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COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

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

SUPERIOR COURT
NO. A-090435

OCT 9 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 85 OF 101
(PAGES 13269 TO 13285, INCLUSIVE)

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT WEST C

HON. LAURENCE J. RITTENBAND, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,)

PLAINTIFF,)

VS.)

NO. A-090435

JOSEPH HUNT,)

DEFENDANT.)

REPORTERS' DAILY TRANSCRIPT

WEDNESDAY, APRIL 22, 1987

VOLUME 85

(PAGES 13269 TO 13285, INCLUSIVE)

APPEARANCES:

FOR THE PEOPLE:

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

FOR THE DEFENDANT:

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

AND

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

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

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WEDNESDAY, APRIL 22, 1987 VOLUME 85 PAGES 13269-13285

PROCEEDINGS

VERDICT READ

13269

1 SANTA MONICA, CALIFORNIA; WEDNESDAY, APRIL 22, 1987; 1:35 P.M.
2 DEPARTMENT WEST C HON. LAURENCE J. RITTENBAND, JUDGE
3 (APPEARANCES AS NOTED ON TITLE PAGE.)

4
5 (THE FOLLOWING PROCEEDINGS WERE HELD
6 IN OPEN COURT IN THE PRESENCE OF THE
7 JURY:)

8 THE COURT: ALL RIGHT, THE RECORD WILL INDICATE THE
9 PRESENCE OF THE DEFENDANT AND COUNSEL AND THE JURORS.

10 AND LADIES AND GENTLEMEN OF THE JURY, HAVE YOU
11 REACHED A VERDICT IN THIS CASE?

12 THE FOREPERSON: YES, WE HAVE, YOUR HONOR.

13 THE COURT: DR. JANIS, WILL YOU PLEASE HAND THE VERDICTS
14 TO THE BAILIFF?

15 (THE VERDICTS WERE HANDED TO THE BAILIFF,
16 WHO IN TURN HANDED THEM TO THE COURT.)

17 (PAUSE IN PROCEEDINGS.)

18 THE COURT: WILL YOU PLEASE READ THE VERDICTS?

19 THE CLERK: TITLE OF COURT AND CAUSE:

20 "WE, THE JURY IN THE ABOVE-ENTITLED
21 ACTION FIND THE DEFENDANT JOSEPH HUNT GUILTY OF
22 MURDER IN VIOLATION OF PENAL CODE SECTION 187,
23 A FELONY, AS CHARGED IN THE INFORMATION IN COUNT I.

24 "WE FURTHER FIND THE ABOVE OFFENSE TO
25 BE MURDER IN THE FIRST DEGREE.

26 "AND WE FURTHER FIND THE ALLEGATION
27 THAT THE MURDER OF RONALD GEORGE LEVIN WAS COMMITTED
28 WHILE THE DEFENDANT WAS ENGAGED IN THE COMMISSION OF

1 ROBBERY WITHIN THE MEANING OF PENAL CODE SECTION
2 190.2, SUB A, SUB 17, TO BE TRUE.

3 "THIS 22ND DAY OF APRIL, 1987.

4 "JUEL JANIS, FOREMAN."

5 LADIES AND GENTLEMEN OF THE JURY, IS THIS YOUR
6 VERDICT, SO SAY YOU ONE, SO SAY YOU ALL?

7 (THE JURY ANSWERED AFFIRMATIVELY IN
8 CHORUS.)

9 THE CLERK: TITLE OF COURT AND CAUSE:

10 "WE, THE JURY IN THE ABOVE-ENTITLED
11 ACTION, FIND THE DEFENDANT JOE HUNT GUILTY OF
12 ROBBERY IN VIOLATION OF PENAL CODE SECTION 211,
13 A FELONY, AS CHARGED IN THE INFORMATION IN COUNT II.

14 "THIS 22ND DAY OF APRIL, 1987.

15 "JUEL JANIS, FOREMAN."

16 LADIES AND GENTLEMEN OF THE JURY, IS THIS YOUR
17 VERDICT, SO SAY YOU ONE, SO SAY YOU ALL?

18 (THE JURY ANSWERED AFFIRMATIVELY IN
19 CHORUS.)

