

BEFORE THE EMPLOYEE RELATIONS COMMISSION
OF THE COUNTY OF LOS ANGELES
THOMAS KERRIGAN, HEARING OFFICER

| | | |
|-----------------------------|---|-----------|
| IN THE MATTER OF: |) | |
| |) | |
| STEVE IPSEN |) | UFC 10.08 |
| CHARGING PARTY, |) | 22.08 |
| V. |) | |
| LOS ANGELES COUNTY DISTRICT |) | |
| ATTORNEY'S OFFICE |) | |
| |) | |
| RESPONDENT. |) | |
| IN THE MATTER OF: |) | |
| |) | |
| MARC DEBBAUDT |) | UFC 24.08 |
| CHARGING PARTY, |) | |
| V. |) | |
| LOS ANGELES COUNTY DISTRICT |) | |
| ATTORNEY'S OFFICE |) | |
| |) | |
| _____RESPONDENT._____ |) | |

TRANSCRIPT OF PROCEEDINGS
LOS ANGELES, CALIFORNIA
THURSDAY, JANUARY 14, 2010

REPORTED BY:

EULAH STEWART,
HEARING REPORTER

JOB NO.: ERC 0012

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| _____RESPONDENT._____ |) | |

TRANSCRIPT OF PROCEEDINGS, TAKEN AT
374 KENNETH HANN HALL OF ADMINISTRATION,
LOS ANGELES, CALIFORNIA, COMMENCING AT 10:15 A.M.
ON THURSDAY, JANUARY 14, 2010, HEARD BEFORE
THOMAS KERRIGAN, HEARING OFFICER, REPORTED BY
EULAH STEWART, HEARING REPORTER.

APPEARANCES:

FOR THE COUNTY:

STREET

MANNING & MARDER
ATTORNEYS AT LAW
BY: L. TREVOR GRIMM
801 SOUTH FIGUEROA

15TH FLOOR AT 801 TOWER
LOS ANGELES, CALIFORNIA
90017
(213) 624-6900

OFFICE

COUNTY OF LOS ANGELES
DISTRICT ATTORNEY'S

STREET

BY: JULIE DIXON SILVA
201 NORTH FIGUEROA

SUITE 1455
LOS ANGELES, CALIFORNIA
90012
(213) 202-7705

FOR THE CHARGING PARTY:

GREEN & SHINEE
ATTORNEYS AT LAW
BY: RICHARD SHINEE
16055 VENTURA BOULEVARD
SUITE 1000
ENCINO, CALIFORNIA
91436
(818) 986-2440

ROAD

STEVE IPSEN
ATTORNEY AT LAW
AND
MARC DEBBAUDT
ATTORNEY AT LAW
18565 SOLEDAD CANYON

CALIFORNIA

SUITE 329
SANTA CLARITA,
91351
(213) 974-2332

ALSO PRESENT:

LESLIE SIMON

I N D E X

| RE CROSS | CHARGING PARTY WITNESSES: | DIRECT | CROSS | REDIRECT |
|----------|------------------------------|------------|------------|------------|
| | JACQUELYN LACEY | 15 44 | 46 | 66 89 |
| 98 | | | | 101 |
| | PETER ALSTON BURKE | 114 185 | | |
| | JOHN PORTILLO | 187 | 206 | |
| | MICHAEL ANTHONY YGLECIAS | 215 236 | 221 237 | 227 242 |

E X H I B I T S

| RECEIVED EVIDENCE | CHARGING PARTY'S: | MARKED FOR IDENTIFICATION | IN |
|----------------------|--|------------------------------|-----|
| | 14 - CERTIFIED COPY OF DEPOSITION OF STEVE COOLEY TAKEN ON 2/4/08, PAGE 83 | 110 | 110 |
| | 15 - CERTIFIED COPY OF DEPOSITION OF STEVE COOLEY TAKEN ON 2/4/08, PAGE 22 | 113 | 113 |

1 LOS ANGELES, CALIFORNIA; THURSDAY, JANUARY 14, 2010
2 10:15 A.M.

3
4

5 HEARING OFFICER KERRIGAN: ON THE RECORD.

6 APPEARANCES OF COUNSEL, PLEASE.

7 MR. DEBBAUDT: MARC DEBBAUDT FOR MARC DEBBAUDT.

8 MR. SHINEE: GREEN AND SHINEE BY RICHARD SHINEE.

9 MR. DEBBAUDT: MR. IPSEN CALLED AND INFORMED ERCOM
THAT
10 HE WOULD BE LATE. AND ASKED THAT HE BE ABLE TO WAIVE HIS
11 APPEARANCE UNTIL HE ATTENDS.

12 MR. GRIMM: TREVOR GRIMM ON BEHALF OF THE LOS
ANGELES
13 COUNTY DISTRICT ATTORNEY'S OFFICE IN EACH CONSOLIDATED
CHARGE.

14 MS. DIXON SILVA: JULIE DIXON SILVA ON BEHALF OF THE
15 DISTRICT ATTORNEY'S OFFICE.

16 HEARING OFFICER KERRIGAN: OKAY.

17 MR. DEBBAUDT: WE HAVE OUTSTANDING S.D.T.'S THAT
HAVE
18 NOT BEEN COMPILED WITH.

19 HEARING OFFICER KERRIGAN: OKAY. ANYBODY GOT AN

20 EXPLANATION?

21 MR. GRIMM: YES. WHICH ONE IS HE TALKING ABOUT
22 SPECIFICALLY?

23 MR. DEBBAUDT: I WANT TO TALK ABOUT THE ONE THAT
24 MR. RENETZKY FILED AND GAVE OR DELIVERED TO MS. EVANS WHO
25 AGREED TO ACCEPT IT, AND MR. SHINEE CAN TALK ABOUT THE OTHER

5

1 ONE.

2 MR. GRIMM: WELL, I CAN SAY WITH RESPECT TO THAT
3 SUBPOENA, MS. EVANS DRAFTED RESPONSES TO EACH AND EVERY
4 REQUEST. AND ON SEPTEMBER 17TH -- SEPTEMBER 18TH, 2009, SHE
5 PERSONALLY HANDED THE RESPONSES TO DICK SHINEE.

6 MR. SHINEE: WHO?

7 MR. GRIMM: YOU.

ARE

8 MR. DEBBAUDT: WELL, THAT'S WONDERFUL, EXCEPT THERE
9 THREE PARTIES HERE. I NEVER RECEIVED A COPY OF IT.

10 MR. SHINEE: AND I NEVER --

11

12 (OVERLAPPING COLLOQUY.)

13

OF

14 MR. SHINEE: -- SUBPOENAED. I HAVE NO RECOLLECTION
15 RECEIVING A COPY OF --

16 MR. GRIMM: HERE'S THE PROOF OF SERVICE THAT WAS

MAILED

17 TO EACH OF YOU.

18 HEARING OFFICER KERRIGAN: ARE WE TALKING ABOUT
19 SUBPOENAS NOW OR WHAT?

20 MR. DEBBAUDT: SUBPOENA DUCES TECUM FOR DOCUMENTS.

21 HEARING OFFICER KERRIGAN: OKAY.

22 MR. GRIMM: SIR, YOU ASKED FOR A RESPONSE. I'M
SAYING
23 THAT OBJECTIONS WERE SERVED ON EACH OF THE PARTIES, ON
24 MR. SHINEE, MR. IPSEN AND MR. DEBBAUDT. THE PROOF OF
SERVICE
25 IS DATED SEPTEMBER 18TH. OKAY. IT'S BEEN --

6

1 (OVERLAPPING COLLOQUY.)

2

3 MR. DEBBAUDT: -- PROOF OF SERVICE.

4 HEARING OFFICER KERRIGAN: IF YOU MADE AN OBJECTION
AND
5 TRANSMITTED IT TO COUNSEL, SHE NEVER TRANSMITTED IT TO ME.
SHE
6 NEVER MADE AN OBJECTION IN THIS PROCEEDING THAT I'M AWARE
OF.

7 MR. GRIMM: I'M SORRY, WHAT?

8 HEARING OFFICER KERRIGAN: SHE NEVER MADE ANY
OBJECTION
9 OR MOTION TO QUASH IN THIS PROCEEDING. AND SHE PRODUCED
10 WITNESSES AS WELL PURSUANT TO THOSE SUBPOENAS.

11 MR. DEBBAUDT: I MIGHT INDICATE THAT THE ATTACHED
PROOF

JUST

12 OF SERVICE HAS MR. SHINEE'S NAME AND ADDRESS AND THEN HAS
13 MY NAME AND JUST HAS STEVE IPSEN'S NAME WITH NO ADDRESS ON
14 EITHER OF US. AND I'VE NEVER RECEIVED ONE AND NONE WAS EVER
15 PERSONALLY SERVED ON ME.

16 HEARING OFFICER KERRIGAN: WELL, THE THING IS --

17 MR. SHINEE: AND I WAS NOT THE SUBPOENAING PARTY IN
18 THIS EVENT.

WOULD

19 HEARING OFFICER KERRIGAN: WELL, THERE WAS AN
20 UNDERSTANDING REACHED WHETHER OR NOT -- THAT THESE PEOPLE
21 BE PRODUCED INFORMALLY AND DONNA EVANS AGREED TO THAT.

THAN

22 MR. DEBBAUDT: THIS WASN'T A PERSON, THIS WAS
23 DOCUMENTS. IN FACT, YOU MIGHT RECALL, MR. KERRIGAN, MORE
24 ONCE YOU SUGGESTED OR INDICATED WHY WE HADN'T SUBPOENAED
25 DOCUMENTS. WHEN MR. ZAJEC TESTIFIED, HE MENTIONED THE

7

SAID:

1 POSSIBILITY OF SPECIFIC DOCUMENTS. I ASKED YOU -- AND THE
2 TRANSCRIPT SHOULD REFLECT THIS -- TO ORDER THAT AND YOU
3 NO. YOU CAN SUBPOENA THAT.

RENETZKY

4 AND I THEN DID SUBPOENA THAT WITH MR.

SAY,

5 AND WE'VE NEVER RECEIVED IT. AND IT'S BEEN, I'M GOING TO

AND

6 MONTHS. IT'S BEEN MONTHS SINCE THEY RECEIVED THAT SUBPOENA

NEVER

7 THEN THEY CLAIM THEY SERVED AN OBJECTION TO IT, BUT THEY
8 SERVED ONE ON ME.

9 HEARING OFFICER KERRIGAN: WELL --

THIS

10 MR. DEBBAUDT: IN FACT, MR. TREVOR [SIC] MENTIONED
11 MORNING WHEN WE CAME IN THAT HE HAD E-MAILED YOU ABOUT AN
12 AND I'VE NEVER RECEIVED THAT E-MAIL AND AS FAR AS I'M
13 CONCERNED, THAT'S AN EX-PARTE COMMUNICATION.

ISSUE

14 THERE ARE THREE ATTORNEYS ON THIS SIDE OF THE
15 CHARGING PARTIES. MR. TREVOR [SIC] THINKS HE NEEDS ONLY TO
16 COMMUNICATE TO ONE, THE ONE OF HIS CHOICE. I FIND THAT
17 UNPROFESSIONAL.

HIGHLY

18 AND FURTHERMORE, I MADE MANY AN E-MAIL
19 COMMUNICATION TO MR. TREVOR [SIC] AND NEVER HEARD A RESPONSE
20 ABOUT TODAY'S PROCEEDING AT ALL. SO MAYBE HE COMMUNICATED
21 SOMEONE BUT IT WAS NOT TO ME.

TO

22 HEARING OFFICER KERRIGAN: WELL, LET'S NOT GO FAR
23 AFIELD. THE POINT IS, WITNESSES WERE SUBPOENAED PURSUANT TO
24 PROCEDURE THAT'S BEEN SET UP IN THIS HEARING FOR, YOU KNOW -
25 HOW MANY MONTHS? I DON'T KNOW, EIGHT MONTHS OR SOMETHING.

A

-

8

DONNA

1 AND THE WITNESSES HAVE TESTIFIED. AND IF

2 EVANS OR ANYBODY ELSE HAD SOME TECHNICAL OBJECTIONS TO THE
3 SUBPOENAS, SHE SHOULD HAVE RAISED THEM IN FRONT OF ME. SHE
4 NEVER DID.

5 MR. GRIMM: MR. KERRIGAN, I'M NOT SURE WE'RE ON THE
6 SAME PAGE. YOU KEEP MENTIONING WITNESSES. THE SUBPOENA
THAT
7 THEY'RE DISCUSSING IS A SUBPOENA FOR DOCUMENTS ONLY FROM THE
8 COUNTY OF LOS ANGELES. THAT WAS SERVED ON, APPARENTLY,
9 MS. EVANS. I WASN'T HERE THEN.

10 HOWEVER, I DID LOOK IN THE FILE AND I FOUND
THAT
11 THERE ARE OBJECTIONS TO EACH OF THE DOCUMENT REQUESTS. AND
THE
12 PROOF OF SERVICE INDICATES -- ANYWAY, I DIDN'T DRAFT THE
PROOF
13 OF SERVICE -- BUT IT'S GOT ALL THEIR NAMES ON IT.

14 SO, YOU KNOW, I DON'T KNOW WHAT -- THERE WAS
NO
15 MEET AND CONFER OVER THESE OBJECTIONS THAT I'M AWARE OF.
THERE
16 WAS NO AGREEMENT, SO, YOU KNOW, MR. DEBBAUDT CAN DEMAND ALL
HE
17 WANTS.

18 HEARING OFFICER KERRIGAN: WELL --

19 MR. GRIMM: I'M REALLY NOT CONCERNED ABOUT HIS
PERSONAL
20 OPINION OF ME.

21 HEARING OFFICER KERRIGAN: ALL I KNOW IS, WITNESSES
22 WERE SUBPOENAED. I DON'T KNOW ANYTHING ABOUT SUBPOENAS JUST
23 FOR RECORDS.

24 MR. GRIMM: AND IT'S MR. GRIMM, NOT MR. TREVOR,
MORON.

25 HEARING OFFICER KERRIGAN: WERE THERE SUBPOENAS JUST

1 FOR RECORDS?

2 MR. SHINEE: DID YOU JUST REFER TO MR. DEBBAUDT AS A
3 MORON, SIR?

4 MR. GRIMM: NO.

5 MR. SHINEE: I THOUGHT YOU SAID MORON ON THE RECORD.
6 THAT KIND OF ARTICULATION IS VERY INAPPROPRIATE. WOULD YOU
7 APOLOGIZE?

8 MR. GRIMM: I'M NOT TALKING TO YOU.

KIND

9 MR. SHINEE: EXCUSE ME, ARE WE GOING TO HAVE THIS
10 OF DIALOGUE BETWEEN COUNSEL REFERRING TO --

11 HEARING OFFICER KERRIGAN: NO. WE'RE NOT GOING TO -

-

12 MR. SHINEE: -- OPPOSING COUNSEL AS A MORON?

13 HEARING OFFICER KERRIGAN: -- HAVE CROSS DIALOGUE AT
14 ALL DURING THE PROCEEDING. IF YOU'VE GOT SOMETHING TO SAY,

SAY

15 IT TO ME, BOTH OF YOU.

KIND

16 MR. SHINEE: WELL, THEN LET ME JUST SAY THAT THAT
17 OF DIALOGUE IN AN ADMINISTRATIVE PROCEEDING OR A COURT
18 PROCEEDING IS UNCALLED FOR.

19 HEARING OFFICER KERRIGAN: WELL --

20 MR. SHINEE: REFERRING TO MR. DEBBAUDT AS A MORON,
21 WHICH HE JUST DID IS --

AS
EXPECT
WE
10

22 HEARING OFFICER KERRIGAN: I DIDN'T HEAR IT. AS FAR
23 ANY AD HOMINEM COMMENTS, THOSE ARE NOT APPROPRIATE AND I
24 THAT COUNSEL WILL NOT MAKE THOSE IN THE FUTURE, ANY COUNSEL.
25 WHAT I WANT TO DO IS ADDRESS THE ISSUE HERE.

SHOWN
THEM.

1 HAD A SUBPOENA JUST FOR DOCUMENTS; IS THAT CORRECT?

2 MR. DEBBAUDT: YES.

3 HEARING OFFICER KERRIGAN: OKAY. AND NOBODY HAS
4 ME ANY OBJECTIONS OR -- I DIDN'T KNOW WHAT THE DOCUMENTS ARE
5 ABOUT.

6 MR. DEBBAUDT: ACTUALLY --

7 HEARING OFFICER KERRIGAN: I KNOW NOTHING ABOUT

8 MR. DEBBAUDT: -- WHEN I COMMUNICATED LAST WEEK,
9 REQUESTING THAT WE BE NOTIFIED ON WHAT WITNESSES WOULD BE
10 PRESENT, I ALSO ASKED FOR COMPLIANCE, AGAIN, WITH THE S.D.T.
11 AND I ATTACHED THE DOCUMENTS TO THE E-MAIL.

TO
UNTIL
IS

12 AND AT THAT TIME, MR. GRIMM NEVER RESPONDED,
13 NEVER SAID THEIR OBJECTIONS HAVE BEEN LODGED, NEVER BOTHERED
14 RESPOND AT ALL. AND I THINK THAT'S HIS TACTIC HERE, WAIT
15 THE LAST MOMENT, SURPRISE US AND WE GET NOWHERE. ALL WE GET
16 HOURS OF ARGUMENT AND NOTHING ACCOMPLISHED.

17 MR. GRIMM: OKAY. JUST LET ME BE CLEAR. MY
18 UNDERSTANDING OF THE PROCESS, AND THE REASON I DIDN'T
RESPOND
19 TO HIM IS, MERELY SERVING THE SAME SUBPOENA VIA E-MAIL AGAIN
TO
20 WHICH ALREADY OBJECTIONS HAVE BEEN SERVED DOESN'T DO
ANYTHING
21 TO ME.

22 IT DOESN'T LET ME KNOW ANYTHING. IT DOESN'T
23 ADDRESS THE OBJECTIONS. THERE'S NO MEET AND CONFER.
THERE'S
24 NO MOTION TO COMPEL. I MEAN, DO I HAVE TO, YOU KNOW --
OKAY,
25 THEY SERVED IT AGAIN. SO WHAT? RUSH AND PICK UP ALL THE

11

1 DOCUMENTS? I MEAN, I JUST DON'T GET IT.

2 MR. SHINEE: WELL, I THINK YOU GET THE FACT THAT THE
3 PROOF OF SERVICE IS DEFECTIVE. IT DOESN'T MAIL IT TO THE
PARTY
4 IN QUESTION.

5 MR. GRIMM: I DON'T --

6 MR. SHINEE: IT DIDN'T SUGGEST IN ANY FASHION THAT
IT
7 WAS DELIVERED TO MR. DEBBAUDT, WHO WAS THE PARTY WHO
SUBPOENAED
8 THE DOCUMENTS. I THINK YOU GET THAT MUCH, DON'T YOU?

9 MR. GRIMM: IF, IN FACT, IT WAS NOT MAILED TO THEM -

-

10 MR. SHINEE: WELL, THE PROOF OF SERVICE SAYS ON ITS
11 FACE IT WASN'T.

12 MR. GRIMM: IT DOES?

13 MR. SHINEE: YES.

14

15 (OVERLAPPING COLLOQUY.)

16

17 MR. SHINEE: IT GIVES HIS NAME, MARC DEBBAUDT. IT
18 DOESN'T GIVE A MAILING ADDRESS, IT DOESN'T SAY IT WAS E-
MAILED,
19 IT DOESN'T SAY ANYTHING.

20 HEARING OFFICER KERRIGAN: WHAT'S THE NEXT DAY OF
21 HEARING WE HAVE IN THIS CASE?

22 MR. DEBBAUDT: FRIDAY THE 22ND.

23 HEARING OFFICER KERRIGAN: OKAY. MAKE A MOTION.
MAKE

24 A WRITTEN MOTION WITH POINTS AND AUTHORITIES, AND WE'LL DEAL
25 WITH IT THEN.

12

1 MR. GRIMM: IF THEY WANT TO ADDRESS THE ARGUMENTS,
2 I'M --

3 MR. DEBBAUDT: I HAVEN'T RECEIVED ARGUMENTS.

4 MR. GRIMM: OKAY. I'LL GET YOU A COPY.

5 HEARING OFFICER KERRIGAN: THEY'RE GOING TO MAKE A
6 MOTION, A WRITTEN MOTION, WITH POINTS AND AUTHORITIES AND
YOU
7 CAN RESPOND TO THAT.

8 MR. GRIMM: THAT'S FINE.

22ND.

9 HEARING OFFICER KERRIGAN: WE'LL HEAR IT ON THE

10 MR. GRIMM: THAT'S FINE, OR IF HE WANTS TO MEET AND
11 CONFER FIRST, THAT'S FINE ALSO.

TWO

12 HEARING OFFICER KERRIGAN: I'LL LEAVE THAT TO THE
13 OF YOU. OKAY.

14 ANYTHING ELSE?

TECUM

15 MR. SHINEE: I HAD AN OUTSTANDING SUBPOENA DUCES
16 FOR THE RECORDS OF PETER BURKE. I HAVEN'T RECEIVED ANY
17 DOCUMENTS. I RECEIVED AN OBJECTION TO THOSE ON THE BASIS
18 THE SUBPOENA WAS ON THE WRONG FORM, AND TO A PRIVATE LAW
19 I'LL SUBMIT. DID YOU --

THAT

FIRM.

20 MR. GRIMM: I HAVE THE -- OKAY. LET ME JUST -- AS A
21 MATTER OF PROCEDURE, IF WE OBJECT TO A SUBPOENA THAT THEY
22 ISSUE, ARE WE REQUIRED TO FILE THAT WITH THE COMMISSION?

23 HEARING OFFICER KERRIGAN: YOU'RE ALLOWED TO PUT IT

--

24

25 (OVERLAPPING COLLOQUY.)

13

YOU'RE

1 MR. DEBBAUDT: YOU KNOW, I OBJECT, MR. KERRIGAN,
2 NOT HERE TO GIVE HIM ADVICE. HE'S AN ATTORNEY AND HE SHOULD
3 KNOW THE RULES. OTHERWISE I'D ASK YOU: HOW DO I WIN THIS

CASE

4 TODAY AND GET IT OVER WITH? CAN YOU GIVE ME THAT ADVICE?

5 THIS IS PREPOSTEROUS. AND YET HE CALLS ME A
6 NAME.

7 HEARING OFFICER KERRIGAN: WELL, LET'S GET TO THE
8 POINT. IF ANYBODY WANTS COMPLIANCE WITH A SUBPOENA, THEY'VE
9 GOT TO MAKE A MOTION, BECAUSE I OBVIOUSLY DON'T KNOW
ANYTHING
10 ABOUT WHAT THE PROBLEM IS, WHAT THE OBJECTIONS ARE OR
ANYTHING
11 UNLESS IT'S BROUGHT IN FRONT OF ME. AND IT HASN'T BEEN.

12 YOU CAN DO THAT, MR. SHINEE, ON THE 22ND AS
13 WELL.

14 MR. SHINEE: ALL RIGHT.

15 MR. GRIMM: PERFECT.

16 HEARING OFFICER KERRIGAN: ANYTHING FURTHER?

17 MR. GRIMM: NO.

18 HEARING OFFICER KERRIGAN: ARE WE GOING TO HAVE
19 WITNESSES THIS MORNING?

20 MR. SHINEE: IT'S OUR FONDEST HOPE TO HAVE WITNESSES
21 TODAY.

22 MR. GRIMM: WE HAVE ONE READY.

23 HEARING OFFICER KERRIGAN: OKAY. LET'S BRING HER
IN.

24

25 (PAUSE IN THE PROCEEDINGS.)

14

1 HEARING OFFICER KERRIGAN: PLEASE STEP FORWARD.

2 THE WITNESS: SURE. RIGHT HERE?

3 HEARING OFFICER KERRIGAN: YES. GOOD MORNING.

4 THE WITNESS: GOOD MORNING.

5 MR. GRIMM: JACKIE, DO YOU STILL HAVE THE TRANSCRIPT
6 THAT YOU HAD, THE CONDENSED?

7

8 (PAUSE IN THE PROCEEDINGS.)

9

10 HEARING OFFICER KERRIGAN: YOU'VE PREVIOUSLY
TESTIFIED

11 IN THIS PROCEEDING, BUT I'LL SWEAR YOU AGAIN.

12

13 JACQUELYN LACEY,

14 PRODUCED AS A WITNESS BY AND ON BEHALF OF THE CHARGING
PARTY,

15 AND HAVING BEEN PREVIOUSLY SWORN BY THE HEARING OFFICER, WAS
16 EXAMINED AND TESTIFIED AS FOLLOWS:

17

18 HEARING OFFICER KERRIGAN: OKAY. PROCEED, COUNSEL.

19 MR. DEBBAUDT: THANK YOU.

20

21 DIRECT EXAMINATION (RESUMED)

22

23 BY MR. DEBBAUDT:

24 Q MS. LACEY, HAS MR. COOLEY OR ANY MEMBER OF
THE

25 EXECUTIVE STAFF DIRECTED THAT STRATEGIC THREAT ASSESSMENT BE

1 CONDUCTED ON ANY MEMBER OF THE A.D.D.A. BOARD?

2 A WELL, OF MR. BOZAJIAN.

3 Q ANY OTHER MEMBERS?

4 A NO.

5 HEARING OFFICER KERRIGAN: I'M SORRY, WHAT WAS THE
6 RESPONSE, MR. WHO?

7 THE WITNESS: MR. BOZAJIAN.

8 HEARING OFFICER KERRIGAN: OKAY.

9 THE WITNESS: JAMES BOZAJIAN.

10 HEARING OFFICER KERRIGAN: OKAY. THANK YOU.

11 BY MR. DEBBAUDT:

12 Q HOW ABOUT ME?

13 A NO.

14 Q OKAY. THE LAST TIME YOU TESTIFIED, YOU
15 MENTIONED THAT MR. COOLEY HAD A CONVERSATION WITH A JUDGE

FROM

16 PASADENA AND BECAUSE OF THAT CONVERSATION MR. COOLEY ORDERED
17 TRANSFERRED TO JUVENILE.

ME

18 IS THAT AN ACCURATE REFLECTION OF YOUR PRIOR
19 TESTIMONY?

20 A YES.

21 Q SINCE THAT TIME, HAVE YOU HAD ANY ADDITIONAL
22 CONVERSATIONS WITH MR. COOLEY ABOUT THAT?

23 A NO.

24 Q DID YOU REQUEST THAT ANYONE SECURE A COPY OF

ANY

25 TRANSCRIPT OF ANY COURT PROCEEDING IN WHICH I MADE --

1 ALLEGEDLY, MADE THIS STATEMENT TO A JUDGE?

2 HEARING OFFICER KERRIGAN: DO YOU UNDERSTAND THE
3 QUESTION?

THE

4 THE WITNESS: I DO. BUT IT ASSUMES THAT IT WAS ON
5 RECORD. I WAS -- MY TESTIMONY WAS THAT IT WAS MADE. I'M

NOT

6 SURE WHETHER IT WAS ON THE RECORD OR OFF THE RECORD. THAT'S
7 WHY I PAUSED.

8 HEARING OFFICER KERRIGAN: OKAY.

9 WHY DON'T YOU REPHRASE THE QUESTION?

10 MR. DEBBAUDT: NO. I'LL ACCEPT THAT AS THE ANSWER.

11 HEARING OFFICER KERRIGAN: OKAY.

12 BY MR. DEBBAUDT:

THE

13 Q DID YOU DO ANYTHING TO FIND OUT IF IT WAS ON

IT?

14 RECORD OR OFF THE RECORD IN ORDER TO SECURE A TRANSCRIPT OF

15 A NO.

16 Q AT THE TIME OF THIS CONVERSATION WITH
17 MR. COOLEY, WAS MR. WHITE THE HEAD DEPUTY OF PASADENA?

18 A YES.

19 Q MR. WHITE'S A PERSONAL FRIEND OF YOURS?

WHITE

20 A WE'RE FRIENDLY. I WOULDN'T DESCRIBE MR.

21 AS A PERSONAL FRIEND --

OF

17

22 Q DID YOU ASK --

23 A -- BUT WE'RE FRIENDLY.

24 Q -- HEAD DEPUTY KERRY WHITE, WHO WAS IN CHARGE

25 PASADENA WHEN I WAS THERE, CORRECT, DID YOU ASK HIM TO

THE

1 INVESTIGATE THE TRUTH OF THIS ALLEGATION WHICH WAS MADE BY

2 JUDGE?

3 A I DID NOT.

4 Q DID YOU ASK MR. WHITE TO FIND OUT WHAT, IF

5 ANYTHING, I ALLEGEDLY SAID TO THIS JUDGE?

6 A NO.

7 Q DID MR. WHITE OR ANYONE INFORM YOU THAT ANY

8 JUDGE IN PASADENA HAD EVER DISCUSSED MY HANDLING OF STRIKE

9 CASES?

10 MR. GRIMM: OBJECTION. IT'S COMPOUND.

11 HEARING OFFICER KERRIGAN: I'M SORRY?

12 MR. GRIMM: IT'S COMPOUND.

13 HEARING OFFICER KERRIGAN: OVERRULED.

PLEASE,

14 THE WITNESS: WOULD YOU SAY THE QUESTION AGAIN,
15 MR. DEBBAUDT?

16 BY MR. DEBBAUDT:

HANDLING

17 Q DID MR. WHITE EVER DISCUSS WITH YOU MY

18 OF STRIKE CASES AT ALL?

19 A NO, NOT --
20 Q DID HE EVER --
21 A -- WITH ME.
22 Q -- DISCUSS WITH YOU --
23 HEARING OFFICER KERRIGAN: YOU'VE GOT TO GIVE HER A
24 CHANCE TO ANSWER. JUST PAUSE FOR THE ANSWER, BECAUSE YOU'RE
25 CUTTING HER OFF. THE REPORTER IS GOING TO HAVE PROBLEMS.

18

1 MR. DEBBAUDT: THANK YOU, MR. KERRIGAN.

2 DID YOU GET THE ANSWER OF "NO"?

3 BY MR. DEBBAUDT:

4 Q DID YOU EVER DISCUSS WITH MR. WHITE ANY
5 STATEMENTS I HAD EVER MADE ABOUT THREE STRIKES CASES?

6 A NO.

7 Q AND AT THE TIME THIS STATEMENT WAS ALLEGEDLY
8 MADE BY ME, MR. ZAJEC WAS THE DIRECTOR IN CHARGE OF MR.

WHITE;

9 IS THAT CORRECT?

10 A THAT'S CORRECT.

11 Q DID YOU ASK MR. ZAJEC TO INVESTIGATE THE

TRUTH

12 OF ANY ALLEGATION I MAY HAVE MADE TO THIS JUDGE?

13 A NO.

14 Q DID YOU DIRECT ANYONE TO ASK ME WHAT, IF
15 ANYTHING, I MAY HAVE SAID TO THIS JUDGE?

16 A NO.

I

17 Q DID YOU PERSONALLY ASK ME WHAT, IF ANYTHING,
18 MAY HAVE SAID TO THIS JUDGE?

19 A NO.

SAID

20 Q DID YOU EVER GO TO THE JUDGE HIMSELF OR ASK
21 ANYONE TO GO TO THE JUDGE AND ASK HIM WHAT, IF ANYTHING, I
22 TO THIS JUDGE?

23 A YOUR QUESTION IS --

24 MR. GRIMM: COMPOUND.

25 THE WITNESS: -- COMPOUND, SO...

19

1 BY MR. DEBBAUDT:

JUDGE

2 Q DID YOU EVER GO TO THE JUDGE AND ASK THE
3 WHAT I SAID TO THE JUDGE?

4 A NO.

5 Q DID YOU DIRECT ANYBODY TO GO TO THE JUDGE AND
6 ASK THE JUDGE WHAT I SAID TO THIS JUDGE?

7 A NO.

DID

ALLEGATION

8 Q BEFORE YOU ORDERED MY TRANSFER TO JUVENILE,
9 MR. COOLEY ASK YOU TO INVESTIGATE THE TRUTH OF THIS
10 MADE BY THE JUDGE?

11 A I DON'T BELIEVE I SAID I ORDERED YOU
12 TRANSFERRED.

13 Q OKAY. MR. COOLEY ORDERED MY TRANSFER;
CORRECT?
14 A YES.
15 Q AND HE DIRECTED YOU TO ARRANGE THAT?
16 A HE DIRECTED MR. SPILLANE TO ASK ME TO ASK THE
17 DIRECTORS TO TRANSFER YOU TO JUVENILE.
18 Q DID HE ASK YOU OR ANYBODY, TO YOUR KNOWLEDGE
--
19 MR. COOLEY, DID HE ASK YOU OR ANYBODY, TO
YOUR
20 KNOWLEDGE, TO INVESTIGATE THE TRUTH OF THIS ALLEGATION?
21 MR. GRIMM: OBJECTION. IT'S COMPOUND.
22 HEARING OFFICER KERRIGAN: I DON'T BELIEVE IT IS.
READ
23 BACK THE QUESTION.
24
25 (RECORD READ.)
20
1 HEARING OFFICER KERRIGAN: JUST THE LAST PART OF
THAT.
2 GO AHEAD AND START THE -- WELL, JUST ASK A NEW QUESTION.
3 BY MR. DEBBAUDT:
4 Q OKAY. DID MR. COOLEY ASK YOU TO INVESTIGATE
THE
5 TRUTH OF THIS ALLEGATION?
6 A NO.
7 Q TO YOUR KNOWLEDGE, DID MR. COOLEY ASK ANYONE
TO
8 INVESTIGATE THE TRUTH OF THIS ALLEGATION?

9 A I BELIEVE HE DID.

10 Q WHO?

11 A I BELIEVE THAT MR. SPILLANE MAY HAVE BEEN
ASKED
12 TO INVESTIGATE OR CALL AND GET THE --

13 Q SO YOU DID HAVE A CONVERSATION --

14 A I'M SORRY, I DIDN'T FINISH MY ANSWER, PLEASE.

15 Q EXCUSE ME. I THOUGHT YOU WERE DONE.

16 A I BELIEVE THAT MR. COOLEY ASKED MR. SPILLANE
TO

17 CALL THE JUDGE WHO REPORTED IT TO MR. COOLEY TO ASK WHAT WAS
18 SAID.

19 Q WHY DO YOU BELIEVE THAT?

20 A WELL, BECAUSE I WAS SITTING THERE.

21 Q SO YOU WERE PRESENT WHEN MR. COOLEY ASKED
22 MR. SPILLANE TO CALL THE JUDGE?

23 A YES.

24 Q DID HE SAY WHAT JUDGE, WHO THE JUDGE WAS?

25 A I DON'T KNOW IF HE SAID IT. I BELIEVED IT
WAS

21

1 JUDGE DE VANAN WHO SPOKE TO MR. COOLEY. I DON'T KNOW WHERE
--

2 I DIDN'T HEAR MR. COOLEY SAY JUDGE DE VANAN, BUT I BELIEVE
3 THAT'S WHO IT WAS.

4 Q WHY DO YOU BELIEVE IT WAS JUDGE DE VANAN?

5 A ONLY BECAUSE SOMEONE -- EITHER MR. SPILLANE

6 MENTIONED IT OR MR. COOLEY. I'M NOT REALLY SURE HOW I GOT
THAT 7 INFORMATION.

8 Q DO YOU RECALL PREVIOUSLY TESTIFYING THAT YOU
9 DIDN'T KNOW WHO THE JUDGE WAS?

10 A I DIDN'T KNOW WHO THE JUDGE WAS WHO YOU SAID
IT 11 TO.

12 WHAT I'M SAYING IS, WHO WAS THE JUDGE -- WHAT
I 13 THOUGHT THE QUESTION WAS: WHO WAS THE JUDGE WHO TOLD
14 MR. COOLEY, NOT WHO WAS THE JUDGE WHO MR. DEBBAUDT SAID IT
TO.

15 HEARING OFFICER KERRIGAN: OKAY. I THINK YOU'D
BETTER 16 CLARIFY THAT. THERE'S TWO DIFFERENT JUDGES, APPARENTLY THE
17 JUDGE WHO REPORTED IT AND THE JUDGE WHO HEARD IT.
18 BY MR. DEBBAUDT:

19 Q DO YOU KNOW WHETHER THE JUDGE WHO ACTUALLY
HEARD 20 IT TOLD MR. COOLEY I SAID SOMETHING?

21 A I DON'T THINK IT WAS THE JUDGE WHO ACTUALLY
22 HEARD IT. I BELIEVE THAT THE JUDGE WHO TOLD MR. COOLEY IT
WAS 23 SAID WAS JUDGE DE VANAN.

24 Q OKAY. SO YOU BELIEVE THAT I ALLEGEDLY MADE A
25 STATEMENT TO A JUDGE. THAT JUDGE TOLD MR. DE VANAN -- JUDGE

1 DE VANAN, AND JUDGE DE VANAN THEN TOLD MR. COOLEY.

2 IS THAT CORRECT?

3 MR. GRIMM: COMPOUND.

4 HEARING OFFICER KERRIGAN: THAT IS COMPOUND.

5 MR. GRIMM: CALLS FOR SPECULATION.

6 HEARING OFFICER KERRIGAN: SUSTAINED.

7 BY MR. DEBBAUDT:

8 Q SO FROM WHAT YOU BELIEVE, I ALLEGEDLY TOLD
SOME

9 UNKNOWN JUDGE THIS STATEMENT; IS THAT CORRECT?

10 HEARING OFFICER KERRIGAN: DO YOU KNOW WHO THE JUDGE

11 WAS WHO ACTUALLY HEARD THE STATEMENT?

12 THE WITNESS: I DON'T.

13 HEARING OFFICER KERRIGAN: OKAY.

14 THE WITNESS: I DON'T. AND HE'S ASKING WHAT I
BELIEVE

15 HE SAID. THAT'S WHERE THE CONFUSION IS.

16 HEARING OFFICER KERRIGAN: YES. IT'S NOT A QUESTION
OF

17 WHAT HER BELIEF IS, IT'S WHAT SHE HEARD.

18 REPHRASE THE QUESTION.

19 BY MR. DEBBAUDT:

20 Q IT'S YOUR UNDERSTANDING THAT IT WAS JUDGE

21 DE VANAN WHO TOLD MR. COOLEY; CORRECT?

22 A CORRECT.

23 Q BUT IT'S ALSO YOUR UNDERSTANDING THAT IT WAS
NOT

24 JUDGE DE VANAN WHO I ALLEGEDLY MADE THE STATEMENT TO?

25 A THAT'S CORRECT.

1 Q IS IT YOUR UNDERSTANDING WHETHER OR NOT JUDGE
2 DE VANAN WAS PRESENT WHEN I MADE THIS STATEMENT?

3 A I DIDN'T HAVE THAT KNOWLEDGE.

4 Q HAVE YOU TALKED TO MR. SPILLANE AT ALL ABOUT
5 WHAT THE RESULTS OF HIS INVESTIGATION WAS?

6 A NO.

7 Q DO YOU KNOW WHETHER IT WAS MR. SPILLANE
HIMSELF
8 WHO MADE CONTACT WITH JUDGE DE VANAN?

9 A NO.

10 Q DO YOU KNOW WHETHER OR NOT MR. SPILLANE
ASSIGNED
11 SOMEBODY TO INVESTIGATE?

12 A I DON'T KNOW.

13 Q DO YOU KNOW WHETHER OR NOT ANYBODY ACTUALLY -
-
14 MR. SPILLANE OR ANYONE, ACTUALLY CONTACTED MR. DE VANAN?

15 A I DON'T KNOW.

16 Q NOW, DO YOU KNOW WHETHER OR NOT MR. COOLEY
17 WANTED SPILLANE TO ASK ME ABOUT WHAT, IF ANYTHING, I MAY
HAVE
18 SAID?

19 HEARING OFFICER KERRIGAN: WOULD YOU REPEAT THE
20 QUESTION? I DIDN'T HEAR IT.
21 BY MR. DEBBAUDT:

22 Q DO YOU KNOW WHETHER OR NOT MR. COOLEY ASKED
23 MR. SPILLANE TO ASK ME WHAT I MAY HAVE SAID?

24 MR. GRIMM: CALLS FOR SPECULATION. NO FOUNDATION.

25 HEARING OFFICER KERRIGAN: OVERRULED.

24

1 THE WITNESS: I DON'T KNOW WHETHER MR. COOLEY ASKED
2 MR. SPILLANE TO ASK --
3 BY MR. DEBBAUDT:

4 Q DO YOU KNOW WHETHER ANYBODY --

5 A I'M SORRY --

6 HEARING OFFICER KERRIGAN: COUNSEL, YOU'VE GOT TO
GIVE
7 HER A CHANCE TO FINISH HER ANSWER. YOU'VE DONE THIS AND
I'VE
8 TOLD YOU BEFORE, YOU'VE GOT TO GIVE HER A CHANCE TO ANSWER
THE
9 QUESTION.

10 MR. DEBBAUDT: MR. KERRIGAN, WHEN SHE SAYS: I DON'T
11 BELIEVE MR. COOLEY ASKED SPILLANE, I REASONABLY THOUGHT THAT
12 WAS THE END OF THE ANSWER.

13 HEARING OFFICER KERRIGAN: YOU CUT HER OFF BEFORE
SHE
14 EVEN FINISHED THAT STATEMENT. YOU'RE CUTTING HER OFF.
YOU'VE
15 GOT TO GIVE --

16 MR. DEBBAUDT: I'M SORRY.

17 HEARING OFFICER KERRIGAN: PAUSE A SECOND. RELAX.

18 MR. DEBBAUDT: ALL RIGHT.

19 MR. SHINEE: IT'S ALWAYS EASIER TO RELAX WHEN
THEY'RE
20 NOT POUNDING THE NAILS INTO YOUR PALM.

21 THE WITNESS: CAN I HAVE THE -- IF I MAY ASK THE
22 HEARING OFFICER, CAN I HAVE MY ANSWER READ BACK SO I CAN
KNOW
23 WHERE I LEFT OFF?
24 HEARING OFFICER KERRIGAN: READ BACK THE ANSWER,
25 PLEASE.

25

1 (RECORD READ.)

2

3 THE WITNESS: I DON'T KNOW WHETHER MR. COOLEY ASKED
4 MR. SPILLANE TO ASK MR. DEBBAUDT WHETHER HE SAID THE REMARK.

5 HEARING OFFICER KERRIGAN: OKAY. NEXT QUESTION.
6 BY MR. DEBBAUDT:

7 Q DO YOU KNOW WHETHER ANYBODY WAS DIRECTED TO
ASK
8 ME FOR AN EXPLANATION?

9 A I DO NOT KNOW.

10 Q NOW, FROM WHAT YOU UNDERSTAND, I ALLEGEDLY
MADE
11 SOME COMMENT ABOUT THREE STRIKES; CORRECT?

12 A ABOUT MR. COOLEY'S -- DISAGREEMENT WITH
13 MR. COOLEY'S THREE STRIKES POLICY.

14 Q OKAY. AND APPARENTLY THAT WAS SOMETHING
15 MR. COOLEY WANTED TO STOP ME FROM DOING; CORRECT?

16 MR. GRIMM: OBJECTION.

17 HEARING OFFICER KERRIGAN: YES. THAT CALLS FOR A

18
QUALIFIED

CONCLUSION OF MR. COOLEY'S STATE OF MIND. SHE'S NOT

19 TO DO THAT. SUSTAINED.

20 BY MR. DEBBAUDT:

21 Q TO YOUR KNOWLEDGE, WAS THE REASON WHY HE
22 TRANSFERRED ME WAS TO PUNISH ME FOR MAKING THAT STATEMENT?

23 MR. GRIMM: CALLS FOR SPECULATION.

24 BY MR. DEBBAUDT:

25 Q TO YOUR KNOWLEDGE.

26

1 HEARING OFFICER KERRIGAN: OKAY. YOU CAN ANSWER THE
2 QUESTION, IF YOU UNDERSTAND THE QUESTION.

3 DO YOU HAVE ANY KNOWLEDGE WHY --

4 THE WITNESS: I DON'T KNOW THE ANSWER TO THAT
QUESTION.

5 BY MR. DEBBAUDT:

6 Q OKAY. DID MR. COOLEY DIRECT ANYONE, YOU OR
7 ANYONE, TO YOUR KNOWLEDGE, TO ADMONISH ME OR REPRIMAND ME SO
8 THAT I WOULDN'T MAKE SUCH A STATEMENT IN THE FUTURE?

9 MR. GRIMM: IT'S COMPOUND. IT'S VAGUE. AND IT
CALLS

10 FOR SPECULATION.

11 HEARING OFFICER KERRIGAN: OVERRULED.

12 DO YOU UNDERSTAND THE QUESTION?

13 THE WITNESS: NO. WELL, THE --

14 HEARING OFFICER KERRIGAN: REPHRASE THE QUESTION.

15 BY MR. DEBBAUDT:

16 Q MR. COOLEY RETURNS FROM SOME PARTY --
17 WERE YOU AT THAT PARTY, MS. LACEY?
18 A NO.
19 Q HE RETURNED FROM SOME OCCASION, SOME PARTY --
20 MR. GRIMM: I'M SORRY --
21 MR. SHINEE: COULD WE TAKE A BREAK?
22 MR. GRIMM: I CAN'T HEAR WHAT'S GOING ON.
23 MR. SHINEE: CAN WE TURN OFF THE SOUND SYSTEM?
24 HEARING OFFICER KERRIGAN: YEAH.
25 MR. GRIMM: THANKS.

27

1 HEARING OFFICER KERRIGAN: DO YOU KNOW HOW TO DO IT?
2 MR. SHINEE: YEAH, I RIP A BUNCH OF WIRES OUT.
3 HEARING OFFICER KERRIGAN: OKAY. WHATEVER WORKS. I
4 THINK THERE'S A BUTTON, HE SAID, DOWN THERE.
5 MR. SHINEE: THERE IS A BUTTON HERE, I'M JUST
LOOKING
6 FOR IT.
7 THE REPORTER: ALLOW ME.
8
9 (PAUSE IN THE PROCEEDINGS.)
10
11 MR. SHINEE: VERY GOOD. SHE KNOWS THE BUTTON. I
12 DIDN'T HAVE TO RIP ANY WIRES OUT.
13 CAN WE NOT HAVE COUNSEL CONFERRING WITH THE

14 WITNESS WHILE SHE'S TESTIFYING?
15 HEARING OFFICER KERRIGAN: IT'S INAPPROPRIATE,
COUNSEL.
16 MR. SHINEE: PLEASE CAN WE HAVE SOME DECORUM HERE?
17 BY MR. DEBBAUDT:
18 Q WHAT DID MR. GRIMM JUST TELL YOU?
19 A HE TOLD ME NOT TO LET YOU BREAK UP MY ANSWER
AND
20 TO ANSWER THE QUESTIONS.
21 Q ANYTHING ELSE?
22 MR. GRIMM: OBJECTION. IT'S ATTORNEY/CLIENT
PRIVILEGE.
23 MR. SHINEE: THERE'S NO PRIVILEGE.
24 HEARING OFFICER KERRIGAN: SHE'S NOT YOUR CLIENT.
25 MR. GRIMM: SHE IS.
28

1 MR. SHINEE: SHE'S NOT. SHE'S JUST A MEMBER OF THE
2 STAFF OF THE DISTRICT ATTORNEY'S OFFICE.
3 MR. GRIMM: SHE'S A DEFENDANT IN A FEDERAL LAWSUIT.
4 AND THE SAME FACTS THAT THIS HEARING IS BASED ON ARE ALLEGED
IN
5 THAT LAWSUIT. AND I'M REPRESENTING HER PERSONALLY IN THAT
6 LAWSUIT.
7 MR. SHINEE: OKAY. BUT THAT'S NOT IN THIS CASE,
SIR.
8 AND --
9 MR. GRIMM: WELL, I'M ASSERTING THE PRIVILEGE
ANYWAY,

10 SO THE JUDGE -- MR. KERRIGAN CAN RULE ON IT.

THAT

11 HEARING OFFICER KERRIGAN: IS THERE ANYTHING ELSE

12 MR. GRIMM SAID TO YOU?

13 THE WITNESS: HE ASKED ME NOT TO FIRE BACK AT
14 MR. DEBBAUDT, AND JUST TO ANSWER THE QUESTIONS.

15 HEARING OFFICER KERRIGAN: OKAY. NEXT QUESTION.

16 BY MR. DEBBAUDT:

WHERE

17 Q MR. COOLEY WAS AT A PARTY OR AN OCCASION

18 HE HEARD FROM JUDGE DE VANAN.

19 THAT'S YOUR UNDERSTANDING; CORRECT?

20 A YES.

RETURNING

21 Q HE RETURNED FROM THAT PARTY AND UPON

TO

22 FROM THAT PARTY HE DIRECTED YOU TO ARRANGE FOR MY TRANSFER

23 JUVENILE; IS THAT CORRECT?

24 MR. GRIMM: OBJECTION. IT'S COMPOUND.

25 HEARING OFFICER KERRIGAN: OVERRULED.

29

1 THE WITNESS: HE DIRECTED MR. SPILLANE TO TELL ME TO
2 TELL THE DIRECTORS TO TRANSFER YOU TO JUVENILE.

3 BY MR. DEBBAUDT:

4 Q WERE YOU IN THE ROOM WHEN HE DIRECTED
5 MR. SPILLANE TO DO THAT?

6 A NOT INITIALLY.

7 Q AND THEN YOU WERE IN THE ROOM AT SOME POINT?

8 A YES.

9 Q AND WAS IT MR. SPILLANE WHO TOLD YOU OR WAS

IT

10 MR. COOLEY WHO TOLD YOU TO TRANSFER ME?

11 A IF I MAY EXPLAIN THE SEQUENCE OF EVENTS,

BECAUSE

12 I THINK THAT THERE'S SOME CONFUSION HERE.

13 THERE WAS AN INITIAL DISCUSSION THAT JUDGE

14 DE VANAN HAD TOLD MR. COOLEY THAT YOU WERE SAYING SOME

15 CRITICISM IN COURT ABOUT HIS THIRD-STRIKE POLICY. SOME TIME

16 PASSED AND SOME DAYS PASSED AND MR. SPILLANE CAME TO ME, WE

17 WERE TALKING ABOUT TRANSFERS. WE WERE IN THE MIDST OF

18 ARRANGING TRANSFERS.

19 MR. SPILLANE CAME TO ME AND SAID: PUT

20 MR. DEBBAUDT ON THERE. AND MR. DEBBAUDT IS GOING TO BE

21 TRANSFERRED TO EAST LAKE JUVENILE.

22 Q HOW MUCH TIME PASSED BETWEEN THE TIME OF THE

--

23 MR. COOLEY LEARNED FROM JUDGE DE VANAN WHEN YOU WERE

DIRECTED

24 TO PUT ME INTO EAST LAKE?

25 A I THINK IT WAS DAYS. IT COULD HAVE BEEN A

30

1 COUPLE OF WEEKS.

2 Q AND AT ANY POINT IN THE INTERIM OR AT THAT

POINT

3 DID --

4 AT ANY POINT IN THE INTERIM, DID YOU HAVE ANY
5 CONVERSATION WITH MR. COOLEY ABOUT THAT?

6 A NOT IN THE INTERIM, NO.

7 Q AND AFTER THAT?

8 A AFTER THAT, YES.

9 Q SO AS SOON AS YOU LEARNED FROM MR. SPILLANE,
DID
10 YOU GO TALK TO MR. COOLEY ABOUT IT?

11 A THAT ASSUMES SOMETHING I DIDN'T SAY. I
DIDN'T
12 SAY AS SOON AS -- NO.

13 Q AT SOME POINT, AFTER YOU LEARNED FROM
14 MR. SPILLANE, DID YOU GO TALK TO MR. COOLEY ABOUT IT?

15 A AT SOME POINT, AFTER I SPOKE WITH THE
DIRECTORS
16 AND WE TALKED ABOUT IT A BIT, SEVERAL DAYS PASSED AND I DID
GO
17 BACK IN TO TALK WITH MR. SPILLANE AND MR. COOLEY. AND
18 MS. DIXON SILVA MIGHT HAVE BEEN THERE.

