

COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

80 DHC 269
Entered by *2*
Date *7*

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

SUPERIOR COURT
NO. A090435

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY
HONORABLE LESLIE W. LIGHT, JUDGE PRESIDING
REPORTER'S TRANSCRIPT ON APPEAL

APPEARANCES:

FOR PLAINTIFF-RESPONDENT:

JOHN VAN DE KAMP
STATE ATTORNEY GERNERAL
3580 WILSHIRE BOULEVARD
LOS ANGELES, CA. 90010

FOR THE DEFENDANT-APPELLANT:

DANIEL A. DOBRIN, ESQ.
1753 CENTINELA AVENUE
SANTA MONICA, CA. 90404

VOL 1 OF 2
PAGES A1-A53

LORI ANASTASIOU, CSR #4345
OFFICIAL REPORTER

COPY

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2 SUPERIOR COURT OF THE STATE OF CALIFORNIA
3 FOR THE COUNTY OF LOS ANGELES

4 DEPARTMENT WEST F HON. LESLIE W. LIGHT, JUDGE

5
6 THE PEOPLE OF THE STATE OF CALIFORNIA,)
7)
8 VS. PLAINTIFF,) NO. A090435
9)
10 JOE HUNT,)
11)
12 DEFENDANT.)
13)

14
15 REPORTER'S TRANSCRIPT OF PROCEEDINGS
16 VOLUME 1
17 JUNE 18, 1985
18 AUGUST 14, 1985

19 FOR THE PEOPLE: IRA REINER, DISTRICT ATTORNEY
20 BY: FREDERICK WAPNER, ESQ.
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22 SANTA MONICA, CA. 90401

23 FOR THE DEFENDANT: RICHARD C. CHIER, ESQ.
24 10920 WILSHIRE BOULEVARD
25 SUITE 1000
26 LOS ANGELES, CA. 90024

27 -AND-

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

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT WEST C

HON. LAURENCE J. RITTENBAND, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,)

PLAINTIFF,)

CASE NO. A090435

VS.)

JOE HUNT,)

DEFENDANT.)

REPORTERS' TRANSCRIPT OF PROCEEDINGS

VOLUME 2

SEPTEMBER 27, 1985
OCTOBER 15, 1986
NOVEMBER 4, 1986
DECEMBER 4, 1986
MARCH 4, 1987
APRIL 20, 21, 24, 1987
MAY 8, 11, 1987
JUNE 25, 1987

FOR THE PEOPLE:

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FOR THE DEFENDANT:

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ROSEMARIE GOODBODY, CSR #932
SALLY YERGER, CSR #2008
OFFICIAL REPORTERS

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1 SANTA MONICA, CALIFORNIA; TUESDAY, JUNE 18, 1985;
2 DEPARTMENT WEST F HON. LESLIE W. LIGHT, JUDGE
3 10:45 A.M.
4

5 (THE DEFENDANT HUNT PRESENT IN COURT AND
6 REPRESENTED BY COUNSEL, ARTHUR BARENS,
7 ESQ. AND RICHARD CHIER, ESQ.; THE PEOPLE
8 OF THE STATE OF CALIFORNIA BEING REPRESENTED
9 BY FRED WAPNER, DEPUTY DISTRICT ATTORNEY OF
10 LOS ANGELES COUNTY.)

11 (LORI S. ANASTASIOU, OFFICIAL REPORTER.)
12

13 THE COURT: A090435, JOE HUNT.

14 MR. HUNT IS HERE WITH COUNSEL, MR.
15 BARENS.

16 MR. BARENS: AND I AM ASSISTED THIS MORNING BY
17 RICHARD CHIER OF MY OFFICE, YOUR HONOR.

18 THE COURT: AND PEOPLE ARE REPRESENTED BY MR.
19 WAPNER.

20 MR. WAPNER: YES, YOUR HONOR.

21 THE COURT: MATTER IS HERE FOR 995, PRETRIAL,
22 TRIAL SETTING.

23 I HAVE READ AND CONSIDERED THE 995
24 MOTION AND THE POINTS AND AUTHORITIES FILED BY THE
25 DEFENSE. AND AS A RESULT OF THE FILING OF THAT
26 MOTION I HAVE READ THE TWO VOLUMES OF THE PRELIMINARY
27 HEARING THAT LED TO THE FILING OF INFORMATION A090435
28 CONSISTING OF 414 PAGES TOTAL.

1 I HAVE VIEWED THE EXHIBITS FROM THE
2 PRELIMINARY HEARING, WITH RESPECT TO THOSE THAT SEEM
3 TO BE GERMANE TO THE ISSUES RAISED HERE.

4 DO YOU WISH TO BE HEARD AT THIS TIME,
5 MR. BARENS?

6 MR. BARENS: I DO, YOUR HONOR.

7 YOUR HONOR, THE DEFENSE SUBMITS THAT THE
8 LAW IN THIS MATTER IS SIMPLE. THEY ARE NOT COMPLEX
9 ISSUES FACING THE COURT THIS MORNING.

10 THERE IS AN UNINTERRUPTED LEGAL
11 TRADITION IN THIS STATE, NAMELY, THAT PROOF OF A
12 CORPUS DELICTI MUST BE ESTABLISHED BY SATISFACTORY
13 EVIDENCE BEFORE THE COURT CAN RECEIVE EVIDENCE OF
14 GUILT. AND BEFORE THE COURT CAN RECEIVE EVIDENCE OF
15 IDENTITY OR FURTHER EVIDENCE OF GUILT. THE PROOF MAY
16 BE SLIGHT AND WE CONCEDE THAT THERE MAY BE SLIGHTER
17 CIRCUMSTANTIAL INFERENCES OF THE PROOF OF THE CORPUS
18 DELICTI.

19 BUT IN ANY EVENT THERE MUST BE SOME
20 OBJECTIVE EVIDENCE OBSERVABLE FOR THE COURT.

21 AS YOUR HONOR IS WELL AWARE, THERE MUST
22 BE PROOF BOTH OF DEATH OF A 187 AND DEATH BY CRIMINAL
23 AGENCY AS A PROXIMATE RESULT OF CRIMINAL AGENCY.
24 ALTHOUGH THIS CAN BE PROVED BY CIRCUMSTANTIAL OR
25 SLIGHT EVIDENCE, HYPOTHESIS, SPECULATION OR
26 CONJECTURE WILL NOT SUFFICE.

27 HERE I SUBMIT TO THE COURT THAT WE HAVE
28 NOTHING MORE THAN A MISSING PERSONS CASE BEFORE THE

1 COURT. IT IS VERY CLEAR IN THIS STATE THAT BEFORE
2 YOUR HONOR CAN REVIEW AND EVALUATE ANY EVIDENCE OF
3 STATEMENTS OR ADMISSIONS BY THE DEFENDANT, THE CASES
4 WE HAVE CITED, THE ENTIRE LEGION OF CASES AFFILIATED
5 THEREWITH SUPPORT THE CONTENTION THAT THE CORPUS
6 DELICTI MUST BE FIRMLY ESTABLISHED TOTALLY
7 INDEPENDENT OF ANY ADMISSIONS OR CONFESSIONS OF THE
8 ACCUSED.

9 AND TO THIS END I AGAIN POINT YOUR
10 HONOR'S ATTENTION TO THE CASES OF MC MONIGLE, CULLEN
11 AND FLODSTROM AS CITED IN OUR BRIEF WITH THE COURT.
12 AND CUPPOLA, OF COURSE, TO THE EFFECT THAT IN THE
13 EVIDENCE OF A PRIMA FACIE PROOF OF THE CORPUS
14 DELICTI, ANYTHING THAT THE DEFENDANT MAY HAVE SAID
15 THAT MIGHT BE CONSTRUED AS AN ADMISSION IS NOT PROOF
16 OF ANYTHING.

17 YOUR HONOR, IF YOU WILL LOOK AT THE
18 CORPUS IN A DETACHED AND DISPASSIONATE MANNER WITHOUT
19 CONSIDERATION OF THESE STATEMENTS, THERE IS SIMPLY NO
20 EVIDENCE IN THE TRANSCRIPT THAT WOULD SUPPORT DEATH
21 BY CRIMINAL AGENCY.

22 EVEN IF I WERE TO CONCEDE THIS MORNING
23 THAT THERE WOULD BE SOME EVIDENCE OF DEATH BY THE
24 LONG ABSENCE OF THE VICTIM AND THE FACT THAT HE
25 HASN'T CALLED HIS MOTHER, WHICH I SUBMIT IS THE ONLY
26 EVIDENCE THAT WAS SHOWN AT THE PRELIMINARY HEARING,
27 THERE IS SIMPLY NOT ONE SCINTILLA OF EVIDENCE OF
28 DEATH BY CRIMINAL AGENCY.

1 YOUR HONOR, THE PEOPLE HAVE NOT FILED A
2 BRIEF WITH THE COURT THIS MORNING, BUT RATHER I
3 RECEIVED A TELEPHONE CALL FROM MR. WAPNER FRIDAY PAST
4 WHEREIN HE ADVISED ME THAT THE PEOPLE WERE GOING TO
5 RELY ON THREE CASES THIS MORNING THAT I WANT TO MAKE
6 REFERENCE TO.

7 THOSE CASES WOULD INCLUDE PEOPLE VERSUS
8 TOWLER CITED AT 31 CAL. 3D 105. PEOPLE VERSUS
9 JACOBSON AT 46 CAL. RPTR. 515 AT AND PEOPLE VERSUS
10 RAMIREZ, 91 CAL. APP. 3D 132.

11 IN RESPONSE TO THOSE CASES, WE SUBMIT
12 RESPECTFULLY THAT THE PEOPLE HAVE CHOSEN TO IGNORE
13 THE NUMEROUS CASES CITED IN OUR BRIEF. THE CASES
14 CITED AND WHICH I BELIEVE WILL BE SUBMITTED BY THE
15 PEOPLE ARE BOTH INAPPROPRIATE ON THE LAW AND ON THE
16 FACTS AND EASILY DISTINGUISHABLE FROM THE MATTER
17 BEFORE THE COURT.

18 NOTABLY, ALL THREE OF THOSE CASES
19 INVOLVE THE PEOPLE HAVING LOCATED A BODY. IN ALL
20 THREE OF THOSE CASES A BODY WAS FOUND AND BASED ON
21 THE FACTS OF THE LOCATION OF THE BODY, THE BACKGROUND
22 OF THE INDIVIDUAL DECEASED, CERTAIN PHYSICAL EVIDENCE
23 WHICH WITHOUT EXCEPTION WAS PRESENT IN THOSE CASES,
24 THERE WAS A REASONABLE INFERENCE THAT COULD BE DRAWN
25 TO BE SUBMITTED TO A JURY THAT THE DEATH WAS BY
26 CRIMINAL MEANS. AND A PROXIMATE CAUSE OF CRIMINAL
27 AGENCY.

28 I SUBMIT TO YOUR HONOR THAT IN THOSE

1 CASES ONE-HALF OF THE CORPUS DELICTI WAS ALREADY MADE
2 FOR THE PEOPLE. THERE WAS A BODY, A DEAD PERSON.
3 THERE WAS A REASONABLE INFERENCE THAT A JURY SHOULD
4 DECIDE BASED ON THE FACTS SURROUNDING THE LOCATION OF
5 THOSE BODIES, THAT THE DEATH WAS A PRODUCT OF
6 CRIMINAL AGENCY.

7 THERE IS NO QUESTION THAT IN THIS CASE
8 THERE IS NO BODY.

9 AND YOUR HONOR, THERE IS NO PROOF
10 WHATSOEVER, NO COMPETENT SATISFACTORY EVIDENCE
11 WHATSOEVER OF DEATH BY CRIMINAL AGENCY.

12 THROUGHOUT IT IS EASY TO DISCRIMINATE
13 ONCE AGAIN EVERY ONE OF THOSE CASES. OUR CASE WOULD
14 REQUIRE YOUR HONOR TO ENGAGE IN SPECULATION AND
15 HYPOTHESIS AS TO HOW THE DEFENDANT DIED. WHEN HE
16 DIED. WHERE HE DIED. AND UNDER WHAT CIRCUMSTANCES
17 HE DIED.

18 THERE SIMPLY WAS NO EVIDENCE ADDUCED AT
19 THE PRELIMINARY HEARING WHATSOEVER AND TO ANY AFFECT
20 AS TO ANY CIRCUMSTANCES SURROUNDING DEATH. WE DID
21 HAVE A MISSING PERSONS CASE PUT ON, YOUR HONOR.

22 YOUR HONOR, MOVING AHEAD FROM THERE TO
23 THE ISSUE OF THE 211.

24 IT IS NOTABLE THAT AT THE PRELIMINARY
25 HEARING JUDGE KIDNEY DISMISSED THE 211, WHICH THE
26 PEOPLE HAVE FOUND FIT TO REFILE FOR THESE PURPOSES.

27 IT IS NOTABLE THAT THERE WAS NO CORPUS WHATSOEVER PUT
28 ON AS TO A 211 AT THE PRELIMINARY HEARING.

1 AS WE HAVE CITED IN OUR BRIEF, JUDGE
2 KIDNEY SPECIFICALLY SAYS THAT IT WOULD BE -- QUOTING
3 HIM -- "PURE SPECULATION AS TO WHAT OCCURRED" CLOSED
4 QUOTE. AND FURTHER AT THE SAME PAGE CONCLUDES,
5 QUOTE, "I DON'T BELIEVE THE CORPUS OF A 211 IS MADE
6 OUT" CLOSED QUOTE.

7 ONCE AGAIN, YOUR HONOR, THE PEOPLE HAVE
8 TOTALLY FAILED TO SUPPORT THEIR BURDEN OF PROOF AS TO
9 THE 211. SUPPOSITION AND SPECULATION SIMPLY CANNOT
10 TAKE THE PLACE OF PROOF.

