

*Medvene*

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.	)	
	)	<u>PRE-TRIAL MATTERS</u>

EXCERPT FROM REPORTER'S TRANSCRIPT OF PROCEEDINGS

FRIDAY, MAY 11, 1990: 5:00 P.M.

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OFFICIAL COURT REPORTER  
U.S. DISTRICT COURT, RM. 442-C  
312 N. SPRING STREET  
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1 APPEARANCES OF COUNSEL:

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6 JOHN L. CARLTON  
7 ASSISTANT U.S. ATTORNEYS  
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12 FOR DEFENDANT JUAN RAMON MATTA-BALLESTEROS DEL POZO:

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20 FOR DEFENDANT RUBEN ZUNO-ARCE:

21 MITCHELL, SILBERBERG & KNUPP  
22 BY: EDWARD M. MEDVENE, ESQ.  
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AND

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APPEARANCES (CONTINUED):

FOR DEFENDANT JAVIER VASQUEZ-VELASCO:

FEDERAL LITIGATORS GROUP  
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ALSO PRESENT:

DOUGLAS KUEHL, SPEC.AGT., D.E.A.  
  
SPANISH INTERPRETERS

1 FRIDAY, MAY 11, 1990, 5:00 P.M.

2  
3 (EXCERPT OF PROCEEDINGS.)

4 MR. STOLAR: JUST A COUPLE OF THINGS. ONE IS THAT  
5 MR. MEDRANO HAS ADVISED US THAT THE 3500 MATERIAL FOR THE NEXT  
6 WITNESSES ARE AVAILABLE - IS AVAILABLE TO BE PICKED UP ON THE  
7 14TH FLOOR. THAT IS APPRECIATED.

8 SECOND, I'M WONDERING IF BEFORE OPENING  
9 STATEMENTS COMMENCE, THE GOVERNMENT'S OPENING STATEMENT  
10 COMMENCES, WE COULD COME AND TALK TO YOU FOR A LITTLE BIT  
11 BEFORE THE JURY COMES IN BECAUSE THERE ARE A COUPLE OF THINGS  
12 THAT I KNOW THAT ARE GOING TO HAVE TO BE RAISED WITH RESPECT TO  
13 ASSERTIONS THAT THE GOVERNMENT SAYS THEY'RE GOING TO PROVE  
14 WHERE THERE ARE QUESTIONS TO BE STILL RESOLVED ABOUT WHETHER A  
15 PIECE OF EVIDENCE CAN COME IN.

16 THE COURT: WOULD YOU USE THAT MICROPHONE THERE? I'M  
17 NOT ABLE TO FOLLOW WHAT YOU'RE SAYING HERE.

18 MR. STOLAR: ONE OF THE THINGS I WANT TO RAISE WITH  
19 YOU TUESDAY MORNING BEFORE OPENING STATEMENTS IS THE FACT THAT  
20 WE HAVE NOT HAD AN OPPORTUNITY TO HAVE THE HAIR EXAMINED YET,  
21 AND I WANT MR. MEDRANO PROHIBITED FROM MENTIONING THE HAIR  
22 COMPARISONS IN HIS OPENING STATEMENT.

23 FOR EXAMPLE, THERE ARE A COUPLE OF OTHER THINGS  
24 LIKE THAT THAT I WANT TO RAISE WITH THE COURT.

25 THE COURT: I THINK YOU SHOULD RAISE THEM NOW.

1 MR. STOLAR: ALL RIGHT, I WILL. THAT'S ONE. THAT'S  
2 ONE.

3 THE SECOND IS THAT THERE ARE A NUMBER OF  
4 UNCHARGED CRIMES, WHICH I DESCRIBED IN THE INDICTMENT, AND  
5 WHETHER THOSE WILL BE ADMISSIBLE -- WHICH ARE DESCRIBED IN THE  
6 TRIAL MEMO, WHICH I'M NOT SURE ARE COMPLETELY IN THE  
7 INDICTMENT -- WHETHER THOSE WILL BE ADMISSIBLE OR NOT WILL BE  
8 THE SUBJECT OF SOME QUESTION WITH THE COURT AT THE TIME THEY  
9 COME UP TO OFFER THEM INTO EVIDENCE.

