAS RON LEVIN.
3 WELL, YOU HAVE TO EXAMINE WHAT DOES THAT MEAN WHEN SHE SAYS
4 99 PERCENT SURE? IT IS LIKE WHAT IS IT, IVORY SNOW OR
5 SOMETHING THAT IS 99 AND 99/100THS PURE?

6 WELL, IT SOUNDS PRETTY CONVINCING WHEN YOU FIRST
7 LOOK AT IT. BUT SHE SAID SHE READ THE ESQUIRE ARTICLE. SHE
8 SAID THE ESQUIRE ARTICLE SHE READ THE VAGUE DESCRIPTION THAT
9 WE HAVE ALREADY GONE INTO.

10 AND THEN SHE SEES THIS PICTURE. NOW, AFTER SEEING
11 THIS PICTURE, SHE IS ALREADY 90 PERCENT SURE THAT IT IS THE
12 GUY. IF YOU SAW THIS SKETCH AND READ THAT DESCRIPTION IN
13 THE ARTICLE, WOULD YOU BE 90 PERCENT SURE IT WAS ANYBODY?
14 I MEAN, THAT IS ON ITS FACE, INCREDIBLE.

15 SO, YOU HAVE TO TAKE THAT AS HER STARTING POINT.
16 AND THROUGH EVERYTHING ELSE THAT HAS HAPPENED, SHE HAS NOW
17 BECOME 9 PERCENT MORE CONVINCED.

18 AND WHAT IS IT THAT HAPPENS AFTER THEY LOOK AT
19 THOSE PICTURES? WELL, AT FIRST MR. BARENS SAYS THAT THEY WERE
20 SHOWN 12 PICTURES. I DON'T KNOW IF HE IS INTENTIONALLY TRYING
21 TO MAKE IT APPEAR THAT THEY WERE SHOWN THEM SIDE BY SIDE OR
22 NOT. BUT YOU HAVE TO EXAMINE CAREFULLY THE TESTIMONY.

23 THEY WEREN'T SHOWN 12 PICTURES SIDE BY SIDE BECAUSE
24 YOU AND I KNOW THAT THE SECOND SET OF SIX PICTURES INCLUDED
25 MR. HERMAN AND THAT WE DIDN'T FIND OUT ABOUT MR. HERMAN OR
26 GET HIS PICTURE UNTIL SOMETIME AT THE BEGINNING OF DECEMBER
27 OF LAST YEAR.

28 SO THAT GROUP OF PHOTOGRAPHS WAS SHOWN TO THEM

1 A SEPARATE TIME. AND WHAT HAPPENED IN THE MEANTIME? WHAT
2 HAPPENED ON THE FIRST TIME THEY WERE TALKED TO ON NOVEMBER
3 22ND?

4 THE DATE CERTAINLY STICKS IN MY MIND BECAUSE IT
5 CAME UP ALL OF A SUDDEN. I WAS IN TUCSON AND SC AND UCLA WERE
6 IN PASADENA.

7 IN ANY EVENT, ON NOVEMBER THE 22ND, THEY ARE
8 INTERVIEWED AND IT DID TAKE QUITE A WHILE. AND AT THAT POINT,
9 THEY BOTH SAID WELL, YOU TOLD US WE HAD TO COME BACK AGAIN
10 IN THE EVENING TO TALK TO YOU AGAIN. WE BOTH DECIDED WE HAD
11 PICKED THE RIGHT GUY. YOU COULDN'T EVER GET THEM TO SAY WHAT
12 EXACTLY IT WAS THAT THEY MEANT BY THE "RIGHT" GUY.

13 BUT KEEP IN MIND, FIRST OF ALL, I AM NOT TELLING
14 YOU AND I DIDN'T TELL YOU IN MY OPENING ARGUMENT, THAT ANYBODY
15 IS LYING TO YOU. BOTH OF THESE PEOPLE I BELIEVE, BELIEVE
16 EXACTLY WHAT THEY SAY. THEY BELIEVE THEY ARE 95 AND 99 PERCENT
17 SURE. THEY BELIEVE IT IS AS SURE AS ANYTHING. THEY ARE JUST
18 MISTAKEN.

19 BUT, WHEN THEY THINK THAT THEY HAVE PICKED OUT
20 THE RIGHT GUY, WHAT STARTS HAPPENING? ESPECIALLY TO CARMEN.
21 THIS IS THE PERSON WHO WANTED TO GO TO THE NEWS MEDIA
22 INITIALLY AND SHE THINKS TO HERSELF OKAY, I HAVE PICKED THE
23 RIGHT GUY.

24 SHE IS ALREADY AS OF THE LATE AFTERNOON OF
25 NOVEMBER 22ND, STARTING TO REINFORCE IN HER OWN MIND THAT SHE
26 HAS GOT THE CORRECT PERSON.

27 AND SHE IS THE PERSON WHO IS THINKING THAT SHE
28 IS BASICALLY BEING A GOOD CITIZEN.

1 SHE IS DOING A CITIZEN'S DUTY TO ASSIST THE
2 POLICE. AND NOW SHE HAS BEEN CONVINCED IN HER OWN MIND THAT
3 SHE HAS GOT THE RIGHT PERSON. SO, WHEN SHE IS SHOWN SOME
4 OTHER PHOTOGRAPHS OF A PERSON WHO DRIVES A CAR THAT MATCHES
5 EXACTLY THE DESCRIPTION THAT SHE GAVE, SHE SAYS NO, THAT IT
6 CAN'T BE THE GUY.

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1 WHY? BECAUSE IT IS NOT THE SAME GUY. SHE KNOWS
2 IT IS NOT THE SAME GUY IN THE PICTURES SHE WAS PREVIOUSLY
3 SHOWN.

4 AND SHE SAYS THAT SHE WANTS TO SEE JUST ONE
5 PICTURE AND WE REFUSED ON NOVEMBER THE 22ND AND EVERY TIME
6 SUBSEQUENTLY, TO SHOW HER JUST ONE PICTURE.

7 WHY? BECAUSE, IN ESSENCE, IT IS NOT A FAIR WAY
8 TO DO ANYTHING AND IF WE DID THAT IN ANY CASE THAT WE
9 PROSECUTED, IF WE WENT TO A VICTIM OF A CRIME AND TOOK ONE
10 PERSON OR ONE PICTURE AND SAID, "IS THAT THE GUY?" THE COURT
11 WOULD JUST THROW YOU OUT OF COURT BY SAYING YOU ARE NOT
12 CONDUCTING A FAIR PROCEDURE, YOU CAN'T DO THAT.

13 SO IN EVERY INSTANCE WHERE WE HAD ASKED HER AND
14 ASKED HIM TO LOOK AT PICTURES, WE TRIED TO HAVE THEM LOOK
15 AT PICTURES -- WE TRIED TO BE CAREFUL NOT ONLY JUST NOT TO
16 SHOW THEM ONE PICTURE BUT TO SHOW THEM, TO READ THEM AN
17 ADMONITION AND SAY "YOU HAVE GOT TO BE CAREFUL IN THE WAY
18 YOU DO THIS" AND EVERYTHING ELSE. AND THEY REFUSED, BASICALLY.
19 THEY DID NOT PICK OUT MR. HERMAN AS THE PERSON THEY SAW.

20 MR. BARENS SAYS, "WHY DO YOU PICK ALL OF THESE
21 PEOPLE WITH BEARDS?" BECAUSE MR. HERMAN HAD A BEARD. WHAT
22 WOULD HE SAY IF WE GET A PHOTOGRAPH OF MR. HERMAN -- YOU
23 FIND MR. HERMAN IN TUCSON AND IT MATCHES THE GENERAL --
24 FORGET THE GENERAL -- HE MATCHES ALMOST THE DESCRIPTION,
25 THE SILVER HAIR, THE CAR, EVERYTHING, AND WE SAY, "OKAY,
26 HERMAN, WE WANT TO PUT YOU IN THE LINEUP BUT WHY DON'T YOU
27 JUST, EVEN THOUGH YOU HAD A BEARD AT THE TIME THIS HAPPENED,
28 WHY DON'T YOU JUST SHAVE IT OFF AND THEN WE WILL GET HER

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1 TO PICK YOU OUT?"

2 THEN WHAT WOULD MR. BARENS SAY?

3 SO YOU PUT MR. HERMAN IN THE PHOTO LINEUP THE
4 WAY HE LOOKED ON THE DAY -- THE TIME THAT THIS SUPPOSEDLY
5 HAPPENED.

6 AND ALSO, YOU HAVE GOT TO KEEP IN MIND WHAT IS
7 ONE OF THE MOST COMMON MISTAKES THAT PEOPLE MAKE IN MAKING
8 IDENTIFICATIONS AND THAT IS, DOES THE PERSON HAVE FACIAL HAIR
9 OR DID THEY NOT HAVE FACIAL HAIR?

10 AND ANY ONE OF YOU WHO HAS HAD AN EXPERIENCE
11 OF KNOWING SOMEONE WHO EITHER HAS A BEARD OR MUSTACHE AND
12 THEN THEY SHAVE IT OFF AND YOU LOOK AT SOMEBODY AND SOMETIMES
13 YOU LOOK AT THEM, "DID YOU GET NEW GLASSES? DID YOU CUT
14 YOUR HAIR? IS YOUR HAIR A DIFFERENT COLOR?" THAT KIND OF
15 THING.

16 SO THAT IS JUST A COMMON MISTAKE THAT PEOPLE
17 MAKE.

18 ANYWAY, THEY PUT MR. HERMAN IN THE LINEUP AND
19 THAT IS WHY THEY PUT HIM IN THERE WITH THE BEARD.

20 NOW, THEY ARE ALREADY REENFORCED AT THE BEGINNING
21 THAT THEY HAVE GOT QUOTE "THE RIGHT PERSON." UNQUOTE, AND
22 THEY COME TO LOS ANGELES AND BEFORE THAT, CHINO DOES AN
23 IDENT) KIT SKETCH THAT DOESN'T LOOK ANYTHING LIKE LEVIN --
24 WELL, PUT THAT ASIDE -- AND CARMEN SAYS "THAT IS NOT THE
25 PERSON I SAW."

26 SO NOW THEY ARE IDENTIFYING TWO DIFFERENT PEOPLE.
27 WELL, FOR GET ABOUT THAT, MR. BARENS SAYS.

28 AND THEY COME TO LOS ANGELES, THINKING THAT THEY

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1 HAVE GOT THE RIGHT GUY AND THEY GO TO MR. BARENS' OFFICE.

2 NOW, IF THIS WAS LAW ENFORCEMENT DOING THIS,

3 AGAIN, WE WOULD BE THROWN OUT OF COURT BECAUSE NOT ONLY ARE

4 THEY SHOWN INDIVIDUAL PHOTOGRAPHS, INSTEAD OF PHOTOGRAPHS

5 IN A GROUP, BUT THEY ARE SHOWN THREE INDIVIDUAL PHOTOGRAPHS,

6 ALL OF THE SAME PERSON. IF THEY DIDN'T THINK THEY HAD THE

7 RIGHT GUY BEFORE, NOW THEY ARE FOR SURE GOING TO BE CONVINCED

8 THEY HAD THE RIGHT GUY AND NOT ONLY ARE THEY SHOWN THREE

9 INDIVIDUAL PHOTOGRAPHS OF THE SAME PERSON, THEY ARE TOGETHER.

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1 ANY TIME THAT THERE IS EVER ANY LAW ENFORCEMENT
2 LINEUP CONDUCTED, ALL OF THE WITNESSES ARE SEPARATED. THEY
3 ARE ADMONISHED NOT TO TALK TO EACH OTHER.

4 NO, MR. BARENS AND MR. CHIER DON'T DO THAT AND
5 YOU HEARD THEM DURING THE TRIAL, OBJECT "WE ARE NOT IN LAW
6 ENFORCEMENT. WE DON'T HAVE TO DO THAT."

7 WHAT DOES THAT MEAN, "WE ARE NOT LAW ENFORCEMENT."
8 WE DON'T HAVE TO BE FAIR? WE CAN BE SUGGESTIVE.

9 THE PURPOSE OF DOING THOSE THINGS IS NOT BECAUSE
10 YOU ARE LAW ENFORCEMENT. THE PURPOSE IS, YOU ARE REQUIRED
11 TO DO THEM BECAUSE IT IS A FAIR PROCEDURE AND THAT IS NOT
12 WHAT WENT ON.

13 SO THE IDENTIFICATION THEY MADE GOT FURTHER AND
14 FURTHER CEMENTED IN THEIR MINDS AND THEY ARE NOW NOT ONLY
15 INDIVIDUALLY GETTING MORE SURE BUT THEY ARE FEEDING OFF OF
16 EACH OTHER.

17 AND THEY CERTAINLY WEREN'T GOING TO COME HERE
18 TO LOS ANGELES FOR NOTHING. THEY CERTAINLY ARE NOT GOING
19 TO CHANGE THEIR MIND AT THIS POINT.

20 BUT NOW ON TOP OF EVERYTHING ELSE, THEY ARE
21 REENFORCING EACH OTHER.

22 LET ME JUST COMMENT BRIEFLY ON THE REASON FOR
23 CALLING MR. EDMONDS ABOUT WHAT WE DID IN TUCSON. YOU MIGHT
24 HAVE THOUGHT, "WELL, WHAT IS THE WHOLE POINT OF THIS?" THEY
25 WENT, THEY FOUND MR. HERMAN, THEY FOUND THE CAR AND THEY
26 SHOWED THE PICTURE AND THEY DIDN'T IDENTIFY MR. HERMAN.

27 WELL, MOSTLY, THAT WAS DONE TO TELL YOU WE FOUND
28 THE CAR THAT MATCHED ALMOST IDENTICALLY WHAT SHE DESCRIBED,

1 DRIVEN BY A PERSON WHO MATCHED ALMOST IDENTICALLY WHAT SHE
2 DESCRIBED.

3 BUT MORE THAN THAT, WE WEREN'T IN TUCSON TO BROW-
4 BEAT PEOPLE OR TO FORCE PEOPLE INTO DOING ANYTHING. YOU
5 SAW LISA HART. IF WE WERE GOING TO BROWBEAT PEOPLE, IS THAT
6 THE GUY -- IS THAT THE PERSON WE ARE GOING TO SEND?

