

**INQUIRY CONCERNING A JUDGE
NO. 5**

DECEMBER 16, 1975

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BEFORE THE
STATE JUDICIAL QUALIFICATIONS COMMISSION

INQUIRY CONCERNING A JUDGE, NO. 5

DECEMBER 16, 1975

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

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THE MASTER: I want the record to reflect that I was presented a subpoena form by the attorney for the Respondent which requested the records custodian at the Internal Revenue Service in Austin to produce the 1968, 1969, 1970 and 1971 income tax returns of Rudolfo Couling. There was discussion had among the attorneys and with the Master about how best to serve that subpoena and it was concluded and I think agreed upon that rather than having the Department of Public Safety fly or drive from here to Austin and back, just to serve the subpoena, we could ask a member of the Judicial Qualifications Commission, Mr. Robert C. McGinnes, an attorney in Austin, to issue the subpoena and get the sheriff to serve it. The rules do provide for the members of the commission to issue subpoenas.

At Mr. Mitchell's request, or at least by common consent, I called Mr. McGinnes and arrangements were made to serve the records custodian.

What is her name?

MR. CUTWRIGHT: Bonnie Gibson.

1 THE MASTER: Bonnie Gibson is her name.

2 Later I was called by Mr. McGinnes and
3 he told me that Mrs. Gibson indicated that
4 there were some regulations that would prevent
5 her from producing those returns without
6 first clearing it through the office of the
7 Commissioner of Internal Revenue in Washington,
8 D.C. I relayed that information to
9 Mr. Mitchell and there the matter rests.

10 I will add to that, however, that this
11 morning Mrs. Gibson called me to tell me
12 what I had already learned from Mr. McGinnes
13 and that is that she could not produce the
14 returns because she was prohibited by
15 regulation from doing so and I told her that
16 she certainly had to follow the law and I
17 would simply report to counsel for the
18 Examiner and counsel for Judge Carrillo, the
19 status.

20 Mr. Mitchell advised me this morning
21 that he was pretty well already aware of
22 these facts.

23 Is that correct, Mr. Mitchell?

24 MR. MITCHELL: I am. Your Honor, I --

25 THE MASTER: Let me interrupt. Do you

1 agree that what I have given is an accurate
2 thumbnail sketch of what transpired? It's
3 pretty much -- it's more than thumbnail. It's --

4 MR. MITCHELL: The Court worked and I
5 want to express my appreciation to the Court.
6 I want to register at this point, Your Honor,
7 and I know that the commission has done all
8 it can do and the Master has done all it
9 can do and, of course, we are faced with the
10 statement of the witness that there is a
11 regulation precluding the production of the
12 evidence and I, of course, am going to object
13 to the trial in effect because I am being
14 deprived of the right of confrontation.
15 There is a constitutional right there that
16 is involved and the federal government
17 through a regulation that regulates a
18 commissioner from delivering the evidence
19 which we deem will reflect on my client's
20 innocence of the charges and whatnot, and then
21 I think that we will somewhere raise the issue
22 of the right of confrontation as it's explicit
23 in Article 5-1a, Section 11, Your Honor, as
24 the Court knows in our Texas Constitution.
25 But I am satisfied and I do want to thank

1 the Court for the work done by the Court --
2 the Master, in connection with assisting us
3 to try to get that data.

4 THE MASTER: And I want to add to it.
5 We did all recognize that Mrs. Gibson lived
6 more than one hundred miles from the site of
7 this hearing and hence, if she chose to
8 disobey the subpoena, I could not punish her
9 in any way.

10 MR. MITCHELL: That is true. Of course,
11 I think the record reflects, Judge --

12 THE MASTER: I don't think that is the
13 basis of her declining to produce. She
14 informed me and I suspected no doubt that
15 it's correct. I do not know the federal
16 regulation in this area, but I am satisfied
17 that you can't from what she says, that you
18 can't subpoena someone else's income tax
19 return without clearing it through some
20 agency and saying why and what you want it
21 for. It's not like getting your own income
22 tax returns.

23 MR. MITCHELL: Judge Meyers, I wonder,
24 also, if we could make as part of the record
25 the subpoena of Mr. Couling and a statement

1 which hopefully can be accepted by me or I
2 will take the stand that he did not produce
3 the returns for '68, '69, '70 and '71, but
4 produced the ones, I believe, '72, '73 and
5 '74, which we have introduced and made a part
6 of this record as R-1 -- pardon me, Your
7 Honor, 101, 102 and 103.

8 THE MASTER: Well, now, you can make
9 that a matter of record.

10 MR. MITCHELL: In other words, Your
11 Honor, we have done all we can do where the
12 witness himself is concerned, Mr. Couling.
13 And the record will speak that the Court did
14 issue the subpoena; he did produce in partial
15 compliance, but not a complete compliance,
16 particularly 1971, and we, of course -- I
17 think we have exhausted all of our remedies.

18 THE MASTER: Well, he hasn't taken the
19 stand again, but he has told us informally
20 through Mr. Odam that he simply does not have
21 '67, '68, '69 and '70 and '71; that they are
22 lost.

23 Now, you are certainly free to cross-
24 examine him on that matter.

25 MR. MITCHELL: Thank you, Judge Meyers.

1 THE MASTER: Did you want to proceed,
2 Mr. Odam, or did you want to go back to
3 paragraph 1 with Ms. Levatino to ask about
4 the forty-four documents you made him stay
5 up all night looking at.

6 MR. ODAM: We would like to go back to
7 paragraph 1 and then we can pick up with
8 paragraphs 7 through 12.

9 THE MASTER: I did not think you had
10 finished cross-examination on paragraph 1.

11 MR. ODAM: Yes, we had not.

12 THE MASTER: You may proceed, Ms.
13 Levatino.

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1 O. P. CARRILLO,

2 having been previously sworn, testified as follows:

3
4 BY MS. LEVATINO:

5 Q I had asked you, Judge Carrillo, to do two things
6 concerning Exhibit R-99, which is an example of
7 the welfare county forms. Did you examine the
8 forty-four units which R-99 represents and deter-
9 mine the time frame represented by those forty-four
10 units?

11 A I don't know that there are forty-four units. I
12 counted every book that contains all of those units.

13 Q Did you determine the time frame over which the
14 time period represented, as shown in those booklets?

15 A I believe from 1963, 64 and I believe it is just
16 a couple of months of 65.

17 Q And I believe I also asked you, Judge Carrillo, to
18 examine those units pursuant to your previous
19 testimony last Friday and determine whether or
20 not the authorizations by you -- well, the signa-
21 tures were written by any persons other than your-
22 self, Rudolfo Couling or Mrs. Casas or Mr. George
23 Zertuche, Junior.

24 A I determined there were quite a few other persons
25 who in fact authorized the order of some of the

1 signatures purportedly to be mine. I questioned
2 them and I passed them if there was any doubt.
3 There are some of those that have O. P. Carrillo
4 by Rudolfo Couline and the procedure that was
5 followed was that persons there at the tax office
6 were authorized, as I have stated before, to issue
7 orders over the telephone and they would enter the
8 name of the recipient by the person who works at
9 the tax office. I would come in and sign several
10 at one time.

11 I noticed -- it came back to me, for example,
12 during the latter part of May and all of June that
13 I was in Canada and the western part of the United
14 States.

15 Q What year was that?

16 A 64.

17 I remember I left several of those orders
18 signed in blank and several of them -- I think
19 they probably ran out of them and several of them
20 were written in by somebody else.

21 Also, I discovered some of those written
22 checks attached to some of them, some of those
23 orders back in 1963.

24 Q Is it your testimony, Judge, then that other than
25 the three people which we have discussed previously

1 as either writing your signature or writing your
2 name by one of these people, Rudolfo Couling or
3 George Zertuche, Junior, or Mrs. Casas, some of
4 those may not be yours, but you can't say who
5 wrote them?

6 A I could not swear who did it, but I think the
7 best thing would be to take one of the booklets
8 and explain what it is that was occurring, because,
9 you see --

10 Q Excuse me.

11 I understand the process, I just wanted to
12 know if you recognized anyone else's signature
13 for you other than the three people that we men-
14 tioned.

15 A I found a lot of people, including one I don't
16 even know. I can't remember the lady or gentle-
17 man, whichever.

18 Q Can you tell us the name of any other people's
19 signature that you found in there?

20 A Authorizing the recipients to receive some kind
21 of welfare order?

22 Q Yes.

23 A Well, there is Maria Erma Garcia, there is a
24 C. C. --

25 Q Who would the C. C. be?

1 A I don't know. It is very clear on over a hundred
2 of the orders.

3 Q All right.

4 A Mrs. Kathy Vela -- well, I would have to take
5 them and show you, because there are several there.
6 Mrs. Verlon Bridges -- again, like I say, I would
7 have to go -- I have folded -- I didn't have enough
8 markers so that each page, as I went through and
9 I recognized it needed some explanation, I folded
10 the page over in the booklet.

11 Q Did you find the signature or the handwriting of
12 Cleofus Gonzalez in any of those books purporting
13 to authorize persons to receive welfare from the
14 county for you?

15 I am not talking about the top part of the
16 form, but I am talking about signing your name or
17 doing the authorization part.

18 A Cleofus Gonzalez, as I recall, didn't come into
19 the picture until 1967 when my brother became
20 county commissioner.

21 Q So you did not find his handwriting in those books
22 from 1963 to 1967?

23 A No, I did not.

24 MS. LEVATINO: Thank you.

25 THE WITNESS: You mean to say I worked

1 all night for just that?
2
3
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5 E X A M I N A T I O N
6

7 BY MR. ODAM:

8 Q I would like to ask you questions about para-
9 graphs 7 through 12.

10 A Yes, sir.

11 Q And I would like to pick up on a question I asked
12 you yesterday. This was a seven hundred fifty
13 dollar payment.

14 A Yes.

15 MR. MITCHELL: Excuse me, there is
16 something about the procedure of three lawyers
17 who have now cross-examined this man since
18 last week and that is just about, in my
19 opinion -- actually, I believe at this point,
20 does violate a constitutional right of this
21 witness. I have never seen three lawyers
22 take a witness continuously and bounce him
23 back and forth like this and I am going to
24 object to the procedure of relaying one
25 lawyer to the other lawyer through the other

1 lawyer as relates to the cross-examination
2 of Judge Carrillo.

3 I believe I would be amiss if I didn't
4 register my objection to that procedure.

5 THE MASTER: When Mr. Odam said that
6 was the way he would like to proceed, you
7 agreed with it.

8 MR. MITCHELL: I did, yes.

9 THE MASTER: I would not consider
10 letting them cross-examine on the same para-
11 graph, but Mr. Odam said Ms. Levatino would
12 be asking questions about paragraph 1 and
13 Mr. Flusche on some others and Mr. Odam, I
14 think, on 7 through 12.

15 MR. MITCHELL: This is true, but let's
16 take the posture this morning. We went back
17 to a re-cross of number 1. I can't come back
18 and rehabilitate --

19 THE MASTER: I would be adverse if --
20 I am not agreeing to it, but if you wish to
21 examine on paragraph 1 and then do re-direct
22 on the same paragraph, that is a possible
23 format.

24 I thought you didn't want to do that.

25 MR. MITCHELL: Well, really, what I am

1 saying is the way it is strung out, it cuts
2 across my field of fairness. I am stating to
3 the record this objection for information as
4 well as anything else. There is something
5 about banging him around and taking him back
6 and forth. I don't know where I stand on 1,
7 because I have part of the re-direct from
8 yesterday and part from today and then I
9 have Mr. Odam coming back in and he went
10 through there and is going on to go in and
11 pick up again. There is no way for me to
12 defend this man under the format as set out
13 there.

14 If I agreed, which I did -- well, I am
15 just going to have to crawfish a little,
16 because to a round-robin, there is no way I
17 can do it.

1 THE MASTER: Overruled, because there is
2 no way now having gone this far, there is no
3 way if Mr. Odam is going to cross-examine him
4 at all on 7 through 12 not to proceed with
5 the format that was agreed to.

6 Q (By Mr. Odam) Judge Carrillo, the questions that
7 I asked you to look into over the night, were
8 number one, the number of times on R-93 with
9 respect to water district, the number of times
10 that there is an entry of seven hundred and fifty
11 dollars and after the answer of that total number,
12 how many of those on seven hundred and fifty are
13 identifiable as being for rental of equipment.

14 Now, drop back to the first question. I asked
15 you over the night if you have determined on R-93
16 how many seven hundred and fifty dollar entries
17 there are?

18 A Yes, sir, I have.

19 Q And how many is that?

20 A I have marked them and I will count them now.

21 Q Okay.

22 A There are twenty.

23 Q And of that twenty, seven hundred and fifty
24 dollar entries, Judge Carrillo, have you determined
25 by looking at the sheet what the number of entries

1 are that specifically say equipment rental, or
2 rental of equipment or speak to that subject?

3 A There are seven.

4 Q So, that would be --

5 MR. MITCHELL: Pardon me, Your Honor.
6 If I understand, this is an exhibit that
7 shows check going into Benavides Implement
8 and Hardware, Your Honor, from the agency --
9 what agency is it, Judge Carrillo?

10 THE WITNESS: Duval County Conservation
11 and Reclamation.

12 MR. MITCHELL: Object to irrelevant,
13 immaterial and not related to any conspiracy,
14 partnership or direct theft to Roman Numeral
15 II through and including XII, Your Honor, and
16 no legitimate reason for cross-examination,
17 impeachment or et cetera. We would reiterate
18 our objection, if it please the Court.

19 THE MASTER: What is the relevancy?

20 MR. ODAM: Well, by that, for example,
21 just there and we had this discussion at the
22 end of the record and the relevancy is to
23 show that R-91, 92 and 93 contrary to the way
24 that it appears to me and from the inference
25 taken, perhaps not the implications intended

1 to be given, was that these three exhibits
2 show a total amount of equipment rental and
3 as I have stated the other day to
4 Mr. Mitchell, yesterday afternoon, there is a
5 stipulation which I stated at that time which
6 appears on the record of yesterday and which
7 he did not agree to. And then I wouldn't go
8 into it.

9 We have, for example, right here, less
10 or just at one-third of these, for example,
11 which have nothing to do with equipment
12 rental and that is the reason we are going
13 into it is to rebut the inference in 91, 92
14 and 93 taken from the status of the records
15 from last Friday that all of this is equipment
16 rental that Mr. Couling had and that is the
17 reason we are going into it. We wouldn't be
18 going into it unless it had been raised last
19 week.

20 MR. MITCHELL: Your Honor, that position
21 of the Examiner is postulated upon a pre-
22 supposition doesn't exist in the record.
23 There is nothing in the specifications that
24 relate to equipment rental.

25 THE MASTER: Mr. Odam understands that.

1 He suggests that last week these instruments
2 were used to create an erroneous impression
3 and he wants to set straight that erroneous
4 impression and I think you're entitled to do
5 it.

6 MR. MITCHELL: And the erroneous
7 impression being what, that I left the
8 impression by my witness that these were --
9 that is belied by the contents of the
10 documents, 91, 92 and 93. The documents
11 speak for themselves, Judge.

12 THE MASTER: Well, that is true. And as
13 I said yesterday, I hope we don't go into
14 this in too much detail.

15 MR. MITCHELL: Your Honor, I am pleased
16 to be able to do it, Judge Meyers, except
17 that he is going to open some more doors and,
18 you know, I am due and bound to enter those
19 doors.

20 MR. ODAM: Well, the door that has been
21 opened is the one opened by Mr. Mitchell that
22 all of these in total or in part show a great
23 deal of equipment rental income which I felt
24 as the Court stated to rebut that inference,
25 and as I stated to Mr. Mitchell yesterday

1 afternoon. I said if we could stipulate to
2 that and Mr. Mitchell said, "No, I won't
3 stipulate," and we said proceed.

4 MR. MITCHELL: I say if it please the
5 Court, that when Mr. Couling, their star
6 witness took the stand and swore under oath
7 there was no equipment rental, if I prove up
8 one, my impeachment process is complete as
9 an attorney; whether I prove up one or one
10 dozen or one thousand, he is dead. As far
11 as I am concerned, his credibility has been
12 successfully attacked and that is the only
13 reason it was raised, not to prove the
14 ultimate matter of truth asserted.

15 I have taken their exhibit, their witness
16 and shown an inconsistency on their witness
17 under sworn testimony and their exhibits.
18 So, my submission on that score is I will
19 stipulate that 91, 92 and 93 show what they
20 show, Judge Meyers, and have no reason to
21 disbelieve it. It was prepared by the Attorney
22 General.

23 THE MASTER: Well, the objection is
24 overruled. You may proceed.

25 Q (By Mr. Odam) Now, of the twenty on Page -- or

1 Exhibit R-93, Judge Carrillo, of those twenty, I
2 take it, that only seven of those specifically
3 indicate they are for equipment rental, is this
4 correct?

5 A Specifically.

6 Q And that would be right at seven, twenty -- a
7 little over one-third of them.

8 A Well, there are others that only say invoice. It
9 does not say whether it's rental or what else.

10 Q Right, I understand.

11 A So, that can't be determined.

12 Q Sure. But from those that we can determine, it
13 appears that only approximately one-third
14 specifically indicate that they are for equipment
15 rental, is that correct?

16 A That is correct.

17 Q Now, do you have any idea, Judge Carrillo, why
18 the water district would be writing out checks for
19 seven hundred and fifty dollars on a methodical
20 monthly basis for Benavides Implement and Hardware
21 and Mr. Couling?

22 A I don't have any idea what Mr. Couling was doing
23 with the water district at all.

24 Q You have no personal knowledge of what took place
25 on that monthly basis of the seven hundred and

1 fifty dollars taken out?

