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COURT OF APPEAL
SECOND APPELLATE DISTRICT
STATE OF CALIFORNIA



THE PEOPLE OF THE STATE OF CALIFORNIA
Plaintiff
and Respondent/~~Appellant~~

VS

NoA090435.....

T/N JOE HUNT
AKA: JOSEPH HENRY GAMSKY Defendant
and Appellant/~~Respondent~~



CLERK'S TRANSCRIPT
VOLUME IV

Appearances:

Counsel for Plaintiff and Respondent:
THE ATTORNEY GENERAL

Counsel for Defendant and Appellant:

IN PROPRIA PERSONA

Appeal from the Superior Court,
County of Los Angeles

Honorable L.J. RITTENBAND Judge

Date Mailed to:

Defendant (in pro per) _____

Defendant's Trial Attorney _____

Defendant's Appellate Attorney _____

District Attorney _____

Attorney General _____

NOTICE TO APPELLANT:

In the event that a request for corrections is filed, counsel should deliver his copy of the transcripts to the court clerk at the time of the hearing so that it may be conformed.

CLERK'S TRANSCRIPT

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IN THE MUNICIPAL COURT OF BEVERLY HILLS JUDICIAL DISTRICT
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

HON. DAVID A. KIDNEY, JUDGE PRO TEM

DIVISION I

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

vs.

JOE HUNT
aka: JOSEPH HENRY GAMSKY,
and
JAMES PITTMAN
aka: JAMES GRAHAM,

Defendants.

No. A 090435

Violation Section:

Ct. I - 187 PC

Ct. II - 211 PC

FILED

APR 5 - 1985

FRANK S. ZORN, County Clerk

Rita Tucker

BY RYA TUCKER, DEPUTY

+ 2

4-4-85

REPORTER'S TRANSCRIPT

PRELIMINARY HEARING

WEDNESDAY, MARCH 20, 1985

AND

THURSDAY, MARCH 21, 1985

VOLUME II

APPEARANCES:

FOR THE PEOPLE:

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DEPUTY DISTRICT ATTORNEY

FOR DEFENDANT HUNT:

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28I N D E X

<u>PEOPLE'S WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
CLARK W. FOGG BY MR. BARENS:	5,16 --	-- 20	-- --	-- --	-- 8
JAMES S. WAGENBRENNER BY MR. BARENS:	23 --	-- 26	-- --	-- --	-- --
NABIL ABIFADEL BY MR. BARENS:	32,40 --	-- 40	40 --	-- --	-- --
RICHARD L. CLASON BY MR. BARENS:	43 --	-- 45	48 --	-- --	-- --
EVAN GEORGE DICKER BY MR. BARENS:	74 --	-- 103	144 --	-- --	-- --
TOM FRANK MAY BY MR. BARENS:	146 --	-- 158	-- --	-- --	-- --

E X H I B I T S

<u>PEOPLE'S EXHIBITS</u>	<u>IDENTIFIED</u>	<u>RECEIVED</u>
23 - CERTIFIED COPY OF FINGERPRINT CARD, JOE HUNT.	3	163
34 - BLACK & WHITE PHOTO OF A FINGERPRINT AND FULER AND NAME C.W. FOGG.	3	163
35 - BLACK & WHITE PHOTO WITH RULER AND NAME C.W. FOGG.	3	163

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1 BEVERLY HILLS, CALIFORNIA, WEDNESDAY, MARCH 20, 1985

2 10:30 A.M.

3 --000--

4
5 THE COURT: ALL RIGHT. IN THE MATTER OF JOE HUNT,
6 LET THE RECORD SHOW THAT MR. HUNT IS PRESENT WITH HIS
7 COUNSEL, MR. ARTHUR BARENS, AND ALSO MR. TITUS IS PRESENT.
8 THE DISTRICT ATTORNEY, MR. WAPNER, IS PRESENT. ARE YOU
9 READY TO PROCEED AT THIS TIME?

10 MR. WAPNER: READY, YOUR HONOR.

11 THE COURT: ALL RIGHT. MAY CALL YOUR NEXT WITNESS.

12 MR. WAPNER: THANK YOU, YOUR HONOR. AT THIS TIME I'D
13 LIKE TO MARK SEVERAL ITEMS FOR IDENTIFICATION. AS PEOPLE'S
14 23 FOR IDENTIFICATION, A CERTIFICATEFIED COPY OF A
15 FINGERPRINT CARD PURPORTING TO HAVE THE FINGERPRINTS OF JOE
16 HUNT.

17 THE COURT: ALL RIGHT. PEOPLE'S 23 FOR
18 IDENTIFICATION.

19 MR. WAPNER: AS PEOPLE'S 34 FOR IDENTIFICATION, A
20 BLACK AND WHITE PHOTOGRAPH THAT HAS -- APPEARS TO BE A
21 PHOTOGRAPH OF A FINGERPRINT, AND AT THE BOTTOM IT HAS A
22 RULER AND THE NAME "C.W. FOGG", F-O-G-G.

23 MR. BARENS: COULD WE SEE THAT ONE?

24 MR. WAPNER: SURE.

25 AND AS PEOPLE'S 35, A BLACK AND WHITE
26 PHOTOGRAPH ALSO WITH A RULER ON THE BOTTOM AND THE NAME
27 "C.W. FOGG". MAY THAT BE PEOPLE'S 35 FOR IDENTIFICATION?

28 THE COURT: PEOPLE'S 35 FOR IDENTIFICATION.

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1 MR. WAPNER: THANK YOU.

2 THE COURT: LET ME SEE IF I HAVE THIS CORRECT NOW.

3 MR. WAPNER: OKAY.

4 THE COURT: YOU'RE INTRODUCING 23 AS A CERTIFIED COPY
5 OF THE FINGERPRINTS.

6 MR. WAPNER: RIGHT.

7 THE COURT: AND 34 IS A PHOTO?

8 MR. WAPNER: RIGHT.

9 THE COURT: AND THE LAST ONE WAS 35, ANOTHER PHOTO.

10 MR. WAPNER: RIGHT.

11 COUNSEL, MAY IT BE STIPULATED THAT THE
12 FINGERPRINTS THAT APPEAR ON THE DOCUMENT PEOPLE'S 23 FOR
13 IDENTIFICATION ARE, IN FACT, THE FINGERPRINTS OF THE
14 DEFENDANT IN THIS CASE, JOE HUNT?

15 MR. BARENS: DID I JUST SEE THE EXHIBIT?

16 MR. BARENS: I'D KNOW HIS PRINTS ANYWHERE. WE'LL
17 STIPULATE. WE'LL STIPULATE, YOUR HONOR.

18 THE COURT: VERY WELL. FOR THE THE PURPOSES OF THE
19 PRELIMINARY ONLY.

20 MR. WAPNER: CALL CLARK FOGG.

21 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY
22 YOU SHALL GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT
23 SHALL BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE
24 TRUTH, SO HELP YOU GOD.

25 THE WITNESS: I DO.

26

27

28

CLARK W. FOGG,
CALLED AS A WITNESS BY THE PEOPLE, HAVING BEEN FIRST DULY

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1 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

2 THE CLERK: WOULD YOU PLEASE STATE YOUR FULL NAME AND
3 SPELL YOUR LAST NAME FOR THE RECORD.

4 THE WITNESS: CLARK W. FOGG, F-O-G-G.

5 THE CLERK: THANK YOU.

6 MR. WAPNER: YOUR HONOR, AT THIS TIME THERE IS A
7 POTENTIAL WITNESS. NEITHER SIDE EXPECTS TO CALL THEM AT THE
8 PRELIMINARY HEARING, AND HE IS MR. FOGG'S SUPERVISOR. I'VE
9 DISCUSSED IT WITH MR. BARENS AND I BELIEVE THERE'S NO
10 OBJECTION TO HIM REMAINING IN THE COURTROOM DURING THIS
11 TESTIMONY.

12 MR. BARENS: NO OBJECTION. HE'S A WELL KNOWN
13 SOFTBALL PLAYER, YOUR HONOR.

14 THE COURT: ALL RIGHT.

15
16 DIRECT EXAMINATION

17 BY MR. WAPNER:

18 Q MR. FOGG, BY WHOM ARE YOU EMPLOYED?

19 A THE BEVERLY HILLS POLICE DEPARTMENT.

20 Q IN WHAT CAPACITY?

21 A IDENTIFICATION TECHNICIAN.

22 Q AND WHEN DID YOU START TO WORK WITH THE POLICE
23 DEPARTMENT AS AN IDENTIFICATION TECHNICIAN?

24 A IT WOULD BE JULY 23RD, 1984.

25 Q AND BEFORE THAT, DID YOU WORK FOR THE POLICE
26 DEPARTMENT?

27 A YES, I DID. AS A POLICE CADET.

28 Q FOR HOW LONG?

1 A TWO AND A HALF YEARS.

2 Q AND IN YOUR CAPACITY AS AN IDENTIFICATION
3 TECHNICIAN, DID YOU TAKE SOME DOCUMENTS IN THIS CASE AND
4 ATTEMPT TO OBTAIN FINGERPRINTS FROM THEM?

5 A YES, I DID.

6 Q AND --

7 MR. BARENS: COULD I TAKE THE WITNESS ON VOIR DIRE AS
8 FAR AS HIS EXPERTISE --

9 THE COURT: EXPERTISE IS CONCERNED?

10 MR. BARENS: PARDON?

11 MR. WAPNER: YOUR HONOR, I HAVE NO OBJECTION TO THAT.
12 I WAS JUST WONDERING IF I COULD BE ALLOWED TO LAY THE
13 FOUNDATION FIRST AND THEN AFTER I FINISH -- AND BEFORE I
14 START THE QUESTION --

15 MR. BARENS: SURE.

16 THE COURT: ALL RIGHT.

17 Q BY MR. WAPNER: AND WHAT WAS IT -- DID YOU DO
18 THAT BY TAKING CERTAIN PIECES OF PAPER AND DIPPING THEM IN A
19 NINHYDRIN SOLUTION?

20 A YES, I DID.

21 Q IN YOUR CAPACITY -- HAD YOU EVER DONE THAT
22 BEFORE IN YOUR CAPACITY AS AN IDENTIFICATION TECHNICIAN?

23 A YES.

24 Q ABOUT HOW MANY TIMES?

25 A I DID IT AS AN IDENTIFICATION TECHNICIAN AND A
26 POLICE CADET AT LEAST A HUNDRED TIMES.

27 Q SO YOU'RE NOW INCLUDING THE POLICE CADET AND
28 THE IDENTIFICATION TECHNICIAN EXPERIENCE?

1 A YES, I AM.

2 Q OKAY, AND CAN YOU RELATE BRIEFLY THE TRAINING
3 THAT YOU RECEIVED FOR THE PURPOSE OF DOING THIS PROCEDURE
4 EITHER AS -- BOTH AS A CADET AND AS AN IDENTIFICATION
5 TECHNICIAN?

6 A THE TRAINING IN THIS PROCEDURE WAS UNDER THE
7 DIRECT SUPERVISION OF MY SUPERVISOR, KURT KUHN, AND HE'S
8 PREVIOUSLY SHOWED ME STEP BY STEP.

9 Q SO IT WAS ALL BASICALLY ON-THE-JOB TRAINING?

10 A ON-THE-JOB TRAINING, YES, SIR.

11 Q AND IS THIS A PRIMARILY MECHANICAL PROCEDURE?

12 A YES, IT IS.

13 Q WERE YOU RESPONSIBLE FOR MIXING ANY CHEMICALS?

14 A NO, I WAS NOT.

15 Q WERE YOU RESPONSIBLE FOR DOING ANY ANALYSES?

16 A AT ONE POINT JUST BASICALLY FINDING OUT IF
17 LATENT PRINTS DID APPEAR ON THE PAPER SO HE COULD PHOTOGRAPH
18 THEM.

19 Q IN OTHER WORDS, THAT WAS DETERMINING WHETHER
20 THERE WAS A PRINT THERE, BUT NOT DETERMINING WHOSE PRINT IT
21 WAS?

22 A EXACTLY.

23 Q AND AT THE TIME THAT YOU -- STRIKE THAT. IN
24 YOUR CAPACITY AS BOTH A CADET AND AN IDENTIFICATION
25 TECHNICIAN, DID YOU RECEIVE SUPERVISION FROM MR. KUHN ABOUT
26 WHEN -- OR WHAT A PRINT WOULD LOOK LIKE WHEN IT WAS
27 DEVELOPED?

28 A YES, I DID.

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1 Q AND WAS MR. KUHN PRESENT WHEN YOU PERFORMED THE
2 PROCEDURES INVOLVED IN THIS CASE?

3 A YES, HE WAS.

4 Q AND ONCE -- AND THE PROCEDURE THAT YOU USED IN
5 THIS CASE INVOLVED DIPPING THE PAPERS IN A CERTAIN CHEMICAL;
6 IS THAT RIGHT?

7 A THAT 'S CORRECT.

8 Q AND WHERE DID YOU OBTAIN THAT CHEMICAL FROM?

9 A FROM A STOCK SOLUTION LOCATED IN THE LAB IN A
10 CHEMICAL CABINET.

11 MR. WAPNER: I HAVE NOTHING FURTHER REGARDING THE
12 QUALIFICATIONS, YOUR HONOR.

13 THE COURT: WOULD YOU LIKE TO TAKE HIM ON VOIR DIRE?

14 MR. BARENS: THANK YOU, YOUR HONOR.

15

16

VOIR DIRE EXAMINATION

17 BY MR. BARENS:

18 Q MR. FOGG, WHAT SORT OF FORMAL EDUCATION OR
19 SCHOOLING DO YOU HAVE IN FINGERPRINT IDENTIFICATION?

20 MR. WAPNER: OBJECTION IS IRRELEVANT. HE 'S NOT BEING
21 CALLED AS A FINGERPRINT EXPERT.

22 MR. BARENS: ALL RIGHT. IN FINGERPRINT OBTAINING,
23 DEVELOPING.

24 THE WITNESS: OKAY. LET ME GO THROUGH ALL OF MY
25 QUALIFICATIONS FIRST. I 'VE BEEN WORKING FOR THE DEPARTMENT
26 FOR EIGHT MONTHS NOW. PRIOR TO THAT I WAS A POLICE CADET
27 FOR TWO AND A HALF YEARS WHERE I RECEIVED MY BASIC
28 TRAINING --

1 Q BY MR. BARENS: WHAT DOES THAT MEAN TO BE A
2 POLICE CADET? YOU'RE NOT IN THE EMPLOY OF THE POLICE
3 DEPARTMENT, ARE YOU?

4 A YES. WE ARE EMPLOYED BY THE POLICE DEPARTMENT
5 AS A PART-TIME JOB. BASICALLY IT'S A TRAINING WHILE YOU'RE
6 GOING TO SCHOOL. AT THAT TIME --

7 Q YOU MEAN IN THE ACADEMY DURING THAT EXPERIENCE?

8 A NO. MY EDUCATION WAS AT LOS ANGELES VALLEY
9 COLLEGE WHERE I RECEIVED MY ASSOCIATE OF ARTS DEGREE IN
10 POLICE SCIENCE, AND AT THAT TIME ALSO I WAS TAKING A COURSE
11 SPONSORED THROUGH EAST L.A. COLLEGE IN FINGERPRINT
12 CLASSIFICATION AND COMPARISON AND I FINISHED THAT COURSE. I
13 WAS A LOS ANGELES POLICE RESERVE OFFICER FOR FOUR YEARS,
14 FROM 1980 TO 1984, AND I ALSO DID FIELD INVESTIGATION WORK
15 SUCH AS IDENTIFICATION WORK THERE, AND --

16 Q DID YOU DO AT CRIME SCENES FINGERPRINT LIFTS --

17 A YES, I DID.

18 Q -- FOR THOSE PEOPLE?

19 A YES, I DID.

20 Q HOW MANY TIMES DID YOU DO THAT?

21 A I DID APPROXIMATELY ABOUT 20 TIMES THROUGHOUT
22 THE YEAR.

23 Q HOW MANY DIFFERENT METHODS ARE THERE TO OBTAIN
24 A FINGERPRINT?

25 A THERE'S SEVERAL. LIFTING THEM WITH POWDERS,
26 CHEMICALS. THERE'S MANY -- MANY DIFFERENT --

27 Q WHY DON'T YOU TELL ME WHAT ARE THE OTHER TYPES,
28 SIR?

1 A OKAY. THERE 'S A "BLACK MAG" POWDER, WHICH IS
2 MAGNETIC POWDER, AND YOU APPLY IT TO PAPER SURFACES. THERE
3 IS A SILVER AND A BLACK AND CONTRASTING POWDERS. THERE IS
4 ALSO THE CONVENTIONAL POWDER METHOD WHERE IT DOESN'T HAVE
5 ANY TYPE OF MAGNETIC CONTENT IN IT AND THAT IS APPLIED TO
6 HARDER SURFACES, MIRRORS, STAINLESS STEEL. THERE IS THE
7 NINHYDRIN PROCESS, WHICH IS A CHEMICAL TYPE OF PROCESS.
8 THERE IS A -- WHICH DEALS IN ETHER AND ACETONE AS BASES.
9 THERE IS A FUMING GUM, IODINE FUMING, AND THOSE ARE THE ONLY
10 ONES I'M AWARE OF RIGHT NOW.

11 Q HOW ABOUT SUPER GLUE?

12 A YES, FUMING.

13 Q YOU HAVE THAT WAY TO GO, DON'T YOU. AND YOU
14 ALSO HAVE A LASER TEST, TOO, DON'T YOU?

15 A YES, BUT I'M NOT TOO FAMILIAR WITH THAT RIGHT
16 NOW. IT'S A NEW PROCESS.

17 Q AT ANY TIME, ISN'T IT TRUE YOU WOULD PRIMARILY
18 USE THE LASER TECHNIQUE IF YOU WERE LOOKING FOR LATENTS ON A
19 PIECE OF PAPER THAT WAS DIFFICULT TO PRINT?

20 A I'M REALLY NOT FAMILIAR WITH THE LASER PROCESS
21 AT ALL.

22 Q DO YOU KNOW -- ISN'T IT TRUE THAT NINHYDRIN AS
23 A TECHNIQUE WOULD NOT ENABLE YOU TO TELL WHEN THE PRINT WAS
24 PUT ON THE PIECE OF PAPER, WOULD IT?

25 A NO, IT WOULD NOT.

26 Q WHETHER IT WAS PUT ON BEFORE OTHER MARKS WERE
27 MADE ON THAT PAPER OR SUBSEQUENT THERETO, WOULD IT?

28 A NO.

1 Q DOESN'T NINHYDRIN ALSO CORRUPT THE SUBSTANCE AS
2 FAR AS ANY OTHER TEST IS CONCERNED?

3 A THAT I AM NOT SURE OF. I BELIEVE IT'S TRUE.

4 Q AND WHEN YOU WERE DOING THIS NINHYDRIN TEST,
5 WERE YOU LOOKING FOR ONE OR MORE THAN ONE PRINT?

6 A I WAS PROCESSING THE PAPER FOR ANY TYPE OF
7 DEVELOPMENT OF LATENT PRINTS ON THE PAPER.

8 Q HOW MANY TIMES HAVE YOU PERFORMED A NINHYDRIN
9 TEST PRIOR TO THIS TEST?

10 A AT LEAST A HUNDRED TIMES. IT'S A COMMON KNOWN
11 PRACTICE.

12 Q WHAT MADE YOU SELECT NINHYDRIN FOR THIS TEST?

13 A NINHYDRIN IS USUALLY USED FOR PAPER SUBSTANCES.
14 CARDBOARD, PAPER, ANYTHING TO THAT NATURE.

15 Q WELL, WOULDN'T YOU AS READILY USE POWDER
16 TESTING ON PAPER SO AS NOT TO CORRUPT THE SURFACES'
17 SUBSTANCE.

18 MR. WAPNER: WELL, I HAVE AN OBJECTION. TWO
19 OBJECTIONS. FIRST OF ALL, IT ASSUMES FACTS NOT IN EVIDENCE;
20 THAT IS, THAT HE IS THE ONE WHO SELECTED THIS PROCESS AND
21 TWO, IT'S IMPROPER VOIR DIRE BECAUSE IT DOESN'T GO TO HIS
22 QUALIFICATION. WE'RE NOT ARGUING WITH THE WITNESS ABOUT
23 WHAT IS BETTER --

24 MR. BARENS: I'LL USE THAT FOR CROSS-EXAMINATION.

25 THE COURT: ALL RIGHT. THE OBJECTION WILL BE
26 SUSTAINED AS TO THE FORM OF THE QUESTION.

27 Q BY MR. BARENS: ALL RIGHT. YOU'RE NOT -- DID
28 YOU EVER OBTAIN THE FBI CERTIFICATION IN FINGERPRINT

1 ANALYSIS?

2 A NO, I HAVE NOT. I DO PLAN TO ATTEND, THOUGH.

3 Q I SEE, AND WHY WOULD YOU DO THAT?

4 MR. WAPNER: OBJECTION. RELEVANCE, YOUR HONOR.

5 IT'S ALSO ARGUMENTATIVE.

6 MR. BARENS: WELL, IT GOES TO HIS QUALIFICATIONS.

7 IT'S LIKE I'M HERE PRACTICING LAW, BUT TELLING YOU I'M

8 INTENDING TO GO TO LAW SCHOOL.

9 MR. WAPNER: WELL, WHAT HE'S GOING TO DO IN THE

10 FUTURE HAS NOTHING TO DO WITH HIS QUALIFICATIONS THAT HE'S

11 DONE IN THE PAST. IT'S A SCHOOL FOR FINGERPRINT

12 IDENTIFICATION. HE'S NOT BEING CALLED AS A EXPERT. HE'S

13 BEING CALLED AS SOMEONE WHO FORMED A MECHANICAL PROCEDURE.

14 MR. BARENS: THIS HAS TO DO WITH TAKING FINGERPRINTS,

15 AND I'LL BET THAT SCHOOL TALKS ABOUT TAKING FINGERPRINTS.

16 THE COURT: WHAT IS YOUR QUESTION AGAIN?

17 MR. BARENS: MY QUESTION IS WHY IS HE INTENDING TO GO

18 TO THE FBI SCHOOL, WHAT WILL THAT DO FOR HIM AS FAR AS

19 EDUCATION.

20 THE COURT: THE OBJECTION WILL BE SUSTAINED. WHAT

21 YOU'RE ASKING HIM IS QUALIFICATIONS THAT HE HAS NOW

22 PRESENTLY TO LIFT --

23 MR. BARENS: I'M JUST CONCERNED WITH --

24 THE COURT: -- RATHER THAN WHAT HE'S GOING TO DO IN

25 THE FUTURE.

26 MR. BARENS: I'M JUST CONCERNED WITH WHAT THAT'S

27 GOING TO DO TO ENHANCE HIS EDUCATION. IN OTHER WORDS, WHAT

28 IS IT GOING TO TEACH HIM THAT HE DOESN'T KNOW NOW. IT MIGHT

1 TEACH HIM ABOUT NINHYDRIN TESTING.

2 THE COURT: WHY DON'T YOU ASK HIM IF THERE'S
3 SOMETHING HE DOESN'T PRESENTLY KNOW THAT HE WILL LEARN
4 THERE. THE WAY YOU'VE ASKED HIM WHY HE WANTS TO GO THERE
5 WOULD INDICATE, MR. BARENS, THAT THERE IS SOME DOUBT IN HIS
6 MIND AS TO WHETHER HE'S COMPLETED A COURSE. I THINK THE
7 FORM OF THE QUESTION, IT MIGHT BE OBJECTIONABLE.

8 MR. BARENS: I'M GOING TO ASK HIM A DIFFERENT
9 QUESTION AND LET HIM PURSUE HIS EDUCATION.

10 THE COURT: ALL RIGHT.

11 Q BY MR. BARENS: DO YOU CONSIDER YOURSELF AN
12 EXPERT IN FINGERPRINT IDENTIFICATION?

13 A I BELIEVE I HAVE KNOWLEDGE THAT THE AVERAGE
14 LAYMAN WOULD NOT HAVE.

15 Q AND THAT WOULD GO TO WHAT, SIR?

16 A THAT WOULD BE THE IDENTIFICATION WORK, LIFTING
17 OF PRINTS AND CLASSIFICATION.

18 Q I SEE.

19 A AND SOME COMPARISON.

20 Q WELL, I'M ASKING YOU WHETHER YOU CONSIDER
21 YOURSELF AN EXPERT, MR. FOGG.

22 A AT THIS POINT IN MY EDUCATION, NO; AS I DO NOT
23 HAVE THE EDUCATION THAT COMES ALONG WITH -- AS AN EXPERT. I
24 BELIEVE I HAVE A LITTLE BIT MORE KNOWLEDGE THAN THE AVERAGE
25 PERSON DOES.

26 MR. WAPNER: THE QUESTION, I TAKE IT --

27 MR. BARENS: WELL --

28 MR. WAPNER: I JUST WANT TO INTERPOSE AN OBJECTION

1 HERE --

2 MR. BARENS: WHAT WE'RE HEARING HERE --

3 THE COURT: JUST A MINUTE.

4 MR. WAPNER: THE LAST QUESTION IS VAGUE -- THE ANSWER
5 IS VAGUE RELATING TO A QUESTION "DO YOU CONSIDER YOURSELF AN
6 EXPERT IN FINGERPRINT IDENTIFICATION." THE FORM OF THAT
7 PARTICULAR QUESTION, UNLESS IT RELATES TO THE PRIOR ONE, IS
8 VAGUE. HE COULD BE AN EXPERT IN ANYTHING. I JUST WANT TO
9 MAKE SURE EVERYTHING IS PINNED DOWN BECAUSE I DON'T WANT TO
10 HEAR LATER AN OBJECTION THAT HE'S NOT AN EXPERT. IF IT
11 DOESN'T RELATE TO THAT QUESTION, THEN THE OBJECTION IS
12 VAGUE.

13 THE COURT: IF I HAVE THIS CORRECT, YOU'RE MAKING A
14 DISTINCTION OF THE LIFTING OF FINGERPRINTS AND THE
15 IDENTIFICATION OF A PRINT WITH ANOTHER PRINT; IS THAT IT?

16 MR. WAPNER: THAT'S CORRECT, AND I DON'T WANT TO GET
17 THE TWO CONFUSED.

18 Q BY MR. BARENS: WELL, DO YOU CONSIDER YOURSELF
19 AN EXPERT AT LIFTING FINGERPRINTS?

20 A YES, I DO.

21 Q EVEN THOUGH YOU DON'T KNOW ANYTHING ABOUT THE
22 LASER TEST.

23 MR. WAPNER: OBJECTION AS ARGUMENTATIVE, YOUR HONOR.

24 MR. BARENS: NO. I THINK THAT GOES RIGHT INTO THE
25 KERNEL OF EXPERTISE SINCE THAT IS THE CURRENT STATE OF THE
26 ART IN THIS WHOLE AREA.

27 MR. WAPNER: THAT ASSUMES A FACT NOT IN EVIDENCE.

28 THE COURT: THE FORM OF YOUR QUESTION, COUNSEL, IS

1 ARGUMENTATIVE. HE SAID HE DOESN'T, AND YOU'RE SAYING "EVEN
2 THOUGH YOU DON'T," WHICH WOULD BE ARGUMENTATIVE.

3 MR. BARENS: WELL --

4 THE COURT: THE OBJECTION WILL BE SUSTAINED.

5 Q BY MR. BARENS: DO YOU CONSIDER YOURSELF AN
6 EXPERT IN ALL ASPECTS OF FINGERPRINT LIFTING?

7 A NO, I DO NOT.

8 Q AM I CORRECT THAT YOU JUST CONSIDER YOURSELF AN
9 EXPERT IN NINHYDRIN LIFTING?

10 A TO A POINT OF BASICALLY DOING THE PROCESS, YES.
11 I KNOW A LOT ABOUT THE PROCESS OF IT.

12 Q ALL RIGHT. WELL, YOU ARE AN EXPERT IN DOING A
13 MECHANICAL PROCEDURE.

14 A EXACTLY.

15 Q WELL. HOW MANY DIFFERENT WAYS ARE THERE
16 AVAILABLE TO DO THE NINHYDRIN TEST IN A MECHANICAL SETTING?

17 A DO YOU MIND CLARIFYING THAT?

18 Q WELL, IN OTHER WORDS, I PRESUME YOU DID THE
19 NINHYDRIN TEST A PARTICULAR WAY ON THIS OCCASION.

20 A YES, I DID.

21 Q WAS THERE ANOTHER WAY TO HAVE DONE IT?

22 A THERE IS ANOTHER WAY OF DOING IT WITH A BASE OF
23 ACETONE, BUT DUE TO THE FACT THAT THE PAPER HAD INK ON IT,
24 ACETONE IS KNOWN TO RUN THE INK, SO I USED "PET ETHER" WHICH
25 DOES NOT RUN THE INK.

26 Q DID YOU SPRAY THE NINHYDRIN ON OR PAINT IT ON?

27 A NO. I TOOK AN 11 BY 14 STAINLESS STEEL PAN,
28 POURED THE NINHYDRIN IN THE PAN AND PLACED THE PAPER IN THE

1 TWEEZERS IN THAT SOLUTION TO SATURATE IT.

2 Q SO YOU SUBMERGED THE ENTIRE PIECE OF PAPER.

3 A YES, I DID.

4 Q ALL RIGHT.

5 MR. BARENS: ALL RIGHT. I SUPPOSE, YOUR HONOR, THAT
6 THE DEFENSE, ALTHOUGH IT RESERVES THIS OBJECTION, FOR THE
7 PURPOSES OF PRELIMINARY HEARING, I PRESUME IT'S BEEN
8 ESTABLISHED THAT AN A MECHANICAL SENSE THE WITNESS DID PUT A
9 PIECE OF PAPER IN A SOLUTION OF NINHYDRIN. WHAT HAPPENS
10 AFTER THAT, I COULDN'T TELL YOU.

11 THE COURT: ALL RIGHT.

12 MR. BARENS: UP TO THAT POINT WE ARE ON FIRM GROUND
13 HERE.

14 THE COURT: MR. WAPNER? YOU MAY RESUME.

15 MR. WAPNER: THANK YOU, YOUR HONOR.

16

17 DIRECT EXAMINATION (CONT'D)

18 BY MR. WAPNER:

19 Q MR. FOGG, SHOWING YOU A GROUP OF DOCUMENTS
20 THAT'S MARKED AS PEOPLE'S 44, INCLUDING AN ENVELOPE THAT'S
21 MARKED PEOPLE'S 44, DO YOU RECOGNIZE THAT ENVELOPE AND THOSE
22 DOCUMENTS?

23 A YES, I DO.

24 Q WHERE HAVE YOU SEEN THEM BEFORE?

25 A THEY WERE IN THE PROPERTY ROOM AT BEVERLY HILLS
26 POLICE DEPARTMENT AND ALSO IN OUR LAB. THESE ARE THE PAPERS
27 THAT I PROCESSED IN THE NINHYDRIN.

28 Q AND WHEN YOU FIRST SAW THOSE -- OBTAINED THOSE

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1 PAPERS, WHERE DID YOU GET THEM FROM?

2 A THE PROPERTY ROOM.

3 Q AND HOW DID YOU DO THAT?

4 A I CHECKED THEM OUT.

5 Q AND WHEN YOU CHECKED THEM OUT, WHAT DID YOU DO
6 WITH THEM?

7 A I BASICALLY TOOK AN IDENTIFYING PHOTO OF EACH
8 PAPER WITH MY INITIALS AND THE CASE NO. AND THEN I TOOK THE
9 PHOTOGRAPH -- OR TOOK THE PAPERS OVER TO THE PROCESSING AREA
10 WHERE I REMOVED AN 11 BY 14 STAINLESS STEEL PAN. I REMOVED
11 A CHEMICAL FROM THE CHEMICAL CABINET, A STOCK SOLUTION OF
12 NINHYDRIN, I Poured THE CHEMICAL IN THE TRAY AND DIPPED EACH
13 INDIVIDUAL PAPER ONE AT A TIME IN THE TRAY, MAKING SURE THAT
14 THEY 'RE SATURATED ENOUGH, REMOVED THEM WITH TWEEZERS INTO A
15 DRYING TRAY AND PUT THEM BACK IN THE PROPERTY ROOM WHERE
16 THEY WERE SECURED.

17 Q ALL RIGHT. AFTER YOU REMOVED THEM FROM -- HOW
18 LONG DID YOU LEAVE EACH PIECE OF PAPER IN THE NINHYDRIN
19 SOLUTION?

20 A APPROXIMATELY A MINUTE.

21 Q AND AFTER YOU TOOK THE PAPERS OUT OF THE
22 NINHYDRIN SOLUTION, WHAT DID YOU DO WITH THEM?

23 A I PLACED THEM IN A DRYING TRAY FOR A PERIOD OF
24 24 HOURS.

25 Q DID YOU CHECK THEM AFTER 24 HOURS?

26 A YES, I DID. I EXAMINED THEM AND I LEFT THEM
27 ALONE AND LET ANOTHER 24 HOURS PASS TO SEE IF ANY OTHER
28 LATENT PRINTS WOULD DEVELOP ON THEM.

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1 Q AND AFTER THAT SECOND 24-HOUR PERIOD PASSED,
2 WHAT DID YOU DO?

3 A I RE-EXAMINED THEM. I FELT THAT THE
4 DEVELOPMENT HAD ALREADY OCCURRED AND I REMOVED THEM FROM THE
5 PROPERTY ROOM AND BROUGHT THEM OVER TO OUR MP3 CAMERA, WHICH
6 IS IN THE LAB, AND PHOTOGRAPHED THE LATENT PRINTS.

7 Q SHOWING YOU PEOPLE'S 34 AND 35 FOR
8 IDENTIFICATION, DO YOU RECOGNIZE THOSE?

9 A YES, I DO.

10 Q WHAT ARE THEY?

11 A THEY ARE THE PHOTOGRAPHS THAT I DEVELOPED ON
12 THE CASE.

13 Q ALL RIGHT. AND WHAT ARE THEY PHOTOGRAPHS OF?

14 A THEY ARE THE PHOTOGRAPHS OF THE NINHYDRIN
15 CHEMICAL REACTION, WHICH IS A LATENT PRINT.

16 Q ALL RIGHT. DO YOU RECOGNIZE THIS PIECE OF
17 PAPER THAT IS MARKED AS PEOPLE'S 44C?

18 A YES, I DO.

19 Q AND IS THAT ONE OF THE PAPERS THAT YOU PLACED
20 IN THE NINHYDRIN PROCESS?

21 A YES.

22 Q AND AFTER YOU LET THAT PIECE OF PAPER, 44C, DRY
23 FOR THE 48 HOURS, WHAT DID YOU DO WITH IT?

24 A AT THAT POINT I EXAMINED THEM, I PHOTOGRAPHED
25 THEM, AND I HAD THEM VERIFIED BY MY SUPERVISOR.

26 Q WHAT'S YOUR SUPERVISOR'S NAME?

27 A KURT KUHN.

28 Q AND THE PICTURES THAT ARE 34 AND 35, WHAT ARE

1 THEY PHOTOGRAPHS OF?

2 A THEY'RE THE PHOTOGRAPHS OF THE LATENTS
3 APPEARING ON THIS PIECE OF PAPER.

4 Q WHICH IS 44C?

5 A 44C.

6 Q ALL RIGHT. AND WHEN DID YOU TAKE THOSE
7 PHOTOGRAPHS?

8 A I BELIEVE -- AFTER THE 48 HOURS, WHICH WOULD BE
9 THE 19TH.

10 Q THAT WOULD BE AUGUST THE 19TH?

11 A I BELIEVE AUGUST THE 19TH. I WOULD HAVE TO
12 REFER TO MY NOTES ON THAT.

13 Q IS THIS A COPY OF A REPORT THAT YOU PREPARED?

14 A YES, IT IS, AND IT WAS AUGUST 19, 1984.

15 Q WHEN YOU ORIGINALLY PLACED THEM IN THE
16 NINHYDRIN, IT WAS WHAT DATE?

17 A 8-17 OF '84.

18 Q AFTER YOU TOOK THE PHOTOGRAPHS, WHAT DID YOU DO
19 WITH THE YELLOW PIECES OF PAPER, PEOPLE'S 44?

20 A THE YELLOW PIECES OF PAPER WERE PUT BACK IN THE
21 ENVELOPE AND WERE PLACED BACK INTO PROPERTY. THE
22 PHOTOGRAPHS WERE THEN PLACED IN AN ENVELOPE ACCORDING TO THE
23 CASE NUMBER IN OUR FILES.

24 Q THE YELLOW PIECES OF PAPER WERE PUT BACK --

25 A INTO THE PROPERTY ROOM.

26 Q AND WHAT WAS DONE WITH THE PHOTOGRAPHS?

27 A THE PHOTOGRAPHS WERE THEN PLACED IN AN ENVELOPE
28 AND FILED UNDER THE CASE NUMBER.

1 Q ALL RIGHT. AND THOSE ARE THE PHOTOGRAPHS
2 PEOPLE'S 34 AND PEOPLE'S 35?

3 A YES.

4 MR. WAPNER: I HAVE NOTHING FURTHER OF THIS WITNESS.

5 THE COURT: MR. BARENS?

6 MR. BARENS: THANK YOU.

7

8

CROSS-EXAMINATION

9

BY MR. BARENS:

10 Q MR. FOGG, YOU TESTED ALL SEVEN PIECES OF
11 PAPER --

12 A YES, I DID.

13 Q -- FRONT AND BACK. AND IF I UNDERSTAND YOUR
14 TESTIMONY CORRECTLY, IT'S ONLY ON 44C THAT WE FIND
15 SOMETHING?

16 A NO, SIR. THERE IS OTHER LATENTS DEVELOPED ON
17 THE SEVEN PIECES OF PAPER.

18 Q BUT THE ONLY ONE WE PHOTOGRAPHED WAS THIS ONE?

19 A NO, NO, NO. WE PHOTOGRAPHED ALL THE LATENTS
20 THAT WERE IDENTIFIABLE --

21 Q WAS THERE ANY PARTICULAR SIGNIFICANCE TO 44C?

22 A I BELIEVE THAT THESE ARE THE IDENTIFIABLE
23 LATENTS THAT THE COMPARISONS WERE MADE FROM. I DEVELOPED
24 OTHER PICTURES --

25 Q BUT THE OTHER ONES WERE NOT IDENTIFIABLE?

26 A I PRESUME SO --

27 MR. WAPNER: OBJECTION. BEYOND THE SCOPE OF DIRECT
28 EXAMINATION, YOUR HONOR. BEYOND THE SCOPE OF THIS WITNESS'

1 EXPERTISE.

2 MR. BARENS: YOUR HONOR, I THINK HE TESTIFIED THAT
3 SOMETHING 'S IDENTIFIABLE ON THIS ONE.

4 THE COURT: THE OBJECTION WILL BE OVERRULED. IT'S
5 CROSS-EXAMINATION OF AN EXPERT.

6 Q BY MR. BARENS: AGAIN, THE ONLY ONE THAT WAS
7 IDENTIFIABLE WAS ON 44C?

8 A I CANNOT MAKE THAT DETERMINATION BECAUSE I DID
9 NOT COMPARE THE LATENTS.

10 Q WELL, TO YOUR KNOWLEDGE, WAS ANY IDENTIFICATION
11 OF PRINTS MADE ON ANYTHING OTHER THAN 44C?

12 A I DO NOT KNOW THAT.

13 Q AND SO YOUR ANSWER WOULD BE NO.

14 A NO.

15 Q 44C, WHERE DID YOU LOCATE THE IDENTIFIABLE
16 PRINT ON HERE? COULD YOU SHOW ME?

17 A WELL, THERE WERE SEVERAL HERE (INDICATING) THAT
18 WERE IDENTIFIABLE. THESE TWO I RECOGNIZE HERE. THERE'S
19 ALSO TWO HERE (INDICATING).

20 Q WERE THEY ALL THE SAME PRINT OR DO YOU KNOW?

21 A I DO NOT KNOW THAT. I DIDN'T MAKE THE
22 COMPARISON.

23 THE COURT: FOR THE RECORD, HE'S SAID "TWO HERE"
24 AND --

25 MR. BARENS: TWO NEXT TO THE PICTURES OF THE FLYING
26 SAUCERS OR SOMETHING.

27 MR. WAPNER: WELL, CAN WE HAVE THE WITNESS DO IT
28 AGAIN SO THAT THEY CAN BE DESCRIBED FOR THE RECORD?

1 THE COURT: RIGHT.

2 Q BY MR. BARENS: COULD YOU SHOW ME WHERE THOSE
3 PRINTS ARE.

4 A A AND B WERE IDENTIFIABLE AND --

5 MR. WAPNER: WHEN HE SAYS "A AND B", YOUR HONOR,
6 INDICATING THERE ARE TWO CIRCLES ON THIS PIECE OF PAPER THAT
7 ARE DRAWN ON THE PLASTIC, AND BESIDE EACH CIRCLE THERE IS --
8 BESIDE THE CIRCLE ON THE LEFT THERE 'S AN "A" AND BESIDE THE
9 CIRCLE ON THE RIGHT THERE 'S A "B".

10 Q BY MR. BARENS: OH, I SEE, THE CIRCLES ARE ON
11 THE YELLOW PAPER -- ARE ON THE EXHIBIT WRAPPER, WHEREAS THE
12 PAGE APPEARS TO BE BLANK OTHER THAN THESE FINGERPRINTS, IS
13 THAT TRUE?

14 A YES, IT DOES.

15 Q I SEE.

16 Q AND ON THE SIDE WHERE THERE APPEARS TO BE
17 WRITING, YOU DON'T SEEM TO SHOW ANY PRINTS?

18 A THERE DOES NOT APPEAR TO BE ANY PRINTS AT ALL.

19 Q ALL RIGHT. THANK YOU.

20 MR. WAPNER: SO THE RECORD IS CLEAR, THERE DON'T
21 APPEAR TO BE ANY FLYING SAUCERS ON THE PAGE.

22 MR. BARENS: NO. JUST CIRCLES THAT LOOK LIKE FLYING
23 SAUCERS. WELL, IT 'S OF NO CONSEQUENCE, YOUR HONOR.

24 THE COURT: ALL RIGHT. ARE WE FINISHED WITH THAT
25 LITTLE DISCOURSE NOW? LET 'S GO AHEAD.

26 MR. BARENS: NOTHING FURTHER OF THIS WITNESS.

27 THE COURT: ANY REDIRECT?

28 MR. WAPNER: NO.

1 THE COURT: MAY THIS WITNESS BE EXCUSED?

2 MR. WAPNER: NO OBJECTION.

3 MR. BARENS: NO OBJECTION.

4 THE COURT: THANK YOU, MR. FOGG.

5 MR. WAPNER: CALL OFFICER WAGENBRENNER.

6 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY
7 YOU SHALL GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT
8 SHALL BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE
9 TRUTH, SO HELP YOU GOD.

10 THE WITNESS: I DO.

11

12

13 JAMES S. WAGENBRENNER,
14 CALLED AS A WITNESS BY THE PEOPLE, HAVING BEEN FIRST DULY
15 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

16 THE CLERK: WOULD YOU PLEASE STATE YOUR FULL NAME AND
17 SPELL YOUR LAST NAME FOR THE RECORD.

18 THE WITNESS: JAMES S. WAGENBRENNER,
19 W-A-G-E-N-B-R-E-N-N-E-R.

20 THE CLERK: THANK YOU.

21

22

DIRECT EXAMINATION

23 BY MR. WAPNER:

24 Q OFFICER WAGENBRENNER, BY WHOM ARE YOU EMPLOYED?

25 A BEVERLY HILLS POLICE DEPARTMENT.

26 Q AND IN WHAT CAPACITY?

27 A I'M AN IDENTIFICATION TECHNICIAN.

28 Q HOW LONG -- AND SPECIFICALLY CAN YOU RELATE TO
THE COURT YOUR QUALIFICATIONS WITH RESPECT --

1 MR. BARENS: YOUR HONOR, FOR PRELIMINARY HEARING
2 WE'LL STIPULATE THAT THIS WITNESS IS QUALIFIED AS A
3 FINGERPRINT PERSON.

4 MR. WAPNER: AS A FINGERPRINT PERSON?

5 THE COURT: ARE YOU WILLING TO ACCEPT THAT?

6 MR. WAPNER: WELL, WITH A SLIGHT CLARIFICATION.

7 MR. BARENS: AS A FINGERPRINT EXPERT, EVEN.

8 THE COURT: DO YOU WANT TO --

9 MR. WAPNER: AND WILL THE STIPULATION INCLUDE THAT
10 THE WITNESS IS ALSO QUALIFIED AS AN EXPERT TO EXAMINE
11 FINGERPRINTS AND RENDER A CONCLUSION AS TO WHETHER -- WHOSE
12 FINGERPRINTS THEY ARE?

13 MR. BARENS: YES. HE'S QUALIFIED TO GIVE HIS OPINION
14 AS TO WHOSE FINGERPRINTS THEY ARE, NOT THAT THAT WOULD
15 NECESSARILY BE ANYONE ELSE'S OPINION.

16 MR. WAPNER: THAT'S FINE.

17 THE COURT: ALL RIGHT. FIRST OF ALL, IS THERE A
18 STIPULATION? DO YOU BOTH ACCEPT THAT STIPULATION?

19 MR. WAPNER: I ACCEPT THE STIPULATION, YOUR HONOR.

20 THE COURT: ALL RIGHT. FOR THE PURPOSE OF THE
21 PRELIMINARY, THE STIPULATION WILL BE ACCEPTED.

22 Q BYMR. WAPNER: MR. WAGENBRENNER, DID YOU
23 EXAMINE SOME FINGERPRINTS, SOME LATENT PRINTS, THAT WERE
24 OBTAINED FROM A PIECE OF PAPER THAT'S PEOPLE'S 44C AND THAT
25 ARE ALSO CONTAINED IN THE PHOTOGRAPHS THAT ARE PEOPLE'S 34
26 AND 35?

27 A YES, I HAVE.

28 Q BY THE WAY, SPEAKING OF 44C, ON THE -- THAT IS

1 A PIECE OF PAPER ENCLOSED IN PLASTIC; IS THAT CORRECT?

2 A YES, SIR.

3 Q AND ARE THERE SOME CIRCLES ON THE BACK OF
4 THERE?

5 A YES, SIR, TWO CIRCLES.

6 Q AND THERE 'S A LETTER A BY ONE AND A LETTER B BY
7 THE OTHER ONE?

8 A YES, SIR.

9 Q DO YOU KNOW HOW THOSE GOT THERE?

10 A I PLACED THEM THERE, SIR.

11 Q WHEN DID YOU DO THAT?

12 A AT MR. PITTMAN'S PRELIMINARY HEARING.

13 Q AND DID YOU COMPARE THE PRINTS LIFTED FROM 44C
14 WITH THE ORIGINAL OF A FINGERPRINT CARD, A COPY OF WHICH HAS
15 BEEN MARKED PEOPLE'S 23?

16 A YES, SIR, I DO.

17 Q ALL RIGHT. AND DO YOU HAVE AN OPINION AS TO
18 WHETHER OR NOT THOSE FINGERPRINTS WERE MADE BY ONE AND THE
19 SAME PERSON?

20 A YES, SIR, I DO.

21 Q WHAT IS THAT OPINION?

22 A THE LATENT FINGERPRINTS THAT APPEAR ON PEOPLE'S
23 44C, LETTERED A AND B, ARE BOTH THE RIGHT THUMB PRINT WHICH
24 APPEARS ON PEOPLE'S 23.

25 MR. WAPNER: THANK YOU. I HAVE NOTHING FURTHER.

26 /////

27 /////

28 /////

CROSS-EXAMINATION

1
2 BY MR. BARENS:

3 Q OFFICER, WHY DO YOU COME TO THE CONCLUSION THAT
4 THEY'RE THE SAME FINGERPRINTS?

5 A I BASE MY COMPARISON -- OR MY OPINION BASED
6 UPON A COMPARISON THAT I DID BETWEEN THE FINGERPRINTS THAT
7 ARE DEPICTED IN PEOPLE'S 23 AND THE LATENT PRINTS THAT ARE
8 ON PEOPLE'S 44 BY COMPARING THE RIDGE CHARACTERISTICS THAT
9 ARE FOUND.

10 Q HOW MANY POINTS OF SIMILAR IDENTIFICATION DID
11 YOU FIND?

12 A I FOUND IN EXCESS OF 10 POINTS OF SIMILARITY ON
13 BOTH PRINTS.

14 Q AND DOES THAT, IN YOUR OPINION, FAIL SAFE THAT
15 IT'S THE SAME PRINT? DOES THAT CONDITION CONVINCEN YOU THAT
16 IT'S THE SAME PRINT?

17 A MY OPINION IS NOT BASED SO MUCH UPON THE NUMBER
18 OF CHARACTERISTICS, WHICH IS IMPORTANT. THE NUMBER IS
19 IMPORTANT. IT'S BASED UPON BASICALLY THREE THINGS, WHICH
20 ARE THAT THE CHARACTERISTICS THAT I'M LOOKING FOR ARE THE
21 SAME; TWO, THEIR RELATIONSHIP TO EACH OTHER IS THE SAME; AND
22 THIRD, AND PROBABLY MOST IMPORTANT, IS THAT THERE ARE NO
23 DISSIMILARITIES.

24 Q ISN'T YOUR OPINION BASED UPON WHAT YOU
25 CORRECTLY DESCRIBE AS A PROBABILITY FACTOR RATHER THAN AN
26 ABSOLUTE CERTAINTY FACTOR?

27 A I THINK THAT IT'S PRETTY WELL BEEN ESTABLISHED
28 THAT NO TWO PRINTS ARE THE SAME AND THAT THE -- THE NUMBER

1 OF CHARACTERISTICS THAT HAVE BEEN FOUND TO BE THE SAME AND
2 NOT BE THE SAME PRINT THAT I HAVE EVER HEARD OF IS FIVE.
3 MOST EXPERTS FEEL VERY SAFE WHEN THEY HAVE 10 TO TAKE IT TO
4 COURT AND SAY WITHOUT ANY DOUBT THAT THEY ARE THE SAME AND
5 WERE MADE BY ONE AND THE SAME PERSON.

6 Q IS THAT WHAT YOU'RE SAYING?

7 A YES.

8 Q NOW, I NOTE THAT THE PRINTS THAT YOU ARE
9 SAYING -- ARE THESE, BY THE BY -- DID YOU LOOK AT ALL SEVEN
10 PAGES?

11 A I HAVE -- I LOOKED AT THE PHOTOGRAPHS THAT WERE
12 TAKEN OF THE PRINTS THAT DEVELOPED ON THE PAGES.

13 Q DID YOU EVER LOOK AT THE PAGES PER SE?

14 A I LOOKED AT THE PAGES TO DISCOVER OR -- WELL,
15 TO TRY TO ASCERTAIN WHETHER THERE HAD BEEN ANY OTHER PRINTS
16 THAT WEREN'T DEPICTED IN THE PHOTOGRAPHS THAT MIGHT BE
17 IDENTIFIABLE AND ALSO TO FIGURE OUT WHICH PIECE OF PAPER
18 THESE PRINTS CAME OFF OF.

19 Q ARE YOU -- IS IT CORRECT THAT THE ONLY
20 IDENTIFIABLE PRINTS THAT YOU'VE BEEN ABLE TO FIND ARE ON 44C
21 THAT I'M LOOKING AT HERE?

22 A NO. THERE WERE OTHER IDENTIFIABLE PRINTS THAT
23 WERE PHOTOGRAPHED FROM THESE PIECES OF PAPER.

24 Q AND WERE THOSE PRINTS MADE BY THE SAME PERSON
25 WHOSE PRINTS ARE EVIDENCED ON PEOPLE'S 23?

26 A NO. THE ONLY PRINTS THAT WERE MADE BY THE
27 PERSON THAT MADE THIS PRINT CARD ARE THE ONES THAT I'VE JUST
28 TESTIFIED TO.

1 Q AND IS IT A PROPER STATEMENT TO SAY THAT THE
2 ONLY PRINTS THAT YOU COULD ESTABLISH AS BEING MADE BY THE
3 PERSON WHOSE PRINTS ARE ON PEOPLE'S 23 ON A BLANK PIECE OF
4 PAPER?

5 A WELL, I CAN'T EVEN SAY THAT BECAUSE ALL I
6 LOOKED AT WAS THE PHOTOGRAPH.

7 Q WELL, ISN'T IT TRUE THAT THE PHOTOGRAPH WAS
8 MADE OF PEOPLE'S 44C?

9 A YES.

10 Q NOW, IS IT -- ISN'T IT TRUE, THEN, THAT THE
11 ONLY IDENTIFIABLE PRINT THAT YOU FOUND THAT MATCHES PEOPLE'S
12 23 IS A PRINT TAKEN FROM A BLANK PIECE OF PAPER.

13 A CORRECT.

14 Q THERE IS NO WRITING ON THIS PIECE OF PAPER?

15 A THAT IS CORRECT.

16 MR. WAPNER: YOUR HONOR, I'D OBJECT IN THAT IT
17 ASSUMES -- WELL, I THINK IT MISSTATES THE EVIDENCE. I DON'T
18 THINK --

19 MR. BARENS: I'M LOOKING AT THIS PIECE OF PAPER.

20 MR. WAPNER: ALL I WANT TO DO IS -- I'M REALLY NOT
21 TRYING TO BE NITPICKING, BUT I REALLY WANT TO CLARIFY THAT
22 THE PIECE OF PAPER, SINCE IT'S ONLY ONE PIECE OF PAPER AND
23 IT HAS TWO SIDES, ON THE BACK SIDE OF THAT PIECE OF PAPER IT
24 HAS WRITING --

25 MR. BARENS: I'M TALKING ABOUT THE SIDE THE PRINT IS
26 TAKEN FROM, WHICH IS THE ONLY THING RELEVANT TO THIS
27 WITNESS' TESTIMONY.

28 THE COURT: WELL, I DON'T THINK THERE WILL BE ANY

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1 PROBLEM BECAUSE IT'S IDENTIFIABLE BY THE EXHIBIT NUMBER ON
2 IT.

3 MR. WAPNER: WELL, I JUST WANTED TO MAKE THE RECORD
4 CLEAR THAT SINCE A PIECE OF PAPER IS ONLY ONE THING AND THAT
5 IT INCLUDES TWO SIDES AND THAT THE PIECE OF PAPER HAS
6 WRITING ON IT.

7 MR. BARENS: THIS IS ONE OF THOSE TWO-SIDED PIECES OF
8 PAPER. I'LL AGREE TO THAT.

9 Q IN ANY EVENT, SO THERE IS NO MISUNDERSTANDING,
10 THERE IS NO WRITING MADE BY ANYONE ON THE SIDE OF 44C FROM
11 WHICH THE PRINT IS OBTAINED.

12 A THAT IS CORRECT.

13 Q NOW, YOUR ANALYSIS COULDN'T TELL ME WHEN THAT
14 PRINT WAS PUT ON THAT PAPER IN POINT OF TIME, COULD YOU?

15 A NO, SIR.

16 Q DID YOU FIND ANYBODY ELSE'S PRINTS, SOME OTHER
17 PERSONS'S PRINTS, OTHER THAN WHOEVER IT IS ON 23 ON THIS
18 PIECE OF PAPER?

19 A I DON'T BELIEVE SO. I -- DURING THE COURSE OF
20 EXAMINING THE PHOTOGRAPHS, I BELIEVE THAT I MADE SOME OTHER
21 COMPARISONS --

22 Q YES, AND --

23 A AS TO WHETHER THEY CAME OFF OF THAT PARTICULAR
24 PIECE OF PAPER, I'M NOT SURE.

25 Q WELL, DIDN'T YOU, IN FACT, MAKE COMPARISONS
26 THAT YOU COULD NOT -- THAT YOU FOUND PRINTS ON THESE PIECES
27 OF PAPER THAT DID NOT MATCH THE PRINTS ON PEOPLE'S 23?

28 A SAY THAT AGAIN, PLEASE.

1 Q DIDN'T YOU MAKE COMPARISONS OF PRINTS THAT YOU
2 COULD IDENTIFY HERE THAT YOU COULD NOT MATCH TO PEOPLE'S 23?

3 A OH, YES. THAT'S CORRECT.

4 Q SO THERE WAS SOMEONE ELSE'S PRINTS ON THIS
5 PAPER --

6 A OH, YES.

7 Q -- THAT WAS NOT THE SAME AS THE PRINTS ON 23?

8 A ABSOLUTELY, YES.

9 Q SO WE HAVE -- SO YOU CONCLUDE THAT THESE PIECES
10 OF PAPER WERE, IN FACT, HANDLED BY PERSONS OR A PERSON AT
11 LEAST OTHER THAN WHOEVER'S PRINTS ARE IN PEOPLE'S 23.

12 A THAT'S CORRECT.

13 Q AND THE BEST WE CAN CONCLUDE, THEN, FROM YOUR
14 TESTIMONY, THAT AT LEAST THE PERSON WHO'S IN PEOPLE'S 23
15 TOUCHED THE BLANK SIDE OF EXHIBIT 44C.

16 A THAT'S CORRECT.

17 MR. BARENS: THANK YOU, OFFICER.

18 THE COURT: ANY REDIRECT, MR. WAPNER?

19 MR. WAPNER: NO, YOUR HONOR.

20 THE COURT: MR. BARENS, ARE YOU FINISHED WITH THIS
21 WITNESS?

22 MR. BARENS: I --

23 THE COURT: I DIDN'T KNOW IF YOU WERE COMPLETED OR
24 YOU WERE JUST PAUSING.

25 MR. BARENS: I'LL ASK HIM ONE MORE QUESTION.

26 THE COURT: SURE.

27 Q BY MR. BARENS: OFFICER, YOU DIDN'T FIND AN
28 IDENTIFIABLE PRINT FROM THE PERSON ON PEOPLE'S 23, IN FACT,

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1 ON ANY OF THE SIDES OF PAPER THAT HAVE WRITING ON THEM, DID
2 YOU?

3 A NO, SIR. THESE WERE THE ONLY ONES.

4 MR. BARENS: THANK YOU. NOTHING FURTHER OF THIS
5 WITNESS.

6 MR. WAPNER: I HAVE NO REDIRECT, YOUR HONOR.

7 THE COURT: ALL RIGHT. MAY THIS WITNESS BE EXCUSED?

8 MR. WAPNER: NO OBJECTION.

9 THE COURT: THANK YOU VERY MUCH.

10 MR. WAPNER: YOUR HONOR, WITH -- THERE'S A WITNESS
11 WHO JUST ARRIVED AND I'D LIKE TO PUT HIM ON NOW, BUT I
12 HAVEN'T HAD A CHANCE TO TALK TO HIM. WITH THE COURT'S
13 INDULGENCE, CAN WE TAKE A FIVE MINUTE RECESS?

14 THE COURT: VERY WELL. ALL RIGHT. WE'LL TAKE A FIVE
15 MINUTE RECESS AT THIS TIME. FIVE MINUTE RECESS, MR. WAPNER.

16 MR. BARENS: THANK YOU, YOUR HONOR.

17 MR. WAPNER: THANK YOU.

18 (A RECESS WAS TAKEN.)

19 THE COURT: ALL RIGHT. IN THE MATTER OF JOE HUNT,
20 LET THE RECORD SHOW THAT MR. HUNT IS PRESENT WITH HIS
21 COUNSEL, MR. BARENS AND MR. TITUS.

22 MR. BARENS: IN ABSENTIA, YOUR HONOR.

23 THE COURT: ALL RIGHT. IN ABSENTIA. AND THAT
24 MR. WAPNER IS PRESENT.

25 MR. WAPNER: THE PEOPLE CALL NABIL ABIFADEL.

26 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY
27 YOU SHALL GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT
28 SHALL BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE

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1 TRUTH, SO HELP YOU GOD.

2 THE WITNESS: I DO.

3

4

NABIL ABIFADEL,

5

CALLED AS A WITNESS BY THE PEOPLE, HAVING BEEN FIRST DULY

6

SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

7

THE CLERK: WOULD YOU PLEASE STATE YOUR FULL NAME AND

8

SPELL YOUR LAST NAME FOR THE RECORD.

9

THE WITNESS: NABIL ABIFADEL, A-B-I-F-A-D-E-L.

10

THE CLERK: THANK YOU.

11

12

DIRECT EXAMINATION

13

BY MR. WAPNER:

14

Q SIR, IN JUNE OF 1984, WHERE DID YOU WORK?

15

A WORLD TRADE BANK, BEVERLY HILLS.

16

Q AND WHAT WAS YOUR JOB THERE?

17

A OPERATIONS MANAGER.

18

Q AND WHAT WAS THE -- DID YOU -- WERE YOU

19

SUPERVISING BOTH THE NEW ACCOUNTS AND THE NOTE AND

20

COLLECTION DEPARTMENT?

21

A YES SIR.

22

Q AND HOW -- AS OF JUNE OF 1984, HOW LONG HAD YOU

23

WORKED AT THE BANK?

24

A WHEN I LEFT THEM, YOU MEAN?

25

Q WELL, WHEN DID YOU LEAVE?

26

A OCTOBER 12TH.

27

Q AND WHEN DID YOU START WORKING THERE?

28

A OCTOBER '83.

1 Q AND WERE YOU FAMILIAR WITH THE PROCEDURES USED
2 FOR OPENING ACCOUNTS AND COLLECTING ON CHECKS IN JUNE OF
3 1984?

4 A YES.

5 Q SHOWING YOU A DOCUMENT THAT'S BEEN MARKED
6 PEOPLE'S 36 FOR IDENTIFICATION, DO YOU RECOGNIZE THAT?

7 A YES. THIS IS A SIGNATURE CARD FOR OPENING --
8 FOR ACCOUNT OPENING.

9 Q ARE YOU FAMILIAR WITH HOW THOSE -- HOW THAT
10 DOCUMENT WAS PREPARED IN JUNE OF 1984?

11 A YES.

12 Q ALL RIGHT. CAN YOU TELL US THAT, PLEASE.

13 A WHEN CLIENT CAME IN -- COMES IN, YOU KNOW, TO
14 THE BANK, WE RECORD SOME I.D. AND PAPER TO JUSTIFY TO OPEN
15 AN ACCOUNT.

16 Q AND IS ANY OF THAT FORM FILLED OUT BY A PERSON
17 WHO WORKS IN THE BANK?

18 A YES.

19 Q IS THERE ANYTHING ON THAT PARTICULAR PIECE OF
20 PAPER THAT LET'S YOU KNOW WHO IT WAS WHO FILLED IT OUT?
21 INITIALS OR ANYTHING?

22 A YES.

23 Q WHO WAS IT?

24 A MICHELLE NOFLIS.

25 Q CAN YOU SPELL HER LAST NAME?

26 A N-O-F-L-I-S.

27 Q AND DID SHE WORK IN THE NEW ACCOUNTS
28 DEPARTMENT?

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1 A YES.

2 Q WHAT PART OF THAT FORM DID SHE FILL OUT?

3 A THE SIGNATURE CARD.

4 Q ALL RIGHT. SHE --

5 A THE WHOLE --

6 Q SHE DID NOT PUT THE SIGNATURES ON THERE?

7 A NO, NOT THE SIGNATURES. THIS IS A --

8 Q WHAT DID SHE PUT ON THERE?

9 A ALL THE INFORMATION HE SHOWED ON THE SIGNATURE
10 CARD EXCEPT THE SIGNATURES.

11 Q AND IS SHE REQUIRED TO DO THAT AS PART OF HER
12 JOB IN THE BANK?

13 A YES.

14 Q DOES SHE DO THAT AT OR NEAR THE TIME THAT THE
15 ACCOUNT IS OPENED?

16 A YES.

17 Q AND IS IT DONE AS A RECORD OF THE OPENING OF
18 AND THE MAINTAINING OF THE ACCOUNT?

19 A EXACTLY.

20 Q AND ARE YOU FAMILIAR WITH THE PROCEDURES THAT
21 ARE USED WHEN A CHECK OR DRAFT IS PRESENTED TO YOUR BANK FOR
22 COLLECTION?

23 A YES.

24 Q WHAT ARE THOSE PROCEDURES?

25 A TO OBTAIN THE CHECK. AND IF IT'S LIKE FOREIGN
26 CHECK, YOU HAVE TO SEND IT OVERSEAS FOR COLLECTION, AND WHEN
27 YOU RECEIVE GOOD FUNDS, AT THAT TIME YOU CREDIT THE CLIENT
28 ACCOUNT AND YOU PROVIDE THEM WITH A RECEIPT THAT THIS

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1 PROCEDURE HAS BEEN DONE.

2 Q AND IS THERE SOME DOCUMENT --

3 A COMPLETED.

4 Q -- THAT IS PREPARED BY AN EMPLOYEE OF THE BANK
5 AT THE TIME THAT THE CHECK IS PRESENTED FOR COLLECTION?

6 A YES.

7 Q WHAT IS THAT DOCUMENT?

8 A COLLECTION MONEY FORM.

9 Q WHAT WAS THAT?

10 A A COLLECTION MONEY FORM. YOU PROVIDE THE
11 CLIENT AND YOU GIVE ONE ON YOUR CLIENT.

12 Q SHOWING YOU A DOCUMENT THAT'S MARKED AS
13 PEOPLE'S 38 FOR IDENTIFICATION, DO YOU RECOGNIZE THAT?

14 A YES. THIS IS THE FILE COPY.

15 Q AND WHEN YOU'RE REFERRING TO THIS, YOU'RE
16 TALKING ABOUT THE GREEN PIECE OF PAPER, HALF PIECE OF PAPER?

17 A YES, YES.

18 Q AND WHAT IS THAT DOCUMENT?

19 A THIS IS A COLLECTION COVERING LETTER WHICH GOES
20 WITH THE CHECK WHEN WE SEND IT OVERSEAS.

21 Q AND THE GREEN PIECE OF PAPER THAT'S ON PEOPLE'S
22 38, WHO PREPARED THAT?

23 A THE COLLECTION DEPARTMENT.

24 Q IS THERE ANY INITIALS ON THERE TO LET YOU KNOW
25 WHO IN THE COLLECTION DEPARTMENT DID IT?

26 A NO.

27 Q AND IS THAT PREPARED AT OR NEAR THE TIME THAT
28 THE -- THAT AN ITEM IS PRESENTED FOR COLLECTION?

910

1 A YES.

2 Q IS IT MADE AS A RECORD OF THE PRESENTATION OF
3 THE ITEM FOR COLLECTION AND THE SENDING OF THE ITEM FOR
4 COLLECTION?

5 A IT'S AS A RECORD FOR THE BANK, AND THERE IS
6 ALSO ONE COPY WHICH IS GIVEN TO THE CUSTOMER.

7 Q AND IS THERE ONE COPY THAT'S SENT OVERSEAS,
8 ALSO?

9 A THE ORIGINAL WILL GO OVERSEAS WITH THE CHECK.

10 Q AND THE LETTER, THE COVER LETTER THAT'S ALSO
11 PART OF PEOPLE'S 38, WHEN IS THAT PREPARED?

12 A THAT WAS PREPARED AT THE SAME TIME BECAUSE IT'S
13 A LARGE AMOUNT, YOU KNOW.

14 Q AND WHO PREPARED THAT LETTER?

15 A MY SECRETARY.

16 Q AND WHO SIGNED THAT LETTER?

17 A I DID.

18 Q AND DID YOU PREPARE THAT LETTER AS A RECORD OF
19 SENDING THIS ITEM FOR COLLECTION?

20 A NOT REALLY BECAUSE OF THAT. BECAUSE IT'S A
21 LARGE AMOUNT AND I WANT TO DRAW THEIR ATTENTION.

22 Q AND SHOWING YOU PEOPLE'S 37 FOR IDENTIFICATION,
23 DO YOU RECOGNIZE THAT?

24 A YEAH. THIS IS THE CHECK WAS GIVEN TO THE BANK
25 FOR COLLECTION.

26 Q AND IS THAT THE CHECK THAT WAS THE SUBJECT OF
27 THE COLLECTION DOCUMENT THAT IS PEOPLE'S 38?

28 A YES.

1 Q AND WAS PEOPLE'S 38 PREPARED AS A RECORD OF AN
2 ATTEMPT TO COLLECT THE CHECK THAT WAS PEOPLE'S 37?

3 A YES.

4 Q AND AFTER PEOPLE'S 37 AND THE COVER -- EXCUSE
5 ME, AFTER PEOPLE'S 38, WHICH IS THE GREEN SHEET, AND THE
6 COVER LETTER WERE PREPARED, WHAT WAS DONE WITH THE CHECK
7 THAT IS PEOPLE'S 37?

8 A IT WAS SENT OVERSEAS WITH THE ORIGINAL LETTER,
9 COVERING LETTER AND COLLECTION COPY.

10 Q SO THE CHECK AND THE LETTER AND THE COLLECTION
11 DOCUMENT WERE SENT OVERSEAS?

12 A ALTOGETHER, YEAH.

13 Q WHERE WERE THEY SENT TO?

14 A TO CREDIT SUISSE IN ZURICH.

15 Q AND DID YOU RECEIVE THE -- DID THE BANK RECEIVE
16 THE CHECK BACK? THAT'S PEOPLE'S 37.

17 A THE BANK, YOU MEAN --

18 MR. BARENS: VAGUE AND AMBIGUOUS, YOUR HONOR, AS TO
19 THE EXPRESSION "RECEIVE THE CHECK BACK". I DON'T KNOW WHAT
20 THAT MEANS.

21 THE COURT: WELL, I THINK IT SPEAKS FOR ITSELF, DOES
22 IT NOT? I MEAN HE'S ASKING IF THE CHECK WAS RETURNED.

23 IS THAT WHAT YOU'RE ASKING?

24 MR. WAPNER: THAT'S WHAT I WAS TRYING TO ASK.

25 MR. BARENS: RECEIVING IT BACK IN THE PARLANCE THAT
26 THEY USE, AND AS YOUR HONOR CORRECTLY STATES --

27 THE COURT: WELL, PERHAPS HE CAN CLARIFY THAT AS IT
28 GOES ON. THEN THE OBJECTION WILL BE OVERRULED.

912

1 Q BY MR. WAPNER: WAS THE CHECK, PEOPLE'S 37,
2 RETURNED TO THE BANK?

3 A YES.

4 Q WAS IT PAID?

5 A NO.

6 Q HOW DO YOU KNOW THAT?

7 A BECAUSE THERE IS ANOTHER DOCUMENT CAME BACK
8 COVERING LETTER FROM CREDIT SUISSE TELLING THAT, PLUS THEY
9 SEND US -- I DON'T RECALL WHAT HAPPENED, BUT NOW WHEN YOU
10 SHOW ME THE TELEX ALSO, THEY SENT US A TELEX TELLING US THE
11 CHECK IS GONE, TO BE BAD, BAD.

12 Q IS THERE ANY MARKING ON THE CHECK THAT
13 INDICATES WHETHER IT WAS PAID OR NOT?

14 A NO. THE ONLY THING I SEE IS STAMP, IT LOOKS
15 LIKE IN GERMAN, YOU KNOW, SAYING IT'S CANCELED. THAT'S THE
16 ONLY THING I'M ABLE TO IDENTIFY. ON THE CHECK ITSELF, THERE
17 IS NOTHING, ACTUALLY.

18 Q SHOWING YOU AN ITEM THAT'S BEEN MARKED AS
19 PEOPLE'S 41 FOR IDENTIFICATION, DO YOU RECOGNIZE THIS?

20 A YES. THIS IS THE COVERING LETTER SENT BY
21 CREDIT SUISSE.

22 Q AND WHAT DID THAT INDICATE?

23 A TELLING US THAT THE CHECK IS RETURNED FOR THE
24 SPECIFIC REASONS BELOW.

25 Q AND DID YOU MAINTAIN THAT AS A RECORD IN YOUR
26 BANK?

27 A YES.

28 Q AND SHOWING YOU PEOPLE'S 39 FOR IDENTIFICATION,

1 DO YOU RECOGNIZE THAT?

2 A YES.

3 Q WHAT IS IT?

4 A THIS IS A DEBIT ADVICE FOR THE CORRESPONDENT
5 BANK AND THE BANK CHARGES, WORLD TRADE BANK CHARGES.

6 Q IS THAT A RECORD MADE IN YOUR BANK?

7 A YES.

8 Q WHO MAKES THAT RECORD?

9 A IT'S DONE THROUGH THE COLLECTION DEPARTMENT.

10 Q ALL RIGHT. AND WHAT IS IT A RECORD OF?

11 A THAT WE DEBITED THE CLIENT FOR THE CHARGES.

12 Q AND IS IT MADE AS A RECORD OF THAT DEBIT?

13 A YES.

14 Q AND IT'S MADE AT OR NEAR THE TIME THAT YOU
15 DEBITED THE ACCOUNT?

16 A EXACTLY. AT THE TIME WHEN THE CHECK IS
17 RECEIVED, YOU KNOW.

18 Q AND IS IT MADE BY AN EMPLOYEE WHO IS
19 RESPONSIBLE FOR DEBITING THE ACCOUNT?

20 A YES.

21 Q AND SHOWING YOU A DOCUMENT THAT'S MARKED AS
22 PEOPLE'S 40 FOR IDENTIFICATION, DO YOU RECOGNIZE THAT?

23 A YEAH. THIS IS THE TELEX RECEIVED BEFORE THE
24 CHECK ADVISING THE BANK THAT THE CHECK WILL NOT BE PAID AND
25 WILL BE RETURNED.

26 MR. WAPNER: THANK YOU. I HAVE NOTHING FURTHER.

27 THE COURT: MR. BARENS?
28

CROSS-EXAMINATION

1
2 BY MR. BARENS:

3 Q AT WHAT POINT IN TIME DID YOU NOTIFY THE CLIENT
4 OF THE BANK THAT THE CHECK WAS NO GOOD?

5 A AT THE TIME WE RECEIVED THE TELEX.

6 Q WHAT DATE WAS THAT?

7 A I CAN'T RECALL, SIR.

8 Q WELL, WHAT DATE -- IS THE TELEX DATED?

9 A TELEX DATE IS JUNE 15.

10 Q SO WOULD IT BE YOUR BEST UNDERSTANDING THAT ON
11 JUNE 15 YOU WOULD HAVE NOTIFIED THE ACCOUNT HOLDER THAT THE
12 CHECK WAS NO GOOD?

13 A 15 OR 16. YOU KNOW. OR 17.

14 MR. BARENS: NOTHING FURTHER OF THE WITNESS.

15 MR. WAPNER: I JUST HAVE A FEW QUESTIONS.

16 THE COURT: ALL RIGHT.
17

REDIRECT EXAMINATION

18
19 BY MR. WAPNER:

20 Q WHAT WAS THE DATE THAT THE ACCOUNT INDICATED ON
21 THE SIGNATURE CARD WAS OPENED? THE DATE OF THE OPENING OF
22 THE ACCOUNT?

