

**INQUIRY CONCERNING A JUDGE  
NO. 5**

**DECEMBER 4, 1975**

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BEFORE THE  
STATE JUDICIAL QUALIFICATIONS COMMISSION

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INQUIRY CONCERNING A JUDGE, NO. 5

DECEMBER 4, 1975

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

COPY

REF  
8/82  
03745  
V.16

1                                    WANETTE DRISKA,  
2        recalled as a witness, having been previously sworn,  
3        testified as follows, to-wit:

4  
5                                    THE MASTER:    Go ahead, Mr. Odam.

6  
7  
8                                    EXAMINATION

9  
10                                   BY MR. ODAM:

11  
12        Q    Mrs. Driska, when you testified the other day,  
13                                    if you recall at the end of the testimony --

14                                    THE MASTER:    I think the record should  
15                                    reflect, and probably does, she is the  
16                                    witness that testified on Tuesday.

17                                    MR. ODAM:    That is correct, I am sorry.

18        Q    (By Mr. Odam) I will hand you what has been  
19                                    previously marked as E-165 and admitted into  
20                                    evidence, and E-164-A and B, which I believe you  
21                                    stated was the card kept in Amarillo.

22        A    Yes.

23        Q    And 163-A and B, which you keep and which you  
24                                    prepared and 166, which is the -- how did you  
25                                    describe this, insufficient funds?

1 A I didn't do good on that the other day.

2 Q What do you call that 166?

3 A It is how the bank notifies us a check has  
4 insufficient funds.

5 Q Now, if we could go, first of all, to 163-A,  
6 which is a card you keep and 164-A and B, I  
7 believe it was your testimony that with regard  
8 to the three thousand dollars evidenced on 164-A  
9 by the fifteen hundred dollar payments, which are  
10 in two brackets, which is the same as your three  
11 thousand payment on 163-A, which is lined out,  
12 those refer to the same amount of money, is that  
13 correct?

14 A Yes.

15 Q In your testimony of December 2nd, Page 2271,  
16 I notice here that your answer to a question was  
17 "Okay."

18 MR. MITCHELL: Excuse me. Not having  
19 a copy of it, I would like to look at what  
20 you are talking about here.

21 MR. ODAM: 2271.

22 MR. MITCHELL: Thank you, Mr. Odam.

23 MR. ODAM: I will start on Page 2270.

24 I refer to the first question at the top.

25 I asked you about the three thousand dollar

1 check and you answered "You will notice this  
2 is bracketed and we redeposited it." In the  
3 meantime -- and I started on another question  
4 before you could finish your answer, but  
5 then again on Page 2271, you said, "And the  
6 check was redeposited, but in the meantime  
7 you will note this figure is the same figure  
8 we started with here."

9 MR. MITCHELL: The same number.

10 MR. ODAM: Yes, the same number.

11 THE WITNESS: Yes, I am talking about  
12 this.

13 Q (By Mr. Odam) Yes, I understand. That was  
14 probably the source of my confusion then.

15 Could you explain for us again that three  
16 thousand dollar check which came back marked  
17 insufficient funds, as evidenced by this  
18 insufficient funds notice, and then you redeposited  
19 that check.

20 A Yes.

21 Q Now, when it was redeposited, was it applied to the  
22 Benavides Implement and Hardware account?

23 A No.

24 Q When it was redeposited -- well, why -- just one  
25 moment.

1                   Let me ask you this. Pardon that last  
2 question.

3                   It was redeposited, the three thousand dollar  
4 check?

5           A    Yes.

6           Q    The three thousand dollar check you redeposited,  
7 I show you what has been marked as E-165.

8           A    It was redeposited on 5-8 and applied to this  
9 account.

10          Q    What account is that?

11          A    O. P. Carrillo's account.

12          Q    So the Benavides Implement and Hardware check,  
13 when it came back in, it was applied to O. P.  
14 Carrillo's account?

15          A    Yes.

16          Q    And it shows here the note has been recomputed  
17 in Judge Carrillo's name, so this was a three  
18 thousand dollar payment that went on the note  
19 after he owned the tractor, is that correct?

20          A    Yes.

21          Q    Could you explain why you would take a check like  
22 that and apply it to a note that is in the name  
23 of someone else, namely O. P. Carrillo?

24                   MR. MITCHELL: I am going to object  
25 to any answer given by this witness. It

1 would be speculation and this is something  
2 testified to by Mr. Kurtz, and it would be  
3 hearsay as to this lady and she has no  
4 personal knowledge.

5 THE MASTER: It depends on what her  
6 answer is. I will hear her answer and then  
7 I will rule.

8 The question is, why did you apply the  
9 three thousand dollar check that had been  
10 dishonored and redeposit it and I take it  
11 the second time it was honored?

12 THE WITNESS: Yes.

13 THE MASTER: Why did you apply it to  
14 Judge Carrillo's account, is that your  
15 question, Mr. Odam?

16 MR. ODAM: Yes, sir.

17 THE WITNESS: I don't know the answer.  
18 Well --

19 MR. MITCHELL: I think she has cleared  
20 it up. She states she doesn't know the  
21 answer.

22 THE WITNESS: I do know it, but I don't  
23 want to answer.

24 Q (By Mr. Odam) Would you rather Judge Carrillo --  
25 A Would you leave the room, Judge Carrillo?

1           Let's see, when we put the note over in  
2           Mr. Carrillo's name, we changed the note over and  
3           refinanced it and that Mr. Carrillo was going to  
4           go back and make sure that check cleared, if I am  
5           saying that right, and we redeposited it in the  
6           bank and the bank notified us it was good.

7           Q And how did they notify you?

8           A They wired us, they wired our bank and our bank  
9           called us.

10          Q Then I show you what has been marked as E-171.

11          A This was a copy of the sight draft that I sent  
12          it back to the bank.

13          Q And E-171 is that sight draft, is that identical  
14          to the original that Mr. Mitchell is looking at  
15          here that you brought with you here this morning?

16          A Yes, it is the same.

17          Q And did you, yourself, make this photostatic copy  
18          of the sight draft?

19          A Yes.

20          Q And that, I take it, is the original that Mr.  
21          Mitchell has in his hand, is the one that --

22                   MR. MITCHELL: Here, John, if you want  
23                   to show it to her.

24                   (Handed to counsel.)

25



1 Q That is kept in your records in the bank?

2 A Uh-huh.

3 Q Or your records at Plains Machinery, I am sorry.

4 A I keep it with my cash receipt report and I re-  
5 deposited it.

6 MR. ODAM: We would offer into evidence,  
7 Your Honor, E-171.

8 MR. MITCHELL: Your Honor, we would  
9 state, make our morning declaration of  
10 basic objections for the day, that is, we  
11 would object to the introduction of E-171  
12 on the grounds that the matter goes beyond  
13 the formal, the informal, beyond the term,  
14 the 75 term of Judge Carrillo as well as the  
15 act, if any, it relates to a non-judicial  
16 as versus judicial act and, therefore, it  
17 would be irrelevant and immaterial, hearsay  
18 as to Judge Carrillo.

19 THE MASTER: The objections are over-  
20 ruled and the Exhibit is admitted.

21 (Whereupon Exhibit E-171 was admitted  
22 into evidence.)  
23

24 Q Now, would it be correct to restate that then  
25 with respect to this sight draft that you decided

1 to run the check back through and it would be  
2 made good, it was run back through and the sight  
3 draft came back through and the check was, in  
4 fact, made good?

5 A Yes.

6 Q Was there any charge for that bit of bank work  
7 there?

8 A They charged us seven dollars and fifty cents  
9 when the draft came back. It was two thousand  
10 nine hundred ninety-two dollars and fifty cents  
11 or something like that.

12 Q Two thousand nine hundred ninety-two fifty?

13 A Uh-huh.

14 Q All right.

15 A For wiring our bank that the check would be  
16 honored the second time.

17 Q And the seven dollars and fifty cents, would this --  
18 who had to pay the seven dollars and fifty cents  
19 to run it back through?

20 A Well, we billed Mr. Carrillo with it and he came  
21 back and paid it.

22 Q Did you ever have an occasion to talk with Judge  
23 Carrillo yourself about that seven dollars and  
24 fifty cents?

25 A No, he was just in the office one day and he

1       said he thought he had a little balance and he  
2       paid it, just walked up there and paid it with  
3       cash money and we told him what it was for, you  
4       know.

5       Q Well then my last question to you and this clarifies  
6       the least bit of confusion I had the other  
7       day, when the account was unpaid for the four --  
8       twenty-two, which is actually that 4-22 check  
9       of 74 for Plains Machinery, from Benavides Implement  
10      and Hardware, the April 2nd, 1974, check  
11      that first came in that bounced as evidenced by  
12      the date 4-22, is the same amount of money three  
13      thousand dollars that was pursuant to Judge  
14      Carrillo's instructions applied to his payment  
15      once he picked up the tractors, is that correct?

16      A Yes.

17      Q And that is evidenced by the entry of 5-8-74 on  
18      Judge Carrillo's note card, is that correct?

19      A Yes.

20      Q I believe we were looking at it -- yes, which  
21      is E-165, that is the April 2nd, 1974, check  
22      from Benavides Implement and Hardware is the  
23      5-8-74 entry?

24      A Yes.

25      Q All right, to clarify that for the record, the

1 4-2 is when the check first came in and the 4-22  
2 is the date on the card -- when the account was  
3 debited on 4-22.

4 Mrs. Driska, I show you a check which is  
5 evidenced -- which is in evidence in this proceed-  
6 ing and I believe it is the first time -- I  
7 didn't show it to you the other day?

8 A No.

9 Q This is a check marked E-140 in the amount of  
10 three thousand dollars and I ask you if you could  
11 look at it for a moment.

12 (Handed to the witness.)  
13

14 Q What is the date on check E-140?

15 A 3-28-74, I believe.

16 Q All right.

17 A It has coffee or something all over it. I think  
18 it is 3-28-74.

19 Q And to whom is that check made out?

20 A Plains Machinery Company.

21 Q Now, this check 3-27-74, was that check received --  
22 well --

23 MR. ODAM: Strike that.

24 Q Would that be the check that we were referring  
25 to that you credited the account with on 4-2?

1 A I would imagine by those dates, because they  
2 positively made it out on 3-28 and mailed it to  
3 us and it was in the mail and I am sure it is.

4 Q All right.

5 A And I deposited it on the fourth month, the  
6 second day, a few days later.

7 Q Do you recall any activity of, say, 3-29 -- well,  
8 we will let it speak for itself. It cleared the  
9 bank on 3-28 and your entry of 4-2-74.

10 A I imagine that is the same one.

11 Q All right.

12 A The dates are close enough, the way the mail is  
13 and I don't deposit every day, I deposit about  
14 every other day.

15 Q And when the check, E-140, assuming that to be  
16 true, was applied on 4-2, that would be the same  
17 check that went back through and was applied to  
18 Judge Carrillo's account pursuant to his instruc-  
19 tions evidenced by E-165 on 5-8-74, would that  
20 be correct?

21 A I believe so, yes.

22 Q When you filled in the card on May the 8th of  
23 74, with the three thousand dollar credit to  
24 Judge Carrillo's account, did you personally make  
25 that entry to his account?

1 A Yes.

2 Q And could you state again why you made that  
3 entry?

4 A I'll try. This just was the deal, that the note  
5 was behind and -- three months I believe we stated  
6 before, I don't have the card before me, and  
7 when Mr. Carrillo came in to have the note rewritten  
8 he was going to assume, you know, take over the  
9 note, let's see -- and he told Mr. Kurtz and he  
10 would see that that other check was good, you  
11 know, go back and I guess talk to whoever and  
12 would -- and they would send it back through and  
13 that it would clear.

14 Q All right.

15 MR. ODAM: Pass --

16 MR. MITCHELL: Did you pass the witness,  
17 Mr. Odam?

18 Q (By Mr. Odam:) So the three thousand dollar pay-  
19 ment was -- well, it probably speaks for itself,  
20 but the three thousand dollar check that came  
21 back through was then applied to his new recomputed  
22 note, is that correct?