19 HEARING OFFICER KERRIGAN: JUST A SECOND, MR.
DEBBAUDT.

20 ARE YOU CONTENDING THAT YOU WERE TRANSFERRED
21 BASED ON -- IF IT WAS BASED ON THE FACT THAT YOU CRITICIZED
THE
22 DISTRICT ATTORNEY'S POLICY?

23 IS IT A VIOLATION OF SOME RULES THAT WE
ENFORCE
24 IN THIS AGENCY?

25 MR. DEBBAUDT: NO. QUITE THE CONTRARY, I'M ARGUING
AND

1 INVESTIGATION

2 IT'S

3 THERE'S

4 TO

5 IS,

6

7

8

9

10 FOR

11 DO

12

13

14

15

16

17

18

19

20

INTEND TO PROVE THAT'S A COMPLETE LIE. THAT NO

WAS DONE, THAT I NEVER SAID SUCH A THING TO A JUDGE. THAT

BASED ON ON HEARSAY, MULTIPLE HEARSAY, THAT ALLEGEDLY

THIS UNKNOWN JUDGE TO WHOM THIS JUDGE, MR. DE VANAN, TALKED

WHO I'VE NEVER EVEN MET. I DON'T KNOW WHO JUDGE DE VANAN

NOR HAVE I EVER TALKED TO JUDGE DE VANAN AT SOME PARTY --

HEARING OFFICER KERRIGAN: THAT'S NOT MY QUESTION.

MR. DEBBAUDT: -- WITH MR. COOLEY --

HEARING OFFICER KERRIGAN: THAT'S NOT MY QUESTION.

MR. DEBBAUDT: IT'S A PRETEXT.

HEARING OFFICER KERRIGAN: IF YOU WERE TRANSFERRED

ANY REASON, OTHER THAN ANTI-UNION ANIMUS, WHAT JURISDICTION

I HAVE?

MR. DEBBAUDT: NO. WHAT I WAS TRYING --

(OVERLAPPING COLLOQUY.)

MR. SHINEE: I THINK WHAT MR. DEBBAUDT IS SAYING IS

THAT IT WAS A COMPLETE PRETEXT, THAT IT WAS A CONCOCTED

RATIONALIZATION TO TRANSFER HIM. AND THEY MADE THIS UP FOR

PURPOSES OF JUSTIFYING A TRANSFER. AND WE'RE SAYING THAT'S

ANTI-UNION ANIMUS.

IT 23 HEARING OFFICER KERRIGAN: WELL, YOU SAY THEY MADE
ABOUT 24 UP, BUT HE'S ALREADY ADMITTED HE WAS CRITICAL OF THE D.A.
25 THE THREE --

32

1 MR. SHINEE: NO, HE HASN'T SAID THAT.
2 HEARING OFFICER KERRIGAN: NO, HE SAID THAT. HE
SAID 3 HE WAS CRITICAL AND HE DIDN'T SAY IT PUBLICLY, BUT HE
PRIVATELY 4 TOLD PEOPLE THAT HE DIDN'T APPROVE OF THE DISTRICT
ATTORNEY'S 5 POLICY ON THREE STRIKES.

6 MR. DEBBAUDT: BUT I THINK I ALSO TESTIFIED I NEVER
7 TOLD IT TO A JUDGE. AND I NEVER TOLD IT SPECIFICALLY TO
JUDGE 8 DE VANAN WHOM I DIDN'T KNOW. AND SO THIS IS A PRETEXT.

9 HEARING OFFICER KERRIGAN: WELL, JUST --
10 MR. DEBBAUDT: I CAN HARBOR ANY ATTITUDE I WANT TO
THE 11 THREE-STRIKES POLICY. DID I DO ANYTHING WRONG THAT MERITED
A 12 TRANSFER? NO. BUT, APPARENTLY, MR. COOLEY ALLEGEDLY SPOKE
TO 13 SOME JUDGE WHO ALLEGEDLY HEARD THAT I MADE SOME STATEMENT
WHICH 14 THEY DON'T BOTHER TO INVESTIGATE. AND THEY TRANSFER ME TO
AN 15 ASSIGNMENT NOT COMMISERATE WITH MY SENIORITY, MY

16 CLASSIFICATION, MY GRADE OR MY EXPEDIENCE AND THEY'RE
CLAIMING
17 THIS IS THE BASIS.
18 I WANT YOU TO KNOW IT'S A LIE. IT'S
19 PREPOSTEROUS. IT'S A PRETEXT. THEY DON'T BOTHER TO ASK ME.
20 THEY DON'T BOTHER TO TELL ME WHY I'VE BEEN TRANSFERRED. IF
21 THEY REALLY WANTED ME TO STOP FROM HAVING SUCH AN ATTITUDE
OR
22 COMMUNICATING IT IN THE PERFORMANCE OF MY JOB, YOU WOULD
THINK
23 THEY WOULD SAY: MARC, YOU CAN'T DO THAT. STOP IT.
24 BUT, IN FACT, THEY SEND ME TO MORE THAN ONE
25 COURT. AND AS FAR AS I KNOW -- I DON'T KNOW WHY I'VE BEEN

33

1 SENT. I WOULD START DOING THE SAME THING OVER AND OVER
AGAIN.
2 IT'S A PRETEXT. IT'S A PRETENSE. IT'S A
LIE.
3 THAT'S WHAT I'M TRYING TO COMMUNICATE TO YOU.
4 HEARING OFFICER KERRIGAN: WELL, ISN'T IT KIND OF
5 REMARKABLE COINCIDENCE THAT THIS WAS A POSITION YOU --
6 MR. DEBBAUDT: NO, BECAUSE --
7
8 (OVERLAPPING COLLOQUY.)
9
10 HEARING OFFICER KERRIGAN: -- THAT YOU ACTUALLY
11 BELIEVED THAT THE DISTRICT ATTORNEY HAD THE WRONG POLICY ON
12 THREE STRIKES AND THAT'S WHAT YOU'RE ACCUSED OF?

THIS
THINK
HAVE
YOU

13 MR. DEBBAUDT: I THINK TWO THIRDS OF THE PEOPLE IN
14 COMMUNITY THINK THE SAME WAY. PROBABLY HALF THE D.A.'S
15 THAT WAY, YET, I'M ONLY ONE WHO GETS TRANSFERRED BECAUSE I
16 THAT ATTITUDE.

17 HEARING OFFICER KERRIGAN: WELL, ALL I'M SAYING IS
18 HAVE TO PROVE THAT IT'S A PRETEXT BECAUSE --

19 MR. DEBBAUDT: WELL, THAT'S WHAT I WAS TRYING TO DO.

20 HEARING OFFICER KERRIGAN: WAIT A MINUTE. WAIT A
21 MINUTE. IF ALL YOU CAN PROVE IS THAT YOU WERE TRANSFERRED
22 BECAUSE THEY MISTAKENLY ATTRIBUTED A STATEMENT TO YOU THAT
23 MADE TO THE JUDGE, THAT'S NOT ACTIONABLE. YOU'VE GOT TO
24 THAT IT'S --

25 MR. DEBBAUDT: YOU CAN JUDGE IF IT'S PREPOSTEROUS.

34

1 HEARING OFFICER KERRIGAN: -- ANTI-UNION ANIMUS.

2 MR. DEBBAUDT: IF IT'S PREPOSTEROUS, IT GOES TO THE
3 UNDERLYING CREDIBILITY OF MR. COOLEY AND WHAT REALLY TOOK
4 PLACE. THERE WERE --

5 HEARING OFFICER KERRIGAN: I UNDERSTAND. I JUST
6 TO MAKE CLEAR TO YOU THAT THE FACT THAT YOU WERE
TRANSFERRED,

NOT

7 IF YOU WERE TRANSFERRED FOR THE REASON SHE STATES, THAT'S

8 ACTIONABLE.

9 MR. SHINEE: YES. BUT, YOUR HONOR, AS WE KNOW, THE
10 N.L.R.B. IS --

IT

11 HEARING OFFICER KERRIGAN: DON'T CALL ME YOUR HONOR,
12 GIVES ME DELUSIONS OF GRANDEUR.

OF

13 MR. SHINEE: I'D BE GLAD TO IMBUE YOU WITH DELUSIONS
14 GRANDEUR, THOUGH, FOR MY POINT HERE.

15 THE N.L.R.B. IS FILLED WITH CASES WHERE
16 EMPLOYERS MAKE ALLEGATIONS AGAINST EMPLOYEES AND STEADFASTLY
17 MAINTAIN THAT IS THE REASON FOR THE PUNITIVE ACTION TAKEN.

18 HEARING OFFICER KERRIGAN: WELL, I --

CIRCUMSTANTIAL

19 MR. SHINEE: AND THAT IT IS A SERIES OF
20 EVIDENCE, MUCH OF THE TIME, BASED ON NOTHING MORE THAN
21 CIRCUMSTANTIAL EVIDENCE THAT UNDERMINES THE ASSERTION OF THE
22 EMPLOYER. IN THOSE CASES, YOUR HONOR, WHETHER THERE WAS AN
23 INVESTIGATION INTO THE ALLEGATION IS PARAMOUNT TO THE
24 DETERMINATION OF THE CREDIBILITY OF THE EMPLOYER'S POSITION.

25 HEARING OFFICER KERRIGAN: I'M AWARE THAT, YOU KNOW,

35

HERE,

1 PRIOR TO THE WAGNER ACT, EMPLOYERS WOULD SAY: GET OUT OF

MORE

2 YOU DIRTY UNION SCUM. AND AFTER THE WAGNER ACT, IT BECAME

3 SOPHISTICATED, THE PRETEXT DID. I'M AWARE OF ALL THAT.
4 I JUST WANT HIM TO KNOW THAT WHAT HE'S
ELICITED
5 SO FAR ISN'T GOING TO GET HIM ANYWHERE UNLESS HE CAN PROVE
IT
6 IS A LIE.
7 MR. SHINEE: NO ONE CAN EVER PROVE THOSE THINGS ARE
A
8 LIE, UNLESS YOU LOOK AT ALL THE CIRCUMSTANCES THAT --
9 HEARING OFFICER KERRIGAN: I UNDERSTAND THAT. I
10 UNDERSTAND THAT.
11 MR. SHINEE: MR. COOLEY HAS REFUSED TO COME HERE AND
12 TESTIFY.
13 HEARING OFFICER KERRIGAN: I KNOW. I KNOW ALL OF
THAT.
14 I JUST WANTED TO -- WELL, GO AHEAD AND PROCEED.
15 MR. SHINEE: I'M SORRY, I DON'T MEAN TO QUARREL WITH
16 YOU, BUT I --
17 HEARING OFFICER KERRIGAN: WE'RE NOT QUARRELING. WE
18 AGREE ON WHAT THE LAW IS. THE LAW IS YOU CAN'T FIRE
SOMEBODY
19 AND SAY YOU'RE FIRING THEM BECAUSE OF SOME VALID REASON IF
20 THAT'S NOT THE TRUE REASON. IT'S A PRETEXT. AND WE ALL
AGREE
21 ON THAT.
22 PROCEED.
23 MR. GRIMM: CAN I JUST MAKE ONE COMMENT? I THINK
THAT
24 SOME PEOPLE IN THIS ROOM ARE GETTING JUST A TAD EXCITED AND
IF
25 THE RAPID-FIRE, RAISED VOICE, CUTTING OFF OF ANSWERS
CONTINUES,

1 WE'RE GOING TO POLITELY ASKS THAT WE LEAVE THE ROOM.

2 AND I DON'T BELIEVE MS. LACEY --

3 HEARING OFFICER KERRIGAN: YOU MEAN YOU'RE GOING TO
4 SETTLE IT OUTSIDE?

5 MR. GRIMM: NO. THE OPPOSITE ACTUALLY.

6 MR. SHINEE: I DON'T THINK -- WELL, I DON'T KNOW WHO
7 HE'S REFERRING TO. I'VE BEEN HERE. I'VE LISTENED TO THE
8 DECIBEL LEVEL AND THE TENOR IF THIS CROSS-EXAMINATION [SIC]

--

9 HEARING OFFICER KERRIGAN: YES.

10 MR. SHINEE: -- AND I FIND IT HARDLY UNUSUAL.

NOT

11 HEARING OFFICER KERRIGAN: WELL, PROCEED. JUST TRY

12 TO CUT HER OFF AND --

13 MR. DEBBAUDT: WELL, YOU KNOW, YOU PUT ME INTO A
14 SITUATION WHERE -- AND I'M NOT SISYPHUS AND I DON'T LIKE TO
15 PUSH A ROCK UP TO THE TOP OF THE HILL IF I DON'T THINK I'M
16 GOING TO MAKE IT AND I DON'T WANT TO WASTE YOUR TIME.

FUTILE

17 IF YOU REALLY THINK THAT I'M ENGAGED IN A
18 ACTION HERE AND YOU DON'T SEE THE LUDICROUSNESS OF WHAT I'M
19 TRYING TO PRESENT TO YOU, I DON'T WANT TO WASTE YOUR TIME OR
20 MINE. I REALLY DON'T.

21 HEARING OFFICER KERRIGAN: YOU ASKED --

22 MR. DEBBAUDT: AND I DON'T WANT TO GO AHEAD AND ASK
23 THESE QUESTIONS WHEN YOU'VE ALREADY SORT OF GIVEN ME AN

REALLY

24 INDICATION THAT IT'S REALLY NOT COMPELLING TO YOU AND IT
25 DOESN'T DO ANYTHING AS FAR AS THIS CASE IS CONCERNED. I

37

DECISIONS

1 DON'T -- I TRY NOT TO WASTE PEOPLE'S TIME.

EXTENT I

2 HEARING OFFICER KERRIGAN: I HAVEN'T MADE ANY

3 IN THIS CASE ABOUT ANYBODY'S CREDIBILITY EXCEPT TO THE

NOT

4 DID DRAW A NEGATIVE INFERENCE THE OTHER DAY. I'M NOT SAYING

5 ANYTHING ABOUT -- I'M JUST TELLING YOU WHAT I UNDERSTAND THE

6 LAW IS AND I WANT TO MAKE SURE YOU UNDERSTAND THE LAW. I'M

7 MAKING ANY PREJUDGMENTS OF ANYTHING.

8 BY MR. DEBBAUDT:

TO

9 Q DID YOU THINK, MS. LACEY, THAT IT WAS WRONG

10 TRANSFER ME WITHOUT DOING ANY INVESTIGATION OR TO CONFIRM OR

11 DENY THE ALLEGATION?

12 MR. GRIMM: OBJECTION.

HER

13 HEARING OFFICER KERRIGAN: WHAT'S THE RELEVANCE OF

14 OPINION ABOUT THAT?

15 MR. DEBBAUDT: WELL, SHE'S AN ASSISTANT DISTRICT

16 ATTORNEY WHO KNOWS THE POLICIES OF THE DISTRICT ATTORNEY.

17 LET ME ASK IT A DIFFERENT WAY.

18 HEARING OFFICER KERRIGAN: OKAY.

19 BY MR. DEBBAUDT:

OFFICE 20 Q DO YOU THINK IT WAS IN VIOLATION OF ANY

21 POLICY TO TRANSFER ME BASED ON A HEARSAY ALLEGATION?

IT 22 MR. GRIMM: OBJECTION. IT CALLS FOR SPECULATION.

INCOMPLETE 23 CALLS FOR SPECULATION. IT'S NOT RELEVANT. IT'S AN

24 HYPOTHETICAL.

"HEARSAY 25 HEARING OFFICER KERRIGAN: INSTEAD OF SAYING

38

1 ALLEGATION," WHY DON'T YOU SAY WHAT THE ALLEGATION WAS?

2 BY MR. DEBBAUDT:

THE 3 Q DID YOU THINK IT WAS AGAINST THE POLICY OF

4 OFFICE TO TRANSFER A GRADE IV DEPUTY DISTRICT ATTORNEY TO AN

5 ENTRY-LEVEL POSITION IN JUVENILE BASED ON AN ALLEGATION BY A

6 JUDGE?

7 MR. GRIMM: OBJECTION. IT'S COMPOUND. IT'S NOT

8 RELEVANT.

9 HEARING OFFICER KERRIGAN: OVERRULED.

SAID 10 THE WITNESS: THERE ARE A LOT OF THINGS THAT YOU

11 IN YOUR QUESTION THAT DON'T APPLY TO THIS CASE. I KNOW IT'S

12 YOUR POSITION THAT IT'S AN ENTRY-LEVEL POSITION. I DISAGREE

13 WITH THAT.

14 BY MR. DEBBAUDT:

ME 15 Q DO YOU BELIEVE, MS. LACEY, THAT -- WELL, LET

16 ASK YOU THIS.

17 DO YOU HAVE ANY KNOWLEDGE ABOUT HOW JUVENILE
18 DEPARTMENTS RUN IN YOUR OFFICE?

19 A YES.

20 Q ISN'T IT TRUE THAT JUVENILE DEPUTIES WHO ARE
21 GRADE II'S ARE ASSIGNED TO BE CALENDAR DEPUTIES IN JUVENILE
22 COURTS?

23 A GRADE II'S, SOMETIMES GRADE III'S, AND
SOMETIMES
24 GRADE IV'S.

25 Q BESIDES ME, AS A GRADE IV IN JUVENILE COURT,
HOW
39

1 MANY OTHER GRADE IV'S DO YOU KNOW ARE SERVING AS CALENDAR
2 DEPUTIES IN JUVENILE?

3 MR. GRIMM: CURRENTLY?

4 THE WITNESS: I DON'T HAVE THAT KNOWLEDGE. I DON'T
5 SUPERVISE THEM ANYMORE.

6 BY MR. DEBBAUDT:

7 Q DO YOU KNOW --

8 HEARING OFFICER KERRIGAN: LET ME ASK A QUESTION AND
WE
9 CAN CUT TO THE CHASE HERE.

10 WAS THIS TRANSFER OF MR. DEBBAUDT A
DISCIPLINARY

11 ACT AS FAR AS YOU KNEW? WAS HE BEING DISCIPLINED BY BEING
12 TRANSFERRED?

COOLEY 13 THE WITNESS: NO. MY UNDERSTANDING WAS THAT MR.
14 WAS UNHAPPY WITH THOSE REMARKS BY MR. DEBBAUDT AGAINST HIS
15 POLICY. AND HE WANTED TO SEND HIM TO A SMALLER OFFICE WHERE
16 THERE WAS, YOU KNOW, LESS ACCESS TO HIM, YOU KNOW, SAYING
THESE 17 VIEWS THROUGHOUT THE JUSTICE SYSTEM.

18 HEARING OFFICER KERRIGAN: NEXT QUESTION.
19 BY MR. DEBBAUDT:

20 Q SO HE SENT ME TO TWO COURTS, TWO DIFFERENT
21 BRANCH AND AREA OFFICES, POMONA JUVENILE AND SYLMAR
JUVENILE?

22 A WELL, MY UNDERSTANDING, MR. DEBBAUDT, IS THE
23 CHIEF DEPUTY ORIGINALLY SAID EAST LAKE JUVENILE. THE
ASSISTANT 24 DISTRICT ATTORNEY OF THE JUVENILE OFFICE SAID YOU WERE TO GO
TO 25 POMONA JUVENILE. AND POMONA JUVENILE, WHEN THE DIRECTORS

40

LISTED 1 LOOKED, THAT WAS LISTED -- ERRONEOUSLY -- BUT THAT WAS
2 ON --

3 Q NO. I DIDN'T ASK YOU TO EXPLAIN WHY I WENT
TO 4 POMONA JUVENILE. I ASKED --

5 MR. GRIMM: I OBJECT.

6 BY MR. DEBBAUDT:

7 Q -- YOU WHETHER HE WANTS ME NOT TO COMMUNICATE

8 THESE VIEWS, BUT HE SENDS ME TWO PLACES NOT ONE.

HE'S 9 MR. GRIMM: I'M OBJECTING JUST ON THE BASIS THAT

10 GOT TO LET HER FINISH HER ANSWER.

11 HEARING OFFICER KERRIGAN: THAT'S RIGHT.

12 UNDERSTANDING MR. GRIMM: AND HE'S ASKING BASED ON HER

13 OF WHAT HE'S ASKING.

14 HEARING OFFICER KERRIGAN: THAT'S FOR ARGUMENT
15 ANYWAY.

16 IT'S A SUBJECT FOR ARGUMENT THAT YOU WERE SENT TO TWO PLACES
17 AND YOU WOULD BE EXPOSED TO THAT MANY MORE JUDGES THAN YOU
18 WERE

19 BEFORE. YOU CAN ARGUE THAT. IT'S ALREADY IN THE RECORD.

20 BY MR. DEBBAUDT:

21 Q ISN'T IT TRUE THAT POMONA JUVENILE IS HOUSED
22 ADJACENT TO POMONA ADULT, ISN'T THAT TRUE?

23 A SURE.

24 Q SO I WOULD HAVE HAD ACCESS TO EVERYBODY IN
25 POMONA ADULT AND POMONA JUVENILE TO SPEW MY APPARENTLY
ANTI-THREE STRIKES VIEW; CORRECT?

A YOU SURE COULD HAVE.

41

1 (PAUSE IN THE PROCEEDINGS.)

2

3 BY MR. DEBBAUDT:

4 Q ARE YOU AWARE OF ANY EFFORTS BY EXECUTIVE
STAFF

5 TO HARM OR UNDERMINE THE A.D.D.A. UNION?

6 A NO.

CAREER

7 Q YOU ADVISED DVER THAT IT WOULD BE A BAD

THAT

8 CHOICE FOR DVER TO BE ON THE A.D.D.A. NEGOTIATING TEAM; IS

9 CORRECT?

10 A I DID NOT SAY THE TERM "BAD CAREER CHOICE" TO

11 MR. DVER. MR. DVER ASKED MY ADVICE. HE WAS THINKING ABOUT

12 JOINING THE UNION. WE TALKED FRIEND TO FRIEND. AND HE

13 ASKED --

14 MR. DEBBAUDT: I'M GOING TO MOVE TO STRIKE ANYTHING

15 AFTER NO OR YES.

16 HEARING OFFICER KERRIGAN: WELL, YOU'VE ASKED HER IF

17 SHE WAS AWARE IF ANYTHING WAS DONE TO UNDERMINE THE UNION.

18 MR. DEBBAUDT: THAT WAS AN EARLIER QUESTION.

19 HEARING OFFICER KERRIGAN: YES.

20 MR. DEBBAUDT: SHE ANSWERED IT.

ELICITED

21 HEARING OFFICER KERRIGAN: OKAY. AND THIS IS

DONE

22 TO SHOW THAT, IN FACT, SHE WAS AWARE OF THINGS THAT WERE

23 TO UNDERMINE THE UNION; ISN'T THAT CORRECT?

AND

24 MR. DEBBAUDT: WELL, I STARTED TO ASK A QUESTION.

25 MY ANSWER IS: HER ANSWER BEYOND "YES" OR "NO" WOULD BE

1 NON-RESPONSIVE.

2 AND I DON'T BELIEVE, WITH ALL DUE RESPECT TO
3 EVERYONE, THAT I HAVE TO PERMIT ANYBODY TO GIVE A NARRATIVE
4 THAT'S FAR BEYOND THE CALL OF THE QUESTION AND NOT TRY TO
5 PREVENT THE NARRATIVE AND ASK THAT THE COURT STRIKE.

6 THE ANSWER WAS A MINIMAL "YES" OR "NO." SHE
7 WANTED TO GIVE A SPEECH.

8 HEARING OFFICER KERRIGAN: ALL RIGHT. EXCEPT THAT
IF
9 SOMEBODY SAYS TO SOMEBODY: I DON'T THINK IT'S A GOOD IDEA
TO
10 JOIN THE UNION, IT MIGHT BE BAD FOR YOUR CAREER. THAT'S NOT
11 NECESSARILY UNDERMINING THE UNION. THAT'S MAYBE HELPING
12 SOMEBODY OR ADVISING SOMEBODY. IT'S NOT NECESSARILY
13 UNDERMINING THE UNION.

14 MR. DEBBAUDT: WELL, IT COULD BE BOTH.

15 HEARING OFFICER KERRIGAN: IT COULD BE, BUT IT ISN'T
16 NECESSARILY THE LATTER. GO AHEAD.

17 MR. DEBBAUDT: I HAVE NO FURTHER QUESTIONS.

18 THE WITNESS: YOUR HONOR, IF I COULD JUST SAY, I
NEVER
19 SAID -- I WANT TO BE CLEAR, I NEVER SAID --

20 MR. SHINEE: THERE'S NO QUESTION PENDING.

21 MR. DEBBAUDT: MOTION TO STRIKE.

22 THE WITNESS: I NEVER SAID IT WOULD BE BAD FOR --

23 MR. DEBBAUDT: MOTION TO STRIKE.

24 THE WITNESS: WE COVERED THAT.

25 HEARING OFFICER KERRIGAN: LET YOUR COUNSEL GET INTO

1 THIS. YOU'VE GOT COUNSEL.

2 CROSS-EXAMINATION?

3 MR. GRIMM: MAY WE HAVE FIVE MINUTES, MR. KERRIGAN?

4 HEARING OFFICER KERRIGAN: ALL RIGHT. FIVE MINUTES.

5 LET'S MAKE IT FIVE, TOO.

6 MR. GRIMM: YEAH, IT WILL BE QUICK.

7 HEARING OFFICER KERRIGAN: OFF THE RECORD.

8

9 (RECESS.)

10

11 HEARING OFFICER KERRIGAN: BACK ON THE RECORD.

12 MR. SHINEE: JUST A FEW BRIEF QUESTIONS PERHAPS.

13

14 DIRECT EXAMINATION

15

16 BY MR. SHINEE:

17 Q MS. LACEY --

18 MR. GRIMM: WHAT ARE WE DOING?

19 MR. SHINEE: OH, I'M SORRY, YOU'RE GOING TO GO?

20 MR. GRIMM: NO. I JUST THOUGHT YOU DIDN'T HAVE ANY

21 QUESTIONS.

22

23 (OVERLAPPING COLLOQUY.)

24

25 MR. SHINEE: I DO HAVE A COUPLE OF BRIEF QUESTIONS.

1 BY MR. SHINEE:

2 Q MS. LACEY, IS THE POLICY AND PRACTICE OF THE
3 DISTRICT ATTORNEY'S OFFICE TO ADDRESS CONCERNS ABOUT
4 PERFORMANCE EITHER THROUGH DISCIPLINE, WRITTEN REPRIMAND OR
5 COUNSELLING?

IN

6 MR. GRIMM: IT'S COMPOUND. THERE'S FIVE QUESTIONS
7 THERE.

COUNSEL.

8 HEARING OFFICER KERRIGAN: I DON'T GET THAT,
9 OVERRULED.

10 THE WITNESS: YES.

11 BY MR. SHINEE:

AN

12 Q OKAY. AND WHAT'S THE PURPOSE OF COUNSELLING
13 EMPLOYEE WHO THE SUPERVISOR BELIEVES HAS ENGAGED IN
MISCONDUCT?

14 A TO TRY TO GET THEM TO CORRECT THEIR BEHAVIOR.

15 Q AND WHAT IS THE PURPOSE OF SUSPENSION WITH
16 REGARDS TO AN EMPLOYEE WHO HAS ENGAGED IN MISCONDUCT?

17 A TO DISCIPLINE THE PERSON FOR THE BEHAVIOR.

FILE

18 Q HAVE YOU REVIEWED MR. DEBBAUDT'S PERSONNEL
19 WITHIN THE LAST SIX MONTHS?

20 A NO.

REFERENCE

21 Q TO YOUR KNOWLEDGE, HAS THERE BEEN ANY
22 TO THIS INCIDENT PLACED IN HIS PERSONNEL FILE?

23 A I WOULDN'T KNOW, SIR, I HAVEN'T REVIEWED HIS
24 FILE.

25 Q OKAY. HAS ANYONE ADVISED YOU THAT THEY HAVE

45

THIS 1 COUNSELLED, WARNED, OR ADVISED MR. DEBBAUDT WITH REGARDING
2 INCIDENT WITH THE JUDGE?

3 A NO.

4 Q THANK YOU.

5 MR. SHINEE: NOTHING FURTHER.

6 HEARING OFFICER KERRIGAN: CROSS-EXAMINATION?

7

8 CROSS-EXAMINATION

9

10 BY MR. GRIMM:

11 Q MS. LACEY, BEFORE YOU IS A TRANSCRIPT --

GAVE 12 MR. GRIMM: WHEN YOU FOLKS WERE OUT OF THE ROOM, I

13 THE CERTIFIED TRANSCRIPT OF THE JULY 9TH, 2009, HEARING TO
14 MR. KERRIGAN.

15 MR. SHINEE: IF I COULD JUST HAVE A MINUTE?

16 MR. GRIMM: SURE. AND IF YOU WANT TO GET THE PAGE,
17 IT'S GOING TO BE AT PAGE 207.

18

19 (PAUSE IN THE PROCEEDINGS.)

20

21
TRANSCRIPT.

MR. SHINEE: CAN WE -- I DID NOT BRING THAT

22 DO YOU HAVE THAT TRANSCRIPT?

23 MR. IPSEN: WHICH ONE WAS THAT? PROBABLY, NO.

24 MR. GRIMM: JULY 9TH.

25 HEARING OFFICER KERRIGAN: I THINK PAGE 206 IS THE
PAGE

46

1 MINE WAS OPEN TO.

2 MR. SHINEE: YES. I HAVE A PARTIAL, I THINK, OF
JULY,

3 SO THEREFORE, MY PAGES WOULDN'T ALIGN. IF YOU JUST GIVE ME

A

4 SECOND --

5 MR. GRIMM: WELL, I CAN TELL YOU WHERE IT IS IN THE
6 PARTIAL. IT'S GOING TO BE AT, LIKE, 25 OR 26. IS THAT HOW
7 YOURS ARE?

8 MR. SHINEE: YEAH. LET'S TAKE A LOOK HERE.

9

10 (PAUSE IN THE PROCEEDINGS.)

11

12 MR. SHINEE: IS THIS THE TESTIMONY OF ZAJEC?

13 MR. GRIMM: NO.

14 HEARING OFFICER KERRIGAN: COUNSEL, DO YOU WANT TO
15 BORROW MINE, THE ONE HE'S SHOWN ME? YOU CAN COME UP HERE IF
16 YOU WANT TO.

17 MR. SHINEE: YES. THAT WOULD BEEN FINE. THANK YOU.

18 BY MR. GRIMM:

19 Q MS. LACEY, DO YOU RECALL GIVING TESTIMONY ON
20 JULY 9TH, 2009?

21 A I DO.

22 Q AND THAT WAS HERE AT ERCOM?

23 A YES.

24 Q AND THAT WAS PART OF THIS CASE?

25 A YES.

47

1 Q AND DO YOU RECALL BEING ASKED QUESTIONS BY
2 MR. IPSEN?

3 A YES.

4 Q DO YOU RECALL ABOUT WHAT TIME OF DAY IT WAS
WHEN
5 YOU WERE BEING ASKED QUESTIONS?

6 A I THINK IT WAS -- I KNOW IT WAS THE
AFTERNOON.

7 IT WAS LATE AFTERNOON.

8 Q OKAY. I DIRECT YOUR ATTENTION TO PAGE 207,
9 LINE 23 OF THE JULY 9TH, 2009, TRANSCRIPT. AND IT BEGINS ON
10 LINE 23.

11 IT SAYS, BY HEARING OFFICER KERRIGAN, QUOTE:

12 "WELL, THAT'S
13 ARGUMENT. WHICH PART?"

14 QUESTION: "IT SAYS ON

15 LINE 1:"

16 AND THEN IN QUOTES:
17 "THAT I SHOULDN'T BE
18 PART OF THE BARGAINING TEAM
19 BECAUSE STEVE DOESN'T LIKE
20 YOU."
21 DO YOU KNOW, FIRST OF ALL, WHAT THAT QUOTED
22 TESTIMONY -- WHO THAT WAS GIVEN BY?
23 A IT WAS ROB DVER.
24 Q OKAY. SO IS IT YOUR RECOLLECTION THAT
25 MR. KERRIGAN WAS RECITING FROM THE TRANSCRIPT OF MR. DVER'S

48

1 TESTIMONY?

2 A CORRECT.

3 Q AND IN RESPONSE TO THAT QUOTED LANGUAGE,
AGAIN:

4 "THAT I SHOULDN'T BE

5 A PART OF THE BARGAINING

6 TEAM BECAUSE STEVE DOESN'T

7 LIKE YOU." END QUOTE.

8 MR. KERRIGAN THEN SAYS:

9 "THAT'S ACCURATE;

10 RIGHT?"

11 QUESTION MARK. AND THEN RIGHT AFTER IT, THE

12 WITNESS -- THAT'S YOU; CORRECT.

13 A CORRECT.

14 Q YOU ANSWER: "RIGHT."

15 IS THAT WHAT YOU SAID?

16 A THAT'S WHAT I SAID.

17 Q OKAY. WHY DID YOU ANSWER "RIGHT"?

18 MR. SHINEE: I'M GOING TO OBJECT TO THIS.

19 HEARING OFFICER KERRIGAN: USUALLY YOU DON'T USE THE
20 TRANSCRIPT UNLESS YOU'RE TRYING TO IMPEACH THE WITNESS.

21 MR. GRIMM: I'M TRYING TO --

HER

22 HEARING OFFICER KERRIGAN: IF YOU WANT TO EXPLAIN
23 TESTIMONY, JUST ASK HER WHAT SHE MEANT BY THAT.

24 MR. GRIMM: OKAY. LET ME JUST BACK UP A LITTLE BIT.

25 ///

49

1 BY MR. GRIMM:

2 Q HAVE YOU REVIEWED THE TRANSCRIPT OF YOUR
3 JULY 9TH TESTIMONY?

4 A I HAVE.

YOU

5 Q OKAY. ARE THERE SOME THINGS IN THERE THAT
6 BELIEVE EITHER DIDN'T COME OUT RIGHT IN THE TRANSCRIPT OR
7 NOT -- DON'T ACCURATELY REFLECT WHAT YOU MEANT TO SAY?

ARE

8 HEARING OFFICER KERRIGAN: WELL, WHEN YOU SAY THAT

THEY

9 "DIDN'T COME OUT RIGHT IN THE TRANSCRIPT," ARE YOU SAYING

THEY

10 WERE MIS-TRANSCRIBED? ARE YOU ASKING HER IF THEY WERE

11 MIS-TRANSCRIBED OR WHAT?

12 MR. GRIMM: LET ME WITHDRAW THE QUESTION.

13 BY MR. GRIMM:

14 Q ARE THERE SOME ANSWERS IN THERE THAT YOU
THINK
15 YOU WOULD LIKE TO CHANGE?

16 HEARING OFFICER KERRIGAN: OH.

17 MR. SHINEE: I'M SURE THERE ARE.

18 MR. GRIMM: I'M SORRY, WE'RE GETTING A CHUCKLE IN
HERE.
19 IS THERE --

20 HEARING OFFICER KERRIGAN: I'M SORRY. I THINK ANY
21 WITNESS WHO'S EVER HAD THEIR DEPOSITION TAKEN OR THEIR
22 TESTIMONY TAKEN WOULD LIKE TO GO BACK AND CHANGE IT,
INCLUDING
23 MYSELF.

24 MR. GRIMM: AND IN DEPOSITIONS THEY'RE GIVEN AN
25 OPPORTUNITY TO REVIEW AND SIGN THEIR TRANSCRIPT UNDER --

50

1 HEARING OFFICER KERRIGAN: I'M AWARE OF THAT,
COUNSEL.

2

3 (OVERLAPPING COLLOQUY.)

4

5 MR. GRIMM: -- THE PENALTY OF PERJURY.

6 HEARING OFFICER KERRIGAN: I WAS A LAWYER FOR FORTY
7 YEARS, THAT'S THE REASON FOR MY CHUCKLE.

8 GO AHEAD AND ASK THE NEXT QUESTION.

9 BY MR. GRIMM:

LANGUAGE

10 Q WHEN YOU HEARD MR. KERRIGAN RECITE THAT

TAKE

11 AND WHEN HE SAID: "THAT'S ACCURATE; RIGHT," WHAT DID YOU

12 THAT TO MEAN?

I

13 A I BELIEVED, BASED ON THE SUCCEEDING ANSWERS,

WAS

14 THOUGHT MR. KERRIGAN -- WELL, I BELIEVED THAT MR. KERRIGAN

15 ASKING ME: IS THAT WHAT THE TRANSCRIPT -- YOU KNOW, HOW THE

16 TRANSCRIPT READS.

17 Q MEANING MR. DVER'S TRANSCRIPT?

18 A MR. DVER'S TRANSCRIPT.

YOU

19 Q AND SO WHEN YOU SAID "RIGHT," IS THAT WHAT

20 WERE ADDRESSING?

21 A YES.

PAGE

22 Q OKAY. PAGE 207, LINE 6 -- ACTUALLY, IT'S

THEN

23 208, LINE 6. THE QUESTION IS BY MR. KERRIGAN AGAIN. AND

24 HE READS, QUOTE:

25 "DOESN'T LIKE THE

51

1 UNION."

2 END QUOTE.

3 DID YOU UNDERSTAND MR. KERRIGAN TO BE READING

4 FROM MR. DVER'S TESTIMONY?

5 A THAT'S CORRECT. AND MY ANSWER --

6 MR. SHINEE: THERE'S NO QUESTION PENDING.

7 BY MR. GRIMM:

8 Q OKAY. AND THEN MR. KERRIGAN SAYS:

9 "IS THAT ACCURATE?"

10 DO YOU SEE THAT?

11 MR. SHINEE: WHAT LINE ARE WE ON, PLEASE?

12 HEARING OFFICER KERRIGAN: 208.

13 MR. GRIMM: LINE 7.

14 MR. SHINEE: WHAT LINE, PLEASE?

15 MR. GRIMM: LINE 7.

16 BY MR. GRIMM:

17 Q MR. KERRIGAN, AFTER READING THAT QUOTED
LANGUAGE

18 SAYS:

19 "IS THAT ACCURATE?"

20 DO YOU SEE THAT?

21 A YES.

22 Q WHAT DID YOU TAKE THAT QUESTION TO MEAN?

23 A AT THE TIME I WAS ANSWERING THAT QUESTION, I

24 THOUGHT HE WAS ASKING ME ABOUT: IS THE TRANSCRIPT CORRECT?
IS

25 THAT WHAT IT SAYS IN THE TRANSCRIPT?

52

1 Q IN MR. DVER'S TRANSCRIPT?

2 A IN MR. DVER'S TRANSCRIPT.

3 Q OKAY. AND WHAT WERE YOU SAYING WHEN YOU SAID
4 "THAT'S CORRECT" AT LINE 8?

5 A THAT THAT'S WHAT IS IN THE TRANSCRIPT.

6 Q OKAY. DID YOU TELL MR. DVER THAT MR. COOLEY
7 SAID: "I DON'T LIKE THE UNION"?

8 A NO.

9 Q ALL RIGHT. IF YOU GO -- YOU'RE STILL ON
10 PAGE 208, AT LINE 11, BY HEARING OFFICER KERRIGAN.

11 HE SAYS: "OKAY."

12 AND THEN IN QUOTES:

13 "THINKS THE UNION IS

14 GOING TO BE A DISASTER."

15 END QUOTE.

16 AND THEN MR. KERRIGAN SAYS:

17 "IS THAT TRUE?"

18 WHAT DID YOU TAKE THAT QUESTION TO MEAN?

19 A I THOUGHT HE WAS ASKING -- HEARING OFFICER
20 KERRIGAN, WAS ASKING ME IF THAT STATEMENT WAS IN THE
21 TRANSCRIPT.

22 Q IN MR. DVER'S TRANSCRIPT?

23 A IN MR. DVER'S TRANSCRIPT.

24 Q OKAY. AND DO YOU RECALL, AS YOU WERE
ANSWERING

25 THESE QUESTIONS, DID YOU HAVE A COPY OF MR. DVER'S
TRANSCRIPT

1 IN FRONT OF YOU?

2 A I THINK I DID HAVE THE TRANSCRIPT IN FRONT OF
3 ME.

4 Q SO THEN YOU WERE FOLLOWING ALONG WITH IT?

5 A I WAS.

6 Q OKAY. AND SO AT PAGE 208, LINE 15, WHEN YOU
7 SAID: "THAT'S CORRECT," WHAT DID YOU MEAN?

8 A I THOUGHT HEARING OFFICER KERRIGAN WAS ASKING
ME
9 IF THE TRANSCRIPT -- IF THAT'S WHAT I WAS SEEING IN THE
10 TRANSCRIPT THAT WAS BEFORE ME.

11 Q IN OTHER WORDS, IF YOU SAW A TRANSCRIPT OF
12 MR. DVER'S TESTIMONY --

13 A UH-HUH.

14 Q -- WHERE HE SAID IN QUOTES, "...THINKS THE
UNION
15 IS GOING TO A DISASTER," END QUOTE; IS THAT CORRECT?

16 A THAT'S CORRECT.

17 Q AND SO AS YOU READ ALONG, YOU BELIEVED THAT,
IN
18 FACT, THAT'S WHAT YOU SAW?

19 MR. SHINEE: OBJECTION. LEADING.

20 HEARING OFFICER KERRIGAN: REPHRASE THE QUESTION.

21 SUSTAINED.

22 BY MR. GRIMM:

23 Q IS THAT WHAT YOU SAW IN THE TRANSCRIPT AS YOU
24 WERE READING ALONG?

25 A YES.

1 Q AND WHEN -- OKAY. I'M SORRY IF I ASKED THIS,
2 BUT JUST QUICKLY.
3 WHEN MR. KERRIGAN SAID: "IS THAT TRUE?" AND
AT
4 LINE 15, ON PAGE 208 YOU SAID: "THAT'S CORRECT," WHAT DID
YOU
5 MEAN BY THAT ANSWER?
6 A THAT I BELIEVED THAT'S WHAT I WAS SEEING IN
THE
7 TRANSCRIPT.
8 Q DID MR. COOLEY TELL YOU THAT THE UNION IS
GOING
9 TO BE A DISASTER?
10 A NO.
11 Q ALL RIGHT. NOW, IF YOU GO TO PAGE 208, LINE
16,
12 HEARING OFFICER KERRIGAN SAYS:
13 "OKAY. SO THOSE ARE
14 ALL THINGS THAT YOU SAID TO
15 HIM."
16 AND THEN AT LINE 18, ON PAGE 208, THE WITNESS
17 SAID -- MEANING YOU -- SAID: "CORRECT."
18 CAN YOU EXPLAIN WHY YOU SAID THAT?
19 A THE ONLY WAY I COULD EXPLAIN IT IS THAT
THAT'S
20 NOT CORRECT IN TERMS OF THOSE ARE THE THINGS THAT I SAID TO
21 MR. DVER.
22 SO I BELIEVE THAT THAT ANSWER HAS TO BE ME

WHAT 23 THINKING THAT HEARING OFFICER KERRIGAN IS SAYING IS THAT
24 IS IN THE TRANSCRIPT BEFORE YOU AND I GOT CONFUSED ON THAT
25 AREA.

55

YOU 1 HEARING OFFICER KERRIGAN: YOU THOUGHT I WAS ASKING
2 ALL THAT TIME ABOUT WHAT WAS IN THE TRANSCRIPT?

3 THE WITNESS: YES. BECAUSE WE WERE GOING --

4 HEARING OFFICER KERRIGAN: WERE YOU PRESENT AT HIS
5 TESTIMONY, MR. DVER'S TESTIMONY?

6 THE WITNESS: NO.

7 HEARING OFFICER KERRIGAN: OKAY.

8 MR. GRIMM: NO, BUT --

9 HEARING OFFICER KERRIGAN: GO AHEAD. PROCEED.
10 BY MR. GRIMM:

HIM 11 Q OKAY. MR. KERRIGAN JUST ASKED IF YOU WERE
12 PRESENT DURING MR. DVER'S TESTIMONY. BUT PLEASE EXPLAIN TO
13 WHY YOU'RE ABLE TO CONFIRM WHAT MR. DVER SAID DURING HIS
14 TESTIMONY?

FRONT 15 A WELL, I HAD THE TRANSCRIPT BEFORE ME, IN
16 OF ME AND WE WERE READING ALONG.

WAS 17 HEARING OFFICER KERRIGAN: AND YOU DIDN'T THINK IT
18 CURIOUS FOR ME TO ASK YOU WHAT WAS IN THE TRANSCRIPT?

19 THE WITNESS: I WILL TELL YOU THAT THAT AFTERNOON I
WAS
20 REALLY TIRED AND I JUST, OBVIOUSLY, WAS CONFUSED BECAUSE
THIS
21 IS INCORRECT --
22 HEARING OFFICER KERRIGAN: OKAY.
23 THE WITNESS: -- IN TERMS OF WHAT I THOUGHT.
24 HEARING OFFICER KERRIGAN: ALL RIGHT. NEXT
QUESTION.
25 ///

56

1 BY MR. GRIMM:
2 Q MS. LACEY, WOULD YOU CONSIDER YOURSELF TO BE
A
3 MORNING PERSON, AN AFTERNOON PERSON, AN EVENING PERSON?
4 A I AM A MORNING PERSON.
5 Q AND DO YOU HAVE ANY ISSUES WITH BLOOD SUGAR?
6 A I DO. I HAVE BLOOD SUGAR ISSUES IN THE
7 AFTERNOON WHERE I LOSE CONCENTRATION QUITE A BIT IN THE
8 AFTERNOON.
9 Q DID YOU REQUEST -- HAVE YOU REQUESTED
THROUGHOUT
10 OUR APPEARANCES AT THIS HEARING TO TRY TO GET ON IN THE
11 MORNING?
12 A YES.
13 Q OKAY. NOW, MOVING ON TO -- AGAIN, I'M STILL
ON
14 PAGE 208, LINE 22. IT'S BY HEARING OFFICER KERRIGAN.

15 HE SAYS: "OKAY." AND THEN HE QUOTES, AGAIN,
16 APPARENTLY FROM MR. DVER'S TESTIMONY:

17 "AND ANYONE
18 ASSOCIATED WITH THE UNION
19 IS NOT GOING TO BE -- "
20 TWO DASHES.

21 "IT'S GOING TO BE BAD
22 FOR THEM IN THEIR CAREERS."
23 AND THEN HE ASKS -- END QUOTE.
24 AND THEN HE ASKED:

25 "DID YOU SAY ANYTHING

57

1 TO THAT EFFECT?"
2 AND YOUR ANSWER IS BY --
3 "THE WITNESS:

4 I DID NOT SAY THAT
5 LAST PHRASE WHERE IT SAYS:"
6 IN QUOTES --

7 "THAT IT'S GOING TO
8 BE VERY BAD FOR THEIR
9 CAREERS."
10 END QUOTE.

11 DID YOU EVER TELL MR. DVER THAT BEING
ASSOCIATED

12 WITH THE UNION WAS "GOING TO BE VERY BAD FOR THEIR CAREERS"?

13 A NO.

14 Q DID MR. COOLEY EVER TELL YOU THAT ANYONE --
THAT
15 IT WOULD BE BAD FOR ANYONE'S CAREER BEING ASSOCIATED WITH
THE
16 UNION?

17 A NO.

18 Q DID YOU EVER TELL MR. DVER THAT MR. COOLEY
19 DOESN'T LIKE THE UNION?

20 A NO.

21 Q DID YOU EVER TAKE AFFIRMATIVE ACTION WITH
22 RESPECT TO MR. DVER WHEREIN YOU SOUGHT HIM OUT AND
COUNSELLED
23 HIM AGAINST JOINING THE UNION?

24 A NO.

25 Q DID YOU EVER SEEK OUT MR. DVER AND COUNSEL
HIM
58

1 OR ADVISE HIM AGAINST TRYING TO BECOME A MEMBER --

2 MR. SHINEE: OBJECTION. LEADING QUESTION.

3 BY MR. GRIMM:

4 Q -- OF THE NEGOTIATING TEAM OVER THE
MEMORANDUM
5 OF UNDERSTANDING?

6 MR. SHINEE: THIS IS NOT A QUESTION, IT'S A SPEECH.
7 IT'S LEADING. AND I'D OBJECT TO IT.

8 HEARING OFFICER KERRIGAN: I'LL OVERRULE THE
OBJECTION.
9 GO AHEAD.

10 BY MR. GRIMM:

11 Q LET ME ASK IT AGAIN.

12 ADVISE

DID YOU EVER SEEK OUT MR. DVER AND EITHER

13 HIM OR COUNSEL HIM THAT IT WOULD BE BAD FOR HIS CAREER IF HE
14 JOINED THE NEGOTIATING TEAM?

15 A NO.

16 HEARING OFFICER KERRIGAN: DID YOU SAY THAT TO HIM
17 WITHOUT SEEKING HIM OUT?

18 THE WITNESS: I'M SORRY?

19 HEARING OFFICER KERRIGAN: DID YOU EVER MAKE THAT
20 STATEMENT TO HIM WITHOUT SEEKING HIM OUT, JUST IN PASSING?

21 THE WITNESS: WOULD YOU SAY THAT AGAIN? DID I EVER

--

22 HEARING OFFICER KERRIGAN: THE PREVIOUS QUESTION

WAS:

23 DID YOU EVER SEEK HIM OUT AND ADVISE HIM AND COUNSEL HIM?

24 AND

AND MY QUESTION IS: DID YOU EVER ADVISE HIM

25 COUNSEL HIM WITHOUT SEEKING HIM OUT?

59

1 THE WITNESS: YES.

2 HEARING OFFICER KERRIGAN: OKAY.

3 THE WITNESS: I ADVISED HIM WHEN HE ASKED FOR MY
4 ADVICE.

5 HEARING OFFICER KERRIGAN: OKAY. WHAT DID HE ASK?

MY

6 THE WITNESS: AND HE -- AS I STATED BEFORE, HE ASKED

7 ADVICE ABOUT JOINING THE BARGAINING TEAM.

8 HEARING OFFICER KERRIGAN: OKAY.

9 THE WITNESS: AND I TOLD HIM I THOUGHT IT WOULD BE A
10 BAD IDEA.

11 HEARING OFFICER KERRIGAN: OKAY. NEXT QUESTION.

12 BY MR. GRIMM:

13 Q AND IS THAT --

WOULD

14 WHEN YOU SAID TO MR. DVER YOU THOUGHT IT

15 BE A BAD IDEA, IS THAT BASICALLY THE EXTENT OF WHAT YOU WERE
16 TRYING TO TELL HIM?

17 A YES.

OF

18 Q WERE YOU TRYING TO SOMEHOW USE YOUR POSITION

19 AUTHORITY TO DISSUADE HIM FROM JOINING THE UNION?

20 MR. SHINEE: OBJECTION. LEADING QUESTION.

21 HEARING OFFICER KERRIGAN: OVERRULED.

22 THE WITNESS: NO.

23 BY MR. GRIMM:

24 Q WERE YOU TRYING TO USE YOUR POSITION OF

25 AUTHORITY TO DISSUADE HIM FROM JOINING THE BARGAINING TEAM?

60

1 A NO.

2 Q WERE YOU TRYING TO USE YOUR POSITION OF

3 AUTHORITY TO PREVENT HIM FROM ENDORSING MR. IPSEN FROM BEING

4 THE PRESIDENT OF THE ASSOCIATION?

5 MR. DEBBAUDT: I'M GOING TO OBJECT. IRRELEVANT.

6 BECAUSE WHAT SHE WAS TRYING TO DO, IN HER MIND, IS
IRRELEVANT

7 WHEN SHE IS THE AUTHORITY AND WHEN SHE ACTS AND NEVER CAN
STOP

8 BEING THE AUTHORITY AND IS SAYING THESE THINGS.

9 NOW, SHE MAY WANT TO PERSUADE THE COURT THAT
10 IT'S ALL: ME AS A FRIEND, DISTINCT AND DISASSOCIATED WITH
HER

11 POWER. BUT SHE CAN'T ANYMORE STOP BEING HER POWER THAN
YOU'VE

12 TOLD ME IN THE PAST I COULD STOP BEING AN ATTORNEY.

13 MR. GRIMM: I'M JUST OBJECTING TO THIS SPEECH.

14 HEARING OFFICER KERRIGAN: YOU CAN --

15

16 (OVERLAPPING COLLOQUY.)