20 THE COURT: DO YOU DESIRE TO HAVE THE JURY POLLED,
21 MR. BARENS?

22 MR. BARENS: YES, YOUR HONOR.

23 THE COURT: ALL RIGHT, POLL THE JURY.

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1 THE CLERK: LADIES AND GENTLEMEN OF THE JURY,
2 AS I CALL YOUR NAMES, WOULD YOU TELL ME IF THIS IS YOUR GUILTY
3 VERDICT ON COUNT 1 -- IS YOUR COUNT -- OR IS NOT YOUR VERDICT.
4 EXCUSE ME.

5 MISS KEENAN?

6 JUROR KENNAN: YES.

7 THE CLERK: MISS KING?

8 JUROR KING: YES.

9 THE CLERK: MISS SHELBY?

10 JUROR SHELBY: YES.

11 THE CLERK: MISS ROBLES?

12 JUROR ROBLES: YES.

13 THE CLERK: DR. JANIS?

14 JUROR JANIS: YES.

15 THE CLERK: MISS OSBORNE?

16 JUROR OSBORNE: YES.

17 THE CLERK: MISS BURNS?

18 JUROR BURNS: YES.

19 THE CLERK: MISS GHAEMMAGHAMI?

20 JUROR GHAEMMAGHAMI: YES.

21 THE CLERK: MISS MICKELL?

22 JUROR MICKELL: YES.

23 THE CLERK: MISS DEEG?

24 JUROR DEEG: YES.

25 THE CLERK: MISS GRALINSKI?

26 JUROR GRALINSKI: YES.

27 THE CLERK: MR. RUTHERFORD.

28 JUROR RUTHERFORD: YES.

1 THE CLERK: LADIES AND GENTLEMEN, IF THIS IS YOUR GUILTY
2 VERDICT AS TO COUNT 1, WOULD YOU PLEASE INDICATE AS I CALL
3 YOUR NAME? MISS KEENAN?

4 JUROR KEENAN: YES.

5 THE CLERK: MISS KING?

6 JUROR KING: YES.

7 THE CLERK: MISS SHELBY?

8 JUROR SHELBY: YES.

9 THE CLERK: MISS ROBLES?

10 JUROR ROBLES: YES.

11 THE CLERK: DR. JANIS?

12 JUROR JANIS: YES.

13 THE CLERK: MISS OSBORNE?

14 JUROR OSBORNE: YES.

15 THE CLERK: MISS BURNS?

16 JUROR BURNS: YES.

17 THE CLERK: MISS GHAEMMAGHAMI?

18 JUROR GHAEMMAGHAMI: YES.

19 THE CLERK: MISS MICKELL?

20 JUROR MICKELL: YES.

21 THE CLERK: MISS DEEG?

22 JUROR DEEG: YES.

23 THE CLERK: MISS GRALINSKI?

24 JUROR GRALINSKI: YES.

25 THE CLERK: MR. RUTHERFORD?

26 JUROR RUTHERFORD: YES.

27 THE COURT: LADIES AND GENTLEMEN, AS I TOLD YOU AT

28 THE TIME OF THE TRIAL, LADIES AND GENTLEMEN, IF YOU FOUND

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1 THE DEFENDANT GUILTY OF FIRST DEGREE MURDER WITH SPECIAL
2 CIRCUMSTANCES, WE THEN START THE PENALTY PHASE OF THE TRIAL.

3 I TOLD YOU WHAT THE PENALTY PHASE WAS AND WHAT
4 IT IS THAT YOU WOULD BE EXPECTED TO RULE ON, ULTIMATELY.
5 I WILL SEEK FIRST, THE OPINION OF COUNSEL AS TO WHEN THEY
6 WANT THE PENALTY PHASE TO START.

7 MR. WAPNER: MAY WE APPROACH THE BENCH?

8 THE COURT: YES.

9 (THE FOLLOWING PROCEEDINGS WERE HELD AT
10 THE BENCH OUT OF THE PRESENCE AND HEARING
11 OF THE JURY:)

12 MR. WAPNER: YOUR HONOR, BECAUSE OF THE TIME NEEDED
13 TO GET READY AND ALSO BECAUSE I HAVE DISCUSSED THIS WITH
14 MS. BRACKE, WHO IS PROSECUTING THE LIVADITIS CASE AND YOU
15 WILL BE ENGAGED IN SELECTING A JURY IN THAT CASE, MY THOUGHT
16 IS TO TAKE TWO WEEKS TO GET READY.

