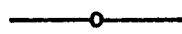


COURT OF APPEAL
SECOND APPELLATE DISTRICT
STATE OF CALIFORNIA



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

VS

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

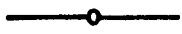
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2/25/88

No. A090435

DIV. FIVE



CLERK'S TRANSCRIPT

VOLUME VI

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 _____

1 **NOTICE TO APPELLANT:**

2 In the event that a request for corrections is filed, counsel should deliver his copy of the
3 transcripts to the court clerk at the time of the hearing so that it may be conformed.
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14 CLERK'S TRANSCRIPT
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SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Date: MARCH 3, 1987
HONORABLE: L. J. RITTENBAND
P. QUINN

JUDGE
Deputy Sheriff

D. TSCHEKALOFF
S. YERGER AND R. GOODBODY

Deputy Clerk
Reporter

A090435 (Parties and counsel checked if present)

PEOPLE OF THE STATE OF CALIFORNIA
VS

Counsel for People:
DEPUTY DISTRICT ATTY: F. WAPNER

01 HUNT, JOE
187 01 ct; 211 01 ct

Counsel for Defendant:
A. BARENS
R. CHIER

NATURE OF PROCEEDINGS

TRIAL (JURY)

BAIL

4-4-85

The trial is resumed from March 2, 1987, with defendant, counsel and all jurors present as heretofore.

Steve Weiss, previously sworn, continues to testify for the People. Alan Gore and Larry Maize are sworn and testify for the People.

People's exhibits 196 (envelope with Credit Swiss documents in German with a translation), 197 (Financial Futures Trading Quaterly Account Statement dated February 15, 1984 to May 15, 1984), 198 (three photocopied pages of Letter of Intent Limited Partnership signed by Joe Hunt dated May 20, 1983), and 199 (14 photocopied pages of Future Hedges Limited Partnership) are marked for identificaiton.

The jurors are admonished and the trial is continued to March 4, 1987, at 10:30 a.m. in Department WEST C.

BAIL

MINUTES ENTERED
3-3-87
COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT. WE C

Date: MARCH 4, 1987
HONORABLE: L. J. RITTENBAND
P. QUINN

JUDGE
Deputy Sheriff

D. TSCHEKALOFF
S. YERGER AND R. GOODBODY

Deputy Clerk
Reporter

A090435		(Parties and counsel checked if present)	
PEOPLE OF THE STATE OF CALIFORNIA	Counsel for People:	DEPUTY DISTRICT ATTY:	F. WAPNER ✓
VS			
01 HUNT, JOE ✓	Counsel for Defendant:		A. BARENS ✓
187 01 ct; 211 01 ct			R. CHIER ✓

NATURE OF PROCEEDINGS TRIAL (JURY) BAIL 4-4-85

The trial is resumed from March 3, 1987, with defendant and counsel present.

Defense motion for order dismissing information or in the alternative for a declaration of mistrial is heard. The motion is argued and denied.

Defendant's motion for order dismissing information or in the alternative for order prohibiting the testimony of Kean Karny is heard. An in-camera hearing pursuant to the motion is heard with defense counsel and the defendant present. Joe Hunt is sworn and testifies on his own behalf. The matter is further argued. The Deputy District Attorney returns into the courtroom. The matter remains in-camera and the Court denies the motion.

The jury enters the courtroom.

Robert Taylor, Gene Vactor, Charles Le Beau and Hannalori Leis are sworn and testify for the People.

People's exhibits 87 (five photocopied hand-written accounting statements), 94 [previously marked for identification is given additional markings: 94A (letter dated May 24, 1984) 94B (letter dated May 15, 1984), 94C (letter dated May 3, 1984)], 200 (57 photocopied pages of Shearson/American Express records), 201 (22 photocopied pages of E.F. Hutton records), and 201A (12 photocopied pages of E.F. Hutton records) are marked for identification.

Defendant's exhibits W (two photocopied pages of E.F. Hutton letter dated August 5, 1985), X (eight photocopied pages of E.F. Hutton records) and Y (letter dated May 1, 1984, photocopied from Microgenesis) are marked for identification.

The jurors are admonished and the trial is continued to March 5, 1987, at 10:30 a.m. in Department WEST C. Defense motions are set for 9:30 a.m. in Department WEST C prior to the trial.

BAIL

DEPT. WEST C	MINUTES ENTERED 3-4-87 COUNTY CLERK
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MINUTE ORDER

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT. WE C

Date: MARCH 5, 1987
HONORABLE: L. J. RITTENBAND
P. QUINN

JUDGE
Deputy Sheriff

D. TSCHEKALOFF
R. GOODBODY AND S. YERGER

Deputy Clerk
Reporter

A090435 (Parties and counsel checked if present)

PEOPLE OF THE STATE OF CALIFORNIA
VS

01 HUNT, JOE ✓
187 01 ct; 211 01 ct

Counsel for People:
DEPUTY DISTRICT ATTY: F. WAPNER ✓

Counsel for Defendant: A. BARENS ✓
R. CHIER ✓

NATURE OF PROCEEDINGS

TRIAL (JURY)

BAIL

4-4-85

The trial is resumed from March 4, 1987, with defendant, counsel and all jurors present as heretofore.

Joseph Choi and Stephen Taglianetti are sworn and testify for the People. People's exhibits 116 (seven varying size bullets in two clear plastic bags), 202 (two photocopied pages entitled March 1 Checks and June 20 Checks) and 203 (three page list of Investors) are marked for identification. Later People's exhibit 203 is received in evidence.

An in-chambers conference is held to hear the People's motion to excluded cameras and artists from the courtroom during the testimony of Dear Karney. Brad Phillips, counsel for CBS and CNN is present in additon to the above named counsel. The motion is argued and taken under submission.

In open court with the jurors present, the jury is admonished and the trial is continued to March 9, 1987, at 10:30 a.m. in Department WEST C.

BAIL

DEPT. WEST C

MINUTES ENTERED
3-5-87
COUNTY CLERK

MINUTE ORDER

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Date: MARCH 9, 1987
HONORABLE: L. J. RITTENBAND
P. QUINN

JUDGE
Deputy Sheriff

S. YERGER AND

D. TSCHEKALOFF
R. GOODBODY

Deputy Clerk
Reporter

A090435		(Parties and counsel checked if present)	
PEOPLE OF THE STATE OF CALIFORNIA	Counsel for People:	DEPUTY DISTRICT ATTY:	F. WAPNER ✓
01 HUNT, JOE ✓ 187 01 ct; 211 01ct	Counsel for Defendant:	A. BARENS ✓	R. CHIER ✓

NATURE OF PROCEEDINGS	TRIAL (JURY)	BAIL	4-4-85
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The trial is resumed from March 5, 1987, with counsel and Court in chambers pursuant to a note from juror Michael Lacy which is filed this date.

In open court with the defendant and all jurors present, Michael Lacy is excused and in a random selection of alternate jurors Catherine J. Keenan is selected to sit as juror number 1.

Stephen Taglianetti, previously sworn, continues to testify for the People. Steve Lopez is sworn and testifies for the People.

People's exhibit 204 (colored photograph of a BMW) is marked for identification.

Defendant's exhibits Z (chart), AA (photocopy of Honda Del Rey sales slip dated 6-26-84), BB (five photocopied pages of Honda Set-up and Pre-Delivery Check List), CC (two photocopied pages of Microgenesis letter dated July 5, 1984, to Steve Lopez), DD (photocopied page of BBC invoice dated July 6, 1984), and EE (photocopied letter from Fire Safety Association dated July 6, 1984) are marked for identification.

The jurors are admonished and the trial is continued to March 10, 1987, at 10:30 a.m. in Department WEST C. The District Attorney's motion to excluded cameras during testimony of Dean Karny is set for further argument at 10:00 a.m. on March 10, 1987, in Department WEST C.

BAIL

MINUTES ENTERED
3-9-87
COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT. 1506
WE C

Date: MARCH 10, 1987
HONORABLE: L. J. RITTENBAND
P. QUINN

JUDGE
Deputy Sheriff

S. YERGER AND D. TSCHEKALOFF
R. GOODBODY

Deputy Clerk
Reporter

A090435

(Parties and counsel checked if present)

PEOPLE OF THE STATE OF CALIFORNIA

Counsel for People:

VS

DEPUTY DISTRICT ATTY: F. WAPNER ✓

01 HUNT, JOE ✓
187 01 ct; 211 01 ct

Counsel for Defendant: A. BARENS ✓

R. CHIER ✓

Counsel for CNN & ABC: B. PHILLIPS ✓

Counsel for CBS Inc.: H. M. SCHOENBERG ✓

NATURE OF PROCEEDINGS

TRIAL (JURY)

BAIL

4-4-85

The People's motion to exclude cameras during Dean Karny's testimony is resumed with defendant and counsel present.

The motion is further argued. The Court rules that one video camera may tape Dean Karny with the proviso that his face and voice are electronically altered. There are to be no still cameras, no tape recorders, and no artists drawing of the witness Karny.

The trial is resumed from March 9, 1987, with defendant, counsel and all jurors present as heretofore.

Steve Lopez, previously sworn, continues to testify for the People. Jerome Eisenberg is sworn and testifies for the People.

People's exhibits 205 (colored photograph of BMW with gold wheel rims), 206 (seven photocopied pages of Steve Lopez's Singapore passport), 207 (envelope with Bank of America documents), 207A (BoFA statement dated 4-30-84 with checks), 207B (BoFA statement dated 5-31-84 with checks), 207C (BoFA statement dated 3-30-84 with checks) and 207D (BoFA statement dated 6-29-84 with checks) (note all of exhibit 207 within the envelope are copies or photocopies) are marked for identification.

The jurors are admonished and the trial is continued to March 11, 1987, at 10:30 a.m. in Department WEST C.

BAIL

DEPT. WEST C

MINUTES ENTERED 3-10-87 COUNTY CLERK

MINUTE ORDER

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Date: MARCH 11, 1987
HONORABLE: L. J. RITTENBAND
P. QUINN

JUDGE
Deputy Sheriff

D. TSCHKEALOFF
S. YERGER AND R. GOODBODY

Deputy Clerk
Reporter

A090435 (Parties and counsel checked if present)

PEOPLE OF THE STATE OF CALIFORNIA

Counsel for People:

VS

DEPUTY DISTRICT ATTY:

F. WAPNER ✓

01 HUNT, JOE ✓
187 01 ct; 211 01 ct

Counsel for Defendant:

A. BARENS ✓

R. CHIER ✓

NATURE OF PROCEEDINGS

TRIAL (JURY)

BAIL

4-4-85

The trial is resumed from March 10, 1987, with defendant, counsel and all jurors present as heretofore.

Jerome Eisenberg, previously sworn, continues to testify for the People. Anil Varna, Thomas Warren Edmonds, Dennis DeCuir and Richard Clason are sworn and testify for the People.

People's exhibits 85 (athletic bag), 85A (The Black Bag Owner's Manual Part Two: The Hit Parade), 85B (Hit Man), 86 (Beverly Hills Police Department envelope with 14 cards), 90 (manila envelope and five pages of handwriting exemplars), 91 (four pages of the Jim Pittman's handwriting exemplars), 92 (three enlarged signatures mounted on cardboard), 208 (colored photograph of BMW trunk), and 209 (large board with enlarged handwriting exemplars) are marked for identification.

Defendant's exhibit FF (large colored photograph of BMW trunk) is marked for identification.

The jurors are admonished and the trial is continued to March 12, 1987, at 10:30 a.m. in Department WEST C.

BAIL

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT. WE C

Date: MARCH 12, 1987
HONORABLE: L. J. RITTENBAND
P. QUINN

JUDGE
Deputy Sheriff

D. TSCHEKALOFF
R. GOODBODY & S. YERGER

Deputy Clerk
Reporter

(Parties and counsel checked if present)

A090435
PEOPLE OF THE STATE OF CALIFORNIA
VS
01 HUNT, JOE
187 01 ct; 211 01 ct

Counsel for People:
DEPUTY DISTRICT ATTY: F. WAPNER ✓

Counsel for Defendant:
A. BARENS ✓
R. CHIER ✓

Counsel for CNN: H. Schoenberg; Counsel for ABC:

NATURE OF PROCEEDINGS

TRIAL (JURY)

BAIL

4-4-85

B. Phillips ✓

The trial is resumed from March 11, 1987, with defendant, counsel and all jurors present as heretofore.

Richard Clason, previously sworn, continues to testify for the People. Kurt E. Kuhn, James Wagenbremer and Daniel J. Holland are sworn and testify for the People.

People's exhibits 93 (photocopy of J. Pittman's fringerprint card), 97 (envelope and date stamp), 108 (three colored jointed photographs to give a panarama scene of Soladad Canyon), 210 (envelope with two pages in J. Hunt's writing), 211 (large colored photograph of Soladad Canyon mounted on a board), 212 (black and white photograph of fringerprints), 213 (black and white photograph of fringerprints), 214 (photocopy of Joe Hunt's fringerprint card), and 215 (two page photocopied letter dated 5-31-84) are marked for identification.

Defendant's exhibit GG (photocopy of hand written note of staff meeting dated 6-7-84) is marked for identification.

The jurors are admonished and the trial is continued to March 16, 1987, at 10:30 a.m. in Department WEST C.

Out of the presence of the jurors, above noted counsel further argue the provisions of the order to limit photographic coverage of the witness Dean Karny.

BAIL

MINUTES ENTERED
3-12-87
COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT. WE C

Date: MARCH 16, 1987
HONORABLE: L. J. RITTENBAND
P. QUINN

JUDGE
Deputy Sheriff

D. TSCHEKALOFF
R. GOODBODY & S. YERGER

Deputy Clerk
Reporter

(Parties and counsel checked if present)

A090435
PEOPLE OF THE STATE OF CALIFORNIA

Counsel for People:

VS

DEPUTY DISTRICT ATTY:

F. WAPNER ✓

01 HUNT, JOE ✓
187 01 ct; 211 01 ct

Counsel for Defendant:

A. BARENS ✓

R. CHIER ✓

NATURE OF PROCEEDINGS

TRIAL (JURY)

BAIL

4-4-85

The trial is continued from March 12, 1987, with defendant, counsel and all jurors present as theretofore.

James Wagenbrener, previously sworn, continues to testify. Cynthia Heberer and Leslie Zoeller are sworn and testify for the People.

People's exhibits 24, 25, 26, 27, 34 (each a small colored photograph), 51 (envelope with American Express records, 10 slips), 62 (a colored photograph), 78 (Option Agreement Re Assignment of Option, 3 pages), 79 (one page letter from May brothers dated 12-2-83), 96 (envelope with Black Planning Diary), 97 (envelope with date stamp), 98 (envelope with two rubber signature stamps), 99 (plain sheet of pager with the signature stamps of exhibit 98 affixed to it), 102 (two envelopes with Olympic National Bank check books), 103 (envelope with R. Levin's records), 103B (one of the sheets in exhibit 103), 106 (envelope with 12 credit cards), 107 (colored photograph), 216 (five black and white photographs of fingerprints numbered separately 1, 2, 4, 5, and 10), 217 (four black and white photographs of fingerprints numbered separately 3, 7, 13 and 14), 218 (a black and white photograph of fringerprint), 219 (a black and white photograph of fringerprint), 220 (a black and white photograph of a fingerprint), 221 (four black and white photographs of fringerprints numbered 8, 9, 11 and 12), 222 (photocopies of Bank of America statements and checks), 223 (3 page computer printout of Wings Travel for B.B.C), 224 (phone bills for B.B.C.), 225 (envelope containing Joe Hunt's passport), 226 (envelope containing 4 pages of Joe Hunt's handwriting exemplars), 227 (Tom May's drivers liscenses encased in clear plastic) and 228 (4 photographs of cars) are marked for identification.

The jurors are admonished and the trial is continued to March 17, 1987, at 10:30 a.m. in Department WEST C.

Out of the presence of the jurors, defense motion to allow R. Chier to make closing argument is set at 10:15 a.m. on March 17, 1987, in Department WEST C.

BAIL

DEPT. WEST C

MINUTES ENTERED
3-16-87
COUNTY CLERK

MINUTE ORDER

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Date: MARCH 17, 1987
HONORABLE: L. J. RITTENBAND
P. QUINN

JUDGE
Deputy Sheriff

D. TSCHEKALOFF
R. GOODEBODY AND S. YERGER

Deputy Clerk
Reporter

(Parties and counsel checked if present)

A090435
PEOPLE OF THE STATE OF CALIFORNIA

Counsel for People:
DEPUTY DISTRICT ATTY: F. WAPNER ✓

VS
01 HUNT, JOE ✓
187 01 ct; 211 01 ct

Counsel for Defendant:
A. BARENS ✓
R. CHIER ✓

Counsel for CNN & ABC: B. PHILLIPS ✓
Counsel for CBS: H. SCHOENBERG ✓

NATURE OF PROCEEDINGS

TRIAL (JURY)

BAIL

4-4-85

The trial is resumed from March 16, 1987, with defendant and counsel present.

Defendant's motion for order allowing both defense counsel to deliver closing argument is heard, argued and denied. The Court orders that Arthur Barens is to make closing argument.

In the presence of the jury, Leslie H. Zoeller, previously sworn, continues to testify for the People. Dean Karny is sworn and testifies for the People.

People's exhibit 101 (file folder in envelope) is marked for identification.

Defendant's exhibit HH (map hand-drawn on yellow legal size paper) is marked for identification.

The jurors are admonished and the trial is continued to March 18, 1987, at 10:30 a.m. in Department WEST C.

All above named counsel are present for People's motion to add additional constraints to the Order of Court signed and filed March 16, 1987. The motion is argued and granted. The Order is amended and signed.

BAIL

MINUTES ENTERED
3-17-87
COUNTY CLERK

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ARTHUR H. BARENS
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10920 Wilshire Blvd., Suite 1000
Los Angeles, CA 90024
(213) 550-1005

Attorneys for Defendant

FILED

MAR 18 1987
FRANK S. ...
Sticheloff
MAR 18 1987

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.

JOE HUNT,

Defendant.

Case No. A090435

MEMORANDUM RE ADMISSIBILITY OF
IMMUNITY AGREEMENT; POINTS AND
AUTHORITIES

COMES NOW DEFENDANT, JOE HUNT, and respectfully submits the attached Points and Authorities in support of the proposition that he has the unlimited right to probe the particulars behind the immunity grant given to Dean Karny, including his involvement in another murder.

1.

THE SIXTH AMENDMENT RIGHT TO CONFRONTATION
NECESSARILY INCLUDES THE RIGHT
TO REVEAL THE PROSECUTION'S WITNESS'S BIAS

Undoubtedly, the most important witness for the prosecution

1 is Dean Karny. His anticipated testimony is expected to provide
 2 evidence of essential links in the prosecution's case in chief
 3 which, if believed, could lead to a conviction and possible death
 4 sentence for the defendant, JOE HUNT. Quite simply, the veracity
 5 of his testimony has the magnitude of life and death.

6 For precisely this type of reason, the United States Consti-
 7 tution, through the Sixth Amendment confrontation clause, has
 8 provided a safeguard to ensure a defendant's ability to test in
 9 front of juries the veracity of witnesses testifying against him.
 10 The parameters of this right were defined in the decisive opinion
 11 of Davis v. Alaska (1974) 415 U.S. 308. There, former Chief Jus-
 12 tice Burger explained that a permissible attack on the witness's
 13 credibility:

14 ". . . is effected by means of cross-examination di-
 15 rected toward revealing possible biases, prejudices, or
 16 ulterior motives of the witness as they relate directly
 17 to issues or personalities in the case at hand. The
 18 partiality of a witness is subject to exploration at
 19 trial, and is 'always relevant as discrediting the wit-
 20 ness and affecting the weight of his testimony.' [Ci-
 21 tation omitted.] We have recognized that the exposure
 22 of a witness' motivation in testifying is a proper and
 23 important function of the constitutionally protected
 24 right of cross-examination. Green v. McElroy, 360 U.S.
 25 474, 496, 3 L.Ed.2d 1377, 79 S.Ct. 1400 (1959)."

26 [Footnote omitted.] Davis, supra, at 316.

27 Unquestionably, then, a defendant has a right to expose any
 28 bias or ulterior motivation behind the testimony of a witness who

1 is testifying against him. Cross-examination about specific
2 crimes covered by immunity agreements fall within these catego-
3 ries. As stated in People v. Rodriguez (1986) 42 Cal.3d 730,
4 750, "[a]n accused is entitled to explore on cross-examination of
5 a prosecuting witness the inducements from the prosecution that
6 may have motivated testimony."

7 Especially apposite to the instant case is People v. Allen
8 (1978) 77 Cal.App.3d 924. There, a defendant was charged with
9 committing a robbery in concert with a minor, who was the chief
10 prosecution witness. The defendant was permitted to show that
11 charges against the minor arising out of that robbery were still
12 pending, but was refused permission to cross-examine either the
13 minor or his mother concerning pending charges against the minor
14 for two other robberies. That refusal was held to be reversible
15 error, because "[t]he minor could have reasonably believed his
16 punishment would have been greater for the three charges than for
17 the one," and the defendant had the right to show that both the
18 minor and his mother were possibly under greater prosecution
19 pressure because of three recent robbery charges than only one."
20 Id., at 933.

21 In the instant case, it is imperative that the defense be
22 able to show Karny was granted immunity for two murder charges in
23 exchange for his testimony. Conviction for two murders could
24 have subjected Karny to the death penalty, therefore increasing
25 the motivation for his testimony. Evidence that Karny was
26 chargeable for, and being immunized for, not one, but two murders
27 adds significantly to the attack on his credibility. "Prejudice
28 [from undue restriction of cross-examination] ensues from a

1 denial of the opportunity to place the witness in his proper set-
2 ting and put the weight of his testimony and his credibility to a
3 test, without which the jury cannot fairly appraise them."
4 Alford v. United States (1931) 282 U.S. 687, 692.

5
6 2.

7 EVIDENCE OF HUNT'S PARTICIPATION IN AN UNCHARGED
8 CRIME IS NOT ADMISSIBLE TO REHABILITATE KARNY

9
10 Erroneously believing that evidence of Karny's immunity
11 grant for his involvement in the uncharged murder is irrelevant,
12 the Court has ruled that if the defense elicits that testimony,
13 it will "open the door" for the prosecution to bring in evidence
14 of Hunt's involvement in the uncharged murder.

15 However, as stated in People v. McDaniel (1943) 59
16 Cal.App.2d 672, 677, "the so-called 'open the gates' argument is
17 a popular fallacy." In McDaniel, the prosecution failed to ob-
18 ject to immaterial testimony on direct examination. On cross-ex-
19 amination, though, the trial court permitted the prosecution to
20 rebut this testimony by showing prior acts which tended to negate
21 the testimony. The appellate court found reversible error, stat-
22 ing that "[f]ailure to object to improper questions on direct ex-
23 amination may not be taken advantage of on cross-examination to
24 elicit immaterial or irrelevant testimony." Id., at 677. This
25 principle is echoed in People v. Gambos (1970) 5 Cal.App.3d 187,
26 192, where the Court stated that "[b]y allowing objectionable ev-
27 idence to go in without objection, the non-objecting party gains
28 no right to the admission of related or additional otherwise

1 inadmissible testimony. The so-called 'open the door' or 'open
2 the gates' argument is 'a popular fallacy.'" [Emphasis added.]
3 See also, People v. Chandler (1957) 152 Cal.App.2d Supp. 916,
4 919; People v. Parrella (1958) 158 Cal.App.2d 140; People v.
5 Arends (1957) 155 Cal.App.2d 496, 508.

6 However, what the Court is doing in the instant case is even
7 more severe error than that found in McDaniel and its progeny;
8 the Court would be allowing the admission of immaterial and ir-
9 relevant evidence on a collateral matter following a proper ques-
10 tion by the defense.

11 Of course, the Court's conditioning of the admissibility of
12 Hunt's participation in the uncharged murder on the defense first
13 questioning Karny about his grant of immunity for his involvement
14 in the same indicates that the Court is cognizant of the fact
15 that such evidence would be inadmissible under Evidence Code Sec-
16 tion 1101. Therefore, the Court must be of the opinion that the
17 evidence is only made admissible as it goes to rehabilitate the
18 credibility of Karny. However, besides being highly prejudicial,
19 the evidence has absolutely no tendency to rehabilitate Karny.
20 It is therefore irrelevant and cannot be admitted into evidence.

21 To assist the Court in reaching this conclusion, an explana-
22 tion may be necessary. To reiterate, the reliability of Karny's
23 testimony is of extreme importance. It is vital, then, that the
24 defense be able to impeach Karny's credibility by exposing the
25 full extent of his immunity grant. This immunity grant impeaches
26 Karny's credibility because it shows he may have conformed his
27 testimony to the desires of the prosecution so that in return he
28 would receive immunity. While evidence of Hunt's participation

1 in the uncharged murder may provide details of the crime to the
2 jury, it in no way lessens the fact that Karny received immunity
3 for his participation in an additional murder in exchange for his
4 testimony. Most importantly, then, evidence of Hunt's involve-
5 ment in no way alleviates the possibility that Karny could have
6 manipulated his testimony, either on his own or through the con-
7 cern of the prosecution, so that he would receive immunity.

8 There are situations where evidence of uncharged offenses
9 which were previously inadmissible are made admissible for the
10 purpose of rehabilitating an impeached prosecution witness. How-
11 ever, as the following examples will demonstrate, the situation
12 at hand is not one of these.

13 The first example occurs when a witness on cross-examination
14 testifies of his dislike for the defendant. In order to allow
15 the witness to explain this dislike, some courts have been will-
16 ing to allow the prosecution to present evidence of uncharged
17 crimes by the defendant of which the witness was a victim. See
18 Bracey v. United States (D.C. Cir) 142 F.2d 85, cert. denied, 322
19 U.S. 762 (1944). Even in this situation, though, other courts
20 have ruled that a defendant is deprived a fair trial if such evi-
21 dence is admitted. See United States v. Pintar (8th Cir. 1980)
22 630 F.2d 1270, 1284-85.

23 Another situation may occur when, on cross-examination, the
24 defense states that the witness appears hesitant. Some courts
25 allow the prosecution on redirect to elicit the witness's testi-
26 mony that the defendant's uncharged threats against the witness
27 made the witness fearful. See United States v. Qamar (2nd Cir.
28 1982) 671 F.2d 732.

1 Finally, some courts have allowed uncharged offenses to be
2 admitted to explain any prior inconsistent statements or acts of
3 the defendant. See United States v. Holladay (5th Cir. 1978) 566
4 F.2d 1018; People v. Fultz (1895) 109 Cal. 258; People v.
5 Nazworth (1957) 152 Cal.App.2d 790.

6 Clearly, the logical relevance of uncharged offenses can be
7 understood in these situations. The situation in this case,
8 though, is not analogous to any of these situations. The fact
9 that Hunt may have participated in a murder along with Karny in
10 no way lessens the possibility that the truth of Karny's testimo-
11 ny may have been altered so that he could receive immunity for
12 the crimes for which he has admitted culpability.

13
14 3.

15 EVIDENCE OF HUNT'S PARTICIPATION IN AN UNCHARGED
16 MURDER CANNOT BE ADMISSIBLE BECAUSE ITS PROBATIVE
17 VALUE IS FAR OUTWEIGHED BY ITS PREJUDICIAL EFFECT

18
19 It is the defense's position that evidence of Hunt's partic-
20 ipation in an uncharged offense is completely irrelevant in prov-
21 ing the reliability of Karny's testimony. Consequently, the de-
22 fense is unable to conceive of an argument which would explain its
23 probative value. However, assuming arguendo, that it does have
24 some slight rehabilitative value, the substantial effect it will
25 have on the jury, who will be unable to limit its effect solely
26 to its rehabilitative quality, far outweighs its probative value.

27 To begin with, this evidence is inadmissible under Evidence
28 Code Section 1101 if it used to prove Hunt's bad character or

1 propensity to commit murder. The effect and rationale of Section
2 1101 was explained in People v. Thompson (1980) 27 Cal.3d 303,
3 where the Court stated that Section 1101(a):

4 ". . . does not permit a court to balance the probative
5 value of the evidence against its prejudicial effect.
6 The inference of a criminal disposition may not be used
7 to establish any link in the chain of logic connecting
8 the uncharged offense with a material fact. If no the-
9 ory of relevancy can be established without this pit-
10 fall, the evidence of the uncharged offense is simply
11 inadmissible.

12 "The primary reasoning that underlies this basic
13 rule of exclusion is not the unreasonable nature of the
14 forbidden chain of reasoning. (See People v. Schader,
15 71 Cal.2d at 772.) Rather, it is the insubstantial na-
16 ture of the inference as compared to the 'grave danger
17 of prejudice' to an accused when evidence of an un-
18 charged offense is given to a jury. [Citation omit-
19 ted.] As Wigmore notes, admission of this evidence
20 produces an 'over strong tendency to believe the defen-
21 dant guilty of the charge merely because he is a likely
22 person to do such acts.' (1 Wigmore, Evidence, Section
23 194, p.650.)." Id., at 317, [emphasis added].

24 Therefore, we see that the substantial prejudicial effect of such
25 evidence is implicit in uncharged offenses.

26 Of course, evidence of uncharged offenses is not always in-
27 admissible. Section 1101(b) provides a list of well-known excep-
28 tions to the rule when the evidence goes to prove an issue

1 besides propensity, such as identity, motive, or modus operandi.
2 But, as the Court has apparently observed correctly, the evidence
3 of Hunt's involvement in the uncharged offense could not go to
4 prove any of these issues. This ruling is implicit in the fact
5 that the Court would not admit the evidence unless the defense
6 attempted to impeach Karny by exposing his immunity grant for his
7 involvement therein. Section 1101(c) explicitly allows this type
8 of evidence of support a witness's credibility.

