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RESPONDENT'S EXHIBITS

PAGES 1 TO 872

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS **CERTIFIED COPY**

The Grand Jurors for the County of Jim Wells, State of Texas, duly selected, impaneled, sworn, charged and organized as such at the March Term, A. D. 1975, of the 79th. Judicial District Court of said County, upon their oaths present in and to said Court, that Jose H. Saenz, on or about the 5th day of June, A. D. 1973, and before the presentment of this indictment, in said County and State, did then and there ~~intentionally~~ fraudulently take current money of the United States of the value of over \$200.00 and less than \$10,000.00 the same being the corporeal personal property of Duval County, Texas, from the possession of Manuel C. Solis County Treasurer of Duval County, Texas, who has care, custody, and control of the Duval County current monies, without the consent of the said County Treasurer, Manuel C. Solis, with the intent to appropriate it to the use and benefit of him the said Jose H. Saenz

AGAINST THE PEACE AND DIGNITY OF THE STATE.

Theft P. C. art 1410

Georgia Alibi
Foreman of the Grand Jury.

JS-1

THE STATE OF TEXAS }
 COUNTY OF JIM WELLS } I, MANUEL M. PEREZ,
 Clerk of the District Court within and for the County and State aforesaid, do hereby certify that the fore-
 going contains a true and correct copy of indictment in Cause No. 2940, of the State of Texas
 vs. JOSE H. SAENZ

as now on file in this office.

IN TESTIMONY WHEREOF I hereto set my hand and official seal, this 7th day of
November, A. D. 19 75.

MANUEL M. PEREZ,

Clerk of the 79th District Court,

By Rosaena G. Garza Deputy Jim Wells County, Texas
 Rosaena G. Garza

16-1080 (900)

No. 2940

THE STATE OF TEXAS

vs.

Jose H. Saenz

INDICTMENT

OFFENSE

Theft P. C. art 1410

Manuel M. Perez Attorney
 Filed 11/7/75 19 75

Manuel M. Perez District Clerk
 By Manuel M. Perez Deputy
 A TRUE BILL:
Manuel M. Perez Foreman of Grand Jury.

Amount of Bail \$ 500.00

WITNESSES FOR THE STATE:

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IN THE MATTER OF THE IMPEACHMENT OF O. P. CARRILLO, DISTRICT JUDGE
TO: HOUSE SELECT COMMITTEE ON IMPEACHMENT

FIRST RESPONSE OF O. P. CARRILLO

I. CONSTITUTIONAL AND CIVIL RIGHTS ACT CONSIDERATIONS

Now comes Hon. O. P. Carrillo, Judge of the District Court, 229th Judicial District of Texas, and makes this his Answer to H.S.R.161 and Challenge to the proceedings of the House Select Committee on Impeachment and the enabling provisions of the Constitution and Statutes of the State of Texas, under whose authority the House Select Committee on Impeachment is proceeding, and would respectfully show the following:

A. Substantial Due Process Considerations

The present proceeding before the House Select Committee on Impeachment is so lacking in substantive due process as to be constitutionally defective under Amendment Five and Amendment Fourteen of the Constitution of the United States and in violation of Title 42, §1983, U.S.C.A., in that the provision of the Texas Constitution and its companion statute, to-wit, Art. 15, §§1 through of the Constitution of the State of Texas and Article 5961, V.A.C.S under whose authority the Select Committee is proceeding, are unconstitutionally vague and indefinite and wholly fail to give notice of those things which constitute impeachable or non-impeachable acts, so as to deprive one charged thereunder of due process of law as protected by the Fifth and Fourteenth Amendments to the Constitution of the United States.

B. Procedural Due Process Considerations

Further, the present proceeding as conducted before the House Select Committee on Impeachment is constitutionally defective and in violation of Title 42, §1983, U.S.C.A., in its present and imminent threat to deprive the Hon. O. P. Carrillo of property without procedural due process of law as guaranteed by the Fifth and Fourteenth Amendments to the Constitution of the United States in that (1) the sole notice of the charges proffered against the Hon. O. P. Carrillo, in the form of a telegram dated May 19, 1975,

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twenty-four hours before the commencement of the proceedings before the Select Committee, wholly failed to give timely notice of the proceedings against him; (2) the notice as provided by the telegram of May 19, 1975 and H.S.R.161 was wholly inadequate as notice of the charges proffered against the Hon. O. P. Carrillo before the House of Representatives and gives no notice of any specific charge on which the impeachment inquiry is based; (3) the scope of the inquiry as conducted by the House Select Committee reaches far beyond the limitations of H.S.R. 161, which sets out as the sole basis of the inquiry the indictment of O. P. Carrillo by a Grand Jury of the United States of America for violations of Federal income tax laws and is thus outside the scope of the powers of the committee as set out in Art. 5429(f), V.A.C.S.; (4) the right to cross examination of the witnesses against him is denied to the Hon. O. P. Carrillo, as evidenced by conduct of the proceedings and the telegram of notice of said proceedings dated May 19, 1975; (5) the right to make objections to any part of the proceedings is denied to the Hon. O. P. Carrillo; (6) the subpoenas as issued by the House Select Committee act to procure witnesses whose testimony goes far beyond the scope of the proceedings as limited by H.S.R. 161 and beyond the restricted power of subpoena by the House Select Committee, presenting matters wholly beyond the inquiry of the Committee; (7) the proceedings as conducted threaten to deny to the Hon. O. P. Carrillo the presumption of innocence as guaranteed by the due process clauses of the Constitution of the United States of America in that the automatic suspension from office as provided by Art. 15, §5 of the Texas Constitution upon commencement of impeachment proceedings and the denial of the above enumerated due process rights at the inquiry stage cause the person accused to enter the impeachment proceedings without the presumption of innocence in violation of the equal protection clause of the Fourteenth Amendment to the

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Constitution of the United States of America; and (8) the proceedings threaten to deny to the accused the right to protection from double jeopardy in that, as a result of such proceedings, the Hon. O. P. Carrillo is subjected to the threat of double jeopardy should he choose to assert his constitutional rights and the denial thereof in a judicial forum.

C. Bill of Attainder and Ex Post Facto Considerations

Further, the impeachment inquiry as conducted by the House Select Committee amounts to a Bill of Attainder and/or the enactment of an ex post facto law in violation of Art. I, §9, clause 3 of the Constitution of the United States of America and Title 42, §1983, U.S.C.A., in that all acts contained in the notice of the proceedings as provided by H.S.R. 161 and the telegram of May 19, 1975 as well as those acts evinced by the testimony present before the House Select Committee on Impeachment occurred prior to November, 1975, the date on which the Hon. O. P. Carrillo was elected to the office of District Judge of the 229th Judicial District of Texas, thereby making the basis of impeachment and attaching civil liability to alleged acts committed prior to the date on which the Hon. O. P. Carrillo was elected to office and prior to the commencement of the term of that office. The plain effect of such proceedings as conducted is to inflict punishment in the form of automatic suspension from office on one charged without a judicial trial, and to inflict a greater punishment for the acts than that which could have been inflicted at the time the alleged acts were committed.

D. Equal Rights Considerations

Further, the present proceedings is violative of the equal protection clause of the Fourteenth Amendment to the Constitution of the United States of America and the equal rights clause of Article I, §3 of the Constitution of the State of Texas in that it represents selective enforcement of the law as to the

Hon. O. P. Carrillo. The Hon. O. P. Carrillo would show that there have been in the past, and are at the present time, members of the House of Representatives of the State of Texas under indictment during their terms of offices and yet no impeachment proceedings directed at their removal from office have been at any time begun by the House of Representatives. However, impeachment proceedings have been set in action against Hon. O. P. Carrillo on the basis of an indictment alleging acts occurring before his election to office. There can be no rational basis for distinction in the case of the Hon. O. P. Carrillo; and the selective use of the impeachment laws evidenced by these proceedings is violative of the Hon. O. P. Carrillo's right to equal protection of the laws as guaranteed by the Fourteenth Amendment to the Constitution of the United States of America and Article I, §3 of the Constitution of the State of Texas.

II. SPECIFIC CONSIDERATIONS

A. Procedural - H.S.R. 161

1. Judge O. P. Carrillo states that the charge "(O.P. Carrillo) Judge of the 229th Judicial District of the State of Texas, has been indicted by a Grand Jury of the United States of America on multiple counts for violations of Federal income tax laws; . . ." are admitted; such statement as contained in H.S.R. 161, does not constitute ground or reason upon which impeachment can be used.

2. The ground stated in H.S.R. No. 161 is insufficient ground or reason upon which impeachment can be based, the same relating to private acts unrelated to performance of official functions, acts predating the certificate of election (which certificate is dated November 22, 1974), and acts protected by the constitutional considerations advanced in I. See: Garcia v. Tol 397 S.W.2d 836 (conviction for mail fraud, on appeal, not grounds for removal of county judge); Gordon v. State, 43 Tex. 330;

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Brackenridge v. State, 11 S.W. 630; State ex rel v. Loomis
29 S.W. 415; Reeves v. State, 267 S.W. 666 (acts predating
certificate of election not grounds for removal--also annotated
42 A.L.R. 2d 691); Art. 15, §1, Tex. Const.; Ferguson v. Maddox,
263 S.W. 888.

B. Procedural--Non-H.S.R. 161 Considerations

H.S.R. No. 161, being the source of the power of this
Committee, speaks only in terms of "indictment by Grand Jury."
Nevertheless, after approximately a week of testimony, the
questions and witnesses presented before the Committee reach matters
totally and completely unrelated to whether or not Judge O. P.
Carrillo has been indicted (a matter which would have been admitted
at the outset of the hearings), but to a broad spectrum of acts
of misconduct (established by witnesses through hearsay and otherwise
competent testimony) outside the scope of H.S.R. 161 and therefore
outside the power of this Committee as delimited by the Legislative
Reorganization Act of 1961 (Art. 5429f, V.A.C.S.). O. P. Carrillo's
constitutional rights are not only violated by this procedure
(See, I, Constitutional Considerations above), but the proceedings
thus far violate the specific statutes enacted by the legislature
for the guidance of itself as well as the public.

C. Case for Legislative Restraint

It is submitted, respectfully, that for the reasons
set out in I and II above, and those set out in this paragraph,
this is a classic instance of calling for the exercise of legislat
restraints. Some of the salient factors which should guide this
body in its exercise of legislative restraint and self-discipline
are,

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1) Pending trial of indictment No. CR75-C-45, United States District Court for the Southern District of Texas, Corpus Christi Division, for 18 U.S.C.A. 7206(1), violation, with its attendant due process and other constitutional protections. If the Respondent Carrillo is found guilty, then under appropriate Texas statutes, Respondent Carrillo would be automatically disbarred and thus, pending appeal from any adverse finding, be precluded from exercising the prerogatives of office.

2) Pending proceeding before State Judicial Qualifications Commission -- by letter dated May 2, 1975, from the State Judicial Qualifications Commission, Respondent was notified that it was through the office of Maurice Pipkin, Executive Director of the Commission, to enter into preliminary investigation of certain alleged acts of misconduct.

This preliminary investigation has triggered the statutory jurisdiction of the Commission and matters testified to before this Committee (largely outside H.S.R. #161) will be resolved on that forum, devoid of the protections, considerations, and policies explicated in I, II and this section of Respondent's Reply.

3) Existence of viable investigative task force -- in March, 1975, the Attorney General of Texas provided a team of investigators to assist District Attorney Arnulfo Guerra and the Grand Jury; this task force included members of the general's staff, Texas Rangers, members of the Department of Public Safety's Intelligence Division and a private auditing firm. The first indictments springing from the labors of this task force were returned May 23, 1975, based upon transactions without the scope of H. S. R. 161 but within the range of questions to some of the witnesses called by the Committee. See Exhibit A. As stated in

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Exhibit A, this Grand Jury was empanelled by Judge O. P. Carrillo, 229th District Court and continues to sift factual input from the Investigative Task Force.¹

Also in March, 1975, actions were instituted by the duly elected district attorney to remove Archer Parr, County Judge, Duval County; M. K. Bercaw, Trustee of the Benavides Independent School District (as well as other named Trustees, the causes being docketed No. 8884 as to Trustee M. K. Bercaw; No. 8885 as to Trustee Enrique Garcia, etc.). After a series of complex legal maneuvers in the Supreme Court of Texas by Bercaw, Garcia, etc. to avoid trial (to no avail)² the Parr cases were set for trial Monday, May 19, 1975³ but continued by Hon. Judge O. P. Carrillo to be in attendance May 20, 1975, in the State Capitol at 8:00 p.m.⁴ Notwithstanding the continuance forced in part by the present hearings, Judge O. P. Carrillo, on Saturday, May 24, 1975, during a recess in the present impeachment hearings, convened court in San Diego, Duval County, Texas, and after full hearing, named a "duly constituted" school board of the Benavides Independent School District. It is also noted that Judge Carrillo's actions in ousting

1. Judge Carrillo, Respondent, could not receive the indictments because, as stated in Exhibit A, he was in Austin, Texas, the week of May 23, 1975, in attendance at legislative committee hearings on his proposed impeachment. Certainly the hearings conducted here are counterproductive of the harvest of the fruits of the task force.
2. See article, Bill Kidd, "State Supreme Court Backs Carrillo in Duval Decisions," Ex. B, April 1, 1975, CORPUS CHRISTI CALLER, Spencer Pearson, "Carrillo Hearing . . . One Week Later," May 25, 1975, CORPUS CHRISTI CALLER, Ex. C.
3. See "Duval Busy with Court Actions," Joe Coudert, CORPUS CHRISTI CALLER, May 16, 1975, Ex. D.
4. See Ex. E, telegram, L. DeWitt Hale, Chairman, House Select Committee on Impeachment.
5. See Ex. C, Joe Coudert, "Benavides Board Confirmed; Ex. F, "Parr Removal Recessed," and "Carrillo Planning to Attend Hearing," CORPUS CHRISTI CALLER, May 20, 1975.

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the Parr school were sustained by Hon. Judge Wesley Dice, retired Judge of the State Court of Criminal Appeals, by his denying injunctive relief at the request of Parr against Tobin, Jr., Carrillo appointee to the County Judge's post after removal of Parr by Carrillo.⁶

Respondent Carrillo, through his attorney, has subpoenaed the District Attorney, 229th District; Attorney General's office, and related law enforcement agencies to establish factually the matters contained in #3 to establish without cavil, Judge Carrillo's active part in that post-Parr clean up--all designed to establish that there is no official delinquency or maladministration or wrongful conduct on the part of Respondent Carrillo of such a character as to indicate unfitness for the office of Judge, 229th Judicial District.⁷

4) Existence of viable investigative Federal Task Force-- several years ago, William Sessions, U. S. Attorney, Western District of Texas⁸ was spurred into Duval County action by information gathered by the IRS; the resulting flurry saw the late George Parr found guilty of income tax evasion and former Duval County Judge Archer Parr found guilty of perjury--plus ancillary indictments and convictions. This Federal Task Force continues its investigative work, in coordination with the Texas Task Force outlined in paragraph #3 above.

6. Joe Coudert, "Parr Fails to Get Restraining Orders," CORPUS CHRISTI CALLER, April 17, 1975.

7. See subpoenas filed by attorney for Respondent Carrillo, May 23, 1975.

8. William Sessions has since been appointed U. S. District Judge, Western District, and his then first assistant, John Clark, a lifelong Republican, has been appointed new U. S. Attorney for the Western District of Texas.

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5) Removal of District Judges by Address of 2/3rds of each House of Legislature--§8, Art. 15, Texas Constitution permits removal of district judges by the Governor on the address of two-thirds of each House of Legislature.⁹

6) Removal of district judges by the Supreme Court--still another relevant, viable alternative to the drastic once-in-a-lifetime impeachment procedures pending, is that provided by Article 15, §6, Texas Constitution. Under this provision of the Texas Constitution, any judge of the district court who is incompetent, etc., may be tried before a detailed procedure outlined in the relevant section of the Constitution by the Supreme Court.¹⁰

Removal under Art. 15, §6 has many advantages over removal by impeachment:

"The Supreme Court is able to dispose of disciplinary matters expeditiously. It is fitted by training and experience to conduct judicial proceedings. It is closely associated with the problems of administering justice, and is confronted daily by problems of judicial ethics which gives it the proper appreciation of the conduct of any judge accused of malfeasance in office, as well as a sound estimate of those qualities which would be involved in a compulsory retirement on account of age or health. Cases of retirement and removal necessarily involve discretion. They cannot be settled by stiff and arbitrary rules. No one is so well qualified by training and experience to exercise discretion fairly as a court consisting of supreme court judges. By impeachment, an incumbent is tried almost entirely of men untrained in judicial matters, and the decision is often based on partisan or emotional determinations. Thus, a judicial removal proceeding is the only form which is entirely consistent with security of judicial tenure. [Emphasis added.]

9. Article 5964, V.A.C.S.

10. The Supreme Court shall have original jurisdiction to hear and determine the causes aforesaid when presented in writing upon the oaths taken before some judge of a court of record of not less than ten lawyers, practicing in the courts held by such judge, and licensed to practice in the Supreme Court; said presentment to be founded either upon the knowledge of the persons making it or upon the written oaths as to the fact of creditable witnesses. The Supreme Court may issue all needful process and prescribe all needful rules to give effect to this section. Causes of this kind shall have precedence and be tried as soon as practicable.

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7) Impeachment decision based on partisan or emotional determinations--as noted in the commentary quoted at length in connection with paragraph 7, 3 Vernon's Annotated Constitution, p. 52, impeachment decisions quite frequently are based on partisan or emotional determinations, to the end that the public good is not served, but to the contrary, there is set into motion emotional distrust of the decisions to impeach, creating more evil which in turn begets more evil.

So too, this Committee must note during the present hearing certain hard facts, which generate political ramifications. A split developed between the Parr and the Carrillo factions in Duval County; there were many causes for this rift, not the least of which was the fact that one of the Carrillo brothers and the Carrillo father were Government witnesses in the main Parr trials and related trials. Suffice to state, alignment with the Parr faction and the Carrillo faction (and splinter factions, such as the Guerra faction of Starr County) commenced, to the end that polarization of the factions occurred for the ensuing fight.¹¹ Many attorneys were plunged into affray, Marvin Foster, M. K. Bercaw, Charles Orr, and yes, attorney and Representative Terry Canales, author of H.S.R. No. 161.

It is the same Hon. Terry Canales who appeared for George B. Parr in Cause No. 8806 (being an action by the State of Texas to disbar George Parr because of his Federal felony conviction) and sought and secured (before Judge O. P. Carrillo's 229th District Court) a legislative continuance to delay the disbarment.¹²

11. See Bill Graham, "Archer Parr Fights for Dukedow," SAM ANTONIO EXPRESS, April 20, 1975.

12. See Ex. G.

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It is the same Hon. Terry Canales who appeared for Archer Parr in Cause No. 8807 (being an action by the State of Texas to disbar Archer Parr, because of his Federal felony conviction) and sought and secured (before Judge O. P. Carrillo's 229th District Court) a legislative continuance to delay the disbarment proceedings.¹³

It is the same Hon. Terry Canales who, after the District Attorney, Duval County, Texas, filed information for leave to file petition in removal of Archer Parr and various members of the Benavides School Board, drafted for filing in the House and Senate, a bill to abolish the office of District Attorney, 229th District, upon whose relation the informations for leave to file petitions for removal were filed.¹⁴

While Hon. Terry Canales denies any significance can be attached to his active participation in the past and post-impeachment period, the attorney for Respondent would in discharge of his sworn duty to his client, have to question him in detail on these and related, relevant matters--all of which must be stated to this Committee, searching, as it is, for the truth, but all of which is designed to generate emotions and charges and counter-charges.¹⁵

13. See Ex. H.

14. See Exh. I, for copy of bill; also, Respondent intends to interrogate the District Attorney, Duval County, Texas, and Hon. Terry Canales concerning this entire proceeding here--more emotionalism, that would be lead to erosion of the peopl in the offices held by the participants.

15. Just as the well-known fact that the House did nothing when its prior Speaker, Hon. Gus Mutscher, was indicted during session; and just as the House does nothing to one of its present members who stands indicted. Respondent's attorney states that this is as it should be, that is, that an indictment should not be the basis for an impeachment, as set out in U.S 161, for the valuable presumption of innocence given to each citizen would be emasculated to think to the contrary. Unforly, the general public, beset by ungodly telephone rates, low school teacher's salaries, unregulated utilities, terrible gasoline prices (in face of plenty), will not draw this fine lawyer-like conclusion, thus more discord, more erosion of confidence in a fine legislature which has accomplished much, more destruction of the image of our governing body, etc.

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III. DEFENSIVE POSTURE OF RESPONDENT (IF ALLOWED TO CALL WITNESSES AND/OR IF ALLOWED THE RIGHT TO CROSS EXAMINATION AND/OR IF ALLOWED TO INTRODUCE DOCUMENTARY EVIDENCE)

A. Documentary Evidence desired to be introduced and to be considered by the Committee;

1. Copies of the Tax Returns of Hector Zertuche, 1965, 1966, with emphasis on Schedule C, Profit (or Loss) from Business or Profession, establishing sole proprietorship as to Zertuche General Store; negates sham;

2. Copies of the Tax Returns of Arturo R. Zertuche, 1968, 1969, 1970, with emphasis on Schedule C, Profit (or Loss) from Business or Profession, establishing sole proprietorship as to Zertuche General Store; negates sham;

3. Photographs of Zertuche General Store, 1966, showing partial destruction by hurricane;

4. Carrillo personal check #616, September 3, 1973, payable to Ronnie E. Guerra, Custom Broker, in payment for cement which went into Carrillo's ranch building;

5. Checks Nos. 609, 623, 421, 1393, 1400, 166, 112, payable to Patricio Garza on O. P. Carrillo's personal bank account, payment work done;

6. Copy of customer order for Replacement of Cadillac, by O. P. Carrillo, dated 11/10/70;

7. Certified copy of docket sheet in Duval County Ranch Co., Inc. v. The Speedman Oil Company, et al, showing that on 9/24/73, Judge Carrillo recused and excused himself from the case, with docket entry, to effect that "Judge to recuse itself, and request Judge Alamia to name another judge to hear this case." (Cause #8591, 229th District Court).

8. Certified copy of docket sheet in Duval County Ranch Co. (represented by E. K. Bercaw, Jr.) v. J. W. Bumgardner, showing that as of 9/13/73 (approximately 37 days after suit filed) Judge Carrillo made following docket entry: "Judge O. P. Carrillo will recuse himself and not sit and will notify Administrative Judge J. B. Alamia . . ."

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9. Statement of Executive Vice President of Duval County Ranch Company to the effect that upon examination of books of the corporation for the years 1972-1975, Manuel Amaya, Jr. was not an employee of Duval County Ranch Company, and received no payments for work done for the corporation or Clinton Manges and no request for payments were made by Mr. Amaya, Jr. to the corporation or Clinton Manges.

10. Statement of Manuel Amaya, Jr. that he has never received any money or anything else of value from Duval County Ranch Company or Clinton Manges.

11. Copies of cheks from November 15, 1972, through February 29, 1974 to M. K. Bercaw, Jr., representing retainer of \$600.00 a month by Duval County Ranch Company and accompanying statement to effect that of his duties as attorney for Duval County Ranch Co. was to negotiate settlement of tax liability of Company and Benavides Independent School District. Statement to effect that because of his efforts, taxes on both Duval County and Benavides Independent School District were reduced and paid.

12. Minutes of Commissioners Court for February 14, 1975 and tax receipts dated February 12, 1975, issued by Benavides Independent School District, as evidence of tax payment for 1973 and 1974 by Duval County Ranch Company--no outstanding tax liability exists except current year.

13. Check in amount of \$62,539.43 to Duval County Tax Collector by Duval County Ranch Company, for balance of taxes due for years 1972, 1973, 1974.

14. Check No. 2428, dated February 11, 1975, in amount of \$34,724.26, from Duval County Ranch Company to Tax Collector, and Tax Receipts Nos. 2889, 2890, and 516 for payment 1973 taxes and tax receipts Nos. 800, 801, and 3767, evidencing payment for year 1974.

15. Check No. 10012, Benavides Independent School District, dated August 23, 1974, to Marvin Foster, \$35,000.

16. Check No. 10013, Benavides Independent School District, dated August 23, 1974, to Charles E. Orr, \$25,000.

17. Undated letter Statement from Marvin Foster to Board of Trustees for \$60,000, bill "submitted as statement for services rendered and to be rendered relative to investigation by the IRS and Grand Jury of the District and the School Board . . ."

18. Copy of Texas Standard Policy covering period of March 18, 1964 to March 18, 1969, covering one-story building, housing Zertuche General Store.

19. Letter of Judge J. R. Alamia (and Court's order) acknowledging fact that O. P. Carrillo disqualified himself to serve in Cause No. 3953, Clinton Magnes v. M. A. Guerra, et al, and appointing new judge to try cause.

20. Personal tax returns of O. P. Carrillo, with emphasis on depreciation schedule showing equipment inventory of Carrillo and gross income (with showing that no income came from operation of Zertuche General, this income being captured and reported on Schedule C, Zertuches' returns mentioned above).

21. Checks of O. P. Carrillo personally to Pilon, for payment hauling water.

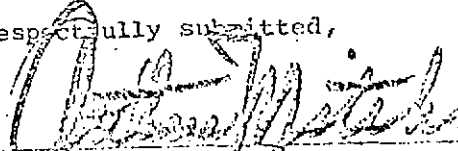
22. Copy of attorney fee contract between Archer Parr and Terry Canales (if one exists), reflecting terms and conditions of employment preceding motion for legislative continuance to date, services to be performed, payment made and promised to be made.

23. Copy of applicable local and Federal rules establishing correct administration of food program in Duval County, and evidence to effect that same is being administered.

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WHEREFORE, PREMISES CONSIDERED, Respondent respectfully prays that this Committee refuse to recommend, for the reasons set out herein, bill of impeachment; in addition Respondent prays that he be allowed the right to further supplement and/or amend his answer, as the testimony unfolds, he not having any notice of what testimony is to be solicited from whom--this answer being based upon the uncross-examined testimony as it ceased to flow 23 May, 1975, and upon no documentary evidence introduced, for he has not been honored with copies of the documents made part of the record.

Respectfully submitted,


ARTHUR MITCHELL
315 Westgate Building
Austin, Texas 78701
ATTORNEY FOR RESPONDENT
HONORABLE O. P. CARRILLO

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICAS §
- §
V. § Criminal No. 75-C-45
RAMIRO D. CARRILLO, §
O. P. CARRILLO, §
ARTURO R. ZERTUCHE §

SUPPLEMENTARY MOTION OF THE DEFENDANTS
RAMIRO D. CARRILLO, O. P. CARRILLO, AND
ARTURO R. ZERTUCHE TO DISMISS AND MOTION IN THE
ALTERNATIVE FOR INDEFINITE CONTINUANCE

TO THE HONORABLE JUDGE OF SAID COURT:

Come now Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche, Defendants in the above entitled and numbered cause, and make this their Supplementary Motion To Dismiss and Motion In The Alternative For Indefinite Continuance, and in support thereof would respectfully show the Court as follows:

I.

On or about the 28th day of March, 1975, a twelve count indictment was returned by a Federal Grand Jury setting in Corpus Christi, Texas, charging the Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche with violations of 18 U.S.C. 371 and 26 U.S.C. 7206(1).

II.

On or about the 10th day of April, 1975, arraignment of the Defendants was held before the Federal District Court for the Southern District of Texas, Corpus Christi Division, each of the Defendants entering a plea of "not guilty" therein.

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III.

Subsequent to the arraignment of the Defendants. Defendants filed numerous pretrial motions, including a request for a bill of particulars, a motion for continuance, motions for pretrial discovery, motions to suppress evidence, and a request for a pretrial conference and hearing on Defendants' pretrial motions.

IV.

On or about the 16th day of May, 1975, a hearing was held in Federal District Court for the Southern District of Texas, Corpus Christi Division, on Defendants' First Motion For Continuance and the Government's Motion For Determination Of Conflict Of Interest. At the conclusion of the hearing, a determination was made by the Court that the joint representation of all three Defendants by a single attorney did not result in a conflict of interest on the part of defense counsel, although a severance of the trial of Arturo R. Zertuche from the trial of the other two Defendants was deemed advisable by the Court. It was indicated by the Court that it would tentatively grant Defendants' Motion For Continuance, by way of maintaining the June 30th setting for selection of the jury, but by postponing the date of actual commencement of the trial to a date some six weeks subsequent thereto. Further, Defendants' First through Sixth Motions To Take Deposition were orally granted by the Court.

To date, no determination has been made on the Defendants' other pretrial motions filed herein.

V.

On or about the 19th day of May, 1975, the Defendant O. P. Carrillo received notice by way of telegram of the commencement of impeachment proceedings against him in his capacity as District

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Judge of the 229th Judicial District of Texas (Exhibit A). Such proceedings were commenced pursuant to the passage of H.S.R. 161 (Exhibit B), which calls for the institution of impeachment proceedings on the grounds of O. P. Carrillo's indictment herein for income tax fraud. House Simple Resolution 167 (Exhibit C) established the House Select Committee On Impeachment to investigate the charges brought against O. P. Carrillo in H.S. R. 161. Hearings before the House Select Committee on Impeachment began May 20, 1975, and have continued to date with only brief adjournments. The investigation by the Committee has reached not only the indictment of O. P. Carrillo by the Federal Grand Jury and the very matters to be tried in the prosecution of the instant cause, but also has reached outside the scope of the indictment and concerned itself with unrelated and allegedly improper acts and occurrences involving O. P. Carrillo as well. Among the witnesses who have been summoned and who have appeared before the Committee are many who testified before the Grand Jury that returned the indictment against the Defendants herein and who are to testify in the trial of the present cause. The documentary material presented to the Committee has included documentary material which is essential to both the proof of the prosecution's case and the defense of all three Defendants in the above cause. Not only have the witnesses and the documentary materials essential to the presentation of an adequate defense in the present cause been commandeered by the members of the Committee in the absence of even minimal due process protections, but also the testimony and documentary material on matters unrelated to the subject matter of the indictment has been publicly considered by the Committee. The statutory and constitutional authority for many of the Committee's actions, including the holding of closed investigatory sessions, and, in fact, the lawful existence of the

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Committee, has been seriously challenged by counsel for O. P. Carrillo, as indicated by the First Response of O. P. Carrillo presented to the Committee (Exhibit D). As likewise indicated by the First Response of O. P. Carrillo presented to the Committee, objection to the Committee hearings and investigations was made by counsel for O. P. Carrillo on the grounds that such hearings and investigations constitute an interference with the prosecution and defense of the instant cause in Federal Court. Despite such challenges and objections to the proceedings, the House Select Committee on Impeachment continues in its hearings and investigations on the subject matter of the indictment and matters ranging far beyond the scope of the indictment.

VI.

Insofar as the Committee has investigated matters contained in the indictment, hearing testimony, receiving documentary evidence, and essentially putting the Defendant O. P. Carrillo to trial on the charges in the indictment in the absence of even minimal due process protections, the State has acted to deprive all of the Defendants herein of their due process rights. Evident is a pervasive pollution of the expected testimony by the witnesses and the other evidence essential to the trial in this cause which, together with the widespread publicity attendant to the impeachment proceedings, renders a fair trial of the Defendants in Federal Court impossible.

VII.

Further, the active participation in the impeachment proceedings of the United States Government through the participation of agents of the Internal Revenue Service therein and the resulting combination of State and Federal action in the deprivation of Defendants' rights renders a fair trial of the Defendants in the present cause impossible.

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VIII.

Further, the effect of the institution and conduct of the impeachment hearings is to subject all of the Defendants herein to a trial on the same offense for which they are charged in Federal Court. As the text of H.S.R. 161 makes apparent, in order to determine whether articles of impeachment should be returned against O. P. Carrillo and whether O. P. Carrillo is guilty of an impeachable offense, the Legislature has cast upon itself the burden of determining whether O. P. Carrillo and the other two Defendants herein in fact committed the offenses with which they are charged in the federal indictment. Thus, not only are the Defendants in effect being subjected to two trials on identical acts and transactions, they are being tried in two forums for the same offense, to wit, violations of 18 U.S.C. 371 and 26 U.S.C. 7206(1). The participation of the federal government in the State impeachment proceedings makes the subjection of the Defendants to double jeopardy for the same offense doubly evident, and negates any possible argument that the Defendants, or any of them, are being tried in separate proceedings before forums of different governmental systems for different offenses.

IX.

Further, attendant to the impeachment proceedings has been widespread newspaper, magazine, radio, and television publicity, (Exhibits E-1 through E-27) whereby the evidence presented to the Committee on Impeachment and the Committee's interrogations and comments thereon have been exposed to state-wide view. Created by such publicity has been an atmosphere of public prejudice towards the Defendant O. P. Carrillo and the other two Defendants making a fair trial on the indictment impossible anywhere in the State of Texas at this time. As a result of the impeachment proceedings and the

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state-wide publicity accompanying such proceedings, the Defendants are receiving a "trial by the press"; and a trial not only on the matters contained in the federal indictment, but also on matters ranging far beyond the scope of the indictment. If put to trial before the prejudicial effect of the pretrial publicity and the hostile atmosphere engendered by such publicity has subsided, the Defendant O. P. Carrillo and the other two Defendants, who as a result of the impeachment proceedings have also been placed in the public spotlight, will be laboring under a heavy handicap in establishing their innocence at the impending trial. Delaney v. United States, 199 F. 2d 107, 39 ALR 2d 1300 (1st Cir. 1952).

X.

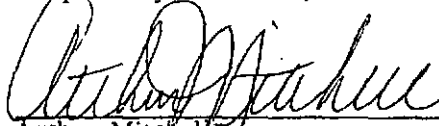
Further, subsequent to the commencement of the impeachment hearings before the House Select Committee, Defendants filed herein their Supplementary Motion For Continuance, setting out as grounds therefor the commencement and continuation of such hearings, making it physically impossible for counsel for the defense to prepare for trial of the present cause by the date set therefore and resulting in a denial of Defendants' Sixth Amendment right to effective assistance of counsel and their Fifth and Fourteenth Amendment rights to due process of law if Defendants are required to go to trial at that time. No determination of this Motion has been made as of the present date. Defendants incorporate herein for all purposes the allegations and prayer contained in the aforesaid Supplementary Motion For Continuance.

WHEREFORE, PREMISES CONSIDERED, Defendants pray that the Court order that the prosecution against Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche in the above entitled and numbered cause be dismissed on the grounds that the manner in which the

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hearings before the House Select Committee On Impeachment have been conducted and the totality of circumstances involved in the conduct of the impeachment proceedings, working a denial of Defendants' most elementary due process rights, together with the involvement of agents of the federal government therein, have rendered a fair trial of the Defendants in the federal prosecution an impossibility and on the further grounds that the combined action of the State and Federal Governments in the impeachment hearings on the alleged offenses contained in the federal indictment have subjected the Defendants to former jeopardy for those offenses, in violation of the Sixth Amendment to the Constitution of the United States of America. In the alternative, Defendants pray that the trial of the above entitled and numbered cause be continued indefinitely until the prejudicial effect of the state-wide publicity pursuant to the impeachment inquiry has subsided and Defendants may go to trial without laboring under the heavy burden of proving their innocence in the hostile atmosphere engendered by such publicity.

Respectfully submitted,

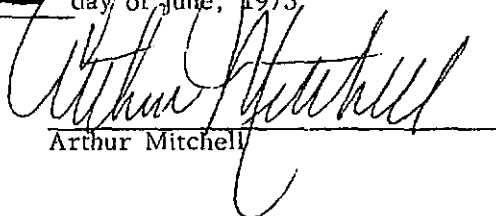


Arthur Mitchell
Mitchell, George & Belt
315 Westgate Building
Austin, Texas 78701

Attorney for Defendants

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above Supplementary Motion of the Defendants To Dismiss and Motion In The Alternative For Indefinite Continuance was sent to Mr. George A. Kelt, Jr., Assistant United States Attorney, P.O. Box 61129, Houston, Texas 77208 on this 25th day of June, 1975.



Arthur Mitchell

00025

IN THE UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
§
V. § Criminal No. 75-C-45
§
RAMIRO D. CARRILLO, §
O. P. CARRILLO, §
ARTURO R. ZERTUCHE §

STATE OF TEXAS)
COUNTY OF TRAVIS)

BEFORE ME, the undersigned authority, on this day personally appeared ARTHUR MITCHELL, affiant, who is above the age of 21 years and in all things qualified to make this affidavit, and after first being by me duly sworn, states upon his oath the following:

Affiant is a duly licensed attorney and has been since the 2nd day of December, 1950, and has been admitted to practice before the United States District Court for the Southern District of Texas. He represents the Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche in the above entitled and numbered cause.

On the 20th day of May, 1975, investigatory hearings were begun by the Select Committee On Impeachment of the House of Representatives, State of Texas, pursuant to House Simple Resolution 167, authorizing the creation of said Committee for the purpose of considering House Simple Resolution 161, investigating charges brought against O. P. Carrillo, and reporting back to the House its recommendations on whether presenting to the Senate of Texas a bill of impeachment against O. P. Carrillo would be in order. The continuation of the hearings of the House Select Committee on Impeachment,

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the evidence presented at which has to date filled fifteen volumes of Statement of Facts and Transcript, has required constant attendance and extensive preparation on the part of Affiant in order to adequately represent his client O. P. Carrillo thereat and have rendered it physically impossible for Affiant to adequately prepare for the trial of the above entitled and numbered cause at the date presently set for trial.

Although the House Select Committee is at the present date holding closed meetings from which Affiant is excluded, it is likely that public hearings by the House Select Committee, followed by a possible trial before the Senate, will commence in the near future, requiring attendance and extensive preparation by Affiant, rendering adequate preparation by Affiant for trial in the above entitled and numbered cause impossible at the date presently set for trial.

Attendant to the hearings before the House Select Committee On Impeachment has been massive state-wide newspaper, magazine, radio, and television publicity creating an enveloping hostile atmosphere and public preconception of guilt as to not only the Defendant O. P. Carrillo, but as to Defendants Ramiro D. Carrillo and Arturo R. Zertuche as well, with the result that there is a substantial danger that a fair trial of the above-named Defendants will be impossible anywhere in the State of Texas at the date presently set for trial.

Further, it is the opinion of Affiant that the manner in which the House Select Committee On Impeachment has conducted the hearings before it, including the taking of testimony and introduction of evidence germane to the charges against the Defendants in the above entitled and numbered cause in the absence of due process safeguards, and the participation of agents of the federal government therein, together


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with the extensive publicity attendant to the impeachment hearings,
has so tainted the evidence and the proceedings herein that a fair
trial of the Defendants on the charges in the above entitled and numbered
cause is impossible in any forum and at any date.



Arthur Mitchell

SUBSCRIBED AND SWORN TO BEFORE ME by the said ARTHUR
MITCHELL this 24th day of June, 1975, to certify which witness my
hand and seal of office.



Notary Public in and for
Travis County, Texas.

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §

§

V. §

§

Criminal No. 75-C-45

RAMIRO D. CARRILLO, §

§

O. P. CARRILLO, §

§

ARTURO R. ZERTUCHE §

§

ORDER RELATING TO DEFENDANTS' SUPPLEMENTARY MOTION
TO DISMISS AND MOTION IN THE ALTERNATIVE FOR INDEFINITE
CONTINUANCE

On this date came to be considered the Supplementary Motion of the Defendants To Dismiss and Motion In The Alternative For Indefinite Continuance, and the Court having considered the same is of the opinion that said Motion To Dismiss should be _____; or in the alternative said Motion For Indefinite Continuance should be _____:

It is therefore ORDERED that Defendants' Supplementary Motion To Dismiss is hereby in all things _____; or in the alternative said Supplementary Motion For Indefinite Continuance is hereby in all things _____:

JUDGE

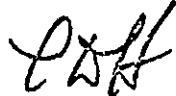
United States District Court
Southern District of Texas.

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Telegram

Honorable O. P. Carrillo
District Judge
County Courthouse
San Diego, Texas 78384

The House Select Committee on Impeachment will meet in the State Capitol at 8:00 p.m. on Tuesday, May 20 to consider H.S.R. No. 161 by Canales, seeking your impeachment from the office of District Judge. Daily meetings thereafter are contemplated until the inquiry is completed. You are invited to be present in person or by attorney; however, cross-examination of witnesses will not be permitted, since this is only an investigation and not a prosecution. [Any evidence you care to present bearing on the inquiry will be welcome.] The principal function of this committee is to develop facts and your assistance in this endeavor will be appreciated.



L. DeWitt Hale
Chairman

May 19, 1975

Exhibit A

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FIRST PRINTING May 15, 1975

Official House Printing, 64th Leg.

By: Canales

H.S.R. No. 161

(In the House--Filed May 15, 1975; May 15, 1975, read first time and referred to A Select Committee.)

HOUSE SIMPLE RESOLUTION

1 BE IT RESOLVED by the House of Representatives, That
2 impeachment charges be preferred against O. P. Carrillo, Judge
3 of the 229th Judicial District of the State of Texas, in the
4 Senate of the State of Texas for the following cause: He has
5 been indicted by a Grand Jury of the United States of America on
6 multiple counts for violations of federal income tax laws; and,
7 be it further
8 RESOLVED, That the Speaker appoint five members of the House
9 as a board of managers to prepare Articles of Impeachment against
10 Judge O. P. Carrillo, submit them to the House for approval, and,
11 if adopted, present them to the Senate.

Exhibit B

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MASTER FILE

ENROLLED

H.S.R. No. 167

HOUSE RESOLUTION

1 BE IT RESOLVED by the House of Representatives of the 64th
2 Legislature, That there is hereby created a select committee of
3 the House of Representatives composed of 11 members appointed by
4 the Speaker, the chairman and vice-chairman thereof to be appointed
5 by the Speaker, to consider House Simple Resolution No. 161 and
6 investigate charges brought against O. P. Carrillo, and report
7 back to the House its recommendations on whether presenting to
8 the Senate of Texas a bill of impeachment against O. P. Carrillo
9 is in order; and, be it further

10 RESOLVED, That the committee is authorized to meet at the
11 call of the chairman, meet in executive session when ordered by
12 the committee, and expend funds for necessary expenses and
13 employment of personnel as approved by the Committee on House
14 Administration; and, be it further

5 RESOLVED, That the committee shall have all powers granted
6 to committees of the House by Article 5962, Revised Civil Statutes
7 of Texas, 1925, the Legislative Reorganization Act of 1961, and
8 the Rules of the House of Representatives.

Maloney

Exhibit C

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H.S.R. No. 167

Speaker of the House

I hereby certify that H.S.R. No. 167 was adopted by the House on May 17, 1975, by a non-record vote.

Chief Clerk of the House

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IN THE MATTER OF THE IMPEACHMENT OF O. P. CARRILLO, DISTRICT JUDGE
TO: HOUSE SELECT COMMITTEE ON IMPEACHMENT

FIRST RESPONSE OF O. P. CARRILLO

I. CONSTITUTIONAL AND CIVIL RIGHTS ACT CONSIDERATIONS

Now comes Hon. O. P. Carrillo, Judge of the District Court, 229th Judicial District of Texas, and makes this his Answer to H.S.R.161 and Challenge to the proceedings of the House Select Committee on Impeachment and the enabling provisions of the Constitution and Statutes of the State of Texas, under whose authority the House Select Committee on Impeachment is proceeding, and would respectfully show the following:

A. Substantial Due Process Considerations

The present proceeding before the House Select Committee on Impeachment is so lacking in substantive due process as to be constitutionally defective under Amendment Five and Amendment Fourteen of the Constitution of the United States and in violation of Title 42, §1983, U.S.C.A., in that the provision of the Texas Constitution and its companion statute, to-wit, Art. 15, §§1 through 5 of the Constitution of the State of Texas and Article 5961, V.A.C.S., under whose authority the Select Committee is proceeding, are unconstitutionally vague and indefinite and wholly fail to give notice of those things which constitute impeachable or non-impeachable acts, so as to deprive one charged thereunder of due process of law as protected by the Fifth and Fourteenth Amendments to the Constitution of the United States.

B. Procedural Due Process Considerations

Further, the present proceeding as conducted before the House Select Committee on Impeachment is constitutionally defective and in violation of Title 42, §1983, U.S.C.A., in its present and imminent threat to deprive the Hon. O. P. Carrillo of property without procedural due process of law as guaranteed by the Fifth and Fourteenth Amendments to the Constitution of the United States in that (1) the sole notice of the charges proffered against the Hon. O. P. Carrillo, in the form of a telegram dated May 19, 1975,

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twenty-four hours before the commencement of the proceedings before the Select Committee, wholly failed to give timely notice of the proceedings against him; (2) the notice as provided by the telegram of May 19, 1975 and H.S.R.161 was wholly inadequate as notice of the charges proffered against the Hon. O. P. Carrillo before the House of Representatives and gives no notice of any specific charge on which the impeachment inquiry is based; (3) the scope of the inquiry as conducted by the House Select Committee reaches far beyond the limitations of H.S.R. 161, which sets out as the sole basis of the inquiry the indictment of O. P. Carrillo by a Grand Jury of the United States of America for violations of Federal income tax laws and is thus outside the scope of the powers of the committee as set out in Art. 5429(f), V.A.C.S.; (4) the right to cross examination of the witnesses against him is denied to the Hon. O. P. Carrillo, as evidenced by conduct of the proceedings and the telegram of notice of said proceedings dated May 19, 1975; (5) the right to make objections to any part of the proceedings is denied to the Hon. O. P. Carrillo; (6) the subpoenas as issued by the House Select Committee act to procure witnesses whose testimony goes far beyond the scope of the proceedings as limited by H.S.R. 161 and beyond the restricted power of subpoena by the House Select Committee, presenting matters wholly beyond the inquiry of the Committee; (7) the proceedings as conducted threaten to deny to the Hon. O. P. Carrillo the presumption of innocence as guaranteed by the due process clauses of the Constitution of the United States of America in that the automatic suspension from office as provided by Art. 15, §5 of the Texas Constitution upon commencement of impeachment proceedings and the denial of the above enumerated due process rights at the inquiry stage cause the person accused to enter the impeachment proceedings without the presumption of innocence in violation of the equal protection clause of the Fourteenth Amendment to the

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Constitution of the United States of America; and (8) the proceedings threaten to deny to the accused the right to protection from double jeopardy in that, as a result of such proceedings, the Hon. O. P. Carrillo is subjected to the threat of double jeopardy should he choose to assert his constitutional rights and the denial thereof in a judicial forum.

C. Bill of Attainder and Ex Post Facto Considerations

Further, the impeachment inquiry as conducted by the House Select Committee amounts to a Bill of Attainder and/or the enactment of an ex post facto law in violation of Art. I, §9, clause 3 of the Constitution of the United States of America and Title 42, §1983, U.S.C.A., in that all acts contained in the notice of the proceedings as provided by H.S.R. 161 and the telegram of May 19, 1975 as well as those acts evinced by the testimony presented before the House Select Committee on Impeachment occurred prior to November, 1975, the date on which the Hon. O. P. Carrillo was elected to the office of District Judge of the 229th Judicial District of Texas, thereby making the basis of impeachment and attaching civil liability to alleged acts committed prior to the date on which the Hon. O. P. Carrillo was elected to office and prior to the commencement of the term of that office. The plain effect of such proceedings as conducted is to inflict punishment in the form of automatic suspension from office on one charged without a judicial trial, and to inflict a greater punishment for the acts than that which could have been inflicted at the time the alleged acts were committed.

D. Equal Rights Considerations

Further, the present proceedings is violative of the equal protection clause of the Fourteenth Amendment to the Constitution of the United States of America and the equal rights clause of Article I, §3 of the Constitution of the State of Texas in that it represents selective enforcement of the law as to the

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Hon. O. P. Carrillo. The Hon. O. P. Carrillo would show that there have been in the past, and are at the present time, members of the House of Representatives of the State of Texas under indictment during their terms of offices and yet no impeachment proceedings directed at their removal from office have been at any time begun by the House of Representatives. However, impeachment proceedings have been set in action against Hon. O. P. Carrillo on the basis of an indictment alleging acts occurring before his election to office. There can be no rational basis for distinction in the case of the Hon. O. P. Carrillo; and the selective use of the impeachment laws evidenced by these proceedings is violative of the Hon. O. P. Carrillo's right to equal protection of the laws as guaranteed by the Fourteenth Amendment to the Constitution of the United States of America and Article I, §3 of the Constitution of the State of Texas.

II. SPECIFIC CONSIDERATIONS

A. Procedural - H.S.R. 161

1. Judge O. P. Carrillo states that the charge "(O.P. Carrillo) Judge of the 229th Judicial District of the State of Texas, has been indicted by a Grand Jury of the United States of America on multiple counts for violations of Federal income tax laws; . . ." are admitted; such statement as contained in H.S.R. 161, does not constitute ground or reason upon which impeachment can be used.

2. The ground stated in H.S.R. No. 161 is insufficient ground or reason upon which impeachment can be based, the same relating to private acts unrelated to performance of official functions, acts predating the certificate of election (which certificate is dated November 22, 1974), and acts protected by the constitutional considerations advanced in I. See: Garcia v. Tobin, 307 S.W.2d 836 (conviction for mail fraud, on appeal, not grounds for removal of county judge); Gordon v. State, 43 Tex. 330;

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Brackenridge v. State, 11 S.W. 630; State ex rel v. Loomis
29 S.W. 415; Reeves v. State, 267 S.W. 666 (acts predating
certificate of election not grounds for removal--also annotated
42 A.L.R. 2d 691); Art. 15, §1, Tex. Const.; Ferguson v. Maddox,
263 S.W. 888.

B. Procedural--Non-H.S.R. 161 Considerations

H.S.R. No. 161, being the source of the power of this
Committee, speaks only in terms of "indictment by Grand Jury."
Nevertheless, after approximately a week of testimony, the
questions and witnesses presented before the Committee reach matters
totally and completely unrelated to whether or not Judge O. P.
Carrillo has been indicted (a matter which would have been admitted
at the outset of the hearings), but to a broad spectrum of acts
of misconduct (established by witnesses through hearsay and otherwise
competent testimony) outside the scope of H.S.R. 161 and therefore
outside the power of this Committee as delimited by the Legislative
Reorganization Act of 1961 (Art. 5429f, V.A.C.S.). O. P. Carrillo's
constitutional rights are not only violated by this procedure
(See, I, Constitutional Considerations above), but the proceedings
thus far violate the specific statutes enacted by the legislature
for the guidance of itself as well as the public.

C. Case for Legislative Restraint

It is submitted, respectfully, that for the reasons
set out in I and II above, and those set out in this paragraph,
this is a classic instance of calling for the exercise of legislative
restraints. Some of the salient factors which should guide this
body in its exercise of legislative restraint and self-discipline
are,

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1) Pending trial of indictment No. CR75-C-45, United States District Court for the Southern District of Texas, Corpus Christi Division, for 18 U.S.C.A. 7206(1), violation, with its attendant due process and other constitutional protections. If the Respondent Carrillo is found guilty, then under appropriate Texas statutes, Respondent Carrillo would be automatically disbarred, and thus, pending appeal from any adverse finding, be precluded from exercising the prerogatives of office.

2) Pending proceeding before State Judicial Qualification Commission -- by letter dated May 2, 1975, from the State Judicial Qualifications Commission, Respondent was notified that it was through the office of Maurice Pipkin, Executive Director of the Commission, to enter into preliminary investigation of certain alleged acts of misconduct.

This preliminary investigation has triggered the statutory jurisdiction of the Commission and matters testified to before this Committee (largely outside H.S.R. #161) will be resolved on that forum, devoid of the protections, considerations, and policies explicated in I, II and this section of Respondent's Reply.

3) Existence of viable investigative task force -- in March, 1975, the Attorney General of Texas provided a team of investigators to assist District Attorney Arnulfo Guerra and the Grand Jury; this task force included members of the general's staff, Texas Rangers, members of the Department of Public Safety's Intelligence Division and a private auditing firm. The first indictments springing from the labors of this task force were returned May 23, 1975, based upon transactions without the scope of H. S. R. 161 but within the range of questions to some of the witnesses called by the Committee. See Exhibit A. As stated in

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Exhibit A, this Grand Jury was empanelled by Judge O. P. Carrillo, 229th District Court and continues to sift factual input from the Investigative Task Force.¹

Also in March, 1975, actions were instituted by the duly elected district attorney to remove Archer Parr, County Judge, Duval County; M. K. Bercaw, Trustee of the Benavides Independent School District (as well as other named Trustees, the causes being docketed No. 8884 as to Trustee M. K. Bercaw; No. 8885 as to Trustee Enrique Garcia, etc.). After a series of complex legal maneuvers in the Supreme Court of Texas by Bercaw, Garcia, etc. to avoid trial (to no avail)² the Parr cases were set for trial Monday, May 19, 1975³ but continued by Hon. Judge O. P. Carrillo to be in attendance May 20, 1975, in the State Capitol at 8:00 p.m.⁴ Notwithstanding the continuance forced in part by the present hearings, Judge O. P. Carrillo, on Saturday, May 24, 1975, during a recess in the present impeachment hearings, convened court in San Diego, Duval County, Texas, and after full hearing, named a "duly constituted" school board of the Benavides Independent School District. It is also noted that Judge Carrillo's actions in ousting

1. Judge Carrillo, Respondent, could not receive the indictments because, as stated in Exhibit A, he was in Austin, Texas, the week of May 23, 1975, in attendance at legislative committee hearings on his proposed impeachment. Certainly the hearings conducted here are counterproductive of the harvest of the fruits of the task force.
2. See article, Bill Kidd, "State Supreme Court Backs Carrillo in Duval Decisions," Ex. B, April 1, 1975, CORPUS CHRISTI CALLER; Spencer Pearson, "Carrillo Hearing . . . One Week Later," May 25, 1975, CORPUS CHRISTI CALLER, Ex. C.
3. See "Duval Busy with Court Actions," Joe Coudert, CORPUS CHRISTI CALLER, May 16, 1975, Ex. D.
4. See Ex. E, telegram, L. DeWitt Hale, Chairman, House Select Committee on Impeachment.
5. See Ex. C, Joe Coudert, "Benavides Board Confirmed; Ex. F, "Parr Removal Recessed," and "Carrillo Planning to Attend Hearing," CORPUS CHRISTI CALLER, May 20, 1975.

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the Parr school were sustained by Hon. Judge Wesley Dice, retired Judge of the State Court of Criminal Appeals, by his denying injunctive relief at the request of Parr against Tobin, Jr., Carrillo's appointee to the Courty Judge's post after removal of Parr by Carrillo.⁶

Respondent Carrillo, through his attorney, has subpoenaed the District Attorney, 229th District; Attorney General's office, and related law enforcement agencies to establish factually the matters contained in #3 to establish without cavil, Judge Carrillo's active part in that post-Parr clean up--all designed to establish that there is no official delinquency or maladministration or wrongful conduct on the part of Respondent Carrillo of such a character as to indicate unfitness for the office of Judge, 229th Judicial District.⁷

4) Existence of viable investigative Federal Task Force-- several years ago, William Sessions, U. S. Attorney, Western District of Texas⁸ was spurred into Duval County action by information gathered by the IRS; the resulting flurry saw the late George Parr found guilty of income tax evasion and former Duval County Judge Archer Parr found guilty of perjury--plus ancillary indictments and convictions. This Federal Task Force continues its investigative work, in coordination with the Texas Task Force outlined in paragraph #3 above.

-
6. Joe Coudert, "Parr Fails to Get Restraining Orders," CORPUS CHRISTI CALLER, April 17, 1975.
 7. See subpoenas filed by attorney for Respondent Carrillo, May 23, 1975.
 8. William Sessions has since been appointed U. S. District Judge, Western District, and his then first assistant, John Clark, a lifelong Republican, has been appointed new U. S. Attorney for the Western District of Texas.

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5) Removal of District Judges by Address of 2/3rds of each House of Legislature--§8, Art. 15, Texas Constitution permits removal of district judges by the Governor on the address of two-thirds of each House of Legislature.⁹

6) Removal of district judges by the Supreme Court--still another relevant, viable alternative to the drastic once-in-a-lifetime impeachment procedures pending, is that provided by Article 15, §6, Texas Constitution. Under this provision of the Texas Constitution, any judge of the district court who is incompetent, etc., may be tried before a detailed procedure outlined in the relevant section of the Constitution by the Supreme Court.¹⁰

Removal under Art. 15, §6 has many advantages over removal by impeachment:

"The Supreme Court is able to dispose of disciplinary matters expeditiously. It is fitted by training and experience to conduct judicial proceedings. It is closely associated with the problems of administering justice, and is confronted daily by problems of judicial ethics which gives it the proper appreciation of the conduct of any judge accused of malfeasance in office, as well as a sound estimate of those qualities which would be involved in a compulsory retirement on account of age or health. Cases of retirement and removal necessarily involve discretion. They cannot be settled by stiff and arbitrary rules. No one is so well qualified by training and experience to exercise discretion fairly as a court consisting of supreme court judges. By impeachment, an incumbent is tried almost entirely of men untrained in judicial matters, and the decision is often based on partisan or emotional determinations. Thus, a judicial removal proceeding is the only form which is entirely consistent with security of judicial tenure. [Emphasis added.]

9. Article 5964, V.A.C.S.

10. The Supreme Court shall have original jurisdiction to hear and determine the causes aforesaid when presented in writing upon the oaths taken before some judge of a court of record of not less than ten lawyers, practicing in the courts held by such judge, and licensed to practice in the Supreme Court; said presentment to be founded either upon the knowledge of the persons making it or upon the written oaths as to the facts of creditable witnesses. The Supreme Court may issue all needful process and prescribe all needful rules to give effect to this section. Causes of this kind shall have precedence and be tried as soon as practicable.

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7) Impeachment decision based on partisan or emotional determinations--as noted in the commentary quoted at length in connection with paragraph 7, 3 Vernon's Annotated Constitution, p. 52, impeachment decisions quite frequently are based on partisan or emotional determinations, to the end that the public good is not served, but to the contrary, there is set into motion emotional distrust of the decisions to impeach, creating more evil which in turn begets more evil.

So too, this Committee must note during the present hearing certain hard facts, which generate political ramifications. A split developed between the Parr and the Carrillo factions in Duval County; there were many causes for this rift, not the least of which was the fact that one of the Carrillo brothers and the Carrillo father were Government witnesses in the main Parr trials and related trials. Suffice to state, alignment with the Parr faction and the Carrillo faction (and splinter factions, such as the Guerra faction of Starr County) commenced, to the end that polarization of the factions occurred for the ensuing fight.¹¹ Many attorneys were plunged into affray, Marvin Foster, M. K. Bercaw, Charles Orr, and yes, attorney and Representative Terry Canales, author of H.S.R. No. 161.

It is the same Hon. Terry Canales who appeared for George B. Parr in Cause No. 8806 (being an action by the State of Texas to disbar George Parr because of his Federal felony conviction) and sought and secured (before Judge O. P. Carrillo's 229th District Court) a legislative continuance to delay the disbarment.¹²

11. See Bill Graham, "Archer Parr Fights for Dukedom," SAN ANTONIO EXPRESS, April 20, 1975.

12. See Ex. G.

00043

It is the same Hon. Terry Canales who appeared for Archer Parr in Cause No. 8807 (being an action by the State of Texas to disbar Archer Parr, because of his Federal felony conviction) and sought and secured (before Judge O. P. Carrillo's 229th District Court) a legislative continuance to delay the disbarment proceedings.¹³

It is the same Hon. Terry Canales who, after the District Attorney, Duval County, Texas, filed information for leave to file petition in removal of Archer Parr and various members of the Benavides School Board, drafted for filing in the House and Senate, a bill to abolish the office of District Attorney, 229th District, upon whose relation the informations for leave to file petitions for removal were filed.¹⁴

While Hon. Terry Canales denies any significance can be attached to his active participation in the past and post-impeachment period, the attorney for Respondent would in discharge of his sworn duty to his client, have to question him in detail on these and related, relevant matters--all of which must be stated to this Committee, searching, as it is, for the truth, but all of which is designed to generate emotions and charges and counter-charges.¹⁵

13. See Ex. H.

14. See Exh. I, for copy of bill; also, Respondent intends to interrogate the District Attorney, Duval County, Texas, and Hon. Terry Canales concerning this entire proceeding here--more emotionalism, that would be lead to erosion of the people in the offices held by the participants.

15. Just as the well-known fact that the House did nothing when its prior Speaker, Hon. Gus Mutscher, was indicted during session; and just as the House does nothing to one of its present members who stands indicted. Respondent's attorney states that this is as it should be, that is, that an indictment should not be the basis for an impeachment, as set out in H.S.R. 161, for the valuable presumption of innocence given to each citizen would be emasculated to think to the contrary. Unfortunately, the general public, beset by ungodly telephone rates, low school teacher's salaries, unregulated utilities, terrible gasoline prices (in face of plenty), will not draw this fine lawyer-like conclusion, thus more discord, more erosion of confidence in a fine legislature which has accomplished much, more destruction of the image of our governing body, etc.

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III. DEFENSIVE POSTURE OF RESPONDENT (IF ALLOWED TO CALL WITNESSES AND/OR IF ALLOWED THE RIGHT TO CROSS EXAMINATION AND/OR IF ALLOWED TO INTRODUCE DOCUMENTARY EVIDENCE)

A. Documentary Evidence desired to be introduced and to be considered by the Committee;

1. Copies of the Tax Returns of Hector Zertuche, 1965, 1966, with emphasis on Schedule C, Profit (or Loss) from Business or Profession, establishing sole proprietorship as to Zertuche General Store; negates sham;
2. Copies of the Tax Returns of Arturo R. Zertuche, 1968, 1969, 1970, with emphasis on Schedule C, Profit (or Loss) from Business or Profession, establishing sole proprietorship as to Zertuche General Store; negates sham;
3. Photographs of Zertuche General Store, 1966, showing partial destruction by hurricane;
4. Carrillo personal check #616, September 3, 1973, payable to Ronnie E. Guerra, Custom Broker, in payment for cement which went into Carrillo's ranch building;
5. Checks Nos. 609, 623, 421, 1393, 1400, 166, 112, payable to Patricio Garza on O. P. Carrillo's personal bank account, payment work done;
6. Copy of customer order for Replacement of Cadillac, by O. P. Carrillo, dated 11/10/70;
7. Certified copy of docket sheet in Duval County Ranch Co., Inc. v. The Speedman Oil Company, et al, showing that on 9/24/73, Judge Carrillo secluded and excused himself from the case, with docket entry, to effect that "Judge to seclude itself, and request Judge Alamia to name another judge to hear this case." (Cause #8591, 229th District Court).
8. Certified copy of docket sheet in Duval County Ranch Co. (represented by M. K. Bercaw, Jr.) v. J. W. Bumgardner, showing that as of 9/13/73 (approximately 37 days after suit filed) Judge Carrillo made following docket entry: "Judge O. P. Carrillo will seclude himself and not sit and will notify Administrative Judge J. R. Alamia . . ."

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9. Statement of Executive Vice President of Duval County Ranch Company to the effect that upon examination of books of the corporation for the years 1972-1975, Manuel Amaya, Jr. was not an employee of Duval County Ranch Company, and received no payments for work done for the corporation or Clinton Manges and no request for payments were made by Mr. Amaya, Jr. to the corporation or Clinton Manges.

10. Statement of Manuel Amaya, Jr. that he has never received any money or anything else of value from Duval County Ranch Company or Clinton Manges.

11. Copies of checks from November 15, 1972, through February 29, 1974 to M. K. Bercaw, Jr., representing retainer of \$600.00 a month by Duval County Ranch Company and accompanying statement to effect that of his duties as attorney for Duval County Ranch Co. was to negotiate settlement of tax liability of Company and Benavides Independent School District. Statement to effect that because of his efforts, taxes on both Duval County and Benavides Independent School District were reduced and paid.

12. Minutes of Commissioners Court for February 14, 1975 and tax receipts dated February 12, 1975, issued by Benavides Independent School District, as evidence of tax payment for 1973 and 1974 by Duval County Ranch Company--no outstanding tax liability exists except current year.

13. Check in amount of \$62,539.43 to Duval County Tax Collector by Duval County Ranch Company, for balance of taxes due for years 1972, 1973, 1974.

14. Check No. 2428, dated February 11, 1975, in amount of \$34,724.26, from Duval County Ranch Company to Tax Collector, and Tax Receipts Nos. 2889, 2890, and 516 for payment 1973 taxes and tax receipts Nos. 800, 801, and 3767, evidencing payment for year 1974.

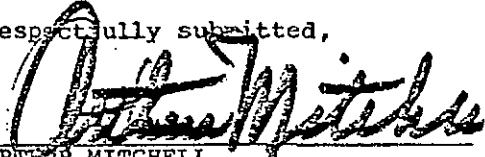
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15. Check No. 10012, Benavides Independent School District, dated August 23, 1974, to Marvin Foster, \$35,000.
16. Check No. 10013, Benavides Independent School District, dated August 23, 1974, to Charles E. Orr, \$25,000.
17. Undated letter Statement from Marvin Foster to Board of Trustees for \$60,000, bill "submitted as statement for services rendered and to be rendered relative to investigation by the IRS and Grand Jury of the District and the School Board . . ."
18. Copy of Texas Standard Policy covering period of March 18, 1964 to March 18, 1969, covering one-story building, housing Zertuche General Store.
19. Letter of Judge J. R. Alamia (and Court's order) acknowledging fact that O. P. Carrillo disqualified himself to serve in Cause No. 3953, Clinton Magnes v. M. A. Guerra, et al, and appointing new judge to try cause.
20. Personal tax returns of O. P. Carrillo, with emphasis on depreciation schedule showing equipment inventory of Carrillo and gross income (with showing that no income came from operation of Zertuche General, this income being captured and reported on Schedule C, Zertuches' returns mentioned above).
21. Checks of O. P. Carrillo personally to Pilon, for payment hauling water.
22. Copy of attorney fee contract between Archer Parr and Terry Canales (if one exists), reflecting terms and conditions of employment preceding motion for legislative continuance to date, services to be performed, payment made and promised to be made.
23. Copy of applicable local and Federal rules establishing correct administration of food program in Duval County, and evidence to effect that same is thus being administered.

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WHEREFORE, PREMISES CONSIDERED, Respondent respectfully prays that this Committee refuse to recommend, for the reasons set out herein, bill of impeachment; in addition Respondent prays that he be allowed the right to further supplement and/or amend his answer, as the testimony unfolds, he not having any notice of what testimony is to be solicited from whom--this answer being based upon the uncross-examined testimony as it ceased to flow 23 May, 1975, and upon no documentary evidence introduced, for he has not been honored with copies of the documents made part of the record.

Respectfully submitted,



ARTHUR MITCHELL
315 Westgate Building
Austin, Texas 78701
ATTORNEY FOR RESPONDENT
HONORABLE O. P. CARRILLO

Corpus Christi Caller

CORPUS CHRISTI, TEXAS, SATURDAY, MAY 24, 1975

Want Ads 861-1421
Other Depts. 864-2011

18 Pages

00048

Duval grand jury to get more evidence, Texas Ranger say

Corpus Christi May 24, 1975

Comment follows indictment of former tax collector

SAN DIEGO — The Duval County Grand Jury will get more evidence next week on its investigation of the county's political subdivisions, the Texas Ranger who led the investigation said yesterday.

The comment from Ranger Capt. John Wood came after Rodolfo Couling, former tax collector and business manager of the Benavides school district, surrendered to the Duval County Sheriff.

Couling, 54, was indicted Thursday on four counts of official misconduct and one count of theft. Accompanied by attorney Marvin Foster of San Diego, he surrendered early yesterday to Sheriff Raul Serna and was freed after posting a \$5,000 bond on each of the five indictments.

The indictments were the results of a three-month special investigation by the grand jury, district attorney's office and state law enforcement officers.

The investigation of political subdivisions within the county has included extensive inspections of records from the Duval County Conservation and Reclamation

District, the Benavides school district and the county.

Officials have reported that in addition to criminal charges they expect to file civil suits against a number of persons for the recovery of equipment and services of public agency employes.

Each of the five counts against Couling is a third-degree felony with a minimum sentence of two years and a maximum of 10 years in state prison. Each indictment also carries a maximum \$5,000 fine.

Three of the indictments involved use of gasoline credit cards for personal use. One indictment alleged Couling converted a school district check of \$989.79 for his own use. The fifth indictment claims theft by "exercising control of more than \$200" to deprive the Benavides Independent School District of its monies.

The grand jury was empaneled Feb. 10 and began the investigation shortly afterward.

Although much of the investigation focused on public agencies and employes, there also have been inquiries into the activities of a number of persons who currently

do not hold elected office and are not employed by a public agency.

In March, Texas Atty. Gen. John Hill provided a team of investigators to assist Dist. Atty. Arnulfo Guerra and the grand jury.

The investigators included members of the attorney general's staff, Texas Rangers, members of the Department of Public Safety's Intelligence Division and a private auditing firm.

The task force established offices in the new county law library in the courthouse annex.

The indictments were returned to Dist. Judge C. Woodrow Laughlin of Premont. He had been assigned to meet with the grand jury by Dist. Judge J. R. Alamia of Edinburg, administrative judge for the Fifth Administrative District.

Dist. Judge O. P. Carrillo, who usually presides in the 229th District Court here, was in Austin this week at legislative committee hearings on his proposed impeachment.



RODOLFO COULING DURING QUESTIONING
(Photo by George Ger)

00049

a pistol at three individuals and threats issued to them by Parr," the motion said.

community in which he lives" Parr should appear to explain why he should not be

1:30 p.m." Corpus Christi lawyer Douglas See Parr's Arrest, Page 14A

State Supreme Court backs Carrillo in Duval decisions

By BILL KIDD

Caller-Times Austin Bureau

AUSTIN — Three decisions by Dist. Judge Oscar Carrillo involving Duval County officials, including Archer Parr, were allowed to stand by the Texas Supreme Court Monday.

The court overruled requests to file for various writs by Parr, four members of the Benavides Independent School District board removed by Carrillo and Duval County Clerk Alberto Garcia.

Parr, through Corpus Christi attorney Oscar Spitz, had sought permission to file for writs of mandamus, prohibition and injunction against Carrillo, to overturn Carrillo's decision removing Parr as county judge and to prevent further action against Parr.

The pleadings filed by Spitz contended that the statute allowing removal of a county judge speaks only to convictions in state courts, whereas Parr's conviction by a federal petit jury for income tax evasion was used as the reason by Carrillo.

The pleadings also contend that there was nothing to support allegations raised in a receivership suit that Parr had received services from Duval County employees and that he had received illegal funds.

Also cited were contentions that Parr

ff 'class'

had not been afforded a hearing as required under the removal statute, that the bond written by Parr's successor, Daniel Tobin Jr., was not written correctly and would not reimburse Parr should his removal be overturned and that Judge Carrillo had lost jurisdiction in the case because county attorney Ricardo H. Garcia had asked for dismissal of the action at a hearing on an injunction

against Parr called by Carrillo on March 27.

The pleadings contended that Carrillo has asked Garcia to act as the state's attorney, and that Garcia's motion to dismiss the suit could not be overruled by Carrillo.

The Supreme Court did not comment on

See Carrillo, page 14A

Sheriff Raul Serna moved Benavides with no results. Several

Carrillo - -

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the contentions in overruling the request to file for writs.

Nor did the court comment in overruling a request from M. K. Bercaw Jr., Enrique Garcia, Joe Garcia and Luis Elizondo for permission to file for a writ of prohibition against their removal by Carrillo as members of the board of the Benavides Independent School District.

The third request overruled by the court Monday was that of County Clerk Alberto Garcia, who sought a writ of mandamus to set aside a verbal order by Carrillo that Garcia accept and file a bond by Tobin to guarantee Tobin's fulfillment of the office of county judge.

Garcia contended that the statute requiring such a performance bond requires that the amount be set by the commissioners court, and that the commissioners court had not met to set the amount, so that the filing of the bond would be an illegal act.

Monday afternoon the office of the clerk of the Supreme Court had no indication as to whether rehearings would be requested on any of the denied petitions.

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WITNESS

Special Year—No. 15 CHRISTIANITY IN CHRISTIAN TEXAS SUNDAY, MAY 24, 1975



one week later

JUDGE O. P. CARRILLO LISTENS TO TESTIMONY

Benavides board confirmed

SAN DIEGO — A 19-member board to investigate the activities of Judge O. P. Carrillo was confirmed by the state legislature today.

Carrillo hearings

Testimony to resume Tuesday

By STEVEN HENNING
SALT LAKE CITY

AUSTIN — The hearing on a proposed impeachment of Judge O. P. Carrillo of Benavides will resume Tuesday night and is expected to continue past the June 23 adjournment. One for the chair of the House Select Committee on Impeachment which is conducting the hearing, State Rep. L. Dewitt Hale, of Corpus Christi, said he expects the committee can finish its job before the legislature adjourns.

State Rep. Terry Canales of Pecos, who introduced the resolution to impeach Carrillo, still has a prospect to present, the committee chair said.

Supposedly additional witnesses, he Carrillo's attorney said, were called to the stand for the first time to subpoena about 90 witnesses for the defense.

Carrillo's resolution asking for impeachment charges gave only the reason that Carrillo has been impeached for the fact that he had multiple counts of impeachment charges against him. Carrillo was impeached when the House voted 113-10 May 15, 1974.

Testimony so far has taken the witnesses well past the technical activities of Carrillo and deep into the political rift between the Carrillo and Benavides families who had been allies in local politics for decades.

Navy uses subs to spy inside 3-mile limits

By STEVEN HENNING
SALT LAKE CITY

WASHINGTON — For nearly 13 years, the Navy has been using its fleet of electronic submarines to spy across the continental shelf of the Soviet Union and other areas of the world.

The spy, classified electronic submarines, they say, have been used by the Navy to spy on Soviet submarines and other vessels in the North Atlantic and other areas.

It is not known how many electronic submarines have been used in the North Atlantic, but at least 10 in the early 1960s.

Soviets launch manned spacecraft

MOSCOW (AP) — The Soviet Union today launched a manned spacecraft, the first since the launch of the first manned spacecraft in 1968.

The Soviet Union today launched its first manned spacecraft since the launch of the first manned spacecraft in 1968.

benefits, at least four such ships were known to be in operation.

Centers of the program, who include past and present members of the National Security Council, State Department, Navy and Central Intelligence Agency, argue that even if the ships are used for intelligence gathering, they are not used for propaganda and are not subject to Soviet interception.

The critics also question whether such long-range operations have any place in the current times, where of course the United States has a technological lead.

Many of the critics also argued that the operation in the type of forcing changes in how the Navy is operated and used by the government.

All the sources agreed that the 26-ft. Union was active at the Pentagon and other government agencies, and that the responsibility of who and where the ships were operated.

Washington's operations in the electronic warfare field have been the subject of a report by the Senate Intelligence Committee in 1974.

The report, which was released in 1974, said that the Navy has been using its fleet of electronic submarines to spy across the continental shelf of the Soviet Union and other areas of the world.

San Diego — A 19-member board to investigate the activities of Judge O. P. Carrillo was confirmed by the state legislature today.

MOSCOW (AP) — The Soviet Union today launched a manned spacecraft, the first since the launch of the first manned spacecraft in 1968.

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00051 CORPUS CHRISTI CALLER, Fri., May 16, 1975

Duval busy with court action

19 witnesses subpoenaed for trial on Parr ouster

By JOE COUDERT
Staff Writer

SAN DIEGO—Nineteen persons have been subpoenaed for the jury trial Monday on the ouster of suspended Duval County Judge Archer Parr in Rio Grande City.

Parr, charged with six counts of misconduct, was suspended as county judge March 24, and Dan Tobin Jr., former commissioner of Precinct 1, was named acting county judge.

Twelve of the subpoenas were issued duces tecum, which means the person is ordered to appear in court with records, notes, files or other papers listed in the subpoena.

The remaining seven subpoenas require only the presence of the person to whom they were issued.

Subpoenaed, duces tecum were Alberto Garcia, Duval County clerk; Walter Meek, county auditor; Fidel Cuellar, operator of the Cuellar Lumber and Hardware Co. of San Diego; George Bundrett, an executive of Coastal States Gas Producing Co.; Ricardo Garcia, county attorney; B. O. Goldthorn, president of the First State Bank of San Diego; Jerry Parmer, a former court reporter; William F. Ross, Corpus Christi, and executive of Central Power and Light Co.; John G. Read, a representative of the state comptroller's office; Harris Fender, a major stockholder in the First State Bank of San Diego; and Parr.

Regular subpoenas were issued to Juan Leal and Felipe Valerio, Duval County Commissioners; Manuel Solis, county treasurer; Rene Martinez, former ranch foreman for Parr; Daniel Casarez; Ramiro Arredondo and Anita Arredondo.

The ouster petition was filed by Dist. Atty. Arnulfo Guerra "on the relation of Jose R. Nichols," the current grand jury foreman.

The first amended petition filed by Guerra last week cites six alleged cases of misconduct by Parr.

The petition alleges:

• Parr never answered charges of receiving \$460,000 of a legal fund.

• That, as county judge, Parr failed to prepare a county budget, hold public hearings on the budget, and authorized expenditures not included in budgets.

• Was convicted in federal court of perjury.

• That Parr, a member of the county board of equalization, "accepted employment for remuneration" as an attorney for various taxpayers, including Coastal States Gas Producing Co. and Central Power and Light Co.

• That from 1970 to the date of filing, Parr illegally obtained "for his own personal use and benefit" the services of county-employed and county-paid personnel and the use of personnel and the use of county equipment.

• That from 1968 to date of filing Parr had an interest in the ownership of the First State Bank of San Diego, which was the county's depository bank.

The trial was moved from the 229th District Court here to Rio Grande City on a change of venue motion by Guerra. The 229th Judicial District includes Duval, Jim Hogg and Starr Counties.



ARCHER PARR

Parr asks estate he be moved to Duval

By NICK JIMENEZ
Staff Writer

Archer Parr, the ousted judge of Di yesterday indicated he wants to fight a case of his late wife in Duval County Christi.

A hearing on a temporary injunction brought against Parr and the First State Bank of San Diego was held briefly yesterday in Judge Margarito Garza's County Court at Law.

But the hearing had to be reset for 9 a.m. June 2 after Parr and the bank's legal representative John Adami filed a flurry of motions, the most prominent of which were two asking that the dispute be moved to Duval County.

Mrs. Bonnie White, administratrix of Jody Martin Parr's estate, filed the injunction claiming Parr sold 800 head of cattle which were part of her sister's estate and that the estate should share in the \$97,000 in proceeds.

Parr claims the cattle belonged to his late uncle, George B. Parr, and that the money was applied to a \$150,000 note owed to the First State Bank of San Diego.

Jody Martin Parr and the former county judge were in the midst of a complex and bitter divorce battle when she was found dead in her Corpus Christi townhouse in June, 1974. Her death was ruled a suicide.

Pope objected to Parr representing himself in the dispute since he had been represented by Corpus Christi attorney Oscar Spitz. But Parr was allowed to remain as his own attorney.

Both the bank and Parr filed motions contesting the jurisdiction of Garza in the matter, arguing that both bank and judge are residents of Duval County.

Measures to affect court here

Editor Austin Burnett

AUSTIN — The House Judicial Affairs Committee has recommended passage of two bills dealing with the 13th Court of Civil Appeals based in Corpus Christi.

The recommended passage of SB 511 by Sen. Raul Longoria of Edinburg would let the appeals court hold sessions in the county seats of other counties located within the district.

Rep. L. DeWitt Hale of Corpus Christi, the House sponsor of the measure said they plan to hold court sessions in Harlingen and Brownsville to hear cases that originate in the Lower Rio Grande Valley. He said they don't plan "to ride the circuit."

The committee also endorsed Hale's HB 873 to let Nueces County microfilm the records of the appeals court.

Corpus Christi roundup

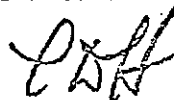
Edwin E

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Telegram

Honorable O. P. Carrillo
District Judge
County Courthouse
San Diego, Texas 78384

The House Select Committee on Impeachment will meet in the State Capitol at 8:00 p.m. on Tuesday, May 20 to consider H.S.R. No. 161 by Canales, seeking your impeachment from the office of District Judge. Daily meetings thereafter are contemplated until the inquiry is completed. You are invited to be present in person or by attorney; however, cross-examination of witnesses will not be permitted, since this is only an investigation and not a prosecution. [Any evidence you are to present bearing on the inquiry will be welcome.] The principal function of this committee is to develop facts and your assistance in this endeavor will be appreciated.



L. DeWitt Hale
Chairman

May 19, 1975

Parr removal trial recessed

Only 3 of 19 witnesses show up *Coppar Christi* *Callor* *Tues* *May 20, 75*

Removal bid

Carrillo planning to attend hearing

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RIO GRANDE CITY (AP) — District Court Judge C.P. Carrillo granted a recess Monday in the removal trial of suspended Duval County Judge Archer Parr when most of the witnesses declined to honor subpoenas.

Parr, a nephew of the late "Duke of Duval," George B. Parr, was suspended from office March 24 on an order by Carrillo after Dist. Atty. Arnulfo Guerra filed a suit against Parr alleging, among other things, that Parr had been convicted of a felony crime. The suit was later amended to include four allegations of official misconduct.

Carrillo granted the recess until June 9 when only three of 19 witnesses subpoenaed for the trial appeared. The others apparently used a seldom-used Texas law that says a person need not travel more than 100 miles from home to answer a subpoena in a civil suit.

The judge said he wondered if any attorney had advised the witnesses of the law since most people are not aware of that particular provision. Defense lawyers Marvin Foster and Nago Alaniz said they had not advised any witnesses.

Carrillo gave lawyers for both sides until June 9 to obtain depositions from the witnesses. Guerra indicated he would start to obtain the depositions soon.

The three witnesses who appeared for the trial were Duval Commissioner Juan Leal, County Atty. Ricardo Garcia

and a representative of the Duval auditor's office.

The trial was moved here from San Diego on a change of venue agreed to by both sides.

Carrillo said he feels it is "strange" that Parr would do anything to delay the proceedings since Parr went to the Texas Court of Civil Appeals to obtain a writ of mandamus, forcing Carrillo to start the trial no later than May 19.

Arguments on a defense motion to dismiss the suit were de-

layed because Guerra said he would need to call Parr as a witness for the court hearing on the motion to drop the suit.

Carrillo ordered the three witnesses who did appear Monday to again appear June 9 to testify. The sworn testimony given in the depositions will be read at that time, Guerra said.

Guerra claims Parr should be permanently removed from office because of a federal felony perjury conviction at San Antonio and because testimony in a divorce case indicated Parr received illegal

payments from Duval County.

He also alleges Parr failed to draw up a budget for the county, was involved in conflict of interest by serving on the Duval County Board of Equalization while serving as a private lawyer for property owners, obtained the use of county employes and county equipment for his personal use and that Parr was involved in conflict of interest through ownership of stock in the First State Bank of San Diego, the county's official depository for funds.

SAN DIEGO — Official notification of Tuesday night's hearing on a resolution seeking the removal of Dist. Judge O. P. Carrillo from office had not been received by Carrillo Monday night.

However, Judge Carrillo told the Caller Tuesday night "I certainly plan to be in Austin for the committee hearing and want to make myself available to the Legislature."

Rep. L. Dewitt Hale, chairman of a special House committee holding the hearing, notified Carrillo by telegram of the meetings and invited him to attend any of them.

The judge said he had not received formal notification of the meetings but understood from his attorney Arthur Mitchell that the telegram notifying him (Carrillo) had been sent by the committee.

Carrillo pointed out that there was no Western Union service in San Diego, where his office is located, or in Benavides, where he resides.

He said he did not know what the committee procedures were but would make himself available for questioning.

Hale told Carrillo in the telegram that "cross-examination of witnesses will not be permitted, since this is only an investigation and not a prosecution. Any evidence you care to present bearing on the inquiry will be welcome."

The resolution, if approved by the House, would direct Speaker Bill Clayton to name a five-member board of managers to investigate Carrillo's conduct and, if warranted, prepare articles of impeachment for consideration by the House.

It was introduced by Rep. Terry Canales, D-Premont, who was a pallbearer at the funeral of George Parr, and has served as attorney for Parr's nephew, Duval County Judge Archer Parr, whom Carrillo has tried to remove from office.

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NO. 8806

THE STATE OF TEXAS X IN THE 229TH JUDICIAL
VS. X DISTRICT COURT OF
GEORGE B. PARR X. DUVAL COUNTY, TEXAS

DEFENDANT'S MOTION FOR CONTINUANCE

TO THE HONORABLE O. P. CARRILLO, JUDGE OF SAID COURT:

COMES NOW GEORGE B. PARR, Defendant in the above entitled and numbered cause now pending in the above named Court and respectfully requests and demands this Honorable Court to continue said cause, which is presently set for trial for December 16th, 1974.

I.

This Defendant is represented by the Honorable TERRY CANALES who is one of his Attorneys, and that the said TERRY CANALES, is an Attorney at Law licensed by the Supreme Court of Texas and qualified in every way to represent the Defendant before this Honorable Court.

II.

That the said TERRY CANALES, is a duly elected and qualified member of the 64th Legislature of the State of Texas, and is a

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member of the House of Representatives of this State.

III.

That the regular session of the 64th Legislature of the State of Texas will convene on the 14th day of JANUARY, A. D. 1975, that the presence of the said Attorney, TERRY CANALES, is necessary to a fair and proper trial of the above entitled and numbered cause in that it is his intention to participate actively in the preparation and/or presentation of said case.

IV.

That the said TERRY CANALES, respectfully requests and demands that the trial of this cause be continued and postponed to a time and day which is at leasty thirty (30) days from the time of the adjournment of the regular session of the Legislature of the State of Texas.

V.

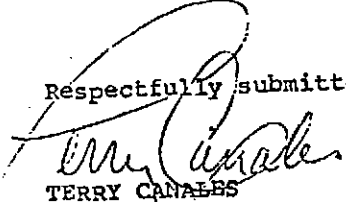
That this request and demand for postponement is made in conformity with and pursuant to Article 2168a of the Vernon's Annotated Civil Statutes of the State of Texas and that neither the defendant or defendant's said attorney, TERRY CANALES, desire to, or waive, any right to a continuance under the cited statute.

WHEREFORE, PREMISES CONSIDERED, Defendant or defendant's Attorney, TERRY CANALES, respectfully move and apply for a continuance of the above entitled and numbered cause in all things particularly, but not limited to, the trial of the said cause

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upon the merits until a time at leasty thirty (30) days after
the adjournment of the 64th Legislature of the State of Texas.

Respectfully submitted,



TERRY CANALES
Attorney at Law
Canales & Barrera
Post Office Box 1308
69 South Wright
ALICE, TEXAS 78332

Attorney for Defendant
GEORGE B. PARR

00057

NO. 8806

THE STATE OF TEXAS X IN THE 229TH JUDICIAL
VS. X DISTRICT COURT OF
GEORGE B. PARR X DUVAL COUNTY, TEXAS

Now Comes, TERRY CANALES, Attorney for the Defendant in the above entitled and numbered cause and in support of the application and motion for continuance filed herein and herewith by the said Defendant, and, being duly sworn says:

My name is TERRY CANALES, I am over twenty one (21) years of age and of sound mind and qualified in every respect to make the following affidavit. I am a member of the State Bar of Texas and licensed by the Supreme Court of this State to act as an Attorney at Law.

I am an Attorney for the Defendant in the cause styled The State of Texas vs. George B. Parr, having been employed on the 11th day of November, A. D. 1974, and notice thereof filed with the Clerk of this Court, now pending in the 229th Judicial District Court of Duval County, Texas. That said cause has been set for trial on the 16th day of DECEMBER, A. D. 1974.

The regular session of the Legislature of the State of Texas will begin in Austin, Texas, on the 14th day of JANUARY, A. D. 1975. That all dates relative to this cause for settings mentioned in the paragraph immediately next preceding are either within thirty (30) days prior to or during the regular session

00058

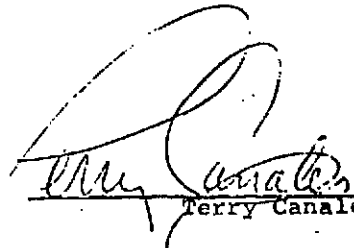
of the Texas Legislature.

That I will be in actual and personal attendance at said session and I am a duly elected and qualified representative and as such a member of such Legislature.

That my presence is necessary to a fair and proper trial of the above entitled and numbered cause in that it is my intention to participate actively in the preparation and/or presentation of said case.


Under the provisions of Article 2168a of Vernon's Annotated Civil Statutes of the State of Texas I hereby demand that said cause be postponed until a time at least thirty (30) days after said regular session of the 64th Legislature has adjourned.

Witness my hand this the 12th day of DECEMBER, A. D. 1974.


Terry Canales

THE STATE OF TEXAS X
COUNTY OF JIM WELLS X

Subscribed and sworn to before me, by the said TERRY CANALES on this the 12th day of DECEMBER, A. D. 1974, to certify which witness my hand and seal of office.


Notary Public in and for Jim Wells
County, T E X A S.

00059

No. 8806 The State Of Texas Vs George B. Parr In The 229th. Judicial District Court Of Duval County, Texas Defendant's Motion For Continuance Filed at 1:30 o'clock P. M. Dec. 13th-74 A. Salinas Clerk District Court Duval County, Texas By H. G. Gonzalez, Deputy.

THE STATE OF TEXAS
COUNTY OF DUVAL

I, A. SALINAS, Clerk of the District Court of Duval County, Texas,

do hereby certify that the foregoing is a true and correct copy of the original Defendant's Motion For Continuance

IN RE The State Of Texas Vs George B. Parr

8806

Cause No.

as the same appears on file _____ in my office in Book _____ Page _____

GIVEN UNDER MY HAND, and the seal of said Court, at office in San Diego, Texas, this 19th. day
of May, 1975

A. SALINAS, District Clerk
229th Judicial District
Duval County, Texas

By H. G. Gonzalez Deputy
H. G. Gonzalez

00060

NO. 8807

THE STATE OF TEXAS X IN THE 229TH JUDICIAL
VS. X DISTRICT COURT OF
ARCHER PARR X DUVAL COUNTY, TEXAS

DEFENDANT'S MOTION FOR CONTINUANCE

TO THE HONORABLE O. P. CARRILLO, JUDGE OF SAID COURT:

COMES NOW ARCHER PARR, Defendant in the above entitled and numbered cause now pending in the above named Court and respectfully requests and demands this Honorable Court to continue said cause, which is presently set for trial for December 16th, 1974.

I.

This Defendant is represented by the Honorable TERRY CANALES who is one of his Attorneys, and that the said TERRY CANALES, is an Attorney at Law licensed by the Supreme Court of Texas and qualified in every way to represent the Defendant before this Honorable Court.

II.

That the said TERRY CANALES, is a duly elected and qualified member of the 64th Legislature of the State of Texas, and is a

EX. H.

00061

member of the House of Representatives of this State.

III.

That the regular session of the 64th Legislature of the State of Texas will convene on the 14th day of JANUARY, A. D. 1975, that the presence of the said Attorney, TERRY CANALES, is necessary to a fair and proper trial of the above entitled and numbered cause in that it is his intention to participate actively in the preparation and/or presentation of said case..

IV.

That the said TERRY CANALES, respectfully requests and demands that the trial of this cause be continued and postponed to a time and day which is at least thirty (30) days from the time of the adjournment of the regular session of the Legislature of the State of Texas.

V.

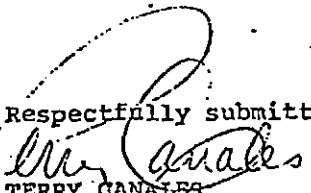
That this request and demand for postponement is made in conformity with and pursuant to Article 2168a of the Vernon's Annotated Civil Statutes of the State of Texas and that neither the defendant or defendant's said attorney, TERRY CANALES, desire to, or waive, any right to a continuance under the cited statute.

WHEREFORE, PREMISES CONSIDERED, Defendant or defendant's Attorney, TERRY CANALES, respectfully move and apply for a continuance of the above entitled and numbered cause in all things

00062

particularly, but not limited to, the trial of the said cause,
upon the merits until a time at leasty thirty (30) days after
the adjornment of the 64th Legislature of the State of Texas.

Respectfully submitted,


TERRY CANALES
Attorney at Law
Canales & Barrera
Post Office Box 1308
69 South Wright
ALICE, TEXAS 78332

Attorney for Defendant
ARCHER PARR.

00063

NO. 8807

THE STATE OF TEXAS X IN THE 229TH JUDICIAL
VS. X DISTRICT COURT OF
ARCHER PARR X DUVAL COUNTY, TEXAS

Now Comes, TERRY CANALES, Attorney for the Defendant in the above entitled and numbered cause and in support of the application and motion for continuance filed herein and herewith by the said Defendant, and, being duly sworn says:

My name is TERRY CANALES, I am over twenty one (21) years of age and of sound mind and qualified in every respect to make the following affidavit. I am a member of the State Bar of Texas and licensed by the Supreme Court of this State to act as an Attorney at Law.

I am an Attorney for the Defendant in the cause styled The State of Texas vs. Archer Parr, having been employed on the 11th day of NOVEMBER, A. D. 1974, and notice thereof filed with the Clerk of this Court, now pending in the 229th Judicial District Court of Duval County, Texas. That said cause has been set for trial on the 16th day of DECEMBER, A. D. 1974.

The regular session of the Legislature of the State of Texas will begin in Austin, Texas, on the 14th day of JANUARY, A. D. 1975. That all dates relative to this cause for settings mentioned in the paragraph immediately next preceding are either within thirty (30) days prior to or during the regular

00064

session of the Texas Legislature.

That I will be in actual and personal attendance at said session and I am a duly elected and qualified representative and as such a member of such Legislature.

That my presence is necessary to a fair and proper trial of the above entitled and numbered cause in that it is my intention to participate actively in the preparation and/or presentation of said case.

Under the provisions of Article 2168a of Vernon's Annotated Civil Statutes of the State of Texas I hereby demand that said cause be postponed until a time at least thirty (30) days after said regular session of the 64th Legislature has adjourned.

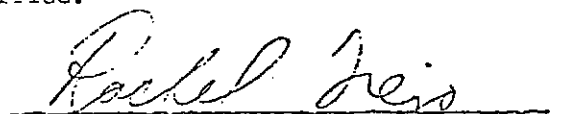
Witness my hand this the 12th day of DECEMBER, A. D. 1974.


Terry Canales

THE STATE OF TEXAS X

COUNTY OF JIM WELLS X

Subscribed and sworn to before me, by the said TERRY CANALES on this the 12th day of DECEMBER, A. D. 1974, to certify which witness my hand and seal of office.


Notary Public in and for Jim Wells
County, T E X A S.

Corpus Christi Caller

CORPUS CHRISTI, TEXAS, FRIDAY, MAY 16, 1975

2nd Year—No. 116

WEEKLY PRICE
ONE DOLLAR PER COPY

41 Pages

Austin: Schools, Impeachment

House takes first step to impeach Carrillo

Editor Anita Larson

AUSTIN — Using a rarely exercised power, the House of Representatives Thursday took the first steps in the possible impeachment of 23rd Dist. Judge O. P. Carrillo.

The House voted 112-0, with 21 members voting "present," to have the resolution by Rep. Terry Canales, Fremont, referred to a special 11-member committee to be appointed by Speaker Bill Clayton.

The resolution asks that "impeachment charges be preferred against O. P. Carrillo, in the Senate of the State of Texas for the following cause: He has been indicted by a grand jury of the United States of America on multiple counts for violations of federal income tax laws."

The resolution goes on to ask that the speaker appoint five members of the House as a "board of managers" to prepare articles of impeachment against Judge O. P. Carrillo, submit them to the House for approval, and, if adopted, present them to the Senate.

See Impeachment, page 12A



REP. TERRY CANALES

House okays patch school finance proj

AUSTIN (AP) — A patchwork school finance bill which Speaker Bill Clayton hurriedly passed to tentative House approval Thursday by a 104-0 vote.

Estimated cost of the legislation to aid provide school districts is \$720 million for the next five years.

That means some districts probably would have to raise taxes to pay for the new law.

"During the past 48 hours I have been over here who have fairly different views on how to finance schools. These meetings and the impetus put on the floor have established a legislative plan which starts us on the road to complete reform," Clayton said in a statement.

See Page 12B

Impeachment steps taken

From Page 1

of the Senate.

Contacted by telephone Thursday night, Carrillo said he knew very little about the action and could not comment until he knows more.

"I don't know much about it right now," Carrillo told the Caller. "Because I haven't seen anything official, but I'll let you know just as soon as I do."

Carrillo also pointed out that Canales represented suspended County Judge Archer Parr last year during disbarment proceedings in Carrillo's court. Canales was granted a legislative continuance.

Article 18, Section 2, of the Texas Constitution lists district judges among those officials who can be impeached by the House, which acts, in effect, as a grand jury.

Officials impeached by the House are tried by the Senate, which acts as a trial court.

Article 15, Section 6, provides a second way for removal of judges — by the Supreme Court.

Statutes also provide for impeachment and address of officials. Address is handed by passage of a resolution by two-thirds of each house, with removal of the official by the governor.

Gov. James Ferguson, in 1917, was the last state official impeached by the lower. Clayton said, before the House took up Carrillo on Canales' motion, that it was "the second time ever" such a motion had been considered in the House.

Canales charged that it was "obvious" that 23rd District Court was being used "by one political faction against another political faction."

He alleged that Carrillo had removed county officials "if these people don't agree with him in his quest for political power."

He also charged that other persons had been "threatened with grand jury action."

Canales called the situation "a totally obvious use of the system of justice" in Texas.

The Associated Press reports Canales was saying, "It is not a question of faith or innocence. It is a question of qualification."

absence until the indictments against him are cleared up in court. He said the only way he would be removed is forcibly," Canales said.

Canales said his resolution had nothing to do with the South Texas power struggle between the Canales machine and the political heirs of the late George Parr.

"I was supported by all these people when I ran. There is no political vendetta," Canales said.

He said he believes there is "a common consensus of the House that a man shouldn't be on the bench when he is under indictment."

Rep. Paul Abrego, El Paso, pleaded with the House not to get involved in "a local political problem."

"We have too much to do," Abrego said. He added that he hates to oppose another Mexican-American, but said he feels the impeachment request will damage the image of all Mexican-American officials.

Abrego said the resolution could be referred to the House Judiciary committee or another committee instead of "a special committee to take care of a local problem that has erupted in Duval County."

Canales argued that a special committee was needed because of the special legal considerations involved and because the other committees have too much work to consider already.

After some additional discussion, the House approved setting up the special committee.

"Thank you, members," said Canales, adding, "I don't think anyone will get ahead."

The only precedent in South Texas for

the removal of a district judge began April 26, 1953, against 79th Dist. Court Judge C. Woodrow Laughlin of Alice. Among other things, he had dismissed a sitting grand jury which indicted him for the sale of his law books to the county, and for fear that the grand jury might indict his brother, County Commissioner W. M. Laughlin of Fremont, for sale of cattle to the county — the grand jury was acquitted, however, when Commissioner Laughlin appeared before it and explained the transaction.

Sen. William H. Slitman of Corpus Christi presented "address" proceedings against Laughlin in the sitting Legislature. He asked the Senate to remove Laughlin from office under a constitutional provision for legislative removal of judges. But Slitman was unable to muster the necessary votes and the more died when the Legislature adjourned.

Slitman then filed removal proceedings against Laughlin in the Supreme Court of Texas. Article 12 "repressive or illegal acts" as cause for removal. The court had never before been called to remove a judge. It appointed a master in chancery to gather evidence in the case.

A hearing was held in August, 1953. The transcript of testimony was not delivered to the Supreme Court until late in December, 1953. On March 12, 1954, the Supreme Court ordered Laughlin removed, dividing the case alone on the charge that he had discharged a grand jury which had indicted him and one that may have been preparing to indict his brother.

Laughlin nevertheless ran for district judge in 1954 and was re-elected. He is still judge of the 79th District Court.

Exhibit E-1

00066

Witness says Duval district judge a thief

Panel eyes impeaching

AUSTIN. — A one-time Duval County employe attempted to explain to a special House committee Tuesday night a complicated scheme by which, he said, Sta District Judge O.P. Carrillo misappropriated county money and property.

Cecilia Gonzalez of Berkeley said while he was a county employe from the early 1960's until this month, he operated a fictitious store that channeled county funds to a farm and ranch store owned by Carrillo and his brother, R.D. Carrillo. Gonzalez' testimony came before an 11-member panel that is considering whether another group should be set up to draft impeachment articles against O.P. Carrillo.

Indictment

Carrillo, who is under federal indictment for allegedly erasing payment of income taxes, was at the hearing and listened attentively to Gonzalez' statements.

Gonzalez was led through his testimony by Rep. Terry Canales, D-Premont, who introduced the resolution that led to the creation of the committee.

According to Gonzalez the Zertuche General Store was created in the early 1970's, but it never had any merchandise. The Zertuche store, Gonzalez said, "existed only by invoice receipts."

"I was instructed to bill through the general store anytime the farm and ranch store sold material to any governmental entities," Gonzalez said.

Checks

"I was instructed to get the checks from the government agencies, deposit them under Zertuche and then make out a check from Zertuche to the farm and ranch store," he said.

Gonzalez said at the time O.P. Carrillo was county juror.

County property was also stored at the site of the farm and ranch store, Gonzalez said. He said he was instructed by R.D. Carrillo, in violation of the county property back to the county.

Exhibit B-2

Judge *512* hears *5* self accused

AUSTIN (AP) — A Duval County man told a special House committee Wednesday night that State District Court Judge O.P. Carrillo once used county equipment to make improvements on a ranch owned by Carrillo.

Ruben Chapa of Benavides said he was with Carrillo in November 1973 when he had a county-owned tractor taken in a county truck out to a ranch where Carrillo used the equipment to prepare some land for concrete to be poured.

The committee heard its second night of testimony in an effort to determine whether another group of representatives should be set up to draft impeachment articles against Carrillo.

Chapa, 27, a service station owner who has also been employed by the Duval County Conservation and Reclamation District for the past year, said the judge also got some concrete from a county warehouse that same day for use at the ranch.

He said he did not know if the cement belonged to the county although it came from an area where county property was stored.

Chapa said a man who was a county employe helped with the work, which occurred on a weekend.

Carrillo was present at the hearing and sat impassively, jotting down an occasional note, while Chapa testified.



JUDGE CARRILLO listens closely

00068



Carrillo and his attorney, Arthur Mitchell, watch Tuesday night's hearing on a resolution calling for Carrillo's impeachment.

Carrillo Accused at Hearing Of Stealing County Property

AUSTIN (UPI)—The sponsor of a resolution to impeach Duval County District Judge O. P. Carrillo says his witnesses can offer evidence of stolen county funds and judicial and political oppression.

The Select House committee on impeachment scheduled its second meeting for 8 p.m. Wednesday. Rep. Terry Canales, D-Premont, sponsor of the impeachment resolution, said his next witness would be Rudolfo Couling, owner of the Benavides Implement and Hardware Co. in Duval County.

At the first hearing Tuesday night, a Canales' witness, Cleofus Gonzalez, told of a complicated scheme he said the Carrillo brothers operated in the 1960s and early 1970s to sell the county its own property.

Gonzalez worked in the farm and ranch supply store which operated out of a warehouse owned by Duval County. He said he was paid by the county but worked for the Carrillos. He said the farm and ranch store used a fictitious front entitled the Zertuche General Store to sell merchandise to the county that already belonged to the county.

"You were stealing from the county?" asked Rep. Melchor Chavez, D-Harlingen, a member of the impeachment panel.

"Yes, sir," Gonzalez said. "You know that if the House votes to impeach this man and the Senate votes to convict him it will ruin him forever?" Chavez asked.

"Yes. Do you know why

I am here? It's for the people," Gonzalez replied.

"Is that why you're crying—because people been removed from and lost their jobs?"

"Maybe...well," Gonzalez said. "I'm a member of the old party."

The old party is the party machine run by the George P. Parr, know the Duke of Duval. Carrillo once a member of Parr machine, split with the party and heads a rival faction in a bitter political feud. Canales is a member of the Parr faction, was a pallbearer at Parr's funeral after Parr's su in April.

Carrillo sat impassive behind and across the from Gonzalez and Canales during the four hour questioning Tuesday ni



00069

JUDGE CARRILLO AND ATTORNEY—State District Judge O. P. Carrillo (right) and Austin Attorney Arthur Mitchell listen intently to testimony Tuesday night in Austin before a special 11-member panel considering recommending impeachment articles against the South Texas judge. (AP Wirephoto).

Kellogg News Journal
**New Charges
5/22/73
Made Against
Judge Carrillo**

AUSTIN, Tex. (AP) — Claims of Duval county property and employes being misused by State Dist. Court Judge O.P. Carrillo have been added to claims of constitutional self-incrimination protection in testimony before a special House committee.

The committee, which is considering whether another panel should be created to draft impeachment articles against Carrillo, heard its second series of witnesses Wednesday night.

Ruben Chapa of Benavides testified that in November 1973 Carrillo used county equipment to do some work on his ranch. Oscar Sanchez and Francisco Ruiz, also of Benavides, said while they were county employes they used county equipment to work on Carrillo's ranch.

R.M. Couling of Benavides, the former tax collector of the Benavides School District, invoked the Fifth Amendment at least 15 times in response to questions by Rep. Terry Canales, D-Prentiss, and members of the committee.

Canales, whose resolution led to the creation of the committee, had said Tuesday that Couling was the "proprietor" of the Benavides Implement and Hardware Store. Couling pleaded the Fifth Wednesday when asked if he knew where that store was located.

Testimony Tuesday indicated the Benavides Implement and Hardware Store had become a source of supplies to Duval county governmental entities in 1971.

Chapa told the committee it was common knowledge in Benavides that Carrillo used county equipment and employes on his ranch.

"You don't have to go to a bar to hear that," said Chapa, a service station owner. "You can hear it around town."

Ruiz, who, like Chapa and Sanchez, now works for the Duval County Conservation and Reclamation District, said he had used county welding equipment on different occasions at Carrillo's ranch.

Exhibit E-5

Ex-school board member says Carrillo's act illegal

By LEE HAVINS
Staff Writer

A former Benavides Independent School District board member — in testimony that dragged on until after 2 a.m. Friday — charged that 229th Dist. Court Judge O.P. Carrillo illegally removed him and three other members from that board.

The move led to a current complex situation, M.K. Bercaw of Freer said, in which two separate boards theoretically exist.

The testimony came during the closing hours of the third day of an inquiry by a House Select Committee on Impeachment into Carrillo's fitness to retain his judgeship.

Bercaw told the committee the four empty board seats were filled with Carrillo appointees including Morris Ashby, executive vice president of the

Duval County Ranch Company, a 100,000-acre spread owned by Clinton Manges, also of Freer.

Later in his testimony, Bercaw, an attorney who contracts with Duval County to collect delinquent taxes, said the Duval County Ranch Company currently owes more than \$300,000 in unpaid taxes assessed over a three-year period.

However, the delinquent-taxes collector testified, no suit has been filed against the company or Manges to recover the taxes.

Bercaw, a 19-year veteran of the school board, said he and the other board members were ousted by way of civil suits filed in Carrillo's court. The suits charged acts of misconduct including the alleged destruction of records and payment of excessive lawyer's fees.

Bercaw denied any knowledge

of misconduct by the board.

While weaving a complex tale of intrigue and power politics in Duval County, Bercaw revealed that the school board did hire a pair of attorneys when Bercaw, tax collector Rudolpho M. Couling, and another board member were subpoenaed by the Internal Revenue Service to appear before a grand jury.

The attorneys were paid a total of \$60,000, Bercaw said, but he denied any knowledge of that payment until after the fact.

Couling appeared before the committee Wednesday with his attorney, Charles Orr of Houston — one of the pair hired and paid \$60,000 by the Benavides school board. Couling refused to answer virtually every question citing his right to avoid self-incrimination.

Earlier in the session that began at 8 p.m. Thursday, committee members voted to subpoena Carrillo's bank records.

Before the 7-1 vote to subpoena the records from the First State Bank of San Diego, fireworks erupted between the committee and Carrillo's attorney, Arthur Mitchell of Austin.

Mitchell told the inquiry he had the bank records but he refused to turn them over to the committee in bulk before he is allowed to introduce testimony on behalf of Carrillo.

The lawyer said he planned to call an accountant through whom he would introduce the bank records and other information regarding operation of Zertuche General Store, the Farm and Ranch store and all other entities pertinent to the inquiry.

However, on a motion by Rep. Bob Hendricks of McKinney, the committee voted to seek the entire set of books from the bank.

Committee chairman DeWitt Hale of Corpus Christi alluded to previous testimony that Carrillo and his brother used Zertuche's General Store as a front for business dealings with Duval County. Those records would prove whether that testimony was true or not, Hale said.

Rep. Terry Conales of Premont, author of the resolution that led to the inquiry, presented Duval County payroll records and cancelled county checks he said corroborated testimony given during the first two days of hearings.

He called Octavio Hinojosa of San Diego, assistant Duval County auditor, who went

through the books with committee indicating wh Thomas Elizondo, Cleo Gonzalez, Oscar Sanchez Francisco-Ruis had been monthly as county workers.

Wednesday, Sanchez and F testified they were asked work on Carrillo's Duval Cou Ranch. They were not beyond their county salaries that work, they said.

The payroll records indic Elizondo worked for Du County Precinct 3 for \$37 month until March. In A Hinojosa testified, Elizondo paid \$500 as a court bailiff Carrillo.

Also on Wednesday, a for friend of Carrillo testified saw Elizondo operating cov machinery on Carrillo's ranch

Carrillo decision hinted

● AUSTIN (U) — Speaker Bill Clayton said Wednesday a resolution will be introduced authorizing him to reconvene the House if a special committee recommends impeachment of State District Court Judge O. P. Carrillo of Benavides.

Clayton said the resolution would enable him to summon representatives back to the Capitol by certified letter. An impeachment session should take only a few days, he said, since no other business would come before the House.

UNDER THE Texas Constitution, impeachment by the House is similar to an indictment by a grand jury. Trial would be by the Senate, where a two-thirds majority is necessary to remove an official from office.

● AUSTIN (UPI) — The Texas Supreme Court refused Wednesday to step into a Duval County political power struggle between factions headed by District Judge O. P. Carrillo and former County Judge Archer Parr, who Carrillo removed from office.

Parr asked the high court for permission to seek a court order requiring Carrillo to dismiss the suit against Parr and reinstate him as county judge. But the supreme court, following an earlier decision by the 4th Court of Civil Appeals in San Antonio, refused Parr permission to bring the fight into the state's top court.

AUSTIN (UPI) — A special House committee may be able to complete public hearings on a resolution seeking impeachment of Duval County District Judge O. P. Carrillo within two days after the legislature adjourns, a member of the committee said Wednesday.

The committee has recessed until 1:30 p.m. Tuesday — the day after the legislative session ends.

Rep. Lynn Nabers, D-Brownwood, said he believes the committee may be able to hear the last of the testimony in the case by Wednesday, then begin deliberations on whether it will send articles of impeachment to the House for a vote.

IF ARTICLES of impeachment are voted, House members will have to return to Austin for a special session to act on the charges. If the House votes impeachment, the Senate would then be required to convene to try the case.

At the last hearing, which ended at 3 a.m. Wednesday, Carrillo's court bailiff, Tomas Elizondo, conceded he has worked for the judge on his ranch, but said the work was performed in return for favors given him by Carrillo.

Elizondo said his \$750 a month salary is for keeping order in the courtroom.

Another witness, Lauro Yzaguirre testified Carrillo pays for his \$300 a month food bill at her husband's grocery store with county funds.

Speaker Bill Clayton warned House members Tuesday the House would probably have night sessions for the final six days of the legislative session, prompting the impeachment committee to recess its hearings for a week.

Carrillo's Christ Calls

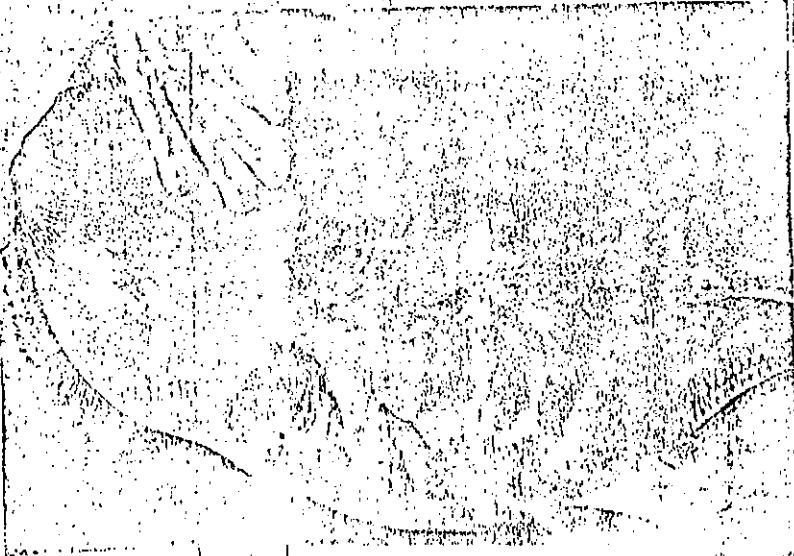
Final Year—No. 125... CHRIST, TEXAS, MONDAY, MAY 27, 1953... Price 35 cents

Carrillo hearing

Testimony to resume Tuesday

By SPENCER REARER
AUSTIN — The House committee on impeachment of JAMES EARL RAY, who is expected to resume testimony Tuesday, will present the last document filed for the committee.
Speaker L. D. BISHOP, House Committee chairman, said he will be conducting the hearing Tuesday. He said the committee will hear testimony from the committee on the impeachment of Carrillo.
Speaker BISHOP said the committee will hear testimony from the committee on the impeachment of Carrillo.
Speaker BISHOP said the committee will hear testimony from the committee on the impeachment of Carrillo.

one week later



NOTE: J. P. CARRILLO LISTENS TO TESTIMONY

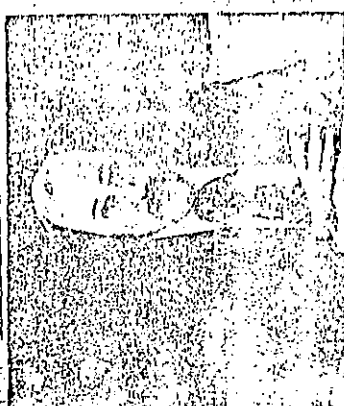
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Carillo hearing to resume Tuesday

(From Page 1)

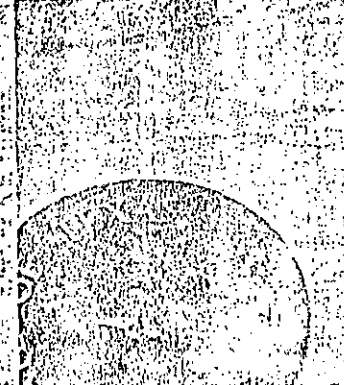
While Carillo's testimony was being taken, the hearing was held in the presence of a large number of spectators. The hearing was held in the presence of a large number of spectators. The hearing was held in the presence of a large number of spectators.



