

**INQUIRY CONCERNING A JUDGE
NO. 5**

DECEMBER 29, 1975

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**BEFORE THE
STATE JUDICIAL QUALIFICATIONS COMMISSION**

INQUIRY CONCERNING A JUDGE, NO. 5

DECEMBER 29, 1975

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

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1 THE MASTER: Are we ready to proceed,
2 gentlemen?

3 MR. ODAM: Yes, Your Honor, we are
4 ready.

5 MR. MITCHELL: Yes, Your Honor.

6 In behalf of Judge Carrillo, we did
7 subpoena several witnesses and they are
8 present outside the courtroom. I have been
9 asked to ask the Court in an informal manner
10 as to a time schedule as regards them. They
11 are Romero Carrillo, Eloy Carrillo and Jose
12 Saenz and I don't know whether the others
13 have come in.

14 THE MASTER: There is a lady out there.

15 MR. MITCHELL: Also David Carrillo and
16 Oscar Carrillo and D. C. Chapa; Tomas and
17 Roberto Elizondo.

18 THE MASTER: Well, your inquiry, I take
19 it, is through me to the Examiner and it's
20 to give an estimate of how much time he would
21 need with Mr. Couling and then if he has
22 other witnesses, is that the request?

23 MR. MITCHELL: Yes, Your Honor.

24 MR. ODAM: I would say it would take
25 approximately thirty more minutes with

1 Mr. Couling and we do not anticipate at
2 this time calling any other rebuttal
3 witnesses after that.

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

5 We would then request that we defer the
6 cross-examination of Mr. Couling and call
7 these gentlemen and determine if they are
8 going to invoke their Fifth Amendment rights
9 and, as the Court knows, I don't represent
10 them, that is, if the Examiner persists in
11 inquiries in E-192-1 through 12.

12 THE MASTER: Well, let's defer that
13 matter until Mr. Couling has been passed as
14 a witness and would you get Mr. Couling?

15 MR. MITCHELL: May I just be permitted
16 to leave the room and inform them and so
17 they will be informed as to the Court's
18 wishes in this regard?

19 THE MASTER: Just tell them it is
20 estimated that Mr. Couling will be thirty
21 more minutes.

22 MR. MITCHELL: May I be permitted to do
23 so?

24 THE MASTER: Yes, but be prompt.

25 You may proceed, Mr. Odam.

1 MR. ODAM: Thank you, Your Honor.
2
3
4 - - - - -
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6

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

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

13 BY MR. ODAM:
14

15 Q Mr. Couling, you are aware of the fact that when
16 we recessed on Friday, December 19th, I believe
17 it was, that you were testifying at that time,
18 do you recall that?

19 A Yes, sir.

20 Q And at that time you were under oath to tell the
21 truth?

22 A Yes, sir.

23 Q And you understand that oath still applies
24 today?

25 A Yes, sir.

1 Q I hand you what has been marked E-192 and ask you
2 to turn to E-192-2, please, sir.

3 Do you recall, Mr. Couling, that the last
4 time we were together on that Friday, December
5 19th, we had covered some of the checks written
6 on the Benavides Implement and Hardware account
7 which are summarized on E-192 series, do you
8 recall that?

9 A Yes, sir.

10 Q I would like to direct your attention, please,
11 sir, to the top of that chart on the right-hand
12 side to the list of checks and payees.

13 I direct your attention first of all to a
14 check made out there for one hundred and fifty
15 dollars to R. Guajardo.

16 You had testified about this and we had
17 marked that E-188-21 on the chart. Do you have
18 that marked on your chart?

19 A Yes, but that is Alamo Iron Works.

20 Q All right, sir. Thank you.

21 Let me show you the original check 188-22
22 to R. Guajardo. On this check to R. Guajardo,
23 could you identify who that is?

24 MR. MITCHELL: Pardon me, Your Honor,
25 may I reiterate the continuing objections

1 I have had to all of this testimony as being
2 beyond the scope of the original notice,
3 beyond the scope of the amended notice,
4 relates to matters of hearsay as to Judge
5 Carrillo, irrelevant and immaterial as to
6 matters before this court, and, of course,
7 relating to matters of a nonjudicial nature
8 beyond Judge Carrillo's course of conduct
9 and, being, of course, prior to the term,
10 this matter being in 1971.

11 THE MASTER: Yes. The objection is
12 overruled.

13 Q (By Mr. Odam) Can you identify who R. Guajardo
14 is?

15 A That is a nephew of Judge Carrillo.

16 Q What does the R stand for?

17 A Rogelio.

18 Q And could you explain to the court why you made
19 out a check which has been marked there as E-188-22
20 to Rogelio Guajardo?

21 MR. MITCHELL: It would be repetitive
22 and hearsay. It has been previously gone
23 into.

24 MR. ODAM: I am sorry, I don't think we
25 have gone into that check before.

1 THE MASTER: The objection is overruled.

2 Q Go ahead, why did you make out the check to
3 Rogelio Guajardo?

4 A I believe he brought me a check from the water
5 district for this amount or a little bit more,
6 he told me in turn that he needed some money so
7 I made him a check from my store for that amount.

8 MR. MITCHELL: Pardon me, Your Honor,
9 did he say Mr. Guajardo brought him a check?

10 THE MASTER: Yes, sir.

11 MR. MITCHELL: We certainly move to
12 strike that, it would be hearsay.

13 THE MASTER: The basis of the admis-
14 sion -- of course, it is not hearsay that
15 a person brought him the check, that is
16 firsthand knowledge.

17 MR. MITCHELL: Well, that's right.

18 THE MASTER: Now, what he said is
19 admitted not to prove the truth of what was
20 said, but to explain, if it does, the reason
21 he wrote E-188-22.

22 MR. MITCHELL: But, Your Honor, that
23 doesn't get us to the substance of this
24 case, so what -- there has been no allegation
25 of a conspiracy between Rogelio Guajardo,

1 and this man and Judge Carrillo.

2 THE MASTER: No, this is -- all of this
3 has been in rebuttal, as I understand it,
4 to the examination you made.

5 MR. MITCHELL: Yes, sir.

6 THE MASTER: Of this witness, suggesting
7 that Benavides Implement and Hardware was a
8 huge enterprise. That is a very shorthand
9 way to put it, but that is my understanding
10 of it.

11 MR. MITCHELL: Then we further object.
12 Your Honor.

13 THE MASTER: Is that still generally
14 correct, Mr. Odam?

15 MR. ODAM: Yes, it is totally offered
16 for the purpose of rebuttal of the inference
17 that was left earlier as described by the
18 Court.

19 MR. MITCHELL: Now, that inference, as
20 I understand, was some category of inference
21 that the Benavides Implement and Hardware
22 was a sham or a fraud, then we agree and say
23 that it is a sham or a fraud so, therefore,
24 there is no allegation of that. There is
25 still no relevant basis to hang your hat on

1 and we just reassert our objection.

2 THE MASTER: Overruled.

3 Q (By Mr. Odam:) Now, Mr. Couling, on that check
4 E-182- -- correction, E-188-22, what is the
5 amount that check is made out for?

6 A Four hundred and ten dollars, sir.

7 Q Now, on that check, I notice that there is a
8 dashed line going across the chart, 8-9-71 to the
9 left on the deposit.

10 My question with respect to this check is,
11 did you rent from Rogelio Guajardo any equipment
12 and that was a rental payment to Rogelio Guajardo?

13 A No, sir.

14 MR. MITCHELL: I do want to continue to
15 object but may I have a continuing objection
16 to all of the testimony as to what Rogelio
17 Guajardo did with this gentleman as it
18 relates to Judge Carrillo. There has been
19 no testimony that Judge Carrillo was involved
20 in that transaction at all and I don't want
21 to continually interrupt Judge Meyers, but
22 I don't want to waive the record either.

23 THE MASTER: You may have that objection.
24 I'm not sure I fully -- that you fully stated
25 it, but you may have that objection as stated.

1 MR. MITCHELL: All right.

2 Q Did you at any time --

3 THE MASTER: And it is overruled for
4 the record.

5 Q Did you at any time rent equipment, vehicles,
6 from Rogelio Guajardo and you were paying him this
7 four hundred and ten dollars for such rental?

8 A No, sir.

9 Q Throughout this chart on E-192-2 and the other
10 pages before that and after, where there are
11 payments made to Rogelio Guajardo, did you at any
12 time on any of those payments rent equipment from
13 Rogelio Guajardo when you were paying him rental
14 for that equipment?

15 A No, sir, I never did, sir.

16 Q Did you at any time have any of Rogelio Guajardo's
17 equipment that you in turn rented to the county
18 or the school district or the water district?

19 A No, sir.

20 Q A check which is marked in evidence as E-188-23,
21 and I will hand you the entire stack of original
22 checks and direct your attention to the one
23 marked E-188-23, what is the amount of that
24 check, please, sir?

25 A Five hundred dollars, sir.

1 Q And to whom is that check made out?

2 A D. H. Carrillo.

3 Q I believe you earlier stated the last time you
4 testified that D. H. Carrillo is who, David
5 Carrillo?

6 A He is a son of Oscar Carrillo, O. P.'s brother.

7 Q And this check, if you have not done so already,
8 do you have a pencil that you can mark the chart?

9 A No, sir.

10 Q Let me give you one and I would like for you to
11 mark on the chart there beside the indication of
12 the check to D. H. Carrillo, the identification on
13 that check which is E-188-23.

14 What is the description that is stated there
15 on the check?

16 A It says labor, sir.

17 Q All right.

18 MR. MITCHELL: We will have the same
19 objection to the check and the testimony,
20 Your Honor, in order not to waive our posi-
21 tion as to anything Mr. Couling has got to
22 say about Mr. D. H. Carrillo on the ground
23 that, one, it would be hearsay as to Judge
24 Carrillo and --

25 THE MASTER: Well, the same objection

1 that you stated to 188-22?

2 MR. MITCHELL: Yes, sir.

3 THE MASTER: Yes, sir. they are over-
4 ruled.

5 MR. MITCHELL: Thank you, Judge Meyers.

6 Q Did Mr. D. H. Carrillo perform any labor for
7 Benavides Implement and Hardware?

8 A No, sir.

9 Q Well, could you explain to the Court why you
10 made out a check for five hundred dollars to
11 D. H. Carrillo, please, sir?

12 A Well, once again I was brought a check from the
13 water district for the amount of seven hundred
14 and fifty dollars which I had been instructed
15 previously that I had to make a check to either
16 Oscar Carrillo or D. H. Carrillo for five hundred
17 dollars and the balance would be paid to R.
18 Carrillo Brothers.

19 Q I direct your attention to 188-24 and if you
20 would, please, sir, mark on your chart which is
21 the check you referred to for two hundred and
22 fifty dollars.

23 Now, my question with respect first of all
24 to E-188-23, to D. H. Carrillo, were you making
25 a payment to D. H. Carrillo for any equipment you

1 rented from him?

2 A No, sir.

3 Q Were you making a payment to R. Carrillo and
4 Brothers for equipment?

5 A No, sir.

6 Q At any time, with respect to D. H. Carrillo and
7 R. Carrillo and Brothers listed on this page and
8 all other pages 2 through 12, did you at any time
9 make payment to R. Carrillo and Brothers for
10 equipment that R. Carrillo and Brothers had
11 rented to you or to Benavides Implement and Hard-
12 ware?

13 A No, sir.

14 Q Did you ever make checks payable to D. H. Carrillo
15 including this and all other instances where we
16 have checks, original checks that are in evidence,
17 payable to D. H. Carrillo where you rented equip-
18 ment from him?

19 A I never rented equipment from none of them, sir.

20 Q Would you please state to the Court from whom --
21 well, let me rephrase that, did you at any time
22 rent equipment or vehicles from D. H. Carrillo?

23 A No, sir, the store never did rent no equipment
24 from nobody, sir.

25 Q Directing your attention down to the -- toward

1 the bottom of the page to the check that is
2 listed there October the 18th, 1971, can you find
3 that check on the chart?

4 A Yes, sir.

5 Q And I would ask you to look in the stack of
6 checks you have for E-188-32.

7 A Yes, sir.

8 Q This check for five hundred dollars, could you
9 please explain to the court who Rosario Vaello --

10 MR. MITCHELL: We are going to object,
11 of course, to any testimony offered about
12 any transaction between this witness and
13 Rosario Vaello, Your Honor, on the grounds
14 it certainly would be hearsay as to this --
15 as to Judge Carrillo and irrelevant and
16 immaterial to any -- in any way that I can
17 see under the allegation contained in the
18 original notice and the amended notice to
19 any fact and certainly supports, rather than
20 negates, the inference in the rebuttal that
21 the Benavides Implement and Hardware was
22 doing business with other parties.

23 We are going to object to the introduc-
24 tion, therefore, of any testimony and may
25 we have a continuing bill, Judge Meyers?

1 THE MASTER: Yes, you may, and depend-
2 ing on what the testimony is, I will overrule
3 the objection at this time, but you have got
4 to link it up. I don't see the relevancy
5 right now myself.

6 MR. ODAM: No, sir, I was just getting
7 ready to go into the relevancy of the
8 check.

9 Q Could you explain first of all who Rosario
10 Vaello is?

11 A She is my oldest daughter.

12 Q How do you pronounce the last name?

13 A Vaello.

14 Q Why did you write out a check for five hundred
15 dollars to your daughter?

16 A Well, it was close to Christmas, two or three
17 months before Christmas and she needed some
18 money and she had a little girl in the hospital
19 and so I loaned her five hundred dollars.

20 Q This check that is listed immediately thereafter,
21 if you would turn to the next check in the stack,
22 E-188-33 and mark that on the chart, please, sir.

23 MR. MITCHELL: The same objection to the
24 checks to Miller and Miller as previously
25 stated, Your Honor, and may we have a

1 continuing objection?

2 THE MASTER: Yes, sir.

3 Q Do you find the original check to Miller and
4 Miller?

5 A Yes, sir.

6 Q Two hundred and ten dollars. Why did Benavides
7 Implement and Hardware pay two hundred and ten
8 dollars to Miller and Miller?

9 A This is one of the checks I believe that Ramiro
10 had in his pocket that was just signed by me
11 and I don't know what he purchased from Miller
12 and Miller.

- 1 Q Now, you identified your signature on the check?
- 2 A Yes, sir.
- 3 Q Where it says Miller and Miller, that is your
4 handwriting?
- 5 A No, sir, that is my signature on the bottom.
- 6 Q Can you identify whose handwriting it is?
- 7 A No, sir, I cannot.
- 8 Q Do you know what Miller and Miller is, what that
9 entity is?
- 10 A No, sir, I don't know.
- 11 Q Were you renting equipment from this unknown
12 entity, Miller and Miller?
- 13 A No, sir.
- 14 Q Anywhere the name Miller and Miller appears on
15 this chart, is there a name like that shown?
- 16 A No, sir.
- 17 Q I would like to have you turn, please, sir, to
18 E-192-3, the next page, and I direct your
19 attention to the check made out to Edwards
20 Furniture for seven hundred thirty-five dollars.
21 Would you mark on your chart, please, sir,
22 E-188-35.
- 23 Do you find that original check?
- 24 A Yes, sir.
- 25 Q Can you identify your signature on that?

1 A Yes, sir.

2 Q Did you fill in where it says Edwards
3 Furniture?

4 A No, sir.

5 Q Can you identify whose handwriting that is?

6 A It looks like Judge Carrillo's handwriting, sir.

7 MR. MITCHELL: We move to strike as
8 being speculative and conjecture on the part
9 of this witness. The witness has no personal
10 knowledge of this and the same is wholly
11 irrelevant and immaterial as to the reasons
12 previously asserted as regards E-188-22.

13 THE MASTER: Overruled.

14 Q (By Mr. Odam) The check to Edwards Furniture,
15 do you know what MDS is?

16 A Merchandise.

17 Q Why did Benavides Implement and Hardware write out
18 that check?

19 A This is one of the blank checks that I gave to
20 Judge O. P. Carrillo with my signature on the
21 bottom.

22 Q Where is Edwards Furniture located?

23 A Alice, Texas.

24 Q Was this furniture for your store?

25 A No.

1 Q As a result of writing this check, did you
2 personally receive any furniture or a television
3 or anything?

4 A No, sir.

5 Q Did your store receive any furniture for the
6 store?

7 A No, sir.

8 Q Throughout this chart, there are a number of
9 checks written to the Farm and Ranch Supply. We
10 referred to these earlier.

11 MR. MITCHELL: I am going to object to
12 the expression as to throughout the chart.

13 MR. ODAM: I will restate the question.

14 MR. MITCHELL: Thank you.

15 Q (By Mr. Odam) You will notice the check No. 199,
16 where it is dated, November 12, 1971, for one
17 thousand two hundred twenty-eight dollars three
18 cents.

19 A Yes, sir.

20 Q There is another check to Farm and Ranch Supply,
21 November 15, 1971, six hundred twenty-six dollars
22 seventy-eight cents.