9 However, as the Thompson Court notes, "Evidence of other
10 crimes is not automatically admissible under subdivision (b)
11 whenever it is offered to prove an intermediate fact other than
12 disposition The evidence of other crimes must still sat-
13 isfy the rules of admissibility codified in sections 210, 350,
14 and 352." Thompson, supra, at 317, n.17. There is absolutely no
15 reason why such reasoning should not also apply to subdivision
16 (c).

17 The overwhelming prejudicial effect of such evidence is as
18 follows: (1) the fact that the uncharged offense is murder is
19 highly prejudicial because there is a significant danger that the
20 jury will infer that if Hunt murdered Eslaminia then he could al-
21 so have murdered Levin; (2) there is the additional danger that
22 the judge will convict Hunt because it believes he is a bad per-
23 son and should be punished whether he killed Levin or not; (3)
24 there is a body in the uncharged offense, thus making it a much
25 stronger case enabling the prosecution to "piggy back" the weaker
26 case where there is no body, making it "difficult for jurors to
27 maintain doubts about the weaker case when presented with strong-
28 er evidence as to the other," Williams v. Superior Court (1984)

1 36 Cal.3d 441, 453; (4) both cases allegedly involve the B.B.C.
2 members which "might very well lead a jury to cumulate the evi-
3 dence and conclude that [defendant] must have participated in
4 some way in the murders or, alternatively, that involvement in
5 one [murder] necessarily implies involvement in the other." Wil-
6 liams, supra, at 453.

7 Therefore, when compared to the extremely minimal probative
8 value, if any, of the evidence of the uncharged offense to reha-
9 bilitate Karny, the extreme prejudicial effect of the evidence
10 requires that the Court not permit the evidence of Hunt's partic-
11 ipation in the uncharged murder to be admitted into evidence.

12
13 DATED: March 4, 1987

14
15 Respectfully submitted,

16 ARTHUR H. BARENS
17 RICHARD C. CHIER

18 By: 

19 RICHARD C. CHIER
20 Attorneys for Defendant
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SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT. WE C

Date: MARCH 18, 1987
HONORABLE: L. J. RITTENBAND
P. QUINN

JUDGE
Deputy Sheriff

D. TSCHEKALOFF
R. GOODBODY AND S. YERGER

Deputy Clerk
Reporter

A090435		(Parties and counsel checked if present)	
PEOPLE OF THE STATE OF CALIFORNIA	VS	Counsel for People:	
01 HUNT, JOE	187 01 ct; 211 01 ct	DEPUTY DISTRICT ATTY:	F. WAPNER
		Counsel for Defendant:	A. BARENS R. CHIER

NATURE OF PROCEEDINGS	TRIAL (JURY)	BAIL	4-4-85
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The trial is resumed March 17, 1987, with defendant, counsel and all jurors present as heretofore.

Dean Karny, previously sworn, continues to testify for the People.

The jurors are admonished and the trial is continued to March 19, 1987, at 10:30 a.m. in Department WEST C.

BAIL



MINUTE ORDER

DEPT. WEST C

MINUTES ENTERED
3-18-87
COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Date: MARCH 19, 1987
HONORABLE: L. J. RITTENBAND
P. QUINN

JUDGE
Deputy Sheriff

D. TSCHKEALOFF
R. GOODEBODY AND S. YERGER

Deputy Clerk
Reporter

A090435 (Parties and counsel checked if present)

PEOPLE OF THE STATE OF CALIFORNIA

Counsel for People:

DEPUTY DISTRICT ATTY: F. WAPNER ✓

01 HUNT, JOE ✓
187 01 ct; 211 01 ct

Counsel for Defendant:

A. BARENS ✓

R. CHIER ✓

NATURE OF PROCEEDINGS

TRIAL (JURY)

BAIL

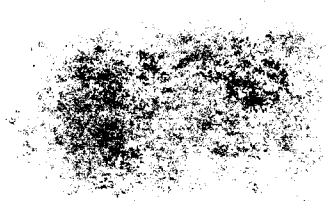
4-4-85

The trial is resumed from March 18, 1987, with defendant, counsel and all jurors present as heretofore.

Dean Karny, previously sworn, continues to testify for the People.

The jurors are admonished and the trial is continues to March 23, 1987, at 10:30 a.m. in Department WEST C.

BAIL



MINUTES ENTERED
3-19-87
COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Date: MARCH 23, 1987
HONORABLE: L. J. RITTENBAND
C. NORRIS

JUDGE
Deputy Sheriff

D. TSCHEKALOFF
S. YERGER AND R. GOODBODY

Deputy Clerk
Reporter

A090435 (Parties and counsel checked if present)

PEOPLE OF THE STATE OF CALIFORNIA

Counsel for People:

DEPUTY DISTRICT ATTY: F. WAPNER ✓

VS
01 HUNT, JOE ✓
187 01 ct; 211 01 ct

Counsel for Defendant:

A. BARENS ✓
R. CHIER ✓

NATURE OF PROCEEDINGS

TRIAL (JURY)

BAIL

4-4-85

The trial is continued from March 19, 1987, with defendant, counsel and all jurors present as heretofore.

Dean Karny, previously sworn, continues to testify for the People.

Defendant's exhibits II (photocopy of Swiss Credit Bank Check dated June 6, 1984, for \$1.5 million), JJ (17 photocopied pages of Joint Venture Agreement dated August 19, 1983) and KK (photocopy of Option Agreement from Gold Sun Ltd dated August 19, 1983) are marked for identification.

The trial is continued to March 24, 1987, at 10:30 a.m. in Department WEST C.

BAIL

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT. WE C

Date: MARCH 24, 1987
HONORABLE: L. J. RITTENBAND
P. QUINN

JUDGE
Deputy Sheriff

D. TSCHEKALOFF
R. GOODBODY

Deputy Clerk
Reporter

(Parties and counsel checked if present)

A090435
PEOPLE OF THE STATE OF CALIFORNIA

Counsel for People:

DEPUTY DISTRICT ATTY: F. WAPNER ✓

VS
01 HUNT, JOE ✓
187 01 ct; 211 01 ct

Counsel for Defendant:

A. BARENS ✓
R. CHIER ✓

NATURE OF PROCEEDINGS

TRIAL (JURY)

BAIL

4-4-85

The trial is resumed from March 23, 1987, with defendant, counsel and all jurors as heretofore.

Dean Karny, previously sworn, continues to testify for the People. People's exhibit 229 (photocopy of Los Angeles Times Calendar Section for June 6, 1984) is marked for identification. People rest.

The jurors are admonished and the trial is continued to March 30, 1987, at 10:30 a.m. in Department WEST C.

Out of the presence of the jurors, trial for the purpose of receiving into evidence the exhibits and argument is set for March 26, 1987, at 10:00 a.m. in Department WEST C.

On stipulation of the People and order of Court People's exhibits 152, 153 and 154 are released to A. Barens and are to be returned to the court clerk by March 26, 1987, at 10:00 a.m.

BAIL

MINUTE ORDER

DEPT. WEST C

MINUTES ENTERED
3-24-87
COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Date: MARCH 26, 1987
HONORABLE: L. J. RITTENBAND
P. QUINN

JUDGE
Deputy Sheriff

D. TSCHKEKALOFF
R. GOODBODY & S. YERGER

Deputy Clerk
Reporter

(Parties and counsel checked if present)

A090435
PEOPLE OF THE STATE OF CALIFORNIA
01 HUNT, JOE
187 01 ct; 211 01 ct

Counsel for People:
DEPUTY DISTRICT ATTY: F. WAPNER ✓

Counsel for Defendant:
A. BARENS ✓ NA
R. CHIER ✓

NATURE OF PROCEEDINGS
TRIAL (JURY) BAIL 4-4-85

The trial is continued from March 24, 1987, for the purpose of admitting into evidence exhibits with argument.

After argument People's exhibits, which are previously marked for identification, are received in evidence as follows: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 19, 20, 24, 25, 26, 27, 28, 34, 38, 39, 40, 41, 42, 43, 44, 45, 46, 48, 50, 51, 52, 53, 54, 55, 56, 57, 59, 60, 61, 62, 69, 70, 71, 72, 73, 75, 76, 77, 78, 79, 80, 81, 82, 83, 85, 85A, 85B, 86, 87, 88, 89, 90, 91, 92, 93, 94, 94A, 94B, 94C, 95, 96, 97, 98, 99, 100, 101, 102, 103A, 103B, 106, 107, 108, 109, 110, 111, 111A, 111B, 111C, 111D, 111E, 111F, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 139A, 140, 141, 142, 143, 143A, 143B, 143C, 143D, 143E, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166A, 166B, 167, 168, 169, 170, 172, 173A, 173B, 174, 175, 176, 177, 178, 179, 180, 181, 182, 182A, 183, 184, 185A, 185B, 185C, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 201A, 202, 204, 205, 206, 207, 207A, 207B, 207C, 207D, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 227A (Ill. ID of Hunt), 228, 229, 68 and 126.

After argument Defendant's exhibits, which are previously marked for identification, are received in evidence as follows: A, B, D, E, G, H1, H2, H3, I, J, K1, K2, L1, L2, L3, L4, M1, M2, M3, M4, M5, N, O, P, Q, R, S1, S2, S3, S4, T1, T2, U, V, W, X, Z, CC, DD, EE, FF, GG, HH, II, JJ, and KK.

The jury trial remains set for March 30, 1987, at 10:30 a.m. in Department WEC.

BAIL

DEPT. WEST C

MINUTES ENTERED
3-26-87
COUNTY CLERK

MINUTE ORDER

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ARTHUR H. BARENS
10209 Santa Monica Blvd.
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(213) 557-0444

RICHARD C. CHIER
10920 Wilshire Blvd., Suite 1000
Los Angeles, CA 90024
(213) 550-1005

Attorneys for Defendant

MAR 25 1987

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.

JOE HUNT,

Defendant.

Case No. A090435

NOTICE OF MOTION AND MOTION
FOR ORDER DECLARING MISTRIAL;
DECLARATIONS; POINTS AND
AUTHORITIES

Date: March 26, 1987
Time: 10:30 a.m.
Place: Department WE-C

TO: IRA REINER, AND TO HIS DEPUTY, FREDERICK NATHAN WAPNER:

PLEASE TAKE NOTICE that on March 24, 1987, at the hour of
10:30 a.m., or as soon thereafter as counsel may be heard in De-
partment WE-C of the above-entitled Court, defendant, JOE HUNT,
will move for an Order declaring a mistrial herein.

Said Motion will be made upon the ground that the Court's
refusal to let co-counsel, Richard C. Chier, participate in the
trial and the Court's banishment of defendant's law clerk, John
Carlson, from the courtroom without a hearing and without cause
therefore constitutes a deprivation of the right to counsel and a
denial of the effective assistance of counsel in abrogation of
the defendant's rights guaranteed by the Sixth and Fourteenth

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Amendments to the Constitution.

Said Motion will be based upon the attached moving papers and upon such further oral and/or documentary evidence as may be presented at the hearing on this Motion.

DATED: March 23, 1987

Respectfully submitted,

ARTHUR H. BARENS
RICHARD C. CHIER

By: *Richard C. Chier*
RICHARD C. CHIER
Attorneys for Defendant

DECLARATION OF RICHARD C. CHIER

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RICHARD C. CHIER declares and states:

1. I am an attorney at law, a member in good standing of the State Bars of New York and California; am a Certified Criminal Specialist; and am co-counsel of record for defendant, JOE HUNT.

2. Since approximately January 4, 1987, your declarant has been forbidden to participate in the trial of defendant in any meaningful way.

3. Said prohibition has been against the wishes and over the objection of defendant, JOE HUNT.

4. On Tuesday, March 17, 1987, the trial court denied defendant's Motion made pursuant to Section 1095 of the Penal Code that co-counsel, Richard C. Chier, be permitted to deliver closing argument.

5. Said denial is without justification in law and without factual basis and denies the defendant the right to the effective assistance of counsel inasmuch as the lawyer prohibited from speaking is a Certified Criminal Specialist far more experienced in criminal matters than is lead counsel.

6. On March 4, 1987, without a hearing and without legal justification, the trial court banished John E. Carlson, a third year law student employed by the offices of your declarant to assist in the preparation of defense matters related to this case.

7. Mr. Carlson has been assisting your declarant since approximately June of 1986.

1 8. Part of Mr. Carlson's duties involves the preliminary
2 research on motion matters, the summary of witnesses' testimony,
3 and being available in the courtroom to research matters of law
4 as they come up during the trial.

5 9. The banishment of Mr. Carlson from the courtroom has
6 deprived the defendant of the benefit of Mr. Carlson's services
7 and has rendered your declarant's assistance less effective by
8 virtue of his being unable to give legal assignments to Mr.
9 Carlson without having to absent himself from the trial proceed-
10 ings in order to explain the issue which could be more readily
11 grasped by Mr. Carlson were he seated in the courtroom.

12 10. Accordingly, the Court is respectfully requested to
13 grant a mistrial herein for the reasons stated.

14 I declare, under penalty of perjury, under the laws of the
15 State of California, that the foregoing is true and correct, ex-
16 cept as to those matters stated on information and/or belief, and
17 as to those matters, I believe them to be true; and that this
18 Declaration was executed on March 23, 1987.

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RICHARD C. CHIER

DECLARATION OF JOHN E. CARLSON

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JOHN E. CARLSON declares and states:

1. I am a law student at Southwestern University School of Law currently completing my third and final year. I received the highest grade in my class in criminal procedure.

2. Since June of 1986, I have been working under the direction of Richard C. Chier as a law clerk, assisting him in the preparation of the defense of the defendant.

3. Among my duties are researching motion matters, summarizing Preliminary Hearing and trial transcripts, and being available in the courtroom to run errands or research matters of law as they come up during the trial.

4. Unless I have otherwise had school priorities or other obligations as the law clerk in this case, I have been attending the trial.

5. On March 4, 1987, upon entering the courtroom at approximately 10:45 a.m., I was confronted by the Clerk of the Court who, to my complete surprise, took me by the arm and ushered me out of court, only explaining that I was not allowed to be there and the defendant's attorneys should have told me that.

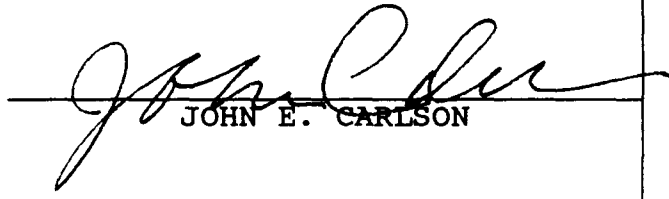
6. I have received neither a hearing, legal justification, nor any type of statement from the Court explaining my banishment.

7. Since my banishment, I have felt severed from the defense team and my ability to assist in the defense has been substantially abated because of my inability to attend trial.

8. In addition, I have found it increasingly more

1 difficult to stay abreast of the developments of the trial,
 2 therefore increasing the burden on Mr. Chier, since he must con-
 3 tinually rehash the occurrences at trial so that I can adequately
 4 fulfill my duties -- a situation which, by and large, would be
 5 unnecessary were I able to attend trial.

6 I declare, under penalty of perjury, under the laws of the
 7 State of California, that the foregoing is true and correct, ex-
 8 cept as to those matters stated on information and/or belief, and
 9 as to those matters, I believe them to be true; and that this
 10 Declaration was executed on March 24, 1987.

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 13 JOHN E. CARLSON

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POINTS AND AUTHORITIES

1.

DENIAL OR LIMITATIONS ON THE RIGHT TO
CLOSING ARGUMENTS IS PREJUDICIAL ERROR

In Strickland v. United States, 466 U.S. 668, 686, the United States Supreme Court stated that state interferences in the ability of defense counsel to make independent decisions about how to conduct the defense can be a violation of the Sixth Amendment and, consequently, prejudicial error.

This decision was in accord with the Court's previous decision elaborating on a defendant's Sixth Amendment right to effective assistance of counsel, Herring v. New York, 422 U.S. 853. In Herring, the Court stated that "the right to assistance of counsel has been understood to mean that there can be no restriction upon the function of counsel in defending a criminal prosecution in accord with the tradition of the adversary fact finding process that has been constitutionalized in the Sixth and Fourteenth Amendment The right to assistance of counsel has thus been given meaning that ensures to the defense in a criminal trial the opportunity to participate fully and fairly in the adversary fact finding process." Id., at 857-58.

Herring is especially apposite to the instant case since it overturned a trial court's decision to prohibit a defense attorney from making a closing argument. The Court stated that "[t]here can be no doubt that closing argument for the defense is a basic element of the adversary fact finding process in a

1 criminal trial. Accordingly, it has universally been held that
2 counsel for the defense has a right to make a closing summation
3 to the jury, no matter how strong the case for the prosecution
4 may appear to the presiding judge." Id., at 858.

5 The California Supreme Court also recognized this right in
6 People v. Green, 99 Cal. 564. In commenting on this right, for-
7 mer chief Justice Wright in In re William F., 11 Cal.3d 249,
8 stated:

9 "A general denial of counsel has been deemed to
10 require that an adverse order or judgment arising out
11 of proceedings be set aside or reversed without inquiry
12 into the question of prejudice.

13 "The compelling reason for the rule of prejudice
14 per se is that no realistic measure of prejudice re-
15 sulting from counsel's nonparticipation can be made
16 when, because of the very absence thereof, the record
17 fails to reflect what different direction the proceed-
18 ing might have taken and what different results might
19 have obtained." Id., at 255-56.

20 William F. reversed a conviction of a juvenile because the
21 juvenile's attorney was not permitted to argue at the conclusion
22 of the jurisdictional hearing. The Court further stated that
23 "[t]he rule presuming prejudice particularly requires application
24 in the instant case; it would be futile for us to attempt to mea-
25 sure prejudice on the basis of an argument which defendant's
26 counsel never had the opportunity to present."

27 Furthermore, the Court in Strickland, supra, clearly enunci-
28 ated the principle compelling courts to allow active

1 participation of a defendant's attorney:

2 "That a person who happens to be a lawyer is present at
3 trial alongside the accused, however, is not enough to
4 satisfy constitutional command. The Sixth Amendment
5 recognizes the right to the assistance of counsel be-
6 cause it envisions counsel's playing a role that is
7 critical to the ability of the adversarial system to
8 produce just results. An accused is entitled to be as-
9 sisted by an attorney, whether retained or appointed,
10 who plays the role necessary to ensure that the trial
11 is fair." Id., at 685.

12 Although the above quotation is referring to a defendant's
13 Sixth Amendment rights, the rationale is equally applicable to
14 Penal Code Section 987, which mandates two attorneys in death
15 penalty cases upon an appropriate showing by the defendant. Such
16 a law would be meaningless if it did not envision the additional
17 counsel's playing a role in the trial of the defendant.

18
19 2.

20 THERE IS ABSOLUTELY NO LEGAL
21 JUSTIFICATION FOR DENYING THE LAW CLERK,
22 JOHN CARLSON, ADMISSION TO THE COURTROOM
23

24 Section 1209 of the Code of Civil Procedure specifically
25 states: "No speech or publication reflecting upon or concerning
26 any court or any officer thereof shall be treated or punished as
27 a contempt of such court unless made in the immediate presence of
28 such court while in session and in such a manner as to actually

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interfere with its proceedings." Therefore, declaring the defendant's law clerk, John Carlson, in contempt of court would be in direct contravention of the law, notwithstanding the truth or falsity of the alleged statements reported in the letter to the judge. See Hawk v. Cardoza (9th Cir. 1978) 575 F.2d 732 (due process violation if no evidence that acts violated California statute).

Carlson has been completely denied due process in this matter. He has never had a hearing; he has never been able to confront his accusers; his only notice came by way of the Court's Clerk who informed him that he was not allowed in court as she ushered him out.

DATED: March 23, 1987

Respectfully submitted,

ARTHUR H. BARENS
RICHARD C. CHIER

By: *Richard C. Chier*
RICHARD C. CHIER
Attorneys for Defendant

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ARTHUR H. BARENS
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Attorneys for Defendant

FILED
MAR 20 1987
F. J. ...
...
...

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

THE PEOPLE OF THE STATE OF)
CALIFORNIA,)
)
) Plaintiff,)
)
) v.)
)
) JOE HUNT,)
)
) Defendant.)
)

Case No. A090435

**NOTICE OF MOTION AND MOTION
FOR JUDGMENT OF ACQUITTAL;
POINTS AND AUTHORITIES
[Penal Code Section 1118.1]**

**Date: March 30, 1987
Time: 10:30 a.m.
Place: Department WE-C**

TO: IRA REINER, DISTRICT ATTORNEY FOR THE COUNTY OF LOS AN-
GELES, FREDERICK NATHAN WAPNER, ATTORNEY OF RECORD FOR PLAINTIFF
HEREIN:

PLEASE TAKE NOTICE that pursuant to the provisions of Sec-
tion 1118.1 of the California Penal Code, defendant, JOE HUNT,
moves for a Judgment of Acquittal on Counts 1 and 2 of Informa-
tion No. A090435.

Said Motion is made upon the grounds, each and all:

1. The evidence is insufficient to sustain a conviction of murder (Count 1) on appeal; and
2. The evidence is insufficient to sustain a conviction of robbery (Count 2) on appeal.

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Said Motion is based upon the attached moving papers, upon all of the evidence and exhibits thus far received during the trial hereof, and upon such further oral and/or documentary evidence as may be presented at the hearing on this Motion.

DATED: March 26, 1987

Respectfully submitted,

ARTHUR H. BARENS
RICHARD C. CHIER

By: *Richard C. Chier*

RICHARD C. CHIER
Attorneys for Defendant

ARGUMENT AND AUTHORITIES

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THE EVIDENCE IS INSUFFICIENT TO SUSTAIN
A CONVICTION FOR MURDER ON APPEAL

Eliminating evidence of the defendant's statements, the evidence viewed as a whole most favorably from the prosecution's point of view establishes that:

- 1. Levin signed a bad check for \$1,500,000 in consideration of an option agreement signed just before his disappearance;
- 2. That Levin disappeared on or about June 6, 1984;
- 3. Things appear to be missing from his bedroom -- non-valuables;
- 4. The dog, Kosher, pee-peed on the floor;
- 5. The alarm was off although interior and exterior doors were locked; and
- 6. No one that the police have contacted within Levin's social circle have heard from him since June 6, 1984.

The evidence further established that at the time of his disappearance Levin had 11 felony charges pending against him; that Levin feared returning to jail; that immediately prior to his disappearance that he ran up \$50,000, more or less, in American Express charges for clothing and luggage, most of which charges were incurred in the month of May, 1984; that the April/May American Express purchases were in gross violation of the credit agreement then existing between Levin and American Express; that the F.B.I. was investigating his involvement in the

1 Progressive Savings and Loan fraud; that Fidelity Fund of Boston
2 was exploring the institution of criminal proceedings for his
3 conduct in a separate and unrelated fraud; that Levin restruc-
4 tured his bail immediately prior to his departure despite the
5 fact he had six months of earned premium remaining on the origi-
6 nal bail bond secured by his parents' real property; and the as-
7 sets left behind by Levin are for the most part negligible in re-
8 lationship to his lifestyle and demonstrated income.

9 It should also be emphasized that the weeks of testimony on
10 the issue of the defendant's alleged motive to kill Levin are
11 relevant for purposes of determining the existence vel non of the
12 corpus delicti for murder. Motive evidence may be considered on-
13 ly in considering issue of the defendant's guilt or innocence af-
14 ter proof of a corpus delicti and the establishment of a prima
15 facie case of homicide.

16 If one eliminates, as the Court must, evidence of the seven
17 pages; statements to Evan Dicker; statements to Tom May; Gene
18 Browning; Dean Karny; the B.B.C. select group on June 24th, 1984;
19 and to Jeff Raymond, there is insufficient evidence tending to
20 establish a corpus delicti or a prima facie case of homicide
21 vis-a-vis movant.

22 The strongest argument that the corpus is not established
23 independent of extrajudicial statements of the defendant is the
24 fact that Les Zoeller, a trained and experienced homicide inves-
25 tigator, failed to react in any way other than puzzlement in re-
26 sponse to the bedroom scene at 144 South Peck Drive until after
27 he had spoken to witness Karny.

28 The absence, therefore, of the comforter, pillow, and a

1 remote control does not generate, by itself, an inference of
2 criminal action in the bedroom of Levin's residence. Even though
3 there is rubric which requires that the corpus delicti need be
4 proved only by slight evidence -- that evidence must have a ten-
5 dency, by itself to infer criminal conduct without consideration
6 of any extrajudicial statements.

7 Thus, without considering the defendant's extrajudicial
8 statements only rank speculation can fit the absence of those
9 bedroom items into a scenario of criminal adventure. Accord-
10 ingly, the Motion as to Count 1 of the Information should be granted
11 pursuant to the provisions of Section 1118.1 of the California
12 Penal Code, Count 1 charging defendant with the first degree mur-
13 der of Ronald S. Levin, a fugitive.

14
15 2.

16 THE PEOPLE HAVE FAILED TO ESTABLISH THE CORPUS
17 DELICTI OF THE ALLEGED ROBBERY INDEPENDENTLY
18 OF THE DEFENDANT'S EXTRA JUDICIAL STATEMENTS

19
20 In Count 2 of the Information, the defendant, JOE HUNT, is
21 charged with violating Section 211 of the Penal Code, to wit,
22 robbing the alleged victim, Ron Levin. It is the prosecution's
23 contention that Hunt, through the means of fear or force, caused
24 Levin to sign, against his will, a \$1,500,000 check to the order
25 of Microgenesis, a corporation which the prosecution alleges Hunt
26 controlled. However, because the prosecution has been unable to
27 present sufficient evidence independent of the defendant's
28 extrajudicial statements to establish a prima facie showing of

1 robbery, defendant must be acquitted of the robbery count (Count
2 2).

3 In most instances, an element enhancing the degree of pun-
4 ishment need not be proved independent of the defendant's extra-
5 judicial statements. Thus, in People v. McDermid (1984) 162
6 Cal.App.3d 770, 797, it was ruled that the fact that the defen-
7 dant had been lying in wait before perpetrating the murder need
8 not be proved independent of the defendant's extrajudicial state-
9 ments in order to elevate the crime to murder in the first degree
10 with special circumstances. However, in People v. Mattson (1984)
11 37 Cal.3d 85, the Court held that "the corpus delicti of
12 felony-based special circumstances must be established indepen-
13 dently of an accused's extrajudicial statements." Id. at 94.
14 The Court based its decision on the sentence of Section 190.4 of
15 the Penal Code which provides that "[w]henver a special circum-
16 stance requires proof of the commission or attempted commission
17 of a crime, such crime shall be charged and proved pursuant to
18 the general law applying to the trial and conviction of the
19 crime." (Emphasis added.) Interpreting this language in "the
20 light most favorable to the defendant" (citing In re Tartar
21 (1959) 52 Cal.2d 250, 256-57), the Court ruled that "the 'general
22 law'" proviso incorporates the corpus delicti requirement for
23 felonies supporting special circumstances allegations." People
24 v. Cantrell (1975) 8 Cal.3d 672. Consequently, since the corpus
25 delicti of robbery must be proved independently of any of the de-
26 fendant's out-of-court statements before those statements can be
27 considered in the determination of whether the special circum-
28 stance of robbery occurred, the evidence is insufficient to

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sustain a conviction for robbery.

3.

BECAUSE THE PROSECUTION'S CASE WHOLLY
FAILS TO ESTABLISH THE CORPUS DELICTI OF
ROBBERY INDEPENDENTLY OF THE DEFENDANT'S
EXTRAJUDICIAL STATEMENTS, THE DEFENDANT
SHOULD BE ACQUITTED OF THE ROBBERY COUNT

Section 211 of the Penal Code defines robbery as "the felonious taking of personal property in the possession of another, and against his will, accomplished by means of force or fear." Therefore, since Mattson requires the corpus delicti of the robbery be proven independently of the defendant's extrajudicial statements, each element of the alleged special circumstance must be established before a prima facie case of robbery can be sustained. See People v. Cobb (1955) 45 Cal.2d 158, 162. Since the prosecution has failed either to prove a taking against Levin's will or the use of fear or force to obtain the property, there is no evidence from which any jury could find beyond a reasonable doubt that there was a robbery and the defendant should be acquitted on Count 2.

To begin with, in its attempt to establish a prima facie case, the prosecution has presented evidence whereby the only inferences raised are contrary to those which it is trying to prove. In so doing, the prosecution has asked the Court to disregard these inferences, and instead reach the contrary conclusions solely through reliance on the defendant's out-of-court

1 statements.

2 The prosecution has offered evidence of a contract signed by
3 Levin through which Levin was to receive an interest in attrition
4 mills. A corresponding check signed by Levin and made out to
5 Microgenesis has also been received in evidence. Quite obviously
6 no inference that a taking was accomplished against Levin's will
7 can be arrived at through this evidence without reference to al-
8 leged statements by the defendant. To the contrary, such a con-
9 clusion would be in direct conflict with established law. "Fraud
10 and wrongdoing are never presumed. It is presumed that private
11 transactions are fair and regular." Bessesen v. Dorshkind (1957)
12 156 Cal.App.2d 220, 230. See also California Civil Code Section
13 3545. Rather than establishing the element of felonious taking,
14 the prosecution's evidence goes so far as to establish a prima
15 facie case that the transaction was fair and regular and that the
16 ordinary course of business has been followed. See Donovan v.
17 Security First National Bank (1945) 67 Cal.App.2d 845, 853.