7 WE HAVE GOT A GUY WHO IS PROSECUTING A CASE NEXT
8 DOOR WHO USED TO BE, I THINK, IT IS A FORMER MR. INDIANA,
9 WHO LIFTS WEIGHTS, AND IF WE WANTED TO INTIMIDATE SOMEBODY,
10 WE COULD INTIMIDATE SOMEBODY, BUT THAT WAS NOT THE PURPOSE
11 OF GOING DOWN THERE. AND WE ARE NOT GOING TO SEND LISA HART
12 DOWN THERE TO GO SCARE PEOPLE IN THE MIDDLE OF THE NIGHT.

13 AND SO TO SHOW YOU THE KIND OF INVESTIGATION
14 THAT IN FACT WENT ON DOWN THERE, I THINK ALSO, AS MUCH AS --
15 AND TAKING INTO CONSIDERATION THE 90 PERCENT AND 95 PERCENT
16 CERTAINTY, ALSO REMEMBER, THEY WERE A HUNDRED PERCENT CERTAIN
17 THAT THE CASHIER WAS IN THE MIDDLE AND THAT WAS ALSO A MISTAKE.

18 AND LET ME TELL YOU ALSO ABOUT CARMEN AND HER
19 DEMEANOR. I MEAN I THINK -- AND I COMMENTED BRIEFLY THAT
20 AS MUCH AS SHE CAME HERE AND SHE CRIED AND SHE WAS UPSET
21 AND EVERYTHING, I THINK THAT WHAT HAPPENED IS THAT WHAT SHE
22 DID INITIALLY, SHE WANTED TO GET IN THE MIDDLE OF SOMETHING
23 AND WHAT IT TURNED OUT WAS SHE WAS JUST IN OVER HER HEAD
24 AND COULDN'T GET OUT OF IT.

25 LET ME TELL YOU, OF ALL OF THE THINGS THAT
26 HAPPENED, OF ALL OF THIS TESTIMONY AND EVERYTHING, ONE OF
27 THE THINGS THAT MR. BARENS IS VERY FOND OF, AND I MEANT TO
28 MENTION IT AT THE VERY BEGINNING, WAS THAT THE DEFENSE DOESN'T
29 HAVE TO PROVE ANYTHING, AND THAT IS TRUE.

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1 THAT IS THE LAW. BUT ONE OF THE THINGS THAT YOU
2 HAVE TO MAKE SURE OF AND YOU HAVE TO INSIST ON, IS THAT
3 BEFORE YOU ARE ASKED TO DRAW AN INFERENCE THAT ANY FACT IS
4 TRUE, THERE HAVE TO BE FACTS TO BACK IT UP. YOU CAN'T JUST
5 SAY, WELL, WE DON'T HAVE TO PROVE IT AND THEREFORE, SUCH AND
6 SUCH EXISTS. YOU HAVE TO HAVE FACTS UPON WHICH TO BASE ANY
7 INFERENCE. AND GENERALLY, IT HELPS TO HAVE CORROBORATION.

8 NOW, YOU HAVE ALSO HEARD THROUGHOUT THE TRIAL,
9 THE NOTION THAT CASES ARE NOT PROSECUTED IN SECRET AND THAT
10 CARMEN WAS TOLD IN TUCSON, THAT WHEN WE GET THIS INFORMATION
11 WHICH WE NOW HAD NOVEMBER 22ND, IT WOULD HAVE TO BE IMMEDIATELY
12 DISCLOSED TO THE DEFENSE IN THIS CASE, WHICH IT WAS. THE NEXT
13 WEEK, THE 22ND BEING A SATURDAY, IT WAS DISCLOSED.

14 SO NOW, PUT YOURSELF IN JOE HUNT'S POSITION AND
15 IN ARTHUR BARENS' POSITION. YOU ARE INNOCENT OF A CRIME YOU
16 DIDN'T COMMIT. NO MURDER EVER HAPPENED.

17 AND NOW, YOU ARE PRESENTED WITH EVIDENCE THAT SAYS
18 THAT THE MAN YOU ARE ALLEGED TO HAVE KILLED IS IN FACT, ALIVE
19 IN TUCSON, ARIZONA.

20 YOU ARE GIVEN THAT INFORMATION THE 24TH OR THE
21 25TH OF NOVEMBER OF 1986. WHAT IS YOUR FIRST REACTION? WHAT
22 DO YOU DO? WHAT IS THE VERY FIRST THING THAT YOU ARE GOING
23 TO DO?

24 YOU HOT-FOOT IT DOWN TO TUCSON, ARIZONA WITH AS
25 MUCH MANPOWER AS YOU CAN MUSTER. YOU SEND PEOPLE ALL OVER
26 THE CITY AND YOU FIND THIS GUY. YOU DIDN'T KILL HIM AND
27 SOMEBODY SAYS THAT HE IS ALIVE. YOU ARE GOING TO GET TO
28 TUCSON IMMEDIATELY.

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1 YOU ARE GOING TO PUT FLIERS ALL OVER THE CITY. YOU
2 ARE GOING TO TAKE OUT ADS IN THE PAPER. YOU ARE GOING TO PUT
3 THINGS ON TELEVISION.

4 IT IS A LIFE OR DEATH SITUATION. HAVE YOU SEEN
5 THIS MAN? WE HAVE TO FIND THIS MAN. IT IS LIFE OR DEATH.
6 MY LIFE DEPENDS UPON IT.

7 DO YOU SEE A WORD OF THAT? NOTHING. NOT ONE
8 FINGER WAS LIFTED. NOT ONLY THAT, THEY MADE A BIG POINT IN
9 SAYING THAT THEY DIDN'T TALK TO THESE PEOPLE UNTIL MARCH
10 SOMETIME. THAT IS UNHEARD OF.

11 IF YOU WERE CHARGED WITH A CRIME THAT YOU DIDN'T
12 COMMIT, THAT NEVER OCCURRED, WHAT WOULD YOU DO? YOU WOULD
13 GO THERE AND YOU WOULD FIND THIS GUY, WHATEVER IT TOOK. YOU
14 WOULD FIND HIM.

15 WE TRIED TO FIND HIM. WE GO TO CLASSIC CAR PLACES,
16 WOULDN'T THEY?

17 WOULDN'T THEY GO TO GAY BARS? WOULDN'T THEY TALK
18 TO PEOPLE IN THE GAY COMMUNITY? WOULDN'T THEY PUT FLIERS UP
19 AT THE UNIVERSITY OF ARIZONA, ACROSS THE STREET FROM THE GAS
20 STATION?

21 DID THEY LIFT ONE FINGER? NO. THEY WANT TO COME
22 IN HERE AND SAY WELL, SOMEBODY SAW AN ESQUIRE MAGAZINE AND
23 SAYS THAT IT IS IT. DON'T CROSS-EXAMINE HER. THAT IS
24 ENOUGH. IT DOESN'T MAKE ANY SENSE. IT DOESN'T MAKE ANY SENSE
25 AT ALL.

26 AND IF THERE WERE ANY MORE ROOM, I WOULD PUT THAT
27 IN BIG RED LETTERS ON THE BOTTOM OF THAT CHART THAT SAYS, "JOE
28 HUNT'S CONSCIOUSNESS OF GUILT," RIGHT AFTER THE BIG THING ON

1 THE BOTTOM THAT SAYS WHAT JOE HUNT DID WHEN HE SAW THESE
2 SEVEN PAGES THAT DETECTIVE ZOELLER SHOWED HIM.

3 INCIDENTALLY, IN A DAY AND A HALF -- IN A DAY AND
4 A HALF OF TALKING TO YOU, ARTHUR BARENS DIDN'T SAY ONE THING
5 ABOUT JOE HUNT'S REACTION TO BEING SHOWN THE PAGES BY
6 DETECTIVE ZOELLER. ISN'T THAT INTERESTING?

7 HE TALKED TO YOU FOR A DAY AND A HALF AND DIDN'T
8 MENTION THAT ONE TIME.

9 I THINK THAT IS ALL I HAVE TO SAY ABOUT TUCSON.
10 IT IS NOT ENTIRELY ALL. I APOLOGIZE. THIS IS NOT GOING TO
11 BE AS ORGANIZED AS THE OPENING PRESENTATION WAS.

12 I THINK THAT IT NEVER SURPRISES YOU WHEN A LAWYER
13 SAYS THAT THIS IS NOT ENTIRELY ALL. THE OTHER THING TO KEEP
14 IN MIND IS THAT THE DEFENSE IS TRYING TO SELL YOU I THINK,
15 AN INCREDIBLE -- I THINK IT IS AN INCREDIBLE BILL OF GOODS
16 ABOUT THE FACT THAT THIS WAS THE ULTIMATE CON. RIGHT? LEVIN
17 WAS SETTING UP THE ULTIMATE CON.

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1 AND SO, YOU WOULD THINK THAT HE WOULD BE WATCHING
2 THIS TRIAL WITH SOME INTEREST, FOLLLOWING WHAT WAS GOING ON,
3 RIGHT? SO, HE KNOWS UNDOUBTEDLY IF HE IS STILL ALIVE, THAT
4 ESQUIRE HAS PUBLISHED AN ARTICLE IN SEPTEMBER AND IT HAS GOT
5 HIS PICTURE IN THERE AND IT IS ALL ABOUT THE CASE.

6 AND SO, WHAT IS HE GOING TO DO? NOW, HE HAS
7 PULLED THE ULTIMATE CON. HE HAS BEEN UNDERGROUND FOR TWO AND
8 A HALF YEARS. HE HAS NOW GOT ALL OF THIS BIG PUBLICITY ABOUT
9 THE CASE. WHAT IS HE GOING TO DO?

10 HE IS GOING TO MAKE SURE THAT ALL THE PUBLICITY
11 IS FOCUSED ON HIM? OR IS HE GOING TO STAY UNDERGROUND? HE
12 HAS NOT BEEN SEEN ANYWHERE IN TWO AND A HALF YEARS.

13 SO, WHAT DID HE DO? HE GOES TO A GAS STATION,
14 AND JUST HIS MERE PRESENCE THERE IS GOING TO STAND OUT. HE
15 DIDN'T SIT IN THAT PLACE.

16 HE IS GOING TO GO SOMEPLACE WHERE HE STICKS OUT
17 AT A TIME WHEN HE IS GOING TO BE MORE NOTICEABLE BECAUSE HE
18 HAS GOT HIS PICTURE IN NATIONAL MAGAZINES.

19 BUT IT IS NOT ENOUGH THAT HE WOULD GO TO THE GAS
20 STATION. WHAT IS HE GOING TO DO?

21 HE IS GOING TO MAKE SURE THEY SEE HIM. HE IS GOING
22 TO STARE AT PEOPLE. HE IS GOING TO TAKE THIS CIRCUITOUS ROUTE
23 OUT OF THE GAS STATION.

24 HE IS GOING TO STOP AND MAKE SURE THAT IF THEY
25 DIDN'T SEE ME THE FIRST TIME, THEY WILL SEE ME THE SECOND TIME.
26 NOW YOU ARE GOING TO SEE ME FOR SURE. HERE I AM.

27 IT IS ABSURD ON ITS FACE. BECAUSE THAT PERSON
28 IN THE GAS STATION, WHOEVER HE WAS, WAS NOT RON LEVIN.

1 AND THE OTHER THING IN PASSING ABOUT CARMEN THAT
2 I FIND INTERESTING AND THE PRODUCT OF WHAT I THINK IS A
3 CREATIVE IMAGINATION AND I ALSO THINK YOU CAN TALK ABOUT THIS
4 IN TERMS OF REINFORCING WHAT SHE READ IN THE ARTICLE -- SHE
5 READS THIS ARTICLE THAT HE IS A HOMOSEXUAL.

6 SHE SEES THE GUY IN THE GAS STATION. SHE SAYS
7 THAT HE IS GAY BECAUSE HE IS OLDER AND WELL DRESSED.

8 THIS IS ALREADY MAKING ME VERY NERVOUS. MY HAIR
9 IS GETTING GRAY. I GUESS I HAVE TO WEAR SLOPPIER CLOTHING
10 OR SOMETHING.

11 BUT IN ANY EVENT, SHE SAYS THAT HE IS GAY AND SHE
12 CAN'T SAY WHY HE IS GAY.

13 BUT THEN, HE IS WITH THIS OTHER GUY. AND FROM
14 ALL OF THE -- AND THEN SHE SEES THE TWO OF THEM GET IN THE
15 CAR. THEY HAVE WORDS. AND SUPPOSEDLY, HE HAD BEEN STARING
16 AT CHINO.

17 SO WHAT DOES SHE SAY THIS CONVERSATION IS ABOUT?
18 THEY ARE HAVING AN ARGUMENT BECAUSE HE IS STARING AT CHINO.

19 NOW, HOW THE HECK DOES SHE KNOW THAT? SHE DOESN'T.
20 IT IS JUST A CREATIVE IMAGINATION. IT JUST GIVES YOU SOME
21 INDICATION OF HOW HER MIND WORKS AND HOW IT WAS WORKING FROM
22 THE VERY BEGINNING WHEN SHE MADE THIS IDENTIFICATION.

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1 THE NEXT QUESTION IS: WHERE TO GO FROM HERE?
2 THERE ARE SO MANY THINGS. MAYBE WHAT I WILL DO, START TO
3 DO, IS GO THROUGH THINGS MR. BARENS SAID.

4 I WAS JOKING WITH HIM AT 1:30 JUST BEFORE YOU
5 CAME IN AND I SAID, "I HAVE ONLY GOT ABOUT SIX MORE BLANK
6 PAGES ON THIS PAD AND YOU HAVE TO FINISH BY THE TIME I RUN
7 OUT OF PAPER." AND THIS IS THE LAST -- I AM IN THE MIDDLE
8 OF THE LAST PIECE NOW. SO, UNFORTUNATELY, I WAS TAKING NOTES
9 AND I GOT THREE-QUARTERS OF THIS PAD WHICH IS NOTES, SO BEAR
10 WITH ME.

