

APPEARANCES:

FOR PLAINTIFF:

ROBERT L. BROSIO
UNITED STATES ATTORNEY
MANUEL A. MEDRANO
ASSISTANT UNITED STATES ATTORNEY
1400 UNITED STATES COURTHOUSE
312 NORTH SPRING STREET
LOS ANGELES, CALIFORNIA 90012

FOR DEFENDANT ZUNO-ARCE:

MITCHELL, SILBERBERG & KNUPP
BY: EDWARD M. MEDVENE, ESQ.
JAMES E. BLANCARTE, ESQ.
11377 WEST OLYMPIC BOULEVARD
LOS ANGELES, CALIFORNIA 90064-1683

SPANISH INTERPRETER:

DELIA CALDERA

I N D E X

PROCEEDINGS

PAGE

MONDAY, DECEMBER 11, 1989

ARRAIGNMENT

2

LOS ANGELES, CALIFORNIA, MONDAY, DECEMBER 11, 1989, 1:30 P.M.

1 THE CLERK: CRIMINAL 87-422, UNITED STATES OF
2 AMERICA VERSUS RUBEN ZUNO-ARCE.

3 COUNSEL, PLEASE STATE YOUR NAMES FOR THE RECORD.

4 MR. MEDRANO: GOOD AFTERNOON, YOUR HONOR. FOR
5 THE UNITED STATES MANUEL MEDRANO.

6 MR. MEDVENE: IF THE COURT PLEASE, FOR THE
7 DEFENSE MESSRS. BLANCARTE AND MEDVENE. MR. ZUNO-ARCE IS
8 PRESENT, YOUR HONOR.

9 THE COURT: YES. NOW, HAS THE DEFENDANT BEEN
10 ARRAIGNED ON THIS FIFTH SUPERSEDING INDICTMENT?

11 MR. MEDVENE: HE HAS NOT, YOUR HONOR.

12 THE COURT: WE WILL TAKE CARE OF THAT FIRST.

13 MR. ZUNO-ARCE, WOULD YOU PLEASE STAND. IS RUBEN
14 ZUNO-ARCE YOUR TRUE AND CORRECT NAME?

15 THE DEFENDANT: YES, SIR.

16 THE COURT: DID YOU APPEAR THIS MORNING BEFORE
17 THE U.S. MAGISTRATE?

18 MR. MEDVENE: NO, SIR.

19 THE COURT: YOU HAVE NOT?

20 THE DEFENDANT: NO, SIR.

21 MR. MEDVENE: WE WERE ADVISED TO COME HERE, SIR.

22 THE COURT: THE DEFENDANT WAS NOT ADVISED AND
23 GIVEN A STATEMENT OF HIS RIGHTS?

24 MR. MEDVENE: NO, SIR.

25 THE COURT: DO YOU WAIVE SUCH A STATEMENT AT

1 THIS TIME?

2 MR. MEDVENE: YES, SIR.

3 THE COURT: MR. ZUNO-ARCE, A FIFTH SUPERSEDING
4 INDICTMENT HAS BEEN FILED IN CASE NO. CR 87-422(E)-ER, IN
5 WHICH YOU ARE CHARGED WITH FOUR COUNTS, WHICH I WILL READ
6 TO YOU AT THIS TIME.

7 IN COUNT 3 OF THIS INDICTMENT YOU ARE CHARGED
8 WITH VIOLATING TITLE 18 UNITED STATES CODE, SECTION 371
9 AND SECTION 1952(B)(2). IT IS ALLEGED IN THIS OFFENSE AND
10 YOU ARE CHARGED WITH CONSPIRING TOGETHER WITH OTHERS, WHO
11 ARE NAMED AND UNNAMED, WITH KNOWINGLY AND INTENTIONALLY
12 AGREEING TO KIDNAP, TORTURE, INTERROGATE, AND MURDER
13 SPECIAL AGENT ENRIQUE CAMARENA-SALAZAR.

14 DO YOU WAIVE FURTHER READING OF THIS COUNT,
15 COUNSEL?

16 MR. MEDVENE: YES, SIR, YOUR HONOR.

17 THE COURT: IN COUNT 4 YOU ARE CHARGED WITH
18 VIOLATING TITLE 18 UNITED STATES CODE, SECTION 1952(B)(2).
19 THERE YOU ARE CHARGED WITH CAUSING -- ACTUALLY YOU ARE
20 CHARGED WITH AIDING, ABETTING, COUNSELING, INDUCING,
21 PROCURING, AND CAUSING AND OTHERWISE WILLFULLY
22 PARTICIPATING IN THE KIDNAP AND MURDER AND SPECIAL AGENT
23 ENRIQUE CAMARENA-SALAZAR, WHICH OFFENSES WERE COMMITTED
24 FOR THE PURPOSE OF MAINTAINING AND INCREASING YOUR
25 POSITION IN AN ENTERPRISE THAT ENGAGED IN RACKETEERING

1 ACTIVITY, NAMELY, TRAFFICKING IN MARIJUANA AND COCAINE.
2 THIS IS COMMONLY CALLED CONSPIRACY TO COMMIT VIOLENT
3 CRIMES IN AID OF RACKETEERING. THAT IS COUNT 4.

4 DO YOU WAIVE FURTHER READING OF THAT COUNT,
5 COUNSEL?

6 MR. MEDVENE: YES, YOUR HONOR.

7 THE COURT: COUNT SIX OF THIS INDICTMENT CHARGES
8 YOU WITH A VIOLATION OF TITLE 18 UNITED STATES CODE,
9 SECTION 1201(C). THERE IT IS ALLEGED THAT YOU UNLAWFULLY
10 CONSPIRED TOGETHER WITH OTHERS NAMED IN THE INDICTMENT,
11 AND UNNAMED PEOPLE, TO KNOWINGLY AND INTENTIONALLY KIDNAP
12 AND HOLD FOR THE PURPOSE OF INTERROGATION A SPECIAL AGENT
13 OF THE UNITED STATES DRUG ENFORCEMENT ADMINISTRATION ON
14 ACCOUNT OF THE PERFORMANCE OF HIS OFFICIAL DUTIES IN
15 VIOLATION OF TITLE 18 UNITED STATES CODE, SECTION
16 1201(A)(5) AND 1201(C).

17 DO YOU WAIVE FURTHER READING OF COUNT 6?

18 MR. MEDVENE: YES, YOUR HONOR.

19 THE COURT: FINALLY YOU ARE ALSO CHARGED IN
20 COUNT 7 OF THIS INDICTMENT WITH A VIOLATION OF TITLE 18
21 UNITED STATES CODE, SECTION 1201(A)(5)(2). THERE IT IS
22 ALLEGED THAT YOU WILLFULLY DID PARTICIPATE IN THE
23 ABDUCTION AND HOLDING FOR THE PURPOSE OF INTERROGATION OF
24 ENRIQUE CAMARENA-SALAZAR, A SPECIAL AGENT WITH THE DRUG
25 ENFORCEMENT ADMINISTRATION, SUCH ACTS HAVING BEEN DONE

1 WHILE SPECIAL AGENT ENRIQUE CAMARENA-SALAZAR WAS ENGAGED
2 IN AND ON ACCOUNT OF THE PERFORMANCE OF HIS OFFICIAL
3 DUTIES, IN VIOLATION OF TITLE 18 UNITED STATES CODE,
4 SECTION 1201(A)(5).

5 DO YOU WAIVE FURTHER READING OF COUNT 7?

6 MR. MEDVENE: WE DO, YOUR HONOR.

7 THE COURT: IS THE DEFENDANT READY TO ENTER A
8 PLEA AT THIS TIME TO EACH OF THESE COUNTS?

9 MR. MEDVENE: HE IS, YOUR HONOR.

10 THE COURT: HOW DOES THE DEFENDANT PLEAD TO
11 COUNT 3?

12 THE DEFENDANT: ABSOLUTELY INNOCENT, YOUR HONOR.
13 I AM NOT GUILTY.

14 THE COURT: AND TO COUNT 4?

15 THE DEFENDANT: IN THE SAME WAY I AM NOT GUILTY,
16 YOUR HONOR. I AM ABSOLUTELY INNOCENT.

17 THE COURT: AND TO COUNT 6?

18 THE DEFENDANT: IN THE SAME WAY I AM NOT GUILTY,
19 AND, YOUR HONOR, I AM ABSOLUTELY INNOCENT.

20 THE COURT: AND TO COUNT 7?

21 THE DEFENDANT: IN THE SAME WAY I AM NOT GUILTY,
22 AND I AM ABSOLUTELY INNOCENT, YOUR HONOR.

23 THE COURT: THE CLERK WILL ENTER THE DEFENDANT'S
24 GUILTY PLEA TO EACH OF THESE COUNTS 3, 4, 6, AND 7.

25 NOW WE SHOULD TALK ABOUT SCHEDULING THIS CASE.

1 MR. MEDVENE: MAY I BRIEFLY ADDRESS YOUR HONOR
2 BEFORE YOUR HONOR ENTERTAINS THAT SUBJECT?

3 THE COURT: YES.

4 MR. MEDVENE: BY WAY OF BACKGROUND, YOUR HONOR,
5 AT THE TIME OF FILING OF THE PERJURY INDICTMENT INVOLVING
6 MR. ZUNO-ARCE, WE REQUESTED SPECIFICALLY -- I REQUESTED
7 THE MAGISTRATE TO ASSIGN THAT MATTER TO YOU BECAUSE I
8 BELIEVED YOU WERE MOST FAMILIAR AND YOU HAD THE MATERIAL
9 WITNESS PROCEEDING. THE GOVERNMENT OPPOSED. WE WENT TO
10 THE WHEEL, AND JUDGE TAKASUGI WAS ASSIGNED THE PERJURY
11 MATTER. I THINK IT IS IMPORTANT TO HAVE THAT BACKGROUND
12 IN LIGHT OF THE BRIEF REMARKS I WILL MAKE.