23 MR. BARENS: THAT'S IMPROPER REDIRECT. WE'D OBJECT,
24 YOUR HONOR, AS WAY BEYOND THE SCOPE OF DIRECT

25 MR. WAPNER: WELL, IF -- DEPENDING ON THE COURT'S
26 RULING, I'LL ASK LEAVE TO REOPEN THE DIRECT EXAMINATION.

27 THE COURT: ALL RIGHT. THE DIRECT MAY BE REOPENED.
28

/////

DIRECT EXAMINATION (RE-OPENED)

1
2 BY MR. WAPNER:

3 Q WHAT'S THE DATE THAT THE ACCOUNT WAS OPENED?

4 A THE 7TH OF JUNE, '84.

5 Q AND WHAT WAS THE DATE THAT THE CHECK THAT'S
6 PEOPLE'S 37 WAS PRESENTED FOR COLLECTION?

7 A JUNE 8TH.

8 Q THANK YOU. THAT'S ALSO OF 1984?

9 A YES.

10 MR. WAPNER: THANK YOU. AT THIS TIME, I'D MOVE THAT
11 PEOPLE'S 36 THROUGH 41 BE RECEIVED INTO EVIDENCE.

12 THE COURT: ALL RIGHT. PEOPLE'S 36 THROUGH 41 WILL
13 BE RECEIVED INTO EVIDENCE AT THIS TIME.

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

16 MR. WAPNER: YOUR HONOR, MR. CLASON AT ONE POINT WAS
17 TESTIFYING IN ANOTHER COURT. I DON'T KNOW IF HE STILL IS.

18 HE'S ON HIS WAY UP NOW.

19 THE CLERK: WOULD YOU LIKE DEFENDANT'S E ADMITTED?

20 MR. BARENS: YES, I'D LIKE THAT ADMITTED.

21 THE CLERK: DEFENDANT'S E IS ADMITTED?

22 THE COURT: YES, THE ONE'S MR. WAPNER STATED.

23 MR. BARENS: THAT WAS MY MAP, YOUR HONOR.

24 THE COURT: IS DAVID IFERWAUKEA IN THE COURTROOM?

25 /////

26 (OTHER COURT MATTERS)

27 /////

28 THE REPORTER: YOUR HONOR, DID YOU ADMIT DEFENDANT'S

916

1 E JUST NOW?

2 THE COURT: 36 TO 41.

3 THE CLERK: HOW ABOUT DEFENDANT'S E? MR. BARENS
4 WANTS THAT ADMITTED.

5 THE COURT: IS THERE ANY OBJECTION TO DEFENDANT'S E
6 BEING ADMITTED

7 YOU'RE ASKING FOR E TO BE ADMITTED; IS THAT
8 CORRECT?

9 MR. BARENS: YES, YOUR HONOR.

10 THE COURT: ANY OBJECTION TO THAT?

11 MR. BARENS: I CAN PERSONALLY GIVE YOU A FOUNDATION
12 FOR THAT, YOUR HONOR.

13 MR. WAPNER: THERE'S NO OBJECTION.

14 THE COURT: ALL RIGHT. THERE BEING NO OBJECTION, IT
15 WILL BE ADMITTED INTO EVIDENCE AT THIS TIME.

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

20 THE WITNESS: I DO.

21

22 RICHARD L. CLASON,
23 CALLED AS A WITNESS BY THE PEOPLE, HAVING BEEN FIRST DULY
24 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

25 THE CLERK: WOULD YOU PLEASE STATE YOUR FULL NAME AND
26 SPELL YOUR LAST NAME FOR THE RECORD.

27 THE WITNESS: RICHARD L. CLASON, C-L-A-S-O-N.

28 //

DIRECT EXAMINATION

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BY MR. WAPNER:

Q MR. CLASON, BY WHOM ARE YOU EMPLOYED?

A BY THE CITY OF BEVERLY HILLS.

Q IN WHAT CAPACITY?

A AS A HANDWRITING EXAMINER.

Q HAVE YOU EVER QUALIFIED IN MUNICIPAL OR
SUPERIOR COURTS OF THIS COUNTY AS A HANDWRITING EXAMINER?

A YES, SIR, I HAVE.

Q ON APPROXIMATELY HOW MANY OCCASIONS?

A IN OVER A HUNDRED CASES.

MR. BARENS: WE 'LL STIPULATE TO THIS WITNESS'S
QUALIFICATIONS AS AN EXPERT IN HANDWRITING ANALYSIS IN THE
IDENTIFICATION FOR PURPOSES OF THE PRELIMINARY HEARING ONLY.

MR. WAPNER: THANK YOU, COUNSEL. THE PEOPLE ACCEPT
THAT STIPULATION.

THE COURT: ALL RIGHT. THE STIPULATION WILL BE
ACCEPTED FOR THE PURPOSES OF THE PRELIMINARY HEARING ONLY.

MR. WAPNER: THANK YOU.

Q MR. CLASON, I WANT TO SHOW YOU SOME DOCUMENTS
THAT HAVE BEEN MARKED AS PEOPLE'S 52, 53, 54 AND 44, AND YOU
CAN OPEN EACH OF THESE ENVELOPES IN TURN. HAVE YOU SEEN
THESE DOCUMENTS BEFORE?

A YES, I HAVE.

Q ALL RIGHT. AND DID YOU COMPARE THE CONTENTS OF
PEOPLE'S 52, 53, AND 54 TO THE WRITING ON PEOPLE'S 44 FOR
IDENTIFICATION?

A YES, SIR, I DID.

918

1 Q ALL RIGHT. AND DID YOU FORM AN OPINION AS TO
2 WHETHER THE WRITING WAS MADE BY ONE AND THE SAME PERSON?

3 A YES, I DID. I DETERMINED THAT THE MAJORITY OF
4 THE WRITING ON PEOPLE'S 44 WAS MADE BY THE SAME PERSON WHOSE
5 WRITING APPEARS ON THE OTHER THREE THAT I HAVE HERE.

6 Q THE OTHER THREE BEING 52, 53 AND 54?

7 A THAT'S CORRECT.

8 Q ALL RIGHT. AND THE -- WHAT WAS THE WRITING, IF
9 YOU KNOW, THAT YOU COMPARED ON PEOPLE'S 52?

10 A ON 52, THE ONLY DOCUMENT I USED AS A
11 HANDWRITING EXEMPLAR IS THE ONE THAT'S MARKED "ITEM 10" ON
12 THE UPPER LEFT HAND CORNER AS THE ONE I MARKED "E2", AS
13 EXEMPLAR NO. 2.

14 Q AND AS PEOPLE'S 53, WHAT DID YOU USE AS AN
15 EXEMPLAR?

16 A PEOPLE'S 53 I USED THE YELLOW SHEET MARKED
17 "ITEM 11" WHICH I MARKED "E1" AND I USED THE WHITE SHEET
18 THAT IS MARKED "ITEM 11" AND I MARKED "E1A" AS EXEMPLARS.

19 Q AND FROM PEOPLE'S 54, WHICH APPEARS TO BE MORE
20 OF A TRADITIONAL HANDWRITING EXEMPLAR, WHAT DID YOU USE?

21 A I USED THREE YELLOW SHEETS, WHICH I TYPED DOWN
22 THE EDGES OF THEM REFERENCE NUMBERS. THOSE ARE THE ONLY
23 THINGS FROM PEOPLE'S 54 THAT I USED AS EXEMPLARS.

24 Q ALL RIGHT. AND IT'S YOUR OPINION THAT THE
25 ITEMS THAT YOU USED AS EXEMPLARS AND THE WRITING ON PEOPLE'S
26 44 WAS MADE BY THE SAME PERSON?

27 A YES, WITH EXCEPTIONS ON THE EXEMPLARS. ON THE
28 ONE THAT I REFERRED TO AS ITEM 11 WHICH I HAD MARKED AS E1,

1 THERE IS SOME RED WRITING ON HERE DONE BY SOMEBODY ELSE, AND
2 IT'S SOMETHING THAT'S SIGNED "BROOKE", B-R-O-O-K-E.

3 MR. BARENS: I'D MAKE A MOTION TO STRIKE THE
4 TESTIMONY AS TO THE LANGUAGE ON THE DOCUMENT.

5 MR. WAPNER: WELL, IT'S MERELY FOR THE -- IT'S NOT
6 OFFERED FOR THE TRUTH OF WHO WROTE IT, ONLY TO IDENTIFY WHAT
7 HE'S TALKING ABOUT SO WE CAN DISTINGUISH WHAT HE USED AND
8 WHAT HE DIDN'T --

9 MR. BARENS: WELL, I THINK IT APPEARS AS THE ONLY RED
10 HANDWRITING ON THAT PAGE AND THAT PROPERLY IDENTIFIES IT.

11 THE COURT: ALL RIGHT. SINCE IT'S ONLY AN
12 IDENTIFICATION OF HANDWRITING, THE -- IT CAN BE REFERRED TO
13 AS THE RED HANDWRITING WITHOUT THE PERSONS'S SIGNATURE. OUR
14 QUESTION IS SOLELY OF IDENTIFICATION. IS THERE ANY PROBLEM
15 IN DESIGNATING IT AS SUCH?

16 MR. WAPNER: IT'S IRRELEVANT FOR THIS PURPOSE, YOUR
17 HONOR. IT'S NOT WORTH ARGUING ABOUT.

18 THANK YOU. I HAVE NOTHING FURTHER.

19
20 CROSS-EXAMINATION

21 BY MR. BARENS:

22 Q I JUST WANT TO TAKE SOMETHING FOR A MOMENT
23 HERE.

24 SIR, IN PEOPLE'S 52, DID YOU LOOK AT ALL THREE
25 SHEETS OF THIS YELLOW PAPER IN AN ATTEMPT TO MAKE A
26 HANDWRITING COMPARISON WITH PEOPLE'S 44?

27 MR. WAPNER: YOUR HONOR, MAY I JUST ASK ONE THING SO
28 THAT WE DON'T -- ALL OF THIS IS A LOT OF YELLOW PAPER.

950

1 COULD WE MAYBE KEEP IT SEPARATE SO IT DOESN'T GET CONFUSED
2 AS TO WHAT'S 52 AND 53?

3 MR. BARENS: WELL, SURE. I'LL HOLD ONTO IT FOR A
4 MINUTE.

5 Q DID YOU EXAMINE ALL THREE OF THOSE PIECES OF
6 PAPER IN TRYING TO MAKE YOUR ANALYSIS?

7 A I GLANCED AT THE OTHER TWO. THE ONE I USED
8 ACTUALLY FOR MY ANALYSIS WAS THIS ONE PIECE OF PAPER HERE
9 WHICH STARTS OUT WITH THE LETTERS "BBC", JUST FOR
10 IDENTIFICATION PURPOSES. THE OTHER TWO DIDN'T APPEAR TO BE
11 GOOD EXEMPLAR MATERIAL.

12 Q WHY IS THAT?

13 A WELL, I'M NOT SURE IT IS THE SAME PERSON AT
14 ALL. I HAVEN'T REALLY LOOKED AT IT THAT CLOSELY.

15 Q SO -- WELL, WHEN YOU SAY THE SAME PERSON AT
16 ALL, DID YOU INSTANTLY CONCLUDE THAT WHOEVER WROTE THE ONE
17 YOU'VE REFERENCED WITH THE LETTERS "BBC", THAT THOSE WERE --
18 THAT THAT WAS IMMEDIATELY THE SAME PERSON THAT WROTE THE
19 MARKINGS ON PEOPLE'S 44?

20 A WELL, MY PRELIMINARY EXAMINATION OF IT
21 INDICATED THAT THIS WOULD BE A LOT CLOSER TO THE QUESTIONED
22 WRITING THAN WOULD THESE OTHER SHEETS.

23 Q ALL RIGHT. NOW, WITH REFERENCE TO PEOPLE'S 44,
24 WHICH IS THESE SEVEN PAGES IN YELLOW -- I'M SORRY, IN
25 PLASTIC BINDING. DID YOU LOOK AT ALL OF THOSE PAGES?

26 A YES, I DID.

27 Q DID YOU CONCLUDE THAT ALL OF THE WRITING ON
28 THOSE PAGES WAS PREPARED BY THE SAME PERSON?

1 A NO. THERE WERE A COUPLE OF PLACES WHICH I JUST
2 DIDN'T KNOW.

3 Q SO IT'S POSSIBLE IN YOUR MIND THAT PART OF THE
4 WRITINGS ON PEOPLE'S 44 WERE MADE BY MORE THAN ONE PERSON AT
5 LEAST.

6 A YES. IT'S POSSIBLE.

7 Q NOW, AS FAR AS ANY DRAWING MATERIAL, FOR
8 INSTANCE, ON 44B HERE. CAN YOU TELL WHO DREW THIS?

9 A NO, SIR.

10 Q SO I COULDN'T TELL WHETHER THE PERSON THAT DREW
11 THIS WAS THE PERSON THAT MADE THE WRITINGS OR ONE OF THE
12 PEOPLE THAT MADE THE WRITINGS OR MAYBE EVEN A THIRD PERSON.

13 A I COULDN'T TELL, NO.

14 Q HOW MANY PEOPLE IS IT POSSIBLE IN YOUR MIND MAY
15 HAVE MADE THE MARKS THAT LOOK LIKE WRITING ON THE SEVEN
16 PAGES? DO YOU KNOW WHETHER IT WOULD BE MORE THAN THREE?

17 A IT MIGHT BE THREE OR LESS.

18 Q THREE OR LESS, BUT PROBABLY NOT MORE THAN
19 THREE.

20 A I WOULD SAY NO, NOT MORE THAN THREE.

21 Q BUT PROBABLY THREE OR LESS.

22 A YES.

23 Q CERTAINLY MORE THAN ONE?

24 A CERTAINLY MORE THAN ONE.

25 A NOT CERTAINLY, NO. I'M NOT SURE. THERE ARE A
26 COUPLE OF THINGS ON THESE SHEETS THAT I'M NOT SURE ABOUT.

27 MR. BARENS: I'LL ACCEPT THAT. THANK YOU, SIR.

28 NOTHING FURTHER OF THE WITNESS.

REDIRECT EXAMINATION

1
2 BY MR. WAPNER:

3 Q WHAT ARE THE COUPLE OF THINGS ON THE SHEETS
4 THAT YOU'RE NOT SURE ABOUT? THAT REFERS TO PEOPLE'S 44,
5 NOW.

6 MR. BARENS: COULD WE BE CAUTIOUS, YOUR HONOR, NOT TO
7 READ -- COULD WE ADMONISH THE WITNESS NOT TO READ WHAT IT IS
8 AND HE CAN POINT TO IT AND WE CAN DETERMINE WHETHER IT'S
9 INNOCUOUS OR PREJUDICIAL.

10 MR. WAPNER: WELL, PERHAPS WE CAN DO IT THIS WAY, SO
11 THAT HE CAN IDENTIFY WHAT IT IS. HE CAN READ IT. YOU CAN
12 ACCEPT IT -- IT'S NOT BEING ADMITTED AT THIS TIME -- SUBJECT
13 TO A MOTION TO STRØKE. IF THE DOCUMENTS COME IN, THEY ALL
14 COME IN; AND IF THEY DON'T, THEY DON'T.

15 MR. BARENS: WELL, THE PROBLEM THAT I GET INTO, YOUR
16 HONOR, IS BY DOING THIS, SUPPOSING THAT -- NOT THAT I SAY
17 THIS IS ON THERE, BUT IF HE IS TO READ A LINE THAT SAYS "I
18 DID IT", THAT COULD BE REALLY PREJUDICIAL.

19 MR. WAPNER: WELL, COUNSEL KNOWS THAT'S NOT WHAT IT
20 SAYS.

21 MR. BARENS: WELL, I DON'T KNOW.

22 MR. WAPNER: YOU'VE SEEN THEM, COUNSEL.

23 THE COURT: OUR PROBLEM HERE IS SOLELY ONE OF
24 IDENTIFICATION --

25 MR. BARENS: I THINK THE WAY WE CAN IDENTIFY IT
26 GENERALLY WOULD BE BY PAGE FIRST, AND THEN LET'S SEE IF IT'S
27 THE WHOLE PAGE OR PART OF THE PAGE.

28 THE WITNESS: THERE'S A YELLOW SHEET OF PAPER HERE IN

1 PEOPLE 'S 44 WHICH I MARKED WITH A "Q3" WHICH MEANS 953
2 "QUESTIONED NUMBER THREE", AND IN THE UPPER LEFT HAND CORNER
3 THERE 'S SOME WRITING IN THE MARGIN TO THE LEFT OF THE FAINT
4 RED LINES THAT GO DOWN THE PAGE ON THE LEFT SIDE. THIS
5 WRITING IS WRITTEN AT AN ANGLE AND THAT IS THE WRITING THAT
6 I 'M NOT SURE WHETHER IT IS THE SAME AS THE REST OF THE
7 WRITING OR NOT.

8 MR. WAPNER: FOR THE RECORD, I DON'T THINK COUNSEL
9 WOULD HAVE ANY PROBLEM WITH IDENTIFYING THAT WRITING AS
10 SAYING R. MICHAEL WEATHERBY.

11 IS THAT CORRECT, COUNSEL?

12 MR. BARENS: IT SEEMS TO SAY THAT. IT SEEMS TO BE AN
13 ARROW NEXT TO IT.

14 Q BY MR. WAPNER: IS THAT THE WRITING TO WHICH
15 YOU 'RE REFERRING?

16 A YES, IT IS.

17 Q ALL RIGHT. WHAT -- ON THAT PARTICULAR PAGE,
18 DID YOU CONCLUDE THAT ALL OF THE REST OF THE WRITING OTHER
19 THAN WHAT 'S IN THE UPPER LEFT HAND CORNER WAS MADE BY THE
20 SAME PERSON WHO MADE THE EXEMPLARS?

21 A YES. IN MY OPINION, THE REST OF IT IS.

22 Q WHAT OTHER WRITING ON THE SEVEN PAGES DID
23 YOU --

24 MR. BARENS: WHAT ABOUT -- WHAT ABOUT THIS WRITING
25 HERE?

26 MR. WAPNER: EXCUSE ME. YOUR HONOR, I DON'T KNOW
27 THAT THIS IS CROSS-EXAMINATION.

28 MR. BARENS: WELL, WHAT WE 'RE DOING -- BUT SEE, HE

954

1 JUST HAD THE WITNESS MISSTATE A LITTLE BIT THERE BY SAYING
2 "THE REST OF THE WRITING" ON THE PAGE, WHEN OBVIOUSLY HE'S
3 NOW GOING TO TELL YOU THAT THE REST OF THE WRITING ON THE
4 PAGE ISN'T CONSISTENT.

5 MR. WAPNER: IF HE WANTS TO CLEAR THAT UP ON
6 CROSS-EXAMINATION -- I THINK WE SHOULD HAVE SOME PROCEDURE
7 HERE IN WHICH THE COURTROOM RUNS.

8 THE COURT: ALL RIGHT. THIS IS REDIRECT.

9 Q BY MR. WAPNER: WHAT OTHER WRITING ON THE SEVEN
10 PAGES DID YOU CONCLUDE -- WERE YOU NOT ABLE TO DETERMINE
11 WHETHER IT WAS MADE BY THE SAME PERSON OR NOT?

12 A ON THAT SAME PAGE WHICH COUNSEL JUST POINTED
13 OUT TO ME, THERE IS A SMALL WHAT APPEARS TO BE A PENCILED
14 NOTATION THAT I'M NOT SURE WHAT LETTERS THEY ARE. EVEN THAT
15 I'M NOT SURE OF. IT'S ON THE RIGHT-HAND SIDE OF THE PAGE.

16 Q WHICH APPEARS TO BE SOME KIND OF SCRIPT AS
17 OPPOSED TO PRINTING; IS THAT CORRECT?

18 A YES, IT IS.

19 Q ALL RIGHT. AND IT'S SOMEWHERE TO THE RIGHT OF
20 WHERE IT SAYS "945" IN A DIFFERENT COLOR INK THAN THE
21 MAJORITY OF THE PAGE?

22 A YES.

23 Q OKAY. WHAT OTHER WRITING?

24 A ON THE ONE THAT I MARKED "Q4", THE LAST
25 NOTATION, I AM NOT REAL CERTAIN ABOUT. IT IS THE NUMBER "5"
26 FOLLOWED BY A NAME AND A WORD.

27 Q AND WHAT OTHER WRITING ON PEOPLE'S 44 ARE YOU
28 NOT SURE ABOUT?

1 A THAT 'S ALL.

2 Q SO OTHER THAN THE TWO THINGS THAT -- OR THREE
3 THINGS THAT YOU 'VE JUST POINTED OUT TO US, ALL THE WRITING
4 ON PEOPLE 'S 44 IN YOUR OPINION WAS MADE BY THE SAME PERSON
5 THAT MADE THE EXEMPLAR?

6 A YES, SIR.

7 MR. WAPNER: THANK YOU. I HAVE NOTHING FURTHER.

8 MR. BARENS: A MOMENT, YOUR HONOR.

9

10 RE-CROSS-EXAMINATION

11 BY MR. BARENS:

12 Q LOOKING AT PART OF PEOPLE 'S 44, I CAN 'T
13 DISCRIMINATE OTHER THAN SAYING THAT THERE 'S A TELEPHONE
14 NUMBER AT THE TOP WITH THE NUMBER "886"? COULD YOU TELL ME
15 IF IT 'S YOUR OPINION THAT IS IT -- IS IT YOUR OPINION THAT
16 THE SAME PERSON WHO WROTE IN INK HERE WAS THE SAME PERSON
17 WHO WROTE IN PENCIL HERE A NAME?

18 A WOULD YOU PLEASE INDICATE WHERE THE INK IS
19 YOU 'RE TALKING ABOUT?

20 Q WELL, SAY THIS LINE HERE (INDICATING).

21 A OH.

22 Q AND IT STARTS WITH THE WORD "XEROX". NOW, IS
23 THAT THE SAME PERSON WHO WROTE THIS DATE (INDICATING)?

24 A IN MY OPINION IT IS, YES. NOT BASED UPON THOSE
25 TWO PARTICULAR WRITINGS, BUT BASED UPON ALL THE WRITINGS
26 CONTAINED IN 44 AS A WHOLE.

27 MR. WAPNER: WELL, COUNSEL, DO YOU WANT TO IDENTIFY
28 WHAT YOU MEAN FOR THE RECORD WHEN YOU SAY "THIS"?

1 MR. BARENS: WHY?

2 MR. WAPNER: SO THE RECORD IS CLEAR. WE HAVE TO HAVE
3 A RECORD WHAT "THIS" MEANS WHEN A PERSON READS --

4 MR. BARENS: "THIS" MEANS A NAME WRITTEN TO THE LEFT
5 OF THE MARGIN ON THE EXHIBIT.

6 MR. WAPNER: WHICH IS?

7 MR. BARENS: I CAN'T MAKE IT OUT.

8 MR. WAPNER: YOU CAN'T MAKE THIS OUT?

9 MR. BARENS: NO. I CAN MAKE THAT OUT EXCEPT I CAN'T
10 MAKE OUT HOW YOU DISCRIMINATE "THIS" WHEN YOU IDENTIFY IT AS
11 AN "886" AT THE TOP. IT'S THE ONLY ONE THAT HAS AN "886" AT
12 THE TOP.

13 MR. WAPNER: THAT'S FINE. WE'RE REFERRING TO
14 HANDWRITING IN THE LEFT HAND MARGIN, YOUR HONOR?

15 THE COURT: ALL RIGHT. THE RECORD MAY SO INDICATE.
16 DOES IT HAVE AN EXHIBIT NUMBER ON IT?

17 MR. BARENS: WELL, IT'S MARKED -- I'M SURE THIS IS
18 44, BUT FOR SOME REASON THIS IS MARKED 41. IT APPEARS IN MY
19 EYES TO BE 41. MR. CLASON COULD PROBABLY BETTER IDENTIFY
20 WHAT IT SAYS ON THERE.

21 MR. WAPNER: NO. IT'S ALL PART OF 44, YOUR HONOR.

22 MR. BARENS: OH, IT IS PART OF 44.

23 THE COURT: ALL RIGHT. IT'S ALL 44.

24 MR. WAPNER: AND IT'S A PAGE OF PEOPLE'S 44 THAT
25 BEARS THE WRITING OF "886" AT THE TOP.

26 Q BY MR. BARENS: CAN YOU TELL FROM LOOKING AT
27 THIS IF ALL OF THESE WRITINGS WERE MADE AT THE SAME TIME?

28 A NO, I CAN'T.

1 Q AND YOU CAN'T TELL, I PRESUME, IN WHICH ORDER
2 THESE MATTERS WERE WRITTEN?

3 A NO, SIR.

4 MR. BARENS: I HAVE NOTHING FURTHER OF THE WITNESS.

5 MR. WAPNER: I HAVE NO FURTHER QUESTIONS.

6 THE COURT: ALL RIGHT. MAY MR. CLASON BE EXCUSED?

7 MR. WAPNER: NO OBJECTION.

8 MR. BARENS: NO OBJECTION.

9 THE COURT: THANK YOU VERY MUCH.

10 THE COURT: GENTLEMEN, WOULD THIS BE A GOOD TIME TO
11 TAKE OUR BREAK?

12 MR. BARENS: YES, SIR.

13 THE COURT: IT'S ONE MINUTE TO 12:00.

14 THE COURT: ALL RIGHT. AT THIS TIME WE'LL TAKE OUR
15 NOON RECESS UNTIL 2:00 O'CLOCK IN THE MATTER OF PEOPLE
16 VERSUS HUNT.

17 MR. BARENS: THANK YOU, YOUR HONOR.

18 (AT 12:00 NOON, A RECESS WAS TAKEN UNTIL 2:20 P.M. OF
19 THE SAME DAY.)

20 THE COURT: IN THE MATTER OF JOE HUNT, LET THE RECORD
21 SHOW THAT MR. HUNT IS PRESENT WITH HIS COUNSEL, MR. BARENS
22 AND MR. TITUS; THE DISTRICT ATTORNEY, MR. WAPNER, ALSO BEING
23 PRESENT. ARE WE READY TO RESUME AT THIS TIME?

24 MR. WAPNER: READY, YOUR HONOR.

25 THE COURT: ALL RIGHT. YOU MAY CALL YOUR NEXT
26 WITNESS.

27 MR. WAPNER: THANK YOU. BEFORE DOING THAT, I'D MOVE
28 TO HAVE PEOPLE'S 44 RECEIVED INTO EVIDENCE. IT'S THE LIST;

1 THE SEVEN PAGES OF YELLOW PAPER.

2 THE COURT: ALL RIGHT. PEOPLE'S 44 WILL BE RECEIVED
3 INTO EVIDENCE AT THIS TIME.

4 MR. WAPNER: AND AT THIS TIME I INTEND TO CALL A
5 WITNESS -- PERHAPS MORE THAN ONE -- TO TESTIFY ABOUT SOME
6 STATEMENTS THAT THE DEFENDANT MADE ALLEGEDLY ADMITTING HIS
7 CULPABILITY FOR THIS CRIME, AND ALTHOUGH I COULD BE
8 SURPRISED, I ANTICIPATE THAT THERE MIGHT BE SOME ARGUMENT
9 THAT AT THIS POINT THERE HAS NOT BEEN A SUFFICIENT SHOWING
10 OF CORPUS DELICTI. AND IF THERE IS GOING TO BE SUCH
11 ARGUMENT, I'D JUST AS SOON TAKE IT UP AT THIS TIME.

12 MR. BARENS: WELL, YOUR HONOR, WE CATEGORICALLY HAVE
13 SUCH AN ARGUMENT. WHAT CORPUS DO WE HAVE, YOUR HONOR? WE
14 HAVE NO DEATH; WE HAVE NO BODY. WE DO HAVE A MARVELOUS
15 MISSING PERSONS SITUATION. WHAT DO WE KNOW? WE KNOW A GUY
16 WHO IS UNDER INDICTMENT ON A MULTITUDE OF FELONY COUNTS
17 DISAPPEARS PRIOR TO THE TIME HE'S SUPPOSED TO GO TO FELONY
18 PRELIMINARY HEARING ON THAT.

19 HOW DO WE KNOW THAT? HE NO LONGER CONTACTS HIS
20 MOTHER, HIS FATHER -- ACTUALLY, I THINK IT'S HIS
21 STEPFATHER -- AND HE NO LONGER PICKS UP HIS MESSAGES ON HIS
22 EXCHANGE. WE DO KNOW THAT HE DOES, THOUGH, CONTINUE TO
23 RECEIVE PHONE CALLS -- AT LEAST A PHONE CALL FROM HIS MOTHER
24 AND, IN FACT, PHONE CALLS FROM THE DEFENDANT.

25 WE DON'T HAVE THE SHOWING NOT ONLY OF A DEATH,
26 WE DON'T HAVE ANY INDICATION OF DEATH BY FELONIOUS MEANS.
27 ALL WE HAVE IS A MISSING PARTY'S CASE AT THIS POINT IN TIME.
28 I SUBMIT THAT THERE HAS NOT EVEN BEEN THE OUTLINE EVEN

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1 VAGUELY PUT TOGETHER OF A CORPUS FOR A MURDER CHARGE.
2 NOTABLY, YOUR HONOR, THE ONLY EVIDENCE WE HAVE HAD OF A
3 MURDER CHARGE AT ALL WAS TESTIMONY BY MR. WAPNER DURING AN
4 OFFER OF PROOF DURING YESTERDAY'S PROCEEDINGS ON -- AND
5 OTHER THAN THAT, THERE HAS BEEN NO WITNESS AND NO SHOWING OF
6 ANY EVIDENCE THAT THERE'S BEEN A DEATH OR A DEATH BY
7 FELONIOUS MEANS.

8 I AM GOING TO RESERVE FURTHER ARGUMENT AT THIS
9 POINT ON THE CORPUS DELICTI ELEMENTS. I DO RESERVE AND WILL
10 ADDRESS YOUR HONOR AGAIN ON THE TESTIMONY ELEMENTS THAT I
11 ANTICIPATE THAT I WOULD LIKE TO MAKE A -- A PARENTHETICAL
12 OBJECTION ON.

13 THE COURT: ALL RIGHT. FOR THE RECORD, MR. WAPNER,
14 DO YOU WANT TO RESPOND TO THE ARGUMENT ON THE CORPUS?

15 MR. WAPNER: YES, I DO. CAN I ASK THE COURT TO ASK
16 COUNSEL FOR JUST A SLIGHT CLARIFICATION? I DIDN'T
17 UNDERSTAND THE LAST STATEMENT ABOUT RESERVING A STATEMENT ON
18 THE -- I DIDN'T UNDERSTAND WHAT HE WAS SAYING.

19 THE COURT: I -- FROM WHAT I GATHER, HE IS -- HE IS
20 RESERVING THE RIGHT TO OBJECT TO TESTIMONY; IS THAT CORRECT?

21 MR. BARENS: YES.

22 THE COURT: OF THE PERSONS WHO YOU ARE ABOUT TO CALL
23 ON WHATEVER THEORIES HE ADVANCES AT THAT PARTICULAR TIME.
24 HE IS NOT GOING TO PUT ANY FURTHER ARGUMENT IN AS FAR AS A
25 CORPUS IS CONCERNED AT THIS TIME.

26 MR. WAPNER: WELL --

27 THE COURT: IS THAT CORRECT?

28 MR. BARENS: YES. I'M SEEKING ONLY, YOUR HONOR, TO

1 BIFURCATE MY ARGUMENT BETWEEN AN ARGUMENT PURELY ADDRESSING
2 THE ISSUES TO WHETHER OR NOT THE PEOPLE HAVE PUT TOGETHER A
3 CORPUS AS OPPOSED TO AN ARGUMENT I'M GOING TO HAVE ABOUT THE
4 TYPE OF TESTIMONY TO BE ELICITED FROM THESE WITNESSES.

5 THE COURT: DO YOU UNDERSTAND THAT?

6 MR. WAPNER: THE ONLY THING I'M CONCERNED ABOUT IS
7 THAT I WOULD LIKE A RULING NOW FROM THE COURT AS TO WHETHER
8 THE COURT BELIEVES THERE'S SUFFICIENT EVIDENCE OF CORPUS
9 DELICTI.

10 THE COURT: WELL, THAT IS WHAT I'M ASKING YOU, IF YOU
11 WANT TO GO ON THE RECORD AS TO THE CORPUS DELICTI. THEN WE
12 CAN PROCEED FROM THAT POINT. MR. BARENS RAISED THE ARGUMENT
13 THAT THERE'S ONLY A SHOWING HERE THAT SOMEBODY WENT AWAY, IN
14 EFFECT.

15 MR. WAPNER: THERE'S ONLY WHAT?

16 THE COURT: THE SHOWING THAT SOMEBODY IS MISSING.

17 MR. WAPNER: I UNDERSTAND. I CAN RESPOND TO THAT
18 ARGUMENT. I JUST --

19 THE COURT: ALL RIGHT. THAT'S THE ARGUMENT THAT HE'S
20 PRESENTED NOW. HE'S NOT PRESENTING ANY OTHER ARGUMENT AT
21 THIS TIME. IN OTHER WORDS, HE'S ASKING THE COURT TO RULE ON
22 THE CORPUS ALONE.

23 MR. BARENS: THAT'S CORRECT, YOUR HONOR.

24 MR. WAPNER: ALL RIGHT. THAT'S FINE. I'M PREPARED
25 TO RESPOND TO THAT. FIRST OF ALL, THE RULINGS THAT APPLY TO
26 THE SUFFICIENCY OF THE TESTIMONY OF CORPUS DELICTI
27 SUFFICIENT TO PERMIT WITNESSES TO TESTIFY ABOUT STATEMENTS
28 MADE BY A DEFENDANT HAVE TO DO WITH -- THE LEGAL RULES ARE

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1 THAT THE ONLY THING THAT'S REQUIRED IS SLIGHT OR PRIMA FACIE
2 EVIDENCE OF CORPUS DELICTI.

3 THERE ARE SEVERAL CASES THAT STAND FOR THAT
4 PROPOSITION, INCLUDING PEOPLE VERSUS MANSON, 71 CAL. 3D 1;
5 PEOPLE VERSUS RAMIREZ, 91 CAL. APP. 3D, 132; PEOPLE VERSUS
6 JACKSON AT 92 CAL. APP. 3D, 556; AND PEOPLE VERSUS QUINTUS,
7 Q-U-I-N-T-U-S -- EXCUSE ME, IN RE QUINTUS, 120 CAL. APP. 3D
8 64, AND OTHER CASES ALONG THAT LINE THAT SAY ONLY SLIGHT OR
9 PRIMA FACIE EVIDENCE OF CORPUS DELICTI ARE NEEDED TO LET IN
10 SOMEBODY'S STATEMENT.

11 THERE ARE OTHER CASES WHICH ALONG THAT LINE
12 THAT STAND FOR THE PROPOSITION THAT IT'S NOT NECESSARY TO
13 RULE OUT ANY OTHER CAUSES OF DEATH, OR THAT IT'S POSSIBLE
14 THAT THERE COULD HAVE BEEN SOMETHING ELSE GOING ON,
15 NON-CRIMINAL MEANS OR ACCIDENT OR SOMETHING LIKE THAT. AND
16 THAT'S -- ONE OF THOSE CASES IS PEOPLE VERSUS JACOBSON,
17 WHICH IS 63 CAL. 2D, 319. AND FURTHER, IN THE MANSON CASE
18 WHICH I CITED EARLIER THAT THE CORPUS DELICTI CAN BE PROVED
19 BY CIRCUMSTANTIAL EVIDENCE.

20 AND SO TAKING THAT STANDARD, I THINK WE HAVE TO
21 LOOK AT WHAT IT IS THAT WE HAVE HERE. WE DON'T JUST HAVE A
22 MISSING PERSON. WE DON'T JUST HAVE ONE, WHO MR. BARENS HAS
23 SUGGESTED IN SOME OF HIS QUESTIONS, THAT PUT ON HIS JOGGING
24 SUIT AND WALKED TO NAT & AL'S FOR BREAKFAST ON JUNE THE 7TH
25 AND JUST NEVER SHOWED UP AGAIN.

26 WE HAVE A PERSON WHO, FIRST OF ALL, WAS VERY
27 CLOSE WITH HIS MOTHER AND TALKED TO HER ALL THE TIME, CALLED
28 HER ALL THE TIME AND TALKED TO HER ALL THE TIME, SEVERAL

1 TIMES A WEEK. HE HAD GONE TO AUSTRALIA FOR A WEEK AND IN
2 THAT WEEK COMMUNICATED WITH HIS MOTHER FOUR TIMES. WE HAVE
3 A PERSON WHO WAS PENDING A PRELIMINARY HEARING WHICH WASN'T
4 EVEN SET -- THE PRELIMINARY HEARING WASN'T EVEN SET UNTIL
5 OCTOBER. LET ALONE THE TRIAL, SO THE IDEA THAT HE WOULD
6 FLEE OR HAVE REASON TO FLEE AT THAT POINT IS, I THINK,
7 SPECULATIVE AT BEST. IN ANY EVENT, CERTAINLY I THINK IT'S
8 STRETCHING IT TO SAY THAT SOMEONE WOULD LEAVE THREE OR FOUR
9 MONTHS BEFORE HIS PRELIMINARY HEARING TO FLEE THE COUNTRY.

10 WE ALSO HAVE THE TESTIMONY OF BLANCHE STURKEY,
11 WHO SAYS THAT WHEREVER LEVIN WENT, WHENEVER HE WAS GOING
12 SOMEWHERE, HE WOULD CERTAINLY TAKE HIS LITTLE BLACK LEATHER
13 TOILETRY CASE, HE NEVER WENT ANYWHERE WITHOUT THAT. SHE
14 ALSO SAID THAT ALL OF HIS LUGGAGE WAS STILL THERE; THE HOUSE
15 EXCEPT FOR THE FACT THAT LEVIN WAS NOT THERE WAS IN ORDER;
16 IT WAS UNUSUAL THAT THE DOG WOULD HAVE URINATED IN THE
17 HOUSE, THAT THAT NEVER HAPPENED AND THAT THERE WERE BASE --
18 BASICALLY HER TESTIMONY COMES DOWN TO THE FACT THAT HE
19 DISAPPEARED UNDER VERY UNUSUAL CIRCUMSTANCES.

20 IF THIS IS A PERSON WHO WAS GOING TO FLEE THE
21 COUNTRY, THAT CERTAINLY HE WOULD HAVE AT THE VERY LEAST
22 TAKEN HIS TOILETRIES WITH HIM, WHICH HE DIDN'T DO. AND HE
23 HAS THIS TICKET TO GO TO NEW YORK WHICH IS LEFT THERE.
24 THERE ARE THREE AIRLINES TICKETS FOUND IN THE HOUSE. HE
25 DOESN'T UTILIZE THAT. HIS CAR IS THERE; HIS CAR KEYS ARE
26 THERE. ARE WE TO ASSUME THAT HE TOOK THE GREYHOUND BUS OR
27 SOMETHING? SO CIRCUMSTANCES OF HIS DISAPPEARANCE CERTAINLY
28 GIVE RISE TO THAT SOMETHING UNTOWARD HAPPENED TO HIM.

1 YOU HAVE TO PUT THAT TOGETHER WITH THIS LIST
2 THAT'S FOUND IN HIS OFFICE THAT'S A LIST OF THINGS TO DO IN
3 ORDER TO KILL SOMEONE, OR AT LEAST THAT'S A VERY STRONG
4 INFERENCE IF YOU READ THE SEVEN PAGES OF PEOPLE'S 44. AND
5 WHEN YOU PUT THAT LIST TOGETHER WITH THE TESTIMONY OF
6 BLANCHE STURKEY AND THE TESTIMONY OF THE MOTHER AND THE
7 TESTIMONY OF SCOTT FURSTMAN, I THINK THAT THERE'S MORE THAN
8 SLIGHT EVIDENCE THAT THERE'S -- THAT THERE IS VERY STRONG
9 EVIDENCE THAT RON LEVIN IS DEAD AND THAT IT WAS A CRIMINAL
10 AGENCY THAT KILLED HIM. MATTER SUBMITTED.

11 MR. BARENS: YOUR HONOR, IF I MIGHT RESPOND.

12 THE COURT: YES.

13 MR. BARENS: I WENT TO GREAT LENGTHS WITH BOTH MISS
14 STURKEY AND MR. LEVIN TO ASK THEM IF THERE WAS ANY
15 APPEARANCE IN THE PREMISES THAT THERE HAD BEEN ANY VIOLENCE
16 DIRECTED TOWARD MR. LEVIN. THEY ALL TESTIFIED THEY DIDN'T
17 SEE ANY BLOOD, THEY DIDN'T SEE ANY OF THE FURNITURE OR
18 FIXTURES OR POSSESSIONS THAT WERE AWRY. IN SPECIFIC
19 RESPONSE TO MY QUESTION, THEY SAID THAT, IN FACT, EVERYTHING
20 APPEARED NORMAL ON THOSE PREMISES EXCEPT FOR THE FACT THAT
21 MR. LEVIN WASN'T THERE.

22 CONTRARY TO WHAT COUNSEL SAYS, MR. LEVIN DID
23 SEEM TO HAVE REMOVED HIS KEYS. THE JOGGING SUIT, AFTER ALL,
24 WAS RIGHT NEXT TO THE BED WHERE IT WOULD NORMALLY BE FOUND,
25 ACCORDING TO MISS STURKEY. THE GENTLEMAN LEAVES THE HOUSE,
26 HIS KEYS ARE GONE, HIS WALLET IS GONE AND WHAT HE HAD LAID
27 OUT OSTENSIBLY TO WEAR IS GONE. NOTHING SUGGESTIVE THERE,
28 CERTAINLY, OF A CRIMINAL AGENCY OR THAT THE MAN IS DEAD.

1 THERE HAS NOT BEEN ONE SCINTILLA OF EVIDENCE PRODUCED TO
2 ESTABLISH THE CORPUS OF A DEAD MAN. THEY HAVE PRODUCED A
3 MISSING PERSON SITUATION HERE.

4 NOW, AS FAR AS THE SEVEN PAGE LETTER, NOTABLY
5 NEITHER STURKEY NOR MR. LEVIN SEE THOSE SEVEN PAGES THERE AT
6 ALL UNTIL ANYWHERE -- AS MR. LEVIN SAYS, SOMEWHERE BETWEEN
7 TWO AND FOUR WEEKS AFTER THE DISAPPEARANCE. WE HAVE NO IDEA
8 HOW OR ESPECIALLY WHEN THOSE SEVEN PAGES ARRIVE ON THE
9 PREMISES.

10 THE PEOPLE HAVE AN OBLIGATION, YOUR HONOR, TO
11 SHOW SLIGHT EVIDENCE, THOUGH IT BE, OF DEATH THROUGH
12 CRIMINAL AGENCY. EVIDENCE INDEPENDENT OF ALLEGED STATEMENTS
13 BY THE DEFENSE -- BY THE DEFENDANT. WHAT SLIGHT EVIDENCE DO
14 WE HAVE HERE? WE HAVE EVIDENCE THAT A MAN IS MISSING; A MAN
15 WHO'S FACING A CRIMINAL INDICTMENT. WE HAVE EVIDENCE THAT
16 HE DIDN'T CONTACT HIS MOTHER.

17 A FORTIORI, WE CANNOT JUMP THE GAP, WE CANNOT
18 JUMP THE RAVINE IN HUMAN CONTACT TO SAY BECAUSE SOMEONE NO
19 LONGER CONTACTS HIS MOTHER THAT HE IS NECESSARILY DEAD.
20 THAT IS JUST CONTRARY TO OUR EXPERIENCE WITH DEALING WITH
21 PEOPLE. WE HAVE A MAN HERE FACING A CRIMINAL INDICTMENT.
22 I'M NOT GOING TO SUBMIT TO THE COURT THAT IT IS NOT UNUSUAL
23 WHAT'S HAPPENING HERE, BUT DOES IT GIVE EVIDENCE OF DEATH BY
24 CRIMINAL AGENCY?

25 WHAT STOPS US IF WE ARE GOING TO SPECULATE FROM
26 THESE FACTS THAT HE DIES FROM CRIMINAL AGENCY OR IS DEAD AT
27 ALL? COULDN'T WE AS EASILY AND ON THE SAME BODY OF FACTS
28 PRESUME THAT THE MAN TOOK A WALK WITH HIS KEYS AND HIS

1 WALLET AND HIS JOGGING SUIT AND SIMPLY DISAPPEARED FOR
2 REASONS WE DON'T KNOW?

3 THERE HAS BEEN NO EVIDENCE PRODUCED THAT WOULD
4 SHOW ANYTHING MORE THAN A MYSTERIOUS DISAPPEARANCE AKIN TO A
5 CHILD GOING TO SCHOOL THAT IS KIDNAPPED AND NEVER HEARD FROM
6 AGAIN. DO WE ASSUME THAT EVERY ONE OF THOSE CHILDREN THAT
7 WE NOW SEE ON MARKET BAGS, THEIR PICTURES, AND ON MILK
8 CARTONS THAT EVERY ONE OF THEM IS DEAD OR THAT THEY HAVE
9 DISAPPEARED?

10 IN THIS INSTANCE, IN ORDER FOR THE PEOPLE TO
11 HAVE A POSITION, WE HAVE TO ASSUME THAT THE FACT OF
12 NON-APPEARANCE EQUATES TO DEATH BY FELONY MEANS. NO
13 EVIDENCE OF THAT WHATSOEVER, YOUR HONOR.

14 NOW, WE TALK ABOUT SEVEN PAGES THAT ARE FOUND
15 SOMETIME IN THE APARTMENT. THOSE PAGES WE DON'T KNOW IN
16 WHOSE HAND ALL OF THE WRITING IS. MR. CLASON SAYS IT COULD
17 BE UP TO AS MANY AS THREE PEOPLE WHO WRITE ON THOSE PAGES.
18 WE SEE THE DEFENDANT'S FINGERPRINT ON THE REVERSE ON A BLANK
19 PAGE. ON A PAGE WITH NO WRITING ON IT WE FIND HIS
20 FINGERPRINT. NO TIME FRAME COULD BE ESTABLISHED AS TO WHEN
21 THOSE PAPERS WERE AUTHORED, WHETHER THEY WERE BEFORE THE
22 DISAPPEARANCE, AFTER THE DISAPPEARANCE, ET CETERA.

23 I SUBMIT, YOUR HONOR, THEY DO HAVE A BURDEN TO
24 SHOW SOME EVIDENCE. I'VE SEEN NO EVIDENCE OF THE ESSENTIAL
25 KERNEL THAT THEY HAVE TO ESTABLISH, AND THAT'S INDEPENDENT
26 EVIDENCE OF DEATH THROUGH CRIMINAL AGENCY, NOT SIMPLY THAT
27 THIS MAN IS MISSING.

28 THE COURT: ANYTHING FURTHER, MR. WAPNER?

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1 MR. WAPNER: I 'LL STAND SUBMITTED, YOUR HONOR.

2 THE COURT: ALL RIGHT. WELL, IT WOULD APPEAR HERE
3 THAT WE -- AS BOTH PARTIES AGREE, THAT WE HAVE A PARTY BY
4 THE NAME OF MR. LEVIN. MR. LEVIN -- THE EVIDENCE INDICATED
5 SO FAR THAT HE WAS ABOUT TO TAKE A TRIP TO NEW YORK; THAT
6 SUBSEQUENTLY THE PARTIES WHO WERE TO GO WITH HIM ON THE TRIP
7 CAME TO THE PLACE AND THAT THERE WAS MR. -- AND THAT MR.
8 LEVIN WAS MISSING.

9 TRUE, THE MERE FACT THAT A PERSON LEAVES AND
10 GOES AWAY AND DOESN'T COME BACK WOULD NOT OF ITSELF PER SE
11 BE A CORPUS, BUT THE CIRCUMSTANCES SURROUNDING THE PERSON'S
12 LEAVING -- IF I AM LEAVING AND SAY "I'M GOING TO NEW YORK"
13 AND SAY "GOODBYE", SAY "GOODBYE" TO EVERYTHING, AND I DON'T
14 COME BACK FOR SEVERAL MONTHS, THERE MAY BE SOME INFERENCE
15 THERE THAT I HAVE GONE AWAY SOMEWHERE AND HAVE NOT COME
16 BACK.

17 HERE YOU HAVE A SITUATION WHERE ALTHOUGH IT IS
18 SLIGHT -- AND MR. WAPNER HAS POINTED OUT THAT THE CORPUS CAN
19 BE PROVEN BY CIRCUMSTANTIAL EVIDENCE, BY SLIGHT
20 CIRCUMSTANTIAL EVIDENCE -- YOU HAVE SOME INDICATION OF MORE
21 THAN JUST A PERSON GOING AWAY ON A TRIP. YOU HAVE SOME
22 INDICATION HERE OF POSSIBLE CRIMINAL ACTIVITY BEING INVOLVED
23 INASMUCH AS THERE ARE THE EXHIBITS THAT WERE MENTIONED,
24 THERE ARE OTHER CIRCUMSTANCES WHICH WOULD INDICATE THAT THIS
25 WAS NOT A NATURAL ACTION ON THE PART OF THE PERSON.

26 WHATEVER OCCURRED ON THE 7TH DAY OF JUNE WAS
27 NOT A NATURAL ACTION OF A NORMAL PERSON ABOUT TO TAKE A TRIP
28 WHO JUST HASN'T RETURNED FROM HIS TRIP AS YET. I CONCEDEDLY

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1 WILL ADMIT THAT THE EVIDENCE IS NOT STRONG, BUT I ALSO WILL
2 STATE THAT AS FAR AS CRIMINAL ACTIVITY IS CONCERNED, ONLY
3 SLIGHT CRIMINAL ACTIVITY NEED BE SHOWN AS CONTRASTED TO A
4 PERSON JUST WALKING AWAY, AS YOUR EXAMPLES OF SOMEBODY WHO
5 IS LOST IN A MARKET AND ISN'T FOUND AGAIN. THERE'S A LITTLE
6 MORE THAN JUST SOMEBODY WALKING AWAY AND NOT BEING FOUND
7 AGAIN HERE WHICH WOULD BE THE SLIGHT, THOUGH IT MIGHT BE,
8 EVIDENCE OF -- SLIGHT, THOUGH IT MIGHT BE, EVIDENCE OF
9 CRIMINAL NEXUS TO HIS DISAPPEARANCE.

10 THEREFORE THE COURT WOULD FIND -- SINCE THE
11 ONLY ISSUE BEFORE THIS COURT IS WHETHER THERE IS PROBABLE
12 CAUSE FOR A CORPUS TO BE SHOWN, THE COURT WOULD FIND HERE
13 THAT TAKING THE TOTALITY OF THE CIRCUMSTANCES THAT A CORPUS
14 HAS BEEN SHOWN. MOTION TO DISMISS FOR LACK OF CORPUS WOULD
15 BE DENIED AT THIS TIME.

16 MR. BARENS: YOUR HONOR, FOR THE RECORD, I WOULD LIKE
17 TO HAVE A MORE SPECIFIC UNDERSTANDING OF THE COURT'S FINDING
18 OF BOTH THE FACT OF DEATH AND THROUGH CRIMINAL MEANS. WHAT
19 EVIDENCE PERSUADES YOUR HONOR THAT THERE IS A DEATH AND
20 THROUGH CRIMINAL MEANS?

21 THE COURT: ALL RIGHT. THE -- AS TO DEATH, THE
22 LENGTH OF TIME. WE HAVE A LAPSE OF TIME HERE OF NINE
23 MONTHS. THIS IS NOW WELL INTO MARCH. THE PARTY'S DEPARTURE
24 WAS THE FIRST WEEK OF JUNE OF LAST YEAR. THERE WERE NOT
25 BRINGING INTO EFFECT A NENOCK-ARDEN LAW. THE TIME ELEMENT
26 IN ITSELF WOULD BE ONE OF THE PRIMARY CONCERNS OF THE FACT
27 OF A CORPUS.

28 SECONDLY, THE FACT OF THE WITNESSES WHO HAVE

1 TESTIFIED HERE AS TO HIS NOT TAKING ANY TRIPS OR NOT BEING
2 OUT OF COMMUNICATION WITH HIS GIRL FRIDAY, AS SHE DESCRIBED
3 HERSELF, THE MOTHER OF THE PARTY THAT'S MISSING, THE FATHER.
4 AND IN ADDITION TO THAT, THE CIRCUMSTANCES OF HAVING FOUND A
5 PIECE OF PAPER WITH A FINGERPRINT ON IT, HANDWRITING ON THE
6 PART OF MR. HUNT AND THE CIRCUMSTANCES OF THE INVESTIGATION
7 THAT WAS CONDUCTED BY DEPUTY ZOELLER WOULD INDICATE THAT
8 THERE IS AT LEAST A SUSPICION OR STRONG SUSPICION OR
9 PROBABLE CAUSE OF CRIMINAL NEXUS HERE INVOLVED WITH THE
10 DISAPPEARANCE AS CONTRASTED WITH A MERE PERSON LEAVING AND
11 NOT TELLING PERSONS WHERE HE IS GOING.

12 MR. BARENS: I APPRECIATE THAT COURTESY, YOUR HONOR.

13 THE COURT: ALL RIGHT.

14 MR. BARENS: YOUR HONOR, BEFORE PROCEEDING WITH THE
15 PEOPLE'S NEXT WITNESS, THOUGH, NOW I'D LIKE TO ADDRESS THE
16 SECOND PART OF MY OBJECTION AS TO WHAT'S GOING TO BE THE --
17 I PRESUME THE OBVIOUS SOLICITED TESTIMONY.

18 THE COURT: VERY WELL.

19 MR. BARENS: YOUR HONOR, I -- PARENTHETICAL TO THESE
20 PROCEEDINGS, WE SUBMITTED TO THE COURT A MOTION IN LIMINE
21 BASED PRIMARILY ON THE SALING PRECEDENT WHICH THE COURT HAS
22 RULED UPON. ONE OF THE THINGS DISCUSSED AT THAT TIME WAS
23 THE COURT'S CONCERN ABOUT WHEN A CONSPIRACY WOULD TERMINATE,
24 IN FACT, AS RELATIVE TO THE PARAMETERS OF PERMISSIBLE
25 EVIDENCE ESTABLISHED IN THAT CASE.

26 WHEN THE GENTLEMAN FROM THE WORLD TRADE BANK
27 TESTIFIED EARLIER TODAY, HE ON CROSS-EXAMINATION INDICATED
28 ON JUNE 15TH OR 16TH HE NOTIFIED THE CUSTOMER OF THE BANK,

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1 PRESUMABLY OUR CLIENT, THAT THE CHECK IN QUESTION WAS
2 UNCOLLECTABLE. NOW, IN TERMS OF WHAT SALING HAS FOR US, I
3 SUBMIT THAT ANY POSSIBLE CONSPIRACY AT THAT POINT IN TIME
4 HAS ENDED. WE HAVE, ASSUMING FOR PURPOSES OF THIS ARGUMENT,
5 A POSSIBLE DEATH OF MR. LEVIN. LET'S NOW SAY THAT THE
6 OBJECTIVE -- AS OPPOSED TO THE MOTIVES OF THE
7 PARTICIPANTS -- THE OBJECTIVE IS NOW TOTALLY FRUSTRATED IN
8 THE SENSE THAT THE ONE MILLION FIVE HUNDRED THOUSAND DOLLAR
9 CHECK IS INCAPABLE OF COLLECTION AT THIS POINT. THE
10 SITUATION IS TERMINATED.

11 I SUBMIT TO YOUR HONOR WE ARE NOW ON ALL FOURS
12 WITH MESSIEURS SALING AND MURPHY. AND WE ARE ON ALL FOURS
13 WITH WHAT JUSTICE SULLIVAN IS TALKING ABOUT IN HIS
14 DISSENTING OPINION IN THAT CASE. WE ARE IN A SITUATION
15 WHERE WE CANNOT BEYOND JUNE 15TH OR 16TH BE ACTING EITHER IN
16 FURTHERANCE OF THE CONSPIRACY ALLEGED OR DURING A CONSPIRACY
17 ALLEGED.

18 NOW, THE PEOPLE MAY WANT TO ARGUE TO YOUR HONOR
19 WELL, WE'RE NOT GOING FOR 1223 OF THE EVIDENCE CODE, WE'RE
20 GOING TO GO FOR 1220. I SUBMIT THAT THE SUPREME COURT DEALT
21 WITH THAT NICETY IN SALING AND RULED NONETHELESS THAT THE
22 PROFFERED EVIDENCE MUST QUALIFY UNDER BOTH THOSE PRONGS AND
23 FOUND THAT EVIDENCE UNACCEPTABLE IN SALING.

24 AT THIS POINT IN TIME, YOUR HONOR -- AND I
25 APPRECIATE YOUR HONOR'S CONCERN MONDAY MORNING ABOUT WHETHER
26 WE'RE STILL IN THE COURSE AND SCOPE OF A CONSPIRACY. YOUR
27 HONOR POINTED OUT THAT THERE WAS A DIFFERENCE IN YOUR
28 HONOR'S EYES BETWEEN COLLECTING LIFE INSURANCE PROCEEDS FROM

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1 MRS. MURPHY'S DEATH, BUT NONETHELESS, WE ARE STILL IN A
2 POSTURE OF ATTEMPTING TO NEGOTIATE THE CHECK IN QUESTION IN
3 THIS CASE AND THAT WAS OF CONCERN TO TO YOUR HONOR.

4 WELL, ACCORDING TO THE GENTLEMAN FROM THE WORLD
5 TRADE BANK, I CAN'T SEE HOW THAT LEGITIMATELY CAN BE FURTHER
6 OF CONCERN BECAUSE THAT ISSUE TERMINATES ON ITS FACE IN
7 WRITING COMMUNICATED TO THE BANK FROM SWITZERLAND,
8 COMMUNICATED TO THE DEFENDANT BY THE BANK, THAT THAT CHECK
9 IS NSF, NON-NEGOTIABLE, CANNOT BE COLLECTED, AND THE MATTER
10 TERMINATES. THE ACCOUNT IS DEBITED. THE PEOPLE PRODUCE AN
11 EXHIBIT THIS MORNING SHOWING THAT THE ACCOUNT IS NOT ONLY
12 SHOWN NSF, BUT THE ITEM IS CHARGED BACK AND THE ACCOUNT
13 DEBITED SOME TWO HUNDRED SOME ODD DOLLARS FOR THAT
14 TRANSACTIONAL FEE.

15 NOW, YOUR HONOR, ANY TESTIMONY TO BE SOLICITED
16 BY THE PEOPLE FOR CONVERSATIONS SUBSEQUENT TO JUNE 15TH OR
17 16TH -- USING EITHER DATE, IT DOESN'T MATTER TO THE DEFENSE
18 AT THIS POINT -- SHOULD BE RULED INADMISSIBLE AT THIS POINT
19 BASED ON THE PRECEDENTS THAT YOUR HONOR HAS REVIEWED AND
20 CONSISTENT WITH THE LOGIC YOUR HONOR EXPRESSED MONDAY
21 MORNING.

17
22 THE COURT: WELL, THE MOTION THAT YOU MADE,
23 MR. BARENS AND THE STATEMENT, THE ALLEGED STATEMENT MADE BY
24 MR. HUNT -- WHICH WE NEED NOT REPEAT BECAUSE IT'S ON THE
25 RECORD ANYWAY -- AS I RECALL, THE CONTENTION OF THE PEOPLE
26 AT THAT TIME WAS ONE, THAT IT'S -- THIS DOES NOT NOT INVOLVE
27 A CONSPIRACY STATEMENT AS MADE -- DID NOT INVOLVE A
28 CONSPIRACY, BUT WAS RATHER THE SPONTANEOUS STATEMENT OR THE

1 STATEMENT -- THE INDEPENDENT STATEMENT, IF YOU WANT TO USE
2 THE TERM, OF THE DEFENDANT, MR. HUNT.

3 WAS THAT YOUR CONTENTION AT THE TIME, MR.
4 WAPNER?

5 MR. WAPNER: YES, IT WAS, YOUR HONOR, AND IT STILL
6 IS.

7 THE COURT: BUT I THINK, I -- SINCE YOU RAISED THE
8 ISSUE OF A CONSPIRACY, AND I FELT THAT YOU WOULD RAISE IT
9 AGAIN, I BRIEFLY WENT INTO THE WHAT I INTERPRETED TO BE THE
10 HOLDING IN THE CASE THAT YOU CITED AND WHICH WE ALSO PUT IN
11 THE RECORD.

12 DO YOU WANT TO BE HEARD ON THAT PARTICULAR
13 POINT, MR. WAPNER?

14 MR. WAPNER: JUST --

15 THE COURT: ARE THE PEOPLE PROCEEDING UPON A
16 CONSPIRACY THEORY, AND IF SO, WHAT IS THE POSITION OF THE
17 PEOPLE AS TO WHEN THE CONSPIRACY WOULD HAVE TERMINATED, IF
18 IN FACT IT TERMINATED.

19 MR. WAPNER: FOR THE PURPOSES OF THIS HEARING, WE ARE
20 NOT PROCEEDING ON ANY KIND OF A CONSPIRACY THEORY IN TERMS
21 OF THE ADMISSIBILITY OF THE EVIDENCE. WHETHER OR NOT THERE
22 WAS A CONSPIRACY TO COMMIT A CRIME, TO COMMIT THE MURDER OR
23 WHETHER IT TERMINATED OR WHETHER IT DIDN'T, IS BASICALLY
24 IRRELEVANT.

25 I THINK THAT ONE OF THE BASIC TENANTS OF THE
26 LAW OF EVIDENCE THAT COUNSEL IS SOMEHOW NEGLECTING OR
27 CONFUSING IS THAT EVIDENCE CAN BE ADMISSIBLE ON LOTS OF
28 DIFFERENT THEORIES, AND THE IDEA OF CO-CONSPIRATOR

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1 STATEMENTS IS JUST -- HAS ABSOLUTELY NOTHING TO DO -- IT'S
2 REMOVED FROM THIS HEARING AT ALL BECAUSE THESE STATEMENTS
3 ARE ADMISSIBLE UNDER THE SECTION OF THE EVIDENCE CODE THAT
4 ALLOWS FOR ADMISSION OF ADMISSIONS OF A PARTY, AND WHETHER
5 THEY COME IN UNDER SOME OTHER SECTION, THAT'S IRRELEVANT.

6 IT'S SUCH A BASIC PRINCIPAL OF EVIDENCE THAT IT
7 ALMOST DOESN'T BEAR REPEATING, BUT IN -- AND THEY TEACH IT
8 IN LAW SCHOOL -- IF YOU CAN'T GET IT IN UNDER ONE THEORY,
9 YOU PUT IT IN UNDER ANOTHER. THAT HAS NOTHING TO DO WITH
10 THIS CASE. I'M NOT SUGGESTING THAT BECAUSE IT FAILS ON ONE
11 GROUND, YOU CAN'T GET IT IN ON ANOTHER. BUT I'M SAYING THAT
12 IF YOU SAY IT CAN'T COME IN THIS WAY, IT CAN'T COME IN ANY
13 OTHER WAY, THAT'S RIDICULOUS TO ABSURD.

14 IT'S A STATEMENT OF THE DEFENDANT. IT'S NOT A
15 STATEMENT OF A THIRD PARTY OFFERED AGAINST THE DEFENDANT ON
16 SOME CONSPIRACY THEORY. IT'S A STATEMENT OF THE DEFENDANT
17 ADMITTING HIS OWN CULPABILITY, AND IT'S NOT BEING OFFERED
18 AGAINST MR. PITTMAN. IT'S BEING OFFERED AGAINST THIS
19 DEFENDANT.

20 AS I POINTED OUT ON MONDAY, THE IDEA THAT IF A
21 CONSPIRACY HAS TERMINATED, ANYTHING THAT A DEFENDANT SAYS IS
22 NOT ADMISSIBLE WOULD MEAN THAT ANYTHING HE SAYS TO ANYONE
23 INCLUDING THE POLICE OR INCLUDING ANOTHER PRIVATE PARTY IF
24 HE GOES AND MAKES A CONFESSION TO SOMEONE AFTER A CONSPIRACY
25 HAS ENDED, UNDER THE DEFENSE'S THEORY THAT CAN'T COME IN
26 BECAUSE THE CONSPIRACY IS ENDED AND THEREFORE IF HE ADMITS
27 HIS OWN CULPABILITY TO SOMEONE THEREFORE IT'S NOT AN
28 ADMISSIBLE STATEMENT. THAT'S ABSURD. THAT'S WHAT WE HAVE

1 HERE. HE'S ADMITTING HIS OWN GUILT OF THE OFFENSE. IT'S
2 NOT BEING OFFERED UNDER THAT THEORY. WHETHER THERE'S A
3 CONSPIRACY OR NOT, IT DOESN'T MAKE ANY DIFFERENCE.

4 MR. BARENS: YOUR HONOR, OBVIOUSLY THERE'S A MARKED
5 DIFFERENCE BETWEEN A CONFESSION AND AN ADMISSION. COUNSEL
6 WANTS TO RELY ON STANDARDS FOR CONFESSIONS, BUT A CONFESSION
7 IS OBVIOUSLY UNDER INFORMED CIRCUMSTANCES, ET CETERA, ET
8 CETERA, AND CERTAINLY WE DON'T HAVE THIS HERE.

9 AS FAR AS COUNSEL'S SUGGESTION THAT LAW SCHOOL
10 ADVISES US THAT WE CAN SHOP OUR VEHICLES FOR THE
11 ADMISSIBILITY OF EVIDENCE, I AGREE WITH THAT RATHER ASTUTE
12 OBSERVATION, EXCEPT WHEN THAT AVENUE HAS BEEN FORECLOSED FOR
13 US BY A SUPREME COURT RULING, WHICH I SUBMIT IT HAS BEEN IN
14 THE SALING CASE. WE HAVE TO LOOK AT -- IRRESPECTIVE OF ANY
15 NICETIES WE'D LIKE TO ADDRESS AS FAR AS CONSPIRACY OR NON
16 CONSPIRACY, WE HAVE TO LOCK AT THE FACTS WE ARE DEALING
17 WITH. AND THE FACTS WE ARE DEALING WITH, I SUBMIT, FALL ON
18 ALL FOURS WITH SALING.

19 IT'S CURIOUS, INDEED, YOUR HONOR, THAT AT THE
20 PITTMAN PRELIMINARY HEARING, THE PEOPLE SEEK TO ADMIT THESE
21 STATEMENTS AGAINST MR. PITTMAN ON THE BASIS OF A CONSPIRACY
22 EXISTING AS BETWEEN HIMSELF AND DEFENDANT HUNT IN ORDER TO
23 GET THIS MATERIAL IN, BUT FOR PURPOSES OF THIS TESTIMONY --
24 OF THIS HEARING, THE COURT IS ADVISED "WELL, FOR THIS
25 HEARING, WE'RE NOT GOING TO SAY CONSPIRACY. IT'S NOT A
26 CONSPIRACY, ANYMORE. WE'RE JUST GOING TO TRY TO GET IT IN
27 AS AN ADMISSION. BUT OF COURSE AT TRIAL, WE'RE GOING TO
28 ATTEMPT TO PROVE A CONSPIRACY CASE SO THAT WE CAN CONVICT

1 BOTH OF THEM."

2 I SUBMIT THAT FLIES IN THE FACTS OF THE FACE --
3 OF WHAT WE ARE DEALING WITH HERE. WHAT ARE WE DEALING WITH
4 HERE? ARE WE DEALING WITH AN ALLEGED MURDER TO KILL SOMEONE
5 OR ARE WE DEALING WITH AN ALLEGED MURDER PART OF A
6 CONSPIRACY TO OBTAIN FUNDS. ASSUMING ARGUENDO THAT THE
7 SECOND IS MUCH MORE IN KEEPING WITH THE FACTS AND CERTAINLY
8 THE OFFERS OF PROOF TENDERED BY COUNSEL.

9 THEREFORE, WE'RE RIGHT BACK INTO THAT SALING
10 MATTER WHICH INEVITABLY LOOKS AT US. SALING EXISTS FOR THIS
11 VERY REASON THAT WE ARE DEBATING WITH THE COURT RIGHT NOW.
12 THE COURT FOUND THAT WHEN THE CONSPIRACY ELEMENTS HAVE BEEN
13 CONCLUDED AND ITS DURATION -- AND CERTAINLY I SAY WE HAD A
14 WITNESS TODAY THAT SHOWED US CONCLUSION AS FAR AS THE
15 FINANCIAL ASPECTS OF THIS MATTER ARE CONCERNED; THAT
16 STATEMENTS ARE SO INHERENTLY UNRELIABLE AFTER THAT, AND THE
17 WITNESSES WHO COME BEFORE THE COURT TO SAY "YEAH, HE SAID
18 IT" ARE SO FORECLOSED FROM EFFECTIVE CROSS-EXAMINATION THAT
19 BOTH IN SALING AND IN THE UNITED STATES SUPREME COURT
20 POSITION IN GREUNEWALD THOSE WERE FOUND TO BE REPREHENSIBLE
21 AND TO VIOLATIVE OF THE DEFENDANT'S RIGHTS, AND I SUBMIT
22 THAT THERE'S NO FACTUAL BASIS UPON WHICH TO LEGITIMATELY
23 DISCRIMINATE THIS MATTER, YOUR HONOR.

24 MR. WAPNER: MAY I BE HEARD JUST VERY BRIEFLY?

25 THE COURT: YES.

26 MR. WAPNER: MY POSITION IS STILL, AND IT CONTINUES
27 TO BE AS ALWAYS, THAT CO-CONSPIRATORS' STATEMENTS DON'T HAVE
28 ANYTHING TO DO WITH THIS. THE COURT; HOWEVER, IN ATTEMPTING

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1 TO MAYBE COVER ALL THE BASES WHEN WE TALKED ABOUT THIS ON
2 MONDAY MENTIONED BRIEFLY THE SALING CASE, AND I THINK THE
3 IMPORTANT THING THAT THE COURT SAID ON MONDAY IS SOMETHING
4 THAT APPARENTLY HAS ELUDED COUNSEL IN READING THE SALING
5 CASE.

6 AND I HAVE -- WHILE I HAVE NOT READ THE ENTIRE
7 CASE -- I'M JUST READING A BRIEF OF IT CITED IN JEFFERSON --
8 BUT THE GIST OF -- AND THE IMPORTANT THING IS -- AND THIS IS
9 WHAT THE COURT HIT ON ON MONDAY -- SALING DIDN'T TALK ABOUT
10 A STATEMENT BY THE DEFENDANT OFFERED AGAINST THE DEFENDANT.
11 SALING TALKED ABOUT A STATEMENT BY A THIRD PARTY OFFERED
12 AGAINST THE DEFENDANT.

13 AND THE QUESTION WAS IF THE THIRD PARTY WAS A
14 CO-CONSPIRATOR, WAS THE CONSPIRACY STILL GOING ON. WELL,
15 THAT'S EXACTLY WHAT WE'RE TALKING ABOUT IN THIS CASE. NOT A
16 STATEMENT BY A THIRD PARTY, BUT A STATEMENT BY THIS
17 DEFENDANT, AND THAT'S WHY ANY DISCUSSION OF SALING IS
18 COMPLETELY IRRELEVANT TO THIS CASE.

19 MR. BARENS: YOUR HONOR, THAT'S NOT EXACTLY WHAT
20 SALING IS SAYING. NOW, THE THIRD PARTY IN SALING THAT WE
21 ARE TALKING ABOUT IS A POLICE OFFICER WHO IS INTERROGATING
22 THE DEFENDANT IN THE PRESENCE OF A TAPE RECORDER. THE
23 STATEMENTS ALLEGED AGAINST THE DEFENDANTS, BOTH AGAINST
24 MURPHY AND SALING, THEIR USING THE POST-PERIOD STATEMENTS,
25 THE ALLEGED CULPATORY STATEMENTS --

26 THE COURT: WITHOUT GETTING TOO DEEPLY INTO THE
27 SALING CASE, BECAUSE I ALREADY INDICATED ON MONDAY AND ALSO
28 NOW THAT I DIDN'T THINK THE SALING CASE WAS APPLICABLE, AND

1 ALSO ON THE THEORY THAT THE DISTRICT ATTORNEY IS PROCEEDING,
2 IT CERTAINLY WOULD NOT BE APPLICABLE. BUT NEVERTHELESS, IN
3 THE SALING CASE, THERE'S -- THERE WAS -- DO YOU CONTEND
4 THERE EVER WAS A STATEMENT MADE BY MR. SALING THAT WAS
5 INCRIMINATING TO HIM? STATEMENTS WERE MADE BY OTHER
6 PARTIES, WERE THEY NOT?

7 MR. BARENS: THERE'S NO QUESTION THAT STATEMENTS WERE
8 MADE BY MR. MURPHY.

9 THE COURT: ALL RIGHT. IN THIS CASE, THE STATEMENTS
10 ARE NOT -- STATEMENTS WERE MADE BY ANY OTHER PARTIES. THE
11 STATEMENTS WERE MADE BY MR. HUNT, ARE THEY NOT?

12 MR. BARENS: I AGREE THAT THE GOVERNMENT WILL TRY TO
13 SOLICIT STATEMENTS ATTRIBUTED TO MR. HUNT, BUT -- AND
14 MR. PITTMAN.

15 THE COURT: WELL --

16 MR. WAPNER: WELL, TO SHORTEN THAT, WE'RE NOT
17 OFFERING ANY STATEMENTS OF MR. PITTMAN.

18 MR. BARENS: WELL, AGAIN, THE EVIDENCE WE HAD
19 REFERENCED BEFORE HAD STATEMENTS OF PITTMAN THAT WERE
20 REplete DURING HIS PRELIMINARY HEARING.

21 THE COURT: ALL RIGHT. THE RECORD WILL INDICATE YOUR
22 POSITION ON THIS, MR. BARENS, AND THE COURT IS GOING TO
23 RULE, HOWEVER, THAT FIRST OF ALL THAT THE CONTENTION OF THE
24 DISTRICT ATTORNEY THAT THESE -- THAT SALING NOT IS
25 APPLICABLE WOULD APPEAR TO THIS COURT TO BE THE REASONABLE
26 INTERPRETATION OF THE THEORY THAT THE PEOPLE ARE PROCEEDING
27 UPON AS TO DEFENDANT HUNT.

28 WE'RE NOT CONCERNED WITH THE DEFENDANT PITTMAN

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1 AT THIS PARTICULAR POINT, AND MOREOVER, THE -- FOR THAT
2 REASON, THE SECOND FINDING OF THE COURT WOULD BE THAT THE
3 SALING CASE IS NOT APPLICABLE TO THIS FOR THE REASONS JUST
4 STATED.

5 ALL RIGHT. THE MOTION TO -- WHAT IS THE FORM
6 OF YOUR MOTION AT THIS TIME, MR. BARENS, SO WE HAVE A CLEAR
7 RECORD ON ON THIS?

8 MR. BARENS: IT WAS AGAIN A MOTION IN LIMINE MAY TO
9 PREEMPT THE TESTIMONY. AT THIS POINT WE WERE KEYING OFF OF
10 THE TIME FRAME PROVIDED BY THE WORLD TRADE BANK WITNESS, AND
11 WE ACCEPT THE RULING AND THANK YOUR HONOR.

12 THE COURT: ALL RIGHT. THE COURT WOULD RULE THAT THE
13 MOTION TO EXCLUDE THE EVIDENCE WOULD BE DENIED.

14 MR. WAPNER: THANK YOU, YOUR HONOR. CALL EVAN
15 DICKER.

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

20 THE WITNESS: I DO.

21
22 EVAN GEORGE DICKER,
23 CALLED AS A WITNESS BY THE PEOPLE, HAVING BEEN FIRST DULY
24 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

25 THE CLERK: WOULD YOU PLEASE STATE YOUR FULL NAME AND
26 SPELL YOUR LAST NAME FOR THE RECORD.

27 THE WITNESS: EVAN GEORGE DICKER, D-I-C-K-E-R.

28 THE CLERK: THANK YOU..

1 //

2 DIRECT EXAMINATION

3 BY MR. WAPNER:

4 Q MR. DICKER, DO YOU KNOW THE DEFENDANT IN THIS
5 CASE, JOE HUNT?

6 A YES, I DO.

7 Q AND HOW IS IT THAT YOU KNOW HIM?

8 A WE WERE INTRODUCED ON A SKI TRIP APPROXIMATELY
9 THREE YEARS AGO.

10 Q AND DID YOU KNOW THE VICTIM IN THIS CASE, RON
11 LEVIN?

12 A YES, I DID.

13 Q WHEN DID YOU FIRST MEET HIM?

14 A APPROXIMATELY THREE YEARS AGO OR TWO YEARS AGO
15 AT A PARTY FOR NEIL ANTON.

16 Q AFTER YOU MET MR. HUNT ON THE SKI TRIP, DID YOU
17 BECOME -- DID YOU SEE HIM AGAIN IN LOS ANGELES?

18 A YES, I DID. IN APPROXIMATELY NOVEMBER OF 1982
19 HE RETURNED FROM CHICAGO.

20 Q AND WHERE WERE YOU LIVING AT THAT TIME?

21 A 143 SOUTH SWALL DRIVE IN LOS ANGELES.

22 Q AND WHEN MR. HUNT CAME BACK FROM CHICAGO, DID
23 YOU BECOME FRIENDLY WITH HIM?

24 A YES, I DID.

25 Q HOW DID THAT COME ABOUT?

26 A THROUGH A FRIEND OF MINE, MUTUAL FRIEND, DEAN
27 KARNY.

28 Q AND THROUGH MR. KARNY, DID YOU -- DID MR. HUNT

1 BEGIN TO TALK TO YOU ABOUT HIS PHILOSOPHY OF LIFE?

2 A YES. ONE EVENING IN NOVEMBER.

3 Q OF 1982?

4 A YES.

5 Q ALL RIGHT. AND IS THERE A TERM TO DESCRIBE
6 THAT PHILOSOPHY?

7 A PARADOX PHILOSOPHY.

8 MR. BARENS: I'M GOING TO OBJECT. THIS IS GETTING
9 INTO IRRELEVANT MATERIAL AS TO WHAT THE DEFENDANT'S
10 PHILOSOPHY OF LIFE IS UNLESS THE DEFENDANT HAD A PHILOSOPHY
11 OF LIFE WHERE WE KILL EVERYBODY WE MEET. SEEING AS THIS
12 WITNESS IS HERE TESTIFYING ABOUT IT, I DOUBT THAT THAT WAS
13 THE PHILOSOPHY.

