

SUPREME COURT OF THE STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA,	)	
	)	
PLAINTIFF-RESPONDENT,	)	
	)	
VS.	)	SUPERIOR COURT
	)	NO. BA075063
	)	
REGIS DEON THOMAS,	)	
	)	
DEFENDANT-APPELLANT.	)	
<hr/>		FILE 8-1-77

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY  
HONORABLE EDWARD A. FERNS, JUDGE PRESIDING  
REPORTERS' TRANSCRIPT ON APPEAL

APPEARANCES:

FOR PLAINTIFF-RESPONDENT:	DANIEL E. LUNGREN
	STATE ATTORNEY GENERAL
	300 SOUTH SPRING STREET
	NORTH TOWER, SUITE 5001
	LOS ANGELES, CA 90013

FOR DEFENDANT-APPELLANT:	IN PROPRIA PERSONA
--------------------------	--------------------

VOLUME 33 OF 33  
PAGES 4949 THROUGH 5048, INCLUSIVE

COPY

MARIANNE BRACCI, CSR #6168  
GEORGE W. SABIA, CSR #3336  
OFFICIAL REPORTERS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 106

HON. EDWARD A. FERNS, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA, )

PLAINTIFF, )

VS. )

REGIS THOMAS, )

DEFENDANT. )

NO. BA075063

VOL 33

REPORTERS' DAILY TRANSCRIPT

JUNE 7, 8, 9, 11, 12, 13, 14, 15, 16, 1995

JULY 7, 18, 1995

AUGUST 15, 1995

PAGES 4949 THROUGH 5048

APPEARANCES:

FOR THE PLAINTIFF:

GIL GARCETTI, DISTRICT ATTORNEY  
BY: MARK ARNOLD, DEPUTY  
18000 CRIMINAL COURTS BUILDING  
210 WEST TEMPLE STREET  
LOS ANGELES, CALIFORNIA 90012

FOR THE DEFENDANT:

JAY JAFFE, ATTORNEY AT LAW  
-AND-  
VICTORIA DOHERTY, ATTORNEY AT LAW  
SUITE 1200 WELLS FARGO BUILDING  
433 NORTH CAMDEN DRIVE  
BEVERLY HILLS, CALIFORNIA 90210

GEORGE W. SABIA, CSR #3336  
MARIANNE BRACCI, CSR #6168  
OFFICIAL REPORTERS

# I N D E X

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1           LOS ANGELES, CALIFORNIA; WEDNESDAY, JUNE 7, 1995

2                           9:30 A.M.

3   DEPARTMENT NO. 106

HON. EDWARD A. FERNS, JUDGE

4  
5                           (AT 9:30 A.M., THE JURY RESUMED

6                           THEIR DELIBERATIONS; AND AT

7                           12:00 P.M. A RECESS WAS TAKEN

8                           UNTIL 1:30 P.M. OF THE SAME DAY.)

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1           LOS ANGELES, CALIFORNIA; WEDNESDAY, JUNE 7, 1995

2                           1:30 P.M.

3 DEPARTMENT NO. 106

HON. EDWARD A. FERNS, JUDGE

4  
5                           (AT 1:30 P.M. THE JURY RESUMED  
6                           THEIR DELIBERATIONS; AND AT  
7                           4:00 P.M. THE MATTER WAS  
8                           CONTINUED UNTIL THURSDAY,  
9                           JUNE 8, 1995, AT 9:00 A.M.)  
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1           LOS ANGELES, CALIFORNIA; THURSDAY, JUNE 8, 1995

2                   9:30 A.M.

3 DEPARTMENT NO. 106

HON. EDWARD A. FERNS, JUDGE

4                   (APPEARANCES AS HERETOFORE NOTED.)

5  
6  
7                   (AT 9:30 A.M., THE JURY RESUMED

8                   THEIR DELIBERATIONS; AND AT

9                   12:00 P.M. A RECESS WAS TAKEN

10                  UNTIL 1:30 P.M. OF THE SAME DAY.)

1           LOS ANGELES, CALIFORNIA; THURSDAY, JUNE 8, 1995

2                           1:30 P.M.