13 IN THE PERJURY PROSECUTION THE ALLEGATION IS
14 THAT ZUNO-ARCE LIED WHEN HE SAID HE DID NOT KNOW QUINTERO
15 AND DID NOT KNOW FONSECA.

16 WHAT IS PARTICULARLY IMPORTANT BECAUSE OF WHERE
17 THIS TRIAL SHOULD BE IS IN THAT CASE THE GOVERNMENT HAS
18 ASKED TO PUT ON MOTIVE EVIDENCE AND DIRECT EVIDENCE TO
19 SHOW THAT ZUNO-ARCE KNEW QUINTERO AND FONSECA, AND THE
20 NATURE OF THAT EVIDENCE PURPORTEDLY IS THAT HE WAS
21 INVOLVED IN THE TORTURE AND MURDER OF CAMARENA WITH
22 QUINTERO AND FONSECA AND THEREBY KNEW HIM AND WAS INVOLVED
23 IN NARCOTIC ACTIVITIES OSTENSIBLY WITH THEM AND THEREFORE
24 KNEW THEM, AND THE GOVERNMENT SEEKS TO GET THAT EVIDENCE
25 IN THE PERJURY TRIAL BOTH IN A DIRECT ROUTE AND ALSO

1 THROUGH 1404, A SIMILAR ACT OR MOTIVE.

2 IT SEEMS TO ME THAT THE GOVERNMENT SHOULD NOT BE
3 ABLE TO PICK AND CHOOSE WHERE THESE PARTIES ARE HEARD. IT
4 MAY WELL BE BEFORE THE PERJURY CASE THAT ALL CAMARENA-
5 RELATED MATTERS WENT TO YOUR HONOR. AT THE TIME OF THE
6 PERJURY CASE, IT SEEMS TO ME IN CONFERENCES THE VERY SAME
7 MATTERS THAT THE GOVERNMENT HAS SAID THEY ARE GOING TO
8 PROVE OSTENSIBLY WHAT IS IN THIS INDICTMENT IN THE PERJURY
9 CASE TO SHOW THAT ZUNO-ARCE IS PURPORTEDLY LYING.

10 IN THAT VERY CASE THEY FILED WE ASKED THAT IT BE
11 ASSIGNED TO YOU, AND THEY SAID NO. NOW, FOR WHATEVER
12 REASON THEY DIDN'T WANT THAT CASE HERE. WE DREW A JUDGE.

13 ACTUALLY WHY ZUNO-ARCE IS IN LOS ANGELES TODAY
14 IS WE HAVE A HEARING BEFORE THAT JUDGE TODAY FOR WHAT MAY
15 VERY WELL BE DISPOSITIVE MOTIONS IN THAT CASE. I DON'T
16 KNOW IF THEY WILL BE OR NOT, BUT WE HAVE SIGNIFICANT
17 MOTIONS IN FRONT OF THAT JUDGE.

18 THE GOVERNMENT HAS NOW INDICTED UNDER THE
19 GUISE -- AND I DON'T MEAN TO LOAD IT BY USING THAT KIND OF
20 WORD -- BUT UNDER THE PRETENSE OF PUTTING IT IN THE
21 CAMARENA MATTERS IN FRONT OF YOU, THEY SAID THE JUDGE WHO
22 NOW HAS THE PERJURY CASE SHOULD NOT BE ASSIGNED THIS CASE,
23 AND IT SEEMED TO US THAT UNDER THE LOW NUMBERING RULE --
24 AND THAT IS WHY I PREFACED IT BY WE ASKED FOR YOU FOR THE
25 PERJURY CASE, BUT MY PROBLEM IS WITH THE SYSTEM AND

1 PICKING AND CHOOSING.

2 IT SEEMS TO US IN THIS CASE, SINCE SIMILAR
3 MATTERS ARE ALSO IN FRONT OF ANOTHER JUDGE, THAT THIS
4 MATTER BY RIGHTS SHOULD BE IN FRONT OF THAT OTHER JUDGE
5 AND THAT THE GOVERNMENT SHOULDN'T BE ABLE TO DECIDE WHAT
6 IS NOT IN FRONT OF YOU AND WHAT IS GOING TO COME BEFORE
7 YOU.

8 WE INITIALLY WANTED TO RAISE THAT FOR YOUR HONOR
9 TO SEE IF YOU THOUGHT UNDER THE CIRCUMSTANCES, SINCE
10 SIMILAR MATTERS ARE THERE, THIS MATTER SHOULD BE THERE.
11 NOW, I MIGHT ADD THAT IT IS MY UNDERSTANDING FROM THE
12 GOVERNMENT -- I TRUST I NOT MISSPEAK -- THAT THE
13 GOVERNMENT INTENDS TO GO AHEAD WITH THE PERJURY
14 PROSECUTION AND THE PERJURY TRIAL PRIOR TO THIS TRIAL, AND
15 IT SEEMS TO ME THAT BEING SO, SINCE THE SAME MATTERS ARE
16 GOING TO BE INVOLVED THERE, THAT IS WHERE WE OUGHT TO BE
17 FOR ALL PURPOSES.

18 I RAISE THAT, YOUR HONOR, FOR YOUR
19 CONSIDERATION.

20 THE COURT: ALL RIGHT.

21 MR. MEDVENE: I MIGHT SAY THAT I BELIEVE IT IS
22 CLEAR -- I HAVEN'T HAD MUCH TIME TO LOOK AT THE
23 INDICTMENT, AND I AM NOT FAMILIAR WITH THE TOTALITY OF
24 WHAT THAT IS ALL ABOUT, BUT IT IS AT LEAST MY
25 UNDERSTANDING THAT ONE OF THE DEFENDANTS IN THAT CASE IS

1 AT LEAST CHARGED WITH INVOLVEMENT OF MURDERS OF TOURISTS
2 AND THAT ZUNO-ARCE IS NOT ALLEGED TO HAVE ANY INVOLVEMENT
3 IN THAT. AND I MIGHT SAY PARENTHETICALLY, WHETHER IT BE
4 GRANTED OR NOT, IF WE WERE IN THIS CASE, IT WOULD SEEM TO
5 ME THAT THAT OUGHT TO BE SEPARATE, HIM NOT BEING INVOLVED
6 IN THAT.

7 HAVING SAID THAT, WE WOULD ASK YOUR HONOR TO
8 CONSIDER WHETHER OR NOT THIS MATTER SHOULD BE TRANSFERRED
9 TO THE JUDGE WHO IS HEARING WHAT APPEARS TO US A SIMILAR
10 MATTER, IF NOT IDENTICAL MATTER, IN TERMS OF THE NATURE OF
11 THE EVIDENCE THAT IS GOING TO BE PRESENTED, OR THAT THE
12 GOVERNMENT CLAIMS IS GOING TO BE PRESENTED.

13 THAT IS THE FIRST MATTER I WANTED TO TAKE UP
14 WITH YOU, YOUR HONOR.

15 THE COURT: DO YOU WISH TO BE HEARD ON THAT?

16 MR. MEDRANO: VERY BRIEFLY, YOUR HONOR, WITH
17 YOUR PERMISSION. PRELIMINARILY LET ME STATE THAT IT IS
18 NOT A QUESTION OF THE GOVERNMENT OBJECTING TO ANY LOW
19 NUMBER REQUEST BY THE DEFENSE COUNSEL. WE AS OFFICERS OF
20 THE COURT ARE UNDER A CERTAIN RESPONSIBILITY NOT TO SEEK
21 LOW NUMBERING OF ANY CASE UNLESS IT QUALIFIES, AND THE
22 BASIC TEST FOR REQUESTING LOW NUMBERING UPON THE FILING OF
23 AN INDICTMENT IS WHETHER OR NOT IT ARISES OUT OF THE SAME
24 SERIES OF EVENTS OR TRANSACTIONS, YOUR HONOR, AND I BEG TO
25 RESPECTFULLY DISAGREE WITH MR. MEDVENE.

1 THE PERJURY CASE IS A STRAIGHTFORWARD, SIMPLE,
2 ELEMENTARY CASE THAT WILL BE PUT ON IN ONE TO TWO WEEKS IN
3 WHICH IT IS SIMPLY ALLEGED THAT THE BASIS FOR THE PERJURY
4 CHARGE IS MR. ZUNO-ARCE'S DENIAL OF KNOWING CARO-QUINTERO
5 AND ERNESTO FONSECA-CARILLO. THAT IS IT, YOUR HONOR,
6 PLAIN AND SIMPLE.

7 THE COURT: WELL, WHAT IS COUNSEL REFERRING TO
8 WHEN HE SAYS THAT YOU HAVE INTENTIONS TO INTRODUCE
9 EVIDENCE OF HIS PARTICIPATION WITH THEM IN THE MURDER OF
10 CAMARENA?

11 MR. MEDRANO: VERY BRIEFLY, YOUR HONOR. LET ME
12 STATE, FIRST OF ALL, THAT I AM NOT GOVERNMENT COUNSEL IN
13 THAT MATTER. MR. ADAM SCHIFF IS A COLLEAGUE OF MINE. MY
14 BASIC UNDERSTANDING, YOUR HONOR, IS THAT THE BASIS FOR THE
15 EFFORT BY THE GOVERNMENT TO INTRODUCE CERTAIN AND LIMITED
16 404(B) MATERIAL IS BECAUSE IT GOES TO EXPLAIN THE
17 BACKGROUND AND THE BASIS OF THE QUESTIONING OF ZUNO-ARCE
18 BEFORE THE GRAND JURY AND ALSO ADDRESSES THE ISSUE OF
19 MOTIVE AS TO WHY ZUNO-ARCE WOULD LIE WHEN HE WAS PUT IN
20 FRONT OF THE GRAND JURY, YOUR HONOR.