23 A New note, yes.

24 Q All right.

25 MR. ODAM: I pass the witness.

- - - - -

E X A M I N A T I O N

BY MR. MITCHELL:

1  
2  
3  
4  
5  
6 Q Well, the check had already been given on this  
7 April the 2nd contract for the three thousand  
8 dollars?

9 A Yes.

10 Q And I believe that the contract shows that the  
11 payments were only fifteen hundred dollars a month,  
12 is that correct?

13 A Yes.

14 Q You have to speak up because he is taking it  
15 down.

16 A Yes.

17 Q He can't take your nod.

18 A All right, I don't know who to look at.

19 Q As a matter of fact, that contract when Mr. --  
20 when the Bensvides Implement and Hardware had it,  
21 January, February, March, April, four months in  
22 1974, actually he didn't have any payments except  
23 in two checks, one of which bounced, am I correct?

24 A Yes.

25 Q He paid one, I believe, for three thousand dollars

1 for two months and another one for three thou-  
2 sand dollars for April the 2nd, which bounced,  
3 correct?

4 A Yes.

5 Q And by the time it got back through the bank  
6 on 4-22-74, a new deal had apparently been struck  
7 with Plains and Judge Carrillo, and from the  
8 debit memos and the wire, the bank side, that  
9 you have identified for the record, it appears  
10 that the Benavides Implement and Hardware check  
11 given on April the 2nd, 1974, was made good?

12 A Yes, it was good.

13 Q And from the time that that check came in and  
14 bounced on April the 2nd until the new deal was  
15 struck with Plains and Judge Carrillo, the Plains --  
16 I'm sorry, the Benavides Implement and Hardware  
17 check was made good and that was credited, I  
18 suppose, to the Benavides Implement and Hardware  
19 account and when you all made your deal with  
20 Judge Carrillo, you weren't going to get your  
21 money twice, he took over the new balance less  
22 that three thousand dollars, isn't that correct?

23 A That is correct.

24 MR. MITCHELL: I don't have any further  
25 questions, Judge.



1 MR. ODAM: Gene, would you read back  
2 that to me, that last question and answer  
3 that Mr. Mitchell just asked of her, I am  
4 sorry, I was looking down.

5  
6 (Whereupon the foregoing question and  
7 answer was read by the reporter.)

8 MR. MITCHELL: May I ask one more ques-  
9 tion before I turn her loose?

10 THE MASTER: Yes, you may.

11  
12 - - - - -

13  
14 EXAMINATION CONTINUED

15  
16 BY MR. MITCHELL:

17 Q What is your supervisor's name? He has testified  
18 here, Miss Driska, I am hard out to remember his --

19 A Red Kurtz, Albert Kurtz.

20 Q Mr. Kurtz testified there was some negotiations  
21 going on between him and Judge Carrillo?

22 A Yes.

23 Q And I believe Mr. Kurtz is office manager?

24 A Store manager.

25 Q And would have the authority to negotiate a new

1 contract?

2 A Yes, he is on his own in this store. He makes  
3 the deals.

4 Q Yes, and do you know whether or not that Mr. --  
5 when Mr. Kurtz and Judge Carrillo met, of your  
6 own personal knowledge, was it after that problem  
7 that you had with that first check in 74 or  
8 after the April 2nd check bounced, do you know?

9 MR. ODAM: I am sorry, what is the  
10 first check they had trouble with?

11 MR. MITCHELL: Well, there was a  
12 default earlier that year, as I understand  
13 it and that payment was an amount of three  
14 thousand dollars, am I correct?

15 A I only remember one check.

16 Q All right, well then --

17 A If my memory serves me correctly.

18 Q That was the April the 2nd check?

19 A April 2nd.

20 Q And the April 2nd check would have been for  
21 three thousand dollars, it would have been for  
22 payments due?

23 A I think it would have been January and February,  
24 I don't have the card in front of me.

25 MR. ODAM: February and March.

1 A February and March.

2 Q Yes, February and March. The April 2nd check  
3 was actually for February and March, not for April,  
4 so even if it had cleared, April would have still  
5 been under default?

6 A That's right, it was behind.

7 Q Yes, and May, of course, by the time Judge  
8 Carrillo got into the picture and executed the  
9 new agreement, that would have been, even had  
10 the three thousand dollars cleared on April the  
11 2nd, still would have not taken care of April  
12 and certainly by the time that the check got back  
13 in and the deal was renegotiated, would not have  
14 taken care of May, am I correct, Miss Driska?

15 A Correct.

16 Q But as it stood after April the 2nd when it  
17 bounced that threw that account into default, at  
18 least on Plains' books for the month of February  
19 and March and April, am I correct?

20 A Yes.

21 Q And you were possibly looking at a May payment  
22 and didn't know whether that was going to be in  
23 default?

24 A That's correct.

25 Q Would that be a fair statement of it?

1 A Yes.

2 Q Now, I will ask you the same question I asked  
3 before, do you know when Mr. Kurtz and Judge  
4 Carrillo might have had that talk?

5 A I don't -- I couldn't set a date, but it would  
6 be like sometime between the check -- between  
7 the time the check came back to us and it wasn't  
8 good and the time that I rewrote the contract on  
9 May the 2nd.

10 Q You are quite sure it was after that problem  
11 with that Benavides Implement and Hardware check  
12 on April the 2nd?

13 A I am sure of that.

14 Q All right.

15 MR. MITCHELL: Your witness, Mr. Odam.

16

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

1  
2  
3 BY MR. ODAM:  
4

5 Q Mrs. Driska, to summarize, would a correct  
6 summary of the past twenty minutes or so be that  
7 the April 2nd check came back insufficient and  
8 on instructions, after the note was renegotiated  
9 by Judge Carrillo, that earlier check was applied  
10 to the note that Judge Carrillo picked up?

11 MR. MITCHELL: I am going to object to  
12 the words "Judge Carrillo's instructions."  
13 The fact there was a check, which was, as a  
14 matter of law -- the question assumes a fact  
15 not in evidence. The evidence has established  
16 there was a check from Benavides Implement  
17 and Hardware to the bank and I would submit  
18 the instruction would be --

19 THE MASTER: I will ask Mrs. Driska.

20 Was there a verbal instruction from  
21 Judge Carrillo with respect to that check?

22 THE WITNESS: First, I was not in the  
23 office. I could not say what was said. It  
24 was between Mr. Kurtz and Mr. Carrillo. I  
25 take my orders from Mr. Kurtz.

1 THE MASTER: So you yourself never  
2 heard Judge Carrillo ever say anything about  
3 this transaction?

4 THE WITNESS: Well, bits and pieces,  
5 but Mr. Kurtz tells me how to do all my  
6 work. I do whatever I have to do.

7 THE MASTER: All right.

8 Q (By Mr. Odam) I go back to the question I asked  
9 you then in light of that.

10 As to why -- what was the basis for your  
11 action of crediting Judge Carrillo's note for  
12 three thousand dollars?

13 A I am sure Mr. Kurtz -- that this was like the  
14 deal -- that those other notes would be put on  
15 that account.

16 Q By notes, you mean what?

17 A The three thousand dollars. We had to put it  
18 somewhere. We could not just keep the three  
19 thousand dollars, so we applied it to that note.  
20 I am sure Mr. Kurtz told me to apply it and I am  
21 sure that is what they talked about. I had to put  
22 it somewhere.

23 MR. ODAM: I pass the witness.

24 MR. MITCHELL: I have no further  
25 questions, Judge, of this witness.

1 THE MASTER: Thank you, Mrs. Driska,  
2 and you are free to go.  
3  
4

5 - - - - -  
6

7  
8 RUDOLFO COULING,  
9 recalled as a witness, having been previously sworn,  
10 testified as follows, to-wit:  
11

12 THE MASTER: The record will reflect  
13 that Mr. Rudolfo Couling is back on the  
14 stand. You are still under oath.

15 THE WITNESS: Yes, sir.  
16

17 E X A M I N A T I O N  
18

19 BY MR. MITCHELL:  
20

21 Q Mr. Couling, I went back to the record for  
22 December 1st, and out of fairness to you, I am  
23 going to refer to Page 1964, Line 22, and this  
24 is testimony by way of a statement that relates  
25 to my question to you on that date as to your

1 testimony given on direct as to when you and  
2 Ramiro and O. P. went into the partnership. With  
3 that background, I am going to show you what the  
4 record reflects and see if this is what you  
5 recall. I am reading at Line 22, eliminating that  
6 short question.

7 "I am going to rush through it, as I believe  
8 your testimony, and that was that some time in  
9 May, 1971, you entered into a partnership with  
10 Ramiro Carrillo and to which partnership Judge  
11 O. P. Carrillo was a silent partner, is that  
12 correct?"

13 And your answer was what?

14 A Yes.

15 Q Now, skipping down to Line 13 on the next page,  
16 I asked you, "I believe, if I am correct, and if  
17 I am incorrect, please tell me, that the  
18 agreement was entered into some time in May, 1971,  
19 to operate a business which was later known as  
20 the Benavides Implement and Hardware?"

21 And your answer was what?

22 A Yes, sir.

23 Q "Was that your testimony?"

24 And your answer was --

25 A I said I guess it is.



1 Q My question was, "That was your testimony, I  
2 believe, under oath?" And your answer was --

3 A Yes, sir.

4 Q Then I say is that the truth?

5 A And you say what?

6 A Yes, sir.

7 Q There was not any doubt in your mind as of the  
8 time of that question, that in May, 1971, your  
9 testimony was that you entered into the contract  
10 agreement?

11 A Yes.

12 Q Not April, but May, is that correct?

13 A Yes.

14 Q Now, as it is thereafter developed, the evidence  
15 indicated first there was a transaction involving  
16 a payment of some money to Judge Carrillo in April,  
17 1971.

18 A Yes.

19 Q And your testimony was that the reason you paid  
20 that money to him was because of a partnership  
21 agreement you all had, is that correct?

22 A According to this testimony, yes.

23 Q And that could not have been the case regarding  
24 April, because you testified --

25 A The store was open in April, sir.

1 Q But the partnership didn't go into existence  
2 until May?

3 A That was when we went to the bank.

4 Q Until yesterday, and then was the first time you  
5 testified under oath the partnership came into  
6 existence in April, 1971, didn't you?

7 MR. ODAM: I object to the question.  
8 It was that piece of paper, the signature  
9 card was taken out in April.

10 THE MASTER: That is correct. The  
11 objection is overruled.

12 MR. MITCHELL: I am just asking.

13 THE WITNESS: Yes, sir. I testified I  
14 opened the account in April.

15 Q (By Mr. Mitchell) By that, we had reference to  
16 R-70, which was open 4-16-71.

17 A Yes, sir.

18 Q Which the -- which was the signature card you  
19 executed back in 1971, is that correct?

20 A Sometime in April, I believe it was.

21 Q But in fact, it is not dated?

22 A No, sir.

23 Q It could have been before April?

24 A I don't know.

25 Q But that account, Benavides Implement and

1 Hardware, you knew about that account when you  
2 testified under oath the first time I asked you  
3 about it?

4 A You asked me when the partnership existed and I  
5 told you May.

6 Q You told me further that you remember it because  
7 there was a bank account and you and your two  
8 partners were on the bank account?

9 A Yes.

10 Q And when I got the bank data, we find there was  
11 nobody on the account and it was not dated the  
12 right month, but you changed your testimony  
13 again?

14 A I said it was April, May or June.

15 Q You changed your testimony to fit the evidence?

16 A I stated it could have been April, May or June.

17 Q And then we went to get 168, which was the  
18 Benavides account with the San Diego bank and it  
19 is dated when?

20 A April 16, 1971.

21 Q That account at the Rio Grande City bank was  
22 opened the previous year?

23 A Yes, it was, sir.

24 Q And the only bank account in question here is the  
25 one dated 4-16-71 in the San Diego bank account,

1 is that correct?

2 A The only question about it -- you didn't ask me  
3 that before. You asked me when we went into the  
4 partnership and I stated May, 1971.

