

APPEARANCES OF COUNSEL:

FOR THE PLAINTIFF:

GARY A. FEESS,
UNITED STATES ATTORNEY
BY: MANUEL A. MEDRANO
JOHN L. CARLTON
ASSISTANT U.S. ATTORNEYS
1200 UNITED STATES COURTHOUSE
312 NORTH SPRING STREET
LOS ANGELES, CALIFORNIA 90012
(213) 894-0619/894-6682

FOR DEFENDANT JUAN RAMON MATTA-BALLESTEROS:

MARTIN R. STOLAR, ESQ.
MICHAEL J. BURNS, ESQ.
ADOLFO Z. AGUILA, ESQ.
ATTORNEYS AT LAW
351 BROADWAY, 4TH FLOOR
NEW YORK, NEW YORK 10013
(212) 219-1919; (213) 855-8888 EXT. 314

FOR DEFENDANT RUBEN ZUNO-ARCE:

MITCHELL, SILBERBERG & KNUPP
BY: EDWARD M. MEDVENE, ESQ.
JAMES BLANCARTE, ESQ.
RONALD DI NICOLA, ESQ.
MARY E. FULGINITI, ESQ.
11377 WEST OLYMPIC BOULEVARD
LOS ANGELES, CALIFORNIA 90064-1683
(213) 312-3150

FOR DEFENDANT JUAN JOSE BERNABE-RAMIREZ:

MARY KELLY
ATTORNEY AT LAW
827 MORAGA DRIVE
BEL AIR, CALIFORNIA 90049
(213) 472-7121
AND
BRIDGMAN, MORDKIN, GOULD & SHAPIRO, INC.
BY: MICHAEL S. MEZA, ESQ.
17050 BUSHARD STREET, STE. 200
FOUNTAIN VALLEY, CALIFORNIA 92708
(714) 898-0461; (213) 924-6606

APPEARANCES (CONTINUED):

FOR DEFENDANT JAVIER VASQUEZ-VELASCO:

FEDERAL LITIGATORS GROUP
BY: GREGORY NICOLAYSEN ESQ.
8530 WILSHIRE BOULEVARD, STE. 404
BEVERLY HILLS, CALIFORNIA 90211
(213) 854-5135

ALSO PRESENT:

DOUGLAS KUEHL, SPEC.AGT., D.E.A.
HECTOR BERRELLEZ, SPEC. AGT. D.E.A.

SPANISH INTERPRETERS

CR 87-422(F)ER, U.S. VS MATTA, ET AL., 7-31-90, V. 38A & B

I N D E X

1:30	VERDICT ON RUBEN ZUNO ARCE	P. 4
3:10	JURY QUESTION ON JAVIER VASQUEZ VELASCO	P 8

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0 1 LOS ANGELES + CALIFORNIA TUESDAY, JULY 31, 1990

2 + 1:30 P.M.

3
4 (JURY PRESENT.)

5 THE COURT: GOOD AFTERNOON.

6 THE COURTROOM: GOOD AFTERNOON, YOUR HONOR.

7 THE COURT: NOW, MADAM FOREMAN, I HAVE RECEIVED YOUR
8 NOTE INDICATING THAT THE JURY HAS REACHED A UNANIMOUS VERDICT
9 WITH RESPECT TO THE DEFENDANT RUBEN ZUNO-ARCE; IS THAT
10 CORRECT?

11 FOREPERSON DOLAN: YES, YOUR HONOR.

12 THE COURT: HAVE YOU DATED AND SIGNED THE VERDICT
13 FORM AND FILLED IN ALL THE APPROPRIATE BLANKS?

14 FOREPERSON DOLAN: YES.

15 THE COURT: PLEASE HAND THE VERDICT FORM TO THE
16 CLERK, PLEASE.

17 THE DEFENDANT WILL PLEASE RISE.

18 THE COURT WILL PRESENT THE VERDICT OF THE JURY.

19 "THE UNITED STATES OF AMERICA,
20 PLAINTIFF, VERSUS RUBEN ZUNO ARCE, DEFENDANT,
21 CR-87-422(F), VERDICT:

22 "WE, THE JURY, IN THE ABOVE-ENTITLED
23 CAUSE OF ACTION FIND THE DEFENDANT RUBEN ZUNO
24 ARCE GUILTY AS CHARGED IN COUNT 3 OF THE
25 INDICTMENT, GUILTY AS CHARGED IN COUNT 5 OF

1 THE INDICTMENT, GUILTY AS CHARGED IN COUNT 6
2 OF THE INDICTMENT.

3 "DATED: JULY 31, 1990, AT LOS ANGELES,
4 CALIFORNIA.