Carillo's testimony was taken in the presence of a large number of spectators. The hearing was held in the presence of a large number of spectators. The hearing was held in the presence of a large number of spectators.

REP. TERRY CAMILLO'S QUESTIONS BUSINESS

Rep. Terry Camillo, D-Calif., today asked questions of the business community regarding the Carillo case. He questioned the business community regarding the Carillo case. He questioned the business community regarding the Carillo case.



CHURMAN L. BOWITT MALE CHECKS EXHIBIT

Churman L. Bowitt, a male, has been identified as a witness in the Carillo case. He has been identified as a witness in the Carillo case. He has been identified as a witness in the Carillo case.

Carillo's testimony was taken in the presence of a large number of spectators. The hearing was held in the presence of a large number of spectators. The hearing was held in the presence of a large number of spectators.

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Carrillo lawyer wants Briscoe to give testimony

ASSOCIATED PRESS

AUSTIN — The lawyer for State District Court Judge O.P. Carrillo says he wants to subpoena Gov. Dolph Briscoe to testify before a special House committee investigating Carrillo.

Arthur Mitchell, an Austin attorney, said Saturday the committee's decision to call Freer rancher-banker Clinton Manges before the panel prompted the desire to subpoena the governor.

The 11-member committee is considering recommending impeachment articles against Carrillo. The panel was created following a resolution by Rep. Terry Canales, D-Premont, that lists Carrillo's indictment on federal income tax evasion charges as the basis for the impeachment study.

Campaign suit

Manges was identified in a recent campaign suit against Briscoe as having given the governor \$15,000 in cash for Briscoe's 1972 campaign. Briscoe says he has never used the money and has been trying to return it.

Mitchell said he would like to question Briscoe about the Manges offer "not to imply any wrongdoing," but to show "that's how the system works." Mitchell also is representing Manges in another legal matter.

The committee will resume hearing testimony Tuesday night. The chairman, Rep. DeWitt Hale, D-Corpus Christi, has indicated the hearing will continue after the legislature adjourns June 2.

00075



"Man! When you decide t' clean a stable, you don't b'lieve in startin' SMALL, do ya?"

Exhibit E-10

Carrillo case probers eye road panels

ASSOCIATED PRESS

AUSTIN.—House investigators Tuesday tried to find out why a Duval County road and bridge fund paid for 88 sheets of fancy rustic pecan panelling for interior use.

Traeger suggests catch-all session

AUSTIN.—Legislators might as well delve back into malpractice and new courts bills if they have to return to Austin in the near future for the Carrillo impeachment proceedings, Sen. John Traeger of Seguin has told the governor.

He put it in the form of a request sent Gov. Dolph Briscoe Tuesday pointing out two "major disappointments" of the regular legislative session. The two were death in the House of SB 635 on medical malpractice and the Senate death of an omnibus courts bill.

The courts measure would have meant four new district courts for Bexar County and the malpractice bill's doom sparked the spreading doctors' slowdown in San Antonio and across the state.

"I think under a special session situation we probably would pass both the court bill and the malpractice bill in a very short period of time," wrote Traeger.

A House select committee is investigating allegations of wrongdoing by Duval County Dist. Judge O. P. Carrillo. If articles of impeachment are recommended by the committee, the full House would probably meet in late June.

If the House votes impeachment only then would the Senate convene for a trial.

The questioning came as the special House committee continued hearings on possible impeachment proceedings against Dist. Court Judge O. P. Carrillo.

The first witness called at the hearing resumed after the legislature ended its session was Octavio Hinojosa, assistant to the Duval County auditor, who testified previously. He was asked over and over about county warrants.

Rep. Bob Hendricks, D-McKinney, asked about voucher showing delivery of the 88 sheets of interior siding to Precinct 3, Duval County, where the commissioner is Ramiro Carrillo, the judge's brother.

"Is there anywhere on a road or bridge they can use such material?" Hendricks asked.

"Not that I know of," Hinojosa answered.

A house?

"Sounds like someone was building a house, doesn't it?"

Hendricks said:

"Looks that way."

Hinojosa agreed.

Other warrants showed vouchers for door knobs, interior door jams and three exterior doors delivered to Precinct 3, charged to the road and bridge fund. There also were vouchers for an unusual amount of barbed wire.

"Were they trying to fence in the precinct?" Hendricks asked.

Hinojosa said he did not

Exhibit E-11

RATE

Continued from Page 1A

rate hike was meant to "subsidize the developers and the wealthier parts of the city."

The Rev. Mr. Benavides demanded CWB trustees take no action until a public hearing could be held to determine why "the board

00077

Houston Post Thurs. June 5

Witness claims wrongdoing by Carrillo

AUSTIN (UPI) — District Judge O.P. Carrillo used his authority over the grand jury to gain political power in Starr County and conspired with political allies to remove elected officials in neighboring Duval County, witnesses said Wednesday.

There was also testimony that there had "been a lot of dipping into the till on the Benavides School Board" and that was why the board paid two attorneys \$60,000 to represent it against possible Internal Revenue Service action that never came.

The testimony was before a special House committee studying the possible impeachment of Judge Carrillo. If it

recommends impeachment, the House of Representatives will convene to draw charges and the Senate will convene to conduct a trial.

J.C. Guerra, former mayor of Roma, testified before the committee. He was the first to allege the judge's influence extends beyond Duval County, scene of a political feud between Carrillo and the political machine of the late George "Duke of Duval" Parr.

Carrillo's 229th judicial district includes Duval, Jim Hogg and Starr counties in South Texas.

Guerra said he has filed several complaints with the State Judicial Qualifications Commission since 1972

charging Carrillo with misconduct. One charge involved delaying a hearing in a contested 1972 Starr County primary election for 103 days and leaving the parties in the suit no time to appeal before the general election.

Guerra said Carrillo has appointed nine commissions of five members each to select Starr County grand juries since 1971. Guerra said 40 of the 45 appointees were political allies of Carrillo.

"I take it in your judgment Judge Carrillo is using his office to take control of the political process in Starr County?" asked Rep. De Witt Hale, D-Corpus Christi, the committee chairman.

"Yes, sir," he said.

Carrillo Wrongdoing denied by DA

Austin, Texas—Page 9

The Austin American-Statesman

Thursday, June 5, 1975

By LEE HAVINS
Staff Writer

The removal of four Bexar County school board members was not the result of a political conspiracy, 23rd Dist. Atty. Gen. Armando Guerra told the House Select Committee on Impeachment on Wednesday.

Guerra also denied 23rd State Dist. Court Judge O.P. Carrillo had anything to do with planning the removal action.

The district attorney testified during the second week of hearings into Carrillo's possible ouster from office for alleged misconduct.

In his sometimes emotion-charged testimony, Guerra described the situation facing Carrillo as he became district attorney in December 1974—a post that had been vacant almost a year. "It was the most disorganized mess I've ever seen in my life," Guerra told the committee.

By February, Guerra said, he felt compelled to resign.

to respond to numerous allegations in newspapers and launched an investigation into alleged Bexar County wrongdoing.

One of his early acts was subpoenaing the books of the Bexar County Independent School District and other bodies. "It became immediately clear that some type of extensive wrongdoing was taking place," Guerra told the committee.

Later, he said, "information was given to me that records were being destroyed by the school district," including some documents that had already been brought before a grand jury. That led to the filing of removal suits against four board members, he testified.

Guerra told his committee of his first attempt to file the removal petitions after district legal research. He rushed to the county courthouse in San Diego on March 11, Guerra testified, and was met by an angry crowd outside the building.

One of his assistants, he said, told him that "George Parr is armed and is in there and he is going to kill Judge Carrillo."

Guerra said he, a Texas Ranger and military rancher Clinton Nanger went from the courthouse to Carrillo's ranch where Guerra asked the judge, "What do I do now?"

"It was determined that the judge would hold court the following morning and the rangers would accompany him there," Guerra continued.

His wife broke as he told of his March 20 trip to the San Diego court. Guerra said by that time he realized his life along with Carrillo's might be in danger.

When he got to the courthouse, he testified, "it seemed like everybody and his brother was carrying guns."

He told the judge it could be dangerous to

hold open court and so much hostility, Guerra said, and the petition finally were filed in the judge's chambers with the judge, Guerra and a court reporter present.

In previous testimony, it was alleged Carrillo removed the four school board members and replaced them with political allies. Guerra attempted to reveal to the committee what he termed "a great obstruction of the investigation" by Rep. Terry Canales of Premonst—who authored a 1974 resolution that let to the impeachment hearings.

Canales, Guerra charged, tried to halt the Bexar County investigation on behalf of Archer Parr—county judge until his removal—by drafting a bill abolishing the post of 23rd district attorney.

Canales tried to get the measure introduced in the Senate by Sen. John Treager of Seguin, Guerra said. Treager "set conditions and the bill was never introduced," Guerra said.

A Journal of Free Voices

A Window to the South

June 6, 1975

50¢

10

The Texas Observer

Whitire said it was no coincidence.

Japanese fighter plane to put on display in

June 6, 1975

Canales v. Carrillo



Rep. Terry Canales

Bob Wieland

Austin

The Texas House is writing a new chapter in the Duval County story.

State Rep. Terry Canales of Premont, a dutiful member of the Parr faction, talked the House into launching an impeachment inquiry into the business dealings of 229th Dist. Court Judge O. P. Carrillo, a member in good standing of the anti-Parr faction in Duval. Carrillo; one of his brothers, Duval County Commissioner Ramiro Carrillo; and a cousin, Arturo Zertuche, are all under federal indictment in Corpus Christi on 12 counts of conspiracy and filing false income tax returns. It's an old story for the Duval duchy — allegations concerning peculation of county funds.

There are various speculations as to why the House decided to get involved in the Parr-Carrillo feud. Neither faction seems superior, virtue-wise. Joe Allen of Baytown thinks House members didn't know what they were getting into when they approved Canales' impeachment resolution. Another school of thought holds that legislators, having sniffed the glory of the televised Nixon proceedings, were more than happy to have an impeachment party of their own.

The resolution was the major half of Canales' legislative program for the year. He only introduced one bill — a measure altering the membership of a Starr County hospital board. This solitary bill gives Canales the worst (or best?) record in the House for bill introduction. (Three men who introduced two bills each tied for second place — T. H. McDonald of Mesquite, Tony Dramberger of San Antonio, and Woody Denson of Houston.)

At least for the first half of the session Canales also led the House in absenteeism. Canales usually hangs out at his South Texas ranch (last year he was hauled back by the DPS for an important constitutional vote), and he was literally a stranger to the House floor during the early part of the session. But in April Canales started appearing at his House desk almost regularly. It may well be that since George Parr's suicide (*Obs.*, April 25), the Duval political situation has gotten so dicey that Canales prefers the cooler climes of Central Texas.

Speaker Bill Clayton appointed 11 legislators to the Special House Committee on Impeachment. Eight of the 11 are lawyers. Rep. DeWitt Hale of Corpus Christi is playing the role of Texas' Peter Rodino. Bob Johnson, head of the Legislative Council, is temporarily acting as both legal counsel and parliamentarian for the committee. Austin attorney Arthur Mitchell is representing Judge Carrillo.

The first hearing was a popular spectator sport. The front three rows of seats in the Old Supreme Court were reserved for House members. Clayton popped in for a while, as did Secretary of State Mark White and an assortment of other politicians.

Carrillo sat stone-faced as Canales led Cleofas Gonzalez through allegations that O. P. and Ramiro Carrillo warehoused Duval County equipment in the back of their Farm and Ranch Store and then sold the equipment back to the county. Gonzalez, a \$400 a month warehouse for the county, also worked — for free — as manager of the Farm and Ranch Store and as bookkeeper for the non-existent Zertuche General Store. He said that whenever the Carrillos sold Duval County equipment the transaction would be recorded on Zertuche invoices. Funds in the Zertuche account would then be transferred back to the Farm and Ranch Store. Gonzalez alleged that sometimes O. P. or Ramiro would take money from the Zertuche account and instruct him to record it as "store change."

Gonzalez also charged that Judge Carrillo would write up welfare orders for non-existent residents and then use the orders to buy food for himself.

After the first hearing, a number of House members criticized the fact that Carrillo's attorney was not allowed to question Gonzalez; so on the second night Hale agreed to allow Mitchell to question witnesses through members of the committee. Mitchell promptly said he would recall Gonzalez for interrogation.

Under House rules, the impeachment hearing could continue after the Legislature adjourns. If the committee decided to recommend impeachment to the full House, Clayton could then call his troops back into session. If the House voted for impeachment, then Bill Hobby could call up the Senate for the trial. It would be the first such action in Texas since Gov. Jim Ferguson got thrown out of office for financial peccadilloes and trying to do away with fraternities at the University of Texas.

K.N.

Manges hearing delayed

Will wait for his lawyers

BY MARVINO GARDNER, JR.
 SAN ANTONIO (AP) — Former Mayor Oscar Manges appeared Friday before the House Select Committee on Improvements in Government to testify that he would wait for his lawyers before making any statement.

Manges, a recluse South Texas rancher and stocking tycoon, has refused to appear in public since the death of his wife in 1964. He has been reported to have been in Austin with various Texas County political figures.

Manges also testified that he had been in contact with various Texas County political figures, including the late Mayor of Dallas, J. Lee Roy Lewis, and the late Mayor of Dallas, J. Lee Roy Lewis.

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RANCHER OSCAR MANGES, LEFT, WITH LAWYERS ARTHUR MITCHELL (middle) and JAMES H. GIBSON, Manges appeared before the House committee.

Evening Edition ** FINAL

The Austin American-Statesman

Austin, Texas, Friday, June 4, 1975

Vol. 104—No. 722

4 Sections

15 Cents

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EXHIBIT E-15

It Was

AUSTIN (UPI) — On March 19 — the day the Carrillo political faction officially split with the Parr machine — George P. Parr stormed into the Duval County courthouse to kill District Judge O.P. Carrillo, according to testimony presented to a House impeachment committee.

But Carrillo was not at the courthouse. He was at his ranch 30 miles away laying plans to remove Parr's allies from the Benavides school board and replacing them with his own men. At that ranch house meeting with Carrillo were elusive rancher-banker Clinton Manges and Duval County District Attorney Arnulfo Guerra. A Texas Ranger, George E. Powell, was summoned to the ranch that day when it was learned Parr had allegedly threatened to kill Carrillo.

The House committee, which is considering an impeachment resolution against Carrillo, heard testimony Thursday from two persons at the ranch that day — Powell and Guerra. It hoped to hear today from the third person who can answer questions about that day — Manges — who has avoided a committee-ordered subpoena for two weeks.

Texas Ranger Capt. John Wood officially served the subpoena on Manges Wednesday at 11:05 p.m. Wood found Manges in a mobile home on his ranch in Freer, Tex. Sources said the trailer was located a mile from Manges' main ranch house in a row of buildings illuminated by street lights.

He was ordered to appear at 9 a.m. today to testify before the House select committee. If he does not appear, he could be cited for contempt by the legislature, fined \$1,000 and sentenced to a year in prison.

Rep. Terry Canales, D-Premont, the Parr ally who introduced the impeachment resolution claims Manges and Carrillo conspired at that March 19 ranch meeting to remove elected Duval County and Benavides school board officials and replace them with their political allies.

Guerra told the committee Thursday he was at the ranch on March 19, but no

Exhibit E-16

Guerra grilled at Carrillo hearing



ARNULFO GUERRA ... ponders question

AUSTIN — Duval County Dist. Atty. Arnulfo Guerra repeatedly testified Thursday about the explosive situation that he said existed at the county courthouse on March 29 when he filed petitions to oust four school trustees.

Members of a special investigating committee, sitting in the calm and dignified Capitol chamber that the Texas Supreme Court used for three-quarters of a century, pressed Guerra on how he knew there was "great danger."

The committee is investigating District Court Judge O.P. Carrillo to determine if he should be impeached.

Rep. Edwin Hale, D-Corpus Christi, committee chairman, lashed Guerra with hostile questions for an hour and 10 minutes. He got Guerra to say his information about the danger came from hearsay.

Hearsay

"That kind of hearsay I have to pay attention to, Mr. Hale," Guerra said.

There were "plenty of guns around that day," including one he wore himself, Guerra said.

"Was anyone shot around the courthouse there—killed or maimed?" Hale asked.

"No, sir," Guerra replied.

Four times Hale asked if Guerra knew the effect of removing four of the seven members of the Benavides Independent School District board would change the balance of power. Four times Guerra said yes. But the four new members appointed by Carrillo were not Carrillo supporters, Guerra said.

Hale asked if two of the three remaining members of board were related to Carrillo.

"Unfortunately, yes," Guerra said.

In answer to another question, Guerra said he paid a \$5,000 fine in 1970 for failure to file an income tax return in 1968.

Carrillo's lawyer, Arthur Mitchell of Austin, bitterly

criticized the committee at the lunch break for its treatment of Guerra.

"He's the only witness they've had that had any standing—he has as much standing as any elected official on the committee—and they treat him like a thug," Mitchell said. "I've sat here for days listening to hearsay, and they treat him like a thug."

Guerra was asked if he knew that the foreman of the grand jury investigating the school board, Jose Nichols, owed more than \$3,500 in child support payments in Minnesota.

Guerra said he did not know that for a fact but that he has "already set the proper machinery into action to investigate that."

Rep. Robert Maloney, R-Dallas, said Nichols, who also is foreman of a ranch owned by San Antonio rancher-banker Clinton Blanges, is subject to a felony indictment for failure to pay child support.

Nichols also signed as complainant on the petitions to remove the school trustees.

Manges reportedly was served with a subpoena Wednesday night to appear before the committee Friday.

Rep. Bob Hendricks, D-McKinney, gave Guerra documents that he said indicated Arturo Zertuche and Roberto Elizondo were on the Duval County payroll for long periods when they resided elsewhere.

Zertuche, Carrillo and Carrillo's brother, Ramiro, are under federal indictment on income tax charges.

Zertuche was enrolled at North Texas State University at the time he was on the county payroll.

Hendricks said. And Elizondo, Carrillo's present court reporter, was attending a republic school in Houston in a January 1972 to September 1973, the same period he was on the payroll, he said.



CONFERRING at the Carrillo hearing are State Rep. Terry Canales, D-Princeton, right, who introduced the resolution that prompted the hearing, and Attorney Marvin Foster of San Diego. — AP Wirephoto.

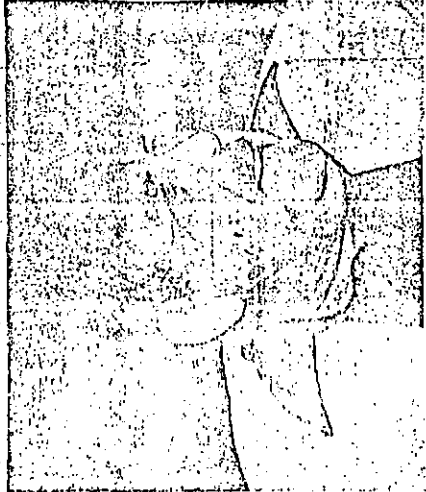
00082

Action Line
Page 2B

People in news
Page 2A

CORPUS CHRISTI CALLER

CORPUS CHRISTI, TEXAS, SATURDAY, JUNE 7, 1975



Clinton Menzies appears at Carrillo hearing in Austin
(Photo by Spencer Pearson)

Carrillo hearing Check signing denied

By SPENCER PEARSON

AUSTIN — Judge C. P. Carrillo's ranchhand Friday denied charging a county clerk with signing a check for \$100,000 in the name of a man who was arrested last year for the same crime.

He testified before the House Select Committee on the operations of Carrillo's ranch in the hearing, which is scheduled to begin in Austin at 10 a.m. Friday and 1:30 p.m. Tuesday when Clinton Menzies, former ranch-hand, is scheduled to testify.

Menzies, who has pleaded guilty to the same crime as Carrillo, testified that he did not sign the check before the coroner's jury in 1974. He said he was in the state penitentiary at that time.

Arthur Mitchell, of Austin, Carrillo's attorney, said he was not present at the hearing and did not know Carrillo's whereabouts at the time the hearing was held. He said Carrillo's attorney, James Miller of El Paso, contacted Carrillo's attorney in Austin last week and told him Carrillo was in the state penitentiary.

See Corridor, page 11A.

00083

00084

Carrillo

From 1A

He was referring to a \$15,000 cash contribution reportedly made by Mangos to Briscoe's 1972 election campaign. Briscoe has said he never used it and has been trying to return it.

The statute it was reportedly had not been available to Briscoe's lawyer, and he avoided being served a subpoena to appear before the impeachment committee. The committee issued another one and Altagas received it Wednesday.

Testifying Friday before Carrillo's grand jury were Jose H. Sienra, its clerk who invoked the Fifth Amendment nine times, and Reggie Sanchez, a Precinct 3 county employee.

When Carrillo took the stand, Hale handed him copies of seven claims for payment of \$223 for labor which bore signatures of "Patricio Garza" and which were notarized by Jose H. Sienra.

Garza denied that any of the seven signatures were his and said he had never been to Sienra's office nor had Sienra ever notarized his signature.

At Hale's request, Garza wrote his signature three times on a piece of paper. He and others pointed out that his signatures and those on the claims were not similar.

The claims were for the months of January through July, 1972. Hale later handed him a copy of a claim dated Sept. 7, 1972, and Garza said his signature was not on it.

Garza said he worked at the county shop from January to June, 1972, and that he was paid sometimes by check and sometimes by cash.

Hale showed him a check dated March 27, 1972, made out to Patricio Garza and endorsed on the back with the signature, "Patricio Garza." Garza said he did not recognize the check and had not endorsed it.

Garza said he worked ranch, rode fence and cooked on the Carrillo ranch. He said he often goes to the Cash Store in Bonaville to get groceries on Carrillo's instructions. He said he never paid for them but signed a receipt for them.

Mrs. Laura Yzaguirre, wife of the owner of the store, testified previously that the county pays for Carrillo's groceries and that she was told by his brother, County Commissioner Ramiro Carrillo, that the judge was allowed \$20 a month for groceries.

In answer to questions by Rep. Terry Casales of Brownsville, who initiated the impeachment inquiry, Garza said about two miles of fence had been built on the ranch in the past year but that Carrillo bought the materials for them.

Sienra, who has worked for Carrillo about 10 years, appeared before the committee with an attorney, Emilio Davila of Laredo.

He declined to answer questions about work other than official duties, about notarizing signatures and about the use of Carrillo's signature. He also refused to say whether he knows Roberts and Francisco Hernandez.

Robert Hernandez is Carrillo's court reporter and works in the courthouse with Sienra. Tomas Hernandez is an oil field helper.

Sienra later said he knows Roberts Hernandez.

Sienra was handed the checks which bear the signature of Carrillo and said he never could see a signature like that. He stressed the fact that Carrillo never asked if the signature was his.

He said Parr labor went on the front of the courthouse to wait for Carrillo. "Was there much commotion in the courthouse?" Kaster asked.

"You could hear it in the drop," Kaster replied.

Reggie Sanchez, who works for Commissioner Carrillo as a county employee, said the committee he didn't work at the ranches of the two Carrillo brothers and their father, D. C. Chapo, but only on week ends. He said they pay him sometimes in cash and sometimes with checks.

He said he has not seen any county equipment on the judge's ranch but has hauled grain with a county vehicle while working for Arnaldo and Ramiro Carrillo Jr. He said the grain was owned by George Parr.

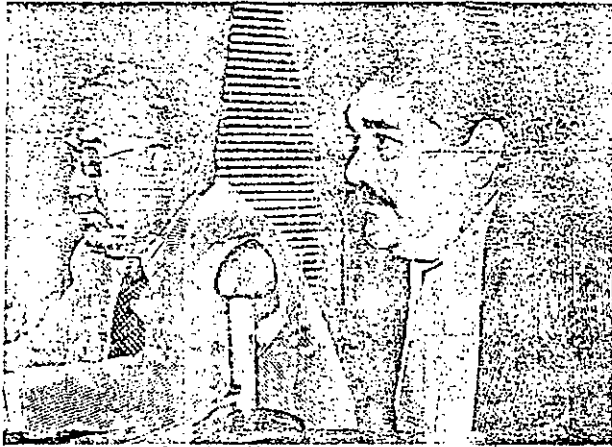
He said he often obtains materials for the county from the Farm and Ranch Supply, which is in the same building as Commissioner Carrillo's Precinct 3 headquarters. He said Cleofas Gonzalez worked at the store for some years until he quit about a year ago. He said he never saw Gonzalez do any work for the county.

The Farm and Ranch Supply is owned by the two Carrillos and Gonzalez recalled studies that he did what Ramiro Carrillo told him to do.

00085

from IA

... to the front of
 ... Carrillo
 ... in the
 ... on Sep. 1962. Saenz
 ... who works for
 ... as a county
 ... realize the office
 ... of the two Carrillo
 ... D. C. Chapa, but
 ... and they pay him
 ... sometimes with
 ... seen any County
 ... ranch but has
 ... ay vehicle while
 ... of Ramiro Carrillo
 ... owned by George.
 ... materials for
 ... Farm and Ranch
 ... same building as
 ... 's Precinct 3
 ... Claitor Gonzalez
 ... the years until he
 ... he said he never
 ... for the county.
 ... Supply is owned
 ... and Gonzalez
 ... of what Ramiro



Saenz (right) with attorney Emilio Davila of Laredo

(Photo by Spencer Pearson)

He also declined to answer any questions about claims for payment by Roberto Elizondo. These were claims made while Elizondo was attending court reporter school in Houston during 1977 and 1979. Elizondo testified previously that he commuted from Houston to San Diego on weekends to work in the judge's office to earn the county pay he received.

Saenz said he believes Elizondo did some work at that time but was not certain because he does not work in the office on weekends.

At one time he invoked the Fifth amendment when asked if he recognized Carrillo's signature but later identified the judge's signature on a financial statement.

Although he declined to answer questions nine times, Saenz was not a balking witness and answered numerous other questions, particularly when Rep. Melcher Chavez of Harlingen was asking them.

He also talked freely to Rep. James Kester of El Paso about the day the late George D. Parr threatened to kill Carrillo. He said he heard Parr threaten to kill the judge but did not see a pistol which Parr reportedly had.

"He just walked into the office and told the secretary to get hold of the judge because he was going to kill him," Saenz said.

He said the secretary, Zenaida Elizandoyor, used the telephone but could not find Carrillo.

Asked if Parr was drunk at the time, Saenz replied, "I don't think the man drank."

He said he did not know why Parr threatened Carrillo.

"That he just say, 'Please call the judge. I want to kill him,'" Kester asked.

Saenz got a laugh from everyone when he smiled and said, "He didn't say, 'please.'"

Manges testimony slated

By ARNOLD CARLISER
and writer

Testimony next week from
receptive South Texas banking
and political figure Clinton
Manges will open the third week
of the hearings by the House
Select Committee on Im-
peachment that could lead to
the ouster of State Dist. Court
Judge O. P. Carrillo.

Manges, the controversial
would-be contributor to Gov.
Dolph Briscoe's original
election campaign, appeared

Constitution, that grievance
committee and the state
Supreme Court.

Rep. Terry Casteel, whose
resolution generated the
inquiry, has consistently denied
any political motivation behind
the resolution's introduction.

Casteel, an attorney, has
represented both Archer Parr
and the late "Duke of Dover"
George B. Parr in the past. The
Carrillo family is engaged in a
struggle with the Parr family
for political control of Duval
County politics.

with an outlaws and hide
has said the committee is in-
terested in determining the
"cold gun" for the alleged
transaction.

The committee did hear
testimony Friday from Fulvicio
Garcia, a ranch hand on the
Carrillo's Benavides ranch, and
Jose Saenz, the judge's office
clerk.

Saenz took refuge behind the
Fifth Amendment in response
to questions dealing with claims
for payment allegedly paid to
Garcia and noticed by the
clerk.

Blanco for the record
immediately after the hearing
Harris County
back to Houston to
the money. Apparently, however, the
Harris County and Briscoe's
exchange never took place.



MILLIONAIRE MANGES
Appears and disappears

Briefly before the committee
Friday in response to a com-
mittee subpoena served
Wednesday.

Manges' testimony was
delayed, however, until former
state Sen. Jim Hanes of Edin-
burgh is available to represent
Manges before the committee.

Austin attorney Arthur
Mitchell, who has been
representing Manges in other
matters, said he could not
represent the rancher before
the committee since he also
represents Carrillo in the
inquiry.

Mitchell told the committee
Friday that representing
Manges before the committee
would constitute a conflict of
interest.

Manges answered three
questions from committee
Chairman DeWitt Hale of
Corpus Christi concerning the
employment of Bates in Texas
inwood sentences.

Manges was obviously not
eased with having to appear
before the committee and said
privately he felt the com-
mittee's inquiry is nothing more
than a political scare tactic.

Manges told the American
Statesman "there are other
ways of handling this. There's
the Judicial Qualifications

Manges posted a \$50,000 bond
for George Parr when the South
Texas political patriarch was
awaiting a federal income tax-
eviction conviction.

The bond was ordered for-
feited when Parr failed to ap-
pear at a bond revocation
hearing in federal district court
in Corpus Christi April 1.

Parr was found dead the
same day. Duval County
authorities ruled the death a
suicide. Manges has filed suit to
get his money back.

Mitchell represents the Free
Press in this suit.

Manges is expected to testify
concerning his relationship with
Carrillo.

Previous witnesses have
alleged that Manges and Carrillo
conspired to replace political
enemies on the Benavides
school board with political
allies.

That testimony was con-
ducted by 22nd Dist. Atty.
Arnold Guerra who told the
committee earlier this week
that the decision to file suit to
remove four school trustees
was his and that the judge had
no part in the facilitation of the
suit.

Other testimony has alleged
that Manges provided Carrillo



CARRILLO LLANZA SAENZ
Takes the Fifth

Garcia was asked through an
interpreter whether he had ever
seen documents bearing his
purported signature. He denied
ever seeing claims for payment
dated in 1972.

Garcia also denied ever seeing
Duval County equipment in use
on the judge's ranch — another
in a string of allegations lodged
against Carrillo.

Garcia testified that he had
seen Duval County employees
working on Carrillo ranch
property, but always on
weekends, never on county
time.

Saenz did testify that on
March 18, George Parr threatened
to kill Carrillo. Parr said Parr
delivered the threat in the
clerk's office, which, he said, is
adjacent to the judge's
chambers.

"He (Parr) told the secretary
to get ahead of the judge
because I'm going to kill
him."

Saenz testified that the judge
was away from the courthouse
when the incident occurred.

Earlier testimony also con-
cerned the threat.

The committee adjourned
until 1:30 p.m. Tuesday after
hearing Garcia.

Manges is expected to be
back then.

The rancher's name also
surfaced earlier this year in a
\$2.5 million campaign financing
irregularities suit filed against
Gov. Dolph Briscoe by un-
successful gubernatorial
candidate Frances "Sissy"
Farenthold. The suit was later
settled out of court.

The governor said in written
testimony taken in connection
with that suit that Manges of-
fered \$12,000 for the 1972
campaign.

Briscoe said he tried to give
the money back, but couldn't
locate Manges. He gave the
money retained uncollected in a
lock vault.

According to Briscoe press



Exhibit E-19

00087

FOR TWO REASONS

By LEE HAVIN and ARNOLD GARCIA JR. Staff Writers

Before a House committee began an inquiry into the activities of a South Texas district court judge, another parallel investigation already was under way.

Merion Pipkin, executive director of the Judicial Qualification Commission, said his office is investigating complaints against 12th Dist. Court Judge O.P. Carrillo. "We had the investigation in motion when the legislature acted," Pipkin said.

Investigation. "If it does anything, it might to spend it up," he said. Pipkin, however, claimed that because of the House action, Carrillo is more very much. "It's kind of a mixed up thing at the moment."

The House impeachment hearings unfolded May 28.

Nutrition meeting Monday

The Judicial Qualification Commission inquiry was revealed this week during testimony before the House Select Committee on Impeachment.

The most severe action against Carrillo that could come from the commission would be a recommendation to the Texas Supreme Court that he be removed from the bench.

Although several House committee members, including Vice Chairman Robert Mabrey of Dallas, said they did not have previous knowledge of the commission investigation, Chairman Dan Claitor of Corpus Christi said he knew of it before the House inquiry was launched.

"We made contact with him (Pipkin), yes," Claitor said. "But I don't recall seeing him at the open House testimony a.m. and the first meeting could impose the commission's

As experimental nutrition program that reaches 32,000 women and children in Texas will be reviewed by the Texas Department of Health Resources (TDR) in a day-long conference Monday at Ramada-Gondolier Hotel, 1911125 South...

The Women, Infants and Children (WIC) program is responsible for reaching children and pregnant and lactating women who need nutritional supplements in their diet. The program is funded by the United States Department of Agriculture and is administered by the Division of Maternal and Child Health (DMCH).

More than 121 persons in 22 counties in Texas are expected to attend the meeting. Registration is not required and the first meeting begins at 9 a.m.

sparked by a resolution by Rep. Terry Canales of Brownwood. In that resolution, Canales cited Carrillo's recent federal indictment on charges of income misrepresentation as grounds for his impeachment. But the committee was mandated to examine any and all areas of possible misconduct by the judge.

Pipkin said the Judicial Qualification Commission inquiry was a response only to complaints received by his office and was in no way stimulated by Carrillo's indictment. "An indictment isn't any grounds for removal," he said.

indications are that the House hearings could end after another week's testimony. Carrillo's attorney, Arthur Mitchell of Austin, has been promised an opportunity to present evidence in behalf of Carrillo, possibly beginning Wednesday.

If the committee voted articles of impeachment after testimony was completed, the full House would be recalled for a vote. If impeachment was supported in the House, a trial would be scheduled in the Senate.

Pipkin said the commission would make a decision on the Carrillo charges at a meeting July 12. "We were already in the process" when the legislature called for its own investigation, he said. "They decided we were too slow, I guess."

Rancher refuses to answer Carrillo case probers

AUSTIN (UPI) — Claiming he might incriminate himself, Duval County rancher Clinton Manges refused Tuesday to give his name or any other testimony to the House committee considering impeachment of his political ally, Dist. Judge O. P. Carrillo.

Manges was excused after 15 minutes and his attorney, former state Sen. Jim Bates of Edinburg, charged the committee is investigating Manges instead of Carrillo and advised his client not to testify.

After Manges left the committee let Carrillo's defense headed by attorney Arthur

Mitchell of Austin, begin trying to refute charges leveled against Carrillo in three previous weeks of testimony.

Mitchell submitted more than 60 separate exhibits to the committee which he said will show Carrillo did not steal county funds and illegally use county equipment and employes for work on his ranch, as witnesses have alleged. He said he will call witnesses to refute charges Carrillo used his office for political gain.

The committee later considered in an executive session Mitchell's request to subpoena

five witnesses — considerably less than the 50 witnesses he said he planned to call earlier.

Mitchell's first witness, Reynaldo Guerra of Roma, testified he arranged for the sale of 500 bags of cement to Carrillo in September, 1973, and presented receipts and invoices he said proved the transaction took place. Other witnesses have said Carrillo took cement from a county warehouse and used it in the construction of a house on his ranch.

"The check (for \$1,050) that was given to me was signed by Mr. O. P. Carrillo," Guerra

said. He said he never actually dealt with Carrillo on the cement sale but arranged the deal through a mutual friend, Fred Pilon of Rio Grande City, who is also one of Carrillo's court interpreters.

Mitchell said he will present more witnesses at Wednesday's meeting, beginning at 1 p.m.

"Will you state your name?" Rep. DeWitt Hale, D-Corpus Christi, asked Manges to open the brief exchange with the committee.

"I respectfully decline to answer on the grounds that it might tend to incriminate

me," Manges said, citing the Fifth Amendment and its protection from self-incrimination.

"Where do you live?" Hale asked.

"I respectfully decline..." Manges replied.

"Do you know Judge O. P. Carrillo?"

"I respectfully decline..."

Bates said he advised Manges not to respond to questions concerning the impeachment resolution against Carrillo which cites the judge's indictment on alleged income tax violations. Bates said Manges was involved in the case.

THE HOUSTON POST
WEDNESDAY, JUNE 11, 1973



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Exhibit E-20

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LINTON MANGES

00089

Carrillo Lawyer Fights Subpoena

Daily Texan 6/13/73

By STEVE McGNIGLE
Texas Staff Writer

The special House committee deliberating the impeachment of State Dist. Judge O.P. Carrillo completed the first phase of its investigation Thursday, but not before plunging itself into legal conflict with defense attorney Robert Mitchell.

The problem arose during the questioning of Carrillo's tax accountant Oscar D. Kirkland of Alice, who the committee discovered he no longer had some subpoenaed income tax statements in his possession. Kirkland told the committee he had given the documents to Mitchell Wednesday afternoon. At the lawyer's request and did not know informed beforehand that the committee wished to see them.

Committee Vice Chairman Robert Maloney of Dallas then asked Mitchell if he actually did have the materials in his possession and if so, would he produce them to the committee. Mitchell replied he thought he did have the documents at his office but refused to present them unless he was compelled to do so by court order.

THE ATTORNEY'S REFUSAL regularly to relinquish the documents to the committee prompted Maloney to move that Mitchell be forced to produce the materials by means of a subpoena. The motion was approved 40, and the subpoena was served on Mitchell shortly thereafter.

When asked by Committee Chairman DeWitt Hale of Corpus Christi if he intended to comply with the committee's subpoena, Mitchell said he would not. He qualified his answer by stating he had not even checked to see if the documents in question were among those delivered to him by Kirkland.

Mitchell based his refusal to honor the subpoena on grounds the documents might tend to incriminate his client and that they also were protected from disclosure under the attorney-client privilege. Carrillo's lawyer further stated his feeling that his client's right in due process and equal protection under the law would be forfeited by disclosure, and finally, he questioned the committee's overall jurisdiction in the case against the judge.

Carrillo is under indictment in Corpus

Christi on federal income tax evasion charges. Many of the tax records requested by the committee subpoena also have been entered as material evidence in the federal case.

HALE ADMITTED Mitchell's arguments presented some "serious legal problems" to the committee, since he could not be cited for contempt while exercising his client's constitutional right to protection from self-incrimination. The chairman said the committee would have to consider the matter in detail before taking any action. Before the documents battle began with Mitchell, Hale had questioned Kirkland at length about Carrillo's tax returns for 1971-1972 and the 1968-1970 returns for Utecar and Arlene Zertuche dealing with their general store in Benavides. Past testimony has alleged the Zertuche store existed only on paper and was in fact merely a front used by Carrillo to steal money funds.

Kirkland was asked by the chairman if he knew why the same Zertuche store which grossed only \$11,500 in 1968 had made more than \$26,000 the following year. The accountant replied he did not know the reasons behind the Zertuches' sudden success.

Hale also inquired whether Kirkland could explain a similar success in the Carrillo-owned Farm and Ranch Supply Store in Benavides over 1971 and 1972. Again, the accountant said he really did not know what caused his business to go from losing \$1,000 in 1971 to earning \$18,000 in 1972.

Earlier in the day's hearing, the defense had recalled two witnesses who previously had given extremely damaging testimony against Carrillo.

CLEONIS CONZALEZ, a former worker in the Farm and Ranch Store, emphasized his statement that he knew of no Zertuche store in existence either before or after 1967 when the store supposedly moved all its inventory to the Carrillo store. Conzalez testified testimony given Wednesday by a witness who said she used to work at Zertuche's until it was damaged by a hurricane in 1967, saying the only piece of Zertuche equipment inside the Farm and Ranch Store after the hurricane was a cash register.

Conzalez, who claimed he was paid by Duval County the entire time he worked in the Carrillo store, also said he often cashed county checks for the judge's brother, Ramiro, which were endorsed by people who did not exist.

After hearing all the evidence, the committee recessed until June 23 so that members may study the more than 10 volumes of testimony already presented.

Clayton: Carrillo Should Resign

Clayton's Complaint From Trade Wire Services
House Speaker Bill Clayton said Thursday Duval County Dist. Judge O.P. Carrillo should resign to save the Legislature the trouble of further impeachment proceedings.
"The best thing would be for him just to resign and get out," Clayton said at a news conference.
Clayton also defended his use of the speaker's power to set up the select committee inquiry that could lead to Carrillo's impeachment.
"The resolution was introduced by Rep. Terry Canales of Fremont, a member of the Parr faction that is hounding Carrillo for political power in Duval and adjacent counties. Clayton said he did not believe this would set a precedent for the use of impeachment resolutions to pursue vendettas against political enemies.
"I feel we have an obligation to do this if there is a feeling of wrongdoing.... We would be neglecting our responsibilities and duties if we didn't look into it.... Mr. Canales was very adamant about it. He felt it was the only way he could get justice," Clayton said.

Duval County Probe Continues Indictments Turn Up Corruption Links

SAN DIEGO (UPI)—The Duval County grand jury Thursday indicted five more persons, including two former school superintendents, in its investigation of an alleged web of graft and corruption in public offices.
Two of the persons indicted already are serving federal sentences for income tax evasion, and a third is the nephew of Dist. Judge O.P. Carrillo, who is the subject of impeachment proceedings in the Texas Legislature.
Eunice E. Powell, former Benavides

school superintendent, was charged with official misconduct, and Bryan P. Taylor, former San Diego school superintendent, was accused of theft.
U.S. Dist. Judge Owen Cox of Corpus Christi sentenced Powell and Taylor to one-year prison terms for income tax evasion which they began serving last March 27. Both were indicted on the tax charges along with the late "Duke of Duval" George B. Parr, who committed suicide last April 1 while appealing a five-year federal prison sentence.

Carrillo's nephew, Rogelio Ouzajede, a school board member, was charged with five counts of official misconduct.
Also indicted were Luis Elizondo, former vice-president of the Benavides school board and justice of the peace, on three counts of official misconduct, and Diego Saena, charged with one count of theft.
Judge Carrillo earlier this year temporarily suspended Elizondo and three other members of the school board on grounds they approved a salary of \$1,000 a month for Powell to act as an "advisor" while he served his jail term.
Carrillo's order also said the removed board members allegedly destroyed official records of the school district, including a \$25,000 check to San Diego attorney Marvin Foster and a \$25,000 check to Houston attorney Charles E. Orr, who defended George Parr and the two school superintendents against the income tax charges.

Since Parr's death, Judge Carrillo, his county commissioner brother Ramiro Carrillo and a business associate were indicted by a federal grand jury in Corpus Christi on income tax evasion charges.
As a result of the grand jury investigation, Parr simultaneously with a split between the Carrillo and Parr political factions, George Parr's nephew, Archer Parr, was removed as county judge last March. Archer Parr is appealing a 10-year federal prison term for lying to the grand jury that indicted his uncle, Powell and Taylor.

Exhibit E-21

Impeachment hearing ends; suit threatened

By SPENCER PEARSON
Staff Writer

AUSTIN — The House impeachment committee ended its public hearing Thursday but not before attorney Arthur Mitchell threatened to file a civil rights suit in federal court if his client, Dist. Judge O.P. Carrillo of Duval County, is impeached.

Mitchell made the threat privately during a recess of the impeachment hearing on Carrillo after he was asked to produce numerous income tax records concerning a Carrillo family trust.

He mentioned a number of grounds for a federal suit, among them being that impeachment would put Carrillo in double jeopardy and would deprive the judge of his rights and property without due process of law. The judge would be suspended from office automatically if impeachment articles were voted by the House.

Mitchell claimed the committee now is attempting to try Carrillo's income tax evasion case here rather than in federal court. Carrillo and his brother, County Commissioner Ramiro D. Carrillo and Arthur Zertucha were indicted together for federal income tax evasion and conspiracy to evade income taxes.

Mitchell later "respectfully" declined to produce the records after receiving a subpoena directing him to do so. In refusing, he gave as reasons the Fifth Amendment, which he invoked in behalf of Carrillo, the attorney-client privilege, lack of due process of law, lack of jurisdiction of the committee "and others which I can't think of just now."

The committee ended its public hearing after 12 days of testimony during which 27 witnesses appeared.

The 11-member committee will have a

dozen volumes of testimony and about 150 exhibits to go over before it decides whether to recommend articles of impeachment against Carrillo. Chairman L. DeWitt Hale of Corpus Christi said it is also possible the committee may want to hear more testimony.

The committee probably won't make a decision before July. If it votes for impeachment, the House will convene to act on it the third Monday after receiving the committee's report. The Senate would try the case.

Carrillo's income tax case is on the docket call for June 30 in federal district

See Carrillo, page 12A

Duval jury hits school

officials with indictments

By JOE COUDERT
Staff Writer

SAN DIEGO — The Duval County grand jury Thursday returned 12 indictments against five persons connected with the Benavides Independent School District.

Indicted were Rogelio Guajardo Jr., 33, of Benavides, four indictments for official misconduct and one for theft; Luis Elizondo, 45, of Benavides, three indictments for official misconduct; Diego Saenz, 46, of Freer, one indictment for theft; Eunice E. Powell, of Freer, two indictments for official misconduct; and Bryan Taylor, of San Diego, one indictment for theft.

See Duval, page 12A



Cleofas Gonzalez

Duval

From IA

one of the two current Benavides school boards.

The Benavides school district operates the school systems in Benavides and Freer.

Three routine criminal indictments also were returned Thursday morning. One indictment each was returned on Dan C. DeSpain, Felix Hogan and Benito Salinas, all of Freer, for aggravated assault on a police officer.

Jury foreman Jose R. Nichols presented the 15 indictments to Dist. Judge C. Woodrow Laughlin of Premont, at approximately 9:15 a.m. Nine of the indictments were sealed.

At the request of Nichols, the judge recessed the grand jury until June 23.

Guajardo, Elizondo and Saenz all came to the sheriff's department voluntarily around noon to be fingerprinted and booked. They were also released on \$5,000 bond for each indictment.

Guajardo is a job developer for Jobs for Progress, Inc. of Corpus Christi. He is the nephew of Dist. Judge O. P. Carrillo and county commissioner Ramiro Carrillo. He was a Benavides school trustee until he lost his bid for re-election April 3 in a hotly-contested race which included Mrs. Hilda Parr and Ruben Chape.

Elizondo, a rancher and justice of the peace was one of the four members of the so-called "old" school board who were ousted earlier this year by Judge Carrillo and replaced with temporary trustees.

Saenz, a contractor, is currently a member of the "new" school board and was appointed by Judge Carrillo to replace one of the ousted members.

Judge Laughlin was assigned to the grand jury by Dist. Judge J. R. Alamia of Edinburg, administrative judge for the Fifth Administrative District, to serve for Dist. Judge O. P. Carrillo who is in Austin attending the legislative hearings on his proposed impeachment.

Details of the evidence which produced the indictments was not available.

These are the second series of indictments returned by the grand jury as a result of a special investigation. Last month, Rodolfo Couling, former tax collector and business manager for the Benavides school system, received four indictments for official misconduct and one for theft.

The grand jury began its investigation in February and enlisted the aid of Texas Attorney General John Hill in March. More than a dozen investigators from the Texas Rangers, Department of Public Safety Intelligence division, assistant attorney generals and accountants from the Texas Education Agency established offices in the courthouse annex here.

The grand jury has subpoenaed officials and records from a variety of public agencies including the county, Benavides and Freer school systems and the Duval County Conservation and Reclamation District.

Although much of the evidence falls under the grand jury secrecy rule, it is known that investigations have been made into the use of county-owned equipment on private ranches and expenditures by the Benavides school district.

Although there have been no official announcements, there were indications Thursday that investigators are continuing work on other cases and evidence will be presented to the grand jury for additional indictments.



Rogelio Guajardo (left), with Uncle Ramiro Carrillo

CIA

From IA

With Colby waiting before subcommittee members, television cameras and newsmen to testify, Stanton announced that Nedzi had resigned as chairman of the full committee and the hearing could not continue because of a boycott by Republicans.

All three Republicans on the 10-member committee refused to attend the session, with ranking Republican Robert F. McClory of Illinois saying he did so because Nedzi had urged the meeting be postponed.

Nedzi handed his resignation over to Speaker Carl Albert, saying committee Democrats had stripped him in a caucus of any real power to direct the committee.

Five committee Democrats last week mounted a drive to force Nedzi out as chairman but agreed Monday to a com-

promise under which the subcommittee was created to take over investigation of CIA matters.

The drive to oust Nedzi erupted after disclosure that the CIA beted Nedzi more than a year ago on political assassination plots and domestic spying without Nedzi taking any action.

Nedzi had said he hoped the compromise creation of the CIA subcommittee would remove any question of whether he had a conflict of interest and he would remain chairman of the committee investigating all U.S. intelligence agencies including the CIA.

But he said the Democrats stripped him of power at a caucus Thursday by requiring that all 10 members of the full committee also be members of the CIA subcommittee.

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Carrillo

From 1A

court in Corpus Christi. Unless there is a postponement it probably will begin sometime in July.

The question of the income tax records came up Thursday afternoon when Oscar D. Kirkland, Alice certified public accountant, was testifying about other income tax records which he had prepared and which had been produced by Mitchell. They included Carrillo's tax returns for 1971 and through 1973 and returns of Arturo Zertuche and the Zertuche General Store.

It was brought out that Carrillo receives more than \$6,000 a year from a trust fund set up by his father, D. C. Chapa, for his children. Eighteen of his grandchildren now are beneficiaries of that trust.

The bank account for the trust is in the name of Ramiro Carrillo and brothers.

Rep. Robert Maloney of Dallas asked if the income tax records of the trust could be produced, and Mitchell objected.

"I have no authority to furnish the returns for the trust set up by Mr. Chapa," he said. "The Internal Revenue Service is sitting in the room and I'm not going to produce any more."

Maloney moved that the committee issue a subpoena for the income tax returns of Ramiro Carrillo and brothers for the years 1967-74, Farm and Ranch Supply for 1967-74 and O. P. Carrillo for 1967-70. Mitchell remarked that there would be "no end to it. We might as well try the case in federal district court where we have the protection of the U.S. Constitution."

Hale said the committee is not concerned with income taxes, only the source of Carrillo's income.

The committee finally voted 6-0 to issue the subpoena. As chairman, Hale did not vote. Four others were absent.

Mitchell was given about 30 minutes to

produce the returns, which Kirkland said were in his office. Mitchell said he had not seen them.

During that period Rep. James Kaster of El Paso asked Kirkland if the trust account got any income from the Farm and Ranch Supply or the Zertuche Store. Kirkland replied, "Not to my knowledge, but I didn't check their bank accounts."

During Kirkland's testimony it was brought out that the gross receipts of the Zertuche Store ranged from \$11,000 to less than \$14,000 annually until it was moved into the Farm and Ranch supply building in 1967.

The receipts jumped to \$72,000 in 1968 and to \$81,000 in 1969.

Cleofas Gonzalez, who worked at Farm and Ranch Supply, testified earlier that about 60 per cent of the Farm and Ranch receipts came from local governments, all through the Zertuche Store name.

He testified that Zertuche General Store had no merchandise but was used to sell supplies to the county from Farm and Ranch, which is owned by O.P. and Ramiro Carrillo. He said he would bill the county in the name of Zertuche, although the supplies came from Farm and Ranch.

Mrs. Laure Yzaguirre, whose husband owns the Cash Store in Benavides, testified again that Judge Carrillo received up to \$300 in groceries each month which were paid for by the county.

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Subpoena voted for tax records in Carrillo probe

The House select committee investigating alleged misconduct by Judge O. P. Carrillo of Brevard County Thursday voted to subpoena additional tax records after Carrillo's lawyer refused to submit them voluntarily.

Arthur Mitchell of Austin, Carrillo's attorney both in the House impeachment proceeding and in a federal income tax evasion case, said he had charged his mind since he ordered several days ago to produce all tax records requested by the committee.

Mitchell, who previously had challenged the very existence of the committee, said he would not respond to the subpoena "unless ordered by court."

The committee did not react immediately to Mitchell's refusal. The chairman said Mitchell's contention that producing the records would violate Carrillo's 5th Amendment rights against self-incrimination in an income tax case "does raise serious legal problems."

Options open to the committee include citing Mitchell for contempt or seeking a court order that he comply with the subpoena.

"My position has changed because the tone of the examination has changed and now we are trying him for federal income tax evasion. I feel I can change my mind because of the shift," Mitchell said angrily.

Committee chairman DeWitt Hale, D-Corpus Christi, said the records were needed to establish whether Carrillo had received any income from the Zerkow General Store. Previous witnesses have said the store was a fiction, used to sell merchandise to David County that

the county already owned. Checks allegedly were written on the store's account to the Farm and Ranch Store, owned by the judge and a partner.

Records covered by the subpoena include those for the Farm and Ranch Store for 1967-74, a Carrillo family trust administered by the judge and Carrillo's own tax returns for 1967-74. Mitchell already has submitted Carrillo's tax returns for subsequent years.

Mitchell asserted he would not submit the trust returns without a court order because they deal with income received by 13 persons, including children, and "I don't represent those people."

Hale wanted to delay the subpoena until he could brief the legal problems involved in it. But committee vice-chairman Bob Mahoney, D-

Dallas, insisted on his motion to issue it now.

"For the record, we need to preserve this committee's integrity and subpoena those records," Mahoney said. The committee vote was 6-0, with Hale not voting, to issue the subpoena to Mitchell and Carrillo's accountant, Oscar Kirkland of Alton.

Kirkland appeared voluntarily but said he turned all the records over to Mitchell Wednesday afternoon.

Speaker Bill Clayton told a news conference Thursday that if the committee recommends impeachment of Carrillo, he would expect to reconvene the House in "the latter part of July" to take action. If the House impeaches the judge, the Senate then would return to try him.

00093

Carrillo holding back papers



ARTHUR MITCHELL
... changes his mind

AUSTIN (AP) — The House select committee investigating alleged misconduct by Judge O. P. Carrillo of Benavides voted Thursday to subpoena additional tax records after Carrillo's lawyer refused to submit them voluntarily.

Arthur Mitchell of Austin, Carrillo's attorney both in the House impeachment proceeding and in a federal income tax evasion case, said he had changed his mind since he offered several days ago to produce all tax records requested by the committee.

Mitchell, who previously had challenged the very existence of the committee, said he would not respond to the subpoena "unless ordered by court."

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Committee chairman DeWitt Hale, D-Corpus Christi, said the records were needed to establish whether Carrillo had received any income from the Zertuche

General Store. Previous witnesses have said the store was a fiction, used to sell merchandise to Duval County that the county already owned. Checks allegedly were written on the store's account to the Farm and Ranch Store, owned by the judge and a brother.

Records covered by the subpoena include those for the Farm and Ranch Store for 1967-74, a Carrillo family trust administered by the judge and Carrillo's own tax returns for 1967-70. Mitchell already has submitted Carrillo's tax returns for subsequent years.

Mitchell asserted he would not submit the trust returns without a court order because they deal with income received by 19 persons, including children, and "I don't represent those people."

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"For the record, we need to preserve this committee's integrity and subpoena those records," Maloney said.

00094

Exhibit B-24

Carrillo's Lawyer Counters Charges

AUSTIN (AP) — District Court Judge O. P. Carrillo's lawyer said Friday he will go to federal court to block what he called the predetermined impeachment of his client.

A special House committee is investigating Carrillo

to decide whether impeachment charges should be brought against the judge.

"The SOB's have predetermined they are going to impeach," said Carrillo's lawyer, Arthur Mitchell.

"I'VE ALWAYS felt people are going to be fair, but

this thing took a turn when they couldn't prove their case. I showed I (meaning his client) bought my cement, I bought my car, I bought my gas," he said.

Allegations that Carrillo charged Duval County up to \$300 a month for groceries

and \$700 a month for gasoline for his car and ranch vehicles are false on their face, Mitchell contends.

Mitchell has introduced mountains of records of the judge's personal finances, including canceled checks for groceries and gasoline.

"If PM entitled to get my groceries free, why am I paying \$4,000 a year for groceries? Why am I paying \$700 a month for gas?" he said.

Mitchell produced witnesses this week who testified that the judge paid \$1,000 for cement used to build a store on his ranch, that he did not use county-owned rustic pecan paneling store, that the so-called Zertuche General Store, which committee witnesses have said was a fiction, actually existed from 1961 to 1967 and that its merchandise was sent to the judge's Farm and Ranch Store after a 1967 hurricane wrecked the Zertuche store.

Mitchell said he gave the committee all the judge's tax records but that the committee now wants 159 tax returns for all the judge's immediate family.

"I'M NOT going to give them one more piece of paper," he said. "The next time I see them I want a federal marshal alongside me so I can pull them into federal court."

The committee is scheduled to meet again June 23.

Mitchell, using profanity, said the committee members "have done converted it into a federal trial on the (IRS) thing. It's sheer abuse of legislative power. It's like the CIA thing. It's a syndication of governmental power, and that syndication becomes oppressive. They come at you without constitutional restraints."

As soon as the committee votes to recommend impeachment, articles against Carrillo, Mitchell said, he will file a civil rights suit in Austin federal district court, alleging among other things a conspiracy between the Internal Revenue Service and legislators to get Carrillo.

Carrillo has been charged by a federal grand jury in Corpus Christi with income tax violations.

Exhibit E-25

Another Column Mon June 16 1975

Hearing on Parr ouster slated for Carrillo court

RIO GRANDE CITY, (AP) — witnesses who failed to appear in court. A hearing is scheduled Monday in state district court here on the ouster of Archer Parr as Duval County judge, another chapter in the long-standing battle for political control of the South Texas county.

The hearing is to be held in the court of Judge O. P. Carrillo, himself the target of a legislative impeachment investigation, and a longtime political foe of the Parr family in Duval County.

The Parr hearing was recessed May 19 to allow lawyers to take depositions from some 16 subpoenaed Rep. Terry Canales, D-Premont, a Parr family friend. Carrillo is under indictment on federal income tax evasion charges. Among the allegations, the legislative committee is considering are accusations that Carrillo got up to \$300 a month in groceries at county expense, plus gasoline for his car and ranch vehicles.

Carrillo's lawyer, Arthur Mitchell of Austin, says all the allegations are false and part of a smear attempt by the Internal Revenue Service, the Parrs and "big oil companies" who allegedly have been promised a tax break in the county.

Several months ago, Carrillo removed Parr from the office on a motion from Dist. Atty. Arnulfo Guerra, who cited Parr's conviction on federal perjury charges and also alleged that Parr stole \$420,000 from the county.

Parr has challenged the removal as an illegal political action.

The legislative probe of Carrillo has been recessed until June 23. If the committee recommends impeachment, the House would have to reconvene to consider such action. The probe was instigated by

4/17/75 0097

Death threat by Parr alleged

Carrillo refuses to disqualify self

RIO GRANDE CITY (AP) — District Court Judge O.P. Carrillo testified Monday that he was told March 19 that the late Duval County political boss George B. Parr was waiting at the courthouse with a machine gun and planned to kill Judge Carrillo.

The testimony came during a hearing on a motion to have Judge Carrillo disqualified from presiding at the ouster trial of suspended Duval County Judge Archer Parr, a nephew of a late "Duke of Duval." Judge Carrillo rejected the motion to disqualify himself. Defense lawyer Marvin Foster of San Diego called the

Judge as a witness in his attempt to have the judge disqualify himself.

Judge Carrillo ordered Parr suspended from office March 24 after Dist. Atty. Arnulfo Guerra filed a civil suit seeking Parr's ouster on grounds that the county judge had been convicted at San Antonio on a federal perjury charge and grounds that there had been testimony in a divorce case indicating Parr had been guilty of official misconduct.

Foster sought to have the judge disqualified on grounds

that Parr cannot receive a fair trial with Judge Carrillo presiding.

Court was recessed until 9 a.m. Wednesday after Judge Carrillo ruled on the disqualification motion. Earlier, Judge Carrillo had been able to qualify only 30 persons of the 200 called for a panel of prospective jurors. More prospective jurors are to be ordered to appear Wednesday.

Testimony concerning the machine gun alleged the threat by Parr to kill the judge came

after Foster called the judge as a witness. Judge Carrillo swore himself in as a witness and testified in mostly narrative form.

Judge Carrillo said he had returned to Benavides March 19 after holding court in Rio Grande City when he received a telephone call from South Texas rancher-banker Clinton Manges of Freer. Judge Carrillo said he had been told earlier in the day that Dist. Atty. Guerra planned to soon file a motion to have four members of the Benavides school board removed from office on grounds of official misconduct.

The judge said he told Manges he was leaving for the courthouse at San Diego and agreed to meet Manges on the highway between Benavides and San Diego in a few minutes.

Judge Carrillo quoted Manges as saying, "Judge, you can't go to the courthouse. George Parr is at the courthouse and he's going to shoot you. He's dead serious about it."

Manges told Judge Carrillo, according to the judge, that he had been at Parr's home earlier in the day and saw Parr leaving his home with a machine gun. "He's going to shoot you the moment you walk in," Judge Carrillo quoted Manges as saying.

The judge said Manges told him Parr said he had learned the judge was going to remove the school board members and Archer Parr. The judge said he knew nothing at that time about the possible removal of Judge Parr.

Judge Carrillo said he did not go to the courthouse that day and returned home.

00098

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
V. § CRIMINAL NO. 75-C-45
 §
RAMIRO D. CARRILLO, §
O. P. CARRILLO, AND §
ARTURO R. ZERTUCHE §

SUPPLEMENTARY MOTION OF THE DEFENDANTS RAMIRO D. CARRILLO,
O. P. CARRILLO, AND ARTURO R. ZERTUCHE FOR CONTINUANCE

TO THE HONORABLE COURT:

Come now Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche, Defendants in the above-entitled and numbered cause, and make this their Supplementary Motion for Continuance and in support thereof would respectfully show the Court as follows:

I.

On or about the 1st of May, 1975, the Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche filed their First Motion for Continuance in the above-entitled and numbered cause, which Motion this Court, upon hearing of said Motion on the 16th of May, 1975, tentatively indicated it would grant.

II.

Since the filing of Defendants' First Motion for Continuance and the hearing thereon, subsequent events arising without notice and without the constitutional due process protections have occurred rendering a continuance of the trial of Defendants in the above-entitled and numbered cause imperative. On or about the 19th of May, 1975, the Defendant O. P. Carrillo received a telegram (attached hereto) giving notice of H.S.R. 161 (attached hereto) and the convening of a House Select Committee on Impeachment the next day at 8:00 p.m. to consider impeachment charges proffered against the Defendant O. P. Carrillo, in his office as District Judge of the 229th Judicial District.

R-5

Ex. J-5

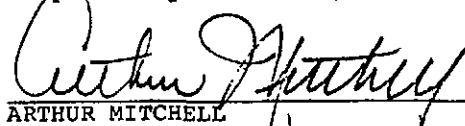
00099

III.

The House Select Committee on Impeachment convened from 8:00 p.m. on the 20th of May, 1975; until 12:30 a.m. the 21st of May, 1975; convened again from 8:00 p.m. to 12:30 a.m. the next evening; convened from 7:30 p.m. to 2:00 a.m. the following evening; and convened from 7:30 p.m. to 12:30 a.m. the next evening. The Defendant O. P. Carrillo and his attorney have been in constant attendance at this impeachment proceeding involving not only the subject matter of H.S.R. 161 but also uncorroborated and unnoticed accusations varying from the unauthorized use of backhoes and cement belonging to Duval County to the illegal use of food stamps to procure food for his personal household. The proceedings before the House Select Committee is substantial and affects substantial property rights; and the attorney for the Defendants will not be prepared to present his defense in the trial of the cause before this Court at the date presently set because the proceedings before the Committee threaten to continue the balance of this month, next month, and perhaps into a long trial before the Senate, to include and encompass the same subject matter the attorney for the Defendants will be called upon to try on June 30, 1975, presenting testimony of witnesses identical to those testifying in the June 30 trial, and to continue indefinitely until the matter can be resolved.

WHEREFORE, PREMISES CONSIDERED, Defendants respectfully move this Court to continue this cause until a later date subsequent to the termination of impeachment proceedings before the House of Representatives and/or the Senate.

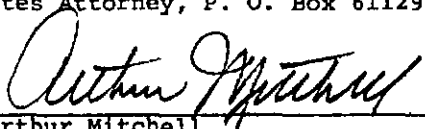
Respectfully submitted,



ARTHUR MITCHELL
315 Westgate Building
Austin, Texas 78701
ATTORNEY FOR DEFENDANTS
WILLIAM DAVID BONILLA
P. O. Drawer 5427
Corpus Christi, Tx. 78504

00100

A true and correct copy of the above and foregoing
Supplementary Motion of the Defendants for Continuance has
been forwarded to the United States Attorney, P. O. Box 61129,
Houston, Texas 77207.


Arthur Mitchell

60101

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
V. § CRIMINAL NO. 75-C-45
 §
RAMIRO D. CARRILLO, §
O. P. CARRILLO, AND §
ARTURO R. ZERTUCHE §

ORDER RELATING TO DEFENDANTS'
SUPPLEMENTARY MOTION FOR CONTINUANCE

On this date came to be considered the Supplementary Motion for Continuance by Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche, and the Court having considered the same is of the opinion that said Motion should be _____:

It is therefore ORDERED that Defendants' Supplementary Motion for Continuance is hereby in all things _____.

DATED: _____

JUDGE
United States District Court
Southern District of Texas

60102

UNITED STATES DISTRICT COURT
FOR THE
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

O. P. CARRILLO, INDIVIDUALLY
AND AS DISTRICT JUDGE OF THE
229TH JUDICIAL DISTRICT OF TEXAS,

PLAINTIFF

V.

CIVIL ACTION NO. A75CA121

BILL CLAYTON, INDIVIDUALLY AND
AS SPEAKER OF THE HOUSE OF
REPRESENTATIVES OF THE STATE OF
TEXAS;
TERRY A. CANALES, INDIVIDUALLY
AND AS A MEMBER OF THE HOUSE OF
REPRESENTATIVES OF THE STATE OF
TEXAS;
WILLIAM HOBBY, INDIVIDUALLY AND
AS LIEUTENANT-GOVERNOR OF THE
STATE OF TEXAS;
L. DEWITT HALE, INDIVIDUALLY AND
AS CHAIRMAN OF THE HOUSE SELECT
COMMITTEE ON IMPEACHMENT;
ROBERT MALONEY, INDIVIDUALLY AND
AS VICECHAIRMAN OF THE HOUSE SELECT
COMMITTEE ON IMPEACHMENT;
RICHARD C. SLACK, INDIVIDUALLY AND
AS A MEMBER OF THE HOUSE SELECT
COMMITTEE ON IMPEACHMENT;
JAMES E. LANEY, INDIVIDUALLY AND
AS A MEMBER OF THE HOUSE SELECT
COMMITTEE ON IMPEACHMENT;
ROBERT HENDRICKS, INDIVIDUALLY AND
AS A MEMBER OF THE HOUSE SELECT
COMMITTEE ON IMPEACHMENT;
JAMES J. KASTER, INDIVIDUALLY AND
AS A MEMBER OF THE HOUSE SELECT
COMMITTEE ON IMPEACHMENT;
LYNN NABERS, INDIVIDUALLY AND AS
A MEMBER OF THE HOUSE SELECT COMMITTEE
ON IMPEACHMENT;
JERRY DONALDSON, INDIVIDUALLY AND AS
A MEMBER OF THE HOUSE SELECT COMMITTEE
ON IMPEACHMENT;
SENFRONIA THOMPSON, INDIVIDUALLY
AND AS A MEMBER OF THE HOUSE SELECT
COMMITTEE ON IMPEACHMENT;
SARAH WEDDINGTON, INDIVIDUALLY AND AS
A MEMBER OF THE HOUSE SELECT COMMITTEE
ON IMPEACHMENT;
MELCHOR CHAVEZ, INDIVIDUALLY AND AS
A MEMBER OF THE HOUSE SELECT COMMITTEE
ON IMPEACHMENT;

R-6

Ex. J-6

00103

MAURICE S. PIPKIN, INDIVIDUALLY
AND AS EXECUTIVE DIRECTOR OF THE
JUDICIAL QUALIFICATIONS COMMISSION
OF THE STATE OF TEXAS;
JOHN L. HILL, INDIVIDUALLY AND
AS ATTORNEY GENERAL OF THE STATE
OF TEXAS;
JOSE R. ALAMIA, INDIVIDUALLY AND
AS A DISTRICT JUDGE OF THE FIFTH
JUDICIAL ADMINISTRATIVE DISTRICT
OF TEXAS;
UNKNOWN AGENTS AND EMPLOYEES OF
THE UNITED STATES OF AMERICA,

DEFENDANTS

COMPLAINT

TO THE HONORABLE JACK ROBERTS, JUDGE OF SAID COURT:

I. JURISDICTION: THREE-JUDGE COURT

A. This is a civil action seeking declaratory, injunctive, and other relief at law and equity from various state judicial, legislative, and administrative proceedings against the Hon. O. P. Carrillo, and the participation of agents and employees of the United States Government therein, and from the suspension and/or removal of the Hon. O. P. Carrillo from his office of District Judge, 229th Judicial District of Texas, pursuant thereto on the grounds that Plaintiff is being subjected under color of state law to the deprivation of rights, privileges, and immunities secured to him by the Constitution and laws of the United States of America. Plaintiff seeks a declaration ~~of the unconstitutionality~~ of the impeachment provisions of the Constitution of Texas and statutes of the proceedings conducted before the House of Representatives of the State of Texas and the House Select Committee on Impeachment pursuant thereto, such declaration adjudging all proceedings by the House Select Committee on Impeachment to be void as an unconstitutional exercise of purported authority under color of state law. Further, Plaintiff seeks an injunction against all further proceedings by the House Select

Committee on Impeachment and/or the House of Representatives of the State of Texas arising out of said unconstitutional proceedings before the House of Representatives and the House Select Committee on Impeachment, including but not limited to any attempted suspension of the Hon. O. P. Carrillo from his office as District Judge of the 229th Judicial District of Texas. Further, Plaintiff seeks an injunction against the use of any evidence or information obtained through direct or indirect participation in the unconstitutional proceedings before the House Select Committee on Impeachment in proceedings against the Hon. O. P. Carrillo before the Judicial Qualifications Commission of the State of Texas, in the Supreme Court of the State of Texas, in Federal District Court or in any other proceeding. The jurisdiction of this Court is invoked pursuant to and is appropriate under the following Federal statutes and authority:

1. 28 U.S.C. §1343, (3) and (4), providing for original jurisdiction in the district court to redress the deprivation, under color of State law, of any right, privilege, or immunity secured by the Constitution of the United States and to secure equitable or other relief under any Act of Congress providing for the protection of civil rights.
2. 28 U.S.C. §1331(a), providing for original jurisdiction in the district court over all civil actions wherein the matter in controversy exceeds the sum of \$10,000 and arises under the Constitution or laws of the United States.
3. 28 U.S.C. §2201, providing for declaratory judgments in the case of an actual controversy within the jurisdiction of the district court.
4. 28 U.S.C. §2202, providing for the granting of further necessary proper relief based on a declaratory judgment.

60105

5. 42 U.S.C. §1983, providing for a cause of action based on the deprivation, under color of State law, of any rights, privileges or immunities secured by the Constitution and laws of the United States to any person within the jurisdiction thereof.

6. 42 U.S.C. §1985(3), providing for a cause of action based upon two or more persons conspiring to deprive any person of the equal protection of the laws, or of equal privileges and immunities under the laws.

7. 28 U.S.C. §2281, making a three-judge court mandatory in cases in which an injunction restraining the enforcement, operation or execution of any State statute by restraining the actions of the executing officer or officers is sought on the grounds that the State statute is repugnant to the Constitution of the United States.

8. 28 U.S.C. §2284, providing for the composition and procedure of the court in any action or proceeding required to be heard and determined by a district court of three judges.

9. Amendments Five, Six, and Fourteen to the Constitution of the United States of America, providing for the right to be protected against deprivation of property without due process of law, the right to be protected against being twice tried for the same crime, the right to effective assistance of counsel in any criminal proceeding, the right to the presumption of innocence in a criminal prosecution, the right to be confronted with the charges in a criminal prosecution, and the right to equal protection of the laws.

10. The doctrine of pendent jurisdiction.

II. PARTIES

A. Plaintiff

1. Plaintiff is the Hon. O. P. Carrillo, duly elected and serving Judge of the District Court, 229th Judicial District of

Texas, having a certificate of election issued the 5th day of November, 1975 (Exhibit A), and a resident of Benavides, Duval County, Texas.

B. Defendants.

1. The Defendant Bill Clayton, the duly elected and serving Speaker of the House of Representatives of the State of Texas, has an office in the Capitol Building in Austin, Travis County, Texas, and his residence in Corpus Christi, Nueces County, Texas.

2. The Defendant Terry A. Canales, a member of the House of Representatives of the State of Texas and the sponsor of House Simple Resolution 161, pursuant to which impeachment proceedings were commenced, has an office in the Capitol Building, Austin, Travis County, Texas, and his residence in Premont, Jim Wells County, Texas.

3. The Defendant L. DeWitt Hale, a member of the House of Representatives of the State of Texas, and Chairman of the House Select Committee on Impeachment, has an office in the Capitol Building, Austin, Travis County, Texas, and his residence in Corpus Christi, Nueces County, Texas.

4. The Defendant Robert Maloney, a member of the House of Representatives of the State of Texas and Vice-Chairman of the House Select Committee on Impeachment, has an office in the Capitol Building, Austin, Travis County, Texas, and his residence in Dallas, Dallas County, Texas.

5. The Defendant Richard C. Slack, a member of the House of Representatives and a member of the House Select Committee on Impeachment, has an office in the Capitol Building, Austin, Travis County, Texas, and his residence in Pecos, Reeves County, Texas.

6. The Defendant James E. Lancy, a member of the House of Representatives of the State of Texas and a member of the House Select Committee on Impeachment, has an office in the Capitol Building, Austin, Travis County, Texas, and his residence in Hale Center, Hale County, Texas.

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7. The Defendant Robert Hendricks, a member of the House of Representatives of the State of Texas and a member of the House Select Committee on Impeachment, has an office in the Capitol Building, Austin, Travis County, Texas, and his residence in McKinney, Collin County, Texas.

8. The Defendant James J. Kaster, a member of the House of Representatives of the State of Texas and a member of the House Select Committee on Impeachment, has an office in the Capitol Building, Austin, Travis County, Texas, and his residence in El Paso, El Paso County, Texas.

9. The Defendant Lynn Nabers, a member of the House of Representatives of the State of Texas and a member of the House Select Committee on Impeachment, has an office in the Capitol Building, Austin, Travis County, Texas, and his residence in Brownwood, Brown County, Texas.

10. The Defendant Jerry Donaldson, a member of the House of Representatives of the State of Texas and a member of the House Select Committee on Impeachment, has an office in the Capitol Building, Austin, Travis County, Texas, and his residence in Gatesville, Coryell County, Texas.

11. The Defendant Senfronia Thompson, a member of the House of Representatives of the State of Texas and a member of the House Select Committee on Impeachment, has an office in the Capitol Building, Austin, Travis County, Texas, and her residence in Houston, Harris County, Texas.

12. The Defendant Sarah Weddington, a member of the House of Representatives of the State of Texas and a member of the House Select Committee on Impeachment, has an office in the Capitol Building, Austin, Travis County, Texas, and her residence in Austin, Travis County, Texas.

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13. The Defendant Melchor Chavez, a member of the House of Representatives of the State of Texas and a member of the House Select Committee on Impeachment, has an office in the Capitol Building, Austin, Travis County, Texas, and his residence in Harlingen, Cameron County, Texas.

14. The Defendant Maurice S. Pipkin, the Executive Director of the Judicial Qualifications Commission of the State of Texas, has an office in the Supreme Court Building, Austin, Travis County, Texas, and his residence in Austin, Travis County, Texas.

15. The Defendant John L. Hill, the duly elected Attorney General of the State of Texas, has an office in the Supreme Court Building, Austin, Travis County, Texas, and his residence in Austin, Travis County, Texas.

16. The Defendant Jose R. Alamia, District Judge of the 92d Judicial District of Texas and member of the Judicial Conference of the Fifth Judicial Administrative District of Texas, has an office in the County Courthouse, Edinburg, Hidalgo County, Texas, and his residence in Edinburg, Hidalgo County, Texas.

17. Defendant William Hobby, the duly elected and serving Lieutenant-Governor of the State of Texas, has an office in the Capitol Building, Austin, Travis County, Texas, and his residence in Austin, Travis County, Texas.

18. Defendant Unknown Agents and Employees of the United States of America which include agents and employees of the Internal Revenue Service and the United States Attorney's office, may be served through the United States Attorney's office in San Antonio, Bexar County, Texas.

III. FACTS

A. Background to Proceedings before the House Select
Committee on Impeachment and the Judicial Qualifications
Commission

1. Commencing several years prior to date, an extensive Government investigation was conducted by members of the United States Attorney's office and members of the investigatory force of the Internal Revenue Service as part of the so-called "South Texas Project," which investigation culminated in the return of Federal Grand Jury indictments against several individuals including Archer Parr, Octavio Saenz, and the late George B. Parr, all of Duval County, Texas.

2. Questioned by Government agents in the course of this investigation were the Plaintiff, O. P. Carrillo, his brother Ramiro D. Carrillo, and a cousin of the Carrillo brothers, Arturo R. Zertuche. All three men were later to be called to testify before the grand jury which subsequently returned indictments against George B. Parr, Archer Parr, and Octavio Saenz. While the Plaintiff O. P. Carrillo claimed his Fifth Amendment right and refused to testify, Ramiro D. Carrillo and Arturo R. Zertuche did give testimony before the grand jury.

3. As a result of the investigation, and based on information partially resulting from the aforestated testimony given by Arturo R. Zertuche and Ramiro D. Carrillo before the grand jury, a twelve-count indictment was returned against the Plaintiff O. P. Carrillo, his brother Ramiro D. Carrillo, and Arturo R. Zertuche on or about the 28th day of March, 1975, by a Federal Grand Jury sitting in Corpus Christi, Texas. In said indictment, the three men were charged with tax fraud and conspiracy to defraud the government in the assessment and collection of income taxes (Exhibit B).

4. Arraignment of O. P. Carrillo, Ramiro D. Carrillo, and Arturo R. Zertuche was held before the Federal District Court for the Southern District of Texas, Corpus Christi Divison, on April 10, 1975. O. P. Carrillo and the two other defendants therein each entered a plea of "not guilty" thereat.

5. Over the course of the next several weeks following the arraignment, the three defendants filed numerous pretrial motions aimed at securing pretrial discovery of the exact nature of the charges against them and the information upon which such charges were based (Exhibits C-1 through C-5). As a result of such pre-trial motions and the Government's answers thereto, it became evident that the charges against O. P. Carrillo and the two other defendants were grounded largely on the theory that the Schedule C income tax form filed by Arturo R. Zertuche for the years 1967, 1968, 1969, and 1970 contained misrepresentations of material matters in that said Schedule C averred that the Zertuche General Store was a sole proprietorship owned by Arturo R. Zertuche and that the income received therefrom was the property of Arturo R. Zertuche. According to the Government's theory, the Zertuche General Store in fact had no independent existence apart from Farm and Ranch Supply (a store owned by O. P. Carrillo and Ramiro D. Carrillo) and was merely used as a front by the Carrillos which enabled them to sell goods and services to the various governmental agencies. Finally, the Government's theory was that, since the Zertuche General Store was a sham, the income from such store should have been reported on the income tax returns of O. P. Carrillo and Ramiro D. Carrillo, and the failure to report such income on their returns constituted fraudulent misrepresentation by O. P. Carrillo and Ramiro D. Carrillo.

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6. On or about the 16th day of May, 1975, a hearing was held in the Federal District Court for the Southern District of Texas, Corpus Christi Division, which resulted in a determination by the Court that the joint representation of O. P. Carrillo, Ramiro D. Carrillo, and Arturo R. Zertuche by a single attorney did not create a conflict of interest on the part of the attorney, that a severance of the trials of O. P. Carrillo and Ramiro D. Carrillo from that of Arturo R. Zertuche was advisable, that a continuance of the trial should tentatively be granted to the three defendants, and that the defendants should be granted the right to take depositions of Celofas Gonzales and five other individuals.

7. Widespread media coverage attended all of the above court proceedings (Exhibits D-1 through D-).

B. Commencement of Removal and Impeachment Proceedings

1. During the course of preparation for the May 16th hearing in Federal Court, Plaintiff O. P. Carrillo received a letter dated the 2nd of May, 1975, from the Judicial Qualifications Board of the State of Texas, wherein Plaintiff was given notice of the commencement of informal proceedings against the Plaintiff in his capacity as District Judge based on four charges of misconduct allegedly casting doubt on the desirability of his continuation in his capacity of District Judge (Exhibit E). Plaintiff was given further notice in said letter of his right to make reply to such charges within fifteen days from the date of receipt of the letter. Reply to the charges was made by Plaintiff within the allotted time by a letter to the Executive Director of the Judicial Qualifications Board (Exhibits F-1 and F-2).

2. On or about the 15th day of May, 1975, House Simple Resolution 161 (Exhibit G) calling for the institution of impeachment:

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proceedings against O. P. Carrillo on the basis of his recent indictment in Federal Court was passed by the House of Representatives of the State of Texas. H.S.R. 161 was sponsored by Rep. Terry A. Canales of Premont, Texas, a long-time supporter of the Parr political faction in South Texas (Exhibit H) and the former attorney for both George B. Parr and Archer Parr in removal suits brought in the 229th District Court of Texas against the two men in their official capacities, as indicated by the Motions for Legislative Continuance filed therein (Exhibits I-1 and I-2). The involvement of Rep. Canales with the Parr faction is further indicated by Canales' authorship and sponsorship of a resolution (Exhibit J) in the House of Representatives seeking the abolition of the office of District Attorney for the 229th Judicial District of Texas following the institution of the removal suits against the Parrs by the present District Attorney of said District. The political motivation behind Canales' introduction of H.S.R. 161 and the resolution seeking the abolition of the office of District Attorney for the 229th Judicial District of Texas is also clearly demonstrated by the fact that, prior to the introduction of these two resolutions, Canales had introduced only one other bill for consideration in the Legislature and was rarely, in fact, in attendance in the legislative sessions (Exhibit K).

3. Also in May of 1975, the House of Representatives passed H.S.R. 167 (Exhibit L) sponsored by Rep. Robert Maloney creating the House Select Committee on Impeachment, whose stated function was to inquire into the matters contained in H.S.R. 161.

4. On or about the 19th day of May, 1975, Plaintiff received a telegram from L. DeWitt Hale, Chairman of the House Select Committee on Impeachment (Exhibit N), which telegram gave "notice" of the commencement of impeachment hearings by the House

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Select Committee on the 20th day of May, 1975, and of Plaintiff's right to be present at such hearings and to present evidence and testimony.

5. On or about the 20th day of May, 1975, at eight o'clock p.m., the House Select Committee on Impeachment convened to hold the first of its hearings inquiring into the activities of the Plaintiff O. P. Carrillo and others. Over the course of the next several weeks, the Committee continued to hold daily hearings and to take evidence and testimony introduced by Rep. Terry A. Canales, while denying Plaintiff or his attorney the right to examine the documentary material before the Committee or to question the witnesses testifying before the Committee.

a. Much of the evidence and testimony presented to the Committee was identical in nature to that to be presented in the Federal prosecution of Plaintiff, in that it went to the two questions of whether the Zertuche General Store was a sham enabling Plaintiff to sell goods and services directly to the County of Duval and whether the Plaintiff received income which was not reported on his income tax returns. As indicated by the indictment and the Government's answers to the pretrial Motions for Discovery and Bill of Particulars, these were to be the same questions at issue in the Federal trial. Whereas H.S.R. 161 indicated that the impeachment proceedings were to be brought on the basis of the fact of the Plaintiff's indictment, the Committee, upon the instigation of Rep. Canales, took it upon itself to conduct hearings on the very issues involved in the Federal charges. The Committee, however, did not limit itself to the scope of the indictment and the questions of fact presented thereby, but went outside the scope of the indictment and of H.S.R. 161 and received documentary evidence and testimony on matters wholly unrelated to the above and not included in the limited notice given either by the telegram from L. DeWitt Hale or by H.S.R. 161.

b. Included among the witnesses testifying upon subpoena by the Committee were Cleofas Gonzales and Rudolfo Couling, both of whom are key witnesses in the Federal prosecution, as indicated by the fact that the defendants in the Federal cause have sought the right to take the deposition of Cleofas Gonzales (which was granted by the Federal court) and have sought discovery of the records of the Benavides Implement and Hardware, a store operated by Rudolfo Couling.

c. Included among the records subpoenaed by the Committee were bank records showing checks written to various individuals and entities by the governmental entities in Duval County (Exhibit N), which records are also to play a vital part in the Federal prosecution of the Plaintiff, as indicated by the fact that the defendants in that prosecution have sought and were granted the right to take the deposition of Barney Goldthorne, the president of the bank from which the Committee subpoenaed the records (Exhibit O).

d. From the outset of the Committee hearings, the Plaintiff was denied the right to examine the documentary evidence before the Committee, to know the evidence to be presented against him, to have reasonable notice as to the dates and times of the Committee hearings, to have reasonable notice of the charges against him and the scope of the investigation, to present evidence in his favor, and to present witnesses or to have said witnesses subpoenaed by the Committee. Plaintiff was further denied the effective right to question witnesses subpoenaed by the Committee itself.

6. On or about the 23rd day of May, 1975, Plaintiff presented his First Response to the impeachment proceedings (Exhibit P) to the Select Committee wherein Plaintiff set out

numerous objections to the hearings and the impeachment proceedings in general, citing among other things the denial of substantive and procedural due process and minimal constitutional safeguards inherent in the proceedings, as well as the Committee's lack of authority to proceed, as grounds for discontinuation of the Committee hearings. The House Select Committee on Impeachment took no action upon said Response of O. P. Carrillo.

7. In the final days of the legislative session, the House of Representatives passed House Simple Resolution 221 (Exhibit Q), sponsored by Rep. L. DeWitt Hale, by which the House of Representatives purported to give itself the authority to vote out Articles of Impeachment against the Plaintiff O. P. Carrillo should the Select Committee recommend such action either by a majority or by a minority vote of said Committee, evidencing a certain predetermination of the impeachment matter on the part of the House of Representatives.

8. At twelve midnight on the 2nd day of June, 1975, the Legislature adjourned sine die. Despite the constitutionally mandated termination of the legislative session and the adjournment of the Legislature, the House Select Committee on Impeachment willfully proceeded to hold unlawful hearings and inquiries over Plaintiff's stringent objections.

9. On or about the 3rd day of June, 1975, Plaintiff submitted a request to the House Select Committee wherein a list of the witnesses subpoenaed by the Committee in executive session and otherwise, a transcript of all testimony taken to date, copies of all documentation introduced and considered part of the official record, and a calendar of the hearings were sought by Plaintiff. As a result of such request, the Committee furnished Plaintiff a transcript of the testimony and copies of documentation introduced.

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10. At 12:05 p.m. on Friday, June 6, 1975, the House Select Committee on Impeachment adjourned public hearings, purportedly to reconvene at such later date as to be set by the Committee.

11. On the 8th and 9th days of June, 1975, subsequent to said adjournment and unbeknownst to the Plaintiff at the time, a subcommittee of the Select Committee held a closed meeting initiated in Alice, Texas, present at which were Rep. Terry A. Canales, Archer Parr, Ruben Chapa, Cleofas Gonzales, Texas Ranger Gene Powell, and various and other persons called as witnesses at present unknown to Plaintiff. Said meeting of the subcommittee was conducted pursuant to no statutory or legislative authority and was in direct violation of Texas Open Meetings Act, Art. 6252-17, V.A.C.S. (Exhibit R).

12. Thereafter, on various dates and at various times unknown to Plaintiff, though including the 23rd and 24th days of June, 1975, the Committee or a subcommittee thereof continued to hold closed meetings or "executive sessions" without any form of notice to Plaintiff, whereat testimony of persons unknown to Plaintiff and documentary evidence likewise unknown were received by the Committee or a subcommittee thereof. To date, Plaintiff has received neither a transcript nor a summary of the matters investigated in said closed proceedings nor a list of the dates and times of the convening of said closed meetings, though such a list has been requested by Plaintiff of the Committee in the form of Plaintiff's objection presented to the Committee on or about the 16th day of July, 1975 (Exhibit S).

13. Plaintiff has received information that during the course of the committee hearings, both public and executive, numerous discussions on the subject matter of the hearings took

place between sundry Committee members and various members of state executive, administrative, and law enforcement agencies, including members of the Judicial Qualifications Commission, members of the staff of the Attorney General's office, and judges of the Fifth Administrative Judicial District of Texas. Further, Plaintiff has received information that agents of the investigatory force of the Internal Revenue Service and members of the staff of the United States Attorney's office were in direct and private communication with various Committee members over the course of the impeachment hearings, agents of the Internal Revenue Service having, in addition, monitored the Committee hearings from the outset.

14. On or about the 26th day of June, 1975, Plaintiff filed in the Federal District Court for the Southern District of Texas, Corpus Christi Division, a Supplementary Motion for Indefinite Continuance of the Plaintiff's trial on tax fraud (Exhibit T) on the grounds that widespread publicity attendant to the Committee proceedings made a fair trial impossible anywhere in the State of Texas at that time. Plaintiff was granted a continuance by the Judge of the Federal District Court in a hearing in that court on the 30th day of June, 1975, the date originally set for trial of the Federal case.

15. On or about the 3rd day of July, 1975, a Conference of the Judges of the Fifth Administrative District of Texas was held in Dallas, Texas, five of fifteen judges attending, and a resolution passed by four of the five judges requesting the resignation of Plaintiff from his office as District Judge (Exhibit V). Said resolution made in the name of the Judges of the Fifth Administrative District of Texas was released to the news media the following week, subsequent to a conversation between Plaintiff and Judge Jose R. Alamia wherein Judge Alamia was informed by Plaintiff that he had no intention of resigning his office as District Judge.

16. On or about the 12th day of July, 1975, the Judicial Qualifications Commission met in executive session to consider the various charges against the Plaintiff in his capacity as District Judge purportedly warranting action by the Commission (Exhibit U).

17. On or about the 15th day of July, 1975, in the absence of effective notice to Plaintiff the House Select Committee on Impeachment reconvened in public session after an adjournment of public hearings for a period of several weeks. At said session, the Committee without notice to the Plaintiff instituted a new format for the proceedings, in that, as opposed to the format of the prior hearings, witnesses were questioned at the outset by a newly-hired attorney for the Committee, Terry Doyle, who proceeded to act as both examiner and cross-examiner of the witnesses.

18. On or about the morning of the 16th day of July, 1975, the Committee held its final hearing and adjourned for the purported purpose of the drafting and consideration of Articles of Impeachment against the Plaintiff. Several hours after adjournment of the Committee on July 16, 1975, it was announced that the Committee had voted to recommend eleven Articles of Impeachment against Plaintiff (Exhibit W). None of the proposed articles contained any reference to Plaintiff's indictment in Federal court. Although Plaintiff was never personally notified by the Committee of its action, Plaintiff obtained a copy of the proposed Articles of Impeachment styled Committee substitute for House Simple Resolution 161, on or about the 17th day of July, 1975. It was announced by the Chairman of the House Select Committee on Impeachment that the House of Representatives would meet on the 4th day of August, 1975, to vote on the proposed articles (Exhibit X). Earlier in the course of the Committee proceedings,

it had been announced by the Speaker of the House of Representatives, Bill Clayton (Exhibit Y), that he did not contemplate the necessity of the House meeting for more than two or three days in order to be able to vote on the recommended articles.

a. Similar statement was later made by House Parliamentarian Bob Johnson (Exhibit Z).

19. On or about the 18th day of July, 1975, the Executive Director of the Judicial Qualifications Commission, Maurice S. Pipkin, served Plaintiff with notice of formal proceedings against him by the Judicial Qualifications Commission (Exhibit AA). The charges on which such formal proceedings were based, as set out in the notice, were largely comprised of the same matters included in the proposed Articles of Impeachment drafted by the Committee and were grounded on evidence and testimony presented to the House Select Committee on Impeachment during the Impeachment hearings. Although said notice of formal proceedings set out Plaintiff's right to make reply to the charges as provided by Rule 4 of the Rules for Removal or Retirement of Judges promulgated by the Supreme Court of Texas, at the time of service of such notice, Plaintiff was requested by the Executive Director of the Judicial Qualifications Commission to waive such right to reply. Plaintiff was also informed at that time by the Executive Director that a date, a time, and a place for hearing had already been set by the Commission, to take place some four days after the date of service, and that District Judge Jim Meyers had been chosen by the Commission to act as master in such hearing. The Executive Director further informed the Plaintiff that, after a discussion with the Executive Director, Judge Meyers had agreed to recess the hearing shortly after its commencement in order to allow Plaintiff time to prepare his defense. Plaintiff was further informed by Mr. Pipkin of telephone conversations he had

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had with Rep. Terry Canales and the Vice-Chairman although he did not divulge the matters discussed therein. Plaintiff refused to waive any of his rights at that time, including the right to reply within a period of fifteen days from the date of service, and stated that he would have to consult with his attorney before he made any decision.

IV. EXHIBITS

A. Index to Attached Exhibits

The following is an index to the documentary exhibits attached to the complaint:

INDEX

- Exhibit A - Certificate of Election of O. P. Carrillo
- Exhibit B - Indictment of O. P. Carrillo
- Exhibit C-1 - Motion for Bill of Particulars
- Exhibit C-2 - First Motion for Discovery
- Exhibit C-3 - Second Motion for Discovery
- Exhibit C-4 - Third Motion for Discovery
- Exhibit C-5 - Fourth Motion for Discovery
- Exhibits D-1 - D- - News articles on court proceedings
- Exhibit E - Notice of Informal Proceedings of the Judicial Qualifications Commission
- Exhibit F-1 - Reply to the charges of Judicial Qualifications Commission by O. P. Carrillo
- Exhibit F-2 - Rules for the Removal or Retirement of Judges
- Exhibit G - House Simple Resolution 161
- Exhibit H - News article on Canales
- Exhibit I-1 - Motion for Legislative Continuance by Terry Canales
- Exhibit I-2 - Motion for Legislative Continuance by Terry Canales
- Exhibit J - Canales Resolution to Abolish office of District Attorney for 229th Judicial District

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- Exhibit K - Texas Observer Article on Terry Canales
- Exhibit L - House Resolution 167
- Exhibit M - Telegram to O. P. Carrillo from DeWitt Hale
- Exhibit N - News article on bank records subpoenaed by Committee
- Exhibit O - Motion to take Deposition of Barney Goldthorne
- Exhibit P - First Response to the Impeachment Proceedings
- Exhibit Q - House Resolution 221
- Exhibit R - Texas Open Meetings Act, Art. 6252-17, V.A.C.S.
- Exhibit S - Objection presented to the Committee on Impeachment
by O. P. Carrillo
- Exhibit T - Supplementay Motion for Indefinite Continuance
- Exhibit U - News article on meeting of Judicial Qualifications
Committee
- Exhibit V - Resolution by the Judges of the Fifth Administrative
District
- Exhibit W - Substitute for H.S.R. 161
- Exhibit X - News article on Aug. 4 meeting
- Exhibit Y - News article on Statement by the Speaker of the House
of Representatives, Bill Clayton
- Exhibit Z - News article on Statement by House Parliamentarian
Bob Johnson
- Exhibit AA - Notice of Formal Proceeding by the Judicial Qualifications
Commission

B. Notice of Documentary Evidence to be Introduced at
Trial

Notice is hereby given that the following documentary evidence
will be introduced at trial of this cause:

1. All documentary comprising Exhibits A through
attached to this complaint.

2. All documentary evidence introduced into the record in proceedings before the House Select Committee on Impeachment.
3. Transcripts of proceedings before the House Select Committee on Impeachment.
4. Such other documentation as is or may become relevant to the allegations set out in this complaint.

V. CAUSES OF ACTION

A. Causes of Action against Bill Clayton, Members of the House Select Committee on Impeachment, and Terry A. Canales

1. Deprivation of Constitutional Rights, Privileges and Immunities under Color of State Law
 - a. Article 15, sections 1 through 6, Constitution of the State of Texas, unconstitutionally vague and indefinite as to grounds for impeachment and fail to provide even minimal due process safeguards.

Under the provisions of Article 15, sections 6 of the Constitution of the State of Texas, automatic suspension of an impeached officer from his official duties occurs upon return of Articles of Impeachment by the House of Representatives. Said provision of the Texas Constitution is repugnant to Amendments Five and Fourteen to the Constitution of the United States of America in that it is a deprivation of property without substantive or procedural due process of law.¹ Article 15, sections 1 through 5 of the Constitution of the State of Texas, under which impeachment proceedings against Plaintiff were commenced in the House of

¹Contained in Appendix A attached hereto are the texts of the Texas statutes giving Plaintiff a vested property right in his office as District Judge.

Representatives and pursuant to which purported authority the House Select Committee on Impeachment conducted its activities, are characterized by an absence of proper standards as to actions which constitute impeachable offenses on the part of officers of the State and are, therefore, unconstitutionally vague and indefinite. Said sections of Article 15 are further characterized by the absence of provision for even minimal due process safeguards such as notice and hearing conducted according to due process standards prior to deprivation of property.

Likewise, Article 5961, V.A.C.S., which provides for removal of state officers by impeachment and merely refers back to the state constitutional provision, also fails to set out standards for impeachable offenses and due process safeguards and is therefore equally unconstitutional in its provisions. The actions of the House of Representatives and the House Select Committee on Impeachment being grounded on said unconstitutional provisions of the state constitution and statutes and the probable suspension of the Plaintiff from his office as District Judge resulting from said actions amount to the deprivation of constitutional rights, privileges and immunities under color of state law.

b. Proceedings as conducted by the House Select Committee on Impeachment denied Plaintiff procedural due process.

1) Impeachment proceedings being quasi-criminal in nature in that their result is to punish an official for misconduct through the deprivation of his right to hold public office, the due process standards applicable thereto are no less than those demanded by the Constitution in any criminal proceeding. The proceedings by the House Select Committee on Impeachment were unlawful in that the following due process rights were denied to Plaintiff throughout the proceedings in violation of the Fifth and Fourteenth Amendments to the Constitution of the United States:

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- a) The right to reasonable notice of the date, time, and place at which Committee hearings were to be held.
- b) The right to reasonable notice of the nature of the charges against the Plaintiff.
- c) The right to have only evidence relevant to the charges against him of which he has notice considered by the Committee.
- d) The right to be confronted by the witnesses against him.
- e) The right to cross-examine the witnesses against him.
- f) The right to make objections to the proceedings as conducted.
- g) The right to examine the documentary evidence against him.
- h) The right to introduce evidence favorable to him or tending to contradict the evidence against him.
- i) The right to produce witnesses in his favor or to have such witnesses subpoenaed by the Committee.
- j) The right to effective assistance of counsel.
- k) The right to the presumption of innocence.
- l) The right to a fair and impartial tribunal.

2) Further, a gross denial of due process rights occurred as a result of the convening of the closed meeting and inquiry conducted by a subcommittee of the House Select Committee on Impeachment in Alice, Texas, on the 8th and 9th of June, 1975, subsequent to the adjournment of public hearings at 12:05 p.m., Friday, June 6, 1975, following the testimony of Patricio Garza. Said meeting and inquiry was conducted in the presence of Rep. Terry A. Canales, Ruben Chapa, Cleofas Gonzales, Gene Powell,

Archer Parr and various witnesses who had formerly testified before the full Committee and who are at present unknown to Plaintiff. Not only was said meeting and private inquiry conducted without notice to Plaintiff and without permitting him to be present in person or by counsel; but also the plan for such meeting was actively concealed from Plaintiff, who was at all times in attendance at the public impeachment hearings before the full Committee. Further, inquiries into matters unknown to Plaintiff were made by this subcommittee in the complete absence of due process safeguards. The convening of this subcommittee subsequent to the adjournment of the hearings on June 6, 1975, and prior to the time set for its reconvening on June 10, 1975, is completely unauthorized by any statutory or legislative enactment whatsoever. The convening of this private inquiry and later closed meetings by members of the Committee compounded with the fact that the Committee has no power to make appointments of subcommittees for any purpose, resulted in a blatant denial of Plaintiff's due process rights and in making a mockery of the open hearing procedure.

That deprivation of property in the form of suspension from judicial office should result from a proceeding so at odds with the fundamental concept of due process of law is inimical to the Fifth, Sixth and Fourteenth Amendments to the Constitution of the United States of America and thus amounts to the deprivation of constitutional rights, privileges and immunities under color of state law.

c. Proceedings before House Select Committee on Impeachment deny Plaintiff due process of law in that the Committee has no jurisdiction to act under the Constitution and laws of the State of Texas.

1) Article 15, section 1 of the Texas Constitution provides:

"The power of impeachment shall be vested in the House of Representatives." Under said Constitution, the Legislature is given no power to delegate its impeachment power to a committee, although the House of Representatives has attempted to do so.

2) Even were the House of Representatives to have the authority to delegate its power of impeachment to a committee, the House Select Committee on Impeachment was without power to conduct the impeachment inquiry in that its authority was grounded upon the authority of the Legislature; and the Legislature adjourned sine die at midnight, June 2, 1975, in accordance with the dictates of Article 5422, V.A.C.S., and Article 3 section 24 of the Texas Constitution. Article 5422, V.A.C.S. provides:

"The Fortieth Legislature shall assemble to hold its biennial session on the second Tuesday in January, A.D. 1927, at 12 o'clock m., and shall meet biennially thereafter on the same day and hour until otherwise provided by law."

Article 3, section 24 of the Texas Constitution provides:

"No Regular Session shall be of longer duration than one hundred and forty (140) days."

As no Special Session was called prior to adjournment of the Legislature on June 2, 1975, and none has been called since said adjournment, the House is without power to act past the termination of the one hundred and forty day Regular Session. Because the Committee's power to act can only be coextensive with that of the House of Representatives under the Texas constitutional impeachment provision, the authority of the House Select Committee

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on Impeachment to conduct impeachment proceedings, if it ever existed, terminated at midnight, June 2, 1975, upon adjournment of the Legislature sine die, notwithstanding the provisions of Article 5962, V.A.C.S., which are themselves repugnant to the provisions of the Texas Constitution.

d. Vote by the House of Representatives on August 4 denies Plaintiff due process of law in that the House has no jurisdiction to meet under the Constitution and laws of the State of Texas.

The attempt by the House of Representatives to call itself back into session on the 4th day of August, 1975, to vote on the House Select Committee's proposed Articles of Impeachment, after having adjourned sine die June 2, 1975, at the end of the Legislative session, constitutes an unlawful attempt on the part of the House of Representatives to exercise jurisdiction which it does not have. Such a reconvening of the House of Representatives subsequent to the termination of the Regular Session for any purpose is repugnant to the provisions of the Constitution of Texas, specifically, Article III, section 5, which provides: "The Legislature shall meet every two years at such time as may be provided by law and at other times when convened by the Governor." Thus, only when specially convened by order of the Governor may the House of Representatives lawfully meet outside of the regular legislative session. The Governor of Texas has made no such order herein convening the House of Representatives. The instant attempt by the House of Representatives to call itself back into session in order to vote on the Articles of Impeachment, and the resultant suspension of Plaintiff from his office as District Judge, directly contravenes the State constitutional provision and constitutes an unconstitutional exercise of power in the complete absence of jurisdiction on the part of such body, the effect of which is to deny Plaintiff due process under color of state law.

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e. Proceedings before the House of Representatives and House Select Committee on Impeachment deny Plaintiff due process of law in that the proposed Articles of Impeachment amount to the enactment of a bill of attainder and ex post facto law in violation of the Texas Constitution.

1) Committee action as Bill of Attainder

Article I, section 16 of the Constitution of the State of Texas gives every person the right to be free from the enactment of any law amounting to a Bill of Attainder. Insofar as the Texas Constitution so provides, the right to be free from Bills of Attainder becomes part of the constitutional due process rights of every person subject to the laws of Texas. The present impeachment proceedings as conducted by the House of Representatives and the House Select Committee on Impeachment violate the due process rights of Plaintiff in that their effect is to inflict punishment on Plaintiff in the form of automatic suspension from office without a hearing conforming to the standards of constitutional due process.

2) Committee action as ex post facto law

Plaintiff's constitutional due process rights also encompass the right to be free from legislation amounting to an ex post facto law, under Article I, section 16 of the Constitution of the State of Texas. Insofar as liability in the form of suspension from office is attached to acts committed by Plaintiff prior to Plaintiff's election to office as District Judge of the 229th Judicial District, with which acts the Committee's proposed Articles of Impeachment are largely concerned, the action of the House of Representatives and the House Select Committee on Impeachment amounts to the enactment of an ex post facto law.

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f. Impeachment proceedings before the House of Representatives and the House Select Committee on Impeachment deny Plaintiff equal protection of the laws in that such proceedings amount to selective enforcement of the laws of Texas.

Impeachment proceedings against an official of the State of Texas are extraordinary proceedings with extraordinary sanctions for official misconduct, there having been only two other instances of such proceedings in the history of the State. There are other less drastic procedures provided by state law ordinarily employed for the removal of officers. Under the impeachment proceeding, unlike other proceedings for the removal of state officials, the impeached and convicted official is prohibited from ever holding public office in the state again. In that the impeachment proceedings against Plaintiff were instituted in the House of Representatives on the basis of Plaintiff's indictment for tax fraud in Federal court, as evidenced by H.S.R. 161, and in that there have been and are unimpeached state officials and members of the House of Representatives under indictment in either state and Federal courts, the institution of impeachment proceedings against Plaintiff amounts to selective enforcement of the laws in violation of the equal protection clause of the Fourteenth Amendment to the Constitution of the United States.

g. Impeachment proceedings by the House Select Committee on Impeachment deny Plaintiff the right to due process of law and the right to a fair trial.

Insofar as the House Select Committee on Impeachment in the impeachment hearings with their attendant statewide publicity, concerned itself with the same issues raised by Plaintiff's indictment and to be tried in Federal court, ordered testimony from the same witnesses and on the same matters to be heard in the Federal trial, ordered the production of the same documentary

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material to be introduced in the Federal trial, and essentially tried the Federal case in the forums of the state proceedings and the media, while ignoring Plaintiff's stringent objections to the same, the House Select Committee has interfered with the jurisdiction of the Federal court over such matters, has denied to Plaintiff due process of law, and has made a fair trial of Plaintiff in Federal court an impossibility.

g. Impeachment proceedings by the House of Representatives and the House Select Committee on Impeachment deny Plaintiff due process of law in that said proceedings are politically motivated and undertaken in bad faith, without hope of a constitutionally valid conviction under the procedures employed, for the purposes of harassment

The institution of impeachment proceedings against Plaintiff by Defendant Canales and members of the House of Representatives and the conduct of such proceedings by the use of procedures patently unconstitutional under the Constitutions of the United States and the State of Texas clearly demonstrate an attempt by said individuals acting under color of state law to deprive Plaintiff of his office as District Judge without due process of law. The original impeachment resolution, H.S.R. 161, was authored and introduced by Defendant Canales as a retaliatory measure against Plaintiff, who in his capacity as District Judge had ordered the temporary suspension of Archer Parr, a close political ally of Canales, from the county judgeship. Impeachment proceedings were thus instituted in bad faith for the purpose of interfering with Plaintiff's judicial functions and with an ultimate purpose of causing Plaintiff to resign from his office as District Judge of the 229th Judicial District. By such means, Defendant Canales and other members of the House of Representatives hoped to prevent Plaintiff from continuing in his lawful function as District Judge

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in the removal suits pending against various members of the powerful Parr political faction in Duval and surrounding counties. With such motives, Canales and other members of the House of Representatives have acted outside the scope of their authority here employed and continue to employ procedures clearly unlawful under the Constitution of the United States and under the Constitution of the State of Texas, denying to Plaintiff due process of law.

2. Proceedings by the House Select Committee on Impeachment outside of the Scope of its Authority and in Violation of State Law.

a. Impeachment inquiries outside the scope of the enabling resolution.

If the House Select Committee was empowered to conduct any investigation or act in any manner subsequent to the termination of the legislative session at midnight, June 2, 1975, as Plaintiff maintains it was not, said committee and the members thereof were limited in their powers and authority by the resolution creating the House Select Committee on Impeachment. The House Select Committee on Impeachment was created by House Simple Resolution 167, which by its terms limited the scope of the committee's inquiry to the matters and charges contained in House Simple Resolution 161. H.S.R. 161 authorized the commencement of impeachment proceedings against Plaintiff solely on the charge that Plaintiff had been indicted by Federal Grand Jury on multiple counts of Federal tax violations. In its investigation, the House Select Committee went far beyond the scope of the resolution and the indictment by the Federal Grand Jury, reaching into matters of alleged misconduct of the Plaintiff which were totally irrelevant to the fact of indictment of the reporting or misrepresentation of

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income on Plaintiff's Federal income tax returns. All of such inquiries were clearly outside the scope of the committee's authority and were, therefore, unlawful exercises of purported jurisdiction.

b. Impeachment proceedings based on conduct not encompassed by statutory grounds for removal.

Article 5986, V.A.C.S. provides:

"No officer in this State shall be removed from office for any act he may have committed prior to his election to office."

Plaintiff was elected to office as District Judge of the 229th Judicial District of Texas on November 1, 1974, as evidenced by his Certificate of Election. All acts with which Plaintiff is charged with having committed by the Federal indictment occurred prior to his election to office. These are the only acts into which the House Select Committee was authorized by H.S.R. 161 to inquire and the only acts set out by H.S.R. 161 as grounds for impeachment. Because such alleged acts cannot be grounds for removal, impeachment proceedings based on said acts are unauthorized and unlawful. Likewise, the majority of the other alleged acts unlawfully investigated and considered by the House Select Committee on Impeachment and upon which the proposed Articles of Impeachment are based also occurred prior to Plaintiff's election to office; and the proceedings by the Committee are, therefore, doubly unauthorized as being outside the scope of the enabling resolution and outside the scope of matters which may be properly considered under the Texas statutes as grounds for impeachment.

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c. Conduct of the House Select Committee on Impeachment in violation of the Texas Open Meetings Act.

The members of the House Select Committee on Impeachment, by their persistent and willful conduct in convening and participating in closed meetings and inquiries in spite of the repeated objections of Plaintiff to such conduct in violation of the plain terms of Article 6252-17, V.A.C.S., Texas Open Meetings Act, have acted unlawfully and in derogation of Plaintiff's rights to a public hearing. The members of the House Select Committee on Impeachment have further violated the provisions of Article 6252-17 by failing to give public notice of the date, time, and place of its meetings, although repeatedly requested by Plaintiff to do so. Such conduct on the part of the members of the House Select Committee on Impeachment not only has denied Plaintiff his right to a fair and open hearing, but has also rendered the members of the Committee liable for a misdemeanor and rendered any actions taken at such closed meetings void.

B. Causes of Action against Maurice S. Pipkin and John L. Hill

1. Deprivation of rights, privileges and immunities secured by the Constitution under color of state law.

a. Proceedings by Judicial Qualifications Commission and actions of Defendants Pipkin and Hill deny Plaintiff due process of law through use of unlawfully obtained evidence.

On or about the 18th day of July, 1975, Plaintiff was served by Defendant Pipkin with notice of formal proceedings against him before the Judicial Qualifications Commission. Such proceedings are grounded upon eight charges of misconduct on the part of Plaintiff. While such charges are purportedly based on private information and complaints by individuals applying to the Commission, such charges are in fact based on evidence made public and on evidence privately obtained as a result of the unlawful proceedings of the House Select Committee on Impeachment.

Were it not for the evidence obtained from the impeachment proceedings before the House Select Committee on Impeachment and from the individual members of the House Select Committee on Impeachment through private conversations, such charges by the Judicial Qualifications Commission could not have been made. Because the evidence on which such charges are based arose from a constitutionally poisoned source, the unconstitutional impeachment proceedings against Plaintiff, the evidence on which such charges are based is unconstitutionally obtained and its use as a basis of the proceedings before the Judicial Qualifications Commission denies to Plaintiff due process of law. Further, the formal proceedings against Plaintiff before the Judicial Qualifications Commission being grounded upon unconstitutionally obtained evidence, said proceedings themselves deny Plaintiff due process of law, and are, therefore, unconstitutional.

2. Proceedings in Violation of State Law

a. Proceedings by Judicial Qualifications Commission and actions of Defendants Pipkin and Hill violate Constitution of Texas and Rules for the Removal or Retirement of Judges

The proceedings of the Judicial Qualifications Commission in regard to action against Plaintiff are unlawful in their failure to follow the procedures prescribed for such proceedings by the Rules for the Removal or Retirement of Judges promulgated by the Supreme Court of Texas pursuant to Article V, section 1-a(11) of the Constitution of the State of Texas in the following particulars.

(1) Plaintiff was not given preliminary notice of the charges to be launched against him in the formal proceedings, in that the charges contained in the Notice of Formal Proceedings contained matters which were not included in the notice of the preliminary investigation as required by Rule 3 of the Supreme Court's Rules for Removal.

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(2) Because he was not notified of the charges against him in the notice of the preliminary investigation by the Commission, Plaintiff was not afforded a reasonable opportunity to reply to such charges prior to the Commission's final determination that formal proceedings should be instituted, in violation of Rule 3.

(3) A time and place for the hearing on the formal charges was chosen by Defendant Pipkin and the Commission prior to service of Notice of Formal Proceedings and Plaintiff's Answer to such notice, in violation of Rule 6(a).

(4) On the date of service of the Notice of Formal Proceedings, July 18, 1975, Plaintiff was informed by Defendant Pipkin that the hearing on the formal charges had been set for the following Tuesday, July 22, 1975, in the District Court in Edinburg, Hidalgo County, Texas. The setting of a hearing date prior to the expiration of twenty days subsequent to the mailing of notice to the Judge of the setting is in direct violation of Rule 6(a).

(5) At the time of service of the Notice of Formal Proceedings, Defendant Pipkin informed the Plaintiff that District Judge Jim Meyers of Austin had been chosen to preside as master at the hearing on the formal charges. The selection of a master prior to the filing of the Judge's Answer to the notice violates the provisions of Rule 6(a).

(6) The selection of a master by the Commission or a member of the Commission violates the provisions of Rule 6(b) which states that the master is to be appointed by the Supreme Court after the receipt of a written request from the Commission, which request is to be transmitted to the Court at the time the Commission sets a time and place for hearing.