17

18 MR. DEBBAUDT: I OBJECT TO THE RELEVANCE OF THE
19 QUESTION.

20 HEARING OFFICER KERRIGAN: THAT'S A GOOD ARGUMENT.

21 SAVE THAT FOR YOUR BRIEF. IT'S A GOOD ARGUMENT BUT I THINK

22 SHE'S ENTITLED TO SEPARATE HER RELATIONSHIP WITH HIM AS A

23 FRIEND, IF SHE IS HIS FRIEND, AND AS HIS SUPERIOR.

24 BY MR. GRIMM:

25 Q I JUST ASKED YOU A SERIES OF QUESTIONS ABOUT:

1 DID YOU USE YOUR POSITION OF AUTHORITY, AND MR. KERRIGAN
2 POINTED OUT A CONTRAST.

THE

3 IN WHAT WAY WERE YOU COUNSELLING MR. DVER ON
4 TIMES WHEN THESE SUBJECTS CAME UP?

5 A AS A FRIEND.

6 MR. DEBBAUDT: OBJECTION. IRRELEVANT. AND MOVE TO
7 STRIKE.

8 HEARING OFFICER KERRIGAN: OVERRULED.

IDEA

9 WHY DO YOU THINK IT WOULD HAVE BEEN A BAD
10 FOR HIM TO PARTICIPATE IN THE BARGAINING UNIT?

WAS

11 THE WITNESS: I WAS -- YOU KNOW, I WAS HOPING AND I
12 A STRONG ADVOCATE FOR MR. DVER TO, YOU KNOW, TO GET INTO
13 MANAGEMENT, TO GO HIGHER IN MANAGEMENT.

FRIEND,

14 AND BECAUSE I HAVE A LOVE FOR HIM AS A
15 HE ASKED MY ADVICE AND I FELT THAT ASSOCIATING CLOSELY WITH
16 MR. IPSEN WOULD HURT MY CHANCES OF ADVOCATING FOR HIM TO BE
17 SELECTED AS A MEMBER OF MR. COOLEY'S MANAGEMENT TEAM.

18 HEARING OFFICER KERRIGAN: OKAY.

19 THE WITNESS: YES.

20 BY MR. GRIMM:

21 Q AND IS THAT THE PROCESS BY WHICH A DEPUTY
22 DISTRICT ATTORNEY, AT A LEVEL BELOW MANAGEMENT --

23 IN OTHER WORDS, AM I CORRECT IN SAYING THAT
24 MANAGEMENT IS TYPICALLY A LEVEL V, A GRADE V?

AN

25 A MANAGEMENT CAN BE A LEVEL IV AS A D.I.C. OR

1 ASSISTANT HEAD DEPUTY. BUT MANAGERS WHO ARE OVER BRANCH
2 OFFICES OR OVER SPECIAL UNITS -- IT'S PARTICULARLY THE MAJOR
3 SPECIAL UNITS ARE GRADE V'S.

IT 4 Q OKAY. AND HOW DOES ONE BECOME A GRADE V? IS
5 A SELECTION PROCESS?

6 A IT IS. MR. COOLEY SELECTS GRADE V'S.

7 Q OKAY. AND DID YOU BELIEVE THAT --
I'M 8 WELL, YOU TESTIFIED PREVIOUSLY -- TELL ME IF
9 WRONG.

NOT 10 YOU TESTIFIED PREVIOUSLY THAT MR. COOLEY DID
11 PARTICULARLY CONSIDER MR. IPSEN TO BE HONEST.

12 IS THAT FAIR?

13 A YES.

14 Q OKAY. IF SOMEBODY WERE TO ASSOCIATE CLOSELY
IN 15 WITH MR. IPSEN, DO YOU THINK THAT -- BASED ON YOUR KNOWLEDGE
16 DEALING WITH MR. COOLEY, DO YOU THINK THAT THAT MIGHT
INFLUENCE 17 HIS SELECTION PROCESS?

18 A I BELIEVED SO. I SPECULATED SO.

19 Q OKAY. WHEN MR. DEBBAUDT WAS TRANSFERRED TO A
I 20 JUVENILE COURT IN POMONA HE SAID THAT HE WOULD BE ABLE TO --
21 THINK, HE SAID: "SPEW HIS VIEWS ON THREE STRIKES TO
EVERYONE

22 IN POMONA."

23 DO YOU RECALL THAT?

24 A YES.

25 MR. SHINEE: OBJECTION. MISSTATES THE EVIDENCE.

63

1 MISSTATES THE TESTIMONY.

2 HEARING OFFICER KERRIGAN: I'M SORRY. I WASN'T
3 LISTENING. WOULD YOU READ THE QUESTION BACK?

4

5 (RECORD READ.)

6

7 MR. SHINEE: WITHDRAWN.

8 MR. DEBBAUDT: I OBJECT. IT MISSTATES THE
TESTIMONY,

9 BECAUSE IT WAS A QUESTION: WOULDN'T I BE ABLE TO DO THAT.
SO

10 I NEVER SAID I'D BE ABLE TO DO IT. I ASKED: WOULD I BE
ABLE

11 TO DO IT? IT MISSTATES THE TESTIMONY.

12 BY MR. GRIMM:

13 Q DID YOU TAKE HIS QUESTION AS A --

14 DID YOU READ THAT AS INFERRING THAT JUST
BECAUSE

15 HE WAS IN JUVENILE COURT THAT THAT WOULD SOMEHOW -- THAT IT
16 WOULDN'T PREVENT HIM FROM TALKING BEYOND THE JUVENILE COURT?

17 IS THAT HOW YOU VIEWED HIS QUESTION TO YOU?

18 HEARING OFFICER KERRIGAN: WHY DON'T YOU REPHRASE
THE

19 QUESTION. LET'S GET IT CLEAR SO WE CAN GET A CLEAR ANSWER -

20 MR. GRIMM: OKAY.

21 HEARING OFFICER KERRIGAN: -- AND KNOW WHAT SHE'S
22 SAYING.

23 BY MR. GRIMM:

24 Q MR. DEBBAUDT'S TRANSFER WAS TO A JUVENILE
COURT
25 IN POMONA.

64

1 A YES.

2 Q DID YOU FORM ANY SORT OF VIEW BASED ON WHAT
YOU
3 HEARD IN THE OFFICE ABOUT WHY IT WAS FELT HE WOULD BE BETTER
IN
4 A JUVENILE COURT?

5 A WELL, IT'S ALSO BECAUSE HE WOULD BE DOING
6 JUVENILE CASES AS OPPOSED TO ADULT THREE-STRIKES CASES.

7 Q OKAY. AND SO HE WOULD NOT BE -- IS IT YOUR
8 UNDERSTANDING THAT HE WOULD NOT BE ADVOCATING ON, IN ANY
9 MANNER, THE THREE-STRIKES POLICY OF THE OFFICE IN A JUVENILE
10 ASSIGNMENT?

11 A THAT WAS ONE CONSIDERATION.

12 Q OKAY. TO YOUR KNOWLEDGE, DID MR. DEBBAUDT'S
13 ASSOCIATION WITH THE A.D.D.A. HAVE ANYTHING TO DO WITH ANY
14 TRANSFER HE EVER HAD?

15 MR. SHINEE: OBJECTION. LACK OF FOUNDATION.

16 HEARING OFFICER KERRIGAN: TO YOUR KNOWLEDGE?

17 THE WITNESS: TO MY KNOWLEDGE, THAT WAS NOT
DISCUSSED.

18 BY MR. GRIMM:

19 Q TO YOUR KNOWLEDGE, DID MR. DEBBAUDT'S
TRANSFER

20 TO THE JUVENILE ASSIGNMENT HAVE ANYTHING TO DO WITH HIS

21 POSITION ON A BOARD OF DIRECTORS?

22 A NO.

23 Q TO YOUR KNOWLEDGE, DID MR. DEBBAUDT'S
24 ASSOCIATION WITH MR. IPSEN, IN ANY WAY, HAVE AN EFFECT ON
HIS

25 TRANSFER TO THE JUVENILE COURT IN POMONA?

65

1 A NO.

2 HEARING OFFICER KERRIGAN: WAIT ONE SECOND. DO YOU
3 NEED A BREAK?

4 MR. GRIMM: I'M GOING TO BE DONE HERE IN TWO
QUESTIONS.

5 HEARING OFFICER KERRIGAN: OKAY.

6 BY MR. GRIMM:

7 Q DID, TO YOUR KNOWLEDGE, MR. DEBBAUDT'S
TRANSFER

8 TO THE JUVENILE ASSIGNMENT -- DID HE TAKE LESS PAY BECAUSE
OF

9 THAT?

10 A NO.

TO 11 Q TO YOUR KNOWLEDGE, DID MR. IPSEN'S TRANSFER
MONEY? 12 THE COMPTON BRANCH, DID THAT RESULT IN HIM EARNING LESS

13 A NO.

DEBBAUDT 14 Q ARE YOU AWARE OF ANY TRANSFERS OF MR.
15 WHERE, AS A RESULT OF THE TRANSFER, HE EARNED LESS MONEY?

16 A I'M NOT AWARE OF ANY.

17 Q ARE YOU AWARE OF ANY OF MR. IPSEN'S TRANSFERS
18 WHEREIN, AS A RESULT OF THE TRANSFER, HE EARNED LESS MONEY?

19 A I'M NOT AWARE OF ANY, NO.

20 MR. GRIMM: I HAVE NO FURTHER QUESTIONS.

21

22 REDIRECT EXAMINATION

23

24 BY MR. SHINEE:

25 Q HAVE YOU HEARD THE TERM "FREEWAY THERAPY?"

66

1 A I HAVE.

2 Q AND WHAT DOES THAT MEAN, PLEASE?

PUNISH 3 A MY UNDERSTANDING OF FREEWAY THERAPY IS TO
4 SOMEONE BY MAKING THEM DRIVE FAR AWAY FROM HOME.

5 Q AND MR. IPSEN'S TESTIMONY -- STRIKE THAT.

HIS 6 MR. IPSEN'S TRANSFER, WAS THAT -- WHEN HE WAS
7 FIRST TRANSFERRED, WAS THAT CLOSER TO OR FURTHER AWAY FROM

8 HOME?

9 A WELL, WHICH HOME ARE WE TALKING ABOUT?

OR
10 Q HIS FIRST TRANSFER, WAS IT CLOSER TO HIS HOME
11 FURTHER AWAY FROM HIS HOME?

WE
12 MR. GRIMM: I'M JUST GOING TO OBJECT. IT'S VAGUE.
13 NEED TO KNOW SPECIFICALLY WHAT TRANSFER HE'S REFERRING TO, I
14 THINK.

FIRST.
15 MR. SHINEE: WELL, LET ME WORK WITH MR. DEBBAUDT
16 BY MR. SHINEE:

HOUSE
17 Q WAS THE TRANSFER FOR MR. DEBBAUDT FROM HIS
18 TO POMONA COURT A FURTHER DRIVE FOR HIM THAN HIS DRIVE TO
19 PASADENA?

FOR
20 MR. GRIMM: OBJECTION. IT'S VAGUE. AND IT CALLS
21 SPECULATION.

22 HEARING OFFICER KERRIGAN: OVERRULED. IF YOU KNOW?

23 THE WITNESS: YES.

24 BY MR. SHINEE:

25 Q YOU SAID "YES"?

67

1 A YES.

2 Q THANK YOU. NOW, YOU HAVE LOW BLOOD SUGAR, I
3 TAKE IT?

4
CONCENTRATION

A I STRUGGLE WITH MY BLOOD SUGAR AND

5
SOMETIMES.

6 Q ALL RIGHT. AND YOU'VE BEEN AWARE OF THIS
7 CONDITION HOW LONG?

8 A IN THE LAST FEW MONTHS I'VE NOTICED IT.

9 Q SO IT WAS -- WELL, WHEN DID THIS START?

10 A WELL, I'VE HAD IT FOR A WHILE. IT'S JUST
WORSE.

11 IT'S JUST GETTING WORSE.

12 Q WHEN DID THIS FIRST START, PLEASE?

13 A PROBABLY ABOUT THE TIME I TURNED 50.

14 Q WHEN WAS THAT, PLEASE?

15 A THAT WOULD TWO YEARS AGO.

16 Q ALL RIGHT. SO FOR TWO YEARS YOU'VE BEEN
17 STRUGGLING WITH LOW BLOOD SUGAR?

18 A I'VE BEEN STRUGGLING WITH BLOOD SUGAR,
19 CONCENTRATION ISSUES.

20 Q FOR TWO YEARS?

21 A UH-HUH.

22 Q AND WHAT STEPS DO YOU TAKE TO ENSURE YOUR
23 CONCENTRATION LEVEL IS APPROPRIATE FOR YOUR DUTIES IN THE
24 AFTERNOON?

25 A I TRY TO EAT LESS AT LUNCH. I TRY TO ALWAYS
EAT

1 BRIEFCASE.

BREAKFAST. I TRY TO ALWAYS HAVE PROTEIN BARS IN MY

2 I TRY TO GET SLEEP. I TRY TO -- I TRY TO GET EXERCISE. I'M
3 NOT SUCCESSFUL AT THAT.

4 Q ARE THESE REMEDIES EFFECTIVE TO ASSIST YOU?

I

5 A IT DOESN'T SEEM LIKE IT, NOT AS EFFECTIVE AS
6 WOULD LIKE.

ON

7 Q HOW LONG DID YOU KNOW, BEFORE YOU TESTIFIED

8 JULY 7TH [SIC], THAT YOU WERE GOING TO TESTIFY ON THAT DAY?

9 A I DIDN'T --

-

10 MR. GRIMM: OBJECTION. THERE WAS NOT TESTIMONY ON -

11 HEARING OFFICER KERRIGAN: I DON'T KNOW HOW FAR YOU
12 WANT TO GO WITH THIS, COUNSEL. I WASN'T IMPRESSED WITH THE
13 ARGUMENT TO BEGIN WITH.

--

14 MR. SHINEE: WELL, WE DON'T KNOW THAT, SO WE HAVE TO

15 HEARING OFFICER KERRIGAN: WE DON'T KNOW THAT, BUT
16 WE'RE TRYING TO CONDUCT A HEARING WITH SOME KIND OF DISPATCH
17 AND --

18 MR. SHINEE: WE DON'T KNOW WHAT WHEAT AND CHAFF IS
19 GOING TO BE ACCEPTABLE. SO I WAS JUST FOLLOWING UP ON SOME
20 OBVIOUS LINES OF INQUIRY WITH REGARDS TO --

21 HEARING OFFICER KERRIGAN: I KNOW. I KNOW. OKAY.

22 BY MR. SHINEE:

PLEASE?

23 Q YOU HAVE BEEN AN ATTORNEY FOR HOW LONG,

24 A 26, 27 YEARS.

COURTROOM

25 Q AND I TAKE IT YOU'VE PARTICIPATED IN

1 PROCEEDINGS?

2 A I HAVE.

3 Q HAVE YOU CROSS-EXAMINED WITNESSES?

4 A I HAVE.

5 Q HAVE YOU EVER BEEN --

6 HAS YOUR DEPOSITION EVER BEEN TAKEN?

7 A YES.

8 Q HOW MANY TIMES HAS YOUR DEPOSITION BEEN

TAKEN?

9 A TO MY KNOWLEDGE, THE FIRST TIME WAS A FEW

WEEKS

10 AGO.

11 Q OKAY. AND HAVE YOU BEEN A WITNESS IN COURT

12 PRIOR TO YOUR TESTIMONY HERE TODAY OR PRIOR TO YOUR

TESTIMONY

13 ON JULY 7TH [SIC]?

14 A I HAVE.

15 Q HOW MANY TIMES?

16 A I THINK MAYBE ONCE OR TWICE.

17 Q ALL RIGHT. NOW, LET ME -- YOU HAVE THE

RECORD

18 OF JULY 7TH IN FRONT OF YOU?

19 MR. GRIMM: JULY 9TH.

20 MR. SHINEE: JULY 9TH, I'M SORRY.

21 BY MR. SHINEE:

WHERE

22 Q COULD YOU POINT OUT TO ME IN THAT RECORD

23 YOU WERE HANDED THE TRANSCRIPT ON THAT DAY?

24

25 (PAUSE IN THE PROCEEDINGS.)

70

HE

1 MR. GRIMM: I JUST WANT TO CLARIFY THE QUESTION. IS

THERE

2 ASKING WHERE IN THIS ENTIRE TRANSCRIPT OF 200-PLUS PAGES

3 IS A COMMENTARY BY AN ATTORNEY SAYING: I'M HANDING YOU NOW

4 MR. DVER'S TESTIMONY? IS THAT WHAT HE'S ASKING?

THE

5 HEARING OFFICER KERRIGAN: I DIDN'T UNDERSTAND THE

6 QUESTION. I THOUGHT HE WAS ASKING HER WHEN SHE WAS GIVEN

I

7 TRANSCRIPT DURING THE COURSE OF HER TESTIMONY. THAT'S WHAT

8 UNDERSTAND THE QUESTION TO BE.

9 MR. GRIMM: OKAY.

10 HEARING OFFICER KERRIGAN: YOU CAN GO INTO IT ON

11 RECROSS IF YOU WANT.

12 MR. DEBBAUDT: I HAVE SOME ADDITIONAL QUESTIONS.

13 HEARING OFFICER KERRIGAN: OKAY. FINE.

14

15 (PAUSE IN THE PROCEEDINGS.)

16

17 THE WITNESS: OKAY. ON, I BELIEVE, PAGE 183, AT

18 LINE 5, THERE IS -- OR LINE 6 --

19 MR. GRIMM: YES.

20 THE WITNESS: IT SAYS:

21 HEARING OFFICER KERRIGAN:

22 "YEAH. YOU'RE

23 READING THE TESTIMONY FROM

24 THE TRANSCRIPT.

25 "SHE CAN READ THE

71

1 TRANSCRIPT."

2 AND IT'S MY MEMORY THAT I HAD THE TRANSCRIPT,

3 FROM MR. IPSEN. IT WAS SHOWN TO ME DURING THAT HEARING.

4 BY MR. SHINEE:

5 Q MY QUESTION TO YOU IS:

6 DO YOU SEE IN THAT TRANSCRIPT, OTHER THAN

THAT

7 REFERENCE, WHICH IS A COMMENT BY THE HEARING OFFICER THAT

YOU

8 CAN READ -- WHICH WE'LL ALL STIPULATE TO -- THAT YOU WERE

9 HANDED THE TRANSCRIPT, ASIDE FROM YOUR RECOLLECTION?

10 A NO. AT THIS POINT, I DON'T SEE IT. I'D HAVE

TO

11 LOOK OVER IT VERY CLOSELY.

12 Q WITH REGARD TO YOUR TESTIMONY ON JULY 9TH,

YOU

13 DID REALIZE THAT YOU WERE GOING TO TESTIFY IN THE AFTERNOON,

14 DIDN'T YOU?

LUNCH 15 A NO. I WAS CALLED OUT OF THE BLUE OVER THE
16 HOUR.

THE 17 Q OKAY. YOU WERE CALLED OUT OF THE BLUE OVER
18 LUNCH HOUR.

LUNCH 19 AND DID YOU FOLLOW YOUR NORMAL ROUTINE AT
SUGAR? 20 TIME IN ORDER TO STAVE OFF THE EFFECTS OF THIS LOW BLOOD

21 A NO.

22 MR. GRIMM: MAY I HAVE THE QUESTION READ BACK? I'M
23 SORRY.

HER 24 HEARING OFFICER KERRIGAN: HE ASKED HER IF SHE TOOK

THE 25 NORMAL PROCEDURES THAT SHE'S DONE IN THE PAST TO WARD OFF

72

1 EFFECTS OF LOW BLOOD SUGAR PRIOR TO HER TESTIMONY THAT
2 AFTERNOON.

3 NEXT QUESTION.

4 MR. SHINEE: WE DIDN'T GET AN ANSWER.

5 HEARING OFFICER KERRIGAN: OH.

6 THE WITNESS: I DON'T REMEMBER WHAT I ATE. I JUST
7 KNOW IT WAS -- I JUST DON'T REMEMBER WHAT I ATE THAT DAY. I
8 CAN'T REMEMBER WHAT I WAS DOING THAT --

9 BY MR. SHINEE:

10 Q HAD BEEN YOU SHOWN THE TRANSCRIPT OF MR. DVER

11 PRIOR TO YOUR TESTIMONY THAT DAY?

12 A SOMEONE SENT IT TO ME.

13 Q AND WHO WAS THAT, PLEASE?

14 A I THINK IT WAS CAROL CARLTON.

15 Q AND WHO IS CAROL CARLTON, PLEASE?

16 A CAROL CARLTON IS A SPECIAL ASSISTANT. SHE'S

A

17 DEPUTY DISTRICT ATTORNEY WHO IS A SPECIAL ASSISTANT IN OUR
18 OFFICE.

19 Q SPECIAL ASSISTANT TO WHO?

20 A TO PAMELA BOOTH.

21 Q PAMELA BOOTH?

22 A UH-HUH.

23 Q AND WAS THERE A --

24 HOW DID YOU OBTAIN THIS TRANSCRIPT?

25 DID SHE BRING IT TO YOU BY HAND?

73

1 DID SHE DELIVER IT TO YOU?

2 HOW DID THAT GET TO --

3 MR. GRIMM: OBJECTION. RELEVANCE.

4 HEARING OFFICER KERRIGAN: WHAT'S THE RELEVANCE OF

HOW

5 SHE GOT IT?

6 MR. SHINEE: IF YOU CAN JUST ALLOW ME THIS MINOR

POINT,

7 IT'S IN A CHAIN OF QUESTIONS.

8 HEARING OFFICER KERRIGAN: WELL, OKAY. GO AHEAD --

9 MR. SHINEE: THANK YOU.

10 HEARING OFFICER KERRIGAN: -- IF YOU'RE LEADING UP
TO
11 SOMETHING.

12 THE WITNESS: SHE JUST LEFT IT ON MY DESK.

13 BY MR. SHINEE:

14 Q AND DO YOU KNOW WHY SHE LEFT IT ON YOUR DESK?

15 MR. GRIMM: CALLS FOR SPECULATION. NOT RELEVANT.

16 HEARING OFFICER KERRIGAN: YES. SUSTAINED.

17 BY MR. SHINEE:

18 Q TO YOUR KNOWLEDGE, DO YOU KNOW WHY SHE LEFT IT
--
19 HEARING OFFICER KERRIGAN: SUSTAINED.

20 BY MR. SHINEE:

21 Q -- ON YOUR DESK, PLEASE?

22 HEARING OFFICER KERRIGAN: SUSTAINED. UNLESS SHE
TOLD
23 YOU WHY. THAT'S A CONCLUSION OF SOMEBODY ELSE'S STATE OF
MIND.

24 BY MR. SHINEE:

25 Q YES. TO YOUR KNOWLEDGE, DO YOU KNOW WHY SHE

74

1 LEFT IT ON YOUR DESK?

2 A NO.

3 Q WAS THERE A MESSAGE THAT YOU SHOULD READ IT
OR
4 REVIEW IT?

SAID: 5 A I BELIEVE THERE WAS A LITTLE POST-IT THAT

6 YOU MIGHT WANT TO READ THIS.

7 Q AND DID YOU?

8 A YES.

9 Q AND DID YOU UNDERSTAND THE SIGNIFICANCE OF
10 MR. DVER'S TESTIMONY?

11 A YES.

12 Q AND WHEN YOU TESTIFIED, WHEN MR. KERRIGAN WAS
13 ASKING YOU QUESTIONS, YOU'D ALREADY READ THAT TRANSCRIPT;
14 CORRECT?

15 A CORRECT.

16 Q THANK YOU.

17 DID YOU BELIEVE MR. KERRIGAN TRICKED YOU IN
ANY 18 FASHION IN THE QUESTIONS THAT HE ASKED YOU?

19 A NO, I DON'T.

20 Q OKAY. AND YOUR TESTIMONY WAS THAT YOU
ANSWERED

21 THE WAY IN WHICH YOU DID BECAUSE YOU HAD LOW BLOOD SUGAR AND
22 YOUR CONCENTRATION LEVEL WAS POOR THAT DAY.

23 A I ANSWERED THE WAY I WAS [SIC] BECAUSE,
24 OBVIOUSLY, I WAS CONFUSED. WHEN I LOOK AT IT TODAY, THOSE
ARE 25 NOT -- THAT'S NOT WHAT I TOLD MR. DVER.

75

1 Q WELL, WHEN YOU READ THE TRANSCRIPT BEFORE YOU

2 TESTIFIED, DID IT OCCUR TO YOU THAT MR. DVER WAS
3 MISREPRESENTING WHAT YOU HAD TOLD HIM?

WHEN

4 A WHEN I FIRST -- I DIDN'T MAKE THAT JUDGMENT
5 I FIRST READ IT. I --

6 Q DID IT OCCUR TO YOU?

7 MR. GRIMM: HOLD ON. I'M SORRY. SHE'S --

8

9 (OVERLAPPING COLLOQUY.)

10

11 MR. SHINEE: I'M SORRY.

12 MR. GRIMM: SHE'S GOT TO FINISH HER ANSWER.

13 HEARING OFFICER KERRIGAN: YES. THAT'S CORRECT.

14 MR. SHINEE: I APOLOGIZE.

15 THE WITNESS: I DIDN'T. I DIDN'T MAKE THAT JUDGMENT
16 WHEN I FIRST READ IT. I LOOKED AT IT, YOU KNOW, JUST -- I

JUST

17 LOOKED AT IT AS: THIS IS, YOU KNOW, SOMEBODY WHO IS
OBVIOUSLY

18 UPSET AND, YOU KNOW, IS JUST -- I WAS JUST TAKING IN THE
FACT

19 THAT THIS WAS A FRIEND WHO, YOU KNOW, ASKED ME FOR ADVICE,
AND

20 WE HAD A CONFIDENTIAL CONVERSATION. AND HERE HE WAS
TESTIFYING

21 TO SOME OF THE THINGS THAT WERE SAID. AND HE --

22 BY MR. SHINEE:

23 Q YOU KNOW ROB DVER; RIGHT?

24 A YES.

25 Q DO YOU KNOW HIM TO BE AN HONEST AND TRUTHFUL

1 PERSON?

2 MR. GRIMM: OBJECTION. THAT'S BEEN ASKED AND
ANSWERED.

3 MR. SHINEE: WELL, I'M ASKING IT AGAIN.

4 MR. GRIMM: I KNOW. THAT'S WHY I OBJECTED TO IT.

5 HEARING OFFICER KERRIGAN: OVERRULED.

6 THE WITNESS: I DO.

7 BY MR. SHINEE:

8 Q AND IT DIDN'T JUMP OFF THE PAGE AT YOU THAT
HE
9 WAS MISREPRESENTING WHAT YOU ALLEGEDLY TOLD HIM?

10 A I DISAGREED AND LOOKED -- I LOOKED AT THE
THINGS
11 THAT I DISAGREED WITH THAT I SAID -- THAT HE SAYS I SAID.

12 AND DID THEY JUMP OFF THE PAGE AT ME? I SAW
13 THEM. THERE WERE SOME OTHER EMOTIONS THERE. THE OTHER
14 EMOTIONS WERE THAT, YOU KNOW, THIS WAS A FRIEND WHO HAD
ASKED
15 FOR HELP, WHO HAD ASKED FOR ADVICE AND --

16 Q BUT YOU WERE FOREWARNED, MADAM, WERE YOU NOT,
17 THAT HE HAD MADE REPRESENTATIONS THAT YOU DID NOT AGREE
WITH;
18 IS THAT CORRECT?

19 A YES.

20 Q AND WHEN MR. KERRIGAN SAID TO YOU ON PAGE
208,
21 AT LINE 16:

22 "OKAY. SO THOSE ARE

23 ALL THINGS THAT YOU SAID

24 TO HIM."

25 AND YOU SAID: "CORRECT."

77

1 DID YOU EVER ADVISE MR. KERRIGAN AT ANY TIME
2 DURING THAT HEARING THAT THESE REPRESENTATIONS HE ASKED YOU
3 ABOUT WERE INCORRECT?

4 A NO.

5 Q NOW, WHEN YOU TOLD --

6 WHEN YOU STATED THAT YOU BELIEVED THAT MR.
DVER,

7 WHO YOU LOVE AS A FRIEND, YOU ADVISED HIM NOT TO GET
INVOLVED

8 IN THE UNION, WHY DID YOU ADVISE HIM OF THAT?

9 MR. GRIMM: ASKED AND ANSWERED.

10 MR. SHINEE: IT WAS ASKED ON DIRECT.

11 MR. GRIMM: IT WAS ASKED --

12 HEARING OFFICER KERRIGAN: OVERRULED.

13 MR. GRIMM: IT WAS --

14 HEARING OFFICER KERRIGAN: IT'S OVERRULED. SHE MAY
15 ANSWER THE QUESTION.

16 THE WITNESS: I WAS -- I WAS ADVOCATING FOR AND
ROOTING

17 FOR MR. DVER BECOME A GRADE V. AND I FELT THAT, YOU KNOW,
HIS

18 ASSOCIATION WITH MR. IPSSEN AND BEING ON THE BARGAINING TEAM

19 WITH MR. IPSSEN WOULD NOT BE HELPFUL, WHICH WAS WHAT HE WAS

20 ASKING ME. HE WAS ASKING ME: WHAT DO YOU THINK?

21 BY MR. SHINEE:

22 Q AND WHY WOULDN'T IT BE HELPFUL, PLEASE?

WOULD

23 A I FELT THAT HIS ASSOCIATION WITH MR. IPSEN

LOYAL

24 PERHAPS SEND A SIGN TO MR. COOLEY THAT HE WOULDN'T BE A

25 PERSON TO MR. COOLEY. THAT HE WOULDN'T BE --

78

1 Q HE WOULD NOT BE LOYAL TO MR. COOLEY --

2 MR. GRIMM: OBJECTION, MR. KERRIGAN. I'M SORRY, BUT
3 HE'S GOT TO WAIT.

4 HEARING OFFICER KERRIGAN: YEAH. JUST RELAX AND LET
5 HER FINISH HER ANSWER.

6 MR. SHINEE: SURE. I'LL TRY TO RELAX HERE.

7 HEARING OFFICER KERRIGAN: OKAY.

8 MR. SHINEE: OKAY.

COOLEY

9 THE WITNESS: THAT HE WOULD NOT BE LOYAL TO MR.

HIM.

10 AND THAT MR. COOLEY WOULD SELECT SOMEBODY ELSE RATHER THAN

11 BY MR. SHINEE:

TEAM

12 Q AND THAT SAME -- BY THAT PARODY OF REASONING,
13 ANYBODY ELSE WHO JOINED THE UNION OR THE UNION BARGAINING

14 MIGHT SUFFER THE SAME FATE AS MR. DVER IN THAT THEY WOULD BE
15 SEEN AS NOT BEING LOYAL TO MR. COOLEY; IS THAT CORRECT?

16 MR. GRIMM: OBJECTION. MISSTATES THE TESTIMONY.

17 MR. SHINEE: IT'S A QUESTION.

18 HEARING OFFICER KERRIGAN: OVERRULED.

19 THE WITNESS: THAT PART I COULDN'T TELL YOU. THAT
20 WASN'T MY ADVICE TO MR. DVER.

21 BY MR. SHINEE:

22 Q WELL, IF YOUR ADVICE TO MR. DVER WAS THAT HE
23 WOULD BE LOOKED AT AS BEING DISLOYAL TO MR. COOLEY BEING
24 ASSOCIATED WITH THE UNION, WHY WOULDN'T THAT SAME ADVICE
25 TO ANYONE WHO JOINED THE UNION OR PARTICIPATED IN UNION

APPLY

79

1 ACTIVITIES?

2 MR. GRIMM: OBJECTION. THAT MISSTATES THE
TESTIMONY.

3 SHE DIDN'T TESTIFY THAT IF HE ASSOCIATES WITH THE UNION.
SHE

4 TESTIFIED THAT IF HE ASSOCIATES CLOSELY WITH MR. IPSEN.

5 THAT JUST MISSTATES HER TESTIMONY. I CAN
POINT

6 IT OUT.

7 MR. SHINEE: WELL, LET ME JUST ASK YOU THIS
QUESTION.

8 BY MR. SHINEE:

9 Q PEOPLE WHO ARE ON THE UNION BOARD ASSOCIATE
WITH

10 MR. IPSEN, DO THEY NOT?

11 A I ASSUME THEY DO.

12 Q PARDON ME?

13 A I ASSUME THEY DO.

GIVEN

14 Q ALL RIGHT. SO ANYBODY ON THE UNION BOARD,

TO

15 YOUR UNDERSTANDING OF COOLEY'S FEELINGS, WOULD BE CONSIDERED

16 BE DISLOYAL TO MR. COOLEY; IS THAT CORRECT?

17 MR. GRIMM: OBJECTION. CALLS FOR SPECULATION. NO
18 FOUNDATION.

19 HEARING OFFICER KERRIGAN: OBJECTION OVERRULED.

20 THE WITNESS: NOT TO THE DEGREE THAT I THINK
21 MR. DVER -- THAT MESSAGE WOULD HAVE BEEN BEEN SENT BY
22 MR. DVER'S ACTION. MR. DVER AND MR. COOLEY WERE FRIENDS.

THEY

23 HAD A --

24 BY MR. SHINEE:

25 Q AND SO IF YOU'RE A FRIEND OF MR. COOLEY, YOU

80

1 WON'T EXPERIENCE HIS WRATH IF YOU JOIN THE UNION -- YOU WILL
2 EXPERIENCE HIS WRATH IF YOU JOIN, BUT OTHERS WHO ARE NOT
3 PERSONALLY ASSOCIATED WITH MR. COOLEY WILL NOT EXPERIENCE

ANY

4 HARM OR DETRIMENT TO THEIR CAREER FOR JOINING THE UNION?

5 IS THAT YOUR TESTIMONY?

6 A I DIDN'T SAY --

7 MR. GRIMM: OBJECTION. IT'S COMPOUND. IT'S --

8

9 (OVERLAPPING COLLOQUY.)

10

11 HEARING OFFICER KERRIGAN: WAIT A MINUTE. WAIT A
12 MINUTE. I DIDN'T UNDERSTAND THE QUESTION.

13 MR. SHINEE: ALL RIGHT.

14 HEARING OFFICER KERRIGAN: FRIENDS OF MR. COOLEY?
ARE
15 WE TALKING ABOUT FRIENDS OF MR. COOLEY OR FRIENDS OF MR.
IPSEN?

16 MR. SHINEE: FRIENDS OF MR. COOLEY WHO JOIN THE
UNION
17 WILL EXPERIENCE HIS WRATH AND A FEELING OF DISLOYALTY.

18 HEARING OFFICER KERRIGAN: OKAY.

19 MR. SHINEE: LET ME BACK UP HERE.

20 BY MR. SHINEE:

21 Q AFTER MR. DVER AND YOU HAD A CONVERSATION AND
22 YOU ADVISED HIM THAT HE MIGHT ENGENDER FEELINGS OF
DISLOYALTY
23 IN MR. COOLEY, MR. DVER WAS TRANSFERRED, WAS HE NOT?

24 MR. GRIMM: OBJECTION. COMPOUND. IT'S VAGUE.

25 HEARING OFFICER KERRIGAN: OVERRULED.

81

1 THE WITNESS: HE WAS TRANSFERRED. NO, THAT'S NOT
2 EXACTLY CORRECT.

3 BY MR. SHINEE:

4 Q WELL, CORRECT ME.

5 A I GAVE MR. DVER THE ADVICE. AND THEN HE WENT
6 OFF AND DID WHATEVER HE DID, WHICH WAS TALK TO MR. COOLEY.

HE

7 THEN TOLD ME THAT HE WENT TO A UNION MEETING AND LISTENED
AND
8 WHATEVER, AND THAT HE DECIDED NOT TO JOIN THE BARGAINING
TEAM.

9 AFTER THAT OCCURRED, MR. DVER LECTURED AT A
10 SATURDAY SEMINAR. THAT LECTURE BROUGHT A COMPLAINT FROM A
11 WOMAN WHO DID NOT LIKE WHAT MR. DVER HAD TO SAY ABOUT HER IN
12 THE SEMINAR.

13 FOLLOWING THAT SEMINAR IN MARCH -- THE
SEMINAR
14 WAS IN DECEMBER -- THE CONVERSATION WITH MR. DVER WAS, LIKE,
IN
15 OCTOBER.

16 FOLLOWING THAT SEMINAR, WE WERE DISCUSSING,
17 REVIEWING MOVING MANAGERS AROUND. AND MR. DVER HAD SAID TO
ME
18 AT A BREAKFAST BEFORE THAT HE WOULD LIKE TO LEAVE THE
TRAINING
19 DIVISION AND BECOME A D.I.C. OF A SMALL OFFICE.

20 WE HAD THE BOARD OF MANAGERS OR SPOTS ON THE
21 BOARD AND WE WERE DISCUSSING IT. AND AN OPENING OCCURRED IN
22 GLENDALE. I RECOMMENDED MR. DVER BE THE D.I.C. OF GLENDALE.
23 MR. COOLEY SAID OKAY.

24 THE CONVERSATION WENT ON AND THEN MR. DVER'S
25 CURRENT DIRECTOR MR. JOHN PAUL BERNARDI SAID: I DON'T THINK
HE
82

1 OUGHT TO BE IN MANAGEMENT ANY MORE AFTER THAT SATURDAY
SEMINAR.

AND

2 HE SAID THAT HE FELT THAT IT SHOWED REALLY POOR JUDGMENT.

3 THE ROOM GOT VERY, VERY QUIET AND MR. COOLEY SAID TO
4 MR. BERNARDI: WELL, IF THAT'S WHAT YOU THINK, THAT'S WHAT
5 WE'LL DO. FIND OUT WHAT OFFICE HE WOULD LIKE TO GO TO.

6 Q AND LET ME JUST SEE IF I UNDERSTAND THE DATES
7 HERE. IT WAS SEPTEMBER THAT YOU HAD THE DISCUSSION WITH
8 MR. DVER GIVING HIM CAREER ADVICE.

9 A I THINK. I KNOW IT WAS IN THE FALL,
10 SEPTEMBER/OCTOBER, SOMEWHERE IN THERE.

11 Q IT WAS OCTOBER THAT HE HAD THE DISCUSSION.
12 OCTOBER 17TH THAT HE HAD THE DISCUSSION WITH MR. COOLEY;
13 CORRECT?

14 A I WASN'T THERE, SO I HAVE TO ACCEPT YOUR
15 REPRESENTATION.

16 Q ALL RIGHT. BUT YOU KNOW THAT --
17 MR. GRIMM: I'M SORRY. CAN I HAVE JUST ONE MINUTE?

18
19 (PAUSE IN THE PROCEEDINGS.)

20
21 BY MR. SHINEE:

22 Q COOLEY HAS A CONVERSATION WITH MR. DVER IN
23 OCTOBER, OCTOBER 17TH, ACCORDING TO THE TRANSCRIPT. AND THE
24 SEMINAR IS IN MARCH --

25 A NO. THE SEMINAR IS IN DECEMBER.

1
TRANSFERRED

Q THE SEMINAR IS IN DECEMBER AND HE'S

2 IN MARCH; IS THAT CORRECT?

3 A THAT'S CORRECT.

4 Q OKAY. AND ARE YOU SAYING HE WAS TRANSFERRED
5 BECAUSE HE WANTED TO BE TRANSFERRED?

6 A HE ASKED ME IF HE COULD LEAVE TRAINING AND GO
TO
7 BE A MANAGER OF AN AREA OFFICE.

8 Q ARE YOU SAYING HE WAS TRANSFERRED AT HIS
9 REQUEST?

10 "YES" OR "NO"?

11 A HE ASKED ME TO -- YES.

12 Q THANK YOU.

13 A THE ANSWER IS: YES, HE ASKED ME.

14 Q NOW, THE REMARK MADE TO THIS WOMAN AT THE
15 SEMINAR WAS THE REASON, APPARENTLY, COOLEY TRANSFERRED HIM,
16 ACCORDING TO YOUR TESTIMONY?

17 A NO, THAT'S ACTUALLY NOT CORRECT.

18 Q ALL RIGHT. IT WAS IN PART THE REASON?

19 A NO. HE WAS THE SPEAKER AT A SATURDAY --

20 Q YES. I UNDERSTAND THAT HE WAS --

21 A -- SEMINAR AND HE --

22 Q -- THE SPEAKER AND HE MADE A REMARK --

23

24 (OVERLAPPING COLLOQUY.)

25 ///

1 MR. GRIMM: OBJECTION. MR. KERRIGAN, I AM NOT --

2 HEARING OFFICER KERRIGAN: YES. WE'RE TALKING OVER
3 EACH OTHER AND WE'VE GOT TO STOP DOING THAT.

4 BY MR. SHINEE:

5 Q HE WAS THE SPEAKER?

6 A HE WAS THE SPEAKER. HE DIDN'T SPEAK TO THE
7 WOMAN. HE MADE -- THE SATURDAY SEMINAR WAS, YOU KNOW, HE
MADE,
8 LIKE, REMARKS OR CRACKS OR JOKES ABOUT PEOPLE AT THE
SATURDAY
9 SEMINAR.

10 Q RIGHT.

11 A ONE OF THEM WAS ABOUT A WOMAN WHO HE
12 SUPERVISED --

13 Q YES.

14 A RIGHT. NOT BEING MARRIED.

15 Q RIGHT.

16 A OKAY.

17 Q ALL RIGHT. AND THIS WOMAN COMPLAINED?

18 A YES.

19 Q WHO DID SHE COMPLAIN TO, PLEASE?

20 A I BELIEVE SHE COMPLAINED TO EMPLOYEE
RELATIONS.

21 Q AND WAS AN INVESTIGATION CONDUCTED?

22 A MY HEARSAY OR MY BELIEF IS THAT PEOPLE WERE
23 TALKED TO, AN INVESTIGATION WAS --

24 Q AN OFFICIAL INVESTIGATION WAS OPENED?

IS
85

25 A NO. I DIDN'T SAY OFFICIAL. MY UNDERSTANDING

1 THAT PEOPLE WERE TALKED TO.

2 Q DO YOU KNOW WHAT PEOPLE WERE TALKED TO?

3 A NO.

4 Q YOU DON'T. AND WHEN THE GENTLEMAN SAID TO
5 MR. COOLEY: MR. DVER SHOULDN'T BE IN MANAGEMENT BECAUSE OF
6 THIS REMARK, WAS MR. DVER REMOVED FROM MANAGEMENT?

7 A THE GENTLEMAN SAID MR. DVER SHOULD BE REMOVED
8 BECAUSE OF THAT, THE REMARKS HE MADE AT THE SATURDAY
SEMINAR.

9 Q YES.

10 A AND HE SAID: I THINK HE OUGHT TO BE REMOVED
11 FROM MANAGEMENT.

12 Q AND WAS HE, IN FACT, REMOVED FROM MANAGEMENT?

13 A YES.

14 Q HE WAS? OKAY.

15 HEARING OFFICER KERRIGAN: MR. DVER TESTIFIED THAT
16 HE GOT A LETTER AFTER THE SEMINAR SAYING HE DID A GREAT JOB; IS
17 THAT CORRECT?

18 THE WITNESS: THAT'S CORRECT, BECAUSE MR. COOLEY
DIDN'T
19 KNOW ABOUT --

20 MR. DEBBAUDT: WELL, I OBJECT AND MOVE TO STRIKE.
THE

THAT

21 ONLY QUESTION WAS: DID HE GET A LETTER? EVERYTHING AFTER

22 WAS NONRESPONSIVE. MOTION TO STRIKE.

23 HEARING OFFICER KERRIGAN: GRANTED. IT WILL BE

24 STRICKEN, THE LAST PART AFTER THE "YES."

25 ///

86

1 BY MR. SHINEE:

TO

2 Q WHO WAS THE PERSON THAT THIS WOMAN COMPLAINED

3 AT H.R., IF YOU KNOW?

KNOW

4 A I WANT TO SAY MS. DIXON SILVA, BUT I DON'T

5 WHO SHE ACTUALLY COMPLAINED TO.

6 Q AND WHAT WAS THE WOMAN'S NAME AGAIN, PLEASE?

7 A HER NAME WAS CYNTHIA NAKAO.

8 Q HOW DO YOU SPELL THAT?

9 A N-A-K-A-O.

10

11 (PAUSE IN THE PROCEEDINGS.)

12

13 BY MR. SHINEE:

14 Q DO YOU RECALL THE A.D.D.A. APPROACHING YOU IN

15 JANUARY OF 2008 AND ASKING YOU TO SEND A GOM?

16 DO YOU KNOW WHAT A GOM IS?

17 A YES.

18 Q TO BRANCH MANAGERS AND MANAGERS IN GENERAL

19 REMINDING THEM THAT THEY HAD A LEGAL OBLIGATION NOT TO
20 INTERFERE OR HARASS UNION MEMBERS OR UNION OFFICERS OR
21 DIRECTORS?

22 A WOULD YOU RESTATE THAT? ARE YOU SAYING THAT

--

23 MR. SHINEE: WOULD YOU READ THE QUESTION BACK?

24

25 (RECORD READ.)

87

1 THE WITNESS: I REMEMBER THEM ASKING FOR SOMETHING,
BUT
2 I'M NOT SURE ALL OF THAT LANGUAGE WAS IN WHAT THEY ASKED
FOR.
3 BY MR. SHINEE:

4 Q WHAT DID YOU REMEMBER THEM ASKING FOR?

5 A I REMEMBER THEM ASKING FOR SOMETHING TO GO
OUT

6 THAT SAID THAT: NO MANAGERS COULD INTERFERE WITH THE --

7 Q AND WAS THAT MEMO SENT OUT?

8 A I DON'T KNOW. I DON'T SEND OUT GOM'S.

9 Q ALL RIGHT. AND DO YOU RECALL --

10 A I THINK IT WAS.

11 Q YOU THINK IT WAS SENT OUT?

12 A I WOULD BE GUESSING. I BELIEVE.

13 MR. GRIMM: OBJECTION. IT'S NOT RELEVANT.

14 HEARING OFFICER KERRIGAN: WHAT'S NOT RELEVANT?

15 MR. GRIMM: IF SHE'S GUESSING. IF SHE'S GOING TO

16 QUALIFY HER ANSWER WITH, "I'M GUESSING."

17 HEARING OFFICER KERRIGAN: DO YOU HAVE ANY
RECOLLECTION

18 AT ALL ABOUT THIS?

19 THE WITNESS: YEAH, I HAVE A LITTLE BIT OF
20 RECOLLECTION.

21 HEARING OFFICER KERRIGAN: OKAY.

22 THE WITNESS: BUT I DON'T THINK I -- I NORMALLY
DON'T

23 SEND OUT GOM'S, THE CHIEF DEPUTY DOES. SO I CAN'T REMEMBER
24 WHETHER THE GOM ACTUALLY WENT OUT.

25 HEARING OFFICER KERRIGAN: OKAY.

88

1 THE WITNESS: A LOT OF --

2 HEARING OFFICER KERRIGAN: WOULD IT BE HELPFUL TO ME
TO

3 KNOW WHAT A GOM IS OR --

4 MR. DEBBAUDT: GENERAL OFFICE MEMORANDUM.

5 HEARING OFFICER KERRIGAN: OKAY.

6 MR. SHINEE: IT'S A BIZARRE ACRONYM FOR THE D.A.'S
7 OFFICE, NOT TO BE CRITICAL.

8 BY MR. SHINEE:

9 Q NOW, DID YOU RECEIVE THIS GOM?

10 A WELL, THEY, YOU KNOW, GO ON THE INTERNET.
GOM'S

11 GO ON THE INTERNET. THEY AREN'T DISTRIBUTED PAPER-WISE ANY

LIST

12 MORE. AND I'M TRYING TO ANSWER BUT WITHOUT LOOKING AT THE
13 OF GOM'S THAT'S ON MY COMPUTER. I CAN'T TELL YOU FOR SURE I
14 GOT THAT GOM, BUT I DO REMEMBER THE DISCUSSION ABOUT THE

GOM.

15 Q OKAY. AS YOU SIT HERE TODAY, YOU'RE NOT SURE
16 WHETHER OR NOT IT WAS ACTUALLY SENT OUT?

HAVE

17 A I THOUGHT IT HAD. I'M JUST NOT SURE. I'D
18 TO LOOK ON MY COMPUTER TO TELL YOU.

19 Q WOULD THE GOM APPLY TO MR. COOLEY?

20 A WELL, SURE.

21 Q IT WOULD. AND THIS WAS BEFORE YOU HAD YOUR
22 CONVERSATION WITH MR. DVER, ISN'T IT?

23 A THAT'S CORRECT.

24 MR. SHINEE: NOTHING FURTHER.

25 ///

89

1 REDIRECT EXAMINATION

2

3 BY MR. DEBBAUDT:

4 Q HAVE YOU DISCUSSED YOUR TESTIMONY CONCERNING
5 DVER WITH MR. COOLEY?

6 A HAVE I DISCUSSED MY TESTIMONY?

7 Q YOU TESTIFIED, CORRECT, BEFORE TODAY --

8 A YOU'RE TALKING ABOUT THE JULY TESTIMONY?

9 Q YEAH. HAVE YOU DISCUSSED YOUR TESTIMONY

10 CONCERNING WHAT MR. DVER SAID WITH MR. COOLEY?

11 A I HAVE NOT DISCUSSED -- I'M SORRY. THIS IS
12 REALLY VAGUE.

IN

13 ARE YOU ASKING ME IF I DISCUSSED MY TESTIMONY
14 JULY HERE WITH MR. COOLEY?

15 Q YES.

16 A NO.

STAFF

17 Q HAVE YOU DISCUSSED IT WITH ANY EXECUTIVE
18 MEMBER?

ANY

19 A I CAN'T RECALL THAT I HAVE DISCUSSED IT WITH
20 EXECUTIVE STAFF MEMBER. I CAN'T RECALL THAT PART.

21 Q DID YOU DISCUSS WITH MR. COOLEY WHAT MR. DVER
22 CLAIMED MR. COOLEY HAD SAID?

23 A I DISCUSSED -- I TALKED TO MR. COOLEY AFTER
24 MR. DVER AND HE TALKED.

25 Q AND WAS THAT BEFORE YOU TESTIFIED?

90

1 A YES.

2 MR. GRIMM: ON JULY 9TH?

3 THE WITNESS: YES.

4 BY MR. DEBBAUDT:

5 Q ON JULY 9TH?

6 A YES.

OTHER

7 Q AND THAT'S THE ONLY TIME YOU'VE TESTIFIED

8 THAN TODAY; CORRECT?

9 A THAT'S CORRECT.

10 Q AND AFTER JULY 9TH, HAVE YOU EVER TALKED TO
11 MR. COOLEY ABOUT YOUR TESTIMONY ON JULY 9TH?

12 A NO.

13 Q HAVE YOU TALKED TO ANY EXECUTIVE STAFF MEMBER
14 ABOUT YOUR TESTIMONY ON JULY 9TH?

15 MR. GRIMM: ASKED AND ANSWERED.

16 HEARING OFFICER KERRIGAN: SUSTAINED.

17 MR. DEBBAUDT: OKAY.

18 BY MR. DEBBAUDT:

STAFF?