5 Q That is right. And the record will reflect never,  
6 from May, 1971, until this date, has O. P.

7 Carrillo or Ramiro Carrillo been on that account?

8 A They never have been.

9 Q Now, when you sold out to Cleofus Gonzalez and  
10 went over to the bank and authorized him to draw  
11 on that account, you did that, didn't you?

12 A When I sold the business to him, yes, sir.

13 Q You knew you had to make that change for him  
14 to be on the account?

15 A I sold the business to him so I had to.

16 Q Just as if Judge Carrillo and Ramiro Carrillo,  
17 if they had a right to draw on that account, you  
18 knew you had to execute a signature card giving  
19 them that right?

20 A Ramiro said he didn't want nothing to do with the  
21 business. He was a silent partner.

22 Q They would have had to have been on that card to  
23 have given them the authority to draw checks on  
24 it?

25 A Yes, sir.

1 Q And you never filed an assumed name partnership?

2 A No, sir.

3 Q Let me ask you this about this deal between you  
4 and Cleofus Gonzalez. Have you ever read that  
5 bottom part right here?

6 A It says it is a bank signature card.

7 Q And it is simply providing that Cleofus Gonzalez  
8 shall have the right to sign for Benavides  
9 Implement and Hardware, is that correct?

10 A Yes, it says that.

11 Q And you have , our signature following that, is  
12 that correct?

13 A Yes, saying that he took over and I was not going  
14 to sign any further checks.

15 Q I know what you say it says, but it doesn't say  
16 that, does it, in the printed portion?

17 A No, sir, that is different from the top card,  
18 sir, an entirely different card.

19 Q You continued to have the authority to draw on  
20 that account?

21 A No, sir, I did not.

22 Q And you don't have a side deal with him, that  
23 when everything is all cleared, you are going to  
24 step back into the business?

25 A No, sir.

1 Q And you all are going to get rid of the Carrillos  
2 in that county?

3 MR. ODAM: I object to that question,  
4 Your Honor. There is nothing in this record  
5 to indicate that this witness or any other  
6 is going to get rid of the Carrillos.

7 THE MASTER: I sustain the objection.

8 Q (By Mr. Mitchell) Now, the card is -- looking at  
9 the back card, and when that card was signed by  
10 Cleofus and you, what did you do with the amount  
11 of money on deposit in that bank?

12 A I don't know how much it was. It was either a  
13 small amount or else I would have drawn it out  
14 when he took over.

15 Q But you gave him the money if it was there?

16 A Yes.

17 Q And if it was OD, he took that over, too?

18 A Yes.

19 Q When he assumed the business, you gave him the  
20 money in the account and the store fixtures?

21 A No, these fixtures belong to the store.

22 Q According to R-73, if that was the truth, you  
23 had three thousand in accounts receivables?

24 A Yes, in November.

25 Q And if you made your sale in the first part of

1 1975, that would be what, two and a half years  
2 later?

3 A Yes, sir.

4 Q Your merchandise, you had eleven thousand on  
5 that, is that correct?

6 A Yes.

7 Q I am talking about R-73.

8 A Yes.

9 Q You had your merchandise, eleven thousand  
10 dollars worth, five thousand and fixtures and  
11 furniture?

12 A Yes.

13 Q And machinery and equipment, twenty-five hundred,  
14 is that correct?

15 A Yes, sir.

16 Q An automobile, five thousand?

17 A The automobile was mine, sir.

18 Q So taking it out, the five thousand dollar  
19 automobile, I suppose the Benavides Implement and  
20 Hardware then had three thousand in the bank  
21 account and then all of this other except the  
22 automobile, is that correct?

23 A Yes.

24 Q Why have you told us you didn't have equipment  
25 and machinery to rent?

1 A That equipment --

2 Q Just answer my question. Why have you told us  
3 under oath that Benavides Implement and Hardware  
4 didn't own equipment to rent?

5 A It was equipment left over for Case tractors.

6 Q And you classify that as stock rather than  
7 machinery and equipment?

8 A Wouldn't you call that a part, a complete  
9 cultivator? I am asking you.

10 Q Mr. Couling, I am not the witness. You executed  
11 this document and you have testified under oath --

12 A Yes.

13 Q Do you know the difference between stock and  
14 inventory and equipment and machinery?

15 A Yes, sir.

16 Q I thought you told us time and time again that  
17 the Benavides Implement and Hardware invoices were  
18 false, because you had no equipment to rent.

19 A I had cultivator parts and plows to put together  
20 and nothing to rent.

21 Q And you put a twenty-five hundred dollar price on  
22 a cultivator and planter?

23 A I had several of them, sir.

24 Q At any rate -- Mr. Odam asked you about these  
25 checks, and I don't want to go into them



1 specifically, that are labeled truck rental and  
2 so forth, and you said that is not true. I had  
3 asked you about that -- you do have a dump truck,  
4 don't you?

5 A Yes, sir, but it was not bought until --

6 Q Wait a minute, you do own a dump truck?

7 A Yes.

8 Q And it was used in connection with the store?

9 A Not with the store, no, sir.

10 Q Was that dump truck bought after the date of  
11 that sworn application for the loan in November,  
12 1972?

13 A Way after.

14 Q When you sold to Cleofus Gonzalez, did you sell  
15 the dump truck, too?

16 A No, sir.

17 Q You were quite clear in your testimony, when you  
18 answered a question that was put to you by  
19 Mr. Odam, when those invoices had equipment  
20 rental, you said that was not so.

21 A I never rented equipment to anybody.

22 Q How did you pay for the pickup truck to Judge  
23 Carrillo?

24 A I paid on it, and I don't remember whether it was  
25 a personal check or what.

1 Q You are telling the Court that you bought the  
2 pickup truck and the checks in evidence that  
3 recite truck rental have nothing to do with that?

4 A That is right. I don't remember --

5 Q Let's see what you don't remember about the  
6 check. You don't remember when you gave the  
7 check?

8 A No, sir, because I don't remember the year I  
9 bought it.

10 Q You don't remember when you gave it?

11 A Correct.

12 Q And you don't remember whether it is a personal  
13 or business account check?

14 A Right.

15 Q And you don't remember the amount of it, I  
16 suppose?

17 A I don't remember how much I paid for it, no, sir.

18 Q Do you have the title to the truck; do you even  
19 remember that?

20 A I sold the truck and I don't know whether the  
21 title was transferred or not.

22

23

24

25

1 Q Well, you are bound to have had the title to it,  
2 if you sold it. When did you sell the truck, as  
3 a matter of fact?

4 A I sold it, but I don't remember the date.

5 Q Can you tell this court what you got for it?

6 A I don't remember how much I got. I don't know  
7 if I got two hundred and fifty or five hundred,  
8 I don't remember, sir.

9 Q And when -- well, the sale must have been within  
10 the last what, twenty-four months?

11 A No, I don't know if it was -- it could have been  
12 or three years, I don't know when it was.

13 Q Now, your truck, now, we are talking about your  
14 dump truck.

15 A Yes, sir.

16 Q That was used in connection with the Benavides  
17 Implement and Hardware, you bought it after  
18 November of 72, didn't you?

19 A And it was not used in the store, no, sir, it  
20 was somewhere in 1972 or 73, I don't remember what  
21 date, sir.

22 Q You rented that truck?

23 A No, sir, I did not.

24 Q You are telling this court under oath that it  
25 never hauled caliche --

1 MR. ODAM: Your Honor, I object to  
2 these questions. The witness has answered  
3 these questions. The questions have been  
4 asked before and he has answered them and  
5 it is argumentative and repetitious and we  
6 have gone through it with this witness and  
7 we have gone over it and over it and over it  
8 and every time he asked the questions he  
9 gives the testimony, and it is the same,  
10 every time he asks the questions he gets the  
11 same answers and it is repetitious.

12 MR. MITCHELL: I understood that three  
13 days ago he said he didn't have any equip-  
14 ment and he couldn't have rented it, when  
15 we asked him about the checks and as a  
16 matter of fact he owned a dump truck, as a  
17 matter of fact, he owned twenty-five hundred  
18 dollars worth of machinery and equipment.

19 I don't want to prolong it, Judge Meyers,  
20 and I would like to have wrapped it up quite  
21 truthfully.

22 THE MASTER: Well, go ahead.

23 MR. MITCHELL: You see what I am driving  
24 at, Judge?

25 THE MASTER: Yes, sir.

1 MR. MITCHELL: I am almost forced to --

2 Q Let me ask you this, as a matter of fact the dump  
3 truck you hauled caliche for the county in that  
4 dump truck?

5 A No, sir, I never hauled for the county.

6 Q You never rented it to the water district?

7 A I rented it to the water district, it was a  
8 year ago, I believe, when it was, when I rented  
9 it to the water district.

10 Q So you have had equipment in Benavides Implement  
11 and Hardware that was rented to the water district?

12 A Last year, I believe it was not before, I never  
13 rented it before that.

14 Q I am not fussing at you, Mr. Couling. You have  
15 been so explicit about not having -- about not ever  
16 having any equipment to rent to either the county,  
17 the water district or the school district.

18 A You didn't ask me about the county or the water  
19 district.

20 Q All right, tell us once and for all have you  
21 ever had any other equipment other than the  
22 dump truck that you had loaned to any governmental  
23 agency? I will get at it that way, at any time,  
24 since you were born?

25 A The only truck that I had, that I have right now

1 is the dump truck and there is a yellow truck  
2 that was bought from Continental, it is an old  
3 truck and Ramiro took it over. I never rented  
4 it to him, he had it since the date it was pur-  
5 chased, up to date.

6 Q Well, I didn't know about that last one.

7 A I want you to know because you are going to bring  
8 it up so I am going to bring it up.

9 Q Now, how much did you charge the water district  
10 for renting your dump truck?

11 A I believe it was a hundred and twenty-five or  
12 a hundred and seventy-five dollars a month.

13 Q And did you execute a voucher and get your money?

14 A Yes, sir, I did.

15 Q All right. Oh, yes, now, are there any other  
16 bank accounts, say, from 1969, Mr. Couling, Janu-  
17 ary of 69, and I want the record to be explicit,  
18 any other bank accounts that you maintained either  
19 individually or as Bensvides Implement and Hard-  
20 ware other than those that we have talked about  
21 and the signature cards of which are in evidence?  
22 Now, do you understand my question?

23 A Yes, sir, I have my own personal account and the  
24 ranch account in San Diego Bank.

25 Q All right. Okay, give me the -- if you would,

1           please, sir, the name of that account that is  
2           carried, would that be Rudolfo Couling?

3           A   Rudolfo M. Couling, special account, sir.

4           Q   Rudolfo M. Couling special?

5           A   Yes, sir.

6           Q   All right, sir, and that is in which one?

7           A   The First State Bank of San Diego.

8           Q   Now, that account has not been in evidence nor  
9           any of the documents on it have been in evidence,  
10          am I correct?

11          A   That is correct.

12          Q   We haven't talked about it. Now what other  
13          account do you have?

14          A   R. M. Couling ranch account.

15          Q   As I can tell, or can be told, is it a fair  
16          assumption that is the account out of which you  
17          do your ranch business?

18          A   Yes, sir, with the exception I bought the cattle,  
19          the cattle, I believe, it had on the back of  
20          the account F.H.A. attached to it.

21          Q   All right, that ranch account is in the First  
22          State Bank, also, of San Diego, Mr. Couling?

23          A   Yes, sir.

24          Q   All right, now, who has authority over the  
25          R. M. Couling special account?

1 A Myself only.

2 Q And nobody else?

3 A Nobody, no, sir.

4 Q Judge Carrillo, or Ramiro, they haven't got any-  
5 thing to do with that?

6 A No, sir.

7 Q How about R. M. Couling ranch account?

8 A Just myself.

9 Q Let me finish, Mr. Couling. That reporter has  
10 a hard time following me, much less both of us  
11 when we are talking together.