14 THE COURT: BUT THE ISSUE IS THE RELEVANCE,
15 MR. WAPNER.

16 MR. WAPNER: THANK YOU. IT TENDS -- IT WILL TEND, IF
17 THE COURT WILL BEAR WITH ME, TO PROVE THE UNDERLYING
18 PHILOSOPHY BEHIND AN ORGANIZATION THAT THE DEFENDANT, THIS
19 WITNESS AND SEVERAL OTHERS LATER BECAME INVOLVED IN, AND
20 WILL TEND TO EXPLAIN CONDUCT THAT THE DEFENDANT ENGAGED IN
21 INCLUDING AN EXPLANATION OF STATEMENTS THAT HE LATER MADE AT
22 A MEETING IN JUNE OF 1984, AND IT WILL TEND TO PROVE THAT
23 THE STATEMENTS THAT HE MADE AT THE MEETING WERE
24 CONSISTENT -- THAT HE HAS BEEN CONSISTENT IN HIS BELIEF ALL
25 ALONG THAT, IN ESSENCE -- AND THIS IS PARAPHRASING AND
26 SHORTCUTTING -- THAT THE END JUSTIFIES THE MEANS.

27 MR. BARENS: WELL, YOUR HONOR, EVEN IF WE HAVE A
28 PHILOSOPHY HERE, FIRST OF ALL, THIS WITNESS HAS GOT TO GET

1 INTO INTERPRETATION IN HIS SUBJECTIVE OPINION AS TO THE
2 IMPLICATIONS OF THE PHILOSOPHY. AFTER ALL, FOR THOUSANDS OF
3 YEARS WE HAVE BEEN TRYING TO UNDERSTAND THE PHILOSOPHY OF
4 THE GREEKS, LET ALONE THE PHILOSOPHY OF LATTER DAY HUNT.

5 SECONDARILY, YOUR HONOR, LET 'S ASSUME THAT THIS
6 WITNESS IS GOING TO SAY "WE HAVE A PHILOSOPHY WHEREBY THE
7 ENDS JUSTIFY THE MEANS." THAT DOES NOT NECESSARILY AGAIN
8 TAKE US TO LEAP A CHASM TO GO OUT AND KILL PEOPLE THAT
9 DISAGREE WITH US AND AGAIN, I THINK WE ARE TRYING TO PAINT
10 THE DEFENDANT AS SOME SOCIOPATHIC ODDITY HERE UNDER SOME
11 KIND OF A PHILOSOPHY. I THINK WE SHOULD GET BACK TO WHAT WE
12 ARE HERE FOR AND THAT IS WHETHER OR NOT A HOMICIDE TOOK
13 PLACE.

14 THE COURT: WELL, AN EXCLUSION BECAUSE IT'S
15 IRRELEVANT WOULD BE THAT IT HAS NO BEARING UPON THE ULTIMATE
16 FACT THAT'S IN ISSUE HERE. AT THIS POINT, FROM THE DISTRICT
17 ATTORNEY'S THEORY OF WHAT HE HAS STATED HERE, IT WOULD HAVE
18 OR COULD HAVE A BEARING UPON THE ULTIMATE FACT OF WHETHER OR
19 NOT THERE WAS A HOMICIDE HERE. IS THAT CORRECT MR. BARENS?

20 MR. BARENS: RESPECTFULLY, NOT IN MY OPINION, YOUR
21 HONOR. HE'S SAYING TO US -- AND I DON'T MEAN TO ARGUE WITH
22 THE COURT -- BUT HE'S SAYING TO US THAT HIS OFFER OF PROOF
23 IS THAT MR. HUNT AT A MEETING, SOCIAL MEETINGS, DISCUSSED A
24 PHILOSOPHY WHERE HE SUBSCRIBED THAT THE ENDS JUSTIFIED THE
25 MEANS. AND I'M SAYING THIS HAPPENS LONG BEFORE THERE'S ANY
26 DISCUSSION IN POINT OF TIME ABOUT MR. LEVIN OR ANY BUSINESS
27 PROBLEMS OR ANYTHING ELSE.

28 WE HAVE A DANGLING PHILOSOPHY OUT THERE WHICH

1 WE ARE NOW GOING TO SAY SEVERAL MONTHS LATER WE HAVE TO
2 EXTRAPOLATE AND SEVERAL MONTHS LATER THAT'S CONDUCIVE TO
3 HOMICIDE. I DON'T FEEL THAT THERE IS ANY LOGICAL
4 ASSOCIATION THAT'S NECESSARILY THERE.

5 THE COURT: THE COURT WILL -- THE OBJECTION WILL BE
6 OVERRULED. IF, IN FACT, IT DOES -- THE -- WE DON'T KNOW
7 WHAT THE COMPLETE TESTIMONY OF THIS WITNESS OR ANY
8 SUBSEQUENT WITNESS IS GOING TO BE. IF, IN FACT, IT DOES
9 BECOME TOO FAR OFF OF THE FACT OF RELEVANCY, THEN A MOTION
10 TO STRIKE CAN BE ENTERTAINED. AT THIS POINT, THE MOTION TO
11 EXCLUDE THE EVIDENCE ON THE GROUNDS THAT IT'S IRRELEVANT
12 WOULD BE DENIED.

13 MR. WAPNER: THANK YOU.

14 Q DID HE EXPLAIN HIS PHILOSOPHY TO YOU?

15 A YES, HE DID.

16 Q WHAT WAS THAT?

17 A IT WAS BASICALLY A PHILOSOPHY WHERE -- AT THE
18 FIRST? AT NOVEMBER?

19 Q WHEN HE FIRST TALKED TO YOU ABOUT IT, RIGHT.
20 LET ME ASK YOU THIS QUESTION. IS IT POSSIBLE FOR YOU TO
21 GIVE US A SUCCINCT EXPLANATION OF IT?

22 A NO. NOT.....

23 Q OKAY. WELL, FOR THE MOMENT WE'RE GOING TO PASS
24 THAT.

25 DID YOU BECOME FRIENDLY WITH MR. HUNT?

26 A YES, I DID.

27 Q OKAY, AND DID YOU AND MR. HUNT AND MR. KARNY
28 AND A FEW OTHERS FORM AN ORGANIZATION OR HAD IT ALREADY BEEN

1 FORMED BEFORE YOU GOT THERE?

2 A IT HAD ALREADY BEEN FORMED.

3 Q WHAT WAS THE NAME OF IT?

4 A THE BBC.

5 Q AND DO YOU KNOW WHAT THAT STOOD FOR?

6 A NO, I DON'T. THERE --

7 Q WERE YOU INVITED BY MR. HUNT TO JOIN THAT
8 ORGANIZATION?

9 A YES, I WAS.

10 Q DID YOU?

11 A YES, I DID.

12 Q AND WHEN WAS THAT?

13 A IN NOVEMBER OF 1982.

14 Q WHAT WAS THE BBC?

15 A AT THAT POINT IN TIME, IT WAS JUST SORT OF A
16 FRATERNITY, A GROUP OF PEOPLE THAT SHARED A COMMON IDEA, A
17 COMMON PHILOSOPHY THAT SORT OF PREVAILED THROUGHOUT YOUR
18 LIFE AND THAT WAS SOMETHING TO SORT OF, YOU KNOW, TO
19 DISCIPLINE YOU AND GUIDE YOU.

20 Q WAS THERE A LEADER OF THIS GROUP?

21 A THE GROUP WAS ESSENTIALLY LEAD BY SHADINGS.
22 THOSE WERE THE PEOPLE WHO HAD THE GREATEST UNDERSTANDING OF
23 PARADOX PHILOSOPHY.

24 Q AND IS PARADOX PHILOSOPHY THIS PHILOSOPHY THAT
25 WE REFERRED TO BEFORE?

26 A YES.

27 Q AND WHO WERE THE SHADINGS?

28 A THE SHADINGS AT THAT POINT HAD NOT BEEN

1 DETERMINED. JOE --

2 Q WHERE DID THE WORD "SHADINGS" COME FROM?

3 A JOE.

4 Q IS THAT JOE HUNT?

5 A JOE HUNT, YES.

6 Q SO THE RECORD IS CLEAR, IS HE IN THE COURTROOM
7 RIGHT NOW?

8 A YES, HE IS.

9 Q WOULD YOU POINT HIM OUT, PLEASE.

10 A (INDICATING).

11 Q WHAT 'S HE WEARING NOW?

12 A A BLUE JUMPSUIT.

13 MR. WAPNER: INDICATING THE DEFENDANT FOR THE RECORD?

14 THE COURT: THE RECORD MAY SO INDICATE.

15 Q BY MR. WAPNER: AND HE WAS THE ONE WHO COINED
16 THIS PHRASE PARADOX PHILOSOPHY AND ALSO THIS TERM SHADINGS?

17 A YES.

18 MR. BARENS: OBJECTION AS HEARSAY. WHAT EXCEPTION DO
19 WE HAVE ON THAT ONE?

20 THE COURT: THE OBJECTION WILL BE OVERRULED.

21 MR. WAPNER: THANK YOU.

22 Q AND AFTER --

23 MR. BARENS: WAIT A MINUTE. I WOULD LIKE TO GET
24 CLEAR ON THAT, YOUR HONOR. HE ASKED HIM TO IDENTIFY WHO
25 MADE A CERTAIN STATEMENT, AND THE STATEMENT HAD TO HAVE COME
26 FROM THE DEFENDANT, AND HE THEN IDENTIFIED THE DEFENDANT AS
27 MAKING THAT STATEMENT IN AN EXTRAJUDICIAL SETTING. I
28 BELIEVE THAT WAS HEARSAY, YOUR HONOR.

1 THE COURT: DO YOU WANT TO BE HEARD ON THAT,
2 MR. WAPNER?

3 MR. WAPNER: WELL, I'D LIKE TO BE. I DON'T WANT TO
4 MAKE AN EXTENSIVE ARGUMENT, BUT MY POSITION ON THIS HAS BEEN
5 PRETTY CONSISTENT THROUGHOUT, AND I'M NOT SURE THAT --

6 MR. BARENS: WELL, WHAT SORT OF AN ADMISSION DO WE
7 HAVE HERE, YOUR HONOR?

8 MR. WAPNER: WELL --

9 THE COURT: GO AHEAD, MR. WAPNER.

10 MR. WAPNER: IT'S OFFERED UNDER THE SAME EXCEPTION TO
11 THE EVIDENCE CODE. I'VE MADE MY POSITION CLEAR THROUGHOUT
12 THE WHOLE PROCEEDING. I GAVE COURT AND COUNSEL WHAT I
13 PERCEIVE TO BE, AND WHAT APPARENTLY JUSTICE JEFFERSON
14 PERCEIVED TO BE, THE RULES UNDER THAT EXCEPTION AND I'M
15 HAPPY TO HAVE THE COURT MAKE A RULING ONE WAY OR THE OTHER.

16 MR. BARENS: YOUR HONOR, I THINK THIS GREATLY DIFFERS
17 FROM THE OTHER TYPE OF ADMISSION THAT WE'RE TALKING ABOUT.
18 ADMISSION OF CRIMINAL CONDUCT IS ONE THING, BUT I DON'T
19 THINK THAT 1220 OR 1223 OR ANY OF THOSE SECTIONS WAS EVER
20 INTENDED TO WILLY-NILLY PERMIT ANY STATEMENT TO COME IN THAT
21 CAN BE POSSIBLY ATTRIBUTED TO THE DEFENDANT. A DISCUSSION
22 OF PHILOSOPHICAL TERMINATION IS HARDLY SOME SORT OF AN
23 ADMISSION.

24 THE COURT: NOW, WHAT IS YOUR SPECIFIC OBJECTION?
25 THAT THE TESTIMONY OF THIS WITNESS AS TO THE LAST STATEMENT
26 WOULD BE HEARSAY?

27 MR. BARENS: I THINK IT IS PRECISELY HEARSAY.

28 THE COURT: ALL RIGHT. THE -- THERE'S NO PARTICULAR

1 STATEMENT AS TO ANYTHING THAT MR. HUNT SAID. HE 'S TALKING
2 ABOUT A PHILOSOPHY THAT HE BELIEVED BELONGED TO AN
3 ORGANIZATION WHICH HE HAD JOINED. THE OBJECTION WILL BE
4 OVERRULED. THERE 'S NO STATEMENT HERE OF MR. HUNT 'S THAT
5 WOULD BE HEARSAY.

6 MR. BARENS: I BELIEVE THE SPECIFIC QUESTION COUNSEL
7 ASKED HIM, YOUR HONOR -- AND NOT TO BELABOR IT -- BUT WAS HE
8 ASKED HIM "WHERE DID YOU GET THAT EXPRESSION "SHADINGS", AND
9 HE SAID THAT WAS AN EXPRESSION COINED BY MR. HUNT. IN ORDER
10 TO SAY HE COINED THE EXPRESSION, HE HAS TO QUOTE HIM, YOUR
11 HONOR.

12 THE COURT: THE OBJECTION WILL BE OVERRULED.

13 Q BY MR. WAPNER: DID THE TERM SHADINGS COME FROM
14 MR. HUNT?

15 A YES.

16 Q AND DID -- AS THE BBC EVOLVED, DID SOMEONE --
17 DID ANYONE TAKE A LEADERSHIP ROLE IN IT?

18 A JOE DID.

19 Q THAT 'S JOE HUNT?

20 A JOE HUNT.

21 Q OKAY. AND FROM A FRATERNAL ORGANIZATION, DID
22 THE BBC EVOLVE INTO SOMETHING ELSE?

23 A WELL, FROM THE BEGINNING IT WAS INTENDED TO
24 EVOLVE INTO A BUSINESS SETTING, ALSO.

25 Q AND HOW DO YOU KNOW THAT?

26 A IT WAS IN THE -- THE FIRST TIME WE DISCUSSED
27 THE PARADOX PHILOSOPHY; THAT IS, MYSELF, JOE AND DEAN, IN
28 NOVEMBER OF 1982. IT WAS -- IT WAS EXPLAINED TO ME ALSO

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1 ABOUT THE COMMODITY TRADING AND HOW THE BBC ALSO -- PART OF
2 IT WOULD BE A BUSINESS.

3 Q AND WHO EXPLAINED TO YOU ABOUT THE COMMODITY
4 TRADING?

5 A JOE DID, JOE HUNT.

6 Q WHAT DID HE SAY?

7 MR. BARENS: OBJECTION. CALLS FOR HEARSAY. NOW
8 WE'RE GOING TO TALK ABOUT WHAT HE SAID ABOUT HOW TO TRADE
9 COMMODITIES, AND I SUBMIT THAT'S NOT AN ADMISSION.

10 THE COURT: MR. WAPNER?

11 MR. WAPNER: THANK YOU, YOUR HONOR. TO SOMEWHAT
12 PARAPHRASE ONE OF THE COURT'S CONCERNS ABOUT ADMISSIONS AND
13 CONFESSIONS AS PER CALJIC, WHICH I DON'T NECESSARILY THINK
14 IS THE APPROPRIATE STANDARD, BUT BE THAT AS IT MAY, IT TALKS
15 ABOUT CONFESSIONS BEING SOMETHING WHERE HE OUTRIGHT ADMITS
16 THE CRIME AS OPPOSED TO A STATEMENT WHICH WHEN YOU PUT IT
17 TOGETHER WITH EVERYTHING ELSE TENDS TO PROVE GUILT.

18 THE OFFER OF PROOF AS TO THE RELEVANCE AND
19 THEREFORE THE QUESTION OF WHETHER THIS IS AN ADMISSION OR
20 WHETHER IT'S NOT IS THAT THE ULTIMATE MOTIVE FOR THE MURDER
21 WAS TO GET MONEY. THE REASON THAT THEY NEEDED MONEY IS
22 BECAUSE JOE HUNT HAD LOST MONEY IN TRADING COMMODITIES --

23 MR. BARENS: COUNSEL IS TESTIFYING WAY OFF OF THE
24 POINT OF THE OBJECTION --

25 MR. WAPNER: I'M NOT TESTIFYING, I'M --

26 MR. BARENS: -- AND I DOUBT VERY MUCH THAT HE COULD
27 EVER ESTABLISH THIS TYPE OF EVIDENCE, YOUR HONOR. HE'S JUST
28 BOOTSTRAPPING HIS WAY IN. WHAT WE'RE TALKING ABOUT IS MY

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1 OBJECTION TO A DISCUSSION THAT A DEFENDANT HAS IN 1982, TWO
2 YEARS PRIOR TO THE DISAPPEARANCE OF MR. LEVIN. HE'D
3 ALLEGEDLY TALKED TO THIS MAN ABOUT HOW THEY'RE GOING TO
4 TRADE COMMODITIES. NOW WE --

5 THE COURT: WELL, MR. BARENS, IT COULD GO TO
6 MOTIVE -- I DON'T KNOW WHAT THE PURPOSE IS. IT COULD GO TO
7 MOTIVE; IT COULD GO TO ULTIMATE INTENT. IT COULD GO TO VERY
8 MANY MATTERS HERE. THE FACT THAT THESE ARE STATEMENTS THAT
9 HAVE BEEN MADE AT THIS PARTICULAR POINT, THE COURT CAN'T SAY
10 THAT THESE ARE IRRELEVANT STATEMENTS OR THAT THEY'RE HEARSAY
11 STATEMENTS BECAUSE THE DISTRICT ATTORNEY IS APPARENTLY
12 PROCEEDING UPON SOME THEORY THAT THESE ARE MATERIAL
13 STATEMENTS TO HIS ULTIMATE PREMISES OF THIS CASE, LET'S PUT
14 IT.

15 MR. BARENS: WELL, YOUR HONOR, I -- JUST TO MAKE THE
16 RECORD CLEAR --

17 THE COURT: ALL RIGHT. THE RECORD MAY SHOW THAT YOU
18 HAVE AN OBJECTION. THE COURT WILL --

19 MR. BARENS: WE'D LIKE TO CITE PEOPLE VERSUS LEW,
20 L-E-W. WE DON'T HAVE THE CITATION AVAILABLE. IF THE COURT
21 COULD LEAVE A SPACE, WE'LL BRING IT IN. IN THAT CASE, YOUR
22 HONOR, THE SUPREME COURT GETS INTO DEFINITIONS OF WHAT
23 ADMISSIONS ARE CONSTITUTED BY, AND THEY SAY THAT THE
24 ADMISSION AT THE TIME MUST BE AN ADMISSION AGAINST A
25 SPECIFIC INTEREST. I SUBMIT AGAIN THAT THIS TAKES PLACE TWO
26 YEARS BEFORE THE ALLEGED CRIMINAL ACTIVITY HERE. THERE WAS
27 NO INTEREST THAT THIS COULD HAVE BEEN ADVERSE TO AT THE TIME
28 THE STATEMENT WAS MADE.

1 THE COURT: ALL RIGHT. THE OBJECTION IS OVERRULED.

2 MR. WAPNER: THANK YOU.

3 THE COURT: YOU MAY CONTINUE.

4 Q BY MR. WAPNER: WHEN YOU FIRST TALKED TO
5 MR. HUNT ABOUT THE -- HIS PHILOSOPHY AND THE BBC, WHAT DID
6 HE TELL YOU ABOUT BUSINESS? WHAT DID IT HAVE TO DO WITH
7 BUSINESS?

8 A WELL, THE MAIN BUSINESS WAS GOING TO BE
9 INITIALLY THE COMMODITY TRADING, AND HE HAD A DISCUSSION OF
10 HOW HE HAD -- I GUESS -- I WOULDN'T SAY DEVISED, BUT USE
11 THIS TECHNIQUE FOR BUTTERFLY SPREADS WHERE YOU SORT OF PUT
12 ON POSITIONS AND YOU COVER THEM BY AN OPPOSITE POSITION. I
13 DIDN'T UNDERSTAND EXACTLY HOW IT WENT, HOW IT DID, AND THEN
14 THERE WAS A DISCUSSION ABOUT WHAT HAD HAPPENED IN CHICAGO
15 WHERE HE HAD BEEN, I GUESS, RAILROADED THROUGH A HEARING ON
16 HIS SEAT ON THE CHICAGO MERCANTILE EXCHANGE AND HAD LOST IT.

17 Q AND DID THE BBC ULTIMATELY FORM CERTAIN
18 BUSINESS ORGANIZATIONS?

19 A YES, IT DID.

20 Q AND WAS ONE OF THOSE FORMED FOR THE PURPOSE OF
21 RAISING MONEY SO THAT JOE HUNT COULD TRADE COMMODITIES?

22 A YES IT WAS.

23 Q WAS THERE A NAME FOR THAT?

24 A THAT WOULD HAVE BEEN FINANCIAL FUTURES TRADING
25 CORPORATION WHICH WAS A DBA FOR EYE CONTACT ADVERTISING.

26 Q AND DID YOU AND THE BBC MEET A DR. GENE
27 BROWNING?

28 A YES, WE DID.

1 Q WHEN DID THAT TAKE PLACE?

2 A IN JANUARY OF 1983.

3 Q AND WAS THE COMPANY FORMED AS PART OF THE BBC
4 FOR THE PURPOSE OF WORKING WITH MR. BROWNING?

5 A YES, IT WAS.

6 Q AND WHAT WAS THE NAME OF THAT COMPANY?

7 A CYCLATRONICS OF NORTH AMERICA, INC..

8 Q AND WHEN WAS THAT FORMED?

9 A IN JUNE OF 1983.

10 Q AND DID THAT EVENTUALLY EVOLVE, WITHOUT GOING
11 INTO THE SPECIFIC MACHINATIONS OF IT, INTO ANOTHER COMPANY?

12 A YES, IT DID.

13 Q WHAT WAS THE NAME OF THAT COMPANY?

14 A MICROGENESIS OF NORTH AMERICA, INC..

15 Q AND WHEN WAS THAT FORMED?

16 A I BELIEVE DECEMBER OF 1983.

17 Q DID THE BBC HAVE SOME OFFICES?

18 A YES, THEY DID.

19 Q WHERE WERE THEY LOCATED?

20 A 8425 WEST 3RD STREET.

21 Q AND WHEN WERE THE OFFICES OPENED?

22 A IN JUNE OF 1983.

23 MR. BARENS: WE 'LL HAVE A CONTINUING OBJECTION, YOUR
24 HONOR, BOTH ON THE BASIS OF RELEVANCY AND MATERIALITY AND
25 HEARSAY.

26 THE COURT: ALL RIGHT. THE RECORD WILL INDICATE THAT
27 THERE IS A CONTINUING OBJECTION AS TO THE TESTIMONY OF THIS
28 WITNESS ON THE GROUNDS THAT MR. BARENS HAS STATED.

1 MR. BARENS: THANK YOU.

2 Q BY MR. WAPNER: DID YOU HAVE A POSITION IN THE
3 CORPORATION, MICROGENESIS OF NORTH AMERICA, INCORPORATED?

4 A YES, I DID.

5 Q WHAT WAS YOUR POSITION?

6 A I WAS SECRETARY OF THE CORPORATION.

7 Q AND AS THE SECRETARY OF THAT CORPORATION, DID
8 YOU HAVE AN OFFICE AT 8425 WEST 3RD STREET?

9 A I SHARED AN OFFICE WITH THE GENERAL COUNSEL.

10 Q BUT IT WAS IN THAT BUILDING?

11 A YES, IT WAS.

12 Q AND DID YOU WORK OUT OF THAT OFFICE IN JUNE OF
13 1983?

14 A YES, I DID.

15 Q EXCUSE ME. JUNE OF 1984?

16 A JUNE OF 1984, ALSO.

17 Q OKAY, AND DID YOU SEE JOSEPH HUNT ON JUNE
18 THE -- THE DAY OF JUNE THE 7TH OF 1984?

19 A YES, I DID.

20 Q WHAT TIME OF THE DAY WAS IT?

21 A APPROXIMATELY BEFORE NOON.

22 Q AND DID HE HAVE ANYTHING IN HIS POSSESSION AT
23 THAT TIME?

24 A YES, HE DID.

25 Q WHAT WAS IT?

26 A A CHECK FOR 1.5 MILLION DOLLARS.

27 Q SHOWING YOU PEOPLE'S 37 FOR IDENTIFICATION, DO
28 YOU RECOGNIZE THIS?

1 A YES, I DO.

2 Q WHAT IS IT?

3 A THIS IS THE CHECK HE HAD.

4 Q AND DID YOU HAVE SOME DISCUSSION WITH THE
5 DEFENDANT, MR. HUNT, ABOUT WHAT TO DO OR WHERE TO GO TO CASH
6 THAT CHECK?

7 A WELL, THERE WAS SOME INITIAL CONCERN BECAUSE OF
8 THE SIZE OF THE CHECK THAT IF IT HAD GONE THROUGH A NORMAL
9 BANK IT WOULD LOOSE A GREAT DEAL OF INTEREST.

10 MR. TITUS: OBJECT TO THE ANSWER. NONRESPONSIVE.
11 MOVE TO STRIKE.

12 THE COURT: ALL RIGHT. THE OBJECTION WILL BE
13 SUSTAINED. YOU MAY REPHRASE IT.

14 Q BY MR. WAPNER: WAS THERE ANY SUGGESTION BY
15 MR. HUNT ABOUT GOING THROUGH A NORMAL BANK?

16 A YES, THAT IT WOULD TAKE TOO LONG AND THAT WE
17 WOULD LOOSE A GREAT DEAL OF INTEREST.

18 Q AND DID -- WAS THERE A DECISION MADE AS TO
19 WHERE TO GO TO ATTEMPT TO CASH THE CHECK?

20 A ONE OF THE ATTORNEYS WHO WAS WORKING FOR US,
21 NEIL ADELMAN, LATE IN THE AFTERNOON SUGGESTED THAT WE TAKE
22 IT TO A BANK WHERE ONE OF HIS OTHER BUSINESS ASSOCIATES HAD
23 HAD A GREAT DEAL OF SUCCESS WITH GETTING MATTERS, I GUESS,
24 EXPEDITED OR TAKE TAKEN CARE OF EFFICIENTLY. WORLD TRADE
25 BANK WAS THE NAME OF THE BANK.

26 Q AND DID YOU GO TO THAT BANK?

27 A YES, WE DID.

28 Q WHO WENT?

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1 A MYSELF, JOE HUNT, NEIL ADELMAN, HIS BUSINESS
2 ASSOCIATE WHOSE NAME I DO NOT REMEMBER, AND I BELIEVE THAT
3 THERE WERE ONE OR TWO OTHER OFFICE PERSONNEL WITH US, WHO I
4 DO NOT RECALL.

5 Q WHEN YOU WENT WITH MR. HUNT AND THESE OTHER
6 PEOPLE TO THE BANK, WAS THAT ON JUNE THE 7TH?

7 A YES, IT WAS.

8 Q ALL RIGHT. AND WHEN YOU GOT TO THE BANK, DID
9 MR. HUNT HAVE A DISCUSSION WITH SOMEBODY AT THE BANK?

10 A YES, HE HAD A DISCUSSION WITH THE PERSON AT THE
11 BANK -- I THINK HE WAS THE VICE-PRESIDENT -- ABOUT HOW TO
12 EXPEDITE THE CASHING OF THE CHECK.

13 Q IS THAT PEOPLE 'S 37, THAT CHECK?

14 A YES.

15 Q CAN YOU TELL US ABOUT THAT DISCUSSION.

16 MR. BARENS: AGAIN, HEARSAY AS TO THE CONVERSATION
17 BETWEEN THE DEFENDANT AND A BANK OFFICER ABOUT CASHING THE
18 CHECK. THE MECHANICS OF CASHING A CHECK.

19 MR. WAPNER: WELL, WITHOUT TRYING TO BELABOR IT, IF
20 THE ISSUE IS AS COUNSEL HAS ALWAYS SUBMITTED THAT THIS IS
21 NOT INCRIMINATING AND THIS IS A CHECK OBTAINED FROM RON
22 LEVIN APPROXIMATELY AT THE TIME THAT HE WAS KILLED, IT SEEMS
23 TO ME --

24 MR. BARENS: ASSUMING A FACT NOT IN EVIDENCE THAT HE
25 WAS KILLED --

26 MR. WAPNER: WELL, I DON'T KNOW THAT I'M ASSUMING A
27 FACT NOT IN EVIDENCE, BUT IN ANY EVENT, I'M NOT TESTIFYING.
28 I'M JUST MAKING A STATEMENT AND I'M STILL NOT BEING ALLOWED

1 TO FINISH. ASSUMING THAT THIS IS A CHECK THAT WAS
2 OBTAINED -- THAT THIS WAS THE CHECK OBTAINED FROM MR. LEVIN,
3 THIS IS THE 1.5 MILLION-DOLLAR CHECK, AND WE'RE NOW TALKING
4 ABOUT BASICALLY THE DAY AFTER HE WAS KILLED/DISAPPEARED AND
5 THE DEFENDANT IS TALKING TO SOMEBODY ABOUT CASHING IT, I
6 DON'T KNOW HOW MUCH MORE INCRIMINATING WE NEED TO GET.

7 MR. BARENS: WELL, YOUR HONOR, INCRIMINATING. WE'RE
8 NOT TALKING ABOUT STATEMENTS THAT SAY "I DID IT", "SO AND SO
9 HAPPENED", RELATIVE TO MR. LEVIN. WE'RE TALKING ABOUT A
10 CONVERSATION WITH A BANK OFFICER ABOUT THE MECHANICS OF
11 NEGOTIATING AN INSTRUMENT. IT'S HEARSAY.

12 MR. WAPNER: IT'S --

13 MR. BARENS: IT'S NOT AN ADMISSION AT THAT POINT,
14 YOUR HONOR. HE'S TALKING ABOUT CASHING A CHECK.

15 THE COURT: THE OBJECTION AS TO HEARSAY WILL BE
16 OVERRULED AT THIS TIME.

17 MR. WAPNER: THANK YOU, YOUR HONOR.

18 Q WHAT WAS THE DISCUSSION THAT THE DEFENDANT HAD
19 WITH THE PERSON AT THE BANK?

20 A HOW TO EXPEDITE THE CASHING OF THE CHECK AND
21 WHAT, IF ANY, FEES WOULD BE CHARGED BY THE BANK, AND THE
22 BANK STATED SOME CONCERN ABOUT US JUST USING THEM AS A
23 CLEARING HOUSE AND WHETHER OR NOT WE'D HAVE A CONTINUING
24 RELATIONSHIP WITH THEM.

25 Q AND DID YOU OBTAIN A SIGNATURE CARD FROM THE
26 BANK AT THAT TIME?

27 A YES, WE DID.

28 Q WAS THAT SIGNATURE CARD -- WHAT WAS DONE WITH

1 IT ON THAT DATE?

2 A IT -- I TOOK POSSESSION OF IT AND I RETURNED TO
3 THE OFFICE TO FILL IN ALL THE INFORMATION AND PRESENT IT FOR
4 THE SIGNATURES.

5 Q SHOWING YOU PEOPLE'S 36 FOR IDENTIFICATION, DO
6 YOU RECOGNIZE THAT?

7 A YES, I DO.

8 Q WHAT IS IT?

9 A THIS IS THE BANK CARD WE RECEIVED FROM THE BANK
10 THAT DAY.

11 Q ALL RIGHT. WHAT INFORMATION DID YOU PUT ON
12 THERE?

13 A I FILLED IN ALL OF THE TYPEWRITTEN INFORMATION.
14 DO YOU WANT ME TO READ IT? WHAT I TYPED IN?

15 Q YES.

16 A THE OPENING DATE OF "6-8-84". I DID NOT FILL
17 IN THE ACCOUNT NUMBER, NOR THE OPENING DATE. NEITHER OF
18 THOSE, EXCUSE ME. I FILLED IN THE ACCOUNT NAME,
19 "MICROGENESIS OF NORTH AMERICA, INC.". I CHECKED IT AS A
20 PROFIT CORPORATION, THE NUMBER OF REQUIRED SIGNATURES, "1",
21 JOSEPH HUNT'S TYPEWRITTEN NAME AS CHIEF EXECUTIVE OFFICER.
22 BEN DOSTI AND DEAN KARNY'S TYPEWRITTEN NAMES AS DIRECTORS,
23 MY OWN TYPEWRITTEN NAME AS SECRETARY.

24 ON THE OTHER FACE, I TYPED IN "MICROGENESIS OF
25 NORTH AMERICA, INC.", 7TH OF JUNE, '84, AND I PLACED THE
26 CORPORATE SEAL ON IT. I ALSO TYPED IN OUR STREET ADDRESS OF
27 "8425 WEST 3RD STREET, SUITE 301, LOS ANGELES, CALIFORNIA,
28 90048". THE TYPE OF BUSINESS AS BEING A "TECHNOLOGY

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1 DEVELOPMENT". OUR PHONE NUMBER, AREA CODE "(213) 655-6391".
2 THE BANK OF -- THE BANK REFERENCE, THE "BANK OF AMERICA" AT
3 "466 NORTH LA BREA AVENUE" AND OUR ACCOUNT NUMBER THERE OF
4 "339404253". OUR PLACE TO SEND THE STATEMENTS TO AND THE
5 PHONE NUMBER. I ALSO SIGNED MY NAME AS THE SECRETARY AND
6 DATING IT JUNE 7TH OF '84 WHERE I ALSO PLACED THE CORPORATE
7 SEAL ON, AND ON THE OTHER SIDE I SIGNED NEXT TO MY NAME AS
8 THE SECRETARY.

9 Q DID YOU GIVE THAT CARD TO JOE HUNT TO SIGN?

10 A YES, I DID.

11 Q DID YOU SEE HIM SIGN IT?

12 A NO, I DID NOT.

13 Q IF IN THE COURSE OF YOUR ASSOCIATION WITH JOE
14 HUNT AND IN WORKING AS THE SECRETARY FOR MICROGENESIS, HAD
15 YOU BECOME RELATIVELY FAMILIAR WITH HIS SIGNATURE?

16 A YES, I DID.

17 Q WHERE IT SAYS "JOE HUNT" ON THIS CARD, DOES
18 THAT APPEAR TO YOU TO BE HIS SIGNATURE?

19 A YES, IT DOES.

20 Q AND DID YOU GO BACK TO THE WORLD TRADE BANK THE
21 NEXT DAY WHEN THE ACCOUNT WAS ACTUALLY OPENED?

22 A NO, I DID NOT.

23 Q DID YOU CONTINUE TO WORK AT MICROGENESIS AFTER
24 JUNE THE 7TH OF 1984?

25 A YES, I DID.

26 Q AND WHEN YOU CAME TO WORK ON JUNE THE 7TH --
27 STRIKE THAT.

28 WERE YOU AS THE SECRETARY PRIMARILY RESPONSIBLE

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4 1 FOR PREPARING THE MINUTES OF MEETINGS THAT WERE HELD?

2 A YES, I WAS.

3 Q WAS THERE A MEETING HELD ON JUNE THE 7TH, THE
4 SUBJECT OF WHICH WAS AUTHORIZING BEN DOSTI TO TRY TO CASH
5 THE CHECK WHICH IS PEOPLE'S 37?

6 A THERE WAS NO MEETING HELD, NO.

7 Q WHEN YOU GOT TO THE OFFICE ON JUNE THE 7TH,
8 WERE THERE SOME MINUTES OF A MEETING PREPARED?

9 A THERE WERE MINUTES -- A PREPARATION OF
10 SOMETHING THAT WAS PURPORTING TO BE MINUTES OF A MEETING,
11 YES.

12 Q AND HOW DID YOU COME TO SEE THOSE?

13 A I WAS GIVEN THEM BY JOE.

14 Q AND DID HE SAY ANYTHING TO YOU ABOUT THEM?

15 A WELL, HE EXPLAINED TO ME THAT IT MAY BE
16 NECESSARY TO SEND BEN TO EUROPE TO EXPEDITE THE CASHING OF
17 THIS CHECK, BECAUSE THIS IS BEFORE WE NEW ABOUT WORLD TRADE
18 BANK, AND JOE STATED THAT I MIGHT HAVE TO FILL -- I MIGHT
19 HAVE TO SIGN THESE AND HAVE THEM NOTARIZED, HAVE MY
20 SIGNATURE NOTARIZED BY THE NOTARY AT MY FATHER'S OFFICE.

21 Q I SHOW YOU A DOCUMENT THAT WAS MARKED AS
22 PEOPLE'S 48 FOR IDENTIFICATION. DO YOU RECOGNIZE THAT?

23 A YES, I DO.

24 Q WHAT IS IT?

25 A THESE ARE THE MINUTES.

26 Q THOSE ARE THE ONES THAT JOE GAVE TO YOU WHEN
27 YOU CAME THERE ON JUNE THE 7TH? IS THAT THE --

28 A I PREPARED THESE NOTES.

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1 Q OKAY, AND WHEN YOU 'RE REFERRING TO THESE
2 MINUTES, YOU 'RE TALKING ABOUT PEOPLE 'S 48?

3 A YES, I AM.

4 Q WHEN DID YOU PREPARE THOSE?

5 A I PREPARED THESE ON THE DATE OF THE 7TH.

6 Q AT WHOSE DIRECTION?

7 A AT JOE HUNT 'S DIRECTION.

8 Q AND DID THE MEETING REFERRED TO IN THOSE
9 MINUTES ACTUALLY TAKE PLACE?

10 A NO, IT DID NOT.

11 Q DO YOU KNOW WHERE THE ORIGINAL OF THAT DOCUMENT
12 IS?

13 A YES, I DO.

14 Q WHERE?

15 A I DESTROYED THEM.

16 Q AND SO THE ORIGINAL DOES NOT EXIST; IS THAT
17 RIGHT?

18 A IT DOES NOT EXIST.

19 Q DID JOE HUNT TELL YOU WHY HE WANTED YOU TO
20 PREPARE THAT?

21 A HE WAS VERY CONCERNED THAT THE FUNDS -- WELL,
22 THERE WERE TWO REASONS, ESSENTIALLY. ONE, THAT THE FUNDS IN
23 THE ACCOUNT MAY BE WITHDRAWN; THAT IS, THAT RON LEVIN MAY
24 HAVE JUST SIGNED THE CHECK AND THEN PLANNED ON WITHDRAWING
25 THE FUNDS LATER. THAT 'S WHAT HE TOLD ME. OR JUST BECAUSE
26 OF THE INTEREST PROBLEM. THAT --

27 Q THEY WOULD LOOSE INTEREST IF YOU DIDN 'T CASH
28 THE CHECK RIGHT AWAY?

1 A YES.

2 Q DID JOE HUNT TALK TO YOU ABOUT ATTENDING A
3 MEETING AT HIS CONDOMINIUM APPROXIMATELY -- SOMETIME IN LATE
4 JUNE OF 1984?

5 A YES, HE DID.

6 Q WHEN WAS THE MEETING ORIGINALLY SUPPOSED TO
7 TAKE PLACE?

8 A THE EVENING OF JUNE THE 22ND, 1984.

9 Q DID THE MEETING COME OFF ON THAT DATE?

10 A NO, IT DID NOT. EVERYONE ATTENDED, BUT JIM
11 GRAHAM WAS NOT THERE, OR PITTMAN.

12 Q JIM GRAHAM AND JIM PITTMAN ARE THE SAME PERSON;
13 IS THAT RIGHT?

14 A YES, THEY ARE.

15 Q AND WAS THE MEETING RESCHEDULED?

16 A IT WAS FOR SUNDAY.

17 Q THAT WOULD BE JUNE THE 24TH?

18 A YES, IT WOULD.

19 Q AND WHERE WAS THAT MEETING?

20 A IN THE WILSHIRE-MANNING, THE CONDOMINIUM THAT
21 WAS BEING RENTED BY -- IT WAS BEING OCCUPIED BY JOE HUNT.

22 Q AND THAT WAS AT 10660 WILSHIRE, NO. 1505?

23 A YES, IT WAS.

24 Q AND DID YOU ATTEND THAT MEETING?

25 A YES, I DID.

26 Q WHO ELSE WAS THERE BESIDES YOU?

27 A MYSELF, TOM MAY, JEFF RAYMOND, JOE HUNT, BROOKE
28 ROBERTS, BEN DOSTI, JOHN ALDEN, DEAN KARNY, JIM GRAHAM OR

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1 PITTMAN AND STEVE LOPEZ.

2 Q AND --

3 A EXCUSE ME. STEVEN TAGLIANETTI.

4 Q THANK YOU. AFTER EVERYONE WAS THERE, HOW WAS
5 THE MEETING ACTUALLY STARTED? WHO SPOKE?

6 A JOE SPOKE INITIALLY.

7 Q AND WHAT DID HE SAY?

8 A HE WAS JUST A GENERAL DISCUSSION ABOUT HOW TO
9 ACHIEVE GREATNESS IN THIS WORLD YOU MUST SOMETIMES STEP
10 BEYOND THE BOUNDARIES OF THE LAW, AND THAT IF YOU DIDN'T AND
11 YOU POSSESSED ANYTHING OF GREAT WEALTH THAT PEOPLE WOULD
12 TAKE IT AWAY FROM YOU, AND THAT THE BBC WAS GOING TO TAKE
13 SOME BOLD STEPS AND ACHIEVE GREATNESS, AND FOR THOSE PEOPLE
14 WHO WANTED TO GO ALONG WITH THE BBC IN THIS ACHIEVE -- TO
15 ACHIEVE THESE LEVELS OF SUCCESS WITHIN THE BBC, THEY MUST
16 KNOW THINGS AND DO THINGS AND THAT IF YOU DIDN'T WANT TO DO
17 THIS YOU COULD ALWAYS MAINTAIN A POSITION OF SORT OF
18 MEDIOCRACY WITH THE BBC. AT THAT POINT IN TIME ANYONE WHO
19 IS NOT WILLING TO GO ON THIS WAY WITH THE BBC SHOULD LEAVE.

20 Q DID ANYONE LEAVE?

21 A NO, THEY DID NOT.

22 Q WHAT HAPPENED AFTER HE MADE THAT STATEMENT AND
23 NO ONE LEFT?

24 A AFTER HE MADE THAT -- WELL, AFTER HE MADE THE
25 STATEMENTS AND BEFORE -- WHILE PEOPLE WERE DECIDING WHETHER
26 OR NOT TO LEAVE, HE, JIM GRAHAM OR PITTMAN -- WHAT SHOULD I
27 REFER TO -- IT DOESN'T MATTER DOES IT MATTER?

28 Q IT DOESN'T MATTER. YOU CAN PICK ONE OR THE

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1 OTHER.

2 A GRAHAM AND BEN DOSTI AND DEAN KARNY LEFT THE
3 ROOM FOR APPROXIMATELY 10 MINUTES.

4 Q DID THE FOUR OF THEM LEAVE THE ROOM?

5 A YES, THEY DID.

6 Q WHEN THEY RETURNED TO THE ROOM, DID -- WHEN
7 THEY RETURNED TO THE ROOM, WHERE WERE THEY ALL SITTING?

8 A JOE WAS SITTING DIRECTLY ACROSS FROM ME, AND TO
9 HIS RIGHT WAS JIM GRAHAM.

10 Q AND ON WHAT TYPE OF -- WHAT WERE YOU SITTING
11 ON?

12 A WE WERE SET SITTING ON A SECTIONAL COUCH, AND I
13 DON'T REMEMBER THE SPECIFIC PIECES THAT PEOPLE WERE SET
14 SITTING ON, BUT IT BROKE INTO PIECES.

15 Q AND SO TO JOE HUNT'S IMMEDIATE RIGHT WAS JIM
16 GRAHAM?

17 A YES.

18 Q WHEN THEY CAME BACK FROM THIS ROOM, DID JOE
19 HUNT SAY SOMETHING?

20 A YES. HE STATED THAT HE -- ACTUALLY, HE SAID
21 "JIM GRAHAM AND I" EITHER "BUMPED OFF", "KNOCKED OFF" OR
22 "TOOK CARE OF" "RON LEVIN".

23 Q WHEN YOU USE THOSE THREE PHRASES, DID HE USE
24 ALL THREE OR DID HE USE ONE OF THOSE THREE AND YOU CAN'T
25 REMEMBER EXACTLY?

26 A HE USED ONE OF THOSE THREE OR SOMETHING
27 SUBSTANTIVELY TO THE SAME.

28 Q ALL RIGHT. AND AFTER HE SAID THAT, WHAT DID HE

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1 SAY?

2 A HE WENT ON TO A DISCUSSION OF HOW A GREAT DEAL
3 OF MONEY -- HOW SOME OF THE MONEY THAT HAD BEEN TAKEN FROM
4 THE INVESTORS HAD BEEN INITIALLY DIVERTED AND THAT WHICH
5 HADN'T BEEN DIVERTED BECAUSE OF THE GREAT -- BECAUSE OF
6 FINANCIAL STRAINS ON THE BUSINESS, THEY HAD TO GO INTO
7 OUTRIGHT POSITIONS AS OPPOSED TO THE COMMODITY SPREADS THAT
8 THEY SAID THEY WERE TRADING AND THAT THE MONEY HAD BEEN
9 LOST.

10 Q WHAT DID HE SAY AFTER THAT?

11 A HE SAID THAT HE WAS GOING TO USE THE PROCEEDS
12 FROM THIS CHECK THAT HE GOT FROM RON LEVIN TO PAY OFF THE
13 COMMODITY INVESTORS.

14 Q AND WHAT DID HE SAY AFTER THAT?

15 A I DON'T RECALL ANY SUBSTANTIVE THINGS.

16 Q ALL RIGHT. DID YOU -- WERE YOU FAMILIAR WITH
17 RON LEVIN TO THE EXTENT OF KNOWING HOW HE DID BUSINESS, FOR
18 LACK OF A BETTER TERM?

19 A I WAS UNDER THE IMPRESSION HE WAS VERY UNSAVORY
20 IN HIS BUSINESS DEALINGS.

21 Q AND --

22 MR. TITUS: OBJECTION, YOUR HONOR. CALLS FOR A
23 CONCLUSION. MOVE TO STRIKE BOTH THE QUESTION AND THE
24 ANSWER.

25 MR. WAPNER: I'LL ASK HIM ANOTHER QUESTION, YOUR
26 HONOR.

27 THE COURT: THE OBJECTION WILL BE SUSTAINED.

28 MR. WAPNER: THANK YOU.

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1 THE COURT: IF YOU WANT TO REPHRASE IT. IT CALLS FOR
2 A CONCLUSION.

3 Q BY MR. WAPNER: WHEN YOU FOUND OUT -- STRIKE
4 THAT.

5 DID IT APPEAR TO YOU UNUSUAL THAT RON LEVIN
6 WOULD SIGN OVER A CHECK FOR 1.5 MILLION DOLLARS?

7 A VERY UNUSUAL.

8 Q DID THAT CAUSE YOU TO INQUIRE OF MR. HUNT ABOUT
9 THAT?

10 A YES, IT DID.

11 Q WHEN DID YOU DO THAT, APPROXIMATELY?

12 A APPROXIMATELY AFTER -- IT WAS AFTER HE HAD MADE
13 THE STATEMENT ABOUT HE AND JIM GRAHAM DOING WHATEVER THEY
14 HAD DONE WITH RON LEVIN AND --

15 Q WHAT DID YOU ASK JOE HUNT ABOUT?

16 MR. BARENS: AT WHAT POINT IN TIME ARE WE AT NOW,
17 YOUR HONOR?

18 THE COURT: ALL RIGHT. CAN YOU ESTABLISH A TIME
19 ELEMENT?

20 MR. WAPNER: THANK YOU.

21 Q WHEN YOU SAY IT WAS AFTER THIS MEETING; IS THAT
22 RIGHT?

23 A YES.

24 Q DOES THAT MEAN THE SAME DAY, BUT AFTER THE
25 MEETING CONCLUDED OR MONTHS AFTER OR WHEN --

26 A IT WAS WITHIN A WEEK OF THE MEETING.

27 Q WHAT DID YOU ASK JOE HUNT?

28 A I JUST STATED THAT IT WAS VERY STRANGE THAT RON

1000

1 LEVIN WOULD SIGN OVER A CHECK TO SOMEBODY FOR THAT KIND
2 OF -- FOR ANY AMOUNT OF MONEY. I HADN'T SEEN HIM SIGN
3 OVER -- I HAD NOT SEEN HIM SIGN OVER A CHECK TO US AT ALL,
4 AND JOE SAID HE DID IT UNDER A GREAT DEAL OF DURESS.

5 Q DID YOU HAVE ANY OTHER DISCUSSIONS WITH
6 MR. HUNT ABOUT -- AFTER THE JUNE 24TH MEETING ABOUT RON
7 LEVIN OR ANY PROPERTY THAT MAY HAVE BEEN IN HIS -- RON
8 LEVIN'S APARTMENT?

9 A YES. THERE WAS A DISCUSSION -- IT WOULD HAVE
10 BEEN VERY LATE IN AUGUST OR POSSIBLY EVEN SEPTEMBER OF 1984,
11 WHERE JOE DISCUSSED THE FACT THAT ONLY HE AND THE POLICE
12 KNEW THAT THE TELEVISION REMOTE CONTROL AND A SHEET OF SOME
13 TYPE WERE MISSING FROM RON LEVIN'S APARTMENT.

14 Q AND AT SOME POINT AFTER THAT, DID YOU HAVE A
15 DISCUSSION WITH THE DEFENDANT ABOUT AN OVERCOAT OF HIS THAT
16 YOU HAD FOUND -- AN OVERCOAT OF THE DEFENDANT'S THAT YOU HAD
17 FOUND IN YOUR APARTMENT?

18 A YES. HE HAD STATED THAT -- I TOLD HIM THAT ON
19 MY BIRTHDAY HE HAD LEFT AN OVERCOAT IN MY APARTMENT, AND HE
20 STATED THAT THERE WERE RON LEVIN'S BRAINS SMEARED ON IT.

21 Q WHEN YOU SAW THE OVERCOAT, DID IT LOOK TO YOU
22 LIKE RON LEVIN'S BRAINS HAD BEEN SMEARED ON IT?

23 A NO, IT DID NOT.

24 Q DID YOU SAY ANYTHING ABOUT THAT TO HIM OR DID
25 HE SAY -- DID HE MAKE ANY REFERENCE ABOUT THAT?

26 A I THINK I HAD SOME SORT OF A REACTION OF
27 DISGUST WHEN HE SAID -- YOU KNOW, WHEN HE INITIALLY SAID IT,
28 AND HE SAID THAT IT HAD BEEN DRY CLEANED.

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1 Q WHEN WAS -- WHEN IS YOUR BIRTHDAY?

2 A JULY 9TH.

3 Q AND WHEN WAS THE CONVERSATION YOU HAD WITH HIM
4 ABOUT THE OVERCOAT?

5 A IT WAS AFTER HE HAD BEEN ARRESTED THE FIRST
6 TIME AND RELEASED AND BEFORE HE WAS ARRESTED THE SECOND
7 TIME.

8 Q THANK YOU. DID YOU EVER HAVE A DISCUSSION WITH
9 JOE HUNT ABOUT RON LEVIN'S BODY?

10 A YES. AT ONE POINT I HAD A DISCUSSION WITH
11 HIM --

12 MR. BARENS: TIME FRAME, IF WE COULD PLEASE, YOUR
13 HONOR.

14 THE WITNESS: APPROXIMATELY A MONTH AFTER THE
15 MEETING, THE JUNE 24TH MEETING.

16 Q BY MR. WAPNER: AND WHAT WAS THAT DISCUSSION?

17 A I JUST ASKED HIM FOR CURIOSITY HOW HE HAD
18 DISPOSED OF THE BODY, AND HE STATED THAT HE HAD WITH ACID --
19 JUST DISPOSED OF IT WITH ACID.

20 Q WHAT WAS IT THAT MADE YOU ASK HIM HOW HE HAD
21 DISPOSED OF THE BODY?

22 A CURIOSITY.

23 Q WHAT WAS YOUR UNDERSTANDING OF WHAT MR. HUNT
24 MEANT WHEN HE SAID "BUMPED OFF" OR "KNOCKED OFF RON LEVIN"?

25 A INITIALLY, I WASN'T SURE, BUT SOMETIME SHORTLY
26 AFTER THAT WHILE THE MEETING WAS STILL GOING ON I WAS
27 CONVINCED THAT HE HAD BEEN KILLED.

28 MR. WAPNER: THANK YOU. I HAVE NOTHING FURTHER.

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1 THE COURT: MR. BARENS?

2 MR. BARENS: I'D LIKE A BRIEF RECESS BEFORE
3 CROSS-EXAMINING THIS WITNESS, YOUR HONOR.

4 THE COURT: ALL RIGHT. WILL 10 MINUTES BE ALL RIGHT?

5 MR. BARENS: YES. LET US APPROACH FOR A MINUTE, IF
6 WE COULD.

7 (A DISCUSSION WAS HELD AT THE BENCH OFF THE RECORD)

8 THE COURT: ALL RIGHT. IN THE MATTER OF PEOPLE
9 VERSUS JOE HUNT, THE RECESS PREVIOUSLY CALLED, MATTERS HAVE
10 BEEN BROUGHT TO THE COURT'S ATTENTION DURING THE RECESS.
11 THERE HAS BEEN A REQUEST THAT WE DEFER THE CROSS-EXAMINATION
12 TO TOMORROW MORNING. SEVERAL REASONS HAVE BEEN GIVEN FOR
13 THE TERMINATION OF THE TESTIMONY AT THIS PARTICULAR TIME.
14 THEREFORE -- WHAT TIME ARE WE TALKING ABOUT TOMORROW, 9:30
15 AGAIN?

16 MR. BARENS: 9:30 IS FINE WITH ME, YOUR HONOR.

17 THE COURT: IS THAT ALL RIGHT MR, WAPNER?

18 MR. WAPNER: THAT'S FINE.

19 THE COURT: WE 'LL RECESS AT THIS TIME FOR THE DAY.
20 WE 'LL RESUME WITH THE CROSS-EXAMINATION OF THE LAST WITNESS
21 AT 9:30 TOMORROW MORNING.

22 MR. WAPNER: THANK YOU, YOUR HONOR.

23 MR. BARENS: THANK YOU, YOUR HONOR.

24 /////

25 (OTHER COURT MATTERS)

26 /////

27 MR. BARENS: TO THE EXTENT IF NECESSARY, WE STIPULATE
28 FOR A NON-CONTINUOUS PRELIMINARY HEARING.

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MR. TITUS: STIPULATE, YOUR HONOR.

THE COURT: THE COURT DOES HAVE A COUPLE OF
ARRAIGNMENTS TO DO.

(AT 4:15 P.M., AN ADJOURNMENT WAS TAKEN UNTIL
THURSDAY, MARCH 21, 1985, AT 9:30 A.M.)

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1 BEVERLY HILLS, CALIFORNIA, THURSDAY, MARCH 21, 1985

2 10:35 A.M.

3 --000--

4
5 THE COURT: ALL RIGHT. IN THE MATTER OF JOE HUNT,
6 LET THE RECORD SHOW THAT MR. HUNT IS PRESENT IN COURT THIS
7 MORNING WITH HIS COUNSEL, MR. BARENS AND MR. TITUS; THAT THE
8 PEOPLE ARE REPRESENTED BY MR. WAPNER. ARE WE READY TO
9 PROCEED AT THIS TIME?

10 MR. WAPNER: YES, YOUR HONOR.

11 THE COURT: I BELIEVE WHEN WE RECESSED YESTERDAY THE
12 CURRENT WITNESS -- YOU HAD FINISHED YOUR DIRECT; IS THAT
13 CORRECT?

14 MR. WAPNER: CORRECT, YOUR HONOR. I HAD FINISHED THE
15 DIRECT.

16 THE COURT: ALL RIGHT. YOU 'VE ALREADY BEEN SWORN,
17 SIR.

18 THE COURT: MR. BARENS?

19 MR. BARENS: THANK YOU, YOUR HONOR.

20
21  CROSS-EXAMINATION

22 BY MR. BARENS:

23 Q MR. DICKER, WHAT 'S YOUR ADDRESS?

24 A 312 SOUTH ROXBURY DRIVE IN BEVERLY HILLS.

25 Q MR. DICKER, HAVE YOU BEEN PROMISED OR GRANTED
26 ANY IMMUNITY RELATIVE TO THESE PROCEEDINGS?

27 A NO, I HAVE NOT.

28 Q HAVE YOU BEEN PROMISED OR GRANTED ANY IMMUNITY

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1 BY THE ATTORNEY GENERAL OF THE STATE OF CALIFORNIA RELATIVE
2 TO ANY OTHER PROCEEDINGS?

3 A I BELIEVE INFORMALLY.

4 Q INFORMALLY. AND RELATIVE TO WHAT HAVE YOU BEEN
5 PROMISED IMMUNITY?

6 A RELATIVE TO A NOTARIZATION.

7 Q WELL, HAVE YOU GOTTEN IMMUNITY OR NOT?

8 A NO, I HAVE NOT.

9 Q DID THE -- WHO DID YOU DISCUSS GETTING IMMUNITY
10 WITH?

11 A OSCAR BRIELING.

12 Q AND WAS MR. BRIELING AWARE THAT YOU WERE
13 TESTIFYING IN THIS MATTER?

14 A I CANNOT SAY.

15 Q WELL, DID YOU EVER DISCUSS THIS MATTER WITH
16 OSCAR BRIELING?

17 A ONLY IN BACKGROUND TO THE MATTERS I WAS
18 DISCUSSING WITH HIM.

19 Q WELL, ISN'T IT TRUE THAT YOU, IN FACT, TOLD
20 MR. BRIELING WHAT YOU WERE GOING TO TESTIFY HERE ABOUT
21 TODAY. YOU TOLD HIM THE CONTENTS OF YOUR TESTIMONY, DIDN'T
22 YOU?

23 A ESSENTIALLY, YES.

24 Q AND THAT WAS IN CONJUNCTION WITH THE DISCUSSION
25 WHERE YOU WERE GOING TO BE GRANTED IMMUNITY FOR CERTAIN
26 FELONY CONDUCT YOU WERE INVOLVED IN?

27 A NO.

28 Q WELL, WE'RE --

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1 A WELL, NO. RESTATE YOUR QUESTION, PLEASE.

2 Q WERE YOU ADVISED THAT YOU HAD CERTAIN
3 VULNERABILITY FOR CERTAIN FELONIOUS CONDUCT THAT YOU WERE
4 ALLEGEDLY INVOLVED IN?

5 A BY MR. BRIELING?

6 Q YES.

7 A NO.

8 Q WELL, WHO TOLD YOU THAT YOU NEEDED IMMUNITY?

9 A MY ATTORNEY.

10 Q AND IMMUNITY RELATIVE TO WHAT, SIR?

11 A THE NOTARIZATION.

12 Q ALL RIGHT.

13 MR. BARENS: ALL RIGHT. I AM -- YOUR HONOR, AT THIS
14 POINT IN TIME, I PLAN TO PROCEED WITH SOME CROSS-EXAMINATION
15 OF THIS INDIVIDUAL THAT WOULD GO INTO WHAT I BELIEVE TO BE A
16 FELONIOUS CONDUCT THAT HE WAS INVOLVED IN, AND I WOULD
17 REQUEST THAT THE COURT PROVIDE HIM WITH A MIRANDA WARNING.

18 MR. WAPNER: WELL, MAY WE APPROACH THE BENCH ON THE
19 RECORD WITH AN OFFER OF PROOF? SO THAT WE CAN DETERMINE
20 WHETHER THIS IS RELEVANT.

21

22 (THE FOLLOWING PROCEEDINGS WERE HELD AT THE BENCH:)

23

24 MR. BARENS: YOUR HONOR, I PLAN TO DISCUSS AREAS OF
25 CRIMINAL CONDUCT WITH THIS MAN. ONE WOULD CONCERN FELONIOUS
26 NOTARIES THAT HE BOTH EXECUTED, UTTERED AND PUBLISHED.

27 MR. TITUS: UNDER 470 OF THE PENAL CODE.

28 MR. WAPNER: CAN WE HAVE AN OFFER -- MAYBE I SHOULD

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1 LET YOU FINISH ABOUT WHAT I'D LIKE TO DO IS HAVE AN OFFER OF
2 PROOF AS TO SPECIFICALLY WHAT THEY ARE AND HOW THEY'RE
3 RELEVANT TO THIS PROCEEDINGS.

4 MR. BARENS: WELL, PROCEEDING, FIRST OF ALL, I DENY
5 THAT THE DEFENSE AT THIS POINT IS OBLIGED AT A PRELIMINARY
6 HEARING TO MAKE AN OFFER OF PROOF --

7 MR. WAPNER: HOW ARE WE GOING TO DETERMINE WHETHER
8 IT'S RELEVANT -- WHETHER THE QUESTIONS ARE RELEVANT OR
9 OBJECTIONABLE UNTIL --

10 MR. BARENS: WELL, I SUBMIT THAT IN THE MATTER OF
11 PEOPLE VERSUS GALLAHER, CITE, 103 CAL. APP. 3D, 672, THE
12 COURT POINTED OUT THAT WE HAVE NO DUTY TO POINT OUT TO THE
13 MAGISTRATE OR EVEN KNOW WHAT THE EVIDENCE WOULD ELICIT. WE
14 ARE PERMITTED LARGELY EXPLORATORY QUESTIONING, AND IT IS
15 QUOTE "UNREASONABLE TO REQUIRE AN OFFER OF PROOF BECAUSE
16 COUNSEL OFTEN CANNOT KNOW WHAT THE PERTINENT FACTS ARE THAT
17 MAY BE ELICITED." AND I'M QUOTING FROM THE CASE ON THAT,
18 YOUR HONOR.

19 MR. WAPNER: WELL, THAT'S GREAT, EXCEPT -- THAT'S
20 FINE, EXCEPT THAT WE HAVE TO HAVE SOME SHOWING THAT IT'S
21 RELEVANT TO THIS PROCEEDING. IF YOU TAKE THIS QUOTE OUT OF
22 CONTEXT, THAT MEANS YOU CAN ASK HIM ABOUT ANYTHING UNDER THE
23 SUN --

24 MR. BARENS: I'M GOING TO ASK HIM ABOUT HIS
25 ACTIVITIES DIRECTLY DURING THE TIME FRAME THAT YOU COVERED
26 ON YOUR DIRECT YESTERDAY. DIRECTLY IN THAT TIME.

27 THE COURT: YOU MEAN YOU'RE TALKING ABOUT WHEN HE WAS
28 WITH THE BBC?

1 MR. BARENS: ABSOLUTELY. RIGHT, AND THEN, YOUR
2 HONOR, DURING THE SAME WEEKS AND DAYS OF CONDUCT THAT THE
3 PEOPLE INVESTIGATED YESTERDAY.

4 THE COURT: FIRST OF ALL, DID HE SAY THAT -- WHEN YOU
5 WERE QUESTIONING HIM CONCERNING THIS IMMUNITY, THAT HE HAD
6 AN ATTORNEY OR HE DID SOMETHING ON THE ADVICE OF HIS
7 ATTORNEY.

8 MR. WAPNER: HE DOES HAVE --

9 MR. BARENS: HE WILL WITH --

10 THE COURT: IF HE HAS AN ATTORNEY, THEN THE ATTORNEY
11 SHOULD BE THE PROPER ONE TO ADVISE HIM OF HIS CONSTITUTIONAL
12 RIGHTS. WHAT WE DO IN SOME OF THESE CASES, WE APPOINT
13 SOMEBODY TO ADVISE HIM. I DON'T THINK THAT I SHOULD
14 MIRANDIZE HIM BECAUSE THAT'S NOT MY FUNCTION. HE --

15 MR. BARENS: I DON'T MIND IF MR. WAPNER MIRANDIZES
16 HIM.

17 THE COURT: WHAT HE SHOULD BE AWARE OF IS THAT HE
18 NEED NOT INCRIMINATE HIMSELF IF HE'S GOING TO INCRIMINATE
19 HIMSELF, AND I TAKE IT THAT HE WOULD SAY HE'S WAIVING THAT.
20 I MEAN I DON'T KNOW WHAT THE EVIDENCE WOULD BE, BUT THAT
21 WOULD BE THE PROCEDURE RATHER THAN TO GIVE HIM A MIRANDA
22 WARNING.

23 MR. TITUS: IT'S MY UNDERSTANDING -- IF I MAY
24 INTERJECT -- I BELIEVE THE COURT IS UNDER AN AFFIRMATIVE
25 DUTY TO MIRANDIZE A WITNESS WHEN IT APPEARS TO THE COURT
26 THAT HE MAY BE QUESTIONED REGARDING CONDUCT THAT IS
27 PROSECUTABLE. THAT'S MY UNDERSTANDING. HE DOESN'T HAVE THE
28 SPECIFIC CITES, BUT THE CASES THAT FALL UNDER MIRANDA I

1 BELIEVE ARE REQUIRED BECAUSE IT'S A TYPE OF JUDICIAL
2 CONFESSION.

3 MR. WAPNER: THE IMPORTANT THING IS -- I THINK THE
4 JUDGE HAS ALREADY HIT ON IT, AND THAT IS REGARDLESS OF HOW
5 IT'S DONE THAT THE WITNESS UNDERSTAND WHAT HE'S FACING, AND
6 WHETHER IT'S DONE BY THE COURT OR WHETHER IT'S DONE OFF THE
7 RECORD AND OUT OF THE COURTROOM BEFORE HE TESTIFIES OR
8 WHETHER IT'S DONE BY HIS ATTORNEY.

9 MR. BARENS: I'LL MAKE SURE THAT I FEEL HE IS
10 PROPERLY AWARE OF HIS RIGHT NOT TO TESTIFY. I'LL DO IT.

11 THE COURT: SEE, WHAT IT IS, RATHER THAN A MIRANDA
12 WARNING, I HAVE TO TELL HIM "YOU HAVE A RIGHT TO COUNSEL,
13 ANYTHING YOU SAY MAY BE USED AGAINST YOU." WHAT IT REALLY
14 IS IS A WAIVER OF HIS 5TH AMENDMENT RIGHTS --

15 MR. BARENS: YEAH. RIGHT.

16 THE COURT: -- AGAINST INCRIMINATING HIMSELF.

17 MR. TITUS: AND 6TH AMENDMENT.

18 THE COURT: THAT WOULD BE BASICALLY WHAT IT IS.

19 MR. BARENS: DO YOU WANT TO GIVE HIM THE 6TH
20 AMENDMENT -- 5TH AMENDMENT ADMONITION?

21 MR. WAPNER: I'VE HAD SOME DISCUSSIONS WITH THE
22 WITNESS BEFORE. IF THE COURT WANTS TO ADVISE HIM OF HIS
23 RIGHT NOT TO INCRIMINATE HIMSELF, I HAVE NO OBJECTION TO
24 THAT. I THINK THAT THE WITNESS IS WELL AWARE OF THAT. IF
25 YOU WANT TO DO IT ON THE RECORD TO PROTECT YOURSELF --

26 THE COURT: I THINK IT SHOULD BE ON THE RECORD.

27 MR. WAPNER: THAT'S FINE.

28 THE COURT: ALL RIGHT. DO YOU WANT TO DO THAT?

1 MR. BARENS: ALL RIGHT.

2 THE COURT: FINE.

3

4 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN COURT:)

5

6 THE COURT: ALL RIGHT. PURSUANT TO A CONVERSATION
7 HELD AT THE BENCH WITH BOTH OF THE DEFENSE COUNSEL AND THE
8 DISTRICT ATTORNEY, MR. DICKER, AND IN VIEW OF SOME OF THE
9 QUESTIONS THAT APPARENTLY MR. BARENS IS GOING TO ASK YOU ON
10 CROSS-EXAMINATION, I WANT TO ADVISE YOU THAT UNDER THE
11 CONSTITUTION, BOTH THE FEDERAL AND STATE CONSTITUTION, YOU
12 HAVE A RIGHT TO REMAIN SILENT AND NOT MAKE STATEMENTS THAT
13 MIGHT INCRIMINATE YOU. YOU CAN WAIVE THAT PRIVILEGE, IF YOU
14 CARE TO, AND YOU CAN MAKE STATEMENTS. DO YOU UNDERSTAND
15 WHAT I'M ADVISING YOU NOW?

16 THE WITNESS: CAN I -- MAY I WAIVE IT FOR SPECIFIC
17 QUESTIONS OR MUST I WAIVE IT GENERALLY?

18 THE COURT: I -- WELL, SINCE I DON'T KNOW WHAT THE
19 SPECIFIC QUESTIONS ARE GOING TO BE, YOU CAN -- WOULD COUNSEL
20 APPROACH THE BENCH A MINUTE AGAIN?

21 (A DISCUSSION WAS HELD AT THE BENCH OFF THE RECORD)

22 THE COURT: ALL RIGHT. ONCE AGAIN, BACK ON THE
23 RECORD, MR. DICKER, AS I PREVIOUSLY INDICATED TO YOU, YOU DO
24 HAVE THE RIGHT UNDER THE FEDERAL AND THE STATE CONSTITUTION
25 NOT TO ANSWER ANY QUESTIONS THAT YOU FEEL MIGHT INCRIMINATE
26 YOU; IN OTHER WORDS, OUT OF YOUR OWN MOUTH COULD RESULT IN A
27 PROSECUTION AGAINST YOU. NOW, YOU HAVE THE RIGHT TO WAIVE
28 THAT PRIVILEGE AS TO ANY QUESTIONS THAT MR. BARENS OR

1 MR. TITUS WOULD ASK YOU ON CROSS-EXAMINATION. DO YOU
2 UNDERSTAND WHAT I'M SAYING THERE?

3 THE WITNESS: YES. I UNDERSTAND WHAT YOU'RE SAYING.

4 THE COURT: I'LL PROCEED IN VIEW OF -- IF YOU SAY
5 ANY -- IF YOU HAVE ANY PARTICULAR ISSUE THAT YOU FEEL THAT
6 YOU WANT TO TALK TO THE DISTRICT ATTORNEY IF YOU FEEL THAT
7 YOU WANT IMMUNITY. SEE, WHEN WE'RE TALKING ABOUT IMMUNITY,
8 FIRST OF ALL, WE ARE TALKING ABOUT YOU ANSWERING QUESTIONS.
9 YOU CAN REFUSE TO ANSWER A QUESTION. THEN IT CAN BE BROUGHT
10 UP TO THE COURT THAT YOU ARE EXERCISING YOUR 5TH AMENDMENT
11 RIGHT OR YOUR AMENDED RIGHTS UNDER THE STATE CONSTITUTION.
12 THEN IT WOULD BE A QUESTION FOR THE COURT TO DETERMINE
13 WHETHER YOU WOULD BE OBLIGED TO ANSWER THAT QUESTION. ALSO,
14 THE ISSUE WOULD COME UP, THEN, AS TO WHETHER OR NOT THE
15 DISTRICT ATTORNEY OR ANY PROPER PARTY WERE GRANTING YOU
16 IMMUNITY AS TO THE SPECIFIC FACTS THAT YOU MIGHT BE
17 MENTIONING AT THAT TIME. DO YOU UNDERSTAND?

18 THE WITNESS: I UNDERSTAND.

19 THE COURT: ALL RIGHT. SO LET'S PROCEED AT THIS TIME
20 WITH THE CROSS-EXAMINATION AND IF THE SITUATION ARISES,
21 WE'LL TAKE CARE OF IT AT THE TIME. ALL RIGHT. MR. BARENS,
22 YOU MAY PROCEED.

23 MR. BARENS: THANK YOU, YOUR HONOR.

24 Q MR. DICKER, WERE YOU A NOTARY IN 1984?

25 A YES, I WAS.

26 Q AND IN 1984, HOW MANY DOCUMENTS DID YOU
27 NOTARIZE WHEREIN YOU HAD NEVER MET THE PARTY WHOSE SIGNATURE
28 YOU WERE ATTESTING TO?

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1 MR. WAPNER: OBJECTION. VAGUE, YOUR HONOR.

2 MR. BARENS: NO. I'M ASKING HIM THE NUMBER OF
3 FELONIOUS NOTARIES HE UTTERED IN 1984.

4 MR. WAPNER: WELL --

5 THE COURT: FIRST OF ALL, I WOULD THINK THAT --

6 MR. WAPNER: IT ALSO ASSUMES FACTS NOT --

7 THE COURT: -- IF HE HAS DONE THAT WHEN YOU SAY HOW
8 MANY. YOU'RE ASSUMING A FACT RIGHT THERE.

9 MR. BARENS: ALL RIGHT. LET'S ASK HIM.

10 Q IN 1984, MR. DICKER, DID YOU EVER NOTARIZE THE
11 SIGNATURES OF ANY PARTIES THAT YOU HAD NOT MET?

12 A I BELIEVE TWICE.

13 Q CAN YOU TELL ME WHO YOU NOTARIZED?

14 A ONE OF THE THEM WAS A SIGNATURE OF HEDAYAT
15 ESLAMINIA, AND ONE WAS FOR ONE OF HIS SONS, WHICH I DON'T
16 REMEMBER HIS NAME.

17 Q AND YOU -- AT THAT TIME YOU HELD A LICENSE FOR
18 NOTARY IN THIS STATE?

19 A YES, I DID.

20 Q AND YOU REALIZED THAT THOSE WERE FELONIOUS
21 CONDUCT?

22 A NO, I DIDN'T.

23 Q DO YOU KNOW THAT TODAY?

24 A YES, I DO.

25 Q AND DO YOU UNDERSTAND THAT BY ADMITTING THIS
26 TODAY DO YOU UNDERSTAND THAT YOU'RE UNDER THE OPPORTUNITY TO
27 BE PROSECUTED?

28 A YES.

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1 Q AND YOU DID THAT ON TWO OCCASIONS?

2 A YES.

3 Q AND DID YOU THEN DO SOMETHING WITH THOSE
4 DOCUMENTS?

5 A NO, NOTHING PERSONALLY. EXCUSE ME. ONE OF THE
6 DOCUMENTS WAS TAKEN TO THE SWISS EMBASSY --

7 Q DIDN'T YOU TAKE IT TO THE SWISS EMBASSY?

8 A YES.

9 Q AND YOU THEN UTTERED IT OR SO TO SPEAK
10 COMMUNICATED IT TO PERSONNEL AT THE SWISS EMBASSY?

11 A YES, I DID.

12 Q AND YOU -- WHAT DID YOU DO WITH THE OTHER
13 DOCUMENT?

14 A NOTHING.

15 Q NOW, DIDN'T YOU ADDITIONALLY NOTARIZE SEVERAL
16 DOCUMENTS FOR THE -- FOR MEMBERS OF THAT SAME FAMILY?

17 A ONE OF THE DOCUMENTS WAS FOR THE SON AND ONE OF
18 THE DOCUMENTS WAS FOR THE FATHER.

19 Q AND DID YOU NOTARIZE ANY OTHER DOCUMENTS DURING
20 THAT YEAR THAT YOU DIDN'T KNOW THE PERSON THAT YOU
21 NOTARIZED?

22 A I NOTARIZED ONE FOR THE MOTHER.

23 Q YOU DIDN'T KNOW HER EITHER, DID YOU?

24 A I MET HER.

25 Q WELL, DID SHE SIGN THE DOCUMENT YOU NOTARIZED,
26 MR. DICKER?

27 A THAT I DO NOT KNOW.

28 Q WELL, SO THEREFORE YOU AFFIRMED UNDER OATH

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1 SOMEWHAT LIKE WHAT WE ARE DOING TODAY THAT SOMETHING WAS
2 TRUE THAT WAS PATENTLY UNTRUE, DIDN'T YOU.