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(7) Plaintiff was informed by Defendant Pipkin at the time of service of Notice of Formal Proceedings that Pipkin had discussed the proceeding with Judge Meyers and that he, as master, had agreed to recess the hearing for a time after the procedural ground rules were established in order to allow Plaintiff to prepare his defense. Said conduct violates the entire spirit of the Rules for the Removal or Retirement of Judges, enacted to provide due process of law to those charged and proceeded against by the Judicial Qualifications Commission. In choosing the master to preside at the hearing and in discussing the proceeding with him prior to its commencement, Defendant Pipkin renders Plaintiff's right to an impartial master and a nonprejudicial hearing a nullity.

C. Cause of Action against Jose R. Alamia

1. Deprivation of constitutional rights, privileges and immunities under color of state law.

a. Use of office and misrepresentation to deprive Plaintiff of property rights.

On or about the 3rd day of July, 1975, a meeting of five Judges of the Fifth Administrative District of Texas passed a resolution demanding the resignation of Plaintiff from his office as District Judge of the 229th Judicial District of Texas and immediate removal of Plaintiff from said office by the Judicial Qualifications Commission if such resignation was not forthcoming. Four judges voted in favor of such resolution. Said resolution was made in the name of the Judges of the Fifth Administrative District of Texas, sitting as a Council of Judges for such District, and was signed by Judge Darrell Hester as Secretary Pro Tem and Judge Jose R. Alamia as Presiding Judge. Upon inquiry, Plaintiff has discovered that the other ten Judges of the Fifth Administrative District of Texas who were not present at such meeting were not

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aware of the meeting and were not aware of the existence of the Resolution until sometime after its passage. Defendant Alamis caused said Resolution made in the name of the Judges of the Fifth Administrative District of Texas to be released to the news media after a discussion with Plaintiff wherein Plaintiff informed Defendant Alamia that he did not intend to resign. The plain intent of such actions on the part of the Defendant Alamia and the other Judges participating therein was to force the resignation of Plaintiff from his office as District Judge by means of public and private pressure stemming from the intentional misleading Resolution. The effect of such Resolution is to seriously impair Plaintiff's ability to carry out his official duties and to function effectively as a District Judge. Through such willful and coercive conduct, Defendant Alamia has used the color and cloak of his state office to produce a chilling effect on the exercise of Plaintiff's valuable rights and to render substantially ineffective any exercise of those rights.

D. Cause of Action against the Unknown Agents and Employees of the United States of America

1. Deprivation of due process of law and other constitutional rights.

a. Threatened use of unlawfully obtained evidence in Federal trial.

Throughout the course of the unlawful and unconstitutional impeachment proceedings before the House Select Committee on Impeachment, unknown agents and employees of the Internal Revenue Service and the United States Attorney's office have been in private communication with members of said committee and have monitored said proceedings with a view towards the upcoming Federal trial of Plaintiff on charges of income tax violation.

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The result has been a flow of information concerning Plaintiff and the other two defendants in the Federal case into the office of the United States Attorney for the Southern District of Texas and, particularly, to those agents and employees who will be prosecuting the case for the Government. As the proceedings before the Select Committee on Impeachment are themselves unconstitutional, the fruit of such proceedings, including the evidence incriminating to Plaintiff adduced therefrom, would be unconstitutionally obtained for purposes of introduction in the Federal trial of Plaintiff. Likewise, evidence obtained upon information arising out of said unconstitutional impeachment proceedings is constitutionally prohibited from introduction at Federal trial. Insofar as the unknown agents and employees of the United States threaten to make such use of such unlawfully obtained evidence and information their actions deprive Plaintiff of valuable constitutional rights.

E. Cause of Action against All Named Defendants

1. Conspiracy to deprive Plaintiff of equal privileges and immunities under the laws.

a. Concert of action under color of law to deprive Plaintiff of constitutionally guaranteed rights without due process of law.

The above-named Defendants knowingly are acting individually and in concert under the cloaks of their respective state and Federal offices, pursuant to an agreed plan to interfere with the exercise of Plaintiff's official position as District Judge of the 229th Judicial District and to finally deprive Plaintiff of his office of District Judge of the 229th Judicial District through means calculated to deny to Plaintiff his constitutional protections.

Pursuant to such plan, Defendants, individually or in concert, have knowingly committed the following overt acts:

- 1) The authorship and sponsorship of House Simple Resolution 161.
- 2) The authorship and sponsorship of House Simple Resolution 167.
- 3) The convening of closed meetings of members of the House Select Committee on Impeachment and participation therein.
- 4) The authorship and sponsorship of House Simple Resolution 221.
- 5) The monitoring of the public sessions of the House Select Committee on Impeachment and the reporting of information incriminating to Plaintiff obtained thereby to the United States Attorney's office, for use in the Federal trial of Plaintiff.
- 6) The holding of private conversations among members of the House Select Committee on Impeachment and agents and employees of the United States Government and the reporting of information incriminating to Plaintiff obtained thereby to the United States Attorneys's office for use in the Federal trial of Plaintiff.
- 7) The holding of private conversations among members of the House Select Committee on Impeachment, one or more members of the Judicial Qualifications Commission, and the Attorney General for the State of Texas and the use of information incriminating to Plaintiff obtained thereby to bring charges against Plaintiff before the Judicial Qualifications Commission.
- 8) The authorship and passage of the Committee Substitute for House Simple Resolution 161.

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9) The authorship and sponsorship of formal charges against Plaintiff by one or more members of the Judicial Qualifications Commissions.

10) The selection of a master by one or more members of the Judicial Qualifications Commission for the hearing of charges against Plaintiff by the Judicial Qualifications Commission and the holding of private conversations among one or more members of the Judicial Qualifications Commission and said master relative to such charges.

11) The holding of private conversations among one or more members of the House Select Committee on Impeachment, one or more members of the Judicial Qualifications Commission, and one or more Judges of the Fifth Administrative District of Texas, and the use of information relative to Plaintiff obtained thereby in the passage of the Resolution of the Judges of the Fifth Administrative District of Texas.

12) The release of information relative to Plaintiff arising out of the activities of the House Select Committee on Impeachment, the House or Representatives, the Judicial Qualifications Commission, and the Judges of the Fifth Administrative District of Texas to the various news media.

The result of the activities of the Defendants pursuant to the aforesaid agreement and plan has been to significantly impair Plaintiff's ability to function effectively as District Judge, to work great harm to Plaintiff's reputation and credibility as District Judge, and to place Plaintiff in constant apprehension of being unlawfully deprived of said office of District Judge of the 229th Judicial District of Texas and the emoluments thereof for which Plaintiff has no adequate remedy at law. Further, the effect of Defendants' wrongful acts against Plaintiff, if unchecked, will be to thoroughly destroy Plaintiff's right to a fair trial in

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Federal court on charges of income tax violations through an overall pollution of the investigatory and judicial processes and the unconstitutional use of information in the Federal trial arising from such polluted sources, for which Plaintiff has no adequate remedy at law.

VI. PROPRIETY OF JUDICIAL DETERMINATION AND INJUNCTIVE RELIEF

A. Nature of Action

1. Imminent and continuing threat to constitutionally protected rights.

Through their unlawful and unconstitutional actions set out in the allegations above, Defendants have acted and are continuing to act to deprive Plaintiff without due process of law and other constitutional protections of valuable property rights in the form of his good reputation and his right to continue to function effectively and to remain in office as District Judge of the 229th Judicial District of Texas. Such deprivations of constitutionally protected rights have been and are continuing to be effected by Defendants as a result of a political vendetta against Plaintiff in which Defendants are interested parties. The actions of Defendants in instigating the various proceedings now pending against Plaintiff and in their unlawful participation therein have been made in bad faith and pursuant to political motivations for the purpose of harassment of Plaintiff. Such actions threaten irreparable injury to the constitutionally protected rights of Plaintiff for which Plaintiff has no adequate remedy at law. The power of this Court to take judicial notice of the political conditions prevailing in the judicial district in which Plaintiff serves as District Judge and of those prevailing in the Legislature of the State of Texas makes this a particularly appropriate forum in which to try the issues arising out of the extraordinary circumstances involved in this action.

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2. Imminent threat to jurisdiction of Federal court.

The actions of Defendants, individually and taken in concert, threaten to work substantial and irreparable injury to the jurisdiction of the Federal District Court over the subject matter of the prosecution of Plaintiff on charges of income tax violations. Through the various state proceedings and their participation therein, Defendants have interfered with Federal jurisdiction over the subject matter of the Federal suit and threaten to destroy such jurisdiction by pretrying the issues involved in the Federal charges against Plaintiff in a state forum and in the forum of the various news media. The result of Defendants' unlawful actions is to destroy Federal jurisdiction over the subject matter of the Federal suit and to deny to Plaintiff a fair trial in Federal District Court.

3. Lack of legislative immunity.

The Defendants herein are not in any manner clothed with state legislative immunity protecting their actions from intervention by a Federal court in that, in their participation in the various state proceedings, the Defendants and the bodies of which they are members are exercising quasi-judicial, rather than legislative functions, making them amenable to court intervention for the protection of Plaintiff's constitutional rights in those proceedings.

B. Unavailability of State remedies.

1. Attempts to obtain relief in proceedings.

Throughout the proceedings before the House of Representatives, the House Select Committee on Impeachment, and the Judicial Qualifications Commission, Plaintiff, personally and through his attorney has made numerous attempts to object to and to challenge the proceedings on many of the same grounds set out above, particularly, on the grounds of the lack of jurisdiction

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of the House of Representatives and the House Select Committee on Impeachment to proceed and the unconstitutionality of the methods of procedure employed by all three bodies. Such objections and challenges have met with no response from the various bodies, such bodies continuing in their unlawful proceedings working irreparable injury to the constitutional rights of Plaintiff.

VII. PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully prays that because of emergency conditions and the imminent threat of destruction of Plaintiff's constitutionally protected rights, that a temporary restraining order be issued without notice to continue in force until a date to be designated for hearing of application for a temporary injunction restraining the named Defendants, their agents, employees or other persons acting in concert or at their behest from:

A. continuing in any manner the unlawful state impeachment proceedings against Plaintiff; and, in particular, from attempting to unlawfully reconvene the House of Representatives on the 4th day of August, 1975, to vote on the Committee Substitute for House Simple Resolution 161;

B. continuing in any manner the unauthorized and unlawful Formal Proceedings of the Judicial Qualifications Commission against Plaintiff, including continuing any further unauthorized investigation or hearings concerning Plaintiff;

C. interfering with the function of O. P. Carrillo in his capacity as District Judge;

D. invading the privacy of Plaintiff;

E. continuing to disseminate inflammatory information prejudicial to the rights of Plaintiff to any of the various news media.

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Further, Plaintiff prays that the Court appoint a date for hearing upon notice of this application for temporary injunction and that the named Defendants be cited and notified to appear on that date and answer; that on said hearing a temporary injunction be granted and a writ of injunction commanding Defendants to desist and refrain from the activities itemized in subparagraphs (A) through (E) above; that upon final hearing said temporary injunction be made permanent.

Further, Plaintiff prays that upon final hearing a judgment be entered declaring the impeachment provisions of the Constitution and laws of the State of Texas to be void as repugnant to the provisions of the Constitution of the United States of America and that writs of injunction issue pursuant thereto restraining Defendants, their agents or employees or other person acting in concert or at their behest from:

A. attempting to in any state or Federal criminal or quasi-criminal proceedings make any use whatsoever of any information or evidence arising out of the unlawful and unconstitutional proceedings before the House of Representatives and/or the House Select Committee on Impeachment;

B. attempting to make any use whatsoever in any state or Federal criminal or quasi-criminal proceedings any information or evidence arising out of information or evidence obtained through the unlawful and unconstitutional proceedings before the House of Representatives and/or the House Select Committee on Impeachment.

Further, Plaintiff prays that this Court order all other relief to which Plaintiff may be entitled in law and equity; and that the Defendants be charged with all costs and attorney's fees herein.

Respectfully submitted,

MITCHELL, GEORGE & BELT
315 Westgate Bldg.
Austin, Tx. 78701

By _____
Arthur Mitchell

Attorney for Plaintiff

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THE STATE OF TEXAS)
)
COUNTY OF TRAVIS)

BEFORE ME, the undersigned authority, on this day personally appeared O. P. CARRILLO, Plaintiff in the above cause, to me well known to be a credible person and qualified in all respects to make this affidavit, who being by me duly sworn, upon oath says: that he has read the foregoing pleading and knows the contents thereof and that each and every allegation contained therein is true and correct.

O. P. Carrillo

Subscribed and sworn to before me this _____ day of July, 1975.

Notary Public in and for Travis
County, Texas.

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APPENDIX A

RIGHTS ATTACHED TO THE OFFICE OF DISTRICT JUDGE

I. Property Rights

Set out below in pertinent part are the constitutional and statutory provisions establishing the rights and emoluments of the office of District Judge of the State of Texas:

A. Election and Term of Office

1. Article 5, section 7, Constitution of the State of Texas:

§7. Judicial districts; district judges; terms or sessions; absence, disability or disqualification of judge

Sec. 7. The State shall be divided into as many judicial districts as may now or hereafter be provided by law, which may be increased or diminished by law. For each district there shall be elected by the qualified voters thereof, at a General Election, a Judge, who shall be a citizen of the United States and of this State, who shall be licensed to practice law in this State and shall have been a practicing lawyer or a Judge of a Court in this State, or both combined, for four (4) years next preceding his election, who shall have resided in the district in which he was elected for two (2) years next preceding his election, who shall reside in his district during his term of office, who shall hold his office for the period for four (4) years, and shall receive for his services an annual salary to be fixed by the Legislature. The Court shall conduct its proceedings at the county seat of the county in which the case is pending, except as otherwise provided by law. He shall hold the regular terms of his Court at the County Seat of each County in his district at least twice in each year in such manner as may be prescribed by law. The Legislature shall

have power by General or Special Laws to make such provisions concerning the terms or sessions of each Court as it may deem necessary.

The Legislature shall also provide for the holding of District Court when the Judge thereof is absent, or is from any cause disabled or disqualified from presiding.

The District Judges who may be in office when this Amendment takes effect shall hold their offices until respective terms shall expire under their present election or appointment.

As amended Aug. 11, 1891; Nov. 6, 1949.

2. Article 16, section 17, Constitution of the State of Texas:

§17. Officers to serve until successors qualified

Sec. 17. All officers within this State shall continue to perform the duties of their offices until their successors shall be duly qualified.

3. Article 1884, VACS:

Article 1884. [1671-1672] Election and qualification

For each judicial district there shall be elected at the general election for a term of four years a judge who shall be at least twenty-five years of age, a practicing attorney or a judge of a court in this State for four years and a resident of the district in which he is elected for two years next before his election. He shall reside in his district during his term of office. Const., art. 5, sec. 7; art. 16, sec. 17.

B. Salary and Compensation

1. Article 199(229), VACS: Judicial Districts

The judicial districts of the State shall be composed

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of the following named counties, and the terms of court in said districts shall be held therein each year, as follows:

* * *

229. Duval, Jim Hogg and Starr

Section 1. The 229th Judicial District shall be composed of the counties of Duval, Starr, and Jim Hogg.

* * *

Sec. 5. Upon the effective date of this Act, the Governor shall appoint a judge of the 229th District Court who shall have qualifications required of judges of district courts in this state and who shall hold office until the next general election and until his successor is sworn. The judge of the 229th District Court shall receive the compensation provided by law for district judges. Subd. 229 added by Acts 1969, 61st Leg., p. 697, ch. 239, §3, eff. Sept. 1, 1969.

2. Article 6819a-18, VACS: Salaries of Justices of Supreme Court, Court of Criminal Appeals, Courts of Civil Appeals, and District Court Judges

Section 1. Beginning September 1, 1957:

* * *

(c) The Judges of the several District Courts and of the Criminal District Courts of the State of Texas shall each be paid an annual salary of Twelve Thousand Dollars (\$12,000.00).

C. Retirement

1. Article 6228b, V.A.C.S.: Retirement of justices, judges and commissioners of appellate and district courts

* * *

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Qualifications for retirement; retirement pay; reduced annuity plans

Sec. 2 (a). Any judge in this state may, at his option, retire from regular active service after attaining the age of sixty-five (65) years and after serving on one or more of the courts of this state at least ten (10) years continuously or otherwise, provided that his last service prior to retirement shall be continuous for a period of not less than one year. Any person who has served on one or more of the courts of this state at least twelve (12) years, continuously or otherwise, regardless of whether he is serving on a court at such time, shall after attaining the age of sixty-five (65) years, be qualified for retirement pay under this Act. Any person retiring in accordance with this Act after the effective date of this amendment shall, during the remainder of such person's lifetime receive from the State of Texas monthly a base retirement payment equal to fifty percent (50%) of the salary being received by a judge of a court of the same classification last served by such person as judge. An additional ten percent (10%) of the applicable salary shall be added to the base retirement payments to the following judges:

- (1) those eligible for retirement under any provisions of this Act as amended who retire at or before age seventy (70);
- (2) those who are not eligible by length of service to retirement benefits at age 70 but who retire immediately upon becoming eligible; and
- (3) those in office on September 1, 1967, who then are or during their current term of office will be seventy (70) or more years of age and who retire at or before the end of their current term of office; provided, however, the additional ten percent (10%) benefit shall not be paid to any judge who has been out of office for a period of longer than one (1) year at the time he applies for retirement benefits under this Act.

* * *

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Sec. 2(a-1). Prior to retirement any contributing member with ten (10) or more years creditable service, and any non-contributing member with twelve (12) or more years creditable service, may select a Death Benefit Plan and designate a nominee to receive a reduced monthly annuity either for life, or for a ten (10) year guaranteed period, to become effective and payable, in lieu of the refund of the member's contributions, to such nominee beginning the day following the death of such member. If the qualified member dies without having made such Death Benefit Plan Selection, the surviving spouse may choose the plan in the same manner as if the member had completed the selection; otherwise, contributions shall be refunded to the designated beneficiary. Application for such plan shall be on forms prescribed by the State Board of Trustees. The reduced benefits shall be computed in the same manner as for a member's service retirement as provided elsewhere in this Act. The ages of the member and the nominee at the date of the member's death shall be used in determining the reduced annuity. The plan selected shall become null and void upon the effective date of the member's retirement, provided, however, that any member with seven (7) or more years of creditable service who is required to retire on disability, as provided elsewhere in this Act, shall be eligible to select a reduced annuity in the same manner as that provided for members retiring on a service retirement.

* * *

Sec. 2(c) A person retiring under the provisions of this Act after September 1, 1967, shall have the right to accept a reduced annuity similar to that provided in the State Employees Retirement System Act so as to convert the actuarial equivalent of the retirement payments which would accrue to such person hereunder

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during the life expectancy of such person to either a joint survivorship annuity plan or a fixed term annuity plan similar to that provided in the State Employees Retirement System Act for the benefit of the spouse or a specified dependent of such person. Application for such plan shall be made to the State Employees Retirement Board within thirty (30) days after such person retires under this Act.

Sec. 2(d). Any person qualified for retirement pay under this Act shall, after reaching the age of sixty (60) years, if he elects to receive retirement pay prior to reaching sixty-five (65) years of age, be qualified for retirement pay but shall have his benefits reduced from age sixty-five (65) years and his monthly base retirement payments shall be the following percent of the salary being received by a judge of a court of the same classification last served by such person as a judge, based upon his retirement age as follows:

If the retirement age is sixty (60) years, the percent shall be forty (40) percent;

If the retirement age is sixty-one (61) years, the percent shall be forty-one and seven-tenths (41.7) percent;

If the retirement age is sixty-two (62) years, the percent shall be forty-three and six-tenths (43.6) percent;

If the retirement age is sixty-three (63) years, the percent shall be forty-five and six-tenths (45.6) percent;

If the retirement age is sixty-four (64) years, the percent shall be forty-seven and seven-tenths (47.7) percent;

(e) The reduced retirement benefits authorized by Section 1 hereof shall not apply if said judge retires as authorized by statute, or, is made to retire by the State Judicial Qualification Commission, because of physical or mental illness, but a judge so

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retiring or made to retire because of mental or physical illness, if he is eligible for retirement pay, shall, regardless of age, be paid retirement benefits on the basis of the percentages provided by Section 1 of Chapter 435, Acts of the 61st Legislature of Texas, 1969 and compiled as Section 2(a) of Article 6228b, Vernon's Texas Civil Statutes.

Sec. 2, subsec. (a-1) added by Acts 1971, 62nd Leg., p. 675, ch. 61, § 1, eff. April 20, 1971.

Sec. 2, subsecs. (d), (e) added by Acts 1971, 62nd Leg., p. 1790, ch. 528, §1, eff. Aug. 30, 1971.

Sec. 2(e) added by Acts 1971, 62nd Leg., p. 1791, ch. 528, § 1, eff. Aug. 30, 1971.

* * *

Sec. 5. From and after the effective date of this Act every Judge of this State shall contribute five per cent (5%) of his annual salary paid by the State to assist in carrying out the provisions of this Act. One-twelfth (1/12) of such amount shall be deducted by the State Comptroller each month from the salary of such Judge and the balance only paid him by the Comptroller. The amount deducted shall remain in the State General Fund and be subject to appropriation by the State Legislature as other moneys in said fund. The Legislature shall appropriate such sums of money as may be necessary to carry out this Act.

II. POWERS AND JURISDICTION

Set out below is a list of the statutory provisions establishing the powers and jurisdiction of District Judge of the State of Texas:

- A. Article 1906, VACS: Original Jurisdiction.
- B. Article 1906a, VACS: Computation of Amount in Controversy where Parties Properly Joined.

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- C. Article 1907, VACS: Matters of Probate.
- D. Article 1908, VACS: Over Commissioners Courts.
- E. Article 1909, VACS: General Jurisdiction.
- F. Article 1910, VACS: Motions Against Sheriffs, Attorneys,
etc.
- G. Article 1911a, VACS: Contempt, Powers of Courts, Penalties.
- H. Article 1912, VACS: Judgments Transferred and Enforced.
- I. Article 1913, VACS: Other Jurisdiction.
- J. Article 1914, VACS: To Grant all Remedial Writs.
- K. Article 1915, VACS: Powers in Vacation.
- L. Article 1916, VACS: May Alternate, etc.
- M. Article 1917, VACS: Appointing Attorney.



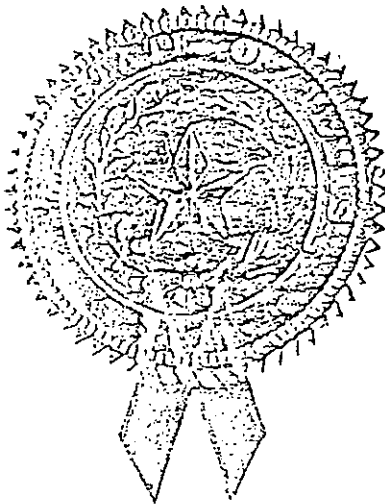
In the name and by the authority of

The State of Texas

THIS IS TO CERTIFY, That at a general election held on Tuesday,
November 5th, A.D. 1974

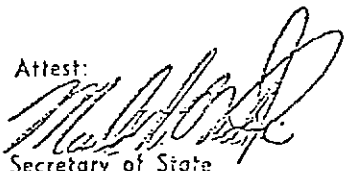
O. P. CARRILLO
was duly elected

DISTRICT JUDGE, 229th JUDICIAL DISTRICT



In testimony whereof, I have here-
unto signed my name and caused
the Seal of State to be affixed at
the City of Austin, this the 22nd
day of November A.D., 1974.

Attest:


Secretary of State

Governor of Texas

Exhibit "A"

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United States District Court

FOR THE SOUTHERN DISTRICT OF TEXAS CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA

v.

RAMIRO D. CARRILLO
O. P. CARRILLO
ARTURO R. ZERTUCHE

No. CR 75-C-45

To: Any U. S. Marshal or other authorized officer:

You are hereby commanded to arrest O. P. CARRILLO and bring him in forthwith before the United States District Court for the Southern District of Texas in the city of Corpus Christi to answer to an indictment charging him with One count of conspiracy to file false income tax returns and Eleven counts of filing false income tax returns.

in violation of 18 USC 371 and 26 USC 7206(1)

Dated at Corpus Christi, Texas V. BAILEY THOMAS Clerk.
on April 10 19 75 By [Signature] Deputy Clerk.
Bail fixed at \$10,000.00 cash or surety

RETURN

District of SA
Received the within warrant the day of 19 and executed same.

By

* Insert designation of officer to whom the warrant is issued, e. g., "any United States Marshal or any other authorized officer"; or "United States Marshal for District of"; or "any United States Marshal", or "any Special Agent of the Federal Bureau of Investigation"; or "any United States Marshal or any Special Agent of the Federal Bureau of Investigation"; or "any agent of the Alcohol Tax Unit."

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CLERK, U. S. DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
FILED

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

MAR 28 1975

V. BAILEY THOMAS, CLERK
BY DEPUTY:

UNITED STATES OF AMERICA)

vs.)

RAMIRO D. CARRILLO,)

O. P. CARRILLO,)

RAMIRO R. ELRUYCHE)

CRIMINAL NO. 75-C-45

INDICTMENT

THE GRAND JURY CHARGES:

COUNT ONE

That on or about January 1, 1967, the exact date being to the grand jurors unknown, and continuously thereafter up to and including May 31, 1974, within the Corpus Christi Division of the Southern District of Texas and elsewhere, O. P. CARRILLO, RAMIRO D. CARRILLO, RAMIRO R. ELRUYCHE, all residents of Duval County, Texas, hereinafter referred to as Defendants, did unlawfully, knowingly and willfully, conspire, confederate, combine, and agree together, with each other, and with divers other persons to the grand jurors unknown, to commit offenses against the United States and to defraud the United States; that is to say, they conspired to make, subscribe, and file with the Internal Revenue Service, false and fraudulent individual and partnership income tax returns (Forms 1040 and 1065) in violation of title 26, United States Code, Section 7201(1), and they conspired to defraud the United States by impeding, impairing, obstructing, and defeating the lawful function of the United States Treasury Department, Internal Revenue Service, in the ascertainment, computation, assessment, and collection of income taxes.

The grand jury further charges that said individual conspiracy, obstruction, and tampering, and the same shall be so construed and held to be a crime in the United States.

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a. During the course of the conspiracy the aforesaid defendants would cause certain sales of the partnership O. P. and Ramiro D. Carrillo, doing business as Farm and Ranch Supply (hereinafter called Farm and Ranch), including sales to Duval County, Duval County Conservation and Reclamation District and Benavides Independent School District, to be made in the name of Zertuche General Store.

b. During the course of the conspiracy the aforesaid defendants would cause said sales, or a portion of them, to be reported on the income tax returns of defendant Zertuche as sales of the Zertuche General Store and not to be reported on the Farm and Ranch partnership returns.

c. During the course of the conspiracy the aforesaid defendants would falsely claim to employees of the United States that Zertuche General Store was an independent operation of defendant Zertuche, that it had its own location apart from the Farm and Ranch operation and it was a separate operation from Farm and Ranch.

The grand jury further charges that during the existence of this conspiracy, as a part thereof, in furtherance thereof, to effect the objects thereof, and in accordance with their plan, the said defendants did the following, among other, overt acts within the Corpus Christi Division of the Southern District of Texas:

OVERT ACTS

1. On or about April 13, 1968, RAMIRO D. CARRILLO filed a 1967 Form 1040 with the Internal Revenue Service.

2. On or about April 9, 1969, RAMIRO D. CARRILLO filed a 1968 Form 1040 with the Internal Revenue Service.

3. On or about April 6, 1970, RAMIRO D. CARRILLO filed a 1969 Form 1040 with the Internal Revenue Service.

4. On or about April 7, 1971, RAMIRO D. CARRILLO filed a 1970 Form 1040 with the Internal Revenue Service.

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5. On or about April 13, 1968, G. P. CARRILLO filed a 1967 Form 1040 with the Internal Revenue Service.
6. On or about April 12, 1969, G. P. CARRILLO filed a 1968 Form 1040 with the Internal Revenue Service.
7. On or about May 11, 1970, G. P. CARRILLO filed a 1969 Form 1040 with the Internal Revenue Service.
8. On or about April 12, 1971, G. P. CARRILLO filed a 1970 Form 1040 with the Internal Revenue Service.
9. On or about April 12, 1963, ARTURO BERTUCHE filed a 1967 Form 1040 with the Internal Revenue Service.
10. On or about April 14, 1969, ARTURO BERTUCHE filed a 1968 Form 1040 with the Internal Revenue Service.
11. On or about April 13, 1970, ARTURO BERTUCHE filed a 1969 Form 1040 with the Internal Revenue Service.
12. On or about April 6, 1971, ARTURO BERTUCHE filed a 1970 Form 1040 with the Internal Revenue Service.
13. On or about April 15, 1968, G. P. CARRILLO filed a 1967 Form 1065 with the Internal Revenue Service.
14. On or about April 9, 1969, RAMIRO S. CARRILLO filed a 1968 Form 1065 with the Internal Revenue Service.
15. On or about April 12, 1970, RAMIRO S. CARRILLO filed a 1969 Form 1065 with the Internal Revenue Service.
16. On or about April 13, 1971, G. P. CARRILLO filed a 1970 Form 1065 with the Internal Revenue Service.

(Violation: Title 18, United States Code, Section 371)

CONFESSIO

That on or about April 9, 1969, in the Corpus Christi Division of the Southern District of Texas, and within the jurisdiction of this Court, RAMIRO S. CARRILLO, a resident of Duval County, Texas, did willfully and knowingly make and subscribe a 1968 individual income tax return (Form 1040), which was verified by a written declaration that it was made under the penalties of perjury, and

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was filed with the Internal Revenue Service, which said return he did not believe to be true and correct as to every material matter in that the said return reported income from a partnership in the amount of \$3,969.28, whereas, as he then and there well knew and believed, he had received income from the said partnership in a substantially greater amount than the reported amount of \$3,969.28.

(Violation: Title 26, United States Code, Section 7206(1))

COURT THREE

That on or about April 5, 1970, in the Corpus Christi Division of the Southern District of Texas, and within the jurisdiction of this Court, RAMIRO D. CARRILLO, a resident of Duval County, Texas, did willfully and knowingly make and subscribe a 1969 individual income tax return (Form 1040), which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, which said return he did not believe to be true and correct as to every material matter in that the said return reported income from a partnership in the amount of \$8,528.53, whereas, as he then and there well knew and believed, he had received income from the said partnership in a substantially greater amount than the reported amount of \$8,528.53.

(Violation: Title 26, United States Code, Section 7206(1))

COURT FOUR

That on or about April 7, 1971, in the Corpus Christi Division of the Southern District of Texas, and within the jurisdiction of this Court, RAMIRO D. CARRILLO, a resident of Duval County, Texas, did willfully and knowingly make and subscribe a 1970 individual income tax return (Form 1040), which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, which said return he did not believe to be true and correct as to every material matter in that the said return reported income from a

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partnership in the amount of \$3,100.92, whereas, as he then and there well knew and believed, he has received income from the said partnership in a substantially greater amount than the reported amount of \$3,100.92.

(Violation: Title 26, United States Code, Section 7201(1))

PARAGRAPH FIVE

That on or about April 9, 1969, in the Corpus Christi Division of the Southern District of Texas, and within the jurisdiction of this Court, DOMINGO D. CARRILLO, a resident of Duval County, Texas, did willfully and knowingly make and subscribe a 1968 United States Partnership Return of Income (Form 1065), which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, which said return he did not believe to be true and correct as to every material matter in that the said return reported gross receipts in the amount of \$70,975.41, whereas, as he then and there well knew and believed, gross receipts of the partnership were in a substantially greater amount than the reported amount of \$70,975.41.

(Violation: Title 26, United States Code, Section 7201(1))

PARAGRAPH SIX

That on or about April 14, 1970, in the Corpus Christi Division of the Southern District of Texas, and within the jurisdiction of this Court, DOMINGO D. CARRILLO, a resident of Duval County, Texas, did willfully and knowingly make and subscribe a 1969 United States Partnership Return of Income (Form 1065), which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, which said return he did not believe to be true and correct as to every material matter in that the said return reported gross receipts in the amount of \$66,477.77, whereas, as he then and there well knew and believed, gross receipts of the partnership were in a substantially greater amount than the reported amount of \$66,477.77.

(Violation: Title 26, United States Code, Section 7201(1))

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COURT SEVEN

That on or about April 12, 1969, in the Corpus Christi Division of the Southern District of Texas, and within the jurisdiction of this Court, G. P. CERRILLO, a resident of Duval County, Texas, did willfully and knowingly make and subscribe a 1968 individual income tax return (Form 1040), which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, which said return he did not believe to be true and correct as to every material matter in that the said return reported income from the partnership in the amount of \$3,989.28, whereas, as he then and there well knew and believed, he had received income from the partnership in a substantially greater amount than the reported amount of \$3,989.28.

(Violation: Title 26, United States Code, Section 7206(1))

COURT EIGHT

That on or about April 12, 1971, in the Corpus Christi Division of the Southern District of Texas, and within the jurisdiction of this Court, G. P. CERRILLO, a resident of Duval County, Texas, did willfully and knowingly make and subscribe a 1970 individual income tax return (Form 1040), which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, which said return he did not believe to be true and correct as to every material matter in that the said return reported income from a partnership in the amount of \$2,100.91, whereas, as he then and there well knew and believed, he had received income from the said partnership in a substantially greater amount than the reported amount of \$2,100.91.

(Violation: Title 26, United States Code, Section 7206(1))

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COUNT NINE

That on or about April 13, 1971, in the Corpus Christi Division of the Southern District of Texas, and within the jurisdiction of this Court, O. P. CARRILLO, a resident of Duval County, Texas, did willfully and knowingly make and subscribe a 1970 United States Partnership Return of Income (Form 1065), which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, which said return he did not believe to be true and correct as to every material matter in that the said return reported gross receipts of the partnership in the amount of \$53,673.65, whereas, as he then and there well knew and believed, gross receipts of the partnership were in substantially greater amount than the reported amount of \$53,673.65.

(Violations: Title 26, United States Code, Section 7206(1))

COUNT TEN

That on or about April 14, 1969, in the Corpus Christi Division of the Southern District of Texas, and within the jurisdiction of this Court, ARTURO BERTOLINI, a resident of Duval County, Texas, did willfully and knowingly make and subscribe a 1968 individual income tax return (Form 1040), which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, which said return he did not believe to be true and correct as to every material matter in that the said return included an attached Schedule C, Profit (or Loss) From Business or Profession, which was made a part of the said return and which said Schedule C reported income and expenses of an alleged sole proprietorship, whereas, as he then and there well knew and believed, the income and expenses reported on the said Schedule C did not belong to the said ARTURO BERTOLINI, and were not properly reportable on the said 1968 individual income tax return (Form 1040) of the said ARTURO BERTOLINI.

(Violations: Title 26, United States Code, Section 7206(1))

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STATE EXHIBIT

That on or about April 13, 1971, in the Corpus Christi division of the Southern District of Texas, and within the jurisdiction of this Court, ARTURO MARTINEZ, a resident of Duval County, Texas, did willfully and knowingly make and subscribe a 1969 individual income tax return (Form 1040), which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, which said return he did not believe to be true and correct as to every material matter in that the said return included an attached Schedule C, Profit (or Loss) From Business or Profession, which was made a part of the said return and which said Schedule C reported income and expenses of an alleged sole proprietorship, whereas, as he then and there well knew and believed, the income and expenses reported on the said Schedule C did not belong to the said ARTURO MARTINEZ, and were not properly reportable on the said 1969 individual income tax return (Form 1040) of the said ARTURO MARTINEZ.

(Violation: Title 26, United States Code, Section 7206(1))

COUNT TWELVE

That on or about April 6, 1971, in the Corpus Christi division of the Southern District of Texas, and within the jurisdiction of this Court, ARTURO MARTINEZ, a resident of Duval County, Texas, did willfully and knowingly make and subscribe a 1970 individual income tax return (Form 1040), which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, which said return he did not believe to be true and correct as to every material matter in that the said return included an attached Schedule C, Profit (or Loss) From Business or Profession, which was made a part of the said return and which said Schedule C reported income and expenses of an alleged sole proprietorship, whereas, as he

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then and there well knew and believed, the income and expenses reported on the said Schedule C did not belong to the said LUCILLE LANTIERE, and were not properly reportable on the said 1971 individual income tax return (Form 1040) of the said LUCILLE LANTIERE.

(Violation: Title 18, United States Code, Section 7206(1))

A TRUE BILL:

FURNISH UP TWO TRUE COPIES

EDWARD B. MCDONOUGH, JR.
United States Attorney

By _____
GEORGE A. KERR, JR.
Assistant United States Attorney

00165

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
V. §
 § Criminal No. CR 75-C-45
RAMIRO D. CARRILLO, §
O. P. CARRILLO AND §
ARTURO R. ZERTUCHE. §

FIRST MOTION OF DEFENDANTS RAMIRO D. CARRILLO,
O. P. CARRILLO, AND ARTURO R. ZERTUCHE
FOR BILL OF PARTICULARS

TO THE HONORABLE COURT:

Come now Defendants, RAMIRO D. CARRILLO, O. P. CARRILLO, and ARTURO R. ZERTUCHE, acting by and through their attorneys, and pursuant to Rule 7(f) of the Federal Rules of Criminal Procedure, and move this Court to order the Attorney for the United States of America to serve and file with this Court and to deliver to said Defendants a Bill of Particulars relating to the above captioned matter and containing the following particulars with respect thereto:

*Indictment by
Carrillo
Zertuche, Carrillo, Zertuche
1/2/75*

(1) A statement as to whether the Government alleges that an agreement was entered into by Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche whereby said persons agreed to commit the offenses against the Government alleged in the Indictment.

(2) A statement as to the exact date on which the alleged agreement, if any, was entered into by Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche.

(3) A statement as to the exact nature and terms of the alleged agreement and conspiracy, if any, entered into by Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche.

Exhibit "C-1"

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(4) A statement as to the effect of the alleged agreement and conspiracy among Defendants, and in particular, a statement as to the alleged specific resultant injury to the Government.

(5) A statement as to whether the Government alleges the participation of additional persons and coconspirators in the agreement and conspiracy, if any, who are not named as codendants in the Indictment; and, if so, the names of such additional coconspirators.

(6) A statement as to the exact date any alleged additional coconspirators, if any, entered into the alleged agreement and conspiracy, if any.

(7) A statement as to any and all additional overt acts by Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche, or other alleged coconspirators, if any, pursuant to the alleged agreement and conspiracy, if any, and the exact dates on which such acts, if any, were performed.

(8) A statement as to all sales of the partnership O. P. Carrillo and Ramiro D. Carrillo, doing business as Farm and Ranch Supply, alleged to have been made in the name of Zertuche General Store, and the exact date on which each of such alleged sales was made.

(9) A statement as to whether it is alleged by the Government that Zertuche General Store was not an independent operation of Arturo R. Zertuche; and if so alleged, an exact statement setting forth the following:

(a) the alleged owner or owners and proprietors of Zertuche General Store for each of the years 1967 to the present date.

(b) the alleged employees of the Zertuche General

*Constitutional Protection
for the rights of
business
establishment*

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Store or the owners thereof and the capacity in which each of such employees were employed in regard to the Zertuche General Store for each of the years 1967 to date.

(c) the alleged role of Ramiro D. Carrillo, and O. P. Carrillo in regard to the Zertuche General Store for the years 1967 to date.

(d) the alleged role of Arturo R. Zertuche in regard to the Zertuche General Store for the years 1967 to date.

(e) the individuals on whose returns the income and expenses for Zertuche General Store were allegedly properly reportable for each of the years 1967 through 1974.

(10) A statement as to whether it is alleged by the Government that Zertuche General Store was not an entity separate and apart from the partnership of O. P. Carrillo and Ramiro D. Carrillo doing business as Farm and Ranch Supply; and, if so alleged, an exact statement as to the alleged relationship between Zertuche General Store and Farm and Ranch Supply for each of the years 1967 through 1974.

(11) A statement as to the amount of alleged income which was improperly unreported on the 1968 individual income tax return of Ramiro D. Carrillo and the source or sources thereof, including the source or sources from which the partnership allegedly received such income.

(12) A statement as to the amount of alleged income which was improperly unreported on the 1969 individual income tax return of Ramiro D. Carrillo and the source or sources thereof, including the source or sources from which the partnership allegedly received such income.

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(13) A statement as to the amount of alleged income which was improperly unreported on the 1970 individual income tax return of Ramiro D. Carrillo and the source or sources thereof, including the source or sources from which the partnership allegedly received such income.

(14) A statement as to the amount of alleged gross receipts which were improperly unreported on the 1968 United States Partnership Return of Income of Ramiro D. Carrillo and the source or sources thereof.

(15) A statement as to the amount of alleged gross receipts which were improperly unreported on the 1969 United States Partnership Return of Income of Ramiro D. Carrillo and the source or sources thereof.

(16) A statement as to the amount of alleged income which was improperly unreported on the 1968 individual income tax return of O. P. Carrillo and the source or sources thereof, including the source or sources from which the partnership received such income.

(17) A statement as to the amount of alleged income which was improperly unreported on the 1970 individual income tax return of O. P. Carrillo and the source or sources thereof, including the source or sources from which the partnership received such income.

(18) A statement as to the amount of alleged gross receipts which were improperly unreported on the 1970 United States Partnership Return of Income of O. P. Carrillo and the source or sources thereof.

(19) A statement as to the amount of income and expenses

of a sole proprietorship which were allegedly improperly reported on the Schedule C forms of the individual income tax returns of Arturo R. Zertuche for each of the years 1968, 1969, and 1970 and the individuals on whose returns such income and expenses allegedly were properly reportable for each of the years 1968, 1969, and 1970.

(20) A statement as to whether the Government alleges any improperly unreported income on the individual income tax returns of Ramiro D. Carrillo for any of the years 1968, 1969, and 1970.

(21) A statement as to whether the Government alleges that the improperly unreported income on the following individual income tax returns was derived from any source other than sales or transactions in the name of Zertuche General Store, and, if so, the nature of such other sources:

- (a) 1968 individual income tax return of Ramiro D. Carrillo.
- (b) 1969 individual income tax return of Ramiro D. Carrillo.
- (c) 1970 individual income tax return of Ramiro D. Carrillo.
- (d) 1968 individual income tax return of O. P. Carrillo.
- (e) 1970 individual income tax return of O. P. Carrillo.

(22) A statement as to whether the Government alleges that the improperly unreported gross receipts on the following United States Partnership Returns of Income were derived from

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from any source other than sales or transactions in the name of Zertuche General Store, and, if so, the nature of such other sources:

(a) 1968 United States Partnership Return of Income of Ramiro D. Carrillo.

(b) 1969 United States Partnership Return of Income of Ramiro D. Carrillo.

(c) 1970 United States Partnership Return of Income of O. P. Carrillo.

(23) A statement as to whether the Government alleges that all of the income which was allegedly improperly unreported on the following individual income tax returns was reported on the Schedule C forms of the individual income tax returns of Arturo R. Zertuche for each of the respective years:

(a) 1968 individual income tax return of Ramiro D. Carrillo.

(b) 1969 individual income tax return of Ramiro D. Carrillo.

(c) 1970 individual income tax return of Ramiro D. Carrillo.

(d) 1968 individual income tax return of O. P. Carrillo.

(e) 1970 individual income tax return of O. P. Carrillo.

(24) A statement as to whether the Government alleges that all of the gross receipts which were allegedly improperly unreported on the following United States Partnership Returns of Income were reported on the Schedule C forms on the individual income tax returns of Arturo R. Zertuche for each of the respective years:

(a) 1968 United States Partnership Return of Income of Ramiro D. Carrillo.

(b) 1969 United States Partnership Return of Income of Ramiro D. Carrillo.

(c) 1970 United States Partnership Return of Income of O. P. Carrillo.

(25) If the Government alleges that a part of the income which was allegedly improperly unreported on the individual income tax returns of Ramiro D. Carrillo challenged in the Indictment either was not derived from sales or transactions in the name of Zertuche General Store or was not reported on the Schedule C forms of the individual income tax returns of Arturo R. Zertuche for the respective years, a statement as to whether the Government intends to rely to any extent on omission of specific items of income for reconstruction of income as to Ramiro D. Carrillo and, if so, an exact statement setting forth the following:

of said items to be included

(a) The date, amount, payor, and character of each such item in the year 1968.

(b) The date, amount, payor, and character of each such item in the year 1969.

(c) The date, amount, payor, and character of each such item in the year 1970.

(26) If the Government alleges that a part of the income which was allegedly improperly unreported on the individual income tax returns of O. P. Carrillo challenged in the Indictment either was not derived from sales or transactions in the name of Zertuche General Store or was not reported on the Schedule C forms of the individual income tax returns of Arturo R. Zertuche for the respective years, a statement as to whether the Government intends

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to rely to any extent on omission of specific items of income for reconstruction of income as to O. P. Carrillo and, if so, an exact statement setting forth the following:

(a) The date, amount, payor, and character of each such item in the year 1968.

(b) The date, amount, payor, and character of each such item in the year 1970.

(27) If the government alleges that a part of the gross receipts which were allegedly improperly unreported on the United States Partnership Returns of Income of Ramiro D. Carrillo and O. P. Carrillo challenged in the indictment either were not derived from sales or transactions in the name of Zertuche General Store or were not reported on the Schedule C forms of the individual income tax returns of Arturo R. Zertuche for the respective years, a statement as to whether the Government intends to rely to any extent on omission of specific items in the gross receipts for reconstruction of the gross receipts as to the partnership and, if so, an exact statement setting forth the following:

(a) The date, amount, payor, and character of each such item in the year 1968.

(b) The date, amount, payor, and character of each item in the year 1969.

(c) The date, amount, payor, and character of each such item in the year 1970.

(28) If the Government alleges that a part of the income which was allegedly improperly unreported on the individual income tax returns of Ramiro D. Carrillo challenged in the indictment either was not derived from sales or transactions in the name of

Zertuche General Store or was not reported on the Schedule C forms of the individual income tax returns of Arturo R. Zertuche for the respective years, a statement as to whether the Government intends to rely to any extent on over statement of specific items of deduction or expense for reconstruction of income as to Ramiro D. Carrillo and, if so, an exact statement setting forth the following:

(a) The date, amount, payee, and character of each such item in the year 1968.

(b) The date, amount, payee, and character of each such item in the year 1969.

(c) The date, amount, payee and character of each such item in the year 1970.

(29) If the Government alleges that a part of the income which was allegedly improperly unreported on the individual income tax returns of O. P. Carrillo challenged in the Indictment either was not derived from sales or transactions in the name of Zertuche General Store or was not reported on the Schedule C forms of the individual income tax returns of Arturo R. Zertuche for the respective years, a statement as to whether the Government intends to rely to any extent on overstatement of specific items of deduction or expense for reconstruction of income as to O. P. Carrillo and, if so, an exact statement setting forth the following:

(a) The date, amount, payee, and character of each such item in the year 1968.

(b) The date, amount, payee, and character of each such item in the year 1970.

(30) If the Government alleges that a part of the income which was allegedly improperly unreported on the individual income

tax returns of Ramiro D. Carrillo challenged in the Indictment either was not derived from sale or transactions in the name of Zertuche General Store or was not reported on the Schedule C forms of the individual income tax returns of Arturo R. Zertuche for the respective years, a statement as to whether the Government intends to rely to any extent on the so-called "net worth" method for reconstruction of income as to Ramiro D. Carrillo or to corroborate some other method to be used and, if so, an exact statement setting forth the following:

(a) The opening net worth of Ramiro D. Carrillo and date of same to be used by the Government.

(b) A detailed analysis of the changes in net worth as computed by the Government from the date of opening net worth to December 31, 1970.

(31) If the Government alleges that a part of the income which was allegedly improperly unreported on the individual income tax returns of O. P. Carrillo challenged in the Indictment either was not derived from sale or transactions in the name of Zertuche General Store or was not reported on the Schedule C forms of the individual income tax returns of Arturo R. Zertuche for the respective years, a statement as to whether the Government intends to rely to any extent on the so-called "net worth" method for reconstruction of income as to O. P. Carrillo or to corroborate some other method to be used and, if so, an exact statement setting forth the following:

(a) The opening net worth of O. P. Carrillo and date of same to be used by the Government.

(b) A detailed analysis of the changes in net worth as computed by the Government from the date of opening net worth to December 31, 1970.

(32) If the Government alleges that a part of the income which was allegedly improperly unreported on the individual income tax returns of Ramiro D. Carrillo and O. P. Carrillo challenged in the indictment either was not derived from sales or transactions in the name of Zertuche General Store or was not reported on the Schedule C forms of the individual income tax returns of Arturo R. Zertuche for the respective years, a statement as to whether the Government intends to rely to any extent on the so called "bank deposits and expenditures" method for reconstruction of income as to corroborate some other method to be used and, if so, an exact statement setting forth the following:

(a) A list of the partnership bank deposits in the year 1968 reflecting thereon the amount, date, and alleged character of each item.

(b) A list of the partnership bank withdrawals for the year 1969 reflecting thereon the amount, date, payee, and use of each withdrawal.

(c) A list of the partnership bank deposits in the year 1969 reflecting thereon the amount, date, and alleged character of each item.

(d) A list of the partnership bank withdrawals in the year 1969 reflecting thereon the amount, date, payee, and use of each withdrawal.

(e) A list of the partnership bank deposits in the year 1970 reflecting thereon the amount, date, and alleged character of each item.

(f) A list of the partnership bank withdrawals in the year 1970 reflecting thereon the amount, date, payee, and use of

each withdrawal.

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(33) If the Government alleges that a part of the income which was allegedly improperly unreported on the individual income tax returns of Ramiro D. Carrillo and O. P. Carrillo challenged in the indictment either was not derived from sales or transactions in the name of Zertuche General Store or was not reported on the Schedule C forms of the individual income tax returns of Arturo R. Zertuche for the respective years, a statement as to whether the Government intends to rely to any extent on the so called "bank deposits and expenditures" method for reconstruction of income as to corroborate some other method to be used and, if so, an exact statement setting forth the following:

(a) A list of the Zertuche General Store bank deposits in the year 1968 reflecting thereon the amount, date, and alleged character of each item.

(b) A list of the Zertuche General Store bank withdrawals for the year 1969 reflecting thereon the amount, date, payee, and use of each withdrawal.

(c) A list of the Zertuche General Store bank deposits in the year 1969 reflecting thereon the amount, date, and alleged character of each item.

(d) A list of the Zertuche General Store bank withdrawals in the year 1969 reflecting thereon the amount, date, payee, and use of each withdrawal.

(e) A list of the Zertuche General Store bank deposits in the year 1970 reflecting thereon the amount, date, and alleged character of each item.

(i) A list of the Zertuche General Store withdrawals in the year 1970 reflecting thereon the amount, date, payee, and use of each withdrawal.

(34) If the Government alleges that a part of the income which was allegedly improperly unreported on the individual income tax returns of Ramiro D. Carrillo challenged in the Indictment either was not derived from sales or transactions in the name of Zertuche General Store or was not reported on the Schedule C forms of the individual income tax returns of Arturo R. Zertuche for the respective years, a statement as to whether the Government intends to rely to any extent on over statement of specific items of deduction or expense for reconstruction of income as to Zertuche General Store and, if so, an exact statement setting forth the following:

(a) The date, amount, payee, and character of each such item in the year 1968.

(b) The date, amount, payee, and character of each such item in the year 1969.

(c) The date, amount, payee and character of each such item in the year 1970.

(35) If the Government alleges that a part of the income which was allegedly improperly unreported on the individual income tax returns of Ramiro D. Carrillo and O. P. Carrillo challenged in the indictment either was not derived from sales or transactions in the name of Zertuche General Store or was not reported on the Schedule C forms of the individual income tax returns of Arturo R. Zertuche for the respective years, a statement as to whether the Government intends to use any method for reconstructing the income of Ramiro D. Carrillo and O. P. Carrillo other than

a method included within Paragraphs 24 through 34 above, and, if so, the nature of such method.

(36) A statement specifying the portion or portions of the individual and partnership income tax returns of Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche for each of the years 1968, 1969, and 1970 which the Government claims is false.

As grounds for this motion Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche would show the Court that the indictment presented does not give Defendants notice of the charges against which they will be required to defend. The indictment read as a whole, particularly in view of the apparent nature of the conspiracy charged in Count I, appears to charge Defendants with setting up a fiction known as Zertuche General Store through which sales of the Ramiro D. Carrillo and O. P. Carrillo partnership, d/b/a Farm and Ranch Supply, could be made without the necessity of reporting the income from such sales on the individual and partnership returns of Ramiro D. Carrillo and O. P. Carrillo. The offense charged, then, seems to be the filing of false returns in that the income from the Zertuche General Store should have been, but was not, reported on the individual and partnership returns of Ramiro D. Carrillo and O. P. Carrillo; Zertuche General Store being but a part of the larger whole of the Ramiro D. Carrillo and O. P. Carrillo partnership. However, because of the very broad language of the indictment and the wording of the individual Counts against Ramiro D. Carrillo and O. P. Carrillo, it is unclear whether the Government is also alleging that Defendants received unreported income from sources other than Zertuche General Store and

other than that reported on the return of Arturo R. Zertuche. It is vital to know which of the above allegations is being made, or whether both are being made; for in the first instance, a charge based solely on the allegation that Zertuche General Store has no legitimate business purpose and no existence independent of Farm and Ranch Supply, the controlling issue in the case will be essentially a legal one based on the facts of the Zertuche General Store operation. In the second instance, however, the controlling issue will be the existence of unreported income from whatever source, and will involve considerable research into the financial records of all of the Defendants over a span of many years and will involve complicated accounting questions and methods of proof. In this event, the Defendants are certainly entitled to know in addition the method on which the Government intends to rely in order to show that income which should have been reported was willfully unreported, for in this sort of a case, the method which is to be used in calculating willfully unreported income of necessity will determine the defense which must be prepared.

Further, Defendants would show that the broad language of the Indictment and its lack of specificity as to the nature of the false statements allegedly made in the returns and as to the income which was unreported by Ramiro D. Carrillo and O. P. Carrillo give it every appearance of a fishing expedition on the question of income tax evasion with a view to prosecution under 26 U.S.C.A. 7201. Were the indictment to directly charge evasion under 26 U.S.C.A. 7201, it would be fatally defective, in that the only offense formally charged is a violation of 26 U.S.C.A. 7205(1) and conspiracy. The indictment should be considered no less defective for attempting to do indirectly what it could not validly

4-00180

do directly. Unless the indictment is made specific as to the nature of the charges against Defendants, questions of double jeopardy are certain to arise.

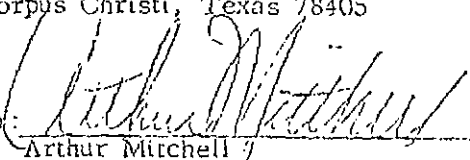
For the foregoing reasons, the information herein requested is necessary to inform the Defendants of the nature of the charges against them with sufficient precision to enable them to prepare for trial, to prevent surprise and to plead double jeopardy in bar of another prosecution for the same offense.

WHEREFORE, Defendants respectfully pray that this motion be granted.

Respectfully submitted,

ARTHUR MITCHELL
Mitchell, George & Belt
315 Westgate Building
Austin, Texas 78701

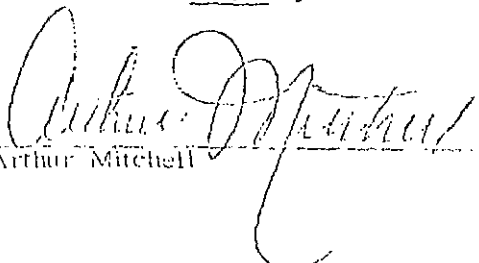
WILLIAM DAVID BONILLA
Bonilla, Read, Rodriguez, Bechmon &
P.O. Box 5427
Corpus Christi, Texas 78405

BY: 
Arthur Mitchell

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing First Motion of Defendants for Bill of Particulars has been forwarded to the United States District Attorney for the Southern District of Texas at Houston on this the 25th day of April, 1975.


Arthur Mitchell

66181
IN THE UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA	§	
	§	
V.	§	
	§	Criminal No. CR 75-C-45
RAMIRO D. CARRILLO,	§	
O. P. CARRILLO, AND	§	
ARTURO R. ZERTUCHE	§	

FIRST MOTION OF DEFENDANTS RAMIRO D. CARRILLO,
O. P. CARRILLO, AND ARTURO R. ZERTUCHE
FOR DISCOVERY PURSUANT TO RULE 16
FEDERAL RULES OF CRIMINAL PROCEDURE

TO THE HONORABLE COURT:

Now come Defendants, RAMIRO D. CARRILLO, O. P. CARRILLO and ARTURO R. ZERTUCHE, acting by and through their attorneys, and pursuant to Rule 16 of the Federal Rules of Criminal Procedure and would respectfully show the Court the following:

I.

The Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche preliminarily would show the Court that, beginning at a date several years prior to the commencement of proceedings against Defendants in the above captioned case, the exact date being unknown to Defendants, investigations were instituted by the Government in connection with the prosecution of United States of America v. George B. Parr, United States of America v. Archer Parr, United States of America v. Saenz and other related cases, all well known to the Government. In connection with such investigations, some or all of the Defendants in the present prosecution, Ramiro D. Carrillo in

Exhibit "C-2"

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particular, were interviewed and interrogated by agents and representatives of the Government; and information was given by such Defendants to the Government (which materially relates to the offenses with which all Defendants are charged in the present proceedings), all of which resulted in the violation of constitutionally protectual rights of the Defendants herein.

Further, Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche would show the Court that testimony was given in behalf of the Government by Ramiro D. Carrillo in the prosecutions of the above cases of United States of America v. George B. Parr, United States of America v. Archer Parr, United States of America v. Saenz, and other related cases, which testimony is material to the offenses with which Defendants are charged in the present proceedings.

Defendants further submit that no warnings of any nature, as required by the Constitution of the United States and the administrative regulations of the Internal Revenue Service, were at anytime given to any of the Defendants by the agents and representatives of the Government in connection with the interviews and interrogations conducted in the above cases.

Defendants further would show that the offenses with which Defendants are charged are based in a large part on the information obtained by the Government from Ramiro D. Carrillo and the other Defendants in the course of investigation and interrogation in the prior cases above.

Further, Defendants submit that in the course of the investigation in connection with both the present prosecution and the prior related prosecutions the Government obtained further information by means

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of electronic surveillance and wiretapping of the telephones of Ramiro D. Carrillo, O. P. Carrillo, Arturo R. Zertuche and their attorney, which information is material to the offenses with which Defendants are charged herein.

II.

Pursuant to the showings in Paragraph I and in the interest of full disclosure, and Defendants respectfully move this Court pursuant to Rule 16 (a) of the Federal Rules of Criminal Procedure to produce and permit Defendants to inspect and copy or photograph:

(1) a list bearing the exact date, time and location of each interview or interrogation with Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche conducted by agents or representatives of the Government and bearing the name and title of each of the agents or representatives conducting such interview or interrogation in connection with the United States of America v. George B. Parr, United States of America v. Archer Parr, United States of America v. Saenz, and related cases.

(2) written, recorded or transcribed statements by Ramiro D. Carrillo, O. P. Carrillo, Arturo R. Zertuche, and any agent or representative of the Government in any interview or interrogation conducted by agents or representatives of the Government in connection with United States of America v. George B. Parr, United States of America v. Archer Parr, United States of America v. Saenz and related cases, to date of this motion.

(3) a transcript of the written or recorded testimony of Ramiro D. Carrillo before the grand jury in connection with United States of America v. George B. Parr, United States of America v. Archer Parr, United States of America v. Saenz and related cases.

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(4) a transcript of the written or recorded testimony of Ramiro D. Carrillo in the trial of United States of America v. George B. Parr, United States of America v. Archer Parr, United States of America v. Sautz and related cases.

(5) tapes and transcripts obtained by electronic surveillance and wiretapping of telephone conversations between Ramiro D. Carrillo O. P. Carrillo, Arturo R. Zertuche and others, including agents or representatives of the Government, from the following telephones with the following numbers and/or names:

O. P. Carrillo	(512) 256-3671
O. P. Carrillo	(512) 279-3957
O. P. Carrillo	(512) 256-3491
Ramiro D. Carrillo	(512) 256-3443
Arturo R. Zertuche	(512) 394-7459
Arturo R. Zertuche	(512) 425-3507
Arthur Mitchell	(512) 477-9651, 9652, 9653,
Arthur Mitchell	(512) 228-1900
	(512) 394-7121
	(512) 394-7386
	(512) 256-3592
	(512) 394-7129

(6) written or recorded testimony of Ramiro D. Carrillo, O. P. Carrillo and Arturo R. Zertuche before the grand jury in connection with the present prosecution.

(7) written or recorded statements between Ramiro D. Carrillo O. P. Carrillo, or Arturo R. Zertuche and others including Government agents or representatives, or confessions made by Ramiro D. Carrillo, O. P. Carrillo, or Arturo R. Zertuche, or copies thereof, and, without limitation of the foregoing, any reports, notes, memoranda, affidavits, or other writings of, or containing any oral statements of Ramiro D. Carrillo, O. P. Carrillo, or Arturo R. Zertuche with others, including agents or representatives of the Government, which are within the possession, custody, or control of the Government the existence of which is known, or by the exercise of due diligence

may become known, to the attorney for the Government;

(8) any exculpatory or mitigating written or recorded statements by Ramiro D. Carrillo, O. P. Carrillo, or Arturo R. Zertuche relevant to the offenses charged which are within the possession, custody, or control of the Government, the existence of which is known, or by the exercise of due diligence may become known, to the Attorney for the Government;

(9) individual and partnership tax returns filed by Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche, whether under the names of the individual Defendants or under the name of Farm and Ranch Supply, Ramiro Carrillo & Bros., or Zertuche General Store, from 1965 to date.

III.

Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche, pursuant to Rule 16 (b) of the Federal Rules of Criminal Procedure, respectfully move the Court to order the Attorney for the Government to produce and permit Defendants to inspect and copy or photograph books, papers, documents, reports, memoranda, notes or written papers of any kind, tangible objects, or copies or portions thereof, which are within the possession, custody, or control of the Government which relate to the above captioned proceedings and which were obtained by the Government from any person.

(1) who was in the employ of Ramiro D. Carrillo, O. P. Carrillo, Arturo R. Zertuche or who was acting as an agent of any of the above named Defendants during the years 1967 through 1974 inclusive, including, but not limited to, employees of Farm and Ranch Supply, Ramiro Carrillo and Bros., and Zertuche General Store; or

00186

(2) who purchased supplies from or paid revenue of any character to Ramiro D. Carrillo, O. P. Carrillo, Arturo R. Zertuche, Hector Zertuche, Farm and Ranch Supply, Ramiro Carrillo and Bros., or Zertuche General Store, or any employee or agent thereof, in any of the years 1967 through 1974 inclusive; or

(3) who made any payments of any character to Ramiro D. Carrillo, O. P. Carrillo, Arturo R. Zertuche, Hector Zertuche, Farm and Ranch Supply, Ramiro Carrillo and Bros., or Zertuche General Store, or any employee or agent thereof, in any of the years 1967 through 1974 inclusive; or

(4) to whom payments of any character were made by Ramiro D. Carrillo, O. P. Carrillo, Arturo R. Zertuche, Hector Zertuche, Farm and Ranch Supply, Ramiro Carrillo and Bros., or Zertuche General Store, or any employee or agent thereof, in any of the years 1967 through 1974 inclusive; or

(5) who has any knowledge of any of the personal or business income or expenses of Ramiro D. Carrillo, O. P. Carrillo, or Arturo R. Zertuche during the years 1967 through 1974 inclusive; or

(6) who has any knowledge of any of the personal and/or business assets and liabilities of Ramiro D. Carrillo, O. P. Carrillo or Arturo R. Zertuche from January 1, 1967 through May 31, 1974; or

(7) who served with either Ramiro D. Carrillo or O. P. Carrillo in any official capacity or had any contact with either of the Defendants in their official capacities during the years 1967 through 1974 inclusive.

IV.

Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo

Zertuche respectfully move the Court, pursuant to Rule 16 (b) of the Federal Rules of Criminal Procedure, to order the Attorney for the Government to produce and permit Defendants to inspect and copy or photograph

(1) a list bearing the names of all Federal officers and agents who participated in the prearrest investigation of any of the Defendants for the offenses now before the Court and all officers who participated in the arrest and subsequent investigation;

(2) a list bearing the names of all witnesses interviewed by the Government in connection with this prosecution;

(3) a list bearing the names of all the witnesses the Government intends to call to testify in the trial of this case;

(4) a list bearing the names of all the witnesses who appeared before the grand jury in connection with the above captioned case;

(5) a list bearing the names of all the witnesses who appeared before the grand jury in connection with United States of America v. George B. Parr, United States of America v. Archer Parr, United States of America v. Saenz, and related cases;

(6) tapes and transcripts of the following telephones with the following numbers and/or names:

O. P. Carrillo	(512) 256-3671
O. P. Carrillo	(512) 279-3957
O. P. Carrillo	(512) 256-3491
Ramiro D. Carrillo	(512) 256-3445
Arturo R. Zertuche	(512) 394-7459
Arturo R. Zertuche	(512) 435-3507
Arthur Mitchell	(512) 477-9651, 9652, 9653,
Arthur Mitchell	(512) 228-1900
	(512) 394-7121
	(512) 394-7386
	(512) 256-3592
	(512) 394-7129

(7) individual and partnership tax returns for Ramiro D. Carrillo, O. P. Carrillo, Arturo R. Zertuche, Farm and Ranch Supply

00188

Ramiro Carrillo and Bros., Zertuche General Store, Hector Zertuche, and Cleophis Gonzales including the Schedule C forms filed with the returns, for the years 1965 through 1974 inclusive;

(8) all documents, papers, bank statements, cancelled checks or other writings relating to the income and expenses of any of the Defendants of Farm and Ranch Supply, Ramiro Carrillo and Bros., or Zertuche General Store in the years 1967 through 1974 inclusive;

(9) all papers, records, memoranda, or copies thereof, relating to all past examination reports by the Internal Revenue Service of the individual and/or partnership income tax returns of Ramiro D. Carrillo, O. P. Carrillo, Arturo R. Zertuche and Hector Zertuche, to include all such reports of Farm and Ranch Supply, Ramiro Carrillo and Bros., Zertuche General Store, and The General Store;

(10) all photographs, moving films of any kind, or still pictures in any way connected with the Defendants, Farm and Ranch Supply, Ramiro Carrillo and Bros., or Zertuche General Store;

(11) any and all evidentiary materials, including written or recorded statements by persons interviewed by agents or representatives of the Government, relevant to the defense of the case that would aid Ramiro D. Carrillo, O.P. Carrillo, and Arturo R. Zertuche in demonstrating their innocence or in mitigating the punishment to be assessed against them.

There is excluded from the subject matter of the motion contained in Paragraphs III and IV only reports, memoranda, or other purely internal government documents made by the government in connection with the investigation or prosecution of the case, or statements made by government witnesses or prospective government witnesses other

(b)(7)(C)

than the Defendants to agents of the Government except as provided in 18 U.S.C.A. § 3500. To the extent they exclude the same herefrom, Defendants reserve the right to obtain such information in accordance with 18 U.S.C.A. § 3500.

V.

To order the Attorney for the Government to permit Defendants to inspect and copy or photograph notes, records, memoranda, and/or other writing or statements made by persons who are not government witnesses or prospective government witnesses made either before the grand jury or to government agents or representatives, or otherwise, which are within the possession, custody, or control of the Government.

VI.

To order the Attorney for the Government to produce and permit Defendants to inspect and copy or photograph any material described in this motion which comes into the possession of the Government after the order rendered in connection herewith is complied with, or which is delivered after the order in connection herewith is acted upon.

Dated and Signed this 24 day of April, 1975.

Respectfully submitted,

ARTHUR MITCHELL
Mitchell, George & Belt
315 Westgate Building
Austin, Texas 78701

WILLIAM DAVID BONILLA
Bonilla, Read, Rodriguez, Beckmo
P.O. Box 5427
Corpus Christi, Texas 78405

By:

ATTORNEYS FOR DEFENDANTS

00191

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
V. § CRIMINAL NO. CR-75-C-45
 §
RAMIRO D. CARRILLO, §
O. P. CARRILLO, AND §
ARTURO R. ZERTUCHE §

STATEMENT IN SUPPORT OF DEFENDANTS'
FIRST MOTION FOR DISCOVERY PURSUANT TO RULE 16, F.R.C.P.

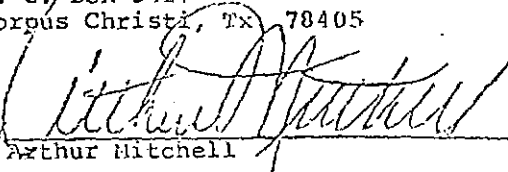
TO THE HONORABLE COURT:

Comes now Defendants' attorney, Arthur Mitchell, and states to the Court that he has attempted to comply with Rule 20, Local Rules of the United States District Court for the Southern District of Texas; that a conference was held on April 19, 1975 with United States Attorney George Kelt and that no agreement has been reached concerning the discovery or inspection that is the subject of Defendants' motion.

Respectfully submitted,

ARTHUR MITCHELL
315 Westgate Bldg.
Austin, Tx. 78701

WILLIAM DAVID BONILLA
P. O. Box 5427
Corpus Christi, Tx. 78405

By 
Arthur Mitchell

ATTORNEYS FOR DEFENDANTS

00192
IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA	§	
	§	
V.	§	
	§	Criminal No. CR 75-C-45
RAMIRO D. CARRILLO,	§	
O. P. CARRILLO AND	§	
ARTURO R. ZERTUCHE	§	

SECOND MOTION OF DEFENDANTS RAMIRO D. CARRILLO,
O. P. CARRILLO, AND ARTURO R. ZERTUCHE FOR DISCOVERY

TO THE HONORABLE COURT:

Defendants RAMIRO D. CARRILLO, O. P. CARRILLO and ARTURO R. ZERTUCHE respectfully move the Court that upon the Indictment, the Plea of Not Guilty, the Motion for Bill of Particulars, and such other proceedings had herein on their behalf, but due to the fact that these Defendants are not sufficiently apprised by the general allegations in the Indictment, and have not been furnished with sufficient particular allegations and information of the charges and allegations in the Indictment, to enable them to prepare an adequate defense, and to prepare and present a Motion to Suppress Evidence, that the Court should order the prosecution to apprise these Defendants whether any evidence was obtained, directly or indirectly, on the following grounds:

- (1) To require the Government to advise if it has noted Preferential Agreement with a Co-Defendant, co-conspirator, or alleged "unindicted co-conspirator", not indicted, to produce testimony against the Defendants.

This Motion is made under the following Authority:

Ciglio v. United States, 92 S.Ct. 763 405 U.S. 130 (1972).

Exhibit "C-3"

06193

WHEREFORE, these Defendants Ramiro D. Carrillo, O. P.

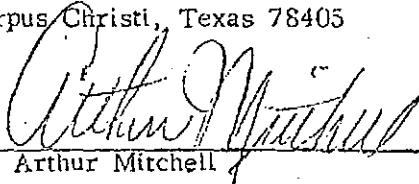
Carrillo and Arturo R. Zertuche respectfully request this Honorable Court to enter any and all appropriate Orders to carry out the foregoing matters, and for such order Orders as the Court may deem proper and appropriate.

Dated and Signed this 25th day of April, 1975.

Respectfully submitted,

ARTHUR MITCHELL
Mitchell, George & Belt
315 Westgate Building
Austin, Texas 78701

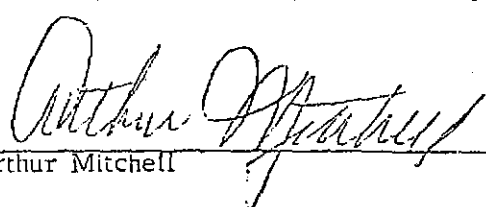
WILLIAM DAVID BONILLA
Bonilla, Read, Rodriguez, Bechmon & Bonilla
P.O. Box 5427
Corpus Christi, Texas 78405

By: 
Arthur Mitchell

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Second Motion of Defendants has been forwarded to the United States Attorney for the Southern District of Texas at Houston on this the 25th day of April, 1975.


Arthur Mitchell

00194

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA	§	
	§	
V.	§	CRIMINAL NO. CR-75-C-45
	§	
RAMIRO D. CARRILLO,	§	
O. P. CARRILLO, AND	§	
ARTURO R. ZERTUCHE	§	

STATEMENT IN SUPPORT OF DEFENDANTS'
SECOND MOTION FOR DISCOVERY

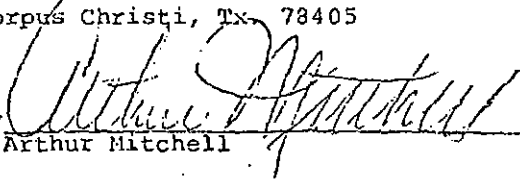
TO THE HONORABLE COURT:

Comes now Defendants' attorney, Arthur Mitchell, and states to the Court that he has attempted to comply with Rule 20, Local Rules of the United States District Court for the Southern District of Texas; that a conference was held on April 19, 1975 with United States Attorney George Kelt and that no agreement has been reached concerning the discovery or inspection that is the subject of Defendants' motion.

Respectfully submitted,

ARTHUR MITCHELL
315 Westgate Bldg.
Austin, Tx. 78701

WILLIAM DAVID DONILLA
P. O. Box 5427
Corpus Christi, Tx. 78405

By 
Arthur Mitchell

ATTORNEYS FOR DEFENDANTS

00195

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
§
V. §
§ Criminal No. CR 75-C-45
RAMIRO D. CARRILLO, §
O. P. CARRILLO AND §
ARTURO R. ZERTUCHE §

THIRD MOTION OF DEFENDANTS RAMIRO D. CARRILLO, O. P.
CARRILLO AND ARTURO R. ZERTUCHE FOR DISCOVERY

TO THE HONORABLE COURT:

Comes now RAMIRO D. CARRILLO, O.P. CARRILLO and ARTURO R. ZERTUCHE, defendants in the above cause and make this their Motion for Discovery of all exculpatory evidence and as grounds therefore would show the Court as follows:

I.

The government should be ordered to produce and make available to the Defendants all statements, documentary evidence, and reports containing any exculpatory evidence whatsoever. This request is not limited to evidence which directly exculpates the Defendants, but rather extends to any evidence which is not directly incriminatory, since it is only the Defendants and their counsel who can properly determine if evidence may be of benefit to the Defendants in developing a defensive theory. Defendants herein further delineate more specifically certain categories of types of evidence which they specifically request, but in no way waive their general request that the Government produce all exculpatory evidence as contained in this paragraph.

II.

The Government should be required to produce for inspection

Exhibit "C-4"

00196

and copying statements of all witnesses that the Government does not intend to call as a witness on its behalf. Additionally, the Government should furnish the names and addresses of all witnesses which to its knowledge have evidence exculpatory of any of the Defendants but who have not given statements to the Government.

III.

The Government should be required to furnish prior to trial all statements of witnesses which it does intend to call on its behalf who have given statements that are in any way exculpatory of any of the Defendants either by way of tending to exonerate them from any criminal action or by way of conflicting with other statements given by the same witnesses.

IV.

The criminal records of all witnesses which the Government intends to use in its trial of this cause including F.B.I. records of each such witness.

V.

All exculpatory statements made by witnesses who appeared before the Grand Jury whether or not said witnesses will be called at the trial of this case.

WHEREFORE, PREMISES CONSIDERED, Defendants Ramiro D. Carrillo, O. P. Carrillo and Arturo R. Zertuche respectfully pray that the Attorney for the Government be ordered to produce the above stated information in order that the Defendants may have a fair trial of the case against them and that they be granted such other and further relief to which they may be entitled.

Respectfully submitted,

ARTHUR MITCHELL
Mitchell, George & Belt
315 Westgate Building
Austin, Texas 78701

00197

WILLIAM DAVID BONILLA
Bonilla, Read, Rodriguez, Bechmon & Bonilla
P.O. Box 5427
Corpus Christi, Texas 78405

By: Arthur Mitchell
Arthur Mitchell

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Third Motion of Defendants For Discovery has been forwarded to the United States Attorney for the Southern District of Texas at Houston on this the 25th day of April, 1975.

Arthur Mitchell
Arthur Mitchell

00198

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
§
V. §
§
RAMIRO D. CARRILLO, §
O. P. CARRILLO, AND §
ARTURO R. ZERTUCHE §

CRIMINAL NO. CR-75-C-45

STATEMENT IN SUPPORT OF DEFENDANTS'
THIRD MOTION FOR DISCOVERY

TO THE HONORABLE COURT:

Comes now Defendants' attorney, Arthur Mitchell, and states to the Court that he has attempted to comply with Rule 20, Local Rules of the United States District Court for the Southern District of Texas; that a conference was held on April 19, 1975 with United States Attorney George Kelt and that no agreement has been reached concerning the discovery or inspection that in the subject of Defendants' motion.

Respectfully submitted,

ARTHUR MITCHELL
315 Westgate Bldg.
Austin, Tx. 78701

WILLIAM DAVID BONILLA
P. O. Box 5427
Corpus Christi, Tx. 78405

By Arthur Mitchell
Arthur Mitchell

ATTORNEYS FOR DEFENDANTS

00199

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
V. § Criminal No. CR. 75-C-45
 §
RAMIRO D. CARRILLO, §
O. P. CARRILLO AND §
ARTURO R. ZERTUCHE §

FOURTH MOTION OF DEFENDANTS
RAMIRO D. CARRILLO, O. P. CARRILLO, AND
ARTURO R. ZERTUCHE FOR DISCOVERY

TO THE HONORABLE COURT:

Now come Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche, acting by and through their attorneys and pursuant to Rule 16(b) of the Federal Rules of Criminal Procedure, and would show the Court the following:

I.

Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche respectfully move the Court, pursuant to Rule 16(b) of the Federal Rules of Criminal Procedure, to order the Attorney for the Government to produce and permit Defendants to inspect or copy and photograph the following documents which are within the possession, custody, or control of the Government, the existence of which is known, or by the exercise of due diligence may become known to the Attorney for the Government:

(1) all income tax returns of the Benavides Implement and Hardware Company for the years 1970 to date.

(2) all records of the Benavides Implement and Hardware Company arising out of doing business with Farm and Ranch Supply from January 1, 1970 to date.

Exhibit "C-5"

00200

(3) all records of any civil audit of the Benavides Implement and Hardware Company which may have been conducted by the Internal Revenue Service.

(4) all records of civil proceedings for income tax liability by the Internal Revenue Service of the Benavides Implement and Hardware Company, including any records relating to agreements and/or settlements of civil liability.

(5) all records relating to criminal proceedings for violations of income tax laws against the Benavides Implement and Hardware Company, including any records relating to agreements and/or settlements relating to same.

(6) all records relating to civil investigations, if any, of Ramiro D. Carrillo, O. P. Carrillo, Arturo R. Zertuche, Farm and Ranch Supply, and Zertuche General Store by the Audit Division of the Internal Revenue Service; and, if any were conducted, the dates of their referrals to the Intelligence Division and a copy of the referral report.

(7) all records of financial or commercial transactions between Duval County and Ramiro D. Carrillo, O. P. Carrillo, Arturo R. Zertuche, Farm and Ranch Supply, and/or Zertuche General Store, for the years 1965 to date, including all records of purchases or rentals of equipment or other items.

(8) all records of financial or commercial transactions between the Benavides Independent School District and Ramiro D. Carrillo, O. P. Carrillo, Arturo R. Zertuche, Farm and Ranch Supply, and/or Zertuche General Store for the years 1965 to date, including all records of purchases or rentals of equipment or other items.

(9) all records of financial and commercial transactions between Duval County Water and Reclamation District and Ramiro D. Carrillo,

00201

O. P. Carrillo, Arturo R. Zertuche, Farm and Ranch Supply, and/or Zertuche General Store for the years 1965 to date, including all records of purchases or rentals of equipment and other items.

II.

During the several years following the closing of Zertuche General Store, Benavides Implement and Hardware Company has had substantial financial and commercial transactions with Farm and Ranch Supply, yet no claim is made by the Government that the reported income of the Benavides Implement and Hardware Company is not properly its own. Such a charge is made against the proprietor of Zertuche General Store. The items requested in Paragraph I, subdivision 1 through 5 are material to the charges against Arturo R. Zertuche and the other Defendants.

III.

The items contained in Paragraph I (6) are material to the issue of suppression of evidence for the failure to give proper warnings.

IV.

It is alleged in the Indictment that Duval County, Benavides Implement and Hardware Company, and Duval County Water and Reclamation District made purchases directly from Farm and Ranch Supply through the conduit of Zertuche General Store. The items requested in Paragraph I, subdivisions 7, 8, and 9 are material to the defense of this charge.

V.

All of the documents requested herein are material to the preparation of the defense, as indicated by the facts set out in Paragraphs I through IV.

WHEREFORE, PREMISES CONSIDERED, the Defendants, Ramiro

00292

D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche, respectfully pray that discovery as requested in the motion be ordered by this Court.

Respectfully submitted,

ARTHUR MITCHELL
315 Westgate Building
Austin, Texas 78701

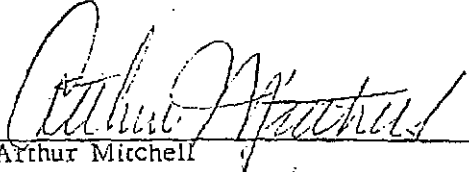
WILLIAM DAVID BONILLA
P.O. Drawer 5427
Corpus Christi, Texas 78405

By: 
Arthur Mitchell

Attorneys for Defendants

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing Fourth Motion of Defendants For Discovery has been sent to the United States Attorney for the Southern District of Texas at Houston, on this the 2nd day of May, 1975.


Arthur Mitchell

00203

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
§
V. § Criminal No. CR-75-C-45
§
RAMIRO D. CARRILLO, §
O. P. CARRILLO, AND §
ARTURO R. ZERTUCHE §

ORDER RELATING TO DEFENDANTS'
FOURTH MOTION FOR DISCOVERY

On this date came to be heard the Fourth Motion For Discovery
by Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo R.
Zertuche, and the Court having considered the same is of the opinion
that said Motion be _____.

It is therefore ORDERED that Defendants' Fourth Motion For
Discovery is hereby in all things _____.

DATED: _____

JUDGE
United States District Court
Southern District of Texas.

Duval figures due in court

Two federal court hearings at 9 a.m. today will likely draw some of the principal figures in the recent turmoil in Duval County.

Expected to show up are 29th District Court Judge O.P. Carrillo, his brother County Commissioner Ramiro Carrillo, Arturo Zertuche, a cousin of the Carrillo brothers, and Clinton Manges, the rancher-banker.

The four are involved in two separate cases: The Carrillos and Zertuche are defendants in an income tax evasion case while Manges is trying to recover \$75,000 he posted for the late George B. Parr.

U.S. District Judge Owen D. Cox has scheduled hearings in both cases for the same time, apparently because Austin attorney Arthur Mitchell represents all four.

Cox, at the time of Parr's death, indicated he was willing to set aside the forfeiture of the \$75,000 bond for Parr but the federal government said it felt the forfeiture was proper.

Manges, the rancher and banker who has emerged as a force in Duval County politics, put up the \$75,000 bond while Parr was on appeal.

In the income tax evasion case, the federal government has suggested that Mitchell may not be able to adequately defend all three clients and face a conflict of interest.

Corpus Christi
15116175

Carrillos granted separate tax trial

CORPUS CHRISTI— U.S. Dist. Court Judge Owen Cox on Friday severed the income tax evasion cases of State District Court Judge O. P. Carrillo and Duval County Commissioner Ramiro Carrillo from that of their cousin, Arturo Zertuche.

In the same hearing, Judge Cox refused to rule in a bond forfeiture case involving the late Duke of Duval George B. Parr.

The Carrillos and Zertuche were indicted recently by a Corpus Christi grand jury.

Government lawyers complained that Austin lawyer Arthur Mitchell could not adequately defend all three men without a conflict of interest. Cox allowed Mitchell to continue representing Zertuche after consulting with Zertuche in his chambers.

'Sham'

The government alleged Zertuche admitted his part in a "sham" business arrangement by which the Carrillo brothers are alleged to have hidden income from a partnership they owned.

Zertuche was to the point of plea bargaining, government attorneys said, until he talked with his two cousins and decided to fight the indictment.

The bond forfeiture hearing involved South Texas banker rancher Clinton Manges' effort to retrieve a \$75,000 cash bond he posted for George Parr, convicted of income tax evasion.

Parr fatally shot himself April 1, the day after he was to have appeared at a hearing.

'Contractual'

However, Judge Cox asked both sides if Manges' claim is not really against the Parr estate. He said it seemed to him the bond arrangement was "purely contractual" between Parr and Manges.

Cox said he was concerned whether the question should be in his court at all, and in effect suggested the matter should be in state court.

00206

CORPUS CHRISTI CALLER, Mon., June 30, 1975

Carrillo tax case

set for docket call

The income tax evasion case against Judge O. P. Carrillo, his brother Duval County Commissioner Ramiro Carrillo and their cousin Arturo Zertuche is scheduled for docket call in federal court here today.

Motions for continuance were filed Friday by the Attorney for the Carrillos and Zertuche but no ruling has been made.

The three are accused of not reporting income and making false statements in regard to income derived from the Zertuche General Store. The federal government has alleged that the two brothers made sales to county governmental agencies from their own Farm and Ranch Supply through the general store without declaring it as income.

Although the docket call will be held today and the jury will probably be selected in the next few days, the actual trial is not expected to take place until late July or August even without a continuance.

Exhibit "D-4"

66207

Corpus Christi Caller

CORPUS CHRISTI, TEXAS, SATURDAY, APRIL 19, 1953

Printed at the
Corpus Christi, Tex. 78401

32 Pages—Price 15¢ per copy

Carrillos, Zertuche plead not guilty

By NICK JIMENEZ,
Staff Writer

Judge O. P. Carrillo of Duval County, his brother, Estarzo Carrillo, a Duval County commissioner, and Arturo Zertuche of Houston, pleaded innocent yesterday before federal judge Owen D. Cox to charges of income tax evasion.

Arthur Mitchell of Austin, attorney for the Carrillos, indicated he was prepared for lengthy legal battle by announcing that he planned to make "exhaustive pre-trial motions."

Assistant U.S. Atty. George Kelt told Cox that the government would need only 15 days to get ready for trial.

Cox set the trial for a June 30 docket call.

The two Carrillos entered their own pleas of innocent but Cox entered a plea of not guilty for Zertuche when attorney Hugo Alvarez of San Diego asked for permission to remove himself from the case.

The three are named in a 12 count indictment accusing them of hiding the income from sales from a store and, allegedly, a business owned by the Carrillos, by attributing them to Zertuche General Store, a store by Zertuche. The store is in Duval County.

The sales which were allegedly hidden were made in Duval County, Duval County Commission and Independent School District.

The indictment includes one count of conspiracy and 11 separate counts of income tax evasion.

It is estimated the three face a maximum sentence of two years in prison and a \$250,000 fine in the conspiracy count and three years and a fine of \$50,000 in each of the tax evasion counts.

The Carrillos were arrested in Houston by U.S. Atty. J. Edgar Hoover.



MITCHELL, O. P. CARRILLO, BROTHER (L. R.) BENCH COURT
(Photo by George Gougeon)

Carrillo hits deer, wrecks car

SAN DIEGO -- The Judge O. P. Carrillo was in a severe accident at approximately 6:30 p.m. today on Highway 39, the lower desviada highway.

Carrillo told the Caller today he had a deer in his automobile with him. Besides the deer and he was "driving on sugar" but didn't know where he was going.

He was driving on Highway 39, the lower desviada highway, and he was driving on Highway 39, the lower desviada highway.

was involved in a severe wrecked car.

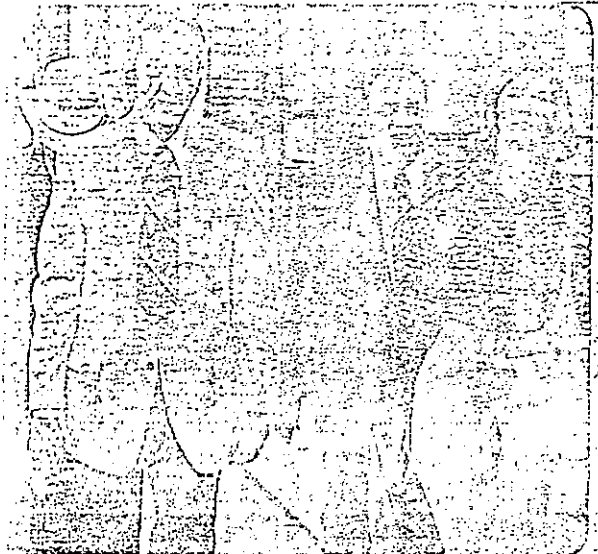
The police called a report at approximately 11:30 p.m. in which they said that he had a severe wrecked car. Carrillo told the Caller today he had a deer in his automobile with him. Besides the deer and he was "driving on sugar" but didn't know where he was going.

The car was involved in a severe wrecked car. Carrillo told the Caller today he had a deer in his automobile with him. Besides the deer and he was "driving on sugar" but didn't know where he was going.

Exhibit "D-1"

Corpus Christi Times

Vol. 76-158 CORPUS CHRISTI, TEXAS, MONDAY, JUNE 20, 1971 41 Pages - Price 15 Cents



(Photo by George Góngora)
Ramiro Carrillo, (face hidden), Arthur Mitchell, D. P. Carrillo, attorney Jan Fox

Carrillos' Trial Delay Granted

BY MENJIMENEZ

State Judge David R. Cox today granted a continuance to delay the trial of Ramiro Carrillo, accused slayer of a U.S. Marine and his brother, Ramiro D. Carrillo, until September.

Continuance.

Judge Carrillo stepped down from his bench in Hebbronville, where he is hearing the case, until District County Judge Archer Barr, to come to Corpus Christi. Carrillo's attorney, Jan Fox, said he would call which means that the trial may come sometime during September or even October. Carrillo's attorney said that the trial may come as late as four to five weeks after the trial.

The Carrillos are accused of killing a U.S. Marine and his brother during the Vietnam War. Carrillo's attorney, Jan Fox, said he would call which means that the trial may come sometime during September or even October. Carrillo's attorney said that the trial may come as late as four to five weeks after the trial.

Continuance.

Cox had earlier allowed Carrillo to be released from custody on \$100,000 bail. Carrillo's attorney, Jan Fox, said he would call which means that the trial may come sometime during September or even October. Carrillo's attorney said that the trial may come as late as four to five weeks after the trial.

Carrillos

From Page 1

There is possible abuse of confidence... Carrillo's attorney, Jan Fox, said he would call which means that the trial may come sometime during September or even October. Carrillo's attorney said that the trial may come as late as four to five weeks after the trial.

CC-209

Hearing Delays Carrillo

HEBESVILLE, Tex. — County Justice Walter W. Meek, who testified earlier "things are done very informally in Daval County," is to return to the witness stand here today for the opening trial of suspended Daval County Judge Archie Meek, 43, on the witness stand Friday when District Court Judge O.P. Carrillo closed the trial for the week-end. No court session was held Monday because Justice Carrillo was in Corpus Christi for a federal court hearing concerning income tax evasion charges pending against him.

Carrillo's trial in Corpus Christi, was, in effect postponed indefinitely by U.S. District Court Judge Owen Cox. A new trial date is expected to be set 30 days when lawyers for both sides will appear to decide whether they are ready for trial.

Judge Carrillo temporarily suspended Farr from office March 21 after Dist. Atty. Arnaldo Guerra filed a civil suit seeking to remove Farr from office on grounds of a federal party conviction, official misconduct and conduct of interest Farr, who has held the office for the past 16 years, is a nephew of the late South Texas political boss George B. Parr and is here referred to by the elder Parr's wife as "Duke of Daval."

Farr, who has not attended any of the lengthy hearings concerning the trial and was not present for the opening testimony Friday, contends the attempt to remove him from office is a conspiracy to take political control of Daval County from his political faction.

Through his defense lawyer, Marvin Foster of San Diego, Farr has sought to have Judge Carrillo disqualified himself from presiding on grounds that Carrillo is involved in the conspiracy. Other Farr claims are involved in the conspiracy include a former rancher partner, Captain Manges of Love and the presiding judge's two brothers, former state Rep. Oscar Carrillo and Daval County Commissioner Ramiro Carrillo.

Farr has been subpoenaed and produced testimony, but previous court proceedings were held in his absence.

The suit seeking Farr's removal was filed by Dist. Atty. Guerra in behalf of the county and is supported by foreman Joe R. Nemois of Freeport, Texas, who is chairman of the Daval County Board, C.A. Hays, who owns a ranch near by.

Testimony Friday as the third witness called by Guerra, Daval County Justice Meek said Daval County officials pay him an attention to a habit in its income operations of the county.

"There are things very informally done here but informally," Meek testified. One of the allegations against Farr is that he did not pay up the county's share of the county debt. Meek said he had not heard of any other allegations against Farr.

Meek said he had not heard of any other allegations against Farr. He said he had not heard of any other allegations against Farr.

Exhibit "D-6"

The Austin American-Southwestern

Sunday Edition

35 Cents

Austin, Texas, Sunday, July 20, 1936

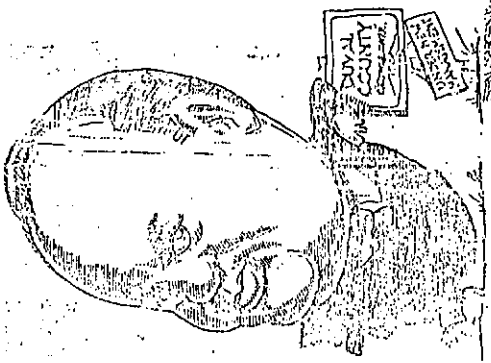
Carrillo's career threatened.

It is not likely that the political career of George Carrillo, a prominent Austin politician, will be threatened by the recent election of George Parr, who has been elected to the office of county clerk.

George Carrillo, who has been a member of the Austin City Council for many years, is a well-known and respected politician. He has served in various capacities, including as a member of the Austin City Council and as a member of the Texas State Legislature.

George Parr, who has been elected to the office of county clerk, is a young man who has recently moved to Austin. He is a member of the Young Men's Christian Association and has been active in various community organizations.

It is not clear how Carrillo's career will be affected by Parr's election. Carrillo has a long and distinguished record in Austin politics, and it is likely that he will continue to be an active and influential member of the community.



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... but he's used to political strife

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Exhibit "D"

Carrillo

(Continued from page 10)

... Carrillo ...

The time breaks ... Carrillo ...

The circumstances ... Carrillo ...

The case ... Carrillo ...

Gold panner strikes it rich

RENO, July 19 (AP). An ...

Train-car wreck kills young man

HOUSTON, July 19 (AP). ...

Quit Smoking 35 Days

Call 647-6539

The circumstances ... Carrillo ...

The circumstances ... Carrillo ...

The case ... Carrillo ...

The case ... Carrillo ...

QUIT SMOKING 35 DAYS

Call 647-6539

THE JUDICIAL QUALIFICATIONS COMMISSION
P. O. BOX 12265, CAPITOL STATION
AUSTIN, TEXAS 78711

HOMER E. STEPHENSON, CHAIRMAN
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DONALD EASTLAND
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PHIL PLEDEN
R. C. VAUGHAN

May 2, 1975

MAURICE S. PUPKIN
EXECUTIVE DIRECTOR

00212

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Honorable O. P. Carrillo, Judge
229th Judicial District Court
County Courthouse
San Diego, Texas 78384

Dear Judge Carrillo:

This is to advise you that at a meeting of the State Judicial Qualifications Commission, held in Austin, Texas, March 15, 1975, the Commission, by resolution, instructed this office to enter into a preliminary investigation of the following alleged misconduct on your part:

1. That you accepted an expensive gift from a person who was a litigant in a law suit pending in your court.
2. That you accepted bank stock to the extent of ten shares which would qualify you to be a Director of the Rio Grande City State Bank, which bank was, and is, controlled by the same litigant referred to in the foregoing paragraph.
3. That you entered into an open-end lease of grazing land with the same litigant, and which land was the subject of the litigation referred to in paragraph one.
4. Following disclosure of the acceptance by you of the benefits recited in the foregoing third paragraph, you attempted to conceal and justify your misconduct in accepting these benefits by entering into a fraudulent conveyance which purported to convey an interest in real estate in exchange for the benefits received in the foregoing three paragraphs at a time when you did not then own any interest in such real estate.

Such acts of misconduct on your part clearly constitute willful and persistent conduct, which is clearly inconsistent with the proper performance of your duties and casts public discredit upon the judiciary and the administration of justice.

For your information we are enclosing a copy of the RULES FOR THE REMOVAL OR RETIREMENT OF JUDGES, Adopted and Promulgated

5/18 CAR-56
5-10-75 BAA

Exhibit "E"

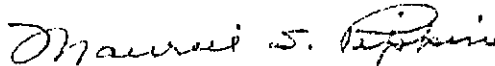
Honorable O. P. Carrillo
Page two.

00213

by the Supreme Court of Texas.

If you should care to comment on these matters in writing,
you should file such answer within fifteen days of receipt of
this letter.

Sincerely,



Maurice S. Pipkin
Executive Director

MSP:ap
Enc.

CAR-56
2 WTH

00214

Hon. Maurice S. Pipkin
Executive Director
State Judicial Qualifications Commission
P. O. Box 12265, Capitol Station
Austin, Texas 78711

Dear Mr. Pipkin:

Thank you for your letter of May 2, 1975 giving me an opportunity to answer on the charge of alleged misconduct you described.

As you will recall, you and I, at your request, met during 1973 at the Americana Restaurant in Alice and discussed these same charges. I then gave you full information about them and was informed by you that you would pass it on to the members of your commission for action if they desired to take any action. Since then I have had no further word from you or any of the other members of the commission. I assured you that I was going to continue to recuse myself in cases involving Clinton Manges (he being the litigant referred to in your letter) and I have done so and will continue to do so.

As to the first charge: I deny this charge. I have not accepted a gift, expensive or otherwise, from any litigant in any law suit pending, or that has ever been pending, in any court in which I have sat as Judge. I assume that the charge has reference to a Cadillac delivered to me in March of 1971 after I became Judge. This car was ordered by me in the summer of 1970 from Riata Cadillac Company in San Antonio long before I became Judge and delivery was delayed due to a strike at General Motors. After allowance was made for my trade in the balance owed on the car was \$6700 and this was paid by Mr. Manges. He made this payment pursuant to a trade entered into between him and me shortly before October 12, 1970. Under such trade he received a lot and house in Benavides owned by me and having a value of about \$15,000; and under such trade I received his agreement to pay the balance on the Cadillac upon its delivery and to deliver to me 10 shares of stock of the bank in Rio Grande City, such stock having a value of about \$750 a share.

As to the second charge: I assume that the bank stock referred to in this charge consists of the 10 shares delivered to me on December 10, 1970 pursuant to the aforementioned trade I made with Clinton Manges. At the time I received this stock I was not Judge of any court and there was not then pending in any court of the district I later became Judge of any suit involving Clinton Manges. As a matter of fact, the litigation that is the basis of the charges made against me was, at the time of the aforementioned trade, pending solely and only in the federal court in Brownsville.

As to the third charge: It is true that sometime in the summer of 1971, after I became Judge, I did enter into an open-end grazing lease with Clinton Manges. The land covered by this lease included part of the realty involved in a receivership suit in which Mr. Manges was a party. Before this lease was executed all the parties to this suit had entered into a written settlement agreement fixing absolutely the amount of interest each of the parties owned in such realty. In my opinion these facts did not disqualify me; however, when my qualification was challenged I immediately and voluntarily recused myself and caused the Administrative Judge to assign the the disqualification motion for hearing before another court. I respectfully submit that in proceeding in this manner I acted in accordance with the best traditions of the judiciary. I might add

00215

that I was surprised when my qualification was challenged because throughout the receivership suit prior to such challenge all parties had indicated approval of my actions, to such extent that each and every order entered by me in such suit was an agreed order approved by all counsel and all litigants.

As to the fourth charge: I deny this charge. The property I conveyed to Mr. Manges was owned by me and the conveyance was part of the aforementioned trade. The second conveyance mentioned in this charge was not fraudulent or in any manner improper, being solely and only a correction deed and so showing on its face. This property has been in my possession since 1947 when it was given to me by my father. Since acquiring this property I have caused it to be kept in repair and during most of the time since 1947 it has been occupied by a tenant who has paid rent to me, the last of such tenants being Juan Rivera, well known football coach for the Benavides High School. The rent payments on this property were made to me by check and were reported by me as income to the Internal Revenue Service. This can all be verified if you are interested and it conclusively gives the lie to any suggestion I was not the owner or to any suggestion that Mr. Manges did not get title.

As you know, the aforementioned charges were involved in the hearing conducted by Judge Magus Smith and I assume you have available the transcript of the testimony and evidence presented to him. Since that hearing there has come to light one new item of evidence which I believe you will be interested in considering. In this connection, attention is called to the attached copy of letter dated May 25, 1973 from the clerk of the federal court in Brownsville. As you will see from such letter, the receivership suit, which is the basis of the charges against me, was not dismissed by the federal court until January 6, 1971. Now the reason this is important is that those attacking me have claimed, and continue to claim, that the order of dismissal entered by the federal court was entered on December 6, 1971, four days before the delivery to me of the aforementioned bank stock, it being their contention that when you compare the date of dismissal (claimed by them to be December 6, 1971) with the date of delivery of the stock you can infer that Mr. Manges was by the delivery of the stock attempting to influence my future decision upon my thereafter becoming Judge. The fallacy in this type of reasoning becomes apparent when it is realized that nobody,-- either at the time of delivery of such stock or at the time the aforementioned trade was made,--had any way of knowing when, if ever, the federal court would dismiss the receivership suit; and, as the aforementioned letter shows, it was not until January 6, 1971, and after application of all parties, that the federal court did dismiss such suit.

I stand ready and willing to cooperate with you and the other members of the Commission in every way possible. Please let me know if there is any further answer or information I can furnish; and if the Commission desires my appearance to give testimony I will be glad to come upon being given notice.

With best personal regards, I am

Sincerely,

CAR-56
17 WMA

O. P. Carrillo

00216

RULES FOR THE REMOVAL OR RETIREMENT OF JUDGES

Adopted and Promulgated by the

SUPREME COURT OF TEXAS

Approved and adopted September 19, 1965
Amended by Order of the Court, July 20, 1971

Exhibit "F-2"

RULES FOR THE REMOVAL OR RETIREMENT OF JUDGES

(Adopted and Promulgated Pursuant to Section 1-a (11)
Art. V., Constitution of Texas)

RULE 1. DEFINITIONS

In these rules, unless the context or subject matter otherwise requires:

- (a) "Commission" means the State Judicial Qualifications Commission.
- (b) "Judge" means any Justice or Judge of the Appellate Courts and District and Criminal District Courts, any County Judge, and any Judge of a County Court-at-Law, a Court of Domestic Relations, a Juvenile Court, a Probate Court, or a Corporation or Municipal Court, and any Justice of the Peace, and any Judge or presiding officer of any special court created by the Legislature.
- (c) "Chairman" includes the acting chairman.
- (d) "Master" means a special master appointed by the Supreme Court upon request of the Commission pursuant to Section 1-a(8), Art. V of the Constitution.
- (e) "Examiner" means the person appointed by the Commission to gather and present evidence before a master or the Commission.
- (f) "Shall" is mandatory and "may" is permissive.
- (g) "Mail" means First Class United States mail.
- (h) The masculine gender includes the feminine gender.

RULE 2. METHOD OF SERVICE AND NOTICE

Whenever these rules provide for giving notice or sending any matter to a judge, the date shall, unless otherwise expressly provided by the rules or required by a title by the judge, be

sent to him by mail at his last known place of residence; provided, that when the judge has a guardian or guardian ad litem, the notice or matter shall be sent to the guardian or guardian ad litem by mail at his last known place of residence.

RULE 3. PRELIMINARY INVESTIGATION

*SAT, July 12
at 10:00*

(a) The Commission, upon receiving a verified statement, found upon examination and inquiry to be neither unfounded nor frivolous, alleging facts indicating that a judge is guilty of willful or persistent conduct which is clearly inconsistent with the proper performance of his duties or casts public discredit upon the judiciary or the administration of justice, or that he has a disability seriously interfering with the performance of his duties, which is, or is likely to become, permanent in nature, shall make a preliminary investigation to determine whether formal proceedings should be instituted and a hearing held. The Commission may, on its own motion and without receiving a verified statement, make inquiry and a preliminary investigation with respect to the conduct or physical or mental condition of a judge.

(b) Before finally determining that formal proceedings should be instituted, the judge shall be notified of the nature of the charges contained in a verified statement, if any, or that the investigation is on the Commission's own motion, and shall be afforded reasonable opportunity to present such matters as he may choose. Such notice shall be given by registered or certified mail marked "Personal" and addressed to the judge at his chambers and at his last known residence.

(c) If the preliminary investigation does not disclose sufficient cause to warrant further proceedings, the Commission may in its discretion issue a private reprimand and an order censuring the judge. If notice shall be entered. If notice

pursuant to Rule 3 (b) has been given to the judge, he shall be so notified of such termination.

RULE 4. NOTICE OF FORMAL PROCEEDINGS

(a) If after the preliminary investigation has been completed the Commission concludes that formal proceedings should be instituted, the matter shall be entered in a docket to be kept for that purpose and written notice of the institution of formal proceedings shall be issued to the judge without delay. Such proceedings shall be entitled:

"Before the State Judicial Qualifications Commission
Inquiry Concerning a Judge, No. _____."

(b) The notice shall specify in ordinary and concise language the charges against the judge and the alleged facts upon which such charges are based, and shall advise the judge of his right to file a written answer to the charges against him within 15 days after service of the notice upon him.

(c) The notice shall be served by personal service of a copy thereof upon the judge by a member of the Commission or by some person designated by the chairman, and the person serving the notice shall promptly notify the Commission in writing of the date on which the same was served. If it appears to the chairman upon affidavit that, after reasonable effort during a period of 10 days, personal service could not be had, service may be made by mailing, by registered or certified mail, copies of the notice addressed to the judge at his chambers and at his home residence, and the date of mailing shall be entered in the docket.

RULE 5. ANSWER

Within 15 days after service of the notice of formal proceedings, the judge shall file with the Commission an original

answer, which shall be verified, and eight legible copies thereof.

RULE 6. SETTING FOR HEARING AND APPOINTMENT OF MASTER

*in, only ✓
already appointed master place + time for hearing
838 (f)
840*

(a) Upon the filing of an answer or upon expiration of the time for its filing, the Commission shall set a time and place for hearing before itself or before a master and shall give notice of such hearing by mail to the judge at least 20 days prior to the date set.

*Commonly applied master
838 f*

(b) If the Commission directs that the hearing be before a master, the Commission shall, when it sets a time and place for the hearing, transmit a written request to the Supreme Court to appoint a master for such purpose; and the Supreme Court shall, within 10 days from receipt of such request, appoint a district judge or judge of a Court of Civil Appeals, either active or retired; to conduct such hearing.

RULE 7. HEARING

(a) At the time and place set for hearing, the Commission, or the master when the hearing is before a master, shall proceed with the hearing as nearly as may be according to the rules of procedure governing the trial of civil causes in this State, subject to the provisions of Rule 8, whether or not the judge has filed an answer or appears at the hearing. The examiner or other authorized officer shall present the case in support of the charges in the notice of formal proceedings.

(b) The failure of the judge to answer or to appear at the hearing shall not, standing alone, be taken as evidence of the truth of the charges alleged to constitute grounds for removal or retirement. The failure of the judge to testify in his own behalf or his failure to submit to a medical examination requested by the Commission or the master may be considered, as to the judge, as evidence of the truth of the charges alleged to constitute grounds for removal or retirement.

(c) The proceedings at the hearing shall be reported by a phonographic reporter or by some qualified person appointed by the Commission and taking the oath of an official court reporter.

(d) When the hearing is before the Commission, not less than five members shall be present while the hearing is in active progress. The chairman, when present, the vice-chairman in the absence of the chairman, and the member designated by the chairman in the absence of both, shall preside. Procedural and other interlocutory rulings shall be made by the person presiding and shall be taken as consented to by the other members unless one or more calls for a vote, in which latter event such rulings shall be made by a majority vote of those present.

RULE 8. ISSUANCE, SERVICE AND RETURN OF SUBPOENAS

(a) The chairman or any member of the Commission, or a master where hearing is before a master, shall, at the written request of the judge or of the examiner or other authorized person presenting the case in support of the charges, issue a subpoena for any witness or witnesses who may be represented to reside within 100 miles of the place at which the hearing is being held.

(b) The style of the subpoena shall be "The State of Texas". It shall state the style of the proceeding, that the proceeding is pending before the Commission, the time and place at which the witness is required to appear, and the person or official body of the Commission to which it is addressed. It shall be signed by the chairman or some other member of the Commission, or by the master where hearing is before a master, and the date of its issuance shall be noted thereon. It shall be addressed to the person named in the subpoena to make service thereon.

(c) A subpoena may also command the person to whom it is directed to produce the books, papers, documents or tangible things designated therein.

(d) Subpoenas may be executed and returned at any time, and shall be served by delivering a copy of such subpoena to the witness; and service thereof may be accepted by any witness by a written memorandum, signed by such witness, attached to the subpoena.

RULE 9. EVIDENCE

At a hearing before the Commission or a master, legal evidence only shall be received as in the trial of civil cases, except upon consent evidenced by absence of objection, and oral evidence shall be taken only on oath or affirmation.

RULE 10. PROCEDURAL RIGHTS OF JUDGES

(a) In the proceedings for his removal or retirement a judge shall have the right to be confronted by his accusers, the right and reasonable opportunity to defend against the charges by the introduction of evidence, to be represented by counsel, and to examine and cross-examine witnesses. He shall also have the right to the issuance of subpoenas for attendance of witnesses to testify or produce books, papers and other evidentiary matter.

(b) When a transcript of the testimony has been prepared at the expense of the Commission, a copy thereof shall, upon request, be available for use by the judge and his counsel in connection with the proceedings, or the judge may arrange to procure a copy at his expense. The judge shall have the right, without any order or approval, to have all or any portion of the testimony in the proceedings transcribed at his expense.

(c) If the judge is adjudged insane or incompetent, or if it appears to the Commission at any time during the proceedings that he is not competent to act for himself, the Commission shall appoint a guardian ad litem unless the judge has a guardian who will represent him. In the appointment of a guardian ad litem, preference shall be given, so far as practicable, to members of the judge's immediate family. The guardian or guardian ad litem may claim and exercise any right and privilege and make any defense for the judge with the same force and effect as if claimed, exercised, or made by the judge, if competent.

RULE 11. AMENDMENTS TO NOTICE OR ANSWER

The master, at any time prior to the conclusion of the hearing, or the Commission, at any time prior to its determination, may allow or require amendments to the notice of formal proceedings and may allow amendments to the answer. The notice may be amended to conform to proof or to set forth additional facts, whether occurring before or after the commencement of the hearing. In case such an amendment is made, the judge shall be given reasonable time both to answer the amendment and to prepare and present his defense against the matters charged thereby.

RULE 12. REPORT OF MASTER

(a) After the conclusion of the hearing before a master, he shall promptly prepare and transmit to the Commission a report which shall contain a brief statement of the proceedings had and his findings of fact thereon. In the issues presented by the notice of formal proceedings and the answer thereto, or in the issues presented by his findings of fact with respect to the allegations in the notice of formal proceedings. When the findings are made by a master who is a judge or retired judge, the report shall be prepared by the master and two copies

of a transcript of the proceeding before the master.

(b) Upon receiving the report of the master, the Commission shall promptly send a copy to the judge, and one copy of the transcript shall be retained for his use.

RULE 13. OBJECTIONS TO REPORT OF MASTER

Within 15 days after mailing of the copy of the master's report to the judge, the examiner or the judge may file with the Commission an original and eight legible copies of a statement of objections to the report of the master, setting forth all objections to the report and all reasons in opposition to the findings as sufficient grounds for removal or retirement. A copy of any such statement filed by the examiner shall be sent to the judge.

RULE 14. APPEARANCE BEFORE COMMISSION

If no statement of objections to the report of the master is filed within the time provided, the findings of the master may be deemed as agreed to, and the Commission may adopt them without a hearing. If a statement of objections is filed, or if the Commission in the absence of such statement proposed to modify or reject the findings of the master, the Commission shall give the judge and the examiner an opportunity to be heard orally before the Commission, and written notice of the time and place of such hearing shall be sent to the judge at least ten days prior thereto.

RULE 15. EXTENSION OF TIME

The chairman of the Commission may extend for periods not to exceed 30 days in the aggregate the time for filing an answer, for the commencement of a hearing before the Commission, and for filing a statement of objections to the report of a master, and a hearing may be commenced at any time after the commencement of a hearing before the

RULE 16. HEARING ADDITIONAL EVIDENCE

(a) The Commission may order a hearing for the taking of additional evidence at any time while the matter is pending before it. The order shall set the time and place of hearing and shall indicate the matters on which the evidence is to be taken. A copy of such order shall be sent to the judge at least ten days prior to the date of hearing.

(b) The hearing of additional evidence may be before the Commission itself or before the master, as the Commission shall direct; and if before the master, the proceedings shall be in conformance with the provisions of Rule 7 to 11, inclusive.

RULE 17. COMMISSION VOTE

(a) If, after hearing, or after considering the record and report of the master, the Commission finds good cause therefor, it shall recommend to the Supreme Court the removal or retirement, as the case may be; or in the alternative, the Commission may, by the affirmative vote of five of its members, order a private reprimand or order of public censure of the judge in question.

(b) The affirmative vote of five members of the Commission who have considered the record and report of the master and who were present at any oral hearing as provided in Rule 14, or when the hearing was before the Commission without a master, of five members of the Commission who were present when the evidence was produced, is required for a recommendation of removal or retirement of a judge. If five votes, as described, are not cast for a recommendation of removal or retirement, an order of disbarment shall be entered.

RULE 18. RECORD OF PROCEEDINGS

The Commission shall keep a record of all proceedings conducted by it. The record shall be available to the public.

entered in the record and notice thereof shall be given to the judge. In all proceedings resulting in a recommendation to the Supreme Court for removal or retirement, the Commission shall prepare a transcript of the evidence and of all proceedings therein and shall make written findings of fact and conclusions of law with respect to the issues of fact and law in the proceedings.

RULE 19. CONFIDENTIALITY AND PRIVILEGE OF PROCEEDINGS

All papers filed with and proceedings before the Commission or a master shall be confidential, and the filing of papers with, and the giving of testimony before, the Commission, master, or the Supreme Court shall be privileged; provided that upon being filed in the Supreme Court the record loses its confidential character.

