

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

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4 HONORABLE EDWARD RAFEEDIE, DISTRICT COURT JUDGE PRESIDING
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7 UNITED STATES OF AMERICA,)
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PLAINTIFF,)

VS.)

CASE NO: CR 87-422(E)-ER

JUAN JOSE BERNABE-RAMIREZ,)
JAVIER VASQUEZ-VELASCO, AND)
RUBEN ZUNO-ARCE,)

DEFENDANTS.)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

MONDAY, JANUARY 8, 1990
1:30 P.M.

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

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APPEARANCES OF COUNSEL:

FOR THE PLAINTIFF:

ROBERT C. BONNER
UNITED STATES ATTORNEY
BY: MANUEL A. MEDRANO, AUSA
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FOR DEFENDANT JUAN JOSE BERNABE-RAMIREZ:

BRIDGMAN, MORDKIN, GOULD & SHAPIRO, INC.
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FOR DEFENDANT JAVIER VASQUEZ-VELASCO:

FEDERAL LITIGATORS GROUP
BY: GREGORY NICOLAYSEN, ESQ.
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FOR THE DEFENDANT:

MITCHELL, SILBERBERG & KNUPP
BY: EDWARD M. MEDVENE, ESQ.
RONALD D'NICOLA, ESQ.
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LOS ANGELES, CALIFORNIA 90064-1683
(213) 312-3150

ALSO PRESENT:

SPANISH INTERPRETERS

1 LOS ANGELES, CALIFORNIA MONDAY, JANUARY 8, 1990

2 1:30 P.M.

3
4 THE COURT: CRIMINAL 87-422, U.S.A. VERSUS JUAN JOSE
5 BERNABE-RAMIREZ, RUBEN ZUNO-ARCE AND JAVIER VASQUEZ-VELASCO.

6 COUNSEL, PLEASE STATE YOUR NAMES FOR THE RECORD.

7 MR. MEDRANO: GOOD AFTERNOON, YOUR HONOR. FOR THE
8 UNITED STATES, MANUEL MEDRANO AND JOHN CARLTON.

9 AND YOUR HONOR, WITH THE COURT'S PERMISSION, MY
10 COLLEAGUE HAS A 2:00 O'CLOCK COURT APPEARANCE IN ANOTHER COURT
11 AND HE WOULD BE LEAVING SHORTLY TO HANDLE THAT MATTER, BUT I
12 WANTED TO BRING IT TO THE COURT'S ATTENTION.

13 THE COURT: WHICH MATTER?

14 MR. MEDRANO: IT'S AN UNRELATED COURT APPEARANCE. I
15 BELIEVE IT IS A SENTENCING IN ANOTHER MATTER, BUT I WILL
16 REMAIN, YOUR HONOR, FOR PURPOSES OF THIS HEARING HERE.

17 MR. MEDVENE: IF THE COURT PLEASE, MESSRS. DI NICOLA
18 AND MEDVENE FOR RUBEN ZUNO-ARCE. MR. ZUNO-ARCE IS PRESENT, YOUR
19 HONOR.

20 MR. NICOLAYSEN: GOOD AFTERNOON, YOUR HONOR. GREG
21 NICOLAYSEN BY APPOINTMENT FOR DEFENDANT JAVIER VASQUEZ-VELASCO,
22 WHO IS PRESENT.

23 YOUR HONOR, I'M THE DEFENSE ATTORNEY ON THE 2:00
24 O'CLOCK APPEARANCE THAT MR. CARLTON HAS, AND I WOULD
25 RESPECTFULLY ASK YOUR HONOR TO EXCUSE ME TO ATTEND THAT AT THAT

1 TIME IF WE ARE NOT DONE.

2 THE COURT: WHAT?

3 MR. NICOLAYSEN: I JUST WANT THE COURT TO KNOW, YOUR
4 HONOR, THAT I ALSO HAVE A 2:00 O'CLOCK APPEARANCE, THE SAME
5 APPEARANCE THAT MR. CARLTON HAS. I EXPECT THAT WE'LL BE DONE
6 BY THEN, AND I JUST WANTED TO LET THE COURT KNOW --

7 THE COURT: ALL RIGHT.

8 MR. MEZA: GOOD AFTERNOON, YOUR HONOR. MIKE MEZA --

9 THE COURT: WHAT IS YOUR CLIENT'S NAME, COUNSEL?

10 MR. NICOLAYSEN: JAVIER VASQUEZ-VELASCO, YOUR HONOR.

11 THE COURT: VASQUEZ-VELASCO?

12 MR. NICOLAYSEN: YES, SIR.

13 MR. MEZA: GOOD AFTERNOON, YOUR HONOR. MIKE MEZA ON
14 BEHALF OF MR. BERNABE-RAMIREZ, WHO'S PRESENT IN CUSTODY.

15 THE COURT: THESE CASES ARE ALL PRESENTLY SET FOR
16 TRIAL TOGETHER. THEY ALL ARISE OUT OF THE SAME SUPERSEDING
17 INDICTMENT AND THE PRESENT TRIAL DATE IS FEBRUARY 20TH.

18 SINCE MR. ZUNO-ARCE WAS ADDED ON AS A DEFENDANT
19 HERE ONLY RECENTLY, I ARRANGED THIS STATUS CONFERENCE IN ORDER
20 TO DETERMINE WHERE WE'RE GOING FROM HERE, WHETHER EVERYBODY
21 WILL BE PREPARED TO GO TO TRIAL ON FEBRUARY 20TH.

22 IS THE GOVERNMENT GOING TO BE READY AS TO ALL
23 THREE DEFENDANTS AT THAT TIME?

24 MR. MEDRANO: YES, YOUR HONOR. ON THAT SPECIFIC
25 POINT, WE WOULD BE FLEXIBLE TO THE EXTENT IT IS NECESSARY TO

1 GIVE ANY OF THE RESPECTIVE DEFENSE COUNSEL ADDITIONAL TIME.

2 ASSUMING THEY DO NOT NEED ADDITIONAL TIME, THE
3 GOVERNMENT WOULD BE READY TO PROCEED ON FEBRUARY 20, YOUR
4 HONOR.

5 THE COURT: WHAT ABOUT THE REST OF YOU? MR. MEDVENE?

6 MR. MEDVENE: WE'RE STILL HOPEFUL. WE'RE STILL GOING
7 FOR THE FEBRUARY 20TH DATE. WE'RE NOT GOING TO SEEK A
8 CONTINUANCE, TO THE BEST OF OUR KNOWLEDGE.

9 YOUR HONOR, WE STILL DON'T HAVE ANY INFORMATION
10 AT ALL THAT ZUNO-ARCE WAS IN ANY WAY INVOLVED. WE HAVEN'T BEEN
11 GIVEN ANY DISCOVERY THAT EVEN MENTIONS HIS NAME, SO FACTS MAY
12 CHANGE. BUT AT THIS POINT, WE ARE READY TO GO, YOUR HONOR.

13 THEY HAVE GIVEN US NO EVIDENCE ABOUT HIS
14 INVOLVEMENT IN ANY WAY.

15 THE COURT: WELL, HAS THE DISCOVERY BEEN COMPLETED IN
16 THIS CASE?

17 MR. MEDRANO: YES, YOUR HONOR.

18 THE COURT: HAVE YOU GIVEN THE DEFENDANT ALL THE
19 DISCOVERY TO WHICH THEY'RE ENTITLED?

20 MR. MEDRANO: THAT IS CORRECT, YOUR HONOR. I BELIEVE
21 MR. MEDVENE IS SIMPLY REFERENCING GIGLIO AND/OR JENKS MATERIAL,
22 AND I HAVE APPRISED HIM, AS I HAVE HIS RESPECTIVE CO-COUNSEL
23 THAT THAT SUBJECT MATTER DISCOVERY WOULD BE DISCLOSED ACCORDING
24 TO A 48-HOUR DISCLOSURE TIME TABLE, YOUR HONOR.

