

**INQUIRY CONCERNING A JUDGE**

**NO. 5  
NOVEMBER 7, 1975**

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BEFORE THE  
STATE JUDICIAL QUALIFICATIONS COMMISSION

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INQUIRY CONCERNING A JUDGE, NO. 5

NOVEMBER 7, 1975

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

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1 THE MASTER: Who is your next witness?

2 MR. ODAM: Your Honor, I believe that

3 we -- the first day, when I called Judge

4 O. P. Carrillo, I marked Exhibits E-2 and 3

5 for the purpose of the record. E-2 is a

6 letter, copy of which has a certified mail

7 return receipt request and it is addressed

8 to Judge Carrillo and dated May 2nd and E-3

9 is a letter dated -- or correction,

10 addressed to Mr. Pipkin, signed by O. P.

11 Carrillo, and at that time, I asked Judge

12 Carrillo to identify those and he declined

13 to do so on the basis of the Fifth Amendment.

14 I can do one of two things.

15 We can either stipulate these are true and

16 correct copies or else we can put Mr.

17 Pipkin on the stand. If counsel will not

18 stipulate to it, I will call Mr. Pipkin.

19 MR. MITCHELL: I will not stipulate.

20 MR. ODAM: I call Mr. Maurice Pipkin.

21

22

23

24

25

1 MAURICE PIPKIN,

2 having been duly sworn by the Court, testified  
3 as follows:

4  
5 EXAMINATION

6 BY MR. ODAM:

7  
8 Q Will you please state your full name for the  
9 record?

10 A Maurice S. Pipkin.

11 Q Where do you reside?

12 A Austin, Texas.

13 Q By whom are you employed?

14 A The State Judicial Qualifications Commission.

15 Q What is your position?

16 A I am the executive director.

17 Q How long have you held that position?

18 A Since September 1st, 1967.

19 Q Are you generally familiar with judicial  
20 proceeding number five?

21 A Yes, I am.

22 Q I show you what has been marked as Examiner's  
23 Exhibit Number 2 and ask you if you can identify  
24 this item?

25 A Yes, it is a letter that I wrote to Judge Carrillo,

1 the gentleman sitting there at the table.

2 Q And this is a reproduction of your signature on the  
3 letter?

4 A It is.

5 MR. ODAM: We offer in evidence  
6 Examiner's Exhibit 2, which is generally  
7 referred to as notice of preliminary  
8 investigation.

9 MR. MITCHELL: It is a document signed  
10 by the witness. We have the objections  
11 previously lodged.

12 THE MASTER: State them.

13 MR. MITCHELL: Beyond the scope, non-  
14 judicial, relates to non-judicial conduct --  
15 well, no -- yes, it would, May 2nd, 1975,  
16 but it does refer to conduct and that  
17 objection would apply.

18 The third objection, as I recall --  
19 actually founded in the basis of those  
20 jurisdictional matters pled, due process  
21 and the like, but I believe that fairly  
22 summarizes our objections.

23 THE MASTER: I don't know if the record  
24 is clear, but if you are satisfied, I am  
25 satisfied.

1 MR. MITCHELL: Thank you.

2 THE MASTER: The objection is overruled  
3 and the exhibit is admitted.

4 (Examiner's Exhibit 2 admitted in  
5 evidence.)  
6

7 Q (By Mr. Odam:) I show you what has been marked  
8 as R. Exhibit 2 and also as Examiner's Exhibit 3  
9 and ask you if you can identify this instrument.

10 A This is a letter written by Judge Carrillo in  
11 response to the letter of May 2nd, which I wrote  
12 to him, notifying him that a preliminary  
13 investigation was being instituted by the  
14 commission.

15 THE MASTER: That letter is also  
16 R. Exhibit 2.

17 MR. ODAM: Exhibit 3.

18 THE MASTER: The one that is in response  
19 to that is Examiner's Exhibit 2?

20 MR. ODAM: Right.

21 At this time we offer in evidence  
22 E-3.

23 MR. MITCHELL: Your Honor, hearsay, and  
24 the same objections as previously stated.

25 THE MASTER: Overruled. The exhibit is

1 admitted.

2 (Examiner's Exhibit E-3 admitted into  
3 evidence.)  
4

5 MR. ODAM: Pass the witness.

6 THE MASTER: Before you start, may I  
7 interrupt? I don't have on my notes E-4  
8 either identified or admitted. What do your  
9 notes show?

10 MR. ODAM: It has not yet been  
11 admitted.

12 MR. MITCHELL: My desire on cross-  
13 examination of this witness, Your Honor,  
14 would be to propound to the witness questions  
15 which are -- which will solicit answers  
16 hopefully to fill in the background on the  
17 May 2nd, 1975, letter, so that the record  
18 stands complete on it and as well perhaps  
19 if there is any testimony which is verbal  
20 applying to E-2 or E-3, so the record is  
21 complete on the background on both those  
22 exhibits.

23 Then I have perhaps other questions  
24 at a later date.

25 This would be to fill in





1 A That's correct.

2 Q Now, let me ask you please, sir --

3 THE MASTER: You said I think from Judge  
4 Carrillo to you.

5 MR. MITCHELL: I meant the reverse.

6 THE MASTER: E-2 is from Mr. Pipkin to  
7 Judge Carrillo.

8 A That's what I am looking at, my letter.

9 MR. MITCHELL: To him to Judge Carrillo.

10 A To Judge Carrillo.

11 Q All right, I will hand you E-9 and E-10 which have  
12 been previously identified and offered in evidence  
13 as letters from Mr. Garland Smith to you in rela-  
14 tion to that same subject matter. Do you recog-  
15 nize the two letters that Mr. Smith wrote you?

16 A Well, I recognize them to the extent that I re-  
17 ceived these letters, but insofar as having imme-  
18 diate grasp of the contents, I can't testify to  
19 that. I would have to read these letters again.

20 Q All right.

21 A You know, they are lengthy.

22 Q They are letters to you, I believe?

23 A Yes, that is correct.

24 Q And you might take a minute and read them. I  
25 am going to ask you some questions or you might

1           be able to answer without reading them, Mr.  
2           Pickin.

3                     I will ask you if, in composing the letter  
4           of May 2, 1975, the matters that were set out in  
5           the E-9 and E-10, were included in the May 2nd,  
6           1975, letters to the Judge?

7           A   Substantially so, Mr. Mitchell.

8           Q   All right.

9           A   It might be some divergence, but substantially  
10          that is the information.

11          Q   All right, I believe ~~that~~ briefly that would relate  
12          to the open end lease, the stock, the director-  
13          ship and, perhaps, a purchase of the car, or  
14          whatever is there?

15          A   Right.

16          Q   Whatever that Exhibit, your May 2nd letter to the  
17          Judge --

18          A   Substantially that is correct.

19          Q   All right, the Judge's answer --

20                     MR. MITCHELL: Strike that.

21          Q   Was there any conversation had with Mr. Smith  
22          prior to the May 2nd letter of 1973, Mr. Pickin,  
23          that furnished an input into that May 2nd letter?

24          A   Conceivably so. I believe so, Mr. Mitchell. If  
25          memory serves me right, I didn't make a log, but

1 he was in and out of our office on several occa-  
2 sions and I do not know whether the conversation  
3 was subsequent or prior to this letter.

4 Q Now, let me ask you, if your would, please, would  
5 you tell the Court what the total input was into  
6 that May letter to Judge Carrillo.

7 We have established that the two letters  
8 from Garland Smith and perhaps a conversation with  
9 Garland Smith, were there any other complaints or  
10 any other information communicated to you that  
11 formed an input into that letter of May 2nd?

12 A Yes.

13 Q And could you just simply --

14 A As Judge Carrillo has testified, he was courteous  
15 enough to grant me an interview at the hotel in  
16 Alice. At that time, if I recall, he admitted to  
17 these things that have been alleged, but he thought  
18 that he had done nothing wrong. That was the  
19 impression I had from him.

20 Q And his position was stated to you verbally at  
21 that time, was it not, Mr. Pipkin?

22 A Correct.

23 Q And thereafter state whether or not he followed  
24 that --

25 MR. MITCHELL: Strike that.

1 Q But that conversation with him was followed up with  
2 his formal response that has been introduced into  
3 evidence?

4 A There was a time interval there, but, Mr. Mitchell,  
5 when this matter was pending on the docket of the  
6 Judicial Qualifications Commission and had been  
7 passed from time to time. I had no more conversa-  
8 tions on these particular allegations with Judge  
9 Carrillo.

10 Q Now, the E-3 is in response, I believe it has  
11 been established, to the May 2nd, 1975, letter?

12 A That is correct.

13 Q Is that correct?

14 A That is right.

15 Q All right. Now, there was no formal notice of  
16 hearing as of the date of E-3, was there? The  
17 matter, in other words, had apparently been put  
18 up to rest.

19 A Would you permit me to elaborate a little bit on  
20 the procedural aspect?

21 Q Certainly, that is the reason for the question.  
22 I want the record to be full and complete.

23 A The rules provide, the rules are promulgated by  
24 the Supreme Court. They are not the commission's  
25 rules, they are the rules the Supreme Court has

1 set up for our operation.

2 They provide for a notice of preliminary  
3 investigation but it is not required that you state  
4 in the notice of preliminary investigation all  
5 that you intend to formally charge the Judge with.

6 In fact, some of the letters that we write  
7 simply state there will be a preliminary investiga-  
8 tion. Others cite in general the things we are  
9 concerned with, and sometimes the letters will  
10 say, "But this does not preclude -- this is not  
11 inclusive of all that you might be charged with.  
12 If any other information is brought before the  
13 commission, that will constitute part of the formal  
14 charge."

15 Q The May 2nd letter to Judge Carrillo, however, did  
16 not state that there would be any additional  
17 matters?

18 A No.

19 Q Or that there were additional matters?

20 A It did not state that nor did it state that it  
21 was exclusive of any other matters.

22 Q And I believe the same rules to which you alluded  
23 provide that in the event that -- that the matter  
24 can be closed at that preliminary investigation:  
25 that is, the letter is sent out and a response is

1           made, the matter can be closed or can be referred  
2           to the commission for action at that stage.

3           A   That is correct.  If the preliminary investigation  
4           indicates that the matter does not have merit, it  
5           is frivolous, or self-serving in some manner,  
6           shape or form.  In fact of the matter, Mr. Mitchell,  
7           a very, very substantial number of the complaints  
8           are never formally brought to a hearing.

9           Q   As a matter of practice?

10          A   As a matter of practice.

11          Q   Would you tell us then was there a formal notice  
12          issued on the basis of the material contained in  
13          the May 2nd, 1972, letter?

14          A   It was included in the formal hearing.  In fact,  
15          we had one formal notice -- I beg your pardon, I  
16          should not have said hearing, we had one formal  
17          notice and you recall the circumstances of the  
18          conversation we had about that, of course.

19          Q   Yes, and would you recount those for the record,  
20          please, sir?

21          A   I beg your pardon?

22          Q   Would you recount --

23                           MR. MITCHELL:  Strike that.

24          Q   Let me ask you, Mr. Pipkin, was the --

25                           MR. MITCHELL:  I need to get that

1 Exhibit, Your Honor.

2 THE MASTER: The formal notice?

3 MR. MITCHELL: Yes, sir, the first one.

4 THE MASTER: It may not be in evidence.

5 A You're talking about the first formal notice?

6 MR. MITCHELL: Right.

7 THE MASTER: It may not be in evidence,  
8 Mr. Mitchell.

9  
10 (Discussion off the record.)

11 MR. ODAM: Your Honor, before we proceed  
12 into this again, I would assert the objec-  
13 tion of relevance as to what was presented  
14 on direct examination. All that the examiner  
15 simply did was complete the record and put  
16 in the letter to Judge Carrillo and the  
17 response back to it.

18 It appears to me at this point from  
19 the questions and the answers elicited so  
20 far that we are going into matters that Mr.  
21 Mitchell has set forth in his pleas in  
22 abatement and special exceptions with regard  
23 to the proceedings, the timing of the pro-  
24 ceeding, the rules, et cetera.

25 I don't see the relevancy at this point

1 to the answer. The first -- to the original  
2 notice, et cetera, and I object on the  
3 grounds of relevancy.

4 THE MASTER: Well now, I am not sure  
5 I understand, of course, you don't stand on  
6 the proposition that Counsel is limited in  
7 cross to what you offered in direct, do you?

8 MR. ODAM: Well, Your Honor --

9 THE MASTER: That is the federal rule  
10 but that is not the state rule.

11 Now, if this is -- I am not sure what  
12 it does to --

13 MR. ODAM: That is really my point,  
14 Your Honor. I don't know what defenses have  
15 been alleged that goes into this. I think  
16 it goes into matters that raises defenses  
17 as a matter of law, the plea in abatement  
18 and due process. But I don't see where it  
19 goes into the defenses with respect to  
20 general denial or merits of the case.

21 I do not think it is relevant to those.  
22 I do not think it is relevant to the pleas  
23 in abatement and special exceptions and,  
24 therefore, as we have decided earlier, would  
25 not be made a part of the record at this



1 time to go into it.

2 MR. MITCHELL: Your Honor, as stated  
3 at the outset of my cross-examination I have  
4 never succeeded to the proposition that a  
5 litigant on direct can authenticate written  
6 documents and close the door to inquiry into  
7 the input into those written documents.

8 I am trying to -- I am trying to hold  
9 to a narrow line of relevancy to simply  
10 proving the input into the documentation  
11 that leads to and including the first amended  
12 notice of formal procedure.

13 At that point, I will probably quit and  
14 call him back in connection with testimony,  
15 Your Honor, that relates to the abatement,  
16 et cetera.

17 THE MASTER: What is the relevance of  
18 input that gives rise to pleadings?

19 MR. MITCHELL: Well, particularly in  
20 this case, Your Honor, where the issue was  
21 joined back in May of 75 on the preliminary  
22 investigation, our position would be that  
23 the investigation was terminated at that  
24 point effectively, but for the fact that we  
25 have a formal notice of procedure -- a formal

1 proceeding notice which was in August and  
2 I simply want to trace the history of that  
3 formal notice into the present one that we  
4 are trying the case on.

5 THE MASTER: Why?

6 MR. MITCHELL: Because I feel, Your  
7 Honor, that it becomes relevant, particularly  
8 in line with the dictates of the rule that you  
9 have a preliminary investigation and you  
10 are bound by that preliminary investigation  
11 either to terminate it or file a formal  
12 notice of hearing.

13 We have an amended formal notice of  
14 hearing that we don't have a preliminary  
15 investigation on.

16 THE MASTER: Doesn't that, in fact, go  
17 to your plea in abatement and not to any  
18 defense?

19 MR. MITCHELL: Well, certainly it spills  
20 over, Judge Meyers, I'm not going to quibble  
21 with the Court on that, it does. But, I am  
22 trying to focus in on simply the continuity,  
23 the verbal testimony and the documentary  
24 testimony as relates to those exhibits which  
25 he introduced into evidence by this witness.

1 MR ODAM: Well, on that one point,  
2 what I introduced by this witness was a  
3 letter to Mr. -- to Judge Carrillo and intro-  
4 duced the response back from that. That is  
5 asfar as we went and it appears to me by  
6 going into the answers, he is going into  
7 the matters on the plea in abatement.

8 THE MASTER: Well, it does to me, too.  
9 I think you are going to do it at one time  
10 or another, but I thought perhaps the orderly  
11 procedure would be to cover the factual  
12 disputes and the procedural problems, cover  
13 them when we finish the hearing, if we do,  
14 on the plea in abatement because that seems  
15 to me that that is all that this goes to.

16 MR. MITCHELL: Unfortunately then, I  
17 am not a very good advocate. It has a clear-  
18 cut relevance to me, Judge Meyers, on this  
19 the charging documents which he has authenti-  
20 cated and produced and I think that verbal  
21 input is important. It is not dealing with  
22 a conventional pleading in a conventional  
23 case. We are dealing with a case that is  
24 bound by strict rules and I think that before  
25 I can call him back down the line in connection

1 with the inquiries that I am going to make  
2 further with our preliminary motions and  
3 our pretrial motions, the record needs to  
4 stand clearly and I think this is the time  
5 for the record to be made on what really  
6 did happen that ended up in the first amended  
7 notice of formal proceeding.

8 But, Judge Meyers, I am not so up tight  
9 about it that I couldn't conform with that  
10 rule just as graciously as anything I can do,  
11 just as the Court suggested, and terminate  
12 it at this point and call him back and go  
13 into it at that point. It would be whatever  
14 the Court wants, I just thought at this  
15 particular point would be an ideal time to  
16 at least get the skeleton outline for the  
17 Court and the record.

18 THE MASTER: I may change my ruling,  
19 but at this time I sustain the objection.

20 MR. MITCHELL: And that objection was  
21 now, so that I am not going to --

22 THE MASTER: Irrelevant, really, on  
23 any aspect of the merits of the case. I am  
24 not quite sure in all candor, Mr. Mitchell,  
25 what the relevancy was of the introduction

1 of the documents in issue, except I call  
2 it to counsels attention that they had been  
3 marked but not identified, either this morn-  
4 ing or yesterday -- I guess yesterday.

5 MR. MITCHELL: Oh, I see, Judge, I see,  
6 I didn't know that. I had heard the Court  
7 make that observation but what I really  
8 wanted to do, Judge, was simply to carry --  
9 bring the record -- I think the record should  
10 reflect what has transpired, the conversa-  
11 tions, et cetera, of those tightknit rules.

12 Now, that is really what I am doing,  
13 the tightknit rules, you have preliminary  
14 investigation and you have alternatives and  
15 if you don't, you have one of them, it is  
16 a formal notice and I say that a preliminary  
17 investigation and a joinder of an issue, or  
18 non-joinder of an issue precedes every formal  
19 notice and it wasn't done, and I am not  
20 going into that but I just wanted to put the  
21 skeleton down on the board. Now, Judge  
22 Meyers, I can live with the ruling.

23 THE MASTER: I will sustain it at this  
24 time. I am mulling it over, is what I am  
25 doing, Mr. Mitchell, and I don't want to take

1 the time to reflect on it.

2 MR. MITCHELL: All right.

3 THE MASTER: Away from the --

4 MR. MITCHELL: I understand.

5 THE MASTER: Away from the witnesses.

6 MR. MITCHELL: I understand, Judge  
7 Meyers, I appreciate that, yes, sir.

8 THE MASTER: So do you have anything  
9 further with Mr. Pipkin?

10 MR. MITCHELL: No, Your Honor, I was  
11 going to ask him of the conversation that  
12 occurred with anybody else -- well, strike  
13 that, I was going to ask him as to R-20, if  
14 this was the notice of formal procedure and  
15 then the answer and any conversations that --  
16 and the input into the first amended notice  
17 of formal proceeding and the answer to it,  
18 and that was going to be my question.