19 Q HAVE YOU EVER HAD TO EXPLAIN TO ANYBODY WHAT
20 YOUR TESTIMONY WAS AS FAR AS MR. COOLEY OR THE EXECUTIVE

21 MR. GRIMM: OBJECTION. COMPOUND.

22 HEARING OFFICER KERRIGAN: JUST A SECOND.

23 MR. GRIMM: VAGUE.

24 HEARING OFFICER KERRIGAN: JUST A SECOND. WHEN YOU
25 ASK, "HAVE YOU EVER HAD TO..." THAT ASSUMES A FACT NOT IN

91

1 EVIDENCE.

2 MR. DEBBAUDT: I GOTCHA. I UNDERSTAND.

3 HEARING OFFICER KERRIGAN: ALL RIGHT.

4 MR. DEBBAUDT: YES, IT WAS POORLY WORDED.

IN

5 BY MR. DEBBAUDT:

6 Q APPARENTLY YOU FELT THAT YOUR TESTIMONY WAS
7 ERROR; IS THAT CORRECT?

8 A ON THAT ONE SECTION, YES.

YOU

9 Q OKAY. AND CONCERNING THAT ONE SECTION, DID
10 EVER TELL MR. COOLEY THAT YOU HAD ERRONEOUSLY TESTIFIED?

11 A NO. I'VE NEVER DISCUSSED MY TESTIMONY WITH
12 MR. COOLEY.

13 Q ANY EXECUTIVE STAFF MEMBER?

14 MR. GRIMM: OBJECTION. THIS IS ASKED AND ANSWERED.
15 THIS IS HARASSING.

16 MR. DEBBAUDT: I'VE ASKED A SPECIFIC QUESTION. AND
17 IT'S NOT HARASSING. THAT'S SILLY.

18 HEARING OFFICER KERRIGAN: OVERRULED. ANSWER THE
19 QUESTION.

20 THE WITNESS: I HAVE NOT DISCUSSED -- I MEAN, I HAVE
21 NOT DISCUSSED MY SPECIFIC TESTIMONY --

22 BY MR. DEBBAUDT:

23 Q OKAY.

24 A -- WITH ANY MEMBER OF EXECUTIVE STAFF.

25 Q AT SOME POINT YOU REVIEWED YOUR TESTIMONY; IS

92

1 THAT CORRECT?

2 A YES.

3 Q WHEN?

4 A LAST FRIDAY.

THAT

5 Q WAS THAT THE FIRST TIME SINCE YOU TESTIFIED

6 YOU REVIEWED IT?

7 A YES.

8 Q DID YOU REVIEW IT WITH ANYBODY?

9 MR. GRIMM: OBJECTION.

10 THE WITNESS: YES.

11 MR. GRIMM: THIS IS --

12 THE WITNESS: YES. I REVIEWED IT WITH MR. GRIMM AND

13 MS. GHALTCHI.

14

15 (PAUSE IN THE PROCEEDINGS.)

16

17 BY MR. DEBBAUDT:

THAT

18 Q NOW, YOU TESTIFIED TODAY THAT YOU THOUGHT

19 THE HEARING OFFICER WAS ASKING YOU TO CONFIRM WHAT MR. DVER

20 TESTIFIED TO; CORRECT?

WHAT

21 A YES. AS I LOOK AT THAT TRANSCRIPT, THAT'S

22 I THOUGHT I WAS DOING.

AGAIN?

23 Q AND YOU THOUGHT HE DID THAT OVER AND OVER

24 MR. GRIMM: OBJECTION. IT'S VAGUE.

25 ///

1 BY MR. DEBBAUDT:

2 Q MORE THAN ONCE THE HEARING OFFICER ASKED YOU
3 QUESTIONS AND YOU THOUGHT EVERY TIME HE ASKED YOU A QUESTION
IT
4 WAS ABOUT CONFIRMING WHAT MR. DVER TESTIFIED TO?

5 A I WAS JUST TALKING ABOUT THAT PARTICULAR
PASSAGE
6 THAT I WAS CONFUSED.

7 Q WHY DO YOU THINK THE HEARING OFFICER WOULD
WANT
8 TO KNOW WHAT YOU THINK MR. DVER TESTIFIED TO?

9 A I DON'T KNOW. I JUST -- I WAS CONFUSED.

10 Q NOW, THERE ARE STRIKE CASES IN JUVENILE,
AREN'T
11 THERE?

12 A YOU'RE TALKING ABOUT A JUVENILE WITH -- A
13 THIRD-STRIKE JUVENILE?

14 Q ISN'T IT TRUE THAT JUVENILE DEPUTIES
REGULARLY
15 PROVE UP CASES THAT ARE STRIKES?

16 A THERE ARE JUVENILE CASES THAT ARE PROVEN UP
THAT
17 ARE STRIKES, BUT I'M NOT SURE OUR OFFICE IS USING THOSE AS
18 STRIKES.

19 Q WELL, ISN'T IT TRUE THERE'S A SUPREME COURT
CASE
20 THAT RECENTLY CAME OUT THAT SAYS THEY ARE DEFINITELY --
CAN
21 BE USED AS STRIKES?

22 MR. GRIMM: OBJECTION. IT'S NOT RELEVANT. IT'S
23 CALLING FOR A LEGAL OPINION.

ASKING

24 HEARING OFFICER KERRIGAN: HER KNOWLEDGE, YOU'RE
25 ABOUT HER KNOWLEDGE OF THAT CASE?

94

1 THE WITNESS: I DON'T KNOW.

2 HEARING OFFICER KERRIGAN: WERE YOU AWARE THAT THERE
3 WAS A RECENT CASE?

4 THE WITNESS: NO.

5 HEARING OFFICER KERRIGAN: OKAY. SHE'S NOT AWARE OF
6 THAT.

7 BY MR. DEBBAUDT:

USE

8 Q YOU'RE NOT AWARE WHETHER OR NOT JUVENILE
9 DEPUTIES ARE REGULARLY ASKED TO PREPARE STRIKE PACKAGES FOR
10 IN ADULT COURTS AS STRIKE OFFENSES?

11 A NO, I'M NOT AWARE OF THAT.

ON

12 Q NOW, ARE YOU AWARE WHETHER OR NOT I HAVE BEEN
13 THE GRADE V LIST FOR PROMOTION TO GRADE V?

14 A I THINK I'M ONLY AWARE BECAUSE I THOUGHT YOU
15 MENTIONED THAT THE LAST TIME WE WERE HERE.

16 Q NOW, MY TRANSFER TO JUVENILE --

A

17 HEARING OFFICER KERRIGAN: LET ME INTERRUPT YOU FOR
18 SECOND.

19 HOW LONG ARE WE GOING TO GO ON WITH THIS
20 WITNESS?

THREE

21 MR. DEBBAUDT: I'M ALMOST DONE. TWO QUESTIONS,
22 QUESTIONS.

23 HEARING OFFICER KERRIGAN: OKAY.

24 BY MR. DEBBAUDT:

25 Q MY TRANSFER TO JUVENILE AS A CALENDAR DEPUTY

95

IT? 1 WOULD AFFECT MY ABILITY TO BE PROMOTED TO GRADE V, WOULDN'T

ME 2 A YOU KNOW YOU'RE ASKING ABOUT -- IT'S HARD FOR
3 TO SPECULATE. I'M NOT THE ONE CHOOSING WHO GETS TO BE A V.

MY 4 Q WELL, YOU TESTIFIED EARLIER THAT TO YOUR
5 KNOWLEDGE I HAVEN'T RECEIVED ANY LESSER PAY AS A RESULT OF
6 TRANSFER; ISN'T THAT CORRECT?

7 A THAT'S CORRECT.

8 Q WELL, ISN'T IT ALSO CORRECT THAT MY TRANSFER
9 AFFECTED MY FUTURE POTENTIAL EARNINGS; ISN'T THAT ALSO TRUE?

10 MR. GRIMM: CALLS FOR SPECULATION.

11 HEARING OFFICER KERRIGAN: IF YOU KNOW.

12 THE WITNESS: I DON'T KNOW THE ANSWER TO THAT.

13 BY MR. DEBBAUDT:

14 Q ISN'T IT TRUE, IN ORDER TO BE ELEVATED TO
15 GRADE V, YOU HAVE TO APPLY; ISN'T IT TRUE?

16 A YES.

ISN'T 17 Q AND THE LAST GRADE V ACTUALLY HAD AN EXAM;

18 THAT CORRECT?

19 A YES.

20 Q AND THE CURRENT GRADE V EMPHASIZED THE NEED

TO

21 PRESENT A STATEMENT OF QUALIFICATIONS; ISN'T THAT TRUE?

22 A YES.

23 Q ISN'T IT TRUE IF I WROTE ON THAT STATEMENT OF

24 QUALIFICATIONS THAT I AM A GRADE IV TOP-STEP DEPUTY DOING

25 CALENDAR WORK IN JUVENILE THAT THAT WOULD AFFECT MY

96

1 QUALIFICATIONS FOR PROMOTION TO GRADE V?

2 HEARING OFFICER KERRIGAN: IF YOU KNOW.

3 MR. GRIMM: CALLS FOR SPECULATION.

4 HEARING OFFICER KERRIGAN: IF YOU KNOW.

5 THE WITNESS: THAT WOULD CALL FOR ME TO SPECULATE AS

TO

6 WHAT VALUE MR. COOLEY WOULD PLACE ON THAT ASSIGNMENT --

7 BY MR. DEBBAUDT:

8 Q MS. LACEY --

9 A -- OR ANY OTHER --

10

11 (OVERLAPPING COLLOQUY.)

12

13 BY MR. DEBBAUDT:

14 Q -- ARE YOU HONESTLY SAYING YOU ARE NOT ABLE

TO

A

15 RENDER AN OPINION WHETHER MY POSITION IN JUVENILE COURT, AS
16 GRADE IV DEPUTY, HANDLING AN ENTRY-LEVEL POSITION CALLED
17 CALENDAR DEPUTY IN JUVENILE COURT, AFFECTS OR DOES NOT
18 MY ABILITY TO BE PROMOTED TO GRADE V?

EFFECT

19 MR. GRIMM: OBJECTION.

20 BY MR. DEBBAUDT:

21 Q ARE YOU ACTUALLY SAYING THAT?

22 MR. GRIMM: COMPOUND. CALLS FOR SPECULATION. IT'S
23 ARGUMENTATIVE. SHE JUST ANSWERED THE BEST SHE COULD.

PLEASE.

24 HEARING OFFICER KERRIGAN: ANSWER THE QUESTION,

25 THE WITNESS: MR. DEBBAUDT, WITH REGARD TO BEING

97

MANAGEMENT

1 PROMOTED TO GRADE V, NORMALLY IF YOU ARE IN A QUASI-

2 POSITION, THAT IS SOMEBODY THAT WE NORMALLY WOULD CHOSE.

TO

3 WHETHER YOU'RE IN -- WHETHER YOU BEING SENT

4 JUVENILE PREVENTS YOU FROM BEING SELECTED AS A GRADE V IS

5 TOTALLY UP TO THE PERSON WHO'S MAKING THE SELECTION.

6 MR. DEBBAUDT: NO ADDITIONAL QUESTIONS.

7 HEARING OFFICER KERRIGAN: OKAY. ANY RECROSS?

IF

8 MR. GRIMM: IT'S SO BRIEF. AND I REALLY WANT TO --

9 WE COULD JUST END THIS.

10

REXCROSS-EXAMINATION

11

12

13 BY MR. GRIMM:

14 Q MS. LACEY, WOULD YOU PLEASE LOOK AT PAGE 169,
15 LINE 16, OF THE TRANSCRIPT OF THE JULY 9TH, 2009, HEARING.

AND

16 DIRECTING YOUR ATTENTION SPECIFICALLY TO LINE 10 AT THE TOP.

17 DO YOU SEE THAT?

18 A YES.

REPORTER

19 Q DO YOU SEE WHERE IT SAYS -- THE COURT
20 HAS INDICATED THERE: "BY MR. IPSEN."

21 A YES.

ASKED

22 Q OKAY. IS IT YOUR UNDERSTANDING THAT THE
23 QUESTION UNDER WHERE IT SAYS: "BY MR. IPSEN," ARE BEING
24 BY MR. IPSEN?

25 A YES.

98

SAME

1 Q OKAY. DO YOU SEE PAGE 169, LINE 16, IN THE
2 AREA WHERE IT SAYS:
3 QUESTION: "DID YOU READ THE
4 SECTION ON PAGE 21 WHERE ROB
5 WAS DESCRIBING SEVERAL
6 CONVERSATIONS OVER THE
7 YEARS WHERE --"

8 AND THEN HE QUOTES --

9 " 'BASICALLY SHE WAS
10 WARNING ME THAT IT WAS BAD
11 FOR MY CAREER TO BE SEEN
12 WITH YOU.' " END QUOTE.

13 DO YOU SEE THAT LANGUAGE?

14 A YES.

15 Q DO YOU SEE WHERE --

16 MR. DEBBAUDT: I OBJECT. RELEVANCE TO HER ABILITY

TO

17 READ A TRANSCRIPT.

18 HEARING OFFICER KERRIGAN: LET HIM FINISH THE
QUESTION

19 BEFORE YOU OBJECT.

20 BY MR. GRIMM:

21 Q WERE YOU --

22 DOES THIS REFRESH YOUR RECOLLECTION THAT YOU
23 WERE, IN FACT, READING ALONG WITH MR. IPSEN AS HE WAS ASKING
24 YOU QUESTIONS ABOUT MR. DVER'S TESTIMONY?

25 A YES.

99

1 Q OKAY. DO YOU SEE AT PAGE 170, LINE 5, WHERE
2 MR. IPSEN ASKS THE QUESTION:

3 "OH, I'M SORRY IT'S

4 PAGE 21, LINES 9 THROUGH

5 12."

6 AND THEN IT SAYS:

7 "BY MR. IPSEN:

8 "QUESTION: DID YOU READ
9 THAT SECTION.

10 "ANSWER: OKAY. IF YOU CAN
11 GIVE ME -- I ONLY READ THIS
12 ONCE.

13 "QUESTION: SURE."

14 DOES THIS ALSO INDICATE THAT YOU WERE, IN
FACT,

15 READING, THAT MR. IPSEN WAS DIRECTING YOU TO --

16 MR. SHINEE: OBJECTION. THIS IS SLIGHTLY LEADING --

17

18 (OVERLAPPING COLLOQUY.)

19

20 HEARING OFFICER KERRIGAN: YEAH. YOU CAN REFRESH
HER

21 RECOLLECTION IF HER RECOLLECTION NEEDS TO BE REFRESHED. I'M
22 NOT AWARE IT NEEDS TO BE REFRESHED.

23 MR. GRIMM: THEY CALLED INTO QUESTION THE FACT OF --

24 MR. SHINEE JUST SAID: CAN YOU POINT OUT WHERE IT INDICATES

25 THAT YOU -- THAT SHE WAS READING ALONG WITH THE TESTIMONY OF

100

1 MR. DVER. SO I'M MERELY POINTING IT OUT.

2 IF IT'S OBVIOUS, THEN I'LL LET IT GO.

3 MR. SHINEE: MY OBJECTION WAS, IT'S A LEADING
QUESTION.

4 AND ARGUMENT WHETHER OR NOT SHE WAS GIVEN THE TRANSCRIPT,
THE
5 TRANSCRIPT DOESN'T REFLECT THAT SHE WAS HANDED THE
TRANSCRIPT
6 AND ASKED TO READ FROM IT.

7 HEARING OFFICER KERRIGAN: NEXT QUESTION.

8 MR. GRIMM: NO FURTHER QUESTIONS.

9 HEARING OFFICER KERRIGAN: OKAY.

10 MR. DEBBAUDT: JUST ONE QUESTION.

11

12 REDIRECT EXAMINATION

13

14 BY MR. DEBBAUDT:

15 Q ARE YOU SAYING YOUR HIGH BLOOD SUGAR AFFECTED
16 YOUR TESTIMONY THAT DAY?

17 MR. GRIMM: OBJECTION. IT'S BEYOND THE SCOPE. AND
18 IT'S BEEN ASKED AND ANSWERED. IT'S BEYOND THE SCOPE.

19 HEARING OFFICER KERRIGAN: WELL, I'LL LET HIM REOPEN
20 JUST FOR THAT QUESTION. IF ANYBODY WANTS TO CROSS OR ASK

ANY

21 OTHER QUESTIONS, IT'S LIMITED TO THAT.

22 GO AHEAD. YOU MAY ANSWER THE QUESTION.

23 THE WITNESS: I'M SAYING THAT I HAVE CONCENTRATION
24 ISSUES IN THE AFTERNOON WHEN I --

25 ///

1 BY MR. DEBBAUDT:

2 Q DOES IT AFFECT YOUR ABILITY TO REMEMBER YOUR
3 TESTIMONY AS WELL?

4 A NO.

5 Q SO YOU'RE CONFUSED ABOUT YOUR TESTIMONY BUT
6 REMEMBERING WHAT YOU SAID?

7 MR. GRIMM: OBJECTION. IT'S VAGUE, AND COMPOUND.

8 THE WITNESS: I'M NOT SURE WHAT YOU'RE ASKING.

9 HEARING OFFICER KERRIGAN: THAT'S SUSTAINED.

10 MR. DEBBAUDT: OKAY.

11 BY MR. DEBBAUDT:

12 Q OKAY. DID YOU EVER SEE THE LIST THAT WAS

13 BY PETER BURKE FROM ERCOM?

14 MR. GRIMM: THAT'S BEYOND THE SCOPE.

15 HEARING OFFICER KERRIGAN: I ALLOWED YOU ONE
16 QUESTION.

16 MR. GRIMM: THANK YOU.

17 HEARING OFFICER KERRIGAN: WE'RE NOT GOING TO GO ON
18 WITH THIS WITNESS ALL DAY.

19 MR. SHINEE: FIRST OF ALL, JUST AS WE DON'T START A
20 PRINCIPLE HERE, THERE IS NO QUESTION AND ANSWER -- THERE'S

NO

21 OBJECTION IN AN ADMINISTRATIVE HEARING, OR IN ERCOM
22 SPECIFICALLY, AS TO AN OBJECTION WITH REGARD TO BEYOND THE
23 SCOPE OF DIRECT OR CROSS.

24 THAT'S A HIGHLY TECHNICAL EVIDENTIARY
OBJECTION

25 THAT IS NOT APPROPRIATE IN AN ADMINISTRATIVE PROCEEDINGS AND

BUT
HIS

1 NEVER HAS BEEN SUSTAINED IN ANY PROCEEDING I'VE BEEN IN.

2 SO YOU MIGHT WANT TO LIMIT HIS QUESTIONING

3 IT'S CERTAINLY NOT ON THE BASIS OF IT'S BEYOND THE SCOPE OF

4 REDIRECT.

5 HEARING OFFICER KERRIGAN: WELL, THIS HEARING IS NOT

6 GOING TO BE ORGANIZED IN ANY WAY IF I PERMIT THAT KIND OF

7 QUESTION. AND THAT'S MY APPROACH.

8 IS THAT IT? CAN THE WITNESS BE EXCUSED?

9 MR. GRIMM: THAT'S IT.

10 HEARING OFFICER KERRIGAN: I BEG YOUR PARDON?

11 MR. GRIMM: WE HAVE NOTHING MORE.

12 HEARING OFFICER KERRIGAN: OKAY. YOU'RE EXCUSED.

13 MR. SHINEE: I'D LIKE TO CALL MR. BURKE TO THE
STAND,

14 PLEASE.

15 MR. GRIMM: ARE WE GOING TO TAKE A BREAK?

16 HEARING OFFICER KERRIGAN: YES, WE'LL TAKE THE HOUR

17 BREAK.

18 MR. SHINEE: CAN WE GET HIM ON THE STAND AND SWORN
IN

19 AND THEN TAKE THE BREAK?

20 HEARING OFFICER KERRIGAN: OKAY. WHY DON'T HAVE HIM

21 COME IN THEN.

22 MR. GRIMM: OKAY.

23 HEARING OFFICER KERRIGAN: WE'RE JUST GOING TO HAVE
THE

24 WITNESS SWORN FOR WHATEVER PURPOSE. IT'S A REASONABLE
REQUEST.

25 ///

103

1 (PAUSE IN THE PROCEEDINGS.)

2

3 MR. HOUSE: MR. KERRIGAN, CALVIN HOUSE APPEARING FOR
4 MR. BURKE.

5 HEARING OFFICER KERRIGAN: OKAY. MR. BURKE, WE'RE
JUST
6 GOING TO SWEAR YOU FOR NOW AT THIS POINT.

7

8 PETER ALSTON BURKE,
9 PRODUCED AS A WITNESS BY AND ON BEHALF OF THE CHARGING
PARTY,
10 AND HAVING BEEN PREVIOUSLY SWORN BY THE HEARING OFFICER, WAS
11 EXAMINED AND TESTIFIED AS FOLLOWS:

12

13 HEARING OFFICER KERRIGAN: WOULD YOU STATE YOUR FULL
14 NAME FOR THE RECORD.

15 THE WITNESS: PETER ALSTON BURKE.

16 MR. SHINEE: WOULD THE RECORD REFLECT I'M HANDING
17 MR. BURKE AN ORDER FROM THE SUPERIOR COURT ORDERING HIM TO
18 ANSWER QUESTIONS IN THIS PROCEEDING. THE ORDER IS DATED --

19 HEARING OFFICER KERRIGAN: IT'D BE NICE IF YOU MIGHT
20 PROVIDE ME A COPY AS WELL.

THE

21 MR. SHINEE: -- JANUARY 6, 2010. AND I'M PROVIDING

22 HEARING OFFICER WITH THE SAME ORDER.

23 HEARING OFFICER KERRIGAN: ALL RIGHT. THANK YOU.

1:30.

24 WE'RE ADJOURNED FOR AN HOUR. BE BACK AT

25 ///

104

1 (LUNCH RECESS.)

2

3 HEARING OFFICER KERRIGAN: ON THE RECORD.

4 MR. SHINEE: WE HAVE SOME MOTIONS TO MAKE PRIOR TO

5 MR. BURKE'S TESTIMONY. SO IF HE COULD STEP OUT --

6

7 (WITNESS EXITS HEARING ROOM.)

8

9 MR. SHINEE: ALL RIGHT. MR. KERRIGAN, I'D LIKE TO

READ

10 INTO THE RECORD THE DEPOSITION OF STEVE COOLEY TAKEN ON

11 FEBRUARY 4TH, 2008, PAGE 83. AND I'VE GOT COPIES OF THAT

FOR

12 COUNSEL.

13 MR. GRIMM: I CAN SEE THAT FACE PAGE, TOO?

14 MR. SHINEE: SURE. AND I WILL SUPPLY THE CERTIFIED

15 COPY.

16 PROCEEDING?

16 HEARING OFFICER KERRIGAN: THIS IS IN WHAT

17 MR. SHINEE: THIS IS IN A DEPOSITION IN CASE CALLED

AL. 18 MICHAEL CROUT VERSUS COUNTY OF LOS ANGELES, CURT HAZEL, ET

GOING 19 MR. GRIMM: CAN YOU TELL ME WHAT SECTION YOU'RE
20 TO READ FROM IN THIS?

21 MR. SHINEE: YEAH. I'M GOING TO READ FROM PAGE 83,
22 LINES 1 THROUGH 13.

23 QUESTION BY MR. GAUGE --

24 MR. GRIMM: CAN I LOOK AT IT, PLEASE?

25 MR. SHINEE: CERTAINLY.

105

1 HEARING OFFICER KERRIGAN: LINES 1 THROUGH 13?

2 MR. SHINEE: YES.

3 HEARING OFFICER KERRIGAN: OKAY.

4

5 (PAUSE IN THE PROCEEDINGS.)

6

7 MR. GRIMM: YOU SAID PAGE 83, 1 THROUGH 13; RIGHT?

8 MR. SHINEE: YES.

9 MR. GRIMM: WELL, I DON'T KNOW IF I HAVE AN
OBJECTION,

IF 10 BUT I JUST DON'T -- IT'S SO STANDS ALONE. I'D LIKE TO KNOW

11 THERE'S SOME RELEVANCE TO OUR ISSUES.

12 HEARING OFFICER KERRIGAN: IS THAT IT OR --

13

14 (PAUSE IN THE PROCEEDINGS.)

15

16

MR. SHINEE: QUESTION --

17

18

MR. GRIMM: AGAIN, MY OBJECTION IS THAT THERE IS NO RELEVANCE. I MEAN, THIS IS JUST A FLOATING TESTIMONY NOT CONNECTED WITH ANYTHING.

19

20
UNDERSTAND,

21

PAGE?

HEARING OFFICER KERRIGAN: OKAY. JUST SO I IS THIS THE ONLY TESTIMONY YOU'RE GOING TO OFFER ON THIS

22

MR. SHINEE: YES.

23

OFFERING

HEARING OFFICER KERRIGAN: OKAY. AND YOU'RE

24

ABOUT

IT TO SHOW -- IN EFFECT, TO IMPEACH THE PREVIOUS WITNESS

25

WHAT SHE KNEW OR WHAT SHE DIDN'T KNOW. SHE WAS THE CHIEF

106

1

DEPUTY; RIGHT?

2

MR. SHINEE: NO, SHE WAS NOT THE CHIEF DEPUTY.

3

HEARING OFFICER KERRIGAN: OKAY.

4

THAT

MR. SHINEE: I'M OFFERING THIS TESTIMONY TO SHOW

5

WAS

WHEN MR. COOLEY DIRECTED THE TRANSFER OF MR. DEBBAUDT, IT

6

AN UNUSUAL ACT. AND HE'S CLAIMED UNDER OATH BEFORE THAT HE

7

NEVER GETS INVOLVED IN PERSONNEL MATTERS.

8

SO WE BELIEVE THAT CREATES AN INFERENCE WITH

9

REGARD TO THE DEGREE OF ENMITY THE TRANSFER OF MR. DEBBAUDT

10

REFLECTED.

11 MR. GRIMM: AND IF I COULD JUST REACT TO THAT.

12 MR. SHINEE: WELL, IF THERE'S AN OBJECTION, THAT'S
13 FINE. I THINK I'M ENTITLED TO READ THIS INTO THE RECORD. I
14 THINK YOU'LL FIND IT SUBJECT TO ARGUMENT LATER, BUT IT IS
15 EVIDENCE OF --

16 HEARING OFFICER KERRIGAN: OKAY. DO YOU WANT TO --

17 MR. GRIMM: JUST LET ME STATE MY OBJECTION, THAT'S
ALL.
18 I'M OBJECTING ON RELEVANCE GROUNDS. ON LINE 9 IT'S TALKING
19 ABOUT A SUSTAINED PERSONNEL COMPLAINT.

20 THAT'S NOT THE TESTIMONY THAT HAS COME OUT
WITH
21 RESPECT TO MR. DEBBAUDT.

22 MR. SHINEE: CERTAINLY THAT'S AN ARGUMENT, BUT IT
23 DOESN'T MAKE THIS INADMISSIBLE.

24 HEARING OFFICER KERRIGAN: WHEN WAS MR. DEBBAUDT
25 TRANSFERRED?

107

1 MR. DEBBAUDT: OCTOBER 6TH, 2008.

2 HEARING OFFICER KERRIGAN: OKAY. AND THIS WOULD BE
3 PRIOR IN TIME TO THAT?

4 MR. SHINEE: YES.

5 HEARING OFFICER KERRIGAN: OKAY.

6 MR. DEBBAUDT: I WAS NOTIFIED AT THE END OF
SEPTEMBER.

7 HEARING OFFICER KERRIGAN: OKAY. WELL, IT'S A
QUESTION

8 OF THE WEIGHT TO GIVE IT, BUT IT'S CERTAINLY ADMISSIBLE.
9 DO YOU WANT TO MARK THIS AND MAKE IT PART OF
THE
10 RECORD INSTEAD OF READING IT IN?
11 MR. SHINEE: WELL, I WILL READ IT INTO THE RECORD
AND
12 THEN I WILL PROVIDE A CERTIFIED COPY OF IT.
13 HEARING OFFICER KERRIGAN: OKAY. I'LL OVERRULE THE
14 OBJECTION. AND I'M NOT SURE WHAT WEIGHT I'LL GIVE IT, BUT
IT'S
15 ADMISSIBLE.
16 MR. SHINEE: QUESTION BY MR. GAUGE:
17 "DID YOU LEARN THAT
18 THE SO-CALLED DISPUTE WITH
19 THE NEIGHBOR WAS DETERMINED
20 TO BE UNFOUNDED BY EMPLOYEE
21 RELATIONS AFTER THEIR
22 INVESTIGATION OF IT?"
23 ANSWER BY MR. COOLEY:
24 "I DON'T KNOW. I
25 NEVER HEARD ANYTHING ELSE

108

1 ABOUT IT. I GOT THE LETTER
2 AND PASSED IT ON. I NEVER
3 HEARD ANYTHING MORE."
4 "QUESTION: IF IT HAD BEEN A

5 SUSTAINED COMPLAINT, YOU
6 NORMALLY WOULD HAVE HEARD OF
7 IT; CORRECT?
8 "ANSWER: NO. I JUST DON'T
9 GET INVOLVED IN PERSONNEL
10 MATTERS. THAT'S ONE OF THE
11 NICE THINGS ABOUT MY JOB IS
12 I LEAVE THAT TO THE CHIEF
13 DEPUTY.

14 "I'M JUST NOT
15 INVOLVED IN THAT IN ANY
16 MEANINGFUL OR SUBSTANTIVE
17 WAY."

18 MR. GRIMM: AND THE OTHER OBJECTION, MR. KERRIGAN,
IS
19 THAT THE DEPOSITION PREDATED THE TRANSFER OF MR. DEBBAUDT.

20 HEARING OFFICER KERRIGAN: YES.

21 MR. GRIMM: SO I MEAN --

22 HEARING OFFICER KERRIGAN: IT'S CLOSE IN TIME
THOUGH.

23 IT'S CLOSE IN TIME AND IT WILL BE RECEIVED.

24 ///

25 ///

109

1 (CHARGING PARTY'S EXHIBIT 14 WAS MARKED
2 FOR IDENTIFICATION BY THE HEARING OFFICER AND

3 RECEIVED IN EVIDENCE.)

4

5 HEARING OFFICER KERRIGAN: AND WHAT NUMBER ARE YOU
6 GOING TO GIVE THE CERTIFIED COPY?

7 MR. SHINEE: PARDON ME?

8 HEARING OFFICER KERRIGAN: WHAT NUMBER ARE YOU
9 THE CERTIFIED COPY?

10 MR. SHINEE: EXHIBIT 14.

11 HEARING OFFICER KERRIGAN: OKAY.

12 MR. SHINEE: AND THEN PAGE 22, LINES 6 THROUGH 10.

13 MR. GRIMM: WHICH I DON'T HAVE.

14 MR. SHINEE: I WILL READ IT AND THEN PROVIDE A COPY.

15 HEARING OFFICER KERRIGAN: OKAY.

16 MR. GRIMM: OKAY. IS THAT GOING TO BE THE PROCESS?

I

17 MEAN, WE'RE NOT ENTITLED TO LOOK AT DOCUMENTS BEFORE THEY'RE
18 RECEIVED INTO EVIDENCE?

19 HEARING OFFICER KERRIGAN: WELL, YOU --

20 MR. SHINEE: IF YOU'D LIKE, WE COULD BREAK AND I
COULD

21 MAKE A COPY OF THIS --

22 MR. GRIMM: WHY DON'T --

23

24 (OVERLAPPING COLLOQUY.)

25

RECORD

1 HEARING OFFICER KERRIGAN: WHY DON'T YOU JUST STAND
2 NEXT TO HIM AND READ IT?

3 MR. SHINEE: YEAH.

4 MS. DIXON SILVA: AND I WOULD LIKE TO PUT ON THE
5 THAT PAM BOOTH JUST SHOWED UP --

6 HEARING OFFICER KERRIGAN: I'M SORRY?

OUT

7 MS. DIXON SILVA: PAMELA BOOTH JUST SHOWED UP IN
8 RESPONSE TO A SUBPOENA TO BE HERE AT 1:30. SHE'S WAITING
9 IN THE HALL.

10 HEARING OFFICER KERRIGAN: OKAY.

CALL

11 MR. IPSEN: IF EVERYONE -- I DON'T KNOW HOW LONG IT
12 WILL TAKE, I'M GUESSING -- IF EVERYONE WANTED TO BE PUT ON
13 UNTIL 3:00 O'CLOCK.

14 HOW LONG DO YOU THINK IT WILL BE, DICK, WITH
15 MR. BURKE?

16 MR. SHINEE: HALF HOUR.

17 MR. IPSEN: EITHER SHE CAN WAIT OUTSIDE OR IF THE
18 COUNTY WANTS TO...

19

20 (PAUSE IN THE PROCEEDINGS.)

21

22 MR. GRIMM: THE SAME OBJECTION, RELEVANCE.

23 HEARING OFFICER KERRIGAN: UH-HUH.

24 MR. SHINEE: QUESTION BY MR. GAUGE:

25 "WHEN YOU PROMOTED

1 DEPUTIES TO GRADE IV DURING
2 THE TIME FRAME OF 2004 TO
3 2006, WHAT FACTORS DID YOU
4 LOOK AT IN THAT PROMOTIONAL
5 PROCESS?"

6 "ANSWER: WELL, THE PRIMARY
7 FACTOR YOU LOOK AT IS
8 PREDICTABILITY THAT THE
9 PERSON YOU'RE PROMOTING
10 IS ABLE TO PERFORM AT THE
11 NEXT HIGHEST LEVEL IN
12 TERMS OF THE DUTIES
13 ASSOCIATED WITH THAT
14 POSITION.

15 "GRADE IV POSITIONS
16 ARE BASICALLY SORT OF
17 HIGH-END TRIAL LAWYERS, DO
18 VERY HIGH-END CRIMINAL
19 LITIGATION. THEY'RE ALSO
20 CALENDAR DEPUTIES WHERE THEY
21 MANAGE AN OVERALL CASELOAD
22 AND SUPERVISE SUBORDINATE
23 DEPUTY D.A.'S, AND THEY
24 MANAGE A CALENDAR IN COURT.

25 "THEY ALSO SERVE AS

1 DEPUTIES IN CHARGE IN AREA
2 OFFICES, JUVENILE OFFICES.
3 THEY ARE THE -- THEY ARE THE
4 BASIC -- THEY ARE THE THREE
5 BASIC FUNCTIONS OF A
6 GRADE IV DEPUTY. SOME OF
7 THEM, A RELATIVELY SMALL
8 NUMBER, ALSO SERVE AS
9 SPECIAL ASSISTANTS IN THE
10 ADMINISTRATION."

11 AND I'LL PROVIDE A COPY OF THAT TO THE --
12 HEARING OFFICER KERRIGAN: OKAY. AND THAT WILL BE
13 RECEIVED, EXHIBIT 15.

14
15 (CHARGING PARTY'S EXHIBIT 15 WAS MARKED
16 FOR IDENTIFICATION BY THE HEARING OFFICER AND
17 RECEIVED IN EVIDENCE.)

18
19 MR. SHINEE: EXHIBIT 15.

20 MR. GRIMM: WHAT'S THE PAGE AND LINE NUMBER?

21 MR. SHINEE: THAT WAS PAGE 22, LINES 1 THROUGH 19 OF
22 THE APRIL 4TH, 2008 TRANSCRIPT OF MR. COOLEY.

23 WE'D LIKE TO CALL MR. BURKE.

24 HEARING OFFICER KERRIGAN: LET'S SEE, THAT'S WHAT

YOU

25 MEANT BY YOUR MOTION?

113

1 MR. SHINEE: YES.

2 HEARING OFFICER KERRIGAN: OKAY. VERY GOOD. HOW
ARE
3 YOU GOING TO HANDLE MR. BURKE? DO YOU WANT THE REPORTER
JUST
4 TO READ THE QUESTIONS TO HIM?

5 MR. SHINEE: NO. I HAVE QUESTIONS FOR MR. BURKE.

6 HEARING OFFICER KERRIGAN: IN ADDITION TO THE
QUESTIONS
7 IN THE --

8 MR. SHINEE: YES. I'M ALLOWED FOLLOW-UP QUESTIONS
ON
9 THE JUDGE'S ORDER.

10 HEARING OFFICER KERRIGAN: DOES IT SAY THAT IN
THERE?

11 MR. SHINEE: YES.

12 HEARING OFFICER KERRIGAN: DO YOU WANT TO POINT THAT
13 OUT TO ME?

14 MR. SHINEE: YES, IT'S ON THE LAST PAGE.

15 MS. DIXON SILVA: CAN WE WAIT FOR HIS COUNSEL TO --

16 MR. GRIMM: I THINK, MAYBE IF YOU COULD REPEAT --

17 MR. DEBBAUDT: PAGE 3, LINES 11 THROUGH 13.

18 HEARING OFFICER KERRIGAN: OKAY. ALL RIGHT. YOU'RE
19 RIGHT. PROCEED. THE WITNESS HAS BEEN SWORN.

20

21 DIRECT EXAMINATION (RESUMED)

22

23 BY MR. SHINEE:

YOU, I

24 Q MR. BURKE, THERE'S A DOCUMENT IN FRONT OF

25 BELIEVE --

114

1 MR. SHINEE: AND WE'D MARK THAT EXHIBIT 16.

2

3 (CHARGING PARTY'S EXHIBIT 16 WAS MARKED

4 FOR IDENTIFICATION BY THE HEARING OFFICER.)

5

6 BY MR. SHINEE:

7 Q ARE YOU FAMILIAR WITH THAT DOCUMENT?

8 A YES.

THE

9 Q I HANDED THAT DOCUMENT TO YOU EARLIER BEFORE

10 BREAK.

11 A YES.

12 Q HAVE YOU RECEIVED THAT DOCUMENT BEFORE TODAY?

13 A YES.

14 Q HAVE YOU REVIEWED IT CONTENTS?

15 A YES.

16 Q IS IT YOUR UNDERSTANDING THAT YOU ARE UNDER

17 ORDER BY THE JUDGE TO ANSWER THESE QUESTIONS?

18 A YES.

19 Q AND ANY FOLLOW-UP QUESTIONS SUGGESTED BY YOUR

20 ANSWERS TO THESE QUESTIONS?

21 A THAT'S WHAT THE ORDER SAYS, YES.

ORDER

22 Q OKAY. ARE YOU GOING TO COMPLY WITH THAT

23 TODAY?

24 A I'M GOING TO ANSWER YOUR QUESTIONS AS THEY'RE

25 ASKED.

115

1 Q THANK YOU.

THE

2 WHEN WAS THE FIRST TIME THAT YOU LEARNED OF

3 ORGANIZATION CALLED THE A.D.D.A.?

4 MR. HOUSE: OBJECTION. OUTSIDE THE SCOPE OF

5 JUDGE STERN'S ORDER.

PROPOUNDING

6 MR. SHINEE: JUDGE STERN'S ORDER ONLY ASKED HIM TO

7 ANSWER CERTAIN QUESTIONS. IT DIDN'T FORBID ME FROM

8 OTHER QUESTIONS TO HIM, WHICH I CERTAINLY HAVE A RIGHT TO.

9 HEARING OFFICER KERRIGAN: WELL, LET ME LOOK AT IT

10 AGAIN.

11 MR. SHINEE: THERE'S NO LIMITING LANGUAGE IN THERE.

12 HEARING OFFICER KERRIGAN: OKAY.

13 MR. SHINEE: IT JUST SAYS --

14

15 (OVERLAPPING COLLOQUY.)

16

17 HEARING OFFICER KERRIGAN: I JUST WANT TO BE SURE.

18

19 (PAUSE IN THE PROCEEDINGS.)

20

21 HEARING OFFICER KERRIGAN: OKAY. GO AHEAD.

22 MR. GRIMM: MAY WE HAVE THE QUESTION READ BACK,
PLEASE?

23

24 (RECORD READ.)

25 ///

116

1 THE WITNESS: PROBABLY NOT LONG AFTER I JOINED THE
2 OFFICE, WHICH WAS IN 1988.

3 BY MR. SHINEE:

4 Q AND DO YOU RECALL HOW YOU LEARNED ABOUT THE
5 ORGANIZATION?

6 A NO.

7 Q DID YOU JOIN THE ORGANIZATION IN 1988?

8 A I JOINED IT AT SOME POINT, I DON'T REMEMBER
9 WHEN.

10 Q CAN YOU RECALL THE YEAR, PLEASE?

11 A NO, I DON'T.

12 Q OKAY.

13 MS. DIXON SILVA: MR. HIGGINS IS HERE IN RESPONSE TO
14 HIS SUBPOENA. HE'S OUT IN THE HALLWAY, TOM HIGGINS.

15 BY MR. SHINEE:

16 Q WHEN DID YOU FIRST LEARN ABOUT THE UNION
17 ENTITLED A.D.D.A. THAT WAS GOING TO THE SOLE REPRESENTATIVE
OF
18 DEPUTY DISTRICT ATTORNEYS FOR BARGAINING PURPOSES?

19 A I BELIEVE WHEN IT WAS CERTIFIED BY ERCOM ON
20 MARCH 24TH, 2008.

21 Q YOU HEARD THAT THE A.D.D.A. WAS ATTEMPTING
22 CERTIFICATION PRIOR TO THAT --

23 A YES.

24 Q -- PRIOR TO THAT DATE?

25 A YES.

117

1 Q AND WHEN DID YOU LEARN OF THAT?

2 A WELL, I KNOW THERE WAS AN ARTICLE IN THE
DAILY
3 JOURNAL IN LATE OCTOBER 2000 -- I THINK, IT WAS -7. AND I
KNOW
4 THAT THERE WERE FLYERS THAT WERE SENT AROUND DISCUSSING
5 ATTEMPTS TO ORGANIZE SOME KIND OF UNIT. I DON'T REMEMBER
WHEN
6 I FIRST LEARNED OF IT.

7 Q AT THAT TIME WERE YOU AN A.D.D.A. MEMBER?

8 A WELL, I'M NOT SURE WHAT IT IS TO BE AN
A.D.D.A.
9 MEMBER.

10 Q HAD YOU JOINED THE UNION?

11 A THERE WAS NO UNION WHEN I FIRST HEARD OF IT.

WHAT

12 YOU'RE TALKING ABOUT MARCH 24TH, 2008, OR

13 ARE YOU TALKING ABOUT?

WITH

14 Q AT THE TIME YOU READ THE ARTICLE IN THE DAILY
15 JOURNAL REGARDING A UNION THAT WAS TRYING TO FORM ITSELF
16 REGARDS TO CERTIFIED BARGAINING -- AS A CERTIFIED BARGAINING
17 REPRESENTATIVE, WERE YOU A MEMBER OF THAT UNION?

LEAST

18 A I DON'T KNOW, BECAUSE I HAD PAID DUES AT

TO

19 TWICE IN THE PAST. I HAD ALSO CONTRIBUTED MONEY TO THE FUND
20 TRY TO SEE WHAT THE RETIREMENT WAS GOING TO BE, SO I DON'T
21 KNOW.

I

22 BECAUSE THERE'S SOMETHING IN THE BYLAWS THAT
23 EXPLAINS HOW PEOPLE BECOME -- HOW MEMBERSHIP IS REVOKED. SO
24 DON'T KNOW HOW TO ANSWER YOUR QUESTION.

118

25 Q OKAY. WERE YOU IN FAVOR OF A UNION THAT

1 REPRESENTED FOR COLLECTIVE BARGAINING PURPOSES, SOLELY,
2 DISTRICT ATTORNEYS?

3 MR. HOUSE: OBJECTION. INVADES MR. BURKE'S PRIVACY.

4 HEARING OFFICER KERRIGAN: OVERRULED.

5 MR. GRIMM: AND IT'S NOT RELEVANT.

6 HEARING OFFICER KERRIGAN: OVERRULED.

7 BY MR. SHINEE:

8 Q WOULD YOU ANSWER THE QUESTION, PLEASE?

9 A CONCEPTUALLY, I'M NOT AGAINST IT.

10 Q DID YOU DISFAVOR A PARTICULAR GROUP?

11 A I WOULDN'T SAY I DISFAVORED THEM.

12 Q DID YOU ENGAGE IN ANY CONDUCT THAT WOULD
OPPOSE
13 THE A.D.D.A. FROM BECOMING THE CERTIFIED COLLECTIVE
BARGAINING
14 REPRESENTATIVE?

15 MR. GRIMM: IT'S VAGUE.

16 HEARING OFFICER KERRIGAN: DID YOU --

17 MR. SHINEE: IT'S BROAD, BUT IT'S CERTAINLY NOT
VAGUE.

18 HEARING OFFICER KERRIGAN: OVERRULED.

19 THE WITNESS: I DIDN'T SIGN THE CARD.

20 BY MR. SHINEE:

21 Q ANYTHING BESIDES NOT SIGNING THE CARD?

22 A NO.

23 Q DID YOU ORGANIZE ANY EMPLOYEES TO OPPOSE THE
24 A.D.D.A. FROM BECOMING THE CERTIFIED BARGAINING
REPRESENTATIVE?

25 A NO.

119

1 Q DID YOU DISCUSS WITH ANY OF YOUR CO-WORKERS,
ANY
2 EMPLOYEE IN THE DISTRICT ATTORNEY'S OFFICE, THE
CIRCUMSTANCES
3 OF THE A.D.D.A. BECOMING THE CERTIFIED BARGAIN
REPRESENTATIVE?

4 A I DON'T UNDERSTAND YOUR QUESTION.

5 Q DID YOU DISCUSS WITH YOUR CO-WORKERS THE FACT
6 THAT THE A.D.D.A. WAS SEEKING TO BE THE CERTIFIED BARGAINING
7 REPRESENTATIVE?

8 A YES.

9 Q DID YOU EXPRESS ANY OPPOSITION TO THAT
OCCURRING

10 TO YOUR CO-WORKERS?

11 MR. GRIMM: VAGUE AS TO TIME.

12 HEARING OFFICER KERRIGAN: I'M SORRY?

13 MR. SHINEE: WE'LL GET AN ANSWER, THEN WE'LL GET A
14 TIME.

15 MR. GRIMM: THAT'S NOT QUITE HOW IT WORKS.

16 MS. DIXON SILVA: I'D LIKE TO PUT ON THE RECORD
MICHAEL

17 YGLECIAS JUST CHECKED IN IN RESPONSE TO HIS SUBPOENA.

18 HEARING OFFICER KERRIGAN: IS THERE AN OBJECTION
19 PENDING?

20 MR. GRIMM: I SAID IT WAS VAGUE AS TO TIME. MR.
SHINEE

21 SAYS HE'S ENTITLED TO --

22 HEARING OFFICER KERRIGAN: I THINK IT REFERS BACK TO
23 THE TIME OF CERTIFICATION. OVERRULED.

24 MR. DEBBAUDT: AND THEN HE SAID: THAT'S NOT HOW IT
25 WORKS, MAKING A SNIDE COMMENT AND I'D LIKE THAT ON THE
RECORD.

ON

1 HEARING OFFICER KERRIGAN: WHY DO YOU THINK IT ISN'T

2 THE RECORD?

3 BY MR. SHINEE:

4 Q COULD YOU ANSWER THE QUESTION, PLEASE, SIR?

5 A I'M SORRY, COULD YOU REPEAT THAT?

6 MR. SHINEE: COULD YOU REPEAT THE QUESTION?

7

8 (RECORD READ.)

9

10 THE WITNESS: WELL, IF SAYING I WASN'T GOING TO SIGN

SOME

11 THE CERTIFICATION CARD IS OPPOSITION, I THINK I DID TELL

12 PEOPLE I WASN'T SIGNING.

13 BY MR. SHINEE:

14 Q OKAY. AND DID YOU DISCUSS THAT DECISION WITH

15 ANY MEMBER OF MANAGEMENT?

16 A NO.

17 Q AND WHEN I SAY THE TERM "MANAGEMENT," WHAT DO

18 YOU --

THE

19 WHAT IS YOUR UNDERSTANDING OF MANAGEMENT IN

20 DISTRICT ATTORNEY'S OFFICE?

21 A I DON'T KNOW WHAT YOUR UNDERSTANDING IS, BUT

22 WHEN I HEAR MANAGEMENT, I THINK GRADE V.

23 Q GRADE V AND ABOVE?

24 A I THINK THERE'S ONLY GRADE V'S.

25 Q AND WHAT'S ABOVE GRADE V?

OF

1 A WELL, I GUESS, THE D.A., BUT IN TERMS OF PAY
2 SCALE, I DON'T KNOW IF THERE ARE DIFFERENTIALS FOR CERTAIN
3 POSITIONS OR NOT.

4 Q SO MR. HAZEL IS A GRADE V, BUT HE HAS A TITLE
5 ASSISTANT D.A. OR SOMETHING OF THAT NATURE?

6 A WHATEVER -- YEAH. I THINK THAT'S HIS TITLE.

THE

7 Q OKAY. SO IT'S MUCH LIKE A DEPUTY SHERIFF,
8 UNDERSHERIFF IS SIMPLY A DEPUTY SHERIFF HOLDING THE TITLE AS
9 UNDERSHERIFF?

10 A I DON'T KNOW ANYTHING ABOUT THE SHERIFF'S
11 DEPARTMENT.

TO

12 Q OKAY. AT SOME POINT IN TIME YOU DETERMINED
13 FILE A LAWSUIT WITH REGARD TO THE A.D.D.A.?

14 A THAT IS CORRECT.

15 Q AND CAN YOU TELL ME WHEN YOU FIRST FORMULATED
16 THE IDEA THAT YOU WOULD FILE A LAWSUIT AGAINST THE A.D.D.A.?

17 A OCTOBER 11TH, 2008.

TESTIMONY

18 Q AND PRIOR TO -- AND I UNDERSTAND YOUR
19 TO BE YOU FILED A LAWSUIT APPROXIMATELY FIVE DAYS LATER ON
20 OCTOBER 16TH?

IT

21 A I HAVEN'T READ MY TESTIMONY FROM BEFORE, BUT
22 WAS FILED ON OCTOBER 16TH, YES.

OF

23 Q OKAY. AND WHEN YOU CONCEPTUALIZED THE IDEA

24 FILING A LAWSUIT, DID YOU SEEK ADVICE FROM ANYBODY?
25 HEARING OFFICER KERRIGAN: OTHER THAN AN ATTORNEY?

122

1 MR. SHINEE: LET ME REPHRASE THE QUESTION.

2 BY MR. SHINEE:

3 Q WHEN YOU CONCEPTUALIZED, ON OR AROUND
4 OCTOBER 11TH, 2008, OF FILING A LAWSUIT, DID YOU SEEK ADVICE
5 FROM ANY EMPLOYEE OF THE DISTRICT ATTORNEY'S OFFICE ABOUT
6 FILING THE LAWSUIT?

7 A NO.

8 Q AND DID YOU TALK TO ANY EMPLOYEE IN THE
DISTRICT
9 ATTORNEY'S OFFICE ABOUT THE FACT THAT YOU WERE THINKING
ABOUT
10 FILING A LAWSUIT?