11 AS FAR AS THE SPECIAL CIRCUMSTANCES
12 ALLEGATION CONSISTENT WITH MY PREVIOUS ARGUMENT,
13 CARLOS, IN RE CARLOS, SHOWS US THAT THERE MUST BE
14 SOME PROOF OF AN INTENT TO MURDER AND THE COMMISSION
15 OF THAT CRIME MUST BE LINKED IN TIME AND CIRCUMSTANCE
16 TO THE OTHER CRIMINAL CONDUCT ALLEGED. AGAIN, WE ARE
17 LEFT WITH NOTHING MORE THAN THE REALM OF SPECULATION
18 AND CONJECTURE RELATIVE TO THE FACTS IN THE HUNT
19 CASE.

20 IN OUR CASE, DEATH MUST BE ASSUMED. A
21 ROBBERY MUST BE ASSUMED. THE NEXUS BETWEEN DEATH AND
22 A ROBBERY MUST BE ASSUMED. AND THE INTENT TO KILL
23 MUST BE ASSUMED. I RESPECTFULLY SUBMIT, YOUR HONOR,
24 TOO MANY GAPS, TOO MANY ASSUMPTIONS ARE REQUIRED, TOO
25 MUCH SPECULATION IS REQUIRED AND THE BURDEN OF FACTS
26 IS NOT PRESENTED.

27 YOUR HONOR, WHEN WE LOOK AT THE
28 CONSISTENT HISTORY OF WHAT THE LAW HAS BEEN ABOUT IN

1 THIS STATE, AS FAR AS THE NECESSITY TO INDEPENDENTLY,
2 INDEPENDENTLY OF THE DEFENDANT'S ADMISSIONS, PRODUCE
3 A CORPUS DELICTI SATISFACTORY TO THE COURT, AGAIN WE
4 SUBMIT, A CAREFUL READING OF THE CASES, THE THRUST OF
5 THE LAW CAN LEAVE NO OTHER CONCLUSION, THE
6 INESCAPABLE CONCLUSION THAT THE PEOPLE HAVE NOT SHOWN
7 A CORPUS DELICTI FOR HOMICIDE IN THIS INSTANCE.

8 MIGHT I INQUIRE, YOUR HONOR, IF YOU'VE
9 READ THE PEOPLE'S CASES IN THIS INSTANCE?

10 THE COURT: YES, I HAVE.

11 MR. BARENS: THANK YOU.

12 THE COURT: PEOPLE WISH TO BE HEARD?

13 MR. WAPNER: YES, THANK YOU, YOUR HONOR.

14 THE REASON THAT I DIDN'T CITE YOU MORE
15 CASES IS THAT BASICALLY I THINK MR. BARENS IS RIGHT
16 IN ONE ASPECT, THAT THE LAW IS FAIRLY CLEAR AND HE'S
17 CITED THE RULE ABOUT ONLY SLIGHT OR PRIMA FACIE
18 EVIDENCE OF CORPUS NEED BE SHOWN BEFORE THESE
19 STATEMENTS ARE ADMISSIBLE.

20 AND ALSO IN THE MC MONIGLE CASE, WHICH I
21 WOULD HAVE ALSO CITED TO THE COURT, STANDS NOT ONLY
22 FOR THAT PROPOSITION BUT FURTHER FOR THE PROPOSITION
23 THAT ONCE THAT SLIGHT EVIDENCE OF CORPUS DELICTI IS
24 SHOWN SUFFICIENT THAT STATEMENTS MAY BE ADMITTED,
25 THAT THOSE STATEMENTS MAY BE USED AGAIN TO BOLSTER
26 THE CORPUS DELICTI OR HELP TO PROVE THE CORPUS
27 DELICTI.

28 THAT'S ALSO CITED IN COUNSEL'S POINTS

1 AND AUTHORITIES.

2 AND THE CASES THAT I CITED WERE FOR THE
3 PROPOSITION -- ESPECIALLY IN THE TOWLER CASE -- THAT
4 IT'S NOT NECESSARY TO RULE OUT ALL INFERENCES TENDING
5 TO SHOW SOME NON-CRIMINAL CAUSE.

6 THERE WAS THE SUGGESTION IN COUNSEL'S
7 POINTS AND AUTHORITIES THAT ALL POSSIBLE NON-CRIMINAL
8 CAUSES HAVE TO BE RULED OUT. AND SINCE IT'S POSSIBLE
9 THAT THE VICTIM DISAPPEARED, THAT THEREFORE THE
10 PEOPLE DIDN'T PROVE OR MEET THEIR BURDEN OF PROOF AT
11 THE PRELIMINARY HEARING, I DO NOT BELIEVE THAT'S THE
12 STATE OF THE LAW.

13 AND I BELIEVE THAT TOWLER AND RAMIREZ
14 AND JACOBSON, ALL THREE STAND FOR THAT PROPOSITION.
15 INCLUDING TOWLER, WHICH SAYS THAT EVEN IF THERE IS A
16 EQUALLY PLAUSIBLE NON-CRIMINAL CAUSE OF DEATH, THAT
17 THAT STILL IS SUFFICIENT FOR A CORPUS DELICTI.

18 THERE IS -- COUNSEL IN RECITING THE
19 FACTS OF THE CASE, TENDS TO -- OR ATTEMPTS TO SLANT
20 THEM TO MAKE IT APPEAR THAT, GEE, NOTHING WAS OUT OF
21 THE ORDINARY. WELL, I THINK THAT NOTHING CAN BE IN
22 FACT FARTHER FROM THE TRUTH.

23 THE VICTIM IN THIS CASE, MR. LEVIN, WAS
24 SOMEONE WHO WAS VERY SECURITY CONSCIOUS, WHO ALWAYS
25 SET THE ALARM ON HIS HOUSE.

26 HE WAS PLANNING TO TAKE A VACATION TO GO
27 TO NEW YORK. AND HE WAS SUPPOSED TO GO ON JUNE THE
28 7TH.

1 ON THE MORNING OF JUNE THE 17TH HIS
2 HOUSEKEEPER WAS SUPPOSED TO COME AND TAKE HIM TO NEW
3 YORK.

4 SHE SHOWS UP AT THE HOUSE AND AS SOON AS
5 SHE GETS THERE, IN ADDITION TO THE TWO PEOPLE THERE
6 WAITING TO GO WITH MR. LEVIN TO NEW YORK, SHE FINDS
7 THAT THE ALARM IS NOT ON. IMMEDIATELY, BEFORE THEY
8 EVEN GO IF THE HOUSE, IMMEDIATELY THEY KNOW THAT
9 SOMETHING IS WRONG. THAT HE WOULDN'T LEAVE
10 VOLUNTARILY WITHOUT SETTING THE ALARM.

11 SO THEN THEY GO IN THE HOUSE. AND
12 ACCORDING TO COUNSEL'S RECUSITATION OF THE FACTS, HE
13 ATTEMPTS TO BELITTLE WHAT WAS HAPPENING IN THE HOUSE.

14 I THINK THAT THE PHYSICAL STATE OF THE
15 HOUSE IS ONE OF THE MOST IMPORTANT INGREDIENTS IN
16 PROVING THIS CORPUS DELICTI. EVERYTHING IS IN ORDER.
17 EXCEPT FOR SOME VERY GLARING THINGS.

18 THE CLOTHES THAT THE VICTIM WAS WEARING
19 THE DAY BEFORE, A JOGGING SUIT AND A -- EXCUSE ME, A
20 ROBE AND A JOGGING SUIT THAT WERE SITTING OUT THE DAY
21 BEFORE -- ARE MISSING. ALL OF HIS OTHER CLOTHES ARE
22 THERE.

23 HIS SUITCASES ARE THERE.

24 HIS BLACK BAG THAT HE TAKES EVERYWHERE,
25 WHENEVER HE GOES ANY PLACE, HE LEAVES LOS ANGELES, HE
26 TAKES THAT BAG. THAT'S THERE.

27 NO SUITCASES ARE PACKED.

28 BUT THERE ARE SOME VERY STRANGE THINGS

1 THAT ARE MISSING.

2 THE COURT: A COMFORTER AND SHEET.

3 MR. WAPNER: RIGHT, A COMFORTER, A SHEET AND
4 PILLOW.

5 THE COURT: I READ IT, I READ IT.

6 MR. WAPNER: I KNOW, BUT I THINK IT'S
7 IMPORTANT.

8 THE COURT: AND THE DOG HAD PIDDLED.

9 MR. WAPNER: AND THE DOG HAD PIDDLED IN THE
10 HOUSE.

11 I KNOW YOU READ IT, I WASN'T THINKING
12 FOR ONE MINUTE THAT YOU DIDN'T, BUT I THINK THEY ARE
13 IMPORTANT.

14 THE COURT: OH, AND THE TV CHANGER IS GONE.

15 MR. WAPNER: THE TV CHANGER, YEAH. IT REMINDS
16 ME OF THE MOVIE WITH PETER SELLERS. WHERE HE TOOK
17 THE TV CHANGER AND IS WALKING IN FRONT OF THE TV
18 STORES, CLICKING THE CHANGER, TRYING TO GET THE TV'S
19 TO WORK.

20 AND THE THING THAT COUNSEL LEAVES OUT IS
21 THIS EXHIBIT PEOPLE'S 44 THAT SAYS THERE'S NO PROOF
22 OF CORPUS DELICTI AT ALL.

23 WELL, THIS PEOPLE'S 44, HOW MANY PEOPLE
24 JUST WALK AWAY FROM THEIR APARTMENT AND SHORTLY AFTER
25 THEY'RE GONE, YOU FIND IN THEIR HOUSE WHEN THEY
26 VOLUNTARILY, LEFT A LIST THAT SAYS "AT LEVIN'S TO DO:
27 CLOSE THE BLINDS, SCAN FOR THE TAPE RECORDER, TAPE
28 THE MOUTH, HANDCUFFS, EXPLAIN THE SITUATION." AND

1 VARIOUS THINGS LIKE THAT. "JIM DIGS PIT. JOE HUNT
2 CANCELS HIS RESERVATIONS FROM HIS PHONE. JOE ARRIVES
3 9:00 O'CLOCK."

4 THE COURT: I READ THAT TOO.

5 MR. WAPNER: THANK YOU.

6 THAT PLUS THE SITUATION IN THE HOUSE
7 ARE, I THINK MORE THAN SUFFICIENT FOR A PRIMA FACIE
8 SHOWING OF CORPUS DELICTI.

9 IN ADDITION TO THE STATEMENT OF MR.
10 FURSTMAN THAT WHEN THE VICTIM MISSED HIS
11 APPOINTMENT -- THE VICTIM CALLED HIS LAWYER AND SAID
12 "I WILL RESCHEDULE."

13 SO ALL OF THOSE THINGS ARE, IN MY VIEW,
14 MORE THAN SUFFICIENT EVIDENCE TO PROVE THAT IN FACT
15 THE VICTIM IS DEAD AND THAT IT WAS A CRIMINAL AGENCY
16 THAT KILLED HIM, WHICH IS PROOF BY THIS EXHIBIT,
17 PEOPLE'S 44.

18 THE SUGGESTION IS MADE THAT HE LEFT TO
19 AVOID PROSECUTION, WHICH I SUBMIT TO YOU WAS CONTRARY
20 TO THE FACTS WHERE HIS HOUSEKEEPER SAID THAT HE WAS
21 UNCONCERNED ABOUT GOING TO JAIL AND WOULD TALK TO HER
22 ABOUT ARRANGEMENTS THAT HE MIGHT MAKE IF HE WERE
23 GOING TO HAVE TO GO TO JAIL.

24 THEY CALLED TO RESCHEDULE HIS
25 APPOINTMENT WITH THE LAWYER AND THAT HIS LAWYER SAID
26 THAT HE WAS INTERESTED IN THE CASE THAT HE HAD
27 PENDING.

28 THE ARGUMENT THAT I MADE AT THE

1 PRELIMINARY HEARING REGARDING THE ROBBERY, I WOULD
2 INCORPORATE INTO THIS ARGUMENT AND JUST REITERATE
3 THAT IF THE FINDING -- THE JUDGE MADE A FINDING, I
4 BELIEVE THERE WAS A MURDER, I BELIEVE THE DEFENDANT
5 DID IT AND THAT IT HAD TO HAVE HAPPENED ON THAT DAY.

6 THAT THE DEFENDANT THE NEXT MORNING
7 SHOWS UP AT HIS OFFICE WITH THE CHECK THAT WAS SIGNED
8 BY MR. LEVIN.

9 THE DAY AFTER THAT -- THAT DAY HE GOES
10 TO THE BANK TO OPEN UP THE ACCOUNT AND THE NEXT DAY
11 THAT CHECK IS SUBMITTED FOR CASHING.

12 THE OTHER EXHIBIT THAT I ASSUME THE
13 COURT LOOKED AT WAS THE CONTRACT SIGNED BY MR. LEVIN
14 WHERE HE PURPORTS TO OPT INTO THIS COMPANY, WHICH IS
15 THE BASIS FOR THE 1.5 MILLION DOLLAR CHECK.

16 AND IF THE COURT HAD A CHANCE TO JUST
17 READ THE FIRST PARAGRAPH OF THAT CONTRACT -- AND I
18 DON'T KNOW THE EXHIBIT NUMBER AT THE PRELIM -- BUT
19 BASICALLY HE'S PAYING 1.5 MILLION DOLLARS FOR AN
20 OPTION TO MARKET THIS MACHINE, WHICH OBLIGATES HIM IF
21 HE WANTS TO EXERCISE THE OPTION, TO PAY ANOTHER SEVEN
22 MILLION DOLLARS.

23 AND IT'S NOT AT ALL REASONABLE THAT A
24 PERSON ENTERING INTO A VOLUNTARY BUSINESS TRANSACTION
25 THAT'S OBLIGATING TO PAY SEVEN MILLION DOLLARS WITHIN
26 A YEAR IS JUST GOING TO WALK AWAY.

