

Medvene
COPY

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

HONORABLE EDWARD RAFFEDIE, DISTRICT COURT JUDGE PRESIDING

UNITED STATES OF AMERICA,)
)
) PLAINTIFF,)
)
) VS.)
) CASE NO: CR 87-422(F)-ER)
)
) JUAN RAMON MATTA-BALLESTEROS,) APPEALS NO: 91-50336)
) RUBEN ZUNO-ARCE,) 91-50351)
) JUAN JOSE BERNABE-RAMIREZ,) 91-50333)
) AND JAVIER VASQUEZ-VELASCO,) 91-50342)
)
) DEFENDANTS.)
)
) VOLUMES 40A & 40B)
) (CONSOLIDATED)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

FRIDAY, AUGUST 3, 1990

1:30 AND 4:30 P.M.

JULIE A. CHURCHILL, CSR, RPR
OFFICIAL COURT REPORTER
U.S. DISTRICT COURT, RM. 442-C
312 N. SPRING STREET
LOS ANGELES, CALIFORNIA 90012
(213) 617-8227

APPEARANCES OF COUNSEL:

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APPEARANCES (CONTINUED):

FOR DEFENDANT JAVIER VASQUEZ-VELASCO:

FEDERAL LITIGATORS GROUP
BY: GREGORY NICOLAYSEN, ESQ.
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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

I N D E X

1:30	JURY QUESTION RE JAVIER VASQUEZ-VELASCO	P. 4
4:30	ADMONITION TO JURY IN OPEN COURT RE AVOIDING PRESS, RADIO, TELEVISION OF ANY KIND	P. 19
4:45	DISCUSSION RE ZUNO'S MOTION FOR MISTRIAL, RE BEING DENIED NOTICE OF HEARING ON 8-2-90 CONCERNING JURY MISCONDUCT	P. 20

LOS ANGELES + CALIFORNIA FRIDAY, AUGUST 3, 1990

+ 1:30 P.M.

(HEARING HELD IN THE CHAMBERS OF HONORABLE JUDGE
EDWARD RAFEEDIE.)

THE COURT: LET THE RECORD SHOW THAT THE COURT HAS
CONVENED IN CHAMBERS WITH ALL COUNSEL PRESENT TO DISCUSS THE
NOTE FROM THE JURY REQUESTING TO HEAR AGAIN ENRIQUE PLASCENCIA
AGUILAR'S TESTIMONY OF JUNE 22, 1990 AND HIS TESTIMONY OF JUNE
28, 1990.

NOW, THE REPORTER TELLS ME THIS HAS NOT BEEN
TRANSCRIBED BECAUSE THERE WAS NO DAILY ORDERED AT THAT POINT.
THEREFORE, ANY READING WOULD HAVE TO BE DONE FROM THE NOTES.
WHEN I RECEIVED THIS JUST BEFORE NOON, I ASKED THE REPORTER TO
GO THROUGH THE NOTES. SHE TELLS ME THAT THE ESTIMATE FOR
READING ALL OF THE TESTIMONY WOULD BE APPROXIMATELY FOUR
HOURS.

(DUE TO THE DIFFICULTY OF A REPORTER REPORTING THEIR
OWN STATEMENTS, THE FOLLOWING COMMENTS MADE BY "THE REPORTER"
WERE TRANSCRIBED FROM THE OFFICIAL BACKUP RECORDING):

THE REPORTER: FOR JUST ONE DAY --

THE COURT: WHAT?

THE REPORTER: FROM JUST ONE DAY, ON THE 22ND. ON
THE 22ND, HE WAS THE BETTER PART OF THE DAY. WITH THE
EXCEPTION OF MAYBE AN HOUR IN THE MORNING, HE WAS ON THE

1 STAND.

2 THE COURT: HE WAS THE WHOLE DAY, IN OTHER WORDS.

3 I THINK THAT IT MIGHT BE A GOOD IDEA IF WE ASKED
4 THESE JURORS WHETHER OR NOT THEY COULD SPECIFY SOME AREAS OF
5 THE TESTIMONY IN WHICH THEY'RE INTERESTED, AND THAT MIGHT HELP
6 US LOCATE IT BETTER.

7 MR. NICOLAYSEN: I AGREE WITH THAT. THAT WOULD BE MY
8 REQUEST AS WELL. I WOULD ONLY ASK THAT ONCE WE DO GET THAT
9 SPECIFICATION, WE FIND ALL PERTINENT PARTS OF DIRECT AND CROSS
10 THAT TOUCH ON THAT SO THERE IS A BALANCED READING.

11 IF THE COURT IS AGREEING WITH THAT, I THINK I --

12 THE COURT: WELL, THE OTHER THING WE HAVE TO
13 DETERMINE IS WHETHER OR NOT WE CAN FOLLOW THE PROCEDURE WE DID
14 BEFORE AND LET THE REPORTER READ IN THE JURY ROOM FROM HER
15 NOTES.

16 MR. NICOLAYSEN: IS IT PRACTICAL TO READ FLUENTLY
17 FROM YOUR NOTES FOR AN ONGOING PERIOD OF TIME?

18 THE COURT: OH, SURE. I MEAN I WOULD HOPE IT'S
19 PRACTICAL. I MEAN, I HAVE BEEN HAVING REPORTERS READ BACK FOR
20 YEARS.

21 MR. NICOLAYSEN: I REALIZE ONE OR TWO QUESTIONS AND
22 ANSWERS IS NOT A PROBLEM, BUT WHEN WE'RE ASKING THE REPORTER
23 TO SPEND SUCH AN EXTENSIVE AMOUNT OF TIME, I DON'T KNOW IF
24 THAT PUTS AN UNDUE STRAIN ON THE REPORTER. I'M JUST ASKING
25 THE QUESTION.

1 MR. MEDRANO: WELL, SHE CAN TAKE BREAKS. I DON'T
2 THINK THAT 'S --

3 THE COURT: YES, THAT 'S NO PROBLEM.

4 MR. NICOLAYSEN: FINE. THEN I GUESS WE JUST NEED TO
5 AGAIN HAVE THE SAME PROCEDURE AS THE LAST TIME, WHERE ALL
6 OBJECTIONS THAT ARE SUSTAINED AND ALL MOTIONS TO STRIKE --

7 THE COURT: WELL, THAT 'S A PROBLEM BECAUSE THAT
8 WOULD REQUIRE HER TO READ THIS THROUGH AND TAKE FOUR HOURS, OR
9 WHATEVER IT IS, BEFORE WE CAN GIVE IT TO THE JURY.

10 MR. NICOLAYSEN: IT WOULD REQUIRE SOME EDITING IN
11 ADVANCE, THAT 'S TRUE.

12 THE COURT: WELL, I DON'T USUALLY DO THAT, YOU KNOW.
13 I LET YOU DO THAT ON THE OTHERS BECAUSE WE HAD TRANSCRIPT, BUT
14 ORDINARILY, IT IS LEFT TO THE -- THE REPORTER WOULD READ,
15 OMITTING ANY COLLOQUY AND SO FORTH BETWEEN THE COURT AND
16 COUNSEL AND ANY OBJECTIONS, AND THINGS OF THAT -- AND SHE
17 WOULD READ THE QUESTIONS AND THE ANSWERS.

18 NOW, THAT CAN BE DONE IN COURT OR IT CAN BE DONE IN
19 THE JURY ROOM BY AGREEMENT.

20 MR. MEDRANO: WE HAVE NO OBJECTION TO THE COURT
21 REPORTER READING IT TO THE JURY IN THE JURY ROOM, YOUR HONOR.

22 THE COURT: WELL, I WANT TO WRITE A NOTE HERE --

23 MR. NICOLAYSEN: I HAVE NO OBJECTION TO IT BEING
24 DONE IN THE JURY ROOM, AS WELL, BUT I DO REQUEST THAT THERE BE
25 CLARIFICATION ON TOPICS FOR READ BACK.

1 THE COURT: I CAN'T DO THAT. OH, YOU MEAN
2 SPECIFICATIONS -- YES, YES.

3 MR. NICOLAYSEN: ON ISSUES OR TOPICS.

4 THE COURT: I'M GOING TO WRITE: "CAN YOU BE MORE
5 SPECIFIC BY SUBJECT MATTER OR --"

6 MR. NICOLAYSEN: -- AS TO SPECIFIC TOPICS OR
7 SPECIFIC SUBJECTS ADDRESSED IN THE COURSE OF DIRECT OR CROSS-
8 EXAMINATION.