10 SO UNTIL THAT IS DECIDED, I WOULD LIKE TO HAVE  
11 MR. MEDRANO DIRECTED NOT TO MAKE REFERENCE TO IT.

12 THIRD, MR. MEDRANO HAS INDICATED TO ME THAT HE  
13 INTENDS TO USE A STATEMENT FROM MY CLIENT, BUT I HAVE NO  
14 INDICATION AS TO WHICH PORTIONS OF THE STATEMENT ARE GOING TO  
15 BE USED AND WHICH CAN BE REFERRED TO ON HIS OPENING STATEMENT.  
16 UNTIL THAT IS SPECIFIED, I WOULD ASK THAT THAT NOT BE REFERRED  
17 TO BY ANY MEANS.

18 NEXT, THERE ARE A FOUR AND A HALF -- TWO AND A  
19 HALF YEARS OF WIRE TAPS ON MY CLIENT. I HAVE ASKED MR. MEDRANO  
20 TO DESIGNATE WHICH OF THE WIRE TAPS ARE GOING TO BE USED. HE  
21 HASN'T DONE THAT, SO UNTIL THAT IS DONE, UNTIL I KNOW WHAT THE  
22 SCENE IS, I WOULD LIKE HIM PROHIBITED FROM MAKING REFERENCE TO  
23 THAT IN HIS OPENING STATEMENT UNTIL I HAVE AN OPPORTUNITY TO  
24 DEAL WITH IT. I DON'T EVEN KNOW IF THEY'RE GOING TO USE THEM,  
25 FOR THAT MATTER, BUT I NEED TO KNOW.

1 I THINK THERE WAS ONE OTHER THING ON THE LIST.

2 (OFF-THE-RECORD DISCUSSION BETWEEN COUNSEL.)

3 MR. STOLAR: WOULD YOU BEAR WITH ME ONE SECOND?

4 (BRIEF PAUSE.)

5 MR. STOLAR: THERE IS REFERENCE IN THE GOVERNMENT  
6 TRIAL BRIEF TO SOMETHING THAT IS CALLED OPERATION PADRINO.  
7 OPERATION PADRINO WAS APPARENTLY A D.E.A. DESIGNATED NAME FOR A  
8 CERTAIN INVESTIGATION THAT DEVELOPED CERTAIN INTELLIGENCE THAT  
9 LEAD, APPARENTLY, TO THE IDENTIFICATION SOMEHOW OF MR. MATTA.

10 I WOULD ASK THAT REFERENCES TO OPERATION PADRINO  
11 AS A D.E.A. OPERATION AND TO THE VARIOUS TRIPLE-QUADRUPLE -  
12 HOWEVER MANY LEVELS OF HEARSAY INTELLIGENCE WERE DEVELOPED -  
13 THAT NOT BE ADMITTED INTO EVIDENCE AND NOT BE REFERRED TO.

14 THE COURT: WE'RE NOT TALKING ABOUT ADMITTING  
15 ANYTHING INTO EVIDENCE.

16 MR. STOLAR: I KNOW. I'M TALKING ABOUT ASKING  
17 MR. MEDRANO NOT TO USE THAT IN HIS OPENING STATEMENT, BECAUSE  
18 IT'S HIGHLY QUESTIONABLE AS TO WHETHER IT WILL ULTIMATELY COME  
19 INTO EVIDENCE.

20 THAT'S IT.

21 THE COURT: THAT'S IT?

22 MR. STOLAR: THAT'S IT.

23 THE COURT: DO YOU WISH TO RESPOND -- WHO'S MAKING  
24 THE OPENING STATEMENT?

25 MR. CARLTON: I AM.

1 MR. STOLAR: I'M SORRY. I TAKE ALL REFERENCES TO  
2 MEDRANO OUT AND PUT IN MR. CARLTON.

3 MR. CARLTON: DEALING FIRST WITH THE HAIR SAMPLE,  
4 YOUR HONOR, MR. STOLAR HAS FILED A MOTION TO REQUIRE --

5 THE COURT: I KNOW ABOUT THAT.

6 MR. CARLTON: YOU KNOW THE MOTION. ALL RIGHT.

7 THE COURT: YES.

8 MR. CARLTON: NOW, HE HAS KNOWN FROM THE DAY THAT HIS  
9 CLIENT WAS ARRAIGNED ABOUT THE HAIRS, AND WE HAVE OFFERED TO  
10 MAKE THOSE AVAILABLE FROM DAY ONE. HE, IN FACT, HAS HAD AN  
11 OPTICAL ANALYSIS CONDUCTED BY AN EXAMINER IN VIRGINIA.