27 SO ALL OF THESE THINGS PUT TOGETHER WITH
28 THIS LIST, WHICH IS PEOPLE'S 44, I THINK ARE MORE

1 THAN SUFFICIENT TO PROVE THE CORPUS OF A ROBBERY, TO
2 WIT, THAT THIS CHECK FOR 1.5 MILLION DOLLARS WAS
3 TAKEN FROM THE IMMEDIATE PRESENCE OF THE VICTIM,
4 BECAUSE IT HAD TO HAVE BEEN TAKEN FROM HIS PRESENCE
5 BECAUSE HE HAD TO SIGN IT.

6 AND THAT HE DIDN'T SIGN IT VOLUNTARILY
7 BECAUSE IT'S COMPLETELY INCONSISTENT WITH HIS ACTIONS
8 SUBSEQUENT TO THE SIGNING OF THE CHECK AND THE
9 AGREEMENT.

10 THAT HE WOULD JUST DISAPPEAR? IT'S JUST
11 NOT AT ALL REASONABLE.

12 AND I THINK THAT'S SUFFICIENT EVIDENCE
13 THAT PROPERTY WAS TAKEN FROM HIS PERSON OR HIS
14 IMMEDIATE PRESENCE AND THAT IT WAS TAKEN BY MEANS OF
15 FORCE OR FEAR.

16 AND IF THAT BE SUFFICIENT AS CORPUS --
17 PROOF OF THE CORPUS DELICTI, THEN THE STATEMENT IN
18 THE TESTIMONY OF EVAN DICKER IN THE PRELIMINARY
19 HEARING AT VOLUME 2, PAGE 99, WHERE THE DEFENDANT
20 SAYS "RON LEVIN I KNOW SIGNED THAT CHECK UNDER
21 DURESS," IS ADMISSIBLE NOT ONLY TO PROVE THAT THE
22 DEFENDANT WAS INVOLVED IN THE ROBBERY, BUT IN FACT
23 UNDER THE MC MONIGLE PRINCIPLE, TO AID IN THE PROOF
24 OF THE CORPUS THAT IN FACT THERE WAS A ROBBERY, TO
25 WIT, THAT THE CHECK WAS SIGNED UNDER DURESS.

26 SO I THINK PUTTING ALL OF THOSE THINGS
27 TOGETHER, THERE'S NO QUESTION THAT THERE IS PROOF
28 THAT THE VICTIM IS DEAD AND THAT IT WAS A CRIMINAL

1 AGENCY THAT CAUSED HIS DEATH AND THAT THE DEATH
2 OCCURRED DURING THE COURSE OF A ROBBERY.

3 I'LL SUBMIT IT.

4 MR. BARENS: YOUR HONOR? MAY WE RESPOND?

5 THE COURT: YES.

6 MR. BARENS: THANK YOU, YOUR HONOR.

7 YOUR HONOR, ONCE AGAIN I HAVE TO
8 CHALLENGE THE PEOPLE'S ASSERTIONS.

9 I ASKED YOUR HONOR WHAT EVIDENCE DO WE
10 HAVE, WHAT TESTIMONY DO WE HAVE, WHAT PHYSICAL
11 EVIDENCE DO WE HAVE OF CRIMINAL AGENCY?

12 WE WENT THROUGH THIS TIME AND AGAIN AT
13 THE PRELIMINARY HEARING. WE'VE GONE THROUGH IT IN
14 OUR CASES CITED. AND WHEN WE LOOK AT THE PEOPLE'S
15 CASES CITED, WITHOUT EXCEPTION THERE IS PHYSICAL
16 EVIDENCE OF CRIMINAL AGENCY, WHICH IS TOTALLY ABSENT
17 IN OUR CASE.

18 THE PEOPLE WANT TO TALK ABOUT A CHECK
19 AND A OPTION. WANT TO TALK ABOUT AN EXTREMELY
20 COMPLICATED BUSINESS RELATIONSHIP, WHERE THE
21 DEFENDANT WALKS AWAY, I SUBMIT, AFTER UTTERING AN
22 INSUFFICIENT CHECK TO COVER HIS TRACKS, TO LEAVE
23 EVERY APPEARANCE THE BUSINESS AS USUAL GETS HIMSELF
24 INTO AND NEGOTIATES HIMSELF INTO A BUSINESS
25 TRANSACTION AND THEN WALKS AWAY.

26 NOT TO MENTION THAT PRIOR TO THE
27 EXERCISE OF THE OPTION COUNSEL REFERS TO, THERE WERE
28 DOZENS OF CONDITIONS PRECEDENT BEFORE THERE WOULD BE

1 AN OBLIGATION. AND IF THERE WOULD EVER BE AN
2 OBLIGATION TO FUND THE ADDITIONAL SEVEN MILLION
3 DOLLARS.

4 YOUR HONOR, THE PEOPLE TALK ABOUT DURESS
5 IN THE EXECUTION OF THE CHECK. WHAT DURESS? WHAT
6 FORCE? WHAT COMPULSURE ARE THEY TALKING ABOUT?

7 COUNSEL TAKES OUT OF CONTEXT, A
8 STATEMENT BY EVAN DICKER ABOUT THE FACT THAT LEVIN
9 SIGNS THE CHECK UNDER DURESS?

10 HE HAD PERSONAL KNOWLEDGE UNDER WHAT
11 CIRCUMSTANCES SURROUNDED LEVIN'S EXECUTION OF THE
12 CHECK.

13 WE DO KNOW THAT THE SIGNATURE WAS NEVER
14 CHALLENGED AS VALID AND ALL WE KNOW ABOUT THAT IS
15 THAT LEVIN IS AMONG THE MISSING.

16 YOUR HONOR, LOOKING AT L. EWING SCOTT,
17 YOU GOT AN INFERENCE OF DEATH BY CRIMINAL AGENCY BUT
18 BECAUSE SHE HAS A TRANQUIL SOCIAL LIFE, SHE'S WELL
19 ESTABLISHED WITHIN THE COMMUNITY, HAPPY WITH HER
20 FINANCES, FINANCIALLY WELL OFF, THERE'S A
21 DISTINCTION.

22 WE DON'T HAVE THAT WITH LEVIN. WE HAVE
23 THIS EXOTIC INDIVIDUAL WITH A PRIOR CHRONIC CRIMINAL
24 HISTORY. A MAN FACING 11 FELONY INDICTMENTS. A MAN
25 WITH A BIZARRE SEXUAL HISTORY THAT IS GONE. AND WHEN
26 HE'S GONE HE'S WEARING -- HIS JOGGING SUIT IS GONE.

27 THE COURT: WAIT A MINUTE. A BIZARRE SEXUAL
28 HISTORY? WHERE IS THIS IN THE RECORD IN THIS 995?

1 MR. BARENS: YOU DIDN'T SEE MR. DICKER'S
2 ASSOCIATE. WELL, I'LL WITHDRAW THE COMMENT OF
3 BIZARRE SEXUAL HISTORY FOR THE MOMENT, YOUR HONOR.

4 IN ANY EVENT, YOUR HONOR, GETTING BACK
5 TO THE FACTS THAT WERE ESTABLISHED.

6 YOUR HONOR, IN L. EWING SCOTT, THE COURT
7 CAME TO A CONCLUSION THAT THERE WAS QUOTE "A COMPLETE
8 PATTERN OF MURDER." THAT ADDITIONALLY THERE COULD BE
9 NO OTHER REASONABLE EXPLANATION OF MRS. SCOTT'S
10 WHEREABOUTS.

11 WHEREAS I RESPECTFULLY SUBMIT IN THIS
12 CASE, YOUR HONOR, THERE ARE MANY, MANY ALTERNATIVES
13 AVAILABLE CONSISTENT WITH NO CRIMINAL ACTIVITY BEING
14 ASSOCIATED WITH MR. LEVIN. CERTAINLY HE HAS A MOTIVE
15 TO DISAPPEAR. THE EVIDENCE SHOWS THAT THE DEFENDANT
16 TRIED ON SEVERAL OCCASION TO CONTACT MR. LEVIN
17 THROUGH HIS EXCHANGE AFTER THE ALLEGED DISAPPEARANCE.

18 THERE WAS NO ASH HEAP FOUND HERE LIKE
19 THERE WAS IN SCOTT.

20 THERE WERE NO PERSONAL ITEMS FOUND IN A
21 COMPROMISING POSITION WITH THE DEFENDANT.

22 THERE IS NO EVIDENCE OF BLOOD.

23 THERE'S NO BULLET HOLES IN A CAR WINDOW.

24 THERE WAS NO FLIGHT BY THE DEFENDANT.

25 I SUBMIT THE CASE IS MUCH CLOSER IN THIS
26 INSTANCE THAT THERE IS STILL NO EVIDENCE OBJECTIVELY
27 ADDUCED AS TO CRIMINAL AGENCY.

28 AGAIN, I ASK WHAT CRIMINAL AGENCY ARE WE

1 DEALING WITH HERE? WHAT IS BEING DESCRIBED FOR THE
2 COURT HERE?

3 SUBMIT IT.

4 MR. WAPNER: MAY I JUST RESPOND BRIEFLY, YOUR
5 HONOR?

6 THE COURT: WELL, HOW MANY SERVES AND VOLLEYS
7 ARE WE GOING TO HAVE?

8 MR. WAPNER: IT'S UP TO YOU.

9 MR. BARENS: I BELIEVE I'M ENTITLED TO LAST
10 VOLLEY, YOUR HONOR.

11 THE COURT: I THINK I'VE HEARD ENOUGH.

12 AS IT SEEMS ACTUALLY CONTINUALLY IN
13 THESE 995'S, I HAVE TO REMIND ALL PARTIES CONCERNED
14 THAT THIS IS A 995. IT IS NOT FINAL ARGUMENT AFTER A
15 COURT OR A JURY TRIAL. THE STANDARD HERE IS
16 CONSIDERABLY DIFFERENT THAN IN MOST OF THE CASES
17 CITED BY BOTH THE DEFENSE AND THE PROSECUTION.

18 THIS IS NOT WHETHER THERE IS SUFFICIENT
19 EVIDENCE TO SUPPORT A JURY'S VERDICT ON APPEAL. THE
20 QUESTION IS WHETHER ANY REASONABLE MAN IN THE WORLD,
21 NOT JUST THE MAGISTRATE, NOT ME, BUT WHETHER ANY
22 REASONABLE PERSON IN VIEWING THE EVIDENCE ADDUCED AT
23 THE PRELIMINARY HEARING, COULD SAY THAT HE OR SHE
24 ENTERTAINS A STRONG SUSPICION THAT MR. RON LEVIN IS
25 DEAD.

26 AND THAT MR. RON LEVIN WAS KILLED BY A
27 CRIMINAL AGENCY.

28 THAT'S WHAT I'M INVOLVED WITH HERE.

1 IN LOOKING OVER THE CIRCUMSTANCES AS
2 ELUCIDATED AND ENUMERATED IN THE PRELIMINARY HEARING
3 TRANSCRIPT, IT ISN'T EVEN CLOSE.

4 THERE'S NO QUESTION THAT A REASONABLE
5 MAN COULD COME TO THE CONCLUSION THAT MR. LEVIN IS
6 DEAD.

7 AND THERE'S NO QUESTION BUT WHAT A
8 REASONABLE MAN COULD COME TO THE CONCLUSION THAT HE
9 WAS KILLED BY SOMEBODY FOR A PROFIT MOTIVE.

10 A MAN JUST DOESN'T DISAPPEAR UNDER THESE
11 CIRCUMSTANCES. YOU CAN CERTAINLY COME UP WITH OTHER
12 POSSIBLE AND PERHAPS REASONABLE EXPLANATIONS THAT
13 BEING UNDER INDICTMENT AND FACING TRIAL, THAT HE WAS
14 DISAPPEARING INTO THE WOODWORK, SO TO SPEAK.

15 BUT DISAPPEARING AND LEAVING ALL HIS
16 ASSETS?

17 DISAPPEARING GIVING A CHECK FOR A
18 MILLION AND \$500,000 TO SOMEBODY ELSE IN A BUSINESS
19 ENTERPRISE?

20 THIS MAN'S BACKGROUND IS SUCH THAT IT'S
21 VERY DIFFICULT FOR ME TO ACCEPT THAT HE WOULD
22 DISAPPEAR EXCEPT UNDER CIRCUMSTANCES WHERE HE WOULD
23 DO HIS BEST TO TAKE WITH HIM EVERYTHING HE COULD.

24 HE APPEARS TO ME TO HAVE THE PROBABILITY
25 OF A JACK BENNY COMPLEX OF LOOKING FOR HOW TO TAKE IT
26 WITH YOU EVEN AFTER YOU DIE.

27 I THINK THE PEOPLE ARE QUITE ACCURATE IN
28 POINTING TO PEOPLE'S 44 AS BEING VERY STRONG EVIDENCE

1 HERE OF A CRIMINAL AGENCY.

2 YES, I CAN DREAM UP ANOTHER EXPLANATION,
3 THAT PEOPLE'S 44 WAS PREPARED BY MR. LEVIN OR AT HIS
4 DIRECTION IN ORDER TO FLESH OUT AND GIVE SOME STAGE
5 DRESSING TO HIS DISAPPEARANCE TO MAKE IT LOOK LIKE
6 SOMEBODY KILLED HIM. BUT IT ISN'T A QUESTION OF
7 ELIMINATING ALL OF THE POSSIBILITIES.

8 THE QUESTION FOR A 995 IS PICKING AND
9 CHOOSING BETWEEN ALL OF THE EVIDENCE THAT'S
10 PRESENTED, CAN YOU CONSTRUCT A REASONABLE
11 INTERPRETATION THAT WOULD CAUSE A REASONABLE MAN TO
12 HAVE A STRONG SUSPICION.

