

**INQUIRY CONCERNING A JUDGE
NO. 5**

DECEMBER 3, 1975

PAGE 2376 - 2566

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BEFORE THE
STATE JUDICIAL QUALIFICATIONS COMMISSION

INQUIRY CONCERNING A JUDGE, NO. 5

DECEMBER 3, 1975

CHATHAM & ASSOCIATES
COURT REPORTERS
GUARANTY BANK PLAZA
CORPUS CHRISTI, TEXAS

COPY

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8782
C3745
V.15

1 THE MASTER: You may proceed, Mr.
2 Mitchell.

3 MR. MITCHELL: Thank you, Judge Meyers.
4

5 OCTAVIO HINOJOSA,
6 recalled as a witness.
7

8 EXAMINATION CONTINUED
9

10 BY MR. MITCHELL:

11 Q Mr. Hinojosa, I believe at the termination of
12 our court session yesterday you had Exhibit 167-5
13 which is an index card which had been made up
14 in a series of checks, claims, et cetera, from
15 Duval County to the Cash Store.

16 As a part of your testimony, I requested
17 the Court and the Court instructed you, if you
18 would, to bring those jackets showing the jacket,
19 the documentation for the jacket behind the index-
20 ing, I believe, on E-167-5, am I correct?

21 A Yes, sir.

22 Q Do you have that card so that we can get that
23 back into the record, please, sir, E-167-5?

24 A E-167-2.

25 MR. MITCHELL: I am sorry, Your Honor,

1 I had referred to E-167-5 and it should
2 be E-167-2.

3 THE MASTER: That's right, it is
4 E-167-2.

5 Q E-167-2, the claim jacket refers to that?

6 A Yes, sir.

7 Q As I call them off, will you refer to it, to
8 E-167-2, and that also relates to B-235?

9 A Yes, sir.

10 Q And to B-456, claim B-459 -- I am sorry.

11 A Yes, B-459.

12 Q You have that one?

13 A Yes, sir.

14 Q And E-167-2 also relates to B-460, do you have
15 that one?

16 A Yes, sir.

17 Q All right. And E-167-2 relates to B-600, did
18 you bring it?

19 A Yes, sir, I did.

20 Q All right, now can I have those, please, sir?

21 A Yes, sir.

22

23 (Handed to Counsel.)

24

25

MR. MITCHELL: Judge Meyers, I have --
the witness has handed me claim jackets which

1 I have identified from E-167-2 and I would
2 like the Court's instructions on the appro-
3 priate markings on these to integrate and
4 inter-relate into E-167-2. They are going
5 to be my Exhibits and I wish to have them
6 in evidence. However, I am aware of the
7 fact that someone reading the record would
8 be -- would facilitate proper understanding
9 of the record if somehow they could be tied
10 into the claims listed on E-167-2.

11 I am open to any suggestion from the
12 Court.

13 THE MASTER: I am open to suggestion
14 also.

15 (Discussion off the record.)
16

17 MR. MITCHELL: All right, Your Honor,
18 perhaps we can then mark them Respondents
19 Exhibits with a paren E-167-2 after them.

20 THE MASTER: I think that's a good
21 idea. The Respondent's next Exhibit is 62.

22 MR. MITCHELL: That's right, 62, Judge
23 Meyers.

24 THE MASTER: With the parenthesis follow-
25 ing.

1 MR. MITCHELL: So the record reflects
2 further we are going to request permission
3 to mark them commencing with R-62, which
4 will be assigned to B-232, and R-63 will be
5 for B-235 and so on.

6 THE MASTER: That's fine.

7
8 (Marked for identification by the
9 reporter as Exhibits R-62 (167-2) through
10 R-66 (167-2))

11 Q The jackets as you have handed me now are as
12 you found them and have delivered them to the
13 Court, am I correct, Mr. Hinojosa?

14 A Yes, sir.

15 Q And I believe the first time that --

16 MR. MITCHELL: Strike that fragmentary
17 statement.

18 Q They would be R-62, R-63, R-64, R-65 and R-66 and
19 these relate back to E-167-2, am I correct?

20 A Yes, sir.

21 Q And they tie in with the claim number on E-167-2?

22 A Yes, sir.

23 Q And tell the Court where you found the claims,
24 B-232, B-235, B-459, B-460 and B-600.

25 A These were in the possession of the Attorney

- 1 General's office in the old bank building.
- 2 Q In what county, Duval County?
- 3 A Yes, sir.
- 4 Q What city?
- 5 A San Diego.
- 6 Q If you recall, Judge Meyers asked you yesterday
- 7 if you would also determine if there were checks
- 8 in the treasurer's office and did you --
- 9 supporting the entries on E-167-2 on the amounts
- 10 of money. Were you able to find the checks that
- 11 match up these claims?
- 12 A I was able to find the checks at the First State
- 13 Bank of San Diego, yes, sir.
- 14 Q Did you bring those?
- 15 A Yes, sir.
- 16 Q Now, you have handed me a package of checks tied
- 17 into these by the claim number appearing on the
- 18 checks.
- 19 A Yes, sir.
- 20 Q That would be 3913, issued by the county, payable
- 21 to the Cash Store?
- 22 A Yes, sir.
- 23 Q In Benavides?
- 24 A Yes, sir.
- 25 Q And issued by the treasurer of Duval County?

1 A Yes.

2 Q And denominated payment of claims and that claim
3 appears on the face of the check?

4 A Yes.

5 Q And that is 3913?

6 A Yes, sir.

7 Q And 3916?

8 A Yes, sir.

9 Q 4182, which paid B-460?

10 A Yes, sir.

11 Q And 4468, which paid B-600?

12 A Yes, sir.

13 Q Do you have copies of these checks with you?

14 A Yes, sir.

15 Q May I have the copies to be marked.

16 A Yes, sir.

17 Q And would you explain to the Court, please, and
18 for the record, why the copies are necessary?

19 A Mr. Barney Goldthorn, the bank president, said
20 he had to have the originals back on account of
21 litigation between the county and the bank.

22 MR. MITCHELL: In view of that, Your
23 Honor, would it be permissible if I mark
24 the copies and leave the originals for
25 cross-examination with the request that they

1 be returned to the bank?

2 THE MASTER: Certainly, you have the
3 originals and you can have counsel compare
4 them. I take it the copies are including
5 both the face and the endorsement side of
6 the check?

7 THE WITNESS: Yes, sir.

8 MR. MITCHELL: Let the record reflect
9 the witness answered yes, sir to the Master's
10 question.

11 All right. Could I have, please, there
12 are two to the page, and I would like to
13 have them marked A and B, if I might,
14 beginning with R-67 and marking them on
15 through.

16
17 (Whereupon, the above-mentioned
18 documents were marked for identification
19 R-67-A and B, R-68-A and B and R-69.)
20

21 Q (By Mr. Mitchell) I hand you R-67-A and B and
22 R-68-A and B and R-69 and ask you if those are
23 copies of the checks you have produced on E-167-2,
24 the amounts of money claimed on these claims?

25 A Yes, sir, they were.

1 Q And you have the originals in the courtroom, is
2 that correct?

3 A Yes, sir.

4 MR. MITCHELL: We make the request to
5 return the originals.

6 THE MASTER: Granted.

7 Q (By Mr. Mitchell) I now -- strike that.

8 Your Honor -- strike that.

9 Let me go back to R-62 and ask you to take
10 R-62, which is B-232, the claim number, is that
11 correct?

12 A Yes, sir.

13 Q Is there anything in the jacket itself?

14 A Yes, sir, two orders from the Welfare Department
15 of Duval County.

16 Q I will ask you as to R-62 and the enclosures,
17 were these in the jacket B-232 at the time you
18 found them to bring here under this Court's
19 instructions?

20 A Yes, sir.

21 Q I will ask you if there was any other document
22 in that jacket other than those two welfare orders?

23 A No, sir.

24 Q No other documents?

25 A No, sir.

1 Q All right, sir.

2 MR. MITCHELL: Your Honor, I would like
3 to have these marked.

4 THE MASTER: I think they ought to be
5 R-62-A and B.

6 MR. MITCHELL: Yes, I agree, that would
7 be the best way.

8
9 (Whereupon, the above-mentioned
10 documents were marked R-62-A and B for
11 identification.)

12
13 Q (By Mr. Mitchell) I hand you what has been
14 marked R-62-A and B and R-62 and ask you if that
15 is the complete package you found?

16 A Yes, sir.

17 Q And I believe you are the assistant to the
18 auditor of Duval County?

19 A Yes, sir.

20 Q And you would have custody of the records you are
21 holding in your hand and identified by Claim
22 No. B-232 and these tie in with R-62-A and B and
23 R-62?

24 A Yes, sir.

25 Q I will ask you if those records are kept in your

1 files as your official -- in your official
2 capacity in Duval County?

3 A Yes, sir.

4 Q And there is nothing to indicate they are not
5 true and correct records, is that correct?

6 A Correct.

7 Q And those are the ones you used to make up E-167-2
8 and Claim No. B-232?

9 A Yes, sir.

10 Q And those are further R-62 and R-62-A and B, the
11 data from which you took the information on E-167-2,
12 which you told us about yesterday?

13 A It is.

14 Q So we have the warrant number 3913 that appears
15 where?

16 A Right here.

17 Q The warrant number, and I am showing you E-167-2,
18 and the warrant number can be found at R-67-B?

19 A Yes.

20 Q And the amount of the warrant number can be
21 found also there, is that correct?

22 A Yes, sir.

23 Q And the designation of the fund, as you show on
24 E-167-2, can be found on R-67-B?

25 A Yes.

1 Q And the date of the warrant is also found there --
2 can also be found on R-67-B?

3 A Yes, sir.

4 Q Is that same thing correct, without going through
5 each and every one of the items, that appear in
6 Claim No. B-232?

7 A Yes, sir.

8 MR. ODAM: All right. Your Honor, if
9 I might, I know that these items 62 through
10 66, and all the sub-parts, all the contents
11 have not been offered into evidence yet. I
12 am sure that they will be offered. I would
13 like at this time to pose the objection as
14 to their offer.

15 We have introduced into evidence some
16 cross-index cards, among those are for the
17 year 1975. What is being asked of this
18 witness goes to 1975 and as the Court will
19 recall, and Mr. Mitchell will recall from
20 examination of Mr. Meek and from the wit-
21 nesses on the Cash Store, these particular
22 claims right here are not even in question.
23 We haven't contended that Judge Carrillo
24 received any benefit from them.

25 I say that this examination is not

1 relevant to any issue in this case. We
2 have twenty minutes to go through documents
3 that do not relate to the lawsuit thus far.
4 I think it has taken unnecessary time of
5 this Court to go through these documents,
6 particularly with four other file folders
7 or claim jackets which have nothing to do
8 with the claims that we say Judge Carrillo
9 has any benefit from.

10 If there is any relevance, I would
11 like to know it.

12 THE MASTER: What is the relevance?

13 MR. MITCHELL: I had objected to E-167-2
14 which was irrelevant. The objection was
15 leveled and I understood that they were
16 relevant so consequently I felt like I
17 wanted to go back into them to show as a
18 matter of fact that Judge Carrillo had
19 nothing to do with them.

20 They had absolutely no connection
21 with Judge Carrillo and if Counsel is
22 willing to stipulate it, I can shorten
23 the procedure right now.

24 THE MASTER: I admitted 167 as I
25 recall simply as being an example, so to

1 speak, of the cross-index made by Mr.
2 Hinojosa and that is as I understood it
3 what it was offered for. Am I correct?

4 MR. ODAM: Yes, sir, the 167, and it's
5 sub-parts were offered to show --

6 THE MASTER: Five cards.

7 MR. ODAM: Yes, sir, the cards show
8 on them certain checks that were issued.
9 Now the relevancy obviously goes as far as
10 we are concerned, and as far as the entire
11 document is concerned as to those claim
12 numbers which have been introduced into
13 evidence, and are a part of what, E-55 thus
14 far.

15 They show as to these particular claim
16 numbers that there was a check issued from
17 there. As to the others, which by their
18 silence from the earlier record there is no
19 disputed issue too, that was the purpose
20 to show by those cards that on those claims
21 that there were checks issued and, therefore,
22 there is simply evidence in cross-index --

23 MR. MITCHELL: Your Honor, then I'll
24 state this. Our position has always been
25 that Judge Carrillo cannot be disqualified,

1 reprimanded or removed for any act occurring
2 prior to January 1st, 1975. These items are
3 all in 1975 and the purpose of my introduc-
4 ing them is to show that they have no connec-
5 tion at all with Judge Carrillo. They are
6 all Cleofus Gonzalez, at a time long after
7 he left the employment both of the Farm and
8 Ranch and of the county and there were be
9 no grounds in E-167-2 for any reprimand or
10 any improper conduct on Judge Carrillo and
11 if counsel for the Examiner is willing to
12 stipulate such a fact, then, Your Honor, I
13 will move on gladly.

14 MR. ODAM: I certainly think that we
15 could take a break, and those claim jackets
16 right there, go through them and I am sure
17 be prepared to stipulate that --

18 THE MASTER: Excuse me, do you stipu-
19 late that claim jackets represented by R-62,
20 63, 64 and 65 and 66 and the checks that
21 have been marked paying those claim jackets
22 which are R-67-A and B, R-68-A and B, and
23 R-69, as well as the contents, one of which
24 has been marked R-62-A and F have no rele-
25 vance in any context or count in the amended --

1 MR. MITCHELL: Or formal.

2 THE MASTER: Or formal notice of
3 proceeding.

4 MR. ODAM: Yes, sir.

5 THE MASTER: Does that take care of
6 you, Mr. Mitchell?

7 MR. MITCHELL: It sure does.

8 MR. MITCHELL: Mr. Hinojosa, thank you
9 very much.

10 I want to offer the documents, Judge
11 Meyers, so that anyone reading the record
12 will know the full import of the stipulation
13 and I will pass the witness and by my offer,
14 I am going to offer R-62, 63, 64, 65, 66, 67-A
15 and B, 68-A and B, and 69.

16 THE MASTER : And you have also marked
17 R-62-A and B, which is the contents of
18 R-62 and without marking them I take it you
19 are offering the contents of R-63, R-64,
20 R-65 and R-66.

21 MR. MITCHELL: Yes, sir.

22 THE MASTER: Well, for the purpose of
23 showing what this is all about, they are
24 admitted.

25 MR. MITCHELL: Thank you, Judge Meyers.

1 THE MASTER: But the stipulation is
2 that they have nothing to do with the
3 Judicial Qualifications Commission count
4 against Judge Carrillo.

5 MR. MITCHELL: Yes, I do have one more
6 question.

7 THE MASTER: All right.

8
9 EXAMINATION CONTINUED

10 BY MR. MITCHELL:

11
12 Q Mr. Hinojosa, I believe further I had asked you --

13 MR. MITCHELL: Strike that.

14 Q You would also be the custodian, would you not,
15 of the jackets, the data on checks, issued by
16 Duval County to the Benavides Implement and
17 Hardware?

18 A Yes, sir.

19 Q Would you not?

20 A Yes, sir.

21 Q Now, I believe I asked you to ascertain if
22 those were in their regularly -- in their regu-
23 lar place and were you able to find them? That
24 is to show us, the checks, the volume of checks
25 issued by Duval County to the Benavides Implement

1 and Hardware, of Benavides, Texas.

2 A They have been removed from the office, sir, the
3 last year or so.

4 Q Could you find them?

5 A No, sir, I could not.

6 Q Could you find evidence of who has removed them?

7 A No, sir. I don't have an idea. Only two agen-
8 cies, the Internal Revenue Service and the Attorney
9 General's office, the Texas Attorney General's
10 office.

11 Q They are not where they would normally be, how-
12 ever, in the --

13 A On file.

14 Q On file?

15 A Yes, sir.

16 Q All right.

17 (Discussion off the record.)
18

19 Q Let me ask you, Mr. Hinojosa, when you went
20 over --

21 MR. MITCHELL: Strike that.

22 Q There has been some reference in the record and
23 I think we have some clarification, as a matter
24 of fact many of the books and records have been
25 removed from the Duval County courthouse and

1 taken to what you call an annex, isn't it?

2 A Yes, sir.

3 Q And that is a building that used to be a bank?

4 A Yes, sir.

5 Q And what bank was that building?

6 A First State Bank of San Diego at one time, I
7 believe.

8 Q Yes, there is no longer a bank there, is it,
9 Mr. Hinojosa?

10 A No, sir.

11 Q You have been a citizen for that -- of that county
12 for a long -- well, your whole lifetime, have
13 you not?

14 A The property was bought by the county and --

15 Q Renovated?

16 A Renovated for county use.

17 Q Right, and today --

18 MR. ODAM: Your Honor, I would object
19 to the relevancy of this. I would stipulate
20 that there are certain checks issued by
21 Duval County, some of which are -- originals
22 of which are on the counsel table as well
23 as in the box here.

24 I would stipulate further, if necessary,
25 that certainly the Attorney General's office

1 has been -- has obtained from Mr. Hinojosa
2 and by Mr. Meek's previous testimony, we
3 obtained checks, most of which -- which are
4 relevant to this proceeding or in evidence,
5 and I see no necessity to determine that
6 they were taken by the Attorney General's
7 office, which they were, to be put into
8 evidence in this box. I don't see the
9 purpose of that.

10 MR. MITCHELL: Well, all right then,
11 I request that you deliver over for examina-
12 tion all of the Benavides Implement and
13 Hardware checks issued by -- issued by
14 Duval County and the Benavides Independent
15 School District, Mr. Odam.

16 MR. ODAM: For what purpose?

17 MR. MITCHELL: For the purpose of
18 determining the full volume of business that
19 Mr. Couling has done with that operation
20 down there.

21 MR. ODAM: For what purpose?

22 MR. MITCHELL: To show on that --

23 THE MASTER: Well now, I don't really
24 know where we are here. You are suggesting
25 that the Attorney General has certain

1 original checks that it obtained, I take
2 it, from the treasurer of the county of
3 Duval?

4 MR. MITCHELL: Judge Meyers --

5 THE MASTER: I don't suppose you want
6 them all, Mr. Mitchell, if you specify what
7 you want and he has them, then I would be
8 inclined to order them delivered.

9 MR. MITCHELL: May I, for the purpose
10 of the Court's order, say this: I say that
11 the Attorney General hasn't any business
12 in this litigation. I have said that by my
13 motion to disqualify. I don't think a
14 judicial disqualification or a qualifica-
15 tion procedure, if it please this Court,
16 has to be couched in terms of the Attorney
17 General or law enforcement. I don't think
18 that is the essence, that is my first part.

19 Secondly, I have a right here to
20 impeach Mr. Couling, Brother Couling, and
21 to do so, I have to have those checks
22 because the Attorney General has selectively,
23 through his task force -- that is another
24 thing I was going to show, this is a
25 physical size of a highly intense task

1 force operation beginning the first part
2 of this year and this is -- these are
3 public documents that they have in their
4 possession, public documents, Your Honor,
5 that they have in their control that I
6 should be entitled to look at for the
7 benefit of my client.

8 THE MASTER: Why do you call them
9 public documents?

10 MR. MITCHELL: They are records that
11 are filed with the treasury of the county.

12 THE MASTER: Checks is what you are
13 saying.

14 MR. MITCHELL: Sure.

15 THE MASTER: Returned checks?

16 MR. MITCHELL: Right, and also, Your
17 Honor, under the law, those jackets are filed
18 with this man's office, the auditor, and
19 they are maintained under the law in those
20 offices for these constant audits required
21 by the statute.

22 Now to say, because the Attorney
23 General has made an incursion into that
24 county, and seized them, certainly any
25 information -- for a judge, cannot see them

1 and be nut to the task of why, why, why,
2 seems to be stretching first of all the
3 statute and this procedure and to be quite
4 frank with the Court, and the record, I say
5 this is a -- this procedure, Your Honor, is
6 a judicial qualification and should not be
7 one that is criminal or quasi-criminal in
8 it's overtones and that is what it is
9 amounting to and I want the records for the
10 purpose of examination.

11 THE MASTER: You just said it should
12 not be one that is criminal or quasi-criminal.

13 MR. MITCHELL: That's right.

14 THE MASTER: I thought your position
15 was it was criminal or quasi-criminal.

16 MR. MITCHELL: It is, Judge Meyers.

17 THE MASTER: It should not be.

18 MR. MITCHELL: That is right.

19 It should not be and that is why I
20 filed my motion at the outset, I am not
21 going to make a big issue of it and unduly
22 extend the proceeding, but I would like to
23 have those Benavides Implement and Hardware
24 checks for 1974, 73, 72 and 71, those are
25 the ones that are relevant.

1 MR. ODAM: Your Honor, as to the
2 statement, as to how many checks are --
3 frankly, personally, I do not know. I
4 will stipulate as a matter of public record
5 that there is members of the Attorney General's
6 office located in Duval County at the court-
7 house annex.

8 I don't know how many checks they have,
9 but what I do say is that the checks that
10 are relevant to this proceeding are sitting
11 there in that file box, admitted as evidence
12 and are the checks that are relevant and we
13 have obtained those and put them into evi-
14 dence and whatever else there is, I don't
15 know if they exist, and if they do, I don't
16 know what the relevancy is to go into them,
17 except to take more time and to fill up the
18 record.

19 THE MASTER: Well, I think that it is
20 proper to request of Counsel any document
21 that he has in his file here in the hearing
22 room but if you want something else that is
23 in Duval County, it seems to me the appro-
24 priate way to get it is by subpoena, which
25 I will gladly issue if you will simply present

1 me one.

2 MR. MITCHELL: Yes, Judge, we would
3 be glad to do that and I suppose in view of
4 this witness' statement, if I subpoenaed
5 him it wouldn't do any good. He has examined
6 his files and hasn't been able to find them
7 and I can subpoena the Attorney General,
8 I suppose.

9 THE MASTER: You subpoena, I suppose,
10 whoever is in that Duval County task force
11 office.

12 MR. MITCHELL: Yes, sir.

13 THE MASTER: Excuse me, just a second,
14 off the record.

15 (Discussion off the record.)

16 MR. MITCHELL: Thank you, Judge Meyers.

17 THE MASTER: All right, you can do that
18 at the recess, get a subpoena. Do you know
19 who it is down there?
20

21 MR. MITCHELL: No, I have no idea, Judge
22 Meyers. I suppose I will subpoena the
23 Attorney General of the State of Texas.