25 SO, BUT FOR THE JENKS, WHICH HE'S NOT ENTITLED

1 TO AT THIS JUNCTURE, I BELIEVE HE HAS EVERYTHING HE IS REQUIRED
2 TO BE PROVIDED WITH.

3 THE COURT: IS IT YOUR INTENTION TO USE THESE TAPES
4 IN THIS TRIAL THAT WERE USED IN THE LAST TRIAL?

5 MR. MEDRANO: IS YOUR HONOR REFERRING TO THE --
6 REFERENCING THE INTERROGATION TAPES OF AGENT CAMARENA?

7 THE COURT: YES.

8 MR. MEDRANO: YES, YOUR HONOR, THAT IS OUR INTENT.

9 THE COURT: HAVE YOU PROVIDED THE DEFENDANT WITH THE
10 TAPES AS WELL AS WITH THE TRANSCRIPTS THAT WERE USED THE LAST
11 TIME?

12 MR. MEDRANO: YES, MOST DEFINITELY, YOUR HONOR.

13 THE COURT: AND I WANT THE DEFENDANTS TO KNOW WITH
14 RESPECT TO THE TRANSCRIPTS OF THESE TAPES, IF THERE ARE ANY
15 OBJECTIONS TO THE ACCURACY OR CORRECTNESS OF ANY OF THE
16 TRANSCRIPTS, THAT MOTIONS SHOULD BE PROMPTLY MADE. IF IT'S
17 NOT, THEN THEY'LL BE DEEMED TO BE ACCURATE AND ACCEPTABLE TO
18 EVERY ONE.

19 I DON'T WANT ANY QUESTIONS RAISED ABOUT THEM AT
20 OR ABOUT THE TIME WE BEGIN THE TRIAL, BECAUSE IF I DON'T HEAR
21 AND RESOLVE ANY QUESTIONS BEFORE THAT TIME, THEN THEY'LL BE
22 DEEMED TO BE ACCURATE. I GAVE THE DEFENDANTS IN THE LAST
23 TRIAL AN OPPORTUNITY TO DO THAT. THEY DID NOT PRESENT ANY
24 OBJECTIONS.

25 MR. MEZA: YOUR HONOR, IS THE COURT REFERRING TO

1 COPIA 2 AND 4? THERE WAS A TRANSCRIPT OF COPIA 5.

2 THE COURT: YES.

3 MR. MEZA: WAS THE COURT DIRECTING ITS COMMENTS TO
4 ALL THREE OF THOSE TRANSCRIPTS OR JUST TO THE FIRST TWO? THERE
5 WASN'T A TAPE, AS I UNDERSTAND IT, TO SUPPORT COPIA 5.

6 THE COURT: THERE WAS ONE TRANSCRIPT THAT HAS NO
7 TAPE.

8 MR. MEZA: RIGHT, COPIA 5. AND THE COURT WANTS -- I
9 DON'T KNOW WHAT THE GOVERNMENT'S POSITION IS ON COPIA 5, BUT --

10 THE COURT: WHAT I WANT YOU TO DO IS LISTEN TO THE
11 TAPE AND COMPARE THEM TO THE TRANSCRIPT. IF YOU SEE ANY
12 DISCREPANCY OR WANT TO RAISE ANY DISCREPANCY ABOUT WHETHER OR
13 NOT THEY HAVE BEEN PROPERLY TRANSLATED, THAT SHOULD BE BROUGHT
14 TO THE ATTENTION OF THE COURT EARLY.

15 MR. MEZA: WE'RE IN THE PROCESS OF DOING THAT, YOUR
16 HONOR.

17 THE COURT: IF IT ISN'T, THEN IT WILL BE WAIVED.

18 MR. MEZA: ALL RIGHT. THANK YOU.

19 MR. MEDVENE: IF THE COURT PLEASE, HAS THE ISSUE OF
20 CHAIN OF CUSTODY OF THE TAPES -- HAS THAT BEEN RAISED OR CAN
21 THE GOVERNMENT GIVE INFORMALLY OR FORMALLY SOME INDICATION OF
22 JUST THE CHAIN OF CUSTODY FROM HOW THEY GOT THERE TO TODAY SO
23 THAT IN REVIEWING THE TAPES, SOMEBODY COMING IN LATER WOULD BE
24 EASIER TO TRY TO SEE IF THEY'RE ACCURATE, CHANGED, DOCTORED IN
25 ANY WAY.

1 BUT I THINK THE CHAIN OF CUSTODY -- I WOULD
2 ANTICIPATE A QUESTION AT THE TRIAL, WITHOUT KNOWING THE
3 UNDERLYING CHAIN. AND I WONDER IF WE COULD DO THAT INFORMALLY
4 WITH THE GOVERNMENT SO WE DIDN'T TAKE YOUR HONOR'S TIME AT
5 TRIAL.

6 THE COURT: IT SHOULD BE DONE THAT WAY, IF POSSIBLE.
7 IT SHOULD NOT BE DONE AT THE TRIAL, IT SHOULD BE DONE BEFORE
8 THE TRIAL IF THERE IS ANY PROBLEM ABOUT THAT.

9 DO YOU HAVE A COPY OF MY GENERAL DISCOVERY
10 ORDER?

11 MR. MEDVENE: YES, SIR.

12 THE COURT: THAT DEALS WITH THE QUESTION OF WHEN TO
13 RAISE CHAIN OF CUSTODY ISSUES AND WHEN THEY ARE DEEMED TO BE
14 WAIVED IF NOT RAISED WITHIN THE TIME STATED IN THE ORDER.

15 MR. MEDVENE: WE'LL RAISE IT WITH THE GOVERNMENT IN
16 OUR DISCOVERY MEETING WITH THEM TOMORROW AND SEE WHERE WE'RE
17 GOING.

18 THE COURT: YES. WITH RESPECT TO ANY OTHER MOTIONS
19 NOW, WHO'S CONTEMPLATING THE FILING OF MOTIONS IN THIS CASE?

20 MR. NICOLAYSEN: I AM, YOUR HONOR, ON BEHALF OF THE
21 DEFENDANT JAVIER VASQUEZ-VELASCO. I STILL CONTEMPLATE THE
22 FILING OF A SEVERENCE MOTION BY THE END OF THIS WEEK.

23 THE COURT: CAN YOU FILE IT BY THE END OF THIS WEEK?

24 MR. NICOLAYSEN: YES, YOUR HONOR.

25 THE COURT: MR. VELASCO IS CHARGED WITH THE --

1 MR. NICOLAYSEN: LA LANGOSTO RESTAURANT HOMICIDES,
2 NOT WITH THE CAMARENA --

3 THE COURT: WITH THE MURDERS OF THE TWO PEOPLE OTHER
4 THAN CAMARENA.

5 MR. NICOLAYSEN: THAT'S RIGHT.

6 THE COURT: AND YOU'LL FILE A SEVERENCE MOTION THIS
7 WEEK?

8 MR. NICOLAYSEN: THAT'S CORRECT, YOUR HONOR.

9 YOUR HONOR, I MAY ALSO NEED TO BRING A MOTION
10 FOR ADDITIONAL DISCOVERY BEFORE THE COURT.

11 THE COURT: I SUGGEST THAT YOU NOT DO THAT. THE
12 ORDER THAT I HAVE ISSUED IS COMPLETE AND THOROUGH ON THE
13 DISCOVERY THAT IS REQUIRED TO BE PRODUCED. NOW, I DON'T KNOW
14 WHY YOU NEED TO FILE A MOTION. IF THE GOVERNMENT DOES NOT
15 COMPLY WITH THE ORDER IN ANY WAY, YOU CAN BRING IT TO THE
16 ATTENTION OF THE COURT.