5 "SIGNED: PEGGY DOLAN, THE FOREPERSON OF
6 THE JURY."

7 LADIES AND GENTLEMEN OF THE JURY, ARE THESE VERDICTS
8 THAT HAVE JUST BEEN PRESENTED AND READ BY THE COURT THE
9 VERDICTS OF EACH AND EVERY ONE OF YOU INDIVIDUALLY?

10 THE JURY: YES, YOUR HONOR.

11 THE COURT: COUNSEL, DO YOU WISH TO HAVE THE JURY
12 POLLED?

13 MR. MEDVENE: YES, YOUR HONOR.

14 THE COURT: LADIES AND GENTLEMEN, WHEN I CALL YOUR
15 NAME, IF THESE VERDICTS THAT HAVE BEEN PRESENTED AND READ
16 REPRESENT YOUR OWN INDIVIDUAL VERDICTS, PLEASE ANSWER "YES";
17 IF NOT, PLEASE ANSWER "NO".

18 MYRTLE HINES?

19 JUROR HINES: YES.

20 THE COURT: JOHN WEST?

21 JUROR WEST: YES.

22 THE COURT: NATHANIEL THOMPSON?

23 JUROR THOMPSON: YES.

24 THE COURT: FRANK MARQUEZ?

25 JUROR MARQUEZ: YES.

1 THE COURT: WILLIAM PARRIS?

2 JUROR PARRIS: YES.

3 THE COURT: LINDA OVERHOLT?

4 JUROR OVERHOLT: YES.

5 THE COURT: ROBERT ESPINOSA?

6 JUROR ESPINOSA: YES.

7 THE COURT: DUANE WOOD?

8 JUROR WOOD: YES.

9 THE COURT: PEGGY DOLAN?

10 JUROR DOLAN: YES.

11 THE COURT: DENISE MCDANIELS?

12 JUROR MC DANIELS: YES.

13 THE COURT: JOANNE FREDERICK?

14 JUROR FREDERICK: YES.

15 THE COURT: IRENE MCLANE?

16 JUROR MC LANE: YES.

17 THE COURT: ALL 12 JURORS ANSWER "YES". THE
18 VERDICTS OF THE JURY ARE UNANIMOUS. THE CLERK IS ORDERED TO
19 ENTER THE VERDICT OF THE JURY ON THE MINUTES OF THE COURT.

20 LADIES AND GENTLEMEN OF THE JURY, YOU MAY BE EXCUSED
21 NOW TO RESUME YOUR DELIBERATIONS.

22 THE CLERK: PLEASE RISE.

23 (JURY EXCUSED.)

24 THE COURT: THIS MATTER -- THIS DEFENDANT WILL BE
25 REFERRED TO THE PROBATION DEPARTMENT FOR INVESTIGATION AND

1 REPORT. THE TIME FOR THE PRONOUNCEMENT OF JUDGMENT AND
2 IMPOSTION OF SENTENCE WILL BE THE 18TH OF SEPTEMBER AT THE
3 HOUR OF 1:30 P.M. THE DEFENDANT IS ORDERED TO RETURN HERE AT
4 THAT TIME.

5 IS THERE ANYTHING FURTHER AT THIS TIME?

6 MR. MEDRANO: NOT BY THE GOVERNMENT, YOUR HONOR.

7 THANK YOU.

8 THE COURT: ALL RIGHT. COUNSEL ON OUR PENDING CASE,
9 I'LL SEE YOU IN CHAMBERS IN A MOMENT TO GO OVER THE JURY
10 INSTRUCTIONS.

11 MR. MEDVENE: THANK YOU, YOUR HONOR.

12 THE CLERK: PLEASE RISE.

13 (PROCEEDINGS ADJOURNED)

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1 LOS ANGELES + CALIFORNIA TUESDAY, JULY 31, 1990

2 + 3:10 P.M.