21 SO MR. MEDVENE IS CORRECT PARTIALLY AT LEAST ON
22 THAT POINT. THE GOVERNMENT WILL TRY TO PRODUCE CERTAIN
23 LIMITED 404(B) MATERIAL.

24 BUT LET ME POINT OUT THAT THAT IS CURRENTLY
25 PENDING BEFORE JUDGE TAKASUGI. IT WILL BE RESOLVED LATER

1 THIS AFTERNOON, AND I JUST THINK IT IS SOMETHING FOR THAT
2 COURT TO RESOLVE WHEN IT ARISES WITHIN THAT JURISDICTION.

3 THE COURT: ALL RIGHT.

4 MR. MEDRANO: AND JUST ONE FINAL POINT, YOUR
5 HONOR. THIS CASE WILL BE A MUCH LONGER TRIAL. IT WILL BE
6 FOUR, SIX, POSSIBLY EIGHT WEEKS. THE BASIS FOR THE
7 CHARGES AGAINST ZUNO-ARCE GO TO THE HEART OF THIS CASE.
8 FOR THE COURT'S EDIFICATION, NAMED ALONG WITH ZUNO-ARCE
9 ARE TWO ADMITTED POWERFUL DRUG DEALERS, WHO ARE CURRENTLY
10 IN MEXICAN CUSTODY, INCLUDING RAFAEL CARO-QUINTERO AND
11 ERNESTO FONSECA-CARILLO, AND THIS MAN HERE TO MY RIGHT
12 RISES TO THAT CALIBER AND LEVEL OF TRAFFICKER, YOUR HONOR.
13 IT IS FOR THAT REASON THAT HE IS CHARGED IN THOSE VERY
14 SAME SUBSTANTIVE SERIOUS OFFENSES.

15 YOUR HONOR, WITH THAT, UNLESS THE COURT HAS
16 SPECIFIC INQUIRIES --

17 THE COURT: WELL --

18 MR. MEDRANO: THE GOVERNMENT IS SEEKING
19 DETENTION FOR ZUNO-ARCE.

20 THE COURT: YOU ANTICIPATE THAT THE TRIAL OF
21 MR. ARCE WOULD BE A JOINT TRIAL WITH THE OTHER DEFENDANT
22 WHO IS NOW AWAITING TRIAL ON THE SAME CHARGES, JUAN JOSE
23 BERNABE-RAMIREZ?

24 MR. MEDRANO: AND JAVIER VASQUEZ-VELASCO, YOUR
25 HONOR.

1 THE COURT: WELL, VELASCO IS A DEFENDANT CHARGED
2 WITH --

3 MR. MEDRANO: THE RADELAT/WALKER AMERICAN
4 TOURIST MURDERS.

5 THE COURT: -- THE AMERICAN TOURIST MURDERS.

6 MR. MEDRANO: THAT IS CORRECT, YOUR HONOR. AND
7 JUST TO ADVISE THE COURT, MR. GREG NICOLAYSEN REPRESENTS
8 JAVIER VASQUEZ-VELASCO WITH REGARD TO THE RADELAT/WALKER
9 MURDERS, AND TO DATE HE HAS NOT PURSUED OR FILED ANY
10 SEVERANCE MOTION.

11 THE COURT: I UNDERSTOOD THAT HE WAS GOING TO.

12 MR. MEDRANO: HE STATED THAT TO ME WEEKS AGO,
13 YOUR HONOR, AND TO DATE WE HAVE NOT SEEN ANY SUCH FILING.

14 BUT JUST FOR THE COURT'S INFORMATION, YOUR
15 HONOR, IT IS THE GOVERNMENT'S THEORY OF THE CASE AS TO WHY
16 RADELAT AND WALKER ARE ENCOMPASSED IN THE CAMARENA MURDER
17 INDICTMENT IS BECAUSE IT FALLS ESSENTIALLY UNDER THE SAME
18 THEORY OF THE CASE, THAT BEING THAT BECAUSE OF THE WORK
19 AND EFFORT OF THE DEA IN TERMS OF THEIR ERADICATION
20 EFFORTS IN THE REPUBLIC OF MEXICO IN 1983 AND 1984. AS A
21 RESULT OF THAT AND ALSO AS A RESULT OF THE TREMENDOUS
22 LOSSES IN MARIJUANA AND COCAINE SEIZURES DUE IN LARGE PART
23 TO AGENT CAMARENA'S WORK IN MEXICO, AS A RESULT OF THAT,
24 CARO-QUINTERO AND FONSECA-CARILLO AND NOW RUBEN ZUNO-ARCE,
25 YOUR HONOR, EMBARKED ON A SERIES OF RETALIATORY ACTS

1 AGAINST EITHER (A) AGENTS LIKE CAMARENA OR THE PILOT
2 ZAVALA-AVILAR, WHO WAS AN INFORMANT, OR (B) PEOPLE THAT
3 THEY BELIEVED TO BE DEA AGENTS. AND, YOUR HONOR, RADELAT
4 AND WALKER WERE MURDERED AND TORTURED ONLY ONE WEEK BEFORE
5 CAMARENA, AND THEY WERE MISTAKEN FOR DEA AGENTS, AND THAT
6 IS WHY THEY WERE MURDERED. AND FOR THAT REASON IT IS
7 ENCOMPASSED, YOUR HONOR, WITHIN THE SAME THEORY OF THE
8 CASE.

9 THE COURT: WELL, WE WILL DEAL WITH THE MERITS
10 OF THAT JOINDER AT THE PROPER TIME.

11 MR. MEDRANO: YES, YOUR HONOR.

12 THE COURT: THAT IS NOT BEFORE THE COURT AT THIS
13 TIME.

14 WITH RESPECT TO THIS REQUEST BY COUNSEL MADE
15 HERE TODAY, FIRST THERE IS NO BASIS FOR THAT PERJURY CASE
16 COMING HERE. THE ONLY MATTER THAT WAS BEFORE THIS COURT
17 WAS THE ARREST OF THE DEFENDANT AS A MATERIAL WITNESS.
18 ONCE THAT PROCESS HAD BEEN COMPLETED AND HE HAD BEEN
19 DISCHARGED, HE WAS THEN INDICTED FOR PERJURY, AND IT WAS
20 PROPER FOR THAT CASE TO BE ASSIGNED AT RANDOM TO ONE OF
21 THE JUDGES OF THIS COURT. IT SHOULD STAY WHERE IT WAS
22 ASSIGNED.

23 WITH RESPECT TO TRANSFERRING THIS CASE TO THAT
24 COURT BECAUSE OF THE PERJURY CASE THAT IS PENDING THERE,
25 YOU MUST KEEP IN MIND THAT ONE OF THE BASIC REASONS FOR

1 THE TRANSFER OF CASES IS JUDICIAL ECONOMY. YOU THEREFORE
2 HAVE TO CONSIDER THE EXTENSIVE EXPERIENCE THAT THIS COURT
3 HAS HAD IN CONNECTION WITH OTHER DEFENDANTS CHARGED IN THE
4 CAMARENA MURDER. THE COURT HAS DONE CONSIDERABLE WORK ON
5 MANY OF THE EVIDENTIARY ISSUES THAT WILL BE RAISED AGAIN.
6 IT WOULD NOT BE PROPER TO SADDLE THOSE UPON A NEW JUDGE
7 WHERE WE HAVE A JUDGE THAT HAS BEEN VERY CONVERSANT WITH
8 THOSE ISSUES AND HAS DEALT WITH THEM PREVIOUSLY.

9 SECONDLY, THIS IS MY INDICTMENT. THIS
10 INDICTMENT HAS BEEN IN THIS COURT EVER SINCE IT WAS FILED,
11 AND EACH TIME THERE HAVE BEEN DEFENDANTS ADDED IT HAS
12 FALLEN TO ME TO TAKE CARE OF. IT WOULD NOT BE PROPER IN
13 MY OPINION TO TRANSFER THIS CASE FOR ANY OF THE REASONS
14 WHICH YOU HAVE STATED, AND THEREFORE I DENY THAT. THE
15 CASE WILL REMAIN HERE.

16 NOW, THE OTHER DEFENDANT IS PRESENTLY SET FOR
17 TRIAL. WHAT IS THE DATE OF THAT TRIAL?

18 MR. MEDRANO: FEBRUARY 20, 1990, YOUR HONOR.

19 THE COURT: FEBRUARY 20, 1990. I PROPOSE TO SET
20 THIS CASE ON THAT DATE.

21 MR. MEDVENE: WILL YOU GIVE ME ONE MOMENT. MAY
22 I HAVE ONE MOMENT, YOUR HONOR?

23 THE COURT: YES.

24 (DISCUSSION OFF THE RECORD.)

25 MR. MEDVENE: IF THE COURT PLEASE, I UNDERSTAND

1 THAT THERE ARE THOUSANDS OF PAGES OF DISCOVERY THAT I
2 ASSUME WE WILL BE GETTING FROM THE GOVERNMENT, AND I THINK
3 WE WILL HAVE GREAT --

4 THE COURT: JUST A MOMENT. MY CLERK WILL GIVE
5 YOU MY STANDING ORDER ON DISCOVERY, AND THAT SETS FORTH
6 THE OBLIGATION OF ALL PARTIES IN RELATION TO DISCOVERY,
7 AND I WANT TO DIRECT THE GOVERNMENT TO PROCEED WITH
8 DISPATCH AND PROVIDE ALL OF THE DISCOVERY TO WHICH THIS
9 DEFENDANT IS ENTITLED.

10 MR. MEDRANO: MOST DEFINITELY, YOUR HONOR. BY
11 THE END OF THIS WEEK WE WILL HAVE A VOLUMINOUS QUANTITY OF
12 DISCOVERY.