17 MR. NICOLAYSEN: THAT'S MY INTENTION.

18 THE COURT: WHAT EXACTLY IS THE PROBLEM THAT YOU'RE
19 HAVING?

20 MR. NICOLAYSEN: AT THIS POINT, I DON'T KNOW WHAT
21 PROBLEM WE'LL HAVE, BECAUSE WE ARE HAVING A DISCOVERY
22 CONFERENCE TOMORROW, THE PURPOSE OF WHICH WILL BE TO RESOLVE
23 ANY OUTSTANDING DISCOVERY MATTERS.

24 WHAT I'M ANTICIPATING IS THAT I MAY NEED TO ASK
25 THE COURT TWO THINGS: FIRST, TO AUTHORIZE MY ACCESS TO

1 BIAS-RELATED INFORMATION CONCERNING THE INFORMANT SO THAT I CAN
2 EFFECTIVELY CROSS EXAMINE THIS PERSON AT TRIAL.

3 I REALIZE YOUR HONOR HAS RULED ON MY REQUEST TO
4 HAVE HIS NAME AND HIS WHEREABOUTS; THAT'S NOT AN ISSUE. BUT
5 WHAT IS STILL AN ISSUE IN MY JUDGMENT IS WHETHER BIAS-RELATED
6 INFORMATION, SUCH AS PRIOR CRIMINAL RECORD, PAYMENT HISTORY AND
7 SO ON --

8 THE COURT: THEY ARE REQUIRED TO PROVIDE THAT TO YOU,
9 AREN'T THEY?

10 MR. NICOLAYSEN: I SUBMIT THAT'S RIGHT. I HAVEN'T
11 RECEIVED IT AND I DON'T KNOW WHETHER WE ARE OR ARE NOT GOING TO
12 BE ABLE TO STIPULATE ON THAT.

13 MR. MEDRANO: A COUPLE OF POINTS ON THAT REQUEST,
14 YOUR HONOR. THAT TYPE OF REQUEST ESSENTIALLY FALLS IN THE
15 CATEGORY OF GIGLIO-TYPE MATERIAL.

16 I HAVE ADVISED MR. NICOLAYSEN ALONG WITH
17 CO-COUNSEL THAT GIGLIO AND/OR JENKS MATERIAL WILL BE DISCLOSED
18 ON A 48-HOUR TIME TABLE. AND THE BASIS AND NECESSITY FOR THAT,
19 YOUR HONOR --

20 THE COURT: WHAT IS THE AUTHORITY FOR THAT?

21 MR. MEDRANO: WELL, FIRST OF ALL --

22 THE COURT: JENKS I KNOW, BUT GIGLIO --

23 MR. MEDRANO: OF NECESSITY, IT'S SORT OF PART AND
24 PARCEL OF THE REASONS PROVIDED TO THE COURT AS TO WHY TO OPPOSE
25 PRIOR DISCLOSE OF CI IDENTITY. TO DISCLOSE THAT TYPE OF

1 MATERIAL, YOUR HONOR, IS SO INTERWOVEN WITH THE IDENTITY AND
2 SUBJECT OF THE TESTIMONY OF SUCH WITNESSES, THAT TO GIVE IT
3 OVER WOULD, IN ESSENCE, ACCOMPLISH THE SAME GOAL BY MR. NICO-
4 LAYSEN'S PRIOR DISCLOSURE OF CI REQUESTS.

5 SO IT'S FOR THAT REASON, YOUR HONOR, THAT TO
6 DISCLOSE GIGLIO MATERIAL WOULD ESSENTIALLY REVEAL IDENTITY, AND
7 WE'VE DEFEATED THE WHOLE PURPOSE OF YOUR ORDER, WHICH IS TO
8 DENY THE REQUEST FOR DISCLOSURE OF IDENTITY BEFORE THE 48-HOUR
9 TIME TABLE.

10 THE COURT: WHAT IS THE MAGIC ABOUT THE 48 HOURS? WE
11 HAD A LOT OF PROBLEMS WITH THAT IN THE LAST TRIAL.

12 MR. MEDRANO: I UNDERSTAND THAT, YOUR HONOR. I WOULD
13 JUST LIKE TO ADVISE THE COURT THAT WE'LL DO -- WE, AS THE
14 GOVERNMENT COUNSEL, WILL DO EVERYTHING WITHIN OUR CAPACITY TO
15 MAKE SURE THERE IS NO INCONVENIENCE OR DELAY OF THE COURT'S
16 TRIAL CALENDAR.

17 I UNDERSTAND THAT PERIODICALLY, PERHAPS, THE
18 GOVERNMENT FAILED TO COMPLY WITH THE 48-HOUR DISCLOSURE RULE.
19 I CAN ASSURE THE COURT THAT WE WILL DO SO, WE WILL DO
20 EVERYTHING WITHIN OUR POWER TO DO SO, SO I HOPE THAT WILL NOT
21 BE A PROBLEM.

22 ON THE SECOND ISSUE, YOUR HONOR, AS TO WHY GO
23 WITH THE 48-HOUR RULE, I THINK WE HAVE DISCLOSED FOR THE COURT
24 IN CAMERA, YOUR HONOR, A PANOPLY OF REASONS THAT INDICATE WHY
25 IT IS THAT TO DISCLOSE EARLY WOULD THREATEN NOT ONLY THE

1 SUBJECT MATTER OF THEIR TESTIMONY, BUT THEIR VERY LIVES, YOUR
2 HONOR. BECAUSE I THINK WE'VE LAID OUT IN DETAIL --

3 THE COURT: YOU CAN PROTECT THESE PEOPLE.

4 MR.MEDRANO: YOUR HONOR, YES AND NO. I MEAN WE CAN,
5 BUT IT IS NOT A SITUATION --

6 THE COURT: WHO SAYS THEIR LIVES ARE THREATENED? YOU
7 THROW THAT OUT ALL THE TIME, BUT --

8 MR. MEDRANO: I REALIZE THAT, YOUR HONOR, AND I'M
9 CERTAINLY NOT AFFIRMATIVELY STATING TO YOU RIGHT NOW THAT THERE
10 HAS BEEN SOMEONE WHO HAS MADE AN AFFIRMATIVE THREAT.

11 RATHER, WHAT I'M STATING TO THE COURT IS THAT
12 BECAUSE OF THE VIOLENT HISTORY ATTENDANT TO CI'S IN THIS
13 CASE -- AND AGAIN, YOUR HONOR, I JUST ALLUDE TO OUR IN CAMERA
14 FILING -- I'M HESITANT TO GET INTO THAT IN DETAIL IN A PUBLIC
15 FORUM BEFORE DEFENSE COUNSEL, BUT THE HISTORY OF THIS CASE HAS
16 BEEN SUCH, YOUR HONOR, THAT PEOPLE HAVE NOT ONLY BEEN
17 THREATENED, BUT PEOPLE HAVE BEEN KILLED, YOUR HONOR. SO WE
18 HAVE TO PROTECT THESE PEOPLE IN THAT -- TO ACCOMPLISH THAT
19 GOAL, THE 48-HOUR RULE GIVES THEM DISCOVERY WELL BEFORE THEY'RE
20 ENTITLED TO IT, AND IT ALSO PROTECTS THE INTERESTS OF THE
21 GOVERNMENT BY PROTECTING THE LIVES OF THESE INDIVIDUALS.