24 MR. ODAM: You might try John Blanton.

25 THE MASTER: I understand he is a

1 cousin of yours?

2 MR. ODAM: Yes, sir. I don't know
3 if that is literal or figurative. Mr.
4 Blanton told me he was a kissing cousin of
5 Ms. Levatino.

6 (Discussion off the record.)
7

8 MR. MITCHELL: Judge Meyers, may I
9 ask the Court for the purpose of being
10 informed, am I precluded further to show
11 that there -- that the task force and, again,
12 I am offering the testimony so to speak
13 underlying some of these pretrial motions,
14 that we filed, a task force in place or will
15 Counsel accommodate me in the record and the
16 Court by making a statement as to what --
17 I am certainly willing to take Mr. Odam's
18 statement of what is going on in terms of
19 the task force.

20 That it has got a location, it is a
21 highly intense operation and it is attended
22 by law enforcement from the D.P.S. to the
23 Texas Rangers to the I.R.S.

24 MR. ODAM: Is this a question or is
25 this a statement?

1 THE MASTER: He is asking for a stipu-
2 lation.

3 MR. MITCHELL: I can prove it, Mr.
4 Odam, but I don't want to take up the time.

5 MR. ODAM: Well, our position on that
6 has been -- well, the record is clear as to what
7 it is, that goes to pretrial matters which
8 need not be taken up at this time and I would
9 prefer not to stipulate to it for the purpose
10 that, among other things, I do not think it
11 is relevant to this proceeding and to began
12 stipulating to the Attorney General's office
13 going down there to help at the request of
14 the District Attorney on some criminal
15 cases, to stipulate to that would appear to
16 make it somehow relevant to these proceedings
17 and I doubt that is going to be the position
18 taken later on, I don't know.

19 So the answer is, I do not think it
20 would be appropriate to go into those
21 matters at this time as previously stated
22 and, therefore, we will not stipulate to it.

23 I will stipulate that Mr. Blanton is
24 a person that can be subpoenaed for these
25 checks, if there are any that Mr. Hinojosa

1 said has been turned over to the Attorney
2 General's office, which are the ones I know
3 about that are in evidence, they are rele-
4 vant.

5 THE MASTER: In answer to your question,
6 you have not undertaken, I don't think, to
7 go into that. You are not precluded. If
8 there is an objection and it is sustained,
9 then, of course, you can make a bill.

10 MR. MITCHELL: Thank you, Judge Meyers.

1 Q Where is this building that the Attorney General's
2 office is located in in Duval County in relation-
3 ship with the official courthouse?

4 A Well, I would say it is about four blocks away
5 on Main Street in San Diego.

6 MR. ODAM: Your Honor, we -- in light
7 of the Court's instructions, we would object
8 to this line of questioning, that it is
9 relevant to the pleas in abatement, which the
10 Court has pointed out earlier, which are
11 points of fact to be found by the Judicial
12 Qualifications Commission or this Master.
13 They are not relevant to the case, but
14 relevant to the pleas in abatement.

15 THE MASTER: Are you offering this on
16 the merits, Mr. Mitchell?

17 MR. MITCHELL: Yes, sir, for the full
18 spectrum.

19 THE MASTER: What is the relevancy on
20 the merits?

21 MR. MITCHELL: Again, the relevancy on
22 the merits would be in terms of the due
23 process input, that is, that this procedure
24 is not a properly conducted procedure. I
25 would not be wasting the time of the Court,

1 if it was not relevant. As the Court knows,
2 I am not here to take up the Court's time.
3 I think it is relevant to the record to show
4 that the Task Force is there and I don't
5 think a disqualifications procedure -- and
6 this is really a historical procedure, and
7 if we permit it, as attorneys and lawyers and
8 judges, then we are going to set a precedent
9 for a judge in the future that is going to
10 be hard to live with.

11 I would like to have it said that
12 Arthur Mitchell, in this procedure, did say
13 something and that is why I am trying to be
14 careful. I am speaking, and I hope to the
15 record, and I say this procedure, as it is
16 presently conducted, denies due process.
17 There is a situs out of which it is recorded.

18 MR. ODAM: All of that just stated by
19 Mr. Mitchell is stated very eloquently in
20 his pleadings and it is stated in the merits
21 as to whether the Cash Store received money.
22 It is set out in writing on the plea in
23 abatement, and in light of the statute,
24 which I won't go into, my objection is that
25 it is relevant to the pleas in abatement and

1 not to the case on the merits.

2 We would ask that the witness not
3 continue to answer the questions or that it
4 be done on a Bill of Exception, if it be
5 developed at all, at an earlier date.

6 THE MASTER: You mean a later date?

7 MR. ODAM: Yes, later date.

8 Some of this had been to the Texas Supreme
9 Court and that is the earlier date I was
10 thinking of.

11 We have some degree of instructions
12 from the Texas Supreme Court saying we are
13 not going to look at that.

14 MR. MITCHELL: And that is why I think
15 I owe a duty to present it at this level.
16 I can do it on a Bill of Exception, if the
17 Court wishes.

18 THE MASTER: Go ahead and develop it
19 and I will rule on it after it is presented.

20 MR. MITCHELL: All right.

21 Q (By Mr. Mitchell) Mr. Hinojosa, the building is
22 a three story building?

23 A No, two story.

24 Q What is that building called?

25 A The old bank building.

1 Q The old bank building, on the second floor, has
2 been refinished and the county attorney's office
3 is located there?

4 A Yes, sir.

5 Q And there is a large library also located there?

6 A Yes, sir.

7 Q And now, I direct your attentior to the library
8 and other offices and ask you if the Texas
9 Rangers are in that office?

10 A Yes, sir.

11 Q Have you seen Ranger Woods and Ranger Martinez
12 and Ranger Powell come and go out of these
13 offices?

14 A They have their headquarters in that building,
15 yes.

16 Q They have been in Kingsville, are attached to the
17 Kingsville branch, and have been assigned to that
18 office?

19 A Yes, sir.

20 Q And have you seen the staff of the Attorney
21 General, Mr. Blanton, in those offices?

22 A Yes, sir.

23 Q And you have seen Mr. Max Flusche there?

24 A Yes, sir.

25 Q And Mr. Odam, have you seen him in the office?

1 A I don't recall.

2 Q How about Miss Levatino?

3 A I don't recall.

4 Q Also the district attorney of the county, Mr. Guerra
5 and his investigator work out of that office?

6 A Yes, sir.

7 Q And the county attorney, Mr. Richard Garcia,
8 operates out of that office?

9 A Yes, sir.

10 Q And that -- strike that.

11 These folks have maintained in that office
12 records out of the Duval County courthouse?

13 A Yes, sir.

14 Q And they relate to many, many things which
15 relate to Judge Carrillo and all of the
16 commissioners and -- well, the whole spectrum?

17 A Yes, sir.

18 Q And it makes it difficult for you to do
19 business?

20 A Yes, sir.

21 Q Do you have anything left in your office at the
22 courthouse?

23 A Not much.

24 Q And when the Court here instructed you to,
25 yesterday afternoon, to go get the data, you

1 produced here today, where did you go to get the
2 Benavides Implement and Hardware items?

3 A Benavides Implement and Hardware?

4 Q Yes, where did you go?

5 A Cash Store, you mean?

6 Q Yes.

7 A I went to the old bank building

8 Q And those records are what you produced and were
9 there, were they not?

10 A Yes, sir.

11 Q And were you able to ascertain whether the checks
12 for the Benavides Implement and Hardware were
13 there, also?

14 A I don't have any idea. Besides the Attorney
15 General, the I.R.S. has a lot of records, too,
16 I believe, of the Benavides Implement and
17 Hardware Company and other records. I don't
18 recall what other records or ledgers and books
19 are there.

20 Q I believe I missed that.

21 The I.R.S. people have been out there in and
22 out of that old bank building, have they not?

23 A I don't know about the I. R. S.

24 Q For the record, you were not able to find and
25 produce here any of the checks we deem relevant

1 of the Benavides -- from Duval County payable
2 to Benavides Implement and Hardware or from the
3 school district to the Benavides Implement and
4 Hardware?

5 A I don't know anything about the Benavides
6 Independent School District.

7 Q How about the county checks to the Benavides
8 Implement and Hardware?

9 A We had them in the office at one time, but either
10 the I.R.S. or the Attorney General have those
11 records now.

12 Q All right.

13 MR. MITCHELL: Your Honor, we make a
14 formal request, if that -- the Attorney
15 General -- if he has them, produce those
16 which he has for the notice which go from
17 '69, '70, '71, '72, '73, and '74, the
18 Duval County checks to the Benavides
19 Implement and Hardware.

20 THE MASTER: Well, if he has them here
21 in his file, I will ask him to produce them.

22 If you are saying the Attorney General
23 and his some one hundred lawyers, or maybe
24 more --

25 MR. ODAM: One fifty.

1 THE MASTER: Yes, if you are calling
2 on all of them to produce that, then that
3 is denied. You have been told a man named
4 John Blanton may have some of those
5 instruments and I will sign a subpoena for
6 those.

7 MR. MITCHELL: Thank you, Judge.

8 I have no further questions, Your
9 Honor.

10 MR. ODAM: Mr. Hinojosa, I certainly
11 appreciate your coming over here on a short
12 notice yesterday and today, and I don't think
13 we have any further questions at this time,
14 either.

15 THE MASTER: Thank you, Mr. Hinojosa,
16 and you are free to go.

17 Who is your next witness?

18 Do you want to call Mr. Bates?

19 MR. ODAM: Yes, I saw him stick his head
20 in a minute ago, he is here.

21 MR. MITCHELL: Yes, that is fine.
22
23
24
25

1 JAMES S. BATES, JR.,
2 recalled as a witness, having been previously sworn,
3 testified as follows, to-wit:
4

5 THE MASTER: You are reminded, Mr. Bates,
6 you are still under oath.

7 THE WITNESS: All right, sir.

8 THE MASTER: You may proceed, Mr.
9 Mitchell.

10
11
12 E X A M I N A T I O N
13

14 BY MR. MITCHELL:
15

16 Q Good morning.

17 A Good morning.

18 Q I believe you were sworn on the stand on the
19 1st of December, were you not?

20 A Yes.

21 Q And as a result of the examination on that date,
22 a request was made of you, that in your official
23 capacity, to check and see whether there was a
24 signature card for the Benavides Implement and
25 Hardware and a loan ledger sheet for that

1 Benavides Implement and Hardware or Rudolfo
2 Couling and, if there were not, if you would be
3 prepared to make a statement to this Court that
4 there would not be a signature card and loan
5 ledger sheet?

6 A Yes, sir.

7 Q Can you tell the Court what you have done for
8 us and what you have brought back?

9 A I have here the original photocopies of the
10 original documents on file with our bank.

11 I have here a photocopy of the signature
12 card of the Benavides Implement and Hardware
13 Company.

14 Q Can you produce it, please?

15 A Yes, sir.

16 Q Let me ask you -- you have handed me the two,
17 they are the same, one is a copy of the other?

18 A Yes, sir.

19 MR. MITCHELL: Would you mark this?

20

21 (Whereupon, the above-mentioned
22 document was marked R-70 for
23 identification.)

24

25 Q (By Mr. Mitchell) I hand you what has been marked

1 R-70 and this is a copy of the signature card
2 for the Benavides Implement and Hardware.

3 A Yes.

4 Q And it appears -- strike that.

5 These are kept in the regular course of
6 business of the bank, are they not?

7 A Yes, sir.

8 Q And of course, under the statute, the law
9 requires the contract of deposit show the persons
10 who are authorized to draw on the account?

11 A Yes.

12 Q And no other person can?

13 A Yes, sir.

14 Q And the signature appearing on that exhibit is
15 what?

16 A R. ~~N.~~^{M.} Couling.

17 MR. MITCHELL: I offer it, Your Honor,
18 R-70.

19 THE MASTER: R-70 is admitted.

20 Q (By Mr. Mitchell) In the examination of the
21 records for the signature card, was an examination
22 made for the full time period to see if they had
23 been changed or any other authority presented to
24 the bank?

25 A Yes, sir, I checked with my head bookkeeper and

1 we went through the entire files and could find
2 no other signature card on file anywhere.

3 Q In your capacity with the bank, if a signature is
4 written on a check by any other person, not
5 authorized to write on that account, what are
6 the instructions to the people of the bank, in
7 regard to this account, if someone else other than
8 R. N. Couling were to sign a check on Benavides
9 Implement and Hardware?

10 A If the signature is not authorized, it is returned,
11 if the signature is not on file. If they call us
12 on a telephone and say I have a new partner, put
13 him on the signature file, he has to sign the
14 signature file before we honor the check.

15 Q I will ask you, you don't have a special form for
16 corporations and partnerships where you have
17 multiple signatures?

18 A Yes, we have three different forms for the various
19 corporations and also personal, a man and wife.
20 Our receptionist doesn't always get the right
21 card out, but it is signed and that is the main
22 thing.

23 Q And Mr. Couling is the only one that had authority
24 on this account?

25 A Yes, sir, I checked with my bookkeeper and asked

1 her if she remembered anything else on that
2 account and she said no.

3 Q Now, if you would, explain that other document.

4 A This is a liability ledger sheet which is a
5 reflection of the loans made by Mr. Couling.

6 Q The liability ledger sheet, is it different from
7 the bank account, the regular checking account?

8 A Yes.

9 Q And it shows only the loans?

10 A Yes.

11 Q And it is distinguished from the checking account
12 in that regard?

13 A Yes, sir.

14 Q And the Court instructed you, I believe, to make
15 a search to see if there were any liability sheets
16 and it was to that request you produce this
17 document?

18 A Yes, sir. The three of us went through the files
19 and this is all we could find.

20 MR. MITCHELL: Let the record reflect
21 the witness handed me two copies of the same
22 document, the liability loan ledger for
23 R. N. Couling.

24 I would like to have this marked as
25 R-71.

1 (Whereupon, the above-mentioned
2 document was marked R-71 for
3 identification.)
4

5 Q (By Mr. Mitchell) I hand you now what has been
6 marked R-71 and ask you if that is the liability
7 loan ledger on R. N. Couling?

8 A Yes, sir.

9 Q And it was the document found in the bank in a
10 regular place to which it would be and it appears
11 to be authentic and proper on its face?

12 A Yes, sir.

13 MR. MITCHELL: We offer it, Your Honor,
14 as R-71.

15 THE MASTER: It is admitted.
16

17 (Whereupon, the above-mentioned
18 document previously marked as R-71 was
19 admitted into evidence.)
20

21 Q (By Mr. Mitchell) May I ask you, for the
22 purpose of interpretation, the liability loan
23 ledger does not have the note itself?

24 A No, sir.

25 Q And behind it would be any collateral documents?

- 1 A No, sir, if the note is still in the bank, it
2 would be in our collateral file.
- 3 Q What you are saying is, if that note were still
4 outstanding, you could go to your commercial loan
5 files, pick that out and tie it to the loan
6 ledger?
- 7 A Yes, sir.
- 8 Q And the note would reflect the amount of payments
9 and the date and whether it was collateralized?
- 10 A Yes, sir.
- 11 Q And once it is paid off, the liability ledger is
12 credited to show the full payment?
- 13 A It would not necessarily show the interest and
14 other charges unless they were on the face amount
15 of the note, but the payments would be shown.
- 16 Q But once paid, the note is marked paid and
17 delivered to the debtor?
- 18 A Yes, sir.
- 19 Q So the bank would not keep a copy of the note?
- 20 A No, sir.
- 21 Q And it would be reflected in the ledger, however?
- 22 A Yes.
- 23 Q And the other supporting documents?
- 24 A Yes.
- 25 Q All right. Do you have those here?

1 A Yes, I have our permanent loan files.

2 MR. MITCHELL: Let me ask that be marked
3 as R-72.

4
5 (Whereupon, the above-mentioned
6 document was marked R-72 for
7 identification.)

8
9 Q (By Mr. Mitchell) Now, you were about to tell us
10 about a document in the permanent loan file, and
11 can you tell us what that is and tell us where
12 it is kept?

13 A This is typed off the face of the original note.
14 It shows the note number, the due date, the
15 officer and the type of interest and insurance and
16 the amount of the note, who the note was made to,
17 his address and the endorser or collateral.

18 Q And the person typing from the original note is
19 under instructions to make an exact copy of the
20 information needed on those notes?

21 A Yes.

22 Q And these are overseen by the State Banking
23 Commission and also by the officers of the bank?

24 A Yes.

25 Q Is that a copy of one kept in your bank?

1 A Yes.

2 Q And it is kept in the usual and customary manner
3 and ordinary manner?

4 A Yes.

5 Q And it is found in the bank records?

6 A Yes, sir.

7 MR. MITCHELL: We offer R-72.

8 THE MASTER: R-72 is admitted.

9

10 (Whereupon, the above-mentioned
11 document previously marked as R-72 was
12 admitted into evidence.)
13

14 Q (By Mr. Mitchell) R-72 is related to R-71, the
15 check?

16 A The liability ledger.

17 Q I am sorry, how does R-72 relate to R-71, if it
18 does?

19 A The liability loan ledger reflects all the loan
20 transactions for this customer throughout his
21 history throughout the bank. R-72 reflects an
22 individual loan.

23 Q Let me ask you some questions about that.

24 The borrower is R. N. Couling?

25 A Yes, sir.

1 Q And the date of loan is what?

2 A November, 1972, the original document.

3 Q The evidence of the debt, is that shown to be a
4 note he executed a note to the bank?

5 A Yes, sir.

6 Q And the transaction is further commensurated in
7 your bank by R-71 and R-72?

8 A Yes, sir.

9 Q And do the documents show how many loans were
10 made?

11 A R-71 shows that he made one loan. He made four
12 credits to it and one renewal extension.

13 Q And does R-71 show when the loan was paid, if it
14 was paid?

15 A Yes, sir.

16 Q And does it show whether the loan was collateralized?

17 A Yes.

18 Q What does it show?

19 A That is the reason I brought R-72. R-71 shows a
20 chattel mortgage and R-72 shows F.S., which is
21 financial statement.

22 Q Of the borrower?

23 A Yes, or the endorser, if there is an endorser,
24 but in this case, there is not.

25 Q Where a note is guaranteed by a third person, is

1 there a symbol placed on the bank ledger sheet
2 indicating a guarantee, Mr. Bates?

3 A Yes, sir.
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1 Q All right, I'll ask you, looking at 71 and 72,
2 the documents that you have and from your per-
3 sonal knowledge gained in examining this file,
4 can you tell this Court whether or not there was
5 a guarantee on this loan?

6 A Yes, sir, R-71 reflects a chattel mortgage. R-72
7 reflects that that chattel mortgage was a finan-
8 cial statement and I have a copy of the financial
9 statement that was used.

10 Q We submit -- well, null that out then.

11 MR. MITCHELL: May I have it marked as

12 R- --

13 A Front and back, two front and backs.

14 (Marked for identification as Exhibit
15 R-73.)

16 Q I'll hand you what has been marked as Exhibit
17 R-73 and ask you if that appears to be a part of
18 the official file of the First State Bank and
19 Trust Company of Rio Grande City under date of
20 November 1st, 1972, showing the financial condi-
21 tion of the Benavides Implement and Hardware
22 Company at Benavides, Texas, Mr. Bates? Is that
23 document --

24 A Okay, this is a financial statement submitted by
25

1 Mr. Rudolfo M. Coding listing his business
2 address as Drawer M, Benavides, Texas, and he
3 states his type of business is ranching and hard-
4 ware and implements.

5 Q All right, and this is --

6 A This purports to be his personal financial
7 statement.

8 Q And it is a financial statement that was given
9 to the bank pursuant to the loans that you have
10 told us about appearing in R-71 and R-72, am I
11 correct?

12 A Yes, sir. It is dated, I believe, the 1st of
13 November and the loans were paid on the 7th of
14 November.

15 Q All right.

16 A 1972.

17 Q And it appears --

18 MR. MITCHELL: Strike that.

19 Q And it was on the strength and the basis of the
20 representations contained in this financial state-
21 ment being R-73 on which the bank relied in mak-
22 ing the loan and no other collateral as it appears
23 from the record, am I correct?

24 A Yes, sir.

25 MR. MITCHELL: We offer R-73, Judge.

1 THE MASTER: Admitted.

2 (Discussion off the record.)

3
4 Q All right, now, of course, the loan according
5 to R-71, it was for thirty-five hundred dollars,
6 am I correct?

7 A Yes, sir.

8 Q And, of course, Mr. Couling showed on November
9 the 1st, 1972, five thousand dollars cash on hand,
10 three thousand dollars accounts receivable, eleven
11 thousand -- eighteen thousand dollars worth of
12 merchandise at cost, am I correct?

13 A Yes, sir.

14 Q Furniture and fixtures, five hundred thousand
15 and --

16 A No, five thousand.

17 Q Five thousand and two hundred thousand dollars
18 worth of real estate owned?

19 A Yes, sir.

20 Q Machinery and equipment twenty-five hundred
21 and, I believe, five thousand. With the reverse
22 side of R-73 containing his affidavit and the
23 statement that the foregoing are representations
24 that are the basis of reliance by the bank, am
25 I correct?

1 A Yes, sir, we use these in normal banking proce-
2 dure and to back us up, we use 18 U.S.C.,
3 Section 1014.

4 Q So that is a federal violation for there to be
5 a misrepresentation in the procurement and
6 advancement of a credit of a bank that is insured
7 by the F.D.I.C. on the basis of his statement in
8 those applications, am I correct?

9 A Yes, sir.

10 (Discussion off the record.)
11

12 Q R-73, of course, has a provision, a place for
13 the inclusion of all business interests, assets,
14 et cetera, does it not?

15 MR. ODAM: Your Honor, I believe this
16 is repetitious. The Exhibit speaks for
17 itself, every item, it tells what it is,
18 the entire record. We don't have to go
19 through it, I don't believe.

20 THE MASTER: I sustain that objection.

21 Q Thank you, Mr. Bates. Is there any evidence,
22 Mr. Bates, in R-70, 71, 72, 73, that there was
23 any guarantee executed in connection with this
24 loan from the First State Bank and Trust Company
25 to Rudolfo Couling? Is there any evidence that

1 there was a guarantee issued by Ramiro Carrillo,
2 O. P. Camillo, or anybody else for that matter?