19 He is an attorney, and, of course, he  
20 is the executive secretary, and let him sort  
21 of just detail it, but I can call him back.

22 THE MASTER: All right, sir.

23 MR. MITCHELL: Is that what the Court  
24 wants me to do or orders me to do?

25 THE MASTER: That is what I would like

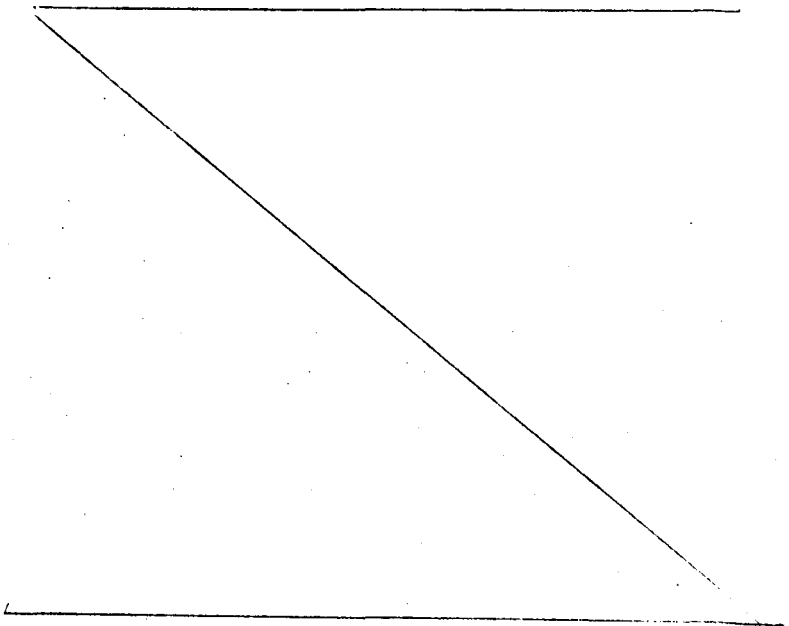
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to do at this time.

MR. MITCHELL: Note our exception on the limitation to right of cross-examination.

THE MASTER: I reserve the right to reverse myself on that, Mr. Mitchell, and my ruling is that I don't think it is admissible on the merits, but it may well be admissible on the preliminary pleas, in fact, I think it is.

MR. MITCHELL: I didn't mean to flaunt the Court's ruling. As the Court knows, I am a lawyer and I need to protect the record.



1 THE MASTER: Do you have anything else  
2 of Mr. Pipkin?

3 MR. MITCHELL: No, sir.

4 THE MASTER: You may step down.

5 MR. ODAM: Your Honor, I do have one  
6 further question.

7 THE MASTER: All right.

8

9

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

11

12 BY MR. ODAM:

13

14 Q Mr. Pipkin, I show you what has been marked as  
15 Examiner's Exhibit 4, which is the answer to the  
16 notice of formal proceedings, and ask you if you  
17 can identify this document.

18

19 A Yes, I think this is an instrument submitted to us  
20 by Mr. Mitchell originally.

21

22 Q This is the answer to the notice of formal  
23 proceeding?

24

25 A Right.

26

27 MR. ODAM: We offer in evidence  
28 Examiner's Exhibit 4.

29

30 THE WITNESS: I am not sure of what  
31 answer, whether that was to the first formal

32



1 notice or the amended notice.

2 MR. MITCHELL: It is my answer to the  
3 original notice of formal proceeding.

4 THE MASTER: Was there any answer to this  
5 amended notice?

6 MR. MITCHELL: Yes, that is the fifteen  
7 pound document.

8 THE MASTER: Of course, yes, sir, and as  
9 the answer, it is admitted.

10 (Examiner's Exhibit E-4 was admitted  
11 into evidence.)

12 MR. ODAM: Pass the witness.

13 MR. MITCHELL: He has gone back into the  
14 answer to the first notice of formal  
15 proceeding and I would like to cross-examine  
16 this witness as to the flow of the  
17 documentation and the conversations that  
18 were the input to that document, that is  
19 integrated into that.  
20

21 THE MASTER: Not at this time.

22 MR. MITCHELL: Note our exception to  
23 the Court's ruling, specifically that counsel  
24 has reinvited cross-examination on this and  
25 we object to the right denied to the cross-

1 examination.

2 MR. ODAM: The Court raised the point  
3 earlier as to the relevancy and I don't know  
4 if it is the same objection on the answer,  
5 but this is being submitted on that  
6 truthfulness in matters in this proceeding.

7 THE MASTER: That is what I understand.  
8 If they constitute admissions, they  
9 constitute evidence?

10 MR. ODAM: Yes.

11 We pass the witness.

12 MR. MITCHELL: I don't have any other  
13 questions on cross-examination other than  
14 those opposed and objected to and sustained.

15 THE MASTER: You may step down.

16 MR. ODAM: We call as our next witness  
17 Mr. John Gaston.

1 JOHN GASTON,

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. ODAM:

7  
8 Q Would you please state your full name?

9 A My name is John Gaston.

10 Q Where do you reside?

11 A I live in San Antonio, Texas.

12 Q What is your profession?

13 A I am a professional real estate appraiser.

14 Q What is your age?

15 A I will be 72 in February of this coming year.

16 Q How long have you been engaged during this period  
17 of time as a real estate appraiser?

18 A Well, I signed my first real estate appraisal,  
19 I think, back in 1938 and at that time I was  
20 employed as manager for an Eastern life insurance  
21 company based in Houston.

22 Q So that would be 37 years, approximately, of real  
23 estate appraisal?

24 A Something like that. I went in business for myself,  
25 I believe, in January, 1943, and I was making real

1 estate appraisals then and also brokerage, but I  
2 have not done any brokerage since 1952.

3 Q In the real estate appraisals you have done for the  
4 past 37 years, what percentage of that was done in  
5 the State of Texas?

6 A All of it.

7 Q What percentage of it in South Texas?

8 A All of it. I have not appraised anything further  
9 west than Hondo and I have appraised as far east  
10 as Beaumont.

11 Q What is your educational background?

12 A I didn't take a degree, but I went to SMU.  
13 I had enough hours to be a junior and I didn't  
14 take the formal degree.

15 Q What did you study at the time you were there?

16 A I was intending to take a B.A. degree. I took  
17 English and math and subjects of that nature.

18 Q Have you had occasion, during your 37 years of real  
19 estate appraisal, to join any professional  
20 organizations connected with the profession?

21 A Yes, sir, I am a member of the Society of Real  
22 Estate Appraisers. We have a chapter, number 65,  
23 in San Antonio. I am what they call an SRA member  
24 of the Society. That is designated as a Senior  
25 Residential Appraiser.

1 Q I take it you have had occasion to make residential  
2 appraisals in the past?

3 A Yes, definitely. I am a member, and still am, of  
4 the Veterans Administration of the appraisers and  
5 have been for 22 years, now.

6 Q By whom have you been approved to be a fee appraiser  
7 other than the Veterans Administration?

8 A Well, I took an introduction course and passed an  
9 examination before the Federal Housing Administration  
10 in San Antonio and was placed on their fee panel  
11 nearly ten years ago. I am a member of the fee  
12 panel of appraisers for the Urban Renewal and also  
13 the State Highway Department in San Antonio and  
14 here in Corpus Christi as well.

15 I am approved by the Government Employees'  
16 Credit Union in San Antonio. I have made  
17 appraisals for Bexar County in the road department  
18 and I have made appraisals for banks.

19 Q What banks have you made appraisals for?

20 A Westside State Bank, Broadway National Bank --

21 Q Have you had occasion to do appraisals for  
22 individuals or attorneys?

23 A Yes, a number of times.

24 Q Would you be able to estimate the number of  
25 appraisals of real property in the past 37 years?

1 A I could not give you an exact figure, but it would  
2 run at least five or six thousand houses or maybe  
3 more.

4 Q Have you had occasion to appraise any property in  
5 Duval County?

6 A Yes, just this one property about which I am going  
7 to testify.

8 Q What prompted you to make the appraisal of that  
9 property?

10 A You called me by long distance telephone and asked  
11 me to accept the assignment and I said I would.

12 Q Had we met prior to that time?

13 A No, sir, not until last night.

14 Q Prior to me contacting you, did anyone else contact  
15 you?

16 A No, sir.

17 Q Did anybody raise the possibility with you of that  
18 appraisal taking place from the Highway Division?

19 A Sir?

20 Q Did anyone with the Highway Department contact you  
21 prior to that?

22 A Mr. C. W. Pearson, who is attached to the Highway  
23 Department. I had worked on cases with him in the  
24 past and he contacted me. I was testifying in Sinton  
25 two or three weeks ago and he left your telephone

1 number with me and told me to call you. That is  
2 how I got in touch with you.

3 Q As a result of those contacts by me, you had an  
4 occasion to make an appraisal of his property in  
5 Duval County?

6 A Yes.

7 Q Can you describe the property?

8 A The property I appraised is located on what is  
9 known as the north half of Lot 9, Block 18,  
10 Westside Addition to the City of Benavides. This  
11 is a one and a half story frame residence with  
12 dormer windows in the front and back protruding  
13 out from the roof.

14 Q In the course of the appraisal you did, did you  
15 determine who was the owner of that piece of  
16 property?

17 A Yes, I first went to the Benavides Independent  
18 School District Office expecting to find information  
19 there. In fact, in every county I have ever visited  
20 in before, the School District is probably more  
21 up on their toes as to ownership and the details of  
22 the real estate in their district than perhaps the  
23 county tax assessor. I got there and they got out  
24 what they used for records and they showed me a  
25 plat which turned out to be erroneous. They showed

1 the property in the name of Mrs. Celia Guajardo.  
2 The lot they showed me, Lot 9 -- well, I had  
3 already driven around the block that had been  
4 pointed out to me and I could see that the plat  
5 the school district had didn't fit this block at  
6 all. Then, I inquired over at what used to be the  
7 old city hall in Benavides where the city gas  
8 department is now located and they looked up some  
9 old city maps which were quite old. I could not  
10 find any dates on them, but they showed a plat of  
11 this block and I talked to them and I learned  
12 there had been a former tenant of this property  
13 by the name of Juan Rivera and they showed me his  
14 meter reading cards up to August, 1970, when he  
15 vacated. I identified the man that actually read  
16 the meters and knew this property thoroughly as to  
17 its location. I asked him to point the house out  
18 to me and that was the house that was located on  
19 this north half of Lot 9.

20 Q After examination of the house, or observing the  
21 house, what, in your opinion, as a real estate  
22 appraiser, would be the best and highest use of  
23 that property?

24 A That is as a residential purpose.

25 Q Do you recall the -- did you have occasion to examine



1 the county deed records to determine to whom the  
2 property belonged?

3 A Yes, I went to the Guaranty Abstract Company in  
4 Alice and they specialize in work in Jim Wells and  
5 Duval Counties and had them look up the chain of  
6 title to this particular property and they showed  
7 a deed into -- I believe it was O. P. Carrillo, and  
8 then a deed into a man named Manges.

9 Q Did also, in the course of your investigation, you  
10 determine what the taxes were on the property?

11 A I could not find out exactly, but at the Benavides  
12 School District Office, they showed only it was a  
13 vacant lot and there were no taxes for it. There  
14 was something assessed at one hundred seventy-nine  
15 dollars only for the lot.

16 Q Were there any other assessments or improvements?

17 A No, sir.

18 Q What type of neighborhood was this house in?

19 A Well, it is a residential neighborhood. In small  
20 towns like Benavides, houses are spotted, but this  
21 essentially is a residential neighborhood. There  
22 are other residences in the same block.

23 Q Did you determine whether or not there was water,  
24 sewer and gas?

25 A Yes, all of the utilities were available.

1 Q What type of covering is there on the street?

2 A It is asphalt, a paved street. It doesn't have any  
3 curb or concrete cross-walk.

4 Q Mr. Gaston, in your appraisal work, it is my  
5 understanding there are various approaches to  
6 determine the fair market value of property.  
7 Could you explain what those approaches are called?

8 A Well, there are three basic approaches. One is  
9 called the cost approach, one is the market  
10 data approach and the other is known as the income  
11 approach. They don't all necessarily lend them-  
12 selves to an appraisal of any particular property.  
13 There are three approaches that could be employed,  
14 however.

15 Q Would the income approach be applied to determine  
16 the fair market value of this property?

17 A Not at all.

18 Q Why would that be?

19 A I have learned what the rental income was at the  
20 time the property was last occupied in 1970, but in  
21 order to develop an income approach, you have to have  
22 the concise record of the expenses to operate the  
23 property versus income. That is generally used in  
24 appraising of income properties as such, that is,  
25 such as an office building or property upon which

1 accurate and detailed books are kept on maintenance  
2 costs and so forth.

3 Q Now --

4 A That information was not available in this case.  
5 It is never used among appraisers or anyone else  
6 to appraise a residential property, or at least  
7 a single-family residence.

8 Q You mentioned the non-use of the income approach.  
9 You did mention in your statement you determined  
10 the rent paid.

11 To what approach would the rent apply, would  
12 that apply to the market data or --

13 A Yes, market data.

14 Q All right. We will stop then and discuss the  
15 market data approach. In determining that approach,  
16 did you determine exactly what the rental had been  
17 on this house?

18 A Yes, sir, as I said, I learned from the gas  
19 company records that the last tenant had occupied  
20 this house for four or five or six years or longer,  
21 but he vacated it in August, 1970. His name was  
22 Juan Rivera, Jr. He had been the football coach  
23 at the Benavides High School, or at least an  
24 assistant to the coach. He had moved to San  
25 Antonio and is now an assistant coach for football

1 at Thomas A. Edison High School and I contacted him  
2 when I got back to San Antonio. He told me he had  
3 paid \$50 a month rent from the time he first  
4 occupied that property in 1963 until he vacated it  
5 in 1970.

6 Q Did you ask him whether he considered that to be a  
7 fair rental?

8 A I dwelled upon that with him at some length. I  
9 wanted to get his full reaction as to whether he  
10 thought that was a fair rental or whether he was  
11 getting a concession from the fact he was getting  
12 a concession from the fact he was a football  
13 coach. He said he thought it was a fair rental  
14 and not worth a nickle over that. In fact, he  
15 made a statement to me, if they had charged any  
16 more than that, he would not have taken the house.

17 Q Did you have occasion, in going through the market  
18 data approach, to determine the sale price of any  
19 other properties in Benavides or Duval County?

20 A Well, as I said, I inquired at the courthouse and  
21 at the county clerk's office and at the tax office  
22 and also at the Benavides Independent School  
23 District Office. I had the Guaranty Title Company  
24 run records of sales, looking for sales in Benavides,  
25 and they didn't produce any. I went back and

1           scouted for sales myself, personally, and finally  
2           found two sales. I needed sales, since I was  
3           trying to evaluate the value of the house and I  
4           needed sales of 1970. I did find two.

5           Q What was the total price on those two sales?

6           A One sold for \$5,500 and the other one for \$4,500.

7           Q Did you have occasion to examine --

8           A Yes, I did.

9           Q The two sales?

10          A Yes.

11          Q Would you consider the --

12          A I went out and looked at the houses and confirmed  
13          the sales with the occupants, the people that had  
14          bought those houses.

15          Q And did you --

16          A One man's name was Garza, and the other man's  
17          name was Saenz, I believe.

18          Q That would be -- Lobirio?

19          A Lobirio.

20          Q Lobirio Saenz?

21          A Yes, sir.

22          Q And the other one was Garza. Samuel Garza?

23          A Yes.

24          Q All right.

25          A Now, Mr. Garza, I believe, bought from Mr. Frank

1           Vaello, and Mr. Saenz, Lobirio Saenz, bought from  
2           another man by the name of Garza. I have his name,  
3           his full name, if that is necessary.

4           Q That would be Benito V. Garza?

5           A Benito V. Garza. He sold to Mr. Lobirio Saenz.

6           Q And you talked with the purchasers of those two  
7           pieces of property?

8           A Yes, sir, I did.

9           Q And you had occasion to see those two pieces of  
10          property?

11          A Yes, sir, I did.

12          Q And your opinion as a real estate appraiser, would  
13          those two pieces of property be similar or compara-  
14          ble to the piece of property in question?

15          A Well, of course, I spoke -- we all know that there  
16          are no two exact pieces of property. However, I  
17          think that these two properties which are both  
18          single family residences have that degree of com-  
19          parability with the subject property which is a  
20          single family residence. They were both older  
21          houses.

22                    I was unable to determine exactly the age  
23          of the comparable sales, but from looking at them,  
24          I could see that they are both more than twenty  
25          years old, and I thought that was a comparable

1 feature.

2 They were one story single family residences,  
3 but each one had three bedrooms and a bath, whereas  
4 the subject property had four bedrooms and a bath  
5 and a half.

6 Q Your examination revealed that the property in  
7 question deeded from O. P. Carrillo to Clinton  
8 Manges has not been occupied to the best of your  
9 knowledge since Mr. Rievera moved out?

10 A From the inquiry I made, among different people  
11 around Benavides, it appeared that that house had  
12 not been occupied.

13 MR. MITCHELL: Pardon me, Mr. Gaston,  
14 Your Honor, we object and move to strike as  
15 hearsay while we are appreciative of the  
16 rules that apply to the preliminary inquiry  
17 on an expert, this line of testimony goes  
18 afield from that basic rule on the question  
19 of the whys and wherefores of the occupancy  
20 and consequently we object.

21 THE MASTER: The object on is what?

22 MR. MITCHELL: Hearsay, Your Honor.

23 THE MASTER: Well, with respect to the --

24 MR. MITCHELL: And pardon me, Judge,  
25 hearsay and no personal knowledge. It would

1                   be speculation.

2                   THE MASTER: Well, with respect to the  
3                   tender of some of this testimony, but perhaps  
4                   not all of it, testimony as what he learned  
5                   from other sources with respect to the  
6                   occupancy that is not probative, that it  
7                   was not, in fact, occupied but it is admitted  
8                   to show the basis of his opinion. Do you  
9                   wish to take issue with that?

10                   MR. ODAM: No, Your Honor.

11                   Q My last question, Mr. Gaston, related to apparently  
12                   Mr. Rievera, that was the person that apparently  
13                   occupied the house.

14                   I assume then that perhaps the -- well,  
15                   would it appear from outside observation that the  
16                   questioned property might have been, since it was  
17                   not occupied for that period of time, in what  
18                   degree of repair or upkeep?

19                   A Well, I was instructed, you instructed me not to  
20                   go on to the property and so I was unable to  
21                   inspect the interior of this house. I could only  
22                   look at it from the exterior, which I did from the  
23                   street.

24                   Q And do you recall why I instructed you not to go  
25                   on the property?



1 A You told me that you had requested permission from  
2 the owner who had declined.

3 Q Mr. Manges?

4 A Yes, Mr. Manges, but I never did meet Mr. Manges  
5 or talk with him. But I only could see the --  
6 observe this property from the street and it  
7 appears that it has been subject to some vandalism,  
8 unusual wear and tear, which all vacant properties  
9 suffer.