3 DEPARTMENT NO. 106

HON. EDWARD A. FERNS, JUDGE

4  
5                           (AT 1:30 P.M. THE JURY RESUMED  
6                           THEIR DELIBERATIONS; AND AT  
7                           2:00 P.M. THE FOLLOWING  
8                           PROCEEDINGS WERE HELD IN OPEN  
9                           COURT OUTSIDE THE PRESENCE OF  
10                          THE JURY:)

11  
12           THE COURT: ALL RIGHT. RECALL THE CASE OF REGIS  
13 THOMAS. MR. THOMAS IS PRESENT. RESPECTIVE COUNSEL. WE  
14 ARE OUT OF THE PRESENCE OF THE JURORS.

15                          THE FOREPERSON WROTE A QUESTION ASKING:  
16                          "COULD THE COURT PLEASE PROVIDE FURTHER  
17 DEFINITION OF THE WORD "EXTENUATES" AS IT APPLIES TO  
18 SPECIAL FACTOR (K) OF OUR JURY INSTRUCTIONS."

19                          MR. JAFFE, DO YOU WANT TO BE HEARD?

20           MR. JAFFE: YES. THE QUESTION IS VAGUE TO THE  
21 EXTENT THAT WE DON'T KNOW WHETHER THE JURY KNOWS THE  
22 DEFINITION ITSELF OF THE WORD "EXTENUATES" OR WHETHER THEY  
23 WANT, AS IS EXPRESSED IN THE NOTE, FURTHER DEFINITION.

24                          I DON'T KNOW IF FURTHER DEFINITION MEANS A  
25 DEFINITION. THEY MAY BE CONFUSED AS TO THE PLAIN MEANING  
26 OF THE WORD "EXTENUATES."

27                          ACCORDINGLY, I THINK THE COURT SHOULD ATTEMPT  
28 TO AFFIRMATIVELY ANSWER THE QUESTION, AND I HAVE PROPOSED

1 TWO POTENTIAL ADMONITIONS -- NOT ADMONITIONS, BUT ANSWERS  
2 TO THE JURY'S QUESTION.

3 THE FIRST QUESTION REQUESTED RESPONSE WOULD  
4 BE TO SAY:

5 THE LANGUAGE IN FACTOR (K), WHICH STATES THAT  
6 THE JURY IS TO CONSIDER ANY OTHER CIRCUMSTANCE WHICH  
7 EXTENUATES THE GRAVITY OF THE CRIME EVEN THOUGH IT IS NOT  
8 A LEGAL EXCUSE FOR THE CRIME, DIRECTS THE JURY TO CONSIDER  
9 THE DEFENDANT'S BACKGROUND AND CHARACTER OR ANY OTHER  
10 FACTOR WHICH WOULD ALLOW THE JUROR TO FIX PUNISHMENT AT  
11 CONFINEMENT IN THE STATE PRISON FOR LIFE WITHOUT THE  
12 POSSIBILITY OF PAROLE INSTEAD OF DEATH.

13 THE SECOND -- IF THAT'S NOT ACCEPTABLE, AND I  
14 HOPE THAT IT IS, BUT THE SECOND POTENTIAL RESPONSE COULD  
15 BE:

16 THE WORD "EXTENUATES" AS IT APPLIES TO FACTOR  
17 (K) MEANS TO MITIGATE OR LESSEN OR TO PROVIDE A REASON TO  
18 FIX PUNISHMENT AT CONFINEMENT IN THE STATE PRISON FOR LIFE  
19 WITHOUT THE POSSIBILITY OF PAROLE INSTEAD OF DEATH.

20 "EXTENUATE" DOES NOT MEAN AGGRAVATE.

21 OR, THIRD, I SUPPOSE AND FINALLY THE COURT  
22 COULD MERELY STATE THE WORD "EXTENUATES" AS IT APPLIES TO  
23 FACTOR (K) MEANS TO MITIGATE OR LESSEN.