17 THE COURT: TWO WEEKS TO GET READY?

18 MR. WAPNER: MAYBE A WEEK. BUT MY THINKING WAS THAT
19 BY THE TIME I GET READY TO GO, YOU WOULD PROBABLY HAVE A
20 JURY OR BE CLOSE TO HAVING A JURY IN LIVADITIS.

21 YOU COULD BREAK THAT CASE AND START OUR CASE.
22 SO IF WE SHOT FOR EITHER TWO WEEKS FROM TODAY OR TWO WEEKS
23 FROM NEXT MONDAY, WHICH WOULD BE AROUND MAY THE 11TH, THAT
24 WOULD BE AN APPROPRIATE TIME.

25 I HAVE NOT DISCUSSED THIS WITH COUNSEL.

26 MR. CHIER: I AM NOT PREPARED UNTIL I GET PAID FOR
27 THE GUILT PHASE.

28 THE COURT: WE DON'T NEED YOU ANYMORE. YOU ARE FIRED

1 AS OF TODAY. WE'LL GET ANOTHER COUNSEL FOR YOU TO ASSIST
2 YOU.

3 MR. BARENS: YOUR HONOR, I WOULD LIKE TO HAVE THREE
4 WEEKS. THAT WOULD BE MY --

5 THE COURT: I THINK THREE WEEKS IS TOO MUCH.

6 MR. BARENS: COULD WE THEN --

7 THE COURT: TWO WEEKS FROM NEXT MONDAY?

8 MR. BARENS: YES, YOUR HONOR.

9 THE COURT: TWO WEEKS FROM NEXT MONDAY.

10 MR. WAPNER: YES, MAY THE 11TH.

11 THE COURT: WE WILL GET YOU OTHER COUNSEL. YOU NAME
12 IT AND I WILL HAVE THEM FOR YOU.

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1 MR. WAPNER: YOUR HONOR, MAY WE DISCUSS --

2 THE COURT: YOU ARE DISCHARGED AS OF NOW.

3 MR. BARENS: THIS IS ON ANOTHER SUBJECT, MR. WAPNER?

4 MR. WAPNER: I WAS JUST THINKING, AS FAR AS HAVING,
5 ASSOCIATING IN ANOTHER COUNSEL AT THIS POINT, IT SEEMS TO ME --

6 THE COURT: IF HE NEEDS OTHER COUNSEL, WHY I HAVE NO
7 OBJECTION.

8 MR. BARENS: COULD WE DISCUSS THIS IN CHAMBERS, PLEASE?

9 THE COURT: ALL RIGHT.

10 MR. WAPNER: YOUR HONOR, THAT IS ALL RIGHT.

11 NOW ARE WE GOING TO DISCHARGE THE JURY?

12 THE COURT: DID YOU ASK HIM WHETHER HE HAD MY TELEPHONE
13 NUMBER? I HAVE BEEN GETTING CALLS IN THE MIDDLE OF THE NIGHT.

14 MR. BARENS: I BEG YOUR PARDON?

15 THE COURT: COULD YOU FIND OUT WHO HAS MY TELEPHONE
16 NUMBER? BECAUSE I HAVE BEEN GETTING CALLS IN THE MIDDLE OF
17 THE NIGHT, SOMEBODY HANGING UP AND I AM GOING TO CHECK ON IT.

18 MR. BARENS: COULD WE PROCEED IN CHAMBERS, YOUR HONOR?

19 THE COURT: YES.

20 MR. WAPNER: I HAVE ONE OTHER MATTER OUTSIDE OF THE
21 PRESENCE OF THE JURY BEFORE --

22 THE COURT: FIRST, I HAVE TO TELL THE JURY WHEN TO COME
23 BACK.

24 MR. BARENS: FIRST WE HAVE TO DISCUSS OTHER PROCEDURES.

25 THE COURT: YOU MEAN THE DATE.

26 MR. WAPNER: I HAVE ONE OTHER MATTER, AFTER THE JURY
27 IS DISCHARGED AND BEFORE WE GO INTO CHAMBERS.

28 THE COURT: IS THAT A MOTION TO REMAND THE DEFENDANT?

3-2
1 MR. WAPNER: YES.