3 A No, sir. All the evidence purports to be Rudolfo
4 M. Couling and the bank.

5 Q All right, is there any evidence in the bank's
6 file to show that the Benavides Implement and
7 Hardware Company was other than a sole proprietor-
8 ship and owned and operated by R. M. Couling?

9 A No, sir.

10 Q And has Mr. Couling and Benavides Implement and
11 Hardware maintained an account with your bank up
12 to date, do you know?

13 A Up until sometime this summer was the last time
14 that I -- you are talking about the checking
15 account now?

16 Q Yes, sir.

17 A Sometime this summer, I forget the exact date.

18 Q And by this summer, we are talking about 1975?

19 A Yes, sir.

20 Q All right, commencing with the dates of R-70
21 and to date, I will ask you the same questions,
22 is there any evidence in your bank files showing
23 any change of the business entity to a partner-
24 ship, corporation or otherwise?

25 A No, sir, we checked everything that I could think

1 of.

2 Q Any evidence on your bank file of any guarantee
3 from O. P. Carrillo, Ramiro Carrillo or anybody
4 else on any line of credit for Mr. Couling?

5 A No, sir.

6 Q Any evidence on your bank records of any control
7 over the Bensvides Imolement and Hardware or R.M.
8 Couling or Rudolfo Couling's business by anybody
9 but him?

10 A No, sir.

11 Q Has that got anything to do with me --

12 MR. MITCHELL: Excuse me, Your Honor,
13 may I address the witness?

14 THE MASTER: You may talk to him off
15 the record.

16 MR. MITCHELL: May I talk to him off
17 the record, please?

18 THE MASTER: Yes, sir.

19 (Discussion off the record.)
20

21 MR. MITCHELL: I believe I have no
22 further questions of this witness, Judge
23 Meyers.

24 THE MASTER: That is on the record, I
25 take it?

1 MR. MITCHELL: Yes, sir, I am on the
2 record, Judge.

3 THE MASTER: All right, Mr. Odam.

4
5
6
7 EXAMINATION

8 BY MR. ODAM:

9
10 Q Yes, Mr. Bates, I appreciate you coming back
11 over. Do you know whether or not Mr. Flusche
12 talked with you or Mr. Anderson about some better
13 copies of some checks?

14 A Around four-thirty yesterday afternoon I found
15 out that he had sometime late in the afternoon
16 talked with Mr. Anderson and said he wanted, I
17 believe, forty-five copies of some checks.
18 I had not seen Mr. Anderson before that and
19 I was trying to meet the one o'clock deadline on
20 the bus so I could get it up here.

21 Q I see.

22 A He told Mr. Flusche that I wasn't coming.

23 Q All right.

24 A Because he thought I had made the deadline, because
25 I was hiding out in another part of the bank and

1 I didn't make the deadline getting those records
2 together.

3 Then when I told him, he said that they
4 wanted forty-five photocopies and --

5 Q Do you know what photocopies, copies of what?

6 A No, sir, I didn't ask him, of checks, but I don't
7 know what checks.

8 Q All right.

9 A Or of what account, but we couldn't have produced
10 them this morning anyway.

11 Q I see. What about the -- who is Mr. Anderson?

12 A President of the bank.

13 Q And that is Mr. -- what is his first name?

14 A Frank L. Anderson.

15 Q All right, fine. So you did not, obviously,
16 from those statements, you did not bring these
17 forty-five checks with you today?

18 A (Witness shakes head no.)

19 Q You have a copy of R-70 there before you?

20 A No, sir, they took them off.

21

(Handed to the witness.)

22

23 Q Looking at R-70, when did Mr. Couling sign this
24 signature card?

25 A This -- it doesn't reflect a date on it, but it

1 has to be signed and in the files before the
2 first check comes through when an account is
3 opened.

4 Q I show you what -- I believe you brough these
5 over yourself, E-162, is that what you are referring to?
6

7 A Yes, sir.

8 Q So this -- can you tell what date that this
9 checking account E-162 started up?

10 A The first deposit was on November the 8th, 1972.

11 Q And it is for how much?

12 A The first deposit was three thousand four hundred
13 seventy-three dollars and seventy-five cents.

14 Q And then, I believe, your loan ledger sheet liability
15 shows that there was a loan taken out in --

16 A Yes, sir, it does --

17 Q -- in November for thirty-five hundred dollars?

18 A Yes, sir, and if I can explain the discrepancy.

19 Q Yes, sir.

20 THE MASTER: Go ahead.

21 A All right, I believe. I didn't think of this
22 yesterday, so I didn't check it on an adding
23 machine, but I believe if you will subtract
24 twenty-six dollars and twenty-five cents from
25 thirty-five hundred dollars you will get the

1 actual deposit to that account.

2 The twenty-six dollars and twenty-five cents
3 is life insurance, credit life insurance, that
4 was put on this loan and that should balance the
5 thirty-five hundred dollars.

6 Q So it is your testimony that based on your exper-
7 ience in the bank that also -- correction, R-70
8 is not dated, that that would be sometime on or
9 about the time the checking account was opened,
10 which would be around November the 8th?

11 A Yes, sir, if it hadn't have been, he couldn't
12 have cashed any checks.

13 Q So that -- okay, R-70 is not dated. I notice
14 over on the righthand side it says individual,
15 firm or partnership. You mentioned earlier about
16 you have different forms if it is a partnership
17 or an individual, is that correct?

18 A Yes, sir, we do now. Now, I wasn't with the
19 bank in 72 so I don't know. Maybe at that time
20 they only had one form with the blocks in the
21 upper righthand corner.

22 Q So any -- so by looking at the card we cannot --
23 since it was not filled in by the bank or Mr.
24 Couling, we cannot tell yea or nay if it is an
25 individual account or a partnership account or a

1 firm account, is that correct?

2 A That is correct, but he is the only one that has
3 the authority to sign on it.

4 Q Right, I understand. It was discussed the other
5 day, and I think the comment was made and we can
6 clarify this E-162 is the activity. Did you check
7 to determine, I believe Mr. Mitchell had asked
8 you this, if there was any other activity other
9 than this?

10 I believe Mr. Flusche had asked you to just
11 check some certain months and from your testimony
12 now appears that the first sheet is when it
13 actually started up?

14 A Yes, sir, I, like I said earlier, I checked with
15 my ~~had~~ bookkeeper who has been there about nine
16 years, I believe, and she says that that is the
17 only account we have ever had and it starts
18 then and ends with either the last date there
19 or up to date, but the last -- what is the last
20 date you have there, sir.

21 Q The last date we have is balance ending Decem-
22 ber 31, 1974.

23 A Well, I think I saw some ledger sheets up until
24 sometime around the middle of this summer, yes-
25 terday.

1 Q All right.

2 A But I didn't really look at the dates and I
3 don't believe there was any activity on it.
4 I am not going to swear to that, that is -- I
5 am shooting off the top of my head on that part.

6 Q But obviously the first page is when it started?

7 A Yes, sir.

8 Q And it went through at least this last page?

9 A Yes.

10 Q On R -- correction, R-71, I notice that in
11 December the 18th there was -- I am not too
12 familiar with how to read these bank sheets.

13 A All right, would you --

14 Q Where it says credit, do you have R-71 before you?

15 A Yes, sir, that is a thousand and six dollar
16 credit to that note paid on December the 18th,
17 1972, reducing the balance.

18 Q Okay. And, of course, all of the credit column
19 thereafter shows -- those are deposits made and
20 reducing the balance of the loan?

21 A Yes, sir.

22 Q Can you tell whether or not, for example, on
23 the third one down one thousand five hundred and
24 ninety-four dollars, would that be more than
25 one deposit or would that just be a check for

1 that amount of money or --

2 A May I start at the top of the credits and try
3 to clarify that?

4 Q Yes.

5 A All right, I tried to look up all the records
6 for these four credits to find out where they
7 had come from.

8 The thousand and six dollar payment, and I
9 have some supporting documents that I can explain
10 better with, was made from a thousand and six
11 dollar check from the -- it was a check from the
12 treasury of Duval County to Benavides Implement
13 for a thousand and six dollars and it was used
14 in it's entirety to pay this check -- this credit
15 here on this note.

16 Q I show you what has been marked as E-94 which
17 is a check on San Diego treasury of Duval County
18 for a thousand and six dollars on -- it is iden-
19 tified claim number, et cetera, but it is dated
20 December the 12th. Do you know whether or not
21 this county check E-94 for a thousand and six
22 dollars dated December 12th is the same one you
23 are referring to that made that payment on the
24 note December the 18th?

25 A I couldn't swear to that right now.

1 Q And how --

2 A I would assume it is, but I can't --

3 MR. MITCHELL: Pardon me, Mr. Bates.

4 Of course the witness has been very candid,
5 he cannot swear to it.

6 MR. ODAM: Right.

7 MR. MITCHELL: And anything else would
8 be speculation, Judge.

9 THE MASTER: And that is clear in the
10 record.

11 MR. ODAM: That's right, and I don't
12 want any speculation, I should go back --

13 Q You made the statement earlier which prompted
14 my question: how do you know that Duval County
15 check for a thousand and six dollars deposited on
16 that date, how do you know it was a Duval County
17 check?

18 A Okay, we maintain a ledger which is this here,
19 in my hand is a copy of every check that comes
20 into the bank for over one thousand dollars and
21 it is made daily.

22 Now, this is maintained to keep an eye on
23 potential kiting operations. And I had -- since
24 this payment was over one thousand and six dollars,
25 I checked that ledger on that date and there was

1 a thousand and six dollar check came through,
2 Benavides Implement Company.

3 Now, I would not need -- the reason I didn't
4 check further into this, is because I had to be
5 here this morning.

6 Q Sure, I understand. You weren't asked to do it.

7 A It would be -- it would probably take me three
8 or four days to go back to the tellers tapes, the
9 proof computer tapes, the microfilm --

10 Q Right.

11 A And I worked from ten -- from eight until five on
12 it.

13 Q I appreciate it and I am sure Mr. Mitchell does
14 and the Court, at the time you have put in on
15 getting these records together on a short period
16 of time.

17 I will show you again E-94 and show you
18 the back of E-94 and show you a circle below the
19 name of R. M. Couling. Can you identify what
20 that circle is?

21 A Well, I can't read it, I can't read all of it,
22 but it appears to be a paid stamp, one of our
23 tellers -- from one of our tellers, dated Decem-
24 ber the -- I believe the 18th, 1972. It could
25 be a received stamp or a paid stamp, but it is

1 not legible there.

2 Q But it is dated December the 18th, 1972?

3 A Right.

4 Q Indicating this check for a thousand and six
5 dollars from the county came in to the bank on
6 December the 18th, 1972?

7 A Yes, sir.

8 Q All right. Can I see the back of it again?

9

(Handed to the witness.)

10

11 Q All right, now you --

12 A It says on here for note payment.

13 Q Okay, right, and then -- okay. Now, you were --

14 I had started with fifteen ninety-four and you
15 have been kind enough to start back up with a
16 thousand and six. Let's go to the next one,
17 nine hundred dollars.

18 A All right, the nine hundred, I have also here a
19 photocopy of the charge made to the R. M. Couling
20 account. It says R. M. Couling on the charge
21 but it was made to the Benavides Implement account
22 number 136638. It says partial payment on note
23 number 79947 as per your instructions.

24 Q So that would be a check out of --

25 A Out of his --

1 Q Out of his checking account?

2 A Right.

3 Q All right.

4 A Now, on the fifteen hundred and ninety-four
5 dollar account, payment on that note account,
6 I again, on that date, checked the over one
7 thousand dollar ledger and I found another check
8 from the county of Duval payee, Benavides Imple-
9 ment Company, for a thousand and six dollars.

10 Q Is that a date on that?

11 A That is on the over one thousand dollar list.
12 This is 6-11-73, the same date as the payment
13 reflected on R-71.

14 Now, the other five hundred and eighty-eight
15 dollar balance, I could not account for in the
16 time I had before they closed the vaults.

17 The final payment of seven hundred and
18 ninety-seven dollars, of course, is not over a
19 thousand and I had no way to check that except
20 to go back to the tellers tapes, the computer
21 and proof tapes, and I just simply didn't have
22 time to do that.

23 Q I will show you what has been marked as E-109
24 Examiner's Exhibit, which is a Duval County check
25 in the amount of one thousand six dollars dated

1 June the 5th and on the back of that check, can
2 you identify what the circle -- it is a little
3 bit clearer copy on this one.

4 A This one says June the 11th, 1973, which is also
5 the same date that payment was made to the note
6 account. It says pay to the order of the bank,
7 it is a receipt that we received it, it went
8 through our bank.

9 Q All right.

10 A And it says for deposit.

11 Q All right.

12 MR. MITCHELL: Is that Exhibit 106,
13 please, John?

14 MR. ODAM: Yes -- well, wait.

15 MS. LEVATINO: No, it is 109.

16 MR. ODAM: It is Exhibit 109.

17 MR. MITCHELL: Thank you.

18 Q Now, Mr. Mitchell asked you a number of questions
19 about negotiations of the note, et cetera. Do
20 you know of your own personal knowledge the per-
21 sons involved in the negotiations of the note?

22 Did you see Mr. Couling, for example, in
23 the bank or anyone else, or were you even at
24 the bank as an employee or an officer at that
25 time?

1 A No, sir, I don't believe I was there. I might
2 have been, I don't remember. I have been there
3 three and a half years. Mr. Charles -- Bob
4 Richmond --

5 Q All right.

6 A -- handled the note at that time and he is now
7 deceased.

8 Q Okay.

9 MR. ODAM: Mr. Mitchell might have
10 some further questions of you. I really
11 appreciate you coming back over.

12 From your testimony, it is obvious,
13 Your Honor, and Mr. Mitchell, that we have
14 requested that the bank make better copies
15 of these photostatic copies of Plains
16 Machinery, plus the forty-five checks I was
17 referring to, what our request was, all
18 checks drawn on the Benavides Implemnet and
19 Hardware account, I believe, and if not,
20 at least all of the checks on B. D. Holt
21 and Plains.

22 The reason I make this comment is I
23 would like, if we could, to stipulate so
24 Mr. Bates -- we missed his scheduling, if
25 we could stipulate that if he were here on

1 the stand that he would testify that someone
2 from the bank made up the photostatic copies
3 and the photostatic copies of those were
4 made from their bank records so that we
5 don't have to ask Mr. Anderson or Mrs.
6 Gonzalez or Mr. Bates to come over just for
7 that purpose.

8 So, hopefully, we can just get those
9 in here somehow tomorrow.

10 MR. MITCHELL: I am wondering if also,
11 Your Honor, if we can have the witnesses
12 testimony, and request that be put to the
13 witness, in light of the request put to
14 the witness by counsel, if I might have those
15 deposit slips from Duval County that went
16 to pay off those notes.

17 I have no objections, of course, I
18 wouldn't object to those better copies and
19 I am thinking again, I know Counsel is
20 asking what he thinks is relevant and I
21 would like to ask the witness to produce
22 what I think is relevant, which will be the
23 deposit slips.

24 MR. ODAM: I don't have any objection
25 to that and I don't know -- I don't know how

1 these checks are getting over here, but I
2 would stipulate that I have no objection to
3 the authenticity of those.

4 If we can get those on the bus, you
5 know, pursuant to some of the record conver-
6 sations --

7 MR. MITCHELL: I just make a similar
8 statement then to Mr. Odam.

9 THE MASTER: Mr. Bates, are you pre-
10 pared to spend tomorrow finding these records
11 that these gentlemen have requested or have
12 someone in your bank?

13 MR. ODAM: Mr. Anderson, perhaps he
14 made those. My understanding actually was
15 that those are being made during today and
16 that someone was going to bring those over
17 from the bank, so hopefully -- that -- my
18 request of you is being carried out by
19 somebody else. Now, Mr. Mitchell's request
20 of you --

21 MR. MITCHELL: Let me -- may I ask
22 a question of the witness, Your Honor,
23 before --

24 THE MASTER: Yes, sir.
25

- - - - -

R E - E X A M I N A T I O N

BY MR. MITCHELL:

Q Mr. Bates, the sum and substance of your testimony is that Mr. Guling opened an account in your bank in the name of the Benavides Implement and Hardware and signed a signature card stating that he was the sole owner of that business entity and he would have the sole power and control over that account, am I correct?

MR. ODAM: I correct the statement on that. The card speaks for itself.

THE MASTER: That's correct, the card does not indicate sole ownership, there is no check in either box.

MR. MITCHELL: Well, Your Honor --

THE MASTER: The form of the question is --

MR. MITCHELL: All right, I withdraw the question.

Q You would not, of course, under that signature card, would not have left any instructions, nor would you personally have honored any other order

1 on the account from the day it is opened to this
2 date, am I correct?

3 MR. ODAM: I object to that, the wit-
4 ness has testified he was not here at the
5 time -- I am not sure on this, that the
6 witness does not have personal knowledge as
7 to filling out of this particular card
8 because he was not at the bank. I am not
9 sure that he would be qualified to speak
10 to that particular question. He was not a
11 bank officer at that time.

12 MR. MITCHELL: Judge, I am not going
13 to quibble with Counsel, I am going to refer
14 to the U.C.C. and the N.I.L. and the bank
15 collections.

16 Q All right, at any rate, in addition, Mr. Bates,
17 your inquiry into that account indicates that
18 the account was opened with borrowed money?

19 A Yes, sir.

20 Q From that -- from the bank, collateralized by
21 a note and financial statement which is R-73?

22 A Yes, sir.

23 Q And that that money went into that account?

24 A Yes, sir.

25 Q And part of the payments made on that note were

1 made by Mr. Couling with checks drawn payable
2 to him from the Duval County treasury, is that
3 correct?

4 A That is the way I read the records, yes, sir.

5 MR. MITCHELL: I believe I have no
6 further questions, Judge Meyers, of this
7 witness. Thank you.

8 MR. ODAM: I have no further questions,
9 thank you, very much.

10 THE MASTER: All right, now, excuse me
11 just a minute, Mr. Bates, you have what
12 requests of him, Mr. Mitchell, I understand
13 the checks.

14 MR. MITCHELL: I do have one more.

15 THE MASTER: All right, they are
16 already being prepared by Mr. Anderson.
17 Now, your request of him was what?

18 MR. MITCHELL: In view of, Your Honor,
19 the questions put to the witness by Counsel
20 for the Examiner on the deposits, into
21 that account and the identity of them, it
22 raised the question in my mind and I think
23 the record should not reflect the source of
24 those deposits which are checks apparently
25 from Duval County which becomes very important

1 in my thinking and I would like to have him
2 reproduce those deposit slips showing the
3 deposits in that account.

4 THE MASTER: All right, now, what
5 deposit slips?

6 MR. MITCHELL: Mr. Couling deposited
7 money into that account in the bank.

8 THE MASTER : From what period?

9 MR. MITCHELL: That is reflected,
10 Your Honor -- may I have that Exhibit?

11 MR. ODAM: This is our work copy, it
12 is there in the box, I believe.

13 (Discussion off the record.)
14

15 MR. ODAM: All right, the dates start
16 November of 1972, say November 1 of 1972
17 through December 31, 1974.

18 MR. MITCHELL: Now, the question was --

19 THE WITNESS: And the checks also?

20 THE MASTER: I don't know.

21 THE WITNESS: In other words, you want
22 photocopies of all activity of that account
23 into and out of.

24 MR. MITCHELL: That summarized it pretty
25 well.

1 MR. ODAM: Yes, sir, I don't -- my
2 only objection to Mr. Bates having to go
3 back and take more time to make up the
4 deposit slips, it appears I think to be
5 repetitious and time-consuming if, in fact,
6 these checks are being made on the account,
7 which is the best evidence of it going into
8 the account.

9 THE WITNESS: Well, what I am --

10 MR. ODAM: And if we have the amounts
11 of deposits, I am not sure what we are --
12 what more could be shown from making up
13 some deposit slips, if there is something,
14 you know, I would like to know.

15 MR. MITCHELL: What I have in mind,
16 Your Honor, would be Counsel is correct up
17 to a point, but if they are deposits coming
18 into that account and a debit against that
19 deposit being a Duval County check against
20 a personal note, the thirty-five hundred
21 dollars, that is another story and that is
22 what I am trying to show.

23 THE MASTER: If you will simply state
24 to the witness.

25 MR. MITCHELL: All right.

1 THE MASTER: -- what your request is,
2 so that the record will be clear.

3 MR. MITCHELL: All right.

4 THE MASTER : And the witness will be
5 clear, it will be helpful.

6 MR. MITCHELL: Mr. Bates, I think you
7 summarized it correctly. I am interested
8 in the reproduction of the deposit slips
9 showing the source of the deposits into those
10 accounts for those dates.

11 May I ask you, and I think you answered
12 this, but I certainly want the record abun-
13 dantly clear: The exhibit which is intro-
14 duced as the bank statement which you pro-
15 duced for us at a prior time covers the
16 full spectrum of that account that is from
17 November of 70 to the last month of 74, or
18 are there others? I think you and I talked
19 about that?

20 A I believe there are some 75's, I will check on
21 those.

22 Q (By Mr. Mitchell:) All right.

23 A And we will run those out, too, I guess.

24 Q And so that the record is correct, that account
25 is not a dormant or dead account, there are

1 ledger sheets being sent out even to the date
2 that you are sitting here on the witness stand,
3 isn't that correct?

4 A I believe so.

5 Q And this, of course, is December of 1975.

6 MR. MITCHELL: Thank you, Mr. Bates.

7 MR. ODAM: Your Honor, only -- the only
8 comment I would make is to the relevancy and
9 I thought that he has stated to be the
10 relevancy of these slips. I would object,
11 though, to the relevancy of the deposit
12 slips and I would pose the objection, even
13 though I know it is out of turn because they
14 are not being offered at this time, just
15 generally saying what they are.

16 I think it would be appropriate to
17 object on the grounds of relevancy so this
18 witness would not have to go back up and
19 make up deposit slips. I don't see how they
20 are relevant. The witness has stated that
21 thus far --

22 THE WITNESS: While my girls are taking
23 off the checks, they can take off the
24 deposits the same time and save me from
25 having to do it next week.