13 AND THE ANSWER HAS TO BE WITHOUT
14 QUESTION, YES, TO BOTH HIS DEATH AND THE MEANS BY
15 WHICH THAT DEATH OCCURRED.

16 THE POINTS RAISED BY THE DEFENSE ARE
17 CERTAINLY MERETORIOUS WHEN IT COMES TO TRYING TO
18 CONVINCE A JURY. AND SHOULD A VERDICT OF GUILT BE
19 OBTAINED, PERHAPS HAVE SOME BASIS ON APPEAL. BUT FOR
20 A 995, NO.

21 THERE'S A GREAT DEAL IN THESE
22 TRANSCRIPTS INDICATING SOME CONFUSION, IF YOU WILL,
23 ABOUT THE DIFFERENCE BETWEEN AN ADMISSION AND THE
24 STATEMENT OF A CO-CONSPIRATOR IN THE FURTHERANCE OF A
25 CONSPIRACY.

26 THERE'S A GREAT DEAL IN HERE THAT MAKES
27 ONE WONDER WHY LAW SCHOOLS DON'T DEVOTE A GOOD DEAL
28 MORE TIME THAN THEY DO TO MAKING SURE THAT EVERYBODY

1 UNDERSTANDS THE HEARSAY RULE.

2 WHAT IS HEARSAY?

3 THAT IT HAS TO BE OFFERED FOR THE TRUTH
4 OF THE STATEMENT. OTHERWISE IT'S NOT HEARSAY.
5 REGARDLESS OF WHO MADE IT OR WHERE.

6 QUESTION THEN IS ONLY WHETHER IT'S
7 RELEVANT, TO THE ISSUES.

8 I AM SAYING THIS RHETORICALLY BECAUSE I
9 CERTAINLY DON'T EXPECT MR. BARENS OR MR. CHIER TO
10 RESPOND.

11 BUT CANDIDLY, GENTLEMEN, I WOULD SAY
12 THAT ANY REASONABLE MAN OR WOMAN READING THIS
13 TRANSCRIPT AND LOOKING AT THESE EXHIBITS, WHO FOUND
14 HIM OR HERSELF IN LAS VEGAS, LOOKING AT A GAMBLING
15 TOTE BOARD WITH RESPECT TO LAYING A BET AS TO WHETHER
16 MR. LEVIN IS DEAD OR ALIVE, THAT THEY WOULD BE
17 LOOKING FOR LONG ODDS TO BET ON ALIVE.

18 AND ALSO LOOKING AT THE SAME TOTE BOARD,
19 IF THERE WAS A LINE THERE FOR "DO YOU THINK SOMEBODY
20 ELSE KILLED HIM OR DID HE COMMIT SUICIDE?"

21 AGAIN, I THINK THAT A REASONABLE MAN OR
22 WOMAN BASED ON JUST WHAT'S IN THIS TRANSCRIPT AND IN
23 THE EVIDENCE THAT'S NOW BEING UTILIZED IN ANOTHER
24 TRIAL, WOULD AGAIN BE LOOKING FOR LONG ODDS.

25 I THINK THAT IN SUMMATION, YOU GOT A LOT
26 BETTER CHANCE OF WINNING THE IRISH SWEEPSTAKES THAN
27 IN HAVING LUNCH WITH MR. LEVIN IN THE NEAR FUTURE.

28 I THINK THAT THE DEFENSE HAS MOUNTED A

1 FORMIDABLE ATTACK ON THIS FROM THE STANDPOINT OF
2 TRIAL.

3 AND I DON'T FAULT COUNSEL FOR DOING IT,
4 THAT'S THEIR JOB. BUT FOR WHAT MY JOB IS, AS I SAY,
5 IS NOT TO SUBSTITUTE MY JUDGMENT FOR THE MAGISTRATE
6 AND NOT TO RESTRICT MY ANALYSIS ONLY TO THE
7 MAGISTRATE'S.

8 THE TEST FOR A 995 IS PICKING AND
9 CHOOSING BETWEEN ALL OF THIS, COULD ANY REASONABLE
10 PERSON COME TO THE CONCLUSION THAT HE'S DEAD. COME
11 TO THE CONCLUSION THAT HE WAS KILLED BY SOMEBODY
12 ELSE.

13 CIRCUMSTANTIAL EVIDENCE IS JUST AS
14 EFFICACIOUS FOR PROVING THAT SOMEBODY'S DEAD AS IT IS
15 FOR PROVING THAT THEY WERE KILLED BY CRIMINAL AGENCY.

16 THIS HAPPENS TO BE A COMPLETELY
17 CIRCUMSTANTIAL CASE IN ALL RESPECTS. BUT THAT
18 DOESN'T MEAN THAT THERE'S ANY DIFFERENT STANDARD.

19 A STRONG SUSPICION IS THE SAME WHETHER
20 YOU'RE ARRIVING AT IT BY VIRTUE OF DIRECT EVIDENCE OR
21 CIRCUMSTANTIAL EVIDENCE.

22 I THINK THAT -- I'M SURPRISED QUITE
23 FRANKLY THAT THE D.A.'S OFFICE DIDN'T MAKE THE
24 SPECIAL CIRCUMSTANCES OF BURGLARY, BECAUSE A
25 BURGLARY, I WOULD SAY THAT IT MAY BE TOUGH TO -- I
26 SHOULDN'T SAY TOUGH -- BUT THERE MAY BE AN ARGUMENT
27 THAT THE ENTRY INTO THE HOUSE WAS FOR THE PURPOSE OF
28 ROBBERY, FOR THE PURPOSE OF EXTORTION, FOR THE

1 PURPOSE OF GRAND THEFT, BUT ANY ONE OF THOSE WOULD
2 MAKE IT A BURGLARY.

3 AND A BURGLARY IS A SPECIAL CIRCUMSTANCE
4 AS WELL.

5 THE PROBLEM OF COURSE IN A CASE LIKE
6 THIS IS THAT IF THE TRIER OF FACT DOESN'T FIND BEYOND
7 A REASONABLE DOUBT ON THE PEOPLE'S THEORY HERE, THAT
8 THIS WAS DONE FOR FINANCIAL GAIN, YOU'RE NOT REALLY
9 ADDING ANYTHING BY ALLEGING ROBBERIES OR BURGLARIES
10 OR EXTORTIONS OR GRAND THEFTS. YOU'RE JUST CONFUSING
11 THE ISSUES AND MUDDYING UP THE WATERS, WHICH ARE
12 REALLY DEFENSE TACTICS AND NOT PEOPLE'S TACTICS.
13 USUALLY.

14 I'M SORRY, GENTLEMEN, I DON'T THINK IT'S
15 EVEN CLOSE UNDER A 995 STANDARD. I THINK THE PEOPLE
16 HAVE CARRIED THE FIELD COMPLETELY.

17 MOTION IS DENIED AS TO ALL RESPECTS.

18 MR. BARENS: YOUR HONOR, AS FAR AS TRIAL
19 SETTING, THE DEFENSE CHOOSES TO TAKE AN APPEAL AND
20 WE'D LIKE THE -- WE WOULD REQUEST THAT THE COURT
21 ORDER OR WE'D REQUEST AN EXPEDITED TRANSCRIPT OF
22 TODAY'S HEARING WITHIN FIVE DAYS.

23 THE COURT: WELL, YOU DON'T NEED THAT,
24 COUNSEL. THE APPEAL IS STRICTLY ON THE TRANSCRIPT OF
25 THE PRELIMINARY HEARING. THERE'S NO EVIDENCE TAKEN
26 HERE.

27 MR. BARENS: I WOULD LIKE A TRANSCRIPT OF
28 TODAY'S HEARING, YOUR HONOR.

1 THE COURT: I SEE NO REASON TO ORDER ONE.

2 MR. BARENS: WE ONLY MAKING A REQUEST, YOUR
3 HONOR.

4 THE COURT: PLUS, AGAIN, MR. BARENS, YOU FIGHT
5 THE HARDEST YOU CAN FOR YOUR CLIENT BUT AS A
6 PRACTICAL MATTER, CHANCES OF A 995 DENIAL APPEAL
7 BEING SUCCESSFUL ARE RIGHT UP THERE WITH HAVING LUNCH
8 WITH MR. LEVIN AND WINNING THE IRISH SWEEPSTAKES,
9 YOU'RE GOING TO GET A POSTAL CARD.

10 THERE ISN'T ANY LAW TO BE PRESERVED ON
11 APPEAL; THE FACT THAT YOU DON'T APPEAL A 995 DOESN'T
12 ELIMINATE ANY APPELLATE ISSUES.

13 MR. BARENS: YOUR HONOR, I FEEL THAT I'M
14 DUTYBOUND UNDER THE CIRCUMSTANCES, ALTHOUGH I CAN
15 ONLY SUBMIT THAT PERHAPS REASONABLE MINDS MAY DIFFER,
16 EVEN THOUGH YOUR HONOR MAY FEEL THAT MY MIND IN THIS
17 INSTANCE IS EXTREMELY REMOTE.

18 NONETHELESS WE ARE GOING TO PROCEED AS I
19 INDICATED, YOUR HONOR.

20 THE COURT: IT'S NOT A QUESTION OF REASONABLE
21 MINDS DIFFERING, MR. BARENS. IN ORDER TO SUCCEED IN
22 A MOTION LIKE THIS IT HAS TO BE ESTABLISHED THAT NO
23 REASONABLE PERSON CAN COME TO THE CONCLUSION THAT THE
24 MAGISTRATE DID. NO REASONABLE PERSON. NOT THE
25 MAJORITY OF REASONABLE PEOPLE, BUT NO REASONABLE
26 PERSON. IN OTHER WORDS, THAT THE FINDINGS WERE
27 COMPLETELY UNREASONABLE.

28 AND I JUST DON'T THINK YOU'LL ACCOMPLISH

1 THAT. BUT THAT'S UP TO YOU.

2 MR. BARENS: WELL, YOUR HONOR, WHAT WE'D LIKE
3 TO DO, WE HAVE 15 DAYS, AS I UNDERSTAND IT, FROM
4 TOMORROW TO MAKE THAT DECISION. WHAT I WOULD LIKE AT
5 A MINIMUM, YOUR HONOR, WOULD BE TO TRAIL TRIAL
6 SETTING ON THIS MATTER, SAY, UNTIL JULY 5TH AND COME
7 BACK AT THAT TIME FOR TRIAL SETTING.

8 THE COURT: MR. WAPNER?

9 MR. WAPNER: THIS COURT WILL NOT BE IN SESSION
10 ON JULY THE 5TH.

11 IS THAT CORRECT?

12 THE COURT: I HOPE SO. I MEAN, I HOPE THAT'S
13 CORRECT.

14 MR. WAPNER: OKAY.

15 THE COURT: BUT IT COULD BE SET IN ANOTHER
16 DEPARTMENT FOR TRIAL SETTING, NO PROBLEM THERE.

17 MR. WAPNER: IF COUNSEL WANTS THAT DATE FOR
18 TRIAL SETTING, THAT'S OKAY.

19 WHERE ARE WE IN TERMS OF TIME?

20 I KNOW THERE HAVE BEEN TIME WAIVERS
21 PREVIOUSLY IN THIS CASE.

22 THE COURT: WAIT A MINUTE, WAIT A MINUTE, I'M
23 TRYING TO THINK.

24 ISN'T THE RULE THAT YOU HAVE TO SEEK THE
25 WRIT WITHIN 60 DAYS AFTER ARRAIGNMENT?

26 MR. CHIER: THE MOTION WAS FILED WITHIN 60
27 DAYS, YOUR HONOR.

28 THE COURT: NO, BUT I MEAN THE APPEAL ON IT.

1 MR. CHIER: NO, THE 995 REQUIRES -- CALIFORNIA
2 REQUIRES 60 DAYS WITHIN DENIAL OF THE 995.

3 THE COURT: PROVIDED IT WAS WITHIN 60 DAYS OF
4 THE DATE OF ARRAIGNMENT.

5 WELL, MAYBE WE CAN ACCOMPLISH
6 EVERYBODY'S DESIRES HERE.

7 AS A PRACTICAL MATTER, MR. BARENS, DON'T
8 YOU FEEL YOU'LL KNOW BY THE 3RD?

9 MR. BARENS: YES, YOUR HONOR.

10 I HAVE A PRELIMINARY HEARING OUT OF THE
11 CITY ON THE 3RD.

12 THE COURT: SO COULDN'T MR. CHIER APPEAR?

13 MR. BARENS: THE 3RD WOULD BE ALL RIGHT, YOUR
14 HONOR. I'M SORRY, I MISSPOKE MYSELF.

15 THE COURT: THE 4TH OF JULY YOU'RE NOT GOING
16 TO DO ANYTHING. EXCEPT SET OFF FIREWORKS.

17 MR. BARENS: I HOPE I'LL BE DOING SOMETHING --
18 JULY 3RD WOULD BE AGREEABLE, YOUR HONOR.

19 THE COURT: MR. WAPNER?

20 MR. WAPNER: THAT'S FINE.

21 THE COURT: ALL RIGHT.

22 MR. HUNT, IF I DO WHAT YOUR LAWYER IS
23 REQUESTING OF ME AT THIS TIME, SIR, IT MEANS THAT
24 YOUR TRIAL AT THE EARLIEST WOULD BE SET ON JULY 17TH.

25 IS THAT AGREEABLE WITH YOU?

26 THE DEFENDANT: YES, IT IS, YOUR HONOR.

27 THE COURT: VERY WELL.

28 AT THE REQUEST OF THE DEFENSE AND THE

1 PERSONAL CONSENT OF THE DEFENDANT THIS MATTER WILL BE
2 CONTINUED UNTIL JULY 3RD AT 9 A.M. FOR TRIAL SETTING
3 OR SUCH OTHER MOTIONS AS COUNSEL MAY DULY NOTICE AND
4 CALENDAR.

