

**INQUIRY CONCERNING A JUDGE
NO. 5**

DECEMBER 19, 1975

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BEFORE THE
STATE JUDICIAL QUALIFICATIONS COMMISSION

INQUIRY CONCERNING A JUDGE, NO. 5

DECEMBER 19, 1975

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

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1 THE MASTER: We are on the record,
2 Mr. Owen.

3 Mr. Mitchell, my recollection is unclear
4 about the status of the subpoena for Mrs. --
5 who is the I.R.S. lady?

6 MR. CUTWRIGHT: Bonnie Gibson.

7 THE MASTER: I filed that with
8 Mr. Pipkin, did I not?

9 MR. MITCHELL: That's correct, Your
10 Honor.

11 THE MASTER: Now, I also stated into the
12 record, as I recall, what transpired between
13 Mr. McGinnes, a member of the commission, and
14 myself. I have from Mr. McGinnes a copy of
15 the subpoena that he signed and had served
16 on Mrs. Gibson which I will ask Mr. Pipkin
17 to receive and file so that it will show --
18 it does not have a return on it, but
19 presumably the one that was served had a
20 return.

21 MR. MITCHELL: The statement of the
22 Master into the record certainly satisfies
23 me, Your Honor. We'll be glad to have it
24 made a part of the record.

25 In view of the fact that Mr. Couling is

1 the witness on the stand, I wonder if I might
2 be permitted prior to the cross-examination --
3 direct examination that between now and the
4 time we get him back on cross, Your Honor,
5 that I be permitted to request that he cause
6 copies of his return to be delivered or that
7 a request be made to Mrs. Bonnie Gibson that
8 she as a representative of the I.R.S. be
9 permitted to secure and retrieve a copy to
10 deliver to him to be delivered to us for an
11 examination of particularly the year '71.

12 I think that is the only other way I
13 have got, from the way I understand the rules,
14 Judge Meyers, that a taxpayer has to make
15 that request and I would like to at least ask
16 him if he would make that request.

17 THE MASTER: You may ask him that the
18 first thing this morning.

19 MR. MITCHELL: Your Honor, may I at this
20 time further move, reassert in connection with
21 the last, I think, offer of some last -- well
22 the 186, 87, 89 and 90 series, a request for
23 at least the minimum postponement and recess
24 to permit me to assimilate the documents.

25 I can, as the Court knows, proceed with

1 some of the cross-examination of Mr. Couling
2 and am prepared to do so.

3 THE MASTER: I am prepared, Mr. Mitchell,
4 after Mr. Odam passes the witness, to go as
5 far as you feel comfortable in going on cross-
6 examination and then recess it until the 29th.

7 MR. MITCHELL: All right. Your Honor,
8 I appreciate that and so I am fair with the
9 Court and the record, I have been, as the
10 Court knows, given the Court's copy of the
11 daily copy of Mr. Couling's testimony. I
12 had previously four days ago outlined that
13 testimony and made myself ready to cross-
14 examine. I would have been in a position to
15 continue, Your Honor, without the request
16 for the postponement, but for the introduction
17 of the documentary, and I did want the Court
18 to know the reason for my request. I am
19 prepared, however, Judge, to continue, if
20 Mr. Odam does turn him loose sometime today,
21 at least on that portion that I have
22 previously prepared myself and with that I
23 will sit down.

24 THE MASTER: Are you ready to go forward,
25 Mr. Odam?

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

2 Are you prepared to proceed?

3 THE MASTER: Yes, sir.

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9 RUDOLFO M. COULING,

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

12
13 E X A M I N A T I O N
14

15 BY MR. ODAM:

16
17 Q Mr. Couling, as you will recall yesterday afternoon
18 at 1:00 o'clock --

19 THE MASTER: Excuse me.

20 Mr. Mitchell had a preliminary matter
21 that you may now go into.
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E X A M I N A T I O N

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2
3 BY MR. MITCHELL:
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5 Q Mr. Couling, I had previously served or caused to
6 be issued on you, a subpoena for your tax returns,
7 I believe, for the years 1968, '69, '70, '71, '72,
8 '73 and '74, your 1040 forms.

9 Do you recall that?

10 A Yes.

11 Q And I believe you caused to be delivered to
12 Mr. Odam of the Attorney General's staff, your
13 return for '72, '73 and '74?

14 A That's correct, sir.

15 Q And you do not have or do you have the '71 return?

16 A I have been trying to get a copy myself from the
17 Internal Revenue, sir, and I haven't been able to
18 get one.

19 Q That is the reason for my question. If you will
20 take this lady's name now and let me give you
21 where you can call, she is waiting for you to call
22 her and request it, in which event she will have
23 a copy delivered.

24 MR. MITCHELL: Judge, we have a subpoena.

25 Her name is Mrs. Bonnie Gibson. She is with

1 the district office of the I.R.S., Austin,
2 Texas.

3 Judge, her telephone number and address
4 is on that subpoena form that we had. May
5 we be permitted to give that to the witness
6 after he leaves the witness stand, the number
7 and the address so that he can call?

8 THE MASTER: Yes. I had it, but it was
9 on that subpoena form and I hope it's still
10 around.

11 Q (By Mr. Mitchell) Mr. Couling, if you will call
12 her and request that she make available the 1968,
13 the '69 and the '70 and '71 return, please, sir,
14 the 1040 form --

15 THE MASTER: All right. Now, Mr. Mitchell,
16 are you sure that the telephone call alone
17 will do it? I thought it might have to be
18 in writing.

19 MR. MITCHELL: Your Honor, you might be
20 right. I would suggest the witness make the
21 call. He has indicated a willingness to do
22 so, Judge Meyers, and comply with whatever
23 request and we'll certainly make ourselves
24 available to assist him in getting those
25 returns. Mrs. Gibson notified us, our staff,

1 that she could get them from Fort Worth in
2 one day if Mr. Couling would call on her and
3 give her the ones that he wanted. It might
4 be that she will want him to do it in writing.

5 Q (By Mr. Mitchell) But you have no objection to
6 doing that, do you, Mr. Couling?

7 A I don't see why, sir.

8 Q All right. Well, I understand you have delivered
9 the others. These are just not available.

10 A Those are the only ones I had, sir.

11 Q I am particularly interested in the 1971. If you
12 will do that and we'll assist you any way we can
13 with the permission of the Court.

14 MR. MITCHELL: Thank you, Judge Meyers.

15 THE MASTER: Yes, and I think the phone
16 call should be at your expense.

17 MR. MITCHELL: All right, Judge.

18 THE MASTER: We'll probably break a little
19 early today. You think you can do that
20 today?

21 THE WITNESS: I can phone her today and
22 if she requests a letter, I can go ahead and
23 make one.

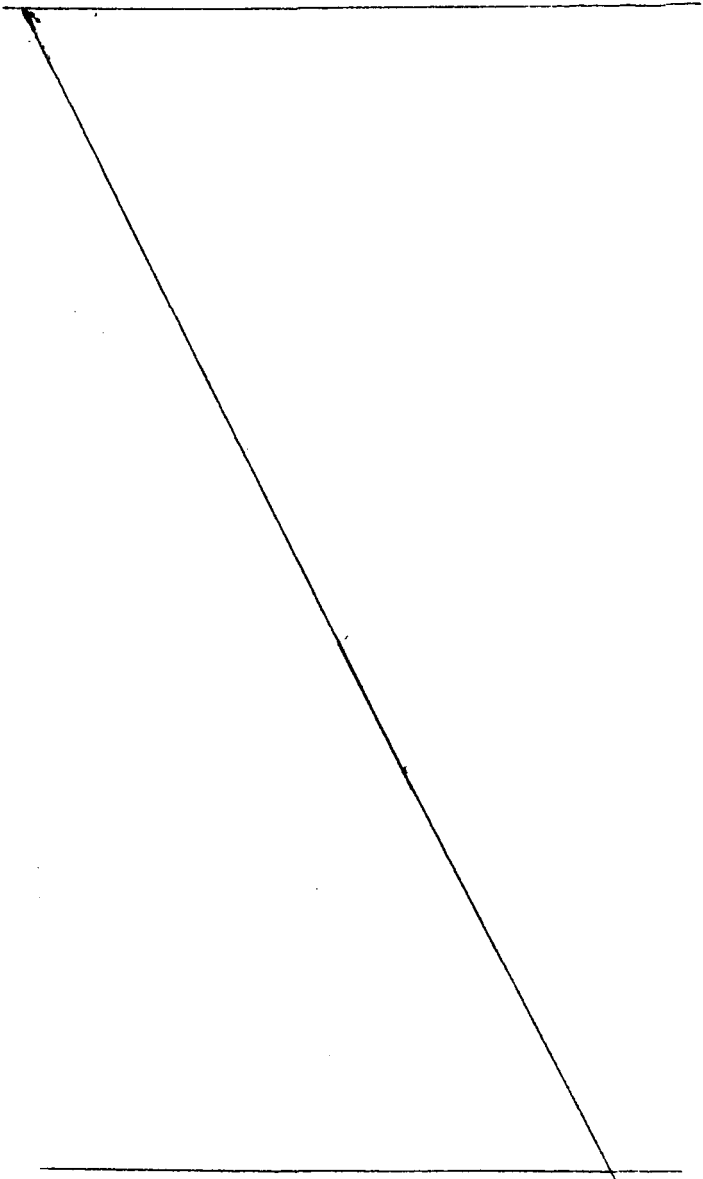
24 THE MASTER: That is very kind. Thank
25 you.

1 MR. MITCHELL: Thank you, Your Honor.

2 THE MASTER: You now may proceed,

3 Mr. Odam.

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1 MR. ODAM: Your Honor, for the examina-
2 tion of this witness, I will proceed, for
3 the benefit of Counsel and for the Master,
4 with respect to checks for these payees repre-
5 sented in them.

6 Mr. Vernon brought back this morning the
7 checks we asked yesterday he make copies of
8 for substitution into the record. The reason
9 it might take me a while to proceed through
10 this is because until yesterday we did not
11 have references to the 191 series, so to
12 have a complete record, I would want to refer
13 to a check and refer to it by E-190-1 and
14 also identify it on the chart.

15 I apologize for the little jerkiness in
16 doing so, but it is because we did not have
17 these marked until yesterday.

18 O (By Mr. Odam:) With that, I would proceed to
19 refer you back, Mr. Couling, to the chart that
20 was placed in evidence yesterday, E-192, and also
21 will state for the record and opposing Counsel,
22 what I would like to do. I will find the checks,
23 the reproduced checks I have, and I am not skipping
24 the earlier ones, but it is just that with the
25 copies Mr. Vernon got back to me, that was the

1 first one that came up.

2 MR. MITCHELL: That is E-188-1?

3 MR. ODAM: I think that is correct.

4 After the break, we will proceed back and
5 fill in the holes.

6 Q Now, referring to the chart, Mr. Couling, before
7 we began discussing the various checks, and I am
8 referring now to the column that begins with a
9 date in the middle and the payee, could you
10 explain again, Mr. Couling, what the top refer-
11 ence has regard to?

12 A It shows the date of the check, when it was
13 written, and to whom it was written, sir.

14 Q I have in my hand what the court reporter has
15 marked as E-188-1 through E-188-207 and I would
16 like to hand the original checks to the Master
17 and a xeroxed copy of the checks to Mr. Couling.

18 I will hand you, Mr. Couling, the copies of
19 the checks Mr. Vernon made. There are several
20 checks reproduced on a sheet. They have a xerox
21 machine whereby it is xeroxed on both sides, using
22 only one sheet, the front and back of the check.

23 MR. MITCHELL: We don't object to
24 E-188 series, however, as to the 174 series,
25 where the checks are payable to Judge

1 Carrillo, particularly the ones testified to
2 by the witness Williams, I would like to
3 have the originals on those. Otherwise, the
4 xeroxes are permissible.

5 THE MASTER: There are no originals
6 in the sense of being an original of the
7 Exhibit. They are xerox copies.

8 For the purpose of this hearing, I don't
9 mind requiring the Examiner to have those
10 photocopies, but he has requested to with-
11 draw and substitute and I have seen them and
12 they seem to be clearer than the originals
13 we have had.