11 THE PLACE THAT MR. BARENS STARTED THAT HE LIKES
12 TO START, IS WITH RON LEVIN, AND THE IDEA BASICALLY, IN
13 PUTTING EVERYTHING ELSE ASIDE IS, LET'S MAKE RON LEVIN LOOK
14 AS BAD AS WE CAN BECAUSE THE WORST HE LOOKS, WELL, EVEN IF
15 THE JURY THINKS THAT MAYBE HE WAS KILLED, WHAT LOSS IS IT
16 TO SOCIETY? IT IS A BIG BENEFIT. AND I THINK THAT IS IN
17 ESSENCE THE POINT OF IT.

18 HE STARTED WITH THE MONEY, TALKING ABOUT THE
19 MONEY, AND SAYING THAT YOU HEARD TESTIMONY ABOUT A HUNDRED
20 FIFTY THOUSAND IN PROGRESSIVE SAVINGS.

21 WELL, FIRST OF ALL, HE WAS THE ONE WHO KEPT SAYING,
22 "THE PROSECUTION IS DEALING IN MANJENDO," AND AS I WILL TALK
23 TO YOU ABOUT IN A WHILE, I THINK THAT IS ANOTHER GREAT CLASSIC
24 EXAMPLE OF PARADOX PHILOSOPHY.

25 ALONG WITH -- OH, THIS IS THE REAL KILLER OF
26 THE PARADOX PHILOSOPHY APPROACH TO THIS ARGUMENT: "RON LEVIN
27 IS NOT THE VICTIM. JUST TURN AROUND A HUNDRED EIGHTY DEGREES.
28 JOE HUNT IS THE VICTIM."

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1 AND UNTIL THE END, WHEN BARENS WAS GOING TO BE
2 THE VICTIM, "IF YOU WANT TO CONVICT ANYBODY, CONVICT ME,
3 BUT PLEASE DON'T CONVICT JOE HUNT."

4 I MEAN IT IS JUST INCREDIBLE. POOR JOE HUNT
5 IS THE VICTIM, AGAIN, OF THE SCAM OF RON LEVIN AND WE WILL
6 SEE HOW ON ITS FACE THIS IS SO ABSURD.

7 BUT MR. BARENS, BASED ON THE FACT THAT THERE WAS
8 A LAWSUIT FILED BY PROGRESSIVE SAVINGS CHARGING THIS LOSS
9 OF \$150,000, SAYS MR. LEVIN GOT \$150,000. WELL, FIRST OF
10 ALL, THERE IS NO PROOF THAT MR. LEVIN GOT THE \$150,000, THAT
11 IS ONE THING.

12 IF YOU WILL RECALL THE TESTIMONY OF MR. OSTROVE,
13 THE LAWSUIT WAS CHARGING A CONSPIRACY BETWEEN MR. LEVIN AND
14 MR. HUNT AND MR. MARMOR, AND SOME OTHER PEOPLE, TO DEFRAUD
15 THE BANK. SO WHETHER LEVIN GOT THE MONEY AND IF THERE WAS
16 ANY MONEY GOTTEN, WE DON'T KNOW. BUT HE SAYS FROM THAT,
17 YOU HAVE TO INFER FROM ALL OF THIS, THAT IS A FACT.

18 THEN HE SAYS, YOU KNOW, THAT IT WAS \$125,000
19 THAT HE PUT INTO THE SHEARSON AMERICAN EXPRESS ACCOUNT AT
20 SOME POINT AFTER THAT AND THEREFORE, IT IS \$275,000.

21 AND HE ALSO SAID, "WELL, WHAT HAPPENED TO THE
22 HUNDRED AND FIFTY THOUSAND DOLLARS?"

23 IT NEVER OCCURRED TO HIM THAT IF HE DID GET THE
24 ONE FIFTY, THAT ONE TWENTY-FIVE OF THAT IS WHAT WENT TO
25 SHEARSON, WE DON'T KNOW, BUT THE POINT IS YOU CAN'T ADD IN
26 THAT CIRCUMSTANCE, ONE FIFTY AND ONE TWENTY-FIVE AND NECESSARILY
27 COME UP WITH TWO SEVENTY-FIVE.

28 AND THE GREATEST EXAMPLE OF THAT, IF YOU WILL

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1 RECALL THE CROSS-EXAMINATION OF JERRIANNE NEUMANN FROM THE
2 OLYMPIC BANK, AND THERE WAS THE ACCOUNT THERE IN MAY WHICH
3 SHOWED SOMETHING LIKE, I THINK, \$100,000. THEY WENT THROUGH
4 THE ACCOUNT AND MR. BARENS GOT THAT AND HE LIT UP "LOOK AT
5 ALL THIS MONEY THAT IS HERE IN MAY".

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1 THE PROBLEM, OF COURSE, IS THAT WHEN SHE WAS
2 EXAMINED AGAIN ON REDIRECT EXAMINATION, IT CAME OUT THAT
3 TWO OR THREE OF THOSE THINGS WERE ITEMS THAT WERE CHECKS
4 THAT WERE BAD, THAT HAD GONE THROUGH THE ACCOUNT SEVERAL
5 TIMES AND BECAUSE OF THEIR BOOKKEEPING, IT LOOKED LIKE IT
6 IS A HUNDRED THOUSAND AND WHEN YOU EXAMINE IT, HERE IT TURNS
7 OUT IT IS MORE LIKE \$40,000.

8 WELL, THAT IS THE SAME KIND OF DECEPTION THAT
9 HE IS TRYING TO USE WITH THIS PARADOX PHILOSOPHY, IN HIS
10 APPROACH TO TRYING TO MANIPULATE AND REORIENT YOURSELF AND
11 YOU CAN SEE THERE WAS \$275,000. SO FIRST OF ALL, THERE IS
12 NO EVIDENCE OF THAT.

13 AND SECOND OF ALL, HERE IS THE GREAT LEAP OF
14 FAITH, HE HAS GOT THIS \$275,000 SOMEWHERE OUT IN THE
15 IMAGINATION AND, THEREFORE, HE HAS GOT A SECRET BANK ACCOUNT
16 SOMEWHERE THAT HE IS LIVING ON. A SECRET BANK ACCOUNT WHERE?
17 WHERE, AT THE FIRST NATIONAL BANK OF TUCSON? I MEAN IT
18 DOESN'T MAKE ANY SENSE AT ALL THAT HE SHOULD HAVE SOME SECRET
19 BANK ACCOUNT.

20 IN FACT, AND I SUBMIT TO YOU, THAT MR. BARENS
21 DID THIS OVER AND OVER AND OVER AGAIN, I COULD ALMOST NOT
22 CONTAIN MYSELF AND ONE TIME I DIDN'T, HE GOT THE FACTS WRONG
23 AND THE FACTS ARE THAT DAVID OSTROVE WAS THE CONSERVATOR
24 OF LEVIN'S ESTATE AND HE MARSHALED ALL OF LEVIN'S ASSETS,
25 NOT JUST A FEW.

26 WHAT DO THEY GET A CONSERVATOR FOR? TO JUST
27 SEE, WELL, SEE WHAT YOU CAN FIND, NO BIG DEAL? HE MARSHALED
28 ALL OF LEVIN'S ASSETS AND THERE WAS \$36,410.07, THAT WAS

1 ALL HE HAD. THAT IS ALL HE HAD.

2 THE OTHER THING THAT IS THE KIND OF INCREDIBLE
3 DOUBLETALK THAT YOU GET AND YOU HAVE TO, WHEN YOU LISTEN
4 TO THESE ARGUMENTS, IF YOU CAN EXAMINE THEM CAREFULLY, BUT
5 MR. BARENS SAYS AT ONE TIME, "WELL, MR. LEVIN HAD ALL OF
6 THIS MONEY BACK IN SEPTEMBER OF 1983 AND, THEREFORE, HE MUST
7 HAVE A SECRET BANK ACCOUNT."

8 AND THEN HE TALKS ABOUT ANOTHER FEW THINGS FOR
9 A MINUTE OR SO AND THEN HE SAYS, "BESIDES WHICH, HE SPENT
10 \$40,000 A MONTH AND IN JUNE OF '84, HE MUST HAVE HAD ALL
11 OF THIS MONEY IN A SECRET BANK ACCOUNT."

12 WELL, IF HE SPENT THE \$40,000 A MONTH THAT MR.
13 BARENS CLAIMS -- AND I DON'T KNOW WHERE THE PROOF OF THAT
14 WAS EITHER -- BUT THE POINT IS, YOU CAN'T TALK OUT OF BOTH
15 SIDES OF YOUR MOUTH AT THE SAME TIME. IF HE HAS GOT ALL
16 THIS MONEY AND HE SPENDS \$40,000 A MONTHS FOR OVER SIX MONTHS,
17 THERE IS YOUR \$275,000. SO YOU CAN'T HAVE IT BOTH WAYS.
18 YOU CAN'T TALK OUT OF BOTH SIDES OF YOUR MOUTH ABOUT THE
19 FACTS.

20 THAT IS TO POINT OUT THE KIND OF ARGUMENT THAT
21 YOU WERE GIVEN AND THEN YOU HAVE GOT TO LOOK AT THE FACTS
22 AND THE FACTS ARE THAT HE ONLY HAD \$36,000.

23 THE OTHER THING THAT MR. BARENS PLAYED VERY FAST
24 AND LOOSE WITH THE FACTS, WERE THE FACT THAT HE SAYS MR.
25 LEVIN HAD EVERY REASON TO LEAVE, AND THE ONLY THING THAT
26 HE COULD POINT TO IN THAT REGARD IS THE CRIMINAL CASE, MR.
27 LEVING HAD A CRIMINAL CASE. WELL, LET ME TAKE YOU BACK TO
28 THE VERY BEGINNING OF MR. BARENS' ARGUMENT. IT HAD NOTHING

1 TO DO WITH LEVIN'S CRIMINAL CASE OR, REALLY, ANY OF THE FACTS
2 IN THIS CASE. HE SAID "THE WHEELS OF JUSTICE," I THINK HE
3 SAID "GRINDED" BECAUSE IT DIDN'T SOUND RIGHT TO ME -- "SLOWLY"
4 IN ANY EVENT, TALKING ABOUT HOW LONG IT TOOK FOR THIS CASE.

5 IF YOU NEED ANY EXAMPLE, IF YOU NEED ANY EXAMPLE
6 OF HOW LONG IT TAKES TO PROSECUTE A CRIMINAL CASE, YOU PROBABLY
7 DON'T NEED ANYTHING MORE THAN YOUR EXPERIENCE BEING HERE
8 DAY IN AND DAY OUT.

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26A
1 BUT WHEN DOES THIS ALL START? WE STARTED
2 SELECTING A JURY IN NOVEMBER OF 1986.

3 WHEN WAS IT THAT MR. HUNT WAS FIRST ARRESTED? WELL,
4 HE WAS ARRESTED AND EVENTUALLY STAYED IN JAIL AND CHARGES WERE
5 ACTUALLY FILED ON OCTOBER THE 22ND, 1984.

6 SO, FROM THE DATE OF THAT ARREST THAT LED TO THE
7 CHARGES BEING BROUGHT AND THEN THE CHARGES WERE FILED, UNTIL
8 THE DATE THAT THE TRIAL STARTED IN THIS CASE, WAS TWO YEARS
9 AND A MONTH.

10 NOW, LOOK AT MR. LEVIN'S CASE. HE HAD A CASE
11 PENDING THAT WAS ORIGINALLY FILED AT THE END OF 1983 OR THE
12 BEGINNING OF 1984. YOU HAVE THE DOCKET SHEET THERE.

13 IT WAS ORIGINALLY SET FOR PRELIMINARY HEARING I
14 THINK, IN FEBRUARY SOMETIME. AND THAT WAS CONTINUED UNTIL
15 JUNE. SO NOW, HE GETS THE IDEA FROM THE BEGINNING OF THE CASE,
16 WHICH IS NOT GOING TO SURPRISE ANY OF YOU, THAT HE CAN GET
17 A POSTPONEMENT FOR TWO OR THREE MONTHS.

18 AND HE COMES TO COURT IN JUNE AND WHAT HAPPENS?
19 WHEN HE COMES INTO COURT IN JUNE, BEFORE HE GOES TO COURT,
20 HE SAYS TO SCOTT FURSTMAN, SEE IF YOU CAN GET IT CONTINUED
21 AS LONG AS POSSIBLE.

22 WITHOUT MUCH EFFORT, FURSTMAN SAYS, LET'S CONTINUE
23 IT TO SEPTEMBER. THEY SAY OKAY.

24 THEN, WITHIN THE NEXT DAY OR TWO, IT TURNS OUT
25 THAT FOR SOME REASON, THE D.A. WHO WAS PROSECUTING THE CASE
26 FOR SOME OTHER REASON -- HE SAID IT AND I DON'T REMEMBER
27 EXACTLY. THERE WAS A CONFLICT WITH THE SCHEDULE. THEY HAD
28 TO CONTINUE IT ANOTHER MONTH.

26A-2

1 THIS IS JUST WITHOUT MUCH EFFORT, TWO
2 CONTINUANCES THAT HAVE TAKEN THE CASE FROM JANUARY OF 1984
3 AND IT IS NOW SET IN OCTOBER OF 1984.

4 AND LEVIN HAD HIS PLANNING BOOK AND HE WROTE DOWN
5 THE SEPTEMBER DATE THAT THE CASE WAS SET FOR AND HE CROSSED
6 IT OUT AND THEN HE WROTE DOWN THE OCTOBER DATE THAT THE CASE
7 WAS SET FOR.

8 SO, HE KNEW FROM THE GET-GO THAT THIS WAS JUST
9 FOR THE PRELIMINARY HEARING. NOW, EVEN IF THE CASE HAD
10 PROCEEDED AS SWIFTLY AS POSSIBLE AND YOU HAVE GOT TO ASK
11 YOURSELF WHAT ARE THE CHANCES OF THAT -- BUT, IF IT HAD GONE
12 STRAIGHT THROUGH FROM THEN ON, IT WAS NOT GOING TO FINISH
13 UNTIL THE NEXT APRIL.

14 THE CHANCES OF IT GETTING CONTINUED AGAIN FOR
15 A PRELIMINARY HEARING WERE PRETTY GREAT. AND THEN, YOU WILL
16 REMEMBER AS MR. FURSTMAN SAID, THE PROCESS STARTS ALL OVER
17 AGAIN WHEN THEY GET TO THE SUPERIOR COURT, THE PRELIMINARY
18 HEARING BEING THE TIME OF THE CASE WHERE YOU WEED OUT THE
19 GROUNDLESS CHARGES.