3 A YES.

4 Q AND YOU DID THAT ON HOW MANY OCCASIONS?

5 A IT WOULD HAVE BEEN THREE.

6 Q ANY OTHERS THAT COME BACK TO MIND?

7 A NOT THAT COME BACK TO MIND.

8 Q WELL, HOW MANY NOTARIES DID YOU AFFIX DURING
9 1984?

10 A NO IDEA.

11 Q WOULD IT BE MORE THAN A DOZEN?

12 A YES, IT WOULD BE.

13 Q AND WERE THEY ALL IN THE COURSE AND SCOPE OF
14 YOUR EMPLOYMENT AT THE BBC?

15 A NO, THEY WERE NOT.

16 Q I SEE. WHEN ELSE DID YOU USE YOUR NOTARY?

17 A I USED FOR NOTARIZING THINGS FOR FRIENDS.

18 Q YOU GO TO LAW SCHOOL, DON'T YOU?

19 A YES, I DO.

20 Q WHERE DO YOU GO TO LAW SCHOOL?

21 A WHITTIER COLLEGE SCHOOL OF LAW.

22 Q AND YOU'RE AWARE THAT ANY FELONY CONVICTIONS OR
23 EVEN CERTAIN TYPES OF MISDEMEANORS COULD COMPROMISE YOUR
24 FUTURE?

25 A YES, I AM.

26 Q AND PRIOR TO COMING HERE TODAY, I PRESUME THAT
27 YOU HAD THAT IN MIND WHEN YOU HAD YOUR DISCUSSION OF
28 IMMUNITY WITH MR. BRIELING?

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1 A YES.

2 Q DID YOU HAVE ANY DISCUSSIONS OF IMMUNITY WITH
3 ANYONE OTHER THAN MR. BRIELING?

4 A ONLY WITH THE DISTRICT ATTORNEY IN THAT I HAVE
5 NONE.

6 Q DID YOU EVER DISCUSS THE WORD IMMUNITY WITH
7 MR. ZOELLER?

8 A NO.

9 Q AND WHEN YOU SAY WITH THE DISTRICT ATTORNEY,
10 YOU MEAN WITH MR. WAPNER?

11 A YES, I DO.

12 Q NOW, YESTERDAY YOU TESTIFIED THAT YOU HAD
13 DESTROYED CERTAIN MINUTES.

14 A YES, I DID.

15 Q DO YOU REALIZE THAT UNDER CORPORATIONS CODE
16 2255 THAT'S DEFINED AS A FELONY?

17 A I DON'T BELIEVE IT'S DEFINED AS A FELONY.
18 ISN'T IT WHEN --

19 MR. WAPNER: OBJECTION. IT'S CALLING FOR A LEGAL
20 CONCLUSION ON THE PART OF THE WITNESS, YOUR HONOR. THE
21 CORPORATIONS CODES WILL SPEAK FOR ITSELF. NOW WE ARE
22 GETTING INTO A LEGAL DISCUSSION BETWEEN COUNSEL AND THE
23 WITNESS --

24 MR. BARENS: WELL, WHY DON'T WE JUST SAY THAT THE
25 CORPORATIONS CODE SAYS THAT AND --

26 THE COURT: ALL RIGHT. IF HE'S AWARE THAT THE
27 CORPORATIONS CODE SAYS THAT.

28 Q BY MR. BARENS: ARE YOU AWARE THAT THE

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1 CORPORATIONS CODE IN THE BLACK AND WHITE PART SAYS THAT?

2 A SAYS WHAT?

3 Q THAT IT'S A FELONY?

4 A NO, I'M NOT.

5 Q DID YOU FEEL THAT IT WAS A LEGAL ACT TO COMMIT
6 WHEN YOU DESTROYED THOSE MINUTES?

7 MR. TITUS: COULD WE HAVE JUST A MOMENT TO CONFER?

8 THE COURT: ALL RIGHT.

9 Q BY MR. BARENS: NOW, MR. DICKER, YOU TESTIFIED
10 YESTERDAY YOU DESTROYED CERTAIN CORPORATE RECORDS; IS THAT
11 CORRECT?

12 A YES.

13 Q WHY DID YOU DO THAT?

14 A BASICALLY I WAS SCARED.

15 Q WHAT WERE YOU SCARED OF?

16 A BEING ARRESTED.

17 Q ARRESTED FOR WHAT?

18 A I WASN'T REALLY SURE, BUT I WAS JUST SCARED.

19 Q WELL, WHAT WAS YOUR STATE OF MIND? YOU THOUGHT
20 YOU COULD BE ARRESTED, AND I'M SURE YOU HAD SOMETHING IN
21 MIND THAT YOU WERE GOING TO BE ARRESTED FOR. WERE YOU GOING
22 TO BE ARRESTED FOR MURDER, MR. DICKER.

23 MR. WAPNER: OBJECTION. ARGUMENTATIVE, YOUR HONOR --

24 MR. BARENS: I'M ASKING HIS STATE OF MIND.

25 MR. WAPNER: ALL RIGHT. IT'S -- HE'S PUT --

26 MR. BARENS: WELL, I --

27 MR. WAPNER: STATE OF MIND --

28 THE COURT: HE CAN ANSWER THE QUESTION YES OR NO

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1 WHETHER HE WAS GOING TO BE ARRESTED FOR MURDER.

2 THE WITNESS: NO.

3 Q BY MR. BARENS: WHAT WERE YOU AFRAID OF?

4 A I WAS JUST AFRAID OF BEING ARRESTED BECAUSE
5 THERE WERE A LOT OF THINGS GOING ON AND OTHER PEOPLE WERE
6 BEING ARRESTED.

7 Q WHAT HAD YOU DONE THAT YOU THOUGHT YOU WOULD BE
8 ARRESTED FOR?

9 A POSSIBLY NOT COMING FORWARD TO THE POLICE AND
10 TELLING THEM WHAT JOE HAD TOLD ME.

11 Q IN FACT, YOU DIDN'T GO TO THE POLICE THAT
12 ALLEGEDLY YOU WERE TOLD THAT A MURDER CAN BE COMMITTED, DID
13 YOU?

14 A NO, I DID NOT.

15 Q AND INSTEAD YOU KEPT YOUR JOB, KEPT GOING ON
16 ABOUT YOUR AFFAIRS IN A SIMILAR MANNER, DIDN'T YOU?

17 A YES, I DID.

18 Q YOU KEPT RECEIVING INVESTOR MONEY, DIDN'T YOU?

19 A AFTER THE MEETING OF JUNE WHEN JOE STATED THAT
20 HE HAD MURDERED RON LEVIN OR TAKEN CARE OF --

21 Q HE DIDN'T SAY MURDERED ON THAT DATE, DID HE.

22 A NO. I CORRECTED MYSELF.

23 Q WELL, THEN YOU FELT YOU DIDN'T NEED TO GO TO
24 THE POLICE BECAUSE YOU WEREN'T SURE WHAT HE MEANT ON JUNE
25 21ST?

26 A I WAS VERY SURE.

27 Q YOU WERE.

28 A YES.

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1 Q BUT YOU WEREN'T SURE OF ANY OBLIGATION YOU HAD
2 TO GO TO THE POLICE ON THAT OCCASION?

3 A AND I WAS ALSO WARNED BY JOE THAT ANYBODY THAT
4 WENT TO THE POLICE WOULD BE DEALT WITH.

5 Q INCLUDING YOURSELF.

6 A YES.

7 Q AND THEREFORE YOU DECIDED THAT YOU WOULD JUST
8 STAY IN YOUR EMPLOY.

9 A THAT WAS MY MOTIVE FOR NOT GOING TO THE POLICE.
10 OR ONE OF THEM.

11 Q I SEE, AND IT WAS AFTER THAT THAT YOU FALSELY
12 AFFIRMED NOTARIZATIONS?

13 MR. WAPNER: OBJECTION. VAGUE AS TO AFTER WHAT.

14 MR. BARENS: AFTER THE 6-24 CONFERENCE.

15 THE WITNESS: COULD YOU JUST SAY "ACKNOWLEDGED"?
16 THAT'S WHAT A NOTARY DOES, NOT AFFIRMED.

17 Q BY MR. BARENS: WELL, I'LL SAY WHAT I'LL SAY,
18 AND YOU SAY WHAT YOU'LL SAY.

19 A I'M NOT SURE I AFFIRMED ANYTHING. I
20 ACKNOWLEDGED SIGNATURES. FALSELY, IF YOU PREFER.

21 Q WELL, I DO. YOUR WORD. WELL, SUBSEQUENT TO
22 THAT, DID YOU GET INVOLVED IN A BURGLARY AT THE MAYS'
23 RESIDENCE?

24 A NO. I WAS NEVER INVOLVED IN A BURGLARY AT THE
25 MAYS' RESIDENCE.

26 Q DID YOU EVER ENTER THE MAYS' RESIDENCE WITHOUT
27 THEIR PERMISSION TO REMOVE DOCUMENTS?

28 A I HAD ENTERED THE MAYS' RESIDENCE WITH WHAT I

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1 CONSIDERED TO BE IMPLIED PERMISSION, AND I DID NOT REMOVE
2 ANY DOCUMENTS.

3 Q WERE YOU IN THE COMPANY OF OTHERS WHO DID?

4 A I WAS IN THE COMPANY OF OTHERS. I'M NOT SURE
5 OF WHAT THEY DID.

6 Q YOU'RE NOT SURE WHETHER DOCUMENTS WERE REMOVED
7 OR NOT?

8 A NO, I'M NOT.

9 Q WELL, MR. DICKER, HOW MANY TIMES HAVE YOU MET
10 WITH DETECTIVE ZOELLER?

11 A PRIOR TO YESTERDAY OR INCLUDING YESTERDAY?

12 Q PRIOR TO YESTERDAY.

13 A TWICE.

14 Q WHEN WAS THE FIRST TIME?

15 A THE FIRST SOMETIME WAS AT THE WILSHIRE-MANNING.

16 Q AND AT THE WILSHIRE-MANNING, WHAT DID YOU TELL
17 OFFICER ZOELLER ON THE FIRST OCCASION YOU MET HIM THAT YOU
18 KNEW ABOUT THE LEVIN HOMICIDE?

19 A I TOLD HIM THAT I BELIEVED RON LEVIN WAS
20 MISSING AND THAT JOE HAD NEVER MADE ANY STATEMENTS TO ME
21 THAT HE HAD TAKEN CARE OF -- THAT HE HAD KILLED RON LEVIN.

22 Q NOW, THAT'S WHAT YOU TOLD DETECTIVE ZOELLER IN
23 AUGUST.

24 A I'M NOT SURE OF WHEN THE EXACT TIME WAS.

25 Q WELL, WAS IT -- IT WAS CERTAINLY AFTER JUNE,
26 WASN'T IT.

27 A IT WAS DEFINITELY AFTER JUNE.

28 Q WELL, YOU TOLD HIM -- AS I UNDERSTAND YOUR

1 TESTIMONY -- THAT MR. HUNT HAD NEVER TOLD YOU THAT HE KILLED
2 MR. LEVIN.

3 A CORRECT.

4 Q AND YOU TOLD HIM THAT YOU DIDN'T KNOW -- THAT
5 YOU THOUGHT THAT MR. LEVIN WAS MISSING.

6 A CORRECT. I DIDN'T KNOW WHERE HIS WHEREABOUTS
7 WERE.

8 Q WELL, NOW, HOW AM I TO TELL WITH ANY
9 RELIABILITY, MR. DICKER, WHETHER YOU WERE LYING THEN OR
10 YOU'RE LYING NOW?

11 MR. WAPNER: OBJECTION. ARGUMENTATIVE, YOUR HONOR.

12 MR. BARENS: I'M ASKING HIM FOR A WAY TO GO, YOUR
13 HONOR.

14 THE COURT: THE OBJECTION WILL BE SUSTAINED. YOU CAN
15 YOU CAN ASK HIM WHETHER HE WAS TELLING THE TRUTH THEN OR
16 WHETHER HE WAS TELLING THE TRUTH NOW. THE OTHER IS
17 ARGUMENTATIVE.

18 Q BY MR. BARENS: MR. DICKER, WERE YOU LYING TO
19 THE OFFICER AT THAT TIME?

20 A YES, I WAS.

21 Q AND YOU'RE NOT LYING NOW?

22 A NO.

23 Q DOES YOUR NEWFOUND TRUTHFULNESS HAVE SOMETHING
24 TO DO WITH A GRANT OF IMMUNITY?

25 A NO, IT DOESN'T.

26 Q DOES IT HAVE TO DO WITH SOME SUDDEN EMERGENCE
27 OF CONSCIENCE?

28 MR. WAPNER: AGAIN, THAT'S ARGUMENTATIVE, YOUR HONOR.

1 I'D OBJECT TO THAT.

2 MR. BARENS: NO. I'M ENTITLED TO KNOW HIS STATE OF
3 MIND.

4 THE COURT: WHAT WAS THE QUESTION AGAIN?

5 MR. WAPNER: DOES HIS NEWFOUND -- I'LL LET HER READ
6 IT BACK.

7 (THE QUESTION WAS READ BY THE REPORTER.)

8 THE COURT: THE OBJECTION WILL BE SUSTAINED AS TO THE
9 FORM OF THE QUESTION.

10 Q BY MR. BARENS: WHY DO YOU CONTEND YOU'RE
11 TELLING THE TRUTH NOW? WHY HAVE YOU CHANGED YOUR STORY,
12 MR. DICKER?

13 A I -- WHY DO I CONTEND THAT I'M TELLING THE
14 TRUTH?

15 Q YES.

16 MR. WAPNER: OBJECTION AS ARGUMENTATIVE, YOUR HONOR.
17 HE'S ASKING FOR A WHOLE EXPLANATION, AND IT'S ALSO VAGUE.

18 MR. BARENS: WELL, SEE, WE HAVE A SITUATION, YOUR
19 HONOR, THAT THIS WITNESS BY HIS OWN WORD --

20 THE COURT: THE OBJECTION WILL BE OVERRULED.

21 MR. BARENS: THANK YOU.

22 THE COURT: HE CAN ANSWER THAT.

23 THE WITNESS: I CONTEND THAT I'M TELLING THE TRUTH
24 BECAUSE WHAT I'M SAYING HAPPENED.

25 Q BY MR. BARENS: YOU MEAN YOU'RE SAYING THAT
26 YOU, IN FACT, HEARD A CONVERSATION WITH MR. HUNT THAT YOU
27 LATER DENIED HEARING THAT YOU'RE NOW SAYING OCCURRED.

28 MR. WAPNER: OBJECTION. ARGUMENTATIVE AND COMPOUND,

1025

1 YOUR HONOR.

2 MR. BARENS: I THINK IT'S A STRAIGHTUP RECITATION OF
3 WHAT HE'S DOING.

4 THE COURT: THE OBJECTION WILL BE OVERRULED.

5 Q BY MR. BARENS: SIR?

6 A WILL YOU REPEAT THE QUESTION, PLEASE.

7 MR. BARENS: READ IT BACK, PLEASE.

8 (THE QUESTION WAS READ BY THE REPORTER.)

9 THE WITNESS: YES.

10 Q BY MR. BARENS: IF IT WOULD GET YOU A GRANT OF
11 IMMUNITY TO NOW DENY HAVING HEARD THAT CONVERSATION, WOULD
12 YOU DO SO?

13 A NO.

14 Q WHY NOT?

15 A BECAUSE I'M NOT AFFIRMING THAT I HEARD THE
16 CONVERSATION TO GET A GRANT OF IMMUNITY.

17 Q YOU DON'T FEEL THAT YOUR TESTIMONY TODAY WILL
18 HAVE ANY BEARING ON AN ULTIMATE GRANT OF IMMUNITY OR NOT?

19 A NO.

20 Q ALL RIGHT. NOW, YOU ALSO TESTIFIED YESTERDAY
21 THAT MR. HUNT EXPRESSED CONCERN OVER THE EXPEDITIOUSNESS OF
22 NEGOTIATING THE LEVIN CHECK; IS THAT CORRECT?

23 A YES.

24 Q AND AMONG THE REASONS YOU ENUMERATED THAT
25 MR. HUNT SHOWED CONCERN ABOUT WAS HIS BELIEF THAT MR. LEVIN
26 MIGHT PUT A STOP ON THE CHECK -- OR I THINK YOUR SPECIFIC
27 WORDS WERE "MIGHT WITHDRAW THE FUNDS".

28 A I BELIEVE THAT WAS EXPRESSED AS MY CONCERN, NOT

1026

1 A CONCERN STATED BY MR. HUNT.

2 Q YET YOU DIDN'T TESTIFY ON DIRECT EXAMINATION
3 THAT HUNT WAS CONCERNED THAT LEVIN WOULD WITHDRAW THE FUNDS.

4 A HUNT MAY HAVE BEEN CONCERNED. I DON'T BELIEVE
5 THAT I EVER SAID THAT HE STATED THAT TO ME.

6 Q I DIFFER WITH YOU ON THAT, BUT NONETHELESS,
7 MR. DICKER, I PRESUME IT TO BE YOUR TESTIMONY TODAY THAT YOU
8 NEVER HEARD HIM SHOW ANY CONCERN ABOUT LEVIN STOPPING THE
9 CHECK?

10 A I NEVER HEARD HIM STATE TO ME PER SE THAT HE
11 FELT MR. LEVIN MAY WITHDRAW THE FUNDS FROM THE ACCOUNT.

12 MR. TITUS: MAY WE HAVE A MOMENT, YOUR HONOR.

13 Q BY MR. BARENS: YOU TESTIFIED YESTERDAY THAT
14 YOU FELT MR. LEVIN WAS A UNSAVORY CHARACTER.

15 A YES.

16 Q WHAT DID YOU MEAN BY THAT?

17 MR. WAPNER: OBJECTION. CALLS FOR A CONCLUSION, YOUR
18 HONOR. ALSO, I BELIEVE --

19 MR. BARENS: HE TESTIFIED THAT -- THE PEOPLE BROUGHT
20 THAT IN, YOUR HONOR.

21 MR. WAPNER: EXCUSE ME, COUNSEL. LET ME FINISH. I
22 BELIEVE THAT TESTIMONY WAS STRICKEN. THAT WAS A QUESTION,
23 AS I RECALL IT, THAT THERE WAS AN OBJECTION TO AND IT WAS
24 EITHER SUSTAINED OR THE QUESTION WAS BIT DRAWN.

25 THE COURT: I BELIEVE IT WAS, MR. BARENS. HE GAVE
26 ANOTHER ANSWER AFTER THAT.

27 MR. BARENS: WELL, WE CAN PROBABLY GET ANOTHER ANSWER
28 TODAY.

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1 THE COURT: THE WORD "UNSAVORY" I THINK WAS THE PART
2 THAT WAS STRICKEN.

3 MR. BARENS: I DON'T KNOW WHY. IT SEEMS SO
4 APPROPRIATE SOMEHOW. WELL, NONETHELESS. NONETHELESS.

5 Q WHAT DID YOU KNOW ABOUT RON LEVIN?

6 A IN WHAT ASPECT?

7 Q WELL, WHAT WAS HIS REPUTATION FOR TRUTH AND
8 HONESTY?

9 MR. WAPNER: OBJECTION. RELEVANCE.

10 MR. BARENS: I THINK IT'S RELEVANT.

11 MR. WAPNER: SINCE MR. LEVIN, I ASSUME -- UNLESS
12 COUNSEL HAS A SURPRISE FOR ME -- IS NOT GOING TO BE A
13 WITNESS IN THIS CASE, I DON'T SEE WHAT HIS REPUTATION FOR
14 TRUTH AND VORACITY HAS TO DO WITH --

15 MR. BARENS: WELL, IT CERTAINLY HAS TO DO WITH IT
16 GOES TO HIS MOTIVES NOT TO BE PRESENT WITH US TODAY. AT
17 LEAST SO FAR.

18 THE COURT: I HAVE WOULD ASSUME THAT THE DEFENSE IS
19 BASED UPON, AS MENTIONED IN THE ARGUMENTS HERE EARLIER IN
20 THIS HEARING, THAT MR. LEVIN IS STILL ALIVE SOMEWHERE. AT
21 LEAST THAT'S THE THEORY OF THE DEFENSE. IF THAT'S SO,
22 THE -- AND THIS PARTY HAD A KNOWLEDGE OF MR. LEVIN, I THINK
23 IT WOULD BE PROPER CROSS-EXAMINATION. THE OBJECTION WILL BE
24 OVERRULED.

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

26 A WILL YOU -- WHAT WAS THE QUESTION?

27 Q WHAT WAS YOUR UNDERSTANDING OF MR. LEVIN'S
28 REPUTATION FOR TRUTH AND HONESTY?

1 A THAT HE WASN'T VERY TRUTHFUL OR VERY HONEST.

2 Q AND WHAT DO YOU BASE THAT UPON?

3 A BASICALLY HEARSAY.

4 Q DO YOU KNOW --

5 MR. WAPNER: THERE WOULD BE A MOTION TO STRIKE, YOUR
6 HONOR.

7 THE COURT: MOTION TO STRIKE THE ANSWER BASICALLY
8 HEARSAY?

9 MR. WAPNER: STRIKE THE ANSWER THAT HE'S NOT TRUTHFUL
10 AND HONEST BECAUSE IT'S NOW BASED ON HEARSAY.

11 THE COURT: ALL RIGHT. THE MOTION -- THE QUESTION
12 AND ANSWER WILL BE STRICKEN. IF HE'S ASKING HIS REPUTATION
13 IN THE COMMUNITY OR OF BUSINESS DEALINGS, THAT'S A DIFFERENT
14 QUESTION. IF HE'S ASKING HIS PERSONAL KNOWLEDGE OF WHAT HE
15 THINKS HIS REPUTATION IS, THAT WOULD BE A SEPARATE -- THE
16 QUESTION AND ANSWER WILL BE STRICKEN.

17 Q BY MR. BARENS: ALL RIGHT. DID YOU KNOW OF ANY
18 INCIDENCES WHEN MR. LEVIN WOULD WRITE NONSUFFICIENT FUND
19 CHECKS?

20 A NO.

21 Q DID YOU KNOW OF ANY INCIDENCES WHERE HE WROTE
22 CHECKS THAT HE WOULD LATER WITHDRAW FROM?

23 A I KNOW THERE WAS SOME -- I HEARD ABOUT
24 SOMETHING AT PROGRESSIVE SAVINGS, AND THAT WAS ALL I KNEW
25 ABOUT, AND I UNDERSTOOD THAT TO BE ONE OF THE SCAMS WHERE HE
26 WOULD WRITE A CHECK OR HAVE SOMEBODY WRITE HIM A CHECK AND
27 THEN STOP PAYMENT ON IT.

28 MR. WAPNER: THERE WOULD AGAIN BE AN OBJECTION ON

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1 THAT AND MOTION TO STRIKE THE ANSWER. IT APPEARS THAT IT'S
2 BASED ON HEARSAY. THE ANSWER WAS "I HEARD ABOUT SOMETHING
3 FROM PROGRESSIVE SAVINGS".

4 THE COURT: ALL RIGHT. SINCE IT'S SOMETHING THAT HE
5 HEARD ABOUT, THAT WOULD BE HEARSAY. THE ANSWER WILL BE
6 STRICKEN.

7 Q BY MR. BARENS: WERE YOU AWARE OF LITIGATION
8 PENDING INVOLVING MR. LEVIN WITH PROGRESSIVE SAVINGS?

9 A AM I PRESENTLY AWARE OF OR WAS I AT SOME PAST
10 TIME?

11 Q WERE YOU, SAY, DURING THE MONTHS OF MAY AND
12 JUNE, 1984.

13 A NO.

14 Q YOU HAD NO AWARENESS WHATSOEVER THAT THERE WAS
15 LITIGATION PENDING?

16 A AT SOME POINT, I RECALL A LETTER BEING RECEIVED
17 IN THE OFFICE DEALING WITH PROGRESSIVE SAVINGS. I'M NOT
18 SURE IF IT WAS DURING MAY OR JUNE.

19 Q BY THE WAY, IN YOUR FUNCTIONS AT THE OFFICE
20 THERE AT THE BBC, WEREN'T YOU SOMEWHAT OF A LAW CLERK?

21 A YES.

22 Q DID YOU WORK FOR LAUREN RABB AS A LAW CLERK?

23 A I WORKED UNDER LAUREN RABB AS A LAW CLERK, YES.

24 Q AND DIDN'T YOU IN THAT CAPACITY DO SOME WORK ON
25 THE MATTER OF PEOPLE VERSUS JOSEPH HUNT BETWEEN MR. HUNT'S
26 FIRST AND SECOND ARREST?

27 A YES, I DID.

28 Q AND THAT MADE YOU CURIOUSLY IN RECEIPT OF

1130

1 PRIVILEGED INFORMATION, WOULDN'T IT?

2 A IT NEVER DID. ALL I DID WAS RESEARCH IN THE
3 LIBRARY.

4 Q WELL, YOU HAD TO RESEARCH CERTAIN FACTS AND
5 ISSUES, DIDN'T YOU?

6 A MOST OF MY RESEARCH WAS DONE ON THE BURDEN OF
7 PROOF THAT THE PROSECUTION MUST PRESENT THROUGH THE
8 ARRAIGNMENT AND THE PRELIMINARY HEARING.

9 MR. BARENS: WELL, I'M GOING TO CITE FOR THE RECORD,
10 YOUR HONOR, A DEFENSE CONTENTION THAT THIS WITNESS'S
11 TESTIMONY IS PRECLUDED BY THE ATTORNEY-CLIENT PRIVILEGE. HE
12 HAS TESTIFIED THAT IN HIS CAPACITY AS A LAW CLERK WORKING
13 FOR IN-HOUSE COUNSEL AT THE DEFENDANT'S CORPORATION HE
14 PARTICIPATED IN THE PREPARATION OF THE DEFENDANT'S DEFENSE,
15 AND WE WOULD MAKE A MOTION TO STRIKE ALL OF THIS WITNESS'S
16 TESTIMONY AS TOTALLY VIOLATIVE OF THE DEFENDANT'S
17 ATTORNEY-CLIENT PRIVILEGE.

18 THE COURT: WELL, FIRST OF ALL, WAS THERE AN
19 ATTORNEY-CLIENT PRIVILEGE HERE, AND IF SO, TO WHAT EXTENT
20 WOULD AN ATTORNEY-CLIENT PRIVILEGE BE APPLICABLE HERE?

21 DO YOU WANT TO BE HEARD ON THAT PARTICULAR
22 POINT, MR. WAPNER?

23 MR. WAPNER: YES, YOUR HONOR. THE WITNESS WAS ASKED
24 THE QUESTION "DID YOU GET ANY INFORMATION". HE SAID "NO",
25 ALL HE WAS ASKED TO DO WAS DO RESEARCH. "SOMEONE ASKED ME
26 WHAT IS THE BURDEN OF PROOF FOR THE PROSECUTION ON A
27 SPECIFIC CHARGE FOR AN ARRAIGNMENT AND A PRELIMINARY
28 HEARING. I WENT TO THE LIBRARY, I GOT THE BOOKS, I LOOKED

1031

1 UP THE INFORMATION AND I GAVE THE LAWYER THE INFORMATION."
2 NOW, THAT IS THE ONLY EVIDENCE THAT IS PRESENT IN THIS CASE.

3 NOW, MR. BARENS HAS SAID "WELL, I HAVE THIS
4 CONTENTION," BUT THAT'S NOT BASED ON ANY EVIDENCE IN THE
5 CASE. THERE'S NO FACTS BEFORE THE COURT THAT INDICATE
6 THAT -- AS THE COURT HAS POINTED OUT -- ONE, AN
7 ATTORNEY-CLIENT PRIVILEGE EXISTED, AND TWO, IF IT DID, THAT
8 MR. DICKER HAD ANY INFORMATION FROM THE CLIENT.

9 MR. BARENS: WELL, HE'S BEEN TESTIFYING ABOUT
10 INFORMATION FROM THE CLIENT ALL DAY YESTERDAY. NOW, WHAT WE
11 DON'T HEAR ALL DAY YESTERDAY IS THAT WHEN WE ARE HEARING
12 ADMISSIONS ATTRIBUTED TO MY CLIENT DURING THIS PERIOD OF
13 TIME THAT HE'S NOT JUST TALKING TO SOMEONE IN THE OFFICE,
14 HE'S TALKING TO THE LAW CLERK FOR HIS IN-HOUSE COUNSEL AS IT
15 TURNS OUT.

16 MR. WAPNER: WELL, I --

17 MR. TITUS: YOUR HONOR, MAY I SUGGEST WE TAKE A BRIEF
18 RECESS AND TAKE A LOOK AT THE STATUTES AND THEN COME BACK ON
19 THE RECORD AND --

20 THE COURT: WELL, I DON'T THINK THAT'S REALLY
21 NECESSARY. FIRST OF ALL, WHAT -- THE ATTORNEY-CLIENT
22 RELATIONSHIP IS A PROTECTION THAT THE LEGISLATURE HAS SET UP
23 WHERE SOMEBODY RETAINS AN ATTORNEY IN CONFIDENCE, AND
24 BECAUSE OF THEIR RELATIONSHIP RELATES SOME MATTERS. I DON'T
25 SEE HERE THAT SO FAR -- UNLESS I'VE MISUNDERSTOOD THIS --
26 THAT HE WAS AN ATTORNEY FOR MR. HUNT AT ANY PARTICULAR TIME,
27 NOR WAS THERE ANY INFORMATION INVOLVING ANY KIND OF
28 LITIGATION THAT MR. HUNT MIGHT HAVE BEEN IN THAT HE WOULD BY

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1 REASON OF A CONFIDENTIAL RELATIONSHIP COME INTO SPECIFIC
2 KNOWLEDGE.

3 MR. BARENS: WHAT THE --

4 THE COURT: WHAT APPEARED TO ME IS THAT THESE WERE
5 STATEMENTS THAT WERE MADE IN GENERAL AND NOT SPECIFICALLY
6 PERTAINING TO AN ATTORNEY-CLIENT RELATIONSHIP IF, IN FACT,
7 SUCH A RELATIONSHIP EXISTED.

8 MR. BARENS: WELL, WHAT HAPPENS HERE IS THAT
9 DURING -- WHAT HAPPENS HERE, YOUR HONOR, IS THAT DURING THE
10 RELEVANT TIME FRAME HUNT IS ARRESTED. HUNT IS RELEASED AND
11 ARRESTED AGAIN SEVERAL WEEKS LATER. DURING THOSE TWO DATES,
12 MR. DICKER FUNCTIONS AS A LAW CLERK TO MISS RABB WHO IS THEN
13 IN-HOUSE COUNSEL FOR MR. HUNT. THEY'RE ALL IN THE SAME
14 QUARTERS, THEY'RE ALL SEEING EACH OTHER EVERY DAY AND
15 THEY'RE ALL TALKING.

16 YESTERDAY DURING THIS RELEVANT TIME FRAME,
17 MR. DICKER, THE LAW CLERK NOW, TALKS ABOUT CERTAIN
18 ADMISSIONS MADE TO HIM BY MR. HUNT. NOW, HOW CAN, YOUR
19 HONOR, DISCRIMINATE WHEN HE'S TALKING TO THE LAW CLERK OR
20 JUST TALKING GENERALLY BECAUSE THE MATTERS OF WHICH MR. HUNT
21 SPEAKS AT THAT MOMENT IN TIME DIRECTLY FALL INTO THE MATTERS
22 WHICH MR. DICKER IS RESEARCHING RELATIVE TO BURDEN OF PROOF.

23 MR. WAPNER: WELL, YOUR HONOR, MAYBE I CAN SHORTCUT
24 THIS. FIRST OF ALL, AS I SAID BEFORE, MR. BARENS CONTINUES
25 TO PROVIDE -- MAKE STATEMENTS TO THE COURT THAT AREN'T BASED
26 ON THE EVIDENCE IN THE CASE. BUT SECOND OF ALL, THE -- NONE
27 OF THE STATEMENTS TO WHICH MR. DICKER TESTIFIED YESTERDAY
28 HAD ANYTHING TO DO WITH THE ATTORNEY -- ANY ATTORNEY-CLIENT

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1 RELATIONSHIP, IF IT EXISTED. AND AGAIN, MR. BARENS IS
2 ASSUMING FACTS THAT AREN'T BEFORE THIS COURT.

3 BUT SECOND OF ALL, JUST FOR THE SAKE OF
4 ARGUMENT -- THIS IS NOT TRUE AT ALL, BUT JUST FOR THE SAKE
5 OF ARGUMENT, LET'S SAY THAT THERE WAS AN ATTORNEY-CLIENT
6 PRIVILEGE. MR. DICKER SAYS "WELL, I WENT TO A MEETING ON
7 JUNE THE 24TH WHERE MR. HUNT SAYS 'OKAY. I DID AWAY WITH
8 RON LEVIN.'" HE ENUMERATED THAT THERE WERE APPROXIMATELY 10
9 PEOPLE AT THE MEETING WITHOUT COUNTING THEM EXACTLY. LET'S
10 ASSUME FOR THE SAKE OF ARGUMENT THAT THERE WAS SOME
11 ATTORNEY-CLIENT PRIVILEGE. WELL, CERTAINLY IF THERE WAS,
12 THAT WAS LONG WAIVED BY THEN.

13 ALSO, MR. BARENS KEEPS TALKING ABOUT THINGS
14 THAT AREN'T INTO EVIDENCE THAT HE WAS ARRESTED HERE AND HE
15 WAS ARRESTED THERE. THERE ARE NO -- WE DON'T HAVE -- I
16 THINK WE HAVE ONE DATE IN EVIDENCE WHEN HE WAS ARRESTED.
17 MR. ZOELLER MAY HAVE TESTIFIED ABOUT THE DATE THAT HE WAS
18 ARRESTED THE FIRST TIME. IN ANY EVENT, THAT WASN'T UNTIL
19 SEPTEMBER OF 1984. THAT WAS LONG AFTER MOST OF THE
20 CONVERSATIONS THAT MR. DICKER TESTIFIED TO ABOUT YESTERDAY.
21 THERE COULDN'T POSSIBLY HAVE BEEN AN ATTORNEY-CLIENT
22 RELATIONSHIP EXISTING PRIOR TO HIS ARREST, SO THIS WHOLE
23 THING IS KIND OF SPECIOUS.

24 MR. BARENS: WELL, YOUR HONOR, WE SUBMIT THAT, IN
25 FACT, THESE STATEMENTS MADE WERE MADE BY -- WHILE -- DURING
26 A PORTION OF TIME WHEN MR. DICKER WAS FUNCTIONING AS A LAW
27 CLERK OVER THERE AT THE BBC. AND I BELIEVE THAT THE
28 PROTECTION EXTENDS TO THOSE COMMUNICATIONS.

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1 THE COURT: BUT DO YOU BELIEVE THAT THERE'S A
2 PRIVILEGE IF HE ENUMERATES CERTAIN -- MAKES CERTAIN
3 STATEMENTS, AS MR. WAPNER HAS JUST SAID, BEFORE NINE OR TEN
4 PEOPLE IN ADDITION TO THIS WITNESS BEING THERE?

5 MR. BARENS: WELL, I HAVEN'T HEARD THESE NINE OR TEN
6 PEOPLE --

7 THE COURT: WELL, HE NAMED THE PEOPLE, AS I RECALL --

8 MR. BARENS: I HEARD HIM TESTIFY, YOUR HONOR.

9 THE COURT: -- AT THE TIME THAT THE STATEMENTS WERE
10 ALLEGEDLY MADE.

11 MR. BARENS: I'LL SUBMIT TO THE COURT THAT THERE
12 ISN'T A GREAT PROBABILITY THAT ANY PRIVILEGE WOULD BE WAIVED
13 FOR PURPOSES OF THAT COMMUNICATION; HOWEVER, THE WITNESS
14 TESTIFIES ABOUT SOME RAINCOAT BUSINESS YESTERDAY WHICH
15 CERTAINLY IS AFTER HIS BIRTHDAY AND LONG AFTER THE JUNE
16 CONFERENCE WHICH IS AT A TIME WHEN MR. HUNT IS IN A JEOPARDY
17 POSITION AND I BELIEVE THAT THIS RESEARCH ACTIVITY IS GOING
18 ON. CERTAINLY THOSE COMMENTS SHOULD BE PRIVILEGED. THOSE
19 WERE, AS I UNDERSTOOD THEM, GIVEN IN A ONE-ON-ONE CONTEXT.

20 THE COURT: WAS THERE ANY CONTEXT ON A ONE-ON-ONE
21 CONTEXT, MR. WAPNER, AS FAR AS --

22 MR. WAPNER: SURE. THERE WERE A COUPLE OF STATEMENTS
23 AFTER THE FACT. BUT AGAIN, THIS WHOLE ARGUMENT THAT THESE
24 WERE MADE AS PART OF AN ATTORNEY-CLIENT RELATIONSHIP IS
25 COMPLETELY SPECIOUS. THE WITNESS -- AND COUNSEL HASN'T
26 ESTABLISHED ANY FACTS. HE'S MADE -- HE ASKED THE WITNESS
27 ONE QUESTION TO WHICH HE GOT A NEGATIVE REPLY. THEN HE MADE
28 A STATEMENT, AND THE STATEMENTS OF COUNSEL ARE NOT EVIDENCE,

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1 AND FROM THE STATEMENT THAT HE MADE HE NOW WANTS TO
2 EXTRAPOLATE ALL THIS STUFF. THERE'S NO EVIDENCE ABOUT ANY
3 STATEMENTS BEING MADE DURING THE COURSE OF AN
4 ATTORNEY-CLIENT RELATIONSHIP. SO ALL THIS IS ALL SPECIOUS
5 AND CERTAINLY PREMATURE. IF HE THINKS HE CAN ESTABLISH IT,
6 THEN LET HIM TRY TO ESTABLISH IT, BUT HE CERTAINLY HASN'T
7 DONE SO YET.

8 MR. BARENS: WELL, I FEEL WE HAVE, YOUR HONOR, AND I
9 MAINTAIN MY OBJECTION.

10 THE COURT: ALL RIGHT. THE MOTION TO STRIKE THE
11 TESTIMONY ON THE GROUNDS THAT IT VIOLATES THE
12 ATTORNEY-CLIENT PRIVILEGE WILL BE DENIED AT THIS TIME.

13 MR. BARENS: THANK YOU, YOUR HONOR.

14 Q NOW, MR. DICKER, YOU MET ABOUT THE OFFICE WITH
15 THE OFFICER ZOELLER ON A SECOND OCCASION, YOU SAY, PRIOR TO
16 YESTERDAY?

17 A YES, I DID.

18 Q AND THERE WAS ONLY A TOTAL OF THREE OCCASIONS
19 YOU MET WITH HIM.

20 A I THINK HE ALSO GAVE ME A TRAFFIC TICKET A FEW
21 YEARS BACK.

22 Q WELL, WE WON'T HOLD THAT AGAINST YOU. OTHER
23 THAN THAT RELATIVE TO THESE PROCEEDINGS?

24 A I THINK THERE WAS ONLY ONE OTHER TIME WITH THE
25 EXCEPTION OF THE MEETING AT THE WILSHIRE-MANNING PRIOR TO ME
26 MEETING WITH HIM -- EXCUSE ME. TWO OTHER TIMES.

27 Q WHAT WOULD BE THE SECOND OCCASION? NOW, BY
28 THAT, I MEAN THE FIRST OCCASION SUBSEQUENT TO THE

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1 WILSHIRE-MANNING MEETING.

2 A THAT WOULD BE IN MY ATTORNEY'S OFFICE.

3 Q AND WHEN WAS THAT?

4 A I BELIEVE IN THE END OF NOVEMBER, BEGINNING THE
5 OF DECEMBER OF LAST YEAR.

6 Q WHY AT THAT POINT IN TIME? YOU REQUESTED THAT
7 MEETING, DIDN'T YOU?

8 A YES, I DID.

9 Q WHY?

10 A I WANTED TO MAKE STATEMENTS ABOUT THOSE THINGS
11 THAT I KNEW.

12 Q WHY AT THAT POINT IN TIME DID YOU DECIDE TO
13 COME FORWARD?

14 A I HAD BEEN HAVING SOME DISCUSSIONS WITH DEAN
15 KARNY ABOUT WHAT WE FELT WAS THE PROPER THING TO DO AND WE
16 FELT THAT WAS THE PROPER THING TO DO.

17 Q WELL, HADN'T YOU BEEN CONTACTED BY OSCAR
18 BRIELING PRIOR TO YOUR SECOND MEETING WITH LES ZOELLER?

19 A I HAD BEEN CONTACTED WITH OSCAR BRIELING THE
20 EVENING THAT I CONTACTED MY ATTORNEY TO MAKE -- TO CONTACT
21 OSCAR -- IT WAS JUST A CONFUSION OF TIMES.

22 Q WELL, WHAT HAPPENED FIRST? DID YOU FIRST --

23 A I CONTACTED MY ATTORNEY -- WELL, FIRST I SPOKE
24 WITH MY BROTHER ABOUT THE WHOLE MATTER. HE RECOMMENDED THAT
25 I GET A CRIMINAL ATTORNEY. HE THROUGH --

26 Q GOOD IDEA.

27 A HE THROUGH A FRIEND OF HIS RECOMMENDED MY
28 ATTORNEY, AND THAT EVENING I WAS CONTACTED BY OSCAR

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1 BRIELING.

2 Q BEFORE YOU SAW THE LAWYER.

3 A AFTER I SAW THE LAWYER.

4 Q NOW YOU -- YOU'RE CONTACTED BY BRIELING AND
5 WHEN BRIELING CONTACTS YOU, YOU TELL HIM -- WHAT DO YOU TELL
6 HIM AT THAT POINT?

7 A AT THAT POINT IN TIME WE SET UP A MEETING. I
8 WAS MISTAKEN EARLIER. I'M NOT POSITIVE WHETHER I DISCUSSED
9 THESE MATTERS WITH BRIELING. I KNOW MY MAIN DISCUSSION WITH
10 HIM WAS WITH REGARD TO THE NOTARY OF HEDAYAT ESLAMINIA.

11 Q WELL, NONETHELESS, AFTER YOU'RE CONTACTED BY
12 BRIELING -- THAT'S THE SAME GUY YOU DISCUSSED IMMUNITY WITH,
13 RIGHT?

14 A IN REGARDS TO THE NOTARIZATION, YES.

15 Q IT'S ONLY AFTER THAT THAT YOU HAVE YOUR SECOND
16 MEETING WITH ZOELLER.

17 A I HAD REQUESTED FROM MY ATTORNEY INITIALLY
18 BEFORE SPEAKING WITH OSCAR BRIELING THAT HE CONTACT BOTH THE
19 AUTHORITIES DOWN HERE AND IN -- UP NORTH.

20 Q LISTEN, MR. DICKER, IN TRUTH NOW, YOU HAD
21 TALKED TO MR. BRIELING BEFORE YOUR SECOND INTERVIEW WITH
22 MR. ZOELLER. IS THAT TRUE OR IS THAT NOT TRUE, SIR?

23 A IT IS TRUE.

24 Q ALL RIGHT. NOW, THAT'S THE SAME GUY YOU
25 DISCUSSED IMMUNITY WITH, IS THAT TRUE?

26 A IN REGARDS TO A NOTARIZATION, YES.

27 Q AND IT'S ONLY AFTER THAT THAT YOU MEET WITH
28 ZOELLER. NOW TELL THEM THE TRUTH. ISN'T THAT TRUE? WHAT

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1 YOU CLAIM TO BE THE TRUTH?

2 A YES.

3 Q NOW, ALL RIGHT. NOW, IS IT -- WHEN DO YOU TELL
4 YOUR NEW STORY TO LIEUTENANT ZOELLER?

5 A AT THE SECOND MEETING AT MY ATTORNEY'S OFFICE.

6 Q NOW, I ASSUME THAT THAT STORY PROBABLY SOUNDS
7 SOMETHING LIKE THE STORY YOU TOLD US YESTERDAY.

8 A YES.

9 Q AND DID YOU HAVE A THIRD MEETING WITH
10 LIEUTENANT ZOELLER?

11 A YES, I DID.

12 Q WHEN WAS THAT?

13 A APPROXIMATELY THREE WEEKS AGO.

14 Q AND WHY DID YOU MEET WITH HIM THREE WEEKS AGO?

15 A I MET WITH -- JUST BASICALLY JUST HE ASKED ME
16 TO COME IN AND TALK TO HIM.

17 Q DO YOU KNOW WHY?

18 A NO. I GUESS I ALSO MET AT THAT POINT IN TIME
19 WITH THE DISTRICT ATTORNEY.

20 Q AND DID YOU TELL YOUR STORY AGAIN?

21 A YES.

22 Q AND WAS -- NOW WHICH OF YOUR FIRST TWO STORIES
23 WAS YOUR THIRD STORY MORE LIKE?

24 MR. WAPNER: OBJECTION. CALLS FOR A CONCLUSION ON
25 THE PART OF THIS WITNESS --

26 MR. BARENS: HE KNOWS --

27 MR. WAPNER: -- IT'S ALSO VAGUE --

28 MR. BARENS: -- IT CALLS FOR FACTS --

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1 MR. WAPNER: IT'S A CONCLUSION, YOUR HONOR, AND IT'S
2 ALSO VAGUE AND ASKING HIM TO COMPARE ONE AGAINST THE OTHER,
3 AND IT'S --

4 MR. BARENS: WELL, NOW --

5 MR. WAPNER: EXCUSE ME, COUNSEL. I QUESTION THE
6 RELEVANCE --

7 THE COURT: ALL RIGHT. WE'RE GETTING INTO A QUESTION
8 OF FORM HERE.

9 MR. WAPNER: IT'S ALSO ARGUMENTATIVE.

10 THE COURT: THERE WERE TWO PREVIOUS STATEMENTS MADE.
11 DO YOU WANT TO ASK HIM WHAT HIS STATEMENT WAS ON THE THIRD
12 OCCASION?

13 MR. BARENS: NO. WHAT I'M LOOKING FOR, YOUR HONOR,
14 ONE TIME HE TESTIFIED THAT HE SAID HUNT SAYS, YOU KNOW, HUNT
15 NEVER KILLED HIM, AND YOU KNOW, HE DIDN'T KNOW ANYTHING
16 ABOUT IT --

17 THE COURT: THAT'S THE FIRST OCCASION.

18 MR. BARENS: THAT'S STORY NUMBER ONE.

19 THE COURT: ALL RIGHT.

20 MR. BARENS: THEN WE GET STORY NUMBER TWO AND THAT'S,
21 YOU KNOW, THE STORY HE SAID IS MORE LIKE YESTERDAY'S STORY.

22 THE COURT: NOW, YOU'RE --

23 MR. BARENS: NOW, I'M ASKING TO SEE,

24 THE COURT: YOU'RE ASKING WHAT THE THIRD ONE IS LIKE
25 NOW? IS THAT WHAT YOU'RE ASKING OR -- WHY DON'T YOU ASK HIM
26 WHAT THE THIRD ONE WAS.

27 MR. BARENS: BECAUSE I DON'T CHOOSE TO, YOUR HONOR.
28 WHAT I CHOOSE TO DO --

1010

1 THE COURT: WELL, IF HE UNDERSTANDS THE QUESTION,
2 I'LL PERMIT HIM TO ANSWER, BUT I THINK THE QUESTION IS
3 RATHER A VAGUE QUESTION FOR A WITNESS, "WHICH IS IT MORE
4 LIKE".

5 MR. BARENS: WELL --

6 THE WITNESS: MAY I SAY THAT THE STATEMENT THAT I
7 MADE ON THE THIRD OCCASION WAS VERY SIMILAR TO WHAT I
8 TESTIFIED TO YESTERDAY.

9 Q BY MR. BARENS: WAS IT. WAS IT INDEED. DID IT
10 ADDRESS ANYTHING TO WHAT YOU TOLD THOSE GENTLEMEN ON THE
11 SECOND OCCASION?

12 MR. WAPNER: AGAIN, OBJECTION AS VAGUE AND AS TO
13 RELEVANCE BECAUSE IF HE ANSWERS THE QUESTION, THEN WHAT DOES
14 THAT TELL US? DID IT ADD ANYTHING? HE'S NOT ASKING WHAT
15 THE STATEMENT IS OR WHAT IT --

16 MR. BARENS: WE'LL GET TO THAT --

17 MR. WAPNER: OR WHETHER OR NOT --

18 THE COURT: HE CAN ANSWER YES OR NO WHETHER HE ADD --
19 HE'S ASKING FOR ADDITIONAL INFORMATION. IS THAT WHAT YOU'RE
20 ASKING? OVER AND ABOVE --

21 MR. BARENS: WHAT I'M TRYING TO FIND OUT, YOUR HONOR,
22 IS WHETHER I HAVE TWO STORIES OR WHETHER I HAVE THREE, AND
23 IF I HAVE THREE I MAY GET INTO THE THIRD VERSION.

24 THE COURT: ALL RIGHT. THE QUESTION WAS DID YOU ADD
25 ANYTHING. IS THAT YOUR QUESTION?

26 MR. BARENS: YES.

27 THE COURT: DID HE ADD ANYTHING ON THE THIRD
28 OCCASION?

1011

1 MR. BARENS: YES.

2 THE COURT: TO THE BEST OF YOUR KNOWLEDGE.

3 THE WITNESS: I DO NOT BELIEVE SO.

4 Q BY MR. BARENS: DID YOU TAKE ANYTHING AWAY?

5 A NO.

6 Q SO YOUR SAYING THAT, ESSENTIALLY, I SUPPOSE
7 THAT THE SECOND AND THIRD STORIES YOU TOLD WERE THE SAME.

8 A AS TO THE MEETING THEY WERE IDENTICAL TO WHAT
9 HAPPENED AT THE MEETING. I'M TRYING TO RECALL IF WHEN I
10 INITIALLY -- WHEN I MET WITH DETECTIVE ZOELLER FOR THE
11 SECOND TIME WHETHER OR NOT I RECALLED ALL OF THE OTHER --
12 ALL OF THE OTHER STATEMENTS THAT MR. HUNT HAD MADE TO ME.

13 Q DID YOU HAVE ANY DISCUSSIONS WITH ANY OTHER
14 POLICE PERSONNEL RELATIVE TO RON LEVIN AFTER JUNE OF 1984?

15 A THERE WERE OTHER DETECTIVES ON THE DAY OF THE
16 SEARCH WARRANT WHO -- AND I DON'T BELIEVE ANY OF THEM ASKED
17 ME ANY QUESTIONS DIRECTLY ABOUT RON LEVIN, AND DETECTIVE
18 ZOELLER WAS ACCOMPANIED BY ANOTHER DETECTIVE ON THE SECOND
19 MEETING IN MY ATTORNEY'S OFFICE.

20 Q ISN'T IT TRUE THAT ASIDE FROM DETECTIVE ZOELLER
21 THAT YOU TOLD OTHER PERSONS THAT YOU DIDN'T KNOW ANYTHING
22 ABOUT THE DISAPPEARANCE OF RON LEVIN?

23 MR. WAPNER: OBJECTION. VAGUE AS TO TIME, YOUR
24 HONOR.

25 MR. BARENS: DURING JUNE OF 1984.

26 THE WITNESS: DURING JUNE OF 1984, I DON'T BELIEVE I
27 MADE ANY STATEMENTS TO ANYBODY ABOUT --

28 Q BY MR. BARENS: I MISSPOKE MYSELF, MR. DICKER.

1012

1 HOW ABOUT JULY OF 1984.

2 A I WOULD SAY I PROBABLY DID, YES.

3 Q AND WHO ELSE DID YOU TELL THAT YOU DIDN'T KNOW
4 ANYTHING ABOUT THE DISAPPEARANCE OF RON LEVIN?

5 A PROBABLY ANYBODY WHO ASKED ME WITH THE
6 EXCEPTION OF THOSE PEOPLE AT THE MEETING.

7 Q WELL, GIVE ME A COUPLE OF NAMES, MR. DICKER.
8 WHO ELSE DID YOU TELL THIS STORY?

9 A DURING JULY OF 1984, I CAN REMEMBER NO NAMES.

10 Q HOW ABOUT AUGUST?

11 MR. WAPNER: IT ASSUMES A FACT NOT IN EVIDENCE THAT
12 HE IN, IN FACT, TOLD --

13 MR. BARENS: HE JUST SAID THAT HE DID THAT.

14 THE COURT: ALL RIGHT. THE OBJECTION WILL BE
15 OVERRULED. IF HE REMEMBERS. HE JUST SAID IN JULY HE
16 DOESN'T REMEMBER.

17 MR. BARENS: NOW I ASKED HIM ABOUT AUGUST.

18 THE COURT: NOW YOU'RE ASKING HIM ABOUT AUGUST.

19 THE WITNESS: THAT I KNEW NOTHING ABOUT THE
20 DISAPPEARANCE OF RON LEVIN?

21 Q BY MR. BARENS: YES, SIR.

22 A I DON'T RECALL ANY NAMES OF PEOPLE I MADE
23 STATEMENTS TO.

24 Q HOW ABOUT IN SEPTEMBER?

25 A IN SEPTEMBER, NO.

26 Q WELL, NOW, I ASK YOU AGAIN, DID YOU TELL ANYONE
27 ASIDE FROM LIEUTENANT ZOELLER THAT YOU DIDN'T KNOW ANYTHING
28 ABOUT THE DISAPPEARANCE OF RON LEVIN?

1013

1 A I BELIEVE MAKING STATEMENTS ABOUT RON LEVIN,
2 AND I DON'T RECALL WHO -- I KNOW THAT DURING THAT ENTIRE
3 PERIOD OF TIME I COULD COME UP WITH A FEW NAMES OF FRIENDS
4 AND ACQUAINTANCES AND PARENTS.

5 Q GO AHEAD.

6 A MY MOTHER.

7 Q WELL -- WHO ELSE?

8 A MY BROTHER. A GIRL NAMED LAURIE MARK.

9 Q HOW DO YOU SPELL HER LAST NAME?

10 A M-A-R-K.

11 Q WHO IS SHE?

12 A SHE'S JUST A FRIEND.

13 Q WHO ELSE?

14 A GINA COOK.

15 Q WHO'S SHE?

16 A ALSO A FRIEND.

17 Q UM-HMM.

18 A SETH MARSHALL.

19 Q WHO'S THAT?

20 A ALSO A FRIEND.

21 Q HAVE ANYTHING TO DO WITH BBC?

22 A NONE OF THESE PEOPLE HAD ANYTHING TO DO WITH
23 BBC EXCEPT KNOWING THE PEOPLE.

24 Q AND WHO ELSE?

25 A JEFF GRASK, ALSO A FRIEND. JEFF KRAUSMAN, ALSO
26 A FRIEND. THOSE ARE ALL THE NAMES I RECALL RIGHT NOW.

27 Q NOW, YOU WENT AROUND AND TOLD ALL THESE PEOPLE
28 THAT YOU DIDN'T KNOW ANYTHING ABOUT THE DEATH OF RON LEVIN.

1011

1 WHY DID YOU DO THAT?

2 MR. WAPNER: OBJECTION. ASSUMES A FACT NOT IN
3 EVIDENCE THAT HE WENT AROUND AND ASKED ALL THESE PEOPLE.
4 THE INNUENDO IS THAT HE SPENT THE WHOLE MONTH GOING AROUND
5 FROM PERSON TO PERSON TELLING THESE PEOPLE.

6 MR. BARENS: WELL, I KNOW HE AT LEAST SPENT PART OF
7 THE MONTH DOING IT.

8 THE COURT: WELL, HE TOLD THESE PEOPLE. HE TOLD
9 THESE PEOPLE ABOUT IT. NOW, WHAT'S THE OBJECTION? TO THE
10 FORM OF THE QUESTION?

11 MR. WAPNER: THAT IT'S ARGUMENTATIVE AND ASSUMES
12 FACTS NOT IN EVIDENCE THAT HE WENT AROUND AND TOLD ALL THESE
13 PEOPLE AS IF HE --

14 MR. BARENS: WELL, ALL RIGHT.

15 THE COURT: WELL, HE SAID HE WENT AROUND AND TOLD
16 THEM.

17 MR. WAPNER: HE DIDN'T SAY THAT. HE SAID WHO HE
18 TOLD. WHETHER IT CAME UP IN CONVERSATION, WHEN HE WAS WITH
19 THESE PEOPLE --

20 THE COURT: IT'S BASICALLY THE SEMANTICS? BASICALLY?

21 MR. WAPNER: BASICALLY, YES. THE INNUENDO SUGGESTED
22 BY THE QUESTION.

23 THE COURT: ALL RIGHT. HE CAN ANSWER THAT QUESTION.
24 WHY HE TOLD THEM.

25 Q BY MR. BARENS: WHY DID YOU TELL THESE PEOPLE
26 THAT?

27 A AGAIN, I WAS SCARED.

28 Q BECAUSE OF WHAT JOE WOULD DO?

1945

1 A BECAUSE AFTER THE MAYS DISAPPEARED I HEARD
2 STATEMENTS ABOUT WHAT HE WAS GOING TO DO TO THE MAYS.

3 Q THE MAYS LEFT?

4 A I USED "DISAPPEARED" AS NOT AROUND.

5 Q EXCUSE ME, SIR. LEVIN ISN'T AROUND EITHER. IS
6 THERE SOME DIFFERENCE?

7 A YEAH. THE MAYS ARE BACK.

8 Q THEY ARE? IT MAY ONLY BE A TEMPORARY
9 CONDITION FOR LEVIN AS WELL, BUT NONETHELESS --

10 MR. WAPNER: WELL, NOT AS LONG AS --

11 Q BY MR. BARENS: YOU WENT AND TOLD THESE
12 PEOPLE -- YOU LIED TO ALL THESE PEOPLE, AND I WANT TO KNOW
13 WHY YOU LIED TO ALL THESE PERSONAL FRIENDS YOURSELF.
14 THEY'RE NOT INVOLVED WITH BBC. THEY DON'T SEEM TO BE IN THE
15 SAME CAPACITY AS LIEUTENANT ZOELLER. THEY CAN'T GIVE YOU
16 IMMUNITY LIKE BRIELING CAN. WHY DO YOU LIE TO ALL THESE
17 PEOPLE?

18 MR. WAPNER: OBJECTION. ARGUMENTATIVE AND COMPOUND.
19 IT'S CERTAINLY ARGUMENTATIVE --

20 THE COURT: I BELIEVE HE SAID THAT, MR. BARENS. HE
21 SAID HE WAS SCARED OR SOMETHING OF THAT NATURE. WHAT ARE
22 YOU SPECIFICALLY ASK HIM NOW?

23 MR. BARENS: WHAT I CAN'T RELATE, YOUR HONOR, IS THAT
24 THESE PEOPLE HAVE NOTHING TO DO OSTENSIBLY WITH BBC OR THE
25 POLICE OR ANYTHING. WHY IS HE LYING TO THESE PEOPLE?

26 MR. WAPNER: WELL, HE ANSWERED THAT QUESTION.

27 THE COURT: HE'S ANSWERED THAT ALREADY, MR. BARENS,
28 HAS HE NOT?

1016

1 MR. BARENS: WELL, RELATIVE --

2 Q DID THESE PEOPLE ALL KNOW MR. HUNT?

3 A WITH THE EXCEPTION OF MY MOTHER AND MY BROTHER,
4 I BELIEVE SO.

5 Q AND DID THESE PEOPLE ASK YOU WHAT HAPPENED TO
6 RON LEVIN?

7 A THEY -- AFTER JOE WAS INITIALLY ARRESTED FOR --
8 AND THERE HAD ALSO BEEN SOME RUMORS RUNNING AROUND -- IN
9 MOST CASES THEY ALL CALLED ME UP AND ASKED ME DID JOE MURDER
10 RON LEVIN.

11 Q AND YOU LIED TO THEM.

12 A YES, I LIED TO THEM.

13 Q AND NOW MR. HUNT HAD BEEN ARRESTED THE SECOND
14 TIME BEFORE YOUR SECOND MEETING WITH ZOELLER.

15 A YES.

16 Q SO BEFORE YOU CHANGED YOUR STORY WITH ZOELLER,
17 HUNT WAS ALREADY IN CUSTODY THE SECOND TIME.

18 A YES.

19 Q YOU WERE NO LONGER HIS LAW CLERK AT THAT TIME?

20 A I -- THE ONLY TIME I EVER ACTED OFFICIALLY IN
21 THE CAPACITY AS HIS LAW CLERK IN REGARDS TO THIS MATTER, OR
22 AT LEAST CONSIDERED MYSELF TO BE DOING THAT, WAS I GUESS THE
23 SUNDAY THAT HE WAS ARRESTED. THE FIRST WEEK THAT HE WAS
24 ARRESTED WAS THE ONLY TIME AT THE DIRECTION OF EITHER HE OR
25 LAUREN RABB I DID ANY WORK IN REGARDS TO THIS CASE.

26 Q WHEN WAS THE LAST TIME YOU TALKED TO OSCAR
27 BRIELING?

28 A I THINK IT WAS A COUPLE WEEKS AGO.

1017

1 Q HOW MANY TIMES HAVE YOU SPOKEN TO HIM?

2 A TWICE.

3 Q WHEN WAS THAT?

4 A THE FIRST TIME WAS IN MY ATTORNEY'S OFFICE, AND
5 THE SECOND -- AND I MAY HAVE SPOKEN TO HIM ON A PREVIOUS
6 OCCASION IN REGARDS TO THE ESLAMINIA CONSERVATORSHIP, SO IT
7 MAY HAVE BEEN THREE TIMES.

8 Q WHEN WAS THE THIRD TIME?

9 A TWO WEEKS AGO.

10 Q WHO WAS PRESENT?

11 A IT WAS ON THE TELEPHONE.

12 Q AND WHY DID YOU SPEAK ON THAT OCCASION?

13 A I HAD BEEN RECEIVING BEN DOSTI'S MAIL AND I
14 RECEIVED A NOTICE OF A SUBPOENA IN REGARDS TO HIS AMERICAN
15 EXPRESS RECORDS AND IT WAS FROM THE ATTORNEY GENERAL'S
16 OFFICE, SO I JUST CALLED HIM TO TELL HIM.

17 Q TO ADVISE HIM ABOUT ALL THAT STUFF?

18 A WELL, HE KNEW. HE WAS THE ONE WHO SUBPOENAED
19 THE RECORDS.

20 Q AND WHAT DID YOU -- WHY DID YOU CALL HIM?

21 A I JUST WANTED TO LET -- WANTED TO LET -- I
22 DIDN'T WANT TO BE HIDING ANY EVIDENCE, SO I JUST WANTED TO
23 LET HIM KNOW THAT I HAD THE RECORDS, THAT I HAD THE BILLS.

24 Q YOU WANTED TO COOPERATE WITH HIM.

25 A I DON'T WANT TO BE -- I DON'T WANT TO COMMIT
26 ANY FELONIES OR THINGS I PERCEIVE TO BE FELONIES.

27 Q ANYMORE. WELL, NOW --

28 MR. WAPNER: OBJECTION. ARGUMENTATIVE, YOUR HONOR.

1018

1 MR. BARENS: NOTHING FURTHER NOW, YOUR HONOR.

2 THE COURT: ALL RIGHT. THE OBJECTION WILL BE
3 SUSTAINED.

4 MR. WAPNER: THANK YOU.

5 THE COURT: DO YOU WANT ANY REDIRECT?

6 MR. WAPNER: JUST VERY BRIEFLY.

7

8

REDIRECT EXAMINATION

9

BY MR. WAPNER:

10 Q THE IMMUNITY THAT YOU GOT FROM MR. BRIELING,
11 WHAT WAS THAT IN REGARD TO?

12 A IN REGARD TO THE NOTARIZATION, AND IT WAS NOT
13 REALLY -- IT WASN'T -- IT WAS USED THE WORD "IMMUNITY", BUT
14 THERE WERE NEVER -- I NEVER UNDERSTOOD THAT THERE WOULD BE
15 ANY FURTHER ACTION, JUST ACTION IN REGARDS TO ANY
16 PROSECUTION, IN THAT REGARD.

17 Q BUT YOU NEVER GOT PAPERS SIGNED BY A SUPERIOR
18 COURT JUDGE SAYING "YOU'RE HEREBY GRANTED IMMUNITY IN THIS
19 CASE"?

20 A NO.

21 Q AND THAT WAS FOR SIGNING -- OR NOTARIZING SOME
22 PAPERS THAT HAD TO DO WITH THE ESLAMINIA CASE?

23 A YES.

24 MR. WAPNER: THANK YOU. I HAVE NOTHING FURTHER.

25 THE COURT: ANYTHING FURTHER?

26 MR. BARENS: NOTHING FURTHER AT THIS TIME.

27 THE COURT: MAY THIS WITNESS BE EXCUSED?

28 MR. BARENS: NO OBJECTION.

1019

1 MR. WAPNER: I HAVE NO OBJECTION.

2 THE COURT: ALL RIGHT. THANK YOU VERY MUCH.

3 MR. BARENS: CAN WE TAKE FIVE MINUTES, YOUR HONOR?

4 THE COURT: WELL, DO YOU WANT TO PUT THE NEXT WITNESS
5 ON OR DO YOU WANT TO TAKE THE LUNCHEON BREAK AT THIS TIME?
6 IT'S NOW 20 MINUTES TO 12:00. YOU'RE ASKING FOR A FIVE
7 MINUTE BREAK?

8 MR. BARENS: ALL I'M ASKING FOR IS FIVE MINUTES.

9 THE COURT: IF WE TAKE A FIVE MINUTE BREAK WE'LL RUN
10 INTO THE NOON HOUR.

11 MR. BARENS: I DON'T CARE IF WE GO PAST 12:00. I
12 PERSONALLY DO NOT CARE IN AN ATTEMPT TO CONCLUDE THIS
13 WITNESS TO GO PASS 12:00.

14 MR. WAPNER: WE WON'T FINISH THE WITNESS BY NOON.

15 MR. BARENS: DO YOU HAVE A TIME ESTIMATE ON HIM?

16 MR. WAPNER: WELL, I CAN'T PREDICT THE

17 CROSS-EXAMINATION --

18 MR. BARENS: WELL, HOW LONG --

19 MR. WAPNER: I THINK NO LONGER THAN 15 MINUTES OR
20 SHORTER.

21 THE COURT: COULD WE DO THIS --

22 MR. WAPNER: I'D PREFER NOT TO START THE DIRECT AND
23 THEN BREAK AND --

24 THE COURT: COULD WE DO THIS, COUNSEL. IF WE TAKE
25 THE LUNCHEON BREAK NOW AND WE START AT 1:30 OR 1:15, WHICH
26 WOULD GIVE YOU THE SAME --

27 MR. WAPNER: 1:30 IS FINE.

28 THE COURT: WOULD THAT BE SATISFACTORY?

1050

1 MR. BARENS: 1:30 IS FINE, YOUR HONOR.

2 THE COURT: ALL RIGHT. WE'LL TAKE A NOON RECESS AT
3 THIS TIME AND RESUME IN THE HEARING AT 1:30 THIS AFTERNOON.

4 (AT 11:40, A RECESS WAS TAKEN UNTIL 1:45 P.M. OF THE
5 SAME DAY.)

6 THE COURT: ALL RIGHT. IN THE MATTER OF JOE HUNT.
7 LET THE RECORD SHOW THAT MR. HUNT IS PRESENT WITH HIS
8 COUNSEL, MR. BARENS AND MR. TITUS; THAT THE PEOPLE ARE
9 PRESENT REPRESENTED BY MR. WAPNER.

10 ARE YOU READY TO PROCEED AT THIS TIME, MR. WAPNER?

11 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY
12 YOU SHALL GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT
13 SHALL BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE
14 TRUTH, SO HELP YOU GOD.

15 THE WITNESS: I DO.

16

17

TOM FRANK MAY,

18

19 CALLED AS A WITNESS BY THE PEOPLE, HAVING BEEN FIRST DULY
20 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

20

21

21 THE CLERK: WOULD YOU PLEASE STATE YOUR FULL NAME AND
22 SPELL YOUR LAST NAME FOR THE RECORD.

22

22 THE WITNESS: TOM FRANK MAY, M-A-Y.

23

23 THE CLERK: THANK YOU.

24

25

DIRECT EXAMINATION

26

26 BY MR. WAPNER:

27

27 Q MR. MAY, DO YOU KNOW THE DEFENDANT IN THIS

28

28 CASE?

12

1051

1 A YES, I DO.

2 Q AND WHEN DID YOU FIRST MEET HIM?

3 A BACK IN HIGH SCHOOL.

4 Q WHEN DID YOU GRADUATE FROM HIGH SCHOOL?

5 A 1977.

6 Q AND DID YOU -- WAS THERE A PERIOD OF TIME AFTER
7 YOU LEFT HIGH SCHOOL WHERE YOU DIDN'T SEE THE DEFENDANT?

8 A YES, THERE WAS.

9 Q WHEN DID YOU NEXT SEE HIM AFTER YOU GRADUATED
10 FROM HIGH SCHOOL?

11 A ON OR ABOUT AUGUST OF '83. I MEAN APRIL OF
12 '83.

13 Q OKAY, AND DID YOU HAVE -- DID YOU BECOME
14 FRIENDLY WITH HIM AT THAT TIME?

15 A YES, WE DID.

16 Q DID YOU BECOME A MEMBER OF A GROUP THAT CAME TO
17 BE KNOWN AS THE BBC?

18 A YES.

19 Q AND DID YOU HAVE AN OFFICE IN THE OFFICES OF
20 THE BBC?

21 A I SHARED AN OFFICE.

22 Q AND WHAT WAS THE ADDRESS OF THE OFFICES?

23 A 8425 -- OR IS IT 8524 WEST 3RD STREET. LOS
24 ANGELES, CALIFORNIA.

25 Q AND DURING THE TIME THAT YOU WERE IN THOSE
26 OFFICES, DID YOU HAVE SOME DISCUSSIONS WITH THE DEFENDANT,
27 MR. HUNT, ABOUT HIS DEALINGS WITH A PERSON NAMED RON LEVIN.

28 MR. BARENS: AT WHAT POINT IN TIME ARE WE?

1052

1 MR. WAPNER: I 'LL GET THERE.

2 MR. BARENS: IF YOU COULD.

3 THE WITNESS: YES.

4 Q BY MR. WAPNER: ALL RIGHT. AND SPECIFICALLY --
5 AND I 'LL ASK YOU ABOUT THE TIME FRAME IN THE NEXT
6 QUESTION -- I 'M REFERRING TO DISCUSSIONS ABOUT MR. HUNT 'S
7 DEALINGS WITH MR. LEVIN REGARDING TRADING COMMODITIES. DO
8 YOU UNDERSTAND WHAT I 'M TALKING ABOUT?

9 A YES.

10 Q OKAY, AND WHEN WAS THE FIRST TIME THAT YOU
11 TALKED TO MR. -- OR YOU RECALL MR. HUNT TALKING TO YOU ABOUT
12 THAT?

13 A AROUND SEPTEMBER OF 1983.

14 MR. BARENS: I 'M GOING TO OBJECT TO THAT, YOUR HONOR,
15 AS IRRELEVANT. A DISCUSSION IN SEPTEMBER IS WAY BEYOND --
16 IT WOULD BE PRIOR TO WHAT WE ARE BEFORE THE COURT ON IN THIS
17 MATTER, AND ALSO THE COMMODITIES I FEEL IS IRRELEVANT.

18 THE COURT: THE OBJECTION WILL BE OVERRULED.

19 MR. WAPNER: THANK YOU.

20 THE COURT: AS TO RELEVANCY.

21 MR. WAPNER: THANK YOU.

22 Q AND WHAT IS IT THAT MR. HUNT TOLD YOU?

23 MR. BARENS: OBJECTION AS TO HEARSAY, JUST FOR THE
24 RECORD, YOUR HONOR, RELATIVE NOW TO BOTH RELEVANCY, AND IT 'S
25 HEARSAY. AND CERTAINLY WE 'RE NOT TALKING ABOUT ANY
26 ADMISSIONS, ALTHOUGH I THINK WE HAVE GONE THROUGH AND HAVE
27 THE COURT 'S VIEW ON THAT.

28 MR. WAPNER: WELL, AT THIS POINT I DON 'T THINK THAT

1052

1 THIS TESTIMONY IS HEARSAY. IT'S NOT OFFERED TO PROVE THAT
2 NECESSARILY THAT THESE THINGS THAT HE'S TALKING ABOUT
3 HAPPENED, BUT CERTAINLY THAT HE BELIEVED THAT THEY WERE
4 HAPPENING, AND IT'S TO PROVE THE DISCUSSIONS THAT HE
5 ACTUALLY HAD WITH MR. LEVIN.

6 MR. BARENS: WELL, WHAT'S THE RELEVANCY OF HIS
7 BELIEF?

8 MR. WAPNER: IT GOES TO MOTIVE.

9 MR. BARENS: WHOSE MOTIVE.

10 MR. WAPNER: YOUR CLIENT'S MOTIVE FOR KILLING HIM, IF
11 HE DID. MR. LEVIN.

12 MR. BARENS: I DON'T UNDERSTAND WHAT HE'S MEANING --
13 I DON'T UNDERSTAND WHAT THIS CLIENT -- WHAT THIS WITNESS'S
14 DISCUSSIONS ABOUT COMMODITIES TRADING HAVE TO DO WITH
15 ANYTHING.

16 THE COURT: WELL, IF IT'S GOING TO MOTIVE, IF
17 SUBSEQUENT EVIDENCE WOULD INDICATE THAT PERHAPS THERE WAS A
18 MOTIVE THAT HAD SOMETHING TO DO WITH THE COMMODITY TRADING,
19 THEN IT CERTAINLY WOULD BE RELEVANT. OBJECTION WILL BE
20 OVERRULED.

21 MR. WAPNER: THANK YOU.

22 Q WHAT WAS IT THAT THE DEFENDANT HAD TOLD YOU?

23 A THAT HE HAD -- PRIOR TO SEPTEMBER HE HAD BEEN
24 TRADING ONGOING AT CLAYTON SECURITIES WITH RON LEVIN, AND HE
25 HAD AROUND SEPTEMBER HE TOLD THE GROUP, THE BULK OF THE BBC,
26 THAT HE HAD MADE SUBSTANTIAL MONEY FOR RON LEVIN FROM THAT
27 ACCOUNT.

28 Q WHO DID HE SAY IN TERMS OF -- DID HE GIVE YOU A

1051

1 BALLPARK FIGURE?

2 A YES. RON LEVIN HAD INVESTED 6 MILLION WITH HIM
3 AND HE HAD INCREASED THAT SUM TO 15 MILLION.

4 Q AND DID HE TELL YOU WHAT HIS AGREEMENT HAD BEEN
5 WITH MR. LEVIN ABOUT THE BBC GETTING ANY OF THE PROFITS.

6 MR. BARENS: WE'LL HAVE A CONTINUING OBJECTION ON
7 HEARSAY.

8 THE COURT: ALL RIGHT. THE RECORD MAY SHOW A
9 CONTINUING OBJECTION. GO AHEAD.

10 THE WITNESS: HE WAS TO SPLIT THE PROFITS 50/50 WITH
11 RON LEVIN.

12 Q BY MR. WAPNER: AND DID YOU HAVE -- DID
13 MR. HUNT MAKE ANY STATEMENTS AFTER THAT REGARDING WHETHER OR
14 NOT THE BBC HAD OBTAINED THE MONEY FROM MR. LEVIN?

15 A THEY HAD NOT OBTAINED IT AND --

16 Q WHAT DID HE SAY -- WHAT ELSE DID HE SAY ABOUT
17 THE PROFITS THAT HE WAS SUPPOSED TO OBTAIN FROM THE TRADING
18 OF THE COMMODITIES?

19 A WELL, EVENTUALLY, A COUPLE OF MONTHS AFTER
20 THAT, HE THEN CHANGED THE STORY THAT -- AND HE SAID THAT THE
21 PROFITS THAT HE HAD MADE WERE BEING INVESTED IN A SHOPPING
22 CENTER AND THAT THE SHOPPING CENTER WAS TO BE -- THE PROFITS
23 OF THE SHOPPING CENTER WERE THEN GOING TO BE DISTRIBUTED
24 AMONGST THE MEMBERS OF THE BBC.

25 Q IS THIS A STATEMENT THAT MR. HUNT MADE TO YOU
26 AND OTHER MEMBERS OF THE BBC?

27 A YES.

28 Q DID HE SAY WHERE HE GOT THIS INFORMATION FROM?

1055

1 A RON LEVIN.

2 Q AND AT SOME POINT AFTER THAT STATEMENT WAS
3 MADE, DID HE TELL YOU SOMETHING ELSE ABOUT THAT?

4 A HE SAID THAT THE -- THAT RON LEVIN HAD ACTUALLY
5 BEEN TELLING HIM A LIE AND THAT THERE WAS NO SHOPPING CENTER
6 AND IN ACTUALITY THERE WAS NO TRADING AND THERE WAS NO MONEY
7 AND THAT IT HAD ACTUALLY BEEN A SCAM BETWEEN HIS COMPANY
8 NEWS NETWORK AND CLAYTON BROKERAGE.