5 MR. WAPNER: THANK YOU, YOUR HONOR.

6 THE COURT: DEFENDANT'S REMANDED WITHOUT BAIL.

7 MR. BARENS: THANK YOU FOR YOUR COURTESY THIS
8 MORNING, YOUR HONOR.

9 MR. WAPNER: OH, YOUR HONOR, ONE OTHER THING.

10 THE COURT: WELL, LEST THE RECORD REFLECT
11 OTHERWISE, AS I SAY, NOTHING THAT I'VE INDICATED
12 SHOULD BE TAKEN AS AN APPRAISAL OF WHAT THIS COURT'S
13 RULINGS MIGHT BE IF THIS WERE AT THE END OF A COURT
14 TRIAL OR AS MOTION FOR NEW TRIAL AFTER JURY TRIAL,
15 THOSE ARE OTHER ISSUES THAT ARE NOT CONFRONTED UNDER
16 995.

17 MR. WAPNER: YOUR HONOR, JUST ONE OTHER THING
18 ON THE RECORD.

19 I HAVE A NOTICE OF INTENTION TO
20 INTRODUCE EVIDENCE OF AGGRAVATION PURSUANT TO PENAL
21 CODE 190.3. I'VE PREVIOUSLY MAILED A COPY TO
22 COUNSEL, I JUST WANT TO FILE IT WITH THE COURT AT
23 THIS TIME.

24 THE COURT: VERY WELL.

25 (PROCEEDINGS CONCLUDED.)
26
27
28

1 SANTA MONICA, CALIFORNIA; WEDNESDAY, AUGUST 14, 1985;
2 DEPARTMENT WEST F HON. LESLIE W. LIGHT, JUDGE
3 A.M. SESSION
4

5 APPEARANCES:

6 (AS HERETOFORE NOTED.)

7 (LORI S. ANASTASIOU, OFFICIAL REPORTER.)
8

9 THE COURT: A090435, JOE HUNT AND JAMES
10 PITTMAN.

11 MR. BARENS: GOOD MORNING, YOUR HONOR, ARTHUR
12 BARENS APPEARING ON BEHALF OF THE DEFENDANT, HUNT.

13 MR. CHIER: RICHARD CHIER AS CO-COUNSEL, YOUR
14 HONOR.

15 MR. YOUNG: DOUGLAS YOUNG APPEARING FOR JAMES
16 PITTMAN.

17 THE COURT: THE CASE IS HERE ON THE CALENDAR
18 FOR TRIAL AND MOTION TO CONSOLIDATE FOR TRIAL.

19 APPARENTLY THE DEFENSE HAS FILED A
20 DISCOVERY MOTION SO I ASSUME THE DEFENSE IS NOT
21 READY.

22 MR. CHIER: CORRECT, YOUR HONOR, SPEAKING ON
23 BEHALF OF MR. HUNT, IT SEEMS THAT DURING YOUR
24 VACATION AND MR. WAPNER'S VACATION, NEITHER OF WHICH
25 WAS KNOWN TO US AT THE TIME, WE FILED A DISCOVERY
26 MOTION WHICH BASICALLY GOT -- IT WAS SHUFFLED AROUND
27 THE COURTHOUSE AND WHEN WE SHOWED UP -- I TALKED TO
28 MISS PONTICIELLO AND IT WAS JUST AGREED THAT WE'D

1 WAIT UNTIL YOU CAME BACK AND MR. WAPNER CAME BACK.

2 SINCE FILING THAT MOTION THERE ARE
3 ADDITIONAL ITEMS THAT I WOULD LIKE TO REQUEST THE
4 DISCOVERY OF IN ORDER TO PROPERLY PREPARE. I HAVE
5 MADE SOME PROGRESS WITH THE TWO FILE BOXES OF
6 MATERIALS THAT WERE PREVIOUSLY DELIVERED MR. BARENS.
7 BUT ONE OF THE PROBLEMS WITH THOSE MATERIALS IS THAT
8 THEY WERE INDIFFERENTIATED SO THAT YOU HAVE TO OFTEN
9 READ AN ENTIRE 60 OR 75 PAGE DOCUMENT BEFORE YOU CAN
10 DETERMINE WHETHER IT'S RELEVANT OR NOT RELEVANT OR
11 JUST WHAT IT IS FOR THE PURPOSES OF FILING AND
12 CATALOGING IT.

13 AND SO IN ADDITION THERE ARE THE
14 TRANSCRIPTS FROM THE PITTMAN TRIAL, WHICH WERE JUST
15 MADE AVAILABLE TO US TODAY, WHICH HAVE BEEN
16 PREVIOUSLY PAID FOR. AND THERE ARE WITNESSES THAT
17 HAVE TO BE SUBPOENAED WHOSE NAMES ARE COMING UP IN
18 THE MATERIALS THAT HAVE BEEN DELIVERED TO US SO FAR.

19 AND I WOULD ANTICIPATE, JUDGE, THAT WE
20 WOULD BE READY FOR TRIAL IN ABOUT THE SECOND WEEK OF
21 OCTOBER. AND THAT WOULD BE, IN TERMS OF OUR
22 PREPARATION, I CAN REPRESENT THAT THAT IS A GOOD TIME
23 FOR MR. BARENS AND MYSELF.

24 IN ADDITION TO THE PROBLEMS WITH THIS
25 CASE, I AM ARGUING A DEATH PENALTY APPEAL IN THE
26 SUPREME COURT ON SEPTEMBER 3RD. IN CONNECTION WITH
27 THIS -- IT'S AN OFFICER HOMICIDE FROM LA PUENTE A
28 COUPLE YEARS AGO, THERE ARE SIMULTANEOUS SUPPLEMENTAL

1 BRIEFS THAT THE COURT REQUIRES TO BE FILED IN THIS
2 CASE, THE ORIGINAL BRIEFS HAVING BEEN FILED SOME SIX
3 OR EIGHT MONTHS AGO, OR ABOUT A YEAR AGO.

4 SINCE THEN THERE HAVE BEEN CHANGES IN
5 THE LAW AND I HAVE HAD TO PRETTY MUCH KEEP MYSELF
6 AVAILABLE AT THE REQUEST OF THE SUPREME COURT BECAUSE
7 IN FACT IT WAS CONTINUED FROM THE AUGUST CALENDAR --
8 THE JULY CALENDAR ACTUALLY TO THE AUGUST CALENDAR IN
9 ORDER TO ACCOMODATE MY MARRIAGE AND HONEYMOON. AND
10 THAT IS OCCUPYING A REALLY BIG BLOCK OF MY TIME AND I
11 AM DOING ONLY THAT WHICH IS ABSOLUTELY CRITICAL AND
12 BASICALLY PUTTING OUT FIRES HERE AND THERE PENDING
13 THE SEPTEMBER 3RD ARGUMENT.

14 THIS IS THE FIRST TIME THAT I'VE ARGUED
15 EITHER A DEATH PENALTY APPEAL OR IN FRONT OF THE
16 CALIFORNIA SUPREME COURT AND SO THERE IS A FAIRLY
17 HIGH LEARNING PERIOD BOTH PROCEDURALLY AND
18 SUBSTANTIVELY IN GETTING READY FOR COURT, YOUR HONOR.

19 I FEEL IT'S A FAIRLY IMPORTANT
20 RESPONSIBILITY THAT I'VE TAKEN ON. IT'S BY
21 APPOINTMENT AT THE REQUEST OF MICHAEL MILLMAN FROM
22 THE CALIFORNIA APPELLATE COURT.

23 I'VE BEEN WORKING WITH THIS CASE FOR TWO
24 YEARS NOW.

25 AS FAR AS THE HUNT CASE GOES, WE CAN BE
26 READY BARRING OTHER COMPLICATIONS IN ABOUT THE SECOND
27 WEEK OF OCTOBER.

28 THE COURT: WHAT'S YOUR STATUS, MR. YOUNG?

1 MR. YOUNG: I'M ENGAGED IN A ROBBERY TRIAL.

2 THE COURT: WELL, WHAT'S YOUR POSITION WITH
3 RESPECT IN THE EVENT THE CASE SHOULD BE CONSOLIDATED
4 TO THIS REQUEST FOR A CONTINUANCE TO MID OCTOBER?

5 MR. YOUNG: I HAVE NO OBJECTION. I'M GOING TO
6 BE REQUESTING THAT I BE RELIEVED IN THIS CASE IN ANY
7 EVENT.

8 THE COURT: NO WONDER YOU HAVE NO OBJECTION.
9 SO I WOULD THINK THAT WOULD GIVE ANYONE ELSE TIME TO
10 PREPARE.

11 THE COURT: WELL, WHAT'S THE BASIS FOR YOUR
12 REQUEST TO BE RELIEVED? IS THIS SOMETHING THAT YOUR
13 CLIENT WANTS DONE?

14 MR. YOUNG: YES, IT IS. I WOULD -- IF I COULD
15 APPROACH THE BENCH I WOULD LIKE TO SAY IT OFF THE
16 RECORD.

17 THE COURT: WELL, I DON'T THINK THAT'S
18 APPROPRIATE; IT HAS TO BE PART OF THE RECORD.

19 MR. YOUNG: WELL, ONE OF THE REASONS IS I HAVE
20 NOT RECEIVED ONE DIME THROUGHOUT THE WHOLE COURSE OF
21 THIS PRELIMINARY AND THE OTHER TRIAL. MR. PITTMAN
22 HAS ATTEMPTED TO DO EVERYTHING HE COULD DO TO GET
23 SOME MONEY. HE HAS NOT BEEN ABLE TO. I DID GO
24 THROUGH THE OTHER TRIAL DESPITE THAT.

25 I PHYSICALLY DO NOT THINK THAT I CAN
26 MAINTAIN AN OFFICE AND GO THROUGH ANOTHER SIX-WEEK
27 TRIAL.

28 THAT HOPEFULLY WILL BE SUFFICIENT.

1 MY CLIENT HAS AGREED TO LET ME OFF.

2 THERE ARE ADDITIONAL REASONS BUT IF
3 THAT'S SUFFICIENT I WOULD LIKE TO LEAVE IT AT THAT.

4 THE COURT: WELL, MR. PITTMAN, HAVING ASSUMED
5 YOUR DEFENSE, MR. YOUNG IS OBLIGATED TO CONTINUE WITH
6 THIS CASE. AND IF YOU WISH HIM TO CONTINUE, THE FACT
7 THAT HE HASN'T BEEN PAID IS IRRELEVANT.

8 DO YOU WANT HIM TO CONTINUE TO REPRESENT
9 YOU?

10 THE DEFENDANT PITTMAN: NO.

11 THE COURT: YOU WANT HIM RELIEVED?

12 THE DEFENDANT PITTMAN: YES.

13 THE COURT: DO YOU HAVE THE FUNDS TO HIRE A
14 PRIVATE LAWYER?

15 THE DEFENDANT PITTMAN: NO.

16 THE COURT: HAS THERE BEEN ANY PRIOR
17 DETERMINATION OF THIS DEFENDANT'S ELIGIBILITY FOR THE
18 PUBLIC DEFENDER'S SERVICES?

19 MR. YOUNG: HE WAS DECLARED INDIGENT, AS
20 YOU'RE AWARE, I'M GETTING ANSCILLARY DEFENSE
21 SERVICES. SO ON THAT BASIS I BELIEVE THAT HE WOULD
22 QUALIFY.

23 THEY HAVEN'T ACTUALLY INTERVIEWED HIM
24 BUT HE WAS DECLARED INDIGENT BY JUDGE KIDNEY AND THEN
25 THAT CARRIED FORTH HERE TO THE SUPERIOR COURT.

26 SO ON THAT BASIS I BELIEVE HE WOULD
27 QUALIFY.

28 BEFORE I AM RELIEVED, THOUGH, I WOULD

1 LIKE TO ARGUE THE ISSUE OF CONSOLIDATION.

2 THE COURT: WELL, THAT'S HARDLY APPROPRIATE,
3 COUNSEL. I MEAN, THAT'S SOMETHING FOR TRIAL COUNSEL.
4 YOU'RE NOT GOING TO BE TRIAL COUNSEL, THERE'S NO
5 POINT FOR THAT.

6 MR. YOUNG: OKAY.

7 THE COURT: I WOULD SAY FROM WHAT I'VE HEARD
8 IS THAT THE THING TO DO TODAY IS TO WRAP UP ALL OF
9 THE DISCOVERY ISSUES AS TO MR. HUNT, SET A DATE FOR
10 MR. HUNT IN OCTOBER, IN THE ABSENCE OF OBJECTION BY
11 THE PEOPLE.

12 FROM WHAT THE DEFENSE HAS SAID, I REALLY
13 DON'T SEE THE VALIDITY OF ANY OBJECTION BUT I'D BE
14 GLAD TO HEAR IT IF THERE IS ONE. AND TO THEN
15 CONTINUE TO APPOINT THE PUBLIC DEFENDER FOR MR.
16 PITTMAN AND PUT THE MATTER OVER FOR A SHORT PERIOD OF
17 TIME FOR A PUBLIC DEFENDER TO BE APPOINTED TO
18 FAMILIARIZE HIMSELF WITH THE CASE AND THEN TO SET THE
19 MATTER FOR TRIAL, WHICH PROBABLY WOULD BE ON THE SAME
20 DATE AS MR. HUNT, WITH A MOTION TO CONSOLIDATE, OF
21 COURSE.