24 THE COURT: MR. ARNOLD?

25 MR. ARNOLD: I AGREE WITH MR. JAFFE. I THINK YOU  
26 SHOULD AFFIRMATIVELY ANSWER THE QUESTION. I WOULD OBJECT  
27 TO MR. JAFFE'S FIRST AND SECOND ALTERNATIVE.

28 I WOULD AGREE OR GO ALONG WITH HIS LAST



1 SUGGESTION.

2 THE COURT: ALL RIGHT. PEOPLE VERSUS PAYTON AT 3  
3 CAL.4TH 1050 AT PAGE 1070 SAYS:

4 SINCE THEIR DECISION IN EASLEY, HOWEVER, THE  
5 UNITED STATES SUPREME COURT HAS HELD THE LANGUAGE OF  
6 FACTOR (K) SATISFIES THE FEDERAL EIGHT AMENDMENT.

7 THE COURT REASONED THAT FACTOR (K) DOES NOT,  
8 AS THE PETITIONER IN THAT CASE ARGUED, QUOTE, LIMIT THE  
9 JURY'S CONSIDERATION TO ANY OTHER CIRCUMSTANCE OF THE  
10 CRIME WHICH EXTENUATES THE GRAVITY OF THE CRIME, CLOSED  
11 QUOTE.

12 INSTEAD, THE FACTOR DIRECTS THE JURY, QUOTE,  
13 TO CONSIDER ANY OTHER CIRCUMSTANCE THAT MIGHT EXCUSE THE  
14 CRIME, BUT CERTAINLY INCLUDES DEFENDANT'S BACKGROUND --  
15 WHICH CERTAINLY INCLUDES A DEFENDANT'S BACKGROUND AND  
16 CHARACTER.

17 I THINK THE (K) FACTOR BASICALLY GIVES THEM  
18 TWO REASONS -- OR IT GIVES THEM TWO OPTIONS. IT TELLS  
19 THEM THAT ANY CIRCUMSTANCE -- EVEN THOUGH THERE IS NO  
20 LEGAL JUSTIFICATION, ANY FACTOR THAT MAY EXTENUATE, WHICH  
21 THE COMMON DEFINITION OF EXTENUATE WOULD BE TO LESSEN THE  
22 GRAVITY OF THE CRIME, AND THEN THEY ALSO CAN USE ANY  
23 SYMPATHETIC OR OTHER ASPECT OF THE DEFENDANT'S CHARACTER  
24 OR RECORD AS A BASIS FOR A SENTENCE LESSER THAN DEATH.

25 SO "EXTENUATE" ACTUALLY APPEARS TO ME FROM  
26 THE CASE THAT I READ HAS TO DO WITH THE SPECIFICS OF THE  
27 CRIME, BUT THAT'S ONE THING THEY CAN USE FOR LIFE WITHOUT  
28 THE POSSIBILITY OF PAROLE, OR THEY CAN USE ANY SYMPATHY NO

1 MATTER HOW GREAT THEY THINK THE CRIME IS.

2 MR. JAFFE: THE PROBLEM WITH THE QUESTION IS THAT  
3 IF THE JURY BELIEVES THAT THE WORD "EXTENUATES" MEANS TO  
4 AGGRAVATE, THEN THEY MAY POSSIBLY USE THE (A) FACTOR AND  
5 THE (K) FACTOR AS DOUBLING UP THE SERIOUSNESS OF THE  
6 CRIME.

7 THE COURT: WHAT I WILL DO IS I WILL ASK THE -- DO  
8 YOU WANT ME TO INQUIRE OF THE FOREPERSON IN FRONT OF THE  
9 OTHER JURORS, ONE, WHEN THEY ASKED FOR A FURTHER  
10 DEFINITION, I INFER FROM THAT THAT YOU HAVE A DEFINITION  
11 OF "EXTENUATE," AND WHAT IS THE JURY'S UNDERSTANDING OF  
12 THE WORD "EXTENUATE"?