18 Further, no admissible evidence presented by the prosecution
19 has been able to overcome this presumption. Indeed witness Lore
20 Leis testified that she prepared business correspondence in the
21 ordinary course of business. The evidence to refute this con-
22 sists of inadmissible statements. The prosecution has actually
23 proved that the defendant and Levin had had a history of business
24 dealings together. In fact, the prosecution's own evidence
25 proves that Levin may have had a civil liability to Hunt close to
26 \$4,000,000.

27 The fact that the check was bad is probative of nothing con-
28 cerning Levin's volition in executing this agreement with Hunt,

1 since the prosecution's own evidence proves that Levin routinely
2 and in the ordinary course of his business affairs didn't pay or
3 gave bad consideration for every deal he was involved in.

4 In fact the only thing that would have made the transaction
5 suspect would have been a good check from Levin.

6 Therefore, it is apparent that the prosecution has failed to
7 establish the element of felonious taking against the victim's
8 will. The prosecution asks the Court to reject its own evidence
9 and instead embrace the inadmissible extrajudicial statements of
10 the defendant as the sole proof to prove this element. This is
11 in flagrant disregard of the corpus delicti rule in Mattson. To
12 reiterate, the corpus delicti rule only permits the consideration
13 of extrajudicial statements once a prima facie showing of the
14 crime has been made without reliance on extrajudicial statements
15 of the defendant. People v. Towler (1982) 31 Cal.3d 105, 115.
16 Such a prima facie showing can be established through slight evi-
17 dence and reasonable inferences drawn therefrom. People v. Mill-
18 er (1969) 71 Cal.2d 459, 477. However, a prima facie case may
19 not be made through mere speculation or conjecture. People v.
20 Schuber (1945) 71 Cal.App.2d 773, 777.

21 Yet speculation is precisely what the prosecution has asked
22 the Court to do. It asks the Court to disregard the presumptions
23 and reasonable inferences raised by its own evidence. Then, af-
24 ter failing to rebut these presumptions, the prosecution wishes
25 for the Court to reach contrary conclusions from those raised by
26 these presumptions. Yet, in the absence of even some evidence,
27 there is no basis for such a conclusion unless the defendant's
28 extrajudicial statements are considered.

1 Even more apparent is the prosecution's failure by any ad-
2 missible evidence to prove the element of fear or force. This
3 conclusion that no showing of force or fear was made is rein-
4 forced by the presence of the alleged victim at the B.B.C. offic-
5 es the day before his disappearance which corresponds to the date
6 that Ron Levin executed one of the two copies of the Microgenesis
7 agreement. There has been no testimony by any witness as to what
8 occurred vis-a-vis the defendant before Mr. Levin ultimately dis-
9 appeared other than alleged statements of the defendant which
10 cannot be used. We don't know how the check was obtained or
11 where the contracts were signed. Therefore, since the check
12 could have been received by the defendant several different ways,
13 including both felonious and non-felonious means, in the absence
14 of any contrary admissible evidence, the conclusion that the
15 check was obtained through force or fear would be mere specula-
16 tion.

17 Thus, because the corpus delicti cannot be proven indepen-
18 dently of the defendant's extrajudicial admissions, Mattson re-
19 quires that the special circumstances of murder committed during
20 the commission of a robbery be stricken and the defendant must be
21 acquitted.

22 DATED: March 26, 1986

23 Respectfully submitted,

24 ARTHUR H. BARENS
25 RICHARD C. CHIER

26 By: 

27 RICHARD C. CHIER
28 Attorneys for Defendant

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Date: MARCH 30, 1987
HONORABLE: L. J. RITTENBAND
P. QUINN

JUDGE
Deputy Sheriff

D. TSCHEKALOFF
R. GOODBODY AND S. YERGER

Deputy Clerk
Reporter

A090435		(Parties and counsel checked if present)	
PEOPLE OF THE STATE OF CALIFORNIA	VS.	Counsel for People:	
01 HUNT, JOE		DEPUTY DISTRICT ATTY:	F. WAPNER ✓
187 01 ct; 211 01 ct		Counsel for Defendant:	A. BARENS ✓ R. CHIER ✓

NATURE OF PROCEEDINGS TRIAL (JURY) BAIL 4-4-85

The trial is continued from March 24, 1987, with defendant, counsel and all jurors present as heretofore.

Brooke Roberts is sworn and testifies for the defendant.

Defense exhibit LL (letter from Ronald Levin dated April 17, 1979, photocopied and certified) is marked for identification.

People's exhibit 230 (photocopy of Beverly Hills Police Department letter to Brooke Roberts) is marked for identification.

The jurors are admonished and the trial is continued to March 31, 1987, at 10:30 a.m. in Department.WEST C.

Out of the presence of the jurors, defense motions are heard throughout the day. Defendant's motion for judgment of acquittal pursuant to Penal Code Section 1118.1 is heard, argued and denied. Defendant's motion for attendance of out of state witness Jeff Meyers is heard, argued and denied without prejudice to renewal. Defendant's motion for limiting instruction regarding admission of uncharged misconduct is heard, argued and taken under submission.

During the morning proceedings, Emma Becking, jurors number 5, is stricken with a seizure and becomes unconscious for a period of time less than a minute. Paramedics are called, but the juror declines treatment. The morning session is adjourned until 1:30 p.m. at which time a in-chambers conference is held with the juror and counsel. The Court orders the trial to proceed.

bail

DEPT. WE C

MINUTES ENTERED
3-30-87
COUNTY CLERK

MINUTE ORDER

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT. ¹⁵¹⁷ WEST C

Date: MARCH 31, 1987
HONORABLE: L. J. RITTENBAND
P. QUINN

JUDGE
Deputy Sheriff

D. TSCHEKALOFF
S. YERGER AND R. GOODBODY

Deputy Clerk
Reporter

(Parties and counsel checked if present)

A090435
PEOPLE OF THE STATE OF CALIFORNIA

Counsel for People:

DEPUTY DISTRICT ATTY: F. WAPNER ✓

VS
01 HUNT, JOE
187 01 ct; 211 01 ct

Counsel for Defendant:

A. BARENS ✓
R. CHIER ✓

NATURE OF PROCEEDINGS

TRIAL (JURY)

BAIL

4-4-85

The trial is resumed from March 30, 1987, with defendant, counsel and all jurors present as heretofore.

Brooke Roberts is sworn and testifies for the defendant. Lynne Roberts is sworn and testifies for the defendant.

Defendant's exhibit MM (Lynne Roberts' 1983 diary) is marked for identification. Court's exhibit 1 (photocopy of newspaper article by Ron Ostroff dated March 28, 1987) is marked for identification.

The jurors are admonished and the trial is continued to April 1, 1987, at 10:30 a.m. in Department WEST C.

BAIL

MINUTE ORDER

DEPT. WEST C

MINUTES ENTERED
3-31-87
COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Date: APRIL 1, 1987
HONORABLE: L. J. RITTENBAND
P. QUINN

JUDGE
Deputy Sheriff

D. TSCHEKALOFF
R. GOODBODY

Deputy Clerk
Reporter

(Parties and counsel checked if present)

A090435
PEOPLE OF THE STATE OF CALIFORNIA
VS
01 HUNT, JOE ✓
187 01 ct; 211 01 ct

Counsel for People:
DEPUTY DISTRICT ATTY: F. WAPNER ✓
Counsel for Defendant:
R. CHIER ✓
A. BARENS ✓

NATURE OF PROCEEDINGS

TRIAL (JURY)

BAIL

4-4-85

The trial is resumed from March 31, 1987, with defendant, counse all jurors present as heretofore.

Lynne Roberts, previously sworn, continues to testify for the de Carmen Canchola is sworn and testifies for the defendant.

Defendant's exhibits NN (cutout of R. Levin from Esquire Magazi OO (cutout of lines from Esquire Magazine) are marked for ident... Defense exhibits PP (large chart with six black and white photographs), QQ (black and white six photo lineup card), RR (black and white photo-graph of T. Bingham), and SS (black and white smaller photograph of exhibit PP above) are received in evidence.

People's exhibits 231 (colored photograph of Vickers Gas Station), 232 (large chart), and 233 (colored photograph) are marked for identification. People's exhibit 231 is later received in evidence.

Juror number 5, Emma Becking is excused from further jury service after in-chambers conference with Court and counsel for health reasons. After a random selection of alternate jurors Dr. Juel M. Janis is seated as juror number 5.

An in-chambers conference is held on March 30, 1987, with Court and counsel pursuant to a defense motion for mistrial. In the hearing court spectator Mr. Whitmore is sworn and testifies as to the approach and statements made to her by defense law clerk, who subsequently had been ordered to stay out of the courtroom. The motion for mistrial is denied.

In out court the jurors are admonished and the trial is continued to April 2, 1987, at 10:30 a.m. in Department WEST C.

BAIL

DEPT. WEST C

MINUTES ENTERED
4-1-87
COUNTY CLERK

MINUTE ORDER

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT. WE C

Date: APRIL 2, 1987
HONORABLE: L. J. RITTENBAND
P. QUINN

JUDGE
Deputy Sheriff

D. TSCHEKALOFF
R. GOODBODY AND S. YERGER

Deputy Clerk
Reporter

A090435		(Parties and counsel checked if present)	
PEOPLE OF THE STATE OF CALIFORNIA	VS ✓	Counsel for People:	F. WAPNER ✓
01 HUNT, JOE		DEPUTY DISTRICT ATTY:	
187 01 ct; 211 01 ct		Counsel for Defendant:	A. BARENS ✓ R. CHIER ✓

NATURE OF PROCEEDINGS TRIAL (JURY) BAIL 4-4-85

The trial is resumed from April 1, 1987, with defendant, counsel and all jurors present as heretofore.

Canmen Canchola, previously sworn, continues to testify for the defense. Jesus A. Lopez is sworn and testifies for the defendant.

People's exhibits 234 (six colored photographs of vehicles), 235 (six black and white photograph lineup card), 236 (six colored photograph lineup card), 237 (Tucson Arizona Police Department report dated 8-29-85), are marked for identification, People's exhibits 238 and 239, each a colored photograph, are received in evidence.

The jurors are admonished and the trial is continued to April 6, 1987, at 10:30 a.m. in Department WEST C.

BAIL

MINUTE ORDER

DEPT. WEST C

MINUTES ENTERED
4-2-87
COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Date: APRIL 6, 1987
HONORABLE: L. J. RITTENBAND
P. QUINN

JUDGE
Deputy Sheriff

D. TSCHEKALOFF
S. YERGER AND R. GOODBODY

Deputy Clerk
Reporter

(Parties and counsel checked if present)

A090435
PEOPLE OF THE STATE OF CALIFORNIA
VS

01 HUNT, JOE ✓
187 01 ct; 211 01 ct

Counsel for People:
DEPUTY DISTRICT ATTY: F. WAPNER ✓

Counsel for Defendant:
A. BARENS ✓
R. CHIER ✓

NATURE OF PROCEEDINGS

TRIAL (JURY)

BAIL

4-4-85

The trial is continued from April 2, 1987, with defednant, counsel and all jurors present as heretofore.

Jesus Lopez, previously sworn, continues to testify for the Defendant.

People's exhibit 240 (composite drawing photocopy) is received in evidence.

Defense rests.

The jurors are admonished and the trial is continued to April 7, 1987, at 10:30 a.m. in Department WEST C.

BAIL

DEPT. WEST C

MINUTE ORDER

MINUTES ENTERED
4-6-87
COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT. WE C

Date:
HONORABLE:APRIL 7, 1987
L. J. RITTENBAND
P. QUINNJUDGE
Deputy SheriffD. TSCHOKALOFF
R. GOODBODY & S. YERGERDeputy Clerk
Reporter

A090435

(Parties and counsel checked if present)

PEOPLE OF THE STATE OF CALIFORNIA

Counsel for People:

VS

DEPUTY DISTRICT ATTY:

F. WAPNER ✓

01 HUNT, JOE ✓

187 01 ct; 211 01 ct

Counsel for Defendant:

A. BARENS ✓

R. CHIER ✓

NATURE OF PROCEEDINGS

TRIAL (JURY)

BAIL

4-4-85

The trial is resumed from April 6, 1987, with defendant, counsel and all jurors present as heretofore.

Marvin Levin, Lisa Hart, Robert Pacilio, Thomas Edmonds and Paul Edholm are sworn and testify for the People.

People's exhibits 230, 232, 233, 234, 235, 236, 237, 240, each previously marked for identification, 241 (letter from Y. B. Burke dated May 15, 1978 to R. Levin), 242 (file folder), 243 (11 file folders), 244, two colored photographs), 245 (Photographic Line-up Instructions for C. Canchola), and 246 (Photographic Line-up Instructions for J. Lopez) are received in evidence. People's exhibit 247 (photocopy of a composite drawing) is marked for identification. People rests.

Defendant's exhibits MM, NN and OO are received in evidence. Defendant's exhibit SS is withdrawn from evidence and marked for identification only.

The defendant rests. Both sides rest.

The jurors are admonished and the trial is continued to April 13, 1987, at 10:30 a.m. in Department WEST C. Court and counsel are set to conference on jury instructions April 9, 1987, at 10:00 a.m. in Department WEST C.

BAIL

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT. 1552
WE C

Date: APRIL 9, 1987
HONORABLE: L. J. RITTENBAND
P. QUINN

JUDGE
Deputy Sheriff

D. TSCHEKALOFF
R. GOODBODY & S. YERGER

Deputy Clerk
Reporter

A090435 (Parties and counsel checked if present)

PEOPLE OF THE STATE OF CALIFORNIA

Counsel for People:

01 HUNT, JOE ✓
187 01 ct; 211 01 ct

DEPUTY DISTRICT ATTY: F. WAPNER ✓

Counsel for Defendant: A. BARENS ✓
R. CHIER ✓

NATURE OF PROCEEDINGS

TRIAL (JURY)

BAIL

4-4-85

While trial is set to resume April 13, 1987, Court and counsel confer in chambers on proposed jury instructions.

BAIL

DEPT. WEST C

MINUTES ENTERED
4-9-87
COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT.

WEC

Date: APRIL 13, 1987
HONORABLE: L J RITTENBAND
P QUINN

JUDGE
Deputy Sheriff

J HOLT
R GOODBODY & S YERGER

Deputy Clerk
Reporter

A 090 435

(Parties and counsel checked if present)

PEOPLE OF THE STATE OF CALIFORNIA

Counsel for People:

DEPUTY DISTRICT ATTY:

VS

01 HUNT, JOE
187 01 cts 211 01 cts

Counsel for Defendant: F. WARNER

A BARENS & R CHIER

NATURE OF PROCEEDINGS

Trial Jury

Bail 4/4/85

Trial, continued from 4/9/87, resumes with all parties, counsel, defendant and jurors present as heretofore.

People present opening argument.

Further argument is continued to 4/14/87 at 10:30 a.m.

Bail

MINUTE ORDER

MINUTES ENTERED
4/13/87
COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

WEC

Date: APRIL 14, 1987
HONORABLE: L J RITTENBAND
P QUINN

JUDGE
Deputy Sheriff

J HOLT
R GOODBODY & S YERGER

Deputy Clerk
Reporter

(Parties and counsel checked if present)

A 090 435
PEOPLE OF THE STATE OF CALIFORNIA
VS

Counsel for People:
DEPUTY DISTRICT ATTY:

01 HUNT, JOE
187 01 cts 211 01 cts

Counsel for Defendant:

F WAPNER
A BARENS & R CHIER

NATURE OF PROCEEDINGS

Trial Jury Bail 4/4/85

Trial, continued from 4/13/87, resumes with all parties, counsel, defendant and jurors present as heretofore.

People conclude opening argument.

Defense counsel Barens presents argument.

Defendant's motion for mistrial, filed 4/13/87, is denied.

Trial is continued to 4/15/87 at 10:30 a.m.

MINUTES ENTERED
4/14/87
COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT. 1555

Date: APRIL 15, 1987
HONORABLE: L J RITTENBAND
P QUINN

JUDGE
Deputy Sheriff

J HOLT
R GOODBODY & S YERGER

WEST C
Deputy Clerk
Reporter

A 090 435		(Parties and counsel checked if present)	
PEOPLE OF THE STATE OF CALIFORNIA		Counsel for People:	
VS		DEPUTY DISTRICT ATTY:	
01 HUNT, JOE	✓	F WAPNER	✓
187 01 cts 211 01 cts		Counsel for Defendant:	
		A BARENS & R CHIER	✓

NATURE OF PROCEEDINGS

Trial Jury Bail 4/4/85

Trial, continued from 4/14/87., resumes with all parties, counsel, defendant and jurors present as heretofore.

Defense counsel Barens concludes closing argument.

People present closing argument.

Trial is continued to 4/16/87 at 10:30 a.m.

MINUTES ENTERED
4/15/87
COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Date: APRIL 16, 1987
HONORABLE: L J RITTENBAND
P QUINN

JUDGE
Deputy Sheriff

J HOLT
R GOODBODY & S YERGER

Deputy Clerk
Reporter

(Parties and counsel checked if present)

A 090 435
PEOPLE OF THE STATE OF CALIFORNIA
VS

Counsel for People: /
DEPUTY DISTRICT ATTY:

01 HUNT, JOE
187 01 cts 211 01 cts

Counsel for Defendant: F WAPNER /

A BARENS & R CHIER

NATURE OF PROCEEDINGS

Trial Jury Bail 4/4/85

Trial, continued from 4/15/87, resumes with all parties, counsel, defendant and jurors present as heretofore.

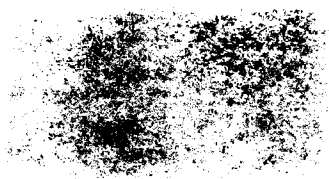
Argument is concluded.

Defense motion for mistrial or further instructions for the jury is denied.

Jury is instructed. Bailiff is sworn.

At 3:40 p.m., the jury retires to begin deliberations. At 4 p.m., the jury recesses for the weekend. Trial is continued to 4/20/87 at 9:30 a.m.

Out of the presence of the jury the People's motion to have defendant remanded is denied.



MINUTES ENTERED
4/16/87
COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT. 1557
WE C

Date: APRIL 20, 1987
HONORABLE: L. J. RITTENBAND
P. QUINN

JUDGE
Deputy Sheriff

D. TSCHEKALOFF
R. GOODBODY AND S. YERGER

Deputy Clerk
Reporter

A090435 (Parties and counsel checked if present)
PEOPLE OF THE STATE OF CALIFORNIA Counsel for People: ✓
DEPUTY DISTRICT ATTY: F. WAPNER ✓
VS
01 HUNT, JOE N/A
187 01 ct; 211 01 ct Counsel for Defendant: A. BARENS ✓
R. CHIER ✓

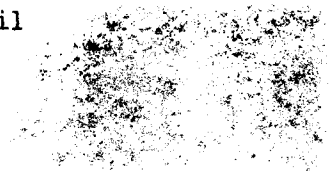
NATURE OF PROCEEDINGS TRIAL (JURY) BAIL 4-4-85

The trial is continued from April 16, 1987, for jury deliberations only at 9:50 a.m.

Court and counsel meet and confer with the Official Court Reporters present.

The jurors are excused at 4:45 p.m. and trial deliberations are to be continued on April 21, 1987, at 9:30 a.m. in Department WEST C.

Bail



MINUTES ENTERED 4-20-87 COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT. WE C

Date: APRIL 21, 1987
 HONORABLE: L. J. RITTENBAND
 P. QUINN

JUDGE
 Deputy Sheriff

D. TSCHOKALOFF
 R. GOODBODY AND S. YERGER

Deputy Clerk
 Reporter

(Parties and counsel checked if present)
 A090435
 PEOPLE OF THE STATE OF CALIFORNIA
 VS
 01 HUNT, JOE ^{N/A}
 187 01 ct; 211 01 ct
 Counsel for People:
 DEPUTY DISTRICT ATTY: F. WAPNER ✓
 Counsel for Defendant:
 A. BARENS ✓
 R. CHIER ^{N/A}

NATURE OF PROCEEDINGS TRIAL (JURY) BAIL 4-4-85

The trial resumes from April 20, 1987, for trial deliberations only at 9:32 a.m. with all jurors present.

At 11:12 a.m. the jurors return into the courtroom for further admonishment as to current media coverage. At 11:14 a.m. the jury resumes deliberations.

At 4:30 p.m. the jurors are excused. The trial deliberations are to be continued to April 22, 1987, at 9:30 a.m. in Department WEST C.

BAIL



MINUTE ORDER

DEPT. WEST C

MINUTES ENTERED 4-21-87 COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Dept. No. WEC

No. 09043
(Space below for filing
Stamp only)

INSTRUCTIONS GIVEN
 REFUSED

PEOPLE OF THE STATE OF CALIFORNIA

vs.

Hunt

Consisting of

60

pages herein

Defendant.

Rittenband

Judge Presiding.

FILED

APR 22 1987

CLERK OF COURT
Chubb
BY

RESPECTIVE DUTIES OF JUDGE AND JURY

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Withdrawn	
		Given on Court's Motion	<input type="checkbox"/>	<i>C. Altman</i>	

Print Date 4/79

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Judge

1.00/1

Ladies and Gentlemen of the Jury:

Now that you have heard the evidence we come to that part of the trial where you are instructed on the applicable law.

[I am required to read the instructions to you in open court. In addition, you will have these instructions in their written form in the jury room for use during your deliberations.]

Whether ~~the~~ defendant is to be found guilty or not guilty depends upon both the facts and the law.

As jurors you have two duties to perform. One duty is to determine the facts of the case from the evidence received in the trial and not from any other source. The word "fact" means something that is proved directly or circumstantially by the evidence [or by agreement of counsel]. Your other duty is to apply the rules of law that I state to you to the facts as you determine them and in this way to arrive at your verdict.

It is my duty in these instructions to explain to you the rules of law that apply to this case. You must accept and follow the rules of law as I state them to you.

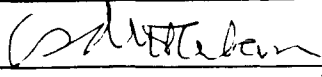
RESPECTIVE DUTIES OF JUDGE AND JURY

1.00/2

As jurors you must not be influenced by pity for ~~the~~ defendant or by prejudice against him. You must not be biased against the defendant because he has been arrested for ~~this~~ offenses or because he has been charged with ~~crimes~~ or because he has been brought to trial. None of these circumstances is evidence of his guilt and you must not infer or assume from any or all of them that he is more likely to be guilty than innocent.

You must not be swayed by mere sentiment, conjecture, sympathy, passion, prejudice, public opinion or public feeling. Both the People and the defendant have a right to expect that you will conscientiously consider and weigh the evidence and apply the law of the case, and that you will reach a just verdict regardless of what the consequences of such verdict may be.

INSTRUCTIONS TO BE CONSIDERED
AS A WHOLE

Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input checked="" type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 _____ Judge			
Withdrawn	<input type="checkbox"/>				

Print Date 4/79

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1.01

If any rule, direction or idea in these instructions [is] [redacted] repeated or stated in varying ways, no emphasis [is] [redacted] intended and you must not draw any inference because of its repetition. You are not to single out any certain sentence or any individual point or instruction and ignore the others. You are to consider all the instructions as a whole and are to regard each in the light of all the others.

The order in which the instructions [are] [redacted] given has no significance as to their relative importance.

STATEMENTS OF COUNSEL—EVIDENCE STRICKEN OUT—INSINUATIONS OF QUESTIONS—STIPULATED FACTS

Requested by People	✓	Given as Requested	✓	Refused	
Requested by Defendant	✓	Given as Modified		Withdrawn	
		Given on Court's Motion		<i>C. S. Keithman</i>	

Print Date 4/79

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Judge

1.02

Statements made by the attorneys during the trial are not evidence; [however, if counsel for the parties have stipulated to any fact, you will regard that fact as being conclusively proved as to the party or parties making the stipulation].

A "stipulation" is an agreement between attorneys as to matters relating to the trial.

As to any question to which an objection was sustained, you must not guess what the answer might have been or as to the reason for the objection.

You must never assume to be true any insinuation suggested by a question asked a witness. A question is not evidence and may be considered only as it supplies meaning to the answer.

You must not consider for any purpose ~~any evidence that was stricken out by the court; such matter is to be treated as though you had never heard of it.~~ any evidence that was stricken out by the court; such matter is to be treated as though you had never heard of it.

CALJIC 1.10 (1979 Revision)

1563

MASCULINE FORM OF PRONOUN INCLUDES
ALL PERSONS

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant	<input checked="" type="checkbox"/>	Given as Modified		Withdrawn	
		Given on Court's Motion		<i>C. J. [Signature]</i>	

Judge

Print Date 4/79

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1.10

For sake of convenience, the masculine pronoun is used in these instructions and applies equally to all persons.

DIRECT AND CIRCUMSTANTIAL EVIDENCE—
INFERENCES

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant	<input checked="" type="checkbox"/>	Given as Modified		Withdrawn	
		Given on Court's Motion		<i>[Signature]</i>	

Judge

Print Date 4/79

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2.00

Evidence consists of testimony of witnesses, writings, material objects, or anything presented to the senses and offered to prove the existence or non-existence of a fact.

Evidence is either direct or circumstantial.

Direct evidence is evidence that directly proves a fact, without the necessity of an inference, and which by itself, if found to be true, establishes that fact.

Circumstantial evidence is evidence that, if found to be true, proves a fact from which an inference of the existence of another fact may be drawn.

An inference is a deduction of fact that may logically and reasonably be drawn from another fact or group of facts established by the evidence.

It is not necessary that facts be proved by direct evidence. They may be proved also by circumstantial evidence or by a combination of direct evidence and circumstantial evidence. Both direct evidence and circumstantial evidence are acceptable as a means of proof. Neither is entitled to any greater weight than the other.

SUFFICIENCY OF CIRCUMSTANTIAL EVIDENCE—GENERALLY

Requested by People	✓	Given as Requested	✓	Refused	
Requested by Defendant	✓	Given as Modified		Withdrawn	
		Given on Court's Motion		<i>C. D. [Signature]</i>	

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Judge

2.01

However, a finding of guilt as to any crime may not be based on circumstantial evidence unless the proved circumstances are not only (1) consistent with the theory that the defendant is guilty of the crime, but (2) cannot be reconciled with any other rational conclusion.

Further, each fact which is essential to complete a set of circumstances necessary to establish the defendant's guilt must be proved beyond a reasonable doubt. In other words, before an inference essential to establish guilt may be found to have been proved beyond a reasonable doubt, each fact or circumstance upon which such inference necessarily rests must be proved beyond a reasonable doubt.

Also, if the circumstantial evidence [as to any particular count] is susceptible of two reasonable interpretations, one of which points to the defendant's guilt and the other to his innocence, it is your duty to adopt that interpretation which points to the defendant's innocence, and reject that interpretation which points to his guilt.

If, on the other hand, one interpretation of such evidence appears to you to be reasonable and the other interpretation to be unreasonable, it would be your duty to accept the reasonable interpretation and to reject the unreasonable.

SUFFICIENCY OF CIRCUMSTANTIAL EVIDENCE
TO PROVE SPECIFIC INTENT

Requested by People	✓	Given as Requested		Refused	
Requested by Defendant	L	Given as Modified		Withdrawn	
		Given on Court's Motion		L [Signature]	

Print Date 8/80

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Judge

2.02

The [specific intent] [REDACTED] with which an act is done may be shown by the circumstances surrounding the commission of the act. But you may not find the defendant guilty of the offenses charged [in Count(s) 1, 2, 3 and 4], unless the proved circumstances not only are consistent with the theory that he had the required [specific intent] [REDACTED] but cannot be reconciled with any other rational conclusion.

Also, if the evidence as to [any] such [specific intent] [REDACTED] is susceptible of two reasonable interpretations, one of which points to the existence of the [specific intent] [REDACTED] and the other to the absence of the [specific intent] [REDACTED], it is your duty to adopt that interpretation which points to the absence of the [specific intent] [REDACTED]. If, on the other hand, one interpretation of the evidence as to such [specific intent] [REDACTED] appears to you to be reasonable and the other interpretation to be unreasonable, it would be your duty to accept the reasonable interpretation and to reject the unreasonable.

CALJIC 2.03 (1984 Revision)
CONSCIOUSNESS OF GUILT—FALSEHOOD

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion		<i>CS [Signature]</i>	

Print Date 12/84

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Judge

If you find that before this trial ~~the~~ [the] defendant made wilfully false or deliberately misleading statements concerning the charge upon which he is now being tried, you may consider such statements as a circumstance tending to prove a consciousness of guilt but it is not sufficient of itself to prove guilt. The weight to be given to such a circumstance and its significance, if any, are matters for your determination.

CALJIC 2.11

PRODUCTION OF ALL AVAILABLE
EVIDENCE NOT REQUIRED

Requested by People	✓	Given as Requested	✓	Refused	
Requested by Defendant	✓	Given as Modified		Withdrawn	
		Given on Court's Motion		<i>C. A. Williams</i>	

Judge

Print Date 3.70

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2.11

Neither side is required to call as witnesses all persons who may have been present at any of the events disclosed by the evidence or who may appear to have some knowledge of these events, or to produce all objects or documents mentioned or suggested by the evidence.

UNJOINED PERPETRATORS OF SAME CRIME

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion		<i>C. J. [Signature]</i>	

Judge

2.11.5

There has been evidence in this case indicating that a person other than defendant was or may have been involved in the crimes for which the defendant is on trial.