1 Now, this alone, either way or both,
2 is going to take a minimum of two people
3 three days to do.

4 You are talking about from November, 72,
5 to December of 74, you are talking about
6 sixty or seventy rolls of microfilm that
7 are going to have to be scanned. So, if,
8 Your Honor, let me do it once, please or --

9 MR. ODAM: Like I say, my only under-
10 standing is that that was being done, maybe
11 you were not aware of this, it was being
12 done today, they are supposed to come over
13 tonight so, therefore, it is being scanned
14 right now and it would be repetitious for
15 you to have to do it.

16 Again, my only objection is on the
17 grounds of relevancy and I hate to see all
18 of that --

19 THE MASTER : I cannot rule on the
20 relevancy until I see the Exhibits.

21 MR. ODAM: I understand.

22 THE MASTER: The request has been
23 made. If there is expense involved, it is
24 the obligation of the person making the
25 request to pay that expense. Do you agree

1 with that, Mr. Mitchell?

2 MR. MITCHELL: I sure do, Judge Meyers,
3 and may I point out for the record, Your
4 Honor, I would have agreed with Counsel on
5 the relevancy but for those questions just
6 put to the witness within the last thirty
7 minutes which I thought were very good
8 questions, which I was very interested in
9 in terms of the prior sworn testimony of
10 his own witness, Mr. Couling, that all of
11 the monies that came in from Duval County
12 went to Judge Carrillo.

13 MR. ODAM: I object to that statement.
14 That does not comport with the testimony.

15 THE MASTER: It is not evidence in the
16 matter.

17 MR. MITCHELL: I thought, Your Honor,
18 that I would answer his statement, his bald
19 statement unchallenged. It is not relevant
20 and I thought the record ought to speak, my
21 notion was that the note was brought in here
22 showing that it opened that account which he
23 had absolute and sole control over and then
24 these proceeds from these checks paid off
25 that note, then it becomes a different story

1 where Mr. Couling is concerned.

2 THE MASTER: Mr. Bates, in a moment
3 you will step down and you may wish to call
4 your bank to tell them to get these deposit
5 slips, too, in addition to this other scan
6 they are making.

7 THE WITNESS: Yes, sir.

8 THE MASTER: Any further questions of
9 Mr. Bates?

10 MR. MITCHELL: No, thank you, Judge
11 Meyers.

12 MR. ODAM: No, sir.

13 THE MASTER: You are excused, Mr. Bates.
14 We will be in recess until 10:20.

15 (Whereupon the hearing was in recess
16 from 10:00 a.m. until 10:20 a.m. of the same
17 day.)
18
19
20
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25

1 THE MASTER: Mr. Odam, I understood
2 during the break, in normal conversation
3 between you and Mr. Mitchell and myself,
4 there was some agreement with respect to
5 some checks Mr. Blanton may or may not have.

6 MR. ODAM: Yes, sir, Your Honor.

7 As I stated during the break, it would
8 be our position that we will contact
9 Mr. Blanton and ask him to produce the
10 originals or copies of any checks in the
11 possession of the Attorney General's office
12 in Austin, which I doubt are there, but
13 probably in the office in San Diego, on any
14 checks drawn on Duval County and made out
15 to the Benavides Implement and Hardware,
16 other than those in evidence.

17 MR. MITCHELL: May I also ask that
18 include also checks drawn on the Benavides --
19 on Duval County Water Conservation District
20 and the Duval County Independent School
21 District payable to the Benavides Implement
22 and Hardware?

23 MR. ODAM: The county to the water and
24 school district?

25 THE MASTER: No, any checks drawn

1 against the account of the county --
2 Benavides Independent School District and
3 what else?

4 MR. MITCHELL: Duval County Water and
5 Conservation District payable to the
6 Benavides Implement and Hardware.

7 THE MASTER: Right, that is, drawn
8 against the account of those entities,
9 drawn on those banks, more than one or only
10 one, whichever.

11 MR. OAM: Well, the stipulation certainly
12 goes to the Duval County checks and to
13 Benavides Implement and Hardware.

14 As to the others, I am sure there are
15 those, and I don't know if he has them,
16 but if we produce them, I would object on
17 the grounds of relevancy.

18 MR. MITCHELL: Well, Your Honor, I do
19 not, of course, by this request, intend to
20 represent they are relevant. I certainly
21 don't intend that Mr. Odam waive any
22 objection he has. I might agree they are
23 irrelevant and immaterial and so forth,
24 but I do owe a duty to make an examination,
25 and if I deem they are relevant, I certainly

1 want the rules of evidence applied and I
2 don't, however, want Mr. Odam to erode his
3 position that they are not relevant and
4 material. We would go to the rules of
5 evidence, if we deem they are such.

6 THE MASTER: Well, Mr. Odam, have you --
7 where do you stand with respect to checks
8 on the Benavides Independent School
9 District and the Duval County Water
10 Conservation District, or whatever it is?

11 MR. ODAM: Where I stand as far as
12 stipulating?

13 THE MASTER: Yes, sir.

14 MR. MITCHELL: We would also request,
15 if they have possession, we be allowed to
16 see them.

17 MR. ODAM: I guess my response to that
18 is, assuming they are voluminous, I don't
19 understand why you would want to see them.

20 MR. MITCHELL: I don't want to see any
21 of them drawn into anyone else except this
22 man's business. He has alleged there was a
23 partnership between this man and my client
24 between 1971 -- and who he handled -- well,
25 May, 1971, and that touches vitally on his

1 credibility.

2 MR. ODAM: So you want to see the checks
3 from the water district and school district
4 to Benavides Implement and Hardware?

5 MR. MITCHELL: Yes.

6 MR. ODAM: I don't see what the
7 relevancy would be of producing those checks.
8 Why the water district and why the school
9 district?

10 We are dealing with Benavides Implement
11 and Hardware and it seems to me other checks
12 issued --

13 THE MASTER: You may be able to talk
14 him out of his request at the next break.
15 The request is with respect to a question
16 and if he thinks it is important enough that
17 he issue a subpoena to whoever may be in
18 possession of those, then he probably will
19 do so.

20 MR. ODAM: I will stipulate to the
21 production of the checks drawn on the county
22 to Benavides Implement and Hardware. As to
23 these others, I would not be in a position
24 to stipulate at this time, because I don't
25 know if they have them.

1 MR. MITCHELL: I appreciate that and we
2 will report back to the Court on that.

3 THE MASTER: Fine.

4 You may proceed, Mr. Mitchell.
5
6
7
8
9

10 RUDOLFO COULING,
11 recalled as a witness, having been previously sworn,
12 testified as follows, to-wit:

13
14 E X A M I N A T I O N
15

16 BY MR. MITCHELL:
17

18 Q Mr. Couling, I want to go back and ask you some
19 other areas in light of the -- some additional
20 testimony that has been produced since I believe
21 you testified, and this is the 3rd of December,
22 and you were on the stand, I believe, for a short
23 time yesterday, I believe?

24 A Yes, sir.

25 Q And you commenced testifying on the 1st?

- 1 A Yes, sir.
- 2 Q I hand you what has been introduced as R-70 by
3 another witness and ask you if you can recognize
4 that signature as being your signature on the
5 First State Bank and Trust of Rio Grande City
6 account for the Benavides Implement and Hardware
7 Company?
- 8 A Yes, sir.
- 9 Q I also hand you R-73 and ask you if you recognize
10 your signature on the reverse side of that
11 document dated November 1st, 1972, as being the
12 confidential statement in connection with a loan
13 in the amount of three thousand five hundred
14 dollars, which constituted an opening balance of
15 the account in that bank?
- 16 A Yes, sir.
- 17 Q And I hand you R-71 and ask you if that exhibit
18 reflects the loan ledger as accurately as you can
19 recall the transaction with the Rio Grande City
20 bank in opening that account?
- 21 A Yes, it shows I borrowed thirty-five hundred
22 dollars.
- 23 Q And it shows the note was paid off?
- 24 A Yes, sir.
- 25 Q And do you have the original note?

1 A No, sir, I don't know where it is.

2 Q All right. The financial statement that was
3 accompanying that loan transaction was filled in
4 by you?

5 A Yes, sir.

6 Q And it was, of course, attempted to be an accurate
7 reflection of your financial condition on
8 November 1st, 1972?

9 A Yes, sir.

10 Q And you will note it reflects two hundred
11 thousand dollars worth of land in Duval County?

12 A Yes, sir.

13 Q I believe I asked you whether or not you owned
14 any land and you stated you did not, but your
15 balance sheet, in 1972, reflects you did. Was
16 that land sold?

17 A No, that is my wife's land, we still have it.

18 Q That was the land you have the one hundred and
19 twenty head of cattle on?

20 A Yes, sir.

21 Q I notice you have sixty thousand dollars worth
22 of cattle.

23 A How much, sir?

24 Q Sixty thousand, and I believe you owed on them,
25 at that time, six thousand six hundred dollars.

1 A It was thirty thousand on the cattle.

2 Q And you owed six thousand six hundred dollars on
3 them?

4 A Yes.

5 Q Is that accurate?

6 A Yes, more or less.

7 Q And the two hundred thousand dollars worth of
8 land, you don't make any notation there that this
9 is land owned by your wife?

10 A No, sir.

11 Q The Olivera family?

12 A No, sir.

13 Q And if one reads that as it appears, it appears
14 that the land belonged to you; your wife is not
15 a signature on that document?

16 A No, sir.

17 Q And you are telling this Court now that the land
18 there included in that balance sheet to the bank,
19 in support of that three thousand five hundred
20 dollar loan, was your wife's land and not yours?

21 A Yes, sir.

22 Q And that is the land on which the one hundred and
23 twenty head of cattle are grazing?

24 A Yes.

25 Q And is that the land that was bulldozed and root

1 plowed and planted in buffel grass and improved?

2 A Yes, sir.

3 Q And how many acres are there?

4 A Almost eleven hundred acres.

5 Q And that is the same tract the Olivera family owns
6 today, that is all of it?

7 A Yes, every heir has the same amount of acres.

8 Q That is willed to your wife or heired by your
9 wife?

10 A Yes, sir.

11 Q And you were not intending to mislead the bank
12 people by including that as your land?

13 A No, sir.

14 Q You were telling the truth, as regards the value
15 of the cattle at that time?

16 A Yes.

17 Q Who did you owe the six thousand six hundred
18 dollars to for those cattle?

19 A I don't know. It was F.H.A., I believe.

20 Q You did not include any partnership interest in
21 the Benavides Implement and Hardware, allegedly
22 owned by O. P. or Ramiro Carrillo in 1972 in
23 that statement?

24 A No, sir.

25 Q And that statement is made under oath, to which

1 you affixed your signature representing to the
2 bank, and see if I am paraphrasing it correctly,
3 a true statement of your financial statement to
4 which the bank relied upon for this loan?

5 A Yes, to the best of my ability.

6 Q When you put down the merchandise of the Benavides
7 Implement and Hardware, that was what amount?

8 A Eighteen thousand dollars.

9 Q And you didn't say O. P. or Ramiro Carrillo
10 owned part of that?

11 A No, sir.

12 Q What were your fixtures appraised at?

13 A Five thousand.

14 Q You didn't say that was owned by O. P. or Ramiro
15 Carrillo in part?

16 A No, sir.

17 MR. ODAM: Your Honor, the document
18 speaks for itself. It is repetitious and
19 the document certainly can speak for itself.

20 THE MASTER: I think it is repetitious,
21 I agree.

22 MR. MITCHELL: I have never had the
23 document other than about an hour ago and
24 it is a sworn document and the witness
25 testified on numerous occasions as to a

1 partnership.

2 THE MASTER: That is correct. You can
3 make the point by saying there is no
4 indication on that document that the
5 Benavides Implement and Hardware was owned
6 by any partners. That is the objection and
7 I sustain it. You have already done that
8 in the record.

9 MR. MITCHELL: I will move on with that
10 statement in the record.

11 THE MASTER: All right, sir.

12 Q (By Mr. Mitchell) I believe also your wife or
13 you owned land, ranchland, in Mexico?

14 A No, sir.

15 Q Don't you and your brother-in-law have a business
16 interest in Mexico?

17 A It was never in the Olivera family name. It was
18 an uncle in Mexico City.

19 Q You have a business down there?

20 A No, sir.

21 Q In addition to the obligation of this six
22 thousand six hundred dollars you had in November,
23 1972, did you have any other obligations not
24 reflected on this balance sheet?

25 A I don't know, sir; I don't remember.

1 Q You did a lot of work; I believe you bought a
2 pickup from Judge Carrillo?

3 A Yes, sir, but I don't recall the year.

4 Q You bought -- strike that.

5 Mr. Couling, didn't you also expend some
6 money for -- in behalf of Mrs. Minerva Cassius
7 for remodeling of her home in November, 1973?

8 A No, sir.

9 Q You didn't obligate yourself in the amount of
10 eight thousand dollars for the remodeling of her
11 home?

12 A No, sir, she borrowed it from the S.B.A. or
13 someone on that.

14 Q So the record reflects it, Miss Minerva Cassius
15 was your mistress during that period of time, is
16 that correct?

17 MR. ODAM: I object to that. That is
18 the first time I had heard this lady's name.
19 She has not been previously identified.

20 THE MASTER: The objection is sustained.

21 Q (By Mr. Mitchell) Have you previously testified
22 under oath that Minerva Cassius was your
23 mistress?

24 A Not in this court, sir.

25 Q Not in this court?

1 A No, sir.

2 Q But at a previous time under oath, she was
3 identified as a mistress to you and you paid
4 various sums of money to her on various occasions?

5 A Well --

6 Q Sir?

7 A Yes, sir.

8 Q Let me ask you -- I want to go into the welfare
9 program in Duval County.

10 Your personal knowledge is indicated there
11 and I am going to be interested in the period
12 from January 1st, 1971 to January or February and
13 March, 1975.

14 A Yes, sir.

15 Q Let's start in January, 1971, and see if we can't
16 go back.

17 You participated, did you not, on the
18 administration of the welfare program in assistance
19 to Judge Carrillo?

20 A Yes, sir.

21 Q And so that the record is clear now, there has
22 been evidence, out of fairness to you in the
23 record, that the program was initiated by the
24 welfare officer and the various county
25 commissioners or other persons designated to whom

1 people could go and apply for welfare assistance.

2 A Yes, sir.

3 Q And looking at R-62, which is Claim No. B-232,
4 it appears to be R-62-A and B, and those are
5 signed by Cleofus Gonzalez to the Cash Store for
6 groceries?

7 A Yes, sir.

8 Q Keeping those in front of you, it would appear
9 at least, as far as 1975, Cleofus Gonzalez had
10 the authority to sign for the Welfare Department
11 order forms for groceries, at least for those
12 persons named there, as recently as January,
13 1965?

14 A '65 or '75?

15 Q '75.

16 A I don't know about that.

17 Q These were signed in December, 1974, those orders
18 originated at that time, and they were paid in
19 January, 1975.

20 I am simply trying to get in the record,
21 at least in December, Cleofus Gonzalez was
22 authorized to receive and execute those orders
23 and those were approved by the welfare officials
24 and the court approved those for payment, is that
25 correct?

1 A I don't know how it operates.

2 Q It appears from those that is how it is done, at
3 least today.

4 A Yes, sir.

5 Q And other people, such as the commissioners, Juan
6 Leal and Ramiro Carrillo, who were commissioners,
7 were also authorized by the Commissioners Court
8 to receive applications from welfare recipients?

9 A Yes, sir.

10 Q And they would make an investigation and report
11 that to the proper welfare official, which entered
12 that order, and in turn the recipient would be
13 given groceries from a grocery store or for drugs,
14 or whatever, and those people would furnish the
15 goods in payment of those checks?

16 A Yes.

17 Q And those would be submitted to the county and
18 the commissioners would pay or pass on them?

19 A I never attended any of the meetings, so I don't
20 know.

21 Q Is that the procedure that existed on the period
22 of time outlined? The Commissioners Court would
23 take them and consider them and say pay them or
24 not?

25 A I know they would be paid, but I don't know how.

1 Q Specifically, now, I am going to ask you about
2 how the system worked if you were involved in it.

3 As a matter of fact, the record reflects
4 Judge Carrillo had authority to receive applications
5 from persons who were qualified to receive
6 welfare assistance.

7 MR. ODAM: We object to this line of
8 questioning on repetition.

9 MR. MITCHELL: I will withdraw it.

10 MR. ODAM: All right.

11 Q (By Mr. Mitchell) Were you at one time helping
12 Judge Carrillo with the welfare recipients?

13 A He left the books in the office and when he was
14 not around, he authorized me to sign them.

15 Q What years were those?

16 A I believe it was when he was county attorney.

17 Q Do you remember what year that was?

18 A I don't remember the exact date.

19 Q Those were bound books, were they not, that had a
20 white and pink and yellow slip copies in them?

21 A Yes.

22 Q And he would leave those at your office and --
23 what was your capacity at that time?

24 A Tax collector and assessor.

25 Q And folks would come to see you when they needed

1 groceries or drugs or medication or medical
2 service, is that the way it worked?

3 A Yes, sir.

4 Q And you would fill in the white and the yellow
5 and the pink copies?

6 A Yes.

7 Q And actually you kept a record in that book and
8 that would be the pink copy, would it not?

9 A There was one copy left in the book, but I don't
10 remember the color.

11 Q And the white copy went with the claim?

12 A I don't know where it went, but the people would
13 pick it up.

14 Q And they in turn would go to the Cash Store, or
15 wherever it was made to, and get their groceries
16 or whatever?

17 A Yes, sir.

18 Q And the Cash Store would give them the amount of
19 groceries the welfare office authorized and make
20 their own report of that transaction?

21 A Yes, they were supposed to.

22 Q So when it went to the Commissioners Court, it
23 was the white form which was endorsed and the
24 ticket for the sale of the groceries and that would
25 all go to the commissioners and you suppose that

1 would be paid or disallowed?

2 A I suppose so.

3 Q I am not trying to overburden you, but there
4 has been a question raised in the merchandise
5 that was purchased from the Cash Store from the
6 period of time of 1971 to 1975.

7 What I am mainly interested in is, first
8 of all, this procedure you have outlined, that
9 general procedure, has persisted with no radical
10 changes in it?

11 A No, sir, not that I know of.

12 Q Do you know when Judge Carrillo was authorized
13 by the Commissioners Court to participate in that
14 welfare program?

15 A No, sir.

16 Q Can you tell us when you personally assisted
17 Judge Carrillo in helping him carry out the
18 orders of the Court to receive the applications?

19 A It was like I said a while ago, it was when he
20 was county attorney.

21 Q It would be -- would that be -- well, I will ask
22 it this way.

23 Do you recall whether it passed over beyond
24 1971?

25 A I didn't have anything to do with it beyond 1970,

1 I don't believe, sir.

2 Q Have you been a resident in the county for over
3 fifty years?

4 A Yes, sir.

5 Q And do you know the procedure, say beginning in
6 1968, up to the date of these proceedings, has
7 it been consistent?

8 A I imagine they have been, sir.

9 Q There is nothing wrong, or is there anything
10 wrong -- strike that.

11 Now, we have placed one procedure in the
12 welfare setup. Let me ask you about another.

13 Was it customary for the doctor or druggist
14 or grocery people to call persons authorized to
15 receive applications for welfare and to inform
16 them that persons were in the drugstore or grocery
17 store or the doctor's office, and would the
18 procedure begin that way at some times?

19 A It might have, and I can't say, because I don't
20 remember.

21 Q If you can't give us personal knowledge, I will
22 move on.

23 Now, I would like to move to another area.
24 I had asked you about your relationship with the
25 deceased, George Parr, and as a matter of fact,

1 prior to the beginning of this year and the death
2 of George Parr, I believe, was in April, 1975,
3 but there was a close relationship between you and
4 George Parr that goes back many years, is that
5 correct?

6 A Well, I made it a point -- I probably saw him
7 once a month or so, but not every day.

8 Q Would you characterize George Parr as a political
9 power in Duval County?

10 A He was in power and the Carrillos were also.

11 Q I understand the Carrillos and Parrs were one
12 and the same party up to this year, were they
13 not?

14 A I don't know up to what time.

15 Q There was a split in the Carrillo and Parr factions?

16 A Yes.

17 Q And do you know that came about because Judge
18 Carrillo removed certain people from the school
19 board who were Parr people?

20 A I don't know.

21 Q But anyway, there was a split?

22 A Yes.

23 Q And the school board changed completely, did it
24 not, prior to the time you were dismissed as
25 tax collector?

- 1 A Yes.
- 2 Q And would you say, as in fairness to the record,
3 that there had been a complete split between the
4 Carrillo and Parr factions in Duval County this
5 year?
- 6 A Yes, sir.
- 7 Q And is it fair to characterize yourself,
8 Mr. Couling, also the Sanchez people and the
9 Chapas, Ruben and Rudolfo, Vicente Chapa,
10 Francisco Ruiz, all as members of one faction
11 identified as the Parr faction?
- 12 A There were a lot more.
- 13 Q I understand, but that would include you and
14 Cleofus Gonzalez and these people I named?
- 15 A Yes.
- 16 Q As a matter of fact, the location of the anti-
17 Carrillo faction is the Benavides Implement and
18 Hardware Store?
- 19 A Not the store, the back part of the store.
- 20 Q And I note Mr. Cleofus Gonzalez, on Exhibit 63,
21 speaks to the fact that he is authorized to
22 receive applications for welfare.
- 23 A I believe he is not right now, however.
- 24 Q Now, Mr. Couling, as a matter of fact, the
25 bulldozers that have been the recipient of

1 inquiry, as a matter in April and March of this
2 year, were being used by George Parr?

3 A Not to my knowledge.

4 Q Don't you know, as a matter of fact, the Texas
5 Rangers discovered them on the Atlee Parr Ranch?

6 A I don't know, sir.

7 Q You didn't make a bulldozer rental to George
8 Parr?

9 A No, sir.

10 Q How about to Archer Parr?

11 A Neither one, neither he nor George.

12 Q You never had a dealing where you were to be
13 paid by the county through Archer Parr, through
14 1972 until 1974?

15 A I never visited with Archer Parr about any
16 bulldozers.

17 Q How about the drilling rig. You did know Judge
18 Carrillo owned it?

19 A I didn't know who owned it.

20 Q Where was the rig located?

21 A It was in Duval County.

22 Q You know, don't you, that drilling rig was used
23 by Archer and George Parr for the purpose of
24 drilling water wells on their ranches?