9 Q WHEN YOU SAY HIS COMPANY, YOU'RE REFERRING TO
10 LEVIN'S COMPANY?

11 A HIS COMPANY.

12 Q AND DID HUNT SAY THIS WAS ALSO INFORMATION HE
13 HAD GOTTEN FROM LEVIN?

14 A YES.

15 Q AND THE COMPANY.

16 A AND THE COMPANY, THEY HAD PUT TOGETHER A DEAL
17 BETWEEN LEVIN AND THE BROKERAGE HOUSE TO GO THROUGH RUNS OF
18 WHAT A COMMODITIES TRADE WOULD BE LIKE, AND LEVIN THEN TOLD
19 HIM THAT THE MONEY HADN'T REALLY BEEN TRADED AND HADN'T
20 EXISTED AND --

21 Q DID MR. HUNT MAKE ANY STATEMENT TO THE GROUP --
22 TO YOU OR TO THE GROUP IN YOUR PRESENCE AFTER HE GOT THAT
23 INFORMATION FROM LEVIN?

24 A YEAH. HE BELIEVED THAT THE MONEY ACTUALLY HAD
25 BEEN TRADED AND HE PRODUCED A DOCUMENT FROM CLAYTON
26 SECURITIES THAT STARTED AT 6 MILLION AND ENDED IN 15
27 MILLION --

28 MR. BARENS: I'M GOING TO OBJECT TO REFERENCES TO THE

1056

1 DOCUMENT AS HEARSAY. WE DON'T HAVE THE DOCUMENT EVEN TO
2 LOOK AT.

3 MR. WAPNER: I HAVE NO OBJECTION IF THAT PART IS
4 STRICKEN, YOUR HONOR.

5 THE COURT: ALL RIGHT. THE OBJECTION WILL BE
6 SUSTAINED.

7 THE WITNESS: AND SO HE BELIEVED THAT THE MONEY DID
8 ACTUALLY EXIST AND HE WAS ENTITLED TO HALF OF IT.

9 Q BY MR. WAPNER: AND DID HE MAKE ANY STATEMENT
10 ABOUT WHETHER HE INTENDED TO OBTAIN THE MONEY OR NOT?

11 A YEAH. HE WAS GOING TO -- HE WAS GOING TO GET
12 THE MONEY OUT OF RON LEVIN AS BEST HE COULD.

13 Q WHEN WAS IT THAT HE MADE THIS STATEMENT THAT HE
14 BELIEVED -- ABOUT LEVIN SAYING IT WAS ALL A SCAM AND THAT HE
15 WAS GOING TO GET THE MONEY?

16 A OH, I WOULD SAY AROUND FEBRUARY OF '84.

17 Q IN -- STRIKE THAT. SHOWING YOU PEOPLE'S 48 FOR
18 IDENTIFICATION, WHICH IS THE DOCUMENT THAT SAYS
19 "MICROGENESIS" ON THE TOP, THAT REFERS TO A MEETING ON JUNE
20 THE 7TH OF 1984 OF THE BOARD OF DIRECTORS OF MICROGENESIS.
21 HAVE YOU SEEN THAT DOCUMENT BEFORE?

22 A YES, I HAVE.

23 Q ALL RIGHT. AND DID YOU -- WAS THERE SUCH A
24 MEETING?

25 A NO.

26 Q DID YOU EVER ATTEND SUCH A MEETING?

27 A NO.

28 Q DID YOU ATTEND A MEETING AT JOE HUNT'S

1957

1 CONDOMINIUM, THE WILSHIRE-MANNING, ON JUNE THE 24TH OF 1984?

2 A YES, I DID.

3 Q AND APPROXIMATELY A DAY OR TWO AFTER THAT
4 MEETING, DID YOU HAVE -- DID MR. HUNT SAY ANYTHING TO YOU
5 ABOUT RON LEVIN?

6 A SEVERAL THINGS WERE GOING ON AFTER THAT
7 MEETING. ONE OF THEM WAS THAT RON LEVIN WAS NO LONGER TO BE
8 REFERRED TO AS RON LEVIN IN HIS NAME. HE WAS TO BE REFERRED
9 TO IN CONVERSATION AS "MAC".

10 Q AND DID HE SAY THAT TO YOU?

11 A YES, SEVERAL TIMES, AND MOST OF THE MEMBERS OF
12 THE BBC.

13 Q HE SAID THAT TO OTHER MEMBERS OF THE BBC?

14 A UM-HMM.

15 Q IS THAT YES?

16 A YES.

17 Q AND AT SOME POINT AFTER HE TOLD YOU THAT RON
18 LEVIN WAS TO BE REFERRED TO AS "MAC", DID YOU SEE MR. HUNT
19 IN YOUR OFFICE AT THE 3RD STREET OFFICE?

20 A YES.

21 Q DID HE MAKE A PHONE CALL AT THAT TIME?

22 A YES, HE DID. HE CAME IN AND SAID "WE HAVE TO
23 KEEP UP APPEARANCES" AND DIALED RON LEVIN'S NUMBER AS HE
24 SAID THAT HE USUALLY DID EVERY DAY.

25 Q DID HE TELL YOU WHY HE WAS DOING THAT?

26 A TO KEEP UP APPEARANCES.

27 Q AND APPROXIMATELY A WEEK OR SO AFTER THE JUNE
28 THE 24TH MEETING, DID YOU GO TO THE WILSHIRE-MANNING

1058

1 APARTMENT?

2 A YES, I DID.

3 Q AND WHO WAS THERE WHEN YOU WENT THERE?

4 A JOE AND DEAN.

5 Q AND WHEN YOU GOT THERE, WHAT WAS GOING ON?

6 A WE WERE GOING TO GO OUT, AND I NOTICED ON THE
7 TABLE THERE WAS A COUPLE OF HANDWRITTEN SIGNATURES AND IT
8 LOOKED LIKE THEY HAD BEEN REPEATED SEVERAL TIMES SO I
9 JUST --

10 MR. BARENS: I'D OBJECT TO THE REFERENCE TO THE
11 DOCUMENT IF WE DON'T HAVE IT IN EVIDENCE.

12 MR. WAPNER: WELL, THIS WITNESS' OBSERVATIONS -- I'M
13 NOT TRYING TO PROVE THE CONTENT OF THE DOCUMENT. THIS
14 WITNESS' OBSERVATIONS --

15 THE COURT: OF WHAT HE SAW?

16 MR. WAPNER: -- OF WHAT HE SAW ARE CLEARLY RELEVANT.

17 THE COURT: THE OBJECTION IS OVERRULED.

18 Q BY MR. WAPNER: AFTER YOU SAW THESE THINGS, DID
19 YOU TALK TO THE DEFENDANT?

20 THE WITNESS: I SAID "WHAT'S GOING ON", AND DEAN WENT
21 INTO THE OTHER ROOM AND BROUGHT OUT ANOTHER PIECE OF PAPER
22 WITH WHAT LOOKED LIKE A LOT OF SIGNATURES OF RON LEVIN.

23 MR. BARENS: I'LL OBJECT TO THE CHARACTERIZATION OF
24 THE SIGNATURE. HE DOESN'T KNOW -- WHEN HE SAYS "LOOKED
25 LIKE", HE DOESN'T KNOW WHETHER THEY'RE AUTHENTIC OR LOOKED
26 LIKE OR WHATEVER.

27 THE COURT: ALL RIGHT. THE OBJECTION WILL BE
28 SUSTAINED.

1059

1 MR. BARENS: MOVE TO STRIKE.

2 THE COURT: THE ANSWER WILL BE STRICKEN. YOU HAVE TO
3 KNOW IF HE'S FAMILIAR WITH THE SIGNATURE OF RON LEVIN.

4 MR. WAPNER: THANK YOU.

5 Q MR. MAY, HAD YOU EVER SEEN RON LEVIN'S
6 SIGNATURE?

7 A YES.

8 Q APPROXIMATELY ON -- WOULD YOU SAY THAT YOU WERE
9 RELATIVELY FAMILIAR WITH IT?

10 A YES.

11 Q THE SIGNATURES THAT YOU SAW AT THE
12 WILSHIRE-MANNING ON THAT DATE, DID THEY APPEAR TO BE
13 SIGNATURES OF RON LEVIN --

14 A YES.

15 Q -- OR SIMILAR TO?

16 A YES.

17 Q AND DEAN -- WHEN YOU REFER TO DEAN, IS THAT
18 DEAN KARNY?

19 A YES.

20 Q AND AFTER HE WENT INTO THE OTHER ROOM AND
21 BROUGHT OUT THESE OTHER SIGNATURES, WHAT HAPPENED?

22 A HE SAID "DO YOU WANT TO" --

23 MR. BARENS: WHO SAID?

24 THE WITNESS: DEAN KARNY SAID "DO YOU WANT TO" --

25 MR. BARENS: OBJECT TO THAT AS HEARSAY, YOUR HONOR.

26 MR. WAPNER: MAY THE COURT RECEIVE THIS SUBJECT TO A
27 MOTION? I DON'T KNOW THE EXACT CONTENT OF THE STATEMENT.
28 IF IT'S HEARSAY, I HAVE NO OBJECTION --

1060

1 MR. BARENS: WAIT A MINUTE. IT HAS TO BE HEARSAY
2 BECAUSE IT'S WHAT DEAN KARNY SAID.

3 MR. WAPNER: IT MAY NOT BE WHAT -- MAY I HAVE A
4 MOMENT WITH THE WITNESS?

5 OKAY. THE --

6 THE COURT: ARE YOU WITHDRAWING THE QUESTION?

7 MR. WAPNER: NO.

8 MR. BARENS: WELL, WE'RE GOING TO OBJECT TO A QUOTING
9 OF MR. KARNY. THIS ISN'T A PROBABLE CAUSE HEARING, YOUR
10 HONOR. IT'S OBVIOUSLY HEARSAY. WE'RE NOT TALKING ABOUT AN
11 ADMISSION. IT'S BEING OFFERED FOR TRUTHFULNESS. HE'S NOT
12 OFFERING IT FOR SOME KIND OF PROBABLE CAUSE, NOW.

13 THE COURT: THE OBJECTION WILL BE SUSTAINED --

14 MR. WAPNER: MAY I BE HEARD?

15 THE COURT: -- UNLESS YOU HAVE SOME REASON OR AN
16 EXCEPTION TO THE HEARSAY RULE.

17 MR. WAPNER: NO. MAY I MAKE AN OFFER OF PROOF?
18 AFTER DEAN KARNY TAKES THIS OUT, HE SAYS "TRY YOUR HAND AT
19 THIS," AND THEN MR. HUNT MAKES A SUBSEQUENT STATEMENT. SO
20 IT'S NOT OFFERED TO PROVE THE TRUTH OF THAT STATEMENT, ONLY
21 THAT MR. KARNY MADE THAT STATEMENT; TO WIT, "TRY THIS".
22 WHETHER IT'S TRUE OR NOT OR IF YOU BELIEVE IT TO BE TRUE OR
23 WHETHER HE WANTED HIM TO TRY IT IS IRRELEVANT. IT'S NOT
24 HEARSAY.

25 MR. BARENS: THEN THE STATEMENT IS HEARSAY, THEN, BY
26 COUNSELS OWN STATE.

27 THE COURT: THE OBJECTION WILL BE SUSTAINED. YOU CAN
28 SHOW WHAT HE DID AS A RESULT OF A STATEMENT HE MADE, BUT THE

1061

1 STATEMENT WOULD BE HEARSAY UNLESS IT'S AN EXCEPTION TO THE
2 HEARSAY RULE, AND YOU HAVEN'T INDICATED WHAT, IF ANY,
3 EXCEPTION.

4 MR. WAPNER: NO. I INDICATED THAT I DON'T BELIEVE
5 THE STATEMENT TO BE HEARSAY, SO --

6 THE COURT: ALL RIGHT.

7 Q BY MR. WAPNER: ANYWAY, AFTER MR. KARNY BROUGHT
8 THESE THINGS OUT OF THE OTHER ROOM, WITHOUT TELLING US WHAT
9 THE STATEMENT WAS, DID HE SAY SOMETHING?

10 A YES.

11 Q ALL RIGHT. AND WHERE WAS JOE HUNT AT THE TIME
12 THAT MR. KARNY MADE THAT STATEMENT?

13 A STANDING IN THE CENTER HAVE THE ROOM.

14 Q AND WHEN KARNY MADE THE STATEMENT, WHAT DID JOE
15 HUNT SAY?

16 A "THE FIRST CHECK CAME BACK AND WE'VE GOT TO
17 ISSUE A NEW ONE AND WE HAVE TO SIGN IT IN THE RIGHT NAME AND
18 THE RIGHT PLACE."

19 Q REFERRING TO PEOPLE'S 48 FOR IDENTIFICATION,
20 THAT'S A XEROX COPY. DO YOU KNOW WHO MADE THAT COPY?

21 A NO.

22 Q DID YOU PROVIDE A DOCUMENT TO DETECTIVE ZOELLER
23 SIMILAR OR IDENTICAL TO THAT?

24 A YES, I BELIEVE SO.

25 Q AND WHERE DID YOU GET THE DOCUMENT THAT YOU
26 PROVIDED TO DETECTIVE ZOELLER?

27 A FROM JOE HUNT'S OFFICE.

28 Q AND DID YOU OBTAIN THE ORIGINAL DOCUMENTS OR A

1962

1 COPY OF THE DOCUMENT?

2 A A COPY.

3 Q AND WHAT DID YOU DO WITH THE COPY THAT YOU
4 OBTAINED?

5 A I HANDED IT OVER TO MY LAWYER.

6 Q AND ARE YOU ABLE TO TELL NOW WHETHER THE
7 DOCUMENT THAT'S IN FRONT OF YOU, PEOPLE'S 48, IS IN FACT THE
8 COPY THAT YOU HANDED OVER TO YOUR LAWYER? WITH THE
9 EXCEPTION OF THE MARKINGS ON THE BOTTOM RIGHT HAND CORNER
10 WHERE IT INDICATES PAGE NUMBERS.

11 A WITHOUT CHECKING, I BELIEVE SO.

12 MR. WAPNER: THANK YOU. I HAVE NOTHING FURTHER.

13 THE COURT: MR. BARENS?

14

15

CROSS-EXAMINATION

16 BY MR. BARENS:

17 Q MR. MAY, WHAT WAS MR. LEVIN'S REPUTATION FOR
18 TRUTH AND VORACITY ACCORDING TO YOUR KNOWLEDGE?

19 A AT WHAT PERIOD OF TIME?

20 Q AT THE PERIOD OF TIME YOU KNEW HIM. DID YOU
21 KNOW HIM?

22 A I MET HIM A COUPLE OF TIMES.

23 Q AND WHAT WAS HIS REPUTATION FOR TRUTHFULNESS
24 AND HONESTY?

25 MR. WAPNER: OBJECTION. FOUNDATION. IT HASN'T BEEN
26 ESTABLISHED YET THAT THIS WITNESS KNOWS WHAT HIS REPUTATION
27 WAS.

28 MR. BARENS: DID YOU HAVE AN OPINION -- I'LL

1988

1 REITERATE.

2 THE COURT: ALL RIGHT. THE OBJECTION WILL BE
3 SUSTAINED. YOU MAY RESTATE IT.

4 Q BY MR. BARENS: DO YOU HAVE AN OPINION AS TO
5 MR. LEVIN'S HONESTY?

6 MR. WAPNER: WELL, SAME OBJECTION. THE OBJECTION IS
7 FOUNDATION, THAT HE HAS TO BE FAMILIAR WITH, HE HAS TO KNOW
8 THE PERSONS'S REPUTATION IN THE COMMUNITY FOR HONESTY AND
9 VORACITY. IF HE KNOWS, HE CAN STATE IT, BUT IF HE DOESN'T
10 KNOW WHAT IT IS --

11 MR. BARENS: I THINK HE CAN GIVE HIS OPINION, YOUR
12 HONOR, AS TO HIS --

13 THE COURT: MORE PROPERLY, HE SHOULD KNOW THE
14 REPUTAITON; HOWEVER, IF HE'S DEALING WITH HIM, I SUPPOSE WE
15 COULD -- ALL RIGHT. THE OBJECTION WILL BE OVERRULED.

16 Q BY MR. BARENS: IF YOU WOULD, MR. MAY.

17 A MY OPINION TODAY?

18 Q I SUPPOSE WE CAN START WITH THAT, YES.

19 MR. WAPNER: WELL, I THINK HIS OPINION TODAY IS
20 IRRELEVANT. IT MAY BE BASED --

21 THE WITNESS: BECAUSE THE OPINIONS VARIED FROM TIME
22 TO TIME.

23 Q BY MR. BARENS: WELL, WHAT WAS YOUR OPINION IN
24 MAY OF 1984?

25 A MAY --

26 THE COURT: AS TO TRUTH AND VORACITY.

27 MR. BARENS: YES. THANK YOU.

28 THE COURT: AS TO TRUTH AND VORACITY.

1 THE WITNESS: TRUTH AND VORACITY. I WOULD SAY THAT
2 HIS TRUTH AND VORACITY WERE SOMEWHAT LIMITED.

3 Q BY MR. BARENS: DID YOU KNOW OF ANY SPECIFIC
4 ACTS OF DISHONESTY ON HIS PART?

5 A ONLY ONE ARTICLE THAT I READ IN THE NEWSPAPER.

6 Q AND WHAT WAS THAT ON?

7 MR. WAPNER: OBJECTION. CALLS FOR HEARSAY. IT'S
8 BASED ON HEARSAY, YOUR HONOR.

9 Q BY MR. BARENS: ALL RIGHT. WERE YOU AWARE
10 THAT --

11 THE COURT: JUST A SECOND. THE OBJECTION WILL BE
12 SUSTAINED. SOMETHING HE READ IN THE NEWSPAPER WOULD NOT BE
13 HIS OWN OPINION.

14 MR. BARENS: I AGREE.

15 Q HAD YOU HAD ANY FINANCIAL DEALINGS WITH
16 MR. LEVIN?

17 A NO.

18 Q ALL RIGHT. HAD YOUR BUSINESS HAD FINANCIAL
19 DEALINGS WITH HIM.

20 A BE MORE SPECIFIC.

21 Q WELL, WERE YOU AN INVESTOR? WHAT WAS YOUR
22 RELATIONSHIP TO BBC?

23 A TO THE BBC?

24 Q YEAH.

25 A I WAS AN INVESTOR.

26 Q AND WEREN'T YOU ALSO DIRECTOR?

27 A NO.

28 Q SHAREHOLDER?

1065

1 A NO.

2 Q AN OFFICER?

3 A NO.

4 Q AN EMPLOYEE?

5 A YES.

6 Q IS THAT WHY YOU HAD AN OFFICE THERE?

7 A THAT'S WHY I HAD AN OFFICE THERE.

8 Q PRESUMABLY. WHAT DID YOU DO IN YOUR OFFICE
9 THERE?

10 A I PUT TOGETHER PACKAGES FOR MICROGENESIS.

11 Q FOR INSTANCE.

12 A THE ONE THING THAT I WORKED ON MOSTLY WAS A
13 PACKAGE OF -- FOR A LAS VEGAS GRIND SITE WHERE WE WOULD BE
14 GRINDING MATERIAL AND EXTRACTING GOLD ORE.

15 Q ARE YOU STILL INVOLVED WITH THAT?

16 A NO.

17 Q WHEN WAS THE LAST TIME YOU HAD ANYTHING TO DO
18 WITH -- IS THAT GENERALLY WITH THIS CYCLATRON MACHINE? IS
19 THAT WHAT YOUR ACTIVITY WAS INVOLVED?

20 A YES.

21 Q AND WHEN DID YOU LAST HAVE ANY ACTIVITY
22 RELATIVE TO THAT TECHNOLOGY?

23 A I CEASED ACTIVITIES AS SOON AS WE WENT TO THE
24 POLICE.

25 Q WHEN WAS THAT?

26 A I GUESS IT WAS AUGUST OF -- I'M NOT QUITE SURE.

27 Q WHO WAS THE FIRST POLICE OFFICER YOU MET WITH?

28 A LES ZOELLER.

1966

1 Q WHEN WAS THE FIRST TIME YOU MET HIM?

2 A 19- -- JULY OF '84.

3 Q AND DID YOU RELATE TO HIM WHAT HAPPENED DURING
4 THE 6-24 MEETING ON YOUR FIRST MEETING WITH HIM?

5 A YES.

6 Q AND WHY DID YOU GO TO HIM AT THAT POINT?

7 A WE WENT TO HIM AT THAT POINT BECAUSE WE WERE
8 CONVINCED THAT JOE HAD COMMITTED MURDER.

9 Q WHY DIDN'T YOU GO TO HIM INITIALLY AFTER 6-24?

10 A BECAUSE WE CONFERRED WITH OUR ATTORNEYS AND
11 THEY NEEDED MORE EVIDENCE IN ORDER TO PURSUE IT.

12 Q WHEN DID YOU FIRST GO TO YOUR ATTORNEYS?

13 A IT WAS ABOUT A WEEK AFTER THE MEETING IN JUNE.

14 Q AND WHO WAS THAT?

15 A PAUL TOBIN.

16 Q AND --

17 A AND ARTHUR CROWLEY AND MY FATHER.

18 Q RIGHT. BY THE WAY, DID YOU EVER SEE RON LEVIN
19 ACTUALLY SIGN HIS NAME?

20 A YES, I DID, AS A MATTER OF FACT.

21 Q WHEN WAS THAT?

22 A AT HIS HOUSE ONE DAY.

23 Q WHEN WAS THAT?

24 THE COURT: IF YOU CAN'T RECALL, YOU CAN SAY YOU
25 CAN'T RECALL.

26 THE WITNESS: I CAN'T RECALL.

27 MR. BARENS: ALL RIGHT. I HAVE NOTHING FURTHER OF
28 THE WITNESS, YOUR HONOR.

1 MR. WAPNER: I HAVE NO REDIRECT.

2 THE COURT: MAY THIS WITNESS BE EXCUSED?

3 MR. WAPNER: I HAVE NO OBJECTION.

4 THE COURT: ALL RIGHT. THANK YOU VERY MUCH, MR. MAY.

5 MR. WAPNER: YOUR HONOR, AT THIS TIME THE PEOPLE MOVE
6 TO HAVE THOSE EXHIBITS WHICH HAVE NOT PREVIOUSLY BEEN
7 RECEIVED RECEIVED IN EVIDENCE.

8 THE COURT: ALL RIGHT.

9 MR. WAPNER: I HAVE 54 AS THE LAST ONE.

10 THE COURT: THE HANDWRITING EXEMPLAR. ALL RIGHT.
11 EXHIBITS 1 THROUGH 54 NOT PREVIOUSLY ADMITTED INTO EVIDENCE,
12 TO BE THE GROUP THAT WAS IN THE 40 SERIES, THERE BEING NO
13 OBJECTION WILL BE ADMITTED INTO EVIDENCE AT THIS TIME.

14 MR. WAPNER: PEOPLE REST.

15 MR. BARENS: THE MATTER IS SUBMITTED, YOUR HONOR.

16 THE COURT: ALL RIGHT.

17 THE COURT: ANY AFFIRMATIVE DEFENSE AT THIS TIME?

18 MR. BARENS: NO AFFIRMATIVE DEFENSE AT THIS TIME,
19 YOUR HONOR.

20 MR. BARENS: WE, YOU KNOW, FOR THE RECORD, YOUR
21 HONOR, WE RENEW OUR FORMER MOTION TO DISMISS BASED ON THE
22 LACK OF CORPUS DELICTI AND ALSO THE FAST THAT ANY EVIDENCE
23 SUBSEQUENT TO THAT WE BELIEVE WAS VIOLATIVE OF THE RULES OF
24 EVIDENCE AS EXPRESSED IN THE SALING MATTER.

25 THE COURT: THE RECORD MAY INDICATE THAT YOU ARE
26 RENEWING YOUR MOTION TO DISMISS. THE COURT WILL DENY THE
27 MOTION FOR THE SAME REASONS SET FORTH PREVIOUSLY WHEN THE
28 ARGUMENTS WERE FIRST INTRODUCED.

1065

1 ALL RIGHT. IT APPEARING TO THE COURT THAT THE
2 OFFENSE IN THE WITHIN NAMED COMPLAINT; NAMELY, A VIOLATION
3 OF SECTION 187 OF THE PENAL CODE, THE CRIME OF MURDER, A
4 FELONY, HAS BEEN COMMITTED AND THERE BEING REASONABLE CAUSE
5 TO BELIEVE -- PROBABLE CAUSE TO BELIEVE THE SAID DEFENDANT,
6 JOE HUNT, GUILTY THEREOF, IT IS THE ORDER OF THIS COURT THAT
7 HE BE HELD TO ANSWER TO THE SAME, THAT HE BE ARRAIGNED IN
8 THE SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE
9 COUNTY OF LOS ANGELES ON THE -- THAT WOULD BE THE 6TH OF
10 APRIL, WOULDN'T IT?

11 THE CLERK: APRIL 4TH.

12 MR. BARENS: A MOMENT, YOUR HONOR. ON THE DATE --

13 THE COURT: MR. BARENS, WE HAVE TO SET IT FOR TWO
14 WEEKS FROM NOW BY LAW.

15 MR. BARENS: OKAY.

16 THE COURT: IF YOU WANT TO CHANGE THE ARRAIGNMENT,
17 WHAT YOU SHOULD DO IS CALL THE SANTA MONICA DEPARTMENT AND
18 I'M SURE THEY WILL ACCOMMODATE YOU ON THAT.

19 MR. WAPNER: YOUR HONOR, CAN I ASK THE COURT PLEASE
20 FOR A RULING ON THE ALLEGATIONS APPENDANT TO COUNT I AND ON
21 COUNT II?

22 MR. BARENS: I'D MOVE TO -- DEFENSE MOVES TO STRIKE
23 THOSE ALLEGATIONS. NO SHOWING.

24 THE COURT: IS THERE ANY SHOWING, MR. WAPNER, THE
25 ALLEGATION THAT IT WAS COMMITTED BY -- UNDER 211 BY FORCE OR
26 FEAR?

27 MR. WAPNER: WELL, CONSIDERING THAT -- FIRST OF ALL,
28 THE MURDER WAS OBVIOUSLY PREMEDITATED AS INDICATED BY THE

1969

1 PRESENCE OF THE LIST, THAT THE PURPOSE OF THE MURDER CLEARLY
2 WAS TO OBTAIN A CHECK FOR 1.5 MILLION DOLLARS, THAT THEY
3 CLEARLY DID OBTAIN A CHECK FOR 1.5 MILLION DOLLARS.
4 FURTHER, THAT THE STATEMENT OF MR. HUNT COMES IN, THE
5 STATEMENT TO MR. KARNY; TO WIT, THE CHECK WAS OBTAINED UNDER
6 DURESS WHICH COMES IN FOR THE TRUTH OF THE MATTER
7 ASSERTED -- I'M SORRY, TO MR. DICKER, AND THEREFORE -- AND
8 SO THE TAKING OF THE MONEY AT THE TIME THAT THE DEFENDANT
9 WAS -- EXCUSE ME, THE VICTIM WAS KILLED, I DON'T THINK THAT
10 THERE NEEDS TO BE -- CERTAINLY THERE'S A SUFFICIENT SHOWING
11 FOR THE PURPOSES OF PRELIMINARY HEARING, THAT THE -- THAT A
12 ROBBERY WAS COMMITTED AND THAT THE MURDER OCCURRED DURING
13 THE COURSE OF THAT.

14 I'D ALSO SUBMIT TO THE COURT THAT THIS FALLS
15 WITHIN ANOTHER SPECIAL CIRCUMSTANCE, WHICH IS MURDER FOR
16 PROFIT. WHICH I BELIEVE IS 190.2(A)1, I THINK.

17 MR. BARENS: WELL, THERE'S SIMPLY BEEN NO SHOWING,
18 YOUR HONOR, OF ANY OF THE SPECIFIC CIRCUMSTANCES SURROUNDING
19 MR. LEVIN'S ALLEGED DEATH. THE ONLY THING WE HAVE IS THAT
20 HE'S NOT WITH US PRESENT. UNDER DILLON, I BELIEVE IT'S
21 INCUMBENT ~~THEY~~ SHOW SOME EVIDENCE THAT THE MURDER TAKES
22 PLACE DURING THE COURSE OF A ROBBERY OR SOME OTHER FELONY,
23 AND THERE'S SIMPLY NO EVIDENCE OF THAT.

24 WE HAD NO EVIDENCE SHOWN BY ANY OF THE
25 WITNESSES THAT THERE WAS ANYTHING MISSING FROM THE LEVIN
26 APARTMENT ON THE DATE OR AROUND THE DATE THAT HE DISAPPEARS.
27 IN FACT, EVERYTHING IS THERE INCLUDING ALL OF HIS DOCUMENTS
28 BUT FOR HIS WALLET, WHICH I DIDN'T HEAR ANY EVIDENCE ABOUT

1970

1 SUBSEQUENTLY IN THIS MATTER, AND HIS KEYS.

2 MR. WAPNER: WELL, FIRST OF ALL, I THINK THAT
3 SLIGHTLY MISSTATES THE EVIDENCE; TO WIT, SOME VERY BIZZARE
4 ITEMS WERE MISSING FROM THE APARTMENT. NOT ITEMS THAT WOULD
5 BE TAKEN IN A ROBBERY, ALTHOUGH THERE WAS ONE ITEM, THAT IS
6 THE CHECK FOR 1.5 MILLION DOLLARS, BUT THE BIZZARE THINGS
7 THAT ARE MISSING FROM THE APARTMENT ARE A PILLOW, THE
8 COMFORTER, THE TV CHANGER, NOT THINGS THAT SOMEBODY WOULD
9 TAKE IN A ROBBERY BUT THINGS THAT SOMEONE WOULD TAKE FROM
10 THE HOUSE IF THEY HAD BLOOD STAINS ON THEM, IF THEY WERE
11 GOING TO CARRY A BODY THAT WAS HEAVY, OR IN THE COURSE OF
12 WRAPPING SOMEBODY UP IN THE BEDSPREAD IT WAS ON THE BED HE
13 WOULD TAKE WITH IT.

14 THE COURT: WOULDN'T THAT GO TO COUNT I RATHER THAN
15 TO ROBBERY?

16 MR. WAPNER: IN TERMS OF BOTH. THE MANNER IN
17 WHICH -- IN OTHER WORDS, IF THE COURT BELIEVES, AS OBVIOUSLY
18 IT HAS INDICATED, THAT THE MURDER OCCURRED THAT NIGHT AND IT
19 WAS COMMITTED BY THE DEFENDANT, AND IF IT BELIEVES, AS I
20 INFER IT DOES FROM THE RULING ON COUNT I, THAT THE CHECK WAS
21 TAKEN FROM MR. LEVIN ON THAT NIGHT. AND THEN I DON'T THINK
22 THERE'S ANY OTHER INFERENCE OTHER THAN THE FACT THAT THE
23 CHECK WAS TAKEN AS PART OF THE MURDER AND BASICALLY IN A
24 ROBBERY; TO WIT, HE DIDN'T -- THEY DIDN'T GO THERE IN A --
25 TO MAKE A LEGITIMATE BUSINESS DEAL AND GET HIM IN SOME KIND
26 OF A FIGHT AND DECIDE THAT THEY WERE GOING TO KILL HIM.
27 OBVIOUSLY IT WAS A WHOLE PLANNED THING AND THE WHOLE MOTIVE
28 FOR IT ESTABLISHED BY THE STATEMENTS THAT THE DEFENDANT MADE

1071

1 IN THE 6-24 MEETING AND THE STATEMENTS THAT MR. DICKER
2 STATED AFTERWARDS WAS TO WITHDRAW THIS MONEY. I DON'T THINK
3 THERE 'S ANY OTHER CONCLUSION THAT THERE WAS A ROBBERY.

4 THE COURT: WELL, YOU'RE BASING IT PRIMARILY ON THE
5 TAKING OF THE CHECK. THE TAKING OF THE CHECK, ALTHOUGH THE
6 CHECK WAS FOR ONE MILLION FIVE HUNDRED THOUSAND DOLLARS, THE
7 TAKING OF THE CHECK COULD BE A GRAND THEFT UNDER THE SET OF
8 CIRCUMSTANCES. THEY WENT THERE FOR THE PURPOSES OF GETTING
9 THE CHECK AND ENTERED WITH THE INTENTION OF COMMITTING A
10 FELONY THEREIN. IT COULD BE A BURGLARY.

11 WHERE IS THE SHOWING HERE THAT IT WAS TAKEN BY
12 FORCE OR FEAR FROM MR. LEVIN WHICH WOULD CONSTITUTE THE
13 CORPUS OF A 211? IS THERE ANYTHING HERE THAT WOULD INDICATE
14 THAT -- ADMITTEDLY, THE CHECK IS TAKEN, BUT THE CHECK COULD
15 BE TAKEN UNDER A NUMBER OF CIRCUMSTANCES, MR. WAPNER.

16 MR. BARENS: I'M NOT EVEN SURE, YOUR HONOR, THE CHECK
17 WAS TAKEN ON THAT DATE.

18 THE COURT: WELL, THAT 'S TRUE, TOO.

19 MR. BARENS: I MEAN THE CHECK COULD HAVE BEEN
20 OBTAINED BEFORE, IT COULD HAVE BEEN MAILED. I DON'T KNOW
21 HOW THE CHECK PER SAY IS TAKEN. ASSUMING IT 'S TAKEN.

22 MR. WAPNER: WELL, WHAT I'M ASKING THE COURT TO DO IS
23 DRAW THE REASONABLE INFERENCES FROM THE FACTS IN THIS CASE.
24 IF -- FIRST OF ALL, THE CHECK IS DATED THAT DATE. THE -- ON
25 THE LIST WHICH IS PEOPLE 'S 44 THERE IS A REFERENCE TO SWISS
26 CASHIERS CHECKS AND IT SAYS ON THAT -- ON THE LIST IT SAYS
27 NINE HUNDRED THOUSAND, BUT IN ANY EVENT, IT 'S CLEAR THAT ON
28 THE LIST WAS A REFERENCE TO PLANNING TO OBTAIN A CHECK. THE

1072

1 CHECK 'S DATED THAT DAY. THEY GO TO THE BANK THE NEXT DAY TO
2 SET UP THE --

3 MR. BARENS: I BELIEVE, YOUR HONOR, THE CHECKS THAT
4 ARE SWISS CASHIERS CHECKS FOUND IN MR. LEVIN'S APARTMENT BY
5 HIS FATHER SUBSEQUENTLY.

6 MR. WAPNER: THERE WAS NO TESTIMONY ABOUT THAT.
7 THERE WAS -- AS THE COURT CAN PROBABLY PRETTY VIVIDLY
8 RECALL, THERE WAS ONLY AN ATTEMPT TO HAVE TESTIMONY OF ONE
9 CHECK FOUND IN THE APARTMENT, WHICH WAS NOT LET IN.

10 THE COURT: WELL, THE FIRST POINT IS HERE THOUGH, MR.
11 WAPNER, YOU 'VE ALLEGED A SECOND COUNT WHICH IS A ROBBERY, A
12 211, BY THAT MR. HUNT DID WILLFULLY AND UNLAWFULLY AND BY
13 MEANS OF FORCE AND FEAR TAKE PERSONAL PROPERTY FROM THE
14 POSSESSION -- HE PERSON, POSSESSION AND IMMEDIATE PRESENCE
15 OF RONALD LEVIN. THAT'S THE CORPUS OF YOUR COUNT II. WHAT
16 EVIDENCE IS THERE TO SUBSTANTIATE THAT OTHER THAN THE FACT
17 THAT A CHECK WAS TAKEN.

18 MR. WAPNER: THE CHECK WAS TAKEN, THE DEFENDANT
19 OBVIOUSLY WAS THERE BECAUSE ONE, HE ADMITS BEING THERE.
20 TWO, THE LIST IS FOUND WITH HIS FINGERPRINTS AND IN HIS
21 HANDWRITING. THREE, THE CHECK IS DATED THE SAME DATE THAT
22 HE DISAPPEARS. SO THERE'S NO EYEWITNESS THAT SAYS "I SAW
23 HIM IN THE APARTMENT," BUT WHEN YOU PUT ALL OF THESE THINGS
24 TOGETHER, THERE'S NO QUESTION THAT HE WAS THERE, THAT HE
25 COMMITTED THE MURDER AND THAT THE CHECK WAS OBTAINED THAT
26 DAY. SO IF YOU'RE ASKING ME WHAT EVIDENCE IS THERE THAT
27 THEY DIDN'T JUST HAND IT TO HIM AND THEY DECIDED TO KILL HIM
28 LATER -- ALL I'M SUGGESTING IS THAT THE COURT DRAW WHAT

1973

1 APPEARS TO ME TO BE THE ONLY REASONABLE INFERENCE FROM THE
2 FACTS.

3 MR. BARENS: WELL, I THINK THE FACTS ARE SUBJECT TO
4 DISPUTE ON THAT. I DON'T THINK THEY'VE MADE ANY CORPUS AT
5 ALL FOR A 211 AND THEY THEN TRY TO TURN AROUND AND KEY THEIR
6 SPECIAL CIRCUMSTANCES BY GOING BACK ON THAT BASIS. I THINK
7 THAT'S A UNACCEPTABLE BOOTSTRAP, YOUR HONOR. WE SIMPLY HAVE
8 NO CORPUS ON THESE PROCEEDINGS ON A 211. I'M CONCEDING THAT
9 YOUR HONOR FINDS A CORPUS ON A 187, BUT I DIDN'T SEE ANY
10 TESTIMONY THAT EVEN REASONABLY WENT TO A 211. WE HAVE
11 ENOUGH OF A REACH TO MAKE THE 187 FOR THIS PURPOSE, YOUR
12 HONOR.

13 THE COURT: WELL, I'M INCLINED TO AGREE WITH DEFENSE
14 COUNSEL ON THIS, MR. WAPNER.

15 MR. WAPNER: THANK YOU.

16 THE COURT: AS I SAY, THERE MIGHT BE A BURGLARY THERE
17 THAT THEY ENTERED WITH AN INTENT TO GET THIS CHECK, BUT THE
18 QUESTION OF WHETHER THIS WAS TAKEN BY HIM BY FORCE OR FEAR
19 IN HIS IMMEDIATE PRESENCE WOULD HAVE TO BE SPECULATION AT
20 THIS POINTS.

21 MR. WAPNER: LET ME JUST ASK THE COURT FOR
22 CLARIFICATION. IS THE COURT INDICATING A BELIEF THAT THIS
23 MURDER WAS COMMITTED IN THE COURSE OF A BURGLARY?

24 THE COURT: NO. I'M NOT SAYING THAT EITHER, BUT I'M
25 GIVING YOU THE -- WHAT -- SINCE YOU ARE CONTENDING THAT IT
26 WAS COMMITTED DURING THE COURSE OF A ROBBERY, I'M TELLING
27 YOU WHAT ALTERNATE ACTIONS COULD HAVE TAKEN PLACE. I'M NOT
28 SAYING THEY DID NECESSARILY TAKE PLACE. AND THEREFORE TO

1971

1 SPECULATE THAT IT WAS A ROBBERY RATHER THAN ANY OTHER KIND
2 OF AN OFFENSE THAT MIGHT HAVE TAKEN PLACE -- I'M NOT SAYING
3 THAT THESE DEFINITELY DID TAKE PLACE -- BUT AS I SAID, IT
4 COULD HAVE BEEN A GRAND THEFT, IT COULD HAVE BEEN A
5 BURGLARY, IT COULD HAVE BEEN ANY NUMBER OF OTHER INCIDENTS,
6 BUT THERE IS NO SHOWING HERE THAT THERE WAS A 211 INASMUCH
7 AS THE WHOLE CORPUS OF THE 211 IS THE FORCIBLE TAKING OF
8 SOMETHING FROM A PERSON AND THAT WOULD HAVE TO BE PURE
9 SPECULATION AS TO WHAT OCCURRED.

10 THERE'S BEEN NO TESTIMONY BY ANY WITNESS AS TO
11 WHAT OCCURRED IN THAT ROOM WHEN MR. LEVIN ULTIMATELY
12 DISAPPEARED. WE KNOW WHAT HAPPENED AFTERWARDS. WE KNOW WHAT
13 STATEMENTS HAVE BEEN MADE CONCERNING MR. LEVIN'S
14 WHEREABOUTS, BUT WE HAVE NOTHING CONCERNING WHAT OCCURRED IN
15 THAT PARTICULAR ROOM OTHER THAN A CHECK LATER TURNED UP
16 SOMEWHERE ELSE.

17 I'M NOT STATING THAT IT WAS A BURGLARY OR A
18 GRAND THEFT. I'M JUST STATING THAT I DON'T BELIEVE A CORPUS
19 OF A 211 IS MADE OUT IN COUNT II. THEREFORE, ALSO, THE
20 ALLEGATIONS IN COUNT I THAT WAS COMMITTED DURING THE
21 COMMISSION OF A ROBBERY WILL BE FOUND TO BE UNTRUE, AND THE
22 ALLEGATION IN COUNT II -- AND COUNT II IS BEING DISMISSED --
23 THAT IT WAS COMMITTED DURING A -- WITH THE INTENT TO INFLICT
24 GREAT BODILY INJURY UPON RONALD GEORGE LEVIN WOULD ALSO BE
25 FOUND TO BE UNTRUE AT THIS TIME.

26 ALL RIGHT. AS TO THE COMMITMENT, AGAIN, IT
27 APPEARING TO THE COURT THAT THE OFFENSE IN THE COMPLAINT A
28 SET FORTH IN COUNT I; NAMELY, A VIOLATION OF 187, HAS BEEN

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COMMITTED AND IT APPEARING TO THE COURT THAT THERE IS
PROBABLE CAUSE TO BELIEVE THE DEFENDANT, JOE HUNT, GUILTY
THEREOF, IT IS THE ORDER OF THIS COURT THAT HE BE HELD TO
ANSWER TO THE SAME, THAT HE BE ARRAIGNED IN THE SUPERIOR
COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF
LOS ANGELES, ON THE 4TH DAY OF APRIL, 1985 IN DEPARTMENT B
OF THE WEST BRANCH OF SAID COURT AT 9:00 A.M.

MR. WAPNER: THANK YOU, YOUR HONOR.

MR. BARENS: THANK YOU FOR YOUR COURTESY, YOUR HONOR.

--000--

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1076

1 IN THE MUNICIPAL COURT OF BEVERLY HILLS JUDICIAL DISTRICT
 2 COUNTY OF LOS ANGELES, STATE OF CALIFORNIA
 3 HON. DAVID A. KIDNEY, JUDGE PRO TEM DIVISION I
 4

5 THE PEOPLE OF THE STATE OF CALIFORNIA,)
 6 Plaintiff,)
 7 vs.)
 8 JOE HUNT)
 9 aka: JOSEPH HENRY GAMSKY,)
 and)
 10 JAMES PITTMAN)
 aka: JAMES GRAHAM, Defendants.)

No. A 090435

11 I hereby certify that on the 20th & 21st days of March, 1985,
 12 ANN CLARK, Official Reporter of the above entitled court, was
 13 assigned as shorthand reporter to report the testimony and
 14 proceedings contained herein; and did act as such reporter, and
 15 was by me directed to reduce the said shorthand notes to
 16 typewriting.

17 *David A. Kidney*

18 _____
 19 Judge of the Municipal Court of Beverly Hills
 20 Judicial District, County of Los Angeles,
 State of California, Division I.

21 I hereby certify that I am an Official Shorthand Reporter
 22 of the above entitled court. Pursuant to the Judge's Certificate
 23 above, I was assigned to report and did so correctly report the
 24 testimony and proceedings contained herein; that the foregoing
 25 is a true and correct transcription of my said notes, and a full,
 26 true and correct statement of said testimony and proceedings.

27 *Ann Clark, CSR # 5058*

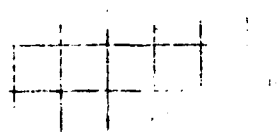
28 _____
 Official Reporter

COUNT II

or a further and separate cause of action, being a different offense of the same class of crimes and offenses as the charge set forth in count one hereof, the said JOE HUNT

is accused by the District Attorney of and for the County of Los Angeles, State of California, by this information, of the crime of ROBBERY, in violation of section 211, Penal Code of California, a felony, committed as follows: That the said JOE HUNT

between June 6, 1984 and about the 7th day of June, 1984, at and in the County of Los Angeles, State of California, did willfully, unlawfully, and by means of force and fear take personal property from the person, possession, and immediate presence of Ronald George Levin.



Filed in open Superior Court of the State of California, County of Los Angeles, on motion of the District Attorney of said County.
DATED: 4-4-87
JOHN J. CORCORAN, Clerk
[Signature]
Deputy

IRA REINER
~~ROBERT W. PHILLIPSON~~, District Attorney
for the County of Los Angeles, State of California
[Signature]
KENNETH C. WULLSCHLEGER Deputy
rw

Date APRIL 4, 1985 HONORABLE: DAVID N. FITTS J. JONES JUDGE M WHITE Deputy Sheriff B MACREDIE DEPT. WEB Deputy Clerk Reporter

CASE NO. A090435 (Parties and counsel checked if present) Counsel for People: DEPUTY DISTRICT ATTY: Counsel for Defendant: CHARGE 01 HUNT, JOE 187 01CTS 211 let (BOX CHECKED IF ORDER APPLICABLE)

NATURE OF PROCEEDINGS A&P REM 4-4-85

- 1 IS SWORN AS THE ENGLISH/ INTERPRETER
2 DEFENDANT ADVISED OF FINANCIAL RESPONSIBILITY. ACKNOWLEDGMENT OF NOTICE FILED.
3 STIPULATION RE APPOINTMENT OF JUDGE PRO TEMPORE IS SIGNED AND FILED.
4 PUBLIC DEFENDER APPOINTED, D.P.O.
5 DUE TO CONFLICT OF INTERESTS, PUBLIC DEFENDER RELIEVED, PURSUANT TO SECTION 987.2 PENAL CODE
6 ON PEOPLE'S MOTION, AMENDMENT TO/AMENDED INFORMATION FILED/DEEMED FILED/INFORMATION AMENDED BY INTERLINEATION/ AS FOLLOWS:

- 7 ARRAIGNED, PLEADS NOT GUILTY. ADMITS/DENIES/OPPOSES/ARMED/USE/GREAT BODILY INJURY/ALLEGATION(S).
8 ARRAIGNMENT/PLEA CONTINUED TO AT A.M. ON MOTION
9 PRE-TRIAL CONFERENCE/995 PENAL CODE MOTION SET 4-11-85 AT 900 A.M. IN DEPT. JEF
10 TRIAL SETTING/TRIAL/1538.5 PENAL CODE MOTION SET AT A.M. IN DEPT.
11 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TIME FOR TRIAL.
12 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TRIAL BY JURY, COURT ACCEPTS WAIVER.
13 DEFENDANT ADVISED AND PERSONALLY WAIVES HIS RIGHT TO CONFRONTATION OF WITNESSES FOR THE PURPOSE OF FURTHER CROSS EXAMINATION, AND WAIVES PRIVILEGE AGAINST SELF-INCRIMINATION. DEFENDANT ADVISED OF POSSIBLE EFFECTS OF PLEA ON ANY ALIEN OR CITIZENSHIP AND PROBATION OR PAROLE STATUS.

- 14 COURT, WITH CONSENT OF DEFENDANT AND ALL COUNSEL, REFERS THE MATTER TO THE PROBATION DEPARTMENT FOR DIVERSION REPORT PURSUANT TO SECTION 1000.1(b) PENAL CODE. FURTHER PROCEEDINGS CONTINUED TO AT IN DEPT.
15 ON DEFENDANT'S MOTION, MATTER REFERRED TO PROBATION DEPARTMENT FOR PRE-PLEA REPORT PURSUANT TO SECTION 131.3 CODE OF CIVIL PROCEDURE, CONTINUED TO AT IN DEPT.

- 16 ON MOTION, CASE CONSOLIDATED INTO CASE AS COUNT(S) THEREOF, SEE CASE FOR FURTHER PROCEEDINGS
17 PLEADS GUILTY/NOLO CONTENDERE, WITH CONSENT OF DISTRICT ATTORNEY AND APPROVAL OF COURT, TO VIOLATION OF SECTION(S) IN COUNT(S) LESSER INCLUDED/RELATED OFFENSE.

- 18 DEFENDANT REFERRED TO PROBATION DEPARTMENT. DEFENDANT WAIVES TIME FOR SENTENCE. PROBATION AND SENTENCE HEARING SET AT A.M. IN DEPARTMENT INCLUDING DISPOSITION OF COUNT(S) REMAINING DETERMINATION OF PRIORS ALLEGED/DEGREE/ARMED/USE/GREAT BODILY INJURY/ALLEGATION.
19 DEFENDANT WAIVES PROBATION REFERRAL. REQUESTS IMMEDIATE SENTENCE. (SEE SENTENCE BELOW/SEE ATTACHED SHEET)

20 FURTHER ORDER AS FOLLOWS: Counsel orally notices 995 Penal Code

- 21 DEFENDANT IS ORDERED TO RETURN ON THE ABOVE DATE(S)
22 THE SHERIFF IS ORDERED TO ALLOW THE DEFENDANT TELEPHONE CALLS AT DEFENDANT'S OWN EXPENSE.

- DEFENDANT FAILS TO APPEAR WITH/WITHOUT SUFFICIENT EXCUSE.
BAIL, IF POSTED, FORFEITED/O.R. REVOKED. BENCH WARRANT ORDERED ISSUED. NO BAIL/BAIL FIXED AT \$
BENCH WARRANT ORDERED ISSUED/AND HELD UNTIL NO BAIL/BAIL FIXED AT \$
DEFENDANT APPEARING, BENCH WARRANT ORDERED RECALLED/QUASHED. () RECALL NO. WRITTEN () ABSTRACT FILED.
UPON PAYMENT OF \$ COSTS BEFORE AND FILING OF REASSUMPTION, ORDER OF FORFEITING BAIL IS TO BE VACATED AND BAIL REINSTATED.
REASSUMPTION FILED/COSTS PAID (RECEIPT NO.) ORDER OF FORFEITING BAIL VACATED. BAIL REINSTATED.
DEFENDANT'S MOTION FOR RELEASE ON O.R./REDUCTION OF BAIL IS GRANTED/DENIED. REASON
BAIL RESET AT \$

REMANDED BAIL BAIL EXON. BOND NO.
RELEASED O.R. O.R. DISCHARGED IN CUSTODY OTHER MATTER

MINUTES ENTERED

PLMOT

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

1080

Date APRIL 11, 1985
HONORABLE: LESLIE LIGHT
R GOLDSMITH

JUDGE
Deputy Sheriff

C GILLETT
L ANASTASIOU

DEPT. WE F

Deputy Clerk
Reporter

CASE NO. A 090435
PEOPLE OF THE STATE OF CALIFORNIA
VS
01 HUNT, JOE
187 01 CTS
CHARGE (BOX CHECKED IF ORDER APPLICABLE)

NATURE OF PROCEEDINGS TRIAL SETTING
31 []
32 [] IS SWORN AS THE ENGLISH/ INTERPRETE
33 [] DUE TO CONFLICT OF INTEREST, PUBLIC DEFENDER RELIEVED. PURSUANT TO SECTION 987.2 PENAL CODE, IS APPOINTED.
34 [] ON PEOPLE'S MOTION, AMENDMENT TO/AMENDED INFORMATION FILED/DEEMED FILED/INFORMATION AMENDED BY INTERLINEATION/AS FOLLOWS
35 [] ON MOTION, CASE A CONSOLIDATED INTO CASE A AS COUNT(S) THEREOF. SEE CASE A FOR FURTHER PROCEEDINGS.
36 [] MOTION PURSUANT TO SECTION 995 PENAL CODE GRANTED/DENIED/WITHDRAWN/CONTINUED TO
37 [] MOTION PURSUANT TO SECTION 1538.5 PENAL CODE CALLED FOR HEARING MOTION SUBMITTED PER STIPULATION (NO. 41) BELOW
38 [] DEFENDANT ADVISED OF CONSTITUTIONAL RIGHTS AND EFFECT OF PRIOR CONVICTIONS: WAIVES RIGHTS; ADMITS PRIOR(S) NO
39 [] CAUSE IS CALLED FOR TRIAL. CAUSE SUBMITTED PER STIPULATION (NO. 41) BELOW.
40 [] DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TRIAL BY JURY COURT ACCEPTS WAIVER(S).
41 [] By stipulation of defendant and all counsel issue is submitted on the testimony contained in the transcript of the proceedings had at the preliminary hearing, subject to this court's rulings, with each side reserving the right to offer additional evidence and all stipulations entered into at the preliminary hearing be deemed entered into in these proceedings. It is further stipulated that all exhibits received or marked for identification at the preliminary hearing are received in evidence and marked for identification in these proceedings, bearing the same number as used in the preliminary hearing, subject to this court's rulings. People's exhibit (Preliminary Transcript) admitted into evidence by reference.
42 [] Defendant advised and personally waives his right to confrontation of witnesses for the purpose of further cross-examination, and waives privilege against self-incrimination. Defendant advised of possible effects of plea on any alien or citizenship/probation or parole status.
43 [] THE COURT STATES IT HAS READ AND CONSIDERED THE TRANSCRIPT OF THE PRELIMINARY HEARING.
44 []
45 [] ALL SIDES REST. COUNSEL WAIVE ARGUMENT/ARGUE AND CAUSE IS SUBMITTED.
46 [] MOTION PURSUANT TO SECTION 1538.5 PENAL CODE GRANTED/DENIED/WITHDRAWN/CONTINUED TO
47 [] COURT FINDS DEFENDANT NOT GUILTY
48 [] COURT FINDS DEFENDANT GUILTY AS CHARGED TO SECTION(S) IN COUNT(S) LESSER INCLUDED/RELATED OFFENSE.
49 [] PRE-TRIAL CONFERENCE/TRIAL SETTING HELD OFF CALENDAR/CONTINUED TO 5/2/85
50 [] THE DEFENDANT THE PEOPLE ANNOUNCE(S) READY FOR TRIAL.
51 [] ON PEOPLE'S/DEFENDANT'S/COURT'S MOTION, TRIAL/MOTION(S) IS SET/CONTINUED TO/REMAINS/TRAILED TO AT A.M. IN DEPT. REASON:
52 [] FURTHER CONTINUANCES WILL NOT BE GRANTED.
53 [] DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TIME FOR TRIAL.
54 [] CAUSE TRANSFERRED TO DEPT. FORTHWITH ON AT A.M. FOR
55 [] DEFENDANT/WITNESS(ES) ORDERED TO RETURN ON ABOVE DATE.
56 [] DEFENDANT PERSONALLY WITHDRAWS PLEA OF NOT GUILTY TO COUNT(S) REARRAIGNED
57 [] PLEADS GUILTY/NOLO CONTENDERE, WITH CONSENT OF DISTRICT ATTORNEY AND APPROVAL OF COURT TO VIOLATION OF SECTION(S) IN COUNT(S) LESSER INCLUDED/RELATED OFFENSE
58 [] DEFENDANT REFERRED TO PROBATION DEPARTMENT. DEFENDANT WAIVES TIME FOR SENTENCE. PROBATION AND SENTENCE HEARING SET AT A.M. IN DEPARTMENT INCLUDING DISPOSITION OF COUNT(S) REMAINING DETERMINATION OF PRIORS ALLEGED/DEGREE/ARMED/USE/GREAT BODILY INJURY ALLEGATION
59 [] DEFENDANT WAIVES PROBATION REFERRAL. REQUESTS IMMEDIATE SENTENCE. (SEE SENTENCE BELOW/SEE ATTACHED SHEET)
60 [] FURTHER ORDER AS FOLLOWS:

61 [] THE SHERIFF IS ORDERED TO ALLOW THE DEFENDANT TELEPHONE CALLS AT DEFENDANT'S OWN EXPENSES
62 [] DEFENDANT FAILS TO APPEAR WITH/WITHOUT SUFFICIENT EXCUSE.
63 [] BAIL, IF POSTED, FORFEITED/O.R. REVOKED. BENCH WARRANT ORDERED ISSUED. NO BAIL/BAIL FIXED AT \$
64 [] BENCH WARRANT ORDERED ISSUED AND HELD UNTIL NO BAIL/BAIL FIXED AT \$
65 [] DEFENDANT APPEARING. BENCH WARRANT ORDERED RECALLED/QUASHED() RECALL NO. WRITTEN () ABSTRACT FILED
66 [] UPON PAYMENT OF \$ COSTS BEFORE AND FILING OF REASSUMPTION, ORDER OF FORFEITING BAIL IS TO BE VACATED AND BAIL REINSTATED.
67 [] REASSUMPTION FILED/COSTS PAID (RECEIPT NO.) ORDER OF FORFEITING BAIL VACATED. BAIL REINSTATED
68 [] DEFENDANT'S MOTION FOR RELEASE ON O.R./REDUCTION OF BAIL IS GRANTED/DENIED/SET/CONTINUED TO/ REASON:
69 [] BAIL RESET AT \$
[] REMANDED [] BAIL [] BAIL EXONERATED [] BOND NO.
[] RELEASED [] O.R. [] O.R. DISCHARGED [] IN CUSTODY OTHER MATTER MINUTES ENTERED

TR17MOT

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

1081

Date MAY 02 1985
HONORABLE: LESLIE W. LIGHT
203 F. GILLESPIE

JUDGE
Deputy Sheriff

DEPT.
C. GILLET
L. ANASTASIOU
W.F.
Deputy Clerk
Reporter

CASE NO. AC90435
PEOPLE OF THE STATE OF CALIFORNIA VS
CHARGE 01 PC 187 CICTS
Counsel for People: F. WARNER
DEPUTY DISTRICT ATTY: A. BARENS
Counsel for Defendant: R. CHIEF, PVT.

NATURE OF PROCEEDINGS TRIAL 1/3 REM 04-04-85

- 31 IS SWORN AS THE ENGLISH/ INTERPRETE
32 DUE TO CONFLICT OF INTEREST, PUBLIC DEFENDER RELIEVED. PURSUANT TO SECTION 987.2 PENAL CODE, IS APPOINTED.
33 ON PEOPLE'S MOTION, AMENDMENT TO/AMENDED INFORMATION FILED/DEEMED FILED/INFORMATION AMENDED BY INTERLINEATION/AS FOLLOWS
34 ON MOTION, CASE A CONSOLIDATED INTO CASE A
35 MOTION PURSUANT TO SECTION 995 PENAL CODE GRANTED/DENIED/WITHDRAWN/CONTINUED TO
36 MOTION PURSUANT TO SECTION 1538.5 PENAL CODE CALLED FOR HEARING MOTION SUBMITTED PER STIPULATION (NO. 40) BELOW
37 DEFENDANT ADVISED OF CONSTITUTIONAL RIGHTS AND EFFECT OF PRIOR CONVICTIONS: WAIVES RIGHTS; ADMITS PRIOR(S) NO
38 CAUSE IS CALLED FOR TRIAL. CAUSE SUBMITTED PER STIPULATION (NO. 40) BELOW.
39 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TRIAL BY JURY COURT ACCEPTS WAIVER(S).
40 By stipulation of defendant and all counsel issue is submitted on the testimony contained in the transcript of the proceedings had at the preliminary hearing, subject to this court's rulings, with each side reserving the right to offer additional evidence and all stipulations entered into at the preliminary hearing be deemed entered into in these proceedings. It is further stipulated that all exhibits received or marked for identification at the preliminary hearing are received in evidence and marked for identification in these proceedings, bearing the same number as used in the preliminary hearing, subject to this court's rulings. People's exhibit (Preliminary Transcript) admitted into evidence by reference.
41 Defendant advised and personally waives his right to confrontation of witnesses for the purpose of further cross-examination, and waives privilege against self-incrimination. Defendant advised of possible effects of plea on any alien or citizenship/probation or parole status.
42 THE COURT STATES IT HAS READ AND CONSIDERED THE TRANSCRIPT OF THE PRELIMINARY HEARING.
43 995 motion and 1538.5 motion are to be submitted by 5/24/85.
44 ALL SIDES REST. COUNSEL WAIVE ARGUMENT/ARGUE AND CAUSE IS SUBMITTED.
45 MOTION PURSUANT TO SECTION 1538.5 PENAL CODE GRANTED/DENIED/WITHDRAWN/CONTINUED TO
46 COURT FINDS DEFENDANT NOT GUILTY
47 COURT FINDS DEFENDANT GUILTY AS CHARGED TO SECTION(S) AND IN COUNT(S) AND LESSER INCLUDED/RELATED OFFENSE.
48 PRE-TRIAL CONFERENCE/TRIAL SETTING HELD OFF CALENDAR CONTINUED TO 6/4/85 9/10/85
49 THE DEFENDANT THE PEOPLE ANNOUNCE(S) READY FOR TRIAL.
50 ON PEOPLE'S/DEFENDANT'S/COURT'S MOTION, TRIAL/MOTION(S) IS SET/CONTINUED TO/REMAINS/TRAILED TO AT A.M. IN DEPT. REASON:
51 FURTHER CONTINUANCES WILL NOT BE GRANTED.
52 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TIME FOR TRIAL. PLUS DAYS
53 CAUSE TRANSFERRED TO DEPT. FORTHWITH ON AT A.M. FOR
54 DEFENDANT/WITNESS(ES) ORDERED TO RETURN ON ABOVE DATE:
55 DEFENDANT PERSONALLY WITHDRAWS PLEA OF NOT GUILTY TO COUNT(S) REARRAIGNED
56 PLEADS GUILTY/NOLO CONTENDERE, WITH CONSENT OF DISTRICT ATTORNEY AND APPROVAL OF COURT TO VIOLATION OF SECTION(S) LESSER INCLUDED/RELATED OFFENSE
57 DEFENDANT REFERRED TO PROBATION DEPARTMENT. DEFENDANT WAIVES TIME FOR SENTENCE. PROBATION AND SENTENCE HEARING SET AT A.M. IN DEPARTMENT INCLUDING DISPOSITION OF COUNT(S) REMAINING DETERMINATION OF PRIORS ALLEGED/DEGREE/ARMED/USE/GREAT BODILY INJURY ALLEGATION(S)
58 DEFENDANT WAIVES PROBATION REFERRAL. REQUESTS IMMEDIATE SENTENCE. (SEE SENTENCE BELOW/SEE ATTACHED SHEET)
59 FURTHER ORDER AS FOLLOWS:
60 THE SHERIFF IS ORDERED TO ALLOW THE DEFENDANT TELEPHONE CALLS AT DEFENDANT'S OWN EXPENSE
61 DEFENDANT FAILS TO APPEAR WITH/WITHOUT SUFFICIENT EXCUSE.
62 BAIL, IF POSTED, FORFEITED/O.R. REVOKED. BENCH WARRANT ORDERED ISSUED. NO BAIL/BAIL FIXED AT \$
63 BENCH WARRANT ORDERED ISSUED AND HELD UNTIL NO BAIL/BAIL FIXED AT \$
64 DEFENDANT APPEARING. BENCH WARRANT ORDERED RECALLED/QUASHED () RECALL NO. WRITTEN () ABSTRACT FILED
65 UPON PAYMENT OF \$ COSTS BEFORE AND FILING OF REASSUMPTION, ORDER OF FORFEITING BAIL IS TO BE VACATED AND BAIL REINSTATED.
66 REASSUMPTION FILED/COSTS PAID (RECEIPT NO.) ORDER OF FORFEITING BAIL VACATED. BAIL REINSTATED
67 DEFENDANT'S MOTION FOR RELEASE ON O.R./REDUCTION OF BAIL IS GRANTED/DENIED/SET/CONTINUED TO/ REASON:
68 BAIL RESET AT \$
REMANDED BAIL BAIL EXONERATED BOND NO.
RELEASED O.R. O.R. DISCHARGED IN CUSTODY OTHER MATTER MINUTES ENTERED

FILED

MAY 24 1985

FRANK S. ZOLIN, County Clerk

Willet
BY G. SILLETT, Deputy

1 Arthur H. Barens
Richard C. Chier
2 10290 Santa Monica Blvd.
Los Angeles, California 90067
3 (213) 557-0444
4 Attorneys for
5 Defendant

8 **SUPERIOR COURT OF CALIFORNIA**
9 **COUNTY OF LOS ANGELES**

10
11 THE PEOPLE OF THE STATE OF CALIFORNIA) No. A 090435
12)
13 Plaintiff,)
14 vs.) NOTICE OF MOTION AND
15) MOTION FOR ORDER
16) DISMISSING INFORMATION;
17) POINTS AND AUTHORITIES
18) [\$995 Penal Code]
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18 TO IRA REINER, DISTRICT ATTORNEY FOR THE COUNTY
19 OF LOS ANGELES AND TO HIS DEPUTY FRED WAPNER:

20 Please take notice that on June 4, 1985 at the
21 hour of 9:00 a.m. or as soon thereafter as counsel may be
22 heard in Department F of the West Branch of the Superior
23 Court, Defendant JOE HUNT will move for an order dismissing
24 the information filed herein.

25 Said motion will be made upon the following grounds,
26 each and all:

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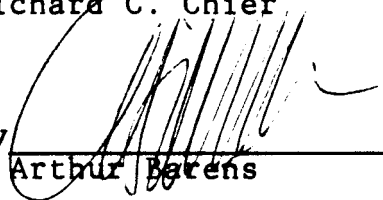
(1) That prior to the filing of information A090435 defendant was not legally committed by a magistrate;

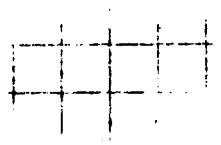
(2) That the defendant was held to answer without reasonable or probable cause.

Said motion will be based upon the preliminary hearing transcript, these moving papers and upon such further oral and/or documentary evidence as may be presented at the hearing on this motion.

Dated: May 22, 1985

Arthur Barens
Richard C. Chier

By 
Arthur Barens



PRELIMINARY STATEMENT

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Following a preliminary hearing in the Beverly Hills Municipal Court before the Honorable David A. Kidney, defendant JOE HUNT (a/k/a) Joseph Henry Gamsky) was bound over and held to answer on information charging a violation of Penal Code §187. A separate count of the complaint charging robbery (Penal Code §211) was dismissed for lack of evidence. Co-defendant, James Pittman (a/k/a James Graham) also has been bound over on the same charge as a result of a prior preliminary hearing before Judge Kidney. Pittman is now in trial.

The charge stems from the disappearance of one Ron Levin in June, 1984. Although no body or other tangible evidence of Levin's death has been adduced, the People contend that Levin is dead, the victim of a homicide.

Defendant Hunt submits this memorandum of points and authorities in support of his motion, made pursuant to section 995 of the Penal Code, to dismiss the information. As shall be demonstrated below, at the preliminary hearing the People failed to establish the corpus delicti which must be established for a bindover (In re Flodstrom (1954) 134 Cal.App. 2d 871, 873, hearing vac, judg reinstated (1955) 45 Cal.2d 307. Accordingly, the motion should be granted and the information dismissed.

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STATEMENT OF FACTS

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2 For the purposes of this motion, the facts may
3 be simply stated.¹ Ron Levin, a man who lacked a good reputation
4 for truth and honesty (2:159-160), disappeared sometime
5 after June 6, 1984 (1:24-25). At that time he was under
6 indictment for serious felonies -- eleven counts involving
7 Grand Theft Property (Penal Code §487) and uttering a Fraudulent
8 Instrument (Penal Code §476) (1:41, 116, 123-124) -- and
9 owed numerous persons substantial amounts of money (1:42, 44).
10 He cancelled an appointment that he had with his attorney
11 on June 6 for an unspecified reason (1:111-112) and was
12 apparently intending to depart for New York the next day,
13 June 7 (1: 26-27).

14 Levin's housekeeper (1:22) was unable to reach
15 him on the morning of June 7 and went to his house (1:27).
16 She met two other associates of Levin there and they reported
17 that they had not seen him either (1:27). The alarm system
18 was not on, though one of the associates had the combination
19 (1:28). No luggage had been packed and a small black bag
20 that Levin would usually carry on trips was in the house
21 along with ~~the~~ airline tickets and Levin's jewelry (1:29-32).
22 Levin's jogging suit, wallet, a pillow, terrycloth robe,
23 television remote control device and car keys (though not
24 the car itself) were missing (1:32-35). The dog had urinated
25 in the house (1:29), but other than typical untidiness,

26
27 ¹ The reporter's transcript will be cited by volume
28 (1 or 2) and page number, separated by a colon.

1 nothing else was particularly out of the ordinary. There
2 was no blood or other evidence of a violent struggle or
3 forced entry (1:46-49).

4 The People offered proof, through Levin's parents,
5 that Levin was a good son who would not go on a trip without
6 at least calling before he left and upon return (1:52-55).
7 Levin's father had called numerous persons (apparently listed
8 in his son's telephone book), including defendant Hunt,
9 in an effort to ascertain his son's whereabouts. In response
10 to a leading question, Levin's father stated that in conversation
11 with Hunt, Hunt was a "little bit" of "sad, happy, surprised,
12 confused, evasive, and belligerent" (1:94). According to
13 Levin's answering service, Hunt had placed several calls
14 to Levin after Levin's June 7 disappearance, i.e., on June
15 8 and twice on June 19 (1:68-69, 72-73).²

16 It was the People's theory that Hunt had killed
17 Levin for the purpose of obtaining 1.5 million dollars in
18 connection with a stock option (1:202-203). The only admissible
19 testimony on the truth of that theory was, to say the least,
20 highly suspect. The People's witness admitted that there
21 was a great deal of bias between himself and the defendant
22 (1:227) and that there was a civil suit between them involving
23 substantial sums of money (1:212).

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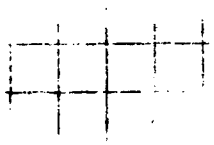
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27 ² The evidence established that between June 7 and 19
28 the alleged victim's mother herself telephoned her son
not less than 7 times.

1 The witness also exploded the theory by his own
 2 testimony. Although the People and the witness claimed
 3 that the "cover-up" for the 1.5 million dollar "robbery"
 4 was to be Levin's signing of an agreement to purchase a
 5 machine that the witness had invented, the theory, according
 6 to the People and the witness, rested on the theory that
 7 the agreement was worthless (1:202-203). But the witness
 8 himself later admitted that he was able to transfer his
 9 interest to another company for two million dollars (1:221,
 10 223, 226). The Court, therefore, dismissed the robbery
 11 count of the complaint for lack of evidence (2:170). This
 12 "theory," in any event, would not constitute the corpus
 13 delicti of the homicide.

14 The People also offered testimony concerning alleged
 15 ambiguous admissions made by the defendant. These need
 16 not be detailed, for, as set forth below, the corpus delicti
 17 must be established without reference to these alleged admissions
 18 (see, e.g., People v Coppola (1950) 100 Cal.App. 2d 766).

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ARGUMENT AND POINTS AND AUTHORITIES

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THE PEOPLE FAILED TO ESTABLISH THE CORPUS
DELICTI AT THE PRELIMINARY HEARING: THE
EVIDENCE DOES NOT ELIMINATE THE HYPOTHESIS
THAT THE ALLEGED VICTIM FLED TO AVOID FELONY
CHARGES AND HIS CREDITORS AND THUS DOES NOT
JUSTIFY A FINDING THAT LEVIN IS DEAD AND THAT
HIS DEATH RESULTED FROM A CRIMINAL AGENCY

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A defendant cannot be held to answer a homicide charge unless the People establish the corpus delicti at the preliminary hearing (In re Flodstrom, 134 Cal.App. 2d 871. In a homicide prosecution, "the corpus delicti consists of two elements, the death of the alleged victim and the existence of some criminal agency as the cause, either or both of which may be proved circumstantially or inferentially" (People v Cullen (1951) 37 Cal.2d 614, 624; see, also e.g., People v Manson (1977) 71 Cal.App 3d 1, 42-43).

It is important to note, however, that "the corpus delicti for every criminal case must be proved by satisfactory evidence aside from any statement, confession or admission of the defendant.... After the latter however been received in evidence they may strengthen and fortify the proof of the corpus delicti...." (People v McMonigle (1947) 29 Cal.2d 730, 749; accord, People v Cullen, 37 Cal.2d at 624.) "Thus although a confession may be considered by the jury

1 to support the corpus delicti, the corpus delicti must be
2 shown to some extent independently before the accused can
3 be held to answer for a crime "(In re Flodstrom, 134 Cal.App.
4 2d 871; accord, People v Jackson (1979) 92 Cal.App 3d 556,
5 560). "In the absence of prima facie proof of the corpus
6 delicti, anything the defendant may have said that might
7 be construed as an admission is not proof of anything" (People
8 v Coppola, 100 Cal.App. 2d 766; see also, Ann., 45 ALR2d
9 1316, §7, pp 1327-1329).

10 There are several California cases in which a
11 homicide conviction has been upheld despite the lack of
12 a body. This is hardly surprising. As the Court put it
13 in People v Manson (71 Cal.App 3d at 42), "The fact that
14 a murderer may successfully dispose of the body of the victim
15 does not entitle him to an acquittal. That is one form
16 of success for which society has no reward." In Manson
17 however, and every other California case on the subject,
18 the circumstantial evidence led to the unequivocal conclusion
19 that the victim had been murdered. Manson had "direct 'ear
20 witness' evidence of the actual murder.... [A witness]
21 testified to ~~hearing~~ screams by [the victim], at the time
22 of the murder. [This] ear witness testimony was direct
23 evidence to establish the corpus delicti" (People v Manson,
24 71 Cal.App. 3d at 25).

25 People v Scott (1960) 176 Cal.App. 2d 458, is
26 probably the leading California case on the subject, containing
27 the most comprehensive discussion of the applicable principles.
28 In Scott, the defendant was convicted of murdering his wife.

1 Her body was never found. She had simply disappeared from
2 her house, dropped out of sight, and had not been heard
3 from thereafter. In the words of the Court, however, the
4 circumstantial evidence formed "a complete pattern of murder"
5 and permitted "no rational explanation of the disappearance
6 of Mrs. Scott other than her murder by appellant" (176 Cal.App.
7 2d 458).

8 It is useful to contrast that evidence. According
9 to the opinion, the record established, inter alia, the
10 fact that Mrs. Scott had intimate and devoted friends; "she
11 had suffered no misfortune or upsetting experience; she
12 had expressed no intention or desire to go away...[and]
13 it would be unreasonable to believe that Mrs. Scott had
14 any motive for running away or that she would have left
15 home voluntarily" (176 Cal.App. 2d 458, "it would have been
16 impossible for her to conceal herself for several years
17 and find a way to live without drawing upon her bank accounts"
18 (176 Cal.App. 2d 458); the defendant "displayed no sorrow,
19 regret or other human emotion," undertook a series of forgeries
20 and thefts of his wife's money, cancelled all of her appointments
21 and gave away several of her personal belongings (176 Cal.App.
22 2d at 459). Even more important, an ash heap was found
23 at the Scott premises, containing personal items such as
24 dentures and eyeglasses (176 Cal.App. 2d at 459), their
25 automobile had a bullet hole in the windshield (176 Cal.App.
26 2d at 460) and defendant spent a great deal of time trying
27 to clean the vehicle (176 Cal.App. 2d at 460). This coupled
28 with constant lies and a flight to Canada (176 Cal.App. 2d

1 at 461), established the victim's demise by criminal means,³
2 "the only reasonable material factual conclusion" (176 Cal.App.
3 2d at 461). "[T]he evidence of death was so overwhelming
4 as to preclude every reasonable hypothesis that she did
5 not die at that time" (176 Cal.App. 2d at 462).