14 MR. MITCHELL: Several of those checks
15 were written by this witness and I don't want
16 to be faced with the fact of him saying he
17 doesn't recognize what it might be because
18 it is a xerox copy.

19 THE MASTER: I said for the purpose of
20 this hearing, but once the record is complete,
21 I am going to let the Examiner, if he can
22 furnish an adequate xerox copy to substitute
23 those copies for the ones now in the record.

24 MR. MITCHELL: That is fine, Your
25 Honor, thank you.

1 Q (By Mr. Odam:) Mr. Couling, I will hand you the
2 xerox copies the court reporter made of 188-1
3 through 188-207.

4 A Yes.

5 Q And the Court has the original checks of this
6 series and I will be referring to those.

7 A Yes, sir.

8 MR. ODAM: Now, I would like to ask
9 permission of the Court for clarification,
10 as we refer to these, if there would be any
11 objection as to Mr. Couling's referring to
12 them on the chart, that they be placed on
13 the chart as to what the reference is.

14 For example, the Continental Oil Company
15 check, E-188-1, then this reference would
16 be out on the chart.

17 Do you have any objection?

18 MR. MITCHELL: No, I have done that
19 already. I am going to be cross-checking
20 you. Go ahead.

21 MR. ODAM: All right.

22 MR. MITCHELL: There are some, however,
23 we don't have, but I do understand what you
24 are doing. The four sixty-one fifty to
25 Continental Oil, you will have entered on

1 your chart, E-188-1, is that correct?

2 MR. ODAM: Yes.

3 Q (By Mr. Odam:) Let's mark them over to the right,
4 Mr. Couling, as we talk about them.

5 A Yes, sir.

6 MR. MITCHELL: Are you going to do that
7 on the original Exhibit?

8 MR. ODAM: Yes.

9 Q Now, you were explaining yesterday that the first
10 column was the date the check was written?

11 A Yes.

12 Q And the next column is the amount of the check
13 and to whom the check is written?

14 A Correct, sir.

15 Q Let's start off with this check to Continental
16 Oil Company. I am referring to -- you have before
17 you, and the Master has before him, E-188-1.

18 Do you find that on the chart itself?

19 A Yes, sir.

20 Q Could you, at this time, with the pen I gave you,
21 mark that in on the chart, E-188-1?

22 A Yes.

23 Q What does that one ten right there have reference
24 to?

25 A That is the check number.

1 Q And that appears on the reference?

2 A Yes, sir.

3 Q And this is talking about a truck with a winch?

4 A Yes.

5 Q Would you explain why it was that you wrote out
6 a check to Continental Oil for that amount?

7 A About two or three weeks before that date on the
8 check, Ramiro came by and told me that --

9 Q Excuse me, use full names.

10 A Ramiro Carrillo came by and told me Continental
11 Oil had a truck out for bids and that they were
12 going to sell the truck on bids.

13 MR. MITCHELL: We are going to object
14 to this conversation as it applies to Judge
15 Carrillo and it involves now another trans-
16 action we have no notice of and the purchase
17 of the truck is not included in the notice
18 or amended notice nor do we have notice at
19 all of the relevancy of the truck and we are
20 entitled to it.

21 The title to this truck is in the name
22 of the witness and that is the best evidence
23 and we will also object in that regard.

24 THE MASTER: If offered to prove the
25 truth, Mr. Odam, it is hearsay. If you are

1 offering it to explain why this man wrote
2 the check, but with the clear understanding
3 that whatever Ramiro Carrillo told is not
4 admissible against Judge O. P. Carrillo,
5 it is permissible to show why a certain act
6 was done.

7 MR. ODAM: Yes. The second reference
8 the Court made is why I offered the evidence
9 and that is to show why this check was
10 written.

11 MR. MITCHELL: Your Honor, I don't want
12 to quarrel on that, but I recall the Court
13 striking a second amended notice objection
14 on that very point. I don't see anything
15 in it charging Judge Carrillo with misconduct
16 or being disqualified to sit as district
17 judge, because he merely bought from Conti-
18 nental Oil a truck with this gentleman. I
19 don't see the relevancy of it, Judge Meyers.

20 THE MASTER: Well, I do. The relevancy,
21 it seems to me, is in rebuttal to the infer-
22 ence left by you with respect to R-91, 92
23 and 93. There may be other grounds, but that
24 is part of it.

25 MR. MITCHELL: Judge, may I comment on

1 that. I don't want to be misunderstood. I
2 have listened to the last two or three days,
3 and apparently something I did with R-91,
4 92 and 93, that opened up a lot of doors.
5 What is relevant as to those?

6 These were prepared by the Attorney
7 General and I have had no personal knowledge
8 of them and they were introduced.

9 THE MASTER: I thought Mr. Odam objected
10 to the R-91, 92 and 93 series.

11 MR. MITCHELL: Well, I thought we
12 crossed that stipulation bridge yesterday.

13 THE MASTER: This is explanatory as to
14 the account of Benavides Implement and Hard-
15 ware.

16 MR. MITCHELL: I look at the 91, 92 and
17 93 series and I don't see a check going to
18 Continental Oil on any of them. They have
19 nothing to do with the expenditures. This
20 is difficult to see how this testimony is
21 rebutting the 91, 92 and 93 series, which is
22 the Attorney General's own Exhibit.

23 MR. ODAM: May I comment?

24 THE MASTER: Yes.

25 MR. ODAM: Obviously R-91, 92 and 93

1 don't relate to these. It is what occurred
2 with respect to money from the water district
3 and the school district and the county into
4 Benavides Implement and Hardware. Mr.
5 Couling, when he was first placed on the
6 stand. I asked him if he did business with
7 those entities and he said yes, that he did.
8 I believe he said all of this was turned
9 over to the Attorney General's office, when
10 asked of these Exhibits, and this witness
11 was asked in the procedure of going through
12 whether or not to issue a subpoena to the
13 Attorney General Hill and show all of this
14 business with the water district and the
15 Attorney General's office and the county and
16 school district and so forth and that was
17 overruled and we proceeded from there and
18 went through the enormous documentation in
19 that regard.

20 It was after that was in evidence to
21 represent business done with those three
22 entities that Mr. Mitchell, and rightfully
23 so, from a legal standpoint again, Mr.
24 Mitchell began to examine Judge Carrillo on
25 the point of look how much you were supposed

1 to have gotten and look how much the store
2 got and R-100 was prepared to show how much
3 was received from all of these entities.

4 The clear inference was how much was
5 received by this man and the full purpose
6 of this evidence in rebuttal is to rebut
7 that Rudolfo Couling profited from that in
8 that regard. It is going to testimony of
9 this witness saying that he had no equipment
10 to rent and how could he do that and it is
11 credible and that is the whole purpose of
12 this.

13 THE MASTER: The objection is overruled.

14 MR. MITCHELL: May we have a continuing
15 objection as to each and every item inquired
16 into that relates to anybody except O. P.
17 Carrillo on these checks?

18 THE MASTER: Yes.

19 MR. MITCHELL: I would like to be free
20 to make inquiry, however, as to other persons
21 but --

22 THE MASTER: You may proceed, Mr. Odam.
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1 THE MASTER: You may proceed, Mr. Odam.
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7 E X A M I N A T I O N

8 (CONTINUED)
9

10 BY MR. ODAM:
11

12 Q Mr. Couling, first of all, the acoustics in this
13 room -- this might help -- the acoustics are not
14 real good. But if you would speak into the
15 microphone and if you would speak slowly so we
16 can all understand and we'll be listening into
17 these little squawk-boxes, but do speak slow when
18 you explain and I would like to go back as to why
19 you wrote out the check to Continental Oil, so I
20 can hear that and Mr. Mitchell can hear that.

21 A It was about two or three weeks before the date
22 of this check, which was issued on the fourth
23 month, the 26th day of 1971 that Ramiro came by
24 and said Continental had a truck for sale and we
25 should put a bid in. So, I put a bid in.

1 So, several weeks after the bid was put in,
2 we were notified that we were the ones that had
3 gotten the closed bidding and we therefore bought
4 the truck. Ramiro went and picked up the truck
5 at Continental and from that day on to the present
6 he has been using it himself. I never had no use
7 with it. The truck is still in my name and that is
8 the only thing I have, just the title, and I had
9 no use of the truck, sir.

10 Q Now, the truck you're referring to, you have of
11 your own personal knowledge, you know that that
12 truck is in the physical possession of Ramiro
13 Carrillo?

14 A It was, sir, the last time I saw it.

15 Q And the truck that you're referring to that was
16 purchased by way of this check, the title is, you
17 stated in your name or in the store name.

18 A The store name, sir.

19 Q There is a check here of May the 14th for five
20 hundred dollars which is E-188-2. Can you
21 identify a five hundred dollar check for No. 112
22 on the chart to Oscar Carrillo?

23 MR. MITCHELL: Judge Meyers, I don't
24 like to continue to object. I know that the
25 Court doesn't like to have a continuing

1 objection-type relationship with counsel,
2 but this was Oscar Carrillo. We would have
3 the same objection. I don't like to -- I
4 have already stated them, I think, clearly in
5 the record and the Court understands our
6 position and the Court has overruled them.

7 May I just have an understanding where
8 there is no -- the payee is not O. P. Carrillo,
9 Judge Carrillo, that the objection will be
10 hearsay, beyond the scope, beyond the term,
11 nonjudicial act and surprise, and those
12 objections that we previously leveled at
13 188-2, Judge.

14 THE MASTER: No, 188 -- E-188-1. You
15 can have those continuing objections.

16 MR. MITCHELL: Good. Thank you very
17 much.

18 MR. ODAM: May I have just one moment,
19 Your Honor?

20 THE MASTER: Yes, sir.

21 Q (By Mr. Odam) The check dated May 14th, you find
22 the entry on the chart for it for five hundred
23 dollars?

24 A Yes, sir.

25 Q And it states on here leased two tractors and at

1 this time, if you have not already done so, could
2 you put on the chart the 5-14-71 entry. This is
3 Check No. 12. This would be E-188-2.

4 MR. MITCHELL: Pardon me, Counsel. Do
5 you have an extra copy of those checks?

6 MR. ODAM: No, I don't. We have got one
7 Xerox substitute which he has --

8 MR. MITCHELL: Well, that is all right.
9 I think it's important to you and the Court
10 to have them and I know the Court is going
11 to let me get them when I get ready.

12 Q (By Mr. Odam) 188-2 for five hundred dollars. Why
13 did you write out a check to Oscar Carrillo?

14 A At the beginning Mr. D. C. Chapa and Rogelio
15 Guajardo Jr. came by and gave me a check for
16 seven hundred and fifty --

17 Q Wait. What do you mean at the beginning?

18 A At the beginning of the year 1971. When we
19 started -- in fact, this was the first check that
20 was issued from the water district, I believe, to
21 this date.

22 Q We have in evidence that there was another one
23 earlier on 4-16-71. This would probably be the
24 second one.

25 A When the checks came in the first time, every time

1 I get a check for seven hundred and fifty dollars
2 from the water district, I in turn was supposed to
3 make a check to Oscar Carrillo, D. H. Carrillo,
4 in the amount of five hundred dollars, and the
5 balance of the two hundred and fifty dollars that
6 I have to make a check payable to Ramiro Carrillo
7 and Brothers.

8 Q Who told you to do that?

9 A D. C. Chapa and Rogelio Guajardo.

10 Q D. C. Chapa is the father of O. P. Carrillo?

11 A And Oscar Carrillo and Ramiro Carrillo, and he
12 was the president of the water district at that
13 time.

14 Q This is the same D. C. Chapa that cosigned water
15 district check that is already in evidence?

16 A Yes.

17 Q Rogelio Guajardo, who is he?

18 A It's the grandson of Mr. D. C. Chapa and a nephew
19 to Mr. O. P. Carrillo.

20 Q Now, it states on here, this particular check is
21 leased two tractors. The check was written out
22 to Oscar Carrillo. That might mean that you leased
23 two tractors from Oscar Carrillo?

24 A No, sir, there was no tractors. There was no
25 involvement, just some paper work. That is all it

1 was. If I am not mistaken, I believe these
2 particular invoices were made by Cleofus Gonzalez
3 at the Farm and Ranch on my stationery.