23 A Yes, sir.

24 Q At any time, did Benavides Implement and
25 Hardware rent any equipment from Farm and Ranch

1 **Supply?**

2 **A No, sir, never did.**

3 **Q At any time, did you have equipment from Farm and**
4 **Ranch Supply that you in turn rented to some**
5 **other entity?**

6 **MR. MITCHELL: Did the witness produce**
7 **Check No. 199?**

8 **MR. ODAM: I did not refer to it**
9 **specifically.**

10 **MR. MITCHELL: Does he have it?**
11 **If so, I would like to have it to look**
12 **at myself. My records do not indicate there**
13 **has been introduced into evidence a check**
14 **199 for that amount of money.**

15 **THE MASTER: This should be a portion**
16 **of the 188 series, is that your understanding?**

17 **MR. MITCHELL: Yes.**

18 **THE MASTER: Do you have that check?**

19 **THE WITNESS: No, sir.**

20 **MR. MITCHELL: I would reassert the**
21 **same objection I made to the entire exhibit,**
22 **192, and this is an indication of what my**
23 **objection is. There is no original input as**
24 **to that check as is the case with many checks,**
25 **and if we have it, I would like to have it or**

1 a copy of it.

2 THE MASTER: What is the status of that?

3 MR. ODAM: Your Honor, I have not gone
4 through with every check with this witness
5 to interrelate all the checks. I would
6 represent, and it is clearly my understanding,
7 that the check I referred to for six hundred
8 twenty-six dollars seventy-eight cents, I
9 believe I referred to it, that happens to be
10 a Check No. 179-1 series through -- the 179
11 series is a series of checks to Farm and
12 Ranch Supply.

13 179-27 is a check in the amount of
14 one thousand -- well, my purpose is to refer
15 to the chart and not take every one of these
16 checks and interrelate.

17 THE MASTER: Well, my question to you
18 was, that you asked this witness about a
19 Check No. 199.

20 Now, I don't know if that is the exhibit
21 number or if that is a sub-part of another
22 exhibit. I take it it is a sub-part.

23 MR. ODAM: No, Check 199, that is the
24 number on the check.

25 THE MASTER: Oh.

1 MR. MITCHELL: It does not have an
2 exhibit number.

3 MR. ODAM: It does.

4 MR. MITCHELL: Is that the one you just
5 identified?

6 THE MASTER: That is what I am asking
7 about.

8 Check No. 199 is what part of 179?

9 MR. ODAM: Dash 27.

10 THE MASTER: All right.

11 MR. MITCHELL: It would be R-179-27?

12 THE MASTER: Yes, sir.

13 MR. ODAM: And the other check that is
14 stated on the chart as 203, that is the
15 check number.

16 THE MASTER: Mr. Mitchell, you referred
17 to that exhibit as R-179-27 and it should
18 be E-179-27.

19 MR. MITCHELL: Yes, the previous
20 reference should be as the Court noted, is
21 that correct, Your Honor?

22 THE MASTER: That is correct.

23 MR. ODAM: E-179-1 is this one. The
24 Farm and Ranch checks are generally in a
25 179 series. That is a Farm and Ranch check

1 series.

2 We also have a series of checks which
3 are the 186 series and there are a series
4 of checks -- the 188 series, so we have, by
5 those, at least those three, we have
6 attempted to get copies of every check and
7 for the purpose of refreshing my own memory
8 and the record, the originals Mr. Couling has
9 are the 188 series.

10 Mr. Carl Williams filled in the gaps
11 on other checks.

12 This leaves me to the point of saying
13 I have not gone through and had not taken
14 the check for 179-27 and I intended to make a
15 specific reference, because they are inter-
16 related.

17 I would not tend to have a check listed
18 on the chart that I do not have in one of
19 these series of checks. That is why it takes
20 some time to go through it in this manner.

21 If I could, I would like to rephrase the
22 question on the check.

23 THE MASTER: Yes, sir.

24 Q (By Mr. Odam) On 179-27, you do not have that
25 right before you, Mr. Couling?

1 A No, sir.

2 Q And as you can tell by the statement from counsel,
3 that is in another series of checks?

4 A Yes.

5 Q The check for Farm and Ranch Supply, was that
6 check written for the purpose of payment of
7 rental on equipment you rented from Farm and
8 Ranch Supply?

9 A No, sir.

10 Q Did you rent any equipment from or to Farm and
11 Ranch Supply?

12 A No, sir.

13 Q Are there checks in evidence which are made
14 payable to Farm and Ranch Supply for equipment
15 you rented to them?

16 A No, sir, I never did rent equipment to Farm and
17 Ranch Supply or from Farm and Ranch Supply.

18 Q Are the checks in evidence, the 188 series, made
19 payable to Oscar Carrillo for any equipment you
20 rented to him?

21 A No, sir.

22 Q Now, the check which is dated November 15th, you
23 do have it before you, and it is 188-38.

24 If you would mark your chart, please, sir,
25 outside where it says No. 201, that is the check

1 number itself.

2 A What is the number; what did you say?

3 Q E-188-38.

4 MR. MITCHELL: We have the same
5 objection as we previously leveled to
6 E-188-22.

7 THE MASTER: Yes, sir, they are
8 overruled.

9 Q (By Mr. Odam) Why did you make out a check to
10 Gulf Hardware for two thousand three hundred
11 dollars?

12 A I believe it was -- I had gone over there and
13 purchased shells and scopes and rifles.

14 Q Shells and scopes and rifles?

15 A Yes, for hunting.

16 Q Were they for your personal use?

17 A All of them, the shotgun shells and the articles
18 were delivered to Mr. D. C. Chapa by myself.

19 Q You delivered them to Mr. D. C. Chapa yourself?

20 A Yes, sir.

21 Q How much did he pay you for those?

22 A Not a penny, sir.

23 Q Where is Gulf Hardware located?

24 A Here in Corpus.

25 Q Did you rent any equipment from Gulf Hardware

1 that you paid two thousand three hundred dollars
2 for?

3 A No, sir.

4 Q At any time did you ever rent any equipment or
5 vehicles from Gulf Hardware?

6 A No, sir.

7 Q I direct your attention to E-188-42. That is not
8 on that page, although there is a reference to
9 Charlie's truck parts on that page. This particular
10 check is on E-192-4 at the bottom of that page.

11 MR. MITCHELL: 3-22-72?

12 MR. ODAM: Yes, that is the date.

13 THE WITNESS: The number of this check
14 is what?

15 Q (By Mr. Odam) 279. It is E-188-42.

16 A Yes, sir.

17 Q If you would, outside that check to Charles Auto
18 Parts, would you put E-188-42.

19 MR. MITCHELL: Same objection, if it
20 please the Court, as it regards to the
21 objections leveled on E-188-22 and we reassert
22 the same objections.

23 THE MASTER: All right. They are
24 overruled.

25 Q (By Mr. Odam) Why did you make out a check to

1 Charlie's Auto Parts for four hundred dollars?

2 A That was another check that I had signed and
3 delivered to Ramiro or O. P. Carrillo.

4 Q The Charlie's truck parts business, where is that?

5 A I believe San Antonio.

6 Q Did you rent any trucks from Charlie's Auto Parts?

7 A No, sir.

8 Q Were you making payments for trucks that Benavides
9 Implement and Hardware had rented from them?

10 A No, sir.

11 Q At other points on the chart, and there are other
12 checks in evidence made out to Charlie's Auto
13 Parts, did you ever make out a check to Charlie's
14 Auto Parts for any trucks or equipment rented to
15 them?

16 A No, sir, I did not.

17 MR. MITCHELL: May I get the original of
18 that check, in view of his testimony he did
19 not fill it out?

20 THE MASTER: Yes, sir.

21 Q (By Mr. Odam) Can you identify whose handwriting
22 is on that check?

23 A No, sir.

24 Q But it is your signature?

25 A Yes, sir.

1 Q On 192-4, I direct your attention to the last
2 page, International Harvester Company.

3 A Yes.

4 Q Would you put E-188-43 there by that one.

5 A 133?

6 Q No, 188-43.

7 A Yes, sir.

8 Q This is Check E-188-43, why did you write out a
9 check to International Harvester?

10 MR. MITCHELL: Same objection as
11 previously lodged to E-188-22.

12 May we have a continuing objection as
13 to all testimony between this man and
14 unknown persons as relate to this, Judge?

15 THE MASTER: Yes. You may have that
16 continuing objection, and depending again on
17 what the testimony is. I overrule it this
18 time, but it depends on what the testimony
19 is as to hearsay.

20 MR. MITCHELL: Yes, for example, the
21 testimony is that he gave his daughter a
22 Christmas present in October and this is
23 fine, but it is not relevant as to a
24 rebuttal. It shows there is no sham account
25 and I hope I don't waive my objections,

1 because I don't reassert my objections.

2 THE MASTER: No -- well, I do not
3 regard the testimony with respect to a check
4 to the daughter as particularly relevant
5 myself. It may explain what the check was,
6 since it is now in evidence, and the chart
7 is now in evidence, but that is all it means
8 to me.

9 MR. ODAM: No, sir, it doesn't mean
10 anything more.

11 I introduced it because I anticipated
12 Mr. Mitchell might raise a question about
13 that particular check himself and it was not
14 my purpose and I don't -- well, that this was
15 a sham account, but simply this series of
16 questions, it is whether or not --

17 MR. MITCHELL: I think the Court stated
18 my point of view as regards that check. I
19 will stand on that.

20 MR. ODAM: Let me move on.

21 Q (By Mr. Odam) I refer you to the six hundred
22 dollar check to International Harvester.

23 A I didn't write it, I signed it only.

24 Q To whom did you give the check?

25 A I gave it to Ramiro or O. P. Carrillo.

1 Q The main purpose of the question, did you write
2 out a check to International Harvester, did you
3 write out that check to pay them for equipment
4 you rented from them?

5 A No, sir.

6 Q For equipment you bought?

7 A I don't know, sir; I don't know what equipment was
8 bought with that check.

9 Q Let's be sure I have that clear. Was equipment
10 purchased for Benavides Implement and Hardware
11 for six hundred dollars?

12 A No, sir. Benavides Implement and Hardware did not
13 benefit by this check at all.

14 MR. MITCHELL: We will, of course,
15 request the Court to note the difference of
16 the handwriting in E-188-43 and E-188-35 in
17 the face of the testimony that the witness
18 doesn't recall who he gave the check to. I
19 know the Court will look at those when
20 passing on the facts as to whether or not the
21 handwriting is that of my client.

22 Q (By Mr. Odam) Mr. Couling, I would refer you
23 first of all to find Check 188-92.

24 MR. MITCHELL: Same objection as to any
25 testimony between this witness and Charlie's

1 truck parts as previously leveled. We do
2 not intend that our silence waive those
3 objections.

4 THE MASTER: He said 92, but you may
5 have the same objection as you had to the
6 others.

7 MR. MITCHELL: I thought he said --
8 the check was made out to whom?

9 MR. ODAM: Juan Garcia.

10 Q (By Mr. Odam) It is at the bottom of Page 4.
11 Did you find that check?

12 A Yes, sir.

13 Q Check No. 278?

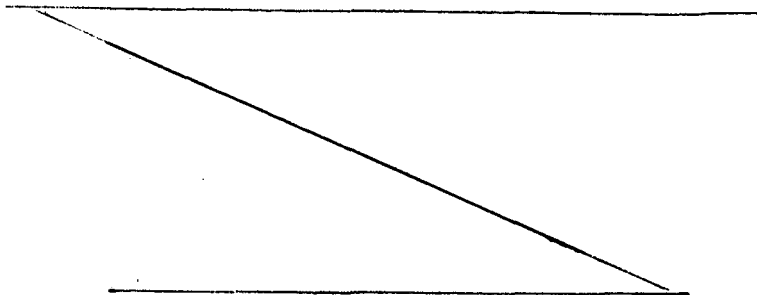
14 A Yes, sir.

15 Q Did you find that entry on the chart?

16 A Yes, sir.

17 Q Could you mark out beside where it says No. 278
18 on the chart, would you put that?

19 A Yes, sir.



1 Q Okay, first of all, can you explain who Juan
2 Garcia is?

3 A As far as I know, there is no person by that
4 name that I ever issued any check to, s'r. It
5 was just a name that Ramiro used to get money
6 out of the store, sir.

7 Q Well, did you -- can you identify the handwriting
8 where it says Juan Garcia?

9 A In front, yes, sir, I wrote that check completely.

10 Q You wrote the check?

11 A Yes, sir.

12 Q And that is your handwriting where it says Juan
13 Garcia?

14 A Yes, sir.

15 Q Why did you write Mr. Juan Garcia a check for
16 a hundred and thirty-four dollars and forty-three
17 cents?

18 A It was just a check that Ramiro said he needed
19 money. I believe I got a check from the county
20 before that.

21 Q There is no Juan Garcia?

22 A No, sir.

23 Q Once you made out the check to Juan Garcia, what
24 did you do with the check?

25 MR. MITCHELL: We are going to object

1 to the witness' answer that, "I believe I
2 got a check from the county before that,"
3 of course, is speculation and non-responsive
4 and, of course, the question is leading and
5 again, we reassert our objection on the
6 grounds it is hearsay, Judge Meyers, as to
7 this witness.

8 It is twice removed hearsay, it gets
9 back to that, and we object, and we assert
10 our objection.

11 THE MASTER: Well, I disagree that it
12 is hearsay and that objection is overruled.

13 Q What did you personally do with the check made
14 out to Juan Garcia?

15 A I made it out and then I gave it to Ramiro
16 Carrillo, sir.

17 Q Did you rent any equipment from Juan Garcia?

18 A No, sir.

19 Q There are some checks in here listed, I take one,
20 for example, E-188-105, if you would refer to
21 it, please, sir. If you could find the check,
22 first of all.

23 A 188 what?

24 Q 105.

25 A It is check 479.

1 Q Yes, and who is that check made out to?

2 A Julian M. Trevino, who is a wholesale grocer
3 out of Laredo, Texas.

4 Q And this check is on the chart at page 7, if you
5 would refer to that chart, please, sir, on page 7.

6 It is about seven up from the bottom, do you
7 see that check number 479?

8 A Yes, sir.

9 Q Would you mark out beside it E-188-105, please?

10 A Yes, sir.

11 Q Why did you make out a check for thirty-six
12 dollars and twenty-two cents --

13 MR. MITCHELL: The same objection,
14 pardon me, Mr. Odam, I didn't mean to step
15 on your question, but we would have the same
16 objection to this testimony and the question
17 put to this witness as regards to any rela-
18 tionship between a Julian Trevino and Mr.
19 Rudolfo Couling as it relates to Judge
20 Carrillo, Judge Meyers.

21 THE MASTER: The objection is overruled.

22 Q Why did you make out a check to Julian Trevino for
23 thirty-six dollars and twenty-two cents?

24 A I just -- I used it to buy cow feed pellets.

25 Q And the cow feed that you bought from Julian

1 Trevino was this for your own ranch?

2 A No, sir, some of it was for my own ranch and some
3 of it I sold it to -- D. C. Chana and Rogelio
4 Guajardo.

5 Q You sold it to them?

6 A Yes, sir.

7 Q They made out checks?

8 A No, sir, I made the bills and I got paid by either
9 the water district or the schools, sir.

10 Q There are a number of checks through here, for
11 example, on page -- there is one for forty-five
12 dollars and eighty-six cents up above it, check
13 465, and I notice other entries to Julian Trevino.
14 Were all of these checks made out for hay or feed?

15 A It was pellets, cow pellets.

16 Q Cow pellets?

17 A Yes, sir.

18 Q You didn't rent any equipment from Mr. Trevino?

19 A No, sir.

20 Q Now, the cow pellets you received, the ones that
21 went to -- who did you say, D. C. Chana?

22 A And Rogelio Guajardo, I took some, sir.

23 Q And you took some?

24 A Yes, sir.

25 Q Now, the -- Mr. Chana, did he ever write a check

1 out to you in turn to pay you or Benavides Imple-
2 ment and Hardware for those cow pellets?

3 A No, sir, never did, sir.

4 Q I would like for you to find in the stack of
5 checks E-188-117.

6 A Yes, sir.

7 Q This is a check -- could you identify who that
8 is made out to and for what amount?

9 A It was made out to A and R Carrillo for the
10 amount of thirteen hundred dollars.

11 Q And could you find that and make that on the
12 chart, it is on page 8 as E-188-117?

13 MR. MITCHELL: The same objection as
14 regards to any questions put to this witness,
15 Judge Meyers, as to an A and R Carrillo,
16 previously leveled to E-188-22, 33, 42, 35,
17 38 and those related items, Your Honor.