2 THE COURT: THAT MOTION WILL BE GRANTED.

3 MR. BARENS: I DON'T THINK WE NEED TO HAVE AN ADDITIONAL
4 MOTION.

5 LET'S RELEASE THE JURY AND PROCEED TO CHAMBERS.

6 THE COURT: HE CAN STAY THERE AND WHEN EVERYBODY IS GONE,
7 HE WILL BE TAKEN INTO CUSTODY.

8 MR. BARENS: ALL RIGHT.

9 (UNREPORTED COLLOQUY BETWEEN THE COURT
10 AND THE CLERK.)

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

13 THE COURT: LADIES AND GENTLEMEN OF THE JURY, I HAVE
14 BEEN INFORMED BY COUNSEL THAT THEY REQUIRE FOR THEIR
15 PREPARATION OF THE PENALTY PHASE OF THE TRIAL AT LEAST TWO
16 WEEKS OR MORE, SO I HAVE TO VERY RELUCTANTLY ASK YOU TO WAIT
17 UNTIL TWO WEEKS FROM NEXT MONDAY, THEN THAT WOULD BE WHAT?

18 THE CLERK: THE 11TH.

19 THE COURT: THE 11TH OF MAY. I HOPE IT DOESN'T
20 DISCOMMODE YOU IN ANY WAY AND WE WILL LOOK FORWARD TO SEEING
21 YOU AT THAT TIME.

22 I WANT TO ADMONISH YOU, HOWEVER, THAT THE CASE
23 HAS NOT BEEN COMPLETED, AS YOU KNOW, AND THE GENERAL ADMONITION
24 I GAVE YOU ABOUT NOT TALKING AMONG YOURSELVES OR WITH ANY THIRD
25 PARTIES OR TO BE INTERVIEWED BY THE PRESS OR IN ANY WAY
26 DEPART FROM THE PROCEDURES WHICH YOU HAVE BEEN FOLLOWING,
27 NAMELY, THAT YOU ARE NOT TO TALK AMONG YOURSELVES ON THE PENALTY
28 PHASE AND NOT HAVE ANY CONFERENCE OR ANY DISCUSSIONS WITH

1 ANYBODY IN THE MEDIA BECAUSE THE CASE IS STILL GOING ON.
2 AND IF ANYBODY ATTEMPTS TO GET IN TOUCH WITH YOU, YOU TELL
3 THEM IT IS MY ORDER THAT YOU ARE NOT TO TALK TO THEM, IF YOU
4 WOULD, PLEASE. ALL RIGHT.

5 MR. WAPNER: YOUR HONOR, COULD THE ADMONITION, OF COURSE,
6 BE GIVEN THAT THEY NOT READ OR LISTEN TO ANY TV?

7 THE COURT: YES, OF COURSE. THAT WILL STILL APPLY, THAT
8 YOU NOT READ ANYTHING ABOUT THE CASE OR LISTEN TO IT ON RADIO
9 OR SEE IT ON TELEVISION.

10 AND WE WILL SEE YOU BACK HERE AND THANK YOU VERY
11 MUCH FOR YOUR SERVICES UP TO THIS POINT.

12 MR. WAPNER: WHAT TIME, YOUR HONOR, ON MAY THE 11TH?

13 THE COURT: AT THE USUAL TIME OF 10:30 AND I WILL SEE
14 YOU BACK HERE.

15 AND THE SAME THING GOES FOR THE TWO ALTERNATE JURORS
16 AND THANK YOU VERY, VERY MUCH ALSO FOR YOUR PATIENCE.

17 DO YOU WANT TO COME INTO CHAMBERS AND DISCUSS THE
18 PROCEDURE AFTER THIS.

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1 (THE FOLLOWING PROCEEDINGS WERE HELD
2 IN CHAMBERS WITH MR. WAPNER AND MR.
3 BARENS BEING PRESENT:)

4 MR. BARENS: YOUR HONOR HAS EXPRESSED A VIEW WHEREBY
5 MR. CHIER WOULD NO LONGER BE APPOINTED COUNSEL FOR MR. HUNT
6 ON THIS CASE.