2 A I have no personal knowledge of Mr. Couling's
3 personal business or the Benavides Implement and
4 Hardware, and I might state here flatly that the
5 only time that I visited the Duval County
6 Conservation and Reclamation District was in the
7 presentation of the petition from the City of
8 Benavides to get a water -- I mean a fire truck
9 donated to the city by the water district and that
10 is the only time in my life that I have ever set
11 foot in the office of the water district.

12 Q Was the president of the water district at the
13 time D. C. Chapa, your father?

14 A Yes, sir.

15 Q Do you know whether or not Rogelio Guajardo was
16 employed by the water district?

17 A I don't know.

18 Q Glancing at R-93, Judge Carrillo --

19 MR. MITCHELL: Excuse me, Mr. Odam. I
20 am going to object to the last two questions
21 and move they be stricken and there is nothing
22 in the specifications that I read has anything
23 to do with the misconduct alleged on the part
24 of this judge dealing with the water district.
25 I want to therefore object, Your Honor, on

1 the grounds of irrelevant, immaterial and
2 beyond the scope of the amended notice
3 inquiring as to Judge No. 5.

4 MR. ODAM: Your Honor, R-91, 92 and 93
5 and everything having to do with Benavides
6 Implement and Hardware and the business of
7 Benavides Implement and Hardware, we didn't
8 offer into evidence. Mr. Mitchell subpoenaed
9 and pushed it into the record. He pushed us
10 into the water district and he pushed us into
11 the school district. We didn't even go into
12 those, but now they are in there in the
13 record.

14 THE MASTER: Your objection is overruled.

15 Q (By Mr.Odam) Judge Carrillo, looking again at
16 R-93, just glancing through the notations that are
17 there, I will ask you if you would agree with
18 the statement that there are a number of entries
19 and we will not take and the record can speak for
20 itself and whoever examines the exhibits other
21 than the Master, which I am sure he will, whoever
22 examines it can see that the record speaks for
23 itself. Would you agree with the statement,
24 Judge Carrillo, that there are a number of entries
25 on R-93 under the column where it says a number of

1 entries that do not specifically indicate that
2 they are for equipment rental.

3 MR. MITCHELL: Object. It would be
4 argumentative. The exhibit does speak for
5 itself. I will agree with that statement of
6 counsel.

7 THE MASTER: Unless it's preliminarily --
8 unless it's a preliminary question to some
9 other question. Obviously I can look at it
10 and say well, about half of them are or one-
11 third of them do not relate to equipment
12 rental.

13 MR. ODAM: Well, Your Honor, the reason
14 again that I ask the question is that for my
15 reading the record, my impression I got from
16 reading it was that Judge Carrillo's testimony,
17 from the question of Mr. Mitchell, was that it
18 was all there and I would at least, for that
19 question, and then if you would at least
20 agree contrary to earlier testimony, it's not
21 all, then, I will drop it at that and move on.

22 THE MASTER: All right. I will overrule
23 the objection to your question.

24 Q (By Mr. Odam) Let me restate --

25 A I don't know anything about this instrument. I can

1 look at it and I don't know what it's for because
2 most of them just say invoice number so-and-so
3 and unless that invoice is present, I wouldn't know
4 what that invoice said. The only one that can
5 answer your question is the individual who
6 prepared this instrument.

7 Q I understand, Judge, and I don't intend to be
8 argumentative with you about it, but you understand
9 that the record the other day was that --

10 A Yes, sir.

11 Q -- about, and you have heard the discussion with
12 your counsel about what extent this was rental
13 income.

14 My question to you simply is: Would you
15 agree that the notations themselves indicate
16 things other than just equipment rental?

17 A I will not agree. I would rather take them one at
18 a time.

19 MR. MITCHELL: Excuse me. And I would
20 not even agree that they accurately reflect --

21 THE MASTER: No. No, there is no --
22 listen carefully to the question. There was
23 no discussion in the question that the
24 notations were truthful. The question simply
25 was looking at the notations, are there a

1 number of them that -- and by number, I
2 suppose more than --

3 THE WITNESS: More than one?

4 THE MASTER: More than the minuscule
5 number of them that indicates or failed to
6 indicate perhaps is the best way to put it,
7 that do not affirmatively indicate that they
8 are rent on equipment.

9 MR. MITCHELL: Yes. Judge Meyers,
10 apparently somebody has misconstrued or there
11 has been a misconception about what my
12 function was in crossing on this. I do not
13 admit its existence. I do not admit it's
14 reality to recitals. I admit only that there
15 is a contradiction between R-91, 92 and 93
16 which is a document prepared by the Examiner
17 and he has possession of that data,
18 apparently, when he started his procedure
19 here against Judge No. 5, and certainly when
20 he put the renowned Mr. Couling on the stand.

21 I would not admit the invoice numbers
22 are correct. I would not admit the reality
23 of the entries, Judge, and I don't want that
24 impression left.

25 THE MASTER: I understood and I did not

1 assume and I do not think the record assumes
2 that you vouched for that instrument.

3 MR. MITCHELL: That's right.

4 THE MASTER: But, you put it in to show,
5 I take it, and I certainly took it last week,
6 that records prepared -- summaries, rather,
7 and that is what that record is, prepared by
8 the Attorney General's staff indicated that
9 there was a huge mound or rental income into
10 Benavides Implement and Hardware as opposed
11 to Mr. Couling's testimony that, one, there
12 was no rent at all because there was no
13 equipment to rent and it was a small two-bit
14 operation.

15 MR. MITCHELL: Right. Judge Meyers --

16 THE MASTER: He has the right to rebut
17 that.

18 MR. MITCHELL: Excuse me, Judge Meyers.
19 I didn't mean to step on the Court's
20 observation, but everybody is missing another
21 point, and that is this is akin to suppression
22 ala carte, akin to suppression in several
23 outstanding constitutional law cases here.

24 Here we have the Examiner in possession
25 of documents 91, 92 and 93 that belie the

1 position he takes in this case. He puts on
2 the witness, a witness, his man he has
3 stamped U.S. Choice, Grade A witness, and he
4 takes the stand and swears there is no
5 rental income, Judge Meyers.

6 Now, one of my reasons that everyone has
7 overlooked is that the constitutional
8 structuring on the part of the Examiner,
9 Judge Meyers --

10 THE MASTER: That is the very reason
11 why I am letting him go into this instrument.
12 He has indicated to me here on the record, as
13 I recall, that the instruments, if given that
14 construction, which is certainly a possible
15 construction, and the one you urge, that
16 that is not proper construction. He can explain
17 the instrument.

18 Isn't that about what you told me, and
19 he is entitled to do it. I think you're going
20 to have a hard time doing it with this witness,
21 but I can't tell him he can't try it.

22 MR. MITCHELL: I might as well make notes
23 at this point that I think he has a duty. I
24 am willing to take the position that he had
25 a duty before he commenced these proceedings

1 to ascertain who was the -- who was telling
2 the truth. He was in possession of these
3 documents and he pointed the finger at this
4 district judge and he had put a man on the
5 stand knowing full well that that man was
6 going to swear before this court to a fact
7 contrary to what was in his own exhibits.

8 THE MASTER: If it is, Mr. Mitchell, if
9 it is. He says it's not contrary.

10 MR. MITCHELL: Well, then, Judge, I do --
11 I believe I want to know the man's name who
12 prepared them and I want to subpoena him and
13 find out why he prepared a document that is
14 false.

15 THE MASTER: Well, do I correctly state
16 your position, Mr. Odam?

17 MR. ODAM: Yes, that is exactly right.

18 THE MASTER: Now, if you're making a
19 request to prepare this, I will -- you can
20 obviously get a subpoena and serve it on the
21 Attorney General to produce the preparer of
22 R-91, 92 and 93.

23 MR. MITCHELL: Judge Meyers, let it not
24 be said from the manner in which this is
25 handled, that it's a point that I am not

1 really serious about because I know and this
2 Court knows that where a prosecutor in a
3 quasi proceeding or criminal proceeding is
4 in possession of facts which would show the
5 innocence or the qualifications of my judge
6 as distinct from the disqualifications, then,
7 I say he has the duty to pursue that inquiry,
8 Your Honor, just as much as if I were the
9 district attorney under my canon of ethics
10 that says the basic responsibility of a
11 movement in a prosecution or a quasi
12 prosecution is to see that justice is done.
13 He has the responsibility, this Examiner, in
14 my opinion and my position, Your Honor, before
15 this court and every court that will listen
16 to me, that he has the duty to come up to
17 Judge Carrillo and say, really, you did not --
18 we are going to take the position that that
19 really reverses these documents that there
20 was real income. We are going to withdraw
21 any specification based on the nonexistence
22 of rental income in that man's testimony and
23 that will be my position.
24
25

1 MR. ODAM: Your Honor, it disturbs me
2 greatly when Mr. Mitchell would suggest that
3 I breached my canon of ethics in the handling
4 of this case. That bothers me greatly and I
5 regret he looks at it the way we have done it,
6 however, I would say, and the Court made the
7 distinction yesterday, and that was the
8 distinction that the income was attributed
9 to rental and that is the statement by Mr.
10 Couling that I had no equipment to rent.

11 Mr. Couling said he had no equipment
12 to rent. I put the witness on the stand and
13 asked him those questions and obviously on
14 paragraph 7 through 12 and the Examiners have
15 relied on those statements that I have no
16 equipment to rent. The reason I make the
17 distinction between that and this statement
18 is that I think there is a distinct difference
19 between equipment to rent.

20 Odam Judge Carrillo says I rented equipment
21 and Mr. Couling says I had no equipment to
22 rent. We have been forced, by the questions
23 Mr. Mitchell put to the witness last week to
24 go into it now that it is raised, so I am
25 saying that the intention of going into these

1 documents is to rebut the inference that there
2 was a huge amount of rental income and that
3 is the reason we are proceeding.

4 THE MASTER: Well, and I suppose also
5 the inference there was in fact equipment to
6 rent.

7 MR. ODAM: Yes, sir, I think that is
8 true, that the way I see it, looking at the
9 presentation, would be that Mr. Mitchell is
10 saying my client says he rented equipment,
11 that is a fact. Mr. Couling says he had no
12 equipment to rent. He says that he had no
13 equipment to rent to anyone, but yet, we have
14 an Exhibit of a great deal of income. Mr.
15 Couling is, therefore, lying, because he had
16 my equipment and other people's equipment and
17 therefore Mr. Couling is lying and Judge
18 Carrillo is telling the truth.

19 MR. MITCHELL: I did not indicate Mr.
20 Odam was not an ethical practitioner. I
21 suggested that getting at that matter is not
22 through Judge Carrillo.

23 THE MASTER: I may well agree with that
24 last statement, but Counsel has the right to
25 cross-examine this witness to see if he does

1 have any personal knowledge about any of
2 these transactions. That is what he has
3 been doing.

4 Indeed, Mr. Mitchell, he may come up
5 with a witness to dispute Judge Carrillo's
6 denial of personal knowledge, I don't know,
7 I can't look into a crystal ball and know
8 what is going to happen in this hearing in the
9 future. You know, as well as I, that an
10 attorney has a right to get denials and then
11 prove whether or not they are true. You have
12 done that and that is what I understand Mr.
13 Odam is doing is getting Judge Carrillo's
14 position on these.

15 MR. MITCHELL: R-91, R-92 and R-93, we
16 deny all of them and all of the truthfulness
17 of all of them.

18 Am I correct, Judge Carrillo, you have
19 no personal knowledge of them?

20 THE WITNESS: I have no knowledge of
21 them, no, sir.

22 THE MASTER: Well, proceed, Mr. Odam.

23 Q We are going to move to another matter in the
24 same connection for the time being.

25 Judge Carrillo, I refer you back to your

1 testimony that Mr. Mitchell had you on direct
2 examination the other day, at page 3658. This is
3 the volume for December 12, 1975, beginning at
4 page 3658.

5 MR. MITCHELL: I might state for the
6 record that I have not received the daily
7 copy and I checked with the Continental Bus
8 Company and they have not received it from
9 Austin. I requested the daily copy three
10 weeks ago, I believe, and I wanted the record
11 to reflect that I have not received it.

12 I am going to want that record to the
13 extent that Mr. Couling's testimony is trans-
14 cribed.

15 THE MASTER: Right, and I told you yes-
16 terday if you would identify the day that you
17 wanted and if I have it or if Mr. Odam has
18 it, it will be made available to you.

19 Didn't we have this discussion yesterday?

20 MR. MITCHELL: Yes, except I can't --
21 I am looking at four or five days when Mr.
22 Couling was on.

23 THE MASTER: Give me the four or five
24 days.

25 MR. MITCHELL: All right.

1 THE MASTER: Well, don't do it now,
2 surely you can do that over a recess.

3 MR. MITCHELL: All right, Judge, but I
4 do want the record to reflect -- as I under-
5 stand it, upon request, I am entitled to
6 daily copy. That is what I understand the
7 rules to say. I have not had the benefit of
8 it and I want to have the record reflect that
9 is a continuing thing for over three weeks.

10 THE MASTER: But the record -- early in
11 the hearing you, of course, were tendered
12 daily copy by the reporter if you chose to
13 pay for it. You did not choose to pay for
14 it.

15 The Attorney General's office is paying
16 for this. They have agreed to provide it to
17 you.

18 MR. ODAM: May I comment on that?

19 THE MASTER: Yes, is the hangup in
20 Mr. Pinkin's office?

21 MR. ODAM: This is the understanding I
22 have.

23 THE MASTER: I do not interpret the
24 rules as giving the Respondent the right to
25 daily copy. I think a copy of the transcript

1 of testimony must be made available to him,
2 but I don't read in the rules that when the
3 Examiner chooses to pay for daily copy that
4 he also chooses to pay for the Respondent's
5 daily copy. We are past that.

6 MR. ODAM: When we had this discussion
7 before along those lines right there, it was
8 decided that one of the copies that was made
9 for the Judicial Qualifications Commission
10 was to be made for Mr. Mitchell. They were
11 delivered through Mr. Pinckin's office and I
12 would say the status of the daily copy would
13 be this, four parts.

14 Number one, that which Mr. Mitchell has
15 picked up, if any, number two, that which is
16 available and could be picked up: number
17 three, that which we discussed the other day
18 which he has not picked up, but which the
19 Commission would be putting on a bus to send
20 down here and number four, that which they
21 have made no copies of.

22 When Mr. Mitchell says he has been
23 denied the use of it, I would say some of it
24 has been on the desk for him for some time.

25 MR. MITCHELL: I was delivered four or

1 five volumes at the outset, which I have, and
2 I have read with a great deal of interest on
3 those.

4 I went home this weekend and we have
5 been in trial continuously.

6 THE MASTER: Well, not continuously,
7 but steadily.

8 MR. MITCHELL: Well, during the time we
9 were off, we had other matters that kept us
10 here. I went home this weekend and to the
11 office and there was a standing instruction
12 to pick up the daily copy that was available.
13 There was none there and I called my office
14 yesterday and, as I understand, the call was
15 made to Mr. Pinckin's office to have it put
16 on the bus or something. I can't get it from
17 Mr. Pinckin's office to my office and down
18 here to Corpus, because it was not on the
19 bus and I have not gotten it.

20 THE MASTER: What is the status of the
21 daily copy, according to your office, is
22 there some copy in the office of the Judicial
23 Qualifications Commission?

24 MR. MITCHELL: I understand it was put
25 on the bus yesterday to send it here.

1 MS. LEVATINO: I think it is important
2 to note that some of the daily copy has not
3 been reproduced and they may have waited until
4 the end of yesterday's reproduction, but the
5 rest of it was supposed to be put on the bus.

6 MR. MITCHELL: I am going to be put in
7 the position of the man that was dead and the
8 medicine is going to be too late.

9 THE MASTER: You are speaking of Mr.
10 Couling?

11 MR. MITCHELL: Well, this man is a judge
12 and he has asked him a number of questions
13 out of this record. He has asked him ques-
14 tions that I put to my own witness. It is
15 terribly awkward to not have a copy of the
16 record.

17 I would also note, Judge Meyers, that you
18 have let me use yours.

19 THE MASTER: I would let you have it now,
20 except I don't have it. You can look on with
21 Mr. Odam any time you want.

22 MR. MITCHELL: May I ask my client that
23 if he comes to a matter that he doesn't
24 understand that he notify me and read it
25 exactly as it appears, questions marks and so

1 forth, that is all I would ask.

2 THE MASTER: Certainly.

3 MR. MITCHELL: Could you do that, Judge
4 Carrillo.

5 THE WITNESS: Yes.

6 THE MASTER: Go ahead, Mr. Odam.

7 I also pause to note that we probably
8 have had more comment from Counsel and the
9 Master than we have had testimony this morn-
10 ing.

11 Q (By Mr. Odam:) Judge Carrillo, I refer you to
12 page 3658, the questions posed to you by Mr.
13 Mitchell. I would ask you, if you would, to start
14 with the question beginning at line 12 and read
15 that into the record, please, and to get in the
16 full context, would you restate the question and
17 answer with respect to a bank account.

18 A All right. "Judge Carrillo, have you had an
19 opportunity to add all of the deposits in the Rio
20 Grande City bank account?" Answer, "I don't
21 believe so, Mr. Mitchell." Question, "All right,
22 sir." Answer, "I may have, but I have been adding
23 up different things." Question, "Those are sub-
24 stantial sums, are there deposits all of the way
25 from seven, eight, nine, ten, as high as twelve

1 thousand a month for the life of that Exhibit?"
2 Answer, "Yes, sir."

3 MR. CDAM: May I, unless it becomes --
4 would you mind waiving the reading of the
5 commas and periods.

6 THE WITNESS: Those were his instruc-
7 tions.

8 MR. MITCHELL: Yesterday there was a
9 declaratory statement and it was about a sum
10 of money which Counsel asked him about.