3
4 (JURY NOT PRESENT.)

5 THE COURT: LET THE RECORD SHOW THAT THE COURT HAS
6 CONVENED WITHOUT THE PRESENCE OF THE JURY. THAT COUNSEL IS
7 HERE FOR THE DEFENDANT JAVIER VASQUEZ VELASCO WITHOUT THE
8 DEFENDANT, AND COUNSEL FOR THE GOVERNMENT IS HERE.

9 THE COURT HAS RECEIVED A NOTE FROM THE JURY IN WHICH
10 THEY ASK TO LISTEN TO THE COURT TRANSCRIPT REGARDING ABEL
11 REYNOSO'S TESTIMONY OF MAY 30 AND 31.

12 I HAVE HAD THE REPORTER LOCATE THAT TESTIMONY THAT IS
13 CONTAINED IN THE TRANSCRIPT OF THE TRIAL VOLUME 10 AND VOLUME
14 11. IT SHOWS THAT THE TESTIMONY COMMENCED ON MAY 30TH, AT
15 PAGE 107 OF THE TRANSCRIPT AND ENDED ON THAT DATE AT PAGE 226.

16 MR. NICOLAYSEN: DOES THIS INCLUDE CROSS-EXAMINATION
17 AS WELL, YOUR HONOR?

18 THE COURT: JUST WAIT UNTIL I'M FINISHED HERE
19 COUNSEL, WILL YOU?

20 THEN THE FOLLOWING MORNING THERE WAS TESTIMONY OF
21 FOUR ADDITIONAL PAGES, BEGINNING AT PAGE 4 OF VOLUME 11 AND
22 ENDING AT PAGE 8 OF VOLUME (12). THAT INCLUDES ALL THE
23 EXAMINATION OF THAT WITNESS DURING THAT TIME.

24 NOW, I SUPPOSE THE COURT CAN ASK THE JURY TO TRY TO
25 BE MORE SPECIFIC OR WE COULD SIMPLY READ ALL OF THE TESTIMONY

1 AND TELL THEM TO STOP US WHEN THEY THINK THEY HAVE HEARD
2 ENOUGH.

3 MR. NICOLAYSEN: I'VE NEVER BEEN IN A SITUATION
4 WHERE THE ENTIRETY OF THE EXAMINATION IS READ BACK, YOUR
5 HONOR. I WOULD OBJECT TO THAT. I THINK IT IS UNNECESSARILY
6 TIME CONSUMING AND I THINK WE'RE TALKING ABOUT, LITERALLY, TWO
7 HOURS OF READING BACK TO THE JURY.

8 THE COURT: THEY SHOULD HAVE IT IF THEY WANT IT.
9 WHAT'S WRONG WITH THAT?

10 MR. MEDRANO: THE GOVERNMENT WOULD NOT OBJECT TO
11 YOUR SUGGESTION, STARTING AND LET THEM CUT IT OFF. IF AND
12 WHEN THEY WANT TO HEAR THE WHOLE THING, WE HAVE NO OBJECTION
13 TO YOUR SUGGESTION.

14 MR. NICOLAYSEN: MY CONCERN IS THAT IF THEY'RE GOING
15 TO HEAR ANY INFORMATION, THEY SHOULD HEAR THE WHOLE THING.
16 BUT IF THEY STOP THE REPORTER AT ONE POINT, IT UNDULY
17 EMPHASIZES THAT PARTICULAR PORTION OF THE EXAMINATION. THERE
18 WILL BE TESTIMONY ON THAT SAME POINT ON CROSS-EXAMINATION.

19 I WOULD RATHER THAT THEY ASK YOUR HONOR TO HIGHLIGHT
20 A SPECIFIC TOPIC, THEN WE CAN MARK THAT SECTION THAT DIRECTLY
21 COVERS THAT TOPIC AND THE CORRESPONDING SUBJECT ON CROSS AND
22 THERE --

23 MR. MEDRANO: THE DIFFICULTY WITH THAT, YOUR HONOR,
24 IS PERHAPS WE'RE ENCROACHING ON THE JURY'S AREA OF
25 DELIBERATION BY ASKING QUESTIONS. WE CAN'T READ THEIR MINDS.

