

**INQUIRY CONCERNING A JUDGE  
NO. 5**

**NOVEMBER 6, 1975**

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BEFORE THE  
STATE JUDICIAL QUALIFICATIONS COMMISSION

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INQUIRY CONCERNING A JUDGE, NO. 5

NOVEMBER 6, 1975

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

KFT  
8782  
C3745  
V.4

COPY

1 THE MASTER: Let's get on the record.  
2 I want the record to reflect that Mr.  
3 Carland Smith who was previously sworn has  
4 resumed the stand, and you may proceed with  
5 your examination of Mr. Smith.  
6

7 CARLAND SMITH,  
8 having previously been sworn resumed the stand and  
9 testified as follows:  
10

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

12 BY MR. ODAM:  
13

14 Q Mr. Smith, as you recall the last time you were  
15 on the stand, you were under oath and ~~the~~ oath  
16 continues, of course, during this hearing.

17 A Yes, sir.

18 Q We were up to the point in the procedure of dis-  
19 cussing the hearing on the motion for disqualifi-  
20 cation that is evidenced by this transcript,  
21 Exhibit Number 25.

22 A Yes, sir.

23 Q Do you recall that?

24 A Yes.

25 Q I believe it was your testimony earlier that

1 actually the only outstanding matters to be  
2 accomplished in the Manges versus Guerra case,  
3 aside from this motion to disqualify was the  
4 approval or disapproval of a final accounting and  
5 report by the receiver, is this correct?

6 A That is correct.

7  
8 (Marked for identification by the  
9 reporter as Exhibit E-40.)

10 Q I show you what the court reporter has marked  
11 as Examiner's Exhibit No. 40 and ask if you can  
12 identify this item.

13 A Yes, this is the accounting and report on condi-  
14 tion of receivership, application for sale of  
15 properties and requests for dissolution of receiver-  
16 ship and partnership of M. Guerra and Son which  
17 was filed by the receiver James S. Bates on  
18 November 17th, 1972. This appears to be a copy  
19 of it.

20 Q This appears to be a certification of this copy?

21 A Yes.

22 Q By the clerk?

23 A Yes, it is certified and it is certified to have  
24 been filed on November the 17th, 72.

25 Q And this is the same final report of the receiver

1 that was left outstanding at the time of the dis-  
2 qualification hearing to be approved?

3 A That is correct, that is what brought on the  
4 disqualification proceedings.

5 MR. ODAM: Your Honor, at this time  
6 we would offer into evidence Exhibit Num-  
7 ber 40, the final report.

8 MR. MITCHELL: May I ask one question,  
9 Judge Meyers?

10 THE MASTER: Yes, sir.

11 MR. MITCHELL: Mr. Smith, is it the  
12 one that was circulated in October of 72?

13 A Yes, it is a copy of the same thing, we could not  
14 find any changes in the one that we had previously  
15 examined and the one that was filed, so far as  
16 I could tell it is an exact copy.

17 MR. MITCHELL: And is this the one  
18 that the hearing was set on November the  
19 17th of 72, the same copy?

20 A Well, it was filed on that date.

21 MR. MITCHELL: Circulated October --

22 A The hearing was set on January the 15th, 73.

23 MR. MITCHELL: Fine, no objections,  
24 Judge.

25 THE MASTER: It is admitted.

1 Q (By Mr. Odam:) Mr. Smith, at the hearing on  
2 motion to disqualify, you have -- you participated  
3 in the hearing on motion to disqualify?

4 A Yes.

5 Q And I understand the transcript of this hearing  
6 reflects the conveyance of some property in Duval  
7 County by Judge O. P. Carrillo?

8 A Yes, that's right, that was his explanation of  
9 the -- what we call the Cadillac deal, that there  
10 was an exchange of property.

11 Q In other words, the pleadings which are Exhibits  
12 in this case show the grounds to be the payment on  
13 this Cadillac and the defense of the explanation  
14 of that was conveyance in return by Judge Carrillo  
15 of certain properties?

16 A Yes, sir.

17 Q In Benavides, Texas?

18 A That's right.

19 Q This would be what, a residence in Benavides?

20 A Well, according to his answer to the request for  
21 admissions, it was a two story house and lot that  
22 he traded for the balance that was due on the  
23 Cadillac automobile plus the ten shares of stock  
24 in the bank, plus the directorship in the bank.

25 Q I will show you what the court reporter has marked

1 as Exhibit Number 26 and ask if you can identify  
2 this item.

3 A Yes, this is a copy of the deed that Judge Carrillo  
4 put in evidence as explanation of that transac-  
5 tion.

6 Q And what is the date of that deed?

7 A The deed is dated October the 12th, 1970.

8 Q And this evidences a conveyance from whom to  
9 whom?

10 A The grantor is O. P. Carrillo not joined by his  
11 wife because it was not a homestead, and the  
12 grantee is Clinton Manges and wife, Ellen Ruth  
13 Manges.

14 Q And is this a certified copy of not?

15 A It is a certified copy, yes, sir.

16 MR. ODAM: Your Honor, at this time  
17 we would offer into evidence Exhibit Number  
18 26.

19 MR. MITCHELL: Judge, the objection  
20 that we would have, of course, is immaterial  
21 and irrelevant, having occurred prior to  
22 the time he took office.

23 I am satisfied as to the authenticity  
24 but so that the record -- the technical  
25 aspect of our record remains intact we would

1 object on the basis as previously stated;  
2 beyond the scope of formal notice of hear-  
3 ing, et cetera.

4 THE MASTER: Mr. Mitchell, I just believe  
5 every morning when you have this general  
6 objection, you had better state it in full  
7 and then you can refer back to it. I don't  
8 like to refer back to objections made Monday  
9 or Tuesday or even Wednesday.

10 MR. MITCHELL: Yes, Your Honor.

11 THE MASTER: I understand the objection,  
12 it is that it is immaterial and irrelevant  
13 because it is prior to the current term of  
14 office.

15 MR. MITCHELL: Right.

16 THE MASTER: That it is outside of the  
17 scope of the original informal notice and  
18 the original formal notice.

19 MR. MITCHELL: Yes.

20 THE MASTER: And what else, it seems to  
21 me there is one I have forgotten.

22 MR. MITCHELL: They relate to non-  
23 judicial acts.

24 THE MASTER: That's right.

25 MR. MITCHELL: As vis-a-vis judicial



1 acts and then, of course, Judge Meyers, we  
2 had a hearsay objection that went along,  
3 which I don't know would be technically  
4 appropriate to level to this document, as  
5 hearsay.

6 THE MASTER: I don't think so.

7 MR. MITCHELL: But the hearsay would  
8 be one of my --

9 THE MASTER: You can throw in hearsay  
10 but it doesn't have anything to do with  
11 this instrument.

12 MR. MITCHELL: I am going to do that  
13 then, Judge Meyers.

14 THE MASTER: The objection is overruled  
15 and the Exhibit is admitted.

1 Q I show you a document marked Exhibit 27 and ask you  
2 if you can identify this.

3 A Yes, this is a deed given to O. P. Carrillo, dated  
4 April 9, 1973, and filed for record the same day.  
5 It is a certified copy of a deed.

6 Q And was this also a matter of evidence at the  
7 hearing on the motion to disqualify?

8 A Yes, this was a matter of evidence offered by  
9 Judge Carrillo in explanation of the Cadillac  
10 transaction.

11 MR. ODAM: We offer Exhibit 27.

12 MR. MITCHELL: Same objection as to  
13 Exhibit 26.

14 THE MASTER: Overruled and it is  
15 admitted.

16 (Examiner's Exhibit 27 was admitted  
17 into evidence.)

18  
19 Q (By Mr. Odam:) I show you what the court reporter  
20 has marked as E-28 and ask you if you can identify  
21 this?

22 A Yes, this is designated as a correction deed. It  
23 is also dated April 9, 1973. It is a deed from  
24 O. P. Carrillo to Clinton Manges and wife, Helen  
25 Ruth Manges, and it was recorded on the same day

1 and it is a certified copy of the original document  
2 which was placed in evidence by Judge Carrillo.

3 Q Could you read this, please?

4 A "This deed is executed for the purpose for  
5 correcting and substitution of that deed dated  
6 October 12, 1970, to Clinton Manges, and recorded  
7 in Volume 164, page 371, Deed Record of Duval  
8 County, whereby the property description was  
9 erroneous.

10 MR. ODAM: We offer Exhibit 28.

11 MR. MITCHELL: Same objection as  
12 previously made to Exhibit 27.

13 THE MASTER: And to E-26?

14 MR. MITCHELL: Yes.

15 THE MASTER: It is overruled and the  
16 exhibit is admitted.

17 (Examiner's Exhibit 28 was admitted into  
18 evidence.)

19  
20 Q (By Mr. Odam:) I notice that E-27 and E-28 were  
21 executed, or appear to be executed on the same day,  
22 that being April 9, 1973.

23 How was it explained that the deed into Judge  
24 Carrillo and out of him related?

25 A That came up as a result of the hearing held on

1 March 30th, I believe. It will appear in that  
2 part of the transcript. We had made an investigation  
3 of the title on the lot that was described in the  
4 deed dated October 12th and it turned out to be a  
5 vacant lot and the taxes were delinquent since  
6 1939 and the title was in someone other than  
7 Judge Carrillo. I believe the name was Saenz.

8 Judge Smith, after Judge Carrillo entered this  
9 and this evidence went on, stated there had been a  
10 mistake, that he intended to convey to Mr. Manges  
11 and his wife a lot with a two-story house on it  
12 that he owned and that a mistake had been made in  
13 the description on the first deed and then Judge  
14 Smith recessed the hearing to permit the Judge to  
15 explain that situation and then at that recessed  
16 hearing later, then the deed was put on and  
17 introduced into evidence to explain the mistake,  
18 which they alleged to have been made at that time.

19 Q Now, the hearings, as evidenced by E-25, continued  
20 for several days?

21 A Well, the hearing was recessed from time to time.  
22 I don't think we had a hearing that went longer  
23 than one day.

24 Q Was there a final order by Judge Mangus Smith?

25 A Yes.

1 Q I show you what has been marked as Exhibit E-29  
2 and ask you if you can identify this.

3 A Yes, this is the order entered by Judge Mangus  
4 Smith and it rules Judge Carrillo was disqualified  
5 on May 21st, 1973.

6 MR. ODAM: I offer in evidence E-29,  
7 a certified copy of same.

8 MR. MITCHELL: Same objection as  
9 previously made to E-28, E-27 and E-26.

10 THE MASTER: It is overruled and the  
11 exhibit is admitted.

12 (Examiner's Exhibit 29 was admitted  
13 into evidence.)  
14

15 Q Exhibit 29 indicates Judge Smith ruled that Judge  
16 Carrillo was disqualified?

17 A Yes, sir.

18 Q At the time that the hearing transpired, was there  
19 an occasion upon which Judge Smith, in reaching his  
20 conclusion, stated from the bench the basis thereof  
21 other than what is identified in the order?

22 MR. MITCHELL: We object to that. That  
23 would be the best evidence rule and the best  
24 evidence would be the official transcript.  
25 It is irrelevant and immaterial and we object

1 for those reasons.

2 MR. ODAM: Well, Your Honor, the objection  
3 that the official transcript is the best  
4 evidence and the transcript is marked as  
5 Exhibit E-25. I was going to get the  
6 witness to identify where it was located.

7 THE MASTER: You are asking him what  
8 the Judge said from the bench as to why he  
9 was ordering the disqualification.

10 MR. ODAM: I asked if he made a comment.

11 THE MASTER: That is answered yes or  
12 no, then what they were?

13 MR. ODAM: No, sir, I was going to ask  
14 him where it was located in the transcript.

15 THE MASTER: Well, the objection is  
16 overruled.

17 MR. MITCHELL: We would object on hearsay  
18 as well, then, Your Honor.

19 THE MASTER: Certainly, if it is  
20 offered -- I don't know what he said, but if  
21 it is offered as truth, it is obviously  
22 hearsay.

23 MR. ODAM: Then we are not offering for  
24 the truthfulness. It is to simply identify  
25 where the Judge made additional comments.

1 THE MASTER: You may develop that.

2 MR. MITCHELL: Is he offering that  
3 statement of the Judge to show where in the  
4 record the statement was made?

5 THE MASTER: No, he asked this witness  
6 where the Judge made a comment. Then he is  
7 going to say where it is identified in the  
8 record and that is to be identified for me  
9 and any agency as to where it is in the  
10 record. It has not been offered for the truth  
11 of anything said.

12 Is that correct, Mr. Odam?

13 MR. ODAM: That is correct.

14 THE MASTER: Go ahead.

15 MR. MITCHELL: Well, pardon me, we  
16 object for whatever ground it is offered,  
17 as irrelevant and immaterial and best  
18 evidence.

19 THE MASTER: The hearsay objection has  
20 been sustained to all of this except the  
21 O. P. Carrillo and Mr. Manges testimony and  
22 the closed testimony about Judge Carrillo.

23 It is admitted.

24 Q (By Mr. Odam:) Did Judge Smith make an oral  
25 comment from the bench?

1 A Yes.

2 Q I show you Exhibit E-25, which has been offered  
3 in evidence, and point out to you on Page 328 and  
4 the pages thereafter and ask you if you would  
5 glance at that?

6 A Yes, at the close of the hearing on May 18th, the  
7 record will reveal that the hearing had been  
8 previously closed, but the receiver had made a  
9 motion to reopen the testimony and the Judge had  
10 set his motion for the 18th of May. We were  
11 supposed to have briefed the case in that interim.

12 Then the Judge overruled, or rather he  
13 refused to reopen the case. He heard the receiver's  
14 evidence, but closed it and ruled from the bench  
15 at that time.

16 Q Pages 338 and thereafter --

17 A Beginning on page 338, where the Court commences,  
18 about two-thirds of the way down, and too, I would  
19 say, page 341, actually the rest of it is  
20 substantially the Judge's remarks.

21

22

23

24

25



1 MR. ODAM: Your Honor, at this time we  
2 would offer into evidence the statements  
3 made by the Judge, not for the truthfulness  
4 of the matters asserted by the Judge therein,  
5 but for the mere fact that they are there,  
6 and would ask the court reporter to mark or  
7 indicate that that would appear as Examiner's  
8 Exhibit 25-A to this record.

9 MR. MITCHELL: The same objection.

10 THE MASTER: I don't know that you  
11 need to remark it, it is in that Exhibit  
12 and the record is not clear as to where it  
13 is. Why put another number on it?

14 MR. ODAM: That is satisfactory, Your  
15 Honor, that is fine.

16 THE MASTER: But I don't -- the fact  
17 that they were made means what? What is it  
18 probated of?

19 MR. MITCHELL: It is not offered for  
20 the truth.

21 MR. ODAM: Your Honor, we have intro-  
22 duced the order, we simply want to point  
23 out for the record, for the Master, and for  
24 the commission in examining this entire  
25 case exactly where they are and what was

1 the basis in the Judge's mind for what is  
2 stated in the prepared written order, not  
3 for the truthfulness of the matters contained  
4 therein, but simply to pinpoint for whatever  
5 basis might be considered later on by the  
6 commission.

7 MR. MITCHELL: Pardon me, Your Honor,  
8 that is like saying we don't really know  
9 what we are doing, we hope somebody down  
10 the line saves us,

11 We are going to object as irrelevant  
12 and immaterial in light of that statement.

13 THE MASTER: Well, as an Exhibit Exam-  
14 iner's 25, it is before this Master and the  
15 commission as simply a record of proceedings  
16 had before Judge Smith and simply as a  
17 record of what he said and for no other  
18 purpose that I know of. It is admitted, but  
19 I do not thereby say it is probative of any-  
20 thing.

21 MR. ODAM: That is fine, Your Honor,  
22 and we withdraw our request that it be  
23 marked as Examiner's Exhibit 25-A and that  
24 it simply stands incorporated as Examiner's  
25 Exhibit 25 as previously indicated, simply

1                   for the purposes of the statements that  
2                   were made.

3           Q   (By Mr. Odam:) Mr. Smith, following the entrance  
4                   of the order of disqualification was there ulti-  
5                   mately a final judgement rendered?

6           A   Yes, sir.

7           Q   In the case which concluded Manges versus Guerra?

8           A   Yes, sir.

9           Q   I will show you what has been marked as Exhibit 31  
10                   and ask if you can identify this document?

11          A   Yes, this is a certified copy of the final judg-  
12                   ment that was entered in the case on June 11th.  
13                   1974. It was an agreed judgment signed by all  
14                   all parties including the Plaintiff Clinton Manges,  
15                   R. R. Guerra, J. C. Guerra, M. A. Guerra, H. P.  
16                   Guerra, Junior, and B. H. Guerra.

17          Q   And what judge signed this order?

18          A   Judge Max W. Boyer, he is a retired judge resid-  
19                   ing in San Antonio at this time.

20          Q   Now, before this is offered into evidence, I  
21                   would ask you if this final judgement incorporates  
22                   or approves the final accounting report of the  
23                   receiver previously referred to and introduced  
24                   in evidence?

25          A   No, it does not approve it.

1 Q What was the final action on -- well, it was the --  
2 excuse me, what was the final action on that  
3 accounting?

4 A The final accounting required Mr. Manges to pay  
5 in an additional two hundred and twenty-five  
6 thousand dollars. The accounting error that had  
7 brought this about was Mr. Manges in his agree-  
8 ment with M. A. Guerra had stepped into his shoes  
9 in the partnership and M. A. Guerra was overdrawn  
10 over a half a million dollars and the receivers  
11 accounting hadn't required M. A. Guerra to pay in  
12 an account for that, for that roughly half a  
13 million dollars.

14 He also had the same situation with respect  
15 to Mrs. Jeffries, but Mrs. Jeffries, rather than  
16 owing money to the partnership, she had drawn  
17 less than she had had coming, so as a result, Mr.  
18 Manges didn't owe a full half million dollars, but  
19 he did owe the, the best we could figure, around  
20 three hundred and twelve thousand dollars.

21 Q Was that final accounting referred to earlier  
22 and marked as an Exhibit, was it ever approved  
23 by any judge?

24 A No, no, it was -- well, no, it was not approved.  
25 It was to keep it from being approved, of course,

1 that we sought to disqualify Judge Carrillo.

2 Q All right, sir.

3 MR. ODAM: Well, we will introduce  
4 into evidence as this time Examiner's  
5 Exhibit Number 31.

6 MR. MITCHELL: Your Honor, the same  
7 objection as previously made, and did I  
8 understand the witness to say there was no  
9 order as regards this accounting approval  
10 of this accounting?

11 A I would say it was never approved or disapproved  
12 except in the sense that the final judgement did  
13 disapprove it because the final judgement says Mr.  
14 Manges is going to have to pay an additional two  
15 hundred and twenty-five thousand dollars on the  
16 assets that he got from the partnership.

17 THE MASTER: Mr. Smith, could it be  
18 fairly characterized, and I have not read  
19 the instruments, but that this judgment  
20 approved certain portions of the receiver's  
21 report and modifies other portions of it?  
22 I think as I understand the testimony ear-  
23 lier from you, it probably did approve the  
24 fee aspect of the receiver appointed.

25 A Yes, it approved the real estate transactions that

1 had been previously agreed, and it approved the  
2 fifty thousand dollar fee for the receiver, Mr.  
3 Bates, and it approved a ten thousand dollar attor-  
4 ney fee for Mr. Hendrix, his law partner.

5 There were -- after we had got into the  
6 case, and while Judge Harville of Corpus Christi  
7 here was presiding in the matter, he was the  
8 first judge appointed after Judge Carrillo's  
9 disqualification, during that period an auditor  
10 was appointed and he presented a bill, I believe,  
11 for twenty-eight thousand dollars.

12 All of us had sought this audit, so Judge  
13 Boyer required all of us to contribute to the  
14 payment of that, and you will notice the judgment  
15 also requires some contributions from the other  
16 partners to an overall fund. That provided the  
17 necessary means with which to liquidate all debts  
18 of the partnership, the receivership, expenses  
19 and fees and so forth, and close the whole thing  
20 out.

21 THE MASTER: Thank you.

22 Q (By Mr. Odam:) Along the same line, Mr. Smith,  
23 you referred earlier to a motion by Senator Bates  
24 to sell one-half of the mineral interest to Mr.  
25 Manges. Was that also approved in the final

1 judgement?

2 A No, that -- the final judgment specifically gave  
3 that half of the minerals to the original partners  
4 in M. Guerra and Sons and it was the protection  
5 of that half interest in the minerals that this  
6 third phase of the lawsuit was all about.

7 So, in addition to the -- the outcome was  
8 the thing we accomplished, that was that we  
9 salvaged the minerals for the original partners.

10 that is, the half of the minerals that they had  
11 reserved, and required Mr. Manges to pay up an  
12 additional two hundred twenty-five thousand dollars.

13 It doesn't appear in the judgment, but in  
14 connection with M. A.'s case, Mr. Manges had paid  
15 and additional twenty-five thousand dollars on  
16 income tax that was due to M. A., but since he  
17 already paid that, it wasn't necessary to put  
18 it in the judgment.

19 Q Mr. Smith, you filed a motion to disqualify and  
20 subsequently there was a hearing?

21 A Yes.

22 Q Which we have referred to?

23 A Yes.

24 Q In Examiner's Exhibit Number 25?

25 A Yes.

1 Q It is not clear to me at this point why there was  
2 a necessity for such an involved matter of litigation  
3 tion on the motion to disqualify. Why was there,  
4 in your opinion, the necessity by the attorney for  
5 Mr. Manges to see that Judge Carrillo was not dis-  
6 qualified?

7 MR. MITCHELL: That would be specula-  
8 tion, Judge, and would be hearsay, what  
9 this man, an attorney for one party, would  
10 testify was in the mind of Mr. Church, who  
11 represented Mr. Manges in the issue on  
12 motion to disqualify.

13 THE MASTER: Why isn't that a good  
14 objection?

15 MR. ODAM: Your Honor, it would appear  
16 that the attorney -- he filed the motion to  
17 disqualify and stated there was a lengthy  
18 hearing on it and I am simply asking for  
19 his opinion as to why it was such a lengthy  
20 piece of litigation to retain or disqualify  
21 Judge Carrillo from the case.

22 THE MASTER: The objection is sustained.  
23 If you can develop it further, I will let  
24 you, but it seems to me he would be specu-  
25 lating on the mental process of Mr. Manges



1 and his attorney.

2 It is obvious from the contest I sup-  
3 pose that they wanted Judge Carrillo to  
4 preside, but as to why they wanted it,  
5 unless there is some basis for his specu-  
6 lation, the objection will be sustained.

7 MR. MITCHELL: Excuse me, Your Honor,  
8 may I ask the witness if he has a copy of  
9 Mr. Church's motion in opposition. Maybe  
10 we can get it that way.

11 THE MASTER: Well, not at this time,  
12 no.

13 Q (By Mr. Odam:) Let me attempt it another way,  
14 Mr. Smith. What was the application made by  
15 Senator Bates, the receiver, as distinguished from  
16 what Judge Boyer ultimately approved in the case?

17 MR. MITCHELL: Well, now, that would  
18 be irrelevant and immaterial, Judge. I  
19 think he is trying -- what he is trying  
20 to do, he is trying to force that in as the  
21 ultimate issue of now "Judge Carrillo cer-  
22 tainly would not have done that well by that  
23 type thing", we are going to object on the  
24 grounds of hearsay and irrelevant and  
25 immaterial.

1 THE MASTER : I don't understand the  
2 question that way.

3 MR. MITCHELL: That is what I call  
4 reverse hearsay.

5 THE MASTER: I understood the question  
6 to be in effect, and I may have misunderstood  
7 it, what was the difference between the  
8 Bates application and the final order, is  
9 that right?