11 MR. ODAM: I would ask the witness,
12 where it says answer, if your answer is a
13 question mark, clarify that, otherwise, it
14 might facilitate it if you would leave those
15 out.

16 THE WITNESS: I thought it was said by
17 my counsel for me to do that.

18 MR. MITCHELL: It was.

19 Q Go ahead.

20 A Question, "From the Benavides Implement and Hard-
21 ware to the Rio Grande City bank account?" Answer,
22 "Yes." Question, "Well, over a quarter of a
23 million dollars, you didn't have an interest in
24 that, did you?" Answer, "No, sir." Question,
25 "All right." Answer, "Here it is, Mr. Mitchell."

1 "I have roughly three hundred twenty thousand
2 dollars, give or take fifty thousand one way or
3 the other, being the mathematician I am."

4 Question, "Well, we have no reason -- that is a
5 direct Exhibit?" Answer, "Yes, sir."

6 "Mr. Odam: What is that Exhibit number?"

7 "Mr. Mitchell: That is R-89, R-89-1."

8 "Question, R-91-1, that is the bank account
9 the state alleges was set up for the purpose to
10 defraud the county out of for those two Cater-
11 pillars, do you remember that general allegation?"

12 Answer, "Yes." Question, "How much did those two
13 tractors run, how much was the contract price?"

14 Answer, "The contract was thirty-five hundred
15 dollars." Question, "The two -- no, thirty-five
16 thousand?" Answer, "Thirty-five thousand dollars,
17 and I ended up paying some forty some-odd thousand

18 on it." Question, "That would be Exhibit what,
19 160?" Answer, "I believe so." Question, "Total

20 purchase price of the two tractors was how much?"

21 Answer, "Thirty-five thousand dollars." Question,
22 "Did it have those two root plows in there?"

23 Answer, "That would be forty-five thousand dollars."

24 Question, "And, if you will, add up the amount of
25 money that went through this bank account in R-89-1

1 through and including R-89, you would find over
2 two hundred thousand went through that account
3 and that was an awful lot of overkill to buy two
4 thirty thousand dollar Caterpillars?" Answer,
5 "Yes, sir."

6 MR. ODAM: We can stop there. I believe
7 that summarizes the record.

8 I show you what has been marked E-162
9 and ask you if you can identify that.

10 A E-162 is a bank statement of the First State Bank
11 and Trust Company of Rio Grande City, Texas, Bena-
12 vides Implement and Hardware Company.

13 Q And the question Mr. Mitchell posed to you that you
14 first read, had you had an opportunity to add up
15 the deposits and your answer was no.

16 MR. MITCHELL: He knows I was looking at
17 the bank ledger sheet marked R-160, the Alice
18 bank account, and he is asking the witness a
19 question as regards one when it should be the
20 other. He knows that.

21 MR. ODAM: I certainly know that and
22 again I regret Mr. Mitchell said I asked this
23 question in bad faith when in a series of
24 three pages of questions, when he had the
25 witness on direct examination to ask him about

1 whether or not this was at the bank, whether
2 or not there was eight or nine or ten thousand
3 going through it, obviously he did have the
4 witness confused.

5 If you read the record, it is totally
6 misleading and as indicated there.

7 If there is something Mr. Mitchell wants
8 to stipulate as to all of those references
9 were not to that account, then I can somehow
10 examine this witness without asking him some
11 questions further, I would do so, but it is
12 a state of confusion now and he confused the
13 record last week.

14 MR. MITCHELL: Maybe if I could state
15 he was referring to R-89-1 instead of R-162.

16 MR. ODAM: Could I ask him some other
17 questions on that?

18 THE MASTER: Yes.

19 MR. MITCHELL: Do you understand the
20 difference between R-89-1 and E-162?

21 THE WITNESS: Yes, sir, I understand.

22 Q (By Mr. Odam:) Mr. Mitchell is referring to
23 R-89?

24 A -1, yes.

25 Q And the First State Bank of San Diego?

1 A Yes, sir.

2 Q And E-162 is the Rio Grande City Bank?

3 A Yes, I can see and understand the misunderstanding
4 we had.

5 Q Would you agree and let me ask you a couple of
6 questions with this to clarify this, number one,
7 that the Caterpillars were paid for out of,
8 according to the earlier testimony, out of E-162,
9 the Rio Grande City Bank?

10 A I don't know where Mr. Couling was paying for that.
11 I don't know what bank account he paid them out
12 of. I have no personal knowledge, let's put it
13 that way.

14 Q Well, do you know which bank account it was that
15 you made the fifteen dollar transfer into to be
16 sure there was enough money into the account to
17 pay for the Caterpillars?

18 A The fifteen thousand?

19 Q The fifteen dollar transfer.

20 A The First State Bank and Trust of Rio Grande City.

21 Q Would you agree the payments, at least from the
22 evidence as put on as of now, checks were written
23 out of that bank account?

24 A For that one check, I can say it was, but I
25 cannot say Mr. Couling made every payment to

1 Plains or B. D. Holt from one particular bank,
2 because I have no knowledge of that.

3 Q Let's see if I can clarify what I am asking. You
4 know there are a number of checks in evidence
5 written on the Rio Grande City bank account, do
6 you agree with that?

7 A I don't know how many or the total.

8 Q Yes, sir, I know that.

9 A They are there.

10 Q So you would agree that the state of the evidence
11 is that there were checks made out of the Rio
12 Grande City bank account paid by Mr. Couling to
13 Plains Machinery and B. D. Holt?

14 A Yes, I am sure there were.

15 MR. MITCHELL: Maybe you can inform me,
16 I didn't know about B. D. Holt. I don't
17 know the series comparable to B. D. Holt,
18 the checks you are talking about.

19 MR. ODAM: The checks, for example,
20 start, and this is 161-A series. We have
21 161-A-2 -- strike that.

22 Check 161-B to B. D. Holt for two thou-
23 sand dollars, 161-C for a thousand, 161-D
24 to B. D. Holt for a thousand, 161-E to
25 B. D. Holt for a thousand, 161-F to B. D.

1 Holt for a thousand, 161-G to B. D. Holt,
2 two thousand and 161-H, six hundred thirty
3 dollars fifty cents, and those are the ones.

4 MR. MITCHELL: Thank you.

5 O Well, I would go back to the question, Judge
6 Carrillo, and perhaps that refreshes your recollec-
7 tion from the testimony that has been adduced.

8 Would you agree that at least the checks in
9 evidence, such as those B. D. Holt checks and
10 Plains Machinery checks Mr. Couling wrote, which
11 state on them they were from the Rio Grande City
12 account, would you agree with that?

13 A If I could see them.

14 MR. MITCHELL: I believe I have pulled
15 them, Mr. Odam.

16 MR. ODAM: Well, the Plains Machinery
17 checks were the series of 1 --

18 MR. MITCHELL: I have those here. Those
19 are the series 161, 2, 3, 4 and 5 and on up
20 through 50.

21 Q (By Mr. Odam:) I would just show you, Judge
22 Carrillo, xerox copies from your Counsel of the
23 checks on the Rio Grande City bank account.

24 A Yes, sir, you see what happened, when they were
25 being introduced, and I am not trying to be --

1 they were shown to the Master and to Mr. Mitchell
2 and not to me and I can't tell, I have not seen
3 them.

4 Q I didn't know Mr. Mitchell didn't show them to you.

5 I show you the 161 series to B. D. Holt.

6 A Yes.

7 Q Now, would you agree that the 161 series are checks
8 written on the First State Bank and Trust of Rio
9 Grande City, signed by Mr. Couling?

10 A There are seven checks here on the First State
11 Bank and Trust Company.

12 Q Do you recall the earlier testimony that the bank
13 account was set up in the Rio Grande City Bank
14 to make payments to B. D. Holt and Plains Machinery,
15 would you agree with that?

16 A I recall the testimony, but I don't agree with
17 that statement.

1 Q Well, would you agree that these checks are from
2 the Rio Grande City bank?

3 A Yes, sir. These seven checks that I have here are.

4 Q All right. Would you agree that those seven checks
5 were written on the bank account which is E-162?

6 A They are in the bank account which is E-162?

7 Q Yes, sir, E-162.

8 A Well, I better check them.

9 Q Well --

10 MR. MITCHELL: I think that is a proper
11 request in view of the fact that some of
12 those checks are R. M. Couling's and don't
13 have Benavides Implement and Hardware on
14 them. So, the Court understands what the
15 witness is having a problem with.

16 Q (By Mr. Odam) All right. Would you take the
17 checks, the 161 series.

18 A Yes, sir.

19 Q And you have the First State Bank and Trust
20 account statement, E-162?

21 A Yes, sir.

22 Q Now, I think the record is clear from earlier
23 testimony and I hate to take the time to do so,
24 but you will not agree that these checks without
25 going through E-162 were written on that bank

1 account even in light of the testimony you have
2 heard given?

3 A I have heard Mr. Couling lie about me here for
4 days at a time and I am not going to take his word
5 for anything.

6 I would like to check it.

7 Q Well, to save time, what I would like, and I
8 doubt if we complete -- I would like for you to
9 take the 161 series during the break, sir, and to
10 compare those with the First State Bank and Trust
11 bank statement, E-162 so that I might ask you after
12 the break whether or not you have determined if
13 those checks appear to be written on the First
14 State Bank and Trust?

15 A Well, now, I haven't had a break since almost
16 yesterday, Judge, and I would like to take a break
17 to take a break.

18 THE MASTER: Well, I will certainly give
19 you enough time to do that and take a break.

20 A I will be happy to do it, but I am almost at the
21 point of exhaustion at this point.

22 Q Well, I won't ask the witness to do that. I will
23 stand on what the record is as to whether or not
24 these checks, the 161 series appear from the
25 evidence to be written on the First State Bank

1 and Trust. The reason I am going into it was
2 again because of the question Mr. Mitchell asked
3 about various bank accounts.

4 If we do put aside that and I won't ask you
5 to do that during the break.

6 Let me refer back to the record that you read
7 while ago. The question Mr. Mitchell asked was
8 that the bank account that the state alleges was
9 set up for the purpose of you conspiring to
10 defraud the county out of enough money to buy those
11 two Caterpillars that you bought in December, 1971.
12 Do you agree with that allegation?

13 A Where is this now?

14 Q The question begins at Line --

15 A 16?

16 Q Yes, sir.

17 A "Question: All right. Now, in R-81 --"

18 Q R what?

19 A "-- R-89-1, that is the bank account that the
20 state alleges was set up for the purpose of you
21 conspiring to defraud the county out of enough
22 money to buy those two Caterpillars that you
23 bought in December, 1972; do you remember that
24 general allegation?

25 Answer: Yes, sir."

1 Q Now, do you agree that R-89-1 is a bank account
2 for the San Diego --

3 A Yes, sir.

4 Q Would you agree there is no allegation or evidence
5 that payments were made out of the First State Bank
6 of San Diego, but rather as Mr. Mitchell intended
7 by his question, would be evidence that the
8 Caterpillars were paid for out of the Rio Grande
9 City bank account?

10 In other words, my question to you is: Would
11 you agree, first of all, in this sentence, that
12 the Caterpillars were not paid out of the account
13 R-89-1; would you agree with that?

14 A It's very hard for me to agree, Mr. Odam, that
15 Mr. Couling did something he did or did not. He
16 might have had one check come out of San Diego and
17 I might not know about it. I can't tell you that
18 they were all paid out -- I know there were
19 many of the checks that I gave him for rental that
20 were deposited in San Diego, I believe, and they
21 were the county -- what he said he was receiving
22 from the county to pay for those tractors that was
23 deposited in San Diego, what I recall the testimony
24 was here.

25 Now, he said he probably made most of the

1 payments from Rio Grande City bank, but I can't
2 say he made all of them.

3 Q All right. Can you at least do that? Can you at
4 least agree that the evidence appears to be that
5 this series of checks which your counselor just gave
6 me were checks on the Rio Grande City bank account
7 to pay for the Caterpillars?

8 A I have stated these seven checks were on the First
9 State Bank and Trust Company of Rio Grande City
10 and they were made out to B. D. Holt and Company.

11 Q And the checks that Mr. Mitchell just handed me
12 back that are written Plains Machinery --

13 A Yes.

14 Q These are his work copies, but these Plains
15 Machinery checks are on the First State Bank and
16 Trust account, 41, 42, 43, 44, 145. These are --

17 MR. MITCHELL: Those are copies that
18 don't have anything to do with it.

19 Q (By Mr. Odam) This is R-52, would you agree that
20 the Xerox copy, your counsel's copy of those checks
21 appear to be written on the Plains Machinery
22 account out of the Rio Grande City bank of the
23 R-89 -- correction. Not R-89, you're about to get
24 me confused. Out of the 162, the Rio Grande City
25 bank account.

1 A Yes, sir, they are from -- these exhibits that I
2 have here which is E-40, E-141, E-142, E-143,
3 E-144, E-145, E-148, E-147, E-146, E-150 and E-149
4 are checks on the First State Bank and Trust
5 Company.

6 Now, I don't know whether they are any
7 duplications or not, but they are from the First
8 State Bank and Trust Company.

9 Q I will hand these back to counsel.

10 The questions that Mr. Mitchell clarified
11 while ago when he asked you and he was referring
12 to R-89 as he stated, he should have been referring
13 to bank accounts for the Rio Grande City bank
14 account 162; would you agree with me that the
15 series and questions and answers that you gave to
16 the San Diego bank account should have been given
17 with respect to the Rio Grande City bank account
18 and that he had picked up the wrong exhibits and
19 therefore asked you a series of questions on the
20 wrong exhibits?

21 A We were talking -- we were confused about the
22 wrong exhibit, definitely.

23 Q And, for example, the E-162, which is a statement
24 from the First State Bank --

25 A Yes, sir.

1 Q -- of Rio Grande City bank.

2 A Yes, sir.

3 Q Does not indicate that there are as Mr. Mitchell
4 stated eight and ten, nine thousand dollar deposits
5 every month?

6 A Well, the deposits here for one month is almost
7 forty-five hundred dollars; one month, three
8 thousand eighteen dollars and ten cents; another
9 one, three thousand five hundred and fifteen
10 dollars.

11 Q Well, for example, as you go on through, the
12 question was they are substantial sums. They are
13 deposited as high as eight, nine, ten, as high as
14 twelve thousand.

15 A That was with reference to another exhibit.

16 Q All right, sir. And would you also agree that
17 when Mr. Mitchell questioned well over a quarter
18 of a million dollars into this -- back on Page
19 3658, into his bank accounts of Benavides Implement
20 and Hardware in Rio Grande City.

21 "Yes, well over a quarter of a million
22 dollars," that he was referring to the wrong
23 exhibits?

24 A Yes, sir, the quarter of a million dollars went
25 over to the First State Bank of San Diego.

1 Q All right, sir. And that all of his questions here,
2 for example, on Page 3660, if you will add up the
3 amount of money that went through his bank account
4 in R-89-1, including R-89-48, you will find
5 roughly three hundred and twenty thousand dollars.
6 This is an awful lot of over-kill, to buy two,
7 thirty thousand dollar tractors. You agree that
8 the three hundred and twenty thousand dollars didn't
9 go into the Rio Grande City bank account. That was
10 referring to --

11 A No, I say the almost four hundred thousand dollars
12 went into the First State Bank of San Diego.

13 Q San Diego?

14 A In other words, the over-kill was not over in
15 Rio Grande City. It was in San Diego.

16 Q It was deposited into the First State Bank of
17 San Diego?

18 A Yes, sir.

19 Q There was no over-kill to pay for those Caterpillars
20 in Rio Grande City, but we have -- well, whatever
21 the deposit slips show in evidence to be the
22 sources of deposits into the Rio Grande City
23 account?

24 A That's correct.

25 Q Checks from you that were deposited into them, the

1 county checks and what have you?

2 A He only used out of this quarter of a million
3 dollars -- rather four hundred thousand, he only
4 used approximately eleven thousand dollars, I
5 believe, towards the bulldozers and the rest went
6 elsewhere. I don't know where.

7 Q Well, now, that is again -- will you restate that,
8 please, sir.

9 A Out of the three hundred and ninety-one thousand
10 dollars or fraction, we added up the other day.

11 Q Which went into --

12 A Mr. Couling's bank account, mostly First State
13 Bank of San Diego.

14 Q All right, sir.

15 A And also including the First State Bank and Trust
16 Company in Rio Grande City, and out of that total

17 Q Well, now, I thought you said you didn't know
18 where that money was deposited. You don't know
19 whether it was deposited in the First State Bank
20 of San Diego or --

21 A I am not through.

22 Q All right. Go ahead.

23 A I said the First State Bank of San Diego and the
24 Rio Grande City bank which we know he had bank
25 accounts in, the Mexico account of which I know

1 he had one because he told me he had one; out of
2 those almost four hundred thousand dollars that
3 he had, that came in during that time, the
4 payments to Plains Machinery was approximately
5 eleven thousand dollars plus the amount of money
6 that I gave him, twenty thousand dollars, twenty
7 thousand seven hundred dollars which had been paid
8 into Plains Machinery and B. D. Holt.

9 Q You say he only made payments of eleven thousand
10 dollars?

11 A To Plains Machinery, and I believe that is what
12 we added them up to.

13 Q Well, on 164-A, which is the notes receivable
14 card on that, the payments start off in January
15 of 1973 --

16 A Uh-huh.

17 Q -- and went down until you took over the note?

18 A Right.

19 Q All right.

20 A And if you add my twenty thousand seven hundred
21 dollars to his eleven thousand dollars makes that
22 thirty-eight -- thirty-nine thousand dollars,
23 approximately. He made payments of thirty-nine
24 thousand dollars, but out of that I paid him
25 twenty thousand dollars.