13 OR DO YOU WANT ME TO TELL THEM THAT THE WORD  
14 "EXTENUATE" MEANS TO LESSEN?

15 GO AHEAD, MR. ARNOLD.

16 MR. ARNOLD: I THINK THAT YOU SHOULD MAKE THE  
17 INITIAL INQUIRY AS TO WHETHER OR NOT THE JURY UNDERSTANDS  
18 OR HAS AN IDEA OF THE DEFINITION OF "EXTENUATE." IF THEY  
19 DO, THEN PERHAPS YOUR ORIGINAL SUGGESTION OF NOT GOING  
20 INTO IT FURTHER IS APPROPRIATE.

21 IF HE SAYS, NO, WE DON'T KNOW WHAT THE WORD  
22 MEANS, THEN I THINK MR. JAFFE'S THIRD ALTERNATIVE WOULD BE  
23 AN APPROPRIATE ONE.

24 MR. JAFFE: THE PROBLEM IS THAT IF THE JURY SAYS,  
25 YES, WE KNOW THE WORD "EXTENUATES," AND THEN AFTERWARDS WE  
26 FIND OUT THAT THEY THINK IT MEANS TO AGGRAVATE --

27 THE COURT: RIGHT. WELL, THAT'S WHY IF I AM GOING  
28 TO ASK THEM IF THEY KNOW WHAT THE WORD "EXTENUATES" MEANS,

1 MY QUESTION WOULD BE WHAT DO YOU UNDERSTAND THE WORD TO  
2 MEAN.

3 MR. JAFFE: I WOULD PROPOSE THAT THE COURT STATE  
4 THAT THE WORD "EXTENUATE" MEANS TO MITIGATE OR LESSEN, AND  
5 THEN SAY DO YOU WISH FURTHER CLARIFICATION.

6 AND THEN IF THEY SAY, YES, THEN YOU MIGHT  
7 SAY, WELL, I CAN'T GIVE YOU ANY FURTHER CLARIFICATION.

8 MR. ARNOLD: I AM GOING TO GO ALONG WITH WHAT  
9 MR. JAFFE SAID, BUT I THINK IF YOU SAY DO YOU REQUEST  
10 FURTHER CLARIFICATION, AND THEN THEY SAY YES, AND THEN YOU  
11 SAY, WELL, I'M NOT GOING TO GIVE IT TO YOU --

12 THE COURT: THAT MEANS I CAN'T GIVE IT TO THEM.  
13 THAT MEANS THEY ARE LIMITED.

14 MR. ARNOLD: PERHAPS IF YOU SAID IT MEANS TO  
15 MITIGATE OR LESSEN, AND SHOULD YOU NEED FURTHER, THE LAW  
16 DOES NOT PERMIT ME TO GIVE FURTHER CLARIFICATION.

17 MR. JAFFE: LET'S JUST SAY THAT THE WORD  
18 "EXTENUATES" THAT APPLIES TO FACTOR (K) MEANS TO MITIGATE  
19 AND LESSEN AND JUST LEAVE IT AT THAT.

20 THE COURT: ALL RIGHT.

21 MR. JAFFE: IS THAT OKAY?

22 MR. ARNOLD: YES, BUT I THINK IF YOU ARE GOING TO  
23 MENTION CLARIFICATION, THAT YOU SHOULD TELL THEM.

24 MR. JAFFE: I WOULD SAY DON'T MENTION  
25 CLARIFICATION.

26 MR. ARNOLD: THAT'S FINE. THAT'S FINE.

27 THE COURT: SO I WILL TELL THEM AS FAR AS THESE  
28 COUNSEL -- I WON'T SAY AS FAR AS COUNSEL IS CONCERNED, BUT

1 I WILL SAY THAT THE WORD "EXTENUATES," THE MEANING OF THAT  
2 IS TO MITIGATE OR LESSEN.

3 MR. JAFFE: OKAY.

4 MR. ARNOLD: YOU KNOW WHAT. I COULD SEE THE  
5 QUESTION THEN BEING MITIGATES OR LESSENS WHAT?

6 THE COURT: WELL, THAT -- I KNOW WE ARE NOT HERE TO  
7 GIVE THEM A GRAMMAR LESSON, AND, YOU KNOW, MY FOURTH  
8 GRADER JUST GOT HIS TEST BACK AND MISSED WHAT AN ADVERB  
9 WAS, BUT THE LANGUAGE IN PAYTON SAYS -- AND I AM GOING TO  
10 WAIT AND SEE WHAT THEY DO, BUT IT SAYS ANY OTHER  
11 CIRCUMSTANCE OF THE CRIME WHICH EXTENUATES THE GRAVITY OF  
12 THE CRIME.