22 SO, YOUR HONOR, JUST LET ME CONCLUDE BY SAYING
23 THAT I CERTAINLY CAN EMPATHIZE WITH MR. NICOLAYSEN'S REQUEST,
24 BUT I THINK THE 48-HOUR RULE ESSENTIALLY WORKED PROPERLY AND
25 FAIRLY IN ROUND ONE OF THIS TRIAL IN 1988.

1 THE COURT: IT GAVE ME A GREAT DEAL OF PROBLEMS
2 BECAUSE I HAD THE DEFENSE COUNSEL CONSTANTLY COMPLAINING ABOUT
3 IT.

4 MR. MEDRANO: I UNDERSTAND THAT, YOUR HONOR, AND ALL
5 I CAN DO, I GUESS, TOWARD THAT END IS TO ASSURE YOU IN THE BEST
6 THAT I CAN THAT WE WILL TO THE LETTER, YOUR HONOR, ABIDE BY
7 THAT 48-HOUR RULE.

8 THE COURT: YOU'D BETTER BE LOOKING AT A WEEK OR
9 SOMETHING LIKE THAT TO AVOID THE PROBLEMS THAT WE HAD BEFORE.

10 MR. MEDRANO: LET ME JUST STATE THIS: THAT THE
11 48-HOUR RULE IS THE ABSOLUTE LATEST THAT THEY WOULD GET IT,
12 YOUR HONOR. I'M CERTAINLY CONTEMPLATING, PERHAPS, THE
13 EXISTENCE OF SEVERAL WITNESSES, THAT PERHAPS WE CAN GIVE THEM
14 TO THEM EVEN A FEW DAYS BEFORE THE 48-HOUR RULE.

15 BUT THE OUTER PARAMETER IS 48 HOURS. SO WE'LL
16 ABIDE BY IT, YOUR HONOR, SO AS NOT TO INCONVENIENCE THE COURT
17 OR THE DEFENSE COUNSEL IN A TIMELY TRYING OF THIS CASE.

18 MR. NICOLAYSEN: THE GOVERNMENT'S PREMISE HERE SEEMS
19 TO BE THAT DISCLOSING GIGLIO MATERIAL AT THIS TIME IS
20 TANTAMOUNT TO DISCLOSING THE IDENTITY OF THE INFORMANT. I
21 THINK THAT'S A PREMISE THAT AT LEAST THE COURT SHOULD ENDORSE
22 THROUGH AN IN CAMERA REVIEW.

23 IT'S NOT APPROPRIATE, IN MY JUDGEMENT, FOR
24 GOVERNMENT COUNSEL TO BE ALLOWED TO MAKE THAT TYPE OF A
25 UNILATERAL INTIMATION.

1 THE COURT: WHY WOULD YOU WANT IT ANY SOONER?

2 GIGLIO MATERIAL, IF IT'S IN THE FORM OF PRIOR
3 CONVICTIONS, ALL YOU'RE ALLOWED TO ASK A WITNESS IS IF HE HAS
4 BEEN PROPERLY PREVIOUSLY CONVICTED. YOU CAN'T GO INTO THE
5 DETAILS OF IT, SO WHAT IS THE HARM?

6 MR. MEDRANO: WHAT I'M REALLY LOOKING AT HERE, YOUR
7 HONOR, IS NOT SIMPLY CONVICTIONS, I'M LOOKING AT THE PANOPLY OF
8 BIAS-RELATED INFORMATION THAT ALL DEFENSE ATTORNEYS WANT TO
9 HAVE.

10 THE COURT: SUCH AS WHAT?

11 MR. MEDRANO: NARCOTICS ADDICTIONS, PAYMENT HISTORY
12 AND RELATIONSHIPS WITH GOVERNMENT AGENCIES, ESPECIALLY --

13 THE COURT: THEY'LL HAVE TO PROVIDE YOU ANY PAYMENT
14 HISTORY THAT THEY MADE, OR ANY ARRANGEMENTS THAT THEY HAVE WITH
15 THE WITNESS, INCLUDING PAYMENTS, INCLUDING ANY OTHER
16 REMUNERATION OR PROMISE. I DON'T EXPECT THAT TO BE A PROBLEM.

17 THEY WILL HAVE TO PROVIDE YOU WITH A CRIMINAL
18 RECORD, IF ONE EXISTS, SO THAT I DON'T UNDERSTAND THIS CONCERN
19 SO FAR IN ADVANCE.

20 MR. NICOLAYSEN: I THINK WITH THE KIND OF COMPLEXITY
21 OF INTERNATIONAL DEALINGS THAT THIS CASE RAISES, WHERE THESE
22 INFORMANTS HAVE MULTIPLE RELATIONS WITH VARIOUS GOVERNMENT
23 AGENCIES, BOTH IN MEXICO AND THE U.S., PAYMENT HISTORIES CAN
24 TAKE ON MANY SHAPES AND FORMS. AND I THINK THAT IT'S VERY
25 DIFFERENT THAN THE LOCAL GANG INVESTIGATION, WHERE THERE MAY BE

1 A SINGLE PAYMENT RELATIONSHIP WITH THE DEA THAT'S VERY
2 STRAIGHTFORWARD AND VERY SIMPLE.

3 THIS IS AN UNUSUALLY COMPLEX CASE. THE PAYMENT
4 RELATIONSHIPS BETWEEN MAY EVEN BE ILLEGAL, I DON'T KNOW. BUT
5 I THINK IT'S ENCUMBENT ON ME TO EXPLORE THIS LONG, TANGLED WEB
6 OF PAYMENT RELATIONSHIPS THAT ARE CERTAINLY SPELLED OUT IN
7 VARIOUS NEWS ACCOUNTS OF WITNESSES AND MEXICAN POLICE AGENCIES.

8 MAYBE THE WITNESS COMES FROM THE JALISCO STATE
9 POLICE, I DON'T KNOW, BUT FOR ME SIMPLY TO HAVE A DOLLAR AND
10 CENT FIGURE GIVEN TO ME 48 HOURS BEFORE TRIAL IN THE CONTEXT OF
11 THIS KIND OF CASE IS SIMPLY MEANINGLESS. I NEED TO BE ABLE TO
12 WORK WITH THAT TYPE OF BOTTOM-LINE INFORMATION AND WORK
13 BACKWARDS FROM THERE.

14 THE COURT: WHAT WOULD YOU DO IF WE GAVE IT TO YOU
15 TODAY, IF WE ORDERED IT TO YOU?

16 MR. NICOLAYSEN: I WOULD WANT TO TRY TO FIND OUT THE
17 SOURCE OF THAT MONEY AND UNDER WHAT CIRCUMSTANCES IT WAS PAID.

18 THE COURT: HOW WOULD YOU DO THAT?

19 MR. NICOLAYSEN: YOUR HONOR, RATHER THAN SPEAK
20 PUBLICLY ABOUT THAT IN COURT, ALL I WOULD SAY, YOUR HONOR, IS
21 THAT I WOULD USE MY TIME WELL TO HAVE MY COURT APPOINTED
22 INVESTIGATOR TRY, TO THE EXTENT WE REALISTICALLY CAN, TO MAKE
23 CONTACTS THAT COULD CORROBORATE OR ENHANCE THAT INFORMATION.

