

INQUIRY CONCERNING A JUDGE

**NO. 5
NOVEMBER 10, 1975**

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BEFORE THE
STATE JUDICIAL QUALIFICATIONS COMMISSION

INQUIRY CONCERNING A JUDGE, NO. 5

NOVEMBER 10, 1975

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

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1 THE MASTER: You may proceed.

2 MR. ODAM: Your Honor, Mr. Fusche is
3 before the Fifth Circuit on another case and
4 Mr. Burt Plymun is here with me today and
5 will be coming into the courtroom and sitting
6 here with me.

7 Miss Elizabeth Levantino, she has been
8 out of the city and is due in at ten thirty
9 and may be also in today.

10 THE MASTER: All right.

11
12 - - - - -

13
14 EXAMINATION CONTINUED

15
16 BY MR. MITCHELL:

17 Q Mr. Sanchez, did you, in fact, receive a letter
18 from Mrs. Levantino about these hearings?

19 A Levantino?

20 Q From the attorney general's office?

21 A No.

22 Q You don't recall receiving a letter from the
23 attorney general stating you would have to come
24 testify, because the attorneys for Judge Carrillo
25 would not stipulate as to the accuracy of your

1 testimony at the prior hearing?

2 A No, they asked me, the investigators, if I worked
3 for the county, and I said yes.

4 Q You did testify previously in Austin, did you
5 not, Mr. Sanchez?

6 A What about?

7 O About the same subject matter.

8 A I don't remember what I said or not. They called
9 me and asked me if I had worked for the county and
10 if at any times I had worked with O. P. That
11 is what I answered to, yes, because I did work
12 for the county.

13 Q I questioned you in Austin, didn't I?

14 A No, sir.

15 Q You did not receive a letter from anyone about
16 your testimony here last Friday or today from the
17 attorney general's office?

18 A One of the rangers went to call me and told me
19 I had to be here.

20 Q Then the answer to the question is no, no letter?

21 A No letter.

22 Q Prior to coming to work for the water district,
23 where did you work, Mr. Sanchez?

24 A With the county.

25 Q When did your employment change?

1 A Oh, when the new water district began in 1974.

2 Q About April?

3 A Probably, I don't remember what day it was, what
4 month.

5 Q As a matter of fact, the water district didn't
6 change, it was a new board of directors, wasn't
7 it?

8 A Board members, yes, sir.

9 Q The water district had always been there?

10 A Yes, sir.

11 Q And the board of directors changed at the time
12 that Mr. Archer Parr and Mr. George Parr split
13 with O. P. Carrillo and his father, Mr. Chapa,
14 didn't it?

15 A After that, they changed themselves.

16 Q And you went from a job paying two hundred twenty-
17 five dollars a month with the county to the water
18 district to a job making six hundred dollars a
19 month with the water district and to a job controlled
20 by the Parrs?

21 A Yes, sir.

22 Q And you were transferred with four directors,
23 plus Ruben Chapa, Oscar Sanchez -- I mean Ruben
24 Chapa and Oscar Sanchez?

25 A No, I was not a director, I was just a worker.

1 Q The directors were changed, were they not?

2 A The directors, I don't know where they were, they
3 just came in there. They hired them there. I
4 don't know what happened there. I just asked for
5 the job and they gave me one.

6 Q All right. And Ruben Chapa also changed his job,
7 didn't he, to the water district?

8 A Ruben Chapa changed? I don't know. I don't
9 know in what manner.

10 Q He went to work for the water district, didn't
11 he, Mr. Sanchez?

12 A Yes, sir.

13 Q And I believe he is your brother-in-law, isn't he?

14 A Yes, sir.

15 Q And in addition, Vincente Chapa went to work for
16 the water district, didn't he, at the same time?

17 A Yes, he is working with the water district now.

18 Q And went to work about the same time that you went
19 to work?

20 A Yes, sir.

21 Q And you recall that you went to Archer Parr to get
22 the job with the water district, did you not, Mr.
23 Sanchez?

24 A With Archer, no, with George, I asked him if he
25 would give me a job.

1 Q And you got the job?

2 A He told me to ask the board members.

3 Q And the board members were people that he put on
4 the board, weren't they?

5 A I do not know whether he put them in or not.

6 Q Well, you know that prior to that time Mr. Parr
7 had demanded that four directors resign from the
8 water district and they did resign and were
9 replaced by Parr people, isn't that correct?

10 MR. ODAM: Your Honor, we would object
11 to this line of questioning. The witness
12 has already stated where he used to work,
13 where he began to work; I don't see the
14 relevancy of who asked him to become
15 employed with the water district; who
16 used to be on the board of directors.

17 The testimony of the witness given
18 thus far is -- we are not here on some type
19 of political fight between Archer Parr and
20 O. P. Carrillo.

21 THE MASTER: Unfortunately, I think we
22 are. It certainly goes to the bias and
23 interest of the witness. The objection is
24 overruled; you'll have to repeat the question.

25 (The question repeated to the witness

1 by the interpreter.)

2
3 A At that time, they were all his people.

4 Q Now, as a matter of fact, Mr. Sanchez, George
5 Parr and the Carrillos had had a falling out by
6 then?

7 A No, sir.

8 Q Because Mr. Chapa, Judge Carrillo's father, had
9 testified against the Parrs in the Federal
10 District Court?

11 A I do not know.

12 Q You don't know that Ramiro Carrillo, Judge
13 Carrillo's brother, had also testified against
14 the Parrs in Federal Court and that is one of the
15 reasons they had a falling out?

16 A I do not know what happened. I just worked, I do
17 not know anything about what is going on.

18 Q As a matter of fact, your brother-in-law, Ruben
19 Chapa, was a Parr sponsored candidate for the
20 school board election, wasn't he?

21 A I do not know whether George put him in. He ran
22 in the election, and that is all that I know.

23 Q And Francisco Ruiz was appointed commissioner by
24 the Parr faction to replace Ramiro Carrillo in
25 the commissioners' court, wasn't he?

1 A I don't know. I don't think so, because one of
2 them is still commissioner.

3 Q As a matter of fact --

4 MR. MITCHELL: Strike that. That is a
5 bad way to start a question to a witness
6 like this.

7 Q Do you know that besides yourself, Ruben Chapa
8 has testified against Judge Carrillo in Austin?

9 A Yes.

10 Q And that you testified against him in Austin?

11 A No, sir. They just asked me if I had worked
12 for him.

13 MR. MITCHELL: Well, Your Honor, I
14 submit the witness doesn't understand
15 because I have had the record and cross-
16 examined him concerning the record in the
17 impeachment. I trust that it is just that
18 the witness doesn't understand the question.

19 THE MASTER: Well, I think that we
20 understand each other. I take his answer
21 to mean that he -- his position is, he
22 didn't testify for or against, he simply
23 answered questions. Is that what you
24 understand it to be?

25 MR. MITCHELL: No. Well, maybe I can

1 just rephrase it, Judge Meyers, and get to
2 it.

3 THE MASTER: All right.

4 Q Mr. Sanchez, you were called to testify in Austin?

5 A Yes, sir.

6 Q Francisco Ruiz testified in Austin and testified
7 here?

8 A I do not know about here: in Austin, yes.

9 MR. MITCHELL: The record will reflect
10 that he preceded this witness on the stand.

11 THE MASTER: Yes.

12 Q Now, Rudolfo Chapa also testified in Austin,
13 did he not, Mr. Sanchez?

14 A Yes, sir.

15 Q And he is, I believe, also an employee of the
16 water district?

17 A He is a board member on the water board.

18 Q Put there by Archer Parr and George Parr at the
19 same time you changed employment from the county
20 to the water district?

21 A Could be, yes.

22 Q And that he is -- and he is your brother-in-law
23 also, I believe?

24 A Who?

25 Q Rudolfo Chapa?

1 A Yes.

2 Q Now, one other person, Cleofus Gonzales, made the
3 same change; he worked for the county?

4 A Yes, sir.

5 Q And he was put to work at a six or seven hundred
6 dollar a month job for the water district at
7 about the same time by Mr. Parr?

8 A I do not know.

9 Q All right. And do you know that he testified not
10 only twice in Austin, but once in the Federal
11 Court?

12 A Yes, sir.

13 Q And as a matter of fact, he is out in the hall
14 right now ready to testify here?

15 A Yes, sir.

16 MR. MITCHELL: No further questions.

17
18
19 RE - EXAMINATION

20
21 BY MR. ODAM:

22 Q Mr. Sanchez, you were testifying last Friday, do
23 you recall?

24 A Yes, sir.

25 Q And I believe it was your testimony last Friday

1 that in 1971 you operated a backhoe?

2 A Yes, sir.

3 Q On a ranch belonging to O. P. Carrillo?

4 A Yes, sir.

5 Q Would you clarify for the record, please, whether
6 or not the ranch you worked on in 1971 was the
7 Calvin North ranch or the Borias?

8 A Calvin North.

9 Q At the time you worked on the Calvin North ranch
10 in 1971, who was present with you operating the
11 backhoe?

12 A I do not remember having seen anyone there on
13 those days.

14 Q I refer you to the photographs that were marked
15 R-26 through R-42. Were these photographs taken
16 in 1971 when you worked on the backhoe out on the
17 Calvin North ranch?

18 A I don't remember them taking any pictures that
19 day when I was there.

20 Q Have you seen these pictures before last Friday?

21 A No, sir.

22 Q Do you have any idea as to when they were taken?

23 A I don't remember what year these are from.

24 Q You do not dispute you were in some of those
25 pictures?

1 A Yes, I am in there in a picture, but I do not
2 remember when these were.

3 Q Is it your testimony that you worked on the Calvin
4 North ranch more than one time?

5 A Oh, yes.

6 Q And the photographs here may have been taken prior
7 to 1971?

8 A Probably.

9 Q Or they could have been taken after 1971?

10 A No, after 71, no.

11 Q Is there a photograph of Mr. Ruben Chapa?

12 A Not here.

13 THE INTERPRETER: Witness indicating
14 R-42.

15 Q Is there a photograph in the stack of pictures
16 that has Ruben Chapa in it?

17 A Yes, sir.

18 Q Would you find that photograph.

19 A Here is one.

20 THE INTERPRETER: The witness indicates
21 R-29.

22 Q All right. Is he in R-32?

23 A Yes, sir.

24 Here is another one.

25 Q All right.

1 A Here is another one. That is all.

2 MR. ODAM: Let the record reflect the
3 witness identified R-37, R-35, R-29, R-32
4 and R-41.

5 A Here is another.

6 Q You are talking about R-31?

7 A Yes, sir.

8 THE MASTER: These are photographs
9 which included Ruben Chapa?

10 MR. ODAM: Yes, sir.

11 THE WITNESS: Those are all.

12 Q Your prior testimony was that you worked on the
13 backhoe in 1971?

14 A Yes, I think, yes.

15 Q It is your testimony that the scenes in all of
16 these photographs represent the time you worked
17 on the ranch in 71, does it or not?

18 A Represent, what do you mean?

19 Q Are these pictures of when you worked on the
20 ranch in 1971?

21 A No, they are not, because there was no one there
22 then.

23 MR. ODAM: Your Honor, the only looking
24 that I did was in McCormick and Ray on
25 photographs and they said for evidence

1 purposes what is essential as being able to
2 state the photograph represents the facts.
3 The facts we are attempting to prove is Mr.
4 Sanchez worked on the ranch in 1971. This
5 witness states these are not correct photo-
6 graphs of when he did work on the ranch in
7 1971.

8 The photographs are not authenticated
9 by this witness or any other witness. I
10 don't object to another witness authenticat-
11 ing these photographs, but this witness does
12 not represent the facts counsel is trying
13 to prove.

14 Again, I would object to the authenticity,
15 which has not been proven by this witness,
16 and they should not be admitted.

17 THE MASTER: Do you have another wit-
18 ness for this, Mr. Mitchell?

19 MR. MITCHELL: We have several.

20 THE MASTER: He has certainly authenti-
21 cated these as being a photograph of the
22 backhoe of the nature he used and he has
23 identified himself and numerous other people,
24 obviously at a somewhat younger age.

25 MR. MITCHELL: That is right.

1 THE MASTER: But he has denied they
2 are of the 1971 event, so as of the record
3 now, these are not now probative of 1971.

4 MR. MITCHELL: Very good. We will offer
5 the connecting link on the time.

6 THE MASTER: You must understand they
7 are authenticated in that they are pictures
8 of the North Ranch and Judge Carrillo and
9 others have been identified, but they have
10 not been tied to the 1971 event.

11 They are admitted just as photographs.

12 MR. MITCHELL: I understand there is
13 weakness on the credibility of that. Your
14 Honor. We hope to button it down for the
15 Court.

16 Q (By Mr. Odam:) Mr. Sanchez, you testified in the
17 House of Representatives committee?

18 A Yes, sir.

19 Q And the testimony you gave there was under oath?

20 A Yes, sir.

21 Q Are you saying today that what you say here is
22 the same, basically, as what you testified to
23 there?

24 A What I said there was that they sent me over
25 there. I did what I was going to do and that is

1 all I said there. I don't remember having --

2 MR. ABARCA: I do not understand the
3 witness.

4 A I went to work and I do not remember having seen
5 anyone taking pictures on that day.

6 Q Mr. Mitchell asked you about the water district
7 employment and about Archer Parr?

8 A Yes, sir.

9 Q Did you testify before the House and you testifying
10 here?

11 A I worked for the water district, yes.

12 Q Because you are against O. P. Carrillo, but yet
13 you are for Archer Parr?

14 A No, sir, no, sir, I am not against one or the
15 other. They asked me if I had gone to work, I
16 went to work, they sent me, and that is all that
17 I know.

18 Q Did Archer Parr ask you to testify in Austin?

19 A No, sir.

20 Q Did Archer Parr ask you to testify in Corpus
21 Christi?

22 A No, sir.

23 Q Are you testifying here because you got a better
24 job with the water district than you had with the
25 county?

1 A No, sir.

2 Q Mr. Mitchell asked you if you testified against
3 O. P. Carrillo?

4 A No, sir, they just asked me if I had worked there,
5 that is all.

6 Q So you are --

7 MR. ODAM: Strike that.

8 Q So you are not testifying for or against anyone,
9 but simply as to what the facts were?

10 A Yes, sir.

11 Q Are you testifying here as to these facts because
12 of your dislike for O. P. Carrillo?

13 A No, sir, no, sir, no, sir.

14 Q Because you do not like Ramiro Carrillo?

15 A No, sir, no, sir, that is not the thing.

16 Q Are you mad at either one of them for any reason?

17 A No, sir.

18 Q How long have you known O. P. Carrillo?

19 A Probably since 1945.

20 Q Do you consider O. P. Carrillo to be a friend of
21 yours?

22 A Yes, sir.

23 MR. ODAM: Just one minute.

24 Q Ramiro Carrillo instructed you to go out and work
25 on the reservoir in 1971, you testified to?

1 A Yes, sir, he sent me, that is why I went.

2 Q Did you state those facts because of a dislike for
3 Ramiro Carrillo?

4 A No, sir.

5 Q Or because you wanted to get Ramiro Carrillo in
6 trouble?

7 A No, sir, never.

8 Q Do you know Elizabeth Levantino?

9 A No, sir.

10 MR. ODAM: Pass the witness.

11

12

13

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

14

BY MR. MITCHELL:

15

16 Q Who did ask you to go to Austin to testify, Mr.
17 Sanchez?

18

19

MR. MITCHELL: Which, incidentally,
for the record, was on the 21st day of May,
20 1975.

21

22

A Well, I don't know. The order, they gave it to me
in Benavides, I don't remember.

23

Q Was it Marvin Foster?

24

A No.

25

Q Terry Canales?

1 A No. The investigators -- an investigator that
2 came there.

3 Q Do you recall his name, Mr. Sanchez?

4 A There were too many investigators there in
5 Benavides.

6 Q Your testimony here is that you did not do any
7 work at the request of Judge Carrillo, am I
8 correct?

9 A No.

10 Q And your testimony is that Ramiro Carrillo asked
11 you to go to a ranch in 1971 to dig a tank?

12 A Yes, he was the one that commanded me or ordered
13 me, he was the commissioner.

14 Q And I will ask you if R-40, which is a picture of
15 you and Judge Carrillo?

16 A Yes, sir.

17 Q Is on the Calvin North Ranch?

18 A It could be.

19 Q Well, there is a tank in the background, isn't
20 there?

21 A Yes, sir.

22 Q And that is you in the middle?

23 A Yes.

24 Q You don't recall digging a tank like that on
25 anybody else's ranch at any other time, do you,

1 Mr. Sanchez?

2 A At any time?

3 Q Yes.

4 A Yes.

5 Q For whom?

6 A O. P.'s father.

7 Q Well, could that be the time you dug the tank for
8 O. P.'s father?

9 A No.

10 Q Well, then, did you do it for anybody else?

11 MR. MITCHELL: Excuse me, Mr.

12 Interpreter, let me back up.

13 MR. ABARCA: Yes, sir.

14 Q Did you dig such a tank for anybody else?

15 A Yes, sir.

16 Q Who else?

17 A I dug for Archer Parr and George Parr.

18 Q Could that have been the time that you dug it for
19 Archer Parr or George Parr?

20 A No, sir.

21 Q Mr. Sanchez, if it is not the time that you dug
22 it for Archer Parr or George Parr or Mr. Chapa,
23 it would have to be the time you dug it for
24 Ramiro Carrillo, at the time he asked you to dig
25 it on the North ranch?

1 A No, sir.

2 Q Now, you testified that the pictures could have been
3 taken after 1971?

4 A These pictures?

5 Q Yes.

6 MR. ABARCA: Witness indicates R-40.

7 A After '71, no.

8 Q As a matter of fact, Mr. Sanchez, you recall Mr.
9 North was there on that day that you were out there
10 on the North ranch, wasn't he, on R-27?

11 A No, sir.

12 Q Well, I will ask you if that was the piece of
13 equipment you had on the North ranch, on the day
14 that you have testified you were sent out there
15 by Ramiro Carrillo in R-39?

16 A That is the machine, yes.

17 Q And, of course, you are not telling this court
18 that that is a backhoe, are you?

19 A No, it is --

20 MR. ABARCA: I didn't get the answer from
21 the witness.

22 A It is not -- what are you saying?

23 Q It is not a backhoe?

24 A Yes, it is a backhoe.

25 Q It is not a grade-all?

1 A That is the name of it, backhoe grade-all.

2 Q Mr. Sanchez --

3 A This is the hoe.

4 MR. ABARCA: The witness indicates the
5 extension on the back of the machine in
6 Exhibit R-39.

7 Q Mr. Sanchez, the time that you went out to the
8 Calvin North ranch had to be prior to 1968, did
9 it not, because Calvin North died on February the
10 22nd, 1968, did he not?

11 A I do not know what year he died on.

12 MR. MITCHELL: May I have that marked,
13 please.

14 (Marked for identification by the
15 reporter as Exhibit R-43.)

16 MR. MITCHELL: Your Honor, this is the
17 official death certificate number 5458 of
18 Calvin North.

19 It is offered as a record of the
20 Bureau of Vital Statistics and it is offered
21 for the truth of the matters contained
22 therein.

23 MR. ODAM: No objection.

24 THE MASTER: It is admitted.
25

1
2 (Respondents' Exhibit 43 admitted into
3 evidence.)

4 Q (By Mr. Mitchell:) For the purpose of refreshing
5 your recollection, I hand you R-43, which is the
6 death certificate of Calvin North showing his
7 death on February 22nd, 1968, is that correct?

8 A I don't know, I don't know anything about that,
9 I just work.

10 Q That does not refresh your recollection that Calvin
11 North died in February, 1968?

12 A No, sir, I don't know when he died. I don't remem-
13 ber when he died.

14 Q And that the picture that has been introduced
15 in evidence, being R-27 of Mr. North and showing
16 him alive and well, would have had to have been
17 taken before February, 1968?

18 A Could be. I don't remember having seen him when
19 I worked there, because there was no one there.
20 Calvin was not there.