You must not discuss or give any consideration as to why the other person is not being prosecuted in this trial or whether he has been or will be prosecuted.

PRIOR CONSISTENT OR INCONSISTENT
STATEMENTS AS EVIDENCE

Requested by People	✓	Given as Requested	✓	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion		<i>G. M. [Signature]</i>	

Judge

2.13

Evidence that on some former occasion, a witness made a statement or statements that were inconsistent [or consistent] with his testimony in this trial, may be considered by you not only for the purpose of testing the credibility of the witness, but also as evidence of the truth of the facts as stated by the witness on such former occasion.

[If you disbelieve a witness's testimony that he no longer remembers a certain event, such testimony is inconsistent with a prior statement or statements by him describing that event.]

CREDIBILITY OF WITNESS

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input type="checkbox"/>	Refused
Requested by Defendant	<input checked="" type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Withdrawn
		Given on Court's Motion	<input type="checkbox"/>	<i>C. D. [Signature]</i>

Print Date 9/80

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Judge

2.20/1

Every person who testified under oath [redacted] is a witness. You are the sole judges of the believability of a witness and the weight to be given the testimony of each witness.

In determining the believability of a witness you may consider anything that has a tendency in reason to prove or disprove the truthfulness of the testimony of the witness, including but not limited to any of the following:

The extent of the opportunity or ability of the witness to see or hear or otherwise become aware of any matter about which the witness has testified;

The ability of the witness to remember or to communicate any matter about which the witness has testified;

The character and quality of that testimony

The demeanor and manner of the witness while testifying;

The existence or nonexistence of a bias, interest, or other motive;

Evidence of the existence or nonexistence of any fact testified to by the witness;

CREDIBILITY OF WITNESS

2.20/2

The attitude of the witness toward the action in which testimony has been given by the witness or toward the giving of testimony;

[A statement previously made by the witness that is [consistent] [or] [inconsistent] with the testimony of the witness;]

[REDACTED]

WITNESS WILLFULLY FALSE—DISCREPANCIES IN TESTIMONY

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant	<input checked="" type="checkbox"/>	Given as Modified		Withdrawn	
		Given on Court's Motion		<i>C. J. [Signature]</i>	

Judge

Print Date 3/70

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2.21

A witness willfully false in one material part of his testimony is to be distrusted in others. You may reject the whole testimony of a witness who willfully has testified falsely as to a material point, unless, from all the evidence, you shall believe the probability of truth favors his testimony in other particulars.

However, discrepancies in a witness' testimony or between his testimony and that of others, if there were any, do not necessarily mean that the witness should be discredited. Failure of recollection is a common experience; and innocent misrecollection is not uncommon. It is a fact, also, that two persons witnessing an incident or a transaction often will see or hear it differently. Whether a discrepancy pertains to a fact of importance or only to a trivial detail should be considered in weighing its significance.

CALJIC 2.22 (1975 Revision)
WEIGHING CONFLICTING TESTIMONY

1574

Requested by People	✓	Given as Requested	✓	Refused	
Requested by Defendant	✓	Given as Modified		Withdrawn	
		Given on Court's Motion		<i>C. J. Mitchell</i>	

Judge

Print Date 9/75

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2.22

You are not bound to decide in conformity with the testimony of a number of witnesses, which does not produce conviction in your mind, as against the testimony of a lesser number or other evidence, which appeals to your mind with more convincing force. This does not mean that you are at liberty to disregard the testimony of the greater number of witnesses merely from caprice or prejudice, or from a desire to favor one side as against the other. It does mean that you are not to decide an issue by the simple process of counting the number of witnesses who have testified on the opposing sides. It means that the final test is not in the relative number of witnesses, but in the relative convincing force of the evidence.

CALJIC 2.27 (1977 Revision)
SUFFICIENCY OF TESTIMONY OF
ONE WITNESS

Requested by People	✓	Given as Requested	✓	Refused
Requested by Defendant	✓	Given as Modified		Withdrawn
		Given on Court's Motion		<i>W. Attwater</i>

Judge

Print Date 3/77

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2.27

Testimony which you believe given by one witness is sufficient for the proof of any fact. However, before finding any fact [required to be established by the prosecution] to be proved solely by the testimony of such a single witness, you should carefully review all the testimony upon which the proof of such fact depends.

PEOPLE'S PROPOSED INSTRUCTION NO. 7
 FACTORS TO CONSIDER IN PROVING IDENTITY
 BY EYEWITNESS TESTIMONY

1576

Requested by People	✓	Given as Requested	✓	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion			<i>C. M. [Signature]</i>

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Judge

Page 1

Eyewitness testimony has been received in this trial.

~~REDACTED~~

~~REDACTED~~ In determining the weight to be given eyewitness identification testimony, you should consider the believability of the eyewitness as well as other factors which bear upon the accuracy of the witness' identification of ^{alleged} ~~REDACTED~~ ^{RON LEVIN} including, but not limited to, any of the following:

[The opportunity of the witness to observe the person;]

[The stress, if any, to which the witness was subjected at the time of the observation;]

[The witness' ability, following the observation, to provide a description of the person he ^{OR SHE} saw;]

[The extent to which the person either fits or does not fit the description of the person previously given by the witness;] ^{IDENTIFICATION}
~~THE CROSS-RACIAL OR ETHNIC NATURE OF THE~~

[The witness' capacity to make an identification;]

PEOPLE'S PROPOSED INSTRUCTION NO.
 FACTORS TO CONSIDER IN PROVING IDENTITY
 BY EYEWITNESS TESTIMONY

1577

Requested by People		Given as Requested		Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion			

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Judge

Page 2

[Evidence relating to the witness' ability to identify other people present at the time of the alleged sighting of the person who is the subject of the identification;]

[Whether the witness was able to identify the person in a photographic or physical lineup;]

[The period of time between the alleged sighting and the witness' identification;]

[Whether the witness had prior contacts with the person allegedly sighted.]

[The extent to which the witness is either certain or uncertain of the identification;]

[Whether the witness' identification is in fact the product of his ^{own} recollection;]

[The suggestiveness of any procedure used to obtain an identification.]

Any other evidence relating to the witness' ability to make an identification.

MOTIVE

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant	<input checked="" type="checkbox"/>	Given as Modified		Withdrawn	
		Given on Court's Motion		<i>C. P. [Signature]</i>	

Judge

Print Date 3/70

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2.51

Motive is not an element of the crime charged and need not be shown. However, you may consider motive or lack of motive as a circumstance in this case. Presence of motive may tend to establish guilt. Absence of motive may tend to establish innocence. You will therefore give its presence or absence, as the case may be, the weight to which you find it to be entitled.

**DEFENDANT NOT TESTIFYING—NO INFERENCE
OF GUILT MAY BE DRAWN**

Requested by People	✓	Given as Requested	✓	Refused	
Requested by Defendant	✓	Given as Modified		Withdrawn	
		Given on Court's Motion		<i>W. H. [Signature]</i>	

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Judge

2.60

It is a constitutional right of a defendant in a criminal trial that he may not be compelled to testify. You must not draw any inference from the fact that he does not testify. Further, you must neither discuss this matter nor permit it to enter into your deliberations in any way.

CALJIC 2.61 (1979 Revision)
DEFENDANT MAY RELY ON STATE OF EVIDENCE

1580

Requested by People	✓	Given as Requested	✓	Refused	
Requested by Defendant	c	Given as Modified		Withdrawn	
		Given on Court's Motion		<i>W. H. [Signature]</i>	

Judge

Print Date 4/79

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2.61

In deciding whether or not to testify, the defendant may choose to rely on the state of the evidence and upon the failure, if any, of the People to prove beyond a reasonable doubt every essential element of the charge against him, and no lack of testimony on defendant's part will supply a failure of proof by the People so as to support a finding against him on any such essential element.

CALJIC 2.70 (1980 Revision)
CONFESSION AND ADMISSION—DEFINED

Requested by People	✓	Given as Requested	✓	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion		<i>C. M. [Signature]</i>	

Judge

Print Date 12/80

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2.70

A confession is a statement made by a defendant other than at his trial in which he has acknowledged his guilt of the crime(s) for which he is on trial. In order to constitute a confession, such a statement must acknowledge participation in the crime(s) as well as the required [criminal intent]

[A statement made by a defendant other than at his trial is not a confession but an admission whenever the statement does not by itself acknowledge his guilt of the crime(s) for which he is on trial, but which tends to prove his guilt when considered with the rest of the evidence.]

You are the exclusive judges as to whether the defendant made a confession [or an admission], and if so, whether such statement is true in whole or in part. If you should find that the defendant did not make the statement, you must reject it. If you find that it is true in whole or in part, you may consider that part which you find to be true.

Evidence of an oral confession [or oral admission] of the defendant should be viewed with caution.

ADMISSION—DEFINED

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant	<input checked="" type="checkbox"/>	Given as Modified	<input checked="" type="checkbox"/>	Withdrawn	
		Given on Court's Motion		<i>[Handwritten Signature]</i>	

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Judge

2.71

ORAL OR WRITTEN

An admission is a statement made by defendant other than at his trial which does not by itself acknowledge his guilt of the crime(s) for which he is on trial, but which statement tends to prove his guilt when considered with the rest of the evidence.

You are the exclusive judges as to whether the defendant made an admission, and if so, whether such statement is true in whole or in part. If you should find that the defendant did not make the statement, you must reject it. If you find that it is true in whole or in part, you may consider that part which you find to be true.

Evidence of an oral admission of the defendant should be viewed with caution.

CALJIC 2.72

1583

CORPUS DELICTI MUST BE PROVED INDEPENDENT OF ADMISSION OR CONFESSION

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused
Requested by Defendant		Given as Modified		Withdrawn
		Given on Court's Motion		<i>C. J. Matthews</i>

Print Date 3/70

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Judge

2.72

No person may be convicted of a criminal offense unless there is some proof of each element of the crime independent of any [confession or] admission made by him outside of this trial.

The identity of the person who is alleged to have committed a crime is not an element of the crime [nor is the degree of the crime]. Such identity [or degree of the crime] may be established by an admission [or confession].

Requested by People		Given as Requested		Refused at [unclear]	✓
Requested by Defendant	✓	Given as Modified		Withdrawn	
		Given on Court's Motion		C. S. [unclear]	

Judge

The testimony of Dea. Karny who has been immunized from prosecution in this case should be viewed with greater care than the testimony of other witnesses.

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion		<i>Corrected</i>	

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Jud

Evidence has been introduced in this trial showing that the defendant and three other people are charged with murder in San Mateo County. This evidence was received for the limited purpose of providing a complete record of the immunity agreement between ~~the~~ Dean Karry and the State of California. You should consider this evidence only for this limited purpose and for no other purpose.

CALJIC 2.80
EXPERT TESTIMONY

1586

Requested by People	✓	Given as Requested	✓	Refused	
Requested by Defendant	✓	Given as Modified		Withdrawn	
		Given on Court's Motion		<i>Not applicable</i>	

Judge

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Print Date 9/71

2.80

A person is qualified to testify as an expert if he has special knowledge, skill, experience, training, or education sufficient to qualify him as an expert on the subject to which his testimony relates.

Duly qualified experts may give their opinions on questions in controversy at a trial. To assist you in deciding such questions, you may consider the opinion with the reasons given for it, if any, by the expert who gives the opinion. You may also consider the qualifications and credibility of the expert.



You are not bound to accept an expert opinion as conclusive, but should give to it the weight to which you find it to be entitled. You may disregard any such opinion if you find it to be unreasonable.

OPINION TESTIMONY OF LAY WITNESS

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused
Requested by Defendant	<input checked="" type="checkbox"/>	Given as Modified		Withdrawn
		Given on Court's Motion		<i>C. J. [Signature]</i>

Print Date 3/70

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Judge

2.81

In determining the weight to be given to an opinion expressed by any witness [REDACTED] you should consider his credibility, the extent of his opportunity to perceive the matters upon which his opinion is based, and the reasons, if any, given for it. You are not required to accept such an opinion but should give it the weight, if any, to which you find it entitled.

CALJIC 2.82 (1979 Revision)
 CONCERNING HYPOTHETICAL QUESTIONS

1588

Requested by People	✓	Given as Requested	✓	Refused	
Requested by Defendant	✓	Given as Modified		Withdrawn	
		Given on Court's Motion		<i>C. J. Kuttan</i>	

Judge

2.82

In examining an expert witness, counsel may propound to him a type of question known in the law as a hypothetical question. By such a question the witness is asked to assume to be true a set of facts, and to give an opinion based on that assumption.

In permitting such a question, the court does not rule, and does not necessarily find that all the assumed facts have been proved. It only determines that those assumed facts are within the probable or possible range of the evidence. It is for you, the jury, to find from all the evidence whether or not the facts assumed in a hypothetical question have been proved, and if you should find that any assumption in such a question has not been proved, you are to determine the effect of that failure of proof on the value and weight of the expert opinion based on the assumed facts.

**PRESUMPTION OF INNOCENCE—REASON-
ABLE DOUBT—BURDEN OF PROOF**

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant	<input checked="" type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Withdrawn	
		Given on Court's Motion	<input type="checkbox"/>	<i>[Signature]</i>	

Judge

Print Date 4/79

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2.90

A defendant in a criminal action is presumed to be innocent until the contrary is proved, and in case of a reasonable doubt whether his guilt is satisfactorily shown, he is entitled to a verdict of not guilty. This presumption places upon the State the burden of proving him guilty beyond a reasonable doubt.

Reasonable doubt is defined as follows: It is not a mere possible doubt; because everything relating to human affairs, and depending on moral evidence, is open to some possible or imaginary doubt. It is that state of the case which, after the entire comparison and consideration of all the evidence, leaves the minds of the jurors in that condition that they cannot say they feel an abiding conviction, to a moral certainty, of the truth of the charge.

Requested by People	<input type="checkbox"/>	Given as Requested	<input type="checkbox"/>	Refused	<input type="checkbox"/>
Requested by Defendant	<input checked="" type="checkbox"/>	Given as Modified	<input checked="" type="checkbox"/>	Withdrawn	<input type="checkbox"/>
		Given on Court's Motion	<input type="checkbox"/>	<i>[Signature]</i>	

Judge

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The defendant contends that Ron Levin was alive at least in September 1986 and ^{was} allegedly seen in Tucson, Arizona. If you have a reasonable doubt that Ron Levin is dead, you must resolve that doubt in defendant's favor and find him not guilty.

PRINCIPALS—DEFINED

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant	<input checked="" type="checkbox"/>	Given as Modified		Withdrawn	
		Given on Court's Motion		<i>[Signature]</i>	

Print Date 5/84

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Judge

3.00

The persons concerned in the [commission] ~~_____~~ of a crime who are regarded by law as principals in the crime thus [committed] [or] [attempted] and equally guilty thereof include:

1. Those who directly and actively [commit] ~~_____~~ the act constituting the crime, or

2. Those who aid and abet the [commission] ~~_____~~ of the crime.

[One who aids and abets is not only guilty of the particular crime that to his knowledge his confederates are contemplating committing, but he is also liable for the natural and reasonable or probable consequences of any act that he knowingly and intentionally aided or encouraged.]

CALJIC 3.01 (1984 Revision)
AIDING AND ABETTING—DEFINED

1592

Requested by People	✓	Given as Requested	✓	Refused	
Requested by Defendant	✓	Given as Modified		Withdrawn	
		Given on Court's Motion		<i>withheld</i>	

Print Date 5/84

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Judge

3.01

A person aids and abets the [commission] ~~of a crime~~

~~of a crime~~ of a crime when he ~~is~~

(1) with knowledge of the unlawful purpose of the perpetrator and

(2) with the intent or purpose of committing, encouraging, or facilitating the commission of the offense,

by act or advice aids, promotes, encourages or instigates the commission of the crime.

[A person who aids and abets the [commission] ~~of a crime~~ of a crime need not be personally present at the scene of the crime.]

[Mere presence at the scene of a crime which does not itself assist the commission of the crime does not amount to aiding and abetting.]

[Mere knowledge that a crime is being committed and the failure to prevent it does not amount to aiding and abetting.]

CONCURRENCE OF ACT AND
SPECIFIC INTENT

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant	<input checked="" type="checkbox"/>	Given as Modified		Withdrawn	
		Given on Court's Motion		<i>C. J. Kottler</i>	

Print Date 8/80

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Judge

3.31

In [each of] the crime[s] charged in [Count[s]
 _____, 1 and 2 of] the information,
 [namely,] MURDER, _____ and
ROBBERY, there must exist a union or joint
 operation of act or conduct and a certain specific
 intent in the mind of the perpetrator and unless
 such specific intent exists the crime to which it re-
 lates is not committed.

[The specific intent required is included in the
 definition[s] of the crime[s] charged.]

 _____.]

 _____.]

ALIBI

Requested by People		Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant	<input checked="" type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Withdrawn	
		Given on Court's Motion	<input type="checkbox"/>	<i>[Signature]</i>	

Judge

Print Date 4/79

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4.50

The defendant in this case has introduced evidence for the purpose of showing that he was not present at the time and place of the commission of the alleged offense for which he is here on trial. If, after a consideration of all the evidence, you have a reasonable doubt that the defendant was present at the time the crime was committed, he is entitled to an acquittal.

MURDER—DEFINED

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion		<i>C. H. [Signature]</i>	

Judge

Print Date 2/84

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8.10

[Defendant is charged in [Count 1 of] the information with the commission of the crime of murder, a violation of Section 187 of the Penal Code.]

The crime of murder is the unlawful killing of a human being with malice aforethought or the unlawful killing of a human being which occurs during the commission or attempt to commit a felony inherently dangerous to human life.

In order to prove the commission of the crime of murder, each of the following elements must be proved:

1. That a human being was killed,
2. That the killing was unlawful, and
3. That the killing [was done with malice aforethought] [redacted]

[Redacted text block]

"MALICE AFORETHOUGHT"—DEFINED

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion		<i>C. J. Kittenlow</i>	

Judge

Print Date 2/84

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8.11/1

"Malice" may be either express or implied.

[Malice is express when there is manifested an intention unlawfully to kill a human being.]

[Malice is implied [when the killing results from an intentional act involving a high degree of probability that it will result in death, which act is done for a base, antisocial purpose and with a wanton disregard for human life]

[REDACTED]

[When it is shown that a killing resulted from the intentional doing of an act with express or implied malice, no other mental state need be shown to establish the mental state of malice aforethought.]

"MALICE AFORETHOUGHT"—DEFINED

Requested by People		Given as Requested		Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion			

Print Date 2/84

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Judge

8.11/2

The mental state constituting malice aforethought does not necessarily require any ill will or hatred of the person killed.

"Aforethought" does not imply deliberation or the lapse of considerable time. It only means that the required mental state must precede rather than follow the act.

DELIBERATE AND PREMEDITATED MURDER

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion		<i>C. J. [Signature]</i>	

Judge

Print Date 4/79

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8.20/1

All murder which is perpetrated by any kind of willful, deliberate and premeditated killing with express malice aforethought is murder of the first degree.

The word "willful," as used in this instruction, means intentional.

The word "deliberate" means formed or arrived at or determined upon as a result of careful thought and weighing of considerations for and against the proposed course of action. The word "premeditated" means considered beforehand.

If you find that the killing was preceded and accompanied by a clear, deliberate intent on the part of the defendant to kill, which was the result of deliberation and premeditation, so that it must have been formed upon pre-existing reflection and not under a sudden heat of passion or other condition precluding the idea of deliberation, it is murder of the first degree.

The law does not undertake to measure in units of time the length of the period during which the thought must be pondered before it can ripen into an intent to kill which is truly deliberate and premeditated. The time will vary with different individuals and under varying circumstances.

DELIBERATE AND PREMEDITATED MURDER

8.20/2

The true test is not the duration of time, but rather the extent of the reflection. A cold, calculated judgment and decision may be arrived at in a short period of time, but a mere unconsidered and rash impulse, even though it include an intent to kill, is not such deliberation and premeditation as will fix an unlawful killing as murder of the first degree.

To constitute a deliberate and premeditated killing, the slayer must weigh and consider the question of killing and the reasons for and against such a choice and, having in mind the consequences, he decides to and does kill.

CALJIC 8.21
FIRST DEGREE FELONY-MURDER

1680

Requested by People	✓	Given as Requested	✓	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion		<i>CS Withdrawn</i>	

Judge

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Print Date 3/70

8.21

The unlawful killing of a human being, whether intentional, unintentional or accidental, which occurs as a result of the commission of or attempt to commit the crime of *robbery*, and where there was in the mind of the perpetrator the specific intent to commit such crime, is murder of the first degree.

The specific intent to commit *robbery* and the commission or attempt to commit such crime must be proved beyond a reasonable doubt.

42

FIRST DEGREE FELONY-MURDER—
AIDER AND ABETTOR

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion		<i>C. J. Williams</i>	

Print Date 5/84

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Judge

8.27

If a human being is killed by any one of several persons engaged in the perpetration of, or attempt to perpetrate, the crime of Robbery, all persons who either directly and actively commit the act constituting such crime or who with knowledge of the unlawful purpose of the perpetrator of the crime and with the intent or purpose of committing, encouraging, or facilitating the commission of the offense aid, promote, encourage, or instigate by act or advice its commission, are guilty of murder of the first degree, whether the killing is intentional, unintentional, or accidental.

CALJIC 8.80 (1984 Revision)

SPECIAL CIRCUMSTANCES-INTRODUCTORY

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion		<i>C. J. [Signature]</i>	

Judge

8.80/1

If you find the defendant() in this case guilty of murder of the first degree, you must then determine if murder was committed under () the following special circumstance(): Robbery, _____, _____.

A special circumstance must be proved beyond a reasonable doubt.

If you have a reasonable doubt as to whether a special circumstance is true, it is your duty to find that it is not true.

(If defendant, HUNT, was a () (aider and abettor) but not the actual killer, it must be proved beyond a reasonable doubt that he intended to aid in the killing of a human being before you are permitted to find the alleged special circumstance of that first degree murder to be true as to defendant, HUNT.)
Name

SPECIAL CIRCUMSTANCES-INTRODUCTORY

Requested by People		Given as Requested		Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion			

Judge

8.80/2

[REDACTED]

In order to find the special circumstance charged in this case to be true or untrue, you must agree unanimously.

SPECIAL CIRCUMSTANCES-INTRODUCTORY

Requested by People		Given as Requested		Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion			

Judge

8.80/3

You will include in your verdict on a form that will be supplied your finding as to whether the special circumstance is or is not true.

SPECIAL CIRCUMSTANCES-MURDER IN
COMMISSION OF _____

1005

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion		<i>(Signature)</i>	

Judge

8.81.17/1

To find that the special circumstance,
referred to in these instructions as murder in
the commission of robbery, is true, it must
be proved:

[1a. That the murder was committed while
the defendant was [engaged in _____]
in the [commission] _____
of a robbery.]

~~_____~~
~~_____~~
~~_____~~
~~_____~~

2. That the defendant [intended to kill a
human being] [or] [intended to aid another in the
killing of a human being].

CF _____

Requested by People		Given as Requested		Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion			

Judg

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8.81.17/2

3. That the murder was committed in order to carry out or advance the commission of the crime of Robbery or to facilitate the escape therefrom or to avoid detection. In other words, the special circumstance referred to in these instructions is not established if the ~~murder~~ robbery was merely incidental to the commission of the murder.

~~_____~~
~~_____~~

8-13
 SPECIAL CIRCUMSTANCES--SUFFICIENCY OF
 CIRCUMSTANTIAL EVIDENCE--GENERALLY

1967

Requested by People	✓	Given as Requested	✓	Refused
Requested by Defendant		Given as Modified		Withdrawn
		Given on Court's Motion		<i>C. J. [Signature]</i>

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Jud:

8.83

You are not permitted to find the special circumstances charged in this case to be true based on circumstantial evidence unless the proved facts are not only (1) consistent with the theory that the special circumstances are true, but (2) cannot be reconciled with any other rational conclusion. Each fact which is essential to complete a set of facts necessary to establish the truth of the special circumstances must be proved beyond a reasonable doubt.

Also, if the circumstantial evidence is susceptible of two reasonable interpretations, one of which points to the truth of the special circumstances and the other to their untruth, it is your duty to adopt the interpretation which points to their untruth, and reject the interpretation which points to their truth. If, on the other hand, one interpretation of such evidence appears to you to be reasonable and the other interpretation to be unreasonable, it would be your duty to accept the reasonable interpretation and to reject the unreasonable.

CALJIC 9.10 (1982 Revision)

ROBBERY—DEFINED

Requested by People	L	Given as Requested	✓	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion		<i>Withdrawn</i>	

Print Date 10/82

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Judge

9.10/1

[Defendant is charged in [Count 2 of] the information with the commission of the crime of robbery, a violation of Section 211 of the Penal Code.]

The crime of robbery is the taking of personal property in the possession of another, from his person or immediate presence, and against his will, accomplished by means of force or fear and with the specific intent permanently to deprive such person of the property.

In order to prove the commission of the crime of robbery, each of the following elements must be proved:

1. That a person had possession of property of some value however slight,
2. That such property was taken from such person or from his immediate presence,

ROBBERY --DEFINED

Requested by People		Given as Requested		Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion			

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Judge

9.10/2

3. That such property was taken against the will of such person,

4. That the taking was accomplished either by force or violence or by fear or intimidation or by both, and

5. That such property was taken with the specific intent permanently to deprive such person of the property.

SEVERAL COUNTS—DIFFERENT OCCURRENCES
—JURY MUST FIND ON EACH

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion		<i>C. J. [Signature]</i>	

Judge

Print Date 4/79

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17.02

Each count charges a distinct offense. You must decide each count separately. The defendant may be found guilty or not guilty of **[REDACTED]** [either or both] of the offenses charged. Your finding as to each count must be stated in a separate verdict.

CALJIC 17.30 (1982 Revision) (Modified)

JURY NOT TO TAKE CUE FROM THE JUDGE

Requested by People		Given as Requested		Refused	
Requested by Defendant		Given as Modified	✓	Withdrawn	
		Given on Court's Motion		<i>e.g. Withdrawn</i>	

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Judge

I have not intended by anything I have said or done, or by any questions that I may have asked, or by any ruling I may have made, to intimate or suggest what you should find to be the facts on any questions submitted to you, or that I believe or disbelieve any witness.

If anything I have done or said has seemed to so indicate, you will disregard it and form your own opinion.

You are to disregard any verbal exchanges between counsel and the court or any differences among us on rulings made by the court. The decision as to the guilt or innocence of the defendant is to be decided solely by you on the evidence received and on the court's instructions. I express no opinion as to the guilt or innocence of the defendant. The participation by the court in the

CALJIC 17.30 (1982 Revision) (Modified)

JURY NOT TO TAKE CUE FROM THE JUDGE

Requested by People		Given as Requested		Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion			

Judge

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questioning of witnesses is encouraged by our Supreme Court which has stated that there should be placed in the trial judge's hands more power in the trial of jury cases and make him a real factor in the administration of justice in such cases instead of being in the position of a mere referee or automaton as to the ascertainment of the facts. Although I am vested with the power to comment on the facts in the case and to express my opinion on the merits of the case, I have nonetheless refrained and do refrain from doing so letting you be the final and sole judges of the facts and the guilt or innocence of the defendant.

CALJIC 17.31
ALL INSTRUCTIONS NOT NECESSARILY
APPLICABLE

Requested by People	✓	Given as Requested	✓	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion		<i>W. H. [Signature]</i>	

Judge

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Print Date 3/70

17.31

You have been instructed as to all the rules of law that may be necessary for you to reach a verdict. Whether some of the instructions will apply will depend upon your determination of the facts. You will disregard any instruction which applies to a state of facts which you determine does not exist. You must not conclude from the fact that an instruction has been given that the court is expressing any opinion as to the facts.

CALJIC 17.40
INDIVIDUAL OPINION REQUIRED—DUTY
TO DELIBERATE

Requested by People	✓	Given as Requested	✓	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion		<i>C. J. [Signature]</i>	

Print Date 3/70

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Judge

17.40

Both the People and the defendant are entitled to the individual opinion of each juror.

It is the duty of each of you to consider the evidence for the purpose of arriving at a verdict if you can do so. Each of you must decide the case for yourself, but should do so only after a discussion of the evidence and instructions with the other jurors.

You should not hesitate to change an opinion if you are convinced it is erroneous. However, you should not be influenced to decide any question in a particular way because a majority of the jurors, or any of them, favor such a decision.

**HOW JURORS SHOULD APPROACH
THEIR TASK**

Requested by Plaintiff	c	Requested by Defendant		Requested by	
Given as Requested	t	Given as Modified		Given on Court's Motion	
Refused		<i>C. J. Anderson</i> _____ Judge			
Withdrawn					

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Print Date 3/70

17.41

The attitude and conduct of jurors at the beginning of their deliberations are matters of considerable importance. It is rarely productive of good for a juror at the outset to make an emphatic expression of his opinion on the case or to state how he intends to vote. When one does that at the beginning, his sense of pride may be aroused, and he may hesitate to change his position even if shown that it is wrong. Remember that you are not partisans or advocates in this matter, but are judges.

JURY MUST NOT CONSIDER PENALTY —
NONCAPITAL CASE

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused
Requested by Defendant		Given as Modified		Withdrawn
		Given on Court's Motion		<i>C. S. Anderson</i>

Print Date 3/70

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Judge

17.42

As I advised you at the time of jury selection,

In your deliberations the subject of penalty or punishment is
not to be discussed or considered by you. That is a matter
which must not in any way affect your verdict. *in the guilt phase*
of the trial

MANNER OF RECORDING INSTRUCTION OF NO SIGNIFICANCE -- CONTENT ONLY GOVERNS

Requested by People		Given as Requested		Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion			

Judge

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17.45

The written instructions now being given will be made available in the jury room during your deliberations. They must not be defaced in any way.