1 I THINK A BETTER ROUTE IS TO -- LET'S READ THE WHOLE
2 THING, INCLUDING CROSS-EXAMINATION, AND THAT WAY BOTH SIDES
3 ARE PROTECTED.

4 THE COURT: THE NEXT QUESTION IS, IS THERE ANY
5 OBJECTION TO SIMPLY HAVING THE REPORTER READ THE TESTIMONY IN
6 THE JURY ROOM TO THE MEMBERS OF THE JURY?

7 MR. MEDRANO: NONE BY THE GOVERNMENT, YOUR HONOR.

8 MR. NICOLAYSEN: NONE BY THE DEFENSE. IN FACT, IT
9 IS MY PREFERENCE IF ANYBODY READS, IT'S OBVIOUSLY MS.
10 CHURCHILL.

11 THE COURT: I THINK WHAT WE SHOULD DO IS HAVE THE
12 REPORTER -- AND I THINK THAT YOU GENTLEMEN SHOULD LOOK AT THAT
13 TRANSCRIPT HERE TO SEE THAT THE PAGES I HAVE INDICATED ARE THE
14 CORRECT PAGES. IF THE JURY INDICATES TO THE REPORTER THAT
15 THEY HAVE HEARD ENOUGH, THEN I DO NOT THINK THAT THEY SHOULD
16 BE COMPELLED TO HEAR ANY MORE THAN THEY WANT.

17 MR. NICOLAYSEN: I DON'T KNOW FROM RECOLLECTION
18 WHETHER I HAVE MADE ANY OBJECTIONS DURING DIRECT, AND ASK THAT
19 THE COURT STRIKE TESTIMONY THAT HAS BEEN GRANTED.

20 THE COURT: I THINK IT SHOULD BE UNDERSTOOD THAT THE
21 REPORTER WILL BE ORDERED TO OMIT ANY OBJECTIONS OR ANY
22 COLLOQUY BETWEEN COURT AND COUNSEL AND BETWEEN COUNSEL AND THE
23 COURT AND TO READ ONLY THE QUESTIONS THAT WERE ASKED AND THE
24 ANSWERS THAT WERE GIVEN, NOT TO HAVE ANY CONVERSATION
25 WHATSOEVER WITH THE JURY REGARDING THE TESTIMONY, SIMPLY TO

1 READ THE QUESTIONS AND THE ANSWERS, OMITTING ANY COLLOQUY.

2 MR. NICOLAYSEN: I'M SPECIFICALLY REFERRING, THOUGH,
3 TO ANY TESTIMONY GIVEN THAT YOUR HONOR SUBSEQUENTLY ORDERED
4 STRICKEN BASED ON AN OBJECTION THAT WAS SUSTAINED.

5 I WOULD ASK THAT THAT BE STRICTLY -- BE REDACTED BY
6 THE REPORTER SO IT'S NOT INADVERTENTLY READ OUT LOUD.

7 THE COURT: IF THERE WAS ANY TESTIMONY STRICKEN,
8 THAT SHOULD NOT BE READ TO THE JURY.

9 MR. NICOLAYSEN: THANK YOU, YOUR HONOR.

10 THE COURT: YOU'RE FREE TO REVIEW THIS TO MAKE SURE
11 OF THAT.

12 DO YOU HAVE COPIES OF THE TRANSCRIPT? IF NOT, YOU
13 MAY USE THE ONES I HAVE HERE WHERE THE PAGES ARE MARKED.

14 MR. MEDRANO: MAY WE REVIEW THE COURT'S, YOUR HONOR?
15 I DON'T BELIEVE COUNSEL HAVE COPIES OF THOSE PARTICULAR
16 TRANSCRIPTS.

17 MR. NICOLAYSEN: MAY WE HAVE A 15-MINUTE GRACE
18 PERIOD SO THAT IF THE GOVERNMENT OR I HAVE ANY CONCERNS OF ANY
19 KIND WE CAN AT LEAST BRING IT UP?

20 THE COURT: I WANT TO GET THIS TO THE JURY AS SOON
21 AS POSSIBLE. I'VE ASKED YOU TO LOOK AT THAT, AND IF YOU DON'T
22 HAVE ANY OBJECTION THEN THE REPORTER MAY GO UP AND COMMENCE
23 READING.