12 HE HAS NOT FILED A MOTION TO EXCLUDE OR TO  
13 CHALLENGE THE HAIR ANALYSIS THAT WE'VE CONDUCTED; ALTHOUGH IT  
14 HAS BEEN MADE AVAILABLE TO HIM ALL ALONG.

15 NOW HE STEPS IN HERE ON THE LAST DAY BEFORE  
16 OPENING STATEMENTS AND SEEKS TO PRECLUDE REFERENCE TO SOMETHING  
17 HE HAS KNOWN ABOUT FOR TWO MONTHS.

18 THE COURT: LET'S FIND OUT. DO YOU INTEND TO REFER  
19 TO THIS ON YOUR OPENING STATEMENT?

20 MR. CARLTON: I INTEND TO REFER TO THE HAIR SAMPLE,  
21 YOUR HONOR.

22 THE COURT: WHAT ABOUT THE OTHER MATTERS?

23 MR. CARLTON: I'M NOT SURE WHAT HE MEANS BY  
24 "UNCHARGED CRIMES". IF HE WANTS TO IDENTIFY THOSE, I CAN  
25 RESPOND DIRECTLY.

1 THE COURT: DO YOU INTEND TO MENTION ANY UNCHARGED  
2 CRIMES IN YOUR OPENING STATEMENT?

3 MR. CARLTON: I INTEND TO REFER TO A COCAINE SEIZURE  
4 IN ARIZONA, WHICH WAS THE RESULT OF THE --

5 THE COURT: THAT'S PART OF THE INDICTMENT; ISN'T IT?

6 MR. CARLTON: THAT'S REFERRED TO, AND THAT'S WHAT I  
7 INTEND TO REFER TO.

8 OTHER THAN THAT, I DON'T KNOW WHAT HE'S TALKING  
9 ABOUT AND I DON'T INTEND TO REFER TO ANYTHING ELSE.

10 THE COURT: HOW ABOUT THE DEFENDANT'S STATEMENT?

11 MR. CARLTON: THE DEFENDANT'S STATEMENT I'M NOT GOING  
12 TO REFER TO IN OPENING STATEMENT.

13 THE COURT: HOW ABOUT THE WIRE TAPS?

14 MR. CARLTON: WIRE TAPS -- I'M NOT REFERRING TO THOSE  
15 AND I'LL NOT REFER TO OPERATION PADRINO BY NAME, IF THAT WILL  
16 SOLVE THAT PROBLEM.

17 THE COURT: SO ALL WE ARE DEALING WITH HERE IS THE  
18 HAIR SAMPLES AND THE -- THE HAIR SAMPLES?

19 MR. CARLTON: THAT'S CORRECT.

20 THE COURT: THE GOVERNMENT CAN REFER TO IT IN OPENING  
21 STATEMENT BECAUSE THEY WILL INTEND TO OFFER IT INTO EVIDENCE,  
22 THEY INTEND TO PUT ON A WITNESS, I ASSUME, TO DISCUSS WHAT HE  
23 DID AND THE BASIS FOR IT.

24 THE FACT THAT HAVE YOU DISAGREE WITH THE QUALITY  
25 OF THE EVIDENCE OR YOU HAVE CONTRADICTIONARY EVIDENCE --



1 MR. STOLAR: I CAN'T EVEN GET IT TO EXAMINE IT YET BY  
2 A SCANNING ELECTRONIC MICROSCOPE.

3 THE COURT: THAT MOTION IS PENDING.

4 MR. STOLAR: THEY HAVEN'T ANSWERED IT YET.

5 MR. CARLTON: WE ARE PREPARING A RESPONSE.

6 THE COURT: WELL, IN DUE COURSE IT WILL BE RESOLVED.  
7 I DON'T THINK ANY HARM IS GOING TO BE DONE BY HIS BEING ALLOWED  
8 TO MENTION IT IN THE OPENING STATEMENT.