6 The other California authorities in which no body
7 was found are similar. In People v Cullen, 37 Cal.2d 614,
8 supra, the victim disappeared and there was proof that the
9 defendant forged a check belonging to the victim and there
10 were bloodstains on a rug and clothing. In People v Scott
11 (1969) 274 Cal.App. 2d 905, 79 Cal.Rptr. 587, the victim,
12 who was close with her family, stopped communicating with
13 them and "disappeared" after "arguments" with defendant,
14 her husband. Defendant was seen leaving the house at midnight,
15 carrying a closed cardboard box which he buried in an area
16 on Piru Creek, some fifty miles away, and then "sold" his
17 wife's clothes (274 Cal.App. 2d at 907). In People v Bolinski
18 (1968) 260 Cal.App. 2d 705, the victim disappeared without
19 reason. It was the victim's habit to pick up hitchhikers
20 and the defendant was hitchhiking on the Riverside Freeway
21 in California and was known to be armed with a revolver
22 at the time. Defendant was arrested in Illinois while driving
23 the victim's car and had used the victim's credit card en

24
25 ³ The statement in the Court's opinion concerning defen-
26 dant's "unwillingness to take the stand to deny, excuse
27 or explain the conduct of which he stood accused" (176
28 Cal.App. 2d at 430) must be read against Griffin v
California (1965) 380 US 609, decided five years later.
Obviously this factor cannot be considered.

1 route, had paid for meals with two dollar bills, a denomination
2 that the victim had collected, and defendant sped off at
3 a high speed when questioned by police.

4 None of the factors found telling in any of these
5 cases is present here. First, Levin had a motive to "disappear"
6 --- he was under indictment for serious felonies⁴ and was
7 heavily in debt. Defendant tried to contact Levin several
8 times after the disappearance and was surprised to find
9 Levin missing. There was no flight, no evidence of any
10 struggle or violence at Levin's house, no "ash heap" as
11 in People v Scott (176 Cal.App.2d 458). Levin himself cancelled
12 his appointment with his attorney. In short, there is simply
13 no way to eliminate the hypothesis that Levin fled to avoid
14 felony charges and/or avoid his many creditors. Like Judge
15 Crater, unless or until more is developed, the present facts
16 make an interesting missing persons tale, not a homicide
17 charge.

18 2

19 THE MAGISTRATE PROPERLY FOUND THAT THE
20 PEOPLE FAILED TO ESTABLISH THE ELEMENTS
21 OF ROBBERY AND COUNT 2 OF THE
22 INFORMATION SHOULD BE DISMISSED

23 The second count of the complaint charged a robbery
24 (Penal Code §211) in that defendant Hunt allegedly took
25

26 ⁴ Indeed, his rap sheet reflects extreme criminal
27 recidivism.
28

1 personal property from the person of Ron Levin wilfully
2 and unlawfully and by means of force and fear. Finding
3 absolutely no evidence to substantiate that charge, the
4 magistrate dismissed the count. The People have nonetheless
5 filed an information containing a robbery count, which forms
6 the predicate for their allegation of special circumstances.
7 Assuming, for the sake of argument, that the People procedurally
8 could file such an information and ignore the magistrate's
9 factual findings, substantively that count should again
10 be dismissed for lack of evidence.

11 Once again, the corpus delicti of the crime must
12 be established by the prosecution independently of and without
13 consideration of any extrajudicial statements of the defendant
14 (Jones v Superior Court (1979) 96 Cal.App. 3d 390). While
15 the corpus delicti may be established by circumstantial
16 evidence and the reasonable inferences that may be drawn
17 from it, as the Court of Appeal pointed out in Jones v Superior
18 Court (supra, pp 395-396) in dismissing an information charging
19 attempted robbery, "the word 'reasonable' has never been
20 defined to include the fantastic, which is, in effect, what
21 the People are suggesting that we do. In order for us to
22 conclude that the evidence presented at the preliminary
23 examination establishes by a reasonable probability that
24 an attempted robbery...occurred, we would need to stretch
25 the realm of reason beyond its breaking point."

26 The magistrate correctly found this to be such
27 a case. He pointed out that the prosecution's "theory"
28 that Hunt and his co-defendant entered Levin's apartment

1 and took the check by force or fear in his immediate presence
2 "would have to be speculation" (2:169):

3 "...Since you [the People] are contending
4 that it was committed during the course of a robbery,
5 I'm telling you what alternative actions could
6 have taken place. I'm not saying they did necessarily
7 take place. And therefore to speculate that it
8 was a robbery rather than any other kind of an
9 offense that might have taken place -- I'm not
10 saying that these definitely did take place --
11 but as I said, it could have been a grand theft,
12 it could have been a burglary, it could have been
13 any number of incidents, but there is no showing
14 here that there was a 211 inasmuch as the whole
15 corpus of the 211 is the forcible taking of something
16 from a person and that would have to be pure speculation
17 as to what occurred.

18 "There's been no testimony by any witness
19 as to what occurred in that room when Mr. Levin
20 ultimately disappeared. We no [sic] what happened
21 afterwards. We know what statements have been
22 made concerning Mr. Levin's whereabouts, but we
23 have nothing concerning what occurred in that
24 particular room other than a check later turned
25 up somewhere else.

26 "...I don't believe a corpus of a 211 is
27 made out...."

28 (2:169-170)(Emphasis supplied).

1 Careful review of the preliminary hearing transcript
2 shows these findings to be unassailable. There is, in short,
3 no evidence to support a charge of robbery. Supposition
4 and speculation cannot take the place of proof. No testimony
5 established a robbery; nothing indicated what happened in
6 the apartment other than a check turned up somewhere else.
7 There was no evidence of violence or a struggle.

8 The count of the information charging robbery
9 should be dismissed.

10 3

11 THE SPECIAL CIRCUMSTANCE ALLEGATION SHOULD
12 BE DISMISSED BECAUSE OF THE LACK OF PROOF
13 OF A ROBBERY AND BECAUSE THERE IS NO PROOF OF
14 INTENT TO KILL

15 The People have alleged special circumstances
16 in connection with the homicide, i.e. that the "murder was
17 committed while the defendant was engaged in or was an accomplice
18 in the commission of, attempted commission or the immediate
19 flight after committing or attempting to commit ... robbery
20 in violation of Section 211 [of the Penal Code]" (Penal
21 Code §190.2, ~~sub a~~, par [17], sub-para [i]). It is evident
22 that if, as urged in point 2, supra, the People failed to
23 prove the corpus delicti of alleged robbery, the special
24 circumstance should fall with it and thus the Municipal
25 Court correctly found the allegation to be untrue. In any
26 event, the special circumstance allegation is even more
27 far-fetched than the robbery allegation itself. It should
28 be dismissed.

1 Special circumstance allegations are tightly and
 2 narrowly construed (see, e.g. Carols v Superior Court (1983)
 3 35 Cal.3d 131). With respect to robbery, the People must
 4 establish that the homicide and robbery were linked in time
 5 and circumstance and one was not an after thought of the
 6 other (see People v Green (1980) 27 Cal.3d 1; People v Ford
 7 (1966) 65 Cal.2d 41; cf. People v Fields (1983) 35 Cal.3d
 8 329, 368). In addition, under the holding in Carlos v Superior
 9 Court (supra), one cannot be charged with, or convicted
 10 of, felony murder with a special circumstance allegation
 11 absent express proof of intent to kill or aid in the commission
 12 of a homicide. Indeed, Carlos involved the issuance of
 13 a writ to prevent a trial on such special circumstances
 14 allegations. It is evident that the proof here establishes
 15 some of these elements.

16 First, accepting, arguendo, the speculative robbery
 17 theory, where is the proof that the purported homicide and
 18 the robbery were linked in time and circumstance? There
 19 is no proof as to what happened in the apartment from which
 20 Levin ultimately disappeared. If Levin was killed, where
 21 is the proof that he was killed when the check was taken?
 22 The possibilities are endless and the People's "theory"
 23 rests upon sheer speculation. Again, speculation is no
 24 substitute for proof.

25 Moreover, and more important, where is the express
 26 proof of intent to kill required under Carlos (supra)?
 27 Even speculation won't fill the void. If Levin is dead,
 28 from what does it follow that defendant Hunt or his codefendant

1 possessed the requisite intent to kill. A homicide can
 2 be established without a body and perhaps in some cases
 3 special circumstances can also be established without a
 4 body. But the inferences sought to be drawn here are far
 5 too speculative. Death must be assumed; a robbery must
 6 be assumed; a nexus between the death and the robbery must
 7 be assumed; and intent to kill must be assumed.

8 The magistrate was willing to make the first assumption
 9 (which defendant urges was unwarranted), but was unwilling
 10 to make the others. The evidence adduced at the preliminary
 11 hearing is plainly insufficient to establish special circumstances
 12 under section 190.2 of the Penal Code. Consequently, the
 13 special circumstance allegation in the information should
 14 be stricken (Carlos v Superior Court, supra).

15
 16 **CONCLUSION**

17 For all the above reasons the information should
 18 be dismissed.

19 Respectfully submitted,

20 ARTHUR H. BARENS
 21 RICHARD C. CHIER

22 By 
 23 _____
 24 Arthur H. Barens

(VERIFICATION - 446 and 2015.5 C.C.P.)

STATE OF CALIFORNIA

County of _____ } ss.

I, the undersigned, say: I am the _____

in the above entitled action: I have read the foregoing _____

and know the contents thereof; and that the same is true of my own knowledge, except as to the matters which are therein stated upon my information or belief, and as to those matters that I believe it to be true.

I certify (or declare) under penalty of perjury, that the foregoing is true and correct.

Executed on _____ at _____, California
(date) (place)

(Signature)

(PROOF OF SERVICE BY MAIL - 1013a, 2015.5 C.C.P.)

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES } ss.

I am a resident of/employed in the county aforesaid; I am over the age of eighteen years and not a party to the within entitled action; my business address/~~XXXXXXXXXX~~ is:

10209 Santa Monica Boulevard, Los Angeles, California 90067

On May 23, 1985, I served the within Notice of Motion and

Motion for Order Dismissing Information; Points and Authorities (995 PC)

on the interested parties

in said action, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the

United States mail at Los Angeles County, California

addressed as follows:

Fred Wopner
Deputy District Attorney
1725 Main Street, Suite 228
Santa Monica, California 90401

I certify (or declare), under penalty of perjury,* that the foregoing is true and correct.

Executed on May 23, 1985 at Los Angeles County, California
(date) (place)

Deloris Carter

DELORIS CARTER
Signature

* Both the verification and proof of service by mail forms, being signed under penalty of perjury, do not require notarization.

Date: JUNE 04 1985
HONORABLE: LESLIE W LIGHT
203 R GOLDSMITH

JUDGE
Deputy Sheriff

DEPT. REF
C GILLET Deputy Clerk
L ANASTASIOU Reporter

CASE NO. A090435 (Parties and counsel checked if present)
 PEOPLE OF THE STATE OF CALIFORNIA
 VS
 01 HUNT JOE
 187 01CTS
 CHARGE (BOX CHECKED IF ORDER APPLICABLE)
 Counsel for People: DEPUTY DISTRICT ATTY: E. WARNER
 Counsel for Defendant: R CHIER PVT

NATURE OF PROCEEDINGS TRIAL T/S REM 995 MOT 04-04-85
 31 IS SWORN AS THE ENGLISH/ INTERPRET
 32 DUE TO CONFLICT OF INTEREST, PUBLIC DEFENDER RELIEVED. PURSUANT TO SECTION 987.2 PENAL CODE, IS APPOINTED.
 33 ON PEOPLE'S MOTION, AMENDMENT TO/AMENDED INFORMATION FILED/DEEMED FILED INFORMATION AMENDED BY INTERLINEATION/AS FOLLOWS
 34 ON MOTION, CASE A CONSOLIDATED INTO CASE A AS COUNT(S) THEREOF. SEE CASE A FOR FURTHER PROCEEDINGS
 35 MOTION PURSUANT TO SECTION 995 PENAL CODE GRANTED/DENIED/RECALLED/CONTINUED TO
 36 MOTION PURSUANT TO SECTION 1538.5 PENAL CODE CALLED FOR HEARING MOTION SUBMITTED PER STIPULATION (NO. 41) BELOW
 37 DEFENDANT ADVISED OF CONSTITUTIONAL RIGHTS AND EFFECT OF PRIOR CONVICTIONS; WAIVES RIGHTS; ADMITS PRIOR(S) NO CAUSE IS CALLED FOR TRIAL. CAUSE SUBMITTED PER STIPULATION (NO. 41) BELOW.
 38 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TRIAL BY JURY. COURT ACCEPTS WAIVER(S).
 39 By stipulation of defendant and all counsel issue is submitted on the testimony contained in the transcript of the proceedings had at the preliminary hearing, subject to this court's rulings, with each side reserving the right for further additional evidence and all stipulations entered into at the preliminary hearing be deemed entered into in these proceedings. If in further stipulated that all exhibits involved or marked for identification at the preliminary hearing are received in evidence and marked for identification in these proceedings, bearing the same number as used in the preliminary hearing, subject to this court's rulings. People's exhibit (Preliminary Transcript) admitted into evidence by reference.
 40 Defendant advised and personally waives his right to confrontation of witnesses for the purpose of further cross-examination, and waives privilege against self-incrimination. Defendant advised of possible effects of plea on any alien or citizenship/parole or parole status.
 41 THE COURT STATES IT HAS READ AND CONSIDERED THE TRANSCRIPT OF THE PRELIMINARY HEARING.
 42 ALL SIDES REST. COUNSEL WAIVES TRIAL BY JURY.
 43 MOTION PURSUANT TO SECTION 995 PENAL CODE GRANTED/DENIED/RECALLED/CONTINUED TO
 44 COURT FINDS DEFENDANT NOT GUILTY.
 45 COURT FINDS DEFENDANT GUILTY OF SECTION(S) LESSER INCLUDED/RELATED OFFENSE
 46 IN COURT(S) LESSER INCLUDED/RELATED OFFENSE
 47 PRE-TRIAL CONFERENCE SET/CONTINUED TO 9/18/85 9/18/85
 48 THE DEFENDANT ANNOUNCES READY FOR TRIAL
 49 ON PEOPLE'S MOTION, AMENDMENT TO/AMENDED INFORMATION FILED/DEEMED FILED INFORMATION AMENDED BY INTERLINEATION/AS FOLLOWS
 50 AT A.M. REASON
 51 FURTHER CONTINUANCES WILL NOT BE GRANTED
 52 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TIME FOR TRIAL.
 53 CAUSE TRANSFERRED TO DEPT. FORTHWITH ON AT A.M. FOR
 54 DEFENDANT/WITNESSES ORDERED TO RETURN ON ABOVE DATE.
 55 DEFENDANT PERSONALLY WITHDREW PLEA OF NOT GUILTY TO COURT. REARRAIGNED
 56 PLEADS GUILTY/NOLO CONTENDERE, WITH CONSENT OF DISTRICT ATTORNEY AND APPROVAL OF COURT TO VIOLATION OF SECTION(S) LESSER INCLUDED/RELATED OFFENSE
 57 DEFENDANT REFERRED TO PROBATION DEPARTMENT. DEFENDANT WAIVES TIME FOR SENTENCE.
 58 PROBATION AND SENTENCE HEARING SET AT A.M. IN DEPARTMENT INCLUDING REMAINING
 59 DETERMINATION OF PRIOR ALLEGED/DEGREE/HARMED/USE/GREAT BODILY INJURY ALLEGATION
 60 DEFENDANT WAIVES PROBATION REFERRAL. REQUESTS IMMEDIATE SENTENCE. (SEE SENTENCE BELOW/SEE ATTACHED SHEET)
 61 FURTHER ORDER AS FOLLOWS

61 THE SHERIFF IS ORDERED TO ALLOW THE DEFENDANT TELEPHONE CALLS AT DEFENDANT'S OWN EXPENSE
 62 DEFENDANT FAILS TO APPEAR WITH/WITHOUT SUFFICIENT EXCUSE
 63 BAIL, IF POSTED, FORBIDDEN OR REVOKED. BENCH WARRANT ORDERED ISSUED. NO BAIL/BAIL FIXED AT \$
 64 BENCH WARRANT ORDERED ISSUED AND HELD UNTIL NO BAIL/BAIL FIXED AT \$
 65 DEFENDANT APPEARING. BENCH WARRANT ORDERED RECALLED/QUASHED (RECALL NO. WRITTEN (ABSTRACT FILED)
 66 UPON PAYMENT OF \$ COSTS BEFORE AND FILING OF REASSUMPTION, ORDER OF FORFEITING BAIL IS TO BE VACATED AND BAIL REINSTATED.
 67 REASSUMPTION FILED/COSTS PAID (RECEIPT NO. ORDER OF FORFEITING BAIL VACATED. BAIL REINSTATED.
 68 DEFENDANT'S MOTION FOR RELEASE ON O.R./REDUCTION OF BAIL IS GRANTED/DENIED/SET/CONTINUED-TO/
 69 BAIL RESET AT \$

REMANDED BAIL BAIL EXONERATED BOND NO.
 RELEASED O.R. O.R. DISCHARGED IN CUSTODY OTHER MATTER

76 C779-C144 (Rev. 6-83) 6-83

MINUTE ORDER

MINUTES ENTERED JUN 04 1985 COUNTY CLERK

2 TRI MO

FILED

JUN 18 1985

JOHN J. CORCORAN, COUNTY CLERK
BY *Julia Marie Walker*
DEPUTY

1 IRA REINER
District Attorney
2 By: FRED WAPNER
Deputy District Attorney
3 1725 Main Street, Suite 228
Santa Monica, California 90401
4 Telephone: (213) 458-5379

6 SUPERIOR COURT OF THE STATE OF CALIFORNIA
7 FOR THE COUNTY OF LOS ANGELES

9	PEOPLE OF THE STATE OF CALIFORNIA,)	
10		)	CASE NO. A 090435
	Plaintiff,)	
11	v.	)	NOTICE OF INTENTION TO
		)	INTRODUCE EVIDENCE OF
12	JOE HUNT,	)	AGGRAVATION PURSUANT TO
		)	PENAL CODE SECTION 190.3
13	<u>Defendant.</u>)	

14
15 Notice is hereby given that if the defendant is found
16 guilty and the special circumstances are found to be true, the
17 People intend to introduce the following evidence at the penalty
18 phase of the trial:

- 19 1. The defendant participated in the kidnapping and
- 20 murder of Hedayat Eslamina in Belmont, California in July, 1984.
- 21 2. That the defendant ordered James Pittman to assault
- 22 Bruce Swartout with a deadly weapon and by means of force likely
- 23 to produce great bodily injury in Irvine, California in April,
- 24 1984 and that this assault was carried out by Mr. Pittman.
- 25 //
- 26 //

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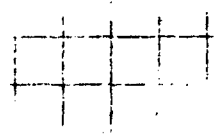
3. That the defendant participated in the shooting of automatic weapons into the business of FCI Company in Santa Ana, California on March 14, 1984.

Dated: May 3, 1985

Respectfully submitted,

IRA REINER
District Attorney

By: Fred Wapner
FRED WAPNER
Deputy District Attorney



Date JUNE 18 1985
HONORABLE LESLIE W LIGHT
R GOLDSMITH

JUDGE J. Walker
Deputy Sheriff

DEPT. WEF
L ANASTASIOU
Deputy Clerk
Reporter

CASE NO. A090435 (Parties and counsel checked if present)
PEOPLE OF THE STATE OF CALIFORNIA
Counsel for People: J. Wagner ✓
DEPUTY DISTRICT ATTY:
VS
01 HUNT JOE ✓ 01CTS
Counsel for Defendant: R CHIER PVT ✓
Arthur Barans ✓
(BOX CHECKED IF ORDER APPLICABLE)

NATURE OF PROCEEDINGS TRIAL T/S REM 995 MOT 04-04-85

- 31 IS SWORN AS THE ENGLISH/ INTERPRET
- 32 DUE TO CONFLICT OF INTEREST, PUBLIC DEFENDER RELIEVED. PURSUANT TO SECTION 987.2 PENAL CODE, IS APPOINTED.
- 33 ON PEOPLE'S MOTION, AMENDMENT TO/AMENDED INFORMATION FILED/DEEMED FILED/INFORMATION AMENDED BY INTERLINEATION/AS FOLLOWS.

34 ON MOTION, CASE A CONSOLIDATED INTO-CASE A AS COUNT(S) THEREOF. SEE CASE A FOR FURTHER PROCEEDINGS.

35 MOTION PURSUANT TO SECTION 906 PENAL CODE GRANTED/DENIED/WITHDRAWN/CONTINUED TO

36 MOTION PURSUANT TO SECTION 1838.6 PENAL CODE CALLED FOR HEARING MOTION SUBMITTED PER STIPULATION (NO. 40) BELOW

37 DEFENDANT ADVISED OF CONSTITUTIONAL RIGHTS AND EFFECT OF PRIOR CONVICTIONS WAIVES RIGHTS/ADmits PRIOR(S) NO

38 CAUSE IS CALLED FOR TRIAL CAUSE SUBMITTED PER STIPULATION (NO. 40) BELOW

39 DEFENDANT PERSONALLY AND ALL CO-DEFENDERS WAIVE TRIAL BY JURY COURT ACCEPTS WAIVER(S)

40 By adjournment of defendant and all co-defendants have authorized the court to proceed with the trial of the proceedings had at the preliminary hearing, subject to this court's order, and to accept the court's order as an order of the court. All matters entered into at the preliminary hearing are deemed to be evidence in this proceeding. A motion for judgment of acquittal or judgment of conviction may be made in the preliminary hearing, subject to the court's ruling. People's Exhibit

Defendant waived the right to a jury trial, and waives privilege against self-incrimination.

THE COURT STATES IT HAS READ AND APPROVES THAT THE DEFENDANT HAS WAIVED TRIAL BY JURY

THE COURT STATES IT HAS READ AND APPROVES THAT THE DEFENDANT HAS WAIVED TRIAL BY JURY

41 REARRAIGNED

42 REARRAIGNED

43 LESSOR INCLUDED/RELATED OFFENSE

44 DEFENDANT REFUSES TO PROCEED OR PROCEEDS AT THE COURT'S EXPENSE DEFENDANT WAIVES TIME FOR SENTENCE

45 PROBATION AND SENTENCE HEARING AT THE COURT'S EXPENSE

46 DETERMINATION OF PROBATION ALLEGED/DENIED/REMOVED BY COURT/BOULDER COUNTY ALLEGATION(S) REMAINING

47 DEFENDANT WAIVES PROBATION REFERRAL. REQUESTS IMMEDIATE SENTENCE. (SEE SENTENCE BELOW/SEE ATTACHED SHEET)

48 FURTHER ORDER AS FOLLOWS

49 THE SHERIFF IS ORDERED TO ALLOW THE DEFENDANT TELEPHONE CALLS AT DEFENDANT'S OWN EXPENSE

50 DEFENDANT FAILS TO APPEAR WITH/WITHOUT SUFFICIENT EXCUSE

51 BAIL IS POSTED, FORFEITING R. REVOKED. BENCH WARRANT ORDERED ISSUED. NO BAIL/BAIL FIXED AT \$

52 BENCH WARRANT ORDERED ISSUED AND HELD UNTIL NO BAIL/BAIL FIXED AT \$

53 DEFENDANT APPEARING. BENCH WARRANT ORDERED RECALLED/QUASHED. RECALL NO. WRITTEN () ABSTRACT FILED

54 UPON PAYMENT OF COSTS BEFORE AND FILING OF REASSUMPTION, ORDER OF FORFEITING BAIL IS TO BE VACATED AND BAIL REINSTATED.

55 REASSUMPTION FILED/COSTS PAID (RECEIPT NO.) ORDER OF FORFEITING BAIL VACATED. BAIL REINSTATED

56 DEFENDANT'S MOTION FOR RELEASE ON O.R./REDUCTION OF BAIL IS GRANTED/DENIED/SET/CONTINUED TO/ REASON:

57 BAIL RESET AT \$

58 REMANDED BAIL BAIL EXONERATED BOND NO. MINUTES ENTERED
 RELEASED O.R. O.R. DISCHARGED IN CUSTODY OTHER MATTER. BENCH WARRANT
MINUTE ORDER JUN 18 1985 COUNTY CLERK

Date JULY 03 1985
HONORABLE: LESLIE W LIGHT
202 R GOLDSMITH

JUDGE
Deputy Sheriff

DEPT. C GILLET
L ANASTAS IOU
WEF Deputy Clerk Reporter

CASE NO. A090435
PEOPLE OF THE STATE OF CALIFORNIA
VS
01 HUNT JOE
187 01CTS
CHARGE (BOX CHECKED IF ORDER APPLICABLE)

NATURE OF PROCEEDINGS TRIAL T/S REM 04-04-85

- 31 IS SWORN AS THE ENGLISH/ INTERPRETE
32 DUE TO CONFLICT OF INTEREST, PUBLIC DEFENDER RELIEVED. PURSUANT TO SECTION 987.2 PENAL CODE, IS APPOINTED.
33 ON PEOPLE'S MOTION, AMENDMENT TO/AMENDED INFORMATION FILED/DEEMED FILED/INFORMATION AMENDED BY INTERLINEATION/AS FOLLOWS.
34 ON MOTION, CASE A CONSOLIDATED INTO CASE A AS COUNT(S) THEREOF. SEE CASE A FOR FURTHER PROCEEDINGS.
35 MOTION PURSUANT TO SECTION 996 PENAL CODE GRANTED/DENIED/WITHDRAWN/CONTINUED TO
36 MOTION PURSUANT TO SECTION 1338.5 PENAL CODE CALLED FOR HEARING MOTION SUBMITTED PER STIPULATION (NO. 40) BELOW
37 DEFENDANT ADVISED OF CONSTITUTIONAL RIGHTS AND EFFECT OF PRIOR CONVICTIONS, WAIVES RIGHTS; ADMITS PRIOR(S) NO CAUSE IS CALLED FOR TRIAL CAUSE SUBMITTED PER STIPULATION (NO. 40) BELOW
38 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TRIAL BY JURY COURT ACCEPTS WAIVER(S)
40 By stipulation of defendant and all counsel issue is submitted on the testimony contained in the transcript of the proceedings had at the preliminary hearing, subject to the court's ruling with each side reserving the right to object to any evidence not admitted into the preliminary hearing, subject to the court's ruling. If further testimony is needed, the court shall call for the testimony of the witnesses at the preliminary hearing, subject to the court's ruling.
41 Defendant advised and personally waives the right to confrontation of witnesses for the purpose of the preliminary hearing, subject to the court's ruling.
42 THE COURT STATES IT HAS READ AND CONSIDERED THE TRANSCRIPT OF THE PRELIMINARY HEARING
43 ALL SIDES REVE: COUNSEL WAIVES TRIAL BY JURY COURT ACCEPTS WAIVER(S)
44 MOTION PURSUANT TO SECTION 1338.5 PENAL CODE CALLED FOR HEARING MOTION SUBMITTED PER STIPULATION (NO. 40) BELOW
45 COURT FINDS DEFENDANT GUILTY OF
46 COURT FINDS DEFENDANT GUILTY OF
IN COUNT(S)
47 THE COURT FINDS DEFENDANT GUILTY OF
IN COUNT(S)
48 ON PEOPLE'S MOTION, AMENDMENT TO/AMENDED INFORMATION FILED/DEEMED FILED/INFORMATION AMENDED BY INTERLINEATION/AS FOLLOWS.
49 AT
50 FURTHER CONTINUANCE
51 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TRIAL BY JURY COURT ACCEPTS WAIVER(S)
52 CAUSE TRANSFERRED TO
53 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TRIAL BY JURY COURT ACCEPTS WAIVER(S)
54 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TRIAL BY JURY COURT ACCEPTS WAIVER(S)
55 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TRIAL BY JURY COURT ACCEPTS WAIVER(S)
56 PLEASE QUOTE IN FULL THE SECTION NUMBER, STATUTE NUMBER, ATTORNEY AND APPROVAL OF COURT TO VIOLATION.
OF SECTION
57 DEFENDANT REQUESTS PROBATION REPELAL. REQUESTS IMMEDIATE SENTENCE. (SEE SENTENCE BELOW/SEE ATTACHED SHEET)
58 FURTHER ORDER AS FOLLOWS
59 THE SHERIFF IS ORDERED TO ALLOW THE DEFENDANT TELEPHONE BAIL AT DEFENDANT'S OWN EXPENSES
60 DEFENDANT FAILS TO APPEAR WITH/WITHOUT SUFFICIENT EXCUSE.
61 BAIL, IF POSTED, FORFEITED OR REVOKED. BENCH WARRANT ORDERED ISSUED. NO BAIL/BAIL FIXED AT \$
62 BENCH WARRANT ORDERED ISSUED AND HELD UNTIL NO BAIL/BAIL FIXED AT \$
63 DEFENDANT APPEARING. BENCH WARRANT ORDERED RECALLED/O.K.A.SHEET) RECALL NOT WRITTEN () ABSTRACT FILED
64 UPON PAYMENT OF \$ COSTS BEFORE AND FILING OF REASSUMPTION, ORDER OF FORFEITING BAIL IS TO BE VACATED AND BAIL REINSTATED.
65 REASSUMPTION FILED/COSTS PAID (RECEIPT NO.) ORDER OF FORFEITING BAIL VACATED. BAIL REINSTATED.
66 DEFENDANT'S MOTION FOR RELEASE ON O.R./REDUCTION OF BAIL IS GRANTED/DENIED/SET/CONTINUED TO/ REASON:
67 BAIL RESET AT \$
68 REMANDED BAIL BAIL EXONERATED BOND NO.
RELEASED O.R. O.R. DISCHARGED IN CUSTODY OTHER MATTER
BENCH WARRANT

1 IRA REINER, District Attorney
County of Los Angeles
2 BY: FRED WAPNER
Deputy District Attorney
3 1725 Main Street
Santa Monica, California 90401
4 Telephone: (213) 458-5351
5 Attorney for Plaintiff

FILED
JUL 23 1985
FRANK S. ZOLIN County Clerk

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES

11 PEOPLE OF THE STATE OF CALIFORNIA,)
12 Plaintiff,)
13 vs.)
14 JOE HUNT and)
JAMES PITTMAN,)
15 Defendants.)

Case No.: A090435
NOTICE OF MOTION TO
CONSOLIDATE; POINTS AND
AUTHORITIES

17 On August 14, 1985 in Department West "F" of the Superior
18 Court, the People will move to consolidate the cases against each
19 defendant. This motion will be based on the attached Points and
20 Authorities.

21 I.

22 "When two or more defendants are jointly
23 charged with any public offense, whether
24 felony or misdemeanor, they must be tried
jointly, unless the court order separate
trials"
25 Penal Code section 1098

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By this statute the legislature has expressed a clear preference for joint trials.

II.

The principles guiding the exercise of discretion to grant separate trials are set out in People v. Massie 66 C2d 899 (1967). "The court should separate the trials of co-defendants in the face of an incriminating confession...". If there is a confession by one defendant that implicates a co-defendant, the court should consider granting separate trials.

III.

"When the prosecution proposes to introduce into evidence an extrajudicial statement of one defendant that implicates a codefendant, the trial court must adopt one of the following procedures: (1) It can permit a joint trial if all parts of the extrajudicial statements implicating any codefendants can be and are effectively deleted without prejudice to the declarant. By effective deletions, we mean not only direct and indirect identifications of codefendants but any statements that could be employed against nondeclarant codefendants once their identity is otherwise established."

People v. Aranda 63 C2d 518, (1965)

IV.

If the incriminating portions of the statements cannot be "effectively deleted" the court can nevertheless permit the defendants to be tried jointly with a separate jury impaneled to try each defendant. Neither jury will hear portions of the co-defendant's statement which implicates the defendant - it is sworn to try. This procedure was approved in People v. Wardlow 118 CA3d 375, (1981)



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V.

The People request that the court permit the use of the Wardlow procedure. As in People v. Turner 37 C 3d 312 (1984), "This case presents the classic situation for joint trial-defendants charged with common crimes against common victims". In addition, the first trial of James Pittman took six weeks and involved about forty witnesses, three of whom are from New York. One of the statements, a lengthy and detailed confession by Joe Hunt (see attachment #2) has references to James Pittman which cannot be "effectively deleted" and the statment could not be used at a joint trial with one jury. Trying the case simultaneously to two juries is fair to both sides and provides for the most efficient use of judicial resources.

VI.

If the court refuses to allow the Wardlow procedure the People request consolidation, propose deletions in some statements and promise not to use other statements. The statements will be listed in their entirety and then with the proposed deletions.

1. Joe Hunt told Dean Karney that he was going to kill Ron Levin. Hunt said he was going to set up a contract, he was going to force Levin to sign it and he was going to force Levin to transfer assets either to the corporation or to some Swiss bank account or something like that.

This statement does not implicate James Pittman either directly or indirectly. It does not add anything against Pittman that is not already established by other physical evidence. This

1 statement should be received in its entirety in a joint trial.

2 2. Joe Hunt explained to Dean Karney the meaning of
3 each of the items on the "list" (Peoples 44 at Hunt's preliminary
4 hearing). This statement in its entirety is attached to this
5 motion as attachment number one. This statement was received
6 in defendant Pittman's first trial as a co-conspirator's state-
7 ment, Evidence Code §1223. The foundation for the admission of
8 the statement is contained in attachment #1 at pages 2179
9 through 2182. If the trial court again rules that this state-
10 ment meets the co-conspirator exception to the hearsay rule,
11 then it is admissible in its entirety. If not, the People pro-
12 pose the following deletions:

13 a) Page 2184, line 20 - delete "they" and insert "he"

14 b) Page 2185, lines 4 and 5 - delete "while they were
15 doing what they were doing in there", and insert "while the plan
16 was being carried out".

17 c) Page 2185, lines 14 through 21, delete all references
18 to "they" and insert "he".

19 These changes mean that the codefendant is not implicated.
20 It is no more prejudicial to Hunt than the original statements
21 since they are not statements of what happened, but only what
22 was being planned, and the plan was Hunt's.

23 d) Page 2191, lines 1 through 7, delete these in their
24 entirety. Insert "Question - Did Hunt tell you where the body
25 was to be disposed of?" Answer - "Yes, in Soledad Canyon."

26 As edited there is no reference to James Pittman. Al-

1 though this statement might be used against Pittman once his
2 identity is established, two factors mitigate against this.
3 First it is only a statement of intention by Hunt, not a recita-
4 tion of what actually happened. Second, other evidence will
5 establish Soledad Canyon as the most likely burial sight, so the
6 prejudicial effect of this statement is diminished.

7 e) Page 2193, lines 1-22

8
9 f) Page 2194, line 16 through page 2195, line 28, delete.

10 The statements in e) and f) will not be used at all by
11 the prosecution in a joint trial.

12 3. Joe Hunt told Dean Karney that Jim Pittman had gone
13 up to Soledad Canyon to dig a pit and that he had gone up there
14 to help him.

15 This statement will not be used by the prosecution in a
16 joint trial.

17 4. The same morning that Ron Levin was discovered "miss-
18 ing", Joe Hunt showed Dean Karney a copy of the option contract
19 that Ron Levin signed, and a check for \$1.5 million signed by
20 Ron Levin and Hunt said "Ron Levin is dead".

21 This statement should be received in its entirety. It
22 does not refer to James Pittman at all. In addition, James
23 Pittman makes the same statement to Gene Browning about two
24 months later, so this statement can't prejudice James Pittman.

25 5. Joe Hunt told Dean Karney that he brought Ron Levin
26 to the BBC offices the day before he was killed to make it appear

1 that Hunt and Levin were friends and therefore Levin's signing the
2 option would appear more plausible to the members of the BBC.

3 This statement doesn't directly implicate James Pittman
4 and can't be used against him once his identity is established.
5 It should be received in its entirety.

6 6. Joe Hunt made a lengthy confession to Dean Karney
7 during a walk around the block where their condominium was located
8 in Westwood. A summary of this statement is contained in the
9 police report and is attached as attachment 2. In this statement
10 Hunt and Pittman's roles in the killing are completely inter-
11 twined. Because of this it would be impossible to make "effective
12 deletions" without prejudice to either the declarant or the
13 codefendant, and if the court orders a joint trial, this state-
14 ment would not be used by the prosecution. It is included as
15 an attachment so the court can assess the value of trying this
16 case to two juries.

17 7. Joe Hunt told Dean Karny that the TV changer had
18 been on the bed when they wrapped up Levin's body and they had
19 taken it with them. He said that they returned to the house
20 after they disposed of the body. He said he remade the bed. He
21 said that he took the keys after he killed Levin. He said that
22 he tried to get the alarm code from Levin but Levin couldn't
23 remember it because he was too nervous, it was not written down
24 and the alarm key pad had no numbers on it.

25 Proposed Deletion: "The TV changer was on the bed when
26 the body was wrapped up and was taken with the body. He said

1 that he returned to the house after the body was disposed of."

2 The balance of the statement remains as above.

3 This eliminates any reference to a codefendant. It does
4 not prejudice Joe Hunt to a greater extent than if the statements
5 were in the plural form because it doesn't increase his partici-
6 pation in the crime or alter his legal culpability. Since the
7 statement as edited contains no reference to a second participant,
8 it can't be used against Pittman even after his edentity is
9 established.

10 8. Joe Hunt told Dean Karny that he had put the body
11 up a winding fire road in Soledad Canyon.

12 This statement contains no reference to a codefendant
13 and should be received in its entirety.

14 9. Joe Hunt told Dean Karny that there were a few
15 things that hadn't gone according to plan. One was that Jim Pitt-
16 man flubbed it when he let on that Joe was the leader. Two was
17 the TV changer. Three was the fact that Jim just took Ron Levin
18 and laid him down and shot him. That this was premature because
19 they wanted to pack a suitcase and make it appear that Ron Levin
20 had gone to New York.

21 The People will not use this statement in a joint trial.

22 10. Joe Hunt told Dean Karny that he got a lawyer for
23 Jim Pittman in New York.

24 The People will not use this statement in a joint trial.

25 11. On June 24, 1985, Joe Hunt told a group of 10 people,
26 "Jim and I [knocked off] [bumped off] [took care of] Ron Levin.

1 Jim Pittman was present and did not deny this statement.

2 This statement is admissible as in adoptive admission and
3 thus not violative of the Aranda rule. People v. Williams, 128
4 CA 3d 981(1982)

5 12. Joe Hunt told Dean Karny that he wanted to check to
6 see if the body was still there. He said he had been out there
7 once and the coyotes had dug up Levin or dug up a couple of
8 bones or something like that.

9 This statement does not implicate James Pittman. At
10 Pittman's first trial the thrust of the defense was that Hunt
11 killed Levin and was trying to blame it on Pittman. So any
12 statement by Hunt indicating Levin is dead is not harmful to
13 Pittman's defense. In addition, the death can be sufficiently
14 proved by circumstantial evidence and other statements so that
15 this statement is not prejudicial to Pittman's defense. This
16 statement should be received in its entirety.

17 13. Joe Hunt told Dean Karny that he had burned Ron Levin's
18 clothes and thrown his watch down a storm drain.

19 This statement should be received in its entirety. See
20 the argument under 12 above.

21 14. Joe Hunt told Evan Dicker that Ron Levin signed the
22 \$1.5 check under a great deal of duress.

23 This statement does not implicate James Pittman. It
24 tends to prove that the check was taken by force. It can be
25 limited to use against Hunt only. Since Pittman's defense is
26 that he was not present at all during the killing this statement

1 is not harmful to him.

2 15. Joe Hunt told Evan Dicker that Ron Levin's brains
3 were splattered all over an overcoat that had been left at Dicker's
4 house (but cleaned before it was left there). He also told Evan
5 Dicker that he had disposed of Ron Levin's body in acid.

6 Neither of these statements implicates James Pittman.
7 They should be received in their entirety. See argument in 12
8 above.

9 16. James Pittman told Detective DeCuir that he was in
10 New York because Joe Hunt sent him there to guard Ron Levin.
11 That Levin never arrived so Hunt told him to just take a vacation.

12 The statements do not implicate Hunt in the killing of
13 Ron Levin and should be received in their entirety.

14 17. James Pittman also told Detective DeCuir that the
15 police already had the heavies in the case, Hunt Karny, Dosti and
16 Lopez.

17 Proposed deletion: Strike the names Hunt, Karny, Dosti,
18 and Lopez.

19 It will still be clear by the evidence that Joe Hunt was
20 in custody at the time this statement was made, but the statement
21 doesn't directly implicate him the killing. It should be

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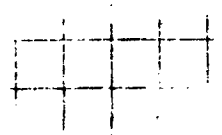
received because it proves Pittman's knowledge of what happened during the murder.

DATED: *July 23, 1985*

Respectfully Submitted

IRA REINER
District Attorney

By *Fred Wagner* *leg*
ct
FRED WAPNER
Deputy District Attorney



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

Q BY MR. WAPNER: MR. KARNY, AS JOE HUNT WAS
PREPARING THIS LIST AND YOU WOULD LOOK OVER HIS SHOULDER,
HE WOULD EXPLAIN TO YOU WHAT THE VARIOUS ITEMS MEANT?

A YES, HE WOULD.

Q DID YOU EVER ASK HIM ABOUT VARIOUS THINGS ON
THE LIST?

A YES, I DID.

Q AND DID HE TELL YOU ABOUT THEM?

A YES, HE DID.

Q DID YOU EVER MAKE SUGGESTIONS TO HIM OR CORRECTIONS?

A I THINK I MADE -- I MADE ONE SUGGESTION OR TWO.

Q WHICH WAS ABOUT WHAT?

A WELL, IT WAS ON THE PORTION OF THE LIST WHERE
IT ENUMERATED A NUMBER OF ITEMS THAT WERE SUPPOSED TO BE
PACKED IN RON LEVIN'S SUITCASE AS PART OF JOE'S PLAN, AND
I THINK I POINTED OUT TO HIM A COUPLE OF THINGS THAT WERE
MISSING FROM THAT LIST THAT A MAN WOULD NORMALLY PUT IN HIS
SUITCASE WHEN HE WENT AWAY SOMEWHERE.

Q AND DID HE IN FACT ADD THOSE ITEMS?

A HE MIGHT HAVE. I AM NOT POSITIVE IF HE DID.

Q WHAT WAS THE PURPOSE OF MAKING A LIST ABOUT PUTTING
THE ITEMS IN THE SUITCASE?

A WELL, THE PURPOSE OF PUTTING THE ITEMS -- MAKING
A LIST ABOUT PUTTING THE ITEMS IN THE SUITCASE WAS SO THAT
WHEN JOE WAS IN RON LEVIN'S HOUSE, HE WOULD REMEMBER TO
DO THOSE THINGS.

Q AND WHAT WAS THE PURPOSE OF HAVING THE SUITCASE 11
PACKED IN THE FIRST PLACE?

A SO THAT -- AFTER RON LEVIN HAD BEEN KILLED, THEY
COULD TAKE THE SUITCASE WITH THEM AND MAKE IT LOOK AS THOUGH
RON LEVIN HAD JUST GONE ON A TRIP.

Q YOU WERE NOT PRESENT AT THE TIME THAT MR. LEVIN
WAS KILLED?

A NO, I WAS NOT.

Q AND THIS LIST WAS PREPARED ON JUNE THE 4TH, 5TH
AND 6TH OF 1984?

A YES.

Q ON THE NIGHT OF JUNE THE 6TH OF 1984 DID YOU TALK
TO JOE HUNT?

A YES, I DID.

Q DID HE TELL YOU TO DO SOMETHING?

A YES.

Q WHAT DID HE TELL YOU TO DO?

A HE TOLD ME TO TAKE HIS GIRLFRIEND BROOKE TO THE
MOVIES, AND TO TAKE JEFF RAYMOND, WHO WAS LIVING WITH US
AT THE MANNING, AND JEFF'S GIRLFRIEND, AND ALL OF US GO TO
THE MOVIES.

THE COURT: WHAT DO YOU MEAN ALL OF US, WHO WAS US?

THE WITNESS: JEFF RAYMOND, HIS GIRLFRIEND RENEE, JOE'S
GIRLFRIEND BROOKE AND MYSELF.

THE COURT: NOT JOE?

THE WITNESS: CERTAINLY NOT.

Q BY MR. WAPNER: DID YOU SEE JOE HUNT THE NEXT
MORNING?

1 A NO. IT IS A GUN.

2 Q WERE YOU FAMILIAR WITH THE TYPES OF BOOKS THAT
3 JOE HAD HAD AT THE WILSHIRE MANNING CONDOMINIUM?

4 A I WAS.

5 I LIVED WITH HIM FOR TWO AND A HALF YEARS.

6 Q WOULD YOU SAY THAT HE WAS A VORACIOUS READER?

7 A YES, HE WAS.

8 Q DID YOU EVER SEE ANY BOOKS IN HIS POSSESSION
9 CALLED HIT MAN OR ANY BOOK ENTITLED HOW TO SURVIVE IN THE
10 SLAYMER OR ANY BOOKS OF THAT TYPE?

11 A NO, I DIDN'T.

12 Q WHEN YOU SAW JOE HUNT PREPARING THE LISTS OF
13 THINGS TO DO IN PREPARATION FOR MR. LEVIN'S KILLING AND HE
14 EXPLAINED TO YOU WHAT EACH ITEM ON THOSE LISTS WAS, WAS
15 THAT CONSISTENT WITH THINGS THAT HE HAD DONE BEFORE; HAD
16 HE DONE THAT ON OTHER OCCASIONS?

17 A YES, HE HAD.

18 THE COURT: PARDON ME. WHAT DO YOU MEAN, MAKING THE
19 NOTES ABOUT THINGS HE INTENDED TO DO OR SOMETHING?

20 MR. WAPNER: NO. DISCUSSING THINGS HE INTENDED TO DO,
21 WITH MR. KARNY.

22 THE COURT: YES.

23 Q BY MR. WAPNER: DO YOU HAVE SPECIFIC EXAMPLES
24 OF OCCASIONS WHEN HE WOULD DO THAT WHEN HE WAS INVOLVED IN
25 PROJECTS?

26 A YES.

27 SOMETIMES -- SOMETIMES WHEN JOE WAS GOING TO
28 EMBARK ON A PROJECT OR AN ENDEAVOR WHICH WAS A DIFFICULT ONE,

1 HE WOULD TALK TO ME BEFOREHAND IN ORDER TO GATHER UP HIS
2 STRENGTH, SORT OF, SO THAT HE COULD DO IT.

3 AND FOR EXAMPLE, WHEN HE CAME BACK FROM CHICAGO
4 WITH NO MONEY IN HIS POCKET, HE TALKED TO ME ABOUT WHETHER
5 WE SHOULD -- WHETHER WE SHOULD CONTINUE WITH THIS B.B.C.
6 IDEA OR WHETHER WE SHOULD JUST GIVE IT UP, AND I SHOULD GO
7 AND TRY AND GET A JOB AND HE SHOULD TRY AND BE AN ACCOUNTANT
8 AND CALL AN END TO IT.

9 AND HE DISCUSSED WHAT WE COULD DO IF WE STARTED
10 THE B.B.C. AND HE LOOKED TO ME FOR WHETHER I WOULD ENCOURAGE
11 HIM OR NOT IN SOMETHING LIKE THAT OR WHETHER I WOULD HAVE
12 ANY IDEAS ABOUT IT, AND HE OFTEN SAID THAT I WAS -- I WAS
13 THE SOURCE OF INSPIRATION FOR REKINDLING THE B.B.C. AND
14 STARTING ANEW.

15 Q DO YOU HAVE ANY OTHER SPECIFIC EXAMPLES OF THAT
16 TYPE OF THING?

17 A THE OTHER ONE THAT COMES TO MIND IS WHEN WE WERE
18 FIRST STARTING TO TRY TO GET INVOLVED WITH GENE BROWNING IN
19 THE CYCLATRON TECHNOLOGY, MR. BROWNING HAD ALREADY BEEN
20 INVOLVED WITH SOME OTHER BUSINESSMEN ON THIS AND APPARENTLY
21 THEY HADN'T PAID HIM, OR SOMETHING LIKE THAT, AND HE WAS
22 LOCKING TO US FOR A GOOD DEAL OF MONEY BEFORE HE WOULD AGREE
23 TO GET INTO BUSINESS WITH US FOR THE DEVELOPMENT OF HIS
24 TECHNOLOGY.

25 AND WE REALLY DIDN'T HAVE MUCH MONEY AT THE TIME
26 BUT WE SORT OF PUT ON A SHOW LIKE WE DID, BORROWING PEOPLE'S
27 FATHERS' CARS AND THINGS LIKE THAT.

28 AND WHEN -- WHEN IT CAME TIME TO REALLY MAKE THE

1 DECISION TO SIGN AN AGREEMENT WITH GENE BROWNING AND TO 1118
2 GIVE HIM ABOUT \$5,000, WHICH IS WHAT IT WAS GOING TO TAKE
3 TO JUST GET IT STARTED, AND TO PROMISE TO PAY HIM THAT
4 MUCH MONEY EVERY MONTH THEREAFTER, YOU KNOW, JOE AGAIN CAME
5 TO ME AND HE TALKED TO ME ABOUT IT BECAUSE HE WASN'T SURE
6 WHETHER HE COULD DO IT OR NOT OR WHETHER HE WOULD HAVE THE
7 PEOPLE BEHIND HIM, THE BOYS, IN SUCH A PROJECT.

8 AND HE SAYS THAT IT IS BECAUSE OF ME BEING THERE
9 THAT HE ULTIMATELY MADE THE DECISION TO GO FOR IT AND HE
10 FOUND THE STRENGTH TO DO THAT DEAL BECAUSE ALL OF THE ENERGY
11 THAT WAS ULTIMATELY PUT INTO THE CYCLATRON TECHNOLOGY AND
12 TRYING TO DEVELOP THAT BUSINESS WAS A LOT OF HARD WORK.

13 Q AND WERE THESE DISCUSSIONS WITH YOU CONSISTENT
14 WITH PART OF HIS PHILOSOPHY?

15 A I WOULD SAY SO.

16 Q WHAT PART OF THE PHILOSOPHY WAS THAT?

17 A WELL, ONE OF THE THINGS THAT JOE USED TO SAY,
18 THE PARADOX PHILOSOPHY ENABLED YOU TO DO IS TO KIND OF FIND
19 A CENTER OF FOCUS FOR YOURSELF SO THAT YOU COULD BECOME ONE
20 WITH YOUR PURPOSE IN A WAY, YOU COULD BECOME RECONCILED
21 COMPLETELY TO WHAT YOU WANTED TO DO AND ALL OF THE IMPEDIMENTS
22 TO YOUR PROGRESS WOULD BE OUTSIDE OF YOURSELF; IN OTHER WORDS,
23 YOU WOULDN'T CAUSE YOURSELF TO FAIL. THE ONLY THING THAT
24 COULD STOP YOU WOULD BE THE OUTSIDE WORLD.

25 AND HE USED TO SAY THAT PEOPLE WHO WERE NOT
26 RECONCILED TO THEIR PURPOSE WOULD NOT SUCCEED AT WHAT THEY
27 WERE TRYING TO ACCOMPLISH AND IN HIS OWN WAY, THE WAY HE
28 WOULD TALK TO ME ABOUT THE THINGS THAT HE WAS -- THAT HE WAS

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1 GOING TO DO OR THINKING OF DOING AND DISCUSS THEM WITH ME,
2 HE WAS BECOMING RECONCILED TO HIS PURPOSE IN THE WAY THAT
3 HIS PHILOSOPHY HELPED HIM TO DO.

4 Q SO THAT BY TALKING TO YOU ABOUT THE ITEMS THAT
5 WERE ON THE LIST, IT WOULD ALLOW HIM TO GET RID OF THESE
6 INNER IMPEDIMENTS; IS THAT RIGHT?

7 A I BELIEVE THAT, AND IT WAS CONSISTENT WITH THE
8 PHILOSOPHY THAT HE WOULD GATHER HIMSELF UP THAT WAY.

9 Q WHEN HE WAS TALKING TO YOU ABOUT THIS, WAS A
10 COUPLE OF DAYS IMMEDIATELY PRECEDING JUNE 6TH; IS THAT RIGHT?

11 A THAT'S RIGHT.

12 Q AND DID HE TELL YOU WHAT THE ITEMS ON THIS LIST
13 MEANT?

14 A HE EXPLAINED ALMOST ALL OF THEM TO ME IN GREAT
15 DETAIL.

16 Q ALL RIGHT. DO YOU HAVE THE LIST IN FRONT OF YOU,
17 THAT IS PEOPLE'S 55?

18 A IS IT THIS?

19 Q YES.

20 IS THERE A PAGE THERE WHERE AT THE TOP IT SAYS
21 "AT LEVIN'S TO DO"?

22 A YES.

23 Q THERE ARE 14 ITEMS ON THAT LIST; IS THAT RIGHT?

24 A I CAN COUNT THEM, BUT THERE IS A LIST THAT LOOKS
25 LIKE AS MANY AS 14.

26 THE NUMBERS ARE SCATTERED BACK AND FORTH. IT IS
27 TOUGH TO TELL.

28 Q THE LAST NUMBER IS 14?

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A YES, IT IS.

Q AND THE FIRST ITEM ON THERE IS "CLOSE BLINDS";
IS THAT RIGHT?

A THAT'S RIGHT.

Q DOES THAT MEAN ANYTHING OTHER THAN WHAT IT
APPEARS TO MEAN?

A IT MEANS THAT WHEN HE GOT TO LEVIN'S AND HE WAS --
HE WAS PLANNING TO CLOSE THE BLINDS SO THAT NO ONE COULD
SEE IN AT WHAT WAS BEING DONE THERE.

1 Q AND WHAT IS THE SECOND ITEM THAT SAYS "SCAN FOR
2 RECORDER"?

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3 A "SCAN FOR TAPE RECORDER"?

4 MR. WAPNER: ALL RIGHT. IT IS GETTING LATE.

5 Q WHAT DID HE EXPLAIN TO YOU WHAT THAT MEANT?

6 A WELL, HE WANTED TO MAKE SURE THAT RON DIDN'T HAVE
7 A TAPE RECORDER GOING TAPING THE CONVERSATION THAT TOOK PLACE
8 THERE, SO THAT IT WOULD BE A RECORD OF WHAT HAD HAPPENED. AND
9 HE WANTED -- HE HAD A LITTLE DEVICE THAT COULD TELL IF THERE WAS
10 A RECORDING -- SOME KIND OF RECORDING DEVICE -- BEING USED
11 IN THE AREA, IF THERE WAS A MICROPHONE ON OR SOMETHING LIKE
12 THAT.

13 Q JOE HUNT HAD A DEVICE LIKE THAT?

14 A YES. THE KIND OF THING THAT YOU CHECK FOR BUGS
15 OR SOMETHING LIKE THAT.

16 Q AND DID HE EXPLAIN TO YOU WHAT IT MEANT WHEN IT
17 SAID "TAPE MOUTH"?

18 THE COURT: PARDON ME?

19 Q BY MR. WAPNER: "TAPE MOUTH."

20 A THAT THEY WERE GOING TO TAPE RON LEVIN'S MOUTH.

21 Q AND WHAT ABOUT "HANDCUFF"?

22 THE COURT: YOU USED THE WORD "THEY." DID HE EXPLAIN
23 WHOM "THEY" MEANT?

24 THE WITNESS: I MEANT JIM AND JOE.

25 Q BY MR. WAPNER: DID HE EXPLAIN WHAT IT MEANT WHEN
26 IT SAID "HANDCUFF"?

27 A YES. THAT MEANT THAT RON WAS GOING TO BE HANDCUFFED
28 ALMOST IMMEDIATELY.

1122 [REDACTED]

Q AND WHAT ABOUT WHERE IT SAYS "PUT ANSWERING SERVICE ON 668 FIRST RING"?

A THAT WAS SO THAT IF ANYONE -- IF ANYONE CALLED WHILE -- WHILE THEY WERE DOING WHAT THEY WERE DOING IN THERE, THAT IT WOULD -- THAT IS HOW YOU ENGAGED RON'S ANSWERING MACHINE OR ANSWERING SERVICE.

Q OR AT LEAST THAT'S WHAT JOE HUNT BELIEVED?

A YES, THAT'S WHAT HE BELIEVED. HE THOUGHT THAT HE WOULD SET THE SERVICE ON SO THAT IT WOULD LIKE NO ONE WAS AT HOME IF ANYONE CALLED, BECAUSE THAT WAS WHAT RON ALWAYS DID WHEN HE LEFT.

Q AND WHAT ABOUT WHERE IT SAYS "GET ALARM ACCESS CODE AND ARN CODE"?

A WHAT HE WANTED TO DO WHEN THEY WERE FINISHED IS HE WANTED TO SET THE ALARM TO RON'S HOUSE. FIRST OF ALL, THEY WERE SUPPOSED TO ASK LEVIN OR FORCE HIM TO TELL THEM WHAT THE CODE WAS ON HIS ALARM, AND THEN WHEN THEY LEFT WITH RON'S BODY, THEY WERE GOING TO SET THE ALARM SO THAT IT LOOKED LIKE RON HIMSELF HAD JUST LEFT FOR HIS TRIP, WHICH IS WHAT THEY WANTED TO MAKE IT LOOK LIKE. AND JOE DIDN'T KNOW THE CODE, SO HE HAD TO GET IT FROM LEVIN FIRST.

Q WHAT ABOUT WHERE IT SAYS "DATE STAMP DOCUMENTS DATE STAMP LETTERS MAKE FILE OF LETTERS"?

A WELL, AS PART OF THE PLAN TO MAKE IT LOOK LIKE RON HAD IN FACT HAD A COMPLETED BUSINESS TRANSACTION WITH JOE HUNT AND THE MICROGENESIS CORPORATION, THIS SUPPOSED REASON WHY HE WOULD BE WRITING A CHECK OF A MILLION AND A HALF DOLLARS, JOE WAS GOING TO CREATE A FILE WHICH DIRECTLY MATCHED

1 ALL OF THE OTHER FILES THAT LEVIN HAD FOR HIS OTHER BUSINESS
2 TRANSACTIONS; AND HE WAS GOING TO PUT IN ALL OF THE NEGOTIATION
3 LETTERS THAT HE HAD WRITTEN IN ADVANCE FOR THIS OCCASION AND
4 A LOT OF THE PROMOTIONAL MATERIAL THAT WE HAD FOR THE
5 CYCLATRON TECHNOLOGY; AND HE WAS GOING TO LEAVE A COMPLETED
6 FILE IN LEVIN'S HOUSE SO THAT IT LOOKED PROPER; AND PART OF
7 THAT INCLUDED TO STAMP CERTAIN DOCUMENTS SUCH AS THE LETTERS
8 THAT JOE HAD PRETENDED TO WRITE TO RON, TO STAMP THEM "RECEIVED"
9 ON THE DAY THAT HE WAS GOING TO MAKE IT LOOK LIKE RON HAD
10 ACTUALLY RECEIVED THEM -- BECAUSE THAT WAS WHAT RON DID IN HIS
11 OTHER FILES. SO HE JUST WANTED TO MAKE SURE TO DO THAT WHEN
12 HE WAS CREATING THE FILE.

13 Q WHAT ABOUT "TAKE HOLES WITH YOU"?

14 A WELL, WHEN HE WAS MAKING UP THAT FILE, IT INVOLVED
15 PUNCHING HOLES, AND PUTTING THE DOCUMENTS -- THESE DOCUMENTS
16 HERE INTO A FOLDER; AND SINCE IF ALL OF THE HOLES, THE LITTLE
17 PIECES THAT WERE PUNCHED OUT OF THE PAPER, IF THEY WERE ALL
18 LEFT THERE AT THE SAME TIME, AND THEY WERE FOUND, IT WOULDN'T
19 LOOK LIKE THIS FILE HAD BEEN PUT TOGETHER IN THE COURSE OF AN
20 EXTENDED NEGOTIATION, AND IT WOULD LOOK LIKE IT HAD ALL BEEN
21 PUT TOGETHER AT ONE TIME, WHICH IT WAS APPARENTLY.

22 Q HE DIDN'T HAVE ANYTHING ON HERE THAT SAID "TAKE
23 LIST WITH YOU"; DID HE?

24 A NO, HE DIDN'T.
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Q AND WHAT ABOUT THE ITEM WHERE IT SAYS "KILL DOG" AND THEN IN PARENTHESIS IT SAYS "(EMPHASIS)"?

A THERE WAS -- AT THE TIME THAT JOE EXPLAINED TO ME ABOUT THIS LIST, HE HAD FELT THAT THERE MIGHT BE SOME DIFFICULTY IN CONVINCING RON THAT HE MEANT BUSINESS, AND WHAT HE WAS GOING TO DO IS HE WAS GOING TO KILL RON'S DOG. RON HAD A DOG THAT HE REALLY CARED ABOUT. AND HE WAS GOING TO KILL THE DOG IN A GROTESQUE WAY, AND THAT WAS WHAT "EMPHASIS" MEANT, TO EMPHASIZE THE KILLING OF THE DOG.

Q AND THAT WAS ONLY GOING TO BE NECESSARY IF IN FACT THE INITIAL PLAN TO GET HIM TO COOPERATE DID NOT WORK?

A THAT'S RIGHT.

Q AND WHAT IS IT -- WHEN IT SAYS "XEROX AUTHORIZATIONS"?

A IN ORDER TO DO BUSINESS IN THE NAME OF A CORPORATION, FOR SOMETHING AS BIG AS THIS, WHICH WAS WHAT JOE WAS PURPORTING THAT HE WAS DOING, YOU HAVE TO BE AUTHORIZED BY THE BOARD OF DIRECTORS OF THE CORPORATION TO DO THAT, AND JOE KNEW THAT. AND SO HE SET UP THAT -- THAT SUPPOSED STOCKHOLDERS OR DIRECTORS MEETING THAT YOU SHOWED ME BEFORE WHICH AUTHORIZED HIM TO NEGOTIATE IN THINGS LIKE THIS; AND SO HE WAS GOING TO MAKE SURE THAT LEVIN HAD A COPY OF THAT SUPPOSED AUTHORIZATION IN HIS FILE.

Q AND THAT'S THE AUTHORIZATION OF THE MEETING OF MAY THE 2ND THAT NEVER TOOK PLACE; IS THAT RIGHT?

A WELL, THAT WAS ONE OF THE -- ACTUALLY THAT -- THE MINUTES OF THAT MEETING -- I DON'T KNOW IF IT WAS THAT SPECIFIC AUTHORIZATION, BUT HE KNEW THAT HE HAD TO HAVE AN

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1 AUTHORIZATION IN THERE SO THAT IT WOULD LOOK LIKE IT WAS
2 LEGITIMATE CORPORATION BUSINESS THAT HE WAS CONDUCTING; AND
3 HE WANTED TO MAKE SURE A COPY OF THAT WAS WAS IN THERE.

4 Q AND IT SAYS "USE COPORATE SEAL"; WHAT DOES THAT
5 MEAN?

6 A WELL, BASICALLY THE SAME THING. IN ORDER TO
7 COMPLY WITH THE FORMALITIES OF CORPORATE BUSINESS TRANSACTIONS,
8 WHENEVER THERE IS A DOCUMENT THAT HAS OFFICIAL CORPORATE --
9 THAT PERTAINS TO OFFICIAL CORPORATE BUSINESS, YOU ARE SUPPOSED
10 TO STAMP IT WITH A CORPORATE SEAL THAT EMBOSSES THE -- I GUESS
11 THE NAME AND THE CORPORATION, THE DATE OF INCORPORATION OF THE
12 PARTICULAR CORPORATION; AND THAT'S THE ONLY WAY THAT SOMETHING
13 LOOKS OFFICIAL. AND HE WANTED TO MAKE SURE THAT HE HAD ALL THE
14 DETAILS DOWN.

15 Q AND THEN IT SAYS "HAVE LEVIN SIGN AGREEMENTS AND
16 FILL IN BLANKS"; WHAT DID THAT MEAN?

17 A WELL, HE WAS BRINGING OVER THE CONTRACT IN BLANK,
18 AND HE WANTED TO HAVE NOT ONLY RON'S SIGNATURE ON IT IN HIS
19 OWN HAND, BUT HE ALSO WAS GOING TO FORCE RON TO FILL IN CERTAIN
20 PORTIONS OF THE AGREEMENT IN HIS OWN HANDWRITING, SO THAT IT
21 REALLY DIDN'T LOOK LIKE A FORGERY.

22 Q THERE IS ANOTHER PAGE THERE THAT SAYS "GET ALARM
23 CODE" AT THE TOP; DO YOU SEE THAT PAGE?

24 A YES, I DO.

25 Q IS THAT BASICALLY A PRECURSOR OR A ROUGH DRAFT
26 OF THE LIST THAT YOU JUST LOOKED AT?

27 A YES, IT IS.

28 Q AND THAT'S THE ONE THAT HAS AMONG OTHER THINGS,



1 IT STARTS WITH "GET ALARM CODE"; IS THAT RIGHT?

2 A UH-HUH.

3 Q IS THAT YES?

4 A EXCUSE ME. YES.

5 Q AND THAT'S THE ONE THAT INCLUDES THE ITEM ABOUT
6 "PACK THE SUITCASE"?

7 A THAT'S RIGHT.

8 Q AND AT THE BOTTOM OF THAT LIST IT SAYS "OPTION ON
9 HIS HOUSE"; DO YOU KNOW WHAT THAT REFERS TO?

10 A YES, I DO.

11 Q WHAT IS THAT?

12 A RON LEVIN HAD TOLD US THAT HE -- HE LIVED IN A
13 HOUSE IN BEVERLY HILLS, THE BOTTOM STORY OF A DUPLEX. AND
14 HE HAD SAID THAT HE HAD GOTTEN THE RIGHT TO LIVE THERE BY
15 GETTING AN OPTION TO PURCHASE THE HOUSE FROM THE PREVIOUS
16 OWNER, AND THAT HE HAD -- SO THAT HE WAS -- HE WAS PAYING
17 RENT EVERY MONTH, BUT WHENEVER HE WANTED, HE COULD BUY THE
18 HOUSE AT A CERTAIN STATED PRICE. AND IT WAS ONE OF HIS SCAMS,
19 HE HAD SAID, AND HE ACTUALLY HAD THE RIGHT TO PURCHASE THAT
20 HOUSE, HE SAID, FOR SOMETHING LIKE \$30,000, AND THE HOUSE WAS
21 WORTH WELL OVER A MILLION.

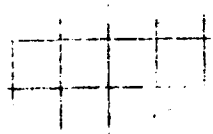
22 SO JOE WANTED TO -- HE WANTED TO GET NOT NECESSARILY
23 ONLY A CHECK FROM LEVIN AND THE SIGNATURE ON THIS AGREEMENT,
24 BUT HE WANTED TO GET WHATEVER THERE WAS OF VALUE THAT LEVIN
25 HAD THAT HE WAS ABLE TO CONVEY IN THAT TIME; AND SO HE WAS
26 GOING TO, AS ONE OF HIS CONTINGENCY PLANS, HE WAS GOING TO HAVE
27 LEVIN SIGN OVER TO HIM, TO JOE, THE OPTION ON THE HOUSE, SO
28 THAT JOE COULD LATER PAY \$30,000 AND OWN THAT HOUSE.



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A AND THE OPTION THAT LEVIN HAD ON HIS HOUSE WAS ¹¹²⁷
SOMETHING THAT JOE KNEW ABOUT?

A OH, LEVIN BRAGGED ABOUT IT. HE THOUGHT IT WAS A
REAL GREAT THING THAT HE HAD TRICKED SOME OLD LADY INTO GIVING
HIM THE OPTION ON A VERY EXPENSIVE HOUSE FOR ONLY \$30,000.



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1 Q THERE IS ANOTHER PAGE THAT STARTS AT THE TOP AND
2 IT SAYS "JIM DIGS PIT."

3 A OKAY.

4 Q WHAT DOES THAT REFER TO?

5 A THAT -- JIM'S ROLE IN PART IN THIS PLAN WAS TO GO
6 TO THE ANGELES FOREST WHERE LEVIN'S BODY WAS GOING TO BE
7 DISPOSED OF, AND TO DIG A PIT THERE.

8 Q DO YOU KNOW WHERE SPECIFICALLY IN THE ANGELES
9 FOREST?

10 A I KNOW THE GENERAL VICINITY, BUT I DON'T KNOW
11 SPECIFICALLY WHERE.

12 Q DO YOU KNOW THE NAME OF THE GENERAL VICINITY?

13 A LET'S SEE. IT'S CALLED SOLEDAD CANYON.

14 Q AND IN THAT REGARD IS THERE ANOTHER PAGE ON THERE
15 THAT HAS SOME LINES DRAWN ON IT, AND THEN IT SAYS "ROAD" AND
16 IT ALSO SAYS "EAST" AND IT SAYS "RANGER STATION"?

17 A YES.

18 Q WHAT IS THAT ALL ABOUT? WHAT DID JOE HUNT TELL
19 YOU THAT WAS ALL ABOUT?

20 A HE TOLD ME THAT THESE WERE -- ACTUALLY, I DIDN'T
21 EVER SEE THIS.

22 Q WELL THEN, HE DIDN'T TELL YOU?

23 A HE DIDN'T TELL ME ANYTHING ABOUT THIS.

24 Q LET'S GO BACK TO THE PAGE WHERE IT SAYS "JIM DIGS
25 PIT."

26 A OKAY.

27 Q THE SECOND THING IT SAYS IS "J.H. CANCELS HIS
28 RESERVATIONS FROM HIS PHONE"; WHAT DOES THAT REFER TO?

1129

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A I DON'T -- I DON'T REMEMBER. IT WAS -- I THINK THAT
HE TOLD ME -- I DON'T REMEMBER WHAT HE TOLD ME THAT WAS.

 | | | | | |

1130

1 Q DID JOE HUNT SAY ANYTHING TO YOU ABOUT THE NEXT
2 ITEM THAT SAYS "JOE ARRIVES 9:00 SEE LIST LETS JIM IN 9:45"?

3 A YES.

4 Q WHAT DID HE SAY?

5 A WELL, HE HAD MADE ARRANGEMENTS TO HAVE DINNER
6 WITH RON LEVIN THAT NIGHT, THAT WAS HOW HE WAS GOING TO
7 FIRST BE IN RON'S HOUSE AND THAT WAS GOING TO BE AT AROUND
8 9:00, ACCORDING TO THE DATE THAT HE WROTE THIS LIST.

9 I DON'T KNOW IF THE TIME WAS LATER CHANGED BUT
10 ACCORDING TO THIS LIST, HE WAS GOING TO GET THERE AT 9:00
11 AND HE WAS GOING TO HANG AROUND WITH RON A LITTLE BIT.

12 THEY WERE MAYBE GOING TO SEND OUT FOR DINNER
13 FROM LA SCALA OR SOMETHING, WHICH IS WHERE RON LIKED TO ORDER
14 FOOD FROM BECAUSE HE DIDN'T LIKE TO GO OUT TO RESTAURANTS
15 THAT MUCH.

16 AND THEN HE WAS SUPPOSED TO CALL JIM, OR JIM
17 WOULD BE WAITING FOR HIS CALL, AND INVITE HIM TO COME OVER
18 AND TO TELL RON, "WELL, I AM HAVING A FRIEND COME OVER,"
19 BECAUSE THAT IS WHAT ALWAYS HAPPENED AT RON'S HOUSE; SOME
20 BOYS WOULD BE OVER THERE AND THEN THEY INVITED THEIR FRIENDS
21 OVER AND THERE WAS ALWAYS GUYS COMING IN AND GOING OUT WITH
22 THEIR FRIENDS FROM RON'S HOUSE.

23 Q THERE IS ANOTHER PAGE THAT HAS FOUR ITEMS ON IT
24 AND IT SAYS "RESERVATION" AND THEN IT SAYS "SCHEDULE WITH
25 LEVIN" AND THEN IT SAYS "SCENARIO" AND IT LOOKS LIKE PAPER
26 SOMETHING AND THEN IT SAYS "SCENARIO LIST"; DID JOE HUNT
27 SAY ANYTHING TO YOU ABOUT ANY OF THE ITEMS ON THAT PAGE?

28 A HE DIDN'T SAY ANYTHING TO ME ABOUT THEM WITH RESPECT

1131

1 TO THIS PAGE.

2 BUT HE TOLD ME WHAT HIS SCENARIO WAS BUT HE
3 REFERRED TO THIS IN THE LATER LIST, IN THE LIST THAT YOU
4 FIRST ASKED ME ABOUT.

5 Q WHICH IS THE ONE THAT SAYS "AT LEVINS TO DO"?

6 A RIGHT.

7 Q AND THAT SCENARIO HAD TO DO WITH THE MICROGENESIS'S
8 OPERATION; IS THAT RIGHT?

9 A NO.

10 IT WAS THE SCENARIO FOR WHAT WAS ACTUALLY GOING
11 TO TAKE PLACE AT LEVIN'S HOUSE, WHAT LEVIN WAS GOING TO BE
12 TOLD.

13 Q AND DID HE EXPLAIN IT TO YOU AT THAT TIME?

14 A YES, HE DID.

15 -Q WHAT DID HE SAY?

16 A IT WAS WHEN -- WHEN I HAD ASKED HIM ABOUT WHERE
17 IT SAYS "EXPLAIN SITUATION", YOU SEE, HE WAS CONCERNED THAT
18 RON WOULD THINK, ONCE THEY PULLED A GUN ON HIM, WHICH IS
19 WHAT HE TOLD ME THEY WERE GOING TO DO, THAT RON WOULD THINK
20 THAT HE WAS GOING -- THAT HE WAS GOING TO DIE AND THAT HE
21 WOULDN'T COOPERATE BY SIGNING THE CONTRACTS AND BY WRITING
22 THE CHECKS AND JOE WANTED HIM TO.

23 AND SO JOE -- JOE TOLD ME AT THIS TIME THAT
24 HE HAD TO COME UP WITH A SCENARIO OF HOW HE WOULD EXPLAIN
25 TO LEVIN THAT HE WAS IN FACT GOING TO SURVIVE, IN ORDER TO
26 GET HIM TO COOPERATE.

27 AND WHAT HE SAID WAS THAT AS SOON AS JIM WAS
28 GOING TO GET THERE, THAT JIM WAS GOING TO PULL A GUN AND THAT

1 WHEN RON WANTED TO KNOW WHAT WAS GOING ON, JOE WAS GOING TO
 2 EXPLAIN THE FOLLOWING SCENARIO TO HIM: HE WAS GOING TO SAY,
 3 "WELL, RON, YOU KNOW THAT I BELIEVED FOR A LONG TIME THAT
 4 YOU WERE GOING TO PAY ME \$5,000,000 AND I LOST A LOT OF
 5 MONEY WHEN I WAS BACK IN CHICAGO AND I OWE -- AND I OWE SOME
 6 PRETTY HEAVY CHARACTERS BACK THERE A LOT OF MONEY. AND
 7 WHEN THEY CAME ASKING FOR IT, I TOLD THEM THAT I WAS GOING
 8 TO GET MONEY FROM YOU BECAUSE I THOUGHT I WAS AND I KEPT
 9 STALLING THEM AND THEN WHEN I COULDN'T COME UP WITH THE MONEY,
 10 I HAD TO TELL THEM THAT YOU WOULD COME UP WITH THE MONEY,
 11 THAT YOU ARE THE ONLY PERSON THAT I KNEW WHO HAD MONEY AND
 12 YOU OWED IT TO ME."

13 "AND SO THAT IS WHAT THIS GUY HERE" AND HE WOULD
 14 POINT TO JIM, "THAT IS WHAT THIS GUY HERE IS FOR. HE HAS GOT
 15 HIS GUN ON ME AS MUCH AS HE HAS IT ON YOU BECAUSE I AM IN
 16 JUST AS BIG TROUBLE OVER THIS MONEY AS YOU NOW ARE."

17 AND THEN HE WAS GOING TO SPICE IT UP BY SAYING,
 18 "RON, HAVE YOU EVER SEEN ME WITHOUT MY SHOES ON? BECAUSE,
 19 YOU KNOW, I AM MISSING MY BIG TOE BECAUSE OF THESE GUYS."

20 AND HE WAS REALLY GOING TO BUILD IT UP SO THAT
 21 HE COULD THEN EXPLAIN TO RON, "NOW, IF WE JUST PAY THESE
 22 GUYS, THEN THEY WILL LEAVE US ALONE." AND THAT IS HOW HE
 23 WAS GOING TO GET RON TO BELIEVE THAT BOTH HE AND RON WERE
 24 GOING TO SURVIVE THAT NIGHT.

25 Q AND THEREFORE, BE ABLE TO GET HIM TO SIGN THE
 26 AGREEMENT?

27 A BE ABLE TO GET HIM TO SIGN THE AGREEMENT, RATHER
 28 THAN TO JUST GIVE UP.

BEVERLY HILLS POLICE DEPARTMENT
SUPPLEMENTAL REPORT

8405436
11-29-84/1450 HRS.