You will find that the instructions may be either printed, typewritten or handwritten. Some of the printed or typewritten instructions may be modified by typing or handwriting. Blanks in the printed instructions may be filled in by typing or handwriting. Also, portions of printed or typewritten instructions may have been deleted by lining out.

You are not to be concerned with the reasons for any modifications that have been made. Also, you must disregard any deleted part of an instruction and not speculate either what it was or what is the reason for its deletion.

Every part of an instruction whether it is printed, typed or handwritten is of equal importance. You are to be governed only by the instruction in its final wording whether printed, typed or handwritten.

ALJIC 17.50 (1979 Revision)
 CONCLUDING INSTRUCTION

1618

Requested by People		Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant		Given as Modified	<input type="checkbox"/>	Withdrawn	
		Given on Court's Motion	<input type="checkbox"/>	<i>[Signature]</i>	

Judge

Print Date 4/79

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17.50

You shall now retire and select one of your number to act as foreman, who will preside over your deliberations. In order to reach a verdict, all twelve jurors must agree to the decision [and to any finding you have been instructed to include in your verdict]. As soon as all of you have agreed upon a verdict, you shall have it dated and signed by your foreman and then shall return with it to this courtroom.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Dept. No. WEC

No. A09043 ✓
(Space below for filing
Stamp only)

INSTRUCTIONS GIVEN
 REFUSED

PEOPLE OF THE STATE OF CALIFORNIA

vs.

Hunt

Consisting of

2
pages herein

Defendant.

Rottenhand

Judge Presiding.

FILED

APR 2 1987

[Handwritten signature]
Clerk of Court

EVIDENCE OF OTHER OFFENSES

Requested by People	<input checked="" type="checkbox"/>	Given as Requested		Refused	<input checked="" type="checkbox"/>
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion		<i>as withdrawn</i>	

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Jud.

12/84

2.50/1

Evidence has been introduced for the purpose of showing that the defendant committed crimes other than that for which he is on trial.

Such evidence, if believed, was not received and may not be considered by you to prove that he is a person of bad character or that he has a disposition to commit crimes.

Such evidence was received and may be considered by you only for the limited purpose of determining if it tends to show:

A motive for the commission of the crime charged;

For the limited purpose for which you may consider such evidence, you must weigh it in the same manner as you do all other evidence in the case.

You are not permitted to consider such evidence for any other purpose.

(One Page) (Page One)

Requested by People		Given as Requested		Refused <i>Chino Lopez</i>	✓
Requested by Defendant	✓	Given as Modified		Withdrawn	
		Given on Court's Motion		<i>C. H. Stalant</i>	

Judge

Testimony given by one witness which you believe is sufficient for the proof of any fact.

Two defense witnesses have testified to having seen the alleged victim, Ron Levin, alive in Tucson, Arizona, in the month of September, 1986.

The defendant is not required to prove beyond a reasonable doubt that the person identified by witnesses Canchola and Lopez was in fact Ron Levin.

The defendant is entitled to a verdict of not guilty if after a consideration of all the testimony of Carmen Canchola and Chino Lopez, there arises in your mind a reasonable doubt that the alleged victim, Ron Levin, is in fact dead.

Date: 06 1987 DEPT. WE C
 HONORABLE L J RITTENBAND JUDGE D. TSCHKEALOFF Deputy Clerk
 Deputy Sheriff S. YERGER Reporter D. TSCHKEALOFF

CASE NO. P QUINN (Parties and counsel checked if present) XXXXXXXXXXXX L. ANASTASIOU
A090435 Counsel for People:
 PEOPLE OF THE STATE OF CALIFORNIA DEPUTY DISTRICT ATTY: R. DE LA SOTA F. WAPNER
 VS
 CHARGE 01 HUNT JOE Counsel for Defendant: A BARENS
 (BOX CHECKED IF ORDER APPLICABLE) 187 OICTS 211 OICTS

NATURE OF PROCEEDINGS
 71 SWORN AS THE ENGLISH/
 72 CRIMINAL PROCEEDINGS ADJOURNED/RESUMED. OATH FILED PER SECTION 68560 GOVERNMENT CODE. 04-04-85 INTERPRETER
 73 DEFENDANT ORDERED DELIVERED TO DEPARTMENT OF CORRECTIONS PER SECTION 1203.03 PENAL CODE.

74 ON MOTION, PROBATION AND SENTENCE HEARING/FURTHER PROCEEDINGS CONTINUED TO
 AT _____ A.M. IN DEPT. SUPPLEMENTAL PROBATION REPORT/PROGRESS REPORT ORDERED
 75 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TIME FOR SENTENCING. DEFENDANT ORDERED TO RETURN.

76 PROBATION DENIED / PROCEEDINGS SUSPENDED / SENTENCE IMPOSED AS FOLLOWS:
 IMPRISONED IN STATE PRISON FOR TERM PRESCRIBED BY LAW Life without the possibility of
 COURT SELECTS THE life w/o the possibility of parole FOR THE BASE TERM AS TO COUNT 1
 PLUS _____ YEAR(S) PURSUANT TO PENAL CODE SECTION _____
 PLUS _____ AS INDICATED IN BOX 87 BELOW
 COMMITTED TO CALIFORNIA YOUTH AUTHORITY, THE TERM OF IMPRISONMENT TO WHICH THE DEFENDANT WOULD
 HAVE BEEN SENTENCED PURSUANT TO SECTION 1170 PENAL CODE IS _____ YEARS
 IMPRISONED IN LOS ANGELES COUNTY JAIL FOR TERM OF _____ DAYS
 FINED IN SUM OF \$ _____ PLUS ADDITIONAL FINE OF \$ _____ (11372.5 HEALTH & SAFETY CODE) FOR A
 TOTAL FINE OF \$ _____ PLUS \$ _____ ASSESSMENT AND SURCHARGE (1484 PC & 78000GC), TO
 BE PAID TO COUNTY CLERK. PAY RESTITUTION FINE IN SUM OF \$ _____ PURSUANT TO SECTION 13967(a)
 GOVERNMENT CODE PAYABLE TO RESTITUTION FUND

77 SENTENCE IS SUSPENDED.
 78 PROBATION GRANTED FOR A PERIOD OF _____ YEARS PROBATION TO BE WITHOUT FORMAL SUPERVISION.
 1 SPEND FIRST _____ DAYS IN COUNTY JAIL ROAD CAMP OR HONOR FARM RECOMMENDED.
 WORK FURLOUGH PROGRAM RECOMMENDED. NOT TO BE ELIGIBLE FOR COUNTY PAROLE
 2 FINED IN SUM OF \$ _____ PLUS ADDITIONAL FINE OF \$ _____ (11372.5 HEALTH & SAFETY CODE) FOR A
 TOTAL FINE OF \$ _____ PLUS \$ _____ ASSESSMENT AND SURCHARGE (1484 PC & 78000GC), TO
 BE PAID TO PROBATION OFFICER IN SUCH MANNER AS HE SHALL PRESCRIBE.
 3 MAKE RESTITUTION OF \$ _____ TO THE VICTIM/RESTITUTION FUND PURSUANT TO SECTION 1203.04
 PENAL CODE IN SUCH MANNER AS THE PROBATION OFFICER SHALL PRESCRIBE. TOTAL AMOUNT OF RESTITUTION TO
 INCLUDE _____ % SERVICE CHARGE AS AUTHORIZED BY SECTION 1203.1 P.C.
 PAY RESTITUTION FINE IN SUM OF \$ _____ PURSUANT TO SECTION 13967(a) GOVERNMENT CODE PAYABLE TO
 PROBATION DEPARTMENT IN SUCH MANNER AS THEY PRESCRIBE. SAID FINE TO BE STAYED WHILE DEFENDANT PAYS RESTITUTION
 AND IF RESTITUTION IS PAID IN FULL, STAY SHALL BE PERMANENT.
 4 MINIMUM PAYMENT OF FINE/RESTITUTION TO BE \$ _____
 5 NOT DRINK ANY ALCOHOLIC BEVERAGE AND STAY OUT OF PLACES WHERE THEY ARE THE CHIEF ITEM OF SALE.
 6 NOT USE OR POSSESS ANY NARCOTICS, DANGEROUS OR RESTRICTED DRUGS OR ASSOCIATED PARAPHERNALIA, EXCEPT WITH VALID
 PRESCRIPTION, AND STAY AWAY FROM PLACES WHERE USERS CONGREGATE.
 7 NOT ASSOCIATE WITH PERSONS KNOWN BY YOU TO BE NARCOTIC OR DRUG USERS OR SELLERS.
 8 SUBMIT TO PERIODIC ANTI-NARCOTIC TESTS AS DIRECTED BY THE PROBATION OFFICER. SUCH TESTING TO BE SUSPENDED WHILE THE
 DEFENDANT IS IN CUSTODY, IS HOSPITALIZED, OR IS IN A RESIDENTIAL DRUG TREATMENT PROGRAM APPROVED BY PROBATION
 OFFICER.
 9 HAVE NO BANK CHECKS IN POSSESSION. NOT WRITE ANY PORTION OF ANY CHECKS. NOT HAVE BANK ACCOUNT UPON WHICH YOU
 MAY DEPOSIT CHECKS.
 10 NOT GAMBLE OR ENGAGE IN BOOKMAKING ACTIVITIES OR HAVE PARAPHERNALIA THEREOF IN POSSESSION, AND NOT BE PRESENT IN
 PLACES WHERE GAMBLING OR BOOKMAKING IS CONDUCTED.
 11 NOT ASSOCIATE WITH _____
 12 COOPERATE WITH PROBATION OFFICER IN A PLAN FOR _____
 13 SUPPORT DEPENDENTS AS DIRECTED BY PROBATION OFFICER.
 14 SEEK AND MAINTAIN TRAINING, SCHOOLING OR EMPLOYMENT AS APPROVED BY PROBATION OFFICER.
 15 MAINTAIN RESIDENCE AS APPROVED BY PROBATION OFFICER.
 16 SURRENDER DRIVER'S LICENSE TO CLERK OF COURT TO BE RETURNED TO DEPARTMENT OF MOTOR VEHICLES.
 17 NOT DRIVE A MOTOR VEHICLE UNLESS LAWFULLY LICENSED AND INSURED.
 18 NOT OWN, USE OR POSSESS ANY DANGEROUS OR DEADLY WEAPONS.
 19 SUBMIT PERSON AND PROPERTY TO SEARCH OR SEIZURE AT ANY TIME OF THE DAY OR NIGHT BY ANY LAW ENFORCEMENT OFFICER.
 WITH OR WITHOUT A WARRANT.
 20 OBEY ALL LAWS, ORDERS, RULES AND REGULATIONS OF THE PROBATION DEPARTMENT AND OF THE COURT.

79 DEFENDANT TO BE GIVEN CREDIT FOR _____ DAYS IN CUSTODY (INCLUDES _____ DAYS GOOD TIME/WORK TIME)
 80 SENTENCE/COUNTS TO RUN CONSECUTIVELY TO/CONCURRENTLY WITH _____
 81 STAY OF EXECUTION OF _____ GRANTED TO _____

82 ON MOTION OF PEOPLE, COUNTS _____ DISMISSED IN FURTHERANCE OF JUSTICE
 83 COURT ADVISES DEFENDANT OF HIS APPEAL/PAROLE RIGHTS.
 84 "NOTICE RE CERTIFICATE OF REHABILITATION AND PARDON" GIVEN TO DEFENDANT.
 85 DEFENDANT TO PAY COSTS OF PROBATION SERVICES IN AMOUNT OF \$ _____
 86 COURT FINDS THAT DEFENDANT DOES NOT HAVE THE PRESENT ABILITY TO PAY COSTS OF INCARCERATION/LEGAL SERVICES RENDERED/
 PROBATION SERVICES RENDERED.
 87 DEFENDANT IS REFERRED TO TREASURER/TAX COLLECTOR FOR FINANCIAL EVALUATION.
 88 FURTHER ORDER AS FOLLOWS/ADDITIONAL CONDITIONS OF PROBATION: The Court finds the matter of custody
credits to be moot. As to Count 2, the defendant is not sentenced.
There is no recitation of appeal rights in that the defendant files with the Court an appeal
in pro per.

89 SHERIFF IS ORDERED TO ALLOW DEFENDANT _____ PHONE CALLS AT DEFENDANT'S OWN EXPENSE
 90 DEFENDANT FAILS TO APPEAR WITH/WITHOUT SUFFICIENT EXCUSE.
 91 BAIL, IF POSTED, FORFEITED/O.R. REVOKED. BENCH WARRANT ORDERED ISSUED/REISSUED/AND HELD UNTIL _____
 NO BAIL/BAIL FIXED AT \$ _____
 92 DEFENDANT APPEARING BENCH WARRANT ORDERED RECALLED/QUASHED RECALL NO. _____ WRITTEN ABSTRACT FILED

REMANDED BAIL BAIL EXON. BOND NO. _____
 RELEASED O.R. O.R. DISCHARGED ON PROBATION
 BENCH WARRANT IN CUSTODY OTHER MATTER

76C778 (REV. 1-87) MINUTE ORDER

MINUTES ENTERED
JUL 06 1987
 COUNTY CLERK

3 P & S

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Date: JULY 6, 1987

HONORABLE: L J RITTENBAND
P QUINN

JUDGE
Deputy Sheriff

D TSCHKEALOFF
S YERGER

Deputy Clerk
Reporter

(Parties and counsel checked if present)

A090435
PEOPLE OF THE STATE OF CALIFORNIA
VS

Counsel for
Plaintiff

IRA REINER, DISTRICT ATTY. BY
F. WAPNER DEPUTY

01 HUNT, JOE

Counsel for
Defendant

~~FRANK S. ZOLIN~~
A. BARENS ~~FRANK S. ZOLIN~~

NATURE OF PROCEEDINGS PROBATION AND SENTENCE

(Boxes checked if order applicable)

PROBATION DENIED. SENTENCE AS INDICATED BELOW.

Whereas the said defendant having.....**BEEN**.....duly.....**FOUND**.....
guilty in this court of the crime of **MURDER**, in violation of Penal Code Section 187,
a felony, of the First Degree, as charged in the Information in
Count I; defendant having been duly found guilty in this court of the
crime of **ROBBERY**, in violation of Penal Code Section 211, a felony, as
charged in the Information in Count II

It is Therefore Ordered, Adjudged and Decreed that the said defendant be punished by imprisonment in the
State Prison, for the term of **LIFE** without the possibility of parole for
Count I
As to Count II, the defendant is not sentenced

The Court finds the matter of custody credits to be moot.

Defendant is given credit for.....days in custody.

It is further Ordered that the defendant be remanded into the custody of the Sheriff of the County of Los Angeles
and delivered by him into the custody of the Director of Corrections at the California State Institution

- for Men at Chino, California
- for Women at Frontera, California

REMANDED

ENTERED

JULY 13, 1987

- Remaining count(s) dismissed in interests of justice.
- Bail exonerated.

FRANK S. ZOLIN, COUNTY CLERK
AND CLERK OF THE
SUPERIOR COURT

aeo 7/13/87

STATE PRISON
JUDGMENT

1 ARTHUR H. BARENS
10290 Santa Monica Blvd.
2 Los Angeles, CA 90067
(213) 557-0444

3 RICHARD C. CHIER
10920 Wilshire Blvd., Suite 1000
4 Los Angeles, CA 90024
5 (213) 550-1005

6 Attorneys for Defendant
JOE HUNT

FILED

JUN 25 1987

FRANK D. GUNDEL
Frank D. Gundel
CLERK OF SUPERIOR COURT

8 SUPERIOR COURT OF CALIFORNIA

9 COUNTY OF LOS ANGELES

10	THE PEOPLE OF THE STATE OF)	Case No. A090435
11	CALIFORNIA,)	
12)	NOTICE OF MOTION AND
12	Plaintiff,)	MOTION FOR NEW TRIAL;
13)	DECLARATION; POINTS
13	v.)	OF AUTHORITIES
14	JOE HUNT,)	
15)	
15	Defendant.)	
16)	

17 TO: IRA NMI REINER, District Attorney for the County of
18 Los Angeles, and to Frederick Nathan Wapner, attorney of record
19 in the within case:

20 PLEASE TAKE NOTICE that on Thursday, June 25th, 1987 at
21 the hour of 10:00 a.m. or soon thereafter as counsel may be
22 heard in Department WE-C of the above-entitled Court, defendant,
23 JOE HUNT, will move for an Order granting a new trial in the
24 within case.

25 Said Motion will be made upon the grounds enumerated in
26 section 1181, subsections 2; 3; 5; and 8, more particularly
27 articulated as follows:

1 1. The trial court's admission into evidence of the
2 defendant's statements despite the non-existence of a corpus
3 delicti;

4 2. The court's admission of the circumstances of the
5 Eslaminia case into evidence during the guilt phase;

6 3. Allowing references during the guilt phase to an
7 alleged "patricide" in San Mateo County;

8 4. Allowing the informant, Dean Karny, to identify by
9 name the co-defendants in the San Mateo County prosecution;

10 5. The admission into evidence during the guilt phase
11 of negative character evidence concerning defendant which had a
12 chilling effect on the defendant's willingness to testify on his
13 own behalf;

14 6. The trial court's demonstration of bias against the
15 defendant during the guilt phase by references to Ron Levin as a
16 "Pauper" or as the "Decedent";

17 7. The court's improper limitation of the scope of
18 the cross examination of Dean Karny;

19 8. The court's improper restriction of defense
20 counsel's impeachment of Karny;

21 9. The trial court's placement of unconstitutional
22 limitations on the role and participation of co-counsel;

23 10. The court's impairment of the effectiveness of co-
24 counsel caused by the refusal to pay co-counsel an adequate
25 or any fee for services rendered to the defendant during the
26 trial;

27 11. By the court's refusal to appropriately sanction the
28

1 prosecution for the invasion of the attorney/client
2 relationship resulting from the search of the Bellagio residence
3 during the course of the trial;

4 12. The refusal of the trial court to conduct a hearing
5 concerning Exhibit 37 wrongfully seized from the Bellagio
6 residence;

7 13. The trial court's prejudgment of the Roberts
8 family's testimony, i.e. "that their testimony would be
9 received with a grain of salt," and, the trial court's behavior
10 in accordance with these beliefs during their testimony;

11 14. The denial of a reasonable continuance to seek
12 judicial review of the trial court's order denying relief
13 pursuant to Barber v. Municipal Court;

14 15. The wrongful suppression of evidentiary matter that
15 would have had a direct tendency to impeach informant Dean
16 Karny; viz, the refusal of the court to allow cross-examination
17 of Karny concerning the Hollywood homicide;

18 16. The repeated overruling of defense objections by the
19 trial court without articulating the grounds for its ruling,
20 which deprived the defendant of an adequate appellate record;

21 17. By denying motions without reading the same or
22 conducting hearings thereon, as requested;

23 18. By making personally abusive remarks to co-counsel,
24 such as:

25 (a) telling him to "shut up";

26 (b) telling him he belongs in a bathroom;

27 (c) telling him to "shove it"; and

28

1 (d) using other indecorous language toward co-counsel
2 throughout the course of the guilt and penalty phases;

3 19. The effective prevention of defendant from
4 testifying in his own behalf by threatening to allow cross-
5 examination of him concerning other crimes not charged herein;

6 20. By the court's refusal to issue subpoenas for foreign
7 witnesses in Arizona; Deputy District Attorney, Lisa Hart; and
8 employees of the Beverly Hills Police Department ;

9 21. The admission into evidence the crime books seized
10 from defendant Pittman;

11 22. The prosecution's commission of Griffin error
12 during closing argument;

13 23. Judicial misconduct committed by cross-examining
14 defense witnesses, belittling defense witnesses, belittling
15 defense witnesses and reiterating testimony believed by the
16 court to be helpful to the prosecution, all of which had a
17 chilling effect on the defendant's willingness to testify;

18 24. Allowing the introduction of all statement made by
19 the defendant at any time under any circumstances whether or
20 not admissible;

21 25. Bias towards the defendant occurring in the
22 attempted impeachment of Lynn Roberts through the use of a
23 newspaper article alleging an implication which its own author
24 denied making;

25 26. The repeated and persistent failure of the trial
26 court to allow defense counsel to make objections, to articulate
27 objections or approach the side bar or to make a record in any
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1 recognizable form;

2 27. The intimidation of lead counsel;

3 28. The court's denial of a public trial effectively
4 caused by the placing of defense motions under seal, whenever
5 such motions were in any way critical of the trial judge.

6
7 Said motion for a new trial will be made upon the further
8 ground that new evidence has been discovered material to the
9 defense and which could not, with reasonable diligence, have
10 been discovered earlier and produced at the trial.

11 Said motion will be based upon these moving papers, upon
12 the 100 volumes of the reporter's daily transcript upon all of
13 the motions, declarations and points and authorities heretofore
14 filed and upon such further oral and/or documentary evidence
15 which may be presented at the hearing.

16 DATED: June 24, 1987

17 Respectfully submitted,

18 

19 _____
20 ARTHUR H. BARENS
21 RICHARD C. CHIER
22 Attorneys for defendant
23
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DECLARATION OF RICHARD C. CHIER

RICHARD C. CHIER declares and states:

1. I am attorney at law, a member in good standing of the State Bars of New York and California, am a Certified Criminal Specialist and am co-counsel of record for defendant JOE HUNT.

2. This declaration is made in support of defendant's motion for a new trial made on the grounds of judicial error; judicial misconduct; prosecutorial misconduct; and juror misconduct.

3. In support of the motion for a new trial based upon newly discovered evidence, defendant relies upon the testimony of Louise Waller, contained in volume 98 of the reporters daily transcript which volume contains said witnesses testimony, under oath and is offered in support of this motion in lieu of affidavit as required by section 1181, subsection 8 of the Penal Code.

4. The nature of the witnesses testimony as well as the circumstances of her coming to the attention of defense counsel is contained in volume 98 of the reporter's daily transcript.

5. The motion for a new trial based upon juror misconduct is predicated upon the putative recipe of the week written by juror Linda Mickell and distributed to all jurors, regulars and alternates, approximately one month after commencement of the guilt phase. Annexed hereto, marked Exhibit "A" and incorporated herein by reference is a copy of juror Mickell's doggerel.

1 6. The composition is disturbing in that it reflects a
 2 levity of thought on the part of the prospective juror which one
 3 would not ordinarily anticipate in a death penalty case. The
 4 only purpose of such a communication to the other jurors would
 5 be for their mutual amusement. Neither individual nor mutual
 6 amusement has any place in a death penalty case, particularly
 7 during a time when there is nothing particularly amusing taking
 8 place.

9 7. The distribution of this humor impaired document to
 10 the jurors was exacerbated by the trial court's refusal to
 11 conduct an examination of the offending juror or the other
 12 jurors when it was brought to the attention of the trial court.

13 8. A new trial should be granted based upon the refusal
 14 of the trial court to grant mistrial motions upon its own
 15 judicial misconduct; such misconduct consists, in part, of the
 16 following acts or omissions:

- 17 (a) referring to Ron Levin as "the Decedent";
- 18 (b) referring to Ron Levin as "a Pauper";
- 19 (c) referring to defense counsel as "mouthpieces"
- 20 and refusing to retract such statement despite request therefor;
- 21 (e) by mocking defense witnesses Canchola during
- 22 testimony of said witness by making limp wristed fluttering
- 23 motions (indicating homosexuality) at a time when the witness
- 24 Canchola was attempting, in earnest, to articulate the reasons
- 25 for her belief that the person she identified as Ron Levin was
- 26 homosexual.

27 9. The court's sua sponte distribution of xerox copies

1 of the "seven pages" to the juror at the precise millisecond
 2 this document was first mentioned prior to the establishment
 3 of a corpus delicti, and prior to the ruling of its
 4 admissibility was error and had a direct tendency to over-
 5 emphasize the importance of this evidence in the very early
 6 stages of the guilt phase. The court should have, but did not,
 7 grant a mis-trial based upon its conduct in this regard.

8 10. The trial court's admission into evidence during the
 9 guilt phase of the circumstances of the Eslamina case and its
 10 theory that defense counsel opened the door to the Eslamina
 11 evidence by asking witness Karny about the circumstances of his
 12 immunity agreement that was clear error and should, itself,
 13 constitute the basis for a new trial.

14 11. The trial court erred in admitting oral and written
 15 statements of the defendant despite failure of the prosecution
 16 to establish a corpus delicti for either the murder of Ron Levin
 17 or the robbery of Ron Levin.

18 12. During the guilt phase of the trial, defendant
 19 sought to cross-examine Dean Karny concerning the circumstances
 20 of his immunity agreement which arose in connection with the San
 21 Mateo County homicide case. The court erred in ruling that any
 22 questions directed to Karny concerning his participation in a
 23 homicide in San Mateo County opened the door for the prosecution
 24 to introduce evidence of defendant's alleged involvement in the
 25 same case which had absolutely no rehabilitative effect on the
 26 witness Karny. Clearly, the trial court made this ruling solely
 27 to prohibit informant Karny from being impeached.

1 13. Throughout the course of the guilt phase, the trial
2 court permitted the prosecution to introduce evidence of
3 defendant's bad character despite the fact that defendant did
4 not put his character in issue in the guilt phase of the
5 proceeding. For example, the court allowed into evidence
6 testimony concerning the defendant such as the alleged recoil of
7 a gypsy fortune teller upon seeing the young defendant; evidence
8 concerning the defendant's difficulties with the Chicago
9 Mercantile Exchange; evidence concerning alleged financial
10 irregularities with the funds of the investors of the BBC;
11 evidence that the defendant was kicked off the Harvard
12 Preparatory School Debate Team; evidence concerning the
13 defendant's alleged comments while viewing a video tape of Rambo
14 - First Blood, Part I; and a host of other negative character
15 vignets.

16 14. The admission by the trial court of this
17 inadmissible negative character evidence concerning the
18 defendant had a chilling effect on the defendant's willingness
19 to take the stand in his own behalf and, was a substantial
20 contributing factor in the defendant's decision not to testify.

21 15. The subordination of the evidence code provisions
22 to the trial courts' personal views of the evidence and the
23 defendant himself, unaided by the evidence code for the most
24 part is extremely troubling to the defendant and his counsel
25 and caused the defendant to believe that if he took the stand
26 and testified in his own behalf, there would be virtually no
27 limit to the nature and scope of the questions which the court
28

1 would permit the people to propound to the defendant once he was
2 on the stand.

3 16. Perhaps the most egregious judicial error committed
4 during the trial was the limitation placed upon the role of your
5 declarant in violation of the United States and California
6 Constitutions, and the California Penal Code.

7 17. Despite the fact that the defendant desired your
8 declarant to fully participate in the guilt and penalty phase,
9 if any, of the trial, the trial court, for reasons not
10 ascribable to any misbehavior of your declarant within the
11 context of this trial, limited the role of your declarant to
12 that of an advisor to co-counsel Barens, and then only by
13 whispering to co-counsel when nobody else was talking. Given the
14 manner in which objections at the side bar are made, there was
15 and is precious little time to advise co-counsel in an effective
16 manner.

17 18. The refusal of the trial court to allow your
18 declarant to deliver a closing argument during the guilt phase
19 and/or penalty phase is in clear violation of the California
20 Penal Code for which the only remedy is a new trial.

21 19. The trial court's limitations, as placed on your
22 declarant, contributed in large part to the defendant not
23 testifying in that the defendant had prepared to testify with
24 your declarant and given the refusal to trial court to grant
25 continuances or tolerate any kind of delay, there was not
26 adequate time to transfer the task of directing the examination
27 of Joe Hunt from your declarant to Arthur Barens. Accordingly,
28

1 during the course of the preparation of defendant Hunt to
2 testify it was seen that the months and months of preparation
3 with your declarant had created a certain rapport between Hunt
4 and your declarant which could not be recreated for purposes of
5 Hunt being examined by Barens.

6 20. Although your declarant was appointed as co-counsel
7 in the within case by the Hon. Robert Thomas on or about March
8 1, 1986, the trial court intercepted requests for payment
9 submitted by your declarant to Judge Thomas which were not acted
10 upon during the guilt phase and which deprived your declarant of
11 income from his labors in this case during the guilt phase of
12 the trial, thereby impairing your declarant's effectiveness.

13 21. Although it is customary for appointed attorneys in
14 Los Angeles County in death penalty cases to receive anywhere
15 from \$50.00 per hour to \$100.00 per hour, the trial court took
16 the unprecedented action of setting your declarant's
17 compensation at \$35.00 an hour and thereafter effectively
18 reducing the \$35.00 per hour to \$25.00 per hour by striking from
19 the intercepted request for payment all motions or other efforts
20 which were in any way critical of the trial court.

21 22. The constant vilification of defense counsel by the
22 trial court, compounded by the trial court's interference with
23 your declarant's payment was intended to and did in fact impair
24 your declarant's effectiveness caused your declarant to devote a
25 substantial portion of his mental energies to worrying about
26 finances, worrying about the trial judge and a host of other
27 matters, all to the detriment of the defendant.

28

1 23. Throughout the entire trial, including guilt and
2 penalty phases, defense counsel complained about the court's
3 showing bias in favor of the prosecution by its facial
4 expressions, which behavior was noticed not only by defense
5 counsel, but by a number of court watchers whose letters to
6 defense counsel are annexed hereto as Exhibit "B" collectively.