12 R. M. Couling ranch account, please, sir,  
13 who has the authority on that account?

14 A Myself, sir.

15 Q Has Judge Carrillo got anything to do with it?

16 A No, sir.

17 Q Has Ramiro Carrillo or anybody else got anything  
18 to do with it?

19 A Nobody else, sir.

20 Q All right, were there any monies or transactions  
21 involving the county, the water district, the  
22 school district reflected in the Rudolfo Couling  
23 special account that you can tell us about?

24 A All the checks for my salary went into that  
25 account.



1 Q That is as the tax assessor-collector?

2 A Yes.

3 Q That is all?

4 A I don't know if I had any more.

5 Q Your sworn testimony is that is all?

6 A I don't remember, sir.

7 Q Okay. I am not fussing at you, I just want to  
8 know.

9 A I just said I don't remember.

10 Q I want the record to reflect it.

11 A Yes, sir.

12 Q How about the R. M. Couling ranch account, are  
13 there any transactions in the ranch account that  
14 are with the school district, the water district  
15 or the county?

16 A I don't remember, sir. I can't tell you for sure  
17 but I am not sure.

18 Q Would the ranch account reflect the purchase of  
19 the cattle from Judge Carrillo?

20 A Not that ranch account, not that one, sir.

21 Q Not this one?

22 A The one I had with F.H.A., I had to deposit it  
23 separate.

24 Q That was under your application?

25 A For the F.H.A.

1 Q For the F.H.A. guarantee on your cattle loan and  
2 that application required you to maintain a  
3 separate account?

4 A It had to be counter-signed by the agent for the  
5 F.H.A.

6 Q Right, now did you have another ranch account  
7 other than the one that you set up especially  
8 to comply with the law, the federal law, as  
9 relates to their F.H.A. guarantee?

10 A I don't believe so, sir, I don't remember.

11 Q All right, I will ask it this way, when you had  
12 your cattle transaction with Judge Carrillo, which  
13 I understand you have testified there were some  
14 purchases, what account did those purchases come  
15 out of?

16 A I told you when I bought the cattle, it had to  
17 be from the F.H.A., sir.

18 Q So that if we subpoenaed the R. H. Couling ranch  
19 account over at the First State Bank of San Diego,  
20 Texas, we would be able to determine the amount  
21 of that loan, the cattle purchase, would we not?

22 A Not on that account, on the F.H.A. account, sir.

23 Q All right.

24 A There are two accounts. One is the ranch and  
25 one is the F.H.A. account under the same name.

1 Q I see. I misunderstood you. The F.H.A. account  
2 being limited to the --

3 A The purchase of the cattle, sir, and the loan.

4 Q All right. My question is the purchase of the  
5 cattle from Judge Carrillo, would that be in  
6 the ranch account?

7 A On the F.H.A. account.

8 Q It would be?

9 A On the F.H.A.

10 Q All right.

11 A With the exception of a bull that I paid cash  
12 for, two hundred dollars.

13 Q That was paid for by cash from Judge Carrillo?

14 A Yes.

15 Q So you and Judge Carrillo have had some cattle  
16 business have you not?

17 A I just bought some heifers and a bull from him.

18 Q You have had some business as regards, for example,  
19 the pickup truck, have you not?

20 A I bought a pickup from him, sir.

21 Q And I believe you testified you never had any  
22 business whereby he authorized you to rent  
23 equipment to various and sundry people?

24 A Never have.

25 Q Never have had any of that?

1 A No.

2 Q What other business have you and he had? How about  
3 the caliche business?

4 A Never had any caliche business at all.

5 Q How about selling merchandise or equipment to him  
6 or back from him to you, have you ever had any  
7 kind of other business together?

8 A I don't believe so, sir.

9 Q All right. Now, Mr. Odam had asked you about  
10 whether or not -- do you remember what memo of  
11 understanding he told you about, ask you about,  
12 not told you about --

13 MR. MITCHELL: Strike that whole thing,  
14 would you please, Mr. Reporter?

15 (Discussion off the record.)  
16

17 MR. MITCHELL: Thank you, Judge Meyers,  
18 for permitting me to regress a bit.

19 Q Mr. Couling, you testified that the memo of under-  
20 standing did not call for you to testify here as  
21 you have done so, am I correct?

22 A It doesn't specify where I have to testify.

23 Q But you were under -- let's just talk about what  
24 you understood. You, Rudolfo Couling, understood  
25 that anytime the federal government or the state

1 government pushed a button and asked you to go  
2 somewhere and testify you would, that is what it  
3 says?

4 A If I had some evidence to that case, yes.

5 Q I'm not being critical of you, but that is part  
6 of the bargain that was struck whereby you were  
7 going to get rid of those five indictments or four  
8 of them and plead guilty to one and get probation.  
9 I am not quarreling with you, you understand that,  
10 Mr. Couling?

11 A Yes.

12 Q You just didn't walk in off the street and see  
13 Mr. Odam and he called you in here and beckoned  
14 you in the courtroom. There was some understanding  
15 in your mind that was part of the arrangement, is  
16 that correct?

17 A I was subpoenaed, sir, to appear before here.

18 Q And, Mr. Couling, I am asking you to now about a  
19 subjective state of mind. You felt that if you  
20 were so subpoenaed and had facts that are relevant,  
21 that you were required to testify because of that  
22 agreement that you executed in August, am I correct?

23 A Yes, sir.

24 Q And what you hope to gain, and again I am not  
25 being critical, by the testimony given in the

1 federal court, U. S. v. Ramiro and O. P. Carrillo,  
2 as Judge Meyers dictated the number into the  
3 record. In the Southern District, by that testi-  
4 mony and this testimony, what you hope to gain  
5 is that the District Attorney and the Attorney  
6 General, who were parties to that agreement, will  
7 abide by their agreement, follow through, dis-  
8 miss and see that you get that probation on that  
9 one indictment, am I correct?

10 A Yes, sir.

11 Q Now, this is going to be difficult to do, but I  
12 am going to try to do it. I am going to try to  
13 win down, if I can, how many conversations that  
14 you had with my client that relates to my client's  
15 business, that is as to that May partnership,  
16 May of 71. Do you think that we can get to that?

17 Now, I want to know so I will understand  
18 your testimony now, and that is that there was  
19 a partnership in May of 71, is that correct?

20 A That is when the note was borrowed from the bank,  
21 sir.

22 Q I didn't ask that. I know there is a different  
23 date on the note, and I am talking about when you  
24 testified under oath that Ramiro and you struck  
25 a bargain on a partnership was in May of 71 as

1 I understand it.

2 A As I stated later on, if it was May or June or  
3 April, I can't quite remember the exact date,  
4 when we had the conversation, sir.

5 Q Well, and you want to change then the testimony  
6 you previously have given that without a doubt  
7 it was in May of 71.

8 So it might have been in April, it might  
9 have been in May, it might have been in June?

10 A Yes, sir, I have on the record, I stated it was  
11 either May, April or June.

12 Q Do you want to go beyond April or do you want  
13 to go beyond June now?

14 A No, sir.

15 Q So I can get it?

16 A No.

17 Q You don't know whether it was May, April --  
18 April, May or June? Did you have one conversa-  
19 tion with Ramiro or more?

20 A I don't know if I had several or one. I can't  
21 tell you the exact number, because there have  
22 probably been several, sir.

23 Q And you can't tell us whether it was April, May  
24 or June?

25 A No, sir, because I could have talked to him in

1 June or April or May.

2 Q I understand you could have talked to him in  
3 January or December, but I am talking about for  
4 the purposes of this case, you don't recall, so

5 I can be able to test you or perhaps bring other  
6 witnesses, you can't tell this record any clearer  
7 whether the conversation you had was in May --  
8 April, May or whether you had one, ten or twenty?

9 A I don't know how many conversations we had.

10 Q All right.

11 A We used to hang around together and drink coffee  
12 every day, sir.

13 Q All right, let's talk about my client, Judge  
14 Carrillo. Did you have any conversations with  
15 Judge Carrillo in April of 1971?

16 A I can't remember if it was exactly in April, it  
17 could have been.

18 Q Wait a minute, Mr. Couling, please. Did you have  
19 a conversation with him in April?

20 A I might have had one, yes, sir, or two or three.  
21 I can't tell you the amounts of conversations we  
22 had, sir.

23 Q Well, I don't want to answer your question for  
24 you, but are you testifying you did talk to O. P.  
25 Carrillo in April of 1971?



1 A We used to hang together and talk most of the  
2 time, Mr. Mitchell.

3 Q With O. P.?

4 A I used to hang around O. P. in 71, sir.

5 Q And how about in May of 71, did you --

6 A I don't remember if it was May or June or April,  
7 I can't --

8 Q Did you have some more talks with O. P. about  
9 the partnership?

10 A I talked to him about every month, sir.

11 Q Every month?

12 A Most every month.

13 Q And that would include June?

14 A I can't say if it was June or later or before,  
15 sir.

16 Q All right, now, can I -- is it safe for me to  
17 say that you talked with him perhaps one time  
18 in April?

19 A I don't know.

20 Q One time in June or more?

21 A I don't know if it was once or more. I can't tell  
22 you for that exact amount.

23 Q Did you have a conversation about the partnership  
24 in April, May or June?

25 A I don't believe I talked to O. P. about the

1           partnership at all, sir. I never have stated  
2           that I had talked to him. I talked to Ramiro  
3           only.

4           Q In other words, I thought that is what you testi-  
5           fied, you never really have talked to O. P.  
6           Carrillo about any partnership, April, May, June,  
7           July, August or September of 71 or any time?

8           A I stated that when you questioned me the first  
9           time.

10          Q Thank you, Mr. Couling. But what your testimony  
11          is that you all were friends and that you all did  
12          have occasion to visit quite frequently about  
13          matters other than the partnership that you have  
14          told us about?

15          A Yes, sir, I used to go to his house most every  
16          day, sir.

17          Q Now, there is some testimony about some caliche  
18          purchases. I want to be sure -- first of all,  
19          I believe you owned some caliche deposits?

20          A No, sir, I don't have no caliche.

21          Q All right.

22          A My brother-in-law has, I don't have no caliche  
23          on my land.

24          Q That would be Francisco --

25          A Yes.

1 Q Francisco Ruiz?

2 A Yes, sir.

3 Q Who testified here?

4 A Yes, sir.

5 Q Is that right?

6 A Yes, sir.

7 Q Judge Carrillo's family, of course, owns a  
8 caliche pit?

9 A Yes.

10 Q And a rock pit?

11 A Yes, sir.

12 Q So between you and the Carrillos, at least your  
13 brother-in-law owns one and his family owns at  
14 least one, don't they?

15 A There are about three or more caliche pits in  
16 the county.

17 Q Yes, sir. Now, how about as distinct from the  
18 caliche pit, do you all have a rock pit?

19 A I don't have a rock pit.

20 Q How about the Carrillos?

21 A They do have a rock pit.

22 Q And as a matter of fact has caliche been pur-  
23 chased by the county and the various other agen-  
24 cies both from your brother-in-law and the  
25 Carrillo family that you know of?

1 A I don't know that they bought any from my  
2 brother-in-law. I don't mess with his business,  
3 so I don't know.

4 Q I don't blame you.

5 MR. MITCHELL: Mr. Odam, do you have  
6 that E-147?

7 MR. ODAM: No, sir, it is back in the  
8 box.

9 MR. MITCHELL: It is back in the box?

10 MR. ODAM: Yes, sir.

11  
12 (Discussion off the record.)

13 Q The rock pit, before I leave that, actually  
14 furnished most of the rock that went on the  
15 streets of the city of Benavides and the county.  
16 most of that rock came from those pits, didn't it?

17 A I didn't check, sir, it could have been.

18 Q You don't know?

19 A I don't know.

20 Q All right.

21 MR. MITCHELL: May I go off the  
22 record, Judge?

23 THE MASTER: Yes.

24  
25 (Discussion off the record.)