9 THE COURT: "-- WHAT ISSUE OR SUBJECT WAS THE --"
10 (PAUSE IN PROCEEDINGS.)

11 THE COURT: I COULD TELL THEM THAT THIS WITNESS
12 TESTIFIED FOR -- HOW LONG DID HE TESTIFY FOR; ABOUT FOUR OR
13 FIVE HOURS?

14 THE REPORTER: ON THE 22ND, HE STARTED AT PROBABLY
15 10 OR 10:30 AND WENT THROUGH THE END OF THE DAY. I DON'T HAVE
16 ON MY CALENDAR --

17 THE COURT: AND THEN --

18 THE REPORTER: -- AT THE END OF THE DAY I DON'T KNOW
19 IF YOU TALKED ABOUT INSTRUCTIONS OR SOMETHING OTHER THAN
20 TESTIMONY, BUT THERE IS NO OTHER WITNESS ON MY CALENDAR.

21 THE COURT: OKAY. SO HE WENT THE WHOLE DAY.

22 THE REPORTER: AND THEN THE 28TH, THERE WAS A
23 SHORTER SECTION BECAUSE YOU HAD WAYNE SCHMIDT, PLASCENCIA AND
24 THEN NORMAN PERLE FOR THE REST OF THE DAY.

25 MR. NICOLAYSEN: HE WAS CALLED AS A DEFENSE WITNESS

1 ON THE 28TH, YOUR HONOR, WHEREAS ON THE 22ND, HE WAS RECALLED
2 BY THE GOVERNMENT AFTER YOUR HONOR --

3 THE COURT: OKAY. AFTER THE IDENTIFICATION?

4 MR. NICOLAYSEN: CORRECT.

5 THE COURT: OKAY. WHAT I HAVE WRITTEN HERE IS:

6 "CAN YOU BE MORE SPECIFIC BY SUBJECT
7 MATTER WHAT ISSUE OR SUBJECT WAS COVERED BY
8 THE TESTIMONY IN WHICH YOU ARE INTERESTED?"

9 MR. NICOLAYSEN: DO YOU FEEL IT'S APPROPRIATE TO LET
10 THE JURY KNOW THAT WE CAN'T ACCOMMODATE THEM THIS TIME AS WE
11 WERE ABLE TO THE LAST TIME WITH AGENT REYNOSO BECAUSE WE DON'T
12 HAVE THE TRANSCRIPT?

13 THE COURT: WELL, WE HAVE IT. WE HAVE -- WE CAN
14 GIVE THEM EXACTLY THE SAME THING THAT WE GAVE THEM BEFORE.
15 THEY'RE NO DIFFERENT.

16 MR. NICOLAYSEN: WE DON'T HAVE THE CONVENIENCE OF
17 THE TRANSCRIPT THIS TIME AS --

18 THE COURT: WELL, THEY DON'T NEED TO KNOW THAT.

19 MR. NICOLAYSEN: THEY DON'T NEED TO KNOW THAT?

20 THE COURT: I DON'T THINK SO.

21 DO YOU THINK THAT'S SUFFICIENT? LET'S SEE WHAT KIND
22 OF RESPONSE IT GETS.

23 MR. NICOLAYSEN: I THINK IT'S FINE FOR NOW.

24 MR. MEDRANO: THAT'S FINE.

25 PERHAPS, YOUR HONOR, WE SHOULD JUST WAIT IN THE

1 COURTROOM BECAUSE THEY MAY COME BACK WITH ANOTHER NOTE --

2 THE COURT: YES. I WILL TELL THEM TO LET ME KNOW
3 AND GIVE THEM THAT NOTE. I THINK THEY'LL RESPOND RIGHT AWAY.
4 AND YOU CAN GO -- SHE HAS ALREADY -- THE REPORTER HAS ALREADY
5 LOOKED THROUGH SOME PORTION OF HER NOTES AND MARKED OBJECTIONS
6 AND COLLOQUIES TO BE OMITTED AND SO FORTH; HAVE YOU NOT?

7 THE REPORTER: YES.

8 MR. NICOLAYSEN: VERY GOOD. THANK YOU FOR DOING
9 THAT.

10 MR. MEDRANO: AND AGAIN, YOUR HONOR, THERE IS A LOT
11 OF PRESS OUT THERE. I THINK IT'S PROBABLY APPROPRIATE WE JUST
12 NOT SAY ANYTHING OR COMMENT ON ANY OF THIS.

13 THE COURT: WELL, THAT'S MY VIEW. I DON'T WANT ANY
14 COMMENTS UNTIL WE GET THIS DARNED CASE FINISHED.

15 MR. MEDRANO: I THINK THAT'S APPROPRIATE. THANK
16 YOU.

17 MR. CARLTON: THANK YOU, YOUR HONOR.

18 (END OF PROCEEDINGS.)
19
20
21
22
23
24
25

1 LOS ANGELES + CALIFORNIA FRIDAY, AUGUST 3, 1990

2 + 2:00 P.M.

3
4 (HEARING HELD IN THE CHAMBERS OF HONORABLE JUDGE
5 EDWARD RAFFEDIE.)

6 THE COURT: LET THE RECORD SHOW THE COURT HAS
7 CONVENED IN CHAMBERS WITH ALL COUNSEL PRESENT.

8 THE COURT HAS RECEIVED A RESPONSE FROM THE JURY TO
9 ITS REQUEST ABOUT MORE SPECIFIC SUBJECT MATTER, AND HERE'S
10 THEIR RESPONSE.

11 "ENRIQUE PLASCENCIA'S DIRECT TESTIMONY
12 REGARDING LA LANGOSTA AND THE LA LANGOSTA
13 SUBJECT ON CROSS-EXAMINATION."

14 MR. NICOLAYSEN: I CAN ASSURE YOU THAT'S ALL OF IT,
15 YOUR HONOR, BECAUSE JUNE 22ND ONLY CONCERNED LA LANGOSTA. THE
16 LA BAJADITA TESTIMONY OF PLASCENCIA WAS AN EARLIER DATE, MAY
17 THE 23RD. SO WE'RE TALKING ABOUT THE SAME FOUR HOURS.

18 MR. MEDRANO: WELL, NOT NECESSARILY, YOUR HONOR. I
19 MEAN, HE WAS MY WITNESS.

20 I'M TRYING TO REMEMBER WHAT HE COVERED, BUT I'D SAY
21 A GOOD 75 PERCENT OF IT IS GOING TO BE --

22 MR. CARLTON: THAT WAS MOST OF THE DAY.

23 THE COURT: ONE AT A TIME.

24 MR. MEDRANO: -- 75 PERCENT OF THE FIRST DAY.

25 THE COURT: WHAT DID YOU ASK HIM ABOUT BESIDES THAT?

1 MR. MEDRANO: DOGGONE IT. YOU KNOW WHAT, YOUR
2 HONOR, I THINK MR. NICOLAYSON MAY BE RIGHT. I THINK HE MAY BE
3 COVERING JUST LA LANGOSTA ON THE 22ND.

4 THE COURT: I THINK THAT MIGHT BE RIGHT.

5 MR. MEDRANO: I THINK THAT'S RIGHT.

6 MR. NICOLAYSEN: HUNDRED PERCENT.

7 THE COURT: AND THEN HE WAS CROSS-EXAMINED THE NEXT
8 DAY OR ON THE SAME DAY?

9 MR. MEDRANO: AND THEN RECALLED BY MR. NICOLAYSON ON
10 THE 28TH, YOUR HONOR.

11 MR. CARLTON: THAT SOUNDS RIGHT.

12 THE COURT: OKAY. SO IS IT UNDERSTOOD, THEN, WE
13 SHOULD JUST READ THE DIRECT AND CROSS-EXAMINATION OF THE 22ND?

14 MR. MEDRANO: YES, YOUR HONOR.

15 MR. NICOLAYSEN: YES, YOUR HONOR. I THINK WE'RE
16 STUCK WITH THE FOUR-HOUR TIME ESTIMATE THAT THE REPORTER HAD
17 TOLD US EARLIER.