13 THE COURT: WELL, I AM SURE THAT MOST OF IT IS
14 AVAILABLE. IT HAS BEEN PRODUCED BEFORE.

15 MR. MEDRANO: MOST DEFINITELY, YOUR HONOR. IT
16 IS JUST A QUESTION OF LOGISTICS OF ACTUALLY GETTING THE
17 COPIES, BUT IN A MATTER OF DAYS WE WILL HAVE MUCH OF THAT,
18 IF NOT ALL OF THAT, DISCOVERY FOR MR. MEDVENE TO REVIEW,
19 YOUR HONOR.

20 THE COURT: ALL RIGHT.

21 MR. MEDVENE: I WOULD JUST SAY, YOUR HONOR, THAT
22 I THINK THE FEBRUARY 20 DATE WOULD BE DIFFICULT BECAUSE WE
23 HAVE THE PERJURY CASE TO TRY.

24 THE COURT: WHEN IS THAT SET?

25 MR. MEDVENE: IT IS SET AT THE END OF JANUARY,

1 SIR, AND I HAVE A FOUR-WEEK CIVIL CASE SET IN FRONT OF
2 JUDGE CARDENAS IN THE SUPERIOR COURT ON THE 15TH OF
3 JANUARY, AND THEN WE HAVE THE PERJURY CASE IN THIS MATTER,
4 ZUNO-ARCE, SET IN FRONT OF JUDGE TAKASUGI. I THINK THAT
5 IS ON THE 30TH OR 31ST. TO GET THROUGH EVERYTHING WOULD
6 BE REALLY HARD.

7 I UNDERSTAND IT IS A LOT OF MATERIALS. I AM A
8 LITTLE BIT FAMILIAR WITH IT, BUT NOT VERY FAMILIAR WITH
9 THE PREVIOUS TRIAL. WE HAVE TO READ ALL OF THE
10 TRANSCRIPTS AND WHATEVER DISCOVERY THERE IS.

11 SO I WOULD RESPECTFULLY ASK YOUR HONOR TO SET A
12 LATER DATE OR HAVE A STATUS CONFERENCE AFTER WE HAVE HAD A
13 CHANCE TO LOOK AT THE DISCOVERY.

14 THE COURT: I AM GOING TO KEEP THIS DATE ON
15 FEBRUARY 20. I WILL CONSIDER A JOINT STATUS CONFERENCE
16 AFTER YOU HAVE HAD AN OPPORTUNITY TO LOOK AT THE
17 DISCOVERY, WHICH SHOULD INCLUDE THE OTHER COUNSEL AND THE
18 OTHER DEFENDANTS IN THE CASE.

19 AS PRESENTLY SCHEDULED, I WOULD PLAN TO HAVE A
20 JOINT TRIAL FOR THESE DEFENDANTS, ABSENT ANY OTHER RULINGS
21 SEVERING ANY DEFENDANT FROM THE CASE. THEREFORE, THE
22 STATUS CONFERENCE SHOULD INCLUDE THOSE DEFENDANTS AND
23 THOSE COUNSEL AS WELL.

24 MR. MEDVENE: I WILL REPRESENT TO YOUR HONOR --
25 I DON'T KNOW ABOUT OTHER COUNSEL; I DON'T KNOW WHO THEY

1 ARE -- BUT WE WILL BE FILING A SEVERANCE MOTION ON THAT
2 TOURIST MATTER. I JUST KNOW THAT FROM HEARING IT THIS
3 MORNING.

4 IF THE GOVERNMENT DOESN'T CLAIM THAT ZUNO-ARCE
5 HAD ANYTHING TO DO WITH THOSE MURDERS, WE ARE OBVIOUSLY
6 GOING TO MAKE THAT MOTION.

7 BUT WE WILL DO OBVIOUSLY WHAT YOUR HONOR TELLS
8 US TO DO ABOUT THE STATUS CONFERENCE, WHATEVER IS
9 CONVENIENT FOR YOUR HONOR.

10 THE COURT: ALL RIGHT. I WOULD PREFER TO HAVE
11 IT AFTER YOU HAVE REVIEWED THE DISCOVERY, AND MAYBE IN
12 ORDER TO MAKE SURE THAT THINGS MOVE ALONG, I SHOULD SIMPLY
13 PICK A DATE FOR A STATUS CONFERENCE. I SUGGEST IT SHOULD
14 BE JANUARY IN PROBABLY THE FIRST WEEK. JANUARY THE 4TH AT
15 1:30. WE WILL MEET ON JANUARY 4 WITH ALL COUNSEL PRESENT
16 AND REVIEW THE STATUS OF THE MATTER AT THAT TIME.

17 IS THERE ANYTHING FURTHER AT THIS TIME?

18 MR. MEDVENE: WELL, ZUNO-ARCE IS NOW OUT ON
19 APPROXIMATELY \$400,000 BAIL, JOINT PROPERTY AND PERSONAL
20 RECOGNIZANCE. WE WOULD RESPECTFULLY ASK YOUR HONOR TO
21 PERMIT HIM TO REMAIN OUT ON THAT BOND.

22 I MIGHT PRELIMINARILY SAY A FEW THINGS, YOUR
23 HONOR, WITH YOUR PERMISSION. FIRST, IN TERMS OF THE
24 MERITS OF THE ALLEGATIONS, IMMUNITY WAS GRANTED ON THE
25 MAJOR CASE. I JUST WANT TO TRY TO GIVE YOU A BIT OF A

1 FEEL.

2 DURING THE MATERIAL WITNESS HEARING THAT YOU
3 SUPERVISED, ZUNO-ARCE WAS GIVEN IMMUNITY, AND THAT
4 IMMUNITY -- I AM LOOKING AT PAGE 4 OF THE GRAND JURY
5 TRANSCRIPT -- APPEARS TO INCLUDE TO ME THE EXACT CHARGES,
6 THE EXACT SECTIONS -- 1952(B), 1201(C), AND 1201(A)(5),
7 THE EXACT CHARGES WE ARE HERE INVOLVED IN.

8 THERE IS NO QUESTION THAT HE, UNLESS THERE IS AN
9 INDEPENDENT SHOWING, RECEIVED IMMUNITY FOR THE SUBSTANTIVE
10 OFFENSES HERE CHARGED, AND I THINK IT IS RELEVANT
11 BACKGROUND ON WHAT WE DO ON BAIL, AND I WOULD IMAGINE THAT
12 THE GOVERNMENT IS GOING TO ARGUE WELL, WE DIDN'T USE HIS
13 TESTIMONY OR LEADS, BUT WE USED OTHER THINGS. WE WILL, OF
14 COURSE, AT THE APPROPRIATE TIME HAVE A HEARING ON THAT.

15 BUT AT THE TIME YOU WERE HEARING THE MATERIAL
16 WITNESS MATTER -- I DON'T KNOW ALL YOU HAD IN FRONT OF YOU
17 BECAUSE THERE WERE SOME IN-CAMERA FILINGS, AND I DON'T
18 WANT TO OVERSTATE, BUT I AT LEAST KNOW THE END OF IT. YOU
19 SAID THERE WASN'T ENOUGH TO HOLD HIM EVEN AS A MATERIAL
20 WITNESS, AND YOU RELEASED HIM. SO --

21 THE COURT: THAT IS NOT WHAT I SAID. I SAID
22 THAT HE HAS DONE WHAT HE IS REQUIRED TO DO. HE TESTIFIED
23 BEFORE THE GRAND JURY AND THAT THERE IS NO LONGER ANY
24 REASON TO HOLD HIM.

25 MR. MEDVENE: ALL RIGHT, SIR. I THOUGHT YOU

1 SAID THAT YOU DIDN'T FEEL -- I THINK THE TRANSCRIPT
2 SUPPORTS THAT YOU DIDN'T FEEL HE WAS A MATERIAL WITNESS.
3 THE GOVERNMENT MADE SOME ALLEGATIONS, YOU SAID, ABOUT THE
4 HOUSE AND OTHER TESTIMONY --

5 THE COURT: I SAID THAT HE WAS NOT A MATERIAL
6 WITNESS IN THE CASE AGAINST JUAN JOSE BERNABE. AT THAT
7 TIME THERE WAS NOTHING BEFORE ME TO INDICATE HE WAS.

8 MR. MEDVENE: ALL RIGHT, SIR. SO EITHER THEY
9 HAD THE EVIDENCE THEN, OR THEY HAVE SUBSEQUENTLY GOTTEN
10 THAT. SO UP THERE IN FRONT OF YOU IN TERMS OF CONSIDERING
11 THE STRENGTH IS WHAT THEY HAD AT THE TIME AND THE FACT
12 THAT HE HAD IMMUNITY FOR THE OFFENSES THAT THEY NOW CLAIM.

13 WE ALSO NOTE THAT IN TERMS OF THE -- IN LOOKING
14 AT THE NATURE OF THE CHARGES YOU ALSO, WE WOULD
15 RESPECTFULLY SUGGEST, LOOKED AT WHAT I BELIEVE YOU HAD IN
16 FRONT OF YOU, WHICH WAS THE STATEMENT THAT WE HAVE
17 ATTRIBUTED UNDER OATH BY MR. GURULE, WHO DID THE BASIC
18 QUESTIONING IN FRONT OF THE GRAND JURY, TO MR. BLANCARTE.
19 AFTER TWO SECONDS WHEN HE WAS SPECIFICALLY TALKING ABOUT
20 SOME OF THE THINGS HERE AND QUINTERO AND FONSECA, THAT
21 MR. GURULE BELIEVED ZUNO-ARCE WAS TESTIFYING TRUTHFULLY.