7 24. Throughout the course of the guilt phase, the trial
8 court attacked, belittled and demeaned defense witnesses or
9 prosecution witnesses who gave testimony favorable to the
10 defense both verbally and through the use of smirks, sour
11 faces, expressions of disbelief and the like.

12 25. After the defendant and the prosecution had finished
13 questioning defense witness Lynn Roberts, the court began an
14 aggressive examination of Mrs. Roberts concerning an article
15 which had appeared in a San Fernando Valley tabloid known as
16 "The Daily News." The clear implication of the court's
17 questioning of Mrs. Roberts was that her husband, Bobby Roberts,
18 was going around trying to market the life story of Joe Hunt for
19 a feature film, thereby giving the Roberts a financial interest
20 in the outcome of the case.

21 26. Even though the reporter responsible for this
22 article denied making such implication in his own story, the
23 trial court refused to rectify the situation for the benefit of
24 the jury, thereby tarnishing the credibility of a very important
25 defense witness.

26 27. The real harm caused by the climate created in the
27 courtroom by the trial court's intemperate behavior was to
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intimidate defense counsel, as well as the defendant and to effectively prevent defendant from testifying given what he and his counsel believed to be the complete abrogation of the rules of evidence whenever defense witnesses were on the firing line.

28. For all of the reasons articulated herein as well the reasons articulated during the guilt and penalty phase herein, the court is respectfully requested to grant the within motion for a mistrial.

I declare, under penalty of perjury, the foregoing is true and correct and that this Declaration was executed this 25th day of June 1987 at Los Angeles, California.



RICHARD C. CHIER

POINTS AND AUTHORITIES

1.

THE TRIAL COURT MAY GRANT A MOTION FOR
A NEW TRIAL ON THE BASIS OF JURY MISCONDUCT

Section 1181, subsection 2 provides for a new trial whenever the jury received any evidence out of court other than that resulting from the a view of the premises or of personal property.

The conduct of juror Mickell in distributing the "Recipe of the week" parodying defendant Hunt, at the very least should have, been looked into by the trial court, which it declined to do.

2.

JUROR MISCONDUCT RAISES A PRESUMPTION
OF PREJUDICE, AND THE DEFENDANT IS
ENTITLED TO A NEW TRIAL UNLESS THE PROSECUTION
REBUTS THE PRESUMPTION BY PROOF THAT NO
PREJUDICE RESULTED.

People v. Brown (1976) 61 Cal. App.3(d) 476

3.

IT IS MISCONDUCT FOR A JUROR TO EXPRESS AN
OPINION CONCERNING THE GUILT OF THE
DEFENDANT BEFORE BEING CHARGED WITH
THE DUTY TO DELIBERATE

People v. Martinez (1978) 82 Cal. App.3(d) 1, 21

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4.

TRIAL COURT MAY GRANT A MOTION FOR A NEW
TRIAL ON THE BASIS OF NEWLY DISCOVERED
EVIDENCE.

Section 1181, Penal Code subsection 8.

A defendant is entitled to a new trial on a showing that newly discovered evidence such as to render a different result probable on retrial of the cause which could not, with reasonable diligence have been discovered earlier, is discovered and brought to the immediate attention of the court. People v. Jefferson (1956) 47 Cal.2(d) 438.

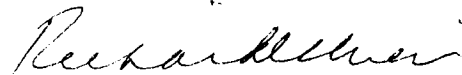
Volume 98 of the Daily contains all facts necessary to satisfy the criteria of Penal Code section 1181, subsection 8.

5.

DEFENDANT REALLEGES AND INCORPORATES
BY REFERENCE EACH AND EVERY MOTION
FOR MISTRIAL MADE DURING THE COURSE
OF THE GUILT AND PENALTY PHASE AS FULLY
SET FORTH HEREIN.

DATED: June 25, 1987

Respectfully submitted,



ARTHUR H. BARENS
RICHARD C. CHIER
Attorneys for Defendant

Recipe for Butterflies

Starfish known as Butterflies

(Also known as Muscheln, Tortellen or Commodity Clams)

1. Insert a butterfly in frying pan.
2. Add some sliced forkbellies and Swiss frankfurters.
3. Simmer over low heat for 10 minutes.
4. A little margin may be called for to prevent shrinkage.
5. Add 1 can Hunt's tomato sauce and generous amounts of spice.
6. Simmer over low heat for an additional hour.

This dish may be served over rice, over noodles, or over the "couscous".

It is best prepared ahead of time - it is a future's dish.

Serves 4-6 financially secure people who wish to gain.

(Low in calories and nutritional value
it is not advised for people with a
faint of heart condition).

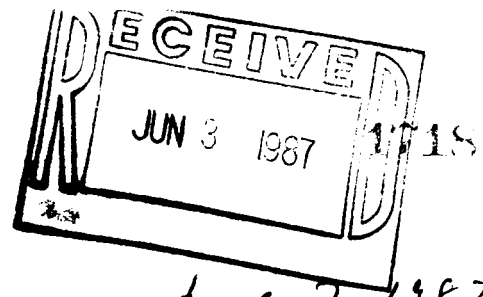
LAW OFFICES OF
ARTHUR H. BARENS

APR 27 1987

L.P.M.

RECEIVED

EXHIBIT "A"



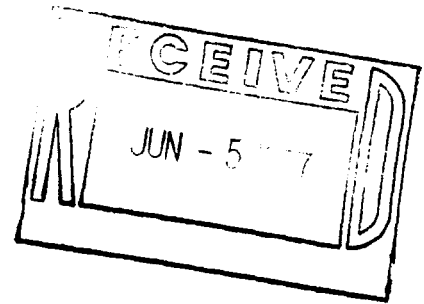
To Mr. Richard Chier,

June 2, 1987

I've been following up on the B.B.C. trial. My main concern was to see to it that the defendant, Joe Hunt was given a fair trial. Apparently he has not. I watched in horror as Judge Rittenband continuously insulted and humiliated the defense attorneys. I would have much rather have seen a different judge. One incident, as I recall, Judge Rittenband had referred "Don Levin" as the deceased! The trial hasn't even been through yet, so obviously he's made up his mind that Joe Hunt is guilty without a chance. When time comes to appeal, I hope and pray that the defense will be given a fair trial and to see to it that justice is done!

Sincerely,

John S. Givens



June 4, 1987

Dear Mr. Chier;

I do not usually go to court trials, but I was interested in the workings of a trial from the voters point of view.

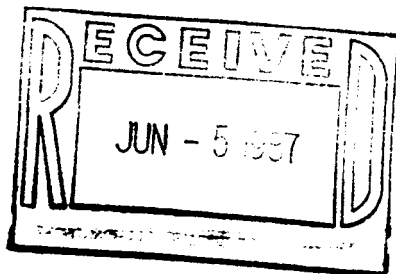
I was really shocked at the behavior of the Judge. I always thought a person was innocent until proven guilty. The Judge influenced the opinions of the jury against Mr. Hunt and his defense attorneys. The Judge rolled his eyes, scowled, or gave the courtroom a look of come on now you really don't expect this court to really believe what your saying.

I was really surprised when the Judge said to you Mr. Chier, "Barrens is 10 times the attorney you are and at times pointed his finger at you and made you leave the courtroom. This clearly reduced Mr. Hunt's attorney to represent him effectively and give him a fair trial.

This Judge's conduct influenced the out come of this trial and was unprofeshinal. It's time our Judges be made accountable for thier conduct. If they are unwilling to be fair or Impartial then have no right to be on the bench when they out come of a trial could mean a persons LIFE.

Best regards

Zinika Mundo



MR. CHIEF

I AM WRITING TO TELL YOU THAT I DO NOT LIKE WHAT I HAVE SEEN ON THE T.V. THIS IS AMERICA AND WHAT I'VE SEEN IS NOT FAIR IN THE JOE HUNT TRIAL. IF THIS IS A TRIAL BY JURY WHY DID THE JUDGE APPOINT HIS SELF PROSECUTOR AND JURY. THIS MAN SHOULD BE GIVEN A NEW TRIAL BY WHERE THE JUDGE WILL LET THIS MAN BE DEFENDED FAIRLY BY A JURY AND NOT THE JUDGE.

GOD GRANT THE WISDOM ~~TO~~ IN HIS LOVE TO SEE THINGS AS THEY ARE.

Thank you

Marina A. Orsco

April 27, 1987

MR. ARTHUR BARANS
ATTORNEY AT LAW

RE: JOE HUNT

Dear MR. BARANS

I do not normally follow highly publized criminal cases, but in this instance I have.

I felt compelled to write AS I have never seen such outrageous behavior displayed in a courtroom before.

I watched in horror AS this man you were defending WAS stripped of his rights to a Fair and impartial trial.

Also even more astonishing was the way a prominent attorney such AS yourself was mocked, humiliated and virtually made to look like fool with no credibility.

This rendered you helpless to professionally defend a man on trial for his life.

I believe its time we the voters protest when someone on trial for their life is railroaded into jail.

Mr. Hunt's guilt or innocence should be proved by a fair and unbiased trial. The jury had undue influence by facial gestures, remarks, disallowing pertinent evidence AS well AS disallowing a second attorney to be present to defend a man on trial for his life AS guaranteed or so I thought by our rights.

EXHIBIT "B"

Page 1 of 2

RE: JOE HUNT

Page 2

I shudder to think a friend or relative could come before this Judge totally innocent and end up in Jail for a crime they did not commit, just because

- (A) The Judge influences the Jury with his or her opinions
- (B) The Judge is a prosecutors man
- (C) The Judge decides he doesn't like the attorney.
- (D) The Judge decides the defendant is guilty and doesn't care if the defendant's rights are violated and bends the law

It's time our government cleaned up its act. Judges should be made to account for their actions if they either cannot, or will not be fair and impartial. If they refuse to do so, they should be removed from the bench.

Best Regards

Mrs. Bruce Williams
10107 SAN LUIS AVE.
SOUTH GATE, CA
90280

April 27, 1987

MR. ARTHUR BARANS
ATTORNEY AT LAW

RE: JOE HUNT

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I felt compelled to write as I have never seen such outrageous behavior displayed in a courtroom before.

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EXHIBIT "B"

Page 1 of 2

RE: JOE HUNT

Page 2

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It's time our government cleaned up its act. Judges should be made to account for their actions if they either cannot, or will not be fair and impartial. If they refuse to do so, they should be removed from the bench.

Best Regards

Mrs. Bruce Williams
10107 SAN LUIS AVE.
SOUTH GATE, CA
90280

Date JUNE 25, 1987
HONORABLE: L. J. RITTENBAND
R. WILLIAMS

JUDGE D. TSCHKEALOFF
Deputy Sheriff R. GOODBODY

DEPT. WE C
Deputy Clerk Reporter

CASE NO. A090435
PEOPLE OF THE STATE OF CALIFORNIA vs 01 HUNT, JOE
187 01 ct; 211 01 ct
(BOX CHECKED IF ORDER APPLICABLE) X 159972

NATURE OF PROCEEDINGS P&S and MOTION FOR NEW TRIAL
71 IS SWORN AS THE ENGLISH/ REM 4-4-85 INTERPRETE
72 CRIMINAL PROCEEDINGS ADJOURNED/RESUMED. OATH FILED PER SECTION 68560 GOVERNMENT CODE.
73 DEFENDANT ORDERED DELIVERED TO DEPARTMENT OF CORRECTIONS PER SECTION 1203.03 PENAL CODE.
74 ON defense MOTION, PROBATION AND SENTENCE HEARING/ FURTHER PROCEEDINGS CONTINUED TO 7-6-87
AT 9:30 A.M. IN DEPT. WE C SUPPLEMENTAL PROBATION REPORT/PROGRESS REPORT ORDERED
75 DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TIME FOR SENTENCING. DEFENDANT ORDERED TO RETURN.

76 PROBATION DENIED/PROCEEDINGS SUSPENDED
IMPRISONED IN STATE PRISON FOR TERM PRESCRIBED BY LAW TOTAL OF YEARS MONTH
COURT SELECTS THE TERM OF YEARS FOR THE BASE TERM AS TO COUNT
PLUS YEAR(S) PURSUANT TO PENAL CODE SECTION
PLUS AS INDICATED IN BOX 87 BELOW
COMMITTED TO CALIFORNIA YOUTH AUTHORITY, THE TERM OF IMPRISONMENT TO WHICH THE DEFENDANT WOULD HAVE BEEN SENTENCED PURSUANT TO SECTION 1170 PENAL CODE IS YEARS
IMPRISONED IN LOS ANGELES COUNTY JAIL FOR TERM OF DAYS
FINED IN SUM OF \$ PLUS ADDITIONAL FINE OF \$ (11372.5 HEALTH & SAFETY CODE) FOR A TOTAL FINE OF \$ PLUS \$ ASSESSMENT AND SURCHARGE (1484 & 1206.8 PENAL CODE), TO BE PAID TO COUNTY CLERK/PROBATION OFFICER IN SUCH MANNER AS HE SHALL PRESCRIBE.
PAY RESTITUTION FINE IN SUM OF \$ PURSUANT TO SECTION 13967(a) GOVERNMENT CODE PAYABLE TO RESTITUTION FUND PROBATION DEPARTMENT IN SUCH MANNER AS THEY PRESCRIBE. SAID FINE TO BE STAYED WHILE DEFENDANT PAYS RESTITUTION AND IF RESTITUTION IS PAID IN FULL, STAY SHALL BE PERMANENT.

77 SENTENCE IS SUSPENDED.
78 PROBATION GRANTED FOR A PERIOD OF YEARS PROBATION TO BE WITHOUT FORMAL SUPERVISION.
1 SPEND FIRST DAYS IN COUNTY JAIL ROAD CAMP OR HONOR FARM RECOMMENDED. WORK FURLOUGH PROGRAM RECOMMENDED. NOT TO BE ELIGIBLE FOR COUNTY PAROLE
2 MINIMUM PAYMENT OF FINE/RESTITUTION TO BE \$
3 TOTAL AMOUNT OF RESTITUTION TO INCLUDE 2% SERVICE CHARGE AS AUTHORIZED BY SECTION 279 WELFARE & INST. CODE.
4 NOT DRINK ANY ALCOHOLIC BEVERAGE AND STAY OUT OF PLACES WHERE THEY ARE THE CHIEF ITEM OF SALE.
5 NOT USE OR POSSESS ANY NARCOTICS. DANGEROUS OR RESTRICTED DRUGS OR ASSOCIATED PARAPHERNALIA, EXCEPT WITH VALID PRESCRIPTION, AND STAY AWAY FROM PLACES WHERE USERS CONGREGATE.
6 NOT ASSOCIATE WITH PERSONS KNOWN BY YOU TO BE NARCOTIC OR DRUG USERS OR SELLERS.
7 SUBMIT TO PERIODIC ANTI-NARCOTIC TESTS AS DIRECTED BY THE PROBATION OFFICER. SUCH TESTING TO BE SUSPENDED WHILE THE DEFENDANT IS IN CUSTODY, IS HOSPITALIZED, OR IS IN A RESIDENTIAL DRUG TREATMENT PROGRAM APPROVED BY PROBATION OFFICER.
8 HAVE NO BLANK CHECKS IN POSSESSION. NOT WRITE ANY PORTION OF ANY CHECKS. NOT HAVE BANK ACCOUNT UPON WHICH YOU MAY DRAW CHECKS.
9 NOT GAMBLE OR ENGAGE IN BOOKMAKING ACTIVITIES OR HAVE PARAPHERNALIA THEREOF IN POSSESSION, AND NOT BE PRESENT IN PLACES WHERE GAMBLING OR BOOKMAKING IS CONDUCTED.
10 NOT ASSOCIATE WITH
11 COOPERATE WITH PROBATION OFFICER IN A PLAN FOR
12 SUPPORT DEPENDENTS AS DIRECTED BY PROBATION OFFICER.
13 SEEK AND MAINTAIN TRAINING, SCHOOLING OR EMPLOYMENT AS APPROVED BY PROBATION OFFICER.
14 MAINTAIN RESIDENCE AS APPROVED BY PROBATION OFFICER
15 SURRENDER DRIVER'S LICENSE TO CLERK OF COURT TO BE RETURN TO DEPARTMENT OF MOTOR VEHICLES.
16 NOT DRIVE A MOTOR VEHICLE UNLESS LAWFULLY LICENSED AND INSURED.
17 NOT OWN, USE OR POSSESS ANY DANGEROUS OR DEADLY WEAPONS.
18 SUBMIT PERSON AND PROPERTY TO SEARCH OR SEIZURE AT ANY TIME OF THE DAY OR NIGHT BY ANY LAW ENFORCEMENT OFFICER WITH OR WITHOUT A WARRANT.
19 OBEY ALL LAWS, ORDERS, RULES AND REGULATIONS OF THE PROBATION DEPARTMENT AND OF THE COURT.
20 MAKE RESITUTION OF \$ TO THE VICTIM/RESTITUTION FUND PURSUANT TO SECTION 1203.04 PENAL CODE IN SUCH MANNER AS THE PROBATION OFFICER SHALL PRESCRIBE.

79 DEFENDANT TO BE GIVEN CREDIT FOR DAYS IN CUSTODY (INCLUDES DAYS GOOD TIME/WORK TIME)
80 SENTENCE/COUNTS TO RUN CONSECUTIVELY TO/CONCURRENTLY WITH
81 STAY OF EXECUTION OF GRANTED TO

82 ON MOTION OF PEOPLE, COUNTS DISMISSED IN FURTHERANCE OF JUSTICE.
83 COURT ADVISES DEFENDANT OF HIS APPEAL/PAROLE RIGHTS.
84 "NOTICE RE CERTIFICATE OF REHABILITATION AND PARDON" GIVEN TO DEFENDANT.
85 DEFENDENT TO PAY COSTS OF PROBATION SERVICES IN AMOUNT OF \$
86 COURT FINDS THAT DEFENDANT DOES NOT HAVE THE PRESENT ABILITY TO PAY COSTS OF INCARCERATION/LEGAL SERVICES RENDERED/ PROBATION SERVICES RENDERED.
87 FURTHER ORDER AS FOLLOWS/ADDITIONAL CONDITIONS OF PROBATION:

Defense counsel submits the motion for a new trial on his paper filed this date. Without argument the Court denies the motion.

88 SHERIFF IS ORDERED TO ALLOW DEFENDANT PHONE CALLS AT DEFENDANT'S OWN EXPENSE
89 DEFENDANT FAILS TO APPEAR WITH/WITHOUT SUFFICIENT EXCUSE.
90 BAIL, IF POSTED, FORFEITED/O.R. REVOKED. BENCH WARRANT ORDERED ISSUED/REISSUED/AND HELD UNTIL
NO BAIL/BAIL FIXED AT \$
91 DEFENDANT APPEARING BENCH WARRANT ORDERED RECALLED/QUASHED RECALL NO. WRITTEN ABSTRACT FILED

REMANDED BAIL BAIL EXON. BOND NO.
RELEASED O.R. O.R. DISCHARGED ON PROBATION
MINUTE ORDER IN CUSTODY OTHER MATTER
MINUTES ENTERED 6-25-87 COUNTY CLERK 3 P & S

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

The People of the State of California VS. HUNT, JOE PLAINTIFF(S) DEFENDANT(S)	CASE NUMBER A090435	DEPARTMENT NUMBER WEST C
	VERDICT	

having found
 We, the Jury in the above-entitled action, / the Defendant Joe Hunt
 guilty of MURDER and having considered all the evidence of the penalty phase on the trial
 hereby fix the penalty to be imposed on the defendant as life imprisonment without
 the possibility of parole.

FILED

JUN 4 1987

CLERK OF SUPERIOR COURT

[Signature]

BY CLERK OF SUPERIOR COURT

This 4 day of June 1987, *Joel Jamis*
 Foreman

VERDICT (Guilty)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT. WE C

Date: JUNE 4, 1987
HONORABLE: L. J. RITTENBAND
P. QUINN

JUDGE
Deputy Sheriff

D. TSCHOKALOFF
S. YERGER & R. GOODBODY

Deputy Clerk
Reporter

A090435		(Parties and counsel checked if present)	
PEOPLE OF THE STATE OF CALIFORNIA		Counsel for People:	
VS		DEPUTY DISTRICT ATTY:	F. WAPNER
01 HUNT, JOE		Counsel for Defendant:	
187 01 ct; 211 01 ct		A. BARENS	R. CHIER

NATURE OF PROCEEDINGS TRIAL (PENALTY PHASE) (JURY) REM 4-4-85

The trial resumes with deliberations at 9:30 a.m. from June 3, 1987.

Pursuant to a jury note filed this date, the jurors return into the court-room for further instructions at 11:20 a.m. and return to deliberations at 11:25 a.m.

At 3:55 p.m., the jury returns into the court with the following verdict:

"TITLE OF COURT AND CAUSE
 "We, the Jury in the above-entitled action having found the Defendant Joe Hunt guilty of MURDER and having considered all the evidence of the penalty phase on the trial herefix the penalty to be imposed on the defendant as life imprisonment without the possibility of parole.
 "This 4 day of June 1987, Joel Janis, Foreman"

The verdict is read. The jury is polled as to the verdict and all jurors answer in the affirmative. The verdict is recorded; re-reading as recorded is waived. The jury is thanked and discharged. Instructions given and refused, and both verdict forms submitted to the jury are filed.

Defendant is referred to the Probation Department with Probation and Sentence hearing set on June 25, 1987, at 10:00 a.m. in Department WEST C.

REM

MINUTES ENTERED
6-4-87
COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT. WEST C

Date: APRIL 24, 1987
HONORABLE: L. J. RITTENBAND
P. QUINN

JUDGE
Deputy Sheriff

D. TSCHOKALOFF
S. YERGER & R. GOODBODY

Deputy Clerk
Reporter

(Parties and counsel checked if present)

A090435
PEOPLE OF THE STATE OF CALIFORNIA

Counsel for People:
DEPUTY DISTRICT ATTY: F. WAPNER ✓

01 HUNT, JOE ^{VS. N/A}
187 01 ct; 211 01 ct

Counsel for Defendant: A. BARENS ✓

NATURE OF PROCEEDINGS

CONFERENCE AND ORDER REM

The Court and counsel confer in chambers.

Defendant's motion to reinstate R. Chier is granted. The Court orders the Declaration of A. Barens in support of above motion sealed and not to be opened until further order of Court.

Trial date remains set to resume on May 11, 1987, at 10:30 a.m. in Department WEST C.

REM



MINUTE ORDER

DEPT. WEST C

MINUTES ENTERED
4-24-87
COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Date: APRIL 24, 1987
HONORABLE: L. J. RITTENBAND
P. QUINN

JUDGE
Deputy Sheriff

D. TSCHEKALOFF
NONE

Deputy Clerk
Reporter

(Parties and counsel checked if present)

A090435
PEOPLE OF THE STATE OF CALIFORNIA

Counsel for People:

VS
01 HUNT, JOE ^{NA}
187 01 ct; 211 01 ct

DEPUTY DISTRICT ATTY: F. WAPNER ^{NA}

Counsel for Defendant: A. BARENS ^{NA}

NATURE OF PROCEEDINGS

ORDER

REM

4-4-85

The Court lifts the gag order on Robert Robinson.

A copy of this Minute Order is specially delivered to Robert Robinson and a copy to Robert Lauffer.

REM

MINUTES ENTERED
4-24-87
COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT. WE C

Date: MAY 6, 1987
 HONORABLE: L. J. RITTENBAND
 P. QUINN

JUDGE
 Deputy Sheriff

D. TSCHKEKALOFF
 S. YERGER AND R. GOODBODY

Deputy Cl
 Reporter

(Parties and counsel checked if present)

A090435
 PEOPLE OF THE STATE OF CALIFORNIA
 VS
 01 HUNT, JOE ^{VA}
 187 01 ct; 211 01 ct

Counsel for People:
 DEPUTY DISTRICT ATTY: F. WAPNER ✓

Counsel for Defendant: A. BARENS ✓

NATURE OF PROCEEDINGS

DEFENDANT'S MOTION TO CONTINUE REM

The motion is called for hearing. Defendant's motion to continue the penalty phase for two additional weeks from its start on May 11, 1987, is heard, argued and denied.

Trial date remains set for May 11, 1987, at 10:30 in Department WE C.

REM

DEPT. WE C

MINUTES ENTERED 5-6-87 COUNTY CLERK

MINUTE ORDER

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT.

Date: MAY 8, 1987
 HONORABLE: L. J. RITTENBAND
 P. QUINN

JUDGE
 Deputy Sheriff

D. TSCHEKALOFF
 S. YERGER & R. GOODBODY

(Parties and counsel checked if present)			
A090435	PEOPLE OF THE STATE OF CALIFORNIA	Counsel for People:	
	VS	DEPUTY DISTRICT ATTY:	F. WAPNER ✓
01	HUNT, JOE ✓	Counsel for Defendant:	A. BARENS ✓
	187 01; 211 01 ct		R. CHIER ✓

NATURE OF PROCEEDINGS DEFENSE MOTION REM 4-4-85

A Marsden Hearing is held in-camera with the defendant and defense counsel. Defendant's motion is denied.

In open court, defendant's motion to reconsider denial of motion to delay penalty phase is heard, argued and denied.

A defense motion is held in-camera and is to be continued to May 11, 1987, at 9:00 a.m. in Department WEST C. The trial is set to resume at 10:30 a.m. in Department WEST C.

REM

MINUTES ENTERED 5-8-87 COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEI

Date: 05-11-87
HONORABLE: LJ RITTENBAND
P QUINN

JUDGE J MOORMAN
Deputy Sheriff S. YERGER & R. GOODBODY

(Parties and counsel checked if present)	
A090435 PEOPLE OF THE STATE OF CALIFORNIA VS	Counsel for People: DEPUTY DISTRICT ATTY: F WAPNER ✓
01 HUNT, JOE ✓ 187 01 CT; 211 01 CT	Counsel for Defendant: A BARENS ✓ R CHIER ✓

NATURE OF PROCEEDINGS PENALTY PHASE/JURY TRIAL REM 04-04-85

In-camera Defense Motion continued from May 8, 1987 resumes in chambers with the defendant, Defense counsel and the District Attorney present as heretofore. Court's exhibit 1 ("Recipe of the Week") is marked for identification only and ordered sealed. Defendant's Motion for Mistrial is argued and denied.

Penalty phase begins in open court with all jurors, counsel and the defendant present as heretofore. The Court partially pre-instructs the jury on the applicable law.

Out of the presence of the jury, in chambers, Court and counsel confer.

In open court, in the presence of the jury, both sides make opening statements.

Jerry Coker is sworn and testifies for the People.

The jury is admonished and excused and the trial is continued to May 12, 1987 at 10:30 am in this department.

REMANDED

WE C

MINUTES ENTERED
05-11-87
COUNTY CLERK

MINUTE ORDER

1 ARTHUR H. BARENS
10209 Santa Monica Blvd.
2 Los Angeles, CA 90067
(213) 557-0444

3 RICHARD C. CHIER
10920 Wilshire Blvd., Suite 1000
4 Los Angeles, CA 90024
5 (213) 550-1005

6 Attorneys for Defendant

FILED

MAY 12 1987
FRANK S. ZOLIN, COUNTY CLERK

J. Moorman

BY J. MOORMAN, Deputy

7
8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF LOS ANGELES

10
11 THE PEOPLE OF THE STATE OF)
CALIFORNIA,)
12)
Plaintiff,)
13)
v.)
14)
JOE HUNT,)
15)
Defendant.)
16)

Case No. A090435

**MOTION FOR MISTRIAL;
DECLARATION; POINTS AND
AUTHORITIES**

17 TO: IRA REINER, DISTRICT ATTORNEY FOR THE COUNTY OF LOS AN-
18 GELES, AND TO FREDERICK NATHAN WAPNER, HIS DEPUTY ASSIGNED TO THE
19 WITHIN CASE:

20 PLEASE TAKE NOTICE defendant, JOE HUNT, will moves for an
21 Order of Mistrial in the within case.

22 Said Motion will be made upon the ground that Frederick Na-
23 than Wapner has committed prosecutorial misconduct of the gross-
24 est variety, the only satisfactory sanction for which is mistri-
25 al.

26 Said Motion will be based upon the within moving papers, re-
27 porter's daily transcript from Mondays, May 11, 1987, and upon
28 such further oral and/or documentary evidence as may be presented

at the hearing on this Motion.

DATED: May 12, 1987

Respectfully submitted,

ARTHUR H. BARENS
RICHARD C. CHIER

By: *Richard C. Chier*
RICHARD C. CHIER
Attorneys for Defendant

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DECLARATION OF RICHARD C. CHIER

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RICHARD C. CHIER declares and states:

1. I am an attorney at law, a member in good standing of the State Bar of California, and am co-counsel of record for defendant hunt.

2. Because of the propensity demonstrated by the prosecutor, Frederick Wapner, during the guilt phase of this trial to elicit inadmissible, inflammatory, and prejudicial evidence concerning the defendant, JOE HUNT, defense counsel, prior to the commencement of the penalty phase, sought and obtained an in camera hearing for the purpose of making a number of in limine motions prohibiting the prosecutor from introducing certain types of evidence which have been specifically disapproved of by our appellate courts.

3. Accordingly, on Monday, May 11, 1987, at approximately 1:30 p.m., the Court entertained a number of in limine motions by defense counsel including but not limited to motions to exclude evidence of threats or other misconduct not amounting to violence prohibited by People v. Boyd and People v. Phillips.