18 THEY'RE NOT BEING MORE SPECIFIC, IN OTHER WORDS.

19 THE COURT: WELL --

20 MR. NICOLAYSEN: THEY'RE BASICALLY TELLING US THEY
21 WANT EVERYTHING.

22 THE COURT: BUT IF IT ALL RELATED TO THAT SUBJECT
23 THEN THEY SHOULD HAVE IT.

24 MR. MEDRANO: I AGREE WITH THAT, YOUR HONOR.

25 MR. NICOLAYSEN: I'M NOT GOING TO DISPUTE IT. I

1 WOULD SIMPLY ASK YOUR HONOR TO ALLOW ME TO MODIFY MY REQUEST.

2 I HAD STIPULATED TO HAVING IT DONE IN THE
3 DELIBERATION ROOM. COULD WE DO IT IN OPEN COURT?

4 MR. MEDRANO: WE WOULD OPPOSE THAT, YOUR HONOR. WE
5 HAVE NO OBJECTION TO DOING IT IN THE JURY DELIBERATION ROOM.

6 THE COURT: WELL, IT CAN ONLY BE DONE BY AGREEMENT
7 SO WHETHER YOU OPPOSE IT OR NOT, IT HAS TO BE AGREED ON.

8 MR. MEDRANO: VERY WELL, YOUR HONOR.

9 THE COURT: THAT WOULD MEAN I WOULD HAVE TO EXCUSE
10 THE JURY THAT I HAVE OUT, WAITING TO GO TO TRIAL HERE.

11 WELL --

12 MR. NICOLAYSEN: HOW MUCH OF AN IMPAIRMENT DOES THAT
13 IMPOSE ON YOUR SCHEDULE, AS FAR AS USE OF THE COURTROOM?

14 THE COURT: WELL, I'M IN TRIAL ON A CASE. I HAVE A
15 JURY WAITING TO RESUME.

16 MR. NICOLAYSEN: IT'S NOT MY INTENTION TO DISRUPT
17 YOUR HONOR 'S --

18 THE COURT: WHAT IS YOUR CONCERN?

19 MR. NICOLAYSEN: WELL, I -- BECAUSE WE'RE NOT
20 DEALING WITH THE TRANSCRIPT, PER SE, I JUST WANT TO SATISFY
21 MYSELF THAT IT IS AS SMOOTH AND COMPREHENSIBLE AS IT WOULD BE
22 IF WE WERE JUST READING THE ENGLISH

23 I HAVE NO CONCERNS ABOUT READING REYNOSO 'S
24 TRANSCRIPT TO THE JURY, BUT FOUR HOURS OUT OF STENOGRAPHY
25 NOTES, I THINK COUNSEL SHOULD HAVE A PROFESSIONAL OPPORTUNITY

1 TO OBSERVE AND MAKE SURE THERE ARE NO GLITCHES OR PROBLEMS.

2 THE COURT: WELL --

3 MR. MEDRANO: COULD WE ASK THE REPORTER WHETHER SHE
4 ANTICIPATES ANY POTENTIAL PROBLEMS --

5 THE COURT: WELL, NO. I'VE ALREADY ASKED -- SHE
6 LOOKED AT THEM. WE CAN ASK.

7 DO YOU ANTICIPATE ANY PROBLEMS READING THESE NOTES?

8 THE REPORTER: I HAD NO PROBLEMS GOING THROUGH THIS
9 SECTION SO FAR AND I CAN TELL YOU THAT PART OF IT WAS ABOUT
10 IDENTIFYING PHOTOGRAPHS AND THEN IT WENT INTO LA LANGOSTA.
11 BUT NO, THERE IS NO --

12 THE COURT: YOU WOULDN'T HAVE ANY PROBLEMS JUST
13 STARTING TO READ WITHOUT HAVING TO REVIEW IT FIRST, WOULD YOU?

14 THE REPORTER: NO.

15 AND I COULD SCAN AHEAD LIKE THIS, (INDICATING), TO
16 SEE WHERE AN OBJECTION COMES UP BEFORE I READ A QUESTION OR TO
17 MAKE SURE THAT IT'S NOT SUSTAINED BEFORE I READ THE QUESTION.

18 MR. NICOLAYSEN: YOUR HONOR, I WOULD APPRECIATE IT
19 IF WE COULD HAVE THE REPORTER DO THAT -- SCANNING AHEAD. I
20 WOULD BE HAPPY TO STIPULATE TO --

21 THE COURT: I'M NOT GOING TO DO THAT, COUNSEL.
22 I'VE DONE THAT FOR 21 YEARS WITHOUT HAVING THE REPORTER SCAN
23 AHEAD WHEN IT'S THIS LENGTHY.

24 I MEAN IF SHE'S GOING TO SCAN -- I DON'T UNDERSTAND
25 WHAT YOU MEAN BY SCAN AHEAD. YOU ASKED TO HEAR THE TESTIMONY,

1 YOU CAN HEAR IT. SO I DON'T SEE ANY PROBLEM.

2 MR. NICOLAYSEN: ALL RIGHT. VERY WELL. THEN I
3 WOULD ASK THAT IT BE DONE IN COURT.

4 THE COURT: CERTAINLY. IF YOU WERE GOING TO GO UP
5 THERE, I MIGHT CONSIDER SCANNING --

6 MR. NICOLAYSEN: WHAT I WAS GOING TO SAY IS IF YOUR
7 HONOR FEELS INCLINED TO ALLOW THE REPORTER TO SCAN AHEAD AND
8 ANTICIPATE WHERE THE SUSTAINED OBJECTIONS ARE AND WHERE THE
9 MOTIONS TO STRIKE THAT WERE GRANTED ARE, THEN I WOULD BE MORE
10 INCLINED TO STIPULATE TO HAVING THE READING DONE IN THE
11 DELIBERATION ROOM.

12 I WOULD FEEL THERE IS MORE CONTROL OVER THAT
13 IT WOULD BE THE SAME AS MR. MEDRANO AND I HAVING HAD
14 A CHANCE TO REDACT THOSE SAME PORTIONS FROM THE TRANSCRIPT --

15 THE COURT: WELL, AS LONG AS IT DOESN'T TAKE FOUR
16 HOURS, I WOULDN'T HAVE ANY OBJECTION TO THAT.

17 MR. NICOLAYSEN: IT DOESN'T SOUND AS THOUGH IT'S
18 VERY TIME CONSUMING --

19 THE REPORTER: I DIDN'T MEAN TO DO IT BEFOREHAND. I
20 MEANT, YOU KNOW, AS I'M READING, I COULD PULL IT AHEAD TO
21 LOOK --

22 MR. NICOLAYSEN: WITH HER EYES EYEBALLING EACH
23 SHEET, I THINK, TO ANTICIPATE WHERE --

24 THE REPORTER: DO YOU UNDERSTAND WHAT I MEANT?

25 MR. MEDRANO: BUT THE DIFFICULTY WITH MR.

1 NICOLAYSEN'S SUGGESTION, YOUR HONOR, IS IT'S STILL GOING TO
2 TAKE A LOT OF TIME, BECAUSE WHEN MS. CHURCHILL FLAGS FOR US AN
3 OBJECTION -- AND LET'S SAY IT'S A SUSTAINED OBJECTION -- MR.
4 NICOLAYSEN IS GOING TO WANT TO HEAR WHAT WAS SAID. AND IT'S
5 STILL GOING TO TAKE A HELL OF A LONG TIME, SO I JUST DON'T
6 SEE --

7 THE COURT: I WAS JUST -- WELL MAYBE THAT'S RIGHT.

8 THIS REPORTER IS EXPERIENCED ENOUGH TO BE ABLE TO
9 WEED OUT COLLOQUY. THAT'S HER JOB. AND SHE'LL JUST ASK (SIC)
10 THE QUESTIONS AND ANSWERS.

11 MR. NICOLAYSEN: OKAY. AND ALL I WAS ASKING IS THAT
12 ON EACH FOLDED SHEET, AS SHE'S ABOUT TO READ IT, SHE QUICKLY
13 SCAN IT TO LOOK FOR THE WORD "SUSTAINED" --

14 THE COURT: WELL, SHE WILL DO THAT. THAT'S WHAT SHE
15 WILL DO BEFORE READING IT.

16 MR. NICOLAYSEN: IT SOUNDS LIKE SHE HAS ASSURED US
17 THAT SHE WILL DO THAT, SO ON THAT BASIS, I WILL STIPULATE TO
18 HAVE IT DONE IN THE DELIBERATION ROOM.