4 Q Did your store, Benavides Implement and Hardware,
5 did it rent or lease two tractors from Oscar
6 Carrillo?

7 A No, sir, we never did.

8 MR. MITCHELL: In addition to the other
9 objections on that, Your Honor, of that
10 testimony, we would add the one Best Evidence
11 Rule is violated, being taken from a variance
12 from R-91, 92 and 93.

13 THE MASTER: All right. The objection
14 is overruled.

15 Q (By Mr. Odam) Now, when we have them identified
16 and in evidence, back up on the earlier entry of
17 five hundred dollars on 4-16-71; you see what I
18 am referring to?

19 The first check to Oscar Carrillo.

20 A Yes, sir, that is the one I marked E-1 --

21 Q Well, if it's the first one on the chart, you
22 marked that -- you should not have marked that.
23 You should have marked the one that is down on
24 May the 14th, 1971. You see?

25 A Right. Yes, sir, right.

1 Q Where it says Check No. 112.

2 A Yes.

3 Q Out beside where it says 112, you should put in
4 parentheses, E-188-2.

5 A Yes.

6 Q And if you put an exhibit reference up on one on
7 April the 16th of 1971, that should be stricken
8 out and filled in a later date.

9 A Yes, sir.

10 Q We will go back at a later point and fill in the
11 check reference and the exhibit reference with a
12 five hundred dollar check.

13 Let's go down to the third entry on the
14 chart which is a check for a thousand eight dollars,
15 O. P. Carrillo. I believe that this is a check
16 that is already in evidence, 4-16-71, and I would
17 like at this time to refer to that check and for
18 the benefit of the Court and the record, we are
19 referring to the third entry on the chart, the
20 thousand and eight dollars from 4-16-71, and in
21 our original case on Paragraph 7 is E-65.

22 MR. MITCHELL: Yes, I recall it.

23 Thank you.

24 THE MASTER: Excuse me.

25 Off the record.

1 (Whereupon, an off-the-record
2 discussion was had.)
3

4 Q I show you what was previously marked, or a copy
5 of what was previously marked as E-65 and ask you
6 to identify that item, please, sir.

7 A Yes, sir, that is a check dated on the fourth
8 month, 16th day of 1971 for a thousand and eight
9 dollars made payable to O. P. Carrillo, sir.

10 Q And the chart, if you would, please, mark in
11 parentheses out beside that check to O. P.
12 Carrillo where it's the check number. It's blank
13 on my -- what is the check number there?

14 A There is no number on the check, sir.

15 Q I see. That is what it means, no number. I
16 thought that was a duplication.

17 Would you put out beside the number sign
18 E-65?

19 A Yes, sir.

20 Q Now, there is a dash line from a thousand and
21 eight running over to a notation from the county
22 of a thousand and eight dollars.

23 As the Court recalls, there is in evidence a
24 check marked from the county made out to Benavides
25 Implement and Hardware. The check is E-57 and

1 rather than take the time at this point to pull
2 it out, I would like just to have the witness put
3 in parentheses E-57 and we'll go back in at a
4 break and pull that out.

5 A Which check is that?

6 Q This is a counter check, one thousand eight dash
7 county, and put E-57 there.

8 A Okay.

9 Q Now, that is a good place to illustrate why is
10 there a dash line on the chart from the thousand
11 and eight dollar check from the county to a
12 thousand and eight dollar check to Judge O. P.
13 Carrillo.

14 A That shows the amount that was paid from the
15 county to my store and exactly the same amount the
16 store paid out to O. P. Carrillo, sir.

17 Q And on April the 16th of 1971, there was a check
18 made out to Oscar Carrillo for five hundred dollars.
19 There is also a check made out to Ramiro Carrillo
20 and Brothers, R. Carrillo and Brothers, two hundred
21 and fifty dollars, and I notice on the chart that
22 there is a dash line connecting over to the water
23 district check of April the 16th of 1971.

24 What is the reason for the dash line going
25 from the water district over to the five hundred

1 dollar check to Oscar Carrillo and the two
2 hundred and fifty dollars to R. Carrillo and
3 Brothers?

4 A To show that the store did receive a check for
5 seven hundred and fifty dollars and in turn made
6 out two checks which I make no profit at all to
7 Oscar Carrillo and Ramiro Carrillo and Brothers,
8 and the two checks amount to seven hundred and
9 fifty dollars.

10 Q And you skip down and follow me here, Mr. Couling.
11 Look down on the deposit source. Water district
12 check on April -- correction, May the 17th, 1971,
13 in the amount of seven hundred and fifty dollars.
14 You see that?

15 A Yes, sir.

16 Q And you have a dash line running over to the five
17 hundred dollar check to Oscar Carrillo and a dash
18 line to R. Carrillo and Brothers for two hundred
19 and fifty dollars.

20 Do you see that dash line?

21 A Yes, sir.

22 Q I would like for you to refer on your chart --
23 correction, refer to the copies of the checks now,
24 to the third check. It's E-188-3.

25 A Yes, sir.

1 Q You find that check?

2 A Yes, sir.

3 Q What is the exhibit number on that check?

4 THE MASTER: You just said E-188-3.

5 MR. ODAM: I want to be sure the witness
6 sees how I am referring to these exhibit
7 numbers.

8 Q (By Mr. Odam) You see where it's marked with an
9 exhibit number?

10 A Yes, sir.

11 Q Okay. And you do see where it says E-188-3 on
12 the check?

13 A Yes, sir.

14 Q Okay. Now, at this time I would like for you to
15 put in out beside the check number, which is 114,
16 which is on the check itself, 114, put in
17 parentheses 188-3.

18 A Yes, sir.

19 MR. MITCHELL: Excuse me. So I won't
20 have to cross-examine him, I wonder if I
21 could ask counsel, is that No. 114, is it for
22 two hundred and fifty or is it to R. Carrillo
23 and Brothers and is it 5-17-71?

24 MR. ODAM: Yes.

25 THE MASTER: The check actually is

1 not R. Carrillo. It's made out Ramiro
2 Carrillo and Brothers.

3 MR. ODAM: Yes, sir.

4 MR. MITCHELL: Thank you, Judge Meyers.

5 Q (By Mr. Odam) Now, this particular check does
6 not have a description as to why the check was
7 written out. Could you explain why you wrote out
8 a two hundred and fifty dollar check to Ramiro
9 Carrillo and Brothers for two hundred and fifty
10 dollars on May the 17th, 1971?

11 A Yes, sir, I was told that every time I received
12 a check from the water district in the amount of
13 seven hundred and fifty dollars, it was divided
14 into two checks, one for five hundred dollars made
15 payable to Oscar Carrillo or D. H. Carrillo and
16 the balance of the two hundred and fifty would be
17 made out to R. Carrillo and Brothers.

18 Q Did you at any time with respect to this check
19 rent from Ramiro Carrillo and Brothers any
20 equipment or any property, any tractor, bulldozer?
21 Did you rent any equipment from Ramiro Carrillo
22 and Brothers?

23 A No, sir.

24 Q Now, the check that you made out for two hundred
25 and fifty dollars, did you -- strike that.

1 The check that you got from the water
2 district for seven hundred and fifty dollars, did
3 you rent any equipment to the water district that
4 this seven hundred and fifty dollar check of
5 May the 17th was written out for? Did you rent
6 any equipment on that?

7 A No, the store didn't have no equipment to rent to
8 anybody, sir.

9 MR. MITCHELL: You didn't mean seven
10 hundred and fifty, did you, Counsel?

11 MR. ODAM: Seven hundred and fifty
12 dollars, the water district check of May the
13 17th of '71, seven hundred and fifty from
14 the water district.

15 MR. MITCHELL: All right.

16 Q Now, the check from the water district, well, if
17 I might refer to it and just for an illustration
18 I will go to the R-93 -- R-93. The date that we
19 have entered on the chart for the water district
20 check is 5-17-71 and you find the date of 5-11-71
21 on R-93, the water district check, 5-11-71.

22 A Yes.

23 Q And the amount of money there is seven hundred
24 and fifty dollars?

25 A Seven hundred and fifty dollars.

1 Q And has an invoice number of 49, I believe.

2 A That's correct, sir.

3 Q Now, was that an invoice number for any equipment
4 that you rented to the water district that made
5 out that invoice number?

6 A No, sir, I don't know what Cleofus wrote down, but
7 the store didn't have no equipment to rent to
8 nobody, sir.

9 MR. MITCHELL: That was another
10 objection, Your Honor, that the invoice was,
11 of course, written by Cleofus Gonzalez and
12 would be hearsay to this witness. I think
13 perhaps they are all included in my initial
14 objection, Judge Meyers.

15 THE MASTER: The objection is, for the
16 record, overruled.

17 Q (By Mr. Odam) So, you got a check from the water
18 district for seven hundred and fifty dollars and
19 you in turn wrote out two hundred and fifty to
20 Oscar Carrillo and Ramiro Carrillo and Brothers,
21 is that correct?

22 A No, sir. Two hundred and fifty to Ramiro Carrillo
23 and Brothers and five hundred to Oscar Carrillo.

24 Q Oscar Carrillo got five hundred dollars?

25 A Yes, sir.

1 Q All right. Now, I want to be sure that we are
2 clear. Were you renting any equipment from Oscar
3 Carrillo?

4 A No, sir.

5 Q Were you with respect not only to this check,
6 Mr. Couling, but with respect to any and all other
7 entries where we have checks which we will discuss
8 with respect to Oscar Carrillo, were you renting
9 any equipment from Senator Carrillo there?

10 A No, sir, I never did rent anything from Oscar
11 Carrillo. I didn't have no use for any equipment,
12 if he had any equipment to rent.

13 Q Did you rent at any time any equipment, not only
14 with respect to this particular check from Ramiro
15 Carrillo and Brothers, but any and all checks from
16 Ramiro Carrillo and Brothers? Did you rent any
17 equipment from them? Were you paying them these
18 payments back because they had rented equipment to
19 you?

20 A No, sir, as far as I know, Ramiro Carrillo and
21 Brothers, all I knew about it, it was just a
22 checking account they had in the bank. So, I
23 didn't know if they had any equipment at all
24 whatsoever, sir.

25 Q It's your testimony under oath here, and I am sure

1 Mr. Mitchell might have a couple of questions to
2 ask you about that, but it's your testimony that
3 you did not rent from Ramiro Carrillo and Brothers
4 any equipment?

5 A No, sir.

6 Q This check and any other check is not for the
7 purpose of having any rental equipment?

8 A No, sir.

9 Q And while we are on the subject -- I don't know if
10 you're aware of it or not, but there is testimony
11 in this record or evidence in this record that
12 Judge O. P. Carrillo said some of the checks --
13 and we won't go through them because the record
14 speaks for itself. Some of the checks, Mr. Couling,
15 that were made out by you to Judge Carrillo was
16 because Judge Carrillo through Cleofus Gonzalez,
17 I believe the testimony was, made equipment
18 available to you to rent and you were paying him
19 back for that equipment that you had rented or the
20 store had rented from him?

21 A The store never did rent no equipment from
22 nobody, sir, not from Judge Carrillo, Oscar
23 Carrillo or Ramiro Carrillo and Brothers or
24 Farm and Ranch.

25 Q So, Benavides Implement and Hardware never

1 physically rented any equipment from Judge O. P.
2 Carrillo?

3 A No, none whatsoever, sir.

4 Q When these checks were made out to Oscar Carrillo
5 and to Ramiro Carrillo and Brothers, did you ever
6 give a check -- who did you give the checks to,
7 for example, the check to Oscar Carrillo; who did
8 you physically give that to?