18 THE MASTER: The same ruling.

19 Q Who is A and R Carrillo?

20 A That is Arnuldo and Ramiro Carrillo, which are
21 the sons of Ramiro Carrillo, Senior, sir.

22 Q A stands for Arnuldo?

23 A Yes.

24 Q And R stands for what?

25 A Ramiro.

1 Q Ramiro?

2 A Yes, sir.

3 Q Those are the two sons of --

4 A Ramiro Carrillo.

5 Q And why did you write out a check to A and R
6 Carrillo for the amount of thirteen hundred dollars?

7 A That was some money that Ramiro needed so he had
8 me make it out on his boys names, sir.

9 Q Do you recall of your own personal knowledge what
10 you did with the check to A and R Carrillo after
11 you made it out?

12 A I in turn gave it to Ramiro, sir.

13 Q Were you renting any equipment from A and R
14 Carrillo?

15 A No, sir.

16 Q Mr. Couling, this is not in reference to --
17 specifically to the check, although we could --
18 given time, we could pull it out, but the testi-
19 mony in this case has been that Mr. Ramiro Carrillo
20 or Judge O. P. Carrillo either through Farm and
21 Ranch Supply or personally, had rented a water
22 rig to Benavides Implement and Hardware, you might
23 recall when you were on the stand back on cross-
24 examination by Mr. Mitchell, Mr. Mitchell asked
25 you about a water rig.

1 My question to you, at any time did Benavides
2 Imolement and Hardware ever rent a water rig from
3 O. P. Carrillo?

4 MR. MITCHELL: Pardon me, Counsel, I
5 don't intend to confuse the question but
6 there is a water rig that hauls water and
7 then there is a drilling rig. Are we talk-
8 ing about the drilling rig?

9 THE MASTER : The question refers, I am
10 certain, to the drilling rig.

11 MR. ODAM: Yes, sir.

12 THE MASTER: Water well rig.

13 MR. MITCHELL: A water well rig.

14 THE MASTER : The rig.

15 MR. ODAM: The rig to drill wells.

16 MR. MITCHELL: All right.

17 Q At any time, did Benavides Imolement and Hardware
18 ever rent a drilling rig, water drilling rig
19 from O. P. Carrillo?

20 A No, sir, never did, sir.

21 Q Did the store ever rent such an instrument or
22 piece of equipment from Ramiro Carrillo?

23 A No, sir.

24 Q Did Benavides Imolement and Hardware ever rent
25 such a piece of equipment from Farm and Ranch

1 Supply?

2 A No, sir.

3 THE MASTER: Do you know what -- what
4 knowledge do you have of such a water drill-
5 ing rig, if any?

6 A There was -- there was a water rig purchased and
7 I don't know when it was, and my understanding was
8 it was purchased by the county and it was used
9 when the road was made between Freer and Hebronville
10 for the landowners that the land was divided in
11 half, so they could continue getting water on the
12 land divided by the highway.

13 THE MASTER: Did you ever have it in
14 your possession?

15 A No, sir, the only time I saw it real close is
16 when it was drilling the water well for the
17 school district, sir.

18 THE MASTER: Go ahead, Mr. Odam.

19 Q (By Mr. Odam:) And when was this road built
20 that you were referring to?

21 A I don't know, if it was around somewhere between
22 67 or 68, somewhere around there.

23 THE MASTER: Do you know where the rig
24 is now?

25 A The last time I went and saw it, it was sold.

1 somewhere in Beeville.

2 THE MASTER: It was stored?

3 A It was sold.

4 THE MASTER: It was sold?

5 A Yes.

6 THE MASTER: Go ahead, Mr. Odam.

7 Q (By Mr. Odam:) Of your own personal knowledge,
8 do you know by whom it was sold? Was it sold by
9 the county?

10 A No, sir, I believe it was sold by Archer Parr,
11 sir. We went to Alice and inquired and said
12 Archer had sold it and went up there to see it
13 and it was being torn apart.

14 Q By Mr. Archer Parr?

15 A Yes, sir.

16 Q Do you know how it got into the possession of
17 Mr. Archer Parr?

18 A I don't know, my understanding is that the county
19 had purchased it, I am not sure, sir.

20 Q Now, speaking of Mr. Archer Parr, reminds me of
21 a Mr. George Parr.

22 Could you please clarify for the record, with
23 respect to some Caterpillar tractors that you
24 testified to back several weeks ago. Did you
25 ever have a conversation with Mr. -- the deceased

1 Mr. George Parr about those Caterpillar tractors
2 and Benavides Implement and Hardware renting
3 them to Mr. George Parr?

4 A No, sir, I didn't even talk to Mr. George Parr
5 about any Caterpillars.

6 Q Did you have any type of an arrangement with Mr.
7 George Parr whereby money would be taken from
8 the county to be used for these one or more Cater-
9 pillars to be used on George Parr's ranch?

10 A No, sir, never did, sir.

11 Q What conversations, if any, did you have with
12 Mr. George Parr about those Caterpillars?

13 A None whatsoever.

14 MR. MITCHELL: Now, of course, for the
15 technical and housekeeping effect on my
16 record, I just want to object, of course,
17 that it is irrelevant and immaterial and
18 would be hearsay.

19 THE MASTER: No, the objection is over-
20 ruled.

21 MR. MITCHELL: Because I think the
22 testimony -- strike that.

23 MR. ODAM: You think the testimony is
24 what?

25 MR. MITCHELL: Well, Gene Powell reflects

1 that the testimony is that the equipment
2 was found on the Parr Ranch at the time of
3 George Parr's death, Mr. Odam. I think that
4 speaks louder than this witness who testified
5 he did not have any knowledge.

6 THE MASTER: The question to this wit-
7 ness is simply did he have any conversation
8 with Mr. George Parr about those bulldozers.

9 MR. MITCHELL: That's right.

10 THE MASTER: And he answered no.

11 MR. MITCHELL: That's right, and that is
12 why I withdrew it. I know everyone is
13 familiar with Mr. Powell's testimony, as to
14 where the equipment is found and that is the
15 reason I withdrew it.

16 MR. ODAM: It is not only Mr. Powell's
17 testimony --

18 THE MASTER: Let's just go ahead and
19 question this witness.

20 MR. ODAM: Yes, sir.

21 (Discussion off the record.)
22

23 MR. ODAM: We pass the witness.

24 MR. MITCHELL: Judge Myers, may I
25 be permitted to bring in the witnesses.

1 Ramiro, D. H. Carrillo, Rogelio Guajardo
2 and defer the cross-examination of this
3 witness, and obviously the course of my
4 re-cross will carry one course if these
5 gentlemen are going to invoke their privilege
6 and another course if not.

7 THE MASTER: Well, it certainly does
8 not matter to me. What does the Examiner
9 say?

10 MR. ODAM: Well, as to whether or not
11 they are called out of order, the witnesses
12 are apparently, from Mr. Mitchell's statement,
13 are present and out of courtesy to those
14 witnesses, and their presence, I have no
15 objection to Mr. Mitchell taking those wit-
16 nesses on direct at this time and taking Mr.
17 Couling back up at a later point.

18 That is not -- while to make that state-
19 ment of courtesy to the witnesses, while they
20 are present, I do not intend to waive any
21 other objections that I have once they start
22 testifying, obviously.

23 THE MASTER: All right, Mr. Couling,
24 why don't you step outside for a moment and
25 I want to take this matter up a little bit

1 more.

2 (Whereupon Mr. Couling left the court-
3 room.)
4

5 THE MASTER: Mr. Mitchell, the trouble
6 I have with it is simply that these witnesses
7 are witnesses who presumably will say some-
8 thing contrary to what you think Mr. Couling
9 may say on re-cross examination.

10 MR. MITCHELL: Yes, sir.

11 THE MASTER: Now -- and what your pur-
12 pose, I take it, is that if Mr. Couling
13 denies something, you want to put those
14 witnesses on to dispute that denial roughly.

15 Now, until he has made that denial or
16 testified contrary to what you think these
17 witnesses will testify, if they do, it seems
18 to me we really are anticipating, where per-
19 haps we should not be.

20 MR. MITCHELL: Well, Your Honor, that is
21 very good. That is correct, Judge. That is
22 one aspect of my request.

23 The other aspect being that now I am
24 being confronted with the imuendo and the
25 implication left in this record that there

1 is some type of arrangement between, for
2 example, Guaiardo -- Rogelio Guaiardo that
3 involves my client, Judge Carrillo. Now,
4 I would like to know at this juncture whether
5 or not Mr. Rogelio Guaiardo will take the
6 stand and testify as to the facts and, of
7 course, I will ask him whether or not Judge
8 Carrillo has had any involvement whatsoever,
9 for example, in his receipt of E-188-22.

10 Now, if he is going to take the Fifth
11 Amendment, then I am going to request that he
12 be ordered by the District Judge to testify
13 and I want the facts in the record so as to
14 establish affirmatively, Your Honor, and --
15 that Judge O. P. Carrillo has nothing to do
16 with E-188-22, for example, and there are
17 a number of those checks.

18 I am out in a position now of having to
19 affirmatively try each and every one of those
20 items which I would like to do.

21 MR. ODAM: Well, you --

22 MR. MITCHELL: Pardon me, Mr. Odam, but
23 to do so, I need to know what these witnesses
24 are going to testify. Now, Judge, I could --
25 I didn't really intend to bounce them off the

1 backboard, to bounce Mr. Couling off the
2 backboard of their testimony. Actually, I
3 really was trying to get my time frame
4 worked out to find out what they are going
5 to do and make a request of this Master to
6 request the petition of this Court to order
7 them to testify really was what I was trying
8 to do, not so much to pin Mr. Couling down
9 and I think Mr. Couling -- I have got
10 enough without what these witnesses testified,
11 I think, in the record, plus what I am --
12 plus what I have already available to take
13 him on re-cross to take care of his credibility.
14 I think.

15 I am just going to test them to see what
16 they are going to do, is what I am trying to
17 do, Judge Meyers.

18 THE MASTER: Well then, you don't --
19 well, do you intend, if they do not take
20 the Fifth Amendment, to proceed with their
21 examination or do you intend to let them go
22 and bring Mr. Couling back and cross-examine
23 and then have them as witnesses?

24 MR. MITCHELL: That is the way I would
25 like to do it, because of -- out of due order

1 of procedure, Judge Meyers, and the Court's
2 suggestion that that would be the Court's
3 desire, that would be, I think, an orderly
4 way to do it, if they don't, and I would like
5 to excuse them and put Mr. Couling on and
6 bring them back and have them go down through
7 these items.

8 If they do, I would like to bring Mr.
9 Couling back, file a petition in the interim
10 with the Court, requesting that they be
11 ordered to testify and bring them in here
12 and -- before a local District Judge and
13 have them ordered to testify and then
14 tomorrow, day after tomorrow, bring them and
15 put them on the stand and let them testify
16 about these checks.

17 MR. ODAM: Might I make one comment,
18 Your Honor?

19 THE MASTER: Yes, sir.

20 MR. ODAM: I think that it would be
21 interesting, aside from the immunity of
22 these witnesses, on all of this, if we
23 consider what would take place; that if Mr.
24 Rogelio Guajardo were to take the stand,
25 and take the Fifth Amendment, and then Mr.

1 Mitchell asked this Court to petition the
2 District Court, and if Rogelio Guajardo
3 were to go ahead and waive his -- or go
4 over his Fifth Amendment and testify pursuant
5 to the Court's order, presumably take the
6 Fifth Amendment, and thereby saying that
7 what he says would tend to incriminate him,
8 that if that Fifth Amendment privilege were
9 out of the way then Mr. Rogelio Guajardo
10 would then testify along the lines of some-
11 thing that would be incriminating, which
12 would tend to support the testimony of Mr.
13 Couling.

14 What I am saying is the incongruity
15 aside from the immunity question of calling
16 a witness and if he takes the Fifth Amendment,
17 by his testimony, by taking the Fifth Amend-
18 ment, it would tend to support by invoking
19 the witness' --

20 MR. MITCHELL: Mr. Odam, you know the
21 fact that the man takes the Fifth does not
22 make any innuendo as to his guilt. I am
23 willing to, by his testimony, one way or the
24 other, I am -- I am not making a bargain, I
25 want the truth, I don't care what he testifies

1 to, as long as it is the truth. I am simply
2 not going to represent to this Court, if the
3 man takes the Fifth Amendment, it does not
4 carry with me, thank God, any innuendo what-
5 ever of his guilt and whatever his testimony
6 is, I am going to live with it and I have
7 got to live with it.

8 THE MASTER: Well, I don't mind pro-
9 ceeding with the -- do you want to call them
10 all?

11 MR. MITCHELL: I would like to call those
12 that are here, Judge. There are about four
13 or five of them. We can ascertain, I submit,
14 Judge, between now and the break time what --

15 THE MASTER: I think we could.

16 MR. MITCHELL: With the leave of Court,
17 I like the way the Court outlines that if
18 they intend to answer, that I would like to
19 defer, perhaps, and give them a date to come
20 back, like tomorrow morning and me continue
21 with Mr. Couling. Would that be all right?

22 THE MASTER: Yes. Mr. Cutwright, would
23 you get them. Who do you want first?

24 MR. MITCHELL: I want Rogelio Guaiardo.
25

1 (Discussion off the record.)
2

3 THE MASTER: Mr. Guajardo, you have
4 not testified here before, have you?

5 MR. GUAJARDO: No, sir.

6 THE MASTER: Would you raise your
7 right hand, please, sir?

8 - - - - -
9

10 ROGELIO GUAJARDO, being called as
11 a witness, was duly sworn and testified as follows:

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

14 MR. MITCHELL: May I proceed, Your
15 Honor?

16 THE MASTER: Yes, sir.

17 Q State your name for the record, please, sir.

18 A Rogelio Guajardo, Junior.

19 Q Mr. Guajardo, I represent you, I believe, in some
20 matters that are unrelated to the present inquiry,
21 am I correct?

22 A Yes, sir.

23 Q What was your answer to that?

24 A Yes, sir.

25 Q All right, and I stated to you that in connection

1 with proceedings here, that you would be required
2 to get other counsel, am I correct?

3 A Yes, sir.

4 Q Now, there has been some questions asked Mr.
5 Rudolfo Couling concerning an account called
6 Benavides Imolement and Hardware account, Mr.
7 Guajardo.

8 I will ask you this, and I will make this
9 preliminary statement, there has been some ques-
10 tions asked regarding some questions that were
11 written by Rudolfo Couling to you back in 1971
12 and 1972 that is R -- or Rogelio Guajardo.

13 Now, my question to you is, and I intend
14 to question you concerning the checks from Mr.
15 Rudolfo Couling to you.

16 MR. MITCHELL: They are specifically
17 identified as Exhibits E-188-22, Your Honor,
18 in that series.

19 Q I would ask you if you will testify freely as
20 to those transactions or would you claim your
21 privilege?

22 A I respectfully decline and refuse to answer any
23 questions put to me on the grounds that the
24 answer might tend to incriminate me.

25 Q And that would be as to any check I might ask you

1 from proceeds from Rudolfo Couling to you out of
2 the Benavides Implement and Hardware account?

3 A Yes, sir.

4 MR. MITCHELL: Specifically, Judge
5 Meyers, I refer to E-192-1 and I refer to
6 the items, and I would be glad to outline
7 a few of them, Judge Meyers, so the Court
8 will have them before him.

9 For example, those asked about this
10 morning, E-188-22, appearing on E-192-2,
11 and also, Your Honor, E-188-25, appearing
12 on E-192-2, and that type of item.

13 The checks specifically -- my questions
14 would be to this witness, what was the nature
15 of those checks, what, if any, agreement did
16 you have with Mr. Couling: did you have
17 any kind of an agreement or understanding
18 with Judge O. P. Carrillo about those checks
19 and what -- and was there an agreement or
20 understanding between you and Judge Carrillo
21 and a combination of D. C. Chapa, Oscar
22 Carrillo, Ramiro Carrillo, Eloy Carrillo,
23 David Carrillo, Jose Saenz, Tomas Elizondo
24 and Roberto Elizondo. Those would be my
25 questions specifically of this witness,

1 Judge Meyers.

2 Q And I understand you, Mr. Guajardo, you would
3 plead the Fifth Amendment if asked about those?

4 A Yes, sir.

5 MR. MITCHELL: If the Court cares for
6 me to be more explicit, I can go down through
7 some of the other items, Judge.

8 THE MASTER: No, if you're free to
9 pass the witness --

10 MR. MITCHELL: Yes, sir.

11 THE MASTER: -- with the understanding
12 that he is not released?

13 MR. MITCHELL: Yes, Judge, and my
14 petition to the Court, to the Master, would
15 be to request immunity of this -- to compel
16 this witness and to grant him immunity and
17 my specific request would be to the specific
18 checks and as to any agreement, that is the
19 checks listed on Examiner's E-192-1 through
20 and including 12, so that the Court is
21 aware.

22 The request would be as to these specific
23 items and any contract or agreement between
24 Rudolfo Couling, the witness, Rogelio Guajardo
25 and/or O. P. Carrillo, and/or D. C. Chapa,

1 and/or Ramiro Carrillo, and/or David Carrillo,
2 and/or Eloy Carrillo, Oscar Carrillo, Jose
3 Saenz, Roberto Elizondo and Tomas Elizondo.