11 A YES.

12 Q AND WHO DID YOU TALK TO, PLEASE?

13 A WELL, THOSE PEOPLE THAT I TALKED TO WERE IN
THE
14 BARGAINING UNIT.

15 Q THAT'S FINE. WHO WERE THEY? WHAT ARE THEIR
16 NAMES?

17 A MY UNDERSTANDING IS I DON'T HAVE TO TALK
ABOUT
18 WHO IN THE BARGAINING UNIT I TALKED TO ABOUT FILING A
LAWSUIT.

19 MR. HOUSE: AND, MR. KERRIGAN, IF I WOULD RESTATE MY
20 EARLIER OBJECTION. MR. BURKE IS HERE IN RESPONSE TO JUDGE

HIM 21 STERN'S ORDER TO DEAL WITH THE QUESTIONS THAT WERE ASKED OF
22 AT A PREVIOUS HEARING, NOT TO SUBMIT TO EXTENSIVE
QUESTIONING 23 ABOUT MATTERS THAT WERE GONE OVER BEFORE AND MAY INVADE HIS
24 RIGHT OF ORGANIZATIONAL PRIVACY.

HAS 25 MR. SHINEE: HE -- ONE, I THINK THE HEARING OFFICER
123

1 ALREADY RULED ON HIS RIGHT OF ORGANIZATIONAL PRIVACY.
2 OVERRULING IT, I BELIEVE THAT WAS THE SUM AND SUBSTANCE --
3 HEARING OFFICER KERRIGAN: AND THERE WAS A QUESTION
OF 4 N.A.A.C.P. VERSUS ALABAMA, I BELIEVE, AND I DID RULE AGAINST
5 HIM, YES.

6 MR. SHINEE: AND, SECONDLY, THE ORDER IS NOT
LIMITING. 7 THESE QUESTIONS HAVE NOT BEEN PROPOUNDED BY ME TO MR. BURKE
8 AND, I BELIEVE, THE RECORD WILL BEAR OUT THEY HAVEN'T BEEN
9 PROPOUNDED TO MR. BURKE BY ANY MEMBER OF THE REPRESENTATIVE
10 COUNSEL.

11 HEARING OFFICER KERRIGAN: YOU CAN ASK ALL THE
RELEVANT 12 QUESTIONS OF MR. BURKE --
13 BY MR. SHINEE:

14 Q DO YOU HAVE THE QUESTION IN MIND, SIR?
15 A CAN I HAVE IT READ BACK?

16

17 (RECORD READ.)

18

19 MR. SHINEE: AND THE QUESTION BEFORE THAT ONE,
PLEASE.

20

21 (RECORD READ.)

22

23 THE WITNESS: I TALKED TO ALAN SCHNEIDER AND STEVE
24 LOPEZ.

25 ///

124

1 BY MR. SHINEE:

2 Q AND WHAT DID YOU DISCUSS WITH --

3 FIRST OF ALL, MR. SCHNEIDER, WHERE DOES HE
WORK,

4 PLEASE?

5 A I DON'T KNOW WHERE HE WORKS. EXCUSE ME. I
6 THINK HE'S ASSIGNED TO HARDCORE DOWNTOWN.

7 Q AND WHAT GRADE IS HE?

8 A I BELIEVE HE'S A IV.

9 Q AND WAS THIS DISCUSSION ON DUTY?

10 A NO.

11 Q IT WAS OFF DUTY?

12 A YES.

13 Q AND DO YOU RECALL WHEN THIS WAS?

14 A IT WAS SATURDAY, OCTOBER 11TH.

15 Q DID MR. SCHNEIDER PROVIDE YOU ANY FUNDS TO
16 ASSIST YOU IN THIS LAWSUIT?

17 A NO.

18 Q AND MR. LOPEZ, WHEN DID YOU DISCUSS THE
19 POSSIBILITY OF YOU FILING A LAWSUIT WITH HIM?

20 A IT WAS THAT SUNDAY, I THINK IT WOULD BE THE
21 12TH.

22 Q AND DO YOU RECALL WHERE YOU WERE WHEN YOU
23 DISCUSSED THIS WITH HIM?

24 A IT WAS TELEPHONICALLY.

25 Q AND DO YOU KNOW WHETHER OR NOT MR. SCHNEIDER

HAS

125

1 ANY RELATIONSHIP, SOCIAL RELATIONSHIP, WITH ANY GRADE V OR
2 ABOVE?

3 A SOCIAL RELATIONSHIP?

4 Q YES?

5 A WHAT DO YOU MEAN BY THAT?

6 Q DOES HE -- DO YOU KNOW WHETHER OR NOT
7 MR. SCHNEIDER SOCIALIZES WITH A GRADE V IN THE DISTRICT
8 ATTORNEY'S OFFICE?

9 DO YOU KNOW, FOR EXAMPLE, WHETHER OR NOT HE
10 SOCIALIZES WITH MR. COOLEY?

11 A I DON'T KNOW.

12 Q DO YOU KNOW WHETHER OR NOT HE SOCIALIZES WITH

13 CURT HAZEL?

14 A I DON'T KNOW.

15 Q PAMELA BOOTH?

16 A DON'T KNOW.

17 Q ANY D.I.C.?

18 A HE MAY, I DON'T KNOW.

19 Q OKAY. AND WHAT WAS THE NATURE OF YOUR

20 DISCUSSION WITH MR. SCHNEIDER, PLEASE?

21 A I SAID I WAS GOING TO TRY TO STOP THE
REFERENDUM

22 ON THE BYLAWS AND ASKED IF HE WANTED TO JOIN ME IN THE
LAWSUIT.

23 Q AND HIS RESPONSE?

24 A AND HE SAID NO, HE WANTED TO WORK THROUGH THE

25 SYSTEM AND TRY TO GET PEOPLE TO VOTE AGAINST IT.

126

1 Q OKAY. AND YOU SPOKE TO MR. LOPEZ; CORRECT?

2 A YES.

3 Q DO YOU KNOW WHETHER OR NOT HE HAS ANY SOCIAL

4 RELATIONSHIP WITH MR. COOLEY OR MR. HAZEL?

5 A NO, I DON'T.

6 Q MR. SPILLANE?

7 A NO, I DON'T KNOW.

8 Q ANY D.I.C.?

9 A WELL, HE WORKS FOR A D.I.C. I DON'T KNOW
WHAT

10 THEIR RELATIONSHIP IS.

11 Q DID MR. SCHNEIDER OR MR. LOPEZ GIVE YOU ANY
12 DOCUMENTS RELATING TO YOUR EFFORTS TO FILE A LAWSUIT?

13 A I GOT SOME DOCUMENTS FROM MR. LOPEZ.

14 Q AND WHAT DOCUMENTS DID YOU GET FROM HIM?

15 A I GOT SOME NEWSLETTERS, SOME MINUTES, SOME
16 E-MAILS.

17 Q AND THIS WAS FROM MR. LOPEZ?

18 A CORRECT.

19 Q OKAY. NEWSLETTERS, E-MAILS. AND WHAT WERE

THE

20 NATURE OF THE E-MAILS, PLEASE?

21 A THEY WERE E-MAILS AMONG BOARD MEMBERS ABOUT
22 BOARD MATTERS.

23 Q AND DID HE TELL YOU HOW HE CAME IN POSSESSION

OF

24 THESE E-MAILS?

25 A I THINK THEY WERE SENT TO HIM.

127

1 Q OKAY. ANYTHING ELSE?

2 A THAT'S ABOUT IT.

3 Q AND DID MR. SCHNEIDER PROVIDE YOU WITH ANY
4 DOCUMENTS?

5 A NO.

6 Q NOW, YOU TESTIFIED IN YOUR LAST HEARING HERE
7 THAT YOU MADE A PUBLIC RECORDS ACT REQUEST TO ERCOM.

8 A YES.

9 Q DO YOU RECALL THAT?
10 A YES.
11 Q WAS THAT IN WRITING?
12 A NO, IT WAS ORAL.
13 Q AND WHAT DAY DID YOU MAKE THAT ON, PLEASE?
14 A AS I TESTIFIED BEFORE, IT WAS OCTOBER 14TH.
15 Q OCTOBER 14TH. AND WHO DID YOU MAKE THAT TO?
16 A LOUISE PERRY.
17 Q AND WAS THAT DONE IN PERSON?
18 A YES.
19 Q AND CAN YOU EXPLAIN TO US HOW THAT OCCURRED?
20 A I WALKED UP TO THE DESK OUTSIDE OF THIS
HEARING
21 ROOM. MS. PERRY CAME OUT. I SAID I WANTED TO LOOK AT THE
22 RECORDS REGARDING THE CERTIFICATION OF THE A.D.D.A. SHE
ASKED
23 ME TO WAIT A LITTLE BIT. SHE BROUGHT A BOX OUT TO ME, PUT
THEM
24 ON A TABLE WHERE MY COUNSEL IS SITTING. AND I SAT THERE AND
25 WENT THROUGH IT.

128

1 Q DID YOU USE THE WORDS TO HER THAT YOU WERE
2 SEEKING A PUBLIC RECORDS ACT REQUEST?
3 A NO. SHE GAVE ME A SHEET OF PAPER THAT SAID I
4 COULD MAKE AN ORAL PUBLIC RECORDS ACT REQUEST.
5 Q SHE GAVE YOU A PREPRINTED FORM?

IN 6 A THAT'S CORRECT. I BELIEVE IT WAS TURNED OVER

7 DISCOVERY IN THE CIVIL LAWSUIT.

A 8 Q AND FROM THAT BOX THAT SHE GAVE YOU, YOU SAW

9 SUMMARY OR LIST OF ALL THE DEPUTY D.A.'S WHO HAD
PARTICIPATED

10 IN THE ELECTION; IS THAT CORRECT?

WITH 11 A THERE WAS A LIST OF DEPUTY D.A.'S AND SOME

SOME 12 LITTLE CIRCLES AROUND THEIR NAMES, SOME OF THEM EMPTY --

13 OF -- BESIDE THEIR NAMES, SOME OF THEM EMPTY, SOME OF THEM

14 FILLED IN. THAT'S HOW I CHARACTERIZE THE LIST.

LIST? 15 Q AND HOW MANY NAMES, IF YOU RECALL, ON THE

16 A APPROXIMATELY 950.

WHETHER 17 Q OKAY. AND THERE WAS AN INDICATION AS TO

18 THEY VOTED "YES" OR "NO" ON THAT LIST?

19 A THAT IS CORRECT.

"YES" 20 Q OKAY. AND THERE WAS AN INDICATION FOR A

21 AND IF THEY DIDN'T VOTE YES, THERE WAS A BLANK, IS THAT IT?

22 A THE CIRCLE WAS NOT FILLED IN.

TOOK 23 Q AND YOU TOOK THAT LIST OUT OF THE BOX AND

24 IT WITH YOU; IS THAT CORRECT?

25 A NO. THAT'S NOT CORRECT.

LIST 1 Q ALL RIGHT. DID YOU TAKE POSSESSION OF THAT
2 THAT DAY ON OCTOBER 14TH?
3 A I WAS ALLOWED TO MAKE A COPY OF THAT LIST BY
4 MS. PERRY.
5 Q AND WHERE DID YOU MAKE A COPY OF IT, PLEASE?
OFFICE. 6 A BACK THERE, RIGHT NEXT TO MR. CAUSEY'S
7 Q DID SHE ESCORT YOU BACK THERE?
8 A YES.
9 Q AND DID SHE MAKE THE COPY FOR YOU OR DID --
I 10 A NO. SHE SAID I COULD HAVE A COPY OF ANYTHING
11 WANTED OUT OF THE BOX --
12 Q ALL RIGHT. MY QUESTION --
13 A -- AND GAVE ME ACCESS TO THE COPIER.
14 Q ALL RIGHT. SO YOU MADE THE COPY YOURSELF?
15 A THAT'S CORRECT.
16 Q ALL RIGHT. DID YOU COPY ANYTHING ELSE?
17 A THERE WAS A PETITION THAT THE LIST WAS
ATTACHED
18 TO, MAYBE IT WAS A DECLARATION BY LOREN NAIMAN, I TOOK A
COPY
19 OF THAT AS WELL.
20 Q ANYTHING ELSE?
21 A NO.
22 Q ALL RIGHT. I BELIEVE YOU TESTIFIED --
DIDN'T 23 A WAIT A MINUTE. LET ME MAKE SURE. NO. I
24 TAKE ANYTHING ELSE.
25 Q I BELIEVE YOU SAID YOU MADE THREE COPIES OF
THAT

1 LIST?

2 A NO. I MADE ONE COPY HERE.

3 Q I UNDERSTAND THAT. BUT LATER ON YOU MADE AN
4 ADDITIONAL THREE COPIES?

5 A I DON'T BELIVE I SAID THAT, BUT IF YOU WANT
TO
6 SHOW ME MY TESTIMONY SAYING I DID, I'LL STAND CORRECTED.

7 Q OKAY. YOU PASSED THAT LIST OUT TO
APPROXIMATELY
8 SIX PEOPLE; IS THAT RIGHT?

9 A NO. THAT'S NOT WHAT I TESTIFIED TO
PREVIOUSLY.

10 MR. HOUSE: MR. KERRIGAN, AGAIN, WE'RE HERE PURSUANT
TO
11 A PARTICULAR ORDER WHICH CARRIES THE POSSIBILITY OF CONTEMPT
12 FOR MR. BURKE.

13 MR. SHINEE FOR SOME REASON IS NOT ASKING THE
14 QUESTIONS THAT JUDGE STERN ASKED HIM TO ASK. AND I DON'T
KNOW
15 WHAT HE HAS IN MIND IN TERMS OF GOING BACK OVER THERE, BUT
IF
16 THESE QUESTIONS ARE NOT ASKED, WE'RE GOING TO HAVE A
POTENTIAL

17 PROBLEM WITH THAT PROCEEDING. HE'S REFUSING TO ASK THE
18 QUESTIONS THAT JUDGE STERN SAID HE WAS HERE TO ANSWER.

19 HEARING OFFICER KERRIGAN: WHY DO YOU THINK HE'S NOT
20 GOING TO ASK THE QUESTIONS?

21 MR. HOUSE: HE HASN'T ASKED IT YET AND HE'S GETTING
22 INTO THE SUBJECTS THAT ARE LISTED HERE.

23 BY MR. SHINEE:

24 Q WOULD YOU TURN TO PAGE 102 --

25 HEARING OFFICER KERRIGAN: WELL, LET ME --

131

1 MR. SHINEE: I'M SORRY.

2 HEARING OFFICER KERRIGAN: -- RESPOND TO HIM.

3 HE HAS A RIGHT TO QUESTION THIS WITNESS IN
4 CONNECTION WITH THE MATTERS, SUBJECT MATTERS OF THE
5 PROCEEDINGS, AND I DON'T SEE THAT THERE'S ANY LIMITATION ON
6 THAT. IF YOU'RE --

7 MR. HOUSE: MY CONCERN --

8 HEARING OFFICER KERRIGAN: -- AWARE OF SOME
LIMITATION
9 ON THAT.

10 MR. HOUSE: OKAY. MY CONCERN IS THE ORDER --

11 HEARING OFFICER KERRIGAN: YES.

12 MR. HOUSE: -- SUGGESTS THAT MR. BURKE CAN BE
ORDERED
13 BACK IN FRONT OF JUDGE STERN ON PAIN OF CONTEMPT.

14 HEARING OFFICER KERRIGAN: YES.

15 MR. HOUSE: AND THIS IS MUDDING IT UP BECAUSE HE'S
16 ASKING ABOUT THE SUBJECTS THAT ARE HERE, BUT HE IS NOT
ASKING
17 THE QUESTIONS THAT WERE NOT ANSWERED LAST TIME THAT JUDGE
STERN

18 ORDERED HIM TO ANSWER.

I 19 MR. SHINEE: WELL, YOU KNOW, IT SEEMS TO ME THAT IF

20 DON'T ASK HIM THE QUESTION HE WAS ORDERED TO ANSWER, HE'S

21 PURGED HIMSELF OF ANY CONTEMPT. I THINK THAT'S THE ONLY

22 RATIONAL CONCLUSION ONE CAN COME TO.

OR 23 AND IF MR. HOUSE HAS GOT SOMEPLACE ELSE TO GO

24 SOMETHING ELSE TO DO, WE CAN EXCUSE HIM NOW, BUT I WILL

25 EVENTUALLY GET TO THOSE QUESTIONS.

132

1 HEARING OFFICER KERRIGAN: PROCEED.

2 BY MR. SHINEE:

3 Q PAGE 102, LINE 2, DO YOU SEE: A LIST OF SIX
4 PEOPLE.

5 "ANSWER: I THINK IT WAS SIX, YES."

6 DOES THAT REFRESH YOUR RECOLLECTION?

7 A I DIDN'T GIVE THE LIST TO SIX PEOPLE. IT WAS
8 THE COMPLIANT THAT WAS GIVEN TO SIX PEOPLE.

9 Q OKAY.

10 A AND IF YOU LOOK AT 101, YOU CAN SEE THE
11 QUESTIONING IS UNCLEAR.

12 Q DID YOU GIVE THE LIST, JUST THE LIST ITSELF,
13 ANYBODY?

14 A YES, I DID.

15 Q AND WHO WAS THAT?

TO

16 A STEVE LOPEZ.
17 Q AND ANYBODY ELSE?
18 A NO.
19 Q AND WHY DID YOU GIVE IT TO STEVE LOPEZ?
20 A I THOUGHT IT WAS A DOCUMENT THAT WAS PART OF
THE
21 HISTORY OF THE UNION THAT WAS A PUBLIC RECORD AND THOUGHT
STEVE
22 WANTED A COPY OF IT, SO I GAVE IT TO HIM.
23 Q DID HE ASK FOR A COPY OF IT?
24 A NO. I DON'T THINK HE DID.
25 Q YOU VOLUNTARILY GAVE IT TO HIM?

133

1 A THAT IS CORRECT.
2 Q OKAY. AND WHEN YOU SAY YOU THOUGHT HE WANTED
A
3 COPY, WHY WAS IT YOU THOUGHT HE MIGHT WANT A COPY OF IT?
4 A I JUST AS PART OF THE FILES OF ALL OF THESE
5 MATTERS.
6 MR. GRIMM: MR. KERRIGAN, IF WE COULD JUST MAKE A
7 RECORD, ONE OF THE WITNESSES UNDER SUBPOENA JOHN PORTILLO
STUCK
8 HIS HEAD IN ABOUT TEN MINUTES AGO. HE'S HERE. HE SHOWED
UP.
9 HEARING OFFICER KERRIGAN: OKAY.
10 BY MR. SHINEE:
11 Q YOU FILED YOUR LAWSUIT ON THE 16TH; CORRECT?

12 A CORRECT.

13 Q AND ACCORDING TO ONE PART OF YOUR TESTIMONY,
YOU

14 PASSED OUT THE LAWSUIT WITH THE LIST ATTACHED TO
APPROXIMATELY

15 SIX PEOPLE; IS THAT RIGHT?

16 A YES.

17 Q AND WHAT SIX PEOPLE DID YOU HAND OUT THE LIST
18 AND THE LAWSUIT TO, PLEASE?

19 A THE LAWSUIT WITH THE LIST AS AN UN-REDACTED
20 EXHIBIT WAS GIVEN TO JENNIFER LENTZ, L-E-N-T-Z, SNYDER --

21 Q JUST A SECOND, PLEASE.

22 A SNYDER, S-N-Y-D-E-R.

23 Q AND WHERE DOES SHE WORK?

24 A PUBLIC INTEGRITY DIVISION, I THINK, IS THE
NAME

25 IT, IN THE HALL OF RECORDS.

134

1 Q AND WHAT IS HER TITLE, PLEASE?

2 A ASSISTANT HEAD DEPUTY, GRADE IV.

3 Q AND DO YOU KNOW WHAT THE DUTIES AND
4 RESPONSIBILITIES OF ASSISTANT HEAD DEPUTY ARE?

5 A THEY VARY FROM UNIT TO UNIT. I DON'T KNOW
WHAT

6 HER DUTIES ARE.

7 Q IS SHE CONSIDERED PART OF THE MANAGEMENT
TEAM?

8 A SHE'S NOT A V.

TEAM, 9 Q IS SHE CONSIDERED PART OF THE MANAGEMENT
10 SIR?
11 A YOU HAVE TO ASK SOMEBODY WHO KNOWS THE ANSWER
TO 12 THE QUESTION.
13 Q DOES SHE HAVE SUPERVISORY RESPONSIBILITY?
14 A OUR EVALUATION CHARACTERIZES IT AS
SUPERVISOR, 15 YES.
16 Q SHE HAS SUPERVISORY RESPONSIBILITIES?
17 A ASK HER.
18 Q DO YOU KNOW WHETHER OR NOT SHE HAS?
19 A NO, I DON'T PERSONALLY KNOW.
20 Q OKAY. HAVE YOU EVER DISCUSSED HER ROLE OVER
21 THERE AT THE PUBLIC INTEGRITY UNIT?
22 A NO, I HAVE NOT.
23 Q WHY DID YOU GIVE IT TO HER, PLEASE?
24 A SHE HAD EXPRESSED AN INTEREST IN WHAT WAS
GOING 25 ON.

135

1 Q AND WHEN WAS THAT?
2 A WE HAD DONE SOME INTERVIEWING, I THINK, FOR
LAW 3 CLERKS IN SEPTEMBER.
4 Q SEPTEMBER OF WHAT YEAR?

5 A 2008.

6 Q AND --

7 A I BELIEVE IT WAS IN SEPTEMBER OF 2008, BUT IT
8 WAS --

9 Q AND WHAT DID SHE SAY TO YOU WITH REGARD TO
THE
A
10 A.D.D.A. AND WHAT WAS GOING ON THAT SUGGESTED SHE MIGHT WANT
11 COPY OF THIS LAWSUIT AND THE LIST?

12 A WELL, I WASN'T GIVING IT TO HER SO MUCH FOR
THAT
13 REASON AS GOING TO HER AS A RESOURCE TO SEE IF MAYBE SHE
KNEW
14 SOMEONE WHO MIGHT BE ABLE TO REPRESENT IN THE SUIT.

15 Q IS THAT WHY YOU GAVE HER THE LIST?

16 A THAT'S WHY I GAVE HER THE COMPLAINT WITH THE
17 LIST.

18 Q OKAY. DO YOU KNOW WHETHER OR NOT SHE HAS ANY
19 SOCIAL RELATIONSHIP WITH ANYBODY IN MR. COOLEY'S EXECUTIVE
20 OFFICE?

21 A I DON'T KNOW WHAT YOU MEAN WHEN YOU SAY
"SOCIAL
22 RELATIONSHIP." DOES SHE TALK TO STEVE COOLEY OR PEOPLE IN
23 MANAGEMENT STAFF? PROBABLY, BUT I DON'T KNOW.

24 Q OKAY. DO YOU KNOW WHETHER OR NOT SHE EVER
25 SOCIALIZED WITH THEM, AND I MEAN BY THAT, AFTER HOURS,
GETTING

1 TOGETHER FOR DINNER, MOVIES, CONVERSATIONS, GOING OUT FOR
2 DRINKS, ANYTHING LIKE THAT?

3 A NO.

4 Q ALL RIGHT. IS IT YOUR TESTIMONY TODAY UNDER
5 OATH THAT YOU NEVER GAVE THE LIST TO ANY DISTRICT ATTORNEY
6 EMPLOYEE THAT WAS NOT ATTACHED TO THE LAWSUIT?

7 A COULD YOU REPHRASE THAT.

8 MR. SHINEE: YOU WANT TO READ THE QUESTION BACK.

9

10 (RECORD READ.)

11

12 HEARING OFFICER KERRIGAN: WHAT DO YOU MEAN
"ATTACHED
13 TO THE LAWSUIT"?

14 MR. GRIMM: IT'S VAGUE.

15 MR. SHINEE: WELL, LET ME --
16 BY MR. SHINEE:

17 Q DO YOU UNDERSTAND THE QUESTION, SIR?

18 A NO.

19 Q IS IT YOUR TESTIMONY, TODAY, UNDER OATH, SIR,
20 THAT YOU NEVER GAVE THAT LIST TO ANYBODY BEFORE YOU FILED
YOUR
21 LAWSUIT?

22 A I SAID I GAVE IT TO STEVE LOPEZ.

23 Q YOU SAID YOU GAVE IT TO STEVE LOPEZ.

24 IS THERE ANYONE ELSE BESIDES STEVE LOPEZ THAT
25 YOU GAVE THAT LIST TO BEFORE YOU FILED YOUR LAWSUIT?

1 A NO.

2 Q ANY OTHER DISTRICT ATTORNEY EMPLOYEE?

3 MR. GRIMM: OBJECTION. THAT'S NOT A QUESTION.

4 HEARING OFFICER KERRIGAN: OVERRULED.

5 THE WITNESS: I NEVER GAVE IT TO ANYONE ELSE.

6 BY MR. SHINEE:

7 Q ALL RIGHT. EITHER WORKING OR NOT WORKING FOR

8 THE DISTRICT ATTORNEY'S OFFICE?

9 MR. GRIMM: THAT'S NOT A QUESTION EITHER.

10 THE WITNESS: ANYBODY ALIVE.

11 BY MR. SHINEE:

12 Q "ANYBODY ALIVE," IS THAT WHAT YOU SAID?

OKAY.

13 GETTING BACK TO JENNIFER SNYDER, I DON'T

RECALL

14 YOUR ANSWER.

15 DO YOU KNOW WHETHER OR NOT SHE HAD A SOCIAL

16 RELATIONSHIP WITH ANY OF THE --

17 HEARING OFFICER KERRIGAN: HIS ANSWER WAS HE DIDN'T

18 KNOW.

19 BY MR. SHINEE:

20 Q OKAY. DO YOU KNOW WHETHER OR NOT SHE WAS

21 FRIENDS WITH MR. COOLEY, MR. HAZEL, MR. SPILLANE OR ANY OF

THE

22 ASSISTANT DISTRICT ATTORNEYS?

23 MR. GRIMM: IT'S COMPOUND.

24 MR. SHINEE: IT'S NOT COMPOUND.

25 HEARING OFFICER KERRIGAN: OVERRULED.

1
"FRIENDS."

THE WITNESS: I DON'T KNOW WHAT YOU MEAN BY

2 BY MR. SHINEE:

3 Q WELL, WHAT IS YOUR DEFINITION OF A FRIEND,
4 PLEASE?

5 A YOU'RE ASKING ME WHETHER SHE'S --

6 Q WHAT IS YOUR DEFINITION OF A FRIEND?

7 MR. GRIMM: MR. KERRIGAN, READING THE TRANSCRIPTS
HERE,

8 IT'S VERY APPARENT THAT SHE, AND THROUGH NO FAULT OF HER
OWN,

9 IS MISSING SOME OF THE TESTIMONY AND COMMENTARY BY THE
10 ATTORNEYS BECAUSE THERE'S CONSTANT TALKING OVER ONE ANOTHER.

11 WE HAVE GOT -- THE RECORD IS MUDDY. AND I'D
12 APPRECIATE IT IF YOU COULD GET SOME CONTROL OVER THIS.

13 HEARING OFFICER KERRIGAN: WELL, I COULD COME OUT
THERE

14 AND GRAB PEOPLE BY THE ARM, AND SHORT OF THAT --

15 MR. GRIMM: I'M NOT ASKING FOR PHYSICAL VIOLENCE.

16 HEARING OFFICER KERRIGAN: I'VE ALREADY ASKED
EVERYBODY

17 NOT TO TALK OVER THE WITNESS.

18 MR. SHINEE: I APOLOGIZE.

19 HEARING OFFICER KERRIGAN: I DON'T THINK THAT'S A
20 PROBLEM AT THIS TIME. CONTINUE.

21 BY MR. SHINEE:

22 Q WHAT DO YOU MEAN BY "FRIENDS"? WHEN YOU CALL
23 SOMEONE A FRIEND, WHAT DO YOU MEAN BY THAT?

24 A LET ME SAY THIS, I DON'T KNOW WHO JENNIFER
25 LENTZ' FRIENDS ARE. YOU'D HAVE TO ASK HER.

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1 Q HAS SHE EVER SPOKEN TO YOU ABOUT HER
2 ACQUAINTANCE WITH MR. COOLEY, PAMELA BOOTH, THE ASSISTANT
3 DISTRICT ATTORNEYS?

4 MR. GRIMM: COMPOUND.
5 BY MR. SHINEE:

6 Q ANYTHING OF THAT NATURE?

NOT A

7 HEARING OFFICER KERRIGAN: A COMPOUND QUESTION IS
8 QUESTION THAT ASKS A SERIES OF NAMES OR ANYTHING LIKE THAT.
9 A COMPOUND QUESTION IS A QUESTION THAT HAS MORE THAN ONE
10 IN IT AND THE CLAUSES ARE NOT CONSISTENT.

CLAUSE

11 OVERRULED.

12 MR. GRIMM: HE SAID "ANYTHING OF THAT NATURE" AT THE
13 END OF IT. THAT'S A SEPARATE SUBJECT. IT'S NOT JUST --

YOU

14 HEARING OFFICER KERRIGAN: WELL, YOU'VE MADE THE
15 OBJECTION SEVERAL TIMES. I DON'T THINK IT'S WELL TAKEN.

THAT'S

16 CAN MAKE ANY OBJECTIONS YOU WANT, BUT I'M JUST SAYING,
17 NOT A COMPOUND QUESTION.

18 WOULD YOU ANSWER THE QUESTION, PLEASE.

19 THE WITNESS: NOT TO MY RECOLLECTION.

20 BY MR. SHINEE:

21 Q DO YOU HAVE -- NOT TO YOUR RECOLLECTION.

22 A THAT IS CORRECT.

23 Q OKAY. WHEN WAS IT THAT YOU GAVE MS. SNYDER A
24 COPY OF THE LAWSUIT?

25 A OCTOBER 16TH.

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1 Q AND THAT WOULD BE 2008?

2 A CORRECT.

3 Q AND WHERE WERE YOU WHEN YOU GAVE IT TO HER,
4 PLEASE?

5 A IN HER OFFICE.

6 Q AND THIS WAS ON DUTY I TAKE IT?

7 A AROUND LUNCHTIME, YES.

8 Q SHE WAS ON DUTY?

9 A I DON'T KNOW IF SHE WAS OR NOT. SHE WAS AT

HER

10 OFFICE.

11 Q OKAY. AND IS HER OFFICE IN THE SAME OFFICE
12 BUILDING AS YOURS?

13 A NO.

14 Q YOU DROVE TO HER OFFICE TO GIVE HER THIS
15 LAWSUIT?

16 A I WALKED.

17 Q OKAY. AND WHERE IS HER OFFICE, PLEASE?

18 A HALL OF RECORDS.
19 Q HALL OF RECORDS.
20 A YES.
21 Q OKAY. AND YOUR OFFICE IS ON FIGUEROA?
22 A CORRECT.
23 Q ABOUT FOUR OR FIVE BLOCKS AWAY?
24 A ROUGHLY.
25 Q OKAY. AND WHO ELSE DID YOU GIVE THE LAWSUIT
TO,
141

1 PLEASE?
2 A I LEFT A COPY FOR CAROL BURKE WITH JANET
MOORE.
3 Q AND WHO IS CAROL BURKE?
4 A SHE, AT THE TIME, WAS JANET MOORE'S SPECIAL
5 ASSISTANT.
6 Q AND WHERE DOES JANET MOORE -- WHERE IS HER
7 OFFICE, PLEASE?
8 A IT'S ON THE -- AT THE TIME, IT WAS ON THE
18TH
9 FLOOR OF THE CRIMINAL COURTS BUILDING OR THE CRIMINAL
JUSTICE
10 CENTER.
11 Q AND WHAT FLOOR IS MR. COOLEY'S OFFICE ON?
12 A I THINK IT'S 18.
13 Q 18TH FLOOR ALSO.
14 A YES.

15 Q AND DID YOU GIVE MS. CAROL -- DID YOU SAY
BLACK?
16 A BURKE.
17 Q BURKE. DID YOU GIVE HER ANY INSTRUCTIONS?
18 A SHE WASN'T THERE. THAT'S WHY I LEFT IT WITH
19 MS. MOORE.
20 Q OKAY. DID YOU GIVE MS. MOORE ANY
INSTRUCTIONS?
21 A I JUST ASKED HER TO GIVE IT TO CAROL.
22 Q THAT WAS IT?
23 A YES.
24 Q WAS THIS IN AN ENVELOPE OR DID YOU JUST
PRESENT
25 HER WITH --

142

1 A JUST GAVE HER THE COMPLAINT.
2 Q OKAY. SO THAT'S THE SECOND OFFICE YOU
VISITED
3 THAT DAY?
4 A I DON'T KNOW. I MEAN, I WAS IN THAT OFFICE
THAT
5 DAY, YES. I WAS IN OTHER OFFICES THAT DAY. I DON'T
REMEMBER.
6 Q THIS WAS ON OCTOBER 16TH ALSO?
7 A CORRECT.
8 Q OKAY. SO THE HALL OF RECORDS IS
APPROXIMATELY A
9 BLOCK AWAY FROM THE C.C.B.; RIGHT?

10 A IT'S ACROSS THE STREET.
11 Q ACROSS THE STREET.
12 A UH-HUH.
13 Q OKAY. AND WHAT TIME WAS IT THAT YOU VISITED
14 JANET MOORE?
15 A IT WAS LUNCHTIME.
16 Q NOW, DID YOU SIGN ANY --
17 ON THE 18TH FLOOR THERE'S A SECURED OFFICE
THERE
18 AND YOU HAVE TO SIGN IN AND SIGN OUT.
19 DID YOU SIGN ANYTHING?
20 A D.A.'S DON'T HAVE TO SIGN IN AND OUT.
21 Q DID YOU SIGN ANYTHING THAT DAY?
22 A NO.
23 Q OKAY. AND WHAT WAS THE PURPOSE --
24 WHAT WAS JANET MOORE'S TITLE, PLEASE?
25 A I THINK SHE WAS AN ASSISTANT D.A.

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AN
1 Q AND ON THE ORGANIZATIONAL CHART, WHERE DOES
2 ASSISTANT D.A. RESIDE?
3 DO YOU KNOW?
4 A IT'S UP AT THE TOP.
5 Q AT THE TOP. OKAY. AND WHO'S HER SUPERIOR?
6 A I DON'T KNOW.
7 Q YOU DON'T KNOW WHO SHE WORKS FOR?

8 A I DON'T KNOW THE ORGANIZATIONAL CHART. I
DON'T
9 KNOW THE ORGANIZATION AT THAT LEVEL.
10 Q YOU DON'T KNOW THE ORGANIZATION AT THAT
LEVEL.
11 DO YOU KNOW WHO JANET MOORE WORKED FOR AT THE
12 TIME?
13 A I JUST SAID NO.
14 Q OKAY. AND WHY WAS IT --
15 HAD YOU DISCUSSED YOUR LAWSUIT WITH JANET
MOORE
16 PRIOR TO THIS?
17 A NO.
18 Q AND WHY WAS IT THAT YOU GAVE THE LAWSUIT TO
19 JANET MOORE?
20 A TO GIVE TO CAROL BURKE.
21 Q AND WHY WAS IT THAT YOU WANTED -- STRIKE
THAT.
22 HAD YOU DISCUSSED WITH CAROL BURKE YOUR
LAWSUIT?
23 A I DON'T BELIEVE I HAD.
24 Q OKAY. WHY WAS IT THAT YOU WERE GOING TO GIVE
25 THIS LAWSUIT TO CAROL BURKE?

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1 A BECAUSE I WAS GOING TO SEE IF CAROL KNEW OF
ANY
2 LAWYER WHO MIGHT BE ABLE TO HANDLE THE MATTER FOR ME.
3 Q AND DID YOU EVER SPEAK TO CAROL -- MS. BURKE

4 ABOUT A LAWYER?

5 A I THINK I DID ASK HER, BUT SHE DIDN'T HAVE
6 ANYBODY THAT SHE COULD MENTION.

7 Q AND WHEN DID YOU ASK HER?

8 A AFTER THE 16TH. I DON'T KNOW WHEN.

9 Q AND MS. SCHNEIDER [SIC], DID YOU ASK HER FOR
A
10 LAWYER?

11 A YOU MEAN MR. SCHNEIDER?

12 Q JENNIFER SCHNEIDER [SIC] AS I UNDERSTAND IT.

13 A OH, SNYDER.

14 Q YES.

15 A YEAH, I ASKED HER IF SHE KNEW ANY LAWYERS
AND, I

16 THINK, SHE ACTUALLY DID GIVE ME THE NAME OF A LAWYER BUT I
17 NEVER FOLLOWED UP ON THAT.

18 Q OKAY. AND THE SOLE PURPOSE YOU GAVE CAROL
BURKE

19 THE LAWSUIT WAS TO ASK HER OPINION ABOUT WHO YOU MIGHT
SELECT
20 AS A LAWYER?

21 A TO SEE IF SHE KNEW SOMEONE WHO MIGHT BE ABLE
TO

22 REPRESENT ME.

23 Q WAS THERE ANY OTHER REASON YOU GAVE HER THE
24 LAWSUIT?

25 A SO SHE WOULD HAVE AN IDEA OF WHAT WAS IN MY -

1 WHAT ALLEGATIONS I HAD MADE REGARDING THE ACTIVITIES OF THE
2 BOARD LEADING UP TO WHAT THE COURT HAS RULED AS AN IMPROPER
3 ELECTION.

4 Q WELL, THERE WAS NO RULING AT THE TIME, WAS
5 THERE?

6 A THERE'S A RULING NOW.

7 Q NO, BUT AT THE TIME THERE WAS NO RULING; IS
8 THAT
9 RIGHT?

10 A THAT IS CORRECT. NO, THERE WAS A RULING AT
11 THAT
12 TIME. THE RULING WAS THE PETITION HAD BEEN DENIED.

13 Q I BELIEVE IT WAS OCTOBER 16TH THAT YOU FILED
14 YOUR PAPERS; CORRECT?

15 A THAT'S CORRECT.

16 Q AND DID YOU GET A RULING ON THAT DAY?

17 A YES. WE WENT EX PARTE ON THE 16TH.

18 Q I SEE. AND HOW LONG WAS THAT EX PARTE
19 PROCEEDING?

20 A FIVE MINUTES.

21 Q HOW LONG WERE YOU IN COURT?

22 A I WAS PROBABLY THERE ABOUT AN HOUR AND 20
23 MINUTES.

24 Q AND 20 MINUTES TO GET THERE AND 20 MINUTES TO
25 GET BACK TO YOUR OFFICE?

26 A WELL, I GOT THERE AT 8:30. YEAH, IT WOULD BE
27 THAT
28 20
29 MINUTES TO GO BACK TO MY OFFICE FROM COURT.

WITH

1 Q OKAY. WHO ELSE DID YOU GIVE THAT LAWSUIT
2 THE ATTACHED LIST TO, PLEASE?

3 A MARIO TRUJILLO.

4 Q WILL YOU SPELL THAT FOR ME?

5 A T-R-U-J-I-L-L-O.

6 Q AND WHERE DOES HE WORK?

7 A AT THAT TIME HE WAS SPECIAL ASSISTANT, I
8 BELIEVE, TO PAM BOOTH.

9 Q AND WHAT IS PAM BOOTH'S TITLE, PLEASE?

10 A I DON'T KNOW WHAT HER TITLE WAS BACK THEN.

LIST

11 HEARING OFFICER KERRIGAN: JUST SO I KNOW, WAS THE

12 MADE AN EXHIBIT INCORPORATED INTO THE COMPLAINT OR
SOMETHING?

13 THE WITNESS: YES.

14 HEARING OFFICER KERRIGAN: OR WAS --

15 MR. SHINEE: THE LIST OF THE ALL THE A.D.D.A.'S WHO

16 VOTED FOR --

IT

17 HEARING OFFICER KERRIGAN: YEAH, I UNDERSTAND WHAT

18 IS, BUT --

19 MR. SHINEE: IT WAS AN EXHIBIT TO THE LAWSUIT.

20 HEARING OFFICER KERRIGAN: OKAY. THANK YOU.

21

22 (PAUSE IN THE PROCEEDINGS.)

23

24 BY MR. SHINEE:

25 Q WHERE WAS HER OFFICE, PLEASE?

147

1 A 18TH FLOOR.

2 Q 18TH FLOOR. AND DID YOU SUPPLY HER WITH A
3 SEPARATE COPY?

4 A I DIDN'T GIVE HER A COPY AT ALL.

5 Q YOU PROVIDED IT TO HER ASSISTANT?

6 A I GAVE A COPY TO MY FELLOW UNIT MEMBER.

7 Q MR. TRUJILLO.

8 A THAT'S CORRECT.

9 Q AND DID YOU ASK HIM TO SHARE IT WITH MS.
BOOTH?

10 A NO, I DID NOT.

11 Q DID YOU CONTEMPLATE HE MIGHT SHARE IT WITH
12 MS. BOOTH?

13 A NO.

14 Q IT WASN'T YOUR INTENTION TO GET IT TO MS.
BOOTH,

15 WAS IT?

16 A THAT'S CORRECT. IT WAS NOT MY INTENTION TO
GET

17 IT TO MS. BOOTH.

18 Q WELL, DID YOU THINK IT WAS A -- STRIKE THAT.

19 DID YOU BELIEVE IT WOULD BE REASONABLE THAT
HE

20 WOULD GIVE TO IT TO HIS BOSS, MS. BOOTH?

21
FOUNDATION.

MR. GRIMM: IT CALLS FOR SPECULATION. NO

22

MR. SHINEE: I'LL SUBMIT.

23

HEARING OFFICER KERRIGAN: OBJECTION OVERRULED.

24

GO AHEAD.

25

THE WITNESS: DID I BELIEVE IT WAS POSSIBLE?

148

1 BY MR. SHINEE:

2 Q YES.

3 A DID I BELIEVE IT WAS REASONABLE THAT HE WOULD
4 GIVE IT TO HER?

5 Q YES.

6 A NO.

7 Q OKAY. AND HAD YOU DISCUSSED THE LAWSUIT WITH
8 MR. TRUJILLO PRIOR TO DELIVERING HIM THE LAWSUIT ON THE
16TH?

9 A I DON'T BELIEVE I DID. I HAD DISCUSSED BOARD
10 MEETINGS THAT I ATTENDED AND THE DIRECTION THAT I SAW THE
11 ASSOCIATION GOING IN, BUT I HAD NOT DISCUSSED ANY LAWSUIT
WITH
12 HIM, NO.

13 Q AND HOW DO YOU KNOW MR. TRUJILLO, PLEASE?

14 A I JUST -- I MET HIM ONE DAY, I THINK, IN
15 CONNECTION WITH GOING TO THE A.D.D.A. MEETINGS.

16 Q OKAY. AND HAD YOU EVER WORKED WITH HIM
BEFORE?

17 A NO.

18 Q AND THE TIME THAT YOU MET HIM ON ONE OCCASION
19 WHILE GOING TO THE A.D.D.A. MEETINGS, HAD YOU SEEN HIM
BEFORE
20 THAT?

21 A I DON'T UNDERSTAND YOUR QUESTION.

22 Q WELL, LET ME ASK: HOW WELL DID YOU KNOW
23 MR. TRUJILLO?

24 A I GOT TO KNOW HIM THROUGH -- AS A RESULT OF
25 GOING TO THE A.D.D.A. MEETINGS AND TALKING WITH HIM A LITTLE

149

1 BIT ABOUT WHAT WAS GOING ON.

2 Q OKAY. WHEN DID YOU FIRST MEET HIM?

3 A CAN'T TELL YOU EXACTLY. I'D SAY SOMETIME
MAYBE
4 LATE SUMMER OF 2008.

5 Q WOULD YOU DESCRIBE HIM AS A CLOSE FRIEND?

6 A NO.

7 Q DID HE EVER EXPRESS INTEREST -- STRIKE THAT.
8 DID HE EVER EXPRESS CONCERN ABOUT THE

A.D.D.A.

9 AND THEIR BOARD ELECTION TO YOU?

10 A BEFORE OR AFTER THE ELECTION?

11 Q BEFORE THE ELECTION?

12 A EXCUSE ME. NO, NOT THAT I REMEMBER.

13 Q AND FOR WHAT REASON DID YOU DELIVER TO
14 MR. TRUJILLO A COPY OF THE LAWSUIT?

15 A TO SEE IF HE MIGHT BE ABLE TO RECOMMEND AN

16 ATTORNEY TO ME TO HANDLE THE MATTER.

17 Q HAD HE EVER INDICATED TO YOU THAT HE WAS
18 ACQUAINTED WITH LABOR LAW ATTORNEYS PRIOR TO YOU DELIVERING
THE
19 LAWSUIT TO HIM?

20 A MARIO TRUJILLO, I THINK, WAS PRESIDENT ELECT
OF
21 MABA, WHICH IS ONE THE LARGEST SPECIALTY BARS IN SOUTHERN
22 CALIFORNIA. AND SO I WENT TO HIM THINKING THAT HE KNEW A
23 NUMBER OF PEOPLE. HE DIDN'T INDICATE TO ME PRIOR TO ME
GOING
24 THERE THAT HE KNEW LABOR LAWYERS, NO.

25 Q OKAY. BUT BECAUSE OF HIS ASSOCIATION WITH
MABA,
150

1 WHICH IS A POLITICAL ORGANIZATION?

2 A NO. IT'S A LAWYERS' ORGANIZATION.

3 Q A LAWYERS' ORGANIZATION?

4 A WELL, MAYBE IT'S POLITICAL, BUT IT'S LAWYERS.

5 MR. GRIMM: ARE WE TALKING ABOUT THE MEXICAN
AMERICAN
6 BAR ASSOCIATION?

7 THE WITNESS: (NO AUDIBLE RESPONSE.)

8 MR. GRIMM: YES?

9 THE WITNESS: I'M SORRY, YES.

10 BY MR. SHINEE:

11 Q DID HE MAKE ANY RECOMMENDATION TO YOU?

12 A NO.

13 Q AND I TAKE IT BURKE, CAROL BURKE, DIDN'T MAKE
A

14 RECOMMENDATION EITHER?

15 A THAT'S CORRECT.

16 Q AND NEITHER DID SNYDER?

17 A SHE GAVE ME THE NAME OF SOMEONE I NEVER
CALLED.

18 Q OKAY. AND WHY WAS IT YOU DIDN'T FOLLOW UP
WITH

19 SNYDER ON THE NAME THAT SHE GAVE YOU?

20 A BECAUSE MY RECOLLECTION OF MY CONVERSATION
WITH

21 HER WAS THAT SHE SAID HE WASN'T A LABOR LAWYER.

22 Q DID YOU KNOW PAM BOOTH AT THE TIME?

23 A YES.

24 Q AND HOW DID YOU KNOWN PAM BOOTH?

25 A I'VE BEEN AROUND THE OFFICE 22 YEARS, SHE'S
BEEN

151

I'VE

1 AROUND LONGER THAN THAT. I'VE BEEN TO SATURDAY SEMINARS,

2 SEEN HER THERE. I'VE NEVER WORKED FOR HER. I'VE KNOWN HER

3 JUST TO SAY HELLO.

4 Q OKAY. WAS SHE A DIRECTOR AT THE TIME?

5 A I THINK SHE WAS.

6 Q AND DO YOU KNOW IN THE HIERARCHY WHERE A

7 DIRECTOR IS IN TERMS OF THE ORGANIZATIONAL CHART?

8 A THEY'RE NEAR THE TOP.

9 Q NEAR THE TOP. NOW, IF YOU CAN ASSISTANT ME,
10 THERE'S THE DISTRICT ATTORNEY; IS THAT RIGHT?

11 AND THEN THERE'S THE ASSISTANT DISTRICT
12 ATTORNEY, MR. SPILLANE, CHIEF DEPUTY I MEAN?

13 A THERE IS A CHIEF DEPUTY.

14 Q AND THEN WHO'S BELOW THE CHIEF DEPUTY?

15 A I DON'T KNOW. I DON'T SPEND MY TIME LOOKING
AT
16 THE TOP OF THE ORGANIZATIONAL CHART.

17 Q YOU DON'T KNOW WHO THE TOP EXECUTIVE OFFICERS
18 ARE IN THE DISTRICT ATTORNEY'S OFFICE?

19 A THERE ARE SEVERAL, OKAY. IN TERMS OF WHO
20 REPORTS TO WHO OR HOW THE TOP FUNCTIONS, I DON'T KNOW.

21 Q COULD YOU NAME THE TITLES, PLEASE?

22 A THERE'S ASSISTANT D.A.'S, ADMINISTRATION.

23 Q STARTING WITH THE D.A., COULD YOU NAME THE
24 TITLES GOING DOWN?

25 A I'M NOT --

152

1 MR. GRIMM: MAY I INTERPOSE AN OBJECTION, PLEASE.

2 MR. KERRIGAN, I THINK BEFORE LUNCH YOU SAID WE WERE GOING TO
3 CONDUCT THIS HEARING WITH SOME DISPATCH.

4 HE WOULDNT IT BE -- CUT THROUGH ALL OF THIS IF

5 WOULD JUST ASK: DID ANY DISTRICT ATTORNEY REFER HIS

WOULD 6 PLAINTIFF'S COUNSEL IN HIS LAWSUIT TO HIM. I MEAN, THAT
7 JUST DO AWAY WITH ALL OF THIS. HE NEEDS TO KNOW THE
8 HIERARCHY --

9
10 (OVERLAPPING COLLOQUY.)

11
12 HEARING OFFICER KERRIGAN: I THINK IT GOES BEYOND
THAT.
13 IF YOU WANT TO STIPULATE WHAT THE HIERARCHY IS, THAT'S FINE.
14 BUT I THINK HIS QUESTION GOES BEYOND WHO RECOMMENDED AN
15 ATTORNEY TO HIM, IF I'M RIGHT.