10 MR. ODAM: Yes, Your Honor.

11 THE MASTER: Isn't that repetitious?

12 MR. MITCHELL: It is a matter of record.

13 THE MASTER: I thought he told us that  
14 earlier, hadn't you, Mr. Smith?

15 Q Well, I think basically.

16 MR. ODAM: Strike the question, and  
17 if I could --

18 THE MASTER: I know, not in all detail.

19 A Yes.

20 THE MASTER: But I thought you had  
21 covered the major areas.

22 A That is correct.

23 MR. ODAM: The objection has been  
24 leveled and sustained, just simply for the  
25 purpose of our bill of exception we would

1           like the response of the witness as to the  
2           questions as previously indicated.

3           THE MASTER: You are entitled to that  
4           on the bill, okay.

5           Q (By Mr. Odam:) Let me restate the question: Why  
6           was it such --

7           MR. MITCHELL: Now, this is all for  
8           the formal bill?

9           THE MASTER: Yes.

10          Q The question is this, there was a lengthy hear-  
11          ing on the motion to disqualify several days from  
12          time to time: My question is why was there such  
13          an urgent necessity exhibited by Mr. Manges'  
14          attorneys to see that Judge Carrillo was not dis-  
15          qualified from the case.

16          A Well, there is --

17          MR. MITCHELL: Wait a minute, excuse  
18          me, now my objections for the record, Judge,  
19          pardon me, it would be hearsay. best evi-  
20          dence, immaterial and irrelevant.

21          THE MASTER: What do you mean best  
22          evidence?

23          MR. MITCHELL: Well, the record speaks  
24          for itself as regards the motions and the  
25          controverting motions.

1 THE MASTER : I am unclear on the  
2 question. Is the question what Mr. Manges  
3 or his attorney of record stated was the  
4 urgency or are you asking him what, in his  
5 opinion, was the urgency?

6 MR. ODAM: The second thing, Your Honor.

7 MR. MITCHELL: Objective state of mind.

8 THE MASTER: The objection is sustained  
9 but you may answer the question on the bill.

10 Q And again, Mr. Smith, to clarify that last point,  
11 I am not asking what was leveled as indicated here.

12 A Yes, sir.

13 Q The legal or technical points, but in your opinion  
14 why, as a practical matter, these were raised in  
15 the first place and this is for the bill of excep-  
16 tion.

17 A Of course, Mr. -- we felt, and I think the record  
18 pretty well bears it out, that Mr. Manges -- and  
19 incidentally, Mr. Bates, the receiver was his  
20 attorney in all other matters, and Mr. Bates owed  
21 us as much responsibility and impartiality as  
22 he did Mr. Manges. He was, after all, an officer  
23 of the court.

24 MR. MITCHELL: Pardon me, Your Honor,  
25 I understand it is for the purpose of the

1 formal bill, and I would like to have the  
2 witness instructed to answer the question  
3 and not give us a long monologue as to all  
4 of these hearsay, go out and pick up all of  
5 these other pecans under the tree.

6 THE MASTER: I am not sure what that  
7 means. Actually, he was answering -- I  
8 think the witness is answering the questions.  
9 You may proceed.

10 A And bear in mind, I had taken this up with Mr.  
11 Bates, not only in conference, but by letter.

12 Q Taken what up with him?

13 A This matter of his effort to sell these minerals.  
14 I had gone to Mr. Bates' office and laid before  
15 him M. A. Guerra's contract where in plain language  
16 Clinton Manges assumed all debt that M. A. Guerra  
17 owed to the partnership and I had taken up with  
18 Mr. Bates. "now here you have got this in black  
19 and white and there is no excuse whatever for you  
20 to ask this court to sell M. A. Guerra's interest."

21 Now, of course, the situation was different  
22 with respect to Ruben Guerra. Any additional  
23 debts and so forth Ruben would have to participate  
24 in.

25 Then, after I had done that, and he still

1 filed the motion to sell, not only Ruben's minerals,  
2 but M. A. Guerra's minerals. then I knew that there  
3 was a tie-in between Manges and the receiver and  
4 I presumed also the Court, because of all of these  
5 things of value that had been delivered by Manges  
6 to the court.

7 For that reason I presumed that we were  
8 sunk if we went to trial before this particular  
9 judge and I figured that my reason for not want-  
10 ing this judge to pass on it was the same reason  
11 that Mr. Church and Mr. Manges had for wanting  
12 him to pass on it, they were going to do us in --  
13 excuse me, Mr. Mitchell, I didn't see you rise.

14 MR. MITCHELL: Go ahead.

15 A They were going to do us in on the case and I was  
16 determined that they weren't. and that -- I think  
17 was the difference of opinion. I am just saying  
18 that Mr. Manges and Mr. Church's object were  
19 exactly the same as mine, they had it in mind that  
20 if they go to trial before this judge we win, and  
21 I had it in mind if we go to trial before this  
22 judge, I lose. I think that is the -- that is  
23 the state of mind of both parties.  
24  
25

1 Q Rather than being the same as yours, their objective  
2 was opposite of yours?

3 A Yes, you see, there was another aspect of this  
4 thing.

5 MR. MITCHELL: Are we still on the Bill?

6 THE MASTER: Yes, when we get off of it,  
7 I will let you know and indicate it for the  
8 record.

9 MR. MITCHELL: The Bill requires the  
10 objection and the answer. This monologue  
11 is impossible for me, as regards what this  
12 witness is testifying to. He has gone  
13 far afield of the Bill.

14 THE MASTER: It is all on the Bill.

15 MR. MITCHELL: I understand that and the  
16 attorney making his Bill is really doing so  
17 for the cosmetic aspect of the record and  
18 not to inject into this record what other  
19 people think. We object to the Bill on the  
20 basis of hearsay.

21 THE MASTER: Your objection to the Bill  
22 is overruled.

23 MR. ODAM: Your Honor, that is all I  
24 have on the Bill.

25 THE MASTER: The Bill of Exception is

1 completed, is that correct?

2 MR. ODAM: Yes.

3 Q (By Mr. Odam:) You had the occasion, while you  
4 testified here, and the previous days here before  
5 The Master, to refer to certain notes to lay out  
6 your testimony?

7 A Yes, sir.

8 Q That has been offered as E-12, is that correct?

9 A Yes.

10 MR. ODAM: At this time we offer into  
11 evidence E-12.

12 MR. MITCHELL: I object on the same  
13 grounds as previously leveled to Number 12.  
14 It is testimony produced for the purpose of  
15 this hearing. It is hearsay and a proper  
16 predicate has not been laid and it invades  
17 the province of The Master.

18 THE MASTER: I would have to look at it,  
19 Mr. Odam; however, I think probably parts of  
20 it would be admissible.

21 MR. ODAM: I would agree with the last  
22 statement that parts are and parts are not  
23 admissible. We would say that any  
24 consideration given to it by The Master  
25 would eliminate those matters, or however



1 you wish to do it, those which are objectionable  
2 and admit those which are not and consider  
3 the whole matter in the light of what is  
4 relevant. I consider the same thing would be  
5 done by the Commissbn when they examined it.

6 THE MASTER: Well, with that in mind,  
7 let's move on. It is a lengthy document and  
8 I can't possibly go through all of it right  
9 now.

10 MR. ODAM: Yes, sir.

11 I pass the witness.

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

15 BY MR. MITCHELL:

16  
17 Q Mr. mith, I believe you have been practicing law  
18 since about 1945, have you not?

19 A Well, in Weslaco, yes, since 1945.

20 Q And I don't believe you have practied in the 229th  
21 Judicial District?

22 A No, this was the first case I had in the 229th  
23 Judicial District.

24 Q I would like for The Master to know the full scope  
25 of your personal experience in the 229th Judicial

1 District, since Judge Carrillo took the bench in  
2 January, 1971.

3 A I think that question is answered in this memorandum,  
4 but I will repeat it.

5 I do state this in behalf of Judge Carrillo,  
6 that during all of this time he was courteous to  
7 me under circumstances when he could have been  
8 offended at me. I appreciated that. My motion to  
9 disqualify was not just rushed into. That is the  
10 first motion I ever made in my entire practice to  
11 disqualify a Judge, except, I may have participated  
12 in some on the Valley Water suit where the judge  
13 owned land in that suit, but those were friendly  
14 proceedings with the judge and all parties where  
15 they were interested in finding out if the judge,  
16 because of their ownership of a house or land, had  
17 received water, but this was the first one of this  
18 type.

19 O I want to thank you for that statement and so the  
20 record reflects your attitude, I noticed in your  
21 communications with the Commission what you just  
22 stated.

23 My attitude is, I am like an attorney or like  
24 yourself. I have been practicing 25 years only,  
25 but I am interested in the judiciary and going with

1 a man we are proud of rather than one we are not.

2 A Thank you.

3 Q That is just strictly as an advocate is the reason  
4 you did that and you felt you were safer in the  
5 Federal District Court and you made your settlement  
6 for your client --

7 MR. ODAM: If the witness wants to take  
8 the stand and testify --

9 THE MASTER: Well, we understand what his  
10 position is.

11 Let's get on with the questioning.

12 I know he understands your position and I do,  
13 too.

14 Q (By Mr. Mitchell:) Well, I would not be more  
15 critical of you, because you thought of moving to  
16 an area where you thought it was safer for your  
17 client, rather than leave it in an area where you  
18 thought it was not safe, was that your thinking?

19 A Yes.

20 Q And that was the reason Jack Skaggs was filing the  
21 case in another county?

22 A Yes, that was the reason he gave me.

23 MR. ODAM: If the attorney wishes to  
24 pose a question to which I could object,  
25 then, that would be fine, but he is talking

1 more than the witness is. I don't know when  
2 to let it continue or to object to it.

3 THE MASTER: This is cross-examination  
4 of the witness.

5 Q (By Mr. Mitchell:) If I ask you something and you  
6 don't understand what I am asking, please let me  
7 know.

8 A All right.

9 Q The evidence and testimony has shown, and the  
10 witness has testified, that a judgment was made  
11 about whether or not they were going to stand on  
12 the plea of privilege to move it back to the  
13 79th.

14 A Yes.

15 Q And I believe the witness testified that he felt  
16 like the chance was good on the plea and proceeded  
17 on that basis to crank up some more settlement talk  
18 and I understand the witness has testified that by  
19 1970 most of the case had been settled out, is that  
20 correct?

21 A Yes, they had been settled; however, in talking  
22 about settlement, they were settled under  
23 tremendous duress of his clients. That is a  
24 problem with receiving gifts by the judiciary,  
25 as in this case. They gave up millions of dollars

1 because of the relationship between the plaintiff,  
2 Manges, and Judge Carrillo.

3 Q And it really boils down to crying ouch before you  
4 were hurt?

5 A I would like to answer that.

6 Q All right.

7 A We were not crying out before we were hurt.

8 Q Well, let me stop you at that point. As of the  
9 time that E-40 had been circulated -- first, you  
10 had been out of the case for two years?

11 A Well, fifteen months.

12 Q And Judge Carrillo had never been called on to pass  
13 on any other matters, as far as you were concerned,  
14 that related to the Manges and Guerra lawsuit?

15 A No, as a matter of fact, as I explained, I have no  
16 hostility against Judge Carrillo.

17 Q You were crying ouch before you were hurt, you said,  
18 and I want to hear your explanation of that.

19 A We were dealing here with the judiciary in a police  
20 county. Let me explain what I mean by a police  
21 county.

22 In a democracy where you have a local political  
23 group who, through the political bosses, gain  
24 control and combine the executive, legislative and  
25 judicial powers in one hand, in the hand of the

1 bosses of the machine, and the judge becomes a part  
2 of it, then, you have lost your protection of the  
3 court. A corrupt judge is a first part of a  
4 corrupt political machine.

5 Q You have made that statement in several of your  
6 letters and made it on the stand and in the motion  
7 to disqualify. I am going to test your personal  
8 knowledge of that statement.

9 A All right.

10 Q Are you saying that is true with regard to the  
11 79th Judicial District Court when Judge Laughlin  
12 was over it?

13 A Yes, he was removed once, you see.

14 Q But that removal was on an order to set aside a  
15 grand jury?

16 A Yes, and it was the same situation after he was  
17 re-elected as it was before.

18 Q You never had any personal knowledge about Judge  
19 Woodrow Laughlin in this case or any other case?

20 A Well, he has presided as a visiting judge, but  
21 that is irrelevant to this case, except I did know  
22 that in that case his decision was based on which  
23 side you were on. The decision he made had no  
24 relation to what the law and facts were.

25 Q Until you filed a motion to disqualify in 1972 --

1 A '73, January, '73.

2 Q All right. You had never filed a pleading before  
3 Judge O. P. Carrillo?

4 A No.

5 Q How about Judge Luna?

6 A We had a hearing by Judge Luna and the experience  
7 was exactly the same. Mr. Manges had filed  
8 several lawsuits.

9 Q Was it in the Manges versus Guerra case that you  
10 had this hearing?

11 A It was in this suit.

12 Q Did you file a complaint against Judge Luna with the  
13 judicial qualifications commission?

14 A No.

15 Q Did you take any further steps?

16 A It was not at the crucial point we were at here.  
17 What happened in the case, Judge Luna was involved  
18 in actions in our plan for bankruptcy and we had  
19 found a purchaser who would buy twenty thousand  
20 acres of this land at sixty dollars an acre, which  
21 provided one hundred and fourteen thousand dollars  
22 more than Mr. Manges was paying for an equal amount  
23 of land. That would have paid all the debts.

24 Q Are we talking about when the case was before Judge  
25 Luna?

1 A Yes.

2 Q All right.

3 A What Mr. Manges did was file a suit against Mr.

4 Marshall and H. P. Guerra. He had another suit

5 in Starr County and there were many of them.

6 Frank Gitard from Victoria came down to represent

7 Mr. Marshall. He had a number of pleadings and

8 motions and I know Mr. Gitard felt his motions

9 were just as good as gold. I didn't have the

10 benefit of those, because my clients lived in

11 Starr County. We had that hearing before Judge

12 Luna. At the conclusion he ruled for Manges on

13 every one without considering the briefs or

14 anything else. I remember the shock on Frank

15 Gitard's face at that time, because he had never

16 seen anything like this happen before.

17 Q Was any complaint filed by lawyer Gitard at that

18 time?

19 A No, it was common knowledge Judge Luna was a

20 caretaker judge until Judge Carrillo could be

21 elected.

22 Q Did you have anything filed in the case before

23 Judge Laughlin?

24 A We considered any judge in these police counties

25 to be equally dangerous, unless your client was on



1 the right side. You will have to bear in mind the  
2 Guerras were the remnants of the old parties and they  
3 were a part of the machine.

4 Q You were a petitioner in this case?

5 A Yes.

6 Q I will take most of this out of Exhibit E-25, which  
7 you made before the Court. I want to be sure this  
8 record is clear.

9 Mr. Manges bought from J. C. and V. H. Guerra  
10 a one-sixth interest in M. A. Guerra and Son in  
11 1968?

12 A Yes.

13 Q So he became the lawful owner of their interest,  
14 is that correct?

15 A Under the police county court situation in that  
16 district, he would have been adjudicated the  
17 lawful owner, but under a fair judge, those three  
18 deeds would have been thrown out, because they  
19 didn't comply with the partnership.

20 Q But you are not telling the court he paid umpteen  
21 million dollars for that, are you?

22 A I certainly am. I am saying he lacked a substantial  
23 sum of paying what he really owed. We were  
24 compromising. These people had been tied up for  
25 four or five years and operated substantial

1 ranching property.

2 Q I take it from your testimony you think those  
3 folks didn't get a fair shake on the original  
4 purchase by Mr. Manges?

5 A I think it was forced on them by an unlawful  
6 duress.

7 Q That was Judge Laughlin at that time?

8 A Yes.

9 Q And Judge Luna was the first Judge on the 229th  
10 District Court bench and he might have had something  
11 to do on it, but certainly Max Boyer, who was from  
12 San Antonio, had a part in it, so I guess we could  
13 point the finger at him as well?

14 A Well, I would say he was very anxious to get the  
15 matter settled and he was pressuring us all the  
16 time. We had a cross-action filed and I am not  
17 criticizing Judge Boyer. We had a cross-action  
18 in that case which we gave up and finally got it  
19 settled. He had, at noon on June 11, he had let  
20 the word out that if we didn't settle, he was going  
21 to reset it for sometime in the fall, so we had  
22 been piddling around with this for five years.  
23 The Judge would not rule.

24 Also, Judge Harville granted a summary judgment  
25 in favor of M. A. and R. R. Guerra and some heat

1 went on him and he refused to sign the judgment he  
2 granted orally as to R. R. Guerra. Our problem was  
3 not entirely with Judge Carrillo. We had trouble  
4 getting any Judge to rule.

5 Q Let's take Max Boyer. As you know, he has been a  
6 District Judge for some twenty odd years, has he  
7 not?

8 A Yes.

9 Q And has been on the bench serving Bexar County?

10 A Yes, that is right. I am not questioning his  
11 integrity. I am testing his endurance for heat.

12 MR. ODAM: Judge, I object --

13 THE MASTER: The witness has a right to--  
14 what is your objection?

15 MR. ODAM: The relevancy of this line of  
16 questioning. Unless I am mistaken, we are  
17 here on Judge Carrillo.

18 THE MASTER: I will overrule the  
19 objection. I understand the thrust of this  
20 cross-examination.

21 Q (By Mr. Mitchell:) Judge Boyer did enter an order  
22 in 1973, is that correct?

23 A In June, June 11, 1974.

24 Q And Judge Harville, who is from Corpus Christi,  
25 is he not?

1 A Yes.

2 Q And sits in the building right next to us now?

3 A Yes.

4 Q He also entered a summary judgment?

5 A Yes.

6 Q And Judge Laughlin entered the original receivership?

7 A Yes.

8 Q And that was the one that went to the Supreme  
9 Court and the Supreme Court put a stamp of approval  
10 on that one?

11 A Yes.

12 Q Do you have any quarrel with that decision,  
13 that is, setting up the receivership for that,  
14 something would be done, do you have any quarrel  
15 with that?

16 A I have no quarrel with that. My quarrel was  
17 with the way it was managed.

18 Q You have no quarrel with the establishment of the  
19 receivership, is that correct?

20 A I have a quarrel with the way in which it was  
21 handled. My quarrel is, I might have raised this  
22 point if I had been involved in the receivership.  
23 I was not, but if I had been involved in it, in  
24 the original receivership, and the Judge had  
25 appointed the attorney for one of the parties as

1 the receiver and that attorney had shown the  
2 partiality to his client that was demonstrated,  
3 I would have raised hell about that, but I was not  
4 involved in that.

5 Q You think Mr. George Campman was involved with  
6 Jim Bates, is that what you're telling us?

7 A I have not met Mr. Campman. I have met Mr. Church.  
8 He was, I believe, an able and aggressive lawyer  
9 in this case. As I pointed out in my memorandum,  
10 it is a direction that Judge Carrillo became a  
11 part of and a captive of, you might say, where he  
12 had no option to rule according to law and the  
13 facts, but he had to rule as to the direction  
14 of the people that put him there.

15 Q I am really trying to get to the facts of Judge  
16 Carrillo. The original petition doesn't name Jim  
17 Bates, does it?

18 A Oh, yes, you mean the petition Campman did?

19 Q Right.

20 A No, I don't think it does.

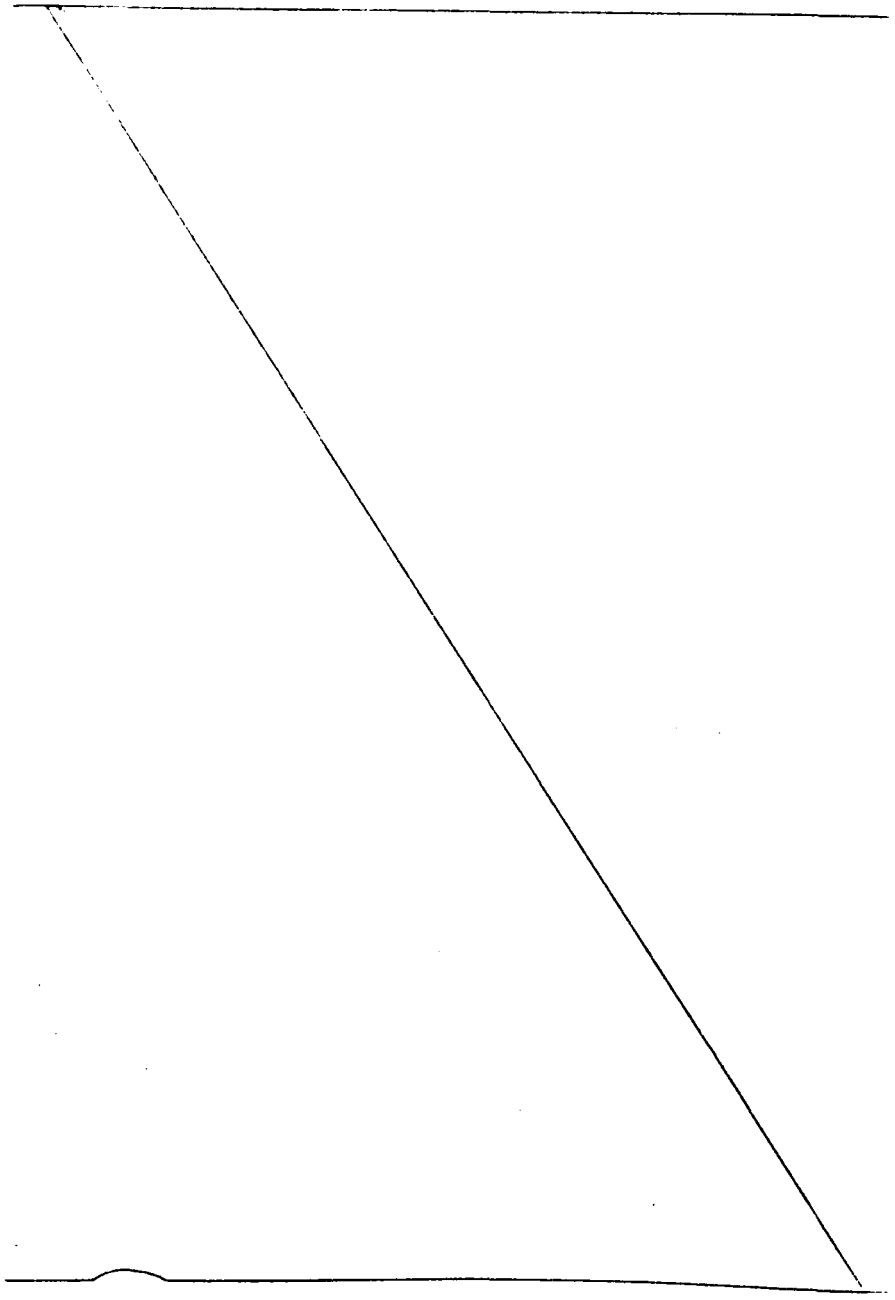
21 Q And your folks, M. A. Guerra, and you later  
22 represented M. A. and H. P.?

23 A Yes, and R. R.

24 Q And they were represented by counsel in this  
25 original proceeding?

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A Yes.



1 Q All right, and the judge entered an order appoint-  
2 ing the receiver which these lawyers appealed to  
3 the Court of Civil Appeals in San Antonio?

4 A Yes.

5 Q And it was affirmed?

6 A Yes.

7 Q And the opinion is in the record?

8 A Yes.

9 Q And the Supreme Court of the State of Texas  
10 denied the writ?

11 A Yes.

12 Q And in the meantime, in the meantime an applica-  
13 tion was filed for reorganization in the federal  
14 court to get it out of Judge Woodrow Laughlin's  
15 79th District Court?

16 A Yes.

17 Q And you must concede, or will you concede, going  
18 back and looking at it, because you hadn't been  
19 hired then, that that application for reorganiza-  
20 tion was crippled and the jurisdiction on it was  
21 very questionable, wasn't it?

22 A Well, my real --

23 Q Yes, it was, wasn't it?

24 A I would say no, for this reason that I did parti-  
25 cipate in that proceeding and I did feel that the --

1           that Judge Garza, the federal judge, the federal  
2           district judge, and the appellate court, I felt  
3           like the Supreme Court of the United States would  
4           uphold us on -- the weak point in the case, it  
5           had that weak point in the case that we did not  
6           have all six partners party to this application.