22 QUERY: IF HE BELIEVED -- AND THAT HAS NEVER
23 BEEN REFUTED, AND IT'S BEEN A LONG TIME AND SAID MANY
24 TIMES. QUERY: IF HE BELIEVED HE WAS TESTIFYING
25 TRUTHFULLY AUGUST 31, AGAIN THE VALIDITY OF THESE CHARGES

1 THAT ARE COMING AT A TIME WHEN THERE MAY BE A DEFINITIVE
2 RULING IN ANOTHER COURT.

3 LASTLY, AND I BELIEVE YOU HAVE IN FRONT OF YOU
4 AGAIN, THE OFFER THAT WE BROUGHT TO YOUR HONOR'S
5 ATTENTION, I BELIEVE, TO ME THAT ZUNO-ARCE BE RELEASED,
6 EITHER PLEADING TO ONE COUNT OR BETTER THAN THAT, WHICH
7 MEANS A PASS IF HE COOPERATES, AGAIN TENDING TO INDICATE
8 NOT SOMEBODY INVOLVED IN A MURDER AND TORTURE, WHICH
9 ORDINARILY WOULDN'T GIVE HIM A PASS --

10 THE COURT: LOOK, MR. MEDVENE, LET'S GET TO THE
11 HEART OF THE MATTER.

12 MR. MEDVENE: WELL, THE HEART OF THE MATTER --

13 THE COURT: IF YOU ARE SUGGESTING THAT I SHOULD
14 RELEASE MR. ZUNO-ARCE ON BAIL AT THE PRESENT TIME -- WHAT
15 IS IT YOU ARE SUGGESTING?

16 MR. MEDVENE: YES, SIR. YES, SIR. WE ARE
17 SUGGESTING THAT. ON THE BAIL THAT JUDGE TAKASUGI HAD
18 SET --

19 THE COURT: WHAT IS THE EXACT AMOUNT OF THE BAIL
20 SET BY JUDGE TAKASUGI?

21 MR. MEDVENE: \$200,000 IN PROPERTY.

22 THE COURT: WELL, WAIT A MINUTE. JUST A MOMENT.
23 THE AMOUNT OF THE BAIL IS NOT -- IT IS USUALLY THE AMOUNT
24 OF BAIL SECURED BY PROPERTY. WHAT IS THE AMOUNT OF BAIL
25 THAT WAS FIXED BY THE JUDGE?

1 MR. MEDVENE: MY MEMORY -- I DON'T WANT TO
2 MISSTATE -- IS, I BELIEVE, \$400,000. I BELIEVE IT IS
3 \$200,000 OR PROPERTY.

4 MR. MEDRANO: YOUR HONOR, I HAVE INFORMATION ON
5 THAT WHICH WOULD BE HELPFUL.

6 THE COURT: WHAT IS YOUR UNDERSTANDING.

7 MR. MEDRANO: MY UNDERSTANDING IS \$200,000 OF
8 BAIL, YOUR HONOR, OF WHICH APPROXIMATELY \$160,000 IS TO BE
9 SECURED BY REAL PROPERTY, AND IT HAS BEEN. SO THAT IS THE
10 STATUS.

11 THE COURT: SO IT IS \$200,000 NOT FULLY SECURED,
12 BUT SECURED TO THE EXTENT OF \$160,000?

13 MR. MEDRANO: CORRECT, YOUR HONOR.
14 APPROXIMATELY THREE QUARTERS OF IT IS SECURED BY REAL
15 ESTATE.

16 THE COURT: ALL RIGHT. THAT IS THE PRESENT
17 BAIL?

18 MR. MEDRANO: THAT IS MY UNDERSTANDING, YES,
19 YOUR HONOR.

20 THE COURT: AND I ASSUME YOU WANT TO TELL ME
21 THAT THE DEFENDANT HAS MADE ALL OF HIS REQUIRED
22 APPEARANCES?

23 MR. MEDRANO: YES, HE HAS MADE THE REQUIRED
24 APPEARANCES, YOUR HONOR. THERE HAVE BEEN IN FRONT OF
25 JUDGE TAKASUGI TWO APPEARANCES, ONCE PRIOR TO THIS ONE.

1 THE COURT: HE IS HERE AT THIS TIME FOR THE
2 PURPOSE OF MAKING AN APPEARANCE?

3 MR. MEDRANO: YES, SIR. WE ARE GOING FROM HERE
4 TO JUDGE TAKASUGI'S COURT TO HEAR MOTIONS. HE WAS THERE
5 TO HEAR MOTIONS SEVERAL WEEKS AGO AND IS THERE AGAIN TODAY
6 TO HEAR MOTIONS.

7 HE COMES KNOWING THAT HE COULD FACE SERIOUS
8 CRIMINAL POSSIBILITIES IN THAT CASE AND, IN ADDITION,
9 KNOWING THAT THE GOVERNMENT HAS MADE THE ALLEGATION THAT
10 IT IS GOING TO PUT ON THIS MODE OF EVIDENCE, THE
11 ALLEGATIONS OF THE MURDER AND TORTURE; SO HE COMES KNOWING
12 ALL OF THAT.

13 THAT IS IN ADDITION, YOUR HONOR, TO REMEMBERING
14 WHAT WAS PRESENTED TO YOU EARLIER, THAT MEETING IN '87 OR
15 SO WHEN THE GOVERNMENT WAS STILL INVESTIGATING WHEN HE
16 VOLUNTARILY CAME FROM MEXICO TO SAN ANTONIO TO MEET WITH
17 THE DEA AGENT WHO WANTED TO QUESTION HIM ABOUT THE WHOLE
18 AFFAIR. AGAIN THAT WAS AT A TIME WHEN HE COULD HAVE BEEN
19 ARRESTED.

20 SO WE HAVE THOSE THREE INSTANCES THAT WE CAN
21 POINT TO, BUT THE TWO RECENTLY HAVE BEEN IN A FELLOW
22 FEDERAL COURT.

23 THE COURT: WHAT IS THE GOVERNMENT'S POSITION ON
24 BAIL IN THIS MATTER?

25 MR. MEDRANO: JUST BRIEFLY, YOUR HONOR. I DON'T

1 THINK I NEED TO STATE THE OBVIOUS. THE COMPLEXION OF THIS
2 CASE VERSUS THE LESS SERIOUS PERJURY MATTER IS LIKE NIGHT
3 AND DAY, YOUR HONOR. HE FACES THREE COUNTS BEFORE JUDGE
4 TAKASUGI, A FIVE-YEAR MAXIMUM EXPOSURE ON EACH COUNT, AND
5 THE BASIS IS AN ALLEGATION THAT HE ACTUALLY KNOWS CARO-
6 QUINTERO AND FONSECA AND HE LIED WHEN HE SAID HE DIDN'T IN
7 FRONT OF THE FEDERAL GRAND JURY.

8 YOUR HONOR, TO COMPARE THAT NOW WITH A CASE OF
9 THIS GRAVITY WHERE ZUNO-ARCE IS INCLUDED IN THE COMPANY
10 OF, AMONG OTHERS, CARO-QUINTERO AND FONSECA-CARILLO, AND
11 BEING INVOLVED IN THE ACTUAL PLANNING AND SCHEME TO KIDNAP
12 CAMARENA, YOUR HONOR, IS AN ENTIRELY DIFFERENT CASE. THAT
13 ALLEGATION WHICH I HAVE JUST REFERENCED FOR THE COURT IS
14 ALSO REFERENCED IN THE FIFTH SUPERSEDING INDICTMENT WHICH
15 WAS RETURNED BY A FEDERAL GRAND JURY.

16 THE COURT: WHAT IS THE PENALTY EXPOSURE FOR
17 THESE NEW OFFENSES?

18 MR. MEDRANO: ZUNO-ARCE FACES FOUR FELONY
19 CHARGES, YOUR HONOR. HE CAN GET UP TO LIFE IMPRISONMENT
20 ON EACH AND EVERY COUNT.

21 SO CLEARLY THE SERIOUSNESS AND GRAVITY OF THE
22 CHARGES ARE ENTIRELY DIFFERENT, AND THUS THERE IS EVEN
23 MORE REASON FOR THIS MAN NOT TO SHOW UP AND CERTAINLY NOT
24 TO APPEAR FOR A TRIAL ON CHARGES THAT ARE THIS SERIOUS.

25 IN ADDITION, YOUR HONOR, I WOULD LIKE TO FLAG

1 FOR YOU THAT THERE ARE CO-DEFENDANTS THAT HAVE APPEARED
2 BEFORE YOU ALREADY THAT YOU HAVE DETAINED WHOSE
3 CULPABILITY IS ARGUABLY LESS SEVERE THAN THAT OF ZUNO-
4 ARCE. A GOOD EXAMPLE IS BERNABE-RAMIREZ, YOUR HONOR. HIS
5 ROLE IN TERMS OF THE INDICTMENT IS THAT OF A SOLDIER, YOUR
6 HONOR, SOMEONE WHO WAS AT THE LOPE DE VEGA RESIDENCE AND
7 WHO WAS STANDING OUTSIDE ON GUARD WITH AN AUTOMATIC RIFLE,
8 GUARDING THE PLACE.

9 NOW, ARGUABLY, HIS ROLE IS LESS SIGNIFICANT AND
10 LESS PARAMOUNT THAN ZUNO-ARCE, WHO WAS PART AND PARCEL OF
11 THE ENTIRE PLANNING STAGE, YOUR HONOR, LITERALLY ONLY
12 WEEKS BEFORE CAMARENA WAS ABDUCTED AND TORTURED.

13 SO THE ROLES OF THE PLAYERS ARE MARKEDLY
14 DIFFERENT, AND YET THE COURT FOUND IT ADEQUATE TO DETAIN
15 THE LESSER PLAYER.

16 I WOULD SUBMIT TO THE COURT RESPECTFULLY THAT
17 THIS MAN'S ROLE IS FAR MORE SIGNIFICANT AND HENCE EVEN
18 MORE DESERVING OF DETENTION, YOUR HONOR.