24 THE COURT: ALL RIGHT.

25 MR. MEZA: YOUR HONOR, MIKE MEZA ON BEHALF OF MR.

1 BERNABE-RAMIREZ. IN THAT AREA AND THE COURT'S CONCERN IN TERMS
2 OF THE AMOUNT OF TIME, HAVING READ MOST OF THE TRANSCRIPTS, IT
3 SEEMS TO ME THAT THERE WAS A DISTINCT DIFFERENCE OF DEFINITION
4 BETWEEN WHAT THE GOVERNMENT FELT WAS GIGLIO MATERIAL AND WHAT
5 THE COURT FELT WAS, AND WHAT THE --

6 THE COURT: COUNSEL, THE INTERPRETER CAN'T HEAR YOU.
7 YOU HAD BETTER USE THE LECTURN.

8 (BRIEF PAUSE.)

9 MR. MEZA: IT JUST SEEMED THAT IN THE LAST TRIAL
10 THERE WAS A DIFFERENCE OF OPINION BETWEEN WHAT THE GOVERNMENT
11 FELT WAS DISCOVERABLE JENKS MATERIAL AND WHAT THE COURT FELT
12 WAS.

13 FOR EXAMPLE, AS I RECALL, THERE WAS A QUESTION
14 OF WHETHER OR NOT THE PROBATION REPORT SHOULD HAVE BEEN WAS
15 DISCOVERABLE. THE GOVERNMENT PROVIDED IT UPON THE DEFENSE
16 REQUEST TO THE COURT. THE COURT READ IT IN CAMERA; AND, IN
17 FACT, ALLOWED AT LEAST TWO OR THREE ITEMS FROM THAT REPORT TO
18 BE MADE KNOWN TO THE DEFENSE. NOW, THIS WAS DURING THE COURSE
19 OF THE TRIAL.

20 NOW, IF THAT SORT OF INFORMATION COULD BE MADE
21 AVAILABLE WITHIN A REASONABLE PERIOD OF TIME PRIOR TO THE
22 TRIAL, THEN WE WOULDN'T HAVE TO TAKE UP THE COURT'S TIME OR
23 COUNSEL'S TIME OR THE JUROR'S TIME IN GOING THROUGH THOSE TYPES
24 OF MOTIONS.

25 AND THE GOVERNMENT TAKES ITS VIEW, AND IT'S

1 CERTAINLY ENTITLED TO IT, AND DEFENSE IS ENTITLED TO ITS VIEW
2 BUT, THE COURT SHOULDN'T HAVE TO ARBITRATE THOSE VIEWS IN THE
3 MIDDLE OF THE TRIAL.

4 I THINK THE COURT'S EXPERIENCE IN THE LAST
5 TRIAL, FROM MY READING OF IT, IF WE COULD OBTAIN SOME OF THOSE
6 PROBLEMS, WE COULD CERTAINLY EXPEDITE THIS PARTICULAR TRIAL.

7 THE COURT: I'M NOT INVITING HERE UNLIMITED DEBATE,
8 I'M TRYING TO FIND OUT WHAT MOTIONS ARE INTENDED TO BE FILED IN
9 THIS CASE.

10 AND SO FAR, WE HAVE ONE COUNSEL HERE INDICATING
11 THAT HE WOULD FILE A SEVERANCE MOTION. AND I SUGGEST THAT IF
12 THIS SO-CALLED BIAS-RELATED INFORMATION SHOULD BE THE SUBJECT
13 OF A MOTION, IF THAT IS WHAT -- IF THAT IS GOING TO BE A
14 PROBLEM, IF THERE IS NO WAY TO RESOLVE IT OTHERWISE, I COULD
15 LISTEN TO YOU THE REST OF THE WEEK HERE AND NOT BE ABLE TO
16 RESOLVE IT. I NEED TO HAVE SOME CONCRETE FACTS BEFORE ME.

17 MR. MEZA: ON BEHALF OF MR. BERNABE-RAMIREZ, WE ARE
18 ANTICIPATING FILING MOTIONS ALSO; A SEVERANCE MOTION, A MOTION
19 TO DISMISS FOR LACK OF JURISDICTION, AND A LIMITED BILL OF
20 PARTICULARS.

21 THE COURT: SEVERANCE, DISMISS --

22 MR. MEZA: YES.

23 THE COURT: -- FOR LACK OF JURISDICTION?

24 MR. MEZA: YES.

25 THE COURT: WHAT IS THAT BASED ON, GENERALLY, LACK OF

1 JURISDICTION?

2 MR. MEZA: THAT WOULD BE BASED ON A CRIME BEING
3 COMMITTED BY A NON-U.S. CITIZEN IN A FOREIGN JURISDICTION.
4 THERE ARE CASES THAT -- I BELIEVE THE COURT IS FAMILIAR WITH
5 SOME OF THOSE CASES.

6 THE COURT: WHAT ELSE DID YOU SAY?

7 MR. MEZA: A LIMITED BILL OF PARTICULARS. I'M
8 MINDFUL OF THE BILL OF PARTICULARS WHICH WAS SOUGHT IN THE LAST
9 TRIAL, AND WE'RE TAILORING OUR MOTION IN THAT REGARD. IT IS
10 NOT GOING TO BE A BROAD-BASED MOTION.

11 THE COURT: DON'T DO EVERYTHING THEY DID IN THE LAST
12 TRIAL.

13 MR. NICOLAYSEN: YOUR HONOR, LIKEWISE. THERE WILL BE
14 A LIMITED BILL OF PARTICULARS FOR MR. JAVIER VASQUEZ-VELASCO,
15 AND I WILL BRING A MOTION FOR RECONSIDERATION OF THE INFORMANT
16 RULING ON A VERY SPECIFIC BASIS, YOUR HONOR.

17 THE COURT: RECONSIDERATION?

18 MR. NICOLAYSEN: THAT'S CORRECT.

19 THE COURT: IS THERE SOMETHING NEW THAT I HAVEN'T
20 CONSIDERED PREVIOUSLY?

21 MR. NICOLAYSEN: THERE IS, YOUR HONOR, AND THAT IS
22 BECAUSE I DID NOT HAVE THIS INFORMATION UNTIL LITERALLY THIS
23 WEEKEND, ALTHOUGH IT IS PUBLIC KNOWLEDGE THAT THERE IS A BEST
24 SELLING BOOK ON THE CAMARENA MURDER THAT LISTS DOZENS UPON
25 DOZENS OF PEOPLE IN THE VARIOUS POLICE AGENCIES AND VARIOUS

1 RELATIONSHIPS WITH THE DEFENDANTS AND OTHERS, PEOPLE WHOSE
2 INVOLVEMENT IS THE SUBJECT OF GREAT DISCUSSION IN THIS BOOK.

3 AND MY PURPOSE IN SEEKING RECONSIDERATION WOULD
4 BE TO ASK YOUR HONOR TO ALLOW ME TO HAVE KNOWLEDGE OF THIS
5 INFORMANT IF, IN FACT, THIS INDIVIDUAL IS AMONG THE PEOPLE WHO
6 IS DISCUSSED IN THE BOOK. BECAUSE IF HE IS, THERE IS NOTHING
7 SECRETIVE ABOUT HIS DISCLOSURE OR HIS ROLE. THERE IS NOTHING
8 THAT NEEDS TO BE PRESERVED UNDER THE ROVIARO BALANCING TEST.
9 IT'S, IN FACT, AVAILABLE FOR \$4 AT CROWN BOOKS AND WE COULD ALL
10 READ IT OURSELVES.