22 MR. WAPNER: IS THE COURT INTENDING TO SET THE
23 MOTION TO CONSOLIDATE ON THE TRIAL DATE?

24 THE COURT: YES, BECAUSE IN THESE SITUATIONS
25 WITH BOTH DEFENDANTS IN CUSTODY IT MAY BE THAT ON THE
26 DATE SET FOR TRIAL THE MOTION TO CONSOLIDATE WOULD
27 BECOME MOOT IN THE SENSE THAT ONE DEFENDANT WOULD BE
28 READY TO GO, INSISTING ON HIS RIGHT TO A SPEEDY

1 TRIAL, AND THE OTHER ONE WOULD NOT.

2 THAT'S NOT OF COURSE A LEGAL GROUNDS TO
3 CONTINUE TRIAL, ONE INSISTING ON HIS RIGHT TO A
4 SPEEDY TRIAL. SO WE MAY NOT HAVE TO ARGUE THE MOTION
5 TO CONSOLIDATE. SO I SEE NO USE WAIVING TIME AND
6 DOING IT UNLESS IT'S NECESSARY.

7 MR. WAPNER: THAT'S FINE, WITH ONE CAVIAT.
8 THE COURT PREVIOUSLY -- I HAVE A CASE SET DOWNTOWN,
9 RETRIAL MURDER CASE SET OCTOBER 28TH. THAT CASE IS A
10 MURDER THAT OCCURRED IN 1982 FOR VARIOUS -- THERE WAS
11 A TRIAL, A CONVICTION, ALMOST A YEAR LATER A MOTION
12 FOR A NEW TRIAL GRANTED AND THEN THERE HAVE BEEN TWO
13 CONTINUANCES SINCE THE MOTION FOR NEW TRIAL WAS
14 GRANTED.

15 THAT'S A CASE THAT SHOULD BE TRIED AT
16 THE END OF OCTOBER. AND I'VE DISCUSSED THAT WITH
17 COUNSEL IN THAT CASE AND WE'VE PICKED THAT DATE FOR
18 VARIOUS REASONS BECAUSE WE FELT THAT THAT WAS A GOOD
19 DATE.

20 THAT CASE TOOK FIVE WEEKS TO TRY THE
21 FIRST TIME.

22 SO I DON'T THINK THAT I CAN AGREE TO A
23 DATE IN THE MIDDLE OF OCTOBER, KNOWING THAT THAT
24 OTHER CASE IS COMING UP.

25 I THINK FROM MY PERSPECTIVE, KNOWING
26 THAT I HAVE THAT OTHER CASE SET ON OCTOBER THE 28TH
27 AND ASSUMING THAT IT WILL TAKE A MONTH OR SO TO TRY
28 THAT CASE AND THAT IT WILL TRAIL -- AND MOST DOWNTOWN

1 CASES ARE TRAILING NOW TEN DAYS ANYWAY -- SOMETIME IN
2 DECEMBER IS WHAT I'M LOOKING AT.

3 THE COURT: WELL, AS YOU ARE AWARE, I ASSUME
4 AS FAR AS THE APPELLATE COURTS ARE CONCERNED YOU'RE
5 FUNGIBLE. THAT MAY COME AS A SHOCK TO THOSE NEAR AND
6 DEAR TO YOU, BUT YOU ARE FUNGIBLE.

7 SO IF THE DEFENDANT, MR. HUNT REQUESTS A
8 CONTINUANCE FOR PREPARATION UNTIL OCTOBER AND DOESN'T
9 WANT TO WAIVE HIS RIGHTS TO A SPEEDY TRIAL BEYOND
10 THAT, THIS CASE WILL HAVE TO BE SET FOR OCTOBER AND
11 THE DISTRICT ATTORNEY'S OFFICE WILL HAVE TO GET SOME
12 OTHER DEPUTY.

13 MR. BARENS: THAT'S OUR POSITION.

14 MR. WAPNER: WELL, IT'S MY UNDERSTANDING THAT
15 IF HE'S GOING TO WAIVE TIME, HE CAN'T BOTH WAIVE TIME
16 AND INSIST ON HIS RIGHT TO A SPEEDY TRIAL.

17 THE COURT: NO, BUT HE DOESN'T WAIVE TIME IN
18 PERPETUITY, MR. WAPNER.

19 MR. WAPNER: WELL, I UNDERSTAND THAT.

20 THE COURT: AND HE'S LEGALLY ENTITLED TO A
21 CONTINUANCE IF NECESSARY TO PREPARE, WHICH FROM WHAT
22 DEFENSE COUNSEL HAS SAID, THE DISCOVERY ASPECTS OF
23 THIS CASE NECESSITATE THAT.

24 SO I CAN'T FORCE HIM TO GO TO TRIAL
25 TODAY. AND NEITHER CAN I SAY I'M GOING TO FORCE YOU
26 TO A PARTICULAR DATE IN THE FUTURE.

27 THE DEFENDANT IS THE ONE WHO FORTUNATELY
28 OR UNFORTUNATELY, RIGHTLY OR WRONGLY, UNDER CURRENT

1 CASE LAW HAS THE RIGHT TO INDICATE THAT HE'S WILLING
2 TO WAIVE TIME TO A PARTICULAR DATE. AND THE FACT
3 THAT THE D.A. IS GOING TO BE ENGAGED IN ANOTHER TRIAL
4 ON THAT DATE IS NOT UNDER MY UNDERSTANDING OF THE
5 LAW, NOT A LEGAL CAUSE TO PUT IT OVER FURTHER.

6 SO AT THAT POINT -- NOW, A LOT OF THINGS
7 CAN HAPPEN. THIS CASE MAY BE SET IN OCTOBER AND NOT
8 GO IN OCTOBER. ON THE OTHER HAND, IN OCTOBER IF THIS
9 CASE IS READY TO GO, AT THAT POINT YOU CAN START IT
10 AND EITHER PUT SOMEBODY ELSE ON THAT RETRIAL OR GET
11 IT FURTHER CONTINUED.

12 BUT AS FAR AS THIS CASE IS CONCERNED, I
13 THINK I'M OBLIGATED TO SET IT APPROXIMATELY IN THE
14 TIME PERIOD THAT THE DEFENDANT HAS REQUESTED.
15 CERTAINLY HE CAN'T PICK A PARTICULAR DAY AND SAY "I
16 INSIST ON THAT DAY." BUT WITHIN REASON, I HAVE TO
17 SET IT IN A REASONABLE PERIOD OF TIME AROUND THE DATE
18 THAT HE'S WILLING TO WAIVE TIME FOR HIS ATTORNEYS TO
19 PREPARE THIS CASE.

20 I CAN'T SAY YOU MUST GO TO DECEMBER OR
21 I'M NOT GIVING YOU A CONTINUANCE.

22 THE COURT: MR. CHIER AND MR. BARENS, HOW
23 ABOUT OCTOBER 21 OR 23? THAT'S A WEDNESDAY.

24 MR. WAPNER: HOW'S THE 23RD?

25 MR. BARENS: AGREED, YOUR HONOR, ON MY BEHALF.

26 THE COURT: MR. CHIER?

27 MR. CHIER: YES.

28 I HAVE A FEDERAL MATTER ON THE 21ST BUT

1 I THINK IT WOULD BE OVER BY THEN. IT PROBABLY WON'T
2 GO ON THE 23RD ANYWAY.

3 THE COURT: THAT WOULD BE A GOOD BET.

4 MR. CHIER: WELL, I MEAN, AS FAR AS IT WILL
5 AT LEAST GO TO THE TENTH DAY.

6 THE COURT: THAT WOULD BE A GOOD WAGER, YES.

7 MR. CHIER: THAT'S ALL RIGHT.

8 THE COURT: ALL RIGHT.

9 MR. HUNT, YOU HAVE THE RIGHT TO HAVE
10 THIS CASE TRIED EARLIER THAN THE 23RD OF OCTOBER.
11 YOUR ATTORNEY HAS REQUESTED THAT WE PUT IT OVER TO
12 THAT DATE SO THAT THEY CAN ADEQUATELY PREPARE YOUR
13 CASE.

14 IS THAT AGREEABLE WITH YOU?

15 THE DEFENDANT HUNT: YES, IT IS, YOUR HONOR.

16 THE COURT: NOW, AS FAR AS THE DISCOVERY IS
17 CONCERNED, I'VE GOT THIS MULTI-PAGE QUASI BOILERPLATE
18 DISCOVERY MOTION HERE. ALTHOUGH IT'S PHRASED IN MANY
19 AREAS AS HAVING TO DO WITH A PRELIMINARY HEARING, I
20 WILL CONSIDER IT TO THAT APPLICABLE TO THIS TRIAL.

21 IS THERE ANYTHING IN HERE, ASSUMING THAT
22 IT EXISTS, TO WHICH THE PEOPLE ARE OBJECTING?
23 LEAVING ASIDE OF COURSE MY USUAL ORDER, WHICH IS THAT
24 PHONE NUMBERS AND ADDRESSES OF CIVILIANS NEED NOT BE
25 DIVULGED.

26 IF IN THE ALTERNATIVE THE DEFENSE IS
27 PROVIDED WITH AN OPPORTUNITY TO INTERVIEW THOSE --
28 SEEK INTERVIEWS OF THOSE PEOPLE.

1 IN THE ABSENCE OF A SHOWING OF NECESSITY
2 FOR HOME AND ADDRESSES AND PHONE NUMBERS, WHICH THIS
3 DOES NOT CONTAIN.

4 MR. WAPNER: NO. 16 ASKS FOR OFFICERS'
5 LOGBOOKS.

6 FIRST OF ALL, I DON'T KNOW WHAT THEY'RE
7 REFERRING TO.

8 AND SECOND OF ALL, I THINK IT'S TOO
9 VAGUE.

10 I DON'T KNOW IF THEY WANT THE LOGBOOK
11 FOR EACH OFFICER, ALL ENTRIES HAVING TO DO WITH
12 EVERYTHING CONCERNING THESE DATES, WHICH AS A MATTER
13 OF FACT INCLUDES DATES THAT HAVEN'T EVEN OCCURRED
14 YET.

15 IT SAYS TO GO THROUGH DECEMBER OF 1985.
16 I THINK THAT THAT'S TOO VAGUE AND I OBJECT TO THAT.

17 16 IS KIND OF A DOUBLE-BARRELLED THING,
18 THEY WANT THE OFFICERS' NOTES TO WHICH THEY ARE
19 OBVIOUSLY ENTITLED.

20 BUT AS FAR AS THE LOGBOOKS GO, I DON'T
21 KNOW WHAT THEY WANT. AND IF THEY CAN BE MORE
22 SPECIFIC, I WILL TRY AND PROVIDE THAT.

23 MR. CHIER: I WOULD CONSIDER REDACTING THAT TO
24 REQUEST FOR NOTES, YOUR HONOR.

25 THE COURT: MR. BARENS, YOU'RE NOT GOING TO
26 LEAVE US.

27 MR. BARENS: WELL, YOUR HONOR, AT THIS POINT I
28 WAS GOING TO LET MR. CHIER HAVE THE EXPERIENCE OF

1 DISCUSSING THIS DISCOVERY MOTION WHILE I CONCERN
2 MYSELF WITH OCTOBER 23RD, YOUR HONOR.

3 THE COURT: I ASSUME THAT'S OKAY WITH MR.
4 HUNT?

5 THE DEFENDANT HUNT: YES, IT IS, YOUR HONOR.

6 THE COURT: OKAY.

7 MR. BARENS: IT MIGHT NOT BE WITH MR. CHIER.

8 THANK YOU, YOUR HONOR.

9 THE COURT: WELL, AS I SAY, THIS IS A REAL
10 SHOTGUN DOCUMENT. ISN'T IT ADEQUATELY COVERED BY AN
11 ORDER TO WHICH I THINK THE DEFENSE IS ENTITLED, THAT
12 THEY'RE TO GET COPIES OF ALL NOTES AND WRITTEN AND
13 RECORDED MEMORANDA BY THE OFFICERS IN THIS CASE
14 HAVING TO DO WITH ANY ACTIVITY CONCERNING THIS CASE?

15 THAT WOULD COVER INTERVIEWS WITH
16 WITNESSES, IT WOULD COVER NOTES FOR STAKEOUTS, IT
17 WOULD COVER ANYTHING. I MEAN, I THINK THEY'RE
18 ENTITLED TO ANY WRITTEN AND RECORDED MATERIAL THAT
19 THE OFFICERS HAVE PREPARED IN CONNECTION WITH THIS
20 CASE.

21 MR. WAPNER: NO QUESTION. AND AN ORDER TO
22 THAT EFFECT IS FINE.

23 MR. CHIER: IS THERE A STANDING ORDER THAT
24 THIS COURT HAS THAT I SHOULD BE MADE AWARE OF, A
25 DISCOVERY ORDER?

26 THE COURT: NO, NO. BUT...

27 MR. CHIER: I JUST WANT TO BE IN A POSITION
28 WHERE I FEEL SECURELY COVERED IN THE EVENT THAT

1 SOMETHING TRICKLES DOWN, LET'S SAY, DURING TRIAL AND
2 IT BECOMES ARGUABLE WHETHER OR NOT IT WAS COVERED BY
3 YOUR HONOR'S DISCOVERY ORDER.

4 MR. WAPNER: THERE'S SOMETHING ELSE IN HERE TO
5 WHICH I OBJECT.

6 IT SAYS DOCUMENTS -- 19, DOCUMENTS
7 INTENDED TO BE USED 20 TO HIS OR HER MEMORY. THE
8 MEMORY OF WITNESSES. WHO TESTIFIED AT TRIAL.

9 WELL, I THINK WE'VE TURNED OVER ALL
10 DOCUMENTS THAT WE HAVE. BUT HOW I KNOW AT THIS POINT
11 WHAT'S GOING TO BE NEEDED TO REFRESH SOMEONE'S MEMORY
12 IS BEYOND ME.

13 THE COURT: ALL RIGHT. IF THEY EXIST. AND OF
14 COURSE FAILURE TO OBJECT TO THESE BY THE PEOPLE IS
15 NOT TO BE CONSTRUED IN ANY SENSE AS ANY ADMISSION
16 THAT THEY DO EXIST. OR HAVE EVER EXISTED.