9 A D. H. Carrillo, which is Oscar Carrillo's son.

10 Q How old is D. H. Carrillo?

11 A He is in his late twenties or early thirties. I
12 don't know how old he is.

13 Q This is Oscar's son?

14 A Yes, sir.

15 Q Who did you give the Ramiro Carrillo and Brothers'
16 check to?

17 A Ramiro Carrillo.

18 Q To Ramiro Carrillo?

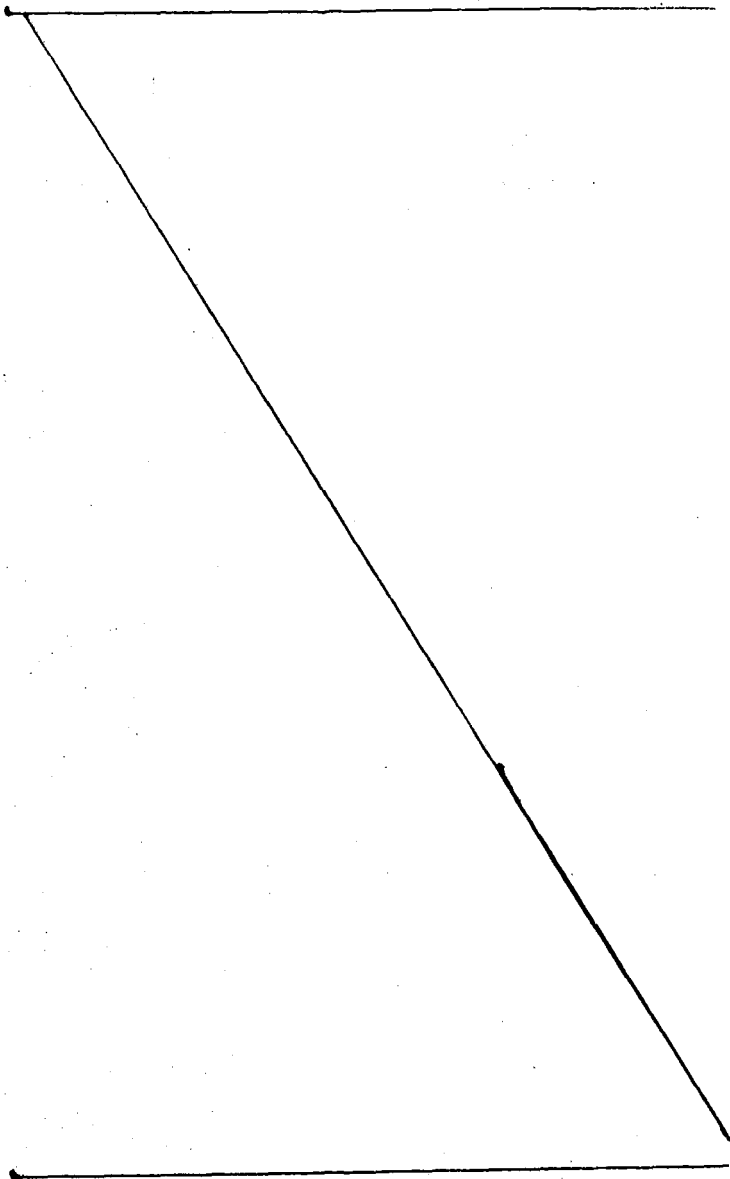
19 A Yes.

20 Q Now, I show you what has been marked as E-186-2,
21 my -- I might have said 2. I meant dash 12.

22 I show you what has been marked as E-186-12
23 and ask if you can identify for the record, please,
24 sir, what that purports to be?

25 A That is a check made out payable to Farm and Ranch

1 Store for the amount of one thousand two hundred
2 and five dollars and twenty-seven cents dated
3 April the 16th, 1971, sir.



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1 Q Can you identify the same entry on April 16th on
2 your chart?

3 A Yes, sir.

4 Q And at this time, could you put in parenthesis
5 there beside that 186-12?

6 A Yes, sir.

7 Q E-186-12, it says grass and pine, which is typed
8 in on that check. It is payable to the Farm and
9 Ranch Store for grass and pine.

10 Now, let's talk for just a moment, Mr.
11 Couling, about the relationship between the Farm
12 and Ranch Store and Benavides Implement and Hard-
13 ware Store. Here we have a check for one thousand
14 two hundred five dollars twenty-seven cents,
15 E-188-12 --

16 MR. MITCHELL: No, E-186-12.

17 Q Yes, I am sorry. E-186-12.

18 Why would you make out a check that states
19 on it to be for grass and pine, why would you
20 make out a check in that amount for the Farm and
21 Ranch Store?

22 A When I got the check from the county, I asked
23 Ramiro Carrillo what it was for and he said they
24 turned in invoices to the county in that amount
25 and there was no grass and pine sold to the county

1 by Benavides Implement and Hardware or Farm and
2 Ranch.

3 Q You are talking about Ramiro Carrillo and Cleofus
4 Gonzalez in that regard?

5 A Yes.

6 Q You could not testify as to whether or not what
7 is identified on that check, grass and pipe,
8 whether that was bought by the county?

9 A No, sir, I cannot.

10 Q You don't know if it was or not?

11 A No, sir.

12 Q Your testimony is that your store did not pur-
13 chase grass and pipe from the Farm and Ranch
14 Supply?

15 A No, sir, we did not, sir.

16 Q There is previous testimony in the record, Mr.
17 Couling, about the relationship between Farm and
18 Ranch and Benavides Implement and Hardware. I
19 want to make clear, were you renting any equipment
20 from Farm and Ranch Supply?

21 A No, sir.

22 Q And this check, was that being paid to Farm and
23 Ranch Supply because you rented any equipment
24 from them?

25 A No, sir.

- 1 Q And the check says it was for grass and pine?
- 2 A Yes, sir.
- 3 Q And you were not paying Farm and Ranch Supply
- 4 because you or Benavides Implement and Hardware
- 5 had bought grass and pine from them?
- 6 A No, sir.
- 7 Q Now, you will notice on the chart there are two --
- 8 the first two entries on your chart on the left.
- 9 there is a two hundred ninety dollar eighty-four
- 10 cent check and nine hundred fourteen dollar forty-
- 11 seven cent check.
- 12 A Yes, sir.
- 13 Q Why do you have a dash line from those two county
- 14 checks to the Farm and Ranch check?
- 15 A If you add the two checks, they give you the
- 16 total of one thousand two hundred five dollars
- 17 twenty-seven cents, sir.
- 18 Q And it is your testimony the reason the dash line
- 19 is there is because of the receipt into your
- 20 store of those two county checks and you made
- 21 out the check to Farm and Ranch Supply for those?
- 22 A Yes, sir.
- 23 Q And I take it by your discussion that you per-
- 24 sonally did not turn in the invoices to the county?
- 25 A I never took any statements or bills to the county

1 at all, sir.

2 Q These were turned in by someone else?

3 A Yes, sir.

4 Q Let's go ahead and skip over, although I don't
5 have right now the Exhibit number, but the first
6 entry of seven hundred eighty dollars, it says
7 Rudy Couling special account. Can you explain
8 why that transaction happened?

9 A I don't know if the bank notified me I was short
10 or what, but I made a check from the Benavides
11 Implement and Hardware to that account, sir.

12 Q And over on the left, it says source, and you have
13 no indication as to the source of that seven
14 hundred eighty dollar check which is indicated
15 on a deposit slip?

16 A No, sir, I don't remember where it came from.

17 Q Now, the entry I will next refer you to is the
18 five hundred ninety-four dollar ninety-five cent
19 check to Farm and Ranch Supply. Do you see that,
20 sir?

21 A Yes, sir.

22 Q If you would, at this time, mark out beside it
23 E-186-11.

24 MR. MITCHELL: This series right here?

25 MR. ODAM: Yes.

1 MR. MITCHELL: Thank you.

2 Q Have you done that, Mr. Couling?

3 A Yes, sir.

4 Q I will hand to you the copy of the check which
5 is in evidence. Can you identify your handwriting
6 on that check?

7 A Yes, sir.

8 Q What is the description as to the reason for that
9 check?

10 A Supplies.

11 Q Did your store, Benavides Implement and Hardware,
12 buy any supplies here from the Farm and Ranch
13 Store?

14 A No, sir.

15 Q Now, I notice on the chart -- let me mark it on
16 mine -- that you have a dashed line going over
17 to the water district. Do you see that entry on
18 the deposit?

19 A Yes, sir.

20 Q And I refer you to R-93, to the water district,
21 the five hundred ninety-four dollar ninety-five
22 cents, and do you see on R-93 the first entry
23 on there, five hundred ninety-four dollars ninety-
24 five cents?

25 A Yes, and it says supplies and material.

1 Q That is what I was going to ask. There is a nota-
2 tion there, what is W and S System?

3 A Water system.

4 Q You have on the chart, the dash line between
5 the water district check and the Farm and Ranch?

6 A Yes, sir.

7 Q Now, can you state whether or not Farm and Ranch
8 sold any supplies to the school district?

9 MR. MITCHELL: Hearsay, certainly.

10 Q If you have personal knowledge --

11 A I don't know, sir.

12 Q You don't know if they did or did not?

13 A I don't know, sir.

14 Q Why did you write out a check for that amount?

15 A The bill was brought to me and it was said that
16 the Farm and Ranch sold supplies and I again made
17 out the check to the Farm and Ranch Store.

18 Q On E-186-12, you did not personally buy any
19 supplies from Farm and Ranch?

20 A No, sir.

21 Q Correction, I included E-186-12 and E-186-11 in
22 that question, both of those.

23 A Yes, sir. I understand.

24 Q Let's look back at the checks you have with you,
25 and I refer you to E-188-4. Do you see the check

1 number?

2 A Yes, sir.

3 Q Can you find the check or payee on your chart?

4 A Yes, sir, dated May 18, 1971.

5 Q That is for eighty dollars?

6 A Yes, sir.

7 Q And the check number is there, and would you put
8 out beside that E-188-4?

9 A Yes, sir.

10 Q What is the description as to the purpose of
11 that check?

12 A 117.

13 Q This is May, 1971, could you explain why you
14 wrote out a check to Eloy Carrillo for eighty
15 dollars?

16 A Well, sir, again, he came to the store. When
17 somebody needed to purchase something, he went
18 and opened the store and sold it to them, whatever
19 item it was. He opened the store maybe an hour
20 or two on Saturday. The rest of the week, when
21 he was available, he would go and open the store,
22 so that check was payment for the month for when
23 he opened the store for an hour or two or three
24 hours or whatever.

25 Q Would that be true as to all checks to Eloy Carrillo

1 that were made out to him?

2 A Yes, sometimes you find I made him a check for
3 two months, say one hundred sixty dollars.

4 Q Now, skipping down to check 136, do you see that
5 on the chart on the first page, the check to Eloy
6 Carrillo?

7 A What date?

8 Q Number 136.

9 A Yes, I have it here.

10 Q Would that be the same reason for that check?

11 A Yes, sir.

12 Q If you would, put out in a parenthesis beside
13 that check E-188-14.

14 A Yes.

15 Q I would like to have you refer back up the chart
16 to May 27, 1971, a check to Ramiro Carrillo and
17 Brothers. Do you see that check for three hun-
18 dred dollars?

19 A Yes.

20 Q Ramiro Carrillo and Brothers, one twenty-one.

21 A Yes, sir.

22 Q Would you put out beside that check E-188-5?

23 A Yes, sir.

24 Q And would you look at the original check to
25 Ramiro Carrillo and Brothers?

- 1 A Yes, sir.
- 2 Q And it says hay for resale, did you buy hay from
3 Ramiro Carrillo and Brothers for three hundred
4 dollars?
- 5 A No, sir.
- 6 Q I see you have a dash line on there from that
7 check to the county on the same date, 5-19-71.
- 8 A Yes, sir.
- 9 Q I will ask you to look at R-91, and this is the
10 fifth line down. Do you see the check from the
11 county represented here on 5-12-71 and the claim
12 number, what is that?
- 13 A B-1181.
- 14 Q How much is that?
- 15 A Three hundred dollars.
- 16 Q Now, what is the relationship between this
17 county check for three hundred dollars and the
18 check to Ramiro Carrillo and Brothers for three
19 hundred dollars?
- 20 A When the checks came in for three hundred dollars
21 or three hundred five or three hundred ten dollars,
22 Ramiro Carrillo told me I had in turn to make a
23 check to Ramiro Carrillo and Brothers for that
24 amount.
- 25 Q What was that for?