11 WHAT I WOULD ASK YOUR HONOR FOR PERMISSION TO DO
12 IS TO SEND THE GOVERNMENT A LIST OF ALL OF THE PEOPLE IN THIS
13 BOOK WITH PAGE REFERENCES; AND IF, IN FACT, THIS INDIVIDUAL IS
14 IN THIS BOOK, YOUR HONOR, I THINK IT'S APPROPRIATE FOR DEFENSE
15 COUNSEL TO KNOW WHO THIS INDIVIDUAL IS.

16 TO THAT EXTENT, I WOULD ASK THE COURT TO
17 RECONSIDER ITS RULING.

18 THE COURT: SO YOU'RE GOING TO FILE A MOTION IN THAT
19 REGARD?

20 MR. NICOLAYSEN: THAT IS MY INTENTION, YOUR HONOR, IF
21 THE COURT WILL ENTERTAIN IT.

22 THE COURT: ALL RIGHT. NOW, MR. MEDVENE, YOU HAVE
23 SOME MOTIONS IN MIND TO FILE?

24 MR. MEDVENE: YES, YOUR HONOR. WE HAVEN'T THOUGHT
25 THROUGH ALL OF THE MOTIONS AS YET, YOUR HONOR, BUT WE ARE GOING

1 TO FILE A MOTION FOR SEVERANCE.

2 THE COURT: YOU HAVE ONE PENDING ALREADY. YOU HAVE A
3 MOTION PENDING WHICH YOU SUBMITTED EX-PARTE AND I DENIED AND
4 TOLD YOU TO GIVE NOTICE.

5 MR. MEDVENE: YOUR HONOR, WE WONDERED ON THAT MOTION
6 IF, IN VIEW OF THE MOTION, IF YOU MIGHT SET A DATE. BY WAY OF
7 BACKGROUND, WE HAVE SPOKEN TO THE GOVERNMENT, THE MOTION WAS
8 SERVED ON JANUARY 3. THE GOVERNMENT INDICATED THEY'D LIKE TO
9 REPLY NO SOONER THAN --

10 THE COURT: I WANT YOU TO FOLLOW THE DATES SET FORTH
11 IN THE LOCAL RULES. NOTICE THE MOTION FOR HEARING ON A CERTAIN
12 DATE AND THEY HAVE TO RESPOND BY A CERTAIN DATE IN ACCORDANCE
13 WITH THE RULES.

14 MR. MEDVENE: WE WERE TRYING TO GET SOME AGREED-UPON
15 DATE, YOUR HONOR.

16 THE COURT: WHY IS THAT?

17 MR. MEDVENE: BECAUSE WE WERE TRYING TO BE COURTEOUS
18 TO YOUR HONOR AND COUNSEL.

19 THE COURT: I KNOW, BUT WE NEED THE TIME HERE TO WORK
20 ON THESE THINGS.

21 MR. MEDVENE: NO, SIR, WE HAVE A MOTION IN FRONT OF
22 YOU. THE ONLY THING WE'RE SAYING IS IF YOU WANT TO PUT A DATE
23 ON IT, WE'LL MEET IT. WE'VE ALREADY FILED THE PAPERS.

24 THE COURT: HAS THE GOVERNMENT FILED AN OPPOSITION?

25 MR. MEDVENE: NO, SIR. THE GOVERNMENT INDICATED THEY

1 NEED UNTIL THE 22ND OF JANUARY. WE WOULD ASK THE COURT IF YOU
2 COULD SET AN EARLIER DATE, SINCE THEY RECEIVED IT JANUARY 3RD.

3 THE COURT: THAT'S THE POINT. FOLLOW THE RULES,
4 NOTICE IT FOR HEARING, AND THEY HAVE TO RESPOND WITHIN SEVEN
5 DAYS.

6 MR. MEDVENE: YES, SIR.

7 YOUR HONOR, CERTAIN MATERIALS WERE -- THERE WAS
8 AN ARGUMENT BEFORE YOUR HONOR AFTER THE BAIL HEARING ON THE
9 NECESSITY FOR THE GOVERNMENT TO TURN OVER TO YOU IN CAMERA
10 CERTAIN INFORMATION INDICATING --

11 THE COURT: I KNOW. I DENIED IT.

12 MR. MEDVENE: YOU DENIED IT. WE NEVER RECEIVED, YOUR
13 HONOR, A COPY OF THE GOVERNMENT FILING WITH YOU, AND WE WOULD
14 ASK YOUR HONOR IF YOU COULD ORDER THE GOVERNMENT TO SERVE ON US
15 THE FILING.

16 THE DIFFICULTY IS THERE IS COMMUNICATION GOING
17 ON BETWEEN THE GOVERNMENT AND YOUR HONOR AND WE'RE NOT ABLE TO
18 REPLY.

19 THE COURT: IT WAS UNDERSTOOD THIS WOULD BE AN
20 EX-PARTE IN CAMERA FILING.

21 MR. MEDVENE: WHAT WE'RE SUGGESTING, YOUR HONOR,
22 IS --

23 THE COURT: TO HELP THE COURT TO DETERMINE WHETHER OR
24 NOT THESE INFORMANTS SHOULD BE PRODUCED FOR AN IN CAMERA
25 EXAMINATION BY THE COURT. BASED UPON THE FILING THAT WAS

1 SUBMITTED TO ME, THE COURT HAS MADE A RULING THAT IT IS NOT
2 NECESSARY TO DO THAT. YOU SHOULD RECEIVE A COPY OF THE ORDER.

3 MR. MEDVENE: IS IT YOUR HONOR'S RULING THAT WE MAY
4 NOT SEE THE GOVERNMENT FILING SO WE CAN COMMENT ON IT?

5 THE COURT: YES, THAT'S CORRECT.

6 NOW, WHAT MOTIONS DO YOU ANTICIPATE FILING?

7 MR. MEDVENE: IN ADDITION TO THE IMMUNITY MOTION, WE
8 ANTICIPATE FILING A SEVERANCE MOTION, A SEVERANCE MOTION --

9 THE COURT: YOU WANT TO BE SEVERED FROM ALL OTHER
10 DEFENDANTS?

11 MR. MEDVENE: YES, SIR, FOR DIFFERENT REASONS. ONE
12 REASON IS SIMILAR AND ONE REASON THAT IS DISSIMILAR.

13 THE COURT: ALL RIGHT.

14 MR. MEDVENE: DO YOU WANT THE REASONS?

15 THE COURT: YES.

16 MR. MEDVENE: ON THE REASON THAT IS SIMILAR, THAT TO
17 THE BEST OF OUR KNOWLEDGE, NEITHER OF THE OTHER DEFENDANTS
18 KNOWS MR. RUBEN ZUNO-ARCE. WE WOULD PURPORT TO CALL THOSE
19 OTHER WITNESSES AT TRIAL, THE OTHER DEFENDANTS AT TRIAL.

20 WE DON'T KNOW AT THIS JUNCTURE WHETHER OR NOT
21 THEY'RE GOING TO TESTIFY. IF THEY WERE GOING TO REFUSE TO
22 TESTIFY, IT WOULD SEEM TO US THAT WE WOULD HAVE THE RIGHT TO A
23 SEPARATE TRIAL SO WE COULD CALL AT THAT SEPARATE TRIAL ON THE
24 ISSUE OF WHETHER OR NOT THEY KNOW HIM. MY UNDERSTANDING IS
25 THAT THEY DON'T.