20 AND THEN YOU START ALL OVER AGAIN WHEN YOU GET
21 TO THE SUPERIOR COURT, MORE CONTINUANCES AND EVERYTHING. SO
22 LIKE THIS CASE, IT IS REASONABLE TO ASSUME THAT THAT CASE WOULD
23 HAVE GONE ON FOR YEARS. SO WHY NOW, IN JUNE OF 1984, IS RON
24 LEVIN GOING TO SUDDENLY TAKE OFF? NOT ONLY THAT, MR. BARENS
25 CORRECTLY POINTED OUT, RON LEVIN HAD NO WAY OF KNOWING THAT
26 HE WAS GOING TO GET THIS BAIL REDUCTION.

27 SO, HE DECIDES THAT HE IS GOING TO ASK FOR A BAIL
28 REDUCTION. HE GETS IT. HE GETS IT ON THE 5TH. HE SAYS OKAY,

26A 1 THAT IS IT. I AM LEAVING.

2 SO, ALL OF THIS ELABORATE SCHEME, RIGHT, IS ALL
3 SET UP IN ONE DAY? THAT DOESN'T MAKE ANY SENSE.

4 SO, I SUBMIT TO YOU NOT ONLY THAT YOU HAVE TO TALK
5 ABOUT THE CRIMINAL CASE -- BECAUSE YOU SAW THE PHOTOS OF RON
6 LEVIN'S SMALL OFFICE. HE HAD BINDERS AND BINDERS, NOT UNLIKE
7 THE ONES MR. BARENS USED TO MAKE HIS ARGUMENT FROM.

8 MR. FURSTMAN TESTIFIED THAT HE HAD BRIEFS AND HE
9 HAD EVERYTHING ORGANIZED AND INDEXED. I MEAN, LEVIN WAS THE
10 KIND OF A GUY WHO LOVED THIS STUFF. HE LOVED THE CHALLENGE.

11 AND I THINK I TOLD YOU BEFORE, THAT I THINK LEVIN
12 AND HUNT ARE VERY MUCH ALIKE. AND I THINK IN THAT REGARD,
13 THEY ARE VERY MUCH ALIKE TO HAVE LOVED THE CHALLENGE OF A CASE.
14 ALL OF HIS FRIENDS SAID THAT.

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26B
1 HE WAS NOT AFRAID OF THE CASE. YOU HAVE TO LOOK
2 AT THE FACTS. LOOK AT WHAT HIS FRIENDS SAID. HE WAS NOT
3 AFRAID OF THE CASE. HE WAS NOT GOING TO RUN FROM THE CASE.

4 HE LOVED THE GAME. HE LOVED PLAYING THE GAME.
5 THE OTHER THING THAT I THINK IS INTERESTING TO KEEP IN MIND,
6 IS THAT WHEN WE ARE TALKING ABOUT LEVIN, MR. BARENS SAID
7 MR. LEVIN GAVE BACK ALL THIS PROPERTY, WHICH HE DIDN'T GIVE
8 BACK. AS IF IT WERE HIS TO GIVE.

9 WHO HAD THE PROPERTY? THE POLICE HAD TAKEN IT
10 FROM HIS HOUSE BY A SEARCH WARRANT. THE POLICE HAD IT. WHEN
11 PUSH CAME TO SHOVE, IF THE POLICE WANTED TO GIVE IT BACK TO
12 MR. GARDEN, THEY COULD.

13 THEY TOOK IT FROM MR. LEVIN BECAUSE THEY DIDN'T
14 THINK IT BELONGED TO HIM. IT WAS NOT EXACTLY A BARGAINING
15 CHIP AS FAR AS HE WAS CONCERNED.

16 BUT THE POINT IS, THIS WAS NOT ANOTHER REASON FOR
17 HIM TO LEAVE. IT IS GREAT TO JUST RUN IT UP THE FLAG POLE
18 AND SAY THAT HE HAD TO LEAVE.

19 THE OTHER THING WHERE MR. BARENS PLAYED INCREDIBLY
20 FAST AND LOOSE WITH THE FACTS -- SHALL I TALK FASTER? SHALL
21 I TALK LOUDER?

22 THAT IS, HOW MUCH TIME WAS MR. LEVIN FACING? HE
23 KEPT TALKING ABOUT A MINIMUM SENTENCE OF FOUR YEARS. WELL,
24 FIRST OF ALL, THAT IS WRONG. IT IS JUST FLAT OUT, WRONG.

25 YOU HEARD MR. FURSTMAN TELL YOU THAT THE MAXIMUM
26 POSSIBLE SENTENCE UNDER THE LAW WAS EIGHT YEARS IN PRISON.
27 BUT BECAUSE OF THE RULES THAT THE STATE PRISON USES WHEN YOU
28 GO TO PRISON, YOU GET HALF OF THE TIME OFF THE MAXIMUM POSSIBLE

26P 7
1 TIME. SO, THAT MEANS HE COULD HAVE DONE FOUR YEARS. YOU HAVE
2 TO KEEP THAT IN MIND, JUXTAPOSED AGAINST THE POSTURE OF THE
3 CASE.

4 IT HAD NOT EVEN GONE TO PRELIMINARY HEARING YET.
5 THAT IS THE STAGE WHERE YOU WEED OUT THE GROUNDLESS CHARGES.
6 SO, NOBODY KNEW HOW MANY OF THOSE COUNTS WERE GOING TO SURVIVE
7 THE PRELIMINARY HEARING.

8 THE OTHER THING THAT I REALLY FIND INCREDIBLE,
9 THIS IS KIND OF A STREAM OF CONSCIOUSNESS -- IS THAT MR. BARENS
10 LOVES TO QUOTE THE CONSTITUTION AND GOD BLESS AMERICA AND ALL
11 THAT STUFF.

12 HE SPENT A LOT OF TIME TELLING YOU IN VOIR DIRE
13 ABOUT HOW THE DEFENDANT IS PRESUMED TO BE INNOCENT. AND
14 BELIEVE YOU ME, THOSE ARE THINGS THAT NOBODY HOLDS ANY MORE
15 DEAR THAN I DO.

16 AND EVERYBODY CHARGED WITH A CRIME IS PRESUMED
17 TO BE INNOCENT. THESE PRINCIPLES THAT MR. BARENS HOLDS SO
18 DEAR -- WHAT DID HE DO IN HIS ARGUMENT? HE CONVICTED RON LEVIN
19 OF THESE CRIMES AND HE HAD NOT YET GOTTEN A PRELIMINARY HEARING.
20 MR. BARENS CONVICTED HIM. HE ALREADY SENT HIM TO PRISON.

21 HE HAS NOT HAD HIS PRELIMINARY HEARING YET.
22 MR. LEVIN HAD THE SAME PRESUMPTION OF INNOCENCE, THE SAME
23 COCOON THAT MR. BARENS IS SO FOND OF REFERRING TO THAT
24 MR. HUNT HAS.

25 BUT MR. BARENS HAS ALREADY CONVICTED HIM AND SENT
26 HIM OFF TO PRISON. SO, WE HAVE NOT EVEN HAD A PRELIMINARY
27 HEARING YET AND WE DON'T KNOW HOW MANY CHARGES ARE GOING TO
28 SURVIVE THE PRELIMINARY HEARING.

1 AND WE HAVE NOT EVEN GOTTEN TO MAYBE LEVIN'S
2 FAVORITE PART OF THE CASE WHERE YOU START DICKERING ABOUT PLEA
3 BARGAINING OR ARE WE GOING TO TRIAL AND WHAT IS GOING TO GO
4 ON.

5 KEEP IN MIND THE TESTIMONY OF HIS FRIENDS WHO SAID
6 THAT HE WAS NOT WORRIED ABOUT THE CASE. ARE YOU KIDDING? HE
7 SAID THAT HE WAS GOING TO BE ACQUITTED AND SUE THE BEVERLY
8 HILLS POLICE DEPARTMENT FOR \$40 MILLION. THAT WAS LEVIN.

9 AND ALSO, BASED ON THE LIFESTYLE THAT HE HAD CHOSEN
10 FOR HIMSELF, THAT WAS NOT NEW. WHAT IS THIS? WE ARE TALKING
11 ABOUT A GUY WHO GETS ARRESTED FOR THE FIRST TIME AND HE IS
12 PETRIFIED?

13 NO, THIS IS BASED ON LEVIN'S SELF-CHOSEN LIFESTYLE.
14 THAT WAS THE PRICE OF DOING BUSINESS. IT WAS NOT ONLY THE
15 PRICE OF DOING BUSINESS, BUT AS I SAID, IT WAS SOMETHING THAT
16 HE RELISHED.

17 AND HE KNEW ENOUGH TO KNOW THAT THEY WERE WAY,
18 WAY BEFORE THE STAGE OF GETTING TO THAT POINT WHERE YOU TALK
19 ABOUT ALL RIGHT, IT IS NUTS AND BOLTS TIME. DO YOU WANT TO
20 GO TO TRIAL? DO YOU WANT TO PLEAD GUILTY?

21 IF YOU WANT TO PLEAD GUILTY, HOW MUCH TIME ARE
22 YOU LOOKING AT? SO, DESPITE THE FACT THAT MR. BARENS HAS
23 ALREADY SENT MR. LEVIN TO PRISON FOR FOUR YEARS IF HE GOT
24 MAXED OUT ON EVERYTHING, THAT IS THE MOST HE COULD DO. BUT
25 THE POINT IS, WHEN YOU GET DOWN THE LINE AT SOME POINT, YOU
26 START DICKERING AND DICKERING ABOUT PROPERTY THAT IS GOING
27 TO BE RETURNED AND RESTITUTION THAT IS GOING TO BE MADE.
28 WHO KNOWS? FIRST OF ALL, WE DON'T KNOW IF HE WOULD HAVE GONE

1 TO PRISON AT ALL. AND IF HE DID, WHO KNOWS FOR HOW LONG HE
2 WAS GOING TO GO.

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1 BUT THOSE ARE THINGS THAT WHEN YOU TALK ABOUT
2 NO REASON TO LEAVE NOW, NO REASON TO LEAVE ON JUNE 6TH OF
3 1984, BECAUSE HE HAD AGES OF TIME TO SPEND IN HIS HOME THAT
4 HE LOVED, IN THE BEVERLY HILLS THAT HE LOVED.

5 WOULD THIS BE AN APPROPRIATE TIME?

6 THE COURT: YES.

7 LADIES AND GENTLEMEN OF THE JURY, WE WILL TAKE
8 A 15-MINUTE RECESS AT THIS TIME.

9 THE SAME ADMONITION WOULD STILL APPLY.

10 MR. BARENS: COULD WE SEE YOUR HONOR BRIEFLY?

11 THE COURT: ALL RIGHT.

12 (THE FOLLOWING PROCEEDINGS WERE HELD
13 AT THE BENCH OUTSIDE THE PRESENCE AND
14 HEARING OF THE JURY:)

15 THE COURT: YES?

16 MR. BARENS: YOUR HONOR, I WAS QUITE DISTRESSED YESTERDAY
17 THAT I WAS ORDERED TO REMAIN BEHIND THE PODIUM DURING THE
18 DELIVERY OF MY CLOSING ARGUMENT.

19 THE COURT: YES. I WANT YOU TO STAY BEHIND THE PODIUM
20 ALSO.

21 MR. WAPNER: YES, OKAY.

22 THE COURT: I DIDN'T WANT TO INTERRUPT YOU THEN. I
23 WANTED TO TELL YOU ABOUT THAT. YOU STAY BEHIND THE PODIUM.

24 MR. BARENS: I WOULD SAY THAT ALTHOUGH I OBVIOUSLY
25 FOLLOWED YOUR HONOR'S ORDER, I AM NOT OBJECTING TO MR. WAPNER
26 PROCEEDING.

27 THE COURT: WELL, YOU HAD THAT BOOK THAT YOU WERE READING
28 FROM, YOU NEEDED A PODIUM FOR THAT.

7-2

1 MR. BARENS: YOUR HONOR, I HAVE NO OBJECTION TO MR.
2 WAPNER DELIVERING HIS ARGUMENT IN ANY POSITION IN THE COURT-
3 ROOM HE FEELS APPROPRIATE.

4 THE COURT: YOU STAY BEHIND THAT.

5 MR. WAPNER: YES. THANK YOU.

6 I ASSUME EXCEPT WITH REFERENCE TO THE CHARTS?

7 THE COURT: OH, ABSOLUTELY.

8 MR. BARENS: THERE IS ONE OTHER THING, FOR THE RECORD,
9 THAT I PROFESSIONALLY DON'T KNOW HOW TO HANDLE, BUT I WOULD
10 LIKE TO REFERENCE. THERE WAS NO EVIDENCE WHATSOEVER WHAT
11 ACTIVITIES THE DEFENSE DID OR DID NOT ENGAGE IN IN TUCSON,
12 ARIZONA, ONCE WE BECAME AWARE OF THE EXISTENCE OF THE
13 CANCHOLA AND LOPEZ PERSONS.

14 MR. WAPNER SAYS "YOU SEE, THEY DIDN'T PROVE TO
15 YOU WHAT THEY DID DOWN IN TUCSON AFTER THESE PEOPLE BECAME
16 KNOWN TO US."

17 WELL, THERE WAS NO TESTIMONY AT ALL WHAT WE DID
18 DOWN THERE.

19 MR. WAPNER: WELL, I THINK A REASONABLE INFERENCE CAN
20 BE DRAWN THAT HAD THAT STUFF BEEN DONE, WE WOULD HAVE HEARD
21 ABOUT IT.

22 MR. BARENS: WELL, YOUR HONOR, IF IT HAD BEEN DONE
23 UNSUCCESSFULLY, I WAS HARDLY GOING TO COME IN HERE AND TELL
24 THE JURY "WE COULDN'T FIND THEM."