1 A I don't know, they either put in bills or I
2 put in bills and there was no merchandise sold.

3 Q Did your store resell some hay to the county for
4 three hundred dollars?

5 A No, sir, I did not. I don't see why the county
6 needed hay either.

7 MR. MITCHELL: He has no personal
8 knowledge as to that. It would be hearsay.

9 MR. ODAM: Let me rephrase the question.

10 Q Did your store buy hay from Ramiro Carrillo and
11 Brothers for three hundred dollars and in turn
12 did your store sell that hay to the county for
13 three hundred dollars?

14 A No, sir, I didn't buy no hay and I didn't sell
15 no hay, sir.

16 Q What was the three hundred dollar check to
17 Ramiro Carrillo and Brothers for, if you know?

18 A I don't know, sir.

19 Q Do you recall when you made out the check for
20 three hundred dollars, to whom did you give this
21 three hundred dollar check to?

22 A Ramiro Carrillo.

23 MR. MITCHELL: We have a continuing
24 objection, as I understand, to all trans-
25 actions between this witness and third parties.

1 THE MASTER: Yes, sir.

2 Q The next check I would like to refer you to is
3 E-188-6. Do you find that original check?

4 A Yes, sir.

5 Q And the date of that is 5-28-71?

6 A Yes, sir.

7 Q And I see that this particular check is made out
8 to Alamo Iron Works and in the amount of two
9 thousand dollars and it is not on the chart and
10 was an omission. I would like for you at this
11 time, where the blank space is on the chart, to
12 fill that amount in.

13 A Yes, sir.

14 Q Would you take that pen and write in the date of
15 that check, 5-28-71?

16 A Yes, sir.

17 Q And out in the amount of that check, two thousand
18 dollars, and out in the payee, Alamo Iron Works?

19 A Yes, sir.

20 Q That check number is 122?

21 A Yes, sir.

22 Q And that is E-188-6?

23 A Yes, sir.

24 Q Now, why did you write out a check for two thousand
25 dollars on account, as it is listed here?

1 A I used to buy from Alamo Iron Works and it is
2 a wholesale house in San Antonio. It is like
3 rods and pipe and so forth, staples and wire and
4 nails and everything.

5 Q While we are on that, you might skip over, if you
6 would, to the second page, and you see there the
7 fourth entry down in the checks for August 6th,
8 1971?

9 A Yes, sir.

10 Q And would you mark on your chart E-188-21. That
11 is check number 149?

12 A That would be E- what, sir?

13 Q E-188-21.

14 A All right, sir.

15 Q And the check says on it E-188-21, on account.
16 Is this the same transaction with Alamo Iron
17 Works, the purchase of supplies?

18 A Yes, sir.

19 Q And numerous other checks are on there for Alamo
20 Iron Works?

21 A Yes, sir.

22 Q I notice another check, 162, to Alamo Iron
23 Works.

24 A Yes, sir.

25 Q Do you see that?

1 A Yes, sir.

2 Q Would that be for the same situation?

3 A Yes, sir.

4 Q Now, referring back now --

5 MR. MITCHELL: Did you have an Exhibit
6 number on that check?

7 MR. ODAM: No, I don't have it right
8 now.

9 MR. MITCHELL: All right.

10 Q Mr. Couling, I notice on 6-11-71 there is a two
11 hundred dollar entry on the first page to Rudolfo
12 Couling, 6-11-71, two hundred dollars to Rudy
13 Couling, do you see that?

14 A Yes, sir.

15 Q What is that, AC?

16 A Advice of charges, sir.

17 Q What happened there?

18 A I believe it was a transfer in the bank from one
19 account to the other.

20 Q From the BIH Hardware account to Rudolfo Couling's
21 account?

22 A Yes.

23 Q Is that the same or different than Rudy Couling's
24 special.

25 A The same one, sir.

1 Q Let's take the next one, 6-12-71, do you see
2 that check?

3 A Yes, sir.

4 Q Three hundred thirty-three dollars n/nety-nine
5 cents?

6 A Yes, sir.

7 Q Would you look at the series of the checks and
8 mark out beside that E-188-8?

9 A Yes.

10 Q Why would you write out a check to Sears for
11 three hundred thirty dollars nine-nine cents, which
12 is E-188-8?

13 A I bought either a color television or an icebox.

14 Q What was this for, for your own use?

15 A No, I sold it, sir.

16 Q To whom?

17 A Either Mr. Powell or --

18 Q Who is Mr. Powell?

19 A Eunice E. Powell.

20 Q What was his position?

21 A He was superintendent of the Freer School District.

22 Q Who is Felipe Valero?

23 A He is also with the school district.

24 Q And the T.V. would be for who?

25 A The T.V. was for Eunice E. Powell and the icebox

1 for Felipe Valero.

2 Q We might as well fill in the next check, which
3 is E-188-10, check number 127. Do you see that
4 check that is E-188-10 and the entry on that
5 chart is 6-17-71?

6 A Yes, sir.

7 Q Would you put in parenthesis out beside that
8 check E-188-10?

9 A Yes, sir.

10 Q Now, that is a check for two hundred fifty
11 dollars and the check states on it to be for hay.
12 Did you buy any hay from Ramiro Carrillo and
13 Brothers for that amount of money?

14 A No, sir.

15 Q You have a dash line back to a water district check
16 for 6-17-71?

17 A Yes, for seven hundred fifty dollars.

18 Q And there is that dash line connecting the Oscar
19 Carrillo check, which is similar to an earlier
20 transaction we looked at, is it not?

21 A Yes, sir.

22 Q Would your testimony be the same as to this check
23 written out and those two checks written out?

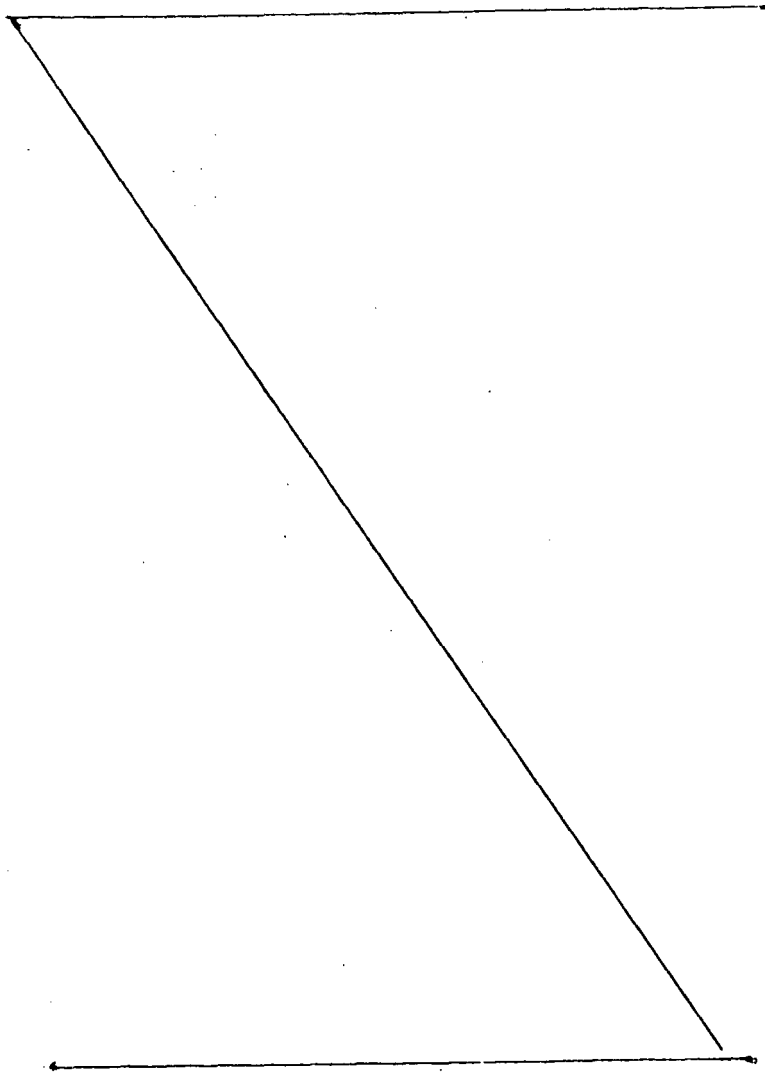
24 A Yes, sir.

25 Q Did you -- the water district, the check, for

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example, on 6-17-71, did your store actually sell,
the Benavides Implement and Hardware Store, did
it sell any supplies around that date to the
water district for seven hundred fifty dollars?

A No, sir.



1 Q (By Mr. Odam) Well, why would you receive a check
2 from the county, or correction, from the water
3 district for seven hundred and fifty dollars?

4 A Once again, sir, it was one of those bills that
5 either was prepared by Cleofus or myself on
6 instructions by D. C. Chapa or D. H. Carrillo.

7 MR. MITCHELL: Judge, we are going to
8 move again and, now, particularly he has gone
9 out and put some other folks in there. We
10 are going to object -- the same objection, as
11 to any deal with Chapa, Guajardo on the same
12 basis as to the prior testimony with Ramiro
13 Carrillo as to Judge Carrillo. We are going
14 to object on the grounds it's hearsay as to
15 Judge Carrillo. It's certainly beyond the
16 scope of any original notice or formal notice
17 and as to Judge Carrillo, there is no
18 connection. There is no relevancy and we
19 object to it.

20 THE MASTER: Overruled.

21 Q (By Mr. Odam) Now, the entry on R-93, on the
22 water district business, the entry down here on
23 R-93 is 6-15-71. It's claim No. 5883. Do you
24 see that on R-93?

25 A Yes, sir.

1 Q And that check is in the amount of seven hundred
2 and fifty dollars?

3 A Right, sir.

4 Q Out beside it, could you read what it's for?

5 A Material sewer system, Benavides.

6 Q Now, did your store sell any materials for sewer
7 system to the water district?

8 A Not at that time, no, sir.

9 Q And you don't know whether or not the Farm and
10 Ranch Supply did or not?

11 A No, sir, I don't know if they did or not.

12 Q Well, as a matter of fact, these particular checks
13 that you tie back across, didn't go to the Farm
14 and Ranch Store, did they, on the 6-17th entry?

15 A No, sir.

16 Q They went to who?

17 A To Oscar Carrillo and Ramiro Carrillo and Brothers.
18 Do you know whether Oscar Carrillo and Ramiro
19 Carrillo and Brothers sold any materials to the
20 water district, if you have any personal knowledge?

21 MR. MITCHELL: I know I haven't had much
22 success on this, but, Lord, that is hearsay,
23 whether or not this witness who is --

24 THE MASTER: Mr. Mitchell, his answer is
25 going to be I don't know. That is the point.

1 THE WITNESS: I don't know, sir.

2 MR. ODAM: That is --

3 THE MASTER: That is the point Mr. Odam
4 wants to make.

5 MR. ODAM: I asked him if he had any
6 personal knowledge of whether Oscar Carrillo
7 and Ramiro Carrillo --

8 Q (By Mr. Odam) You have any knowledge whether they
9 sold --

10 A I don't know.

11 Q You don't know?

12 A I don't have any knowledge, no, sir.

13 Q I would like for you to look at E-188-11.

14 A Yes, sir.

15 Q You see that check?

16 A Check No. 129, sir.

17 Q Yes, sir. Could you identify that, please, on the
18 chart?

19 A Yes, sir. It's made on the 6-17th-1971, for
20 eight hundred and twenty dollars.

21 Q And would you write out on the chart, E-188-11
22 beside the name Paul Ramirez, No. 129.

23 Now, why would you write out a check for
24 eight hundred and twenty dollars to Paul Ramirez --
25 and before you answer that question, who is Paul

1 Ramirez?

2 A There is no such name as Paul Ramirez; that is one
3 of the names that Rogelio Guajardo, Jr. used for
4 me to issue checks payable from the store to the
5 school district, sir.

6 MR. MITCHELL: Certainly that would be
7 way beyond the scope of legitimate inquiry,
8 use of a third party of the name Paul
9 Ramirez and some kind of arrangement this
10 witness had with him and the name that relates
11 to Judge Carrillo --

12 THE MASTER: Mr. Mitchell, I think I
13 agree with you, but as I understand the
14 thrust of counsel's examination in this
15 matter, it's not directly related to any
16 paragraph in the First Amended Notice, but
17 it's an explanation in detail of the
18 activity of the Benavides Implement and
19 Hardware Company. And I think that explanation
20 has now become relevant and the objection is
21 therefore overruled.