25 A I don't know; I saw it on the side of the highway

1 drilling, but I didn't know who it belonged to.

2 Q And the rig was being used by the Parrs on their
3 land, was it not?

4 A I don't know.

5 Q And you know the county used that drilling rig
6 which belonged to Ramiro or O. P. Carrillo, do
7 you not?

8 A I don't know who it belonged to.

9 MR. ODAM: I will object to that on
10 the grounds of relevancy, which according
11 to the witness s testimony, the rig belonged
12 to the Carrillo brothers. Assuming it was
13 used by the Parrs and the county, it seems
14 to be far afield to me.

15 MR. MITCHELL: Your Honor, the objection
16 is probably technically correct. We offer
17 that subject to connection.

18 THE MASTER: I don't see the relevancy,
19 but you represent it will be connected?

20 MR. MITCHELL: Yes, sir, and we will
21 join the Court to strike, if we don't
22 connect it.

23 THE MASTER: Very well.

24

25

1 THE MASTER: All right.

2 MR. MITCHELL: Yes, I don't know whether
3 her I got a clearcut answer on the last question
4 and if the Court will bear with me --

5 Q Can you testify, Mr. Couling, of your own personal
6 knowledge, do you know the rig we are talking about?

7 A Yes, sir.

8 Q Did you know of your own personal knowledge whether
9 that rig was ever used by Duval County to do
10 County work?

11 A I stated a while ago that it did drill some water
12 wells when the county divided some lands that
13 were owned by the same owner and the highway went
14 through.

15 Q All right, thank you.

16 MR. MITCHELL: Let me have Exhibit 109.

17 (Discussion off the record.)
18

19 Q Mr. Couling, there has been previously identified
20 in the record R-71, that loan ledger sheet with
21 the First State Bank and Trust Company of Rio
22 Grande City that was a loan for thirty-five hundred
23 dollars about which I had asked you earlier.

24 A Yes, sir.

25 Q Do you recall that?

1 A Yes, sir.

2 Q Now, counsel for the Examiner, Mr. Odam, has
3 asked a question of Mr. Bates as to the payment
4 of a thousand and six dollars on that loan. You
5 see that --

6 A Yes, sir.

7 Q -- that thousand and six dollars?

8 A Yes, sir.

9 Q Now, I will show you now E-109. This is a check
10 payable for a thousand and six dollars to Benavides
11 Implement and Hardware Company and it is deposited,
12 I believe you have already identified it for us,
13 for deposit Benavides Implement and Hardware
14 Company. Do you recognize that check number 109?

15 A Yes, sir, I recognize this check.

16 Q All right, and can you tell us if that check 109 --
17 for one thousand and six dollars being check
18 Exhibit No. 109, was the source of the thousand
19 and six dollars paid to that thirty-five hundred
20 dollar loan as reflected in the loan liability
21 ledger, R-71?

22 A No, sir, I can't tell you because it was made
23 for deposit, sir.

24 THE MASTER: I didn't understand the
25 last statement.

1 A It was made for deposit.

2 THE MASTER: It was made for what?

3 A For deposit.

4 THE MASTER: For deposit?

5 A Yes, sir.

6 Q Do you know whether or not there was another
7 check for a thousand and six dollars that was
8 issued by -- and I am not interested in any others,
9 except those issued by the treasurer of Duval
10 County to you, which you deposited -- which you
11 use as a source of the credit for the payment on
12 that thirty-five hundred dollar loan.

13 A I believe you showed me one, sir. I believe you
14 showed me one that it had on the back written
15 for payment on note.

16 Q That's right. We had a check that we talked
17 about day before yesterday that was endorsed on
18 the back side for loan payment.

19 A Correct.

20 Q Is that correct?

21 A Yes, sir.

22 Q Fine. Now, I'll ask you some questions about it:
23 I had asked you about that check -- I believe it
24 is in line with the questions that you -- or
25 answers that you had given under oath in this court

1 that all of those checks had been paid into the
2 Benavides Implemment and Hardware account pursuant
3 to a scheme to rip off the county and checks were
4 written and given to Judge Carrillo.

5 I asked you about -- and incidentally, that
6 is E-94, and I asked you about that check.

7 MR. MITCHELL: I am going to try to
8 find it, Judge.

9 THE MASTER: It was introduced in the
10 series starting with E-57 going through E-65,
11 68, 69, 74 and so forth, that long series
12 of checks.

13 (Discussion off the record.)
14

15 MR. MITCHELL: John, do you mind if I
16 use your copy?

17 MR. ODAM: Of what, R-94?

18 MR. MITCHELL: Yes, so I can get on
19 with the proceedings.

20 MR. ODAM: Here is R-94.

21 (Handed to Counsel.)
22

23 Q (By Mr. Mitchell:) Now, Mr. Couling, handing
24 you back R-71 and now referring to E-94 which
25 you previously -- as you recall, look on the

1 reverse side of that check, which is E-94, it is
2 a check from the treasurer of the county of Duval
3 to the Benavides Implement and Hardware dated
4 December 17th, 1972, in the amount of a thousand
5 and six dollars, am I correct?

6 A Yes, sir.

7 Q And looking at R-71, it appears that that payment
8 of a thousand and six dollars was made sometime
9 in December 18th, 1972, on that thirty-five
10 hundred dollar loan, doesn't it?

11 A Yes, sir.

12 Q Now, looking at E-94 on the reverse side, it is
13 endorsed for note payment, Benavides Implement
14 and Hardware Company, R. M. Couling, is that cor-
15 rect?

16 A Yes, sir.

17 Q Now, does that refresh your recollection that
18 the thousand and six dollar check from the Duval
19 County went to pay your personal note at the
20 Rio Grande Bank?

21 A That was a payment on the note, that was borrowed
22 to buy a Massey-Ferguson for O. P. Carrillo.

23 Q I knew that is what your testimony previously
24 was and I wondered if you would remember what you
25 testified previously and I'll ask you about that.

1 On the Massey-Ferguson purchase and agreement,
2 Mr. Couling, isn't it a fact that the thirty-five
3 hundred dollar check to which that note was
4 applied as payment, is the thirty-five hundred
5 that was -- the opening entry in that personal
6 account in the First State Bank and Trust Company
7 of Rio Grande City.

8 A I would like to see the bank statement.

9 Q Well, you are looking at in in R-71.

10 A This is a note ledger.

11 Q All right, we'll give you that.

12 MR. MITCHELL: Where is that?

13 MS. LEVATINO: That is E-162.

14 MR. ODAM: This is our work copy.

15 MR. MITCHELL: All right, I have got it.

16 Q I believe that there has been testimony that look-
17 ing at E-162, that that three thousand four hun-
18 dred and seventy-three dollars and seventy-five
19 cents was the proceeds of this thirty-five hundred
20 dollar note: that is, you borrowed it that day
21 and opened the account with it, less certain
22 minor charges for insurance?

23 A Yes, sir.

24 Q Now, looking at 162.

25 A Yes, sir.

1 Q Now, it appears that the loan, the proceeds of
2 the loan for thirty-five hundred dollars were used
3 to open the Benavides Implement and Hardware
4 account as shown by 162, is that correct?

5 A Yes, sir, that is correct.

6 MR. MITCHELL: Excuse me just a minute,
7 may I have one minute?

8 THE MASTER: Yes.

9
10 (Discussion off the record.)

11 Q Is it your testimony, and I'll have to ask you
12 for the record, is it your testimony that the
13 thirty-five hundred dollars bought the Massey-
14 Ferguson tractor?

15 A It was a down payment, sir, two thousand nine
16 hundred and something dollars.

17 Q That would be the withdrawal shown 11-16-72?

18 A I believe this here, this here check here, Yes,
19 sir.

20 Q All right, now, to you have the supporting docu-
21 ment on the Massey-Ferguson tractor?

22 MR. ODAM: (Counsel nodded head yes.)

23 MR. MITCHELL: Could I see it?

24 MR. ODAM: This is a retail purchase
25 order to O. P. Canillo for the Massey-Ferguson

1 tractor and this is a letter saying an ear-
2 lier check -- letter to Judge Carrillo saying
3 that an earlier check of October 18th was
4 no good because there wasn't such an account.

5 MR. MITCHELL: Thank you, let me -- the
6 document handed to me appears to be first
7 the Nueces Farm Center, Incorporated, Robstown,
8 Texas, from O. P. Carrillo, am I correct, Mr.
9 Odam?

10 MR. ODAM: Yes, sir.

11 MR. MITCHELL: And you represent these
12 are the properly produced purchase orders
13 from Massey-Ferguson that relate to the
14 Massey-Ferguson tractor that the witness is
15 testifying about?

16 MR. ODAM: Yes, sir, and we intended
17 to introduce them into evidence and I would
18 so state they were, and hope that with your
19 use of them that, therefore, it would not be
20 necessary to call someone over from Robstown
21 to so state.

22 MR. MITCHELL: No, I am quite willing
23 to accept Counsel's representation concerning
24 the documents, Your Honor, and I would like
25 to have it marked.

1
2 (Marked for identification by the
3 reporter as Exhibit R-74.)

4 MR. MITCHELL: Your Honor, I represent
5 to this Court I have not seen this document
6 previously. May I have a minute to go over
7 the document with my client?

8 THE MASTER: All right.

9 MR. MITCHELL: I don't want to -- the
10 Court breaks at twelve, doesn't it?

11 THE MASTER: It is not time for a
12 break.

13 MR. MITCHELL: I was thinking maybe,
14 Your Honor, I might -- if I could just take
15 about a minute or two, Judge Meyers, I think
16 that's all I would need.

17 THE MASTER: We can break for twenty
18 minutes now and just have a long session
19 rather than a short session.

20 MR. MITCHELL: Judge Meyers, I would
21 just -- I would just as soon go ahead on the
22 ordinary schedule.

23 THE MASTER: That's fine.

24 MR. MITCHELL: Because I think the
25 Court has a very good schedule worked out and

1 I would like to take a break about twelve
2 anyway.

3 THE MASTER: All right.

4 MR. ODAM: I was also giving Mr.
5 Mitchell a copy of this letter of November
6 the 3rd, a certified copy, addressed to
7 Judge Carrillo from the Robstown people or
8 from the Massey - Ferguson --

9 MR. MITCHELL: Thank you.

10 MR. ODAM: This might help explain that
11 check.

12 (Handed to Counsel.)

13 (Discussion off the record.)

14 MR. MITCHELL: I think I can proceed
15 now, Judge Meyers.

16 THE MASTER: All right.

17
18
19 Q (By Mr. Mitchell:) Mr. Coiling, Counsel for the
20 Examiner has handed me --

21 MR. MITCHELL: We offer R-74 if I haven't
22 done so, Judge Meyers.

23 I will break into that and withdraw
24 that fragmentary question and start all over
25 again.

1 THE MASTER: It is admitted.

2 Q Counsel for the Examiner has handed me R-74,
3 which appears to be a retail purchase order from
4 the Nueces Farm Center, Incorporated, as -- from
5 Judge O. P. Carrillo as the buyer and it appears
6 that this is a diesel tractor -- excuse me, and
7 I suppose the Massey-Ferguson equipment that you
8 are talking about. Take a minute there.

9 A I don't know.

10 Q See if you can identify it and I will ask you
11 some questions about it as relates to your prior
12 testimony on the check drawn out of your account
13 in the Rio Grande bank in 1972.

14 A I don't know if it is the same tractor or not.

15 Q All we can do is assume when Counsel handed it
16 to us that it relates -- that it obviously relates
17 to a contract of purchase dated March 18th, 1970,
18 does it not?

19 A Yes, sir, but I don't know anything about those
20 papers.

21 Q I understand. But I say, the contract given now
22 as R-74 is a contract for the purchase of a
23 piece of equipment, a diesel tractor by Judge
24 Carrillo some two and a half years prior to the
25 time you opened the account in the Rio Grande City

1 Bank.

2 A Yes, sir.

3 Q Assuming that the R-74 is the contract referred
4 to, then you couldn't, of course, have made a
5 down payment on the purchase price of this tractor
6 of two thousand nine hundred and seventy-five
7 dollars on November of 1972 if the tractor was
8 purchased under the agreement that is set out
9 in R-74, some year and a half or two years ear-
10 lier.

11 A I don't know about that, but the check was made
12 to Massey-Ferguson for a down payment on the
13 tractor and I am not saying it is that.

14 Q So it is conceivable what we are talking about is
15 still another tractor?

16 A I imagine so, sir. I am not sure.

17 MR. MITCHELL: All right, Mr. Odam,
18 do you have a contract on another tractor?

19 MR. ODAM: No, that -- that is correct,
20 that is the tractor.

21 MS. LEVATINO: Yes.

22 MR. ODAM: I think it is set out in
23 there that there is a schedule of payment
24 and this is one of the payments that was to
25 be made as indicated in that letter that

1 I told you a while ago. The check was
2 written --

3 MR. MITCHELL: I am concerned with the
4 witness' sworn testimony, if it please the
5 Court, that this amount of money was made
6 as a down payment on the tractor.

7 THE MASTER: That was his testimony.

8 MR. ODAM: That was his testimony.

9 A That is my understanding it was a down payment.

10 Q I understand. Now, looking at R-74 and regardless
11 of what your understanding was then and this might
12 perhaps be subject to the objection of being
13 argumentative, it could not have been the down
14 payment of the agreement dated some year and a half
15 or two years earlier?

16 A I don't know, sir.

17 MR. MITCHELL: May I have one minute,
18 Your Honor, in view of the question raised
19 as to perhaps an installment to examine the
20 agreement. It is a multiple page agreement.

21 THE MASTER: Yes, sir.

22 MR. MITCHELL: Perhaps, Judge, the
23 Court wants to examine it also and be pre-
24 pared, because I can't tell what it is.

25 Q The Exhibit R-74 that the Court is examining, that

1 is the first time you saw it is just now?

2 A Yes, sir.

3 MR. MITCHELL: And I make the statement
4 for the record that this is the first time
5 I have seen it.

6 THE MASTER: Thank you, Mr. Mitchell.

7
8 (Handed to Counsel.)

9 THE MASTER: I do not find in my examin-
10 ation of it, which was brief, a schedule of
11 payment in that set of documents.

12 MR. MITCHELL: All right, Judge.

13 Q I ask you one question, Mr. Couling, isn't it a
14 fact that Judge Carrillo had a consideration
15 amount of equipment, tractors, dozers, air com-
16 pressors and so forth which were available to the
17 Benavides Implement and Hardware to be rented?

18 A I never did rent anything from him.

19 Q Not from him, for him, wouldn't you rent it for him?

20 A No, sir.

21 Q And your testimony -- it is your testimony that
22 this tractor R-74, you never did rent the tractor
23 for and on his account for a fee?

24 A No, sir.

25 THE MASTER: Excuse me, your question

1 to this witness is did he, acting for Judge
2 Carrillo, rent equipment to others as agent
3 for Judge Carrillo?

4 MR. MITCHELL: That's right, Judge
5 Meyers.

6 THE MASTER: And your answer is?

7 A No, sir.

8 Q In line with the Court's question, let me ask
9 you one more question or one or two questions.

10 It was a common practice, was it not, in
11 Duval County, and is, for either the Farm and
12 Ranch or the Benavides Implement and Hardware
13 Company or the Olivera Implement and Hardware
14 or other merchandising stores would rent equipment
15 to the county or to other persons belonging to
16 persons such as Judge Carrillo or Ramiro Carrillo
17 or Archer Parr or yourself?

18 A All I know about is my store and I never did rent
19 anything to the county or to anybody else.

20 A Don't you know as a matter of fact when Cleofus
21 worked for the Zertuche Store and Farm and Ranch,
22 that he rented considerable amounts of equipment?

23 A I can't say he did or not.

24 Q If you have no personal knowledge, I will not
25 ask you any further questions along that line.

1 Well, as a matter of fact, this Massey-
2 Ferguson tractor, Mr. Couling, you used the
3 trac tor yourself on your ranch?

4 A I didn't use that one. I used one that was
5 Ramiro's, sir, a smaller one and if it was O.P.'s,
6 my understanding was that the tractor was Ramiro's.

7 Q Well, I asked you -- did you pay rent on it?

8 A No, sir.

9 Q But you distinctly remember another Massey-Ferguson
10 on your own account, but that the tractor belonged
11 to Ramiro?

12 A Not mine.

13 Q For Ramiro, I'm not suggesting any wrongdoing,
14 you did it with permission.

15 A Yes, sir, as a matter of fact, Ramiro sent one of
16 his own drivers up there to do it.

17 Q So, I am not talking about anything that you don't
18 know anything about?

19 A No, sir.

20 MR. MITCHELL: Can I have just one
21 more minute, Judge, on this contract, please.

22 THE MASTER: Yes, sir.

23 (Discussion off the record.)
24

25 Q Mr. Couling, let me ask you to do a little

1 mathematics with me on R-74.

2 In the period that the balance due and
3 owing on that equipment was eight thousand seven
4 hundred and six dollars and sixty-six cents, or
5 thereabouts, am I correct?

6 A That is the figure that is there, sir.

7 Q All right, let me hand this to the Court so the
8 Court can follow these computations.

9
10 (Handed to the Court.)

11 Q And it appears further that that agreement was
12 the 18th of March, 1970, am I correct?

13 A Yes, sir.

14 Q And it appears that the payments were approxi-
15 mately two thousand dollars a month, am I correct?

16 MR. ODAM: Are you asking me?

17 MS. LEVATINO: Did you see the schedule
18 of payments?

19 MR. MITCHELL: I am asking the witness.

20 A I haven't seen the schedule of payments.

21 Q Your check for twenty-seven hundred ninety-five
22 dollars was given November of 72, some twenty-four --
23 let's see, if my -- thirty-two months later.

24 A If that is what the date is on the check, sir.

25 Q Assuming that the payments were made according

1 to the schedule on that agreement, that tractor
2 would have long been paid for, wouldn't it?

3 A I don't know what the schedule was.

4 Q All right, you wouldn't know that?

5 A No, sir.

6 MR. MITCHELL: I will move to another
7 inquiry, Judge.

8 MR. ODAM: Well, are you going to offer
9 into evidence, I don't know if you have or
10 not, the letter from Judge Carrillo to
11 Massey-Ferguson.

12 MR. MITCHELL: No, I don't intend to,
13 Mr. Odam. I will give it back to you --
14 well, let me -- I'm sorry, I said that with-
15 out having asked my client. I haven't
16 asked my client to determine what he wants
17 to do.

18 (Discussion off the record.)
19

20 MR. MITCHELL: I can't offer it.

21 (Handed to Counsel.)
22

23 MR. MITCHELL: I can't agree to it.

24 MR. ODAM: Thank you.

25 Q (By Mr. Mitchell:) Mr. Couling, I move to another

1 inquiry. There were checks introduced into evi-
2 dence, many checks, from you to Judge Carrillo,
3 if you will recall, specifically, and I believe
4 those checks were introduced under the general
5 statement that they were payments to Judge Carrillo
6 by you of monies which were incorrectly or fraudu-
7 lently extracted from the Duval County and out into
8 the Benavides Implement and Hardware Company
9 account over which you had control. Did you
10 follow that, did you follow my statement?

11 Those checks that you testified to previ-
12 ously were checks written by you on that account
13 to Judge Carrillo, a method by which you passed
14 those improperly extracted funds from the county
15 to Judge Carrillo.

16 A If those are the checks you presented me yester-
17 day.

18 Q Well, of course, that wasn't true in all instances.
19 We know that now, isn't that correct?

20 A You haven't shown me anything that wasn't true,
21 sir.

22 Q Well, look at Exhibit E-158.

23 A That is made out to O. P. Carrillo.

24 Q And look at the endorsement.

25 A That is O. P. Carrillo, Cash Store, he cashed

1 it at the Cash Store.

2 Q You know that is not true.

3 A Why not?

4 Q Isn't that, as a matter of fact, that is half
5 of your grocery bill that you and he had gone
6 hunting together and the bill was paid fifty per-
7 cent by him and fifty per cent by you and you
8 reimbursed him for that?

9 A I don't know, I don't remember. I don't know
10 if this check was that.

11 Q You wrote it, didn't you?

12 A I wrote it, but I signed it in blank and he
13 filled it in. I don't know what it was for.

14 Q Once the endorsement, the Cash Store -- doesn't
15 it serve your recollection that on several occa-
16 sions you all went out and had joint ventures such
17 as joint hunting parties and the like, and you
18 would reimburse him for expenses on those joint
19 social gatherings and business gatherings?

20 A You state it was for hunting, grocery bill?

21 Q I didn't state that, my question is to you, isn't
22 it a matter of fact, Mr. Couling, that that --
23 that is the reason for that check you are holding
24 there in your hand?

25 A I don't know if it was the reason or not.

1 Q There is not anything improper -- oh, you don't,
2 all right.

3 The fact it would have been given to the
4 Cash Store by Judge Carrillo --

5 A No.

6 Q -- would not serve your recollection that as a
7 matter of fact the check was given to pay your
8 share of a grocery bill?

9 A I don't know if it was my share when I said I
10 signed the check in blank, I don't know what he
11 used it for.

12 Q You don't remember any conversation with him in
13 November of 71 when you gave him the check?

14 A I don't know if I was -- no, sir, I don't remem-
15 ber, sir.

16 Q Well, you all, the fact of the matter is, Mr.
17 Couling, you all owned a hunting camp together?

18 A There were sixteen of us went together.

19 Q Sure, all the fellows did and every year you went
20 on a hunt and that was you all's way of paying
21 this into a pot for the expenses for the annual
22 hunt, all of you all?

23 A Most of the time the groceries were paid by
24 Ramiro Carrillo, as far as I know, sir.

25 Q You just don't remember the fact that you guys

1 were all together and had hunting leases together?

2 A Yes, sir.

3 Q And you went out there every year and you all
4 would hunt and then at the end of the hunt, you
5 all would pitch in your share and all the
6 expenses would be paid, that is just all news to
7 you today?