RULE 20. CERTIFICATION OF COMMISSION RECOMMENDATION TO SUPREME COURT

Upon making a determination recommending the removal or retirement of a judge, the Commission shall promptly file a copy of the recommendation certified by the chairman or secretary of the Commission, together with the transcript and the findings and conclusions, with the clerk of the Supreme Court, and shall immediately send the judge notice of such filing, together with a copy of such recommendation, findings and conclusions.

RULE 21. REVIEW OF COMMISSION PROCEEDINGS

(a) A petition to the Supreme Court to reject the recommendation of the Commission for removal or retirement of a judge may be filed within thirty days after the filing with the clerk of the Supreme Court of a certified copy of the recommendation complained of. The petition shall be verified, shall be based on the record, shall state the grounds thereon and shall be accompanied by nine copies of petitioner's brief and proof of service of one copy of the petition and of the brief of the Commission of the commission. Within twenty days after the filing

of the petition and supporting brief, the Commission shall file nine copies of a respondent's brief, and shall serve a copy thereon on the judge.

(b) Failure to file a petition within the time provided may be deemed a consent to a determination on the merits based upon the record filed by the Commission.

(c) Rules 418 to 422, Texas Rules of Civil Procedure, shall govern the form and contents of briefs except where express provision is made to the contrary or where the application of a particular rule would be clearly impracticable, inappropriate, or inconsistent.

(d) The Supreme Court may, in its discretion and for good cause shown, permit the introduction of additional evidence, and may direct that the same be introduced before the master or the Commission and be filed as a part of the record in the Court.

RULE 22. SETTING OF CASE AND ORAL ARGUMENT IN THE SUPREME COURT

(a) Oral argument on a petition of a judge to reject a recommendation of the Commission shall, upon receipt of the petition, be set on a date not less than thirty days nor more than forty days from the date of receipt thereof.

(b) The order and length of time of argument shall, if not otherwise ordered or permitted by the Court, be governed by Rule 498, Texas Rules of Civil Procedure.

RULE 23. DECISION BY THE SUPREME COURT

The Supreme Court shall review the record of the proceedings on the law and facts, and, in its discretion, may for good cause shown, order public counsel, reinstatement, or removal, as it finds just and proper, or wholly reject the recommendation of the Commission.

THE SUPREME COURT OF TEXAS

Approved and adopted by the Supreme Court

00228

as a matter of right. In entering its judgment the Court may direct that no motion for rehearing will be entertained, in which event the judgment of the Court will be final on the day and date of its entry. If the Court does not so direct and the judge wishes to file a motion for rehearing, he shall present the motion together with a motion for leave to file the same to the clerk of the Court within fifteen days of the date of the judgment, and the clerk shall transmit it to the Court for such action as the Court deems proper.

APPROVED AND ADOPTED September 19, 1966
AMENDED BY ORDER OF THE COURT July 20, 1971

00229

FIRST PRINTING May 15, 1975 Official House Printing, 54th Leg

By: Canales

H.S.R. No. 10

(In the House--Filed May 15, 1975; May 15, 1975, read first time and referred to a Select Committee.)

HOUSE SIMPLE RESOLUTION

1 BE IT RESOLVED by the House of Representatives, That
2 impeachment charges be preferred against O. P. Carrillo, Judge
3 of the 229th Judicial District of the State of Texas, in the
4 Senate of the State of Texas for the following cause: He has
5 been indicted by a Grand Jury of the United States of America on
6 multiple counts for violations of federal income tax laws; and,
7 be it further
8 RESOLVED, That the Speaker appoint five members of the House
9 as a board of managers to prepare Articles of Impeachment against
10 Judge O. P. Carrillo, submit them to the House for approval, and,
11 if adopted, present them to the Senate.

Exhibit "G"

Impeachment Issue May Extend Session

Austin (UPI) — The Texas Legislature, due to adjourn June 2, may have to extend its 1975 session to consider the impeachment of Duval County Dist. Judge O. P. Carrillo.

"I don't see any way we can finish before the end of the session," Rep. Dewitt Hale, D-Corpus Christi, said today.

Hale is the chairman of the special House committee considering an impeachment resolution against Carrillo, a member of a South Texas family engaged in a political feud with the surviving members of the late George P. "Duke of Duval" Parr's family.

The legislator who filed the impeachment resolution, Rep. Terry Canales, D-Premont, is aligned with the Parr faction and was a pallbearer at the funeral earlier this year of George Parr.

Arthur Mitchell, Carrillo's attorney, said he may call as many as 50 witnesses in his client's defense.

"We might conceivably be able to finish taking testimony next week, but in view of the large number of subpoenas Mr. Mitchell has requested we might not be able to finish it," Hale said.

Once all the witnesses have finished testifying, the 11-member committee will prepare articles of impeachment on all the charges brought against Carrillo. The committee will then vote on each individual article. If one or more of the articles are approved, they will be sent to the House which must come back into session to decide if Carrillo will be impeached. And, if the House votes to impeach, the Senate will have to come back into session to conduct Carrillo's trial.

The committee has voted to subpoena elusive rancher-banker Clinton Manges to testify, but Hale said he has not learned if Manges has been served with the order. Manges has aligned himself with the Carrillo faction in the family's feud with the Parrs.

The committee is to resume its hearings Tuesday night with Manges scheduled to testify. But Hale said he did not know if Manges could receive his subpoena in time.

Canales claims Carrillo and Manges conspired to remove elected county and school board officials from their offices in Duval County and replace them with allies of the Carrillo family.

Carrillo, who split with Parr's Old Party in March to form his own political machine, has been indicted by a federal grand jury for income tax evasion.

00231

NO. 8806

THE STATE OF TEXAS X IN THE 229TH JUDICIAL
VS. X DISTRICT COURT OF
GEORGE B. PARR X DUVAL COUNTY, TEXAS

DEFENDANT'S MOTION FOR CONTINUANCE

TO THE HONORABLE O. P. CARRILLO, JUDGE OF SAID COURT:

COMES NOW GEORGE B. PARR, Defendant in the above entitled and numbered cause now pending in the above named Court and respectfully requests and demands this Honorable Court to continue said cause, which is presently set for trial for December 16th, 1974.

I.

This Defendant is represented by the Honorable TERRY CANALES who is one of his Attorneys, and that the said TERRY CANALES, is an Attorney at Law licensed by the Supreme Court of Texas and qualified in every way to represent the Defendant before this Honorable Court.

II.

That the said TERRY CANALES, is a duly elected and qualified member of the 64th Legislature of the State of Texas, and is a

Exhibit "I-1"

member of the House of Representatives of this State.

III.

That the regular session of the 64th Legislature of the State of Texas will convene on the 14th day of JANUARY, A. D. 1975, that the presence of the said Attorney, TERRY CANALES, is necessary to a fair and proper trial of the above entitled and numbered cause in that it is his intention to participate actively in the preparation and/or presentation of said case.

IV.

That the said TERRY CANALES, respectfully requests and demands that the trial of this cause be continued and postponed to a time and day which is at leasty thirty (30) days from the time of the adjournment of the regular session of the Legislature of the State of Texas.

V.

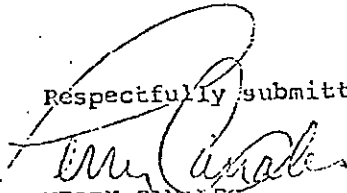
That this request and demand for postponement is made in conformity with and pursuant to Article 2158a of the Vernon's Annotated Civil Statutes of the State of Texas and that neither the defendant or defendant's said attorney, TERRY CANALES, desire to, or waive, any right to a continuance under the cited statute.

WHEREFORE, PREMISES CONSIDERED, Defendant or defendant's Attorney, TERRY CANALES, respectfully, move and apply for a continuance of the above entitled and numbered cause in all things particularly, but not limited to, the trial of the said cause

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upon the merits until a time at leasty thirty (30) days after
the adjournment of the 64th Legislature of the State of Texas.

Respectfully submitted,



TERRY CANALES
Attorney at Law
Canales & Barrera
Post Office Box 1308
69 South Wright
ALICE, TEXAS 78332

Attorney for Defendant
GEORGE B. PARR

00234

NO. 8806

THE STATE OF TEXAS	X	IN THE 229TH JUDICIAL
VS.	X	DISTRICT COURT OF
GEORGE B. PARR	X	DUVAL COUNTY, TEXAS

Now Comes, TERRY CANALES, Attorney for the Defendant in the above entitled and numbered cause and in support of the application and motion for continuance filed herein and herewith by the said Defendant, and, being duly sworn says:

My name is TERRY CANALES, I am over twenty one (21) years of age and of sound mind and qualified in every respect to make the following affidavit. I am a member of the State Bar of Texas and licensed by the Supreme Court of this State to act as an Attorney at Law.

I am an Attorney for the Defendant in the cause styled The State of Texas vs. George B. Parr, having been employed on the 11th day of November, A. D. 1974, and notice thereof filed with the Clerk of this Court, now pending in the 229th Judicial District Court of Duval County, Texas. That said cause has been set for trial on the 16th day of DECEMBER, A. D. 1974.

The regular session of the State of Texas will begin in Austin, Texas, on the 14th day of JANUARY, A. D. 1975. That all dates relative to this cause for settings mentioned in the paragraph immediately next preceding are either within thirty (30) days prior to or during the regular session

00235

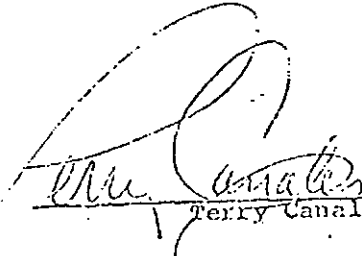
of the Texas Legislature.

That I will be in actual and personal attendance at said session and I am a duly elected and qualified representative and as such a member of such Legislature.

That my presence is necessary to a fair and proper trial of the above entitled and numbered cause in that it is my intention to participate actively in the preparation and/or presentation of said case.


Under the provisions of Article 2168a of Vernon's Annotated Civil Statutes of the State of Texas I hereby demand that said cause be postponed until a time at least thirty (30) days after said regular session of the 64th Legislature has adjourned.

Witness my hand this the 12th day of DECEMBER, A. D. 1974.


Terry Canales

THE STATE OF TEXAS)
COUNTY OF JIM WELLS)

Subscribed and sworn to before me, by the said TERRY CANALES on this the 12th day of DECEMBER, A. D. 1974, to certify which witness my hand and seal of office.


Notary Public in and for Jim Wells
County, T E X A S.

00236

No. 8806 The State Of Texas Vs George B. Parr In The 229th. Judicial District Court Of Duval County, Texas Defendant's Motion For Continuance Filed at 1:30 o'clock P. M. Dec. 13th-74 A. Salinas Clerk District Court Duval County, Texas By H. G. Gonzalez, Deputy.

THE STATE OF TEXAS }
COUNTY OF DUVAL }

I, A. SALINAS, Clerk of the District Court of Duval County, Texas,

do hereby certify that the foregoing is a true and correct copy of the original Defendant's Motion For Continuance

IN RE The State Of Texas Vs George B. Parr

Cause No. 8806

as the same appears on file _____ in my office in Book _____ Page _____

GIVEN UNDER MY HAND, and the seal of said Court, at office in San Diego, Texas, this 19th. day of MAY, 1975

A. SALINAS, District Clerk
229th Judicial District
Duval County, Texas

By H. G. Gonzalez Deputy
H. G. Gonzalez

00237

NO. 8807

THE STATE OF TEXAS X IN THE 229TH JUDICIAL
VS. X DISTRICT COURT OF
ARCHER PARR X DUVAL COUNTY, TEXAS

DEFENDANT'S MOTION FOR CONTINUANCE

TO THE HONORABLE O. P. CARRILLO, JUDGE OF SAID COURT:

COMES NOW ARCHER PARR, Defendant in the above entitled and numbered cause now pending in the above named Court and respectfully requests and demands this Honorable Court to continue said cause, which is presently set for trial for December 16th, 1974.

I.

This Defendant is represented by the Honorable TERRY CANALES who is one of his Attorneys, and that the said TERRY CANALES, is an Attorney at Law licensed by the Supreme Court of Texas and qualified in every way to represent the Defendant before this Honorable Court.

II.

That the said TERRY CANALES, is a duly elected and qualified member of the 64th Legislature of the State of Texas, and is a

Exhibit "1-2"

00238

member of the House of Representatives of this State.

III.

That the regular session of the 64th Legislature of the State of Texas will convene on the 14th day of JANUARY, A. D. 1975, that the presence of the said Attorney, TERRY CANALES, is necessary to a fair and proper trial of the above entitled and numbered cause in that it is his intention to participate actively in the preparation and/or presentation of said case.

IV.

That the said TERRY CANALES, respectfully requests and demands that the trial of this cause be continued and postponed to a time and day which is at least thirty (30) days from the time of the adjournment of the regular session of the Legislature of the State of Texas.

V.

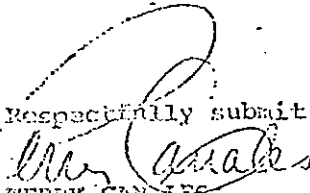
That this request and demand for postponement is made in conformity with and pursuant to Article 2168a of the Vernon's Annotated Civil Statutes of the State of Texas and that neither the defendant or defendant's said attorney, TERRY CANALES, desire to, or waive, any right to a continuance under the cited statute.

WHEREFORE, PREMISES CONSIDERED, Defendant or defendant's Attorney, TERRY CANALES, respectfully move and apply for a continuance of the above entitled and numbered cause in all things

00239

particularly, but not limited to, the trial of the said cause,
upon the merits until a time at leasty thirty (30) days after
the adjournment of the 64th Legislature of the State of Texas.

Respectfully submitted,


TERRY CANALES
Attorney at Law
Canales & Barrera
Post Office Box 1308
69 South Wright
ALICE, TEXAS 78332

Attorney for Defendant
ARCHER PAUR.

06240

NO. 8807

THE STATE OF TEXAS X IN THE 229TH JUDICIAL
VS. X DISTRICT COURT OF
ARCHER PARR X DUVAL COUNTY, TEXAS

Now Comes, TERRY CANALES, Attorney for the Defendant in the above entitled and numbered cause and in support of the application and motion for continuance filed herein and herewith by the said Defendant, and, being duly sworn says:

My name is TERRY CANALES, I am over twenty one (21) years of age and of sound mind and qualified in every respect to make the following affidavit. I am a member of the State Bar of Texas and licensed by the Supreme Court of this State to act as an Attorney at Law.

I am an Attorney for the Defendant in the cause styled The State of Texas vs. Archer Parr, having been employed on the 11th day of NOVEMBER, A. D. 1974, and notice thereof filed with the Clerk of this Court, now pending in the 229th Judicial District Court of Duval County, Texas. That said cause has been set for trial on the 16th day of DECEMBER, A. D. 1974.

The regular session of the Legislature of the State of Texas will begin in Austin, Texas, on the 14th day of JANUARY, A. D. 1975. That all dates relative to this cause for settings mentioned in the paragraph immediately next preceding are either within thirty (30) days prior to or during the regular

00241

session of the Texas Legislature.

That I will be in actual and personal attendance at said session and I am a duly elected and qualified representative and as such a member of such Legislature.

That my presence is necessary to a fair and proper trial of the above entitled and numbered cause in that it is my intention to participate actively in the preparation and/or presentation of said case.

Under the provisions of Article 2168a of Vernon's Annotated Civil Statutes of the State of Texas I hereby demand that said cause be postponed until a time at least thirty (30) days after said regular session of the 64th Legislature has adjourned.

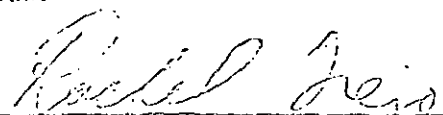
Witness my hand this the 12th day of DECEMBER, A. D. 1974.


Terry Canales

THE STATE OF TEXAS X

COUNTY OF JIM WELLS X

Subscribed and sworn to before me, by the said TERRY CANALES on this the 12th day of DECEMBER, A. D. 1974, to certify which witness my hand and seal of office.


Rachel J. [unclear]
Notary Public in and for Jim Wells
County, T E X A S

State Rep. Sarah Weddington **x** Anfin failed 33 to 97 in an attempt to remove an appropriations rider that prohibits the state from using Medicaid money to pay for abortions. If the Senate concurs, the state's welfare system will help poor women finance births but not abortions. Meanwhile, in Washington, Texas Sens. Lloyd Bentsen and John Tower both voted on the prevailing side to kill an anti-abortion rider on the federal Medicaid bill.

10

The Texas Observer

Houston Rep. John Whitmire's bill to outlaw pay toilets crashed and burned when five Dallas representatives knocked it off the House consent calendar. (This late in the session, failure on the consent calendar virtually guarantees non-passage.) Whitmire blamed the DFW airport's opposition for his bill's demise, and later that day a group of five representatives knocked another bill off the same calendar — one that would have allowed the airport to sell mixed drinks. Whitmire said it was no coincidence.

It's ancient history now, but better late than never: In 1973, the director of the Fleet Admiral Chester W. Mitsuz Memorial Naval Museum in Frederick, Md., Douglas H. Hubbard, contracted with his son, Douglass H. Hubbard, Jr., to "locate, obtain, and arrange transport of certain military relics relating to World War II Pacific." Hubbard, Jr., received \$6,600 for his services and apparently some travel money to go to Australia and New Guinea to find, among other things, a WW II Japanese fighter plane to put on display in

Canales v. Carrillo



Rep. Terry Canales

Bob Wieland

Austin

The Texas House is writing a new chapter in the Duval County story.

State Rep. Terry Canales of Premont, a dutiful member of the Parr faction, talked the House into launching an impeachment inquiry into the business dealings of 229th Dist. Court Judge O. P. Carrillo, a member in good standing of the anti-Parr faction in Duval. Carrillo; one of his brothers, Duval County Commissioner Ramiro Carrillo; and a cousin, Arturo Zertuche, are all under federal indictment in Corpus Christi on 12 counts of conspiracy and filing false income tax returns. It's an old story for the Duval duchy — allegations concerning peculation of county funds.

There are various speculations as to why the House decided to get involved in the Parr-Carrillo feud. Neither faction seems superior, virtue-wise. Joe Allen of Baytown thinks House members didn't know what they were getting into when they approved Canales' impeachment resolution. Another school of thought holds that legislators, having sniffed the glory of the televised Nixon proceedings, were more than happy to have an impeachment party of their own.

The resolution was the major half of Canales' legislative program for the year. He only introduced one bill — a measure altering the membership of a Starr County hospital board. This solitary bill gives Canales the worst (or best?) record in the House for bill introduction. (Three men who introduced two bills each tied for second place — T. H. McDonald of Mesquite, Tony Damberger of San Antonio, and Woody Denson of Houston.)

At least for the first half of the session Canales also led the House in absenteeism. Canales usually hangs out at his South Texas ranch (last year he was hauled back by the DPS for an important constitutional vote), and he was literally a stranger to the House floor during the early part of the session. But in April Canales started appearing at his House desk almost regularly. It may well be that since George Parr's suicide (*Obs.*, April 25), the Duval political situation has gotten so dicey that Canales prefers the cooler climes of Central Texas.

Speaker Bill Clayton appointed 11 legislators to the Special House Committee on Impeachment. Eight of the 11 are lawyers. Rep. DeWitt Hale of Corpus Christi is playing the role of Texas' Peter Rodino. Bob Johnson, head of the Legislative Council, is temporarily acting as both legal counsel and parliamentarian for the committee. Austin attorney Arthur Mitchell is representing Judge Carrillo.

The first hearing was a popular spectator sport. The front three rows of seats in the Old Supreme Court were reserved for House members. Clayton popped in for a while, as did Secretary of State Mark White and an assortment of other politicians.

Carrillo sat stone-faced as Canales led Cleofas Gonzalez through allegations that O. P. and Ramiro Carrillo warehoused Duval County equipment in the back of their Farm and Ranch Store and then sold the equipment back to the county. Gonzalez, a \$400 a month warehouseman for the county, also worked — for free — as manager of the Farm and Ranch Store and as bookkeeper for the non-existent Zertuche General Store. He said that whenever the Carrillos sold Duval County equipment the transaction would be recorded on Zertuche invoices. Funds in the Zertuche account would then be transferred back to the Farm and Ranch Store. Gonzalez alleged that sometimes O. P. or Ramiro would take money from the Zertuche account and instruct him to record it as "store change."

Gonzalez also charged that Judge Carrillo would write up welfare orders for non-existent residents and then use the orders to buy food for himself.

After the first hearing, a number of House members criticized the fact that Carrillo's attorney was not allowed to question Gonzalez; so on the second night Hale agreed to allow Mitchell to question witnesses through members of the committee. Mitchell promptly said he would recall Gonzalez for interrogation.

Under House rules, the impeachment hearing could continue after the Legislature adjourns. If the committee decided to recommend impeachment to the full House, Clayton could then call his troops back into session. If the House voted for impeachment, then Bill Hobby could call up the Senate for the trial. It would be the first such action in Texas since Gov. Jim Ferguson got thrown out of office for financial peccadilloes and trying to do away with fraternities at the University of Texas.

K.N.

60243

MASTER FILE

ENROLLED

H.S.R. No. 167

HOUSE RESOLUTION

1 BE IT RESOLVED by the House of Representatives of the 64th
2 legislature, That there is hereby created a select committee of
3 the House of Representatives composed of 11 members appointed by
4 the Speaker, the chairman and vice-chairman thereof to be appointed
5 by the Speaker, to consider House Simple Resolution No. 161 and
6 investigate charges brought against O. P. Carrillo, and report
7 back to the House its recommendations on whether presenting to
8 the Senate of Texas a bill of impeachment against O. P. Carrillo
9 is in order; and, be it further

10 RESOLVED, That the committee is authorized to meet at the
11 call of the chairman, meet in executive session when ordered by
12 the committee, and expend funds for necessary expenses and
13 employment of personnel as approved by the Committee on House
14 Administration; and, be it further

15 RESOLVED, That the committee shall have all powers granted
16 to committees of the House by Article 5962, Revised Civil Statutes
17 of Texas, 1925, the Legislative Reorganization Act of 1961, and
18 the Rules of the House of Representatives.

Maloney

Exhibit "L"

00244

H.S.R. No. 167

Speaker of the House

I hereby certify that H.S.R. No. 167 was adopted by the House on May 17, 1975, by a non-record vote.

Chief Clerk of the House

00245

Telegram

Honorable O. P. Carrillo
District Judge
County Courthouse
San Diego, Texas 78384

The House Select Committee on Impeachment will meet in the State Capitol at 8:00 p.m. on Tuesday, May 20 to consider H.S.R. No. 161 by Canales, seeking your impeachment from the office of District Judge. Daily meetings thereafter are contemplated until the inquiry is completed. You are invited to be present in person or by attorney; however, cross-examination of witnesses will not be permitted, since this is only an investigation and not a prosecution. [Any evidence you care to present bearing on the inquiry will be welcome.] The principal function of this committee is to develop facts and your assistance in this endeavor will be appreciated.



L. DeWitt Hale
Chairman

May 19, 1975

Exhibit "M"

House panel to subpoena bank records of Carrillo

By LEE HAVINS
Staff Writer

Members of the House Select Committee on Impeachment voted Thursday to subpoena bank records of 22nd Dist. Court Judge O.P. Carrillo during the third day of hearings into the possibility of removing the Duval County figure from office.

Before the 7-1 vote to subpoena the records from the First State Bank of San Diego, fireworks erupted between the committee and Carrillo's attorney, Arthur Mitchell of Austin.

Mitchell told the inquiry he had the bank records but he refused to turn them over to the committee in bulk before he being allowed to introduce testimony on behalf of Carrillo.

The lawyer said he planned to call an accountant through whom he would introduce the bank records and other information regarding operation of Zertuche General Store, the Farm and Ranch store "and all other entities" pertinent to the inquiry.

However, on a motion by Rep. Bob Hendricks of McKinney, the committee voted to seek the entire set of books from the bank.

Committee chairman DeWitt Hale of Corpus Christi alluded to previous testimony that Carrillo and his brother used Zertuche's General Store as a front for business dealings with Duval County. Those records would prove whether that testimony was true or not, Hale said.

Rep. Terry Conales of Premont, author of the resolution that led to the inquiry, presented Duval County payroll records and cancelled county checks he said corroborated testimony given during the first two days of hearings.

He called Octavio Hinojosa of San Diego, assistant Duval County auditor, who went through the books with the committee indicating where Thomas Elizondo, Cleofas Gonzalez, Oscar Sanchez and Francisco Ruis had been paid monthly as county workers.

Wednesday, Sanchez and Ruis testified they were asked to work on Carrillo's Duval County Ranch. They were not paid beyond their county salaries for that work, they

said. The payroll records indicated Elizondo worked for Duval County Precinct 3 for \$375 a month until March. In April, Hinojosa testified, Elizondo was paid \$500 as a court bailiff for Carrillo.

Also on Wednesday, a former friend of Carrillo testified he saw Elizondo operating county machinery on Carrillo's ranch.

Before Thursday's testimony began, Mitchell said he would call former Duval County Judge Arthur Parr — nephew of the late "Duke of Duval", George Parr — and as many as 50 witnesses to try to clear Carrillo.

"Before 50 subpoenas are issued by the committee," Hale said, Mitchell would have to show the relevance of that

testimony. "We're not interested in making a career out of this hearing."

Hale underlined that the committee's job was to determine if evidence warranted recommending articles of impeachment to the full House.

"It's the chair's thinking that we could reach that decision on the basis of (Mitchell's) refusal to turn over the records," Hale said.

Mitchell tied the refusal to a federal income misrepresentation case facing Carrillo. Carrillo, his brother and Arturo Zertuche — a cousin — have been indicted by a federal grand jury on that charge.

In his resolution, Conales charged the federal indictment made Carrillo unfit to hold the judgeship.

00246

00247

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
V. §
 § Criminal No. CR 75-C-45
RAMIRO D. CARRILLO, §
O. P. CARRILLO, AND §
ARTURO R. ZERTUCHE §

THIRD MOTION OF DEFENDANTS
RAMIRO D. CARRILLO, O. P. CARRILLO AND
ARTURO R. ZERTUCHE TO TAKE DEPOSITION

TO THE HONORABLE COURT:

Come now Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche, Defendants in the above numbered and entitled cause, and make this their Third Motion To Take Deposition, and as grounds therefore would respectfully show the Court as follows:

I.

This Motion is made pursuant to 18 U.S.C.A. §3503 (1970). Due to exceptional circumstances, including those hereinafter stated specifically, it is in the interest of justice that the testimony of Barney Goldthorne be taken and preserved.

II.

Barney Goldthorne is a resident citizen of Alice, Jim Wells County, Texas, and is a prospective witness for the Defendants in the above numbered and entitled cause.

III.

Barney Goldthorne is in the possession of information pertinent and material to the defense of the offenses charged in the indictment in the above captioned cause; specifically, information concerning the

Exhibit "O"

financial transactions between the Defendants or the entities controlled by them and others, including Duval County, Benavides Independent School District, and Duval County Water and Reclamation District.

IV.

The prospective witness may be prevented from testifying in the trial of the present cause, and it is imperative to take his deposition to prevent a failure of justice.

V.

Further, circumstances including the present state of political strife in Duval County, the involvement of the Federal Bureau of Investigation, the State Attorney General's office, and the Internal Revenue Service therein, and the recent death of George B. Parr render it impossible to conduct orderly pretrial discovery without the protection of this Court. Due to such extraordinary and emergency conditions, Defendants assert the right to take the deposition of Barney Goldthorne in the Federal District Court at Corpus Christi and under its protection.

WHEREFORE, Defendants pray that this Court order that the Defendants be permitted to take the deposition of Barney Goldthorne in the Federal District Court at Corpus Christi under the protection of this Court and that Barney Goldthorne be ordered to produce as such time, all books, documents, records, recordings, and other material in his possession, including copies of cancelled checks, bank statements, and financial statements as may relate to the financial transactions of any of the Defendants, or any of the entities listed in the Indictment, including employees thereof, with others, including Duval County, Benavides Independent School District, and Duval County Water and Reclamation District, for the years 1965 to date.

00249

Respectfully submitted,

ARTHUR MITCHELL
315 Westgate Building
Austin, Texas 78701

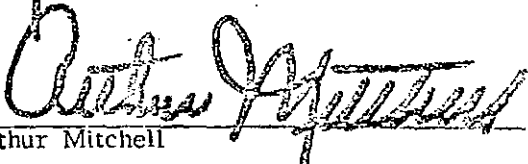
WILLIAM DAVID BONILLA
P.O. Drawer 5427
Corpus Christi, Texas 78405

By: 
Arthur Mitchell

Attorneys for Defendants

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing Third Motion of Defendants to Take Deposition has been sent to the United States Attorney for the Southern District of Texas at Houston on this the 30th day of April, 1975.


Arthur Mitchell

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA

V.

RAMIRO D. CARRILLO,
O. P. CARRILLO, AND
ARTURO R. ZERTUCHE

§
§
§
§
§
§
§

Criminal No. CR 75-C-45

ORDER RELATING TO DEFENDANTS'
THIRD MOTION TO TAKE DEPOSITION

On this date came to be considered the Third Motion To Take
Deposition by Defendants Ramiro D. Carrillo, O. P. Carrillo, and
Arturo R. Zertuche, and the Court having considered the same is
of the opinion that said Motion should be _____:

It is therefore ORDERED that Defendants' Third Motion To
Take Deposition is hereby in all things _____.

DATED: _____

JUDGE
United States District Court
Southern District of Texas.

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IN THE MATTER OF THE IMPEACHMENT OF O. P. CARRILLO, DISTRICT JUDGE
TO: HOUSE SELECT COMMITTEE ON IMPEACHMENT

FIRST RESPONSE OF O. P. CARRILLO

I. CONSTITUTIONAL AND CIVIL RIGHTS ACT CONSIDERATIONS

Now comes Hon. O. P. Carrillo, Judge of the District Court, 229th Judicial District of Texas, and makes this his Answer to H.S.R.161 and Challenge to the proceedings of the House Select Committee on Impeachment and the enabling provisions of the Constitution and Statutes of the State of Texas, under whose authority the House Select Committee on Impeachment is proceeding, and would respectfully show the following:

A. Substantial Due Process Considerations

The present proceeding before the House Select Committee on Impeachment is so lacking in substantive due process as to be constitutionally defective under Amendment Five and Amendment Fourteen of the Constitution of the United States and in violation of Title 42, §1983, U.S.C.A., in that the provision of the Texas Constitution and its companion statute, to-wit, Art. 15, §§1 through of the Constitution of the State of Texas and Article 5961, V.A.C.S under whose authority the Select Committee is proceeding, are unconstitutionally vague and indefinite and wholly fail to give notice of those things which constitute impeachable or non-impeachable acts, so as to deprive one charged thereunder of due process of law as protected by the Fifth and Fourteenth Amendments to the Constitution of the United States.

B. Procedural Due Process Considerations

Further, the present proceeding as conducted before the House Select Committee on Impeachment is constitutionally defective and in violation of Title 42, §1983, U.S.C.A., in its present and imminent threat to deprive the Hon. O. P. Carrillo of property without procedural due process of law as guaranteed by the Fifth and Fourteenth Amendments to the Constitution of the United States in that (1) the sole notice of the charges proffered against the Hon. O. P. Carrillo, in the form of a telegram dated May 19, 1975,

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Twenty-four hours before the commencement of the proceedings before the Select Committee, wholly failed to give timely notice of the proceedings against him; (2) the notice as provided by the telegram of May 19, 1975 and H.S.R.161 was wholly inadequate as notice of the charges proffered against the Hon. O. P. Carrillo before the House of Representatives and gives no notice of any specific charge on which the impeachment inquiry is based; (3) the scope of the inquiry as conducted by the House Select Committee reaches far beyond the limitations of H.S.R. 161, which sets out as the sole basis of the inquiry the indictment of O. P. Carrillo by a Grand Jury of the United States of America for violations of Federal income tax laws and is thus outside the scope of the powers of the committee as set out in Art. 5429(f), V.A.C.S.; (4) the right to cross examination of the witnesses against him is denied to the Hon. O. P. Carrillo, as evidenced by conduct of the proceedings and the telegram of notice of said proceedings dated May 19, 1975; (5) the right to make objections to any part of the proceedings is denied to the Hon. O. P. Carrillo; (6) the subpoenas as issued by the House Select Committee act to procure witnesses whose testimony goes far beyond the scope of the proceedings as limited by H.S.R. 161 and beyond the restricted power of subpoena by the House Select Committee, presenting matters wholly beyond the inquiry of the Committee; (7) the proceedings as conducted threaten to deny to the Hon. O. P. Carrillo the presumption of innocence as guaranteed by the due process clauses of the Constitution of the United States of America in that the automatic suspension from office as provided by Art. 15, §5 of the Texas Constitution upon commencement of impeachment proceedings and the denial of the above enumerated due process rights at the inquiry stage cause the person accused to enter the impeachment proceedings without the presumption of innocence in violation of the equal protection clause of the Fourteenth Amendment to the

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Constitution of the United States of America; and (8) the proceedings threaten to deny to the accused the right to protection from double jeopardy in that, as a result of such proceedings, the Hon. O. P. Carrillo is subjected to the threat of double jeopardy should he choose to assert his constitutional rights and the denial thereof in a judicial forum.

C. Bill of Attainder and Ex Post Facto Considerations

Further, the impeachment inquiry as conducted by the House Select Committee amounts to a Bill of Attainder and/or the enactment of an ex post facto law in violation of Art. I, §9, clause 3 of the Constitution of the United States of America and Title 42, §1983, U.S.C.A., in that all acts contained in the notice of the proceedings as provided by H.S.R. 161 and the telegram of May 19, 1975 as well as those acts evinced by the testimony present before the House Select Committee on Impeachment occurred prior to November, 1975, the date on which the Hon. O. P. Carrillo was elected to the office of District Judge of the 229th Judicial District of Texas, thereby making the basis of impeachment and attaching civil liability to alleged acts committed prior to the date on which the Hon. O. P. Carrillo was elected to office and prior to the commencement of the term of that office. The plain effect of such proceedings as conducted is to inflict punishment in the form of automatic suspension from office on one charged without a judicial trial, and to inflict a greater punishment for the acts than that which could have been inflicted at the time the alleged acts were committed.

D. Equal Rights Considerations

Further, the present proceedings is violative of the equal protection clause of the Fourteenth Amendment to the Constitution of the United States of America and the equal rights clause of Article I, §3 of the Constitution of the State of Texas in that it represents selective enforcement of the law as to the

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Hon. O. P. Carrillo. The Hon. O. P. Carrillo would show that there have been in the past, and are at the present time, members of the House of Representatives of the State of Texas under indictment during their terms of offices and yet no impeachment proceedings directed at their removal from office have been at any time begun by the House of Representatives. However, impeachment proceedings have been set in action against Hon. O. P. Carrillo on the basis of an indictment alleging acts occurring before his election to office. There can be no rational basis for distinction in the case of the Hon. O. P. Carrillo; and the selective use of the impeachment laws evidenced by these proceedings is violative of the Hon. O. P. Carrillo's right to equal protection of the laws as guaranteed by the Fourteenth Amendment to the Constitution of the United States of America and Article I, §3 of the Constitution of the State of Texas.

II. SPECIFIC CONSIDERATIONS

A. Procedural - H.S.R. 161

1. Judge O. P. Carrillo states that the charge "(O.P. Carrillo) Judge of the 229th Judicial District of the State of Texas, has been indicted by a Grand Jury of the United States of America on multiple counts for violations of Federal income tax laws; . . ." are admitted; such statement as contained in H.S.R. 161, does not constitute ground or reason upon which impeachment can be used.

2. The ground stated in H.S.R. No. 161 is insufficient ground or reason upon which impeachment can be based, the same relating to private acts unrelated to performance of official functions, acts predating the certificate of election (which certificate is dated November 22, 1974), and acts protected by the constitutional considerations advanced in I. See: Garcia v. Tol 397 S.W.2d 936 (conviction for mail fraud, on appeal, not grounds for removal of county judge); Gordon v. State, 43 Tex. 330;

Brackenridge v. State, 11 S.W. 630; State ex rel v. Loomis
29 S.W. 415; Reeves v. State, 267 S.W. 666 (acts predating
certificate of election not grounds for removal--also annotated
42 A.L.R. 2d 691); Art. 15, §1, Tex. Const.; Ferguson v. Maddox,
263 S.W. 888.

B. Procedural--Non-H.S.R. 161 Considerations

H.S.R. No. 161, being the source of the power of this
Committee, speaks only in terms of "indictment by Grand Jury."
Nevertheless, after approximately a week of testimony, the
questions and witnesses presented before the Committee reach matters
totally and completely unrelated to whether or not Judge O. P.
Carrillo has been indicted (a matter which would have been admitted
at the outset of the hearings), but to a broad spectrum of acts
of misconduct (established by witnesses through hearsay and otherwi
competent testimony) outside the scope of H.S.R. 161 and therefore
outside the power of this Committee as delimited by the Legislative
Reorganization Act of 1961 (Art. 5429f, V.A.C.S.). O. P. Carrillo's
constitutional rights are not only violated by this procedure
(See, I, Constitutional Considerations above), but the proceedings
thus far violate the specific statutes enacted by the legislature
for the guidance of itself as well as the public.

C. Case for Legislative Restraint

It is submitted, respectfully, that for the reasons
set out in I and II above, and those set out in this paragraph,
this is a classic instance of calling for the exercise of legislat
restraints. Some of the salient factors which should guide this
body in its exercise of legislative restraint and self-discipline
are,

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1) Pending trial of indictment No. CR75-C-45, United States District Court for the Southern District of Texas, Corpus Christi Division, for 18 U.S.C.A. 7206(1), violation, with its attendant due process and other constitutional protections. If the Respondent Carrillo is found guilty, then under appropriate Texas statutes, Respondent Carrillo would be automatically disbarred and thus, pending appeal from any adverse finding, be precluded from exercising the prerogatives of office.

2) Pending proceeding before State Judicial Qualifications Commission -- by letter dated May 2, 1975, from the State Judicial Qualifications Commission, Respondent was notified that it was through the office of Maurice Pipkin, Executive Director of the Commission, to enter into preliminary investigation of certain alleged acts of misconduct.

This preliminary investigation has triggered the statutory jurisdiction of the Commission and matters testified to before this Committee (largely outside H.S.R. #161) will be resolved on that forum, devoid of the protections, considerations, and policies explicated in I, II and this section of Respondent's Reply.

3) Existence of viable investigative task force -- in March, 1975, the Attorney General of Texas provided a team of investigators to assist District Attorney Arnulfo Guerra and the Grand Jury; this task force included members of the general's staff, Texas Rangers, members of the Department of Public Safety's Intelligence Division and a private auditing firm. The first indictments springing from the labors of this task force were returned May 23, 1975, based upon transactions without the scope of H. S. R. 161 but within the range of questions to some of the witnesses called by the Committee. See Exhibit A. As stated in

Exhibit A, this Grand Jury was empanelled by Judge O. P. Carrillo, 229th District Court and continues to sift factual input from the Investigative Task Force.¹

Also in March, 1975, actions were instituted by the duly elected district attorney to remove Archer Parr, County Judge, Duval County; M. K. Bercaw, Trustee of the Benavides Independent School District (as well as other named Trustees, the causes being docketed No. 8884 as to Trustee M. K. Bercaw; No. 8885 as to Trustee Enrique Garcia, etc.). After a series of complex legal maneuvers in the Supreme Court of Texas by Bercaw, Garcia, etc. to avoid trial (to no avail)² the Parr cases were set for trial Monday, May 19, 1975³ but continued by Hon. Judge O. P. Carrillo to be in attendance May 20, 1975, in the State Capitol at 8:00 p.m. Notwithstanding the continuance forced in part by the present hearings, Judge O. P. Carrillo, on Saturday, May 24, 1975, during a recess in the present impeachment hearings, convened court in San Diego, Duval County, Texas, and after full hearing, named a "duly constituted" school board of the Benavides Independent School District. It is also noted that Judge Carrillo's actions in Austin

1. Judge Carrillo, Respondent, could not receive the indictments because, as stated in Exhibit A, he was in Austin, Texas, the week of May 23, 1975, in attendance at legislative committee hearings on his proposed impeachment. Certainly the hearings conducted here are counterproductive of the harvest of the fruits of the task force.
2. See article, Bill Kidd, "State Supreme Court Backs Carrillo in Duval Decisions," Ex. B, April 1, 1975, CORPUS CHRISTI CALLER, Spencer Pearson, "Carrillo Hearing . . . One Week Later," May 25, 1975, CORPUS CHRISTI CALLER, Ex. C.
3. See "Duval Busy with Court Actions," Joe Coudert, CORPUS CHRISTI CALLER, May 16, 1975, Ex. D.
4. See Ex. E, telegram, L. DeWitt Hale, Chairman, House Select Committee on Impeachment.
5. See Ex. C, Joe Coudert, "Benavides Board Confirmed; Ex. F, "Parr Removal Recused," and "Carrillo Planning to Attend Hearing," CORPUS CHRISTI CALLER, May 20, 1975.

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the Parr school were sustained by Hon. Judge Wesley Dice, retired Judge of the State Court of Criminal Appeals, by his denying injunctive relief at the request of Parr against Tobin, Jr., Carrillo appointee to the County Judge's post after removal of Parr by Carrillo.⁶

Respondent Carrillo, through his attorney, has subpoenaed the District Attorney, 229th District; Attorney General's office, and related law enforcement agencies to establish factually the matters contained in #3 to establish without cavil, Judge Carrillo's active part in that post-Parr clean up--all designed to establish that there is no official delinquency or maladministration or wrongful conduct on the part of Respondent Carrillo of such a character as to indicate unfitness for the office of Judge, 229th Judicial District.⁷

4) Existence of viable investigative Federal Task Force-- several years ago, William Sessions, U. S. Attorney, Western District of Texas⁸ was spurred into Duval County action by information gathered by the IRS; the resulting flurry saw the late George Parr found guilty of income tax evasion and former Duval County Judge Archer Parr found guilty of perjury--plus ancillary indictments and convictions. This Federal Task Force continues its investigative work, in coordination with the Texas Task Force outlined in paragraph #3 above.

6. Joe Coudert, "Parr Fails to Get Restraining Orders," CORPUS CHRISTI CALLER, April 17, 1975.

7. See subpoenas filed by attorney for Respondent Carrillo, May 23, 1975.

8. William Sessions has since been appointed U. S. District Judge, Western District, and his then first assistant, John Clark, a lifelong Republican, has been appointed new U. S. Attorney for the Western District of Texas.

5) Removal of District Judges by Address of 2/3rds of each House of Legislature--§8, Art. 15, Texas Constitution permits removal of district judges by the Governor on the address of two-thirds of each House of Legislature.⁹

6) Removal of district judges by the Supreme Court---still another relevant, viable alternative to the drastic once-in-a-lifetime impeachment procedures pending, is that provided by Article 15, §6, Texas Constitution. Under this provision of the Texas Constitution, any judge of the district court who is incompetent, etc., may be tried before a detailed procedure outline in the relevant section of the Constitution by the Supreme Court.¹⁰

Removal under Art. 15, §6 has many advantages over removal by impeachment:

"The Supreme Court is able to dispose of disciplinary matters expeditiously. It is fitted by training and experience to conduct judicial proceedings. It is closely associated with the problems of administering justice, and is confronted daily by problems of judicial ethics which gives it the proper appreciation of the conduct of any judge accused of malfeasance in office, as well as a sound estimate of those qualities which would be involved in a compulsory retirement on account of age or health. Cases of retirement and removal necessarily involve discretion. They cannot be settled by stiff and arbitrary rules. No one is so well qualified by training and experience to exercise discretion fairly as a court consisting of supreme court judges. By impeachment, an incumbent is tried almost entirely of men untrained in judicial matters, and the decision is often based on partisan or emotional determinations. Thus, a judicial removal proceeding is the only form which is entirely consistent with security of judicial tenure. [Emphasis added.]

9. Article 5964, V.A.C.S.

10. The Supreme Court shall have original jurisdiction to hear and determine the causes aforesaid when presented in writing upon the oaths taken before some judge of a court of record of not less than ten lawyers, practicing in the courts held by such judge, and licensed to practice in the Supreme Court; said presentment to be founded either upon the knowledge of the persons making it or upon the written oaths as to the fact of creditable witnesses. The Supreme Court may issue all needful process and prescribe all needful rules to give effect to this section. Causes of this kind shall have precedence and be tried as soon as practicable.

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7) Impeachment decision based on partisan or emotional determinations--as noted in the commentary quoted at length in connection with paragraph 7, 3 Vernon's Annotated Constitution, p. 52, impeachment decisions quite frequently are based on partisan or emotional determinations, to the end that the public good is not served, but to the contrary, there is set into motion emotional distrust of the decisions to impeach, creating more evil which in turn begets more evil.

So too, this Committee must note during the present hearing certain hard facts, which generate political ramifications. A split developed between the Parr and the Carrillo factions in Duval County; there were many causes for this rift, not the least of which was the fact that one of the Carrillo brothers and the Carrillo father were Government witnesses in the main Parr trials and related trials. Suffice to state, alignment with the Parr faction and the Carrillo faction (and splinter factions, such as the Guerra faction of Starr County) commenced, to the end that polarization of the factions occurred for the ensuing fight.¹¹ Many attorneys were plunged into affray, Marvin Foster, M. K. Bercaw, Charles Orr, and yes, attorney and Representative Terry Canales, author of H.S.R. No 161.

It is the same Hon. Terry Canales who appeared for George B. Parr in Cause No. 8806 (being an action by the State of Texas to disbar George Parr because of his Federal felony conviction) and sought and secured (before Judge O. P. Carrillo's 229th District Court) a legislative continuance to delay the disbarment.¹²

11. See Bill Graham, "Archer Parr Fights for Dukedom," SAN ANTONIO EXPRESS, April 20, 1975.

12. See Ex. G.

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It is the same Hon. Terry Canales who appeared for Archer Parr in Cause No. 8807 (being an action by the State of Texas to disbar Archer Parr, because of his Federal felony conviction) and sought and secured (before Judge O. P. Carrillo's 229th District Court) a legislative continuance to delay the disbarment proceedings.¹³

It is the same Hon. Terry Canales who, after the District Attorney, Duval County, Texas, filed information for leave to file petition in removal of Archer Parr and various members of the Benavides School Board, drafted for filing in the House and Senate, a bill to abolish the office of District Attorney, 229th District, upon whose relation the informations for leave to file petitions for removal were filed.¹⁴

While Hon. Terry Canales denies any significance can be attached to his active participation in the past and post-impeachment period, the attorney for Respondent would in discharge of his sworn duty to his client, have to question him in detail on these and related, relevant matters--all of which must be stated to this Committee, searching, as it is, for the truth, but all of which is designed to generate emotions and charges and counter-charges.¹⁵

13. See Ex. H.

14. See Exh. I, for copy of bill; also, Respondent intends to interrogate the District Attorney, Duval County, Texas, and Hon. Terry Canales concerning this entire proceeding here--more emotionalism, that would be lead to erosion of the people in the offices held by the participants.

15. Just as the well-known fact that the House did nothing when its prior Speaker, Hon. Gus Mutscher, was indicted during session; and just as the House does nothing to one of its present members who stands indicted. Respondent's attorney states that this is as it should be, that is, that an indictment should not be the basis for an impeachment, as set out in U.S. 161, for the valuable presumption of innocence given to each citizen would be emasculated to think to the contrary. Unfortunely, the general public, beset by ungodly telephone rates, low school teacher's salaries, unregulated utilities, terrible gasoline prices (in face of plenty), will not draw this fine lawyer-like conclusion, thus more discord, more erosion of confidence in a fine legislature which has accomplished much, more destruction of the image of our governing body, etc.

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III. DEFENSIVE POSTURE OF RESPONDENT (IF ALLOWED TO CALL WITNESSES AND/OR IF ALLOWED THE RIGHT TO CROSS EXAMINATION AND/OR IF ALLOWED TO INTRODUCE DOCUMENTARY EVIDENCE)

A. Documentary Evidence desired to be introduced and to be considered by the Committee;

1. Copies of the Tax Returns of Hector Zertuche, 1965, 1966, with emphasis on Schedule C, Profit (or Loss) from Business or Profession, establishing sole proprietorship as to Zertuche General Store; negates sham;

2. Copies of the Tax Returns of Arturo R. Zertuche, 1968, 1969, 1970, with emphasis on Schedule C, Profit (or Loss) from Business or Profession, establishing sole proprietorship as to Zertuche General Store; negates sham;

3. Photographs of Zertuche General Store, 1966, showing partial destruction by hurricane;

4. Carrillo personal check #616, September 3, 1973, payable to Ronnie E. Guerra, Custom Broker, in payment for cement which went into Carrillo's ranch building;

5. Checks Nos. 609, 623, 421, 1393, 1400, 166, 112, payable to Patricio Garza on O. P. Carrillo's personal bank account, payment work done;

6. Copy of customer order for Replacement of Cadillac, by O. P. Carrillo, dated 11/10/70;

7. Certified copy of docket sheet in Duval County Ranch Co., Inc. v. The Speedman Oil Company, et al, showing that on 9/24/73, Judge Carrillo recused and excused himself from the case, with docket entry, to effect that "Judge to recuse itself, and request Judge Alamia to name another judge to hear this case." (Case #8591, 229th District Court).

8. Certified copy of docket sheet in Duval County Ranch Co. (represented by M. K. Boreau, Jr.) v. J. W. Baumgardner, showing that as of 9/13/73 (approximately 37 days after suit filed) Judge Carrillo made following docket entry: "Judge O. P. Carrillo will recuse himself and not sit and will notify Administrative Judge J. B. Alucia . . ."

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9. Statement of Executive Vice President of Duval County Ranch Company to the effect that upon examination of books of the corporation for the years 1972-1975, Manuel Amaya, Jr. was not an employee of Duval County Ranch Company, and received no payments for work done for the corporation or Clinton Manges and no request for payments were made by Mr. Amaya, Jr. to the corporation or Clinton Manges.

10. Statement of Manuel Amaya, Jr. that he has never received any money or anything else of value from Duval County Ranch Company or Clinton Manges.

11. Copies of cheques from November 15, 1972, through February 29, 1974 to M. K. Bercaw, Jr., representing retainer of \$600.00 a month by Duval County Ranch Company and accompanying statement to effect that of his duties as attorney for Duval County Ranch Co. was to negotiate settlement of tax liability of Company and Benavides Independent School District. Statement to effect that because of his efforts, taxes on both Duval County and Benavides Independent School District were reduced and paid.

12. Minutes of Commissioners Court for February 14, 1975 and tax receipts dated February 12, 1975, issued by Benavides Independent School District, as evidence of tax payment for 1973 and 1974 by Duval County Ranch Company--no outstanding tax liability exists except current year.

13. Check in amount of \$62,539.43 to Duval County Tax Collector by Duval County Ranch Company, for balance of taxes due for years 1972, 1973, 1974.

14. Check No. 2428, dated February 11, 1975, in amount of \$34,724.26, from Duval County Ranch Company to Tax Collector, and Tax Receipts Nos. 2889, 2890, and 516 for payment 1973 taxes and tax receipts Nos. 800, 801, and 3767, evidencing payment for year 1974.

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15. Check No. 10012, Benavides Independent School District, dated August 23, 1974, to Marvin Foster, \$35,000.

16. Check No. 10013, Benavides Independent School District, dated August 23, 1974, to Charles E. Orr, \$25,000.

17. Undated letter Statement from Marvin Foster to Board of Trustees for \$60,000, bill "submitted as statement for services rendered and to be rendered relative to investigation by the IRS and Grand Jury of the District and the School Board . . ."

18. Copy of Texas Standard Policy covering period of March 18, 1964 to March 18, 1969, covering one-story building, housing Zertuche General Store.

19. Letter of Judge J. R. Alamia (and Court's order) acknowledging fact that O. P. Carrillo disqualified himself to serve in Cause No. 3953, Clinton Magnes v. M. A. Guerra, et al, and appointing new judge to try cause.

20. Personal tax returns of O. P. Carrillo, with emphasis on depreciation schedule showing equipment inventory of Carrillo and gross income (with showing that no income came from operation of Zertuche General, this income being captured and reported on Schedule C, Zertuches' returns mentioned above).

21. Checks of O. P. Carrillo personally to Pilon, for payment hauling water.

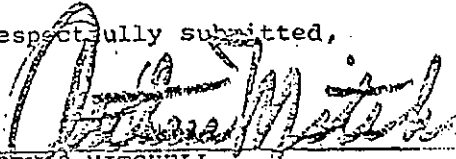
22. Copy of attorney fee contract between Archer Parr and Terry Canales (if one exists), reflecting terms and conditions of employment preceding motion for legislative continuance to date, services to be performed, payment made and promised to be made.

23. Copy of applicable local and Federal rules establishing correct administration of food program in Duval County, and evidence to effect that same is being administered.

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WHEREFORE, PREMISES CONSIDERED, Respondent respectfully prays that this Committee refuse to recommend, for the reasons set out herein, bill of impeachment; in addition Respondent prays that he be allowed the right to further supplement and/or amend his answer, as the testimony unfolds, he not having any notice of what testimony is to be solicited from whom--this answer being based upon the uncross-examined testimony as it ceased to flow 23 May, 1975, and upon no documentary evidence introduced, for he has not been honored with copies of the documents made part of the record.

Respectfully submitted,



ARTHUR MITCHELL
315 Westgate Building
Austin, Texas 78701
ATTORNEY FOR RESPONDENT
HONORABLE O. P. CARRILLO

By

Hal

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H.S.R. No. 221

R E S O L U T I O N

1 WHEREAS, The select committee on impeachment created by
2 House Simple Resolution No. 167 to consider House Simple Resolution
3 No. 161 and to investigate charges brought against O. P. Carrillo
4 is continuing its investigation; and

5 WHEREAS, It is apparent that extensive testimony still to
6 be heard by the committee will preclude completion of its work
7 prior to June 2, 1975, on which date the 64th Regular Session
8 shall expire by limitation; now, therefore, be it

9 RESOLVED by the House of Representatives of the 64th
10 Legislature, That the select committee on impeachment, as created
11 by House Simple Resolution No. 167 and as constituted by
12 appointment by the speaker of the house, continue its investigation
13 of all charges against O. P. Carrillo after the adjournment sine
14 die of the 64th Regular Session; and, be it further

15 RESOLVED, That during its continuing investigation the
16 select committee have all the powers granted to it by House Simple
17 Resolution No. 167; and, be it further

18 RESOLVED, That after completing its deliberations the
19 committee file with the chief clerk of the house a report
20 containing its recommendations on whether O. P. Carrillo should
21 be impeached; and, be it further

22 RESOLVED, That if impeachment is recommended by majority
23 report of six or more members, or by minority report of five
24 members:

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1 1. The report shall include a resolution of impeachment
2 and articles of impeachment against O. P. Carrillo for
3 consideration by the house and action thereon.

4 2. The house of representatives shall be reconvened to sit
5 and consider matters of impeachment at 10 a.m. on the third Monday
6 following the date the committee report is filed with the chief
7 clerk of the house.

8 3. The speaker of the house, when notified by the chief
9 clerk of the house that the report recommending impeachment has
10 been filed, shall immediately notify each member of the house of
11 the date and time of reconvening the house and shall forward to
12 each member a copy of the resolution of impeachment and articles
13 of impeachment; and, be it further

14 RESOLVED, That on reconvening the house shall proceed at
15 its pleasure and may continue to meet until such time as the
16 matter of impeachment of O. P. Carrillo may be resolved.

Art. 6252-16 PUBLIC OFFICES, ETC. Title 110A

Cross References

Fire and police employee relations act, see art. 5151c-1.

Law Review Commentaries

Philadelphia Plan; equal employment opportunity in construction trades. 8 Houston L.Rev. 312 (1970).

Texas equal rights amendment. Joan Harvill. 15 South Texas L.J. 111 (1974).

Index to Notes

In general 1
Validity 1/2

1/2 Validity

This article, prohibiting discrimination by public employers against persons because of their race, religion, color, sex, or national origin, provided sufficient remedy to employee of county hospital district who alleged that district had discriminated against her with regard to promotions and salary and in placing her upon probation because of her race or color, national origin, or sex, and this article met requirements for deferral set out in Civil Rights Act [42 U.S.C.A. § 2000e-5(c)] providing for deferral for six days if state or local law prohibits the unlawful practice alleged, and the EEOC was without jurisdiction. Nueces County Hospital Dist. v. Equal Employment Opportunity Commission (D.C. 1971) 371 F.Supp. 1126.

1. In general

Fact that this article prohibiting discrimination by public employers against persons because of race, religion, color, sex or national origin did not prohibit employer from retaliating for an employee's feyling discrimination charge was not ground for enforcing EEOC subpoena for records of county hospital district where the subpoena requested material relevant to charge of discrimination as to which deferral by EEOC was required rather than to a charge of retaliation. Nueces County Hospital Dist. v. Equal Employment Opportunity Commission (D.C.1974) 371 F.Supp. 1126.

Purpose of § 4 of this article, designating the district attorneys and/or county attorneys as the appropriate officers to receive notice from Equal Employment Opportunity Commission of a discriminatory practice occurring within the state, was to enable those officials to institute criminal proceedings for violations of the statutes. Id.

Art. 6252-17. Prohibition on governmental bodies from holding meetings which are closed to the public

Definitions

Section 1. As used in this Act:

(a) "Meeting" means any deliberation between a quorum of members of a governmental body at which any public business or public policy over which the governmental body has supervision or control is discussed or considered, or at which any formal action is taken. It shall not be construed that the intent of this definition is to prohibit the gathering of

Title 110A

members of social functions, the body or workshop, or the body of public body.

(b) "Members of public body"

(c) "Committee, state, which members; and every and classified or city; an county bear governing body by law.

(d) "Quorum or law applying body. Sec. 1 member-

Sec. 2. permitted in session of a closed or of the purpose hereinafter first been given as her the presiding meeting or under this Act

(b) In order to prohibit other bodies specifically permit

(c) A person a hearing to investigate.

(d) No of grand jury

(e) Privileges are not the attorney's settlement of to his client, State Bar of

(f) The in which a lease, or other or denials, would have a mental body tion.

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Title 110A

Title 110A PUBLIC OFFICES, ETC. Art. 6252-17

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members of the governmental body in numbers of a quorum or more for social functions unrelated to the public business which is conducted by the body or for attendance of regional, state, or national conventions or workshops as long as no formal action is taken and there is no deliberation of public business which will appear on the agenda of the respective body.

(b) "Deliberation" means a verbal exchange between a quorum of members of a governmental body attempting to arrive at a decision on any public business.

(c) "Governmental body" means any board, commission, department, committee, or agency within the executive or legislative department of the state, which is under the direction of one or more elected or appointed members; and every Commissioners Court and city council in the state, and every deliberative body having rule-making or quasi-judicial power and classified as a department, agency, or political subdivision of a county or city; and the board of trustees of every school district, and every county board of school trustees and county board of education; and the governing board of every special district heretofore or hereafter created by law.

(d) "Quorum" unless otherwise defined by constitution, charter, rule or law applicable to such governing body, means a majority of the governing body.

Sec. 1 amended by Acts 1973, 63rd Leg., p. 46, ch. 31, § 1, eff. Jan. 1, 1974.

Application of act

Sec. 2. (a) Except as otherwise provided in this Act or specifically permitted in the Constitution, every regular, special, or called meeting or session of every governmental body shall be open to the public; and no closed or executive meeting or session of any governmental body for any of the purposes for which closed or executive meetings or sessions are hereinafter authorized shall be held unless the governmental body has first been convened in open meeting or session for which notice has been given as hereinafter provided and during which open meeting or session the presiding officer has publicly announced that a closed or executive meeting or session will be held and identified the section or sections under this Act authorizing the holding of such closed or executive session.

(b) In this Act, the Legislature is exercising its rule-making powers to prohibit secret meetings of the Legislature, its committees, or any other bodies associated with the Legislature, except as otherwise specifically permitted by the Constitution.

(c) A governmental body may exclude any witness or witnesses from a hearing during examination of another witness in the matter being investigated.

(d) Nothing in this Act shall be construed to affect the deliberation of grand juries.

(e) Private consultations between a governmental body and its attorney are not permitted except in those instances in which the body seeks the attorney's advice with respect to pending or contemplated litigation, settlement offers, and matters where the duty of a public body's counsel to his client, pursuant to the Code of Professional Responsibility of the State Bar of Texas, clearly conflicts with this Act.

(f) The public may be excluded from that portion of a meeting during which a discussion is had with respect to the purchase, exchange, lease, or value of real property, negotiated contracts for prospective gifts or donations to the state or the governmental body, when such discussion would have a detrimental effect on the negotiating position of the governmental body as between such body and a third person, firm or corporation.

Art. 6252-17 PUBLIC OFFICES, ETC. Title 110A

(g) Nothing in this Act shall be construed to require governmental bodies to hold meetings open to the public in cases involving the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee or to hear complaints or charges against such officer or employee, unless such officer or employee requests a public hearing.

(h) Nothing in this Act shall be construed to require school boards to hold meetings open to the public in cases involving discipline of public school children unless an open hearing is requested in writing by a parent or guardian of the child.

(i) All or any part of the proceedings in any public meeting of any governmental body as defined hereinabove may be recorded by any person in attendance by means of a tape recorder or any other means of sonic reproduction.

(j) Nothing in this Act shall be construed to require governing bodies to deliberate in open meetings regarding the deployment, or specific occasions for implementation, of security personnel or devices.

(k) Nothing in this Act shall be construed to allow a closed meeting of a governing body where such closed meeting is prohibited, or where open meetings are required, by charter.

(l) Whenever any deliberations or any portion of a meeting are closed to the public as permitted by this Act, no final action, decision, or vote with regard to any matter considered in the closed meeting shall be made except in a meeting which is open to the public and in compliance with the requirements of Section 3A of this Act.

(m) Nothing in this Act shall be construed to require school boards operating under consultation agreements provided for by Section 13.001 the standards, guidelines, terms, or conditions it will follow or instruct its representatives to follow, in consultation with representatives of employees of the Texas Education Code to deliberate in open meetings regarding employee groups.

(n) Nothing in this Act shall be construed to require an agency wholly financed by Federal funds to deliberate in open meetings.

(o) Nothing in this Act shall be construed to require medical boards or medical committees to hold meetings open to the public in cases where the individual medical and psychiatric records of an applicant for a disability benefit from a public retirement system are being considered.

(p) Nothing in this Act shall be construed to require that interviews or counseling sessions between the members of the Board of Pardons and Paroles and inmates of any facility of the Texas Department of Corrections be open to the public.
Sec. 2 amended by Acts 1971, 62nd Leg., p. 1401, ch. 381, § 1, eff. Aug. 30, 1971; Acts 1973, 63rd Leg., p. 45, ch. 31, § 2, eff. Jan. 1, 1974.

Notice of meetings

Sec. 3A. (a) Written notice of the date, hour, place, and subject of each meeting held by a governmental body shall be given before the meeting as prescribed by this section.

(b) A State governmental body shall furnish notice to the Secretary of State, who shall then post the notice on a bulletin board to be located in the main office of the Secretary of State at a place convenient to the public.

(c) A city governmental body shall have a notice posted on a bulletin board to be located at a place convenient to the public in the city hall.

Title 110A

(d) A bulletin board located at a public office and, in the county, reside or shall requesting such occurred by the

(e) A political subdivision have a notice in its office, and who shall then office of the Secretary it shall also for the administrative who shall then convenient to the public

(f) The political subdivision Subsection (f) of the notice to the district or then post the notice to the public in the

(g) Notice of public necessity, sufficient if notice of the event of such calling such information governmental body, requesting such notice provisions by the rules of the Sec. 3A amended 1971; Acts 1973, 6

(h) Sec. 4. (a) aids in calling a meeting or session special, or called a closed meeting guilty of a misdemeanor less than \$100 or not less than one (b) Any member of this Act shall be liable by a court

Sec. 4. (a) aids in calling a meeting or session special, or called a closed meeting guilty of a misdemeanor less than \$100 or not less than one (b) Any member of this Act shall be liable by a court

Title 110A

Title 110A

PUBLIC OFFICES, ETC.

Art. 6252-17

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meeting before the meet-

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of State to be located
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bulletin board in the city hall.

(d) A county governmental body shall have a notice posted on a bulletin board located at a place convenient to the public in the county courthouse.

(e) A school district shall have a notice posted on a bulletin board located at a place convenient to the public in its central administrative office and, in addition, shall either furnish a notice to the county clerk in the county in which most, if not all, of the school district's pupils reside or shall give notice by telephone or telegraph to any news media requesting such notice and consenting to pay any and all expenses incurred by the school district in providing special notice.

(f) A governmental body of a water district or other district or political subdivision covering all or part of four or more counties shall have a notice posted at a place convenient to the public in its administrative office, and shall also furnish the notice to the Secretary of State, who shall then post the notice on a bulletin board located in the main office of the Secretary of State at a place convenient to the public; and it shall also furnish the notice to the county clerk of the county in which the administrative office of the district or political subdivision is located, who shall then post the notice on a bulletin board located at a place convenient to the public in the county courthouse.

(g) The governing body of a water district, other district, or other political subdivision, except a district or political subdivision described in Subsection (f) of this section, shall have a notice posted at a place convenient to the public in its administrative office, and shall also furnish the notice to the county clerk or clerks of the county or counties in which the district or political subdivision is located. The county clerk shall then post the notice on a bulletin board located at a place convenient to the public in the county courthouse.

(h) Notice of a meeting must be posted for at least 72 hours preceding the day of the meeting, except that in case of emergency or urgent public necessity, which shall be expressed in the notice, it shall be sufficient if notice is posted two hours before the meeting is convened. In the event of an emergency meeting, the presiding officer or the member calling such meeting shall, if request therefor containing all pertinent information has previously been filed at the headquarters of the governmental body, give notice by telephone or telegraph to any news media requesting such notice and consenting to pay any and all expenses incurred by the governmental body in providing such special notice. The notice provisions for legislative committee meetings shall be as provided by the rules of the house and senate.

Sec. 3A amended by Acts 1971, 62nd Leg., p. 1789, ch. 527, § 1, eff. June 1, 1971; Acts 1973, 63rd Leg., p. 47, ch. 31, § 3, eff. Jan. 1, 1974.

Violations and penalties

Sec. 4. (a) Any member of a governing body who wilfully calls or aids in calling or organizing a special or called meeting or session which is closed to the public, or who wilfully closes or aids in closing a regular meeting or session to the public, or who wilfully participates in a regular, special, or called meeting or session which is closed to the public where a closed meeting is not permitted by the provisions of this Act, shall be guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$100 nor more than \$500 or imprisonment in the county jail for not less than one month nor more than six months, or both.

(b) Any member or group of members of a governing body who conspire to circumvent the provisions of this Act by meeting in numbers less than a quorum for the purpose of secret deliberations in contravention of this Act shall be guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$100 nor more than \$500 or imprisonment in

in the county jail for not less than one month nor more than six months or both.

Sec. 4 amended by Acts 1973, 63rd Leg., p. 48, ch. 31, § 4, eff. Jan. 1, 1974.

Senate Concurrent Resolution No. 83 (1969)

WHEREAS, Senate Bill No. 260 [Acts 1969, 61st Leg., p. 674, ch. 227] has passed the House and the Senate; and

WHEREAS, Senate Bill No. 260 was amended to delete provisions in the present open meetings law stating that "Nothing in this Act shall be construed to prevent a governing body from consulting with its attorney"; and

WHEREAS, The privileged nature of communications between attorney and client are recognized by the common law, by Article 38.10, Code of Criminal Procedure of Texas, 1965, and by the rules of the State Bar of Texas; and

WHEREAS, It was the intent of the legislature, in repealing the quoted portion of Section 2, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), the open meetings law, to eliminate from that law surplus matter already covered elsewhere in the law; now, therefore, be it

RESOLVED by the Senate of the State of Texas, the House of Representatives concurring, That the legislature declare that it did not intend, in passing Senate Bill No. 260, to abridge or in any way affect the privileged nature of communications between attorney and client.

Cross References

Municipal utility districts, board of directors meetings, applicability of this article, see V.T.C.A. Water Code, § 54.109.

Offshore terminal commission, meetings subject to provisions of this article, see V.T.C.A. Water Code, § 12.046(d).

State officers and employees, standards of conduct, compliance with this article, see art. 6252-9b, § 6(a).

Law Review Commentaries

Local government: annual survey of Texas law. JI. Louis Nichols, 26 Southwestern L.J. 213 (1972).

Married and pregnant students. 50 Texas L.Rev. 1196 (1972).

Open meetings act; coverage and enforcement. 49 Texas L.Rev. 754 (1971).

Supplementary Index to Notes

Injunction 3
Notice 4

1. Validity

Evidence supported finding that meeting of board of equalization of school district was an open meeting and sufficiently complied with requirements of this article. *Levay v. Comanche Independent School Dist.* (Civ.App.1972) 497 S.W.2d 140, ref. n. r. e.

Official committees composed of members of governmental bodies regulated by this article, meeting to formulate recommenda-

tions for the disposition of matters pending before the parent body, must comply with the "notice" and "open meeting" provisions of this article. *Op.Atty.Gen.1973, No. H-3.*

A commissioners court may limit the number of persons it will hear on a particular subject and the frequency with which they may appear, so long as its regulation does not abridge constitutionally guaranteed rights of freedom of speech and to petition, nor unfairly discriminate among views seeking expression. *Op.Atty.Gen. 1972, No. H-188.*

2. Construction and application

County attorney did not have right to institute civil litigation in name of county to enjoin county judge and county commissioners from spending any funds of county on retirement program for county employees where attorney brought suit without authority of county commissioner's court or Attorney General or anyone else. *Ward County v. King.* (Civ.App.1970) 454 S.W.2d 229.

Failure of county board of school trustees to comply with provisions of this article rendered action of the board at such illegal meeting in annexing one school district to another voidable in subsequent court proceedings initiated by annexed school district. *Toyah Independent School Dist. v. Pecos-Barstow Independent School Dist.* (Civ.App.1971) 456 S.W.2d 377.

This article providing that every regular, special, or called meeting or session

of every government to the public is much as (Civ.App.1971) 47 dismissed.

Where board of school district was held after election ever held by the board of trustees, issue election was to that board of trustees; this article, which is special or called in every governmental district trustees, is b id.

Ordinance declaring, city had conveyed to election subject to the used as recitation of no longer being used attested valid meeting even though agenda where notice of agenda bulletin board in city had been made available contents of agenda at least 72 hours in advance published in a Police Officers Ass'n (Civ.App.1973) 461 S.W.2d 333

Terms of this article, ten notice of date, a meeting of county, be posted on bulletin board convenient to public for at least three days meeting are minutes least substantial examinations. *Discombe Ind. v. County School T. County* (Civ.App.1972) n. r. e.

Conference and district which they advise out to probation budget, but in which committee conclusive action and datory requirements of Commissioners' Court District Judge, 22nd County (Civ.App.1971) n. r. e.

That district judge "workshop" meeting court at which present furnished to committee did not attend meeting in which the county budget, did not comply to obtain rules and orders within session C.C.P. art. 12.12 in violation of providing adequate district judge in the with the advice and orders' court, to fix officers and other persons

Notice of a meeting matter other than sent by the commissioners comes up after notice statemental notice

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IN THE MATTER OF THE IMPEACHMENT OF O. P. CARRILLO, DISTRICT JUDGE
TO: HOUSE SELECT COMMITTEE ON IMPEACHMENT

Judge O. P. Carrillo files this his objection to the further continuance of the hearings under the present format or any predecessor format adopted by the House Select Committee on Impeachment purporting to act on HSR 161 and grounds for this objection are as follows:

1. That the committee prior to its session held the 15th day of July, 1975 had held numerous executive sessions, the time of which, purpose of which, and place of which are unknown to Judge Carrillo and his counsel.

The facts gathered at these executive sessions and meetings constitute a large input into the session held on July 15, 1975 as well as prior sessions, Judge O. P. Carrillo and his counsel not being apprised of what data constituted an input on the July 15, 1975 meeting, not having any notice as stated.

2. Judge O. P. Carrillo hereby requests that he be given access to all of the information in this committee or any subcommittee or person standing in substitution of this committee under Article 6252-17 V.A.C.S., and specifically all information collected, assembled and maintained by this committee or any subcommittee acting thereunder.

Alternatively, Judge O. P. Carrillo through his counsel moves to strike and to hold for nought all of the acts of this committee under HSR 161 in that the same constitutes illegally gathered evidence and evidence which is in direct contravention to the open meetings act Article 6252-17, V.A.C.S.

3. Judge O. P. Carrillo states further that the use by the committee of material gathered in violation of the specific statutes


Exhibit "S"

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of Texas as well as in violation of the constitutionally protected rights as set out in his first response, which first response is incorporated herein once again attempts to further act to compound the destruction of constitutionally protected rights in Judge O. P. Carrillo and renders and in fact constitutes harm as set out in Judge Carrillo's first and second responses.

DATED: 7/16/75

Respectfully submitted,



ARTHUR MITCHELL
315 Westgate Building
Austin, Texas 78701
ATTORNEY FOR RESPONDENT
HONORABLE O. P. CARRILLO

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICAS §
V. §
RAMIRO D. CARRILLO, : § Criminal No. 75-C-45
O. P. CARRILLO, §
ARTURO R. ZERTUCHE §

SUPPLEMENTARY MOTION OF THE DEFENDANTS
RAMIRO D. CARRILLO, O. P. CARRILLO, AND
ARTURO R. ZERTUCHE TO DISMISS AND MOTION IN THE
ALTERNATIVE FOR INDEFINITE CONTINUANCE

TO THE HONORABLE JUDGE OF SAID COURT:

Come now Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche, Defendants in the above entitled and numbered cause, and make this their Supplementary Motion To Dismiss and Motion In The Alternative For Indefinite Continuance, and in support thereof would respectfully show the Court as follows:

I.

On or about the 28th day of March, 1975, a twelve count indictment was returned by a Federal Grand Jury setting in Corpus Christi, Texas, charging the Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche with violations of 18 U.S.C. 371 and 26 U.S.C. 7206(1).

II.

On or about the 10th day of April, 1975, arraignment of the Defendants was held before the Federal District Court for the Southern District of Texas, Corpus Christi Division, each of the Defendants entering a plea of "not guilty" therein.

Exhibit "T"

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III.

Subsequent to the arraignment of the Defendants, Defendants filed numerous pretrial motions, including a request for a bill of particulars, a motion for continuance, motions for pretrial discovery, motions to suppress evidence, and a request for a pretrial conference and hearing on Defendants' pretrial motions.

IV.

On or about the 16th day of May, 1975, a hearing was held in Federal District Court for the Southern District of Texas, Corpus Christi Division, on Defendants' First Motion For Continuance and the Government's Motion For Determination Of Conflict Of Interest. At the conclusion of the hearing, a determination was made by the Court that the joint representation of all three Defendants by a single attorney did not result in a conflict of interest on the part of defense counsel, although a severance of the trial of Arturo R. Zertuche from the trial of the other two Defendants was deemed advisable by the Court. It was indicated by the Court that it would tentatively grant Defendants' Motion For Continuance, by way of maintaining the June 30th setting for selection of the jury, but by postponing the date of actual commencement of the trial to a date some six weeks subsequent thereto. Further, Defendants' First through Sixth Motions To Take Deposition were orally granted by the Court.

To date, no determination has been made on the Defendants' other pretrial motions filed herein.

V.

On or about the 19th day of May, 1975, the Defendant O. P. Carrillo received notice by way of telegram of the commencement of impeachment proceedings against him in his capacity as District

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Judge of the 229th Judicial District of Texas (Exhibit A). Such proceedings were commenced pursuant to the passage of H.S. R. 161 (Exhibit B), which calls for the institution of impeachment proceedings on the grounds of O. P. Carrillo's indictment herein for income tax fraud. House Simple Resolution 167 (Exhibit C) established the House Select Committee On Impeachment to investigate the charges brought against O. P. Carrillo in H.S. R. 161. Hearings before the House Select Committee on Impeachment began May 20, 1975, and have continued to date with only brief adjournments. The investigation by the Committee has reached not only the indictment of O. P. Carrillo by the Federal Grand Jury and the very matters to be tried in the prosecution of the instant cause, but also has reached outside the scope of the indictment and concerned itself with unrelated and allegedly improper acts and occurrences involving O. P. Carrillo as well. Among the witnesses who have been summoned and who have appeared before the Committee are many who testified before the Grand Jury that returned the indictment against the Defendants herein and who are to testify in the trial of the present cause. The documentary material presented to the Committee has included documentary material which is essential to both the proof of the prosecution's case and the defense of all three Defendants in the above cause. Not only have the witnesses and the documentary materials essential to the presentation of an adequate defense in the present cause been commandeered by the member of the Committee in the absence of even minimal due process protections, but also the testimony and documentary material on matters unrelated to the subject matter of the indictment has been publicly considered by the Committee. The statutory and constitutional authority for many of the Committee's actions, including the holding of closed investigatory sessions, and, in fact, the lawful existence of the

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Committee, has been seriously challenged by counsel for O. P. Carrillo, as indicated by the First Response of O. P. Carrillo presented to the Committee (Exhibit D). As likewise indicated by the First Response of O. P. Carrillo presented to the Committee, objection to the Committee hearings and investigations was made by counsel for O. P. Carrillo on the grounds that such hearings and investigations constitute an interference with the prosecution and defense of the instant cause in Federal Court. Despite such challenges and objections to the proceedings, the House Select Committee on Impeachment continues in its hearings and investigations on the subject matter of the indictment and matters ranging far beyond the scope of the indictment.

VI.

Insofar as the Committee has investigated matters contained in the indictment, hearing testimony, receiving documentary evidence, and essentially putting the Defendant O. P. Carrillo to trial on the charges in the indictment in the absence of even minimal due process protections, the State has acted to deprive all of the Defendants herein of their due process rights. Evident is a pervasive pollution of the expected testimony by the witnesses and the other evidence essential to the trial in this cause which, together with the widespread publicity attendant to the impeachment proceedings, renders a fair trial of the Defendants in Federal Court impossible.

VII.

Further, the active participation in the impeachment proceedings of the United States Government through the participation of agents of the Internal Revenue Service therein and the resulting combination of State and Federal action in the deprivation of Defendants' rights renders a fair trial of the Defendants in the present cause impossible.

VIII. 00279

Further, the effect of the institution and conduct of the impeachment hearings is to subject all of the Defendants herein to a trial on the same offense for which they are charged in Federal Court. As the text of H.S.R. 161 makes apparent, in order to determine whether articles of impeachment should be returned against O. P. Carrillo and whether O. P. Carrillo is guilty of an impeachable offense, the Legislature has cast upon itself the burden of determining whether O. P. Carrillo and the other two Defendants herein in fact committed the offenses with which they are charged in the federal indictment. Thus, not only are the Defendants in effect being subjected to two trials on identical acts and transactions, they are being tried in two forums for the same offense, to wit, violations of 18 U.S.C. 371 and 26 U.S.C. 7206(1). The participation of the federal government in the State impeachment proceedings makes the subjection of the Defendants to double jeopardy for the same offense doubly evident, and negates any possible argument that the Defendants, or any of them, are being tried in separate proceedings before forums of different governmental systems for different offenses.

IX.

Further, attendant to the impeachment proceedings has been widespread newspaper, magazine, radio, and television publicity, (Exhibits E-1 through E-27) whereby the evidence presented to the Committee on Impeachment and the Committee's interrogations and comments thereon have been exposed to state-wide view. Created by such publicity has been an atmosphere of public prejudice towards the Defendant O. P. Carrillo and the other two Defendants making a fair trial on the indictment impossible anywhere in the State of Texas at this time. As a result of the impeachment proceedings and the

state-wide publicity accompanying such proceedings, the Defendants are receiving a "trial by the press"; and a trial not only on the matters contained in the federal indictment, but also on matters ranging far beyond the scope of the indictment. If put to trial before the prejudicial effect of the pretrial publicity and the hostile atmosphere engendered by such publicity has subsided, the Defendant O. P. Carrillo and the other two Defendants, who as a result of the impeachment proceedings have also been placed in the public spotlight, will be laboring under a heavy handicap in establishing their innocence at the impending trial. Delaney v. United States, 199 F. 2d 107, 39 ALR 2d 1300 (1st Cir. 1952).

X.


Further, subsequent to the commencement of the impeachment hearings before the House Select Committee, Defendants filed herein their Supplementary Motion For Continuance, setting out as grounds therefor the commencement and continuation of such hearings, making it physically impossible for counsel for the defense to prepare for trial of the present cause by the date set therefore and resulting in a denial of Defendants' Sixth Amendment right to effective assistance of counsel and their Fifth and Fourteenth Amendment rights to due process of law if Defendants are required to go to trial at that time. No determination of this Motion has been made as of the present date. Defendants incorporate herein for all purposes the allegations and prayer contained in the aforesaid Supplementary Motion For Continuance.

WHEREFORE, PREMISES CONSIDERED, Defendants pray that the Court order that the prosecution against Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche in the above entitled and numbered cause be dismissed on the grounds that the manner in which the

00281

hearings before the House Select Committee On Impeachment have been conducted and the totality of circumstances involved in the conduct of the impeachment proceedings, working a denial of Defendants' most elementary due process rights, together with the involvement of agents of the federal government therein, have rendered a fair trial of the Defendants in the federal prosecution an impossibility and on the further grounds that the combined action of the State and Federal Governments in the impeachment hearings on the alleged offenses contained in the federal indictment have subjected the Defendants to former jeopardy for those offenses, in violation of the Sixth Amendment to the Constitution of the United States of America. In the alternative, Defendants pray that the trial of the above entitled and numbered cause be continued indefinitely until the prejudicial effect of the state-wide publicity pursuant to the impeachment inquiry has subsided and Defendants may go to trial without laboring under the heavy burden of proving their innocence in the hostile atmosphere engendered by such publicity.

Respectfully submitted,

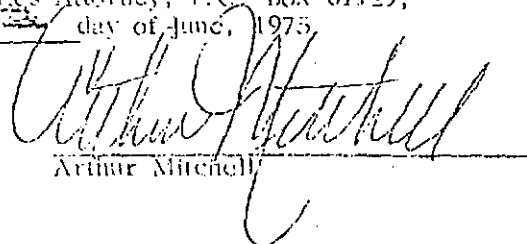


Arthur Mitchell
Mitchell, George & Belt
315 Westgate Building
Austin, Texas 78701

Attorney for Defendants

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above Supplementary Motion of the Defendants To Dismiss and Motion In The Alternative For Indefinite Continuance was sent to Mr. George A. Kelt, Jr., Assistant United States Attorney, P.O. Box 61129, Houston, Texas 77208 on this 23rd day of June, 1975.



Arthur Mitchell

Suit to oust Carrillo possible

By ^{PAS 7-11} ARNOLD GARCIA JR.
Staff Writer

The state's official judicial review commission Saturday will consider removal action against Duval County State Dist. Court Judge O.P. Carrillo, who is already being investigated on charges of official misconduct by a special legislative impeachment committee.

The nine-member Judicial Qualifications Commission will decide whether to sue for the removal of the con-

troversial South Texas political leader and judge during a closed-door session, according to the agency's executive director, Maurice Pipkin.

The commission may also discuss the case of two Odessa judges who had prior knowledge of a fake drug arrest that was represented to reporters as genuine.

Pipkin said, however, that the commission normally does not discuss a judge's behavior until it receives a complaint, and he said no

complaint has been received in the case of Dist. Judge R.L. McKim and Justice of the Peace Jan Brooks.

Should the commission decide to press for Carrillo's removal, its case would be filed with the State Supreme Court.

The commission, Pipkin said, is scheduled to hear material on Carrillo gathered by its staff and the state attorney general's office.

The commission has been conducting its own in-

vestigation into allegations of misconduct lodged against Carrillo at the same time the House Select Committee on Impeachment has been considering bringing removal articles in the legislature.

Impeachment committee chairman DeWitt Hale of Corpus Christi said Friday that any action by the commission would have no bearing on the committee's work.

Both Pipkin and Hale agreed, however, that the

"end result" of the current investigations could be the same.

The impeachment committee is scheduled to resume open impeachment hearings Tuesday.

Hale said he did not anticipate the legislature sidetracking possible impeachment action should the commission take a removal petition to the Supreme Court.

"At least," Hale added, "not at this stage of the procedure."

00283

RESOLUTION

BE IT RESOLVED by the Judges of the Fifth Administrative District of Texas, sitting as a Council of Judges for such District, in meeting this Third day of July, 1975:

WHEREAS, the continued actions and conduct of the Judge of the 229th Judicial District of Texas, plainly in breach of the Canons of Judicial Ethics of Texas and violative of fundamental requirements for an independent and uncompromisingly effective judiciary, have brought and will continue to bring discredit upon that Court, this Administrative District and the Texas Judiciary; and


WHEREAS, continued public confidence in our judicial processes demands and is clearly entitled to a judiciary of unquestioned integrity;

NOW, THEREFORE: the Judges of the Fifth Administrative District hereby request:

1. That Judge O. P. Carrillo, in the higher interest of the entire Texas Judiciary, forthwith submit his resignation as District Judge for appropriate action of the Governor;

2. That if such resignation be not submitted, the Judicial Qualifications Commission of Texas proceed without further delay to the immediate discharge of its Constitutional and Statutory duty to remove Judge Carrillo for the several manifest grounds existing.

Done July 3, 1975.



Darrell Hester
Judge, 197th Judicial District
Secretary Pro Tem



J. R. Alcala
Judge, 92nd Judicial District
Presiding Judge
Fifth Administrative District

Exhibit "V"

00284

COMMITTEE SUBSTITUTE FOR HOUSE SIMPLE RESOLUTION NO. 161

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A RESOLUTION IMPEACHING O. P. CARRILLO, DISTRICT JUDGE
FOR THE 229TH JUDICIAL DISTRICT OF TEXAS, AND
PREFERRING ARTICLES OF IMPEACHMENT AGAINST HIM

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BE IT RESOLVED by the House of Representatives of the
State of Texas, That O. P. Carrillo, judge of the district
court for the 229th Judicial District of the State of Texas,
is impeached and that the following articles of impeachment
be exhibited to the senate:

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Articles of impeachment exhibited by the House of
Representatives of the State of Texas in the name of itself
and of all the people of the State of Texas against O. P.
Carrillo, judge of the district court for the 229th Judicial
District of the State of Texas, in maintenance and support of
its impeachment against him.

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ARTICLE I

While holding office as district judge for the 229th
Judicial District of Texas, O. P. Carrillo conspired with
others to have Duval County pay for groceries, to which he
was not entitled, for his personal use and benefit.

20

ARTICLE II

C0285

1 While holding office as district judge for the 229th
2 Judicial District of Texas, O. P. Carrillo used his official
3 powers in a manner calculated to subvert the principles of
4 democratic government and obstruct the fair and impartial
5 administration of justice, thereby bringing the district court
6 for the 229th Judicial District of Texas into scandal and
7 disrepute to the prejudice of public confidence in the judiciary
8 of the state.

9 This conduct included but was not limited to one or
10 more of the following:

11 (1) in the case of Clinton Manges versus M. A. Guerra,
12 et al., Cause No. 3953 in the district court for the 229th
13 Judicial District of Texas, which involved a party with whom
14 O. P. Carrillo had numerous financial ties, he refused to
15 recuse and disqualify himself;

16 (2) in the case of State of Texas on relation of Jose
17 R. Nichols versus Archer Parr, Cause No. 8890 in the district
18 court for the 229th Judicial District of Texas, which involved
19 the suspension and removal from office of a former political
20 ally with whom O. P. Carrillo had publicly split and who was
21 involved in heated competition for political control of the
22 governmental entities in Duval County, he refused to recuse
23 and disqualify himself;

24 (3) he conspired with others to improperly influence
25 the membership and proceedings of the grand jury of Duval

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1 County impaneled in February, 1975;

2 (4) he conspired with others to dominate and control
3 the Benavides Independent School District by arbitrarily suspending
4 from their offices his political opponents on the school district
5 board of trustees and appointing his political allies as
6 replacements.

7 ARTICLE III

8 While holding office as district judge for the 229th
9 Judicial District of Texas, O. P. Carrillo acted alone or
10 conspired with others to divert the services of governmental
11 employees to his personal benefit when he was not entitled to
12 receive those services.

13 This conduct included but was not limited to one or
14 more of the following:

15 (1) Cleofas Gonzalez, while employed and being paid by
16 Duval County, worked in the Farm and Ranch Store, which was a
17 partnership between O. P. Carrillo and another;

18 (2) Pat Gonzalez, while employed and being paid by
19 Duval County, worked in the Farm and Ranch Store, which was a
20 partnership owned by O. P. Carrillo and another;

21 (3) Francisco Ruiz, while employed and being paid by
22 Duval County, worked as a welder on O. P. Carrillo's property;

23 (4) Oscar Sanchez, while employed and being paid by
24 Duval County, worked in the construction of a reservoir on O.

00287

1 P. Carrillo's ranch;

2 (5) Patricio Garza, while employed and being paid by
3 Duval County, worked on O. P. Carrillo's ranch.

4 ARTICLE IV

5 While holding office as district judge for the 229th
6 Judicial District of Texas, O. P. Carrillo conspired with
7 others to misapply government equipment, which he was not
8 entitled to use, to his personal benefit.

9 This conduct included but was not limited to one or
10 more of the following:

11 (1) the use of a backhoe owned or leased by the Duval
12 County Water Control and Improvement District in the construction
13 of a private building on his property;

14 (2) the use of equipment owned or leased by Duval County
15 in the construction of a water reservoir on his property;

16 (3) the use of a truck, mounted with post-hole digging
17 equipment, owned or leased by Duval County in the construction
18 of fences on his property;

19 (4) the use of welding equipment and supplies owned or
20 leased by Duval County to make repairs on his property;

21 (5) the use of trucks owned or leased by Duval County
22 to haul equipment and materials to his property for his private
23 use.

00288

ARTICLE V

1
2 While holding office as district judge for the 229th
3 Judicial District of Texas and, prior to that, while simultaneously
4 holding office as county attorney for Duval County and a member
5 of the board of trustees for the Benavides Independent School
6 District, O. P. Carrillo conspired with public officials and
7 others to violate the constitution, oaths of office, statutes,
8 and public policy against public officials doing private business
9 with governmental entities they serve.

10 This conduct included but was not limited to the sale
11 of goods and services and the rental of equipment, either
12 directly from the Farm and Ranch Store, an entity owned by O.
13 P. Carrillo and another public official, or by sham transactions
14 through Zertuche General Store and other business entities,
15 to various governmental entities in Duval County when O. P.
16 Carrillo and close relatives with whom he had a joint economic
17 interest served as officers of those governmental entities.

ARTICLE VI

18
19 While holding office as district judge for the 229th
20 Judicial District of Texas, O. P. Carrillo filed false and
21 fraudulent financial statements with the Secretary of State
22 for Texas.

00289

ARTICLE VII

1
2 While holding office as district judge for the 229th
3 Judicial District of Texas, O. P. Carrillo conspired with
4 others to use for his personal benefit materials and supplies
5 owned by Duval County and other governmental entities, which
6 he was not entitled to receive.

7 This conduct included but was not limited to the following:
8 O. P. Carrillo used fuel owned by Duval County in his personal
9 vehicles.

ARTICLE VIII

10
11 While holding office as district judge for the 229th
12 Judicial District of Texas, O. P. Carrillo conspired with
13 others to charge and collect money from governmental entities
14 for rentals of equipment that did not exist and for rental of
15 equipment that the governmental entities did not use.

ARTICLE IX

16
17 While holding office as district judge for the 229th
18 Judicial District of Texas, O. P. Carrillo conspired with
19 others to defraud Duval County by causing county funds to be
20 paid to Arturo Zertuche, who was not entitled to receive the
21 funds.

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ARTICLE X

While holding office as district judge for the 229th Judicial District of Texas, O. P. Carrillo conspired with others to defraud Duval County by causing county funds to be paid to Roberto Elizondo, who was not entitled to receive the funds.

ARTICLE XI

While holding office as district judge for the 229th Judicial District of Texas, O. P. Carrillo conspired with others to defraud Duval County by causing county funds to be paid to Patricio Garza, who was not entitled to receive the funds.

* * *

In all of this, O. P. Carrillo has acted in a manner contrary to the trust reposed in him as district judge and is guilty of gross violations of the constitution and statutes of this state, of the duties of his office, and of the Code of Judicial Conduct. By such conduct he has rendered himself unfit to hold the office of judge of the district court for the 229th Judicial District of Texas and he warrants trial and conviction, removal from office, and disqualification

00291

1 from holding any future office in this state, and the house
2 of representatives, saving to itself the liberty to exhibit
3 additional articles of impeachment against O. P. Carrillo at
4 any future date, if it decides any are necessary, requests
5 that O. P. Carrillo be required to answer the articles of
6 impeachment against him.

House to meet Aug. 4 to mull Carrillo charges

By JON FORD
Political Editor

Texas House members received formal notice Thursday they must convene here Aug. 4 to consider the first impeachment proceedings in four decades.

Speaker Bill Clayton also mailed representatives copies of the 11-count articles of impeachment filed by a select investigating committee against 22nd District Judge O. P. Carrillo of stormy Duval County.

Rep. L. DeWitt Hale of Corpus Christi, chairman of the committee, delivered the impeachment resolution (HSR 161) to House Chief Clerk Dorothy Hailman late Thursday morning.

Meanwhile, removal action against the 51-year-old South Texas judge was launched on another front.

Carrillo's attorney, Arthur Mitchell of Austin, said he had been given notice that the Judicial Qualifications Commission is seeking to serve a notice of formal proceedings.

"I agreed to accept service as

his (Carrillo's) attorney," said Mitchell.

Clayton and Hale said the commission's move will have no effect on the impeachment case already triggered into action.

Indications were outcome of the impeachment effort will be known before the commission reaches a final recommendation and obtains a Supreme Court ruling.

"We were automatically called into session on this matter by the filing of this (committee) report," said Clayton. "Regardless of what the commission does now, we still have to meet and decide if we are going to pass or not pass the committee resolution."

If the House votes articles of impeachment by a simple majority or larger, the Senate will sit in trial of complaints against Carrillo. A two-thirds vote of the Senate would be necessary to remove him from the bench and bar him from holding future political office.

Committee complaints against Carrillo include judicial misconduct, improper use for

personal benefit of county equipment and personnel, conspiracy to control the Benavides Independent School District and conspiracy to defraud Duval County.

The judge and his family are feuding politically with remnants of the old, dominant George Parr faction in Duval County. Parr, 74, committed suicide April 1 after threatening to kill Carrillo and rancher-banker Clinton Manges.

Carrillo suspended Parr's nephew, Archer Parr, who faces a federal perjury conviction, as Duval County judge and later presided over the trial which resulted in an instructed verdict that Parr be permanently removed. Carrillo's under a federal income tax evasion indictment.

Clayton told House members in a letter mailed Thursday afternoon the impeachment resolution will be the only issue before them next month.

"We should be able to give the matter thorough and complete consideration in a relatively short period of time," wrote Clayton.

The speaker said he remains hopeful a majority decision can be reached in the case within two or three days. Hale acknowledged the session could "drag on for weeks" if lawmakers want to question witnesses as a committee-of-the-whole.

A House resolution adopted during the regular legislative session last May provided for the automatic meeting on impeachment three weeks after filing of the investigative report.

Even if Carrillo resigns, the House would still meet and vote on the impeachment resolution, said Clayton.

The speaker issued directives for an economy session.

He said House members will draw the \$30-a-day living expenses allowed them by a recent constitutional amendment plus their \$100 monthly salaries, but no funds will be allocated for hiring additional staff.

Clayton said regular House employees will assist with a secretarial pool where needed.

Hale said he received word

from Mitchell before the committee vote on the impeachment resolution Wednesday that the Judicial Qualifications Commission was also taking after Carrillo.

"He thought that may be grounds for delay of our committee's action," said Hale.

"But I saw no reason to delay. The Judicial Qualifications Commission is at about the same point we were last May (when impeachment action was first proposed by Rep. Terry Canales of Premont)."

The commission must allow Carrillo 15 days to respond to written charges. A hearing, similar to a trial, would follow.

After receiving a report from the trial judge or master, the commission would report its recommendations, if removal action is decided on, to the State Supreme Court. The high court has power to order censure, reprimand or removal, or to reject commission recommendations entirely.

Under the proposed new constitution the legislature would not be given authority to impeach district judges.

00293

By JON FORB

Political Editor
A House select committee
Wednesday unanimously
recommends
impeachment of 22th Dist.
Court Judge O. P. Carrillo,
current term center in
politically turbulent Deval
County.

Vote urges Carrillo impeachment effort

The 11-member
impeachment resolution
charged Carrillo with
oversteering his court into
sectarian, prejudging public
confidence in the judiciary
and "gross violations" of
the state constitution and
laws.

Carrillo's attorney,
Arthur Mitchell of Austin,
said the state's highest
judge has no intention of
resigning and "will fight to
the hilt to remain in
office."

Mitchell said first legal
recourse will be to federal
district courts action if the
House votes articles of
impeachment. Such action
by the House would trigger
an automatic suspension of
Carrillo from judicial duties

pending trial by the state.
The committee resolution
approved at 4:30 p.m.
Wednesday sets in motion
the first impeachment
proceedings against a Texas
public official in 47 years.

A previously approved
legislative resolution
provided for the House to be
recalled late session on the
third Monday after the
committee submits its
recommendations.

"You can assume the
House will convene at 10
a.m. Aug. 4 to consider the
impeachment resolution,"
said Rep. L. DeWitt Hale of
Coryus District, chairman of
the House resolution committee.

Committee established last
May 29, and Speaker Bill
Hale said, Speaker Bill
Clayton, an observer at the
historic Wednesday session
of the committee, predicted
the House will act "with
dispatch." Clayton
previously predicted a
House decision within three
days after the August
session begins.

A simple majority of the
10-member House can pass
articles of impeachment. A
two-thirds majority would
authorize removal from
office.

A two-thirds Senate
majority is necessary to
convict, which would mean
removal from office and
disqualification from
holding any future political
office in the state.

A single of charges were
pressed against Carrillo in
an eight-page committee
substitute for House Simple
Resolution 161, which
denied the inquiry.

The complaints included
judicial misconduct,
improper influence on the
Deval County grand jury,
conspiracy to corrupt the
Beeviades Independent
School District, use of
county employees,
equipment and supplies for
personal benefit, conspiracy
to do private business with
the county, filing false
financial statements with
the state, and state
conspiracy against Deval
County by using equipment
of county for private
business. It also said
that Carrillo had been
and could be seen and
computerized collection
from government entities
for rental purposes at
unpaid expense.

Rep. T. J. Coker of
Premont sponsored the
original resolution which
which targeted the
committee inquiry soon
after Carrillo requested
Deval County Judge Archer
Parramore.

Parramore said Carrillo was
permanently ousted last
week who Carrillo, who
had authoritatively refused to
disqualify himself from
hearing the case against his
political foe, granted a
motion for an immediate
retrial.

The Carrillo and Parr
amateurs, once fast friends,
fell out early this year. The
late George Parr, longtime
Deval County political boss,
before his suicide last spring,
charged Judge Carrillo and
South Texas banker-banker
Clifton Hanger were
conspiring to take over the
county.

House committee
members voted 10-0 for
articles of impeachment. They
approved 24 on Nov. 21 (with
72 on another and 71 with
one present and not voting)
on another. They spent
about two hours discussing
and amending the articles
before the final vote.

Rep. Richard Slack of
Peaces was the only absent
member of the committee,
and Hale said Slack had
authorized him to announce
(See CARBILLO, page 2)

Judicial panel to file complaints on Carrillo

Texas' Judicial Qualifications Commission
will serve 22th State Dist. Court Judge O. P.
Carrillo with a set of its own complaints
Thursday. The Austin American-Statesman
has learned.

Carrillo already the target of a legislative
impeachment probe, was notified informally
about the commission's action Wednesday,
according to Carrillo attorney Arthur Mitchell
of Austin.

The commission gives judges under scrutiny
15 days in which to respond to charges.
At the end of the 15-day period, the agency
asks the Supreme Court to hear its case.

The commission's decision apparently was
received at a meeting in Austin Saturday.
The commission's action will not become
public record until after the Carrillo dies his
response, an agency representative said.

The commission, according to executive
director Hanger Pyles, has been quietly
checking into complaints about Carrillo for
some time.

The House Select Committee on
Impeachment approved 11 articles of
impeachment Wednesday, recommending
Carrillo be removed from office.

Rep. DeWitt Hale of Coryus District,
chairman of the House committee that
investigated Carrillo, said the end results of the
concurrent investigations could be the same —
removal — but said there has been no
application of effort. — ARNOLD GARCIA JR.

The Austin American-Statesman

Vol. 62—No. 33

Austin, Texas, Thursday, July 17, 1973

8 Sections

15 Cents

Morning
Edition

South Tex.

Corpus Christi Caller

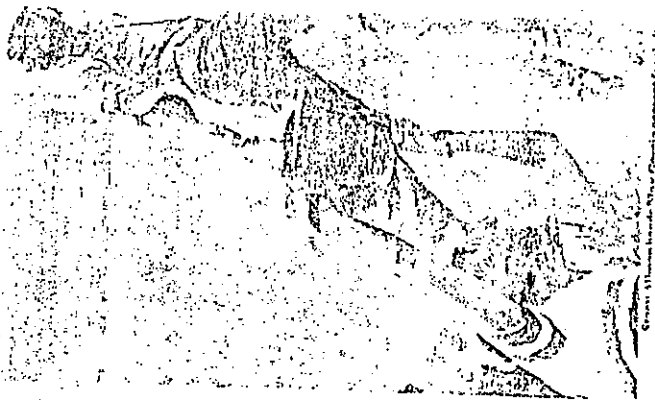
Carrillo suit 'not in order'

AUSTIN — Bob Johnson, director of the Texas Legislative Council, said today that a quo warranto impeachment procedure against District Judge O. P. Carrillo is "not in order" under the state constitution.

"The House has no authority to impeach Carrillo," Johnson said.

Johnson said Carrillo was impeached by the House in 1954, but that the House had no authority to impeach Carrillo again.

Johnson said Carrillo was impeached by the House in 1954, but that the House had no authority to impeach Carrillo again.



Corpus Christi Caller photo.

Exhibit "Z"

Carrillo

But the House will take up the Carrillo suit today, and Johnson said the House will take a two-thirds vote to impeach Carrillo.

The House will take a two-thirds vote to impeach Carrillo, Johnson said. The House will take a two-thirds vote to impeach Carrillo, Johnson said.

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Corpus Christi Caller, Texas, July 22, 1955

See Carrillo, page 22

From IB

But Carrillo is asked from the North to appear in court today to decide the quo warranto suit against Carrillo. He could be removed from the bench.

The select committee that investigated Carrillo's conduct in the Carrillo case, approved an impeachment resolution containing 11 separate charges against Carrillo.

The Speaker but Clayton said the committee will take more than 100 hours of testimony and complete a 10-volume transcript.

After considering the matter, Carrillo would take the case to the Supreme Court. Carrillo would take the case to the Supreme Court.

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BEFORE THE

STATE JUDICIAL QUALIFICATIONS COMMISSION

INQUIRY CONCERNING A JUDGE, NO. 5

NOTICE OF FORMAL PROCEEDINGS

TO THE HONORABLE O. P. CARRILLO:

Pursuant to the provisions of Rule 4, Rules for the Removal and Retirement of Judges, as adopted and promulgated by the Supreme Court of Texas, you, the said O. P. Carrillo, Judge of the 229th Judicial District of Texas, are hereby given notice that Formal Proceedings for removal have been and by these premises hereby are instituted against you, based and founded upon the following allegations:

1.

Beginning at the time you assumed the duties of District Judge of the 229th Judicial District of Texas, you have conspired with your brother, Ramiro Carrillo, to wrongfully obtain from the public funds of Duval County, Texas, the sum of three hundred dollars each and every month, such conspiracy continuing until the month of May, 1975. Throughout this period you have received goods and merchandise from the Cash Store of Benavides, Duval County, Texas, of the value of three hundred dollars each month. The goods and merchandise so received by you have been paid for out of funds belonging to the Duval County Treasury.

The funds for the payment of the goods and merchandise obtained by you from the Cash Store were paid by the Treasurer of Duval County through the use of a fraudulent scheme involving the use of non-existent or fictional welfare recipients. You knowingly and willfully participated in and aided and abetted in the use of such fraudulent scheme. You received such goods and merchandise of a value of three hundred dollars per month from January 1, 1971 to May 1, 1975. The total value of the goods and merchandise received by you as a result of your participation in such fraudulent scheme is in the

Exhibit "AA"

amount of fifteen thousand six hundred dollars.

Such conduct on your part during the period indicated was willful and persistent; such conduct was clearly inconsistent with the proper performance of your duties as District Judge and was clearly of a nature to cast discredit upon the judiciary.

II.

At the time you assumed the duties of District Judge of the 229th Judicial District Court, there was pending on the docket of said court a certain lawsuit styled Clinton Hanges v. M. A. Guerra, et al, Cause No. 3953. Such cause had been pending on the docket of said court prior to the time you assumed the duties of District Judge and had been pending at the time you were elected to such office in the general election held in November, 1970. On or about December 10, 1970, you accepted from the plaintiff in the above entitled and numbered cause some ten shares of stock in the First State Bank and Trust Company of Rio Grande City, Texas. At the time you received such bank stock from the plaintiff as aforesaid, such bank stock was included within the property in dispute in said lawsuit and was in custodia legis.

Thereafter, on January 29, 1971, the plaintiff in said cause issued his check in the amount of six thousand, nine hundred and fifty five dollars, payable to the Rialto Cadillac Company in San Antonio, Texas, such sum of money to be applied to the purchase price of an automobile ordered by you and which sum was credited to your benefit.

Thereafter, in the summer of 1971 you entered into an open-end lease with the plaintiff in the above entitled and numbered cause for mining rights on some twelve to fifteen hundred acres of land which land was also included in the property which was the subject of litigation in said cause.

Thereafter, the plaintiff in said cause entered into an oral agreement with the plaintiff under the terms of which you acquired mining rights on an additional five to ten thousand acres of land which land was also included in the property which was the subject of litigation in said cause.

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An additional benefit to you which derived from the plaintiff was your appointment as a Director of the First State Bank and Trust Company of Rio Grande City, Texas, on December 10, 1970.

While you were elected, but not qualified, judge on the date of your appointment as a director of said bank, you continued to serve as such director long past your assuming the duties of District Judge and while the aforesaid litigation was pending on the docket of your court. One of the principle objects of such lawsuit was an attempt to confirm the acquisition of bank stock by the plaintiff, the ownership of which enabled the plaintiff to exercise sufficient control to appoint you as a director.

Your conclusion that the happening of the foregoing events, the receipt of such material benefits from a plaintiff in a cause pending in your court, did not disqualify you from presiding over such cause, was a gross error and an abuse of judicial discretion. Rather than voluntarily withdrawing from the case, you caused the matter of your qualification to be submitted to a full hearing before a disinterested judge. On May 21, 1973, Judge Magnus Smith, 93rd Judicial District Court, after extensive hearings in the matter, entered his order determining that you were indeed disqualified.

Such conduct was willful and persistent; such conduct was clearly inconsistent with the proper performance of your duties as a District Judge, and was clearly of a nature to cast discredit upon the judiciary.

III.

During the period from January 1, 1972, through September, 1973, you conspired with your brother, Ramiro Carrillo, and Roberto Elizondo to steal the sum of two hundred and twenty-five dollars per month from the fund and ... of the Treasurer of Duval ... The ... to provide an income of two hundred and twenty-five dollars per month to the ... Roberto Elizondo during ... in which he was actually ... Texas.

During this period, from January, 1972, until September, 1973, you, in conjunction with your brother, Ramiro Carrillo, authorized the expenditure of said Road and Bridge Funds under the pretext of showing that the said Roberto Elizondo was an employee of the County of Duval. Such payments of two hundred and twenty-five dollars per month were made to the said Roberto Elizondo upon claims for payment that were not signed by the said Roberto Elizondo, but such claims for payment were in fact forged by a person or persons unknown. As a result of the aforesaid conspiracy, the Road and Bridge Fund of the Treasury of Duval County was permanently deprived of the sum of four thousand five hundred dollars. The said payments of such four thousand five hundred dollars to the said Roberto Elizondo were without authority in law. In conspiring to make such unauthorized payments to the said Roberto Elizondo, you did so with the intent to permanently deprive the said Road and Bridge Fund of the use and benefit of such money.

Such conduct was willful and persistent; such conduct was clearly inconsistent with the proper performance of your duties as a District Judge, and was clearly of a nature to cast discredit upon the judiciary.

IV.

During the period from January 1, 1971, until June or July of 1974, you wrongfully appropriated to your own use and benefit the services of one Francisco Ruiz. At all times pertinent heret the said Francisco Ruiz was an employee of the County of Duval, receiving a salary from the County of Duval in the amount of three hundred and seventy-five dollars per month. During the period in question, you instructed the said Francisco Ruiz on many occasions to perform labor on items of machinery and equipment owned by you and located on your ranch property in Duval County. In return for the labor performed on such machinery and equipment, you never paid the said Francisco Ruiz any money or thing of value as compensation. Instead, the only compensation received by Francisco Ruiz for services and labor performed by him, is received from Duval

County. The result of your instruction to the said Francisco Ruiz that he perform labor and services on machinery and equipment belonging to you was a wrongful appropriation by you of the value of such services and labor with the intent permanently to deprive Duval County of such value.

Such conduct was willful and persistent; such conduct was clearly inconsistent with the proper performance of your duties as a District Judge, and was clearly of a nature to cast discredit upon the judiciary.

V.

During the year 1971, in conspiracy with your brother, Ramiro Carrillo, you wrongfully appropriated to your own use and benefit the value of the services and labor of one Oscar Sanchez on two occasions. At the times and on the occasions in question, the said Oscar Sanchez was the employee of the County of Duval, being paid a salary of two hundred and seventy-five dollars per month. The labor and services of the said Oscar Sanchez were appropriated by you for the building of a reservoir on your ranch located in Duval County.

In addition to the labor and services of the said Oscar Sanchez you also appropriated the use of heavy equipment belonging to Duval County and fuel to operate such heavy equipment belonging to Duval County to facilitate the building of such reservoir as aforesaid.

The result of the wrongful appropriation of the value of the labor and services of the said Oscar Sanchez, and the value of the use of the heavy equipment and fuel which were the property of Duval County, was a wrongful appropriation by you of such value with the intent permanently to deprive the County of Duval of such value.

Such conduct was willful and persistent; such conduct was clearly inconsistent with the proper performance of your duties as District Judge, and was clearly of a nature to cast discredit upon the judiciary.

VI.

During the month of November, 1973, you wrongfully appropriated to your own use and benefit one backhoe, the property of the Duval County Conservation and Reclamation District. On this occasion you instructed one Tomas Elizondo, an employee of said Conservation and Reclamation District, to transport the said backhoe to your ranch by means of a truck and trailer, the property of Duval County. Upon arrival at the ranch, the said backhoe was operated by the said Tomas Elizondo and was used in the construction of the foundation of a building being built on your ranch.

The result of the wrongful appropriation of the value of the use of such backhoe and truck and trailer was a wrongful appropriation by you of such value with the intent permanently to deprive the Duval County Conservation and Reclamation District and the County of Duval of such value.

Such conduct was willful and persistent; such conduct was clearly inconsistent with the proper performance of your duties as a District Judge, and was clearly of a nature to cast discredit upon the judiciary.

VII.

You are hereby notified and informed that you have a right to file a written answer to the foregoing charges within fifteen (15) days after service of this Notice of Formal Proceedings upon you. Such answer should be forwarded or delivered to the State Judicial Qualifications Commission, 120 Supreme Court Building, Austin, Texas 78711.

DONE THIS 9th day of July, 1975.

STATE JUDICIAL QUALIFICATIONS
COMMISSION OF THE STATE OF TEXAS.

ATTEST:

Robert C. Marinis
Robert C. Marinis, Secretary

James S. Pickett
James S. Pickett, Exec. Director
acting for and on behalf of the
State Judicial Qualifications Commission
with full authority from the Commission

00301

COMMISSION
INQUIRY CONCERNING
A JUDGE, NO. 5

00302

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
V. § CRIM. NO. 75-C-45
RAMIRO CARRILLO, ET AL §

SUPPLEMENTARY MOTION OF THE DEFENDANTS
RAMIRO D. CARRILLO, O. P. CARRILLO,
AND ARTURO R. ZERTUCHE TO DISMISS AND
MOTION IN THE ALTERNATIVE FOR INDEFINITE
CONTINUANCE
(POST PRETRIAL SUBMISSION)

TO THE HONORABLE JUDGE OF SAID COURT:

The Honorable Judge of the Trial Court, August 25, 1975, following partial pretrial presentation in the above cause, instructed refiling of the Original Supplementary Motion of the Defendants to Dismiss and in the alternative for indefinite continuance, without regard to the continuance because of destructive trial atmosphere phase, of said original motion; this motion is the Defendants' response to that instruction by the Trial Court.

I.

Defendants here incorporate the original Supplementary Motion of the Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche to Dismiss and Motion in the Alternative for Indefinite Continuance for all purposes, including nonwaiver of said entire motion. However, in line with the Trial Court's mandate this post pretrial submission for dismissal will carve out of the original Supplementary Motion all grounds for dismissal, and related relief, and will not (again in line with the Trial Court's instructions) reargue the motion for indefinite continuance as contained in the original motion.

II.

On or about the 28th day of March, 1975, a twelve count indictment was returned by a Federal Grand Jury sitting in

Ex. J-11 / R-11

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Corpus Christi, Texas, charging the Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche with violations of 18 U.S.C. 371 and 26 U.S.C. 7206(1).

III.

On or about the 10th day of April, 1975, arraignment of the Defendants was held before the Federal District Court for the Southern District of Texas, Corpus Christi Division, each of the Defendants entering a plea of "not guilty" therein.

IV.

Subsequent to the arraignment of the Defendants, Defendants filed numerous pretrial motions, including a request for a bill of particulars, a motion for continuance, motions for pretrial discovery, motions to suppress evidence, and a request for a pretrial conference and hearing on Defendants' pretrial motions.

V.