19 AND FINALLY, LET ME JUST ADDRESS IT BECAUSE
20 MR. MEDVENE RAISED IT TANGENTIALLY. YOUR HONOR, I
21 ANTICIPATE A MOTION BY MR. MEDVENE ATTACKING THE
22 INDICTMENT ON THE BASIS OF THE USE IMMUNITY WHICH WAS
23 GIVEN TO ZUNO-ARCE. YOUR HONOR, WE ARE PREPARED TO MEET
24 THAT. I WOULD SUGGEST THAT UNDER THE LOCAL RULES
25 SOMETHING OF THAT CALIBER SHOULD BE NOTICED, AND WE SHOULD

1 HAVE A CHANCE TO FULLY BRIEF IT FOR THE COURT TO ADDRESS
2 IT FAIRLY AND PROPERLY.

3 THE COURT: WELL, YOU HAVE NOT ADDRESSED THE TWO
4 SIGNIFICANT CONSIDERATIONS FOR RELEASE ON BAIL. ONE IS
5 THE LIKELIHOOD OF FLIGHT AND THE OTHER IS WHETHER OR NOT
6 THE DEFENDANT IS A DANGER TO THE COMMUNITY.

7 MR. MEDRANO: WELL, LET ME ADDRESS FIRST, YOUR
8 HONOR, THE FLIGHT MATTER, AND THEN I WILL JUST VERY
9 BRIEFLY, AFTER THAT, ADDRESS THE SAFETY ISSUE.

10 AS TO THE SUBJECT MATTER OF FLIGHT, YOUR HONOR,
11 PLEASE CONSIDER, IF YOU WILL, AMONG THE IMPORTANT FACTORS
12 AS FOLLOWS: ZUNO-ARCE HAS ADMITTED, NOT ONLY TO A
13 PRETRIAL SERVICES OFFICER, BUT TO AN INS OFFICIAL IN EARLY
14 AUGUST WHEN HE WAS OFFICIALLY DETAINED BY THE INS AS BEING
15 A MAN OF IMMENSE WEALTH, OWNING IN MASCOTA, MEXICO, AMONG
16 OTHER THINGS, A RANCH, WHICH HE CALLED THE LA JOLLA,
17 CANNING FACTORIES, GASOLINE STATIONS, ORCHARDS, ET CETERA,
18 ET CETERA. SO CLEARLY THE WEALTH AND AFFLUENCE OF THIS
19 MAN IS SIGNIFICANT, AND HE HAS THE MONEY TO ESCAPE IF
20 GIVEN THAT OPPORTUNITY.

21 RELATED TO THAT, YOUR HONOR, AS WE KNOW ALREADY
22 BECAUSE IT WAS BROUGHT OUT IN AN INTERVIEW WITH THE INS
23 OFFICIAL, HE HAS A PILOT'S LICENSE. SO HE CAN EASILY RENT
24 A PLANE AND FLEE ON HIS OWN SHOULD HE SO DESIRE.

25 SO I THINK THAT THE FLIGHT ISSUE -- FURTHERMORE,

1 YOUR HONOR, JUST TO STATE THE OBVIOUS, HE IS HERE
2 ILLEGALLY IN THE UNITED STATES. HE HAS VIRTUALLY NO TIES
3 TO ANYWHERE IN THE UNITED STATES.

4 THE COURT: WHAT DO YOU MEAN HE IS ILLEGALLY IN
5 THE UNITED STATES?

6 MR. MEDRANO: WELL, WHEN HE WAS ORIGINALLY
7 DETAINED ON AUGUST 9 OF 1989, YOUR HONOR, IT WAS BY INS
8 PURSUANT TO AN INS DETAINER. HE WAS ORDERED DETAINED AT
9 THAT TIME ON THE BASIS OF BEING AN EXCLUDABLE ALIEN
10 BECAUSE HE WAS BELIEVED TO BE A NARCOTICS TRAFFICKER. AND
11 AT THAT TIME HE WAS DETAINED BECAUSE HE HAD NO LEGAL RIGHT
12 TO BE IN THE UNITED STATES, AND HE WAS EVENTUALLY OUSTED
13 BY THE INS. THE COURT MAY RECALL THAT WE SORT OF DID
14 BATTLE WITH THAT ISSUE WITH MR. MEDVENE MONTHS AGO WHEN
15 THE MATERIAL WITNESS ARREST WARRANT ISSUED FOR ZUNO-ARCE.

16 SO THIS MAN, YOUR HONOR, IS, NO. 1, ILLEGALLY IN
17 THE UNITED STATES; 2, HAS NO FINANCIAL, FAMILY, OR OTHER
18 TYPE OF SIGNIFICANT TIES TO THE CENTRAL DISTRICT OF
19 CALIFORNIA.

20 THE COURT: I DON'T THINK IT IS CORRECT TO SAY
21 THAT HE IS ILLEGALLY IN THE UNITED STATES. HE IS HERE TO
22 RESPOND TO A COURT HEARING.

23 MR. MEDRANO: I UNDERSTAND, YOUR HONOR, AND I AM
24 NOT SAYING THAT. WHAT I AM SAYING IS THAT IF WE STEP
25 BACK --

1 THE COURT: YOU MEAN AT ONE TIME HE WAS VIEWED
2 AS BEING EXCLUDABLE, AND HE SUBSEQUENTLY STIPULATED TO
3 THAT.

4 MR. MEDRANO: YES. AND THE POINT IS THIS, YOUR
5 HONOR: TO THIS VERY DAY HE IS STILL EXCLUDABLE. HE IS
6 STILL HERE ILLEGALLY BUT FOR THE FACT THAT MR. MEDVENE AND
7 MY COLLEAGUE, MR. SCHIFF, WORKED OUT AN ARRANGEMENT TO
8 PAROLE HIM ONLY FOR HIS COURT APPEARANCES. BUT BARRING
9 THAT, YOUR HONOR, HE HAS NO LEGITIMATE, LEGAL RIGHT TO BE
10 IN THE JURISDICTION OF THE UNITED STATES.

11 THE COURT: WELL, I AM SURE HE IS NOT HERE BY
12 CHOICE.

13 MR. MEDRANO: I UNDERSTAND THAT, YOUR HONOR.
14 BUT MY SOLE POINT OF RAISING THAT, YOUR HONOR, AND PERHAPS
15 I AM JUST SIMPLY NOT BEING LUCID ON THAT POINT -- IF I AM
16 NOT, I APOLOGIZE. MY SOLE POINT IS THAT HE HAS NO TIES TO
17 THE CENTRAL DISTRICT, YOUR HONOR. HE HAS NO EMPLOYMENT
18 HERE, NO FINANCIAL TIES. EVERYTHING HE LIVES, BREATHES,
19 AND WORKS FOR IS IN THE REPUBLIC OF MEXICO -- FAMILY,
20 WORK, BUSINESSES THAT HE OWNS.

21 SO ALL OF THIS MILITATES IN FAVOR, YOUR HONOR,
22 OF FINDING UNEQUIVOCALLY, I WOULD SUBMIT, THAT IS HE A
23 PROFOUND FLIGHT RISK, ESPECIALLY NOW, YOUR HONOR, WHERE
24 THE ANTE, IF I MAY USE THAT TERM, HAS BEEN RAISED
25 SIGNIFICANTLY. IT IS NO LONGER A FIVE-YEAR MAXIMUM

1 EXPOSURE ON A PERJURY CASE BEFORE JUDGE TAKASUGI, BUT NOW
2 IT IS THE CHARGES TO GO TO THE VERY HEART AND ESSENCE OF
3 THE PLOT THAT EVENTUALLY CULMINATED IN THE KIDNAP,
4 TORTURE, AND MURDER OF SPECIAL AGENT CAMARENA.

5 AND, YOUR HONOR, WITH REGARD TO THE SAFETY
6 ISSUE, YOUR HONOR, I WOULD JUST LIKE TO ADDRESS THAT
7 BRIEFLY. I WOULD SUBMIT THAT JUST ON THE BASIS OF FLIGHT
8 CONSIDERATION IT IS CLEAR HE SHOULD NOT BE GIVEN BAIL.

9 BUT ON THE ISSUE OF SAFETY, YOUR HONOR, I WOULD
10 NOTE FOR THE COURT -- IF THE COURT HAS, FOR EXAMPLE, A
11 COPY OF THE INDICTMENT BEFORE IT, ON PAGE 12, OVERT ACT 3,
12 IT INDICATES THAT RUBEN ZUNO-ARCE AND OTHER SIGNIFICANT
13 HEAVYWEIGHT DRUG DEALERS, INCLUDING CARO-QUINTERO AND
14 FONSECA-CARILLO, MET AT THE RESIDENCE OF ANOTHER CO-
15 DEFENDANT BARBA-HERNANDEZ, AND DISCUSSED, YOUR HONOR,
16 PLANNED THE INTERROGATION OF AGENT CAMARENA.

17 IF THAT, YOUR HONOR, DOES NOT POINT
18 UNEQUIVOCALLY TO THE FACT THAT SOMEONE IS A SAFETY
19 CONCERN, NOT ONLY FOR PEOPLE WHO HAVE ALREADY BEEN
20 MURDERED, BUT INDEED FOR FUTURE WITNESSES, WITNESSES THE
21 GOVERNMENT PRESENTLY HAS TO PUT ON ITS CASE, I DON'T KNOW
22 WHAT DOES, YOUR HONOR.

23 AND, OF COURSE, THE COURT IS KEENLY AWARE OF THE
24 TREMENDOUS EFFORTS THAT THE GOVERNMENT HAS HAD TO EMBARK
25 UPON TO NOT ONLY PRESERVE THE SAFETY OF CONFIDENTIAL

1 INFORMANTS, BUT INDEED ONCE THEIR COVER IS BURNED, SO TO
2 SPEAK, WHEN THEY TESTIFY, ENTIRE FAMILIES HAVE TO BE
3 RELOCATED, YOUR HONOR, AND THE REASON THEY ARE RELOCATED
4 IS BECAUSE OF PEOPLE LIKE CARO-QUINTERO AND FONSECA-
5 CARILLO AND NOW ZUNO-ARCE.