8 A No, sir, the check was dated on November the 8th,
9 it couldn't have been after the hunt.

10 Q Well, you don't -- you can't tell us or enlighten
11 us any on that type of a relationship that you
12 had with Judge Carrillo?

13 A We had that relationship but that check is not
14 connected with that, sir.

15 Q All right.

16

(Discussion off the record.)

17

18 MR. MITCHELL: Thank you, Judge Meyers,
19 for your indulgence.

20

21

I would like to have these marked,
please.

22

23

24

25

(Marked for identification by the
reporter as Exhibits R-78, A and B; R-79,
A and B; R-80, A and B; R-81, R-82, A and B,

1 R-83, R-84, A and B, R-85, R-86, A and B,
2 R-87, A and B. R-88, A and B.

3 Q Mr. Couling, during the time that you were tax
4 assessor-collector of the Benavides Independent
5 School District you had, of course, the charge of
6 and were authorized to issue checks on the
7 account of Benavides Independent School District,
8 were you not?

9 A Yes, sir.

10 Q And, I will show you R-75-B, for example, and it
11 is an Exhibit composed of two checks, am I cor-
12 rect?

13 A This is on 1968, yes, sir.

14 Q Signed by you?

15 A By me and Mr. D. C. Chaps and Gordon D. Ross.

16 Q And you recognize that as your signature?

17 A Yes, sir.

18 Q All right, and that date, as you pointed out,
19 was December the 11th, 1968, am I correct?

20 A Yes, sir.

21 Q And R-75A is the supporting invoice?

22 A Yes, sir.

23 Q Is it not?

24 A That's correct.

25 Q Upon which the check R-75B was issued?

1 A Yes, sir.

2 Q Am I correct?

3 A Yes, sir.

4 Q And you recognize those documents as well as the
5 endorsements which is the R-75C?

6 A Yes, sir, this is the one I testified at the
7 federal court.

8 Q That you forged, the issuance of the check and
9 the endorsement and took the cash?

10 A Yes, sir, and I gave the cash to O. P. and I
11 kept some of it.

12 Q What you testified over there you took the cash
13 and gave it to Judge Carrillo?

14 A And I kept some of it.

15 Q And you kept some yourself?

16 A Yes, sir.

17 MR. MITCHELL: We offer R-75-A.

18 THE MASTER: You offer A or A and B and C?

19 MR. MITCHELL: I am sorry, Judge Meyers,
20 I offer R-75-A and B and C.

21 MR. ODAM: We object to the entrance
22 of R-75-A and B and C and I don't see that
23 it pertains -- I object on the grounds of
24 relevancy. These checks were issued back
25 in 1968 on the Benavides Independent School

1 District account which isn't even in dis-
2 oute in any issue that we have before us.

3 I don't even see the relevancy as to
4 grounds for impeachment on credibility. If
5 he testified previously in another trial
6 that he forged the signature and the money
7 went to Judge Carrillo, that has been testi-
8 fied previously , and it might have been
9 relevant in that proceeding, but it is
10 going to take a great amount of time to go
11 into each of these and I would object, Your
12 Honor.

13 MR. MITCHELL: I submit, Your Honor,
14 I can go through these post-haste because
15 the witness has previously testified to
16 them under oath as indicated by his last
17 answer and I would not impose on the time
18 of the court.

19 MR. ODAM: And also, Your Honor, I --

20 MR. MITCHELL: Pardon me, Mr. Odam,
21 go ahead.

22 MR. ODAM: My only statement is that
23 I say that it is not relevant to the issues
24 of the credibility of this witness and I do
25 not see that it is relevant to any other

1 issue in this case.

2 THE MASTER: The only relevancy I can
3 see, it is pretty remote, I agree, is to
4 show a pattern, but Mr. Mitchell, what
5 pattern does it show? What are you -- what
6 really are you trying to prove?

7 MR. MITCHELL: It shows a pattern and
8 the course of conduct, Your Honor. It shows
9 that at a time prior to -- I take it back,
10 the time is contemporaneous to some of the
11 specifications in the first amended notice
12 of hearing, that this man had on previous
13 occasions admitted to forging numerous
14 checks and documents in support thereof,
15 it relates to the man's credibility.

16 I think the record ought to speak to
17 his testimony in it's entirety and let
18 someone passing on the credibility have the
19 full force and effect of this man's admis-
20 sions previously made under oath.

21 MR. ODAM: As I stated earlier yester-
22 day, this witness has previously testified
23 to that in the federal case before the jury
24 which resulted in a conviction of Judge
25 Carrillo.

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I have no doubt it would stand up as far as credibility here and I just simply hate to take the time for one thing and, again, I think it is remote in point of time even for purposes of credibility.

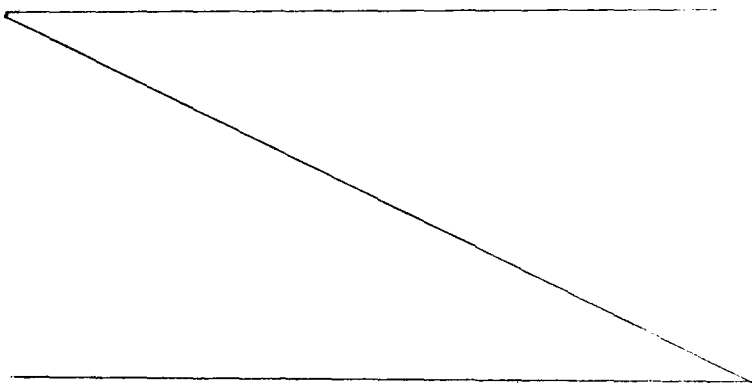
THE MASTER: Well, if it is --

MR. ODAM: In that particular proceeding, it was back in 1968 in the federal case and we are moving up from 71 through 74. Even credibility to go back --

THE MASTER: These move to 70 --

MR. MITCHELL: I will represent to the Court, Your Honor --

THE MASTER: Are you suggesting by that -- the fact that he testified that he forged his name is one thing but is there anything else to it besides that?



1 MR. MITCHELL: Testimony, of course,
2 to it commencing in 1968 and running
3 through 1970 and the period of time
4 relevant directly on these charges here that
5 he forged names, that he, as a public
6 official, violated his oath and committed
7 numerous and sundry felonies and the state
8 is now asking this court to believe, in
9 regard to testimony as to a district judge
10 and sure, I think it is relevant.

11 THE MASTER: Are you suggesting --

12 MR. MITCHELL: I just say he is not,
13 as the cases say, susceptible to belief and
14 credibility. I am trying to document it
15 and bring it forward.

16 MR. MITCHELL: Well, the items that
17 were submitted to us for examination pursuant
18 to offer is R-75, which is a slip back in
19 December, 1968.

20 THE MASTER: Well, the relevancy, I
21 see, and I was wrestling with it and I still
22 am, is that maybe Mr. Mitchell is attempting
23 to show that no one would gratuitously give
24 substantial sums of money to someone else.

25 MR. MITCHELL: That is right.

1 THE MASTER: And the pattern -- and I
2 am not sure --

3 MR. MITCHELL: It is an incredible
4 story and you are touching on it.

5 I am sorry I stepped on the Master's
6 statements, but --

7 THE MASTER: You might state it better
8 than I was grasping to.

9 MR. ODAM: I grant you that it is
10 incredible.

11 MR. MITCHELL: If we take the twelve
12 months or twenty-four months, it becomes
13 critical. If we go back to 1968 and this
14 man testified that he has, over a period of
15 time from 1968 to January, 1975, devised
16 these methods of ripping off the county,
17 to what avail --

18 THE MASTER: I overrule the objection.

19 MR. MITCHELL: It is incredible.

20 MR. ODAM: I grant you that; it is
21 incredible. Not that the witness is
22 incredible, but we have --

23 THE MASTER: We have had enough sidebar.

24 MR. MITCHELL: Have you had an opportunity
25 to examine these?

1 MR. ODAM: I have and I have an
2 objection that has been overruled.

3 THE MASTER: Yes, the objection is
4 overruled and we have admitted R-75-A, B
5 and C.

6 MR. MITCHELL: We have offered R-75-A,
7 B and C.

8 THE MASTER: And they are admitted.

9 Q (By Mr. Mitchell) First of all, Mr. Couling,
10 I will hand you these and you have testified
11 about these and I am sure you are familiar with
12 all of them, is that correct?

13 Take your time to examine these.

14 We are talking about R-76, R-77, 78-A and B
15 and R-79-A and B and R-80-A and B and R-81, R-82-A --

16 THE MASTER: And B.

17 MR. MITCHELL: Yes. R-83, R-84-A and B,
18 R-85-A and B, R-86-A and B and R-87, R-88-A
19 and B, and I will ask you to examine those
20 and answer these questions.

21 First, are they checks executed by you
22 and with the endorsements forged by you?

23 A The first one is not endorsed.

24 Q (By Mr. Mitchell) All right. That is the one --
25 R-76?

1 A Yes.

2 Q Now, go through there, and if you find any more
3 of that type, let me know.

4 THE MASTER: Let me ask you to ask him
5 whatever questions you want him to do. He
6 is to see if these are checks forged by him
7 and endorsements forged by him and what
8 else?

9 MR. MITCHELL: And if the checks are
10 fraudulent and if you cashed the checks and
11 gave the money to Judge Carrillo.

12 THE MASTER: All right. You do that,
13 and we will be in recess until five minutes
14 to 12:00 o'clock.

15
16 (Short recess was taken.)

17
18 THE MASTER: You may proceed, Mr.
19 Mitchell.

20 Q (By Mr. Mitchell) Have you made the examination
21 now during this brief break for the purpose of
22 answering the questions I have put to you?

23 A Yes, sir.

24 Q And could you take each exhibit by number and tell
25 us, or answer those questions as best you can.

1 A R-86-A and B is a check made to Zertuche General
2 Store in the amount of five hundred thirty-eight
3 dollars eighty-nine cents and it is an endorsement
4 by the store.

5 Q It was executed by you on the face of the check?

6 A Yes, sir.

7 Q Do you recall whether you cashed that check?

8 A I don't recall; it was endorsed by their stamp.

9 Q Do you recall whether it was a false endorsement?

10 A I have no recollection of it.

11 Q You have no independent recollection as to
12 whether the claim was five hundred thirty-eight
13 dollars eighty-nine cents?

14 A It was a claim, but I don't recall.

15 Q You don't recall testifying that the five thirty-
16 eight eighty-nine, that you forged a Zertuche
17 General Store endorsement and took that money and
18 gave it to Judge Carrillo?

19 A No, sir, I don't recall.

20 Q What are you talking about now?

21 A R-87-A and B.

22 Q Was that endorsed by you?

23 A Yes, sir.

24 Q And could you tell us whether or not that money
25 was received by you pursuant to an endorsement?

1 A No, it is rubber stamped, so I don't know what
2 happened to it.

3 Q You are testifying under oath here that this check
4 is signed by you?

5 A Yes, me and D. C. Chapa and the rest of the
6 board.

7 Q You don't recall whether you endorsed the check?

8 A I did not.

9 Q You did not?

10 A No, sir.

11 Q So you did not receive the money?

12 A No, sir, I didn't endorse it, so how could I have
13 received the money.

14 Q I understand.

15 Now, you have moved to R-80-A, is that your
16 signature on the check?

17 A Yes.

18 Q And R-80-B?

19 A Yes, sir. And this one, too. This is the check
20 and this is the stub of the check.

21 Q Let's look at R-88-A, that is a check signed by
22 you?

23 A Yes, sir.

24 Q And it is endorsed by you?

25 A No, sir, it is not a forgery. I testified it

1 looks like George Zertuche, Sr.'s signature.

2 Q But you testified it was a false bill?

3 A I would like to see the bill.

4 Q You can see that was Exhibit 88 in federal court?

5 A Yes, but where is the bill?

6 THE MASTER: Excuse me, is it just
7 coincidental that it is also Respondents'
8 Exhibit 88 here?

9 MR. MITCHELL: Yes, Your Honor, it is.

10 THE WITNESS: It is R-85.

11 THE MASTER: You asked him about R-88,
12 I believe.

13 MR. MITCHELL: The Court is correct,
14 R-88-A and B is actually part of the
15 government Exhibit 88 in federal court.

16 Here, Your Honor, are R-88-A and B and
17 one check is R-85 and is another, but they
18 are all the same transaction.

19 THE MASTER: All right, sir.

20 Q (By Mr. Mitchell) You are testifying here you
21 don't recall previously testifying R-88-A and B
22 were signed by you?

23 A Yes, sir.

24 Q And the endorsement of George Zertuche's
25 signature is signed by you?

1 A No, sir.

2 Q And that you took the money and gave it to
3 O. P. Carrillo?

4 A No, sir, not on this particular check, or these
5 particular checks.

6 Q You don't have any idea why the government was
7 asking you about that?

8 A I testified that particular check was endorsed
9 by me -- that it was not endorsed by me.

10 Q Did you testify it was a fraudulent claim?

11 A I have no idea, sir; I have to see the claim.

12 Q I believe you testified, for the record, on
13 September 16th and 17th, is that correct?

14 A Yes, sir, on that check I stated it was George
15 Zertuche's endorsement and not mine.

16 Q In federal court?

17 A Yes, sir.

18 Q And you testified it was a fraudulent claim?

19 A I don't remember if I did or not. I signed the
20 original check.

21 Q Is it your testimony the check, R-88, was a correct
22 and proper check?

23 A I just said it was issued and I need the invoices
24 to verify whether it was false or not.

25 Q All right, sir. How about R-79-A and B?

1 A A and B, this is the stub, not a check. It is a
2 check from the Benavides Independent School
3 District and the invoice was made by me.

4 Q Do you recall whether you testified that you took
5 that money and gave it to O. P. Carrillo?

6 A I don't remember, sir; I would have to see the
7 original.

8 Q Look at R-83.

9 A This is the same voucher and it is a bill for
10 sixteen hundred thirty-eight dollars.

11 Q Do you recall issuing a check on the basis of that
12 invoice?

13 A I had to, sir. There were a lot of bills made and
14 a lot of checks.

15 Q Looking at the invoice, do you recall who executed
16 it?

17 A No, I don't know who wrote it.

18 Q Moving over to this, I believe this was one of
19 the checks that you testified where the water
20 coolers were delivered.

21 A I don't recall; I would have to see the original
22 check.

23 Q Do you recall this voucher was issued by you
24 falsely and fraudulently and you endorsed Zertuche
25 General Store on it?

1 A I don't remember testifying to that, because
2 there is no endorsement on the check.

3 Q Look at 88, what is that?

4 A 88-A is a check in the amount of nine hundred
5 ninety-eight dollars seventy-four cents dated --

6 THE MASTER: Excuse me. Is this R-80
7 or R-88?

8 MR. MITCHELL: R-80-A.

9 Q (By Mr. Mitchell) That is the check with your
10 name on the front?

11 A Yes. This is one of the checks I testified I
12 forged.

13 Q That has an endorsement Benavides General Store,
14 also Rudolfo Couling?

15 A Yes, sir.

16 Q And you testified you cashed that check and forged
17 that check?

18 A Yes, sir.

19 Q Did you give that money to O. P. Carrillo?

20 A I don't remember. I have to see what I testified
21 to over there.

22 Q Well, forgetting what you testified to, what are
23 the facts?

24 A Would you give me the check again?

25 Q Just for the record, that is March 13, 1969?

1 A Yes, sir. I believe I kept some of the money off
2 that.

3 Q But you don't remember how much?

4 A No, sir.

5 Q Look at the next exhibit, which is R-81.

6 A This is the same as that, sir.

7 Q That is the invoice supporting R-80-A and B?

8 A Yes.

9 Q Look at the next check, R-78-A.

10 A It is from Benavides Independent School District,
11 signed by me, in the amount of seven hundred
12 seventy-eight dollars forty cents and I did
13 endorse and forge the store name.

14 Q So you forged the Benavides General Store on the
15 back of the check, R-78-A, and that appears in
16 R-78-B, and did you give that to Judge O. P.
17 Carrillo?

18 A Part of it, sir.

19 Q You don't recall how much?

20 A No, sir.

21 Q Look at R-84-A and R-77, which is the voucher,
22 and R-84-B, which is the back of the check; are
23 they all the same transaction?

24 A Yes.

25 Q Tell me about that.

1 A It is in the amount of two thousand four hundred
2 thirty-eight dollars, signed by me and president
3 of the board and the superintendent. I forged
4 Arturo's name on it and I endorsed it myself.

5 Q And you got the two thousand four hundred and
6 thirty-eight dollars; what did you do with that?

7 A I gave it to O. P. Carrillo and I kept part of it.

8 Q That is the transaction dated March 21st, 1969,
9 am I correct?

10 A Sir?

11 Q I say, that is May 21st?

12 A Yes.

13 Q Now, before I go on, there were many, many checks
14 of this type, were there not, the ones we have
15 shown you and the ones we have not shown you;
16 these are not all of them?

17 A Would you clarify what you mean?

18 Q Let's see if I can refresh your recollection.

19 Looking over my shoulder here, do you recall
20 a five hundred dollar check endorsed by you,
21 Zertuche General Store, deposit only, and that
22 check was forged by you and the five hundred
23 dollars you testified was --

24 A How could I cash it if it was endorsed for
25 deposit only?

1 Q Would it surprise you that is what you said?

2 A How could I; I could not have said that.

3 Q I asked you that same thing in September, did I
4 not?

5 A You didn't ask me anything about that in
6 September.

7 Q How about 7363 for two thousand one hundred two
8 dollars, and that is something you testified
9 that was the forged endorsement?

10 A I believe I only testified to some checks.

11 MR. ODAM: Are we reading from an
12 exhibit that is in evidence?

13 MR. MITCHELL: They are still preparing
14 them at the federal court and I do not have
15 these here.

16 THE MASTER: I take it you are reading
17 from notes?

18 MR. MITCHELL: That is right and I
19 thought the witness's recollection could
20 be served, but if not, I will strike out and
21 go on if it is not.

22 THE MASTER: All right.

23 Q (By Mr. Mitchell) Look at this one; this is the
24 one to Olivera.

25 A Yes, sir.

1 Q That was Exhibit 80 over in federal court, and
2 you endorsed it?

3 A Yes.

4 Q And you stated there you gave the money to
5 O. P. Carrillo?

6 A I stated before I helped; if I was working there,
7 I was entitled to put part of it in.

8 Q You did testify you put it in the name of
9 Olivera Implement Company, by you, and took it
10 and gave it to O. P. Carrillo?

11 A I gave him some of it and I kept some of it.

12 Q Let me ask you about that. Olivera was your
13 father-in-law?

14 A Yes, sir.

15 Q And during his lifetime, you didn't have the
16 authority to draw any checks on that Olivera
17 Implement Company account?

18 A Yes.

19 Q Don't you recall you testified that until he went
20 blind, that you could not do so?

21 A Yes.

22 Q And you don't recall when he went blind?

23 A No, sir, I don't remember.

24 Q You do remember the check in the amount of four
25 hundred ninety-five dollars forty cents payable

1 to Benavides General Store, endorsed by them and
2 Zertuche and you testified you forged that one?

3 A I imagine so.

4 Q How about this one, 6104, nine hundred thirty-
5 four dollars twenty-six cents, dated April 10,
6 1968, to Olivera Implement and endorsed by you,
7 do you recall that one? You testified you gave
8 that to O.P.?

9 A Some of it, yes, sir.

10 Q 6116, April 10, five hundred forty dollars from
11 the Benavides Independent School District to the
12 Zertuche General Store, signed by you and endorsed
13 Zertuche by you and you testified that was a
14 forgery, did you not?

15 A I am not disagreeing with you, but I would like
16 to see it.

17 MR. MITCHELL: For the purpose of the
18 record, I intend to take the record and get
19 those and bring them back. I am trying to
20 avoid all of that by refreshing the witness's
21 recollection.

22 MR. ODAM: I hate to be repetitious in
23 the record, but this testimony deals with
24 what Mr. Couling has testified to to be
25 forgeries. In this particular case here,

1 our testimony has not thus far in this case,
2 on this witness or any other, that
3 Mr. Couling has forged anyone's name. It is
4 obvious there were no other names on the
5 check other than his own name and I don't
6 see the relevancy of whether he forged checks
7 on the Benavides Store and it is not relevant
8 to what he did here.

9 MR. MITCHELL: If the government or
10 Examiner is taking the position, and they
11 have called him and have put the stamp of
12 credibility on him, then it is not relevant
13 and I take the position it is not relevant
14 and then I will cease the examination if that
15 is the case.

16 THE MASTER: I think, though, that, of
17 course, you have established that point.

18 Mr. Couling has, on a number of
19 occasions, admitted that. I thought we were
20 going into this not to show forgery, because
21 I think that is repetitious.

22 He has admitted repeatedly on a number
23 of occasions that he drew checks that were
24 not to pay valid bills and he did forge the
25 endorsements and benefited from the money

1 and gave some of it to Judge Carrillo.

2 Now, to the extent that you are
3 attempting to establish that it is contrary
4 to human nature for one person to endanger
5 himself or involve himself in such a scheme
6 to benefit another without a corresponding
7 benefit to himself, that is what you
8 indicated to me you were going to do, is it
9 not?

10 The question is: How much detail do
11 you want to go into to establish that?

12 MR. MITCHELL: I came up from '68 to
13 '69 and I have them up to '70 and I thought
14 to pick up into '71, the ones here, and do
15 what Mr. Odam suggested, the forgery of the
16 invoices, and I take the position he forged
17 them and they are not ours.

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MR. ODAM: When you speak of a forgery of invoices, if you mean signing someone else's name to invoices or he signed invoices for work that was not done?

MR. MITCHELL: Forgery, as I understand it, has two definitions. One, executing the authority of a person without that person's authority or purporting to execute the authority of one lawfully, such as taking the invoice that triggers the payment of the checks. It is not beyond him to do it. I say he did it.

MR. ODAM: Well, now, if he --

MR. MITCHELL: It is a continued conduct.

MR. ODAM: My only comment on the last comment of the Court, on why it would be done, it is simply my position it has been established that he got some of the money, Judge Carrillo got some of the money and that has been established and it would be repetitious to go through every year that it was done and I don't see --

MR. MITCHELL: Well, as a matter of fact, may I ask the witness a question.