4. During the course of such proceeding the prosecutor represented to the Court that he had no intention of introducing evidence of the type sought to be excluded by defense counsel by reason whereof the Court pronounced the issue moot.

5. The first witness to be called by the People during the penalty phase was a Mr. ^{JERRY} JACK Coker from whom the prosecutor deliberately, intentionally, covertly, and unethically elicited statements to the effect and which could only be understood as

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suggesting that defendant Hunt sent agents to the witness to suggest that an antagonist of the witness be murdered and then disposed of in acid.

6. Mr. Wapner, by his own admission, was aware of there and therefore formed the intent to use these statements a week ago. These statements were not contained in any discovery made available to the defense by the prosecution prior to the witness's testimony.

7. This behavior by the prosecutor is so patently gross and constitutes such clear and unequivocal misconduct that the Court should not hesitate to sanction such behavior in order to deter Mr. Wapner and others of his ilk from committing such misconduct in the future.

8. When a prosecutor intentionally asks questions, the answers of which he knows are inadmissible, the prosecutor is guilty of bad faith attempts to properly persuade the jury.

9. In the alternative, the Court is respectfully requested to grant an evidentiary hearing whereat the defense counsel may interrogate the witness, the prosecutor, and the investigating officer concerning their knowledge of this information and efforts to prevent the communication of these statements to the jury.

10. The Court is also respectfully requested to review Mr. Wapner's evasive and covert behavior during the in camera/in limine hearings with respect to the issue of his intent to

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introduce evidence of the type herein complained of.

I declare, under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct, except as to those matters stated on information and/or belief, and as to those matters, I believe them to be true; and that this Declaration was executed on May 12, 1987.



RICHARD C. CHIER

POINTS AND AUTHORITIES

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1.

A prosecutor is under a duty to guard against inadmissible statements from his witnesses and guilty of misconduct when he violates that duty. People v. Cabrellis (1967) 251 Cal.App.2d 681, 688; People v. Parsons (1984) 156 Cal.App.3d 1165, 1170.

2.

When a prosecutor intentionally asks questions, the answers of which he knows are inadmissible, the prosecutor is guilty of bad faith attempts to improperly persuade the jury. People v. Mazoros (1977) 76 Cal.App.3d 32, 48; People v. Parsons, supra, 156 Cal.App.3d at 1170.

3.

In the case of People v. Parsons, supra, the prosecutor elicited evidence that the appellant was arrested for committing auto burglary apart from the charges material to the case. Since the prosecutor showed bad faith permitting the officer to testify to evidence already ruled inadmissible, the court found that he was indeed guilty of misconduct.

Although the misconduct complained of need not be intentional to be harmful, it is clear beyond peradventure that in this case the misconduct complained of was intentional and was harmful. This jury cannot nor will it be able to erase from their minds the suggestion that a person be killed and dissolved in acid despite the cautionary admonition given by the Court.

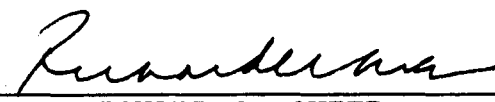
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Accordingly, the Court is respectfully requested to grant the defendant's Motion for Mistrial herein.

DATED: May 12, 1987

Respectfully submitted,

ARTHUR H. BARENS
RICHARD C. CHIER

By: 

RICHARD C. CHIER
Attorneys for Defendant

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT.

WE C

Date: 05-12-87
HONORABLE: L J RITTENBAND
P QUINN

JUDGE
Deputy Sheriff

J MOORMAN
S YERGER & R GOODBODY

Deputy Clerk
Reporter

(Parties and counsel checked if present)

A090435
PEOPLE OF THE STATE OF CALIFORNIA
VS

Counsel for People:
DEPUTY DISTRICT ATTY: F WAPNER ✓

01 HUNT JOE ✓
187 01 CT; 211 01 CT

Counsel for Defendant:
A BARENS ✓
R CHIER ✓

NUNC PRO TUNC M/O DATED 5-11-87

NATURE OF PROCEEDINGS PENALTY PHASE/JURY TRIAL (REM) 04-04-85

Due to inadvertence and clerical error the minute order dated 5-11-87 does not properly reflect the Court's orders, said minute order is ordered corrected nunc pro tunc as follows:

INSERT:" People's exhibit P1(diagram) is marked for identification only."

Trial resumes from May 11, 1987 with the defendant and all counsel present as heretofore. Out of the presence of the jury, Defendant's Motion for Mistrial is heard, argued and denied.

In the presence of the jury, Jerry Coker, heretofore sworn, resumes testimony. John Redmond, Roger Alafaro and Leslie Zeller are sworn and testify for the People.

People's exhibits P2A thru P21(each a photo), P3(brown bag containing 11 expended slugs and a sealed coin envelope purported to contain 2 lead slugs) P4(30 caliber rifle serial #58314) and P5(2 sealed manilla envelopes with 3 pieces of paper attached) are marked for identification only.

Dale Pierce and Robert Hawkins are sworn and testify for the People. Leslie Zoeller, heretofore sworn, is recalled and testifies for the People.

People's exhibits P6(coin envelope containing 2 expended slugs) and P7(diagram) are marked for identification only.

Bob Swartout is sworn and testifies for the People.

The jury is admonished and excused and the trial is continued to May 13, 1987 at 10:30 am in this department.

Out of the presence of the jury, Court and counsel confer in chambers. Trial remains continued as indicated above.

REMANDED

MINUTE ORDER

MINUTES ENTERED

WE C 05-12-87
COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT. 10 WE C

Date: 05-13-87
 HONORABLE: L J RITTENBAND JUDGE J MOORMAN Deputy Clerk
 P QUINN/R GOLDSMITH Deputy Sheriff S YERGER & R GOODBODY Reporter

(Parties and counsel checked if present)	
A090435 PEOPLE OF THE STATE OF CALIFORNIA VS	Counsel for People: DEPUTY DISTRICT ATTY: F WAPNER ✓
01 HUNT, JOE ✓ 187 01 CT; 211 01 CT	Counsel for Defendant: A BARENS ✓ R CHIER ✓

NATURE OF PROCEEDINGS PENALTY PHASE/JURY TRIAL (REM) 04-04-85

Trial resumes from May 12, 1987 with the defendant, counsel and all jurors present as heretofore.

Bruce Swartout, heretofore sworn, resumes testimony.

People's exhibits P-8 and P-9 (each a photo) are marked for identification only.

People's exhibits P-10A and P-10B (each a page of dental records) and P-11 (copy of dental x-ray) are received in evidence.

Defendant's exhibit P-A (Irvine Police-photo id sheet) is marked for identification only.

Joseph Bronzini, Jerald Rich, Laurence Montgomery, Stephen Taglianetti and Olga Vasquez are sworn and testify for the People.

People's exhibits P12 (copy of photo line-up card), P13 (a photo) and P-14 (a diagram) are marked for identification only.

The jury is admonished and excused and the trial is continued to May 14, 1987 at 10:30 am in this department.

REMANDED
MINUTE ORDER

WE C

MINUTES ENTERED 05-13-87 COUNTY CLERK

Date MAY 14, 1987
HONORABLE L J RITTENBAND
P QUINN

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

JUDGE
Deputy Sheriff
Court Attendant

J HOLT, Deputy Clerk
R GOODBODY & S YERGER, Reporter
(Parties and counsel checked if present)

A090 435

Counsel for
Plaintiff

01 HUNT, JOE

Counsel for
Defendant

187 01 cts 211 01 cts

F WAPNER

A BARENS & R CHIER

NATURE OF PROCEEDINGS:

Trial Penalty phase 4/4/85 Rem

Trial, continued from 5/13/87, resumes with all parties, counsel, jurors and defendant present as heretofore.

Olga Vasquez resumes, Kenneth Frank Hickson, Andrew Johannes Swierstra and Scott Carrier are sworn, and all testify for the People.

The following exhibits for the People are marked for identification:

- 15 (diagram)
- 17 (Photo)
- 18 (Diagram)
- 19 (9 photos remarked 19A through and including 19I)

People's exhibits 16 (copy of registration card) and 16B (blow-up of 16) are admitted into evidence.

Out of the presence of the jury the Court holds an in camera hearing.

Jurors are admonished, and trial is continued to 5/18/87 at 10:30 a.m.

Rem

DEPT.

WEC

MINUTES ENTERED
5/14/87
COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT. WE C

Date: MAY 18, 1987

we

HONORABLE: L J RITTENBAND
P QUINN

JUDGE
Deputy Sheriff

S SHERWIN Deputy Clerk
R GOODBODY/S YERGER Reporter

(Parties and counsel checked if present)

A 090435
PEOPLE OF THE STATE OF CALIFORNIA
VS

Counsel for People:
DEPUTY DISTRICT ATTY:

F WAPNER ✓

01 HUNT, JOE ✓
187 01ct; 211 01ct

Counsel for Defendant:

A BARENS ✓
R CHIER ✓

NATURE OF PROCEEDINGS

TRIAL PENALTY PHASE

4-4-85 REM

Trial is resumed from May 14, 1987, with all jurors, counsel, and defendant present as heretofore.

Gerald Vale, Fred Wilkening, Bernice Rappaport, Bernard Blue are sworn and testify for People.

Dean Karney, previously sworn, testifies for People.

Court's exhibits 20(18 pgs. of discovery lists from Justice Dept.); 21(Cover letter and 2 pg. list of documents), are admitted into evidence.

People's exhibits 22A(U-Haul contract-copy-white); 22B(U-Haul contract-copy-yellow); 22C(Blow-up of U-Haul documents); 23(Black folder with 12 photos); ~~24(Copy of contract agreement)~~; 25A(Copy of luggage receipt); 25B(Enlargement of 25A; ~~26~~ 26A,B,C(Each a photo), are admitted into evidence.

People's exhibits 27A(Copy of invoice from Western Costume); 27B(Copy of invoice from Western Costume); 28(Copy of check #0661) 24(Copy of rental agreement) are marked for identification only.

Trial is continued to May 19, 1987 at 9:30 A.M.

MINUTES ENTERED
5-18-87
COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Date: MAY 19, 1987
HONORABLE: L J RITTENBAND
P QUINN

JUDGE
Deputy Sheriff

S SHERWIN Deputy Clerk
R GOODEBODY/S YERGER Reporter

(Parties and counsel checked if present)	
A 090435 PEOPLE OF THE STATE OF CALIFORNIA	Counsel for People: DEPUTY DISTRICT ATTY: F WAPNER ✓
01 HUNT, JOE ✓ 187 01ct; 211 01ct	Counsel for Defendant: A BARENS ✓ R CHIER ✓

NATURE OF PROCEEDINGS TRIAL PENALTY PHASE 4/4/85 REM

Trial is resumed from May 18, 1987, with all counsel, jury, defendant present as heretofore.

Dean Karny, previously sworn, resumes his testimony.

Evan Dicker, previously sworn, testifies for People.

People's exhibit 24, previously marked for identification is admitted into evidence.

People's exhibit 29 (Copy of unlimited Power of Attorney) is admitted into evidence.

People's exhibit 29A (Typed Notary statement) is marked for identification only.

Trial is continued to May 20, 1987 at 10:30 A.M.

MINUTES ENTERED
5-19-87
COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT. 16-13
WE C

Date: MAY 21, 1987
HONORABLE: L J RITTENBAND
P QUINN

JUDGE
Deputy Sheriff

S SHERWIN
R GOODBODY/S YERGER

Deputy Clerk
Reporter

A 090435		(Parties and counsel checked if present)	
PEOPLE OF THE STATE OF CALIFORNIA		Counsel for People:	
	VS	DEPUTY DISTRICT ATTY:	F WAPNER ✓
01 HUNT, JOE ✓		Counsel for Defendant:	A BARENS ✓ R CHIER ✓
187 01ct; 211 01ct			

NATURE OF PROCEEDINGS TRIAL _ PENALTY PHASE 4-4-85 REM

Trial is resumed from May 20, 1987, with all jurors, counsel, defendant present as heretofore.

Rudolph Malik, Jr., Michelle Beranek, Todd Roberts, Curtis Roberts, Katherine Hunt are sworn and testify for Defendant.

Trial is continued to May 26, 1987 at 10:30 A.M.

MINUTES ENTERED
5-21-87
COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT. 1614
WE C

Date: MAY 26, 1987
HONORABLE: L. J. RITTENBAND
P. QUINN

JUDGE
Deputy Sheriff

D. TSCHEKALOFF
R. GOODBODY & S. YERGER

Deputy Clerk
Reporter

(Parties and counsel checked if present)			
A090435	PEOPLE OF THE STATE OF CALIFORNIA	Counsel for People:	
	VS	DEPUTY DISTRICT ATTY:	F. WAPNER ✓
01 HUNT, JOE ✓	187 01 ct; 211 01 ct	Counsel for Defendant:	A. BARENS ✓
			R. CHIER ✓

NATURE OF PROCEEDINGS

TRIAL - PENALTY PHASE (JURY)

REM

4-4-85

The trial is resumed from May 21, 1987, with all jurors, counsel and defendant present as heretofore.

Katherine Hunt, previously sworn, continues to testify. Leslie Ann Eto and Greg Gamsky are sworn and testify for the defendant.

The jurors are admonished and the trial is continued to May 27, 1987, at 10:30 a.m. in Department WEST C.

REM



SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Date: MAY 27, 1987
HONORABLE: L. J. RITTENBAND
P. QUINN

JUDGE
Deputy Sheriff

D. TSCHEKALOFF
R. GOODBODY & S. YERGER

Deputy Clerk
Reporter

A090435

(Parties and counsel checked if present)

PEOPLE OF THE STATE OF CALIFORNIA
VS

Counsel for People:
DEPUTY DISTRICT ATTY: F. WAPNER ✓

01 HUNT, JOE ✓
187 01 ct; 211 01 ct

Counsel for Defendant:
A. BARENS ✓
R. CHIER ✓

NATURE OF PROCEEDINGS

TRIAL - PENALTY PHASE (JURY)

REM

4-4-85

The trial resumes from May 26, 1987, with defendant and counsel at an in-chambers conference.

With the jurors present, Gregory Charles Gibbs, Louise Walker, Steve Solomon and Kathleen M. Gamsky are sworn and testify for the defendant.

Defense exhibits P-B (six photographs encased), P-C (photocopy of letter dated January 7, 1977 encased), and P-D (newspaper photograph encased) are marked for identification.

The jurors are admonished and the trial is continued to May 28, 1987, at 10:00 a.m. in Department WEST C.

REM



DEPT. WEST C

MINUTES ENTERED
5-27-87
COUNTY CLERK

MINUTE ORDER

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT. WE C

Date: MAY 28, 1987
 HONORABLE: L. J. RITTENBAND
 P. QUINN

JUDGE
 Deputy Sheriff

D. TSCHEKALOFF
 R. GOODBOYD & S. YERGER

Deputy Cler.
 Reporter

(Parties and counsel checked if present)

A090435	PEOPLE OF THE STATE OF CALIFORNIA	Counsel for People:	
	VS	DEPUTY DISTRICT ATTY:	F. WAPNER ✓
01	HUNT, JOE ✓	Counsel for Defendant:	A. BARENS ✓
	187 01 ct; 211 01 ct		R. CHIER ✓

NATURE OF PROCEEDINGS

TRIAL - PENALTY PHASE (JURY)

REM

4-4-85

The trial is resumed from May 27, 1987, with defendant, counsel and jurors present as heretofore.

The defendse rests.

Out of the presence of the jurors, defendant's exhibits previously marked for identification P-A, P-B, P-C, P-D, are received in evidence.

Linda Kathleen Hall is sworn and testifies for the People.

People rest. Both sides rest.

The jurors are admonished and the trial is continued to May 29, 1987, at 10:00 a.m. in Department WEST C.

Court and defense counsel with the defendant have a in-chambers conference to review jury instructions. The Deputy District Attorney is also present.

REM

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT. WE C 1617

Date: MAY 29, 1987
 HONORABLE: L. J. RITTENBAND
 P. QUINN

JUDGE
 Deputy Sheriff

D. TSCHOKALOFF
 S. YERGER & R. GOODBODY

Deputy Clerk
 Reporter

(Parties and counsel checked if present)

A090435
 PEOPLE OF THE STATE OF CALIFORNIA

Counsel for People:

01 HUNT, JOE ✓
 187 01 ct; 211 01 ct

DEPUTY DISTRICT ATTY: F. WAPNER ✓

Counsel for Defendant: A. BARENS ✓
 R. CHIER ✓

NATURE OF PROCEEDINGS

TRIAL (PENALTY PHASE) JURY

REM

4-4-85

The trial resumes with defendant, counsel and jurors present from May 18, 1987.

The cause is argued. The Court instructs the jury. The bailiff is sworn to take charge of the jury.

At 3:25 p.m. the jurors retire to deliberate. At 3:50 p.m. the jurors are excused. Trial deliberations are to resumed June 1, 1987, at 9:30 a.m. in Department WE C.

REM



SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Date: JUNE 1, 1987
 HONORABLE: L. J. RITTENBAND
 P. QUINN

JUDGE
 Deputy Sheriff

D. TSCHEKALOFF
 S. YERGER & R. GOODBODY

Deputy Clerk
 Reporter

A090435 (Parties and counsel checked if present)
 PEOPLE OF THE STATE OF CALIFORNIA Counsel for People:
 VS DEPUTY DISTRICT ATTY: F. WAPNER ✓
 01 HUNT, JOE ✓
 187 01 ct; 211 01 ct Counsel for Defendant:
 A. BARENS ✓
 R. CHIER ✓

NATURE OF PROCEEDINGS

TRIAL - PENALTY PHASE (JURY)

REM

4-4-85

The trial deliberations resume from May 29, 1987, at 9:40 a.m. in Department WEST C.

Pursuant to a jury note filed this date, the jurors return into the courtroom at 10:20 a.m. for further instruction and resume deliberations at 10:24 a.m.

The jurors are excused at 4:35 p.m. and trial is continued to June 2, 1987, at 9:30 a.m. in Department WEST C.

REM

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT. WE C

Date: JUNE 2, 1987
HONORABLE: L. J. RITTENBAND
P. QUINN

JUDGE
Deputy Sheriff

D. TSCHEKALOFF
~~NONE~~ *Goodbody*

Deputy Clerk
Reporter

(Parties and counsel checked if present)

A090435
PEOPLE OF THE STATE OF CALIFORNIA
VS
01 HUNT, JOE *N lock JP*
187 01 ct; 211 01 ct

Counsel for People:
DEPUTY DISTRICT ATTY: F. WAPNER *N/A*
Counsel for Defendant:
A. BARENS *N/A*
R. CHIER *N/A*

NATURE OF PROCEEDINGS

TRIAL (PENALTY PHASE) JURY

REM

4-4-85

The trial resumes from June 1, 1987, with deliberations at 9:40 a.m. in Department WE C.

At 4:30 p.m. the jurors are excused and the trial is continued to June 3, 1987, at 9:30 a.m. in Department WEST C.

REM



MINUTE ORDER

DEPT. WE C

MINUTES ENTERED
6-2-87
COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

1650
DEPT. WE C

Date: JUNE 3, 1987
HONORABLE: L. J. RITTENBAND
P. QUINN

JUDGE D. TSCHEKALOFF
Deputy Sheriff NONE (S. YERGER & R. GOODBODY)

Deputy Cler
Reporter

A090435 (Parties and counsel checked if present)

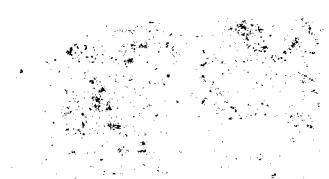
PEOPLE OF THE STATE OF CALIFORNIA	Counsel for People:	
01 HUNT, JOE ^{VS} JOE _{UP}	DEPUTY DISTRICT ATTY:	F. WAPNER ^{NA}
187 01 ct; 211 01 ct	Counsel for Defendant:	A. BARENS ^{NA} R. CHIER ^{NA}

NATURE OF PROCEEDINGS TRIAL - PENALTY PHASE (JURY) REM 4-4-85

The trial resumes from June 2, 1987, with deliberations at 9:30 a.m. in Department WEST C.

At 4:25 p.m. the jurors are excused and the trial is continued to June 4, 1987, at 9:30 a.m. in Department WEST C.

REM



MINUTES ENTERED 6-3-87 COUNTY CLERK

1651

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Dept. No. W.E.C.

No. A090435
(Space below for filing
Stamp only)

INSTRUCTIONS { GIVEN
REFUSED

PEOPLE OF THE STATE OF CALIFORNIA

VS.

Consisting of

pages herein

JOE HUNT

Defendant.

H. J. RITTENBAND

Judge Presiding.

FILED

JUN 4 1987

CLERK OF COURT
BY [Signature]
BY [Signature]

JUN 1 1987

FRANK S. JOHNSON, CLERK
Stohsler
 DEPT. OF CORRECTIONS

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion		<i>W. J. [Signature]</i>	

Judge

8.84

The defendant() in this case (has) () been found guilty of murder of the first degree. The charge that the murder was committed under (a) () special circumstance() has been specially found to be true.

It is the law of this state that the penalty for a defendant found guilty of murder of the first degree shall be death or confinement in the state prison for life without possibility of parole in any case in which the special circumstance() charged in this case (has) () been specially found to be true.

Under the law of this state, you must now determine which of said penalties shall be imposed on () defendant.

INSTRUCTIONS TO BE CONSIDERED
AS A WHOLE

Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input checked="" type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	<i>C. S. [Signature]</i> _____ Judge			
Withdrawn	<input type="checkbox"/>				

Print Date 4/79

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1.01

If any rule, direction or idea in these instructions [is] [redacted] repeated or stated in varying ways, no emphasis [is] [redacted] intended and you must not draw any inference because of its repetition. You are not to single out any certain sentence or any individual point or instruction and ignore the others. You are to consider all the instructions as a whole and are to regard each in the light of all the others.

The order in which the instructions [is] [redacted] [redacted] given has no significance as to their relative importance.

STATEMENTS OF COUNSEL—EVIDENCE STRICKEN OUT—INSINUATIONS OF QUESTIONS—STIPULATED FACTS

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion		<i>[Signature]</i>	

Print Date 4/79

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Judge

1.02

Statements made by the attorneys during the trial are not evidence; [however, if counsel for the parties have stipulated to any fact, you will regard that fact as being conclusively proved as to the party or parties making the stipulation].

A "stipulation" is an agreement between attorneys as to matters relating to the trial.

As to any question to which an objection was sustained, you must not guess what the answer might have been or as to the reason for the objection.

You must never assume to be true any insinuation suggested by a question asked a witness. A question is not evidence and may be considered only as it supplies meaning to the answer.

You must not consider for any purpose ~~any evidence that was stricken out by the court; such matter is to be treated as though you had never heard of it.~~ any evidence that was stricken out by the court; such matter is to be treated as though you had never heard of it.

**DIRECT AND CIRCUMSTANTIAL EVIDENCE—
INFERENCES**

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused
Requested by Defendant		Given as Modified		Withdrawn
		Given on Court's Motion		<i>[Signature]</i>

Print Date 4/79

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Judge

2.00

Evidence consists of testimony of witnesses, writings, material objects, or anything presented to the senses and offered to prove the existence or non-existence of a fact.

Evidence is either direct or circumstantial.

Direct evidence is evidence that directly proves a fact, without the necessity of an inference, and which by itself, if found to be true, establishes that fact.

Circumstantial evidence is evidence that, if found to be true, proves a fact from which an inference of the existence of another fact may be drawn.

An inference is a deduction of fact that may logically and reasonably be drawn from another fact or group of facts established by the evidence.

It is not necessary that facts be proved by direct evidence. They may be proved also by circumstantial evidence or by a combination of direct evidence and circumstantial evidence. Both direct evidence and circumstantial evidence are acceptable as a means of proof. Neither is entitled to any greater weight than the other.

SUFFICIENCY OF CIRCUMSTANTIAL EVIDENCE—GENERALLY

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion		<i>CS Motion</i>	

Print Date 4/79

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Judge

2.01

However, a finding ~~_____~~ *from the defendant's commission of a crime*
 may not be based on circumstantial evidence unless the proved circumstances are not only (1) consistent with the theory that the defendant ~~_____~~ *alleged as*
~~_____~~ *an apparently*
 committed ~~_____~~ *circumstance*, but (2) cannot be reconciled with any other rational conclusion.

Further, each fact which is essential to complete a set of circumstances necessary to establish the defendant's ~~_____~~ must be proved beyond a reasonable doubt. In other words, before an inference essential to establish ~~_____~~ *such a crime* may be found to have been proved beyond a reasonable doubt, each fact or circumstance upon which such inference necessarily rests must be proved beyond a reasonable doubt.

Also, if the circumstantial evidence ~~_____~~ *particular* is susceptible of two reasonable interpretations, one of which points to the defendant's ~~_____~~ and the other to his innocence, it is your duty to adopt that interpretation which points to the defendant's innocence, and reject that interpretation which points to his ~~_____~~ *Commission of Crime (A crime)*

If, on the other hand, one interpretation of such evidence appears to you to be reasonable and the other interpretation to be unreasonable, it would be your duty to accept the reasonable interpretation and to reject the unreasonable.

CALJIC 2.02 (1980 Revision)
SUFFICIENCY OF CIRCUMSTANTIAL EVIDENCE
TO PROVE SPECIFIC INTENT

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion		<i>[Handwritten signature]</i>	

Print Date 8/80

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Judge

2.02

The [specific intent] [redacted] with which an act is done may be shown by the circumstances surrounding the commission of the act. But you may not find the defendant [redacted] off [redacted] and [redacted], unless the proved circumstances not only are consistent with the theory that he had the required [specific intent] [redacted] but cannot be reconciled with any other rational conclusion.

Comment: [redacted] either of such crimes [redacted]

Also, if the evidence as to [any] such [specific intent] [redacted] is susceptible of two reasonable interpretations, one of which points to the existence of the [specific intent] [redacted] and the other to the absence of the [specific intent] [redacted], it is your duty to adopt that interpretation which points to the absence of the [specific intent] [redacted]. If, on the other hand, one interpretation of the evidence as to such [specific intent] [redacted] appears to you to be reasonable and the other interpretation to be unreasonable, it would be your duty to accept the reasonable interpretation and to reject the unreasonable.

**PRODUCTION OF ALL AVAILABLE
EVIDENCE NOT REQUIRED**

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion		<i>W. J. [Signature]</i>	

Judge

Print Date 3/70

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2.11

Neither side is required to call as witnesses all persons who may have been present at any of the events disclosed by the evidence or who may appear to have some knowledge of these events, or to produce all objects or documents mentioned or suggested by the evidence.

7

CREDIBILITY OF WITNESS

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused
Requested by Defendant	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Withdrawn
		Given on Court's Motion	<input type="checkbox"/>	<i>C. J. [Signature]</i>

Print Date 9/80

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Judge

2.20/1

Every person who testified under oath [or affirmation] is a witness. You are the sole judges of the believability of a witness and the weight to be given the testimony of each witness.

In determining the believability of a witness you may consider anything that has a tendency in reason to prove or disprove the truthfulness of the testimony of the witness, including but not limited to any of the following:

The extent of the opportunity or ability of the witness to see or hear or otherwise become aware of any matter about which the witness has testified;

The ability of the witness to remember or to communicate any matter about which the witness has testified;

The character and quality of that testimony

The demeanor and manner of the witness while testifying;

The existence or nonexistence of a bias, interest, or other motive;

Evidence of the existence or nonexistence of any fact testified to by the witness;

CREDIBILITY OF WITNESS

2.20/2.

The attitude of the witness toward the action in which testimony has been given by the witness or toward the giving of testimony;

[A statement previously made by the witness that is [consistent] [or] [inconsistent] with the testimony of the witness;]

[REDACTED]

WITNESS WILLFULLY FALSE—DISCREP-
ANCIES IN TESTIMONY

Requested by People	-	Given as Requested	✓	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion		<i>[Signature]</i>	

Judge

Print Date 3/70

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2.21

A witness willfully false in one material part of his testimony is to be distrusted in others. You may reject the whole testimony of a witness who willfully has testified falsely as to a material point, unless, from all the evidence, you shall believe the probability of truth favors his testimony in other particulars.

However, discrepancies in a witness' testimony or between his testimony and that of others, if there were any, do not necessarily mean that the witness should be discredited. Failure of recollection is a common experience; and innocent misrecollection is not uncommon. It is a fact, also, that two persons witnessing an incident or a transaction often will see or hear it differently. Whether a discrepancy pertains to a fact of importance or only to a trivial detail should be considered in weighing its significance.

CALJIC 2.22 (1975 Revision)
WEIGHING CONFLICTING TESTIMONY

1982

Requested by People	L	Given as Requested	✓	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion		<i>12 Withdrawn</i>	

Print Date 9/75

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Judge

2.22

You are not bound to decide in conformity with the testimony of a number of witnesses, which does not produce conviction in your mind, as against the testimony of a lesser number or other evidence, which appeals to your mind with more convincing force. This does not mean that you are at liberty to disregard the testimony of the greater number of witnesses merely from caprice or prejudice, or from a desire to favor one side as against the other. It does mean that you are not to decide an issue by the simple process of counting the number of witnesses who have testified on the opposing sides. It means that the final test is not in the relative number of witnesses, but in the relative convincing force of the evidence.