On or about the 16th day of May, 1975, a hearing was held in Federal District Court for the Southern District of Texas, Corpus Christi Division, on Defendants' First Motion for Continuance and the Government's Motion for Determination of Conflict of Interest. At the conclusion of the hearing, a determination was made by the Court that the joint representation of all three Defendants by a single attorney did not result in a conflict of interest on the part of defense counsel, although a severance of the trial of Arturo R. Zertuche from the trial of the other two Defendants was deemed advisable by the Court. It was indicated by the Court that it would tentatively grant Defendants' Motion for Continuance, by way of maintaining the June 30th setting for selection of the jury, but by postponing the date of actual commencement of the trial to a date some six weeks subsequent thereto. Further, Defendants' First through Sixth Motions to take Depositions were orally granted by the Court.

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VI.

On or about the 19th day of May, 1975, the Defendant O. P. Carrillo received notice by way of telegram of the commencement of impeachment proceedings against him in his capacity as District Judge of the 229th Judicial District of Texas. Such proceedings were commenced pursuant to the passage of H.S.R. 161, which calls for the institution of impeachment proceedings on the grounds of O. P. Carrillo's indictment herein for income tax fraud. House Simple Resolution 167 established the House Select Committee on Impeachment to investigate the charges brought against O. P. Carrillo in H.S.R. 161. Hearings before the House Select Committee on Impeachment began May 20, 1975, and continued to June 2, 1975, with only brief adjournments. The investigation by the Committee reached not only the indictment of O. P. Carrillo by the Federal Grand Jury and the very matters to be tried in the prosecution of the instant cause, but also reached outside the scope of the indictment and concerned itself with unrelated and allegedly improper acts and occurrences involving O. P. Carrillo as well. Among the witnesses who have been summoned and who have appeared before the Committee are many who testified before the Grand Jury that returned the indictment against the Defendants herein and who are to testify in the trial of the present cause. The documentary material presented to the Committee has included documentary material which is essential to both the proof of the prosecution's case and the defense of all three Defendants in the above cause. Not only have the witnesses and the documentary materials essential to the presentation of an adequate defense in the present cause been commandeered by the members of the Committee in the absence of even minimal due process protections, but also the testimony and documentary material on matters unrelated to the subject matter of the indictment has been publicly considered by the Committee. The statutory and constitutional

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authority for many of the Committee's actions, including the holding of closed investigatory sessions, and, in fact, the lawful existence of the Committee, has been seriously challenged by counsel for O. P. Carrillo, as indicated by the First Response of O. P. Carrillo presented to the Committee. As likewise indicated by the First Response of O. P. Carrillo presented to the Committee, objection to the Committee hearings and investigations was made by counsel for O. P. Carrillo on the grounds that such hearings and investigations constitute an interference with the prosecution and defense of the instant cause in Federal Court. Despite such challenges and objections to the proceedings, the House Select Committee on Impeachment continues in its hearings and investigations on the subject matter of the indictment and matters ranging far beyond the scope of the indictment.

VII.

Insofar as the Committee has investigated matters contained in the indictment, hearing testimony, receiving documentary evidence, and essentially putting the Defendant O. P. Carrillo to trial on the charges in the indictment in the absence of even minimal due process protections, the State has acted to deprive all of the Defendants herein of their due process rights. Evident is a pervasive pollution of the expected testimony by the witnesses and the other evidence essential to the trial in this cause which, together with the widespread publicity attendant to the impeachment proceedings, renders a fair trial of the Defendants in Federal Court impossible.

VIII.

Further, the active participation in the impeachment proceedings of the United States Government through the participation of agents of the Internal Revenue Service therein and the resulting combination of State and Federal action in the deprivation of

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Defendants' rights renders a fair trial of the Defendants in the present cause impossible.

IX.

Further, the effect of the institution and conduct of the impeachment hearings is to subject all of the Defendants herein to a trial on the same offense for which they are charged in Federal Court. As the text of H.S.R. 161 makes apparent, in order to determine whether articles of impeachment should be returned against O. P. Carrillo and whether O. P. Carrillo is guilty of an impeachable offense, the Legislature cast upon itself the burden of determining whether O. P. Carrillo and the other two Defendants herein in fact committed the offenses with which they are charged in the Federal indictment. Thus, not only are the Defendants in effect being subjected to two trials on identical acts and transactions, they are being tried in two forums for the same offense, to-wit: violations of 18.U.S.C. 371 and 26 U.S.C. 7206(1). The participation of the Federal Government in the state impeachment proceedings makes the subjection of the Defendants to double jeopardy for the same offense doubly evident, and negates any possible argument that the Defendants, or any of them, are being tried in separate proceedings before forums of different governmental systems for different offenses.

X.

July 30, 1975, the cases pending before this Court were recalled and certain pretrial was had, but cases continued for trial to September 8, 1975. July 17, 1975, the House Subcommittee returned its report, the adoption by the House of certain Articles of Impeachment. On August 4, 1975, the full House of Representatives commenced voting, with result that August 5, 1975, Articles of Impeachment were adopted—all of which sessions were attended by counsel (when not denominated Executive). On August 18, 1975, Rules Committee of Senate held full blown hearing, at conclusion of which rules of procedure were adopted. Meanwhile, back at the Judicial Qualification

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Commission, Notice of Formal Hearing was caused to be served on Defendant O. P. Carrillo, with Formal Answer being due on or before August 1, 1975, and trial being set before Special Master, October 2, Corpus Christi, Texas. The issues tried before the subcommittee included, but were not limited to, those to be tried before this Court; include but are not limited, to those to be tried before the Judicial Qualifications Commission; include, but are not limited to those to be tried before the Texas District Court, Jim Wells County, in State of Texas v. O. P. Carrillo.¹

XI.

Beginning sometime in 1972, the U. S. commenced its South Texas investigations, pouring investigators into that area of Texas, searching out and indicting and bringing to trial many persons there, including but not limited to George Parr, Archer Parr Octavio Saenz, Taylor, Powell, etc. Beginning sometime in 1975, the State of Texas, through its District Attorney, Attorney General, all law enforcement agencies, commenced its South Texas investigations (known as Task Force), bu pouring investigators into that area of Texas, searching out and indicting and seeking to bring to trial many persons there, including but not limited to Saenz, Ramiro Carrillo, O. P. Carrillo, Juardo, and many others.

Attendant to this tremendous onslaught by the various law enforcement agencies, has been widespread, continuous newspaper, T.V., radio, magazine publicity; there has been a constant flow of publicity from the conduct of the various and sundry public officials' comments, denouncements, and castigations of the various persons in Duval County, including Defendants here.

¹The trial of Defendants in this Court on this indictment has been set for September 8, 1975; the impeachment trial of Defendant O.P. Carrillo has been set for September 3, 1975; no trial date has been fixed for the trial of the state felony charge of O. P. Carrillo or state felony charge of Ramiro Carrillo, as of this writing; pretrial in this case has been set for September 2, 1975; special meeting of Senate Administration Committee set for 3:30 p.m. September 2, 1975 to consider revised rules on impeachment procedure; and others impossible to recollect and pull together at this time.

n0308

XII.

The newspaper publicity has been characterized by flamboyant, front-page headlines in large, heavy type, covering colorful feature stories of the Duval County Scene, discrediting and blackening the character of the Defendants O. P. and Ramiro Carrillo. This was supplemented by radio and television exploitation of the same material; this in turn was further supplemented (as noted above) by the castigation by each and every politician (who for personal and/or unknown reasons sought to enhance the chances for impeachment, and the destruction of the public's confidence in advance of any trial attended by due process) of Judge Carrillo and Commissioner Carrillo, via newspaper, T.V. and/or radio. There is no reason to believe that the destructive publication attendant the variety of proceedings progressing and contemplated will abate; there is no reason to believe that the Defendants here will be able to receive a fair trial if tried as planned; there is no reason to believe that any verdict but guilty will be returned by any jury picked to try Defendants; there is no reason to believe that any constitutionally protected right will be accorded Defendants if and when put to trial before this Court under the circumstances prevailing now and in all reasonable probability to prevail on trial date.²

XIII.

Defendants request that this Court dismiss this prosecution in that there is (and inevitably will be) a destruction of those rights to a fair trial by impartial superintendent and jury guaranteed Defendants by the U. S. Constitution. Sheppard v. Maxwell, 86 S. Ct. 1507, 384 U.S. 333; Estes v. State of Texas, 381 U.S. 532, 85 S. Ct. 1628 (1965); Marshall v. U.S., 360 U.S. 310, 79 S. Ct. 1171 (1959); Patterson v. State of Colorado, 205 U.S. 454, 27 S. Ct. 556 (1907).

²The Trial Court, August 25, 1975, overruled Defendants' Motion for Continuance, thereby assuring trial in the destructive atmosphere which does and which will attend said trial, and which will, almost as surely as the sun will rise in the east and set in the west, result in a verdict of guilty -- all to the destruction of the rights of Defendants.

60309

There is a clear destruction of due process to date to Defendants by the collective governmental action outlined herein, to the end that Defendants will suffer deprivation of property and liberty, without due process. See: Sheppard, Estes, Marshall, supra.

There is and will inevitably be a destruction of the trial atmosphere here to the end that Defendants will stand convicted without due process. See: Sheppard, Estes, Marshall, supra.

XIV.

There is an absolute right guaranteed by the Constitution to effective, competent counsel. That right has, is, and will be denied to Defendants by the coming together of this onslaught to his life and liberty; there is no way that any counsel (including the undersigned) can investigate, prepare, and assimilate 15 volumes of impeachment testimony, with about 15 pounds of documentary and be prepared to defend it before Senate Court September 3, 1975, no more than counsel can offset the prejudicial, destructive effect of trial in Austin, before the House Subcommittee, of Defendant O. P. Carrillo on the very crime charged here [but without the right to cross-examine, without the right to freely call witnesses, without the right to pretrial discovery, or the many other valuable rights attending a trial in a criminal case when all due process elements are part of the proceedings], and at the same time, secure the witnesses, prepare for trial and effectively defend Defendants before this Court September 8, 1975. Likewise, it is a physical impossibility for counsel to marshall all of the data, correlate it, and present it in the varied and sundry geographical locations needed.³

³No case has been found where counsel has been beset with as many ills created by governmental action as the present; however, see the following for correct explication of doctrine of destruction of constitutional right to effective counsel. U. S. v. Mitchell, 354 F. 2nd 767 (1966); U. S. v. Ellenbogen, 365 F. 2nd 982 (1966), cert. denied 386 U.S. 923; U. S. v. Garcia, 5th Cir., Aug. 7, 1975, 517 F. 2nd 272.

0310

XV.

Defendants also insist upon the concept presented in their original Supplementary Motion for Dismissal that there is a direct and/or collateral estoppel here to try him (O.P.) on the question of criminal liability for an offense for which he has already been put to trial, same witnesses, same offensive act charged, same testimony, but with no right to cross, no right to exact notice of charges, no right to unfettered right to call witnesses; in short, he was convicted by a tribunal not constituted under the precepts of due process, before superintendents now governed by precepts of due process, in an atmosphere destroyed for want of due process. He cannot be now, consistent with due process, prevention from double jeopardy, the doctrine of collateral and direct estoppel, be convicted again by the United States here.

WHEREFORE, PREMISES CONSIDERED, Defendants pray dismissal, or any and all other remedies short of dismissal, which the Court has power, by reason of the premises to grant, to the end that Defendants' rights be preserved.

Respectfully submitted,

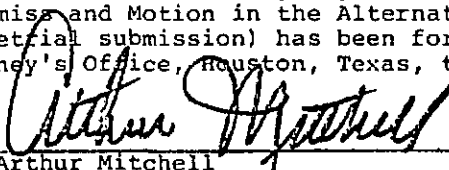
ARTHUR MITCHELL
MITCHELL, GEORGE & BELT
315 Westgate Building
Austin, Tx. 78701

WILLIAM D. BONILLA
BONILLA, READ, NUTTO, BECKMON & BONILLA
P. O. Drawer 5427
Corpus Christi, Tx. 78405

By 
Arthur Mitchell

ATTORNEYS FOR DEFENDANTS

A true and correct copy of the above and foregoing Supplementary Motion for the Defendants to Dismiss and Motion in the Alternative for Indefinite Continuance (post pretrial submission) has been forwarded to Mr. George Kelt, U. S. Attorney's Office, Houston, Texas, this 26 day of August, 1975.


Arthur Mitchell

00311

IN THE MATTER OF THE IMPEACHMENT OF O. P. CARRILLO, DISTRICT JUDGE
TO: HOUSE SELECT COMMITTEE ON IMPEACHMENT

Judge O. P. Carrillo files this his objection to the further continuance of the hearings under the present format or any predecessor format adopted by the House Select Committee on Impeachment purporting to act on HSR 161 and grounds for this objection are as follows:

1. That the committee prior to its session held the 15th day of July, 1975 had held numerous executive sessions, the time of which, purpose of which, and place of which are unknown to Judge Carrillo and his counsel.

The facts gathered at these executive sessions and meetings constitute a large input into the session held on July 15, 1975 as well as prior sessions, Judge O. P. Carrillo and his counsel not being apprised of what data constituted an input on the July 15, 1975 meeting, not having any notice as stated.

2. Judge O. P. Carrillo hereby requests that he be given access to all of the information in this committee or any sub-committee or person standing in substitution of this committee under Article 6252-17 V.A.C.S., and specifically all information collected, assembled and maintained by this committee or any sub-committee acting thereunder.

Alternatively, Judge O. P. Carrillo through his counsel moves to strike and to hold for nought all of the acts of this committee under HSR 161 in that the same constitutes illegally gathered evidence and evidence which is in direct contravention to the open meetings act Article 6252-17, V.A.C.S.

3. Judge O. P. Carrillo states further that the use by the committee of material gathered in violation of the specific statutes

Exhibit "S"

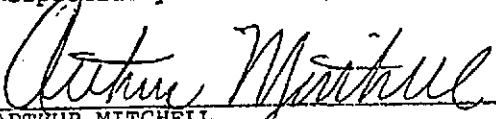
E. T-12 / R-12

00312

of Texas as well as in violation of the constitutionally protected rights as set out in his first response, which first response is incorporated herein once again attempts to further act to compound the destruction of constitutionally protected rights in Judge O. P. Carrillo and renders and in fact constitutes harm as set out in Judge Carrillo's first and second responses.

DATED: 7/16/75

Respectfully submitted,


ARTHUR MITCHELL
315 Westgate Building
Austin, Texas 78701
ATTORNEY FOR RESPONDENT
HONORABLE O. P. CARRILLO

00313

IN THE MATTER OF THE IMPEACHMENT OF O. P. CARRILLO, DISTRICT JUDGE

BEFORE THE HOUSE SELECT COMMITTEE

STATEMENT OF RELEVANCE OF SUBPOENAS REQUESTED TO BE ISSUED

Comes now O. P. CARRILLO, through his undersigned attorney, and files this statement pursuant to the instructions of the Chairman of the above committee of the relevancy of the testimony sought to be elicited from the witnesses subpoenaed on the 23rd day of May, 1975:

1. Randall Nye, William David Bonilla, Morris Atlas -- in that there is no definition of impeachment within Art. 15§1 of the Texas Constitution, one must look to the common law for the setting out from which the provision had its genesis. Impeachment at the time of the adoption of the Constitution was an established and well conducted procedure in English and American laws and was designed to reach those in high places guilty of official delinquency or maladministration, of such a character to indicate unfitness for office. These witnesses have practiced law before Judge O. P. Carrillo for many years including from January 1, 1975 to date, and it is the purpose to call them, among others, to demonstrate no official delinquency in the performance of his office, no maladministration and no character as to indicate unfitness for office, but to the contrary to show (1) that Judge Carrillo has tended to the discharge of his duties to the highest degree; (2) has not committed any official delinquency; (3) has committed no maladministration; (4) no misconduct as an official in a private capacity effecting an unfitness for office.

2. Oscar D. Kirkland - Mr. Kirkland is and has been the accountant for Zertuche General Store since 1965, 1966, 1967, 1968, 1969, and 1970 and has prepared the tax returns for Zertuche General Store for those years. The only notice which Judge Carrillo has here

R-13 / T-12

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as per HSR 161 deals with indictment for 7206(1), 26 U.S.C.A. violations and the purpose of this witness is to establish the accounting system maintained throughout these years by Zertuche General Store, the structuring of that accounting and representing methods by Kirkland on Schedule C of Hector and/or Arturo Zertuche throughout the years and the reality of Zertuche General Store as it existed above and beyond and apart from the Farm & Ranch as well as O. P. Carrillo, individually.

3. Ronaldo E. Guerra - during the course of the evidence came testimony (outside of the notice provided in HSR 161) that Judge Carrillo used cement belonging to Duval County to build some character of building on his ranch. On September 3, 1973, Judge Carrillo by his check No. 616 on his personal account, paid Ronaldo Guerra, the subpoenaed witness \$1050 for the purchase of the cement that went into his building, and it is the purpose of subpoenaing this witness to authenticate said check (a copy of which is attached hereto as Exhibit A) and to establish that the cement that went into the building was purchased by Judge Carrillo personally.

4. Arnulfo Guerra, Tim James, Gene Powell - the relevancy of the testimony solicited from these witnesses stems once again from the nature of the impeachment proceeding as set out in Art. 15§1 wherein an officer is subject to impeachment for official delinquency or maladministration or conduct of such a character as to indicate unfitness for office.

In this connection, for many years the Parrs ruled Duval County and the Parr faction included the Guerra faction as well as the Carrillo faction. Federal investigation commenced, resulting in the indictment and conviction of George Parr and Archer Parr as well as other officials in Duval County on the various boards, school boards, etc., as well as public officials (see Exhibit B).

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Following the indictments and convictions in March, 1975, a special task force was set up composed of Texas Attorney General (Tim James, Assistant Attorney General, the witness subpoenaed here); District Attorney Arnulfo Guerra; Texas Rangers (Gene Powell); and a private auditing firm, and an intense investigation commenced. Parallel to this task force investigation, the District Attorney commenced removal proceedings by petitions in Causes numbered 8884, 8885, 8886, 8887 on the docket of the 229th Judicial District Court, Duval County, Texas, to secure removal of Rudolfo Couling and others charged with wrongdoings (see Exhibit C). The Supreme Court of Texas in effect upheld these actions by refusing Writs of Prohibition and/or Mandamus by Parr-backed members of the Benavides Independent School District (see Exhibit D). These cases were set for trial May 19 but postponed (see Exhibit E), when HSR 161 was enacted. The facts will indicate further that Representative Canales represented Archer Parr in 1) sponsoring a bill to abolish the District Attorney's office of Duval County; 2) securing legislative continuance in State of Texas v. George Parr and State of Texas v. Archer Parr for disbarment; 3) sponsoring the present House resolution, all of which evidence demonstrates that this Committee and the House are being used as part of the Parr thrust.

5. Adulio Briones, Bailiff to Judge O. P. Carrillo - Mr. Briones will testify as to matters contained in paragraphs 1, 3, and 4 above as regards the Court's conduct of his business.

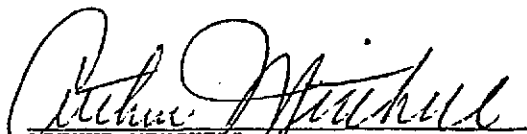
6. Archer Parr - his testimony will relate to the political split out of which present controversy arose and testimony at length to be solicited in regard to misappropriations in addition to those forming the basis of the Federal conviction which is on appeal. In addition, it will be shown that Mr. Parr's attorney was

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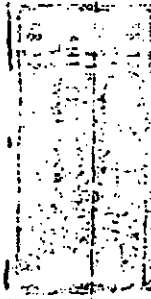
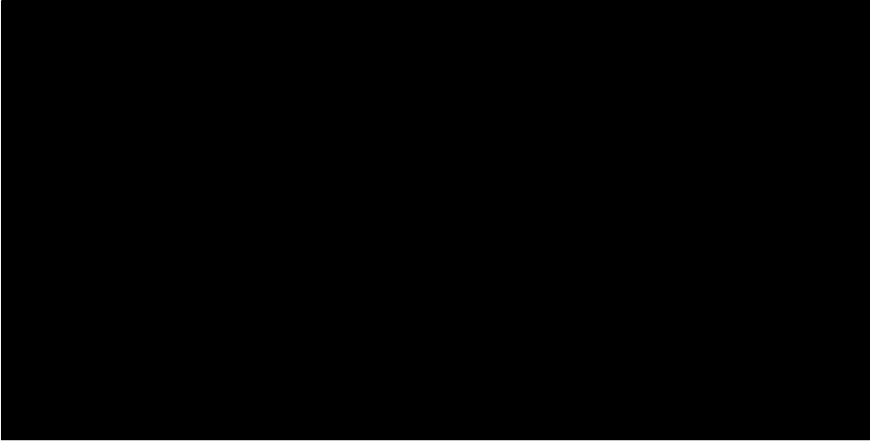
Marvin Foster and part of the \$60,000 from the Benavides Independent School District was in truth and in fact an attorney's fee from Archer Parr to Marvin Foster and not as testified to by the witness Bercaw to defend a subpoena issuing out of Federal Court by the IRS and related to the official business of Benavides Independent School District (see Exhibit C).

7. Charles Orr, Houston - to produce records as to work done for Benavides Independent School District as to fee testified to by Bercaw paid to Marvin Foster; in truth and in fact Mr. Orr has always represented Rudolfo Couling and he and Marvin Foster are to be questioned as to work done for the \$65,000+ fee Bercaw testified was paid by Benavides Independent School District.

It is admitted that Mr. Orr represents Mr. Couling and Mr. Foster represents, among others, Mr. Parr and the removed members of the Benavides Independent School District and said testimony relates to the credibility of the witness Bercaw, the ulterior motive of the sponsoring member, and the good name of the House.


ARTHUR MITCHELL
315 Westgate Building
Austin, Texas 78701

00317



PROCESSED AND SERIALIZED

FOR DEPOSIT ONLY
RONALDO E. GUERRA
U.S. Customs Broker

EXHIBIT A

The man who ruined Parrs

By ALAN BAILEY

A casual visitor to the office of the new U.S. attorney might be misled by the quiet tone of his voice and his youthful appearance.

But a first impression can be deceiving with the 41-year-old John Clark, the new U.S. attorney for the Western District of Texas.

For starters, it was Clark who led the federal grand jury investigation into the powerful Parr family of Duval County.

Clark later handled the successful prosecution of members of the Parr family — which has ultimately started the collapse of the family that dominated South Texas politics for several generations.

Clark, who served as first assistant U.S. attorney under now U.S. Dist. Judge William Sessions, discussed the Parr case and the future as U.S. attorney during an interview.

Clark, a lifelong Republican, denies there were any political motives into the Democratic Parr family.

"The matter first came to us from the IRS. The IRS had conducted a routine audit of a taxpayer who did business in Duval County.

"From the information gathered, the trail led to George Parr, Archer Parr and others," said Clark in his office where a radio softly plays classical music in the background.

(The late George Parr was found guilty of income tax evasion and former Duval County Judge Archer Parr was found guilty of perjury.)

Clark said he has some new ideas and feeling about the office.

"I think the public should know how this office spends its money. Lots of people do not have much understanding of the U.S. attorney.

"This is true not only of laymen, but many lawyers do not know much about this office," said Clark, noting he plans to give more talks about the office to groups.

Clark said the most pressing law enforcement problems in this district

that includes most of Texas are the drug traffic and illegal aliens.

"These two problems take up most of our case load. They create social and economic problems not just in this district, but in other parts of the country," he said.

"It will be a challenge just on a day-to-day basis to keep up."

Other challenges Clark mentioned include mainly judicial-type problems, such as the new Speedy Trial Act, which goes into effect this summer.

"I don't think we will have any basic problems in meeting the time requirements because we have some very vigorous judges in this district," said Clark, noting the act sets out certain time requirements for an accused criminal to be taken to trial.

"Something else that will be new and different will be the public defender program. I think we'll like the public defender system, but it is new and a change," he said.

Clark also said his office will con-

tinue the practice of previous U.S. attorneys in this district and practice omnibus proceedings.

"We feel omnibus is beneficial. It expedites criminal cases and results in more guilty pleas," he said.

Omnibus is a judicial proceeding in which both sides get together before the trial and give each other all the information they are going to bring up during the trials.

Clark said one of the problems as U.S. attorney is "running a good-size law firm of 18 trial lawyers. We're under a certain amount of pressure all of the time. It's demanding. And I enjoy it, by the way."

Clark said one of the unfortunate problems as U.S. attorney is the loss of time from his family and his hobbies of photography and golf.

"I don't find much time for golf. I do take a lot of pictures of the kids," said Clark, who proudly shows off pictures of his children and pictures he took while on trips to Japan and Hong Kong.

Clark, a native of Austin, is married to the former Carolyn Tevis of Beaumont. They have four children, Karen, 15; Leslie, 11, John, 9, and Charles, 15 months.

The University of Texas Law School graduate said he would be able to work with all judges in the district, which includes Waco, Austin, San Antonio, Del Rio, Midland, Pecos and El Paso.

Clark was recommended for the job by U.S. Sen. John Tower and nominated by President Ford.

However, when the job became open in mid-December, three of the five judges in the district by-passed Clark for the interim appointment and named another assistant U.S. attorney.

"I can work with the judges. I don't see any problems, and I don't have any animosity to anyone," said Clark.

Clark said he would like someday to take his family on a vacation to Japan, but with the tough job he faces, he said that would have to be a long time in the future.



U.S. ATTY. JOHN CLARK
...led investigation

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Ex. B

Duval grand jury to get more evidence, Texas Ranger says

Corpus Christi May 24, 1975

Comment follows indictment of former tax collector

SAN DIEGO — The Duval County Grand Jury will get more evidence next week on its investigation of the county's political subdivisions, the Texas Ranger who heads the investigation said yesterday.

The comment from Ranger Capt. John Wood came after Rodolfo Couling, former tax collector and business manager of the Benavides school district, surrendered to the Duval County Sheriff.

Couling, 54, was indicted Thursday on four counts of official misconduct and one count of theft. Accompanied by attorney Marvin Foster of San Diego, he surrendered early yesterday to Sheriff Raul Serna and was freed after posting a \$5,000 bond on each of the five indictments.

The indictments were the results of a three-month special investigation by the grand jury, district attorney's office and state law enforcement officers.

The investigation of political subdivisions within the county has included extensive inspections of records from the Duval County Conservation and Reclamation

District, the Benavides school district and the county.

Officials have reported that in addition to criminal charges they expect to file civil suits against a number of persons for the recovery of equipment and services of public agency employees.

Each of the five counts against Couling is a third-degree felony, with a minimum sentence of two years and a maximum of 10 years in state prison. Each indictment also carries a maximum \$5,000 fine.

Three of the indictments involved use of gasoline credit cards for personal use. One indictment alleged Couling converted a school district check of \$889.79 for his own use. The fifth indictment claims theft by "exercising control of more than \$200" to deprive the Benavides Independent School District of its monies.

The grand jury was empaneled Feb. 10 and began the investigation shortly afterward.

Although much of the investigation focused on public agencies and employees, there also have been inquiries into the activities of a number of persons who currently

do not hold elected office and are not employed by a public agency.

In March, Texas Atty. Gen. John Hill provided a team of investigators to assist Dist. Atty. Arnulfo Guerra and the grand jury.

The investigators included members of the attorney general's staff, Texas Rangers, members of the Department of Public Safety's Intelligence Division, and a private auditing firm.

The task force established offices in the new county law library in the courthouse annex.

The indictments were returned to Dist. Judge C. Woodrow Laughlin of Premont. He had been assigned to meet with the grand jury by Dist. Judge J. R. Alamillo of Edinburg, administrative judge for the Fifth Administrative District.

Dist. Judge O. P. Carrillo, who usually presides in the 229th District Court here, was in Austin this week at legislative committee hearings on his proposed impeachment.



RODOLFO COULING DURING QUESTIONING

(Photo by George G.)

a pistol at three individuals and three
seized to them by Parr," the motion said

community in which he lives" Parr should
appear to explain why he should not be

Corpus Christi lawyer Douglas
See Parr's Arrest, Page 14A

State Supreme Court backs *Corpus Christi Caller, April 1* Carrillo in Duval decisions

By BILL KIDD
Caller-Times Austin Bureau
AUSTIN — Three decisions by Dist.
Judge Oscar Carrillo involving Duval
County officials, including Archer Parr,
were allowed to stand by the Texas
Supreme Court Monday.

The court overruled requests to file for
various writs by Parr, four members of
the Benavides Independent School District
board removed by Carrillo and Duval
County Clerk Alberto Garcia.

Parr, through Corpus Christi attorney
Oscar Spitz, had sought permission to file
for writs of mandamus, prohibition and
injunction against Carrillo, to overturn
Carrillo's decision removing Parr as
county judge and to prevent further action
against Parr.

The pleadings filed by Spitz contended
that the statute allowing removal of a
county judge speaks only to convictions in
state courts, whereas Parr's conviction by
a federal petit jury for income tax evasion
was used as the reason by Carrillo.

The pleadings also contend that there
was nothing to support allegations raised
in a receivership suit that Parr had
received services from Duval County
employees and that he had received illegal
funds.

Also cited were contentions that Parr

ff 'class'

had not been afforded a hearing as
required under the removal statute, that
the bond written by Parr's successor,
Daniel Tobin Jr., was not written
correctly and would not reimburse Parr
should his removal be overturned and that
Judge Carrillo had lost jurisdiction in the
case because county attorney Ricardo H.
Garcia had asked for dismissal of the
action at a hearing on an injunction.

against Parr called by Carrillo on March
27.

The pleadings contended that Carrillo
has asked Garcia to act as the state's
attorney, and that Garcia's motion to
dismiss the suit could not be overruled by
Carrillo.

The Supreme Court did not comment on

See Carrillo, page 14A

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Sheriff Raul Serna moves
Benavides with no results. Several

Carrillo

From Page 1

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the contentions in overruling the request
to file for writs.

Nor did the court comment in
overruling a request from M. K. Bercaw
Jr., Enrique Garcia, Joe Garcia and Luis
Elizondo for permission to file for a writ of
prohibition against their removal by
Carrillo as members of the board of the
Benavides Independent School District.

The third request overruled by the court
Monday was that of County Clerk Alberto
Garcia, who sought a writ of mandamus to
set aside a verbal order by Carrillo that
Garcia accept and file a bond by Tobin to
guarantee Tobin's fulfillment of the office
of county judge.

Garcia contended that the statute
requiring such a performance bond
requires that the amount be set by the
commissioners' court, and that the
commissioners' court had not met to set
the amount, so that the filing of the bond
would be an illegal act.

Monday afternoon the office of the clerk
of the Supreme Court had no indication as
to whether rehearings would be requested
on any of the denied petitions.

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Duval busy with court actions

19 witnesses subpoenaed for trial on Parr ouster

By JOE COUDERT
Staff Writer

SAN DIEGO—Nineteen persons have been subpoenaed for the jury trial Monday on the ouster of suspended Duval County Judge Archer Parr in Rio Grande City.

Parr, charged with six counts of misconduct, was suspended as county judge March 24, and Dan Tobia Jr., former commissioner of Precinct 1, was named acting county judge.

Twelve of the subpoenas were issued duces tecum, which means the person is ordered to appear in court with records, notes, files or other papers listed in the subpoena.

The remaining seven subpoenas require only the presence of the person to whom they were issued.

Subpoenaed duces tecum were Alberto Garcia, Duval County clerk; Walter Meek, county auditor; Fidel Cuellar, operator of the Cuellar Lumber and Hardware Co. of San Diego; George Bundrett, an executive of Coastal States Gas Producing Co.; Ricardo Garcia, county attorney; B. O. Goldthorn, president of the First State Bank of San Diego; Jerry Parmer, a former court reporter; William F. Ross, Corpus Christi, and executive of Central Power and Light Co.; John G. Read, a representative of the state comptroller's office; Harris Fender, a major stockholder in the First State Bank of San Diego; and Parr.

Regular subpoenas were issued to Juan Leal and Felipe Valerio, Duval County Commissioners; Manuel Solis, county treasurer; Rene Martinez, former ranch foreman for Parr; Daniel Casarez; Ramiro Arredondo and Anita Arredondo.

The ouster petition was filed by Dist. Atty. Arnulfo Guerra "on the relation of Jose R. Nichols," the current grand jury foreman.

The first amended petition filed by Guerra last week cites six alleged cases of misconduct by Parr.

- The petition alleges:
 - Parr never answered charges of receiving \$460,000 of a legal fund.
 - That, as county judge, Parr failed to prepare a county budget, hold public hearings on the budget, and authorized expenditures not included in budgets.
 - Was convicted in federal court of perjury.
 - That Parr, a member of the county board of equalization, "accepted employment for remuneration" as an attorney for various taxpayers, including Coastal States Gas Producing Co. and Central Power and Light Co.
 - That from 1970 to the date of filing, Parr illegally obtained "for his own personal use and benefit" the services of county-employed and county-paid personnel and the use of personnel and the use of county equipment.
 - That from 1968 to date of filing Parr had an interest in the ownership of the First State Bank of San Diego, which was the county's depository bank.

The trial was moved from the 229th District Court here to Rio Grande City on a change of venue motion by Guerra. The 29th Judicial District includes Duval, Jim Hogg and Starr Counties.



ARCHER PARR

Parr asks estate hearing be moved to Duval County

By NICK JIMENEZ
Staff Writer

Archer Parr, the ousted judge of Duval County yesterday indicated he wants to fight a dispute in the estate of his late wife in Duval County, not Corpus Christi.

A hearing on a temporary injunction brought against Parr and the First State Bank of San Diego was held briefly yesterday in Judge Margarita Garza's County Court Law.

But the hearing had to be reset for 9 a.m. June 2 after Parr and the bank's legal representative John Adams filed a flurry of motions, the most prominent of which were two asking that the dispute be moved to Duval County.

Mrs. Bonnie White, administratrix of Jody Martin Parr's estate, filed the injunction claiming Parr sold 300 head of cattle which were part of her sister's estate and that the estate should share in the \$97,000 in proceeds.

Parr claims the cattle belonged to his late uncle, George B. Parr, and that the money was applied to a \$150,000 note owed to the First State Bank of San Diego.

Jody Martin Parr and the former county judge were in the midst of a complex and bitter divorce battle when she was found dead in her Corpus Christi townhouse in June, 1974. Her death was ruled a suicide.

Pope objected to Parr representing himself in the dispute since he had been represented by Corpus Christi attorney Oscar Spitz. But Parr was allowed to remain as his own attorney.

Both the bank and Parr filed motions contesting the jurisdiction of Garza in the matter, arguing that both bank and judge are residents of Duval County.

Measures to affect court here

AUSTIN — The House Judicial Affairs Committee has recommended passage of two bills dealing with the 13th Court of Civil Appeals based in Corpus Christi.

The recommended passage of SB 511 by Sen. Raul Longoria of Edinburg would let the appeals court hold sessions in the county seats of other counties located within the district.

Rep. L. DeWitt Hale of Corpus Christi, the House sponsor of the measure, said they plan to hold court sessions in Harlingen and Brownsville to hear cases that originate in the Lower Rio Grande Valley. He said they don't plan "to ride the circuit."

The committee also endorsed Hale's HB 873 to let Nueces County microfilm the records of the appeals court.

Corpus Christi roundup

Parr removal trial recessed

Only 3 of 19 witnesses show up

Corpus Christi Caller

Tues May 20, 75

Removal bid

Carrillo planning to attend hearing

RIO GRANDE CITY (AP) — District Court Judge O.P. Carrillo granted a recess Monday in the removal trial of suspended Duval County Judge Archer Parr when most of the witnesses declined to honor subpoenas.

Parr, a nephew of the late "Duke of Duval," George B. Parr, was suspended from office March 24 on an order by Carrillo after Dist. Atty. Arnulfo Guerra filed a suit against Parr alleging, among other things, that Parr had been convicted of a felony crime. The suit was later amended to include four allegations of official misconduct.

Carrillo granted the recess until June 9 when only three of 19 witnesses subpoenaed for the trial appeared. The others apparently used a seldom-used Texas law that says a person need not travel more than 100 miles from home to answer a subpoena in a civil suit.

The judge said he wondered if any attorney had advised the witnesses of the law since most people are not aware of that particular provision. Defense lawyers Marvin Foster and Nago Alaniz said they had not advised any witnesses.

Carrillo gave lawyers for both sides until June 9 to obtain depositions from the witnesses. Guerra indicated he would start to obtain the depositions soon.

The three witnesses who appeared for the trial were Duval Commissioner Juan Leal, County Atty. Ricardo Garcia

and a representative of the Duval auditor's office.

The trial was moved here from San Diego on a change of venue agreed to by both sides.

Carrillo said he feels it is "strange" that Parr would do anything to delay the proceedings since Parr went to the Texas Court of Civil Appeals to obtain a writ of mandamus, forcing Carrillo to start the trial no later than May 19.

Arguments on a defense motion to dismiss the suit were de-

layed because Guerra said he would need to call Parr as a witness for the court hearing on the motion to drop the suit.

Carrillo ordered the three witnesses who did appear Monday to again appear June 9 to testify. The sworn testimony given in the depositions will be read at that time, Guerra said.

Guerra claims Parr should be permanently removed from office because of a federal felony perjury conviction at San Antonio and because testimony in a divorce case indicated Parr received illegal

payments from Duval County.

He also alleges Parr failed to draw up a budget for the county, was involved in conflict of interest by serving on the Duval County Board of Equalization while serving as a private lawyer for property owners, obtained the use of county employes and county equipment for his personal use and that Parr was involved in conflict of interest through ownership of stock in the First State Bank of San Diego, the county's official depository for funds.

SAN DIEGO — Official notification of Tuesday night's hearing on a resolution seeking the removal of Dist. Judge O. P. Carrillo from office had not been received by Carrillo Monday night.

However, Judge Carrillo told the Caller Tuesday night "I certainly plan to be in Austin for the committee hearing and want to make myself available to the Legislature."

Rep. L. Dewitt Hale, chairman of a special House committee holding the hearing, notified Carrillo by telegram of the meetings and invited him to attend any of them.

The judge said he had not received formal notification of the meetings but understood from his attorney Arthur Mitchell that the telegram notifying him (Carrillo) had been sent by the committee.

Carrillo pointed out that there was no Western Union service in San Diego, where his office is located, or in Benavides, where he resides.

He said he did not know what the committee procedures were but would make himself available for questioning.

Hale told Carrillo in the telegram that "cross-examination of witnesses will not be permitted, since this is only an investigation and not a prosecution. Any evidence you care to present bearing on the inquiry will be welcome."

The resolution, if approved by the House, would direct Speaker Bill Clayton to name a five-member board of managers to investigate Carrillo's conduct and, if warranted, prepare articles of impeachment for consideration by the House.

It was introduced by Rep. Terry Canales, D-Premont, who was a pallbearer at the funeral of George Parr, and has served as attorney for Parr's nephew, Duval County Judge Archer Parr, whom Carrillo has tried to remove from office.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
V. § CRIMINAL NO. 75-C-45
 §
RAMIRO D. CARRILLO, §
O. P. CARRILLO §

MOTION FOR NEW TRIAL

TO THE HONORABLE JUDGE OF SAID COURT:

Come now the Defendants Ramiro D. Carrillo and O. P. Carrillo, by and through their attorneys of record in the above-entitled and numbered cause, and move this Court to set aside the verdict rendered against the Defendants herein on the 2nd day of October, A.D. 1975, and grant them a new trial for the following reasons:

1. The Court erred in denying Defendants' Supplementary Motion for Indefinite Continuance filed herein on or about the 25th day of June, 1975.
2. That during selection of the jury, the Court erred in omitting to fully interrogate prospective jurors with regard to their individual familiarity with various media reports concerning the Defendants and the political situation in Duval County in order to fully determine to what extent any prospective juror had any prejudice and/or bias against the Defendants or either of them, and to what extent any prospective juror had any prejudice and/or bias against Duval County or its elected officials generally. That the failure of the Court to fully interrogate prospective jurors in this regard precluded counsel for Defendants from intelligent exercise of challenges, preemptory, and for cause, denying unto the Defendants effective assistance of counsel and the right to trial by fair and impartial jury.
3. The Court erred in refusing to allow Defendants to consult with their attorneys except in writing and in refusing to allow

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the attorneys to consult with each other except in writing while the Court was in session throughout the first several days of the trial and up to 4:00 p.m. on the 12th day of September, 1975. Through such refusal, the Court denied the Defendants effective assistance of counsel as provided by the Sixth Amendment to the Constitution of the United States.

4. The Court erred in its refusal of Defendants' request for the production of information relative to audits of the Defendants' individual and partnership tax returns for the years 1968, 1969, and 1970.

5. The Court erred in admitting into evidence over timely objection by Defendants all evidence - documentary and verbal - relating to Arturo Zertuche and Zertuche General Store prior to the laying of a proper predicate for the admission of said evidence in the form of the showing of a connection between the Defendants herein and either Arturo R. Zertuche or Zertuche General Store.

6. The Court erred in excluding from evidence verbal testimony and documentary material offered by the Defendants relating to Hector Zertuche's ownership and connection with the entities of Benavides General Store, The General Store, and Zertuche General Store.

7. The Court erred in refusing to allow Defendants' attorneys, at the time requested, to make a record of the Defendants' evidence excluded by the Court, the Court postponing the making of a record until an undetermined time in the future, with the result that the Defendants were not permitted a reasonable time to make a record of the excluded evidence when the necessary witnesses were available and the matters to which the evidence related were fresh on the minds of the Defendants and their attorneys.

8. The Court erred in ruling that efforts to cross examine various Government witnesses were "beyond the scope of the direct

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examination" and by such rulings foreclosed cross examination by counsel for Defendants as to subject matters relevant to the credibility of the witnesses, depriving the jury of access to information bearing on the trustworthiness of crucial testimony. That the Court's rulings were so restrictive as to amount to a denial of the right to cross examine.

9. The Court erred in commenting in the presence of the jury that Defendants would have a chance to introduce certain evidence when they "put on their case," thus requiring Defendants in the eyes of the jury to present evidence and put on a case in contravention of Defendants' constitutional rights.

10. The Court erred in excluding from evidence and the consideration of the jury Defendants' exhibits 23 through 36 during the cross-examination of the Government witness Karl Williams.

11. The Court erred in the admission into evidence over timely objection of Defendants checks written on the account of Duval County and payable to Zertuche General Store prior to the laying of a proper predicate for the admission of said documents.

12. The Court erred in admitting into evidence over timely objection by Defendants claim vouchers submitted by Arturo Zertuche to Duval County.

13. The Court erred in refusing to permit attorneys for the Defendants to question the Government witnesses on voir dire in order to ascertain with particularity possible grounds for objections by the Defendants to Government exhibits introduced through said witnesses.

14. The Court erred in admitting into evidence over timely objection by Defendants checks written on the account of the Duval County Conservation and Reclamation District and payable to Zertuche General Store prior to the laying of a proper predicate for the admission of said documents.

15. The Court erred in admitting into evidence over the timely objection by Defendants checks written on the account of the City

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of Benavides and payable to Zertuche General Store prior to the laying of a proper predicate for the admission of said documents.

16. The Court erred in refusing to permit the attorneys for the Defendants to question the Government witness Rodolfo M. Couling on the subject of a statement made by John Blanton in the course of the August immunity negotiations between the witness Couling and Blanton having direct bearing upon the witness's understanding of the express or implied immunity which he was granted as a result of said negotiations.

17. The Court erred in denying Defendants' request for production of the "report" of the witness Blanton regarding immunity negotiations with Government witness Rodolfo M. Couling.

18. The Court erred in denying Defendants' request in the alternative for the production for in camera inspection by the Court of the "report" of the witness Blanton regarding immunity negotiations with Government witness Rodolfo M. Couling.

19. The Court erred in denying Defendants' request to seal and include in the record the "report" of the witness Blanton regarding immunity negotiations with Government witness Rodolfo M. Couling.

20. The Court erred in admitting into evidence over timely objection by Defendants checks written on the account of Benavides Independent School District and payable to Zertuche General Store prior to the laying of a proper predicate for the admission of said documents.

21. The Court erred in its refusal without a hearing of Defendants' repeated requests for the production of the names of confidential informants for the Government.

22. The Court erred in its denial of Defendants' in-trial motion for continuance or postponement based on the grounds of surprise occasioned the Defendants by the Government's introduction of evidence of which the Defendants had no notice in the form of checks payable to various entities and indorsed by George Zertuche, Jr.,

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Jose M. or N. Saenz, and others and by the shift in the Government's theory of prosecution as represented in the Government's responses to Defendants' pretrial motions and the Government's in-court representations.

23. The Court erred in admitting into evidence over objection any evidence - documentary or verbal - relating to Oliveira Implement Company and/or Benavides General Store prior to the laying of a proper predicate for the admission of said evidence in the form of the showing of a connection between the Defendants herein and Oliveira Implement Company and/or Benavides General Store.

24. The Court erred in permitting the Assistant United States Attorney to propound questions to witnesses, over timely objection by Defendants, designed to elicit testimony concerning the commission by Defendants of extraneous offenses against the State of Texas including but not limited to questions concerning alleged "illegitimate" sales to the governmental entities of Duval County.

25. The Court erred in admitting into evidence over timely objection of the Defendants verbal testimony relating to the commission by the Defendants and others of extraneous offenses against the State of Texas, including but not limited to evidence of alleged "illegitimate" sales made to the governmental entities of Duval County.

26. The Court erred in its refusal of Defendants' request for the production of the income tax returns of Rodolfo M. Couling for the years 1968, 1969, 1970, and 1971.

27. The Court erred in its refusal of the Defendants' request in the alternative for the production for in camera inspection by the Court of the income tax returns of Rodolfo M. Couling for the years 1968, 1969, and 1970.

28. The Court erred in its refusal of Defendants' request in the alternative to seal and include in the record the income

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tax returns of Rodolfo M. Couling for the years 1968, 1969, 1970, and 1971.

29. The Court erred in refusing the Defendants' request for the production of the income tax returns of Cleofas Gonzalez for the years 1968, 1969, and 1970.

30. The Court erred in refusing the Defendants' request in the alternative for the production for in camera inspection by the Court of the income tax returns of Cleofas Gonzalez for the years 1968, 1969, and 1970.

31. The Court erred in its refusal of the Defendants' request in the alternative to seal and include in the record the income tax returns of Cleofas Gonzalez for the years 1968, 1969, and 1970.

32. The Court erred in admitting into evidence over timely objection of the Defendants the testimony of Arturo R. Zertuche before the Federal Grand Jury for the Western District of Texas sitting in San Antonio on or about the 13 day of October, 1972.

33. The Court erred in admitting into evidence over timely objection of Defendants the testimony of Ramiro D. Carrillo before the Federal Grand Jury for the Western District of Texas sitting in San Antonio on or about the morning of the 10th day of October, 1972, which testimony was admitted without a hearing by the Court on the question of the voluntariness of the testimony as mandated by Lego v. Twomey, 404 U.S. 477, 10 Cr. L. 3057 (C.A.1, 1972).

34. The Court erred in admitting into evidence over timely objection of the Defendants the testimony of Ramiro D. Carrillo before the Federal Grand Jury for the Western District of Texas sitting in San Antonio on or about the afternoon of the 10th day of October , 1972, which testimony was given by Ramiro D. Carrillo at a time when his attorney was neither present nor in attendance and which testimony was admitted into evidence without a hearing

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before the Court on the question of the voluntariness of the testimony as mandated by Lego v. Twomey, supra.

35. The Court erred in admitting into evidence over timely objection by the Defendants testimony of Ramiro D. Carrillo before the Federal Grand Jury for the Western District of Texas sitting in San Antonio on or about the 15th day of January, 1973, which testimony was admitted without a hearing before the Court on the question of the voluntariness of said testimony as mandated by Lego v. Twomey, supra.

36. The Court erred in admitting into evidence over timely objection of the Defendants the verbal testimony of the Government witness Thomas E. Fonteccio to the extent that said testimony recounted statements made by the Defendants and their attorney Arthur Mitchell in the course of the Dallas conference on the subject of possible income tax violations by the Defendants.

37. The Court erred in admitting into evidence over timely objection of the Defendants the testimony of Government witness Culver as to the particulars of the conversation between Arturo R. Zertuche and himself on or about the 21st day of September, 1972.

38. The Court erred in admitting into evidence over timely objection of the Defendants the statement of Arturo R. Zertuche made in the presence of the Assistant United States Attorney Kelt and Special Agent Culver on or about the 17th day of April, 1975, which statement was made in the course of plea bargaining between the said Arturo R. Zertuche and the Assistant United States Attorney Kelt.

39. The Court erred in denying the attorneys for the Defendants the right to question the Government's summary witness Culver on the political basis of the investigation leading to the presentment of charges against these Defendants, which basis is reflected in page 9 of Special Agent Culver's report, Government's Tender No. 36.

40. The Court erred in admitting into evidence over timely objection by Defendants the charts and summaries prepared by others and offered through Government's summary witness, Special Agent Culver.

41. The Court erred in admitting into evidence such of the

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Government's exhibits as were admitted by the Court over the objections of the Defendants.

42. The Court erred in denying in its entirety Defendants' Motion for Judgment of Acquittal at the close of the prosecution's case, in that there was no evidence to support a finding that Ramiro D. Carrillo was a participant in the conspiracy charged in Count I of the indictment.

43. The Court erred in denying in its entirety Defendants' Motion for Judgment of Acquittal at the close of the prosecution's case, in that there was no evidence to support a finding that the conspiracy charged in Count I of the indictment continued subsequent to April of 1971.

44. The Court erred in its denial of Defendants' Motion to Quash and/or Dismiss in that the conspiracy charged against the Defendants in Count I of the indictment is barred by the statute of limitations applicable thereto, as indicated by the holding of U. S. v. Heinze, 361 F. Supp. 46 (D.C. Del. 1973) and the cases cited therein.

45. The Court erred in failing to allow Defendants and their attorneys sufficient opportunity to prepare for cross-examination of the Government witnesses, to prepare for the presentation of the Defendants' case, and to prepare necessary motions for the defense, the Court requiring the attorneys to proceed with the trial of the case into the evening hours on many days and on two of the three Saturdays during the course of the trial. Such action on the part of the Court, which placed an inordinate burden on counsel for the defense and which resulted in the inability of the fatigued jury to study and comprehend the defense theory and the exhibits of the Defendants, denied to the Defendants due process of law and

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effective representation of counsel under the Fifth and Sixth Amendments to the Constitution of the United States.

46. The Court erred in limiting the scope of Defendants' direct examination of witnesses to matters relating to the years 1968, 1969, and 1970.

47. The Court erred in refusing to admit into evidence such of Defendants' exhibits as the Court refused to admit into evidence over the objection of the attorneys for the Government.

48. The prosecution committed error in the questioning of the Defendants' witness Pete Saenz in the impermissible "isn't it true" form of questions designed to prejudice the Defendants in the eyes of the jury, which questions the prosecution knew or had reason to know would not be answered in the affirmative by the witness and which questions were not designed to elicit responsive answers to said questions.

49. The prosecution committed error in the cross-examination of Defendant Ramiro D. Carrillo by asking the Defendant questions relating to what the Defendant did not tell the Federal Grand Jury, said question ignoring the Defendant's constitutional right to remain silent during questioning by the Grand Jury. Further, said question precluded objection by counsel for the Defendant, as the effect of such an objection would have been to exacerbate the denial of the Defendant's constitutional privilege and to further prejudice the Defendant in the eyes of the jury.

50. The prosecution committed error through various acts of prosecutorial misconduct, including: (1) the failure of the prosecution to abide by the representations made in the Government's pretrial response as to the Government's prosecutorial theory and the evidence to be introduced by the Government in the trial of the case; and (2) the in-court and in camera statements by the Government attorneys as to the Government's involvement in the

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grant of immunity to the Government witness Rodolfo M. Couling.

51. The Court erred in denying Defendants' several motions for mistrial.

52. In light of the unusually lengthy charge of the Court, the Court erred in failing to allow Defendants' attorneys a reasonable time to study said charge prior to the time for objections thereon, thereby denying Defendants effective assistance of counsel in the making of adequate and specific objections to the charge of the Court.

53. The Court erred in including in the Court's charge to the jury such charges as were specifically objected to in the Defendants' formal objections to the charge of the Court.

54. The Court erred in excluding from the Court's charge to the jury such of the Defendants' Requested Instructions to the Jury as the Court failed to include in the charge of the Court.

WHEREFORE, PREMISES CONSIDERED, Defendants Ramiro D. Carrillo and O. P. Carrillo respectfully pray that the Court set aside the verdict rendered against them on or about the 2nd day of October, 1975, and grant them a new trial for the reasons set out above.

Respectfully submitted,

ARTHUR MITCHELL
JAN FOX
MITCHELL, GEORGE & BELT
315 Westgate Building
Austin, Tx. 78701

WILLIAM D. BONILLA
BONILLA, READ, NUTTO, BECKMON & BONILLA
2590 Morgan Ave.
Corpus Christi, Tx. 78405

RICHARD HAYNES
HAYNES & FULLENWEIDER
711 Fannin St., Suite 610
Houston, Tx. 77002

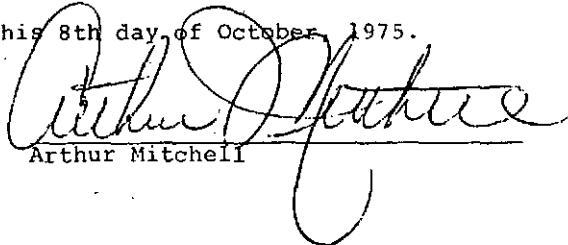
By 
Arthur Mitchell

By 
Richard Haynes

ATTORNEYS FOR DEFENDANTS

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I hereby certify that a true and correct copy of the above and foregoing Motion for New Trial has been forwarded to all attorneys of record herein, this 8th day of October, 1975.



Arthur Mitchell

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
V. § Criminal No. CR 75-C-45
 §
RAMIRO D. CARRILLO, §
O. P. CARRILLO AND §
ARTURO R. ZERTUCHE §

FIRST MOTION OF DEFENDANTS RAMIRO D. CARRILLO,
O. P. CARRILLO AND ARTURO R. ZERTUCHE TO TAKE
DEPOSITION

TO THE HONORABLE COURT:

Come now Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche, Defendants in the above numbered and entitled cause, and make this their First Motion To Take Deposition, and as grounds therefore would respectfully show the Court as follows:

I.

This Motion is made pursuant to 18 U.S.C.A. §3503 (1970). Due to exceptional circumstances, including those hereinafter stated specifically, it is in the interest of justice that the testimony of Octavio Saenz be taken and preserved.

II.

Octavio Saenz is a resident citizen of Benavides, Duval County, Texas, and is a prospective witness for the Defendants in the above numbered and entitled cause.

III.

Octavio Saenz is in the possession of information pertinent and material to the defense of the offenses charged in the Indictment in the above captioned cause; specifically, information concerning the financial

4-15
LR-111
EX. J-14a

00335

transactions of the Defendants and entities controlled by them with others, including Duval County, Benavides Independent School District and Duval County Water and Reclamation District.

IV.

Due to the recent felony conviction of the proposed witness in the cause styled United States v. Octavio Saenz and tried in Federal District Court, Octavio Saenz may be prevented from testifying in the trial of the present cause; and it is imperative to take his deposition to prevent a failure of justice.

V.

Further, circumstances including the present state of political strife in Duval County, the involvement of the Federal Bureau of Investigation, the State Attorney General's office, and the Internal Revenue Service therein, and the recent death of George B. Parr render it impossible to conduct orderly pretrial discovery without the protection of this Court. Due to such extraordinary and emergency conditions, Defendants assert the right to take the deposition of Octavio Saenz in the Federal District Court at Corpus Christi and under its protection.

VI.

WHEREFORE, Defendants pray that this Court order that the Defendants be permitted to take the deposition of Octavio Saenz in the Federal District Court at Corpus Christi under the protection of this Court and that Octavio Saenz be ordered to produce, at such time all books, documents, records, recordings, and other material in his possession as may relate to the financial transactions between any of the Defendants, or any of the entities listed in the Indictment, including employees thereof, with others, including Duval County, Benavides

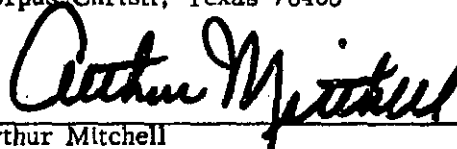
00336

Independent School District, and Duval County Water and Reclamation
District, for the years 1965 to date.

Respectfully submitted,

ARTHUR MITCHELL
Mitchell, George & Belt
315 Westgate Building
Austin, Texas 78701

WILLIAM DAVID BONILLA
P.O. Box 5427
Corpus Christi, Texas 78405

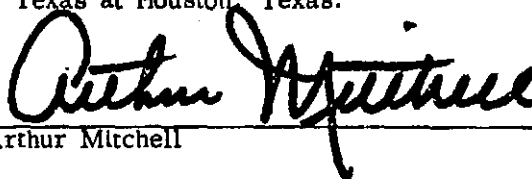


Arthur Mitchell

Attorneys for Defendants

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and
foregoing First Motion of Defendants To Take Deposition has this the
30th day of April, 1975 been sent to the United States District
Attorney for the Southern District of Texas at Houston, Texas.



Arthur Mitchell

00337

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
V. §
 § Criminal No. CR 75-C-45
RAMIRO D. CARRILLO, §
O. P. CARRILLO AND §
ARTURO R. ZERTUCHE §

ORDER RELATING TO DEFENDANTS'
FIRST MOTION TO TAKE DEPOSITION

On this date came to be considered the First Motion To
Take Deposition by Defendants Ramiro D. Carrillo, O. P. Carrillo,
and Arturo R. Zertuche, and the Court having considered the same
is of the opinion that said Motion should be _____:

It is therefore ORDERED that Defendants' First Motion To
Take Deposition is hereby in all things _____.

DATED: _____

JUDGE
United States District Court
Southern District of Texas

00338
IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA	§	
	§	
V.	§	
	§	Criminal No. CR 75-C-45
RAMIRO D. CARRILLO,	§	
O. P. CARRILLO AND	§	
ARTURO R. ZERTUCHE	§	

SECOND MOTION OF DEFENDANTS
RAMIRO D. CARRILLO, O. P. CARRILLO AND
ARTURO R. ZERTUCHE TO TAKE DEPOSITION

TO THE HONORABLE COURT:

Come now Ramiro D. Carrillo, O. P. Carrillo, and Arturo D. Zertuche, Defendants in the above numbered and entitled cause, and make this their Second Motion To Take Deposition, and as grounds therefore would respectfully show the Court as follows:

I.

This Motion is made pursuant to 18 U.S.C.A. §3503 (1970). Due to exceptional circumstances, including those hereinafter stated specifically, it is in the interest of justice that the testimony of Cleophis Gonzales be taken and preserved.

II.

Cleophis Gonzales is a resident citizen of Benavides, Duval County, Texas, and is a prospective witness for the Defendants in the above numbered and entitled cause.

III.

Cleophis Gonzales, having been for many years an employee of Farm and Ranch Supply and Zertuche General Store, is in the possession of information pertinent and material to the defense of the offenses charged in the Indictment in the above captioned cause; specifically,

information concerning the financial transactions, including sales, rentals and purchases, between the Defendants of entities controlled by them, and others, including Duval County, Benavides Independent School District, and Duval County Water and Reclamation District.

IV.

The prospective witness may be prevented from testifying in the trial of the present cause and it is imperative to take his disposition to prevent a failure of justice.

V.

Further, circumstances including the present state of political strife in Duval County, the involvement of the Federal Bureau of Investigation, the State Attorney General's office, and the Internal Revenue Service therein, and the recent death of George B. Parr render it impossible to conduct orderly pretrial discovery without the protection of this Court. Due to such extraordinary and emergency conditions, Defendants assert the right to take the deposition of Cleophis Gonzales in the Federal District Court at Corpus Christi and under its protection.

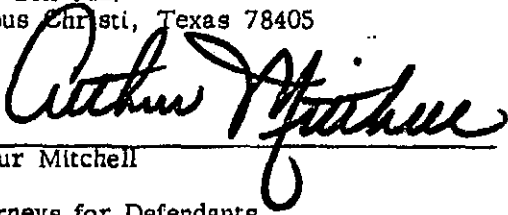
WHEREFORE, Defendants pray that this Court order that the Defendants be permitted to take the deposition of Cleophis Gonzales in the Federal District Court at Corpus Christi under the protection of this Court and that Cleophis Gonzales be ordered to produce at such time all books, documents, records, recordings, and other material in his possession, including copies of his individual income tax returns for the years 1965 through 1971, inclusive, as may relate to the financial transactions between any of the Defendants or any of the entities listed in the indictment, including employees thereof, and others, including Duval County, Benavides Independent School District, and Duval County Water and Reclamation District, for the years 1965 to date.

00340

Respectfully submitted,

ARTHUR MITCHELL
315 Westgate Building
Austin, Texas 78701

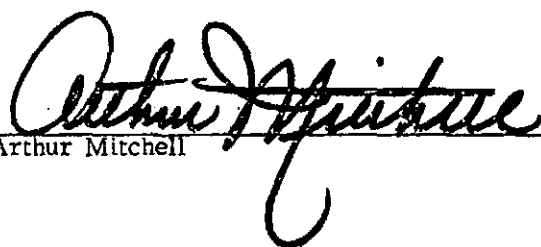
WILLIAM DAVID BONILLA
P.O. Box 5427
Corpus Christi, Texas 78405

By: 
Arthur Mitchell

Attorneys for Defendants

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing Second Motion To Take Deposition has been sent to the United States Attorney for the Southern District of Texas at Houston on this the 30th day of April, 1975.


Arthur Mitchell

00341

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
V. § Criminal No. CR 75-C-45
 §
RAMIRO D. CARRILLO, §
O. P. CARRILLO AND §
ARTURO R. ZERTUCHE §

ORDER RELATING TO DEFENDANTS'
SECOND MOTION TO TAKE DEPOSITION

On this date came to be considered the Second Motion To
Take Deposition by Defendants Ramiro D. Carrillo, O. P. Carrillo,
and Arturo R. Zertuche, and the Court having considered the same
is of the opinion that said Motion should be _____:

It is therefore ORDERED that Defendants' Second Motion To
Take Deposition is hereby in all things _____.

DATED: _____

JUDGE
United States District Court
Southern District of Texas.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
V. §
 § Criminal No. CR. 75-C-45
RAMIRO D. CARRILLO, §
O. P. CARRILLO AND §
ARTURO R. ZERTUCHE §

FOURTH MOTION OF DEFENDANTS
RAMIRO D. CARRILLO, O. P. CARRILLO,
AND ARTURO R. ZERTUCHE TO TAKE DEPOSITION

TO THE HONORABLE COURT:

Come now Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche, Defendants in the above numbered and entitled cause, and make this their Fourth Motion To Take Deposition, and as grounds therefor would respectfully show the Court as follows:

I.

This Motion is made pursuant to 18 U.S.C.A. §3503 (1970). Due to exceptional circumstances, including those hereinafter stated specifically, it is in the interest of justice that the testimony of a chosen representative of the governmental entity of Duval County be taken and preserved.

II.

Duval County, or a certain representative thereof is in the possession of information and records relating to the financial and commercial transactions between Duval County and Ramiro D. Carrillo, O. P. Carrillo, Arturo R. Zertuche, Farm and Ranch Supply, and/or Zertuche General Store during the years 1965 to date.

III.

Because the transactions between Duval County and Zertuche

00343

General Store form the basis of the pervasive offense of which Defendants are accused in the Indictment, the information and records in the possession of Duval County relating to all transactions between Duval County and any of the Defendants during the years 1965 to date are essential to the preparation of the defense in the above captioned cause.

IV.

Further, circumstances including the state of political strife in Duval County, the involvement of the Federal Bureau of Investigation, the State Attorney General's office, and the Internal Revenue Service therein, and the recent death of George B. Parr render it impossible to conduct orderly pretrial discovery without the protection of this Court. Due to such extraordinary and emergency conditions, Defendants assert the right to take the deposition of a chosen representative of the governmental entity of Duval County in the Federal District Court at Corpus Christi and under its protection.

WHEREFORE, PREMISES CONSIDERED, Defendants pray that this Court order that the Defendants be permitted to take the deposition of a representative of the governmental entity of Duval County in the Federal District Court at Corpus Christi under the protection of this Court and that the selected representative be ordered to produce at such time all books, documents, records, recordings, and other material in the possession of Duval County, including copies of purchases authorizations and cancelled checks, as may relate to the financial and commercial transactions between Duval County and Ramiro D. Carrillo, O. P. Carrillo, Arturo R. Zertuche, Farm and Ranch Supply, and/or Zertuche General Store for the years 1965 to date.

Respectfully submitted,

ARTHUR MITCHELL
315 Westgate Building
Austin, Texas 78701

00344

WILLIAM DAVID BONILLA
P.O. Drawer 5427
Corpus Christi, Texas 78405

By: Arthur Mitchell
Arthur Mitchell
Attorneys for Defendants

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing Fourth Motion of Defendants To Take Depositions has been sent to the United States Attorney for the Southern District of Texas at Houston, on this the 2nd day of May, 1975.

Arthur Mitchell
Arthur Mitchell

00345

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
V. §
 § Criminal No. CR. 75-C-45
RAMIRO D. CARRILLO, §
O. P. CARRILLO AND §
ARTURO R. ZERTUCHE §

ORDER RELATING TO DEFENDANTS'
FOURTH MOTION TO TAKE DEPOSITION

On this date came to be considered the Fourth Motion To
Take Deposition by Defendants Ramiro D. Carrillo, O. P. Carrillo,
and Arturo R. Zertuche, and the Court having considered the same
is of the opinion that said Motion should be _____.

It is therefore ORDERED that Defendants' Fourth Motion To
Take Deposition is hereby in all things _____.

DATED: _____

JUDGE
United States District Court
Southern District of Texas.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
V. §
 § Criminal No. CR. 75-C-45
RAMIRO D. CARRILLO, §
O. P. CARRILLO AND §
ARTURO R. ZERTUCHE §

FIFTH MOTION OF DEFENDANTS
RAMIRO D. CARRILLO, O. P. CARRILLO
AND ARTURO R. ZERTUCHE TO TAKE DEPOSITION

TO THE HONORABLE COURT:

Come now Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche, Defendants in the above numbered and entitled cause, and make this their Fifth Motion To Take Deposition, and as grounds therefor would respectfully show the Court as follows:

I.

This Motion is made pursuant to 18 U.S.C.A. §3503 (1970). Due to exceptional circumstances, including those hereinafter stated specifically, it is in the interest of justice that the testimony of a chosen representative of the entity of the Benavides Independent School District be taken and preserved.

II.

The Benavides Independent School District or a certain representative thereof is in the possession of information and records relating to the financial and commercial transactions between the Benavides Independent School District and Ramiro D. Carrillo, O. P. Carrillo, Arturo R. Zertuche, Farm and Ranch Supply, and/or Zertuche General Store during the years 1965 to date.

00347

III.

Because the transactions between the Benavides Independent School District and Zertuche General Store form the basis of the pervasive offense of which Defendants are accused in the Indictment, the information and records in the possession of the Benavides Independent School District relating to all transactions between the Benavides Independent School District and any of the Defendants during the years 1965 to date are essential to the preparation of the defense in the above captioned cause.

IV.

Further, circumstances including the state of political strife in Duval County, the involvement of the Federal Bureau of Investigation, the State Attorney General's office, and the Internal Revenue Service therein, and the recent death of George B. Parr render it impossible to conduct orderly pretrial discovery without the protection of this Court. Due to such extraordinary and emergency conditions, Defendants assert the right to take the deposition of a chosen representative of the entity of Benavides Independent School District in the Federal District Court at Corpus Christi and under its protection.

WHEREFORE, PREMISES CONSIDERED, Defendants pray that this Court order that the Defendants be permitted to take the deposition of a representative of the entity of the Benavides Independent School District in the Federal District Court at Corpus Christi under the protection of this Court and that the selected representative be ordered to produce at such time all books, documents, records, recordings, and other material in the possession of Benavides Independent School District, including copies of purchase authorizations and cancelled checks, as may relate to the financial and commercial transactions between the

00348

Benavides Independent School District and Ramiro D. Carrillo, O. P.
Carrillo, Arturo R. Zertuche, Farm and Ranch Supply, and/or
Zertuche General Store for the years 1965 to date.

Respectfully submitted,

ARTHUR MITCHELL
315 Westgate Building
Austin, Texas 78701

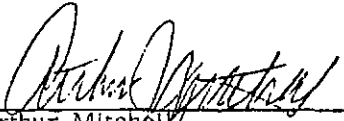
WILLIAM DAVID BONILLA
P.O. Drawer 5427
Corpus Christi, Texas 78405

By: 
Arthur Mitchell

Attorneys for Defendants

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above
and foregoing Fifth Motion of Defendants To Take Deposition has
been sent to the United States Attorney for the Southern District of
Texas at Houston, Texas, on this the 2nd day of May, 1975.


Arthur Mitchell

00349

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
V. §
 § Criminal No. CR. 75-C-45
RAMIRO D. CARRILLO, §
O. P. CARRILLO AND §
ARTURO R. ZERTUCHE §

ORDER RELATING TO DEFENDANTS'
FIFTH MOTION TO TAKE DEPOSITION

On this date came to be considered the Fifth Motion To Take
Deposition by Defendants Ramiro D. Carrillo, O. P. Carrillo, and
Arturo D. Zertuche, and the Court having considered the same is
of the opinion that said Motion should be _____.

It is therefore ORDERED that the Defendants' Fifth Motion
To Take Deposition is hereby in all things _____.

DATED: _____

JUDGE
United States District Court
Southern District of Texas.

00350

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
V. §
 § Criminal No. CR. 75-C-45
RAMIRO D. CARRILLO, §
O. P. CARRILLO, AND §
ARTURO R. ZERTUCHE §

SIXTH MOTION OF DEFENDANTS
RAMIRO D. CARRILLO, O. P. CARRILLO
AND ARTURO R. ZERTUCHE TO TAKE DEPOSITION

TO THE HONORABLE COURT:

Come now Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche, Defendants in the above numbered and entitled cause, and make this their Sixth Motion To Take Deposition, and as grounds therefor would respectfully show the Court as follows:

I.

This Motion is made pursuant to 18 U.S.C.A. §3503 (1970). Due to exceptional circumstances, including those hereinafter stated specifically, it is in the interest of justice that the testimony of a chosen representative of the entity of Duval County Water and Reclamation District be taken and preserved.

II.

The Duval County Water and Reclamation District, or a certain representative thereof is in the possession of information and records relating to the financial and commercial transactions between the Duval County Water and Reclamation District and Ramiro D. Carrillo, O. P. Carrillo, Arturo R. Zertuche, Farm and Ranch Supply, and/or Zertuche General Store during the years 1965 to date.

00351

III.

Because the transactions between the Duval County Water and Reclamation District and Zertuche General Store form the basis of the pervasive offense of which Defendants are accused in the Indictment, the information and record in the possession of the Duval County Water and Reclamation District relating to all transactions between the Duval County Water and Reclamation District and any of the Defendants during the years 1965 to date are essential to the preparation of the defense in the above captioned cause.

IV.

Further, circumstances including the state of political strife in Duval County, the involvement of the Federal Bureau of Investigation, the State Attorney General's office, and the Internal Revenue Service therein, and the recent death of George B. Parr render it impossible to conduct orderly pretrial discovery without the protection of this Court. Due to such extraordinary and emergency conditions, Defendants assert the right to take the deposition of a chosen representative of the entity of the Duval County Water and Reclamation District in the Federal District Court at Corpus Christi and under its protection.

WHEREFORE, PREMISES CONSIDERED, Defendants pray that this Court order that the Defendants be permitted to take the deposition of a representative of the entity of the Duval County Water and Reclamation District in the Federal District Court at Corpus Christi under the protection of this Court and that the selected representative be ordered to produce at such time all books, documents, records, recordings, and other material in the possession of the Duval County Water and Reclamation District, including copies of purchase authorizations and cancelled checks, as may relate to the financial and commercial transactions between the Duval County Water and Reclamation District and Ramiro D.

00352

Carrillo, O. P. Carrillo, Arturo R. Zertuche, Farm and Ranch
Supply, and/or Zertuche General Store for the years 1965 to date.

Respectfully submitted,

ARTHUR MITCHELL
315 Westgate Building
Austin, Texas 78701

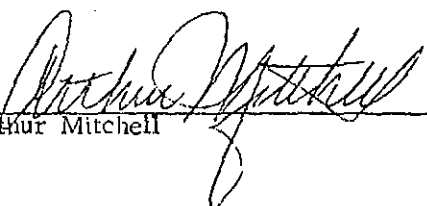
WILLIAM DAVID BONILLA
P.O. Drawer 5427
Corpus Christi, Texas 78405

By: 
Arthur Mitchell

Attorneys for Defendants

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above
and foregoing Sixth Motion of Defendants To Take Deposition has been
sent to the United States Attorney for the Southern District of Texas
at Houston, Texas, on this the 7th day of May, 1975.


Arthur Mitchell

00353

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
V. §
 § Criminal No. CR. 75-C-45
RAMIRO D. CARRILLO, §
O. P. CARRILLO, AND §
ARTURO R. ZERTUCHE §

ORDER RELATING TO DEFENDANTS'
SIXTH MOTION TO TAKE DEPOSITION

On this date came to be considered the Sixth Motion To Take Deposition by Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche, and the Court having considered the same is of the opinion that said Motion should be _____.

It is therefore ORDERED that Defendants' Sixth Motion To Take Deposition is hereby in all things _____.

DATED: _____

JUDGE
United States District Court
Southern District of Texas.

00354

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA

V. § Criminal No. 75-C-45

RAMIRO D. CARRILLO, O. P.
CARRILLO, ARTURO R. ZERTUCHE

MOTION BY DEFENDANT ARTURO R. ZERTUCHE
FOR EXTENSION OF TIME TO FILE AMENDED MOTION
TO QUASH AND/OR DISMISS INDICTMENT

TO THE HONORABLE COURT:

Comes now Arturo R. Zertuche, Defendant in the above cause, and makes this his Motion For Extension of Time in which to file Amended Motion to Quash and/or Dismiss Indictment, and as grounds therefore would show the Court as follows:

I.

The case at bar is complex and has been under investigation by the United States Government for a period of several years. The Defendant has not yet had sufficient time to research the case and to determine all grounds for quashal of the indictment herein. The Motions and briefs in support thereof are anticipated to be lengthy and complex. Local counsel, Mr. William D. Bonilla, was employed subsequent to the arraignment herein. In order to provide Defendant the effective assistance of counsel, it is necessary that more time be allowed for preparation and filing of the Motion To Quash. The requirement of certain Federal Rules of Criminal Procedure that Motions be filed within ten (10) days after arraignment does not allow sufficient time for preparation of all necessary motions in proper form.

Defendants represent that they should be allowed a period of

00355

fifteen (15) days from and after Monday, April 28, 1975 in which to file a Motion to Quash and/or Dismiss Indictment.

WHEREFORE, PREMISES CONSIDERED, Defendant Arturo R. Zertuche, joined with their attorney, pray the Court to set this Motion for hearing and upon hearing the same, that the Court rule that the foregoing Motion be in all things granted.

Respectfully submitted,

ARTHUR MITCHELL
315 Westgate Building
Austin, Texas 78701

WILLIAM D. BONILLA
P.O. Drawer 5427 - 2590 Morgan
Corpus Christi, Texas 78405

By: _____
Arthur Mitchell

Attorneys for Defendant,
Arturo R. Zertuche

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Motion to Quash and/or Dismiss Indictment has been forwarded to the United States Attorney for the Southern District of Texas at Houston, Texas on this the _____ day of May, 1975.

Arthur Mitchell

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
V. §
 § Criminal No. CR 75-C-45
RAMIRO D. CARRILLO, §
O. P. CARRILLO, AND §
ARTURO R. ZERTUCHE §

ORDER RELATING TO DEFENDANT'S MOTION FOR
EXTENSION OF TIME TO FILE AMENDED MOTION
TO QUASH AND/OR DISMISS INDICTMENT

On this date came to be considered the Motion For Extension
of Time to File Amended Motion to Quash and/or Dismiss Indictment
by Defendant Arturo R. Zertuche, and the Court having considered the
same is of the opinion that said Motion should be _____:

It is therefore ORDERED that Defendant's Motion for Extension
of Time to File Amended Motion to Quash and/or Dismiss Indictment
is hereby in all things _____.

DATED: _____.

JUDGE
United States District Court
Southern District of Texas

00357

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA

V.

§ Criminal No. 75-C-45

RAMIRO D. CARRILLO, O. P.
CARRILLO, ARTURO R. ZERTUCHE

FIRST MOTION TO QUASH AND/OR DISMISS INDICTMENT

TO THE HONORABLE JUDGE OF SAID COURT:

Now comes Arturo R. Zertuche, Defendant in the above styled and numbered cause, and files this his First Motion to Quash and/or Dismiss Indictment and will show the Court the following:

I.

The allegations set forth in Counts One through Twelve as to the Defendant herein are broad, general and vague and without particularity so that the Defendant cannot adequately and properly prepare for trial.

II.

The indictment does not state facts sufficient to constitute an offense by the Defendant herein against the United States.

III.

Each Count of the indictment charges the Defendant with the commissions of the same offense in such a manner that Defendant could be convicted twice for the same offense.

WHEREFORE, PREMISES CONSIDERED, Defendant prays that the Court Quash and/or Dismiss the indictment herein and that the offenses charged against Defendant therein be dismissed.

Respectfully submitted, this the _____ day of May, 1975, at the

00358

Corpus Christi Division of the Southern District of Texas.

Respectfully submitted,

ARTHUR MITCHELL
315 Westgate Building
Austin, Texas 78701

WILLIAM D. BONILLA
P.O. Drawer 5427 - 2500 Morgan
Corpus Christi, Texas 78405

By: _____
Arthur Mitchell

Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Motion To Quash and/or Dismiss Indictment has been forwarded to the United States Attorney for the Southern District of Texas at Houston, Texas on this the 6th day of May, 1975.

Arthur Mitchell

00359

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
V. § Criminal No. CR 75-C-45
 §
RAMIRO D. CARRILLO, §
O. P. CARRILLO AND §
ARTURO R. ZERTUCHE §

ORDER RELATING TO DEFENDANT'S FIRST MOTION TO
QUASH AND/OR DISMISS INDICTMENT

On this date came to be considered the First Motion To Quash
and/or Dismiss Indictment by Defendant Arturo R. Zertuche, and the
Court having considered the same is of the opinion that said Motion
should be _____.

It is therefore ORDERED that Defendant's First Motion To
Quash and/or Dismiss Indictment is hereby in all things _____.

DATED: _____

JUDGE
United States District Court
Southern District of Texas

00360

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
§
V. §
§ CRIMINAL NO. CR. 75-C-45
RAMIRO D. CARRILLO, §
O. P. CARRILLO AND §
ARTURO R. ZERTUCHE §

SUPPLEMENTARY MOTION TO QUASH
AND/OR DISMISS INDICTMENT

TO THE HONORABLE COURT:

Now comes Arturo R. Zertuche, Defendant in the above styled and numbered cause, and files this his Supplementary Motion To Quash and/or Dismiss Indictment and in support thereof would show the Court the following:

I.

By its Answer To First Motion Of Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche For Bill of Particulars the Government admits that the Indictment against the Defendants does not charge an offense against the Defendants, individually or collectively, under either 26 U.S.C.A. 7206(1) or under 18 U.S.C.A. 371. For these offenses specific intents on the part of an accused to misrepresent to the United States Government a material item on an income tax return and to conspire to misrepresent a material item on an income tax return or to conspire to defraud the United States Government in the lawful functioning of its administrative processes is required. In its Answer To Defendants' Motion For Bill Of Particulars, Section III, page 5, paragraph 1, the Government admits that the alleged purpose of the

00361

Defendants in establishing the Zertuche General Store was not to defraud the United States Government or to misrepresent material items on the Defendants' individual and partnership tax returns by the following clear statement of the alleged purpose of the Defendants:

"The indictment alleges in clear and specific terms that the so called Zertuche General Store was a sham used by Ramiro D. Carrillo and O. P. Carrillo to make sales to various Government entities to which they were prohibited making by State law since they were in fact public officials."
[Emphasis added.]

By the Government's own admission, the indictment charges an intent on the part of the Defendants to commit an offense against the State of Texas and negates the intent on the part of the Defendants to establish the Zertuche General Store in order to defraud the United States Government in the assessment and collection of income taxes. The negation of the specific intent on the part of Defendants to commit the offenses alleged under 26 U.S.C.A. 7206(1) and 18 U.S.C.A. 371 results in the failure of the indictment to charge an offense under either statute and is grounds for quashal or dismissal of the indictment against all Defendants.

II.

Further, given the Government's admission as to the indictment's allegation of the purpose of the Defendants in the establishment of the Zertuche General Store, to wit, the setting up of a separate store controlled by the Defendants Ramiro D. Carrillo and O. P. Carrillo in order to make sales directly to governmental entities, the question of the correct manner of reporting the income from such a second store becomes a close question of income tax law; and an error as to the correct manner of reporting such income cannot be made the basis of a criminal indictment.

WHEREFORE, PREMISES CONSIDERED, Defendant prays that this Court set a date on which a hearing on the above Motion may be

00362

had and that, upon hearing of said Motion, the Court order that the Indictment herein be Quashed and/or Dismissed and that the offenses charged against Defendants therein be dismissed.

Respectfully submitted,

ARTHUR MITCHELL
315 Westgate Building
Austin, Texas 78701

WILLIAM DAVID BONILLA
P.O. Drawer 5427
Corpus Christi, Texas 78504

By: 
Arthur Mitchell

Attorneys for Defendants

A true and correct copy of the above and foregoing Supplementary Motion To Quash and/or Dismiss Indictment has been sent to the United States Attorney for the Southern District of Texas on this the 27th day of May, 1975.


Arthur Mitchell

00363

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
§
V. §
§ CRIMINAL NO. 75-C-45
RAMIRO D. CARRILLO, §
O. P. CARRILLO AND §
ARTURO R. ZERTUCHE §

ORDER RELATING TO DEFENDANT'S SUPPLEMENTARY
MOTION TO QUASH AND/OR DISMISS INDICTMENT

On this date came to be considered the Supplementary Motion
To Quash and/or Dismiss Indictment by Defendant Arturo R. Zertuche,
and the Court having considered the same is of the opinion that said
Motion should be _____:

It is therefore ORDERED that Defendant's Supplementary Motion
To Quash and/or Dismiss Indictment is hereby in all things _____.

DATED: _____

JUDGE
United States District Court
Southern District of Texas

00364

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

= 5
David

UNITED STATES OF AMERICA §
V. § CRIM. NO. 75-C-45
RAMIRO CARRILLO, ET AL §

MOTION TO DISMISS INDICTMENT,
TOTAL (3RD SUPPLEMENT)

TO THE HONORABLE JUDGE OF SAID COURT:

Come now Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo Zertuche and file their Motion to Dismiss Indictment, Total (3rd Supplement) and in support thereof allege as follows:

I.

Defendants incorporate herein for all purposes (1) Supplementary Motion of the Defendants to Dismiss and Motion in Alternative for Indefinite Continuance; (2) Defendants' Request for Bill of Particulars; (3) Government's Response thereto; (4) Defendants' First, Second, Third Motions for Discovery; (5) Government's First, Second, Third Motions for Discovery; (5) Government's Responses thereto; (6) Defendants' First, Second Motions in Limine; (7) Government's Responses thereto.

II.

Defendants specifically note, for emphasis (1) the structure of the indictment herein and that it is cast under 18 U.S.C.A. 371 (Conspiracy) and 26 U.S.C.A. 7206(1) (not, 26 U.S.C.A. 7201); (2) Government's Response to Bill of Particulars, and specifically admissions contained in paragraph 9, page 2; paragraphs 10, 19, page 3; paragraph 21, 25, 26, 27, 35, page 4; paragraph III, page 5, subparagraphs 1, 3; (3) Government's Response to Defendants' Fourth Motion for Discovery, and specifically, statements and/or admissions contained page 1, paragraph I, subparagraphs 1, 3, 4, and 5; page 2, paragraph II; (4) Government's Response to

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Defendants' First Motion in Limine, and specifically statements and/or admissions contained page 2, Response to Defendants' paragraphs 3, 4, 5; (5) Government's Response to Defendants' Second Motion in Limine, and specifically statements and/or admissions contained page 2, paragraph I, Response to Defendants' paragraph 2; (6) Government's Response to Defendants' First Motion in Limine, and specifically statements and/or admissions contained page 1, paragraph I; page 2, paragraph II; (7) Government Motion for Determination of Conflict of Interest, and specifically statements and/or admissions contained in pages 2 and 3, paragraph I, subparagraphs 4 and 5; (8) Government's Response to Defendants' First Motion for Continuance, and specifically statements and/or admissions contained in pages 1 and 2, paragraph I.

III.

This record reflects a partnership existing between Defendants O. P. and Ramiro Carrillo, d/b/a Farm & Ranch from early 1960's; this uncontroverted record reflects information partnership returns filed for this entity for the entire span of its lifetime. This record reflects individual returns from Farm & Ranch partnership-information returns to individual returns). The record before this Court indicates the establishment of General Store by Hector Zertuche about 1965, with the profit and loss therefrom reported on Schedule C of his individual returns throughout the life of this store. The Hector Zertuche General Store was phased out, and (Arturo) Zertuche General Store took its place January, 1967.¹ Arturo Zertuche's tax returns (Schedule C) reported income from profit and loss from January, 1967 to December 31, 1970, at which time its existence was terminated (as all parties agree).

¹Hector is not a defendant; Arturo is.

00366

IV.

The (Arturo) Zertuche store maintained a physical location, store tax, internal audit and accounting control, inventory, sales slips, and made about 100% of its sales to the various governmental agencies in the Duval County, Texas, area. During the same period of its existence, Defendants O. P. and Ramiro Carrillo were (and continued to be) county officials, either District Judge, County Commissioner, County Attorney, etc., within the provisions of Article 373 old P.C. and Article 2364, V.A.C.S., among others.

V.

Texas law forbade public officials from engaging in any business activity with the various governmental agencies. Farm & Ranch sold supplies and goods to the general public as well as merchandise to Zertuche store, for sale by Zertuche to the various governmental agencies. Zertuche store would deposit sales proceeds to its own account, remit to Farm & Ranch cost of merchandise sold that happened to have been purchased from Farm & Ranch, all entitles reporting gross sales, cost of sales, gross profit and net profit as well as taxable income.²

VI.

It is clear that Zertuche General Store had a substantial business purpose, wholly apart from Federal income taxes, for creating a separate entity to engage in the merchandise business with the various governmental agencies of Duval County, Texas.

²The record reflects that there are integrated in the Carrillo tax reporting structure the appropriate and applicable tax returns for the years 1964 through and including 1975, for O. P. Carrillo, individually; Ramiro Carrillo, individually; Arturo Zertuche, individually; Hector Zertuche, individually; Ramiro Carrillo and Brothers, partnership return; Farm and Ranch, partnership return; Schedule C, Profit and Loss on the Hector and/or Arturo Zertuche individual tax return, from 1965 to 1971.

00367

The Government's admission that its creation is a sham, created for the purpose of doing business with the county, is a legal non sequitur. It is either a sham, created to avoid taxes³ thereby creating criminal responsibility, or it is not a sham, but created for a substantial business purpose⁴ thereby not creating criminal responsibility. Here the Government agrees with Defendants to the facts, that is, that the creation of Zertuche General Store was as a sole proprietorship to engage in the merchandise business, rather than use the Farm & Ranch vehicle for that purpose, because state law forbade public officials to engage in business directly with the various entities (there being here at least a serious question in the early days of the businesses of the propriety of the various Defendants engaging in business with the various entities). The Farm & Ranch partnership did engage in the general nongovernmental merchandise business; the Zertuche General Store did engage in the general governmental merchandise business.⁵

³U. S. v. Klein, 139 F. Supp. 135, 247 F. 2nd 980.

⁴Campbell County State Bank v. Commissioner, 37 T. C. 46, 304 F. 2nd 883, (8th Cir., 1962), reversed on other grounds 311 F. 2nd 374 (8th Cir. 1963); Molina Properties v. Commissioner, 63 S. Ct. 1132, 319 U.S. 436 (1943); Nat'l. Carbide Corp. v. C.I.R., 69 S. Ct. 726, 336 U.S. 422 (1949).

⁵Briggs-Killian Co., 40 B.T.A. 895 (1939) holds that individual undertakings (Zertuche General Store) held to same test as corporations (Campbell County State Bank case).

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VII.

Defendants move for dismissal of indictment, prior to trial; therefore, here, for the posture of the record is much as in a summary judgment case, that is, that both the Government and the Defendants agree to the facts, and those facts do not show as a matter of law the commission of an offense against the laws of the U. S. and those facts show positively that no offense as charged in the indictment was committed by the Defendants.

VIII.

The Defendants move under the express provisions of Federal Rules of Criminal Procedure (Rule 12) as well as general rules governing for the appropriate remedy of dismissal of indictment against them for the reasons set out herein. Wright, Federal Practice and Procedure, Vol. 1, 394-422.⁶

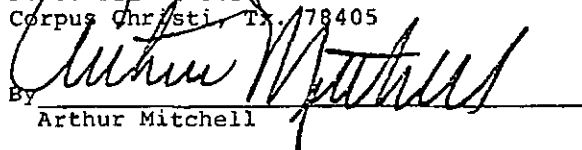
WHEREFORE, PREMISES CONSIDERED, Defendants pray their Motion to Dismiss Indictment be granted in all things and for all other relief to which they are entitled.

⁶ It is submitted that the Government now recognizes that the indictment herein should be dismissed (see references in paragraphs I, II, above), but now intends to convert the present case from the 7206(1), sham, to a 7206(1) failure to report (which it cannot do at this late stage) or to a 7206(1), with 7201 back stop or a 7206(1) with a nonspecific deposit and/or reporting back stop, all of which may be proper in the event of reindictment, but not proper under the present case, without doing violence to all the pretrial admissions and revelations, as well as the total destruction of the rights of substantive and/or procedural due process to which Defendants are entitled under the U. S. Constitution.

Respectfully submitted,

ARTHUR MITCHELL
MITCHELL, GEORGE & BELT
315 Westgate Building
Austin, Tx. 78701

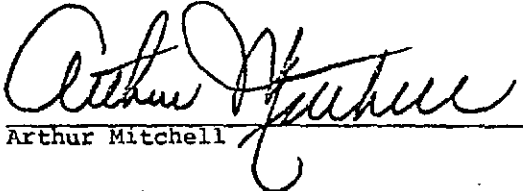
WILLIAM D. BONILLA
BONILLA, READ, NUTTO, BECKMON & BONILLA
P. O. Drawer 5427
Corpus Christi, Tx. 78405

By 
Arthur Mitchell

ATTORNEYS FOR DEFENDANTS.

00369

A true and correct copy of the above and foregoing Motion
to Dismiss Indictment, Total (3RD Supplement) has been forwarded
to Mr. George Kelt, U. S. Attorney's Office, Houston, Texas,
this 26 day of August, 1975.


Arthur Mitchell

00370

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
V. §
 § Criminal No. CR. 75-C-45
RAMIRO D. CARRILLO, §
O. P. CARRILLO, AND §
ARTURO R. ZERTUCHE §

FIRST MOTION OF DEFENDANTS
RAMIRO D. CARRILLO, O. P. CARRILLO, AND
ARTURO R. ZERTUCHE FOR CONTINUANCE

TO THE HONORABLE COURT:

Now come Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche, Defendants in the above entitled and numbered cause, and make this their First Motion For Continuance and in support thereof would respectfully show the Court as follows:

I.

This motion is made pursuant to Rule 50, Federal Rules of Criminal Procedure.

II.

The Indictment of Defendants in the above captioned cause was filed in the Federal District Court on or about March 28, 1975, but remained under seal until April 10, 1975, or thereabouts.

III.

Arraignment of Defendants took place in the Federal District Court in Corpus Christi on or about April 18, 1975.

IV.

Defendants, with the exception of Arturo R. Zertuche, were given until April 28, 1975 in which to file all pretrial motions. Defendant Arturo R. Zertuche was given until May 8, 1975 in which to file all

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of his pretrial motions.

V.

All Defendants in the above captioned cause have requested by motion leave to file additional pretrial motions. No disposition has yet been made either of the Motion For Leave To File Additional Motions or of Defendants' Request For A Pretrial Conference and hearing on the above and other motions.

VI.

The trial of the above entitled and numbered cause has been set for June 30, 1975.

VII.

The trial of the above captioned cause promises to be lengthy and complicated, necessitating orderly and complete pretrial discovery and preparation. Adequate preparation of the defense will involve the obtaining and careful study of records of the financial transactions of the Defendants over a period of some twelve years. To date, Defendants have requested a Bill of Particulars setting out the specific tax offenses with which Defendants are charged and extensive discovery of materials necessary to the preparation of the defense. Given the complicated nature of the cause and the necessity for a complete compilation of all available data relevant to the Defendants' financial transactions over the period of twelve years, Defendants will be unable to prepare a full and adequate defense by the time set for trial of the above captioned cause; and asserting their Constitutional right to counsel, Defendants therefore request a continuance of this cause until a later date.

VIII.

This Motion is not presented for purposes of delay, but is

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presented to the Court for the purpose of securing a continuance in order to permit a full and complete preparation for trial so that Defendants may have adequate representation by counsel and so that this cause may be tried in an orderly and expeditious manner.

WHEREFORE, PREMISES CONSIDERED, Defendants respectfully move the Court to continue this cause until a later date which will permit adequate preparation of the defense.

Respectfully submitted,

ARTHUR MITCHELL
315 Westgate Building
Austin, Texas 78701

WILLIAM DAVID BONILLA
P.O. Drawer 5427
Corpus Christi, Texas 78405

By: 
Arthur Mitchell

Attorneys for Defendants

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing First Motion of Defendants For Continuance has been sent to the United States Attorney for the Southern District of Texas at Houston on this the 12th day of May, 1975.


Arthur Mitchell

00373

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
V. §
 § Criminal No. CR. 75-C-45
RAMIRO D. CARRILLO, §
O. P. CARRILLO, AND §
ARTURO R. ZERTUCHE §

ORDER RELATING TO DEFENDANTS'
FIRST MOTION FOR CONTINUANCE

On this date came to be considered the First Motion For
Continuance by Defendants Ramiro D. Carrillo, O. P. Carrillo,
and Arturo R. Zertuche, and the Court having considered the
same is of the opinion that said Motion should be _____.

It is therefore ORDERED that Defendants' First Motion
For Continuance is hereby in all things _____.

DATED: _____

JUDGE
United States District Court
Southern District of Texas

00374

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
V. § CRIMINAL NO. 75-C-45
 §
RAMIRO D. CARRILLO, §
O. P. CARRILLO, AND §
ARTURO R. ZERTUCHE §

SUPPLEMENTARY MOTION OF THE DEFENDANTS RAMIRO D. CARRILLO,
O. P. CARRILLO, AND ARTURO R. ZERTUCHE FOR CONTINUANCE

TO THE HONORABLE COURT:

Come now Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche, Defendants in the above-entitled and numbered cause, and make this their Supplementary Motion for Continuance and in support thereof would respectfully show the Court as follows:

I.

On or about the 1st of May, 1975, the Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche filed their First Motion for Continuance in the above-entitled and numbered cause, which Motion this Court, upon hearing of said Motion on the 16th of May, 1975, tentatively indicated it would grant.

II.

Since the filing of Defendants' First Motion for Continuance and the hearing thereon, subsequent events arising without notice and without the constitutional due process protections have occurred rendering a continuance of the trial of Defendants in the above-entitled and numbered cause imperative. On or about the 19th of May, 1975, the Defendant O. P. Carrillo received a telegram (attached hereto) giving notice of H.S.R. 161 (attached hereto) and the convening of a House Select Committee on Impeachment the next day at 8:00 p.m. to consider impeachment charges proffered against the Defendant O. P. Carrillo, in his office as District Judge of the 229th Judicial District.

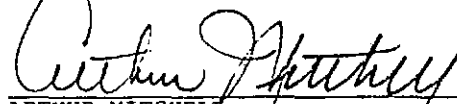
00375

III.

The House Select Committee on Impeachment convened from 8:00 p.m. on the 20th of May, 1975; until 12:30 a.m. the 21st of May, 1975; convened again from 8:00 p.m. to 12:30 a.m. the next evening; convened from 7:30 p.m. to 2:00 a.m. the following evening; and convened from 7:30 p.m. to 12:30 a.m. the next evening. The Defendant O. P. Carrillo and his attorney have been in constant attendance at this impeachment proceeding involving not only the subject matter of H.S.R. 161 but also uncorroborated and unnoticed accusations varying from the unauthorized use of backhoes and cement belonging to Duval County to the illegal use of food stamps to procure food for his personal household. The proceedings before the House Select Committee is substantial and affects substantial property rights; and the attorney for the Defendants will not be prepared to present his defense in the trial of the cause before this Court at the date presently set because the proceedings before the Committee threaten to continue the balance of this month, next month, and perhaps into a long trial before the Senate, to include and encompass the same subject matter the the attorney for the Defendants will be called upon to try on June 30, 1975, presenting testimony of witnesses identical to those testifying in the June 30 trial, and to continue indefinitely until the matter can be resolved.

WHEREFORE, PREMISES CONSIDERED, Defendants respectfully move this Court to continue this cause until a later date subsequent to the termination of impeachment proceedings before the House of Representatives and/or the Senate.

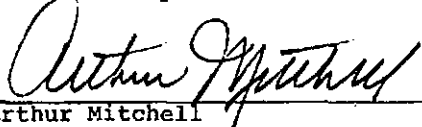
Respectfully submitted,



ARTHUR MITCHELL
315 Westgate Building
Austin, Texas 78701
ATTORNEY FOR DEFENDANTS
WILLIAM DAVID BONILLA
P. O. Drawer 5427
Corpus Christi, Tx. 78504

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A true and correct copy of the above and foregoing
Supplementary Motion of the Defendants for Continuance has
been forwarded to the United States Attorney, P. O. Box 61129,
Houston, Texas 77207.



Arthur Mitchell

00377

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
V. § CRIMINAL NO. 75-C-45
 §
RAMIRO D. CARRILLO, §
O. P. CARRILLO, AND §
ARTURO R. ZERTUCHE §

ORDER RELATING TO DEFENDANTS'
SUPPLEMENTARY MOTION FOR CONTINUANCE

On this date came to be considered the Supplementary Motion for Continuance by Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche, and the Court having considered the same is of the opinion that said Motion should be _____:

It is therefore ORDERED that Defendants' Supplementary Motion for Continuance is hereby in all things _____.

DATED: _____

JUDGE
United States District Court
Southern District of Texas

00378 *David*

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
V. § CRIM. NO. 75-C-45
RAMIRO CARRILLO, ET AL §

FOURTH MOTION FOR CONTINUANCE OF DEFENDANTS
RAMIRO D. CARRILLO, O. P. CARRILLO, AND ARTURO ZERTUCHE

TO THE HONORABLE JUDGE OF SAID COURT:

Come now Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo Zertuche by and through their attorneys and make this their Fourth Motion for Continuance and in support thereof would respectfully plead surprise and show the Court as follows:

I.

Defendants incorporate herein in haec verba as if copied in word for word and page for page the following: (1) Bill of Particulars previously filed by Defendants; (2) Government's Response thereto; (3) First, Second, Third, and Fourth Motions for Discovery and Government's Responses thereto; (4) First, Second Motions in Limine and Government's Responses thereto and admissions contained in said responses; (5) Transcript of pretrial hearing held August 25, 1975, including statement by Government of intent to rely on specific items of income not reported but cashed out.

Defendants state in this connection that this Motion is made pursuant to Rule 50, Federal Rules of Criminal Procedure, as well as those rules governing rights of continuance for surprise. ✓

II.

The indictments in the above-captioned cause were filed March 28, 1975; arraignment occurred April 18, 1975; all pretrial motions were filed in accordance with the rules of procedure and admissions thereto; and all admissions contained in Government's

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Responses to various pretrial motions were filed in accordance with rules of procedure.

III.

It was not until pretrial conference that it became apparent that the Government had shifted its basis for criminal responsibility in this case from a 26 U.S.C.A. 7206(1) case to a 26 U.S.C.A. 7201 case. The basis for this allegation and contention is the fact that the Government by its admission to the effect that Zertuche-Farm & Ranch Store arrangement was a sham for the purposes of avoiding certain state statutes to permit the Defendants to do business with the various governmental agencies, said allegation and admission bringing the case squarely into one where motion for dismissal and acquittal would lie (see Campbell County Bank v. Commissioner, 37 T.C. 430 (1962)); that the Government undertook to shift and in fact shifted its area of liability to what is in effect an evasion case, not a misrepresentation case under 26 U.S.C.A. 7206(1).

Therefore, Defendants are taken at an unfair advantage, now being called to go on trial on September 8, 1975 to defend what is in effect a 26 U.S.C.A. 7201 case, there being no pretrial in connection with a 26 U.S.C.A. 7201 case, there being no requirement by this Court to plead it under the Bill of Particulars, there being no requirement by this Court to have the Government answer the request for pretrial discovery as to whether or not the Government will proceed on a Holland-type net worth case, swollen assets case, etc.

Therefore, Defendants are placed at a tremendous disadvantage, now being required to go to trial on the 8th day of September, 1975, on an indictment which does not truly set out the charge and on evidence for discovery which they have been denied by reason of the posturing and structuring of the pretrial to this point.

00380

IV.

This motion is not presented for the purpose of delay but is presented to the Court for the purpose of securing a continuance in order to permit a full and complete repleading, and a full and complete preparation for trial at the time of the repleading, so that the Defendants may have adequate representation by counsel to the end that this cause be tried in an orderly and expeditious manner and one consistent with the mandates of due process and the Constitution of the United States.

WHEREFORE, PREMISES CONSIDERED, Defendants respectfully pray for continuance as herein set out and for all other relief to which they are entitled.

Respectfully submitted,

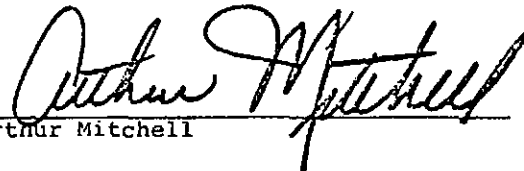
ARTHUR MITCHELL
MITCHELL, GEORGE & BELT
315 Westgate Bldg.
Austin, Tx. 78701

WILLIAM D. BONILLA
BONILLA, READ, NUTTO, BECKMON & BONILLA
P. O. Drawer 5427
Corpus Christi, Tx. 78405

By 
Arthur Mitchell

ATTORNEYS FOR DEFENDANTS

A true and correct copy of the above and foregoing Fourth Motion for Continuance has been forwarded to Mr. George Kelt, U. S. Attorney's Office, Houston, Texas, this 26th day of August, 1975.


Arthur Mitchell

00381

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
V. §
 § Criminal No. CR. 75-C-45
RAMIRO D. CARRILLO, §
O. P. CARRILLO AND §
ARTURO R. ZERTUCHE §

MOTION BY DEFENDANTS RAMIRO D. CARRILLO,
O. P. CARRILLO, AND ARTURO R. ZERTUCHE
FOR EXTENSION OF TIME

TO THE HONORABLE COURT:

Come now, RAMIRO D. CARRILLO, O. P. CARRILLO, and
ARTURO R. ZERTUCHE, Defendants in the above cause, and make
this their Motion For Extension of Time in which to file pretrial
motions, and as grounds therefore would show the Court as follows:

I.

The case at bar is complex and has been under investigation
by the United States Government for a period of several years. The
Defendants have not yet had sufficient time to research the case and
to determine all motions which may be necessary for filing. The
motions and briefs in support thereof are anticipated to be lengthy and
complex. In order to provide Defendants the effective assistance of
Counsel, it is necessary that more time be allowed for preparation
and filing of pretrial motions. The requirement of certain federal
rules of criminal procedure that motions be filed within ten days after
arraignment does not allow sufficient time for preparation of all necessary
motions in proper form.

Additionally, Defendants are filing several Motions For Discovery
and anticipate that certain matters will be discovered pursuant

to these Motions and that, upon the basis of such discovery, it may be necessary and desirable to prepare further pretrial motions.

Defendants represent that they should be allowed a period of fifteen (15) days from and after Monday, April 28, 1975 in which to file all pretrial motions, and that they be allowed a further fifteen (15) days after delivery by the United States Government of all discovery materials to the Defendants in which to file any further motions based upon said discovery.

WHEREFORE, PREMISES CONSIDERED, Defendants Ramiro D. Carrillo, O. P. Carrillo and Arturo R. Zertuche respectfully pray that they be granted fifteen (15) days from Monday, April 28, 1975 in which to file pretrial motions and that they further be granted fifteen (15) days from the time of completion of discovery in this cause in which to file motions based upon discovered materials, and that they be granted such other and further relief to which they may be entitled.

Respectfully submitted,

ARTHUR MITCHELL
Mitchell, George & Belt
315 Westgate Building
Austin, Texas 78701

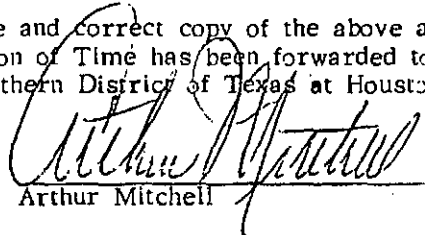
WILLIAM DAVID BONILLA
Bonilla, Read, Rodriguez, Beckmon & Bonilla
P.O. Box 5427
Corpus Christi, Texas 78405

By: 
Arthur Mitchell

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Motion by Defendants For Extension of Time has been forwarded to the United States Attorney for the Southern District of Texas at Houston on this the 25th day of April, 1975.


Arthur Mitchell

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
V. § Criminal No. CR 75-C-45
 §
RAMIRO D. CARRILLO, §
O. P. CARRILLO AND §
ARTURO R. ZERTUCHE §

BRIEF OF DEFENDANTS RAMIRO D. CARRILLO, O. P. CARRILLO AND ARTURO R. ZERTUCHE IN SUPPORT OF MOTION FOR EXTENSION OF TIME

TO THE HONORABLE COURT:

COMES NOW Ramiro D. Carrillo, O. P. Carrillo and Arturo R. Zertuche, Defendants in the above cause, and make this their Brief in Support of their Motion for Extension of Time to file pretrial motions and as grounds therefor would show the Court as follows:

I.

Fed. Rule Crim. Pro. 16(f) provides that a motion for discovery "may be made only within ten days after arraignment or at such reasonable later time as the Court may permit." Fed. Rule Crim. Pro. 12(b) (3) provides that the Court may permit a motion to be made "within a reasonable time" after the plea is entered.

The right to effective assistance of counsel under the United States Constitution, Sixth Amendment and the right to due process of law under the United States Constitution, Fifth Amendment, implies that a defendant have adequate time and opportunity to prepare for trial. See Ungar v. Sarafite, 376 U.S. 575, 589 (1964); Powell v. Alabama, 287 U.S. 45 (1932); J. Foster, Jr., The Right to a Slow Trial: Insuring Effective Counsel, 2 AM. J. CRIM. L. 67 (1973).

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WHEREFORE, PREMISES CONSIDERED, Defendants Ramiro D. Carrillo, O. P. Carrillo and Arturo R. Zertuche respectfully request that they be granted the relief requested in their Motion For Extension of Time.

Respectfully submitted,

ARTHUR MITCHELL
Mitchell, George & Belt
315 Westgate Building
Austin, Texas 78701


WILLIAM DAVID BONILLA
Bonilla, Read, Rodriguez, Beckmon & Bonilla
P.O. Box 5427
Corpus Christi, Texas 78405

By 
Arthur Mitchell

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Brief In Support of Motion For Extension of Time has been forwarded to the United States Attorney for the Southern District of Texas at Houston on this the 25th day of April, 1975.


Arthur Mitchell

00385

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
§
V. §
§ Criminal No. CR. 75-C-45
RAMIRO D. CARRILLO, §
O. P. CARRILLO AND §
ARTURO R. ZERTUCHE §

MOTION TO ALTER CONDITIONS OF
RELEASE OF ARTURO R. ZERTUCHE

TO THE HONORABLE COURT:

Comes now Arturo R. Zertuche, Defendant in the above-numbered and entitled cause, and moves the Court to alter the conditions of his release on bail and as grounds therefor would show the Court as follows:

I.

Defendant was released upon a \$10,000.00 cash bond on April 10, 1975. Defendant voluntarily presented himself to the United States District Court for the Southern District of Texas, Corpus Christi Division, for the purpose of making bond.

The Defendant respectfully requests that the conditions of his release on bond be altered so as to permit the Defendant to travel outside of the Southern District of Texas in order to meet with his attorney and with the Defendant's wife and family. Defendant's attorney, Arthur Mitchell, is a resident of Travis County, Texas. Defendant's wife and family are residents of Tarrant County, Texas. Defendant therefore requests that the conditions of his release be altered so as to allow Defendant to travel to and from Travis and Tarrant Counties for the above stated purposes.

WHEREFORE, PREMISES CONSIDERED, Defendant respectfully

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prays that his conditions of release be altered to permit the Defendant to travel to and from Travis and Tarrant Counties.

Respectfully submitted,

ARTHUR MITCHELL
315 Westgate Building
Austin, Texas 78701

WILLIAM DAVID BONILLA
P.O. Drawer 5427
Corpus Christi, Texas 78405

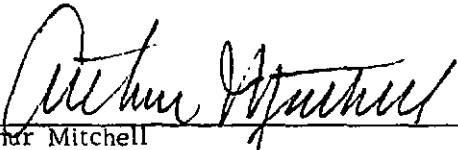
BY: 
Arthur Mitchell

Attorney for Defendant

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing Motion To Alter Conditions of Release of Arturo R. Zertuche has this day been sent to the United States Attorney for the Southern District of Texas at Houston.

Dated: 5/19/75


Arthur Mitchell

00387

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
§
V. § Criminal No. CR. 75-C-45
§
RAMIRO D. CARRILLO, §
O. P. CARRILLO AND §
ARTURO R. ZERTUCHE §

ORDER RELATING TO DEFENDANT'S
MOTION TO ALTER CONDITIONS
OF RELEASE

On the date hereinafter set out came to be considered the Motion To Alter Conditions of Release by Defendant Arturo R. Zertuche requesting alteration of the conditions of his release in the manner and for the purposes set out in said Motion.

It is hereby ordered that the conditions of Defendant's release be altered so as to permit the Defendant to travel outside of the Southern District of Texas in the manner and for the purposes set out in said Motion.

Dated: _____

JUDGE
United States District Court
Southern District of Texas

00388

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
V. §
 § Criminal No. CR 75-C-45
RAMIRO D. CARRILLO, §
O. P. CARRILLO AND §
ARTURO R. ZERTUCHE §

FIRST MOTION OF DEFENDANTS RAMIRO D. CARRILLO, O. P.
CARRILLO, AND ARTURO R. ZERTUCHE TO SET
PRETRIAL CONFERENCE

TO THE HONORABLE COURT:

Come now RAMIRO D. CARRILLO, O. P. CARRILLO AND
ARTURO R. ZERTUCHE, Defendants in the above captioned cause,
and respectfully move this Court under Rule 17.1, Federal Rules of
Criminal Procedure, for pretrial conference to consider the following:

- (1) First Motion For Bill of Particulars
- (2) First Motion For Discovery
- (3) Second Motion For Discovery
- (4) Third Motion For Discovery
- (5) First Motion In Limine
- (6) Second Motion In Limine
- (7) Third Motion In Limine
- (8)
- (9)
- (10)
- (11) First Motion For Leave To File Additional Motions

Any and all other matters which should be properly considered within
the ambit and confines of the rules and cases construing the same.

00389

Respectfully submitted,

ARTHUR MITCHELL
Mitchell, George & Belt
315 Westgate Building
Austin, Texas 78701

WILLIAM DAVID BONILLA
Bonilla, Read, Rodriguez, Bechmon & Bonilla
P.O. Box 5427
Corpus Christi, Texas 78405

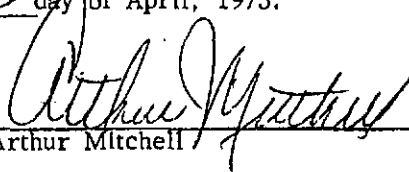
By: 

Arthur Mitchell

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing First Motion of Defendants To Set Pretrial Conference has been forwarded to the United States Attorney for the Southern District of Texas at Houston on this the 25th day of April, 1975.



Arthur Mitchell

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
§
V. §
§ Criminal No. 75-C-45
RAMIRO D. CARRILLO, §
O. P. CARRILLO, §
ARTURO R. ZERTUCHE §

SECOND MOTION OF DEFENDANT'S RAMIRO D. CARRILLO,
O. P. CARRILLO, AND ARTURO R. ZERTUCHE TO SET PRETRIAL
CONFERENCE

TO THE HONORABLE JUDGE OF SAID COURT:

Come now Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche, Defendants in the above entitled and numbered cause, and respectfully move this Court under Rule 17.1, Federal Rules of Criminal Procedure, for pretrial conference to consider the following:

- (1) Supplementary Motion For Continuance
- (2) Supplementary Motion To Dismiss and Motion In The Alternative For Indefinite Continuance
- (3) Second Motion To Suppress Statements
- (4) All other pretrial motions filed by Defendants in the above entitled and numbered cause which have not to date been considered.

Any and all other matters which should be properly considered within the ambit and confines of the rules and cases construing the same.

Respectfully submitted,

Arthur Mitchell
Mitchell, George & Belt
315 Westgate Building
Austin, Texas 78701

Attorney For Defendants

00391

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing Second Motion of Defendants To Set Pretrial Conference has been sent to Mr. George A. Kelt, Jr., Assistant United States Attorney, P.O. Box 61129, Houston, Texas 77208, on this the 26th day of June, 1975.

Arthur Mitchell

00392

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
V. §
 § Criminal No. 75-C-45
RAMIRO D. CARRILLO, §
O. P. CARRILLO, §
ARTURO R. ZERTUCHE §

ORDER RELATING TO DEFENDANTS' SECOND MOTION
TO SET PRETRIAL CONFERENCE

On this date came on to be considered the Second Motion To Set Pretrial Conference by Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche, and the Court having considered the same is of the opinion that said Motion should be _____:

It is therefore ORDERED that Defendants' Second Motion To Set Pretrial Conference is hereby in all things _____.

Dated: _____.

JUDGE
United States District Court
Southern District of Texas.

00393

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA	§	
	§	
V.	§	
	§	Criminal No. CR 75-C-45
RAMIRO D. CARRILLO,	§	
O.P. CARRILLO AND	§	
ARTURO R. ZERTUCHE	§	

FIRST MOTION BY DEFENDANTS RAMIRO D. CARRILLO, O. P.
CARRILLO AND ARTURO R. ZERTUCHE TO SUPPRESS STATEMENTS
AND OTHER EVIDENCE

TO THE HONORABLE COURT:

Now come Defendants, Ramiro D. Carrillo, O. P. Carrillo and Arturo R. Zertuche, acting by and through their attorneys, would respectfully show the Court the following:

I.