25 THE COURT: HE IS JUST COMMENTING ON WHAT COULD HAVE
26 BEEN DONE BY YOUR CLIENT, THAT IS A LEGITIMATE COMMENT.

27 MR. BARENS: HOW DOES HE KNOW WHAT WE DID OR DIDN'T
28 DO?

1 THE COURT: I DON'T KNOW WHAT YOU DID OR DIDN'T DO.

2 MR. BARENS: I DON'T KNOW EITHER.

3 THE COURT: THEN YOU WOULD HAVE HAD TESTIMONY AS TO
4 WHAT YOU DID OR DIDN'T DO.

5 MR. BARENS: WOULD YOUR HONOR HAVE ENVISIONED I WOULD
6 HAVE TESTIMONY THAT I COULDN'T FIND HIM?

7 THE COURT: NO. YOU WOULD HAVE TESTIMONY AS TO WHATEVER
8 EFFORTS YOU MADE TO FIND THEM.

9 MR. BARENS: WHY?

10 THE COURT: FOR THE PURPOSE OF SHOWING THE MAN WHOM
11 THEY SAW IS LEVIN.

12 MR. BARENS: I FIND THAT A NON-SEQUITUR, YOUR HONOR.

13 THE COURT: I DON'T THINK IT IS A NON-SEQUITUR.

14 MR. BARENS: I SUBMIT THE MATTER.

15 THE COURT: INCIDENTALLY, THESE ARE THE TENTATIVE
16 INSTRUCTIONS I AM GOING TO GIVE, SO LOOK THEM OVER. DON'T
17 SEPARATE THEM.

18 DO YOU WANT TO LOOK THEM OVER?

19 MR. WARNER: THERE ARE A COUPLE OF OTHER ONES YOU ASKED
20 ME TO DRAFT THAT I HAVEN'T GIVEN TO YOU. WE NEED --

21 THE COURT: WELL, WE WILL GO OVER ALL OF THE INSTRUCTIONS
22 AFTER WE GET THROUGH WITH ARGUMENT.

23 MR. BARENS: COULD WE HAVE A CONFERENCE ON THAT, YOUR
24 HONOR?

25 THE COURT: YES, SURELY.

26 MR. BARENS: THANK YOU, YOUR HONOR.

27 (RECESS.)

28

1 (THE FOLLOWING PROCEEDINGS WERE HELD
2 IN OPEN COURT IN THE PRESENCE OF THE
3 JURY:)

4 THE COURT: ALL RIGHT. YOU MAY PROCEED.

5 MR. WAPNER: THANK YOU, YOUR HONOR. I AM GOING TO I
6 THINK, START WITH THE DEFENSE WITNESSES AND THEN WORK
7 BACKWARDS TO THE BEGINNING AGAIN, OF MR. BARENS' ARGUMENT.

8 BROOKE ROBERTS -- LET ME GIVE YOU AN EXAMPLE OF
9 HER TESTIMONY. I ASKED HER FIRST OF ALL AT THE BEGINNING OF
10 THE CROSS-EXAMINATION WHETHER SHE WAS AN ACTRESS AND WHETHER
11 SHE HAD GONE OVER THIS TESTIMONY. AND IN FACT, SHE DIDN'T
12 WANT TO ADMIT IT.

13 FIRST OF ALL, WELL, I AM COCKTAIL WAITRESS. WELL,
14 WHAT DO YOU DO? WELL, I AM A COCKTAIL WAITRESS. WHEN IN FACT,
15 WHAT SHE IS, IS AN ACTRESS WHO IS MAKING MONEY AT THE MOMENT,
16 WORKING AS A COCKTAIL WAITRESS.

17 A LOT OF IT WAS IN FACT, REHEARSED TESTIMONY. THE
18 TESTIMONY WAS REHEARSED. BUT THERE WERE TIMES WHEN SHE THOUGHT
19 MAYBE SHE SHOULD KNOW AND ANSWER AND SHE DIDN'T AND SHE GOT
20 A LITTLE STUCK.

21 LIKE FOR EXAMPLE, BEING ASKED THE QUESTION:

22 "Q NOW UP TO THAT POINT, HAD YOU HEARD
23 ANYTHING ABOUT RON LEVIN BETWEEN THE DATE THAT JOE
24 WENT TO DINNER, PURPORTEDLY WENT TO DINNER WITH
25 HIM ON JUNE THE 6TH AND THE DATE THAT YOU SAW
26 JOE HUNT COME BACK FROM LONDON AND HE WAS ON THE
27 BED?"

28 AND OF COURSE, WHENEVER YOU GET A LITTLE BIT

1 STUCK, YOU ANSWER A QUESTION WITH A QUESTION. AND THE ANSWER
2 WAS:

3 "DID I HEAR ANYTHING ABOUT HIM?

4 "Q RIGHT. ANYTHING ABOUT HIM? HIS NAME?
5 ANYTHING?

6 "A YEAH. I THINK I DID. YEAH.

7 "Q WHAT?

8 "A I DON'T KNOW.

9 "Q WELL, IF YOU THINK YOU HEARD SOMETHING,
10 WHAT IS IT YOU THINK YOU HEARD?

11 "A I CAN'T MAKE SOMETHING UP RIGHT NOW.
12 I DON'T KNOW."

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1 AND THEN THE NEXT QUESTION WAS:

2 "IF I GIVE YOU SOME TIME, CAN YOU MAKE
3 SOMETHING ELSE UP?"

4 AND THE ANSWER IS:

5 "NO."

6 BUT THE POINT IS THAT SHE GOT A LITTLE STUCK
7 IN TERMS OF NOT KNOWING WHAT TO SAY.

8 THERE ARE SOME OTHER THINGS THAT I THINK YOU
9 HAVE TO LOOK AT VERY CAREFULLY WHEN YOU LOOK AT THE EVIDENCE
10 AND WHEN I SAID TO YOU BEFORE THAT I THOUGHT YOU SHOULD
11 EXAMINE CLOSELY THE EVIDENCE AND THAT MR. BARENS WAS PLAYING
12 FAST AND LOOSE WITH THE EVIDENCE, I THINK HE WAS, BECAUSE
13 YOU DON'T LOOK AT PIECES OF EVIDENCE IN A VACUUM.

14 YOU DON'T SAY, "WELL, LOOK AT THIS ONE PIECE
15 OF EVIDENCE, WHAT INFERENCE CAN YOU DRAW FROM THAT?"

16 WHEN YOU TAKE A CASE SUCH AS THIS, THAT IS BASED
17 LARGELY ON CIRCUMSTANTIAL EVIDENCE, YOU LOOK AT ALL OF THE
18 FACTS AND YOU PUT THEM TOGETHER AND THEN YOU FIND OUT WHAT
19 THE INFERENCES ARE THAT YOU CAN DRAW FROM ALL OF THE FACTS.

20 IF YOU LOOK AT ANY ONE FACT IN ISOLATION OR
21 WITHOUT CROSS-EXAMINATION, THEY LOOK PRETTY GOOD. BUT WHEN
22 YOU HAVE TO PUT THEM TOGETHER WITH OTHER THINGS, THAT IS
23 WHEN YOU HAVE TO CRITICALLY EXAMINE THE FACTS.

24 AND I WILL SUBMIT TO YOU, THIS IS JUST -- THIS
25 IS KIND OF AN ASIDE ABOUT THE FACT THAT MR. BARENS WASN'T
26 BEING CAREFUL IN SCRUTINIZING THE FACTS. HE SAID, "WELL,
27 THE \$5,000 CHECK FROM SECURITY BANK WAS IN THE MAIL."

28 YOU HAVE GOT TO PAY CAREFUL ATTENTION TO THE

1 FACTS AND TO MAKE SURE YOU GET THE FACTS RIGHT. THE \$5,000
2 CHECK WASN'T IN THE MAIL BECAUSE THE \$5,000 CHECK CAME IN
3 A LETTER IN THE MAIL OF JUNE 5TH, THAT WAS RECEIVED IN THE
4 MAIL AND IT SAYS "CREDIT TO THE ACCOUNT OF THE WITHIN PAYEE,
5 OLYMPIC NATIONAL BANK" AND IT WAS THERE AT OLYMPIC NATIONAL
6 BANK ON JUNE THE 6TH. THIS WAS THE CHECK THAT YOU REMEMBER
7 WAS DEPOSITED AND THAT EVENTUALLY BECAME PART OF THE \$14,000
8 AT PRUDENTIAL-BACHE.

9 THE ONLY POINT OF THAT IS, YOU HAVE TO BE CAREFUL
10 WITH THE FACTS. YOU CAN'T JUST PLAY FAST AND LOOSE WITH
11 THE FACTS.

12 SO TAKE BROOKE ROBERTS' TESTIMONY ABOUT, FOR
13 EXAMPLE, THE FACT THAT THIS WAS GOING TO BE A MADE-UP
14 MURDER, "WE WERE JUST DISCUSSING THIS, BUT JOE HUNT AND DEAN
15 KARNY WERE ONLY TALKING ABOUT, 'IT IS A JOKE, LET'S JUST
16 SAY THAT WE KILLED SOMEBODY.'"

17 NOW FIRST OF ALL, WHEN DID SHE SAY THAT THAT
18 OCCURRED? SHE SAID THAT IT WAS TOWARD THE END OF THE WEEK
19 THAT PRECEDED THE MEETING. THE MEETING WAS ON SUNDAY, JUNE
20 THE 24TH OF 1984, SO THE STATEMENT THAT SHE IS TALKING ABOUT,
21 IF YOU COUNT BACK, SATURDAY WAS THE 23RD, FRIDAY WAS THE
22 22ND, IT WAS SOMETIME TOWARD THE END OF THAT WEEK. WELL,
23 THIS IS WHEN THEY ARE SAYING, "ALL RIGHT, LET'S JUST MAKE
24 THIS UP." THERE ARE A FEW BIG PROBLEMS WHEN YOU START TO
25 PUT THAT TOGETHER WITH THE OTHER EVIDENCE IN THE CASE.
26 FOR EXAMPLE, AT LEAST AT THE BEGINNING OF THAT WEEK AND MAYBE
27 THE END OF THE LAST WEEK, JOE HUNT TOOK TOM MAY TO THE BANK
28 AND HE SAID, "YOU ARE GOING TO FIND OUT SOONER OR LATER,

1 I KILLED RON LEVIN." THIS IS WAY BEFORE BROOKE SAYS THAT
2 THEY ARE SUPPOSEDLY THINKING OF THE IDEA OF TELLING PEOPLE
3 THAT HE KILLED HIM JUST FOR EFFECT.

30
1 AND NOT ONLY THAT, WHICH HAPPENED AROUND THE 18TH
2 OR A LITTLE BEFORE, BUT BETWEEN THE 7TH AND THE 11TH OF JUNE,
3 JOE HUNT WALKS DEAN KARNY AROUND WESTWOOD AND MAKES A DETAILED
4 CONFESSION TO HIM OF A MURDER.

5 THEY ARE NOT WALKING AROUND WESTWOOD WITH HIM
6 SAYING DEAN, DO YOU THINK WE OUGHT TO TELL PEOPLE OF A MURDER?
7 NO, NOTHING LIKE THAT.

8 SO, THESE ARE WAY BEFORE SHE SAYS THAT DEAN AND
9 JOE ARE TALKING ABOUT FABRICATING SOME STORY ABOUT CLAIMING
10 THAT THEY KILLED HIM.

11 LOOK AT IT IN YET ANOTHER CONTEXT. RON LEVIN IS
12 LAST SEEN ALIVE AT 7 O'CLOCK IN THE EVENING ON JUNE 6TH. AND
13 HE IS LAST SPOKEN TO SOMEWHERE AROUND 9 O'CLOCK IN THE EVENING.
14 WE'LL GET TO THAT IN A LITTLE BIT, ON THAT DATE.

15 BEFORE THE 10TH OR 11TH OF JUNE, JOE HUNT HAS
16 ALREADY CONFESSED THE MURDER TO DEAN KARNY. BUT NOT ONLY THAT,
17 AFTER THE 11TH, JOE HUNT LEAVES. HE IS SO FAR FROM THE 6TH
18 OF JUNE -- HE HAS PLACED ONE TELEPHONE CALL TO RON LEVIN.
19 THAT IS ON THE 8TH. YOU WILL HAVE THAT PHONE MESSAGE.

20 AND THEN HE LEAVES. JOE HUNT LEAVES AND HE GOES
21 TO NEW YORK. THEN HE GOES TO LONDON. AND HE COMES BACK FROM
22 LONDON ON THE 16TH OF JUNE OF 1964.

23 AND AS I POINTED OUT TO YOU, I GUESS IT WAS
24 MONDAY, HE DIDN'T CALL. HE FOUND OUT THE CHECK WAS NO GOOD.

25 HE DOESN'T CALL LEVIN ON THE 16TH, 17TH OR 18TH.
26 AND ON THE 19TH, HE PLACES TWO CALLS TO LEVIN. SO OSTENSIBLY,
27 BETWEEN JUNE THE 7TH AND THE 19TH, HE HAS NOW CALLED THREE
28 TIMES TO LEVIN.

30- 1 THERE IS NO EVIDENCE THAT HE HAS WRITTEN HIM OR
2 DONE ANYTHING ELSE. AND YET, BROOKE SAYS THAT BY SOMETIME
3 AROUND THE 20TH OR 21ST OR 22ND OF JUNE, HE IS PLANNING TO
4 CLAIM TO THIS MEETING THAT HE KILLED LEVIN.

5 HOW DOES HE KNOW WHAT HAPPENED TO LEVIN? HE HAS
6 CALLED A TOTAL OF THREE TIMES SINCE THEN. HOW DOES HE KNOW
7 WHERE THE HELL LEVIN IS?

8 WHAT IS HE GOING TO CLAIM HE KILLED HIM IF HE
9 DOESN'T KNOW AT THAT POINT THAT HE IS MISSING, ACCORDING TO
10 HER TESTIMONY? IF YOU EXAMINE IT, THAT IS WHAT IT MEANS.

11 YET, HE IS PLANNING ON CONCOCTING THIS STORY.
12 WHAT IS THE PURPOSE OF CONSTRUCTING THIS STORY? WHAT WERE
13 YOU TOLD ALL ALONG WAS THE GREAT PURPOSE OF CONCOCTING THIS
14 STORY TO TELL THE MEETING?