CALJIC 2.60 (1979 Revision)

DEFENDANT NOT TESTIFYING—NO INFERENCE
OF GUILT MAY BE DRAWN

Requested by People		Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant	<input checked="" type="checkbox"/>	Given as Modified		Withdrawn	
		Given on Court's Motion		<i>[Signature]</i>	

Print Date 4/79

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Judge

12

2.60

12

It is a constitutional right of a defendant in a criminal trial that he may not be compelled to testify. You must not draw any inference from the fact that he does not testify. Further, you must neither discuss this matter nor permit it to enter into your deliberations in any way.

DEFENDANT MAY RELY ON STATE OF EVIDENCE

Requested by People		Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant	<input checked="" type="checkbox"/>	Given as Modified		Withdrawn	
		Given on Court's Motion		<i>Shofar</i>	

Judge

Print Date 4/79

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13

2.61

12

In deciding whether or not to testify, the defendant may choose to rely on the state of the evidence and upon the failure, if any, of the People to prove beyond a reasonable doubt every essential element of the charge against him, and no lack of testimony on defendant's part will supply a failure of proof by the People so as to support a finding against him on any such essential element.

CALJIC 2.70 (1980 Revision)
CONFESSION AND ADMISSION—DEFINED

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion		<i>and returned</i>	

Judge

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Print Date 12/80

2.70

A confession is a statement made by a defendant other than at his trial in which he has acknowledged his guilt of the crime(s) for which he is on trial. In order to constitute a confession, such a statement must acknowledge participation in the crime(s) as well as the required [criminal intent] or [knowledge].

[A statement made by a defendant other than at his trial is not a confession but an admission whenever the statement does not by itself acknowledge his guilt of the crime(s) for which he is on trial, but which tends to prove his guilt when considered with the rest of the evidence.]

You are the exclusive judges as to whether the defendant made a confession [or an admission], and if so, whether such statement is true in whole or in part. If you should find that the defendant did not make the statement, you must reject it. If you find that it is true in whole or in part, you may consider that part which you find to be true.

Evidence of an oral confession [or oral admission] of the defendant should be viewed with caution.

CALJIC 2.71 (1980 Revision)
ADMISSION—DEFINED

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion		<i>W. M. Herbert</i>	

Print Date 12/80

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Judge

2.71

An admission is a statement made by defendant other than at his trial which does not by itself acknowledge his guilt of the crime(s) for which he is on trial, but which statement tends to prove his guilt when considered with the rest of the evidence.

You are the exclusive judges as to whether the defendant made an admission, and if so, whether such statement is true in whole or in part. If you should find that the defendant did not make the statement, you must reject it. If you find that it is true in whole or in part, you may consider that part which you find to be true.

Evidence of an oral admission of the defendant should be viewed with caution.

PRE-OFFENSE STATEMENT BY DEFENDANT

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused
Requested by Defendant		Given as Modified		Withdrawn
		Given on Court's Motion		<i>Withdrawn</i>

Judge
.16

2.71.7

Evidence has been received from which you may find that an oral statement of [intent] [plan] [~~motive~~] [~~design~~] was made by the defendant before ^{the two} [↑] offenses ^{including} ~~with which he is charged~~ ^{ESKURIA + COKEA} ~~CS~~ ^{Aggravating Circumstances}

It is your duty to decide whether such ^{STATE} statements made by the defendant.

Evidence of oral statements ought to be viewed with caution.

CALJIC 2.72

CORPUS DELICTI MUST BE PROVED INDEPENDENT OF ADMISSION OR CONFESSION

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion		<i>[Signature]</i>	

Judge

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Print Date 3/70

2.72

No person may be convicted of a criminal offense unless there is some proof of each element of the crime independent of any [confession or] admission made by him outside of this trial.

The identity of the person who is alleged to have committed a crime is not an element of the crime [nor is the degree of the crime]. Such identity [or degree of the crime] may be established by an admission [or confession].

CALJIC 2.80

EXPERT TESTIMONY

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion		<i>(Signature)</i>	

Print Date 9/71

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Judge

2.80

A person is qualified to testify as an expert if he has special knowledge, skill, experience, training, or education sufficient to qualify him as an expert on the subject to which his testimony relates.

Duly qualified experts may give their opinions on questions in controversy at a trial. To assist you in deciding such questions, you may consider the opinion with the reasons given for it, if any, by the expert who gives the opinion. You may also consider the qualifications and credibility of the expert.

(The following text is redacted with heavy black bars)

testi

o

c

w

You are not bound to accept an expert opinion as conclusive, but should give to it the weight to which you find it to be entitled. You may disregard any such opinion if you find it to be unreasonable.

CALJIC 2.90 (1979 Revision) MODIFIED
 PRESUMPTION OF INNOCENCE REASONABLE
 DOUBT BURDEN OF PROOF

1570

Requested by People	✓	Given as Requested	✓	Refused
Requested by Defendant		Given as Modified		Withdrawn
		Given on Court's Motion		<i>[Signature]</i>

Judge

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2.90 MODIFIED

Regarding the crimes alleged as factors in aggravation, a defendant is presumed to be innocent until the contrary is proved and in case of a reasonable doubt whether he committed any of said crimes, you may not consider them as factors in aggravation. This presumption places upon the state the burden of proving the defendant's commission of these crimes beyond a reasonable doubt.

Reasonable doubt is defined as follows: It is not a mere possible doubt; because everything relating to human affairs, and depending on moral evidence, is open to some possible or imaginary doubt. It is that state of the case which, after the entire comparison and consideration of all the evidence, leaves the minds of the jurors in that condition that they cannot say they feel an abiding conviction, to a moral certainty, of the truth of the charge.

Requested by People	✓	Given as Requested	✓	Refused
Requested by Defendant		Given as Modified		Withdrawn
		Given on Court's Motion		<i>By Authority</i>

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The persons concerned in the [commission] [redacted] [redacted] of a crime who are regarded by law as principals in the crime thus [committed] [redacted] [redacted] and equally guilty thereof include:

1. Those who directly and actively [commit] [redacted] [redacted] the act constituting the crime, or
2. Those who aid and abet the [commission] [redacted] [redacted] of the crime.

[One who aids and abets is not only guilty of the particular crime that to this knowledge his confederates are contemplating committing, but he is also liable for the natural and probable consequences of any act that he knowingly and intentionally aided or encouraged. It is for you, the jury, to determine whether the defendant is guilty of the crime allegedly contemplated, and, if so, whether the crime charged was a natural and probable consequence of the criminal act knowingly and intentionally encouraged.]

CALJIC 3.01 (1984 Revision)
AIDING AND ABETTING—DEFINED

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion			<i>[Signature]</i>

Judge

Print Date 5/84

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3.01

A person aids and abets the [commission] [redacted] of a crime when he [redacted]

(1) with knowledge of the unlawful purpose of the perpetrator and

(2) with the intent or purpose of committing, encouraging, or facilitating the commission of the offense,

by act or advice aids, promotes, encourages or instigates the commission of the crime.

[A person who aids and abets the [commission] [redacted] of a crime need not be personally present at the scene of the crime.]

[Mere presence at the scene of a crime which does not itself assist the commission of the crime does not amount to aiding and abetting.]

[Mere knowledge that a crime is being committed and the failure to prevent it does not amount to aiding and abetting.]

CALJIC 3.10 (1984 Revision)

1670

ACCOMPLICE—DEFINED

Requested by People	✓	Given as Requested	✓	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion		<i>[Signature]</i>	

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Judge 22

3.10

22

An accomplice is one who [] [was] subject to prosecution for the identical offense charged against the defendant on trial.

To be an accomplice, the person must have aided, promoted, encouraged, or instigated by act or advice the commission of such offense with knowledge of the unlawful purpose of the person who committed the offense and with the intent or purpose of committing, encouraging, or facilitating the commission of the offense.

TESTIMONY OF ACCOMPLICE MUST BE
CORROBORATED

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion		<i>as withdrawn</i>	

Print Date 4/79

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Judge

3.11

A defendant cannot be found guilty based up-
on the testimony of an accomplice unless such tes-
timony is corroborated by other evidence which
tends to connect such defendant with the commis-
sion of the offense.

1675

CALJIC 3.12 (1979 Revision)

SUFFICIENCY OF EVIDENCE TO CORROBORATE AN ACCOMPLICE

Requested by People	✓	Given as Requested	✓	Refused
Requested by Defendant		Given as Modified		Withdrawn
		Given on Court's Motion		<i>[Signature]</i>

Print Date 4/79

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Judge

3.12

To corroborate the testimony of an accomplice there must be evidence of some act or fact related to the offense which, if believed, by itself and without any aid, interpretation or direction from the testimony of the accomplice, tends to connect the defendant with the commission of the offense charged.

However, it is not necessary that the evidence of corroboration be sufficient in itself to establish every element of the offense charged, or that it corroborate every fact to which the accomplice testifies.

In determining whether an accomplice has been corroborated, you must first assume the testimony of the accomplice has been removed from the case. You must then determine whether there is any remaining evidence which tends to connect the defendant with the commission of the offense.

If there is not such independent evidence which tends to connect defendant with the commission of the offense, the testimony of the accomplice is not corroborated.

If there is such independent evidence which you believe, then the testimony of the accomplice is corroborated.

CALJIC 3.16 (1979 Revision)

WITNESS ACCOMPLICE AS MATTER OF LAW

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion		<i>is Autuwa</i>	

Judge

Print Date 4/79

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3.16

If the crime of Murder was committed by any one, the witness Dean Han was an accomplice as a matter of law and his testimony is subject to the rule requiring corroboration.

TESTIMONY OF ACCOMPLICE TO BE VIEWED WITH DISTRUST

Requested by People		Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant	<input checked="" type="checkbox"/>	Given as Modified		Withdrawn	
		Given on Court's Motion		<i>C. J. [Signature]</i>	

Judge

Print Date 4/79

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3.18

The testimony of an accomplice ought to be viewed with distrust. This does not mean that you may arbitrarily disregard such testimony, but you should give to it the weight to which you find it to be entitled after examining it with care and caution and in the light of all the evidence in the case.

EVIDENCE OF ASSOCIATION ALONE DOES NOT PROVE MEMBERSHIP IN CONSPIRACY

Requested by People		Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant	<input checked="" type="checkbox"/>	Given as Modified		Withdrawn	
		Given on Court's Motion		<i>[Signature]</i>	

Judge *[Signature]*

6.13

Evidence that a person was in the company of or associated with one or more other persons alleged or proved to have been members of a conspiracy is not, in itself, sufficient to prove that such person was a member of the alleged conspiracy.

27

CONCURRENCE OF ACT AND GENERAL CRIMINAL INTENT

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input type="checkbox"/>	Refused	
Requested by Defendant	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Withdrawn	
		Given on Court's Motion	<input type="checkbox"/>		<i>C. D. [Signature]</i>

Judge

Print Date 4/79

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3.30

building

In the crime[~~_____~~] *involving Mr. _____*

namely ~~_____~~ *CORSON*

financially unstable and ~~_____~~ there must exist a union or joint operation of act or conduct and general criminal intent. To constitute general criminal intent it is not necessary that there should exist an intent to violate the law. When a person intentionally does that which the law declares to be a crime, he is acting with general criminal intent, even though he may not know that his act or conduct is unlawful.

~~_____~~
~~_____~~
~~_____~~

**CALJIC 3.31 (1980 Revision)
CONCURRENCE OF ACT AND
SPECIFIC INTENT**

1680

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion			<i>W. D. [Signature]</i>

Print Date 8/80

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Judge

3.31

29

*As to the
Estammar [redacted]
Matter Hamish
Murder*

the aggravated circumstances

In [redacted]
[redacted] of [redacted]
[redacted],

there must exist a union or joint operation of act or conduct and a certain specific intent in the mind of the perpetrator and unless such specific intent exists the crime to which it relates is not committed.

[The specific intent required is included in the definition [redacted] of the crime [redacted] charged.]

[redacted]
[redacted]
[redacted]

Requested by People	X	Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant		Given as Modified	<input type="checkbox"/>	Withdrawn	
		Given on Court's Motion	<input type="checkbox"/>	<i>Undertaken</i>	

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Jud

30

Every person who maliciously and willfully discharges a firearm at an occupied building is guilty of the crime of a violation of Section 246 of the Penal Code.

In order to prove the commission of such crime, each of the following elements must be proved.

1. That a person willfully and maliciously discharged a firearm.
2. That the firearm was discharged at an occupied building.

Requested by People	X	Given as Requested	✓	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion		<i>W. H. T. Ch...</i>	

Judge

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As used in these instructions the word "firearm" includes any device designed to be used as a weapon from which a projectile may be expelled by the force of an explosion or other form of combustion.

31

CALJIC 1.20
"WILLFULLY"—DEFINED

Requested by People	✓	Given as Requested	✓	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion		<i>W. H. T. Wan</i>	

Judge

Print Date 3.70

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32

1.20

32

The word "willfully", when applied to the intent with which an act is done or omitted and as used in my instructions, implies simply a purpose or willingness to commit the act or to make the omission in question. The word does not require in its meaning any intent to violate law, or to injure another, or to acquire any advantage.

CALJIC 1.22 (1980 Revision)
"MALICE" AND "MALICIOUSLY"—DEFINED

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion		<i>[Handwritten Signature]</i>	

Print Date 4/80

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Judge

1.22

The words "~~maliciously~~" mean a wish to vex, ~~for~~ annoy or injure another person, or an intent to do a wrongful act.

33

CALJIC 8.00
HOMICIDE—DEFINED

1985

Requested by People	✓	Given as Requested	✓	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion		<i>is not used</i>	

Print Date 3/70

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Judge

8.00

The word homicide means the killing of one human being by another, either lawfully or unlawfully. As used in these instructions the word homicide includes murder and manslaughter, which are unlawful, and the acts of excusable and justifiable homicides, which are lawful.

34
34

CALJIC 8.10 (1983 Revision)

MURDER—DEFINED

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion		<i>As detailed</i>	

Print Date 2/84

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Judge

32

8.10

35

~~Defendant is charged with the crime of murder with the commission of a felony under a violation of~~

The crime of murder is the unlawful killing of a human being with malice aforethought or the unlawful killing of a human being which occurs during the commission or attempt to commit a felony inherently dangerous to human life.

In order to prove the commission of the crime of murder, each of the following elements must be proved:

1. That a human being was killed,
2. That the killing was unlawful, and
3. That the killing [was done with malice aforethought] [or] [occurred during the commission or attempt to commit a felony inherently dangerous to human life. *Kidnapping* a felony inherently dangerous to human life].

For purpose of Extortion

CALJIC 8.11 (1983 Revision)
"MALICE AFORETHOUGHT"—DEFINED

Requested by People	✓	Given as Requested	✓	Refused
Requested by Defendant		Given as Modified		Withdrawn
		Given on Court's Motion		<i>C. S. Dutton</i>

Print Date 2/84

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Judge
36

8.11/1

36

"Malice" may be either express or implied.

[Malice is express when there is manifested an intention unlawfully to kill a human being.]

[Malice is implied [when the killing results from an intentional act involving a high degree of probability that it will result in death, which act is done for a base, antisocial purpose and with a wanton disregard for human life] [or] [when the killing results from an intentional act, the natural consequences of which are dangerous to life, which act was deliberately performed by a person who knows that his conduct endangers the life of another and who acts with conscious disregard for life].]

[When it is shown that a killing resulted from the intentional doing of an act with express or implied malice, no other mental state need be shown to establish the mental state of malice aforethought.]

CALJIC 8.11 (1982 Revision)
"MALICE AFORETHOUGHT"—DEFINED

Requested by People	✓	Given as Requested	✓	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion		<i>CS Pittman</i>	

Print Date 11/82

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Judge

37

8.11/2

37

The mental state constituting malice aforethought does not necessarily require any ill will or hatred of the person killed.

"Aforethought" does not imply deliberation or the lapse of considerable time. It only means that the required mental state must precede rather than follow the act.

CALJIC 8.31 (1983 Revision)
SECOND DEGREE MURDER—KILLING RE-
SULTING FROM ACT DANGEROUS
TO LIFE

Requested by People	✓	Given as Requested	✓	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion		<i>[Signature]</i>	

Print Date 2/84

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Judge

8.31

Murder of the second degree is [also] the unlawful killing of a human being as the direct causal result of an intentional act, [involving a high degree of probability that it will result in death, which act is done for a base, antisocial purpose and with wanton disregard for human life.] [or] [the natural consequences of which are dangerous to life, which act was deliberately performed by a person who knows that his conduct endangers the life of another and who acts with conscious disregard for human life.]

When the killing is the direct result of such an act, it is not necessary to establish that the defendant intended that his act would result in the death of a human being.

CALJIC 8.32

SECOND DEGREE FELONY-MURDER

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion		<i>CS [Signature]</i>	

Print Date 3/70

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Judge

39

8.32

39

The unlawful killing of a human being, whether intentional, unintentional or accidental, which occurs as a direct causal result of the commission of or attempt to commit a felony inherently dangerous to human life, namely, the crime of *Kidnapping for purpose of extortion* and where there was in the mind of the perpetrator the specific intent to commit such crime, is murder of the second degree.

The specific intent to commit *Kidnapping for purpose of extortion* and the commission of or attempt to commit such crime must be proved beyond a reasonable doubt.

CALJIC 8.33

SECOND DEGREE FELONY—MURDER—IN
PURSUANCE OF A CONSPIRACY

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion			<i>C. Schwaner</i>

Judge

Print Date 3/70

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8.33

purpose of the offense

If a number of persons conspire together to commit a felony inherently dangerous to human life, namely, *kidnaping for*, and if the life of another person is taken by one or more of them in the prosecution of the common design, and if such killing is done to further that common purpose or is an ordinary and probable result of the pursuit of that purpose, all of the coconspirators are deemed in law to be equally guilty of murder of the second degree, whether the killing is intentional, unintentional, or accidental.

SECOND DEGREE FELONY-MURDER—
AIDER AND ABETTOR

Requested by People	<input checked="" type="checkbox"/>	Given as Requested	<input checked="" type="checkbox"/>	Refused
Requested by Defendant		Given as Modified		Withdrawn
		Given on Court's Motion		

[Signature]
Judge

Print Date 12 74

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8.34

If a human being is killed by any one of several persons engaged in the perpetration of, or attempt to perpetrate, a felony inherently dangerous to human life, namely, Kidnap, all persons who either directly and actively commit the act constituting such crime or who with knowledge of the unlawful purpose of the perpetrator of the crime, aid and abet in its commission or, whether present or not, who advise and encourage its commission, are guilty of murder in the second degree, whether the killing is intentional, unintentional, or accidental.

for purposes of extortion

AND WITH THE INTENT OR PURPOSE OF COMMITTING, ENCOURAGING OR FACILITATING THE COMMISSION OF THE OFFENSE

SEIZURE, CONFINEMENT, ETC., FOR RANSOM OR EXTORTION

Requested by People		Given as Requested		Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion			

Print Date 11/82

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Judge 12

9.22/1

42

[REDACTED]

[REDACTED] Section 209 of the Penal Code.] provides that

Every person who [seizes,] [confines,] [detains,] [abducts,] [kidnaps] [or] [carries away] any individual by any means whatsoever with the specific intent to hold or detain such individual for ransom, reward, or to commit extortion, [or to exact from another any money or valuable thing,] is guilty of the crime of violation of Section 209 of the Penal Code.

5

[REDACTED]

In order to prove the commission of the crime of violation of Section 209 of the Penal Code, each of the following elements must be proved beyond a reasonable doubt:

1. That a person was kidnapped *or carried away*

CALJIC 8.84.1 (1986 Revision)
 PENALTY TRIAL - FACTORS FOR
 CONSIDERATION

1001

Requested by People		Given as Requested		Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion			<i>C. H. Brown</i>

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Judge

In determining which penalty is to be imposed on ~~found~~ defendant, you shall consider all of the evidence *included in* which has been received during any part of the trial of this case, ~~including the jury instructions~~ *including the guilt phase & penalty phase*

You shall consider, take into account and be guided by the following factors, if applicable: *including concerning any doubt of defendant's guilt.*

(a) The circumstances of the crime of which the defendant was convicted in the present proceeding and the existence of any special circumstance [] found to be true.

(b) The presence or absence of criminal activity by the defendant which involved the use or attempted use of force or violence or the express or implied threat to use force or violence.

(c) The presence or absence of any prior felony conviction.

(d) Whether or not the offense was committed while the defendant was under the influence of extreme mental or emotional disturbance.

(e) Whether or not the victim was a participant in the defendant's homicidal conduct or consented to the homicidal act.

(f) Whether or not the offense was committed under circumstances which the defendant reasonably believed to be a moral justification or extenuation for his conduct.

(g) Whether or not the defendant acted under extreme duress or under the substantial domination of another person.

8.84.1

(h) Whether or not at the time of the offense the capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was impaired as a result of mental disease or defect or the effects of intoxication.

(i) The age of the defendant at the time of the crime.

(j) Whether or not the defendant was an accomplice to the offense and his participation in the commission of the offense was relatively minor.

(k) Any other circumstance which extenuates the gravity of the crime even though it is not a legal excuse for the crime [and any sympathetic or other aspect of the defendant's character or record [that the defendant offers] as a basis for a sentence less than death, whether or not related to the offense for which he is on trial. You must disregard any jury instruction given to you in the guilt or innocence phase of this trial which conflicts with this principle].

(L) Also, you may consider defendant's background, character & history & good deeds performed by them. of any

m

CALJIC 8.84.2 (1986 Revision)
PENALTY TRIAL - CONCLUDING
INSTRUCTION

1007

Requested by People	✓	Given as Requested	✓	Refused
Requested by Defendant		Given as Modified		Withdrawn
		Given on Court's Motion		<i>CS Mitchell</i>

Jud

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8.84.2

It is now your duty to determine which of the two penalties, death or confinement in the state prison for life without possibility of parole, shall be imposed on ~~the~~ defendant.

After having heard all of the evidence, and after having heard and considered the arguments of counsel, you shall consider, take into account and be guided by the applicable factors of aggravating and mitigating circumstances upon which you have been instructed.

The weighing of aggravating and mitigating circumstances does not mean a mere mechanical counting of factors on each side of an imaginary scale, or the arbitrary assignment of weights to any of them. You are free to assign whatever moral or sympathetic value you deem appropriate to each and all of the various factors you are permitted to consider. In weighing the various circumstances you simply determine under the relevant evidence which penalty is justified and appropriate by considering the totality of the aggravating circumstances with the totality of the mitigating circumstances. To return a judgment of death, each of you must be persuaded that the aggravating ~~evidence~~ (circumstances) ~~is~~ (are) so substantial in comparison with the mitigating circumstances that it warrants death instead of life without parole.

~~That the penalty of death is more appropriate than the penalty of life without parole if you believe that the aggravating circumstances are so substantial in comparison with the mitigating circumstances that it warrants death instead of life without parole.~~

~~That the penalty of life without parole is more appropriate than the penalty of death if you believe that the mitigating circumstances are so substantial in comparison with the aggravating circumstances that it warrants life without parole instead of death.~~

~~That you must render a verdict as to the appropriate penalty.~~

~~That you must render a verdict as to the appropriate penalty.~~

8.84.2

You shall now retire and select one of your number to act as foreman, who will preside over your deliberations. In order to make a determination as to the penalty, all twelve jurors must agree.

Any verdict that you reach must be dated and signed by your foreman on a form that will be provided and then you shall return with it to this courtroom.

ACHIEVEMENT OF PURPOSE NOT ESSEN-
TIAL TO KIDNAPING

Requested by People		Given as Requested		Refused	
Requested by Defendant		Given as Modified		Withdrawn	
		Given on Court's Motion			

Judge

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Print Date 3/70

9.25

Where a person is charged with the crime of
 kidnaping for the purpose of *extortion*

 it is not necessary to establish that such purpose
 was accomplished, for a crime of that nature is
 complete if and when the kidnaping is done for
 such a purpose.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

The People of the State of California VS. JOE HUNT	PLAINTIFF(S)	CASE NUMBER A090 435	DEPARTMENT NUMB WEST C
	DEFENDANT(S)	VERDICT (Guilty)	

We, the Jury in the above-entitled action, find the Defendant JOE HUNT
 guilty of MURDER, in violation of Penal Code Section 187, a felony, as charged in the
 information in Count I.

FILED

APR 22 1987

We further find the above offense to be MURDER in the FIRST DEGREE.

And we further find the allegation that the murder of Ronald George Levin was
 committed while the defendant was engaged in the commission of robbery within the
 meaning of Penal Code Section 190.2(a) (17) to be (TRUE) (~~NOT TRUE~~).
 (strike one)

This 22 day of April 1987, Juel Janis
 Foreman

VERDICT (Guilty)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

The People of the State of California	CASE NUMBER	DEPARTMENT NUMBER
VS.	A090435	WEST C
HUNT, JOE	VERDICT (Guilty)	
DEFENDANT(S)		

We, the Jury in the above-entitled action, find the Defendant Joe Hunt
 guilty of ROBBERY, in violation of Penal Code Section 211, a felony, as charged in the
 Information in Count II.

FILED

APR 22 1987

W. H. [unclear]

This 22 day of April 1987,

Paul Janis
Foreman

VERDICT (Guilty)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT. WE

Date: APRIL 22, 1987
 HONORABLE: L. J. RITTENBAND
 P. QUINN

JUDGE
 Deputy Sheriff

D. TSCHOKALOFF
 S. YERGER & R. GOODBODY

Deputy
 Reporter

A090435		(Parties and counsel checked if present)	
PEOPLE OF THE STATE OF CALIFORNIA		Counsel for People:	
VS		DEPUTY DISTRICT ATTY:	F. WAPNER ✓
01 HUNT, JOE ✓		Counsel for Defendant:	
187 01 ct; 211 01 ct			R. CHIER ✓ A. BARENS ✓

NATURE OF PROCEEDINGS

TRIAL (JURY)

BAIL

4-4-85

The trial is resumed from April 21, 1987, for jury deliberations at 9:30 a.m. with all jurors present.

At 10:30 a.m. the jurors advise the Court verdicts are signed. The verdicts are sealed. The jurors are excused. At 1:30 p.m. the jurors return into the courtroom with the following verdicts:

"TITLE OF COURT AND CAUSE

"We, the Jury in the above-entitled action, find the Defendant Joe Hunt guilty of MURDER, in violation of Penal Code Section 187, a felony, as charged in the Information in Count I.

"We further find the above offense to be MURDER IN THE FIRST DEGREE.

"And we further find the allegation that the murder of Ronald George Levin was committed while the defendant was engaged in the commission of robbery within the meaning of Penal Code Section 190.2(a) (17) to be TRUE.

"This 22 day of April 1987, Juel Janis, Foreman"

"TITLE OF COURT AND CAUSE

"We, the Jury in the above-entitled action, find the Defendant Joe Hunt guilty of ROBBERY, in violation of Penal Code Section 211, a felony, as charged in the Information in Count II.

"This 22 day of April 1987, Juel Janis, Foreman"

The verdicts are read. The jury is polled as to each verdict and all jurors answer in the affirmative. The verdicts are recorded. Instructions given and refused, and all verdict forms submitted to the jury are filed.

The penalty phase of the trial is set to begin May 11, 1987, at 10:30 a.m in Department WEST C. The jurors are admonished and excused.

Out of the presence of the jurors, the defendant is remanded. The property bail bond filed October 2, 1985, is exonerated. R. Chier is relieved as attorney of record. The Court orders nunc pro tunc as of April 20, 1987, that the court reporter's notes for in-chambers proceedings henceforth during the trial are to be sealed and remain sealed until further order of Court.

REM

WEST C

MINUTES ENTERED 4-22-87 COUNTY CLERK

MINUTE ORDER

Rec'd We C
July 6 1987
dx

1985

FILED
July 6, 1987
County Clerk

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JOE HUNT
In propria persona

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

THE PEOPLE OF THE STATE OF)
CALIFORNIA,)
)
Plaintiff,)
)
vs.)
)
JOE HUNT,)
)
Defendant.)
_____)

Case No. A 090435
NOTICE OF APPEAL

DEFENDANT JOE HUNT hereby appeals to the Court of Appeal of the State of California, Second Appellate District from the Judgement of Conviction entered against him on July 6, 1987 as well as all other orders affecting his substantial rights made before, during and after trial.

DATED: July 6th 1987

Joe Hunt
JOE HUNT, Defendant

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

) T/N JOE HOI
) AKA: JOSEPH HENRY GAMSKY
)

NO. A090435

I, FRANK S. ZOLIN, COUNTY CLERK AND CLERK of the Superior Court for the County and State aforesaid, do hereby certify that I have compared this transcript with the original documents on file and/or of record in this office and it is a full, true and correct copy.

SEAL

FRANK S. ZOLIN, COUNTY CLERK
and Clerk of the Superior
Court of California, County
of Los Angeles.

Date: AUGUST 18, 1987

By Helen Watson Deputy

HELEN WATSON

Notice of Completion of the Clerk's Transcript on Appeal of the within action having been mailed/delivered to the attorneys representing the appellant and the respondent, and no request for correction of said transcript on appeal having been filed, and the time for said filing having expired; pursuant to Rule 35c of the Rules on Appeal, I hereby certify the foregoing record consisting of 1745 pages to be a full, true and correct transcript on appeal.

SEAL

FRANK S. ZOLIN, COUNTY CLERK
AND Clerk of the Superior
Court of California, County
of Los Angeles.

Date: _____

By _____ Deputy

I, L.J. RITTENBAND, Judge of the Superior Court of State of California for the County of Los Angeles, do hereby certify that the objections made to this transcript have been heard and determined and the transcript is now correct in accordance with said determined, within the time allowed by law.

Date: _____

Judge of the Superior Court