Several years prior to the commencement of proceedings against Defendants in this case, the exact date being unknown to Defendants, investigations were instituted by the Government which led to the prosecutions of United States of America v. George B. Parr, United States of America v. Archer Parr, United States of America v. Saenz and other related cases. In connection with such investigations, some or all of the Defendants in the present case, and Ramiro D. Carrillo in particular, were questioned, interviewed and interrogated by agents and representatives of the Government.

Information was given by some or all of the Defendants to the Government which materially relates to the offenses with which the Defendants are charged in the present case.

Further, testimony was given by Defendants Ramiro D. Carrillo and Arturo R. Zertuche before the Grand Jury which led to the prosecutions

of the above cases of United States of America v. George B. Parr, United States of America v. Archer Parr, United States of America v. Saenz and other related cases, which testimony is material to the offenses with which Defendants are charged in the present proceedings.

Prior to the date of the Grand Jury proceedings in October, 1972, no warnings of any nature, as required by the Constitution of the United States and the administrative regulations of the Internal Revenue Service (IRS), were given to any of the Defendants by agents and representatives of the Government in connection with the interviews and interrogations conducted in the above cases.

II.

Defendants further submit that on a date unknown to Defendants, the Internal Revenue Service commenced and thereafter carried on an intensive criminal investigation prior to the return of an indictment in this cause. Internal Revenue agents, on many occasions, received statements and other information from some or all of Defendants. It is not known to Defendants whether the investigation began as civil in nature under the IRS Audit Division, or whether it was criminal in nature from its inception and was conducted entirely by the Intelligence Division. Defendants intend to discover this through discovery procedures. If the investigation started as civil and changed to criminal, Defendants were never notified that such change had taken place. Such notification is required by IRS administrative rules.

Further, Defendant Ramiro D. Carrillo was interrogated several times by Internal Revenue agents before any warnings were given to him as required by IRS News Release IR-897, October 3, 1967 and IRS News Release IR-949, November 26, 1968.

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Further, Defendant Arturo R. Zertuche was questioned by IRS agents several times before he testified at the Grand Jury proceedings in October 1972, and never received warnings of any kind from those agents or from anyone else until he appeared before the Grand Jury.

Thus, by the use of deceitful methods, the Internal Revenue agents were able to detain much of the information on which the prosecution is based.

III.

The Defendants have reason to believe and do believe that the statements and evidence obtained under the above circumstances led to other witnesses and evidence of a documentary nature that the Government intends to use against them in the trial of this cause.


WHEREFORE, PREMISES CONSIDERED, Defendants respectfully request that any and all oral or written statements made by them and any and all evidence furnished by them under the above-described circumstances and before warnings were given, and any and all evidence derived from statements made by them be suppressed from evidence. Defendants further respectfully request that they be allowed to amend this Motion to Suppress and to file supplemental Motions to Suppress in light of material they hope to discover from the Government.

Respectfully submitted,

ARTHUR MITCHELL
Mitchell, George & Belt
315 Westgate Building
Austin, Texas 78701

WILLIAM DAVID BONILLA
Bonilla, Read, Rodriguez, Beckmon & Bonilla
P.O. Box 5427
Corpus Christi, Texas 78405

By

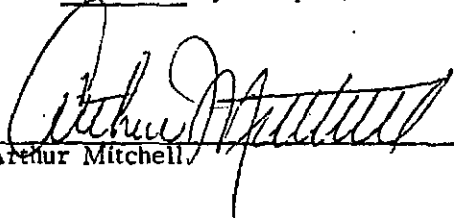

Arthur Mitchell

ATTORNEYS FOR DEFENDANTS

00396

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing First Motion By Defendants To Suppress Statements and Other Evidence has been forwarded to the United States Attorney for the Southern District of Texas at Houston on this the 25th day of April, 1975.


Arthur Mitchell

00397

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
V. § Criminal No. CR 75-C-45
RAMIRO D. CARRILLO, §
O. P. CARRILLO AND §
ARTURO R. ZERTUCHE §

BRIEF IN SUPPORT OF DEFENDANTS RAMIRO D. CARRILLO,
O. P. CARRILLO AND ARTURO R. ZERTUCHE'S FIRST
MOTION TO SUPPRESS

TO THE HONORABLE COURT:

Come now Ramiro D. Carrillo, O. P. Carrillo and Arturo R. Zertuche, Defendants in the above cause and make this their brief in support of their First Motion to Suppress and as grounds therefore would show the Court the following:

I.

Involuntary statements made to Government authorities may not be used in convicting an accused, Miranda v. Arizona, 384 U.S. 436 (1966), nor may the fruits of such improper statements be used. Alderman v. United States, 394 U.S. 165 (1969).

Some or all of the Defendants, particularly Ramiro D. Carrillo and Arturo R. Zertuche, made certain statements to agents of the Government and of the Internal Revenue Service at various times prior to October, 1972. These statements were unprefaced by any warning that the Defendants were under any investigation for criminal violations. These statements inevitably led to other evidence against the Defendants.

The Internal Revenue Intelligence Agents, pursuant to internal guidelines promulgated in IRS News Release No. 897, 7 CCH 1967 Stand. Fed. Tax Rep. ¶6832, and IRS News Release IR-949, 1968

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CCH Fed. Tax. Rep. ¶6946, are required to read the following statement before an interview:

"As a special agent, one of my functions is to investigate the possibility of criminal violations of the Internal Revenue Laws, and related offenses. In connection with my investigation of your tax liability (or other matter) I would like to ask you some questions. However, first I advise you that under the Fifth Amendment of the Constitution of the United States I cannot compel you to answer any questions or to submit any information if such answers or information might tend to incriminate you in any way. I also advise you that anything which you say and any information which you submit may be used against you in any criminal proceeding which may be undertaken. I advise you further that you may, if you wish, seek the assistance of an attorney before responding. Do you understand?"

Furthermore, United States v. Dawson, 486 F. 2d 326 (5th Cir., 1973) and United States v. Tonahill, 430 F. 2d 1042 (5th Cir., 1970), stated that where acts by the agents materially misrepresent the nature of the inquiry, evidence obtained under such conditions should be excluded, although the motions to suppress in those cases were denied because no material misrepresentation was found.

The Government may not use fraud, deceit or trickery to obtain information by consent. United States v. Bland, 458 F. 2d 1 (5th Cir., 1972), cert. den'd. 409 U.S. 982. Although the motion to suppress was denied in that case because the silence of the agent was not found to be a material misrepresentation given the facts, the Court there recognized that an agent's silence in circumstances where the IRS had imposed a duty

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upon him to speak, could be a material misrepresentation under different circumstances. In the case at bar, the failure to give the required warnings to the Defendants at those initial interviews deceived the Defendants and led them to believe that any statements or information they divulged at that time would not be used against them. The prosecution should be required to show that no tainted evidence has been acquired or will be used as a result of the statements.

WHEREFORE, PREMISES CONSIDERED, Defendants Ramiro D. Carrillo, O. P. Carrillo and Arturo R. Zertuche respectfully request that the relief requested in the First Motion to Suppress be granted.

Respectfully submitted,

ARTHUR MITCHELL
Mitchell, George & Belt
315 Westgate Building
Austin, Texas 78701

WILLIAM DAVID BONILLA
Bonilla, Read, Rodriguez, Beckmon & Bonilla
P.O. Box 5427
Corpus Christi, Texas

By: _____
Arthur Mitchell

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Brief in Support of Defendants First Motion to Suppress has been forwarded to the United States Attorney for the Southern District of Texas at Houston on this the 25th day of April, 1975.

Arthur Mitchell

00400
IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA	§	
	§	
V.	§	
	§	Criminal No. 75-C-45
RAMIRO D. CARRILLO,	§	
O. P. CARRILLO,	§	
ARTURO R. ZERTUCHE	§	

SECOND MOTION BY DEFENDANTS RAMIRO D.
CARRILLO, O. P. CARRILLO, AND ARTURO R.
ZERTUCHE TO SUPPRESS STATEMENTS

TO THE HONORABLE JUDGE OF SAID COURT:

Now come Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche, acting by and through their attorney of record, make this their Second Motion To Suppress Statements and would respectfully show the Court as follows:

I.

On or about the 28th day of March, 1975, the indictment in the instant cause was returned against the Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche by a Federal Grand Jury sitting in Corpus Christi, Texas and was filed in the Federal District Court for the Southern District of Texas, Corpus Christi Division. The indictment remained under seal until April 10, 1975, or thereabouts.

II.

On or about the 17th day of April, 1975, subsequent to the indictment of the Defendants but prior to the arraignment of the Defendants on or about the 18th day of April, 1975, a conference was held in the office of the United States Attorney. Among those persons present

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at this conference were the attorney for the Government herein, the Defendant Arturo R. Zertuche, and the then attorney for the Defendant Arturo R. Zertuche, Nago Alaniz. Nago Alaniz, prior to representing Arturo R. Zertuche, was attorney for both George B. Parr and Archer Parr at the time both men were being investigated by the Federal Grand Jury for income tax evasion. Partially as a result of the testimony of Arturo R. Zertuche and Ramiro D. Carrillo before on the Grand Jury, both George B. Parr and Archer Parr were indicated on charges of income tax evasion. The purported purpose of the conference with the Government attorney was to discuss the possibility of Defendant Arturo R. Zertuche's pleading "guilty" at his arraignment to one or more of the Counts in the indictment. At said conference, the Defendant Arturo R. Zertuche was informed by the Attorney for the Government that in return for Arturo R. Zertuche's plea of "guilty" to Count 10 in the indictment, the Government would temporarily dismiss the other Counts in the indictment as to him until after the trial of the other two Defendants. Upon the advice of his counsel, Nago Alaniz, who had informed the Defendant Arturo R. Zertuche that the Government could produce sufficient evidence to convict him upon trial and that a temporary dismissal of the other Counts against him was the best arrangement the Government would make, Defendant Arturo R. Zertuche indicated that he would plead "guilty" to Count 10 of the indictment. Upon this indication from the Defendant Arturo R. Zertuche, the Government began interrogating the Defendant and seeking his admission as to the acts and offenses with which he is charged by the indictment, and other incriminating statements relating to both himself and the other two Defendants, which the Government obtained. The statements made by Defendant Arturo R. Zertuche upon interrogation at the conference were recorded and later transcribed by the Government.

III.

On or about the evening of the 17th day of April, 1975, subsequent to the aforesaid conference with the Attorney for the Government, the Defendant conferred with members of his family and informed them of his intention to plead "guilty" to the Count 10 in the indictment. Subsequent to the discussion with members of his family, the Defendant Arturo R. Zertuche determined that it would not be in his best interests to plead "guilty" to the Count at the arraignment to be held the following day. The Defendant so informed his attorney Nago Alaniz the following morning immediately prior to the arraignment; whereupon Nago Alaniz informed the Defendant Arturo R. Zertuche that he would then no longer be able to represent him, as such representation would involve a conflict of interest on his part.

IV.

On or about the 18th day of April, 1975, the Defendants herein were arraigned before the District Court for the Southern District of Texas, Corpus Christi Division, all three Defendants pleading "not guilty" therein.

V.

Subsequent to the arraignment, the Defendant Arturo R. Zertuche retained as counsel in this cause Arthur Mitchell of Austin, Texas, who was and is counsel for Defendants Ramiro D. Carrillo and O. P. Carrillo in the above entitled and numbered cause.

VI.

Subsequent to the arraignment and the retaining of Arthur Mitchell as counsel for Arturo R. Zertuche as well as the other two Defendants, numerous pretrial motions were made on behalf of the three Defendants, including a motion for discovery of the statements

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made by Arturo R. Zertuche in the pre-arraignment conference with the Attorney for the Government. Immediately following the filing of this latter motion for discovery of the Defendant Arturo R. Zertuche's recorded statements, the Government filed a Motion For Determination Of Conflict Of Interest, wherein it sought to have the representation of Arturo R. Zertuche by attorney Arthur Mitchell declared by the Court to involve a conflict of interest on the part of Arthur Mitchell, insofar as he was also representing Ramiro D. Carrillo and O. P. Carrillo in the same cause. Hearing in the District Court for the Southern District of Texas, Corpus Christi Division, was held on the Government's Motion For Determination Of Conflict Of Interest on or about the 16th day of May, 1975, and a determination was made by the Court that the joint representation of the three Defendants by a single attorney did not amount to a conflict of interest at the present time, though severance of the trial of Arturo R. Zertuche from the trial of Ramiro D. Carrillo and O. P. Carrillo was ordered. It was agreed by all parties in an in camera conference that, should a conflict of interest later arise as a result of the joint representation of the three Defendants, the matter would be reconsidered by all concerned.

VII.

It is submitted that the statements made by Arturo R. Zertuche in the pre-arraignment conference with the attorney for the Government were obtained by the Government pursuant to an unconstitutional interrogation in violation of Defendant's Fifth Amendment right against self-incrimination and Defendant's Sixth Amendment right to effective assistance of counsel, in that said statements were made by the Defendant pursuant to a "plea bargaining" agreement with the Government

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which was not in fact an agreement the attorney for the Government was either constitutionally authorized to make or in fact did make, but was rather a ploy on the part of the Government to obtain statements against the interest of Arturo R. Zertuche and incriminating to the other two Defendants which could be used in the trial of all three Defendants to bolster the evidence against the Defendants in the Government's possession. It is submitted that such statements taken from Arturo R. Zertuche were made in the absence of effective assistance of counsel; and that such statements were in fact made upon the advice of counsel whose representation of the Defendant Arturo R. Zertuche involved a conflict of interest on the part of the attorney. Said conflict of interest arose as a result of the fact that, as the attorney and political ally of the Parrs, the political enemies of the Carrillos, Nago Alaniz had an interest in seeing that both Ramiro D. Carrillo and O. P. Carrillo be convicted of the offenses with which they were charged. To that end, the attorney Nago Alaniz cooperated with the attorney for the Government, without the knowledge of Defendant Arturo R. Zertuche and against his best interests, in the Government's attempt to obtain statements incriminating to all three Defendants in the present cause.

VIII.

It is submitted that the statements made by Arturo R. Zertuche in the pre-arraignment conference with the Attorney for the Government should be suppressed and that the Attorney for the Government should be prevented by order of the Court from attempting to introduce the same into evidence at the trial of Arturo R. Zertuche for whatever purposes, said statements having been taken and recorded in violation of the Defendant Arturo R. Zertuche's constitutional rights.

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IX.

Further, it is submitted that the Court should prevent any attempt by the attorney for the Government to call the Defendant Arturo R. Zertuche as a witness either in the trial of said Defendant or in the trial of Defendants Ramiro D. Carrillo and O. P. Carrillo, as the Defendant Arturo R. Zertuche will claim his Fifth Amendment right against self-incrimination if called, and now puts the attorney for the Government on notice of the same. To call a witness to the stand for the purpose of eliciting from him his Fifth Amendment claim once it is determined that the witness's claim is well-grounded as to the testimony desired is constitutionally prohibited. U. S. v. Gomez-Rojas, 507 F. 2d 1213 (5th Cir. 1975).

X.

Further, it is submitted that the statement made by Arturo R. Zertuche in the pre-arraignment conference with the Attorney for the Government should be suppressed and that the Attorney for the Government should be prevented by order of the Court from attempting to introduce the same into evidence in the trial of Ramiro D. Carrillo and O. P. Carrillo, for the reasons that said statements are incriminating as to the Defendants Ramiro D. Carrillo and O. P. Carrillo, that Arturo R. Zertuche will preserve his right not to take the stand and testify at the trial and will claim his Fifth Amendment right against self-incrimination if called, and that the introduction of such statements at the trial would deny to the Defendants Ramiro D. Carrillo and O. P. Carrillo the right to confrontation under the Sixth Amendment to the Constitution of the United States of America and would be in violation of the hearsay rule of evidence. Introduction of the incriminating statement of a codefendant who does not take

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the stand at the trial of another codefendant has been held constitutionally prohibited in the cases of Bruton v. United States, 391 U.S. 123, 88 S. Ct. 1620, 20 L.Ed. 2d 476 (1968) and Harrington v. California, 395 U.S. 250, 89 S. Ct. 1726, 23 L. Ed. 2d 284 (1969).

WHEREFORE, PREMISES CONSIDERED, Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche respectfully pray that the Court order the statements of the Defendant Arturo R. Zertuche arising out of the aforesaid pre-arraignment conference with the attorney for the Government be suppressed and that the attorney for the Government be prevented by order of the Court from attempting to introduce such statements into evidence for any purpose in either the trial of the Defendant Arturo R. Zertuche or the trial of the Defendants Ramiro D. Carrillo and O. P. Carrillo. In addition, the Defendants respectfully pray that the attorney for the Government be prevented from calling as a witness in either trial the Defendant Arturo R. Zertuche for the purpose of eliciting from him his Sixth Amendment claim against self-incrimination.

Respectfully submitted,

Arthur Mitchell
Mitchell, George & Belt
315 Westgate Building
Austin, Texas 78701

Attorney For Defendants

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing Second Motion By Defendants To Suppress Statements has been sent to Mr. George A. Kelt, Jr., Assistant United States Attorney, P.O. Box 61129, Houston, Texas 77208, on this the 26th day of June, 1975.

Arthur Mitchell

00407

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
§
V. § Criminal No. 75-C-45
§
RAMIRO D. CARRILLO, §
O. P. CARRILLO, §
ARTURO R. ZERTUCHE §

ORDER RELATION TO DEFENDANTS' SECOND
MOTION TO SUPPRESS STATEMENTS

On this date came on to be considered the Second Motion
To Suppress Statements by Defendants Ramiro D. Carrillo, O. P.
Carrillo, and Arturo R. Zertuche, and the Court having considered
the same is of the opinion that said Motion should be _____:

It is therefore ORDERED that Defendants' Second Motion To
Suppress Statements is hereby in all things _____.

Dated: _____

JUDGE
United States District Court
Southern District of Texas.

00408
IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA	§	
	§	
VS.	§	
	§	Criminal No. CR 75-C-45
RAMIRO D. CARRILLO,	§	
O. P. CARRILLO, AND	§	
ARTURO R. ZERTUCHE	§	

FIRST MOTION IN LIMINE BY DEFENDANTS
RAMIRO D. CARRILLO, O. P. CARRILLO AND
ARTURO R. ZERTUCHE CONCERNING EXTRANEIOUS OFFENSES

TO THE HONORABLE COURT:

Now come Defendants RAMIRO D. CARRILLO, O. P. CARRILLO and ARTURO R. ZERTUCHE, acting through their attorneys, respectfully move this Honorable Court to enter an Order instructing the Attorney for the Government not to allude to, refer to, or in any way introduce testimony concerning extraneous offenses, and in particular concerning the extraneous offences of violations of 26 U.S.C. 7201. The indictment in this cause alleges violations of 18 U.S.C. 371 and 26 U.S.C. 7206 (1). The government must prove conspiracy to defraud the United States, and wilfull making and subscribing of tax returns which Defendants did not believe to be true and correct as to every material matter. 26 U.S.C. 7201 prohibits wilfull evasion of tax, and the elements to be proved thereunder are in no way material or relevant to this case. In support of this motion the Defendants would respectfully show the Court the following:

- (1) The case has now been set for trial.

00409

2. According to the indictment, the trial will involve a determination of these basic issues:
- (a) Whether Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche, between January 1, 1967 and May 31, 1974, conspired to defraud the United States in violation of 18 U.S.C. 371 by conspiring to file with the Internal Revenue Service false and fraudulent individual and partnership income tax returns in violation of 26 U.S.C. 7206 (1).
 - (b) Whether Defendant Ramiro D. Carrillo wilfully and knowingly made and subscribed individual income tax returns in the years 1969, 1970 and 1971, and partnership returns in the years 1969 and 1970, which were made under penalties of perjury and filed with the Internal Revenue Service, which he did not believe to be true and correct as to every material matter, in violation of 26 U.S.C. 7206 (1).
 - (c) Whether Defendant O. P. Carrillo wilfully and knowingly made and subscribed individual income tax returns in the years 1969 and 1971, and a partnership return in the year 1971, which were made under penalties of perjury and filed with the Internal Revenue Service, which he did not believe to be true and correct as to every material matter, in violation of 26 U.S.C. 7206 (1).

- (d) Whether Defendant Arturo R. Zertuche wilfully and knowingly made and subscribed individual income tax returns in the years 1969, 1970 and 1971, which were made under penalties of perjury and filed with the Internal Revenue Service, which he did not believe to be true and correct as to every material matter, in violation of 26 U.S.C. 7206 (1).
3. The Defendants believe, based upon the Defendants' preparation for trial in this cause and based upon the investigation by the Internal Revenue agents, that an effort will be made to introduce evidence or otherwise leave the jury with the impression that the Defendants wilfully attempted to evade or defeat the payment of any tax in violation of 26 U.S.C. 7201.
4. This case is a prosecution under 18 U.S.C. 371 and 26 U.S.C. 7206 (1). It is therefore immaterial and unnecessary to the disposition of this case to permit such evidence or inference and would be highly prejudicial to the Defendants in the minds of the jury in that such inference would lead the jury to believe that Defendants had the evil intent knowingly to evade payment of a tax. The presence or absence of such intent is immaterial and irrelevant to this case and would therefore prejudice Defendants right to a fair trial in this cause.
5. An ordinary objection during the course of trial, even if sustained with proper instructions to the jury, will not remove such effect because merely allowing the jury

00411

initially to hear such evidence or draw such inference
would do prejudicial damage that an instruction could
not repair.

WHEREFORE, PREMISES CONSIDERED, Defendants respectfully
move the Court to instruct the Attorney for the Government not to
refer to, or allude to such extraneous offenses and further pray
the Court to order the Attorney for the Government to instruct his
witnesses not to refer to, or allude to such extraneous offenses.
And Defendants further pray for such other and further relief as
the Court may deem proper.

Dated and Signed this 23rd day of April, 1975.

Respectfully submitted,

ARTHUR MITCHELL
Mitchell, George & Belt
315 Westgate Building
Austin, Texas 78701

WILLIAM DAVID BONILLA
Bonilla, Read, Rodriguez, Beckmon & Bonill
P.O. Box 5427
Corpus Christi, Texas 78405

By: 

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

A true and correct copy of the above and foregoing Motion
In Limine by Ramiro D. Carrillo, O. P. Carrillo and Arturo R.
Zertuche has been forwarded to the United States Attorney for the
Southern District of Texas at Houston on this the 23rd day of
April, 1975.

00412

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
V. § Criminal No. CR 75-C-45
 §
RAMIRO D. CARRILLO, §
O. P. CARRILLO AND §
ARTURO R. ZERTUCHE §

SECOND MOTION IN LIMINE BY DEFENDANTS
RAMIRO D. CARRILLO, O. P. CARRILLO AND
ARTURO R. ZERTUCHE

TO THE HONORABLE COURT:

Now come Defendants RAMIRO D. CARRILLO, O. P. CARRILLO and ARTURO R. ZERTUCHE and make this their Second Motion In Limine and as grounds therefore would show the Court as follows:

I.

The United States Government, its agents and witnesses should be ordered to refrain from mentioning or alluding to in any way, either directly or indirectly in the presence of the jury, without first demonstrating that such matters are clearly relevant, material and admissible the following:

- (1) Any other pending criminal complaints or indictments;
- (2) Any past alleged offenses of the Defendants whether the subject of criminal indictment or not.
- (3) Any other incidents allegedly showing the Defendants' motive, intent, design, scheme or disposition to commit a certain type of offense unless it first be shown that the incident offered be probative as to the element for which it is offered as proof.

00413

II.

The prosecution should be limited to the allegations of the indictment in its offer of proof and to facts necessarily coming directly within the allegations of the indictment. Any further proof by the Government would be destructive of the Defendants' right to a fair trial and irreparably prejudicial.

WHEREFORE, PREMISES CONSIDERED, Defendants Ramiro D. Carrillo, O. P. Carrillo and Arturo R. Zertuche respectfully pray that the Government, its agents and witnesses be ordered to refrain from referring or alluding to in any manner, either directly or indirectly, the above stated matters.

Dated and Signed this 23rd day of April, 1975.

Respectfully submitted,

ARTHUR MITCHELL
Mitchell, George & Belt
315 Westgate Building
Austin, Texas 78701

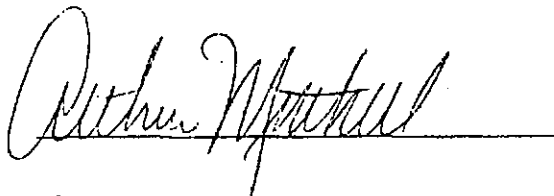
WILLIAM DAVID BONILLA
Bonilla, Read, Rodriguez, Bechmon & Bonil
P.O. Box 5427
Corpus Christi, Texas 78405

BY: 

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Second Motion In Limine has been forwarded to the United States Attorney for the Southern District of Texas at Houston on this the 23rd day of April, 1975.



00414

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
V. § Criminal No. CR 75-C-45
 §
RAMIRO D. CARRILLO, §
O. P. CARRILLO AND §
ARTURO R. ZERTUCHE §

BRIEF IN SUPPORT OF FIRST AND SECOND MOTIONS IN
LIMINE OF DEFENDANTS RAMIRO D. CARRILLO,
O. P. CARRILLO AND ARTURO R. ZERTUCHE

TO THE HONORABLE COURT:

Come now RAMIRO D. CARRILLO, O. P. CARRILLO and
ARTURO R. ZERTUCHE, Defendants in the above cause and make
this their Brief In Support Of Their First And Second Motions In
Limine and as grounds therefore would show the Court as follows:

I.

Evidence of the commission of a separate and independent
crime is not admissible as part of the case against the Defendants.
Stansbury v. United States, 219 F. 2d 155 (5th Cir. 1955). Specific
acts of misconduct are not admissible. Michelson v. United States,
335 U.S. 469 (1948). Further, the government may not introduce
reputation or character testimony which would prejudice Defendants.
United States v. Reed, 376 F. 2d 266 (7th Cir. 1967). Even if
the Defendants take the stand the Government is not entitled to
impeach their reputation unless the Defendants put it in evidence.
Michelson v. United States, *supra*. Specific acts of character likewise
cannot be shown. Michelson v. United States, *supra*; French v.
United States, 232 F. 2d 736 (5th Cir. 1956).

00415

The Government will no doubt argue that any extraneous offenses are admissible to show intent or design. The admission of extraneous offenses for such purpose is a denial of due process, especially if the offense offered is lacking in the element it is offered to prove.

WHEREFORE, PREMISES CONSIDERED, Defendants respectfully pray that their First and Second Motions In Limine be granted as requested.

Respectfully submitted,

ARTHUR MITCHELL
Mitchell, George & Belt
315 Westgate Building
Austin, Texas 78701

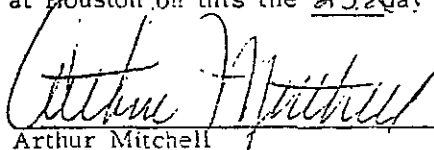
WILLIAM DAVID BONILLA
Bonilla, Read, Rodriguez, Beckmon & Boni
P.O. Box 5427
Corpus Christi, Texas 78405

By: 

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Brief In Support of Defendants' First and Second Motions In Limine has been forwarded to the United States Attorney for the Southern District of Texas at Houston on this the 23rd day of April, 1975.



IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
V. § Criminal No. CR 75-C-45
 §
RAMIRO D. CARRILLO, §
O. P. CARRILLO AND §
ARTURO R. ZERTUCHE §

THIRD MOTION IN LIMINE BY DEFENDANTS
RAMIRO D. CARRILLO, O. P. CARRILLO AND
ARTURO R. ZERTUCHE

TO THE HONORABLE COURT:

Now come Defendants RAMIRO D. CARRILLO, O. P. CARRILLO and ARTURO R. ZERTUCHE and make this their Third Motion In Limine and as grounds therefore would show the Court as follows:

I.

The indictment presented is merely in the language of the statutes alleged to have been violated. It is clear that the Government intends to show a tax deficiency or an under-reporting in order to prove material misrepresentation on the tax returns by the Defendants.

II.

The United States Government, its agents and witnesses should be ordered to refrain from introducing, in any way, any evidence of any deficiency or underreporting of income on the individual and/or partnership tax returns for the seven and one-half (7-1/2) year period specified in the indictment until the Government has informed the Defendants by which of the following theories

00417

the Government intends to prove such deficiency or underreporting:

- (1) specific item;
- (2) net worth increase;
- (3) bank deposits;
- (4) cash expenditures; or
- (5) any combination of the above, and if so, what combination.

III.

The information herein requested is necessary to inform Defendants of the nature of the charges with sufficient precision to enable them to prepare for trial.

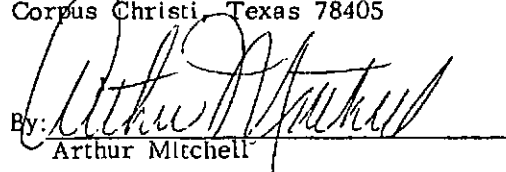
WHEREFORE, PREMISES CONSIDERED, Defendants Ramiro D. Carrillo, O. P. Carrillo and Arturo R. Zertuche respectfully pray that the Government, its agents and witnesses be ordered to refrain from introducing in any manner, either directly or indirectly, the above stated matter until the requested information has been received by the Defendants.

Dated and Signed this 25th day of April, 1975.

Respectfully submitted,

ARTHUR MITCHELL
Mitchell, George & Belt
315 Westgate Building
Austin, Texas 78701

WILLIAM DAVID BONILLA
Bonilla, Read, Rodriguez, Bechmon & Bonil
P.O. Box 5427
Corpus Christi, Texas 78405

By: 
Arthur Mitchell

ATTORNEYS FOR DEFENDANTS

00418

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Third Motion In Limine has been forwarded to the United States District Attorney for the Southern District of Texas at Houston on this the 25 day of April, 1975.


Arthur Mitchell

IN THE UNITED STATES DISTRICT COURT
 FOR THE SOUTHERN DISTRICT OF TEXAS
 CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA	§	
	§	
V.	§	
	§	Criminal No. CR 75-C-45
RAMIRO D. CARRILLO,	§	
O. P. CARRILLO AND	§	
ARTURO R. ZERTUCHE	§	

MEMORANDUM IN SUPPORT OF THIRD MOTION IN LIMINE
 OF DEFENDANTS RAMIRO D. CARRILLO, O. P. CARRILLO
 AND ARTURO R. ZERTUCHE

TO THE HONORABLE COURT:

Come now RAMIRO D. CARRILLO, O. P. CARRILLO
 and ARTURO R. ZERTUCHE, Defendants in the above case and
 make this their memorandum in support of their Third Motion
 In Limine and as grounds therefore would show the Court the
 following:

I.

The power to consider a motion in limine is inherent
 in the Judge's authority to admit or exclude evidence and to take
 such precautions as are necessary to afford a fair trial to all
 parties.

The Indictment in this cause is worded only in terms of
 the statutes alleged to have been violated, 18 U.S.C. 371 and
 26 U.S.C. 7206(1). Because the Defendants have reason to believe
 that the Government intends to show a tax deficiency or an under-
 reporting of income, it is vital to the preparation of the Defendants'
 defense to know the theories by which the Government intends
 to prove such deficiency or underreporting.

00420

By ordering the Government to refrain from introducing any evidence of any deficiency or underreporting of income until these theories have been revealed to the Defendants, the Court can insure that the Defendants can proceed as rapidly as possible with a proper preparation of their case, thereby insuring the Defendants' right to a fair trial and eliminating undue delay and confusion.

WHEREFORE, PREMISES CONSIDERED, Defendants respectfully pray that their Third Motion In Limine be granted as requested.

Respectfully submitted,

ARTHUR MITCHELL
Mitchell, George & Belt
315 Westgate Building
Austin, Texas 78701

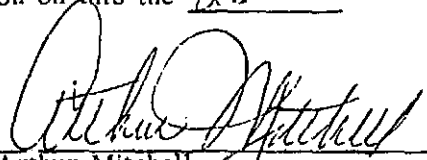
WILLIAM DAVID BONILLA
Bonilla, Read, Rodriguez, Bechmon &
Bonilla
P.O. Box 5427
Corpus Christi, Texas 78405

By: 
Arthur Mitchell

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing memorandum in support of Defendants' Third Motion In Limine has been forwarded to the United States Attorney for the Southern District of Texas at Houston on this the 25th day of April, 1975.


Arthur Mitchell

00421

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
V. §
 § Criminal No. CR 75-C-45
RAMIRO D. CARRILLO, §
O.P. CARRILLO AND §
ARTURO R. ZERTUCHE §

FIRST MOTION OF DEFENDANTS RAMIRO D. CARRILLO, O. P.
CARRILLO AND ARTURO R. ZERTUCHE FOR LEAVE TO FILE
ADDITIONAL MOTIONS

TO THE HONORABLE COURT:

Now come Defendants Ramiro D. Carrillo, O. P. Carrillo and Arturo R. Zertuche, by and through their attorney, in the above entitled and numbered cause, and respectfully move the Court for leave to file additional Motions, if same become necessary or material to the Defendants' preparation of their defenses to the charges against them in this cause, and would show the Court the following:

I.

Arraignment of Defendants was held on April 18, 1975, and Defendants have been given ten days from that date in which to file such Motions as are necessary.

II.

Defendants have filed several Motions, among which are Motions to Discover and Suppress, Motions in Limine, and a Motion for Bill of Particulars.

III.

Until the Defendants are able to ascertain the contents of the responses by the Government to the Motions as filed by the Defendants, he is unable to determine with any degree of finality, the need for additional discovery, suppression, and particulars.

WHEREFORE, Defendants respectfully move the Court to grant them leave to file, within such reasonable time as the Court may determine is proper, any additional Motions ancillary or supplementary to, these

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Motions which they have heretofore filed, or which Motions may be relevant to their cause after they have had reasonable notice of the contents of the Government's responses, if any, to their original Motions.

Dated and Signed this 25th day of April, 1975.

Respectfully submitted,

ARTHUR MITCHELL
Mitchell, George & Belt
315 Westgate Building
Austin, Texas 78701

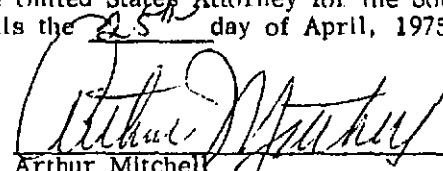
WILLIAM DAVID BONILLA
Bonilla, Read, Rodriguez, Bechmon & Bonilla
P.O. Box 5427
Corpus Christi, Texas 78405

By: 
Arthur Mitchell

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing First Motion of Defendants For Leave to File Additional Motions has been forwarded to the United States Attorney for the Southern District of Texas at Houston on this the 25th day of April, 1975.


Arthur Mitchell

00423

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS
OFFICE OF THE CLERK

V. BAILEY THOMAS
CLERK

P. O. Box 2567
Corpus Christi, Texas 78403
May 15, 1975

Mr. Arthur Mitchell
Rm. 315, 1122 Colorado St.
Austin, Texas 78701

Re: Cr. 75-C-45
USA vs Ramiro D. Carrillo, et al

Dear Mr. Mitchell:

I am returning the copies of motions which Mr. Manges brought by our office and left. I have filed all the originals and thought perhaps you would like these for your files.

Also, I am enclosing a xerox of a portion of the docket showing motions filed.

Sincerely,

V. BAILEY THOMAS, CLERK

Ruth Stendebach

Ruth Stendebach, Deputy

CRIMINAL DIVISION
 UNITED STATES DISTRICT COURT

178-3-13

D. C. Form No. 104 Rev.

TITLE OF CASE

CRIMINAL DIVISION

THE UNITED STATES

00424

vs.
 Edward D. Hadenough, et al.,
 George A. Holt, Jr.

1. RAMIRO D. CARRILLO (Cts. 1-6)
2. O. P. CARRILLO (Cts. 1, 7-9)
3. ARTURO R. ZERTUCHE (Cts. 1, 10-12)

- 4/28/75 (10) Defts' First Motion for Leave to file Additional Motions, filed.
- 4/28/75 (11) Defts' First Motion in Limine Concerning Extraneous Offenses, filed.
- 4/28/75 (12) Defts' Second Motion in Limine, filed.
- 4/28/75 (13) Defts' Brief in Support of First and Second Motions in Limine, filed.
- 4/28/75 (14) Defts' First Motion for Discovery Pursuant to Rule 16, FRCP, with attached Rule 20 Compliance, filed.
- 4/28/75 (15) Defts' Brief in support of First Motion for Discovery Pursuant to Rule 16, filed.
- 4/28/75 (16) Defts' First Motion for Bill of Particulars, filed.
- 4/28/75 (17) Defts' Brief in Support of First Motion for Bill of Particulars, filed.
- 4/28/75 (18) Defts' Second Motion for Discovery with Rule 20 Compliance attached, filed.
- 4/28/75 (19) Defts' Third Motion for Discovery with Rule 20 Compliance attached, filed.
- 4/28/75 (20) Defts' Third Motion in Limine, filed.
- 4/28/75 (21) Defts' First Motion to Set Pretrial Conference, filed.
- 4/28/75 (22) Defts' First Motion to Suppress Statements and Other Evidence, filed.
- 4/28/75 (23) Defts' Brief in Support of First Motion to Suppress, filed.
- 4/28/75 (24) Defts' Motion for Extension of Time, filed.
- 4/28/75 (25) Defts' Motion for Disclosure of the Names and Addresses of Confidential Informers, filed.
- 4/29/75 (26) Appearance of Counsel for All Defts., filed.
- 5/2/75 (27) Defts' First Motion for Continuance, filed.
- THE FOLLOWING MOTIONS ARE FILED PER ORDER OF COURT
- 5/2/75 (28) Defts' First Motion to take Deposition, filed.
- 5/2/75 (29) Defts' Second Motion to take Deposition, filed.
- 5/2/75 (30) Defts' Third Motion to take Deposition, filed.
- 5/5/75 (31) Defts' Fourth Motion for Discovery w/Rule 20 Compliance, filed.
- 5/5/75 (32) Defts' Fourth Motion to take Deposition, filed.
- 5/5/75 (33) Defts' Fifth Motion to Take deposition, filed.
- 5/5/75 (34) Defts' Sixth Motion to take Deposition, filed.
- 5/7/75 (35) Govt's Motion for Determination of Conflict of Interest, filed.
- 5/7/75 (36) Deft. Zertuche's First Motion to Quash and/or Dismiss Indictment, filed.
- 5/7/75 (37) Deft. Zertuche's Motion for Extension of Time to File Amended Motion to Quash and/or Dismiss Indictment, filed.
- 5/8/75 (38) Govt's Answer to Defts' Second Motion for Discovery, filed.
- 5/8/75 (39) Govt's Answer to Defts' Motion for Disclosure of the names and Addresses of Confidential informers, filed.
- 5/8/75 (40) Govt's Answer to First Motion of Defts. for Bill of Particulars, filed.
- 5/8/75 (41) Govt's Answer to First Motion of Defts for Discovery, filed.
- 5/8/75 (42) ORDER, filed. (OBC) (Hearing set for May 16, 1975 at 9:00 a.m. Corpus Christi, Tx., on Govt's Motion for Determination of a conflict of interest and Defts' Motion for Continuance) (s/n cm-rc)
- 5/12/75 (43) Defts' Motion to Strike Language in Govt's Answer to Defts' First Motion for Discovery, filed.
- 5/12/75 (44) Govt's Answer to Defts' First Motion to Suppress Statements and Other Evidence, filed.
- 5/12/75 (45) Govt's Answer to Defts' Third Motion for Discovery, filed.
- 5/12/75 (46) Govt's Answer to Defts' Fourth Motion for Discovery, filed.
- 5/12/75 (47) Govt's Answer to First Motion of Defts for Continuance, filed.
- 5/12/75 (48) Govt's Answer to Defts' First Motion in Limine Concerning Extraneous Offenses, filed.
- 5/12/75 (49) Govt's Answer to Defts' Second Motion in Limine, filed.
- 5/12/75 (50) Govt's Answer to Defts' Third Motion in Limine, filed.

00425

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
V. §
 § Criminal No. CR 75-C-45
RAMIRO D. CARRILLO, §
O. P. CARRILLO AND §
ARTURO R. ZERTUCHE §

MEMORANDUM IN SUPPORT OF THIRD MOTION IN LIMINE
OF DEFENDANTS RAMIRO D. CARRILLO, O. P. CARRILLO
AND ARTURO R. ZERTUCHE

TO THE HONORABLE COURT:

Come now RAMIRO D. CARRILLO, O. P. CARRILLO
and ARTURO R. ZERTUCHE, Defendants in the above case and
make this their memorandum in support of their Third Motion
In Limine and as grounds therefore would show the Court the
following:

I.

The power to consider a motion in limine is inherent
in the Judge's authority to admit or exclude evidence and to take
such precautions as are necessary to afford a fair trial to all
parties.

The Indictment in this cause is worded only in terms of
the statutes alleged to have been violated, 18 U.S.C. 371 and
26 U.S.C. 7206(1). Because the Defendants have reason to believe
that the Government intends to show a tax deficiency or an under-
reporting of income, it is vital to the preparation of the Defendants'
defense to know the theories by which the Government intends
to prove such deficiency or underreporting.

00426

By ordering the Government to refrain from introducing any evidence of any deficiency or underreporting of income until these theories have been revealed to the Defendants, the Court can insure that the Defendants can proceed as rapidly as possible with a proper preparation of their case, thereby insuring the Defendants' right to a fair trial and eliminating undue delay and confusion.

WHEREFORE, PREMISES CONSIDERED, Defendants respectfully pray that their Third Motion In Limine be granted as requested.

Respectfully submitted,

ARTHUR MITCHELL
Mitchell, George & Belt
315 Westgate Building
Austin, Texas 78701

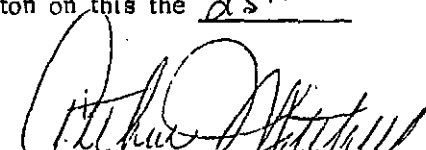
WILLIAM DAVID BONILLA
Bonilla, Read, Rodriguez, Bechmon &
Bonilla
P.O. Box 5427
Corpus Christi, Texas 78405

By: 
Arthur Mitchell

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing memorandum in support of Defendants' Third Motion In Limine has been forwarded to the United States Attorney for the Southern District of Texas at Houston on this the 25th day of April, 1975.


Arthur Mitchell

00427

IN THE UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
V. § Criminal No. CR 75-C-45
 §
RAMIRO D. CARRILLO, §
O. P. CARRILLO, AND §
ARTURO R. ZERTUCHE §

FIRST MOTION OF DEFENDANTS RAMIRO D. CARRILLO,
O. P. CARRILLO, AND ARTURO R. ZERTUCHE
FOR DISCOVERY PURSUANT TO RULE 16
FEDERAL RULES OF CRIMINAL PROCEDURE

TO THE HONORABLE COURT:

Now come Defendants, RAMIRO D. CARRILLO, O. P. CARRILLO,
and ARTURO R. ZERTUCHE, acting by and through their attorneys,
and pursuant to Rule 16 of the Federal Rules of Criminal Procedure
and would respectfully show the Court the following:

I.

The Defendants Ramiro D. Carrillo, O. P. Carrillo, and
Arturo R. Zertuche preliminarily would show the Court that, beginning
at a date several years prior to the commencement of proceedings
against Defendants in the above captioned case, the exact date being
unknown to Defendants, investigations were instituted by the Government
in connection with the prosecution of United States of America v.
George B. Parr, United States of America v. Archer Parr, United States
of America v. Saenz and other related cases, all well known to the
Government. In connection with such investigations, some or all of
the Defendants in the present prosecution, Ramiro D. Carrillo in

particular, were interviewed and interrogated by agents and representatives of the Government; and information was given by such Defendants to the Government (which materially relates to the offenses with which all Defendants are charged in the present proceedings), all of which resulted in the violation of constitutionally protectual rights of the Defendants herein.

Further, Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche would show the Court that testimony was given in behalf of the Government by Ramiro D. Carrillo in the prosecutions of the above cases of United States of America v. George B. Parr, United States of America v. Archer Parr, United States of America v. Saenz, and other related cases, which testimony is material to the offenses with which Defendants are charged in the present proceedings.

Defendants further submit that no warnings of any nature, as required by the Constitution of the United States and the administrative regulations of the Internal Revenue Service, were at anytime given to any of the Defendants by the agents and representatives of the Government in connection with the interviews and interrogations conducted in the above cases.

Defendants further would show that the offenses with which Defendants are charged are based in a large part on the information obtained by the Government from Ramiro D. Carrillo and the other Defendants in the course of investigation and interrogation in the prior cases above.

Further, Defendants submit that in the course of the investigation in connection with both the present prosecution and the prior related prosecutions the Government obtained further information by means

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of electronic surveillance and wiretapping of the telephones of Ramiro D. Carrillo, O. P. Carrillo, Arturo R. Zertuche and their attorney, which information is material to the offenses with which Defendants are charged herein.

II.

Pursuant to the showings in Paragraph I and in the interest of full disclosure, and Defendants respectfully move this Court pursuant to Rule 16 (a) of the Federal Rules of Criminal Procedure to produce and permit Defendants to inspect and copy or photograph:

(1) a list bearing the exact date, time and location of each interview or interrogation with Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche conducted by agents or representatives of the Government and bearing the name and title of each of the agents or representatives conducting such interview or interrogation in connection with the United States of America v. George B. Parr, United States of America v. Archer Parr, United States of America v. Saenz, and related cases.

(2) written, recorded or transcribed statements by Ramiro D. Carrillo, O. P. Carrillo, Arturo R. Zertuche, and any agent or representative of the Government in any interview or interrogation conducted by agents or representatives of the Government in connection with United States of America v. George B. Parr, United States of America v. Archer Parr, United States of America v. Saenz and related cases, to date of this motion.

(3) a transcript of the written or recorded testimony of Ramiro D. Carrillo before the grand jury in connection with United States of America v. George B. Parr, United States of America v. Archer Parr, United States of America v. Saenz and related cases.

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(4) a transcript of the written or recorded testimony of Ramiro D. Carrillo in the trial of United States of America v. George B. Parr, United States of America v. Archer Parr, United States of America v. Saenz and related cases.

(5) tapes and transcripts obtained by electronic surveillance and wiretapping of telephone conversations between Ramiro D. Carrillo, O. P. Carrillo, Arturo R. Zertuche and others, including agents or representatives of the Government, from the following telephones with the following numbers and/or names:

O. P. Carrillo	(512) 256-3671
O. P. Carrillo	(512) 279-3957
O. P. Carrillo	(512) 256-3491
Ramiro D. Carrillo	(512) 256-3445
Arturo R. Zertuche	(512) 394-7459
Arturo R. Zertuche	(512) 425-3507
Arthur Mitchell	(512) 477-9651, 9652, 9653, 9654
Arthur Mitchell	(512) 228-1900
	(512) 394-7121
	(512) 394-7386
	(512) 256-3592
	(512) 394-7129

(6) written or recorded testimony of Ramiro D. Carrillo, O. P. Carrillo and Arturo R. Zertuche before the grand jury in connection with the present prosecution.

(7) written or recorded statements between Ramiro D. Carrillo, O. P. Carrillo, or Arturo R. Zertuche and others including Government agents or representatives, or confessions made by Ramiro D. Carrillo, O. P. Carrillo, or Arturo R. Zertuche, or copies thereof, and, without limitation of the foregoing, any reports, notes, memoranda, affidavits, or other writings of, or containing any oral statements of Ramiro D. Carrillo, O. P. Carrillo, or Arturo R. Zertuche with others, including agents or representatives of the Government, which are within the possession, custody, or control of the Government, the existence of which is known, or by the exercise of due diligence

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may become known, to the attorney for the Government;

(8) any exculpatory or mitigating written or recorded statements by Ramiro D. Carrillo, O. P. Carrillo, or Arturo R. Zertuche relevant to the offenses charged which are within the possession, custody, or control of the Government, the existence of which is known, or by the exercise of due diligence may become known, to the Attorney for the Government;

(9) individual and partnership tax returns filed by Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche, whether under the names of the individual Defendants or under the name of Farm and Ranch Supply, Ramiro Carrillo & Bros., or Zertuche General Store, from 1965 to date.

III.

Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche, pursuant to Rule 16 (b) of the Federal Rules of Criminal Procedure, respectfully move the Court to order the Attorney for the Government to produce and permit Defendants to inspect and copy or photograph books, papers, documents, reports, memoranda, notes or written papers of any kind, tangible objects, or copies or portions thereof, which are within the possession, custody, or control of the Government which relate to the above captioned proceedings and which were obtained by the Government from any person.

(1) who was in the employ of Ramiro D. Carrillo, O. P. Carrillo, Arturo R. Zertuche or who was acting as an agent of any of the above named Defendants during the years 1967 through 1974 inclusive, including, but not limited to, employees of Farm and Ranch Supply, Ramiro Carrillo and Bros., and Zertuche General Store; or

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(2) who purchased supplies from or paid revenue of any character to Ramiro D. Carrillo, O. P. Carrillo, Arturo R. Zertuche, Hector Zertuche, Farm and Ranch Supply, Ramiro Carrillo and Bros., or Zertuche General Store, or any employee or agent thereof, in any of the years 1967 through 1974 inclusive; or

(3) who made any payments of any character to Ramiro D. Carrillo, O. P. Carrillo, Arturo R. Zertuche, Hector Zertuche, Farm and Ranch Supply, Ramiro Carrillo and Bros., or Zertuche General Store, or any employee or agent thereof, in any of the years 1967 through 1974 inclusive; or

(4) to whom payments of any character were made by Ramiro D. Carrillo, O. P. Carrillo, Arturo R. Zertuche, Hector Zertuche, Farm and Ranch Supply, Ramiro Carrillo and Bros., or Zertuche General Store, or any employee or agent thereof, in any of the years 1967 through 1974 inclusive; or

(5) who has any knowledge of any of the personal or business income or expenses of Ramiro D. Carrillo, O. P. Carrillo, or Arturo R. Zertuche during the years 1967 through 1974 inclusive; or

(6) who has any knowledge of any of the personal and/or business assets and liabilities of Ramiro D. Carrillo, O. P. Carrillo, or Arturo R. Zertuche from January 1, 1967 through May 31, 1974; or

(7) who served with either Ramiro D. Carrillo or O. P. Carrillo in any official capacity or had any contact with either of the Defendants in their official capacities during the years 1967 through 1974 inclusive.

IV.

Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo R.

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Zertuche respectfully move the Court, pursuant to Rule 16 (b) of the Federal Rules of Criminal Procedure, to order the Attorney for the Government to produce and permit Defendants to inspect and copy or photograph

(1) a list bearing the names of all Federal officers and agents who participated in the prearrest investigation of any of the Defendants for the offenses now before the Court and all officers who participated in the arrest and subsequent investigation;

(2) a list bearing the names of all witnesses interviewed by the Government in connection with this prosecution;

(3) a list bearing the names of all the witnesses the Government intends to call to testify in the trial of this case;

(4) a list bearing the names of all the witnesses who appeared before the grand jury in connection with the above captioned case;

(5) a list bearing the names of all the witnesses who appeared before the grand jury in connection with United States of America v. George B. Parr, United States of America v. Archer Parr, United States of America v. Saenz, and related cases;

(6) tapes and transcripts of the following telephones with the following numbers and/or names:

O. P. Carrillo	(512) 256-3671
O. P. Carrillo	(512) 279-3957
O. P. Carrillo	(512) 256-3491
Ramiro D. Carrillo	(512) 256-3445
Arturo R. Zertuche	(512) 394-7459
Arturo R. Zertuche	(512) 435-3507
Arthur Mitchell	(512) 477-9651, 9652, 9653, 9654
Arthur Mitchell	(512) 228-1900
	(512) 394-7121
	(512) 394-7386
	(512) 256-3592
	(512) 394-7129

(7) Individual and partnership tax returns for Ramiro D. Carrillo, O. P. Carrillo, Arturo R. Zertuche, Farm and Ranch Supply,

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Ramiro Carrillo and Bros., Zertuche General Store, Hector Zertuche, and Cleophis Gonzales including the Schedule C forms filed with the returns, for the years 1965 through 1974 inclusive;

(8) all documents, papers, bank statements, cancelled checks or other writings relating to the income and expenses of any of the Defendants of Farm and Ranch Supply, Ramiro Carrillo and Bros., or Zertuche General Store in the years 1967 through 1974 inclusive;

(9) all papers, records, memoranda, or copies thereof, relating to all past examination reports by the Internal Revenue Service of the individual and/or partnership income tax returns of Ramiro D. Carrillo, O. P. Carrillo, Arturo R. Zertuche and Hector Zertuche, to include all such reports of Farm and Ranch Supply, Ramiro Carrillo and Bros., Zertuche General Store, and The General Store;

(10) all photographs, moving films of any kind, or still pictures in any way connected with the Defendants, Farm and Ranch Supply, Ramiro Carrillo and Bros., or Zertuche General Store;

(11) any and all evidentiary materials, including written or recorded statements by persons interviewed by agents or representatives of the Government, relevant to the defense of the case that would aid Ramiro D. Carrillo, O.P. Carrillo, and Arturo R. Zertuche in demonstrating their innocence or in mitigating the punishment to be assessed against them.

There is excluded from the subject matter of the motion contained in Paragraphs III and IV only reports, memoranda, or other purely internal government documents made by the government in connection with the investigation or prosecution of the case, or statements made by government witnesses or prospective government witnesses other

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than the Defendants to agents of the Government except as provided in 18 U.S.C.A. § 3500. To the extent they exclude the same herefrom, Defendants reserve the right to obtain such information in accordance with 18 U.S.C.A. §3500.

V.

To order the Attorney for the Government to permit Defendants to inspect and copy or photograph notes, records, memoranda, and/or other writing or statements made by persons who are not government witnesses or prospective government witnesses made either before the grand jury or to government agents or representatives, or otherwise, which are within the possession, custody, or control of the Government.

VI.

To order the Attorney for the Government to produce and permit Defendants to inspect and copy or photograph any material described in this motion which comes into the possession of the Government after the order rendered in connection herewith is complied with, or which is delivered after the order in connection herewith is acted upon.

Dated and Signed this 2d day of April, 1975.

Respectfully submitted,

ARTHUR MITCHELL
Mitchell, George & Belt
315 Westgate Building
Austin, Texas 78701

WILLIAM DAVID BONILLA
Bonilla, Read, Rodriguez, Beckmon & Bo
P.O. Box 5427
Corpus Christi, Texas 78405

By: S/

ATTORNEYS FOR DEFENDANTS

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A true and correct copy of the above and foregoing Motion
By Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche
For Discovery Pursuant To Rule 16, Federal Rules of Criminal
Procedure has been forwarded to the United States Attorney for the
Southern District of Texas at Houston on this 24 day of April,
1975.

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
V. §
 § Criminal No. CR 75-C-45
RAMIRO D. CARRILLO, §
O. P. CARRILLO, AND §
ARTURO R. ZERTUCHE §

BRIEF IN SUPPORT OF FIRST MOTION FOR DISCOVERY
PURSUANT TO RULE 16

TO THE HONORABLE COURT:

Come now RAMIRO D. CARRILLO, O. P. CARRILLO, and
ARTURO R. ZERTUCHE, Defendants in the above captioned cause
and present this their Brief In Support Of Motion For Discovery
and would show the Court the following:

I.

Federal Rule of Criminal Procedure 16 (a) provides that
upon Motion of the Defendants the Court may order the Attorney
for the United States to allow the Defendants to inspect and copy
relevant statements or confessions made by the Defendants.
"Statements" within the meaning of Rule 16 (a) includes tapes
of telephone conversations by a Defendant in the course of the
commission of the crime. U. S. v. Crisona, 416 F. 2d 107,
114-115 (2d Cir. 1969), cert. den'd 90 S. Ct. 991, 397 U.S.
961; Davis v. U. S., 413 F. 2d 1226, 1230-1231 (5th Cir. 1969).
It is sufficient cause for invoking discovery under Rule 16(a) that
the statements are "relevant" to litigation in question. See United
States v. Cook, 432 F. 2d 1093 (7th Cir. 1970). Unlike the case
under Rule 16 (b), there is no requirement of a showing that the

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statements are material to the preparation of the defense. The amended rule, by eliminating the necessity to show materiality and by including within its province material in the custody or control of the Government, no matter from whom or how obtained, gives the Defendants virtually an absolute right to discovery of the materials listed within the rule. United States v. Cook, supra; United States v. T.S.A., 413 F. 2d 244 (7th Cir. 1969). As stated in 1 WRIGHT, Federal Practice and Procedure § 253 (1969) and supported by numerous case holdings including United States v. White, 50 F.R.D. 70, 72 (D.C. Ga.1970), aff'd 450 F. 2d 264 (5th Cir. 1971), cert. den'd 92 S. Ct. 1523, 405 U.S. 1072,

...while that subdivision, [16(a)], is cast in discretionary terms it gives the defendant "virtually an absolute right" to discovery of the materials there listed.

Rule 16 (a) (3) allows discovery of the Defendant's grand jury testimony. United States v. Remington, 191 F. 2d 246 (2d Cir. 1951); United States v. Aeroquip Corp. 41 F.R.D. 441 (E. D. Mich. 1966).

Under Federal Rules of Criminal Procedure 16(b) the Court may order the United States Attorney to permit the Defendant to inspect and copy "books, papers, documents, tangible objects,..." which are within the possession, custody or control of the government, upon a showing of materiality to the preparation of his defense and that the request is reasonable." Recordings of conversations had between Defendants and Internal Revenue agents during the alleged commission of crimes are discoverable as "tangible objects" within the meaning of Rule 16(b). U.S. v. Fassler, 46 F.R.D. 43 (D.C. N.Y. 1968). Transcripts of grand jury proceedings are "documents" within the meaning of Rule 16(b)." U.S. v. Hughes,

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413 F. 2d 1244, 1255 (5th Cir. 1969). When a net worth technique is being employed by the United States in a prosecution for income tax evasion, a liberal policy concerning discovery of financial records of the Defendant in the possession of the Government, is demanded, since the entire proceeding is based on circumstantial evidence. U.S. v. Jaskiewicz, 272 F. Supp. 214 (D.C. Pa. 1967).

Unlike Rule 16(a), Rule 16(b) maintains the requirement of a showing of materiality to the preparation of the defense. United States v. Hughes, 413 F. 2d 1244 (5th Cir. 1969). It should be noted that the requirement of materiality refers to materiality to the preparation of the defense and not to the proof of the offenses charged. U.S. v. Hughes, supra at 1254. The items requested herein meet the requirement of materiality; they relate directly to the acquisition of information relevant to Defendants' income and expenses. The request made herein is reasonable even though it may cover a large amount of material. The indictment itself charges offenses spanning a period of some seven and a half years and involving a series of complex financial transactions. The Government has had years and unlimited access to records and its investigation of this case and its investigation of prior related cases, out of which the present prosecution rose. It is certainly reasonable for the Defendants to have access to documents necessary for their defense.

Reasonable designation of the items requested has been given. United States v. Reid, 43 F.R.D. 520 (D.C. Ill. 1967). The Motion contains as specific a designation of items necessary for the preparation of the defense as is possible at this time. The Court in United States v. Hughes, supra at 1254, while condemning the "shot gun motion," stated:

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Because the Defendant cannot be expected to know the exact nature of what he has not yet seen, specific designation is not required.

The information requested by the Motion is only information material to the preparation of the defense of the allegations in the indictment.

It would be a proper exercise of the Court's discretion to order the discovery requested in that without the discovery the Defendants will be unable to prepare their defenses. It would not be burdensome for the Government to have to produce the requested materials since they are all readily accessible to the Government.

II.

The Defendants are further entitled to the production and inspection of all evidentiary materials relevant to the defense of the case that would aid the Defendants in demonstrating their innocence or in mitigating the punishment to be assessed against them. United States Constitution, Fourteenth Amendment, due process clause. Brady v. Maryland, 373 U.S. 83, 83 S. Ct. 1194 (1963); Giles v. Maryland, 386 U.S. 66, 87 S. Ct. 793 (1967); Imbler v. Craven, 298 F. Supp. 795 (C.D. Cal. 1969). The Court in Imbler stated:

The prosecutor must be vigilant to see to it that full disclosure is made at trial of whatever may be in his possession which bears in any material degree on the charge for which the defendant is tried.

For discovery as requested in the motion to be denied would give the Government an unfair advantage and would deny the Defendants a fair trial.

WHEREFORE, PREMISES CONSIDERED, the Defendants, Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche,

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respectfully pray that discovery as requested in the motion for
discovery be ordered by this Court.

Respectfully submitted,

ARTHUR MITCHELL
Mitchell, George & Belt
315 Westgate Building
Austin, Texas 78701

WILLIAM DAVID BONILLA
Bonilla, Read, Rodriguez, Beckmon & Bon
P.O. Box 5427
Corpus Christi, Texas 78405

By: s/
Arthur Mitchell

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above
and foregoing Brief In Support Of First Motion For Discovery
Pursuant To Rule 16 has been forwarded to the United States Attorney
for the Southern District of Texas at Houston on this 24 day of
April, 1975.

 s/
Arthur Mitchell

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
V. §
 § Criminal No. CR 75-C-45
RAMIRO D. CARRILLO, §
O. P. CARRILLO AND §
ARTURO R. ZERTUCHE §

SECOND MOTION OF DEFENDANTS RAMIRO D. CARRILLO,
O. P. CARRILLO, AND ARTURO R. ZERTUCHE FOR DISCOVERY

TO THE HONORABLE COURT:

Defendants RAMIRO D. CARRILLO, O. P. CARRILLO and ARTURO R. ZERTUCHE respectfully move the Court that upon the Indictment, the Plea of Not Guilty, the Motion for Bill of Particulars, and such other proceedings had herein on their behalf, but due to the fact that these Defendants are not sufficiently apprised by the general allegations in the Indictment, and have not been furnished with sufficient particular allegations and information of the charges and allegations in the Indictment, to enable them to prepare an adequate defense, and to prepare and present a Motion to Suppress Evidence, that the Court should order the prosecution to apprise these Defendants whether any evidence was obtained, directly or indirectly, on the following grounds:

- (1) To require the Government to advise if it has noted Preferential Agreement with a Co-Defendant, co-conspirator, or alleged "unindicted co-conspirator", not indicted, to produce testimony against the Defendants.

This Motion is made under the following Authority:

Giglio v. United States, 92 S.Ct. 763 405 U.S. 150 (1972).

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WHEREFORE, these Defendants Ramiro D. Carrillo, O. P. Carrillo and Arturo R. Zertuche respectfully request this Honorable Court to enter any and all appropriate Orders to carry out the foregoing matters, and for such order Orders as the Court may deem proper and appropriate.

Dated and Signed this 25th day of April, 1975.

Respectfully submitted,

ARTHUR MITCHELL
Mitchell, George & Belt
315 Westgate Building
Austin, Texas 78701.

WILLIAM DAVID BONILLA
Bonilla, Read, Rodriguez, Bechmon & Bonilla
P.O. Box 5427
Corpus Christi, Texas 78405

By: Arthur Mitchell
Arthur Mitchell

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Second Motion of Defendants has been forwarded to the United States Attorney for the Southern District of Texas at Houston on this the 25th day of April, 1975.

Arthur Mitchell
Arthur Mitchell

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA	§	
	§	
V.	§	
	§	Criminal No. CR 75-C-45
RAMIRO D. CARRILLO,	§	
O. P. CARRILLO AND	§	
ARTURO R. ZERTUCHE	§	

THIRD MOTION OF DEFENDANTS RAMIRO D. CARRILLO, O. P.
CARRILLO AND ARTURO R. ZERTUCHE FOR DISCOVERY

TO THE HONORABLE COURT:

Comes now RAMIRO D. CARRILLO, O.P. CARRILLO and ARTURO R. ZERTUCHE, defendants in the above cause and make this their Motion for Discovery of all exculpatory evidence and as grounds therefore would show the Court as follows:

I.

The government should be ordered to produce and make available to the Defendants all statements, documentary evidence, and reports containing any exculpatory evidence whatsoever. This request is not limited to evidence which directly exculpates the Defendants, but rather extends to any evidence which is not directly incriminatory, since it is only the Defendants and their counsel who can properly determine if evidence may be of benefit to the Defendants in developing a defensive theory. Defendants herein further delineate more specifically certain categories of types of evidence which they specifically request, but in no way waive their general request that the Government produce all exculpatory evidence as contained in this paragraph.

II.

The Government should be required to produce for inspection

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and copying statements of all witnesses that the Government does not intend to call as a witness on its behalf. Additionally, the Government should furnish the names and addresses of all witnesses which to its knowledge have evidence exculpatory of any of the Defendants but who have not given statements to the Government.

III.

The Government should be required to furnish prior to trial all statements of witnesses which it does intend to call on its behalf who have given statements that are in any way exculpatory of any of the Defendants either by way of tending to exonerate them from any criminal action or by way of conflicting with other statements given by the same witnesses.

IV.

The criminal records of all witnesses which the Government intends to use in its trial of this cause including F.B.I. records of each such witness.

V.

All exculpatory statements made by witnesses who appeared before the Grand Jury whether or not said witnesses will be called at the trial of this case.

WHEREFORE, PREMISES CONSIDERED, Defendants Ramiro D. Carrillo, O. P. Carrillo and Arturo R. Zertuche respectfully pray that the Attorney for the Government be ordered to produce the above stated information in order that the Defendants may have a fair trial of the case against them and that they be granted such other and further relief to which they may be entitled.

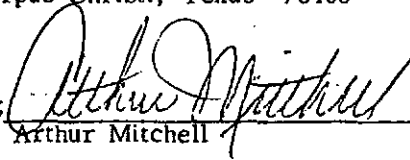
Respectfully submitted,

ARTHUR MITCHELL
Mitchell, George & Belt
315 Westgate Building
Austin, Texas 78701

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WILLIAM DAVID BONILLA
Bonilla, Read, Rodriguez, Bechmon & Bonilla
P.O. Box 5427
Corpus Christi, Texas 78405

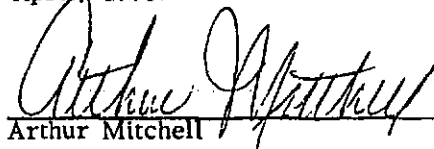
By:


Arthur Mitchell

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Third Motion of Defendants For Discovery has been forwarded to the United States Attorney for the Southern District of Texas at Houston on this the 25th day of April, 1975.


Arthur Mitchell

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA	§	
	§	
V.	§	
	§	Criminal No. CR 75-C-45
RAMIRO D. CARRILLO,	§	
O.P. CARRILLO AND	§	
ARTURO R. ZERTUCHE	§	

MOTION OF DEFENDANTS RAMIRO D. CARRILLO, O. P.
CARRILLO AND ARTURO R. ZERTUCHE FOR DISCLOSURE
OF THE NAMES AND ADDRESSES OF CONFIDENTIAL INFORMERS

TO THE HONORABLE COURT:

Now come Defendants Ramiro D. Carrillo, O. P. Carrillo and Arturo R. Zertuche acting by and through their attorneys, and would show the court the following:

I.

The Defendants have reason to believe that one or more confidential informers have given information or evidence, tangible or intangible, pertaining to the charges against these Defendants.

The Court should order and compel the Government to disclose the names and addresses of each of these confidential informers from whom they secured such information or evidence. If the Government asserts that there are no such informants, the Court should then order the Government to deny in writing and under oath the non-existence of such informants.

The identity of such persons is necessary and vital to a just determination of this cause in that appearance in Court by such persons, and confrontation by such witnesses as guaranteed by the Sixth Amendment to the United States Constitution, is a right to which these Defendants

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are entitled and is essential to a fair determination of the guilt or innocence of the Defendants of the charges leveled against them by the indictment.

WHEREFORE, PREMISES CONSIDERED, Defendants Ramiro D. Carrillo, O. P. Carrillo and Arturo R. Zertuche respectfully move that the Court order and compel the names and addresses of each of the confidential informers from whom they secured any information or evidence, tangible or intangible, pertaining to the charges against Defendants, and if the Government asserts that there are no such informants, then to deny in writing and under oath the non-existence of such informants.

Respectfully submitted,

ARTHUR MITCHELL
Mitchell, George & Belt
315 Westgate Building
Austin, Texas 78701

WILLIAM DAVID BONILLA
Bonilla, Read, Rodriguez, Beckmon & Bonilla
P.O. Box 5427
Corpus Christi, Texas 78405

By: 
Arthur Mitchell

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Motion of Defendants for Disclosure of the Names and Addresses of Confidential Informers has been forwarded to the United States Attorney for the Southern District of Texas at Houston on this the 25th day of April, 1975.


Arthur Mitchell

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
V. § CRIMINAL NO. 75-C-45
 §
RAMIRO D. CARRILLO, §
O. P. CARRILLO, AND §
ARTURO R. ZERTUCHE §

MOTION TO STRIKE LANGUAGE IN GOVERNMENT'S
ANSWER TO DEFENDANTS' FIRST MOTION FOR DISCOVERY

TO THE HONORABLE COURT:

Comes now ARTHUR MITCHELL, Attorney for Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche in the above-entitled and numbered cause, and makes this his Motion to Strike Language in the Government's Answer to Defendants' First Motion for Discovery, and would respectfully show the Court as follows:

I.

Arthur Mitchell, Attorney for Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche in the above-entitled and numbered cause and a member in good standing of the Bars of the Supreme Court of the United States, Fifth Circuit, Western District, Northern District, and Texas Bar (since December 1950), moves this Court to strike from the record language appearing in the Government's Answer to First Motion of Defendants for Discovery, page 2, §II, lines 13 through 15, relative to the Government's Motion for Determination of Conflict of Interest as follows: ". . .seeking a determination in the matter of the unconscionable, unethical, and unprofessional representation of the defendant Zertuche by Mr. Mitchell."

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II.

In support of this Motion, Movant would show the Court that the remarks in the Government's Answer relative to the representation of Defendant Arturo R. Zertuche by Arthur Mitchell in the above-entitled and numbered cause are not within the purview of the Government's Answer to the First Motion of Defendants for Discovery, are totally superfluous, and are improperly included therein for the sole purpose of influencing the Court in its ruling on the Government's Motion for Determination of Conflict of Interest.

III.

Further, Movant would show the Court that the suggestive and derogatory remarks relative to Arthur Mitchell's representation of Defendant Arturo R. Zertuche are contradictory to the very language on page one of the Government's Motion for Determination of Conflict of Interest, wherein the Government asserts that the matter of the potential conflict of interest is raised "not to suggest any impropriety on the part of defense counsel, but in an abundance of caution to obviate the possibility of post-trial dilemmas."

IV.

Further, Movant would show that said remarks contained in the Government's Answer were made with the intention of discrediting Arthur Mitchell and are an unnecessary and improper reflection upon his character as an attorney. Movant would show that he has in his twenty-five years of practice as an attorney and member of the Bar in good standing enjoyed a reputation of good character and integrity and unblemished by such unwarranted accusations as are now made by the Attorney for the Government.

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V.

Finally, Movant would show that the inclusion of such remarks relative to Arthur Mitchell's legal representation of Defendant Arturo R. Zertuche in the Government's Answer is made as an attempt to predetermine the question of potential conflict of interest in an improper forum, to-wit, a hearing on Defendants' Motion for Discovery. At stake are the rights of the Defendants. Should a discussion and determination of the attorney's professional responsibilities be necessary or desirable, there is ample opportunity at another forum in which the rights of Defendants do not hang in the balance. The interjection of such derogatory remarks by the Attorney for the Government is an attempt to prejudice the legal representation of the Defendants in the eyes of the Court with the result of depriving all Defendants of their right to effective assistance of counsel and the preparation of an adequate defense.

VI.

The matters contained in the supererogatory and gratuitous remarks by the Government are designed to prejudice the relationship of attorney-client existing between Arthur Mitchell and Arturo Zertuche in advance of a judicial review of the same; to obscure the fact that the Government, by its unlawful interrogation of Arturo Zertuche (as outlined in its motion on file), and indicted co-conspirator, violated rights protected by the U.S. Constitution belonging to Arturo Zertuche, O. P. Carrillo, and Ramiro Carrillo - no amount of personal invective by the Government belies this critical reality.

WHEREFORE, PREMISES CONSIDERED, Movant respectfully prays

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that this Court order the language contained in the Government's Answer to First Motion of Defendants for Discovery, page 2 §II, lines 13 through 15, be stricken from the record in the above-entitled and numbered cause.

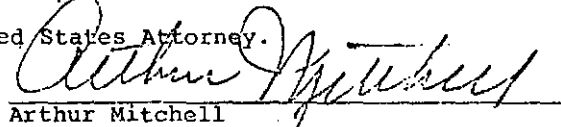
Respectfully submitted,



ARTHUR MITCHELL
315 Westgate Building
Austin, Texas 78701

ATTORNEY FOR DEFENDANTS

I hereby certify that a true and correct copy of the above and foregoing Motion to Strike Language in Government's Answer to Defendants' First Motion for Discovery has been forwarded to Mr. George A. Kelt, Jr., Assistant United States Attorney, P. O. Box 61129, Houston, Texas 77028 and Mr. William L. Bowers, Jr., Assistant United States Attorney.



Arthur Mitchell

00453

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
VS. § CRIMINAL NO. 75-C-45
 §
O. P. CARRILLO §

MOTION TO PROVIDE COUNSEL
WITH PROSPECTIVE JURY PANEL LIST
IN ADVANCE OF TRIAL

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Defendant, P. O. CARRILLO, by and through his counsel of record and requests the Court to provide counsel for the defense and for the Government with the names and information available on the prospective jury panel at docket call or as soon thereafter as reasonably available and would show the Court that the production of these names in advance of trial would aid counsel for the Government and defense in preparing for the voir dire and selection of the jury thus allowing counsel for the defense to properly represent their client and speeding the procedure as well.

Respectfully submitted,

ARTHUR MITCHELL
MITCHELL, GEORGE & BELT
315 Westgate Building
Austin, Texas 78701

WILLIAM D. BONILLA
BONILLA, READ, NUTTO, BECKMAN & BONILL
P. O. Drawer 5427
Corpus Christi, Texas 78405

RICHARD HAYNES
HAYNES & FULLENWEIDER
711 Fannin, Suite 610
Houston, Texas 77002

By 
Richard Haynes

ATTORNEYS FOR DEFENDANT

00454

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Defendant's Motion to Provide Counsel With Prospective Jury Panel List In Advance Of Trial has been forwarded to Mr. George Kelt, United States Attorney's Office, Houston, Texas, on this the 2 day of Sept, 1975.

Richard Hynes

00455

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA §
VS. § CRIMINAL NO. 75-C-45
O. P. CARRILLO §

O R D E R

Defendant's Motion to Provide Counsel With
Prospective Jury Panel List in Advance of Trial is hereby;

(Granted)

_____ To which ruling Defendant
(Denied) timely noted an exception.

SIGNED AND ENTERED on this, the _____ day of
_____, 19__.

Judge Presiding

Benavides H. Alvarez

00456

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
V. § Criminal No. CR. 75-C-45
 §
RAMIRO D. CARRILLO, §
O. P. CARRILLO AND §
ARTURO R. ZERTUCHE §

FOURTH MOTION OF DEFENDANTS
RAMIRO D. CARRILLO, O. P. CARRILLO, AND
ARTURO R. ZERTUCHE FOR DISCOVERY

TO THE HONORABLE COURT:

Now come Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche, acting by and through their attorneys and pursuant to Rule 16(b) of the Federal Rules of Criminal Procedure, and would show the Court the following:

I.

Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche respectfully move the Court, pursuant to Rule 16(b) of the Federal Rules of Criminal Procedure, to order the Attorney for the Government to produce and permit Defendants to inspect or copy and photograph the following documents which are within the possession, custody, or control of the Government, the existence of which is known, or by the exercise of due diligence may become known to the Attorney for the Government:

- ✓ (1) all income tax returns of the Benavides Implement and Hardware Company for the years 1970 to date.
- ✓ (2) all records of the Benavides Implement and Hardware Company arising out of doing business with Farm and Ranch Supply from January 1, 1970 to date.

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(3) all records of any civil audit of the Benavides Implement and Hardward Company which may have been conducted by the Internal Revenue Service.

(4) all records of civil proceedings for income tax liability by the Internal Revenue Service of the Benavides Implement and Hardward Company, including any records relating to agreements and/or settlements of civil liability.

(5) all records relating to criminal proceedings for violations of income tax laws against the Benavides Implement and Hardware Company, including any records relating to agreements and/or settlements relating to same.

(6) all records relating to civil investigations, if any, of Ramiro D. Carrillo, O. P. Carrillo, Arturo R. Zertuche, Farm and Ranch Supply, and Zertuche General Store by the Audit Division of the Internal Revenue Service; and, if any were conducted, the dates of their referrals to the Intelligence Division and a copy of the referral report.

(7) all records of financial or commercial transactions between Duval County and Ramiro D. Carrillo, O. P. Carrillo, Arturo R. Zertuche, Farm and Ranch Supply, and/or Zertuche General Store, for the years 1965 to date, including all records of purchases or rentals of equipment or other items.

(8) all records of financial or commercial transactions between the Benavides Independent School District and Ramiro D. Carrillo, O. P. Carrillo, Arturo R. Zertuche, Farm and Ranch Supply, and/or Zertuche General Store for the years 1965 to date, including all records of purchases or rentals of equipment or other items.

(9) all records of financial and commercial transactions between Duval County Water and Reclamation District and Ramiro D. Carrillo,

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O. P. Carrillo, Arturo R. Zertuche, Farm and Ranch Supply, and/or Zertuche General Store for the years 1965 to date, including all records of purchases or rentals of equipment and other items.

II.

During the several years following the closing of Zertuche General Store, Benavides Implement and Hardware Company has had substantial financial and commercial transactions with Farm and Ranch Supply, yet no claim is made by the Government that the reported income of the Benavides Implement and Hardware Company is not properly its own. Such a charge is made against the proprietor of Zertuche General Store. The items requested in Paragraph I, subdivision 1 through 5 are material to the charges against Arturo R. Zertuche and the other Defendants.

III.

The items contained in Paragraph I (6) are material to the issue of suppression of evidence for the failure to give proper warnings.

IV.

It is alleged in the Indictment that Duval County, Benavides Implement and Hardware Company, and Duval County Water and Reclamation District made purchases directly from Farm and Ranch Supply through the conduit of Zertuche General Store. The items requested in Paragraph I, subdivisions 7, 8, and 9 are material to the defense of this charge.

V.

All of the documents requested herein are material to the preparation of the defense, as indicated by the facts set out in Paragraphs I through IV.

WHEREFORE, PREMISES CONSIDERED, the Defendants, Ramiro

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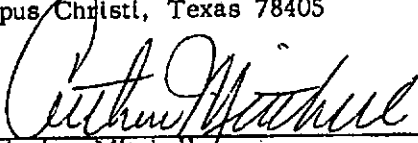
D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche, respectfully
pray that discovery as requested in the motion be ordered by this
Court.

Respectfully submitted,

ARTHUR MITCHELL
315 Westgate Building
Austin, Texas 78701

WILLIAM DAVID BONILLA
P.O. Drawer 5427
Corpus Christi, Texas 78405

By:

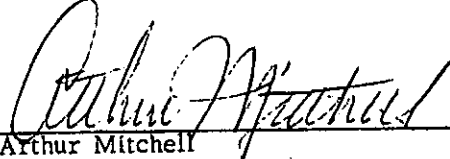


Arthur Mitchell

Attorneys for Defendants

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above
and foregoing Fourth Motion of Defendants For Discovery has been
sent to the United States Attorney for the Southern District of Texas
at Houston, on this the 2nd day of May, 1975.



Arthur Mitchell

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA	§	
	§	
V.	§	
	§	Criminal No. CR-75-C-45
RAMIRO D. CARRILLO,	§	
O. P. CARRILLO, AND	§	
ARTURO R. ZERTUCHE	§	

ORDER RELATING TO DEFENDANTS'
FOURTH MOTION FOR DISCOVERY

On this date came to be heard the Fourth Motion For Discovery by Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche, and the Court having considered the same is of the opinion that said Motion be _____.

It is therefore ORDERED that Defendants' Fourth Motion For Discovery is hereby in all things _____.

DATED: _____

JUDGE
United States District Court
Southern District of Texas.

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
V. § CRIMINAL NO. CR-75-C-45
 §
RAMIRO D. CARRILLO, §
O. P. CARRILLO, AND §
ARTURO R. ZERTUCHE §

STATEMENT IN SUPPORT OF DEFENDANTS'
FOURTH MOTION FOR DISCOVERY

TO THE HONORABLE COURT:

Comes now Defendants' attorney, Arthur Mitchell, and states to the Court that he has attempted to comply with Rule 20, Local Rules of the United States District Court for the Southern District of Texas; that a conference was hold on April 19, 1975 with United States Attorney George Kelt and that no agreement has been reached concerning the discovery or inspection that is the subject of Defendants' motion.

Respectfully submitted,

ARTHUR MITCHELL
315 Westgate Bldg.
Austin, Tx. 78701

WILLIAM DAVID BONILLA
P. O. Box 5427
Corpus Christi, Tx. 78405

By _____
Arthur Mitchell

ATTORNEYS FOR DEFENDANTS

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA	§	
	§	
V.	§	
	§	Criminal No. CR 75-C-45
RAMIRO D. CARRILLO,	§	
O. P. CARRILLO AND	§	
ARTURO R. ZERTUCHE	§	

FIRST MOTION OF DEFENDANTS RAMIRO D. CARRILLO,
O. P. CARRILLO, AND ARTURO R. ZERTUCHE
FOR BILL OF PARTICULARS

TO THE HONORABLE COURT:

Come now Defendants, RAMIRO D. CARRILLO, O. P. CARRILLO, and ARTURO R. ZERTUCHE, acting by and through their attorneys, and pursuant to Rule 7(f) of the Federal Rules of Criminal Procedure, and move this Court to order the Attorney for the United States of America to serve and file with this Court and to deliver to said Defendants a Bill of Particulars relating to the above captioned matter and containing the following particulars with respect thereto:

(1) A statement as to whether the Government alleges that an agreement was entered into by Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche whereby said persons agreed to commit the offenses against the Government alleged in the Indictment.

(2) A statement as to the exact date on which the alleged agreement, if any, was entered into by Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche.

(3) A statement as to the exact nature and terms of the alleged agreement and conspiracy, if any, entered into by Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche.

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(4) A statement as to the effect of the alleged agreement and conspiracy among Defendants, and in particular, a statement as to the alleged specific resultant injury to the Government.

(5) A statement as to whether the Government alleges the participation of additional persons and coconspirators in the agreement and conspiracy, if any, who are not named as codendants in the Indictment; and, if so, the names of such additional coconspirators.

(6) A statement as to the exact date any alleged additional coconspirators, if any, entered into the alleged agreement and conspiracy, if any.

(7) A statement as to any and all additional overt acts by Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche, or other alleged coconspirators, if any, pursuant to the alleged agreement and conspiracy, if any, and the exact dates on which such acts, if any, were performed.

(8) A statement as to all sales of the partnership O. P. Carrillo and Ramiro D. Carrillo, doing business as Farm and Ranch Supply, alleged to have been made in the name of Zertuche General Store, and the exact date on which each of such alleged sales was made.

(9) A statement as to whether it is alleged by the Government that Zertuche General Store was not an independent operation of Arturo R. Zertuche; and if so alleged, an exact statement setting forth the following:

(a) the alleged owner or owners and proprietors of Zertuche General Store for each of the years 1967 to the present date.

(b) the alleged employees of the Zertuche General

Store or the owners thereof and the capacity in which each of such employees were employed in regard to the Zertuche General Store for each of the years 1967 to date.

(c) the alleged role of Ramiro D. Carrillo, and O. P. Carrillo in regard to the Zertuche General Store for the years 1967 to date.

(d) the alleged role of Arturo R. Zertuche in regard to the Zertuche General Store for the years 1967 to date.

(e) the individuals on whose returns the income and expenses for Zertuche General Store were allegedly properly reportable for each of the years 1967 through 1974.

(10) A statement as to whether it is alleged by the Government that Zertuche General Store was not an entity separate and apart from the partnership of O. P. Carrillo and Ramiro D. Carrillo doing business as Farm and Ranch Supply; and, if so alleged, an exact statement as to the alleged relationship between Zertuche General Store and Farm and Ranch Supply for each of the years 1967 through 1974.

(11) A statement as to the amount of alleged income which was improperly unreported on the 1968 individual income tax return of Ramiro D. Carrillo and the source or sources thereof, including the source or sources from which the partnership allegedly received such income.

(12) A statement as to the amount of alleged income which was improperly unreported on the 1969 individual income tax return of Ramiro D. Carrillo and the source or sources thereof, including the source or sources from which the partnership allegedly received such income.

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(13) A statement as to the amount of alleged income which was improperly unreported on the 1970 individual income tax return of Ramiro D. Carrillo and the source or sources thereof, including the source or sources from which the partnership allegedly received such income.

(14) A statement as to the amount of alleged gross receipts which were improperly unreported on the 1968 United States Partnership Return of Income of Ramiro D. Carrillo and the source or sources thereof.

(15) A statement as to the amount of alleged gross receipts which were improperly unreported on the 1969 United States Partnership Return of Income of Ramiro D. Carrillo and the source or sources thereof.

(16) A statement as to the amount of alleged income which was improperly unreported on the 1968 individual income tax return of O. P. Carrillo and the source or sources thereof, including the source or sources from which the partnership received such income.

(17) A statement as to the amount of alleged income which was improperly unreported on the 1970 individual income tax return of O. P. Carrillo and the source or sources thereof, including the source or sources from which the partnership received such income.

(18) A statement as to the amount of alleged gross receipts which were improperly unreported on the 1970 United States Partnership Return of Income of O. P. Carrillo and the source or sources thereof.

(19) A statement as to the amount of income and expenses

of a sole proprietorship which were allegedly improperly reported on the Schedule C forms of the individual income tax returns of Arturo R. Zertuche for each of the years 1968, 1969, and 1970 and the individuals on whose returns such income and expenses allegedly were properly reportable for each of the years 1968, 1969, and 1970.

(20) A statement as to whether the Government alleges any improperly unreported income on the individual income tax returns of Ramiro D. Carrillo for any of the years 1968, 1969, and 1970.

(21) A statement as to whether the Government alleges that the improperly unreported income on the following individual income tax returns was derived from any source other than sales or transactions in the name of Zertuche General Store, and, if so, the nature of such other sources:

(a) 1968 individual income tax return of Ramiro D. Carrillo.

(b) 1969 individual income tax return of Ramiro D. Carrillo.

(c) 1970 individual income tax return of Ramiro D. Carrillo.

(d) 1968 individual income tax return of O. P. Carrillo.

(e) 1970 individual income tax return of O. P. Carrillo.

(22) A statement as to whether the Government alleges that the improperly unreported gross receipts on the following United States Partnership Returns of Income were derived from

from any source other than sales or transactions in the name of Zertuche General Store, and, if so, the nature of such other sources:

(a) 1968 United States Partnership Return of Income of Ramiro D. Carrillo.

(b) 1969 United States Partnership Return of Income of Ramiro D. Carrillo.

(c) 1970 United States Partnership Return of Income of O. P. Carrillo.

(23) A statement as to whether the Government alleges that all of the income which was allegedly improperly unreported on the following individual income tax returns was reported on the Schedule C forms of the individual income tax returns of Arturo R. Zertuche for each of the respective years:

(a) 1968 individual income tax return of Ramiro D. Carrillo.

(b) 1969 individual income tax return of Ramiro D. Carrillo.

(c) 1970 individual income tax return of Ramiro D. Carrillo.

(d) 1968 individual income tax return of O. P. Carrillo.

(e) 1970 individual income tax return of O. P. Carrillo.

(24) A statement as to whether the Government alleges that all of the gross receipts which were allegedly improperly unreported on the following United States Partnership Returns of Income were reported on the Schedule C forms on the individual income tax returns of Arturo R. Zertuche for each of the respective years:

(a) 1968 United States Partnership Return of Income of Ramiro D. Carrillo.

(b) 1969 United States Partnership Return of Income of Ramiro D. Carrillo.

(c) 1970 United States Partnership Return of Income of O. P. Carrillo.

(25) If the Government alleges that a part of the income which was allegedly improperly unreported on the individual income tax returns of Ramiro D. Carrillo challenged in the indictment either was not derived from sales or transactions in the name of Zertuche General Store or was not reported on the Schedule C forms of the individual income tax returns of Arturo R. Zertuche for the respective years, a statement as to whether the Government intends to rely to any extent on omission of specific items of income for reconstruction of income as to Ramiro D. Carrillo and, if so, an exact statement setting forth the following:

(a) The date, amount, payor, and character of each such item in the year 1968.

(b) The date, amount, payor, and character of each such item in the year 1969.

(c) The date, amount, payor, and character of each such item in the year 1970.

(26) If the Government alleges that a part of the income which was allegedly improperly unreported on the individual income tax returns of O. P. Carrillo challenged in the indictment either was not derived from sales or transactions in the name of Zertuche General Store or was not reported on the Schedule C forms of the individual income tax returns of Arturo R. Zertuche for the respective years, a statement as to whether the Government intends

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to rely to any extent on omission of specific items of income for reconstruction of income as to O. P. Carrillo and, if so, an exact statement setting forth the following:

(a) The date, amount, payor, and character of each such item in the year 1968.

(b) The date, amount, payor, and character of each such item in the year 1970.

(27) If the government alleges that a part of the gross receipts which were allegedly improperly unreported on the United States Partnership Returns of Income of Ramiro D. Carrillo and O. P. Carrillo challenged in the indictment either were not derived from sales or transactions in the name of Zertuche General Store or were not reported on the Schedule C forms of the individual income tax returns of Arturo R. Zertuche for the respective years, a statement as to whether the Government intends to rely to any extent on omission of specific items in the gross receipts for reconstruction of the gross receipts as to the partnership and, if so, an exact statement setting forth the following:

(a) The date, amount, payor, and character of each such item in the year 1968.

(b) The date, amount, payor, and character of each item in the year 1969.

(c) The date, amount, payor, and character of each such item in the year 1970.

(28) If the Government alleges that a part of the income which was allegedly improperly unreported on the individual income tax returns of Ramiro D. Carrillo challenged in the indictment either was not derived from sales or transactions in the name of

Zertuche General Store or was not reported on the Schedule C forms of the individual income tax returns of Arturo R. Zertuche for the respective years, a statement as to whether the Government intends to rely to any extent on over statement of specific items of deduction or expense for reconstruction of income as to Ramiro D. Carrillo and, if so, an exact statement setting forth the following:

(a) The date, amount, payee, and character of each such item in the year 1968.

(b) The date, amount, payee, and character of each such item in the year 1969.

(c) The date, amount, payee and character of each such item in the year 1970.

(29) If the Government alleges that a part of the income which was allegedly improperly unreported on the individual income tax returns of O. P. Carrillo challenged in the indictment either was not derived from sales or transactions in the name of Zertuche General Store or was not reported on the Schedule C forms of the individual income tax returns of Arturo R. Zertuche for the respective years, a statement as to whether the Government intends to rely to any extent on overstatement of specific items of deduction or expense for reconstruction of income as to O. P. Carrillo and, if so, an exact statement setting forth the following:

(a) The date, amount, payee, and character of each such item in the year 1968.

(b) The date, amount, payee, and character of each such item in the year 1970.

(30) If the Government alleges that a part of the income which was allegedly improperly unreported on the individual income

tax returns of Ramiro D. Carrillo challenged in the Indictment either was not derived from sale or transactions in the name of Zertuche General Store or was not reported on the Schedule C forms of the individual income tax returns of Arturo R. Zertuche for the respective years, a statement as to whether the Government intends to rely to any extent on the so-called "net worth" method for reconstruction of income as to Ramiro D. Carrillo or to corroborate some other method to be used and, if so, an exact statement setting forth the following:

(a) The opening net worth of Ramiro D. Carrillo and date of same to be used by the Government.

(b) A detailed analysis of the changes in net worth as computed by the Government from the date of opening net worth to December 31, 1970.

(31) If the Government alleges that a part of the income which was allegedly improperly unreported on the individual income tax returns of O. P. Carrillo challenged in the Indictment either was not derived from sale or transactions in the name of Zertuche General Store or was not reported on the Schedule C forms of the individual income tax returns of Arturo R. Zertuche for the respective years, a statement as to whether the Government intends to rely to any extent on the so-called "net worth" method for reconstruction of income as to O. P. Carrillo or to corroborate some other method to be used and, if so, an exact statement setting forth the following:

(a) The opening net worth of O. P. Carrillo and date of same to be used by the Government.

(b) A detailed analysis of the changes in net worth as computed by the Government from the date of opening net worth to December 31, 1970.

(32) If the Government alleges that a part of the income which was allegedly improperly unreported on the individual income tax returns of Ramiro D. Carrillo and O. P. Carrillo challenged in the indictment either was not derived from sales or transactions in the name of Zertuche General Store or was not reported on the Schedule C forms of the individual income tax returns of Arturo R. Zertuche for the respective years, a statement as to whether the Government intends to rely to any extent on the so called "bank deposits and expenditures" method for reconstruction of income as to corroborate some other method to be used and, if so, an exact statement setting forth the following:

(a) A list of the partnership bank deposits in the year 1968 reflecting thereon the amount, date, and alleged character of each item.

(b) A list of the partnership bank withdrawals for the year 1969 reflecting thereon the amount, date, payee, and use of each withdrawal.

(c) A list of the partnership bank deposits in the year 1969 reflecting thereon the amount, date, and alleged character of each item.

(d) A list of the partnership bank withdrawals in the year 1969 reflecting thereon the amount, date, payee, and use of each withdrawal.

(e) A list of the partnership bank deposits in the year 1970 reflecting thereon the amount, date, and alleged character of each item.

(f) A list of the partnership bank withdrawals in the year 1970 reflecting thereon the amount, date, payee, and use of

each withdrawal.

(33) If the Government alleges that a part of the income which was allegedly improperly unreported on the individual income tax returns of Ramiro D. Carrillo and O. P. Carrillo challenged in the indictment either was not derived from sales or transactions in the name of Zertuche General Store or was not reported on the Schedule C forms of the individual income tax returns of Arturo R. Zertuche for the respective years, a statement as to whether the Government intends to rely to any extent on the so called "bank deposits and expenditures" method for reconstruction of income as to corroborate some other method to be used and, if so, an exact statement setting forth the following:

(a) A list of the Zertuche General Store bank deposits in the year 1968 reflecting thereon the amount, date, and alleged character of each item.

(b) A list of the Zertuche General Store bank withdrawals for the year 1969 reflecting thereon the amount, date, payee, and use of each withdrawal.

(c) A list of the Zertuche General Store bank deposits in the year 1969 reflecting thereon the amount, date, and alleged character of each item.

(d) A list of the Zertuche General Store bank withdrawals in the year 1969 reflecting thereon the amount, date, payee, and use of each withdrawal.

(e) A list of the Zertuche General Store bank deposits in the year 1970 reflecting thereon the amount, date, and alleged character of each item.

(f) A list of the Zertuche General Store withdrawals in the year 1970 reflecting thereon the amount, date, payee, and use of each withdrawal.

(34) If the Government alleges that a part of the income which was allegedly improperly unreported on the individual income tax returns of Ramiro D. Carrillo challenged in the indictment either was not derived from sales or transactions in the name of Zertuche General Store or was not reported on the Schedule C forms of the individual income tax returns of Arturo R. Zertuche for the respective years, a statement as to whether the Government intends to rely to any extent on over statement of specific items of deduction or expense for reconstruction of income as to Zertuche General Store and, if so, an exact statement setting forth the following:

(a) The date, amount, payee, and character of each such item in the year 1968.

(b) The date, amount, payee, and character of each such item in the year 1969.

(c) The date, amount, payee and character of each such item in the year 1970.

(35) If the Government alleges that a part of the income which was allegedly improperly unreported on the individual income tax returns of Ramiro D. Carrillo and O. P. Carrillo challenged in the indictment either was not derived from sales or transactions in the name of Zertuche General Store or was not reported on the Schedule C forms of the individual income tax returns of Arturo R. Zertuche for the respective years, a statement as to whether the Government intends to use any method for reconstructing the income of Ramiro D. Carrillo and O. P. Carrillo other than

a method included within Paragraphs 24 through 34 above, and, if so, the nature of such method.

(36) A statement specifying the portion or portions of the individual and partnership income tax returns of Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche for each of the years 1968, 1969, and 1970 which the Government claims is false.

As grounds for this motion Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche would show the Court that the indictment presented does not give Defendants notice of the charges against which they will be required to defend. The indictment read as a whole, particularly in view of the apparent nature of the conspiracy charged in Count I, appears to charge Defendants with setting up a fiction known as Zertuche General Store through which sales of the Ramiro D. Carrillo and O. P. Carrillo partnership, d/b/a Farm and Ranch Supply, could be made without the necessity of reporting the income from such sales on the individual and partnership returns of Ramiro D. Carrillo and O. P. Carrillo. The offense charged, then, seems to be the filing of false returns in that the income from the Zertuche General Store should have been, but was not, reported on the individual and partnership returns of Ramiro D. Carrillo and O. P. Carrillo; Zertuche General Store being but a part of the larger whole of the Ramiro D. Carrillo and O. P. Carrillo partnership. However, because of the very broad language of the indictment and the wording of the individual counts against Ramiro D. Carrillo and O. P. Carrillo, it is unclear whether the Government is also alleging that Defendants received unreported income from sources other than Zertuche General Store and

other than that reported on the return of Arturo R. Zertuche. It is vital to know which of the above allegations is being made, or whether both are being made; for in the first instance, a charge based solely on the allegation that Zertuche General Store has no legitimate business purpose and no existence independent of Farm and Ranch Supply, the controlling issue in the case will be essentially a legal one based on the facts of the Zertuche General Store operation. In the second instance, however, the controlling issue will be the existence of unreported income from whatever source, and will involve considerable research into the financial records of all of the Defendants over a span of many years and will involve complicated accounting questions and methods of proof. In this event, the Defendants are certainly entitled to know in addition the method on which the Government intends to rely in order to show that income which should have been reported was willfully unreported, for in this sort of a case, the method which is to be used in calculating willfully unreported income of necessity will determine the defense which must be prepared.

Further, Defendants would show that the broad language of the Indictment and its lack of specificity as to the nature of the false statements allegedly made in the returns and as to the income which was unreported by Ramiro D. Carrillo and O. P. Carrillo give it every appearance of a fishing expedition on the question of income tax evasion with a view to prosecution under 26 U.S.C.A. 7201. Were the indictment to directly charge evasion under 26 U.S.C.A. 7201, it would be fatally defective, in that the only offense formally charged is a violation of 26 U.S.C.A. 7206(1) and conspiracy. The indictment should be considered no less defective for attempting to do indirectly what it could not validly

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do directly. Unless the Indictment is made specific as to the nature of the charges against Defendants, questions of double jeopardy are certain to arise.

For the foregoing reasons, the information herein requested is necessary to inform the Defendants of the nature of the charges against them with sufficient precision to enable them to prepare for trial, to prevent surprise and to plead double jeopardy in bar of another prosecution for the same offense.

WHEREFORE, Defendants respectfully pray that this motion be granted.

Respectfully submitted,

ARTHUR MITCHELL
Mitchell, George & Belt
315 Westgate Building
Austin, Texas 78701

WILLIAM DAVID BONILLA
Bonilla, Read, Rodriguez, Bechmon & B
P.O. Box 5427
Corpus Christi, Texas 78405

BY: 
Arthur Mitchell

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing First Motion of Defendants for Bill of Particulars has been forwarded to the United States District Attorney for the Southern District of Texas at Houston on this the 25th day of April, 1975.


Arthur Mitchell

00478
IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA	§	
	§	
V.	§	
	§	Criminal No. CR 75-C-45
RAMIRO D. CARRILLO,	§	
O. P. CARRILLO AND	§	
ARTURO R. ZERTUCHE	§	

BRIEF IN SUPPORT OF FIRST MOTION OF DEFENDANTS
RAMIRO D. CARRILLO, O. P. CARRILLO AND ARTURO R.
ZERTUCHE FOR BILL OF PARTICULARS

TO THE HONORABLE COURT:

The Defendants, Ramiro D. Carrillo, O. P. Carrillo and Arturo R. Zertuche, pursuant to Rule 7 of the Federal Rules of Criminal Procedure, respectfully move this Court to grant the Defendants a Bill of Particulars as set out in Defendants' Motion for Bill of Particulars. The granting of this Bill of Particulars is absolutely necessary because the Indictment as drawn does not sufficiently and particularly apprise the Defendants of the substance of the charge against them with sufficient particularity for them to prepare an adequate defense to the Indictment, and denies them effective assistance of counsel guaranteed to them by the Fifth and Sixth Amendments to the United States Constitution.

I.

Rule 7, subsection (f) of the Federal Rules of Criminal Procedure provides the Court may direct the filing of a Bill of Particulars. This 1966 amendment eliminated the requirement of a showing "for cause." Notes from the Advisory Committee on rules show that this change was designed to encourage a more liberal attitude by the Courts toward Bills of Particulars. In United States v. Jaskiewitz, 278 F. Supp. 525

(D.C. Pa., 1968), the Court held that the extent to which an accused should be informed of the specific nature of the charges on which the Indictment is predicated must be considered in the light of the amendment to this rule pertaining to Bills of Particulars. It is of the utmost importance for one to be fully aware of the significance of this charge. Bills of Particulars were designed to eliminate quashing of Indictments and promote true justice by allowing the Defendant to discover the exact nature of the charges against him.

In United States v. Tucker, 262 F. Supp. 305, (D.C. N.Y., 1966) the Court held that since the Defendant is presumed innocent because of his plea of not guilty, it could not be assumed that he knew the particulars sought in a Motion for Bill of Particulars and he could only be considered ignorant of facts as alleged in the Indictment. The Defendant in this case has a right to be made aware of specific acts alleged. In United States v. Empire State Paper Co., 8 F. Supp. 220 (D.C. N.Y. 1934), the Court held the Defendant presumptively knew nothing of the revised figures which the Government has used in its alleged computation of true income and should be permitted their requested Bill of Particulars.

It is abundantly clear from reading the above Indictment that specificity is totally lacking. The United States Court of Appeals for the Tenth Circuit in King v. United States, 402 F. 2d 289, (10th Cir. 1968) stated:

"We are acutely and sympathetically aware that Rule 7 (f), Federal Rules of Criminal Procedure has been amended for the purpose of liberalizing the office of the Bill of Particulars. See notes of Advisory Committee on Rule 7(f), Federal Rules of Criminal Procedure, appendix at 81. The liberalization was undoubtedly in recognition of the trend of fuller disclosure of the Government's case to better serve the ends of criminal justice. While the discretion continues to reside in the trial court, it should be freely exercised with an awareness that an Indictment may be sufficient on its fact to state an offense, yet insufficient to adequately inform the accused of the charge against him to enable him to properly prepare his defense and, at least, to avoid prejudicial surprise."

The Court in the King case was discussing the rationale which is behind the contention of the Defendant herein. That is, the Indictment can state an offense and yet completely deny the Defendant his right to effective assistance of counsel under the Sixth Amendment to the Constitution of the United States by not allowing him to adequately prepare his defense.

Historically, in federal courts, the prosecution of criminal cases has been based upon a pursuit of the truth. The Government should not be allowed to make evidence "more valuable" to them through nondisclosure to the Defendant. The Government should insist upon full disclosure of all information available to them instead of relying upon surprise and finding the Defendant unaware. To perfect justice, the Court must order the Government to disclose the information asked for in the Bill of Particulars.

II.

The Indictment in the case at bar falls squarely into line with those decisions that have sustained Motions for Bills of Particulars. Although the majority of these decisions deal with tax evasion, they are equally applicable in the present cause. In those cases where tax evasion has been charged, but as here the Government has not alleged specific sources, the Courts have viewed the Defendants "in the more or less difficult situation of being confronted with aggregate amounts set forth in the Indictment alleged to represent income and deductions from which a true return should have been made without knowing in advance of trial what details have been used by the Government expert accountants in making up those gross figures." United States v. Empire Paper Co., 8 F. Supp. 220, (D.C. N.Y. 1934). Accordingly, Motions have been granted where "miscellaneous" or "other" income is indicated in the Indictment as the basis for unreported income. United States v. Dolan, 113 F. Supp. 757 (D. CONN. 1953); United States v. Witbeck, 122 F. Supp. 717 (N.D. N.Y. 1954);

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United States v. Peelf, 122 F. Supp. 923 (E. D.N.Y. 1954); United States v. Profac, 124 F. Supp. 141 (E.D.N.Y. 1954); United States v. Sermon, 218 F. Supp. 871 (S.E. MO. 1963); United States v. Rosenfeld, 264 F. Supp. 760 (N.D. ILL. 1967); United States v. Jaskiewicz, 278 F. Supp. 525 (E.D. PA. 1968); United States v. Kelly, 10 F.R.D. 191 (W.D. MO. 1950); Singer v. United States, 58 F. wd 74 (3d Cir. 1932); Rose v. United States, 128 F. 2d 622 (10th Cir.), cert. denied, 317 U.S. 651 (1942).

One cannot ignore the fact that a Bill of Particulars is vital for the defense in a criminal prosecution. Federal Rules of Criminal Procedure are based on full disclosure, rather than surprise or trickery. Rule 7 governing the Bill of Particulars is no exception. The object for the defense is not to steal the work product of the Government agents, but to fully inform the Defendant of the basis in fact which constitute the charge against him.

If it be the Government's position that some of the information requested is equally available to the Defendants (which is denied) then in that event the Defendant would show the Court that the expense to the Defendant would be so great in obtaining such information that the law still requires that such information be provided by the Government. United States v. Dolan 113 F. Supp. 757 and United States v. Andrews 97 F. Supp. 572.

Crimes requiring intent also make the Bill of Particulars essential. Each detail is very important and very significant in determining guilt or innocence of the accused. The entire purpose of the proceeding is to determine the guilt or innocence of the accused. Therefore, it is the contention of the Defendants that the truth should be the only quest of the Court or prosecutor. Based on Rule 7, Federal Rules of Criminal Procedure, the Fifth and Sixth Amendments to the Constitution of the United States,

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fundamental fairness and due process, the Defendants, Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche, by and through their attorneys of record move this Honorable Court to grant the Motion for Bill of Particulars.

Respectfully submitted,

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Mitchell, George & Belt
315 Westgate Building
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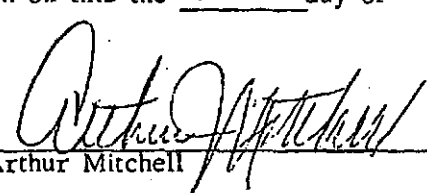
WILLIAM DAVID BONILLA
Bonilla, Read, Rodriguez, Bechmon & Bonilla
P.O. Box 5427
Corpus Christi, Texas 78405

By: 
Arthur Mitchell

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Brief in Support of First Motion of Defendants for Bill of Particulars has been forwarded to the United States Attorney for the Southern District of Texas at Houston on this the 25th day of April, 1975.


Arthur Mitchell

00483

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

Amended

7

UNITED STATES OF AMERICA §
V. § CRIM NO. 75-C-45
RAMIRO CARRILLO, ET AL §

MOTION OF DEFENDANTS
RAMIRO D. CARRILLO, O. P. CARRILLO,
AND ARTURO ZERTUCHE TO CONSIDER BILL OF PARTICULARS

TO THE HONORABLE JUDGE OF SAID COURT:

Come now Defendants RAMIRO D. CARRILLO, O. P. CARRILLO, AND ARTURO ZERTUCHE and request the Court to consider Bill of Particulars previously filed which was not considered on the pretrial August 25, 1975, and in support of the Motion allege as follows:

I.

The Trial Court at pretrial on the 25th of August, 1975, considered various pretrial motions previously filed by the Defendants herein including Motions for Discovery; however, the Trial Court did not consider Bill of Particulars previously filed and this Motion is a request for the Trial Court to consider Bill of Particulars previously filed herein and in advance of the trial sufficiently to require the Government to replead its cause B and calls to the Court's attention respectfully certain varied material and substantial allegations contained in the answer by the Government to the Defendants' Bill of Particulars and request the Trial Court to consider the same at the hearing of the Bill of Particulars previously filed.

II.

The Government in its answer denominated "Government's Answer to First Motion of Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche for Bill of Particulars" admits and states as follows among other things:

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(1) "The Government does not intend to prove any false expenses claimed by the Defendants." (Page 4, Government's Answer to First Motion for Bill of Particulars.)

(2) "The Government does not intend to rely on net worth method." (Page 4, Government's Answer to First Motion.)

(3) "The Government does not intend to rely on the bank deposit and cash expenditure method." (Page 4, Government's Answer to First Motion for Bill of Particulars.)

(4) "The Government does not intend to prove false deductions or expenses." (Page 4, Government's Answer to First Motion.)

(5) "The Government does not intend to use any method of reconstruction of income other than the specific items mentioned." (Page 4, Government's Answer to First Motion.)

III.

The Government in addition in its response to the Bill of Particulars states specifically (page 4, Reply):

"Because the books and records of the Defendants were not made available to the Government in reliance on the Fifth Amendment rights of the Defendants, the Government cannot give the specifics of the transactions as requested by the Defendants."

In connection with the application for presentment of the Bill of Particulars, the Defendants respectfully call to the attention of the Court in addition to the quoted portions of the Response to the Bill of Particulars, that at Paragraph III, Page 5 of the Response the Government makes the following admission and statement:

"The indictment alleges in clear and specific terms that the so-called Zertuche General Store was a sham used by Ramiro D. and O. P. Carrillo to make sales to various governmental entities to which they were prohibited making by state law since they were in fact public officials."

WHEREFORE, PREMISES CONSIDERED, Defendants respectfully pray

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to the Court for reconsideration of and a ruling upon the Bill of Particulars in the context of the documentation, that is, pleadings and admissions as of the time of the filing of the same, and that Defendants have all other relief to which they are entitled.

Respectfully submitted,

ARTHUR MITCHELL
MITCHELL, GEORGE & BELT
315 Westgate Bldg.
Austin, Tx. 78701


WILLIAM D. BONILLA
BONILLA, READ, NUTTO, BECKMON & BONILLA
P. O. Drawer 5427
Corpus Christi, Tx 78405

By 

Arthur Mitchell

ATTORNEYS FOR DEFENDANTS

A true and correct copy of the above and foregoing Motion of Defendants to Consider Bill of Particulars has been forwarded to Mr. George Kelt, U. S. Attorney's Office, Houston, Texas, this 26th day of August, 1975.


Arthur Mitchell

00486

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA

§
§
§
§
§
§

V.

Criminal No. CR 75-C-45

RAMIRO D. CARRILLO,
O. P. CARRILLO AND
ARTURO R. ZERTUCHE

How THIRD MOTION OF DEFENDANTS RAMIRO D. CARRILLO, O. P.
CARRILLO AND ARTURO R. ZERTUCHE FOR DISCOVERY

TO THE HONORABLE COURT:

Comes now RAMIRO D. CARRILLO, O.P. CARRILLO and ARTURO R. ZERTUCHE, defendants in the above cause and make this their Motion for Discovery of all exculpatory evidence and as grounds therefore would show the Court as follows:

I.

The government should be ordered to produce and make available to the Defendants all statements, documentary evidence, and reports containing any exculpatory evidence whatsoever. This request is not limited to evidence which directly exculpates the Defendants, but rather extends to any evidence which is not directly incriminatory, since it is only the Defendants and their counsel who can properly determine if evidence may be of benefit to the Defendants in developing a defensive theory. Defendants herein further delineate more specifically certain categories of types of evidence which they specifically request, but in no way waive their general request that the Government produce all exculpatory evidence as contained in this paragraph.

II.

The Government should be required to produce for inspection

and copying statements of all witnesses that the Government does not intend to call as a witness on its behalf. Additionally, the Government should furnish the names and addresses of all witnesses which to its knowledge have evidence exculpatory of any of the Defendants but who have not given statements to the Government.

III.

The Government should be required to furnish prior to trial all statements of witnesses which it does intend to call on its behalf who have given statements that are in any way exculpatory of any of the Defendants either by way of tending to exonerate them from any criminal action or by way of conflicting with other statements given by the same witnesses.

IV.

The criminal records of all witnesses which the Government intends to use in its trial of this cause including F.B.I. records of each such witness.

V.

All exculpatory statements made by witnesses who appeared before the Grand Jury whether or not said witnesses will be called at the trial of this case.

WHEREFORE, PREMISES CONSIDERED, Defendants Ramiro D. Carrillo, O. P. Carrillo and Arturo R. Zertuche respectfully pray that the Attorney for the Government be ordered to produce the above stated information in order that the Defendants may have a fair trial of the case against them and that they be granted such other and further relief to which they may be entitled.

Respectfully submitted,

ARTHUR MITCHELL
Mitchell, George & Belt
315 Westgate Building
Austin, Texas 78701

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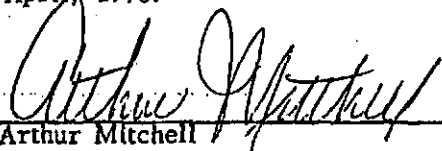
WILLIAM DAVID BONILLA
Bonilla, Read, Rodriguez, Bechmon & Bonilla
P.O. Box 5427
Corpus Christi, Texas 78405

By: 
Arthur Mitchell

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Third Motion of Defendants For Discovery has been forwarded to the United States Attorney for the Southern District of Texas at Houston on this the 25th day of April, 1975.


Arthur Mitchell

IN THE UNITED STATES DISTRICT COURT
 FOR THE SOUTHERN DISTRICT OF TEXAS
 CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA	§	
	§	
V.	§	
	§	Criminal No. CR 75-C-45
RAMIRO D. CARRILLO,	§	
O. P. CARRILLO AND	§	
ARTURO R. ZERTUCHE	§	

BRIEF IN SUPPORT OF THIRD MOTION OF DEFENDANTS
 RAMIRO D. CARRILLO, O. P. CARRILLO AND ARTURO R.
 ZERTUCHE FOR DISCOVERY

TO THE HONORABLE COURT:

Come now Defendants Ramiro D. Carrillo, O. P. Carrillo and Arturo R. Zertuche in the above numbered and entitled cause and make this their Brief in Support of Motion for exculpatory evidence and as grounds therefore would show the Court as follows:

I.

The Government is compelled to produce all evidence favorable to the Defendants. Brady v. Maryland, 373 U.S. 83 (1963). The material requested is likely to lead to and be evidence favorable to the Defendants. Names of witnesses to the acts involved is discoverable, United States ex rel. Meers v. Wilkins, 326 F. 2d 135 (2nd Cir. 1964) as well as their criminal records. United States v. Tanner, 279 F. Supp. 457 (D. Ill. 1967).