21 Q Mr. Sanchez, you have stated once or twice no
22 one was there on the day you worked.

23 A When I worked, no.

24 Q Yet there is a picture or two here showing you,
25 such as R-40 and R-39.

1 A Yes.

2 O And R-26?

3 A Yes.

4 Q With other people?

5 A Yes, sir.

6 MR. MITCHELL: May I have this marked,
7 please.

8 (The above mentioned document was
9 marked Exhibit R-44 for identification.)

10
11 Q I hand you what has been marked as R-44, which
12 appears to be a letter from the attorney general's
13 office and it's dated October 30, 1975, and
14 signed by Elizabeth Levatino, first special
15 assistant to the attorney general.

16 It is in reference to the Judicial Qualifi-
17 cations Proceeding Number 5.

18 I will ask you to please examine that docu-
19 ment and tell the Court whether you received one
20 of a similar type in reference to your testimony
21 given today and Friday.

22 A I do not know how to read.

23 MR. MITCHELL: I anticipated that the
24 interpreter would go over it with him.

25 THE MASTER: I suggest you read it in

1 Spanish to him.

2 THE INTERPRETER: I will at this time,

3 Your Honor.

4 (Exhibit R-44 was read to the witness
5 in Spanish.)
6

7 Q (By Mr. Mitchell:) My question is, did you receive
8 a similar letter to that letter? I appreciate it
9 is addressed to another witness, but did you
10 receive one similar to that, and if so, tell us
11 when.

12 A No, sir. They just gave me a subpoena and that
13 is all.

14 THE MASTER: Do you want the letter
15 read in English?

16 MR. MITCHELL: Yes.

17 THE INTERPRETER: The letter is on
18 the letterhead of the attorney general of Texas
19 with the seal of the State of Texas on the upper
20 lefthand corner, it is dated October 30, 1975,
21 and addressed to Mr. Tomas Elizondo, Post Office
22 Box 153, Benavides, Texas.

23 "Re Judicial Qualifications Commission
24 Proceeding Number 5. Dear Mr. Elizondo. I had
25 hoped I would not have to ask for your assistance

1 in appearing again as a witness, however,
2 it appears that the attorneys for Judge
3 Carrillo will not stipulate to the use of
4 the record of testimony in the Senate
5 Impeachment trial before the Judicial
6 Qualifications Commission. Therefore, it
7 will probably be necessary for you to testify
8 before the Master in that proceeding at some
9 date after November 3rd, 1975. In the very
10 near future, you may be subpoenaed to testify.

11 "We may have to meet ahead of time to
12 discuss the proceedings. Either Mr. John
13 W. Odam, who you met during the impeachment
14 proceedings in the state, or I will contact
15 you about this matter.

16 "Please do not hesitate to contact Mr.
17 Odam or myself if you have any questions.
18 Again, thank you so much for your participa-
19 tion. I certainly look forward to seeing
20 you again as we prepare for this important
21 undertaking for the State Judicial Qualifica-
22 tions Commission. Very truly yours, Elizabeth
23 Leatino, First Special Assistant, Attorney
24 General."

25 MR. MITCHELL: In view of the fact that

1 this witness could not identify Exhibit 44,
2 we will not offer it at this time and will
3 pass to another matter.

4 No further questions of this witness,
5 Judge.

6
7 - - - - -

8
9 RE - EXAMINATION

10 BY MR. ODAM:

11
12 Q Senor Sanchez, you looked at a picture that had
13 you and O. P. Carrillo and Mr. Calvin North in the
14 picture?

15 A On those?

16 Q Yes, this one, R-40. Is this Calvin North?

17 A No, sir.

18 Q Who is that?

19 A Carlos Herrera.

20 Q This is Respondents' Exhibit 40, is that a picture
21 of the tank you worked on in the background?

22 A It is a part of the tank, but it is not the
23 entire tank.

24 Q Did you work on that tank at more than one occa-
25 sion?

1 A Probably, I don't remember.

2 Q Is this the tank you worked on in 1971?

3 A That is the same place, yes.

4 Q The tank you worked on in 1971 with the backhoe?

5 A Yes sir.

6 Q Had you worked on that tank at some time prior to
7 that?

8 A Probably, I don't remember very well, perhaps
9 further back.

10 Q To the best of your knowledge, in 1971, did O. P.
11 Carrillo own the Calvin North ranch?

12 MR. MITCHELL: Objection, Your Honor,
13 that is a conclusion and it is a question
14 of law. We will address ourselves to that
15 and it is best evidence rule 2.

16 THE MASTER: I doubt the best evidence
17 rule applies, but what about that, Mr.
18 Odam. I suppose you could ask for common
19 knowledge in the area, but this man cannot
20 know to whom that ranch belonged.

21 MR. ODAM: May I rephrase the question?

22 THE MASTER: All right.

23 Q (By Mr. Odam:) In 1971, when you worked on the
24 ranch building the reservoir, was it common knowledge
25 that the Calvin North ranch belonged to O. P.

1 Carrillo?

2 MR. MITCHELL: We object. I appreciate
3 counsel's attempt to do this, but we will
4 object, because common knowledge is an inquiry
5 that requires a very technical predicate,
6 one of which is there is no deed of record,
7 so that must be developed, and there is a
8 period of time from people generally who are
9 in the 70's and 80's that this could be
10 done by, but we will object to this witness
11 testifying.

12 THE MASTER: Your objection is over-
13 ruled.

14 THE WITNESS: What was the question?

15 Q The question is this. In 1971, was it common
16 knowledge that the Calvin North ranch belonged
17 to O. P. Carrillo?

18 A Yes, sir.

19 Q Was it your own personal understanding --

20 MR. MITCHELL: Judge, we are going to
21 object.

22 THE MASTER: His personal understanding
23 is sustained.

24 MR. MITCHELL: It was not until the
25 last question that it got to be O. P.

1 Carrillo's ranch.

2 THE MASTER: Objection to the last
3 question is sustained, but your other com-
4 ments are simply comments and I don't agree
5 with them.

6 Q Was it common knowledge in 1971 that the Calvin
7 North ranch did not belong to Ramiro Carrillo?

8 MR. MITCHELL: Objection, it would be
9 hearsay, Judge.

10 THE MASTER: Overruled.

11 A No, it does not belong to Ramiro Carrillo.

12 Q Well, my last question is this: It is your
13 testimony, then, that you worked on the Calvin
14 North ranch many times?

15 A Several times, yes.

16 Q And that in 1971 you worked on the ranch with a
17 backhoe?

18 A Yes, sir.

19 Q And that in 1971 when you did that work, that no
20 one was on the ranch with you?

21 A Those days, no.

22 Q And it is your testimony that at that time, no
23 photographs were taken?

24 A I did not see anyone with a camera on those days.

25 Q And on that day it is your testimony that you did

1 not see those other people in the photographs
2 out there with you?

3 A On the day when I was working there, no.

4 Q And you stated to Mr. Mitchell that you were
5 subpoenaed to come to testify here today?

6 A Yes, sir.

7 MR. ODAM: Pass the witness.

8

9

10 RE - EXAMINATION

11

12 BY MR. MITCHELL:

13

14 Q Well, we will go back over it again; back to your
15 sworn testimony on the 21st day of May, 1975.

16 I asked you, and I have been over it, but I
17 will go over it again.

18 MR. ODAM: The question was, what page.

19 MR. MITCHELL: The same one, page 150,

20

John.

21 Q How many times did you perform work on the
22 Carrillo ranch? You answered, then, under oath,
23 "Maybe a couple of times, two times, that is all,"
24 and you were asked, "And the last one was in 1971?"
25 And your answer then was, "Yes, sir." Is that
correct?

1 A Yes, sir.

2 Q And then on page 153 at the bottom of the page,
3 you testified under oath, then, "Question: Did you
4 ever do any work on anybody else's ranch in that
5 area?" And your answer was, "No."

6 A In that area, no.

7 Q And the next question was, "Just the two times on
8 that tank?" And your answer, then, was, "That
9 is all, just that water tank in there, that is
10 all."

11 A In 1971, yes.

12 Q When you testified here Friday, I believe you
13 testified that the last -- that it took two days
14 to dig that tank?

15 A Yes, sir.

16 Q Are you telling us under oath that you were out
17 there another time digging that tank?

18 A On other occasions, yes.

19 Q That tank?

20 A The same tank.

21 Q You dug that tank twice?

22 A Yes, sir.

23 Q When did you dig it the first time?

24 A Once when Carlos Herrera went with a maintainer
25 to dig it.

1 Q When was that?

2 A I don't remember the year, way back.

3 Q And then that tank had to be dug again, Mr. Sanchez?

4 A Yes, sir, because the maintainer does not do with
5 that grade-all does.

6 Q Then the maintainer dug it the first time?

7 A Yes, sir.

8 Q Well, then, you don't even operate a maintainer,
9 do you?

10 A No, sir.

11 MR. MITCHELL: Well, I have got to
12 ask the question.

13 Q How did you go out there the first time and dig a
14 tank with a maintainer that you did not operate?

15 A Because Carlos Herrera and I went out there to
16 do it. He was the operator for the maintainer and
17 still is.

18 Q As a matter of fact, Mr. Sanchez, you knew on both
19 times that you were out there, or a single time
20 that you were out there digging that tank, that
21 that ranch belonged to Calvin North?

22 A I have always known that it's Calvin's.

23 Q All right.

24 MR. MITCHELL: That is all.

25

RE - EXAMINATION

1
2 BY MR. ODAM:

3
4 Q The last question was that you have always known
5 that it was Calvin North's ranch?

6 A It has always been his, and was his and that is
7 the way that they have named it, Calvin North
8 ranch. Now, it is O. P.'s and they still call it
9 Calvin North.

10 Q Was it O. P.'s in 1971?

11 MR. MITCHELL: The same objection,

12 Your Honor.

13 A I think so.

14 MR. ODAM: Pass the witness.

15
16
17 RE - EXAMINATION

18 BY MR. MITCHELL:

19
20 Q Was it O. P.'s in '68?

21 A Probably.

22 Q How about '65?

23 A I do not know.

24 Q How about '64?

25 A I do not know. In '64 or '63, he had it leased.

1 Q How about when you and Carlos Herrera were out
2 there, whose was it?

3 A I do not know.

4 MR. MITCHELL: No further questions,
5 Judge Meyers.

6 MR. ODAM: No further questions.

7 THE MASTER: Mr. Sanchez, you may step
8 down and you are excused as a witness,
9 which means you may go home.

10 THE WITNESS: Thank you.

11 MR. ODAM: We call as the next witness
12 Mr. Tomas Elizondo.

13
14
15 TOMAS ELIZONDO,
16 having been duly sworn by the Court, testified
17 as follows:

18
19 MR. MITCHELL: Let the record reflect
20 that I represent this gentleman and I will
21 be glad to put whatever questions the Court
22 requires of me to the witness to establish
23 that attorney-client relationship and when
24 it is --

25 THE MASTER: Well, I accept your

1 representation, but I think for the record
2 it might be wise that you do so.

3 MR. MITCHELL: All right.
4
5

6 E X A M I N A T I O N
7

8 BY MR. MITCHELL:

9 Q State your name.

10 A Tomas Elizondo.

11 Q Do you know who I am?

12 A Yes, sir.

13 Q Who are you?

14 A My attorney, Arthur Mitchell.

15 Q And when did you employ me to represent you, Mr.
16 Elizondo?

17 A About three or four months ago.

18 Q All right. In connection with the matters pending,
19 I believe at that time in Austin, Texas?

20 A Yes, sir.

21 Q And does that employment continue to date?

22 A Yes, sir.

23 Q All right. And does it specifically continue for
24 your presence here today before the Judicial
25 Qualifications Commission Master?

1 A Yes, sir.

2 THE MASTER: Go ahead, Mr. Odam.

3

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 name?

9

A Tomas Elizondo.

10

Q And where do you reside, Mr. Elizondo?

11

A In Benavides, Texas.

12

Q And how old are you?

13

A 31.

14

Q Would it be helpful to you to have an interpreter
15 in here?

16

A No, sir.

17

MR. MITCHELL: Mr. Elizondo, I am going

18

to inform you, with leave of the Court,

19

of your right under the Texas and the Federal

20

Constitution that is accorded all citizens

21

and particularly witnesses to plead what we

22

commonly know as the Fifth Amendment, the

23

right to remain silent on the grounds --

24

matters about which you will be questioned,

25

will tend to incriminate you or do

1 incriminate you, and I will ask you, please,
2 sir, to -- and bring that right to you --
3 that right of yours to your attention, and
4 request that you avail yourself of that
5 right.

6 MR. ODAM: Your Honor, just for the
7 record, as the Court may be aware and Mr.
8 Mitchell is aware, we are now on Paragraph
9 VI on page 6.

10 MR. MITCHELL: It is Roman VI isn't it,
11 John?

12 THE MASTER: Yes, he said Roman VI.

13 MR. MITCHELL: All right, thank you.

14 Q How long have you resided in Benavides, Texas?

15 A I respectfully decline and refuse to answer the
16 questions put to me by the commission on the
17 grounds that the answers might tend to incriminate
18 me. I claim this right under the Fifth Amendment
19 of the Constitution of the United States; Article
20 One Section 10 of the Constitution of Texas.

21 Q Are you here pursuant to a subpoena from the Master
22 in these proceedings?

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

25 Q What is your present occupation?

1 A I refuse to answer the question on the grounds
2 that the answer might tend to incriminate me.

3 Q Can you state whether or not you're presently the
4 bailiff for Judge O. P. Carrillo?

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

7 Q Do you recall testifying before the House
8 Committee in Austin?

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

11 Q Do you recall being advised by the chairman of
12 the committee which is represented in Volume Five
13 page 113, that you could refuse to answer the
14 questions if you so chose?

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

17 Q And it was stated there at that time that you could
18 refuse to answer questions on the grounds that
19 such answers might incriminate you or tend to
20 incriminate you in some way?

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

23 Q Do you recall that you did, in fact, testify as
24 represented in Volume Five at those proceedings?

25 A I refuse to answer the question on the grounds that

1 the answer might tend to incriminate me.

2 Q Did you use a backhoe?

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

5 Q Have you ever used a backhoe?

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

8 Q Do you recall testifying before the House Committee
9 that you have used a backhoe?

10 A I refuse to answer the question on the grounds
11 that the answer might tend to incriminate me.

12 Q Have you ever used a backhoe on Judge O. P.
13 Carrillo's ranch?

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

16 Q Do you recall answering that when asked the same
17 question before the House Committee that you had
18 in fact used a backhoe on Judge O. P. Carrillo's
19 ranch?

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

22 Q Did you use the backhoe --

23 MR. MITCHELL: Correction.

24 Q Assuming that you did use the backhoe, as you
25 testified to at that date, did the backhoe that you

1 used belong to the water district?

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

4 Q Who told you to use the backhoe on Judge O. P.
5 Carrillo's ranch assuming in fact that you did
6 use the backhoe?

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

9 Q Do you recall at page 143 of the House testimony
10 when asked the same question that you stated at that
11 time that Judge Carrillo told you to use the
12 backhoe on his ranch?

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

15 Q I refresh your memory to page 156 of your
16 testimony there and the question put to you at that
17 time was whether or not the backhoe was used in
18 November of 1973. Do you recall that question
19 being asked of you?

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

22 Q Do you recall at that time that your testimony was,
23 "Yes, sir, I took it out there"?

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

1 Q And I refresh --

2 THE MASTER: Mr. Odam, how long are you
3 going to go on these? Do you want to make a
4 record like this? I am not stopping you, I
5 am just asking.

6 MR. ODAM: I just want to ask him a
7 couple more questions, Your Honor, and I'll
8 be through.

9 THE MASTER: That is fine.

10 Q Do you recall as indicated at page 161 of your
11 testimony under oath before the House Committee
12 when asked the question, "Could you tell me how
13 many hours that you used the backhoe on the
14 Judge's ranch?"

15 Do you recall your testimony was at that time
16 that you stated that you used it for four or five
17 hours on the ranch?

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

20 MR. ODAM: Your Honor, I have a very
21 hard problem here with the situation. This
22 witness was advised of his rights at a prior
23 time and the witness there made the state-
24 ments. I presume that he made statements
25 here.

1 We now have a situation where Mr.
2 Mitchell sits representing Judge Carrillo.
3 We have a situation where this witness has
4 previously testified and Mr. Mitchell is
5 sitting here advising him of his right.

6 I don't know, and I have not looked
7 into what is a conflict of interest, but I
8 would like for that to be clarified. It
9 appears to me that a conflict of interest
10 would be where the interest of one party
11 or a conflict with another party, and I
12 presume those two parties would be Tomas
13 Elizondo and Judge O. P. Carrillo and that
14 it just concerns me here where a witness
15 has testified under oath and now he is
16 being advised by counsel to take the Fifth,
17 and he is sitting there representing the
18 Judge in these proceedings. It just concerns
19 me.

20 THE MASTER: Well, it concerns me in a
21 sense, but I do not know of any conflict.
22 I'll be happy to hear your suggestion of
23 conflict. I don't know what authority I
24 have to do -- what I have -- let me clarify
25 that. I don't know the authority I have, if

1 there is a conflict.

2 MR. ODAM: Well, I -- I am not suggesting
3 that the Master has the authority. I would
4 say on this witness, however, that --

5 THE MASTER: There is no difference
6 between this witness and several others in
7 exactly the same situation, at least one
8 other, is under indictment and I do not know
9 that this one is.

10 MR. ODAM: I would state that with this
11 witness, that I would follow the same
12 procedure with this witness pursuant to the
13 statutes as we would follow with Mr. Saenz;
14 that being that pursuant to Section 8 we
15 would request that the Master in these
16 proceedings file a petition in District
17 Court --

18 THE MASTER: No, I think the procedure
19 is that I direct him to answer the questions
20 and then if he declines, I file a petition
21 in District Court.

22 MR. ODAM: Well, that may be correct,
23 and to do that would certainly not hurt
24 anything. In looking again, as suggested
25 by the Court, over the weekend at Section 14,

1 it states, "Any person may nevertheless be
2 required to testify, but when so required
3 under provisions of Section 8, such person
4 shall not be subject to indictment for that
5 testimony."

6 Then, in Section 8 it states that
7 if any person refuses to testify -- I don't
8 know that the refusal referred to in Section
9 8 need be the refusal to the questions put
10 to him by me or by the refusal by the
11 Master. Perhaps out of an abundance of
12 caution --

13 THE MASTER: Let me see the statute.

14 (Handed to the Master.)

15
16 MR. ODAM: Out of an abundance of
17 caution, pursuant to Section 8 that the
18 refusal referred to there could be the
19 refusal, when asked by the Master as opposed
20 to the refusal already on the record.

21 THE MASTER: I agree, but I think that--
22 well, do you now request me to direct Mr.
23 Elizondo to answer your questions?

24 MR. ODAM: Yes, sir.

25 THE MASTER: Mr. Elizondo, I order you

1 to answer counsel's questions.

2 Q Mr. Elizondo, I refer back to your testimony
3 given before the House Committee beginning at
4 page 142. To refresh your memory, your testimony
5 was at that time that you did know how to operate
6 a backhoe. My question to you now, is, do you
7 know how to operate a backhoe?

8 A I respectfully decline and refuse to answer the
9 questions put to me by the commission on the
10 grounds that the answers might tend to incriminate
11 me. I claim this right under the provisions of
12 the Fifth Amendment of the Constitution of the
13 United States, and Article One, Section 10, of
14 the Constitution of Texas.

15 Q And you have been asked -- I have asked you a
16 number of questions thus far in these proceedings
17 similar to that one which began on page 142
18 before the House and you declined to answer on
19 the basis of your Fifth Amendment right.

20 My question to you is, if I pose every one
21 of those questions again to you right now that
22 I posed to you a few minutes ago, would your answer
23 be the same, that is, that you would take the
24 Fifth Amendment, or would you answer those
25 questions?