16 BY MR. SHINEE:

17 Q COULD YOU JUST NAME, FROM THE D.A. DOWN THE
18 HIERARCHY, PLEASE?

19 A I DON'T KNOW THE HIERARCHY.

20 Q THE TITLES, PLEASE.

21 A I KNOW THE PEOPLE. THERE'S STEVE COOLEY.

22 Q WHAT IS HE?

23 A HE'S THE D.A.

24 Q AND WHO'S BELOW HIM?

25 A I DON'T KNOW WHO'S BELOW HIM.

153

1 Q WHAT'S THE TITLE BELOW?

2 A I DON'T KNOW WHAT THE TITLE BELOW HIM IS.

3 MR. GRIMM: MR. KERRIGAN, THIS IS JUST PURE
HARASSMENT.

IT'S

4 THERE'S NO PURPOSE IN THIS. EVERYONE CAN FIND THAT OUT.

5 A MATTER OF PUBLIC RECORD.

6 BY MR. SHINEE:

7 Q IS A DIRECTOR A GRADE V?

8 A YES.

9 Q AND DOES SHE SUPERVISOR GRADE V'S?

10 A YES.

11 Q OKAY. IS SHE PART OF THE ADMINISTRATION IN
12 TERMS THAT SHE'S A -- REPORTS TO THE CHIEF DEPUTY?

13 A I DON'T KNOW. I ASSUME SHE DOES.

14 Q DID YOU ASK MR. TRUJILLO TO GIVE PAM BOOTH A
15 COPY OF IT?

16 A NO.

17 Q DO YOU KNOW WHETHER OR NOT HE DID OR NOT?

18 A I HAVE NO IDEA WHAT HE DID --

19 Q DID YOU --

20 A -- FROM MY OWN KNOWLEDGE.

21 Q DID HE EVER TELL YOU THAT HE GAVE MS. BOOTH A
22 COPY OF IT?

23 A HE DID NOT TELL ME HE GAVE MS. BOOTH A COPY

OF

24 IT.

25 Q DID YOU HAVE ANY KNOWLEDGE THAT SHE RECEIVED

A

154

1 COPY OR GOT A COPY OF IT?

2 A I HAVE NO KNOWLEDGE OF THAT.

3 Q OKAY. DO YOU KNOW WHETHER PAM BOOTH
SOCIALIZES

4 WITH MR. SPILLANE OR MR. COOLEY OR MR. HAZEL?

5 A THAT'S SO VAGUE, SOCIALIZES. DO THEY GOT OUT
TO

6 LUNCH DURING THE DAY? I DON'T EVEN KNOW THAT.

7 Q OKAY. YOU'RE NOT AWARE OF ANY SOCIAL

8 RELATIONSHIP BETWEEN HER AND --

9 A LET ME PUT IT LIKE THIS: I HAVEN'T BEEN AT
ANY

10 LUNCH WITH MS. BOOTH AND MR. SPILLANE OR MR. HAZEL, NO.

11 Q ASIDE FROM YOUR PERSONAL OBSERVATION, HAVE
YOU

12 HEARD THAT SHE IS ACQUAINTED ON A SOCIAL BASIS WITH ANY OF

13 THOSE PEOPLE YOU JUST MENTIONED?

14 A WHAT DO YOU MEAN "SOCIAL BASIS"? DO YOU MEAN

15 GOING TO EACH OTHER'S HOUSE? WHAT ARE YOU TALKING ABOUT?

16 Q IS SHE FRIENDS OUTSIDE OF WORK, HAS SHE
ATTENDED

17 BIRTHDAY PARTIES --

18 A I DON'T KNOW.

19 Q -- WEDDINGS?

20 A I DON'T KNOW.

21 Q DO YOU KNOW ANY OF THAT?

22 A I DON'T KNOW.

23 Q OKAY. YOU'VE NEVER HEARD THAT?

24 A I DON'T REMEMBER HEARING THAT.

25 Q OKAY. WHO'S THE NEXT PERSON YOU GAVE THIS
LIST

1 TO, PLEASE?

2 A I THINK IT WOULD BE LANCE WONG.

3 Q AND WHERE DOES HE WORK?

4 A AT THE TIME HE WAS WORKING AS THE HEAD DEPUTY

IN

5 HEALTH CARE INSURANCE FRAUD.

6 Q AND WHERE IS THAT OFFICE LOCATED?

7 A IT'S IN THE FIGUEROA BUILDING.

8 Q THAT'S THE BUILDING THAT YOU WORK IN?

9 A THAT'S CORRECT.

10 Q AND WHAT TIME DID YOU GIVE HIM A COPY OF IT?

11 A I THINK IT WAS PROBABLY MID-AFTERNOON.

12 Q HOW LONG DID YOU AND MR. TRUJILLO DISCUSS --

13 WHEN YOU DROPPED THE LAWSUIT OFF TO HIM, HOW LONG DID YOU

14 DISCUSS THE LAWSUIT AND HIS POSSIBLE RECOMMENDATION?

15 A LESS THAN FIVE MINUTES.

16 Q YOU WERE ONLY THERE FIVE MINUTES?

17 A LESS THAN FIVE MINUTES.

18 Q AND DID YOU SEE --

19 HEARING OFFICER KERRIGAN: MAY I INQUIRE, HOW MANY

20 PEOPLE ARE WAITING OUTSIDE UNDER SUBPOENA?

21 MS. DIXON SILVA: I SAW THREE. I THOUGHT THERE WERE

22 FOUR. I DON'T KNOW, I HAVEN'T --

23 HEARING OFFICER KERRIGAN: HOW MANY PEOPLE DO WE

HAVE

24 OUT THERE?

25 MR. SHINEE: I DON'T KNOW.

156

1 HEARING OFFICER KERRIGAN: IT'S NOW 2:30 YOU KNOW.

I

2 DON'T THINK WE SHOULD KEEP PEOPLE WAITING IF WE'RE NOT GOING

TO

3 CALL THEM.

4 MR. SHINEE: WELL, I THINK WE'LL BE DONE HERE

PROBABLY

5 WITHIN THE NEXT 20 OR 30 MINUTES.

6 HEARING OFFICER KERRIGAN: OKAY. HOW MANY OF THOSE

DO

7 YOU EXPECT TO CALL TODAY?

8 MR. SHINEE: MARC?

9 MR. DEBBAUDT: ALL THREE.

10 MR. SHINEE: APPARENTLY THEY'RE RELATIVELY SHORT

11 WITNESSES.

12 HEARING OFFICER KERRIGAN: ALL RIGHT. GO AHEAD.

13 PROCEED.

14 BY MR. SHINEE:

15 Q WHEN YOU WERE AT TRUJILLO'S OFFICE, DID YOU

16 HAPPEN TO NOTICE WHETHER PAM BOOTH WAS IN HER OFFICE?

17 A IT'S AROUND THE CORNER FROM HER OFFICE. YOU

18 CAN'T SEE FROM ONE PLACE TO THE OTHER.

19 Q DID YOU SEE PAM BOOTH THAT DAY IN HER --

20 A NO.

21 Q -- OFFICE WHEN YOU DELIVERED THE DOCUMENT?

22 A I DIDN'T GO BY HER OFFICE.
23 Q DID YOU SEE HER IN OR AROUND HER OFFICE?
24 A I DIDN'T SEE PAM BOOTH THAT DAY.
25 Q OKAY. AND WHY DID YOU GIVE THIS DOCUMENT TO

157

1 LANCE WONG?

2 A HE ASKED FOR A COPY.

3 Q HOW DID HE KNOW THE LAWSUIT WAS FILED?

4 A HE WAS IN --

5 MR. GRIMM: OBJECTION. CALLS FOR SPECULATION.

6 HEARING OFFICER KERRIGAN: OVERRULED.

7 THE WITNESS: HE WAS IN IRENE WAKABAYASHI'S OFFICE

AND

8 I WALKED IN AND I SAID: WELL, THAT DIDN'T WORK, THE LAWSUIT
9 DIDN'T WORK.

10 BY MR. SHINEE:

11 Q YOU SAID THAT TO IRENE WAKABAYASHI?

12 A RIGHT.

13 Q AND WHO IS SHE?

14 A MY HEAD DEPUTY.

15 Q SHE'S A HEAD DEPUTY?

16 A YEAH.

17 Q AND WHY DID YOU EXPRESS THAT SENTIMENT TO
HER?

18 A THAT'S WHAT I WAS FEELING RIGHT THEN.

HER?

19 Q OKAY. HAD YOU DISCUSSED THE LAWSUIT WITH

20 A I HAD TOLD HER THAT I WAS GOING TO SUE AND I
21 NEEDED TUESDAY OFF, THAT WAS THE 14TH.

22 Q SHE WAS YOUR SUPERVISOR?

23 A RIGHT. AND SHE JUST SAID: PUT IN A SLIP.

24 Q DID YOU PUT IN A SLIP?

25 A YES, I DID.

158

1 Q DID YOU PUT A SLIP IN FOR EACH AND EVERY TIME
2 YOU WENT TO COURT ON THIS LAWSUIT?

3 A I'VE BEEN ASKED AND ANSWERED THIS BEFORE.

THAT

4 Q I'M ASKING YOU NOW, SIR. I HAVEN'T ASKED
5 QUESTION OF YOU.

6 A ALMOST EVERY TIME.

A

7 Q AND WHEN YOU SAID YOU PUT IN A SLIP, WAS THAT

NOTIFYING

8 SLIP ASKING PERMISSION TO LEAVE THE OFFICE OR A SLIP

9 THEM THAT THERE SHOULD BE A DEDUCTION FROM YOUR PAYROLL?

10 A IT'S A TIME OFF SLIP, DEDUCTION FROM PAYROLL.

11 Q SO DID YOU PROVIDE HER A COPY OF THE LAWSUIT?

12 A NO.

13 Q YOU DID NOT.

THAT

14 AND MR. WONG WAS IN THE ROOM WHEN YOU SAID

15 TO HER?

16 A YES.
17 Q AND HE ASKED FOR A COPY OF THE LAWSUIT?
18 A HE SAID: "CAN I LOOK AT IT?"
19 Q DID YOU GIVE HIM A COPY?
20 A I SAID: YEAH. I SAID: HERE, TAKE THIS.
21 Q OKAY. NOW, AFTER YOU GOT THE --

22 WHEN WAS IT YOU MADE THE COPIES OF THE
LAWSUIT
23 FOR DISTRIBUTION TO THE PEOPLE THAT YOU'VE GONE THROUGH SO
FAR?

24 A RIGHT AROUND NOON.

25 Q PARDON ME?

159

1 A RIGHT AROUND NOON.

2 Q AFTER GETTING BACK FROM COURT?

3 A AFTER LEAVING COURT.

4 Q AFTER LEAVING COURT, YOU CAME BACK TO YOUR
5 OFFICE?

6 A NO.

7 Q PLEASE, GO AHEAD.

8 A I WENT TO THE HALL OF RECORDS AND MADE COPIES
9 THERE.

10 Q OKAY. AND FROM THE HALL OF RECORDS, THEN YOU
11 WENT TO C.C.B.?

12 A C.J.C. OR THE C.C.B., YES.

13 Q CRIMINAL COURTS BUILDING.

14 A YES.

15 Q OKAY. AND WHO ELSE DID YOU GIVE IT TO ON
THAT

16 DAY?

17 A ELEANOR BIGOLSKI.

18 Q SPELL THAT, PLEASE?

19 A B-I-G-O-L-S-K-I.

20 Q AND WHERE DOES SHE WORK?

21 A SHE WORKS WITH ME IN THE INSURANCE FRAUD --
AUTO

22 INSURANCE FRAUD DIVISION.

23 Q IN THE FIGUEROA BUILDING?

24 A YES.

25 Q AND WHAT IS HER TITLE?

160

1 A DEPUTY D.A., IV.

2 Q AND WHY DID YOU GIVE HER A COPY OF IT?

3 A I HAD SPOKEN WITH HER ABOUT WHAT WAS GOING ON

4 WITH THE A.D.D.A. EXTENSIVELY. SHE HAD BEEN ON THE BOARD

5 PREVIOUSLY. I THOUGHT SHE MIGHT BE INTERESTED AND ALSO I
WAS

6 TRYING TO GET A REFERRAL FOR A LABOR LAWYER.

7 Q DID SHE GIVE YOU A REFERRAL?

8 A SHE DID, YES.

9 Q AND WHO DID SHE REFER YOU TO?

10 A I CAN'T REMEMBER THE PERSON'S NAME.

THE

11 Q WHO WAS THE LAWYER THAT REPRESENTED YOU IN
12 AMENDED COMPLAINT?

13 A CHRISTOPHER W. KATZENBACH.

14 Q AND WHO REFERRED YOU TO HIM?

15 A WHAT HAPPENED WAS --

16 Q JUST WHO --

17 A DO YOU WANT --

18 Q THE NAME OF THE PERSON.

OR

19 A OKAY. IT WAS EITHER JOE PALLER, P-A-L-L-E-R,
20 HENRY W. WILLIS, W-I-L-L-I-S.

21 Q ARE THEY EMPLOYEES OF THE DISTRICT ATTORNEY'S
22 OFFICE?

23 A NO, THEY ARE NOT.

STRIKE

24 Q DO YOU KNOW WHO IS JOE PALLER, PLEASE --
25 THAT. WE HAVE HIS NAME.

161

1 WHAT DOES HE DO FOR A LIVING?

2 A HE'S AN ATTORNEY.

3 Q DID HE EVER USED TO WORK FOR THE DISTRICT
4 ATTORNEY'S OFFICE?

5 A I DON'T KNOW.

6 Q AND WHAT DOES HE SPECIALIZE IN, IF YOU KNOW?

7 A LABOR AND EMPLOYMENT.

8 Q AND DID YOU KNOW MR. PALLER BEFORE?

9 A NO.

10 Q HOW DID YOU GET TO MR. PALLER?

11 A WELL, I DON'T KNOW IF IT WAS PALLER OR
WILLIS,
12 BUT WHAT HAPPENED WAS I CALLED JEFFREY WINIKOW, W-I-N-I-K-O-
W.
13 Q WINIKOW.
14 A WINIKOW, YES, WITH A "K."
15 Q WINIKOW?
16 A AND MR. WINIKOW HE GAVE ME -- I THINK, HE
GAVE
17 ME BOTH OF THOSE NAMES. AND THEN I CALLED ONE OF THEM AND
THEY
18 REFERRED ME TO CHRIS KATZENBACH.
19 Q AND WHO IS MR. WINIKOW?
20 A BACK IN '98 I HAD -- MY THEN WIFE AND I HAD
TO
21 GO SEE AN ATTORNEY ABOUT AN EMPLOYMENT MATTER REGARDING HER.
22 AND WE HAD A CONSULTATION WITH MR. WINIKOW. AND SO I CALLED
23 HIM AND HE REFERRED ME TO PALLER AND WILLIS AND ONE OF THEM
24 REFERRED ME TO KATZENBACH.
25 Q OKAY. AND WINIKOW WAS A LOCAL EMPLOYMENT
LAWYER

162

1 OR IS A LOCAL EMPLOYMENT LAWYER?

2 A YES, HE DOES LABOR AND EMPLOYMENT.

3 Q AND HE WAS NOT INTERESTED IN TAKING THE CASE?

4 A HE SAID HE DIDN'T DO WHAT I NEEDED.

5 Q OKAY. AND PALLER AND WILLIS --

6 A ONE OF THEM.

7 Q ONCE OF THEM REFERRED YOU TO KATZENBACH?

8 DO YOU KNOW WHY THEY DIDN'T REFER YOU TO A

LOCAL

9 ATTORNEY?

10 A THE PERSON I SPOKE TO SAID I'M GOING TO SEND

YOU

11 TO THE BEST PERSON IN CALIFORNIA FOR THIS.

12 Q FOR THIS?

13 A FOR THE MATTER THAT I BROUGHT, YES.

14 Q OKAY. WHAT ELSE DID HE SAY ABOUT

15 MR. KATZENBACH?

16 A HE SAID HE THOUGHT THAT -- HE SAID ALSO THAT

17 KATZENBACH'S FATHER HAD BEEN UNITED STATES ATTORNEY GENERAL.

18 Q UH-HUH. ANYTHING ELSE?

19 MR. GRIMM: OBJECTION ON RELEVANCE GROUNDS. HE'S

20 ASKING WHAT A NON-DISTRICT ATTORNEY TOLD HIM ABOUT THE

ATTORNEY

21 HE EVENTUALLY RETAINED. IT'S NOT RELEVANT.

22 HEARING OFFICER KERRIGAN: HOW IS THIS RELEVANT?

23 MR. SHINEE: UNFORTUNATELY, WE HAVE TO ASK A NUMBER

OF

24 QUESTIONS TO DETERMINE RELATIONSHIPS THAT MIGHT EXIST

BETWEEN

25 THE REFERENCES HE GOT FROM THESE GENTLEMEN TO MR. KATZENBACH

1
ATTORNEY'S

AND SEE IF THEY'RE RELATED TO ANYONE IN THE DISTRICT

2 OFFICE. I THINK WE NEED TO PURSUE THAT LINE OF QUESTIONING.

3 HEARING OFFICER KERRIGAN: AND WHAT DOES THAT SHOW?

4 DOES THAT SHOW AN ALLEGIANCE BETWEEN HIM AND THE DISTRICT

5 ATTORNEY?

6
COULD

MR. SHINEE: I'M NOT SURE WHAT IT SHOWS, BUT IT

7 CREATE AN INFERENCE THAT HE REALLY GOT THE NAME OF THIS

8 ATTORNEY THROUGH A CONNECTION FROM THE DISTRICT ATTORNEY'S

9 OFFICE. THAT'S AT LEAST WHAT I'M EXPLORING.

10 MR. GRIMM: HE'S JUST SAID THAT HE DID NOT.

11 HEARING OFFICER KERRIGAN: BY THE WAY, JOE PALLER --

12 ISN'T HE A UNION ATTORNEY? DOESN'T HE REPRESENT UNIONS?

13 THE WITNESS: YOUR HONOR, I DON'T KNOW. I WAS GIVEN

14 THESE REFERENCES BY WINIKOW AND --

15 HEARING OFFICER KERRIGAN: WAS HE WITH THE GILBERT

16 FIRM?

17
WITH.

THE WITNESS: I DON'T EVEN KNOW WHAT FIRM HE WAS

18 HEARING OFFICER KERRIGAN: OKAY.

19 THE WITNESS: I GOT HIS NAME AND A NUMBER.

20 HEARING OFFICER KERRIGAN: ISN'T JOE PALLER A UNION

21 ATTORNEY?

22
(PHONETIC),

MR. SHINEE: YOU'RE TALKING ABOUT PAPPION

23 AREN'T YOU?

24 HEARING OFFICER KERRIGAN: I BEG YOUR PARDON?

25 MR. SHINEE: PAPPION?

1 HEARING OFFICER KERRIGAN: I DON'T KNOW.

2 MR. SHINEE: I KNOW A JOE PAPPION.

3 HEARING OFFICER KERRIGAN: JOE PALLER, HIS NAME IS
4 FAMILIAR TO ME. AND I THINK HE WAS WITH THE GILBERT AND
NISSIN
5 OFFICE. I DON'T KNOW. WHICH IS A UNION LAW FIRM. IT
DOESN'T
6 MAKE ANY DIFFERENCE. I WAS JUST CURIOUS.

7 MR. GRIMM: SO, I GUESS, HIS REBUTTAL OR HIS COUNTER
IS
8 THAT HE'S NOT SURE WHAT IT SHOWS BUT HE'S FISHING SO WE'RE
9 GOING TO JUST --

10 MR. SHINEE: FISHING IS NOT A BAD THING TO DO
11 SOMETIMES.

12 MR. GRIMM: IF YOU CAN GET AWAY WITH IT, IT'S GOOD
TO
13 DO ALL THE TIME.

14 HEARING OFFICER KERRIGAN: WELL, I'M CONCERNED WITH
THE
15 LENGTH OF TIME THAT ALL THIS IS TAKING, AS YOU KNOW.

16 MR. SHINEE: I APPRECIATE THAT, BUT GIVEN THIS
WITNESS'
17 RECALCITRANCE, AS DEMONSTRATED BY HIS REFUSAL TO TESTIFY, I
18 THINK I HAVE TO BE A LITTLE MORE THROUGH THAN I ORDINARILY
19 WOULD BE.

20 MR. DEBBAUDT: I MEAN, YOU'VE GOT TO ASK YOURSELF:
WHY
21 WOULDN'T HE HAVE JUST TOLD US THESE NAMES? WHAT WAS THE BIG
22 SECRET THAT HE COULDN'T ANSWER? WHAT WAS THE PRIVACY RIGHT?

MY 23 THERE BEING NONE, IT MAKES AN INFERENCE IN AND OF ITSELF, IN
24 OPINION.

AS 25 HEARING OFFICER KERRIGAN: WELL, IF YOU WILL PROCEED
165

1 EXPEDITIOUSLY AS YOU CAN, I WOULD APPRECIATE IT. I DON'T
2 REALLY SEE THAT THIS IS VERY TANGENTIAL.
3 BY MR. SHINEE:

KATZENBACH 4 Q DID ANYBODY SUGGEST TO YOU THAT MR.
5 HAD ANY POLITICAL CONNECTIONS THAT MIGHT BE USEFUL IN THIS
6 CASE?

7 A NO.

FRIEND 8 Q DID ANYBODY SUGGEST TO YOU THAT HE WAS A
9 OF OR KNEW THE D.A.?

10 A NO.

REFERRED 11 Q OKAY. DID THE PERSON, MR. WINIKOW WHO
TWO 12 TO YOU PALLER AND WILLIS, DID HE SUGGEST TO YOU THAT THESE
13 GENTLEMEN WERE POLITICLY CONNECTED AND KNEW THE D.A.?

14 A NO.

YOUR 15 Q OKAY. NOW, BESIDES THE LADY THAT WORKED IN
16 OFFICE, WHO ELSE DID YOU GIVE THE --

17 HEARING OFFICER KERRIGAN: YOU MEAN, OTHER THAN THE
18 FIVE PEOPLE --

19 MR. SHINEE: YES.

20 BY MR. SHINEE:

21 Q WHO ELSE DID YOU GIVE IT TO, PLEASE?

22 A THAT'S IT.

23 Q ONLY THOSE FIVE PEOPLE?

24 A WELL, AND ALSO STEVE LOPEZ, THE LIST. THAT'S

25 APPROXIMATELY SIX.

166

1 Q OKAY. AND WHERE DOES -- FORGIVE ME FOR

2 ASKING -- WHERE DOES STEVE LOPEZ WORK?

3 A HE WORKS IN EAST L.A.

WORK

4 Q OKAY. SO YOU GAVE TWO COPIES TO PEOPLE WHO

IS

5 ON THE 18TH FLOOR, THE SAME FLOOR THAT MR. COOLEY WORKS ON;

6 THAT CORRECT?

7 A A COPY TO CAROL, A COPY TO -- YES.

8 Q OKAY. YOU DIDN'T DROP BY HIS OFFICE AND GIVE

9 HIM A COPY, DID YOU?

10 A NO, I DID NOT.

11 Q OKAY. HAVE YOU AND MR. COOLEY DISCUSSED YOUR

12 LAWSUIT AT ANY TIME?

13 A NO.

LAWSUIT

14 Q HAVE YOU AND MR. SPILLANE DISCUSSED YOUR

15 AT ANY TIME?

16 A NO.

17 Q TO YOUR KNOWLEDGE, HAVE YOU DISCUSSED YOUR
18 LAWSUIT WITH ANY ACQUAINTANCE OF MR. COOLEY OR MR. SPILLANE?

19 A I TALKED TO --

20 MR. GRIMM: OBJECT AS VAGUE AS TO "ACQUAINTANCE."

21 HEARING OFFICER KERRIGAN: OVERRULED.

22 THE WITNESS: I TALKED TO CURT HAZEL AND JAN
MAURIZI.

23 BY MR. SHINEE:

24 Q AND WHEN WAS THAT, PLEASE?

25 A THAT WAS ON OCTOBER 20TH.

167

1 MR. GRIMM: I DIDN'T CATCH THE SECOND NAME, I'M
SORRY.

2 MR. SHINEE: JAN MAURIZI.

3 THE WITNESS: JAN MAURIZI, M-A-U-R-I-Z-I.

4 BY MR. SHINEE:

5 Q AND WHAT'S MR. HAZEL'S TITLE?

6 A I THINK HE'S AN ASSISTANT D.A.

7 Q AND MAURIZI?

8 A JAN IS MY BUREAU DIRECTOR.

9 Q PARDON ME?

10 A SHE'S MY BUREAU DIRECTOR.

11 Q OKAY. AND IS THAT --

12 IN TERMS OF HER TITLE, IS SHE ABOVE OR BELOW

13 HAZEL?

SHE 14 A I THINK IT'S A LOWER TITLE. I DON'T KNOW IF
15 IS -- IF HE IS HER BOSS OR NOT. I DON'T KNOW.

16 Q AND DID YOU DISCUSS THIS LAWSUIT WITH BOTH OF
17 THEM ON OCTOBER 20TH?

18 A THEY WERE BOTH IN HIS OFFICE.

19 Q OKAY. THE DISCUSSION TOOK PLACE IN HIS
OFFICE?

20 A YES.

21 Q HAZEL'S OFFICE?

22 A YES.

23 Q AND WHAT WAS THE DISCUSSION, PLEASE?

24 A I WAS UPSET AND I CALLED JAN SAYING THAT I
WAS

25 UPSET THAT PEOPLE WERE SAYING THAT I HAD DISCLOSED
CONFIDENTIAL

168

1 INFORMATION. AND I DIDN'T KNOW WHAT THEY WERE REFERRING TO
2 BECAUSE I HAD RECEIVED THAT LIST PURSUANT TO A PUBLIC
RECORDS

3 ACT REQUEST. AND I WAS SO UPSET THAT JAN SAID: COME OVER
AND
4 TALK WITH US.

5 Q AND WHERE ARE THEY LOCATED?

6 A 18TH FLOOR.

7 Q 18TH FLOOR.

8 A OF THE --

9 Q HAD THEY --

10 A -- C.J.C.
11 Q YEAH. WHEN YOU GOT THERE, DID IT APPEAR TO
YOU
12 THAT THEY WERE AWARE OF THE LAWSUIT?
13 A I DON'T REMEMBER THERE BEING ANY DISCUSSION
14 ABOUT THE LAWSUIT.
15 Q DID YOU SEE THE LAWSUIT ON EITHER ONE OF
THEIR
16 DESKS?
17 A NO.
18 Q DID YOU BRING A COPY OF THE LAWSUIT?
19 A NO.
20 Q DID YOU SHOW THEM THE LIST --
21 A NO.
22 Q -- IN ORDER TO ASSIST YOU IN EXPLAINING YOUR
23 CONCERN?
24 A NO.
25 Q OKAY. AND HOW LONG DID THAT DISCUSSION TAKE

169

1 PLACE?
2 A IT WAS ABOUT A HALF HOUR.
3 Q AND WHAT DID THEY TELL YOU TO DO?
4 A THEY DIDN'T TELL ME TO DO ANYTHING. I TOLD
THEM
5 I WAS UPSET BECAUSE I HAD -- SOMEONE HAD SAID THAT I HAD
6 RELEASED THIS INFORMATION.
7 Q AND DO YOU KNOW WHO THAT SOMEONE WAS?

AT 8 A GILBERT WRIGHT CALLED ME AND HAD SAID THAT --
THERE 9 THE SATURDAY SEMINAR OF OCTOBER 18TH, AFTER THE SEMINAR
OTHER 10 WAS A MEETING, I GUESS, WITH A.D.D.A. BOARD MEMBERS AND
11 DREAM TEAM MEMBERS AND --

12 Q AND WHAT'S THE DREAM TEAM, PLEASE?

13 A ASK YOUR CLIENTS. I DON'T KNOW.

DO 14 Q SIR, DO YOU KNOW -- YOU JUST USED THE TERM.
15 YOU KNOW WHAT THE DREAM TEAM IS?

A 16 A NO, I DON'T. BUT I HAD HEARD THAT THERE WAS
17 MEETING AFTER THE SEMINAR AND THAT PEOPLE WERE SAYING THAT I
18 HAD RELEASED NON-PUBLIC INFORMATION.

19 Q OKAY.

20 A AND I TOLD GILBERT WRIGHT TO TELL ANYBODY WHO
21 SAID THAT THAT THEY OUGHT TO SHUT THEIR FUCKING MOUTH.

22 Q UH-HUH.

23 A AND THAT THEY SHOULD KNOW THAT I WAS GOING TO
24 HIRE A PRIVATE INVESTIGATOR TO INVESTIGATE ANYBODY WHO MADE
25 THOSE DEFAMATORY STATEMENTS ABOUT ME. AND I WAS PREPARED TO

170

1 SUE ANYBODY WHO REPEATED THEM. AND THEN I HUNG UP. AND I
2 CALLED JAN MAURIZI.

3 AND WHEN I WENT INTO JAN -- INTO CURT HAZEL'S

4 OFFICE AND JAN WAS THERE. I SAID: I JUST HAD THIS
5 CONVERSATION, THIS IS WHAT I SAID. AND I AM VERY, VERY
ANGRY.

6 Q SO YOU TOLD MAURIZI AND HAZEL THAT YOU TOLD
7 GILBERT THAT THESE PEOPLE SHOULD SHUT THEIR FUCKING MOUTHS
AND
8 THAT YOU WERE GOING TO SUE THEM; IS THAT CORRECT?

9 A THAT'S CORRECT.

10 Q DID THEY ENCOURAGE YOU TO DO THAT?

11 A NO.

12 Q WHAT DID THEY SAY ABOUT YOUR PLANS, IF
ANYTHING,
13 TO SUE THEM?

14 A CURT SAID: WE CAN'T TELL YOU WHAT TO DO. I
15 SAID: YOU'RE RIGHT. NOBODY CAN TELL ME WHAT TO DO.

16 Q AND WHEN HE SAID: WE CAN'T TELL YOU WHAT TO
DO,
17 DID HE MAKE ANY SUGGESTIONS AFTER SAYING THAT?

18 A AND THEN HE SAID --

19 Q EXCUSE ME. THE QUESTION IS --

20 A I HEARD YOUR -- HE DIDN'T MAKE ANY
SUGGESTIONS,

21 NO.

22 Q ALL RIGHT.

23 A I HEARD YOUR QUESTION.

24 Q AFTER YOU SAID THAT NO ONE CAN TELL YOU WHAT
TO
25 DO, DID JAN MAURIZI OFFER ANY ADVICE?

THE
1 A SHE DIDN'T SAY HARDLY ANYTHING AT ALL DURING
2 MEETING. CURT SPOKE AGAIN.
3 Q AND WHAT DID CURT SAY?
4 A HE SAID: WE CAN'T BE INVOLVED.
MAURIZI,
5 Q SO AS I UNDERSTAND IT, YOU CALLED JAN
6 EXPRESSED TO HER THAT YOU WERE UPSET BECAUSE PEOPLE WERE
7 SAYING THAT YOU RELEASED CONFIDENTIAL INFORMATION IN THE CONTEXT OF
8 THIS LAWSUIT; IS THAT RIGHT?
9 A I DIDN'T KNOW WHAT IT WAS BECAUSE I DIDN'T
KNOW
10 WHAT THEY WERE TALKING ABOUT BECAUSE I HADN'T -- BECAUSE I
HAD
11 PUBLIC INFORMATION IN MY LAWSUIT.
12 Q AND THEN YOU WENT OVER THERE AND YOU SPOKE
WITH
13 THEM; CORRECT?
14 A YEAH, I THINK THEY --
15 Q AND YOU WERE THERE ABOUT A HALF AN HOUR?
16 MR. GRIMM: OBJECTION. HE'S GOT TO ALLOW THE
WITNESS
17 TO ANSWER THE QUESTION HE ASKED.
18 HEARING OFFICER KERRIGAN: YES. AND WE'RE GOING
19 OVER -- YOU'VE ASKED THESE QUESTIONS A COUPLE OF TIMES.
20 BY MR. SHINEE:
21 Q DURING THAT HALF HOUR, HE ONLY SAID TWO
THINGS
22 TO YOU: WE CAN'T GET INVOLVED, AND WE CAN'T GIVE YOU
ADVICE.
23 THAT'S IT, THE SUM AND SUBSTANCE OF WHAT HE SAID TO --

24 A HE DIDN'T SAY -- THAT WAS THE ESSENCE, HE
25 COULDN'T GIVE ME ADVICE. AND I TOLD HIM -- I TOLD HIM:
CURT,
172

1 I DON'T DO THINGS FOR YOU. I DON'T DO THINGS FOR STEVE
COOLEY.
2 I DON'T DO THINGS FOR JOHN SPILLANE. I'M NOT HAVING THIS.
I'M
3 NOT HAVING WHAT HAPPENED.

4 Q UH-HUH. ANYTHING ELSE YOU TOLD HIM?
5 A I WAS SO ANGRY, I DON'T KNOW WHAT I SAID,
OKAY.
6 BUT I SAID A LOT. AND THEY JUST LET ME BLOW OFF STEAM. AND
AT
7 THE END, CURT SAID: LISTEN, YOU JUST HAVE TO GET -- YOU
HAVE
8 TO CALM DOWN. YOU CAN'T GET SO ANGRY THAT IT CAUSES A
PROBLEM.

9 Q DID THEY SUGGEST THAT YOU MIGHT SEE A LAWYER?
10 A NO. I TOLD THEM I WAS GOING TO GET A LAWYER.

I
11 TOLD IPSEN'S LAWYER AFTER THE HEARING TWICE. I TOLD
EVERYBODY
12 I CAME IN CONTACT WITH I WAS GETTING A LAWYER. I TOLD
HAZEL.
13 I TOLD MAURIZI. I TOLD EVERYBODY I WAS GETTING A LAWYER.
AND
14 I GOT A LAWYER.

15 Q AND WHO WAS THAT LAWYER, PLEASE?

16 A CHRISTOPHER KATZENBACH.

ANY

17 Q OKAY. AND TO YOUR KNOWLEDGE, HAS HE FILED
18 LITIGATION OR A LAWSUIT AGAINST ANYBODY WHO RELEASED THIS
19 INFORMATION ABOUT YOU?

20 A NO. I CALMED DOWN AND WENT IN A DIFFERENT
21 DIRECTION.

22 Q OH, I SEE. AND THIS IS YOUR VERSION OF CALM
23 NOW?

24 A I'M CALM.

25 MR. GRIMM: OBJECTION. IT'S ARGUMENTATIVE AND --

173

1 MR. SHINEE: IT WAS JUST A QUESTION --

2

3 (OVERLAPPING COLLOQUY.)

4

5 MR. GRIMM: THIS IS CLEARLY JUST FOR HARASSMENT
6 PURPOSES --

THE

7 MR. DEBBAUDT: NO, I THINK IT'S NECESSARY TO PUT ON

8 RECORD --

COUNSEL

9 HEARING OFFICER KERRIGAN: WAIT A MINUTE. YOUR
10 CAN RESPOND. LET'S KEEP IT TO ONE PERSON WHO'S ASKING THE
11 QUESTIONS.

12 BY MR. SHINEE:

13 Q ALL RIGHT. SO WITH REGARD TO --

14 MR. GRIMM: I MADE AN OBJECTION. IS THERE A RULING?

15 THAT QUESTION IS HARASSING. HE'S DOING THIS PURELY JUST TO
16 NEEDLE THE WITNESS. THIS IS --

17 MR. SHINEE: I'LL WITHDRAW THE QUESTION.

18 MR. GRIMM: HE'S ALREADY SAID --

19 HEARING OFFICER KERRIGAN: HE'S WITHDRAWN THE
QUESTION.

20 NEXT QUESTION.

21 MR. SHINEE: I WITHDRAW THE QUESTION: IS THIS YOUR
22 VERSION OF CALM.

23 BY MR. SHINEE:

24 Q PRIOR TO FILING THE LAWSUIT OR AFTER THE
LAWSUIT

25 WAS FILED, DID YOU SEEK OR RECEIVE ANY FUNDS TO ASSIST YOU

IN

174

1 THE LITIGATION?

2 MR. GRIMM: OBJECTION.

3 THE WITNESS: THAT'S COMPOUND.

4 MR. GRIMM: OBJECTION. I THINK THE QUESTION HE CAN
ASK

5 IS: DID HE GET FUNDS FROM PEOPLE IN THE D.A.'S OFFICE.

6 MR. SHINEE: I THINK YOU MIGHT BE RIGHT. THAT
MIGHT

7 BE COMPOUND.

8 BY MR. SHINEE:

9 Q DID YOU SEEK ANY FUNDS FROM ANYONE TO ASSIST
YOU

10 IN THE LAWSUIT?

11 A NO.
12 Q DID YOU RECEIVE ANY FUNDS --
13 A NO.
14 Q -- FROM ANYONE WITH REGARD TO THE LAWSUIT?
15 A YOU MEAN, BESIDES MY DEAD MOTHER?
16 Q YOUR DEAD MOTHER CONTRIBUTED TO THE LAWSUIT?
17 A MY INHERITANCE, YES.
18 Q OKAY. AND HOW MUCH DID YOUR DEAD MOTHER
19 CONTRIBUTE?
20 A THAT'S PERSONAL.
21 Q I BELIEVE THAT'S ONE OF THE QUESTIONS THAT
22 JUDGE ORDERED YOU TO ANSWER.
23 MR. GRIMM: NO. IT DOESN'T --
24 MR. SHINEE: SO PLEASE --
25 ///

THE

175

1 (OVERLAPPING COLLOQUY.)

2

3 RELEVANCE

4 OF IT ANYWAY?

5 STERN

6 ORDERED HIM TO ANSWER. AND IT INVADES HIS PRIVACY TO ASK

ABOUT

7 HIS RELATIONSHIP TO HIS MOTHER'S ESTATE AND IT HAS NO

8 RELATIONSHIP TO ANYTHING THAT'S GOING ON IN THIS PRECEDING.
9 HEARING OFFICER KERRIGAN: I'LL SUSTAIN THE
OBJECTION.

10 BY MR. SHINEE:

11 Q SIR, DID YOU EVER SUPPLY THE LIST AND THE
12 LAWSUIT TO MR. SPILLANE?

13 A NO.

14 Q AND I BELIEVE YOU TESTIFIED THAT IN 2008 YOU
15 RECEIVED A PERFORMANCE EVALUATION?

16 A THAT'S CORRECT.

17 Q WHAT WAS YOUR RATING?

18 A I'M NOT GOING TO ANSWER THAT.

19 Q YOU WERE ORDERED TO ANSWER IT BY THE JUDGE.

20 MR. GRIMM: WHAT NUMBER IS IT, PLEASE?

21 MR. SHINEE: ITEM 8.

22 MR. GRIMM: ITEM 8?

23 MR. SHINEE: ITEM 8.

24 MR. GRIMM: ITEM 8 DOESN'T SAY ANYTHING ABOUT --

25 MR. SHINEE: IN THE CONTEXT --

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1 MR. GRIMM: OKAY.

2 MR. SHINEE: -- OF THE TRANSCRIPT --

3 MR. GRIMM: OKAY.

4 MR. SHINEE: -- IT CLEARLY INDICATES THAT HE IS TO

5 ANSWER WHAT HIS PERFORMANCE EVALUATION IS.

6 HEARING OFFICER KERRIGAN: WELL, HE CAN --

7 MR. GRIMM: MAY I HAVE ONE SECOND, PLEASE?

8 MR. SHINEE: I THOUGHT MR. HOUSE WAS REPRESENTING
HIM,

9 I'M CONFUSED HERE.

10

11 (PAUSE IN THE PROCEEDINGS.)

12

13 MR. GRIMM: WITHDRAWN.

14 MR. HOUSE: HE IS CORRECT THAT THAT QUESTION AND:
WHAT

15 WAS IT, IS A FOLLOW UP ON: WHEN DID YOU GET YOUR LAST
16 PERFORMANCE EVALUATION.

17 HEARING OFFICER KERRIGAN: OKAY. YOU'RE REQUIRED TO
18 ANSWER THE QUESTION IT SEEMS TO ME BY THE ORDER OF THE
COURT,
19 BUT YOUR ATTORNEY CAN ADVISE YOU.

20 THE WITNESS: YOUR HONOR, MAY I HAVE A MOMENT TO
SPEAK

21 WITH MY LAWYER?

22 MR. SHINEE: I THINK THAT'S APPROPRIATE.

23 THE WITNESS: WELL, THEN I'LL --

24 MR. HOUSE: HE'S UNDER THREAT OF CONTEMPT,
25 MR. KERRIGAN, I THINK IT IS APPROPRIATE FOR HIM TO CONSULT
WITH

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1 HIS ATTORNEY.

2 HEARING OFFICER KERRIGAN: I THINK HE CAN CONSULT ON

3 THAT BASIS OF CONTEMPT AND WHAT HIS EXPOSURE IS, BRIEFLY.

4

5 (PAUSE IN THE PROCEEDINGS.)

6

7 HEARING OFFICER KERRIGAN: OKAY. LET'S GO.

8 DO YOU HAVE THAT QUESTION IN MIND --

9 MR. SHINEE: YES.

10 THE WITNESS: YES.

11 HEARING OFFICER KERRIGAN: -- MR. BURKE?

12 THE WITNESS: IT WAS EXCEEDS EXPECTATIONS.

13 BY MR. SHINEE:

14 Q YOU'RE FAMILIAR WITH MR. DVER, ARE YOU NOT?

15 A YES.

16 Q DID YOU ENLIST HIS SUPPORT OR AID WITH REGARD

TO

17 THE LAWSUIT AGAINST THE A.D.D.A.?

18 A I DIDN'T ASK HIM TO DO ANYTHING IN CONNECTION
19 WITH THE LAWSUIT.

20 Q WHAT DID YOU ASK HIM TO DO?

21 A I ASKED HIM TO RUN AGAINST STEVE IPSEN FOR
22 PRESIDENT.

23 Q AND WHEN DID YOU ASK HIM TO DO THAT?

24 A I THINK IT WAS BEFORE I EVEN FILED THE
LAWSUIT.

25 Q ANYTHING ELSE?

1 A AFTERWARDS I THINK I ASKED HIM TO RUN AGAIN
2 AGAINST STEVE.

3 Q OKAY. AND WHY DID YOU SELECT MR. DVER AS A
4 PERSON YOU THOUGHT YOU WOULD WANT TO RUN AGAINST MR. IPSEN?

5 A HE'S RESPECTED.

6 Q HE'S RESPECTED?

7 A YES.

8 Q ARE YOU FAMILIAR WITH HIS CHARACTER AND
9 REPUTATION FOR HONESTY AND INTEGRITY?

10 A NO.

11 Q THEN HOW DO YOU KNOW HE'S RESPECTED, SIR?

YOUNG

12 A WELL, I KNOW THAT HE'S LOOKED UP TO BY THE
13 LAWYERS, MANY OF WHOM HE'S TRAINED.

14 Q OKAY. ANY OTHER REASON WHY YOU, BESIDES HIM
15 BEING RESPECTED, YOU WANTED HIM TO RUN AGAINST MR. IPSEN?

16 A I THOUGHT HE COULD WIN.

17 Q OKAY. AND WHAT DID MR. DVER TELL YOU?

HE

18 A HE WAS NONCOMMITTAL AT FIRST AND THEN
19 AFTERWARDS -- SOME TIME TOWARDS THE END OF OCTOBER PERHAPS
20 SAID HE WASN'T INTERESTED.

COOLEY

21 Q DO YOU HAVE ANY KNOWLEDGE AS TO HOW MR.
22 KNEW THAT MR. DVER VOTED IN FAVOR OF THE UNION?

23 A I DON'T HAVE ANY KNOWLEDGE THAT HE DID --
24 MR. GRIMM: ASSUMES FACTS --

25 ///

1 (OVERLAPPING COLLOQUY.)

2

IN

3 HEARING OFFICER KERRIGAN: ARE WE ASSUMING FACTS NOT
4 EVIDENCE?

5 MR. SHINEE: NO, WE'RE NOT. THIS FACT HAS BEEN
6 ESTABLISHED.

7 HEARING OFFICER KERRIGAN: HOW WAS IT ESTABLISHED?

8 MR. SHINEE: BY THE DIRECT TESTIMONY OF MR. DVER.

9 HEARING OFFICER KERRIGAN: I THINK MR. DVER SAID HE
10 SIGNED A CARD.

11 MR. SHINEE: YES.

12 HEARING OFFICER KERRIGAN: OKAY.

13 MR. SHINEE: THAT HE SIGNED A CARD IN FAVOR OF A
14 CERTIFIED BARGAIN UNIT.

15 HEARING OFFICER KERRIGAN: YES.

16 BY MR. SHINEE:

FOUND

17 Q DO YOU HAVE ANY KNOWLEDGE HOW MR. COOLEY
18 THAT OUT?

19 A I HAVE NO IDEA THAT HE KNOWS THAT.

20 Q DID MR. DVER EVER DISCUSS THAT WITH YOU?

21 A DISCUSS WHAT WITH ME?

IN

22 Q THE FACT THAT MR. COOLEY KNEW THAT HE VOTED

23 FAVOR OF THE UNION FOR THE CERTIFIED BARGAINING
REPRESENTATIVE?

24 A NO.

A
180

25 MS. DIXON SILVA: MR. HODGMAN IS HERE IN RESPONSE TO

1 SUBPOENA.

2 THE REPORTER: EXCUSE ME?

3 MS. DIXON SILVA: MR. BILL HODGMAN.

4 HEARING OFFICER KERRIGAN: HOW MANY PEOPLE ARE OUT
5 THERE?

ONE
6 MS. DIXON SILVA: I DON'T KNOW. THAT'S THE FIFTH
7 I'VE SEEN.

8 HEARING OFFICER KERRIGAN: SIX?

9 MS. DIXON SILVA: FIVE.

10 HEARING OFFICER KERRIGAN: FIVE. WELL, IF YOU THINK
11 YOU'RE GOING TO DO ALL FIVE IN AN HOUR, THAT'S FINE WITH ME.
12 BUT IF WE HAVE TO EXCUSE PEOPLE WE'RE NOT GOING TO BE
INVOLVED
13 WITH TODAY, IT WOULD BE A GOOD IDEA.

14 MR. SHINEE: YOU KNOW, IF YOU'D JUST GIVE ME A
COUPLE
15 OF MINUTES TO ASSESS HERE.

16 HEARING OFFICER KERRIGAN: OKAY.

17 BY MR. SHINEE:

18 Q AT ANY TIME, SIR, DID YOU PROVIDE THE LAWSUIT
19 AND THE LIST ATTACHED THERETO TO ANY EMPLOYEE OF THE
DISTRICT
20 ATTORNEY'S WITH THE INTENT OF IT GOING TO MR. SPILLANE OR
ANY

21 DIRECTOR?

22 A NO.

23 Q AND WHEN YOU SAID THAT MR. TRUJILLO WAS
BOOTH'S
24 ASSISTANT, HOW LONG HAD HE WORKED WITH HER?

25 A I DON'T KNOW.

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1 Q DO YOU KNOW HOW LONG -- WHAT HIS DUTIES AND
2 RESPONSIBILITIES WERE?

3 A SPECIAL ASSISTANT IS ALL I KNOW. I DON'T
KNOW
4 WHAT HE DID.

5 Q YOU NEVER TALKED TO HIM ABOUT THAT?

6 A I KNEW HE WAS GOING TO A MEETING ONE DAY AT
THE
7 JAIL REGARDING SOMETHING OR ANOTHER BUT I NEVER TALKED TO
HIM
8 ABOUT HIS SPECIFIC DUTIES, NO.

9 Q WOULD IT BE FAIR TO SAY YOU REALLY DIDN'T
KNOW
10 HIM VERY WELL?

11 A I FEEL LIKE I GOT A SENSE OF WHO HE WAS A
LITTLE
12 BIT.

13 Q WOULD IT BE FAIR TO SAY YOU DIDN'T REALLY
KNOW
14 HIM VERY WELL?

15 A I WOULDN'T SAY THAT.

16 Q WOULD IT BE FAIR TO SAY THAT YOU ONLY HAD A
17 DISTANT WORKING RELATIONSHIP WITH HIM?

WANT.

18 A YOU CAN CHARACTERIZE IT WHATEVER WAY YOU

19 Q WOULD IT BE FAIR TO SAY THAT, PLEASE?

20 A I NEVER WORKED WITH HIM. I SAID THAT.

21 Q OKAY.

22

23 (PAUSE IN THE PROCEEDINGS.)

24 ///

25 ///

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1 BY MR. SHINEE:

2 Q YOU HAD EARLIER TESTIFIED THAT YOU WERE UPSET
3 WITH MR. CAUSEY BECAUSE OF THE SITUATION HE PUT YOU IN.

4 WHAT SITUATION DID MR. CAUSEY PUT YOU IN THAT
5 YOU WERE REFERRING TO IN YOUR TESTIMONY ON THE 18TH OF
6 SEPTEMBER?

THE

7 A THE FACT THAT HE DIDN'T TAKE BETTER CARE OF

GIVEN

8 LIST. AND THAT HE GAVE IT TO ME PURSUANT TO -- OR HAD IT

9 TO ME PURSUANT TO A PUBLIC RECORDS ACT REQUEST.

TO

10 Q AND IT WAS MR. CAUSEY THAT AUTHORIZED LOUISE

11 PROVIDE YOU THAT LIST, TO YOUR KNOWLEDGE?

ME

12 A IT WAS MR. CAUSEY WHO TOLD LOUISE JUST GIVE

13 THE BOX AND --

14 Q AND HOW DO YOU KNOW THAT, SIR?

15 A BECAUSE I THINK THAT'S WHAT HE SAID AT THE
16 A.D.D.A. MEETING ON OCTOBER 21ST.

17 Q ALL RIGHT. AND YOU RECEIVED A LETTER FROM
18 MR. CAUSEY ASKING YOU TO RETURN THE NAMES AND NOT
DISSEMINATE

19 THEM?

20 A YES.

21 Q OKAY.

22 A I RECEIVED A LETTER. I DON'T REMEMBER WHAT
IT
23 SAYS.

24 Q OKAY. BESIDES RUNNING FOR PRESIDENT OF THE
25 A.D.D.A., DID YOU ASK ROBERT DVER TO DO ANYTHING ELSE?

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1 A WHEN HE SAID HE WASN'T GOING TO RUN, I
2 THOUGHT -- I ASKED HIM IF HE WOULD SUPPORT ME IF I RAN.

3 Q AND WHAT DID HE SAY TO YOU?

4 A HE SAID GET THE ELECTION FIRST AND THEN, YOU
5 KNOW, HE'D HAVE TO TALK TO ME ABOUT IT.

6 Q OKAY. DID YOU GIVE THIS LIST TO ANY GRADE
V'S
7 THAT YOU'RE AWARE OF?

8 A I DIDN'T GIVE THE LIST TO ANYONE EXCEPT STEVE
9 LOPEZ. I GAVE THE COMPLAINT TO THE PEOPLE I'VE ALREADY

10 TESTIFIED ABOUT.

THOSE

11 Q AND, IF I'M NOT MISTAKEN, AT LEAST ONE OF

12 WAS A GRADE V?

13 A THAT IS CORRECT.

TO

14 Q WHEN YOU RETAINED MR. KATZENBACH, DID YOU FLY

15 SAN FRANCISCO TO MEET HIM?

16 HEARING OFFICER KERRIGAN: I'M SORRY, WHAT'S THE

17 QUESTION?

18 BY MR. SHINEE:

TO

19 Q WHEN YOU RETAINED MR. KATZENBACH, DID YOU FLY

20 SAN FRANCISCO TO MEET HIM?

21 MR. GRIMM: RELEVANCE. OBJECTION.

22 HEARING OFFICER KERRIGAN: WHAT'S THE RELEVANCE?

OF

23 MR. SHINEE: I WANT TO KNOW IF HE TOOK ANY TIME OFF

24 WORK OR WAS HE GIVEN --

25 HEARING OFFICER KERRIGAN: OKAY.

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--

1 MR. SHINEE: -- PERMISSION TO GO WITHOUT PUTTING IN

2 HEARING OFFICER KERRIGAN: ALL RIGHT.

3 MR. SHINEE: -- A SLIP.

RETAIN

4 THE WITNESS: I NEVER WENT TO SAN FRANCISCO TO

5 HIM, NO.

6 BY MR. SHINEE:

7 Q DID YOU EVER GO TO SAN FRANCISCO TO MEET HIM?

8 A I MET HIM IN AUGUST OF 2009.

9 Q OKAY. WAS THAT DURING --

10 A MY VACATION TIME.

11 Q ON YOUR VACATION TIME, OKAY.

12

13 (PAUSE IN THE PROCEEDINGS.)

14

15 MR. SHINEE: NOTHING FURTHER. THANK YOU.

16 MR. DEBBAUDT?

17

18 DIRECT EXAMINATION (CONTINUED)

19

20 BY MR. DEBBAUDT:

21 Q DID MR. DVER TELL YOU ABOUT A CONVERSATION HE
22 HAD WITH MR. COOLEY ON OCTOBER 17TH?

23 A I NEVER HAD ANY DISCUSSION WITH ROB DVER

ABOUT

24 CONVERSATIONS HE HAD WITH STEVE COOLEY.

25 Q DID MR. DVER TELL YOU THAT MR. COOLEY HAD

ASKED

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1 HIM TO GO AND SPEAK WITH YOU ABOUT THINGS TO DO AGAINST THE
2 UNION?