7           Q   Right, because Mr. Manges succeeded to a substan-  
8           tial interest to those parties, isn't that correct?

9           A   That had not been settled. Three partners had  
10          tried to sell their interest without complying  
11          with the partnership contract.

12          Q   But, your problem was when you went over there  
13          and you knew it, as you are sitting here, Garland,  
14          you knew you didn't have all of those parties  
15          because Mr. Manges had bought those partners'  
16          interest, but --

17          A   Yes.

18          Q   He was a litigant over in the 79th District Court?

19          A   Yes.

20          Q   And when your referee indicated that was the  
21          case, and that was the basis of his decision,  
22          and it was going to be bounced back out to the  
23          district court's jurisdiction, that is when you  
24          were hired and you did a big job, I am not being  
25          critical.



1 A Yes.

2 Q You filed an appeal with the referee's determina-  
3 tion with Judge Garza?

4 A Yes.

5 Q And said wait, I want to make a motion for recon-  
6 sideration on jurisdiction, didn't you?

7 A Yes.

8 Q And you held it in federal court?

9 A That's right.

10 Q All right.

11 A But I believe Jack Skaggs was in the case for  
12 Ruben and M. A. at the time we appealed over Judge  
13 Moller's decision to Judge Garza.

14 Q And that is when you came in and wrote the brief  
15 when Judge Moller says I am going to dismiss it  
16 because there is no jurisdiction, because the  
17 parties are not all here.

18 A Yes.

19 Q And you wrote the review brief that you wanted to  
20 present to Judge Garza because you wanted to keep  
21 it there because in your opinion you couldn't get  
22 a fair trial before Judge Laughlin?

23 A That's correct.

24 Q I'm not being critical, I think it is very  
25 adroit.

1 A Not before Judge Laughlin, before whoever it went  
2 before, we knew there was a time element.

3 Q While that was pending, and you lawyers do like we  
4 all did, you looked at that proceeding pending  
5 down there in Hidalgo County and you sat down and  
6 you said wait just a minute, Clinton Manges is  
7 not a resident of this county, and if this plea  
8 of privilege goes to trial in Hidalgo County, we  
9 are going to get busted on it because Mr. Manges  
10 is not a resident of Hidalgo County and is going  
11 to be transferred back to this county, and then  
12 if Judge Garza gets a good look at this plea of  
13 jurisdiction, we are going to get busted out of  
14 federal court and we will be back with Judge  
15 Woodrow Laughlin, isn't that true?

16 A Had we kept those three partners together, if  
17 Jack Skaggs had not panicked after Judge Moller's  
18 decision and we had kept those three partners  
19 together, I don't believe any court in the land  
20 would have held that two partners who have already  
21 signed deeds selling their interest can turn  
22 around and sign a deed selling the interest to  
23 other parties.

24 Q All right.

25 A That is just entirely too corrupt for any court

1 in the United States to approve and I think the  
2 federal court would have held that these three  
3 partners spoke to the partnership.

4 Now, Mr. Manges had not been accepted as  
5 a partner in M. Guerra and Son and that is reflected  
6 in the case.

7 Q Right.

8 A That went to the Texas Supreme Court.

9 Q His position was, and of course, his lawyers  
10 took the position where there was a purchase made  
11 from the partners, that the purchase terminated  
12 the partnership as a matter of law, that is when  
13 Mr. Manges purchased the interest of the parties,  
14 those partners terminated the partnership and you  
15 were fighting that battle in federal court, weren't  
16 you?

17 A We were fighting the whole battle in federal  
18 court just as they were fighting the battle in  
19 state court.

20 Q At any rate, let me go back, at about that time,  
21 it appeared to you ~~that~~ that Hidalgo suit was  
22 pending, that you had that federal jurisdiction  
23 and that motion for rehearing at which time you  
24 were employed, you also had negotiations to  
25 settle the case or there were negotiations to

1 settle the case.

2 A Yes.

3 Q With the ultimate result that -- and see if I  
4 can summarize that, in 1970 there were settle-  
5 ments between R. S. Guerra and Clifton Manges,  
6 M. A. Guerra and Clinton Manges, am I correct?

7 A Uh-huh.

8 Q And effectively settled out the lawsuit so as  
9 by December the 31st of 1970, wouldn't you say  
10 everything was settled except the final settle-  
11 ment on the receivership?

12 A That would be true, but now here is the evil of  
13 it, and this is -- you see, here is where your  
14 tremendous and your conscionable duress of a  
15 corrupt judge in a police county comes in.

16 The receiver had taken the position, and I  
17 believe Judge Carrillo explains, that he would  
18 approve nothing unless it was signed by all of  
19 the parties.

20 Q That's right.

21 A Okay, now look at your opinion of the court of  
22 appeals and the reasons why Judge Laughlin granted  
23 the receivership. The reason was twofold, it  
24 was to protect all of the partners and absolutely  
25 that sounds reasonable.

1           The other was that the partners could not  
2 agree on business decisions, which I think was  
3 substantiated by the fact. Okay, now that part  
4 I have no argument with, I think some courts had  
5 to deal with that situation.

6           Now, then, when the judge -- now, you have  
7 got the intervention here of another element,  
8 a stranger has come into the partnership, Clinton  
9 Manges.

10           Now, you have a situation where the judge  
11 and the receiver say everybody has to agree, that  
12 means Mr. Manges has to agree. So, Mr. Manges is  
13 a client of the receiver, so nothing moves there-  
14 after until Mr. Manges agrees.

15           Now, watch what happened in this case. When  
16 Ruben Guerra settled, and you have got to consider  
17 how this fellow Manges operates, and that is  
18 one of the reason why we questioned Judge Carrillo  
19 whereas we didn't -- Mr. Manges has no more dis-  
20 cretion than a peach orchard bull, and he left  
21 evidence all around the place as to why Judge  
22 Carrillo should be disqualified.

23           Judge Laughlin and Judge Luna did not leave  
24 any evidence that we could get our hands on. We  
25 knew what was going to happen, but we didn't have

1 a handle to get our hands on.

2 Here we had a situation where nothing moves  
3 until Mr. Manges agrees, so when Jack Skaggs  
4 got ready to partition for Ruben Guerra, whom he  
5 represented at that time, and to get for Ruben  
6 Guerra the ranchlands that Ruben Guerra wanted,  
7 did he negotiate with the other parties? Did he  
8 talk to me about my clients, H. P. Guerra, Junior,  
9 or to J. C. Guerra, or Mrs. Jeffries, he just  
10 talked to Manges and when they made a settlement  
11 with Manges, everybody in the lawsuit knew that  
12 that was all he had to do.

13 Q All right.

14 A I am not criticizing Mr. Skaggs, but the same  
15 thing happened, you see, when H. P. Guerra, Junior,  
16 he didn't negotiate with any of the other parties.

17 Q All right.

18 A He just negotiated with Clinton Manges.

19 Q I understand.

20 A And when I settled with -- for M. A. Guerra, I  
21 didn't negotiate with any other parties, I just  
22 negotiated with Clinton Manges because every  
23 lawyer in that lawsuit knew that when we settled  
24 with Clinton Manges, that he was running the court  
25 and what we did with him settled it.

1 Q Well, I don't take sides one way or the other.  
2 I can tell from your account of it that you were  
3 involved for your client and I congratulate you  
4 for it, Mr. Smith.

5 A Yes, sir.

6 Q The matter, however, that I am forced by my duties,  
7 by my canon of ethics to make inquiry into is how  
8 all of this relates to my client, Judge Carrillo?

9 A Yes.

10 Q Now, let me ask you some question, regardless of  
11 how, when and where, you are, I believe, in agree-  
12 ment with me, that by December 31st of 1970 the  
13 case had been settled as to all material aspects?

14 A That's right.

15 Q And that the only thing that remained, and I am  
16 going to try to summarize it, actually the only  
17 thing that remained was for the receiver to be  
18 brought into the picture by the litigants so that  
19 the cosmetics of the receivership would blend over  
20 into the settlement made by the parties.

21 A That's right.

22 Q All right.

23 A And if that had been done honestly, there wouldn't  
24 have been any of this third phase.

25 Q Right.

1 A There wouldn't have been any question about Judge  
2 Carrillo's qualifications.

3 Q At any rate, let me say this, that I want the  
4 record to speak it and I know the Judge will be  
5 tolerant with me, I do not ever question a lawyer's  
6 motives to file motions to disqualify. I have  
7 several motions to disqualify pending myself at  
8 this time and it is distasteful.

9 A It sure is.

10 Q I am not criticizing you as a lawyer, I want the  
11 facts to speak -- as far as Judge Carrillo.

12 A Yes.

13 Q As of January, you had done your job?

14 A That's right, I participated no further.

15 Q You had gotten the case in the best posture to  
16 settle?

17 A That's right.

18 Q As you are sitting here today, you are a good  
19 lawyer, and I know that you think that you could  
20 have gotten more for your clients if the other  
21 side hadn't gotten you in a disadvantage at the  
22 bargaining table, and I realize that.

23 A Yes, sir.

24 Q As a matter of fact, in December of 71, there  
25 wasn't anything to do.



1 A There wasn't anything to do for my clients.

2 Q And the same in 72, it wasn't until your clients  
3 got a copy of this proposed order that has been --  
4 this proposed settlement accounting.

5 A Right.

6 Q That they said let's go back and get Mr. Smith,  
7 because he was a good lawyer and he protected our  
8 interest and we have several objections. One was  
9 that fifty thousand dollar fee to this fellow Jim  
10 Bates.

11 A Yes.

12 Q And two, we don't think that those -- half of  
13 those royalties are worth what the proposed model  
14 to sell says it is worth.

15 A Yes.

16 Q I think they are worth more, and I think Mr. Smith  
17 thinks they are worth more?

18 A Yes.

19 Q And that is why they came to you?

20 A That's right.

21 Q And you agreed with them?

22 A That's right.

23 Q Am I right, Mr. Smith?

24 A I would say so, yes, substantially.

25 Q And as an attorney, you said well, now where am I

1 going. You didn't have a federal court, that  
2 jurisdiction had been terminated?

3 A That's right.

4 Q There wasn't any jurisdiction down in any other  
5 district?

6 A That's right.

7 Q And you have been quite articulate.

8 A It was in the 229th.

9 Q You are quite articulate on how you felt about  
10 Judge Laughlin or the 229th, but you were faced  
11 with the necessity of going back into the 229th?

12 A Yes.

13 Q To file an objection to the accounting or proposed  
14 settlement of the case?

15 A That's right.

16 Q And you made a determination from possibly your  
17 talk with your clients that there is a connection  
18 between Judge Carrillo and one of the litigants,  
19 Mr. Manges, and you proceeded at that point to  
20 gather your case?

21 A That's right.

22 Q To disqualify him?

23 A That's right.

24 Q And you filed your first motion to disqualify  
25 which has been introduced as E-19, and where you

1 state in it, I think I am going to try to summar-  
2 ize it very rapidly. you complain of certain pro-  
3 jected fees and you also complain as regards the  
4 disposition, I think in that motion and I will  
5 hand it to you, Mr. Smith, if you need it.

6 A Yes.

7 Q To refresh your recollection.

8 A Yes.

9 Q About this paragraph contained in E-40, on the  
10 proposed minerals, that would be about number 5?

11 A Yes, on that back page.

12 Q Yes, I will hand you that, too, number E-40, if  
13 you want to refresh your recollection.

14 (Handed to the witness.)

15  
16 Q All right, now at this point let me ask you, Mr.  
17 Smith, I don't know whether it has been asked  
18 you or not, did you file some character of objec-  
19 tion to that proposed accounting, that document  
20 that was distributed, circulated October of 72,  
21 filed November 17th, 1972, and the hearing held  
22 on January 15th, 1973?

23 THE MASTER: No, the hearing was set.

24 MR. MITCHELL: The hearing was set?

25 THE MASTER: But because of the motion

1 to disqualify, the hearing did not go for-  
2 ward, but they reset a hearing on the motion  
3 to disqualify.

4 MR. MITCHELL: Yes, sir.

5 THE MASTER: But I just added that  
6 because we are repeating somewhat.

7 MR. MITCHELL: Right.

8 THE MASTER: I can see the thrust of  
9 your cross-examination, let's not repeat  
10 so much.

11 MR. MITCHELL: I am going to move on,  
12 Judge Meyers, I know the Court is well up  
13 on those facts and I am appreciative of  
14 that.

15 Q What I'm asking, Mr. Smith, did you file objections  
16 to the --

17 A Yes.

18 Q Is it in evidence and did I overlook it?

19 A I don't believe I have a copy of what I filed.  
20 I looked for it. I brought a batch of stuff,  
21 but apparently I didn't pick up the file that  
22 had that answer in it. I did file what I  
23 believe was entitled, An Objection to Accounting  
24 and Final Report.

25 MR. MITCHELL: Your Honor, may I request

1                   that the court reporter leave and Exhibit  
2                   number and I will be quite willing to rely  
3                   on Mr. Smith's sending us a copy to be put  
4                   in the record for a copy of it?

5           A   Yes, I will do it. For your purposes now I did  
6           find a xeroxed copy that I had made of this  
7           accounting, which is an attachment to that. If  
8           you would care to have that now.

9           Q   Yes.

10          A   I couldn't find the document, but I will furnish  
11          one, but that will -- that is the details of what  
12          we found wrong with the accounting that the  
13          receiver had made.

14                   MR. MITCHELL: Judge --

15                   MR. ODAM: Your Honor --

16                   MR. MITCHELL: Pardon me, Mr. Odam, I  
17          was going to request that we mark this  
18          Exhibit, Judge, and request that he furnish  
19          us the answer that he filed also.

20                   THE MASTER: Yes, I understand and  
21          do you have it?

22                   MR. ODAM: Not that I know of, Your  
23          Honor. Mr. Flusche is looking for it.

24                   I was going to pose the objection, and  
25          the Master indicated he could see where the

1 thrust of the line of questioning was going  
2 which is good, and, therefore my objection  
3 probably would be overruled.

4 It appears to me that from the majority  
5 of the time spent for the last thirty-four  
6 minutes that we are simply ratifying the  
7 filing of numerous papers and it is duplici-  
8 tous to what is already in evidence. I  
9 frankly don't see where we are going except  
10 to go back through matters that are made of  
11 record by the examiner's case. I frankly  
12 don't see the thrust of the matter.

13 THE MASTER: When I said that, I may  
14 have misspoken myself. What I was referring  
15 to when I said that at that time was that  
16 Mr. Mitchell, for whatever relevancy it may  
17 have and I am not sure it has any, wants to  
18 complete the record to show what the objec-  
19 tions to the report were.

20 Now, I don't know what that adds to the  
21 case, but it may add something by way of  
22 completing the picture. That is the thrust  
23 of where I thought he was going.

24 MR. ODAM: All right, to complete the  
25 record, I can see the relevancy of that. My

1 objection is to relevancy, is aside from  
2 the completion of that record and the com-  
3 pletion of the record of other documents in  
4 that case. I do not see where we are going  
5 once we have the entire record completed.

6 THE MASTER: Well, I suppose on another  
7 line of cross-examination, I trust.

8 MR. MITCHELL: Well, may I state, Judge,  
9 maybe to help the record, the witness has  
10 testified categorically under oath that  
11 there were several objections and that these  
12 objections led him to write the Judicial  
13 Qualifications Commission and the Judicial  
14 Qualifications Commission letters are in  
15 evidence and I want to see if what he has  
16 testified under oath is what he put in those  
17 objections, and if that is set out in these  
18 judicial qualification letters.

19 THE MASTER: I think you are entitled  
20 to that, but a great deal of the cross-  
21 examination was simply rehashing dates,  
22 papers filed, things done that this witness  
23 testified to day before yesterday.

24 MR. MITCHELL: Well, I will try not to,  
25 Judge, I know the Court's correct, because I

1 have gone over -- and it has been gone over,  
2 but in order to establish the framework  
3 within which my cross -- hopefully, some  
4 thrust and some logical sequence, I have to,  
5 to a certain extent, duplicate. I know that --

6 THE MASTER: I don't think you have to  
7 as much as you are. that is my only point.

8 MR. MITCHELL: You are the judge.  
9 Judge, let me say for the record I am going  
10 to abide by your judgment in the matter, but  
11 I am trying not to, I know what the Court  
12 is saying.

13 MR. ODAM: Let me rephrase the objec-  
14 tion in these terms: It is not an objection  
15 made to the introduction of these particu-  
16 lar papers right here. My objection is to  
17 the relevancy of where we are going with this.  
18 The Master has indicated that he believes  
19 that probably it relates to some further  
20 avenue of cross-examination and if that is  
21 to be the case, when I would simply like to  
22 know where we are -- where are we going with  
23 all this?

24 MR. MITCHELL: Judge, I think he is  
25 entitled and the Court is entitled and let



1 me tell the Court why. There is no date on  
2 E-40. E-40 is not signed. I have allowed --  
3 I objected to it and it has been introduced  
4 into evidence.

5 The main thrust of this entire case  
6 is this witness has testified that he got  
7 a document that was circulated in October;  
8 that was filed in November. Well, I want  
9 to see the document.

10 Now, I don't see it, so I am going back  
11 at it another way. I say, all right, if  
12 there were officially -- I just want to  
13 satisfy the record, I am not suspecting  
14 anything of anybody, but I owe a duty to  
15 my client.

16 THE MASTER: I am sorry, I thought  
17 E-40 was what was circulated in October  
18 and filed in November.

19 MR. MITCHELL: Judge, there is no  
20 date on it at all. I have tried to find  
21 when it was filed and when it came out  
22 because it becomes important as the Court  
23 knows when that document was circulated.

24 Now it talks about 71, so I want  
25 to know if they filed -- don't get those

1 Exhibits now --

2 MR. FLUSCHE: The filemark is on it.

3 MR. MITCHELL: No, there isn't any.

4 THE MASTER: Yes, there is.

5 MR. MITCHELL: No, Judge, you did the  
6 same thing I did. Judge, you read the  
7 Exhibit, which is a release. Now, if you  
8 go back here, I did the same thing. Your  
9 Honor, may I, excuse me, Judge, let me  
10 just help the Court here. Judge, you see  
11 there is no --

12 THE MASTER: This copy --

13 MR. MITCHELL: There is no dating, no  
14 filemark, no indication that it was ever  
15 filed, Judge Meyers.

16 THE MASTER: Well, now, Mr. Smith has  
17 testified that it was filed on the 17th.

18 MR. MITCHELL: I know that, Judge,  
19 and it becomes critical that it was because  
20 that is the document that generated the  
21 motion to disqualify in the letters to  
22 the Judicial Qualifications Commission, and  
23 that is why I am going to that first letter  
24 to the Judicial Qualifications Commission  
25 of April 3, 1973.

1 THE MASTER: I did not think I -- I  
2 do not think I can rule on any objection  
3 until we see the thrust of the cross-  
4 examination.

5 MR. ODAM: All right, Your Honor.

6 MR. MITCHELL: May I Judge -- what  
7 started all of this, I would like to mark  
8 what Mr. Smith has produced as part of an  
9 analysis made, and have h'im -- he has  
10 agreed to deliver a copy of the objections  
11 to that proposed settlement by the receiver,  
12 and may I have permission to have this  
13 marked as the next Exhibit in line for  
14 Judge Carrillo, with the understanding that  
15 whatever Mr. Smith produces can be a sub-  
16 exhibit of it. That is all I want the  
17 record to speak to.

18 THE MASTER: Well, I take it, Mr.  
19 Smith, that what you will produce will have  
20 that attached to it.

21 A That is right, that is correct.

22 THE MASTER: So my suggestion is that  
23 we make a substitution and substitute what  
24 he forwards.

25 MR. MITCHELL: Thank you, Your Honor,

1 we would like to have this marked with the  
2 understanding, Judge, that upon receipt of  
3 the full document we would like to make a  
4 motion to withdraw this and substitute the  
5 followup document.

6 THE MASTER: That is fine.

7  
8 (Marked for identification by the  
9 reporter as Exhibit R-22.)

10 THE MASTER: Let me state something  
11 for the record. This Exhibit that has  
12 been marked R-22 is the respondent's first  
13 exhibit on the hearing at the -- on the  
14 merits. The first twenty-one numbers having  
15 been exhibits on the hearing on the various  
16 motions in limine and plea, or pless in  
17 abatement and whatever other matters the  
18 preliminary hearings may have been held for.

19 MR. MITCHELL: A very correct and  
20 accurate statement, Judge Meyers, yes.

21 THE MASTER: Excuse me, you haven't  
22 offered R-22?

23 MR. MITCHELL: We offer R-22 with the  
24 attached --

25 THE MASTER: Maybe you have, I don't

1 know.

2 MR. MITCHELL: With the motion to with-  
3 draw, Judge, upon the witness delivering  
4 the objection which I think the record  
5 should contain.

6 MR. ODAM: For -- if I could make this  
7 statement off the record, and it is just  
8 a suggestion for purposes of clarification.

9 MR. MITCHELL: I would as soon it be on  
10 the record.

11 MR. ODAM: My suggestion is in order  
12 for us to keep our numbering straight, it  
13 is simply a suggestion on the proceedings,  
14 on the merits if it would be helpful, if  
15 we could mark those with a different identi-  
16 fication so that we can make a note now that  
17 the first one becomes, for example, if we  
18 using C-1 for Carrillo as we have done pre-  
19 viously, it is very minor, but we could  
20 start off with something being one for the  
21 purpose of the trial on the merits as  
22 opposed to the other --

23 THE MASTER: I would just as soon  
24 leave it as R-22. We know what we are  
25 doing.

1 MR. ODAM: All right.

2 MR. MITCHELL: Well, while we are  
3 Exhibit marking, may I have all of these  
4 marked please.

5  
6 (Marked for identification by the  
7 reporter as Exhibits R-23, R-24 and R-25.)

8 Q Mr. Smith, let me digress just a minute. I will  
9 hand you what has been marked as Exhibits R-23,  
10 24 and 25 which appear to be instruments which  
11 were drafted by you or in connection with the  
12 order of dismissal in the bankruptcy 69-B-9, M.  
13 Guerra and Son, and in view of the fact that these  
14 documents relate to the transition of the case  
15 back from the federal court, back into the 229th,  
16 I wonder if I can hand them to you.

17 They appear to be either drawn by you,  
18 signed by you and if you could give by exhibit  
19 number, give the Court the background on the dis-  
20 missal out of the United States District Court  
21 and how the case got back.

22 A All right.

23 Q Back to the 229th and I will proceed after the  
24 case got back into the 229th where we were in R-22.

25 A Okay. I will take these exhibits in order in which

1           they are numbered.

2           Q All right.

3           A It would be R-23 is a letter dated December 11th,  
4           1970, addressed by me to Messrs. Campmann, Campmann,  
5           Church and Burnes concerning 69-B-9 that was the  
6           bankruptcy case.

7                     I state I enclose a motion to dismiss,  
8           together with the order of dismissal and that is  
9           the nub of it except the last paragraph provides  
10          that M. A. Guerra should be paid when the order  
11          is entered, that the deed to H. P. Guerra, Junior,  
12          cannot be delivered until the parties are released  
13          from the injunction. We presume that suitable  
14          arrangements can be made with respect to the deed  
15          of H. P. Guerra shortly.

16                    This is an order of dismissal, a copy of  
17          it that is attached to that letter which I think  
18          I had signed the original of.

19          Q Fine.

20          A With the letter, so it could be entered.

21                    MR. MITCHELL: Let me interrupt you  
22          and make an offer of this, Judge. I would  
23          like to hand it to opposing counsel and I  
24          would like to have the court review it  
25          while Mr. Smith is testifying.

1 (Handed to counsel.)  
2

3 A All right, now with respect to R-24, that is a  
4 letter dated December the 16th, 1970, also con-  
5 cerning the bankruptcy proceeding. It is a  
6 letter from Mr. Church to all of the attorneys  
7 in the case, to Garland F. Smith, to Arnolfo  
8 Guerra, to Dean Morehead, to Jack Skaggs, Senator  
9 Jim Bates and Arthur Moore.