1 A I refuse to answer on the grounds that the answer
2 might tend to incriminate me.

3 THE MASTER: That is one in the past,
4 Mr. Mitchell, that you have --

5 MR. MITCHELL: Well, yes, Your Honor,
6 except that I understand he is questioning --
7 basis for possible contempt citation because
8 he is going to refuse the Master's
9 order to him --

10 THE MASTER: No, he is going to request
11 me to petition any District Court to direct
12 him to answer the question.

13 MR. MITCHELL: And I would like,
14 because of that reason, to have the
15 specific questions put to him to make a
16 determination for the record and for the --
17 for any relief that we might seek, the
18 specific questions that were put to him
19 and the --

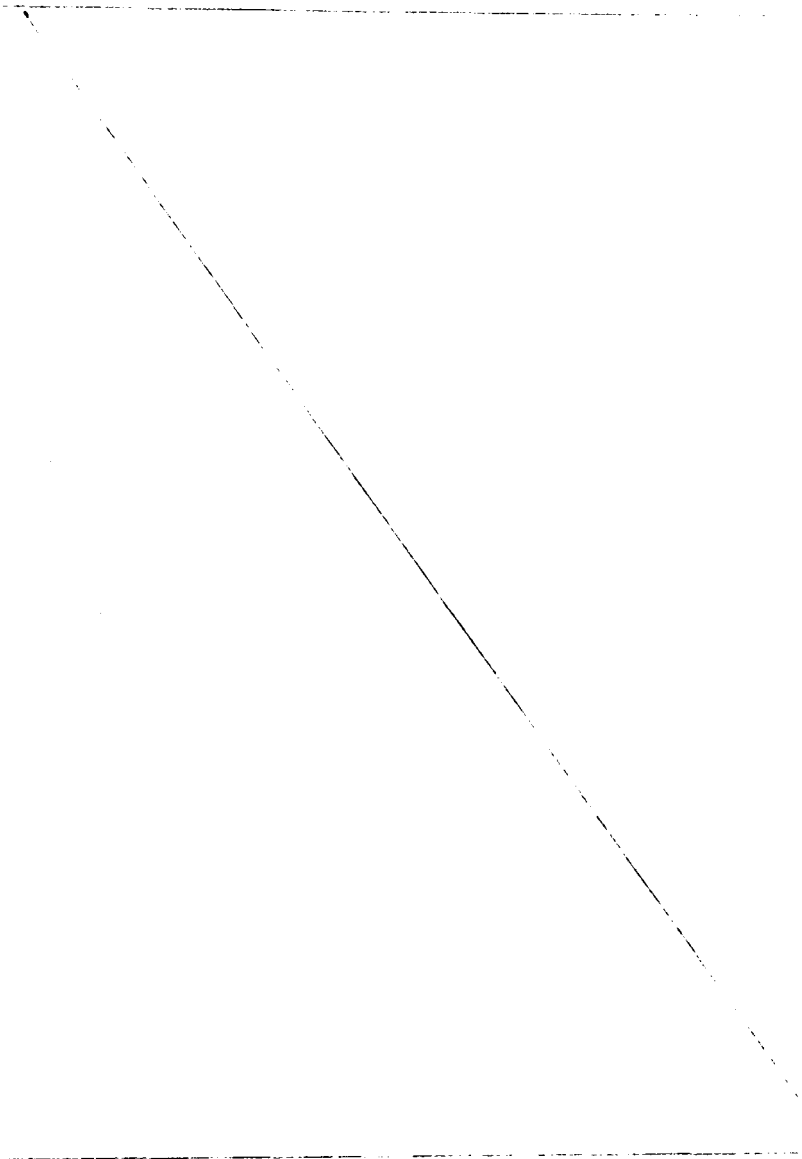
20 THE MASTER: It is the questions just
21 asked him which he declined to answer, the
22 same ones, is what he is saying.

23 MR. MITCHELL: I understand that, Judge
24 Meyers, but I don't -- the record -- I don't
25 know which ones they are.

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MR. ODAM: Well, all right, I will
restate them.

THE MASTER: All right.



1 Q Have you ever used a backhoe?

2 A I refuse to answer the question on the grounds
3 the answer might tend to incriminate me.

4 Q Have you ever used one on Judge O. P. Carrillo's
5 ranch?

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

8 Q Before the House Committee, when asked the same
9 question, your answer was yes, that you had used
10 a backhoe at Judge O. P. Carrillo's request. I
11 refresh your recollection on that.

12 Assume you used a backhoe on Judge O. P.
13 Carrillo's ranch, did the backhoe belong to the
14 water district?

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

17 Q At page 156 of your testimony before the Senate
18 House Committee, you were asked if the backhoe
19 was used on Judge Carrillo's ranch in 1973.

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

22 Q Was the backhoe out on Judge Carrillo's ranch
23 in 1973?

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

1 Q At page 161, the question posed to you at that
2 time was, how many hours did you use the backhoe
3 on the ranch, and your testimony was then you
4 used it four or five hours.

5 My question is now, assuming you used the
6 backhoe on Judge Carrillo's ranch at his request,
7 how long did you use it on the ranch?

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

10 Q Did you use the backhoe for four or five hours?

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

13 Q Have you ever had occasion to operate the backhoe
14 at times other than the time referred to in the
15 House Committee testimony?

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

18 Q Are you the brother of Roberto Elizondo ?

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

21 Q Do you know whether or not your brother, Roberto
22 Elizondo, attended court reporting school in
23 Houston, Texas?

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

1 Q Do you know whether or not your brother, Roberto
2 Elizondo, had occasion to come from Houston to
3 San Diego, Texas, while in court reporting school?

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

6 Q Do you know whether or not, assuming he did come
7 home for the weekends, that he did any work for
8 Judge O. P. Carrillo?

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

11 Q If I asked you questions today with respect to
12 the matters set forth in the amended petition,
13 would your answer still be the same?

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

16 MR. ODAM: Pass the witness.

17 THE MASTER: Mr. Mitchell, he passed
18 the witness.

19 MR. MITCHELL: No questions.

20 THE MASTER: You may step down and I
21 will ask you to wait outside, Mr. Elizondo.

22 MR. ODAM: We call as our next witness
23 Joe Saenz.

24 THE MASTER: All right. You are going
25 to do the same thing, I take it?

1 MR. ODAM: Yes, sir.

2 MR. MITCHELL: Excuse me, Judge, I
3 was looking at the Court's calendar and it
4 says it is ten o'clock, where we break.

5 THE MASTER: Yes, we will. I was
6 just roughing out a petition to compel the
7 testimony.

8 We will have that with both Mr. Elizondo --
9 I guess both Mr. Elizondos, I don't know.

10 MR. ODAM: No, sir.

11 THE MASTER: But this Tomas Elizondo
12 and Jose Saenz?

13 MR. ODAM: Yes, sir.

14 THE MASTER: Have you roughed out such
15 an application?

16 MR. ODAM: Yes, sir, I believe it is
17 almost through now.

18 THE MASTER: Very well. In that event,
19 I won't need to do it, so we will be in
20 recess for fifteen minutes.

21

22

23

24

25

1 THE MASTER: Who is your next witness?

2 MR. ODAM: Mr. Jose Saenz.

3 THE MASTER: Would you get Mr. Saenz
4 in here please.

5 Mr. Saenz, you were sworn last week, you
6 are still under oath, so just have a seat.

7 MR. SAENZ: Yes, sir.
8
9

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

12
13 BY MR. ODAM:

14 Q Would you please state your name?

15 A Jose H. Saenz, sir.

16 Q And where do you reside, Mr. Saenz?

17 A San Diego, Texas, sir.

18 Q Do you recall having testified here last Friday?

19 A I respectfully decline and refuse to answer the
20 questions put to me by the commission on the
21 grounds that the answers might tend to incriminate
22 me.

23 I claim this right under the provisions of
24 the Fifth Amendment of the Constitution of the United
25 States and Article 1, Section 10 of the Texas

1 Constitution.

2 Q Where do you -- by whom are you employed?

3 A I respectfully decline and refuse to answer the
4 questions put to my on the grounds that the answer
5 might tend to incriminate me.

6 I claim this right under the provisions of
7 the Fifth Amendment of the Constitution of the
8 United States and Article 1, Section 10 of the
9 Texas Constitution.

10 THE MASTER: And heretofore -- I mean
11 hereafter, Mr. Saenz, when you decline to
12 answer, you can simply say, "I decline to
13 answer". and we will all understand that
14 you are including the entire phrase that
15 you just spoke.

16 MR. MITCHELL: Thank you, Judge Meyers.

17 THE MASTER: Is that agreeable, Mr.
18 Odam?

19 MR. ODAM: Yes, sir.

20 Q On July the 15th of 1975, did you have the
21 occasion to testify in Austin, Texas, before the
22 House Select Committee on impeachment?

23 A I respectfully refuse to answer.

24 Q During the course of your testimony then before
25 the House Select Committee, did the House Select

1 Committee in fact grant immunity to prosecution
2 to you?

3 A I respectfully decline to answer.

4 MR. MITCHELL: Pardon me, Mr. Odam,
5 would you mind establishing the date of
6 that testimony. It becomes relevant in
7 light of the indictment.

8 MR. ODAM: I just said July the 15th,
9 1975.

10 MR. MITCHELL: I am sorry, thank you.

11 Q Do you recall having testified and giving certain
12 answers in those proceedings?

13 A I respectfully decline to answer.

14 Q Do you know Mr. Roberto Elizondo?

15 A I respectfully decline to answer.

16 Q What are your duties before the --

17 MR. ODAM: Strike that question.

18 Q Assuming that you worked in Duval County, and
19 assuming that you have in the past, what have
20 been your duties when you worked for the Duval
21 County government?

22 A I respectfully decline to answer.

23 Q Did you have occasion to work in Judge O. P.
24 Carrillo's office?

25 A I respectfully decline to answer.

- 1 Q Did you ever have occasion to observe claims for
2 payment submitted by Roberto Elizondo?
- 3 A I respectfully decline to answer.
- 4 Q Do you know whether or not Roberto Elizondo ever
5 attended court reporting school in Houston, Texas?
- 6 A I respectfully decline to answer.
- 7 Q I will show you what the court reporter has marked
8 as Examiner's Exhibits 43, 44, 45, 46, 47, 48, 49
9 and 50, and ask you if you can identify these
10 items.
- 11 A I respectfully decline to answer, sir.
- 12 Q They are stated to be claims for payment for one
13 Roberto Elizondo and it has the claimant's name
14 on it, Roberto Elizondo. Can you identify this?
15 Is this your name, Jose Saenz?
- 16 A I respectfully decline to answer.
- 17 Q Did you, in fact, sign Roberto Elizondo's name?
- 18 A I respectfully decline to answer.
- 19 Q Did Judge O. P. Carrillo order you to fill out
20 these claims for payment?
- 21 A I respectfully decline to answer.
- 22 Q Did he tell you to sign Roberto Elizondo's name?
- 23 A I respectfully decline to answer.
- 24 Q Assuming that this is your signing of Roberto
25 Elizondo's name, did you -- when you signed, and

1 assume you did sign Roberto Elizondo's name to
2 these forms, was Judge O. P. Carrillo aware that
3 you were signing?

4 A I respectfully decline to answer.

5 MR. ODAM: I offer into evidence
6 Examiner's Exhibits 43 through 50.

7 MR. MITCHELL: I object, no proper
8 authentication and hearsay, Judge.

9 THE MASTER: I would have to look at
10 them. What are they, certified copies?

11 (Handed to the Master.)

12
13 MR. ODAM: No sir, they are not
14 certified copies.

15 THE MASTER: Well, the objection is
16 sustained. Let's see, this is 43 through 50?

17 MR. ODAM: Yes, sir. We would offer
18 these then at this time for the purpose of
19 our bill of exception with the understanding
20 that in light of this witness's testimony,
21 that we will have them properly authenticated
22 at a later point.

23 THE MASTER: Well, an Exhibit that is
24 offered and not admitted automatically becomes
25 a bill, and so it is your bill.

1 MR. ODAM: All right, sir.

2 Q (By Mr. Odam:) Mr. Saenz, do you know Zenaida
3 Montemayor?

4 A I respectfully decline to answer.

5 Q Did Zenaida Montemayor ever have occasion to remind
6 you to sign Roberto Elizondo's name on claims for
7 payment?

8 A I respectfully decline to answer.

9 Q Did you ever see Roberto Elizondo working in the
10 office of Judge O. P. Carrillo while Roberto
11 Elizondo was enrolled as a student in court
12 reporter school in Houston, Texas?

13 A I respectfully decline to answer.

14 Q Do you know whether or not he had any occasion to
15 do any clerical work for Judge O. P. Carrillo?

16 A I respectfully decline to answer.

17 Q Who performed the clerical work for Judge O. P.
18 Carrillo?

19 A I respectfully decline to answer.

20 Q When you testified before the House Committee,
21 where they granted the immunity and you subsequently
22 testified, assuming that that did take place as
23 evidence in these documents, were you represented
24 by counsel at that time?

25 A I respectfully decline to answer.

1 Q Can you -- could you confirm or deny that you
2 were represented at that time by Mr. Davila?

3 A I respectfully decline to answer.

4 Q Do you know an attorney in Duval County by the
5 name of Davila?

6 A I respectfully decline to answer.

7 Q Was the testimony that you gave before the House
8 Committe true to the best of your knowledge?

9 A I respectfully decline to answer.

10 MR. ODAM: Your Honor, at this time
11 in light of Mr. Saenz' taking the Fifth
12 Amendment, I would request of the Master
13 that pursuant to Article 5966A, Section 9 --
14 correction, Section 14, that the witness,
15 Mr. Saenz, be required to testify with the
16 understanding that when he is so required
17 to testify that he shall not be subject to
18 indictment or prosecution for any trans-
19 action, matter or thing concerning anything
20 which he truthfully testified or which he
21 might produce documentary evidence on and
22 request that the Master order him to testify.

23 THE MASTER: Mr. Saenz, I'll order you
24 to answer these questions.

25 MR. MITCHELL: Yes, Your Honor, and

1 when we are so assured, either by the
2 district judge, by a written order of the
3 district judge, or the commissioner acting
4 in formal meeting or by the Supreme Court,
5 at that time we will -- I will instruct my
6 client accordingly.

7 At this particular point, however, in
8 face of the record that is before this
9 Master, we choose to advise the client of
10 his Fifth Amendment rights.

11 THE MASTER: All right.

12 MR. MITCHELL: Pardon me, Your Honor,
13 may I also, at this time, for the purpose of
14 this record, as previously identified -- I
15 identified an indictment against Jose Saenz
16 making this indictment a part of this record.

17 THE MASTER: Yes.

18 MR. MITCHELL: Yes. I have previously
19 identified this indictment, and I have now
20 secured a certified copy and if I could --

21 THE MASTER: Yes, sir.

22 MR. MITCHELL: Make it a part of the
23 record.

24 THE MASTER: Yes.

25 MR. MITCHELL: I think perhaps, Judge,

1 to distinguish it from the other Exhibits,
2 may I have permission to mark it perhaps
3 JS-1, for Jose Saenz 1?

4 THE MASTER: For Jose Saenz 1, the
5 record will reflect that at this point the
6 hearing is -- will involve the Master order-
7 ing this witness to answer the questions
8 posed to him. He has declined to do so
9 on advice of his counsel and his counsel
10 wants to document the basis of his advice
11 by offering this indictment. That may not
12 be the only basis, I understand that.

13 MR. MITCHELL: Yes, sir.

14 THE MASTER: The Master has been requested,
15 if the witness does not answer the questions,
16 after being ordered to do so, to file a
17 petition in any district court asking that
18 court to direct the witness to answer the
19 questions and the Master intends to do so.

20 MR. MITCHELL: Your Honor, this also
21 is for the purpose of the record, is the
22 same indictment which the counsel referred
23 to when this witness was previously called,
24 I believe Friday.

25 THE MASTER: I believe you are correct.

1 MR. MITCHELL: Or Thursday, Judge
2 Meyers, so that the record -- there is a
3 flow in the continuity of the record, this
4 is the State of Texas versus Jose Saenz in
5 Cause Number 2940 in the 79th District
6 Court in Alice, Jim Wells County, Texas.

7 Your Honor, does the Court wish the
8 Exhibit to be marked JS-1?

9 THE MASTER: I think it should be JS
10 standing for Jose Saenz 1.

11 (Marked for identification by the
12 reporter as JS-1.)

13
14 MR. MITCHELL: It is a certified copy
15 of the indictment, Judge Meyers.

16 MR. ODAM: Your Honor, it is a certified
17 copy. I would only pose the objection for
18 the record that -- it's irrelevancy in that
19 the indictment which has been offered and
20 marked as JS-1 is not the matter for which
21 this witness is being asked to testify,
22 and I make that clarification so, therefore,
23 it is irrelevant to his testimony that we
24 are eliciting here.

25 THE MASTER: It may well be. This is

1 simply offered as the indictment that is now
2 pending. I take it?

3 MR. MITCHELL: Yes. Your Honor.

4 THE MASTER: You contend that it will --

5 MR. MITCHELL: It will be relevant.

6 THE MASTER: It will be relevant.

7 MR. MITCHELL: That is right.

8 THE MASTER: I can't tell that now. Do
9 you wish Mr. Odam to recess now and try to
10 find a judge to present that petition? Have
11 you given a copy to Mr. Mitchell or to
12 Mr. Saenz?

13 MR. ODAM: Your Honor, the copy that
14 we prepared this morning is -- states in
15 the last paragraph or on the last page on
16 Friday, November the 7th, pursuant to the
17 regularly issued subpoena requiring him to
18 attend and testify. Jose Saenz was called
19 as a witness at the hearing being held by
20 the petitioner's Master, and it goes on to
21 say that the witness then and there refused
22 to testify on the grounds that his testimony
23 may tend to incriminate him.

24 As I recall the record made last
25 Friday, and of course we have a copy of it

1 here, last Friday the Master did not order
2 him to testify.

3 THE MASTER: That is correct and you
4 have not questioned him since I have today
5 ordered him, which, of course, you must do.

6 MR. ODAM: So to say all of that is,
7 I think, the rough draft that we have posed
8 needs to be modified somewhat.

9 Basically, just to reflect that he is
10 refusing to testify today pursuant to orders.

11 THE MASTER: All right, and then --
12 go ahead.

13 MR. ~~MITCHELL~~ ^{ODAM}: Assuming that I ask him
14 the questions, pursuant to the -- to your
15 order you just gave him, and assuming he
16 does not answer, then it would be my sugges-
17 tion that we see when a district judge could
18 hear this matter and would further be my
19 suggestion that -- and I would say if it
20 were this afternoon, for example, I would
21 suggest that this hearing recommence and
22 that the order signed by the judge upstairs
23 order the witness to proceed back downstairs,
24 to see if he is going to comply with the
25 order and rather than wait until tomorrow

1 to see if he is going to comply and then
2 wait until the next day to go back up and
3 find the judge to hold him in contempt of
4 court.

5 THE MASTER: That is agreeable, I
6 understand what you are suggesting.

7 MR. ODAM: All right.

8 THE MASTER: It is a matter of timing,
9 so to speak. We may not be able to do it.

10 MR. ODAM: Yes, sir, I understand.

11 THE MASTER: That we may not be able
12 to do it that expeditiously.

13 MR. ODAM: I would suggest that we go
14 ahead and ask the witness the questions and
15 if he does take the Fifth Amendment, we
16 recess for a brief period of time so that
17 we might determine the availability of a
18 judge as soon as possible.

19 MR. MITCHELL: Judge Meyers, I don't
20 want to be a constant thorn, but I am this
21 man's lawyer.

22 THE MASTER: And you are entitled to
23 be a thorn, Mr. Mitchell, that is your role.

24 MR. MITCHELL: I have not heard one
25 thing, Your Honor, from the attorney general

1 about when Counsel is going to be required
2 to prepare an answer.

3 I have it outlined here and the docu-
4 mentary alone will constitute, I would say,
5 several hundred pages of testimony in this
6 application to find this gentlemen in
7 contempt. Now, I appreciate he has been
8 working on it since Friday.

9 THE MASTER: That has not happened
10 yet, all that is going to happen on this is
11 a district court, in accordance with the
12 statutes, is going to be petitioned to direct
13 him to answer the questions.