4 I pass this witness, Judge Meyers.
5
6
7
8
9

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

11 BY MR. ODAM:

12 Q Mr. Guajardo, is that --

13 A Guajardo.

14 Q Pardon me for my Spanish. Have we ever met
15 before today?

16 A I don't think so.

17 Q Do you know my name?

18 A (Witness shakes head no.)

19 Q My name is John Odam and I work for the Attorney
20 General's office and I would like to ask you a
21 couple of questions also, please, sir.

22 Mr. Mitchell said that he had represented
23 you in some unrelated matters. Could you please
24 explain for us what those unrelated matters are?

25 A I respectfully decline and refuse to answer the

1 questions put to me on the grounds that the answer
2 I might give might tend to incriminate me.

3 Q Mr. Mitchell said that he had represented you in
4 those unrelated matters before he advised you that
5 you should get other counsel for this particular
6 matter.

7 My question to you, who is your attorney
8 representing you in this particular matter?

9 A I respectfully decline and refuse to answer any
10 questions put to me.

11 Q Who is -- is your attorney who represents you --
12 MR. ODAM: Strike that.

13 Q Have you been advised by a counsel to invoke the
14 Fifth Amendment here?

15 A I respectfully decline and refuse to answer any
16 questions put to me.

17 Q Could you tell me the name of your attorney who
18 represents you here today?

19 A I respectfully decline and refuse to answer.

20 Q Is your attorney who represents you in this
21 matter, is he present in the courtroom today?

22 A I also respectfully refuse to answer any questions
23 put to me.

24 Q Who is Paul Ramirez?

25 A I respectfully decline and refuse to answer any

1 questions put to me on the grounds that the
2 answer I might give might tend to incriminate me.

3 Q Did you ever rent any equipment to Benavides
4 Implement and Hardware?

5 A I respectfully decline and refuse to answer any
6 questions put to me.

7 Q In 1971, what was your position with the water
8 district?

9 A I respectfully decline and refuse to answer the
10 questions put to me on the grounds that the answer
11 might tend to incriminate me.

12 Q Do you know of any arrangement whereby checks
13 would come from the water district and in turn
14 checks would be issued to you in amounts identical
15 to those which Mr. Mitchell asked you about?

16 A I respectfully decline and refuse to answer the
17 questions put to me on the grounds that the
18 answer might tend to incriminate me.

19 Q Did you ever have any discussion with Rudolfo
20 Couling about having checks made out to Mr. Paul
21 Ramirez?

22 A I respectfully refuse and decline to answer the
23 questions put to me on the grounds that the
24 answer might tend to incriminate me.

25 Q Were you ever employed by Benavides Implement and

1 Hardware?

2 A I respectfully decline and refuse to answer the
3 questions put to me on the grounds that the
4 answer might tend to incriminate me.
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1 Q Could you please state whether or not you have
2 been indicted for testimony concerning any money
3 involved in these checks?

4 A I respectfully decline to answer on the grounds
5 the answer might tend to incriminate me.

6 Q Do you know who Raul Ramirez is?

7 A I respectfully decline to answer the question put
8 to me on the grounds that the answer might tend
9 to incriminate me.

10 MR. ODAM: I pass the witness.

11 MR. MITCHELL: May we request that we
12 include in our request for the order of the
13 district court the questions put to this
14 witness by counsel, if they are not included
15 within the confines of the one I originally
16 requested?

17 I wanted to be sure those are answered
18 also.

19 THE MASTER: Yes, you can put anything
20 in the petition you want. It seems to me
21 that you asked this witness a question in
22 substance that inquired if you represented
23 him on some unrelated matters, but not in
24 any matters connected with this proceeding
25 and further that you had advised him he

1 needed to get other counsel for this
2 proceeding and he answered those questions.

3 Now, I am not sure but what he has
4 waived his Fifth Amendment privilege with
5 respect to cross-examination as to what
6 matters you do represent him on and whether
7 or not you told him to get another lawyer
8 and whether or not he has done so, however,
9 that is really not a matter I think for me
10 to decide, because if Mr. Odam should
11 request me to direct him to answer those
12 questions and I did and he refused, it
13 would still be a petition to a district
14 judge to compel him, but -- well, that is
15 where we are.

16 MR. MITCHELL: Could I have counsel
17 join me in such a petition where this witness
18 is concerned?

19 THE MASTER: You can certainly make that
20 request.

21 MR. ODAM: Out of fairness to the
22 witness, and I don't mean this facetiously,
23 I don't know if his attorney is present in
24 the room, but perhaps he has been advised
25 to take the Fifth Amendment to everything

1 I asked. Maybe if I asked the questions
2 again, he would at least, since Mr. Mitchell
3 asked him those two questions, which he did
4 testify to, perhaps if I asked him again, he
5 would volunteer those answers.

6 For one thing, I think it is extra-
7 ordinary for a witness to take a Fifth
8 Amendment privilege when his counsel is not
9 present. It is also extraordinary -- well,
10 that is all to say I would like to, with
11 leave of Court and opposing counsel, to
12 restate the questions.

13 THE MASTER: You may do so.

14 Q (By Mr. Odam) Who represents you here today,
15 who is your lawyer?

16 A I respectfully decline to answer the question put
17 to me on the grounds that the answer might tend
18 to incriminate me.

19 Q Did you get a lawyer?

20 Well, let me complete that question.

21 After Mr. Mitchell had talked to you and you
22 answered the question a while ago, did you
23 contact a lawyer to represent you today?

24 A I respectfully decline to answer the question put
25 to me on the grounds that the answer may tend to

1 incriminate me.

2 MR. ODAM: No further questions.

3 MR. MITCHELL: We have nothing further.

4 THE MASTER: You may step down, but
5 wait outside.

6 Do you want to call another witness at
7 this time, Mr. Mitchell, or do you want to
8 break at this time?

9 MR. MITCHELL: Well, Your Honor --

10 THE MASTER: Well, let's break until
11 10:15.

12 MR. MITCHELL: I thought I could run
13 another one in, but I had better not, because
14 I don't know what the progress is.

15 THE MASTER: Well, we'll be in recess
16 until 10:15.

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18 (A short recess was taken.)

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1 MR. MITCHELL: We call Jose Saenz.

2 THE MASTER: Mr. Saenz, you have been
3 here before and were sworn earlier and are
4 reminded that you are still under oath.

5 You may be seated.
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11 JOSE SAENZ,
12 recalled as a witness, having been previously sworn,
13 testified as follows, to-wit:
14

15 EXAMINATION
16

17 BY MR. MITCHELL:
18

19 Q Would you state your full name for the record.

20 A Jose Saenz.

21 Q I am going to ask you some questions --

22 MR. MITCHELL: Your Honor, these
23 questions primarily relate to Roman Paragraph
24 III of the First Amended Notice of Formal
25 Proceeding.

1 Q Do you -- strike that.

2 Did you, during a period from January 1,
3 1972, to September, 1973, know Roberto Elizondo?

4 A I respectfully decline to answer the question put
5 to me on the grounds that the answer might tend
6 to incriminate me. I claim this right under the
7 provisions of the Fifth Amendment to the
8 Constitution of the United States and Article I,
9 Section 10 of the Constitution of the State of
10 Texas.

11 Q I will ask you the same question as relates to
12 the same period, did you know Ramiro Carrillo?

13 A I respectfully decline to answer the question put
14 to me on the grounds that the answer to it might
15 tend to incriminate me. I claim this right under
16 the provisions of the Fifth Amendment to the
17 Constitution of the United States and Article I,
18 Section 10 of the Constitution of the State of
19 Texas.

20 Q I will ask you the same question as regards Oscar
21 Carrillo.

22 A I respectfully decline to answer the question put
23 to me on the grounds that the answer to the same
24 might tend to incriminate me. I claim this right
25 under the provisions of the Fifth Amendment to

1 the Constitution of the United States and Article
2 I, Section 10 of the Constitution of the State
3 of Texas.

4 Q I will ask you the same question as regards
5 Rogelio Guajardo.

6 A I respectfully decline to answer the question put
7 to me on the grounds that the answer might tend
8 to incriminate me.

9 I claim this right under the provisions of
10 the Fifth Amendment to the Constitution of the
11 United States and Article I, Section 10, of the
12 Constitution of the State of Texas.

13 MR. ODAM: We would have no objection,
14 for the brevity of the record, if it is all
15 right with Mr. Mitchell, to have his answer
16 shortened to include those items.

17 THE MASTER: Yes, I decline to answer
18 can be your answer henceforth, with the
19 understanding that it includes and
20 encompasses the full provisions of what you
21 have just stated.

22 MR. MITCHELL: Thank you.

23 Q (By Mr. Mitchell) I will ask you the same
24 question as regards O. P. Carrillo.

25 A I decline to answer.

1 Q And the same question with regard to Tomas
2 Elizondo.

3 A I decline to answer.

4 Q David Carrillo.

5 A I decline to answer.

6 Q Now, with respect to --

7 MR. MITCHELL: Your Honor, we will now
8 move to E-192-1 for this series of questions.

9 Q Rudolfo Couling.

10 A I decline to answer.

11 Q Eloy Carrillo.

12 A I decline to answer.

13 Q D. C. Chapa.

14 A I decline to answer.

15 Q Rudy Couling.

16 A I decline to answer.

17 Q R. Ramirez.

18 A I decline to answer.

19 Q E. E. Powell.

20 A I decline to answer.

21 Q How about D. H. Carrillo?

22 A I decline to answer.

23 Q R. R. Carrillo.

24 A I decline to answer.

25 Q Ramiro Carrillo, Jr.

1 A I decline to answer.

2 Q E. Carrillo.

3 A I decline to answer.

4 MR. MITCHELL: I pass the witness.

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

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12 BY MR. FLUSCHE:

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14 Q Have you been indicted yet?

15 A I decline to answer.

16 Q The last time you were in this courtroom, you
17 represented your lawyer was Arthur Mitchell, is
18 that still true?

19 A I decline to answer.

20 Q Do you know anything about the operation of
21 Benavides Implement and Hardware Company?

22 A I decline to answer.

23 Q Did you ever get any of the money that was being
24 distributed by Benavides Implement and Hardware
25 Company?

1 A I decline to answer.

2 Q Are you still on the county payroll of Duval
3 County?

4 A I decline to answer.

5 Q You are not going to tell us whether you are
6 employed or not?

7 A I decline to answer.

8 Q If I were to ask you any other questions, even
9 about the weather, would you decline to answer
10 those?

11 A I decline to answer.

12 MR. FLUSCHE: I believe that is all I
13 have.

14 MR. MITCHELL: May we have a
15 transcription of this witness' testimony
16 and request that he be excused?

17 THE MASTER: Not excused.

18 MR. MITCHELL: I am sorry, asked to
19 stand aside.

20 THE MASTER: Yes, you may step down,
21 but I want you to remain available.

22 MR. MITCHELL: May I get Ramiro Carrillo?

23 THE MASTER: Yes.

24 Mr. Carrillo, you are previously sworn
25 and you are reminded that you are still

1 under oath.

2 THE WITNESS: Yes, sir.

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8 RAMIRO CARRILLO,

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

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

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14 BY MR. MITCHELL:

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16 Q State your name for the record, please, sir.

17 A Ramiro D. Carrillo.

18 MR. MITCHELL: Your Honor, this
19 question relates to Roman Paragraph I of the
20 First Amended Notice of Formal Proceeding.

21 Q Let me ask you, please, sir, did you have an
22 agreement or a conspiracy with O. P. Carrillo,
23 from a period of time of January, 1971, until
24 May, 1975, to wrongfully obtain the sum of three
25 hundred dollars every month from Duval County?

1 A I respectfully decline to answer the question put
2 to me by the Commission on the grounds that the
3 answer might tend to incriminate me. I claim
4 this right under the provisions of the Fifth
5 Amendment to the Constitution of the United States
6 and Article I, Section 10 of the Constitution of
7 the State of Texas.

8 THE MASTER: You may simply say in the
9 future that you decline to answer and it will
10 be understood and agreed by both the
11 Examiner and Mr. Mitchell that the answer,
12 I decline to answer, encompasses the full
13 statement you just made.

14 Is that agreeable, gentlemen?

15 MR. MITCHELL: Yes, Your Honor.

16 THE MASTER: Did you say yes, Mr. Odam?

17 MR. ODAM: Yes, sir.

18 MR. MITCHELL: I move now to Roman
19 Paragraph III of the First Amended Notice.

20 Q (By Mr. Mitchell) During the period of January
21 1st, 1972, through September, 1973, did you
22 conspire with your brother O. P. Carrillo and
23 Roberto Elizondo to steal two hundred twenty-five
24 dollars a month from the Road and Bridge Fund of
25 Duval County?

1 A I decline to answer.

2 MR. MITCHELL: I move now to Roman IV.

3 Q (By Mr. Mitchell) Mr. Ramiro Carrillo, during
4 the period of January 1st, 1971, through June or
5 July, 1974, did you, either individually or
6 combined with O. P. Carrillo or other persons,
7 conspire to appropriate for your own personal use
8 and benefit or for the personal use and benefit
9 of O. P. Carrillo or other persons, the services
10 of one Francisco Ruiz?

11 A I decline to answer.

12 MR. MITCHELL: This is Roman V.

13 Q Mr. Ramiro Carrillo, I will ask you, if during
14 the year 1971, you had a conspiracy with your
15 brother O. P. Carrillo to wrongfully appropriate
16 and use for your own benefit or the benefit of
17 O. P. Carrillo or any other person, the services
18 and labor of Oscar Sanchez?

19 A I decline to answer.

20 Q Did you, in 1971, agree to use or conspire
21 with or combine or agree with any person to
22 appropriate for your own use or the use of any
23 other person any equipment belonging to Duval
24 County?

25 A I decline to answer.

1 MR. MITCHELL: Roman VI.

2 Q Did you, during the year of 1973, take, in
3 combination individually or with Tomas or
4 Roberto Elizondo or O. P. Carrillo for your own
5 use and benefit or for the benefit of others, the
6 usage of a backhoe belonging to Duval County?

7 A I decline to answer.

8 MR. MITCHELL: I move now to E-192-1.

9 Q I will ask you if you know Rudolfo Couling?

10 A I decline to answer.

11 Q Do you know the Benavides Implement and Hardware
12 Company?

13 A I decline to answer.

14 Q Did you have, in May, 1971, a partnership
15 agreement with Mr. Rudolfo Couling, D/B/A
16 Benavides Implement and Hardware Company?

17 A I decline to answer.

18 Q Did you at any time, up to date, from 1971 to
19 date, have a partnership agreement with Rudolfo
20 Couling or anyone as regards Benavides Implement
21 and Hardware Company?

22 A I decline to answer.

23 Q Tell me the nature of the checks issued to you by
24 Benavides Implement and Hardware Company. These
25 include E-186-11, 12, and this one is Check No.

1 109, 113, 119, 118, 125, 128. These are all in
2 1971, being April, May and June, and continuing,
3 as shown in E-192-1, and through and including
4 E-192-12, payable to Mr. Ramiro Carrillo.

5 A I decline to answer.

6 Q I will ask you the same question as regards
7 checks issued to you out of the same account from
8 April 16, 1971, through and including the present
9 date, and through and including E-192-12,
10 specifically, checks to Ramiro Carrillo
11 individually during that period of time?

12 A I decline to answer.

13 Q I will ask you the same question as regards the
14 same exhibits and same time span as to checks
15 issued to Ramiro Carrillo and Brothers.

16 A I decline to answer.

17 Q Did you have any character of agreement or
18 understanding with Rudolfo Couling as regards
19 appropriating money belonging to Duval County,
20 The Duval County Water District or Duval County
21 School District and sharing those funds with
22 yourself or with others?

23 A I respectfully decline to answer.

24 Q In the same time span, E-192-1 through E-192-12,
25 as regards two checks issued from Benavides

1 Implement and Hardware account to Oscar Carrillo?

2 A I decline to answer.

3 Q Did you have any understanding concerning
4 yourself or Oscar Carrillo or your brother O. P.
5 Carrillo, as to ripping off the County of Duval
6 for funds and using the Benavides Implement and
7 Hardware Company vehicle as to appropriate those
8 funds?

9 A I decline to answer.

10 Q Did you at any time, beginning 4-16-71, through
11 and including today, have an understanding or
12 agreement or conspiracy that if you and O. P.
13 Carrillo or Oscar Carrillo or anyone else, to
14 use any county equipment for your own personal
15 use and benefit or for the benefit of others?

16 A I decline to answer.

17 Q And for the use and benefit of O. P. Carrillo or
18 Oscar Carrillo?

19 A I decline to answer.

20 Q Or any other person?

21 A I decline to answer.

22 Q Did you enter into a conspiracy or agreement in
23 1971, and did that continue through to today, as
24 regards the use of any monies from any
25 governmental agency of the county or water or

1 school district through and by use of the vehicle
2 Benavides Implement and Hardware for your family,
3 your trust or friends?