10 It is dated December the 16th and it says  
11 enclosed for your file there is a copy of -- of  
12 the order of dismissal in the bankruptcy proceed-  
13 ing in the United States District Court, Southern  
14 District of Texas.

15 The original of the order of dismissal was  
16 approved by us and forwarded to Senator Bates  
17 with the request that they be circulated as quickly  
18 as possible for the approval in order that it  
19 might be submitted to Judge Moller for his signa-  
20 ture at once.

21 That, I think, is a clear explanation of the  
22 whole purpose.

23 Q Thank you.

24 MR. MITCHELL: I hand this R-24 to  
25 Counsel for the examiner or just hand it



1 to the examiner, I should say.

2 A Yes, now this R-25 is a copy of a letter of an  
3 order -- copy of a letter from V. Bailey Thomas,  
4 the clerk of the Brownsville Division, signed by  
5 Lionel T. Garza, the deputy, concerning this same  
6 proceeding, 69-B-9, and it states this is to  
7 certify that Exhibit A is a true and correct copy  
8 of the original order of dismissal in the above  
9 styled suit, a signed copy was certified on  
10 May 25th, 1973, by Deputy Ion Wright.

11 Exhibit B is a true and correct copy as it  
12 shows having been signed by U. S. District Judge  
13 Reynaldo Garza on December 6th, 1970, when in  
14 truth and in fact it was signed January 6th, 1970.

15 Q It appears there had been some error in the  
16 clerk's office as to the date of the signing of  
17 the order of transfer and that that letter, along  
18 with the attachment I believe it even contains  
19 your approval of the order?

20 A Yes, sir.

21 Q That the case that the -- the case had not been  
22 transferred back to the state court, which was  
23 still the 79th until actually January 6, 1971?

24 A Yes, I think actually what happened there, Mr.  
25 Mitchell, was that Bill Church honored the request

1 I had made that the order not be entered until  
2 M. A. Guerra had actually been paid in cash the  
3 two hundred and thirty thousand dollars that he  
4 was supposed to receive.

5 Q I think that is a good tactic and you held back  
6 on approval until the money was paid?

7 A That's right.

8 Q When it was done, the transfer was made?

9 A Yes, sir.

10 Q My point being the case was not transferred back  
11 until about five days after Judge Carrillo --

12 A Yes.

13 Q -- qualified for the Judge of the 229th?

14 A I think what happened is it was presented to  
15 Judge Garza after January the 1st..

16 THE MASTER: We need to take a recess  
17 and we will be in recess until, say, ten  
18 twenty.

19 MR. MITCHELL: All right. and, Judge.  
20 at that point I will hand the Court Exhibit  
21 R-25.

22  
23 (Whereupon the hearing was in recess  
24 from ten o'clock a.m. until ten-twenty a.m.)  
25

1 Q Let me hand E-24 to the Court along with E-25.

2 THE MASTER: You have offered Exhibits  
3 22, 23, 24 and 25?

4 MR. MITCHELL: Yes, sir.

5 THE MASTER: 22 is only part of the  
6 full 22 and it will be withdrawn and  
7 substituted when Mr. Smith mails us the  
8 entire document?

9 MR. MITCHELL: Yes, sir.

10 THE MASTER: Is there an objection to  
11 any of these?

12 MR. ODAM: No, sir.

13 (Respondent's Exhibits 22, 23, 24 and 25  
14 were admitted in evidence.)  
15

16 Q After you were employed in the latter part of 1970 --  
17 well --

18 A The latter part of '72.

19 Q Okay. It became necessary for you to re-enter the  
20 case and at that time Judge Carrillo, I believe the  
21 record was, Judge Carrillo was sitting on the  
22 bench at that time?

23 A Yes.

24 Q And I believe the first and only document filed by  
25 you was E-19, which was filed January 9th, 1972,

1 that is the motion to disqualify?

2 A Correct.

3 Q And the hearing was set for the 15th of January,  
4 1973?

5 A Correct.

6 Q In the motion to disqualify, you quote the  
7 applicable portions of the Texas Constitution and  
8 Cannon of Ethics and some background for the Court?

9 A Yes.

10 Q And you also quote in subparagraphs some matters  
11 you have told us about here today, that is, Mr.  
12 Manges' influence over some of the parties, and  
13 moving now to page 4, subparagraph D, is the  
14 first mention made of Judge Carrillo wherein the  
15 period Judge Carrillo had been elected as a  
16 director to the First State Bank and Trust of Rio  
17 Grande City?

18 A Yes.

19 Q I will hand you a document here on that.

20 A Yes, it is attached to that pleading. There is a  
21 statement of condition of the bank that shows him  
22 as a director and I believe it is Exhibit B.

23 Q Correct. That is the publication of the directors  
24 for the bank, which is Exhibit B?

25 A Yes.

1 Q And it was indicated in that Judge Carrillo was  
2 a director?

3 A Yes. Here is a typographical error in that. This  
4 was attached to my pleading and filed on January 9,  
5 1973.

6 Q I was going to ask you about that.

7 A It was a typo in it.

8 Q In the financial statement of the bank?

9 A Yes.

10 Q Appendix B should be as of the close of business  
11 December 31st, 1972?

12 A Yes.

13 Q And it was attached and filed by you on January 9,  
14 1972?

15 A Correct.

16 Q Let me ask you, please, do you know when Judge  
17 Carrillo was appointed or elected to the board of  
18 directors?

19 A Yes, sir, I think the testimony is, he was appointed--

20 MR. ODAM: Pardon me --

21 MR. MITCHELL: You can look at E-25 --

22 MR. ODAM: The motion was filed January  
23 9, 1973.

24 THE WITNESS: Yes, January 9, 1973.

25 Q (By Mr. Mitchell:) And hearing was set January 15,

1 1973?

2 A Yes, but the hearing had been set, but it was on  
3 the merits of the receiver's motion.

4 MR. MITCHELL: I believe I said '72 and  
5 I have stated this motion to disqualify --  
6 may I have the record corrected to show what  
7 I meant was 1973?

8 THE MASTER: I think the record is clear  
9 on that that it was filed in January, 1973.

10 Q (By Mr. Mitchell:) And the hearing had been set  
11 on the 15th of January, 1973, and this motion was  
12 filed, of course, prior to that hearing?

13 A Yes.

14 Q Have you been able to find, in Exhibit E-25, where  
15 the record reflects the original appointment of the  
16 board of Judge Carrillo?

17 A Just a minute, I have some notes on that.

18 Q May I lead you and suggest, if it serves your  
19 recollection, that it was December, 1970?

20 A That would be my recollection.

21 Q At any rate, that matter relates to the possibility  
22 of a disqualification by the Judge before whom the  
23 matter was pending because of his directorship in  
24 the bank?

25 A Yes, in the First State Bank and Trust of Rio Grande

1 City.

2 Q Was the First State Bank and Trust Company a party  
3 to the suit in January, 1973?

4 A No, sir.

5 Q So that the record may reflect your reasoning, this  
6 was because Mr. Clinton Manges was a majority  
7 stockholder of that bank?

8 A Correct.

9 Q And through his majority vote, lined the selection  
10 process of Judge Carrillo in 1970 and you felt like  
11 that was a relative circumstance?

12 A Yes, he had been re-elected at the annual  
13 stockholders' meeting, also.

14 Q And that is shown in Exhibit E-25?

15 A Yes.

16 Q And it carries forward in your motion, that is,  
17 E-19, and the attachment to it?

18 A Yes.

19 Q I believe E-19 was the first mention of Judge  
20 Carrillo's involvement, but the record speaks for  
21 itself?

22 A Yes.

23 Q Let me run through Exhibit E-19 again. Coming on  
24 down -- it appears on page 6, Roman Paragraph III,  
25 and you say finally --- and you are addressing this

1 to Judge Carrillo, Judge Carrillo of Starr County,  
2 in which this case is pending, it is considered the  
3 interest of the Judge of this court is intermingled  
4 with the plaintiff to disqualify the Judge?

5 A Yes.

6 Q And you conclude by tying in your allegation with  
7 your Cannon by stating that the directorship is a  
8 thing of value and carries with it a disqualification?

9 A Yes, that is correct. That is when the exhibit was  
10 attached to the American Bar. Those were attached  
11 as to the recusation at that time.

12 Q I have no quarrel with that. Let me ask you this.  
13 When this E-19 was filed at the hearing set on the  
14 15th of January, 1972, then, tell us, did you call  
15 to the Court's -- to Judge O. P. Carrillo's  
16 attention, the motion for recusation?

17 A Yes.

18 Q Is it true that Judge Carrillo deferred hearing the  
19 case on the application that was on the accounting  
20 and so forth?

21 A Yes.

22 Q And deferred to your -- and deferred to the motion  
23 of recusation?

24 A Yes.

25 Q And set that down for hearing?



1 A Yes.

2 Q That is the hearing on the motion for recusation?

3 A Yes.

4 Q Thereafter, Judge Carrillo did not set in any  
5 matter of Manges versus Guerra?

6 A Correct.

7 Q Then, Judge Smith, I believe, as shown by Exhibit  
8 E-25, commenced hearings about a month later,  
9 February 20, 1973, at which you represented your  
10 clients and Mr. Church represented Mr. Manges?

11 A Yes.

12 Q And Judge Carrillo was testifying by telephone --  
13 by deposition?

14 A Yes, by request for admissions. He appeared in  
15 person on the hearing on March 30th and I believe  
16 it was the hearing on April 23rd that it was by  
17 telephone.

18 Q But in the interim, having established the fact  
19 Judge Carrillo didn't hear anything in the case,  
20 I believe the record reflects a supplemental  
21 motion for disqualification and recusation was  
22 filed, which is Exhibit E-22?

23 A Yes, sir.

24 Q The request for admissions, E-20, had been from the  
25 hearing on the 15th of January, 1973, you had caused

1 to be admitted and is E-20?

2 A Yes.

3 MR. ODAM: I don't want to be argumenta-  
4 tive about it, but I have not seen anything  
5 yet we've gone through yet that I did not try  
6 to get into evidence. Each document speaks  
7 for itself and I tried to develop all of this  
8 testimony. We are taking time to go back  
9 through the same steps I made the other day.  
10 I grant Mr. Mitchell and the commission have  
11 different points on the legality of these,  
12 but that argument could be made at a later  
13 time.

14 All he is doing is walking back  
15 through everything we have gone through.

16 MR. MITCHELL: May I, then, state to  
17 the Court what the relevancy is?

18 THE MASTER: I just don't want you to do  
19 again what he did. You are handing him a  
20 document that has been fully described and  
21 I am tired of that.

22 MR. MITCHELL: Well, Judge, the letter  
23 was written and the only matter Judge Carrillo  
24 had before him was a recital contained in  
25 your motion to disqualify and recuse and that

1 got the critical answer and I had to  
2 establish by the documentary that was a  
3 fact.

4 Judge Carrillo didn't have the  
5 second motions called to his attention and  
6 I had to establish Judge Carrillo didn't  
7 have anything further to do with the case  
8 until after the hearing on January, 1973.

9 THE WITNESS: Correct.

10 MR. MITCHELL: So, he could not have  
11 called to his attention, he was sought to  
12 be disqualified because of his Cadillac  
13 situation and grazing lease and stock  
14 ownership.

15 At that time he recused himself  
16 and --

17 THE MASTER: I don't think you have to  
18 go into the preliminary matters. You just  
19 have to ask him the question and he will  
20 answer it the same way, or see if he does.

21 MR. MITCHELL: I thought I would go  
22 through the documentary --

23 THE MASTER: I had rather you ask him  
24 the question, the key question.

25 MR. MITCHELL: All right

1 Q (By Mr. Mitchell:) The truth of the matter is,  
2 when you filed your original motion to disqualify,  
3 it set out the directorship?

4 A Yes.

5 Q And Judge Carrillo took that matter under  
6 consideration, as indicated in January 15, 1973?

7 A Yes.

8 Q And that is the last time Judge Carrillo acted in  
9 the case, so, he could not have seen your  
10 supplementary motions to disqualify, is that correct?

11 A I am not sure that he saw those. I don't believe  
12 I sent him copies, because at that time we  
13 considered he was out of the case.

14 Q And the hearing started in February, 1973, before  
15 Judge Smith?

16 A Yes, but he was called back as a witness to  
17 discuss these matters.

18 Q But Judge Carrillo secured the appointment of  
19 another Judge to preside over the hearing of this  
20 disqualification on the basis of that one  
21 allegation in the one motion you had filed?

22 A Yes.

23 Q And that was one, that he was a director of the  
24 First State Bank of Rio Grande City?

25 A Yes.

1 Q So that in April of '73 -- when the --

2 MR. MITCHELL: Strike that. Well, I  
3 don't want to do it that way again, I will  
4 just go to the direct question.

5 THE MASTER: Go ahead.

6 Q So, in April of '73, when the letter was written  
7 to Mr. Pipkin, I'm talking about Exhibit Number 10,  
8 the only matter that actually Judge -- that had  
9 been called to the Judge's attention was the  
10 matter of -- you mentioned the first paragraph,  
11 paragraph dealing with the Cadillac?

12 A Yes.

13 Q That wasn't raised in the original motion, the  
14 bank stock wasn't raised in the original motion,  
15 the dealing with the property custodia legis  
16 was not raised, and the grazing lease was not  
17 raised, am I correct?

18 A I think I raised the point dealing with the bank  
19 stock, the bank stock itself was custodia legis.  
20 The stock that qualified him as a director.

21 Q Well, Mr. Smith, you are correct, he had to have  
22 the qualifying bank stock to qualify as a director  
23 and he could not qualify as a director without  
24 the bank stock?

25 A Yes.

1 Q Now, is it a fair statement to say, then, Mr.  
2 Smith, that Judge Carrillo never did act adversely  
3 to either Mr. Manges or for Mr. Manges or adversely  
4 to your people or for your people in this matter?

5 A Well --

6 Q After he took the bench January 1st, 1971?

7 A Well, I will have to qualify that. Now -- well,  
8 from the time he asked for the appointment of  
9 Judge Smith, he took no affirmative action whatever.

10 The action that required our aggressive  
11 prosecution of the motion to disqualify was that  
12 he could have, but did not, and omitted to  
13 disqualify himself or recuse himself in the case.

14 Q Yes.

15 A Which he could have done and that would have  
16 brought the whole thing to a grinding halt.

17 Q And that is really the point that we are trying  
18 today, that is, whether or not Judge Carrillo,  
19 upon the filing of that motion, should have made  
20 the determination subjectively that he, as a  
21 matter of law, was disqualified?

22 A Yes.

23 Q Or do as he did?

24 A Yes.

25 Q And that is with only the recital of the directorship

1           in the bank --

2           A   Well, that's right.

3           Q   -- that's right, seek to have appointed another  
4           Judge through their administrative procedures  
5           and have that Judge try the matter?

6           A   That's correct.

7           Q   All right.

8                               MR. ODAM: Your Honor --

9           A   We thought the directorship for that would be  
10           adequate.

11                              MR. ODAM: My objection would be, that  
12           is a leading question on the grounds that  
13           he says that is the basis upon which we are  
14           here. I wish to clarify for the record on  
15           that leading question that we are not here  
16           simply because the Judge failed to recuse  
17           himself on a motion that had set out  
18           on the directorship.

19                              The amended pleadings, as did the  
20           preliminary notice, as did the responses back  
21           to it, which are in evidence, point out a  
22           number of things, a number of material  
23           benefits transposing also the abuse of  
24           discretion on the item that Mr. Mitchell  
25           is examining the witness on and then the last

1 paragraph in our amended notice, first  
2 amended notice, as the original was to say  
3 such conduct and such conduct is not  
4 simply why we are here.

5 The reason I go into this, it is  
6 not the basis for why we are here, is to  
7 be simply the ruling on the motion that set  
8 forth the limited matters of directorship.  
9 Such conduct includes the receipt of all  
10 of these benefits as well as that motion.  
11 That's what we are referring to, the reason  
12 I go into it, it is incorrect and  
13 misleading. It is a leading question to  
14 pose to Mr. Smith, the witness, and it  
15 calls for him to make a conclusion as to  
16 why we are here.

17 MR. MITCHELL: Judge, I'm sorry, I don't  
18 understand what his objection is that it is  
19 leading, I have him on cross, and I can lead  
20 him. I don't know what the other objection  
21 is.

22 THE MASTER: The main thrust of the  
23 objection is, he does not agree that that  
24 is the only reason we are here and I am,  
25 of course, not bound by Mr. Smith's statement



1 that that is the reason we are here.

2 MR. ODAM: All right, sir, I just simply  
3 want to clarify for the record.

4 THE MASTER: That is certainly one of  
5 the reasons we are here.

6 MR. ODAM: That is correct.

7 MR. MITCHELL: Well, going back, the  
8 motion that was filed, you see, that is why  
9 I get caught in these traps. The motion  
10 that was filed in January of '73, the first  
11 motion Mr. Smith had nothing in it except  
12 that the directorship precluded him from  
13 sitting as a fair judge.

14 Q Am I correct?

15 A I would say that the allegations about the  
16 appointment of other officers of the court which  
17 was referred to in this does apply because when  
18 you have a receiver, he has access to the judge  
19 and that was part of our problem, the receiver  
20 could go in and talk to the judge behind our back  
21 at all times.

22 Well, he wasn't just a receiver, he was the  
23 attorney for Clinton Manges.

24 Q But we understand and the record reflects and we  
25 have gone through it again?

1 A Yes.

2 Q I don't want to go back through them.

3 A Yes.

4 Q That that receiver was appointed by Judge Woodrow  
5 Laughlin and the Supreme Court put its approval  
6 on that appointment?

7 A Yes, that's right.

8 Q And that Dennis Hendrix was the lawyer for the  
9 receiver and certainly you're not taking or  
10 testifying that Judge Carrillo appointed him?

11 A No, no.

12 Q And that is really all that you said in that motion,  
13 isn't it, about the officers of the receiver,  
14 that is, that you felt like, and I am not faulty  
15 on this?

16 A Yes.

17 Q But Judge Carrillo did not appoint Jim Bates, did  
18 he, Mr. Smith?

19 THE MASTER: And that is so repetitious.

20 MR. MITCHELL: I know, Judge, but I get  
21 an objection of that type and I am trying to  
22 get the people to hold down so I can move,  
23 so I can bust loose and go onto something  
24 else.

25 THE MASTER: You don't have to bust loose

1 on that, the order I think appointing Mr.  
2 Bates is in the record. It may not be, but  
3 everybody knows that Judge Carrillo did  
4 not appoint Mr. Bates.

5 MR. MITCHELL: Then I will ask one  
6 more question in line with Judge Meyers'  
7 observation:

8 Q The only matter presented to Judge Carrillo  
9 touching on his qualifications or the only matter  
10 where he is mentioned as relates to his  
11 directorship into this first -- in what is the  
12 name of that bank?

13 A The First State Bank and Trust Company.

14 Q Right.

15 A That would be the only thing -- I say the things  
16 included in that motion of -- that was filed on  
17 January the 9th.

18 Q Right.

19 A Would be the only things that I called specifically  
20 to his attention by way of the motion because I  
21 don't believe I sent him copies of the supplemental  
22 motions.

23 Q Nor did he --

24 A He did testify concerning these things in the  
25 request -- and the requests for admission, of

1 course, called them to his attention.

2 Q All right.

3 A There are other factors here that I think I have  
4 to explain almost necessarily to understand why  
5 the parties were grappling about this thing so hard  
6 at that time.

7 Q I understand but after the original motion was  
8 filed, Mr. Smith, and Judge Carrillo called on the  
9 administrative judge, Judge Alamia, then Judge  
10 Smith was appointed?

11 A Yes.

12 Q You will agree with me, will you not, that Judge  
13 Carrillo then became not the judge in the case any  
14 longer but more a witness in the case with no  
15 power over the pleadings and no power over the  
16 conduct of the case, am I correct?

17 A Well, only the power that he was sitting there to  
18 be the judge in case Judge Smith ruled he was  
19 qualified.

20 Q Right.

21 A He would come in and try the case.

22 Q All right.

23 A As a matter of fact, Judge Smith announced that if  
24 he ruled that he was qualified, that was on the  
25 first hearing we had on February the 20th, that it

1 would go to trial on the merits the following  
2 Tuesday.

3 Q Right.

4 A So, Judge Carrillo was -- he was still in the  
5 background and very important in the case. And the  
6 thing he could have done that he didn't do that  
7 was so important, he could have just recused him-  
8 self from hearing the merits and then got another  
9 judge.

10 Q All right. Now, let's make an inquiry into that.

11 A All right.

12 Q You're not -- it narrows down to the statement you  
13 just -- or the answer you just gave, he could have  
14 recused himself and the matter would have been  
15 foreclosed and that would have been it, is that  
16 right?

17 A That is right.

18 Q However, you do recall that Mr. Church, the  
19 attorney for Mr. Manges, joined issues with you  
20 on the motion to recuse?

21 A That's right.

22 Q Now, let me ask you another question.

23 A But, you see, Mr. Church's joining in the --  
24 joining issues with me didn't control Judge  
25 Carrillo's right to recuse himself.

1 Q I understand, but as a litigant --

2 A Yes.

3 Q -- he had a right to join the issues?

4 A That's right.

5 Q And take the contrary position, am I correct?

6 A Sure.

7 Q And both of you all's brief, briefed the question  
8 of whether a directorship in a corporation ipso  
9 facto disqualified a judge, isn't that correct?

10 A Well, we briefed -- he briefed it on that point.

11 Q All right.

12 A And I briefed it on the point of valuable gift of  
13 a judge by a litigant in a pending case.

14 Q And were you able to discover those cases that a  
15 judge is not ipso facto disqualified if he owns  
16 stock in a corporation unless that corporation is  
17 a party to that suit?

18 A I believe Mr. Church did cite those cases and there  
19 is cases to that effect.

20 Q And we know the First State Bank and Trust Company  
21 was not a party to this suit?

22 A Well, I don't believe any of those cases that Mr.  
23 Church cited involved the case where the stock  
24 that was pending was a gift, I believe that is a  
25 difference.

1 Q Let's talk about that.

2 MR. ODAM: Objection.

3 Q In December of 1970 --

4 THE MASTER: Excuse me, Mr. Mitchell,  
5 he is on his feet and objecting.

6 MR. MITCHELL: Oh, I'm sorry, Judge.

7 MR. ODAM: Your Honor, again, I pose  
8 the objection that this series of questions  
9 as to what briefing was done, as I attempted  
10 by putting on our case so that that would  
11 not come up, is to put into evidence every  
12 one of those matters that I put into  
13 evidence, even the transcript where the  
14 arguments were made.

15 Again, I make the objection as to  
16 repetition of the questions being made.  
17 If Mr. Mitchell wants to make something out  
18 of this on argument, I can see that.

19 Again, my point is repetition  
20 that we are simply plodding through the same  
21 ground that the examiners put on in direct  
22 and we are taking undue time to go into these  
23 matters.

24 MR. MITCHELL: Excuse me, Judge Meyers,  
25 I am not covering the ground that I am covering

1 now, and that I am getting ready to cover.

2 THE MASTER: I wasn't hearing as much  
3 repetition as I heard earlier, and I will  
4 let you go further, but I reserve the right to  
5 stop you.

6 MR. MITCHELL: Maybe, Your Honor, if I  
7 can adopt the same format, and make a  
8 statement where I am going, the Court will  
9 be able to make a determination.