7 THE COURT: THAT'S CORRECT.

8 MR. BARENS: MY CONFUSION ARISES YOUR HONOR. THE
9 DEFENDANT WANTS MR. HUNT TO CONTINUE -- MR. CHIER TO CONTINUE
10 AS HIS COUNSEL. I AM NOT SURE OF THE LAW ON THAT REGARD.

11 THE COURT: WELL, AT THIS STAGE, I DON'T THINK HE NEEDS
12 TWO COUNSEL.

13 MR. BARENS: I WOULD BE -- YOUR HONOR, I WANT TO CONFESS
14 TO THE COURT THAT I HAVE NEVER DONE A PENALTY PHASE MURDER
15 CASE.

16 THE COURT: HAS HE?

17 MR. BARENS: I DON'T KNOW RIGHTLY. YOUR HONOR, I JUST
18 KNOW THAT I HAVE NOT.

19 MR. CHIER IS FAMILIAR WITH THE BACKGROUND OF
20 THE CASE. AND I WOULD IMPORE YOUR HONOR TO PERMIT HIM
21 TO CONTINUE THROUGH THE PENALTY PHASE. I WILL MAKE EVERY
22 EFFORT THAT I CAN, AS I HAVE THROUGHOUT THE TRIAL, TO AVOID
23 UNPLEASANTNESS WITH THE COURT.

24 THE COURT: APPARENTLY, HE HAS BEEN ENGAGED IN IT SINCE
25 HE STARTED ON THIS CASE. I THINK I HAVE HAD ENOUGH OF HIM.

26 MR. BARENS: I SINCERELY REGRET YOUR HONOR, ANY
27 UNPLEASANTNESS THAT OCCURRED. I CAN ASSURE YOU THAT I WILL
28 DO EVERYTHING WITHIN MY POWER AS AN OFFICER OF THIS COURT,

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1 TO MAKE SURE THAT THERE ARE NO FURTHER INCIDENTS.

2 I HAVE TRIED IN GOOD FAITH, TO AVOID THIS, WHICH
3 I BELIEVE YOUR HONOR IS AWARE OF.

4 MR. WAPNER: YOUR HONOR, FOR WHAT IT IS WORTH, OF COURSE
5 YOU KNOW WHAT MY POSITION IS GOING TO BE. I THOUGHT IT
6 WAS A MISTAKE IN THE BEGINNING AND I THINK THAT IT IS A
7 MISTAKE NOW TO RELIEVE MR. CHIER AT THIS POINT.

8 HE HAS BEEN HERE THROUGHOUT THE WHOLE TRIAL.
9 AND TO ASSOCIATE NEW COUNSEL AT THIS POINT AND TO SAY TO
10 GET READY ALL OVER AGAIN ON A CASE, I DON'T THINK IT IS
11 APPROPRIATE.

12 THE COURT: I DON'T FEEL THAT HE HAS CONTRIBUTED TO
13 THIS CASE ONE LITTLE IOTA. EVERY, SINGLE ONE OF HIS MOTIONS
14 WAS SPURIOUS AND A FRIVOLOUS ONE. EVERY, SINGLE ONE OF
15 THEM WAS DENIED.

16 THERE WAS NOT A SINGLE BASIS FOR ANYTHING. MORE-
17 OVER, I RESENT VERY DEEPLY WHAT HE HAS DONE -- NOT YOU --
18 WHAT HE HAS DONE.

19 HE KNOWS THAT I IMPOSED A GAG ORDER. IN ORDER
20 TO GET AROUND THAT ORDER, HE MAKES AN UNNECESSARY AND
21 FRAUDULENT MOTION TO DISMISS. HE DIDN'T SERVE THE DISTRICT
22 ATTORNEY WITH THAT MOTION. YOU TOLD ME THAT.