3 A NO. ROB NEVER SAID ANYTHING LIKE THAT TO ME.

4 MR. DEBBAUDT: NO ADDITIONAL QUESTIONS.

5 HEARING OFFICER KERRIGAN: IS THAT IT?

6 MR. DEBBAUDT: YES.

7 HEARING OFFICER KERRIGAN: ANY QUESTIONS ON -- OKAY.
8 YOU'RE EXCUSED. WE HAVE -- SOMEBODY TOLD ME WE HAVE SIX
9 WITNESSES OUT THERE. I SUPPOSE IT'S POSSIBLE TO CALL SIX
10 WITNESSES IN THE NEXT --

11 MR. IPSEN: WELL, IT'S ACTUALLY --

12 HEARING OFFICER KERRIGAN: -- PERIOD OF TIME BUT --

13

14 (OVERLAPPING COLLOQUY.)

15

16 MR. IPSEN: I BELIEVE IT'S THREE, ACTUALLY. UNLESS
17 SOMEONE ELSE SHOWED UP.

18 HEARING OFFICER KERRIGAN: I'M SORRY?

19 MR. IPSEN: I BELIEVE THERE ARE THREE RIGHT NOW.

20 HEARING OFFICER KERRIGAN: WELL, DO WE NEED ALL
THREE?

21 MR. IPSEN: YES.

22 MR. GRIMM: MAY WE HAVE A RESTROOM BREAK FOR FIVE
23 MINUTES.

24 HEARING OFFICER KERRIGAN: ALL RIGHT.

25 OFF THE RECORD.

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1 (RECESS.)

2

3 HEARING OFFICER KERRIGAN: BACK ON THE RECORD.

4 STEP FORWARD, PLEASE.

5

6 JOHN PORTILLO,

7 PRODUCED AS A WITNESS BY AND ON BEHALF OF THE CHARGING
PARTY,

8 AND HAVING BEEN FIRST DULY SWORN BY THE HEARING OFFICER, WAS

9 EXAMINED AND TESTIFIED AS FOLLOWS:

10

11 HEARING OFFICER KERRIGAN: STATE AND SPELL YOUR NAME

12 FOR THE RECORD.

13 THE WITNESS: JOHN PORTILLO, P-O-R-T-I-L-L-O.

14

15 DIRECT EXAMINATION

16

17 BY MR. IPSEN:

18 Q MR. PORTILLO, WHAT GRADE DEPUTY DISTRICT

19 ATTORNEY ARE YOU?

20 A V.

21 Q AND CURRENTLY YOU'RE ASSIGNED WHERE?

22 A MAJOR FRAUD DIVISION.

23 Q HOW LONG HAVE YOU BEEN HEAD DEPUTY OF MAJOR

24 FRAUD?

25 A SINCE MAY 18TH OF '09.

1 Q ALL RIGHT. AND PRIOR TO THAT, WHERE WERE YOU
2 ASSIGNED?

3 A CENTRAL TRIALS, C.T. 11.

4 Q AS A GRADE V, HEAD DEPUTY?

5 A YES.

6 Q AND HOW LONG WERE YOU THERE, APPROXIMATELY?

7 A FOUR YEARS.

8 Q ALL RIGHT. SO AS OF THE SPRING OF 2008 YOU
WERE
9 IN C.T.'S AND C.T. -- WHICH DID YOU SAY IT WAS?

10 A 11.

11 Q C.T. 11.

12 A YES.

13 Q AND BOTH OF THOSE ARE DOWNTOWN LOS ANGELES
14 ASSIGNMENTS?

15 A YES.

16 Q WHAT DEGREE OF CONTROL DO YOU HAVE AS TO WHO
17 WORKS FOR YOU OR PEOPLE --

18 LET'S SAY IN C.T. 11, ARE YOU JUST TOLD WHICH
19 D.A.'S YOU'RE GETTING OR ARE YOU ALLOWED TO CHOOSE PEOPLE

AND

20 BRING THEM IN?

21 HOW DOES THAT WORK WHEN YOU WERE IN C.T. 11?

22 A WE'RE JUST TOLD.

23 Q OKAY.

24 A I MEAN, I CAN'T SAY I'M NEVER CONSULTED. BUT
25 PRETTY MUCH, I'M JUST TOLD.

1 Q ALL RIGHT. AND ARE YOU EVER ABLE TO SAY:
NO, I
2 DON'T WANT THAT PERSON AND ABLE TO BLOCK PEOPLE?
3 DID YOU DO THAT AT ALL IN C.T. 11?
4 A I THINK ON ONE OCCASION I WAS ASKED IF I
WANTED
5 SOMEBODY OR NOT. AND I CHOOSE NOT, BUT I DON'T REMEMBER WHO
6 THAT PERSON WAS.
7 Q AND THAT'S ONCE OVER THE WHOLE TIME YOU WERE
IN
8 C.T. 11?
9 A THAT I CAN REMEMBER.
10 Q AND IN FRAUDS -- IS THE FRAUD UNIT -- YOUR
11 FRAUDS UNIT --
12 THERE ARE OTHER FRAUD UNITS IN THE FIGUEROA
13 BUILDING?
14 A YES.
15 Q ARE THE FRAUD SOUGHT AFTER SUCH THAT THERE'S
A
16 WAITING LIST TO GET IN, OR IS IT A UNIT THAT YOU MIGHT HAVE
TO
17 CULTIVATE AND ENCOURAGE PEOPLE TO JOIN YOU THERE?
18 MR. GRIMM: OBJECTION. IT'S COMPOUND.
19 HEARING OFFICER KERRIGAN: IS IT A HIGHLY SOUGHT
AFTER
20 DIVISION TO WORK IN?
21 THE WITNESS: NOT MAJOR FRAUD DIVISION.
22 BY MR. IPSEN:
23 Q AND IF YOU KNOW THE OTHER FRAUD UNITS, THE
HEAD

24 DEPUTIES THERE, ARE THEY HIGHLY SOUGHT AFTER WITH A WAITING
25 LIST TO GET IN THERE?

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1 A I ONLY KNOW ABOUT ONE OTHER FROM
2 CONVERSATIONS --

3 Q SURE.

4 A -- WITH THEIR HEAD DEPUTY AND IN THAT CASE,
IT'S
5 PRETTY MUCH LIKE MAJOR FRAUD.

6 Q ARE THERE ANY PEOPLE IN THE FRAUD UNIT THAT
7 WOULD RATHER NOT BE THERE AND WOULD LIKE TO BE TRANSFERRED
8 ELSEWHERE, IF YOU'RE AWARE?

9 HEARING OFFICER KERRIGAN: HE CAN'T TESTIFY AS TO
THAT.
10 SUSTAINED.

11 BY MR. IPSEN:

12 Q IF YOU PERSONALLY KNOW, ARE THERE PEOPLE
13 ASSIGNED TO FRAUD, BASED ON YOUR PERSONAL KNOWLEDGE, THAT

HAVE

14 ASKED TO BE TRANSFERRED OUT OF FRAUD THAT ARE STILL THERE?

15 A WELL, I DON'T CURRENTLY HAVE ANYONE THAT I
KNOW
16 OF WHO HAVE ASKED TO BE TRANSFERRED OUT.

17 Q ARE THERE ANY PEOPLE TRANSFERRED THERE THAT
DID
18 NOT REQUEST A TRANSFER TO FRAUDS BUT THERE WAS A SPACE THAT
HAD

19 TO BE FILLED?

I 'VE 20 A I'M NOT SURE. I MEAN, I'VE ONLY -- SINCE
21 BEEN THERE, I THINK THERE'S ONLY BEEN ONE PERSON TRANSFERRED
22 THERE AND I'M GETTING ANOTHER ONE IN A COUPLE OF WEEKS.

23 Q ALL RIGHT. AND IN C.T. 11, WERE THERE PEOPLE
24 WORKING DOWNTOWN AT C.C.B. THAT WOULD HAVE PREFERRED BRANCH
AND
25 AREA ASSIGNMENTS BUT WERE ASSIGNED IN THE C.T.'S?

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OTHER 1 HEARING OFFICER KERRIGAN: HE CAN'T TESTIFY AS TO
2 PEOPLE'S STATE OF MIND UNLESS SOMEBODY HAS TOLD HIM.
3 BY MR. IPSEN:

DEPUTY 4 Q BASED ON YOUR KNOWLEDGE, BEING THE HEAD
5 SUPERVISING D.D.A.'S DURING YOUR TIME IN C.T. 11, WERE THERE
6 PEOPLE THAT INDICATED A DESIRE TO BE TRANSFERRED OUT OF THE
7 C.C.B.?

8 A YES.

AS 9 Q IN GENERAL, WOULD YOU CHARACTERIZE THE C.C.B.
10 A LOCATION THAT D.A.'S WOULD RATHER NOT WORK IN, PREFERRING
THE
11 BRANCH AND AREA LOCATIONS?

12 MR. GRIMM: OBJECTION. IT'S COMPOUND. NO
FOUNDATION.

13 CALLS FOR SPECULATION.

14 HEARING OFFICER KERRIGAN: OVERRULED.

15 THE WITNESS: WELL, I KNOW OF SOME WHO WANTED BRANCH

16 BUT SOME WERE VERY HAPPY THERE.

17 BY MR. IPSEN:

TO

18 Q SURE. THERE ARE MANY D.A.'S THAT DON'T WANT
19 BE IN C.C.B. BECAUSE OF CONGESTION, ELEVATORS AND THE TIME
20 COMMUTING.

21 MR. GRIMM: OBJECTION. THAT'S COMPOUND. AND IT'S
22 LEADING.

23 HEARING OFFICER KERRIGAN: OVERRULED.

24 THE WITNESS: WELL, MY OWN EXPERIENCE IS THAT ALMOST
25 ALL OF THE PEOPLE IN C.T. 11 WERE PRETTY HAPPY THERE. THERE

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1 WERE SOME WHO WANTED OUT.

2 BY MR. IPSEN:

3 Q WELL, WHEN YOU'RE A GOOD HEAD DEPUTY, THAT
4 HAPPENS, JOHN.

5 WERE YOU EVER -- IN 2008 IN THE SPRING, DID
6 ANYONE ASK YOU ABOUT IF IT WAS ALL RIGHT IF I WAS
TRANSFERRED
7 THERE?

8 DID ANYONE BRING THAT UP WITH YOU AND SAY:
IS
9 IT OKAY IF WE TRANSFER IPSEN TO C.T. 11?

10 A I DON'T THINK SO, NO.

11 Q IF YOU HAD BEEN ASKED AND TOLD IPSEN WOULD
LIKE
12 TO WORK FOR YOU IN C.T. 11, WOULD THAT BE ACCEPTABLE?

13 WOULD YOU HAVE OBJECTED TO THAT?

14 A NO.

15 Q IN THE FRAUD UNIT, DID ANYONE ASK YOU
RECENTLY

16 IF YOU WOULD ACCEPT A TRANSFER OF STEVE IPSEN TO MAJOR FRAUD
TO

17 WORK FOR YOU THERE?

18 A NO.

19 Q HAD I EXPRESSED TO YOU THAT I WOULD BE
WILLING

20 TO WORK FOR YOU AND BE INTERESTED IN FRAUDS, IF YOU RECALL,
IN

21 THE LAST YEAR OR SO?

22 A I DON'T REMEMBER THAT.

23 Q THAT'S OKAY.

24 A I ONLY REMEMBER ONE CONVERSATION WITH YOU,
BUT I

25 HAVE A VERY POOR MEMORY, I'LL TELL YOU THAT. YOU MAY HAVE
SAID

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1 THAT.

2 Q WE'RE MEMBERS OF THE SAME CLUB, WE JUST DON'T
3 REMEMBER SO I UNDERSTAND.

4 DO YOU RECALL SUPERVISING ME IN THE ANTELOPE
5 VALLEY?

6 A YES.

7 Q AND DO YOU RECALL APPROXIMATELY WHEN THAT
WAS?

8 A I THINK IT WAS '03.

9 Q OKAY. AND DID YOU HAVE ANY IDEA WHAT I WAS
10 GOING TO ASK YOU BEFORE YOU GOT HERE TODAY?

11 A ABOUT ANTELOPE VALLEY, YES.

12 Q ALL RIGHT. HAVE WE SPOKEN AT ALL ABOUT YOUR
13 TESTIMONY?

14 A WELL, WE RAN INTO EACH OTHER ON THE STREET A
FEW
15 WEEKS AGO AND YOU ASKED ME SOME QUESTIONS ABOUT THE ANTELOPE
16 VALLEY AND YOUR TRANSFER THERE.

17 Q OKAY.

18 A BUT SINCE GETTING THE SUBPOENA LAST WEEK OR
19 SOMETHING, NO.

20 Q ALL RIGHT. DID YOU KNOW YOU WERE GOING TO
GET A
21 SUBPOENA AND HAVE TO TESTIFY?

22 A NO.

23 Q SO WE RAN INTO EACH OTHER, WE SPOKE, IT
WASN'T
24 ABOUT YOUR TESTIFYING.

25 A RIGHT. YOU JUST ASKED ME ABOUT WHAT
HAPPENED.

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1 Q ALL RIGHT. AND SINCE GETTING A SUBPOENA,
HAVE
2 WE SPOKEN ABOUT WHAT I WAS CALLING YOU TO TESTIFY TO?

3 A NO.

4 Q ALL RIGHT. IN THE ANTELOPE VALLEY DO YOU
RECALL
5 THE CIRCUMSTANCES OF MY ARRIVING THERE?
6 A YEAH.
7 Q DO YOU RECALL WHAT ASSIGNMENT I STARTED OUT
IN
8 ANTELOPE VALLEY IN APPROXIMATELY 2003?
9 A YES. I ASSIGNED YOU TO BE A TRIAL DEPUTY.
10 Q ALL RIGHT. AND THAT WOULD BE TO WORK UNDER
JOE
11 PAYNE; IS THAT CORRECT?
12 A I DON'T THINK I REMEMBER THAT DETAIL.
13 Q ALL RIGHT. DO YOU RECALL AT THE TIME --
14 DO YOU REMEMBER WHO JOE PAYNE IS?
15 A YEAH.
16 Q AND GIVE US A QUICK IDEA OF JOE PAYNE.
17 A WELL, HE RETIRED A YEAR OR TWO AGO AFTER 35
18 YEARS OR SO IN THE OFFICE. HE WAS A GOOD, HARD WORKING,
STEADY
19 GUY WHO HAD SPENT ALMOST HIS ENTIRE CAREER IN THE D.A.'S
OFFICE
20 IN THE ANTELOPE VALLEY.
21 Q ALL RIGHT. AND WHEN I ARRIVED THERE, DO YOU
22 RECALL WHAT GRADE DEPUTY I WAS?
23 A GRADE IV, I BELIEVE.
24 Q AND DO YOU RECALL WHAT GRADE JOE PAYNE WAS?
25 A III.

TIME 1 Q AND DO YOU RECALL THE APPROXIMATE LENGTH OF
2 JOE PAYNE HAD BEEN A CALENDAR DEPUTY IN THE ANTELOPE VALLEY?
3 A NO.
IN 4 Q HAD HE BEEN A CALENDAR DEPUTY FOR A LONG TIME
5 A.V.?
6 A NO, HE HADN'T.
HIS 7 Q OKAY. WHEN I ARRIVED, YOU ASSIGNED ME TO BE
8 TRIAL DEPUTY?
HE 9 MR. GRIMM: OBJECTION. ASKED AND ANSWERED. HE SAID
10 DOESN'T RECALL.
11 HEARING OFFICER KERRIGAN: OVERRULED.
12 THE WITNESS: I DON'T REMEMBER ASSIGNING YOU TO BE
13 JOE'S TRIAL DEPUTY. MY RECOLLECTION IS THAT I WANTED YOU
14 AVAILABLE TO HANDLE HEAVY CASES THAT WE GOT AS A TRIAL
DEPUTY.
15 BY MR. IPSEN:
16 Q AND WHATEVER ASSIGNMENT YOU GAVE ME, DID I
17 INDICATE A WILLINGNESS AND EAGERNESS TO DO THAT ASSIGNMENT
OR
18 WOULD YOU CHARACTERIZE IT DIFFERENTLY?
19 A NO, YOU DIDN'T OBJECT, THAT I RECALL.
20 Q OKAY. SO IF I TOLD YOU -- YOU WOULDN'T
21 DISAGREE, IF I TOLD YOU I WAS HAPPY, EVEN THOUGH A IV, TO
WORK,
22 ASSIGNED TO JOE'S CALENDAR BECAUSE HE HAD BEEN A D.A. FOR
SOME
23 30 YEARS AND I DIDN'T NEED TO HAVE HIS CALENDAR POSITION?
24 MR. GRIMM: OBJECTION.

1 BY MR. IPSEN:

2 Q WOULD THAT BE INCONSISTENT WITH YOUR MEMORY?

3 MR. GRIMM: OBJECTION. IT'S LEADING. IT CALLS FOR
4 SPECULATION. HE ALREADY SAID HE --

5 HEARING OFFICER KERRIGAN: REPHRASE THE --

6 MR. GRIMM: -- DIDN'T REMEMBER --

7 HEARING OFFICER KERRIGAN: -- QUESTION.

8

9 (OVERLAPPING COLLOQUY.)

10

11 MR. GRIMM: -- ASSIGNING HIM TO JOE PAYNE.

12 HEARING OFFICER KERRIGAN: YOU'RE GETTING A LITTLE
13 LOOSE THERE, MR. IPSEN.

14 BY MR. IPSEN:

15 Q ALL RIGHT. WAS THERE ANYTHING -- DURING THE
16 TIME THAT YOU SUPERVISED ME, WAS THERE ANYTHING ABOUT MY
17 ATTITUDE AND WILLINGNESS TO DO WHATEVER JOB I WAS GIVEN THAT
18 TROUBLED YOU?

19 A NO.

20 Q OKAY. WAS THERE ANYTHING ABOUT MY
INTERACTION

21 WITH FELLOW DEPUTIES THAT YOU FOUND PROBLEMATIC?

22 A NO.

YOU 23 Q FROM YOUR OBSERVATIONS, WERE THERE ANY TIMES
OTHERS, 24 THOUGHT I WAS UNPROFESSIONAL TO OTHERS, DISCOURTEOUS TO
25 INCAPABLE OF COMMUNICATING IN A CORDIAL, PROFESSIONAL MANNER
196

1 WITH OTHERS?

2 A NO.

OFFICE 3 Q ARE YOU AWARE OF A POLICY IN THE D.A.'S
4 THAT REQUIRES CALENDAR DEPUTIES TO TURN IN -- WELL, LET ME -
-

5 DO YOU KNOW WHAT A NOON CALENDAR IS?

6 A NO.

BEING 7 Q HAVE YOU EVER HEARD OF CALENDAR DEPUTIES
8 REQUIRED TO TURN THEIR CALENDARS IN BEFORE NOON EACH DAY AND
AT 9 THE END OF THE DAY?

10 A NO.

11 Q HAVE YOU EVER ISSUED AN ORDER OR RECEIVED AN
12 ORDER INDICATING THAT ALL DEPUTIES, AS A DISCIPLINARY
MATTER, 13 MUST CHECK THEIR LOTUS NOTES EVERY DAY?

14 A AS A DISCIPLINARY MATTER?

CHECK 15 Q THAT IT IS REQUIRED THAT YOU SIGN ON AND
OF 16 THE LOTUS NOTES EVERY DAY. HAVE YOU EVER -- ARE YOU AWARE
17 THE POLICY?

18 A I DON'T REMEMBER THAT.

19 Q HAVE YOU EVER CHECKED TO SEE IF D.A.'S --
20 DO YOU KNOW WHO ED LUTES (PHONETIC) IS?

21 A I DON'T KNOW HIM.

22 Q MAYBE HE WASN'T THERE.

23 DO YOU KNOW THAT A DEPUTY -- IF THE D.A.'S
24 YOU'RE CURRENTLY SUPERVISING CHECK THEIR LOTUS NOTES EVERY
DAY?

25 A NO, I DON'T KNOW.

197

IT 1 Q HAVE YOU EVER TOLD THEM THAT THEY HAVE TO DO
2 AND IF THEY DON'T, THEY CAN BE DISCIPLINED?

3 A NO.

4 Q OKAY. IS THERE ANY POLICY WITH REGARDS TO --
5 ARE YOU AWARE OF D.A.'S EVER INADVERTENTLY
6 WRITING THE WRONG DATE ON A FILE OR WRITING A NOTE ON THE
WRONG
7 BOX IN THE FRONT OF A FILE? IS THAT UNCOMMON?

8 A SURE.

9 Q IS IT A DISCIPLINARY MATTER TO USE WHITE-OUT
ON
10 THE FACE OF A FILE TO CORRECT A MISTAKE THAT ONE MIGHT MAKE?

11 A NO.

12 Q WOULD YOU SAY IT'S A COMMON THING THAT
HAPPENS?

13 A YES.

14 Q DO YOU KNOW WHAT A DISPO FORM IS?

15 A YES.

16 Q IS IT REQUIRED THAT THEY'RE TYPED?

17 A NO.

18 Q IS IT REQUIRED THAT THERE ARE LENGTHY
19 EXPLANATIONS AS TO EACH DISPOSITION?

20 A LENGTHY, NO.

IT 21 Q CAN SOMETIMES IT BE A SCRIBBLED DISPO WHERE
22 JUST SAYS: TWO YEARS, STATE PRISON?

23 IS THAT SOMETIMES WHAT YOU GET?

24 A SOMETIMES.

25 Q HAVE YOU EVER DISCIPLINED D.A.'S FOR HAVING

198

FORM? 1 MESSY HANDWRITING OR NOT FILLING OUT EVERY BOX ON A DISPO

2 A NO.

3 Q WHAT IS THE GENERAL, IF YOU KNOW, WHAT IS --
4 OFFICE, IF YOU WERE TO TELL A D.A. JOINING THE

5 WHAT IS THE EXPECTATION --

6 YOU AS FAR AS JUVENILE ASSIGNMENTS, WHAT WOULD

7 AND TELL A D.A. ENTERING NOW THEY CAN EXPECT AS FAR AS HOW LONG

8 WHAT THE OFFICE POLICY IS WITH REGARDS TO YOUR JUVENILE
9 ROTATION?

EIGHT

10 A WELL, I UNDERSTAND IT'S SOMEWHERE BETWEEN
11 MONTHS AND A YEAR.

12 Q AND EVERY D.A. IS TOLD THAT FOR THE MOST PART
13 YOU CAN EXPECT YOU WILL BE ROTATED TO JUVENILE; RIGHT?

14 A YES.

15 Q ABOUT WHEN IN YOUR CAREER?

AFTER

16 A I THINK EARLY IN YOUR GRADE II. SHORTLY
17 YOU BECOME A GRADE II, SOMEWHERE IN THERE.

18 Q AND THEN YOU'LL -- BASICALLY, YOU WILL BE A
19 CALENDAR DEPUTY FOR A JUVENILE SUPERIOR COURT?

SO

20 A I ASSUME. I'VE NEVER WORKED JUVENILE MYSELF,
21 I REALLY DON'T KNOW WHAT THEY DO.

A

22 Q OKAY. IS IT GENERALLY ASSUMED THAT YOU DON'T
23 ROTATE BACK INTO JUVENILE UNLESS IT'S AS AN ASSISTANT -- AS
24 D.I.C. OF JUVENILE, AS A GRADE IV?

25 A YES, I AGREE.

199

YEAR

1 Q HOW RARE WOULD YOU SAY IT IS FOR A SENIOR
2 GRADE IV TO BE SENT TO JUVENILE TO DO THE JOB OF A SECOND
3 GRADE II?

4 MR. GRIMM: OBJECTION. NO FOUNDATION.
5 BY MR. IPSEN:

6 Q HOW COMMON IS THAT, IF YOU KNOW?

I 7 MR. GRIMM: NO FOUNDATION. CALLS FOR SPECULATION.

8 THINK WE NEED TO KNOW A BASIS FOR HIS KNOWLEDGE.

9 MR. IPSEN: ALL RIGHT.

10 BY MR. IPSEN:

11 Q YOU'VE BEEN IN THE D.A.'S OFFICE FOR HOW
LONG?

12 A IT WILL BE 26 YEARS IN FEBRUARY.

13 Q AND IF, AFTER TEN YEARS IN THE OFFICE, YOU
WERE

14 SENT BACK TO JUVENILE WITHOUT EXPLANATION THERE FOR AN
15 INDEFINITE PERIOD OF TIME, WOULD THAT HAVE STRUCK YOU AS --
16 WOULD THAT HAVE BOTHERED YOU?

17 A YEAH.

18 Q WOULD THAT HAVE BEEN EXTREMELY OUT OF THE
19 ORDINARY?

20 MR. GRIMM: CALLS FOR SPECULATION. NO FOUNDATION.

21 HEARING OFFICER KERRIGAN: I THINK THAT YOU REALLY
ARE

22 CALLING FOR SPECULATION.

23 BY MR. IPSEN:

24 Q ARE YOU AWARE OF THE -- I MEAN, WE ALL HAVE
25 FRIENDS IN THE OFFICE AND YOU'RE AWARE OF THEIR CAREER
PATHS.

200

1 THAT'S THE TYPE OF TRANSFER THAT, IF HAPPENED TO SOMEONE,

2 THEY'D BE UNHAPPY WITH, WOULDND'T YOU AGREE?

3 A (NO AUDIBLE RESPONSE.)

4 MR. GRIMM: OBJECTION. HE'S LEADING.

5 BY MR. IPSEN:

6 Q HOW MANY PEOPLE HAVE YOU --

7 MR. GRIMM: IT'S COMPOUND --

8 MR. DEBBAUDT: WELL, IF HE ANSWERED, HE KNOWS --

9

10 (OVERLAPPING COLLOQUY.)

11

12 THE REPORTER: GENTLEMEN, PLEASE.

13 MR. IPSEN: MY FAULT THAT TIME.

14 MR. DEBBAUDT: HE NODDED INSTEAD OF SAYING "YES" OR

15 "NO."

16 BY MR. IPSEN:

YEARS

17 Q HOW MANY D.A.'S HAVE YOU HEARD OF WITH TEN

A

18 OR MORE EXPERIENCE WHO WERE TRANSFERRED BACK TO JUVENILE FOR

19 SECOND ROTATION, AGAINST THEIR WILL, OTHER THAN IN A

20 SUPERVISORIAL POSITION?

21 CAN YOU NAME ANY?

22 A I MEAN, MY RECOLLECTION AT --

23 Q SURE.

24 A -- THIS MOMENT, IT COULD HAVE HAPPENED AND I

25 DON'T REMEMBER IT.

1 Q SURE.

2 A MY RECOLLECTION AT THIS POINT, THE ONLY ONE I
3 CAN REMEMBER IS MARC DEBBAUDT.

4 Q OKAY. DO YOU KNOW WHAT A TIME-OFF SLIP LOOKS
5 LIKE?

6 A YES.

7 Q OKAY. AND THAT'S A SLIP, IT'S A WHITE PIECE
OF
8 PAPER AND YOU WRITE DOWN HOW MANY HOURS YOU WANT TAKEN OFF
AND
9 WHAT DAY.

10 A YES.

11 Q AT THE BOTTOM IT SAYS: "REASON."

12 A YES.

13 Q DO YOU REQUIRE D.A.'S TO ALWAYS WRITE A
REASON
14 DOWN IF THEY WANT TO TAKE A VACATION DAY?

15 A NO.

16 Q HAVE YOU EVER REQUIRED A DEPUTY D.A. TO THE
17 WRITE THE REASON ON THEIR TIME-OFF SLIP?

18 A NO.

19 Q HOW MANY DAYS IS A DEPUTY D.A. REQUIRED TO
20 SUBMIT A TIME-OFF SLIP PRIOR TO THAT VACATION DAY IN ORDER
TO
21 AVOID DISCIPLINE?

22 A THERE IS NO SUCH REQUIREMENT THAT I'VE NEVER
23 KNOWN OF OR ENFORCED.

24 Q ISN'T THERE A THREE-DAY REQUIREMENT THAT YOU
25 MUST SUBMIT YOUR TIME-OFF SLIP THREE DAYS IN ADVANCE OR ELSE

1 IT'S A DISCIPLINARY MATTER?

2 A I'VE NEVER HEARD OF SUCH A THING.

3 Q IS IT COMMON PRACTICE AND ACCEPTED THAT IF A

THAT

4 D.A. CALLS IN SICK THE MORNING -- YOU JUST HAVE TO CALL IN

5 MORNING WITHIN THE FIRST HALF HOUR OF WORK AND IT'S -- AND

6 YOU'VE COMPLIED WITH OFFICE POLICY?

7 A I THINK SO, YEAH.

8 MR. IPSEN: NOTHING FURTHER. THANK YOU.

9 HEARING OFFICER KERRIGAN: ANY CROSS?

10

11 (PAUSE IN THE PROCEEDINGS.)

12

13 MR. IPSEN: ACTUALLY, LESS THAN 60 SECONDS. I HAVE

ONE

14 OTHER QUESTION AREA AND IT WILL BE LESS THAN ONE MINUTE, IF

I

15 MAY --

16 HEARING OFFICER KERRIGAN: YOU MIGHT AS WELL, HE'S

NOT

17 READY YET.

18 GO AHEAD.

19 MR. SHINEE: -- SINCE HE HASN'T BEGUN.

20 BY MR. IPSEN:

21 Q HOW LONG HAVE YOU BEEN A SUPERVISOR?

22 A SINCE JANUARY OF '01.

23 Q HOW MANY PERFORMANCE EVALUATIONS HAVE YOU

DONE

BEST

24 ON PEOPLE? WOULD IT BE TEN, A HUNDRED, A THOUSAND, YOUR
25 ESTIMATE?

203

1 A A FEW HUNDRED.

2 Q HOW MANY OF THOSE HAVE YOU RATED "NEEDS
3 IMPROVEMENT" AS AN OVERALL CATEGORY?

4 A I CAN ONLY REMEMBER ONE.

5 Q DO YOU KNOW THE --
6 AND WHEN WAS THAT? YOU DON'T REMEMBER?

7 A NO. I SAID I ONLY REMEMBER ONE.

8 Q AND WHEN WAS THAT?

9 A IT WAS IN THE ANTELOPE VALLEY, IT WOULD HAVE
10 BEEN '01/'02, SOMEWHERE AROUND THERE.

11 Q DO YOU REMEMBER WHAT GRADE THAT PERSON WAS?

12 A II.

13 Q WAS THAT A PERSON WHO WAS STILL NOT OFF
14 PROBATION, A NEW HIRE?

15 A THIS PERSON WAS LONG OFF PROBATION.

16 Q OKAY. HAVE YOU EVER HAD AN EMPLOYEE THAT YOU
17 PUT ON A PLAN FOR INDIVIDUAL IMPROVEMENT?

18 A NO.

19 Q DO YOU KNOW THE CONSEQUENCES OF A PLAN FOR
20 INDIVIDUAL IMPROVEMENT?

21 A WELL, I THINK THERE'S A MONITORING OF IT BUT

--

22 Q DO YOU KNOW --

23 A -- I DON'T KNOW MORE THAN THAT.

24 Q OKAY. HAVE YOU EVER KNOWN ANY COLLEAGUES TO
BE
25 ON A PLAN FOR INDIVIDUAL IMPROVEMENT IN YOUR TWENTY-
SOMETHING
204

1 YEARS IN THE OFFICE?

2 A I DON'T SPECIFICALLY REMEMBER ANY. I MAY
HAVE

3 HEARD OF SOME OVER THE YEARS BUT --

4 Q PRIOR TO THE NEW PERFORMANCE EVALUATION, HAD
ANY

5 OF YOUR RATINGS OF INDIVIDUALS, WHETHER OUTSTANDING, VERY
GOOD

6 OR COMPETENT EVER BEEN CHANGED OR WERE THEY ACCEPTED THE --

7 MR. GRIMM: OBJECTION.

8 BY MR. IPSEN:

9 Q -- WAY YOU RATED THEM?

10 MR. GRIMM: RELEVANCE.

11 HEARING OFFICER KERRIGAN: OVERRULED.

12 THE WITNESS: I THINK I ANSWERED YOUR QUESTION

13 INCORRECTLY.

14 BY MR. IPSEN:

15 Q WHICH ONE WAS THAT?

16 A THE ONE ABOUT THE NEEDS IMPROVEMENT. I DON'T

17 THINK I GAVE A NEEDS IMPROVEMENT, I THINK IT WAS A COMPETENT

18 GAVE AND THAT WAS --

19 Q ALL RIGHT.

20 HEARING OFFICER KERRIGAN: YOUR 60 SECONDS ARE UP.

21 MR. IPSEN: YES. NOTHING FURTHER. I THINK SO LONG

22 AGO -- I THINK THE QUESTION WAS --

23 HEARING OFFICER KERRIGAN: OKAY.

24 DO MOST PEOPLE GET THE HIGHLY-QUALIFIED
RATING?

25 THE WITNESS: HIGHLY QUALIFIED?

205

1 HEARING OFFICER KERRIGAN: WHAT EVER THE TOP RATING
IS,

2 DO MOST PEOPLE GET THAT?

3 THE WITNESS: WELL, UNDER THE OLD SYSTEM, ALMOST
4 EVERYBODY GOT, TO MY KNOWLEDGE, OUTSTANDING.

5 HEARING OFFICER KERRIGAN: YES. OKAY. WHAT ABOUT
6 UNDER THE NEW SYSTEM?

7 THE WITNESS: THE NEW SYSTEM I THINK THE MAJORITY
GETS

8 MET EXPECTATIONS.

9 HEARING OFFICER KERRIGAN: AND WHEN DID THE NEW
SYSTEM

10 COME IN?

11 THE WITNESS: IT SEEMS TO ME IT'S BEEN TWO OR THREE
12 YEARS.

13 HEARING OFFICER KERRIGAN: OKAY.

14 CROSS-EXAMINATION?

I
IPSEN'S
HIM

15 MR. GRIMM: YES. LET ME JUST ASK A QUESTION FIRST.
16 HAVE A COUPLE OF QUESTIONS JUST WITHIN THE SCOPE OF MR.
17 QUESTIONS. HOWEVER, WE'D LIKE TO RESERVE THE RIGHT TO CALL
18 BACK IF NEED BE.

19 HEARING OFFICER KERRIGAN: OKAY. SURE. CERTAINLY.

20

21 CROSS-EXAMINATION

22

23 BY MR. GRIMM:

24 Q MR. PORTILLO, YOU SUPERVISE MR. IPSEN AT THE
25 ANTELOPE VALLEY?

206

1 A YES.

2 Q OKAY. IS IT FAIR TO SAY, AS A HEAD DEPUTY,
THAT

3 HEAD DEPUTIES ARE GIVEN A CERTAIN AMOUNT OF LEEWAY WITHIN
HOW

4 TO RUN THEIR VARIOUS ASSIGNMENTS?

5 A YES.

6 Q OKAY. AND WOULD YOU AGREE THAT AS A HEAD
DEPUTY

7 IN THE ANTELOPE VALLEY, WHEN YOU WERE SUPERVISING MR. IPSEN,

8 THAT OTHER HEAD DEPUTIES IN OTHER ASSIGNMENTS MAY HAVE

9 DIFFERENT REQUIREMENTS IN TERMS OF, FOR EXAMPLE, NOTIFYING
THE

OFFICE 10 OFFICE WHEN THEY WERE GOING TO BE SICK OR NOTIFYING THE
TAKE 11 OF THE NUMBER OF DAYS IN ADVANCE THAT THEY WERE GOING TO
12 VACATION?

13 A I SUPPOSE IT'S PROBABLE.

ABOUT 14 Q OKAY. AND MR. IPSEN ASKED YOU QUESTIONS
DISTRICT 15 WHETHER OR NOT HE WAS, IN EFFECT, A DEPENDABLE DEPUTY
16 ATTORNEY.

17 DO YOU RECALL THAT?

18 A YES.

19 Q OKAY. WHEN YOU SUPERVISED MR. IPSEN IN THE
20 ANTELOPE VALLEY, DO YOU RECALL HIM SHOWING UP LATE?

21 A NO.

22 Q EVER?

DAY 23 A NOT THAT I RECALL. IF HE SHOWED UP LATE ONE
24 OR TWO DAYS, I WOULDN'T REMEMBER AFTER ALL THESE YEARS.

25 Q OKAY.

207

1 A BUT IT WASN'T A PROBLEM.

2 Q AND I'M SORRY. WHAT YEAR WAS THAT?

3 A I THINK IT WAS '03.

BE 4 Q AND WAS THAT THE ONLY OPPORTUNITY YOU HAD TO
5 MR. IPSEN'S SUPERVISOR?

6 A YES.

7 Q DO YOU RECALL HIM EVER MISSING A DAY WITHOUT
AN

8 EXCUSE?

9 A NO.

10 Q WHEN YOU RAN INTO MR. IPSEN A COUPLE WEEKS
AGO,

11 I THINK YOU SAID OUT ON THE STREET --

12 A A FEW WEEKS AGO.

13 Q OKAY. WHAT WAS THE SUBSTANCE OF YOUR
14 CONVERSATION?

15 A HE MAY HAVE SAID SOMETHING ABOUT WANTING TO
COME

16 TO FRAUD BUT I REALLY DON'T REMEMBER.

17 THE THING THAT I DO REMEMBER, IS HE JUST
ASKED

18 ME ABOUT THE TRANSFER, THE FACTS SURROUNDING HIS TRANSFER TO
19 THE ANTELOPE VALLEY AND HIS ASSIGNMENT AS A TRIAL DEPUTY --

20 Q AND WHEN --

21 A -- BACK WHEN THAT HAPPENED.

22 Q AND WHEN YOU SAY HE ASKED YOU WHAT THE FACTS
23 WERE SURROUNDING HIS TRANSFER, WHAT DO YOU MEAN,
SPECIFICALLY?

24 A I THINK HE ASKED ME WHY I SUBSEQUENTLY
CHANGED

25 HIS ASSIGNMENT TO CALENDAR DEPUTY.

208

1 Q OKAY. THAT'S WHAT YOU RECALL TALKING TO HIM

2 ABOUT?

3 A YEAH.

4 Q OKAY. AND WHAT REASONS DID YOU GIVE HIM?

5 A I THINK THE SAME REASON I GAVE HIM BACK WHEN

IT

6 HAPPENED, THAT I WAS INSTRUCTED TO BY ONE OF MY SUPERVISORS.

7 Q OKAY. WHO WAS THAT SUPERVISOR?

8 A JOHN ALLEN.

9 Q JOHN ALLEN?

10 A YES.

11 Q OKAY. MR. IPSEN WAS ASKING YOU QUESTIONS

ABOUT,

12 I BELIEVE IT WAS SIGNING IN AND SIGNING OUT VIA LOTUS NOTES.

13 DO YOU RECALL THAT? OR CHECKING LOTUS NOTES.

14 A YES.

15 Q OKAY. AS A SUPERVISING HEAD DEPUTY, DID YOU

16 COMMUNICATE WITH YOUR DEPUTY DISTRICT ATTORNEYS VIA LOTUS

17 NOTES?

18 A YES, SOMETIMES.

19 Q AND WOULD THEY ALSO COMMUNICATE WITH YOU VIA

20 LOTUS NOTES?

21 A SOMETIMES. IT'S NOT THE MOST FREQUENT

METHOD,

22 BUT SOMETIMES.

23 Q OKAY. DO YOU KNOW WHETHER OR NOT HEAD

DEPUTIES

24 COMMUNICATE ON A MORE FREQUENT BASIS THAN PERHAPS YOU DID

VIA

25 LOTUS NOTES WITH THEIR DEPUTY ATTORNEYS?

1 A I WOULDN'T KNOW. NO, I DON'T KNOW.

2

3 (PAUSE IN THE PROCEEDINGS.)

4

5 BY MR. GRIMM:

6 Q HAVE YOU EVER HAD A POLICY THAT YOU EXPRESSED
TO
7 THOSE WORKING UNDER YOU ABOUT HOW MUCH ADVANCE NOTICE YOU
8 REQUIRE BEFORE VACATION IS TAKEN?

9 A NO.

10 Q NEVER?

11 A NEVER.

12 Q OKAY. AND SO, I GUESS, A RESULT OF THAT IS
THAT
13 YOU WOULD HAVE NO PROBLEM IF SOMEBODY CALLED YOU THE VERY
DAY

14 THEY DECIDED TO TAKE A WEEK OFF AND THAT WAS THE ONLY NOTICE
15 YOU GOT?

16 MR. SHINEE: OBJECTION. LACKS FOUNDATION. ASSUMES
17 FACTS NOT IN EVIDENCE.

18 HEARING OFFICER KERRIGAN: OVERRULED.

19 THE WITNESS: I WOULD NOT HAVE A PROBLEM WITH IT IF
IT
20 DID NOT CREATE A MANPOWER SHORTAGE.

21 BY MR. GRIMM:

22 Q OKAY. AND IF IT WOULD HAVE CREATED A
MANPOWER
23 SHORTAGE, WOULD YOU HAVE EXPECTED MORE NOTICE OR WOULD YOU
HAVE

24 JUST OVERRULED THE REQUEST?

25 A I WOULD OVERRULE IT UNLESS THERE WAS SOME

210

1 COMPELLING REASON.

2 Q ILLNESS OR SOMETHING LIKE THAT?

3 A YEAH, SOMETHING LIKE THAT.

4 Q OKAY. BUT --

5 A SOME SORT OF EMERGENCY.

6 Q OKAY. AND AS THE HEAD DEPUTY, YOU WERE
7 RESPONSIBLE FOR ASSIGNING THE DEPUTIES UNDER YOU TO CERTAIN
8 TASKS; CORRECT?

9 A YES.

10 Q AND WOULD YOU AGREE THAT GETTING ADVANCE
NOTICE
11 OF THINGS LIKE VACATION SCHEDULES MIGHT ENABLE YOU TO BE
MORE
12 EFFICIENT IN PLANNING HOW TO RUN YOUR OFFICE OR YOUR
13 ASSIGNMENT?

14 A YES.

15 Q AND SO IS IT FAIR TO SAY THAT YOU WOULD
PREFER
16 IT IF THOSE WORKING UNDER YOU WOULD ACTUALLY GIVE YOU A
LITTLE
17 ADVANCE NOTICE BEFORE TAKING VACATIONS OR TIME OFF?

18 MR. SHINEE: OBJECTION. RELEVANCE AS TO WHAT THIS
19 PARTICULAR SUPERVISOR WANTED. IT'S OFFICE POLICY THAT MIGHT
BE
20 IN QUESTION.

21 HEARING OFFICER KERRIGAN: OVERRULED.

22 THE WITNESS: WOULD I PREFER ADVANCE NOTICE?

23 BY MR. GRIMM:

24 Q YES.

25 A YES.

211

1 Q AND DO YOU RECALL ANY OCCASIONS WHEN PEOPLE
2 WOULD GIVE YOU LITTLE OR NO NOTICE AND IT WOULD CAUSE SOME
3 STAFFING ISSUES?

4 A I DON'T RECALL ANY RIGHT NOW, NO.

5

6 (PAUSE IN THE PROCEEDINGS.)

7

8 BY MR. GRIMM:

9 Q OKAY. HAVE YOU HAD AN OCCASION TO REVIEW THE
10 POLICY MANUAL SECTIONS GOVERNING THE USE OF VACATION TIME?

11 A NO. IT'S NEVER BEEN AN ISSUE WITH ME, SO

I'VE

12 NEVER READ IT.

13 Q OKAY.

14 MR. GRIMM: NOTHING FURTHER --

15 HEARING OFFICER KERRIGAN: OKAY.

16 MR. GRIMM: -- AT THIS TIME.

17 HEARING OFFICER KERRIGAN: OKAY. YOU WANT TO CALL

YOUR

18 NEXT WITNESS.

19 MR. DEBBAUDT: THANK YOU.

20

21 (PAUSE IN THE PROCEEDINGS.)

22

23 HEARING OFFICER KERRIGAN: DID YOU SAY YOU HAD TO BE
24 SOMEWHERE AT 4:00 O'CLOCK, MR. GRIMM?

25 MR. GRIMM: I SAID I WAS HOPING TO LEAVE BY 4:00.

212

1 HEARING OFFICER KERRIGAN: AND WHY IS THAT?

2 MR. GRIMM: BECAUSE I'VE GOT TO GET SOMETHING DONE
3 FOR COURT TOMORROW.

EVENINGS

4 HEARING OFFICER KERRIGAN: OH, THAT'S WHAT THE
5 ARE FOR.

WITH

6 MR. GRIMM: YOU HAVE NO IDEA HOW WELL I'M FAMILIAR
7 THAT.

8 HEARING OFFICER KERRIGAN: I THOUGHT YOU HAD TO BE
9 SOMEWHERE. OKAY. WELL, ALL RIGHT.

10 MR. GRIMM: I'LL HANG IN THERE.

11

12 (PAUSE IN THE PROCEEDINGS.)

13

14 MR. IPSEN: IS IT POSSIBLE TO ASK MS. BOOTH TO BE ON
15 CALL FOR THE NEXT -- IS IT THE 14TH OR IS IT THE -- THE NEXT
16 DAY WE'RE HERE.

17 MR. DEBBAUDT: THE 22ND.
18 MR. IPSEN: THE 22ND, BECAUSE I'M PRETTY SURE I
WOULD
19 GET TO HER. SO I'D HAVE TWO OTHER WITNESSES TODAY.
20 HEARING OFFICER KERRIGAN: OKAY. WELL, EXCUSE
ANYBODY
21 YOU'RE GOING TO EXCUSE, BECAUSE WE'RE RUNNING DOWN, AND CALL
22 WHOEVER YOU'RE GOING TO CALL.
23 MR. IPSEN: RIGHT.
24 MS. BOOTH: SO THE 22ND?
25 MR. DEBBAUDT: THAT WOULD BE FRIDAY, JANUARY 22ND.

213

1 MS. BOOTH: AT WHAT TIME?
2 HEARING OFFICER KERRIGAN: 10:00 A.M.
3 MS. BOOTH: 10:00, OKAY.
4 MR. IPSEN: AND I'LL SEND COUNSEL AN E-MAIL SO THEY
CAN
5 LET YOU KNOW IF IT'S A LATER TIME. SO IT'S ALWAYS 10:00 --
6 MS. BOOTH: OKAY.
7 MR. IPSEN: -- BUT I'LL TRY TO SEGMENT OUT --
8 MS. BOOTH: OKAY.
9 MR. IPSEN: -- THE DAY SO YOU DON'T --
10 MS. BOOTH: ALL RIGHT.
11 MR. IPSEN: -- HAVE TO SIT OUT THERE AND WAIT.
12 MS. BOOTH: OKAY.
13 HEARING OFFICER KERRIGAN: STEP FORWARD, PLEASE.

14
15 MICHAEL ANTHONY YGLECIAS,
16 PRODUCED AS A WITNESS BY AND ON BEHALF OF THE CHARGING
PARTY,
17 AND HAVING BEEN FIRST DULY SWORN BY THE HEARING OFFICER, WAS
18 EXAMINED AND TESTIFIED AS FOLLOWS:
19
20 THE WITNESS: MICHAEL ANTHONY YGLECIAS.
21 HEARING OFFICER KERRIGAN: OKAY. DO YOU WANT TO
SPELL
22 THAT FOR REPORTER, YOUR LAST NAME.
23 THE WITNESS: Y-G-L-E-C-I-A-S.
24 HEARING OFFICER KERRIGAN: PROCEED.
25 ///

214

1 DIRECT EXAMINATION
2
3 BY MR. IPSEN:
4 Q MR. YGLECIAS, WHAT GRADE DEPUTY ARE YOU?
5 A GRADE V.
6 Q AND HOW LONG HAVE YOU BEEN A GRADE V?
7 A IN FEBRUARY, IT WILL BE 11 YEARS.
8 Q YOU'RE CURRENTLY ASSIGNED WHERE?
9 A CENTRAL TRIALS, C.T. 15.
10 Q HOW LONG HAVE YOU BEEN THE HEAD DEPUTY OF
11 C.T. 15?

12 A IN MARCH, IT WILL BE FIVE YEARS.

13 Q IN THE SPRING OF 2008, DID ANYONE ASK YOU IF
YOU
14 WOULD BE WILLING TO TAKE ME, STEVE IPSEN, AS A DEPUTY
ASSIGNED
15 TO C.T. 15 UNDER YOUR COMMAND, I GUESS, IT WOULD BE CALLED?
16 MR. GRIMM: CAN YOU GIVE ME THE DATE, AGAIN? I'M
17 SORRY.
18 MR. IPSEN: IN 2008.
19 THE WITNESS: NO.
20 BY MR. IPSEN:
21 Q AND MORE RECENTLY, HAVE YOU BEEN APPROACHED
BY
22 ANYONE THAT SAID: WOULD YOU BE WILLING TO HAVE ME AS A
23 GRADE IV SUPERVISED BY YOU?
24 A NO.
25 Q WOULD YOU?

215

1 A I WOULD.

2 Q OKAY. SO YOU WOULDN'T HAVE -- OKAY. THAT'S
3 GOOD TO HEAR. LET ME ASK ABOUT POLICIES.
4 CAN YOU EXPLAIN THE MIDDAY-CALENDAR
5 REQUIREMENT -- THE NOON-CALENDAR POLICY REQUIREMENT IN THE
6 OFFICE?
7 A I'M NOT FAMILIAR WITH THAT TERM.
8 Q WOULD IT REFRESH YOUR RECOLLECTION IF I TOLD
YOU

9 THAT EVERY CALENDAR --

10 DO YOU KNOW WHAT A CALENDAR DEPUTY IS?

11 A YES.

12 Q WHAT IS A CALENDAR DEPUTY?

13 A WELL, A CALENDAR DEPUTY BASICALLY MANAGES THE
14 CASE FLOW IN A DESIGNATED COURT.

15 Q AND AREN'T CALENDAR DEPUTIES REQUIRED TO TURN
16 THEIR CALENDAR IN FOR CASES CONCLUDED BOTH AT NOON AND AT

THE

17 END OF THE DAY?

18 HAVE YOU EVER HEARD OF THAT POLICY?

19 A I'M NOT AWARE OF THAT. THAT DOESN'T APPLY TO
20 THE DIVISION I'M IN.

21 Q ALL RIGHT. AND CAN YOU EXPLAIN THE RULE AND
22 POLICY THAT UNIFORMLY APPLIED THROUGHOUT THE COUNTY THAT

EVERY

23 D.A., WHEN THEY FILL OUT THEIR TIME-OFF SLIP, MUST WRITE THE
24 REASON FOR THE TIME OFF?

25 HEARING OFFICER KERRIGAN: THAT ASSUMES A FACT NOT

IN

216

1 EVIDENCE.

2 MR. IPSEN: LET ME REPHRASE.

3 BY MR. IPSEN:

4 Q ARE YOU FAMILIAR WITH THE TIME-OFF SLIPS?

5 A YES.

6 Q AND THAT'S WHEN SOMEONE CAN TAKE SICK TIME,

7 VACATION TIME AND SO FORTH?

8 A CORRECT.

9 Q IS THERE A REQUIREMENT BEFORE YOU AUTHORIZE

IT

10 THAT THE PERSON EXPLAIN THE REASON FOR THEIR TIME OFF AT THE
11 BOTTOM OF THE SLIP?

12 A I'M NOT AWARE -- NO. I DON'T REQUIRE THAT.

13 I'VE HAD THAT --

14 Q IS IT --

15 A -- IT'S NEVER BEEN REQUIRED OF ME.

16 Q IS IT OFTEN BLANK?

17 A WELL, NO. I MEAN, THERE'S A SPACE UNDER EACH
18 CATEGORY. IN OTHER WORDS, IF THEY'RE USING SICK TIME,

THEY'LL

19 FILL IT IN, THE HOURS THAT THEY'RE TAKING OFF AND THE DATES

ON

20 THAT LINE, ON THAT HORIZONTAL PLANE. IF IT'S VACATION,

THEY'LL

21 USE THAT PLANE.

22 SO THERE IS NO NEED FOR FURTHER EXPLANATION.

IF

23 YOU'RE FILLING IN ON THE DATES AND HOURS ON THE VACATION

LINE,

24 IT'S PRESUMED YOU'RE TAKING VACATION.

25 Q SO YOU DON'T REQUIRE THE PERSON TO TELL YOU

WHAT

217

1 THEY'RE DOING ON A VACATION DAY?

2 A NO, SIR.

3 Q DOES THE PERSON HAVE TO ACTUALLY GO ON A
4 PHYSICAL VACATION TO USE A VACATION DAY?

5 A NO.

6 Q THEY COULD USE IT TO MOW THEIR LAWN AND STAY
7 HOME IF THEY WANT TO. IS THAT YOUR UNDERSTANDING?

8 A IT'S BASICALLY THE CATEGORY OF HOURS THAT
THEY
9 ARE USING FOR THEIR TIME AWAY FROM THE OFFICE.

10 Q HAS ANYONE EVER WRITTEN DOWN A.D.D.A.
BUSINESS
11 AT THE BOTTOM OF A TIME-OFF SLIP?

12 A I'VE NEVER SEEN THAT.

13 Q IF I WERE WORKING FOR YOU AND I WROTE
A.D.D.A.
14 BUSINESS, WOULD YOU ASK ME SPECIFICALLY WHAT A.D.D.A.
BUSINESS
15 OR REQUIRE THAT I TELL YOU WHAT I WAS DOING THAT DAY?