15 IT WAS TO MAKE HIM LOOK LIKE A TOUGH GUY. NOW,
16 HE HAS CALLED LEVIN A TOTAL OF THREE TIMES. AND WHAT HAPPENED
17 ON THE 24TH, IF HE GOES TO THE MEETING AND HE SAYS, THIS
18 TOUGH GUY, I KNOCKED OFF RON LEVIN.

19 AND ON THE 25TH, LEVIN SHOWS UP. BUT, JOE DIDN'T
20 HAVE TO WORRY ABOUT THAT, DID HE? BECAUSE HE KNEW THAT LEVIN
21 WAS NOT GOING TO SHOW UP.

22 AND THE ONLY REASON THAT HE KNEW THAT LEVIN WAS
23 NOT GOING TO SHOW UP, IS BECAUSE HE AND JIM PITTMAN KILLED
24 HIM. THE OTHER THING THAT IS IMPORTANT TO DO IN TERMS OF
25 EXAMINING HER TESTIMONY IS, YOU HAVE TO PUT IT TOGETHER AGAIN
26 WITH THE TESTIMONY OF OTHER WITNESSES.

27 NOW, SHE CLAIMS THAT JOE HUNT SAID, "I AM GOING
28 TO DINNER WITH RON LEVIN AT RON'S FAVORITE RESTAURANT,

1 LA SCALA."

2 NOW, OF COURSE YOU KNOW AND I KNOW THAT IF HE HAD
3 SAID THIS TO HER IN JUNE OF 1984 AND HE WAS ARRESTED IN
4 OCTOBER AND NOT HAVING GONE TO TUCSON, THEY WOULD HAVE OR
5 SHOULD HAVE BEAT FEET TO LA SCALA RIGHT THEN, WHICH IS NOW
6 ONLY A FEW MONTHS AFTERWARDS.

7 THEY WOULD HAVE SAID TO FIND THE WAITER, FIND THE
8 RESERVATION, FIND THE RECEIPTS AND SAY THAT LEVIN AND HUNT
9 WERE AT DINNER AT LA SCALA THAT NIGHT. NOPE.

10 LET'S JUST RELY ON HER TESTIMONY THAT SHE SAID
11 JOE TOLD ME THEY WERE GOING TO LA SCALA. SO FIRST OF ALL,
12 THEY DIDN'T DO ANYTHING TO BACK IT UP.

13 MR. BARENS: OBJECTION, YOUR HONOR.

14 THE COURT: GO AHEAD. THE JURY IS THE JUDGE AS TO WHAT
15 THE TESTIMONY IS. THEY ARE TO ACCEPT IT THE SAME WAY THEY
16 ACCEPT ALL TESTIMONY. THEY WILL EVALUATE IT. GO AHEAD.

17 MR. WARNER: SECOND OF ALL, SHE SAYS THAT THEY LEFT TO
18 GO TO DINNER AND THAT HE PURPORTEDLY WENT TO DINNER WITH LEVIN
19 AND ACCORDING TO HER TESTIMONY, HUNT WAS ALREADY BACK AT THE
20 APARTMENT BY AROUND 9:30.

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1 INCIDENTALLY, NOT ONLY DO I THINK THAT MR. BARENS
2 WAS PLAYING FAST AND LOOSE WITH THE FACTS, BUT OCCASIONALLY,
3 HE WAS TESTIFYING DURING HIS ARGUMENT BECAUSE I DON'T RECALL --
4 AND MAYBE YOUR RECOLLECTION IS DIFFERENT AND IF IT IS, YOU
5 GO WITH YOUR RECOLLECTION -- ANY TESTIMONY WHATSOEVER ABOUT
6 THE RUNNING TIME OF THIS MOVIE. IF THERE WAS, THEN I MISSED
7 IT. BUT TO ME, THAT IS JUST A STATEMENT IN ARGUMENT THAT
8 IS TESTIMONY OF MR. BARENS AND DIDN'T COME OUT IN THE TRIAL.
9 THAT IS JUST AN EXAMPLE OF THE KIND OF ARGUMENT THAT WAS
10 BEING MADE TO YOU.

11 BUT SHE SAYS THAT SHE WENT TO THE MOVIE AND SHE
12 CAME BACK AND THAT MR. HUNT WAS ALREADY THERE BRUSHING HIS
13 TEETH BY 10:00 O'CLOCK, WHICH WOULD LEAD YOU TO THE INFERENCE
14 THAT HE AND MR. LEVIN HAD LONG SINCE CONCLUDED THEIR DINNER
15 AT LA SCALA.

16 SO WHAT ARE WE TALKING ABOUT, MAYBE A 7:30 DINNER
17 RESERVATION, SOMETHING LIKE THAT? MAYBE EARLIER. CERTAINLY
18 NO LATER THAN 8:00 O'CLOCK.

19 AND YET, YOU HAVE TO LOOK AT THE TESTIMONY OF
20 THE OTHER WITNESSES. LEVIN TALKED TO TWO PEOPLE ON THE PHONE,
21 AS MR. BARENS IS VERY FOND OF TELLING YOU, THAT YOU HAVE TO
22 EXAMINE VERY CAREFULLY, AND I THINK YOU SHOULD EXAMINE, BECAUSE
23 ONE OF THE THINGS HE LEFT OUT IN EXAMINING THEIR TESTIMONY
24 WAS WHAT IT WAS THEY TESTIFIED ABOUT. NOT JUST THE FACT
25 THAT THEY WERE CALLED ON THE PHONE BUT WHAT WAS THE CONTENT
26 OF THE TWO TELEPHONE CALLS.

27 AND IT IS ALSO IMPORTANT IN, ONE, FIGURING OUT
28 WHETHER BROOKE ROBERTS IS TELLING YOU THE TRUTH AND, TWO,

1 WHAT WAS GOING ON WITH LEVIN THAT NIGHT, AND WHICH OF THOSE
2 TWO TELEPHONE CALLS WAS MADE FIRST?

3 BECAUSE MICHAEL BRODER SAYS THAT LEVIN CALLED
4 HIM AROUND 9:00 O'CLOCK, HE SAID BETWEEN 9:00 AND 9:30. AND
5 WHAT DID HE SAY? REMEMBER WHAT THE CONTENT WAS: "COME OVER.
6 WE WILL GO TO DINNER AND THEN YOU CAN SPEND THE NIGHT AND
7 THEN WE WILL LEAVE THE NEXT MORNING."

8 IF LEVIN HAS ALREADY EATEN AT LA SCALA, WHY DOES
9 HE SAY TO BRODER ON THE PHONE AROUND 9:00, "COME OVER, WE
10 WILL GO TO DINNER"?

11 NOT TO MENTION THAT LATER, THERE ARE FOOD
12 CONTAINERS FOUND AT LEVIN'S HOUSE, CONSISTENT WITH THE PLAN
13 WHICH WAS FOR JOE HUNT TO GO OVER AND TAKE DINNER OVER THERE.

14 SO WHEN YOU PUT MICHAEL BRODER'S TESTIMONY THAT
15 MR. BARENS STANDS BY, TOGETHER WITH BROCKE ROBERTS' TESTIMONY,
16 SHE CAN'T POSSIBLY BE TELLING YOU THE TRUTH, NOT TO MENTION
17 ALL OF THE THINGS I MENTIONED THE OTHER DAY ABOUT HER INHERENT
18 BIAS IN THE CASE.

19 NOW, LET'S LOOK AT THE OTHER PHONE CALL THAT
20 WAS MADE THAT NIGHT. THAT WAS BY DEAN FACTOR AND FACTOR
21 SAYS THAT IT WAS 9:00 O'CLOCK. WELL, JUST AS WITH CHINO
22 AND CARMEN AT THE GAS STATION AND THE ESTIMATE OF THE 20
23 MINUTES, IN MY ESTIMATE OF HOW LONG MR. BARENS WAS GOING
24 TO TALK THIS AFTERNOON AND YOU KNOW FROM YOUR OWN EXPERIENCE
25 THAT PEOPLE -- SOME PEOPLE ARE GREAT AT IT, BUT MOST PEOPLE
26 ARE NOT GOOD AT ESTIMATING TIME AND FACTOR SAID IT WAS
27 9:00 O'CLOCK WHEN THE CALL WAS MADE AND BRODER SAID IT WAS
28 9:00 TO 9:30, WHICH WOULD LEAD YOU TO CONCLUDE ON FACE VALUE

31-3

1 THAT BRODER'S CALL -- THAT THE CALL THAT LEVIN MADE TO BRODER
2 MUST HAVE BEEN LATER, RIGHT?

3 BUT YOU CAN'T FORGET THE CONTENT OF THE TELEPHONE
4 CALL.

5 IT IS GETTING TOUGH FOR ME TO STICK BY THIS
6 PODIUM.

7 THE CONTENT OF THE CALL, LEVIN CALLED TO BRODER
8 WHICH WAS "COME OVER, WE WILL HAVE SOME DINNER." BUT WHAT
9 WAS THE CONTENT OF THE CALL OF THE CONVERSATION THAT DEAN
10 FACTOR HAD WITH RON LEVIN? THE CONTENT OF THAT CALL WAS
11 FACTOR CALLING UP AND SAYING, TO CONFIRM EVERYTHING WAS OKAY,
12 AND WHAT DOES LEVIN SAY?

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1 LEVIN SAYS, "HE SAID --" THIS IS FACTOR TALKING --
2 "J CALLED HIM AND I ASKED HIM IF EVERY-
3 THING WAS SET FOR GOING TO NEW YORK."

4 I AM SORRY. THAT WAS AN ANSWER TO A PREVIOUS
5 QUESTION.

6 "WHAT DID HE SAY?"

7 "AND THEN HE SAID EVERYTHING IS FINE.
8 HE HAS TO HANG UP, HE IS SLEEPING. HE WILL SEE
9 ME IN THE MORNING."

10 "Q DID HE APPEAR TO WANT TO GET OFF THE
11 PHONE?"

12 "A YES."

13 AND THEN HE SAYS THAT HE FOUND IT UNUSUAL THAT
14 HE WAS SLEEPING AT 9:00 O'CLOCK.

15 AND I ASKED HIM HOW LONG THE CONVERSATION TOOK
16 AND HE SAID IT WAS VERY SHORT, JUST -- "I ASKED HIM IF EVERY-
17 THING WAS OKAY TO GO TO NEW YORK" AND THEN HE REPLIED WITH
18 A STATEMENT THAT WAS THE STATEMENT:

19 "Q HE REPLIED WHAT?"

20 "A HE SAID, "I AM SLEEPING AND I HAVE TO
21 HANG UP. EVERYTHING IS FINE. I WILL SEE YOU
22 TOMORROW."

23 NOW, IF THAT CALL CAME FIRST AND HE SAID, "I
24 AM SLEEPING," WHY, HALF AN HOUR LATER, IF THAT IS WHAT IT
25 WAS, DOES HE CALL BRODER AND SAY, "COME OVER TO DINNER"?

26 WELL, WHAT I SUBMIT TO YOU IS THAT WHEN YOU
27 EXAMINE THE CONTENT OF THOSE TWO PHONE CALLS, IN FACT THE
28 PHONE CALL THAT MICHAEL BRODER MADE -- EXCUSE ME -- LEVIN

1 MADE TO MICHAEL BRODER CAME FIRST, WHERE HE WAS ASKING HIM
2 ABOUT GOING TO DINNER, HE IS OBVIOUSLY AWAKE AND THE PHONE
3 CALL AT AROUND 9:00 THAT DEAN FACTOR MAKES TO RON LEVIN WAS
4 MADE AT A TIME WHEN JOE HUNT AND JIM PITTMAN WERE ALREADY
5 THERE.

6 WHY WAS HE SHORT WITH HIM ON THE PHONE? WHY
7 DOES HE SAY "I HAVE GOT TO HANG UP. EVERYTHING IS OKAY.
8 I HAVE GOT TO HANG UP. I HAVE GOT TO GET OFF THE PHONE."

9 THIS "I HAVE GOT TO GET OFF THE PHONE" STATEMENT,
10 THIS FROM A GUY WHO LOVED THE PHONE, HE WAS ALWAYS ON THE
11 PHONE. WHY WAS HE ALL OF A SUDDEN RUSHED TO GET OFF THE
12 PHONE? BECAUSE AT APPROXIMATELY THAT TIME, JOE HUNT AND
13 JIM PITTMAN WERE ALREADY THERE.

14 SO JUST DONT SKIM OVER THE TESTIMONY. I AM SURE
15 YOU WON'T. YOU HAVE TO EXAMINE IT IN SOME GREAT DETAIL.

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1 ANOTHER EXAMPLE OF HOW MR. BARENS WAS PLAYING FAST
2 AND LOOSE WITH THE FACTS IS WHEN HE WAS TALKING ABOUT THE MONEY.
3 HE WAS SAYING THAT THE \$15,000 AT SECURITY PACIFIC WAS ALL
4 TIED UP WHICH WAS NOT TRUE BECAUSE WE KNOW HE GOT \$5,000 OF
5 IT AND HE WAS GOING TO GET -- HE KNEW HE WAS GOING TO GET THE
6 \$10,000 BACK.

7 SO, SOME THINGS LIKE I TOLD YOU, I THINK WERE JUST
8 DEAD-BANG WRONG.

9 MR. BARENS SAID THAT HE WAS DRAINING ALL HIS ASSETS
10 AND PREPARING FOR DEPARTURE. WHAT DOES HE MEAN DRAINING ALL
11 HIS ASSETS? WE HAVE TALKED ABOUT THE FACT THAT MR. OSTROVE
12 MARSHALED ALL OF HIS ASSETS. ALL OF HIS ASSETS IN TERMS OF
13 CASH WERE \$36,000 THAT WEREN'T DRAINED. THEY WERE JUST LEFT
14 SITTING THERE.

15 THE OTHER THING -- SOMETIMES I LISTENED TO THIS
16 ARGUMENT THAT MR. BARENS MADE AND I SAID, DID HE HEAR THE SAME
17 CASE THAT I HEARD? HE TOOK A LIFE-LONG RELATIONSHIP BETWEEN
18 RON LEVIN AND HIS MOTHER AND REDUCED IT TO WHAT HE CLAIMS WAS
19 AN INSCRIPTION FROM A HALLMARK CARD.