22 MR. MITCHELL: Well, Judge, if you will
23 look at the endorsement, and the reason that
24 my objection becomes important, this man got
25 the money, according to the endorsement.

1 Now, if he had a deal with this fellow,
2 Ramirez -- another man who he says used the
3 name Paul Ramirez, if they used or had a
4 deal, certainly I don't know what that has got
5 to do with Judge Carrillo.

6 THE MASTER: I don't know what it does,
7 either. Probably nothing, but it does explain
8 in detail this account.

9 Q (By Mr. Odam) Now, Mr. Mitchell asked the
10 question. Could you turn that copy of Paul
11 Ramirez, the copy of the check on the back.

12 A Yes, sir.

13 Q You notice up at the top it has the name Paul
14 Ramirez. Who wrote out there, if you know, Paul
15 Ramirez?

16 A Rogelio Guajardo did, sir.

17 Q And why would both his name Paul Ramirez and your
18 name Ramiro Carrillo -- correction, R. M. Couling,
19 appear on it?

20 A I believe in that check -- I cashed that check for
21 him or he went to the store or went to the bank
22 and cashed the check.

23 Q You did not personally write out the name Paul
24 Ramirez?

25 A No, sir.

1 Q And Rogelio Guajardo, this is D. C. Chapa's
2 grandson?

3 A Yes, sir.

4 Q What connection, if any, did he have with the
5 school district, or correction, water district?

6 A He was employed for the water district, sir.

7 Q Did he have any connection with the school district?

8 A He was a board member, sir.

9 Q He was a board member of the school district --

10 A Yes, sir.

11 Q And an employee of the water district?

12 A Yes, sir.

13 Q Now, we are talking about Rogelio Guajardo?

14 A Junior, yes.

15 Q Who is Paul Ramirez?

16 A There is no -- he uses that name.

17 Q Why does he use the name Paul Ramirez?

18 A I don't know, sir.

19 MR. MITCHELL: That would be hearsay,
20 Judge, and we are going to --

21 MR. ODAM: Strike the name as to why.

22 THE MASTER: The answer was I don't know.

23 THE WITNESS: I don't know.

24 Q (By Mr. Odam) Just mark the fifty dollar check
25 to Eloy Carrillo. That is 188-12.

1 MR. MITCHELL: That is Elroy, isn't it?

2 Q (By Mr. Ocam) How do you pronounce his name?

3 A It's supposed to be Eloy, E-L-O-Y.

4 Q That L shouldn't be on the chart. What is the man's
5 name?

6 A Eloy Carrillo.

7 Q How do you spell Eloy?

8 A E-L -- E-L -- I don't know how to spell it.

9 Q Put on the check as E-L-O-Y.

10 MR. MITCHELL: Put on the check

11 E-L-O-Y.

12 Q I think that is a misspelling on the chart. It
13 should be --

14 A E-L-O-Y is on the other check before that.

15 Q Why don't you strike on the check -- how do you
16 pronounce his name?

17 A Eloy or Eloy.

18 Q Eloy?

19 A Yes.

20 Q What is his occupation other than this part-time
21 work for the store, if you know?

22 A He is a deputy sheriff of Duval County, sir.

23 Q And this check says on it to be for salary?

24 A Yes, sir.

25 Q This is for the same purpose indicated in earlier

1 testimony?

2 A Yes, sir.

3 Q Let's skip down to Check No. 141. This is the
4 next number, E-188-17. Would you put on the
5 chart down there the check to David H. Carrillo
6 for five hundred dollars, put E-188-17.

7 A Yes, sir.

8 Q Now, can you find the check itself, Check No. 141,
9 the top of one of the Xerox pages?

10 A Yes, sir.

11 Q And that check E-188-17, is that the same as the
12 entry there on the chart for the same date, July
13 15th of '71?

14 A Yes, sir.

15 Q What is the description on the check itself?

16 A It says two and a half tubing and three-quarters
17 rods, made payable to D. H. Carrillo for five
18 hundred dollars.

19 Q Who is David H. Carrillo?

20 A He is the son of Oscar Carrillo, sir.

21 Q Is he the same as David H. Carrillo, the same as
22 David H. Carrillo?

23 A Yes, sir.

24 Q I believe, Judge Carrillo said that David Carrillo
25 had a grandson and his name is -- you know that

- 1 boy?
- 2 A He is called David, too.
- 3 Q All right. So, they are different Davids?
- 4 A Yes, sir.
- 5 Q And this is David H. Carrillo?
- 6 A Yes, sir.
- 7 Q Is this David H. Carrillo, have any relationship
8 with the water district or the school district
9 for the county?
- 10 A Not at this particular date on the check, sir.
- 11 Q I take it from your answer that he did before or
12 some time after?
- 13 A He was a school board member, sir.
- 14 Q What, did he run for the school board?
- 15 A No, sir.
- 16 Q How did he get on the school board?
- 17 A Oscar Carrillo resigned and he took his place.
18 He was appointed on his place.
- 19 Q The school board appointed him?
- 20 A Yes, sir.
- 21 Q Now, the check itself says tubing and rods. Did
22 you buy any rods or tubing from David H. Carrillo?
- 23 A No, sir.
- 24 Q Why did you make out a check to David H. Carrillo
25 for five hundred dollars?

1 A As you noticed there was no checks made payable
2 to Oscar Carrillo on that month, so, we made it
3 out to D. H. Carrillo, which was the same
4 transaction as before, on the seven hundred and
5 fifty dollars water district check to my store.

6 Q And I noticed that you have the lines going across
7 here connecting the seven hundred and fifty
8 dollars water district check. You see that check
9 on the chart?

10 A Yes, sir.

11 Q Seven hundred and fifty, and it's dashed across
12 to David H. Carrillo and to Ramiro Carrillo and
13 Brothers, No. 138.

14 A Yes, sir.

15 Q Now, do you know -- well, strike that.

16 The seven hundred and fifty dollar check from
17 the water district, did your store sell any
18 supplies to the water district?

19 A No, sir.

20 Q You have any personal knowledge as to whether or
21 not Ramiro Carrillo and Brothers sold any supplies
22 to the water district?

23 A No, sir.

24 Q You don't know?

25 A I don't have any personal knowledge, no, sir.

1 Q Do you know whether or not David H. Carrillo sold
2 any tubing or rods to the water district?

3 A I don't know, sir.

4 Q The next check is 188-18, and for the benefit of
5 everyone concerned, it's not my intention to go
6 through two hundred and seven checks and identify
7 each one unless required to do so. I simply want
8 to show the pattern, and I think after the pattern
9 is established, and we get some of them going,
10 they will be reoccurrences and it's not necessary,
11 but I will try to cover each one of them and I
12 am sure if I don't, Mr. Mitchell, if it's necessary,
13 he will. I just want to put everybody on notice
14 that I am not going through two hundred and seven
15 checks.

16 MR. MITCHELL: Off the record.

17
18 (Whereupon, an off-the-record
19 discussion was had.)
20

21 Q Check No. 142. You identify that on the chart
22 to 142.

23 A Yes, sir.

24 Q And would you put out beside it E-188-18.

25 A Yes, sir.

1 Q Those correspond to two hundred and twenty-four
2 dollars and thirty cents. Now, there is no
3 notation on the check itself. Did you rent any
4 equipment from Ramiro Carrillo and Brothers for
5 two hundred and twenty-four dollars and thirty
6 cents?

7 A No, sir, I did not, sir.

8 Q Now, you don't have any dash line on the chart
9 connecting it; why would you write out a check to
10 Ramiro Carrillo and Brothers for two hundred and
11 twenty-four dollars and thirty cents?

12 A Because it probably had been included on one of
13 his checks there like you have it from the county,
14 sir.

15 MR. MITCHELL: Excuse me, sir.

16 A I couldn't testify which checks are not, but it
17 had to be a check that was issued from the county
18 to my store.

19 MR. MITCHELL: The answer would be
20 speculation, I believe, the way the witness
21 structured the answer would be, that he
22 probably did not know and we move to strike
23 it being not within his --

24 THE MASTER: Let me ask you: Do you know
25 or are you speculating?

1 THE WITNESS: I don't know, sir.

2 THE MASTER: Motion granted.

3 Q Okay. Mr. Couling, throughout this chart you have
4 lines drawn across with direct connections where
5 identifiable sums of money in one column and
6 identifiable sums in the other are off a few
7 cents; for example, there is a line at the bottom
8 of the chart from the county check for a thousand
9 eighteen dollars and sixty-five cents and then a
10 connection over for a thousand and eighteen dollars
11 to O. P. Carrillo and that is already in evidence.
12 I believe that relates to Paragraph 2 and exhibit
13 numbers we can fill in at a later time.

14 So there are ones that are very -- that are
15 exactly the same, seven hundred and fifty and two,
16 five hundreds and this --

17 A Yes, sir.

18 Q Which are very close, except a few cents or a few
19 dollars --

20 MR. MITCHELL: Excuse me, Counsel. Did
21 you say Paragraph 2?

22 MR. ODAM: No, Paragraph 8 I intended.

23 MR. MITCHELL: Yes.

24 MR. ODAM: Paragraph 8 for a thousand
25 and eighteen.

1 MR. MITCHELL: Yes.

2 MR. ODAM: I am sorry. I was thinking
3 of the second paragraph having to do with
4 Benavides Implement and Hardware.

5 Q (By Mr. Odam) Now, where they are not specifically
6 traceable across, we see a number of checks from
7 governmental entities, to the water district,
8 school district and county and for the time being,
9 a number of checks to Ramiro Carrillo and Brothers
10 or Farm and Ranch Supply. My question to you
11 generally is: If you know of your own personal
12 knowledge, why would you -- strike that.

13 I think I will just have to get to it as I
14 come to it.

15 MR. ODAM: I would like to cover, Your
16 Honor, if I could, one other check on this
17 page before we take a break and that will
18 conclude Page 1 and that is the check No.
19 E-188-20. Would you mark on your chart the
20 check to D. Aldrete for twenty-two dollars
21 and fifty cents as E-188-20.

22 THE MASTER: Excuse me.

23 MR. MITCHELL: I have got it --

24 Q (By Mr. Odam) E-188-19.

25 You see what I am talking about?

1 A Yes, sir, Check 143, sir.

2 Q Yes, 143.

3 Why did you write out a check to D.

4 Aldrete and who is D. Aldrete?

5 A He is the F.F.A. teacher of the Benavides High
6 School, sir, and that year I believe I showed --
7 I showed a loan to the F.F.A. boys and this I gave
8 the boys a check and that was the reason the
9 check was issued for twenty-two fifty.

10 MR. ODAM: Your Honor, I see that there
11 are a few more that I need to fill in on the
12 first page and I can do so now or after
13 break.

14 THE MASTER: You also implicated that
15 you could do a little organizing during the
16 break and --

17 MR. ODAM: Yes, sir, I will do that and
18 try to get the bank copies of checks and the
19 original copies and see if I can get them
20 lined up.

21 THE MASTER: We'll be in recess for
22 twenty minutes.

23

24 (Whereupon, a recess was taken.)

25

1 THE MASTER: Mr. Odam, Mr. Couling told
2 me at the recess that he thinks he had
3 better check with his lawyer about those
4 returns. I certainly encourage people to
5 check with their lawyers and I assume every-
6 body here agrees with that.

7 MR. MITCHELL: Yes, Judge.

8 THE MASTER: You will be in touch with
9 Mr. Odam, who will be in touch with Mr.
10 Mitchell on that?

11 THE WITNESS: Yes, sir.

12 THE MASTER: And I suppose, if we
13 need any further hearing, we can do it in
14 Austin rather than come back to Corpus Christi?

15 MR. ODAM: Yes, sir.

16 MR. MITCHELL: I am wondering, and I
17 have some subpoenas that arise out of the
18 testimony given by this witness and, while
19 I don't know and seek for the witnesses --
20 some of them claimed for their own reasons
21 the Fifth Amendment.

22 I would like to have their testimony
23 and I wondered if I might file with the
24 Court to request the local judge, and this
25 judge, some of the folks that I am going

1 to bring in to testify. What procedure
2 should I follow on some of these witnesses
3 to be assured that I get their testimony
4 when I get them over here? Do I have leave
5 to request the Master to make a petition
6 of the local judge as well?