4 A I decline to answer.

5 Q I will ask you the same question, Mr. Ramiro
6 Carrillo, if you had any understanding, beginning
7 at any time, from 4-16-71, to date, to appropriate
8 or use your office wrongfully as regards the
9 appropriation of funds under your control,
10 particularly the County of Duval or the water
11 district or school district, through any vehicle,
12 appropriate any funds for your own benefit or for
13 other persons or relations?

14 A I decline to answer that.

15 Q That includes D. C. Chapa, your father?

16 A I decline to answer.

17 MR. MITCHELL: Pass the witness.
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E X A M I N A T I O N

BY MR. FLUSCHE:

Q Mr. Carrillo, have you been removed from office as a county commissioner in Duval County?

A I decline to answer.

Q Has there been a petition filed against you asking your removal because of stealing money from the county?

A I decline to answer.

Q Did you participate with Mr. Rudolfo Couling in stealing money from the county, from the water district and from the independent school district over a period of approximately three years from 1971 to 1974?

A I decline to answer.

Q Do you know Paul Ramirez?

A I decline to answer.

Q How about Juan Garcia? Do you know Juan Garcia?

A I decline to answer.

Q Mr. Couling has testified that Juan Garcia was a fictitious person and that you used this name to conceal some of the thefts that you participated in from the county, is that correct?

1 A I decline to answer.

2 Q Are you a partner with Judge O. P. Carrillo in
3 a firm called the Farm and Ranch Store of Benavides,
4 Texas?

5 A I decline to answer.

6 Q Is R. Carrillo and Brothers, is that a trust that
7 was created by your father?

8 A I decline to answer.

9 Q Who are the children who are the participants in
10 that trust?

11 A I decline to answer.

12 Q When the -- Mr. Couling would issue checks to
13 R. Carrillo and Brothers, who participated in
14 the proceeds of those checks?

15 A I decline to answer.

16 Q Rogelio Guajardo, Junior, is your nephew, is
17 that correct?

18 A I decline to answer.

19 Q How about -- there has been some testimony here
20 that on occasions Mr. Couling would give you a
21 check which was signed and dated and that you
22 would later fill it out and reap the benefits
23 of that check.

24 One such check is made out to Miller and
25 Miller in the amount of two hundred and ten

1 dollars on October the 18th, 1971?

2 A I decline to answer.

3 Q How about A. Garcia, who is A. Garcia?

4 A I decline to answer.

5 Q There has been some testimony here that rather
6 large sums of money were spent at the Gulf Hard-
7 ware Company in Corpus Christi for the purpose
8 of buying hunting equipment for you and your
9 brother, O. P., and for D. C. Chapa, ammunition,
10 shotguns.

11 MR. MITCHELL: There is no testimony
12 about O. P. The witness Couling testified
13 he purchased, and I am going to object to
14 the form of the question as assuming a fact
15 that is not in evidence, there was a purchase
16 that was given to D. C. Chapa and that is
17 an unfair question.

18 MR. FLUSCHE: All right, I will rephrase
19 the question.

20 THE MASTER: All right.

21 Q D. C. Chapa is your father, is that right?

22 A I decline to answer.

23 Q And do you have any knowledge of Mr. Couling
24 spending twenty-three hundred dollars with the
25 Gulf Hardware Store here in Corpus Christi for the

1 purpose of buying hunting supplies for your
2 father, D. C. Chapa?

3 A I decline to answer.

4 Q There has been other testimony that on occasion
5 Mr. Guling would give you a blank check signed,
6 dated, with no amount filled in that -- and that
7 you would later negotiate it at a place called
8 Charlie's Truck Parts in San Antonio.

9 A I decline to answer.

10 Q One such check was made out in the amount of
11 seventeen hundred and ten dollars on February the
12 8th, 1972.

13 A I decline to answer.

14 Q There is another check dated March the 27th of
15 1972 in the amount of six hundred dollars payable
16 to International Harvester. There has been some
17 testimony that that check was given to you, signed
18 in blank, dated without the amount filled in and
19 that you later negotiated this check at the
20 International Harvester.

21 A I decline to answer.

22 Q Did you ever get any cow pellets from Julian
23 Trevino in Laredo for your cattle?

24 A I decline to answer.

25 MR. FLUSCHE: That's all I have.

1 THE MASTER: Thank you, Mr. Carrillo,
2 you may step down and I will ask you to
3 wait outside.

4 (Whereupon the witness Mr. Ramiro
5 Carrillo left the courtroom.)
6

7 MR. MITCHELL: Your Honor, I am informed
8 that Mr. Oscar Carrillo and Mr. D. C. Chapa
9 are on their way, they are not here, and
10 Roberto Elizondo and Tomas Elizondo. I
11 wonder if I might proceed with examination
12 of Mr. Couling, and as they -- may I check
13 to see, they might be here, Judge?

14 MR. ODAM: I saw Eloy Carrillo out
15 there.

16 MR. MITCHELL: He is in connection with
17 another matter, but I did have Mr. D. C.
18 Chapa subpoenaed and Mr. Oscar Carrillo
19 subpoenaed and Mr. Roberto and Mr. Tomas
20 Elizondo.

21 THE MASTER: Well, my suggestion is
22 that we began the cross-examination of Mr.
23 Couling and that it go on, if it does, and
24 I suspect it will, until the break and then
25 if these other witnesses are here that is a

1 natural interruption and you can develop
2 the record with respect to them at the noon
3 hour.

4 MR. MITCHELL: Thank you, Judge Meyers.

5
6 (Discussion off the record.)

7 MR. MITCHELL: Your Honor, may these
8 witnesses be excused, subject to a standby
9 on a telephone basis?

10 THE MASTER : Yes, sir.

11 MR. MITCHELL: Because we will prepare
12 a petition.

13 THE MASTER: Yes, certainly.

14 MR. MITCHELL: May I call the witness
15 Couling?

16 THE MASTER : Yes, get Mr. Couling.

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1 RUDOLFO COULING,

2 recalled as a witness, testified as follows, to-wit:

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6 E X A M I N A T I O N

7
8 BY MR. MITCHELL:

9 THE MASTER: You may proceed.

10 MR. MITCHELL: Thank you, Judge.

11 Q Mr. Couling, I had asked you, I believe, prior to
12 our holiday break, if you would have any objection
13 to requesting the proper custodian in Austin in
14 the district office of the Internal Revenue for
15 a copy of your 1971 return.

16 Do you recall my request to you when you were
17 under oath on the Friday before our break?

18 A Yes, sir.

19 Q Did you have that -- do you have that 1971 tax
20 return?

21 A No, sir, I haven't been able to get not even one
22 for myself, sir.

23 Q Did you make a request for it or did you decide
24 not to request it?

25 A I talked to Mr. Lloyd and he said if I had

1 requested it before by letter and I said yes,
2 and I am still waiting an answer for it and
3 there is no use in requesting it again.

4 Q You didn't talk to anybody?

5 A No, sir.

6 Q Representing the Examiner about it?

7 A No, sir.

8 Q You weren't told by anybody not to request it?

9 A No, sir.

10 Q You weren't told by anybody if you did not request
11 it there was no way that you could be forced to
12 deliver it?

13 A No, sir.

14 Q You at any rate do not have it, do you?

15 A No, sir, I don't have it.

16 Q You indicated that you did talk to Mr. Lloyd,
17 your attorney, and Mr. Lloyd and you discussed
18 whether or not a letter had been sent. Would you
19 have any objection if we, in your behalf, request
20 a delivery of that 1971 tax return?

21 A I'll have to talk to Mr. Lloyd on that.

22 Q Well, you understand, Mr. Couling, the reason for
23 my interest is that you have previously testified
24 on numerous occasions that you had a partnership
25 with Mr. Ramiro Carrillo and Mr. O. P. Carrillo and

1 that --

2 MR. ODAM: May I pose an objection to
3 this matter, Your Honor?

4 THE MASTER: Certainly.

5 MR. ODAM: Your Honor, first of all
6 with respect to the numerous comments with
7 regard to the partnership, I harken back
8 to earlier comments I have made and there
9 has never been a major issue in this case,
10 as a matter of fact it has been excluded
11 from the evidence, the one statement that
12 this witness did make as to the silent part-
13 nership. I think it would be a misrepresen-
14 tation that we have constantly said there
15 has been a partnership.

16 Second of all, with respect to income
17 tax returns, it would appear to me that the --
18 where we are in the record right now is
19 this witness on rebuttal, he has been taken
20 on direct, on cross-examination, which goes
21 to the point of whether or not -- and he was
22 put on rebuttal on direct, whether or not
23 he has rented any equipment, that was the
24 issue in the case. We have tried by way of
25 the 192 and all of it's subparts, all of

1 the checks in evidence, to make this record
2 straight on that.

3 I would object to the relevancy or to
4 lengthen these procedures as to a tax
5 return. The best evidence, and I don't
6 use that really in the legal sense of the
7 word, the best evidence objection, but the
8 best evidence of whether or not he rented
9 equipment is whether or not the Exhibits
10 which we have in evidence, and it would
11 prolong it to simply take this man on continu-
12 ing to try to get a tax return for a matter
13 that does not relate and is not relevant to
14 the issue that is before us on rebuttal.

15 THE MASTER: Well, I agree with some
16 of what you say and, Mr. Mitchell, it seems
17 to me that it is abundantly clear if this
18 was the point you are going to make, that
19 he never filed on behalf of any alleged
20 partnership an information return.

21 MR. MITCHELL: That is right.

22 THE MASTER: And I don't think unless
23 you have reason to develop that further it
24 needs to be developed any further.

25 MR. MITCHELL: I do for one other point.

1 Counsel made the statement to this record
2 and under oath that this business of a part-
3 nership was referred to alluded to once,
4 I believe, at most.

5 Now, for that -- and I will move on,
6 after I make reference to the following
7 pages in the record 1602, 1603, 1684, 1693,
8 1694, 1697, two references on that page
9 where he testified under oath he had a part-
10 nership. 1946, 1965, 1981, 1698, 1757, at
11 least four references under oath where he
12 testified unequivocally that he had a part-
13 nership, Judge Meyers.

14 As the Court has observed, and I will
15 leave it at that, that tax return, that is
16 Exhibit 101, 2, 3, they do not, of course,
17 have the 71 and that was the reason for my
18 preliminary statement he has not produced
19 it, or documents that do not reflect any
20 character of tax -- of 1065 reporting and
21 they are filed under the penalties -- pains
22 and penalties of perjury and it is offered
23 for the purposes just precisely what it
24 speaks out to any lawyer, that is credibility
25 and I will move on, Judge, if that is --

1 May I have the same agreements as
2 regard's equipment and I will give -- I will
3 be glad to give Counsel the page references
4 where this gentleman has testified to --

5 THE MASTER: I don't know what agreement
6 you are speaking of with respect to equip-
7 ment.

8 MR. MITCHELL: That is whether or not
9 he has testified on numerous occasions, Judge
10 Meyers, that he had no equipment.

11 THE MASTER: There is no question about
12 that.

13 MR. MITCHELL: And the tax returns, of
14 course, show equipment purchases. I just
15 want in order to avoid -- I want to cross-
16 examine him -- may I state this, Judge Meyers,
17 I don't want to be disjointed. Counsel is
18 correct, I have crossed this witness on about
19 three occasions, but at the last juncture,
20 the tax returns had come in and the Court
21 said now we are going to allow you to -- I
22 want to read the record and cross-examine
23 him as to those tax returns.

24 Then old E-192 was born, when they
25 took him back and I didn't get a chance to

1 cross-examine him so my cross was interrupted,
2 really finishing of the cross was interrupted
3 by the introduction of E-192-1, Judge Meyers.

4 I didn't intend to go through all of
5 this material but I am going to be forced to
6 at this point, but if it is understood that --
7 and I think the Court summarized -- the Court
8 has a good control of it, I will move on with
9 one more exception and that is I want to
10 introduce the official state -- the sales
11 tax application questionnaire from Austin,
12 Texas, to Benavides Implement and Hardware
13 showing that this gentleman, in addition to
14 his tax returns on February the 22nd of 1977,
15 filed an application for a sales tax applic-
16 cation after telling the record under oath
17 he didn't need one, didn't think he had to
18 have one and that was a partnership where
19 he was designated at least to the State of
20 Texas, that it was a sole proprietorship
21 and I move from that.

22 THE MASTER: All right.

23 MR. MITCHELL: May I have an Exhibit
24 number on that?
25

1 (Marked for identification by the
2 reporter as Exhibit R-105.)

3
4 MR. MITCHELL: And I will authenticate
5 it, Judge.

6 (Discussion off the record.)
7

8 Q (By Mr. Mitchell:) Mr. Couling, I will show you
9 what is R-105 and ask you if you recognize your
10 signature on that application for sales tax filed
11 with the state agency?

12 A Yes, sir.

13 Q All right, and it is dated what, please, sir,
14 right down there in the lower lefthand corner?

15 A February the 22nd, 1971.

16 Q And you had checked off -- there are boxes on
17 there, keep looking at it, there are boxes that
18 say sole proprietorship?

19 A Yes, sir.

20 Q Partnership, corporation, and you checked what?

21 A Self owner, sole owner.

22 Q Sole owner. The date of that -- on the 22nd day
23 of February, 1971?

24 A That's correct, sir.

25 Q All right, sir, and you received, I suppose, from

1 the comptroller of public accounts, a number?

2 A Yes, sir.

3 Q All right.

4 MR. MITCHELL: We offer this, Your
5 Honor, with -- along with the letter of
6 the custodian, comptroller of public
7 accounts, and it being offered under that
8 provision of the statute, official records.

9 MR. ODAM: Your Honor, I have examined
10 R-105 and I have no objection to authentica-
11 tion. The only objection I would level is
12 to repetition on the point of the partnership.
13 I think the record is clear and the Master
14 is totally advised as to what statement this
15 witness has made with respect to the partner-
16 ship and the record is replete to where it
17 has been set up as a sole proprietorship.

18 The only objection I would have is
19 relevancy and repetition to continue to go
20 into this matter.

21 THE MASTER: Well, I understood that
22 this was the last.

23 MR. MITCHELL: That's right, Judge.

24 THE MASTER : Yes, the objection is
25 overruled and it is admitted.

1 (Whereupon Exhibit R-105 was admitted
2 in evidence.)
3

4 THE MASTER: Let me look at it.

5 (Handed to the Master.)
6

7 Q (By Mr. Mitchell:) Now, Mr. Couling, I will ask
8 you one more question at this point: Did you,
9 or did you not have -- you have testified so many
10 ways on this point, a partnership in 1971 with
11 Ramiro Carrillo and O. P. Carrillo doing business
12 as Benavides Implement and Hardware?

13 A It was just a silent partnership, as far as
14 Ramiro Carrillo and I were concerned, it was just
15 a silent partnership where nobody would know it
16 but just him and I.

17 Q It was a silent partnership?

18 A That is the way I understood it, sir.

19 Q If it were a partnership, I'm going to refer you
20 to that Exhibit that you helped prepare, so let's
21 look at E-192-1.

22 A All right.

23 Q Your testimony is under oath that you had a part-
24 nership, the nature of which was a silent one
25 between you and Ramiro Carrillo and involved my

1 client, Judge O. P. Carrillo, in the operation of
2 the business that appears on the front of E-192-1
3 as Benavides Implement and Hardware, am I correct?

4 A Yes, sir.

5 Q And your testimony under oath further is that
6 that partnership came into existence sometime in
7 the month of May of 1971 and continued up until
8 the date that you sold the business to Mr. Cleofus
9 Gonzalez?

10 A Yes, sir.

11 Q Is that correct?

12 A Yes, sir.

13 Q Notwithstanding that you did not declare, as we
14 know the record reflects, any of the partnership
15 information returns with the federal government?

16 A No, sir.

17 Q And notwithstanding the fact that in February of
18 1971 you filed an application for sales tax
19 application that you designated as a sole proprie-
20 torship?

21 A Yes, sir.

22 Q Now, you are telling this Court, and you are
23 stating under oath that E-192-1-- strike that,
24 Judge, may I have just one minute before I proceed?

25 MR. ODAM: Your Honor, while Counsel

1 is looking at the chart, may I ask the
2 witness a question on voir dire examination
3 in order to pose an objection to this continu-
4 ing series of questions?

5 THE MASTER: Yes, you may.

6
7 - - - - -

8
9 VOIR DIRE EXAMINATION

10 BY MR. ODAM:

11
12 Q I just stated, Mr. Couling, that you reported it
13 continuously as a sole proprietorship, is that
14 correct?

15 A Yes, sir.

16 Q And my question to you is why did you report it
17 as a sole proprietorship if you had such an
18 agreement or understood you had such a silent
19 partnership arrangement?

20 A Ramiro told me he didn't want nothing to do with
21 it and he did not want his name to appear nowhere
22 in the record that he was part owner of the store,
23 sir.