13 SO IT REFERS TO THE GRAVITY OF THE CRIME.  
14 THEN THAT'S WHAT IT RELATES TO, LESSENS THE GRAVITY OF THE  
15 CRIME.

16 IT MAY WELL BE --

17 MR. ARNOLD: WHY DON'T YOU GIVE THEM THAT THEN.

18 THE COURT: NO, BECAUSE THAT'S NOT WHAT THEY ARE  
19 ASKING YET.

20 MR. JAFFE: RIGHT.

21 THE COURT: IT MAY WELL BE THAT THERE IS SOMEBODY  
22 BACK THERE THAT IS ARGUING ABOUT WHAT THE WORD "EXTENUATE"  
23 MEANS.

24 MR. JAFFE: I THINK THAT WHAT THEY ARE REALLY  
25 CONCERNED IS -- I THINK WE'RE PROBABLY OVERREACTING TO THE  
26 QUESTION. I REALLY BELIEVE THAT THERE MAY BE A COUPLE  
27 JURORS WHO DON'T UNDERSTAND THE PLAIN MEANING OF THE WORD  
28 "EXTENUATES."

1 THE COURT: OKAY.

2 MR. JAFFE: BUT --

3 THE COURT: WELL, IN TYPICAL FASHION, OBVIOUSLY  
4 WRITING CALJIC INSTRUCTIONS IS VERY DIFFICULT, BUT  
5 SOMETIMES YOU WONDER WHY THEY DON'T JUST SAY "LESSEN."  
6 THAT'S WHAT THE WORD MEANS.

7 MR. ARNOLD: TRUE.

8 MR. JAFFE: I DID NOT HEAR.

9 THE COURT: WHY THEY JUST DON'T USE THE WORD  
10 "LESSEN" IF THAT'S WHAT THEY MEAN RATHER THAN "EXTENUATE."

11 MR. JAFFE: WELL --

12 THE COURT: I MEAN THE CONCERN I HAVE OBVIOUSLY AS  
13 A TRIAL JUDGE IS THERE MAY BE SOME MEANING IN THE WORD  
14 "EXTENUATE" FROM SOME CASE THAT I AM NOT FAMILIAR WITH.

15 BUT IF BOTH COUNSEL WANT THAT DEFINITION OF  
16 TO MITIGATE OR LESSEN, THEN I'LL GIVE IT.

17 MR. ARNOLD: WAIT. WHAT IS YOUR SUGGESTION THEN?

18 THE COURT: GENERALLY, I'M PRETTY GUN SHY ON  
19 EXPLAINING, DEFINING WORDS, BUT I WILL DO IT IN THIS  
20 PARTICULAR CASE.

21 GENERALLY, I'M CONCERNED ABOUT DEFINING I  
22 GUESS YOU CAN CALL IT LEGAL TERMS OR LEGAL PRINCIPLES.  
23 MAYBE THAT'S NOT WHAT WE HAVE HERE. MAYBE JUST THE WORD  
24 "EXTENUATE" THERE IS A DISCUSSION AS TO WHAT THAT WORD  
25 MEANS.