1 MR. MITCHELL: May I go back on the  
2 record, Judge?

3 THE MASTER: Yes, sir.

4 Q I have a notation here that counsel asked you a  
5 question --

6 MR. MITCHELL: Mr. Odam, if you don't  
7 mind --

8 Q -- that counsel asked you a question about check  
9 number 147 that had been returned, 2-19-73.

10 MR. MITCHELL: As I understand, Mr.  
11 Odam, that should have been check number  
12 E-140?

13 MR. ODAM: Correct.

14 MR. MITCHELL: So consequently, I  
15 will not ask the witness as to E-147.

16 MR. ODAM: All right.

17 MR. MITCHELL: Thank you.

18 THE MASTER: All right, go ahead.

19 MR. MITCHELL: Thank you, Judge  
20 Meyers.

21 Q I will ask you to look at E-140, Mr. Couling.  
22 I believe -- let me see if I can get this straight  
23 now. Some questions were asked you about a  
24 check for fifteen hundred dollars in February of  
25 73 and that is E-147.

1                   Now, I am not going to ask you about that  
2 check, I am going to ask you about one labeled  
3 E-140 for three thousand dollars and I am handing  
4 it to you. Do you see this?

5                   (Handed to the witness.)

6 Q The evidence shows it was dated, I believe,  
7 April the 2nd, 1974?

8                   MR. ODAM: No.

9 A The 28th, sir, March the 28th.

10 Q March the 28th. It got to Plains on April the  
11 2nd.

12 A Yes, sir, this is Plains.

13 Q You see that check?

14 A Yes.

15 Q You executed it, did you not?

16 A Yes.

17 Q And did you send it for two payments?

18 A Yes, sir, two months payments.

19 Q Now, that would have been the payments due when,  
20 February and March?

21 A It could have been February and March, yes, sir,  
22 it could have been February and March because I  
23 believe there was a check previous to that on  
24 January for two payments.

25 Q Say that again.

1 A There was another check in January for two  
2 payments.

3 Q That's right.

4 A It would be for December and January.

5 Q Right, that is where I got the three thousand,  
6 there were two checks given, in a period from  
7 January to April for three thousand or for two  
8 payments each.

9 A Yes.

10 Q It was one given apparently the contract hadn't  
11 been paid, either we couldn't decide the other  
12 day I believe it was December of 1973 or January  
13 of 74, and that three thousand dollars was given  
14 in January, wasn't it, Mr. Couling?

15 A Yes, sir.

16 Q As I remember.

17 A Yes, sir.

18 Q And then in April, I am sorry, in March you gave  
19 another one for three thousand to make up two  
20 other months that had been in default, am I correct?

21 A Which brought the payments, paid up till March?

22 Q Right, the 31st, the last day of March, whatever  
23 the date was, but not for April of 1974.

24 A No.

25 Q And certainly not for any month thereafter, am I

1 correct?

2 A That is correct, sir. I didn't make no payments  
3 after that, sir.

4 Q I believe that is right. Do you remember having  
5 received any notice that that three thousand  
6 dollar check wasn't paid by the bank when you got  
7 it?

8 A I believe I did, I am not sure, but I believe I  
9 did have notice.

10 Q Did you undertake then to see that it was paid?

11 A I sent a deposit, but I don't know, it could have  
12 been for forty dollars or forty-one or forty-two  
13 dollars.

14 Q To make up the --

15 A But I believe it was way after that date.

16 Q All right, but it was paid as per your order on  
17 that check?

18 A It was paid because there is the cancelled check.

19 Q It wasn't a hot check, it was paid as per the  
20 order on the check that you had given?

21 A I believe it had gone back to the bank as an  
22 insufficient check.

23 Q But it was thereafter paid?

24 A Yes, sir.

25 Q All right. Now, Mr. Couling, one more question



1 and see if I can get -- is there any instrument  
2 in writing now as distinct from verbal conversa-  
3 tions with other than that note that you -- now  
4 that note, you don't have that note that O. P.  
5 signed or Ramiro signed for you, do you?

6 A No, sir, I don't know where it went to, sir.

7 Q We don't have the benefit of any recitals on it?

8 A No.

9 Q Was it a note, just a regular bank note?

10 A Just a regular bank note.

11 Q And you signed it Benavides Implement and Hard-  
12 ware by you?

13 A Yes.

14 Q And he signed as co-signer?

15 A Yes, sir.

16 Q Do you recall it that way?

17 A Well, he signed it together with me.

18 Q All right, Judge Carrillo's name was not on it?

19 A No, sir, it was not.

20 Q Now, other than that note, is there any type --  
21 let's just set it aside, is there any written  
22 understanding or agreement between you and  
23 Ramiro Carrillo touching on this partnership  
24 that you say came about by reason of the April,  
25 May or June conversations with Ramiro Carrillo?

1 A No, sir, it was the only -- we had verbal agree-  
2 ment that was a silent partnership.

3 Q All right.

4 A That is the only thing we had, sir.

5 Q In fact, the record shows that there was never  
6 filed and set out in a tax return, never filed  
7 in the assumed name records, in any bank accounts  
8 and so forth, am I correct?

9 A It never was, sir, no, sir.

10 Q And the only testimony so far is from your lips  
11 that it exists, is that correct?

12 A That's correct.

13 Q All right.

14 MR. MITCHELL: Your witness -- oh,  
15 excuse me, Judge, wait just a minute, he  
16 is fussing at me.

17 (Discussion off the record.)  
18

19 MR. MITCHELL: Your Honor, before I  
20 turn this witness loose, as I understood from  
21 what Counsel for the Examiner stated, we  
22 would be given the benefit of the checks,  
23 the Duval County checks to the Benavides  
24 Implement and Hardware and that this witness  
25 would be made available in the event there

1 are any questions that arose after we had  
2 an opportunity to examine those. Am I  
3 correct, Mr. Odam?

4 MR. ODAM: Yes, I --

5 MR. MITCHELL: I hate to keep him under  
6 a constant subpoena, Judge Meyers. The man  
7 has been here a couple of weeks, but Mr.  
8 Couling would like to get back to his busi-  
9 ness, I am sure.

10 I am getting ready to excuse him and I  
11 just didn't want the record to be silent  
12 that I had made that request and I would  
13 like to have an understanding that I have  
14 the opportunity first of all, when I am  
15 going to get to see them and secondly, if  
16 I would have an opportunity to recall him in  
17 the event there are some questions.

18 That would include the Benavides Inde-  
19 pendent School District, the Duval County  
20 checks and the water district and as I under-  
21 stand Mr. Odam's commitment went only to  
22 the extent of the Duval County, am I right?

23 MR. ODAM: Yes, sir, and I yesterday  
24 checked with Mr. John Blanton in San Diego  
25 and I commented on all three of those checks.

1                   As far as Mr. Couling's availability to  
2 testify as to those, he is under subpoena  
3 and I obviously -- I don't have any objection  
4 to him being here, but I don't want to --  
5 I don't personally want to commit him to  
6 be here. He is under subpoena and has to  
7 come pursuant to that subpoena.

8                   Now, with respect to those three govern-  
9 mental agencies, the county -- my understand-  
10 ing is what took place was that the Attorney  
11 General's office acquired those from those  
12 entities and those banks, those checks, and  
13 they did not acquire just the county checks,  
14 for example, payable to Benavides Implement  
15 and Hardware.

16                   I talked about the county checks first  
17 and they have, to some extent, the extent  
18 that the Internal Revenue Service has them  
19 or the U. S. Attorney's office, they have  
20 all of the checks for a number of years from  
21 the county and they are not segregated by  
22 Benavides Implement and Hardware.

23                   I have asked Mr. Blanton to start going  
24 through those checks to determine -- I mean  
25 they have to take each check and find out

1           who the payee is on each one of those  
2           checks and they are in the process of doing  
3           that.

4                    But they say that filled two file  
5           drawers of just going through checks and  
6           they are working on it. And the Rangers  
7           are working on it with them today and I  
8           can't say when it is going to be because it  
9           is a big job and it is an even greater job  
10          to start taking the same checks for the  
11          water district because they have all of the  
12          water district checks, all of the payees and  
13          they have all of the school district checks  
14          to all of the payees and then go through  
15          all of those checks to find the checks  
16          payable to the Benavides Implement and Hard-  
17          ware.

18                   So that is a huge job, particularly the  
19          first, they are working on it and as to the  
20          second, they are starting working on that  
21          but I can't say when it is going to be  
22          because of the enormity of the project that  
23          Mr. Mitchell has requested.

24                   MR. MITCHELL: Your Honor, I, of course,  
25          don't want to delay the proceedings, and I

1 would like to have an opportunity to have  
2 those checks made a part of this record and  
3 if the Court can blueprint some procedure  
4 whereby we could do it.

5 THE MASTER: I think the procedure that  
6 Mr. Odam indicated is the only procedure  
7 possible.

8 MR. MITCHELL: Yes, Your Honor.

9 THE MASTER: Now, there is no agreement  
10 with respect to the other two governmental  
11 entities. He has just said that he has  
12 people with the Attorney General's office  
13 and the other employees of the State of Texas  
14 looking for checks made by Duval County to  
15 Benavides Implement and Hardware. He says  
16 it is a vast undertaking but they are under-  
17 taking it.

18 MR. MITCHELL: Pardon me. May I also  
19 request, Your Honor, that we be permitted to  
20 have Mr. Couling to get us the bank state-  
21 ments, his bank statements for this account  
22 shown in E-168 of 6-9-75. It would probably  
23 be 5 -- that is the month of May of 75, to  
24 be a part of this record, as to reflect the  
25 handling of the funds in that Benavides

1 Implement and Hardware account at the time  
2 this E-168, to Cleofus Gonzalez was executed.

3 MR. ODAM: What month?

4 MR. MITCHELL: I would like to have it  
5 as relates to the date of 168, Mr. Odam,  
6 if I might.

7 MS. LEVATINO: That is E-168.

8 MR. MITCHELL: Yes.

9 THE MASTER: You want January of 68?

10 MR. MITCHELL: No, Exhibit E-168.

11 THE MASTER: All right, Exhibit E-168.

12 MR. MITCHELL: And I believe they have  
13 it there.

14 THE MASTER: For what, is that May?

15 THE WITNESS: 75.

16 THE MASTER: That is what month?

17 MR. MITCHELL: Exhibit E-168 is dated  
18 6-9-75 and I would like to have it for the  
19 month preceding it and the current month  
20 to show the amount of money in the account  
21 and how it was handled, if it was fourteen  
22 thousand dollars and Cleofus took over four-  
23 teen thousand dollars I think it is relevant.  
24 If it is an O.D. for ten dollars, that would  
25 be --

1 THE MASTER: You want the account  
2 ledger on the month before and the month  
3 that Cleofus Gonzalez became --

4 MR. MITCHELL: A partner.

5 THE MASTER: And authorized person to  
6 sign on that account.

7 MR. MITCHELL: And I believe, Your  
8 Honor, I can help the Court.

9  
10 - - - - -

11  
12 EXAMINATION CONTINUED

13  
14 BY MR. MITCHELL:

15 Q Mr. Couling, you have the bank -- the bank state-  
16 ment for that bank account, they are with the  
17 Attorney General -- or in his possession now,  
18 is that correct?

19 A January of 75, I don't know if I have it or not.

20 THE MASTER: You had it.

21 Q Can you authorize him to deliver the month of  
22 May, your bank statement for May and June?

23 A Yes, sir.

24 THE MASTER : Of 75?

25 Q Of 1975.



1 A Be glad to, Mr. Mitchell.

2 MR. ODAM: Well, and pursuant to his  
3 request, I do so. My comment is that what  
4 I have here is for the date of this state-  
5 ment, that is April 30th, 1975. This is  
6 the month before and it is Benavides Imple-  
7 ment and Hardware Company, R. M. Couling,  
8 Drawer M, Benavides, Texas.

9 Now as to May and June, we do not  
10 have those because that is when Cleofus  
11 Gonzalez went on the signature card and  
12 didn't get it after that date. I don't --  
13 I suppose they are there but just this is  
14 it, that is May and June, that would be  
15 when Mr. Gonzalez took over the store and  
16 we don't have it. You are welcome to this.

1 MR. MITCHELL: Mr. Odam, do you have  
2 the bank statements for that account going  
3 back to the time it is relevant for the  
4 specifications in your formal charge?