7 THE MASTER: Who are you talking about?

8 MR. MITCHELL: We do need to get their
9 testimony. -- I am sorry, Your Honor.

10 THE MASTER: I said, who are you talk-
11 ing about?

12 MR. MITCHELL: Well, for example, Eloy
13 Carrillo, Oscar Carrillo, Ramiro Carrillo,
14 Rogelio Guarjardo.

15 THE MASTER : Well, of those you have
16 named, only one has previously been called.

17 MR. MITCHELL: That is right.

18 THE MASTER: So, you don't know
19 whether these folks will or will now invoke
20 the Fifth?

21 MR. MITCHELL: No, I don't.

22 THE MASTER: It seems to me, the steps
23 as to the subpoena would be for you to put
24 them on the stand, and if they decline to
25 answer, then ask me to petition a local

1 district judge to order them to testify.
2 I would urge you, if you think that is apt
3 to happen, to have some petitions prepared
4 in advance.

5 MR. MITCHELL: All right, sir.

6 THE MASTER: And we can fill in the
7 names if we need to.

8 MR. MITCHELL: That is what I am getting
9 at. We will submit them to the Court as the
10 witnesses, if they do take the Fifth, then
11 we can request that they be granted immunity.

12 THE MASTER : Do you want me to sign
13 subpoenas today?

14 MR. MITCHELL: Yes, sir, I have them
15 prepared.

16 THE MASTER: How are you going to get
17 them served?

18 MR. MITCHELL: Well, we will have ample
19 time, because of Mr. Couling on cross-
20 examination, I will have him there for a
21 couple of days. That is the reason I have
22 not filed my request for subpoenas.

23 THE MASTER: I thought maybe you would
24 want them Monday, the 29th.

25 MR. MITCHELL: No, I could file those

1 subpoenae at that time and then when Mr.
2 Couling's cross-examination runs its course,
3 then I will be able to know who to subpoenae.

4 MR. ODAM: May I comment on that, Your
5 Honor?

6 THE MASTER: Yes.

7 MR. ODAM: I would like to take, for
8 example, the thing that concerns me is when
9 you take a witness like Ramiro Carrillo, who
10 has already taken the Fifth Amendment and
11 then Mr. Carrillo being represented by Mr.
12 Mitchell and Rogelio Guarjardo and this is
13 leveled at Ramiro Carrillo, for example,
14 and we subpoenaed Ramiro Carrillo and now
15 Mr. Mitchell wants to subpoenae him and if
16 he invokes the Fifth Amendment, Mr. Mitchell
17 wants to have him ordered to testify and
18 his client granted immunity on that basis.

19 The thing that concerns me is Mr.
20 Mitchell is getting immunity for his clients
21 in possible state cases as a result of this
22 testimony and I don't know how -- we are not
23 subpoenaing these witnesses and if we are
24 not ordering them to testify, how can Mr.
25 Mitchell represent a client and advise him

1 to take the Fifth and then have the Court
2 instruct him to answer and, thereby, request
3 that he be given immunity.

4 That just disturbs me that the predi-
5 cate is being laid for all of these people
6 to be granted immunity.

7 THE MASTER: It may be that is a good
8 reason for the judge in Nueces County who
9 hears it to decline to direct him to testify.

10 You see, I regard my job in this matter
11 as pretty much ministerial. I am requested
12 to do something and I think I need to read
13 it, but the fact that I just filed the peti-
14 tion -- well, I am going to let you two
15 argue the reasons why and why not to order
16 him to testify.

17 What is the statute, does it give some
18 discretion to the Court?

19 MR. ODAM: The statute --

20 THE MASTER: Do you have it there,
21 I would like to read it.

22 MR. MITCHELL: Judge Meyers, I think
23 Counsel's point is well taken and perhaps
24 now there is some character of conflict and
25 for the record I am going to withdraw as

1 Counsel for Ramiro Carrillo and will decline
2 to represent any of the persons named in the
3 Exhibit that I might subpoena.

4 I state for the record that at the
5 time that I represented Ramiro Carrillo,
6 I had no knowledge of the existence of this
7 Exhibit or the turn of the evidence.

8 I think Counsel is correct and I will
9 put it in the record for the Master and the
10 Supreme Court that I do feel a conflict has
11 now arisen and I will withdraw as present-
12 ing Mr. Ramiro Carrillo and represent to this
13 Court I will not represent him or the other
14 witnesses I will subpoena. I am doing this
15 so I can give my one hundred per cent loyalty
16 to Judge O. P. Carrillo.

17 MR. ODAM: I appreciate that very much.
18 The other one I had reference to was Rogelio
19 Guarjardo.

20 MR. MITCHELL: Yes, and I represent
21 him in an unrelated matter and the same
22 statement goes to him as well.

23 As far as these proceedings are concerned,
24 and I represent to the Court I have not
25 contacted any of these people as regards

1 these proceedings, but not having known
2 how the testimony was going to turn, that
3 is the reason this was not done earlier
4 than at this time.

5 THE MASTER : Do you have the statute?

6 MR. ODAM: Yes, sir, and for the benefit
7 of Counsel, it is Article 5966A, Section 14.

8 MR. MITCHELL: Referring back to 8?

9 MR. ODAM: That is right. And I think --

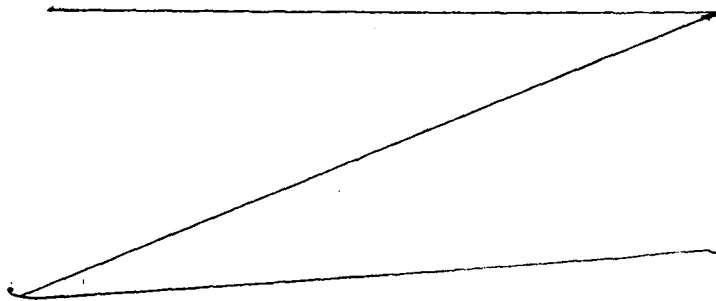
10 It appears to be, when it says may be
11 required to testify and when so required --

12 THE MASTER: Read the balance under 8.

13 Mr. Odam, it may well be a matter for
14 study next week, but let's go on with the
15 examination of this witness and worry about
16 the immunity matter at a later time.

17 MR. ODAM: May I have just one moment,
18 sir?

19 THE MASTER: Sure.



1 MR. ODAM: Your Honor, the reason I
2 pause even in the examination of this wit-
3 ness and continue to develop testimony
4 through this witness is that it appears that
5 even from the testimony elicited thus far
6 that there might be possible criminal cases
7 against individuals that have been discussed
8 by this witness thus far. And I do not
9 want to do anything further that would in
10 any way grant immunity to these people, not
11 because I am out to prosecute them, but
12 immunity in my mind is something that is
13 a matter to be considered by a prosecutor
14 of a criminal case.

15 In other words, I do not want to
16 develop the case for the Examiners for the
17 Judicial Qualifications Commission insofar
18 as the District Attorney in Duval County
19 would handle his criminal cases, and I say
20 that in light of what Mr. Mitchell has
21 stated about subpoenaing these people to
22 come forward who, if they took the Fifth
23 Amendment, somehow would be granted immunity
24 and criminal cases would be lost.

25 That is all to say that I just don't know

1 at this point in my own mind how much more
2 I want to develop and possibly open the
3 door along the lines of what Mr. Mitchell
4 has stated and that is why I think that it's
5 a point that is a concern immediately and
6 not at some later time.

7 THE MASTER: I see your point. I had
8 not followed your thinking.

9 Well, it's a matter of considerable
10 importance that you have to weigh right
11 now. You may want to contact other people
12 in your office. As I say, I am content to
13 leave early and let you ponder this matter.

14 MR. ODAM: Well, I would -- the statute
15 appears to me, the section 14, "Any person
16 who refuses to testify," and let's forget
17 Mr. Couling and Judge Carrillo and let's
18 take, for example, Ramiro Carrillo. "Any
19 person who refuses to testify before the
20 Commission on the ground that he is testifying
21 may tend to incriminate him may nevertheless
22 be required to testify." Now, that is where
23 the discretionary -- nevertheless he may
24 be required to testify and produce such docu-
25 ments. That may obviously, as we all know,

1 is different from the shall, "that shall not
2 be subject to indictment," and the shalls
3 that appear in Section 8. "may nevertheless
4 be required to testify and produce such docu-
5 ment or record."

6 Now, the question is where's that dis-
7 cretion? Is it in the Master or is it in
8 the district court? As the Court pointed
9 out in Section 8, "If other person other than
10 a judge refuses to attend or produce docu-
11 ments, the Commission or the Master may
12 petition any district court."

13 THE MASTER: But then you read the dis-
14 trict court does not have discretion. The
15 discretion may be vested in me, but the
16 district court as I read it only has to see
17 if the subpoena is regular and has to order
18 him to testify if the subpoena is. Don't
19 you think the discretion may well be in me.

20 MR. ODAM: In Section 8, I am sure it's
21 not --

22 THE MASTER: No, that is the district
23 court.

24 MR. ODAM: "The Court shall order the
25 person to appear and a copy of the order

1 shall be served --

2 THE MASTER: Well, I --

3 MR. ODAM: It appears that the Court
4 shall order such a person to testify. Then,
5 you drop back to the portion of Section 14
6 in commas, but when so required to testify,
7 provision -- Section 8, "Such person shall
8 not be subject." That the two may's are
9 number one, in Section 14, "Any person who
10 refuses may nevertheless be required to
11 testify if the Master requires him to testify."

12 THE MASTER: Well, if the Master sees
13 fit to file a petition with the district
14 court --

15 MR. ODAM: And that, I think, is the
16 second may is -- let's say that the Master
17 requires him to testify. He may neverthe-
18 less be required to testify to produce such
19 documents: that that is a requirement that
20 you place on a witness. You say I require
21 you to testify. There is no immunity attached --
22 that attaches, but if so required by the
23 Court -- well, that is the first bit of dis-
24 cretion ^{is} the Master saying, I require you
25 to testify.

1 Now, the witness at that point could
2 or could not testify. Let's assume that he
3 chose not to testify. Then, the second area
4 of discretion comes when under Section 8,
5 "If any person refuses the Master may peti-
6 tion for an order compelling his testimony."

7 And that is where it would be my posi-
8 tion at the present time and again I would
9 probably have to consult people in the dis-
10 trict attorney's office as well as in our
11 office since it does involve criminal cases
12 in which I have not been involved in. I
13 probably at this point think I would take
14 the position that if one of these witnesses
15 took the stand and if either Mr. Mitchell
16 or I began to ask some questions and they
17 refused to testify under the Fifth, I would
18 urge the Court not to require them to testify
19 because to do so would move into the next
20 area of discretion and I would do so because
21 it would be setting up an area where those
22 particular individuals would be -- also
23 have immunity. And if the Court were to go
24 ahead and say, I require you to testify, and
25 then if they still invoke the Fifth, then,

1 I would urge the Master to not petition in
2 discretionary because to do so would clearly,
3 once that petition is filed, it's, as Mr.
4 Mitchell' knows, he -- well, he won't be
5 representing them any more, but somebody
6 else would be representing some people who
7 would have some pretty clear immunity.

8 So, all I am advising Mr. Mitchell of
9 and the Court is that if Mr. Mitchell sub-
10 poenas Rogelio Guariardo, Ramiro Carrillo,
11 Oscar Carrillo and either he or I out ques-
12 tions to them and if they invoke the Fifth
13 Amendment, I would first of all, urge the
14 Court not to require them to testify under
15 the discretion of Section 8. But if the
16 Court chose to go ahead and require them to
17 do so and if they continued to invoke the
18 Fifth, then, I would take the position that
19 I would urge the Master not to petition the
20 district court under the discretion in
21 Section 8 because to do so would, in effect,
22 be granting immunity by the actions of the
23 Master on some very, very major criminal
24 cases when we are just talking about the
25 credibility of this witness and in this

1 particular case as opposed to Duval County
2 criminal cases that the District Attorney is
3 prosecuting, that is just something that has
4 to be weighed.