23 MR. WAPNER: I DON'T EVER RECALL GETTING A COPY OF
24 THAT MOTION.

25 MR. BARENS: YOUR HONOR, I HAVE NEVER SEEN IT, MYSELF.

26 THE COURT: YOU NEVER SAW IT YOURSELF? WELL, HE
27 INCORPORATED IN THAT MOTION, THE MOST SCURRILOUS REMARKS
28 ABOUT ME. AND HE DID IT FOR ONE PURPOSE, HE DID IT FOR

4-3
1 THE PURPOSE THAT HE WANTED -- THAT HE KNEW AND YOU KNEW
2 THAT THE MEDIA WOULD READILY GRASP IT AND PRINT IT.

3 AND WHAT HE DID, WAS TO DISTRIBUTE AMONG THE
4 MEDIA, COPIES OF THAT VERY MOTION WHICH WAS NOT EVEN HEARD.
5 THEY INCORPORATED THAT IN THEIR NEWSPAPERS.

6 (PAUSE.)

7 THE COURT: THIS WAS REPORTED ON TUESDAY, APRIL 14,
8 ON THE FRONT PAGE OF THE NEWSPAPER, THE FOLLOWING:

9 "ATTORNEYS FOR BILLIONAIRE BOYS CLUB
10 LEADER, JOE HUNT HAVE FILED FOR A MISTRIAL.

11 "THE WRITTEN APPLICATION, WHICH WAS
12 FILED MONDAY IN SANTA MONICA SUPERIOR COURT,
13 CITES JUDICIAL MISCONDUCT BY JUDGE LAURENCE J.
14 RITTENBAND DURING THE 10-WEEK TRIAL.

15 "BELITTLEMENT OF THE DEFENSE ATTORNEYS,
16 BANISHMENT FROM THE COURTROOM OF DEFENSE COUNSEL'S
17 STAFF AND FAILURE TO ALLOW THE ATTORNEYS TO MAKE
18 LEGAL OBJECTIONS AND ARGUMENTS IN A TIMELY
19 FASHION ALL LED TO THE MOTION, DEFENSE ATTORNEY
20 RICHARD CHIER STATES IN THE DOCUMENT.

21 "CHIER ALSO COMPLAINS ABOUT THE
22 ARRAY OF FACIAL EXPRESSIONS THE 81-YEAR-OLD JURIST
23 HAS DISPLAYED DURING CRUCIAL MOMENTS OF CROSS-
24 EXAMINATION BY DEFENSE COUNSEL. THE JUDGE'S
25 GRIMACES, SMIRKING, MANIFESTATIONS OF DISGUST,
26 IMPATIENCE AND DISBELIEF HAVE HURT THE DEFENSE
27 ATTORNEYS' PRESENTATION, CHIER SAYS.

28 "THE TRIAL OF DEFENDANT HUNT HAS BEEN SO

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1 UNFAIR AND SO RIDDLED WITH ERROR THAT THE ONLY
2 APPROPRIATE REMEDY AT THIS JUNCTURE IS MISTRJAL,
3 CHIER STATES.

4 "RITTENBAND IS EXPECTED TO RULE ON
5 THE MOTJON THIS WEEK."

6 THE MOTJON WAS NEVER ASKED TO BE ARGUED. COPIES
7 WERE NEVER GIVEN TO THE DISTRICT ATTORNEY. THE ONLY COPIES
8 WERE GIVEN TO THE MEDIA AND NO ONE ELSE.

9 NOW, I WON'T STAND FOR REMARKS OF THAT KIND BY
10 AN ATTORNEY WHO HAS A SWORN DUTY TO ACT AS AN ATTORNEY IN
11 A COURT.

12 IT WAS DONE FOR ONLY ONE PURPOSE. HE KNEW HE
13 COULDN'T SPEAK PERSONALLY TO ALL OF THE MEDIA AND TELL THEM
14 WHAT HE INTENDED TO DO OR DISCUSS THE MATTER WITH THEM.
15 BUT HE DISTRIBUTES COPIES OF THIS. THAT IS ONE WAY THERE
16 IS OF GETTING AROUND THE GAG ORDER WHICH I IMPOSED.