24 MR. NICOLAYSEN: THANK YOU.

25 MR. MEDRANO: THANK YOU, YOUR HONOR.

1 (PROCEEDINGS RECESSED.)

2 (RESUMED IN CHAMBERS AT 4:00 P.M.)

3 THE COURT: LET THE RECORD SHOW THE COURT HAS
4 CONVENED IN CHAMBERS WITH COUNSEL.

5 COUNSEL, I UNDERSTAND YOU HAVE REVIEWED THE ENTIRE
6 TRANSCRIPT OF THE TESTIMONY OF THE WITNESS AND HAVE HAD AGREED
7 ON WHAT SHOULD BE OMITTED.

8 MR. NICOLAYSEN: THAT IS CORRECT, YOUR HONOR.

9 MR. MEDRANO: YES, YOUR HONOR. WE HAVE, IN FACT,
10 REDACTED THE PHOTOCOPIES OF THE PAGES SO THEY'RE PREPARED AND
11 READY TO BE READ TO THE JURY. WE'LL ASK THE REPORTER TO GO UP
12 AND START READING.

13 THE COURT: WOULD YOU LIKE TO HAVE THESE PAGE AND
14 LINE REFERENCES? WE'LL ASK THE REPORTER TO REPORT BACK ON THE
15 RECORD IF THE JURY -- HOW MUCH OF THE TESTIMONY WAS REQUESTED
16 BY THE JURY.

17 MR. NICOLAYSEN: BY STIPULATION BETWEEN THE DEFENSE
18 AND THE GOVERNMENT, THE FOLLOWING PAGES AND LINE REFERENCES
19 ARE TO BE DELETED FROM THE READING TO THE JURY FROM VOLUME 10.
20 PAGE 127 LINE 19 TO PAGE 128 LINE 17; PAGE 130 LINE 6 TO PAGE
21 153 LINE 11; PAGE 157 LINE 24 TO PAGE 159 LINE 4; PAGE 162
22 LINE 13 TO PAGE 162 LINE 16; PAGE 168 LINES 5-13; PAGE 190
23 LINES 1-6; PAGE 209 LINES 18-20; PAGE 211 LINE 18 TO PAGE 212
24 LINES 1 THROUGH 6; PAGE 212 LINE 24 TO 213 LINE 2; PAGE 214
25 LINES 18 THROUGH 22; PAGE 215 LINES 18 THROUGH 22; PAGE 216

1 LINES 11 THROUGH 18; AND PAGE 218 LINES 3 THROUGH 6.

2 THOSE ARE ALL INCLUSIVE, YOUR HONOR. AND THE
3 GOVERNMENT AND DEFENSE HAVE STIPULATED THAT THE FOLLOWING IS
4 TO BE READ FROM VOLUME 11. THE JURY IS TO BE READ PAGE 4,
5 LINE 13 THROUGH PAGE 6 LINE 17, INCLUSIVE.

6 MR. MEDRANO: SO STIPULATED, YOUR HONOR.

7 THE COURT: IS THAT A CORRECT STATEMENT?

8 I WILL DIRECT THE REPORTER TO PROCEED WITH THE
9 READING OF THE TESTIMONY. YOU MAY STOP WHENEVER THE JURORS
10 INDICATE THEY DO NOT WISH TO HEAR ANY MORE. OTHERWISE, READ
11 IT ALL.

12 MR. NICOLAYSEN: GIVEN THE AMOUNT OF TIME ITS
13 EXPECTED TO TAKE, I DON'T THINK THE JURY WILL COME BACK TODAY.
14 I THINK THAT'S OBVIOUS. MAY I BE EXCUSED?

15 MR. MEDRANO: THANK YOU, YOUR HONOR.

16 THE COURT: THE JURY MAY BE EXCUSED AT THE REGULAR
17 TIME. IF NEED BE, THEY MAY BE CONTINUED IN THE MORNING. AT
18 4:30 THEY MAY BE EXCUSED.

19 (PROCEEDINGS IN CHAMBERS ADJOURNED.)

20
21 C E R T I F I C A T E

22 I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT
23 FROM THE RECORD OF PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

24 Julie A. Churchill
25 JULIE A. CHURCHILL, CSR, RPR
OFFICIAL COURT REPORTER

DATED: 2-20-92