10 O Certainly.

11 A If it just sits there vacant.

12 Q Yes, sir.

13 A It had the appearance to me, of course, this is  
14 my opinion, but I have looked at a few thousand  
15 houses in my day, and it has the appearance of  
16 having sat there quite a while vacant. I wouldn't  
17 know how long.

18 Q But I take it that the comparable sales that you  
19 examined were not obviously, since they were lived  
20 in, in such a state of repair

21 A Well, I didn't get to see these comparable sales  
22 at the time of the sale, you understand. They  
23 have been repaired.

24 Q Yes, sir.

25 A And sort of added on, remodeled and had good

1 maintenance since they had been sold and are now  
2 occupied. The people that occupy them now are  
3 both regularly employed, good solid citizens.

4 Q Yes, sir.

5 A And they are keeping those properties up pretty  
6 well.

7 Q So the two sales which, in your opinion, were com-  
8 parable that took place back during --

9 A They took place back in 1970.

10 Q In 1970, were sales for \$5,500 and \$4,500?

11 A That's right.

12 Q Now, based upon those comparable sales, did you,  
13 and in going through the market data approach,  
14 did you arrive at an opinion as to what the fair  
15 market value would have been for the house in  
16 question, if it had been sold in October, 1970?

17 A I did. We haven't touched upon the -- what I  
18 think is one of the -- as strong a point to be  
19 considered as any other, and that is it's indicated  
20 value based upon it's rental value. It's indicated  
21 market value, as reflected by it's rental value.

22 Now, this house was rented for fifty  
23 dollars a month, and had been so rented for a  
24 number of years and it has been my experience over  
25 the years, and I have employed -- and I have used

1 this technique many, many times successfully, that  
2 properties that -- residential properties that are  
3 in -- rented to more or less lower income people  
4 will sell for, from about a hundred and twenty  
5 times to a hundred and forty times their monthly  
6 rental.

7 I was unable to document that in Benavides  
8 in Duval County, there wasn't enough market  
9 data available. Where you have to know -- the  
10 appraisers must know to use this multiplier tech-  
11 nique, you must know the rental of the property  
12 at the date of sale. Not what it might have  
13 rented for a month later or six months later,  
14 or six months prior, but on the date of the sale  
15 you had to know what the market, what the rental  
16 value actually was or what was actually being  
17 paid in rent.

18 The relationship between that and what the  
19 property sells for can be established by merely  
20 dividing the sale price of the property by the  
21 monthly rental and I have done that in Bexar County,  
22 especially once I had developed -- one time in  
23 some appraisal work I had, I developed as many  
24 as seventy-five such sales and I have watched  
25 the development of these multipliers over the

1 years and they are pretty constant, they will run  
2 from about a hundred -- sometimes lower -- a  
3 hundred and twenty, sometimes lower, as low as  
4 a hundred maybe, and up to about a hundred and  
5 forty.

6 In fact, the V.A. and the F.H.A. both, the  
7 V.A. I know especially, has insisted on -- and do  
8 insist on every residential appraisal that the  
9 appraiser must indicate that market -- that multi-  
10 plier that he thinks would express the value of  
11 the property as well as compare it with comparable  
12 sales.

13 The one technique is sort of to balance and  
14 to be compared with what is produced in the techn-  
15 que, that is comparing the sales as well as compar-  
16 ing it with using the market data, and it's rental  
17 influence to see how they balance out.

18 Now, I did that in this property. I didn't  
19 have as many sales as I would like to have developed,  
20 I only had two, but I thought that in my experience,  
21 in looking at the house and what I could see, I  
22 thought this house was worth a little bit more than  
23 those two properties, probably both on the date  
24 of their sales, and it's rental, it's actual bona fide  
25 rental was fifty dollars a month and I applied that.

1 and I think that is the high multiplier for that  
2 which is a hundred and forty.

3 I don't -- I have never seen a house of that  
4 type sell for more than a hundred and forty times  
5 it's monthly rent, so a hundred and forty times  
6 it's monthly rent of fifty dollars would produce  
7 an estimated value of seven thousand dollars,  
8 which, as I say, is a little more than those two  
9 other sales brought, but I thought it was logical  
10 and realistic.

11 Q And at the low range multiplier, a hundred and  
12 twenty, that would be six thousand dollars?

13 A Yes, six thousand -- a hundred and twenty times  
14 fifty, yes.

15 Q So that would -- in your opinion it would be on  
16 the high range of that?

17 A Well, yes, you see that is where your comparable  
18 sales have got to be used. If I had used a  
19 hundred and twenty as a multiplier times fifty, I  
20 would have an indicated value of six thousand  
21 dollars.

22 Whereas, one of these houses brought fifty-  
23 five hundred dollars and I think this house is  
24 worth more than that fifty-five hundred dollars,  
25 using -- dating it all back to 1970.

1 Q So in your opinion the fair market value in 1970  
2 would be --

3 A It would be seven thousand dollars.

4 Q Seven thousand dollars?

5 A Yes.

6 Q In the process of making the appraisal of this  
7 property, did you have occasion to -- well, I  
8 see that you have --

9 A This is a file copy.

10 Q And this is the copy you were referring to a  
11 while ago for some of your information, for your  
12 testimony here today, as to names, et cetera?

13 A Yes, sir.

14 Q And I show you what is indicated as an appraisal  
15 report and ask you if you have seen this document  
16 before?

17 A This is the original appraisal report, yes, sir.

18 Q All right.

19 MR. ODAM: I will ask the court  
20 reporter to mark it as the next Examiner's  
21 Exhibit.

22 (Marked for identification by reporter  
23 as Examiner's Exhibit E-41.)  
24  
25

1 Q Mr. Gaston, I show you what the reporter has  
2 marked as Examiner's Exhibit 41 and, first of all  
3 I will ask you if this is an appraisal report  
4 prepared by you and is signed by you with the  
5 certification?

6 A Yes, sir, it is.

7 Q And in the appraisal report there is a -- several  
8 photographs, for example, on page two, a photo-  
9 graph of the subject property?

10 A Yes, sir.

11 Q Did you take this photograph?

12 A I did.

13 Q On the next page there is a --

14 A A sketch of the -- of the floor plan as best I  
15 could develop it from observing the house from the  
16 outside, and from talking with Juan Rievera, who  
17 was the tenant.

18 Now, this next page, I want to make a com-  
19 ment about this.

20 Q Page 3A?

21 A Yes, sir.

22 Q All right.

23 A At the top of page 3A I have made a sketch here  
24 showing the way the plat is set out on the  
25 Benavides Independent School District records.

1 and at the bottom of the page, I show a copy that  
2 I made in pencil from the plat on the record at  
3 the county courthouse, in the county clerk's office,  
4 and it shows nine lots.

5 I put the street numbers and the street  
6 names on this lower plat. I put those street  
7 names, taking them from the old records that used  
8 to be over at the city hall, and I am not really  
9 sure that these street names even show on the  
10 county records.

11 Q Yes, sir.

12 A That is the only discrepancy.

13 Q Yes, sir.

14 A I put them there for your information. There are  
15 no street signs that I found in Benavides and  
16 even the people that live on the two comparable  
17 sales, they don't know the name of the street that  
18 they were living on.

19 Q And the comparable sales indicate at page 5A and  
20 5B, there appears to be photographs here. Did  
21 you have occasion to take those photographs your-  
22 self?

23 A I took them both, yes, sir.

24 Q All right.

25 MR. ODAM: Your Honor, at this time we



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would offer into evidence Examiner's Exhibit No. 41.

MR. MITCHELL: Objection, hearsay, beyond the scope of inquiry and no proper authentication particularly as to the photographs. Your Honor.

THE MASTER: Objection overruled and the Court is admitting it.

MR. ODAM: Pass the witness.

- - - - -

E X A M I N A T I O N

BY MR. MITCHELL:

Q Mr. Gaston, let me ask you, please, sir, some preliminary questions. The methods that are used by appraisers, I believe you identified as the market data approach?

A Yes, sir.

Q Cost approach?

A Yes, sir.

Q And what are the other methods?

A And the other is the income approach.

Q The income approach being generally applied to

1 property that produces an income as indicated by  
2 the method, the name of the method?

3 A Yes, sir, that is right.

4 Q Capitalization of the income, reducing to present  
5 worth, knowing fully the income, the expenses on  
6 the subject property?

7 A That is right.

8 Q Am I correct?

9 A Yes, sir. The income approach, I thought I had  
10 already explained that, that is used in commercial  
11 property where there may be one or more or maybe  
12 several tenants, all in one property.

13 Q Did you employ -- well, the reason for my ques-  
14 tion was that the property here you treated as  
15 residential property and applied the market data  
16 approach?

17 A That's right.

18 Q And check your market data approach with the  
19 comparable sales approach, am I correct?

20 A Well, the comparable sales approach is a part of  
21 the market data approach.

22 Q All right, and the comparable sales is not an  
23 independent approach, you will agree, won't you?

24 A I won't agree with that in every case. Sometimes  
25 the comparable sales are the only reliable data

1 that is available.

2 Q You disagree then with the statement that the  
3 comparable sales approach is the most dangerous  
4 approach in that it is not an independent approach,  
5 but in fact a cross-check on the market data  
6 approach or on the income approach.

7 A Now, the income approach can only be -- cannot  
8 be employed. I have never seen it employed. I  
9 have never known it to be employed in a single --  
10 for -- to appraise a single family residence.

11 Q I am going to get to this in a minute, Mr. Gaston.

12 A Yes, sir, now --

13 Q What I am asking about is the device of a compara-  
14 ble sales, I need to get an understanding of what  
15 your testimony is to continue my cross-examination.

16 Is, or is not, the comparable sales approach  
17 a very dangerous approach when it is used indepen-  
18 dent of either the market data approach or the  
19 income approach in determining market value?

20 A Sir, no, I don't think it is a dangerous approach.  
21 In fact, there are many cases where we don't use --  
22 where we rely very heavily upon the market data  
23 approach. Now, you say the market data approach,  
24 and then you say the comparable sales approach.  
25 Well, they are one and the same thing.

1 Q All right.

2 A The use of the comparable sales is a part of the  
3 market data approach.

4 Q It is not a cross-check?

5 A No.

6 Q On the market data?

7 A No, the use of the comparable sales is a part of  
8 the market data.

9 Q And, of course, you --

10 A And in this case, I had the two comparable sales  
11 as well as the rental income which also is a  
12 part -- I used as a part of the market data.

13 Q And that was going to be my next question, why  
14 when you had a piece of property which was the  
15 subject property for appraisal, that was, as  
16 you were able to determine by talking to the tenant  
17 primarily, used as an income property, you did  
18 not use the income approach rather than the  
19 market data approach. Did you have a reason that  
20 you can tell us?

21 A Well, I said that -- I thought under the direct  
22 examination here that the only information you  
23 could develop from the single family residence,  
24 that is reliable, would be it's rent. If there  
25 were a set of -- if there were a set of books

1 maintained by the owner, the lessor, reflecting  
2 the actual maintenance cost, from day to day,  
3 month to month, the actual tax payout, the actual  
4 insurance cost and any other cost that he might  
5 have, if those -- if that data were available, it  
6 would be possible to develop an income approach  
7 and wind up with some net income.

8 Q Which you could capitalize for the useful life --

9 A Which you could capitalize, but there again it is  
10 not a sound approach for residential property for  
11 this reason: When you have the net income which  
12 would be just a small part of the gross monthly  
13 rent, I would have that net income and you can  
14 multiply by twelve to get the annual net income  
15 and then you wouldn't know what rate to capitalize  
16 at.

17 Q You could project it to a formal and usual  
18 capitalization of ten, fifteen or twenty years,  
19 couldn't you, which you customarily --

20 A Now, properly, I don't know how -- many appraisers  
21 might do it that way, but the classic way of  
22 doing it and the proper way of doing it would be  
23 to have other market sales where you have the  
24 income -- the net income established, reliably,  
25 and to see at what rate they did actually sell to

1 produce capital.

2 Q Well, let me state to you, Mr. Gaston, my problem  
3 here with your approach, and that is that you  
4 have used the market data approach and as the  
5 footing and basis of your market data approach you  
6 used the figure of fifty dollars a month as being  
7 the gospel, which you projected to ascertain by  
8 applying a formula, which you say has been developed  
9 in your years of experience in appraisal in Bexar  
10 County to an increment of one hundred and twenty  
11 or one hundred and forty to come up with the market  
12 value of this property based on value and that  
13 approach using that artificial one hundred and  
14 twenty and one hundred and forty increment between  
15 six and seven thousand dollars.

16 Now, the problem that I have with that  
17 approach is first of all you're locking yourself  
18 in to a fifty dollar per month rental on a four  
19 bedroom, one and a half bath house. That is my  
20 first problem and secondly --

21 MR. ODAM: Your Honor, I would object  
22 first of all, the line of questioning, if  
23 that is a question as opposed to a statement,  
24 is argumentative and it would be better if  
25 he could couch a question as opposed to

1 explaining for the record what his diffi-  
2 culty is. Obviously, he is having difficulty  
3 with it, but that is not in the form of a  
4 question and I pose it is argumentative  
5 with this witness.

6 THE MASTER: I don't think it is all  
7 that argumentative. He will have to follow  
8 up.

9 MR. MITCHELL: Excuse me, Judge, I was  
10 trying to avoid what I got into yesterday,  
11 and I will go through each one of these  
12 items one at a time --

13 THE MASTER: The objection is overruled.  
14 When the objection is overruled, you quit  
15 talking and start asking.

16 Q Mr. Gaston, as a matter of fact, when you talked  
17 to Mr. Riviera, he told you he was the football  
18 coach, didn't he?

19 A Yes, sir.

20 Q And he said he rented it for about six or seven  
21 years?

22 A Yes, sir.

23 Q And that the tenancy terminated sometime in 1970?

24 A In 19 what?

25 Q When did the tenancy terminate?

1 A He indicated that he vacated that house in  
2 August, I believe, at the end of August in 1970.

3 Q And he told you that in his opinion it was a top  
4 rental of the property in 1970, am I correct?

5 A He said he thought that that was a fair rental  
6 for that house during the time he occupied it up  
7 until August of 1970, considering the condition  
8 of the house that it was in.

9 Q I assume the only time you have ever seen the  
10 house, and the only time you have ever been in  
11 the county, was within the last what --

12 A Yes, sir, that's right.

13 Q -- thirty days?

14 A Yes, sir.

15 Q You have to kind of project back what it looked  
16 like six years ago or five years ago?

17 A I am relying heavily, I will admit, I am relying  
18 heavily on what Mr. Riviera said the condition of  
19 the house was and he said that he thought fifty  
20 dollars a month rent was fair for that house at  
21 that time.

22 Q I thank you for that answer, but a four bedroom,  
23 bath and a half house rented to a high school  
24 coach for fifty dollars a month --

25

MR. MITCHELL: Strike that.



1 Q Let me ask you this, were you looking at actual  
2 rental value of fifty dollars or were you really  
3 looking to the concept of fair rental value?

4 A Well, we expressed it a little differently. We  
5 just usually say the economic rent, which is the  
6 fair market rental value and I was trying to find,  
7 to establish in my mind whether or not I thought  
8 fifty dollars -- whether I should rely on the  
9 fifty dollar a month being it's economic rent.

10 Q Assume, Mr. Gaston, that the economic --

11 MR. MITCHELL: Strike that.

12 Q What was your opinion based on, your inquiry as  
13 to the economic or fair economic rental value in  
14 1970 of this four bedroom, bath and a half house?

15 A Based upon the information that Mr. Riviera gave  
16 me as to the physical condition of the house and  
17 the small size of the rooms, and the fact that it  
18 had no central heat or even wall furnaces; it had  
19 little gas stoves to heat it, and the fact that  
20 the house was in bad physical condition, I finally  
21 came to the conclusion that he was right, that the  
22 fifty dollars a month was probably the economic  
23 rent.

24 Q All right, and you --

25 A I talked to another knowledgeable person in that

1 very neighborhood of this house, who knew this  
2 house and has lived there all of his life, and I  
3 asked him if he thought that rent was high or low  
4 and he said no, he thought that it was about a  
5 fair rent.

6 Q But you had enough presence of mind to make an  
7 inquiry to make sure that the rental wasn't really  
8 fixed in as a part of being a football coach and  
9 keeping him there?

10 A I checked into that, too, I tried to make an  
11 objective inquiry into that whole matter.

12 Q If that fifty dollars a month is correct, and  
13 using your one hundred and twenty to one hundred  
14 and forty increment is correct, then the six to  
15 seven thousand dollars is the reasonable market  
16 value using that market data approach?

17 A That's right.

18 Q If it is incorrect by, say, a hundred per cent,  
19 then naturally the market data approach figure  
20 would be incorrect, right?

21 A If it were -- it -- now, what is wrong by a  
22 hundred per cent, you mean?

23 Q If the rental.

24 A If the rental is understated, you mean?

25 Q Is understated, yes.

1 A Then I would say the property is worth more money  
2 if I could be convinced it had a higher rental  
3 value.

4 Q Or, if the input into the one hundred and twenty  
5 or one hundred and forty increment which you  
6 gathered by reason of your V.A. and F.H.A., in  
7 the San Antonio or Bexar County area, is not  
8 applicable or appropriate to the Duval County area,  
9 that would also affect the figure, am I correct?

10 A Well, if it is incorrect, yes. Of course, any-  
11 thing that is incorrect would force a change.

12 Q Sure, because when you make the approach to an  
13 appraisal problem, you identify first of all, do  
14 you not, the regional influence, isn't that part  
15 of the methodology which you use as an appraiser?

16 A Let me comment on that. When you express the value  
17 of a piece of property as it's market value, we  
18 are speaking of how much -- how much money the  
19 property can be converted into. We are talking  
20 about the accumulation of capital.

21 Q All right.

22 A Now money capital is a fluid thing, and if proper-  
23 ties are selling in one part of the state or  
24 county or city or nation at a higher -- on the  
25 basis to yield a higher rate of return, it attracts

1 capital from other parts of the state, the city,  
2 the county, the nation and has a tendency to  
3 buck up the competition for buying and that lowers  
4 the yield.

5 Q All right.

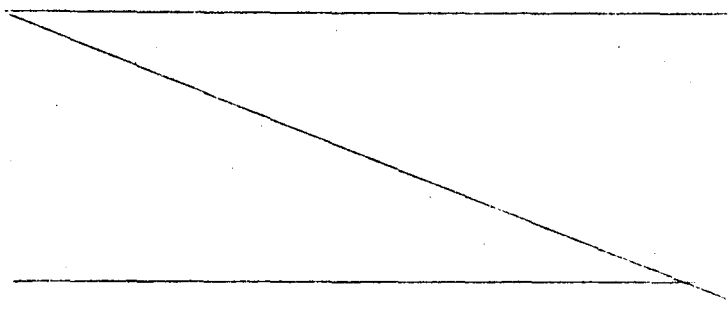
6 A So, these multipliers that I have developed over  
7 the years are real constants. They just don't  
8 vary much. If the rental value goes up, the sale  
9 price goes up, but the multipliers remain constant.