1 Q Okay.

2 A That is what I am talking about.

3 Q And how do you count the payment -- the check he
4 wrote for three thousand dollars that was applied
5 to your note? Do you count that as money he paid
6 or do you want to count that as money you paid?

7 A I want to count that as a thirty-five hundred
8 dollar payment that I had given him shortly before
9 that.

10 Q Do you count that a payment as he had made?

11 A See, Mr. Odam, I was paying for the bulldozer
12 that I was operating and George Parr, through the
13 county, was paying Mr. Couling for the bulldozer
14 that he was operating.

15 Q That Mr. Parr was operating?

16 A That's right.

17 Q That you loaned to Mr. Parr?

18 A I didn't loan it to Mr. Parr.

19 Q And what is the -- again, I know that was your
20 testimony the other day, but the basis for your
21 testimony on that is the statement that Mr. George
22 Parr made to you about the same --

23 A Afterwards.

24 Q -- afterwards?

25 A Yes, sir. After he came back with those

1 bulldozers and then I explained to him that it
2 was a different ball game.

3 Q Who was -- other than Mr. Parr who is dead, who
4 was present when you had that conversation with
5 him?

6 A The second time?

7 Q Yes sir, about the county paying for the
8 bulldozers.

9 A He was coming in from -- I was coming in from
10 Hebbronville and he followed me into town and he
11 was looking for Mr. Bodine who had a rake -- not
12 a rake -- yes, I believe it was a rake close to
13 the highway and he had seen it and he wanted to
14 know if he could borrow it. He was looking for
15 Mr. Bodine's foreman and he spotted me coming into
16 town and he chased me down the road and Mr. Thomas
17 Elizondo and Mr. Robert Elizondo were with me in
18 my Suburban and he had another individual whom I
19 do not remember who he was with in his car and when
20 we talked over there, he told me that he wanted
21 the bulldozers and that is when I told him that
22 those bulldozers now belonged -- were in my name
23 and I was responsible for making the payments on
24 them and not Mr. Couling, and he said, "Well, we'll
25 make out the same arrangements," and that is when

1 I turned him down and that is when he made the offer,
2 that as soon as he got through, with getting all
3 of this equipment together because he was in a rush
4 to complete thousands of acres so that he could
5 plant grain. He said, "As soon as I get through,
6 I will send my equipment over to your place and
7 clear up your place in a hurry," and I knew that
8 that was county equipment and I said, "No, I'll
9 just take my two bulldozers back," and that was the
10 last I saw of him until he committed suicide.

11 Q Where are those two bulldozers now?

12 A I have one of them and one of them is over at my
13 place being repaired because it was burned up and
14 it's going to cost me quite a bit of money to
15 repair it.

16 Q So, it's your position, and again to -- the whole
17 situation was that these two bulldozers that we
18 have had the contracts on are in evidence, the
19 dealings you had with Mr. Kurtz and Mr. Couling's
20 statement and your statements, where the bulldozers
21 have been, who operated the bulldozers, all the
22 evidence to take over that contract and everything
23 else, and the payments that were made by the
24 county, that was all for Mr. George Parr's
25 benefit?

1 A Mr. Parr was using those things and Mr. Parr was
2 paying for them through the county to Mr. Couling.

3 Q Why would Mr. George Parr want to even get county
4 money to be even that legal, if you will, to steal
5 money from the county to make rental payments while
6 he had the bulldozers?

7 A Are you really surprised that Mr. George Parr was
8 using county equipment and county money?

9 Q No, sir, I am not surprised at anybody working
10 county equipment and county money down there, I'll
11 guarantee you.

12 A No, I mean after the Attorney General's
13 investigation. It's common knowledge back home
14 today, Mr. Odam, but I will tell you this much;
15 I believe that I have had sufficient legal
16 experience to know that if I was going to do
17 something crooked or I was going to do something
18 shady, I wouldn't leave tracks in the snow all
19 over the place with blood running right behind me
20 where you could follow me clear on through. By
21 this record, it shows that everything I did was
22 over and above-board. I went over there and I
23 talked to people who are living today. I put my
24 signature on documents. I made those transactions.
25 I have admitted them here. I have introduced them

1 in evidence and if I wanted to do something as
2 you're claiming that I wanted to do, I assure you,
3 I would have done it some other way where you
4 couldn't have traced it to me.

5 Q Well, my question is: Why would Mr. Parr make an
6 arrangement with Mr. Couling to steal money from
7 the county to make rental payments for these
8 bulldozers that he had gotten from you? Why would
9 he go to that extent?

10 I can understand the possibility of Mr. Parr
11 making arrangements initially, but I am talking
12 about when the Cats were delivered out to your
13 property and they worked -- why would he want to
14 go to that degree of stealing money from the
15 county?

16 A Well, I think you better take Judge Meyers over
17 and get a bench warrant and get him down here to
18 testify to that.

19 Q Mr. George Parr?

20 A Mr. George Parr, because he did it.

21 Now, why he did it, I don't know, but he did
22 it.

23 Q All Mr. Couling said -- his statements about let's
24 get the two Caterpillars, all Mr. Couling's
25 testimony is just lying and Mr. Couling is just

1 fronting it for George Parr?

2 A After the offer you made him, he couldn't resist
3 it, I am sure.

4 Q Let me ask you with respect to the record again,
5 3661. The question that is there on Page 3661 at
6 Line 9.

7 A Yes, sir.

8 Q Could you read that, please, sir, for the record.

9 A "Question: And the twenty-five that was owing,
10 he didn't pay but ten thousand out of that account
11 on that Plains Machinery contract, am I correct?

12 Answer: Approximately. I couldn't tell
13 you right off of my head. And assuming Arthur
14 Mitchell's arithmetic is anywhere near right, then,
15 that three hundred and twenty -- three hundred
16 and twenty thousand -- Mr. Mitchell, which
17 Judge Meyers, I did very hurriedly. I took them
18 off of the exhibits and I want the record to
19 reflect that.

20 Question: He got away with three hundred
21 thousand dollars out of that account, didn't he?

22 Answer: Evidently.

23 Question: And that, of course, does not
24 include checks from the R-92 from Benavides
25 Independent School District to him which did not go

1 into that account or check from R-93 from the
2 conservation district, that did not go into that
3 account?

4 Answer: Yes, sir."

5 Q Now, would you agree in clarifying that, that the
6 amount of money that you're referring to, the
7 three hundred thousand, that was total up on the
8 San Diego account and that you didn't mean to
9 leave the impression that the three hundred
10 thousand went into the Rio Grande City account?

11 A Again, I say I don't know how much went into
12 which account. He had those accounts and I don't
13 know where he deposited them. I don't know.

14 Q Well --

15 A Or whether he -- there were checks that he cashed
16 that he did not deposit.

17 Q Well, would you agree again with respect to this
18 particular testimony that it was somewhat confused
19 by the erroneous reference to the wrong bank
20 accounts?

21 A Well, the bank accounts were different. The
22 amounts were correct.

23 Q Right, I agree.

24 A Now, but like I say, you asked me if he deposited
25 all of this close to four hundred thousand dollars

1 and I tell you that I know from the evidence
2 adduced at another hearing that there were
3 several checks that he just went out and cashed
4 and did not deposit and took the money and forged
5 his wife's name, his mother's name, his
6 mother-in-law's name, his father-in-law's name
7 and everybody else's name there.

8 Q And you don't know who got all of that money that
9 Mr. Couling was getting from the county and the
10 water district and the school district?

11 A Oh, I don't know who got it.

12 Q You think that Mr. Couling just got all of this
13 three hundred thousand dollars?

14 A Well, he did pretty good.

15 Q Who else did pretty good?

16 A I don't know.

17 Q Let's take then about the best way to accomplish
18 it is at Page 3661 and the twenty-five thousand
19 dollars that was owing, would you agree that it
20 was not twenty-five thousand dollars, but
21 approximately twenty-three thousand dollars when
22 the notes were recomputed?

23 A Evidently we were off two thousand dollars.

24 Q And he didn't pay but ten thousand out of the
25 contract; am I correct? And you said approximately.

1 A And the Plains Machinery, if you add up what I
2 had paid and the balance that was owing there,
3 it's approximately eleven thousand dollars.

4 Q All right. Now, let's look at the payments to
5 Plains. They credited him with payments of
6 January, '73, fifteen hundred.

7 A Fifteen hundred.

8 Q And February, another fifteen hundred would be
9 three thousand.

10 A Yes, sir.

11 Q And February, another three thousand would be
12 six thousand?

13 A Yes, sir.

14 Q Next month's fifteen hundred would be forty-
15 five hundred. And May, another payment in '73
16 takes it up to six thousand; another payment --
17 two other payments takes it up to nine thousand.
18 Two more payments takes it to eleven thousand.
19 Another payment takes it to twelve thousand five
20 hundred.

21 A That is the one year, correct.

22 Q Yes, sir.

23 A And that year I show paying sixteen thousand
24 dollars. He paid twelve and I paid sixteen.

25 Q Well, this takes it up to twelve thousand five

1 hundred and then this payment takes it to
2 fifteen thousand five hundred.

3 A Well, now, you're going into the following year
4 because I had -- in that summary that I fixed up,
5 I noticed that one year I paid sixteen thousand
6 dollars, which is that one year that he paid
7 twelve and I paid him sixteen.

8 Q Well, it says that the twenty-five thousand was
9 owing which was after the total amount of the
10 account when you took it over. He didn't pay you
11 but ten thousand dollars out of that account.
12 Doesn't it appear that he paid at least fifteen
13 thousand dollars up until the time that you took
14 it over?

15 A He paid fifteen thousand dollars, but I paid him
16 sixteen thousand.

17 Q I understand that.

18 A I mean he didn't pay the fifteen or whatever that
19 was. That was twelve thousand, you and I added
20 up.

21 Q Twelve thousand five hundred.

22 A For one year.

23 Q Plus the three thousand in January.

24 A Well, now, we are coming into the following year.

25 Q Yes, sir.

1 A Three thousand in January and I paid him three
2 thousand five hundred and fifty dollars in
3 January.

4 Q I understand that, but you would agree that he
5 paid for 1973 and 1974, and that he did pay
6 fifteen thousand dollars from this record; I am
7 not talking about what you did pay to him. We
8 know that, but that he paid fifteen thousand out
9 of the account.

10 A He paid fifteen thousand, that is correct.

11 Q All right.

12 A Now, and he probably received as far as that
13 amount from George Parr from the county.

14 Q You base that on the conversation --

15 A No, I base that on R -- what is it, 93?

16 MR. MITCHELL: 91, 92, 93.

17 A 91, 92 and 93.

18 Q You mean that R-91, 92 and 93, all that money
19 that he got from the county was because of George
20 Parr?

21 A No, on the recitals from your own money that say
22 rents on O. P.'s tractors and I presume they are
23 referring to the rents he was getting for what
24 you all were referring to O. P.'s tractors, those
25 two bulldozers.

1 Q Okay. Well, the R-91, 92 and 93, is it your
2 testimony that you believe that the income from
3 those entities on 91, 92 and 93 was based to
4 some extent on George Parr's dealings with
5 Mr. Couling?

6 A I believe that Mr. Couling was getting rents from
7 me and he was getting rents from Mr. Parr and he
8 was making one payment and he was keeping a little
9 nest egg on the side.

10 Q You say he was getting rents from you, and when
11 you say from Mr. Parr, you mean the county money?

12 A The county money.

13 THE MASTER: Break time, Mr. Odam.

14 MR. ODAM: Yes, sir, probably.

15 THE MASTER: We'll be in recess for
16 about twenty minutes.

17

18 (Whereupon, a recess was taken at
19 10:00 o'clock a.m. to 10:20 o'clock a.m.)

20

21

22

23

24

25

1 THE MASTER: Mr. Mitchell, you started
2 to say something to me before the Examiner
3 was present. Why don't you go ahead and say
4 it now.

5 MR. MITCHELL: We have run a tape on
6 R-89-1, that series, into the deposits for
7 the San Diego bank account and we have run a
8 tape on the First State Bank of Rio Grande
9 City, E-162, and we have attached those to
10 the Exhibits and I have shown them to Mr.
11 Odam and I think we both agree we would like
12 to have them as a part of the record.

13 THE MASTER: Is that right, Mr. Odam?

14 MR. ODAM: Yes, sir.

15 THE MASTER: So the record will reflect
16 it, R-89 with it's parts, and E-61, with it's
17 parts, now have attached to them an adding
18 machine tape totaling the deposits shown in
19 the Exhibits.

20 MR. MITCHELL: Yes, sir.

21 Thank you, Mr. Odam.

22 MR. ODAM: May I see those, Counsel, to
23 examine them before I continue to cross-
24 examine.

25 MR. MITCHELL: Sure.

1 MR. ODAM: Did you say you had something
2 on the rent?

3 MR. MITCHELL: Yes, I have had my
4 client add on R-91, as indicated on R-91,
5 beginning at page 6, those items labeled
6 rent on O. P. Carrillo two D-8 dozers, and
7 if I might ask my client a question, Your
8 Honor.

9 THE MASTER: Yes.

10 MR. MITCHELL: Did you go through R-91,
11 at my request, and pick out those items
12 relating to rent on O. P. tractors and take
13 the total amount?

14 THE WITNESS: I did.

15 MR. MITCHELL: And that appeared to be
16 eighteen thousand three hundred seventy
17 dollars sixty-eight cents?

18 THE WITNESS: Yes.

19 MR. MITCHELL: Mr. Odam, I would like to
20 request from the Court that we be allowed to
21 pin this tape to R-91, with the understanding
22 that it speaks only for what it speaks.

23 MR. ODAM: I have no objection.

24 MR. MITCHELL: May I be permitted to
25 leave the hearing room to get a stapler?

1 THE MASTER: Let's let Mr. Cutwright
2 do that.

3 MR. MITCHELL: All right, sir.

4 Thank you, Judge Meyers.

5 THE MASTER: You are welcome, Mr.
6 Mitchell.

7 MR. MITCHELL: The Court asked me, con-
8 cerning the Couling testimony, and the reason
9 I have a problem, the Court called him and
10 we took two witnesses out of order, but the
11 testimony I need is from 11-18 when he first
12 went on and I would have to go back and get
13 it. There is Abel Ruiz and Fidel Sanchez
14 also in between there.

15 THE MASTER: Let's see, he started 11-18.

16 MR. MITCHELL: Yes, right in there.

17 THE MASTER: If you don't have it, Mr.
18 Mitchell, by bus -- well, when does the bus
19 come in?

20 If you don't pick it up on the bus, you
21 leave word at my motel.

22 MR. MITCHELL: All right.

23 THE MASTER: And I will have it for you.

24 MR. MITCHELL: Thank you, Judge Meyers,
25 and I did want the record to reflect that as

1 the Court recalls his examination extended
2 for several days and there were other witnesses
3 that were called out of order in between.

4 THE MASTER: When was he off the stand?

5 MR. MITCHELL: He went right on through,
6 Judge, until -- well, I have him up to 12-3
7 and 12-4. He was on and off for apparently
8 a span of a week or two weeks. I have him
9 being recalled as late as 12-5-75 at 8:30,
10 being recalled, and that appears to be the
11 last time.

12 THE MASTER: I think 12-5-75, which was
13 a Friday morning, was the last time.

14 MR. MITCHELL: Yes, it appears that was
15 the last time, two weeks on and off.

16 THE MASTER: I have that and I will let
17 you get it.

18 MR. MITCHELL: I will call, Your Honor.

19 THE MASTER: I will go to lunch before
20 I go to my motel, so I probably won't be back
21 until around two-thirty.

22 MR. MITCHELL: All right. At that time
23 I will have called the Continental bus to see
24 if the Continental bus brought our copies.

25 THE MASTER: Well, will you leave a

1 message with the clerk concerning that either
2 way?

3 MR. MITCHELL: I will, thank you, Judge
4 Meyers.

5 THE MASTER: You may proceed, Mr. Odam,
6 or do you need a little more time?

7 MR. ODAM: Just about one minute more,
8 Your Honor.

9 THE MASTER: All right.

10 (Discussion off the record.)

11 MR. ODAM: I am ready to proceed, Your
12 Honor.

13 THE MASTER: You may.

14 Q (By Mr. Odam:) Judge Carrillo, you understand, and,
15 of course, I understand you and Mr. Cutwright have
16 prepared the R-91 bank account tape?
17

18 A Yes.

19 Q You totaled those up?

20 A Yes.

21 Q That is a total of how much?

22 A Three hundred fifty-three thousand four hundred
23 thirty-four dollars fifty-five cents.

24 Q Would you agree, when Mr. Mitchell asked you
25 questions about that the other day out of the total

1 amount of money the Caterpillar payments were
2 thirty-five thousand and the two figures were
3 confused and it was intended to be into the San
4 Diego account and the Caterpillars were paid out
5 of the other account, the Rio Grande City account?

6 A I don't know that to be a fact. I know we had
7 the Exhibits confused.

8 Q So you agree, when Mr. Mitchell asked you about
9 three hundred thousand, he was making reference
10 to the Rio Grande City account and it should have
11 been the San Diego account?

12 A Yes.

13 Q What is the total amount of deposits into that
14 account?

15 A Thirty-nine thousand seven hundred ninety-six
16 dollars twenty-five cents.

17 Q If I might, the thirty-nine thousand dollar figure
18 reflects deposits and, of course, the record
19 speaks for itself, as to the extent to which the
20 money was paid to him -- Benavides Implement and
21 Hardware.

22 A I don't know what those deposits are. Those are
23 the ones he made at that bank, but whether they
24 were checks I gave him or checks he received from
25 the county, I don't know.