19 THE COURT: ALL RIGHT.

20 MR. MEDRANO: YOUR HONOR, COULD I JUST RAISE
21 SOMETHING ELSE WITH THE COURT THAT'S JUST OF A MINOR CONCERN
22 TO THE GOVERNMENT.

23 WHEN WE WALKED INTO COURT TO COME IN HERE TO DEAL
24 WITH WHATEVER HAD BEEN RAISED BY THE JURY, GOVERNMENT COUNSEL
25 HAD NO IDEA WHAT WAS GOING ON ONLY TO BE ASKED BY A NEWSPAPER

1 REPORTER OUTSIDE HOW LONG WAS THE READING OF THIS TESTIMONY OF
2 PLASCENCIA GOING TO TAKE.

3 THE COURT: REALLY?

4 MR. MEDRANO: YES, SIR. AND THAT'S -- I DON'T KNOW
5 WHAT'S GOING ON --

6 THE COURT: THAT'S BECAUSE WHEN WE CALLED, I DON'T
7 BELIEVE MY SECRETARY SAID ANYTHING ABOUT IT.

8 MR. MEDRANO: AND YOU'RE RIGHT. WHEN YOUR SECRETARY
9 CALLED GOVERNMENT COUNSEL, YOUR HONOR, I ASKED WHAT WAS GOING
10 ON AND SHE SAID SHE DIDN'T KNOW.

11 THE COURT: I JUST TOLD HER TO HAVE COUNSEL HERE,

12 MR. MEDRANO: SO MY CONCERN -- I THINK WHAT MAY BE
13 HAPPENING IS THAT PERHAPS -- PERHAPS MADAM COURT REPORTER OR
14 SOMEONE ELSE, WHEN CALLING EITHER MR. NICOLAYSEN OR TRYING TO
15 REACH GOVERNMENT COUNSEL, IS AT THAT TIME TELLING COUNSEL WHAT
16 THE PROBLEM IS --

17 THE COURT: NO.

18 MR. NICOLAYSEN: I CALLED --

19 THE COURT: WHO CALLED YOU?

20 MR. NICOLAYSEN: YOUR SECRETARY, CAROL, CALLED ME
21 AND JUST SAID BE HERE AT 1:30.

22 I CALLED YOUR COURT REPORTER TO ASK WHETHER OR NOT
23 THERE WAS ANY MORE INFORMATION --

24 THE COURT: WHY DO YOU DO THAT?

25 MR. NICOLAYSEN: I DON'T SEE WHAT'S WRONG WITH --

1 THE COURT: YOU HAVE NO BUSINESS COMMUNICATING WITH
2 THE COURT REPORTER. YOU WERE CALLED BY THIS COURT AND ASKED
3 TO BE HERE. THAT'S THE END OF IT.

4 IF YOU WANT TO CALL, YOU CALL HERE.

5 MR. NICOLAYSEN: WELL, I DON'T WANT TO CALL CHAMBERS
6 AND INTERFERE WITH THE PRIVACY OF THE COURT'S CHAMBERS. THAT,
7 I DID NOT WANT TO DO.

8 THE COURT: WELL, THAT'S WHERE WE CALLED YOU FROM.
9 IF YOU HAVE ANY QUESTIONS, YOU CALL HERE.

10 MR. NICOLAYSEN: IF I HAVE YOUR PERMISSION TO CALL
11 CAROL, I WILL CALL CAROL.

12 THE COURT: COMMUNICATIONS WITH MEMBERS OF THE
13 COURT'S STAFF IS CLEARLY IMPROPER. YOU HAVE NO BUSINESS
14 CALLING THE COURT REPORTER. IF I WANTED YOU TO KNOW, I WOULD
15 HAVE TOLD YOU.

16 MR. NICOLAYSEN: MAY I CALL CAROL THEN AND ASK HER
17 WHAT THE PURPOSE IS OR --

18 THE COURT: NO IF I WANTED YOU HAD KNOW THE
19 PURPOSE, WE WOULD TELL YOU.

20 MR. NICOLAYSEN: ALL RIGHT, VERY WELL.

21 THE COURT: AND HOW DID IT GET TO THE PRESS?

22 MR. NICOLAYSEN: THAT I DON'T KNOW, BUT I SHARED
23 WITH MY CO-COUNSEL WHEN I GOT TO THE ATTORNEY LOUNGE --

24 THE COURT: WHO'S YOUR CO-COUNSEL?

25 MR. NICOLAYSEN: EVERYBODY THAT'S HERE FROM THE

1 OTHER FIRMS. I TOLD THEM IN THE ATTORNEY LOUNGE WHAT THE
2 PURPOSE IS.

3 THE COURT: HOW DID YOU KNOW THE PURPOSE?

4 MR. NICOLAYSEN: I CALLED YOUR COURT REPORTER AND
5 ASKED HER DO WE -- YOU KNOW -- IS THERE ANY VERDICT THAT'S
6 COME IN? SHE SAID, NO, BUT THERE'S GOING TO BE A REREAD.

7 THE COURT: I WANT YOU TO STOP CALLING ANY MEMBER OF
8 THIS STAFF EXCEPT WHOEVER CALLS YOU TO BE TELL YOU TO BE HERE.

9 MR. NICOLAYSEN: ALL RIGHT. VERY WELL, I WILL DO
10 THAT.

11 MR. MEDRANO: WE WOULD ASK, YOUR HONOR, THAT IF
12 ANYONE CONTACTS MADAM COURT REPORTER, THAT SHE SIMPLY DECLINE
13 ANSWERING.

14 THE COURT: THAT'S RIGHT. I THINK YOU WOULD YOU
15 KNOW THAT BY NOW.

16 MR. NICOLAYSEN: BUT THERE WAS NO SPECIFIC ORDER
17 FROM THE COURT REGARDING RESTRICTIONS TO THE PRESS -- NOT THAT
18 I DISCLOSED IT, BUT I THINK IT'S APPROPRIATE TO MENTION THAT
19 THERE WAS NO RESTRICTION ON ADVISING THE PRESS AS TO SOMETHING
20 LIKE A REREAD, FOR EXAMPLE. THERE CERTAINLY WASN'T AS FAR AS
21 AGENT REYNOSO WAS CONCERNED.

22 SO I DON'T SEE THAT IT IS INCORRECT TO HAVE TOLD THE
23 PRESS THAT --

24 THE COURT: WHAT IS INCORRECT IS YOU CALLING THE
25 COURT REPORTER.

1 MR. NICOLAYSEN: THAT I UNDERSTAND, YOUR HONOR, AND
2 I UNDERSTAND THE COURT'S POSITION.

3 THE COURT: OKAY. AND THAT IS WHAT GOT IT TO THE
4 PRESS.

5 MR. NICOLAYSEN: WELL, MAYBE YOU KNOW THROUGH
6 WHATEVER MEANS THAT MAY BE, BUT I'M SAYING THAT THE PRESS WAS
7 NOT PROHIBITED FROM KNOWING THAT PARTICULAR TYPE OF
8 INFORMATION.

9 THE COURT: IT'S PROHIBITED IF I DON'T WANT THEM TO
10 HAVE IT.

11 MR. NICOLAYSEN: THAT'S TRUE. BUT, SIR, THAT WAS
12 NOT MADE KNOWN.

13 THE COURT: LET'S TRY TO RUN THIS CASE WITHOUT
14 GETTING THE PRESS INTO IT.

15 ALL RIGHT.

16 MR. MEDRANO: THANK YOU, YOUR HONOR.

17 MR. NICOLAYSEN: THANK YOU. WILL THE READING BEGIN
18 FORTHWITH THEN?

19 THE COURT: THAT'S RIGHT.

20 MR. MEDRANO: AND WE DON'T HAVE TO BE PRESENT, I
21 TAKE IT?

22 THE COURT: THAT'S RIGHT.

23 MR. MEDRANO: THANK YOU, YOUR HONOR.

24 MR. NICOLAYSEN: ALL RIGHT. THANK YOU, YOUR HONOR.

25 (END OF PROCEEDINGS IN CHAMBERS.)

1 LOS ANGELES + CALIFORNIA FRIDAY, AUGUST 3, 1990

2 + 4:30 P.M.

3
4 (JURY PRESENT IN OPEN COURT.)

5 THE COURT: LADIES AND GENTLEMEN OF THE JURY, WE'RE
6 GOING TO ADJOURN AT THIS TIME BUT BEFORE WE DO, I WANT TO GIVE
7 YOU SOME FURTHER INSTRUCTIONS, AND THAT IS THIS.