17 NUMBER 1, WRITTEN STATEMENTS MADE BY THE
18 DEFENDANT TO THE PEOPLE. THAT'S ORDERED.

19 NUMBER 2, CONTENTS OF ANY ORAL STATEMENT
20 MADE BY THE DEFENDANT WHICH THE PEOPLE INTEND TO
21 INTRODUCE. WELL, TO THE EXTENT THAT SUCH THINGS ARE
22 NOW KNOWN, IT'S ORDERED. I MEAN, IF THIS MATERIAL
23 ONLY EXISTS IN THE MEMORY OF SOME WITNESS AND IT HAS
24 NOT YET BEEN COMMUNICATED TO THE PEOPLE, OBVIOUSLY
25 THEY'RE NOT IN A POSITION TO RELATE THAT TO THE
26 DEFENSE.

27 WE MAY HAVE WITNESSES TAKE THE STAND IN
28 THIS CASE AND TESTIFY TO CONVERSATIONS THEY'VE HAD

1 WITH THE DEFENDANT AS A RESULT OF RECALLING PAST
2 INCIDENTS WHERE THE PEOPLE ARE COMPLETELY UNAWARE OF
3 THE CONTENTS OF THE CONVERSATION.

4 NUMBER 3, TAPE-RECORDINGS OF ANY
5 STATEMENTS. GRANTED.

6 NUMBER 4, GRANTED.

7 NUMBER 5 IS GRANTED.

8 SOME OF THESE ARE VERY DUPLICATORY,
9 OVERLAPPING TO SAY THE LEAST.

10 NUMBER 6 WILL BE GRANTED.

11 NUMBER 7.

12 NUMBER 8 WILL BE REFUSED.

13 MR. CHIER: NUMBER 7 IS ON HOLD?

14 THE COURT: 7 WAS GRANTED.

15 MR. CHIER: OH, I'M SORRY.

16 THE COURT: NUMBER 8 IS REFUSED.

17 IF THERE IS SUCH A THING, THE DEFENDANT
18 IS CERTAINLY AWARE OF IT. AND I SEE NO REASON FOR A
19 FISHING EXPEDITION REQUEST LIKE NUMBER 8. IT SHOULD
20 BE MORE SPECIFIC IF IN FACT SUCH STATEMENTS WERE
21 MADE. OF COURSE, THAT WOULD HAVE NO RELEVANCY HERE
22 UNLESS WE'RE TALKING ABOUT A MOTION TO SUPPRESS A
23 STATEMENT BY THE DEFENDANT ON THE GROUNDS THAT IT WAS
24 NOT VOLUNTARILY AND BECAUSE IT WAS IN RESPONSE TO
25 SOME SUCH STATEMENT AS NUMBER 8.

26 NO, THAT'S REFUSED AT PRESENT. YOU CAN
27 RENEW IT WITH MORE SPECIFICITY, IF YOU WISH.

28 NUMBER 9, PHOTOGRAPHS TAKEN OR SKETCHES

1 MADE OF THE DEFENDANT OR ANY PORTIONS OF THE
2 DEFENDANT'S BODY.

3 WHAT DOES THAT HAVE TO DO WITH THIS
4 CASE?

5 MR. CHIER: WITHDRAWN.

6 THE COURT: NUMBER 10 IS GRANTED.

7 NUMBER 11 IS ORDERED AS MODIFIED, TO
8 WIT, THAT ADDRESSES AND PHONE NUMBERS NEED NOT BEEN
9 GIVEN IF ALTERNATIVE MEANS OF SOLICITING INTERVIEWS
10 IS PROVIDED.

11 MR. WAPNER: YOUR HONOR, AS TO NUMBER 10,
12 THERE IS A BOX OF DOCUMENTS SEIZED PURSUANT TO A
13 SEARCH WARRANT AT THE POLICE DEPARTMENT. IT HAS BEEN
14 AND CONTINUES TO BE AVAILABLE TO THE DEFENSE AT ANY
15 TIME THAT THEY WANT TO SEE IT.

16 WHAT I WANT TO KNOW IS, WHETHER OR NOT
17 YOU'RE INCLUDING IN 10, AN ORDER THAT IT'S SUPPOSED
18 TO BE COPIED BY THE PEOPLE AND PROVIDED TO THE
19 DEFENSE. IT'S ALWAYS BEEN AVAILABLE TO THEM. I
20 ASSUME THAT SHOULD BE SUFFICIENT.

21 THE COURT: NO, NO, IN ALL OF THESE MATTERS
22 THE PEOPLE HAVE THE ALTERNATIVE OF EITHER GIVING THE
23 DEFENDANT COPIES OR GIVING HIM OPPORTUNITY TO MAKE A
24 COPY.

25 OF COURSE, IF A WRITTEN DOCUMENT EXISTS,
26 I THINK -- THAT THE PEOPLE INTEND TO USE, THE PEOPLE
27 SHOULD PROVIDE A COPY TO THE DEFENSE. BUT IF YOU'RE
28 TALKING ABOUT A DOCUMENT OF THE DEFENDANT'S, WHICH

1 YOU HAVE IN YOUR POSSESSION AND WHICH YOU MAY OR MAY
2 NOT USE, THEN I THINK MERELY GIVING THE DEFENSE
3 ACCESS TO IT AND INDICATING THAT YOU MAY OR MAY NOT
4 USE IT IS SUFFICIENT.

5 MR. CHIER: YOUR HONOR? MAY I ASK WITH
6 RESPECT, IN RESPECT TO THIS, THESE ARE ITEMS SEIZED
7 PURSUANT TO A SEARCH WARRANT.

8 MR. WAPNER: SEARCH WARRANT?

9 MR. CHIER: SERVED ON --

10 MR. WAPNER: WELL, SERVED ON TWO LOCATIONS BUT
11 PRIMARILY I WAS REFERRING TO I THINK IT'S 8425 WEST
12 3RD.

13 I MAY HAVE THE NUMBERS WRONG BUT IT WAS
14 THE OFFICES OF THE BBC.

15 MR. CHIER: I HAVE NOT SEEN SO FAR THE RETURN
16 OF THE WARRANT. THE RETURN OF THE WARRANT, IF IT'S A
17 CLOSELY DETAILED INVENTORY, WOULD BASICALLY GIVE ME
18 SOME DIRECTION AS TO WHETHER I WANT TO MAKE A FURTHER
19 INSPECTION OR NOT.

20 IS THERE SUCH A DOCUMENT?

21 THE COURT: WELL, IT HAS TO BE ON FILE AND --
22 IN THE COURT WHERE THE WARRANT WAS ISSUED OR SUPPOSED
23 TO BE, AND AVAILABLE FOR YOU TO SEE.

24 MR. CHIER: I DON'T KNOW WHAT COURT IT WAS
25 ISSUED OUT OF.

26 THE COURT: BEVERLY HILLS, WASN'T IT?

27 MR. WAPNER: IT WAS ISSUED OUT OF BEVERLY
28 HILLS, YES.

1 THE COURT: ALL RIGHT.

2 NUMBER 12 IS GRANTED.

3 NUMBER 13, MODIFIED.

4 AGAIN, WITH RESPECT TO ADDRESSES AND
5 TELEPHONE NUMBERS, PEOPLE HAVE THE ALTERNATIVE OF
6 FURNISHING MEANS OF SOLICITING INTERVIEWS.

7 NUMBER 14 IS GRANTED.

8 NUMBER 15 IS GRANTED.

9 NUMBER 16 IS REFUSED. I BELIEVE IT'S
10 COVERED IN ANY NUMBER OF THE OTHER THINGS GRANTED AND
11 I DON'T -- IT'S TOO GENERAL, THEY'RE NOT ENTITLED TO
12 ALL THEIR LAW BOOKS FROM JUNE 7TH OF '84 TO DECEMBER
13 OF '85. I MEAN, THEY'VE GOT ENTRIES DEALING WITH
14 HUNDREDS OF CASES THAT HAVE NOTHING TO DO WITH THIS
15 ONE.

16 BUT I AM ORDERING THAT ANY NOTE,
17 MEMORANDUM, RECORDING OR OTHER DOCUMENT OR MEANS OF
18 RECORDATION PREPARED BY THE OFFICERS HAVING TO DO
19 WITH THIS CASE ARE TO BE FURNISHED TO THE DEFENSE.

20 NUMBER 17 IS ORDERED.

21 NUMBER 18 IS REFUSED. I HAVE NO
22 JURISDICTION TO ORDER A CIVILIAN INTO COURT TO BRING
23 ANY NOTES THAT HE MAY HAVE MADE ABOUT HIS TESTIMONY.

24 THERE'S NO WAY FOR THE PEOPLE, NOT
25 REQUIRING THE PEOPLE TO CALL UP EVERY WITNESS IN THIS
26 CASE AND SAY "HAVE YOU MADE SOME MEMORANDA ABOUT WHAT
27 YOU TESTIFIED AT THE PRELIM? AND IF SO, BRING IT
28 INTO COURT."

1 THAT'S A PROPER SUBJECT MATTER OF
2 CROSS-EXAMINATION IF A WITNESS HAS REFRESHED HIS
3 RECOLLECTION AND THERE'S SOME DOCUMENT IN EXISTENCE
4 THAT HE OR SHE USED FOR THAT PURPOSE.

5 SAME WITH 19, IT'S REFUSED.

6 20 IS GRANTED.

7 21 IS GRANTED.

8 22 IS GRANTED.

9 23 IS GRANTED.

10 24, GRANTED.

11 AGAIN, SOME OF THESE THINGS DON'T REALLY
12 APPEAR TO ME TO HAVE A RELATIONSHIP TO THE ACTUAL
13 ISSUES IN THIS CASE. AND THEY PROBABLY DON'T EXIST
14 BUT I'M ORDERING THEM IF THEY DO EXIST.

15 25 IS REFUSED. IT'S A SHOTGUN
16 STATEMENT, AND DUPLICATORY OF MANY OF THE ITEMS
17 GRANTED.

18 26 IS REFUSED. IT RELATES TO MATTERS
19 ALREADY GRANTED AS FAR AS THE TRIAL IS CONCERNED AND
20 OF COURSE ANY EXHIBITS PRESENTED AT THE PRELIM ARE A
21 MATTER OF RECORD AND AVAILABLE PRESENTLY FOR
22 DISCOVERY THROUGH THE CLERK'S OFFICE.

23 26 IS REFUSED. SHOTGUN STATEMEN.

24 MR. WAPNER: IS THAT 26A?

25 THE COURT: 26A, YES.

26 MR. CHIER: 26A IS REFUSED?

27 THE COURT: YES.

28 MR. WAPNER: I MIGHT INDICATE TO THE COURT

1 THAT I PREVIOUSLY FILED WITH THE COURT AND SERVED A
2 COPY ON COUNSEL OF THE FACTORS IN AGGRAVATION THAT WE
3 INTEND TO INTRODUCE, ASSUMING WE GET TO THE PENALTY
4 PHASE, PURSUANT TO SECTION 190.3(A) OF THE PENAL
5 CODE.

6 THE COURT: I DON'T UNDERSTAND 27A, IT'S AN
7 INCOMPLETE SENTENCE.

8 MR. CHIER: ANY RELEVANT MATERIALS BE PROVIDED
9 BY AN INFORMANT.

10 THE COURT: BUT THAT'S NOT A SENTENCE, IF ANY
11 RELEVANT MATERIAL OR INFORMATION WHICH HAS BEEN
12 PROVIDED BY AN INFORMANT.

13 WHAT?

14 MR. CHIER: WELL, IF YOU READ IT IN
15 CONJUNCTION WITH 27 ITSELF, IT MAKES SENSE, YOUR
16 HONOR.

17 THE COURT: NO, IT DOESN'T, IT DOESN'T SAY
18 "OF." IT SAYS "IF." I MEAN, WHERE I TOOK MY GRAMMAR
19 TRAINING THE FOLLOWING IS NOT A SENTENCE:

20 "THE PROSECUTING ATTORNEY SHALL INFORM
21 DEFENSE COUNSEL IF ANY RELEVANT MATERIAL OR
22 INFORMATION WHICH HAS BEEN PROVIDED BY AN
23 INFORMANT."

24 MR. CHIER: THE "WHICH" IS IN ERROR, YOUR
25 HONOR.

26 THE COURT: YOU MEAN THE "IF" IS IN ERROR. IF
27 YOU ELIMINATE THE "WHICH" IT STILL DOESN'T MAKE ANY
28 GRAMMATICAL SENSE.

1 YOU WANT TO KNOW THE MATERIAL, DON'T
2 YOU? YOU WANT TO KNOW OF ANY.

3 "PROSECUTING ATTORNEY SHALL INFORM
4 DEFENSE COUNSEL OF ANY RELEVANT MATERIAL OR
5 INFORMATION WHICH HAS BEEN PROVIDED BY
6 INFORMANT."

7 MR. CHIER: YES, YOUR HONOR.

8 MR. WAPNER: YOUR HONOR, I STILL HAVE A
9 PROBLEM WITH THAT, I DON'T KNOW WHAT THEY'RE TALKING
10 ABOUT IN TERMS OF --

11 THE COURT: WELL, THAT APPLIES TO A LOT OF
12 THESE THINGS, BUT SO WHAT?

13 MR. WAPNER: WELL, THE "SO WHAT" IS, IT MAKES
14 IT A LITTLE BIT DIFFICULT TO COMPLY IF I CAN'T
15 UNDERSTAND WHAT THEY'RE TALKING ABOUT.

16 THERE ARE NO --

17 THE COURT: WELL, WE'LL JUST DO IT THIS WAY:

18 "PROSECUTING ATTORNEY SHALL INFORM
19 DEFENSE COUNSEL OF ANY MATERIAL OR INFORMATION
20 WHICH HAS BEEN PROVIDED BY INFORMANT."