5 And, so, again, the reason I go into
6 all of this now is that I do think it is
7 a matter of concern right now and not -- I
8 don't want to bind myself by my actions
9 with respect to immunity and do something
10 that I didn't intend to do later on.

11 MR. MITCHELL: Well, Judge, I have a
12 great deal of admiration for my colleague,
13 Mr. Odam. The main reason I told the Court
14 is from the beginning he is from Baylor,
15 this doesn't sound like the same man up
16 here that petitioned this Court about Mr.
17 Jose Saenz, and because the pen has been
18 opened and all of the horses have gotten
19 into the lower field, I, of course, have not
20 got no control over that. I have prepared
21 already, and will file at the time at this
22 point for Mr. Rogelio Guariardo, Junior,
23 a subpoena, Mr. Oscar Carrillo, a subpoena,
24 Mr. Eloy Carrillo, a subpoena, Mr. Ramiro
25 Carrillo, a subpoena, Mr. D. H. or David H.

1 Carrillo, a subpoena, Mr. Abel Yzaguirre, a
2 subpoena and Mr. George Zertuche.

3 Now, I don't think, Your Honor, that --
4 and incidentally, that is the reason I made
5 my statment at the outset. I think the way
6 the rule reads that I can also trigger the
7 procedure and I think that the Master here
8 simply triggers the procedure. That is I
9 can request the Master I would like to file
10 this subpoena. The witness is brought in.
11 He avails himself of his constitutional
12 protective rights. I request that he be
13 ordered to testify and that matter is in
14 the jurisdiction of the district court.

15 THE MASTER: Well, Mr. Odam, have we
16 come to a halt here?

17 MR. MITCHELL: We have one for Mr.
18 D. C. Chans, also, Judge, that I want to
19 add and I would like to file these at this
20 pdnt.

21 THE MASTER: Well, I thought you said
22 that at any earlier session that you would
23 be just as content for me to sign them
24 Monday, the 29th.

25 MR. MITCHELL: Well, yes, Judge. I

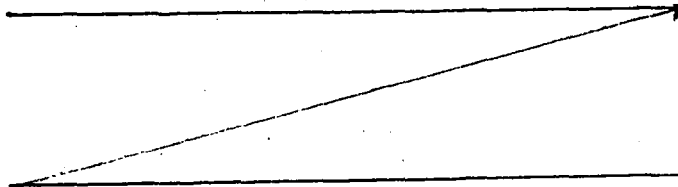
1 didn't know I was going to stir up -- I have
2 them already prepared out of fairness, Judge,
3 and I just didn't know that there was going
4 to be that position taken by the Attorney
5 General.

6 MR. ODAM: Well, if I might respond
7 on the earlier gentleman, Jose Saenz, and I
8 think the other one was Roberto Elizondo
9 at that time were both represented by Mr.
10 Mitchell. We did weigh in our minds in this
11 case whether or not we wanted to trigger
12 that procedure and the reason that I did not
13 at that time, and I am not taking any differ-
14 ent course. I didn't go into it in as great
15 a detail. I talked to people other than the
16 Examiners about what the possibilities would
17 be and it wasn't just for time purposes that
18 those gentlemen were not -- that procedure
19 didn't go through, but it was because, for
20 example, Roberto Elizondo was on a court
21 reporting case. We waived that and we waived
22 the balance of all of our evidence in this
23 case and where we stood as far as evidence
24 in that case and all that other witnesses
25 who testified and know very frankly I came

1 to the conclusion that I did not want to go
2 through that procedure and have Mr. Roberto
3 Elizondo to get immunity for his actions
4 with respect to that testimony and that evi-
5 dence. Of course, it's no different than
6 before.

7 As a matter of fact, it's consistent
8 with that position because the -- we did
9 not go through with the procedure. All I
10 am doing now is stating at the outset on
11 much more significant criminal cases what
12 our position would probably be.

13 Now, that does not respond to the ques-
14 tion that the Master put to me. It was
15 whether or not we are ready to proceed with
16 this witness. It appears to me that the
17 Court has heard testimony from Mr. Couling
18 with respect to Rogelio Guarjardo, with
19 respect to Ramiro Carrillo, D. C. Chapa,
20 at least those.



1 MR. MITCHELL: Oscar, Eloy.

2 MR. ODAM: Oscar, Eloy Carrillo. He has
3 heard a lot of testimony and kind of knows
4 where we stand and has heard what Mr. Mitchell
5 has stated. And I guess what I am saying is,
6 I do not want to continue to ask questions
7 of this witness and put the Master more in
8 the position to where the -- I am speaking
9 very candidly and very open about it, of
10 what is on my mind. I don't want to dig
11 more of a hole to where when the discretion
12 comes along, that the Master says, well, I,
13 in exercising my discretion, I now feel after
14 hearing a full day or more of testimony
15 from Mr. Couling that I want to require them
16 and require them upstairs to do so.

17 What I am saying is: That if possible,
18 I would like an indication from the Master
19 whether or not these witnesses, if they were
20 subpoenaed and if they were to come in and
21 if they took the Fifth, if the Master would
22 require them to testify and if they failed
23 to testify, if the Master would go ahead and
24 exercise the discretion and to go into a
25 state district court in this courthouse,

1 and again, the reason being that I would
2 pose at this time is I do not want to
3 continue to develop evidence in this case
4 to where the Master later on would be in a
5 position, well, I have no choice, really, in
6 good conscience, in light of what Mr. Couling
7 has stated for four days. You have left me
8 in no position, Mr. Examiner, except to do
9 so.

10 THE MASTER: Well, I can't, of course,
11 tell you what I would do. I would want to
12 undoubtedly weigh the same matters that you
13 are weighing, but my inclination is that
14 since the Supreme Court has the authority to
15 refer it back to a Master, I would give
16 some weight -- that would bear on me, because
17 if this goes to the Commission and then to
18 the Supreme Court, which is by no means
19 certain, but if it does go -- certainly it
20 will go to the Commission.

21 By no means it will go to the Supreme
22 Court, but if it does go to the Supreme Court,
23 they might want to do a little interpreting
24 of that statute and tell us whether it's
25 discretionary or mandatory and if it's

1 discretionary, they can indicate whether they
2 think it's serious error. I would hope for
3 my inclination to be open for a Supreme
4 Court opinion before I just flat put it into
5 something.

6 MR. ODAM: Well, I certainly appreciate
7 that, but I don't know how we get to the
8 Supreme Court with it unless you deny and
9 you not order them to testify.

10 THE MASTER: The only way you get to the
11 Supreme Court is to appeal, but you see, I
12 am not afraid of that as much as I am in the
13 trial of a lawsuit because if in the trial of
14 a lawsuit you exclude some testimony that
15 should have been admitted, you get to try
16 the whole lawsuit over again. That is not
17 the situation here as I read the rules.

18 As I read it, the Supreme Court can
19 say, we want to hear the testimony of Ramiro
20 Carrillo and send it back to the Master for
21 that purpose.

22 Isn't that the way you read the rules?

23 MR. ODAM: Oh, yes, sir, I do, but that
24 would be at a point after it has gone through
25 the Commission stages and if it gets to the

1 Supreme Court --

2 THE MASTER: That's correct.

3 MR. ODAM: And the only way I could see --
4 one way that could happen would be for the
5 Master to exercise the discretion and not
6 call for the testimony and let the record
7 stand in that shape to the Commission.

8 THE MASTER: Yes, sir, and, of course,
9 Mr. Mitchell will object on the grounds that
10 he is being denied evidence.

11 MR. ODAM: And --

12 MR. MITCHELL: I was thinking precisely
13 the same thing when the Attorney General
14 expressed what he thought and what he
15 didn't think, Judge. I am thinking the man
16 is right. Whether Judge Carrillo is a first
17 class, second or third class citizen, I
18 think he is entitled, in view of the testimony,
19 to the testimony of these gentlemen.

20 THE MASTER: That is something I will
21 consider, but at a later time.

22 But, now, I was just giving you time,
23 Mr. Odam, if you wanted it, to consult with
24 whoever you consult with.

25 MR. ODAM: Do I understand that the one

1 thing that would bear on the Court's
2 thinking with respect to the Supreme Court
3 would be that if the subpoenas were issued,
4 the witness came in and took the Fifth, that
5 the Court would not after the testimony and
6 then see what the Supreme Court did with it.

7 THE MASTER: Well, see what the Commission
8 does with it.

9 MR. ODAM: That is what I said. If it's
10 out of the Commission.

11 THE MASTER: If it gets out of the
12 Commission, that would influence me. I would
13 give that some weight because that way we
14 do not lose the lawsuit.

15 MR. ODAM: Well, I appreciate that and
16 cost to do otherwise obviously puts the
17 burden of the responsibility on the Master
18 as far as the immunity of all of these people
19 in the criminal cases and both as far as the
20 law is concerned with respect to discretion
21 and to an extent, I suppose, even with the
22 criminal cases, the nine members of the
23 Supreme Court, if it gets that far.

24 Well, I guess what I am saying is once
25 the door is open by the orders both here and

1 upstairs, then, the Supreme Court has
2 nothing to do with it unless the Examiners
3 took the position all along that that
4 testimony should have been excluded, but
5 again, if the discretion is exercised, we
6 would be without -- we say as to discretion,
7 we would be in a weak position there, I
8 suppose.

9 Well, I do not think that we are at a
10 point where I -- two hours left today that --

11 THE MASTER: We had all agreed to quit
12 a little earlier. What we have got left is
13 an hour. I was going to quit at noon and,
14 Mr. Mitchell, noon, would --

15 MR. MITCHELL: Fine. Yes, Judge.

16 THE MASTER: I hope --

17 MR. MITCHELL: I understand the problem,
18 Your Honor, and may I suggest this, Judge
19 Meyers?

20 Of course, I am duty-bound to file, as
21 I have, these subpoenas. I do want them
22 filed. I am duty-bound to do that as an
23 attorney for my client.

24 Now, I don't know -- I think he has
25 already, by his testimony in the offer of

1 E-192, as I said, opened the gate, turned
2 them all loose and I don't know how to
3 retrieve the record, but I am going to file
4 a petition. I want to put him on notice to
5 that effect and I am going to subpoena these
6 witnesses, so, that he is not surprised come
7 Monday when we get back in the courtroom.

8 MR. ODAM: Well, I appreciate that.
9 And as I said, I do not at this time want to
10 ask any more questions of this witness to
11 influence the exercise of the discretion by
12 the Master by more testimony than what is
13 already in the record.

14 So, at this point I would prefer not to
15 ask any more questions of this witness.

16 THE MASTER: But you're not prepared
17 to pass him. You need to do some more
18 research and some thinking?

19 MR. ODAM: Yes, sir, that's correct.

20 THE MASTER: You don't mind,
21 Mr. Mitchell, do you?

22 MR. MITCHELL: No, sir.

23 Judge, thank you. As the Court well
24 knows, that pretty well fits my plan.

25 THE MASTER: I want that on the record.

1 You're happy now that you have this time?

2 MR. MITCHELL: Yes, sir. And, Judge,
3 should I leave the subpoenas with the Court?

4 THE MASTER: Well, it doesn't matter.
5 If you want me to sign them now, I will sign
6 them now.

7 MR. MITCHELL: Yes, Judge, I wish you
8 would sign them now.

9 THE MASTER: You will have to sit there
10 a while --

11 MR. MITCHELL: I understand that -- I
12 have them for E. H. Carrillo, Ramiro Carrillo,
13 Eloy Carrillo, Oscar Carrillo, Rogelio
14 Guajardo, Jr., Thomas Elizondo, J. H. Saenz,
15 David C. Chapa, Abel Yzaguirre.

16 Off the record.

17
18 (Whereupon, an off-the-record
19 discussion was had.)

20
21 THE MASTER: Now, you don't have the
22 names filled in.

23 MR. MITCHELL: Yes, they are, Judge.

24 THE MASTER: You don't have the times.

25 MR. MITCHELL: No, because I didn't at

1 the time --

2 THE MASTER: We are in recess.

3 2AXE!

4 (Whereupon, on December 19, 1975, at
5 11:00 o'clock a.m., the hearing was in recess,
6 to be reconvened at 8:30 o'clock a.m. on
7 December 29, 1975.)
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