8 AGAIN, TO REMEMBER WHAT I HAVE REPEATEDLY ADMONISHED
9 YOU THROUGHOUT THE TRIAL, THAT YOU ARE NOT TO READ ANYTHING
10 ABOUT THIS CASE, NOT TO LISTEN TO ANY RADIO BROADCASTS, WATCH
11 ANY TELEVISION NEWS, THAT YOU SHOULD INSTRUCT OTHER MEMBERS OF
12 YOUR HOUSEHOLD AND NEIGHBORS THAT THEY ARE NOT TO TALK TO YOU
13 ABOUT WHAT THEY MAY SEE OR HEAR.

14 YOU SHOULD MAKE EVERY EFFORT TO COMPLETELY INSULATE
15 YOURSELF FROM ANY OF THAT. THAT MEANS ON YOUR WAY HOME, YOU
16 SHOULDN'T EVEN LISTEN TO YOUR CAR RADIO.

17 AND I WOULD APPRECIATE IT IF YOU WOULD FOLLOW THOSE
18 INSTRUCTIONS TO THE LETTER, AND I KNOW THAT YOU WILL.

19 ALSO, DO NOT DISCUSS THIS CASE WITH EACH OTHER OR
20 WITH ANYONE ELSE UNTIL ALL 12 OF YOU ARE BACK TOGETHER AGAIN
21 IN THE JURY ROOM.

22 THANK YOU.

23 (JURY EXCUSED.)
24
25

1 FRIDAY + AUGUST 3, 1990

2 + 4:45 P.M.

3
4 THE COURT: NOW, MR. ARCE HAS FILED A MOTION, NOT
5 PROPERLY DONE IN ACCORDANCE WITH THE COURT RULES, TO CONTINUE
6 THE SENTENCING OF HIS CLIENT TO OCTOBER 30TH.

7 IS THERE ANY OBJECTION TO THAT BY THE GOVERNMENT?

8 MR. MEDRANO: NO OBJECTION BY THE GOVERNMENT, YOUR
9 HONOR.

10 THE COURT: AND YOU'RE ALSO ASKING FOR ADDITIONAL
11 TIME TO FILE THE POST-TRIAL MOTIONS; IS THAT CORRECT?

12 MR. MEDVENE: YES, IT IS CORRECT, YOUR HONOR.

13 THE COURT: WHAT DATE ARE YOU REQUESTING?

14 MR. MEDVENE: OCTOBER 14TH, IF THAT'S CONVENIENT.

15 THE COURT: OCTOBER 14TH. THAT ISN'T ENOUGH TIME,
16 IS IT, IF THE SENTENCING IS ON OCTOBER 30.

17 MR. MEDRANO: WE'D LIKE MORE TIME THAN THAT, YOUR
18 HONOR.

19 THE COURT: WELL, OF COURSE. YOU NEED MORE TIME TO
20 RESPOND.

21 WHY DO YOU NEED SO MUCH TIME?

22 MR. MEDVENE: BECAUSE I PERSONALLY WANTED TO WORK ON
23 THE PAPERS, YOUR HONOR, AND WE DON'T HAVE A TOTAL TRANSCRIPT
24 AS YET, AND I'M GOING TO BE OUT OF THE COUNTRY UNTIL EARLY
25 OCTOBER.

1 THE COURT: WELL, HOW ABOUT OCTOBER 1ST? THAT WAY
2 THEY CAN BE READY BY THE 30TH.

3 MR. MEDVENE: ALL RIGHT, SIR.

4 THE COURT: OCTOBER 1ST. I WILL EXTEND YOUR TIME TO
5 FILE POST-TRIAL MOTIONS TO OCTOBER 1ST.

6 NOW, YOU FILED A MOTION THIS AFTERNOON --

7 MR. MEDVENE: YES, WE DID, YOUR HONOR.

8 THE COURT: -- FOR AN ORDER SHORTENING TIME AND FOR
9 A REQUEST TO HEAR A MOTION FOR MISTRIAL OR FOR AN IMMEDIATE
10 HEARING, ET CETERA, ET CETERA, FOR JURY MISCONDUCT.

11 MR. MEDVENE: YES, YOUR HONOR.

12 THE COURT: I'M GOING TO DENY YOUR MOTION TO SHORTEN
13 TIME. THIS IS A MOTION, FIRST OF ALL, THAT SHOULD BE
14 SUPPORTED BY EVIDENCE OTHER THAN YOUR INFORMATION AND BELIEF.

15 SECONDLY, THE GOVERNMENT SHOULD HAVE AN OPPORTUNITY
16 TO RESPOND TO THE ISSUES THAT ARE RAISED. AND SO, THEREFORE,
17 THIS SHOULD BE REGULARLY NOTICED AND HEARD AS A MOTION TO BE
18 HEARD AT THE REGULAR TIME.

19 NOW, WITH RESPECT TO THE PROCEEDINGS THAT TOOK PLACE
20 HERE YESTERDAY INVOLVING THE DEFENDANT VASQUEZ, THE COURT
21 YESTERDAY ORDERED THAT YOU BE PROVIDED WITH TRANSCRIPT OF
22 THOSE PROCEEDINGS SO THAT YOU WOULD KNOW WHAT TOOK PLACE.

23 IN TERMS OF THE ISSUE BEING RAISED AS TO WHETHER OR
24 NOT MR. VASQUEZ -- WHETHER ANY MISCONDUCT HAD OCCURRED WITH
25 MR. VASQUEZ, THE COURT HELD A HEARING AT WHICH EACH JUROR WAS

1 QUESTIONED REGARDING THE MATTER AND THE THE COURT WAS
2 SATISFIED THAT THERE WAS NO IMPROPRIETY ON THE THE PART OF
3 THIS JURY.

4 ON THE CONTRARY, THE JURY APPEARS TO THE COURT TO BE
5 WORKING EXTREMELY AND EXCEEDINGLY HARD AND CONSCIENTIOUSLY AND
6 WITH GREAT DILIGENCE. IN OTHER WORDS. THEY'RE DOING WHAT IS
7 REQUIRED TO BE DONE OF JURORS, PAINSTAKINGLY GOING OVER THE
8 EVIDENCE IN THIS CASE.

9 IF YOU WANT TO RAISE A MOTION -- THAT IS, IF THIS
10 MOTION THAT YOU HAVE FILED CAN BE HEARD AT THE APPROPRIATE
11 TIME -- I'M NOT GOING TO HEAR IT TODAY. THEREFORE, THE MOTION
12 TO SHORTEN TIME IS DENIED FOR THE REASON, ONE, IS THAT I DON'T
13 WANT ANY FURTHER DISTRACTIONS INVOLVING THIS JURY AT A TIME
14 WHEN THEY ARE STILL DELIBERATING. THEY'VE BEEN DISTRACTED
15 ENOUGH.

16 SECONDLY, THE GOVERNMENT SHOULD HAVE A FAIR
17 OPPORTUNITY TO RESPOND. YOU'VE RAISED A NUMBER OF ISSUES HERE
18 THAT APPEAR TO BE BASED ON INFORMATION AND BELIEF AND A LACK
19 OF ANY EVIDENCE WHATSOEVER, ANY COMPETENT EVIDENCE.

20 YOU HAVE A RIGHT TO BRING THIS MOTION AND TO BE
21 HEARD ON IT, AND THE COURT WILL DO THAT AT THE APPROPRIATE
22 TIME.

23 SO WHEN THE GOVERNMENT HAS RESPONDED, THE COURT WILL
24 HEAR YOUR MOTION FOR MISTRIAL, YOUR MOTION TO RECUSE THE COURT
25 AND ANY OTHER MOTION THAT YOU HAVE INCLUDED HERE.

1 LET ME SEE. I WANT TO MAKE SURE WE GET THEM ALL.

2 YOU MADE A MOTION FOR MISTRIAL, FOR AN IMMEDIATE
3 HEARING -- THAT IS DENIED; FOR RECUSAL OF THE COURT -- THAT
4 WILL BE HEARD AT THE APPROPRIATE TIME.