The determination of what is favorable to the defense should be made by the defense. Dennis v. United States, 384 U.S. 855 (1965). The evidence should be disclosed prior to trial in order to allow effective use of it. Berger v. United States, 295 U.S. 78 (1935).

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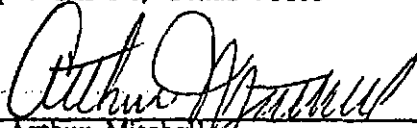
WHEREFORE, PREMISES CONSIDERED, Defendants, Ramiro D. Carrillo, O. P. Carrillo and Arturo R. Zertuche respectfully pray that their motion for exculpatory evidence be granted.

Respectfully submitted,

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By:

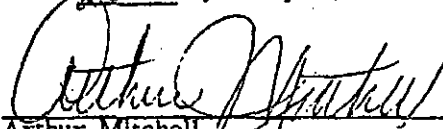


Arthur Mitchell

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Brief in Support of Third Motion of Defendants for Discovery has been forwarded to the United States Attorney for the Southern District of Texas at Houston on this the 25th day of April, 1975.



Arthur Mitchell

00491

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
 §
V. § Criminal No. CR 75-C-45
 §
RAMIRO D. CARRILLO, §
O. P. CARRILLO AND §
ARTURO R. ZERTUCHE §

BRIEF IN SUPPORT OF THIRD MOTION OF DEFENDANTS
RAMIRO D. CARRILLO, O. P. CARRILLO AND ARTURO R.
ZERTUCHE FOR DISCOVERY

TO THE HONORABLE COURT:

Come now Defendants Ramiro D. Carrillo, O. P. Carrillo and Arturo R. Zertuche in the above numbered and entitled cause and make this their Brief in Support of Motion for exculpatory evidence and as grounds therefore would show the Court as follows:

I.

The Government is compelled to produce all evidence favorable to the Defendants. Brady v. Maryland, 373 U.S. 83 (1963). The material requested is likely to lead to and be evidence favorable to the Defendants. Names of witnesses to the acts involved is discoverable, United States ex rel. Meers v. Wilkins, 326 F. 2d 135 (2nd Cir. 1964) as well as their criminal records. United States v. Tanner, 279 F. Supp. 457 (D. Ill. 1967).

The determination of what is favorable to the defense should be made by the defense. Dennis v. United States, 384 U.S. 855 (1965). The evidence should be disclosed prior to trial in order to allow effective use of it. Berger v. United States, 295 U.S. 78 (1935).

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WHEREFORE, PREMISES CONSIDERED, Defendants, Ramiro D. Carrillo, O. P. Carrillo and Arturo R. Zertuche respectfully pray that their motion for exculpatory evidence be granted.

Respectfully submitted,

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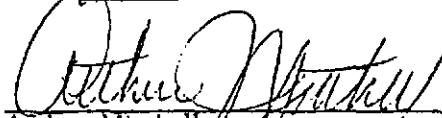
By:


Arthur Mitchell

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Brief in Support of Third Motion of Defendants for Discovery has been forwarded to the United States Attorney for the Southern District of Texas at Houston on this the 25th day of April, 1975.


Arthur Mitchell

00493

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
§
V. §
§ Criminal No. CR 75-C-45
RAMIRO D. CARRILLO, §
O. P. CARRILLO, §
ARTURO R. ZERTUCHE §

REPLY TO GOVERNMENT'S MOTION FOR DETERMINATION
OF CONFLICT OF INTEREST

TO THE HONORABLE COURT:

Comes now Arthur Mitchell, attorney for Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche in the above entitled and numbered cause, and makes this his Reply To Motion For Determination Of Conflict Of Interest and would respectfully show the Court as follows:

I.

Arthur Mitchell is attorney for Defendants Ramior D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche in the above entitled and numbered cause. Prior to April 18, 1975, the date of the arraignment of the Defendants in the present cause, Arthur Mitchell had been employed by Ramiro D. Carrillo and O. P. Carrillo, individually, as their defense counsel in the above cause. Arturo R. Zertuche being represented therein by Mr. Nago Alaniz. On or about April 18, 1975, Arturo R. Zertuche, having discovered that there was a conflict of interest which had grown up between himself and his then attorney Nago Alaniz, retained Arthur Mitchell as his attorney in the above entitled and numbered cause. Said conflict between Arturo R.

Zertuche and his attorney Nago Alaniz, having grown up largely as a result of Alaniz's representation of George B. Parr in the criminal prosecution of United States v. George B. Parr and the testimony given by Arturo R. Zertuche and Ramiro D. Carrillo before the grand jury and at the trial of George B. Parr, became obvious to Arturo R. Zertuche during the course of the "plea bargaining" with the attorneys for the Government. There it became clear that Nago Alaniz was not adequately protecting the rights of Arturo R. Zertuche in the face of the attempts by the Government to strip the Defendant of all relevant information pertaining to and to be used against himself, Ramiro D. Carrillo, and O. P. Carrillo, and in fact had himself divulged information and acted in violation of the attorney-client relationship. Upon becoming aware of such conflict of interest on the part of his then attorney Alaniz, Arturo R. Zertuche, acting independently and upon his own accord with the knowledge and consent of the other Defendants, and fully aware of the fact that Arthur Mitchell had been retained as counsel for Ramiro D. Carrillo, and O. P. Carrillo in the cause, retained Arthur Mitchell as his attorney in order to receive effective representation by counsel whose interests were in no way adverse to his. Arthur Mitchell accepted the responsibility of such additional representation on the firm belief that Arturo R. Zertuche had a right to such counsel, particularly in view of the derogation of Arturo R. Zertuche's constitutional rights brought about by his former representation by Mr. Nago Alaniz.

II.

Attorney for the Defendants acknowledges that the Government by its Motion For Determination Of Conflict Of Interest is suggesting no impropriety on the part of Arthur Mitchell and shares the Government's concern to avoid the possibility of post-trial dilemmas resulting from a potential conflict of interests in the representation of codefendants in the

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present cause. However, by way of clarifying the propriety of his initial decision to represent all three Defendants in the present cause and the law applicable to the representation of codefendants by a single attorney, the Attorney for the Defendants would show the Court the following:

It is clear that the right to assistance of counsel of one's own choosing in a criminal prosecution as guaranteed to each individual by the Sixth Amendment to the Constitution of the United States is a fundamental right, the absence of which precludes a fair trial. Powell v. Alabama, 53 S. Ct. 55, 237 U.S. 45 (1932); Gideon v. Wainwright, 83 S. Ct. 792, 372 U.S. 335 (1963); Glasser v. United States, 62 S. Ct. 457, 315 U.S. 60 (1942), reh. den'd 62 S. Ct. 629, 315 U.S. 827. That "assistance of counsel" means effective assistance of counsel not hobbled or fettered or restrained by commitments to others is equally clear. Porter v. United States, 298 F. 2d 461 (C.A. 5 Tex. 1962).

Implicit in the provisions of the ABA Standards Relating To The Administration Of Criminal Justice cited by the Government in its motion and in the Canons of Ethics of the State Bar of Texas, representation of multiple clients must be evaluated on a case-by-case basis and does not prima facie involve a conflict of interest or deny effective assistance of counsel. DR 5-105(C) of the Canons of Ethics of the State Bar of Texas states:

"--a lawyer may represent multiple clients if it obvious that he can adequately represent the interest of each and if each consents to the representation after full disclosure of the possible effect of such representation on the exercise of his independent professional judgment on behalf of each."

That the propriety of representation of multiple defendants is dependent upon the independent professional judgment of the attorney and the particular facts involved in each case is indicated by the variety of

decisions handed down by the state and federal courts in the area of representation of multiple defendants. See, in this connection, the annotation in 34 ALR 30 470 (1970).

It has been held that in situations, in which the defendants are charged in the same degree in the indictment, and the defense presented on behalf of each Defendant is nonconflicting with the defense of each of the other Defendants that no conflict of interest is presented requiring representation by different counsel. Lugo v. United States, 350 F. 2d 858 (1965, CA 9 Cal). Likewise, depending on the particular fact situation, it has been held that representation by different counsel is not mandatory when one or more codefendants plead guilty while the others do not in order for effective assistance of counsel to be provided. United States v. Langston, 94 F. Supp. 891 (1961, D.C. Pa.); Loftis v. State, 433 S. W. 2d 704 (1968); United States v. Moose, 424 F. 2d 276 (C.A. 4 N.C.). The same has been held even in situations in which counsel may elect to have only one of the codefendants testify at trial, Fields v. United States, 408 F. 2d 885 (1969, CA 5 Fla), or in general, in which the attorney chooses to use different trial tactics as regards the individual defendants, United States v. Armone, 363 F. 2d 835 (1966, CA 2 NY, cert. den'd); Saucier v. State, 156 Tex. Crim. 301, 235 S.W. 2d 903, cert. den'd 341 U.S. 949, 71 S. Ct. 1016, reh. den'd. 342 U.S. 843, 72 S. Ct. 23.

Because the question of whether effective assistance of counsel has been or will be provided in the situation of representation of multiple defendants is one which must be decided according to the facts of each case and in view of the right to representation by counsel of one's own choosing, the decision as to whether an attorney should be prohibited from representing multiple defendants in a criminal case in the face of

the expressed desire on the part of each of the codefendants that he be represented by the same attorney is one which must be considered carefully by the Court with a view towards whether, in the light of the facts of the particular case and the independent professional judgment of the individual attorney, effective representation can be provided each defendant in the particular case.

III.

The Attorney for the Defendants in the above entitled and numbered cause would submit that, given the desires of each of the codefendants, the full disclosure of the joint representation by Arthur Mitchell and the possible defenses available to each of the Defendants, and the fact that the Defendants are charged in the same degree in the indictment has led counsel to exercise his independent professional judgment to the conclusion that he will be able to provide effective assistance of counsel as to each defendant by his joint representation of all three codefendants.

Arthur Mitchell would further submit, however, that should it become evident that there is a possible conflict inherent in the defense of the several Defendants (and/or the possibility of inconsistent defenses among the Defendants being of necessity presented) rendering effective assistance of counsel by joint representation impossible, Counsel, in view of his overriding duty to his clients, will of his own initiative ask leave of Court to withdraw from the representation of such of the Defendants as is necessary to effectively represent the remaining Defendant or Defendants.

Finally, the Attorney for the Defendants Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche would state that in the event that the possibility of such a conflict as the Government envisions should become evident to the Court upon hearing of the Government's Motion To Determine Conflict Of Interest, the Attorney for the Defendants will

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welcome and abide by such instructions as the Court might make concerning the representation of Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche in the above entitled and numbered cause.

WHEREFORE, PREMISES CONSIDERED, Arthur Mitchell, Attorney for the Defendant Ramiro D. Carrillo, O. P. Carrillo, and Arturo R. Zertuche, prays that this Court after thorough consideration of the facts of the case, the judgment of the defense counsel and the Defendant's themselves, the Government's Motion For Determination Conflict Of Interest and this Reply thereto, make such instructions as it deems necessary to insure effective representation of counsel at trial and protect the constitutional rights of each Defendant.

Respectfully submitted,

ARTHUR MITCHELL
315 Westgate Building
Austin, Texas 78701

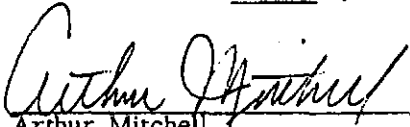
WILLIAM DAVID BONILLA
P.O. Drawer 5427
Corpus Christi, Texas 78405

BY: 

Attorneys for Defendants

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing Reply has been sent to the United States Attorney for the Southern District of Texas at Houston, Texas on this the 15th day of May, 1975.


Arthur Mitchell

OCT 12 1975

00499



Stuart Long Senate vote pushes commission to act

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Times Austin Bureau

AUSTIN — Enough senators were irked at the way the impeachment trial court proceedings were going on the case of Judge O. P. Carrillo that they voted, 16-13, to adjourn to Nov. 18, to give the state judicial qualifications commission a chance to carry out its constitutional duties on removal of misbehaving judges.

That commission has suggested removal of one district judge previously, but when the case was heard by the Texas Supreme Court, the final removal authority, it left Judge David Brown of Sherman in office, and he resigned a year or so later, before he was eligible for retirement benefits. Some felt the high court had obtained that agreement from Brown.

In the case of Judge Carrillo, numerous complaints had been filed with the commission, most of them by Joe Guerra of Roma, complaining that Carrillo's selection of grand jury commissions in Starr County were not fair to Guerra's "Old, Old Party" faction in that county.

A TWO-HOUR conference was held with Carrillo and Presiding Judge J. R. Alamia of Edinburg on that question, but the judicial qualifications commission agreed a judge could not be removed because of the people he named to grand jury commissions, since the law leaves that to his own judgment.

Maurice Pipkin, executive director of the judicial qualifications commission, considers that the statutory secrecy of that commission's actions was broken by Carrillo's attorney, Arthur Mitchell. So he talked freely about the subject in an interview.

"Don't you consider the Senate's vote an ultimatum to the commission?" he

asked. Without waiting for an answer, he went on:

"The commission will begin action Nov. 3 at 10 a.m. in the 13th Court of Civil Appeals courtroom at Corpus Christi, with District Judge James R. Meyers of Austin as the hearing master."

PIPKIN, A LEGISLATOR for many years before he took the job as the first and only director of the commission, took a look backward, too.

"We had had complaints about Judge Carrillo," he said. "In each case, the commission looked into them and in its wisdom, felt there was no ground for action. The commission never had the information which was given to the House committee last May, June and July. We had no information about the Zertuche General Store. We had been given some information about transactions between Carrillo and Clinton Manges, which took place after Carrillo had won the Democratic nomination for judge, but before he had taken office. But they gave us no basis for a removal action."

Pipkin declared flatly that Rep. Terry Canales of Premont had not given the commission the information he gave the House committee headed by Rep. DeWitt Hale of Corpus Christi, which recommended, and got, House impeachment recommendations.

"If they had given us that information, the whole thing would have been over long before now," Pipkin calculated.

PIPKIN SAID THE commission will make every effort to complete the hearing in Corpus Christi, with Atty. Gen. John Hill and his staff as examiners, and to bring the matter to a commission decision, before Nov. 18.

Presumably, the recommendation is expected to be for removal of Judge Carrillo. It would then be up to the Texas Supreme Court to act, completing the procedure for the judiciary to keep its own house in order.

There were, of course, other reasons for the 16-13 Senate vote which shocked some observers who felt it was abdicating its constitutional duty to proceed under the law with hearings day by day until a conclusion is reached.

Some senators felt that Terry Doyle, the prosecutor hand-picked by the House board of managers, was not doing an effective job. Others agreed with the plea by Carrillo's attorneys that they should be given time to defend their client in an effort for new trial and probation in the federal income tax evasion conviction in Nueces County. But whatever the reasons, Pipkin interprets the Senate's vote as a mandate for the judicial qualifications commission to act as it is supposed to do when wrongdoing by a judge comes to light.

"I don't see how he (Carrillo) expects to survive all this," Pipkin confided. "It seems he would resign, pick up his marbles and go home."

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R-15 / ex. J-15

Edwin E.

00500

Telegram

Honorable O. P. Carrillo
District Judge
County Courthouse
San Diego, Texas 78384

The House Select Committee on Impeachment will meet in the State Capitol at 8:00 p.m. on Tuesday, May 20 to consider H.S.R. No. 161 by Canales, seeking your impeachment from the office of District Judge. Daily meetings thereafter are contemplated until the inquiry is completed. You are invited to be present in person or by attorney; however, cross-examination of witnesses will not be permitted, since this is only an investigation and not a prosecution. [Any evidence you care to present bearing on the inquiry will be welcome.] The principal function of this committee is to develop facts and your assistance in this endeavor will be appreciated.

L. DeWitt Hale

L. DeWitt Hale
Chairman

May 19, 1975

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R-14
EX. J-16

00591

BEFORE THE
STATE JUDICIAL QUALIFICATIONS COMMISSION

INQUIRY CONCERNING A JUDGE, NO. 5

FIRST AMENDED NOTICE OF FORMAL PROCEEDINGS

TO THE HONORABLE O. P. CARRILLO:

Pursuant to the provisions of Rule 4, Rules for the Removal and Retirement of Judges, as adopted and promulgated by the Supreme Court of Texas, you, the said O. P. Carrillo, Judge of the 229th Judicial District of Texas, are hereby given notice that Formal Proceedings for removal have been and by these premises hereby are instituted against you, based and founded upon the following allegations:

I.

Beginning at the time you assumed the duties of District Judge of the 229th Judicial District of Texas, you have conspired with your brother, Ramiro Carrillo, to wrongfully obtain from the public funds of Duval County, Texas, the sum of three hundred dollars each and every month, such conspiracy continuing until the month of May, 1975. Throughout this period you have received goods and merchandise from the Cash Store of Benavides, Duval County, Texas, of the value of three hundred dollars each month. The goods and merchandise so received by you have been paid for out of funds belonging to the Duval County Treasury.

The funds for the payment of the goods and merchandise obtained by you from the Cash Store were paid by the Treasurer of Duval County through the use of a fraudulent scheme involving the use of non-existent or fictional welfare recipients. You knowingly and willingly participated in and received the benefits of such fraudulent scheme. You received such goods

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and merchandise of a value of three hundred dollars per month from January 1, 1971 to May 1, 1975. The total value of the goods and merchandise received by you as a result of your participation in such fraudulent scheme is in the amount of fifteen thousand six hundred dollars.

Such conduct on your part during the period indicated was willful and persistent; such conduct was clearly inconsistent with the proper performance of your duties as District Judge and was clearly of a nature to cast discredit upon the judiciary.

II.

At the time you assumed the duties of District Judge of the 229th Judicial District Court, there was pending on the docket of said court a certain lawsuit styled Clinton Manges v. M. A. Guerra, et al, Cause No. 3953. Such cause had been pending on the docket of said court prior to the time you assumed the duties of District Judge and had been pending at the time you were elected to such office in the general election held in November, 1970. On or about December 10, 1970, you accepted from the plaintiff in the above entitled and numbered cause some ten shares of stock in the First State Bank and Trust Company of Rio Grande City, Texas. At the time you received such bank stock from the plaintiff as aforesaid, such bank stock was included within the property in dispute in said lawsuit and was in custodia legis.

Thereafter, on January 29, 1971, the plaintiff in said cause issued his check in the amount of six thousand, nine hundred and fifty five dollars, payable to the Rialto Cadillac Company in San Antonio, Texas, such sum of money to be applied to the purchase price of an automobile ordered by you and which sum was credited to your benefit.

Thereafter, in the summer of 1971 you entered into an open-end lease with the plaintiff in the above entitled and

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numbered cause for grazing rights on some twelve to fifteen hundred acres of land which land was also included in the property which was the subject of litigation in said cause.

At about the same time you also entered into an oral agreement with the plaintiff under the terms of which you acquired grazing rights on an additional five to six thousand acres of land which land was included in the property which was the subject of the aforesaid litigation.

An additional benefit to you which derived from the plaintiff was your appointment as a Director of the First State Bank and Trust Company of Rio Grande City, Texas, on December 10, 1970.

While you were elected, but not qualified, judge on the date of your appointment as a director of said bank, you continued to serve as such director long past your assuming the duties of District Judge and while the aforesaid litigation was pending on the docket of your court. One of the principle objects of such lawsuit was an attempt to confirm the acquisition of bank stock by the plaintiff, the ownership of which enabled the plaintiff to exercise sufficient control to appoint you as a director.

Your conclusion that the happening of the foregoing events, the receipt of such material benefits from a plaintiff in a cause pending in your court, did not disqualify you from presiding over such cause, was a gross error and an abuse of judicial discretion. Rather than voluntarily withdrawing from the case, you caused the matter of your qualification to be submitted to a full hearing before a disinterested judge. On May 21, 1973, Judge Magus Smith, 93rd Judicial District Court, after extensive hearings in the matter, entered his order determining that you were indeed disqualified.

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Such conduct was willful and persistent; such conduct was clearly inconsistent with the proper performance of your duties as a District Judge, and was clearly of a nature to cast discredit upon the judiciary.

III.

During the period from January 1, 1972, through September, 1973, you conspired with your brother, Ramiro Carrillo, and Roberto Elizondo to steal the sum of two hundred and twenty-five dollars per month from the Road and Bridge Fund of the Treasury of Duval County, Texas. The object of such conspiracy was to provide an income of two hundred and twenty-five dollars per month to the said Roberto Elizondo during a period in which he was actually attending classes in a court reporting school in Houston, Texas. During this period, from January, 1972, until September, 1973, you, in conjunction with your brother, Ramiro Carrillo, authorized the expenditure of said Road and Bridge Funds under the pretext of showing that the said Roberto Elizondo was an employee of the County of Duval. Such payments of two hundred and twenty-five dollars per month were made to the said Roberto Elizondo upon claims for payment that were not signed by the said Roberto Elizondo, but such claims for payment were in fact forged by a person or persons unknown. As a result of the aforesaid conspiracy, the Road and Bridge Fund of the Treasury of Duval County were permanently deprived of the sum of four thousand five hundred dollars. The said payments of such four thousand five hundred dollars to the said Roberto Elizondo were without authority in law. In conspiring to make such unauthorized payments to the said Roberto Elizondo, you did so with the intent to permanently deprive the said Road and Bridge Fund of the use and benefit of such money.

Such conduct was willful and persistent; such conduct was clearly inconsistent with the proper performance of your

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duties as a District Judge, and was clearly of a nature to cast discredit upon the judiciary.

IV.

During the period from January 1, 1971, until June or July of 1974, you wrongfully appropriated to your own use and benefit the services of one Francisco Ruiz. At all times pertinent hereto, the said Francisco Ruiz was an employee of the County of Duval, receiving a salary from the County of Duval in the amount of three hundred and seventy-five dollars per month. During the period in question, you instructed the said Francisco Ruiz on many occasions to perform labor on items of machinery and equipment owned by you and located on your ranch property in Duval County. In return for the labor performed on such machinery and equipment, you never paid the said Francisco Ruiz any money or thing of value as compensation. Instead, the only compensation received by Francisco Ruiz for services and labor was the salary he received from Duval County. The result of your instruction to the said Francisco Ruiz that he perform labor and services on machinery and equipment belonging to you was a wrongful appropriation by you of the value of such services and labor with the intent permanently to deprive Duval County of such value.

Such conduct was willful and persistent; such conduct was clearly inconsistent with the proper performance of your duties as a District Judge, and was clearly of a nature to cast discredit upon the judiciary.

V.

During the year 1971, in conspiracy with your brother, Ramiro Carrillo, you wrongfully appropriated to your own use and benefit the value of the services and labor of one Oscar Sanchez on two occasions. At the times and on the occasions

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in question, the said Oscar Sanchez was the employee of the County of Duval, being paid a salary of two hundred and seventy-five dollars per month. The labor and services of the said Oscar Sanchez were appropriated by you for the building of a reservoir on your ranch located in Duval County.

In addition to the labor and services of the said Oscar Sanchez, you also appropriated the use of heavy equipment belonging to Duval County and fuel to operate such heavy equipment belonging to Duval County to facilitate the building of such reservoir as aforesaid.

The result of the wrongful appropriation of the value of the labor and services of the said Oscar Sanchez, and the value of the use of the heavy equipment and fuel which were the property of Duval County, was a wrongful appropriation by you of such value with the intent permanently to deprive the County of Duval of such value.

Such conduct was willful and persistent; such conduct was clearly inconsistent with the proper performance of your duties as District Judge, and was clearly of a nature to cast discredit upon the judiciary.

VI.

During the month of November, 1973, you wrongfully appropriated to your own use and benefit one backhoe, the property of the Duval County Conservation and Reclamation District. On this occasion you instructed one Tomas Elizondo, an employee of said Conservation and Reclamation District, to transport the said backhoe to your ranch by means of a truck and trailer, the property of Duval County. Upon arrival at the ranch, the said backhoe was operated by the said Tomas Elizondo and was used in the construction of the foundation of a building being built on your ranch.

The result of the wrongful appropriation of the value of the use of such backhoe and truck and trailer was a wrongful

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appropriation by you of such value with the intent permanently to deprive the Duval County Conservation and Reclamation District and the County of Duval of such value.

Such conduct was willful and persistent; such conduct was clearly inconsistent with the proper performance of your duties as a District Judge, and was clearly of a nature to cast discredit upon the judiciary.

VII.

On or about April 16, 1971, while serving as the District Judge of the 229th Judicial District, in Duval County, Texas you wrongfully obtained the sum of One Thousand and Eight Dollars (\$1,008.00) lawful money of the United States, the property of the County of Duval, State of Texas with the intent permanently to deprive the said County of Duval of the said sum of money.

Such conduct in this instance was willful and persistent; such conduct was clearly inconsistent with the proper performance of your duties as a District Judge, and was clearly of a nature to cast discredit upon the judiciary.

VIII.

On or about July 27, 1971, while serving as the District Judge of the 229th Judicial District, in Duval County, Texas, you wrongfully obtained the sum of One Thousand and Eighteen Dollars (\$1,018.00) lawful money of the United States, the property of the County of Duval, State of Texas, with the intent permanently to deprive the said County of Duval of the said sum of money.

Such conduct in this instance was willful and persistent; such conduct was clearly inconsistent with the proper performance of your duties as a District Judge, and was clearly of a nature to cast discredit upon the judiciary.

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IX.

On or about September 22, 1971 to on or about October 1, 1971, while serving as the District Judge of the 229th Judicial District in Duval County, Texas, you wrongfully obtained the sum of One Thousand and Six Dollars (\$1,006.00) lawful money of the United States, the property of the County of Duval, State of Texas, with the intent permanently to deprive the said County of Duval of the said sum of money.

Such conduct was willful and persistent; such conduct was clearly inconsistent with the proper performance of your duties as a District Judge, and was clearly of a nature to cast discredit upon the judiciary.

X.

On or about November 15, 1971, while serving as the District Judge of the 229th Judicial District in Duval County, Texas, you wrongfully obtained the sum of Nine Hundred and Ninety-Five Dollars (\$995.00) lawful money of the United States, the property of the County of Duval, State of Texas, with the intent permanently to deprive the said County of Duval of the said sum of money.

Such conduct was willful and persistent; such conduct was clearly inconsistent with the proper performance of your duties as a District Judge, and was clearly of a nature to cast discredit upon the judiciary.

XI.

On or about January 11, 1972, while serving as the District Judge of the 229th Judicial District in Duval County, Texas, you wrongfully obtained the sum of Five Thousand, Six Hundred and Twenty-five Dollars (\$5,625.00) lawful money of the United States, the property of the Duval County Conservation and Reclamation District, Duval County, Texas, with the intent permanently to deprive the said Duval

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County Conservation and Reclamation District of the said sum of money.

Such conduct was willful and persistent; such conduct was clearly inconsistent with the proper performance of your duties as a District Judge, and was clearly of a nature to cast discredit upon the judiciary.

XII.

On or about December 14, 1972, and continuing until the month of May, 1974, a period during which you were serving as District Judge of the 229th Judicial District in Duval County, Texas, you regularly and systematically unlawfully obtained the sum of more than One Thousand Dollars (\$1,000.00) each month, lawful money of the United States, the property of the County of Duval, State of Texas, the aggregate of such sums of money unlawfully obtained by you being in the amount of Nineteen Thousand One Hundred and Twenty-Two Dollars and Forty-Five Cents (\$19,122.45) with the intent permanently to deprive the said County of Duval of said sum or sums of money.

Such conduct was willful and persistent; such conduct was clearly inconsistent with the proper performance of your duties as a District Judge, and was clearly of a nature to cast discredit upon the judiciary.

XIII.

You are hereby notified and informed that you have a right to file a written answer to the foregoing charges within fifteen (15) days after service of this First Amended Notice of Formal Proceedings upon you. Such answer should be forwarded or delivered to the State Judicial Qualifications Commission, 120 Supreme Court Building, Austin, Texas 78711.

DONE THIS 8th day of October, 1975.

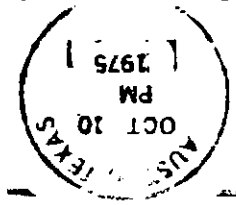
STATE JUDICIAL QUALIFICATIONS
COMMISSION OF THE STATE OF TEXAS.

BY Maurice S. Pipkin
Maurice S. Pipkin, Exec.-Director,
Acting for and on behalf of
the State Judicial Qualifications
Comm. with full authority from
the Comm. so to act.

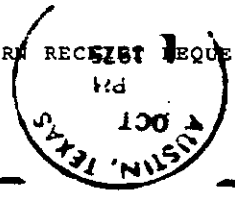
BEFORE THE
STATE JUDICIAL QUALIFICATIONS
COMMISSION
INQUIRY CONCERNING A JUDGE,
NO. 5
FIRST AMENDED NOTICE OF FORMAL
PROCEEDINGS

00510

Received 10-20-75
[Signature]



CERTIFIED MAIL - RETURN RECEIPT REQUESTED



CERTIFIED
No. 011640
MAIL

Honorable O. P. Carrillo
Drawer S
Benavides, Texas 78341

CONFIDENTIAL

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61-2-19

00512
STATE JUDICIAL QUALIFICATIONS COMMISSION

PHIL PEDEN, CHAIRMAN
R. C. VAUGHAN, VICE-CHAIRMAN
ROBERT C. MCGINNIS, SECRETARY
VERNON BUTLER
HOWARD C. DAVISON
E. CARL DILLARD
DONALD EASTLAND
F. RAY MCCORMICK
HOMER E. STEPHENSON



MAURICE S. PIPKIN
EXECUTIVE DIRECTOR

P. O. BOX 12265
CAPITOL STATION
AUSTIN, TEXAS 78711
(512) 475-4201

October 10, 1975

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

CONFIDENTIAL

Honorable O. P. Carrillo
Drawer S
Benavides, Texas 78341

Dear Judge Carrillo:

Enclosed you will find FIRST AMENDED NOTICE OF FORMAL PROCEEDINGS in the matter of BEFORE THE STATE JUDICIAL QUALIFICATIONS COMMISSION, INQUIRY CONCERNING A JUDGE, NO. 5. Your attorney of record, Mr. Arthur Mitchell, has accepted and signed the RETURN OF SERVICE on October 8, 1975.

Sincerely,

Maurice S. Pipkin
Executive Director

MSP:ap

R-19-A

00513

RETURN OF SERVICE

Came to hand on the 8th day of October, 1975, at 4:00 P. M.
and I, Maurice S. Pipkin, Executive Director of the State
Judicial Qualifications Commission, executed at Austin, Texas,
within the County of Travis, this the 8th day of October,
1975, by delivering to Arthur Mitchell, Attorney of Record
for the Honorable O. P. Carrillo, a true copy of the First
Amended Notice of Formal Proceedings in the case of Inquiry
Concerning a Judge, No. 5.

To certify which witness my hand.


Arthur Mitchell

RE # 19A

RETURN OF SERVICE

IN RE

STATE JUDICIAL QUALIFICATIONS COMM.

INQUIRY CONCERNING A JUDGE, NO. 5

FIRST AMENDED NOTICE OF FORMAL

PROCEEDINGS

00514

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REPUBLIC OF TEXAS

STATE JUDICIAL QUARANTAINING COMMISSION

INQUIRY CONCERNING A JUDGE, NO. 5

NOTICE OF FORMAL PROCEEDINGS

TO THE HONORABLE O. P. CARRILLO:

Pursuant to the provisions of Rule 4, Rules for the Removal and Retirement of Judges, as adopted and promulgated by the Supreme Court of Texas, you, the said O. P. Carrillo, Judge of the 229th Judicial District of Texas, are hereby given notice that Formal Proceedings for removal have been and by these premises hereby are instituted against you, based and founded upon the following allegations:

Beginning at the time you assumed the duties of District Judge of the 229th Judicial District of Texas, you have conspired with your brother, Ramiro Carrillo, to wrongfully obtain from the public funds of Duval County, Texas, the sum of three hundred dollars each and every month, such conspiracy continuing until the month of May, 1975. Throughout this period you have received goods and merchandise from the Cash Store of Benavides, Duval County, Texas, of the value of three hundred dollars each month. The goods and merchandise so received by you have been paid for out of funds belonging to the Duval County Treasury.

The funds for the payment of the goods and merchandise obtained by you from the Cash Store were paid by the Treasurer of Duval County through the use of a fraudulent scheme involving the use of non-existent or fictional welfare recipients. You knowingly and willingly participated in and received the benefits of such fraudulent scheme. You received such goods and merchandise of a value of three hundred dollars per month from January 1, 1971 to May 1, 1975. The total value of the goods and merchandise received by you as a result of your participation in such fraudulent scheme is in the

R. E. #20

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amount of fifteen thousand six hundred dollars.

Such conduct on your part during the period indicated was willful and persistent. Your conduct was clearly inconsistent with the proper performance of your duties as District Judge and was clearly of a nature to cast discredit upon the judiciary.

11.

At the time you assumed the duties of District Judge of the 22nd Judicial District Court, there was pending on the docket of said court a certain lawsuit styled Clinton Manors v. M. A. Guerra, et al, Cause No. 2956. Such cause had been pending on the docket of said court prior to the time you assumed the duties of District Judge and had been pending at the time you were elected to such office in the general election held in November, 1970. On or about December 10, 1970, you accepted from the plaintiff in the above entitled and numbered cause some ten shares of stock in the First State Bank and Trust Company of Rio Grande City, Texas. At the time you received such bank stock from the plaintiff as aforesaid, such bank stock was included within the property in dispute in said lawsuit and was in custodia legis.

Thereafter, on January 29, 1971, the plaintiff in said cause issued his check in the amount of six thousand, nine hundred and fifty five dollars, payable to the Rialto Cadillac Company in San Antonio, Texas, such sum of money to be applied to the purchase price of an automobile ordered by you and which sum was credited to your benefit.

Thereafter, in the summer of 1971 you entered into an open-end lease with the plaintiff in the above entitled and numbered cause for grazing rights on some twelve to fifteen hundred acres of land which land was also included in the property which was the subject of litigation in said cause.

At about the same time you also entered into an oral agreement with the plaintiff under the terms of which you acquired grazing rights on an additional five to six thousand acres of land which land was included in the property which was the subject of the aforesaid litigation.

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An additional benefit to you which derived from the plaintiff was your appointment as a Director of the First State Bank and Trust Company of Rio Grande City, Texas, on December 10, 1970.

While you were elected, but not qualified, judge on the date of your appointment as a director of said bank, you continued to serve as such director long past your assuming the duties of District Judge and while the aforesaid litigation was pending on the docket of your court. One of the principle objects of such lawsuit was an attempt to confirm the acquisition of bank stock by the plaintiff, the ownership of which enabled the plaintiff to exercise sufficient control to appoint you as a director.

Your conclusion that the happening of the foregoing events, the receipt of such material benefits from a plaintiff in a cause pending in your court, did not disqualify you from presiding over such cause, was a gross error and an abuse of judicial discretion. Rather than voluntarily withdrawing from the case, you caused the matter of your qualification to be submitted to a full hearing before a disinterested judge. On May 21, 1973, Judge Magus Smith, 93rd Judicial District Court, after extensive hearings in the matter, entered his order determining that you were indeed disqualified.

Such conduct was willful and persistent; such conduct was clearly inconsistent with the proper performance of your duties as a District Judge, and was clearly of a nature to cast discredit upon the judiciary.

III.

During the period from January 1, 1972, through September, 1973, you conspired with your brother, Ramiro Carrillo, and Roberto Elizondo to steal the sum of two hundred and twenty-five dollars per month from the Road and Bridge Fund of the Treasury of Duval County, Texas. The object of such conspiracy was to provide an income of two hundred and twenty-five dollars per month to the said Roberto Elizondo during a period in which he was actually attending classes in a court reporting school in Houston, Texas.

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During this period, from January, 1972, until September, 1973, you, in conjunction with your brother, Ramiro Carralio, authorized the expenditure of said Road and Bridge Funds under the pretext of showing that the said Roberto Elizondo was an employee of the County of Duval. Such payments of two hundred and twenty-five dollars per month were made to the said Roberto Elizondo upon claims for payment that were not signed by the said Roberto Elizondo, but such claims for payment were in fact forged by a person or persons unknown. As a result of the aforesaid conspiracy, the Road and Bridge Fund of the Treasury of Duval County was permanently deprived of the sum of four thousand five hundred dollars. The said payments of such four thousand five hundred dollars to the said Roberto Elizondo were without authority in law. In conspiring to make such unauthorized payments to the said Roberto Elizondo, you did so with the intent to permanently deprive the said Road and Bridge Fund of the use and benefit of such money.

Such conduct was willful and persistent; such conduct was clearly inconsistent with the proper performance of your duties as a District Judge, and was clearly of a nature to cast discredit upon the judiciary.

IV.

During the period from January 1, 1971, until June or July of 1974, you wrongfully appropriated to your own use and benefit the services of one Francisco Ruiz. At all times pertinent hereto, the said Francisco Ruiz was an employee of the County of Duval, receiving a salary from the County of Duval in the amount of three hundred and seventy-five dollars per month. During the period in question, you instructed the said Francisco Ruiz on many occasions to perform labor on items of machinery and equipment owned by you and located on your ranch property in Duval County. In return for the labor performed on such machinery and equipment, you never paid the said Francisco Ruiz any money or thing of value as compensation. Instead, the only compensation received by Francisco Ruiz for services and labor was the salary he received from Duval

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County. The result of your instruction to the said Francisco Ruiz that he perform labor and services on machinery and equipment belonging to you was a wrongful appropriation by you of the value of such services and labor with the intent permanently to deprive Duval County of such value.

Such conduct was willful and persistent; such conduct was clearly inconsistent with the proper performance of your duties as a District Judge, and was clearly of a nature to cast discredit upon the judiciary.

v.

During the year 1971, in conspiracy with your brother, Ramiro Carrillo, you wrongfully appropriated to your own use and benefit the value of the services and labor of one Oscar Sanchez on two occasions. At the times and on the occasions in question, the said Oscar Sanchez was the employee of the County of Duval, being paid a salary of two hundred and seventy-five dollars per month. The labor and services of the said Oscar Sanchez were appropriated by you for the building of a reservoir on your ranch located in Duval County.

In addition to the labor and services of the said Oscar Sanchez, you also appropriated the use of heavy equipment belonging to Duval County and fuel to operate such heavy equipment belonging to Duval County to facilitate the building of such reservoir as aforesaid.

The result of the wrongful appropriation of the value of the labor and services of the said Oscar Sanchez, and the value of the use of the heavy equipment and fuel which were the property of Duval County, was a wrongful appropriation by you of such value with the intent permanently to deprive the County of Duval of such value.

Such conduct was willful and persistent; such conduct was clearly inconsistent with the proper performance of your duties as District Judge, and was clearly of a nature to cast discredit upon the judiciary.

00520

VI.

During the month of November, 1973, you wrongfully appropriated to your own use and benefit one backhoe, the property of the Duval County Conservation and Reclamation District. On this occasion you instructed one Tomas Elizondo, an employee of said Conservation and Reclamation District, to transport the said backhoe to your ranch by means of a truck and trailer, the property of Duval County. Upon arrival at the ranch, the said backhoe was operated by the said Tomas Elizondo and was used in the construction of the foundation of a building being built on your ranch.

The result of the wrongful appropriation of the value of the use of such backhoe and truck and trailer was a wrongful appropriation by you of such value with the intent permanently to deprive the Duval County Conservation and Reclamation District and the County of Duval of such value.

Such conduct was willful and persistent; such conduct was clearly inconsistent with the proper performance of your duties as a District Judge, and was clearly of a nature to cast discredit upon the judiciary.

VII.

You are hereby notified and informed that you have a right to file a written answer to the foregoing charges within fifteen (15) days after service of this Notice of Formal Proceedings upon you. Such answer should be forwarded or delivered to the State Judicial Qualifications Commission, 120 Supreme Court Building, Austin, Texas 78711.

DONE THIS 17th day of July, 1975.

STATE JUDICIAL QUALIFICATIONS
COMMISSION OF THE STATE OF TEXAS.

BY: _____

Maurice S. Pipkin, Exec.-Director,
Acting for and on behalf of the
State Judicial Qualifications Comm.
with full authority from the Comm.
so to act.

ATTEST:

Robert C. McGinnis, Secretary

00521

Select Committee on Impeachment
Meeting dates:

May 19, 1975
May 20, 1975
May 21, 1975
May 22, 1975
May 23, 1975 (two meetings)
May 26, 1975
May 27, 1975
June 3, 1975
June 4, 1975
June 5, 1975
June 6, 1975
June 10, 1975
June 11, 1975
June 12, 1975
June 23, 1975
June 24, 1975
July 9, 1975
July 10, 1975
July 15, 1975
July 16, 1975
July 22, 1975

R-21

00522

SELECT COMMITTEE ON IMPEACHMENT
MEETING NO. 1
May 19, 1975

Speaker's Apartment

Pursuant to the provisions of H.S.R. No. 167, the Select Committee on Impeachment met in a formal meeting and was called to order by the Chairman, Mr. Hale.

The Chair stated that the meeting was called by an announcement on the Floor of the House in compliance with Rule VIII, Section 13, Rules of Procedure of the House of Representatives.

The Chair directed the clerk to call the roll and the following results were obtained:

Present: Hale, Maloney, Chavez, Donaldson, Hendricks, Kaster, Laney, Nabers, Thompson (9).

Absent: Weddington, Slack (2).

The Chair announced that a quorum was present.

Subpoenas

The Chair informed the Committee that Representative Canales had requested that some subpoenas be issued and opened the floor to discussion of the matter.

Representative Hendricks moved that the Chair be authorized and directed to issue subpoenas to the following persons to appear before the Committee: Cleofas Gonzales, Rodolfo Couling, Joe Guerra, M. K. Bercaw, F. H. Canales, and Octavio Hinojosa.

The motion prevailed by the following vote:

Ayes: Maloney, Chavez, Donaldson, Hendricks, Kaster, Laney, Nabers, Thompson (9).

Nays: None (0).

Present Not Voting: Hale (1).

Sergeant at Arms

Representative Hendricks moved that Mr. Rusty Kelley be appointed as sergeant-at-arms to service the needs of the Committee.

The motion prevailed.

Weddington now present.

Rules of Procedure

The Chair opened discussion on the use of specific rules of procedure for the Committee.

No immediate action was taken on the subject of committee rules.

Court Reporter

The Chair opened discussion on the use of a court reporter in the proceedings. He suggested that the Committee could utilize House personnel or contract with local court reporting firms.

The motion prevailed.

Committee Counsel

The Chair opened discussion on the matter of counsel for the Committee.

Representative Donaldson moved that the Chairman and Vice-Chairman, in consultation with Mr. Robert E. Johnson, be authorized to select committee counsel at the earliest possible date.

The motion prevailed.

Procedure for Hearings

The Chair opened discussion on procedure to be followed in questioning the witnesses.

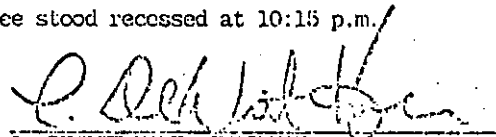
The Chair recognized the Speaker of the House to make a statement concerning the function of the Committee.

The Committee further discussed the mechanics of conducting public hearings.

Recess

Representative Nabers moved that the Committee stand recessed, subject to the call of the Chair.

There being no objection, the Committee stood recessed at 10:15 p.m.


L. DEWITT HALE, CHAIRMAN


Laura Pickett, Committee Clerk

May 20, 1975 8:00 p.m.

Old Supreme Court Room

Pursuant to the provisions of H.S.R. No. 167, the Select Committee on Impeachment met in a public hearing and was called to order by the Chairman, Mr. Hale.

The Chair stated that the meeting was called in accordance with action by the House suspending the provisions of Rule VIII, Section 13, Rules of Procedure of the House of Representatives, requiring the posting of 5 days notice for a public hearing.

The Chair directed the clerk to call the roll and the following results were obtained

Present: Hale, Maloney, Chavez, Donaldson, Kaster, Luney, Nabers, Weddington (8).

Absent: Hendricks, Slack, Thompson (3).

The Chair announced that a quorum was present.

Preliminary Matters

The Chair made opening remarks concerning the authority of the Committee.

Thompson, Slack and Hendricks now present.

The Chair read a telegram which he sent to Judge O. P. Cavillo on May 19, 1975, and noted that Judge Cavillo was present, accompanied by his attorney, Mr. Arthur Mitchell

H.S.R. No. 161

The Chair laid out H.S.R. No. 161 and recognized Representative Canales to explain the resolution. Representative Canales answered questions of the Committee members and made a brief summary statement concerning the testimony of Cleofas Gonzalez.

Witnesses:

Mr. Cleofas Gonzalez of Benavides, Texas, was sworn as a witness, informed of his rights, and gave testimony before the Committee.

The Chair announced that the Committee would welcome testimony from anyone who wishes to testify.

At Ease

At 11:55 p.m. the Committee stood at ease.

The Chair called the meeting back to order at 12:00 a.m.

The Chair recognized Representative Nabers concerning subpoenas of certain records.

Recess

Representative Nabers moved that the Committee stand recessed, subject to the call of the Chair.

There being no objection, the Committee stood recessed at 12:15 a.m.

L. Hale

L. P. Cavillo

SELECT COMMITTEE ON IMPEACHMENT
MEETING NO. 3
May 21, 1975 9:00 p.m.

00525

4

Old Supreme Court Room

Pursuant to the provision of H.S.R. No. 167, the Select Committee on Impeachment met in a public hearing and was called to order by the Chairman, Mr. Hale.

The Chair stated that the meeting was called in accordance with action by the House suspending the provisions of Rule VIII, Section 13, Rules of Procedure of the House of Representatives, requiring the posting of 5 days notice for a public hearing.

The Chair directed the clerk to call the roll and the following results were obtained:

Present: Hale, Maloney, Chavez, Hendricks, Kaster, Laney, Nabers, Slack, Weddington (

Absent: Donaldson, Thompson (2).

The Chair announced that a quorum was present.

Thompson now present.

Subpoenas

Representative Nabers moved that the Chair be authorized and directed to issue subpoenas to Octavio Hinojosa, Oscar Sanchez, and Ruben Chapa.

The motion prevailed by the following vote:

Ayes: Maloney, Chavez, Hendricks, Kaster, Laney, Nabers, Weddington, Slack, Thompson (9).

Nays: None (0).

Present Not Voting: Hale (1).

The Chair instructed Mr. Rusty Kelley to serve the subpoenas.

The Chair informed Mr. Arthur Mitchell, attorney for Judge Curillo, that he should inform the Committee concerning any subpoenas he might request to be issued by the Committee.

The Chair laid out H.S.R. No. 161 and recognized Representative Canales to make an opening statement and call his witness.

Witnesses

Representative Canales made a summary statement concerning the testimony of Mr. Ruben Chapa.

Mr. Ruben Chapa of Benavides, Texas, was sworn as a witness, informed of his rights, and gave testimony before the Committee.

Donaldson now present.

PAH

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SELECT COMMITTEE ON IMPEACHMENT
May 21, 1975

5

Representative Canales made a summary statement concerning the testimony of Mr. Francisco Ruiz.

Mr. Francisco Ruiz of Benavides, Texas, was sworn as a witness, informed of his rights, and gave testimony before the Committee.

Mr. Oscar Sanchez of Benavides, Texas, was sworn as a witness, informed of his rights, and gave testimony before the Committee.


Mr. Rene Ramirez was sworn as an interpreter for Mr. Sanchez.

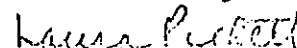
Mr. Rodolfo M. Couling of Benavides, Texas, appeared before the Committee with his attorney, Mr. Charles Orr, was sworn as a witness, informed of his rights, and gave testimony before the Committee.

Recess

Representative Slack moved that the Committee stand recessed, subject to the call of the Chair.

There being no objection, the Committee stood recessed at 12:10 a.m.


L. DEWITT HALE, CHAIRMAN


Laura Pickett, Committee Clerk

00527

6

SELECT COMMITTEE ON IMPEACHMENT
MEETING NO. 4
May 22, 1975 8:20 p.m.

Old Supreme Court Room

Pursuant to the provisions of H.S.R. No. 167, the Select Committee on Impeachment met in a public hearing and was called to order by the Chairman, Mr. Hale.

The Chair stated that the meeting was called in accordance with action by the House suspending the provisions of Rule VIII, Section 13, Rules of Procedure of the House of Representatives, requiring the posting of 5 days notice for a public hearing.

The Chair directed the clerk to call the roll and the following results were obtained

Present: Hale, Chavez, Hendricks, Kaster, Weddington, Thompson (6).

Absent: Maloney, Donaldson, Laney, Nabers, Slack (5).

The Chair announced that a quorum was present.

Subpoenas

Representative Kaster moved to release Rodolfo M. Couling from subpoena.

The motion prevailed.

Representative Hendricks moved that the Chair be authorized and directed to issue a subpoena to Mr. Marvin Foster.

The motion prevailed.

Laney now present.

Nabers now present.

Records

The Chair recognized Mr. Arthur Mitchell, attorney for Judge O. P. Carillo, who said that he has all the statements and records pertaining to the Zertuche General Store, the Farm and Ranch Store from 1970 until the present.

Maloney now present.

Subpoenas

The Chair opened discussion concerning the issuance of a subpoena for bank records.

Representative Hendricks moved that the Chair be authorized and directed to issue a subpoena to Carl Williams, First Vice President of the First State Bank, directing him to deliver records pertaining to the Zertuche General Store and the Farm and Ranch Store from 1970 until the present.

Slack now present.

Representative Hendricks motion prevailed by the following vote:

10/11

SELECT COMMITTEE ON IMPEACHMENT
May 22, 1975

Ayes: Maloney, Chavez, Hendricks, Lancy, Nabers, Slack, Thompson (7).

Nays: Weddington (1).

Present Not Voting: Hale, Kuster (2).

The Chair laid out H.S.R. No. 101 and recognized Representative Canales to make an opening statement and call his witnesses.

Witnesses

Mr. Octavio Hinojosa Jr., assistant to the Duval County Auditor, was sworn as a witness, informed of his rights and gave testimony before the Committee.

Donaldson now present.

Certified Documents

The Chair read certified documents from the Secretary of State concerning the election and qualification of O. P. Carillo to the office of District Judge.

Witnesses

Mr. M. K. Bercaw, an attorney from Freer, Texas, was sworn as a witness, informed of his rights, and gave testimony before the Committee.

At Ease

The Committee stood at ease at 11:15 p.m.

The Chair reconvened the Committee at 11:20 p.m.

Witnesses

Mr. Bercaw continued his testimony.

Exhibits

During Mr. Bercaw's testimony 15 exhibits were filed for the record:

- Exhibit 1 "Motion for disqualification or recusation" (Clinton Manges vs. M.A. Guerra, et al), certified copy
- Exhibit 2 "Order on Motion for disqualification of judge" (Clinton Manges vs. M.A. Guerra, et al), certified copy
- Exhibit 3 "Second Supplemental motion for disqualification or recusation" (Clinton Manges vs. M.A. Guerra, et al), certified copy
- Exhibit 4 "Brief of defendants, R. R. Guerra and M.A. Guerra, supporting their motion for disqualification or recusation of the presiding judge" (Clinton Manges vs. M. A. Guerra, et al), certified copy
- Exhibit 5 "Supreme Court of Texas--Code of Judicial Conduct"

CSH

SELECT COMMITTEE ON IMPEACHMENT

May 22, 1975

- Exhibit 6 "The State of Texas on the relation of Jose R. Nichols vs. Enrique Garcia", No. 8885, certified copy
- Exhibit 8 "The State of Texas on the relation of Jose R. Nichols vs. Luis Elizondo", No. 8886, certified copy
- Exhibit 9 "The State of Texas relation of Jose R. Nichols vs. Joe Garcia", No. 8887, certified copy
- Exhibit 10 Newspaper article, "Newly appointed trustees deny that they're Carillo backers" and "Civil rights compliants filed by Judge Carillo"
- Exhibit 11 Corpus Christi Caller-Times excerpt "School race causes Duval split", March 19, 1975
- Exhibit 12 Order Appointing Jury Commissioners", January 23, 1975
- Exhibit 13 "Harry Winslow, et al vs. Duval County Ranch Company, Inc." No. 7517, filed January 23, 1975
- Exhibit 14 Civil Docket, "Bernice Margaret Nichols vs. Joe R. Nichols", October 21, 1974
- Exhibit 15 "Tax Statement", Duval County Franch, Freer, Texas.


The Chair released Mr. Bercaw.

Recess

Mr. Maloney moved that the Committee stand recessed, subject to the call of the Chair.

There being no objection, the Committee on Impeachment stood recessed, subject to the call of the Chair, at 2:00 p.m.


L. DEWITT HALE, CHAIRMAN


Laura Pickett, Committee Clerk

00530

9

SELECT COMMITTEE ON IMPEACHMENT

MEETING No. 3

May 23, 1975 11:00 a.m.

Speaker's Apartment

Pursuant to the provisions of H.S.R. No. 167, the Select Committee on Impeachment met in a formal meeting and was called to order by the Chairman, Mr. Hale.

The Chair stated that the meeting was called by an announcement on the floor of the House in compliance with Rule VIII, Section 13, Rules of Procedure of the House of Representatives.

The Chair directed the Clerk to call the roll and the following results were obtained:

Present: Hale, Maloney, Chavez, Donaldson, Hendricks, Kaster, Laney, Nabers, Weddington, Slack, Thompson (11).

Absent: None (0).

The Chair announced that a quorum was present.

Representative Thompson moved that a subcommittee of three committee members be appointed to contact the Attorney General in order to obtain any information that his office has gathered on the matter of O.P. Carillo as district judge.

Representative Nabers moved to amend the Thompson Motion to include contacting the Judicial Qualifications Commission.

The Nabers Amendment prevailed.

The Thompson motion, as amended, prevailed.

Subpoenas

Representative Kaster moved that the Chair be authorized and directed to issue a subpoena to Mr. Clinton Manges.

Representative Maloney moved that the Chair be authorized and directed to issue a subpoena to Tomas Elizondo.

Both motions were withdrawn.

Executive Session

Representative Weddington moved that the Committee resolve itself into executive session with its' counsel for the purpose of discussing the direction the Committee would take in future deliberations.

W. J. H.

00531

SELECT COMMITTEE ON IMPEACHMENT
May 23, 1975

10

The motion prevailed by the following vote:

Ayes: Maloney, Chavez, Donaldson, Hendricks, Kaster, Laney, Nabers, Weddington,
Slack, Thompson (10).

Nays: None (0).

Present Not Voting: Hale (1).

The Committee met in Executive Session.

Representative Kaster moved that the Chair be authorized and directed to issue subpoenas to the following persons: Clinton Manges, Tomas Elizondo, Jose R. Nichols, Roberto Elizondo, and Lauro Yzaguirre.

The motion prevailed by the following vote:

Ayes: Maloney, Chavez, Donaldson, Hendricks, Kaster, Laney, Nabers, Weddington,
Slack, Thompson (10).

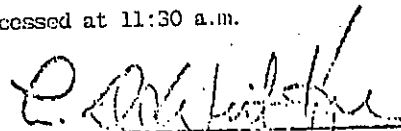
Nays: None (0).


Present Not Voting: Hale (1).

Recess

Representative Nabers moved that the Committee stand recessed, subject to the call of the Chair.

There being no objection, the Committee recessed at 11:30 a.m.


L. DEWITT HALE, CHAIRMAN


James R. Reynolds, Committee Clerk

00532

SELECT COMMITTEE ON IMPEACHMENT
MEETING NO. 6
May 23, 1975 9:00 p.m.

11

Old Supreme Court Room

Pursuant to the provisions of H.S.R. 167, the Select Committee on Impeachment met in a public hearing and was called to order by the Chairman, Mr. Hale.

The Chair stated that the meeting was called in accordance with action by the House suspending the provisions of Rule VIII, Section 13, Rules of Procedure of the House of Representatives, requiring the posting of five days notice for a public hearing.

The Chair directed the Clerk to call the roll and the following results were obtained:

Present: Hale, Maloney, Chavez, Kaster, Lancy, Weddington, Thompson (7).

Absent: Donaldson, Hendricks, Nabers, Slack (4).

The Chair announced that a quorum was present.

Subpoenas

The Chair opened discussion on the matter of subpoenas requested issued by Mr. Arthur Mitchell, attorney for Judge O.P. Carrillo.

Representative Kaster moved that the Chair be authorized and directed to issue subpoenas to the following persons: Randall Nye, William David Bonilla, Morris Atlas, Oscar D. Kirkland, Ronaldo E. Guerra, Arnulfo Guerra, Tim James, Gene Powell, Adolfo Briones, Archer Parr, and Charles Orr.

Representative Lancy moved, as a substitute motion, to postpone action on the request for subpoenas until Monday, May 26, 1975.

Representative Kaster withdrew his motion to issue the subpoenas.

The Chair laid out H.S.R. 161 and recognized Representative Canales to make a statement and present his witnesses.

Hendricks and Thompson now present.

Witnesses

Mr. Eusebio Garcia, utilities manager of the city of Pasa, was sworn as a witness, informed of his rights, and gave testimony before the Committee.

Mr. F.H. Canales, Director of the Daval County Conservation and Reclamation District, was sworn as a witness, informed of his rights, and gave testimony before the Committee.

Mr. F.H. Canales submitted a letter from Mr. Manuel Amaya to the Water Board. The letter was entered for the record as Exhibit 16.

A Grand Jury list dated January 21, 1975, was entered as Exhibit 17.

OK

00533

SELECT COMMITTEE ON IMPEACHMENT
May 23, 1975

12

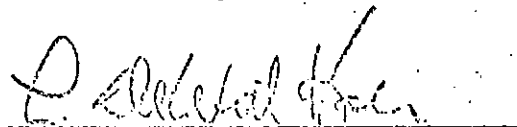
A copy of the Order Appointing Jury Commissioners dated January 23, 1975, was entered as Exhibit 18.

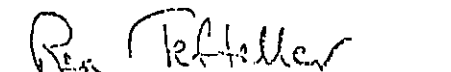
Recess

The Chair announced that the Committee would not be meeting for the purpose of hearing testimony until after May 26, 1975, and that subpoenaed witnesses may return home until that time.

Representative Maloney moved that the Committee stand recessed subject to the call of the Chair.

There being no objection, the Committee recessed at 11:40 p.m.


L. DEWITT HALE, CHAIRMAN


Ron Telteller, Committee Clerk

SELECT COMMITTEE ON IMPEACHMENT

MEETING NO. 7

May 26, 1975 5:40 p.m.

Speaker's Committee Room

Pursuant to the provisions of H.S.R. No. 167, the Select Committee on Impeachment met in a formal meeting and was called to order by the Chairman, Mr. Hale.

The Chair stated that the meeting was called by an announcement on the floor of the House in compliance with Rules VIII, Section 13, Rules of Procedure of the House of Representatives.

The Chair directed the Clerk to call the roll and the following results were obtained:

Present: Hale, Maloney, Chavez, Donaldson, Hendricks, Kaster, Laney, Nabers, Weddington, Slack (10).

Absent: Thompson (1).

The Chair announced that a quorum was present.

Executive Session

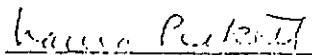
Representative Donaldson moved that the Committee resolve itself into executive session with counsel for the purpose of considering subpoenas.

The motion prevailed in a vote by a show of hands of 9 ayes and no nays. Accordingly, the Committee met in executive session.

Recess

Representative Slack moved that the Committee stand recessed, subject to the call of the Chair.

There being no objection, the Committee recessed at 6:40 p.m.


L. DEWITT HALE, CHAIRMAN
Laura Dickett, Committee Clerk

SELECT COMMITTEE ON IMPEACHMENT

00535

MEETING NO. 8

May 27, 1975

9:20 p.m.

14

Old Supreme Court Room

Pursuant to the provisions of H.S.R. No. 167, the Select Committee on Impeachment met in a public hearing and was called to order by the Chairman, Mr. Hale.

The Chair stated that the meeting was called in accordance with action by the House suspending the provisions of Rule VIII, Section 13, Rules of Procedure of the House of Representatives, requiring the posting of five days notice for a public hearing.

The Chair directed the clerk to call the roll and the following results were obtained:

Present: Hale, Maloney, Chavez, Donaldson, Hendricks, Kaster, Lanoy, Nabers, Slack (9).

Absent: Weddington, Thompson (2).

The Chair announced that a quorum was present.

Weddington now present.

Scheduling of Meetings

The Chair opened discussion on the scheduling of meetings.

Representative Nabers moved that the Committee not meet in a public hearing until 1:30 p.m., June 3, 1975.

The motion prevailed.

The Chair announced that the Committee may hold formal meetings before that time.

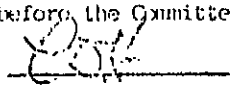
Exhibits

Representative Canales requested that the following articles be marked as exhibits and entered in the record:

- Exhibit 20 First State Bank and Trust Company of Rio Grande city warrant on the account of Clinton Manges.
- Exhibit 21 Two photographs
- Exhibit 22 Photograph
- Exhibit 23 Photograph
- Exhibit 24 Photograph

Witnesses

Mr. Lauro Yzaguirre, owner of the Cash Store in Benavides, Texas, was sworn as a witness, informed of his rights, and gave testimony before the Committee.



Representative Salcm interpreted for the witness.

Thompson now present.

Mrs. Lauro Yzaguirre, who worked in the Cash Store in Benavides, Texas, was sworn as a witness, informed of her rights, and gave testimony before the Committee.

The following exhibits were filed for the record during Mrs. Yzaguirre's testimony:

Exhibit 25 Copies of checks on the account of Duval County to Gutierrez Clover Farm, the Cash Store, and City Grocery and Market of Freer.

Exhibit 26 and 27 "Welfare Chits" used in the Cash Store.

There being no objection, the Chair dismissed Mr. and Mrs. Yzaguirre, subject to the call of the Committee.

Mr. Tomas Elizondo, bailiff for the 229th Judicial District, was sworn as a witness, informed of his rights, and gave testimony before the Committee.

Representative Donaldson moved that those witnesses present who had been subpoenaed and have not testified be removed from the room.

There being no objection, the witnesses were directed to depart. Accordingly, Mr. Jose Nichols, Mr. Marvin Foster, and Mr. Roberto Elizondo were escorted from the meeting.

Statements and receipts of the Zertuche General Store were offered and entered as Exhibit No. 28.

The Chair directed that Mr. Roberto Elizondo appear before the Committee.

The Chair recognized Mr. Roberto Elizondo, court reporter for the 229th Judicial District, and informed him of his rights as a witness before the Committee.

At the request of Representative Maloney, Mr. Elizondo wrote his signature and it was entered as Exhibit No. 29.

Exhibits

At the request of Representative Maloney, the following were entered as exhibits:

Exhibit 30 "Claim for Payment", Duval County, January 1, 1973

Exhibit 31 "Claim for Payment", Duval County, February 9, 1973

Exhibit 32 "Claim for Payment", Duval County, May 9, 1973

Exhibit 33 "Claim for Payment", Duval County, April 6, 1973

Exhibit 34 "Claim for Payment", Duval County, May 11, 1973

DATE

SELECT COMMITTEE ON IMPEACHMENT
May 27, 1975

- Exhibit 35 "Claim for Payment", Duval County, June 8, 1973
Exhibit 36 "Claim for Payment", Duval County, July 6, 1975
Exhibit 37 "Claim for Payment", Duval County, September 10, 1973

The Chair directed the sergeant to bring Mr. Jose Nichols and Mr. Marvin Foster into the meeting.

The Chair authorized Mr. Roberto Elizondo and Mr. Jose Elizondo to return home, with the stipulation that they be available upon request of the Committee.

Witness

Mr. Jose R. Nichols, ranch foreman for the Duval County Ranch Company, was sworn as a witness, informed of his rights, and answered questions of the Committee.

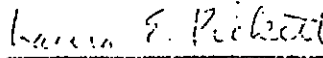
Mr. Nichols was directed to appear before the Committee at 1:30 p.m., June 3, 1975.

Recess

Representative Maloney moved that the Committee stand recessed, subject to the call of the Chair.

There being no objection, the Committee recessed at 2:40 a.m.


L. DEWITT HALE, CHAIRMAN


Laura E. Pickett, Committee Clerk

Old Square Court Room

Pursuant to the provisions of H.C.R. No. 107, the Select Committee on Improvement met in a public hearing and was called to order by the Chairman, Mr. Hale.

The Chair stated that notice of this and subsequent public hearings was posted on May 29, 1975, in compliance with Rule VIII, Section 13, Rules of Procedure of the House of Representatives.

The Chair directed the Clerk to call the roll and the following results were obtained:

Present: Hale, Maloney, Cuave, Donaldson, Hendricks, Easter, Loney, Nabers, Slack, Thompson (10).

Absent: Weddington (3).

The Chair announced that a quorum was present.

The Chair laid out H.C.R. No. 161.

Scheduling of Meetings

The Chair announced that public hearings would be held each day until all testimony had been completed with most meetings beginning each day at 9:00 a.m.

Subpoenas

The Chair informed Mr. Arthur Mitchell, attorney for Judge O. P. Canillo, that his requests for subpoenas are still under consideration by the Committee and will be discussed in Executive Session this evening.

Witnesses

Mr. Octavio Hinojosa, Assistant Duval County Auditor, was recalled to testify before the Committee and present the records he was instructed to bring.

The Chair informed him that he was still under oath and he proceeded to give testimony before the Committee.

Exhibits

During Mr. Hinojosa's testimony the following were offered into evidence:

- Exhibit 38 List of Duval County heavy equipment as of May 27, 1975
- Exhibit 39 List of Duval County rental equipment on rental basis as of May 27,
- Exhibit 40 List of automobiles and heavy equipment owned and insured by Duval County
- Exhibit 41 Codes used in Duval County to identify category of disbursements

Weddington was present.

Bill

- Exhibit 42 Sequence of events, tax records on Roberto Elizondo, Andres Carillo, Raul P. Carillo; Claims for Payment by Patricio Garza and Roberto Elizondo
- Exhibit 43 "Claim of Cash Store for \$730" to the Duval County Welfare Department Claim No. 2032
- Exhibit 44 Same as Exhibit 25
- Exhibit 45 "Claim of Factory Outlet Building Materials for \$3,714.03" to the Duval County Welfare Department, Claim No. A-2661
- Exhibit 46 "Claim of Factory Outlet Building Materials for \$878.90" to the Duval County Welfare Department, Claim No. A-1334.
- Exhibit 47 "Claim of Factory Outlet Building Materials for \$689.29" to the Duval County Welfare Department, Claim No. A-3007
- Exhibit 48
- Exhibit 49 "Claim of Phoenix Supply Company for \$936" to the Duval County Welfare Department, Claim No. A-482
- Exhibit 50 "Claim of Phoenix Supply Company for \$1,279.67" to the Duval County Welfare Department, Claim No. A-882.
- Exhibit 51 "Claim of Phoenix Supply Company for \$3,250.00" to the Duval County Welfare Department, Claim No. A-2370
- Exhibit 52 "Claim of Phoenix Supply Company for \$1,755.00" to the Duval County Welfare Department, Claim No. A-2700
- Exhibit 53 Lists of Claims for the Plains Machinery Company

Witnesses

Mr. Jose R. Nichols, foreman for the Duval County Ranch Company, was recalled to testify before the Committee. The Chair informed him that he was still under oath; he proceeded to give testimony before the Committee.

There being no objection, the Chair dismissed Mr. Jose H. Nichols, subject to the call of the Committee.

The Chair recalled Mr. Octavio Hinojosa to answer questions of the Committee.

Executive Session

Representative Donaldson moved that the Committee resolve itself into Executive Session with counsel.

The motion prevailed, and the Committee went into Executive Session at 7:10 p.m.

[Handwritten signature]

Purchase Vouchers

Representative Hendricks moved that the Chair be authorized to sign and process for payment the vouchers for court reporting fees as follows: Volumes I and II for \$906.75; Volume III, for \$700.00; Volume IV for \$300.00, and Volume V for \$700.00.

The motion prevailed.

Subpoenas

Representative Hendricks moved that the Chair be authorized and directed to issue subpoenas to the following persons: Gene Powell, Patricio Garza, Rogelio Sanchez, and Jose Saenz.

The motion prevailed by the following vote:

Ayes: Maloney, Chavez, Donaldson, Hendricks, Kaster, Lancy, Nabers, Thompson (8)

Nays: None (0).

Present Not Voting: Hale (1).

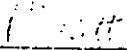
Recess

Representative Maloney moved that the Committee stand recessed, subject to the call of the Chair.

There being no objection, the Committee recessed at 7:40 p.m.



L. DEWITT HALE, CHAIRMAN



Laura Pickett, Committee Clerk

SELECT COMMITTEE ON IMPEACHMENT
MEETING NO. 10

00541

20

June 4, 1975 9:25 a.m.

Old Supreme Court Room

Pursuant to the provisions of H.S.R. 167, the Select Committee on Impeachment met in a public hearing and was called to order by the Chairman, Mr. Hale.

The Chair stated that notice of this and subsequent public hearings was posted on May 29, 1975, in compliance with Rule VIII, Section 13, Rules of Procedure of the House of Representatives.

The Chair directed the Clerk to call the roll and the following results were obtained:

Present: Hale, Maloney, Chavez, Hendricks, Kaster, Slack, Thompson (7).

Absent: Donaldson, Lancy, Nabers, Weddington (4).

The Chair announced that a quorum was present.

Lancy now present.

The Chair laid out H.S.R. 161 and recognized Representative Canales for explanatory remarks.

Exhibit 54 was entered for the record. It consists of two packets containing various papers concerning the County Commissioners Court.

Witnesses

Mr. Marvin Foster, a San Diego attorney, was sworn as a witness, informed of his rights, and gave testimony before the Committee.

Weddington now present.

Exhibit 55, a car invoice dated November 11, 1971, was entered into the record.

Recess

Representative Kaster moved that the Committee stand recess until 2:00 p.m.

There being no objection, the Committee recessed at 12:30 p.m.

The Chair called the meeting back to order at 2:00 p.m.

Witnesses

The Chair directed Mr. Marvin Foster to resume his testimony.

P. H. H.

There being no objection, Mr. Foster was dismissed, subject to the call of the Committee.

Mr. Joe Guerra, of Roma, Texas, was sworn as a witness, informed of his rights, and gave testimony before the Committee.

The following exhibits were entered in the record:

- Ex. 56 Documents pertaining to Case No. 4307 seeking impoundment of voting boxes in Roma Independent School District Trustee Election
- Ex. 57 A petition of Judge O. P. Carrillo, and a letter from Judge Carrillo to J. C. Guerra dated May 16, 1972
- Ex. 58 Documents pertaining to a statement to the Judicial Qualifications Commission
- Ex. 59 List of Starr County Grand Jury Commissioners from 1971 to 1975
- Ex. 60 May 12, 1975 - petition to the Judicial Qualifications Commission

Recess

There being no objection, the Committee stood recessed at 4:45 p.m.

The Chair reconvened the meeting at 4:50 p.m.

Witness

Arnulfo Guerra, District Attorney for the 229th Judicial District, was sworn as a witness, informed of his rights, and gave testimony before the Committee.

Exhibit 61, a document dated April 1, 1975, on the letterhead of Attorney General John Hill concerning a Joint Investigative Task Force, was entered into the record.

Exhibit 62, a copy of Attorney General Hill's remarks made in San Diego on April 8, 1975, was entered into the record.

The Chair directed Mr. Guerra to appear before the Committee again on June 5, 1975, at 9:00 a.m.

Subpoena

Representative Hendricks moved that the Chair be authorized and directed to issue a subpoena to Arnulfo Guerra.

The motion prevailed by the following vote:

Dist

SELECT COMMITTEE ON IMPEACHMENT
June 4, 1975

00543

27

Ayes: Maloney, Chavez, Hendricks, Kaster, Laney, Weddington, Slack (7)

Nays: None (0).

Present Not Voting: Hale (1).

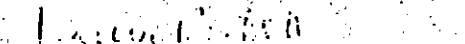
Recess

Representative Hendricks moved that the Committee stand recessed, subject to the call of the Chair.

There being no objection, the Committee recessed at 6:40 p.m.



L. DEWITT HALE, CHAIRMAN


Laura Pickett, Committee Clerk

June 5, 1975 9:35 a.m.

Old Supreme Court Room

Pursuant to the provisions of H.S.R. 167, the Committee on Impeachment met in a public hearing and was called to order by the Chairman, Mr. Hale

The Chair stated that notice of this and subsequent public hearings was posted on May 29, 1975, in compliance with Rule VIII, Section 13, Rules of Procedure of the House of Representatives.

The Chair directed the Clerk to call the roll and the following results were obtained:

Present: Hale, Chavez, Hendricks, Kaster, Laney, Slack (6).

Absent: Maloney, Donaldson, Nabers, Weddington, Thompson (5).

The Chair announced that a quorum was present.

Maloney now present.

The Chair laid out H.S.R. No. 161.

Witnesses

The Chair recalled Mr. Arnulfo Guerra, informed him that he was under oath, and instructed him to resume his testimony.

Thompson now present.

Weddington now present.

Recess

Representative Hendricks moved that the Committee stand recessed until 1:30 p.m.

There being no objection, the Committee recessed at noon.

The Chair called the meeting back to order at 1:45 p.m.

Witnesses

The Chair directed Mr. Arnulfo Guerra to resume his testimony.

Recess

There being no objection, the Committee recessed at 3:55 p.m.

The Chair called the meeting back to order at 4:15 p.m.

Witnesses

The Chair instructed Mr. Arnulfo Guerra to resume his testimony.

Dist

00545

SELECT COMMITTEE ON IMPEACHMENT
June 5, 1975

24

The Chair dismissed Mr. Guerra, subject to the call of the Committee.

Mr. George "Gene" Powell, a Texas Ranger, was sworn as a witness, informed of his rights and gave testimony before the Committee.

Exhibits 63, 64, and 65 were entered into evidence. Exhibit 63 is a copy of Ranger Powell's weekly activity report for the week ending March 22, 1975, Exhibit 64 is the report for the week ending March 29, 1975, and Exhibit 65 is the report for the week ending April 5, 1975.

The Chair dismissed Ranger Powell, subject to the call of the Committee.

Scheduling of Meetings

The Chair announced that the Committee will meet in public hearing on June 6, 1975 at 9:00 a.m. until noon, reconvene on June 10, 1975 at 1:30 p.m., and meet daily thereafter until all testimony is heard.

At Ease

There being no objection, the Committee stood at ease at 6:15 p.m.

The Chair called the meeting back to order at 6:25 p.m.

Executive Session

Representative Easter moved that the Committee resolve itself into Executive Session with its counsel.

There being no objection, the Committee met in Executive Session at 6:30 p.m.

Representative Maloney moved that the Chair be authorized and directed to issue a subpoena to the Rio Grande City Bank and Trust for records pertaining to Raffolfo M. Couling and the Benavides Hardware and Implement Company.

The motion prevailed by the following vote:

Ayes: Hale, Maloney, Chavez, Lancy, Weddington, Thompson (6).

Nays: None (0).

Representative Maloney moved that a subcommittee of three be appointed by the Chair to travel to San Diego, Texas with counsel, Mr. Robert E. Johnson, to investigate certain records of the First State Bank of San Diego pursuant to subpoena duces tecum previously authorized by the Committee.

The motion prevailed.

The Chair announced the appointment of the following subcommittee to travel to San Diego: Maloney, Chavez and Easter.

Representative Maloney moved that a member of the Committee be appointed by the Chair to travel to Rio Grande City to investigate certain records of the Rio Grande City Bank and Trust pursuant to subpoena duces tecum previously authorized by the Committee.

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00546

SUBJECT COMMITTEE ON EMERGENCY
June 5, 1975

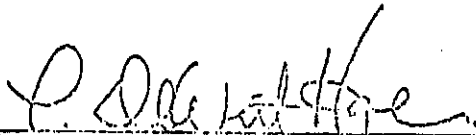
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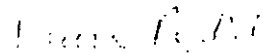
The motion prevailed.

The Chair announced the appointment of Representative Chavez to travel to Rio Grande City.

Representative Maloney moved that the Committee stand recessed, subject to the call of the Chair.

There being no objection, the Committee recessed at 6:45 p.m.


L. DEWITT HALE, CHAIRMAN


Laura Pickett, Committee Clerk

SELECT COMMITTEE ON IMPEACHMENT
MEETING NO. 12 9:20 am
 June 6, 1975

Old Supreme Court Room

Pursuant to the provisions of H.S.R. 167, the Select Committee on Impeachment met in a public hearing and was called to order by the Chairman, Mr. Hale.

The Chair stated that notice of this and subsequent public hearings was posted on May 20, 1975, in compliance with Rule VIII, Section 13, Rules of Procedure of the House of Representatives.

The Chair directed the Clerk to call the roll and the following results were obtained:

Present: Hale, Chavez, Kaster, Lancy, Weddington, Thompson (6).

Absent: Maloney, Donaldson, Hendricks, Nabers, Slack (5).

The Chair announced that a quorum was present.

The Chair laid out H.S.R. 161.

Witnesses

Mr. Clinton Manges was sworn as a witness and informed of his rights.

Mr. Manges requested that he not testify before the Committee until Tuesday, June 10, 1975 at which time he could appear with counsel.

There being no objection to Mr. Manges' request, the Chair dismissed him until 2:00 p.m., June 10, 1975.

Mr. J. H. Saenz, Clerk for the District Judge in Duval County, was sworn as a witness, informed of his rights, and gave testimony before the Committee. Mr. Saenz appeared with counsel, Mr. Emilio Davila, of Laredo, Texas.

Maloney now present.

Exhibits

The following exhibits were entered into the record during Mr. Saenz's testimony:

Exhibit 66 Claims for Payment to Duval County in 1973 of Patricio Garza

Exhibit 67 Certified copy from the Secretary of State of O.P. Carrillo's financial statement for 1973

Slack now present.

The Chair dismissed Mr. Saenz, subject to the call of the Committee.

Witnesses

Rogelio Sanchez, of Benavides, Texas, was sworn as a witness, informed of his rights, and gave testimony before the Committee.

Palm Bason, assisted in interpretation for Mr. Sanchez.

00548

SELECT COMMITTEE ON IMPEACHMENT
June 6, 1975

The Chair dismissed Mr. Rogelio Sanchez, subject to the call of the Committee.

Patricio Garza, of Benavides, Texas, was informed of his rights, sworn as a witness, and gave testimony before the Committee.

Edna Ramon assisted in interpretation for the witness.

Exhibits

The following exhibits were entered into the record:

Exhibit 68 Mr. Patricio Garza's signature, was entered into the record

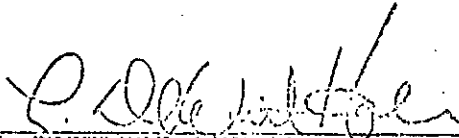
Exhibit 69 A Claim for Payment against Duval County for Patricio Garza, was entered into the record

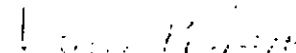
The Chair dismissed Mr. Garza, subject to the call of the Committee.

Recess

Representative Malenoy moved that the Committee recess until 1:30 p.m., June 10, 1975.

There being no objection, the Select Committee on Impeachment recessed at 1:30 p.m.


L. DEWITT HALE, CHAIRMAN


Laura Pickett, Committee Clerk

00549

SELECT COMMITTEE ON IMPEACHMENT
Meeting No. 13
June 10, 1975 1:15 p.m.

28

Old Supreme Court Room

Pursuant to the provisions of H.S.R. No. 167, the Select Committee on Impeachment met in a public hearing and was called to order by the Chairman, Mr. Hale.

The Chair stated that notice of this and subsequent public hearings was posted on May 29, 1975, in compliance with Rule VIII, Section 13, Rules of Procedure of the House of Representatives.

The Chair directed the Clerk to call the roll and the following results were obtained:

Present: Hale, Maloney, Chavez, Donaldson, Hendricks, Koster, Laney, Nabers, Weddington (9).

Absent: Slack, Thompson (2).

The Chair announced that a quorum was present.

The Chair laid out H.S.R. No. 161.

Witnesses

Mr. Clinton Manges was sworn as a witness, informed of his rights, and gave testimony before the Committee.

Mr. Jim Bates appeared as counsel for Mr. Manges.

Thompson now present.

Exhibit 70, a check on the account of Mr. Clinton Manges, was entered into the record.

The Chair dismissed Mr. Manges, subject to the call of the Committee.

The Chair recognized Mr. Arthur Mitchell, counsel for Judge O.P. Carrillo, for a presentation of documents.

Exhibits

Mr. Mitchell offered the following exhibits into evidence:

- CAR-1 Zertuche General Store Ltd. Sales Tax Permit, Effective Date: 1/67, Issued 6/1/68
- CAR-2 Hector Zertuche, tax records
- CAR-3 Arturo Zertuche, tax records
- CAR-4 Zertuche General Store Payee, 1970

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00550

SELECT COMMITTEE ON IMPEACHMENT
June 10, 1975

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- CAR-5 Lawsuit on destruction of the Zertuche General Store
- CAR-6 Zertuche General Store, statements, transactions, cancelled checks (part is same as Ex. 28)
- CAR-7 O.P. Carrillo's application for extension to file tax return, 1972
- CAR-8 O.P. Carrillo's application for extension to file tax return, 1973
- CAR-9 Warrants on the First State Bank of Alice
- CAR-10 Warrants on the First State Bank of Alice on the account of O.P. Carrillo
- CAR-11 Warrants on the First State Bank of Alice on the account of O.P. Carrillo
- CAR-12 Labor 1971, warrants on the First State Bank of Alice on the account of O.P. Carrillo
- CAR-13 Labor 1972, warrants on the First State Bank of Alice on the account of O.P. Carrillo
- CAR-14 Ranch labor 1974, warrants on the First State Bank of Alice on the account of O.P. Carrillo
- CAR-15 Warrants on the account of O.P. Carrillo on the First State Bank of Alice to Fred Pilon, 1973
- CAR-16 Ranch labor, 1974-75, warrants on the First State Bank of Alice on the account of O.P. Carrillo
- CAR-17 Building materials, 1975, warrants on the First State Bank of Alice on the account of O.P. Carrillo
- CAR-18 Gas, 1975, warrants on the First State Bank of Alice on the account of O.P. Carrillo
- CAR-19 Ranch butane, 1973, 74, 75, warrants on the First State Bank on the account of O.P. Carrillo
- CAR-20 Building materials, 1974, warrants on the First State Bank of Alice on the account of O.P. Carrillo
- CAR-21 Supplies, 1974, warrants on the First State Bank of Alice on the account of O.P. Carrillo
- CAR-22 Store carpenter, 1974, warrants on the First State Bank of Alice on the account of O.P. Carrillo
- CAR-23 Ranch groceries, 1973, warrants on the First State Bank of Alice on the account of O.P. Carrillo
- CAR-24 Ranch gas, 1973, warrants on the First State Bank of Alice on the account of O.P. Carrillo

Pilon

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SELECT COMMITTEE ON IMPEACHMENT
June 10, 1975

30

- CAR-25 Ranch gas, 1974, warrants on the First State Bank of Alice on the account of O.P. Carrillo
- CAR-26 Gas, 1972, warrants on Alice bank on O.P. Carrillo's account
- CAR-27 Ranch groceries, 1972, warrants on Alice bank on O.P. Carrillo's account
- CAR-28 Ranch balance, 1972, warrants on Alice bank on O.P. Carrillo's account
- CAR-29 Ranch supplies, 1972, warrants on Alice bank on O.P. Carrillo's account
- CAR-30 Ranch supplies, 1971, warrants on Alice bank on O.P. Carrillo's account
- CAR-31 Gas, 1971, warrants on Alice bank on O.P. Carrillo's account
- CAR-32 Ranch groceries, 1970, warrants on Alice bank on O.P. Carrillo's account
- CAR-33 Ranch groceries, 1970, warrants on Alice bank on O.P. Carrillo's account
- CAR-34 Ranch lumber and materials, 1970, warrants on Alice bank
- CAR-35 Gas, 1970, warrants on Alice bank
- CAR-36 Ranch repair, 1969, warrants on Alice bank
- CAR-37 Ranch supplies, 1969, warrants on Alice bank
- CAR-38 Gas, 1969, warrants on Alice bank
- CAR-39 Ranch groceries, 1969, warrants on Alice bank
- CAR-40 Ranch groceries, 1967, warrants on Alice bank
- CAR-41 Ranch supplies, 1967, warrants on Alice bank
- CAR-42 Gas, 1967, warrants on Alice bank
- CAR-43 Payment for cement which went into store building on Judge's ranch
- CAR-13A Memorandum from Capital Cement dated 8-15-75
- CAR-13B Materials supplied by Ronald Guerra pertaining to the purchase of cement
- CAR-44 Purchase of 1936 diesel truck for hauling water, plus wheels for truck and two gas tanks
- CAR-15 Statement by Morris Ashby, warrants on the Duval County Ranch Company
- CAR-46 Records of Duval County Ranch Company pertaining to taxes due the Benavides ISD
- CAR-47 Civil Docket, Case No. S707, Duval County Ranch, Co. vs. J.W. Burgardner

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SELECT COMMITTEE ON IMPEACHMENT
June 10, 1975

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- CAR-48 Civil Docket, Case No. 8591, Duval County Ranch, Co. Inc. vs. The Speedman Oil Company
- CAR-49 Warrant on the Bank of South Texas in Alice on the account of O.P. Carrillo, \$171.31, "air compressor"
- CAR-50 Statement of Manuel Amaya, Jr., statement of Morris Ashby
- CAR-51 Letter to Judge Vernon Harville from J.R. Alamia dated May 22, 1973
- CAR-52 Conditional Sales Contract, Security Agreement and checks for payment of D-S Cat with Cable
- CAR-53 Warranty Deed from O.P. Carrillo to Clinton Manges and wife, various papers relevant thereto
- CAR-54 Letter to Judge Wesley Dice from Justice Greenhill dated April 16, 1975 and Civil Docket, Case No. 8508, Archer Parr, Antonio E. Garcia, and Francisco Ruiz vs. Daniel Tobin, Jr., Manuel Amaya, Jr. and Ramiro Carrillo; date of filing: April 14, 1975
- CAR-55 Warrant on the First State Bank and Trust Co. of Rio Grande City on the account of O.P. Carrillo for \$5,631.00, copy of sales receipt from M & R Motor Company (same as Ex. 55)
- CAR-56 Rules for the removal or retirement of judges
- CAR-57 Papers pertaining to the bankruptcy suit of M. Guerra and son
- CAR-58 Papers pertaining to the bankruptcy suit of M. Guerra and son
- CAR-59 Papers pertaining to the bankruptcy suit of M. Guerra and son
- CAR-60 Papers pertaining to Joe Coudert, et. al. vs. Rudolfo Couling, Case No. 8888
- CAR-61 Copy of Corpus Christi Caller-Times story, "Parr court of inquiry aborted", March 29, 1975
- CAR-62 Sales tax application of Arturo Zertuche
- CAR-63--65 Sales receipts of Farm and Ranch Supply Co.
- CAR-69 Copies of checks to Marvin Foster and Charles Orr on the account of the Benavides ISD
- CAR-70 Newspaper article, "Archer Parr obeys Carrillo's order to cease and desist acting as judge", March 29, 1975

Witnesses

Ronald E. Guerra of Roma, Texas, was sworn as a witness, informed of his rights

DMH

00553

SELECT COMMITTEE ON IMPEACHMENT
June 10, 1975

32

and gave testimony before the Committee.

The Chair dismissed Mr. Guerra.

Scheduling of Meetings

The Chair announced that the meeting on June 11, 1975, will begin at 1:00 p.m.

Executive Session

Representative Maloney moved that the Committee resolve itself into executive session.

There being no objection, the Committee met in executive session at 5:55 p.m.

Subpoenas

Representative Maloney moved that the Chair be authorized and directed to issue subpoenas to the following persons: Oscar D. Kirkland; Mrs. O.D. Barrington and Gabriel Gonzalez.

The motion prevailed by the following vote:

Ayes: Maloney, Chavez, Kaster, Loney, Weddington, Slack (6).

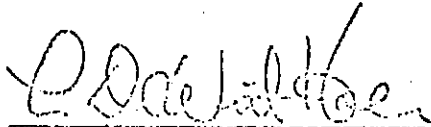
Nays: None (0).


Present Not Voting: Hale (1).

Recess

Representative Maloney moved that the Committee stand recessed until 1:00 p.m., June 11, 1975.

There being no objection, the Committee recessed at 6:20 p.m.


L. DEWITT HALE, CHAIRMAN


Laura Pickett, Committee Clerk

00554

SELECT COMMITTEE ON IMPEACHMENT
Meeting No. 14
June 11, 1975 1:10 p.m.

33

Old Supreme Court Room

Pursuant to the provisions of H.S.R. No. 167, the Select Committee on Impeachment met in a public hearing and was called to order by the Chairman, Mr. Hale.

The Chair stated that notice of this and subsequent public hearings was posted on May 29, 1975, in compliance with Rule VIII, Section 13, Rules of Procedure of the House of Representatives.

The Chair directed the Clerk to call the roll and the following results were obtained:

Present: Hale, Maloney, Chavez, Kaster, Hendricks, Weddington, Thompson (7).

Absent: Donaldson, Laney, Nabers, Slack (4).

The Chair announced that a quorum was present.

The Chair laid out H.S.R. No. 161.

Witnesses

The Chair recognized Mr. Arthur Mitchell for opening remarks.

At Mr. Mitchell's request an exhibit marked CAR-71, Mr. O.P. Carrillo's tax return for 1971, was entered into the record.

Texas Ranger George E. Powell was informed that he was still under oath and gave testimony before the Committee.

The Chair dismissed Ranger Powell, subject to the call of the Committee.

Mrs. Elvira Rodriguez, Clerk for the Duval County Welfare Department, was sworn as a witness, informed of her rights, and gave testimony before the Committee.

Edna Ramon assisted in interpreting for the Committee.

Exhibits

The following exhibits were entered into evidence:

CAR-72 Mrs. Rodriguez's drawing of the Farm and Ranch Store

CAR-73 Mrs. Rodriguez's drawing of the Zertuche General Store

Subpoenas

The Chair opened discussion on the issuance of the subpoena to Mrs. O.D. Barrington.

OSW

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SELECT COMMITTEE ON IMPEACHMENT
June 11, 1975

31

The Chair stated that the subpoena to Mrs. Berrington would not be issued until the Committee determined that her testimony was necessary.

Witnesses

Mrs. Rodriguez resumed her testimony.

The Chair dismissed Mrs. Rodriguez, subject to the call of the Committee.

Recess

There being no objection, the Committee recessed at 4:20 p.m. for ten minutes.

The Chair reconvened the meeting at 4:35 p.m.

Witnesses

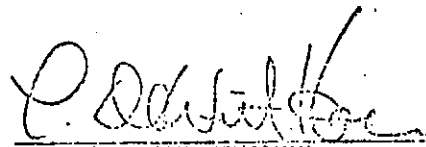
Mr. Gabriel Gonzalez of San Diego, Texas, was sworn as a witness, informed of his rights, and gave testimony before the Committee.

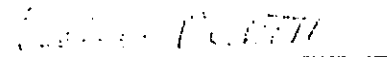
The Chair dismissed Mr. Gonzalez, subject to the call of the Committee.

Recess

Representative Maloney moved that the Committee stand recessed until 9:30 a.m., June 12, 1975.

There being no objection, the Committee recessed at 6:55 p.m.


L. DEWITT HALE, CHAIRMAN


Laura Pickett, Committee Clerk

June 12, 1975 10:00 a.m.

Old Supreme Court Room

Pursuant to the provisions of H.S.R. 167, the Select Committee on Impediment met in a public hearing and was called to order by the Chairman, Mr. Hale.

The Chair stated that notice of this and subsequent public hearings was posted on May 29, 1975, in compliance with Rule VIII, Section 13, Rules of Procedure of the House of Representatives.

The Chair directed the Clerk to call the roll and the following results were obtained:

Present: Hale, Maloney, Chavez, Hendricks, Koster (5).

Absent: Donaldson, Laney, Nabers, Weddington, Slack, Thompson (6).

The Chair announced that the Committee would proceed with the taking of testimony despite the absence of a quorum.

The Chair laid out H.S.R. 161.

Laney now present.

The Chair announced that a quorum was present.

Witnesses

Mr. Cleofas Gonzalez was informed that he was still under oath and gave testimony before the Committee.

Thompson now present.

Weddington now present.

Exhibit 71, the signature of Cleofas Gonzalez, was entered into the record.

The Chair dismissed Mr. Gonzalez, subject to the call of the Committee.

Recess

Rep. Maloney moved that the Committee stand recessed until 1:30 p.m.

There being no objection, the Committee recessed at noon.

The Chair reconvened the meeting at 1:50 p.m.

Witness

Mrs. Laura Yzaguirre was informed that she was still under oath and gave testimony before the Committee.

The Chair dismissed Mrs. Yzaguirre, subject to the call of the Committee.

Mr. Oscar D. Kirkland, a certified public accountant, was sworn as a witness, informed of his rights, and gave testimony before the Committee.

List

At Ease

There being no objection, the Committee stood at ease at 3:55 p.m. for five minutes.

The Chair reconvened the meeting at 4:00 p.m.

Witness

Mr. Kirkland resumed his testimony.

Subpoena

Rep. Maloney moved that the Chair be authorized and directed to issue a subpoena duces tecum to Oscar D. Kirkland and Arthur Mitchell for the Federal Tax Returns for the Farm and Ranch Store partnership from 1967 to 1974, inclusive; Ramiro Carrillo and Brothers and/or O.P. Carrillo, trustee from 1967 to 1974, inclusive; and O.P. Carrillo from 1967 to 1970, inclusive.

The motion prevailed by the following vote:

Ayes: Maloney, Chavez, Hendricks, Kuster, Weddington, Thompson (6).

Nays: None (0).

Present Not Voting: Hale (1).

Witness

Mr. Kirkland resumed his testimony.

Exhibits

At Mr. Mitchell's request the following exhibits were entered into the record:

AM 1 Subpoena to Oscar D. Kirkland requested by Mr. Mitchell

AM 2 Subpoena duces tecum served on Arthur Mitchell by the Committee

AM 3 First response of O.P. Carrillo

AM 4 Mitchell's answer challenging the authority of the Committee

AM 5 Request of Mr. Mitchell for certain information

Exhibit 72, a document from Arthur Mitchell pertaining to the relevance of subpoenas he requested to be issued.

The Chair recognized Mr. Mitchell for a statement concerning the subpoena duces tecum issued to him.

Witness

Mr. Kirkland was dismissed, subject to the call of the Committee.

PATH

Scheduling of Meetings

The Chair stated that the Committee would probably not schedule any meetings until June 23, 1975 and that all public hearings would be posted in compliance with Rule VIII, Section 13, Rules of Procedure of the House of Representatives.

Recess

Representative Maloney moved that the Committee stand recessed for ten minutes.

There being no objection, the Committee stood recessed at 6:25 p.m.

The Chair reconvened the meeting at 6:35 p.m.

Executive Session

Representative Maloney moved that the Committee resolve itself into executive session.

There being no objection, the Committee met in executive session at 6:40 p.m.

Statement of Facts

Representative Lancy moved that fifty copies of the Statement of Facts be duplicated; that each member of the Committee be furnished with one copy, that other copies be released at the discretion of the Chair, and that other House members be allowed to use the remaining copies on a check-out basis from the Sergeant-at-Arms. Due to the expense of duplication, individual copies will not be supplied to all House members at this time.

The motion prevailed.

Representative Lancy moved that the Chair be authorized to sign and process for payment the vouchers for court reporting fees as follows: Volume VI, \$505.00; Volume VII, \$727.50; Volume VIII, \$787.50; and Volume IX, \$445.00.

The motion prevailed.

Subpoenas

Representative Maloney moved that the Chair be authorized to issue subpoenas at his discretion to any and all persons and institutions to compel attendance and/or to compel the production of records and documents at such times and places as the Chair shall determine.

The motion prevailed by the following vote:

Ayes: Maloney, Chavez, Kaster, Lancy, Thompson, Weddington (6).

Nays: None (0).

Present Not Voting: Hale (1).

Recess

Representative Maloney moved that the Committee stand recessed until 1:00 p.m., June 23, 1975, or subject to the call of the Chair, whichever is the earlier date.

R.M.A.

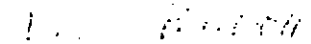
00559

33

SELECT COMMITTEE ON IMPEACHMENT
June 12, 1975

There being no objection, the Committee recessed at 7:05 p.m.


L. DEWITT HALE, CHAIRMAN


Laura Pickett, Committee Clerk

SELECT COMMITTEE ON IMPEACHMENT
MEETING NO. 16
June 23, 1975 1:50 p.m.

00560

39

Old Supreme Court Room

Pursuant to the provisions of H.S.R. 167, the Select Committee on Impeachment met in a formal meeting and was called to order by the Chairman, Mr. Hale.

The Chair stated that notice of this and subsequent meetings was posted on June 16, 1975, in compliance with Rule VIII, Section 13, Rules of Procedure of the House of Representatives.

The Chair directed the clerk to call the roll and the following results were obtained:

Present: Hale, Chavez, Kaster, Lancy, Nabers, Weddington, Slack, Thompson (9).

Absent: Maloney, Donaldson (2).

The Chair announced that a quorum was present.

The Chair laid out H.S.R. 161.

Preliminary Matters

The Chair presented opening remarks pertaining to future meetings and the progress of the Committee.

Executive Session

Representative Slack moved that the Committee resolve itself into executive session.

The motion prevailed by the following vote:

Ayes: Chavez, Hendricks, Kaster, Lancy, Nabers, Slack, Thompson, Weddington (8).

Nays: None (0).

Present Not Voting: Hale (1).

Accordingly, the Committee met in executive session at 2:15 p.m.

Mr. Bob Johnson gave a report on the subpoenas issued to the First State Bank of San Diego, the First National Bank of Alice, the Bank of South Texas in Alice, and the First State Bank of Rio Grande City; and the progress of the legal staff.

Recess

Representative Slack moved that the Committee stand recessed until 10:00 a.m., June 24, 1975.

There being no objection, the Committee recessed at 4:30 p.m.

Laura Pickett

Laura Pickett, Committee Clerk

E. Dewitt Hale
E. DEWITT HALE, CHAIRMAN

SELECT COMMITTEE ON IMPEACHMENT
MEETING NO. 17
June 21, 1975

00561

40

Old Supreme Court Room

Pursuant to the provisions of H.S.R. 167, the Select Committee on Impeachment met in a formal meeting and was called to order by the Chairman, Mr. Hale.

The Chair directed the Clerk to call the roll and the following results were obtained:

Present: Hale, Maloney, Chavez, Kaster, Laney, Nabers, Slack (7).

Absent: Donaldson, Hendricks, Thompson, Weddington (4).

The Chair announced that a quorum was present.

The Chair stated that pursuant to the recess motion on June 23, 1975, the Committee would meet in executive session. Accordingly, the room was cleared and the Committee met in executive session.

Thompson now present.

The Chair laid out H.S.R. 161.

Presentation of Data

Mr. Ron Patterson made a presentation on the material compiled by the Legislative Council.

Weddington now present.

Subpoenas

Representative Hendricks moved that both the Chairman and the Vice Chairman be authorized to issue subpoenas to any and all persons and institutions to compel attendance and/or to compel the production of records and documents at such times and places as either shall determine.

The motion prevailed by the following vote:

Ayes: Maloney, Hendricks, Kaster, Laney, Nabers, Weddington (6).

Nays: None (0).

Present Not Voting: Hale (1).

Donaldson now present.

Recess

Representative Hendricks moved that the Committee stand recessed until 2:00 p.m., at which time the Committee will meet in public session.

There being no objection, the Committee recessed at 12:30 p.m.

The Chair reconvened the meeting at 2:10 p.m.

Draft

The Chair directed the Clerk to call the roll and the following results were obtained:

Present: Hale, Maloney, Chavez, Donaldson, Hendricks, Kaster, Lincy, Nabers, Weddington (9).

Absent: Slack, Thompson (2).

Progress Report

The Chair made opening remarks concerning the progress of the Committee and the scheduling of meetings.

Slack now present.

Committee Counsel

Representative Chavez moved that the Chairman be authorized to employ Mr. Terry Doyle as counsel for the Committee, on such terms and conditions as the Chairman shall determine.

The motion prevailed by the following vote:

Ayes: Maloney, Chavez, Donaldson, Hendricks, Kaster, Lincy, Nabers, Slack, Weddington (9).

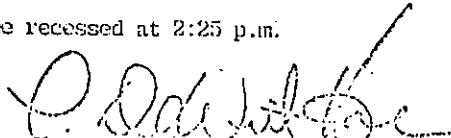
Nays: None (0).


Present Not Voting: Hale (1).

Recess

Representative Maloney moved that the Committee stand recessed until July 9, 1975 at 10:00 a.m., or subject to the call of the Chair, whichever comes first.

There being no objection, the Committee recessed at 2:25 p.m.


L. DEVITT HALE, CHAIRMAN


Laura Pickett, Committee Clerk

MEETING NO. 18
July 9, 1975 10:20 a.m.

00563

Old Supreme Court Room

Pursuant to the provisions of H.S.R. No. 167, the Select Committee on Impeachment met in a formal meeting and was called to order by the Chairman, Mr. Hale.

The Chair stated that notice of this and subsequent meetings was posted on June 30, 1975, in compliance with Rule VIII, Sections 13 & 53, Rules of Procedure of the House of Representatives.

The Chair directed the clerk to call the roll and the following results were obtained:

Present: Hale, Chavez, Donaldson, Hendricks, Kaster, Lancy, Nabers, Slack, Weddington (9).

Absent: Maloney, Thompson (2).

The Chair announced that a quorum was present.

Scheduling of Meetings

The Chair made opening remarks regarding future meetings and stated that a public hearing is not yet scheduled. The Chair also stated that today's meeting would be a work session on bank records which have been received by the Committee.

The Chair laid out H.S.R. No. 161.

Executive Session

Representative Hendricks moved that the Committee resolve itself into Executive Session with staff.

The motion prevailed. Accordingly the Committee met in Executive Session at 10:35 a.m.

Mr. Terry Doyle made a presentation regarding possible courses of action for the Committee to follow.

Representative Thompson now present.

Mr. Johnny Potter made a presentation regarding the bank records received by the Committee.

Recess

Representative Chavez moved that the Committee stand recessed until 2:00 p.m.

There being no objection, the Committee recessed at 12:30 p.m.

The Chair reconvened the meeting in Executive Session at 2:20 p.m.

Executive Session

Mr. Ron Patterson and Mr. Terry Doyle made presentations regarding the statements of facts.

EST

00564

SELECT COMMITTEE ON IMPEACHMENT
July 9, 1975

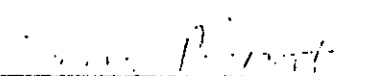
43

Recess

Representative Kaster moved that the Committee stand recessed until 9:30 a.m., July 10, 1975.

There being no objection, the Committee recessed at 5:05 p.m.


L. DEVITT HALE, CHAIRMAN


Laura Pickett, Committee Clerk

SELECT COMMITTEE ON IMPEACHMENT

MEETING NO. 19

July 10, 1975 10:00 a.m.

00565

44

Old Supreme Court Room

Pursuant to the provisions of H.S.R. 167, the Select Committee on Impeachment met in a formal meeting and was called to order by the Chairman, Mr. Hale.

The Chair stated that notice of this and subsequent meetings was posted on June 30, 1975, in compliance with Rule VIII, Sections 13 & 53, Rules of Procedure of the House of Representatives.

The Chair directed the Clerk to call the roll and the following results were obtained:

Present: Hale, Maloney, Chavez, Hendricks, Kaster, Laney, Nabers, Slack, Thompson, Weddington (10).

Absent: Donaldson (1).

The Chair announced that a quorum was present.

Executive Session

The Chair stated that pursuant to the recess motion on July 9, 1975, the Committee would continue to meet in executive session, but the Committee may hold a public hearing on July 11, 1975. Accordingly, the room was cleared and the Committee met in executive session at 10:10 a.m.

The Chair laid out H.S.R. 161.

Mr. Terry Doyle made a presentation regarding material compiled by the staff.

Subpoenas

Representative Hendricks moved that the Chair be authorized and directed to issue subpoenas to the following persons: Mrs. Zenaida Montemayor, Sgt. Silverio Valadez, Aurelio Correa, Hector Zertuche, Arturo Zertuche, and Ramiro Carrillo (subpoena duces tecum).

The motion prevailed by the following vote:

Ayes: Maloney, Chavez, Hendricks, Kaster, Laney, Nabers, Slack, Thompson (8).

Nays: None (0).

Present Not Voting: Hale (1).

Recess

Representative Hendricks moved that the Committee stand recessed until 2:00 p.m.

There being no objection, the Committee recessed at 12:15 p.m.

The Chair reconvened the meeting in executive session at 2:20 p.m.

Presentation

Mr. Terry Doyle continued his presentation before the Committee.

TSD

Postponement of Hearing

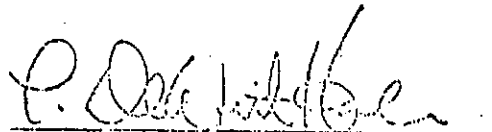
The Chair read a letter received earlier today from Mr. Arthur Mitchell advising that he could not attend the public hearing planned by the Committee on July 11 because of absence from the city on legal business. Mr. Mitchell stated that he would return to Austin on Monday, July 14, and he requested that the public hearing be postponed until Tuesday, July 15, 1975.

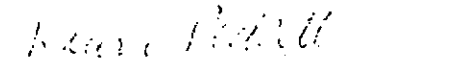
The Chair recommended that the request for postponement be granted and asked if there were any objections. There being no objection, the Chair announced that the public hearing scheduled for tomorrow would be postponed until Tuesday, July 15, 1975, at 10:00 a.m.

Recess

Representative Maloney moved that the Committee stand recessed until 10:00 a.m., July 15, 1975, or subject to the call of the Chair, whichever is earlier.

There being no objection, the Committee recessed at 5:55 p.m.


L. DEWITT HALE, CHAIRMAN


Laura Pickett, Committee Clerk

SELECT COMMITTEE ON IMPEACHMENT
MEETING NO. 20
July 15, 1975 10:15 a.m.

46

00567

Old Supreme Court Room

Pursuant to the provisions of H.S.R. No. 167, the Select Committee on Impeachment met in a public hearing and was called to order by the Chairman, Mr. Hale.

The Chair stated that notice of this and subsequent meetings was posted on June 30, 1975 and on July 10, 1975, in compliance with Rule VIII, Sections 13 and 53, Rules of Procedure of the House of Representatives.

The Chair directed the clerk to call the roll and the following results were obtained:

Present: Hale, Maloney, Chavez, Donaldson, Hendricks, Kaster, Luney and Thompson (8).

Absent: Nabers, Slack and Weddington (3).

The Chair announced that a quorum was present.

The Chair laid out H.S.R. No. 161.

Exhibits

The Chair offered the following into evidence:

- Exhibit 73 a letter from Mr. Arthur Mitchell dated July 10 requesting that the Committee postpone a public hearing from July 11 to July 15, 1975
- Exhibit 74 Representative Hale's reply to Mr. Mitchell's letter, granting the request for a postponement

Opening Remarks

The Chair stated that Mr. Mitchell had informed the Chair that he could not be present until late afternoon.

Ms. Jan Fox, a representative from Mr. Mitchell's office, made a statement advising that she would attend the hearing and report to Mr. Mitchell thereon.

Witnesses

Sergeant Silverio Valadez, of the Texas National Guard, was sworn as a witness, informed of his rights, and gave testimony before the Committee.

Exhibit 75, a list of dates compiled by Sergeant Valadez, was entered into evidence.

Representative Nabers now present.

The Chair dismissed Sergeant Valadez, subject to the call of the Committee.

Mr. Aurelio Correa, was sworn as a witness, informed of his rights, and gave testimony before the Committee.

The Chair dismissed Mr. Correa, subject to the call of the Committee.

Post

00568

Recess

Representative Donaldson moved that the Committee stand recessed until 2:00 p.m.

There being no objection, the Committee recessed at 12:40 p.m.

The Chair reconvened the meeting at 2:10 p.m.

Witnesses

Mr. Hector Zertuche, Mr. Arturo Zertuche, and Mr. Ramiro Carrillo each requested that his testimony before the Committee be postponed until counsel could be present.

The Chair directed them to appear before the Committee at 10:00 a.m. July 16, 1975.

Mr. J. H. Saenz, Clerk for the District Judge in Duval County, was informed that he was still under oath and gave testimony before the Committee. Mr. Saenz appeared with counsel, Mr. Imilo Davila, of Laredo, Texas.

Grant of Immunity

Representative Maloney moved that the Chair be authorized and directed to instruct Mr. Saenz to answer certain questions propounded to him by the Committee or under its direction, and that immunity from prosecution be granted to him under the provisions of Section 13, Article 5129F, Vernon's Annotated Civil Statutes, for his truthful answers to such questions.

The motion prevailed by the following vote:

Ayes: Maloney, Chavez, Donaldson, Hendricks, Kaster, Loney, Nabers, Thompson (8).

Nays: None (0).

Present Not Voting: Hale (1).

Executive Session

Representative Donaldson moved that the Committee meet in Executive Session until 3:15 p.m.

There being no objection, the Committee met in Executive Session at 2:45 p.m.

The Chair reconvened the meeting in public session at 3:30 p.m.

Witnesses

Mr. Saenz continued his testimony before the Committee and gave answers to questions under instructions from the Chair.

Representative Waddington now present.

Mrs. Zenaida Montemayor was sworn as a witness, informed of her rights, and gave testimony before the Committee.

Exhibits 76, 77, 78, 79, 80, phone records, of Judge Carrillo, were entered into evidence.

The Chair dismissed Mrs. Montemayor, subject to the call of the Committee.

The Chair recalled Mr. Saenz, who gave testimony before the Committee.

The Chair instructed Mr. Saenz to return at 10:00 a.m., July 16, 1975.

Recess

Representative Donaldson moved that the Committee stand recessed until 8:00 p.m., to meet in Executive Session.

There being no objection, the Committee recessed at 5:55 p.m.

Executive Session

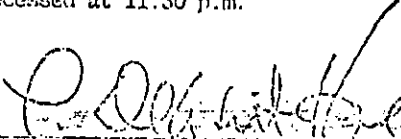
The Chair reconvened the meeting at 8:20 p.m.


Mr. Ron Patterson and Mr. Terry Doyle made a presentation to the Committee.

Recess

Representative Donaldson moved that the Committee stand recessed until 10:00 a.m., July 16, 1975.

There being no objection, the Committee recessed at 11:30 p.m.


L. DEWITT HALE, CHAIRMAN


Laura Pickett, Committee Clerk

July 16, 1975 10:15 a.m.

00570

49

Old Supreme Court Room

Pursuant to the provisions of H.S.R. No. 167, the Select Committee on Impeachment met in a public hearing and was called to order by the Chairman, Mr. Hale.

The Chair stated that notice of this and subsequent meetings was posted on June 30, 1975 and July 10, 1975, in compliance with Rule VIII, Sections 13 and 53, Rules of Procedure of the House of Representatives.

The Chair directed the clerk to call the roll and the following results were obtained:

Present: Hale, Maloney, Chavez, Donaldson, Kastler, Nabers (6).

Absent: Hendricks, Lancy, Slack, Thompson, Weddington (5).

The Chair announced that a quorum was present.

Representatives Lancy and Thompson now present.

The Chair laid out H.S.R. No. 161.

Preliminary Matters

Mr. Mitchell offered for the record CAR-74, Judge O. P. Carrillo's objections to the continuing of hearings, dated July 16, 1975.

Representative Hendricks now present.

The Chair stated that he had a request from Mr. Mitchell for subpoenas directed to five district judges who has requested the resignation of Judge Carrillo; and that the request for subpoenas was denied.

Witnesses

Hector Zertuche was sworn as a witness, informed of his rights, and gave testimony before the Committee. Mr. Zertuche appeared with counsel, Mr. Arthur Mitchell.

Representative Weddington now present.

The Chair dismissed Mr. Zertuche, subject to the call of the Committee.

Mr. Arturo Zertuche was sworn as a witness, informed of his rights, and gave testimony before the Committee. Mr. Zertuche appeared with counsel, Mr. Arthur Mitchell.

Exhibits

The following exhibits were entered into evidence:

Exhibit 81 - Checks on the First State Bank of San Diego on the account of the Zertuche General Store

Exhibit 82 - Check on the First State Bank of San Diego to Mobil Oil on the account of Zertuche General Store.

[Handwritten signature]

- Exhibit 83 Checks on the First State Bank of San Diego on the account of the Zertuche General Store
- Exhibit 84 Checks on the First State Bank of San Diego on the account of the Zertuche General Store
- Exhibit 85 Checks on the First State Bank of San Diego on the account of the Zertuche General Store
- Exhibit 86 Check on the First State Bank of San Diego to R. M. Coaling on the account of the Zertuche General Store

Witnesses

The Chair dismissed Mr. Zertuche, subject to the call of the Committee.

Mr. Emilio Carrillo was sworn as a witness, informed of his rights, and gave testimony before the Committee. Mr. Carrillo appeared with counsel, Mr. Arthur Mitchell.

Exhibit 87, welfare checks, was entered into evidence.

The Chair dismissed Mr. Carrillo, subject to the call of the Committee.

The Chair informed Mr. Emilio Davala, attorney for J. H. Saenz, that Mr. Saenz may now appear before the Committee for further testimony, if he desires.

Mr. Davala stated that Mr. Saenz did not wish to testify further.

The Chair dismissed Mr. Saenz, subject to the call of the Committee.

Statements

The Chair again informed Mr. Arthur Mitchell that the Committee was available for the testimony of Judge O. P. Carrillo.

Mr. Mitchell again informed the Chair that Judge O. P. Carrillo would not give testimony before the Committee.

Executive Session

Representative Rubens moved that the Committee resolve itself into Executive Session.

The motion prevailed.

The Chair announced that the Committee would meet in open session at 2:00 p.m.

The room was cleared and the Committee met in Executive Session at 11:40 a.m.

Recess

Representative Maloney moved that the Committee stand recessed until 2:00 p.m.

There being no objection, the Committee recessed at 12:30 p.m.

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SELECT COMMITTEE ON IMPEACHMENT
July 16, 1975

51

The Chair reconvened the meeting at 2:20 p.m. in open session.

Committee Substitute for H.S.R. No. 161

The Chair laid out a draft of a Committee Substitute for H.S.R. No. 161 and announced that discussion and amendments would be recognized on an article by article basis.

Article I

There were no amendments.