1 Q (By Mr. Mitchell:) Mr. Couling, as to the money
2 that you got, now, we are talking about the money
3 that you got as to those checks, Olivera Imple-
4 ment, Zertuche General Store, that beginning in
5 68, 69 and 70, see if I'm not recollecting your
6 testimony that you gave previously, I believe you
7 never got over five hundred dollars total for
8 that whole period of time.

9 A I don't remember if I said over five hundred or
10 more.

11 Q Now, your testimony in this proceeding was you
12 gave everything --

13 A No, sir, I didn't say everything, I said I kept
14 some of the money.

15 Q No, I'm not talking about here in this procedure
16 now.

17 A Which one?

18 Q Beginning in 70 and 71, all those checks were
19 given --

20 A Those checks from the store, all the money went
21 from the county -- that came from the county went
22 to O. P. Carrillo.

23 Q And none was kept by you?

24 A No, sir.

25 Q So it is a fair statement that you probably didn't

1 keep between five hundred and, say, a thousand
2 dollars in all of this money from 1968 to date?

3 A I might have kept -- in 68, up through 1970, I
4 might have kept five hundred or a thousand or
5 more, I don't remember myself.

6 Q To date?

7 A I'm not saying to date, sir.

8 Q All right.

9 MR. MITCHELL: Well, Judge, I don't
10 know how -- I do want to shorten it and I
11 understand the concern of the Court. Maybe
12 I can run through these and I will represent
13 that these are the ones that I made, I made
14 a detail of them all and they go through
15 69 and 70.

16 The witness is recognizing some, it
17 seems like I am making some progress.

18 THE MASTER: And I have permitted you,
19 over the objection that is is irrelevant, to
20 do it. I do encourage you to --

21 MR. MITCHELL: Well, let me jump into
22 70, Judge.

23 THE MASTER: -- to lump it together,
24 compress it as much as we can.

25 MR. MITCHELL: All right. Judge.

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THE MASTER: So we can move on.

Q (By Mr. Mitchell:) In line with the instructions from the Court, Mr. Couling, I believe, let me see if you can recall with me in the year 69, I believe there were in March three checks, one for seven hundred and seventy-eight dollars and that is check number 6771, 97, 74, 87, 75, 79 and 94 for two thousand four thirty.

A Those are those checks over there, sir.

Q And those we have no questions about those were forged on the front and the back and I believe you testified --

A Whatever I testified there.

Q All right, let's move to 70.

MR. MITCHELL: I don't want to indicate, Your Honor, these are exclusive, but in line with the Court's instructions --

Q Let's look at 1970, check number 3173, Zertuche General Store, one thousand ten dollars. That check was dated 8-17-70, endorsed for deposit only Cleofus Gonzalez, George Zertuche, Junior, and I believe you testified in that particular case you endorsed those, you forged the endorsement and cashed that check?

A How could I endorse Cleofus Gonzalez, his name?

1 Q You don't remember?

2 A I would like to see the check, sir.

3 Q That would be check number 3137 for ten thousand --
4 one thousand dollars, am I correct? You don't
5 recall that?

6 A I don't recall that because I don't believe I
7 ever did say that I --

8 Q Did you -- did you forge Jose Saenz' name to
9 any of these checks?

10 A No, sir, no, sir.

11 Q You are testifying today under oath that you did
12 not specifically forge Jose Saenz' name to check
13 number 3439 payable to Zertuche General Store
14 issued by the Benavides Independent School Dis-
15 trict for a thousand and eight dollars on Octo-
16 ber 12th, 1970?

17 A No, sir.

18 Q And endorsed?

19 A I testified to the effect that I did not, sir.

20 Q All right. Do you recall any of these checks,
21 checks number 749 for five thirty-eight payable
22 to Zertuche General Store, endorsed Zertuche
23 General Store, issued by the Benavides Independent
24 School District signed by you?

25 A I would like to see the check first.

- 1 Q How about check number 7500?
- 2 A The same way, I would have to see the check.
- 3 Q How about check number 7798 that was endorsed
- 4 Zertuche General Store, George Zertuche, do you
- 5 recall that?
- 6 A I don't recall it, but to be honest with you, if
- 7 I say --
- 8 Q I want you to be honest.
- 9 A I can't tell you until I see the check, Mr.
- 10 Mitchell.
- 11 Q All right. Let me hand you another list --
- 12 MR. MITCHELL: For the Court, this is
- 13 another schedule that I made up.
- 14 Q Now, I will just hand you this list, it shows
- 15 payees Zertuche General Store, Oliver's Implement
- 16 Company, it shows a check number, whether it is
- 17 on Benavides Independent School District or the
- 18 Conservation District, or the Duval County, I
- 19 ask you if any of those, either you forged the
- 20 issuance, the endorsements, gave the cash to
- 21 Judge Carrillo?
- 22 A I would like to see the checks, sir. I can't
- 23 say by this, I can't testify to anything.
- 24 Q All right, you can't?
- 25 A No.

1 MR. MITCHELL: May I have just a minute,
2 Judge Meyers?

3 THE MASTER: Yes, sir.

4
5 (Discussion off the record.)

6 Q I understand your testimony previously, Mr.
7 Couling, that you do not recall ever having issued
8 a check as the treasurer of the Benavides Indepen-
9 dent School District to George Parr.

10 A I don't remember, sir. I don't remember you
11 asking me and I don't remember --

12 Q Have you ever issued one to him from the Benavides
13 Implement and Hardware Company or the Olivera
14 Implement and Hardware account?

15 A To George Parr, no, sir.

16 Q Have you ever handed him cash?

17 A Not to George Parr, no, sir.

18 Q You never did take any of these checks that were
19 issued by the Benavides Independent School Dis-
20 trict or the Water Conservation District or Duval
21 County and cash those and give the money to
22 George Parr?

23 A I never had any business with Mr. Parr, sir.

24 Q Never had any business?

25 A No, sir.

1 Q As a matter of fact, Mr. Couling, you were behold-
2 ing to George Parr and his political force and
3 power for your very job?

4 A No, sir, Mr. O. P. Carrillo was the one that
5 got me into the school district as the tax
6 collector, sir.

7 Q And not George Parr?

8 A I talked to O. P. Carrillo, he is the one that
9 talked to me, sir.

10 Q And you didn't understand really you were a
11 George Parr man?

12 A At the time everybody was a George Parr man, sir.

13 Q Are you a George Parr man, now?

14 A George Parr is dead, sir.

15 Q Or the Parr faction?

16 A I belong to the old party now, sir.

17 Q What old party?

18 A Just the old party, as far as I am concerned.

19 MR. MITCHELL: I believe that's all
20 the questions I have of this witness at
21 this time, Judge Meyers.
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R E - E X A M I N A T I O N

BY MR. ODAM:

Q Mr. Couling, Mr. Mitchell has asked you a number of questions about the setting up of Benavides Implement and Hardware, about the conversations you had with Ramiro Carrillo.

Do you recall that generally when we started back into that Thursday, nearly two weeks ago, do you recall when we started that discussion?

A Yes, sir.

Q And I believe it was your testimony at that time that you set up the Benavides Implement and Hardware by way of a note at San Diego State Bank with Ramiro Carrillo, is that correct?

A We borrowed a note for three thousand dollars and I believe I already had an account in the bank, sir. I'm not sure if I did or not.

Q All right.

MR. ODAM: Mark that.

(Marked for identification by the reporter as Exhibit E-168.)

Q I show you what has been marked as Exhibit E-168 and -- there are two items on it. I ask you if

1 you can identify the item at the top of the
2 page.

3 A Yes, sir, that is my signature card at the
4 First State Bank of San Diego, sir. It has got
5 the date of April the 16th, 1971.

6 Q April what?

7 A April 16, 1971.

8 Q Would this be the time that you -- well -- I
9 guess -- would this be the time that you set up
10 the checking account for the store?

11 A Yes, sir.

12 Q What is the item at the bottom?

13 A That is when Cleofus took over the store, this
14 is his signature card, sir.

15 Q You recognize that as being his signature?

16 A Yes, sir.

17 Q And this appears to be a xerox copy of the
18 cards?

19 A At the bank in San Diego.

20 Q You identify both your signature on the top one
21 and for Cleofus Gonzalez when he took over the
22 store on the bottom one?

23 A Yes, sir.

24 MR. ODAM: We would offer into evidence
25 E-168.

1 MR. MITCHELL: May I ask the witness
2 a question on voir dire, Your Honor?

3 THE MASTER: Yes, s'r.
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7 VOIR DIRE EXAMINATION

8
9 BY MR. MITCHELL:

10 Q Mr. Couling, Counsel asked you a question as
11 regards the signature card appearing on the bottom
12 half of E-168. You know what I am talking about?

13 A Yes, sir, that was the approval that I was going
14 to close my account and he was going to take over
15 on the same name of the store, sir.

16 Q Actually, what it is, is an approval to allow
17 Cleofus Gonzalez to draw on the Benavides Imple-
18 ment and Hardware account?

19 A That was after I sold to him, you can see by the
20 date there, sir.

21 Q Well, the reason I asked this is who struck out,
22 "Remarks" and put "Approved R. M. Couling" in
23 there?

24 A I put my name but I don't know who scratched that
25 out, sir.

1 MR. MITCHELL: Perhaps this is legiti-
2 mate cross-examination, Your Honor, and just
3 simply I would object and restate my objec-
4 tions that I haven't stated today beyond the
5 scope and irrelevant and immaterial, beyond
6 the formal and beyond the amended and relate
7 to non-judicial duties and the best evidence
8 rule.

9 THE MASTER: Now, wait, do you object
10 on the best evidence rule?

11 MR. MITCHELL: I withdraw the objection
12 on the best evidence rule, Judge Meyers.

13 THE MASTER: The other objections are
14 omitted -- or the objections are overruled.
15 I started to say this, I believe this is
16 the latest in the day that you have stated
17 your basic four objections since we have
18 been in hearing.

19 The Exhibit is admitted.

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23 RE-EXAMINATION CONTINUED

24
25 BY MR. ODAM:

1 Q Now, you identified on the top of E-168 your
2 signature?
3 A Yes, sir.
4 Q And I believe Mr. Mitchell pointed out your signa-
5 ture in on the bottom card also?
6 A Yes, sir.
7 Q Could you explain for the Court and for the
8 record why your signature would appear on the
9 bottom?
10 A The bank called me that Cleofus went over there
11 and said he had bought the business from me and
12 I told them yes, so they sent the card over and
13 they said that it was -- that I approved he was
14 going to sign checks from then on on his own store.
15 Q Now, where it says approved, did you write --
16 did you strike out remarks and put approved?
17 A No, sir.
18 Q Was it like that when it came to you?
19 A Yes, sir.
20 Q And the bottom card is when Cleofus started
21 on the accounts, it was in June the 9th?
22 A Yes, sir.
23 Q 1975?
24 A Yes, sir.
25 Q Now, this top card, April 16th, 1971, is that --

1 I think your testimony just a while ago was that
2 is when you set up the checking account for the
3 store?

4 A Yes, sir.

5 Q Now, but your best recollection is that you took
6 out a note thereafter?

7 A Yes, sir.

8 Q A couple of weeks later?

9 A A couple of weeks later or a month later, I took
10 a note which Ramiro counter-signed with me, yes,
11 sir.

12 Q Again, there has been abundant questions asked
13 by Mr. Mitchell as to Benavides Implement and
14 Hardware and the partnership and the silent part-
15 nership and Judge Carrillo and Ramiro Carrillo
16 and the questions attempting to be established
17 that it was all yours.

18 My question to you is the evidence thus far
19 has clearly indicated by everything we have seen
20 Benavides Implement and Hardware, as an entity,
21 and where it was signed, it was signed like on
22 this card with your name, the Rio Grande City
23 card with your name.

24 Do you agree that is what the testimony has
25 been thus far and the evidence has been when you

1 have been in the room, is that correct?

2 A Yes, sir.

3 Q My question to you, if that is the case, why
4 was it set up in that manner and I believe you
5 have testified to this previously.

6 MR. MITCHELL: Wait just a minute,
7 that would be argumentative and violate the
8 best evidence rule as represented by R-70
9 and E-168.

10 MR. ODAM: Your Honor, I don't know
11 how it would be argumentative. I certainly
12 don't intend to argue with my own witness.

13 As far as the best evidence, my ques-
14 tion to him is if that is what it is. My
15 question is simply why was it set up like
16 this, if his previous testimony was that
17 he had a discussion with Ramiro Carrillo.

18 MR. MITCHELL: Well, pardon me, Your
19 Honor. The questions assumed the fact that
20 is not established by the evidence. The
21 R-70 predates the conversation with Carrillo --
22 that is May of 71 and likewise his R -- his
23 E-168 predates it, predates the conversation
24 and that it would be hearsay, therefore.

25 THE MASTER: Well, the question is why

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MR. ODAM: The question is why was the Benavides Implement and Hardware account established and the store established at this time in April, 1971.

THE MASTER: Your objection is overruled to that.

A Now, would you repeat it again, sir.

Q (By Mr. Odam:) Yes, I will. The checking account was established and yours was the only name on it.

A Yes, sir.

Q My question was, that everything that we have seen that it was a sole proprietorship that was set up and why was it established only by you?

A Well, I believe I stated that I am not sure if I stated that I had a conversation with Ramiro before that or after that. I don't know the exact date, but the store was partially opened, like I stated before it was opened most of the time, just Saturdays and weekends for maybe an hour or two during the day.

When Eloy Carrillo was working there, he was a deputy sheriff, he used to go when he was off duty and I believe we started selling some stuff to the -- very little stuff to the water

1 district and some to the county and school and
2 that is when we open the account the first time.

3 Now, later on in May, Ramiro came in and
4 said that they were not going to do any more
5 business with the Zertuche Store through the
6 county: that he wanted that business to continue
7 from the Farm and Ranch to the Benavides Implement
8 and Hardware Company and the Benavides Implement
9 and Hardware would sell to the county and in turn
10 when the county paid the store, the store would
11 pay back to the Farm and Ranch.

12 Q Now, did you ever have a discussion with Ramiro
13 Carrillo as to whether or not to carry it as a
14 partnership or not?

15 A He told me specifically he didn't want it known
16 that it was a partnership, just a silent partner.

17 Q That he was to be a silent partner?

18 A Yes, sir, and my understanding when we borrowed
19 the money he said it would be a thousand dollars
20 a piece and I said who is the third person and
21 he said O. P. Carrillo wants part of it.

22 MR. MITCHELL: Excuse me, Judge.

23 A We want it all to --

24 MR. MITCHELL: In view of the fact of
25 the long answer, we are going to move to

1 strike it and request that Counsel put a
2 question to the witness in time constraints,
3 specific times, place, of the conversation
4 so as to permit me to be intelligently
5 informed so that I can object.

6 MR. ODAM: I will rephrase the ques-
7 tion.

8 THE MASTER: All right.

9 Q When did Ramiro Carrillo have this conversation
10 with you, as best you can recall, as to date?

11 A Well, it had to be somewhere in the latter
12 part of -- as late as -- as early as March or
13 the middle of April, sir.

14 Q Of what year?

15 A 1971.

16 Q Okay, so it was at that time the conversation
17 took place with regard to the silent partnerships?

18 A Yes, sir.

19 Q Mr. Mitchell asked you a number of questions
20 concerning a memorandum of understanding. I
21 believe it is marked as R-57.

22 Do you recall the piece of paper I am
23 referring to, memorandum of understanding that
24 you signed with Mr. Blanton and some other
25 attorneys?

1 A Yes, sir.

2 Q Is it your testimony that you were called to
3 testify here pursuant to that memorandum of
4 understanding?

5 A Well, I didn't know I was coming here until I
6 was subpoenaed to come here to testify, sir.

7 Q And was the memorandum of understanding discussed
8 with you in connection with your testimony in
9 this proceeding?

10 A No, sir, it was not discussed by you, sir.

11 MR. MITCHELL: That wasn't the question,
12 it would be non-responsive. The question
13 was, was the memorandum of understanding
14 discussed and his answer was not by you.

15 MR. ODAM: That is correct, it is non-
16 responsive.

17 Q Did anyone discuss your coming to testify in
18 these proceedings and make, for example, refer-
19 ence, "here is a memorandum of understanding"?

20 A No, sir, nobody did, no, sir.

21 Q Did anyone relate, did anyone take that memoran-
22 dum of understanding and relate or say that it
23 is the basis that you have to go testify here in
24 this proceeding?

25 A No, sir, the memorandum, I saw it in the federal

1 court and when Mr. Mitchell presented it to me
2 was the second time I saw it. I haven't seen it
3 in between, sir.

4 Q And when you say in federal court, you are talk-
5 ing about this trial Mr. Mitchell --

6 A In September, yes, sir.

7 Q All right.

8 MR. ODAM: Mark this.

9
10 (Marked for identification as Exhibit
11 E-169.)

12 Q I show you what has been marked as E-169 and it
13 appears to be a certified copy and it says judg-
14 ment in probation commitment and docket 75C-45.

15 MR. MITCHELL: Now, just a minute,
16 Your Honor. First of all, this is highly
17 improper to ask this witness concerning a
18 judgment in a federal court.

19 Secondly, we are going to object
20 before he reads it all into evidence on
21 the grounds it is hearsay, immaterial and
22 irrelevant and outside the scope of this
23 inquiry and it is on appeal, notice of
24 appeal having been already filed. There
25 is no -- it has no bearing whatsoever on

1 this proceeding before this body in this
2 tribunal.

3 MR. ODAM: May I respond to that,
4 Your Honor?

5 THE MASTER: Yes.

6 MR. ODAM: The witness was asked a
7 number of questions, first of all, by Mr.
8 Mitchell as to some proceedings in federal
9 court. I do not think it is fully clarified
10 as to what proceeding that is.

11 This document, which is the judgment
12 and probation order in that case, which is
13 a certified copy which really does not need
14 the testimony of this witness, except to
15 identify that that is what he testified in,
16 is relevant to show what all that testimony
17 went to.

18 Mr. Mitchell has brought it up and I
19 think it is entirely proper to bring it in
20 to tie in what the testimony went to, the
21 forgery, et cetera.

22 This is simply the final order in that
23 particular case and it is relevant for that
24 purpose.

25 THE MASTER: Is this the judgment in

1 the --

2 MR. ODAM: The federal case, yes, sir.

3 THE MASTER: The federal tax suit
4 against Judge Carrillo?

5 MR. ODAM: Yes, sir, the one that Mr.
6 Mitchell has been asking him the questions
7 about, that he was a witness in.

8 THE MASTER: Well, what does it show?

9 MR. ODAM: Well --

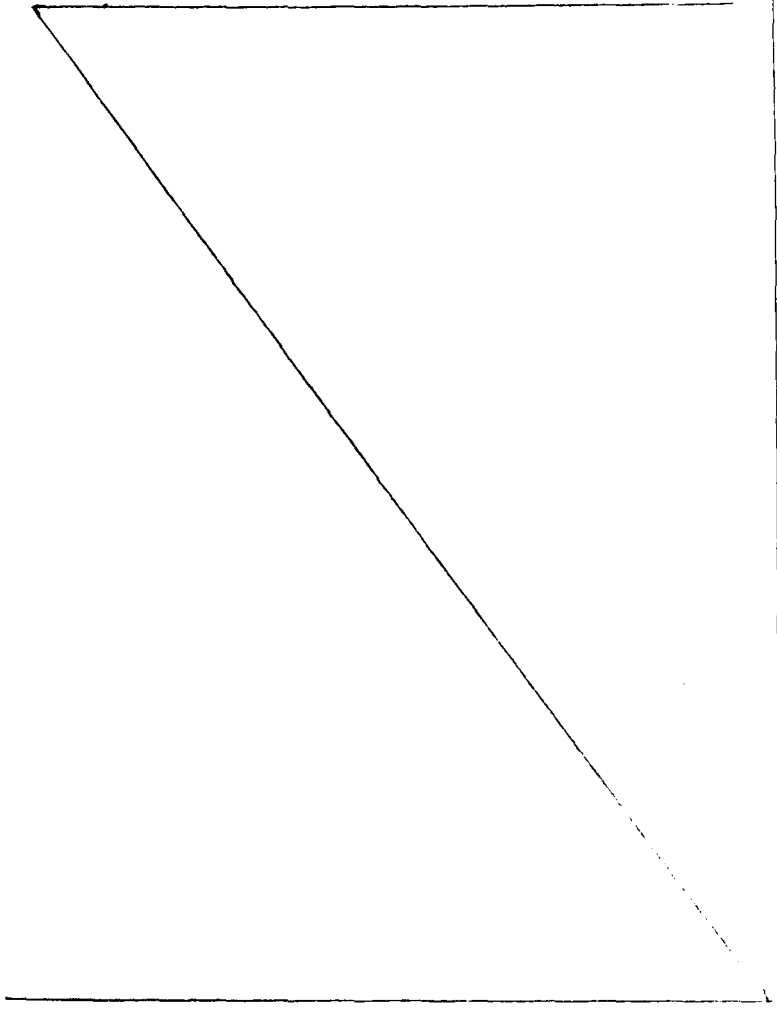
10 THE MASTER: What is the point of it?

11 MR. ODAM: The point of it, Your Honor,
12 is that this gentleman has been asked numer-
13 ous questions about forgery of certain instru-
14 ments and I didn't attend, but I am sure --
15 I presume it is in this particular proceeding
16 here and I think we all can assume that,
17 that being the case, the relevancy of it
18 is this witness has testified, that testimony
19 went into that case and from that case Judge
20 O. P. Carrillo -- here is the judgment and
21 order as a result of the testimony.

22 I think it is relevant for two reasons,
23 number one is to show what his previous
24 testimony was and, number two, that it would
25 be the main purpose of it is to show what

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his previous testimony was and to show that
the credibility of this witness, which had
been under attack and we have an opportunity
to rebut it, and this would partially rebut
that, that it was credible there for that
purpose.



1 THE MASTER: Well, no, I don't
2 believe that is admissible for that. I
3 don't believe the fact that a jury has acted
4 in any way can influence me or the Judicial
5 Qualifications Commission or the Supreme
6 Court as to the credibility of the witness
7 in this hearing. That has to be judged by
8 what was heard in this hearing and not by
9 the fact that some other person or twelve
10 persons may or might not have believed and
11 that does not prove it. There may be other
12 witnesses that swayed the jury in the case.