24 MR. ODAM: Your Honor, my objection
25 again, Mr. Mitchell just stated that R-105

1 was to be the last, and I object on repeti-
2 tion and relevancy and I continue to urge
3 that objection. I don't see where we go
4 off on trying to attack this witness' credi-
5 bility when he has testified why he filled
6 it out as a sole proprietorship. He testi-
7 fied back and forth, explaining why, or that
8 he had the conversation with respect to the
9 silent partnership.

10 I just don't see where we are going.
11 I don't see the relevancy of it even on the
12 credibility of this witness as to whether
13 or not he rented equipment, it is time-
14 consuming and it is irrelevant and immaterial
15 and repetitious of the same point made
16 throughout this case.

17 MR. MITCHELL: Your Honor, of course,
18 I had the same objection a long time ago
19 with relevancy, but I read Roman VII, VIII,
20 IX, X and XI as being direct allegations of
21 theft of money by my client. The Examiner
22 says that is not true.

23 MR. ODAM: No, I don't say that is not
24 true.

25 MR. MITCHELL: He said at the very outset.

1 we have got a conspiracy and then he said
2 no, we have a partnership, and the Court
3 struck his second amended notice with his
4 allegation of conspiracy upon our plea of
5 surprise and that left him, Judge Meyers,
6 with only one leg to stand on and that is
7 this partnership.

8 Now, I say that if his witness, Mr.
9 Couling's credibility on that point, is
10 weak, is destroyed, which I claim it is,
11 then he falls in his Roman VII, VIII, IX
12 and X because the checks themselves do not
13 run to Judge O. P. Carrillo. It has got to
14 have a connecting link or his case falls
15 him.

16 Now, incidentally, Judge Meyers, it is
17 also important because I am going to start
18 asking about E-192-1 in light of that part-
19 nership. He has either got to fish or cut
20 bait on it, Judge, is what I am driving at.

21 THE MASTER: Well, I do not know what
22 you intend to ask with respect to E-192,
23 relevant to the -- relative to the partner-
24 ship, but I do think that at least I do not
25 now see how there can be much more added to

1 this record about the alleged partnership
2 and why it wasn't made public.

3 MR. MITCHELL: Perhaps maybe I can
4 satisfy the Judge on that.

5 THE MASTER: Why don't you go on to
6 192?

7 MR. MITCHELL: All right.

8 Q (By Mr. Mitchell:) Mr. Couling, you testified
9 . when Mr. Odam put the questions to you about
10 E-192-1 and how you folks had put it together,
11 you testified, and I am going to try to put the
12 deals together. First you had a deal on the
13 seven hundred and fifty dollar items, do you
14 remember that testimony?

15 A Yes, sir.

16 Q You said every time a seven hundred and fifty
17 dollar item was cranked out of the district, that
18 five hundred dollars of it was to go to Oscar
19 Carrillo and two hundred and fifty dollars of it
20 was to go to Rogelio Guajardo?

21 A No, two hundred and fifty dollars was to go to
22 Ramiro Carrillo and Brothers.

23 Q That is a separate deal that you made with
24 Ramiro?

25 A No, not on the water district.

1 Q I am not arguing with you, I am trying to get
2 your testimony. As I understood you, you took
3 a great deal of time to show like, for example,
4 on page 1 of E-192, a check for five hundred
5 dollars to Oscar Carrillo and a check for two
6 hundred and fifty dollars to Ramiro Carrillo and
7 how you traced it out of the water district to the
8 seven hundred and fifty dollar check and you
9 tied it in to the R-193 and E-186 series of
10 checks, and you are looking at page 1 there?

11 A Yes, sir.

12 Q Counsel asked you how come did you do that and
13 you said we had a deal, an agreement, and every
14 time we got a check for seven hundred and fifty
15 dollars from the water district, five hundred dollars
16 of it would go to Oscar Carrillo and two hundred
17 and fifty dollars would go to Ramiro Carrillo and
18 Brothers?

19 A That's correct.

20 Q Who was your deal with?

21 A On this particular -- the way it was on the water
22 district checks, the checks were brought to me
23 by Rogelio Guajardo and D. C. told me that every
24 time the check was issued for seven hundred and
25 fifty dollars it was supposed to be divided, the

1 way it is divided here.

2 Q That is my question, you had a partnership composed
3 of Ramiro Carrillo, who was a silent partner, and
4 O. P. Carrillo who was a silent partner and had
5 a deal whereby if you got a check for seven hun-
6 dred and fifty dollars from the water district, that
7 was told by Rogelio Guajardo and D. C. Chapa that
8 you were supposed to write a check for five hundred
9 dollars to Oscar Carrillo and two hundred and
10 fifty dollars to Ramiro Carrillo and Brothers, is
11 that correct?

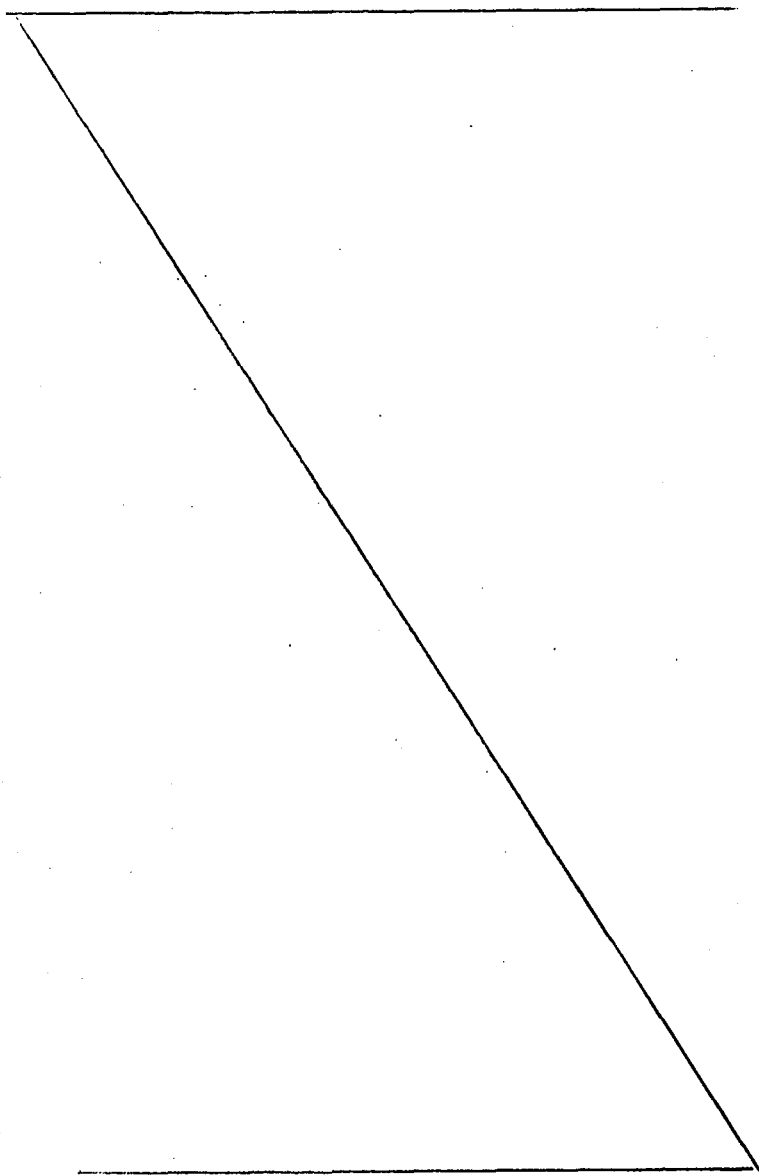
12 A Yes, sir.

13 Q You had another deal, as I recall your testimony,
14 it was a little vague, as I recall it, it regarded
15 checks to D. C. Chapa, and Rogelio Guajardo and
16 Ramiro Carrillo and these checks were checks in
17 the series or amounts of three hundred dollars to
18 three hundred and fifty dollars. Do you remem-
19 ber those and Mr. Odam says how come did y u give
20 those checks to -- to D. C. Chapa or to Rogelio
21 Guajardo and your testimony was, I believe, if
22 you recall it correctly, it was that when we got
23 checks for three hundred dollars to three hundred
24 and fifty dollars, and you called off three of
25 them, that these -- it was an automatic signal to

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distribute these checks.

A To distribute them to Ramiro Carrillo and Brothers
account only.



1 Q Right. So I do recall correctly, you had a
2 separate deal, and that deal dealt with the
3 checks in the amount of three hundred dollars,
4 and that was to go to Ramiro Carrillo and
5 Brothers?

6 A Right.

7 Q And that was as to checks from the county?

8 A Yes, sir.

9 Q And you had an agreement with this three
10 hundred dollar amount checks coming from the
11 county and that deal was with Ramiro?

12 A Yes.

13 Q And the three fifty was D. C. Chapa and Ramiro
14 Carrillo?

15 A Yes, sir.

16 Q And you were a partner with D. C., Ramiro, and
17 you never did ever report it that way?

18 A No, sir.

19 Q All right. Now, is the Benavides Implement and
20 Hardware account, as reflected by the account,
21 real or not real?

22 A It is real.

23 Q The deal that you had on the seven hundred fifty
24 dollar amounts and the three hundred or the three
25 fifty amounts, that was a deal, as I understand,

1 made by the parties beginning in 1971 and
2 continuing until the date shown on E-192-12?

3 A I don't know what date, but it was to that date.

4 Q Turn over to E-192-12.

5 Start with it.

6 MR. MITCHELL: Judge Meyers, that is the
7 E-188- -- it appears on E-192-12.

8 Q (By Mr. Mitchell) The checks on that date right
9 there, there is not a check to either D. C. Chapa
10 or Ramiro Carrillo or O. P. Carrillo, is there?

11 A No, sir.

12 Q Or Rogelio Guajardo?

13 A No, sir.

14 Q Ramiro or O. P. Carrillo?

15 A No, sir.

16 Q So if you had a deal with them, you violated it
17 on December, 1974, because you didn't give them
18 any money?

19 MR. ODAM: I object to that. The deal
20 speaks as to where the checks were issued
21 and there was no agreement as to when they
22 were given out. I don't see the purpose of
23 this question as to whether or not the deal
24 was violated or not.

25 MR. MITCHELL: He just got through

1 testifying and Mr. Odam asked him who the
2 deal was with. I asked him how long the
3 deal was to continue and he reaffirmed it
4 and he did the same thing under oath, he
5 said, this is how long it went.

6 Let's look at the evidence and see if
7 it is supported and I say it is not.

8 MR. ODAM: The witness stated it went
9 as far as the exhibit stated it went.

10 THE MASTER: The objection is overruled.

11 MR. MITCHELL: Sure they do.

12 Q (By Mr. Mitchell) I am going to ask you why the
13 checks were out in December, 1974, as to your
14 seven hundred fifty dollar county funds and the
15 three hundred and three fifty checks, you spent
16 them on yourself, did you not?

17 A We didn't have any checks from the county that
18 month.

19 Q So -- well, you are testifying there were two
20 types of businesses in Benavides Implement and
21 Hardware, a business you yourself shared in and a
22 business these other folks shared in?

23 A No, sir.

24 Q Look at those checks, three hundred dollars to
25 R. M. Couling.

- 1 It is on Page 12 of E-192, is that you?
- 2 A Yes, sir.
- 3 Q That is three hundred dollars in December, 1974,
4 am I correct?
- 5 A Yes, sir.
- 6 Q Step up to 12-17-74, that is to you, is it not?
- 7 A It is, yes, sir.
- 8 Q Right above that, 12-16-74, that is a hundred
9 dollars to you?
- 10 A Yes, sir.
- 11 Q And the one on 12-5-74, that check there?
- 12 A Yes, sir.
- 13 Q And the six hundred dollar check?
- 14 A Yes, sir.
- 15 Q And the twenty-five dollars, that is to you, is
16 it not?
- 17 A Yes, sir.
- 18 Q I want to know -- there is some testimony on
19 Rudy Couling and Rudolfo Couling and R. M. Couling.
20 Are all of those you?
- 21 A Most of them were made out to me.
- 22 Q You have a youngster named Rudolfo?
- 23 A Yes.
- 24 Q Oh, Lord.
- 25 Well, the Rudolfo, is that you or that

1 youngster?

2 A That is me.

3 Q How about R. M. ?

4 A That is me.

5 Q On 11-11-74, let's look at that month. There is
6 not a check there, and I know the record speaks
7 for itself, there are none in 10-74 or 9-74 or
8 8-74 or in 7-74 to D. C. Chapa, Oscar Carrillo
9 or Ramiro Carrillo or O. P. Carrillo or Oscar
10 Carrillo?

11 A No, sir.

12 Q Even though you got checks -- look at July 22nd,
13 1974. There is a school district check, right
14 and a county check, right, and the school district
15 check?

16 Counsel seemed to, or you did, in your
17 answer, said that there was a difference as to
18 whether you got school money or not. You did get
19 it that month?

20 A Yes.

21 Q And there was no checks out to O. P. Carrillo or
22 Ramiro Carrillo or Rogelio Guajardo for that
23 month?

24 A No.

25 MR. MITCHELL: Judge, I am not going to

1 go through each and every one, but I would
2 like to refer to E-192-10 and go right on
3 back. The Court can look at those and do
4 the same thing I have done.

5 Q (By Mr. Mitchell) That is for payments furnished
6 to him, am I right, there is no check to D. C.
7 Chapa?

8 A I don't have any check made out directly to D. C.
9 Chapa.

10 Q And I believe Rogelio Guajardo?

11 A I don't believe you will find any checks after
12 May to any of those individuals.

13 Q Why is that?

14 A Because that is when they stopped doing business
15 with the county through me and the water district.

16 Q Thank you.

17 So that your original testimony under oath
18 that you had a partnership or agreement as
19 regards monies coming out of these various
20 agencies is not true?

21 A Why not?

22 Q It didn't go up to date, does it?

23 A I have stated until this date on the election in
24 April, 1974. From then on, they did no business
25 with Benavides Implement and Hardware or the

1 water district.

2 Q E-192-10, prior to that April of 1974 date, I
3 should find a systematic income from the county
4 and water district and school district and a
5 systematic dispersal, is that right?

6 A Some of them, yes.

7 Q You find income from that month and no outgoes
8 to O. P., Ramiro or Rogelio Guajardo, is that
9 right?

10 A There is no checks made out but cash was drawn
11 that I handed to Ramiro.

12 Q You have a fantastic memory.

13 I noticed awhile ago you talked about in
14 detail, about items that were a transaction with
15 a fellow named Juan Garcia.

16 A Yes.

17 Q And R. Ramirez.

18 A You asked me about Rogelio Guajardo.

19 Q I asked you specifically whether or not you had
20 a store license and you could not remember that.

21 A You asked me in 1971 and this is before I sold it.

22 Q I asked you what you sold your partnership for
23 and you could not tell me that.

24 A There is no money involved and there is none to
25 date.

1 MR. MITCHELL: Your Honor, I am not
2 going to belabor the record, but if the
3 Court looks at E-192-9, it will speak to
4 itself and this comes on back prior to the
5 date the witness has fixed for the termination
6 of that relationship.

7 THE WITNESS: The same is true with
8 E-192-8.

9 MR. ODAM: Your Honor, I have no
10 objection to calling attention to that and
11 letting it speak to itself. It speaks to
12 pay-outs.

13 MR. MITCHELL: And as taken with the
14 witness' sworn testimony, which to me is the
15 critical matter, a witness testifying under
16 oath, which is not supported in my opinion
17 by E-192, that series -- well, Your Honor,
18 you may take notice of that.

19 Q (By Mr. Mitchell) Now, I am going to ask you some
20 other questions about some of your testimony,
21 Mr. Couling. I believe you do testify -- strike
22 that, please.

23 You did -- the Benavides Implement and
24 Hardware did purchase a truck, didn't it?

25 A Yes, sir, but I don't know the date.

1 Q All right.

2 MR. MITCHELL: And, Your Honor, I
3 would like to refer the Court to 1616 in
4 the record, 1633.

5 Q (By Mr. Mitchell) You denied owning any rental
6 equipment, didn't you?

7 A Not for rental, no, sir.

8 Q You did own a truck?

9 A Not for rental.

10 Q That truck was depreciated on your tax return?

11 A Yes, but Ramiro Carrillo had the use of that
12 truck from the day I bought it.

13 Q And I know your position and it shows your truck
14 is on your income tax return and you show a
15 depreciation on that personally.

16 A Yes.

17 Q So you now know you have to change that testimony
18 and that check was from Continental Oil Company,
19 E-188-1, that is the purchase of one of them?

20 A Yes, sir.

21 Q And that truck was carried on your personal tax
22 return and you took the depreciation of it?

23 A Yes.

24 Q And you are telling this Court --

25 A I never rented that truck to anyone.

1 Q You told them it didn't exist, you told them the
2 Continental Oil Company check bought that truck
3 and you saw it and did explain it by saying it
4 didn't exist?