14 MR. MITCHELL: I understand.

15 THE MASTER: And let me see the statute
16 again, I think then we come back and if he
17 does not answer, then isn't that court asked
18 to hold him in contempt?

19 MR. MITCHELL: I would like only to
20 be given an opportunity, Judge Meyers, to
21 see it and answer it, which I have not done.

22 THE MASTER: And at that time -- well --
23 all right, now what do you want Mr. Mitchell?

24 MR. MITCHELL: Well, at some point, Your
25

1 Honor, I want to be able to make a record.

2 THE MASTER: Yes.

3 MR. MITCHELL: I don't want to go to
4 the Supreme Court on the naked assertions
5 by the attorney general that this witness
6 is in contempt of the district court of
7 Corpus Christi and in listening to the blue-
8 print that counsel detailed for the court
9 or the master, I didn't see any niche in
10 that blueprint for me getting a copy of the
11 application and given an ample opportunity
12 to answer it. That is my problem, Judge Meyers.

13 THE MASTER: Well, how long do you
14 need to answer it?

15 MR. MITCHELL: Well, I would submit,
16 Judge, that since we -- as soon as we put
17 together the documentary, plus I might state
18 to the court we are working on a brief at
19 this particular point in anticipation of
20 something of this type, that it would be
21 filed, in view of his announcements on Friday,
22 I would say that out of fairness to counsel --
23 to the witness, not to me, at least give us
24 a half a day, or a day, or something of that
25 type, Judge Meyers.

1 THE MASTER: Well, and I think you are
2 right. A record needs to be made.

3 MR. MITCHELL: Sure.

4 THE MASTER: Yes, sir.

5 MR. MITCHELL: Our record will be very
6 sophisticated. It will run to the heart and
7 soul of the committee. The validity of the
8 proceedings. I might just put counsel on
9 notice at this point. It is a void body, it
10 has no power to grant immunity on this type
11 of thing, Judge, and we can't do that in
12 an hour and a half on some Monday afternoon.

1 THE MASTER: Well, now counsel has a
2 point. If you had asked for a week, I
3 would have said no, but a half day or so,
4 I am sympathetic with that.

5 MR. ODAM: Your Honor, the way we see
6 the statute, Sections 8 and 14, particularly
7 Section 8, what we would see to be the
8 issue under Section 8 is simply whether
9 or not the witness was subpoenaed here to
10 testify, whether or not questions were
11 posed to him and whether or not the witness
12 refused to answer. I don't know what he is
13 talking about as far as the committee.

14 THE MASTER: When he says the
15 committee, he means commission.

16 MR. MITCHELL: Yes, sir.

17 THE MASTER: He is going to the heart
18 and soul of the judicial qualifications
19 commission.

20 MR. MITCHELL: No, I mean the
21 committee.

22 THE MASTER: Well, I don't see that.

23 MR. MITCHELL: Because, Your Honor,
24 it is like picking up four people off the
25 street and hauling them before this commission.

1 THE MASTER: The immunity I am
2 referring to is in the Judicial
3 Qualifications statute.

4 MR. MITCHELL: If it is granted within
5 those rules, this witness will be ordered to
6 testify, but I am not satisfied it is
7 granted.

8 THE MASTER: That is a valid point.
9 Counsel is representing a man whose
10 testimony may tend to incriminate him, and
11 he wants to make sure whatever immunity
12 is granted is adequate immunity.

13 MR. MITCHELL: Absolutely.

14 THE MASTER: That is his job, that is
15 what he is being paid for.

16 MR. MITCHELL: Exactly, right, Judge.

17 So when I walk away from here and
18 we go to trial in Duval or Jim Wells
19 County, I have something that says I have a
20 grant of immunity that is valid.

21 MR. ODAM: The only comment I would say
22 at this point is that I note for Judge
23 Carrillo has been represented by Mr. Hanes,
24 Miss Fox and Mr. Mitchell. It is adequate
25 counsel for Mr. Mitchell to represent this

1 witness, so I would suggest --

2 MR. MITCHELL: I think that is
3 inappropriate to begin with.

4 For the record, Mrs. Fox is trying
5 to brief this very question and that is what
6 is an award for immunity. Mr. Hanes is also
7 briefing at this point and --

8 THE MASTER: We need not duly interrupt
9 these proceedings.

10 MR. MITCHELL: If he hands me his
11 final pleadings by this afternoon --

12 THE MASTER: I assume he will give you
13 this preliminary pleading.

14 MR. MITCHELL: He wants to have this
15 thing extended so we can get this wound up.

16 THE MASTER: What thing, I don't know
17 what you are talking about.

18 MR. MITCHELL: I am saying by the same
19 token, if you turn the coin upside down, the
20 Attorney General is saying he wants this
21 wound up before the proceedings in Austin
22 and I wanted that noted in the record.

23 THE MASTER: I don't know what you mean
24 by it, but it is noted in the record.

25 MR. MITCHELL: Thank you.

1 THE MASTER: You said you need to do
2 some more typing?

3 MR. ODAM: Well, I can give these to
4 counsel and will at the present time, an
5 original -- or a Xerox copy of what we
6 compiled to date to The Master and also to
7 Mr. Mitchell, counsel for Mr. Aenz and for
8 Judge Carrillo.

9 What I refer to is -- well, let
10 me let both Mr. Mitchell and the Master read
11 through what we have prepared thus far.

12 MR. MITCHELL: Judge, is the Master
13 going to be represented by the Attorney
14 General?

15 THE MASTER: I do not know, I have been
16 worried about that.

17 MR. MITCHELL: Because, as I understand,
18 the Attorney General's participation in
19 this, the Judicial Qualification Commission
20 cases which I have read speak to the un-
21 involvement of the Master and I would like
22 to know whether the examiner is going to be
23 attorney for the Master.

24 MR. ODAM: If I could speak to that,
25 just before we took the break, the Master

1 asked whether he should prepare it or I
2 should. What I have here is the same as
3 Mr. Mitchell's and that is what the statute
4 requires, that the Master is the petitioner
5 and the Master proceed with this matter and
6 if what we have prepared is not adequate,
7 because it was in our desire to help a
8 court in any way possible, but I would
9 certainly agree with Mr. Mitchell, the
10 burden is on the Master to have the papers
11 go before the District Court. I don't
12 intend to plead the case before the Court,
13 because I think it is on the Master to
14 do so.

15 THE MASTER: You have standing not
16 to represent the Master, but to urge in the
17 District Court of Nueces County, that the
18 Court grant this petition and present
19 evidence in support of it. Mr. Mitchell
20 has the right to oppose it.

21 If he would call the witness, you
22 would be in effect urging my side, just like
23 when a judge, at a lawyer's request, finds
24 someone in contempt, and there is a habeas
25 corpus motion, the judge rarely appears

1 before the Court. One of the parties
2 represents the judge's position.

3 MR. MITCHELL: Judge, I am aware of
4 that, but this is a matter where the
5 judiciary and the bar is vitally
6 interested. We have to be above that.
7 There will be judges and lawyers reading
8 this record and I don't want to be a party
9 to saying that let the Attorney General's
10 umbrella extend and protect the Master and--

11 THE MASTER: I think I can speak for
12 myself.

13 MR. MITCHELL: I don't think it is
14 appropriate.

15 THE MASTER: Yes, but he can certainly
16 stand up and say I support you and you can
17 say I object to it.

18 Now, I had written out something
19 here that roughly covered the same
20 material.

21 MR. ODAM: If I could direct Mr.
22 Mitchell's and the Master's attention to
23 page 2, where I could see there needs to be
24 a change, so the Master could go out and
25 type it up or I could --

1 THE MASTER: The Master could not type
2 it.

3 MR. ODAM: Again, referring back to
4 it --

5 THE MASTER: The Master can change it.

6 MR. ODAM: All right, sir. Where I
7 see what is going to be necessary for
8 changes in paragraph Roman number four.
9 We need to change where it says the witness
10 then and there refused to testify.

11 I think we have to add that the
12 Master today, on Monday, November 10th,
13 ordered the witness to testify and then
14 the next sentence falls in, "Said witness
15 refused to testify on the grounds that --"

16 All we need to do is that the
17 Master required him to testify on November
18 10th.

19 MR. MITCHELL: Pardon me, Judge Meyers.

20 THE MASTER: Yes, sir.

21 MR. MITCHELL: The problem with this
22 being a pleading prepared by the Attorney
23 General in the name of the Master is the
24 same problem as mine. It undertakes
25 a recital of the record. I point out

1 notice of formal proceeding has been served
2 and it proceeds to recount and seems to me to
3 pull up by its own bootstraps the pleadings
4 in the record. It doesn't, if it is going
5 to come from the Master, I think it should
6 recite accurately the record.

7 As the Master well knows, I have
8 15 or 16 pre-trial motions that relate to
9 this point. I don't see the need to try and
10 patch up the record here. Those other
11 pre-trial motions are presently pending.

12 MR. ODAM: Your Honor, while the Master
13 is looking at that, I might point out,
14 under Section 9, there is a statement,
15 something about as to proceeding so it is
16 not given away. I did not recite every
17 pleading that was filed. I did note an
18 answer was filed, but I based it on general
19 proceedings, as perhaps filed in Section 9.

20 THE MASTER: Mr. Mitchell, you are
21 welcome to see what I was jotting down and
22 that is essentially what is in this petition.
23 I agree with you, if you desire, in the
24 hearing of this petition, to offer whatever
25 you want, but it was my idea before I ever

1 saw this thing that I would simply recite
2 that I was appointed Master and that the
3 hearing had commenced; that the witness
4 Saenz had refused to testify and that he
5 had been ordered to testify and he still
6 refused and I wanted the Court to ask him
7 to testify.

8 MR. MITCHELL: That is fine, Judge.

9 THE MASTER: What does this say that
10 doesn't say?

11 MR. MITCHELL: First of all, we went
12 for a full day offering testimony on our
13 pre-trial motions. The Master said I want
14 to leave that for determination by the
15 Commission, but now I am faced by all of
16 these unnecessary recitals. I can object,
17 however, and sit down and be quiet. This is
18 the type thing I need a little time to answer.
19 What I have added to what you drafted is
20 in paragraph Roman numeral four. "Said
21 witness then and there refused to testify,
22 whereupon his testimony may tend to
23 incriminate him," and I added that the
24 witness Saenz was again called on November 10,
25 1975, and the witness was then ordered by

1 the Master to answer the examiner's
2 questions and again refused to testify.

3 Doesn't that say it?

4 MR. ODAM: Yes, sir. I would also
5 tender to the Master and counsel for Mr.
6 Saenz and counsel for Judge Carrillo what
7 I have prepared, like in any other
8 proceeding, a suggested order which,
9 as I understand, would be if there is any
10 proceeding, if the District Court were to
11 give the relief requested by the Master,
12 that the normal proceedings would be that
13 the Master would attend to it, but obviously,
14 if Mr. Mitchell may want to prepare this
15 one, he may do so.

16 THE MASTER: Well, that is the Judge's
17 concern, not mine.

18 MR. MITCHELL: Yes, sir, and due
19 process -- I have never seen one of them,
20 grand jury or so forth, that didn't take
21 less than 25 days, and here we are talking
22 about hours. We are going to have a serious
23 due process objection on the quality and
24 care of the notice in that regard.

25 THE MASTER: You have yet to develop the

1 record on this.

2 Are you going to do that now?

3 MR. ODAM: Yes, sir.

4 Q (By Mr. Odam:) Mr. Saenz, you have been asked a
5 number of questions last Friday and I have asked
6 you a number of questions today. I would like to
7 call to your attention at this time that the Master
8 has ordered you to answer the questions that have
9 been put to you. At this time I would pose
10 questions to you, questions that I would pose to
11 you would be the same questions posed to you last
12 Friday by Mr. Flusche, and those would be the same
13 questions today.

14 My question, first of all, is if you were asked
15 those questions you were asked last Friday, will
16 your testimony be the same as it was before, that
17 you decline to answer?

18 A I respectfully decline to answer.

19 MR. ODAM: Your Honor, one way I would
20 suggest we could do this is I want to be sure
21 all of the questions were previously asked
22 and I will ask the court reporter to read
23 back those questions so we can track them
24 closely. The alternative would be to ask
25 those questions again.

1 I guess the first question is
2 whether Mr. Mitchell wants a record on this
3 witness by the questions.

4 MR. MITCHELL: I submit it is not me,
5 but I submit the law is he is entitled to
6 have his Constitutional rights protected and
7 I want that done.

8 MR. ODAM: I would ask the court
9 reporter, then, to --

10 THE MASTER: I think that is a difficult
11 way to do it.

12 Can you ask the questions again?

13 MR. ODAM: Yes, sir.

14 THE MASTER: I think that is the way
15 to proceed.

16 MR. ODAM: All right, sir.

17 THE MASTER: Because it is many, many
18 pages since you asked those questions.

19 MR. ODAM: All right, sir.

20 MR. MITCHELL: Where are you reading
21 from?

22 THE MASTER: It is not questions he
23 had in testimony, but questions counsel has
24 witten down.

25 MR. MITCHELL: All right.

1 Q (By Mr. Odam:) Mr. Saenz, do you know Judge O. P.
2 Carrillo?

3 A I respectfully decline to answer.

4 Q Where are you employed at the present time?

5 A I respectfully decline to answer.

6 Q I refer to the first amended notice in these
7 proceedings, paragraph three, which states during
8 the period of time from January to September,
9 1973, and my question is to you, from January 1st,
10 1972, until September, 1973, were you employed
11 by the County of Duval?

12 A I decline to answer.

13 Q At that time were you doing work in the Chambers
14 or in the offices of the Judge of the 229th Judicial
15 District, Judge Carrillo's office?

16 A I decline to answer.

17 Q Do you know whether or not Roberto Elizondo was
18 a student in court reporting school in Houston
19 during this period of time?

20 A I respectfully decline to answer.

21 Q Do you know whether or not Roberto Elizondo had
22 occasion to make claim for payment from Duval
23 County?

24 A I respectfully decline to answer.

25 Q I show you what has been marked Exhibits 43 through

1 Exhibits 50 and ask you if you can identify these.

2 A I respectfully decline to answer.

3 Q They state they are a claim for payment with the
4 name of Roberto Elizondo on them and my question
5 to you is, did you notarize the signature of
6 Roberto Elizondo on those for payment?

7 A I respectfully decline to answer.

8 Q Did you in fact sign Roberto Elizondo's name to
9 those?

10 A I decline to answer.

11 Q Did you do so, if you did, with the knowledge and
12 consent of Judge O. P. Carrillo?

13 A I respectfully decline to answer.

14 Q Do you know Zenaida Montemayor?

15 A I respectfully decline to answer.

16 Q Was there an occasion when Mrs. Montemayor
17 recommended to you to fill out a request for
18 payment for Mr. Roberto Elizondo?

19 A I respectfully decline to answer.

20 MR. MITCHELL: I object to the
21 admission on these on the grounds of proper
22 authentication.

23 THE MASTER: The objection is as
24 previously, sustained.

25 Q Can you identify this, being your signature on the

1 claim for payment, Examiner's Exhibit 43?

2 A I respectfully decline to answer.

3 Q Looking at Examiner's Exhibits 44 through 50, can
4 you identify those as being your signature?

5 A I decline to answer.

6 Q Did you have occasion to testify June 15, 1975,
7 before the House Committee in Austin, Texas?

8 A I decline to answer.

9 Q Was it your testimony at that time, if you did
10 testify, that you signed these claims for payment
11 at that time in the name of Roberto Elizondo?

12 A I decline to answer.

13 Q Assuming you did so testify, were you instructed
14 to so testify by the chairman of the Committee, and
15 I quote, "Notwithstanding your assertion of your
16 Fifth Amendment privileges, and in an effort to
17 overrule that, the chair directs you to answer,"
18 and that you did testify as to after that that you
19 did so sign those statements?

20 A I decline to answer.

21 Q Do you recall whether or not Mr. Hale posed a
22 number of such statements to you requiring you
23 to answer and you did thereafter answer?

24 A I decline to answer.

25 Q Assuming you did testify, as evidenced by Volume 14

1 of the testimony, were those true statements you
2 made at that time under oath and presumably you
3 were granted immunity by the Committee?

4 A I respectfully decline to answer.

5 MR. ODAM: I pass the witness

6 MR. MITCHELL: Your Honor, I will
7 state in behalf of my client, Mr. Saenz,
8 that at such time as a court of competent
9 jurisdiction enters an order, which we,
10 from the reading of the case, feel that
11 properly grants him total and complete
12 immunity, as required by the dictates of
13 the Federal and State Constitution, and
14 interpreted by the Federal and State Courts,
15 that this witness will answer the questions
16 and we cannot at this time, and I am
17 recommending to the witness that he do not
18 so testify.

19 THE MASTER: Thank you. I will ask you
20 to wait outside, Mr. Saenz.

1 THE MASTER: Mr. Odam, what is your
2 pleasure?

3 MR. ODAM: Your Honor, in light of
4 this witness' testimony given after the --
5 being so ordered by the Master, it would be
6 my suggestion that the Master determine the
7 availability of a district court in Nueces
8 County. As to when the Master's original
9 petition for an order compelling Jose Saenz
10 be presented to that court, with the under-
11 standing that the similar requests have
12 been made with respect to the witness Tomas
13 Elizondo, and that we will be preparing,
14 and I don't know if it will be necessary to
15 have it at the same time or not, we can
16 do it on another occasion, but that petition
17 also be presented.

18 I do not have, in light of that develop-
19 ment, this morning, I do not have a rough
20 draft of it prepared as a suggestion, but
21 my suggestion is that the Master determine
22 the availability of a court at least on
23 Mr. Saenz and, perhaps, if the court or
24 the Master is in mind on Mr. Elizondo, in
25 light of his testimony this morning.

1 THE MASTER: I have in mind to do them,
2 insofar as possible, at the same time because
3 they are -- in fact, it seems to me, although
4 Mr. Saenz and Mr. Elizondo differ in some
5 respect, that Mr. Saenz is under indictment
6 and that Mr. -- there is no showing that
7 Mr. Elizondo is, doing them jointly in one
8 petition.

9 MR. MITCHELL: And one has been offered
10 immunity of a character, and the other not.
11 Also, Judge, this is another basic distinction
12 between them.

13 THE MASTER: I didn't hear you.

14 MR. MITCHELL: I understood from the
15 record, that as I recall the record it would
16 be offered -- that he would be offered
17 immunity of a character, Mr. Saenz, that was
18 not offered to Mr. Elizondo.

19 THE MASTER: At this time of the testi-
20 mony before the committee?

21 MR. MITCHELL: That is my recollection,
22 Your Honor.

23 THE MASTER: I thought they both were.
24 Do you see, Mr. Mitchell, do you see any
25 objection to having it heard at one time?

1 You represent them both.

2 MR. MITCHELL: I don't see any objection
3 to the two of them together in the same
4 motion, Judge.

5 THE MASTER: All right, so that I can --

6 MR. MITCHELL: It might be -- pardon me,
7 Judge Meyers, it might be the most expedi-
8 ous manner to accomplish the establishment
9 of their rights, both in a different conten-
10 tion, or each in a different contention, I
11 should say.

12 THE MASTER: So, Mr. Odam, I will
13 follow the format of the Master's Original
14 Petition for Master's order compelling Jose
15 Saenz to testify, but I think we ought to
16 add Mr. Elizondo to it and recite that he
17 was called this morning and ordered, pursuant
18 to subpoena which a -- a copy of which you
19 attach and that he declined to do so.

20 Now, it seems to me the earliest we
21 can have that hearing is tomorrow and I
22 would suggest tomorrow afternoon. In the
23 meantime, are there any other witnesses you
24 can present?

25 MR. ODAM: Yes, sir, I am going to check

1 outside the availability of the next wit-
2 ness, Mr. Ruben Chapa, and present him as
3 a witness now.

4 THE MASTER: All right, do you want
5 me to recess and see what about a court for
6 tomorrow afternoon?

7 MR. ODAM: Yes, Your Honor, and then
8 I think since the witnesses are being held
9 upstairs, that we go upstairs if he was
10 available and then we could do that and take
11 our break now.