10 One, the directorship did not  
11 disqualify him and two, that when the  
12 question of directorship was raised in that  
13 first motion, Judge Carrillo could not  
14 lawfully, and I say this under the rules  
15 of law, cannot lawfully disqualify himself  
16 because to do so would have been inappropriate  
17 and would not have been the proper procedure.  
18 But the proper procedure would have been as  
19 the cases say, the judge had disqualified in  
20 and of itself is to make a subjective  
21 determination involving his qualification  
22 or disqualification and we submit the procedure  
23 adopted by the court on that original motion  
24 to disqualify was the appropriate procedure,  
25 to wit, appointing the judge having a hearing



1 and --

2 THE MASTER: Hasn't that all been  
3 covered?

4 MR. MITCHELL: Sir?

5 THE MASTER: I may be confusing it  
6 with what we took on the motion to -- on the  
7 plea hearing testimony. I am not sure I  
8 can distinguish between the two, but it is  
9 very clear in my mind just exactly what  
10 happened.

11 MR. MITCHELL: Well, with that statement,  
12 Judge, I am going to pass onto something  
13 else.

14 THE MASTER: Now, if it is in this  
15 record, now I can check that by virtue of  
16 the materials I have.

17 MR. MITCHELL: Yes, sir.

18 THE MASTER: But just ask that  
19 conglomerate question and get it on with to  
20 make sure you have it nailed down in the  
21 record.

22 MR. MITCHELL: Well, Judge Meyers, I  
23 have started on the question of law and Mr.  
24 Odam objected which I think is appropriate.

25 THE MASTER: Yes, sir.

1 MR. MITCHELL: It is an appropriate  
2 objection; that is why I made the statement  
3 that I really don't think that I ought to be  
4 questioning Mr. Smith about the law, but that  
5 is the relevancy of where I am going.

6 One, that the allegations of  
7 directorship in and of itself do not  
8 disqualify unless that corporation is a party  
9 to ~~that~~ suit and the decisions are legion on  
10 that.

11 And two, the Judge himself, when a  
12 motion is raised to disqualify him, I think  
13 where the motion is raised --

14 THE MASTER: It is very clear the  
15 position Mr. Odam takes, and I won't bind you  
16 by this, but generally, he should not have  
17 stood on his -- he should not have -- he  
18 should have gone ahead and voluntarily  
19 recused himself.

20 MR. MITCHELL: Right.

21 THE MASTER: You said maybe he had the  
22 option to do that, but he didn't have to do  
23 it?

24 MR. MITCHELL: And lose the control of  
25 it once the issue is joined.

1 THE MASTER: And you add the proposition  
2 that once the issue is joined, he might be  
3 making an ex parte determination.

4 MR. MITCHELL: And an inappropriate  
5 interference with Judge Mangus Smith's  
6 control over the case.

7 THE MASTER: I think the record is clear  
8 on that happened.

9 MR. MITCHELL: On the basis of that,  
10 Judge Meyers, I think anything else I ask  
11 the witness is super errogatory or  
12 repetitive.

13 THE MASTER: Are you going to some other  
14 phase?

15 MR. MITCHELL: Yes.

16 THE MASTER: All right.

17 MR. MITCHELL: Now, I am going to the  
18 phase, if it please the Court, of the letters  
19 to Mr. Pipkin.

20 THE MASTER: All right.

21 MR. MITCHELL: If I might have just a  
22 minute, Judge, to get rid of this.

23 (Discussion off the record.)  
24

25 MR. MITCHELL: May I approach the bench

1 for just a private remark?

2 (Discussion off the record.)

3  
4 Q (By Mr. Mitchell:) I hand you E-9, E-10 and E-11,  
5 Mr. Smith.

6 A All right.

7 Q Those appear for the record again to be the letters  
8 addressed to Mr. Pipkin. E-9 is May 1st of '73 and  
9 E-10 being April the 3rd of '73 and E-11 being  
10 July 26, 1973.

11 A That's correct.

12 Q And by looking to the index in E-25, it appears that  
13 those letters to the judicial qualifications  
14 commission were sent during the course of the  
15 hearing before Judge Mangus Smith on the motion.

16 A Yes.

17 Q To disqualify?

18 A That's right.

19 Q So that we had one, for example, a hearing  
20 commencing February 20th, 1973, and March of '73  
21 and your letter from May 1st, '73, and a  
22 continuation of the hearing April the 23rd and  
23 your letter of April the 3rd?

24 A Yes, sir.

25 Q And July the 26th?

1 A That's right.

2 Q All right. During the course of the hearings and  
3 the development of the evidence, and let's see if  
4 I can summarize this, your request for admissions,  
5 your answers to your request for admissions?

6 A Yes.

7 Q Which you communicated to Mr. Pipkin?

8 A Yes.

9 Q In which one of those letters, you say summarize --  
10 have you known Mr. Pipkin for a long time?

11 A He at one time was a state representative from  
12 Cameron County which is an adjoining county and as  
13 such over the years, I did get acquainted with all  
14 of the representatives.

15 Q All right, but at any rate, Mr. Smith, you, I believe,  
16 transmit to him, to Mr. Pipkin, the answers made  
17 by Judge Carrillo?

18 A Yes.

19 Q On his request for admissions in one of those?

20 A That's right.

21 Q If you will just tell us the date of that  
22 transmittal, what was the date?

23 A I am looking to see which letter I included it in.

24 Q All right.

25 MR. MITCHELL: Maybe I can help the

1 witness.

2 A Yes, you may be able to.

3 MR. MITCHELL: You look at that one.

4 A It is probably in the May the 1st, one. I may have  
5 given it to him personally when he came to the  
6 office.

7 Q I believe it would have appeared in the substance--

8 A May the 1st.

9 Q May the 1st and July the 26th?

10 A I think that's right.

11 Q All right, is it a fair statement of what occurred,  
12 is that after the matter of judge's disqualification  
13 proceeded to trial, there had developed by reason  
14 of further investigation on your part, which  
15 bottomed the supplemental and second motion to  
16 disqualify?

17 A Yes.

18 Q The request for admissions and the answers, that  
19 other matters came to the fore, which you, as an  
20 attorney, felt like disqualified Judge Carrillo on  
21 the one hand?

22 A Yes.

23 Q And secondly, which probably should be matters  
24 which the judicial qualifications committee should  
25 know?

1 A Yes.

2 Q As to that, the Cadillac car, the grazing lease,  
3 and the stock ownership?

4 A Yes.

5 Q These joined really the directorship matter?

6 A That's correct.

7 Q That was contained in the original motion back in  
8 January?

9 A That is correct. The whole thing kind of came  
10 together.

11 Q All right.

12 A However, the -- these letters Exhibit 10, which is  
13 April the 3rd, 1973, letter, apparently Mr. Pipkin  
14 had got information concerning this from the  
15 press, or someplace.

16 Q All right.

17 A Anyway, he called the office when I was not there  
18 and talked to Mr. Mike McKinney, one of my junior  
19 associates, and asked for a report on it and this  
20 letter of April the 3rd is in response to that.

21 Q In addition, do you know as a matter of fact that  
22 Mr. Guerra --

23 MR. MITCHELL: Strike that and let me  
24 start over.

25 Q As a matter of fact, Mr. Smith, would you say that

1 the Guerras and the Carrillos have been political  
2 adversaries for quite some time in that area?

3 A I am sure that some of them have, because the  
4 Guerras were the old party and they went out of  
5 power in the early '50's, as I recall, '52 or '53,  
6 right in that area.

7 Q And went out of power to the --

8 A And the new party group.

9 Q Right.

10 A As they call them, they came into power and the new  
11 party group then pretty well played politics with  
12 the George Parr group in Duval County.

13 Q All right.

14 A I think that is the history of it.

15 Q Out of fairness to the record, there has been a  
16 political pull and tug between the Guerras of Starr  
17 County and the Carrillos and Parrs of Duval County  
18 for about 25 years, really?

19 A I don't know how extensive the conflict was between  
20 them. I do know that the Guerras were on the  
21 losing end of everything since they lost power.

22 Q But prior to '50, they pretty well was on the  
23 winning end, weren't they?

24 A Of course, that was right after I came there. I do  
25 know that when I first came there, the Guerras were



1           regarded as the Parrs of Starr County, so to speak.

2           Q   A very powerful group, they pretty well controlled  
3           Starr County, didn't they, Mr. Smith?

4           A   It was Horace Guerra, Sr., who was in control of it.

5           Q   Right.

6           A   And he was the one that put this limited partnership  
7           of M. Guerra and Son together. As long as he  
8           lived, he controlled it, even though they lost  
9           power politically, he controlled the partnership  
10          where they operated well as a business operation.

11                   Now, when he died, then there was a split-up  
12          among the five brothers and the sister.

13          Q   And actually that death of the old man, you might  
14          say, was the precipitating cause of the financial  
15          difficulties that the Guerras and son had?

16          A   Right.

17          Q   When he first came -- not when they first came to  
18          you, but when they first entered into negotiations  
19          with Mr. Manges to sell part of the business?

20          A   Well, yes, it was their falling apart.

21          Q   Yes.

22          A   And falling out with each other that made them  
23          ripe for the intervention of somebody like Manges.

24          Q   Do you happen to know that these very same Guerras  
25          also were witnesses against Judge Carrillo on the

1           Impeachment proceeding in House Simple Resolution  
2           1617

3           A   No, just as a matter of fact, up until just a few  
4           days before June the 11th, J. C. Guerra and Virgil  
5           Guerra were working very closely with Manges.

6           You see, they are the ones that had caused the  
7           trouble. They had attempted to deed all of the  
8           ranch lands of the other parties to Manges and of  
9           course, we figured, and I still think, there was  
10          something under the table, because when we  
11          arranged sales for substantially higher prices for  
12          the land, they weren't even interested.

13          Q   As a matter of fact, Virgil joined in to secure  
14          the approval of that accounting of the receivers?

15          A   Yes.

16          Q   All right.

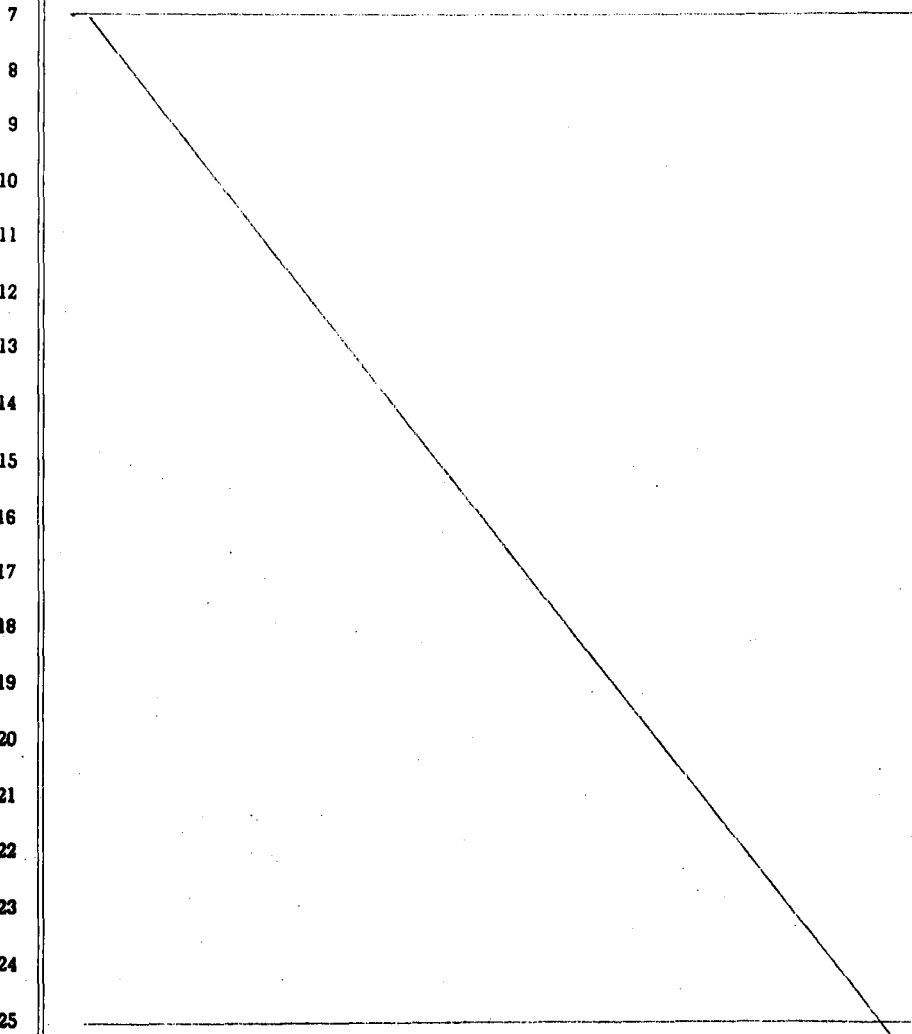
17          A   Virgil and I suppose they had some arrangement  
18          with -- it was not until after Judge Carrillo was  
19          disqualified that they would let their attorney  
20          even talk to us about trying to make common cause.

21          Q   Do you know that as a matter of fact, also, the  
22          Guerras filed complaints against Judge Carrillo  
23          with the judicial qualifications committee themselves?

24          A   I had heard that Joe did, but he didn't consult  
25          me about that.

1 Q I understand.

2 A Because up until that day, Joe Guerra has never  
3 consulted me about anything except the one thing  
4 that Joe pretty well initiated and that was the  
5 motion to disqualify the receiver which was  
6 pending on June the 11th when the case was settled.



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1 Q For the determination of the rights of the conduct  
2 of Judge Carrillo for the fairness of the record  
3 would we conclude there had been a pretty good  
4 nip and tuck battle before the Guerra family and  
5 Parr and Carrillo families since 1950, is that  
6 correct?

7 A I would say so. The only thing is, this particu-  
8 lar situation, Joe and Virgil had got in bed with  
9 Clinton Manges and he had moved to Freer to get  
10 under the protection of the Parr regime. That  
11 is corrected now, but when he got under that  
12 umbrella, you could not find him to subpoena him  
13 or anything like that.

14 Q In Cause Number 3953, this presented a direct  
15 focal point of those two political antagonists,  
16 didn't it?

17 A Yes, but it was more than that. You have to  
18 understand the full charge of that. Bear in  
19 mind, at the time we filed this motion for dis-  
20 qualification, Manges had sold some of this land.  
21 He had sold twenty thousand acres of it to Vanny  
22 Cook. He had sold some of it to -- I think about  
23 two thousand acres, to Lloyd Bentsen, Senior.  
24 Also the Bank of the Southwest, which is a  
25 tremendous economic and political power in this

1 state, was carrying between six and ten million  
2 dollars mortgage on that land and that was what  
3 put Manges in a bind. He was owing nine to ten  
4 million dollars on it and the daily interest on  
5 his debt was over three thousand dollars. It  
6 may be, when they made their settlement on August 20th,  
7 it may be that Jim Bates thought Manges would pay  
8 up the rest of what he owed and they would have  
9 no problem, however, the Bank of the Southwest  
10 had everything mortgaged and he could not raise  
11 the three hundred thousand he owed. Then he  
12 cooked up this deal to make the Guerras come up  
13 with it.

14 Q That is the objection you filed to that?

15 A Yes, then, too, you have to look at the power of  
16 the law firm behind the Bank of the Southwest.  
17 Right now they are carrying over ten million  
18 against Manges right now.

19 Q That one-half interest of the royalties you are  
20 talking about actually --

21 THE MASTER: Minerals.

22 MR. MITCHELL: Yes, minerals.

23 Q Mr. Manges had the executory rights on that,  
24 anyway?

25 A Yes.

1 Q And he owned the other half?

2 A Yes.

3 Q And he had the full power to execute oil and  
4 gas mineral leases on that land?

5 A Well, we got another qualification that is in  
6 a lawsuit right now. Is he going to keep his  
7 word to actually lease the minerals, is the  
8 question. Ruben has leased the minerals under  
9 his land for twenty-five dollars an acre and three  
10 dollars a day rental. Manges, in turn, has  
11 turned around in the other half that the has the  
12 rights on, roughly forty-six thousand mineral  
13 acres of land, which our clients own half of it.  
14 He has comingled that with twelve other counties,  
15 including Starr County, and we have a suit pend-  
16 ing now to unravel that deal, because we don't  
17 think he can take the minerals he has a right  
18 to lease and comingle it with everything from  
19 here to Greenland, so we have had to sue the Bank  
20 of the Southwest on that, too.

21 Q Because of the mortgage?

22 A Yes, here is the situation. We are looking --  
23 this thing doesn't end in Duval County. It also  
24 affects the higher echelons of the government.  
25 When they approve Mr. Manges' ownership of the

1 Groos National Bank in San Antonio, when they  
2 ruled that after a man has been convicted of a  
3 felony and an administrative hearing has to be  
4 held, I can't see that, there is something wrong  
5 with that.

6 I have written to Mr. Jaworski and I have  
7 that correspondence, and I raised the question to  
8 see whether he should not recuse himself from  
9 that. He is sitting there with the bank he repre-  
10 sents with ten million riding on the success of  
11 Mr. Manges riding this out. He is up there tell-  
12 ing the Senate the test that is required to con-  
13 vict a felon -- he is saying that is the test  
14 you have to apply. When the Supreme Court of  
15 Texas has already ruled it is a preponderance of  
16 the evidence. I think that opinion is tainted  
17 and I think it is because of the fact that his  
18 client, the Bank of the Southwest, and his firm  
19 represented this bank when they took the stock  
20 away from Groos National Bank and they knew they  
21 were helping a felon get control of the bank and  
22 they knew the comptroller said that was against  
23 the law, but that didn't stop that situation in  
24 Duval County.

25 Q In that case, you will concede, the 5th Circuit's

1 opinion did not rule the regulation was prevent-  
2 ing a felon from controlling the bank, but said  
3 an inquiry was to be made?

4 A They said it could be done at this time and that  
5 takes care of Jaworski's client. Anybody who  
6 had been in the politics situation knew it was  
7 a leasing firm for the appointments made by  
8 Lyndon Johnson. They were too many things happen-  
9 ing that happened behind our back and no one con-  
10 sulted us on it and I didn't feel like putting  
11 up with it.

12 Q The mineral ownership, as you have demonstrated,  
13 is something that is still a matter of litigation?

14 A We had to sue Mr. Manges again, because he lied  
15 to us. That ain't hay, twenty-three thousand  
16 acres of minerals at twenty-five dollars an acre.  
17 If that is released, that is all coming to our  
18 clients. The leasing may blow over, because they  
19 may drill dry holes, but right now Mr. Manges is  
20 sitting on it and won't move.

21 It is all because you don't have a court  
22 in the 229th Judicial District. You have to have  
23 somebody there, a judge that will rule on the  
24 law and get the facts settled.

25 Q You can apply that same observation to the 79th



1 District Court and the 5th Circuit and, as well.  
2 Max Boyer?

3 A Well, I disagree with that particular opinion in  
4 the 5th Circuit, because I think it was tampered  
5 with.

6 Q I gathered that.

7 A Now, the other phase of this thing, and this is  
8 another reason why we filed the motion, we looked  
9 at the decision of the United States in a mail  
10 fraud cause brought against George Parr and Judge  
11 Carrillo in 1959, I believe it was, but, you see,  
12 here is the thing we have to look at. We have  
13 to decide that it is a foregone conclusion that  
14 you are a loser in walking into this situation.  
15 The Supreme Court had recognized there had been  
16 thefts from the county and they said in spite of  
17 the fact there is nodoubt about it, the U. S.  
18 attorney has stressed the mail fraud section a  
19 little further.

20 Q And held that they were not applicable to that case?

21 A Yes, but if you read the dissenting opinion of  
22 Judge Frankfurter and Harlan, and I believe another  
23 one joined in, but anyway, I have that attached  
24 to that memorandum.

25 If you read those opinions, I don't think you

1 can help but agree that they bent the law sub-  
2 stantially in order to take care of the defendants  
3 in this case.

4 Q Are you familiar with the subsequent holding of  
5 the Supreme Court, such as Mays versus United  
6 States, where the umbrella was limited to not  
7 only to apply in credit card violations, but not  
8 to apply in related cases?

9 A Yes, I think that is where the law was bent to  
10 do that. I had a case that went to the Supreme  
11 Court in 1954, but at that time any use of the  
12 mails, and you read the cases just as Frankfurter  
13 cited. they were holding that any use of the mails,  
14 it was Congress' intent to exhaust federal juris-  
15 diction to see that the mails were kept pure, if  
16 they used them incidental to the law.

17 I challenge you to read those. The Court  
18 wrote a twelve page opinion on that situation.

19 Q Well, I had that opportunity in several cases that  
20 I have gone through.

21 Let's move to another matter.

22 During the course of the hearing, I believe  
23 in E-25, some discussion was had between you and  
24 Mr. Church, the lawyer for Mr. Manges, as regards  
25 some of the allegations made, and I think you

**Three pages are number page 611. None are duplicates.**

1 characterized this remark, or the statements  
2 earlier, as if Mr. Church said, if you have any  
3 complaint where Judge Carrillo is concerned, you  
4 should make them on a put up or shut up basis.

5 A Yes.

6 Q With the result that the letters now in the  
7 record were sent to the disqualifications commis-  
8 sion and that is why we are sitting here today?

9 A Yes.

10 Q And no other action occurred, however, by Judge  
11 Carrillo where this case was concerned or any  
12 other case where you were concerned or your client  
13 was concerned other than what has been described  
14 in this record?

15 A No, let me explain that situation. The Judicial  
16 Qualifications Commission did take some interest  
17 in this. Mr. Pipkin did interview me and did ask  
18 me if I cared to make a formal complaint, which I  
19 didn't do for the reasons I felt that -- well, as  
20 I explained, I have no hostility toward Judge  
21 Carrillo, but Mr. Pipkin explained to me that they  
22 had the history of the removal of Judge Laughlin,  
23 but he went back in on reelection, so he said  
24 Judge Carrillo was disqualifying himself in any  
25 cases in which Mr. Manges was involved.

1 Q And you know that as a matter of fact?

2 A Yes, I would say it is consistent with every  
3 fact I do know.

4 Q All right.

5 A And I felt like having read the Laughlin case,  
6 and I disagree with that, Judge Calvert slipped  
7 on that, I think. He ruled just out of the  
8 clear sky.

9 Q I am going to ask you, can you give us one you  
10 do agree on? I want the record to reflect there  
11 is a decision that you do agree with.

12 A I would say I agree with practically everything  
13 Judge Calvert wrote, except that one.

14 Q And those Frankfurter decisions?

15 A Before the one dissent.

16 MR. MITCHELL: I have no more questions  
17 of this witness. Thank you.

18 MR. FLUSCHE: I don't believe I have  
19 any further questions or examination of this  
20 witness.

21 THE MASTER: Mr. Smith, by getting that  
22 document we have discussed earlier and the  
23 attachments you filed to the receivers report,  
24 with that exception, you are excused.

25 THE WITNESS: I would like to say that

1 I appreciate the courtesy shown me by  
2 everyone present and by Judge Carrillo dur-  
3 ing the time I was questioning his qualifi-  
4 cations. In that memorandum I have tried  
5 to make clear my position and I think we  
6 have a serious problem in the Bar.

7 We need to have a way to deal with  
8 this and I agree the impeachment is a very  
9 awkward way to handle this, but I think the  
10 Judicial Qualifications Commission can do  
11 this. When a judge is removed, he should  
12 not be able to run for reelection. The  
13 hurt party has a way of dealing, and the  
14 weakness, as I see it at the state level,  
15 and in the higher echelons of government  
16 are asking what they can do. The thing they  
17 can do is enforce the Bill of Rights. That  
18 is protecting a minority of one against  
19 ninety-nine. Everybody from the state level  
20 seems to forget that.