10 Now, I think the multiplier is a sound  
11 concept for Duval County or Bexar County or El Paso  
12 County or Harris County or any other county.

13 Q Well, the reason for my --

14 A I use them, not only in Bexar County, I have done  
15 more work in Bexar County and that is the reason  
16 I emphasize Bexar County.

17 The multiplier is a pretty constant thing.  
18 It doesn't vary much below a hundred and it  
19 doesn't go hardly above a hundred and forty.



1 Q It is, however, a product of your own personal  
2 experience in the Bexar County area?

3 A Well, I would say the bulk of my experience and  
4 testing of it, I would have to admit, would be  
5 in Bexar County.

6 Q Can you point to me a textbook that uses a concept  
7 of multipliers?

8 A I don't believe I can, but that doesn't prove it  
9 is not one of the best concepts, because now  
10 recently, this last year, in fact, I think this  
11 last summer, the V.A. has issued a letter to every  
12 fee appraiser in the United States instructing  
13 them to use the multiplier in residential  
14 properties. In the case of four units, where there  
15 is a good deal of income involved, they will not  
16 accept anything else.

17 Q But that is for the purpose of determining the V.A.  
18 guarantees on the property?

19 A That is right.

20 Q Mr. Gaston, are you an M.A.I.?

21 A No, sir, S.R.A.

22 Q The comparable sales here, the Garza sale and the  
23 Valleo sale, I believe, were not truly comparable,  
24 because, first, of the size of the dwellings?

25 A Well, that would not make them uncomparable. You

1 never do hardly find where the comparable sales  
2 have a comparable size of the subject property.

3 Q But that is ideal?

4 A Yes.

5 Q Were the comparable sales properties occupied by  
6 an owner or were they rented such as the Manges  
7 property?

8 A I am a little hazy on that. I think they both --  
9 I don't think they were occupied by the owners.  
10 I don't know whether they were vacant at the time  
11 of the sale or had been rented by the persons that  
12 bought them.

13 Q And you have no record of the income produced from  
14 them or if, in fact, they were rented?

15 A No, if I had, I would have used that.

16 Q Did you calculate the square footage of the Manges  
17 house?

18 A I was not able to. I would estimate the square  
19 foot area to be, on the two floors, a total of  
20 1,136 square feet, however, I don't represent that  
21 to be the actual figure. I --

22 Q Well, you --

23 THE MASTER: Let him finish.

24 Q Were you finished, please?

25 A Yes, sir.

1 Q Assuming 1,100 square feet, can you give us a  
2 rule of thumb on the cost today to build that house?

3 A The question would be the cost in 1970.

4 Q I understand, but could you give us that cost today  
5 of reproducing that home?

6 A The cost today?

7 Q Yes.

8 A I would estimate -- you can build a two-story house  
9 cheaper than a one-story. I would say the cost  
10 today would be about -- it doesn't have any central  
11 heat and no built-in kitchen equipment with range  
12 and hood and so forth, no carpet or so forth,  
13 and it was a very plain house. I would say you  
14 could build that house today for twelve and a half  
15 to thirteen dollars a square foot.

16 Q Where have you seen a contract let today for any  
17 kind of house for thirteen dollars a square foot?

18 A I make estimates of the cost of production for the  
19 V.A. I have been working and am at this time on  
20 that. I know some of the costs go as high as \$20.

21 Q Or \$25?

22 A Yes, but that is on a concrete slab and with carpet  
23 and central heat and air and built-in range, ovens  
24 and so forth; sliding glass door walls and patios  
25 and so forth.

1 Q I thought you told me and the court you didn't go  
2 into the house?

3 A I didn't.

4 Q Well, how do you know that it didn't have this  
5 equipment?

6 A I talked to Mr. Rivera. He said it didn't have a  
7 tile bath and didn't have tile floors in the bath  
8 and he said that the kitchen drain was a -- he  
9 described it to me, and I have seen them. He said  
10 it was a thin drainboard with a chromium trim.  
11 He thought it was covered with linoleum, but I  
12 think it was probably covered with Marlite. I  
13 don't know that, but I envisioned the house that  
14 way, because I have seen those drainboards with  
15 thin chrome around the edge.

16 Q Anybody that wanted to make their own calculations  
17 on the cost method of approach would not have a leg  
18 to stand on, then, based on that?

19 A No, sir, they would not.

20 Q Either that or using your figure, that and  
21 depreciating it back to 1970?

22 A Yes, and on the cost approach, an M.A.I. could not  
23 do that.

24 Q You just got through telling us you could take the  
25 Garza sale and Vallejo sale and then apply an



1 artificial multiplier of 120 to 140 and come up  
2 with a figure and it didn't bother you to do that,  
3 did it?

4 A I said, though, in qualifying that, that if the  
5 rental value is understated, the resulting figures  
6 would be underfigured.

7 MR. MITCHELL: Thank you. I believe  
8 that is all I have, Your Honor.

9  
10  
11 RE - EX A M I N A T I O N

12 BY MR. ODAM:

13  
14 Q Mr. Gaston, I show you what has been marked as  
15 Examiner's Exhibit 3. I quote from that and it  
16 says, "Under such trade, he received lot and house  
17 in Benavides owned by me and having a value of  
18 fifteen thousand dollars."

19 Assuming for the moment the property referred  
20 to there is traded as the same property you  
21 examined. In your opinion, would fifteen thousand  
22 dollars be a fair market value of this property?

23 MR. MITCHELL: The record speaks for  
24 itself. The ranges of value is before the  
25 Court.

1 THE MASTER: The objection is overruled.

2 Q The statement has been made the value of the house  
3 was fifteen thousand dollars. Could fifteen  
4 thousand dollars be, in 1970, the fair market  
5 value of that property you examined?

6 A Based on the data I was able to develop and based  
7 upon my looking at the house from the street, I  
8 would say that the house was not worth fifteen  
9 thousand dollars in 1970. I think it would be about  
10 seven thousand.

11 MR. ODAM: Pass the witness.  
12  
13

14 RE - EXAMINATION

15 BY MR. MITCHELL:  
16

17 Q You have been asked to appraise and you have done  
18 a good job on using the method of appraisal you  
19 used.

20 It is a fact that when you make an objective  
21 appraisal, the party assigns a value to it and that  
22 is one thing and what you come up with is another  
23 thing?

24 A That is right.

25 Q When you inquire into comparable sales and they

1 tell you we have assigned a value of fifteen  
2 thousand dollars, you take that input and put it  
3 in and you weigh it one way or the other, is that  
4 correct?

5 Let's say the Garza sale had been a thirty  
6 thousand dollar sale. You would have taken that  
7 input and tempered it with your own experience?

8 A I would have to answer that this way. I could  
9 illustrate it this way. In many, many assignments  
10 that come to my desk they have a contract already  
11 signed at a certain price. I make it a point to  
12 disregard any such information as that. I am not to  
13 be swayed by contract, because I don't know the  
14 circumstances.

15 Q And part of the comparable sale determination is  
16 to decide whether it is a true market value?

17 A Yes.

18 Q And whether one party has a duress?

19 A I don't know that and I don't rely on the contract  
20 price for that reason. I frequently appraise the  
21 property above what the contract price might be  
22 and many, many times below.

23 Q So, to ask you what the party put on that property  
24 would be asking you --

25 A Asking me what, now?

1 Q To ask you what parties put on the property, that  
2 would be --

3 A No, just what I said to him. I don't think it was  
4 worth fifteen thousand dollars in 1970. I think it  
5 was worth seven thousand dollars, as I have said,  
6 based on the information I have.

7 MR. MITCHELL: No further questions.

8 MR. ODAM: Just one further question.

9  
10  
11 R E - E X A M I N A T I O N

12 BY MR. ODAM:

13  
14 Q Mr. Mitchell asked something about a duress. I  
15 believe you define, in your appraisal, what fair  
16 market value is. Could you restate that?

17 A Well, I can read it out of this.

18 Market value is the price which the property  
19 would bring when offered for sale by one who desires,  
20 but is not obligated to sell, and is bought by one  
21 who is under no necessity to buy, and taking all  
22 uses into consideration and to which it is either  
23 in all probability will become available in the  
24 reasonable future. In other words, the market  
25 approach embraces the thought that it is an arm's

1 length transaction between the buyer and seller,  
2 neither of whom are under compunction and both of  
3 whom are familiar with the property.

4 MR. ODAM: Pass the witness.  
5  
6

7 R E - E X A M I N A T I O N  
8

9 BY MR. MITCHELL:

10 Q And that is whether you go into the market data  
11 approach or --

12 A That is the market data approach definition. That  
13 is the estimated value that I am valuing it on  
14 in 1970.

15 Q Does it have anything to do with the comparable  
16 sales?

17 A Yes, it does, because the comparable sales indicate  
18 sales of property. If the appraiser could learn  
19 that a sale was between a father and son, he would  
20 not use it as a comparable sale, because it would  
21 not express market data.

22 MR. MITCHELL: No further questions.

23 THE MASTER: We will recess until 10:15.  
24

25 (Short recess taken.)

1 SILVERIO VALADEZ,  
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 What is your name?

9 A Silverio Valadez.

10 Q How are you --

11 MR. MITCHELL: What was that name again?

12 THE WITNESS: Silverio Valadez.

13 MR. FLUSCHE: V-i-l-v-e-r-i-o

14 V-a-l-a-d-e-z.

15 Q How are you employed?

16 A With the Texas National Guard.

17 Q In a military capacity?

18 A Yes, sir, I am employed on a civil service job.

19 I am the First Sergeant for the unit on the  
20 weekend training.

21 Q So, you carry a military rank of First Sergeant?

22 A Yes, sir.

23 Q What is the name of your unit?

24 A Company B, Second Battalion, Mechanized Infantry.

25 Q And you are stationed at Alice?

1 A Yes, sir.

2 Q In the performance of your duties, tell the Court  
3 how you record the absences and presence of members  
4 of your unit?

5 A We have a morning report. It is called a DA Form 1  
6 morning report. We will out one of them every  
7 weekend whenever we have meetings and we record  
8 all of the absences and people present for that  
9 weekend.

10 Q Who maintains that record?

11 A I do, sir. The company commander is the one that  
12 signs the form, but I make out the report.

13 Q Do you retain custody of those reports?

14 A Yes.

15 Q Do you have those with you?

16 A Yes.

17 Q On Roberto Elizondo, from January, 1972, to  
18 September, 1973, do you have a record for this  
19 man?

20 A Yes, sir.

21 Q In response to a request from our office, have you  
22 prepared a report of Roberto Elizondo?

23 A I have, sir.

24 MR. FLUSCHE: Would you mark this as  
25 Examiner's Exhibit 42.

1 (The above-mentioned document was  
2 marked for identification as Examiner's  
3 Exhibit 42.)  
4

5 Q Sergeant, I have handed you what has been marked  
6 E-42 and I will ask you whether or not that is  
7 an extract you prepared from the morning reports  
8 in your custody?

9 A Yes.

10 Q I have a certificate affixed to the bottom of that  
11 showing that you are the custodian and showing this  
12 is a true extract and you have executed that?

13 A Yes.

14 Q Can you look at this Exhibit Number E-42 and tell  
15 me --

16 MR. MITCHELL: Pardon me, may I have  
17 the witness on voir dire? He is going to ask  
18 him questions about how the exhibit was made.

19 THE MASTER: Yes, you may for the purpose  
20 to see if you have an objection to it.

21 MR. MITCHELL: For that, also.

22 THE MASTER: That is the only purpose.  
23  
24  
25



VOIR DIRE EXAMINATION

BY MR. MITCHELL:

Q Let me ask you this. The morning report is a report maintained by you as custodian of the Company B, Second Battalion records?

A Yes, it is a requirement on regulations that this form has to be filled out at the end of each assembly. This is on weekend assemblies we meet on. This form has to be filled out to determine who was absent and who was present, and any events that happened during the month, promotions, reductions and discharges. It is a permanent record.

Q And that record is under your custody and control?

A Yes, sir.

Q When Mr. Flusche, or a member of the Attorney General's staff contacted you, tell the Court how you made the extract.

A I have the copies of the morning reports and I have it for the period mentioned, January, 1972, to September, 1973, and I went through all the morning reports on a monthly basis. It was held monthly and I reported the information as to whether the man was present or where he was at that time.

1 Q One other question. Who signs the morning report?

2 A The company commander.

3 Q Is it based on a visual personal inspection?

4 A Yes.

5 Q Is it in the handwriting of the company commander?

6 A No, it is typed.

7 Q I am trying to find out how the morning report is  
8 made up. Would it be signed by Mr. Elizondo?

9 A No.

10 Q How is it made up customarily?

11 A I am the First Sergeant and I am also the full-time  
12 employee and I get all of the information for that  
13 from the assembly and I type the information and  
14 it is viewed by the company commander and signed  
15 by him.

16 Q But the morning report is the document from which  
17 you get your information, or is it?

18 A Well, I don't know if I understand your question.  
19 The morning report is the report that is made out,  
20 like I said, originally, to record all the events,  
21 record all the people that were absent, and it  
22 doesn't record the people present. It records those  
23 absent only.

24 Q I want to know who actually looks out there and sees  
25 who is not there.

1 A I do.

2 Q So, you can tell this Court you made a visual  
3 inspection and from that inspection this data was  
4 put on the report?

5 A The way I make the report is by going back to  
6 the reports I made originally. We have what we  
7 call a formation and I call the role and I  
8 record the people who were absent and the ones  
9 present and from there I base this information on  
10 the morning report.

11 Q And from that, you made the summary report here?

12 A Yes, sir.

13 MR. MITCHELL: The only objection we  
14 have on the offer would be on the hearsay  
15 aspect of it as to Judge Carrillo.

16 THE MASTER: Well, it has not been  
17 offered.

18 MR. MITCHELL: He was getting ready to  
19 ask him questions from it and probably I  
20 jumped the gun.

21 MR. FLUSCHE: I will offer it at this  
22 time.

23 MR. MITCHELL: We object on the grounds  
24 of hearsay and not being properly  
25 authenticated.

1 THE MASTER: The objection is overruled  
2 and the exhibit is admitted.

3 (Examiner's Exhibit 42 was admitted into  
4 evidence.)  
5

6  
7 CONTINUED EXAMINATION

8 BY MR. FLUSCHE:  
9

10 Q Mr. Valadez, the first entry on this report is  
11 in 1972. Can you tell whether Roberto Elizondo  
12 was present at that time?

13 A At this time Roberto Elizondo was attending an  
14 NCO academy. He attended on the 4th and 5th of  
15 December, in 1972, in lieu of the 8th and 9th in  
16 1972.

17 Q So he was not present at that time?

18 A No, he was present on the 4th and 5th of December.

19 Q How about in 1973?

20 A He was still in the NCO academy and was present  
21 on the 15th and 16th of January in lieu of  
22 February 15th.

23 Q Let's go next to March, 1973.

24 A He was present at Alice on the 15th and 16th and he  
25 was again present on the 8th and 9th of April,

1 1972, in Robstown.

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1 Q (By Mr. Flusche:) All right, now, on the 29th and  
2 30th of April?

3 A The 29th and 30th of April he was present in Alice.

4 Q The 3rd and 4th of June?

5 A The 3rd and 4th of June he was also present in  
6 Alice.

7 Q Now the 17th of June, 1972, until the 2nd of July,  
8 1972?

9 A Okay. During this period he was absent during this  
10 period, because of his attendance on the 13th of  
11 August of '72 to the 26th of August of '72 at the  
12 annual training at Ft. Walters, Texas.

13 Q Now, how about the 15th and 16th of July, 1972?

14 A All right. He was present at the Armory, he was  
15 present in Alice.

16 Q All right. And on the 12th of August of 1972?

17 A Okay. On the 12th of August of '72 he performed  
18 E.T. and on the 6th of August he performed E.T.  
19 in lieu of the 12th of August or the 6th of August  
20 of '72.

21 Q And E.T. means --

22 A It means equivalent training.

23 Q And where did that take place on the 6th of August,  
24 1972?

25 A In Alice.

1 Q In Alice?

2 A Yes, sir.

3 Q Now, on the 13th of August until the 26th of August  
4 of 1972, where was he present?

5 A He was present at Ft. Walters, Texas. That is when  
6 he attended the annual training.

7 Q Okay. And now from the 9th of September -- on the  
8 9th and 10th of September of '72?

9 A On 9 September '72 he was present in Alice;  
10 14 and 15th of October, '72, he was present in  
11 Alice. On the 4th and 5th of November he was  
12 present in Alice; 9th and 10th of December of  
13 '72 he was present in Alice; 20th and 21st of  
14 January he was present in Alice; 10 and 11th of  
15 February of '73 he was also present in Alice;  
16 17 March, '73, and 18 March he was present in  
17 Alice; 8th and 9th of April of '73 he was present  
18 in Alice; 5 and 6 May he was also present in Alice;  
19 17 June to 1 July he attended the annual training  
20 at Ft. Chaffe, Arkansas.

21 Now, on the 14th and 15th of July of '73, he  
22 was also present in Alice; 11 and 12th of August  
23 of '73 he was present in Alice; 15 and 16 of  
24 September, '73, he was present in Alice and that  
25 is it.

1 Q All right.

2 A That was the information that --

3 Q All right.

4 A That is up to date.

5 Q Let me ask you this: Is it a true statement that  
6 each of these two-day periods here, the 14th and  
7 15th of October, are weekends?

8 A Yes, sir.

9 Q Saturdays and Sundays?

10 A Saturdays and Sundays.

11 Q All right.

12 MR. FLUSCHE: I believe that's all I  
13 have.

14 THE WITNESS: I might point out  
15 something else, sir, that some of these  
16 assemblies here like I will have to go back  
17 and determine which are the ones that are  
18 overnight training and which are the ones  
19 that are just until 5 o'clock on Saturday;  
20 you see there are some that are --

21 MR. FLUSCHE: I don't believe we need  
22 to go into that in detail.

23 MR. MITCHELL: I will ask you about  
24 those, Sergeant.

25



E X A M I N A T I O N

1  
2 BY MR. MITCHELL:  
3

4 Q Sergeant, Exhibit Number 42, so the record is  
5 completely accurate, reflects meeting dates that  
6 were attended by Roberto Elizondo for the times  
7 indicated. For example, on the first sheet  
8 January the 8th and 9th?

9 A Yes, sir.

10 Q Now, I want to ask you first of all, how many times  
11 a month were these meetings held for persons who  
12 were -- what would you call that Spec 4, is that a  
13 rating?