21 NUMBER 1, IS THERE ANY INFORMANT IN THIS
22 CASE?

23 MR. WAPNER: NO.

24 THE COURT: WELL THEN WHAT ARE WE SPINNING OUR
25 WHEELS ABOUT HERE?

26 I'M NOT GOING TO LEAVE IT TO THE
27 DISTRICT ATTORNEY, MR. CHIER, TO MAKE THE ASSESSMENT
28 OF WHAT'S RELEVANT AND WHAT'S NOT. IF YOU WANT ANY

1 INFORMATION OR MATERIAL PROVIDED BY AN INFORMANT,
2 THAT'S WHAT YOU'RE ENTITLED TO.

3 APPARENTLY THERE'S NO INFORMANT BUT I'LL
4 ORDER IT BECAUSE SO WHAT?

5 NOW, B, THERE'S NO REQUIREMENT.

6 NUMBER 1, FIRST OF ALL, I THINK THAT'S
7 COVERED BY EVERYTHING ELSE THAT'S REQUESTED.

8 NUMBER 2, THERE'S NO REQUIREMENT THAT A
9 DISCOVERY ORDER BE GRANTED IN THAT REGARD.
10 PROSECUTION IS UNDER A STATUTORY DUTY TO FURNISH TO
11 THE DEFENSE, ANY EXCULPATORY EVIDENCE WITHOUT THE
12 REQUEST BEING MADE.

13 27A AND B ARE GRANTED. AS I SAY, I
14 DON'T THINK THERE'LL BE ANYTHING COMING OF THAT,
15 THERE'S NO HARM IN IT.

16 ISN'T 28 COVERED ON THE ARREST AND CRIME
17 REPORTS? OR IS THERE SOMETHING ELSE YOU HAVE IN
18 MIND?

19 MR. CHIER: I WOULD SAY THERE IS, YOUR HONOR.
20 SAY THAT IT IS, YOUR HONOR.

21 THE COURT: REFUSED.

22 30, GRANTED. THIS IS A CONTINUING
23 ORDER.

24 31 IS NOT A PROPER DISCOVERY REQUEST,
25 IT'S AN ATTEMPT TO HAVE THE COURT MAKE A DECLARATION
26 OF THE EFFECT OF ITS ORDER THAT'S ALREADY WELL
27 ESTABLISHED IN CASE LAW. NO NECESSITY TO IT. THAT'S
28 STRICKEN.

1 ALL RIGHT. WHEN --

2 MR. CHIER: THERE ARE A NUMBER OF OTHER ITEMS
3 THAT I CAN EITHER FILE A SUPPLEMENTAL REQUEST FOR OR
4 PRESENT ORALLY AT THIS TIME, YOUR HONOR.

5 THE COURT: A NUMBER OF OTHER ITEMS BEYOND
6 WHAT'S REQUESTED HERE?

7 MR. CHIER: SOME SPECIFIC ITEMS.

8 THE COURT: WHAT?

9 MR. CHIER: WELL, LET ME GET TO THEM HERE.

10 MR. WAPNER: YOUR HONOR, IN ORDER TO SAVE THE
11 COURT'S TIME, LET ME TRY AND HANDLE THOSE INFORMALLY
12 WITH MR. CHIER. IF WE CAN'T WORK THEM OUT WE'LL
13 BRING THEM UP TO THE COURT.

14 THE COURT: WELL, I'M INTERESTED IN WHAT IT IS
15 THAT ISN'T COVERED BY THIS REQUEST.

16 MR. WAPNER: OKAY.

17 MR. CHIER: I WOULD LIKE TO DISCOVER WHETHER
18 THERE IS AN INVENTORY OF ALL OF THE BELONGINGS, IF
19 ANY, INCLUDING OFFICE EQUIPMENT, XEROX MACHINES AND
20 TAPE RECORDERS WHICH WERE CONFISCATED FROM THE HOME
21 OF THE ALLEGED VICTIM, MR. LEVIN, SPECIFICALLY XEROX
22 MACHINES AND TAPE-RECORDINGS --

23 THE COURT: WELL, THAT'S GOING TO BE COVERED
24 IN THE ARREST AND CRIME REPORT AND THE ACCOMPANYING
25 REPORTS, ISN'T IT?

26 MR. CHIER: WELL, I HOPE SO BUT IN THE EVENT
27 IT'S NOT I WANT TO MAKE A SPECIAL EFFORT TO GET THIS.

28 ALSO, THE DISTRICT ATTORNEY --

1 MR. WAPNER: HOLD ON A SECOND.

2 BEFORE WE GO ONTO SOMETHING ELSE, IN
3 THIS CASE THERE WAS NOTHING CONFISCATED FROM THE HOME
4 OF MR. LEVIN. OTHER THAN SOME PAPERS THAT THE COURT
5 HAS ALREADY REVIEWED THAT WERE PEOPLE'S 44 AT THE
6 PRELIMINARY HEARING. AND THERE WAS SOME
7 PHOTOGRAPHS -- THERE WERE SOME PHOTOGRAPHS TAKEN.

8 BUT WHAT MR. CHIER IS REFERRING TO HAS
9 TO DO WITH ITEMS THAT WERE TAKEN PURSUANT TO A SEARCH
10 WARRANT OF MR. LEVIN'S RESIDENCE AND WHICH LEAD TO
11 THE FILING OF A CRIMINAL CASE AGAINST MR. LEVIN.

12 THAT DOESN'T HAVE -- AND THAT HAPPENED
13 LONG BEFORE THE EVENTS THAT TOOK PLACE IN THIS CASE.

14 AND THERE WERE OTHER ITEMS THAT WERE
15 LEFT IN HIS HOUSE.

16 WE HAVE PHOTOGRAPHS OF PORTIONS OF MR.
17 LEVIN'S HOUSE THAT HAD COMPUTERS AND XEROX MACHINES
18 AND THAT TYPE OF STUFF. AND AS FAR AS I KNOW ALL OF
19 THOSE ITEMS WERE SOLD AS PART OF LIQUIDATING HIS
20 ESTATE.

21 THE COURT: WELL, I'M MAKING NO ORDER ON THE
22 ARREST AND CRIME REPORTS AND PROPERTY REPORTS
23 PREPARED IN CONNECTION WITH THIS CASE. IF YOU WANT
24 SOMETHING BEYOND THAT, YOU'RE GOING TO HAVE TO FILE A
25 WRITTEN MOTION WITH POINTS AND AUTHORITIES AND SHOW
26 ITS RELEVANCY THEN, COUNSEL.

27 MR. CHIER: ALL RIGHT, I'LL DO THAT.

28 THE COURT: NOW, I THINK THAT THE PEOPLE

1 SHOULD COMPLY WITH THIS DISCOVERY ORDER, MEANING
2 TURNING OVER WHAT IS IN EXISTENCE, INDICATING THAT
3 WITH RESPECT TO ALL OTHER ITEMS WHERE THE ORDER WAS
4 GRANTED, THAT THERE ARE NO OTHER ITEMS TO THE
5 KNOWLEDGE OF THE PEOPLE.

6 FIVE WEEKS, THE 18TH OF SEPTEMBER OR
7 FOUR WEEKS, THE 11TH? WHICH DO YOU WANT, MR. CHIER?

8 MR. CHIER: 18TH.

9 MR. WAPNER: 18TH, YOUR HONOR.

10 THE COURT: DISCOVERY IS TO BE ACCOMPLISHED BY
11 THE 18TH OF SEPTEMBER. AND IF NOT, COUNSEL, YOU
12 SHOULD HAVE THIS MATTER CALENDARED FORTHWITH.

13 MR. CHIER: SHOULD WE SET IT FOR THAT DAY AS A
14 NON-APPEARANCE MATTER, YOUR HONOR?

15 THE COURT: NO. WHY SHOULD I REQUIRE A MINUTE
16 ORDER THAT'S NOT NECESSARY? IF YOU DON'T GET
17 COMPLIANCE YOU NOTIFY MY CLERK AND WE'LL PUT IT ON
18 THE CALENDAR.

19 MR. CHIER: WELL, THAT WOULD BE ANOTHER TEN
20 DAYS. PRESUMABLY THE PEOPLE WOULD WANT TEN DAYS
21 NOTICE AND THAT GETS PRETTY CLOSE TO TRIAL.

22 THE COURT: ALL RIGHT. WE'LL PUT IT ON THE
23 18TH, ON WHICH DATE IF THERE'S NO APPEARANCE BY
24 COUNSEL THE COURT WILL ASSUME THAT HE IS SATISFIED
25 WITH DISCOVERY AND IT WILL BE ORDERED OFF CALENDAR.

26 THE DEFENDANT WILL BE REMANDED IN LIEU
27 OF THE BAIL SET.

28 THAT'S MR. HUNT.

1 AS TO MR. PITTMAN, WE'LL HAVE TO PUT THE
2 CASE -- TRAIL THE CASE UNTIL THIS AFTERNOON AND
3 NOTIFY THE PUBLIC DEFENDER THEY'VE BEEN APPOINTED SO
4 THAT THEY CAN INTERVIEW MR. PITTMAN AND ASCERTAIN
5 WHETHER THEY'RE GOING TO PROCEED TO REPRESENT HIM.

6 MR. YOUNG: DO I NEED TO BE HERE FOR THAT
7 PURPOSE OR AM I RELIEVED AS OF NOW? I'M SURE HE'LL
8 QUALIFY.

9 THE COURT: WELL, YES, YOU'RE GOING TO HAVE TO
10 BE HERE IN ORDER TO TURN OVER TO THE DEFENSE COUNSEL,
11 ALL THE MATERIALS IN THIS CASE THAT YOU'VE
12 ACCUMULATED NECESSARY TO THE DEFENDANT'S DEFENSE.

13 MR. YOUNG: ALL RIGHT. COULD WE DO IT THIS
14 WAY, BECAUSE IT'S QUITE -- IT'S LIKE THIS.

15 COULD I BE ORDERED TO DELIVER IT TO HIM
16 WITHIN A COUPLE DAYS? I WOULD LIKE TO ORGANIZE IT.
17 I WILL DELIVER IT TO HIM. I MEAN, IT'S QUITE
18 LENGTHY. OR MAYBE BY TOMORROW.

19 THE COURT: WELL, YOU'RE DIRECTED, MR. YOUNG,
20 TO TURN OVER TO THE PUBLIC DEFENDER OR SUCH OTHER
21 COUNSEL AS THE COURT MAY APPOINT THIS AFTERNOON,
22 WITHIN ONE WEEK, ALL OF THE MATERIAL THAT YOU HAVE BY
23 WAY OF COPIES OF PRELIMINARY HEARING TRANSCRIPTS,
24 COPIES OF TRANSCRIPTS OF PRIOR TRIAL, INVESTIGATORY
25 MATERIALS AND SO FORTH, ANYTHING OTHER THAN YOUR OWN
26 WORK PRODUCT.

27 MR. YOUNG: RIGHT.

28 THE DEFENDANT PITTMAN: YOUR HONOR?

1 THE COURT: YES, SIR?

2 THE DEFENDANT PITTMAN: IS THERE ANY WAY THAT
3 I CAN COME BACK TOMORROW? BECAUSE I'M VERY SICK, I
4 HAVE THE FLU AND I'LL BE BACK ON THE FIRST BUS TO GET
5 BACK. OR SOME TIME NEXT WEEK OR WHATEVER. I'M SICK,
6 REALLY.

7 THE COURT: ALL RIGHT.

8 WELL, YOU UNDERSTAND, I ASSUME, MR.
9 PITTMAN, THAT BY REPLACING MR. YOUNG WITH ANOTHER
10 LAWYER, THAT WE ARE GOING TO HAVE TO CONTINUE THIS
11 CASE A SUBSTANTIAL PERIOD OF TIME TO AFFORD THE NEW
12 LAWYER AN OPPORTUNITY TO PREPARE.

13 THE DEFENDANT PITTMAN: RIGHT.

14 THE COURT: AND THAT IT WOULD PROBABLY BE THE
15 DATE NOW SET FOR MR. HUNT'S TRIAL, ON THE 23RD OF
16 OCTOBER.

17 DO YOU UNDERSTAND?

18 THE DEFENDANT PITTMAN: YES, SIR.

19 THE COURT: WELL, IF YOU'VE GOT THE FLU, SIR,
20 I DON'T KNOW IF PUTTING IT OVER UNTIL TOMORROW WOULD
21 BE --

22 THE DEFENDANT PITTMAN: WELL, I NEED SOME
23 MEDICINE, YOUR HONOR. I DON'T HAVE ANYTHING TO TAKE
24 AT ALL.

25 THE COURT: WE'LL PUT IT ON THE 21ST. PUBLIC
26 DEFENDER HAS BEEN APPOINTED AND THEY SHOULD HAVE
27 SOMEBODY HERE ON THAT DATE.

28 MR. YOUNG: THANK YOU.

1 THE COURT: MR. PITTMAN IS REMANDED IN LIEU OF
2 THE BAIL SET.

3 (PROCEEDINGS CONCLUDED.)
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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT WEST F

HON. LESLIE W. LIGHT, JUDGE

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

NO. A090435
REPORTER'S
CERTIFICATE

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS

I, LORI SUSANNE ANASTASIOU, OFFICIAL
REPORTER OF THE SUPERIOR COURT OF THE STATE OF
CALIFORNIA, FOR THE COUNTY OF LOS ANGELES, DO HEREBY
CERTIFY THAT THE FOREGOING PAGES, A1 TO A53 COMPRISE A
TRUE AND CORRECT TRANSCRIPT OF THE PROCEEDINGS TAKEN
PLEA IN THE ABOVE-ENTITLED CAUSE ON JUNE 18 AND AUGUST
14, 1985.

DATED THIS 20TH DAY OF MARCH, 1989.

Lori S. Anastasiou, CSR #4345

OFFICIAL REPORTER