1 Q The extent of that would be based on what is in
2 evidence so far?

3 A Yes, the deposit slips.

4 Q I believe Mr. Mitchell subpoenaed Mr. Bates to
5 bring the deposit slips and they are in evidence
6 here as Exhibit E-172, which is a copy of all of
7 the deposits into the account. Those can speak
8 for themselves, to the extent they appeared as
9 yours or the county or whatever for deposits.

10 A Yes, sir.

11 Q Now, Judge Carrillo, the other item you ran was
12 a tape on, I believe, R-91?

13 A Yes.

14 Q Could you explain again, please, sir, what the
15 total is and how you arrived at that total?

16 A This is taken -- I again cannot vouch for the
17 truthfulness of the matter, but for the recitals
18 on the Exhibit, R-91, as to the rent on O. P.
19 tractors. There was a total of eighteen thousand
20 three hundred seventy dollars sixty-eight cents.

21 Q On what purports to be for rentals?

22 A Yes, on O. P. tractors.

23 MR. MITCHELL: So the record is accurate.
24 there are a number of O. P. recitals in that
25 Exhibit that said O. P. rental and O. P.

1 dozers.

2 THE WITNESS: That is right.

3 MR. MITCHELL: So we are fair with
4 this record, again, we say we don't know how
5 they are right.

6 THE MASTER: I understand that fully.
7 You don't vouch for this document, but you
8 entered it as a rebuttal or perhaps an impeach-
9 ment document of the Examiner's position.

10 MR. MITCHELL: That is right and I wanted
11 it understood, too, that this is taken from
12 R-91 with that understanding. It is not
13 intended to hide anything or represent any-
14 thing to this Court other than what is con-
15 tained there, only what the record represents.

16 THE WITNESS: That is correct.

17 MR. MITCHELL: Thank you, Judge.

18 THE MASTER: I take it you were as
19 accurate as you could be.

20 THE WITNESS: Yes, the figures are of
21 what the figures show here.

22 MR. MITCHELL: That is right, Judge.

23 Q (By Mr. Odam:) I understand from your earlier
24 testimony you don't know whether that means your
25 D-8 dozers were rented or not, you don't know what

1 it means, that 's just what is says?

2 A The dozers that were on rental purchase basis to
3 Benavides Implemet and Hardware Company, to my
4 knowledge, were not rented to the county. George
5 Parr was using them. It was only George Parr that
6 was paying Mr. Couling through the county.

7 Q And if you could, and I will mark them on my copy,
8 what are the numbers that you have on your tape
9 there?

10 A One thousand eighteen dollars ten cents.

11 Q All right.

12 A One thousand -- no, excuse me. Eleven hundred
13 nine dollars, two hundred ninety-six dollars twenty-
14 three cents, eleven hundred sixty-seven dollars
15 seventy-seven cents, nine hundred ninety-eight
16 dollars, one thousand six and no cents --

17 Q Let me mark that on my paper.

18 A All right.

19 Q Okay. What after one thousand six?

20 A One thousand twenty dollars eighty-five cents,
21 one thousand thirteen dollars thirty-five cents,
22 one thousand ninety-five dollars --

23 Q Wait just a minute. please, one thousand ninety-five
24 dollars?

25 A Yes, and one thousand ninety-six dollars fifty cents.

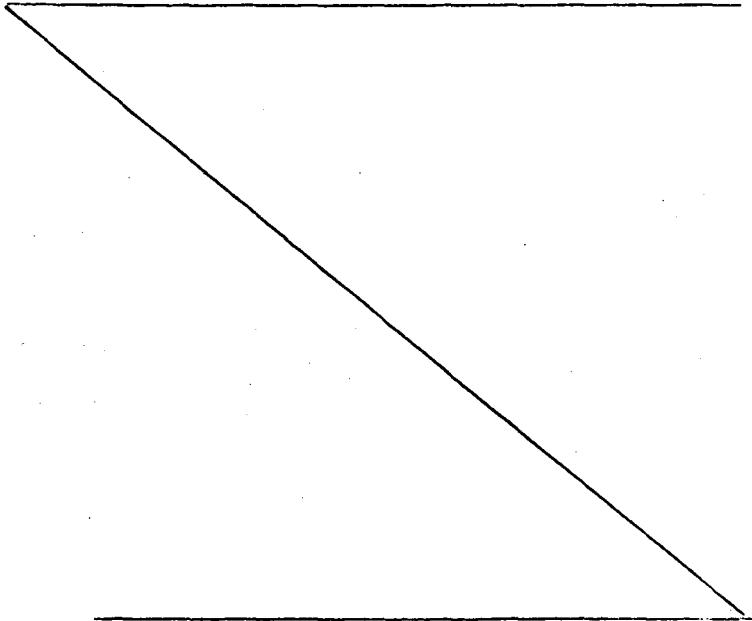
1 fifteen hundred dollars even, fifteen hundred fifty
2 dollars, no cents, one thousand and no cents, one
3 thousand five hundred dollars no cents, one thou-
4 sand five hundred dollars no cents, one thousand
5 five hundred dollars no cents: total eighteen
6 thousand three hundred seventy dollars sixty-eight
7 cents.

8 O Thank you, sir.

9 MR. ODAM: May I have a minute, Your
10 Honor?

11 THE MASTER: Yes.

12 (Off the record discussion.)
13



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1 Q Judge Carrillo, I notice that you included one
2 that says one thousand one hundred and sixty
3 dollars and seventy cents and the notations on
4 that one, "Rents on D-8 tractor."

5 The other as I noticed that I included up
6 there was "Rent on O.P.'s two D-8 tractors."

7 Do you believe that that should be included
8 because that pertains to your dozers?

9 MR. MITCHELL: Mr. Odam, could you tell
10 me what page is that?

11 MR. ODAM: Page 6 of the exhibits and
12 the entry is March 12th, 1973 and the amount
13 of money that he included on the tape was
14 one thousand one hundred and sixty-seven
15 dollars and seventy cents and the notation
16 over to the right was "Rent on D-8 tractor."

17 Q (By Mr. Odam) And my question was: Why would you
18 include that?

19 A Well, we -- maybe that should be subtracted from
20 that piece of paper.

21 MR. MITCHELL: Pardon me, Judge. May I
22 make a statement for the record? I instructed
23 my client to include it -- excuse me,
24 Mr. Odam. Primarily because of the budget
25 code number being the same, being the 229

1 budget code and I did have the question
2 that counsel raised, that it did not -- was
3 not written on O.P.'s two D-8 dozers as the
4 other entries were, Your Honor, as obvious
5 from R-91, but because of that I instructed
6 Judge Carrillo, and I said, "Judge, put it
7 in there and if you're questioned on it --"
8 this is the reason, the budget code number
9 led me to do that.

10 Thank you, Judge Meyers.

11 Q (By Mr. Odam) Of course, the record, Judge
12 Carrillo, you would agree that is in this case,
13 would speak for itself to the extent to which
14 the claim numbers that are on R-93 compare with
15 the amount of money and that in itself is already
16 in the record.

17 A Yes, sir, I have stated that I do not vouch for
18 this instrument or take the responsibility for
19 its existence in any way whatsoever. I am just --
20 all I am doing is reading.

21 Q And it's not your testimony that since you don't
22 know what it means, that where it says "Rent on
23 O. P.'s two D-8 dozers," not necessarily was that
24 rent that was actually collected from renting it
25 to the county?

1 A I have no idea where the author of this instrument
2 picked up this information. I myself could not
3 testify in any way, shape or form under oath that
4 this money actually went towards the rental that
5 George Parr told me that he was paying Mr. Couling.
6 It might be somewhere else. I don't know.

7 MR. MITCHELL: By this instrument,
8 you're referring to R-91 in your answer?

9 THE WITNESS: R-91.

10 Q (By Mr. Odam) You don't know the extent to which
11 it went to pay for the rental payments on the two
12 dozers, you say; is that --

13 A No, I don't know how it was worked out. That was
14 something between them. I wasn't a party to any
15 conversation or any transaction or any agreement,
16 so, I cannot tell you how that was worked out
17 between them or whether this is correct or not.
18 For all I know, there might be just one check in
19 the total amount to be payable for the whole amount
20 of time he used them. I don't know how that
21 worked.

22 Q But you recall the series of questions that I
23 asked you, I believe, and it was on a Friday and
24 Mr. Mitchell chided me about going into such
25 detail about all of the county checks. You

1 remember when I went through the R series or the
2 E series in comparing the county claim jackets
3 and the county checks and the payments to Plains
4 Machinery; you remember that arduous task I
5 went through?

6 A Yes, sir.

7 Q And I took the amount of money, like a thousand
8 and eighteen dollars and a thousand -- one
9 thousand one hundred and nine dollars and nine
10 hundred and ninety-eight dollars and asked you
11 how that all tied up; do you remember those
12 questions I asked you?

13 A Yes.

14 Q Now, let me -- you will notice that in this list
15 it goes along for about -- most of them are for
16 payments of around a thousand dollars.

17 A Yes, sir.

18 Q And then in November of 1973 it jumped on here
19 where it says "Rent on O.P.'s two D-8 dozers,"
20 in November of 1973, it jumped to one thousand
21 five hundred dollars.

22 A Yes, sir.

23 Q And would you have any idea why Mr. Parr would
24 have started pulling down the county for fifteen
25 hundred dollars there?

1 A No. The only idea that I remember very vividly
2 and the statements of fact here I am sure will
3 support it a hundred percent, was that Mr. Couling
4 made the statement that the fifteen hundred dollars
5 had begun when the root plows were bought and I
6 immediately knew that he was lying there, because
7 the root plows were bought at exactly the same time
8 that -- well, not exactly the same time, but within
9 a period of say two weeks or thirty days from the
10 time that the bulldozers were contracted for to
11 the time the root plows were contracted for and
12 not a year later as this thing increased. So,
13 when he made that statement, I knew he was lying
14 as far as that statement was concerned.

15 Q Well, is it your testimony that the fifteen
16 hundred dollars taken from the county, irrespective
17 of when you and Ramiro Garrillo talked with the
18 people at B. D. Holt about purchasing the root
19 plows, you deny having any conversation with
20 Mr. Couling at any time about getting another
21 five hundred dollars from the county to start
22 making payments for the root plows?

23 A I deny it and it's certainly not reflected by
24 these payments here. He claims we were talking
25 to him in May -- well, in November or December of

1972 when the dozers were contracted for and this fifteen hundred dollars was increased as R-91 shows, which was in November of '73, which is almost a year later.

Q Do you recall in your testimony, and I believe you restated it today with respect to bank account, and that you stated in the record and you state again today, "I know for a fact because Mr. Couling told me that him and his brother-in-law, Poncho, and his brother-in-law, Armando Olivera, had banking accounts in Mexico." And then you went into this discussion about Mr. Enrique Gonzalez; do you recall that conversation?

A Yes, sir.

Q Now, you have added up the tapes here.

A Yes.

Q And also you had prepared the R-100, which is a total amount from the county.

A Yes.

Q And if you could, I would like for you to refer back to that, please, sir, and let's first look at what you prepared, the R-100.

A All right, sir.

Q And the R-100, I believe you came to a total off of R-91, 92, 93, a total amount of money paid in

1 1971 through 1975, and I am reading from the last
2 page.

3 A Yes, I do not have the R-100 with me.

4 Q Oh.

5 THE MASTER: Here is one. While there
6 is an interruption, Mr. Owen, do you have
7 R-100 as admitted?

8 THE REPORTER: They have on the exhibits
9 marked through them which indicates they
10 were marked for identification and then
11 circled them to show they were admitted and
12 R-100 is circled.

13 THE MASTER: If there is any question in
14 anybody's mind except mine and there is a
15 question in my notes because they do not
16 reflect that R-100 was admitted. If there
17 is any doubt about it, it's now admitted.

18 MR. MITCHELL: Over the objections of
19 Mr. Odam that ran for about forty-five minutes.

20 Q (By Mr. Odam) From the total amount of money on
21 the last page there that you computed from R-91
22 through R-93, could you restate that, please, sir,
23 now?

24 A The total amount?

25 Q From 1971 through 1975.

1 MR. MITCHELL: Pardon me. Compiled from
2 only R-91, 2 and 3.

3 MR. ODAM: Okay.

4 MR. MITCHELL: Because there is no way
5 to know how much --

6 Q (By Mr. Odam) That is my question, R-91, 92 and
7 93, that you came up with the figure on that.

8 A And including what I paid him and O. P., is a
9 total of three hundred ninety-one thousand a
10 hundred and twenty-six dollars and thirty-three
11 cents.

12 Q And what is the total simply from the county, not
13 including your payments?

14 A Oh, from the county?

15 Q The county school district and water district.

16 A Oh, all right. Three hundred and seventy thousand
17 dollars, three hundred and eighty-two dollars and
18 twenty-three cents.

19 Q All right, sir. Now, you ran a tape on the
20 San Diego bank account and what was that total?

21 A Three hundred and fifty-three thousand thirty-
22 four dollars and forty-five cents.

23 Q And you ran the other tape -- I compute that out
24 of the San Diego account, plus the tape you ran
25 on E-162, which was the thirty-nine thousand

1 seven hundred and ninety-six dollars and twenty-
2 five cents and come to a total of those two tapes
3 of three hundred and ninety-two thousand eight
4 hundred and thirty dollars and seventy cents.

5 A Yes, sir.

6 Q Now, again, back to your R-100, comparing those.

7 A Yes, sir.

8 Q It appears that the total amount of deposits in
9 the Rio Grande account and the San Diego account
10 is more than the total amount of monies that came
11 based on R-91, 92 and 93, the total amount of
12 money that you paid and the school district and
13 the water district and the county paid. It's only
14 three hundred and ninety-one thousand.

15 A Yes, sir.

16 Q Well, could you agree with me then that in
17 comparing those two figures, that assuming that
18 91, 92 and 93 is money that he got?

19 A Yes, sir.

20 Q That in taking the bank accounts from Rio Grande
21 City and the San Diego accounts plus the money
22 you gave him --

23 A Yes, sir.

24 Q -- that all of that money based on these
25 comparisons of figures, that all of that money

1 and more money was deposited in Rio Grande City
2 and San Diego and that Mexico bank account, even
3 if there is one, didn't get any of this money?

4 A No, but like I say, from testimony at another
5 hearing, Mr. Couling was in the habit of taking
6 checks and forging checks and cashing them and
7 taking that money and, now, that, I don't know
8 where that went.

9 Q And you don't know when he forged those checks,
10 who got the benefit of those forgeries? You
11 don't know if it went for him or --

12 A I don't know. I was surprised when I saw them.
13 I don't know what happened to them.

14 Q Do you know anything about him forging money and
15 that money going to Ramiro Carrillo or Oscar
16 Carrillo?

17 A I know that Ramiro Carrillo under oath denied it
18 and I denied it under oath, also.

19 Now, insofar as Mr. Oscar Carrillo or what
20 have you, you will have to ask him.

21 Q How about Mr. D. C. Chapa, do you know whether or
22 not any of those forgeries went to --

23 A I don't have the slightest idea.

24 Q How about Rogelio Guajardo, any of those forgeries
25 go to him?

1 A I don't have any idea.

2 Q Just because --

3 A Mr. Couling wasn't making public his forgeries at
4 the time.

5 Q He has not made them public yet, where all of that
6 money went to; whether or not he kept it all or
7 to what extent he turned that money over to other
8 people.

9 A No, all I am saying is that Mr. Couling told me
10 he had a bank account in Mexico and so did these
11 other folks.

12 Q Now, I believe that, of course, the record can
13 speak for itself, but when Mr. Mitchell asked him
14 about that and it's in the record as to what his
15 testimony here was, that he testified that other
16 people did, but he did not have a bank account in
17 Mexico. Do you recall his testimony about that
18 here?

19 A Yes, I know he has denied, but I know he told me
20 because he was worried because this friend of ours
21 had lost quite a bit of money in Mexico and they
22 were having trouble and not only were they having
23 trouble; those folks over there with the bank
24 accounts in Mexico, the Olivera family, these
25 brothers who owned this ranch in Mexico, they have

1 it in the name of their uncle or a cousin or
2 something like that, and he was trying to all of
3 a sudden say, sorry, folks, you go back to Texas.
4 I am going to keep this thing. And he was in a
5 sense getting legal, friendly advice from me as
6 to what I thought he ought to do and I told him he
7 ought to get out of Mexico, to tell you the truth.

8 Q Let me refer you to R-100, which is the instrument
9 you did prepare based on R-91, 92 and 93. As you
10 recall, I leveled some objections which were
11 overruled.

12 A Yes, sir.

13 Q Which Mr. Mitchell said goes to the --

14 A Yes.

15 Q -- quality of the reflection of the exhibit, I
16 believe was his term.

17 A Yes.

18 Q Let me clarify based upon our discussion today
19 and yesterday, that for the record and in light
20 of counsel's statements about R-100 and 91, 92 and
21 93, that for the record, where it says in the
22 first column, Duval County, that your testimony
23 is that that is not necessarily only from rental
24 income. Would you agree with that?

25 A This information that is reflected in R-100 comes

1 off of R-91, 92 and 93 and I don't know where
2 that information came from or who got it and the
3 person who prepared 91 -- R-91, 92 and 93 is the
4 only individual who can shed any light insofar
5 as those instruments are concerned. This comes
6 off the material that is on those three exhibits,
7 R-91, 92 and 93, and I cannot vouch for them.
8 I do not know what it is.

9 Q Okay. Let me ask you this: On Duval County --

10 A Yes.

11 Q -- all the total there in the first column that
12 runs on that page through the next page, do you
13 know whether or not that represents income only
14 from income rental? Do you know whether it does
15 or does not?