<input type="checkbox"/> CRIME REPORT	<input type="checkbox"/> GATE REPORT	<input type="checkbox"/> REPORT INCIDENT	<input type="checkbox"/> OTHER
<input type="checkbox"/> TRAFFIC REPORT	<input type="checkbox"/> FOLLOW UP REPORT	<input type="checkbox"/> MURDER/ROBBERY	<input type="checkbox"/> OTHER

1077011 P.O. MURDER/ROBBERY

V LEVIN, RONALD GEORGE

JOE HUNT EXPLAINED THAT HE WANTED RON LEVIN TO COME INTO THE OFFICE SO EVERYONE COULD SEE HIM, SEE THAT RON LEVIN AND JOE HUNT WERE FRIENDS/BUSINESS PARTNERS. JOE SAID THAT THIS WAS RISKY AS HE DIDN'T KNOW WHETHER ANYONE WOULD MENTION THE OPTION AGREEMENT WHILE LEVIN WAS IN THE OFFICE. JOE HUNT MADE ARRANGEMENTS TO GO OVER TO LEVIN'S HOUSE FOR DINNER THAT NIGHT, THE NIGHT BEFORE RON LEVIN WAS TO GO TO NEW YORK; 6-5-84. AT ABOUT 1950 HRS., JOE HUNT ORDERED A TO GO DINNER FROM LA SCALA RESTAURANT IN BEVERLY HILLS AND TOOK IT TO LEVIN'S HOUSE. THERE WAS A PRIOR ARRANGEMENT BETWEEN JOE HUNT AND JIM PITTMAN, FOR JOE HUNT TO CALL JIM AND INVITE JIM OVER TO LEVIN'S HOUSE. IT WAS COMMON OVER AT LEVIN'S HOUSE FOR PEOPLE COMING AND GOING ALL THE TIME WHEN OTHER PEOPLE WERE OVER. WHEN JOE HUNT GOT OVER AT LEVIN'S HOUSE, HE WAS LET IN BY RON LEVIN. AFTER A WHILE AT LEVIN'S HOUSE, JOE CALLED JIM. JIM PITTMAN CAME OVER AND WAS LET IN BY JOE HUNT. ONCE JIM PITTMAN WAS INSIDE THE HOUSE, HE IMMEDIATELY PULLED A GUN; A 25 CALIBER BERRETA WITH A SILENCER ON IT. RON LEVIN HAD NEVER MET JIM PITTMAN BEFORE. THERE WAS ALSO A PREARRANGED PLAN BY JOE HUNT AS FOLLOWS: JIM WAS TO COME INTO LEVIN'S HOUSE AS A HIT MAN/HEAVY FOR THE MAFIA. JOE THEN STATED TO RON LEVIN, THAT HE HAD LOST MOST OF MONEY TO THE MAFIA IN TRADING COMMODITIES. THE MAFIA WAS NOW AFTER HIM FOR THE MONEY. JOE HUNT KEPT PUTTING THEM OFF, USING THE 50% PROFIT THAT WAS OWED HIM BY RON LEVIN IN THE TRADING OF COMMODITIES FOR HIM. JOE HUNT TOLD RON LEVIN THAT JIM PITTMAN WORKED FOR THE MAFIA, AND THAT HE WAS THERE TO MAKE SURE THAT

L. ZOELLER	99980	02	SAME	REPORTED BY	DATE
LHE	12-5-84				
<input type="checkbox"/> CHIEF	<input type="checkbox"/> IDENTIFICATION	PAGE 6		FILE NO.	
<input type="checkbox"/> DETECTIVE	<input type="checkbox"/> OUTSIDE AGENCY				
<input type="checkbox"/> CRIMINAL INVESTIGATION	<input type="checkbox"/> OTHER				
<input type="checkbox"/> OTHER					

BEVERLY HILLS POLICE DEPARTMENT
SUPPLEMENTAL REPORT

REPORT NO. 8-00176

DATE 11-23-84 1150 -13.

<input type="checkbox"/> VIEW ON REPORT	<input type="checkbox"/> CASE CLOSED	<input type="checkbox"/> REPORT MADE	<input type="checkbox"/> OTHER
<input type="checkbox"/> INITIAL REPORT	<input type="checkbox"/> INCIDENT REPORT	<input type="checkbox"/> INCIDENT REPORT	<input type="checkbox"/> OTHER
<input type="checkbox"/> TRUST REPORT	<input type="checkbox"/> FOLLOW-UP REPORT	<input type="checkbox"/> OTHER	

11:11 P.C. MURDER/SOBBERY
 V. LEVIN, RONALD GEORGE

JOE RETAINED THE MONEY. RON LEVIN WAS THEN FORCED TO SIGN THE OPTION AGREEMENT (WHICH HE DID) AND THE SWISS CHECK FOR 1.5 MILLION DOLLARS. JOE HUNT AND JIM PITTMAN MADE LEVIN BELIEVE THAT HE WAS NOT GOING TO BE KILLED, THAT THEY WOULD TAKE HIM AND KEEP HIM UNTIL THE CHECK CLEARED, HE WOULD THEN BE RELEASED. JOE TOLD KARNY THAT HE THOUGHT THAT HE COULD GET MORE MONEY FROM LEVIN AND LOOKED AT PITTMAN AND ASKED HIM IF THAT (THE 1.5 MILLION) WAS ENOUGH. AS THIS WASN'T REHEARSED, JIM STAMMERED AND SAID, "YEAH, THAT'S ENOUGH." SOON AFTERWARD, RON LEVIN FIGURED OUT THAT HE WAS GOING TO BE KILLED. RON LEVIN STARTED TO WIMPER AND WINE. JIM PITTMAN THEN TOLD LEVIN TO LAY FACE DOWN ON THE BED, WHICH HE DID. JIM PUT THE GUN TO THE BACK OF LEVIN'S HEAD AND SHOT HIM. JOE HUNT THEN EXPLAINED LEVIN'S LAST BREATH, SAYING THAT IT WAS A HEAVING GASP; JOE THEN GASPED TO KARNY TO SHOW HIM EXACTLY THE WAY LEVIN HAD SOUNDED. LEVIN'S BLOOD STARTED TO APPEAR AROUND THE WOUND. JOE HUNT WANTED THE APARTMENT TO LOOK AS IF LEVIN HAD JUST LEFT, SO THEY WRAPPED HIM UP IN THE BEDSPREAD AND CARRIED HIM TO THE CAR, WHICH KARNY WAS TOLD WAS PARKED IN THE ALLEY. KARNY STATED THAT THE CAR USED WAS A GRAY BMW 735 I THAT BELONGED TO A COMPANY OF B.B.C.; WEST CARS OF NORTH AMERICA. KARNY STATED THAT HUNT TOLD HIM OF HOW HEAVY DEAD WEIGHT WAS. JOE SAID THAT THEY WERE PHYSICALLY EXHAUSTED FROM THE WHOLE ORDEAL, AND THAT WHEN THEY PUT HIM IN THE TRUNK OF THE CAR, LEVIN DIDN'T FIT. AS THEY TRIED TO CLOSE THE TRUNK, THE DECK LID WAS DENIED. KARNY STATED THAT HE REMEMBERED THAT CAR, AS WHEN THEY TRIED TO SELL IT,

REPORTING OFFICER'S NAME L. ZOELLER	OFFICER'S NO. 09980	REPORTING OFFICER'S DIVISION 02	REPORTING OFFICER'S STATUS SAME	DATE 10-5-84	CHARGE CODE 10-5-84
<input type="checkbox"/> CHIEF	<input type="checkbox"/> DETECTIVE	<input type="checkbox"/> CRIMINAL INVESTIGATOR	<input type="checkbox"/> OTHER	<input type="checkbox"/> INTERVIEW DIVISION	<input type="checkbox"/> OUTSIDE AGENCY
PAGE 7 OF 15					

BEVERLY HILLS POLICE DEPARTMENT
SUPPLEMENTAL REPORT

3495407
11-27-84 11:50 AM

<input type="checkbox"/> ORIGINAL ACTION REPORT	<input type="checkbox"/> DATE OF REPORT	<input type="checkbox"/> REPORT RECEIVED	<input type="checkbox"/> OTHER
<input type="checkbox"/> COMPLAINT REPORT	<input type="checkbox"/> INCIDENT REPORT	<input type="checkbox"/> INVESTIGATION REPORT	<input type="checkbox"/> OTHER
<input type="checkbox"/> ARREST REPORT	<input type="checkbox"/> FOLLOW UP REPORT	<input type="checkbox"/> OTHER	
137011 P.O.		MURDER/ROBBERY	
V. LEVIN, RONALD GEORGE			

THE BUYER, A SMIL VARMA, ASKED THAT THE DAMAGE BE FIXED. JOE HUNT TOLD KARNY THAT HE WENT BACK INTO THE APT. AND REMADE THE BED, TAKING THE P.O. BOX KEY. JOE SAID THEY MESSED UP, BECAUSE HE WANTED TO PACK A SUITCASE TO MAKE IT LOOK LIKE HE DID GO ON HIS TRIP TO NEW YORK, AND HE WOULDN'T BE MISSED FOR ABOUT A WEEK. PITTMAN FORCED THE ISSUE WHEN HE SHOT HIM IN THE HOUSE, THAT WAS NOT PLANNED.

THEY TOOK HIM TO THE MOUNTAIN AREA, OFF OF SOLEDAD CANYON AREA. KARNY STATED THAT HE HAD BEEN TO THE AREA A FEW TIMES WITH JOE HUNT. JOE HUNT KNEW THE AREA LIKE THE BACK OF HIS HAND. HE ALWAYS WENT THERE FROM WHEN HE WAS A BOY WITH HIS FATHER. JOE HUNT TOLD HIM THAT THEY WENT UP THE DIRT ROAD A LONG WAY, ABOUT 5 MILES. THEY WENT TO AN AREA WHERE JAMES PITTMAN HAD DUG A PIT FOR THE BODY THE DAY BEFORE. JOE HUNT MAY HAVE HELPED HIM. THEY THREW LEVIN'S BODY IN THE PIT, TOOK HIS WATCH, AND BEDSPREAD FROM THE BODY. WHEN THEY TOOK THE BEDSPREAD, THEY NOTICED THAT THE T.V. CHANGER WAS WRAPPED UP INSIDE. THEY THEN BEGAN TO SHOOT THE BODY WITH A 5 SHOT SHOTGUN THAT JOE HUNT OWNED. THEY SHOT HIM UP SO THAT HE COULD NOT IDENTIFIED. JOE EXPLAINED TO KARNY THAT THE SHOTS INTO HIS BODY MADE THE BODY JUMP ALL AROUND. HE FURTHER SAID THAT ONE SHOT TO THE HEAD, MADE LEVIN'S BRAIN JUMP RIGHT FROM HIS HEAD AND LAND ON HIS CHEST. THEY THEN FILLED IN THE PIT OVER LEVIN.

HUNT SAID WHEN THEY CAME BACK THEY BURNED THE BEDDING, AND THREW LEVIN'S WATCH IN A STORM DRAIN IN WESTWOOD. JOE TOLD KARNY THAT HE HATED TO DO THAT. X NARRATIVE CONT'D

REPORTING OFFICER L. DWELLER	DATE 12-5-84	OFFICER'S NO. 99953	OFFICER'S DIVISION 02	OFFICER'S STATUS SAME	RECEIVED BY	DATE
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<input type="checkbox"/> CHIEF <input type="checkbox"/> DETECTIVE <input type="checkbox"/> OFFICER <input type="checkbox"/> OTHER	<input type="checkbox"/> IDENTIFICATION <input type="checkbox"/> OUTS DEPARTMENT <input type="checkbox"/> OTHER	PAGE 8 OF 15
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BEVERLY HILLS POLICE DEPARTMENT
SUPPLEMENTAL REPORT

SEARCHED
SERIALIZED
INDEXED
FILED

REPORT MADE AT	DATE	TIME	OFFICER
137/011 P.C.			
CHARACTER OF OFFENSE	CLASSIFICATION	SECTION	OFFICER
MURDER/ROBBERY			
REPORT MADE BY	DATE	TIME	OFFICER
V LEVIN, RONALD GEORGE			

CAUSE THE WATCH WAS A GOLD "BULGAN" WATCH WORTH \$12,000.00

ANOTHER CONVERSATION WITH JOE, AT THE OFFICE, JOE STATED THAT HE WAS UNABLE TO GET THE CODE RIGHT ON LEVIN'S HOUSE AND DIDN'T SET IT WHEN HE LEFT. JOE HUNT ADMITTED THAT THAT WAS ANOTHER MISTAKE. JOE HUNT THEN TOLD HIM THAT THE DAY AFTER THE MURDER, 6-7-64, JIM WENT TO NEW YORK USING RON LEVIN'S NAME. HE WAS SUPPOSED TO DUMP RON LEVIN'S I.D., CREDIT CARDS ETC. IN NEW YORK SO THAT THE ITEMS COULD BE FOUND. THE PLAN WAS TO SHOW THAT LEVIN WAS THERE. IF LEVIN LATER WAS REPORTED MISSING, ALL INDICATIONS WOULD SHOW THAT HE WAS IN NEW YORK AND IS MISSING FROM NEW YORK. PITTMAN WAS TO STAY IN THE PLAZA HOTEL IN NEW YORK, USING LEVIN'S NAME, AS THEY HAD HEARD THAT LEVIN LIKED TO STAY AT THAT HOTEL. HUNT STATED THAT WHILE THEY WERE ORIGINALLY IN LEVIN'S APT., THEY MADE-UP A PACKET OF ALL CORRESPONDENCE FROM JOE HUNT/ B.B.G. INCLUDING THE LETTERS THAT HE HAD THE SECRETARY TYPE UP. ALL CORRESPONDENCE WAS DATED, AND STAMPED RECEIVED BY LEVIN'S STAMP THAT HE HAD IN HIS HOUSE. THE OPTION AGREEMENT AND ALL THE CORRESPONDENCE WAS LEFT IN THE HOUSE TO SHOW A DEAL HAD GONE DOWN BETWEEN THE TWO OF THEM.

A FEW DAYS AFTER JIM PITTMAN WENT TO NEW YORK, HE CALLED JOE HUNT AT THE OFFICE AND STATED THAT HE HAD BEEN ARRESTED IN NEW YORK. KAGNY WAS IN THE OFFICE WHEN THIS CALL CAME IN. JIM PITTMAN TOLD JOE HUNT THAT HE USED RON LEVIN'S NAME WHEN HE WAS

APPROVED: TWO CALLS WERE MADE BY JIM PITTMAN APPARENTLY FROM THE WAY

137/011 P.C. 02 SAME

137 10-3-64

SEARCHED	INDEXED	FILED
SERIALIZED	IDENTIFICATION	OUTSIDE DELIVERY
OTHER	OTHER	OTHER

BEVERLY HILLS POLICE DEPARTMENT
SUPPLEMENTAL REPORT

REPORT NUMBER
8406476
DATE
11-29-84 / 1450 HRS.

<input type="checkbox"/> ORIGINAL WORK REPORT	<input type="checkbox"/> CASE CLEARANCE	<input type="checkbox"/> REPORT FULFILLING
<input type="checkbox"/> CONTINUATION REPORT	<input type="checkbox"/> CASE CLOSED	<input type="checkbox"/> REPORT UNFOUNDED
<input type="checkbox"/> CRIME REPORT	<input type="checkbox"/> INCIDENT REPORT	<input type="checkbox"/> WORTHLESS DOCUMENT
<input type="checkbox"/> ARREST REPORT	<input type="checkbox"/> FOLLOW-UP REPORT	<input type="checkbox"/> OTHER

DATE 11/27/84	TIME P.M.	CRIME MURDER/ROBBERY
OFFICER L. ZOELLER	CODE V	REFERENCE NAME LEVIN, RONALD GEORGE
		CHECKED BY [Signature]

TIME PRIOR, EVEN WENT WITH RON LEVIN TO SAN FRANCISCO OVER A WEEKEND FOR A "PLEASURE TRIP" TO GAIN THE TRUST OF RON LEVIN.

ON 6-6-84, JOE HUNT TOLD KARNY, BROOKE ROBERTS (HUNT'S GIRLFRIEND), AND JEFF RAYMOND; ALL ROOMMATES AT THE WILSHIRE/MANNING APT., TO GO TO THE SHOW ON THAT NIGHT. THEY WENT TO THE SHOW AFTER DINNER; APPROX. 1900-2000 HRS.

ON 6-7-84, AT 0830-0900 HRS., AT THE WILSHIRE/MANNING APT., JOE HUNT SHOWED KARNY, BROOKE ROBERTS, AND JEFF RAYMOND A CHECK AND CONTRACT FROM RON LEVIN. JOE HUNT TOLD KARNY THAT RON LEVIN WAS DEAD. JOE HUNT THEN WENT TO THE OFFICE AND SHOWED EVERYONE THE CHECK AND CONTRACT. HE EVEN MADE COPIES OF THE CHECK. HE FOUND OUT THROUGH HIS BANK THAT IT WOULD TAKE AT LEAST 4 WEEKS TO CASH THE CHECK. NEIL ADLEMAN, A NEW ATTORNEY FOR THE BUSINESS, STATED THAT HE KNEW OF A BANK THAT WOULD CASH THE CHECK QUICKLY. THIS BANK WAS THE WORLD TRADE BANK IN BEVERLY HILLS, ACROSS FROM THE FRIARS CLUB ON SANTA MONICA BLVD. NEIL ADLEMAN, JOE HUNT AND KARNY WENT TO THE BANK AND FOUND OUT THE CHECK COULD BE CASHED IN APPROX. 5 DAYS. AN ACCOUNT WAS OPENED IN THE NAME OF MICROCEMENTS OF NORTH AMERICA INCORPORATED. KARNY BELIEVES THAT HE, JOE HUNT AND POSSIBLY BEN COSTI ARE AUTHORIZED TO SIGN OFF OF THE ACCOUNT.

FOUR DAYS AFTER THE MURDER, JOE HUNT TOOK KARNY FOR A WALK AROUND THE BLOCK, OUTSIDE THE WILSHIRE/MANNING COMPLEX. JOE HUNT THEN TOLD KARNY THAT THE GUY BEHIND RON LEVIN WAS KILLED. HE TALKED RON LEVIN INTO COMING INTO THE OFFICE; B.P.C.

REPORTED BY L. ZOELLER	DATE 11-29-84	BY [Signature]	OFFICER [Signature]
L. ZOELLER 99980 02		SANE	

<input type="checkbox"/> CHAS <input type="checkbox"/> DIRECTOR <input type="checkbox"/> SUPERVISOR <input type="checkbox"/> OTHER	<input type="checkbox"/> IDENTIFICATION <input type="checkbox"/> OUTSIDE AGENCY <input type="checkbox"/> OTHER	PAGE 5 OF 11
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HUNT/005

1 Arthur H. Barens
 Richard C. Chier
 2 10209 Santa Monica Blvd.
 Los Angeles, California 90067
 3
 4 (213) 557-0444
 Attorneys for
 5 Defendant

FILED

AUG 9 1985

FRANK S. ZOLIN, Clerk

Chier
BY G. GILLET, Deputy

8 **SUPERIOR COURT OF CALIFORNIA**
 9 **COUNTY OF LOS ANGELES**

550-1002

11	THE PEOPLE OF THE STATE OF CALIFORNIA)	No. A 090435
)	
12	Plaintiff,)	NOTICE OF MOTION AND
	)	MOTION FOR PRETRIAL
13	)	DISCOVERY; DECLARATION;
	)	POINTS
14	vs.)	AND AUTHORITIES;
	)	AND ORDER
15)	
16	JOE HUNT)	Date: <i>8/14/85</i> July 31 , 1985
	)	Time: 9:00 A.M.
17	Defendant.)	Place: Department F

18

19 TO: The District Attorney of Los Angeles County and to

20 the Discovery Unit of the Beverly Hills Police Department:

21 NOTICE IS HEREBY GIVEN THAT ON JULY 31, 1985 at 9:00 a.m.

22 or as soon thereafter as counsel can be heard in Depart-

23 ment F of the above-entitled court, defendant Joe Hunt,

24 will move the Court for an Order directing the District

25 Attorney of Los Angeles County, any member of his staff,

26 and all law enforcement personnel who have assisted or are

27 assisting in the investigation and prosecution of the

28 ///



1 above-entitled action (hereinafter "the People") to make
 2 available to said defendant's counsel for examination, hearing,
 3 analysis and copying, all of the objects and information
 4 set out in the accompanying Motion for Pretrial Discovery
 5 which are in your possession or are under your control.


6 Defendant further moves for an Order directing the
 7 People to make available to defendant's counsel for examination,
 8 hearing, analysis and copying all of the objects and information
 9 described in the accompanying Motion for Pre-Trial Discovery
 10 and requests any order made be continuing.

11 The Court is further requested to order that any items
 12 as to which discovery is granted be made available to defense
 13 counsel or defense counsel's representative forthwith and
 14 further that any order for discovery made herein continue
 15 until all of said items have been produced or otherwise
 16 made available to defense counsel.

17 Said motion will be based upon the within moving papers,
 18 and upon such further oral and/or documentary evidence as
 19 may be presented at the time of hearing on this motion.

20
 21 DATED: July 29, 1985

22 Respectfully submitted,

23 By 
 24 ARTHUR H. BARENS
 25 Attorney for Defendant

26
 27
 28

POINTS AND AUTHORITIES

ORDER FOR DISCOVERY

OBJECTS OR INFORMATION OBTAINED FROM OR
PRESENTED TO THE DEFENDANT, OR USED IN
IDENTIFICATION OF DEFENDANT

JOE HUNT

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1. All written statements made by the defendant to the People. [People v. Riser (1956) 47 Cal.2d 566, 588; Powell v. Superior Court (1956) 48 Cal.2d 704; Schindler v. Superior Court (1958) 161 Cal.App.2d 513, 518.]

1. Ordered
Ordered as Modified _____
Refused _____

2. The contents of any oral statement made by the defendant ^{which} ~~where~~ the People intend to introduce [People v. Campbell (1973) Cal.App.3d 849, 858; People v. Nudd, 33 Cal.App.3d 1052.]

2. Ordered
Ordered as Modified _____
Refused _____

3. All tape recordings of any statements made by the defendant to the People. [People v. Cartier (1959) 51 Cal.2d 590; Vance v. Superior Court (1958) 51 Cal.2d 91.]

3. Ordered
Ordered as Modified _____
Refused _____

4. All tape recordings of conversations

4. Ordered _____

///

1 in which the defendant participated. [Cash
2 v. Superior Court (1959) 51 Cal.2d 72.

Ordered as Modified
Refused

3
4 5. All transcripts made of defendant's
5 tape recorded statements and conversations
6 in which the defendant participated. [Powell
7 v. Superior Court (1957) 48 Cal.2d 704,
8 709; People v. Cartier (1959) 51 Cal.2d
9 590; Cash v. Superior Court (1959) 53 Cal.2d
10 72.]

5. Ordered
Ordered as Modified
Refused

11
12 6. All notes or memoranda, handwritten
13 or typed, which were prepared by the People
14 based upon statements made by the defendant
15 except the work product of any attorney
16 for the People. [Joe Z. v. Superior Court
17 (1970) 3 Cal.3d 797, 804.]

6. Ordered
Ordered as Modified
Refused

18
19 7. All statements of any person which
20 were shown, read, played or paraphrased
21 to the defendant during any interrogation
22 conducted by the People.

7. Ordered
Ordered as Modified
Refused

23
24 8. The content of any statements made
25 by the investigating agencies to the defendant
26 or anyone else in the defendant's presence
27 (a) which were made in order to encourage
28 the defendant to cooperate with the People

8. Ordered
Ordered as Modified
Refused

1 and/or (b) which might reasonably be expected
2 to have the effect of encouraging the
3 defendant to cooperate with the People.
4 [People v. Haydel (1974) 12 Cal.3d 190;
5 Napue v. Illinois (1959) 360 U.S. 264.]

6
7 9. Any photographs taken or sketches
8 made of defendant or any portion of
9 defendant's body. [Norton v. Superior Court
10 (1950) 173 CalApp.2d 133, 136.]

9. Ordered _____
Ordered as Modified _____
Refused

11
12 10. Any books, papers, documents,
13 photographs, or tangible objects which the
14 People intend to use in the trial which
15 were obtained from or allegedly belong to
16 the defendant. [American Bar Association
17 Project on Standards for Criminal Justice,
18 Standards Relating to Discovery Procedure
19 Before Trial. Prosecutor's Obligations
20 [approved draft, 1970], hereinafter cited
21 as "A.B.A. Standards," Sections 2.1(a)(v).]

10. Ordered
Ordered as Modified _____
Refused _____

22
23 OBJECTS OR INFORMATION OBTAINED FROM OR
24 PRESENTED TO WITNESSES OTHER THAN THE DEFENDANT
25

26 11. The names, addresses and telephone
27 numbers of all witnesses the prosecution
28 ///

11. Ordered _____
Ordered as Modified

1 intends to call at the Preliminary Hearing
2 and/or trial including any business addresses
3 and telephone numbers for police officers
4 involved in this case.

Refused _____

5
6 12. The content of all statements
7 made by all persons the People intend to
8 call as witnesses at the trial. [People
9 v. Estrada (1960) 54 Cal.2d 713; Funk
10 v. Superior Court (1959) 52 Cal.2d 423;
11 Cash v. Superior Court, supra, People v.
12 Chapman (1959) 52 Cal.2d 95.]

12. Ordered
Ordered as Modified _____
Refused _____

13
14 13. Names, addresses and telephone
15 numbers of all eyewitnesses to the alleged
16 crime whether or not the prosecution intends
17 to call them at the Preliminary Hearing
18 and/or trial. [Norton v. Superior Court
19 (1959) 173 Cal.App.2d 133.]

13. Ordered _____
Ordered as Modified
Refused _____

20
21 14. ~~Statements~~ made by all eyewitnesses
22 to the alleged crimes whether or not the
23 prosecution intends to call them at the
24 Preliminary Hearing and/or trial. [Vetter
25 v. Superior Court (1961) 189 Cal.App.2d
26 132, 136.]

14. Ordered
Ordered as Modified _____
Refused _____

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1 15. All crime reports prepared in
2 relation to the investigation and prosecution
3 of this case. [People v. Reynolds (1962)
4 201 Cal.App.2d 1.]

15. Ordered
Ordered as Modified
Refused

6 16. All Beverly Hills Police Department
7 Officers' notes of their activities and
8 observations during the period of the
9 investigation of this case, including, but
10 not limited to all officers' log books for
11 the period between June 7, 1984 and December
12 1985. [People v. Gallegos (1960) 180
13 Cal.App.2d 274, 277 (dictum).]

16. Ordered
Ordered as Modified
Refused

14
15 17. All notes made by Beverly Hills
16 Police Department Officers regarding their
17 conversations with prosecution witnesses,
18 including but not limited to Dean Carney
19 and Sean Factor. [Funk v. Superior Court
20 supra People v. Renchie (1962) 201 Cal.App.2d
21 1.]

17. Ordered
Ordered as Modified
Refused

22
23 18. All notes made by prospective
24 witnesses relating to matters covered in
25 their testimony at Preliminary Hearing and/or
26 trial. [Tupper v. Superior Court 51 Cal.2d
27 263; People v. Norman (1960) 177 Cal.App.2d
28 ///

18. Ordered
Ordered as Modified
Refused

1 59, 63; Fryer v. United States 346 U.S.
2 885, 74 S.Ct. 135.]

3
4 19. Documents intended to be used
5 by a prosecution witness to refresh his
6 or her memory at the Preliminary Hearing
7 and/or trial. [People v. Silberstein (1958)
8 159 Cal.App.Supp.2d 848; People v. Estrada
9 (1960) 54 Cal.2d 713; People v. Vighiany
10 (1960) 181 Cal.App.2d 621; Evidence Code
11 Section 771.]

19. Ordered _____
Ordered as Modified _____
Refused

12
13 PHYSICAL EVIDENCE AND REPORTS OF ANALYSIS

14
15 20. All photographs and/or diagrams
16 of the scene of the crime prepared by the
17 People.

20. Ordered _____
Ordered as Modified _____
Refused

18
19 21. All reports of scientific analysis
20 performed at the request of the People upon
21 any physical evidence. [Walker v. Superior
22 Court (1957) 155 Cal.App.2d 134, 141;
23 Schindler v. Superior Court (1958) 161
24 Cal.App.2d 513] whether favorable to the
25 defense [In re Ferguson (1971) 5 Cal.3d
26 525], unfavorable, or inconclusive [People
27 v. Johnson (1974) 38 Cal.App.3d 228, 325.]

21. Ordered _____
Ordered as Modified _____
Refused _____

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1	22. Latent fingerprints, if any, which	22.	Ordered <input type="checkbox"/>
2	were discovered at the scene of the alleged		Ordered as <input type="checkbox"/>
3	crime or on any physical evidence uncovered		Modified <input type="checkbox"/>
4	in the investigation of this case.		Refused <input type="checkbox"/>
5			
6	23. Photographs of latent prints,	23.	Ordered <input checked="" type="checkbox"/>
7	if any, which were discovered at the scene		Ordered as <input type="checkbox"/>
8	of the alleged crime or on any physical		Modified <input type="checkbox"/>
9	evidence uncovered in the investigation		Refused <input type="checkbox"/>
10	of this case.		
11			
12	24. Names and addresses of all persons	24.	Ordered <input checked="" type="checkbox"/>
13	detained or arrested as suspects in the		Ordered as <input type="checkbox"/>
14	investigation of this case.		Modified <input type="checkbox"/>
15			Refused <input type="checkbox"/>
16	25. All tangible evidence which relates	25.	Ordered <input type="checkbox"/>
17	to this case. [<u>Schindler v. Superior Court</u>		Ordered as <input type="checkbox"/>
18	(1958) 161 Cal.App.2d 513; <u>Walker v. Superior</u>		Modified <input checked="" type="checkbox"/>
19	<u>Court</u> (1957) 155 Cal.App.2d 134.]		Refused <input type="checkbox"/>
20			
21	26. All exhibits the People intend	26.	Ordered <input type="checkbox"/>
22	to present at Preliminary Hearing and/or		Ordered as <input type="checkbox"/>
23	trial.		Modified <input checked="" type="checkbox"/>
24			Refused <input type="checkbox"/>
25	26.(a) All evidence the People intend	26.	Ordered <input type="checkbox"/>
26	to introduce at the penalty phase, if any.	(a)	Ordered as <input type="checkbox"/>
27	///		Modified <input type="checkbox"/>
28	///		Refused <input checked="" type="checkbox"/>

1 27. The prosecuting attorney shall
2 inform defense counsel:

27. Ordered
Ordered as Modified
Refused

3 (a) ~~of~~ any ~~relevant~~ material
4 or information which has been provided by
5 an informant [A.B.A. Standards Relating
6 to Discovery and Procedures Before Trial
7 [approved draft, 1970] Part II, Section
8 2.1(a)(B)(i)].

9 (b) Of any information he has
10 which is favorable to the defense in that
11 it tends to exonerate the defendant, minimize
12 his probable sentence or constitutes
13 information that the defense might use to
14 impeach or contradict prosecution witnesses.
15 [Brady v. Maryland (1963) 373 U.S. 87; Napue
16 v. Illinois (1959) 360 U.S. 264; In re
17 Ferguson (1971) 5 Cal.3d 525, 535.]

18
19 28. The names and badge numbers of
20 all law enforcement personnel used in the
21 investigation of this case; and in the arrest
22 of the defendant.

28. Ordered
Ordered as Modified
Refused

23
24 29. The prosecuting attorney and defense
25 attorney shall meet and confer on or before
26 _____, 19____ to accomplish
27 the discovery hereinabove ordered.

29. Ordered
Ordered as Modified
Refused

28 ///



1 30. This Order is a continuing order
 2 and requires the prosecuting attorney to
 3 inform the attorney for defendant forthwith
 4 of any information covered by this Order
 5 which comes to the attention of the
 6 prosecuting attorney after the discovery
 7 conference required by Item No. 30 above.
 8 [Hill v. Superior Court (1974) 10 Cal.3d
 9 812, 821; In re Ferguson, supra; Brady v.
 10 Maryland, supra; A.B.A. Standards, Section
 11 4.2]

30. Ordered
 Ordered as Modified
 Refused

13 31. This Order binds the People, viz:
 14 all parties named in the accompanying Notice
 15 of Motion for Discovery, their deputies,
 16 employees and agents and all other law
 17 enforcement personnel who have assisted
 18 or are assisting the investigation or
 19 prosecution of this case. [People v. Rennie
 20 (1962) 201 Cal.App.2d 15; Engstrom v. Superior
 21 Court (1972) 20 Cal.App.3d 240.]

31. Ordered
 Ordered as Modified
 Refused

24 The provisions of this motion and proposed order
 25 are severable as to the objects and the means of discovery
 26 mentioned above. This motion may be granted on such other,
 27 further or different terms or conditions as are reasonable
 28 ///

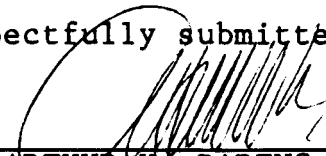


1 and just. This motion will be based upon the accompanying
2 notice, points and authorities, proposed order for
3 discovery, declaration in support of motion for discovery,
4 the pleadings, records, files, documents and evidence,
5 whether oral or written presented at the hearing upon
6 this motion.

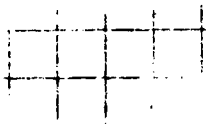
7 DATED: July 23, 1985

8 Respectfully submitted,

9 BY


10 ARTHUR H. BARENS

11 Attorney for Defendant
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DECLARATION OF ARTHUR H. BARENS

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I, ARTHUR H. BARENS, declare as follows:

1. I am an attorney at law licensed to practice in the courts of the State of California. I am the attorney of record for JOE HUNT.

2. I am informed and believe that an investigation of the charges alleged against Joe Hunt herein has been made by officers or agents of the District Attorney of the County of Los Angeles and the law enforcement agencies which are mentioned in the Notice of Motion for Discovery attached hereto (viz Beverly Hills Police Department).

3. I am informed and believe that some or all of said officers or agencies have in their possession or under their control some or all of said information and material described in the Notice of Motion for Discvoery attached hereto and that they can obtain some or all of said information and material by communication with other agencies within the Criminal Justice System.

4. That it is necessary that such information and material be made available, to said defendant's attorney in order that he may properly prepare said case for Preliminary Hearing and/or trial.

5. That the information and material requested is material and relevant to the Preliminary Hearing and/or trial of said action. Some said information is solely under the control of the People and is not known about by or otherwise readily available to the said defendant or counsel.

ADDITIONAL POINTS AND AUTHORITIES

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In addition to the authorities cited in defendant's motion for pre-trial Discovery, defendant, JOE HUNT submits for the Court's consideration the following general principles:

1.

THE ROLE OF THE PROSECUTOR

A. "The prosecuting attorney is both an officer of the state and of the court, and his duty extends no further than an impartial, fair, and just trial of defendant That it was desired that the state's evidence maintain undisclosed, partakes of the nature of a game, rather than judicial procedure. The state in its might and power out to be and is too jealous of according a defendant a fair and impartial trial to hinder him in intelligently preparing his defense and in availing himself of all competent material and relevant evidence that tends to throw light on the subject matter on trial." State v Tippett (1927) 312 Mo. 319, quoted with approval by the ~~California~~ Supreme Court in Powell v Superior Court (1957) 48 Cal.2d 704, 709.

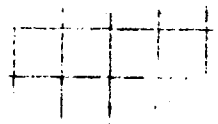
B. "The duty of the district attorney is not merely that of an advocate His duty is not to obtain convictions, but to fully and fairly present to the court the evidence material to the charge upon which the defendant stands trial, and it is the solemn duty of the trial judge to see that the facts material to the charge



1 are fairly presented." People v Kiihoa, 53 Cal.2d 748,
2 753 [3 Cal.Rptr. 1, 349 P.2d 673]; People v Sheffield,
3 108 Cal.App. 721, 732 [293 p.72].

4 "In light of the great resources at the command of
5 the district attorney and our commitment that justice
6 be done to the individual, restraints are placed on him
7 to assure that the power committed to his care is used
8 to further the administration of justice in our courts
9 and not to subvert our procedures in criminal trials
10 designed to ascertain the truth.

11 "The search for truth is not served but hindered
12 by the concealment of relevant and material evidence.
13 Although our system of administering criminal justice
14 is adversary in nature, a trial is not a game. Its ultimate
15 goal is the ascertainment of truth, and where furtherance
16 of the adversary system comes in conflict with the ultimate
17 goal, the adversary system must give way to reasonable
18 restraints designed to further that goal." In re Ferguson
19 (1971) 5 Cal.3d 525, 531.



2. 2.

22 THE GENERAL POLICY OF THE CALIFORNIA APPELLATE
23 COURTS REGARDING DISCOVERY IN CRIMINAL CASES

24 A. "Absent some governmental requirement that
25 information be kept confidential for purposes of effective
26 law enforcement, the state has no interest in denying
27 the accused access to all evidence that can throw light
28 on issues in the cases, and in particular it has no interest

1 in convicting on the testimony of witnesses who have
2 not been as rigorously cross-examined and as thoroughly
3 impeached as the evidence permits." People v Riser (1956)
4 47 Cal.2d 566; quoted with approval in virtually every
5 subsequent California case viz: Engstrom v Superior Court
6 (1971) 20 Cal.App. 3d 240, 243; People v Campbell (1972)
7 27 Cal.App 3d 849, 857; Norton v Superior Court (1959)
8 173 Cal.App. 2d 133, 135.

9 B. "The fundamental judicial policy of this country
10 requires that each defendant, young or old, rich or poor,
11 be given a fair trial. A fair trial includes the right
12 to have produced in open court all evidence material to
13 the question of guilt or innocence which may be feasibly
14 obtained." People v Vighiany (1960) 181 Cal.App 2d 621,
15 626.

16 3.

17 WHAT STANDARDS SHOULD THE COURT USE
18 IN DETERMINING WHETHER TO EXERCISE ITS
19 DISCRETION IN FAVOR OF GRANTING OR DENYING
20 THE PROPOSED DISCOVERY

21 A. Generally speaking, the Court should order
22 discovery of information which is:

23 (a) "Described with adequate specificity
24 to preclude the possibility that defendant is engaged
25 in a 'fishing expedition.'" Pitchess v Superior Court
26 (1974) 11 Cal.3d 531, 538.

27 (b) "Supported by a showing of "good cause."

28 B. "Good cause" has been held to require a showing

of:

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(i) More than a "mere desire for the benefit of all information which has been obtained by the People in their investigation of the crime." People v Cooper (1960) 53 Cal.2d 755, 770; Joe Z. v Superior Court (1970) 3 Cal.3d 797, 804; Pitchess v Superior Court (1974) 11 Cal.3d 531, 537.

(ii) "A plausible justification for inspection." Joe Z. v Superior Court (1974) 3 Cal.3d 797, 804.

C. "Good cause" or plausible justification" does not necessarily require a showing that:

(i) The information sought in fact exists. Hill v Superior Court (1974) 19 Cal.3d 812, 817; Cash v Superior Court (1959) 53 Cal.2d 72; People v Campbell (1973) 27 Cal.App. 2d 849.

(ii) Such information cannot be readily obtained by the defendant, at least where any effort to obtain such information might have a detrimental effect upon the defense, Hill v Superior Court (1974) 10 Cal.3d 812, 819, or is unlikely to be successful. Pitchess v Superior Court (1974) 11 Cal.3d 531, 537-538.

(iii) The information sought would be admissible at trial. People v Cooper (1960) 53 Cal.2d 757, 770; People v Sulberstein (1958) 159 Cal.App.Supp. 2d 848, 851; Powell v Superior Court (1957) 48 Cal.2d 704; Funk v Superior Court (1959) 52 Cal.2d 423; People v. Chapman (1959) 52 Cal.2d 95.

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(iv) Statements of prosecution witnesses which are sought are inconsistent with the witnesses' testimony, People v Estrada (1960) 54 Cal.2d 713, 716; People v Chapman (1959) 52 Cal.2d 95, 98, engaging in a "fishing expedition," Pitchess v Superior Court supra at p.538.

(v) Statements of prosecution witnesses which are signed or otherwise acknowledge as accurate by said witnesses. People v Estrada, supra, and People v Chapman, supra.

(vi) Statements of the defendant are necessary to refresh that defendant's recollection. Joe Z. v Superior Court (1970) 3 Cal.3d 797, 802.

4.

ADDITIONAL CONSIDERATIONS

A. Any information which is discoverable at trial is also discoverable at pre-trial. Funk v Superior Court (1959) 52 Cal.2d 423, 424; Norton v Superior Court (1959) 173 Cal.App. 2d 133, 136.

B. The Court may order the district attorney to obtain for the defense information from other agencies within the criminal justice system where the information is discoverable and is available to the prosecutor but is not readily available to the defense. People v Rennie

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1 (1962) 201 Cal.App 2d 1; Engstrom v Superior Court (1971)
2 20 Cal.App. 3d 240, 243.

3 C. The Court should analyze challenged requests
4 for discovery by determining whether:

5 (i) The requested information might assist the
6 defendant in preparing "an intelligent defense in
7 light of all relevant and reasonably accessible
8 information." Pitchess v Superior Court, (Echeveria,)
9 (1974) 11 Cal.3d 531, 535.

10 (ii) The defendant's request has "adequate
11 specificity to preclude the possibility that defendant
12 is in a 'fishing expedition.'" Pitchess v Superior
13 court, supra at p.538.

14 (iii) The defendant has shown "good cause" or
15 a "plausible justification" for discovery.

16 (iv) The information is not discoverable pursuant
17 to Evidence Code Section 1040, et seq.

18 (v) If otherwise discoverable information is
19 made nondiscoverable under Evidence Code Section
20 1040, et seq., what is the appropriate "order or
21 ~~finding~~ of fact adverse to the public entity" which
22 Evidence Code Section 1042 mandates?

23 D. In determining whether any given information
24 in the possession of the People is subject to the discovery
25 order, the Court must allow the defendant's counsel to
26 see the questioned information and argue its discoverability
27 to the Court before the Court rules thereon. As the Court
28 held in People v Vighiany (1960) 181 Cal.App. 2d 621,

1 627-628, to allow the Court to make such an ex parte ruling
2 would deny the accused due process of law:

3 "Allowing the trial judge to pass upon defendant's
4 motion [for discovery] on the basis of evidence and
5 documents not available to defendant or his counsel
6 . . . had the effect of substituting the judge for
7 defendant's counsel, insofar as defendant was to
8 be represented by counsel, in arguing the admissibility
9 or effect of the documents with respect to his motion.

10 "They were before the judge as a basis for the
11 judge's rulings but were never available to the
12 defendant.

13 "Such a procedure was violative of defendant's
14 right to due process of law. It permitted the judge
15 to base his ruling upon evidence prepared by the
16 prosecution, but denied the defendant and his counsel
17 the right to inspect and know what such evidence
18 was.

19 "It is a denial of due process of law and
20 fundamental fairness for a court to determine such
21 issues upon the basis of evidence available to it
22 and the prosecution but not also available to the
23 defendant and his counsel. It is analogous to denying
24 to the accused his right to cross-examine or confront
25 witnesses produced against him. In fact, it is more
26 akin to a procedure whereby a defendant and his counsel
27 would be prevented from even seeing the witnesses

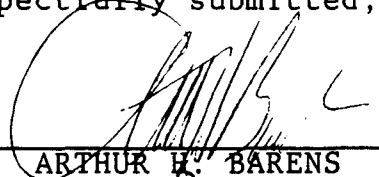
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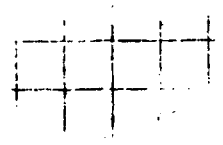
or hearing their testimony or examining physical evidence."

Dated: July 23, 1985

Respectfully submitted,



ARTHUR H. BARENS
Attorney for Defendant



VERIFICATION (Code 2015.5 C.C.P.)

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STATE OF CALIFORNIA }
County of _____ } ss. I, the undersigned, say: I am the _____

I declare, under oath, that I have read the foregoing _____
and know the contents thereof; and that the same is true of my own knowledge, except as to the matters which are
therein stated upon my information or belief, and as to those matters that I believe it to be true.

I certify (or declare) under penalty of perjury, that the foregoing is true and correct.

Executed on _____ (date) at _____ (place), California

(Signature)

(PROOF OF SERVICE BY MAIL - 09B3, 2015.5 C.C.P.)

STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES } ss.

I am a resident attorney in the county aforesaid. I am not the wife or husband of either party, and not a party to the within
captioned action, my home address is: _____

10209 Santa Monica Boulevard, Los Angeles, California 90067

On July 24, 1985, I served the within NOTICE OF MOTION AND
MOTION FOR PRETRIAL DISCOVERY, DECLARATION, POINTS AND AUTHORITIES,
AND ORDER

on the interested parties
in said action, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the

United States mail at Los Angeles County, California
addressed as follows: FRED WOPNER, Deputy District Attorney
1725 Main Street
Santa Monica, California 90401

I certify (or declare), under penalty of perjury,* that the foregoing is true and correct.

Executed on July 24, 1985 (date) at Los Angeles County (place), California

Deloris Carter
DELORIS CARTER

*Both the verification and proof of service by mail forms, being signed under penalty of perjury, do not require notarization.

Date AUGUST 14 1985
HONORABLE: LESLIE W LIGHT
205 R GOLDSMITH

JUDGE
Deputy Sheriff

DEPT. MEF
L ANASTASIOU Reporter

CASE NO. A090435 (Parties and counsel checked if present)
 PEOPLE OF THE STATE OF CALIFORNIA
 VS
 01 HUNT JOE 187 01CTS
 CHARGE (BOX CHECKED IF ORDER APPLICABLE)
 Counsel for People: F. WARNER
 DEPUTY DISTRICT ATTY:
 Counsel for Defendant: R. CHIER PVT
 A. BARENS PVT

NATURE OF PROCEEDINGS TRIAL TRL REM MO TO CONS 04-04-85

- 31 IS SWORN AS THE ENGLISH/ INTERPRET
- 32 DUE TO CONFLICT OF INTEREST, PUBLIC DEFENDER RELIEVED. PURSUANT TO SECTION 987.2 PENAL CODE, IS APPOINTED.
- 33 ON PEOPLE'S MOTION, AMENDMENT TO/AMENDED INFORMATION FILED/DEEMED FILED/INFORMATION AMENDED BY INTERLINEATION/AS FOLLOWS.
- 34 ON MOTION, CASE A CONSOLIDATED INTO CASE A AS COUNT(S) THEREOF. SEE CASE A FOR FURTHER PROCEEDINGS.
- 35 MOTION PURSUANT TO SECTION 995 PENAL CODE GRANTED/DENIED/WITHDRAWN/CONTINUED TO
- 36 MOTION PURSUANT TO SECTION 1538.5 PENAL CODE CALLED FOR HEARING MOTION SUBMITTED PER STIPULATION (NO. 40) BELOW
- 37 DEFENDANT ADVISED OF CONSTITUTIONAL RIGHTS AND EFFECT OF PRIOR CONVICTIONS: WAIVES RIGHTS; ADMITS PRIOR(S) NO
- 38 CAUSE IS CALLED FOR TRIAL. CAUSE SUBMITTED PER STIPULATION (NO. 40) BELOW.
- 39 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TRIAL BY JURY COURT ACCEPTS WAIVER(S).
 40 By stipulation of defendant and all counsel issue is submitted on the testimony contained in the transcript of the proceedings had at the preliminary hearing, subject to this court's rulings, with each side reserving the right to offer additional evidence and all stipulations entered into at the preliminary hearing be deemed entered into in these proceedings. It is further stipulated that all exhibits received or marked for identification at the preliminary hearing are received in evidence and marked for identification in these proceedings, bearing the same number as used in the preliminary hearing, subject to this court's rulings. People's exhibit (Preliminary Transcript) admitted into evidence by reference.
- 41 Defendant advised and personally waives his right to confrontation of witnesses for the purpose of further cross-examination, and waives privilege against self-incrimination. Defendant advised of possible effects of plea on any alien or citizenship/probation or parole status.
- 42 THE COURT STATES IT HAS READ AND CONSIDERED THE TRANSCRIPT OF THE PRELIMINARY HEARING.
- 43 *Discovery motion is argued and granted in part and denied in part. Discovery to be completed with by 9/18/85 at 9 AM (not appearance).*
- 44 ALL SIDES REST. COUNSEL WAIVE ARGUMENT/ARGUE AND CAUSE IS SUBMITTED.
- 45 MOTION PURSUANT TO SECTION 1538.5 PENAL CODE GRANTED/DENIED/WITHDRAWN/CONTINUED TO
- 46 COURT FINDS DEFENDANT NOT GUILTY
- 47 COURT FINDS DEFENDANT GUILTY AS CHARGED TO SECTION(S) IN COUNT(S) LESSER INCLUDED/RELATED OFFENSE.
- 48 PRE-TRIAL CONFERENCE/TRIAL SETTING HELD/OFF CALENDAR/CONTINUED TO
- 49 THE DEFENDANT THE PEOPLE *of Motion to Announce date*
- 50 ON PEOPLE'S/DEFENDANT'S/MOTION, TRIAL/MOTION(S) IS SET/CONTINUED TO/REARRAIGNED TO 10/23/85 AT 9 A.M. IN DEPT. MEF REASON:
- 51 FURTHER CONTINUANCES WILL NOT BE GRANTED.
- 52 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TIME FOR TRIAL. PLUS DAYS
- 53 CAUSE TRANSFERRED TO DEPT. FORTHWITH ON AT A.M. FOR
- 54 DEFENDANT/WITNESS(ES) ORDERED TO RETURN ON ABOVE DATE:
- 55 DEFENDANT PERSONALLY WITHDRAWS PLEA OF NOT GUILTY TO COUNT(S) REARRAIGN
- 56 PLEADS GUILTY/NOLO CONTENDERE, WITH CONSENT OF DISTRICT ATTORNEY AND APPROVAL OF COURT TO VIOLATION OF SECTION(S) IN COUNT(S) LESSER INCLUDED/RELATED OFFENSE
- 57 DEFENDANT REFERRED TO PROBATION DEPARTMENT. DEFENDANT WAIVES TIME FOR SENTENCE. PROBATION AND SENTENCE HEARING SET AT A.M. IN DEPARTMENT INCLUDING DISPOSITION OF COUNT(S) REMAINING DETERMINATION OF PRIORS ALLEGED/DEGREE/ARMED/USE/GREAT BODILY INJURY ALLEGATION(S)
- 58 DEFENDANT WAIVES PROBATION REFERRAL. REQUESTS IMMEDIATE SENTENCE. (SEE SENTENCE BELOW/SEE ATTACHED SHEET)
- 59 FURTHER ORDER AS FOLLOWS:

- 60 THE SHERIFF IS ORDERED TO ALLOW THE DEFENDANT TELEPHONE CALLS AT DEFENDANT'S OWN EXPENSE
 - 61 DEFENDANT FAILS TO APPEAR WITH/WITHOUT SUFFICIENT EXCUSE.
 - 62 BAIL, IF POSTED, FORFEITED/O.R. REVOKED. BENCH WARRANT ORDERED ISSUED. NO BAIL/BAIL FIXED AT \$
 - 63 BENCH WARRANT ORDERED ISSUED AND HELD UNTIL NO BAIL/BAIL FIXED AT \$
 - 64 DEFENDANT APPEARING. BENCH WARRANT ORDERED RECALLED/QUASHED () RECALL NO. WRITTEN () ABSTRACT F
 - 65 UPON PAYMENT OF \$ COSTS BEFORE AND FILING OF REASSUMPTION, ORDER OF FORFEITING BAIL IS TO BE VACATED AND BAIL REINSTATED.
 - 66 REASSUMPTION FILED/COSTS PAID (RECEIPT NO.) ORDER OF FORFEITING BAIL VACATED. BAIL REINSTATED
 - 67 DEFENDANT'S MOTION FOR RELEASE ON O.R./REDUCTION OF BAIL IS GRANTED/DENIED/SET/CONTINUED TO/ REASON:
 - 68 BAIL RESET AT \$
- REMANDED BAIL BAIL EXONERATED BOND NO.
 RELEASED O.R. O.R. DISCHARGED IN CUSTODY OTHER MATTER MINUTES ENTERED

Date SEPTEMBER 18 1985
HONORABLE: LPSLIE & LIGHT
202 R GCLDSMITH

JUDGE
Deputy Sheriff

DEPT.
C GILLETT
L ANASTASIOU

WEF
Deputy Clerk
Reporter

CASE NO.

AC90435

(Parties and counsel checked if present)

PEOPLE OF THE STATE OF CALIFORNIA

Counsel for People:

F. W. ADNER

VS
01 HUNT JOE *NA*

DEPUTY DISTRICT ATTY:

CHIER-BARENS PVT

CHARGE

187 01CTS

Counsel for Defendant:

(BOX CHECKED IF ORDER APPLICABLE)

NATURE OF PROCEEDINGS

TRIAL

TRL REM MO IQ CONS

COMPLIANCE

04-04-85

31 IS SWORN AS THE ENGLISH/ INTERPRET

32 DUE TO CONFLICT OF INTEREST, PUBLIC DEFENDER RELIEVED. PURSUANT TO SECTION 987.2 PENAL CODE, IS APPOINTED.

33 ON PEOPLE'S MOTION, AMENDMENT TO/AMENDED INFORMATION FILED/DEEMED FILED/INFORMATION AMENDED BY INTERLINEATION/AS FOLLOWS.

34 ON MOTION, CASE A CONSOLIDATED INTO CASE A AS COUNT(S) THEREOF. SEE CASE A FOR FURTHER PROCEEDINGS.

35 MOTION PURSUANT TO SECTION 995 PENAL CODE GRANTED/DENIED/WITHDRAWN/CONTINUED TO

36 MOTION PURSUANT TO SECTION 1538.5 PENAL CODE CALLED FOR HEARING MOTION SUBMITTED PER STIPULATION (NO. 40) BELOW

37 DEFENDANT ADVISED OF CONSTITUTIONAL RIGHTS AND EFFECT OF PRIOR CONVICTIONS: WAIVES RIGHTS; ADMITS PRIOR(S) NO

38 CAUSE IS CALLED FOR TRIAL CAUSE SUBMITTED PER STIPULATION (NO. 40) BELOW.

39 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TRIAL BY JURY COURT ACCEPTS WAIVER(S).

40 By stipulation of defendant and all counsel issue is submitted on the testimony contained in the transcript of the proceedings had at the preliminary hearing, subject to this court's rulings, with each side reserving the right to offer additional evidence and all stipulations entered into at the preliminary hearing are received in evidence and marked for identification in these proceedings, bearing the same number as used in the preliminary hearing, subject to this court's rulings. People's exhibit (Preliminary Transcript) admitted into evidence by reference.

41 Defendant advised and personally waives his right to confrontation of witnesses for the purpose of further cross-examination, and waives privilege against self-incrimination. Defendant advised of possible effects of plea on any alien or citizenship/probation or parole status.

42 THE COURT STATES IT HAS READ AND CONSIDERED THE TRANSCRIPT OF THE PRELIMINARY HEARING.

43 *Dependent on a motion out of the case. Motion will be held until compliance.*

44 ALL SIDES REST. COUNSEL WAIVE ARGUMENT/ARGUE AND CAUSE IS SUBMITTED.

45 MOTION PURSUANT TO SECTION 1538.5 PENAL CODE GRANTED/DENIED/WITHDRAWN/CONTINUED TO

46 COURT FINDS DEFENDANT NOT GUILTY

47 COURT FINDS DEFENDANT GUILTY AS CHARGED TO SECTION(S) IN COUNT(S) LESSER INCLUDED/RELATED OFFENSE.

48 PRE-TRIAL CONFERENCE SET FOR BENCH/PROBATION CALENDAR/CONTINUED TO

49 THE DEFENDANT THE PEOPLE ANNOUNCE(S) READY FOR TRIAL

50 ON PEOPLE'S MOTION/DEFENDANT'S MOTION, THIS MOTION(S) IS SET/CONTINUED TO/REARRAIGNED AT 9 A.M. IN DEPT. REASON: *from probation* 9/27/85

51 FURTHER CONTINUANCES WILL NOT BE GRANTED.

52 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TIME FOR TRIAL PLUS DAYS

53 CAUSE TRANSFERRED TO DEPT. FORTHWITH ON AT A.M. FOR

54 DEFENDANT/WITNESSES ORDERED TO RETURN ON ABOVE DATE.

55 DEFENDANT PERSONALLY WITHDRAWS PLEA OF NOT GUILTY TO COUNT(S) REARRAIGNED

56 PLEADS GUILTY/NOLO CONTENDERE, WITH CONSENT OF DISTRICT ATTORNEY AND APPROVAL OF COURT TO VIOLATION OF SECTION(S) IN COUNT(S) LESSER INCLUDED/RELATED OFFENSE

57 DEFENDANT REFERRED TO PROBATION DEPARTMENT. DEFENDANT WAIVES TIME FOR SENTENCE.

PROBATION AND SENTENCE HEARING SET AT A.M. IN DEPARTMENT INCLUDING DISPOSITION OF COUNT(S) REMAINING

DETERMINATION OF PRIORS ALLEGED/DEGREE/ARMED/USE/GREAT BODILY INJURY ALLEGATION(S)

58 DEFENDANT WAIVES PROBATION REFERRAL. REQUESTS IMMEDIATE SENTENCE. (SEE SENTENCE BELOW/SEE ATTACHED SHEET)

59 FURTHER ORDER AS FOLLOWS:

60 THE SHERIFF IS ORDERED TO ALLOW THE DEFENDANT TELEPHONE CALLS AT DEFENDANT'S OWN EXPENSE

61 DEFENDANT FAILS TO APPEAR WITH/WITHOUT SUFFICIENT EXCUSE

62 BAIL, IF POSTED, FORFEITED/O.R. REVOKED. BENCH WARRANT ORDERED ISSUED. NO BAIL/BAIL FIXED AT \$

63 BENCH WARRANT ORDERED ISSUED AND HELD UNTIL NO BAIL/BAIL FIXED AT \$

64 DEFENDANT APPEARING. BENCH WARRANT ORDERED RECALLED/QUASHED () RECALL NO. WRITTEN () ABSTRACT FIL

65 UPON PAYMENT OF \$ COSTS BEFORE AND FILING OF REASSUMPTION, ORDER OF FORFEITING BAIL IS TO BE VACATED AND BAIL REINSTATED.

66 REASSUMPTION FILED/COSTS PAID (RECEIPT NO.) ORDER OF FORFEITING BAIL VACATED. BAIL REINSTATED

67 DEFENDANT'S MOTION FOR RELEASE ON O.R./REDUCTION OF BAIL IS GRANTED/DENIED/SET/CONTINUED TO/ REASON:

68 BAIL RESET AT \$

REMANDED

BAIL

BAIL EXONERATED

BOND NO.

RELEASED

O.R.

O.R. DISCHARGED

IN CUSTODY OTHER MATTER

MINUTES ENTERED

SEP 18, 1985

COUNTY CLERK

2 TRI

MO

FILED

SEP 23 5

FRANK S

BY C.

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES
10

11 PEOPLE OF THE STATE OF)
12 CALIFORNIA,)
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28)

PLAINTIFF,

vs.

JOE HUNT

DEFENDANT.

NO. A 090435

DECLARATION UNDER C.C.P.

SECTION 170.6

JOE HUNT

declares:

18 That he is a party (or attorney for a party) to the within action (or special pro-
19 ceeding). That Leslie W. Light, the Judge before whom the trial of
20 the (or hearing in the) aforesaid action (or special proceeding) is pending (or to whom it
21 is assigned), is prejudiced against the party (or his attorney) or the interest of the party
22 (or his attorney) so that affiant cannot or believes that he cannot have a fair and impartial
23 trial or hearing before such Judge.

24 I declare under penalty of perjury that the foregoing is true and correct.

25 Executed at Los Angeles, California. September 19 19 85

26
27 Joseph Hunt
28 (Declarant)
JOE HUNT

Date SEPTEMBER 27 1985
HONORABLE: LESLIE W LIGHT
202 R GOLDSMITH

JUDGE J. Wallenstein
Deputy Sheriff
DEPT. C GILLET
L ANASTASIOU
W.F. Deputy Clerk
Reporter

CASE NO. A090435 (Parties and counsel checked if present)
PEOPLE OF THE STATE OF CALIFORNIA
VS
01 HUNT JOE 187 01CTS
CHARGE (BOX CHECKED IF ORDER APPLICABLE)
Counsel for People: DEPUTY DISTRICT ATTY: F. WAPNER
Counsel for Defendant: C BARENS PVT

NATURE OF PROCEEDINGS TRIAL REM COMPLIANCE 04-04-85

- 31 IS SWORN AS THE ENGLISH/ INTERPRETER.
- 32 OATH FILED PER SECTION 88560 GOVERNMENT CODE.
- 33 DUE TO CONFLICT OF INTEREST, PUBLIC DEFENDER RELIEVED. PURSUANT TO SECTION 987.2 PENAL CODE/31000 GOVERNMENT CODE ALTERNATE DEFENSE COUNSEL IS APPOINTED.
- 34 ON PEOPLE'S MOTION, AMENDMENT TO/AMENDED INFORMATION FILED/DEEMED FILED/INFORMATION AMENDED BY INTERLINEATION/AS FOLLOWS.
- 35 ON MOTION, CASE A CONSOLIDATED INTO CASE A AS COUNT(S) THEREOF. SEE CASE A FOR FURTHER PROCEEDINGS.
- 36 MOTION PURSUANT TO SECTION 995 PENAL CODE GRANTED/DENIED/WITHDRAWN/CONTINUED TO
- 37 MOTION PURSUANT TO SECTION 1538.5 PENAL CODE CALLED FOR HEARING MOTION SUBMITTED PER STIPULATION 41 BELOW.
- 38 DEFENDANT ADVISED OF CONSTITUTIONAL RIGHTS AND EFFECT OF PRIOR CONVICTIONS; WAIVES RIGHTS; ADMITS PRIOR(S) NO
- 39 CAUSE IS CALLED FOR TRIAL. CAUSE SUBMITTED PER STIPULATION 41 BELOW.
- 40 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TRIAL BY JURY COURT ACCEPTS WAIVER(S).
41 By stipulation of defendant and all counsel issues is submitted on the testimony contained in the transcript of the proceedings had at the preliminary hearing, subject to this court's rulings, with each side reserving the right to offer additional evidence and all stipulations entered into at the preliminary hearing be deemed entered into in these proceedings. If it is further stipulated that all exhibits received or marked for identification at the preliminary hearing are received in evidence and marked for identification in these proceedings, bearing the same number as used in the preliminary hearing, subject to this court's rulings. People's Exhibit (Preliminary Transcript) admitted into evidence by reference.
42 Defendant advised and personally waives the right to confrontation of witnesses for the purpose of further cross-examination, and waives privilege against self-incrimination. Defendant advised of possible effects of plea on any state/citizenship/protection/parole status.
- 43 THE COURT STATES IT HAS READ AND APPROVED THE TRANSCRIPT OF THE PRELIMINARY HEARING.
- 44
- 45 ALL SIDES REST. COUNSEL WAIVE APPEARANCE AND TRIAL BY JURY.
- 46 MOTION PURSUANT TO SECTION 1538.5 PENAL CODE GRANTED/DENIED/WITHDRAWN/CONTINUED TO
- 47 COURT FINDS DEFENDANT NOT GUILTY
- 48 COURT FINDS DEFENDANT GUILTY TO COUNT(S) LESSER INCLUDED/RELATED OFFENSE.
- 49 PRE-TRIAL ORDER
- 50 THE DEFENDANT ANNOUNCES READY FOR TRIAL
- 51 ON PEOPLE'S MOTION, MOTION FOR TRIAL MOTIONS TO SET/CONTINUED TO/REMAINS/TRIALED TO AT A.M. IN DEPARTMENT
- 52 FURTHER CONVICTIONS WILL BE REPORTED
- 53 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TIME FOR TRIAL PLUS DAYS
- 54 CAUSE TRIAL/SENTENCED/ORDERED/RECEIVED/SET/CONTINUED TO/ AT A.M. FEB Trial
- 55 DEFENDANT WITNESSES CASE/SET/CONTINUED TO/ AT ABOVE DATE
- 56 DEFENDANT PERSONALLY WAIVES RIGHT OF NOT GUILTY TO COURT(S) REARRAIGNED
- 57 PLEASE ONLY/NOLO CONTENDERE WITH AGREEMENT OF DISTRICT ATTORNEY AND APPROVAL OF COURT TO VIOLATION OF SECTION(S) IN COUNT(S) LESSER INCLUDED/RELATED OFFENSE.
- 58 DEFENDANT REFERRED TO PROBATION DEPARTMENT. DEFENDANT WAIVES TIME FOR SENTENCE. PROBATION AND SENTENCE HEARING SET AT A.M. IN DEPARTMENT INCLUDING DISPOSITION OF COUNT(S) REMAINING DETERMINATION OF PRIOR ALLEGED/DEGREE/ARREST/USUAL GREAT BODILY INJURY ALLEGATION(S)
- 59 DEFENDANT WAIVES PROBATION REFERRAL. REQUESTS IMMEDIATE SENTENCE. (SEE SENTENCE BELOW/SEE ATTACHED SHEET.
- 60 FURTHER ORDER AS FOLLOWS:

- 61 THE SHERIFF IS ORDERED TO ALLOW THE DEFENDANT TELEPHONE CALLS AT DEFENDANT'S OWN EXPENSE
- 62 DEFENDANT FAILS TO APPEAR WITH/WITHOUT SUFFICIENT EXCUSE
- 63 BAIL, IF POSTED, FORFEITED/O.R. REVOKED. BENCH WARRANT ORDERED ISSUED/REISSUED/AND HELD UNTIL
- 64 NO BAIL BAIL FIXED AT \$
- 65 DEFENDANT APPEARING. BENCH WARRANT ORDERED RECALLED/QUASHED/ (RECALL NO. WRITTEN (ABSTRACT FILED
- 66 UPON PAYMENT OF \$ COSTS BEFORE AND FILING OF REASSUMPTION, ORDER OF FORFEITING BAIL IS TO BE VACATED AND BAIL REINSTATED.
- 67 REASSUMPTION FILED/COSTS PAID (RECEIPT NO. ORDER OF FORFEITING BAIL VACATED. BAIL REINSTATED
- 68 DEFENDANT'S MOTION FOR RELEASE ON O.R./REDUCTION OF BAIL IS GRANTED/DENIED/SET/CONTINUED TO/ REASON:
- 69 BAIL RESET AT \$
- REMANDED BAIL BAIL EXONERATED BOND NO.
- RELEASED O.R. O.R. DISCHARGED IN CUSTODY OTHER MATTER

MINUTES ENTERED SEP 27, 1985

Date SEPTEMBER 27 1975
HONORABLE DAVID N. FITTS
JUDGE

Deputy Sheriff

DEPT. 33
M. WHITE
R. DAHL
Deputy Clerk
Reporter

CASE NO. 1090135 (Parties and counsel checked if present)
 PEOPLE OF THE STATE OF CALIFORNIA
 VS
 CHARGE 01 HUNTY JOE
 177 01CTS
 (BOX CHECKED IF ORDER APPLICABLE)
 Counsel for People: DEPUTY DISTRICT ATTORNEY: F. WAUPREY
 Counsel for Defendant: A BARENS
 and R. Chein

NATURE OF PROCEEDINGS *Bail Motion TRIAL Re-Assignment* REM -4-

- 31 IS SWORN AS THE ENGLISH/ INTERPRETE
- 32 DUE TO CONFLICT OF INTEREST, PUBLIC DEFENDER RELIEVED. PURSUANT TO SECTION 987.2 PENAL CODE, IS APPOINTED.
- 33 ON PEOPLE'S MOTION, AMENDMENT TO/AMENDED INFORMATION FILED/DEEMED FILED/INFORMATION AMENDED BY INTERLINEATION/AS FOLLOWS
- 34 ON MOTION, CASE A CONSOLIDATED INTO CASE A AS COUNT(S) THEREOF. SEE CASE A FOR FURTHER PROCEEDINGS.

- 35 MOTION PURSUANT TO SECTION 995 PENAL CODE GRANTED/DENIED/WITHDRAWN/CONTINUED TO
- 36 MOTION PURSUANT TO SECTION 1538.5 PENAL CODE CALLED FOR HEARING MOTION SUBMITTED PER STIPULATION (NO. 40) BELOW
- 37 DEFENDANT ADVISED OF CONSTITUTIONAL RIGHTS AND EFFECT OF PRIOR CONVICTIONS: WAIVES RIGHTS; ADMITS PRIOR(S) NO CAUSE IS CALLED FOR TRIAL CAUSE SUBMITTED PER STIPULATION (NO. 40) BELOW.
- 38 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TRIAL BY JURY. COURT ACCEPTS WAIVER(S).
 By stipulation of defendant and all counsel leave is submitted as the testimony contained in the transcript of the proceedings had at the preliminary hearing, subject to this court's ruling, with each side reserving the right to offer additional evidence and all stipulations entered into at the preliminary hearing be deemed entered into in these proceedings. It is further stipulated that all exhibits received or marked for identification at the preliminary hearing are received by evidence and marked for identification in these proceedings, bearing the same number as used in the preliminary hearing, subject to this court's ruling. Record's number (Preliminary transcript) admitted into evidence by reference.
- 41 Defendant advised and personally waives his right to confrontation of witnesses for the purpose of further cross-examination and waives privilege against self-incrimination. Defendant offering of possible, present or future any other or additional evidence or public status.

THE COURT HAS READ AND CONSIDERED THE TRANSCRIPT OF THE PRELIMINARY HEARING.
The motion is granted to the court for re-assignment.

- 42 ALL OTHER INFO: COUNSEL FOR A COUNTY OFFENSE AND COUNTY REMITTED
- 43 MOTION PURSUANT TO SECTION 995 PENAL CODE GRANTED/DENIED/WITHDRAWN/CONTINUED TO
- 44 COURT FINES DEFENDANT NOT APPEARING
- 45 COURT FINES DEFENDANT FOR FAILURE TO APPEAR
- 46 THE DEFENDANT IS ORDERED TO APPEAR FOR TRIAL
- 47 ON PEOPLE'S MOTION, AMENDMENT TO/AMENDED INFORMATION FILED/DEEMED FILED/INFORMATION AMENDED BY INTERLINEATION/AS FOLLOWS
- 48 FURTHER CONTINUANCE OF TRIAL GRANTED
- 49 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TIME FOR TRIAL
- 50 CAUSE TRANSFERRED TO DEPARTMENT OF CORRECTIONS
- 51 OFFENSES WITH RELATED OFFENSES
- 52 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TRIAL BY JURY
- 53 REARRAIGNED
- 54 REARRESTED BY COUNTY DEPARTMENT OF DISTRICT ATTORNEY AND APPROVAL OF COURT TO VIOLATION

- 55 DEFENDANT REFERRED TO PROBATION DEPARTMENT
- 56 DEFENDANT WAIVES TIME FOR SENTENCE
- 57 PROBATION AND SENTENCE HEARING SET AT A.M. IN DEPARTMENT INCLUDING DISPOSITION OF COUNTY REMAINING
- 58 DETERMINATION OF PROBE ALLEGED/DEGREE/ARMED/US/IGREAT BODY INJURY ALLEGATION(S)
- 59 DEFENDANT WAIVES PROBATION REFERRAL REQUESTS IMMEDIATE SENTENCE. (SEE SENTENCE BELOW/SEE ATTACHED SHEET)

FURTHER ORDER AS FOLLOWS
Bail motion is not heard by this court

- 60 THE SHERIFF IS ORDERED TO ALLOW THE DEFENDANT TELEPHONE CALLS AT DEFENDANT'S OWN EXPENSE
- 61 DEFENDANT FAILS TO APPEAR WITH/WITHOUT SUFFICIENT EXCUSE
- 62 BAIL, IF POSTED, FORFEITED/O.R. REVOKED. BENCH WARRANT ORDERED ISSUED. NO BAIL/BAIL FIXED AT \$
- 63 BENCH WARRANT ORDERED ISSUED AND HELD UNTIL NO BAIL/BAIL FIXED AT \$
- 64 DEFENDANT APPEARING. BENCH WARRANT ORDERED RECALLED/QUASHED. RECALL NO. WRITTEN () ABSTRACT FIL
- 65 UPON PAYMENT OF \$ COSTS BEFORE AND FILING OF REASSUMPTION, ORDER OF FORFEITING BAIL IS TO BE VACATED AND BAIL REINSTATED.
- 66 REASSUMPTION FILED/COSTS PAID (RECEIPT NO.) ORDER OF FORFEITING BAIL VACATED. BAIL REINSTATED
- 67 DEFENDANT'S MOTION FOR RELEASE ON O.R./REDUCTION OF BAIL IS GRANTED/DENIED/SET/CONTINUED TO/ REASON:
- 68 BAIL RESET AT \$

- REMANDED BAIL BAIL EXONERATED BOND NO.
- RELEASED O.R. O.R. DISCHARGED IN CUSTODY OTHER MATTER
- MINUTE ORDER BENCH WARRANT

MINUTES ENTERED
SEP 27 1975
COUNTY CLERK

Date SEPTEMBER 27, 1985
HONORABLE: E. J. RITTENBAND
J. BRAXTON

JUDGE M. I. MERRITT/D. TSCHKEALOFF
Deputy Sheriff R. GOODBODY

DEPT. WEST C
west C Deputy Clerk
Reporter

CASE NO. A 090435 (Parties and counsel checked if present)

PEOPLE OF THE STATE OF CALIFORNIA
VS
01 HUNT, JOE AKA GAMSHY, JOESPH HENRY
187 01ct 211 01ct

Counsel for People:
DEPUTY DISTRICT ATTY: F. WAUPNER D.D.A.