5 I THINK THAT COVERS IT, DOESN'T IT?

6 MR. MEDVENE: WELL, YOUR HONOR, THE DIFFICULTY WITH
7 WHAT YOU SAID, SIR, WITH DUE DEFERENCE, IS YOU'VE MADE YOUR
8 RECORD BUT WE'VE NOT BEEN GIVEN A CHANCE TO MAKE OUR RECORD.
9 FOR TO YOU SAY, SIR, WITH DUE DEFERENCE, THAT YOU HELD A
10 HEARING ON VASQUEZ --

11 THE COURT: THAT'S CORRECT.

12 MR. MEDVENE: -- WHEN A JUROR APPARENTLY TELLS YOU
13 THAT BEFORE THE ZUNO VERDICT, THEY DISCUSSED AN ARTICLE IN THE
14 PAPER --

15 THE COURT: HOW DO YOU KNOW WHAT THE JUROR TOLD ME?

16 MR. MEDVENE: ARE YOU SAYING IT'S NOT SO, SIR?

17 THE COURT: HOW DO YOU KNOW WHAT THE JUROR TOLD ME?

18 MR. MEDVENE: I WAS ADVISED --

19 THE COURT: DID YOU READ THE TRANSCRIPT?

20 MR. MEDVENE: NO, SIR. I WAS ADVISED.

21 THE COURT: WELL, THEN, YOU SHOULD READ THE
22 TRANSCRIPT.

23 MR. MEDVENE: I DIDN'T READ IT, SIR, BECAUSE YOU
24 DIDN'T PERMIT ME TO BE AT THE HEARING. I DIDN'T READ IT
25 BECAUSE THERE IS NO TRANSCRIPT.

1 THE COURT: CALM DOWN. CALM DOWN, MR. ZUNO (SIC),
2 YOU'RE GETTING HYSTERICAL, JUST LIKE THIS MOTION.

3 MR. MEDVENE: I'M NOT GETTING HYSTERICAL.

4 AND MY NAME IS MEDVENE, YOUR HONOR.

5 AND FOR YOU TO HAVE THAT HEARING, WITH DUE
6 DEFERENCE, IS OUTRAGEOUS.

7 AND FOR YOU NOT TO PERMIT US TO BE THERE, WHEN YOU
8 KNEW THAT THE JURORS WERE TALKING ABOUT MISCONDUCT WITH
9 RESPECT TO ZUNO, AND FOR YOU NOW TO SAY TO ME HOW CAN I PROVE
10 IT AND IT'S HEARSAY WHEN YOU WERE THERE --

11 NOW, IF YOU'RE SAYING --

12 THE COURT: COUNSEL --

13 MR. MEDVENE: YES, SIR?

14 THE COURT: -- DON'T TELL ME WHAT TOOK PLACE
15 YESTERDAY. YOU WERE NOT THERE, YOU HAVE NOT SEEN A
16 TRANSCRIPT.

17 I SUGGEST YOU TONE YOUR COMMENTS DOWN. YOU'RE
18 GETTING OUT OF CONTROL.

19 MR. MEDVENE: YES, SIR.

20 THE COURT: YOU'LL HAVE A FAIR OPPORTUNITY TO BE
21 HEARD WHEN THE TIME COMES.

22 MR. MEDVENE: BUT IF THE JURY IS DISMISSED, YOUR
23 HONOR, WE'RE NOT GOING HAVE A FAIR OPPORTUNITY. IF THE JURORS
24 HAVE AN OPPORTUNITY TO TALK TO ONE ANOTHER BEFORE THEY COME IN
25 TO SEE YOU, LIKE THEY APPARENTLY DID YESTERDAY, WE'RE NOT

1 GOING TO HAVE AN OPPORTUNITY.

2 THE COURT: WELL, WAIT A MINUTE. HOW DO YOU KNOW
3 THEY APPARENTLY -- THEY WERE INSTRUCTED NOT TO DISCUSS WHAT
4 WENT ON IN CHAMBERS WITH OTHERS.

5 MR. MEDVENE: I THINK IT WOULD BE HELPFUL, AND WE
6 ASK YOU RESPECTFULLY, THAT THEY BE BROUGHT HERE ON MONDAY --
7 WHETHER AFTER THE FIRST ONE CAME IN, HE TOLD THE SECOND OR
8 THIRD OR FOURTH ONE WHAT WAS HAPPENING AND WHAT WAS GOING TO
9 HAPPEN.

10 THE COURT: AND DO YOU KNOW THAT THE COURT
11 INSTRUCTED EACH JUROR NOT TO DISCUSS WHAT TOOK PLACE IN THE
12 COURTROOM (SIC)?

13 MR. MEDVENE: YOU ALSO APPARENTLY INSTRUCTED THEM
14 NOT TO DISCUSS THINGS OUTSIDE THE RECORD, AND MY UNDERSTANDING
15 IS THEY DID.

16 YOU TOLD THEM NOT TO HAVE PAPERS, AND I UNDERSTAND
17 THERE WAS A STACK OF PAPERS.

18 NOW, THERE'S NO REASON WE'RE NOT PART OF THIS
19 PROCESS, YOUR HONOR. I SAY WITH DUE DEFERENCE, WE'RE PART OF
20 THIS PROCESS WITH YOUR HONOR IN TRYING TO GET JUSTICE HERE.
21 AND IF THEY HAD THESE PAPERS, WE OUGHT TO SEE THEM.

22 THE COURT: THEY'RE AN EXHIBIT THAT YOU'RE WELCOME
23 TO LOOK AT.

24 MR. MEDVENE: THAT'S THE FIRST I KNOW ABOUT IT.

25 (BOTH MR. MEDVENE AND THE COURT SPEAKING AT ONCE.)

1 THE COURT: DO YOU HAVE A SOURCE OF INFORMATION?
2 THAT WAS DONE IN CHAMBERS. THERE WAS -- THOSE PAPERS WERE
3 MADE AN EXHIBIT, THEY'RE PART OF THE COURT RECORD, AND YOU CAN
4 LOOK AT THEM.

5 MR. MEDVENE: YOUR HONOR, LET ME SAY THIS. IT'S
6 DIFFICULT. I HAVE GREAT RESPECT --

7 THE COURT: I HAVE ALSO, IN ORDER TO PROTECT YOUR
8 INTERESTS, ORDERED TRANSCRIPTS TO BE PROVIDED TO ALL COUNSEL.

9 MR. MEDVENE: YOUR HONOR, YOU MIGHT IMAGINE HOW
10 DIFFICULT THIS IS. I MEAN, YOU'RE THE JUDGE, I'M HERE.

11 MY INFORMATION IS THAT, FOR WHATEVER REASON, YOU
12 TOLD PEOPLE NOT TO TELL COUNSEL THAT THERE'S GOING TO BE A
13 HEARING, THAT THERE WAS A HEARING.

14 THE COURT: I DIDN'T TELL ANYBODY THAT. WHERE DO
15 YOU GET THIS INFORMATION FROM?

16 I CALLED THE INVOLVED COUNSEL HERE TO CONSIDER A
17 MATTER THAT WAS RAISED WITH THE COURT. THE INVOLVED COUNSEL
18 WERE MR. NICOLAYSEN -- HIS CLIENT IS ON TRIAL, HIS VERDICT --
19 HIS JURY IS DELIBERATING.

20 THE INCIDENT INVOLVED WAS LONG AFTER YOUR CASE WAS
21 OVER.

22 MR. MEDVENE: NOT LONG AFTER.

23 THE COURT: WELL, THE INCIDENT THAT WAS REPORTED TO
24 THE COURT, THAT THE COURT CALLED A HEARING TO INQUIRE ABOUT,
25 OCCURRED JUST THE DAY BEFORE.

1 MR. MEDVENE: I UNDERSTAND, SIR. BUT IF ONE OF THE
2 JURORS SAYS THAT THEY HAD INFORMATION AND HAD DISCUSSIONS
3 BEFORE THE ZUNO VERDICT, I SAY MOST RESPECTFULLY, WE'RE
4 ENTITLED TO BE THERE. THAT AFFECTED OUR CLIENT.

5 THE COURT: COUNSEL, I FIND THIS VERY IRONIC THAT IT
6 IS DEFENSE COUNSEL IN THIS CASE -- PARTICULARLY, MR. STOLAR,
7 WHO'S SITTING OUT THERE -- WHO HAS ADOPTED AN APPARENT
8 STRATEGY TO CONTAMINATE THIS CASE WITH CONSTANT STATEMENTS TO
9 THE PRESS.

10 HIS HYSTERICAL STATEMENTS, PARTICULARLY -- SIT DOWN,
11 MR. STOLAR. SIT DOWN. YOU'RE NOT INVITED HERE. JUST BE
12 SEATED.