5 A No, I didn't say that.

6 MR. ODAM: I would like, if the witness
7 does have a specific reference to the truck
8 not existing, I would like to know where that
9 is located in the record. I know he used it
10 in his return.

11 MR. MITCHELL: I don't have the benefit
12 of the daily record, but I recall his
13 testimony as to the fact that yes, the truck
14 was purchased, but he never had it and
15 Mr. Ramiro Carrillo commandeered it and
16 still has it.

17 THE WITNESS: Yes.

18 Q (By Mr. Mitchell) So it didn't exist, but didn't
19 you take that and put it on your tax return and
20 get the benefit of a personal deduction?

21 A Yes, sir.

22 Q And the store counter, of course, you -- I
23 believe you testified that didn't happen?

24 A No, sir.

25 Q And I want to ask you a question about that water

- 1 well rig. How come were you out looking for it?
- 2 A Ramiro was looking for it and he wanted to fix it.
- 3 Q Counsel asked you a question awhile ago and you
- 4 knew it was there, as recently as three months
- 5 ago, you went out looking for it, is that true?
- 6 A No, sir, I don't know when it was.
- 7 Q You went out at the request of Ramiro Carrillo
- 8 looking for it?
- 9 A He said let's take a drive. He said he didn't
- 10 know where it was.
- 11 Q But you knew that was his rig?
- 12 A I didn't know it was his, sir.
- 13 Q But you did know there was one in existence and
- 14 you knew it was used in condemnation and it was
- 15 turned over by the Carrillos and rented to the
- 16 county?
- 17 A I didn't know the agreement on it.
- 18 Q Was that last year you and Ramiro went out
- 19 looking for it?
- 20 A I don't know.
- 21 Q And it was determined that Archer Parr took it
- 22 and sold it?
- 23 A I don't know, sir.
- 24 Q So when Mr. Odam asked you about the rig, what
- 25 was wrong with telling the truth, you knew about

1 the rig and you went out to try to get it and it
2 had been sold by Archer Parr and you knew that?

3 A I didn't know who it belonged to. As far as I
4 know, the county owned it.

5 Q Did Ramiro Carrillo tell you he owned it?

6 A No, sir, he never told me that.

7 Q And he was out hunting for it and he didn't tell
8 you that he owned it?

9 A I don't know, sir.

10 Q You all didn't talk about that on the way to
11 Victoria as to whose it was?

12 A No, sir.

13 Q Now, of course, I suppose that all -- well, I
14 think it is clear and I think the record reflects
15 that notwithstanding all of the documents in
16 E-192-1 through Benavides Implement and Hardware,
17 that none of that existed?

18 A No.

19 Q That is not true with all of 192-1?

20 A I never had any equipment to rent, sir.

21 Q You are not telling us the accounts show in
22 E-192-1, you are not saying they are all
23 fictitious?

24 A Some of them are legitimate checks, legitimate
25 small checks.

1 Q And small checks that go to you, you are not
2 telling us that didn't happen?

3 A No, sir.

4 Q Several of those, that is a legitimate account?

5 A Yes, sir.

6 Q Let's run through it. I want to look at the ones
7 that are real and the ones that are false.

8 THE MASTER: Which page?

9 MR. MITCHELL: E-192-1, Your Honor.

10 THE MASTER: All right.

11 Q (By Mr. Mitchell) Well, let's look at that one,
12 the Alamo Iron Works, E-188-6. I believe you
13 testified that was a real account?

14 A Yes, sir.

15 Q And there were quite a series of those checks,
16 but you did apparently a lot of business with
17 them?

18 A Yes.

19 Q Were those all legitimate checks with business
20 transacted?

21 A All of the checks, it was bought by me or
22 Ramiro.

23 Q What about Sears, 124?

24 A I bought an air conditioner or refrigerator.

25 Q That was a legitimate transaction?

- 1 A It went to Sears and came out of the county.
- 2 Q You are not saying O. P. Carrillo or Ramiro
- 3 Carrillo kept that three hundred thirty-three
- 4 dollars ninety-nine cents?
- 5 A No, sir.
- 6 Q How about the C.P. and L., that check was real?
- 7 A Yes, sir.
- 8 Q How about the First State Bank, two seventy-eight
- 9 seventy-seven?
- 10 A Yes, sir.
- 11 Q And you did, I believe, said yes, that you paid
- 12 Eloy Carrillo for working at the store?
- 13 A Yes.
- 14 Q And that was for real?
- 15 A Yes, sir.
- 16 Q So those are all for real?
- 17 A Yes, sir.
- 18 Q How about the cash on July 14, 1971, is that for
- 19 real?
- 20 A Yes, sir.
- 21 Q And that check to Rudy, that one hundred dollars,
- 22 is that you or your boy?
- 23 A Me.
- 24 Q On the 13th, is that you or your boy?
- 25 A Me, sir.

1 Q You spent that money, didn't you?

2 A Some of it, sir.

3 Q There is no testimony here that you gave that
4 money to D. C. Chapa, Ramiro or O. P. Carrillo
5 or Oscar Carrillo?

6 A I have been asked that question, yes.

7 Q How about the transaction on E-192-2, that Louis
8 Elizondo, that one hundred fifty.

9 Well, the First State Bank, that is a real
10 transaction?

11 A Yes.

12 Q And Louis Elizondo --

13 A That is the same as the next one to Guajardo.

14 Q Do you have that check with you?

15 A I don't know, sir.

16 MR. ODAM: Which one is that?

17 MR. MITCHELL: 8-2-71. My records
18 don't reflect that it has been marked.

19 THE WITNESS: No, it is not here.

20 Q Alamo Iron Works, that is the same as you told us
21 about previously?

22 A Yes.

23 Q Now, the Farm and Ranch checks, Mr. Couling, the
24 Farm and Ranch sold through you to the county or
25 the school district or the water district; is that

- 1 the nature of those checks?
- 2 A I don't know what they sold. The statements were
3 brought to my store. I can't testify as to
4 merchandise one way or the other that was
5 delivered.
- 6 Q Cash for 8-14-71, who did that go to?
- 7 A I don't remember who it went to.
- 8 Q It doesn't state on the check?
- 9 A No, sir.
- 10 Q Do you have Check 157, that is a real transaction,
11 you are not denying that occurred?
- 12 A The check is not here, sir.
- 13 Q As far as you recollect, the transaction was
14 real?
- 15 A Yes, sir.
- 16 Q How about the Alamo Iron Works, that was real?
- 17 A Yes, sir.
- 18 Q How about the First State Bank?
- 19 A Yes, sir.
- 20 Q Are you following me?
- 21 A That was note payments every month.
- 22 Q And that was a real transaction, nothing going to
23 O. P. or Ramiro or D. C. or Rogelio or --
- 24 A Which one is that?
- 25 Q That was for the payment of the note at the bank,

1 is that right?

2 A Yes.

3 Q And that was your note?

4 A It was the original note of three thousand dollars,
5 I believe, sir.

6 Q What was your part of the deal; what were you to
7 get out of it?

8 A Whatever I could sell to the school and water
9 district and county.

10 Q And that was your share?

11 A Yes, sir.

12 Q Did you take your share?

13 A I left it in the store and sometimes I got cash
14 for it.

15 Q Do you feel like you got everything you were
16 entitled to?

17 A I don't know, sir.

18 Q The thirty-three hundred cash here, did you get
19 that?

20 A I got some of it and I gave some of it to other
21 individuals.

22 Q The thirty-three hundred dollars on 9-8-71, that
23 went to you?

24 A Not all of it.

25 Q But most of it?

- 1 A No, sir.
- 2 Q You can't tell who got the rest of it?
- 3 A No, sir.
- 4 Q And Eloy worked for you and you paid him?
- 5 A Yes.
- 6 Q How about the metal shop?
- 7 A I had a repair there, sir.
- 8 Q And, Rudolfo, that is a real transaction?
- 9 A Yes, sir.
- 10 Q Coming on down -- how about Texas Commission
11 for Public Education, that was a real
12 transaction?
- 13 A Yes, sir.
- 14 Q And a cash transaction of seventy-five dollars,
15 that was a real transaction?
- 16 A Yes, sir.
- 17 Q And without going through all of them, payments
18 to I.R.S. for employee withholding.
- 19 A Correct.
- 20 Q And I believe payments to the Texas Employment
21 Commission?
- 22 A Yes, sir.
- 23 Q And donations to the school?
- 24 A Yes.
- 25 Q You are not telling us that was phony?

1 A No, sir.

2 Q Didn't you have something with the Future Farmers
3 of America?

4 A Yes, sir.

5 Q And you made a donation to that young group?

6 A Yes, sir.

7 Q That was a real transaction?

8 A Yes, sir.

9 Q Well, now, how about that King Copeland Company,
10 Check 211 for thirty dollars, is that a real
11 transaction?

12 A Yes.

13 Q How about the two thousand to Barber Oldsmobile?

14 A I am glad you asked me about that. That is a
15 check I gave Ramiro Carrillo for payment of his
16 car, sir.

17 Q I am glad I asked you, too.

18 MR. MITCHELL: Excuse me, Judge.

19 Q That is a two thousand dollar check you gave to
20 Ramiro?

21 A I don't know if I have it here or not.

22 Q Outside of the checks introduced in evidence,
23 the ones we have discussed and the ones shown,
24 I believe they are all shown on 192-3.

25 Now, listen to me.

1 The ones to O. P. Carrillo, the ones we have
2 discussed time and time again prior to E-192,
3 those checks, the one thousand and eight and the
4 one thousand and eighteen, do you recall that
5 group of checks?

6 A Yes, sir.

7 Q Are they shown in E-192-1 through E-192-12?

8 In fact, I can help you, they are shown,
9 aren't they? For example, look on Page E-192-1.
10 That is the one we previously talked about?

11 A Yes.

12 MR. MITCHELL: And that is in
13 connection with Roman Number VII.

14 THE MASTER: All right.

15 Q (By Mr. Mitchell) And the ones we have previously
16 discussed back two or three weeks ago are shown
17 E-192-1 through and including E-192-12, am I
18 correct?

19 A Some of them might have been.

20 Q There are no more others than the ones shown
21 on E-192-1 through and including E-192-12?

22 A I cannot testify to that unless I recheck
23 everything.

24 Q We apparently are not ever going to know that,
25 because I have asked you that question and you

1 testified there were and then we got another
2 series and then after that series, E-174, 5, 6,
3 7 and 8, that were not made the basis of any
4 notice. That is 1, 2, 3, 4, 5 -- I believe nine,
5 plus the ones in Roman VII, eight or nine.

6 A I cannot tell you unless I check.

7 Q Have you -- my God.

8 Haven't you made up -- can you tell us one
9 way or another and once and for all and put it in
10 this testimony that that is all of the checks to
11 O. P. Carrillo?

12 A I cannot testify to that.

13 Q All right. You are not willing to step down
14 there and testify that does appear to be all of
15 the checks?

16 A No, sir.

17 Q But you are willing to testify there was a
18 partnership agreement for this man, this judge
19 was a member of a partnership as far back as
20 April, 1971?

21 A It was a silent partnership, sir.

22 Q Uh-huh, yes, but the deal was not made with O.P.?

23 A No, sir, I talked to Ramiro.

24 Q Coming on through now, the checks on E-192-3,
25 the First State Bank debit, how about the -- let

1 me -- you identified a check for seven hundred
2 thirty-five dollars on 11-1-71 to O. P. Carrillo.

3 Will you pull that exhibit, please, E-188-35.

4 A Yes, it is here.

5 Q Thank you.

6 E-188-35 is dated November 1st, 1971.

7 A Yes, sir.

8 Q And that is five years ago?

9 A Yes, sir.

10 Q Signed by you?

11 A Yes, sir.

12 Q And it is filled in to Edwards Furniture for
13 seven hundred thirty-five dollars?

14 A Correct.

15 Q And it is endorsed deposit only, Edwards Furniture
16 Company?

17 A Yes, sir.

18 Q And your testimony is that O. P. Carrillo asked
19 you to do that?

20 A I gave him the check, sir. I don't know if he
21 filled it out or not, but it looks like his
22 handwriting.

23 Q And the reason you recall that is because the
24 handwriting looks like O. P. Carrillo's
25 handwriting?

1 A I said it looks like his, sir.

2 Q How about pulling for me E-188-117. I think that
3 is another one you testified to.

4 Do you have it?

5 A Yes, sir.

6 Q Oh, there was another check, I don't think that
7 was it.

8 You testified you gave it to O. P. Carrillo
9 and I will help you if you will give me a minute.

10 A All right.

11 MR. MITCHELL: May I have just a
12 minute, Your Honor?

13 THE MASTER: Yes.

14 MR. MITCHELL: If the Court will
15 recall, it was one of those checks that I
16 had requested that the Court take notice of
17 the handwriting.

18 THE WITNESS: That was check 188-43,
19 I believe.

20 Q (By Mr. Mitchell) That is right. See if you
21 can find that one.

22 A Is that the one?

23 Q Yes, it is.

24 A All right.

25

1 (Whereupon, the above-mentioned
2 documents were handed to the Master by
3 Mr. Mitchell.)
4

5 MR. ODAM: Is that the check to
6 International Harvester?

7 MR. MITCHELL: No.

8 THE MASTER: This is E-188-143.

9 MR. MITCHELL: And E-188- --

10 THE MASTER: 35.

11 MR. MITCHELL: I might have misunderstood
12 the witness' testimony, but I believe he said
13 he gave it to Judge Carrillo.

14 THE WITNESS: No, sir, I said just that
15 one.

16 MR. MITCHELL: That is the reason I
17 did it, because obviously it is a different
18 handwriting.

19 THE MASTER: Yes.

20 MR. ODAM: May I, for my own
21 clarification, who is the check made out to,
22 the 188-143?

23 THE MASTER: S.M.T. It is endorsed
24 Southwestern Motor Transport.

25 THE WITNESS: We have not testified to

1 that one.

2 MR. ODAM: I don't recall testimony on
3 that one.

4 THE MASTER: I did not -- on 143, there
5 was testimony on 43, but not 143.

6 MR. ODAM: Yes, about International
7 Harvester.

8 MR. MITCHELL: Well, we will try it
9 with those two, Judge.

10 Q (By Mr. Mitchell) They are in the same handwriting?

11 A I never testified they were in the same handwriting.

12 MR. ODAM: That was to Ramiro Carrillo.

13 MR. MITCHELL: Mr. Odam --

14 MR. ODAM: I am sorry.

15 Q (By Mr. Mitchell) Well, did you testify that
16 the reason you recall the Edwards Furniture
17 transaction was the handwriting appeared to be in
18 Judge Carrillo's handwriting?

19 A It does look like it, sir.

20 Q But you didn't see him sign it, of course?

21 A No, sir.

22 Q And, I believe, Mr. Couling, your testimony has
23 been, and this is a negative way to ask you,
24 but you had no deal as regards O. P. Carrillo, as
25 regards disbursements of any of these funds from

1 the school or county or water district, that
2 your deal ran with D. C. Chapa, Ramiro or
3 Guajardo?

4 A I don't remember, sir, as to testifying as to
5 O. P.

6 Q You didn't have a deal with him on the seven
7 hundred fifty or the three hundred dollar amounts?

8 A No, sir.

9 Q And at least, will you go with me this far, to the
10 best of all you-all's work, as you testified, went
11 into here with this young man that was from the
12 D.P.S. and the attorneys, there were no other checks
13 other than those shown to O. P. Carrillo?

14 A I don't know, sir. I don't know if we found them
15 all or not, sir.

16 Q Well, if there had been some more, certainly you
17 would have put them on there?

18 A If we found them, yes, sir.

19 Q The disbursements made by you out of the
20 Benavides Implement and Hardware account to you
21 and by you to you, would some of those be placed
22 in your ranch or personal account or special
23 account?

24 A Well, it was transferred out from the store to
25 those accounts and back and forth.

1 Q To the extent deposits were made out of the
2 Benavides Implement and Hardware account into
3 your various other accounts, E-192 does not
4 reflect the end account those monies would be
5 transferred to?

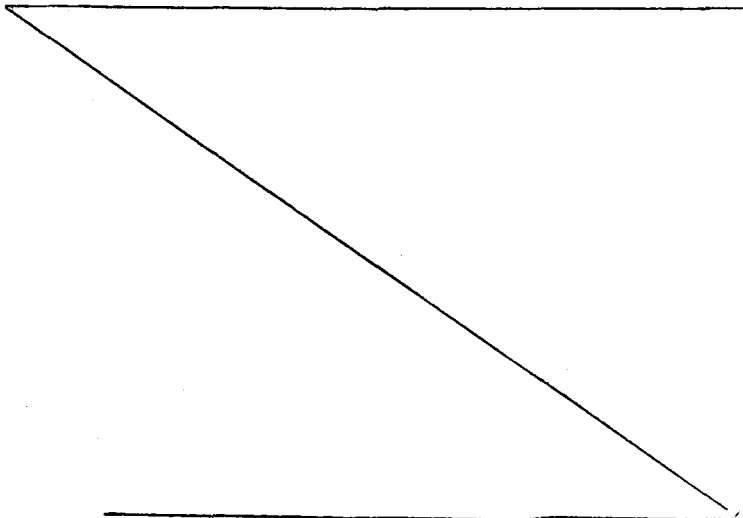
6 A It says advice of charts, sir. It could have been
7 back and forth.