21 Duval County has lost over ten thousand  
22 population in the last few years and all of  
23 them were not leaving on their own, but  
24 some of them were run out of the county.  
25 I don't think it is a local situation. It

1 affects every state. I read in the news-  
2 paper where all the editors are complaining,  
3 because the commissioners in Zavala County  
4 have gone to Cuba and are hollering about  
5 Castro's regime and how much good he has  
6 done. What do we expect the second and  
7 third generations of these people that come  
8 in to do, because maybe those people in  
9 Zavala County are doing what we taught them.  
10 They have not noticed what the difference is.  
11 I think it is a problem for the whole state.  
12 I think we have to look at that and we have  
13 to teach the courts and our law schools  
14 about the right and wrong of it and these  
15 are a matter of right and wrong and the whole  
16 tenure of my approach to this is Judge Carrillo  
17 is here and he was caught up in the environ-  
18 ment and there are so many people involved  
19 and some of them big, and when you find  
20 fellows like Leon Jaworski advising the  
21 Supreme Court and observe how his clients  
22 have benefited from this thing in Duval  
23 County, then you look at all of that, and  
24 we could not understand that. We could  
25 not understand these subsequent judges ruling

1 on points of law we thought were plain. They  
2 took too long to look at it and to do it.  
3 I feel like it ought to be corrected and I  
4 think we ought to deal with the whole pro-  
5 blem.

6 When you forget the business man that  
7 gave the bribe, that is one-sided justice,  
8 too. That looks like that is what is about  
9 to happen in this case. As far as I can  
10 tell, Mr. Manges, who has caused all the  
11 trouble, has not been in any trouble in  
12 the courts. It is one of those things I  
13 feel like just -- if we can plagiarize Nixon,  
14 then we should be able to deal with the whole  
15 problem in this area as well.

16 THE MASTER: Thank you, Mr. Smith.

17 Call your next witness, Mr. Flusche.

18 MR. FLUSCHE: I will call Ramiro Carrillo.

19 MR. MITCHELL: May I have the record  
20 reflect I represent Mr. Ramiro Carrillo and  
21 have ever since November, 1974.

22 THE MASTER: But he is a witness here,  
23 do you want to be in a position to advise  
24 him as a witness?

25 MR. MITCHELL: Yes, I believe as the



1 record develops, I believe as the Court  
2 will ascertain, there is no conflict.

3 THE MASTER: I assume you are telling  
4 me you may advise him of his rights?

5 MR. MITCHELL: Yes.

6 THE MASTER: I will give you that  
7 right.

8 MR. MITCHELL: I didn't want it going  
9 to a conflict question.

10 THE MASTER: All right.

11  
12 RAMIRO CARRILLO,  
13 having been duly sworn by the Court, testified as  
14 follows:

15  
16 E X A M I N A T I O N

17  
18 BY MR. FLUSCHE:

19 Q What is your name, please?

20 A Ramiro B. Carrillo.

21 Q Where do you live?

22 A Benavides.

23 MR. MITCHELL: May I have the witness  
24 on voir dire for the purpose of the record?

25 THE MASTER: The only question was his

1 name and where he lives.

2 MR. MITCHELL: I wanted to ask him if  
3 I represented him.

4 THE MASTER: I will take notice of that.

5 MR. MITCHELL: I do think it is appro-  
6 priate --

7 THE MASTER: I have accepted his repre-  
8 sentation by you, but if you want to ask him,  
9 certainly.

10 MR. MITCHELL: No, that is fine.

11 THE MASTER : I think it is common  
12 knowledge you have represented him in Nueces  
13 County in matters here.

14 MR. MITCHELL: Thank you.

15 Q (By Mr. Flusche:) Mr. Carrillo, where are you  
16 employed?

17 A I respectfully decline to answer on the grounds  
18 that the answer may tend to incriminate me and  
19 I claim this privilege on the Fifth Amendment to  
20 the United States Constitution and Section 1,  
21 Article 10 of the Texas State Constitution.

22 Q Are you going to tell me you are not going to  
23 testify as to whether or not you are currently  
24 a duly elected commissioner of Duval County, Texas?

25 THE MASTER: Mr. Carrillo, we have

1 reached an agreement, that instead of recit-  
2 ing the entire privilege, you can say I  
3 respectfully decline on the grounds previ-  
4 ously stated.

5 MR. MITCHELL: Do you understand that?  
6 You don't have to repeat the whole thing.

7 THE MASTER: You do so decline to answer  
8 that question?

9 THE WITNESS: Correct.

10 O (By Mr. Flusche:) Do you recognize O. P. Carrillo  
11 sitting to the right of Arthur Mitchell?

12 A I respectfully decline to answer the question.

13 Q You are not going to tell me whether or not you  
14 are the brother of O. P. Carrillo?

15 A I respectfully decline to answer.

16 Q Do you know Roberto Elizando?

17 A I respectfully decline to answer.

18 MR. FLUSCHE: Your Honor, I have a  
19 duplicate of the deposition taken of Mr.  
20 Ramiro Carrillo and the original, as I  
21 understand, has been sent to Mr. Mitchell's  
22 office.

23 MR. MITCHELL: I don't have it or the  
24 others either.

25 THE MASTER: Can you agree to use a

1 copy?

2 MR. MITCHELL: Yes, but I would object  
3 to is and the witness is here and I don't  
4 see any reason to encumber the record --

5 THE MASTER: He has not offered the  
6 deposition and I don't understand the techni-  
7 que of having a deposition marked and offer-  
8 ing it. I thought you read a deposition  
9 after it had been on file.

10 MR. MITCHELL: Judge, I am glad the  
11 Court stated that. I don't understand mak-  
12 ing it as an Exhibit and offering it. I  
13 am sorry, I probably made the objection  
14 ahead of time, so I will withdraw it.

15 MR. FLUSCHE: I didn't plan to submit  
16 it as proof. My conversation with the  
17 court reporter is that he finished the depo-  
18 sition two days after it was completed and  
19 called Mr. Mitchell, who asked him to retain  
20 it, and he then delivered it to Mr. Mitchell's  
21 office last Sunday night. Mr. Mitchell says  
22 he doesn't have it, but I would like to file  
23 this with the commission in lieu of the  
24 original.

25 MR. MITCHELL: I have no quarrel with

1                   that.

2                   THE MASTER : He just wants to file it.

3                   MR. MITCHELL: That is fine, file it  
4 as a part of the transcript?

5                   THE MASTER: Correct.

6                   MR. MITCHELL: I have been in Corpus  
7 Christi since before the time that was sup-  
8 posed to be in my office and they may be  
9 there.

10                  MR. FLUSCHE: Yes, that is right.

11                  THE MASTER: It will be deemed as  
12 being filed. I suggest to you that you get  
13 Mr. Pipkin to write on it the 6th of Novem-  
14 ber, 1975, and sign it.

15                  MR. FLUSCHE: All right, sir.

16                  The reason I was approaching the wit-  
17 ness to get him, through here, to quasi-  
18 authenticate the thing.

19                  THE MASTER: Well, I think Mr. Mitchell  
20 has agreed this is filed in lieu of the  
21 original and is his deposition.

22                  MR. MITCHELL: It is under the same  
23 rules as a civil case.

24                  THE MASTER: Yes, but this is not a  
25 signed original.

1 MR. MITCHELL: I am not going to  
2 quarrel with that. I have no objection.

3 THE MASTER: Fine.

4 Q (By Mr. Flusche:) On the 21st of October, 1975,  
5 in the county law library in Duval County, your  
6 deposition was taken, is that correct?

7 A I respectfully decline to answer the question.

8 Q Let me ask you this one question. When we took  
9 your deposition, you declined to answer any ques-  
10 tion about the matters involved in this lawsuit  
11 that were propounded to you and I am going to  
12 ask you whether or not, if I were to continue  
13 to propound questions to you relating to this law-  
14 suit, will you continue to exercise your rights  
15 under the Fifth Amendment?

16 A Respectfully decline to answer.

17 MR. MITCHELL: The answer would be to  
18 invoke the privilege and he can answer yes.

19 THE MASTER: So your advice is to  
20 answer the question yes on this one question?

21 MR. MITCHELL: Yes, you would invoke  
22 the privilege, but you may answer the ques-  
23 tion yes.

24 THE WITNESS: Yes.

25 MR. FLUSCHE: I believe that is all I

1 have.

2 MR. MITCHELL: No questions.

3 THE MASTER: You may step down, Mr.  
4 Carrillo.

5 You may call your next witness.

6 MR. FLUSCHE: I will call Roberto  
7 Elizondo.

8  
9 ROBERTO ELIZONDO,

10 having been duly sworn by the Court, testified as  
11 follows:

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

14  
15 BY MR. FLUSCHE:

16 Q Would you --

17 MR. MITCHELL: Your Honor, may the  
18 record reflect that I, in conjunction with  
19 Mr. Haynes, represent Mr. Roberto Elizondo  
20 also.

21 THE MASTER: That you may want to  
22 develop.

23 MR. FLUSCHE: Let me get his name and  
24 address first.

25 Q (By Mr. Flusche:) Will you state your name for

1 the record, please?

2 A Roberto Elizondo.

3 Q Where do you live?

4 A Benavides, Texas.

5 Q Where are you employed?

6 MR. MITCHELL: May I ask the witness  
7 a question?

8 THE MASTER: Yes, sir.

9

10

- - - - -

11

12 VOIR DIRE EXAMINATION

13

14 BY MR. MITCHELL:

15

16 Q Mr. Elizondo, you tell us in the record when you  
17 employed me.

18 A This week.

19 Q Well, don't you recall you were called to testify  
20 before the House Subcommittee as regards --

21 A Yes, sir.

22 Q When was that, please?

23 A I don't recall the date.

24 Q In May of this year, wasn't it?

25 A Yes.

Q Do you recall you employed me to represent you at



1           that time?

2           A   Well, yes.

3           Q   Do you want me to represent you here?

4           A   Yes, sir.

5           Q   Do you recall within the week you called me and  
6           said you had a possibility of being a witness  
7           here and asked me to represent you?

8           A   Correct.

9           Q   You told me that they wanted to know what trans-  
10          pired between us and you are confirming that in  
11          this proceeding?

12          A   Yes, that is correct.

13          Q   And you employed me to represent you?

14          A   Yes.

15                               MR. MITCHELL:  I have no further ques-  
16                               tions.

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E X A M I N A T I O N

1  
2 BY MR. FLUSCHE:  
3

4 Q All right. To paraphrase Mr. Mitchell, would it  
5 serve your recollection that you testified on  
6 May the 27th, 1975, in Arlington, Texas, before  
7 the Select Committee of the House of Representatives?

8 A Yes, sir.

9 Q All right. Now, let me ask you again, where are  
10 you employed?

11 A I refuse to answer any questions put to me --

12 MR. MITCHELL: Son, you can read it.

13 A Put to me by the commission on the grounds that  
14 the answers, the answer might tend to incriminate  
15 me. I claim this right under the provisions of the  
16 Fifth Amendment of the Constitution of the United  
17 States, Article One, Section 10, of the  
18 Constitution of Texas.

19 MR. MITCHELL: That is right.

20 Q Now, at the time that you testified before the  
21 House Select Committee in May of 1975, you answered  
22 all of the questions that were propounded to you  
23 at that time, is that correct?

24 A I refuse to answer the question put to me by the  
25 commission on the grounds that the answer might

1           tend to incriminate me.

2           Q   And you are not going to tell me whether or not  
3           you are the court reporter of the 229th Judicial  
4           District Court or whether or not you have been  
5           since September of 1973?

6           A   I refuse to answer on the grounds that the answer  
7           might tend to incriminate me.

8                         THE MASTER:   Excuse me.  For the record,  
9           are you now off of the paragraph two with  
10          this witness?

11                        MR. FLUSCHE:  Yes, sir, yes, sir.  I am  
12          sorry, I should have made that announcement.

13                        THE MASTER:  Have you rested with  
14          paragraph two?

15                        MR. FLUSCHE:  No, I have not.  I have  
16          other evidence on that.

17                        THE MASTER:  But with respect to this  
18          witness, you are on another paragraph?

19                        MR. FLUSCHE:  Paragraph three.

20                        THE MASTER:  Which you say is  
21          paragraph three?

22                        MR. FLUSCHE:  Yes, sir.

23                        THE MASTER:  All right.

24                        MR. FLUSCHE:  From here on in, some of  
25          the witnesses are going to overlap from one

1 article to another, and I expect to take a lot  
2 of them out of turn, and I don't want to  
3 confuse anything, but it is necessary in this  
4 type of case.

5 THE MASTER: That is perfectly all  
6 right. I just didn't think this witness  
7 probably had anything to do with paragraph  
8 two.

9 MR. FLUSCHE: I am sorry, I should have  
10 made that announcement.

11 Q (By Mr. Flusche:) Prior to the time that you  
12 became the court reporter of the 229th Judicial  
13 District, did you attend a court reporting  
14 school in Houston, Texas?

15 A I refuse to answer on the grounds that the answer  
16 might tend to incriminate me.

17 MR. MITCHELL: Your Honor, may we have  
18 the agreement as we did with the prior  
19 witnesses that that would be sufficient to  
20 invoke the full privilege?

21 THE MASTER: Of course.

22 Q And prior to that, prior to the time that you  
23 attended the court reporting school, did you work  
24 for Judge O. P. Carrillo?

25 A I refuse to answer on the grounds that it might

1           tend to incriminate me.

2           Q At the time that you worked for Judge Carrillo,  
3           if you did, did you and Judge Carrillo come to  
4           any agreement about your attending court reporting  
5           school in Houston, Texas?

6           A I refuse to answer on the grounds that the answer  
7           might tend to incriminate me.

8           Q And did the Judge make any arrangement with you  
9           whereby you would receive some financial support  
10          while you were attending court reporting school  
11          in Houston, Texas?

12          A I refuse to answer on the grounds that the  
13          answer might tend to incriminate me.

14          Q While you were attending the court reporting  
15          school in Houston, Texas, did you receive a check  
16          from Duval County each month in the amount of  
17          \$225?

18          A I refuse to answer that the answer might tend to  
19          incriminate me.

20          Q Did you testify before the House Select Committee  
21          that you earned \$225 per month by working for the  
22          Judge on weekends?

23          A I refuse to answer on the grounds that the answer  
24          might tend to incriminate me.

25          Q Did you in fact work for Judge Carrillo or for

1 Duval County on the weekends while you were  
2 attending court reporting school?

3 A I refuse to answer on the grounds that the answer  
4 might tend to incriminate me.

5 Q During the time that you were attending court  
6 reporting school, that is, from January of 1972  
7 until September of 1973, were you a member of the  
8 Texas National Guard or the Army Reserve?

9 A I refuse to answer on the ground that the answer  
10 might tend to incriminate me.

11 Q During the time between January of 1972 and  
12 September of 1973, did you attend training meetings  
13 of either the Texas National Guard or the  
14 Army Reserve?

15 A I refuse to answer on the grounds that the answer  
16 might tend to incriminate me.

17 Q During the period of time that Judge Carrillo was  
18 a judge of the 229th District Court, were you and  
19 Judge Carrillo very close friends?

20 A I refuse to answer on the grounds that the answer  
21 might tend to incriminate me.

22 Q Are you drawing a salary at the present time from  
23 Duval County from being a court reporter?

24 A I refuse to answer on the grounds that the answer  
25 might tend to incriminate me.

1 Q During the time that you have known Judge Carrillo,  
2 if you have, has the Judge permitted you to graze  
3 cattle on his lands?

4 A I refuse to answer on the grounds that the answer  
5 might tend to incriminate me.

6 Q Are you the brother of Tomas Elizondo?

7 A I refuse to answer on the grounds that the answer  
8 might tend to incriminate me.

9 Q Let me ask you one question, how old are you?

10 A 27.

11 Q Okay, thank you. Did you have some financial  
12 trouble while you were attending court reporting  
13 school?

14 A I refuse to answer on the grounds that the  
15 answer might tend to incriminate me.

16 THE MASTER: Mr. Flusche, it is break  
17 time. Do you think you can finish this up  
18 in a matter of -- well, do you think it is  
19 important to ask each question?

20 MR. FLUSCHE: No, sir, I am going to  
21 say that these questions I have asked was  
22 not playing games. I have asked them for a  
23 purpose.

24 THE MASTER: I understand that.

25 MR. FLUSCHE: But I am at a point where

1 I can ask this last question.

2 THE MASTER: All right.

3 Q Now, you have testified at great length before  
4 the House Select Committee and now, you decline  
5 to answer these same questions that were put to  
6 you at that time, and I am going to ask you this  
7 question: If I were to continue asking you  
8 questions, the same questions that were asked you  
9 in the House Select Committee back in May of this  
10 year, would you continue to assert your rights  
11 under the Fifth Amendment?

12 A I refuse to answer on the grounds that the answer  
13 might tend to incriminate me.

14 MR. MITCHELL: Your Honor, I will  
15 instruct my witness to answer that question,  
16 yes, that he would continue to invoke his  
17 privilege.

18 A Yes.

19 MR. FLUSCHE: All right. That is all I  
20 have.

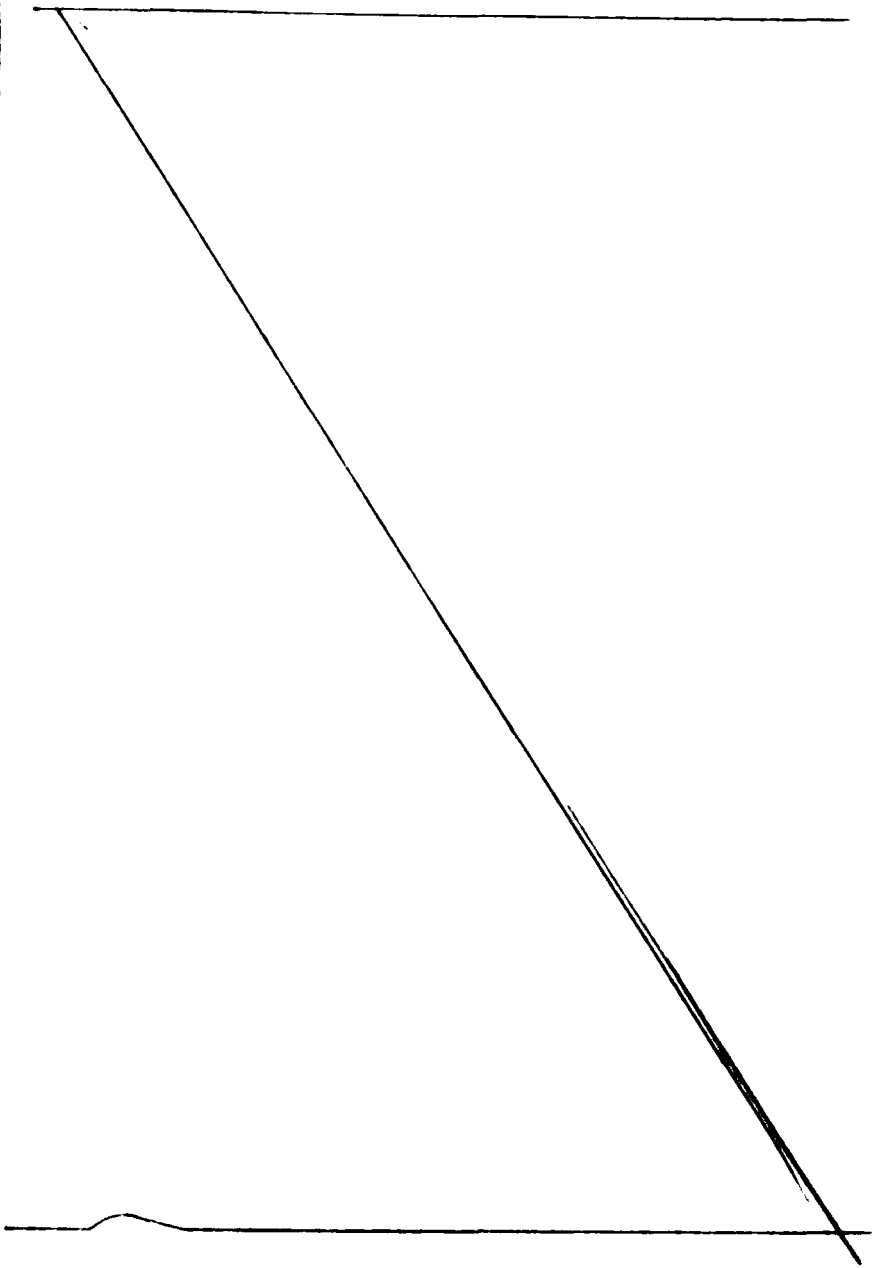
21 THE MASTER: You are excused, Mr.  
22 Elizondo, and we will be in recess for about  
23 15 minutes.

24 (Whereupon, the hearing was in recess  
25



from 11:45 a.m. until 12 o'clock noon.)

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1 JERRY PARMER,  
2 having been duly sworn by the Court, testified  
3 as follows:  
4

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

6 BY MR. FLUSCHE:  
7

8 Q State your full name.

9 A Jerry Don Parmer.

10 Q Where do you live?

11 A Mission, Texas.

12 Q Where are you employed?

13 A By Judge Alamia.

14 Q In what capacity?

15 A As court reporter.

16 Q How long have you been so employed?

17 A A little over two years.

18 Q Do you remember the date you were employed by

19 Judge Alamia?

20 A The 20th of August, 1973.

21 Q Where were you employed prior to that time?

22 A By Judge O. P. Carrillo in the 229th Judicial  
23 District.

24 MR. MITCHELL: May I inquire of counsel  
25 if this witness is being offered on Number

1 three?

2 MR. FLUSCHE: It is still on number  
3 three and some other related charges. This  
4 is a witness who will overlap. He will  
5 also testify to number two.

6 MR. MITCHELL: Thank you.

7 Q (By Mr. Flusche:) What were the dates you were  
8 employed as a court reporter in the 229th Judicial  
9 District?

10 A The first of January, 1971, until my termination  
11 in August.

12 Q In August, 1973?

13 A Yes, sir.

14 Q So, your term of service began at the same time  
15 Judge Carrillo assumed the bench there in the  
16 229th Judicial District, is that correct?

17 A Yes, sir.

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

19 A Yes, sir.

20 Q Is he here in the courtroom?

21 A Yes, sir.

22 Q During the time that you worked for Judge Carrillo,  
23 where did you live?

24 A I lived in Benavides.

25 Q Let me ask you this. When you first moved to

1 Benavides, did you have any conversation with  
2 Judge Carrillo about renting a house from him?

3 A When I first moved there, he set me up in a place  
4 that was owned by Rudolfo Coaling. I was staying  
5 with the coach there.

6 Later on, I rented a house from Felicita  
7 Guevera. Then, later on, I was in need of a larger  
8 house, because my family was coming to stay with  
9 me. I had been divorced and they were going to  
10 come back and live with me and I asked the Judge  
11 if he could find me a house, a larger house.

12 Q Are you familiar with a piece of property in  
13 Benavides, Texas, located immediately behind the  
14 home of D. C. Chapa?

15 A Yes.

16 Q Is that the house Judge Carrillo showed you?

17 A Well, see, he wasn't going to rent it to me, because  
18 it was tore up, but we did go in there. I kept  
19 bugging him about it and asked him to let me see if  
20 I could fix it myself, but it was hopeless.

21 Q Did Judge Carrillo represent to you he owned the  
22 property?

23 A I think he did.

24 MR. MITCHELL: You think he owned or  
25 he represented he owned it?

1 THE MASTER: I think that is a good  
2 point of inquiry. Can you answer the  
3 question?

4 THE WITNESS: I think he owned it.

5 THE MASTER: The question was, did he  
6 ever tell you or otherwise indicate to you  
7 he owned it?

8 THE WITNESS: Not just outright telling  
9 me, but, you know --

10 THE MASTER: Did he show you through it?

11 THE WITNESS: Yes, sir.

12 THE MASTER: Is that the basis of your  
13 idea he owned it?

14 THE WITNESS: Yes, sir.

15 Q (By <sup>Mr.</sup> r. Flusche:) Now, approximately what month  
16 in 1972 would that have been, can you say that?

17 A I have no idea.

18 Q It was in the year 1970?

19 A It was in the summertime, I remember that.

20 Q Would it have been in the year 1971?

21 Would it have been in the first year you were  
22 employed there?

23 A I believe so, I believe so, '71.

24 Q So, about the closest you can come to it would be  
25 about the summer of 1971?

1 A I believe so.

2 MR. FLUSCHE: May I approach the  
3 witness?

4 THE MASTER: Yes.

5 Q I show you what has been marked as Exhibits 6,  
6 7, and 8, and ask you whether or not that is a  
7 pictorial representation of the house you looked  
8 at in the company of Judge Carrillo?