14 A That is his rating.

15 Q I was a Navy man and you'll have to bear with me.  
16 Is that an Army rating?

17 A That is an Army rating, yes, sir.

18 Q All right. At any rate, it indicates that Spec 4  
19 Roberto Elizondo attended once a month and I  
20 suppose is that a regular, usual and customary --

21 A Yes, sir.

22 Q Consequently, this Exhibit 42 would not be a  
23 record of what he did on other weekends?

24 A No, sir.

25 Q And in addition, I suppose, as indicated by your

1 explanation made at the termination of your direct,  
2 that it would not indicate, for example, those  
3 instances when Mr. Elizondo would be finished on  
4 Saturday at 5 O'clock and would be free?

5 A That is true.

6 Q And in addition --

7 MR. MITCHELL: Strike that.

8 Q In addition, the record of 42, would show that in  
9 each and every weekend he was in Alice, Texas,  
10 except the times when he was in annual training at  
11 Ft. Walters on the 13th day of August of 1972  
12 to the 26th day of August of '72 and on the 17th  
13 day of June, '73, to July 1st, '73, when he was  
14 at Ft. Chaffe, Arkansas?

15 A Yes, sir.

16 Q And how far is it, how far is Alice from San Diego?

17 A Ten miles.

18 Q Thank you.

19 MR. MITCHELL: I have no further  
20 questions, Judge.

21 MR. FLUSCHE: That is all.

22 THE MASTER: Thank you, Sergeant  
23 Valadez, you are excused and free to go.

24 MR. ODAM: We call as the next witness  
25 Mr. Saenz.

1 JOSE H. SAENZ,

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 Will you state your name, your full name, please,  
9 sir?

10 A Jose H. Saenz, sir.

11 Q And where do you live?

12 A San Diego, Texas, sir.

13 Q And how are you employed?

14 MR. MITCHELL: Excuse me, Your Honor.

15 I would like to inform the Court that this  
16 witness is my client and at this point I  
17 am going to inform him of his right to plead  
18 the rights given by the Constitution,  
19 precluding testimony which directly or  
20 indirectly suggests the commission of an  
21 offense under the Fifth Amendment and ask  
22 the witness to make that plea at this point.

23 Do you have the --

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

1 Q Let me ask you this, Mr. Saenz. On the 15th day of  
2 July of 1975, did you testify in Austin, Texas,  
3 before the House Select Committee on Impeachment?

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

6 Q During the course of your testimony, before the  
7 House Select Committee on July 15th, did the House  
8 Select Committee grant immunity to prosecution to  
9 you?

10 A I respectfully decline to answer on the grounds  
11 of what I say might tend to incriminate me.

12 MR. ODAM: Can we have just a minute,  
13 Your Honor?

14 THE MASTER: Yes, sir.

15 MR. ODAM: In light of his testimony.

16 (Discussion off the record.)  
17

18 MR. FLUSCHE: Your Honor, I would call  
19 the Court's attention to Section 14 of  
20 Article 5966A and ask the Court to grant  
21 this witness immunity from prosecution and  
22 to then instruct him to answer the  
23 questions.

24 (Discussion off the record')  
25

1 THE MASTER: What do you think the  
2 procedure is, Mr. Flusche; that I order  
3 him to testify and if he continues to  
4 refuse, then you file or I file a petition  
5 to compel him to testify in any District  
6 Court?

7 MR. FLUSCHE: Yes, sir.

8 THE MASTER: And that District Court  
9 does what? Then that Court orders the  
10 witness to appear and if he refuses, he is  
11 punished as for contempt?

12 MR. FLUSCHE: That is right.

13 THE MASTER: But if he testifies, he  
14 is granted immunity from prosecution?

15 MR. FLUSCHE: I would say it would be  
16 transactual immunity, use immunity.

17 MR. MITCHELL: Your Honor, as attorney  
18 for the witness, I make the statement to the  
19 Court that it is not our intent to stand in  
20 contempt of this Court -- this Master or any  
21 Court, but for the purposes of the Court  
22 ruling in this matter, I would like to  
23 inform the Court that this witness has been  
24 indicted in the case of State of Texas versus  
25 Jose Saenz in Cause Number 2940 in the 79th

1 District Court in Alice, Jim Wells County,  
2 Texas, and would be sworn to that effect so  
3 that it becomes known as a part of the record.

4 I represent the witness in this  
5 case and with that background, Your Honor,  
6 the question is in our mind, first, who can  
7 grant the immunity and the form of the grant  
8 in the face of the indictment.

9 MR. FLUSCHE: What is the date of the  
10 indictment?

11 MR. MITCHELL: The date of the indictment,  
12 Mr. Flusche, was after the testimony you have  
13 referred to in Austin and before, of course,  
14 today.

15 MR. FLUSCHE: You don't have the  
16 indictment? You don't have the date of the  
17 indictment?

18 MR. MITCHELL: No, I don't have the exact  
19 date. I would otherwise --

20 MR. ODAM: May I inquire what he was  
21 indicted for?

22 MR. MITCHELL: General indictment of  
23 theft above two hundred dollars and under --

24 MR. SAENZ: Ten thousand dollars.

25 MR. MITCHELL: Ten thousand, yes.

1 Arraignment has been set, Your Honor, on this  
2 indictment on November the 20th --

3 MR. SAENZ: The 21st.

4 MR. MITCHELL: The 21st, of 1975, before  
5 the Honorable Judge Woodrow Laughlin, Judge  
6 of the 79th District Court in Jim Wells  
7 County, Texas.

8 MR. FLUSCHE: All right. In that event,  
9 I think that we are going to have to confer  
10 with the District Attorney of Jim Wells  
11 County before we go any further.

12 THE MASTER: You withdraw your  
13 request?

14 MR. FLUSCHE: Can we have a minute?

15 THE MASTER: You can have all the time  
16 you want, yes, sir.

17 (Discussion off the record.)  
18

19 MR. FLUSCHE: Let me ask you this, Mr.  
20 Mitchell. Was he indicted for an offense  
21 growing out of the testimony which he is  
22 likely to give in this case?

23 MR. MITCHELL: I am suggesting that,  
24 yes, there is an interweaving -- that they  
25 are inexorably intertwined; that is all

1 of the testimony is that that which he has  
2 previously given and the testimony  
3 supporting the indictment and that is my  
4 problem, Your Honor, that we now have an  
5 indictment and that is, of course, the  
6 question of immunity when there is an  
7 indictment, there is a very serious question  
8 whether it can be a granting of the  
9 immunity which Mr. Flusche recognizes since  
10 he wants to talk to the District Attorney.

11 THE MASTER: I don't think that's why  
12 he wants to talk to the District Attorney.

13 (Discussion off the record.)  
14

15 MR. FLUSCHE: Why don't we temporarily  
16 ask that this witness be excused and I'll  
17 call my next witness.

18 THE MASTER: All right. What is his  
19 situation? Do you want him standing by?

20 MR. FLUSCHE: Yes, sir.

21 THE MASTER: Step down at this time,  
22 but you are still under subpoena.

23 MR. MITCHELL: Judge, may I state in  
24 this connection, the Court was reading from  
25 a section of the statute and I am sorry, I



1 missed that section as regards the  
2 involvement of the District Court, and I  
3 might be incorrect --

4 THE MASTER: Section 8.

5 MR. MITCHELL: I see, I envisioned the  
6 grant of immunity being governed by 14,  
7 which will -- the grant will have to come  
8 from the commission of immunity, Judge  
9 Meyers.

10 THE MASTER: I read it as being  
11 automatic; how did you read it?

12 MR. FLUSCHE: I read it as being  
13 automatic.

14 MR. MITCHELL: Well, I read the statute  
15 as saying it is automatic, Judge Meyers, but  
16 I read the cases as saying where a  
17 transactual immunity is involved, that the  
18 grant must be specific and must be signed  
19 by the officer granting, for example, it  
20 can't be the attorneys. It has got to be  
21 somebody that is recognized.

22 And while I don't want to quibble  
23 or quarrel down the line with that grant,  
24 and while I am offering the testimony, if I  
25 get my grant -- if the grant is conferred by

1 law, I am suggesting that this inquiry will  
2 further include the total grant in the form  
3 that complies with the Supreme Court of the  
4 United States requirements in the face of the  
5 offense in twenty-nine forty, plus in face  
6 of the offense suggested by his testimony  
7 previously given in the House Committee on  
8 Impeachment, because they are intertwined.  
9 They go broader than the indictment or may  
10 not go broader than the indictment.

11 MR. ODAM: For the purpose of continuity  
12 in these proceedings, would Mr. Mitchell  
13 stipulate that this testimony can be given and  
14 those arrangements attempted to be made, and  
15 if not made, then, it would clearly be  
16 understood this testimony would not be used?

17 MR. MITCHELL: No, I would not. I would  
18 just not want to do that for my client.

19 MR. FLUSCHE: Would you stipulate that  
20 he was granted immunity by the House of  
21 Representatives?

22 MR. MITCHELL: No, Your Honor, my claim  
23 for the Court record is that I understand the  
24 House grant was void, it was not a complete  
25 grant of immunity, and the pleadings in this

1 case, that is that procedure suggests the  
2 voidness of those procedures and certainly the  
3 voidness of any attempted grant of immunity  
4 where one speaks from the subcommittee and  
5 just says, "We are just going to give you  
6 immunity." And then proceeds through the  
7 questions.

8 No, we are not going to concede  
9 that the grant was even correct on that  
10 level.

11 MR. ODAM: Well, it would appear,  
12 assuming that there are statements in here  
13 that the House Committee attempted to give  
14 immunity and therefore, with that under-  
15 standing, the witness testified.

16 I don't see how that relates to  
17 these proceedings now if the witness has been  
18 granted immunity presuming that it has.  
19 It seems like that would be raised at a  
20 later time when this testimony was used in a  
21 criminal proceeding or what other testimony  
22 could be used in a criminal proceeding. We  
23 could just go forward.

24 MR. MITCHELL: Except, Mr. Odam, if the  
25 grant is not correctly done, my client has

1 given up a very valuable right. I say the  
2 grant of immunity was incorrectly granted;  
3 that the committee had no jurisdiction and  
4 now that I say there is an indictment, it  
5 cannot be granted under any circumstances  
6 in face of the indictment.

7 MR. ODAM: What I'm saying, if it was  
8 incorrectly done, you could raise that point  
9 in the criminal proceeding.

10 MR. MITCHELL: As indicated and  
11 demonstrated in the loudest voice that I can  
12 hear, that is the indictment following it.

13 THE MASTER: Well, I suppose to that  
14 indictment, it would suggest immunity.

15 MR. MITCHELL: Yes, Your Honor, and I  
16 am faced with the proposition that the grant  
17 was improperly given, and that is why I am  
18 making -- taking this position before this  
19 Court.

20 THE MASTER: I understand your position.  
21 I do not see that it is inconsistent.

22 MR. MITCHELL: Sure, the District  
23 Attorney --

24 THE MASTER: I think Mr. Saenz should  
25 go outside.

1 (Whereupon, Mr. Saenz left the  
2 examining room.)  
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1 MR. ODAM: We can do two things. While  
2 the next witness is on the stand, I can go  
3 out and confer, number one, with the chair-  
4 man of the committee to grant immunity and  
5 he can do that. Number two, I can confer  
6 with the district attorney who had this  
7 indictment and relate that conversation to  
8 all present, and if the Master wanted to  
9 talk with him by phone or whatever, we  
10 could get it resolved.

11 THE MASTER: Eventually it is going to  
12 come down to you either insisting first  
13 that immunity has been granted and my ruling  
14 on that and, secondly, if it has not been,  
15 then the claim of immunity under the statute  
16 and how it is granted. Eventually, if I  
17 construe that immunity has been or can be  
18 granted, has been granted by the House Sub-  
19 committee or can be granted pursuant to  
20 this statute, then I direct him to answer.  
21 If he doesn't and continues to refuse, then  
22 I petition a district court here to direct  
23 him to answer and if that court finds the  
24 subpoena is regularly issued, he orders  
25 him to answer and if he does not, then he

1 goes to jail and you have your writ.

2 MR. MITCHELL: Right.

3 THE MASTER: Then you have either your  
4 immunity or you don't have it, is that the  
5 way it goes, right?

6 MR. MITCHELL: That is right.

7 THE MASTER: And incidentally, there  
8 is no way -- he will have to be in custody  
9 before you can file your writ.

10 MR. MITCHELL: I understand that. In  
11 line with what Mr. Odam suggested, I will  
12 suggest that instead of talking to the D.A.  
13 who does not have the power to grant the  
14 immunity of anybody else, I suggest we go  
15 through the commission and I understand they  
16 can grant it through this Master.

17 THE MASTER: No, I disagree with that  
18 unless the case law makes it automatic.  
19 That is the position I will take.

20 MR. MITCHELL: All right. Fine.

21 THE MASTER: But what you have to have  
22 before this man testifies, is, you have to  
23 have an opinion of the Supreme Court of this  
24 statement on a writ saying immunity was  
25 granted.

1 MR. MITCHELL: I want to compliment the  
2 Court on that, because not many know that.  
3 I would have to put him in custody.

4 THE MASTER: That is right, you have  
5 to put him in custody when you file your  
6 application. I think the Supreme Court lets  
7 him out temporarily, pending the habeas  
8 corpus hearing.

9 MR. MITCHELL: That is right.

10 MR. ODAM: Where do we stand now as  
11 far as this witness? Can we call Mr.  
12 Saenz back in?

13 THE MASTER: It depends on what you  
14 want to do. I thought you were telling me  
15 you wanted to check with that D.A. and let  
16 him know that you were about ready to blow  
17 his case out of the water.

18 We will call Mr. Francisco Ruiz.  
19  
20 - - - - -  
21

22 FRANCISCO RUIZ,  
23 having been duly sworn by the Court, testified under  
24 oath as follows:  
25



E X A M I N A T I O N

BY MR. FLUSCHE:

Q Will you state your full name, sir?

A Francisco Ruiz.

Q Where do you live?

A Benavides.

Q How are you employed?

A I am employed by the water district.

Q Is that the Duval County water district?

A Yes.

Q In what city?

A Benavides.

Q How long have you worked for the water district?

A A year and a half.

Q And prior to that time, where did you work?

A For Duval County.

Q How were you employed by Duval County?

A I was a welder.

MR. MITCHELL: May I ask which of  
the articles this witness is offered in?

MR. FLUSCHE: I think it is article 4.

THE MASTER: Yes, that is correct.

Q (By Mr. Flusche:) Now, how much money were you  
making as a welder for Duval County?

1 A Take home pay, about three thirty-five, when I  
2 got out. I started at about one fifty or one  
3 seventy-five.

4 Q What was your gross pay at the time you got out?

5 A Three thirty-five.

6 Q Well, I mean the total?

7 A Oh, about three seventy-five.

8 Q All right. Now, did you tell me when you went to  
9 work for the county as a welder, when was that?

10 A 1958.

11 Q So you worked continuously from 1958 until --

12 A Until a year and a half back.

13 Q So that would be sometime in 1973?

14 A Yes, I think.

15 Q Now, while you were employed as a welder for  
16 Duval County, did you have occasion to work on  
17 Judge Carrillo's ranch?

18 MR. MITCHELL: Excuse me, Judge. We  
19 will object -- I know he has not asked the  
20 question, but we will object on non-judicial  
21 conduct and on formal conduct.

22 THE MASTER: You may have those to all  
23 of this testimony, but they are overruled.

24 MR. MITCHELL: Thank you, sir.

25 Q (By Mr. Flusche.) Did you have occasion to work

1 on Judge Carrillo's ranch?

2 A Yes, sir.

3 Q Did you work on his ranch any prior to the time  
4 he became a judge?

5 A I don't remember, probably I did.

6 Q What kind of work did you do on his ranch?

7 A I went to repair the broken down equipment on the  
8 bulldozers, root plows and root rakes.

9 Q What do you mean by a root plow, what kind of  
10 equipment is that?

11 A That is a big deal that goes under the ground to  
12 kill brush.

13 Q Like mesquite?

14 A Yes.

15 Q What is a root rake?

16 A It is to gather whatever the root plow brings up  
17 and you gather it up and burn it.

18 Q How frequently did you go to Judge Carrillo's  
19 ranch to do this kind of work?

20 A Probably once or maybe two or three times a month.

21 Q Did that frequency continue throughout the entire  
22 time he was a judge and until you terminated your  
23 employment with the county?

24 A Yes, sir.

25 Q Now, who would instruct you to go to the Judge's

1 ranch to do this kind of work?

2 A Well, sometimes his brother would tell me to go  
3 and sometimes he would come over when his brother  
4 was not there and would say please go.

5 Q Do you mean Judge Carrillo would come over him-  
6 self and ask you?

7 A Yes, sometimes.

8 Q What would be the period of time you would work  
9 on the ranch when you would go out to do this  
10 welding on heavy equipment?

11 A Sometimes an hour, maybe two hours, sometimes  
12 the whole day.

13 Q Now, what kind of equipment did you use to do  
14 this welding, was it acetylene or electric?

15 A Portable electric welding machine.

16 Q Where did you acquire that portable electric  
17 welding machine?

18 A It belonged to Duval County.

19 Q It was the one you used in the performance of  
20 your daily duties?

21 A Yes, sir.

22 Q What is the name of the Judge's ranch?

23 A Borjas.

24 Q Where is that located?

25 A About eighteen miles west or northwest of Benavides.

1 Q In Duval County?

2 A Yes, sir.

3 Q Now, who would direct you to do work that the

4 Judge asked you to do? He was not there to direct

5 you, was he? I mean, who would tell you what

6 piece of machinery to work on?

7 A Sometimes he was there and sometimes Tomas Elizondo

8 asked me to do it.

9 Q Was Tomas Elizondo always there?

10 A Yes.

11 Q How about Roberto Elizondo?

12 A Sometimes he was there and sometimes he was not.

13 Q How about Patricio Garza?

14 A He was there all the time.

15 Q Who was the boss out there, insofar as you could

16 determine?

17 MR. MITCHELL: I have not objected to

18 the leading nature of the question, but

19 this would be hearsay in addition.

20 THE MASTER: I think you maybe can

21 rephrase your question.

22 Q Do you know who the boss was out there when you

23 were asked to do this work?

24 A I think it was Tomas Elizondo.

25 Q Have you ever seen -- strike that.

1           What sort of compensation did you receive for  
2           doing this work at the Judge's ranch?

3           A   Nothing.

4           Q   You never got any money from the Judge himself?

5           A   No, sir.

6           Q   Did you ever eat out there?

7           A   Yes, sir.

8           Q   Would you say you ate out there quite a few  
9           times?

10          A   Yeah.

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

13                       MR. MITCHELL: May I have just a  
14                       minute, Your Honor? I would like to review  
15                       his testimony previously given under oath  
16                       before the House Sub-committee.