13 MR. ODAM: You asked where it would
14 be admitted and I said that would be one of
15 the reasons. The other reason would be that
16 the witness had been asked here by previous
17 testimony in a particular proceeding, but
18 it has never been fully identified as to
19 what that is. We have talked about a federal
20 cause or federal case, but this is a copy of
21 the order identifying what that is and this
22 witness can identify what that is and that
23 he testified in that proceeding and in that
24 order, it would be limited and we would stop
25 right there.

1 MR. MITCHELL: Well, Counsel should
2 make the statement he wants to pollute the
3 record with it. I would say to this court
4 twelve to fifteen times this has been
5 mentioned by me, the State versus Ramiro
6 and O. P. Carrillo and did so for that purpose.
7 I would say also that the cause number was
8 mentioned --

9 THE MASTER: Cause No. 75-C-45.

10 MR. MITCHELL: Right, and I believe on
11 several occasions I have incorporated the
12 cause number in my questions. That would be
13 no thin thread to introduce it in this case.

14 MR. ODAM: If that is the case, I see
15 no reason for it.

16 THE MASTER: I sustain the objection.

17 MR. MITCHELL: Now that he has got that
18 in there for the Bill of Exception, can we
19 state that the notice of appeal is in and
20 will be prosecuted all of the way to the
21 Supreme Court of the United States?

22 THE MASTER: If they let you in. You
23 can state that, yes.

24 Q (By Mr. Odam) Mr. Couling, back on the Benavides
25 Implement and Hardware Store, and the last

1 exhibit you looked at is E-168, the two cards
2 here with Cleofus Gonzalez's name and your own
3 name on the card. Did you have occasion to talk
4 with Ramiro Carrillo about the sale or transfer
5 of the store to Ramiro Carrillo?

6 Let me rephrase that.

7 Did you have occasion to talk with Ramiro
8 Carrillo about the sale of the store to Cleofus
9 Gonzalez?

10 A No, sir.

11 Q There was some confusion earlier in the record,
12 I believe, since you stated that you set up with
13 the note, the store in May, 1971, with Ramiro
14 Carrillo --

15 A Yes, sir.

16 Q -- and I take it that while the note was taken
17 out in May, that the checking account was
18 established in an earlier point in time?

19 A Yes, sir.

20 Q Can you explain why the note would not be taken
21 out until May and the checking account established
22 a couple of weeks earlier?

23 A I believe that was it, we talked about it, and
24 that was the time we went to the bank to get the
25 note. We talked about it two or three weeks

1 before.

2 Q So the checking account was set up April 16,
3 1971?

4 A '71.

5 Q And then we previously have offered into, and it
6 has been admitted, a copy of the check, E-65,
7 which is written as a matter of fact for one
8 thousand eight dollars on what date?

9 A April 16, 1971.

10 Q Who is this check made out to?

11 A O. P. Carrillo.

12 Q So it is not your testimony that while the note
13 was taken out, or you went to the bank around the
14 1st of May, that the store account was established
15 a couple of weeks earlier than that?

16 A Yes, sir.

17 Q Mr. Mitchell asked you some questions, I believe,
18 about a Mr. Juan Leal, the county commissioner
19 for Precinct 2. I am not sure the record was
20 clear on that point. Were you referring to a
21 number of invoices that were made out or filled
22 out by Cleofus Gonzalez and I believe you identified
23 them as being filled out by him?

24 A Yes, sir.

25 Q Did you yourself ever have occasion to talk about

1 those invoices or the checks that were coming out
2 of the county with Juan Leal?

3 A No, sir. The checks were all of the checks that
4 were brought to my store, including checks from
5 the county.

6 Q I take it that the only person that you -- well,
7 strike that.

8 Did you have conversations with anyone other
9 than Cleofus Gonzalez and Ramiro Carrillo about
10 the issuance of those county checks?

11 A I only talked with Ramiro Carrillo when he brought
12 them in.

13 Q Did you not talk to Cleofus about the checks?

14 A No, the checks were brought by Ramiro.

15 Q To the tax office where you were?

16 A Yes.

17 Q Mr. Mitchell asked you about the purchase of,
18 I believe you said, eight head of cattle from
19 O. P. Carrillo.

20 A Yes, sir, I bought -- I had some cattle on the
21 ranch which my wife inherited and when I borrowed
22 the money from F.H.A., I bought eight or ten head
23 that were bred from O. P. Carrillo.

24 Q These checks in evidence, the county checks, and
25 these checks, No. 65, to O. P. Carrillo, were

1 any of these checks issued -- were any of those
2 to pay for that bunch of cattle?

3 A No, sir.

4 Q How did you pay for them?

5 A With the loan I had with F.H.A. in the Bank of
6 San Diego.

7 THE MASTER: Did you say you bought
8 those at an auction?

9 THE WITNESS: Yes, sir. They were
10 bought at the auction with someone else.

11 THE MASTER: Who did?

12 THE WITNESS: The Beefmaster
13 Association.

14 THE MASTER: To whom was the payment
15 made for the cows you bought?

16 THE WITNESS: I don't know if I made it
17 to O. P. Carrillo or -- I don't remember.
18 I bought them at an auction sale.

19 THE MASTER: That was what got my
20 curiosity aroused, because normally you pay
21 the auctioneer or auction house.

22 THE WITNESS: This particular percentage
23 went to the auctioneers. They didn't use the
24 regular ones, so --

25 THE MASTER: So you don't know how the

1 check was made?

2 THE WITNESS: No, sir.

3 Q (By Mr. Odam) But it is your testimony that
4 these particular checks in evidence were not to
5 pay for those cows?

6 A These were not, no, sir.

7 Q Now, we did not get into this on direct
8 examination, but it came up, I believe, in
9 response to a question from Mr. Mitchell regarding
10 E-94, that is where we first got into it and it
11 is concerning the Massey-Ferguson tractor.

12 Could you clarify how it was set up for the
13 accounts and the bank to purchase this Massey-
14 Ferguson tractor?

15 A O. P. Carrillo came to me and said he needed a
16 check for twenty-nine something for a payment or
17 down payment. I could be wrong on that, but from
18 the Rio Grande bank, which I did. I believe the
19 check was returned for insufficient funds and
20 later I had to write a new check which did clear
21 the bank.

22 Q When Judge Carrillo came to talk to you about this
23 matter, this Massey-Ferguson, and I show you
24 Exhibit E-62, this first entry for twenty-nine
25 seventy-five, is that the check you issued?

1 A Yes, sir.

2 Q For the Massey-Ferguson?

3 A Yes, sir.

4 MR. ODAM: Mark this, please.

5

6 (Whereupon, the above-mentioned
7 document was marked Examiner's Exhibit 170
8 for identification.)
9

10 Q (By Mr. Odam) I believe you said something
11 about -- if you could restate that about reissuing
12 a check, I would appreciate it.

13 A The first check was issued before November, I
14 believe, and it came back and I was told by O. P.
15 the check was no good.

16 MR. MITCHELL: Objection, hearsay,
17 move to strike.

18 THE MASTER: The objection is overruled.

19 Q (By Mr. Odam) Let's clarify who said this to
20 you.

21 A O. P. Carrillo said the check had not cleared.

22 MR. MITCHELL: Pardon me, I appreciate
23 the fact it is a statement purporting to be
24 made by my client to this witness, that a
25 check written by this witness to a third party

1 was insufficient, but there is no way this
2 witness can know that.

3 THE MASTER: Overruled.

4 Q (By Mr. Odam) I show you E-170 and ask you to
5 look at it.

6 A Yes, sir.

7 Q Can you identify E-170, what it is?

8 A This is a letter from Nueces Farm Center,
9 Robstown, to O. P. Carrillo stating that --

10 MR. MITCHELL: Just a minute. We are
11 going to request, first of all, that we be
12 given an opportunity to see it without the
13 witness reading it into evidence. We have
14 to object at this stage of the proceeding.

15 THE MASTER: I have not seen it, but
16 I suppose that is what it is.

17 Q (By Mr. Odam) Let me ask you, without identifying
18 the letter specifically, identify to whom the
19 letter is addressed.

20 A To O. P. Carrillo.

21 Q The letter relates to -- strike that.

22 MR. ODAM: I would offer E-170 into
23 evidence.

24 MR. MITCHELL: Objection, hearsay,
25 best evidence, improper authentication and

1 irrelevant and immaterial.

2 THE MASTER: The first three are
3 sustained, but I don't know about immaterial
4 and irrelevant.

5 MR. ODAM: I would submit to Counsel this
6 is a machine copy, as is R-74, which
7 Mr. Mitchell was kind enough to allow in
8 evidence, so we would not have to have
9 someone come over from Robstown to identify
10 it. I asked that this copy be made and we
11 can have someone drive over to identify that
12 it came out of their records, but it appears
13 to be like this copy was where we would have
14 to put someone on the stand and to the task
15 to do the same thing.

16 MR. MITCHELL: My problem with the
17 exhibit, it is a letter or Xerox of a carbon
18 copy of a letter purportedly to Judge
19 Carrillo. I submit this witness, Mr. Couling,
20 is not an authenticating witness for that
21 document.

22 THE MASTER: I could conceive of ways
23 he could be, but he has not been yet.

24 MR. MITCHELL: That is right.

25 THE MASTER: The objection is good.

1 Not only do you have someone say it is a
2 copy of the letter in our files, but you have
3 to have someone verify that it was mailed
4 to the addressee. Then presumption takes
5 over and you are not near that on this letter.

6 MR. MITCHELL: Which would be rebuttable.

7 THE MASTER: Yes, sir.

8 MR. ODAM: I realize that full well and
9 I was attempting to see if we could get one
10 in and see if Mr. Mitchell would agree.

11 MR. MITCHELL: May I be permitted to
12 address counsel?

13 THE MASTER: Yes.

14 MR. MITCHELL: R-74 is dated two years
15 prior to E-170 and therefore is no tie-in to
16 assure me of authentication and I don't know,
17 because of that, on the time lapse. I
18 cannot state to the Court I agree to the
19 authenticity of the E-170. I don't want to
20 appear to be unreasonable, but if there were
21 a tie-in --

22 MR. ODAM: It states the amount of money
23 was due in September, 1973, two thousand
24 nine hundred two dollars.

25 MR. MITCHELL: The check doesn't have

1 anything to do with that figure. It is not
2 the same figure and there are problems on
3 it.

4 THE MASTER: May I see it, please?

5 MR. ODAM: I understand E-170 has been
6 offered and the objection is sustained.

7 THE MASTER: Yes, sustained.

8 Q (By Mr. Odam) Mr. Couling, I believe Mr. Mitchell,
9 by way of his questions, would have us believe that
10 perhaps some of these payments that state on them
11 to be truck rental were payments of the truck you
12 purchased from O. P. Carrillo on these checks he
13 put in evidence, and I want to be sure the record
14 is clear.

15 Was that in payment of the truck you bought
16 from O. P. Carrillo?

17 A No, sir.

18 Q Why did you put that on it?

19 A I put it down for legal advice and then I
20 scratched through it and put rental on the truck.

21 Q Did he render advice to Benavides Implement and
22 Hardware?

23 A No.

24 Q He had to get the money from the store, in other
25 words?

1 A Right.

2 MR. MITCHELL: Objection, that is not
3 a permissible question and we object to
4 that. The attorney's statement of what was
5 in his mind -- I have no quarrel --

6 MR. ODAM: Strike that question and I
7 will ask you this.

8 Q (By Mr. Odam) Judge O. P. Carrillo never rendered
9 legal advice to the Benavides Implement and
10 Hardware Store?

11 A No, sir.

12 Q And you didn't make out this check to buy that
13 truck from him?

14 A No, sir.

15 Q Mr. Mitchell also posed questions to you, I
16 believe, about a default on the Caterpillar
17 payments, the payments you were making to Plains
18 Machinery?

19 A Yes, sir.

20 Q I believe it was said it was in default for six
21 months, was it?

22 A Not to my knowledge, no, sir.

23 Q I show you what has been marked E-147, which is
24 in evidence, and ask you if you can identify for
25 the record what the date is on this check?

1 A This is February 19, 1973.

2 Q February 19, 1973?

3 A Yes, sir.

4 Q Now, this will be a check you made payable to
5 Plains Machinery?

6 A Yes, sir.

7 Q Do you recall when it was, from the earlier
8 testimony, as to when Judge Carrillo came on the
9 note and picked up the legal ownership of the
10 Caterpillars?

11 A I believe it was in 1974.

12 Q And this check we have here is in 1973?

13 A Yes, sir.

14 Q Now, he again -- we went through this on direct
15 examination and I don't mean to be repetitious,
16 and I want to be sure I understand.

17 The payments were coming out of the county
18 and going to pay for the Caterpillars and the
19 difference being made up by Judge Carrillo. This
20 is concerning that area.

21 My question to you is this.

22 What conversation did you have with Judge
23 Carrillo about money coming from the county to
24 pay for those Caterpillars?

25 A I don't know if it was him or Ramiro that stated

1 he would get money to pay for the Caterpillars
2 from the county and the difference would be made
3 up by O. P. Carrillo.

4 MR. MITCHELL: Objection, that is a guess
5 and hearsay as to the extent that the witness
6 stated he could not identify under oath --
7 he could not state who it was that told him
8 that.

9 THE MASTER: Sustained.

10 Q (By Mr. Odam) You could not remember whether it
11 was Ramiro or O. P.?

12 A The only one that talked to me about the checks
13 was Ramiro.

14 MR. MITCHELL: I move to strike on that.

15 THE MASTER: Sustained.

16 Q (By Mr. Odam) Why did you make out the checks
17 for the Caterpillar payments to Plains Machinery?

18 A On that particular one, I had a conversation with
19 O. P. He said I had to make the payments from the
20 Rio Grande bank.

21 MR. MITCHELL: May I ask the Court to
22 instruct counsel as to time, I would like to
23 ask counsel to phrase it in terms of time.

24 MR. ODAM: I will ask that question. I
25 was going to ask him about that.

1 Q (By Mr. Odam) You had this conversation. Do you
2 recall when that conversation was with Judge
3 O. P. Carrillo, whereby the county would be
4 issuing checks?

5 A To pay for the root plows and tractors?

6 Q Yes.

7 A It was somewhere in the latter part of 1972 or
8 the early part of 1973, sir.

9 MR. MITCHELL: Excuse me, the latter
10 part of '73 or '74?

11 THE MASTER: I understood him to say
12 the latter part of '72 or the early part of
13 '73.

14 Is that what you said?

15 THE WITNESS: Yes, sir.

16 MR. MITCHELL: Thank you, sir.

17 Q (By Mr. Odam) Around the time the payments
18 started in January, 1973, is that correct?

19 A Yes, sir.

20 Q So it would be around that time you had a
21 conversation with Judge O. P. Carrillo on that?

22 A Yes.

23 Q You just stated that payment was to be made from
24 the Rio Grande City bank?

25 A Yes, sir.

1 Q Now, Mr. Mitchell asked you a number of questions
2 about R-70, which has your name on it.

3 Did you go over to the bank and pick up that
4 card?

5 A No, sir.

6 Q How did you get the card?

7 A O. P. Carrillo brought me the card from Rio
8 Grande City.

9 Q Judge O. P. Carrillo brought the card to you to
10 set up the account?

11 A Yes, sir.

12 Q I show you what has been marked as R-73. Can you
13 identify that?

14 A It is a financial statement.

15 Q Where did you get that?

16 A Mr. Carrillo brought me the blanks for it.

17 Q And this was to set up the loans?

18 A Yes, sir.

19 Q And Judge Carrillo brought you these?

20 A Yes, sir.

21 Q Did he say anything to you when he brought you
22 these documents?

23 A That they were going to negotiate a loan at the
24 Rio Grande City National Bank.

25 Q And this was a loan to pay for the Massey-Ferguson?

1 A Yes, sir.

2 Q Have you ever been to that bank?

3 A In the early fifties, sir.

4 Q But not in connection with this account here,
5 however?

6 A No, sir.

7 Q Who did you talk to in negotiating the loan to set
8 up the note in the first place?

9 A I don't know who Mr. Carrillo talked to, all I
10 know is that Judge O. P. Carrillo brought me the
11 note and the papers and I signed them and it was
12 set up.

13 Q When was that?

14 A It was before the note -- when one of the payments
15 became due, I called on the bank.

16 Q I guess that is the reason I asked the question.

17 I got the impression the note was set up and
18 it was your set-up on it. I take it it was brought
19 to you?

20 A Yes, sir.

21 Q You did not yourself negotiate the note with any
22 bank officer?

23 A No, sir.

24 Q These papers were brought to you by Judge Carrillo?

25 A Yes, sir.

1 Q Mr. Mitchell asked you a question about the
2 purchasing of a drugstore counter. Did you
3 purchase that from Judge O. P. Carrillo?

4 A No, sir.

5 Q Is it your testimony that what is put on those
6 checks in evidence made out to Judge O. P.
7 Carrillo, the description of whatever it was on
8 there, for example, the truck rental, was not in
9 fact whatever the work was done or whatever goods
10 and services purportedly took place, that never
11 did take place?

12 A No, sir, it never did.

13 Q Well, I believe my last question of you,
14 Mr. Couling, is regarding the Parr faction.

15 Are you here testifying because of some
16 political dispute involving Judge O. P. Carrillo?

17 A No, sir.

18 Q Have you testified in any case because of this
19 political dispute between the Parrs and Carrillos?

20 A No, sir.

21 Q I believe you previously testified that you have,
22 for a long time, been a friend and associate of
23 Judge O. P. Carrillo?

24 A Yes, for a long time, including the other
25 Carrillos.

1 Q I take it -- we are not going into the political
2 history of Duval County, but you are not here
3 testifying because of any political dispute?

4 A No, sir.

5 Q You are testifying here as to what names appear
6 on these checks issued and the facts that
7 actually occurred?

8 A Yes, sir.

9 Q And because that is what occurred?

10 A Yes, sir.

11 MR. ODAI: Pass the witness.

12 MR. MITCHELL: Judge Meyers, I am going
13 to have some recross and, may I ask, I don't
14 have the daily copy of this witness that I
15 would like to have made available,
16 particularly as to that portion of his
17 testimony where I asked him about the time
18 where he had the alleged conversation with
19 Ramiro Carrillo.

20 THE MASTER: Well, I went past 1:00
21 in the belief that we would get through
22 with this witness, but you are telling me we
23 will not?

24 MR. MITCHELL: I don't believe we are,
25 Your Honor.

1 THE MASTER: I don't know what volume
2 you are asking for, but you have everything
3 except this week, do you not?

4 MR. MITCHELL: I have the copies
5 delivered by Mr. Pipkin's office before
6 Monday week. I have not received any since
7 that point.

8 THE MASTER: I have copies of everything
9 taken before the Thanksgiving break. It is
10 twelve or thirteen volumes.

11 MR. MITCHELL: I don't have, Your
12 Honor, just anything except that first group.
13 What I really want is Rudolfo Couling's
14 testimony commencing -- well, I am not sure
15 which volume.

16 MR. ODAM: All of those copies were
17 made and I don't know what happened to them.

18 MR. PIPKIN: May I state, Mrs. Pearson
19 said they were delivered to our office and
20 it was her understanding someone from
21 Mr. Mitchell's office would pick them up.

22 THE MASTER: Do you have volumes you
23 could make available to him?

24 MR. ODAM: We have nothing from this
25 week.

1 THE MASTER: I mean before this week.

2 MR. ODAM: Sure, all of them.

3 MR. MITCHELL: All I want really is the
4 testimony of Mr. Couling when he first took
5 the stand.

6 THE MASTER: That was before this week.

7 MR. MITCHELL: I almost have the time,
8 I believe.

9 MR. ODAM: Well, those copies would be
10 in Austin, because that Monday we sent back
11 to start making copies of. I believe the
12 only copy I have is yesterday that is here.

13 MR. MITCHELL: The testimony about which
14 I have reference is on a 12:00 o'clock session
15 on 12-2-75.

16 MR. ODAM: Well, that was yesterday and
17 here is yesterday's copy. Monday's copy was
18 not -- it was not here. It was Monday when
19 you started on cross, I believe.

20 THE MASTER: Need this be on the record,
21 Mr. Mitchell?

22 MR. MITCHELL: No.

23 THE MASTER: Off the record.

24

25

(Whereupon, an off-the record

1 discussion was had.)

2
3 THE MASTER: Back on the record.

4 MR. MITCHELL: Exhibit 76, the witness
5 did not identify, and consequently there is
6 no authenticating testimony supporting its
7 admission and I withdraw R-76.

8 THE MASTER: I see. It was marked,
9 but never offered?

10 MR. MITCHELL: That is right, because
11 there was no authenticating testimony and I
12 would like to withdraw it completely and
13 leave it open for a new exhibit.

14 THE MASTER: Well, let's not do that.
15 It is withdrawn, however.

16 Do you have what you wanted?

17 MR. MITCHELL: No, sir.

18 THE MASTER: What is it that you want?

19 MR. MITCHELL: We would have to get all
20 of his testimony.

21 THE MASTER: Everything up until Monday
22 by way of copies -- you have copies of
23 yesterday, but Monday has been sent to Austin.
24 I have the original of Monday, which I think
25 I would be willing to make available to you,

1 but I don't want any marks on it.

2 MR. MITCHELL: Judge, if I could have
3 it for use just here in the courtroom --

4 THE MASTER: I don't have it here with
5 me.

6 MR. MITCHELL: I recall the testimony and
7 I pressed home the fact of the date of the
8 conversation and ~~that was what~~ I was looking
9 for. I can almost pick it out in the flow
10 of the testimony.

11 I believe it was when I started my
12 cross-examination.

13 MR. ODAM: That would be on Monday.

14 THE MASTER: Well, if you will send
15 someone over to my motel room, Room 718 at
16 the La Quinta, I will furnish it to you. I
17 have the original, but I want it back intact.

18 MR. MITCHELL: All right, Judge.

19 THE MASTER: You can bring it back
20 tomorrow morning.

21 MR. MITCHELL: I will come over myself.

22 THE MASTER: Thank you.

23 The hearing will be in recess until
24 tomorrow morning at 8:30.

25

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