9 A Yes, sir.

10 Q Now, you said you looked at the house in the hopes  
11 you could fix it up yourself. Did you conclude  
12 you could not fix it up yourself?

13 A That it would be too much trouble to do so.

14 Q What was the general condition of the house, how  
15 would you describe it?

16 A The windows were broken out and holes were in the  
17 walls and I just didn't think I wanted to go to the  
18 trouble of trying to fix it up myself, even if the  
19 material was furnished, I didn't want to undertake  
20 that task.

21 Q At that time, you had no intention of leaving the  
22 employment of the 229th District Court?

23 A No, sir.

24 Q Do you know Roberto Elizondo, the last witness to  
25 testify here?

1 A Yes.

2 Q How long have you known him?

3 A Since shortly after I went to work in the 229th  
4 District Court.

5 Q All right. At that time, how did you come to know  
6 him?

7 A Through Judge Carrillo and his brother, Tomas  
8 Elizondo.

9 Q Tomas is Roberto Elizondo's brother?

10 A Yes.

11 Q When you first knew Roberto, how was he employed,  
12 if you know?

13 MR. MITCHELL: Could we fix that in  
14 point of time?

15 MR. FLUSCHE: In the early part of 1971.

16 THE WITNESS: I don't know.

17 Q Was he employed in the courthouse?

18 A No.

19 Q Did you -- in what capacity did you see him, was it  
20 as the judge's chauffeur or handyman?

21 MR. MITCHELL: He has testified he  
22 didn't know in what capacity he was employed  
23 and we will object that it is speculation  
24 and conjecture.

25 THE MASTER: Well, I will -- can you

1 answer the question?

2 THE WITNESS: Let me hear the question  
3 again.

4 Q Was he employed in the courthouse there when you  
5 first came to know him?

6 A No.

7 Q All right. Now, I will frame the question  
8 differently.

9 During the time that you worked for Judge  
10 Carrillo, did you travel with him and did you  
11 accompany him on his court docket?

12 A Yes, sir.

13 Q Did you ever have occasion to visit with him at  
14 his ranch?

15 A Yes, sir.

16 Q How many ranches did he have at that time?

17 A The Benavides Ranch and he was leasing land from  
18 Clinton Manges in Starr County.

19 Q All right. During -- well, how frequently did you  
20 have occasion to visit these ranches while you  
21 were there?

22 A The one in Starr County, maybe five or six times.

23 Q And the Benavides Ranch?

24 A I went there quite often, not always with the Judge,  
25 but maybe with Roberto or Tomas or by myself, even.



1 I had permission to go out there.

2 Q On the occasions you would visit the Benavides  
3 Ranch, did you see Roberto and Tomas?

4 A Usually we went together if we went at all. I never  
5 saw them by myself.

6 Q How would you characterize the employment of  
7 Tomas Elizondo?

8 MR. MITCHELL: I believe I don't  
9 understand that question.

10 Q Well, let me ask you this. Did Tomas appear to  
11 work at the ranch?

12 A Yes, sir.

13 Q What was his capacity at the ranch?

14 A He more or less ran the ranch.

15 Q All right. Was he employed at the courthouse,  
16 insofar as you knew?

17 A No.

18 Q How about Patricio Garza?

19 A No, sir.

20 Q Was he employed at the ranch?

21 A Yes, sir.

22 Q During the time you became acquainted with Roberto  
23 and Judge Carrillo, did you have occasion to  
24 discuss Roberto's pending court reporting school?

25 A Yes, sir, we talked about it.

1 Q Did you and the Judge ever travel anyplace to look  
2 into the suitability of a court reporting school  
3 for Roberto?

4 A Yes, we took Roberto to Plainview in the wintertime.  
5 I know it was in the wintertime, because there was  
6 snow on the ground, and I don't remember what year  
7 it was. I introduced him to the personnel at the  
8 Southwest Business College there.

9 Q Is that where you attended school?

10 A Yes, sir.

11 Q Did Roberto attend reporting school?

12 MR. MITCHELL: If you know, and it would  
13 be hearsay.

14 MR. FLUSCHE: I will connect it up.

15 THE MASTER: Show the basis.

16 Q (By Mr. Flusche:) Well, I will ask it this way.

17 Did you have occasion to visit Roberto at the  
18 time he was attending a reporting school?

19 A Yes.

20 Q In what city?

21 A Houston.

22 Q Let me ask you this. During the time that Roberto  
23 was attending court reporting school, do you know  
24 whether or not he was receiving any money?

25 MR. MITCHELL: That question is over broad.

1                   We are going to object to it for that  
2                   reason and to that extent that it would be  
3                   hearsay.

4                   THE MASTER: Let him finish. Was that  
5                   a period where you intended to stop?

6                   MR. FLUSCHE: Yes.

7                   THE MASTER: I would have thought you  
8                   might have added from Duval County.

9                   MR. FLUSCHE: Well, let me phrase the  
10                  question this way.

11                 Q (By Mr. Flusche:) Did the Judge, himself, ever tell  
12                  you whether or not he was receiving any money?

13                  MR. MITCHELL: That would be hearsay.

14                  THE MASTER: Which Judge?

15                  MR. FLUSCHE: Judge Carrillo.

16                  THE MASTER: That is not hearsay.

17                  MR. MITCHELL: As I understand the  
18                  question, it is whether Judge Carrillo ever  
19                  told this witness whether Roberto was  
20                  receiving money from any source.

21                  THE MASTER: It is just receiving money  
22                  so far.

23                  MR. MITCHELL: I am sorry. I withdraw  
24                  that.

25                 Q (By Mr. Flusche:) Let me ask you this. I will ask

1 it as a leading question.

2 Did Judge Carrillo tell you he was sending  
3 money to Roberto Elizondo to pay his way through  
4 school?

5 A He told me he was giving Roberto financial  
6 assistance to attend school.

7 Q All right. As a matter of fact, he told you he was  
8 sending Roberto to school?

9 MR. MITCHELL: Hearsay and leading.

10 THE MASTER: The leading objection is  
11 sustained.

12 Q Let me ask you this. Did the Judge ever tell you  
13 about his helping other people to go through school?

14 MR. MITCHELL: Irrelevant and immaterial  
15 at this point and hearsay.

16 THE MASTER: Well, it is not hearsay.

17 What does that --

18 MR. FLUSCHE: I will withdraw the  
19 question.

20 THE MASTER: All right. If it is hearsay,  
21 it is an exception.

22 MR. MITCHELL: Yes.

23 Q (By Mr. Flusche:) During the year 1971, who were  
24 the people who were actively engaged in working in  
25 Judge Carrillo's chambers?

1 A Myself, Judge Carrillo, Mr. Joe Saenz, and  
2 Zenaida Montemayor.

3 Q Now, during the time, say the first year that you  
4 were employed there, did you ever see Roberto  
5 perform any duties around the courthouse?

6 A None.

7 Q How about Tomas Elizondo?

8 A None.

9 Q All right. Now, who did most of the Judge's  
10 correspondence while you were there?

11 A As far as correspondence between attorneys and  
12 trial settings, pre-trial hearings, I did most of  
13 that, but Joe Saenz did some, too.

14 Q All right.

15 A And through the telephone, Zenaida.

16 Q I didn't understand that.

17 A Through the telephone, Zenaida.

18 Q Okay. During the course of your employment there,  
19 did you have occasion to work quite a few  
20 weekends?

21 A Yes, sir.

22 Q When you did work on the weekends, did you see  
23 Roberto Elizondo performing duties in the  
24 courthouse?

25 A No, sir.

1 MR. MITCHELL: Pardon me, are we  
2 talking about '71, '72 or '73?

3 MR. FLUSCHE: January 1st, 1971, until  
4 September, 1973.

5 MR. MITCHELL: Thank you.

6 Q (By Mr. Flusche:) Let me ask you this. Did Judge  
7 Carrillo ever tell you anything about putting  
8 Tomas and Roberto on the county payroll?

9 MR. MITCHELL: That would be objectionable  
10 and hearsay.

11 THE MASTER: Say the question again.

12 Q During the course of your employment as a court  
13 reporter, did Judge Carrillo ever tell you anything  
14 about putting Tomas and Roberto on the county  
15 payroll?

16 MR. MITCHELL: And leading.

17 THE MASTER: The objection is overruled.

18 THE WITNESS: No, sir.

19 Q Did you ever have occasion to observe the placing  
20 of some nameplates with the names of these individuals  
21 on the desk in chambers?

22 MR. MITCHELL: That is hearsay and we  
23 object.

24 THE MASTER: Hearsay -- something he saw  
25 or didn't see, I will overrule that.

1 THE WITNESS: I saw the nameplates,  
2 yes, sir.

3 Q About what time were those nameplates on the desk  
4 in your chambers?

5 A I have no idea.

6 Q Was it before Roberto went to court reporting  
7 school?

8 A I would say it would be about the middle of my  
9 tenure.

10 Q All right.

11 A Whatever that would be.

12 Q I am going to move -- this has relevancy to the  
13 last article.

14 During the course of your employment there,  
15 did you have occasion to accompany Judge Carrillo  
16 to purchase bulldozers or search for bulldozers?

17 MR. MITCHELL: I don't see anything  
18 about a bulldozer in Article Two.

19 MR. FLUSCHE: Well, it will be.

20 MR. MITCHELL: It is a culmination  
21 of several preceding articles and I will  
22 object for the technical aspects of the  
23 record.

24 THE MASTER: I will overrule the  
25 objection subject to your making it relevant.

1 Q (By Mr. Flusche:) Can you answer the question?

2 A I am not sure if I ever went with the Judge to look  
3 for those bulldozers or not. I did make one  
4 trip to Plains Equipment, I believe. I believe he  
5 asked me to talk to somebody about a root plow,  
6 but as far as he and I going and searching for  
7 the bulldozers, no, but we talked about it.

8 Q Did the Judge, in his conversations with you,  
9 evidence a great deal of interest in purchasing  
10 bulldozers?

11 A Yes, sir.

12 Q Let me ask you this.

13 Did you have the opportunity to see Joe Saenz  
14 filling out any claim forms to pay Roberto  
15 Elizondo?

16 A No, sir.

17 Q Now, let me ask you this. While you were in Judge  
18 Carrillo's employ, did he have occasion to have  
19 Mr. Clinton Manges as a frequent visitor in his  
20 office?

21 A Not frequent.

22 Q How about telephone calls with Mr. Manges?

23 A I have no idea.

24 Q How about his brother Ramiro Carrillo?

25 A Did he come to the office?



1 Q Yes.

2 A He came.

3 Q Frequently?

4 A Fairly frequently, yes.

5 Q All right.

6 A I think that would be when the commissioners'  
7 court would meet.

8 Q How frequently did the commissioners' court meet?

9 A I don't remember.

10 MR. FLUSCHE: Okay. I believe that is  
11 all I have.

12

13

14

E X A M I N A T I O N

15

BY MR. MITCHELL:

16

17 Q Well, the commissioners' court meeting place is  
18 right across the hall from the Judge's office,  
19 is it not?

20 A Certainly is, and that is a meeting place for  
21 everybody in the courthouse.

22 Q It is quite a cordial atmosphere and people go in  
23 and out of the office quite accordingly?

24 A Yes, sir.

25 Q Mr. <sup>k</sup>armer, I am going to ask you a question, and  
<sub>n</sub>

1 I have -- this is a proceeding involving the  
2 disqualification of Judge Carrillo, as regards the  
3 Judge of the 229th Judicial District.

4 You were his court reporter and you worked  
5 with him from January, 1971, when he took the bench  
6 of the 229th Judicial District, to September, 1973,  
7 when you terminated your employment and went to  
8 your present employment with Judge Alamia, is that  
9 correct?

10 A Correct.

11 Q You were an employee and reported with him in  
12 civil and criminal cases throughout the district?

13 A Yes, sir.

14 Q Can you give us -- testimony has shown several  
15 counties were in his district. I would like for  
16 you to tell us and speak to the record as to  
17 how the Judge handled his itinerary and how you  
18 observed him handling his docket?

19 A We had three counties, Duval, Starr and Jim Hogg.  
20 We allotted each county one week out of the month.  
21 We had it set up where we would be in Duval County  
22 one week, Jim Hogg County another week and Starr  
23 County another week, and then the fourth week of  
24 the month was open. On that open week, we would  
25 go any and everywhere, wherever we were needed.

1 Q On matters such as temporary restraining orders  
2 or whatever?

3 A Even uncontested divorces.

4 Q Now, in holding court, you were in attendance both  
5 in court with Judge Carrillo in Duval and Starr and  
6 Jim Hogg Counties as well as in the travel to and  
7 from the various county seats of the counties,  
8 were you not?

9 A Yes, sir.

10 Q Now, I will ask you questions touching on the  
11 Judge's conduct as a Judge, his judicial mannerisms.

12 MR. FLUSCHE: I will object to that  
13 on the same ground as we have previously  
14 objected. I am not going to say it is beyond  
15 the scope, but not relevant to the pleadings  
16 in this case.

17 MR. MITCHELL: As I understand the  
18 objection, it is one to preserve -- it is a  
19 question similar to the question of the nature  
20 put to Mr. Nye and the objection the same  
21 thereto?

22 MR. FLUSCHE: Yes.

23 THE MASTER: The objection is overruled.

24 Q (By Mr. Mitchell:) I will ask you questions as  
25 regards the Court's conduct, Mr. Parmer, and so the

1 record is abundantly clear, would you characterize  
2 the Judge's schedule as a busy schedule?

3 THE MASTER: Excuse me. I consider  
4 this, and you correct me if I am wrong, but  
5 you think it goes to the over-all issue of  
6 what?

7 MR. MITCHELL: The disqualification and  
8 his judicial conduct.

9 THE MASTER: Well, I don't make any  
10 commitment on that, but it seems to me, if  
11 there are any findings by me or by the  
12 judicial qualifications commission that  
13 would warrant some action on their part,  
14 that I would be remiss in not hearing this  
15 evidence as bearing on what action they  
16 should take. I think it is admissible on  
17 that ground.

18 MR. MITCHELL: And they have the  
19 jurisdiction, if the California cases are  
20 a blueprint, that is a quality of --

21 THE MASTER: That is what the statute  
22 says.

23 MR. MITCHELL: As well as a question of  
24 whether they take his license away.

25 THE MASTER: I didn't understand that.

1 MR. MITCHELL: We might not have the  
2 same power in ours.

3 THE MASTER: I believe that is in this  
4 state.

5 MR. FLUSCHE: We don't have any  
6 authority to take his law license.

7 THE MASTER: Well, I will accept the  
8 evidence. You may proceed.

1 MR. MITCHELL: I will be very glad,  
2 Judge, out of fairness to the Court and  
3 counsel, we have cases in support of these  
4 ultimate issues and we will be glad to  
5 supply the Court with them.

6 THE MASTER: We may want them, but I  
7 am at least secure on this ground.

8 MR. MITCHELL: All right.

9 Q Going back to that last question, let me rephrase  
10 the question and put it to you so that the ques-  
11 tion is clear as to the basis of your testimony  
12 and of your knowledge, Mr. Parmer. You, of course,  
13 observed Judge Carrillo presiding over civil and  
14 criminal cases?

15 A Yes, sir.

16 Q Apparently from the intense work schedule you were  
17 in Duval one week and Starr County one week and in  
18 Jim Hogg one week and then one week for casual hear-  
19 ings. That was four weeks that the judge was  
20 committed to work and you along with him?

21 A Yes.

22 Q And that ran for a substantial period of about  
23 three years?

24 A Yes, sir.

25 Q Now, were you able to observe the Judge's mannerisms

1 while on the bench as regards the treatments of  
2 the attorneys in the case? What was his treat-  
3 ment, if you know, of the attorneys in the case?  
4 Was it a professional treatment, his mannerisms,  
5 were they professional?

6 A Yes, sir, they were.

7 Q All right, was the Judge's language judicial  
8 language, or did he engage in any vituperative or  
9 abusive language?

10 A No.

11 Q How about his demeanor?

12 A Always very nice to people.

13 Q How about his judicial mannerisms, would you com-  
14 ment on them, Mr. Parmer, as you know?

15 A I thought he was a very fair man.

16 Q Was he inclined to be petty or vulgar or engage  
17 in any judicious acts that you know?

18 A No, sir.

19 Q I asked you that as regards the attorneys, would  
20 your answer be the same if I asked you the same  
21 questions as regards his attitude toward the  
22 litigants, the clerks, yourself, the court reporter,  
23 and the witnesses in the case?

24 A I would give you the same answer.

25 Q Fine. You have been asked some questions, I will

1 touch only on one or two as regards your work  
2 schedule, and whether or not during that work  
3 schedule you observed, I believe. Roberto Elizondo  
4 and Tomas Elizondo?

5 Now, in line with those questions and your  
6 answers, let me ask you this: Did you work every  
7 weekend?

8 A No.

9 Q On every weekend were you in Benavides? How did  
10 your schedule work and fit in the court schedule?

11 A I lived in Benavides and commuted to and from  
12 Benavides, from San Diato to Benavides.

13 Q If you had a case in Roma that went a week or  
14 two weeks would you stay there or would you com-  
15 mute?

16 A We would commute, the Judge and I would commute  
17 back and forth every day.

18 Q You would get up at your home in Benavides and  
19 go back to your courtroom city, which would be  
20 Roma?

21 A No, Starr County it is Rio Grande City.

22 Q I'm sorry, and where is the one in Starr -- Duval,  
23 that would be where?

24 A San Diego.

25 Q And you lived in Benavides?



1 A Yes, sir.

2  
3 Q Is that correct?

4 A Yes, sir.

5 Q And how about Jim Hogg, where was that one there?

6 A Hebronville.

7 Q In the -- well, your residence was at a city  
8 where none of the courts were located. The Duval  
9 County one being in San Diego and the Starr County  
10 one being in Rio Grande City and the Jim Hogg  
11 being in Hebronville, am I correct?

12 A Yes, sir.

13 Q Consequently, is it a fair statement to say that  
14 at least three-fourths of the time -- well, all  
15 of the time you never worked in the county in  
16 which you lived and three-fourths of the time  
17 you never were in a courtroom -- no, that doesn't  
18 make sense.

19 MR. MITCHELL: I'll strike that, that  
20 last one.

21 Q If you were working off in Duval, Starr, Jim  
22 Hogg Counties for three months or three weeks of  
23 the month, of course, there was no way for you  
24 to know or ascertain as a matter of obvious fact  
25 what was going on in, say, Duval County courts

1 or Rio Grande City or Hebbronville, is that a  
2 fair statement?

3 A When I was not there, that is true.

4 Q Yes, sir. Now --

5 MR. MITCHELL: Strike that fragmentary  
6 question.

7 Q During the period of time that the Judge was rid-  
8 ing circuit, would there be occasions when Tomas  
9 and or Roberto Elizondo would accompany you all?

10 A Yes, sir.

11 Q During these occasions, did you observe whether  
12 they would have been engaged in performing ser-  
13 vices for the Judge or in and about the services  
14 of the court when they would arrive, let's say  
15 in Rio Grande City, in Hebbronville, or let's say  
16 in San Diego, just tell us what the facts were,  
17 Mr. Parmer.

18 A Well, when they would go with us, well, the Judge  
19 would ask them to do something or, I don't know  
20 what he would ask them to do because I would be  
21 tied up in the courtroom, and they did do errands  
22 for him there.

23 Q And your services, of course, required you to do  
24 just what this reporter is doing here, and that  
25 is to stay in from the minute the gun is shot,

1 commencing the proceedings until it is ended and  
2 that is where you are, is that correct, Mr.  
3 Parmer?

4 A That is correct.

5 MR. MITCHELL: Excuse me a moment.

6 Q In fact, I believe on one occasion I recall one  
7 of Judge's outstanding cases involved an election  
8 contest that went two to three months, if you  
9 will recall?

10 A I remember it.

11 Q And on that one there was a daily commuting back  
12 and forth. I believe Tomas drove back and forth  
13 every day, you and the Judge down to the court-  
14 room?

15 A Yes, sir. We were pretty beat.

16 Q Now, I don't know the object -- I learned long  
17 ago not to get into it, but I can't ever resist  
18 even after twenty-five years.

19 When you got to looking for a house to rent,  
20 you say you were shown a house by Judge Carrillo  
21 there that was close by to Mr. Chapa's home, he  
22 just showed you through it, Mr. Parmer?

23 A Well --

24 Q Just tell us about it.

25 A Okay.

1 Q It seems to me that there is a little hesitancy  
2 on your part to answer some of the questions.  
3 Just tell us the full involvement of this house  
4 and what the Judge's involvement was. I think  
5 the record ought to know the full involvement.

6 A Well, I needed a house, I wanted a larger house  
7 because my family was -- had moved back in with  
8 me. I had a wife and two children and -- a boy  
9 and a girl, and this house I was in had one bed-  
10 room.

11 I don't know if the Judge told me, but maybe  
12 somebody else told me but I was under the impres-  
13 sion that Judge Carrillo owned that house. I  
14 kept asking him to let me have it, and he knew  
15 what kind of shape it was in, I suppose he did,  
16 because he kept putting me off on it, that no,  
17 it is in too bad a shape, it is in just too bad  
18 a shape and I said, "Well, let me see it, maybe  
19 I can do something with it."

20 We were standing right there in the driveway  
21 which is not fifty feet from the house and he and  
22 I went over there in it and that was it. I knew  
23 what he was talking about.

24 Q All right, he could have owned it or he could  
25 not have owned it, you didn't have any personal

1 knowledge one way or the other?

2 A I don't think I asked him that. I think it would  
3 just be --

4 Q Well, you have been to the ranch house apparently  
5 on the ranch?

6 A Yes, sir.

7 Q You know the condition, how that was maintained  
8 in a good state of repair. Didn't it strike you  
9 curious if the Judge owned this house there in  
10 Benavides, it would not have been in a state of  
11 disrepair that it was in?

12 A I didn't even think about it, I mean --

13 Q All right.

14 A If he had owned it, maybe if he had owned it --  
15 well, if I had owned it I wouldn't have put any  
16 money in the thing either.

17 Q All right.

18 MR. MITCHELL: I don't believe I  
19 have any further questions of this wit-  
20 ness, Judge.

21 MR. FLUSCHE: I have none.

22 THE MASTER: You may step down and  
23 you are excused.

24 MR. MITCHELL: May I express my thanks  
25 on behalf of my client, permitting me to

1 question this witness with regard to these  
2 characteristics, as I have stated to the  
3 Court what I understand the law to be in  
4 these cases.

5 MR. FLUSCHE: I have one more witness.  
6

7 - - - - -  
8

9 ZENAIDA MONTEMAYOR,  
10 called as a witness in behalf of the examiners, having  
11 been first duly sworn, testified upon her oath as  
12 follows:  
13

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

16 BY FLUSCHE:

17 Q Mrs. Montemayor, will you state your name for  
18 the record, please?

19 A Zenaida Montemayor.

20 Q And where do you live?

21 A In San Diego, Texas.

22 Q And how are you employed?

23 A I work at the Tax Collector's office as a deputy.

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

25 A Yes, I do.

1 Q Prior to the time that you were employed in the  
2 Tax Collector's office, how were you employed?

3 A I worked for Judge Carrillo as a receptionist  
4 for about six years.

5 Q Did you work for him prior to the time that he  
6 became a Judge?

7 A Right, sir.

8 Q And then you worked for him continuously since  
9 he became a judge until what date?

10 A Until April the 16th when he gave me a thirty  
11 day vacation.

12 Q He didn't hire you back, I take it?

13 A No, sir.

14 THE MASTER: Did you put a year on  
15 that, this year?

16 A This year, 1975.

17 THE MASTER: All right.

18 Q Now, what -- in the Judge's chambers, in the  
19 adjoining offices, can you tell the Judge here  
20 how the offices were laid out?