9 MR. CARLTON: I HAVE ONE OTHER POINT YOUR HONOR,  
10 WHICH I DON'T KNOW WHETHER IS APPROPRIATE TO RAISE NOW. SINCE  
11 MR. STOLAR RAISED THIS ISSUE, I THINK I'LL AT LEAST BRING IT TO  
12 YOUR ATTENTION, WHICH WAS A MOTION IN LIMINE FILED BY THE  
13 GOVERNMENT CONCERNING REFERENCES IN OPENING STATEMENTS, AMONG  
14 OTHER THINGS, TO CERTAIN KILLINGS THAT WERE MADE BY A PROPOSED  
15 GOVERNMENT WITNESS.

16 NOW, THIS IS SOMETHING THAT I THINK NEEDS TO BE  
17 RESOLVED BEFORE OPENING STATEMENTS ARE MADE. A WRITTEN MOTION  
18 WAS FILED, AND I DON'T KNOW --

19 THE COURT: WAS THE MOTION FILED?

20 MR. CARLTON: THE MOTION WAS FILED. I UNDERSTAND  
21 THERE IS A WRITTEN OPPOSITION.

22 THE COURT: THE RESPONSE HASN'T BEEN FILED.

23 MR. MEDVENE: THE RESPONSE WAS TO BE FILED TODAY,  
24 YOUR HONOR, AND I BELIEVE IT WAS FILED TODAY.

25 THE COURT: THEN I'LL RULE ON IT BEFORE OPENING

1 STATEMENT.

2 MR. MEDVENE: VERY GOOD, YOUR HONOR. I'M SORRY --  
3 WHEN EVERYONE ELSE IS DONE, WE JUST HAVE A POINT OR TWO.

4 THE COURT: THE QUESTION IS WHETHER OR NOT  
5 DEFENDANT'S COUNSEL SHOULD BE ALLOWED TO DISCUSS IT IN OPENING  
6 STATEMENT IF THEY MAKE AN OPENING STATEMENT?

7 MR. CARLTON: THAT IS THE ISSUE, YES.

8 THE COURT: ALL RIGHT. I'LL DEAL WITH THAT.

9 IF YOU GENTLEMEN WANT TO TAKE UP ANY OTHER  
10 THINGS, I SUGGEST YOU COME IN ON MONDAY, BECAUSE I HAVE A LIGHT  
11 AFTERNOON. I THINK WE CAN SCHEDULE - IF THERE IS ANY CLEAN UP  
12 TO BE DONE BEFORE THE TRIAL STARTS - I'LL BE GLAD TO SEE YOU  
13 MONDAY AFTERNOON.

14 MR. NICOLAYSEN: I WOULD APPRECIATE THE OPPORTUNITY  
15 TO BE HEARD ON MY CLIENT'S BEHALF SPECIFICALLY IN REGARDS TO  
16 --

17 THE COURT: WHAT DID YOU WANT TO DISCUSS?

18 MR. NICOLAYSEN: MATTERS THAT HAVE BEEN RAISED, TO MY  
19 KNOWLEDGE, FOR THE FIRST TIME IN THE GOVERNMENT'S TRIAL  
20 MEMORANDUM. CERTAINLY I CAN ITEMIZE THEM AT THIS TIME, IF THE  
21 COURT WANTS ME TO.

22 I WAS GOING TO ASK YOUR HONOR --

23 THE COURT: DOES THIS RELATE TO THE OPENING  
24 STATEMENT?

25 MR. NICOLAYSEN: IT VERY WELL MAY. I DON'T KNOW TO

1 WHAT EXTENT THE GOVERNMENT IS PLANNING TO ALLUDE TO IT. THE  
2 THE COURT SHOULD KNOW MY CONCERNS, PLUS HEAR THE GOVERNMENT'S  
3 REACTION WITH RESPECT TO THE OPENING STATEMENT. AT SOME POINT  
4 AN EVIDENTIARY RULING WILL BE NEEDED.

5 THE COURT: I WILL TELL YOU GENERALLY I RARELY  
6 RESTRICT OPENING STATEMENTS UNLESS THERE IS A GOOD REASON TO DO  
7 SO. IN OTHER WORDS, IF THE OPENING STATEMENT CONTAINS  
8 STATEMENTS ABOUT EVIDENCE THAT YOU DON'T LIKE TO BE MADE IN  
9 OPENING STATEMENT, THAT IS NOT A GOOD ENOUGH REASON.