12 THE MASTER: I don't know that this --
13 we may take a break still between --

14 MR. ODAM: All right, sir. I think if
15 I understand what the Master is saying, if
16 the Master would see about the availability
17 of a judge right now and I will see about
18 the availability of the next witness.

19 THE MASTER: All right.

20 MR. MITCHELL: Excuse me, Judge, we
21 are going to, of course -- we will not agree
22 on the timing because we are going to make
23 motions that the due process is involved in
24 the matter of calling for contempt and then,
25 secondly, in the setting up of a time

1 schedule. Judge Meyers, we would like to
2 have, as quickly as possible, a copy of
3 the record that is to be relied on by the
4 attorney general or the petitioner in this
5 matter. And thirdly --

6 THE MASTER: Wait a minute, you are
7 ahead of the game slightly. All we are
8 doing now, this is not the contempt matter.

9 MR. MITCHELL: Yes, sir.

10 THE MASTER: I thought you said some-
11 thing about contempt.

12 MR. MITCHELL: Well, the notice is
13 here -- we feel is implicit in the process
14 and that is covered by the protection of the
15 due process. Judge, so we have to answer it.
16 but I didn't really want to get on that,
17 Judge Meyers. I want to know is there
18 application of write of habeas corpus, in
19 the event the witness is constrained, in --
20 because of the contempt citation, we want
21 time to prepare an application for the writ
22 and bond and so forth, and agree to the
23 Supreme Court of the State of Texas and the
24 Court knows this is our -- what we are
25 going to do immediately, if there is an

1 order.

2 THE MASTER: That is right, but that
3 is the -- actually the second hearing, Mr.
4 Mitchell.

5 MR. MITCHELL: I understand.

6 THE MASTER : As I view it, we go
7 up and ask a judge to order these two wit-
8 nesses to testify. It is my view of the
9 law, although you are free to disagree with
10 it, and if the judge finds that the subpoenas
11 are in order, he must order them to testify
12 so if he does then -- and the witnesses do
13 not, and you suggest that they will not,
14 and I understand that, then I file an affi-
15 davit of contempt saying they fail and refused
16 to obey the court's order, ordering them to
17 testify.

18 I suppose I may testify to that,
19 although I don't know. Everybody will know
20 that they didn't testify, and he will then
21 punish them for contempt and I would assume
22 that would be a continuing contempt. He
23 would say that you go to jail until you
24 testify.

25 Then, you file your application for writ

1 of habeas corpus, and the Supreme Court,
2 I think, lets them out pending that hearing
3 which presumably would be pretty speedy.
4 Isn't that the way you view it?

5 MR. MITCHELL: Yes, sir, that is about --
6 as the Court well knows, I have been before
7 this very Court on both ends of this. The
8 famous Cold Cash case, where the man was
9 out in jail because he hid his cash in a
10 deep freeze many years ago, Judge Meyers.

11 But the reason I set it out simply,
12 Judge, is to state to the Court that the
13 record that has been made since last Friday
14 and today, of course, becomes a part of this
15 procedure somewhere. I would like to have
16 it as early as my application of writ
17 of habeas corpus.

18 THE MASTER: I don't know that I agree
19 with that statement, but that is the position
20 you may well take.

21 MR. MITCHELL: Yes, sir.

22 THE MASTER: But, I do not know that
23 the entire record taken before me is a
24 part of your habeas corpus, but now that
25 is a problem, I am not going to get into.

1 MR. MITCHELL: Because we are envision-
2 ing at least a two or three day trial on the
3 question of the habeas corpus if the Supreme
4 Court grants it, he probably won't grant
5 it during the time -- I don't know what the
6 Supreme Court will do obviously, but at
7 that time, of course, I want the record --
8 to have an opportunity to put this into that
9 record before that -- before the court.

10 I just don't want to go up on the naked
11 assertions of this motion, that is all.

12 THE MASTER: Well, that is counsel's
13 problem and not mine.

14 MR. MITCHELL: I know, Judge Meyers,
15 but see, the way it is all done now, everybody
16 is talking about giving, and accommodating
17 the attorney general and having an opportunity
18 to file it, that is fine, I have just gotten
19 it fifteen minutes ago, and I just want to
20 know, Judge, me, too, I would like to have
21 an opportunity to --

22 THE MASTER: But you understand I am
23 telling you that that is a matter for
24 whatever court receives this petition to
25 determine, and then for ultimately the

1 Supreme Court. But not for me to determine
2 unless you disagree.

3 MR. MITCHELL: No, I think that is
4 correct, Judge.

5 THE MASTER: All right, I will be in
6 recess for about -- for a few minutes.

7 (Whereupon the hearing was in recess
8 from eleven ten a.m. until eleven twenty-
9 five a.m.)

10
11 THE MASTER: Gentlemen and Ms. Levantino
12 I spoke with Judge Hamilton who is the pre-
13 siding judge for this period of time. I
14 don't know whether he is --

15 MR. ABARCA: Just for a period of time,
16 we rotate the judges.

17 THE MASTER : You rotate your judges?

18 MR. ABARCA: Yes.

19 THE MASTER: And he said that he thought
20 Judge Harville would be available tomorrow
21 afternoon. It is my intention to present
22 the petition tomorrow afternoon and by that
23 time, that is all I mean, if Mr. Mitchell
24 wants more time he makes that application
25 to Judge Harville.

1 MR. MITCHELL: All right, Judge.

2 THE MASTER: I am simply going to pre-
3 sent it to him and we will proceed with what --
4 in whatever fashion you want. I do necessarily
5 rely on your services, or yours, I don't
6 care, to get the typing done. Can you do
7 that?

8 MR. ODAM: Yes, sir.

9 THE MASTER : And I want to add Mr.
10 Elizondo and before we are through today
11 we may have others, I don't know.

12 MR. MITCHELL: Judge, I don't like the
13 way the Court looked at me when you said
14 that. May we go off the record and I
15 will tell the people in the courtroom about
16 the Cold Cash case, Judge?

17 THE MASTER: I think we better go on
18 with the witnesses, let's wait and do that
19 at a later time.

20 MR. MITCHELL: Judge, I wonder if Mr.
21 Odam will tell me who will be his next wit-
22 ness?

23 THE MASTER: He said one of the Mr.
24 Chapas, I think he said Ruben.

25 MR. ODAM: Yes, sir, Ruben Chapa, and

1 then after that, Mr. Cleofus Gonzalez, and
2 then after that Mr. Walter Meek, and then
3 after that --

4 MR. MITCHELL: John, I didn't know you
5 were just going to be fountain of information.
6 Let me just write these down, the first was
7 Ruben Chapa -- the reason I am asking Counsel
8 co-counsel will want to take the cross of
9 Cleofus Gonzalez. He is not in the court-
10 room.

11 THE MASTER: Mr. Haynes?

12 MR. MITCHELL: Yes, sir, Mr. Haynes,
13 he wants to be here when he testifies. Ruben
14 Chapa and Mr. Cleofus Gonzalez followed by
15 Walter Meek.

16 MR. ODAM: Followed by Rodolfo Chapa.

17 MR. MITCHELL: That is after Walter
18 Meek?

19 THE MASTER: We won't get all of that
20 done today.

21 MR. MITCHELL: No, he won't get through
22 really with Ruben, I'm afraid.

23 MR. ODAM: If I can, Your Honor, the
24 court interpreter just asked if I needed an
25 interpreter for these next witnesses. If I

1 can just check out in the hall and see if
2 it is necessary. we will release him right
3 now.

4 THE MASTER: All right.

5 MR. MITCHELL: They never have used one
6 before.

7 MR. ODAM: I don't think it will be
8 necessary.

9
10 (Whereupon Mr. Odam left the hearing
11 room and upon his return the following
12 occurred.)

13 MR. ODAM: Your Honor, I did check
14 with both Mr. Chapa and Mr. Gonzalez and
15 they said they did not feel it was necessary
16 to have an interpreter.

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19
20 E X A M I N A T I O N

21
22 RUBEN CHAPA,
23 called as a witness, having been duly sworn, testified
24 upon his oath as follows, to-wit:
25

1 BY MR. ODAM:

2
3 Q Would you please state your full name for the
4 record?

5 A Ruben Chapa.

6 Q And where do you reside, Mr. Chapa?

7 A Benavides.

8 Q And how long have you resided in Benavides?

9 A Twenty-seven years.

10 Q And how old are you?

11 A Twenty-seven.

12 Q And by whom are you presently employed?

13 A I own a Texaco in Benavides and I work for the
14 Duval County Conservation and Reclamation District.

15 Q Now, how long have you been employed by the water--
16 how long have you been employed by the water dis-
17 trict?

18 A Since April of 74.

19 Q And by that -- correction, prior to that time,
20 were you employed by any other governmental entity?

21 A No, sir.

22 Q In addition to your --

23 A I was working by myself at Texaco.

24 Q Do you know Tomas Elizondo?

25 A Yes, sir.

1 Q And do you know Roberto Elizondo?

2 A Yes, sir.

3 Q And are you -- do you know Patricio Garza?

4 A Yes, sir.

5 Q Do you know Cleofus Gonzalez?

6 A Yes, sir.

7 Q And do you know Oscar Sanchez?

8 A Yes, sir.

9 Q Mr. Chapa, did you have occasion to testify in
10 Austin in the House Select Committee on Impeach-
11 ment Procedures earlier this year?

12 A Yes, sir.

13 Q I am going to ask you some questions today, some
14 of which may have been the same questions that
15 you testified before. I will not perhaps do it
16 question by question but let me ask you this:

17 Is your testimony before the House of Representa -
18 tives, was it taken under oath?

19 A Yes, sir.

20 Q And to the best of your knowledge at that time,
21 what you testified to there, was it the truth?

22 A Yes, sir.

23 MR. MITCHELL: Wait a minute, Judge,
24 that is improper bolstering. He has got
25 the witness here at this hearing, he hasn't

1 been impeached yet. it is improper bolster-
2 ing.

3 THE MASTER: I don't suppose he proposes
4 to bolster him by offering that testimony.
5 That is not your purpose?

6 MR. ODAM: No, sir.

7 THE MASTER: He is not going to offer it.
8 "Now hear this", so I will overrule the
9 objection at this time.

10 Q Mr. Chapa, you state, I believe, that you are
11 familiar with Tomas Elizondo?

12 A Yes, sir.

13 Q How long have you known Tomas Elizondo?

14 A All my life.

15 Q Have you seen him here in the courtroom this
16 morning or, correction, have you seen him here
17 on the premises this morning?

18 A I was with him a while ago outside.

19 Q So you actually saw him here this morning?

20 A Yes, sir.

21 Q To the best of your knowledge, by whom is Mr.
22 Elizondo employed?

23 MR. MITCHELL: Hearsay, Your Honor.

24 A By whom is he employed?

25 MR. ODAM: Just wait a minute.

1 THE MASTER: Well, you'd better show
2 the basis of his knowledge.

3 Q Let me rephrase the question this way, Mr. Chapa:
4 Do you know how Mr. Tomas Elizondo is presently
5 employed?

6 A Presently, right now?

7 Q Yes, sir.

8 A Who is he employed by right now?

9 Q Yes, sir.

10 A He might be employed by the county, I don't
11 know. I guess he might -- I don't know if he
12 is still working for the county or not.

13 Q And back during a period of time that I will
14 be asking you more questions about, particularly,
15 say, during November of 1972, do you know how,
16 not what his employment was, but do you know how
17 he may have been employed in 1973?

18 MR. MITCHELL: Still objection on the
19 grounds of hearsay.

20 THE MASTER: You have got to show the
21 basis of his knowledge, I mean if Mr. Elizondo
22 said, "I work for Judge Carrillo" that is
23 hearsay.

24 MR. ODAM: Well, Your Honor, he has not --

25 THE MASTER: If he has seen him and

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observed him at his occupation, that is one thing, but if he has just got it from what others say, that is another thing.

MR. ODAM: Yes, sir. The question I asked him was whether or not he knew how he was employed.

THE MASTER: That is true, and if his answer is yes, then you are going to ask him how he knows?

MR. ODAM: Yes, sir.

THE MASTER: That is fine.

Q Let me rephrase the question to you: Do you know how Mr. Elizondo was employed in 1973, specifically say, in November of 1973, just whether or not you know?

A Well, do I --

Q Not how he was employed yet.

THE MASTER: Do you know, in other words?

A Do I know who employed him or what?

Q Yes, sir.

A The county, because I saw him quite a few times that he had some county checks, so I guess he had done some work for the county. They paid him for something else, I don't know.

1 MR. MITCHELL: May we have a continuing
2 line of -- an objection, Your Honor, to
3 this line of questioning, all on the grounds
4 of hearsay, and I appreciate that counsel is
5 proceeding in line with the instructions
6 from the Master, but to keep from interrupt-
7 ing, we contend it will all be hearsay,
8 regardless of whether it was personal knowledge
9 or whether he saw him with a check or not,
10 just hearsay on the ultimate fact issue of
11 the employment of Mr. Elizondo.

12 THE MASTER: The problem, Mr. Mitchell,
13 some may be hearsay and some may not be.
14 What this witness saw, he saw.

15 MR. MITCHELL: Well, Yes, Judge.

16 THE MASTER: And I will overrule the
17 objection to hearsay on that.

18 MR. MITCHELL: Well then, specifically
19 we'll move to strike the testimony as regards
20 to seeing him with a check from the county
21 on the grounds that that testimony is obvi-
22 ously introduced for the ultimate fact
23 issue of employment by the county would be
24 hearsay.

25 THE MASTER: No, that is overruled.

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1 to have county checks with him.

2 Q He had county checks with him?

3 A I don't know if it was road or bridge or precinct
4 checks. I never -- I just saw the check that said
5 Duval County.

6 MR. MITCHELL: Objection, move to
7 strike, speculation, guess, conjecture and
8 hearsay.

9 THE MASTER : Overruled.

10 Q Did you ever have occasion to see Mr. Elizondo
11 going about county business?

12 A I would see him there at the county shop, but I
13 don't know, he was always driving one of O.P.'s
14 vehicles. I don't know if he was doing -- pick-
15 ing up something because they had a warehouse
16 there and their farm and ranch was there at the
17 same time.

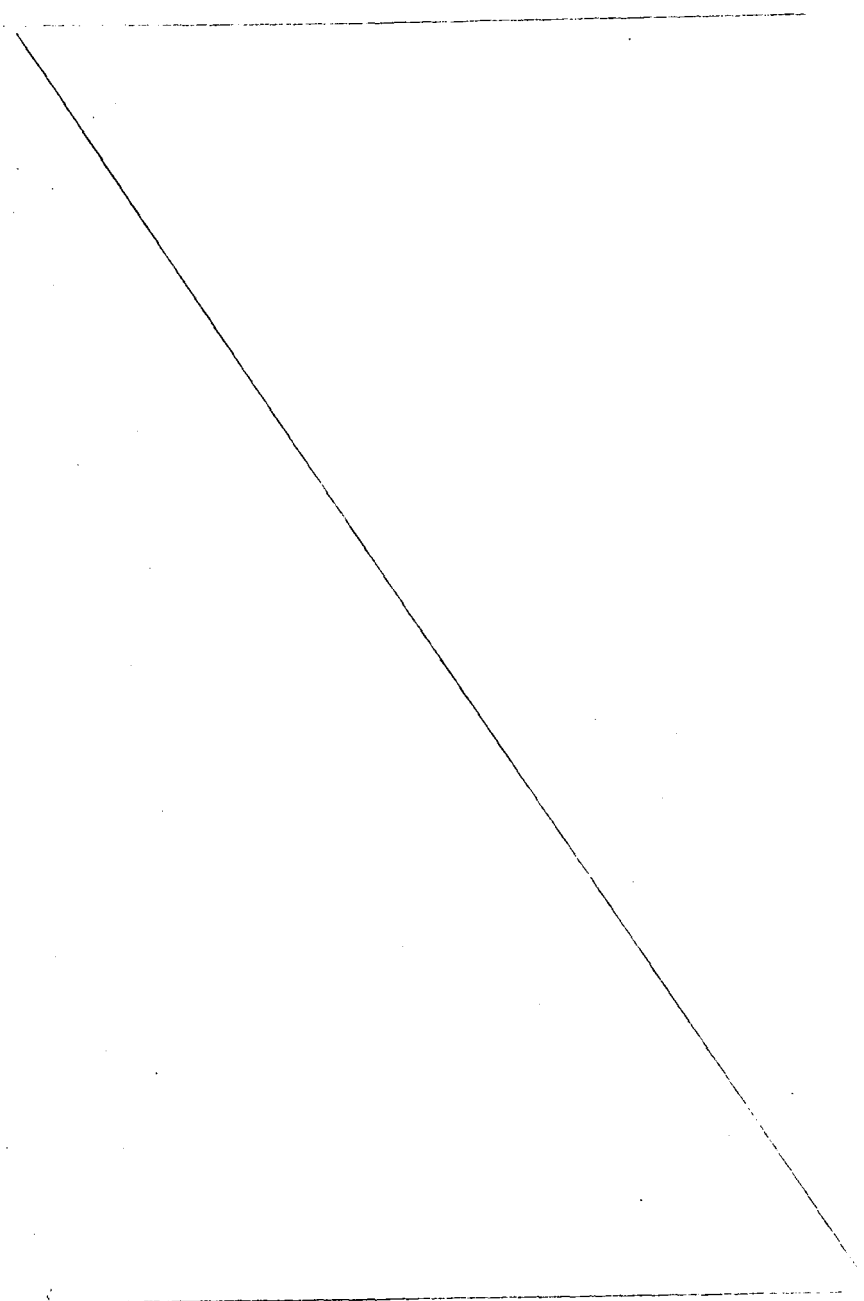
18 Q Do you know of your own personal knowledge whether
19 or not Mr. Tomas Elizondo -- did you ever observe
20 him operating heavy equipment?

21 A Yes, sir.

22 Q Did you ever have occasion to observe him -- I'm
23 not asking you where, but just whether or not you
24 have ever observed him operating a piece of equip-
25 ment called a backhoe?

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A Yes, sir.



1 Q Of your own personal knowledge, do you know
2 whether or not this backhoe you saw him operate --
3 I believe you stated previously you were an
4 employee with the water district?

5 A Me?

6 Q Yes.

7 A I was employed in April, 1974.

8 Q And you are presently employed by them?

9 A Yes, I am.

10 Q What is your position?

11 A Business office manager.

12 Q Do you have any dealings with the water district,
13 or did you, prior to April, 1974?

14 A What do you mean, dealings? Well, before April,
15 '74, no, sir.

16 Q You stated that you had seen Mr. Tomas Elizondo
17 operate a backhoe, and my question to you is,
18 do you know whether or not the backhoe belonged
19 to the water district?

20 A It belonged to the water district.

21 MR. MITCHELL: Objection, hearsay.

22 THE WITNESS: It is not hearsay, we
23 have that backhoe still.

24 THE MASTER: The objection is overruled.

25 MR. MITCHELL: Note our exception.

1 May I request the Master to advise
2 the witness not to address me, and I did go
3 to law school for three years, and I submit
4 the witness doesn't know what hearsay is.

5 THE MASTER: He answer was, he worked
6 for the water district and worked that same
7 piece of equipment.

8 MR. MITCHELL: He went to work over a
9 year prior to his employment is what he
10 testified.

11 THE MASTER: The objection is overruled.

12 Q (By Mr. Odam:) As business manager of the water
13 district, do you know whether or not the water
14 district presently owns a backhoe?

15 A We own three backhoes.

16 Q And you became employed on April, 1974, do you
17 know whether or not the water district owned a
18 backhoe prior to that time?

19 A Yes, sir, two at that time.

20 Q In April, 1974, they owned two?

21 A Yes, sir.

22 Q Do you know for how long a period of time the water
23 district owned the backhoes?

24 A They had them for a long time. I would say about
25 since 1970, I guess.

1 MR. MITCHELL: Object, move to strike,
2 hearsay, and just speculation.

3 THE MASTER: Overruled.

4 Q Does the water district own a truck and trailer
5 for the purpose of moving these backhoes or how
6 are they moved from site to site?