6 SO, YOUR HONOR, I WOULD SUBMIT THAT BOTH BASES
7 HAVE BEEN ESTABLISHED BY THE COURT. HE IS NOT ONLY A
8 PROFOUND FLIGHT RISK BUT A SEVERE SAFETY CONCERN TO
9 PRESENT WITNESSES THAT THE GOVERNMENT INTENDS TO CALL IN
10 ITS CASE IN CHIEF IN A MATTER OF TWO OR THREE MONTHS.

11 YOUR HONOR, UNLESS THE COURT HAS OTHER
12 INQUIRIES, WE WOULD SUBMIT ON THAT BASIS.

13 THE COURT: WELL, THIS IS ESSENTIALLY THE SAME
14 ARGUMENT THAT WAS PRESENTED TO THE NINTH CIRCUIT WHEN YOU
15 OPPOSED THE GRANTING OF BAIL IN THE OTHER CASE.

16 MR. MEDRANO: WITH ALL RESPECT, YOUR HONOR, NO,
17 THE KEY DIFFERENCE BEING THAT AT THAT TIME THERE WAS NOT
18 SUFFICIENT TO PRESENT TO THE NINTH CIRCUIT, OR EVEN TO A
19 FEDERAL GRAND JURY, OF ZUNO-ARCE'S ROLE IN THE PLOT TO
20 KIDNAP AND MURDER SPECIAL AGENT CAMARENA. THAT KEY PIECE
21 OF EVIDENCE WAS NOT AVAILABLE FOR THE NINTH CIRCUIT, OR,
22 INDEED, TAKASUGI, AND IT IS AVAILABLE NOW, YOUR HONOR, AS
23 EVIDENCED BY THIS FEDERAL INDICTMENT.

24 REITERATING BRIEFLY, THE ENTIRE COMPLEXION OF
25 THE CASE HAS CHANGED, AND THE INFORMATION WHICH YOU NOW

1 HAVE AVAILABLE ON WHICH TO BASE A DECISION FOR DETENTION
2 WAS NOT AVAILABLE TO JUDGE TAKASUGI AND WAS NOT AVAILABLE
3 TO THE NINTH CIRCUIT.

4 AND, FINALLY, YOUR HONOR, THE CHARGES ARE
5 UTTERLY DIFFERENT -- PERJURY WITH A FIVE-YEAR MAXIMUM
6 VERSUS LIFE IMPRISONMENT ON FOUR SEPARATE COUNTS WITH
7 REGARD TO THE MURDER.

8 THE COURT: ALL RIGHT.

9 DO YOU WISH TO RESPOND BRIEFLY, MR. MEDVENE?

10 MR. MEDVENE: YES, YOUR HONOR. SUBSTANTIALLY
11 THE SAME ARGUMENT WAS MADE, NOT ONLY TO YOUR HONOR, BUT TO
12 THE NINTH CIRCUIT. THE GOVERNMENT HAS SAID BOTH IN COURT
13 AND IN PRESS THAT I HAVE READ THAT IF ZUNO-ARCE WAS EVER
14 RELEASED, IF HE WAS RELEASED BY JUDGE TAKASUGI, HE WOULD
15 NEVER RETURN. HE RETURNED NOT ONCE, BUT TWICE KNOWING OF
16 THE POSSIBILITY OF FACING THE EXACT CHARGES THAT HE IS
17 FACING BECAUSE HE WANTS AN OPPORTUNITY TO CLEAR HIS NAME.
18 THAT IS WHY HE IS HERE.

19 THE RIGHT TO BAIL IS A PRECIOUS ONE. THE MAN
20 HAS EARNED THE RIGHT TO BE HOME WITH HIS FAMILY AND
21 PREPARE AND COME BACK AND FACE THE CHARGES.

22 THE PERJURY CASE WAS POTENTIALLY 15 YEARS,
23 KNOWING EVERY TIME HE CAME UP HE COULD BE INDICTED, BUT HE
24 WANTED TO TRY TO PRESERVE HIS NAME.

25 HE HAS NO PRIOR CRIMINAL RECORD, AND EVERYTHING

1 YOUR HONOR KNOWS ABOUT HIM -- HE WILL RETURN.

2 THE PRETRIAL SERVICES, WHEN YOUR HONOR SENT HIM
3 OUT AT THE MATERIAL WITNESS TIME, AND I BELIEVE ALSO IN
4 FRONT OF JUDGE TAKASUGI, FOUND THAT THERE WAS NO FEAR OF
5 DANGEROUSNESS, AND THE ONLY ISSUE WAS FLIGHT RISK. JUDGE
6 TAKASUGI RULED IF HE PUT DOWN X MONEY AND X MONEY OF
7 FAMILY AND FRIENDS, HE WOULD BE A SUFFICIENT RISK THAT HE
8 WOULD COME BACK, AND IT WOULD BE FAIR TO GIVE HIM A
9 CHANCE. HE HAS COME BACK TWICE.

10 IN TERMS OF WHAT THE GOVERNMENT SAYS HE DID,
11 YOUR HONOR, THEY ESCALATE WITHOUT SAYING VERY MUCH. THEY
12 SAY THINGS LIKE HE IS TIED IN WITH QUINTERO AND FONSECA.
13 HE SAYS THAT HE DOESN'T KNOW THEM. HE SAYS HE HAS HAD
14 NOTHING TO DO WITH THEM. AND FROM THE TIME HE HAS BEEN
15 HERE, YOUR HONOR, SINCE AUGUST 9TH, THEY HAVE NEVER COME
16 FORWARD WITH ANY EVIDENCE. THE FIRST THING WE HAVE IS --

17 THE COURT: WELL, OBVIOUSLY THEY PRESENTED SOME
18 EVIDENCE TO THE GRAND JURY THAT HE MET AND CONFERRED AND
19 PLANNED WITH THESE PEOPLE. THAT IS WHAT IS ALLEGED IN THE
20 INDICTMENT.

21 MR. MEDVENE: YOUR HONOR, FROM WHAT WE HAVE SEEN
22 IN THE PERJURY CASE, ALL YOU HAVE TO DO -- I SAY THIS WITH
23 NO DISRESPECT -- IS MENTION TORTURE AND MURDER, AND THAT
24 IS PRETTY MUCH IT. I DON'T THINK THERE IS A GREAT DEAL OF
25 FOCUS BY ANY GRAND JURY ON THE OTHER FACTS. FROM WHAT WE

1 HAVE SEEN IN THE PERJURY CASE, WE HAVEN'T SEEN ANY
2 EVIDENCE PRESENTED OTHER THAN STATEMENTS BY THE
3 PROSECUTOR. AND, YOUR HONOR, IT WILL BE SEEN, I GUESS, AT
4 SOME TIME IF THEY PRESENTED ANY EVIDENCE TO THE GRAND
5 JURY.

6 BUT WHAT WE ARE SAYING NOW IS THAT THE NARROW
7 ISSUE IS WILL YOU GIVE HIM A CHANCE, THE CHANCE WE SAY HE
8 HAS EARNED, YOUR HONOR. HE HAS COME BACK TWICE TO THE
9 FEDERAL COURT NEXT DOOR.

10 THE COURT: ALL RIGHT. THAT IS SUFFICIENT
11 ARGUMENT. THE COURT IS READY TO RULE ON THIS.
12 PRELIMINARILY THE COURT IS GOING TO ORDER THE DEFENDANT TO
13 BE DETAINED. THE CIRCUMSTANCES HAVE CHANGED BECAUSE OF
14 THE SEVERITY OF THE CHARGES. I MAKE THIS AS A PRELIMINARY
15 DETENTION ORDER SUBJECT TO REVIEW, AND YOU MAY FILE A
16 MOTION FOR REVIEW, AND WE WOULD HAVE PRETRIAL SERVICES
17 INVESTIGATE AND SUBMIT A REPORT AND RECOMMENDATION TO THE
18 COURT.

19 BUT THE FACT THAT THE DEFENDANT HAS APPEARED IN
20 THE OTHER COURT IS NOT OF ITSELF THAT SIGNIFICANT. HE HAS
21 APPEARED BASICALLY ON NON-DISPOSITIVE MATTERS, AND THAT IS
22 A GOOD WAY IF ONE WANTS TO BUILD UP A RECORD OF
23 APPEARANCES WHEN THERE IS NO RISK INVOLVED. THE TRUE TEST
24 WOULD HAVE BEEN AN APPEARANCE FOR TRIAL.

25 NEVERTHELESS, I NOTE THE FACT THAT HE DID MAKE

1 THESE TWO APPEARANCES AND APPEARED HERE FOR THE MOTION
2 HEARING, BUT I HAVE TO NOTE THAT NONE OF THESE HEARINGS
3 WERE DISPOSITIVE OR REALLY POSED ANY RISK TO THE
4 DEFENDANT.

5 THE DEFENDANT IS ORDERED PRELIMINARILY DETAINED.
6 IS THERE ANYTHING FURTHER?

7 MR. MEDRANO: ONE FINAL THING, YOUR HONOR, JUST
8 A LOGISTICAL MATTER.

9 THE COURT: WITHOUT BAIL.

10 MR. MEDRANO: WHEN THIS INDICTMENT WAS RETURNED
11 LAST WEDNESDAY, IT WAS PUT UNDER SEAL, YOUR HONOR, IN AN
12 EFFORT TO LOCATE FUGITIVES. YOUR HONOR THIS MORNING
13 SIGNED AN ORDER UNSEALING THE INDICTMENT. MAY I REQUEST
14 AT THIS POINT A MINUTE ORDER THROUGH THE CLERK FOR AN
15 ORDER SETTING BAIL AS REQUESTED AND THE ISSUANCE OF OTHER
16 BENCH WARRANTS FOR THE OTHER CO-DEFENDANTS THAT ARE STILL
17 FUGITIVES, YOUR HONOR?