Counsel for Defendant:
A. BARENS
R. CHEIT

CHARGE (BOX CHECKED IF ORDER APPLICABLE)

NATURE OF PROCEEDINGS BAIL REDUCTION MOTION REMANDED 04/04/85

- 31 IS SWORN AS THE ENGLISH/ INTERPRET:
- 32 DUE TO CONFLICT OF INTEREST, PUBLIC DEFENDER RELIEVED. PURSUANT TO SECTION 987.2 PENAL CODE, IS APPOINTED.
- 33 ON PEOPLE'S MOTION, AMENDMENT TO/AMENDED INFORMATION FILED/DEEMED FILED/INFORMATION AMENDED BY INTERLINEATION/AS FOLLOWS:
- 34 ON MOTION, CASE A CONSOLIDATED INTO CASE A AS COUNT(S) THEREOF. SEE CASE A FOR FURTHER PROCEEDINGS.
- 35 MOTION PURSUANT TO SECTION 995 PENAL CODE GRANTED/DENIED/WITHDRAWN/CONTINUED TO
- 36 MOTION PURSUANT TO SECTION 1538.5 PENAL CODE CALLED FOR HEARING MOTION SUBMITTED PER STIPULATION (NO. 40) BELOW
- 37 DEFENDANT ADVISED OF CONSTITUTIONAL RIGHTS AND EFFECT OF PRIOR CONVICTIONS. WAIVES RIGHTS; ADMITS PRIOR(S) NO.
- 38 CAUSE IS CALLED FOR HEARING CAUSE SUBMITTED PER STIPULATION (NO. 40) BELOW.
- 39 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TRIAL BY JURY. COURT ACCEPTS WAIVER(S).
40 By stipulation of defendant and all counsel issue is submitted of the transcript contained in the transcript of the proceedings had at the preliminary hearing, subject to this court's rulings, with each side reserving the right to offer additional evidence and all stipulations entered into at the preliminary hearing be deemed entered into in these proceedings. It is further stipulated that all exhibits received or marked for identification at the preliminary hearing are received in evidence and marked for identification in these proceedings, bearing the same number as used in the preliminary hearing; subject to this court's rulings. People's Exhibit (Preliminary Transcript) admitted into evidence by reference.
- 41 Defendant advised and personally waives his right to confrontation of witnesses for the purpose of further cross-examination, and waives privilege against self-incrimination. Defendant advised of possible effects of plea on any other or citizenship/probation or parole status.
- 42 THE COURT STATES IT HAS READ AND CONSIDERED THE TRANSCRIPT OF THE PRELIMINARY HEARING. Defendants exhibit A (Business Report), B (City National Bank National Appraisal Report), C (Joint Commission Tax Bill) and D (Policy of Title Insurance issued by Trans-America Title Insurance Company) are marked for identification. ONLY Bobby Roberts is sworn and testifies for the defendant.
- 43 ALL DEFENDANT COUNSEL WAIVE APPEARANCE AND CAUSE IS SUBMITTED
- 44 MOTION PURSUANT TO SECTION 1538.5 PENAL CODE GRANTED/DENIED/WITHDRAWN/CONTINUED TO
- 45 COURT FINDS DEFENDANT NOT GUILTY
- 46 COURT FINDS DEFENDANT GUILTY OF VIOLATION OF SECTION 1538.5
- 47 COUNT(S) INCLUDED/RELATED OFFENSE
- 48 PRELIMINARY ORDER OF BAIL IS GRANTED/CONTINUED TO
- 49 THE DEFENDANT IS ANNOUNCED READY FOR TRIAL
- 50 ON DEFENDANT'S MOTION FOR BAIL REDUCTION, MOTION IS GRANTED/CONTINUED TO REMAIN ON DEFERRED 10/23/85 AT 3:00 P.M. REASON: FURTHER DEBATE
- 51 FURTHER COURT ORDER IS GRANTED
- 52 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TIME FOR TRIAL DAYS
- 53 CAUSE TRANSFERRED TO DEPT. OF FORTWORTH ON AIR FOR
- 54 DEFENDANT WITHIN 48 HOURS TO RETURN ON ABOVE ORDER
- 55 DEFENDANT PERSONALLY WITHIN 48 HOURS OF NOT GUILTY TO COUNTY REARRAIGN
- 56 PLEASER WITHIN 48 HOURS OF NOT GUILTY TO COUNTY REARRAIGN AND APPROVAL OF COURT TO VIOLATION OF SECTION(S) LESSER INCLUDED/RELATED OFFENSE
- 57 DEFENDANT REFERRED TO PROBATION DEPARTMENT. DEFENDANT WAIVES TIME FOR SENTENCE. PROBATION AND SENTENCE HEARING SET AT ALL IN DEPARTMENT INCLUDING DISPOSITION OF COUNT(S) REMAINING DETERMINATION OF PRIORS ALLEGED/DEGREE/AGGRAVATION/GREAT BODILY INJURY ALLEGATION(S)
- 58 DEFENDANT WAIVES PROBATION REFERRAL. REQUESTS IMMEDIATE SENTENCE. (SEE SENTENCE BELOW/SEE ATTACHED SHEET)
- 59 FURTHER ORDER AS FOLLOWS: Defendant is to obey all laws and not to personally annoy, molest or contact any witnesses, except Brock Roberts. The court finds the property located at 10984 Bellagio Road, Bel Air, California, owned by Mr. and Mrs. Bobby Roberts is deemed sufficient to qualify as bond surety.
- 60 THE SHERIFF IS ORDERED TO ALLOW THE DEFENDANT TELEPHONE CALLS AT DEFENDANT'S OWN EXPENSE
- 61 DEFENDANT FAILS TO APPEAR WITH/WITHOUT SUFFICIENT EXCUSE
- 62 BAIL, IF POSTED, FORFEITED/O.R. REVOKED. BENCH WARRANT ORDERED ISSUED. NO BAIL/BAIL FIXED AT \$
- 63 BENCH WARRANT ORDERED ISSUED AND HELD UNTIL NO BAIL/BAIL FIXED AT \$
- 64 DEFENDANT APPEARING: BENCH WARRANT ORDERED RECALLED/QUASHED () RECALL NO. WRITTEN () ABSTRACT ()
- 65 UPON PAYMENT OF \$ COSTS BEFORE AND FILING OF REASSUMPTION, ORDER OF FORFEITING BAIL IS TO BE VACATED AND BAIL REINSTATED.
- 66 REASSUMPTION FILED/COSTS PAID (RECEIPT NO.) ORDER OF FORFEITING BAIL VACATED. BAIL REINSTATED
- 67 DEFENDANT'S MOTION FOR BAIL REDUCTION/REDUCTION OF BAIL IS GRANTED/CONTINUED TO REMAIN ON DEFERRED NO REASON GIVEN
- 68 BAIL RESET AT FIVE HUNDRED THOUSAND DOLLARS (500,000.00).

REMANDED BAIL BAIL EXONERATED BOND NO. _____

RELEASED O.R. O.R. DISCHARGED IN CUSTODY OTHER MATTER

BENCH WARRANT

MINUTE ORDER

MINUTES ENTERED
September 27, 1985
COUNTY CLERK

Date: OCTOBER 2, 1985
HONORABLE: L. J. RITTENBAND
J. BRAXTON

JUDGE
Deputy Sheriff

DEPT. WE C
D. TSCHKALOFF
NONE
Deputy Clerk
Reporter

CASE NO.	A090435 PEOPLE OF THE STATE OF CALIFORNIA VS 01 HUNT, JOSEPH HENRY 187 01 ct; 211 01 ct (BOX CHECKED IF ORDER APPLICABLE)	(Parties and counsel checked if present) Counsel for People: DEPUTY DISTRICT ATTY: F. WAPNER NA Counsel for Defendant: A. BARENS NA R. CHEIR NA
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NATURE OF PROCEEDINGS

ORDER - RELEASE AFTER POSTING OF BAIL REM

31 _____ IS SWORN AS THE ENGLISH/ _____ INTERPRETE

32 DUE TO CONFLICT OF INTEREST, PUBLIC DEFENDER RELIEVED. PURSUANT TO SECTION 987.2 PENAL CODE, _____ IS APPOINTED.

33 ON PEOPLE'S MOTION, AMENDMENT TO/AMENDED INFORMATION FILED/DEEMED FILED/INFORMATION AMENDED BY INTERLINEATION/AS FOLLOWS _____

34 ON _____ MOTION, CASE A _____ CONSOLIDATED INTO CASE A _____ AS COUNT(S) _____ THEREOF. SEE CASE A _____ FOR FURTHER PROCEEDINGS.

35 MOTION PURSUANT TO SECTION 995 PENAL CODE GRANTED/DENIED/WITHDRAWN/CONTINUED TO _____

36 MOTION PURSUANT TO SECTION 1538.5 PENAL CODE CALLED FOR HEARING MOTION SUBMITTED PER STIPULATION (NO. 40) BELOW

37 DEFENDANT ADVISED OF CONSTITUTIONAL RIGHTS AND EFFECT OF PRIOR CONVICTIONS; WAIVES RIGHTS; ADMITS PRIOR(S) NO _____

38 CAUSE IS CALLED FOR TRIAL. CAUSE SUBMITTED PER STIPULATION (NO. 40) BELOW.

39 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TRIAL BY JURY _____ COURT ACCEPTS WAIVER(S),
40 By stipulation of defendant and all counsel issue is submitted on the testimony contained in the transcript of the proceedings had at the preliminary hearing, subject to this court's rulings, with each side reserving the right to offer additional evidence and all stipulations entered into at the preliminary hearing be deemed entered into in these proceedings. It is further stipulated that all exhibits received or marked for identification at the preliminary hearing are received in evidence and marked for identification in these proceedings, bearing the same number as used in the preliminary hearing, subject to this court's rulings. People's exhibit _____ (Preliminary Transcript admitted into evidence by reference)

41 Defendant advised and personally waives his right to confrontation of witnesses for the purpose of further cross-examination; and waives privilege against self-incrimination. Defendant advised of possible effects of plea on any alien or citizenship/probation or parole status.

42 THE COURT STATES IT HAS READ AND CONSIDERED THE TRANSCRIPT OF THE PRELIMINARY HEARING.
43 The Court orders pursuant to the \$500,000.00 bail being posted this date that the defendant be released from Sheriff's custody. This case only.

44 ALL SIDES REST. COUNSEL WAIVE ARGUMENT/ARGUE AND CAUSE IS SUBMITTED.

45 MOTION PURSUANT TO SECTION 1538.5 PENAL CODE GRANTED/DENIED/WITHDRAWN/CONTINUED TO _____

46 COURT FINDS DEFENDANT NOT GUILTY

47 COURT FINDS DEFENDANT GUILTY AND IS REFERRED TO SECTION(S) _____ IN COUNT(S) _____ LESSER INCLUDED/RELATED OFFENSE

48 PRE-TRIAL ORDER SET/NOT HELD OFF CAUSE IS _____ CONTINUED TO _____

49 THE DEFENDANT _____ THE PEOPLE ANNOUNCE(S) READY FOR TRIAL

50 ON PEOPLE'S MOTION/ON DEFENDANT'S MOTION TRIAL/MOTION(S) IS SET/CONTINUED TO/REMAINS/TRIALED TO _____ AT _____ REASON _____

51 FURTHER CONTINUANCE SHALL NOT BE GRANTED

52 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TIME FOR TRIAL. PLUS _____ DAYS

53 CAUSE TRANSFERRED TO DEPT. _____ FORTHWITH ON _____ AT _____ A.M. FOR _____

54 DEFENDANT WITHIN _____ ORDERED TO RETURN ON ABOVE DATE

56 DEFENDANT PERSONALLY WITHDRAWS PLEA OF NOT GUILTY TO COUNT(S) _____ RERARRAIGNE

58 PLEADS GUILTY/NOSS CONTENDERS WITH CONSENT OF DISTRICT ATTORNEY AND APPROVAL OF COURT TO VIOLATION OF SECTION(S) _____ IN COUNT(S) _____ LESSER INCLUDED/RELATED OFFENSE

57 DEFENDANT REFERRED TO PROBATION DEPARTMENT. DEFENDANT WAIVES TIME FOR SENTENCE. PROBATION AND SENTENCE HEARING SET _____ AT _____ A.M. IN DEPARTMENT _____ INCLUDING DISPOSITION OF COUNT(S) _____ REMAINING DETERMINATION OF PRIORS ALLEGED/DEGREE/ARMED/USE/GREAT BODILY INJURY ALLEGATION(S)

58 DEFENDANT WAIVES PROBATION REFERRAL. REQUESTS IMMEDIATE SENTENCE. (SEE SENTENCE BELOW/SEE ATTACHED SHEET)

59 FURTHER ORDER AS FOLLOWS _____

60 THE SHERIFF IS ORDERED TO ALLOW THE DEFENDANT _____ TELEPHONE CALLS AT DEFENDANT'S OWN EXPENSES

61 DEFENDANT FAILS TO APPEAR WITH/WITHOUT SUFFICIENT EXCUSE

62 BAIL, IF POSTED, FORFEITED/O.R. REVOKED. BENCH WARRANT ORDERED ISSUED. NO BAIL/BAIL FIXED AT \$ _____

63 BENCH WARRANT ORDERED ISSUED AND HELD UNTIL _____ NO BAIL/BAIL FIXED AT \$ _____

64 DEFENDANT APPEARING. BENCH WARRANT ORDERED RECALLED/QUASHED () RECALL NO. _____ WRITTEN () ABSTRACT FIL

65 UPON PAYMENT OF \$ _____ COSTS BEFORE _____ AND FILING OF REASSUMPTION, ORDER OF _____ FORFEITING BAIL IS TO BE VACATED AND BAIL REINSTATED.

66 REASSUMPTION FILED/COSTS PAID (RECEIPT NO. _____) ORDER OF _____ FORFEITING BAIL VACATED. BAIL REINSTATED

67 DEFENDANT'S MOTION FOR RELEASE ON O.R./REDUCTION OF BAIL IS GRANTED/DENIED/SET/CONTINUED TO/ _____ REASON _____

68 BAIL RESET AT \$ _____

REMANDED BAIL BAIL EXONERATED BOND NO. _____
 RELEASED O.R. O.R. DISCHARGED IN CUSTODY OTHER MATTER _____
 BENCH WARRANT

MINUTES ENTERED
10-2-85
COUNTY CLERK

Date OCTOBER 23 1985
HONORABLE: L J RITTENBAND
202 J BRAXTON

JUDGE *Wallenstein* DEPT. *RISCHERAKOFF* WEC
Deputy Sheriff R GGDRODY Deputy Clerk Reporter

CASE NO. A090435 (Parties and counsel checked if present)

PEOPLE OF THE STATE OF CALIFORNIA
VS
01 HLNT JOE ✓
C1 GASHY JCESPH HENRY
187 01CTS 211 01CTS
(BOX CHECKED IF ORDER APPLICABLE)

CHARGE AKA

Counsel for People:
DEPUTY DISTRICT ATTY: *T. Herman ✓*

Counsel for Defendant:
R CHEIR ✓
A. Berens ✓

NATURE OF PROCEEDINGS TRIAL *Bail* *4-4-85*

- 31 IS SWORN AS THE ENGLISH/ INTERPRETER.
- 32 OATH FILED PER SECTION 68560 GOVERNMENT CODE.
- 33 DUE TO CONFLICT OF INTEREST, PUBLIC DEFENDER RELIEVED, PURSUANT TO SECTION 987.2 PENAL CODE/31000 GOVERNMENT CODE ALTERNATE DEFENSE COUNSEL IS APPOINTED.
- 34 ON PEOPLE'S MOTION, AMENDMENT TO/AMENDED INFORMATION FILED/DEEMED FILED/INFORMATION AMENDED BY INTERLINEATION/AS FOLLOWS
- 35 ON MOTION, CASE A CONSOLIDATED INTO CASE A AS COUNT(S) THEREOF. SEE CASE A FOR FURTHER PROCEEDINGS.
- 36 MOTION PURSUANT TO SECTION 995 PENAL CODE GRANTED/DENIED/WITHDRAWN/CONTINUED TO *11-23-85*
- 37 MOTION PURSUANT TO SECTION 1538.5 PENAL CODE CALLED FOR HEARING MOTION SUBMITTED PER STIPULATION 41 BELOW.
- 38 DEFENDANT ADVISED OF CONSTITUTIONAL RIGHTS AND EFFECT OF PRIOR CONVICTIONS: WAIVES RIGHTS; ADMITS PRIOR(S) NO
- 39 CAUSE IS CALLED FOR TRIAL CAUSE SUBMITTED PER STIPULATION 41 BELOW.
- 40 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TRIAL BY JURY. COURT ACCEPTS WAIVER(S).
- 41 By stipulation of defendant and all counsel issue is submitted on the testimony contained in the transcript of the preliminary hearing, subject to this court's rulings, with each side reserving the right to offer additional evidence and all stipulations entered into at the preliminary hearing be deemed entered into in these proceedings. It is further stipulated that all exhibits received or marked for identification at the preliminary hearing are received in evidence and marked for identification in these proceedings, bearing the same number as used in the preliminary hearing, subject to this court's rulings. People's exhibit: (Preliminary Transcript) admitted into evidence by reference.
- 42 Defendant advised and personally waives his right to confrontation of witnesses for the purpose of further cross-examination, and waives privilege against self-incrimination. Defendant advised of possible effects of plea on any alien/citizenship/probation/parole status.
- 43 THE COURT STATES IT HAS READ AND CONSIDERED THE TRANSCRIPT OF THE PRELIMINARY HEARING.
- 44 *Stipulation for consolidation to be heard to 11-19-85 by motion defendant to be granted for the 11-19-85 hearing per same motion taken from District Attorney*
- 45 ALL SIDES REST. COUNSEL WAIVE ARGUMENT/ARGUE AND CAUSE IS SUBMITTED.
- 46 MOTION PURSUANT TO SECTION 1538.5 PENAL CODE GRANTED/DENIED/WITHDRAWN/CONTINUED TO
- 47 COURT FINDS DEFENDANT NOT GUILTY.
- 48 COURT FINDS DEFENDANT GUILTY OF VIOLATION OF SECTION(S) IN COUNT(S) LESSER INCLUDED/RELATED OFFENSE.
- 49 PRE-TRIAL CONFERENCE/HEARING HELD OFF CALENDAR/CONTINUED TO
- 50 THE DEFENDANT/PEOPLE ANNOUNCE(S) READY FOR TRIAL.
- 51 ON PEOPLE'S MOTION, MOTION FOR RELEASE ON O.R./REDUCTION OF BAIL IS GRANTED/CONTINUED TO/REMAINING AT 7 A.M. IN DEPARTMENT. REASON: *defendant has been granted bail for 10-25-85*
- 52 FURTHER CONTINUANCES WILL NOT BE GRANTED. *defendant has been granted bail for 10-25-85*
- 53 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TIME FOR TRIAL PLUS DAYS.
- 54 CAUSE TRANSFERRED TO DEPT. FORTHWITH OR ON AT A.M. FOR
- 55 DEFENDANT/FITNESS(ES) ORDERED TO RETURN ON ABOVE DATE.
- 56 DEFENDANT PERSONALLY WITHDRAWS PLEA OF NOT GUILTY TO COUNT(S) REARRAIGNED.
- 57 PLEAS GUILTY/NOLO CONTENDERE WITH CONSENT OF DISTRICT ATTORNEY AND APPROVAL OF COURT TO VIOLATION OF SECTION(S) IN COUNT(S) LESSER INCLUDED/RELATED OFFENSE.
- 58 DEFENDANT REFERRED TO PROBATION DEPARTMENT. DEFENDANT WAIVES TIME FOR SENTENCE. PROBATION AND SENTENCE HEARING SET AT A.M. IN DEPARTMENT INCLUDING DISPOSITION OF COUNT(S) REMAINING DETERMINATION OF PRONS ALLEGED/DEGREE/ARMED/AUSE/GREAT BODILY INJURY ALLEGATION(S)
- 59 DEFENDANT WAIVES PROBATION REFERRAL. REQUESTS IMMEDIATE SENTENCE. (SEE SENTENCE BELOW/SEE ATTACHED SHEET.)
- 60 FURTHER ORDER AS FOLLOWS:

- 61 THE SHERIFF IS ORDERED TO ALLOW THE DEFENDANT TELEPHONE CALLS AT DEFENDANT'S OWN EXPENSE.
 - 62 DEFENDANT FAILS TO APPEAR WITH/WITHOUT SUFFICIENT EXCUSE.
 - 63 BAIL, IF POSTED, FORFEITED/O.R. REVOKED. BENCH WARRANT ORDERED ISSUED/REISSUED/AND HELD UNTIL
 - 64 NO BAIL BAIL FIXED AT \$
 - 65 DEFENDANT APPEARING. BENCH WARRANT ORDERED RECALLED/QUASHED (RECALL NO. WRITTEN (ABSTRACT FILED
 - 66 UPON PAYMENT OF \$ COSTS BEFORE AND FILING OF REASSUMPTION, ORDER OF FORFEITING BAIL IS TO BE VACATED AND BAIL REINSTATED.
 - 67 REASSUMPTION FILED/COSTS PAID (RECEIPT NO. ORDER OF FORFEITING BAIL VACATED. BAIL REINSTATED.
 - 68 DEFENDANT'S MOTION FOR RELEASE ON O.R./REDUCTION OF BAIL IS GRANTED/DENIED/SET/CONTINUED TO/ REASON:
 - 69 BAIL RESET AT \$
- REMANDED BAIL *this case. Reen. other.* BAIL EXONERATED BOND NO.
- RELEASED O.R. O.R. DISCHARGED IN CUSTODY/OTHER MATTER
- MINUTE ORDER BENCH WARRANT

MINUTES ENTERED
OCT 23, 1985
COUNTY CLERK 2 TRL MOT

Date OCTOBER 25, 1985
HONORABLE: L.J. RITTENBAND
J. BRAXTON

JUDGE J. WALLENSTEIN
Deputy Sheriff R. GOODEBODY

DEPT. WST C
Deputy Clerk Reporter

CASE NO. A090435 (Parties and counsel checked if present)

PEOPLE OF THE STATE OF CALIFORNIA
VS
01 HUNT JOE
01 GAMSHY JOESPH HENRY 187 01ct
(BOX CHECKED IF ORDER APPLICABLE)

Counsel for People: DEPUTY DISTRICT ATTY: *F. Wagner* ✓
Counsel for Defendant: A. BARENS ✓

NATURE OF PROCEEDINGS TRIAL BAIL/THIS CASE ONLY 4-4-85

- 31 IS SWORN AS THE ENGLISH/ INTERPRETE
- 32 DUE TO CONFLICT OF INTEREST, PUBLIC DEFENDER RELIEVED. PURSUANT TO SECTION 987.2 PENAL CODE. IS APPOINTED.
- 33 ON PEOPLE'S MOTION, AMENDMENT TO/AMENDED INFORMATION FILED/DEEMED FILED/INFORMATION AMENDED BY INTERLINEATION/AS FOLLOWS
- 34 ON MOTION, CASE A CONSOLIDATED INTO CASE A AS COUNT(S) THEREOF. SEE CASE A FOR FURTHER PROCEEDINGS.
- 35 MOTION PURSUANT TO SECTION 995 PENAL CODE GRANTED/DENIED/WITHDRAWN/CONTINUED TO
- 36 MOTION PURSUANT TO SECTION 1538.5 PENAL CODE CALLED FOR HEARING MOTION SUBMITTED PER STIPULATION (NO. 40) BELOW
- 37 DEFENDANT ADVISED OF CONSTITUTIONAL RIGHTS AND EFFECT OF PRIOR CONVICTIONS. WAIVES RIGHTS. ADMITS PRIOR(S) NO
- 38 CAUSE IS CALLED FOR TRIAL CAUSE SUBMITTED PER STIPULATION (NO. 40) BELOW.
- 39 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TRIAL BY JURY COURT ACCEPTS WAIVER(S).
40 By stipulation of defendant and all counsel, here is submitted for the purposes of the transcript of the proceedings had at the preliminary hearing, subject to this court's order, with each side retaining liability for other portions of evidence and all stipulations entered into at the preliminary hearing, to be described and marked for identification at the preliminary hearing and entered in evidence at the preliminary hearing. (Preliminary Transcript) admitted into evidence by reference.
- 41 Defendant advised and waives privilege of attorney for the purpose of further cross-examination, and waives privilege against self-incrimination.
- 42 THE COURT STATES IT HAS ORDERED THE DEFENDANT TO REMAIN IN CUSTODY OF THE SHERIFF OF THE COUNTY OF LOS ANGELES.
*People's Motion for Bail & Release
Held for Court on 10/25/85*
- 44 ALL SIDES, REPT. COURSE, HAVE AGREED TO A SETTLEMENT OF THIS MATTER.
- 45 MOTION PURSUANT TO SECTION 1538.5 PENAL CODE CALLED FOR HEARING MOTION SUBMITTED PER STIPULATION (NO. 40) BELOW
- 46 COURT FINDS DEFENDANT PROBATIONABLE
- 47 COURT FINDS DEFENDANT PROBATIONABLE LESSER INCLUDED/RELATED OFFENSE.
- 48 PRE-TRIAL CONFERENCE SET FOR DATE AND TIME CONTINUED TO
- 49 THE DEFENDANT IS ANNOUNCED/READY FOR TRIAL
- 50 ON PEOPLE'S MOTION, CASE A IS SET/CONTINUED TO/REMAINS/TRIALED TO AT
- 51 FURTHER ORDER AS FOLLOWS
- 52 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TRIAL BY JURY. PLUS _____ DAYS
- 53 CAUSE IS REFERRED TO DEPT. _____ AT _____ A.M. FOR
- 54 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TRIAL BY JURY.
- 55 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TRIAL BY JURY. REARRAIGNED
- 56 PLEAS ENTERED & CONSENTED WITH COURSE OF THE SET ATTORNEY AND APPROVAL OF COURT TO VIOLATION OF SECTION _____ LESSER INCLUDED/RELATED OFFENSE
- 57 DEFENDANT REFERRED TO PROBATION DEPARTMENT DEFENDANT WAIVES TIME FOR SENTENCE. PROBATION AND SENTENCE HEARING SET AT _____ A.M. IN DEPARTMENT. INCLUDING: DISPOSITION OF COUNT(S) REMAINING DETERMINATION OF PRIOR ALLEGED/CONVICTED/USE/GREAT BODILY INJURY ALLEGATION(S)
- 58 DEFENDANT WAIVES PROBATION REFERRAL. REQUESTS IMMEDIATE SENTENCE. (SEE SENTENCE BELOW/SEE ATTACHED SHEET)
- 59 FURTHER ORDER AS FOLLOWS: *That the Defendant be transported to San Gabriel County for proceedings in that County on 10/29/85.*
- 60 THE SHERIFF IS ORDERED TO ALLOW THE DEFENDANT TELEPHONE CALLS AT DEFENDANT'S OWN EXPENSE
- 61 DEFENDANT FAILS TO APPEAR WITH WITHOUT SUFFICIENT EXCUSE
- 62 BAIL, IF POSTED, FORFEITURE: REVOKED BENCH WARRANT ORDERED ISSUED. NO BAIL/BAIL FIXED AT \$
- 63 BENCH WARRANT ORDERED ISSUED AND HELD UNTIL NO BAIL/BAIL FIXED AT \$
- 64 DEFENDANT APPEARING: BENCH WARRANT ORDERED RECALLED/CANCELLED. (RECALL NO. _____) WRITTEN () ABSTRACT FILE
- 65 UPON PAYMENT OF \$ _____ COSTS BEFORE _____ AND FILING OF REASSUMPTION, ORDER OF FORFEITING BAIL IS TO BE VACATED AND BAIL REINSTATED.
- 66 REASSUMPTION FILED/COSTS PAID (RECEIPT NO. _____) ORDER OF _____ FORFEITING BAIL VACATED. BAIL REINSTATED
- 67 DEFENDANT'S MOTION FOR RELEASE ON O.R./REDUCTION OF BAIL IS GRANTED/DENIED/SET/CONTINUED TO/ REASON: _____
- 68 BAIL RESET AT \$

REMANDED BAIL FORS. ONLY BAIL EXONERATED BOND NO. _____

RELEASED O.R. O.R. DISCHARGED IN CUSTODY OTHER MATTER

MINUTE ORDER BENCH WARRANT

MINUTES ENTERED
10-25-85
COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT. WE C

Date: OCTOBER 30, 1985
HONORABLE: L. J. RITTENBAND
J. BRAXTON

JUDGE
Deputy Sheriff

D. TSCHERKALOFF
NONE

Deputy Clerk
Reporter

(Parties and counsel checked if present)	
A090435 PEOPLE OF THE STATE OF CALIFORNIA VS 01 HUNT, JOE AKA GAMSKY, JOSEPH HENRY	Counsel for People: DEPUTY DISTRICT ATTY: F. WAPNE R Counsel for Defendant: A. BARENS

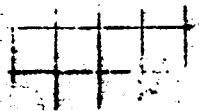
NATURE OF PROCEEDINGS

TRIAL (Nunc pro tunc) BAIL THIS/ REM OTHER

It appearing to the Court through inadvertence and clerical error the minute order for October 23, 1985, for Department WEST C in the above entitled action does not properly reflect the Court's order. Said minute order is ordered corrected nunc pro tunc as of October 25, 1985, by adding:

"Trial date is continued to November 13, 1985, at 9:00 a.m. in Department WEST C. The reason is for further preparation."

"Court and counsel confer in chambers. On co-defendant James Pittman's counsel's motion, the Court orders the court reporter to prepare an original and nine copies of transcripts of all proceedings, past and future, in this case for both defendants Hunt and Pittman."



BAIL THIS/REM OTHER

MINUTE ORDER

DEPT. WE C

MINUTES ENTERED
10-30-85
COUNTY CLERK

Date NOVEMBER 1, 1985
HONORABLE L. J. RITTENBAND
J. BRAXTON

JUDGE
Deputy Sheriff

DEPT. WE C
D. TSCHEKALOFF Deputy Clerk
R. GOODBODY Reporter

CASE NO. A090435 (Parties and counsel checked if present)

PEOPLE OF THE STATE OF CALIFORNIA
VS
01 HUNT, JOE
AKA GAMSKY, JOSEPH HENRY

CHARGE (BOX CHECKED IF ORDER APPLICABLE)

Counsel for People: DEPUTY DISTRICT ATTY: T. SOKOLOV FOR F. WAPNER

Counsel for Defendant: A. BARENS

NATURE OF PROCEEDINGS TRIAL TIME WAIVER BAIL THIS/REM OTHER 4-4-85

31 IS SWORN AS THE ENGLISH/ INTERPRET

32 DUE TO CONFLICT OF INTERESTS, PUBLIC DEFENDER RELIEVED PURSUANT TO SECTION 987.2 PENAL CODE. IS APPOINTED.

33 ON PEOPLE'S MOTION, AMENDMENT TO/AMENDED INFORMATION FILED/DEEMED FILED/INFORMATION AMENDED BY INTERLINEATION/AS FOLLOWS

34 ON MOTION, CASE A CONSOLIDATED INTO CASE A AS COUNT(S) THEREOF. SEE CASE A FOR FURTHER PROCEEDINGS

35 MOTION PURS. SECT. 995 P.C. GRANTED/DENIED/WITHDRAWN/CONTINUED TO

36 MOTION PURS. SECT. 1538.5 P.C. CALLED FOR HEARING. MOTION SUBMITTED PER STIPULATION (NO. 41) BELOW.

37 DEFENDANT ADVISED OF CONSTITUTIONAL RIGHTS AND EFFECT OF PRIOR CONVICTIONS, WAIVES RIGHTS, ADMITS PRIOR(S) NO CAUSE IS CALLED FOR HEARING. CAUSE SUBMITTED PER STIPULATION (NO. 41) BELOW.

38 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TRIAL BY JURY. COURT ACCEPTS WAIVER.

39 By stipulation of defendant and all counsel issue is submitted on the testimony contained in the transcript of the proceedings had at the preliminary hearing, subject to this court's rulings, with each side reserving the right to offer additional evidence and all stipulations entered into at the preliminary hearing be deemed entered into in these proceedings. It is further stipulated that all exhibits received or marked for identification at the preliminary hearing are received in evidence and marked for identification in these proceedings, bearing the same number as used in the preliminary hearing, subject to this court's rulings. People's exhibit (Preliminary Transcript) admitted into evidence by reference.

40 Defendant advised and personally waives his right to confrontation of witnesses for the purpose of further cross-examination, and waives privilege against self-incrimination. Defendant advised of possible effects of plea on any alien or citizenship status.

41 THE COURT STATES IT HAS READ AND CONSIDERED THE TRANSCRIPT OF THE PRELIMINARY HEARING.

42 ALL SIDES REST. COUNSEL WAIVE ARGUMENT/ARGUE AND CAUSE IS SUBMITTED.

43 MOTION PURS. SECT. 1538.5 P.C. GRANTED/DENIED/WITHDRAWN/CONTINUED TO

44 COURT FINDS DEFENDANT NOT GUILTY

45 COURT FINDS DEFENDANT GUILTY AS CHARGED TO SECT(S) IN COUNT(S) LESSER INCLUDED/RELATED OFFENSE.

46 PRE-TRIAL CONFERENCE HELD/OF CALENDAR/CONTINUED TO

47 THE COURT, DUE TO CONGESTED CALENDAR, TRIALS TRIAL TO A DATE NOT LATER THAN ON TO SUCH EARLIER DATE AS A TRIAL COURT IS AVAILABLE.

48 ON TRIAL setting 11-13-85 AT 9:00 A.M. IN DEPT. WE C. (Counsel and defendant stipulate that the waiver plus 60 days is given 10-25-85)

49 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TIME FOR TRIAL plus 60 days is given 10-25-85

50 CAUSE TRANSFERRED TO DEPT. FORTHWITH ON AT A.M. FOR

51 DEFENDANT/WITNESS(ES) INSTRUCTED TO RETURN ON ABOVE DATE.

52 DEFENDANT PERSONALLY WITHDRAWS PLEA OF NOT GUILTY TO COUNT(S) REARRAIGNED

53 PLEADS GUILTY/NOLO CONTENDERE WITH CONSENT OF DISTRICT ATTORNEY AND APPROVAL OF COURT, TO VIOLATION OF SECTION(S) IN COUNT(S) LESSER INCLUDED/RELATED OFFENSE.

54 DEFENDANT WAIVES TIME FOR SENTENCE, REFERRED TO PROBATION DEPARTMENT. PROBATION AND SENTENCE HEARING SET AT A.M. IN DEPARTMENT INCLUDING DISPOSITION OF COUNTS REMAINING DETERMINATION OF PRIORS ALLEGED/DEGREE/INMATE/USE ALLEGATION.

55 DEFENDANT WAIVES PROBATION REFERRAL REQUESTS IMMEDIATE SENTENCE (SEE SENTENCE BELOW/SEE ATTACHED SHEET)

56 FURTHER ORDER AS FOLLOWS: The Sheriff is directed to correct the defendant's name to reflect his names is Joe Hunt not Gerald Hunt. Booking Number is 8300941.

57 DEFENDANT FAILS TO APPEAR WITH/WITHOUT SUFFICIENT EXCUSE. BAIL FORFEITED O.R. REVOKED

58 BENCH WARRANT ORDERED ISSUED/AND HELD UNTIL NO BAIL/BAIL FIXED AT \$

59 DEFENDANT APPEARING, BENCH WARRANT ORDERED RECALLED/QUASHED. () RECALL NO. WRITTEN () ABSTRACT FILED

60 UPON PAYMENT OF \$ COSTS BEFORE AND FILING OF REASSUMPTION, ORDER OF FORFEITING BAIL IS TO BE VACATED AND BAIL REINSTATED.

61 REASSUMPTION FILED/COSTS PAID (RECEIPT NO.) FORFEITURE VACATED. BAIL REINSTATED

62 DEFENDANT'S MOTION FOR RELEASE ON O.R./REDUCTION OF BAIL IS GRANTED/DENIED. BAIL RESET AT \$

REMANDED BAIL BAIL EXON. BOND NO. RELEASED O.R. O.R. DISCHARGED IN CUSTODY OTHER MATTER

MINUTES ENTERED
11-1-85
COUNTY CLERK

Date: NOVEMBER 13 1985
HONORABLE: L J RITTENBAND
204 J ERAXTON

JUDGE
Deputy Sheriff

DEPT. REC
D TSCHENKALOFF Deputy Clerk
R GOODEBY Reporter

CASE NO. AC9C435 (Parties and counsel checked if present)

PEOPLE OF THE STATE OF CALIFORNIA
VS
01 HUNT JCE
01 GANSHY JOESPH HENRY

CHARGE AKA 187 CICTS 211 CICTS

Counsel for People: FRED WAPNER
DEPUTY DISTRICT ATTY: R. CHEIR
Counsel for Defendant: A. BARON

(BOX CHECKED IF ORDER APPLICABLE)

NATURE OF PROCEEDINGS TRIAL BL THIS CASE ONLY C4-C4-85

- 31 IS SWORN AS THE ENGLISH/ INTERPRETER.
- 32 OATH FILED PER SECTION 68560 GOVERNMENT CODE.
- 33 DUE TO CONFLICT OF INTEREST, PUBLIC DEFENDER RELIEVED. PURSUANT TO SECTION 987.2 PENAL CODE/31000 GOVERNMENT CODE ALTERNATE DEFENSE COUNSEL IS APPOINTED.
- 34 ON PEOPLE'S MOTION, AMENDMENT TO/AMENDED INFORMATION FILED/DEEMED FILED/INFORMATION AMENDED BY INTERLINEATION/AS FOLLOWS
- 35 ON MOTION, CASE A CONSOLIDATED INTO CASE A AS COUNT(S) THEREOF. SEE CASE A FOR FURTHER PROCEEDINGS.
- 36 MOTION PURSUANT TO SECTION 995 PENAL CODE GRANTED/DENIED/WITHDRAWN/CONTINUED TO
- 37 MOTION PURSUANT TO SECTION 1538.5 PENAL CODE CALLED FOR HEARING MOTION SUBMITTED PER STIPULATION 41 BELOW.
- 38 DEFENDANT ADVISED OF CONSTITUTIONAL RIGHTS AND EFFECT OF PRIOR CONVICTIONS: WAIVES RIGHTS; ADMITS PRIOR(S) NO CAUSE IS CALLED FOR TRIAL CAUSE SUBMITTED PER STIPULATION 41 BELOW.
- 39 CAUSE IS CALLED FOR TRIAL
- 40 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TRIAL BY JURY COURT ACCEPTS WAIVER(S).
41 By stipulation of defendant and all counsel issue is submitted on the testimony contained in the transcript of the proceedings had at the preliminary hearing, subject to this court's rulings, with each side reserving the right to offer additional evidence and all stipulations entered into at the preliminary hearing be deemed entered into in these proceedings. It is further stipulated that all exhibits received or marked for identification at the preliminary hearing are received in evidence and marked for identification in these proceedings, bearing the same number as used in the preliminary hearing, subject to this court's rulings. People's exhibit (Preliminary Transcript) admitted into evidence by reference.
42 Defendant advised and personally waives his right to confrontation of witnesses for the purpose of further cross-examination, and waives privilege against self-incrimination. Defendant advised of possible effects of plea on any alien/citizenship/probation/parole status.
- 43 THE COURT STATES IT HAS READ AND CONSIDERED THE TRANSCRIPT OF THE PRELIMINARY HEARING.
44 The People's motion to consolidate the case for trial is argued. Counsel are to submit points and authorities by November 26, 1985.
- 45 ALL SIDES REST. COUNSEL WAIVE ARGUMENT/ARGUE AND CAUSE IS SUBMITTED
- 46 MOTION PURSUANT TO SECTION 1538.5 PENAL CODE GRANTED/DENIED/WITHDRAWN/CONTINUED TO
- 47 COURT FINDS DEFENDANT NOT GUILTY
- 48 COURT FINDS DEFENDANT GUILTY AS CHARGED TO SECTION(S) IN COUNT(S) LESSER INCLUDED/RELATED OFFENSE
- 49 PRE-TRIAL CONFERENCE/TRIAL SETTING HELD/OFF CALENDAR/CONTINUED TO
- 50 THE DEFENDANT THE PEOPLE ANNOUNCE(S) READY FOR TRIAL
- 51 ON PEOPLE'S/DEFENDANT'S/COURT'S MOTION, TRIAL/MOTION IS SET/CONTINUED TO/REMAINS TRIALED TO 11-27-85 AT 9:00 A.M. IN DEPT. REC. REASON: further preparation
- 52 FURTHER CONTINUANCES WILL NOT BE GRANTED.
- 53 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TIME FOR TRIAL PLUS 60 DAYS
- 54 CAUSE TRANSFERRED TO DEPT. FORTHWITH ON AT A.M. FOR
- 55 DEFENDANT/WITNESS(ES) ORDERED TO RETURN ON ABOVE DATE:
- 56 DEFENDANT PERSONALLY WITHDRAWS PLEA OF NOT GUILTY TO COUNT(S) REARRAIGNED
- 57 PLEADS GUILTY/NOLO CONTENDERE, WITH CONSENT OF DISTRICT ATTORNEY AND APPROVAL OF COURT TO VIOLATION OF SECTIONS(S) IN COUNT(S) LESSER INCLUDED/RELATED OFFENSE.
- 58 DEFENDANT REFERRED TO PROBATION DEPARTMENT. DEFENDANT WAIVES TIME FOR SENTENCE. PROBATION AND SENTENCE HEARING SET AT A.M. IN DEPARTMENT INCLUDING DISPOSITION OF COUNT(S) REMAINING DETERMINATION OF PRIORS ALLEGED/DEGREE/ARMED/USE/GREAT BODILY INJURY ALLEGATION(S)
- 59 DEFENDANT WAIVES PROBATION REFERRAL. REQUESTS IMMEDIATE SENTENCE. (SEE SENTENCE BELOW/SEE ATTACHED SHEET.
- 60 FURTHER ORDER AS FOLLOWS:
- 61 THE SHERIFF IS ORDERED TO ALLOW THE DEFENDANT TELEPHONE CALLS AT DEFENDANT'S OWN EXPENSE
- 62 DEFENDANT FAILS TO APPEAR WITH/WITHOUT SUFFICIENT EXCUSE.
- 63 BAIL, IF POSTED, FORFEITED/O.R. REVOKED. BENCH WARRANT ORDERED ISSUED/REISSUED/AND HELD UNTIL
- 64 NO BAIL BAIL FIXED AT \$
- 65 DEFENDANT APPEARING. BENCH WARRANT ORDERED RECALLED/QUASHED() RECALL NO. WRITTEN () ABSTRACT FILED
- 66 UPON PAYMENT OF \$ COSTS BEFORE AND FILING OF REASSUMPTION, ORDER OF FORFEITING BAIL IS TO BE VACATED AND BAIL REINSTATED.
- 67 REASSUMPTION FILED/COSTS PAID (RECEIPT NO.) ORDER OF FORFEITING BAIL VACATED. BAIL REINSTATED
- 68 DEFENDANT'S MOTION FOR RELEASE ON O.R./REDUCTION OF BAIL IS GRANTED/DENIED/SET/CONTINUED TO/ REASON:
- 69 BAIL RESET AT \$

REMANDED BAIL BAIL EXONERATED BOND NO.
 RELEASED O.R. O.R. DISCHARGED IN CUSTODY OTHER MATTER

MINUTES ENTERED
NOV 13, 1985

1 Arthur H. Barens
 Richard C. Chier
 2 10209 Santa Monica Blvd.
 Los Angeles, California 90067
 3 (213) 557-0444
 4 Attorneys for
 5 Defendant

FILED

NOV 26 1985

BY D. TSCHEKALOFF, DEPUTY
D. Tschekaloff

8 SUPERIOR COURT OF CALIFORNIA
 9 COUNTY OF LOS ANGELES

11 THE PEOPLE OF THE STATE OF) No. A 090435
 CALIFORNIA,)
 12)
 Plaintiff,) OPPOSITION OF DEFENDANT
 13) HUNT TO MOTION FOR
 vs.) CONSOLIDATION
)
 14)
)
 15)
 JOE HUNT and JAMES PITTMAN,)
 16)
)
 17)
 Defendants.)

INTRODUCTION

21 Defendants JOE HUNT and JAMES PITTMAN are each
 22 charged with the crime of murder in violation of Section
 23 190 of the California Penal Code. Special circumstances
 24 are alleged under Section 190.2(a)(17)(i) of the Penal Code.
 25 It is alleged that the alleged victim, RONALD LEVIN, was
 26 killed in the commission of a robbery in violation of Section
 27 211 of the Penal Code.

28 ////

1 Defendant Hunt is white; defendant Pittman is
2 black. Defendant Pittman has been previously tried on the
3 same charge; the jury was unable to reach a verdict and
4 he is therefore scheduled for re-trial. Hunt, on the other
5 hand, has not been previously tried in this case. The People's
6 evidence against Hunt and Pittman consist in large part
7 of alleged extra-judicial statements made by Hunt which,
8 in most cases, implicate Pittman. The defenses of Hunt
9 and Pittman are conflicting. Hunt's defense, to a certain
10 extent, will consist of blaming Pittman. Pittman, on the
11 other hand, has blamed and will continue to blame Hunt creating
12 a situation of irreconcilably conflicting defenses.

13 Nevertheless, and in spite of these grotesquely
14 conflicting defenses, the District Attorney for the County
15 of Los Angeles seeks to have a joint trial either before
16 two separate juries sitting at the same time or before a
17 single jury which the District Attorney will ask to weigh
18 the fate of both defendants.

19 As shall be demonstrated hereafter, the joint
20 trial-separate jury procedure is inherently unworkable in
21 the instant case, has never been utilized in a joint trial
22 of a death penalty case. In fact, there has not been a
23 joint trial of two defendants before one jury in a death
24 penalty case in Los Angeles County in the last 15 years,
25 if ever.

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1.

WHEN TWO DEFENDANTS HAVE POTENTIALLY ANTAGONISTIC
DEFENSES TO PRESENT, JOINDER IS IMPROPER AND
SEVERANCE IS THE ONLY PROPER METHOD TO INSURE THAT
EACH OF THE DEFENDANTS RECEIVES A FAIR TRIAL

Bruton v United States

(1968) 391 U.S. 123

People v Massie (1967)

66 Cal.2d 899, 915

People v Chambers (1964)

231 Cal.App.2d 23, 34

In Bruton, the defendants, Bruton and Evans, were tried jointly for armed postal robbery. Evans did not take the stand. A postal inspector testified, however, that Evans had confessed to him that he and Bruton had committed the robbery. The trial court instructed the jury that the confession was competent evidence against Evans, but it was inadmissible hearsay against Bruton and could not be considered when determining Bruton's guilt or innocence. Both defendants were convicted. The United States Supreme Court reversed Bruton's conviction stating that the prejudice which resulted from the admission of Evans's incriminating confession could not be dispelled on cross-examinations because Evans did not testify. Accordingly, the Court held that severance is required wherever a non-testifying defendant's statements "clearly inculcate" his co-defendants.

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2.

IN CONSIDERING MOTIONS FOR SEVERANCE OR CONSOLIDATION
THE COURTS MUST WEIGH THE PREJUDICIAL IMPACT OF ALL
THE SIGNIFICANT EFFECTS THAT MAY REASONABLY BE ASSUMED
TO HAVE STEMMED FROM THE ERRONEOUS DENIAL OF A SEPARATE TRIAL

People v Ortiz (1970)
22 Cal.2d 38

The factors to be applied, under Ortiz, in considering whether the denial of severance [or granting of consolidation] was prejudicial include whether a separate trial would have been significantly less prejudicial to the defendant than the joint trial, whether there was clear evidence of the defendant's guilt, and whether there was a reasonable probability that the defendant would have obtained a more favorable result at a separate trial.

3.

THE USE OF ONE JURY TO TRY TWO DEFENDANTS IN A DEATH
CASE IS UNPRECEDENTED IN CALIFORNIA; ACCORDINGLY,
NO CASES EITHER APPROVING OR DENOUNCING THE PRACTICE
HAVE BEEN LOCATED

Counsel for defendant Hunt have conducted extensive research and canvassed members of the Los Angeles District Attorney's Office experienced in death penalty cases as

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~~If this Court applies the standard of de novo review -- and, indeed, even if this Court applies an abuse of discretion standard -- the only proper conclusion is that the trial judge improperly permitted the prosecutor to read Tolbert's prior testimony to the jury.~~

B. The Use of Multiple Juries Deprived Appellant of His Constitutional Right To a Fair and Impartial Jury and To Due Process of Law.

1. Introduction.

Despite the complexity of the evidence in this case and the fact that the appellant was facing the death penalty, the trial judge took the extraordinary step of empanelling two juries to hear the evidence against appellant and his co-defendants. This procedure was cumbersome, completely unnecessary, and highly prejudicial to appellant. The prosecutor argued that two juries were needed because certain evidence was admissible only against one defendant, yet any evidentiary problems could have been solved by severing appellant's trial from that of his co-defendants. Thus, the cumbersome procedure used here served only one purpose -- to save time and money.

Appellant was severely prejudiced by this procedure. On three occasions the trial judge informed appellant's jury that separate juries were necessary because the District Attorney's Office was seeking the death penalty only against appellant. These statements, in effect, told the jury that the prosecutor believed appellant was the most culpable and the most dangerous of all the defendants. This belief was reinforced when, during the cross-examination of Lowden, counsel for one of appellant's co-defendants stated that the prosecutor was seeking the death penalty only against appellant.

Appellant was prejudiced further by the prosecutor's representation in his opening statement that he would discuss only the evidence admissible before both juries. This statement encouraged appellant's jury to wonder whether there was additional evidence against appellant which had been suppressed pursuant to a "legal technicality."

Each of these forms of prejudice would not have occurred if the Court had not implemented the unusual procedure of empanelling two juries. As a result of this prejudice, appellant was convicted on both murder counts whereas his co-defendants either were found not guilty or

were dismissed by the court. The use of simultaneous juries in this case thus deprived appellant of two of his most fundamental constitutional rights -- the right to due process of law and the right to a "fair criminal trial before an unbiased jury." San Jose Mercury-News v. Municipal Court, 30 Cal.3d 498, 502, 179 Cal.Rptr. 772 (1982) (citing Duncan v. Louisiana, 391 U.S. 145, 149, 88 S.Ct. 1444, 20 L.Ed.2d 491 (1968)).^{17/}

2. Using Multiple Juries Simultaneously For Multiple Defendants Is Prohibited If There Is Any Possibility of Prejudice To a Defendant.

In the instant case, the multiple jury procedure was used twice -- first for the trial in March 1981 of Ates, Claudell, Basil, and Johnson and again in May 1981 for the trial of Claudell, Basil, Johnson, and appellant. In the first instance, the prosecutor filed a written motion requesting the use of simultaneous juries. After the first trial resulted in a "hung-jury" against Basil, Claudell, and Johnson on the murder charges, the prosecutor made an oral motion to consolidate the re-trial of those three

^{17/} The identical right is guaranteed by Article I, Section 16 of the California Constitution.

individuals with appellant's trial and to use two juries once again (R.T. 2678-79). This motion was granted.

In his written motion to empanel two simultaneous juries, the prosecutor relied upon only two reported decisions -- United States v. Sidman, 470 F.2d 1158 (9th Cir. 1972), cert. denied, 409 U.S. 1127 (1973), and United States v. Crane, 499 F.2d 1385 (6th Cir.), cert. denied, 419 U.S. 1002 (1974) (C.T. 8-18). Since that time, the California Court of Appeal for the Second District has reviewed the propriety of simultaneously using multiple juries to determine the guilt or innocence of more than one defendant. People v. Wardlow, 118 Cal.App.3d 375, 173 Cal.Rptr. 500 (1981). These decisions, while upholding the use of various forms of consolidated procedures under the particular circumstances in those cases, all emphasize that such procedures should not be used whenever a defendant could be prejudiced by the procedures.

The first decision which reviewed the use of multiple juries was United States v. Sidman, supra. In Sidman, the trial judge had empanelled two juries in order: (1) to avoid the problem of prejudice to one defendant caused by the admission in evidence of a co-defendant's incriminating statement; and (2) to eliminate the

"'ineconomies' inherent in two separate trials." 470 F.2d at 1168. The Ninth Circuit denied Sidman's challenge to the use of two juries, but reversed co-defendant Clifford's conviction on the ground that, despite the use of two juries, the admission of Sidman's extrajudicial statement violated Clifford's constitutional rights under Bruton v. United States, 391 U.S. 123, 88 S.Ct. 1620, 20 L.Ed.2d 476 (1968). Moreover, the court emphasized that multiple juries should be used only when there is no prejudice to any of the defendants:

While we uphold the use of two juries in this case before us, this should not be taken as a blanket endorsement by us of such a trial. While it solved part of the Bruton problem in Sidman's case, it didn't in the Clifford case (see infra).

* * *

Although we uphold the trial by two juries in this case, we think that unless some guidelines are established by court rule at the District Court level, guidelines which are not inconsistent

with 28 U.S.C. § 2071, Rule 57, and new Rule 50 of the Federal Rules of Criminal Procedure, our holding is not to be read as an endorsement of the "experiment" that was carried out in this case.

470 F.2d at 1170 (emphasis added).

In United States v. Crane, supra, the appellate court reviewed a slightly different procedure for consolidating multiple trials. In Crane, the trial court used only one jury but bifurcated the trial so that the jury first heard all the evidence pertaining to one defendant, returned a verdict as to that defendant, and then heard the remaining evidence pertaining to the second defendant. Although the Court of Appeal found no prejudice to the defendant, the court's opinion emphasized that its ruling was limited to the circumstances of the case before it and that it was not approving the general use of such a procedure. As the court stated:

Despite the lack of prejudice to defendant arising from the trial technique employed here, we entertain serious doubts about the propriety of the general use of a bifurcated trial

as a means of preserving joint trials while still complying with the mandate of Bruton. . . . In the meantime, whenever there is a possibility of prejudice to either defendant, the safest course would appear to be the traditional use of the severance device.

499 F.2d at 1388.

Similar concern was expressed by the California Court of Appeal in People v. Wardlow, supra, in which the court reviewed the simultaneous use of two juries to hear evidence against two defendants. The court upheld the use of two juries in that case, but only because neither defendant had been prejudiced. As the court explained:

In view of the painstaking procedures and safeguards undertaken by the trial court to ensure the impartiality of both juries, we find no prejudice or unfairness resulted from the empaneling of two juries in the instant case.

118 Cal.App.3d at 384.

It is clear from Sidman, Crane, and Wardlow that consolidated trial procedures should be used only when none of the defendants will be prejudiced. Although using multiple juries may be convenient to the court, the lawyers, and the witnesses, the procedure has not been unconditionally endorsed by any appellate court and should not be used whenever there is a possibility that a defendant will be prejudiced.

3. Appellant Was Severely Prejudiced By the Simultaneous Use of Multiple Juries.

The prejudice to appellant from the use of two juries took at least two forms. The most egregious was the undue focus placed by the trial judge on the District Attorney's Office's decision to seek the death penalty only against appellant. Right from the outset -- before jury selection ever began -- the prospective jurors were told that two juries were being used because the District Attorney's Office was seeking the death penalty only against appellant. The trial judge stated:

And the reasons for hearing the case at the same time before two juries are twofold: I am going to give you the

information so you don't have to speculate, you don't have to wonder why. First of all, and I will go into this more at a later time, there is a possibility, and only a possibility and I emphasize that, that the jury in this case, the Vincent Louis jury, may get involved in the question of penalty or punishment as to this defendant.

There's only a possibility there. And I will explain that more to you in detail.

The other jury will not have that problem. That will not be a consideration for a jury that hears the case of the other three defendants. That's one reason for having two juries.

(R.T. 85) (emphasis added).

The trial judge repeated a similar instruction a few minutes later during jury selection:

If they convict a defendant in the vast majority of the cases, the duty of the jury has ended.

The jury is not any longer concerned with the case, any question of penalty or punishment is up to the court.

However, as to this defendant and this defendant alone, the situation could conceivably be different.

I've already told you that the people are seeking the death penalty against this defendant. . . .

(R.T. 102) (emphasis added).

A few minutes later the trial judge reminded the jury once more that the Deputy District Attorney was seeking the death penalty only against appellant, and not against the other three defendants:

"[The courthouse is] the one place where I won't want you when I select the jury for the other three defendants.

"That I can't anticipate how long will take [sic]. We don't have to do the individual questioning of them

because there is no question about that jury getting any involved in penalty."

(R.T. 113) (emphasis added).

It is well-settled in California that a defendant is entitled to be tried separately from his co-defendants if "there may be prejudicial association with codefendants." People v. Isenor, 17 Cal.App.3d 324, 94 Cal.Rptr. 746 (1971) (citing People v. Chambers, 231 Cal.App.2d 23, 28-29, 41 Cal.Rptr. 551 (1964)). Such prejudicial association deprives the defendant of his constitutional right to due process of law and mandates a reversal of the conviction even if the defendant's trial counsel did not object to the consolidated trial. People v. Chambers, supra, 231 Cal.App.2d at 28. See also People v. Sarazzawski, 27 Cal.2d 7, 11, 161 P.2d 934 (1945).

In the instant case, appellant's prejudicial association with his co-defendants, although of a different type than in People v. Chambers, was no less severe. The use of two juries -- and the judge's comments that came with it -- made clear to appellant's jury that the District Attorney's Office believed Vincent to be the most guilty, the most culpable, and the most dangerous of all the defendants. The Canons of Ethics prohibit a lawyer from

stating his personal belief of the guilt of a defendant. Model Code of Professional Responsibility, Canon 7, DR 7-106(c)(4); see also People v. Modesto, 66 Cal.2d 695, 59 Cal.Rptr. 124 (1967). Here the prosecutor did not need to state his personal belief, because the trial judge repeatedly did it for him. As a result, appellant was denied his right to due process and to a fair trial before an impartial jury.

The prejudice to appellant from the use of multiple juries continued throughout the trial. For example, during the cross-examination of Lowden, Basil's lawyer similarly emphasized that the District Attorney was seeking the death penalty only against appellant:

"Q. You are also aware that Vincent Louis, the gentleman to my far right, and to your far left, is also on trial for murder and conspiracy to commit murder; do you know that?

A. Yes.

Q. Do you know that Mr. Haney is actually seeking the death penalty against that one defendant; do you know that?

(R.T. 2201) (emphasis added). This line of questioning, again, suggested improperly that appellant was the most culpable of all the defendants and that, in the eyes of the prosecutor, only appellant should receive the death penalty.

Although this focus on appellant's greater culpability was the most severe prejudice resulting from the use of multiple juries, it was not the only form of prejudice. In order again to save time, the prosecutor gave a single opening statement in the presence of both juries. At the outset of his opening statement, the prosecutor told the juries that his statement would "only apply to evidence that both of the juries will be present to hear"

(R.T. 1862). This statement led appellant's jury to wonder whether there was additional incriminating evidence which had been suppressed or which, for some technical legal reason, would not be available for its consideration.

A guilty verdict is tainted and thus reversible if it is influenced by extraneous material not admitted in evidence during the trial. E.g., Turner v. Louisiana, 379 U.S. 466, 472-73, 85 S.Ct. 546, 13 L.Ed.2d 424 (1965). Appellant submits that the same standard should apply here, where the prosecutor suggested to the jury that there was extraneous evidence which, for some reason, would not be

offered at the trial. This statement had the effect of encouraging the jury to speculate as to what that evidence was, how it incriminated appellant, and why it would not be offered in evidence at trial. Such jury speculation violated the most basic principle that the jury should consider only the evidence admitted before it.

In summary, even though this trial literally meant life or death for appellant, the trial judge employed the experimental procedure of using two simultaneous juries. Even under the best possible circumstances, this procedure is extremely cumbersome and confusing to both juries. Under the circumstances here, the procedure had far greater consequences; it severely prejudiced appellant and deprived him of his constitutional rights to due process and to a fair trial before an impartial jury. Appellant's conviction should therefore be reversed.

C. The Aider and Abettor Instruction Given By the Court Did Not Require the Jury To Determine That Defendant Acted With the Requisite Intent To Kill.

At the conclusion of the guilt phase of appellant's trial, the trial judge instructed the jury that appellant could be found guilty of murder as either a principal or as an aider and abettor in the murder. The trial judge defined an aider and abettor as follows:

VERIFICATION

STATE OF CALIFORNIA, COUNTY OF

I have read the foregoing _____ and know its contents.

CHECK APPLICABLE PARAGRAPH

I am a party to this action. The matters stated in it are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I am an Officer a partner _____ a _____ of _____

a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I have read the foregoing document and know its contents. The matters stated in it are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I am one of the attorneys for _____

a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I have read the foregoing document and know its contents. I am informed and believe and on that ground allege that the matters stated in it are true.

Executed on _____, 19____, at _____ California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signature

ACKNOWLEDGMENT OF RECEIPT OF DOCUMENT
(other than summons and complaint)

Received copy of document described as _____

on _____ 19____.

Signature

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of LOS ANGELES State of California.

I am over the age of 18 and not a party to the within action; my business address is: 10920 Wilshire Boulevard Suite 1000, Los Angeles, California 90024

On _____ 19____, I served the foregoing document described as _____

OPPOSITION OF DEFENDANT HUNT TO MOTION FOR CONSOLIDATION

on interested parties

in this action by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid in the United States mail at: 10920 Wilshire Boulevard, Suite 1000,

Los Angeles, California 90024

addressed as follows:

Fred Wapner, Deputy DA
1725 Main Street, Room 228
Santa Monica, CA

Michael Denby, Dep. Public Defender
1725 Main St., Room 227
Santa Monica, CA

By messenger

(BY MAIL) I caused such envelope with postage thereon fully prepaid to be placed in the United States mail. Executed on _____, 19____, at _____, California.

(BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to the offices of the addressee. Executed on Nov 26 1985, 19____, at L.A., California.

(State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

(Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Kristina Loney
Signature

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LAW OFFICES OF THE PUBLIC DEFENDER
Michael H. Demby, Deputy Public Defender
1725 Main Street
Santa Monica, CA 90401
Telephone: 458-5294
Attorney for Defendant

FILED
NOV 26 1985
County Clerk
Shekeloff
SHEKALOFF, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR COUNTY OF LOS ANGELES

THE PEOPLE OF THE STATE OF CALIFORNIA,) No. A-090435
)
Plaintiff,)
)
v.) OPPOSITION TO
) MOTION FOR
) CONSOLIDATION
JOE HUNT and JAMES PITTMAN,)
)
Defendants.)

TO: IRA REINER, DISTRICT ATTORNEY FOR THE COUNTY
OF LOS ANGELES, AND/OR REPRESENTATIVE:

YOU AND EACH OF YOU will please take notice that
on the 27th day of November, 1985, in Department West "C"
of the above entitled Court, defendant, James Pittman,
through counsel will continue to oppose the People's
Motion for Consolidation in the above entitled matter.

Said motion will be based on the Declaration of
Michael H. Demby, the attached Memorandum of Points and
Authorities and other such evidence as may be heard at the
time of hearing and were heard at the hearing on November
13, 1985.

Dated this 26th day of November, 1985.

WILBUR F. LITTLEFIELD, PUBLIC DEFENDER

By: _____
Michael H. Demby

1
2 That it is my belief that these conflicts and the
3 ensuing prejudice would not be present if each defendant
4 was tried separately;

5 That at the very least the prejudice would become
6 overwhelming at the penalty trial;

7 That evidence presented at a joint penalty trial
8 about Mr. Hunt would preclude a jury from fairly treating
9 Mr. Pittman. Facts that are not admissible in a joint
10 trial would work to his detriment. Mr. Pittman's life
11 should not depend on evidence his co-defendant presents or
12 attacks his co-defendant makes, but on the efforts of the
13 prosecutors and his own efforts;

14 That it is also my belief from review of the
15 materials and it is the belief of the prosecutor that the
16 evidence against Mr. Pittman is substantially weaker than
17 the evidence against Mr. Hunt. (See statement of Deputy
18 District Attorney, Frederick N. Wapner, on page 24 of the
19 Reporter's Transcript of the proceedings on Wednesday
20 October 23, and Friday, October 25, 1985.)

21 That it is further my belief from review of the
22 material that there are many statements made by Mr. Hunt
23 that can not be used against Mr. Pittman. It is also my
24 belief that some of these statements cannot be cleaned up
25 without prejudicing Mr. Pittman. Mr. Pittman has also
26 made statements and deleting part of these statements to
27 protect Mr. Hunt would prejudice Mr. Pittman;

28 I declare under penalty of perjury that the
29 foregoing is true and correct to the best of my
30 information and belief.

31 Dated this 26th day of November, 1985, at Santa
32 Monica, California.

33 WILBUR F. LITTLEFIELD, PUBLIC DEFENDER

34
By: Michael H. Demby
Michael H. Demby
Deputy Public Defender

1
2 MEMORANDUM OF POINTS AND AUTHORITIES
3

4 It is clear that this is the type of case that can
5 be consolidated for trial. However, the law is clear
6 that the two defendants should not have a consolidated
7 trial if joining of the defendants would prevent a
8 defendant from receiving a fair and impartial trial.
9 (People v. Massie (1967) 66 Cal.2d 899.)

10 In Williams v. Superior Court (1984) 36 Cal
11 3d 441, a case talking about joining of counts, not
12 joining of defendants, the Supreme Court stated that "in a
13 capital offense, carrying the gravest possible
14 consequences, the Court must analyze the severance issue
15 with a higher degree of scrutiny and care than is normally
16 applied in a noncapital case." (At 454)

17 When there are conflicting defenses, the
18 defendants would be prejudiced by a joint trial. People
19 v. Graham (1969) 71 Cal 2d 303 is among other cases
20 indicating severance must be granted when the defendant
21 would be prejudiced. It is clear that this principle must
22 include the penalty phase of the trial.

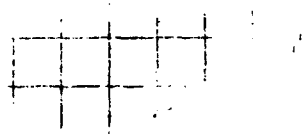
23 When one defendant is more heavily involved in the
24 offense, severance is necessary to afford the less
25 involved defendant's right to a fair trial. People v.
26 Massie. supra; People v. Bahler (1961) 198 Cal.2d
27 270. When a case is weak against one defendant and strong
28 as to another defendant, there is a danger that the two
29 cases may become one in the mind of the juror and the case
30 should be severed. (See Williams v. Superior Court,
31 supra.)

32 It is also unfair if a defendant is convicted, not
33 because of the evidence, but because of guilt by
34 association with an evil man. This is a danger in this
case.

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See People v. Davis (1940) 42 Cal App 2d 70 which covers unrelated crimes. People v. Chambers (1964) 231 CA 2d 23. Different prior criminal records and backgrounds should also make it necessary to sever defendants. See People v. Mitchell 1 Cal App 3rd 35.

Defendants should also be severed if a co-defendant confession or statement cannot be effectively deleted without prejudice to both the declarant and the co-defendant. Effective deletion means not only direct but indirect identification of the co-defendant. This includes statements that could be used once a non-declarant co-defendant identification is established. People v. Aranda (1969) 63 Cal 2d 518; Burton v. United States (1968) 391 U.S. 123.



Date NOVEMBER 27 1985
HONORABLE: L J RITTENBAND
203 J BRAXTON

JUDGE
Deputy Sheriff

DEPT. WEC
D TSCHKEALOFF
R GOORBOY Deputy Clerk
Reporter

CASE NO. A090435 (Parties and counsel checked if present)

PEOPLE OF THE STATE OF CALIFORNIA
VS
01 HUNT JOE
01 GAMSHY JOSEPH HENRY

CHARGE AKA 187 01CTS 211 01CTS

Counsel for People: DEPUTY DISTRICT ATTY: T. HERMAN
Counsel for Defendant: R CHEIR

NATURE OF PROCEEDINGS TRIAL BL 04-04-85

- 31 IS SWORN AS THE ENGLISH/ INTERPRETER.
- 32 OATH FILED PER SECTION 68580 GOVERNMENT CODE.
- 33 DUE TO CONFLICT OF INTEREST, PUBLIC DEFENDER RELIEVED. PURSUANT TO SECTION 987.2 PENAL CODE/31000 GOVERNMENT CODE ALTERNATE DEFENSE COUNSEL IS APPOINTED.
- 34 ON PEOPLE'S MOTION, AMENDMENT TO/AMENDED INFORMATION FILED/DEEMED FILED/INFORMATION AMENDED BY INTERLINEATION/AS FOLLOWS.
- 35 ON MOTION, CASE A CONSOLIDATED INTO CASE A AS COUNT(S) THEREOF. SEE CASE A FOR FURTHER PROCEEDINGS.
- 36 MOTION PURSUANT TO SECTION 996 PENAL CODE GRANTED/DENIED/WITHDRAWN/CONTINUED TO
- 37 MOTION PURSUANT TO SECTION 1538.5 PENAL CODE CALLED FOR HEARING MOTION SUBMITTED PER STIPULATION 41 BELOW.
- 38 DEFENDANT ADVISED OF CONSTITUTIONAL RIGHTS AND EFFECT OF PRIOR CONVICTIONS: WAIVES RIGHTS; ADMITS PRIOR(S) NO
- 39 CAUSE IS CALLED FOR TRIAL CAUSE SUBMITTED PER STIPULATION 41 BELOW.
- 40 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TRIAL BY JURY COURT ACCEPTS WAIVER(S).
41 By stipulation of defendant and all counsel issue is submitted on the testimony contained in the transcript of the proceedings had at the preliminary hearing, subject to this court's rulings, with each side reserving the right to offer additional evidence and all admissions entered into at the preliminary hearing be deemed entered into in these proceedings. It is further stipulated that all exhibits received or marked for identification at the preliminary hearing are received, in evidence and marked for identification in these proceedings bearing the same number as used in the preliminary hearing, subject to this court's rulings. People's Exhibit (Preliminary Transcript) admitted into evidence by reference.
42 Defendant advised and personally waives the right to confrontation of witnesses for the purpose of further cross-examination; and waives privilege against self-incrimination. Defendant advised of possible effects of plea on city/county/alien/citizen/probation/parole status.
- 43 THE COURT STATED IT HAS READ AND CONSIDERED THE TRANSCRIPT OF THE PRELIMINARY HEARING.
- 44
- 45 ALL SIDES REST. COUNSEL WAIVE ARGUMENT/ARGUE AND CAUSE IS SUBMITTED.
- 46 MOTION PURSUANT TO SECTION 996 PENAL CODE GRANTED/DENIED/WITHDRAWN/CONTINUED TO
- 47 COURT FINDS DEFENDANT GUILTY TO SECTION(S)
- 48 COURT FINDS DEFENDANT GUILTY TO SECTION(S) IN COUNT(S) LESSER INCLUDED/RELATED OFFENSE.
- 49 PRE-TRIAL CONFERENCE HELD/NOT HELD/CALENDAR/CONTINUED TO
- 50 THE DEFENDANT ANNOUNCES(S) READY FOR TRIAL
- 51 ON PEOPLE'S/DEFENDANT'S MOTION, TRIAL (MOTION) CONTINUED TO RE-TRIAL AT 12-13-85 AT A.M. IN DEPT. REASON: Further preparation
- 52 FURTHER CONTINUANCES WILL NOT BE GRANTED.
- 53 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TIME FOR TRIAL PER DATE
- 54 CAUSE TRANSFERRED TO DEPT. PER WITH ON AT A.M. FOR
- 55 DEFENDANT/WITNESS(S) ORDERED TO RETURN ON ABOVE DATE.
- 56 DEFENDANT PERSONALLY WITHDRAWS PLEA OF NOT GUILTY TO COUNT(S) REARRAIGNED.
- 57 PLEADS GUILTY/HOLD CONTENDERS WITH CONSENT OF DISTRICT ATTORNEY AND APPROVAL OF COURT TO VIOLATION OF SECTION(S) IN COUNT(S) LESSER INCLUDED/RELATED OFFENSE.
- 58 DEFENDANT REFERRED TO PROBATION DEPARTMENT. DEFENDANT WAIVES TIME FOR SENTENCE. PROBATION AND SENTENCE HEARING SET AT A.M. IN DEPARTMENT INCLUDING DISPOSITION OF COURT(S) REMAINING DETERMINATION OF PRIOR ALLEGED/DEGREE/ARMED/USE/GREAT BODILY INJURY ALLEGATION(S)
- 59 DEFENDANT WAIVES PROBATION REFERRAL REQUESTS IMMEDIATE SENTENCE. (SEE SENTENCE BELOW/SEE ATTACHED SHEET.)
- 60 FURTHER ORDER AS FOLLOWS:
- 61 THE SHERIFF IS ORDERED TO ALLOW THE DEFENDANT TELEPHONE CALLS AT DEFENDANT'S OWN EXPENSE.
- 62 DEFENDANT FAILS TO APPEAR WITH/WITHOUT SUFFICIENT EXCUSE.
- 63 BAIL, IF POSTED, FORFEITED/O.R. REVOKED. BENCH WARRANT ORDERED ISSUED/REISSUED/AND HELD UNTIL
- 64 NO BAIL BAIL FIXED AT \$
- 65 DEFENDANT APPEARING. BENCH WARRANT ORDERED RECALLED/QUASHED/RECALL NO. WRITTEN () ABSTRACT FILED
- 66 UPON PAYMENT OF \$ COSTS BEFORE AND FILING OF REASSUMPTION, ORDER OF FORFEITING BAIL IS TO BE VACATED AND BAIL REINSTATED.
- 67 REASSUMPTION FILED/COSTS PAID (RECEIPT NO.) ORDER OF FORFEITING BAIL VACATED. BAIL REINSTATED.
- 68 DEFENDANT'S MOTION FOR RELEASE ON O.R./REDUCTION OF BAIL IS GRANTED/DENIED/SET/CONTINUED TO/ REASON:
- 69 BAIL RESET AT \$
 REMANDED BAIL BAIL EXONERATED BOND NO.
 RELEASED O.R. O.R. DISCHARGED IN CUSTODY OTHER MATTER

MINUTES ENTERED
NOV 27, 1985

Date MARCH 17 1986
HONORABLE: L J RITTENBAND
201 J BRAXTON

JUDGE
Deputy Sheriff

DEPT. WEC
R TSCHKEALOFF Deputy Cler-
R GOODBODY Reporter

CASE NO.	A090435	(Parties and counsel checked if present)
PEOPLE OF THE STATE OF CALIFORNIA	Counsel for People:	F. WAPNER
01 HUNT JOE	DEPUTY DISTRICT ATTY:	
01 GAMSHY JOSEPH HENRY	R CHEIR	Counsel for Defendant:
187 01CTS	211 01CTS	
AKA CHARGE	(BOX CHECKED IF ORDER APPLICABLE)	

NATURE OF PROCEEDINGS TRIAL BL C4-04-85

- 31 IS SWORN AS THE ENGLISH/ INTERPRETER.
- 32 OATH FILED PER SECTION 68560 GOVERNMENT CODE.
- 33 DUE TO CONFLICT OF INTEREST, PUBLIC DEFENDER RELIEVED. PURSUANT TO SECTION 987.2 PENAL CODE/31000 GOVERNMENT CODE ALTERNATE DEFENSE COUNSEL IS APPOINTED.
- 34 ON PEOPLE'S MOTION, AMENDMENT TO/AMENDED INFORMATION FILED/DEEMED FILED/INFORMATION AMENDED BY INTERLINEATION/AS FOLLOWS.
- 35 ON MOTION, CASE A CONSOLIDATED INTO CASE A AS COUNT(S) THEREOF. SEE CASE A FOR FURTHER PROCEEDINGS.
- 36 MOTION PURSUANT TO SECTION 995 PENAL CODE GRANTED/DENIED/WITHDRAWN/CONTINUED TO
- 37 MOTION PURSUANT TO SECTION 1538.5 PENAL CODE CALLED FOR HEARING MOTION SUBMITTED PER STIPULATION 41 BELOW.
- 38 DEFENDANT ADVISED OF CONSTITUTIONAL RIGHTS AND EFFECT OF PRIOR CONVICTIONS; WAIVES RIGHTS; ADMITS PRIOR(S) NO CAUSE IS CALLED FOR TRIAL CAUSE SUBMITTED PER STIPULATION 41 BELOW.
- 39 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TRIAL BY JURY COURT ACCEPTS WAIVER(S).
- 40 By stipulation of defendant and all counsel issue is submitted on the testimony contained in the transcript of the proceedings had at the preliminary hearing, subject to this court's rulings, with each side reserving the right to offer additional evidence and all stipulations entered into at the preliminary hearing be deemed entered into in these proceedings. It is further stipulated that all exhibits received or marked for identification at the preliminary hearing are received in evidence and marked for identification in these proceedings, bearing the same number as used in the preliminary hearing, subject to this court's rulings. People's exhibit (Preliminary Transcript) admitted into evidence by reference.
- 41 Defendant advised and personally waives his right to confrontation of witnesses for the purpose of further cross-examination, and waives privilege against self-incrimination. Defendant advised of possible effects of plea on any alien/citizenship/probation/parole status.
- 42 THE COURT STATES IT HAS READ AND CONSIDERED THE TRANSCRIPT OF THE PRELIMINARY HEARING.
- 43
- 44
- 45 ALL SIDES REST. COUNSEL WAIVE ARGUMENT/ARGUE AND CAUSE IS SUBMITTED.
- 46 MOTION PURSUANT TO SECTION 1538.5 PENAL CODE GRANTED/DENIED/WITHDRAWN/CONTINUED TO
- 47 COURT FINDS DEFENDANT NOT GUILTY.
- 48 COURT FINDS DEFENDANT GUILTY AS CHARGED TO SECTION(S) IN COUNT(S) LESSER INCLUDED/RELATED OFFENSE.
- 49 PRE-TRIAL CONFERENCE/TRIAL SETTING HELD/OFF CALENDAR/CONTINUED TO
- 50 THE DEFENDANT THE PEOPLE ANNOUNCE(S) READY FOR TRIAL
- 51 ON PEOPLE'S/DEFENDANT'S/COURT'S MOTION, TRIAL/MOTION IS SET/CONTINUED TO REMAIN PRAISED TO 5-8-86 AT 9:00 A.M. IN DEPT. WEC. REASON: further preparation
- 52 FURTHER CONTINUANCES WILL NOT BE GRANTED.
- 53 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TIME FOR TRIAL
- 54 CAUSE TRANSFERRED TO DEPT. FORTHWITH ON AT A.M. FOR
- 55 DEFENDANT/WITNESS(ES) ORDERED TO RETURN ON ABOVE DATE.
- 56 DEFENDANT PERSONALLY WITHDRAWS PLEA OF NOT GUILTY TO COUNT(S) REARRAIGNED
- 57 PLEADS GUILTY/NOLO CONTENDERE, WITH CONSENT OF DISTRICT ATTORNEY AND APPROVAL OF COURT TO VIOLATION OF SECTIONS(S) IN COUNT(S) LESSER INCLUDED/RELATED OFFENSE.
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MINUTES ENTERED
MAR 17 1986
COUNTY CLERK

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