20 FIRST OF ALL, THERE WASN'T ANY EVIDENCE THAT THERE
21 WAS AN INSCRIPTION FROM A HALLMARK CARD. BUT THAT IS NOT THE
22 POINT.

23 THE POINT IS THAT HE DIDN'T HEAR THE SAME CASE.
24 HE SAID WELL, LEVIN ONLY SAID ME FIRST.

25 BUT, HE TALKED TO HIS MOTHER. HE CALLED HER AT
26 THE VERY LEAST, ONCE A WEEK AND SOMETIMES MORE OFTEN AND SHE
27 CALLED HIM TWO OR THREE TIMES A WEEK, AT LEAST. THIS IS NOT
28 A RELATIONSHIP WITH SOMEBODY THAT WAS ON A HALLMARK CARD. HE

32A
1 JUST DIDN'T HEAR THE SAME CASE.

2 YOU CAN TWIST THE FACTS ANY WAY YOU WANT. YOU
3 JUST REORIENT YOUR PERSPECTIVE. YOU SHIFT YOUR FOCUS. YOU
4 RECONCILE YOURSELF TO SAY ANYTHING YOU WANT TO SAY. AND MAYBE
5 IT IS PRETTY POWERFUL BECAUSE SOME OF THE THINGS HE SAID, I
6 COULDN'T BELIEVE.

7 I MEAN, WHEN YOU REORIENT YOUR PERSPECTIVE AND
8 YOU RECONCILE YOURSELF TO SAYING ANYTHING YOU WANT, THEN YOU
9 CAN SAY THINGS THAT I AM TELLING YOU I WOULD HAVE A LOT OF
10 TROUBLE SAYING TO YOU WITH A STRAIGHT FACE.

11 THAT IS, THAT RON LEVIN TOOK SOME COMFORTER AND
12 A SHEET SO HE COULD GO TO A MOTEL AND SLEEP AND BE COMFORTABLE?
13 IF I HAD NOT -- IF I WAS NOT HERE, IF I DIDN'T HEAR THAT, I
14 WOULDN'T HAVE BELIEVED HE COULD SAY IT WITH A STRAIGHT FACE.
15 I CAN'T. I MEAN, IT IS JUST TO ME, UNBELIEVABLE.

16 NOW, WHY -- WHY DO YOU SAY THINGS LIKE THAT? WHY
17 DO YOU TALK ABOUT GRASPING AT STRAWS AND STRAINING FOR THINGS?

18 YOU SAY THINGS LIKE THAT BECAUSE THERE IS NO OTHER
19 REASONABLE EXPLANATION OTHER WHEN YOU PUT IT TOGETHER WITH
20 ALL OF THE FACTS THAT JOE HUNT AND CUM PITTMAN WRAPPED RON
21 LEVIN UP IN THAT COMFORTER AND A SHEET AND TOOK HIM OUT AND
22 PUT HIM IN THE TRUNK AND DROVE HIM TO SILEDAD CANYON AND
23 SHOT UP HIS BODY WITH A SHOTGUN.

24 HERE IS ANOTHER GREAT EXAMPLE OF SHIFTING YOUR
25 FOCUS AND TRYING TO MAKE ONE THINK -- YOU SHIFT AWAY FROM ONE
26 THING AND INTO ANOTHER AND KIND OF TALK OUT OF BOTH SIDES OF
27 YOUR MOUTH AT THE SAME TIME.

28 THE INVESTIGATION IN THIS CASE WAS BIASED BECAUSE?

2A 7
1 THEY DIDN'T GET THE TYPEWRITER AND EXAMINE THE TYPEWRITER TO
2 SEE IF THAT CHECK WAS TYPED ON THAT TYPEWRITER. BUT, HE
3 ADMITS BY THE TESTIMONY OF HIS WITNESSES THAT HIS PLAN WAS
4 TO GO TO LEVIN'S THAT NIGHT AND GET THE CHECK THAT NIGHT.

5 WELL, WHERE DOES HE THINK THE TYPEWRITER WAS? WAS
6 IT TYPED AT THE BACKROOM OF LA SCALA? HE CAN'T HAVE IT BOTH
7 WAYS.

8 BUT IT IS A WAY OF -- LET'S MAKE HIM LOOK BAD.
9 LET'S MAKE DETECTIVE ZOELLER LOOK BAD. IF WE CAN THROW ENOUGH
10 MANURE ON THE CASE, THEN WE CAN CREATE A REASONABLE DOUBT.
11 BUT HE WANTS TO HAVE IT BOTH WAYS.

12 OF COURSE THE CHECK WAS TYPED AT -- I MEAN, BY
13 THEIR THEORY OF THE CASE. I AM TELLING YOU FROM THE
14 BEGINNING THAT I SAT HERE AND I DON'T THINK THERE IS A UNIFIED
15 THEORY OF THE DEFENSE FROM THE BEGINNING OF THE CASE TO THE
16 ARGUMENT.
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1 THE PILLOW WAS PART OF THE ARGUMENT, AT LEVIN'S
2 PLACE. AGAIN, I AM AT SOMEWHAT OF A DISADVANTAGE BECAUSE I
3 THINK WE HAVE A BEDDING EXPERT ON THE JURY. BUT IN ANY EVENT,
4 I WANT YOU TO LOOK AT THESE PILLOWS. THERE ARE TWO PICTURES
5 OF PILLOWS, 126 AND 9.

6 AND THERE ARE THREE PILLOWS CLEARLY VISIBLE IN
7 THIS CASE -- I MEAN, ON THIS BED. ALL OF THE PILLOWS HAVE
8 CASES ON THEM. AND THEN THERE IS SOMETHING THAT APPEARS TO
9 GO ALL OF THE WAY FROM ONE END OF THE BED TO THE OTHER, WHICH
10 IS IN THE NATURE OF A PILLOW BUT IN ESSENCE, IT IS ALMOST LIKE
11 A BACKREST.

12 I THINK WHEN YOU EXAMINE THOSE PHOTOGRAPHS
13 CAREFULLY, YOU WILL SEE THAT THAT IS WHAT IS THERE. YOU MAY
14 NOT BE ABLE TO DO IT ENTIRELY NOW, BUT THERE IS NO WAY THAT
15 YOU CAN SAY THERE ARE FOUR PILLOWS ON THIS BED.

16 BECAUSE THERE ARE THREE THAT ARE CLEARLY VISIBLE
17 AND THEN THERE IS SOMETHING THAT IS EITHER ONE THING THAT GOES
18 ALL OF THE WAY FROM ONE END OF THE BED TO THE NEXT OR IT IS
19 FIVE PILLOWS.

20 THE BOTTOM LINE OF ALL OF THIS OF COURSE IS THAT
21 THE MAIN THING IS THAT WHEN BLANCHE STURKEY WENT THERE THAT
22 MORNING, SHE LOOKED INTO THE ROOM AND SHE NOTICED THAT THERE
23 WERE THINGS THAT WERE WRONG AND DEFINITELY ODD.

24 AND SHE SAYS THAT -- I ASKED HER, "WHAT ELSE DID
25 YOU NOTICE?" AND SHE SAID THEN SHE STARTED TO CHECKING AND
26 THEN THE PILLOW WAS GONE AND THE TOP SHEET WAS GONE AND THAT
27 WAS UP ON TOP OF THE COMFORTER.

28 SO SHE WALKED IN THERE INTO THAT ROOM. SHE STARTED

1 NOTICING IMMEDIATELY THAT THINGS WERE WRONG.

2 AND ONE OF THE THINGS SHE NOTICED WAS THAT THERE
3 WAS A PILLOW MISSING. THREE PILLOWS OR FIVE PILLOWS, SHE KNEW
4 THEN HOW MANY PILLOWS THERE WERE.

5 SHE KNEW THERE WAS A PILLOW MISSING. I ALSO DOUBT
6 THAT AFTER TWO AND A HALF MONTHS OF TRIAL OR SOMETHING, THAT
7 THE CASE IS PROBABLY GOING TO TURN ON HOW MANY PILLOWS THERE
8 ARE OR HOW MANY PILLOWS THERE WEREN'T.

9 BUT I THINK IT IS IMPORTANT FOR YOU TO EXAMINE
10 THOSE TWO PHOTOGRAPHS THAT ARE PEOPLE'S 9 AND 126.

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1 AND IT IS INTERESTING -- I CAN'T FIND THIS PART.
2 I DIDN'T LOOK ACTUALLY FOR THIS PART IN THE TRANSCRIPT BUT
3 I HAVE A PRETTY VIVID RECOLLECTION OF MR. BARENS ASKING MISS
4 STURKEY ON THE STAND AND SAYING, SHE OR ONE OF THE PEOPLE,
5 I DON'T KNOW IF IT WAS HER, BECAUSE I THINK SHE WAS GONE
6 ALREADY BY THIS POINT.

7 "DON'T YOU SEE FIVE PILLOWS IN THIS PICTURE?"
8 AND "I THINK THERE IS TWO PILLOWS," WHICH LENDS MORE CREDENCE
9 TO THE THEORY THERE IS ALMOST LIKE A BOLSTER GOING ACROSS
10 THE BACK.

11 AND THIS IS ANOTHER GREAT SMOKESCREEN, PARADOX
12 PHILOSOPHY TECHNIQUE. THE CLEANERS TOOK THE COMFORTER. WELL,
13 TALK ABOUT REACHING. FIRST OF ALL, THE CLEANERS DON'T COME
14 UNTIL FRIDAY SO THIS WAS ALREADY JUNE THE 7TH, WHICH WAS
15 A THURSDAY, SO IF HE LEFT IT FOR THE CLEANERS, IT WOULD STILL
16 BE THERE. IF THAT WEREN'T ENOUGH, THE CLEANERS DON'T JUST
17 PICK UP THINGS. THEY DELIVER THEM, TOO. SO IF THE CLEANERS
18 HAD HAD IT, THEY WOULD HAVE BROUGHT IT BACK AND IT NEVER
19 CAME BACK SO YOU CAN BE SURE THAT THE CLEANERS DON'T HAVE
20 THE COMFORTER.

21 AND AGAIN AND AGAIN, WHEN YOU THINK ABOUT THE
22 THINGS THAT MR. BARENS TELLS YOU, IT IS GREAT TO SAY WE DON'T
23 HAVE TO CALL WITNESSES AND WE DON'T HAVE TO PROVE ANYTHING,
24 BUT BEFORE YOU ALLOW YOURSELF TO DRAW INFERENCES BASED ON
25 WHAT HE SAYS, INSIST ON HAVING FACTS.

26 ANOTHER THING THAT YOU WERE TOLD IS THAT MR.
27 HUNT, CONTRARY TO WHAT IT SAYS ON THE LIST, DIDN'T -- HE
28 KNEW THAT HE WAS GOING TO GET THE \$1.5 MILLION AHEAD OF TIME

33-2

1 AND HE SAID TO FOCUS VERY CAREFULLY ON THE TESTIMONY OF JERRY
2 EISENBERG THAT IN FACT THAT 1.5 MILLION WAS IN THE CONTRACT
3 WHEN HUNT GAVE IT TO EISENBERG AND THAT IS VERY IMPORTANT,
4 BECAUSE IT WILL TELL YOU THAT HUNT KNEW THINGS EXACTLY BEFORE-
5 HAND, HOW MUCH HE WAS GOING TO GET AND THAT WHEN IT SAYS,
6 "DETERMINATION OF CONSIDERATION" ON THE LIST, YOU SHOULDN'T
7 PAY ANY ATTENTION TO THAT.

8 SO I THINK WE SHOULD TAKE MR. BARENS AT HIS WORD,
9 DON'T YOU? AND WE SHOULD FOCUS VERY CAREFULLY ON THE TESTIMONY
10 OF MR. EISENBERG AND MR. EISENBERG IN FACT SAYS, "WHEN JOE
11 HUNT BROUGHT ME THE CONTRACT AND IT WAS IN WRITTEN FORM,
12 IT HAD THE 1.5 MILLION DOLLAR THING IN THERE REGARDING THE
13 OPTION."

14 AND MR. EISENBERG SAYS "JOE HUNT CAME AND HE
15 SAYS 'SPICE IT UP WITH A LITTLE LEGAL LANGUAGE.'"

16 AND JERRY EISENBERG SAYS, "I DID SPICE IT UP
17 WITH A LITTLE LEGAL LANGUAGE."

18 AND THEN YOU HAVE TO LOOK CAREFULLY AT THE WAY
19 IT WAS THAT JERRY EISENBERG SAID THAT HE DID. LOOK AT THE
20 FACTS, TAKE MR. BARENS AT HIS WORD, EXAMINE THEM CAREFULLY.

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21 HE SAID, "WHEN YOU MADE YOUR AMENDMENTS OR
22 ADDITIONS TO THE CONTRACT, WOULD YOU HELP TAKE ME THROUGH
23 THAT WORK YOU DID ON IT?"

24 "A TO MY RECOLLECTION, I ADDED THE FOURTH
25 PARAGRAPH TALKING ABOUT DIRECT LABOR COSTS AND,
26 TRUTHFULLY, JUST CHANGED A FEW WORDS. THE PRECISE
27 MEANING AND THE PRECISE WORDS, I DON'T REMEMBER.

28 "I KNOW I MADE A FEW MODIFICATIONS AND

33-3

1 I KNOW I ADDED THIS PARAGRAPH IN BECAUSE I WAS
2 TAKING THAT AT THAT TIME AT MANAGEMENT SCHOOL SO
3 I INCORPORATED IT."

4 AND THAT IS WHAT HE SAID HE DID: HE ADDED A
5 FEW WORDS AND HE CHANGED A FEW WORDS AND HE ADDED THE FOURTH
6 PARAGRAPH. WELL, WHAT DOES THAT MEAN WHEN YOU CLOSELY
7 EXAMINE THAT TESTIMONY? THAT MEANS THAT WHEN EISENBERG GOT
8 THE CONTRACT THAT IT HAD THE 1.5 MILLION AND HE FURTHER SAID
9 THAT WHEN HE FIRST GOT IT, THAT THERE WEREN NO BLANKS IN IT.
10 HE GOT IT AND IT SAID THE 1.5 MILLION AND IT DIDN'T HAVE
11 BLANKS AND HE DIDN'T CHANGE THE LANGUAGE. HE DIDN'T SUGGEST
12 ANYTHING ABOUT CHANGING THE LANGUAGE ABOUT THE 1.5 MILLION
13 OR THE BLANKS AND HE GAVE IT BACK TO JOE HUNT, WHO WAS IN
14 A HURRY BECAUSE, AS EISENBERG SAID, THERE WAS CLEARLY A
15 TIME PROBLEM.