26 MR. JAFFE: THE REASON WHY I THINK THE COURT REALLY  
27 MUST ACT AFFIRMATIVELY -- AND I THOUGHT ABOUT IT WHEN THE  
28 CLERK CALLED, THAT NORMALLY I WOULD WAIVE MY APPEARANCE

1 AND SAY JUST GO AHEAD AND DO WHAT YOU WANT TO DO.

2 BUT IN THIS PARTICULAR CASE BECAUSE IT'S A  
3 PENALTY PHASE OF A CAPITAL CASE AND THERE'S BEEN SO MUCH  
4 DISCUSSION IN APPELLATE DECISIONS ABOUT VAGUENESS IN TERMS  
5 OF THE JURY'S OBLIGATION TO VOTE LIFE OR DEATH AND WHAT  
6 PARAMETERS THEY HAVE AND WHAT ARE THE FACTORS FOR THEM TO  
7 CONSIDER, I THINK THAT THIS IS THE APPROPRIATE TIME FOR  
8 THE COURT TO DEFINE IT.

9 THE COURT: ALL RIGHT. DO YOU WANT TO GET THE  
10 ALTERNATES.

11  
12 (THE JURORS ENTERED THE  
13 COURTROOM AND THE FOLLOWING  
14 PROCEEDINGS WERE HELD:)

15  
16 THE COURT: ALL RIGHT. THE RECORD SHOULD REFLECT  
17 THAT THE JURORS AND THE ALTERNATES ARE NOW PRESENT. THE  
18 FOREPERSON HAS SENT A REQUEST ASKING THAT:

19 "COULD THE COURT PLEASE PROVIDE FURTHER  
20 DEFINITION OF THE WORD "EXTENUATES" AS IT APPLIES TO  
21 SPECIAL FACTOR (K) OF OUR JURY INSTRUCTIONS."

22 AND THE DEFINITION I AM GOING TO GIVE YOU,  
23 THE WORD "EXTENUATES" MEANS TO MITIGATE OR LESSEN.

24 AND WITH THAT, THE TWELVE OF YOU CAN RETURN  
25 AND CONTINUE YOUR DELIBERATIONS.

26

27

28

1 (THE JURORS EXITED THE COURTROOM  
2 AND THE FOLLOWING PROCEEDINGS  
3 WERE HELD:)

4  
5 THE COURT: ALL RIGHT. WE'LL BE IN RECESS UNTIL WE  
6 HEAR SOMETHING ELSE.

7  
8 (AT 4:00 P.M., THE EVENING ADJOURNMENT WAS  
9 TAKEN UNTIL FRIDAY, JUNE 9, 1995, AT 9:30  
10 A.M.)  
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1                   LOS ANGELES, CALIFORNIA; FRIDAY, JUNE 9, 1995

2                               9:30 A.M.

3 DEPARTMENT NO. 106

HON. EDWARD A. FERNS, JUDGE

4  
5                   (AT 9:30 A.M., THE JURY RESUMED  
6                   THEIR DELIBERATIONS; AND AT  
7                   12:00 P.M. A RECESS WAS TAKEN  
8                   UNTIL 1:30 P.M. OF THE SAME DAY.)  
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1                   LOS ANGELES, CALIFORNIA; FRIDAY, JUNE 9, 1995

2                                   1:30 P.M.

3 DEPARTMENT NO. 106

HON. EDWARD A. FERNS, JUDGE

4  
5                   (AT 1:30 P.M. THE JURY RESUMED  
6                   THEIR DELIBERATIONS; AND AT  
7                   4:00 P.M. THE MATTER WAS  
8                   CONTINUED UNTIL MONDAY,  
9                   JUNE 12, 1995, AT 9:30 A.M.)  
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1           LOS ANGELES, CALIFORNIA; MONDAY, JUNE 12, 1995

2                           9:20 A.M.

3   DEPARTMENT NO. 106

HON. EDWARD A. FERNS, JUDGE

4                           (APPEARANCES AS HERETOFORE NOTED.)

5  
6                           (THE FOLLOWING PROCEEDINGS WERE  
7                           HELD IN OPEN COURT OUTSIDE THE  
8                           PRESENCE OF THE JURY:)

9  
10           THE COURT:   ALL RIGHT.   RECALL THE CASE OF PEOPLE  
11   VERSUS REGIS THOMAS.   MR. THOMAS IS PRESENT.   MS. DOHERTY  
12   IS HERE ON HIS BEHALF.   ALSO PRESENT IS MR. ARNOLD.