16 A I don't know anything.

17 Q Okay. Would that be your answer to B.I.S.D. and
18 the water district, too?

19 A Exactly, I don't know.

20 Q You don't know whether or not that is from only
21 equipment rental or what it is?

22 A No.

23 Q Okay. It just appears --

24 A I don't have any idea what it is. It just reflects
25 income that he is supposed to have -- I don't even
know that he actually received it.

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Q Okay.

A This only shows this instrument he did. I don't know if he did or didn't.

Q And we don't know whether it was received or not is your statement?

A I don't know.

Q And you don't know what bank account it was put into?

A No, I don't.

Q And the record would speak for itself as to your payments by where it says paid, O. P., as to what bank accounts those went into?

A Those checks I received, I have acknowledged. The checks also I know I paid him.

Q Paid O. P., that refers to payments that you got?

A Yes, sir.

Q And you acknowledge that column does reflect the money that you received?

A Yes.

Q According to what all the testimony has been about those?

A Yes.

Q And where it says O. P. paid Benavides Implement and Hardware, you did make those payments?

A Those are the checks I have located in my bank

1 accounts which were paid out to Benavides Imple-
2 ment and Hardware.

3 Q And so, while we don't know too much about the
4 first four columns, we do know that about the
5 last two columns?

6 A That is correct, sir.

7 Q So in summary, R-100, which you prepared, all of
8 it refers to BISD and the water district and the
9 county, except for that, we don't know if he
10 actually got the money or not?

11 A I don't know.

12 Q We don't know if it was from legitimate equipment
13 rentals or not?

14 A No, it is based on information from your office.

15 Q And we don't know if it is money that relates only
16 to equipment rental or equipment and supplies?

17 MR. MITCHELL: As to those Exhibits,
18 we do have the tax returns that have it on
19 Schedule C.

20 THE WITNESS: I have no knowledge. Your
21 man is the only one that can shed light on it.

22 Q Yesterday, when Mr. Mitchell was examining you,
23 Judge Carrillo -- I show you the dail copy at
24 page 3700. He said, "All right --".

25 THE MASTER: Excuse me, Mr. Mitchell,

1 I will hand you that transcript.

2 MR. MITCHELL: Thank you, Judge Meyers.

3 MR. ODAM: Page 3700.

4 MR. MITCHELL: Thank you, John.

5 Q (By Mr. Odam:) Mr. Mitchell asked you, "All right,
6 Let me ask you this. Is there anywhere the income
7 approximates the outgo to you?" And you answered,
8 "All I received was that one thousand and eight
9 dollars. There is more money not shown in those
10 Exhibits furnished here to me."

11 We are referring just to the amount of money
12 you received. Do you recall those questions he
13 asked you?

14 A I don't know what he is referring to. There is
15 a check of one thousand and eight dollars I
16 received.

17 What are you referring to?

18 Q Well, when he was questioning you, he said, and I
19 will again let you read it rather than myself.

20 Would you read the question beginning at line 13?

21 A "Beginning with 4-17, is there more income from
22 Benavides Implement and Hardware and the water
23 district and the school district account than paid
24 to you?" Answer, "Yes, but you confused me."
25 Question, "There is more than that that came from

1 the water district and Duval County?" Answer,
2 "Yes." Question, "Let me ask you this. Is
3 there anywhere the income approximates the outgo
4 to you?" Answer, "All I received was that one
5 thousand eight dollars there. There is more money
6 than was shown to me by these Exhibits."

7 O. Now, that lays a predicate to my question.

8 My question to you is about the income and
9 that was using R-91, 92 and 93.

10 My question to you is, do you have any idea
11 where the rest of that money went, if it did not
12 go to you, to the extent it is shown in this
13 record?

14 MR. MITCHELL: Pardon me. I was referring
15 to line 1, R-100, so the witness' answer may
16 be in context, I was referring to 4-71 on the
17 first line. I know where I was and it was
18 line 1, R-100.

19 MR. ODAM: All right.

20 MR. MITCHELL: And his reference was
21 in -- my reference to 4-71 was in the date
22 column and my reference to the other, BISS,
23 and so forth were in those columns.

24 MR. ODAM: All right.

25 Q (By Mr. Odam:) Do you have any idea of your own

1 personal knowledge, if all of this money, based
2 on 91, 92 and 93, was actually received and if it
3 were deposited in this account, my question to
4 you is, do you know where the rest of that ten
5 thousand dollars went? You just got one thousand
6 eight dollars.

7 A I have not the slightest idea.

8 Q Do you know if that went to the Farm and Ranch
9 Supply?

10 A No, I have no idea.

11 Q Would it come as a surprise to you that perhaps
12 some of the money went to Oscar Carrillo or D. C.
13 Chapa, would that surprise you?

14 A I can't answer that one way or the other.

15 Q Would it surprise you to know that it went to
16 Ramiro Carrillo and Brothers?

17 A I can't answer one way or the other. I have no
18 knowledge of that.

19 Do you want me to fall out of the chair or
20 what?

21 Q My question is, would it surprise you or what?

22 A Again, I don't know. I can't tell you -- I am
23 not going to tell you Rudolfo Couling did not
24 give money to D. C. Chapa or Oscar Carrillo or
25 Ramiro Carrillo or my mother. This is all the

1 money he gave me, period.

2 Q I understand. I take it, if that was what the
3 evidence shows, it would not surprise you if he
4 did, is that right?

5 A I would not say that it would or would not. I
6 have no knowledge of it, I was not a party to it.
7 You are asking me to tell you something that I
8 have no knowledge of.

9 Q Okay. Well --

10 MR. ODAM: May I have just a moment,
11 Your Honor?

12 THE MASTER: Yes, sir.

13 (Off the record discussion.)
14

15 Q (By Mr. Odam:) Judge Carrillo, I would ask you
16 to examine what has been marked as E-179-1 through
17 179-29.

18 A Yes, sir.

19 Q And if you would examine those, I would ask the
20 court reporter to mark, picking up --

21 A May I ask a question, are we still on Articles
22 7 through 12?

23 Q Yes.

24 A All right.

25 MR. ODAM: Could you mark these five

1 Exhibits as 179-30 and up and through 179-34?

2
3 (The above mentioned documents were
4 marked 179-30 through 179-34 for identifica-
5 tion.)

6 THE WITNESS: Yes, sir.

7 Q Then I would like for you to examine, Judge
8 Carrillo, what has been marked E-174, 175, 176 and
9 177 and 178, and for the benefit of Counsel and
10 the record and the Master, it is my understanding
11 none of these have been admitted into evidence.

12 THE MASTER: The ones you just named?

13 MR. ODAM: Yes, sir, plus the 179-1 series.

14 THE MASTER: They were admitted, but
15 withdrawn and the testimony stricken.

16 MR. ODAM: Yes, sir.

17 MR. MITCHELL: May I see those. I have
18 not seen them.

19 THE MASTER: Yes.

20 THE WITNESS: Yes, sir, I have looked at
21 them.

22 Q (By Mr. Odam:) I would like to take first, if I
23 could --

24 MR. MITCHELL: Counsel, I am going to
25 make the same objection you made to me, about

1 asking him bout them before they are offered
2 and authenticated.

3 MR. ODAM: Well, --

4 MR. MITCHELL: First, Judge Carrillo, I
5 advise you of your rights against self-incrimina-
6 tion and I hand you those which were handed
7 me, 174 through 178 and advise you of your
8 rights in connection with those Exhibits and
9 ask you if you care to invoke your rights?

10 THE WITNESS: All right, sir. I am going
11 to refuse to answer on the grounds it might
12 tend to incriminate me and I claim this right
13 under the United States Constitution and
14 Article 10, Section 1 of the State of Texas
15 Constitution.

16 MR. MITCHELL: I suggest if he wants to
17 continue to ask him about these, and the
18 Court orders him to answer, then with that
19 we may proceed as we did with leave of Court
20 on 5-A, I believe it was.

21 May I do the same with E-1 --

22 THE MASTER: I believe it was 3. I don't
23 believe we got to 5-A.

24 MR. MITCHELL: I believe you are right.
25 I stand corrected.

1 That, of course, is not my total objection
2 to those Exhibits. I do have, if the Court
3 wants, additional objections to those that
4 I will level.

5 THE MASTER: Right now, they, as you say,
6 have not yet been authenticated or identified.

7 MR. MITCHELL: Yes.

8 THE MASTER: So they are not before you
9 for objection at this time.

10 MR. MITCHELL: And he advised me he
11 wants to claim his constitutional privilege.

12 MR. ODAM: I understand and I am only
13 at the authenticating stage, to attempt to
14 authenticate them.

15 THE MASTER: But this witness is not
16 going to authenticate them, is what he is
17 telling you, unless you make a request that
18 I direct him to answer.

19 MR. ODAM: Yes, sir, I understand. I
20 would like, without being duly repetitious,
21 to ask a few questions about 174 to get that
22 statement from the witness.

23 THE MASTER: All right. You may proceed.

24 MR. MITCHELL: Excuse me, I have not
25 seen these either, Mr. Odam.

1 MR. ODAM: All right. You may look at
2 them.

3 MR. MITCHELL: I advise you, Judge
4 Carrillo, that also any answer to any ques-
5 tion put to you by counsel may seriously
6 impair your claim of privilege in that,
7 according to what the cases have held, that
8 you quite possibly will waive, unless Counsel
9 makes a request of this Court, and you are
10 instructed by this Court to answer, do you
11 understand that?

12 THE WITNESS: Yes, sir.

13 MR. MITCHELL: I advise him as his attor-
14 ney, Judge Meyers, only.

15 THE MASTER: Yes.

16 Q (By Mr. Odam:) I show you what has been marked
17 as E-176 and ask you on E-176 if you can identify
18 on the back of E-176 your own signature.

19 A I am going to refuse to answer the question on
20 the grounds that it might tend to incriminate me.
21 I claim this privilege under the rights of the
22 Fifth Amendment of the United States Constitution
23 and Article 10, Section 1 of the State of Texas
24 Constitution.

25 THE MASTER: Judge, in the future, would

1 It be acceptable to you to shorten that
2 answer to, I simply decline to testify, with
3 the understanding that we all agree that all
4 of the additional language with respect to
5 the Texas Constitution and the U. S. Consti-
6 tution will be incorporated in that answer,
7 is that all right, Mr. Mitchell?

8 MR. MITCHELL: Yes, sir, as long as it
9 is understood.

10 MR. ODAM: And I have no objection.

11 Q (By Mr. Odam:) I show you E-178, a check for nine
12 hundred dollars, and ask you if you can identify
13 what that is on the back of that?

14 A I respectfully decline to answer.

15 Q Would that be your same response, Judge Carrillo,
16 to what has been marked E-174, 175 and 177?

17 A Yes, sir, it would be.

18 Q For the record, which appears to be checks made
19 out to you.

20 A I would respectfully decline to answer any ques-
21 tions on the same grounds.

22 MR. ODAM: Your Honor, I would submit,
23 and not yet for instructional purposes, but
24 I would submit to the Master and Counsel that
25 in view of the testimony that is in the

1 record as to statements as to whether or
2 not Mr. Couling has made payments other than
3 those in evidence, that the proffer of the
4 amendment has been waived by previous testi-
5 mony given by this witness.

6 As the Court recalls, and Mr. Mitchell
7 recalls, I asked, and all of this came up
8 on this particular series, and Mr. Mitchell
9 asked whether he wrote other checks and he
10 went into this. Then I got Carl Williams
11 and I had other questions to Judge Carrillo,
12 to-wit he said he didn't know, and I submit
13 that answer has waived the right of this wit-
14 ness to invoke the Fifth Amendment, but I
15 am not to the point of asking the Court to
16 instruct the witness.

17 THE MASTER: You may be correct, but
18 whether it is on the basis of waiver or whet-
19 her it is on statutory grants of immunity,
20 you are obviously going to have to ask me
21 to direct him to answer. It may be that he
22 will not self-incriminate, because there has
23 been a waiver, but Judge Carrillo obviously
24 has to maintain his position and I will have
25 to instruct him to answer.

1 MR. ODAM: Well, Your Honor -- the
2 statute under which we are governed in part
3 among others and the general law is Article
4 5966a, Section 14, which states and I quote
5 Section 14.

6 "Any person other than the judge who
7 refuses to testify," and then I skip down,
8 "may nevertheless be required to testify and
9 to produce such documents or same," but when
10 so required under the provisions of Section
11 8, and Section 8 refers to the same, "To the
12 district court requiring such person shall
13 not be subject to indictment or prosecution
14 or any other transaction."

15 Now, what --

16 THE MASTER: Your thrust of it is that
17 I cannot compel the judge to answer a
18 question pursuant to that section.

19 MR. ODAM: Well, I think that if the
20 Master were to instruct the witness to answer,
21 that if he answered that I would submit and
22 it would be decided in some other forum and
23 not this one, but if you were to instruct him
24 and he were to answer, that there is not any
25 immunity attached because the instructions

1 for one thing -- for one thing, the
2 instructions referred to in here, referred
3 instructions given by a district court and
4 not by a Master.

5 So, all I am saying is that if you
6 instruct him to answer and if he were to
7 answer, that there would be no -- I think
8 again, that would be decided in another forum,
9 not necessarily in immunity attaching because
10 you had instructed him to answer because of
11 the way the sentence is constructed.

12 MR. MITCHELL: Out of an abundance of
13 precaution, we won't answer in any event.
14 Request it go to the district court --

15 THE WITNESS: I was going to state that,
16 Judge. In that case, even if you instruct
17 me to answer, I will not answer and I am
18 prepared to go to jail.

19 THE MASTER: I understand. We will
20 follow the procedure that we previously
21 discussed with Mr. -- was it Elizondo?

22 MR. ODAM: Yes, sir.

23 MR. MITCHELL: Judge Meyers, for the
24 purpose of the record, may I have my client
25 make the same statement as regards these

1 other E-179-1 --

2 THE MASTER: Let's let Mr. Odam go into
3 that. He hasn't gone into that yet,
4 Mr. Mitchell.

5 MR. MITCHELL: I am sorry. I thought
6 we might accomplish them both.

7
8 (Whereupon, an off-the-record
9 discussion was had.)

10
11 THE MASTER: On the record.

12 Mr. Odam, you take the position that
13 there has been a waiver?

14 MR. ODAM: Yes, sir.

15 THE MASTER: As to these items?

16 MR. ODAM: Yes, sir.

17 THE MASTER: Where is the statutory
18 authority for going to a district court and
19 getting an order compelling the judge to
20 testify?

21 MR. ODAM: I believe and I have not
22 researched it, but the logic of this and
23 the constitutional rights would lead me to
24 the conclusion that the logic of this
25 statute and the constitutional rights of the

1 law that it's doubtful in my mind that the
2 Master has the authority to ask the Court to
3 instruct the witness to answer and hold a
4 witness -- well, ask a district court to
5 instruct the witness to answer questions when
6 he has invoked the Fifth Amendment right when
7 that witness is a judge, because to do so
8 would mean that if he continued to invoke the
9 Fifth Amendment privilege, that the next step
10 would be to go back to that district court
11 to ask the court to hold him in contempt,
12 which would be asking the district court to
13 hold the judge in question in contempt for
14 invoking his constitutional rights, and while
15 I have not researched the law, I doubt that
16 a district court -- I question whether or not
17 a district court can throw someone in jail
18 because they have invoked the Fifth
19 Amendment rights.

20 So, in conclusion of that, I think that
21 if the judge or any judge in question were
22 to refuse to answer on these grounds, that he
23 can't be compelled to do so.

24 THE MASTER: Well --

25 MR. ODAM: Unless you get very technical

1 questions of whether or not it's a proper
2 invocation of the Fifth Amendment privilege,
3 et cetera, and that gets into Fifth
4 Amendment law that I am not that familiar
5 with.

6 THE MASTER: What about the waiver?
7 Somebody makes a preliminary determination
8 of waiver --

9 MR. ODAM: That is true and very candidly,
10 Your Honor, while I say I believe he has
11 waived the right to take the Fifth
12 Amendment, I am not at the point of saying
13 that we could go on that ground to a district
14 judge and ask that he be compelled to testify
15 on that ground, and again, very candidly, I
16 am not that familiar with when it has been
17 waived in any other proceeding, whether you
18 can order someone to do so.

19 THE MASTER: Very candidly, I am not
20 that familiar with the law, either. We can
21 both educate ourselves.

22 Mr. Mitchell, you have any helpful words
23 on this?

24 MR. MITCHELL: Judge --

25 THE MASTER: You can waive your Fifth

1 Amendment right?

2 MR. MITCHELL: That's right, Your Honor,
3 and --

4 THE MASTER: And once you have and the
5 judge orders you in a trial, not in this
6 sort of proceeding, but in a trial of a case,
7 if the court concludes that you have waived
8 your rights to invoke the Fifth Amendment,
9 then, he orders you to testify and then if
10 you refuse to testify, he sends you to jail
11 and then you apply for a writ of habeas
12 corpus to the Supreme Court and they then
13 make the determination of whether or not there
14 has been a waiver; is that the way it goes?

15 MR. MITCHELL: I don't understand it to
16 be that way, Judge. In this particular case,
17 if the basis of the determination by the
18 Master is that there has been a waiver --

19 THE MASTER: I am talking about a trial
20 of the case, not this proceeding.

21 MR. MITCHELL: Yes. Oh, the judge
22 orders the witness to answer on the grounds
23 that he has waived and the witness refuses to
24 answer and the court then makes the
25 determination of waiver on the spot, that's

1 right. And then the application for writ
2 is filed.

3 THE MASTER: That's what I said. Then,
4 in this proceeding --

5 MR. MITCHELL: A certain certificate
6 should be placed for the district judge to
7 compel him to order and that judge should
8 order him to answer questions put to him.