8 Q You are not testifying under oath or telling this
9 Court that D. C. Chapa or O. P. or Ramiro Carrillo
10 had any dealings into your special or personal or
11 ranch account?

12 A No, sir.

13 Q So to the extent of those, you get the benefit
14 of those?

15 A It was transfers from my account to the store, sir.



1 Q Now, I noticed in E-192 --

2 MR. MITCHELL: And this question is
3 out to the witness, Your Honor, to further
4 support our objection, Your Honor, to the
5 chart and summary.

6 Q That you testified that Mr. Don Lee, and you and
7 Ms. Levatino and Mr. Flusche drew it up?

8 A Yes, sir, we all worked together on it.

9 Q Yes, sir, I understand that was your testimony.
10 My question is that I notice that anybody can,
11 looking at it, that it is written in several
12 different handwritings, and I wonder if you could
13 identify for the record whose handwriting, for
14 example, is E-192-1 to and including 4, whose
15 handwriting is that?

16 A I can't be sure, it looks like Ms. Levatino.

17 Q You can't tell us?

18 A No.

19 Q Who is the handwriting of E-192-5 and 6 in?

20 A That looks like Don Lee, sir.

21 Q It looks like it?

22 A Yes, sir.

23 Q But you can't testify under oath?

24 A No, it looks like his.

25 Q And whose handwriting is E-192-7, 8 and 9 in?

1 A Those three of them, they are Mr. Flusche.

2 Q Mr. Flusche?

3 A Yes.

4 Q And E-192-10, 11 and 12, whose handwriting is that
5 in?

6 A It looks like -- it looks like Don Lee's, sir.

7 Q But you can't tell us positively?

8 A He was working on it, sir.

9 Q All right.

10 A But I can't tell for sure.

11 Q All right, which one did you write?

12 A None of these, sir.

13 Q You didn't -- none of these in 192 is in your
14 handwriting?

15 A No, sir.

16 Q What was your role in it?

17 A I was checking back and forth, sir.

18 Q As a matter of fact they had it all drawn up and
19 handed it to you and said look at it?

20 A No, sir.

21 Q Isn't that right?

22 A No, sir, we worked in their room, sir.

23 Q All right, and to the extent that we are looking --

24 MR. MITCHELL: Further, Your Honor,

25 in connection with my objection to the chart.

1 Q And to the extent that we looked at the checks
2 from 1971, those earlier checks through and includ-
3 ing -- really to 1973, that information you got
4 off -- was gotten off of R-91, 92 and 93, am I
5 correct?

6 A Yes, sir.

7 Q There is no original of any of that documentation
8 that is used to go into E-192, am I correct, that
9 you know of?

10 A I don't know, sir.

11 Q Well, the deposit slips of 189 series, that would
12 be 1971 to 1974, that would be at least the
13 original of that -- the original information on
14 that would be available, am I correct? That is
15 the -- 189 series of evidence here is the deposit
16 slips from 1971 to 1974, am I correct?

17 A I believe so, sir.

18 Q And so that the record is clear, Mr. Couling,
19 the deposit slips do not have on them where the
20 money came from?

21 A No, sir.

22 Q Not at all?

23 A No, sir, some of them and some don't.

24 Q And certainly E-190 checks, those began in late
25 72, if I recall, and the same way with 188 so that

1 those earlier entries in -- in E-192 really came
2 from R-91, I believe, 92 and 93, is that correct,
3 or do you know?

4 A I don't know, sir.

5 Q Well, if there are not checks showing -- shown
6 in any of the evidence for 1971 and E-192, that
7 goes back to 71 and R-92, that those 1971 checks,
8 it would be assumed beginning at 4-12-71, in
9 fact the same date that would be the local source
10 of that information R-92, am I correct?

11 A I don't know, sir.

12 Q Now, of course, Mr. Couling, you understand that
13 what you have testified to is that the Benavides
14 Implement and Hardware account, that is to the
15 extent of the seven hundred and fifty dollars and
16 three hundred dollar checks were fraudulent
17 appropriations of money for the water district,
18 the Duval County and the school district were con-
19 cerned, you understand that, that is what in
20 effect you are telling us?

21 A We just talked about the county and the water
22 district, sir.

23 Q And the school district, I am saying if what you
24 are telling us is true that there was a fraudulent,
25 criminal appropriation of the money from those

1 three entities, is that correct?

2 A Yes, sir.

3 Q And that you took part of that money to your
4 own benefit and to your own use as shown by that
5 Exhibit?

6 A I took part of it, yes, sir.

7 Q And you understand that is also a crime?

8 A Yes, sir.

9 Q And you freely participated in that criminal act
10 and freely appropriated the money and freely used
11 the money and that, of course, is part of the deal
12 you made for your testimony in this case, am I
13 correct, that we inquired about from you earlier?

14 A Would you rephrase that?

15 Q I said --

16 MR. MITCHELL: Perhaps that was a very --
17 it was a very terrible question and I will
18 start over again.

19 Q I said to the extent that you participated in the
20 proceeds of these sums of money thus procured,
21 you understand you have committed a crime?

22 A Yes, sir.

23 Q And you have been indicted for the commission of
24 crimes?

25 A Yes, sir.

1 Q But the crimes for which you have been indicted
2 do not include these crimes?

3 A I don't know, sir.

4 Q That's right, but you understand that the deal
5 you made, the contract you made with the State
6 of Texas, Mr. John Blanton, representing the
7 Attorney General, and Mr. Rudolfo Guerra, repre-
8 senting the District Attorney, would include
9 immunity from prosecution on all crimes shown
10 by wrongful appropriations in E-192?

11 A Yes, sir.

12 Q So you wouldn't have any qualms, one way or the
13 other, about how the ax would fall, you wouldn't
14 care one way or the other?

15 A I just made a deal, sir.

16 Q And you, of course, are carrying out your end of
17 the deal and would expect that you would not be
18 prosecuted for example a check you got as recently
19 as December, 1974, you got one, two, three, four,
20 five, you got six, seven of them, am I correct?

21 A Yes, sir.

22 Q In December of 74?

23 A Yes, sir.

24 Q You got seven of them?

25 A Yes, sir.

1 Q And, of course, the record reflects that Mr.
2 Chana got none that month and Mr. O. P. Carrillo
3 got none and Mr. Rogelio Guajardo got none and
4 whereas a matter of fact none of the Carrillos
5 got any and it all went to you or Cleofus Gonzalez,
6 is that right?

7 A In some stores that we pay accounts on, sir.

8 Q Yes, sir.

9 A I believe I only had one, two, three, four --
10 just four checks you were referring to.

11 Q At any rate, if those checks came to you pursuant
12 to what you have told this court that would be a
13 wrongful theft by you?

14 A I didn't believe on those four in 1974. I believe
15 everything was sold legally to the individuals
16 it was billed to, sir.

17 Q We had gotten legal by then?

18 A I don't see no county checks on here.

19 Q Well, look at the previous month, on that other
20 page, we went through that a while ago. It
21 showed two or three instances where you had county
22 checks and monies going all to you on E-192-11.

23 A It doesn't go all to me, it went out to the
24 individuals that it was applied from, sir.

25 Q Well, I understand that but you are saying that

1 it all legal?

2 A Some of it, I can't testify to what was legal
3 and what wasn't legal, Mr. Mitchell.

4 Q I know it is a strain on you to tell us which
5 was legal and which was not legal.

6 MR. ODAM: Your Honor, this man is
7 not a lawyer and he cannot testify as to
8 what is legal and what is not legal.

9 THE MASTER: That is correct.

10 MR. ODAM: He shouldn't draw conclu-
11 sions because he can't testify as to what is
12 legal and what is illegal and Mr. Mitchell
13 knows that.

14 MR. MITCHELL: I put it to the witness,
15 the reason for characterizing it is because
16 it is -- whether it is legal or illegal
17 because, Mr. Couling, you testified here under
18 oath Friday a week ago that the transactions
19 were -- the transactions with the seven
20 hundred and fifty dollars and the three
21 hundred dollar transactions were illegal
22 transactions and lo and behold upon examina-
23 tion of the records you find that transaction
24 doesn't carry all the way through on E-192-11
25 and you have changed your story on that and

1 now your story is a legal and lawful trans-
2 action at least to E-192-11.

3 A As long as checks were issued from the water
4 district or county for seven hundred and fifty
5 dollars or three hundred dollars the checks were
6 reissued back to the Carrillos.

7 Q That is not true on page E-192.

8 A I said as long as it was true from the county or
9 water district.

10 Q And if these weren't in amounts of seven hundred
11 and fifty dollars and went to you they were legal?

12 A No, sir, I didn't say that either.

13 Q Well, I have got to -- well, tell me, tell the
14 Court, E-192-10, there is a lot of them from the
15 school district, from the county, and look in the
16 middle there in March, not a dime to Ramiro and
17 not a dime to O. P., not a dime to Farm and Ranch,
18 not a dime to anybody but you.

19 A There is some there for Charlie's Trucks that
20 went to Ramiro.

21 Q That went from you to Charlie's Trucks and from
22 Charlie's Trucks to Ramiro?

23 A I gave the checks to Ramiro and he in turn paid
24 it to Charlie's Trucks.

25 Q For Charlie's Trucks?

1 A Yes, sir.

2 Q For a thousand dollars?

3 A There is one to Farm and Ranch for thirteen
4 sixty.

5 Q That is a part of the deal that you had on the
6 seven hundred and fifty dollars?

7 A No, sir.

8 Q Is that part of the deal where you got three
9 hundred dollars?

10 A Not the Farm and Ranch, it might be included, sir.

11 Q As a matter of fact, it is probably a legitimate
12 sale to Farm and Ranch?

13 A No, sir, I never did sell anything to Farm and
14 Ranch and I never bought anything from them.

15 Q All right.

16
17 (Discussion off the record.)

18 THE MASTER: Mr. Mitchell, are you
19 about to finish your thing?

20 MR. MITCHELL: I am moving to -- Judge,
21 I have a check list that I am going down.

22 THE MASTER: Let's take a break.

23 MR. MITCHELL: Okay.

24 THE MASTER: And you can check your list.

25 MR. MITCHELL: Okay, Judge.

1 (Whereupon the hearing was in recess
2 from 11:45 a.m. until 12:00 noon.)
3

4 THE MASTER: You may proceed, Mr.
5 Mitchell.

6 MR. MITCHELL: Thank you, Your Honor.
7 I don't believe I have any further questions
8 of this witness, Judge Meyers.
9

10 - - - - -
11

12 RE - EXAMINATION

13 BY MR. ODAM:
14

15 Q Mr. Couling, Mr. Mitchell has asked you a number
16 of questions about checks that went to you or
17 R. Carrillo and Brothers or R. Couling Special
18 Account, checks like that.

19 Have you had occasion to examine E-192-1
20 through 12 and to determine the number of -- or
21 the amount of money you received as identified
22 or shown by those checks? Have you done that?

23 A Yes, I had worked on a scratch pad on it and I
24 left it at home, sir.

25 Q Did you also compute the amount of money that was

1 written out to R. Carrillo and Brothers, the
2 total amount?

3 A Yes, sir.

4 Q And to O. P. Carrillo, Oscar Carrillo?

5 A Yes, sir.

6 Q So you figured out in the total amount that you
7 got and the total amount that Farm and Ranch
8 Supply got, is that correct?

9 A Yes, sir.

10 Q That is from the first page of the chart through-
11 out?

12 A Yes, sir.

13 Q I take it you do not have that there with you?

14 A No, sir.

15 Q And where is that?

16 A That is at home.

17 Q At home in Benavides?

18 A Yes, sir.

19 Q Mr. Mitchell asked you about some of these
20 checks in cash, and you caught my attention when
21 you said you hadn't been asked what you did with
22 that money in cash.

23 When there were checks made out here in
24 cash, all of -- let's refer, for example, to one,
25 there is a large one here on page 2 or on E-192-2.

1 It is check number 165 in the amount of three
2 thousand three hundred dollars written on Septem-
3 ber the 8th, 1971. This is on about a quarter
4 of a way down on E-192-2. Do you see that
5 entry there?

6 A Yes, sir.

7 Q Now, that three thousand three hundred dollars,
8 did you personally receive that full amount?

9 A No, sir.

10 Q What did you do with that three thousand three
11 hundred dollars after you received that amount?

12 A I don't know the exact amount that I gave Ramiro,
13 but I gave Ramiro some of that cash money, sir.

14 Q And what would be your basis for giving Ramiro
15 Carrillo the money?

16 A Just checks that were sometime -- he caused to be
17 billed to me, made to the county and then in
18 turn he told me that was money that he needed
19 for that particular month and I was supposed to
20 make him either a check or give him cash for it.

21 Q Now, when you would get or write some of these
22 checks out in cash, such as that, I take it at
23 times you would distribute the cash to other
24 people?

25 A The only one I distributed, sir, was to Ramiro.

1 Q You did not distribute any money to O. P.
2 Carrillo?

3 A No, sir.

4 MR. ODAM: I have no further questions.

5 MR. MITCHELL: If I might be permitted,
6 Your Honor. I probably should have previously
7 inquired about it, if I might be permitted
8 to ask this further question.

9 THE MASTER: You may proceed.

10
11
12 - - - - -
13
14 RE - EXAMINATION

15 BY MR. MITCHELL:

16
17 Q Mr. Couling, on page 1912 of the record of your
18 testimony you stated that the rent was increased
19 to fifteen hundred dollars to include the payment
20 of the -- to be made on the root plow as well as
21 on the tractor, do you recall that testimony?

22 A I guess so, I don't remember exactly but I believe
23 it was.

24 Q Well, the problem I'm having with that is, that
25 the tractor, now we know was bought on 12-12 of 72

1 and the root blow was bought almost immediately
2 thereafter the first part of 73 and yet your
3 testimony is that the rent was not increased
4 until sometime in August or September of 1973.

5 A I can't remember exactly what date it was, Mr.
6 Mitchell.

7 MR. MITCHELL: For the purpose of
8 reference, I'm referring to page 1912 and
9 1916 testimony taken on 11-21.

10 I have no further questions to be put
11 to this witness, Judge.

12 MR. ODAM: We have no questions, Your
13 Honor.

14 THE MASTER : All right, now what
15 instructions should I give Mr. Couling? Is
16 he still to be available on standby because
17 you have some other witnesses and will these
18 other witnesses --

19 MR. MITCHELL: I think, Your Honor, we
20 would be satisfied if Mr. Couling would
21 remain on sort of a daily call basis. We
22 do have -- we do have Mr. D. C. Chaps and
23 we do have Mr. Oscar Carrillo coming in along
24 with Roberto and Tomas Elizondo and Mr. D. H.
25 Carrillo.

1 THE MASTER: All right, Mr. Couling, you
2 are excused to go back to your home. You may --

3 THE WITNESS: Just give me notice about
4 two or three hours, that is all.

5 THE MASTER: All right, that is fine.
6 Thank you very much.

7
8 (Discussion off the record.)

9 MR. MITCHELL: It is back to you, John.

10 MR. ODAM: Is it back to me?

11 THE MASTER: It is back to you, Mr.
12 Odam.

13 MR. MITCHELL: Yes, it is back to you
14 now, Mr. Odam.

15 MR. ODAM: We have no further witnesses,
16 Your Honor.

17 THE MASTER: You rest?

18 MR. ODAM: Yes, Your Honor.

19 MR. MITCHELL: Your Honor, we were
20 able to locate the whereabouts of Mr. D. C.
21 Chapa, Judge Carrillo's father, and his
22 mother became ill and they are taking her
23 to the hospital here in Corpus Christi.

24 It is now 12:15 and I don't have any
25 hopes of him or Oscar Carrillo being here by

1 our break time. I do anticipate they will
2 be here by 8:30 in the morning, am I right,
3 Judge, and I would like to have the permission
4 of the Court to prepare a motion based on
5 the testimony of Rogelio, Ramiro and Jose
6 Saenz, which I can do this afternoon and
7 have filed this afternoon, Judge Meyers.
8 Other than that --

9 THE MASTER: Let's --

10 MR. MITCHELL: Pardon me, Judge Meyers,
11 I didn't mean to --

12 THE MASTER: Don't you think we can
13 excuse these gentlemen and have this off
14 the record?

15 MR. MITCHELL: Yes.

16 THE MASTER: Thank you very much.

17
18 (Whereupon the hearing was in recess at
19 12:20 p.m. on December the 29th, 1975, until
20 8:30 a.m. on December 30th, 1975.)
21
22
23
24
25