21 A Well, as you came in it was my office, the  
22 receptionist, and then there is a middle office  
23 where the court reporter had his office and then  
24 in the back room was the Judge's chambers, the  
25 Judge's office.

1 Q Okay, now, during the period that you were  
2 employed there, who were the court personnel  
3 that were employed by Judge Carrillo in those  
4 offices?

5 MR. MITCHELL: If she knows, Judge,  
6 she was the secretary. I don't know that  
7 she would know for a fact.

8 THE MASTER: Well, that is subject  
9 to cross-examination. Don't interrupt  
10 like that.

11 MR. MITCHELL: I am sorry, Judge.

12 A The personnel that was in the office when I was  
13 there was Jerry Parmer, he is the court reporter  
14 that came in to work for him, I think it was in  
15 1971, and Mr. Saenz, Joe Saenz, as his clerk and  
16 myself.

17 Q All right.

18 A As a receptionist.

19 Q Now, during the time that you were there, who  
20 answered the official correspondence of the  
21 court, do you know?

22 A Mr. Saenz and the court reporter.

23 Q All right, what is the full name of Mr. Saenz?

24 A Jose H. Saenz.

25 Q What age man is he?



1 A He is about thirty-six or thirty-seven, I think.

2 Q Now, during the time that you were employed there  
3 was Roberto Elizondo employed in any capacity in  
4 the courthouse?

5 A Not to my knowledge.

6 MR. MITCHELL: Excuse me, Judge, I  
7 will formally object to it on the grounds  
8 that it would call for speculation, it  
9 would call for hearsay.

10 MR. FLUSCHE: All right.

11 Q Let me ask you this, do you know Roberto Elizondo?

12 A Yes, I do.

13 Q Do you know Tomas Elizondo?

14 A Yes, sir.

15 Q Do you know Patricio Garza?

16 A Patricio Garza, I met him once at the office when  
17 he came in to the office one time.

18 Q Did Roberto and Tomas have occasion to be fre-  
19 quent visitors in the courthouse and particularly  
20 in the Judge's chambers during the period that  
21 you were employed there?

22 A They usually came in with the Judge.

23 Q All right.

24 A When the Judge came into the office.

25 Q All right, let me ask you this, were Tomas and

1 Roberto assigned any duties in the courthouse  
2 insofar as you know?

3 A Before he became a court reporter?

4 Q Yes, before he became a court reporter?

5 A Not to my knowledge, sir.

6 Q Okay, did you know anything about Roberto Elizondo  
7 attending court reporting school?

8 A I did know that he was attending court reporting  
9 school.

10 Q How did you gain this knowledge of his going to  
11 court reporting school?

12 A He would call in to let the Judge know that he  
13 was coming in to his civil defense meetings and  
14 sometimes the Judge would tell me, "If Roberto  
15 calls, tell him we are going to hold a roundup,"  
16 you know, and things like that, so he would call  
17 in from Houston.

18 Q All right. Now, did you know whether or not  
19 Roberto Elizondo --

20 MR. FLUSCHE: Strike that, I will  
21 rephrase the question.

22 Q Do you know whether or not Jose Saenz filled out  
23 any documents to effectuate the pay of Roberto  
24 Elizondo?

25 A I did see him make out some claims.

1 Q Okay. What kind of claims were these?

2 A The regular claims that they use there in Duval  
3 County.

4 Q They are claims for payment?

5 A For payment.

6 Q And where are these claims for payment submitted  
7 to? Who is the person that --

8 A They submit them to the commissioner's court.

9 MR. MITCHELL: Wait a minute, Judge,  
10 that would be hearsay. I, of course, didn't  
11 object to the testimony where she had  
12 personal knowledge. She might have seen  
13 the man fill them out, but what they are  
14 done with by Jose Saenz --

15 THE MASTER: No, I don't think the  
16 testimony --

17 MR. MITCHELL: We object.

18 THE MASTER: I do not take the  
19 testimony to say that these specific forms,  
20 but that generally claim forms are filed  
21 with the commissioner's court. I do not  
22 understand her to be saying that these are.

23 MR. MITCHELL: Well, now --

24 THE MASTER: Are you saying that you  
25 know these were?

1 A No. sir, they all are.

2 MR. MITCHELL: I have no objection to  
3 it then.

4 THE MASTER: That is custom.

5 MR. MITCHELL: That is custom and that  
6 is the law, I withdraw my objection.

7 MR. FLUSCHE: That was the import of  
8 my question.

9 THE MASTER: What you are saying, if  
10 you want to get them paid, you submit them  
11 to the commissioner's court?

12 A Right.

13 THE MASTER: Is that right?

14 A Right, sir.

15 Q (By Mr. Flusche:) Now, you say you have person-  
16 ally seen Mr. Saenz fix up these documents which  
17 are known as payment for -- or claims for payment?

18 A Correct.

19 Q Do you know who signed those documents? Have you  
20 seen Mr. Saenz sign those documents?

21 A Yes, sir, I did see him.

22 Q And who would notarize them?

23 A Mr. Saenz would notarize them.

24 Q He would sign them and notarize them?

25 A Yes.

1 Q You have seen him do that?

2 A Right.

3 Q Did you see him do this for anybody else?

4 A No, sir.

5 Q Just Roberto Elizondo?

6 A Tomas and Patricio.

7 Q Tomas Elizondo and Patricio Garza?

8 A Correct.

9 Q All right. Now, do you know whether or not,  
10 and I am going to ask you this question very  
11 carefully, of your own knowledge, do you know whether  
12 of not Judge Carrillo knew that Jose Saenz  
13 was executing these documents for Roberto Elizondo?

14 MR. MITCHELL: Pardon me, Judge, this  
15 wouldn't be a question of personal knowledge.  
16 It is a question of hearsay whether O. P.  
17 Carrillo knew that, "X" was executing the  
18 documents for "Y".

19 THE MASTER: You have to develop a  
20 basis.

21 Q All right. I will ask another leading question.  
22 Did Judge Carrillo ever call you and remind you  
23 to tell Jose Saenz to fill out the claims for  
24 payment for Roberto Elizondo?

25 MR. MITCHELL: That would be leading,

1 Judge, of course,

2 THE MASTER: Well actually it is not,  
3 it is just like that question that was  
4 asked the reporter, which he answered no,  
5 and you were surprised.

6 MR. MITCHELL: I withdraw it, Judge,  
7 if in view of the fact he has given me  
8 the latitude. I understand it is just  
9 limited to her personal knowledge, whether  
10 Judge Carrillo ever called her personally  
11 to remind Jose Saenz. I still say that is  
12 hearsay, Judge, if it is introduced to  
13 show that Jose Saenz might have done some-  
14 thing.

15 THE MASTER: Well, you can --

16 MR. FLUSCHE: I can ask it another  
17 way.

18 THE MASTER: I don't know that you need  
19 to. I understand the question here to be  
20 did Judge Carrillo ever tell her to remind  
21 Saenz to fill out these claim forms. Is  
22 that what you asked?

23 MR. FLUSCHE: Yes, sir.

24 A Do I answer the question?

25 THE MASTER: Yes, ma'am.

1 A Judge Carrillo would call in the office to remind  
2 me to remind Mr. Saenz not to forget to make out  
3 those claims.

4 Q Let me ask you this, do you know of an instance  
5 in which signs were placed on the desk with Roberto  
6 Elizondo and Tomas Elizondo's names on them?

7 A Oh, yes.

8 Q And who told you about that?

9 A Judge Carrillo gave me the authority to order  
10 them.

11 Q Do you know -- did he tell you what the purpose  
12 of putting those signs on the desk was?

13 MR. MITCHELL: Excuse me, that would  
14 be calling for hearsay, Judge, what the  
15 purpose was.

16 THE MASTER: Overruled.

17 Q Did he tell you why he wanted those signs on  
18 there?

19 A No, sir, he didn't tell me why.

20 Q All right. Now, during the period that you  
21 worked there, did you ever see any evidence that  
22 Roberto Elizondo had done any work in the offices  
23 over the weekend?

24 A During what time?

25 MR. MITCHELL: Wait a minute, excuse me.

1 Q During the period from the 1st of January of 1972  
2 until September 3, or September of 1973.

3 MR. MITCHELL: Objection, it would be  
4 speculation, guess and hearsay.

5 MR. FLUSCHE: I asked her whether or  
6 not she ever saw any evidence, that's all  
7 I am asking her.

8 MR. MITCHELL: That he had done work  
9 on the weekend, that is what I am objecting  
10 to.

11 THE MASTER: Well, what sort of evi-  
12 dence do you have in mind?

13 Q Well, did you ever see any letters that he had  
14 typed up or any -- well, first of all, let me  
15 ask you this, before he went to court reporting  
16 school, did you know whether or not he could type?

17 A No, I didn't know.

18 Q You didn't know?

19 A No, I don't know whether he could type or not.

20 Q Let me ask you this, do you know when Tomas  
21 Elizondo became a bailiff or if he did become a  
22 bailiff?

23 A I think Tomas became a bailiff officially right  
24 after I was given my thirty days vacation.

25 Q You mean this year?



1 A Of 1975, April of 1975.

2 Q Now, let me ask you this, were there certain per-  
3 sons who were frequent visitors of the Judge in  
4 his chambers while you were employed there?

5 MR. MITCHELL: Well, now pardon me,  
6 Your Honor, I don't want to be picky, but  
7 that question is loaded.

8 MR. FLUSCHE: All right.

9 MR. MITCHELL: Certain persons who  
10 were --

11 Q All right, was Clinton Manges a frequent visitor  
12 in the offices, in the Judge's offices while you  
13 were there?

14 A Yes.

15 MR. MITCHELL: Well, we will object as  
16 leading and hearsay.

17 THE MASTER : Overruled.

18 Q Would you have occasion to call Clinton Manges  
19 on the telephone or to answer calls from Clinton  
20 Manges to the Judge during your employment there?

21 A Yes, I did.

22 Q On many occasions or a few?

23 A On many occasions.

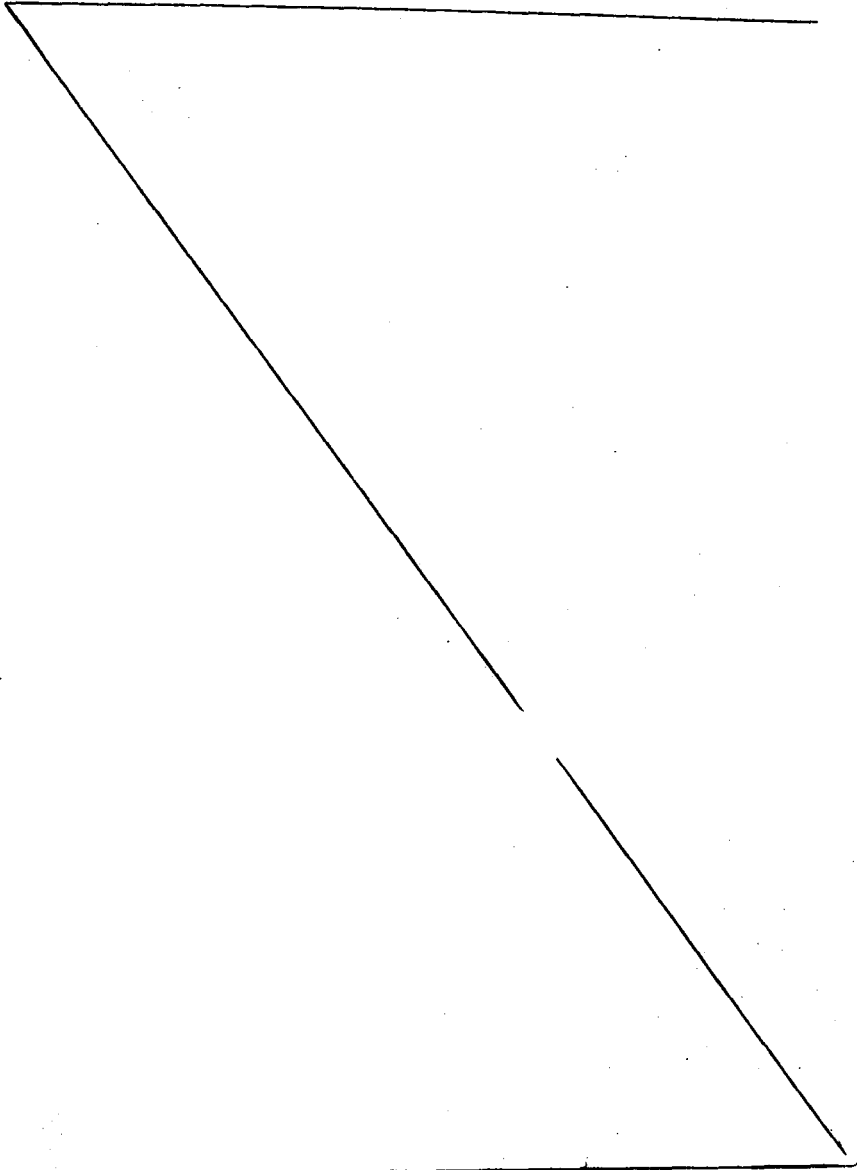
24 Q Was -- did Mr. Manges appear impatient when you  
25 were unable to locate the Judge?

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A Several times, yes.

Q Okay.

MR. FLUSCHE: That is all I have.



E X A M I N A T I O N

1  
2 BY MR. MITCHELL:  
3

4 Q Mrs. Montemayor, I believe you were the Judge's  
5 receptionist, were you not, until this year?

6 A April the 16th of 1975, right.

7 Q Are you a lady that there was some publicity about,  
8 I believe you claimed, after your employment was  
9 terminated, that you were the result of a political  
10 strife between Archer Parr and Judge Carrillo,  
11 and that you had aligned yourself with the Parr  
12 faction after Judge Carrillo undertook to remove  
13 Archer Parr.

14 Are you the lady that I read about that had  
15 some coffee with some of the folks on the other  
16 side and got fired?

17 MR. FLUSCHE: That is about four  
18 questions.

19 MR. MITCHELL: She knows or doesn't know.

20 THE MASTER: I think it is a little  
21 unfair. I don't mind you leading her and  
22 that is more than one question and I don't  
23 know which one she is going to answer.

24 A Mr. Mitchell, I can tell you what happened.

25 Q Yes.

1 A In my own words.

2 THE MASTER: You may do so.

3 Q All right.

4 A It was after 5 o'clock on April the 16th when I  
5 went to the Texaco garage with Mrs. Ysaguire,  
6 she was Mr. Leal's secretary. She had just been  
7 removed from office, from being Mr. Leal's  
8 secretary.

9 THE MASTER: Whose secretary?

10 A Mr. Leal, Commissioner Leal. Archer was there and  
11 he invited us to go have a cup of coffee and he  
12 said, "Don't they let you all go," and I said,  
13 "Nobody tells us what to do, so let's go."

14 Q When did this event occur?

15 A On April -- the day before I was fired, it was on  
16 April the 15th.

17 Q 1975?

18 A 1975.

19 Q At any rate, since that event, then, you were then  
20 thereafter terminated, I guess, as receptionist  
21 for Judge Carrillo, were you not, or were you?  
22 I just want to know what the facts are?

23 A I was his receptionist, yes, sir.

24 Q And thereafter, you testified, I believe, before  
25 the House Committee on Impeachment in Austin and

1 that was back in May of this year or June, am I  
2 correct?

3 A I don't remember the date, Mr. Mitchell.

4 Q You do recall having testified?

5 A I do recall being there, right.

6 MR. FLUSCHE: It was in June of this  
7 year.

8 MR. MITCHELL: June of 1975?

9 MR. FLUSCHE: July the 15th, I am sorry.

10 MR. MITCHELL: Thank you, Mr. Flusche.

11 Q And then I believe this is the second time you have  
12 testified in connection with the matters involving  
13 Judge Carrillo since the termination of your  
14 employment April of 1975, am I correct? This would  
15 be the second time that you have testified?

16 A Correct.

17 Q All right. Now, Mrs. Montemayor, you knew, of  
18 course, being the Judge's receptionist, and being  
19 familiar with his business, that Judge Carrillo  
20 was what we call a circuit judge?

21 A What is a --

22 Q He rode a circuit of the counties in his district,  
23 Duval County, Starr County and Jim Hogg County, am  
24 I correct?

25 A Correct.

1 Q And that on one week he would service the  
2 litigation in Duval County, at San Diego, and the  
3 next week at Rio Grande City in Starr County, and  
4 Hebronville in Jim Hogg County or he would stay  
5 in these various other counties as long as it would  
6 be necessary to service the litigation in those  
7 counties?

8 A Not weeks, it was once a month.

9 Q That is what I intended to ask you, whether or not  
10 he went once a month?

11 A Yes.

12 Q To San Diego, once a month, to Rio Grande City,  
13 and once a month to Jim Hogg?

14 A Correct.

15 Q And on some occasions he would be gone as high  
16 as one month or two months; for example, in that  
17 election contest down in South Texas?

18 A In Rio Grande, correct.

19 Q And certainly, on those occasions, that is when he  
20 was gone say to Jim Hogg County once a month and  
21 to Starr County once a month he wouldn't be in his  
22 office in Duval County, would he?

23 A No, but he would call in every day.

24 Q Your answer would be, no, he would not be in every  
25 day?

1 A No.

2 THE MASTER: I think we all know that  
3 when he is in one place he is not in the  
4 other.

5 Q Consequently, if Mr. Clinton Manges visited him in  
6 his office in Duval County, which it couldn't be as  
7 a matter of fact as the Court has just observed,  
8 except on those occasions when he was there in  
9 Duval County, isn't that correct?

10 A Correct.

11 Q Now, when Roberto and Tomas Elizondo would come  
12 to the office as you have testified they would,  
13 Mrs. Montemayor, they would be there what, at the  
14 office there in San Diego in Duval County or  
15 would they also accompany Judge Carrillo to his  
16 trips to Starr County or Jim Hogg County?

17 A They could have, I wasn't over there, I was only  
18 in Duval County.

19 Q Yes.

20 A Where I could see them come in with him.

21 Q I understand. It wasn't a trick question. Did you  
22 observe them go together to those various other  
23 places?

24 A I heard that they did go.

25 Q All right.

1 A They would say they went with him.

2 Q Now, you mentioned earlier that you know for a  
3 fact that Tomas Elizondo was officially made bailiff  
4 recently. In the way that you answered it, I will  
5 have to ask you, was it common knowledge that he  
6 was the Judge's bailiff or had been all along?

7 A Well, I tell you, it was officially, because I  
8 was in the commissioner's court when he was put  
9 into the minutes, right after I had been fired.  
10 I was there when Mr. Saenz, Mr. Lolo Briones and  
11 Jose Saenz were there.

12 Q And the reason, of course, for that was that  
13 previous to that time, they had been carried as  
14 Precinct 3 employees, ~~whm~~ in truth and in fact  
15 they were not Precinct 3 employees, but they were  
16 employees of the county and that was the reason for  
17 the change?

18 A I don't know about that.

19 Q You don't know in fact whether you were employed  
20 as an employee of the clerk or on the county  
21 payroll at the time you were a receptionist, do you  
22 know that?

23 A I know that I wasn't under his payroll, I was under  
24 the county clerk's payroll.

25 Q All right. And I believe Mr. Saenz was



1           technically or carried officially on the county  
2           attorney's payroll?

3           A   Yes, that is correct.

4           Q   And to summarize that, do you know now that you  
5           have moved over to the tax assessor-collectors  
6           office, or have some knowledge of the official  
7           employment that Judge Carrillo as a matter of fact  
8           had no employees assigned to him. There were no  
9           employees being paid by him as such?

10          A   We were never paid by him, we were paid by the  
11          county.

12          Q   Right, in various divisions of the county, so that  
13          he wasn't paying anybody?

14          A   He submitted several times, he submitted our names  
15          to be put under his payroll, but I mean his office,  
16          his staff, but we never were.

17          Q   All right. The county commissioners' court  
18          refused to honor that request and they kept those  
19          other employees where they should have been kept  
20          or wanted them to be kept?

21          A   I don't know why they kept us there, but they kept  
22          us.

23          Q   All right. In those forms that we -- that you  
24          testified to earlier that were being filled out by  
25          Mr. Saenz and other folks, those are the forms that

1 everybody fills out as I understand it, as I  
2 understand the law, to be paid, who is paid by a  
3 county or a governmental agency?

4 A If you're not on the payroll, the regular payroll,  
5 you submit those claims.

6 Q And those are the claims that go into the  
7 commissioners' court and are considered every month  
8 by the commissioners for allowance or disallowance,  
9 is that correct?

10 A They approve them, correct.

11 Q Or disapprove them?

12 A Or disapprove them.

13 Q And that is a matter of published record because  
14 they keep minutes on those, too?

15 A I don't know if they keep minutes on them, but they  
16 should.

17 Q All right.

18 MR. MITCHELL: No further questions,  
19 Judge. Thank you, Mrs. Montemayor.

20

21

22

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

23

BY MR. FLUSCHE:

24

25 Q The claims for payment that you have described are

1 just for people who are not on the payroll?

2 A Correct, sir.

3 Q And they are for people who occasionally work for  
4 the county, isn't that right?

5 A Correct.

6 Q The more appropriate use?

7 A Correct.

8 MR. FLUSCHE: Could I have just a minute,  
9 Your Honor? Are we out of time yet?

10 THE MASTER: I want to get finished  
11 with Mrs. Montemayor if at all possible.

12 THE WITNESS: Thank you.

13 MR. MITCHELL: Yes, sir, Your Honor, that  
14 is good.

15 Q (By Mr. Flusche:) Let me ask you this, Mrs.  
16 Montemayor. Where did Judge Carrillo spend most  
17 of his time?

18 When he was not in session?

19 A Yes.

20 A At the ranch.

21 Q All right.

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

23 MR. MITCHELL: No further questions,  
24 Judge Meyers.

25 THE MASTER: Thank you, Mrs. Montemayor,

1 and you are free to go back to your home.

2 THE WITNESS: Thank you, sir.

3 THE MASTER: You are welcome.

4 Mr. Mitchell, and Mr. Flusche,  
5 first of all, Mr. Reporter, here are some  
6 exhibits that you may want to have.

7 (Handed to the reporter.)  
8

9 THE MASTER: I cannot find where  
10 Examiner's Exhibit Number 30 has ever been  
11 identified or offered.

12 MR. FLUSCHE: Do you show what that is?

13 THE MASTER: If it has not been  
14 identified, how could I?

15 MR. MITCHELL: That is right, Judge.  
16 My record is a blank on it, too. I have 31  
17 as being their final report and 33 and 32,  
18 right on up to 39. I do not have anything  
19 for 30. I have for 29, that is the order --

20 THE MASTER: I just want you to check  
21 it, Mr. Flusche.

22 MR. FLUSCHE: All right.

23 THE MASTER: Now, with respect to E-12,  
24 I can't conceive of its being admissible,  
25 I mean I can't really conceive of much of it

1 being admissible, maybe some of it. But I'm  
2 not going to sit up here and go through it  
3 item by item to try to figure out what is  
4 admissible and why. That is counsel's job,  
5 but I don't think any of it is.

6 Now, if you want to -- obviously,  
7 it has been offered, but at this time,  
8 Examiner's Exhibit 12 is not admitted and the  
9 objection is sustained.

10 MR. MITCHELL: May I have the leave of  
11 Court to take it and examine it, Judge, for  
12 other purposes? I haven't gotten really a  
13 chance; I did level the objection but I  
14 would just like to simply withdraw it and --

15 THE MASTER: I had some curiosity about  
16 reading it, too.

17 MR. MITCHELL: All right, I will read it  
18 after you do.

19 THE MASTER: No, Mr. Mitchell, you go  
20 ahead.

21 MR. FLUSCHE: It has some nice historical  
22 facts in it.

23 THE MASTER: It is a very laboriously  
24 put together exhibit.

25 MR. FLUSCHE: Why don't we go off the

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record.

THE MASTER: Thank you. We are off the record and you are excused.

(Whereupon, hearing was in recess from 1:05 p.m. on November the 6th, 1975, until 8:30 a.m., November 7th, 1975.)