17                       THE MASTER: Yes.

18                                       - - - - -  
19

20  
21                                       EXAMINATION

22  
23           BY MR. MITCHELL:

24           Q   Mr. Ruiz, I believe the latest time that you went  
25           out to do any work on Judge Carrillo's ranch would

1 be the middle of 1974?

2 A Maybe so.

3 Q And you did nothing on the ranch after, I believe,  
4 your previous testimony was, somewhere between  
5 January and June, 1974?

6 A Yeah.

7 Q Is that correct, you have not been on the ranch  
8 since then?

9 A No.

10 Q Tell us --

11 A You see --

12 Q Did you finish?

13 A When I quit working with the county, I never did  
14 go back to the ranch.

15 Q What was that date?

16 A I can't remember, it was sometime in March or  
17 April.

18 Q Of what year?

19 A 1974, I think.

20 Q You are quite sure you have done no work directly  
21 or indirectly in the year 1975 for Judge Carrillo?

22 A No, sir.

23 Q Now, Mr. Ruiz, are you from Duval County?

24 A Yes, sir.

25 Q You were born and raised there?

1 A Yes, sir.

2 Q You knew, I believe, during his lifetime, Judge  
3 Parr?

4 A Yes, sir.

5 Q And Archer Parr?

6 A Yes, sir.

7 Q And did a considerable amount of work on the  
8 Archer Parr and Judge Parr ranches and other  
9 ranches in the community, did you not, if requested  
10 to do so?

11 A Maybe, I don't remember. I went to George Parr's  
12 ranch a couple of times and Archer Parr's ranch  
13 a couple of times and to the Judge's ranch quite  
14 a few times.

15 Q I am not suggesting any wrongdoing, but I am  
16 asking you, you did work with the same welding  
17 equipment for other people in the county, not  
18 only Judge Carrillo? You did the Molina job,  
19 didn't you?

20 A Who?

21 Q Welding on the Molina Ranch?

22 A Sir?

23 Q How about Mr. Couling?

24 A No, sir.

25 Q You are related to Mr. Couling?



1 A Yes.

2 Q Who else besides Archer and George Parr did you  
3 do work for with the welding equipment owned by  
4 the water district?

5 THE MASTER : No, the county.

6 Q I thought you said you were an employee of the  
7 water district.

8 THE MASTER: He is now.

9 MR. MITCHELL: I am sorry.

10 Q (By Mr. Mitchell:) At the time you did the work  
11 in 1974, you were a county employee?

12 A Yes, sir.

13 Q You did work for other persons in the county and  
14 in the water district with that same welding  
15 equipment prior to the time you left that employ-  
16 ment, didn't you?

17 A Yes, once or twice for the water district. I  
18 was sent by the commissioners. I didn't get paid  
19 either for that.

20 Q Well, let me ask you this. This is mainly for  
21 my information and for the record, but would the  
22 commissioners of the various precincts ask you to  
23 do work in the county for other persons? I  
24 mean, Ramiro Carrillo would ask you to go do  
25 work on a ranch and you would do it?

- 1 A Yes.
- 2 Q Who were the other commissioners in the 1974 period?
- 3 A Juan Leal --
- 4 Q Would you do work at his request?
- 5 A No, only by Ramiro Carrillo.
- 6 Q He was a commissioner?
- 7 A Yes.
- 8 Q Who would send you to the Archer Parr ranch?
- 9 A Ramiro Carrillo.
- 10 Q And for George Parr?
- 11 A Ramiro Carrillo.
- 12 Q That would be prior to the year 1974, is that
- 13 correct?
- 14 A Maybe, yes.
- 15 Q You can recall -- when was the last time you
- 16 worked on the Archer Parr ranch?
- 17 A 73, I guess.
- 18 Q All right. And the George Parr place, when was
- 19 the last time you worked on it with the welding
- 20 equipment?
- 21 A Sometime in 1973. I went once.
- 22 Q Now, do you know Mr. Molina, the ex-deputy sheriff?
- 23 A Molina?
- 24 Q Yes, you made a headache rack for him.
- 25 A Yes, that is right. I remember.

1 Q When was that?

2 A I can't remember.

3 Q Well, it would have been during the time you  
4 were working for the county?

5 A Yes, I was working for the county.

6 Q Now, I will ask you some additional questions  
7 then. Can we say that prior to --

8 THE MASTER: Let's use the word before.

9 Q Before 1974 -- strike that.

10 I believe your earlier testimony was you  
11 have done no work for Judge Carrillo since the  
12 first part of 1974?

13 A Whenever I got out of the county.

14 Q Whatever that date was?

15 A Yes, I can't remember the date.

16 Q During the time you were working for the county,  
17 how often would you go the Judge's ranch?

18 A Maybe sometimes once a month, maybe two or three  
19 times a month.

20 Q In other words, you are suggesting there would  
21 be no fixed period, it was irregular?

22 A No.

23 Q I am curious as to how you would have welding to  
24 do on the ranch two or three times a month.

25 Could you not do it all on one visit?

1 A Well, you see, that equipment doesn't break all  
2 at one time. Maybe it breaks today and then it  
3 goes two or three days later and it might break  
4 again, the same thing, or something maybe different.

5 Q So you would go as the equipment broke down?

6 A Yes.

7 Q And would that be true on these other people's  
8 ranches, that is, they would call you when the  
9 equipment was broken?

10 A Yes, when the equipment broke down, I would go.

11 Q When you went out to the Archer Parr or George  
12 Parr ranches or did the work for Judge Carrillo  
13 or Ramiro Carrillo or Mr. Molina, was there  
14 anything wrong, as far as you were concerned,  
15 doing that work?

16 A Well, I had to do what I was told.

17 Q Well, you did the work on your own ranch with  
18 that same welding equipment while you were a  
19 county employee, didn't you?

20 A Yes.

21 Q You didn't think that was wrong?

22 A I asked permission from the commissioners. I  
23 did it on my vacation.

24 Q You used the same equipment to do work on your  
25 ranch?

1 A Yes, sir.

2 Q You used it to do work on the Molina ranches and  
3 the Carrillo ranches and the Parr ranches and for  
4 who else?

5 A Nobody else, I guess.

6 Q Well, would you say, knowing the situation, that  
7 it was a usual and customary situation, as you  
8 were employed by the county, that you would go out  
9 and assist the various people who are residents of  
10 the county to do the welding you did do? Would  
11 you say that was a custom?

12 A Probably was.

13 Q And as a matter of fact, no inquiry was made prior  
14 to today or up at Austin as to whether or not the  
15 work was done or wasn't done?

16 A No.



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1 Q Now, I had a little problem, Mr. Ruiz --

2 MR. MITCHELL: Out of fairness to you,  
3 I am looking at page 129 of his testimony,  
4 Mr. Flusche, before the House Select  
5 Committee on Impeachment and I am compelled  
6 to simply ask the witness to make an  
7 explanation, if he can. Do you have it in  
8 front of you?

9 MR. FLUSCHE: What volume do you have?

10 MR. MITCHELL: Volume Roman II, page  
11 129, line 18.

12 MR. FLUSCHE: I don't have that Roman II  
13 here.

14 MR. MITCHELL: Let me show you what it is.

15 (Discussion off the record.)  
16

17 Q (By Mr. Mitchell:) You recall your testimony in  
18 Austin, do you not, Mr. Ruiz?

19 A Yes, sir.

20 Q I believe that you were asked by Mr. Castor, see  
21 if I read this correctly. I am reading from  
22 Volume two, page 129, line 18. Were you asked,  
23 "When you were working for the county, did you ever  
24 go to anybody else's ranches and weld their  
25 equipment." And your answer, then, under oath was,

1 "No."

2 A Yes.

3 Q Am I correct?

4 A Yes, sir.

5 Q Then you were asked, "The only ranch you ever went  
6 to and welded --," "I used to go to the commissioner's  
7 ranch and weld" and then a paragraph, then the  
8 question, "Anybody else's ranch in the entire  
9 county?" "No."

10 That, of course, is inconsistent with the  
11 testimony today that you did occasionally work for  
12 other people on other people's ranches such as  
13 Archer Parr and George Parr and your own folks for  
14 that matter.

15 Now, which is correct, what you testified today  
16 or what you testified to up there in Austin?

17 A How is that?

18 Q Which is the correct testimony, what you told us  
19 here today?

20 A Yes, sir.

21 Q Okay.

22 MR. MITCHELL: I have no further  
23 questions of this witness -- wait just a  
24 minute, excuse me, Judge, I am sorry.

25

(Discussion off the record.)

1 Q (By Mr. Mitchell:) In addition to this welding  
2 on your own place, there was other equipment, I  
3 believe, that you have charge of, you had charge  
4 of a maintainer, did you not? You had a maintainer  
5 on your place?

6 A No.

7 Q Do you recall that?

8 A No.

9 Q Do you recall doing work for the members of your  
10 family, your brother-in-law, either welding or  
11 maintaining?

12 A No.

13 MR. MITCHELL: Thank you, Mr. Ruiz.  
14 I have no further questions.

15

16

17

RE - EXAMINATION

18

19 BY MR. FLUSCHE:

20

21 Q Let me ask you this, Mr. Ruiz. Who is George Parr?

22

23 A George Parr was the old man that got -- that shot  
24 himself in Duval County.

25

Q All right. What was his position in Duval County?

A I guess he was the political boss.

Q All right. And what was Archer Parr's position?



1 A He was the county judge.

2 Q Was he the nephew of George Parr?

3 A Yes, sir.

4 Q Was he a part of the political -- of the political  
5 structure of which George Parr was the boss?

6 A Yes.

7 Q In your testimony here, you testified that you did  
8 work for those two people and for Ramiro Carrillo  
9 and O. P. Carrillo and some for yourself.

10 Was it usual and customary in Duval County to  
11 work with county equipment and county labor for  
12 people other than those who were in a political --  
13 who were in political power?

14 A I guess so.

15 Q You think -- I mean you did work for say laborers,  
16 and the small people in the county: was that usual  
17 and customary?

18 A Well, I never did go to any small people.

19 Q What I am asking you, I don't think you understood  
20 my question, if it was usual and customary to work  
21 like that for the political bosses in Duval County,  
22 isn't that correct?

23 A Yes, sir.

24 Q But not for other people?

25 A No, sir.

1 MR. FLUSCHE: That is all.  
2  
3

4 RE - EXAMINATION  
5

6 BY MR. MITCHELL:

7 Q Well, of course, many other people would come to  
8 the welding shop and use the welding equipment  
9 belonging to the county, didn't they, Mr. Ruiz?

10 A I don't believe.

11 Q You know as a matter of fact people that didn't  
12 even own ranches and that needed to have a job  
13 done, would feel free to come over there to the  
14 shop and use the equipment?

15 A Maybe when I was not there.

16 Q Well, you're not disputing that that could have  
17 occurred?

18 A I didn't do nothing for them, for nobody.

19 Q Now, the political bosses that Mr. Flusche is  
20 talking about, your family, that is, Rudolfo  
21 Couling belonged to that family?

22 A Yes.

23 Q And at the time Judge Carrillo undertook to remove  
24 the Parr people from the Benavides Independent  
25 School District as well as Archer Parr from county

1 judge, there was a split, and that split developed  
2 between the Parrs and the Carrillos, did it not,  
3 Mr. Ruiz?

4 A I guess so, I don't know.

5 Q Sure.

6 A I don't know nothing about that.

7 Q And you and the Couling people are on one side of  
8 that split and the Carrillos now are on the other  
9 side, are they not -- or the faction, political  
10 faction?

11 A I am on my own, I go my way.

12 Q All right. But you know Rudolfo Couling made a  
13 deal with the federal people and offered testimony  
14 for immunity to escape indictment for about five  
15 indictments or six indictments down there against  
16 Judge Carrillo and Ramiro Carrillo as recently as  
17 sixty days ago?

18 A I don't know.

19 Q You don't know what your kinsmen have done?

20 A I don't know nothing about him. I don't interfere  
21 with his business and he don't interfere with mine.

22 Q But you testified against Judge Carrillo yourself  
23 as recently as the 21st day of May of this year,  
24 of '75, isn't that correct, in Austin?

25 A I did what?

1 Q You testified in Austin.

2 A Yes, sir.

3 Q Against Judge Carrillo?

4 A Yes, sir.

5 Q And after the split developed, that is after Judge  
6 Carrillo as the District Judge acting upon the  
7 petition of Arnolfo Guerra to remove Archer Parr  
8 as county judge, Archer Parr in fact named you  
9 to replace Ramiro Carrillo as the commissioner,  
10 didn't he?

11 A That's right.

12 Q And that threw you directly in opposition to the  
13 Carrillo family for the place on the commissioner's  
14 court. You being -- you claiming the position or  
15 place of Ramiro Carrillo?

16 A I wasn't claiming it.

17 Q But you were appointed to that position by Archer  
18 Parr, is that correct?

19 A That is up to the commissioners if they wanted to  
20 do it that way, it is all right with me. If they  
21 wanted to put me as president, I would be a  
22 president.

23 Q Sure, and the fact of the matter is, I believe some  
24 of your kinsmen have been appointed or were appointed  
25 by Archer Parr as tax collector of Duval County

1 since that split, am I right?

2 A Who?

3 Q Your sister, as a matter of fact, your sister-in-law  
4 is the tax collector and was made tax collector after  
5 that split?

6 A I don't know. She's tax collector. I don't know  
7 who appointed her.

8 Q All right. But the political pull and tug, the  
9 political fight still goes on in the county between  
10 the old Parr faction and the Carrillo faction,  
11 isn't that correct?

12 A I don't know.

13 Q All right.

14 MR. MITCHELL: I have no further  
15 questions, Judge Meyers.

16 THE WITNESS: I am not a politician.

17 MR. FLUSCHE: I think I have no further  
18 questions.

19 THE MASTER: Thank you, Mr. Ruiz, you  
20 may step down and you are finally excused.

21 THE WITNESS: Thank you, sir.

22 THE MASTER: You can go back to your  
23 business.

24 MR. FLUSCHE: Thank you, again.

25 MR. MITCHELL: Thank you, Mr. Ruiz.

1 MR. ODAM: May I see the statute that  
2 you --

3 THE MASTER: I gave it back to Mr.  
4 Flusche.

5 MR. ODAM: Your Honor, I checked with  
6 the District Attorney's office in Jim Wells  
7 County and satisfied myself that Mr. Saenz  
8 is not under indictment for any testimony  
9 to which he would testify in these proceedings.  
10 Therefore, I have satisfied myself that if  
11 the witness had to testify at all, pursuant  
12 to questions I would ask him, he would not  
13 come close to the matters indicted there.

14 So, in my opinion, that indictment  
15 does not pertain to these proceedings. In  
16 my judgment, we are in a situation where we  
17 have two things: Number one, the general  
18 grant of immunity by the House, and  
19 probably more importantly, and we can set  
20 that aside and come more specific to this  
21 situation that is under the statute Section  
22 14 immunity granted by this Master.

23 What I would request is back to  
24 our original request that Mr. Saenz be  
25 instructed by the Master to testify and to

1 produce such document or thing pursuant to  
2 Section 14 with the understanding that when  
3 required to do so under the provision of  
4 Section 8 here over his prior claim of  
5 privilege against self-incrimination or his  
6 right not to testify that it would be my  
7 understanding that that person shall not be  
8 subject to indictment or prosecution for  
9 any transaction, matter or thing concerning  
10 which he truthfully testified or produced  
11 evidence, document or otherwise.

12 I would respectfully request we  
13 recall the witness and renew our request  
14 to The Master that the witness be instructed  
15 to testify and see what develops from there.

16 THE MASTER: Well, I think we can  
17 predict what will develop and so let's just  
18 do our predicting.

19 I predict that he will, under  
20 instructions of counsel, continue to assert  
21 his Fifth Amendment rights and then will you  
22 ask me to petition the District Court, and  
23 if so, which District Court?

24 MR. ODAM: Well, I would request that  
25 pursuant to Section 8 that the Master should

1 petition a district court in Corpus Christi  
2 and Nueces County and along those lines, I  
3 have taken the liberty of checking to see  
4 what judges are available, when I was  
5 upstairs in the District Attorney's office.

6 And I ask that The Master petition  
7 a District Court in Nueces County for an  
8 order compelling such person to testify  
9 before The Master, period.

10 THE MASTER: When do you think this  
11 should be accomplished?

12 MR. ODAM: I think that it should be  
13 accomplished, I would say, immediately, but  
14 my only concern in saying that is that I do  
15 not want to unduly delay these proceedings.

16 THE MASTER: My thought is, quite  
17 frankly, to work on it over the weekend and  
18 have the hearing Monday afternoon.

19 MR. ODAM: All right, sir, that will be  
20 fine.

21 THE MASTER: Do you want to move faster  
22 than that? We may be able to.

23 MR. FLUSCHE: That wouldn't necessarily  
24 have to be on the record, would it?

25 THE MASTER: What do you mean, on the



1 record?

2 MR. FLUSCHE: Would we have a court  
3 reporter present?

4 THE MASTER: Upstairs?

5 MR. FLUSCHE: Yes.

6 THE MASTER: I am sure so. It seems to  
7 me that those are official proceedings in  
8 that court's court reporter for all purposes  
9 including a writ of habeas corpus because  
10 that is where I am assuming things go the  
11 way it is outlined. Mr. Mitchell would  
12 clearly want a court reporter.

13 MR. MITCHELL: Sure, Judge.

14 THE MASTER: That would be your record  
15 for the Supreme Court.

16 MR. MITCHELL: Right.

17 THE MASTER: And I think you guys  
18 would want it too. That would also be your  
19 record in the Supreme Court.

20 MR. MITCHELL: And, Judge, we might not  
21 have to go to the Supreme Court if the Judge  
22 gives us what I consider is that the matter  
23 dictates, good, sound immunity on each and  
24 every point, what I think this man is  
25 entitled to, and then we will be right back

1 over here testifying.

2 MR. ODAM: If that is the case --

3 MR. MITCHELL: But I want full immunity.

4 THE MASTER: I don't believe that Court  
5 under the statute has the authority to grant  
6 the immunity.

7 MR. MITCHELL: Well, then, Your Honor,  
8 then we might as well face it, if that Court  
9 doesn't have the authority to grant the  
10 immunity and I don't believe the Master has  
11 the authority --

12 THE MASTER: I don't believe the Master  
13 does, either.

14 MR. MITCHELL: I don't believe the  
15 Chairman of the House Select Committee has  
16 the authority.

17 THE MASTER: That is another subject.  
18 Let's don't get off into that.

19 MR. MITCHELL: I'm simply saying, Judge  
20 Meyers, if I can get before someone that has  
21 the power to grant me the immunity and be  
22 satisfied to that effect, then, we won't go  
23 this other route.