1 THE COURT: YOU MAY FILE YOUR MOTION.

2 MR. MEDVENE: ON THE OTHER MOTION, WE HAVE NOTHING TO
3 DO WITH THE TOURIST SITUATION.

4 THE COURT: WHAT?

5 MR. MEDVENE: ONE DEFENDANT IS CHARGED WITH BEING
6 INVOLVED IN SOME AGREEMENT TO DO HARM TO THE TWO TOURISTS, NOT
7 MR. CAMARENA --

8 THE COURT: YES.

9 MR. MEDVENE: AND MR. ZUNO-ARCE HAS NOTHING TO DO
10 WITH THAT CASE. THAT IS THE REASON FOR THAT MOTION.

11 THE COURT: ALL RIGHT.

12 MR. MEDVENE: WE'RE GOING TO FILE A BILL OF
13 PARTICULARS, WE ARE GOING TO FILE A MOTION, LIMITED MOTION FOR
14 DISCOVERY ON GIGLIO.

15 YOUR HONOR, WE BELIEVE THE RULE IS THEY MUST
16 TURN IT OVER. IT'S NOT ONLY THE KINDS OF INFORMATION THAT WERE
17 TALKED ABOUT, BUT IT'S ALSO FAVORABLE INFORMATION. WE BELIEVE
18 WE'RE ENTITLED TO IT NOW, NOT 48 HOURS AHEAD.

19 THE GOVERNMENT SAID IN THE COMPANION CASE
20 THEY'RE GOING TO RELOCATE THEIR WITNESSES, YOUR HONOR. IF
21 THEY'RE RELOCATED, THERE IS NO REASON WE CAN'T HAVE THE
22 INFORMATION IN ORDER TO PREPARE. AND LOGICALLY, IF WE ARE
23 GOING TO HAVE IT 48 HOURS IN ADVANCE, IT DOESN'T MATTER IF WE
24 HAVE IT THREE WEEKS IN ADVANCE.

25 NOW, I MIGHT SAY, YOUR HONOR, THAT THERE IS NO

1 WAY THAT WE'RE GOING TO BE ABLE TO CROSS EXAMINE A WITNESS FROM
2 MEXICO, WHO THE FACTS ARE GOING TO BE IS EITHER -- MOST LIKELY
3 GOING TO BE -- IS EITHER IN PRISON OR THE GOVERNMENT IS
4 THREATENING THEM WITH SOME CHARGES.

5 IT'S GOING TO TAKE US A WEEK OR TWO TO LOOK INTO
6 HIS BACKGROUND AND WE NEED SOME TIME. AND WE THINK THE
7 PLAYING FIELD HAS BEEN SWITCHED. AND THE GOVERNMENT SHOULD SAY
8 WHY WE CAN'T HAVE THIS INFORMATION IN SUFFICIENT TIME SO WE
9 COULD DO OUR INVESTIGATION AND DON'T HAVE TO ASK THE COURT FOR
10 A CONTINUANCE. WE ARE NOT GOING TO BE ABLE TO DO IT IN TWO
11 DAYS. BRADY AND GIGLIO DO NOT REQUIRE TWO DAYS.

12 THE COURT: KEEP IN MIND THAT WE'LL BE ON A
13 FOUR-DAY-A WEEK SCHEDULE, SO THERE WILL BE THREE DAYS EACH WEEK
14 WHEN YOU'RE NOT WORKING ON THIS TRIAL AND YOUR INVESTIGATORS DO
15 NOT HAVE TO BE IN THE TRIAL COURT HERE, THEY CAN BE OUT
16 WORKING.

17 MR. MEDVENE: WITH DUE DEFERENCE, WE ARE TRYING TO
18 UNCOVER FACTS IN MEXICO, THEY'RE ARE NOT UP HERE, YOUR HONOR.

19 THE COURT: I UNDERSTAND.

20 MR. MEDVENE: WE'LL PROBABLY MAKE A JURISDICTION
21 MOTION SIMILAR TO THE ONE THAT WAS SUGGESTED. WE'LL MAKE A
22 MOTION FOR DISCLOSURE OF THE WITNESS LIST, WE'RE GOING TO
23 REQUEST ALSO, YOUR HONOR -- DO WE HAVE TO DO IT FORMALLY OR
24 HAVE YOU NOW DENIED IT -- WE HAVE ASKED THAT THERE BE TURNED
25 OVER THE VARIOUS IN CAMERA FILINGS SO THAT WE ARE ON THE SAME

1 LEVEL WITH YOUR HONOR AND THE COURT IN TERMS OF KNOWING THE
2 INFORMATION.

3 YOUR HONOR HAS DENIED OUR ORAL REQUEST; IS THAT
4 SATISFACTORY, YOUR HONOR, OR DO YOU WANT US TO MAKE A WRITTEN
5 MOTION?

6 THE COURT: NO, I THINK THAT'S SATISFACTORY.

7 MR. MEDVENE: ALL RIGHT, SIR.

8 THE COURT: I'M NOT GOING TO ALLOW YOU TO SEE THE IN
9 CAMERA FILINGS. THEY WERE FILED FOR THE BENEFIT OF THE COURT.

10 MR. MEDVENE: IS THERE SOME WAY WE COULD SET UP A
11 STANDARD, YOUR HONOR, OF WHEN THERE CAN BE FILINGS IN CAMERA?
12 AS YOU CAN APPRECIATE --

13 THE COURT: I THINK -- DO YOU MEAN IF YOU WANT TO
14 HAVE KNOWLEDGE THAT AN IN CAMERA FILING HAS BEEN MADE?

15 MR. MEDVENE: SOME HEARING-TYPE PROCEDURE SO THE
16 GOVERNMENT HAS TO PERSUADE YOU THAT THE IN CAMERA FILING IS
17 APPROPRIATE. THE WAY IT WORKS NOW, THEY JUST GIVE IT TO YOU
18 PRIVATELY --

19 THE COURT: NO, THEY HAVE NOT DONE THAT EXCEPT WHEN I
20 HAVE REQUESTED IT.

21 MR. MEDVENE: THAT'S NOT SO. TO THE BEST OF MY
22 KNOWLEDGE, WE HAVE A NUMBER OF FILINGS THAT THEY CLAIM THERE
23 HAS BEEN NO REQUEST BY YOUR HONOR.

24 THE CLOSEST THEY CLAIMED YOU REQUESTED WAS THE
25 LAST HEARING. WE'VE GOT FIVE OR SIX OR SEVEN TIMES THEY HAVE

1 GIVEN YOU STUFF IN CAMERA. THERE IS NO REQUEST.

2 THE COURT: I DON'T BELIEVE THAT'S CORRECT. EACH
3 TIME IT HAS BEEN IN RESPONSE TO A REQUEST FROM THE COURT TO
4 FILE IN CAMERA TO ALLOW ME TO SEE WHAT IS THE BASIS OF THE
5 GOVERNMENT'S OBJECTION TO THESE DISCLOSURES.

6 MR. MEDVENE: IF THERE HAS BEEN A REQUEST BY THE
7 COURT, IT HAS NOT BEEN MADE IN OPEN COURT, WITH DUE DEFERENCE,
8 YOUR HONOR.

9 THE COURT: I WILL SAY THIS: THAT THE GOVERNMENT
10 SHOULD NOT MAKE ANY IN CAMERA FILINGS OR EX-PARTE FILINGS
11 WITHOUT NOTICE TO THE OTHER SIDE THAT YOU HAVE DONE SO.