13 MR. STOLAR: YOUR HONOR, I CANNOT LET THE RECORD BE
14 SILENT, IF YOU'RE GOING TO TRASH ME LIKE THAT.

15 THE COURT: JUST BE SEATED, PLEASE.

16 THROUGHOUT THIS TRIAL, SO FAR AS I AM ABLE TO
17 OBSERVE, NOT A SINGLE WORD OR COMMENT WAS EVER ATTRIBUTED TO
18 ANY PROSECUTOR IN THIS CASE. IT IS THE GOVERNMENT THAT OUGHT
19 TO BE COMPLAINING ABOUT THE ABSENCE OF A FAIR TRIAL.

20 MR. STOLAR, EITHER IN HIS HUNGER FOR PUBLICITY OR IN
21 ORDER TO INFECT THE CASE, WAS CONSTANTLY BEFORE THE TELEVISION
22 CAMERAS.

23 SO I FIND IT IRONIC HERE THAT YOU ARE COMPLAINING
24 ABOUT THAT.

25 MR. STOLAR: MAY I BE HEARD, PLEASE?

1 THE COURT: SIT DOWN. YOU'RE NOT A PARTY TO THIS
2 MOTION.

3 MR. STOLAR: JUDGE, YOU ARE SAYING THINGS ABOUT ME
4 ON THE RECORD.

5 YOU ISSUED AN ORDER. NOT ONCE HAVE I VIOLATED YOUR
6 ORDER. NOT ONE SINGLE TIME.

7 THE COURT: THAT REMAINS TO BE SEEN. IT HAS BEEN
8 REPORTED TO ME THAT YOU HAVE, AND WE'RE GOING TO GO INTO THAT.

9 MR. STOLAR: WHEN DID I VIOLATE YOUR ORDER?

10 THE COURT: JUST A MOMENT. I'LL LET YOU KNOW WHEN
11 AND WHERE.

12 JUST SIT DOWN THERE.

13 MR. MEDVENE: YOUR HONOR, I'M NOT COMMENTING ON WHAT
14 YOU SAID. I'M NOT MY BROTHER'S KEEPER. I HAVE NOTHING TO DO
15 WITH ANY OF THAT. THAT'S FOR ANOTHER TIME.

16 MY PROBLEM IS I'VE BEEN PERFECT. I DIDN'T TALK TO
17 ANYBODY. YOU HAVE A JUROR IN THERE THAT SAYS HE'S READ STUFF,
18 AND THEY GO OUT AND CONVICT ZUNO THE NEXT DAY.

19 I HAVE TO BE THERE. IT'S NOT RIGHT. THAT'S WHAT
20 I'M TALKING ABOUT. YOU CAN'T FAULT ME FOR ANY OF THAT.

21 AND I'M NOT SAYING TO YOU MR. STOLAR DID ANYTHING
22 RIGHT OR ANYTHING WRONG. THAT'S MR. STOLAR. BUT I'M SAYING
23 WE DID NOTHING WRONG, AND ONCE THAT JUROR -- IF THAT JUROR
24 SAID THAT THEY READ STUFF ON BALLESTEROS, AND THEY READ -- HAD
25 STUFF OUTSIDE THE RECORD BEFORE THE ZUNO VERDICT, THAT HAS TO

1 BE FOLLOWED UP ON.

2 WHAT DID YOU HAVE, MR. PARRIS, OUTSIDE THE RECORD IN
3 ADDITION TO THE ARGUMENT?

4 WHAT DID HE HEAR?

5 WHAT DID THE MARSHALS SAY TO YOU?

6 I MEAN, WE'RE ENTITLED TO --

7 THE COURT: COUNSEL, WE DID FOLLOW-UP ON THAT WITH
8 EVERY JUROR YESTERDAY. WAIT UNTIL YOU SEE THE TRANSCRIPT.

9 MR. MEDVENE: ALL RIGHT. BUT IN ALL FAIRNESS,
10 JUDGE, YOU CAN BE -- YOU CAN BE SCARY TO A JURY. IT IS NOT SO
11 EASY -- EVEN FOR SOMEBODY AS OLD AS ME -- YOU CAN BE SCARY TO
12 A JURY.

13 HOW DO YOU ASK -- YOU CAN, JUDGE.

14 (THE COURT LAUGHING.)

15 MR. MEDVENE: YOU COULD BE. SOMEBODY COULD
16 CONSTRUE YOU AS INTIMATING. NOT ME. BUT A JUROR COULD.

17 VERY SERIOUSLY, JUDGE, WE'RE ALL AFTER GETTING THE
18 TRUTH HERE, AND IT SEEMED LIKE, FROM WHAT I HEARD, MR. PARRIS
19 HAD SOMETHING TO TELL YOU.

20 THE COURT: YES, HE DID. AND I QUESTIONED HIM ABOUT
21 IT AND PURSUED IT, AND YOU WILL GET A TRANSCRIPT OF IT.

22 YOU'RE PREPARING THOSE TRANSCRIPTS, AREN'T YOU?

23 JUST A MOMENT HERE.

24 IN ANY EVENT, I'M DENYING THE MOTION TO SHORTEN TIME
25 BECAUSE I WANT THIS CASE TO END BEFORE WE GET INTO THIS.

1 MR. MEDVENE: YES, SIR.

2 THE COURT: IF AND WHEN THIS JURY REACHES A VERDICT
3 OR DECLARES TO THE COURT THAT THEY'RE ENABLE TO, AND THE COURT
4 DISCHARGES THEM -- IN ANY EVENT, THAT WOULD BE THE TIME,
5 PERHAPS, TO RENEW THIS.

6 BUT I DON'T WANT TO GET INTO THAT NOW. UNTIL THEY
7 HAVEN'T COMPLETED THIS PROCESS. WE'VE ALL WORKED TOO LONG AND
8 TOO HARD TO GET IT DONE.

9 MR. MEDVENE: HOW DO WE HOLD THE JURY FROM GETTING
10 DISCHARGED, YOUR HONOR?

11 THE COURT: WELL, I'LL HOLD THEM. I MEAN, IF -- I
12 CAN ORDER THEM TO COME BACK, YOU KNOW.

13 MR. MEDVENE: IF YOU -- WOULD YOU HOLD THEM AFTER
14 THE VERDICT AND THEN PERMIT THE HEARING?

15 THE COURT: WELL, I WANT TO SEE A RESPONSE FROM THE
16 GOVERNMENT REGARDING THIS, FIRST OF ALL, AS SOON AS
17 POSSIBLE -- REGARDING THE ORDER TO SHORTEN TIME AND THE --
18 WHICH IS WHAT'S IN ISSUE.

19 I'M DENYING THAT NOW WITHOUT PREJUDICE.

20 MR. MEDVENE: I WOULD JUST SUGGEST, YOUR HONOR. THE
21 JURY CAN COME BACK AS EARLY AS MONDAY OR TUESDAY.

22 I WOULD THINK THE GOVERNMENT WOULD WANT TO GET AT
23 THE TRUTH, TOO. AND THEY MAY COME BACK AS EARLY AS MONDAY OR
24 TUESDAY.

25 THE COURT: THEY MAY, THAT'S TRUE.

1 MR. MEDVENE: ALL RIGHT. IF THE GOVERNMENT DOESN'T
2 COME BACK TO YOU BY MONDAY, IT SEEMS TO ME --

3 THE COURT: WELL, THEY SHOULD GET BACK TO ME BY
4 MONDAY MORNING, SOMETIME, WITH SOME OPPOSITION TO THIS.

5 MR. CARLTON: WE'LL DO THAT, YOUR HONOR. THAT'S NO
6 PROBLEM.

7 MS. KELLY: YOUR HONOR, FOR THE RECORD, I JOINED IN
8 THE MOTION.

9 THE COURT: NO, YOU MAY NOT. IF YOU WANT TO FILE A
10 MOTION --

11 MS. KELLY: I DID, YOUR HONOR. I FILED A JOINDER IN
12 THE MOTION.

13 MR. STOLAR: AS DID COUNSEL FOR MR. MATTA. AN
14 OFFICIAL JOINDER WAS FILED.

15 THE COURT: WELL, I'M NOT SURE THAT'S SUFFICIENT,
16 BUT --

17 MR. STOLAR: IT HAS BEEN SUFFICIENT DURING THE
18 COURSE OF THE CASE.

19 MR. MEDRANO: WELL, YOUR HONOR, JUST ON THE
20 JOINDERS, IT'S MY UNDERSTANDING OF THE LAW ON THE ISSUE OF
21 JOINDERS THAT THAT YOU NEED SPECIFIC FACTS THAT PERTAIN TO
22 YOUR INDIVIDUAL CLIENT IN ORDER TO JOIN.