17 I WILL DEAL WITH THIS GENTLEMAN AT THE APPROPRIATE
18 TIME.

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1 I DON'T WANT HIM IN THIS COURTROOM. I THINK HE
2 IS A DISCREDIT TO THE PROFESSION.

3 I THINK ALSO THAT HE IS NOT DOING YOUR CLIENT ONE
4 BIT OF GOOD AND I DON'T THINK HE IS AIDING YOU IN ANY WAY.
5 WHAT YOU FORGOT, HE WILL NEVER LEARN.

6 MR. BARENS: YOUR HONOR, ALTHOUGH I APPRECIATE THE
7 KINDNESS THE COURT HAS SHOWN ME THROUGHOUT THIS TRIAL AND THE
8 GUIDANCE FROM THE EXPERIENCE OF THE COURT, HAS ALLOWED ME
9 THROUGHOUT THIS TRIAL, I HAVE AN AWKWARDNESS IN THAT I DON'T
10 KNOW HOW I COULD EVER PREPARE IN TWO WEEKS ANOTHER COUNSEL
11 TO ASSIST ME, LET ALONE HAVE HIM READ THE MATERIALS I AM GOING
12 TO NEED, YOUR HONOR.

13 THE COURT: I DON'T KNOW WHAT THERE IS TO PREPARE FOR,
14 REALLY.

15 I AM NOT TELLING YOU WHAT YOU SHOULD DO OR YOU
16 SHOULDN'T DO. BUT IF YOU HAVE ANY WITNESSES AND SO FORTH,
17 YOU CAN PREPARE THEM. YOU KNOW THE LAW MUCH BETTER THAN HE
18 DOES.

19 MR. BARENS: YOUR HONOR, COULD I ASK THIS AT THIS MOMENT,
20 BECAUSE I MUST SAY, YOUR HONOR, I AM A BIT PREOCCUPIED WITH
21 THE VERDICT RIGHT NOW AND TAKEN ABACK. UNDER THE CIRCUMSTANCES,
22 YOUR HONOR, COULD I ASK THE COURT AND MR. WAPNER IF I COULD
23 CONSIDER THE ISSUE BEFORE US AT THIS MOMENT AND COME BACK TO
24 COURT, SAY, ON FRIDAY MORNING FOR A CONFERENCE WITH THE COURT
25 AND MR. WAPNER ON THIS SUBJECT?

26 MR. WAPNER: THAT IS FINE.

27 MR. BARENS: THAT WOULD ALSO ENABLE ME TO -- AND PERHAPS
28 I COULD ASK THE COURT THIS -- IN THE EVENT THAT WE WEREN'T

5-2
1 ABLE TO --

2 THE CLERK: SHOULD HUNT BE TALKING TO THE PRESS, IS THAT
3 OKAY?

4 MR. WAPNER: NO. THERE IS STILL A GAG ORDER IN EFFECT.

5 THE CLERK: OKAY.

6 MR. WAPNER: I MEAN, ISN'T THAT THE ANSWER TO THAT
7 QUESTION?

8 THE COURT: DO YOU WANT HIM TO TALK TO THE PRESS?

9 MR. BARENS: I DON'T FEEL I SHOULD TELL ONE WAY OR THE
10 OTHER, YOUR HONOR.

11 MR. WAPNER: WELL, WAIT A SECOND. WHETHER COUNSEL WANTS
12 IT --

13 THE COURT: THERE IS A GAG ORDER.

14 MR. WAPNER: ISN'T THERE A GAG ORDER IN EFFECT, WHICH
15 INCLUDES ALL OF THE PARTIES IN THIS CASE, AND THAT INCLUDES
16 MR. HUNT AS A PARTY-DEFENDANT?

17 MR. BARENS: WHATEVER THE PEOPLE AND THE JUDGE THINKS
18 IS APPROPRIATE.

19 YOUR HONOR, COULD I INQUIRE IN THE EVENT I WAS
20 UNABLE TO PROCEED WITH MR. CHIER, WOULD THE COURT HAVE A COUNSEL
21 OR TWO IN MIND THAT COULD BE RECOMMENDED FOR AN APPOINTMENT
22 BY THE COURT?