13                       WE ARE OUT OF THE PRESENCE OF THE JURORS AND  
14   THE ALTERNATES.   AND MS. DOHERTY ASKED TO HAVE THE CASE  
15   CALLED.

16           MS. DOHERTY:   YES, YOUR HONOR.

17           THE COURT:   OR MR. JAFFE DID.

18           MS. DOHERTY:   YOUR HONOR, WHEN MR. ARNOLD GAVE HIS  
19   ARGUMENT, IF YOU WILL RECALL THAT HE MADE A COMMENT TO THE  
20   JURY.   IT IS ON PAGE 4861 OF THE TRANSCRIPT:

21                       "YOU WILL DELIBERATE, AND YOUR DECISION MUST  
22   BE UNANIMOUS.   IF YOU ARE NOT UNANIMOUS, IT IS A HUNG  
23   JURY.   A MISTRIAL WILL BE DECLARED ON THE PENALTY PORTION,  
24   AND THE ENTIRE THING HAS TO BE DONE ALL OVER AGAIN."

25                       THE COURT THEN ADMONISHED THE JURY TO  
26   DISREGARD THE COMMENT.

27                       THE CONCERN IS WHETHER OR NOT THE JURY  
28   UNDERSTANDS -- EVEN THOUGH THE COURT HAS ADMONISHED THEM,

1 WE JUST WANT TO ENSURE THEY UNDERSTAND THAT IT IS NOT THE  
2 WHOLE TRIAL THAT HAS TO BE REDONE, JUST THE PENALTY PHASE.

3 THE COURT: MR. ARNOLD, DO YOU WANT TO BE HEARD?

4 MR. ARNOLD: WELL, IF YOU INSTRUCT THEM ON THAT,  
5 THAT WILL THEN BE TELLING THEM TO CONSIDER WHAT I SAID  
6 WHEN YOU ALREADY TOLD THEM NOT TO CONSIDER WHAT I SAID.

7 I HAD NOT MADE MENTION OF THIS BEFORE, BUT I  
8 APOLOGIZE TO THE COURT FOR LETTING THOSE LAST FEW WORDS  
9 OUT THAT A MISTRIAL WOULD HAVE TO BE DECLARED AND THE CASE  
10 WOULD HAVE TO BE REDONE.

11 I WOULD ASK THAT YOU NOT DO IT. HOWEVER, IF  
12 YOU FEEL IT IS APPROPRIATE, I AM THE ONE THAT MADE THE  
13 MISTAKE, AND I APOLOGIZE.

14 IF THE COURT FEELS IT IS APPROPRIATE, THEN,  
15 BY ALL MEANS.

16 THE COURT: ANYTHING ELSE, MS. DOHERTY?

17 MS. DOHERTY: JUST THE FACT, YOUR HONOR, THAT THEY  
18 HAVE BEEN DELIBERATING FOR FOUR DAYS, AND THAT WAS THE --

19 MR. ARNOLD: HOLD ON.  
20

21 (JURORS PASS THROUGH THE COURTROOM)  
22

23 THE COURT: ALL RIGHT. MS. DOHERTY, YOU WERE  
24 SAYING ABOUT THE FACT THEY HAVE BEEN DELIBERATING FOR FOUR  
25 DAYS.

26 MS. DOHERTY: FOR FOUR DAYS. AND JUST THAT THEY  
27 UNDERSTAND THAT SOMETIMES A MISTRIAL DOES OCCUR.

28 I WILL SUBMIT ON THAT.

1 THE COURT: ALL RIGHT. AS YOU READ -- ACTUALLY YOU  
2 READ WHAT EACH OF US HAD SAID. MR. ARNOLD HAD SAID IN HIS  
3 ARGUMENT ABOUT -- YOU HAVE ALREADY READ THAT PORTION.

4 AND IT IS WITHIN SEVEN LINES OF THAT COMMENT  
5 THAT I INTERRUPTED HIM, INTERRUPTED MR. ARNOLD, AND SAID:

6 "LADIES AND GENTLEMEN, HIS COMMENT ABOUT WHAT  
7 WILL HAPPEN IF THERE IS A MISTRIAL, YOU ARE TO COMPLETELY  
8 DISREGARD THAT. THAT IS NOT A FACTOR IN YOUR  
9 DECISION-MAKING. AS IF YOU DIDN'T HEAR IT, DISREGARD IT.