5 MR. ODAM: Yes, I do. Well, this  
6 starts back from the time Mr. Couling signed  
7 the card, April 16th. This is the first --  
8 every one of these sheets is the running  
9 activity of the bank account.

10 MR. MITCHELL: All right. We have in  
11 the record the First State Bank and Trust  
12 Company's bank statements of the Benavides  
13 Implement and Hardware. We do not have the  
14 San Diego bank statements and I would request  
15 that they be delivered to be put into the  
16 record.

17 MR. ODAM: They are here and for our  
18 purposes, I didn't see the relevancy of them,  
19 but I will deliver them to you.

20 MR. MITCHELL: Thank you, Mr. Odam.

21 MR. ODAM: You are welcome.

22 May we have those back or have copies  
23 made, if you decide to put them in evidence?

24 THE MASTER: Yes, if you decide to put  
25 them in evidence, Mr. Mitchell, it would be

1 your burden to have copies made.

2 MR. MITCHELL: All right, Judge Meyers.

3 THE MASTER: Mr. Mitchell, would this  
4 be a good time for us to have a break for  
5 you to look at those?

6 MR. MITCHELL: Yes, Your Honor.

7  
8 (A short recess was taken.)  
9

10 THE MASTER: Let me state that the  
11 record will reflect that the Examiner has  
12 not yet rested, but he has indicated  
13 Mr. Couling will be his last witness.  
14 Mr. Mitchell has indicated he is prepared  
15 to pass Mr. Couling at this time subject to  
16 further examination.

17 A number of exhibits have been marked  
18 and Mr. Mitchell has requested some time and  
19 that time will be granted to look at them.  
20 Mr. Mitchell has also requested, and the  
21 Examiner has agreed, that he be able to put  
22 on a Respondents witness out of turn and this  
23 witness is now seated in the witness chair.  
24 He will be sworn and you will proceed with  
25 your direct examination of this witness,

1 Mr. Mitchell, and the Examiner with the  
2 cross.

3 MR. MITCHELL: Yes, sir.  
4  
5  
6  
7  
8

9 GEORGE ZERTUCHE, SR.,  
10 recalled as a witness, having been previously sworn,  
11 testified as follows, to-wit:  
12

13 MR. MITCHELL: Your Honor, first, I  
14 would like to reserve the right to request  
15 the time to examine the numerous exhibits  
16 that have been brought into evidence at this  
17 point in the trial for the purpose of  
18 determining if there might be some questions  
19 that might arise out of those exhibits of  
20 Mr. Couling and therefore request to the  
21 Court that Mr. Couling be ordered to stand  
22 by.

23 THE MASTER: He is under subpoena and  
24 I think we should be concerned about his time,  
25 but I will not release him until you both

1 say you are through with him.

2 Would both of you agree that by 11:45  
3 you will be able to proceed with Mr. Couling?

4 MR. MITCHELL: Yes, I would say it would  
5 take me maybe an hour.

6 THE MASTER: I will give you that, but  
7 if you need less -- a number of exhibits  
8 have been delivered, partially at your  
9 request. I don't think the Examiner has  
10 been unfair with you.

11 MR. MITCHELL: That is right.

12 THE MASTER: You have the right to  
13 correlate them with other exhibits.

14 MR. MITCHELL: So that the record reflects  
15 that package was delivered would be the group  
16 that is marked R-89-1 through and including  
17 R-89-48 and E-173-1 through and including  
18 E-173-27 and in addition, E-172-1 through  
19 and including E-172-30 and an additional  
20 exhibit which has not yet been marked.

21 THE MASTER: You may proceed.

22  
23 (Respondents' Exhibits R-89-1 through  
24 R-89-48 were marked for identification.)  
25

1 (Examiner's Exhibits 173-1 through  
2 Examiner's Exhibits 173-27 and Examiner's  
3 Exhibits 172-1 through and including  
4 Examiner's Exhibit 172-1 through 30 were  
5 marked for identification.)  
6  
7  
8  
9

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

12 BY MR. MITCHELL:  
13

14 Q State your name.

15 A George Zertuche, Sr.

16 Q Where do you reside?

17 A Benavides.

18 Q What aged man are you?

19 A I am fifty-eight.

20 Q Mr. Zertuche, are you a family man?

21 A Yes.

22 Q What is your wife's name?

23 A Anita.

24 Q Do you have children?

25 A Yes.

1 Q What are their names?

2 A George Zertuche, Jr., Arturo, Héctor and Elvera  
3 Ruiz and she is married.

4 Q The age of George, Jr. is what?

5 A George, Jr. was born in 1940.

6 Q Hector?

7 A 1943.

8 Q Arturo?

9 A 1964.

10 Q Do you know Judge O. P. Carrillo?

11 A Yes, sir.

12 Q And you all have been acquainted how long?

13 A All of our lives, we live close together.

14 Q Would you characterize your relationship with  
15 the judge as that of a very close friend?

16 A Close friend and relative.

17 Q All right. Mr. Zertuche, I subpoenaed you to  
18 be here, have I not?

19 A Yes, sir.

20 Q Do you have the subpoena with you this morning?

21 A Yes, sir.

22 Q I will ask you these questions.

23 Do you know Ruben Chapa?

24 A Yes, sir.

25 Q How long have you known Ruben Chapa?

1 A Since he was a kid. He was born right there in  
2 our neighborhood and was raised there.

3 Q Does he have a brother Rudolfo?

4 A Yes, sir.

5 Q Do you know the brother?

6 A Yes.

7 Q How long have you known Rudolfo?

8 A All his life.

9 Q Do you know Oscar Sanchez?

10 A Yes, sir.

11 Q How long have you known him?

12 A Fifteen or twenty years.

13 Q And do you know Patricio Garza?

14 A Yes.

15 Q How long have you known him?

16 A A long time.

17 Q Twenty-five years?

18 A Maybe.

19 Q Vicente Chapa, do you know him?

20 A Yes, sir.

21 Q How long have you known him?

22 A Since he was a kid.

23 Q Is Ruben and Rudolfo and Vicente, are those  
24 brothers?

25 A Yes.



1 Q Do you know Francisco Ruiz?

2 A Yes, sir.

3 Q Rudolfo Couling?

4 A Yes, sir.

5 Q Do you know whether or not Francisco Ruiz is  
6 Rudolfo Couling's brother-in-law?

7 A Well, their wives are sisters.

8 Q Did you know, during his lifetime, Mr. Calvin  
9 North?

10 A Yes, sir, I did.

11 Q Do you know where his ranch was?

12 A Yes, sir.

13 Q Do you know whether or not Mr. North is presently  
14 alive or dead?

15 A He is dead; he is deceased.

16 Q The record reflects he died sometime, I believe  
17 in 1969, I believe, if I recall correctly.

18 A Sometime during those years, yes, sir.

19 THE MASTER: So there is no doubt  
20 about it, the death certificate you offered  
21 in evidence and that was received says the  
22 date of death was February 22nd, 1968.

23 MR. MITCHELL: Thank you, Judge Meyers.

24 Q (By Mr. Mitchell) I am going to hand you,  
25 Mr. Zertuche, a series of photographs and I am

1 going to ask you one or two questions about them.  
2 They are numbered R-39 through and including  
3 R-45 and one is marked R-49, which you hold,  
4 which is an enlargement of R-41.

5 You can hold R-41 and R-49 together, since  
6 they are the same.

7 I am going to hand all of these to you  
8 together and I am going to ask you questions about  
9 who is in them, the place where they were taken,  
10 if you know, and the date of the activity, if  
11 you know.

12 Will you take a few minutes and when you can  
13 answer the questions, if you will indicate, I  
14 will proceed to ask you questions.

15 A All right.

16 Q Have you examined them?

17 A Yes, sir.

18 Q Can you identify, first of all -- let me ask you  
19 this: Were the photographs taken at the same  
20 place or at a different place?

21 A At the same place.

22 Q All right. I will ask you this: Do you recognize  
23 yourself in the photographs?

24 A Yes, sir.

25 Q Do you recognize your son George, Jr.?

1 A Yes, sir.

2 Q Can you point out, say one or two that he might  
3 happen to be in for the purpose of the record.

4 A Here is one with George, Jr.

5 Q Read the back side, the number of it.

6 A R-32.

7 Q That is one George is in?

8 A Yes, sir.

9 Q How about Hector, do you recognize Hector, your  
10 son, in any of those photographs?

11 A Yes, sir. This one is George and Hector.

12 Q What is that?

13 A R-38.

14 Q Now, I will ask you about what age George and  
15 Hector are in those pictures, that is R-38, if  
16 you can tell, you were their daddy -- strike  
17 that.

18 Mr. Zertuche, do you recognize in the  
19 photographs Mr. Ruben Chapa?

20 A Yes, sir.

21 Q Did you recognize Mr. Rudolfo Chapa in the  
22 photographs or is he in them?

23 A Let me see. No, sir, I don't see him.

24 Q Do you recognize O. P. Carrillo in them?

25 A Yes, sir.

- 1 Q Do you recognize Benito Saavedra?
- 2 A Yes, sir.
- 3 Q Oscar Sanchez?
- 4 A Yes, sir.
- 5 Q Patricio Garza?
- 6 A Yes, sir.
- 7 Q Your son Arturo?
- 8 A Yes, sir.
- 9 Q Yourself?
- 10 A Yes, sir.
- 11 Q George, Jr. and Hector?
- 12 A Yes, sir.
- 13 Q Do you recognize Mr. Calvin North?
- 14 A Yes, sir.
- 15 Q Pull that one, please, that Mr. North happens to  
16 be in, and read that number on it into the record.
- 17 A It is R-27.
- 18 Q Is R-27 taken at the same place as the others and  
19 at the same time?
- 20 A Yes, sir, it is.
- 21 Q Do you know of your own personal knowledge whether  
22 the ranch was owned by Calvin North where those  
23 pictures were taken?
- 24 A It was owned by Calvin North.
- 25 Q What are you all doing?

1 A Trying to fix a water tank, a ground water tank  
2 with a Grade-all.

3 Q You fellows had gotten out there to fix a water  
4 tank on Mr. North's ranch?

5 A Yes.

6 Q How much time was involved in fixing the tank?

7 A Two or three hours, I guess.

8 Q What did you all do the rest of the time, if you  
9 remember? Did you have just a social occasion?

10 A Yes.

11 Q What was Patricio Garza doing on the Papalote,  
12 the windmill?

13 A Something was wrong with the windmill and he was  
14 fixing it or trying to fix it.

15 Q To get the water to come out?

16 A Yes.

17 Q I notice in addition that the reservoir, if you  
18 will call it that, or a hole in the ground, and  
19 in addition there is a concrete tank, it looks  
20 like, what were you all doing with that?

21 A They were trying to put a line from the windmill  
22 to this tank here.

23 Q And put water in it?

24 A Yes, sir.

25 Q Now, Mr. Zertuche, I will ask you to look at 49,

- 1           and, I believe -- can you recognize Judge Carrillo?
- 2           A     Yes, sir.
- 3           Q     And yourself?
- 4           A     Yes, sir.
- 5           Q     And who is that?
- 6           A     Benito Saavedra.
- 7           Q     Who is this?
- 8           A     Patricio Garza.
- 9           Q     Do you recognize that truck as being Judge
- 10           Carrillo's old pickup?
- 11          A     Yes, sir.
- 12          Q     Can you tell us the date now when that picture
- 13               was taken? I am talking about the year.
- 14          A     I am almost sure it was in the summer of 1964.
- 15               It could be no later than March of 1965. This
- 16               was taken in the summer, this picture.
- 17          Q     Mr. Zertuche, would that be your testimony about
- 18               the events that are shown in R-26 through R-44?
- 19          A     Yes, sir.
- 20          Q     That these were taken at the same time?
- 21          A     Yes, sir.
- 22          Q     Same year?
- 23          A     Yes, sir.
- 24          Q     There is a picture in there of a Grade-all, see
- 25               if you can find it.