10 IF THERE IS A -- UNLESS A STATEMENT IS MADE IN  
11 BAD FAITH, I EXPECT COUNSEL IN THEIR OPENING STATEMENT TO BE  
12 REASONABLY CERTAIN THAT ANY EVIDENCE THEY DISCUSS ABOUT  
13 PROVING, THEY HAVE A REASONABLE BASIS FOR BELIEVING THAT IT  
14 WILL BE ADMITTED INTO EVIDENCE.

15 YOU DON'T HAVE TO HAVE AN IRON CLAD BELIEF,  
16 BECAUSE YOU CAN'T KNOW THAT UNTIL THE COURT RULES ON ANY  
17 OBJECTED EVIDENCE. BUT GENERALLY, I'M NOT GOING TO TAYLOR THE  
18 OPENING STATEMENT BECAUSE OF CONCERNS THAT YOU HAVE, UNLESS  
19 THERE IS SOMETHING THAT IS CLEARLY OUTRAGEOUS OR IMPROPER.

20 MR. NICOLAYSEN: MY CONCERNS MAY JUST TURN ON THE BAD  
21 FAITH CRITERIA THAT YOUR HONOR IS ALLUDING TO NOW INSOFAR AS  
22 THE REFERENCES IN THE TRIAL MEMO CONCERNING EVIDENCE MADE,  
23 REFLECT MATERIALS THAT SHOULD HAVE BEEN -- THAT HAVE NOT BEEN  
24 TURNED OVER UNDER RULE 16.

25 AND I THINK CERTAINLY THE COURT SHOULD KNOW OF

1 THESE CONCERNS AND ADVISE BOTH PARTIES WHETHER OR NOT THERE ARE  
2 NONDISCLOSURE ISSUES HERE THAT MAY VERY WELL HAVE AN IMPACT ON  
3 THE GOVERNMENT'S RIGHT TO REFER TO THEM IN OPENING STATEMENT.

4 THE COURT: WELL, I CAN SEE THAT I AM NOT  
5 ENCOURAGED BY THIS DISCUSSION TO HAVE A SESSION ON MONDAY  
6 BECAUSE ALL THESE PRETRIAL DISCUSSIONS -- MY EXPERIENCE HAS  
7 BEEN IN EVERY CASE IF YOU GIVE COUNSEL TIME, THEY'LL WORRY  
8 THEMSELVES TO DEATH ABOUT THINGS THAT NEVER HAPPEN DURING THE  
9 TRIAL. IT NEVER CAUSES CONCERN DURING THE TRIAL.

10 NOW, ALL WE HAVE COMING UP NOW IS THE OPENING  
11 STATEMENT. COUNSEL IS PERMITTED TO MAKE AN OPENING STATEMENT  
12 TELLING THE JURY WHAT HE EXPECTS THE EVIDENCE TO SHOW IN THE  
13 CASE, AND I EXPECT THAT TO BE MADE IN GOOD FAITH.

14 AND I'M NOT GOING TO DETERMINE THE GOOD FAITH IN  
15 ADVANCE, BECAUSE I TELL THE JURY THAT WHAT COUNSEL SAYS IN  
16 OPENING STATEMENT IS NOT EVIDENCE IN THE CASE AND IT IS NOT TO  
17 BE CONSIDERED AS EVIDENCE, SO IN MY VIEW IT IS HARMLESS.  
18 THAT'S THE WAY I FEEL ABOUT IT.

19 SO IF WE'RE GOING TO HAVE ALL THIS DISCUSSION  
20 ABOUT YOUR FEARS AND CONCERNS, WHICH I KNOW THAT ALL DEFENSE  
21 LAWYERS HAVE -- THEY'RE A VERY PARANOID GROUP, AS A RULE, AND  
22 MANY OF THE THINGS THAT YOU'RE GOING TO WORRY ABOUT AND WORRY  
23 ME ABOUT WILL NEVER HAPPEN.

24 MR. NICOLAYSEN: YOUR HONOR, I'M NOT SO HUNG UP ABOUT  
25 THE OPENING STATEMENT, BUT THIS IS OUT OF THE GOVERNMENT'S

1 TRIAL MEMORANDUM, SO I THINK I'M WORKING WITHIN A VERY  
2 PREDICTABLE FRAMEWORK.

3 THE COURT: I THINK YOU SHOULD FILE A MOTION, IF YOU  
4 HAVE SOME BASIS.

5 MR. NICOLAYSEN: IF I COULD SIMPLY HAVE THE COURT'S  
6 PERMISSION TO FILE A MOTION IN LIMINE MONDAY MORNING -- WHETHER  
7 YOUR HONOR CHOOSES TO HEAR THIS MOTION BEFORE OPENING STATEMENT  
8 OR AFTER, I WON'T PUSH THE ISSUE.