23 THE COURT: WELL, THAT'S WHAT I'M CONCERNED ABOUT.

24 MR. MEDRANO: SO, WE WOULD OBJECT TO --

25 THE COURT: DEFENSE COUNSEL HERE HAVE BEEN JOINING

1 IN OBJECTIONS THAT WERE TOTALLY UNRELATED TO THEIR CLIENT,
2 WITHOUT EVEN KNOWING WHAT THEY ARE SOMETIMES, SO....

3 MR. STOLAR: WE 'LL WAIT UNTIL WE SEE THE TRANSCRIPT.
4 BUT FOR THE RECORD, AT THIS POINT WE JOIN IN THE MOTION THAT
5 HAS BEEN MADE.

6 THE COURT: ALL RIGHT.

7 MR. MEDRANO: AND WE WOULD OPPOSE THAT, YOUR HONOR,
8 WITHOUT A MORE DETAILED BASIS.

9 THE COURT: WE 'LL DECIDE THAT AT THE PROPER TIME.

10 MR. STOLAR: LET ME SAY SOMETHING, PLEASE.

11 WHAT THE PRESS REPORTS OF WHAT I SAY IN OPEN COURT,
12 I HAVE NO CONTROL OVER.

13 A COMMENT IN THE ARTICLE THAT REPORTED A CONVICTION
14 OF MR. MATTA THAT SAID THAT I WOULD FILE A MOTION ASKING THAT
15 VERDICTS BE OVERTURNED BECAUSE THEY WERE INCONSISTENT, IS A
16 PARAPHRASE OF WHAT I SAID TO YOU AFTER THE JURY CAME BACK.

17 I DIDN'T SAY THAT OUTSIDE OF COURT.

18 THE COURT: COUNSEL, ON MY WAY HOME THAT NIGHT EVERY
19 RADIO STATION HAD YOUR COMMENTS ON ACCUSING THE JURY OF
20 CONFUSION AND MISUNDERSTANDING OF THE VERDICT, AND SO FORTH.

21 MR. STOLAR: OF THE PINKERTON THEORY, WHICH IS WHAT
22 THE INCONSISTENT VERDICT IS ABOUT, IS WHAT I SAID.

23 WHEN I SPEAK TO THE PRESS, I'M VERY CAREFUL.

24 WHATEVER I SAY TO THE PRESS IS BASED ON AND SOMETIMES IS A
25 QUOTE FROM WHAT I SAY IN COURT.

1 I HAVE NEVER ONCE GONE OUTSIDE THE GUIDELINES AND
2 THE BOUNDS OF YOUR ORDER.

3 FOR EXAMPLE, TODAY --

4 THE COURT: HAVE YOU READ THE DOCUMENTS THAT --

5 MR. STOLAR: YES, I DID. I READ THOSE CASES.

6 I WAS THE ONE THAT WENT TO THE LIBRARY AND READ
7 THEM, BECAUSE OF ALL THE DEFENSE COUNSEL, I HAVE BEEN TALKING
8 TO THE PRESS, AS I THINK I HAVE A FIRST AMENDMENT RIGHT TO DO,
9 AND THEY HAVE A FIRST AMENDMENT RIGHT TO DO IT.

10 I KNOW WHAT MY OBLIGATIONS ARE. I HAVE NEVER ONCE
11 STEPPED ACROSS THE LINE.

12 THIS AFTERNOON -- THIS AFTERNOON, I DIDN'T VIOLATE
13 ANY ORDER. THEY WANTED TO TALK TO ME ABOUT THE MOTION THAT
14 WAS FILED TODAY AND I WOULDN'T GO OUT AND TALK TO THEM.

15 THE COURT: WHAT DID YOU --

16 MR. STOLAR: I TALKED TO THEM ABOUT THE WEATHER,
17 ABOUT HOW MY DAUGHTER WENT TO CAMP, ABOUT HOW THEY'RE DOING,
18 ABOUT HOW I GOT SUNBURNED FROM WAITING ON THE JURY, SITTING AT
19 THE POOL.

20 THE COURT: THEY MUST HAVE BEEN LINING UP TO HEAR
21 THAT.

22 (COURTROOM LAUGHTER.)

23 MR. STOLAR: WE WERE CHATTING. I'VE BEEN WITH THESE
24 PEOPLE FOR THREE MONTHS.

25 MR. MEDRANO: YOUR HONOR, THESE ARE MISREPRESENT-

1 TATIONS OF THE MOST FLAGRANT SORT.

2 I HAVE AT MY RESIDENCE A VIDEOTAPE OF THIS MAN
3 TELLING THE WORLD AND THE PRESS THAT A HONDURAN CITIZEN CANNOT
4 GET A FAIR TRIAL IN ANY COURT OF THE UNITED STATES. THAT'S
5 THE TONE OF THE COMMENTS. AND HE DOESN'T SAY THAT STUFF IN
6 OPEN COURT.

7 THE COURT: WELL, THAT COMMENT WAS REPORTED AS IT
8 HADN'T BEEN ATTRIBUTED TO HIM. HE DID NOT --

9 MR. STOLAR: NO, IT WAS REPORTED AS BEING ATTRIBUTED
10 TO MY CLIENT. MY CLIENT SAID THAT.

11 THE COURT: NO.

12 MR. STOLAR: YES, SIR, RIGHT HERE IN THE LOS ANGELES
13 TIMES.

14 MR. MEDRANO: YOUR HONOR -- THE POINT IS THIS, YOUR
15 HONOR.

16 YOU SET CERTAIN GUIDELINES. THEY SHOULD BE ABIDED
17 BY WITHOUT HAVING MR. STOLAR MISCONSTRUE THEM.

18 THE COURT: WELL, LET'S BE CLEAR ABOUT THIS. I MADE
19 AN ORDER THE OTHER DAY.

20 MR. STOLAR: I FOLLOWED THAT TO THE LETTER.

21 THE COURT: AND IT IS ADDRESSED TO ALL COUNSEL THAT
22 THERE ARE TO BE NO COMMENTS UPON THIS CASE OR ANYTHING RELATED
23 TO THIS CASE UNTIL THIS JURY HAS BEEN DISCHARGED.

24 MR. STOLAR: BUT, IN FACT, YOUR ORDER SPECIFICALLY
25 WAS THAT THERE SHOULD BE NO DISCUSSIONS ON ANY VERDICT IN THE

1 CASE .

2 THE COURT: WELL, THERE SHOULD BE NO DISCUSSIONS AT
3 ALL .

4 MR. STOLAR: THAT'S FINE .

5 THE COURT: ANY COMMENTS BY COUNSEL IN ANY MATTER
6 REGARDING THIS CASE UNTIL THIS JURY HAD BEEN DIS- CHARGED .

7 MR. STOLAR: I'VE TOLD ALL THE PRESS --

8 THE COURT: THEN YOU CAN SAY WHATEVER YOU WANT TO
9 SAY .

10 MR. STOLAR: I'VE TOLD ALL THE PRESS THAT I COULD
11 FIND TO COMMENT ON ANYTHING. I WOULDN'T EVEN COMMENT ON THE
12 THE MOTION FILED THIS AFTERNOON. ALL RIGHT?

13 I STEPPED BEYOND THE GUIDELINES OF YOUR ORDER
14 BECAUSE I DID NOT WANT ANY TROUBLE. BUT I KNOW WHAT MY
15 RESPONSIBILITIES ARE .

16 THIS IS NOT THE FIRST CASE I'VE HAD WHERE THERE HAS
17 BEEN PRESS INVOLVED, AND I DO NOT CROSS THE LINE .

18 THE COURT: ALL RIGHT. IF THERE'S NOTHING FURTHER,
19 WE'LL ADJOURN .

20 MR. STOLAR: THANK YOU .

21 MR. MEDRANO: THANK YOU, YOUR HONOR .

22 (PROCEEDINGS ADJOURNED.)

23 (COURT REPORTER'S CERTIFICATE ON FOLLOWING PAGE)

24 //

25 //

C E R T I F I C A T E

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

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

2-20-92
DATE