- 1 A It is here; I saw it here.
- 2 Q Is that it there?
- 3 A Yes.
- 4 Q Is that R-39, is that what it is?
- 5 A Yes, sir.
- 6 Q All right. Now, does there appear to be Oscar  
7 Sanchez and who else is that?
- 8 A In the driver's seat is Hector Zertuche.
- 9 Q Your boy?
- 10 A Yes, sir.
- 11 Q And it takes two people to operate the Grade-all?
- 12 A Yes, sir.
- 13 Q Do you know the distinction between that and a  
14 backhoe, if there is one?
- 15 A Well, a backhoe can be operated by one person.
- 16 Q It is a scoop-type thing?
- 17 A Yes, sir, and usually this takes two persons,  
18 because it is, you know, taking the dirt out and  
19 the truck has to be moving forward and the driver  
20 of the truck has to be moving.
- 21 Q So the driver has to move the Grade-all to stay  
22 ahead of the work of it?
- 23 A Yes, sir.
- 24 MR. MITCHELL: May I ask the witness a  
25 question before I ask him a question?

1 THE MASTER: Do you mean an off-the-  
2 record question?

3 MR. MITCHELL: Yes.

4 THE MASTER: All right. You may.

5 MR. MITCHELL: Thank you, Your Honor.

6 Q (By Mr. Mitchell) Mr. Zertuche, would you  
7 characterize the atmosphere that day as a social  
8 party atmosphere on the occasion of the pictures?

9 A All of these boys used to be together all the  
10 time. We were friendly.

11 Q The whole group was enjoying themselves?

12 A Yes.

13 Q It has to be as late as 1964 or 1965?

14 A Yes, sir.

15 Q And you have lived in Benavides how long, all  
16 your life, have you not?

17 A Yes.

18 Q Has a split developed in between that group in  
19 the pictures?

20 A Yes, sir.

21 Q Without deciding who is on what side, would you  
22 say -- strike that.

23 That would have occurred, within say the  
24 last year?

25 A Yes, sir.



1 MR. MITCHELL: Judge, I have no further  
2 questions of this witness.  
3  
4

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7  
8 E X A M I N A T I O N  
9

10 BY MR. FLUSCHE:  
11

12 Q Mr. Zertuche, are you related to Judge Carrillo?  
13

14 A Yes.

15 Q How are you related?  
16

17 A My mother and his father were first cousins.  
18

19 Q All right. I see. Now, how many acres are  
20 contained in the Calvin North ranch, do you know?  
21

22 A I really don't know, but -- over three hundred  
23 acres, I guess.  
24

25 Q You testified that this event happened no earlier  
than the summer of 1964 and no later than the  
early spring of 1965, is that correct?  
26

27 A That is right, sir.  
28

29 Q Do you know where the tank is located with regard  
30 to the ranch house?  
31

1 A Yes, sir.

2 Q How is it -- what distance is it from the ranch  
3 house and in what direction?

4 A I would say the ranch house is about thirty or --  
5 feet from the windmill towards the west and the  
6 windmill is towards the east and this tank was  
7 right close, about five or ten feet north of the  
8 windmill.

9 Q How about the dirt tank?

10 A That is the one I am talking about.

11 Q All right. Now, you testified that there was a  
12 Grade-all out there being operated by Oscar Sanchez,  
13 is that correct?

14 A Yes, sir.

15 Q Who did that Grade-all belong to?

16 A Well, I don't know if it belonged to the county  
17 when they started fixing the sewer lines, but they  
18 bought it brand new and it supposedly belonged to  
19 the county.

20 Q All right. Was there a backhoe being used on the  
21 premises on the occasion you are talking about?

22 A Just the Grade-all.

23 Q Now, there has been --

24 MR. FLUSCHE: Could we have just one  
25 minute, Your Honor?

1 THE MASTER: Yes.

2 Q (By Mr. Flusche) There has been testimony here,  
3 Mr. Zertuche, that Oscar Sanchez worked out there  
4 during the year 1971 after Judge Carrillo became  
5 a judge.

6 Now, that is not the occasion you are talking  
7 about here today?

8 A No, sir.

9 Q Do you know about that incident?

10 A I never knew he went over there again to that  
11 ranch with a backhoe.

12 Q Who owns the ranch now?

13 A I think Judge O. P. Carrillo owns the ranch now.

14 Q Do you know when he bought it?

15 A No, sir.

16 Q As a matter of fact, he bought part of it before  
17 you all went out on this occasion, didn't he?

18 A He owned the back part of that land over there.  
19 There were two tracts and he owned the back tract,  
20 the south part.

21 Q About a third of the ranch, he owned one hundred  
22 and six acres at that time, did he not?

23 A I believe so, I would not know for sure.

24 Q What did Mr. Mitchell tell you awhile ago when  
25 he was whispering in your ear?

1 A He was trying to say that if I knew any of these  
2 boys by a nickname or something. He said  
3 something like that.

4 MR. MITCHELL: Your Honor, for the  
5 record, he said he didn't know and that is  
6 why I didn't ask him the question.

7 MR. FLUSCHE: That is all I have.  
8  
9  
10  
11  
12  
13

14 RE - EXAMINATION

15 BY MR. MITCHELL:  
16

17 Q As a matter of fact, Mr. Zertuche, at the time  
18 you were out there in the latter part of 1964 or  
19 '65, Mr. North owned the property that this little  
20 tank was being put on, is that correct?

21 A Yes.

22 Q And Judge Carrillo, had, if you know --

23 MR. FLUSCHE: Your Honor, extremely  
24 leading.

25 MR. MITCHELL: Well, I am trying to clear

1                   it up.

2           Q    (By Mr. Mitchell) Had previously purchased  
3                   another part of the ranch, is that right?

4           A    Yes.

5           Q    Not the part of the ranch where the tank was  
6                   located?

7           A    Yes, sir.

8                   THE MASTER: That is pretty leading,  
9                   Mr. Mitchell.

10                  MR. MITCHELL: I really drug him, I  
11                   would have to confess.

12                  Your Honor, I would like to mark an  
13                   exhibit I think perhaps the Examiner has a  
14                   similar one, too, and it is the deed from  
15                   Mildred S. North and for the Estate of Calvin  
16                   North to O. P. Carrillo dated December 11th,  
17                   1968, and I have an authenticated copy of  
18                   the deed under the seal of the county clerk  
19                   of Duval County.

20  
21                           (Whereupon, the above-mentioned  
22                   document was marked for identification as  
23                   R-90.)

24

25

MR. MITCHELL: This bears R-90, their

1                   having been marked during the morning  
2                   recess, R-89-1 through 48.

3                   R-90, I would like to offer in  
4                   evidence as a deed to Judge Carrillo.

5                   MR. FLUSCHE: No objection.

6                   THE MASTER: It is admitted.

7                   MR. MITCHELL: May I have just one  
8                   minute, Judge?

9                   THE MASTER: Yes, sir.

10                  Q    (By Mr. Mitchell) Do you know whether Mr.  
11                   Francisco -- I believe you testified you knew  
12                   Francisco Ruiz?

13                  A    Yes, sir.

14                  Q    Did you know, during his lifetime, George Parr?

15                  A    Yes, sir.

16                  Q    And Archer Parr?

17                  A    Yes, sir.

18                  Q    Do you know where the Atlee Parr Ranch is?

19                  A    Yes, sir.

20                  Q    Who owns the Atlee Parr Ranch?

21                  A    Mrs. Atlee Parr, I guess.

22                  Q    Is she the widow of the old man --

23                  A    Yes.

24                  Q    Do you know whether or not Francisco Ruiz used  
25                   to work at the Atlee Parr Ranch?

1 A He worked a lot of times there.

2 Q You know that as a matter of personal knowledge?

3 A Yes, sir.

4 Q Were you or not there yourself to observe him  
5 working?

6 A I was, because he was welding corrals and rigs  
7 for, you know, brush control, and he was welding  
8 over there and sometimes we had to go over there  
9 and fix the stuff they needed to do over there.

10 Q Did he work, to your personal knowledge, on the  
11 Archer Parr Ranch?

12 A Yes, he did.

13 Q Where is the Archer Parr Ranch, do you know?

14 A It is located on the Freer road from San Diego.  
15 I don't know how many miles.

16 Q Do you know he used to work on the ranch -- what  
17 type work it was he did?

18 A They did some welding over there.

19 Q Do you know whether or not Oscar Sanchez worked  
20 for the George Parr Ranch at the silo on the  
21 ranch, Mr. Zertuche?

22 A Yes, sir, on the Atlee Parr Ranch, George Parr's  
23 ranch.

24 Q Do you know whether or not he used Caterpillars  
25 on the George Parr Ranch?

1 A They use some Caterpillars with a chain to cut  
2 down the brush, mesquite trees and all that,  
3 two Caterpillars.

4 Q Now, the process you are talking about, it is  
5 used in clearing that mesquite country?

6 A Yes, that is right.

7 Q Could you tell us when you, of your own personal  
8 knowledge, know that those dozers were used on  
9 that ranch for clearing in the last two or three  
10 or four years?

11 A It was before Mr. Parr died, about a year or two  
12 before he died.

13 Q Actually, I believe Atlee Parr was the commissioner  
14 of Precinct 2 at that time, was he not?

15 A He was of Precinct 3 at that time.

16 Q Precinct 3?

17 A Yes.

18 Q Do you know when he died, what year?

19 A If I am not mistaken, I think it was '67.

20 Q What office did he hold at the time of his death?

21 A County commissioner.

22 Q To the best of your recollection, he died in  
23 1967?

24 A Somewhere around that.

25 MR. MITCHELL: No further questions.



RE - EXAMINATION

1  
2  
3 BY MR. FLUSCHE:  
4

5 Q Are you a Caterpillar operator yourself?

6 A No, sir.

7 Q You have not driven a Caterpillar?

8 A I have.

9 Q Have you ever driven Judge Carrillo's  
10 Caterpillars?

11 A No, sir.

12 Q Do you know when he bought those Caterpillars?

13 A No, I have no idea.

14 Q Do you know who those Caterpillars belonged to  
15 that were used on the Parr Ranch?

16 A I guess it belonged to the county, because we used  
17 to service them all the time.

18 Q Do you work for the county?

19 A Yes, sir.

20 Q Are you on the county payroll right now?

21 A Yes, sir.

22 Q How long have you been on the county payroll?

23 A Fifteen years.

24 Q What is your present salary?

25 A Right now, twelve hundred dollars.

- 1 Q Have you ever done any work for Judge Carrillo  
2 or the Calvin North Ranch or the Parrs while  
3 you were on the county payroll?
- 4 A No, sir, not Judge Carrillo or --
- 5 Q How about the Parrs?
- 6 A Just when I went to fix something that broke down.
- 7 Q What would you fix, for instance?
- 8 A We would take welding machines for the tractors  
9 or the Caterpillars. We used to go over there  
10 and fix them.
- 11 Q Did you used to go out there sometimes with Juan  
12 Martinez?
- 13 A I worked with him in the shop in San Diego.
- 14 Q Did you ever go out there with Juan Martinez to  
15 work on the Parr Ranch?
- 16 A No, sir.
- 17 Q Did you assist in the clearing of land on Rudolfo  
18 Couling's Ranch?
- 19 A I don't remember, sir.
- 20 Q And you don't remember how long Judge Carrillo  
21 has owned those Caterpillar tractors?
- 22 A No, I could not say.
- 23 Q Have you ever done any work on Judge Carrillo's  
24 Caterpillar tractors?
- 25 A No, sir.

1 Q Did they ever take the engine out of one of them  
2 and bring it to the county shops?

3 A On his tractor?

4 Q Yes.

5 A No, sir.

6 Q You talked about the use of those Caterpillar  
7 tractors on the Parr Ranch. One of those was on  
8 the George Parr Ranch at the time he shot himself,  
9 wasn't it, or do you know?

10 A Whose tractor, sir?

11 Q Well, the tractors that we are talking about.  
12 You say they are county owned tractors; was one  
13 of them still on his ranch at the time he shot  
14 himself?