9 THE COURT: I'LL HEAR IT BEFORE THE EVIDENCE IS  
10 ADMITTED.

11 MR. NICOLAYSEN: THAT'S ALL I ASK.

12 THE COURT: CERTAINLY.

13 MR. NICOLAYSEN: VERY WELL, YOUR HONOR. THAT'S WHAT  
14 I'LL DO. THANK YOU.

15 MR. MEDVENE: IF THE COURT PLEASE, MAY I ADDRESS YOU  
16 FROM HERE --

17 THE COURT: (NODDING HEAD AFFIRMATIVELY.)

18 MR. MEDVENE: -- OR SHOULD I GO TO THE LECTURN?  
19 YES, YOUR HONOR.

20 JUST ONE MINISTERIAL POINT, YOUR HONOR. MAY WE  
21 HAVE YOUR PERMISSION TO BRING A CABINET IN TO LEAVE AGAINST THE  
22 BACK WALL, IF IT IS OUT OF EVERYBODY'S WAY?

23 THE COURT: YES.

24 MR. MEDVENE: THANK YOU, SIR. THE SECOND THING:  
25 THERE ARE TWO IN LIMINE MOTIONS, IF YOU WANT TO RULE ON THEM OR

1 NOT - IT'S OBVIOUSLY UP TO YOU BEFORE THE OPENING. I'LL JUST  
2 ALERT YOU THEY'RE THERE.

3 THE COURT: YES.

4 MR. MEDVENE: WE MADE A MOTION ON LOPE DE VEGA TO  
5 EXCLUDE REFERENCE -- THE GOVERNMENT MADE A MOTION, IF WE DON'T  
6 HEAR IT --

7 THE COURT: TO EXCLUDE REFERENCE IN THE OPENING  
8 STATEMENT? YOUR MOTION IS WHAT?

9 MR. MEDVENE: TO EXCLUDE -- FOR THE GOVERNMENT NOT TO  
10 BE PERMITTED TO REFER TO ZUNO'S OWNERSHIP OF LOPE DE VEGA  
11 BECAUSE WE ARGUED, A, IT WAS NOT RELEVANT IN THAT IT DIDN'T  
12 TEND TO SHOW THE CRIME BECAUSE THE SALE HAD BEEN MADE PRIOR TO  
13 THE TIME THAT QUINTERO WAS THERE; AND B, EVEN IF YOUR HONOR  
14 THOUGHT IT WAS TANGENTIALLY RELEVANT UNDER 403, IT WOULD BE  
15 UNDULY PREJUDICIAL. AND WE MADE THAT MOTION. IF YOU CHOOSE TO  
16 RULE ON IT, RULE.

17 MR. MEDRANO: YOUR HONOR, I MIGHT ADD WE HAVE NOT  
18 RECEIVED THAT MOTION SPECIFICALLY.

19 THE COURT: I CAN RULE ON THAT MOTION RIGHT NOW, IF  
20 YOU WANT ME TO.

21 MR. MEDVENE: I HAVE A FEELING I DON'T WANT YOU TO.  
22 I'D LIKE YOU TO READ IT, IF YOU DON'T MIND, AND THEN RULE ON  
23 IT.

24 THE COURT: IT HAS ALWAYS BEEN PART OF THE  
25 GOVERNMENT'S THEORY IN THIS CASE THAT THE TRANSFER OF THE HOUSE

1 FROM MR. ZUNO TO CARO QUINTERO IS OF SOME SIGNIFICANCE TO THE  
2 CASE. I DON'T KNOW IF IT IS OR NOT. IF THAT IS THE PROOF THAT  
3 THEY INTEND TO OFFER, I THINK THEY CAN DISCUSS IT IN THE  
4 OPENING STATEMENT.

5 MR. MEDVENE: I WOULDN'T DEBATE THAT, YOUR HONOR, BUT  
6 IT IS MY UNDERSTANDING THEY'RE NOT GOING TO ATTEMPT TO PROVE  
7 THAT.