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1 HE SAID BASICALLY THERE WAS A TIME ISSUE AND
2 "I ADDED A FEW LEGAL WORDS, STRAIGHTENED IT OUT AND ADDED
3 A COUPLE OF THINGS. I DELETED, I THINK, ONE OR TWO THINGS
4 AND I GAVE IT BACK TO JOE."

5 HE TALKED ABOUT WHAT THE TIME ISSUE WAS. HE
6 DOESN'T SAY ANYTHING ABOUT TAKING OUT THE WORDS 1.5 MILLION
7 OR PUTTING IN THE BLANKS. SO WHAT DOES THAT MEAN? WHEN
8 YOU GET THE FINISHED VERSION OF THE CONTRACT, IT HAS GOT
9 THE BLANKS IN IT.

10 DEAN KARNY SAID IT WAS THAT DAY AND THE DAY
11 BEFORE THAT JOE HUNT WAS WORKING ON THE LIST, SO WHO WAS
12 RESPONSIBLE FOR MAKING THE CHANGE TO PUT IN THE PART ABOUT
13 THE BLANKS -- I MEAN TAKE OUT THE PART ABOUT 1.5 MILLION?
14 LORIE LEIS? NO. DEAN KARNY? NO. JOE HUNT HAD TO BE THE
15 ONE WHO WAS WORKING ON THAT CONTRACT, WHO TOOK OUT THE
16 1.5 MILLION BECAUSE HE WASN'T SURE HOW MUCH LEVIN HAD.

17 HOW COULD ANYBODY BE SURE HOW MUCH LEVIN HAD?
18 AND HE TOOK THAT OUT SO HE COULD HAVE -- BE
19 PREPARED FOR THE CONTINGENCY.

20 WHAT IF LEVIN DOESN'T HAVE THE 1.5 MILLION? WHAT
21 IS HE GOING TO DO IF HE HAS A CONTRACT FOR 1.5 MILLION?
22 SCRATCH IT OUT? NO. HE PUTS IN THE BLANKS, IN THE WORDS
23 OF THE LIST, HE CAN DETERMINE THE AMOUNT OF THE CONSIDERATION.

24 THEN MR. BARENS SAID SOMETHING THAT I THOUGHT
25 WAS VERY INTERESTING: WHY WOULD JOE HUNT WANT A PERSONAL
26 CHECK FROM RON LEVIN AND WOULDN'T HE KNOW THAT THE BANK WAS
27 GOING TO CALL THE MAKER ON A PERSONAL CHECK?

28 WELL, HE GOT A PERSONAL CHECK AND HE WAS AWFUL

1 ECSTATIC ABOUT IT, ACCORDING TO BROOKE ROBERTS. HE DIDN'T
2 WAIT FOR IT TO CLEAR, AND HE CAME HOME AND HE WAS JUMPING
3 UP AND DOWN AND EVERYTHING. AND ACCORDING TO DEAN KARNY
4 AND JEFF RAYMOND AND TOM MAY, THE NEXT MORNING HE CAME OVER
5 AND SHOWED THEM THE CONTRACT AND THE CHECK AND HE WAS EXCITED.

6 AND FURTHER, WE HAVE GOT ALL OF THE RECORDS OF
7 THE PEOPLE WHO CALLED LEVIN UP TO AND INCLUDING JUNE THE
8 15TH, WHEN THE CHECK CAME BACK AND WAS NO GOOD. YOU DON'T
9 SEE ANY MESSAGES FROM ANY BANK SAYING "CALL ME TO TELL ME
10 WHETHER THIS CHECK IS GOOD."

11 WHAT DOES HE MEAN, THEY ARE CERTAIN THEY WOULD
12 HAVE CALLED. NOBODY DID CALL. HE HAS GOT THOSE RECORDS,
13 AS WELL AS WE DO.

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4- 1 HERE IS ANOTHER GREAT EXAMPLE OF REORIENTING YOUR
2 PERSPECTIVE. MR. PITTMAN DIDN'T GET VIOLENT AT THE PLAZA HOTEL.
3 YOU GO BACK TO THE PLAZA HOTEL AND TELL THOSE FIVE SECURITY
4 GUARDS WHO TOOK HIM BODILY INTO THE OFFICE, THAT HE DIDN'T
5 GET VIOLENT.

6 WHAT KIND OF NONSENSE IS THAT? OF COURSE HE GOT
7 VIOLENT AT THE PLAZA HOTEL. HE TOOK OFF FOR THE DOOR.

8 WHEN THEY CAUGHT UP TO HIM, HE FOUGHT WITH THEM.

9 AND OF COURSE, HE SAYS THAT MR. HUNT HAD HIS
10 RESERVATIONS FOR LONDON. SO THAT IS WHY HE WAS IN SUCH A
11 HURRY TO GET OUT OF NEW YORK. WHY DOES THAT ACCOUNT FOR HOW
12 HE KEPT LEAVING THE COURTHOUSE, NOT WANTING TO BE AROUND.

13 EVERY TIME FERRARO SAID THAT IT WAS NOT GOING TO
14 BE FOR ANOTHER FEW HOURS, HE LEFT. MAYBE HE WAS GOING TO
15 BLOOMINGDALES OR SOMETHING. HE DIDN'T WANT TO BE AROUND THE
16 COURTHOUSE.

17 YOU HEARD MR. FERRARO TALK ABOUT JOE HUNT AND HOW
18 HE WAS ACTING. HE DESCRIBED IT AS -- HE DIDN'T USE THE WORDS
19 BUT HIS DESCRIPTION WAS THAT HE WAS ACTING LIKE A CAGED
20 ANIMAL. HE WANTED TO GET OUT OF THERE.

21 TO SAY WELL, THAT HE HAD RESERVATIONS FOR LONDON --
22 HE HAD TO MAKE SURE THAT PITTMAN WAS GOING TO GET OUT OF THERE
23 BEFORE HE GOT TO LONDON. I TOLD YOU THIS -- WAS IT THE DAY
24 BEFORE YESTERDAY -- ABOUT THE FACT THAT THE DEFENSES THAT WERE
25 PRESENTED TO YOU WERE INCONSISTENT. YOU HAVE TO LOOK AT THAT.
26 MR. BARENS TALKED ABOUT THE TIME-HONORED DEFENSE OF ALIBI.
27 THEN HE WAS READING TO YOU FROM THE ALIBI INSTRUCTION.

28 BUT IF THERE WAS NO MURDER, IF THERE WAS NO MURDER,

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1 WHAT DO YOU NEED AN ALIBI FROM? I MEAN, THAT IS A CLASSIC
2 EXAMPLE OF TALKING OUT OF BOTH SIDES OF YOUR MOUTH. HE WAS
3 NOT REALLY KILLED. IT WAS REALLY JUST A JOKE.

4 HE JUST SAID THIS FOR EFFECT. HE WAS NOT KILLED
5 BUT JUST IN CASE HE WAS KILLED, I COULDN'T HAVE BEEN THERE.

6 THAT IS THE CLASSIC. IT IS NOT ONLY TALKING OUT
7 OF BOTH SIDES OF YOUR MOUTH, BUT IT IS THE CLASSIC EXAMPLE
8 OF PARADOX PHILOSOPHY IN OPERATION.

9 THEN HE SAID WHEN HE WAS TALKING TO YOU ABOUT THE
10 ALIBI INSTRUCTION, HE SAYS THAT WE DON'T KNOW WHAT HAPPENED
11 TO RON LEVIN. NOBODY KNOWS WHAT HAPPENED TO RON LEVIN. YOU
12 KNOW WHAT HAPPENED TO RON LEVIN. WE DIDN'T SPEND ALL THAT
13 TIME IN THIS COURTROOM FOR NOTHING. WE KNOW EXACTLY WHAT
14 HAPPENED TO RON LEVIN.

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1 THE OTHER THING -- EXCUSE ME BECAUSE I AM KIND
2 OF GOING THROUGH IT THE WAY MR. BARENS DID. THIS IS JUST A
3 DIGRESSION ABOUT THE CROSS-EXAMINATION OF CARMEN CANCHOLA AND
4 WHY MESS AROUND WITH THE DETAILS. HE SAYS, WHAT DIFFERENCE
5 DOES IT MAKE IF HE IS SIX FEET OR SIX FOOT THREE OR FIVE FOOT
6 NINE? CAN YOU IMAGINE? WHAT DIFFERENCE DOES IT MAKE HOW TALL
7 THE GUY WAS?

8 THEN HE COMES TO YOU OF COURSE, MAKING A BIG DEAL
9 ABOUT OUR FRIEND ON THE COVER OF THE MAGAZINE, AS IF TO SAY
10 THE HEIGHT OF THE PERSON ON THE MAGAZINE IS WHY IT WAS BROUGHT
11 IN FOR YOU IN THE FIRST PLACE.

12 THAT IS OBVIOUSLY, NOT THE POINT. LET ME JUST
13 SAY BRIEFLY ABOUT MR. BARENS LOVING TO TALK ABOUT THE MOVIE
14 ALIBI AND SETTING UP THE MOVIE ALIBI AND HOW IT COULDN'T BE
15 TRUE BECAUSE IT DOESN'T MAKE ANY SENSE.

16 THE PROBLEM OF COURSE WITH THAT IS THAT HE SAYS
17 IT DOESN'T MAKE ANY SENSE BECAUSE SEE, IT SAYS ON THE LIST,
18 HE LETS JIM IN AT 9:45. WELL, IT DOESN'T MAKE ANY SENSE TO
19 HIM IF YOU ASSUME THE PLAN WAS FOR HUNT TO LEAVE THE LIST
20 THERE SO SOMEBODY COULD FIND IT. OBVIOUSLY, THAT IS NOT WHAT
21 THE PLAN WAS.

22 WITHOUT THE LIST THERE TO PIN DOWN EXACTLY WHAT
23 TIME IT WAS THAT THIS WAS SUPPOSED TO HAPPEN, THEN OF COURSE,
24 HIS ARGUMENT KIND OF FALLS APART BECAUSE WHO KNOWS?

25 THEY CAN'T COUNT ON PEOPLE CALLING OR NOT CALLING
26 AT A CERTAIN TIME. BUT WE KNOW THAT THE ONE CALL THAT DEAN
27 FACTOR MADE TO LEVIN THAT NIGHT, WHERE HE SAYS, "I GOT TO GET
28 OFF OF THE PHONE. I GOT TO GET OFF THE PHONE." THAT IS

34 - 1 EXACTLY WHAT WOULD HAVE HAPPENED. THIS WAS AROUND 9 O'CLOCK.
2 FURTHER, THEY WERE PLANNING TO HAVE THE ANSWERING SERVICE PICK
3 UP ANY CALLS AFTER THAT. THE OTHER THING THAT IS AMAZING,
4 MR. BARENS SAYS WELL, DEAN KARNY MUST BE LYING ABOUT JOE HUNT
5 GOING TO THE APARTMENT AND FLIPPING THROUGH THE LIST THAT NIGHT.

6 NOW, HOW COULD HE HAVE BEEN DOING THAT IN PLAIN
7 VIEW BECAUSE EVERYBODY WOULD SEE HIM? THEN HE SAYS THAT HE
8 DIDN'T HEAR ANYBODY TESTIFY ABOUT SEEING HIM.

9 WELL, THAT IS IN THE SAME SENTENCE, ALMOST
10 CONTRADICTING YOURSELF. HE DIDN'T HEAR ANYBODY TESTIFYING
11 ABOUT JEFF RAYMOND COMING IN AND SAYING, "I SAW HIM DO THAT?"

12 JOE HUNT CERTAINLY WOULDN'T BE AFRAID OF SITTING
13 THERE IN HIS ROOM, GOING THROUGH A LIST BECAUSE HE ALWAYS MADE
14 LISTS AND IT IS NOT ANYTHING THAT IS GOING TO LOOK UNUSUAL.

15 SECOND OF ALL, HE SAID HOW COULD HE BE DOING THIS
16 IF ONLY TWO OF HIS PRINTS ARE ON THAT LIST.

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1 WHAT KIND OF NONSENSE IS THAT?

2 HE WROTE ALL OF THOSE SEVEN PAGES. IF YOU NEED
3 ANY FURTHER CORROBORATION OF OFFICER WAGENBRENNER AND KUHN
4 ABOUT THE FACT THAT WHEN YOU TOUCH SOMETHING, PRINTS AREN'T
5 ALWAYS LEFT ON THERE, IT IS THAT THERE ARE ONLY TWO PRINTS
6 OF HUNT'S ON THE PAGES HE OBVIOUSLY WAS GOING OVER AND OVER,
7 SO IN AND OF ITSELF THE ARGUMENT FAILS.

8 I THINK THAT RATHER THAN GO THROUGH OVER AND
9 OVER WHAT IT WAS THAT MR. BARENS SAID --

10 MAY I HAVE JUST A MOMENT?

11 THE COURT: YES.

12 YOU INDICATED THAT YOU DIDN'T -- YOU WERE SURPRISED
13 THAT THE ARGUMENT OF THE DEFENDANT CONCLUDED SO EARLY. DO
14 YOU WANT TO HAVE THE REST OF THE AFTERNOON TO REASSEMBLE
15 YOUR DATA?

16 MR. WAPNER: YES, THAT WOULD BE TERRIFIC, ACTUALLY.

17 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN OF THE
18 JURY, WE WILL TAKE OUR ADJOURNMENT AT THIS TIME UNTIL TOMORROW
19 MORNING AT 10:30.

20 AND THE SAME ADMONITION I GAVE YOU WOULD APPLY
21 AND GOOD NIGHT.

22 (AT 4:15 P.M. AN ADJOURNMENT WAS TAKEN TO
23 RESUME THURSDAY, APRIL 16, 1987, AT 10:30 A.M.)

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