7 A We have some trucks, but we don't have no trailers
8 to move them on.

9 Q How are the backhoes moved from one site to another?

10 A We have one in Benavides and we just drive it or
11 just take it on the back of the truck.

12 Q Have you ever had occasion to work on the ranches
13 of Judge O. P. Carrillo?

14 A Yes, sir.

15 Q What ranch was that?

16 A Most of them.

17 Q I take it by your answer --

18 A Well, all of them.

19 Q Could you clarify for the Court which ones you're
20 talking about when you say all of them, could you
21 name them?

22 A He has one in Hebbronville and he has got about
23 three or four in Benavides. He has one in Roma
24 or Rio Grande City. I have been there one time
25 only.

1 Q You have had occasion to work on the ranches at
2 one time or another?

3 A I would go with him and help him out and ride
4 around with him.

5 Q When you went to the ranches to work, was there
6 any occasion when you went to Judge Carrillo's
7 ranch to work when you went with Tomas Elizondo?

8 A Yes, he was there.

9 Q Do you recall an occasion in 1973 -- strike that
10 question.

11 I show you a copy of volume two of the testimony
12 before the House of Representatives, beginning at
13 page 10, and ask for the purpose of refreshing
14 your recollection, if you could take just a moment
15 to glance through that testimony that you
16 previously gave?

17 A All right.

18 MR. MITCHELL: Excuse me, Your Honor.

19 I am going to object to this procedure. I
20 don't believe I have ever seen it and I
21 don't know of a procedure where a man is
22 handed his prior testimony and then asked
23 to refresh his recollection, but it is the
24 truth, if he testified to it.

25 THE MASTER: Mr. Mitchell, you are correct

1 It is not proper to refresh a witness'
2 recollection until he says, I don't recall.

3 MR. MITCHELL: That is exactly right,
4 Judge. I don't want --

5 THE MASTER: That is correct.

6 THE WITNESS: I don't need this, I know
7 what I said.

8 Q (By Mr. Odam:) All right. What did you say in
9 Austin?

10 A They asked me about a backhoe.

11 Q What did they ask you?

12 A If I knew about a backhoe the water district owned.

13 Q What was your answer at that time?

14 A I told them yes, I told them Tomas Elizondo and
15 Judge Carrillo and myself picked up that backhoe
16 at the old City Hall and went and picked up a truck
17 with the float from the county and drove to the
18 outskirts of town and loaded the backhoe on the
19 trailer and went to the ranch. It was used to haul
20 gravel and sand for a cement mixer where he was
21 making a foundation for a store that he built.
22 The tractor was operated by Tomas Elizondo.

23 Q Was this in November, 1973?

24 A Yes, sir.

25 Q How do you recall that date rather than some other

1 month?

2 A Because I had just bought my truck. I had just
3 bought a 1974 GMC pickup and it was in November,
4 1973, when I bought it. I cannot give you the
5 exact date, but the truck was brand new. I had gone
6 to the ranch in it and I left it over there and I
7 came with the Judge and I don't recall what color
8 his Cadillac was, but we came to town and picked
9 up the tractor and took it to the ranch and
10 unloaded it.

11 Q How large a piece of equipment is a backhoe?

12 A It has a scoop on the front and back. It is not
13 too big. It is the one we used for digging ditches
14 for the sewer and water lines.

15 Q Does it have an engine of its own?

16 A It is a diesel operated piece of equipment.

17 Q So, you have no other equipment connected to it?

18 A No, sir.

19 Q How long did the backhoe stay on Judge Carrillo's
20 ranch?

21 A I know it stayed all that day, but from there on,
22 I don't know. I came back to Benavides and after
23 staying with them all day and I didn't go the
24 next day.

25 Q Did Tomas Elizondo come back with you or did he

1 remain on the ranch?

2 A He stayed there. I was in my own vehicle, I had
3 my own truck.

4 Q Do you consider that you and Tomas Elizondo were
5 good friends at that time?

6 A We were at that time and I think we still are.

7 Q Are you still good friends?

8 A Yes.

9 Q Was there any other occasion when a backhoe was
10 operated on a ranch, to the best of your knowledge?

11 A Not that I know of. I can't recall some other time.

12 Q Do you know of any other occasions when Tomas
13 Elizondo had to work out on the ranch of your
14 own personal knowledge?

15 A That he had worked?

16 Q That he worked on the ranch?

17 A Every time I went to the ranch, he was there.

18 Q In November, 1973, when you took this backhoe
19 out to the ranch, which ranch, if you know it
20 by name, would this be?

21 A It is on the Borjas ranch. It is on Highway 16
22 between Freer and Hebbronville.

23 Q Why did you take the backhoe out to the ranch?

24 A Because O. P. Carrillo needed -- he thought it
25 would be better. He had some gravel and sand there

1 and he had a cement mixer and he thought it
2 would be better with a scoop to get the gravel
3 and sand and raise it up where the boys could
4 shovel it into the mixer.

5 Q Did he instruct you to go out to the ranch?

6 A No, I went on my own.

7 Q Did you decide to perform that duty on your own?

8 MR. MITCHELL: I heard him say he did.

9 Objection to leading and improper.

10 THE MASTER: Objection overruled.

11 Q Why did you take the backhoe out to the ranch?

12 A I went to the ranch in my own vehicle and then
13 Judge Carrillo and I and Tomas Elizondo went to
14 town and we saw Roberto Elizondo in town, and I
15 don't know if Roberto was driving it or Tomas,
16 but I know we ran out of gasoline. I was driving
17 with O. P. Carrillo in his car. I don't recall if
18 it was Tomas or Roberto that was driving the truck.
19 He was taking that tractor on a trailer.

20 Q Why did you go out to the ranch in the first place
21 by yourself?

22 A O. P. is a good friend of mine and he was at the
23 ranch and I would always go out to help him.

24 Q Did he ask you to come out to the ranch to help him?

25 A No.

1 Q Did he ask you to go back to town to get the
2 backhoe?

3 MR. MITCHELL: Judge, I am going to
4 object to the leading nature of these
5 questions. He has been leading him.

6 THE MASTER: I don't regard that as
7 leading. It could be answered yes or no.
8 So, I will overrule the objection.

9 Q Did Judge Carrillo ask you to go back to town to
10 get the backhoe?

11 A He told me to go to town with him, but I just went
12 with him and came back with him.

13 Q Mr. Chapa, I show you what has been marked as
14 Respondent's Exhibits 26, 27, and a number of
15 others, approximately through 41.

16 First of all, let me ask you to look through
17 the photographs and then I will ask you some
18 questions about the photographs.

19 A All right.

20 Q Have you had occasion before today to see these
21 photographs?

22 A No.

23 Q Okay. If you would, take a moment to glance
24 through these, then I will ask you questions
25 about them.

1 A Okay.

2 THE MASTER: Let me make an inquiry
3 off the record.

4 (Discussion off the record.)
5

6 Q You have had an opportunity to glance through
7 the photographs?

8 A Yes.

9 Q Let me ask you if you can identify the photographs
10 that you appear in?

11 A This one here, this one and this one.

12 MR. ODAM: Let the record reflect the
13 witness identified Exhibits R-41, R-35 and
14 R-29 as being photographs he stated he
15 appears in.

16 Q Now, examining these photographs, 35, 29 and 41,
17 can you identify where they were taken?

18 A This is at the ranch that he owned, O. P. Carrillo
19 owned, by the name of Calvin North ranch. It is
20 Calvin's ranch, that is what they call it.

21 Q At the time those pictures were taken, to the
22 best of your knowledge, was it your understanding
23 it was owned by Judge Carrillo or Calvin North?

24 A I guess Judge Carrillo.

25 MR. MITCHELL: Objection as hearsay.

1 THE MASTER: Sustained.

2 Q You say you are in these photographs, what was
3 the occasion that prompted the taking of these
4 photographs, if you know?

5 A I don't recall when it was.

6 Q I will ask you that question, do you know when
7 these photographs were taken?

8 A No.

9 Q Can you give an estimate as to a point in time
10 when they were taken?

11 A I know everybody in the pictures, but it might
12 have been about -- well, I don't know.

13 Q Can you state --

14 A I know I was real skinny at that time.

15 Q Have you been in the military service?

16 A Yes.

17 MR. ODAM: Mark that.

18 (The above-mentioned document was marked
19 as Examiner's Exhibit 51 and Exhibit 52 for
20 identification.)
21

22 Q I show you what the court reporter has marked E-51
23 and 52 and ask you if you can identify these
24 photographs?

25 A Yes, these pictures were taken in Vietnam.

1 Q When were they taken?

2 A This one in 1968 and this one in 1969.

3 Q After looking at these pictures taken in Vietnam,
4 and referring back to the black and white
5 photographs I just showed you, to the best of your
6 knowledge, would those photographs have been taken
7 before or after you were in Vietnam?

8 A I don't know whether it was before or after, I can't
9 tell.

10 Q You can't tell by the photographs?

11 A No.

12 Q And again, looking at these photographs --

13 A They might have been taken before because of my
14 weight.

15 Q You weighed more in 1968 and '69?

16 A I weigh more here.

17 Q Was there any time after you got back from Vietnam
18 that you went down in weight?

19 A No, I went up more.

20 Q Is it your testimony that perhaps the pictures,
21 51 and 52, were taken before the period of time
22 you were in the service, based upon your size?

23 A Yes, they could have been.

24 Q You just could not say?

25 A No. I never have seen those pictures.

1 MR. ODAM: I offer in evidence
2 Exhibits E-51 and 52.

3 MR. MITCHELL: I have no objection.

4 THE MASTER: Exhibits E-51 and 52 are
5 admitted.

6 (Examiner's Exhibits 51 and 52 admitted
7 into evidence.)
8

9 Q When the photographs were taken there, the black
10 and white photographs, the last black and whites
11 you looked at, in which you stated you were
12 identified here, R-29, 35 and 41, do you know
13 what the occasion might have been that you were on
14 the ranch?

15 A No, I could not tell you.

16 Q Did you perform any work at the ranch?

17 A I can't remember. Everybody helped do something
18 at different times. I can't remember what I did.
19 I might have helped them unload that truck.

20 Q This concrete pipe here?

21 A Yes, sir.

22 Q In these photographs, 29, 35 and 41, can you
23 identify Mr. Oscar Sanchez as being in these
24 photographs?

25 A No, sir, he is not there.

- 1 Q Can you identify the individuals in R-35?
2 A O. P. Carrillo, George Zertuche and myself.
3 Q How about R-41?
4 A Patricio, Benito Silvera and myself and Judge
5 O. P. Carrillo.
6 Q Can you read the license number on the truck there
7 in that picture?
8 A BR 9616.
9 Q Can you read the date?
10 A It looks like the date is '68, Texas.
11 Q And this is R-41 you refer to?
12 A Yes, sir.

13 MR. ODAM: Pass the witness.
14
15

16 E X A M I N A T I O N
17

18 BY MR. MITCHELL:

- 19 Q Mr. Chapa, when did you go to Vietnam, do you
20 recall?
21 A I was in Vietnam in June 16, 1968.

22 MR. MITCHELL: Mark this.
23

24 (The above-mentioned document was
25 marked R-45 for identification.)

1 Q I hand you what has been marked for identification
2 as R-45 and ask you if you recognize yourself in
3 that?

4 A Yes, sir.

5 Q What age man are you now?

6 A Right now?

7 Q Yes.

8 A 27.

9 Q When is your birthday?

10 A January 20, 1948.

11 Q How old are you in that picture?

12 A I don't know.

13 Q Can you tell by looking at it whether it was
14 before or after you went into the service?

15 A It looks like before.

16 Q How long were you in the service?

17 A I came out with an early out. I was drafted for
18 two years and I came out five months early.

19 Q You went in in January --

20 A January 22nd, 1968, and I was drafted.

21 Q And you came out when?

22 A I was in basic and I went for AIT, and then went
23 for leave and went to Vietnam on June 16, 1968,
24 and came back August 28, 1969.

25 Q When were you discharged?

1 A August 28, 1969, because I extended my tour in
2 Vietnam for an early out.

3 Q So you were in Texas on August 28, 1969?

4 A Yes.

5 Q Where were you discharged?

6 A San Francisco.

7 Q When did you return home?

8 A That same day.

9 Q In August, 1969?

10 A Yes, sir.

11 Q And you would have been, if you were born in 1948,
12 you would have been 21 years old?

13 A I was drafted two days after my birthday, so I
14 was 21.

15 Q Right. You were born January 20th, 1948?

16 A Yes.

17 Q And when you got out, you were 23, right?

18 A When I got out, I was 23, yes.

19 Q And in R-45, it would appear you are a much
20 younger man, would that refresh your recollection
21 of perhaps that it was taken before you went into
22 the service?

23 A It must have been, because I am not the same weight.

24 Q It could not have been taken during the period of
25 January 22nd, 1968, until August 28, 1969?

1 A No, when I left for the service, this man was
2 not there.

3 Q Who is that man?

4 A Guadalupe Silva.

5 MR. MITCHELL: We would offer R-45.

6 MR. ODAM: No objection.

7 THE MASTER: Admitted.

8 (Respondent's Exhibit 45 was admitted
9 into evidence.)
10

11 Q Mr. Chapa, R-45, do you recall that sometime in
12 1968 that you had occasion to go to the Calvin
13 North ranch where that tank was dug by Mr. Sanchez
14 using some character of equipment?

15 A I went one time to Jalvin North ranch and they
16 had a grader that they were digging with. They
17 didn't have enough place to set the water and they
18 were digging a hole. We got some aqua-gel and
19 set it in the bottom.

20 Q I was going to show you this, R-39, and see if
21 that is the piece of equipment you referred to?

22 A Yes, sir.

23 Q Do you recognize it as being the one that was
24 used that day?

25 A Yes, sir.

1 Q To clean the tank?

2 A They were making a new tank.

3 Q And because it would not hold water, they put a
4 seal in it?

5 A Yes, he got some aqua-gel and set it in the bottom.

6 Q Did you know Mr. North during his lifetime?

7 A Yes, sir.

8 Q I hand you another picture. Does that help
9 refresh your recollection, if you knew from the
10 record that Mr. Jalvin North died on the 22nd of
11 February, 1968?

12 A Yes, sir, he died, and I guess his wife was the
13 only one living.

14 Q If this picture was taken at the same time, would
15 it refresh your recollection that the pictures
16 were taken prior to 1968, if the record established
17 that he died in February, 1968?

18 A He died while I was in the service.

19 Q All right. Mr. Chapa, I believe the sum and
20 substance of your testimony is that sometime in
21 November, 1971, using a truck and trailer
22 belonging to Judge Carrillo, you and Mr. Elizondo
23 took a backhoe to the Borjas ranch and helped load
24 gravel and sand at that time?

25 A I want to make a correction. It was in 1973.

1 Q All right. I am sorry.

2 A We were loading gravel to the cement mixer.

3 Q With equipment?

4 A Yes, the gravel and sand was there already.

5 Q You distinctly remember the occasion?

6 A Yes.

7 Q And you remember perhaps it was a Saturday?

8 A It was a weekend.

9 Q And perhaps there were school kids out there
10 helping?

11 A Yes, sir.

12 Q And some other folks were there at that time?

13 A Yes, but I can't recall the names.

14 Q Now, Mr. Chapa, the backhoe that you have been
15 asked about, as a matter of fact, in the Duval
16 County area, is it a fact that many people use
17 the equipment and it is the custom in the county
18 for the folks to use the equipment of the county?

19 A These boys, that one of them that still works for
20 the water district, he used to go in the afternoon,
21 and do jobs so he could earn extra money. All of
22 a sudden, he was stopped from it, because D. C.
23 Chapa was president of the water district and told
24 him not to use it any more. They were going to
25 the ranch and he told them to return the tractor

1 back and that he didn't want them using it. After
2 that, after he told them that, he didn't want
3 nobody to use it and they didn't.

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1 Q All right, your testimony is while Mr. Chapa was
2 on the board, that it was a matter that was quite
3 customary for persons to use the equipment in
4 connection with jobs that they would have on
5 their personal ranches or other personal use?

6 A Well, I don't know if it was customary or not.

7 Q Well, at any rate, in April of 1974, when you went
8 to work with the water district, Mr. Chapa, it had
9 nothing to do --

10 A What year?

11 Q April of 1974, isn't that when you testified you
12 went to work?

13 A Yes, sir.

14 Q At that time, Mr. Chapa was replaced on the board,
15 wasn't he?

16 A He resigned and he was replaced.

17 Q Sure, with a Parr man?

18 A I don't know if he is Parr or who he is.

19 Q Well, at any rate, you went to work for the
20 water district at that time?

21 A I went to work for the water district and D. C.
22 Chapa was still president of the board.

23 Q And thereafter, the board you went to work for
24 resigned or was removed, is that correct?

25 A I don't know if they were removed, I know they

1 resigned.

2 Q Well, they resigned, all right. After that.
3 the water district was a Parr water district
4 board, isn't that correct?

5 A Before?

6 Q After April of 1974.

7 A I don't know if it was a Parr or Carrillo or who
8 it was.

9 Q At any rate, after April of 74, you used the
10 backhoe yourself, didn't you?

11 A I used it a lot of times and I have loaned it a
12 lot of times.

13 Q I'm not suggesting that there is anything wrong
14 with that, Ruben, I am trying to get the facts.

15 You have used it and loaned it out many
16 times and it is a customary thing done in the
17 county?

18 A Since that time D. C. Chapa stopped that man from
19 doing jobs, that man had never used it again and
20 now that I am there, he has been doing work with
21 that backhoe and the man is real grateful that I
22 am letting him use the backhoe.

23 Q I know that but --

24 A Because the pay that they pay him is not enough
25 and they do little extra jobs in the afternoon, so

1 that they can make a little more money.

2 Q I am not suggesting there is anything wrong with
3 it Mr. Chapa, I am suggesting it is customary.

4 A It is not customary. I can stop it right now if
5 I want to not lend it to nobody.

6 Q All right.

7 A It is not in the minutes or anything that we are
8 supposed to lend the backhoe to anybody.

9 Q Well, whether it is in the minutes or not, the
10 matter of fact is it is being loaned and it is
11 being used by the various citizens of the county
12 for work.

13 A It is the same custom that they used to have
14 before.

15 Q Sure.

16 A They want to lend it out, fine, if they didn't
17 lend it, they could dig it by shovel.

18 Q Now, on this particular occasion back in 1973,
19 you don't know really how long the backhoe stayed
20 out there on the ranch, do you?

21 A They didn't finish that same day.

22 Q Well, you don't really know because when you left --
23 you left on your own in your own automobile, I
24 believe I remember you testified, didn't you,
25 Mr. Chapa?

1 A Yes, sir.

2 Q You can't tell whether after that the backhoe
3 was brought back into town or not, can you?

4 A Well, it was a big foundation, the one they were
5 building, and it was -- by the time we started
6 everything, they started because I was just looking --
7 it was close to noontime and then we went to eat
8 at the ranchhouse and they came back and they
9 started mixing cement, so they didn't finish that
10 same day.

11 Q As a matter of fact, they had the youngsters out
12 there early in the morning on Saturday from the
13 school and it appeared that there was going to
14 be more than those youngsters could handle and
15 at that time the suggestion was made to go get
16 the backhoe to help the kids get the job done
17 of mixing the cement with the gravel and putting
18 in the foundation. Isn't that really what
19 happened?

20 A I don't know if that was to help them out there
21 or to finish sooner or something.

22 Q And I believe you might have been with the Judge
23 when he went over to get permission from Guadalupe
24 Ruiz and Gregorio Garza?