12 MR. MEDRANO: VERY WELL, YOUR HONOR.

13 MR. MEDVENE: THAT'S, OF COURSE, HALF THE PROBLEM.
14 THE OTHER HALF IS CAN THEY DO IT WHENEVER THEY WANT?

15 THE COURT: NO, THEY CAN'T. AND I WOULD MAKE THE
16 SAME ORDER THAT I DID AT THE LAST TRIAL, THAT LEAVE OF COURT
17 SHOULD FIRST BE SOUGHT TO FILE ANYTHING EX-PARTE; IT SHOULD NOT
18 BE DONE BY THE GOVERNMENT ON ITS OWN INITIATIVE.

19 MR. MEDVENE: ALSO, DEPENDING ON THE DISCOVERY
20 TOMORROW, I MAY WELL MAKE A MOTION --

21 THE COURT: AND THE NOTICE FOR REQUEST OF LEAVE
22 SHOULD BE SERVED ON OTHER COUNSEL.

23 MR. MEDVENE: I'LL ALSO PROBABLY MAKE A MOTION,
24 DEPENDING ON WHAT HAPPENS TOMORROW, ON THE CHAIN OF CUSTODY OF
25 THE TAPES. WE HAVE TO FIGURE OUT WHERE THEY CAME FROM.

1 THE COURT: WHAT DO YOU MEAN WHAT HAPPENS TOMORROW?
2 OH, YOU MEAN AFTER YOUR MEETING?

3 MR. MEDVENE: YES, SIR.

4 THE COURT: IT LOOKS LIKE YOU HAVE A LOT OF WORK TO
5 DO.

6 MR. MEDVENE: YES, SIR, IT DOES. EXCUSE ME ONE
7 SECOND, YOUR HONOR.

8 (DISCUSSION HELD OFF THE RECORD.)

9 MR. MEDVENE: YOUR HONOR, WE MAY WELL HAVE MENTIONED
10 THIS, BUT WE WERE GOING TO FILE A SEPARATE MOTION FOR THE
11 GOVERNMENT TO FILE A WITNESS LIST. WE THINK, UNLIKE JENKS --

12 THE COURT: YOU DID MENTION THAT.

13 MR. MEDVENE: YES, SIR.

14 THE COURT: NOW, WHEN -- I PROPOSE TO GIVE ALL OF YOU
15 A DATE BY WHICH ALL MOTIONS MUST BE FILED, AND I WANT TO GIVE
16 YOU ENOUGH TIME TO GET IT DONE.

17 DO YOU ANTICIPATE THAT YOU COULD FILE ALL THESE
18 MOTIONS BY THE END OF THE MONTH, THAT IS FILE THEM, BY JANUARY
19 31?

20 MR. NICOLAYSEN: YES, YOUR HONOR, ON BEHALF OF
21 DEFENDANT VASQUEZ. THAT IS --

22 THE COURT: OF COURSE, I WANT YOUR SEVERANCE MOTION
23 BEFORE THEN.

24 MR. NICOLAYSEN: I REPRESENTED TO THE COURT I'LL GIVE
25 IT TO THE COURT BY THE END OF THIS WEEK.

1 THE COURT: ALL RIGHT. IS JANUARY 31 A SATISFACTORY
2 DATE FOR ALL COUNSEL?

3 MR. MEDRANO: FOR THE GOVERNMENT, YES, YOUR HONOR.
4 THANK YOU.

5 THE COURT: THAT WOULD BE THE FILING DATE.

6 MR. MEDVENE: YOUR HONOR, COULD WE HAVE -- I JUST GOT
7 IN LATE. COULD WE HAVE A EXTRA WEEK WITH THE UNDERSTANDING
8 WE'LL DO OUR BEST TO GET IT BY THAT I DATE. BUT I DON'T KNOW
9 IF WE'LL BE ABLE TO, BUT WE'LL DO OUR BEST TO DO IT.

10 THE COURT: THAT WILL BE THE MOTION CUT-OFF DATE,
11 JANUARY 31. STRIKE THAT. ALL MOTIONS MUST BE FILED BY JANUARY
12 31, 1990.

13 MR. NICOLAYSEN: THERE IS ONE MORE, YOUR HONOR, IF I
14 MAY. BECAUSE OF THE N.B.C. TELEVISION SERIES THAT HAS CREATED
15 AN ENORMOUS AMOUNT OF PUBLICITY, I MAY HAVE TO BRING A MOTION
16 FOR AN ORDER AUTHORIZING THE APPOINTMENT OF A JURY CONSULTANT
17 SO THAT I CAN FULFILL MY PROFESSIONAL DUTY TO CONDUCT THE KIND
18 OF JURY SELECTION THAT I BELIEVE WILL BE NECESSARY. AND THAT'S
19 IN THE EVENT THAT THERE IS NO SEVERANCE AND IN THE EVENT THAT
20 THE LA LANGOSTA MURDERS ARE MADE SUBJECT --

21 THE COURT: YOUR CLIENT IS NOT CHARGED IN THE
22 CAMARENA CASE.

23 MR. NICOLAYSEN: THAT'S RIGHT, BUT IN THE EVENT YOUR
24 HONOR DECLINES TO SEVER --

25 THE COURT: WELL, YOU MAY FILE A MOTION, BUT MY

1 INITIAL IMPRESSION IS THAT IT WOULD NOT HAVE MUCH MERIT.

2 MR. NICOLAYSEN: I WILL FILE THE MOTION, THOUGH, YOUR
3 HONOR.

4 MR. MEDVENE: YOUR HONOR, I ASSUME WE ARE NOT GOING
5 TO BE BOUND, BECAUSE WE DIDN'T ANTICIPATE HAVING THE LIST OF
6 MOTIONS, BUT IF POSSIBLE --

7 THE COURT: YOU'RE NOT BOUND BY ANYTHING. I WAS
8 SIMPLY TRYING TO GET AN IDEA WHAT WE'RE LOOKING AT HERE. I
9 WANT TO GET THIS CASE MOVING.

10 MR. MEDVENE: YES, SIR. ANOTHER POSSIBILITY IS THAT
11 WE MAY FILE A MOTION TO TAKE CERTAIN DISCOVERY IN MEXICO

12 THE COURT: YOU MAY DO THAT. YOU MEAN DEPOSITIONS?

13 MR. MEDVENE: YES, SIR.

14 THE COURT: THAT WAS TRIED IN THE LAST CASE WITHOUT
15 SUCCESS.

16 MR. MEDVENE: I DIDN'T KNOW THAT, BUT I AM SURE YOUR
17 HONOR WILL LOOK AT IT AFRESH SINCE THIS IS A NEW CASE.

18 THE COURT: ALL RIGHT. NOW, IF WE LEAVE THE DATE FOR
19 TRIAL SET THEN AS IT'S PRESENTLY SET, THESE WILL BE THE DATES
20 FOR FILING THE MOTIONS AND WE CAN GO TO WORK.

21 MR. MEZA: IN TERMS OF THE DATE FOR HEARING THE
22 MOTIONS, YOUR HONOR, WILL THAT BE CALENDARED FOR THE DATE
23 PREVIOUS TO THE --

24 THE COURT: WELL, YES, I THINK IT SHOULD BE THE
25 NORMAL TIME PROVIDED FOR IN THE RULES.

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MR. MEZA: ALL RIGHT.

MR. MEDRANO: THANK YOU, YOUR HONOR.

THE CLERK: PLEASE RISE. THIS COURT IS NOW IN RECESS.

(WHICH WERE ALL THE PROCEEDINGS HEARD IN THE ABOVE-ENTITLED CASE ON THE DATE AND TIME AFORESAID.)

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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

DATED: Jan. 25, 1990

JULIE A. CHURCHILL, CSR NO. 6155

OFFICIAL COURT REPORTER