16 A NO. I WOULD SURPLUSAGE.

17 Q HOW MANY DAYS IN ADVANCE, PRIOR TO REQUESTING
A
18 VACATION DAY, DO YOU REQUIRE DEPUTIES TO SUBMIT THESE TIME-
OFF
19 SLIPS?

20 A IT VARIES. IT DEPENDS ON HOW POPULAR THE
PERIOD
21 THAT THEY WANT OF IS. FOR INSTANCE, IF IT'S DURING THE
22 CHRISTMAS/NEW YEAR-TYPE HOLIDAYS, IT'S NOT SO MUCH THAT I
23 REQUIRE IT, IT'S A MATTER OF HAVING ENOUGH PERSONNEL ON HAND
TO
24 TO SATISFY OUR NEEDS.

25 AND PEOPLE KNOW THAT IN ADVANCE OR THEY'RE
TOLD

1 THAT IN ADVANCE BY CUSTOM AND CULTURE. SO THE EARLIER YOU
GET
2 IN YOUR TIME SLIP, THE MORE LIKELY IT'S GOING TO BE
APPROVED.
3 BUT WITH THAT ASIDE, MORE OFTEN THAN NOT, PEOPLE CAN TAKE
TIME
4 OFF AS LONG AS IT DOESN'T CONFLICT WITH OUR NEEDS AS A
5 DIVISION.

6 SOMETIMES THEIR TIME-OFF SLIPS COME AFTER THE
7 FACT.

8 Q AND IF A PERSON ASKS, SAY, THE DAY -- IF A
9 DEPUTY SAID: MIKE, TOMORROW I'D REALLY LIKE OFF, WOULD THE
10 PROCESS BE EITHER YOU SAY: YEAH, WE'LL COVER, OR YOU'D HAVE
TO
11 SAY NO TO THEM?

12 A CORRECT. IT JUST DEPENDS ON WHAT COMMITMENTS
13 THEY HAVE IN TERMS OF THINGS THAT THEY HAVE COURT
APPEARANCES
14 AND WHAT PERSONNEL I HAVE AT MY DISPOSAL TO COVER FOR THEM.

15 Q WOULD IT BE A DISCIPLINARY ISSUE IF THEY
ASKED
16 YOU FOR A DAY OFF THE NEXT DAY?

17 A MEANING A DAY OFF --

18 Q FOR THE VERY NEXT DAY, IT'S THURSDAY: I WANT
19 FRIDAY OFF.

20 A NO. IT'S NOT A DISCIPLINARY ISSUE.

21 Q OKAY. DO YOU TRACK THE ARRIVAL TIME OF EVERY

22 DEPUTY D.A. IN THE OFFICE?
23 A NO.
24 Q WOULD ARRIVAL OF TWO MINUTES LATE BE
SOMETHING
25 YOU WHICH YOU WOULD MENTION IN A PERFORMANCE EVALUATION?

219

1 A NO.
2 Q IF THE PERSON WERE, OVER A ONE-YEAR PERIOD OF
3 TIME --
4 HOW ABOUT ARRIVAL TIME TO COURTS? DO YOU
TRACK
5 IF A D.A. IS IN COURT EXACTLY AT 9:00 O'CLOCK EVERY MORNING?

6 A NO.
7 Q HAVE YOU EVER DISCIPLINED A D.A. FOR BEING,
SAY,
8 IN A ONE-YEAR PERIOD, LATE TO WORK TEN TIMES?

9 A WELL, THE NUMBER SPECIFICALLY, NO. IF
THERE'S A
10 PATTERN OF BEING LATE -- AND I CAN'T SAY WHAT WOULD
CONSTITUTE
11 A PATTERN -- BUT ESSENTIALLY IT BECOMES A PATTERN IF IT'S
12 BROUGHT TO MY ATTENTION.

13 Q SURE.

14 A AND THEN THE FIRST SORT OF QUASI DISCIPLINE
15 WOULD SIMPLY BE TO HAVE A SIT-DOWN TALK WITH THAT PERSON AND
16 COUNSEL.

17 Q DOES EACH BRANCH AND LOCATION OF THE D.A.'S

18 OFFICE HAVE A DIFFERENT CULTURE WITH REGARDS TO THE WORKING
19 HOURS?

THEY

20 BY THAT I MEAN FILING HAS UNIQUE NEEDS AND
21 HAVE CERTAIN POLICIES VERSUS FRAUDS MAY HAVE MORE FLEXIBLE
22 POLICIES. SINCE THEY DON'T GO TO COURT EVERY DAY, THEY MAY
23 SHOW UP LATER AND WORK LATER, THAT TYPE OF THING.

THINK

24 A YEAH, WITHIN LIMITED SORT OF BOUNDARIES, I
25 THAT'S PROBABLY A TRUE STATEMENT.

220

1 MR. IPSEN: NOTHING FURTHER. THANK YOU.

2 HEARING OFFICER KERRIGAN: CROSS?

OF

3 MR. GRIMM: SAME REQUEST, THAT WE JUST ASK A COUPLE
4 QUESTIONS AND WE CAN RESERVE OUR RIGHTS.

5 HEARING OFFICER KERRIGAN: SURE. SURE.

6

7 CROSS-EXAMINATION

8

9 BY MR. GRIMM:

10 Q HAVE YOU EVER SUPERVISED MR. IPSEN?

11 A NO, SIR.

12 Q HAVE YOU EVER HEARD ABOUT HIS WORK HABITS?

13 A NO.

WORK

14 Q DO YOU HAVE ANY BASIS OF KNOWLEDGE FOR HIS

15 HABITS?

16 A NO.

17 Q HOW ABOUT MR. DEBBAUDT?

18 A I THINK I MAY HAVE SUPERVISED MR. DEBBAUDT

VERY

19 BRIEFLY, ALTHOUGH I'M NOT CERTAIN OF IT.

20 Q RIGHT.

21 A HE'D HAVE TO REMIND ME BECAUSE THERE WAS A
22 PERIOD IN WHICH I ASSUMED MANAGEMENT OF A DIVISION THAT HE
23 EITHER WAS STILL IN OR HAD JUST LEFT. AND MY RECOLLECTION

IS

24 VAGUE.

25 Q DO YOU COMMUNICATE WITH THE DEPUTIES WORKING

221

1 UNDER YOU VIA LOTUS NOTES?

2 A YES.

3 Q OKAY. AND DO THEY COMMUNICATE WITH YOU VIA
4 LOTUS NOTES ALSO?

5 A YES.

6 Q AND WHAT ARE THE PURPOSES OF COMMUNICATING IN
7 THAT FASHION?

8 A JUST CONVENIENCE.

9 Q AND ARE LOTUS NOTES TIME-STAMPED?

10 A YES.

11 Q OKAY. AND DO YOU EXPECT --

12 IS THE COMMUNICATION SO FREQUENT THAT YOU

WOULD

13 EXPECT DEPUTIES WORKING UNDER YOU TO, IN FACT, CHECK THEM?

14 A YES.

WANT

15 Q OKAY. BECAUSE YOU, AS A SUPERVISOR, WOULD

16 TO RELY UPON A SYSTEM OF COMMUNICATION, IS THAT FAIR?

17 A CORRECT.

AND

18 Q AND IF LOTUS NOTE MESSAGES FROM YOU PILED UP

19 WERE NOT BEING RESPONDED TO, WOULD THAT BE SOME SORT OF

20 INDICATION TO YOU THAT THERE WAS A PROBLEM?

21 A YES.

22 Q AND WHAT WOULD YOU DO IF THAT HAPPENED?

OF

23 A I WOULD PERSONALLY BRING IT TO THE ATTENTION

24 THE DEPUTIES. THAT HAS HAPPENED AND TYPICALLY IT'S JUST A

25 HANDFUL OF DEPUTIES THAT ARE PART OF THE GROUP THAT THE

222

1 MESSAGES ARE GOING TO.

RESPOND,

2 BUT, OF COURSE, IF THERE'S SORT OF A PATTERN

3 DEVELOPED WITH THAT PARTICULAR HANDFUL THAT DOES NOT

4 THEN I WILL PERSONALLY APPROACH THEM, AND I HAVE AND DIRECT

BASIS.

5 THEM TO CHECK THEIR LOTUS NOTES AND RESPOND ON A DAILY

6 AND THAT'S PART OF WHAT IS EXPECTED OF THEM.

SUCH

7 Q HAS THERE EVER BEEN AN OCCASION THAT AFTER

8 A WARNING BY YOU THAT THERE WAS A CONTINUATION OF FAILING TO

9 RESPOND?

10 A YEAH. KIND OF. SORT OF, YEAH, IN ONE
INSTANCE.

11 Q HAVE YOU EVER VERBALLY REPRIMANDED SOMEBODY
FOR

12 FAILING TO PROPERLY UTILIZE THE SYSTEM?

13 A YES. I DON'T KNOW THAT I'D USE THE TERM
14 "REPRIMAND," BUT IT WAS SORT OF A SOFT-SHOE APPROACH.

15 Q OKAY. WOULD YOU CONSIDER THE APPROPRIATE USE
OF

16 LOTUS NOTES COMMUNICATION IN EVALUATING SOMEBODY FOR
PURPOSES

17 OF A PERFORMANCE EVALUATION?

18 A I NEVER HAVE. IT IS SO COLLATERAL AND SO
MINOR

19 AND SO TANGENTIAL. I NEVER HAVE. I FIND IT HARD TO
CONCEIVE

20 OF A SITUATION IN WHICH I WOULD.

21 Q AND IS IT FAIR TO SAY THAT UP UNTIL THE
22 REVERSIONS OF THE PERFORMANCE EVALUATION SYSTEM, THAT
23 PRACTICALLY ALL THE DEPUTIES WORKING UNDER YOU RECEIVED
24 OUTSTANDING EVALUATIONS?

25 A THAT'S CORRECT.

223

1 Q OKAY. THINKING BACK ON IT, IN LIGHT OF THE
NEW

2 SYSTEM, DO YOU THINK PERHAPS THOSE OUTSTANDING RATINGS --

3 MR. SHINEE: OBJECTION. RELEVANCE.

4 MR. IPSEN: IT'S BEYOND THE SCOPE OF MY QUESTIONS.
5 HEARING OFFICER KERRIGAN: I DIDN'T GET THE
QUESTION.
6 MR. GRIMM: I DIDN'T GET TO ASK IT.
7 HEARING OFFICER KERRIGAN: ASK THE QUESTION AND THEN
8 WE'LL --
9 MR. SHINEE: SOME QUESTIONS ARE SO BLATANTLY
10 IRRELEVANT, THAT IT STRIKES YOU RIGHT AWAY.
11 HEARING OFFICER KERRIGAN: I'M A LITTLE SLOWER THAN
12 YOU, COUNSEL. I'M OLDER THAN YOU SO --
13 MR. DEBBAUDT: WE'RE ALL SLOWER THAN MR. SHINEE.
14 MR. SHINEE: THANK YOU.
15 BY MR. GRIMM:
16 Q LET ME ASK IT A DIFFERENT WAY.
17 DO YOU THINK THE FACT THAT VIRTUALLY ALL
18 DEPUTIES RECEIVED OUTSTANDING PERFORMANCE EVALUATION RATINGS
19 WAS ACCURATE?
20 MR. SHINEE: OBJECTION. ASSUMES FACTS NOT IN
EVIDENCE.
21 IRRELEVANT.
22 MR. GRIMM: HE JUST TESTIFIED THAT --
23 HEARING OFFICER KERRIGAN: YOU'RE TALKING ABOUT THE
OLD
24 SYSTEM; RIGHT?
25 MR. GRIMM: YEAH.

224

1 MR. SHINEE: MAY HAVE A RULING ON MY OBJECTION?

2 HEARING OFFICER KERRIGAN: YOUR OBJECTION IS: IT'S
3 IRRELEVANT. BECAUSE WHY?
4 MR. SHINEE: IT HAS NOTHING TO DO WITH THIS
PROCEEDING.
5 HEARING OFFICER KERRIGAN: OKAY. WELL, WE'VE HAD A
LOT
6 OF TESTIMONY ABOUT IT. MR. ZAJEC WAS ASKED ABOUT IT.
7 MR. SHINEE: I'LL WITHDRAW MY OBJECTION. THERE'S
BEEN
8 NO TESTIMONY THAT IT'S -- THIS WITNESS DIDN'T TESTIFY THAT
IT'S
9 UNIVERSAL ACROSS THE DEPARTMENT. HE SAID HE'S EVALUATED
PEOPLE
10 AND GIVEN OUTSTANDINGS IN HIS AREA OF RESPONSIBILITY.
11 HEARING OFFICER KERRIGAN: WELL, HE'S REPHRASING HIS
12 QUESTION APPARENTLY OR REFLECTING ON IT OR SOMETHING, SO
WE'LL
13 HEAR WHAT HE'S GOT TO SAY.
14 MR. GRIMM: WHAT WAS THE RULING?
15 HEARING OFFICER KERRIGAN: WELL, YOU WERE GOING TO
16 REPHRASE YOUR QUESTION. YOU WERE GOING TO POSE A NEW
QUESTION,
17 SO WE'RE WAITING.
18 MR. GRIMM: I DID REPHRASE IT.
19 HEARING OFFICER KERRIGAN: I BEG YOUR PARDON?
20 MR. GRIMM: I DID REPHRASE IT. I'LL ASK IT AGAIN.
21 BY MR. GRIMM:
22 Q DO YOU AGREE THAT EVERY DEPUTY, UNDER THE OLD
23 SYSTEM, MERITED AN OUTSTANDING RATING?
24 HEARING OFFICER KERRIGAN: TO THE EXTENT OF YOUR
25 KNOWLEDGE.

1 MR. IPSEN: IT'S OPINION.

2 MR. DEBBAUDT: I OBJECT. IT ASSUMES HE KNOWS ABOUT
3 EVERY DEPUTY.

4 HEARING OFFICER KERRIGAN: TO HIS KNOWLEDGE, TO
5 WHATEVER KNOWLEDGE HE HAS.

6 THE WITNESS: I THINK THAT THE OLD SYSTEM WAS
PLAGUED
7 BY RATING INFLATION.

8 MR. GRIMM: I AGREE.

9 MR. SHINEE: THANK YOU, COUNSEL, FOR YOUR AGREEMENT.
10 BY MR. GRIMM:

11 Q YOU SAID THAT, I BELIEVE -- AND CORRECT ME IF
12 I'M WRONG -- THAT NOBODY ASKED YOU IF YOU WOULD ACCEPT
13 MR. IPSEN INTO YOUR BRANCH; IS THAT CORRECT?

14 A CORRECT.

15 Q OKAY. WERE YOU EVER ASKED TO ACCEPT DEPUTIES
16 OTHER THAN MR. IPSEN INTO YOUR BRANCH?

17 A I'M NOT SURE I UNDERSTAND YOUR QUESTION. I'M
18 ASKED THAT ALL THE TIME. WELL, MORE OFTEN THAN NOT, I'M
TOLD
19 WHO'S COMING.

20 Q THAT'S WHAT I MEANT.

21 A OKAY. WAS I EVER ASKED? YES.

22 Q ON HOW MANY OCCASION?

23 A WELL, CAN I QUALIFY THAT? I HAVE BEEN GIVEN
AN

MY
226

24 OPPORTUNITY TO HAVE INPUT, TO SHARE AN OPINION AS TO WHETHER
25 SOMEONE WAS SUITABLE FOR ADDITION TO MY STAFF AND TO EXPRESS

THAT

1 OWN OPINION ABOUT WHETHER I WANTED A CERTAIN PERSON. SO
2 HAS HAPPENED.

THAN

3 AND YOUR SECOND QUESTION: HOW OFTEN? LESS
4 HALF A DOZEN OVER THE 11 YEARS THAT I'VE BEEN A HEAD DEPUTY.

TO

5 Q AND SO IT'S FAIR TO SAY THAT IF IT'S JUST A
6 HANDFUL OVER 11 YEARS, THAT ESSENTIALLY PEOPLE ARE ASSIGNED
7 YOU?

8 A CORRECT.

9 Q WITHOUT YOUR INPUT?

10 A CORRECT.

11 Q AND OF THOSE HANDFUL OF TIMES WHEN YOU WERE
12 CONSULTED, DID THEY STILL GO? WERE THOSE TRANSFERS STILL
13 EFFECTED?

KEEPING

14 A MORE OFTEN THAN NOT I WAS SUCCESSFUL IN
15 THOSE PEOPLE FROM COMING TO MY DIVISION.

16 Q OKAY.

17 MR. GRIMM: NOTHING FURTHER.

18 HEARING OFFICER KERRIGAN: OKAY. MAY THE WITNESS --

19 MR. IPSEN: I HAVE A FEW.

20

21

REDIRECT EXAMINATION

22

23 BY MR. IPSEN:

24 Q MIKE, DO YOU KNOW THAT IT'S ACCURATE THAT
25 75 PERCENT OF THE D.A.'S IN THIS OFFICE ARE ONLY DOING

227

1 COMPETENT WORK?

2 DO YOU THINK THAT'S AN ACCURATE CHANGE? JUST
3 YOUR PERSONAL OPINION.

4 HEARING OFFICER KERRIGAN: BASED ON YOUR PERSONAL
5 KNOWLEDGE.

6 THE WITNESS: YEAH. I DON'T KNOW THAT THAT'S --

7 MR. GRIMM: IT ASSUMES FACTS.

8 BY MR. IPSEN:

9 Q BASED ON --

10 A ARE YOU TELLING ME --

11

12 (OVERLAPPING COLLOQUY.)

13

14 THE WITNESS: -- THAT 75 PERCENT OF THE RATINGS ARE,

AT

15 THIS POINT, COMPETENT?

16 BY MR. IPSEN:

17 Q LET'S SAY IT WAS 85 PERCENT. IS IT YOUR

BELIEF

18 THAT 85 PERCENT OF THE D.A.'S IN THIS OFFICE ARE ONLY DOING

19
20
HYPOTHETICAL

COMPETENT WORK?
MR. GRIMM: I'M JUST OBJECTING. IS THIS A

21 BECAUSE OTHERWISE --

22 MR. IPSEN: I'M JUST ASKING BASED ON --

23

24 (OVERLAPPING COLLOQUY.)

25 ///

228

1
KNOWLEDGE.

HEARING OFFICER KERRIGAN: IT'S BASED ON HIS

2
AN

MR. IPSEN: HE'S A SUPERVISOR. IF HE THINKS THAT'S

3 ACCURATE PERCENTAGE -- HE THOUGHT IT WAS INFLATED. COUNSEL

4 ASKED: WAS IT INFLATED BEFORE?

5
PERCENT

I'M ASKING: IF HE'S TOLD THAT 75 OR 85

6 ARE RATED COMPETENT, DOES HE THINK THAT IS A FAIR RATING OF

7
THAT

85 PERCENT OF THE D.A.'S IN THIS OFFICE, BASED ON THE WORK

8 HE'S SEEN THEM DO.

9
RATING.

THE WITNESS: NO. I DON'T THINK THAT'S A FAIR

10 BY MR. IPSEN:

11
NOTCH

Q DO YOU KNOW THE EFFECT OF BEING RATED ONE

12
EFFECT

BELOW COMPETENT, NEEDS IMPROVEMENT, DO YOU KNOW WHAT THE

13 OF THAT IS?

STARTS 14 A YEAH. WELL, MY RECOLLECTION IS THAT THAT
15 A PROCESS BY WHICH A PERSON HAS TO HAVE A PLAN OF ACTION.
16 THERE HAS TO BE A PLAN OF ACTION WITHIN A FINITE PERIOD.
AND I 17 DON'T RECALL WHERE THAT FINITE PERIOD IS, BUT THERE IS AN
18 ACTUAL PLAN THAT THAT EMPLOYEE MUST SATISFY, IN ORDER TO
19 RETAIN -- YEAH, GET BACK TO COMPETENT.

YOU 20 Q AND IF THEY DON'T GET BACK TO COMPETENT, DO
21 KNOW WHAT THE CONSEQUENCES ARE?

22 A I BELIEVE THAT THEY CAN BE TERMINATED.

23 Q OR DEMOTED.

24 A OR DEMOTED.

BEEN 25 Q HAVE YOU, IN THE -- HOW MANY YEARS HAVE YOU
229

1 IN THE OFFICE, MIKE?

2 A 26.

TO 3 Q IN YOUR 26 YEARS, HAVE YOU EVER KNOWN ANYONE
4 BE GIVEN A NEEDS IMPROVEMENT AND THEREAFTER DEMOTED OR
5 DISCHARGED?

DON'T 6 A I HAVE NO PERSONAL KNOWLEDGE. IT MAY HAVE
7 OCCURRED SOMEWHERE IN THE OFFICE DURING MY TENURE, BUT I
PERSONAL 8 KNOW WHETHER IT HAS OCCURRED OR NOT. I DON'T HAVE ANY

9 KNOWLEDGE OF THAT.

10 Q HAVE YOU EVER RATED SOMEONE NEEDS IMPROVEMENT
11 AND PUT THEM ON SUCH A WORK PLAN?

12 A WELL, I'VE RATED SOMEONE THE EQUIVALENT OF
NEEDS
13 IMPROVEMENT, BUT BECAUSE THEY WERE A JUNIOR LAWYER. RATHER
14 THAN BE PUT ON A WORK PLAN UNDER ME, THE PRACTICE WAS TO
15 TRANSFER THEM TO ANOTHER DIVISION OR ANOTHER UNIT WHERE THEY
16 WHO COULD BE SUPERVISED BY AN INDEPENDENT, OBJECTIVE SUPERVISOR
17 WOULD BE ABLE TO EITHER CONFIRM MY OPINION OR WITNESS SOME
18 IMPROVEMENT.

19 SO IN OTHER WORDS, IT WASN'T UNDER MY WATCH
THAT
20 THERE WAS A PLAN.

21 Q RIGHT.

22 A BUT I HAVE ISSUED A NEEDS IMPROVEMENT.

23 Q WAS THAT UNDER THE OLD SYSTEM OR THE NEW
SYSTEM?

24 A THE OLD SYSTEM.

25 Q AND YOU SAID IT WAS A JUNIOR LAWYER OR

230

1 GRADE WHAT?

2 A MY RECOLLECTION IS IT WAS A GRADE I.

3 Q OKAY. AND A GRADE I IS A NON-PROBATIONARY
4 LEVEL.

5 A IT'S ACTUALLY A PROBATIONARY --

6 Q THEY'RE ACTUALLY ON PROBATION?

7 A CORRECT.

8 Q IT'S A NON-CIVIL SERVICE LEVEL?

9 A YES.

10 Q AND THEY ROUTINELY GO FROM -- TO TWO OR THREE
11 DIFFERENT ASSIGNMENTS FOR A SUPERVISOR?

12 A NOW, APPARENTLY THEY DO, NOT WHEN I WAS
13 SUPERVISING GRADE I'S.

PERIOD

14 Q THAT'S MEANT TO BE SORT OF A WEEDING-OUT
15 IN THE OFFICE, THE FIRST YEAR?

ARE

16 A WELL, IT PROVIDES THAT OPPORTUNITY. I DON'T
17 KNOW IF IT'S MEANT TO BE THAT. BUT CERTAINLY BECAUSE THEY
18 NON-CIVIL SERVICE, THERE IS THAT OPPORTUNITY.

19 Q WHAT IS THE EXPECTED JUVENILE ROTATION
20 ASSIGNMENT IN THE 26 YEARS YOU'VE BEEN HERE? WHAT IS THE
21 NORMAL JUVENILE ROTATION?

22 A LENGTH OF ASSIGNMENT YOU MEAN?

23 Q OR HOW DOES IT WORK? IF YOU TOLD A NEW --
24 SOMEONE COMING INTO THE OFFICE AND THEY SAID: AM I GOING TO
25 HAVE TO DO JUVIE? WHAT WOULD YOU TELL THEM?

231

TEN

1 A IN MY EXPERIENCE, JUVENILE IS USUALLY FROM
2 MONTHS TO A YEAR IN DURATION.

3 Q WHEN WILL I HAVE TO DO IT? I MEAN THAT YOUNG

4 DEPUTY?

5 A THAT YOUNG DEPUTY WOULD PROBABLY HAVE TO DO
6 IT --

7 MR. GRIMM: OBJECTION. NO FOUNDATION. I MEAN, WE
8 DON'T KNOW IF HE'S WORKED A JUVENILE ASSIGNMENT.

9 MR. IPSEN: EVERYONE IN THE OFFICE KNOWS THIS.
EVERY
10 D.A. IN THE OFFICE KNOWS THIS. THE HEARING OFFICER SHOULD
KNOW
11 WHAT EVERY D.A. KNOWS AND --

12 MR. GRIMM: AND THAT'S GREAT TESTIMONY BUT --

13

14 (OVERLAPPING COLLOQUY.)

15

16 MR. IPSEN: -- COUNSEL DOESN'T KNOW BUT --

17 HEARING OFFICER KERRIGAN: REPHRASE THE QUESTION.

18 BY MR. IPSEN:

19 Q DO YOU --

20 MR. GRIMM: ALL I'M ASKING IS THE ESTABLISHING OF A
21 FOUNDATION FOR THE ANSWER, THAT'S ALL.

22 MR. IPSEN: I UNDERSTAND.

23 BY MR. IPSEN:

24 Q IN THE 26 YEARS YOU'VE BEEN HERE, HAVE YOU
SEEN
25 AND SPOKEN WITH PEOPLE ABOUT THEIR HISTORIES IN THE OFFICE,

1 WHAT THEIR PRIOR ASSIGNMENTS WERE, ET CETERA?

2 A YES.

AN

3 Q AND PEOPLE WHO'VE WORKED FOR YOU, DO YOU HAVE

HEAR

4 IDEA OF THEIR PRIOR ASSIGNMENTS? YOU GET TO KNOW THEM AND

5 ABOUT THEIR HISTORIES IN THE OFFICE; IS THAT CORRECT?

6 A YES, THAT IS CORRECT.

7 Q AND HOW MOVING THROUGH THE JUVENILE SYSTEM

8 WORKS?

9 A I WAS HEAD DEPUTY OF JUVENILE ONCE.

AFTER

10 Q ALL RIGHT. AND THE CALENDARS THERE ARE

11 GENERALLY HANDLED -- YOU'RE AN EXPERT THEN -- BY D.A.'S

12 MAYBE ONE OR TWO YEARS IN THE OFFICE, THEY'RE ASSIGNED TO

13 CALENDAR AS A JUVENILE CALENDAR DEPUTY; IS THAT CORRECT?

14 A CORRECT. SOMETIMES AS LATE AS THREE YEARS IN

15 THE OFFICE.

16 Q ALL RIGHT.

17 A IT SORT OF DEPENDS ON THE ROTATION, BUT IT IS

18 EARLY.

19 Q ALL RIGHT. AND THEN THEY'RE CHOMPING AT THE

20 BIT, THEY WANT TO GET OUT AND PROSECUTE REAL CRIMINALS. IS

21 THAT PRETTY MUCH HOW IT WORKS? YOU DO YOUR TIME --

22 A THEY WANT TO DO ADULT FELONY PROSECUTIONS,

23 THAT'S THE GOAL.

THAT

24 Q ALL RIGHT. AND A FEW LUCKY D.A.'S NEVER DO

25 JUVENILE ROTATION.

1 MR. GRIMM: I'M JUST GOING TO OBJECT AS LEADING.

2 BY MR. IPSEN:

3 Q IS THAT CORRECT?

4 A A FEW DO NOT DO IT. WHETHER OR NOT THEY'RE
5 LUCKY, IS SUBJECTIVE.

6 Q THAT'S TRUE. IS IT NORMAL FOR A D.A., A
7 GRADE IV WHO'S BEEN RATED OUTSTANDING, TO BE TRANSFERRED TO
8 THAT SAME JUVENILE ASSIGNMENT?

DO

9 IS THAT A NORMAL ROTATION IN YOUR EXPERIENCE
10 THE OFFICE?

IN

11 A WELL, WHEN YOU SAY "SAME," IT DEPENDS ON WHAT
12 YOU MEAN BY "SAME." THERE WAS A PERIOD, AND I DON'T KNOW IF
13 THEY'RE STILL DOING IT -- BUT THERE WAS A PERIOD IN WHICH
14 OFFICE ACTUALLY EMBRACED THE IDEA OF MENTOR-TYPE GRADE IV'S
15 JUVENILE.

OUR

IN

16 THAT WAS MORE OF A SPECIALIZED ASSIGNMENT AS
17 OPPOSED TO SIMPLY BEING A COURT ASSIGNED DEPUTY IN JUVENILE.

ASSIGNED

18 Q LET'S SAY WE'RE TALKING ABOUT A COURT
19 DEPUTY IN JUVENILE, AS YOU POINTED OUT, A COURT ASSIGNMENT
20 DEPUTY AS A GRADE IV, IS THAT NORMAL?

AS A

21 A THAT IS NOT NORMAL.

22 Q IS IT NORMAL FOR SOMEONE WHO'S BEEN IN THE
23 OFFICE AROUND NINE, TEN YEARS PICKING UP MURDER CASES TO BE

THERE 24 SENT BACK TO A SECOND ROUND OF JUVENILE ROTATION AND KEPT
25 FOR OVER A YEAR AND NOT TOLD HOW LONG THEY'D BE THERE?

234

1 IS THAT NORMAL?

2 A THAT IS NOT NORMAL.

3 Q DO YOU KNOW OF ANY GRADE IV'S THAT HAVE BEEN
4 SENT TO JUVENILE FOR A SECOND ROTATION WITHOUT ANY
INDICATION
5 OF HOW LONG THEY'D BE THERE?

6 A ONLY UNDER THE CIRCUMSTANCES THAT I DESCRIBED
7 EARLIER, WHICH IS THE MENTOR-TYPE PROGRAM.

8 Q AND WAS THAT ALSO DURING A PERIOD OF TIME
WHEN,
9 FOR ECONOMIC REASONS, THEY WERE PUTTING SENIOR IV'S IN OTHER
10 UNITS TO HANDLE BUDGETARY ISSUES?

11 A I THINK THAT WAS A FACTOR, YES.

12 Q AND WAS THAT ANNOUNCED TO THE OFFICE AND
GRADE
13 IV'S COULD VOLUNTEER FOR --

14 A YES.

15 Q IT WAS A VOLUNTARY MENTORING POSITION THAT
THEY
16 COULD HAVE TO ASSIST THE YOUNG DEPUTIES?

17 A CORRECT.

18 Q AND THERE WERE SOME SENIOR GRADE IV'S WHO
WERE
19 HAPPY TO GO DO THAT.

20 A THAT IS CORRECT.

21 MR. GRIMM: THIS WHOLE THING IS LEADING.

22 MR. IPSEN: NOTHING FURTHER.

23 HEARING OFFICER KERRIGAN: WELL, IT'S GARBAGE TIME,
YOU

24 KNOW, IT'S ALMOST 4:00 O'CLOCK.

25 MR. DEBBAUDT: WE'RE TIRED AND MY BLOOD SUGAR IS
LOW.

235

1 HEARING OFFICER KERRIGAN: IF YOU WANT TO GET
ANOTHER

2 WITNESS IN, YOU'D BETTER GO GET THEM.

3 MR. DEBBAUDT: ARE YOU GOING TO ASK SOME QUESTIONS?

4 HEARING OFFICER KERRIGAN: WAIT A SECOND. DID YOU

5 ANTICIPATE GETTING ANOTHER WITNESS IN, MR. SHINEE?

6 MR. DEBBAUDT: CAN WE TRY TO GET ANOTHER WITNESS ON

7 TODAY?

8 HEARING OFFICER KERRIGAN: YEAH, YOU'VE GOT 15
MINUTES.

9 MR. DEBBAUDT: CAN I ASK A QUESTION?

10 HEARING OFFICER KERRIGAN: YOU WON'T GET ANOTHER

11 WITNESS IN IF YOU ASK A QUESTION.

12 MR. DEBBAUDT: WELL, I'M NOT GOING TO BE AS LENGTHY
AS

13 ANYBODY.

14 HEARING OFFICER KERRIGAN: ASK YOUR QUESTION.

15

DIRECT EXAMINATION

16

17

18 BY MR. DEBBAUDT:

19 DEBBAUDT,

20

21

JUVENILE

22

23

24

25

OFFICE

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Q MR. YGLECIAS, YOU HEARD THAT ME, MARC

GRADE IV DEPUTY DISTRICT ATTORNEY WHO WAS TRANSFERRED FROM

ADULT CALENDAR ASSIGNMENT TO BE A CALENDAR DEPUTY IN

COURT WITHOUT MENTORING ANYBODY.

DID YOU HEAR ABOUT THAT?

A I DID.

Q HAVE YOU HEARD ABOUT ANYBODY ELSE IN THE

1 WHO THAT HAS HAPPENED TO?

2 A NO.

3 Q WHAT DID YOU THINK WHEN YOU HEARD THAT?

4 A I THOUGHT IT WAS ROTTEN.

5 Q THANK YOU.

6 MR. DEBBAUDT: NO FURTHER QUESTIONS.

7 MR. GRIMM: HAVE YOU -- I'M SORRY.

8 HEARING OFFICER KERRIGAN: OKAY. DO YOU HAVE

ANYTHING

9 FURTHER?

10

MR. GRIMM, DO YOU HAVE ANYTHING FURTHER?

11

QUESTION

MR. GRIMM: YEAH. I WAS JUST ABOUT TO ASK A

12

BUT I DIDN'T KNOW IF THEY WERE FINISHED.

13 MR. DEBBAUDT: I THINK WHEN I SAY NO FURTHER
14 QUESTIONS --

15 MR. GRIMM: WELL, HE'S STANDING UP --

16 HEARING OFFICER KERRIGAN: OKAY. SOMEBODY ASK A
17 QUESTION.

18

19 CROSS-EXAMINATION

20

21 BY MR. GRIMM:

22 Q HAVE YOU EVER HEARD OF ANY OTHER DEPUTY
23 D.A.'S --

24 WELL, FIRST OF ALL, HOW LONG HAVE YOU KNOWN
25 MR. DEBBAUDT?

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1 A I WOULD HAVE TO SAY PROBABLY, AT LEAST TEN
2 YEARS.

3 Q OKAY. AND DID YOU EVER HEAR ANYTHING ABOUT
4 MR. DEBBAUDT PUBLICLY CRITICIZING THE DISTRICT ATTORNEY'S
5 THREE-STRIKES POLICY?

6 MR. SHINEE: OBJECTION. ASSUMES FACTS NOT IN
EVIDENCE.

7 THE WITNESS: YOU KNOW, I DON'T SPECIFICALLY --

8 HEARING OFFICER KERRIGAN: WAIT A MINUTE. WHAT'S
THE

9 OBJECTION?

10 MR. SHINEE: THERE'S NO EVIDENCE THAT THERE WAS A

11 PUBLIC CRITICISM OF THE D.A.'S THREE-STRIKES POLICY IN THIS
12 RECORD.

THIS
13 MR. GRIMM: WELL, I THINK JACKIE LACEY TESTIFIED
14 MORNING --

THIS
15 HEARING OFFICER KERRIGAN: THERE'S BEEN TESTIMONY
16 MORNING.

17 MR. SHINEE: THERE WAS TESTIMONY ABOUT AT A PARTY
18 ALLEGEDLY HE SAID SOMETHING AND THAT'S NOT PUBLICLY.

19 MR. GRIMM: NO --

THAT
20 MR. DEBBAUDT: IN FACT, WHAT THE TESTIMONY IS, IS
THEY
21 AT A PARTY SOMEBODY TOLD ABOUT HEARING FROM SOMEBODY ELSE,
22 DON'T KNOW WHO IT IS --

THEM.
23 HEARING OFFICER KERRIGAN: A JUDGE, A JUDGE TOLD

FROM
24 MR. DEBBAUDT: A JUDGE TOLD SOMEBODY THAT HE HEARD
25 SOMEBODY ELSE --

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1 HEARING OFFICER KERRIGAN: ANOTHER JUDGE.

KNOW
2 MR. DEBBAUDT: -- ANOTHER JUDGE -- WHO HE DOESN'T
3 WHO IT IS -- THAT I MAY HAVE MADE SOME STATEMENTS. WAS IT
4 PUBLICLY THAT THESE WERE MADE? SO THAT'S NOT BEEN CLEARED
UP
5 AT ALL.

6 HEARING OFFICER KERRIGAN: WELL --

7 MR. SHINEE: MY OBJECTION IS THAT ASSUMES -- THERE'S
NO

8 EVIDENCE IN THIS RECORD THAT THERE WAS A PUBLIC
PRONOUNCEMENT

9 BY MR. DEBBAUDT CRITICIZING THE D.A.'S THREE-STRIKES LAW.

10 HEARING OFFICER KERRIGAN: HE JUST ASKED HIM IF HE
11 HEARD ANYTHING ABOUT IT.

12 MR. SHINEE: THE QUESTION PRESUMES A FACT NOT IN
13 EVIDENCE BEFORE THE TRIER OF FACT.

14 HEARING OFFICER KERRIGAN: WELL, I DON'T AGREE WITH
YOU

15 ON THAT ONE.

16 MR. SHINEE: OKAY.

17 HEARING OFFICER KERRIGAN: GO AHEAD.

18 BY MR. GRIMM:

19 Q HAVE YOU EVER HEARD ANYTHING ABOUT MR.
DEBBAUDT

20 CRITICIZING THE DISTRICT ATTORNEY'S -- STEVE COOLEY'S POLICY
ON

21 THREE STRIKES?

22 A I DON'T BELIVE SO.

23 Q OKAY. ARE YOU FRIENDS WITH MR. DEBBAUDT?

24 WOULD YOU CONSIDER YOURSELF FRIENDS?

25 A YEAH. WELL, WE'RE ACQUAINTANCES. WE'VE
ALWAYS

1 BEEN ON FRIENDLY TERMS. HAVE I EVER GONE OUT WITH MR.
DEBBAUDT
2 IN A SOCIAL WAY? NO. HAVE I EVER HUNG OUT WITH HIM AND
GONE
3 TO A BALL GAME WITH HIM? NO.
4 HAVE I EVEN GONE TO LUNCH WITH MR. DEBBAUDT?
5 MAYBE, BUT ONLY AS A GROUP, LIKE, SAY ATTENDING A TRANSFER
6 LUNCHEON OR SOMETHING. SO WE'RE ACQUAINTANCES AND WE'RE ON
7 FRIENDLY TERMS.
8 Q IF A DEPUTY WORKING UNDER YOU CRITICIZED
9 PUBLICLY A POLICY -- LET'S BE SPECIFIC, MR. COOLEY'S POLICY
ON
10 THREE STRIKES, WOULD YOU EXPECT ANY SORT OF CONSEQUENCES?
11 A NO.
12 Q YOU WOULD NOT?
13 A NO.
14 Q AND IF THE SAME DEPUTY DID NOT ENFORCE THE
15 THREE-STRIKES POLICY, ACCORDING TO THE DISTRICT ATTORNEY'S
16 POLICY ON THREE STRIKES, WOULD YOU EXPECT ANY SORT OF
17 CONSEQUENCES?
18 A YES.
19 Q OKAY. AND WHY --
20 MR. SHINEE: OBJECTION.
21 BY MR. GRIMM:
22 Q -- WOULD YOU EXPECT THAT?
23 MR. SHINEE: THIS IS ASSUMING FACTS NOT IN EVIDENCE.
24 HEARING OFFICER KERRIGAN: WELL, YOU KNOW SOMETHING,
25 YOUR OBJECTION IS TOO LATE. YOU HAVE TO MAKE A MOTION TO

1 STRIKE.

2 MR. SHINEE: FINE. I OBJECT ON THE BASIS THAT IT
3 ASSUMES FACTS NOT IN EVIDENCE AND I MAKE A MOTION TO STRIKE.

4 HEARING OFFICER KERRIGAN: OKAY. HE ALREADY
ANSWERED
5 AND I'M GOING TO DENY IT.

6 ARE WE FINISHED WITH THIS WITNESS?

7 MR. GRIMM: NOT QUITE.

8 HEARING OFFICER KERRIGAN: OKAY.

9 BY MR. GRIMM:

10 Q WHY WOULD YOU EXPECT THERE TO BE
CONSEQUENCES?

11 A WELL, BECAUSE THERE'S A DISTINCTION BETWEEN
12 PERSONAL OPINION VERSUS OFFICE POLICY AND PROCEDURE WHICH
13 EMPLOYEES ARE EXPECTED TO ADHERE TO.

14 Q OKAY. AND WHAT WOULD YOU EXPECT THE
15 CONSEQUENCES TO BE IF IT WERE AS I JUST PHRASED IT TO YOU?

16 A WELL, IT DEPENDS. IF IT OCCURRED ONCE AND
THEN
17 THE EMPLOYEE WAS COUNSELLED AND IT DID NOT OCCUR AGAIN, THEY
18 CONFORMED TO POLICY IN THE FUTURE, IT WOULD BE NOTED IF IT
WAS
19 RELATIVELY INCONSEQUENTIAL AND THERE WERE NO LASTING EFFECTS
AS
20 A RESULT, PROBABLY NOT A WHOLE LOT.

21 BUT IF THAT EMPLOYEE CONTINUED TO SORT OF
IGNORE
22 OFFICE POLICY AND PROTOCOL AND ESSENTIALLY ADOPT THEIR
23 VIEWPOINT AND THEIR INTERPRETATION OF THE LAW THAT IS
DIFFERENT

24 FROM THE OFFICE, THEN BEYOND COUNSELLING THEY WOULD PROBABLY
25 GET A WRITTEN REPRIMAND. AND IF INDEED IT WAS SUCH THAT IT
WAS
241

1 RESULTING IN REAL CONSEQUENCES CONTRARY TO OFFICE POLICY,
THEY
2 WOULD PROBABLY BE REMOVED FROM THAT ROLE SO THAT THEY WERE
NOT
3 IN A POSITION TO CIRCUMVENT OFFICE POLICY.

4 Q SO THEY MIGHT BE PUT INTO A ROLE WHERE THEY
5 DIDN'T HAVE TO APPLY THEIR OWN VERSION OF THE DISTRICT
6 ATTORNEY'S POLICY; IS THAT CORRECT?

7 A OR WHERE THEY WERE NOT ABLE TO.

8 Q RIGHT.

9 A CORRECT.

10 MR. GRIMM: NOTHING FURTHER.

11 HEARING OFFICER KERRIGAN: OKAY. ANY OTHER
QUESTIONS.

12

13 REDIRECT EXAMINATION

14

15 BY MR. IPSEN:

16 Q THE OFFICE POLICY WITH REGARDS TO THREE
STRIKES

17 IS THAT PRESUMPTIVELY WE CANNOT PROSECUTE, SEEK LIFE FOR

18 CERTAIN THREE-STRIKES OFFENSES UNLESS WE WRITE A MEMO AND
GET

19 APPROVAL; CORRECT?

20 A THERE ARE CERTAIN OFFENSES -- WELL, YEAH.
BUT
21 THAT'S, I THINK, A LITTLE TOO BROAD. BASICALLY, THE OFFICE
22 POLICY IS THAT UNLESS THE CURRENT FELONY OFFENSE IS A
SERIOUS
23 OR VIOLENT FELONY THAT IN AND OF ITSELF CONSTITUTES A STRIKE
--

24 Q RIGHT.
25 A -- THE PRESUMPTION IS THAT WE SEEK A NON-

THIRD
242

1 STRIKE RESOLUTION.
2 Q SO IF MARC DEBBAUDT EVER PROSECUTED A PERSON
AND
3 SOUGHT LIFE AS A THREE-STRIKER IN VIOLATION OF THAT POLICY
THAT
4 WOULD BE SUCH A VIOLATION, IF HE SOUGHT LIFE AND DIDN'T
STRIKE
5 A STRIKE AND CONVICTED SOMEONE WITH LIFE EVEN THOUGH THE
THIRD
6 OFFENSE WAS A NON-STRIKE THAT COULD BE A VIOLATION?

7 MR. GRIMM: OBJECTION. IT'S COMPOUND.
8 HEARING OFFICER KERRIGAN: WHAT DOES THAT HAVE TO DO
9 WITH ANYTHING IN THIS CASE? SUSTAINED.

10 MR. DEBBAUDT: WELL, THAT'S WHAT MY OBJECTION WAS --
11 MR. IPSEN: LET ME ASK ANOTHER QUESTION --

12
13
14

(OVERLAPPING COLLOQUY.)

15 MR. DEBBAUDT: -- PREVIOUSLY.

16 MR. IPSEN: LET ME ASK ANOTHER QUESTION.

17 BY MR. IPSEN:

18 Q WOULD IT BE WITHIN POLICY FOR A DEPUTY D.A.

TO

19 LOOK AT THE PRIOR STRIKES AND THE CURRENT EVENTS TO WRITE A

OPINION

20 MEMO, GIVE IT TO THEIR HEAD DEPUTY AND SAY: HEY, IN MY

21 THIS GUY DESERVES LIFE EVEN THOUGH IT'S PRESUMPTIVELY
STRICKEN.

22 IS THAT THE POLICY?

23 A THAT'S THE CURRENT PROCEDURE AND POLICY.

24 Q SHOULD A DEPUTY WHO WRITES A MEMO, WHO SAYS:

25 LOOK, I THINK THIS GUY NEEDS LIFE. SHOULD HE BE AFRAID THAT

243

THIS 1 THAT MEMO IS GOING TO BE LOOKED AT BY THE D.A. WHO SAYS:

2 IS AN INSANE OPINION. I'M GOING TO TRANSFER THIS GUY TO

3 JUVENILE FOR WRITING A MEMO?

4 MR. GRIMM: INCOMPLETE HYPOTHETICAL.

5 HEARING OFFICER KERRIGAN: THAT IS A --

6

7 (OVERLAPPING COLLOQUY.)

8

9 MR. IPSEN: THAT'S WHAT HAPPENED IN THIS CASE.

10 HEARING OFFICER KERRIGAN: THAT'S AN ARGUMENT. PUT

IT

11 IN YOUR BRIEF.

12 MR. SHINEE: NO. THAT'S NOT AN ARGUMENT. THAT
13 QUESTION WAS PROPOUNDED --

14 HEARING OFFICER KERRIGAN: IT'S JUST --

15

16 (OVERLAPPING COLLOQUY.)

17

18 THE REPORTER: GENTLEMEN, PLEASE.

19 MR. SHINEE: CAN WE HAVE THAT QUESTION RE-ASKED AND
CAN
20 WE GET AN ANSWER TO THAT QUESTION?

21 HEARING OFFICER KERRIGAN: I DON'T THINK IT'S A
PROPER
22 QUESTION. I THINK YOU'VE GOT TO REPHRASE IT.

23 YOU'RE SAYING HE WAS PENALIZED FOR WRITING A
24 MEMO THAT DISPUTES A POLICY; RIGHT?

25 MR. IPSEN: IT WASN'T DISPUTING -- WELL, LET ME ASK
THE
244

1 QUESTION AGAIN.

2 BY MR. IPSEN:

3 Q IF MARC DEBBAUDT HAD A THREE-STRIKES CASE AS
A
4 HYPOTHETICAL WHERE HE RECOGNIZED IT PRESUMPTIVELY WAS NOT A
5 THREE-STRIKES CASE BUT HE THOUGHT IT SHOULD BE HANDLED THAT
6 WAY, IF HE WROTE A MEMO, GAVE IT TO HIS HEAD DEPUTY
7 ARTICULATING HIS REASONS AND IT WAS SUBMITTED DOWNTOWN,
WOULD

8 THAT BE FOLLOWING THE POLICY?

9 A YES.

10 Q IN YOUR OPINION, SHOULD HE BE PUNISHED IF THE
11 PERSON DISAGREED, THE REVIEWER DISAGREED WITH HIS ANALYSIS?

12 MR. GRIMM: OBJECTION. NO FOUNDATION. CALLS FOR --
13 BY MR. IPSEN:

14 Q IS THAT HOW THIS OFFICE WORKS?

15 MR. GRIMM: CAN I OBJECT? NO FOUNDATION.

16 HEARING OFFICER KERRIGAN: OVERRULED.

17 MR. GRIMM: CALLS FOR SPECULATION. AND --

18 HEARING OFFICER KERRIGAN: ANSWER THE QUESTION.

19 MR. GRIMM: -- FACTS NOT IN EVIDENCE.

20 HEARING OFFICER KERRIGAN: OVERRULED. ANSWER THE
21 QUESTION.

22 THE WITNESS: THAT PERSON SHOULD NOT BE PUNISHED.

23 BY MR. IPSEN:

24 Q OKAY. WE ALL HAVE DIFFERENT VIEWS -- WE MAY
25 HAVE DIFFERENT VIEWS AS PROSECUTORS OF WHO DESERVES LIFE AND

245

1 THAT'S THE REASON FOR THE MEMO.

2 MR. GRIMM: OBJECTION.

3 BY MR. IPSEN:

4 Q SO THE --

5 MR. GRIMM: THIS IS LEADING.

6 HEARING OFFICER KERRIGAN: THE JANITOR IS COMING IN

7 FELLAS. I THINK WE'RE DONE FOR THE DAY.

8 MR. IPSEN: WE HAVE ONE MORE WITNESS.

9 MR. DEBBAUDT: CAN WE GO TO 4:30?

10 HEARING OFFICER KERRIGAN: NO.

11 MR. GRIMM: NO.

12 HEARING OFFICER KERRIGAN: IT'S NOT MY RULE. IT'S

13 ERCOM'S RULE.

14 MR. DEBBAUDT: I MOVE THAT YOU ORDER THE JANITOR TO

15 LEAVE.

16 HEARING OFFICER KERRIGAN: HE MAY TAKE YOU
SERIOUSLY.

17 THE WITNESS: I'M EXCUSED, I ASSUME?

18 HEARING OFFICER KERRIGAN: YOU ARE EXCUSED.

19 MR. DEBBAUDT: THANK YOU, MR. YGLECIAS.

20 THE WITNESS: YOU'RE WELCOME.

21 HEARING OFFICER KERRIGAN: OFF THE RECORD.

22

23 (PROCEEDINGS ADJOURNED AT 4:10 P.M.)

24

25