25 A Yes.

1 Q Well, so the record is clear, who is Gregorio Garza?

2 A He works for the water district.

3 Q And who is Guadalupe Ruiz?

4 A He works for the water district, too.

5 Q And they were the custodians really of the
6 equipment, were they not, Mr. Chapa?

7 A They were the laborers that they had for the
8 backhoe.

9 Q Do you recall if Judge Carrillo went with you to
10 their house to ask permission to use the backhoe?

11 A I went with Judge Carrillo to Guadalupe Ruiz's
12 mother's house to see if he was there and he
13 was not there and Judge Carrillo told me to look
14 in the Datsun, and we still had the Datsun, and
15 to look in there to see if we could find the key.
16 I pulled out the ashtray and the key was there.
17 and Guadalupe Ruiz's brother-in-law came out and
18 I told him to tell Lupe that we took the key and
19 we didn't tell Lupe nothing, we told his brother-
20 in-law that we took the key, and we took the
21 backhoe.

22 Q Did you go to Gregorio's house to notify him
23 that you were going to use the backhoe, Ruben?

24 A I don't recall.

25 Q All right, well, don't you recall that you didn't

1 know where the key was and Gregoria told you where
2 the key was and after he told you where the key
3 was you went back to Guadalupe's house and found
4 it.

5 A I remember that we went to Gregoria's house.

6 Q And you got the --

7 A He was connecting something there and I don't
8 know what he was doing.

9 Q To find out where the key was to the backhoe?

10 A I didn't ask him.

11 Q He told you all --

12 A I didn't ask him about the key or anything. All
13 I remember that I went to Lupe's mother's house,
14 Guadalupe's mother's house and we looked in the
15 ashtray and the key was there, there were two
16 keys, we got the key and we took the trailer away,
17 that is all I know.

18 Q All right, now, but at the most, as you know --
19 well, do you know how long it was out there, of
20 your own personal knowledge?

21 A It was that day, it could have been three or
22 four days more, I don't know.

23 Q Well, you didn't go back out there after Saturday,
24 did you?

25 A I don't recall that it was there, and I don't know

1 if it was that same -- in 73 or 74 we went over
2 to O. P.'s ranch. he has got two thousand acres,
3 and -- it is not in there, we went to O. P.'s
4 ranch to leave some calves out there with Emilio
5 Davila and Judge Carrillo and myself and my brother,
6 Rudolfo, Roberto Elizondo and Rudolfo Ruiz.

7 Q Are you telling me about another occasion now?

8 A Yes.

9 Q I understood when this same matter arose back
10 there in May of 1975 in Austin that you stated
11 that you wanted to make a correction for the
12 record and that correction was that this incident
13 occurred November of 1973 instead of 74. Now,
14 you are changing?

15 A I'm talking about a little later on we went to
16 his ranch. What I want to say, we went to his
17 ranch and we got stuck in the truck and he had
18 the caterpillar out there that belonged to the
19 water district.

20 Q I didn't ask you about the caterpillar that
21 belonged to the water district. Did you take
22 the backhoe out there at any other time, Mr. Chapa?

23 A What was that again?

24 Q Did you take the backhoe out there at any other
25 time other than November of 1973?

1 A The only time that the backhoe was over there
2 was when Tomas took it out there.

3 Q November of 73?

4 A If he asked permission from Gregorio Garcia, I
5 don't know. His father was the president of the
6 board, I don't know if he had to ask permission
7 or not.

8 Q I'm not going to get into that because the change-
9 over in April of 1974, that board went out and
10 all of those folks went out and the Parr people
11 went in, including yourself, that is when you
12 went to work, wasn't it, Ruben, in April of 1974?

13 A I went in April 1st, 1974.

14 Q Right, and prior to that time you were the
15 Texaco distributor for the county, am I correct?
16 You did not work for the district?

17 A No, I owned a Texaco and I still own it.

18 Q Now, you still own it and you still have the
19 same distributorship you had prior to April of
20 1974, am I correct?

21 A Yes, sir.

22 Q And who did you see to apply for your job with
23 the water district?

24 A Leopoldo Zepulvada.

25 Q Leopoldo Zepulvada?

1 A Yes.

2 Q Then I believe -- did you talk to Archer Parr or
3 George Parr about that job?

4 A Prior to that, I had asked them for a job.

5 Q Yes, and you went to work in April of 74 and
6 maintained your distributorship for Texaco, am
7 I correct?

8 A Yes, sir.

9 Q And then I believe you used this very same back-
10 hoe, did you not, when you moved your trailer
11 back of your Texaco station there in Benavides?

12 A Yes, I used the backhoe.

13 Q Yes, sir, and when did you use it, before April
14 of 74 or prior?

15 A I can't --

16 Q I mean after.

17 A I can't recall. Ask the Judge if he knows.

18 Q Sir?

19 A Ask O. P. if he knows, I can't recall.

20 Q All right. When did you move the trailer there
21 by your store -- by the Texaco?

22 A February.

23 Q Of what year?

24 A 74.

25 Q Of what year?

1 A 75.

2 Q 75?

3 A Yes.

4 Q Then it would appear that since April of 74 you
5 have had free use of that same backhoe, haven't
6 you?

7 A Wait a minute, are you investigating me or are
8 you investigating Judge Carrillo?

9 Q I just want to establish a custom.

10 A I already answered to you that I used the backhoe,
11 didn't I, what else do you want? What else do
12 you want?

13 Q Are you pointing a finger at my client because
14 he used the backhoe?

15 A I am not going to answer questions no more, are
16 you going to investigate me?

17 Q I will tell you, Mr. Chapa, I am thinking very
18 seriously of certifying your testimony here and
19 turning it over to the district attorney of this
20 county if you want my real truthful answer, because
21 I suggest that you have used that same equipment.

22 A I told you that I used it.

23 Q And you have continued to use that same equipment
24 and you're pointing a finger at my client, aren't
25 you, for using it?

1 A I haven't denied that I used the equipment.

2 Q You are pointing your finger at my client for
3 using it in November of 73.

4 A I haven't denied that I used it.

5 THE MASTER: Mr. Mitchell, would you
6 proceed with your questions.

7 MR. MITCHELL: I can't get any protec-
8 tion from this witness, Your Honor, would
9 you give me some protection, please.

10 THE MASTER: You have to ask for it.

11 MR. MITCHELL: Well, may I have some
12 protection from this witness, please, Your
13 Honor.

14 THE MASTER: If you ask for it.

15 MR. MITCHELL: I would appreciate it if
16 the witness is instructed to get off of
17 my back.

18 A You get off of my back.

19 THE MASTER : Just ask your questions
20 and you just answer the questions.

21 THE WITNESS: Okay, if he gets off my
22 back, I'll get off of his back.

23 THE MASTER: All right.

24 Q I will ask you, Mr. Chapa, pure and simple, isn't
25 it a matter of fact that that equipment is used

1 quite freely in that county?

2 A Yes, sir.

3 Q And has it been --

4 A Yes, sir, it is, I used it. I have used it to
5 locate my trailer and I have even dug the hole to
6 set my gasoline tanks in.

7 Q Not only you, but other people.

8 A Other people have used it since I have been there,
9 a lot of people have used it, is that the answer
10 you want?

11 Q I am not suggesting there is anything wrong about
12 that, folks use it and it is common and usual in
13 that county.

14 A Yes.

15 Q For some reason.

16 A Yes, sir.

17 MR. MITCHELL: I have no further ques-
18 tions.

19 MR. ODAM: Pass the witness.

20 THE MASTER: Thank you, Mr. Chapa,
21 you are free to go.

22
23 (Witness excused.)
24
25

1 THE MASTER: Who is your next
2 witness?

3 MR. ODAM: We would call as the next
4 witness, with the right to recall him on
5 other information later -- at a later time,
6 Mr. Cleofas Gonzalez for the purpose of
7 testimony on Article 6 and Article 6 alone.

8 THE MASTER: All right, call Mr.
9 Gonzalez.

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11 - - - - -
12
13 CLEOFAS GONZALEZ,

14 having been duly sworn, testified upon his oath as
15 follows:

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

18
19 BY MR. ODAM:

20 THE MASTER: You may proceed.

21 Q Would you please state your name for the record?

22 A Cleofas Gonzalez.

23 Q How old are you, Mr. Gonzalez?

24 A Forty-one.

25 Q And where do you reside?

- 1 A Benavides, Texas.
- 2 Q How long have you resided in Benavides, Texas?
- 3 A All my life.
- 4 Q And by whom are you presently employed?
- 5 A I am -- I have gotten my own business now, sir.
- 6 I am a merchant.
- 7 Q What do you sell?
- 8 A Hardware, cattle feed.
- 9 Q And do you -- how long have you been a merchant
- 10 in your own employment?
- 11 A I just started about on June of this year.
- 12 Q And prior to June of this year, where were you
- 13 employed?
- 14 A I was working for Duval County.
- 15 Q And what were your duties and responsibilities
- 16 with Duval County?
- 17 A When I first started, the very first time I
- 18 started?
- 19 Q Yes, sir.
- 20 A I started working as a warehouseman.
- 21 Q And when did you start working as a warehouseman?
- 22 A Oh, the latter part of 1962.
- 23 Q And how long did you hold that capacity as a
- 24 warehouseman?
- 25 A Oh, until about May of 1974.

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Q And what were your responsibilities as a warehouseman?

A I used to give out tools and gasoline, auto parts, whatever they needed or I used to be like a secretary to the county commissioner, too.

Q What county commissioner?

A Ramiro Carrillo, Precinct Number 3.

Q Do you know -- I take it you know Ramiro Carrillo, is that true? Do you know O. P. Carrillo?

A Yes, sir.

Q Can you identify him as being present in the courtroom here today?

A Yes, sir.

Q How long have you known O. P. Carrillo?

A All my life?

Q Forty-one years?

A Yes, sir.

Q In May of 1974, what job did you switch to with the county?

A I will say -- I will say -- I will say welfare. I gave out welfare orders to the needy people, like for food and doctor, medication, hospitalization.

Q And who -- what were the circumstances under which you switched from being a warehouseman to

1 giving out these welfare orders?

2 A Well, I went and told the county judge --

3 MR. HAYNES: If the Court please,
4 we would object to declarations that are
5 hearsay to O. P. Camillo.

6 THE MASTER: Well, I don't suppose
7 that they are offered for the truth. I
8 don't know what they are going to be, what
9 is the purpose of asking him this question?

10 MR. ODAM: Well, simply to establish
11 the changeover, Your Honor, from the welfare --
12 from the warehouseman job to the position
13 of giving out the welfare receipts.

14 Again, my question to him was, what
15 were the circumstances that caused him to
16 make the change, it seems to me like the
17 question could be responded to without
18 hearsay on the witness' part.

19 THE MASTER: Yes, go ahead and answer
20 the question.

21 A I went to the county judge Archer Parr, and
22 told him that I thanked him for all of those
23 years they have given me a job as a county employee
24 and he said what were the reasons that I wanted
25 to --

1 MR. HAYNES: Excuse me, Mr. Witness,
2 we would object now to what the person
3 claims to be that County Judge Parr declared
4 as being hearsay as to O. P. Carrillo.

5 THE MASTER: If it is offered for the
6 truth, it is sustained: if it is offered
7 just to show the transaction, then it is
8 operative fact.

9 MR. HAYNES: Now, as I understand the
10 context that he now offers it in, it would
11 be offered for the truth, because the ques-
12 tion propounded to him was the basis for the
13 switching of the job positions, so if this
14 is the basis for it, he relies in part, at
15 least, on the declarations made by the
16 hearsay declarant, and for that reason we
17 would object to it.

18 THE MASTER: If it is offered just to
19 show the transaction, the objection is over-
20 ruled.

21 Q So you went to Judge Archer Parr and --

22 A And told him that I wanted to thank him for how
23 many years they had helped me and being on that
24 job and that I didn't want to work under the
25 supervision -- supervision of Ramiro Carrillo

1 any more and he said well, why don't you want to
2 work, and I told him --

3 MR. HAYNES: Can we have it understood
4 that we object --

5 THE MASTER: A continuing objection.

6 MR. HAYNES: That we object to anything
7 that the non-present witness declared.

8 THE MASTER: Yes.

9 THE WITNESS: I told him that I just
10 didn't want to work for the county commis-
11 sioner any more, Ramiro Carrillo, and he
12 said, well, let me see what I can do about
13 it, you will be on the county payroll for
14 the meantime, and I will let you know in
15 about a week or so what I can do for you,
16 he said.

17 Q So you switched to this job in May of 1974?

18 A Yes, sir.

19 Q Under those circumstances?

20 A Yes, sir.

21 Q Now, during the time that you served as a
22 warehouseman, you said that it was your duty to
23 check our equipment, gasoline, supplies, et cetera?

24 A Yes, sir.

25 Q Do you know Tomas Elizondo?

1 A Yes, sir.

2 Q Do you know Ruben Chapa?

3 A Yes, sir.

4 Q Did you see Ruben Chapa around the courthouse pre-
5 mises today?

6 A Yes, sir.

7 Q And you know Tomas Elizondo when you see him?

8 A Yes, sir.

9 Q And have you seen Tomas Elizondo around the pre-
10 mises today here?

11 A Yes, sir.

12 Q Do you know of any occasion of your own personal
13 knowledge when Tomas Elizondo had occasion to
14 operate a backhoe belonging to the water district?

15 A No, sir.

16 Q Do you know of any occasion when Tomas Elizondo
17 had any opportunity to use any -- correction,
18 had occasion to use any tractor or trailer for
19 purposes -- for purposes of work other than for
20 the county?

21 A Yes, sir, a lot of times he went over and picked
22 up --

23 MR. HAYNES: If the Court please, we
24 are going to object to the non-responsive
25 part of the answer.

1 THE MASTER: Sustained, the answer is
2 yes, sir.

3 A Yes, sir.

4 Q All right. Could you please state to the Court
5 of your own personal knowledge what use or at
6 what times Tomas Elizondo would take the equip-
7 ment belonging to the county?

8 MR. HAYNES: Excuse me, Mr. Witness,
9 we would object to the question in its'
10 form, Your Honor, because it is really two
11 questions in one and susceptible of mis-
12 interpretation by the witness and the answer
13 could be misleading.

14 THE MASTER: Well, are you asking him
15 about every time he knows of Tomas
16 Elizondo using that equipment? Are you
17 going to relate it to something in this
18 matter?

19 MR. ODAM: I am going to relate it to
20 something in this matter, Judge.

21 THE MASTER : Then why don't you.

22 Q Do you know of any occasion when Tomas Elizondo
23 had an opportunity to transport a backhoe to the
24 ranch of O. P. Carrillo by way of a truck and
25 trailer belonging to the county of Duval?

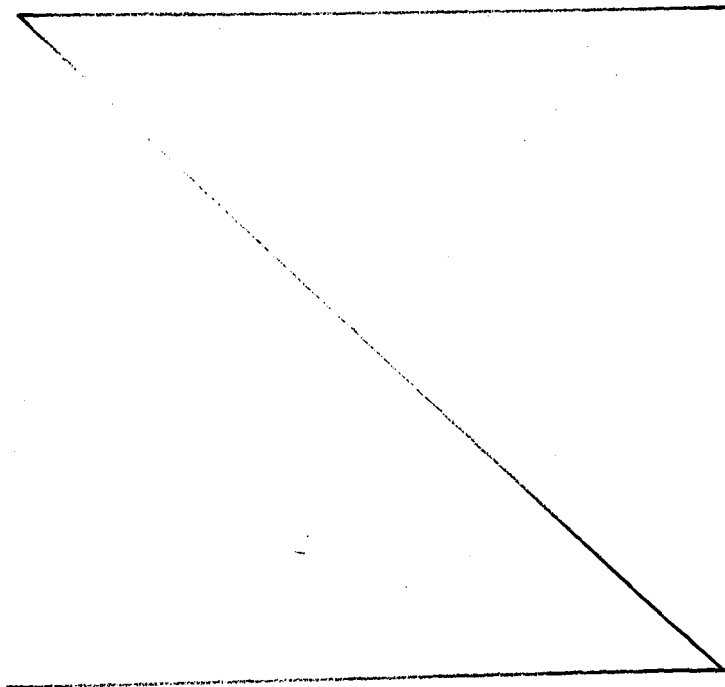
1 A Yes, sir, I saw him when he picked up that truck
2 and I guess it was to haul that backhoe.

3 MR. HAYNES: Now, excuse me, Mr. Witness.
4 We object to the last part of it which is
5 speculative and conjectural, his guessing.

6 THE MASTER: That is sustained.

7 MR. HAYNES: And we also object because
8 it is not responsive.

9 THE MASTER: I will overrule the non-
10 responsive, but I will sustain the witness'
11 guess.



1 Q It is your testimony that on some occasion he had
2 an opportunity to use a truck and trailer?

3 A Yes, sir, he went back to that county shop yard
4 and picked up the truck to haul some equipment.

5 Q What type of equipment was that?

6 A Probably Caterpillars, yes, Caterpillars and other
7 equipment.

8 MR. HANES: We will object to what
9 the witness surmises it probably was.

10 THE MASTER: Sustained.

11 MR. HANES: And ask the Court to
12 instruct the witness to answer specifically
13 and not speculate.

14 THE MASTER: Yes, if you know, then say.

15 A Yes, sir.

16 THE MASTER: Do you know?

17 A Yes, sir, I know. I know but I can't tell you --
18 they went so many times. One time they went to
19 haul a Caterpillar; another time they went to take
20 a tractor; another time they went to take a
21 backhoe. So, that's what I mean. I can't
22 tell you when -- I can't tell you those dates
23 they went and took a Caterpillar on this date and
24 they went and took -- I can't give you the exact
25 date and exact hour and everything. I just know

1 that they went there and picked up the truck and
2 a trailer or they call it a lo-boy to take some
3 equipment and that I know for sure.

4 Q When you say "they," to whom are you referring?

5 A Tomas and O. P. Carrillo and some other workers.

6 Q When they, meaning Tomas and O. P. Carrillo and
7 some other workers, would pick up the truck and
8 trailer on these numerous occasions, you're
9 saying to the Court that you cannot specifically
10 pinpoint a time that a backhoe was picked up say
11 in November of 1973?

12 A That is correct, sir.

13 Q Do you know for what purposes of your own knowledge
14 the truck and trailer were used?

15 A Well, for O. P. Carrillo's personal use, I mean
16 either take equipment to his ranch or --

17 MR. HANES: Your Honor, we're going to
18 object to the non-specificity of the
19 response, if the Court please. It is either
20 and it is not--

21 THE MASTER: Mr. Odam --

22 MR. HANES: It is not a specific answer.

23 THE MASTER: Mr. Odam, I think you have
24 got not to ask the witness, "of your
25 personal knowledge," but show the basis of

1 that knowledge: show that he was there, if
2 he was, but it is unfair to the witness to
3 ask him to make the legal determination,
4 which is what we are doing, what his
5 personal knowledge is, and what may be
6 knowledge that he got from other sources.

7 Q It is your testimony that Tomas Elizondo on
8 occasion with O. P. Carrillo would pick up a truck
9 and trailer, is that correct?

10 A Yes, sir, because I am a warehouseman and I am
11 only at the yard and I never did go out, so I --
12 they just went to me there and they said, "I am
13 going to use that truck," and that is all I know.

14 MR. HANES: Could we have the witness
15 instructed to identify the "they" when
16 actually --

17 THE MASTER: Who are "they"?

18 A Tomas Elizondo, he was the one that usually go
19 and pick up the truck.

20 Q And you say "they," and that is more than one?

21 A Well, Tomas and Olivaro Carrillo.

22 Q Who?

23 A And Tomas' brother.

24 Q Olivaro, who is Olivaro?

25 A Olivaro is O. P. Carrillo.

1 Q Was your testimony before, and you heard the
2 Court's instructin that showed the basis for your
3 testimony, you stated that your testimony was that
4 you knew that it was used.

5 Now, what is your basis for thinking or knowing
6 that the truck and trailer were used for personal
7 benefit? What is the basis for your testimony
8 there?

9 A Well, they say they were going to haul, like we
10 were going to change a Caterpillar from one place
11 to another.

12 Q You say, "they," Tomas would say --

13 A Tomas, yes, like Tomas would tell me, "I am going
14 to take the truck because we are going to use
15 it to haul one tractor from one place to another,"
16 and I told him, "If you ask Ramiro if, if Ramiro
17 gave you the okay to come and pick it up, it is
18 okay with me."