9 THE MASTER: If he finds there is a
10 waiver.

11 MR. MITCHELL: To do that he has got to
12 examine the full records.

13 THE MASTER: I don't know the full
14 records. Certainly the records with respect
15 to his own testimony is all.

16 MR. MITCHELL: That is what I mean,
17 Judge.

18 THE MASTER: Mr. Couling can't waive --

19 MR. MITCHELL: I mean the full records
20 as relates to the item in question. That is
21 all I meant.

22 Then, he orders the witness to answer.
23 They come back before the Master and the
24 question is put to the witness again. The
25 Master then -- if he answers, then, the

1 problem is moot. If he does not answer, then,
2 he is certified not having answered before
3 the Master and then he is found in contempt
4 and then the application for the writ is
5 filed.

6 THE MASTER: That is the way I
7 understand it.

8 MR. ODAM: I think that is a logical
9 sequence of events.

10 MR. MITCHELL: But, now, Judge, out of
11 an abundance of caution, Mr. Odam is a fair
12 country lawyer and I respect him. I have
13 thought heretofore is the way I have treated
14 it, and as the Court is well aware on one
15 other instance, that immunity was being
16 triggered for the judge. I am familiar, of
17 course, with the sections he has been
18 triggered with, in Section 8. I concluded
19 perhaps wrong, where the judge is on the
20 stand and where there has been an invocation
21 of that privilege, that the Court -- and the
22 Master orders him, that that immunity was
23 built in. If I am incorrect in that, then,
24 out of an abundance of precaution, in the
25 series that have been tendered to the judge,

1 then, Your Honor, I would have to state that
2 I would have to be ordered by a district
3 judge. My client would have to be ordered
4 by a district judge to answer the questions
5 put to him by counsel in connection with
6 Exhibits 174, 75, 76, 77 and 78 and I hereby
7 instruct my client not to answer any further
8 questions whether ordered to or not by the
9 Master, because of that reason, Judge, and
10 certainly not in any regard to being
11 contemptuous to the Master.

12 **THE MASTER:** I understand. If immunity
13 can be triggered, it has got to be triggered
14 by my ordering him -- well, really not by my
15 ordering him. By my certifying he hasn't
16 answered and getting a district judge to order
17 him to answer. I have some doubt as to
18 whether immunity can be triggered with
19 respect to the judge --

20 **MR. MITCHELL:** That seems to me, Judge,
21 to be resolved if the district judge orders
22 him. We could -- the district judge would
23 order him and he would go on and testify, I
24 am sure, not triggering the contempt.

25 Thereafter if a question arose for him

1 to plead the Fifth, then, that would be the
2 form to test whether the immunity had been
3 followed by reason of the procedure we have
4 followed here.

5 THE MASTER: You're telling me that you
6 do not think that we would be going to the
7 Supreme Court on a writ?

8 MR. MITCHELL: That's right, but I want
9 the judge --

10 THE WITNESS: I don't know.

11 THE MASTER: I am not asking for any
12 promises.

13 THE WITNESS: I don't know.

14 MR. MITCHELL: My client doesn't know,
15 but at any rate, he cannot proceed at any
16 rate past this point without an order from a
17 district judge; am I right, Judge Carrillo?

18 THE WITNESS: I think I would not
19 proceed until the Supreme Court passed on it.

20 THE MASTER: Well, Mr. Odam, what is
21 your pleasure?

22 MR. ODAM: My pleasure is in light of
23 the witness's response to 174 through 178
24 and an invocation of the Fifth Amendment
25 Right, that is properly in turn invoking it,

1 I would make an offer at this time, and so
2 the record is clear as to what I am
3 offering, I offer into evidence 174 through
4 178.

5 MR. MITCHELL: My objection would be, if
6 it would please the Court, one, that the
7 matters were hearsay; two, they are not
8 authenticated. The best evidence rule would
9 prohibit their inquiry. They have not been
10 properly authenticated, no proper predicate
11 is pled. I would plead and request a
12 continuance and postponement and a complete
13 surprise -- it's beyond the scope of the
14 formal notice. They are beyond the scope
15 of the First Amended Notice. They are beyond
16 the term that all applied to January, '75.
17 They relate to nonjudicial acts. There is
18 no jurisdiction, therefore, because it's not
19 included within the formal notice, if it
20 please the Court, or in the preliminary
21 notice, and they would be hearsay -- yes,
22 that would be hearsay as to my client, and
23 in addition, of course, would violate his
24 Fifth Amendment rights, if introduced.

25 THE MASTER: I don't remember the

1 authentication.

2 MR. ODAM: The status on the
3 authentication, Your Honor, is that this is
4 where Mr. Couling was on the stand and I
5 asked him the questions and then we got to the
6 best evidence objection and that is when we
7 brought Mr. Williams over who made these
8 photostatic copies from the bank and we were
9 in the process of doing that and we got into
10 the question of whether or not that would be
11 rebuttal testimony or you could make a
12 Bill of Exception on it. So, then, we dropped
13 it at that point.

14 THE MASTER: Did Mr. Williams ever
15 authenticate them?

16 MR. ODAM: No, sir, they are --

17 THE MASTER: So, they are not admissible
18 at this time?

19 MR. MITCHELL: That's right.

20 MR. ODAM: Well, I have offered them
21 through Judge Carrillo, who took the Fifth
22 Amendment and the objections have been
23 leveled, and I think if I were to say that
24 they were admissible in evidence at this
25 point, I would be correct.

1 THE MASTER: Yes, sir.

2 MR. ODAM: And I would not --

3 THE MASTER: Well, the objection is
4 sustained. We'll be in recess for about
5 twenty minutes. Do you have anything further
6 before we recess?

7 MR. ODAM: Yes, sir. I would like to
8 ask the witness to identify E-179-1 and ask
9 him just a few questions about these.

10 THE MASTER: Well, let's do that after
11 the recess.

12 MR. ODAM: Oh, all right, sir.

13

14 (Whereupon, a recess was taken of
15 twenty minutes.)

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1 THE MASTER: You may proceed, Mr. Odam.
2 Q (By Mr. Odam:) Judge Carrillo, I show you what
3 has been marked E-179-1 through E-179-34, a series
4 of checks from Benavides Implement and Hardware
5 to Farm and Ranch. I believe prior to the break
6 you had looked at those. I believe it is your
7 previous testimony you were a partner in Farm and
8 Ranch Store, is that correct?

9 MR. MITCHELL: Just a minute.

10 May I inform my client that under the
11 Fifth Amendment of the United States Consti-
12 tution and the State Constitution that he has
13 a right to remain silent and that right is a
14 fragile right in that it may be waived by the
15 answer of the slightest question.

16 I would like to inform my client that
17 he must not answer any question in that regard.

18 THE MASTER: He has testified he is a
19 partner in the Farm and Ranch Store.

20 MR. MITCHELL: Yes, I didn't mean to
21 indicate my discussion with him related to
22 the question, but I did want him to -- did
23 want to make this known to my client.

24 THE MASTER: I take it he can answer
25 that question.

1 MR. MITCHELL: Well --

2 THE MASTER: He has already testified
3 he was a partner in the Farm and Ranch Store
4 previously.

5 MR. MITCHELL: Yes, he testified that.
6 Out of an abundance of caution, I am going to
7 advise him to invoke the privilege.

8 THE MASTER: Well, it doesn't matter,
9 he previously testified to that.

10 You don't have to reask that question.

11 MR. ODAM: The purpose of this series of
12 questions goes to an attempt to authenticate
13 these checks.

14 THE MASTER: Yes.

15 Q (By Mr. Odam:) You have previously testified you
16 are a partner of the Farm and Ranch Store and I
17 take it that for over a period of years, as evi-
18 denced by your income tax returns, that you
19 received partnership income from the Farm and Ranch
20 Store?

21 A I am going to refuse to answer. I claim this
22 right under the Fifth Amendment of the United
23 States Constitution and Article 10, Section 1, of
24 the Constitution of the State of Texas.

25 Q And do you recall the previous testimony that

1 the Farm and Ranch Store was a partnership of you
2 and your brother, Ramiro Carrillo?

3 A I invoke the same privilege.

4 Q Judge Carrillo, the items I handed you, the 179
5 series, are checks signed by Mr. Couling and made
6 out to Farm and Ranch Store, can you explain whet-
7 her or not you received any benefit from these
8 checks?

9 A I invoke the same privilege.

10 Q May I see the checks, please.

11 A Yes.

12 Q Some of the checks have a description on them
13 and some of them do not. Can you explain whether
14 or not -- do you have any personal knowledge of
15 whether or not the Farm and Ranch Store sold
16 supplies to Benavides Implement and Hardware?

17 A I invoke the same privilege.

18 Q Do you know whether or not these same checks,
19 do you know whether or not you received part of
20 this same money?

21 A I invoke the same privilege.

22 Q Do you know -- as a partner in the Farm and Ranch
23 Store, did you personally stamp on these checks
24 for deposit only?

25 A I invoke the same privilege.

1 Q Do you know who did?

2 A I invoke the same privilege.

3 Q 179-22, can you identify that as being the signa-
4 ture of your brother, Ramiro Carrillo?

5 A I invoke the same privilege.

6 Q Have you ever seen these checks before?

7 A I invoke the same privilege.

8 Q Is it true that one or all of these checks were
9 checks to Farm and Ranch Supply to get money from
10 the county or the water or school district, these
11 checks that have been put in evidence already?

12 A I invoke the same privilege.

13 Q Is it true that these particular checks relate to
14 the claim you have introduced by R-100 and R-191,
15 92 and 93, some of this being for supplies and
16 so forth?

17 A I invoke the same privilege.

18 MR. ODAM: We offer in evidence 179-1
19 through 179-29.

20 MR. MITCHELL: They would be hearsay
21 as to this witness, not properly authenticated,
22 beyond the scope of the formal notice and
23 amended notice. If the Court permits them
24 in under this objection, we would like to
25 have a continuance and plead surprise and

1 also that they are irrelevant and immaterial,
2 the prior term rule would apply, and the
3 rule as to judicial versus non-judicial conduct,
4 that is, that they relate to matters not in
5 evidence. They are, to an extent, endorsed by
6 Cleofus Gonzalez and that would be hearsay
7 as to this witness.

8 THE MASTER: Let me see the Exhibits.
9 I take it this is the ones Mr. Couling
10 authenticated.

11 MR. ODAM: That is correct, Your Honor.
12 And the objection --

13 MR. MITCHELL: Wait a minute. They
14 were withdrawn.

15 THE MASTER: Yes, they were withdrawn,
16 but I had admitted them over your objection,
17 because Mr. Couling had, as I recall, and you
18 correct me if I am wrong, testified he signed
19 them and gave them to Farm and Ranch Supply.

20 MR. MITCHELL: I understand E-179-1 to
21 E-179-29 --

22 THE MASTER: Well, it is through 179-34
23 now.

24 MR. ODAM: He did not testify as to
25 179-30 through 34.

1 MR. MITCHELL: Yes, we can eliminate
2 those.

3 THE MASTER: Yes, that is right.

4 MR. MITCHELL: I had leveled a series
5 of objections. I did not write those down
6 at the time, but I do recall it was on the
7 5th of December that the offer was made. I
8 not detail the objections and they were
9 withdrawn.

10 THE MASTER: That is correct.

11 MR. MITCHELL: I don't recall whether
12 there is or was an authentication objection
13 and improper predicate.

14 THE MASTER: But they were previously
15 admitted and then withdrawn, as you recall,
16 and I overruled the objection and admit the
17 Exhibits, 179, parts 1 through 29.

18 MR. ODAM: Your Honor, we would ask
19 Mr. Vernon to make copies for the record so
20 that we can withdraw these originals. Obvi-
21 ously, we will have those available for
22 examination by opposing counsel.

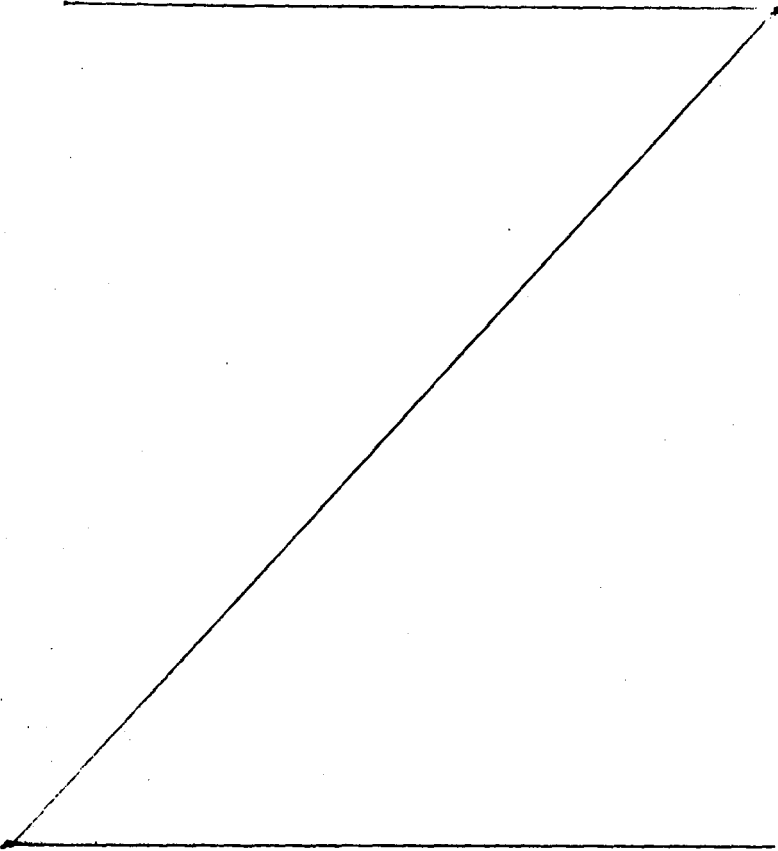
23 The others that were not admitted, 30
24 through 34, the subparts there, we would ask
25 Mr. Vernon to make copies of those as well.

1 We do understand those are not admitted, so
2 we could withdraw those, but have available
3 the originals.

4 THE MASTER: I am sure that is fine
5 with Mr. Vernon.

6 MR. MITCHELL: We ask for a continuance
7 and plead surprise in that they go beyond the
8 scope of the specifications as relate to them.

9 THE MASTER: I deny the request.
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EXAMINATION CONTINUED

1
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3 BY MR. ODAM:

4 Q Judge Carrillo, you have offered and had admitted
5 into evidence R-91, 92 and 93 and you have recapped
6 it by R-100 and now you have seen these checks
7 1 through 29 which are in evidence, subparts of
8 178 and 30 through 34 and which appear to be
9 checks to Farm and Ranch Supply from Mr. Couling.

10 Now, my question to you, and again, I ask
11 you this in trying to authenticate them: Do you
12 know the relationship between these checks from
13 Mr. Couling to Farm and Ranch Supply under the
14 various claims that have been made by the water
15 district and the county and the school district
16 and then money turned around and paid out here:
17 do you know the relation between those?

18 A I invoke the same privilege.

19 MR. MITCHELL: In addition, we would
20 object on the grounds of no personal knowledge
21 and as previously given, on hearsay, of the
22 improper authentication and without repeat-
23 ing them, but we don't want to admit them,
24 Judge Meyers.

25 THE MASTER: Overruled.

1 Q Do you know how many of these checks that are
2 admitted into evidence, Judge Carrillo, are for --
3 strike that question.

4 MR. ODAM: Your Honor, in light of Judge
5 Carrillo's invoking of the Fifth Amendment on
6 these questions and currently other questions
7 that would go this subject, we would pass
8 the witness.

9
10 - - - - -

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

13
14 BY MR. MITCHELL:

15 Q Judge Carrillo, will you walk over here to the
16 forty-four units and pull, if you would, the
17 booklet that has the yellow chits in it. Do you
18 know which one I am talking about?

19 A Yes.

20 Q These are the ones now that, I believe, R-99 was
21 a cover type copy.

22 Now, in addition, I am going to hand you
23 the original claim jacket and this, of course, is
24 re-direct on 1, Your Honor.

25 THE MASTER: Yes.

1 Q A-2015, C-2139.

2 A Yes, sir.

3 Q B-1541.

4 A Yes, sir.

5 Q A-3040.

6 A Yes, sir.

7 Q All right. Now, Judge Carrillo, I believe it's
8 not disputed that Article 1 of the notice here
9 relates to a period of time while you were dis-
10 trict judge and, of course, our position being
11 that you were elected, I believe, to two terms,
12 one commencing January, 71, and expiring Decem-
13 ber 31st of 74.

14 A Yes, sir.

15 Q And one commencing January 31, 75, in which you're
16 presently a duly elected judge, am I correct?

17 A Yes, sir.

18 Q Now, Judge, will you please take in the Exhibits
19 that you're holding now, first of all, A-3040:
20 that is a claim A-3040. You have that claim in
21 front of you?

22 A Yes, sir.

23 Q That appears to relate to October of 1970. See if
24 I am correct?

25 A Yes, sir.

1 Q That is at a time obviously before either term,
2 of course, that you were elected as judge, am I
3 correct?

4 A Yes, sir.

5 Q All right. So, will you set that aside.

6 And I will ask you to look to A-2015.

7 A Yes, sir.

8 Q Now, that should relate to July of 1970. See if
9 I am correct?

10 A Yes, sir.

11 Q All right. That is the period of time when you
12 were not district judge under either term, am I
13 correct?

14 A Yes, sir.

15 Q All right. Set that aside.

16 The last two, if you will look at them, and
17 that would be -- if my memory serves me correctly,
18 one would be June of 71; that is B-1541?