15 MR. MITCHELL: He said he didn't know.

16 THE MASTER: Counsel can ask him.

17 Q You said you thought the tractors on the Parr  
18 Ranch were owned by the county?

19 A Yes, sir.

20 Q Wasn't one of them on the Parr Ranch when George  
21 Parr shot himself?

22 A We didn't go to the ranch when George Parr was  
23 there, I mean I didn't go over there.

24 MR. FLUSCHE: All right. I believe  
25 that is all.

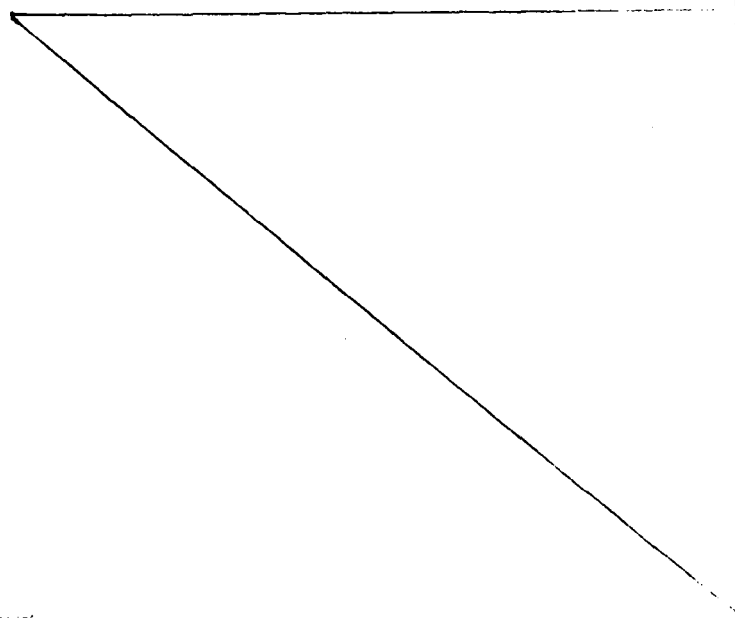
1 MR. MITCHELL: I have no further  
2 questions of this witness, Judge Meyers.  
3 I would like to recall Mr. Couling.

4 THE MASTER: Mr. Zertuche, you are free  
5 to go. Thank you, sir.

6 It was my understanding, Mr. Mitchell,  
7 you were going to pass Mr. Couling for some  
8 identification of exhibits. You don't have  
9 to, but --

10 MR. MITCHELL: That is correct. I  
11 wanted to call him to pass him.

12 THE MASTER: All right. Will you get  
13 him in, please?



1 MR. MITCHELL: Your Honor, I do have  
2 a question or two of this witness before I  
3 pass him.

4 THE MASTER: Are we on the record?

5 MR. MITCHELL: Yes.

6 THE MASTER: The record will reflect  
7 when that Mr. Rudolfo Couling is again on  
8 the stand and, of course, you are still  
9 under oath.

10  
11 - - - - -

12  
13 RUDOLFO COULING,  
14 recalled as a witness, having been previously  
15 sworn, testified as follows:

16  
17 E X A M I N A T I O N

18  
19 BY MR. MITCHELL:

20 Q Mr. Couling, prior to our break this morning, I  
21 asked you if you would give permission for Counsel  
22 for the Examiner to deliver the accounts -- the  
23 statement, the bank statement for the Benavides  
24 Implement and Hardware, at the First State Bank  
25 of San Diego, and I believe you stated you had

1 no objection.

2 I have been given these and for the purpose  
3 of the record, by Mr. Odam, during the break, and  
4 I have had them marked as R-89-1 consecutively  
5 through and including R-89-48, and I ask you if  
6 those are copies of those bank statements in  
7 that one account?

8 A Yes, sir.

9 Q Now, they began for the record, they began in  
10 April of 1971?

11 A Yes, 71.

12 Q On the 3rd of 71, April the 3rd?

13 A Yes, sir, April the 3rd.

14 Q Of 1971?

15 A Yes, sir.

16 Q That is, of course, not the date, the account  
17 was opened, the record reflects as it was opened  
18 prior to April of 1971, am I correct?

19 A I guess so, sir.

20 Q All right. Do you --

21 A Yes, sir, I believe it was.

22 Q All right, I have been handed R-89-28-A, which  
23 appears to be for the month of August, 1973, which  
24 is a part of those documents, am I correct?

25 A Yes, sir.

1 MR. MITCHELL: So that, Your Honor,  
2 the August statement is labeled R-89-28-A.

3 THE MASTER: All right.

4 Q And this account, that is the Benavides Imple-  
5 ment and Hardware account, so the statements of --  
6 that have been marked, goes down to April the 30th  
7 of 1975, is that correct, 4-30 --

8 A This statement is 3-31.

9 Q That is the date of the last statement was March 31  
10 1975.

11 A That's right.

12 Q And R-89-38 is 4-30-75, am I correct?

13 A Yes, sir.

14 Q I believe your testimony is you transferred the  
15 business and the signature card was transferred  
16 over in June of 1975, am I correct?

17 A I would like to see the signature card, sir.

18 Q All right, I hand you now E-168 that shows the  
19 date June 9, 1975?

20 A Yes, sir.

21 Q So that there is -- there are not in the record,  
22 the statements --

23 A One more statement.

24 Q The statement for the month of --

25 A May.

1 Q -- May, 1975, prior to the time that you made  
2 the changeover, am I correct?

3 A Yes, sir, that's correct.

4 Q And I would ask you if you would get that state-  
5 ment for us showing the bank activity for May of  
6 1975 up and through June, when E-168 was executed.

7 A I have to get the June one from Cleofus.

8 Q Would you please do that?

9 A Yes, sir.

10 MR. MITCHELL: All right, Your Honor,  
11 and may we add those when they are delivered  
12 as R-89-49 so that that will be a complete  
13 history of that account.

14 Q Am I correct?

15 A Yes, sir.

16 Q From the dates shown?

17 MR. MITCHELL: We offer R-89-1 through  
18 and including R-89-48 and 49, when it is  
19 received, Judge Meyers.

20 MR. ODAM: Well, the -- for clarifica-  
21 tion on the last number, number 49, those  
22 are the only ones we have and if Mr. Mitchell  
23 is going to go to the bank and get the other  
24 one, if there are any more --

25 THE MASTER: The witness said he would



1 get it from Cleofus Gonzalez.

2 MR. ODAM: Oh, he did, I am sorry.

3 THE WITNESS: I am going to see if I  
4 can get it.

5 THE MASTER: That's right, you can't  
6 compel him to.

7 THE WITNESS: Yes, sir.

8 MR. ODAM: I am sorry.

9 MR. MITCHELL: Your Honor, I have some  
10 questions that have -- since I have been  
11 given these records that have -- that I would  
12 like to ask, particularly as regards the  
13 deposits made in these accounts.

14 However, I understand that Counsel for  
15 the Examiner has additional documents and  
16 if I may be permitted to pass the witness  
17 for the purpose of authenticating those, so  
18 that I can get those into evidence to where  
19 I can see them and inter-relate them with  
20 the R-89 series for perhaps additional ques-  
21 tions of that, may I do that out of order,  
22 Your Honor, that way?

23 THE MASTER: You may do that.

24 MR. MITCHELL: We pass the witness --  
25 excuse me, did you have a chance to examine

1           these, John?

2           MR. ODAM: Yes.

3           MR. MITCHELL: All right, we offer  
4           them, being Exhibits R-89-1 through R-89-48  
5           and if the witness produces the one for the  
6           month of June or can secure it from Cleofus,  
7           R-89-49, that number will be assigned to it.

8           THE MASTER: They are admitted now.

9  
10           (Whereupon Exhibits R-89-1 through  
11           R-89-48 are admitted in evidence.)

12           MR. MITCHELL: Thank you, Judge. We  
13           pass the witness then, Judge Meyers, at this  
14           time.

15           MR. ODAM: Your Honor, we would offer  
16           into evidence the photostatic copies supplied  
17           by Mr. Bates or prepared by the bank pursu-  
18           ant to the testimony of Mr. Bates the other  
19           day which begins with E-172-1 and runs through  
20           E-172-31.

21           MR. MITCHELL: I am sorry, John, would  
22           you mind repeating that. I didn't hear you.

23           MR. ODAM: Yes, they began with E-172-1  
24           and go through E-172-31.

25           We would also offer, pursuant to the

1 request of Mr. Mitchell of Mr. Bates, the  
2 deposit slips E-173-1 through E-173-28.

3 THE MASTER: Is there any objection  
4 as to authenticity, Mr. Mitchell?

5 MR. MITCHELL: There is none, Your  
6 Honor.

7 THE MASTER : I suppose you have your  
8 standing objection.

9 MR. MITCHELL: Yes, I do, Judge.

10 THE MASTER: They are admitted, both  
11 Exhibits, show them as admitted.

12 (Whereupon Examiner's Exhibit 173-1  
13 through 173-28 are admitted into evidence.)  
14

15 MR. ODAM: And for the purpose of  
16 clarification of the record, we will probably  
17 get into further testimony, the 172 series  
18 purports to be from the bank all of the checks  
19 written on the Rio Grande City account.

20 MR. MITCHELL: And pardon me, Mr.  
21 Odam, and for the record, Your Honor, in  
22 connection with my further requests that  
23 will be made of the Court, when Mr. Odam  
24 completes it, that would include checks  
25 that have not heretofore been a part of this

1 record, am I correct, Mr. Odam?

2 MR. ODAM: That is correct, the total  
3 activity, all of the checks, whatever amounts,  
4 to whatever payee.

5 Now, E-173, of course, is all of the  
6 deposit slips as requested by Mr. Mitchell,  
7 reflecting all deposits.

8 At this time I would tender to Counsel  
9 the two Exhibits which have been admitted  
10 into evidence for his examination, prior  
11 to our continuation of the redirect examina-  
12 tion of Mr. Couling.

13 MR. MITCHELL: No objection on authen-  
14 ticity, other than my basic objections,  
15 Judge.

16 THE MASTER: Now, is this the time,  
17 Mr. Mitchell, when you want some time?

18 MR. MITCHELL: Yes, I was wondering if  
19 Mr. Odam had some questions of the witness  
20 before he turns him loose?

21 MR. ODAM: No.

22 MR. MITCHELL: Your Honor, in view of  
23 the fact that -- I am sorry --

24 MR. ODAM: Understanding that he is  
25 passed back to us and we will start in on

1 the questions when we get back after you  
2 examine them.

3 MR. MITCHELL: Yes, I would have no  
4 objection, Judge Meyers, if Counsel wants  
5 to go on and make any examination he desires  
6 of this witness and when he does return him  
7 to me for cross-examination, that I be given  
8 an opportunity because I will have extensive  
9 questions of the witness, I am sure, that are  
10 going to be raised by the documents.

11 MR. ODAM: Well, I would prefer --

12 THE MASTER: Whatever you wish to do,  
13 Mr. Odam, do you want to examine him now  
14 or examine him later?

15 MR. ODAM: My thought was to examine him  
16 later so that as I ask the questions Mr.  
17 Mitchell would have already -- I mean, would  
18 have had an opportunity to see those.

19 THE MASTER : That is fine.

20 MR. MITCHELL: I have no objection to  
21 him, Judge, going on at this point. It will  
22 give me some scope of the thrust of the  
23 documentary --

24 MR. ODAM: I prefer to wait.

25 MR. MITCHELL: All right then, I would

1 like a recess, Judge Meyers.

2 THE MASTER: How long?

3 MR. MITCHELL: Well, a minimum of an  
4 hour, Your Honor, in view of the number of  
5 Exhibits.

6 THE MASTER: We will be in recess until  
7 twelve. 24X37

8 MR. ODAM: Thank you.

9 THE MASTER: And if we are not through,  
10 we will recess until tomorrow. 24X2

11 (Discussion off the record.)

12  
13 (Whereupon the hearing was in recess  
14 from 11:00 a.m. on December 4, 1975, until  
15 8:30 a.m. on December 5, 1975.)  
16  
17  
18  
19  
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24