19 So, I -- you see, I was always at the yard,
20 at the county yard, and I was just a warehouseman.
21 I never did go out in the field or inspect what they
22 were going to haul or what they were going to take.

23 A lot of times they took that grade-all
24 machine from there, from that yard, but I didn't
25 know to where, I can't tell you to exactly what

1 place they took it, because I didn't go over there.

2 I never did go to those places.

3 Q Is a grade-all machine the same thing as a
4 backhoe?

5 A Well, sort of, it is just that it is a truck that
6 has got a long neck that can dig holes or ditches
7 or anything you want to; work, lift things or --

8 MR. ODAM: Pass the witness.

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

12 BY MR. HANES:

13
14 Q Mr. Gonzalez, you have at this point in time
15 in your life, hostility as against O. P. Carrillo,
16 do you not?

17 A Against?

18 Q Yes, sir.

19 A No, sir.

20 Q Are you claiming to the judge that you are --
21 that you have no hostility at all, but you're
22 indeed a dear friend to O. P. Carrillo?

23 A I was born and raised with them. They raised my
24 daddy, too. I don't -- I mean that doesn't mean
25 if they bring me here to testify to something,

1 they brought me here because of something that I
2 knew and not to just to because I hate him or
3 something like that.

4 I mean I don't have anything like that to do.
5 I don't have anything that bad against him. To
6 me he is just like a relative of mine. I have
7 known him for so many years. They raised my
8 daddy and everything.

9 Q You told me that and told the Court that, that they
10 raised your daddy, but can you --

11 A Well, I have to --

12 Q Excuse me, when I am asking you a question,
13 please, sir.

14 MR. HANES: Could we have an instruction,
15 Your Honor?

16 THE MASTER: Yes, and I will ask both
17 of you to wait until he asks a question
18 because this gentleman has to get both of
19 you down and if you talk at the same time,
20 he can't do it.

21 A I am sorry.

22 Q Your contention is, though, that you have no
23 hostility against O. P. Carrillo?

24 A No, sir.

25 Q You do not dislike him at all?

1 A No, sir.

2 Q And that is true even though you had a squabble
3 with him back in th May of 1974, did you not, or
4 '72?

5 A That is common. I have had it with a lot of
6 people and yet I am friends with them. But you
7 can just have an argument, if you're highly
8 tempered or something you can have an argument
9 at any time with somebody. That doesn't mean that
10 you're going to kill him or do anything to him.

11 Q No, sir.

12 A Just an argument is an argument to me and I am
13 a friend to everybody. But sometimes, you get mad
14 and you argue something, that is right.

15 Q Are you suggesting, then, that you have a temper --
16 is that -- did I get that in part of your answer?

17 A No, no, but sometimes you know people tell you
18 something that you don't like and it is just
19 common, I guess, to me, it is just common to
20 anybody.

21 Q All right. So, you had no temper flareup with
22 O. P. Carrillo at any time in the past several
23 years, is that your testimony?

24 A As long as I see it, that is correct, sir.

25 Q Well, isn't it true that you and O. P. Carrillo

1 had an argument about the way you were conducting
2 the business of the farm and ranch back in 1972?

3 A No, sir. You want me to explain that, how that
4 happened?

5 Q No, let me ask the questions, if you will,
6 please, sir, and then you may explain later if it
7 is deemed appropriate.

8 A All right.

9 Q But didn't you work for the Farm and Ranch Store
10 for a long period of time, did you not?

11 A I worked for the county.

12 Q And at the same time you were assisting the
13 Farm and Ranch Store, were you not?

14 A Well, the commissioner had me there, what could
15 I do about it.

16 Q I'm not asking you whether you had any option or
17 not, I am asking you whether or not you did,
18 and you did, didn't you?

19 A Yes, sir.

20 Q And you performed duties for the county at the same
21 time, did you not?

22 A Yes, sir.

23 Q Never missed a day's work?

24 A That's correct.

25 Q For the county?

1 A That's correct, sir.

2 Q You did your job for the county while the county
3 had its -- some of its property there on the
4 property belonging to the Farm and Ranch Store
5 in Benavides, is that correct?

6 A Well, that was my duty to take care of the property
7 that belonged --

8 Q You did, did you not?

9 A Sir?

10 Q And you did it, did you not?

11 A I did.

12 Q Performed your duties?

13 A Yes, sir.

14 Q Also worked in the Farm and Ranch Store?

15 A Yes, sir.

16 Q Did you not?

17 A Yes, sir.

18 Q Sold things for the Farm and Ranch Store?

19 A That is correct, sir.

20 Q And at the same point in time, you quit working
21 there for the Farm and Ranch Store, didn't you?

22 A Well, I quit on May of '74.

23 Q I'm sorry, you quit them many times before?

24 THE MASTER: No, May of '74.

25 MR. HANES: Excuse me, I misunderstood

1 you.

2 A From the county.

3 Q No, you quit the Farm and Ranch Store in May of
4 1974?

5 A I didn't quit, not the Farm and Ranch, I didn't
6 have to do anything, I was working for the county.

7 Q Well, and your--

8 A But I was working there, if you mean I was -- there
9 was my --

10 Q All right. In May of 1974 you stopped doing
11 whatever you had been doing for the Farm and
12 Ranch, had you not?

13 A And for the county there at the Farm and Ranch,
14 yes.

15 Q The answer is yes to both questions, you stopped
16 working for the Farm and Ranch and you stopped
17 working for the county there at the Farm and
18 Ranch Store, didn't you?

19 A At that place, yes, sir.

20 Q And at that time, the reason why you quit was you
21 had a discussion with O. P. Garrillo, did you not?

22 A When was that, sir?

23 Q In May of 1974?

24 A No, sir, I didn't have to do nothing with O. P.
25 then.

1 Q Well, I see, it was in 1972 when you had your
2 discussion with O. P. Carrillo that resulted in
3 you leaving the Farm and Ranch Store and your
4 county to Corpus and going to work for the Page
5 Airlines, right?

6 A Well, he told me something.

7 Q Just say yes or no.

8 A Well, that is not explanation to me, you can get
9 me --

10 Q Excuse me, excuse me, I want to get in sequential
11 order, if I can, you did quit in 1972, did you
12 not?

13 A Well, I didn't quit, I just took a vacation, a
14 month's vacation.

15 Q Well, you walked off from the Farm and Ranch
16 Store after a discussion with O. P. Carrillo,
17 didn't you?

18 A And I told Ramiro I was going to take off for
19 awhile.

20 Q Well, you had a discussion with O. P. Carrillo and
21 at the time the discussion became heated, did it
22 not?

23 A Well, he just -- he told me that for me to get out
24 of the Farm and Ranch Supply and I didn't have to
25 do -- all I have to do is go back to the yard.

1 Q Yes.

2 A Because I wasn't working for the Farm and Ranch --

3 Q You're not listening to my question, though, are
4 you?

5 A Well, I would like to explain my things, too,
6 because to get them straight.

7 Q The discussion became heated, did it not, Mr.
8 Gonzalez, in 1972, when you decided to take a
9 month off?

10 A Well, he told me to get the hell out of the store,
11 so I did.

12 Q Well, then, the discussion did become heated,
13 did it not?

14 A To me, no, maybe to him.

15 Q You didn't lose your temper at that time?

16 A No, sir, he just told me --

17 Q What did you say back to O. P. Carrillo at that
18 time when he told you to get the hell out of the
19 store?

20 A I don't remember.

21 Q But it was something in the same sort of context,
22 that you were going to get the hell out of the
23 store?

24 A No.

25 Q Or you were going to be glad to get the hell out

1 of the store?

2 A No, I wait for him to leave and he leaves so I
3 went back to the -- where we had our county shop
4 and I stayed there for awhile and then I just
5 didn't come back for a whole month and I got paid
6 for that whole month I was out.

7 Q Well, let's see now, at that time, though, when
8 he told you to get the hell out of the store, you
9 left and went to Corpus Christi and took a job,
10 did you not?

11 A Yes, sir.

12 Q Stayed there for a month?

13 A Yes, sir.

14 Q And received wages for working for the Page
15 Company in Corpus Christi?

16 A I did the --

17 Q Excuse me, excuse me, you're not listening to my
18 question.

19 THE MASTER: Let him finish and listen.

20 A Yes, sir.

21 Q You accepted money from the Page Company in
22 Corpus Christi, Texas, for the month you worked
23 there, did you not?

24 A I worked for it, yes.

25 Q Yes, I'm not suggesting you didn't work for it.

1 A Yes.

2 Q But you're saying to the Judge here that during
3 that same period of time you were also accepting
4 money from the county of Duval as an employee of
5 Duval County?

6 A I told you, I told Ramiro, I was going to take some
7 vacation. He said to go ahead and take the
8 vacation, take a whole month if you want to. He
9 gave me permission and he was the county
10 commissioner and I did deserve a vacation because
11 I had worked for the county so many years and had
12 never had a vacation.

13 Q Now, do you -- are you saying under oath to this
14 Judge that ~~what~~ you did in 1972 when you had the
15 difficulty, the exchange with O. P. Carrillo,
16 was to take a vacation? Is that your testimony
17 today, sir?

18 A Well, after what he had told me just to get the
19 hell out of there, so I said I am going to take a
20 week or so vacation, yes. I told him I would take
21 a week or so vacation.

22

23

24

25

1 Q The fact of it is, you quit the job?

2 A I took a vacation.

3 Q Do you recall testifying in Federal Court against
4 O. P. Carrillo as recently as two months ago,
5 within the past two months, do you remember that?

6 A Yes, sir.

7 Q Do you recall telling the court and jury that you
8 quit in May, 1972, because you had an argument with
9 O. P. Carrillo?

10 A I meant I had quit the ~~Forman~~ ^{Farm} ranch.

11 Q You quit the ~~Forman~~ ^{Farm} ranch?

12 A Yes, I didn't work for them any longer. It was
13 on account of --

14 MR. HANES: I wonder if the Court would
15 readmonish the witness.

16 THE MASTER: Well, Mr. Gonzalez, try
17 to listen and answer his questions. He is
18 just asking you questions.

19 THE WITNESS: Okay.

20 Q (By Mr. Hanes:) You decline to say it was an
21 argument with O. P. Carrillo?

22 A Well, I will say it was an argument.

23 Q And it was heated to such an extent that you have
24 not spoken to him since that time, except to say
25 hello?

1 A That is all I have done all my life. I never did
2 associate with him much. I always greet him and
3 I still do and he doesn't greet me. To me, that
4 is the same as it was, that is the way he has been
5 all my life.

6 Q Are you saying he would never say hello to you back?

7 A Yes.

8 Q After the argument in 1972, when you quit the
9 Forman ranch, the two of you didn't speak to each
10 other after that?

11 A We never did speak to each other much, just hello.

12 Q You have spoken even less after the argument in
13 1972 to Judge Carrillo?

14 A Yes.

15 Q And the hostility has grown over that period of
16 time, has it not, the hostility that emanated
17 after that argument?

18 A I greet him every time I see him and if he does,
19 it is fine, I greet him back.

20 Q Then, -- well, before May, 1972, you never had
21 called any officer of the Department of Public
22 Safety and tried to make reports against O. P.
23 Carrillo or anybody else, had you?

24 A Not that I remember. Probably I had, I don't know.

25 Q Wait a second. You say probably you had or you

1 did not?

2 I am talking about before May, 1972, before you
3 had the argument with O. P. Carrillo, had you,
4 before that time, ever called the Department of
5 Public Safety or any officer and made a complaint
6 against anyone?

7 A I don't remember.

8 Q You don't remember?

9 A No, sir.

10 Q You are now telling the court, after the argument
11 in 1972, you called and made a complaint about
12 trucks hauling grain for O. P. Carrillo?

13 A I don't remember whether it was before or after

14 Q But you claim you made such a call, don't you?

15 A Yes, I made a call, we made a call.

16 Q We, who is we?

17 A Somebody was with me and I told him --

18 Q Who was the somebody with you, who was with you?

19 A I think it was Ruben Chapa.

20 Q Do you think it was or do you know?

21 A It was Ruben Chapa.

22 Q And you know it occurred after the time you quit
23 the Forman ranch and you quit, as you say, for
24 a vacation?

25 A I don't remember.

1 Q You made that call in order to create trouble for
2 O. P. Carrillo, didn't you?

3 A Could I explain that?

4 Q Well, you can answer yes or no.

5 A I would like to explain.

6 Q Could I have an answer, yes, or no?

7 A Could you say it again?

8 Q Did you make that call to the Department of Public
9 Safety to make trouble for O. P. Carrillo?

10 A No, sir.

11 THE MASTER: Do you have an explanation?

12 A Yes, sir.

13 There is a lot of poor people in Benavides
14 and they have to make their living by hauling
15 grain. We saw a poor man go over to try to get
16 a sticker for an inspection on his truck and he
17 could not get it because he needed some tires.
18 Then at that time we were just talking, and it
19 happened to be a coincidence, but we saw this
20 county truck and county trailer hauling grain for
21 O. P. Carrillo. We saw -- golly, that poor man
22 was trying to get his sticker to try to haul
23 grain and we saw this man using county equipment
24 and I said, I am going to call and tell what is
25 happening here.

1 Q You were incensed by the fact that some poor
2 people could not get a truck inspected and passed
3 and were outraged at the fact that you saw a
4 county vehicle hauling grain for whom you thought
5 was O. P. Carrillo?

6 A Yes.

7 Q Could you provide us, please, with the information
8 as to when this was, when were you so outraged
9 and incensed that you made this call?

10 A I can't remember the dates, sir.

11 Q You have no idea when it was?

12 A No, sir.

13 Q Well, was it in 1966? You were working at the
14 Forman ranch then, were you not?

15 A No, I think it was later than that.

16 Q '67?

17 A No.

18 Q '68?

19 A No.

20 Q '69?

21 A No, sir.

22 Q '70?

23 A It has to be in about '73, I think.

24 Q Was that in '73 after you quit the Forman ranch?

25 A Yes.

1 Q After the time you quit the Forman ranch and after
2 the time you had the argument with O. P. Carrillo?

3 A Probably so.

4 Q And you did it, as a matter of fact, because you
5 were mad at O. P. Carrillo?

6 A No, sir.

7 Q Let me ask you this. Before the time you had the
8 argument with O.P. Carrillo that resulted in your
9 quitting the Forman ranch, you never called the
10 Department of Public Safety to complain about
11 any activity on the part of O. P. Carrillo again,
12 have you?

13 A We had done a lot of things.

14 Q Had you ever made a call before May, 1972, complain-
15 about O. P. Carrillo or anything that he might have
16 done?

17 A Yes, I did.

18 Q Would you tell the Court, please, to whom you made
19 the call and when?

20 A I don't know, just the Highway Department, but I
21 don't know when it was.

22 Q When did you make that call?

23 A I don't remember that date.

24 Q What was that call about? Was this another call
25 you made before you quit the Forman ranch to the

1 Department of Public Safety?

2 A I don't remember before or after.

3 Q Was it a call to the Department of Public Safety?

4 A Yes.

5 Q About what?

6 A About the county trucks hauling grain and hay
7 bales and a lot of things.

8 Q Let's see if we can pin that down, please.

9 MR. ODAM: I object to the relevancy
10 of this line of questioning as to an
11 argument that occurred sometime in May and
12 that was the testimony elicited and had on
13 direct examination. We limited that to
14 whether or not he observed Tomas Elizondo
15 using the truck and trailer.

16 THE MASTER: Well, Mr. Odam, this is
17 clearly to show, if it does, any basis or
18 prejudice of this witness.

19 MR. HANES: That is exactly it, Your
20 Honor.

21 THE MASTER: Go ahead.

22 Q Now, you say -- so we are talking about two calls
23 that you made to the Department of Public Safety
24 complaining about O. P. Carrillo, is that your
25 sworn testimony, Mr. Gonzalez?

1 A I don't know how many calls we made.

2 Q I am talking about what you made, not somebody
3 else. We know about one you made in 1973
4 complaining about grain. You have admitted here
5 today about that, but now you tell us you made
6 yet another call having to do with hay bales,
7 when was that?

8 A I don't remember.

9 Q To whom did you make that call?

10 A To the Highway Department.

11 Q What was the nature of your complaint at that
12 time?

13 A They used those trucks for so many things,
14 I don't remember.

15 Q Were you at that time working for O. P. Carrillo?

16 A I never worked for O. P. Carrillo.

17 Q Did you make that call at any time while you were
18 working for the Forman ranch?

19 A I don't recall, sir.

20 Q Do you recall giving testimony under oath in
21 Austin about this same business of calling the
22 DPS?

23 A Yes, sir.

24 Q Do you recall telling them at that time that you
25 made just one call and that was a call after you

1 had quit the Forman ranch and after the time you
2 had the argument with O. P. Carrillo, you made
3 only one call?

4 A Probably so.

5 Q That was it, wasn't it?

6 A Yes.

7 Q Was that true or false?

8 A True.

9 Q What are you telling this court here today, that
10 you made two calls?

11 A I didn't remember. Probably I made three, maybe
12 I just made one, I don't remember how many
13 calls I made.

14 Q Well --

15 A I recall one on that occasion of that grain
16 hauling. I remember that clearly. I don't
17 remember doing any more calls. I don't want to
18 lie, but I don't think I did.

19 Q Maybe you said you did before the House of
20 Representatives and you said you made only one call
21 at that time?

22 A Yes, sir.

23 Q And that was the best and truthful answer that
24 you could give at that time?

25 A Yes.

- 1 Q Now, your testimony is that perhaps you made
2 several calls?
- 3 A No, sir, I am misunderstanding or maybe you are.
- 4 Q You missed the point?
- 5 A Yes, sir. I remember making one, that is all.
6 I saw him use the truck several times, but I
7 just complained one time.
- 8 Q Now, we have it down to one time that you
9 complained about making a phone call to the DPS?
- 10 A Yes.
- 11 Q Any suggestion to the contrary is not accurate,
12 is it?
- 13 A It is.
- 14 Q About any other times?
- 15 A No, sir.
- 16 Q One time, and that was it, after you had the
17 argument in 1972?
- 18 A Probably it was after.
- 19 Q And that is when you were in the company of your
20 friend, Ruben Chapa?
- 21 A He has been my friend all of this time.
- 22 Q You and he were together in that, were you not?
- 23 A Yes, we were working together, he was working
24 with me.
- 25 Q That is the same Ruben Chapa who accompanied you

1 to Corpus Christi to give testimony in the Federal
2 Court, is it not?

3 A No, sir.

4 Q That is not the same one?

5 A No, sir.

6 Q Is he the one who also accompanied you to Austin
7 to give testimony?

8 A He went to Austin, but he didn't go with me.

9 Q He didn't go with you?

10 A No, sir.

11 Q Now, you responded, I think, to the question, Mr.
12 Gonzalez, that you had never seen Tomas Elizondo
13 with a backhoe that you knew was going to be used
14 on any property belonging to O. P. Carrillo?

15 A I can't swear to it, no, sir.

16 Q You stayed all of the time at the Forman ranch?

17 A Yes.

18 Q And where any property went after it left the
19 Forman ranch property, you have no way of knowing
20 where it went?

21 A No.

22 Q Once it left the Forman ranch, you would not know
23 of your own personal knowledge where it went?

24 A No.

25 Q What period of time are we talking about when we

1 are talking about a tractor and trailer?

2 A Well, when I was working there, it had to be
3 during the eight hours worth that I did.

4 Q In what year?

5 A Well, I worked there so many years, I can't give
6 you an exact date.

7 Q Who?

8 A I can't give you an exact date. They went several
9 times, but I can't give you a date.

10 THE MASTER: Do you plan on finishing
11 shortly, Mr. Hanes, or not?

12 MR. HANES: It will be a little while.

13 THE MASTER: Like what?

14 MR. HANES: 15 to 20 minutes. I had not
15 noticed the time.

16 THE MASTER: I believe we had better
17 take our recess.

18 We will be in recess until 8:30
19 tomorrow morning.

20 (Whereupon, the proceedings were in
21 recess from 1 o'clock p.m. November 10,
22 1975, to 8:30 a.m., November 11, 1975.)
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