18 THE COURT: WHO ARE YOU REFERRING TO?

19 MR. MEDRANO: YOUR HONOR, THERE ARE 13
20 DEFENDANTS NAMED IN THE INDICTMENT. ALL BUT THREE THAT
21 HAVE APPEARED BEFORE YOU ARE FUGITIVES. THAT IS TEN
22 FUGITIVES.

23 THE COURT: WHAT ARE YOU REQUESTING?

24 MR. MEDRANO: AN ORDER THAT BENCH WARRANTS ISSUE
25 FOR THE ARREST OF THOSE FUGITIVES.

1 THE COURT: I DON'T BELIEVE I CAN ISSUE BENCH
2 WARRANTS FOR THESE PEOPLE. THEY HAVE NEVER BEEN ORDERED
3 TO APPEAR. A BENCH WARRANT IS ISSUED WHERE A DEFENDANT
4 FAILS TO APPEAR AFTER BEING ORDERED TO DO SO.

5 MR. MEDRANO: PERHAPS I AM USING THE WRONG
6 NOMENCLATURE, YOUR HONOR. I THINK WHAT I AM SEARCHING FOR
7 HERE IS, FOR EXAMPLE, WHEN A GRAND JURY HAS RETURNED TO
8 THE MAGISTRATE, THE MAGISTRATE ORDERS THE GRAND JURY TO
9 RETURN THE FOLLOWING WEEK OR WHATEVER DATE AND ALSO SETS
10 AN ORDER THAT BAIL BE SET AND/OR WARRANTS BE ISSUED --
11 LANGUAGE TO THAT EFFECT.

12 THE COURT: DO YOU MEAN WITH RESPECT TO THESE
13 OTHER DEFENDANTS?

14 MR. MEDRANO: CO-DEFENDANTS, YOUR HONOR.

15 THE COURT: BAIL BE SET ON THE INDICTMENT IN THE
16 EVENT THEY ARE APPREHENDED? YOU WANT AN ORDER FIXING
17 BAIL?

18 MR. MEDRANO: NO. WE WANT AN ORDER JUST FOR
19 BENCH WARRANTS SO THAT THE U.S. MARSHALS CAN HAVE A PIECE
20 OF PAPER FROM THE CLERK'S OFFICE TO LOCATE AND ARREST THE
21 INDIVIDUALS.

22 THE COURT: I SUGGEST THAT YOU RESEARCH THAT AND
23 SUBMIT A WRITTEN REQUEST.

24 MR. MEDRANO: VERY WELL. THANK YOU, YOUR HONOR.

25 THE COURT: WITH SUPPORTING LAW.

1 MR. MEDRANO: VERY WELL.

2 THE COURT: ANYTHING FURTHER?

3 MR. MEDVENE: IF THE COURT PLEASE, A NUMBER OF
4 TIMES IN THE PAST THE GOVERNMENT HAS FURNISHED YOUR HONOR
5 WITH IN-CAMERA SUBMITTALS. I RESPECTFULLY ASK YOUR HONOR
6 IF WE MAY HAVE THOSE IN-CAMERA SUBMITTALS A THIS TIME. IT
7 WOULD SEEM TO ME WE SHOULD HAVE WHATEVER THE GOVERNMENT
8 HAS SUBMITTED TO YOUR HONOR SO THAT WE ARE ON AN EQUAL
9 FOOTING.

10 THE COURT: I THINK THAT YOU SHOULD MAKE YOUR
11 MOTION IN WRITING, COUNSEL. THIS WALK-IN BUSINESS IS
12 DIFFICULT TO DEAL WITH. THAT IS NOT BEFORE THE COURT AT
13 THIS TIME.

14 MR. MEDVENE: MAY I ASK YOUR HONOR: MR. ZUNO-
15 ARCE HAS HAD, AS I UNDERSTAND IT, SURGERY ON BOTH HANDS SO
16 THAT WHEN HE IS HANDCUFFED IN BACK OF HIM, IT IS PAINFUL.
17 I ASK TWO THINGS IN RESPECT TO THE HANDCUFFING. THAT HE
18 COULD BE HANDCUFFED IN FRONT INSTEAD OF IN THE BACK. THAT
19 IS THE FIRST THING. THE SECOND THING IS NOW WHEN HE TALKS
20 TO HIS COUNSEL, THEY HAVE HIM HANDCUFFED AND SHACKLED, AND
21 WE WONDER IF WE COULD ASK THAT THAT NOT BE DONE, YOUR
22 HONOR, JUST TO MAKE IT EASIER FOR US TO TALK WITH HIM.

23 THE COURT: THE REQUEST IS DENIED. I AM NOT
24 GOING TO INTERFERE WITH THE SECURITY RESPONSIBILITIES OF
25 THE MARSHAL'S OFFICE. I EXPECT THAT IF THE DEFENDANT IS

1 HAVING DIFFICULTY WITH THE HANDCUFFS, THAT THAT SHOULD BE
2 ACCOMMODATED, BUT I AM NOT GOING TO TELL THEM TO RESTRAIN
3 ONE OF THEIR PRISONERS UNLESS THERE IS GOOD REASON TO DO
4 SO.

5 MR. MEDVENE: WELL, HE WASN'T SHACKLED FOR TWO
6 MONTHS, AND NOTHING HAPPENED, YOUR HONOR. YOU KNOW, IT
7 MIGHT NOT BE IMPORTANT TO THE REST OF US HERE, BUT IT IS
8 PRETTY IMPORTANT TO HIM.

9 THE COURT: I DON'T HAVE THE OPPORTUNITY TO HEAR
10 FROM THE MARSHAL'S OFFICE HERE AS TO WHY THEY ARE DOING
11 WHAT THEY ARE DOING. I THINK IF YOU WANT TO MAKE A
12 REQUEST OF THAT TYPE, YOU SHOULD DO IT IN WRITING AND
13 SERVE THEM WITH NOTICE SO THAT THEY WILL HAVE AN
14 OPPORTUNITY TO RESPOND.

15 MR. MEDVENE: ALL RIGHT, SIR. MIGHT IT BE
16 POSSIBLE, ONE, FOR HIS WIFE TO VISIT HIM EACH DAY AND,
17 SECONDLY, WHEN HE COMES TO COURT TO WEAR CIVILIAN CLOTHES?

18 THE COURT: I WILL MAKE AN ORDER PERMITTING HIM
19 TO WEAR CIVILIAN CLOTHES. IF YOU WISH TO DO SO, PREPARE
20 AND SUBMIT AN ORDER.

21 HE WILL ENJOY THE SAME VISITATION PRIVILEGES
22 THAT OTHER INMATES ENJOY. IS HE AT THE METROPOLITAN
23 DETENTION CENTER?

24 MR. MEDVENE: YES, SIR.

25 THE COURT: HE WILL BE SUBJECT TO THE SAME RULES

1 AS ALL OTHER INMATES. I MADE ACCOMMODATIONS BEFORE
2 BECAUSE HE WAS HERE UNCHARGED AND WAS A MATERIAL WITNESS,
3 AND I FELT THAT WAS APPROPRIATE TO DO SO. THERE IS NO
4 REASON NOW TO TREAT HIM DIFFERENTLY FROM ANY OTHER CHARGED
5 INMATE.

6 MR. MEDVENE: ON THAT THEORY, YOUR HONOR, MAY HE
7 BE PLACED IN THE GENERAL POPULATION? MY UNDERSTANDING IS
8 THAT HE IS SEGREGATED. THE GENERAL POPULATION CAN AT
9 LEAST WALK AROUND. IS IT NECESSARY TO MAKE A MOTION?

10 THE COURT: THE HOUSING AND CONFINEMENT OF A
11 DEFENDANT IS USUALLY THE RESPONSIBILITY OF THE BUREAU OF
12 PRISONS. I DO NOT INTERVENE. I DO NOT KNOW WHAT REASONS
13 THEY HAVE. MY RECOMMENDATIONS ARE ONLY RECOMMENDATIONS
14 AND WOULDN'T BE BINDING, AND I DO NOT MAKE ANY
15 RECOMMENDATION OR ORDER WITHOUT HAVING AN OPPORTUNITY TO
16 HEAR FROM THE OTHER SIDE.

17 MR. MEDVENE: YES, SIR.

18 THE COURT: ALL RIGHT.

19 MR. MEDRANO: YOUR HONOR, ONE FINAL THING, AND I
20 HAVE ALREADY FLAGGED THIS FOR THE JUDGE'S CLERK. AT SOME
21 POINT AT THE COURT'S CONVENIENCE, WE SHOULD ARRAIGN THE
22 CO-DEFENDANTS ON THE FIFTH SUPERSEDING INDICTMENT. THERE
23 ARE NO NEW CHARGES AGAINST THEM, YOUR HONOR, BUT JUST --

24 THE COURT: YES, THEY SHOULD BE ARRAIGNED.

25 MR. MEDRANO: THEY SHOULD BE ARRAIGNED, AND I

1 JUST THROW THAT OUT FOR THE COURT'S CONSIDERATION.

2 THE COURT: YOU SCHEDULE THAT WITH THE CLERK AT
3 ANY TIME THAT IS CONVENIENT WITH THEIR COUNSEL.

4 MR. MEDRANO: VERY WELL, YOUR HONOR.

5 THE COURT: AND YOURSELF.

6 MR. MEDRANO: VERY WELL, YOUR HONOR. THANK YOU.

7 THE COURT: ALL RIGHT. WE WILL ADJOURN.

8 (PROCEEDINGS CONCLUDED.)

9 - - -

10 I HEREBY CERTIFY THAT THE FOREGOING IS A CORRECT
11 TRANSCRIPT OF THE PROCEEDINGS HAD ON THE RECORD
12 IN THE ABOVE-ENTITLED MATTER.

13
14 *Velma B. Thomas*

15 OFFICIAL REPORTER

 12/21/89

DATE