24 THE MASTER: I think the immunity is  
25 self-executing, but it is something to brief,

1 obviously.

2 Very well, call Mr. Saenz.

3 (Jose H. Saenz recalled as a witness,  
4 having been previously sworn upon his oath  
5 testified as follows, to wit:)

6  
7 MR. FLUSCHE: Would you mark these  
8 documents as Exhibits 43 and the following  
9 numbers.

10 (Marked for identification by the  
11 reporter as Exhibits E-43, E-44, E-45,  
12 E-46, E-47, E-48, E-49 and E-50.)

13  
14  
15 EXAMINATION CONTINUED

16 BY MR. FLUSCHE:

17  
18 Q Mr. Saenz, I will hand you what has been marked  
19 as Exhibits 43 through 50 and I will ask you  
20 whether or not you recognize those documents.

21 A I respectfully decline and refuse to answer the  
22 questions put to me by the commission on the  
23 ground that the answer might tend to incriminate  
24 me. I claim this right under the Fifth Amendment  
25 of the Constitution of the United States and Article

1 one Section 10 of the Constitution of Texas.

2  
3 (Discussion off the record.)

4 MR. FLUSCHE: Your Honor, I am going  
5 to ask the Court -- I would like really to  
6 delay this procedure until Monday so that we  
7 might have more time to think it through.

8 THE MASTER: I think that is a fair  
9 request.

10 MR. FLUSCHE: So I will ask that this  
11 witness be excused at this time.

12 THE MASTER: I don't suppose you mean to  
13 be excused, but just that he stay under the  
14 subpoena.

15 MR. FLUSCHE: Yes, sir.

16 THE MASTER: To stay in attendance and  
17 return to the court when you are summoned.

18 THE WITNESS: Can I leave now?

19 MR. FLUSCHE: Yes, sir.

20 THE MASTER: Are you available by phone?

21 THE WITNESS: Yes, sir, I am at the  
22 office every day.

23 THE MASTER: You are still subject to  
24 subpoena and I will let you go back, but you  
25 understand that you are still under subpoena.

1 THE WITNESS: Fine, thank you, sir.

2  
3 (Whereupon, Mr. Saenz, the witness,  
4 left the hearing room.

5 MR. FLUSCHE: Could we recess now,  
6 Your Honor?

7 THE MASTER: We are within two minutes  
8 of recess time. Do you want to recess until  
9 12 so you can get your stuff together?

10 MR. FLUSCHE: 15 minutes is fine.

11 THE MASTER: All right. We will be in  
12 recess until 11:55.

13  
14 (Whereupon, the hearing was in recess  
15 from 11:40 a.m. until 11:55 a.m.)  
16  
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1 THE MASTER: Continue, gentlemen.

2 MR. ODAM: Your Honor, if I might,  
3 oursuant to the comment we made earlier,  
4 we are now moving to a new paragraph in our  
5 pleading and that is paragraph 5 on page 5.  
6 As I stated earlier, we have alleged here  
7 the evidence would be Judge Carrillo obtained  
8 the private benefit of Oscar Sanchez, a  
9 county employee, and also used county equip-  
10 ment. None of this was at the expense of  
11 Judge Carrillo.

12 We call as our first witness, Oscar  
13 Sanchez.

14 MR. MITCHELL: May I note for the  
15 record that at the prior testimony of this  
16 witness, he testified through an interpreter,  
17 and I suggest we have an interpreter for  
18 this time.

19 THE MASTER: All right. Do we have  
20 an interpreter here?

21 MR. FLUSCHE: Yes, sir.

22 THE MASTER: Mr. Abarca, if you will,  
23 raise your hand and I will swear you first.

24 MR. ABARCA: All right, sir.

25 (The interpreter was sworn by the Court

1 to correctly interpret from English to  
2 Spanish the questions and from Spanish to  
3 English the answers of the witness.)  
4

5 - - - - -  
6  
7 OSCAR SANCHEZ,

8 being duly sworn by the Court, through the interpreter,  
9 upon his oath testified as follows, through the inter-  
10 preter:

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

12 BY MR. FLUSCHE:

13  
14 Q Now --

15 MR. ABARCA: He has asked me if I  
16 could interpret for him only when he does  
17 not understand?

18 THE MASTER: No, I believe we do better  
19 if we proceed either wholly through the trans-  
20 lator or not through him at all.

21 THE WITNESS: Very well.

22 THE MASTER: And even if Mr. Sanchez  
23 should understand a question, or thinks he  
24 does, I will ask him to wait until you  
25 have interpreted it and then give his reply

1 in Spanish.

2 THE WITNESS: Very well.

3 THE MASTER: Gentlemen, we have a  
4 professional interpreter and you ask the  
5 question directly to the witness and he  
6 will interpret verbatim. Keep in mind we  
7 have a professional, not an amateur.

8 Q (By Mr. Flusche:) Will you please state your  
9 name and address.

10 A Oscar Sanchez, P. O. Box 205, Benavides.

11 Q That is Benavides, Texas?

12 A Yes, sir.

13 Q And where are you employed at the present time?

14 A Right now with the water district.

15 Q Of the Duval County Conservation and Reclamation  
16 District?

17 A Yes, sir.

18 Q And how much are you paid at your present employ-  
19 ment?

20 A Right now they are paying me six hundred per month.

21 Q What sort of work do you do for the water district?

22 A I do operator -- how do you say it, or pipe fitting  
23 or what do you call it?

24 Q All right. How long have you worked for the water  
25 district?



- 1 A A year and a half.
- 2 Q And prior to that, where did you work?
- 3 A With the county, with Duval County.
- 4 Q All right. How much were you paid when you worked
- 5 for Duval County?
- 6 A Two seventy-five.
- 7 Q And what type of work did you do for Duval County?
- 8 A An operator.
- 9 Q Operator of what?
- 10 A Heavy equipment.
- 11 Q Let me ask you this. Have you ever worked on
- 12 the Carrillo Ranch?
- 13 A Sometimes, when they would send me.
- 14 Q Was that on the Borjas Ranch belonging to Judge
- 15 O. P. Carrillo?
- 16 A Yes, sometimes, sometimes.
- 17 Q Let me ask you this. Back in the latter part of
- 18 1971, did you have occasion to do some work on
- 19 Judge Carrillo's ranch?
- 20 A Yes, on one of his ranches, yes.
- 21 Q Who was it that instructed you to report for
- 22 work out there?
- 23 A Ramiro Carrillo.

24 MR. MITCHELL: We move to strike the

25 answer, it is hearsay as to this witness.

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THE MASTER: Overruled.

Q Now, what kind of work did you do on the Carrillo ranch?

A A tank full of water for the cows.

Q And did that involve the use of heavy equipment?

A Yes, sir. I went and did it with it.

Q What kind of heavy equipment did you use?

A It is a big machine, it is something like a back hoe, but the name of it is grade-all.

Q Now, who did the back hoe belong to?

A To the county.

Q And that was at the same time when you were employed by the county?

A Yes.

Q Now, did Judge Carrillo himself ever ask you to go out to the ranch and work?

A No, sir, he gave Ramiro Carrillo the orders and Ramiro Carrillo gave me the orders.

MR. MITCHELL: Hearsay, we move to strike.

THE MASTER: Unless that is developed, the motion is good.

MR. FLUSCHE: All right.

Q Now --

THE MASTER: And the motion is sustained.

1 MR. FLUSCHE: I understand.

2 Q Did Judge Carrillo ever pay you any money for the  
3 work you did on his ranch?

4 A No, sir.

5 Q And did the Judge ever give you any gifts or any  
6 other benefits for doing work on his ranch?

7 A Not that I remember, no.

8 Q All right. Now, what is the position of Ramiro  
9 Carrillo in the county?

10 A He is county commissioner.

11 Q And was he a county commissioner at the time he  
12 instructed you to do this work?

13 A Yes, sir.

14 Q All right. Now, approximately how many hours  
15 or days were you occupied at the ranch digging  
16 this water tank?

17 A Oh, about two days, that is all.

18 Q Now, let me ask you one question.

19 Do you know of your own knowledge whether  
20 or not Judge Carrillo instructed Ramiro to order  
21 you to work at the ranch?

22 MR. MITCHELL: Still would be hearsay,  
23 Judge.

24 THE MASTER: The answer to the question  
25 is yes or no. Then if the next question is

1                   how do you know and he says he was present  
2                   or something like that. of course, that is  
3                   evidence.

4                   THE WITNESS: Will you repeat the  
5                   question?

6                   Q Do you have personal knowledge that Judge Carrillo  
7                   ordered Ramiro Carrillo to have you work at the  
8                   ranch?

9                   A Well, surely, he said it, because they sent me.

10                   MR. MITCHELL: Now, we move to strike.

11                   THE MASTER: I will reserve that and  
12                   if there is any further effort, of course,  
13                   if there is not, it is good.

14                   Q Did the ranch belong to Ramiro or O. P. Carrillo?

15                   A It belonged to O.P.

16                   Q Now, what sort of fuel did you use --

17                   THE MASTER: Pardon me.

18                   Do you have any questions bearing on  
19                   his knowledge of whether Judge Carrillo  
20                   ordered or requested his brother to send  
21                   him out there?

22                   MR. FLUSCHE: No, sir, I am not going  
23                   to go into that any further.

24                   THE MASTER: The objection is sustained  
25                   as to whether Judge Carrillo ordered his

1 brother to send this witness out to the  
2 ranch.

3 Q (By Mr. Flusche:) Let me ask you this. What sort  
4 of fuel does this machine run on?

5 A With gasoline.

6 Q Where did you get the gasoline to operate this  
7 back hoe on this particular occasion?

8 A At the county shop.

9 Q Let me ask you this. On the occasions when you  
10 went to the ranch to do work on the water tank,  
11 did you see Tomas Elizondo?

12 MR. MITCHELL: I don't believe the  
13 testimony shows those occasions at all,  
14 he said one occasion of two days.

15 THE MASTER: Two days, that is correct.

16 THE WITNESS: No, sir.

17 Q How about Patricio Garza?

18 A No, sir.

19 Q Who were the workmen who assisted you in digging  
20 this water tank?

21 A I went alone because that machine is operated by  
22 one operator alone.

23

24

25

1 Q Now, do you know of your own knowledge whether or  
2 not Tomas Elizondo or Francisco Ruiz ever did any  
3 work on the ranch?

4 MR. MITCHELL: Excuse me, Your Honor,  
5 the ranch this witness is talking about,  
6 out of fairness to him, is not the Borjas  
7 Ranch, he is asking him about the ranch.  
8 There is no testimony in this record about  
9 the North Ranch and I am going to object.

10 The question is not put in a fair  
11 context to the witness. It is not the  
12 ranch we have been talking about.

13 THE MASTER : I will let him answer  
14 this question but you better identify the  
15 ranch.

16 A What was the question?

17 Q Let me ask you if you know of your own knowledge  
18 whether Tomas Elizondo, Francisco Ruiz, ever did  
19 any work on either one of the Judge's ranches?

20 A Probably.

21 MR. MITCHELL: Move to strike that,  
22 of course, it would be speculation and no  
23 personal knowledge.

24 THE MASTER: And I reserve until he  
25 shows a little better information.

1 Q Have you ever seen Francisco Ruiz doing any work  
2 on the Judge's ranch?

3 A Yes, sir.

4 Q And what was the occasion that you saw him doing  
5 work? What kind of work was he doing for the  
6 Judge?

7 THE MASTER: You want to withdraw that  
8 question and ask it again?

9 MR. FLUSCHE: Yes, sir, that is two  
10 questions.

11 THE MASTER: We are dealing through  
12 an interpreter here and if you would quit  
13 prefacing them by, "Let me ask you this."

14 MR. FLUSCHE: All right.

15 MR. MITCHELL: Judge Meyers, let me  
16 say this in this break: What he is asking  
17 him now goes beyond 5. It has nothing to  
18 do with the occasion that the reservoir.  
19 He was not charging him with that.

20 THE MASTER: He was asking him now  
21 about Francisco Ruiz's work.

22 MR. MITCHELL: Well, Judge, 5 deals  
23 only with this man on one occasion in  
24 building a reservoir.

25 THE MASTER: But he is not limited

1 with this witness to just one count. He  
2 can prove anything he wants to by this  
3 witness.

4 MR. MITCHELL: I understood that was  
5 his announced purpose. I don't care, Judge,  
6 I can cross-examine him. I thought we were  
7 bound by that rule.

8 THE MASTER: By what rule?

9 MR. MITCHELL: That he announced --

10 THE MASTER: No, he indicated it was  
11 primarily on 5 but that doesn't preclude  
12 him from going into other counts, of course  
13 not.

14 MR. MITCHELL: All right.

15 Q (By Mr. Flusche:) Did you ever see Francisco  
16 do any work on the Judge's work, either one of  
17 them?

18 A Yes, sir.

19 Q What type of work did you see him do?

20 A Well, Francisco repaired windmills. He built  
21 windmill towers.

22 Q Did you ever see him build a windmill tower on  
23 the Judge's ranch?

24 MR. MITCHELL: Strike that as --

25 I mean objection on the grounds of leading.



1 Your Honor.

2 THE MASTER: Overrule.

3 MR. MITCHELL: Excuse me, Judge, also  
4 now I want to object to the question as  
5 to the time, the place. At least give me  
6 the century. I don't even know what he is  
7 talking about, "Did you ever" and the  
8 question is so global that I can't --

9 THE MASTER: He has to ask them one  
10 at a time, Mr. Mitchell. Give him an oppor-  
11 tunity. The objection is overruled.

12 A Yes, sir.

13 Q And approximately when was this?

14 A The last time I saw him was about 71 was the last  
15 time or 72 -- I mean 70, about 1970.

16 Q Did you ever see Tomas Elizondo performing any  
17 labor on the Judge's ranches?

18 MR. MITCHELL: Objection to leading.

19 THE MASTER: Overruled.

20 A Yes, sir.

21 Q And when was this?

22 A Well, that -- I have seen him, he has worked all  
23 the time there with them.

24 Q Do you know what Tomas Elizondo's position is on  
25 the Judge's ranch?

1 MR. MITCHELL: It would be hearsay,  
2 we object.

3 THE MASTER: Overruled.

4 A He is foreman at the ranch.

5 Q Have you visited the Judge's ranches frequently?

6 A Long ago, I used to visit them, yes.

7 Q Was that since he became a Judge?

8 A No, before that.

9 MR. FLUSCHE: I believe that's all we  
10 have.

11

12

13

14

E X A M I N A T I O N

15

16 BY MR. MITCHELL:

17

18 Q Mr. Sanchez, do you know where the North Ranch  
19 is?

18

19

20 A Yes, sir.

21

22 Q And isn't it a --

23

24

25 MR. MITCHELL: To be sure the witness  
understands my predicate question, I will  
ask it again.

23

24

25

THE MASTER: Now, wait, Mr. Mitchell,  
it is those sort of preparatory remarks that

1 makes it awful difficult to examine a  
2 witness through an interpreter. Can you  
3 avoid them with this witness?

4 Q The Calvin North Ranch, do you know where that is?

5 A Yes, sir.

6 Q Is that ranch different from the Borjas Ranch?

7 A Yes, sir.

8 Q And the Calvin North Ranch is the ranch that was  
9 owned by Calvin North when you worked on it?

10 A No, sir, it was the Judge's.

11 Q When was it that you worked on the Calvin North  
12 ranch?

13 A The latter part of 71, almost at the time that  
14 72 was coming in.

15 Q Mr. Sanchez, who all was there at the time you  
16 worked on the Calvin North Ranch in the latter  
17 part of 71 or 72?

18 A Well, I don't remember who was there. It could  
19 be the Judge, O.P.

20 Q But you do remember that that is the last time  
21 that you did any work on the Calvin North Ranch?

22 A On that year, yes.

23 Q Could it be that the work was done in 1968?

24 A Well, I don't think so, because in 70 I had a  
25 brand new car. I would go over there and there

1 is a cattleguard there and I broke my muffler.

2 Q Did you do any work on other ranches other than  
3 the North Ranch, Mr. Sanchez, beyond the year 1971?

4 A After 71, I don't remember having done any.

5 Q In fact, you previously testified --

6 MR. MITCHELL: Let me see if I can  
7 handle that better.

8 Q You previously testified under oath in Austin  
9 that that was the last time you did any work for  
10 Ramiro Carrillo, Judge Carrillo, was in 19 -- 1971.

11 A Around that, more or less, because that was when  
12 I quit the county for the first time -- when I  
13 quit working for the county.

14 Q And it is your testimony today that it could not  
15 have been as early as 1968 that you did the work?

16 A Well, I don't remember about that, but I am sure  
17 no, I am not sure.

18 Q Could it have been as early as 1965?

19 A Well, I have gone many times that I do not remem-  
20 ber.

21 MR. MITCHELL: May I mark this series  
22 of photographs, please?

23 (Marked for identification by the  
24 reporter as Exhibits R-26 through R-42.)  
25

1 Q Mr. Sanchez, I hand you what has been marked  
2 as Exhibit R-40 and ask you if you recognize your  
3 picture?

4 A Yes, sir.

5 Q And is that the tank in the background?

6 A Yes, sir.

7 Q And is that the --

8 A A part of it.

9 Q And is that the occasion in question about which  
10 you have been testifying?

11 A Yes, sir, it is at his ranch.

12 Q And do you recognize who else is in the picture?

13 A Yes, sir.

14 Q Who?

15 A O.P.

16 Q And --

17 A And Carlos Herrera.

18 Q I hand you R-41 and ask you if you recognize it.

19 A Yes, sir.

20 Q Does it appear to be a picture taken the same  
21 day at the same place?

22 A It could be.

23 Q Who is in the picture, do you recognize them?

24 A O. P. and Patricio.

25 Q You recognize them as the people there on that

1 day Mr. Sanchez?

2 A The persons I do know, that on that day, these  
3 persons were not there.

4 MR. ODAM: Your Honor, pardon me, for  
5 the purposes of the question, he said  
6 Patricio, could he identify the last name  
7 of Patricio?

8 THE MASTER: Yes.

9 A Garza.

10 MR. ODAM: Thank you.

11 Q I will hand you R-26 and ask you if you recognize  
12 the persons in that picture?

13 A Yes, sir.

14 Q Who are they?

15 A Carlos Herrera and I.

16 Q You recognize that picture as being taken on the  
17 day that you testified to as doing the work on  
18 the North Ranch?

19 A No, sir.

20 Q In view of your testimony that the last time  
21 you did work on the North Ranch or any ranch  
22 owned by Judge Carrillo or Ramiro Carrillo was  
23 sometime in 1971, could you tell us on what  
24 occasion that picture was taken?

25 A They took this picture when Carlos Herrera came

1           there and started the pit with the maintainer.