19 A Yes, sir.

20 Q And that would be during the period of time that
21 you were elected during your first term?

22 A Yes, sir.

23 Q About five or six months into that term am I cor-
24 rect?

25 A Yes, sir.

1 Q And then C-2139.

2 A Yes, sir.

3 Q Which would be for a period in 1972?

4 A Yes, sir.

5 Q During the second term?

6 A Yes, sir.

7 Q Now, and I believe that is about the month of
8 August?

9 A Yes, sir.

10 Q All right. Now, in other words, Judge Carrillo,
11 the record speaks accurately that only B-1541
12 and C-2139 relate to periods of time when you
13 were district judge and both of those relate only
14 to the first term, is that correct?

15 A That is correct, sir.

16 Q And C -- strike that. And B-1541 relates only
17 to one month of 6-71, am I correct?

18 A Yes, sir.

19 Q And C-2139 relates to only one month, is that
20 correct?

21 A Yes, sir.

22 Q And C-2139 contains fifteen chits, if I recall
23 your testimony correct?

24 A Just a moment. You're correct, sir.

25 Q And those chits were on a mimeographed form as

1 distinct from the other chits that you distinctly
2 recall were printed in the school -- in the school
3 over there in Benavides?
4

5 A Those mimeographs were printed at the school.

6 Q And you're --

7 A The tax office.

8 Q At the tax office and your recollection serves
9 you that they were printed when, that form?

10 A That was in the 60's.

11 Q All right. Now, is it your recollection that the
12 mimeographed one, that would be H-123 is part of
13 this claim jacket C-2139 or, I believe, E-55 here
14 is that those chits were employed, if they were,
15 in the 60's.

16 A That is correct, sir.

17 Q All right. And I believe there are a total
18 number of claims that exceeds the fifteen chits,
19 we just --

20 A Yes, sir.

21 Q Now, Judge Carrillo, that leaves us one more
22 and that is B-1541, am I correct?

23 A Yes, sir.

24 Q And those relate to claims that were in 71. I
25 will hand it to you.

A Yes, sir.

1 Q Now, first of all, did I ask you when you were
2 searching the records, if you would find us a
3 yellow chit, one that is of the type contained in
4 claim jacket 1541?

5 A Yes, sir.

6 Q And did you find one?

7 A Yes, sir, there are several.

8 Q All right.

9 A I have one here.

10 Q All right. Let's pull that out and I asked you
11 if you at that time would find them and particu-
12 larly those that could be authenticated as best
13 possible as to the date of the genesis or origin
14 of them, did I not?

15 A Yes, sir.

16 Q And have you found one?

17 A Yes, sir.

18 Q Pulling it out, what -- is it contained in --
19 no, don't do that, Judge.

20 Just a minute. You have a booklet dated,
21 what?

22 A July drugs.

23 Q And what year?

24 A 1963.

25 Q All right.

1 Just a minute. And as you have handed it to
2 me, is that the way you found it in your files?

3 A I folded the pages. This is the work I did last
4 night, and I folded these pages with regard to
5 those that were either authorized by somebody
6 else, was not my signature or matters like that.

7 MR. MITCHELL: May I have that marked,
8 please.

9 (Whereupon said document was marked for
10 identification as Respondent's Exhibit Number
11 104.)

12
13 Q I am going to hand 104 to the Judge, Judge Carrillo,
14 and ask you some questions about it. Is it as
15 you found it in your file?

16 A Yes, sir.

17 MR. MITCHELL: How are we going to
18 divide it?

19 MS. LEVATINO: I will look at it after-
20 wards.

21 Q I notice there is one yellow chit that is stapled.
22 Do you see that, the one that you have there?

23 A Yes, sir, there are two.

24 Q One is stapled closed?

25 A Yes, sir.

1 Q Is that the way it has been as far as your recol-
2 lection and testimony?

3 A Yes, sir, that is the way it has been. I haven't
4 touched it.

5 Q Is that the type of chit that you have been telling
6 us is the type that is contained in 1541?

7 A Yes, sir, they were written out when the forms
8 were not available and later reduced to them.

9 Q And looking at the one that the Court there is
10 examining in R-104, what is the date? What is
11 the vintage on it?

12 A That is 1963. I don't remember the exact date.

13 MR. MITCHELL: Judge, we are going to
14 offer, if we might, for purposes of showing
15 a structuring without regards to the truth
16 of the matter therein, that Exhibit, if we
17 might.

18 THE MASTER: Well, obviously you hand
19 it to Counsel.

20 MR. MITCHELL: Yes.

21 MS. LEVATINO: Counsel, when you say
22 structuring, do you mean structuring of the
23 welfare process or the way this chit is in
24 this book?

25 MR. MITCHELL: The way it's put together,

1 the pink copies, the white copies, the
2 yellow chits and how they are inter-related
3 to those various --

4 THE MASTER: Plus the fact that they
5 are stapled, I should think.

6 MR. MITCHELL: Yes, sir, uh-huh, right.

7 MS. LEVATINO: No objection.

8 MR. MITCHELL: Plus the fact that they
9 are stapled and, of course, the Court has
10 made a physical examination of 1541 to see
11 the staple markings there, a matter which,
12 unfortunately, cannot be reproduced by
13 photostatic copy, but upon suggestion, might
14 best be brought out by the appellate records
15 by having individual photostats made.

16 MS. LEVATINO: Isn't that what you're
17 referring to as the yellow chit?

18 MR. MITCHELL: Yes, several of them.

19 Might I address Counsel, Your Honor?

20 I am referring to the one dated 7-23-63
21 by Antonia Hinojosa. You have just
22 seen it, so -- there is another yellow
23 one in there that is stapled.

24 THE MASTER: There is some white ones.

25 MR. MITCHELL: And there are some

1 white ones.

2 MS. LEVATINO: No objection.

3 MR. MITCHELL: You might keep it coming
4 if you like. I am not going to ask him any
5 more questions.

6 THE MASTER: You say you offer it?

7 MR. MITCHELL: Yes, Your Honor, we do.

8 THE MASTER: Was there any objection?

9 MS. LEVATINO: No.

10 THE MASTER: It's admitted.

11
12 (Whereupon said document having been
13 previously marked for identification as
14 Respondent's Exhibit Number 104 was admitted
15 into evidence.)

16 Q Judge Carrillo, the little white and the yellow
17 chits as contained in 104, now, I will ask you in
18 looking at B-1541, if this -- strike all of that.
19 That is a very poor structured question, Judge.

20 I will ask you on the claim, and I am glad
21 to see the Court agrees with me.

22 Looking at the little chits here in B-1541,
23 I will ask you once again, Judge, having made your
24 voyage through those forty-four units, is it
25 your testimony today under oath that the chit

1 system was abandoned in the late 60's or the
2 early part of 70's?

3 A Yes, sir, it is.

4 Q Your testimony is that you recall Mr. Cleofus
5 Gonzalez's testimony that he would keep these
6 yellow ones?

7 A Yes, sir.

8 Q You're not telling this Court why or how, but it
9 would have been very easy for him to keep these
10 and insert them in this or --

11 A He was the one that said he kept them. He volun-
12 teered that. That is when I realized that they
13 were being used again, those old chits were being
14 used again.

15 Q All right. At any rate, Judge Carrillo, there are
16 only two that relate to a period of time when you
17 were judge and that was the first term?

18 A That is correct.

19 Q And there is only fifteen in one and the record
20 speaks as to what the other one is?

21 A Right.

22 Q And none in 75?

23 A Exactly. I also noticed while going over those
24 last night that the names are the same, like
25 Rita Rodriguez. You will find them in those same

1 orders, those same books, the same names: the
2 same people have been getting these orders.

3 Q It would have been an easy matter for Mr. Cleofus
4 Gonzalez if he had a mind to to keep those chits
5 back from the early days after those claims had
6 been processed and apply them to other claims in
7 the 70's, is that correct?

8 A Very easily because he kept them. See, this did
9 not go to the commissioners court or for payment,
10 only the white order went for payment.

11 Q I understand.

12 A These were retained by the office for -- by the
13 welfare office there in town.

14 Q All right. Now, Judge Carrillo, I am going to
15 move, if I might please the Court, to -- yes, now,
16 Judge, I believe that the Exhibit we introduced
17 was the one that -- did you find white slips in
18 others, in your forty-four --

19 A You will find them all over.

20 Q All right. You picked one there that I have asked
21 you to pick?

22 A Yes, sir.

23 Q It contains the yellow and the white, am I correct?

24 A Yes, sir.

25 Q Now, you have been at --

1 MR. MITCHELL: I am going to move to
2 the other inquiries, Your Honor.

3 Q You have been asked as regards whether or not --

4 THE MASTER: When you say others --

5 MR. MITCHELL: On cross-examination --
6 re-direct in connection with other Articles,
7 Judge, specifically.

8 THE MASTER: That is what I want.

9 MR. MITCHELL: Specifically, Your Honor,
10 the one Mr. Odam -- the ones Mr. Odam was
11 charged with responsibility on, 7 on.

12 THE MASTER: 7 through 12.

13 MR. MITCHELL: Yes, sir.

14 Q Mr. Odam asked you as to whether or not we could
15 take the monies reflected and follow me very care-
16 fully, in 91, 92 and 93 which are in the bank
17 accounts, and that is the combination of R-98-1
18 and the Rio Grande City bank account which is --

19 MR. ODAM: It's right here, E-162.

20 Q E-162.

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

22 MR. ODAM: What was the reference to
23 the Rio Grande City account?

24 Q I am taking the bank accounts: are you following
25 me, Judge Carrillo? The two bank accounts, the

1 Rio Grande City one and the one at Alice?

2 A That is R-81, R-89?

3 Q Right.

4 A Just a minute. R-89-1.

5 Q And the one that Mr. Odam referred to?

6 A Yes.

7 Q They don't square with the money shown on R-90,
8 91, 92 -- I mean, 91, 92 and 93?

9 A No, they do not.

10 Q 91, 92 and 93 don't purport to show income from
11 other sources, do they?

12 A They do not.

13 Q Do you recall whether the gross income under Mr.
14 Couling's returns, and no we don't have 71, but
15 72, 73, and 74 don't square with R-89-1 and E-162,
16 do they?

17 A No.

18 Q Nor do his tax returns square with R-91, 92 and 93,
19 do they?

20 A No, sir.

21 Q So, there is no way in the world to tell what that
22 man has made, is there, Judge Carrillo?

23 A That's correct.

24 Q Now, we do have and have been furnished by the
25 Attorney General income from the Duval County,

1 from the water district and from the independent
2 school district, which he was tax collector-
3 assessor. We do have those figures?

4 A Yes, sir.

5 Q And we do have the amount of deposits in the Alice
6 bank account and in the Rio Grande City bank account,
7 am I correct, or the bank at San Diego?

8 A I believe we have Rio Grande City.

9 Q And the one you have got in front of you?

10 A R-89-1 in San Diego, right.

11 Q But my question in light of that question put
12 to you by Counsel, there is no way really to
13 determine from the -- from his tax returns, from
14 the Attorney General's Exhibits 91, 2 and 3 or
15 from his own bank accounts what he really made,
16 is there?

17 A That is correct.

18 Q Because they don't square at all, isn't that
19 correct?

20 A That's correct.

21 Q And I agree that we have to assume what that
22 71 return would reflect because we don't have the
23 benefit of it, he not having produced it: you
24 understand that?

25 A Yes, sir.

1 Q But there is no doubt that Brother Couling owned
2 and had control over those bank accounts regard-
3 less of where they were, isn't that correct? The
4 records reflect that he had that control.

5 A Well, according to the banking regulations, he did
6 have control.

7 Q You didn't have control over either one of those,
8 did you, Judge Carrillo?

9 A No, I did not.

10 Q And as I understand your testimony, you received
11 no benefits from there?

12 A That's correct, sir.

13 MR. MITCHELL: No further questions of
14 this witness.

15 MR. ODAM: We have no further questions
16 of this witness.

17 THE MASTER: Thank you, Judge Carrillo.
18 You may step down.

19 (Witness excused.)
20

21 MR. MITCHELL: Judge Meyers, I would
22 like to offer at this time and I think I have
23 clarified this with Counsel as part of our
24 case, I would like to offer the testimony of
25 Ranger Gene Powell taken before the House

1 Subcommittee being Volume 8, page 250 to
2 312 and Volume 11, page 8 to 60. The latter
3 page reference dealing with specifically,
4 Your Honor, the relevancy being the equipment,
5 the DC-8 equipment on Mr. Parr's ranch and
6 first being as related to the source of the
7 split between the Carrillos and the Parrs
8 and the removal procedure and Gene Powell's
9 procedure on that transaction.

10 The reporter, as I understand it, Judge
11 Meyers, has extracted this testimony and
12 subject to the Court's disagreeing or out-
13 lining a different blueprint would like to
14 have it introduced as was done with the
15 testimony of --

16 THE MASTER: Arnolfo Guerra.

17 MR. MITCHELL: Arnolfo Guerra.

18 THE MASTER: That is satisfactory to
19 the Court.

20 MR. MITCHELL: Mr. Odam.

21 MR. ODAM: That is true, and as with
22 Mr. Guerra's testimony, we would object on
23 the relevancy of this split and the relevancy
24 of where the bulldozer is located. We do
25 not deny that whatever Mr. Powell said was

1 the truth. We simply object on the relevancy
2 of that information, the same as we do with
3 Mr. Guerra.

4 THE MASTER: Obviously I will have to
5 look at it before I can rule.

6 Mr. Mitchell, it's perfectly all right,
7 but you are, of course, in a sense out of
8 order because as I understand it -- no, I
9 am wrong. I am wrong.

10 MR. MITCHELL: My burden.

11 THE MASTER: It's still your case. I
12 thought that the Examiner had it back on
13 rebuttal, but I am being corrected about that
14 and I apologize.

15 MR. MITCHELL: That's correct, Your
16 Honor.

17 May I address the reporter to see if
18 he has those volumes prepared? I was assured
19 that they would be available so the Court
20 could have them in connection with the daily
21 copy. That is all my interest is.

22 MR. VERNON: I think, Mr. Mitchell, they
23 are still over in our office. That is what
24 I was just looking for, but I am sure that
25 is where they are.

1 MR. MITCHELL: Then, Your Honor, I would
2 like to also offer at this time the testimony
3 of Cleofus Gonzales as adduced by me in
4 questions put to him when he was recalled at
5 my request by the committee in Austin, Texas,
6 and that would appear in Volume -- at 11?
7 May I have just a minute?

8 MR. ODAM: There it is, daily copy --

9 MS. LEVATINO: I believe it's in
10 Volume 12.

11 MR. MITCHELL: Volume 12, page 5 to
12 page 68.

13 May I ask, Your Honor, if the reporter
14 has that and, if not, I believe they have
15 it available, but that would be also per-
16 missible with us if permissible with the
17 opposing counsel and if the Court approves
18 of the procedure to put it in a separate
19 volume at this point on behalf of Judge
20 Carrillo's presentation.

21 MR. ODAM: No objection leveled at
22 that, Your Honor.

23 THE MASTER: All right. That would be
24 done.

25 MR. VERNON: Excuse me, Mr. Mitchell,

1 and Your Honor. Do I understand that you
2 want these both in separate volumes, this
3 testimony?

4 MR. MITCHELL: However the Judge wants
5 them.

6 THE MASTER: The page numbers you have
7 read sounded relatively small to me. We
8 can put it under one binder and just put
9 a heading that would explain that it's the
10 testimony both of Mr. Powell and Cleofus
11 Gonzalez.

12 MR. VERNON: What I meant was as to
13 separate, daily copy transcript.

14 THE MASTER: Just like Arnolfo Guerra.

15 MR. VERNON: Just like Arnolfo Guerra.

16 MR. MITCHELL: Your Honor, we rest.

17
18
19 RESPONDENT RESTED

20
21 MR. ODAM: Your Honor, we would have
22 at least one rebuttal witness who is not
23 available right now because, frankly, I did
24 not think we would be through today.

25 THE MASTER: Well, I am not going to

1 push you for twenty or twenty-five minutes.

2 MR. ODAM: We would have some rebuttal
3 evidence, Your Honor, that we would like to
4 start in on tomorrow.

5 THE MASTER: Now, you called for Mr.
6 Couling again?

7 MR. MITCHELL: Yes, Your Honor, if that
8 is Mr. Couling, Judge, I would rather be in
9 a posture of crossing him rather than calling
10 him on my own and that is the reason for the
11 resting. If they are going to call Mr.
12 Couling back, I want to be in a position where
13 I am going to cross-examine him and I think
14 by then I will have the prior testimony.
15 Otherwise, I am willing to take a chance by
16 resting at this point. That is right.

17 THE MASTER: I see.

18 MR. MITCHELL: I didn't want in a pos-
19 ture of having to call him, Your Honor,
20 and perhaps making him my own buzzard --
21 witness.

22 MR. ODAM: You're so adept.

23 MR. MITCHELL: Thank you for permitting
24 me, Judge, to --

25 THE MASTER: Well, let's see. Do you

1 care to reveal whether that is Mr. Couling
2 or not?

3 MR. ODAM: I don't care -- I mean I
4 don't mind revealing it's Mr. Couling.

5 THE MASTER: In that event, Mr. Mitchell,
6 it's important that you let me know whether
7 you have the daily copy, what you want on
8 Mr. Couling or not and what you don't have,
9 I will supply insofar as it's in my power
10 and I think I have it all.

11 MR. MITCHELL: All right. Judge Meyers,
12 we'll go to the bus station and determine if
13 it's here --

14 MR. CUTWRIGHT: I will go call them
15 right now.

16 MR. MITCHELL: Would it be all right if
17 we could find out right now? If not, you're
18 going to get a visitor in about an hour and
19 a half. We'll come on over there.

20 THE MASTER: We'll be in recess until
21 8:30 tomorrow morning.

22
23 (Whereupon a recess was taken at 12:45
24 p.m., December 16, 1975, until 8:30 a.m., Decem-
25 ber 17, 1975.)