23 THE COURT: YOU SUGGEST THE COUNSEL THAT YOU THINK YOU
24 CAN WORK WITH, WHO IS KNOWLEDGEABLE. I DON'T THINK THERE IS
25 ANYTHING MYSTERIOUS ABOUT A PENALTY PHASE.

26 MR. BARENS: I WOULD PERHAPS CONSIDER A COUNSEL THAT
27 YOUR HONOR IS FAMILIAR WITH, PERHAPS MR. WAGER?

28 THE COURT: YOU COULDN'T MENTION A BETTER ONE. BELIEVE

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1 ME, YOU SHOULD HAVE HAD HIM IN THE BEGINNING.

2 MR. BARENS: WELL, I DIDN'T KNOW MR. WAGER UNTIL WE WERE
3 IN THE PROCESS, YOUR HONOR.

4 IN ANY EVENT, COULD WE MEET AND CONFER PERHAPS
5 FRIDAY AT 9 O'CLOCK, MR. WAPNER?

6 MR. WAPNER: THAT IS FINE. I WILL BE HAPPY TO TALK TO
7 YOU IN THE MEANTIME.

8 MR. BARENS: ALL RIGHT, I WOULD APPRECIATE THE COURTESY.

9 MR. WAPNER: 9 A.M.?

10 THE COURT: DO YOU UNDERSTAND NOW WHY I DON'T WANT HIM
11 AROUND?

12 MR. BARENS: I UNDERSTAND YOUR HONOR'S POINT OF VIEW,
13 SIR.

14 THE COURT: ALL RIGHT. AS I TOLD YOU, I SUSPECT THESE
15 TELEPHONE CALLS I GET LATE IN THE MIDDLE OF THE NIGHT, I KNOW
16 WHERE THEY ARE COMING FROM, WAKING ME UP. HE IS THE KIND OF
17 A MAN WHO WOULD DO A THING LIKE THAT.

18 MR. WAPNER: SO WE ARE IN RECESS UNTIL FRIDAY AT 9:00?

19 THE COURT: THAT IS RIGHT.

20 MR. BARENS: WE CAN MEET IN CHAMBERS IF IT WOULD BE
21 AGREEABLE WITH YOUR HONOR TO DISCUSS THIS.

22 THE COURT: YES, SURELY.

23 MR. WAPNER: AND THE GAG ORDER?

24 THE COURT: THE GAG ORDER WILL REMAIN IN EFFECT.

25 I DON'T THINK I CAN GAG THIS BIG MOUTH OF YOURS --
26 BY "YOURS," I MEAN YOUR FRIEND BUT SINCE HE HAS BEEN RELIEVED
27 FROM THIS CASE, IT SHOULD STILL APPLY, SHOULDN'T IT?

28 MR. WAPNER: I DON'T KNOW THE ANSWER TO THAT QUESTION,

1 I REALLY DON'T.

2 THE COURT: YOU UNDERSTAND MY FEELINGS?

3 MR. BARENS: I QUITE WELL DO.

4 THE COURT: IF YOU WERE THE JUDGE IN THIS CASE AND YOU
5 WERE SUBJECTED TO THIS KIND OF THING DONE DELIBERATELY SO IT
6 COULD BE PUBLISHED BY THE PRESS AND THE JURORS MIGHT READ IT,
7 THAT IS WHAT IT WAS INTENDED FOR, OR TO GET HIS NAME IN THE
8 NEWSPAPERS.

9 MR. BARENS: I QUITE WELL UNDERSTAND, YOUR HONOR.
10 THANK YOU.

11 THE COURT: IT WOULD HAVE BEEN WELL IF YOU HAD HAD
12 WHAT'S HIS NAME --

13 MR. BARENS: MR. WAGER.

14 THE COURT: -- RIGHT FROM THE VERY BEGINNING.

15 MR. BARENS: ONE LEARNS FROM EXPERIENCE, YOUR HONOR.

16 MR. WAPNER: THANK YOU, YOUR HONOR.

17 (AT 1:55 P.M. AN ADJOURNMENT WAS TAKEN
18 UNTIL FRIDAY, APRIL 24, 1987, AT 9 A.M.)

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