2           Q For the tank?

3           A But they did not make it deep enough to hold the  
4           water.

5           Q So that the back hoe came out and made it deeper?

6           A Yes, sir.

7           Q And that was, in fact, in 1965?

8           A This one. (witness indicating Exhibit R-26.)

9           Q Yes.

10          A This one. (Indicating R-26.) I do not remember  
11          what date it was on, nor what year.

12                   MR. MITCHELL: I ask the witness to  
13                   move to the photograph directly underneath  
14                   it showing the pickup truck and identify it  
15                   by number for the record.

16                   MR. ABARCA: Exhibit R-41.

17                   MR. MITCHELL: I will ask the witness  
18                   to look at that picture and see if the  
19                   license plate on that truck --

20                   MR. ABARCA: Would you direct your  
21                   question directly to him?

22          Q Mr. Sanchez, would you look at that pickup, being  
23                  R-41, and do you observe a license plate on the  
24                  pickup?

25          A Yes, sir.

- 1 Q Can you read the date on that license plate?
- 2 A No, I cannot see that much, it is too little.
- 3 Q All right, I hand you, Mr. Sanchez, R-27 and see
- 4 if you recognize that as being a picture of Mr.
- 5 North.
- 6 A Yes, I do know it.
- 7 Q And, as a matter of fact, Mr. North was ther that
- 8 day that you testified to that you took the back
- 9 hoe and did the work that you have told us about?
- 10 A No, sir.
- 11 Q Is it -- are you testifying that he was not there
- 12 or that you did not see him?
- 13 A He was not there.
- 14 Q But the picture is of Mr. North, is it not,
- 15 Mr. Sanchez?
- 16 A Yes.

17 MR. MITCHELL: May I have just a

18 second.

19 (Discussion off the record.)

20

21

22

23

24

25



1 MR. MITCHELL: We would offer  
2 Exhibits 26, 27, 40 and 41.

3 MR. ODAM: We would object to the  
4 entrance of these photographs on the basis  
5 of authentication as to who took them, when  
6 they were taken, and number three, as to  
7 where they were taken. This witness, by  
8 his testimony, has at best confused the  
9 issue as to time; has not totally identified  
10 when they were taken, so we object to those  
11 on authentication.

12 THE MASTER: The objection is overruled  
13 and those are admitted.

14 (Respondent's Exhibits 26, 27, 40 and  
15 41 were admitted into evidence.)  
16

17 Q (By Mr. Mitchell:) Mr. Saenz, do you know George  
18 Zertuche?

19 A Yes.

20 Q Do you know his son, Arturo Zertuche?

21 A Yes.

22 Q And his son, Hector Zertuche?

23 A Yes.

24 Q How long have you known these gentlemen?

25 A Oh, about 12 years ago or 15 years ago.

- 1 Q Arturo Zertuche is what aged man today?
- 2 A Arturo, well, I don't remember, I don't remember  
3 what age he has.
- 4 Q And you, of course, are related to Ruben Chapa,  
5 are you not?
- 6 A Yes.
- 7 Q I believe Ruben Chapa has been a prior witness in  
8 these cases and testified in Austin and here in  
9 Corpus Christi, is that correct?
- 10 A Yes, sir.
- 11 Q And about what aged man is Ruben Chapa today?
- 12 A Well, I don't know, that I do not know, because  
13 I have never noticed their age.
- 14 Q Would you say the man is in his late 20's or 30's?
- 15 A About 25, 26, maybe 27.
- 16 Q I hand you R-29 and ask you, Mr. Saenz, if you see  
17 your kinsman at about age what, 12?
- 18 A I do not know what age he had.
- 19 Q Who is that?  
20 Ruben Chapa.
- 21 Q And the next number is 29, is that correct?
- 22 A Yes, sir.
- 23 Q And was Ruben at the north ranch on the date you  
24 have testified and told us about?
- 25 A No, sir.

1 Q You don't recognize that picture as being him on  
2 the ranch on that day?

3 A I don't remember the picture having been taken, who  
4 took it?

5 Q Do you recognize Mr. Chapa?

6 A Yes, sir.

7 Q Does it appear to be a picture of him when he was  
8 a much younger man?

9 A No, he was a little bit fatter or more chubby.

10 Q There is no doubt that is Ruben Chapa?

11 A Yes, sir.

12 Q I hand you R-36 and ask you if you recognize that  
13 as Mr. Zertuche?

14 A Yes.

15 THE MASTER: Which one?

16 Q That is the father of Hector and Arturo?

17 A Yes.

18 Q And that is George Zertuche?

19 A Yes.

20 Q And you recognize him as being in that picture  
21 that you are holding there are R-36?

22 A R-36, what is that?

23 Q The number of the picture.

24 A I do not know who took it. I did not watch or  
25 see when it was taken.

1 Q But you do recognize George Zertuche?

2 A Yes, sir.

3 Q Do you know whether or not that was Mr. Zertuche  
4 on the north ranch on the day you testified to?

5 A That was in the picture?

6 Q Yes.

7 A He was in the picture, yes.

8 Q I will ask you if he was there on the north ranch  
9 on the date you have testified to.

10 A What do you mean on the date?

11 Q On the day you had the backhoe out there.

12 A No, sir.

13 Q Do you recognize, in R-35, Judge Carrillo?

14 A Yes, sir.

15 Q And do you recognize the young man on the right?

16 A Yes, sir.

17 Q Who is he?

18 A Ruben Chapa.

19 Q That is your kinsman that you have already  
20 identified to be in the picture, R-29?

21 A Yes.

22 Q And you notice Patricio Garza?

23 A Yes.

24 Q And who is the other gentleman there next to Judge  
25 Carrillo?

1 A George Zertuche.

2 Q The same man that is shown in R-36?

3 A The same one.

4 Q Are those men in R-35 on the north ranch on the  
5 date that you deepened the tank?

6 A No, sir.

7 Q Now, I believe you had previously identified R-40  
8 as being Judge Carrillo?

9 A Yes, sir.

10 Q Yourself?

11 A Yes, sir.

12 Q And Mr. Herrera?

13 A Yes, sir.

14 Q And part of the reservoir?

15 A Part of the tank, but that part I did not build  
16 it and I am sure of that.

17 Q But you recognize it as being the tank that you  
18 worked on with the backhoe?

19 A Yes, at the same place, the tank is there.

20 Q And that is according to, I believe, your testimony  
21 in 1971?

22 A Yes, sir.

23 Q Now, I will ask you to look at R-41 and see if Judge  
24 Carrillo --

25 A Yes, sir.

1 Q Was dressed exactly as he is dressed, with a  
2 bandana, as in this one?

3 A Yes.

4 Q And exactly as he is dressed and shown in R-35?

5 A Yes, sir.

6 Q I will hand you R-37 and ask you if you recognize  
7 Judge Carrillo in that picture?

8 A Yes, sir.

9 Q Do you know whether or not that picture was taken  
10 at the time that you have told us about?

11 A No, sir, I don't know whether they took it or not.

12 Q Does the Judge appear to be dressed the same as  
13 he was dressed in R-35?

14 A Yes, sir.

15 Q R-41?

16 A Yes, sir.

17 Q I hand you R-38, Mr. Sanchez, and ask you if you  
18 recognize the young Zertuche in that picture?

19 A Young, there are three young Zertuche's here.

20 Q Arturo?

21 A Yes, sir.

22 Q Hector?

23 A Yes, sir.

24 Q And what is the other boy's name?

25 A George, Jr.

- 1 Q You recognize them in that picture, don't you?
- 2 A Yes, sir.
- 3 Q And they are much younger than they are today?
- 4 A Yes, sir.
- 5 Q Do you recognize that as being a picture taken on  
6 the ranch on the date that you worked on it, Mr.  
7 Sanchez?
- 8 A No, sir.
- 9 Q I will ask you to look at R-42 and see if you  
10 recognize the Zertuche boys in it?
- 11 A Yes, sir.
- 12 Q Do you recognize Hector, George, Jr., and Arturo?
- 13 A Yes, sir.
- 14 Q Do you recognize ~~that~~ picture as being taken on the  
15 day you were working on the tank on the north  
16 ranch?
- 17 A No, sir, I do not, no.
- 18 Q I will hand you what has been marked as R-30, Mr.  
19 Sanchez, and we all know him, don't we, that is  
20 Mr. Patricio Garza?
- 21 A Uh-huh.
- 22 Q You recognize him in the picture?
- 23 A Yes, sir.
- 24 Q And you recognize him as being the same person  
25 as in R-35?

1 A Yes, sir.

2 Q I will ask you about R-30, do you recall whether  
3 or not that picture was taken on the date and time  
4 you did the work on the north ranch?

5 A No, sir, I did not see it.

6 Q Do you recognize that as a windmill on the north  
7 ranch?

8 A Yes, sir.

9 Q Can you tell the court when, if you know, that  
10 picture was taken of Mr. Patricio Garza on a  
11 windmill on the north ranch?

12 A I cannot tell you when, because I did not see this  
13 picture.

14 Q I will ask you if R-34 also is a picture of  
15 Patricio Garza and the windmill on the north ranch?

16 A It is Patricio.

17 Q Is it the windmill on the north ranch?

18 A Yes, it was.

19 Q You said it was, is it no longer in existence?

20 A Not the tower.

21 Q Do you recognize Mr. Patricio Garza in R-34 as being  
22 on the ranch on the day you did the work?

23 A I do not remember Patricio having been there with  
24 me.

25 Q I will show you, Mr. Sanchez, R-31 and R-32 and ask



1           you if you recognize Judge Carrillo in those  
2           pictures?

3           A   Yes, sir.

4           Q   And do you recognize any of the other persons in  
5           those pictures?

6           A   Yes.

7           Q   And do you recognize that picture as being taken  
8           on the north ranch at the time you took the backhoe  
9           out to deepen the water tank?

10          A   I don't remember them having -- I didn't see them  
11          take these pictures.

12          Q   All right. The windmill in R-34 and R-30 are no  
13          longer in existence, I believe you told me?

14          A   No, sir.

15          Q   They were blown down by the hurricane in 1968,  
16          weren't they?

17          A   No, sir.

18          Q   Do you know how they were destroyed?

19          A   Yes, sir.

20          Q   Were they destroyed by the hurricane in 1970?

21          A   No, sir.

22          Q   How about the water tower in the back, was it  
23          destroyed in either 1968 or 1970 by the hurricane?

24          A   I do not know whether the wind blew it down or it  
25          fell by itself -- it fell. They took it away from

1           there.

2           Q   I hand you what has been marked for identification  
3           as R-20 and R-33, Mr. Sanchez, and ask you first  
4           about R-28, if you recognize the gentleman in  
5           that picture?

6           A   Yes, sir.

7           Q   And who is he?

8           A   Hector.

9           Q   Zertuche?

10          A   Zertuche, yes.

11          Q   Who else do you recognize?

12          A   It is so blurry, I cannot distinguish them very  
13          well.

14          Q   Do you recall whether or not Hector was on the  
15          ranch on the date you had the backhoe out there?

16          A   Hector?

17          Q   Yes, sir.

18          A   At the time when I went out to work out there, no.

19          Q   Well, did he come later?

20          A   Well, I did not see him.

21          Q   I hand you R-39 and ask you if you recognize that  
22          as the backhoe you had on the ranch?

23          A   Yes, this is the machine.

24          Q   And Hector is driving it, is he not?

25          A   Yes, sir.

1 Q And you are sitting on the right-hand side of it?

2 A Yes, sir.

3 Q And you recognize that as a picture taken on the  
4 day you were working on the north ranch?

5 A That picture, yes, it is the picture -- it is  
6 the machine, I mean.

7 Q It is Hector driving the machine?

8 A Yes, sir.

9 Q So, Hector was there on that day?

10 A What day?

11 Q The day that machine was digging that tank out?

12 A No.

13 Can I talk?

14 THE MASTER: Mr. Mitchell, I am going  
15 to ask him myself for an explanation.

16 Yes, you may talk.

17 THE WITNESS: We brought that machine  
18 there when we knocked down the windmill  
19 and afterwards, I came to work on the water  
20 tank there by myself. That is all.

21 THE MASTER: When did you knock down  
22 the windmill?

23 THE WITNESS: I am sure it was in 1971.  
24 I have been many times on the ranches, it  
25 could have been one of the other times.

1 Q (By Mr. Mitchell:) Is it your testimony that you  
2 are not operating the backhoe in R-31 digging out  
3 the tank --

4 MR. MITCHELL: For the purpose of  
5 following this, you ought to look at it,  
6 Your Honor.

7 THE WITNESS: That machine is not  
8 digging the tank there in that picture.

9 Q It is not knocking down the windmill either?

10 A Yes, but it is not building the tank either.

11 Q It is the machine that was out there that helped  
12 build the tank?

13 A Yes, sir.

14 Q And it is being driven by Hector Zertuche who is  
15 in the picture?

16 A When we knocked down the windmill, yes, that was  
17 another time.

18 Q Was it another time the same day?

19 A No.

20 Q Was it before or after you dug the tank, Mr.  
21 Sanchez?

22 A It was -- this was before I dug the tank.

23 Q Would it have been --

24 A Can I talk?

25 Q Yes.

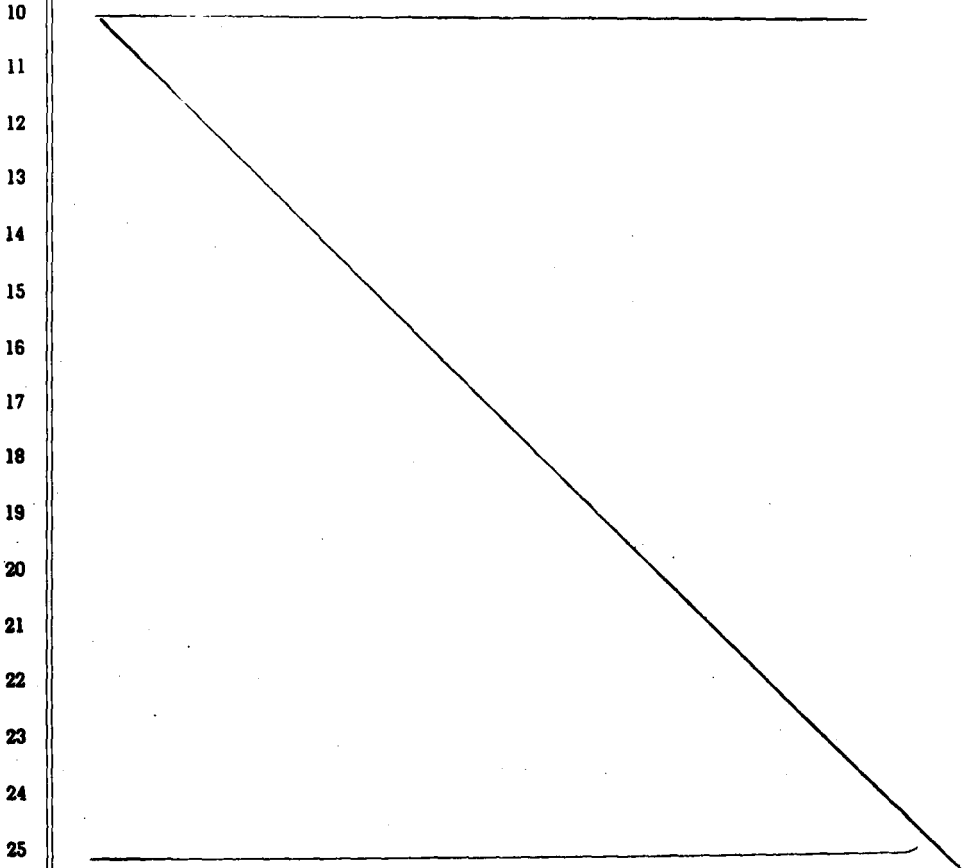
1 A Because to dig, we do not use this shovel to dig.

2 MR. ABARCA: Witness indicates R-39.

3 THE WITNESS: We used it to pull or to  
4 dig a ditch.

5 Q Did you do work on the north ranch, on the Carrillo  
6 ranch, any other time other than the time that  
7 you knocked down the windmill or helped dig out  
8 the tank?

9 A I have gone so many times that I don't remember.



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1 Q I am reading from Volume 2, Page 15 of the trans-  
2 cript of the proceedings before the Texas State  
3 House of Representatives.

4 I will ask you if you did not testify, in  
5 answer to this question, "How many times did you  
6 perform work at the Carrillo Ranch?", and your  
7 answer was, "Maybe a couple of times, two times,  
8 that is all."

9 Did you answer that at that time?

10 A At that time, yes, sir, on that year, yes.

11 Q And the question was asked you at that time, "And  
12 the last one was in 1971?", and your answer was,  
13 "Yes".

14 THE MASTER: This is a good time for  
15 break, Mr. Mitchell.

16 MR. MITCHELL: Yes, sir.

17 I would like, before the break, to  
18 offer into evidence those last -- I am  
19 sorry, I didn't mean to jump up like that,  
20 Judge, but I don't want to leave these  
21 hanging.

22 THE MASTER: Mr. Mitchell, I suppose  
23 you would be content to reoffering 26, but --  
24 I don't know that you ever identified 42,  
25 did you?

1                   MISS FOX: I don't believe so. I don't  
2                   have it as having been identified.

3                   MR. MITCHELL: May I ask a predicate  
4                   question rapidly on it?

5                   THE MASTER: You may. You don't ask it  
6                   any other way.

7                   Q (By Mr. Mitchell:) I show you R-42. Do you recog-  
8                   nize these Zertuche boys in there?

9                   A Yes, sir.

10                  Q And they were, I believe, George, Junior?

11                  A Yes, sir.

12                  Q And Hector and Arturo, and they are the same  
13                  picture as in R-36?

14                  A Yes, sir.

15                  MR. MITCHELL: We now offer. Your  
16                  Honor, all of the photographs, 26 through  
17                  and including 42.

18                  MR. ODAM: Your Honor, this witness  
19                  has not identified the time on which these  
20                  pictures were taken and he has certainly  
21                  not identified them as being taken on the  
22                  day that the tank was supposed to have been  
23                  dug and, as a matter of fact, he said that  
24                  the blade on the back hoe was a different  
25                  type of blade than was used when he did and

1 that is the only picture that could possibly  
2 link these pictures to the other case in  
3 question and we, therefore, object to them  
4 as not being properly authenticated.

5 THE MASTER: The motion is overruled.  
6 I think it goes to the weight.

7 Let me see the photographs and then  
8 they are admitted.

9  
10 (Respondent's Exhibits 26 through 42  
11 were admitted into evidence.)

12 THE MASTER: We will be in recess until  
13 eight-thirty tomorrow morning.

14 MR. FLUSCHE: You mean Monday morning?

15 THE MASTER: I mean Monday morning,  
16 indeed.

17 (Hearing in recess from Friday, Novem-  
18 ber 7th at one o'clock p.m. until Monday,  
19 November 10, eight thirty a.m.)  
20  
21  
22  
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