Article II

Representative Thompson moved to amend the draft by deleting the phrase "and of state and local ad valorem taxes" in paragraph 6.

Representative Hendricks moved, as a substitute motion, to delete paragraph 6 in its entirety.

The substitute motion prevailed by the following vote:

Ayes: Maloney, Chavez, Donaldson, Hendricks, Nabers (5).

Nays: Kuster, Loney, Weddington, Thompson (4).

Present Not Voting: Hale (1).

The motion, as substituted, prevailed.

Representative Donaldson moved to amend the draft by deleting the phrase "for his own personal and political purposes" in paragraph 3.

Representative Donaldson withdrew his motion.

Representative Chavez moved to amend paragraph 3 by adding "improperly" between "to" and "influence", adding "engranted in February, 1975" after "County", and striking "for his own personal and political purposes".

The motion prevailed.

Representative Chavez moved to delete paragraph 7.

The motion prevailed by the following vote:

Ayes: Maloney, Chavez, Donaldson, Hendricks, Loney, Nabers, Thompson (7).

Nays: Kuster, Weddington (2).

Present Not Voting: Hale (1).

Representative Hendricks moved to delete paragraph 5.

The motion prevailed by the following vote:

Exit

Ayes: Maloney, Chavez, Donaldson, Hendricks, Laney, Nabers, Weddington, Thompson (8).

Nays: Kaster (1).

Present Not Voting: Hale (1).

Article III

Representative Hendricks moved to add the words "acted alone or" after "Carrillo" and before "conspired" in the opening paragraph on page 3, line 19.

The motion prevailed.

Representative Hendricks moved to delete paragraphs 6 and 7.

The motion prevailed.

Representative Chavez moved to delete paragraph 5.

The motion failed by the following vote:

Ayes: Chavez (1).

Nays: Maloney, Donaldson, Hendricks, Kaster, Laney, Nabers, Weddington, Thompson (8).

Present Not Voting: Hale (1).

Article IV

Representative Thompson moved to delete paragraph 1.

The motion prevailed.

Representative Nabers moved to amend paragraph 3, by striking the word "heavy".

The motion prevailed.

Representative Kaster moved to delete paragraph 7.

The motion prevailed by the following vote:

Ayes: Maloney, Chavez, Hendricks, Kaster, Weddington, Thompson (6).

Nays: Donaldson, Laney, Nabers (3).

Present Not Voting: Hale (1).

Article V

There were no amendments.

Article VI

There were no amendments.

Cost

Article VII

Representative Chavez moved to delete paragraph 3.

Representative Hendricks moved, as a substitute motion, to strike Article VII in its entirety.

The substitute motion failed by the following vote:

Ayes: Maloney, Chavez, Hendricks, Laney (4).

Nays: Donaldson, Kaster, Nabers, Weddington, Thompson (5).

Present Not Voting: Hale (1).

Representative Nabers moved, as a substitute motion, to delete paragraphs 2, 3, 4, and 5.

The substitute motion prevailed by the following vote:

Ayes: Maloney, Chavez, Donaldson, Hendricks, Nabers, Thompson (6).

Nays: Kaster, Laney, Weddington (3).

Present Not Voting: Hale (1).

The Chavez motion, as substituted, prevailed.

Representative Maloney moved to delete the words "one or more of" in the second paragraph and the figure "(1)" in the third paragraph.

The motion prevailed.

Article VIII

Representative Donaldson moved to change the word "government" to "governmental" in the third line of Article VIII.

The motion prevailed.

Representative Hendricks moved to add the word "monies" between "collect" and "from" in the third line of Article VIII.

The motion prevailed.

Article IX

Representative Hendricks moved to strike Article IX in its entirety.

The motion failed by the following vote:

Ayes: Chavez, Hendricks, Thompson (3).

Nays: Maloney, Donaldson, Kaster, Laney, Nabers, Weddington (6).

Present Not Voting: Hale (1).

*D.H.
E.A.W.*

00575

Article X

There were no amendments.

Article XI

Representative Maloney moved to add an Article XI to read as follows:

"While holding office as district judge for the 229th Judicial District of Texas, O. P. Carrillo conspired with others to defraud Duval County by causing county funds to be paid to Patricia Garza, who was not entitled to receive the funds."

The motion prevailed by the following vote:

Ayes: Maloney, Donaldson, Hendricks, Nabers, Thompson (5).

Nays: Chavez, Kaster, Lancy, Weddington (4).

Present Not Voting: Hale (1).

Statement

The Chair made a statement regarding the word of the Committee.

Adoption of Committee Substitute

The Chair laid out the Committee Substitute for H.S.R. No. 161.

There being no objection, the Chair directed that the substitute be divided by articles and that each article be adopted or rejected separately.

Question recurred on adoption of Article I, as amended.

Article I, as amended, was adopted by the following vote:

Ayes: Hale, Maloney, Chavez, Donaldson, Hendricks, Kaster, Lancy, Nabers, Thompson, Weddington (10).

Nays: None (0).

Present Not Voting: (0).

Question recurred on adoption of Article II, as amended.

Article II, as amended, was adopted by the following vote:

Ayes: Hale, Maloney, Chavez, Donaldson, Hendricks, Kaster, Lancy, Nabers, Thompson, Weddington (10).

Nays: None (0).

Present Not Voting: (0).

Question recurred on adoption of Article III, as amended.

Pat

Article III, as amended, was adopted by the following vote:

Ayes: Hale, Maloney, Chavez, Donaldson, Hendricks, Kaster, Lancy, Nabers, Thompson, Weddington (10).

Nays: None (0).

Present Not Voting: None (0).

Question recurred on adoption of Article IV, as amended.

Article IV, as amended, was adopted by the following vote:

Ayes: Hale, Maloney, Chavez, Donaldson, Hendricks, Kaster, Lancy, Nabers, Thompson, Weddington (10).

Nays: None (0).

Present Not Voting (10).

Question recurred on adoption of Article V.

Article V was adopted by the following vote:

Ayes: Hale, Maloney, Chavez, Donaldson, Hendricks, Kaster, Lancy, Nabers, Thompson, Weddington (10).

Nays: None (0).

Present Not Voting: None (0).

Question recurred on adoption of Article VI.

Article VI was adopted by the following vote:

Ayes: Hale, Maloney, Chavez, Donaldson, Hendricks, Kaster, Lancy, Nabers, Thompson, Weddington (10).

Nays: None (0).

Present Not Voting: None (0).

Question recurred on adoption of Article VII, as amended.

Article VII, as amended, was adopted by the following vote:

Ayes: Donaldson, Kaster, Nabers, Thompson, Weddington (5).

Nays: Maloney, Chavez, Hendricks, Lancy (4).

Present Not Voting: Hale (1).

Question recurred on adoption of Article VIII, as amended.

Article VIII, as amended, was adopted by the following vote:

DNF

Ayes: Donaldson, Hendricks, Kaster, Lancy, Nabers, Thompson, Weddington (7).

Nays: Chavez (1).

Present Not Voting: Hale, Maloney (2).

Question recurred on adoption of Article IX.

Article IX was adopted by the following vote:

Ayes: Maloney, Donaldson, Kaster, Lancy, Nabers, Thompson, Weddington (7).

Nays: Chavez, Hendricks (2).

Present Not Voting: Hale (1).

Question recurred on adoption of Article X.

Article X was adopted by the following vote:

Ayes: Hale, Maloney, Chavez, Donaldson, Hendricks, Kaster, Lancy, Nabers, Thompson, Weddington (10).

Nays: None (0).

Present Not Voting: (0).

Question recurred on adoption of Article XI.

Article XI was adopted by the following vote:

Ayes: Maloney, Donaldson, Hendricks, Nabers, Thompson (5).

Nays: Chavez, Kaster, Lancy, Weddington (4).

Present Not Voting: Hale (1).

Question recurred on adoption of the Committee Substitute.

The Committee Substitute for H.S.R. No. 161 was adopted by the following vote:

Ayes: Hale, Maloney, Chavez, Donaldson, Hendricks, Kaster, Lancy, Nabers, Thompson, Weddington (10).

Nays: None (0).

Present Not Voting: (0).

Adoption of H.S.R. No. 161

Question recurred on adoption of H.S.R. No. 161, as amended, and reporting it to the House with the recommendation that it do pass.

H.S.R. No. 161 was adopted and reported favorably to the House by the following vote:

OK

SELECT COMMITTEE ON ASSASSINATIONS
July 16, 1975

00578

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Ayes: Hale, Maloney, Chavez, Donaldson, Hendricks, Kaster, Luney, Nabors, Thompson, Weddington (10).

Nays: None (0).

Present Not Voting: None (0).

Vote of Representative Slack

The Chair announced that Representative Slack advised the Chair earlier today that he would be unable to attend this meeting of the Committee and requested that the record of the Committee reflect that he would have voted "yea" on the adoption of H.S.R. No. 161, had he been present.

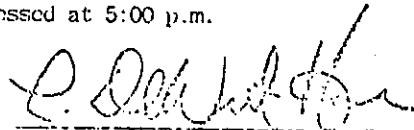
Statement


The Chair made a statement regarding the writing of a narrative report.

Business

Representative Kaster moved that the Committee stand recessed until 1:30 p.m., July 22, 1975, or subject to the call of the Chair, whichever is earlier.

There being no objection, the Committee recessed at 5:00 p.m.


L. DEWITT HALE, CHAIRMAN


Laura Pickett, Committee Clerk

SELECT COMMITTEE ON IMPEACHMENT
MEETING NO. 22

00579

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July 22, 1975 1:50 p.m.

Old Supreme Court Room

Pursuant to the provisions of H.S.R. No. 167, the Select Committee on Impeachment met in a formal meeting and was called to order by the Chairman, Mr. Hale.

The Chair stated that notice of this and subsequent meetings was posted on July 17, 1975, in compliance with Rule VIII, Sections 13 and 53, Rules of Procedure of the House of Representatives.

The Chair directed the clerk to call the roll and the following results were obtained:

Present: Hale, Chavez, Hendricks, Kaster, Laney, Weddington (6).

Absent: Maloney, Donaldson, Nabers, Slack, Thompson (5).

The Chair announced that a quorum was present.

Representative Thompson now present.

Preliminary Matters

The Chair made opening remarks regarding the statement of facts.

Bank Records

The Chair stated that he had been in communication with Mr. Barney Goldthorne of the 1st State Bank of San Diego regarding the bank records that were subpoenaed by the Committee. Mr. Goldthorne reported that it would take considerable time to complete the compilation of the records.

Representative Hendricks moved that the Committee Counsel compile a list of the photo copies that he feels would be beneficial to receive from the 1st State Bank of San Diego, and that he give the list to the Chair, and the Chair forward the information to Mr. Barney Goldthorne.

The motion prevailed.

Narrative Summary

The Chair opened discussion on the form and content of the report being prepared and the Committee discussed each section of the draft.

The Chair read a letter of transmittal for approval by the Committee.

Mr. Ron Patterson, Camila Bordic, and Robert Henderson made a presentation regarding the draft narrative summary prepared by the staff.

The Chair again opened discussion on the form of the report.

After full discussion and multiple changes, the Chair asked if there were objections to the form and content of the report. There being no objections, the Chair stated that the report would be submitted as drafted and amended, subject only to clerical editing.

Roll

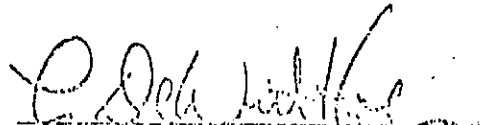
Presentation to the House


The Chair opened discussion on the manner in which the Committee should present the Articles on the House Floor.

Recess

Representative Hendricks moved that the Committee stand recessed until 2:00 p.m., August 3, 1975 or subject to the call of the Chair, whichever is earlier.

There being no objection, the Committee recessed at 4:30 p.m.


L. DEWITT HALE, CHAIRMAN


Laura Pickett, Committee Clerk

CONDITION OF RECEIVERSHIP" FILED IN CAUSE NO. 3953 IN THE 229th DISTRICT COURT, STARR COUNTY, TEXAS

ITEM	1 HP GUERRA EX. I & J	2 VH GUERRA EX. K & L	3 RR GUERRA EX M, N, & O	4 JC GUERRA	5 MA GUERRA	6 VG JEFFRIES	7 C. MANGES (5 + 6)
Withdrawals to 12/31/70	(427,858.59)	(357,047.43)	(309,348.77)	(348,560.48)	(559,237.47)	(113,994.18)	(673,231.65)
Less Agreed Allowance	128,000.00	128,000.00	128,000.00	128,000.00	128,000.00	128,000.00	256,000.00
Equals Excess Withdrawals	(299,858.59)	(229,047.43)	(181,348.77)	(220,560.48)	(431,237.47)	14,005.82	(417,231.65)
Less % of Total Withdrawals Entitled To (% of \$1,548,047.12)	244,678.99	224,679.00	251,639.93	224,678.99	238,159.46	184,237.58	422,397.04
Equals (Debt) Credit With Partnership	(75,179.80)	(4,368.43)	70,291.16	4,118.51	(193,078.01)	198,243.40	5,165.39
Plus Partner's Share of External Debt	(250,000.00)	(250,000.00)	(280,000.00)	(250,000.00)	(265,000.00)	(205,000.00)	(470,000.00)
Equals Partner's Total Debt	(325,179.80)	(254,369.43)	(209,708.84)	(245,881.49)	(458,078.01)	(6,756.60)	(464,834.61)
Partner's Share of Assets (% of \$3,575,000.00)	595,845.00	595,845.00	667,355.00	595,845.00	631,596.00	488,595.00	1,120,191.00
Partner's Net Credit	270,665.20	341,475.57	457,646.16	349,963.51	173,517.99	481,838.40	655,356.39
Additional Manges Debts (Exhibit "p")	(412,408.50)	(651,600.00)	(728,977.50)	0.00	0.00	0.00	(97,522.88)
Value of Land Withdrawn	(141,743.30)	(310,124.43)	(271,331.34)	349,963.51	173,517.99	481,838.40	(1,224,180.49)
Balance (Owing) Due From M. Guerra & Son							

SETTLEMENTS

Recording Fees	12.00	22.50					220,045.37
Title Policy	721.00	1,169.00					
Paid Receiver for Land	141,743.30	310,124.43					
Paid Receiver for Expenses	7,419.04	7,419.04	10,000.00				
aid to Clinton Manges	40,000.00	15,000.00					
aid to U.S. Treasurer	1,000.00						
aid to H. P. Guerra, Jr.		7,500.00					
Partnership Debts Assumed			223,565.58				661,895.00
Bank Stock Purchased							30,000.00
Bank Stock Purchased		24,000.00					
Personal Property Purchased		27,000.00					
Paid by Manges for Others			37,765.76				
Due To or (By) Partner	39,104.66						
Totals	230,000.00	392,234.97	271,331.34				1,224,180.49

R-22

00582

SMITH, McILHERAN & JENKINES

ATTORNEYS AT LAW
PROFESSIONAL BUILDING
FIFTH & MISSOURI AVENUE
WESLACO, TEXAS 78680

GARLAND F. SMITH
S. M. McILHERAN
W. M. JENKINES, JR.

P. O. BOX 418
AREA CODE 812
WOODLAWN 8-8188

December 11, 1970

Messrs. Kampmann, Kampmann,
Church & Burns
612 Milam Building
San Antonio, Texas 78205

Re: No. 69-B-9, Bankruptcy Proceedings for a Real Property
Arrangement, in the United States District Court for
the Southern District of Texas, Brownsville Division,
in the Matter of M. Guerra & Son, a Limited Partnership,
Debtor

Gentlemen:

We enclose a Motion to Dismiss, together with a proposed
Order of Dismissal. We trust this will expedite matters so
we may look forward to closing all matters involved very
shortly.

We are keeping Wednesday, December 16, open as an early
suitable date for having the parties approve and enter these
Orders, if this date is agreeable with you and other parties.

M. A. Guerra should be paid when the Order is entered,
but the Deed to H. P. Guerra, Jr., cannot be delivered until
the parties are released from the injunction. We presume
suitable arrangements can be made with respect to the Deed to
H. P. Guerra, Jr. shortly after the bankruptcy case is
dismissed.

Yours very truly,

SMITH, McILHERAN & JENKINES

BY: *Garland F. Smith*

GFS/bja
Encls.

cc: Mr. Arnulfo Guerra, Drawer 905, Roma, Texas 78586
Mr. Dean Moorhead, 307 First Federal Savings & Loan Bldg.,
Austin, Texas 78701
Carter, Stiernberg, Skaggs & Koppel, Box 2367, Harlingen,
Texas 78550
✓ Mr. James S. Bates, 310 South Closner Ave., Edinburg,
Texas 78539

1/3 CAR-57
6-10-75 WMT

R-23

00583

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS,
BROWNSVILLE DIVISION

IN THE MATTER OF
M. GUERRA & SON,
A LIMITED PARTNERSHIP,
DEBTOR

IN PROCEEDINGS FOR A
REAL PROPERTY ARRANGEMENT
NO. 69-B-9, BANKRUPTCY

ORDER OF DISMISSAL

THIS, the _____ day of December, 1970, came on to be heard the motion of M. Guerra & Son, a limited partnership, acting by and through H. P. Guerra, Jr. and M. A. Guerra, to dismiss the Petition for Real Property Arrangement in the above styled and numbered proceeding in bankruptcy, and the petitioner answered in open court that it would no further prosecute said petition.

IT IS THEREFORE ORDERED, ADJUDGED and DECREED that the above and foregoing Petition in Bankruptcy filed on behalf of M. Guerra & Son, a limited partnership, acting through H. P. Guerra, Jr. and M. A. Guerra, be, and the same is hereby dismissed.

APPROVED:

SMITH, McILHERAN & JENKINS
Box 416 - Weslaco, Texas

BY: _____
Attorneys for M. Guerra & Son
acting through H. P. Guerra,
Jr. and M. A. Guerra

KAMPMANN, KAMPMANN, CHURCH &
BURNS
612 Milan Bldg. - San Antonio,
Texas 78205

ARNULFO GUERRA and DEAN MOORHEAD

BY: _____
Attorneys for M. Guerra & Son,
acting through J. C. Guerra,
Virgil H. Guerra and Virginia
G. Jeffries

Judge Presiding

CARTER, STIERNBERG, SKAGGS &
KOPPEL
Box 2367 - Harlingen, Texas 78550

BY: _____
Attorneys for R. R. Guerra

JAMES S. BATES, Receiver

CAR-57
3/10/71

CC584

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS,
BROWNSVILLE DIVISION

IN THE MATTER OF
M. GUERRA & SON,
A LIMITED PARTNERSHIP,
DEBTOR

IN PROCEEDINGS FOR A
REAL PROPERTY ARRANGEMENT
NO. 69-B-9, BANKRUPTCY

MOTION TO DISMISS

NOW COMES M. Guerra & Son, acting through H. P. Guerra, Jr. and M. A. Guerra, and moves the Court to dismiss their petition heretofore filed for a real estate arrangement in bankruptcy in the above styled and numbered cause, and represents to the Court that the issues existing between M. Guerra & Son and the adverse parties to this proceeding have been settled under circumstances where funds will be provided for the payment of debts of the partnership without intervention of the Bankruptcy Court.

Respectfully submitted,

SMITH, McILHERAN & JENKINS
Box 416 - Weslaco, Texas 78596

BY: _____
Attorneys for M. Guerra & Son,
acting through H. P. Guerra, Jr.
and M. A. Guerra

CAR-57
3/3 WJK

JAC S. KAMPMANN 1682-1070
GEORGE A. KAMPMANN
Wm C. Church, Jr.
HARRY J. BURNS
JAMES E. ADERHOLD
WALTER W. CHURCH

LAW OFFICES 00585
KAMPMANN, KAMPMANN, CHURCH & BURNS
MILAN BUILDING
SAN ANTONIO, TEXAS 78205

TELEPHONE
222-0181
AREA CODE 512

December 16, 1970

Mr. Garland F. Smith
Smith, McIlheran & Jenkins
Attorneys at Law
Professional Building
Fifth & Missouri Avenue
Weslaco, Texas 78596

Mr. Arnulfo Guerra
Attorney at Law
Drawer 905
Roma, Texas 78586

Mr. Dean Moorhead
307 First Federal Savings & Loan Building
Austin, Texas 78701

Mr. Jack Skaggs
Carter, Stiernberg, Skaggs & Koppel
Attorneys at Law
Post Office Box 2367
Harlingen, Texas 78550

Senator James S. Bates
Henrickson & Bates
Attorneys at Law
310 South Closner Avenue
Edinburg, Texas 78539

Honorable Arthur Moller
Referee in Bankruptcy
Federal Building
Houston, Texas

Re: No. 69-B-9, M. Guerra & Son Proceedings for a
Real Property Arrangement

Gentlemen:

Enclosed for your files is a copy of the proposed Order of
Dismissal in the Bankruptcy Proceedings in the United States

5/5 CAR-58
6-10-75 MTH

R-24

CC586


Messrs. Smith, Guerra, Moorhead,
Skaggs, Bates and Moller
Page Two
December 16, 1970

District Court, Southern District of Texas, Brownsville
Division.

The originals of the Order of Dismissal were approved
by us and forwarded to Senator Bates with the request
that they be circulated as quickly as possible for
approval in order that it might be submitted to Judge
Moller for his signature at once.

Sincerely yours,

KAMPMANN, KAMPMANN, CHURCH & BURNS



Wm. C. Church, Jr.

WCCjr:pp

Enclosure to each of the above

CAR-58
2/3 WCH

CC588

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS
OFFICE OF THE CLERK

V. BAILEY THOMAS
CLERK

P. O. Box 2299
May 25, 1973
Brownsville, Texas 78520

Mr. James S. Bates
Attorney At Law
P. O. Box 117
Edinburg, Texas 78539

Re: Order of dismissal in Bankruptcy 69-B-9, M. Guerra
& Son-Debtor

Dear Mr. Bates:

This is to certify that Exhibit "A" is a true and correct copy of the original order of dismissal in the above styled cause. Said copy was certified on May 25, 1973 by Deputy Ione Wright. Exhibit "B" is not a true and correct copy as it shows having been signed by U. S. District Judge Reynaldo G. Garza on December 6, 1970 when in truth and in fact it was signed on January 6, 1971.

The original order of dismissal is in the file in the office of the U. S. District Clerk in Brownsville, Texas.

Very truly yours,

V. BAILEY THOMAS, CLERK

By: *Leonel T. Garza*
Leonel T. Garza, Deputy

FILED CAR-59
6-10-73

R-25

KAMPMANN, KAMPMANN, CHURCH & BURNS
MILAM BUILDING
SAN ANTONIO, TEXAS 78205

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
FILED

JAN 6 1971

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS,
BROWNSVILLE DIVISION

V. BAILEY THOMAS, CLERK
BY DEPUTY: *James Wright*

IN THE MATTER OF
M. GUERRA & SON,
A LIMITED PARTNERSHIP,
DEBTOR

IN PROCEEDINGS FOR A
REAL PROPERTY ARRANGEMENT
NO. 69-B-9,
BANKRUPTCY

ORDER OF DISMISSAL

The motion of all parties to this proceeding, with all partners, general and limited, acting on behalf of M. Guerra & Son, a limited partnership, to dismiss this proceeding for a Real Property Arrangement having been considered, it is ORDERED that the Petition for Real Property Arrangement on behalf of M. Guerra & Son, a limited partnership, be and it is hereby dismissed.

DONE at Brownsville, Texas, this the 6th day of January, 1971.

Rogelio Lopez
Judge Presiding

APPROVED:

SMITH, McILHERAN & JENKINES
Box 416 - Weslaco, Texas
By: *Garland F. Smith*
Attorneys for M. Guerra & Son
acting through H. P. Guerra,
Jr. and M. A. Guerra

KAMPMANN, KAMPMANN, CHURCH &
BURNS
612 Milam Bldg. - San Antonio, Texas
By: *Arnulfo Guerra*
ARNULFO GUERRA and DEAN MOORHEAD
By: *Arnulfo Guerra*
Attorneys for M. Guerra & Son,
acting through J. C. Guerra,
Virgil H. Guerra and Virginia G.
Jeffries

CARTER, STIERNBERG, SKAGGS
& KOPPEL
Box 2367 - Harlingen, Texas 78550
By: *Jack Skaggs*
Attorneys for R. R. Guerra
James S. Bates
JAMES S. BATES, Receiver

TRUE COPY I CERTIFY
BY: *James Wright*
Deputy Clerk

CAR-59
2/3 UNH

MICROFILMED

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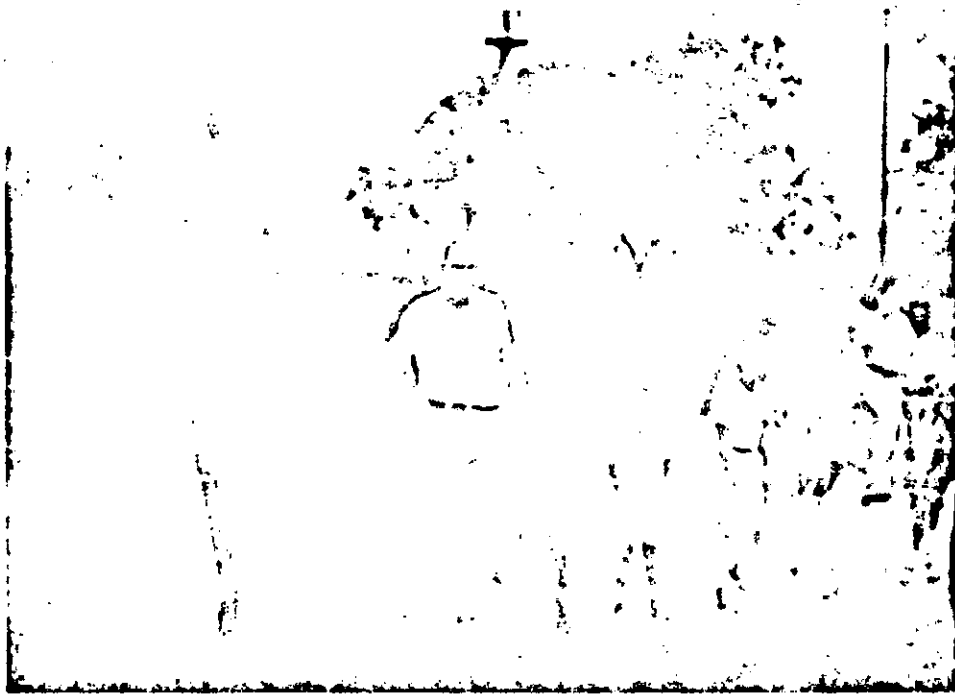


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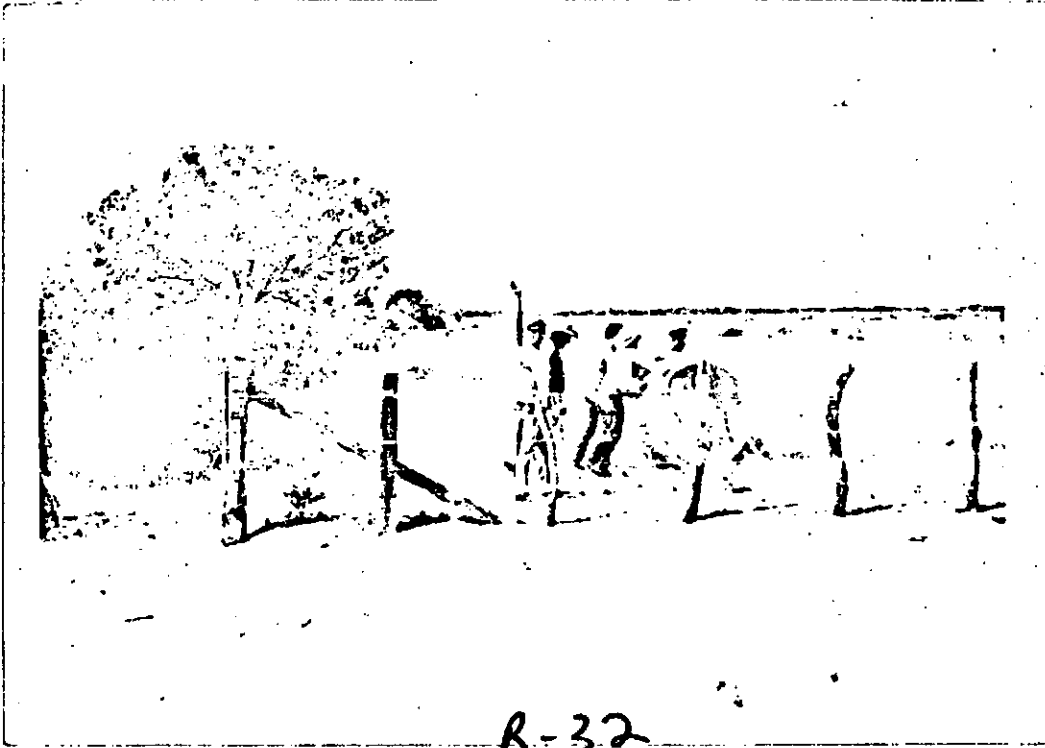


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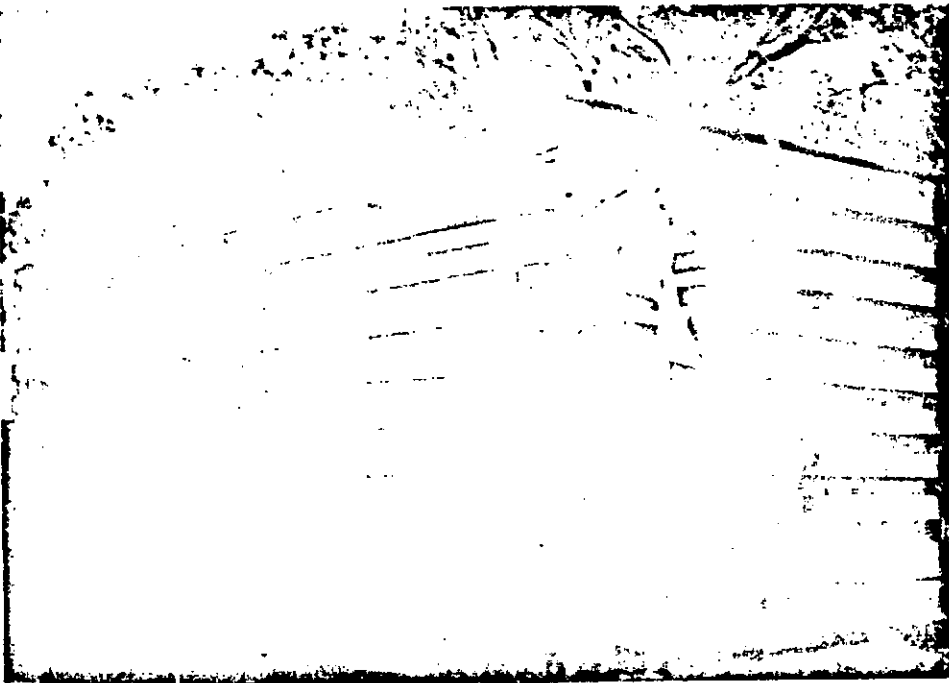


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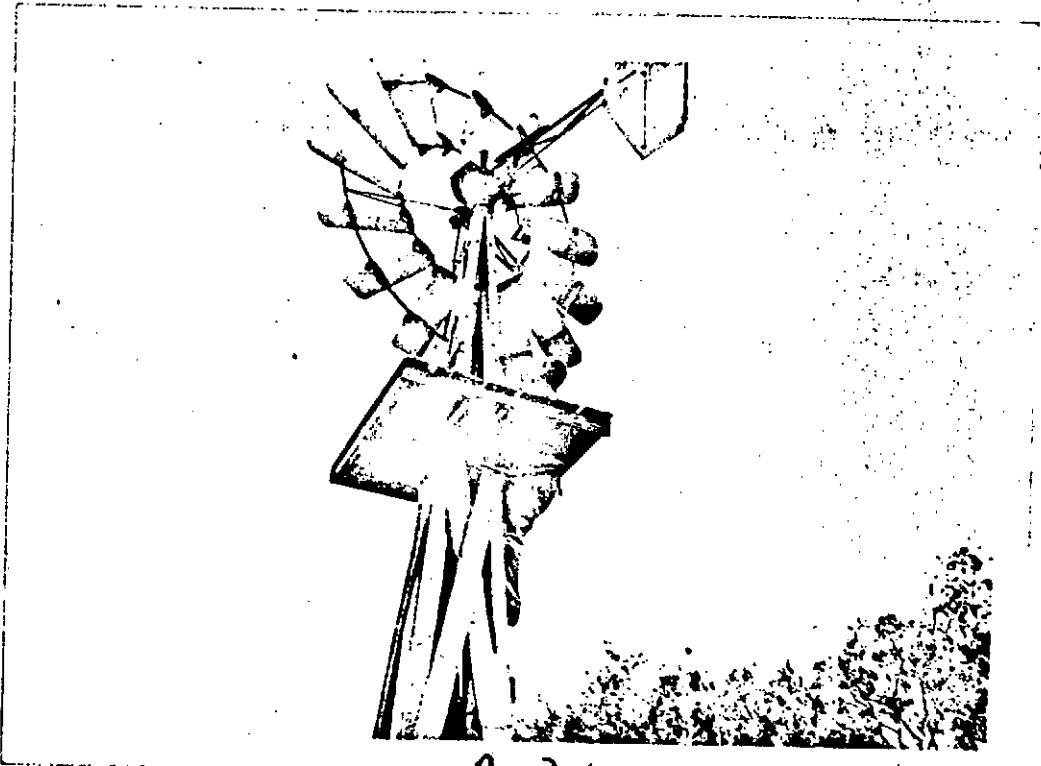


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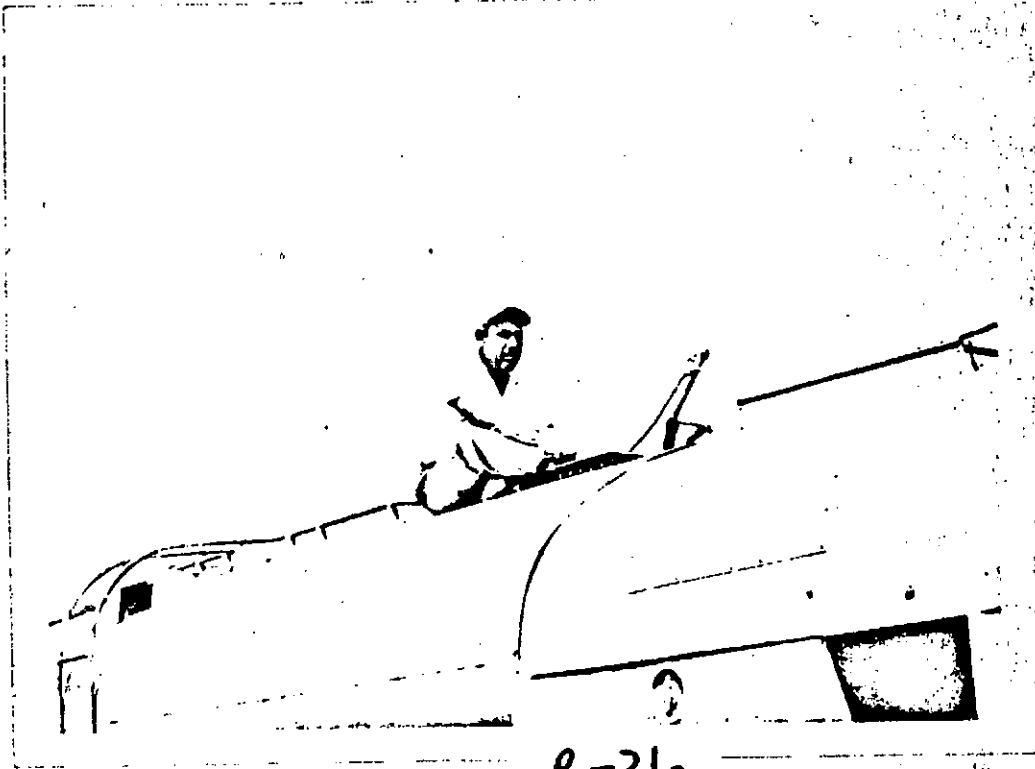


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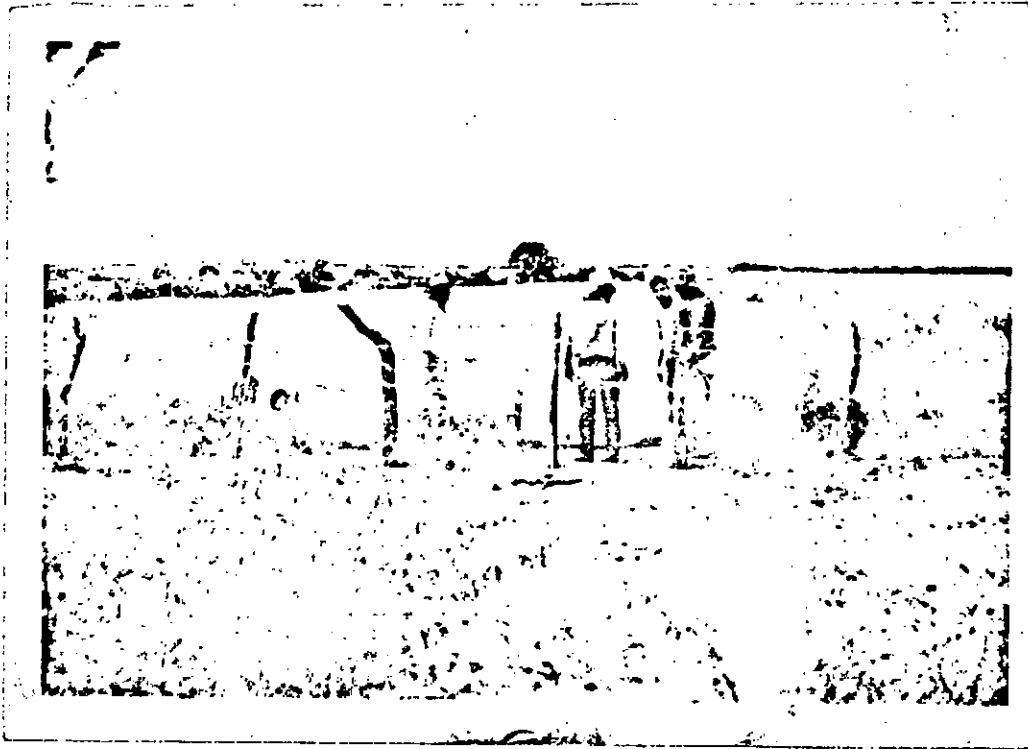


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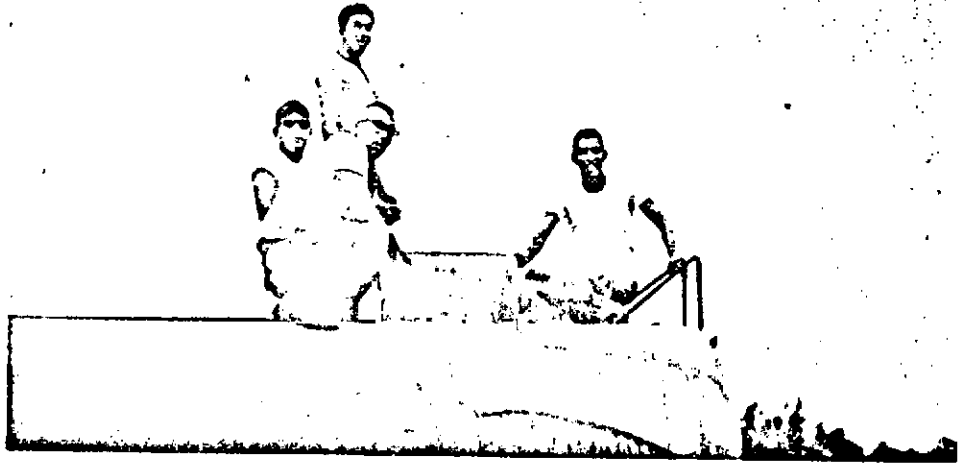


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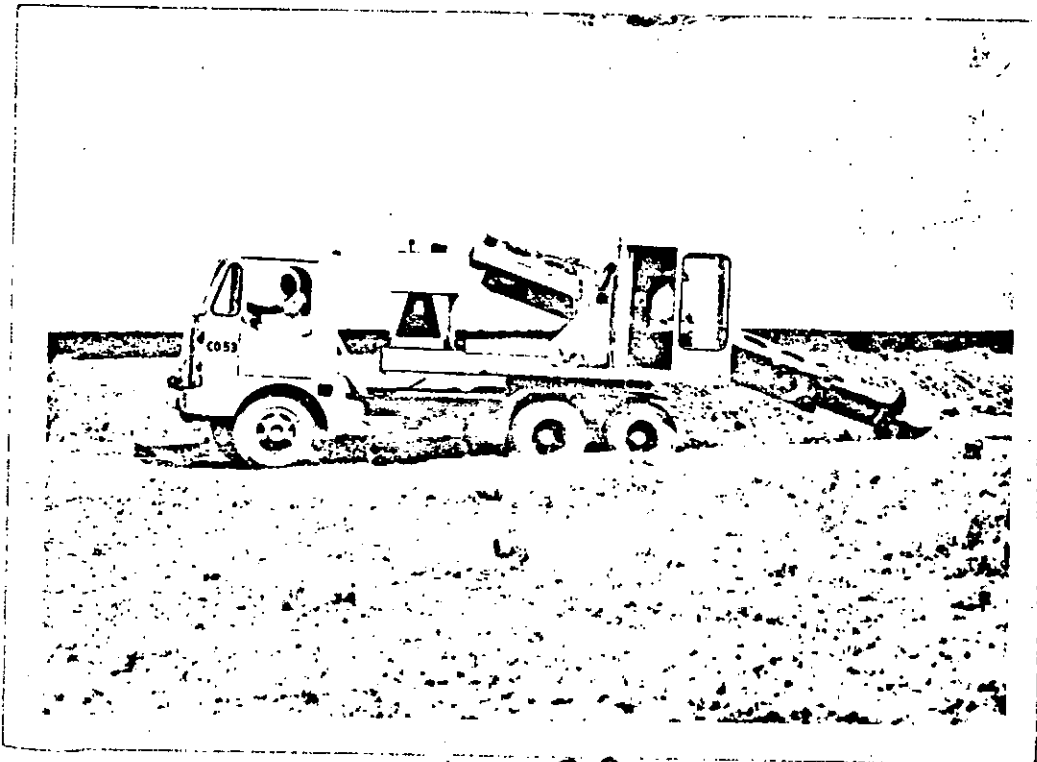


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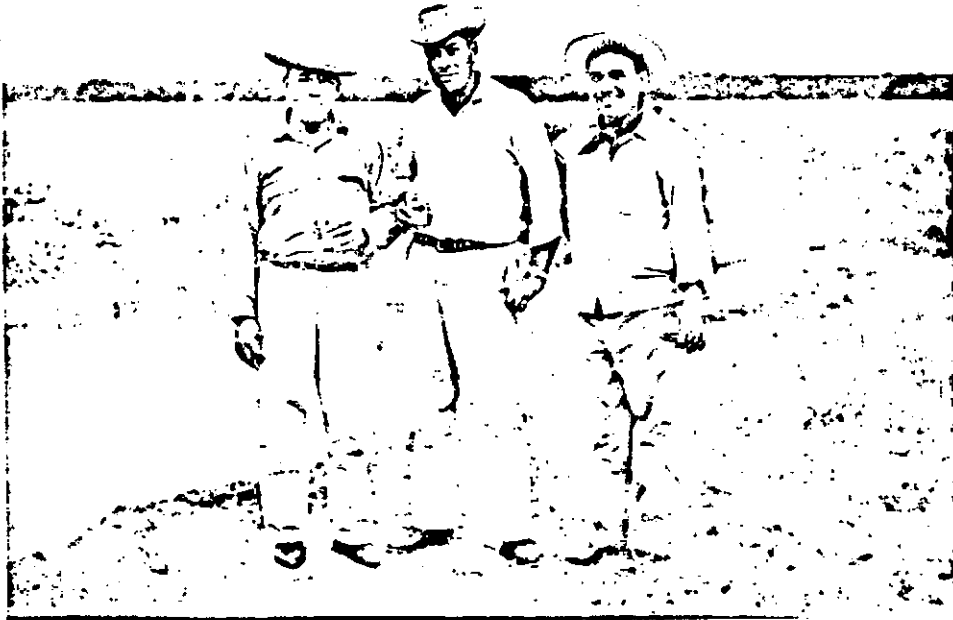
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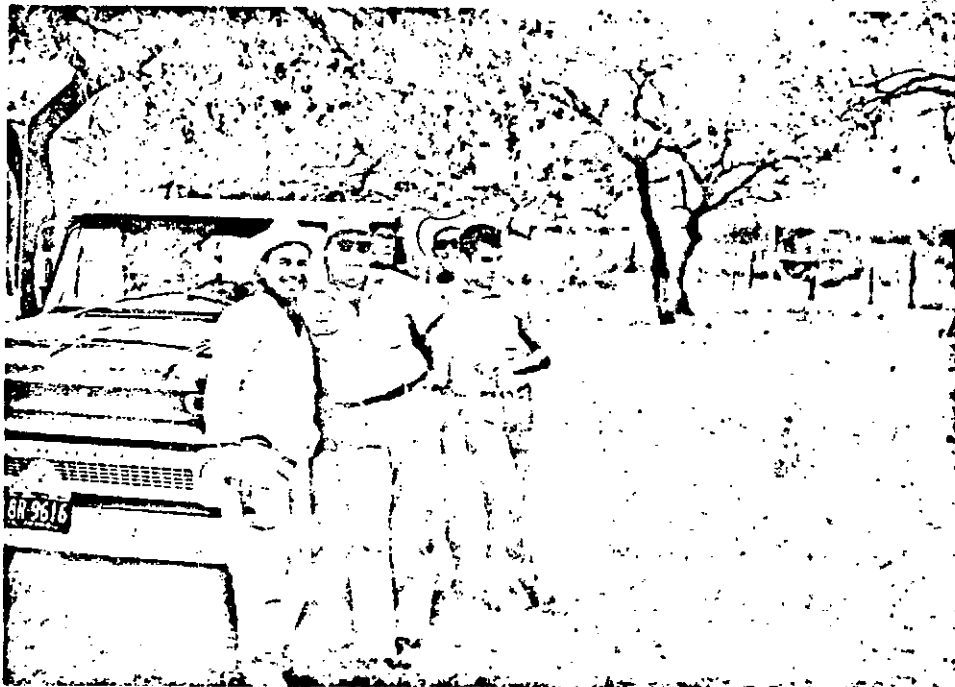
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00599



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Page 00600 of the original document contains personal information.

The original is available at the Legislative Reference Library.

00601



R-45

00602

CAUSE NO. 9274

THE STATE OF TEXAS, ex rel
WALTER W. MEEK
VS.
RAMIRO CARRILLO

IN THE 229TH JUDICIAL DISTRICT
OF
DUVAL COUNTY, TEXAS

PETITION FOR REMOVAL

TO THE HONORABLE JUDGE, 229th JUDICIAL DISTRICT COURT OF DUVAL COUNTY, TEXAS:

NOW COMES the State of Texas, acting herein through her District Attorney for the 229th Judicial District of Texas, and her County Attorney of Duval County, Texas, upon the relation of Walter W. Meek and files this Petition asking that the Judge of the 229th Judicial District Court remove Ramiro Carrillo from the office of County Commissioner of Duval County, Texas, and by this Petition for Removal from office would show the Court the following:

1.

Walter W. Meek resides in Duval County, Texas in which County this petition is filed with this Honorable Court.

2.

Walter W. Meek is a citizen of the State of Texas, has resided in Duval County, Texas, for more than six months prior to the filing of this petition and is not now himself under indictment in Duval County, Texas.

3.

This action is brought under the provisions of Title 100 of the Revised Civil Statutes of Texas, Articles 5970 to 5982 inclusive and all amendments thereto; Vernons Annotated Civil Statutes.

4.

As more particularly hereinafter shown, Ramiro Carrillo has been guilty of Official Misconduct in that he has been guilty

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of unlawful behavior in relation to the duties of his office, willful in its character, and was at all times material an officer entrusted with the administration of justice and the execution of the law and that such official misconduct, as more particularly hereinafter shown, was Official Misconduct of the said Ramiro Carrillo while in the discharge of his duties of his office as County Commissioner of Duval County, Texas.

5.

Ramiro Carrillo is a duly elected and serving County Commissioner of Duval County, having been elected for a term beginning the 1st day of January, 1973. He has been guilty of incompetence and official misconduct in the discharge of his official duties of such office in the following enumerated instances:

(1) Ramiro Carrillo, on or about the 17th day of July, 1974, did unlawfully, knowingly and willfully while a public servant, namely a County Commissioner of Duval County, Texas and with the intent to obtain a benefit for himself, namely the services of one 1964 International Truck-Tractor with Texas Exempt Registration Plate No. 907-724, did then and there intentionally and knowingly take and misapply the use of such truck-tractor belonging to Duval County, Texas and which property had come into his custody and possession by virtue of his office as County Commissioner of Duval County, Texas, to-wit: the said Ramiro Carrillo did then and there intentionally and knowingly use the aforementioned 1964 International Truck-tractor to deliver for compensation to the said Ramiro Carrillo, grain belonging to Carl Hoffstetter to the Alice Elevator, Inc., Alice, Jim Wells County, Texas; (2) Ramiro Carrillo, on or about the 18th day of July, 1974, did unlawfully, knowingly and willfully while a public servant, namely a County Commissioner of Duval County, Texas and with the intent to obtain a benefit for himself, namely the services

of one 1964 International Truck-Tractor with Texas Exempt Registration Plate No. 907-724, did then and there intentionally and knowingly take and misapply the use of such truck-tractor belonging to Duval County, Texas and which property had come into his custody and possession by virtue of his office as County Commissioner of Duval County, Texas, to-wit: the said Ramiro Carrillo did then and there intentionally and knowingly use the aforementioned 1964 International Truck-tractor to deliver for compensation to the said Ramiro Carrillo, grain belonging to Werner Hoffstetter to the Alice Elevator, Inc., Alice, Jim Wells County, Texas; (3) Ramiro Carrillo on or about the 21st day of July, 1974, did unlawfully, knowingly and willfully while a public servant, namely a County Commissioner of Duval County, Texas and with the intent to obtain a benefit for himself, namely the services of one 1964 International Truck-Tractor with Texas Exempt Registration Plate No. 907-724, did then and there intentionally and knowingly take and misapply the use of such truck-tractor belonging to Duval County, Texas and which property had come into his custody and possession by virtue of his office as County Commissioner of Duval County, Texas, to-wit: the said Ramiro Carrillo did then and there intentionally and knowingly use the aforementioned 1964 International Truck-tractor to deliver for compensation to the said Ramiro Carrillo, grain belonging to Hilda Parr to the Alice Elevator, Inc., Alice, Jim Wells County, Texas; (4) Ramiro Carrillo on or about the 31st day of July 1974, did unlawfully, knowingly and willfully while a public servant, namely a county Commissioner of Duval County, Texas and with the intent to obtain a benefit for himself, namely the services of one 1964 International Truck-tractor with Texas Exempt Registration Plate No. 907-724, did then and there intentionally and knowingly take

00605

and misapply the use of such truck-tractor belonging to Duval County, Texas and which property had come into his custody and possession by virtue of his office as County Commissioner of Duval County, Texas, to-wit: the said Ramiro Carrillo did then and there intentionally and knowingly use the aforementioned 1964 International truck-tractor to deliver for compensation to the said Ramiro Carrillo, grain belonging to Hilda Parr to the Alice Elevator, Inc., Alice, Jim Wells County, Texas; (5) Ramiro Carrillo, on or about the 28th day of February, 1974, within Duval County, Texas, did unlawfully, knowingly and willfully, while a public servant, namely a County Commissioner of Duval County, Texas, unlawfully and fraudulently take and convert current money of the United States in a sum of more than \$200.00 said current money of the United States then and there being the property of Duval County, Texas, and did appropriate said property of Duval County, Texas to the use and benefit of the said Ramiro Carrillo; (6) Ramiro Carrillo, on or about the 16th day of July, 1974, within Duval County, Texas, did unlawfully, knowingly and willfully while a public servant, namely a County Commissioner of Duval County, Texas, unlawfully and fraudulently take and convert current money of the United States in a sum of more than \$200.00, said current money of the United States then and there being the property of Duval County, Texas, and did appropriate said property of Duval County, Texas to the use and benefit of the said Ramiro Carrillo; and (7) Ramiro Carrillo, on or about the 23rd day of December, 1974, within Duval County, Texas, did unlawfully, knowingly and willfully, while a public servant, namely a County Commissioner of Duval County, Texas, unlawfully and fraudulently take and convert current money of the United States in a sum of more than \$200.00, said current money of the United States then and there being the property of Duval County, Texas, and did appropriate said property of Duval County, Texas to the use and benefit of the said Ramiro Carrillo;

The foregoing acts on the part of Ramiro Carrillo are each of them grounds for removal and for each and all of such grounds, jointly and severally, Ramiro Carrillo should be removed from his office as County Commissioner of Duval County, Texas instantler.

WHEREFORE PETITIONERS PRAY this Honorable Court and the Judge thereof for an order for a citation and a certified copy of said petition be served upon Ramiro Carrillo requiring him at a certain day named to appear and answer this petition, and that upon final trial hereof, that Ramiro Carrillo be ousted and removed from office, Provided, however, that petitioners further pray that Ramiro Carrillo be suspended temporarily from office in accordance with Article 5982, Vernons Annotated Civil Statutes, and that the Judge of this Honorable Court appoint for the time being some other person to discharge the duties of the office pending final hearing hereof; and petitioners further pray for such other and further relief as to which petitioners may show themselves entitled.

THE STATE OF TEXAS

BY: [Signature]
Her District Attorney for the 229th District of Texas, including Duval County, Texas

Ex Rel:

[Signature]

STATE OF TEXAS I
COUNTY OF DUVAL I

BEFORE ME, the undersigned authority, on this day personally appeared Walter W. Meek who, by me being duly sworn upon his oath, states that he knows of his own knowledge all of the facts alleged in the above and foregoing petition and that all of the allegations in the above and foregoing petition are true and correct.

[Signature]

SWORN TO AND SUBSCRIBED BEFORE ME, this 24 day of October, 1975, TO WITNESS WHICH MY HAND AND SEAL OF OFFICE.

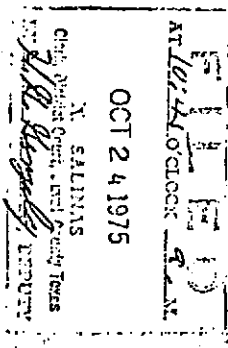
[Signature]
Notary Public in and for Duval County, Texas
My Commission expires June 1, 1977.

10/24/75 at 10:55 a.m.

00697

Presented to me in Chamber. Leave granted
to file petition.

Danner Nestor



00698

CAUSE NO. 9274

THE STATE OF TEXAS, ex rel) IN THE 229TH JUDICIAL DISTRICT
WALTER W. MEEK :
vs.) of
RAMIRO CARRILLO : DUVAL COUNTY, TEXAS

APPLICATION FOR AN ORDER FOR CITATION

TO THE HONORABLE JUDGE, 229TH JUDICIAL DISTRICT COURT OF DUVAL COUNTY, TEXAS:

NOW COMES the State of Texas, acting herein by and through her District Attorney for the 229th Judicial District of Texas, which includes Duval County, Texas, upon the relation of WALTER W. MEEK and makes this, a written application to the District Judge for an Order for a Citation and a certified copy of a petition to be served and would respectfully show the Court the following:

1.

There has been filed herein a written petition alleging grounds for the removal of RAMIRO CARRILLO as the COUNTY COMMISSIONER of Duval County, Texas, to which petition reference is here made for all purposes and which petition is hereby incorporated in this application as if set out fully and at length.

2.

Such petition having been filed, the State of Texas, acting herein by and through her District Attorney of the 229th Judicial District upon the relation of WALTER W. MEEK, respectfully requests this Honorable Court for an Order for a Citation and a certified copy of said petition to be served upon RAMIRO CARRILLO against whom such petition was filed, requiring him at a certain day named to appear and answer said petition.

THE STATE OF TEXAS

BY:

James L. [Signature]
District Attorney for the 229th
District of Texas, including Duval
County, Texas

EX REL:

[Signature]

00609

FILED
AT 11:02 O'CLOCK A.M.
OCT 24 1975
A. S. Lewis
Clerk, District Court, Duval County, Texas
BY *Carroll J. Leeper*

00610

CAUSE NO. 9274

THE STATE OF TEXAS, ex rel) IN THE 229TH JUDICIAL DISTRICT
WALTER W. MEEK : of
 VS :
RAMIRO CARRILLO) DUVAL COUNTY, TEXAS

ORDER FOR CITATION

The written application of the State of Texas acting herein by and through her District Attorney for the 229th Judicial District of Texas which includes Duval County, Texas upon the relation of WALTER W. MEEK for an Order for Citation and a certified copy of the petition to be served upon RAMIRO CARRILLO against whom the petition is filed having been presented to me and being of the opinion that the same should be granted:

IT IS HEREBY ORDERED that this Order first be spread upon Minutes of the Court, and that the Clerk thereafter issue a citation directed to RAMIRO CARRILLO, accompanied by a certified copy of the petition filed herein and a certified copy of this Order, all of which are to be served upon RAMIRO CARRILLO against whom the petition is filed requiring him to appear and answer said petition at or before 10:00 o'clock a.m. on the 5th day of November, 1975, which day has been fixed by me to appear and answer said petition.

SIGNED AND ENTERED THIS 24th day of October, 1975.

Samuel Nestor
 Judge, 229th Judicial District of
 Duval County, Texas

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No. 9274 The State of Texas ex rel Walter M. Meek Vs. Ramiro Carrillo
Petition for Removal and Order. Filed at 10:45 o'clock A. M. Oct. 24,
1975. A. Salinas Clerk, District Court, Duval County, Texas By H. G.
Gonzalez, Deputy.

THE STATE OF TEXAS
COUNTY OF DUVAL

I, A. SALINAS, Clerk of the District Court of Duval County, Texas,
Petition for Removal

do hereby certify that the foregoing is a true and correct copy of the original
and Order

IN RE The State of Texas ex rel Walter M. Meek

Vs. Ramiro Carrillo

Cause No. 9274

as the same appears on file _____ in my office in Book _____ Page _____

GIVEN UNDER MY HAND, and the seal of said Court, at office in San Diego, Texas, this 24th day
of October, 1975



A. SALINAS, District Clerk
229th Judicial District
Duval County, Texas

By H.G. Gonzalez Deputy
H.G. Gonzalez

00612

MAIN ST.

CASH Store

Old Service Station

Home

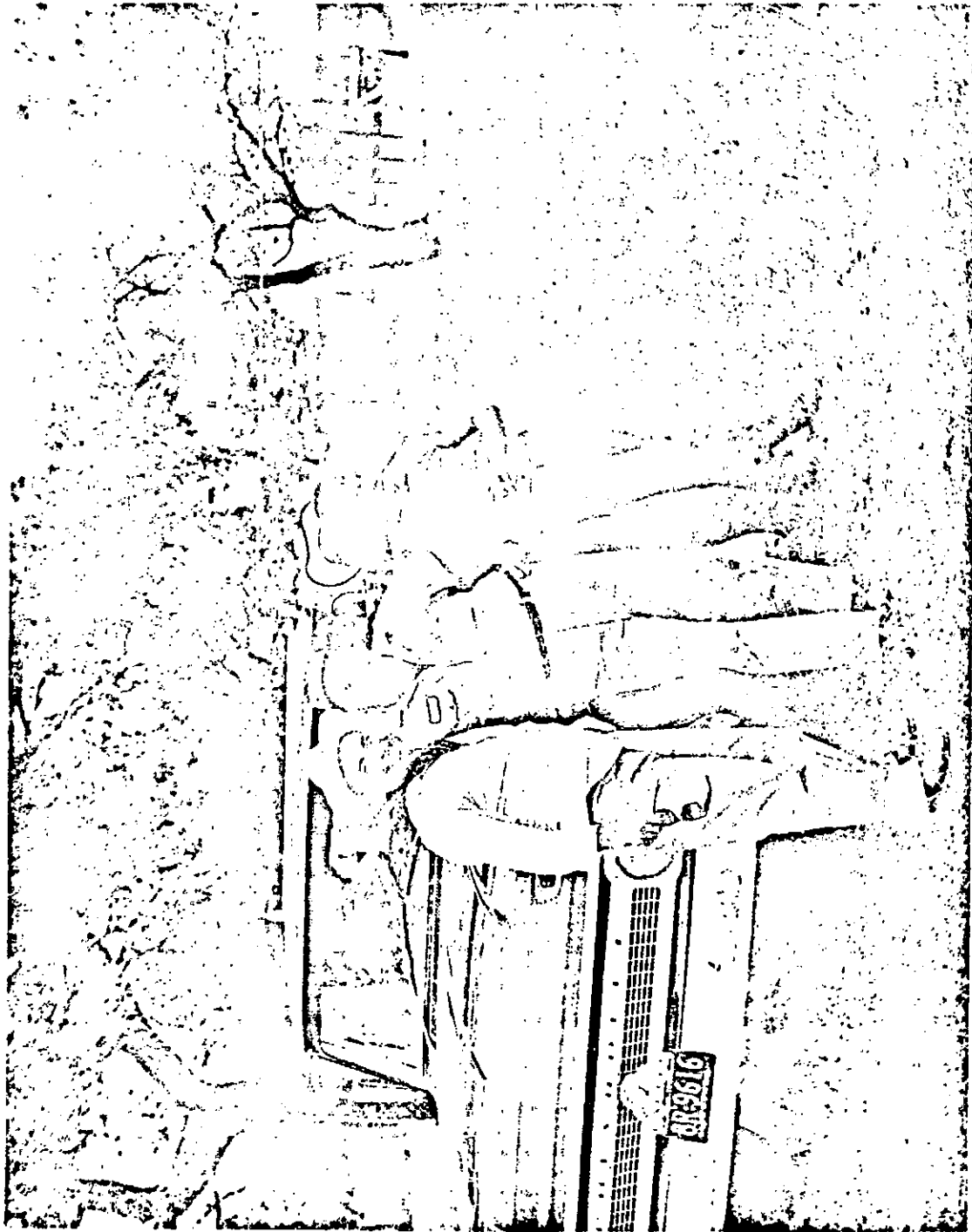
Ruben Chapa Station

Trailer House RUBEN CHAPA RES.

1209
1/209
1/209

R-48

00613



R-49

R-49

Pages 00614 - 00617-A of the original document contain personal information.

The original is available at the Legislative Reference Library.

*Filed + Printed
11/26/75*

00618

NO. B5668

IN THE
SUPREME COURT OF TEXAS

JUDGE NO. 5,

RELATOR

V.

JUDICIAL QUALIFICATIONS COMMISSION
OF THE STATE OF TEXAS, MAURICE PIPKIN,
JOHN W. ODAM, AND HON. JAMES R. MEYERS,

RESPONDENTS

MOTION FOR LEAVE TO FILE PETITION
FOR WRITS OF MANDAMUS AND PROHIBITION

TO THE HONORABLE SUPREME COURT OF TEXAS:

Judge No. 5, Relator, a resident of the City of Benavides, County of Duval, Texas, complaining of the following Respondents:

The Judicial Qualifications Commission of the State of Texas; Maurice Pipkin, Executive Director of the Judicial Qualifications Commission; John W. Odam, Examiner for the Judicial Qualifications Commission; and Hon. James R. Meyers, Master in the Judicial Qualifications Commission hearing concerning Judge No. 5, respectfully moves this Honorable Court to grant Relator leave to file his Petition for Writs of Mandamus and Prohibition, herewith tendered, said Petition being hereby referred to and made a part of this Motion for all purposes. Relator tenders herewith the cash deposit for costs herein as required by Rule 485, Texas Rules of Civil Procedure.

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Relator prays that said Petition for Mandamus and Prohibition be filed and that the same be set down for hearing, and for relief, general and special.

Respectfully submitted,

ARTHUR MITCHELL
JAN WOODWARD FOX
MITCHELL, GEORGE & BELT
315 Westgate Building
Austin, Tx. 78701

By 
Arthur Mitchell

00620

NO. B5668

IN THE
SUPREME COURT OF TEXAS

JUDGE NO. 5,

RELATOR

V.

JUDICIAL QUALIFICATIONS COMMISSION
OF THE STATE OF TEXAS; MAURICE PIPKIN,
EXECUTIVE DIRECTOR OF THE JUDICIAL
QUALIFICATIONS COMMISSION; JOHN W.
ODAM, EXAMINER; AND HON. JAMES R.
MEYERS, MASTER,

RESPONDENTS

PETITION FOR WRITS OF MANDAMUS AND PROHIBITION

TO THE HONORABLE SUPREME COURT OF TEXAS:

Judge No. 5, hereinafter called Relator, a resident citizen of the City of Benavides, County of Duval, State of Texas, complains of the Judicial Qualifications Commission of the State of Texas; Maurice Pipkin, Executive Director of the Judicial Qualifications Commission; John W. Odam, Examiner of the Judicial Qualifications Commission of the State of Texas; and Hon. James R. Meyers, Master, hereinafter called Respondents, all of whom have offices in Travis County, Texas, and for cause of action would respectfully present and show the Court the following:

I.

Judge No. 5, Relator, is a duly elected District Judge of the State of Texas, presently suspended from serving in such capacity by operation of the provisions of Article XV, §5 of the Constitution of the State of Texas.

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II.

The Judicial Qualifications Commission, Respondent, is an executive commission of the State of Texas, constituted and operating pursuant to the provisions of Article V, §1-a of the Constitution of the State of Texas, Article 5966a, V.A.C.S., and the Rules for the Removal or Retirement of Judges as adopted and promulgated by the Supreme Court of Texas.

III.

Maurice Pipkin, Respondent, is the Executive Director of the State Judicial Qualifications Commission.

IV.

John W. Odam, Respondent, is the Executive Assistant Attorney General of the State of Texas and Examiner for the Judicial Qualifications Commission in the proceedings by the Commission against Relator, having been so appointed by the Commission pursuant to Article 5966a, §2, V.A.C.S. and the Rules for the Removal or Retirement of Judges as adopted and promulgated by the Supreme Court of Texas.

V.

Hon. James R. Meyers, Respondent, is a duly elected and serving District Judge of the State of Texas and Master in the Judicial Qualifications Commission hearing concerning Judge No. 5, acting in said capacity pursuant to Article V, §1-a, Subsection 8 of the Constitution of the State of Texas, Article 5966a, §12, V.A.C.S., and Rule 6 of the Rules for the Removal or Retirement of Judges as adopted and promulgated by the Supreme Court of Texas.

VI.

Jurisdiction of the Honorable Supreme Court to grant the relief prayed for by Relator is invoked pursuant to Article V, §3 and Article V, §1-a of the Constitution of the State of

Texas and Articles 1733, 1735, 5966a, V.A.C.S.; and this Petition is filed with said Honorable Court pursuant to the provisions of Rule 474, Texas Rules of Civil Procedure.

VII.

Article V, §1-a, Subsection 11 of the Constitution of the State of Texas imposes the following duty on the Supreme Court of Texas in regard to the procedure of the State Judicial Qualifications Commission and the rights of a judge about whom inquiry is made by the Commission:

The Supreme Court shall by rule provide for the procedure before the Commission, Masters and the Supreme Court. Such rule shall afford to any person holding an office named in Paragraph A of Subsection (6) of this Section, against whom a proceeding is instituted to cause his retirement or removal, due process of law for the procedure before the Commission, Masters and the Supreme Court in the same manner that any person whose property rights are in jeopardy in an adjudicatory proceeding is entitled to due process of law, regardless of whether or not the interest of the person holding an office named in Paragraph A of Subsection (6) of this Section in remaining in active status is considered to be a right or a privilege. Due process shall include the right to notice, counsel, hearing, confrontation of his accusers, and all such other incidents of due process as are ordinarily available in proceedings whether or not misfeasance is charged, upon proof of which a penalty may be imposed.

VII.

Pursuant to the duty imposed upon it by the above constitutional provision, this Honorable Court adopted and promulgated Rule 7(a) of the Rules for the Removal or Retirement of Judges, which, in pertinent part, imposes the following duty on the Commission and/or the Master in any proceeding against a judge of this State:

At the time and place set for hearing, the Commission, or the master when the hearing is before a master, shall proceed with the hearing as nearly as may be according to the rules of procedure governing the trial of civil causes in this State, subject to the provisions of Rule 8 [Issuance, Service and Return of Subpoenas], whether or not the judge has filed an answer or appears at the hearing.

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VIII.

In May of 1975, Relator received a letter dated May 2, 1975 and signed by Maurice Pipkin as Executive Director of the State Judicial Qualifications Commission notifying Relator of the commencement of a preliminary investigation against Relator in his capacity as district judge based on four charges of alleged misconduct on the part of Relator. Said notice of preliminary investigation further notified Relator, pursuant to Rule 3 of the Rules for the Removal or Retirement of Judges,¹ of Relator's right to make reply to said charges within fifteen days from the date of said letter. Reply to said Notice of Preliminary Investigation and the charges contained therein was made personally by Relator within the allotted time by a letter to the Executive Director of the Judicial Qualifications Commission.

IX.

On or about the 18th day of July, 1975, Respondent Maurice Pipkin, acting in his capacity as Executive Director of the Judicial Qualifications Commission, served upon Relator the Commission's Notice of Formal Proceedings against Relator pursuant to Rule 4 of the Rules for the Removal or Retirement of Judges. Pursuant to Rule 5 of the Rules for the Removal or Retirement of Judges, Relator made reply to said Notice by his Answer to Notice of Formal Proceedings filed with the Commission on the _____ day of July, 1975. Included in said Answer were pleadings raising numerous matters in abatement and special exceptions to

¹The Rules for the Removal or Retirement of Judges as adopted and promulgated by the Supreme Court of Texas are set out in their entirety and attached hereto as Exhibit A.

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the charges as contained in the Notice of Formal Proceedings and presenting several questions of law arising under Article V, §1-a of the Constitution of the State of Texas, Article 5966a, V.A.C.S., the Rules for the Removal or Retirement of Judges, and Article 5986a, V.A.C.S.

X.

In late September or early October, 1975, Relator was notified by Respondent Maurice Pipkin, acting in his capacity as Executive Director of the Judicial Qualifications Commission, that the October 2nd date originally set for commencement of the hearings before the master in the formal proceedings by the Commission, had been changed to the 3rd day of November, 1975, said hearing to be held before Judge James R. Meyers, Respondent herein, in Corpus Christi, Texas.

XI.

On or about the 8th day of October, 1975, Relator was served with the First Amended Notice of Formal Proceedings by the Judicial Qualifications Commission, which Notice contained identical charges to those included in the original Notice of Formal Proceedings and, additionally, six new charges not contained in the original Notice. Reply to this amended Notice was made by Relator by his Answer to First Amended Notice of Formal Proceedings filed with the Commission on or about the 20th day of October, 1975. In this second Answer, Relator again raised numerous matters in abatement and made special exceptions to each of the charges, with emphasis on the new charges presented in the First Amended Notice. Further, Relator therein requested that:

. . . a date, a time, and a place be set for hearing on the matters raised [therein], such hearing to be held at such a time prior to the commencement of the formal hearing before the Master as to permit necessary amendments to be made to the Notice and for the Judge to prepare his Answer thereto, to permit reasonable pre-hearing discovery and the raising of other necessary,

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reasonable, and usual prehearing matters as in any court proceedings, and to permit the Judge to prepare his defense to the charges contained in the Notice on which proceedings have not been abated.

Likewise, on or about the 20th day of October, 1975, attorney for Relator by letter (Exhibit B attached hereto) requested a "hearing before the Commission and/or the Supreme Court for the determination of the questions of law involved in this Answer prior to the trial of this case."

XII.

On or about the 29th day of October, 1975, Relator received a reply to his letter of October 20th from Respondent Maurice Pipkin, wherein Respondent denied Relator's request for hearing on the prehearing matters raised in Relator's Answer, (Exhibit C.)

XIII.

On the basis of the Commission's denial of a hearing on the prehearing matters raised by Relator, Respondent James R. Meyers on or about the 3rd day of November, 1975, denied Relator's request that the Master conduct a hearing on said matters and rule thereon. Consequently, the evidentiary hearing before Respondent James R. Meyers commenced on or about the afternoon of November 3, 1975, and continued every week-day thereafter through the 21st of November, with the exception of the 14th and 17th of November, when Relator was required to be in Federal court on other matters.

XIV.

The refusal of both the Commission and the Master to hold a hearing and rule on the prehearing matters raised in Relator's Answers to the original and amended Notices of Formal Proceedings prior to the evidentiary hearing on the charges contained in said Notices clearly violates Respondent's duties in these proceedings set out in Article V, §1-a, Subsection (11) of the Constitution of the State of Texas and Rule 7 of the Rules for the Removal or

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Retirement of Judges, and denies to Relator due process of law and the rights he would have in any civil proceeding, as mandated by the above provisions of the Constitution and the Rules. As a result of said breach of duty on the part of Respondents, evidentiary hearings have been held and will continue to be held and evidence has and will continue to be presented on matters upon which the Commission and the Master have no jurisdiction to act, if Relator's prehearing pleadings have merit.

XV.

The actions of Respondents in refusing to perform their constitutional and statutory duty and conduct a hearing and make rulings on the prehearing matters raised by Relator do irreparable injury to Relator's due process rights for which Relator has no adequate remedy other than mandamus and prohibition. For the Commission to have before it the report of the Master on matters which jurisdictionally are not properly before the Commission prior to making its determination on the prehearing matters raised by Relator does violence to any concept of due process and a fair and impartial tribunal, as well as violating the specific provisions of the Constitution and the Rules governing these proceedings. In addition, if the determination of said prehearing matters and questions of law is relegated to this Honorable Court upon review of the recommendation of the Commission in regard to Relator, Relator's right to confidential proceedings by the Commission as provided in Article V, §1-a of the Constitution of the State of Texas will clearly be violated, as all matters, including those improperly considered by the Commission, become public upon hearing before this Court under Article V, §1-a of the Constitution.

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WHEREFORE, PREMISES CONSIDERED, Relator respectfully prays that this Court issue a writ of mandamus directing Respondent James R. Meyers to conduct a hearing on the prehearing matters raised in Relator's Answers to the original and amended Notices of Formal Proceedings, Inquiry Concerning a Judge No. 5, to make rulings thereon, and at the conclusion of said hearing and rulings to limit the scope of the formal hearings and the evidence presented therein in conformity with the rulings on the prehearing matters, which would include striking from the record the testimony and documentary evidence already presented any matters outside of said scope. In the alternative, Relator prays that this Court issue a writ of mandamus directing the Judicial Qualifications Commission to conduct a hearing on the prehearing matters raised in Relator's Answers to the original and amended Notices of Formal Proceedings; to make rulings thereon; and at the conclusion of said hearing and rulings, to direct the Master to limit the scope of the formal hearings and the evidence presented therein in conformity with the rulings on the prehearing matters, which direction would include striking from the record of the testimony and documentary material evidence already presented any matters outside of said scope.

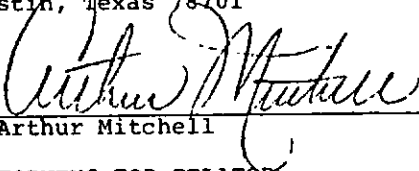
Further, Relator prays that this Court issue a writ of prohibition directing all named Respondents to suspend the formal hearings and presentation of evidence in Inquiry Concerning a Judge, No. 5 until such time as a hearing has been held on the pretrial matters by either the Master or the Commission, rulings on said matters have been made, and the record in the proceedings has been made to conform to the rulings by either the Master or the Commission.

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Relator further prays for his costs in this behalf expended, and that he be granted such other and further relief, general or special, at law or in equity, to which he may show himself justly entitled.

Respectfully submitted,

ARTHUR MITCHELL
JAN WOODWARD FOX
MITCHELL, GEORGE & BELT
315 Westgate Building
Austin, Texas 78701

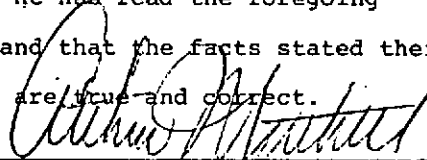
By 
Arthur Mitchell

ATTORNEYS FOR RELATOR

THE STATE OF TEXAS)
)
COUNTY OF TRAVIS)


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Before me the undersigned authority on this day personally appeared Arthur Mitchell , who being by me first duly sworn did on his oath depose and say that he is of counsel in the above-styled proceedings, and that as such he is authorized to make this affidavit, and that he has read the foregoing Petition for a Writ of Mandamus and that the facts stated therein and the allegations therein made are true and correct.



Arthur Mitchell

Subscribed and sworn to before me this 26 day of November, 1975, to certify which witness my hand and seal of office.



Notary Public, Travis County, Texas.

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RULES FOR THE REMOVAL OR RETIREMENT OF JUDGES

Adopted and Promulgated by the

SUPREME COURT OF TEXAS

Approved and adopted September 19, 1966
Amended by Order of the Court, July 20, 1971

EXHIBIT A

RULES FOR THE REMOVAL OR RETIREMENT OF JUDGES

(Adopted and Promulgated Pursuant to Section 1-a (11)
Art. V., Constitution of Texas)

RULE 1. DEFINITIONS

In these rules, unless the context or subject matter otherwise requires:

- (a) "Commission" means the State Judicial Qualifications Commission.
- (b) "Judge" means any Justice or Judge of the Appellate Courts and District and Criminal District Courts, any County Judge, and any Judge of a County Court-at-Law, a Court of Domestic Relations, a Juvenile Court, a Probate Court, or a Corporation or Municipal Court, and any Justice of the Peace, and any Judge or presiding officer of any special court created by the Legislature.
- (c) "Chairman" includes the acting chairman.
- (d) "Master" means a special master appointed by the Supreme Court upon request of the Commission pursuant to Section 1-a(8), Art. V of the Constitution.
- (e) "Examiner" means the person appointed by the Commission to gather and present evidence before a master or the Commission.
- (f) "Shall" is mandatory and "may" is permissive.
- (g) "Mail" means First Class United States mail.
- (h) The masculine gender includes the feminine gender.

RULE 2. MAILING OF NOTICES AND OF OTHER MATTER

Whenever these rules provide for giving notice or sending any matter to a judge, the same shall, unless otherwise expressly provided by the rules or requested in writing by the judge, be

sent to him by mail at his last known place of residence; provided, that when the judge has a guardian or guardian ad litem, the notice or matter shall be sent to the guardian or guardian ad litem by mail at his last known place of residence.

RULE 3. PRELIMINARY INVESTIGATION

(a) The Commission, upon receiving a verified statement, found upon examination and inquiry to be neither unfounded nor frivolous, alleging facts indicating that a judge is guilty of willful or persistent conduct which is clearly inconsistent with the proper performance of his duties or casts public discredit upon the judiciary or the administration of justice, or that he has a disability seriously interfering with the performance of his duties, which is, or is likely to become, permanent in nature, shall make a preliminary investigation to determine whether formal proceedings should be instituted and a hearing held. The Commission may, on its own motion and without receiving a verified statement, make inquiry and a preliminary investigation with respect to the conduct or physical or mental condition of a judge.

(b) Before finally determining that formal proceedings should be instituted, the judge shall be notified of the nature of the charges contained in a verified statement, if any, or that the investigation is on the Commission's own motion, and shall be afforded reasonable opportunity to present such matters as he may choose. Such notice shall be given by registered or certified mail marked "Personal" and addressed to the judge at his chambers and at his last known residence.

(c) If the preliminary investigation does not disclose sufficient cause to warrant further proceedings, the Commission may in its discretion issue a private reprimand and an order terminating the investigation shall be entered. If notice

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pursuant to Rule 3 (b) has been given to the judge, he shall be so notified of such termination.

RULE 4. NOTICE OF FORMAL PROCEEDINGS

(a) If after the preliminary investigation has been completed the Commission concludes that formal proceedings should be instituted, the matter shall be entered in a docket to be kept for that purpose and written notice of the institution of formal proceedings shall be issued to the judge without delay. Such proceedings shall be entitled:

"Before the State Judicial Qualifications Commission
Inquiry Concerning a Judge, No. _____."

(b) The notice shall specify in ordinary and concise language the charges against the judge and the alleged facts upon which such charges are based, and shall advise the judge of his right to file a written answer to the charges against him within 15 days after service of the notice upon him.

(c) The notice shall be served by personal service of a copy thereof upon the judge by a member of the Commission or by some person designated by the chairman, and the person serving the notice shall promptly notify the Commission in writing of the date on which the same was served. If it appears to the chairman upon affidavit that, after reasonable effort, during a period of 10 days, personal service could not be had, service may be made by mailing, by registered or certified mail, copies of the notice addressed to the judge at his chambers and at his last known residence, and the date of mailing shall be entered in the docket.

RULE 5. ANSWER

Within 15 days after service of the notice of formal proceedings, the judge may file with the Commission an original

answer, which shall be verified, and eight legible copies thereof.

RULE 6. SETTING FOR HEARING AND APPOINTMENT OF MASTER

(a) Upon the filing of an answer or upon expiration of the time for its filing, the Commission shall set a time and place for hearing before itself or before a master and shall give notice of such hearing by mail to the judge at least 20 days prior to the date set.

(b) If the Commission directs that the hearing be before a master, the Commission shall, when it sets a time and place for the hearing, transmit a written request to the Supreme Court to appoint a master for such purpose; and the Supreme Court shall, within 10 days from receipt of such request, appoint a district judge or judge of a Court of Civil Appeals, either active or retired, to conduct such hearing.

RULE 7. HEARING

(a) At the time and place set for hearing, the Commission, or the master when the hearing is before a master, shall proceed with the hearing as nearly as may be according to the rules of procedure governing the trial of civil causes in this State, subject to the provisions of Rule 8, whether or not the judge has filed an answer or appears at the hearing. The examiner or other authorized officer shall present the case in support of the charges in the notice of formal proceedings.

(b) The failure of the judge to answer or to appear at the hearing shall not, standing alone, be taken as evidence of the truth of the facts alleged to constitute grounds for removal or retirement. (The failure of the judge to testify in his own behalf or his failure to submit to a medical examination requested by the Commission or the master may be considered, unless it appears that such failure was due to circumstances unrelated to the facts in issue at the hearing.)

(c) The proceedings at the hearing shall be reported by a phonographic reporter or by some qualified person appointed by the Commission and taking the oath of an official court reporter.

(d) When the hearing is before the Commission, not less than five members shall be present while the hearing is in active progress. The chairman, when present, the vice-chairman in the absence of the chairman, and the member designated by the chairman in the absence of both, shall preside. Procedural and other interlocutory rulings shall be made by the person presiding and shall be taken as consented to by the other members unless one or more calls for a vote, in which latter event such rulings shall be made by a majority vote of those present.

RULE 8. ISSUANCE, SERVICE AND RETURN OF SUBPOENAS

(a) The chairman or any member of the Commission, or a master where hearing is before a master, shall, at the written request of the judge or of the examiner or other authorized person presenting the case in support of the charges, issue a subpoena for any witness or witnesses who may be represented to reside within 100 miles of the place at which the hearing is being held.

(b) The style of the subpoena shall be "The State of Texas". It shall state the style of the proceeding, that the proceeding is pending before the Commission, the time and place at which the witness is required to appear, and the person or official body at whose instance the witness is summoned. It shall be signed by the Chairman or some other member of the Commission, or by the master where hearing is before a master, and the date of its issuance shall be noted thereon. It shall be addressed to a person designated by the Chairman to make service thereof.

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(c) A subpoena may also command the person to whom it is directed to produce the books, papers, documents or tangible things designated therein.

(d) Subpoenas may be executed and returned at any time, and shall be served by delivering a copy of such subpoena to the witness; and service thereof may be accepted by any witness by a written memorandum, signed by such witness, attached to the subpoena.

RULE 9. EVIDENCE

At a hearing before the Commission or a master, legal evidence only shall be received as in the trial of civil cases, except upon consent evidenced by absence of objection, and oral evidence shall be taken only on oath or affirmation.

RULE 10. PROCEDURAL RIGHTS OF JUDGES

(a) In the proceedings for his removal or retirement a judge shall have the right to be confronted by his accusers, the right and reasonable opportunity to defend against the charges by the introduction of evidence, to be represented by counsel, and to examine and cross-examine witnesses. He shall also have the right to the issuance of subpoenas for attendance of witnesses to testify or produce books, papers and other evidentiary matter.

(b) When a transcript of the testimony has been prepared at the expense of the Commission, a copy thereof shall, upon request, be available for use by the judge and his counsel in connection with the proceedings, or the judge may arrange to procure a copy at his expense. The judge shall have the right, without any order or approval, to have all or any portion of the testimony in the proceedings transcribed at his expense.

(c) If the judge is adjudged insane or incompetent, or if it appears to the Commission at any time during the proceedings that he is not competent to act for himself, the Commission shall appoint a guardian ad litem unless the judge has a guardian who will represent him. In the appointment of a guardian ad litem, preference shall be given, so far as practicable, to members of the judge's immediate family. The guardian or guardian ad litem may claim and exercise any right and privilege and make any defense for the judge with the same force and effect as if claimed, exercised, or made by the judge, if competent.

RULE 11. AMENDMENTS TO NOTICE OR ANSWER

The master, at any time prior to the conclusion of the hearing, or the Commission, at any time prior to its determination, may allow or require amendments to the notice of formal proceedings and may allow amendments to the answer. The notice may be amended to conform to proof or to set forth additional facts, whether occurring before or after the commencement of the hearing. In case such an amendment is made, the judge shall be given reasonable time both to answer the amendment and to prepare and present his defense against the matters charged thereby.

RULE 12. REPORT OF MASTER

(a) After the conclusion of the hearing before a master, he shall promptly prepare and transmit to the Commission a report which shall contain a brief statement of the proceedings had and his findings of fact with respect to the issues presented by the notice of formal proceedings and the answer thereto, or if there be no answer, his findings of fact with respect to the allegations in the notice of formal proceedings. When the findings support the grounds alleged for removal or retirement, the report shall be accompanied by an original and two copies

of a transcript of the proceeding before the master.

(b) Upon receiving the report of the master, the Commission shall promptly send a copy to the judge, and one copy of the transcript shall be retained for his use.

RULE 13. OBJECTIONS TO REPORT OF MASTER

Within 15 days after mailing of the copy of the master's report to the judge, the examiner or the judge may file with the Commission an original and eight legible copies of a statement of objections to the report of the master, setting forth all objections to the report and all reasons in opposition to the findings as sufficient grounds for removal or retirement. A copy of any such statement filed by the examiner shall be sent to the judge.

RULE 14. APPEARANCE BEFORE COMMISSION

If no statement of objections to the report of the master is filed within the time provided, the findings of the master may be deemed as agreed to, and the Commission may adopt them without a hearing. If a statement of objections is filed, or if the Commission in the absence of such statement proposed to modify or reject the findings of the master, the Commission shall give the judge and the examiner an opportunity to be heard orally before the Commission, and written notice of the time and place of such hearing shall be sent to the judge at least ten days prior thereto.

RULE 15. EXTENSION OF TIME

The chairman of the Commission may extend for periods not to exceed 30 days in the aggregate the time for filing an answer, for the commencement of a hearing before the Commission, and for filing a statement of objections to the report of a master, and a master may similarly extend the time for the commencement of a hearing before him.

RULE 16. HEARING ADDITIONAL EVIDENCE

(a) The Commission may order a hearing for the taking of additional evidence at any time while the matter is pending before it. The order shall set the time and place of hearing and shall indicate the matters on which the evidence is to be taken. A copy of such order shall be sent to the judge at least ten days prior to the date of hearing.

(b) The hearing of additional evidence may be before the Commission itself or before the master, as the Commission shall direct; and if before the master, the proceedings shall be in conformance with the provisions of Rule 7 to 11, inclusive.

RULE 17. COMMISSION VOTE

(a) If, after hearing, or after considering the record and report of the master, the Commission finds good cause therefor, it shall recommend to the Supreme Court the removal or retirement, as the case may be; or in the alternative, the Commission may, by the affirmative vote of five of its members, order a private reprimand or order of public censure of the judge in question.

(b) The affirmative vote of five members of the Commission who have considered the record and report of the master and who were present at any oral hearing as provided in Rule 14, or when the hearing was before the Commission without a master, of five members of the Commission who were present when the evidence was produced, is required for a recommendation of removal or retirement of a judge. If five votes, as described, are not cast for a recommendation of removal or retirement, an order of dismissal shall be entered.

RULE 18. RECORD OF COMMISSION PROCEEDINGS

The Commission shall keep a record of all proceedings concerning a judge. The Commission's determination shall be

entered in the record and notice thereof shall be given to the judge. In all proceedings resulting in a recommendation to the Supreme Court for removal or retirement, the Commission shall prepare a transcript of the evidence and of all proceedings therein and shall make written findings of fact and conclusions of law with respect to the issues of fact and law in the proceedings.

RULE 19. CONFIDENTIALITY AND PRIVILEGE OF PROCEEDINGS

All papers filed with and proceedings before the Commission or a master shall be confidential, and the filing of papers with, and the giving of testimony before, the Commission, master, or the Supreme Court shall be privileged; provided that upon being filed in the Supreme Court the record loses its confidential character.

RULE 20. CERTIFICATION OF COMMISSION RECOMMENDATION TO SUPREME COURT

Upon making a determination recommending the removal or retirement of a judge, the Commission shall promptly file a copy of the recommendation certified by the chairman or secretary of the Commission, together with the transcript and the findings and conclusions, with the clerk of the Supreme Court, and shall immediately send the judge notice of such filing, together with a copy of such recommendation, findings and conclusions.

RULE 21. REVIEW OF COMMISSION PROCEEDINGS

(a) A petition to the Supreme Court to reject the recommendation of the Commission for removal or retirement of a judge may be filed within thirty days after the filing with the clerk of the Supreme Court of a certified copy of the recommendation complained of. The petition shall be verified, shall be based on the record, shall specify the grounds relied on and shall be accompanied by nine copies of petitioner's brief and proof of service of one copy of the petition and of the brief of the Chairman of the Commission. Within twenty days after the filing

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of the petition and supporting brief, the Commission shall file nine copies of a respondent's brief, and shall serve a copy thereon on the judge.

(b) Failure to file a petition within the time provided may be deemed a consent to a determination on the merits based upon the record filed by the Commission.

(c) Rules 418 to 422, Texas Rules of Civil Procedure, shall govern the form and contents of briefs except where express provision is made to the contrary or where the application of a particular rule would be clearly impracticable, inappropriate, or inconsistent.

(d) The Supreme Court may, in its discretion and for good cause shown, permit the introduction of additional evidence, and may direct that the same be introduced before the master or the Commission and be filed as a part of the record in the Court.

RULE 22. SETTING OF CASE AND ORAL ARGUMENT IN THE SUPREME COURT

(a) Oral argument on a petition of a judge to reject a recommendation of the Commission shall, upon receipt of the petition, be set on a date not less than thirty days nor more than forty days from the date of receipt thereof.

(b) The order and length of time of argument shall, if not otherwise ordered or permitted by the Court, be governed by Rule 498, Texas Rules of Civil Procedure.

RULE 23. DECISION BY THE SUPREME COURT

The Supreme Court shall review the record of the proceedings on the law and facts, and, in its discretion, may for good cause shown, order public censure, retirement, or removal, as it finds just and proper, or wholly reject the recommendation of the Commission.

RULE 24. NOTICE FOR REHEARING

A motion for rehearing may not be filed in the Supreme Court

00642

as a matter of right. In entering its judgment the Court may direct that no motion for rehearing will be entertained, in which event the judgment of the Court will be final on the day and date of its entry. If the Court does not so direct and the judge wishes to file a motion for rehearing, he shall present the motion together with a motion for leave to file the same to the clerk of the Court within fifteen days of the date of the judgment, and the clerk shall transmit it to the Court for such action as the Court deems proper.

APPROVED AND ADOPTED September 19, 1966
AMENDED BY ORDER OF THE COURT July 20, 1971

00643

MITCHELL, GEORGE & BELT
ATTORNEYS AT LAW
AUSTIN, TEXAS 78701

ARTHUR MITCHELL
THOMAS WILLIAM GEORGE
TERRY L. BELT
JAN FOX

WESTGATE - 1122 COLORADO
Telephone (512) 477-9651

October 20, 1975

Mr. Maurice S. Pipkin
Executive Director
State Judicial Qualifications Commission
P. O. Box 12265
Capitol Station
Austin, Texas 78701

Re: Answer to First Amended Notice of Formal Proceedings
Inquiry Concerning a Judge, No. 5

Dear Mr. Pipkin:

Enclosed please find Answer to First Amended Notice of Formal Proceedings, a copy of the same being transmitted to Judge James R. Meyers, Master. I trust you will forward copies of this Answer to the Honorable Homer E. Stephenson, Chairman of the State Judicial Qualifications Commission, as well as to the vice chairman, secretary, and other members.

You will note further in the Answer that there are numerous special exceptions, constitutional pleas, and pleas in abatement. I hereby request a hearing before the Commission and/or the Supreme Court for a determination of the questions of law involved in this Answer prior to the trial of the case.

A copy of this letter of transmittal is being sent to each member of the Commission in order to place them in privity with our correspondence.

You will note also that part of the Answer herein involves quotes by you to Mr. Stuart Long in an interview that occurred apparently around October 12, 1975 as regards the proceedings before the Commission, your using as justification for your interview with Mr. Long "that the statutory secrecy of that Commission's actions [meaning the Judicial Qualifications Commission] was broken by Carrillo's attorney, Arthur Mitchell." Mr. Long therefore quoted you at quite some length apparently on the theory that the undersigned attorney had broken the statutory secrecy, therefore justifying your doing likewise. I would like to request in this connection that you answer

EXHIBIT B

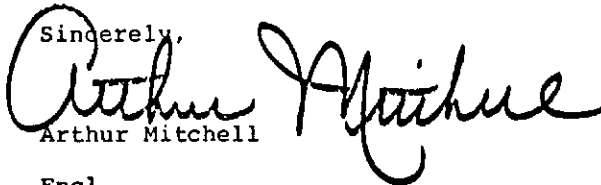
CC644

Mr. Maurice S. Pipkin
October 20, 1975
Page 2

formally the plea based on your discussion with Mr. Long, stating the time, date, place and circumstances of your interview with Mr. Long and the date, time, place and circumstances when the undersigned attorney broke the secrecy mandated by the statute as to secrecy of the Commission's action, justifying your discussions of this case with Mr. Long. Otherwise, I shall be required to take your deposition to establish a factual background for the plea contained on page 24 in this Answer.

Thanking you, I am

Sincerely,



Arthur Mitchell

Encl.

cc: Homer E. Stephenson, Chairman
Howard C. Davison, Vice Chairman
Robert C. McGinnis, Secretary
Vernon Butler
Donald Eastland
F. Ray McCormick
Phil Peden
R. C. Vaughan
Hon. James R. Meyers

STATE JUDICIAL QUALIFICATIONS COMMISSION

PHIL PEDEN, CHAIRMAN
R C VAUGHAN, VICE CHAIRMAN
ROBERT C. MCGINNIS, SECRETARY
VERNON BUTLER
HOWARD C. DAVISON
E. CARL DILLARD
DONALD EASTLAND
F. RAY MCCORMICK
HOMER E. STEPHENSON



MAURICE S. PIPKIN
EXECUTIVE DIRECTOR

P O BOX 12265
CAPITOL STATION
AUSTIN, TEXAS 78711
1512 / 475.4201

October 28, 1975

Honorable Arthur Mitchell
Mitchell, George and Belt
1122 Colorado
Austin, Texas 78701

Re: Before the State Judicial
Qualifications Commission,
Inquiry Concerning a Judge,
No. 5

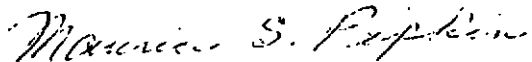
Dear Mr. Mitchell:

This is to acknowledge recent receipt of your letter dated October 20, 1975, wherein you "request a hearing before the Commission and/or the Supreme Court for a determination of the questions of law involved in (the) Answer prior to the trial of the case."

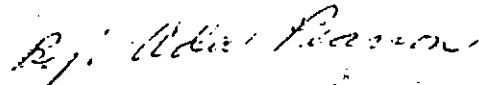
Several of the questions raised in the Answer are also raised in some of the pleadings you have filed with the Master on behalf of Judge Carrillo. It appears at this time that the questions of law involved in the Answer would be more appropriately presented to the Master or to the Commission after the Report of the Master is filed with the Commission. As to your request for a hearing before the Supreme Court, an analysis of the Texas Constitution, the appropriate statutes and the Supreme Court Rules for the Removal or Retirement of Judges, does not indicate procedures for such a hearing at this stage of the proceedings.

Accordingly, the above referenced request is respectfully denied.

Very truly yours,



Maurice S. Pipkin
Executive Director



MSP:ap

EXHIBIT C

00646

- MEMORANDUM OF UNDERSTANDING -

This Memorandum of Understanding evidences an agreement entered into this date between, and shall be binding upon, RODOLFO M. COULING of Benavides, Duval County, Texas and THE STATE OF TEXAS acting through her 229th Judicial District Attorney, ARNULFO GUERRA and his successors in office. This agreement, entered into with the full understanding of both parties hereto, provides for the supplying of certain information by RODOLFO M. COULING and a plea of guilty to one (1) felony charge in return for dismissal of all except one (1) felony indictments presently pending against RODOLFO M. COULING by THE STATE OF TEXAS subject to the following specified conditions:

I.

That RODOLFO M. COULING agrees to make full, complete and truthful disclosure of all knowledge of any criminal conduct whatsoever by any individual within the knowledge of RODOLFO M. COULING.

II.

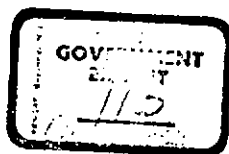
That RODOLFO M. COULING agrees to produce any documents or other evidence in any form whatsoever related to any criminal conduct in his possession or under his custody or control.

III.

That RODOLFO M. COULING agrees to fully disclose the nature, contents and whereabouts of any document or other evidence in any form whatsoever related to any criminal conduct not in his possession or under his custody or control but within his knowledge.

IV.

That RODOLFO M. COULING agrees to testify as a witness for THE STATE OF TEXAS or the UNITED STATES OF AMERICA, under subpoena, in any criminal proceedings for which he has furnished information or evidence under the provisions of this agreement.



R-57

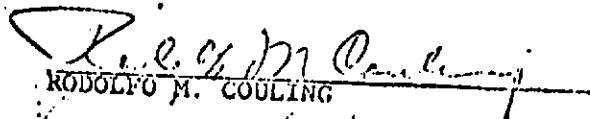
VI.

That RODOLFO M. COULING agrees to enter a plea of guilty to one (1) felony criminal indictment under the Penal Code of the State of Texas with the understanding and agreement that after such plea of guilty, THE STATE OF TEXAS will immediately thereafter make a recommendation for probation to the Court in connection with any sentence assessed by such court against RODOLFO M. COULING.

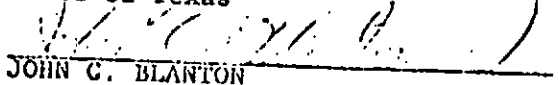
VII.

That THE STATE OF TEXAS agrees to dismiss all presently pending criminal indictments against RODOLFO M. COULING upon the conclusion of any requested testimony by RODOLFO M. COULING in state or federal criminal prosecutions resulting from information and/or evidence provided by RODOLFO M. COULING under the provision of this agreement. It is further agreed by THE STATE OF TEXAS that no future criminal offense up to the date of this agreement for any offense against property or any offense against public administration under the Penal Code of the State of Texas disclosed or developed as being committed by RODOLFO M. COULING will be prosecuted in any criminal proceedings by THE STATE OF TEXAS.

This agreement is hereby acknowledged by the parties hereto witnessed by their signatures hereon in addition to witnessing signature of the designated representative of the Attorney General of the State of Texas.


RODOLFO M. COULING

ARNULFO GUERRA
229th Judicial District Attorney
State of Texas


JOHN C. BLANTON

Assistant Attorney General of Texas

by Rodolfo M. Couling and John C. Blanton,
SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned authority of

this the 28th day of August, 1975 at San Diego, Duval County,
Texas.

Pages 00648-00653 of the original document contain personal information.

The original is available at the Legislative Reference Library.

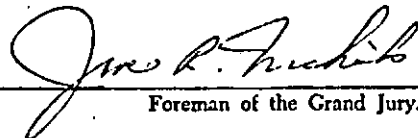
IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

The Grand Jurors for the County of Duval, State of Texas, duly selected, impaneled, sworn, charged and organized as such at the February Term, A. D. 19 75, of the 229th Judicial District Court of said County, upon their oaths present in and to said Court, that Rodolfo M. Couling, on or about the 11th day of March, A. D. 19 74, and before the presentment of this indictment, in said County and State, did then and there ~~there~~ while a public servant, namely, Tax Collector of the Benavides Independent School District, and with intent to obtain a benefit for himself, namely, the personal use and benefit of current money of the United States, and did then and there intentionally and knowingly take and misapply said current money of the United States belonging to the government, namely, the said school district, and which properly had come into his possession by virtue of his employment; to-wit: the said Rodolfo M. Couling did then and there intentionally and knowingly convert a portion of Check No. 1727 from the Benavides Independent School District Tax Office Fund in the amount of \$989.79 for his own use and benefit by cashing said check and converting a portion of said current money of the United States to his own use and benefit

R-59-1

AGAINST THE PEACE AND DIGNITY OF THE STATE.

Sec. 39.01(a)(5), TPC.


 Foreman of the Grand Jury.

CC655

THE STATE OF TEXAS

COUNTY OF _____

I, _____

Clerk of the District Court within and for the County and State aforesaid, do hereby certify that the foregoing contains a true and correct copy of indictment in Cause No. _____, of the State of Texas

vs. _____

as now on file in this office.

IN TESTIMONY WHEREOF I hereto set my hand and official seal, this _____ day of

_____, A. D. 19____

Clerk of the _____ District Court,

By _____ Deputy _____ County, Texas

WITNESSES FOR THE STATE:

16-1360 (900)
 No. 3598

THE STATE OF TEXAS

vs.
 RODOLFO M. COULING

INDICTMENT

OFFENSE
 Official Misconduct

Sec. 39.01(a)(5), TPC

John C. Blount
 Attorney

Filed May 22nd 1971

A. Adams
 District Clerk

By John C. Blount Deputy
 A TRUE BILL.

John C. Blount
 Foreman of Grand Jury.

Amount of Bail - 5000.00

00656

No. 3598 The State of Texas VS. Rodolfo M. Couling. Indictment. Filed
May 22nd, 1975 A. Salinas District Clerk By H.G.Gonzalez, Deputy.

THE STATE OF TEXAS
COUNTY OF DUVAL

I, A. SALINAS, Clerk of the District Court of Duval County, Texas,

do hereby certify that the foregoing is a true and correct copy of the original Indictment

IN RE The State of Texas VS. Rodolfo M. Couling

Cause No. 3598

as the same appears on file _____ in my office in Book _____ Page _____

GIVEN UNDER MY HAND, and the seal of said Court, at office in San Diego, Texas, this 1st day
of December, 19 75

A. SALINAS, District Clerk
229th Judicial District
Duval County, Texas

By Antonia V. Carrillo Deputy
Antonia V. Carrillo

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:

The Grand Jurors, duly selected, organized, sworn and impaneled as such for the County of

Duval, State of Texas, at the February A. D. 19 75

Term of the 229th Judicial District Court for said County, upon their oaths

present in and to said Court that on or about the 1st day of January, A. D. 19 74, and continuing until on or about the 3rd day of April, A. D., 1975 and before the presentment of this indictment, in the County and State aforesaid,

Rodolfo M. Couling did, then and there unlawfully while a public servant, namely, Tax Collector of the Benavides Independent School District, and with intent to obtain a benefit for himself, namely the personal use and benefit of Exxon Credit Card No. 182-801-554-3 issued to him by the said school district for his official use only for school district business, did then and there intentionally and knowingly take and misapply said credit card belonging to the government, namely, the said school district, and which property had come into his possession by virtue of his employment; to-wit: the said Rodolfo M. Couling did then and there intentionally and knowingly use said credit card for his personal use and benefit by using the same to purchase gasoline for his personal motor vehicles and for his own use and benefit

R-59-2

against the peace and dignity of the State.

Sec. 39.01(a)(5), TPC

James P. Frickles
Foreman of the Grand Jury.

00658

THE STATE OF TEXAS

COUNTY OF _____ } I, _____

Clerk of the District Court within and for the County and State aforesaid, do hereby certify that the foregoing contains a true and correct copy of indictment in Cause No. _____ of the State of Texas

vs. _____

as now on file in this office.

IN TESTIMONY WHEREOF I hereto set my hand and official seal, this _____ day of

_____, A. D. 19____

Clerk of the _____ District Court,

By _____ Deputy _____ County, Texas

900

No. 3602

THE STATE OF TEXAS

vs.

RODOLFO M. COILING

INDICTMENT

OFFENSE

Official Misconduct

Sec. 39.01(a)(5), TPC

Rodolfo M. Coiling

Robert C. Ollinger
Attorney

Filed May 22 1975

G. Selman
District Clerk

By *H. B. Kennedy*
Deputy

A TRUE BILL

John R. Fuchs
Foreman of Grand Jury

Amount of Bail \$5000.00

51020-50174

WITNESSES FOR THE STATE:

00659

No. 3602 The State of Texas VS. Rodolfo M. Couling. Indictment. Filed:
May 22nd., 1975. A. Salinas District Clerk By H.G.Gonzalez, Deputy.

THE STATE OF TEXAS
COUNTY OF DUVAL

I, A. SALINAS, Clerk of the District Court of Duval County, Texas,

do hereby certify that the foregoing is a true and correct copy of the original Indictment

IN RE The State of Texas VS. Rodolfo M. Couling

Cause No. 3602

as the same appears on file _____ in my office in Book _____ Page _____

GIVEN UNDER MY HAND, and the seal of said Court, at office in San Diego, Texas, this 1st day
of December, 19 75

A. SALINAS, District Clerk
229th Judicial District
Duval County, Texas

By Antonia V. Carrillo Deputy
Antonia V. Carrillo

00660

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

The Grand Jurors for the County of Duval, State of Texas, duly selected, impaneled, sworn, charged and organized as such at the February Term, A. D. 19 75, of the 229th Judicial District Court of said County, upon their oaths present in and to said Court, that Rodolfo M. Couling, on or about the 15th day of April, A. D. 1974, and before the presentment of this indictment, in said County and State, did then and there unlawfully while a public servant, namely, Tax Collector of the Benavides Independent School District, and with intent to obtain a benefit for himself, namely, the personal use and benefit of Texaco Credit Card No. 61-031-0814-5 issued to him by the said school district for his official use only for school district business, did then and there intentionally and knowingly take and misapply said credit card belonging to the government, namely the said school district, and which property had come into his possession by virtue of his employment; to-wit: the said Rodolfo M. Couling did then and there intentionally and knowingly use said credit card for his personal use and benefit by using the same to purchase gasoline for his personal motor vehicles and for his own use and benefit

R-59-3

AGAINST THE PEACE AND DIGNITY OF THE STATE.

Sec. 39.01(a)(5), TPC

J. W. R. Trickett

 Foreman of the Grand Jury.

00661

THE STATE OF TEXAS

COUNTY OF _____

I, _____

Clerk of the District Court within and for the County and State aforesaid, do hereby certify that the foregoing contains a true and correct copy of indictment in Cause No. _____ of the State of Texas

vs. _____

as now on file in this office.

IN TESTIMONY WHEREOF I hereto set my hand and official seal, this _____ day of _____, A. D. 19____

Clerk of the _____ District Court,

By _____ Deputy _____ County, Texas

15-1980 (2003)
 No. 3601
 THE STATE OF TEXAS
 vs.
 RODOLFO M. COLLING
 INDICTMENT
 OFFENSE
 Official Misconduct
 Sec. 39.01(a)(5), TPC
 Filed May 22 2011 10:25
 By [Signature] District Clerk
[Signature] Deputy
 A TRUE BILL
[Signature] Foreman of Grand Jury
 Amount of Bail - - - - - \$5000.00

WITNESSES FOR THE STATE:

Foreman of the Grand Jury

00662

No. 3601 The State of Texas VS. Rodolfo M. Couling. Indictment. Filed:
May 22nd., 1975 A. Salinas District Clerk By H. G. Gonzalez, Deputy.

THE STATE OF TEXAS
COUNTY OF DUVAL

I, A. SALINAS, Clerk of the District Court of Duval County, Texas,

do hereby certify that the foregoing is a true and correct copy of the original Indictment

IN RE. The State of Texas VS. Rodolfo M. Couling

Case No. 3601

as the same appears on file _____ in my office in Book _____ Page _____

GIVEN UNDER MY HAND, and the seal of said Court, at office in San Diego, Texas, this 1st day
of December, 19 75

A. SALINAS, District Clerk
229th Judicial District
Duval County, Texas

By Antonia V. Carrillo Deputy
Antonia V. Carrillo

00663

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

The Grand Jurors for the County of Duval, State of Texas, duly selected, impaneled, sworn, charged and organized as such at the February Term, A. D. 1975, of the 229th Judicial District Court of said County, upon their oaths present in and to said Court, that Rodolfo M. Couling, on or about the 4th day of October, A. D. 1974, and before the presentment of this indictment, in said County and State, did then and there ~~intentionally~~ while a public servant, namely, Tax Collector of the Benavides Independent School District, and with intent to obtain a benefit for himself, namely, the personal use and benefit of Texaco Credit Card No. 61-030-2464-9 issued to him by the said school district for his official use only for school district business, did then and there intentionally and knowingly take and misapply said credit card belonging to the government, namely the said school district, and which property had come into his possession by virtue of his employment; to-wit: the said Rodolfo M. Couling did then and there intentionally and knowingly use said credit card for his personal use and benefit by using the same to purchase gasoline for his personal motor vehicles and for his own use and benefit

R-59-4

AGAINST THE PEACE AND DIGNITY OF THE STATE.

Sec. 39.01(a)(5), TPC

Jose R. Truchillo
Foreman of the Grand Jury.

CC664

THE STATE OF TEXAS

COUNTY OF _____

Clerk of the District Court within and for the County and State aforesaid, do hereby certify that the foregoing contains a true and correct copy of indictment in Cause No. _____, of the State of Texas

vs. _____

as now on file in this office.

IN TESTIMONY WHEREOF I hereto set my hand and official seal, this _____ day of

_____, A. D. 19____

Clerk of the _____ District Court,

By _____ Deputy _____ County, Texas

16-1980 (900)

No. 3600

THE STATE OF TEXAS

vs.

RODOLFO M. COULING

INDICTMENT

OFFENSE

Official Misconduct

Sec. 39.01(a)(5) TPC

John C. Blanton
Attorney

Filed May 21st 1975

H. H. Stapp
District Clerk
Deputy

A TRUE BILL:
Jose R. Truiche
Foreman of Grand Jury.

Amount of Bail \$500.00

WITNESSES FOR THE STATE:

00665

No. 3600 The State of Texas VS. Rodolfo M. Couling. Indictment. Filed:
May 22nd., 1975 A. Salinas District Clerk, By H.G.Gonzalez, Deputy.

THE STATE OF TEXAS
COUNTY OF DUVAL

I, A. SALINAS, Clerk of the District Court of Duval County, Texas,

do hereby certify that the foregoing is a true and correct copy of the original Indictment

IN RE The State of Texas VS. Rodolfo M. Couling

Cause No. 3600

as the same appears on file _____ in my office in Book _____ Page _____

GIVEN UNDER MY HAND, and the seal of said Court, at office in San Diego, Texas, this 1st. day
of December, 19 75

A. SALINAS, District Clerk
229th Judicial District
Duval County, Texas

By Antonia V. Carrillo Deputy
Antonia V. Carrillo

00666


IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

The Grand Jurors for the County of Duval, State of Texas, duly selected, impaneled, sworn, charged and organized as such at the February Term, A. D. 19 75, of the 229th Judicial District Court of said County, upon their oaths present in and to said Court, that Rodolfo M. Couling, on or about the 14th day of January, A. D. 19 74, and before the presentment of this indictment, in said County and State, did then and there ~~unlawfully~~ unlawfully exercise control over property, other than real property, to-wit: current money of the United States of a value of more than \$200.00 without the effective consent of the Benavides Independent School District, the owner thereof, and with intent to deprive the Benavides Independent School District of said property

R-59-5

AGAINST THE PEACE AND DIGNITY OF THE STATE

Sec. 31.03(b)(1), TPC


Foreman of the Grand Jury.

00667

THE STATE OF TEXAS

COUNTY OF _____ I _____

Clerk of the District Court within and for the County and State aforesaid, do hereby certify that the foregoing contains a true and correct copy of indictment in Cause No. _____ of the State of Texas vs. _____

as now on file in this office.

IN TESTIMONY WHEREOF I hereto set my hand and official seal, this _____ day of

_____ A. D. 19____

Clerk of the _____ District Court,

By _____ Deputy _____ County, Texas

WITNESSES FOR THE STATE:

143980 (000)

No. 3549

THE STATE OF TEXAS

vs.

RODOLFO M. COULING

INDICTMENT

OFFENSE

Theft - By Exercising Control

Sec. 31.03(b)(1), TPC

1800 Star Corp
John C. Callahan
Attorney

Filed May 22nd 1975

A. Salinas
District Clerk
By H. H. Hengaly Deputy

A TRUE BILL:
John R. Smith
Foreman of Grand Jury.

Amount of Bail - \$500.00

00668

No. 3599 The State of Texas VS. Rodolfo M. Couling. Indictment. Filed:
May 22nd., 1975 A. Salinas District Clerk, Duval County, Texas. By H.G.
Gonzalez, Deputy.

THE STATE OF TEXAS
COUNTY OF DUVAL

I, A. SALINAS, Clerk of the District Court of Duval County, Texas,

do hereby certify that the foregoing is a true and correct copy of the original Indictment

IN RE The State of Texas VS. Rodolfo M. Couling

Cause No. 3599

as the same appears on file _____ in my office in Book _____ Page _____

GIVEN UNDER MY HAND, and the seal of said Court, at office in San Diego, Texas, this 1st. day
of December, 19 75

A. SALINAS, District Clerk
229th Judicial District
Duval County, Texas

By Antonia V. Carrillo Deputy
Antonia V. Carrillo

Pages 00669-00872 of the original document contain personal information.

The original is available at the Legislative Reference Library.