8 IN OTHER WORDS, THE EVIDENCE WILL BE, AS WE  
9 UNDERSTAND IT -- EVEN THE GOVERNMENT EVIDENCE -- THE SALE WAS  
10 TO A DR. RUBEN SANCHEZ BARBA SOME WEEKS BEFORE THE INCIDENT IN  
11 QUESTION. AND IF THAT IS TRUE, AND UNLESS THE GOVERNMENT CAN  
12 SHOW SOME CONNECTION BETWEEN MR. ZUNO AND THE SUBSEQUENT USE OF  
13 THE HOUSE, THEN WE ARE SUGGESTING, A, IT IS NOT RELEVANT, AND  
14 B, IT'S MISLEADING AND UNDULY PREJUDICIAL UNDER RULE 403. AND  
15 ALL WE'RE ASKING IS THAT YOU READ OUR MOTION AND HEAR THE  
16 GOVERNMENT RESPONSE.

17 THE COURT: I'LL READ THE MOTION AND HEAR IT WITH  
18 RESPECT TO THE ADMISSIBILITY OF SUCH EVIDENCE, BUT I'M NOT  
19 GOING TO PRECLUDE REFERENCE IN THE OPENING STATEMENT.

20 MR. MEDVENE: YES, SIR. THANK YOU VERY MUCH, YOUR  
21 HONOR.

22 THE COURT: NOW, IS THERE ANY REASON TO CONVENIENT  
23 THIS CASE ON MONDAY AFTERNOON?

24 MR. MEDRANO: NOT BY THE GOVERNMENT.

25 MR. MEDVENE: NO REASON AS FAR AS ZUNO IS CONCERNED.

1 MR. STOLAR: WITH RESPECT TO THE QUESTIONNAIRES, I  
2 WANTED TO GIVE THEM BACK TO THE COURT, EXCEPT FOR THE ONES OF  
3 THE JURORS AND THE ALTERNATES, BECAUSE I DON'T WANT TO TAKE  
4 RESPONSIBILITY ANY MORE FOR THE BOX FULL OF CONFIDENTIAL  
5 DOCUMENTS. CAN WE DO THAT AND HAVE THE COURT DESTROY THEM?

6 THE COURT: I SUPPOSE WE COULD DO THAT.

7 OH, COUNSEL, I'M INFORMED HERE THAT WITH RESPECT  
8 TO THIS CABINET, YOU MUST PREPARE AN ORDER FOR THE COURT TO  
9 SIGN, AUTHORIZING YOU TO BRING THAT IN HERE. THE SECURITY  
10 PEOPLE REQUIRE THAT.

11 MR. MEDVENE: IS THERE ANY TIME MORE CONVENIENT THAN  
12 ANY OTHER TO HAVE THE CABINET BROUGHT ON MONDAY?

13 THE COURT: I DON'T THINK SO.

14 MR. MEDVENE: MAY I JUST DEAL WITH THE CLERK ON THAT?

15 THE COURT: I THINK THAT'S THE BEST WAY TO HANDLE IT,  
16 IS TO CALL THE CLERK AND GET AN ORDER WITH THE CABINETS SO THAT  
17 WE CAN SIGN AN ORDER FIRST THAT CAN BE GIVEN TO THE SECURITY  
18 PEOPLE.

19 MR. MEDVENE: YES, SIR.

20 MR. MEDRANO: ON THIS FINAL HOUSEKEEPING MATTER, YOUR  
21 HONOR, MAY WE FILE AFTER THE FACT THE STIPULATION AS TO THE  
22 PEREMPTORY PROCESS THAT YOU ORDERED PREVIOUSLY? THAT WAS  
23 SUPPOSED TO BE PREPARED BY THE DEFENSE, AND WE HAVEN'T SIGNED  
24 IT YET, SO IF WE JUST FILE IT ON TUESDAY, WOULD THAT BE  
25 SATISFACTORY?



1 THE COURT: YES, THAT WOULD BE FINE.

2 MR. MEDRANO: THANK YOU.

3 THE COURT: ALL RIGHT. WE'LL ADJOURN THEN AND I'LL  
4 SEE YOU TUESDAY MORNING.

5 (COURT STANDS IN RECESS.)

6

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---0---

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

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*Julie A. Churchill*

DATED: 2-20-92

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JULIE A. CHURCHILL, CSR NO. 6155

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OFFICIAL COURT REPORTER

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