10 "GO AHEAD, MR. ARNOLD."

11 I THINK THAT THAT SATISFIES IT BECAUSE IT IS  
12 NOT A FACTOR. I MEAN THEY ARE DECIDING DEATH OR LIFE  
13 WITHOUT THE POSSIBILITY OF PAROLE, AND I THINK THAT TRULY  
14 WITH THIS JURY -- IT TOOK -- THEY DELIBERATED FOR PROBABLY  
15 14 DAYS ON THE GUILT PHASE.

16 I THINK THAT THEY ARE UNUSUAL AS IT MAY SEEM.  
17 MANY JURORS DO THINGS ON EMOTION, AND I DON'T THINK THIS  
18 GROUP IS. I THINK THAT AS WE SAW IN THE GUILT PHASE, THEY  
19 DATED ONE VERDICT FORM -- OR TWO VERDICT FORMS I THINK IT  
20 WAS MAY 12TH, AND THEN THEY RETURNED WITH THEIR OTHER  
21 VERDICT MAY 17TH OR SOMETHING LIKE THAT. SO OF THE THREE  
22 MURDERS, THEY ARE DOING IT IN A SYSTEMATIC MANNER.

23 THE FACT THAT THEY ARE STILL DELIBERATING I  
24 THINK IS POSITIVE. THEY ARE PROBABLY FOLLOWING THE  
25 INSTRUCTIONS.

26 SO I WILL DENY YOUR REQUEST.

27 I JUST WANT TO PUT SOMETHING ON THE RECORD.

28 MR. ARNOLD: HOLD ON.

1 THE COURT: OKAY.

2

3 (A JUROR PASSES THROUGH THE COURTROOM)

4

5 THE COURT: AT THE CLOSE OF THE CASE, I HAD TOLD  
6 THEM THAT IF THEY WANTED ANY EXHIBITS FROM THE GUILT PHASE  
7 OF THE TRIAL THEY COULD HAVE THEM.

8 THEY SENT OUT A NOTE ON FRIDAY MAKING CERTAIN  
9 REQUESTS. I ASSUME -- I THINK MY CLERK HAD CONTACTED EACH  
10 OF YOUR OFFICES.

11 AND THEY ASKED:

12 COULD THE COURT CLERK PLEASE PROVIDE THE  
13 FOLLOWING PEOPLE'S EXHIBITS FROM THE GUILT PHASE OF THE  
14 TRIAL:

15 X RAYS OF KEVIN BURRELL'S HEAD. THEY'VE GOT  
16 PEOPLE'S 102, 103, WITH A QUESTION MARK, AND ARM, PEOPLE'S  
17 88.

18 TWO, THE PHOTO DISPLAYS OF MANNEQUINS SHOWING  
19 BULLET TRAJECTORY, PEOPLE'S 91 AND 97.

20 THREE, THE AUTOPSY PHOTOS OF ALL THE VICTIMS.

21 THEY THEN SENT OUT ANOTHER QUESTION  
22 REQUESTING DEFENSE EXHIBIT W FROM THE GUILT PHASE.

23 MY CLERK PROVIDED THEM PEOPLE'S 10, 50, 84,  
24 88, 89, 91, 97, 102, 103, 104, AND DEFENDANT'S W.

25 ALL RIGHT. WITH THAT WE'LL BE IN RECESS  
26 UNTIL WE HEAR FROM THEM.

27 MR. ARNOLD: THANK YOU, YOUR HONOR.

28 THE COURT: THANK YOU.

1  
2 (AT 9:30 A.M., THE JURY RESUMED  
3 THEIR DELIBERATIONS; AND AT  
4 12:00 P.M. A RECESS WAS TAKEN  
5 UNTIL 1:30 P.M. OF THE SAME DAY.)  
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1                   LOS ANGELES, CALIFORNIA; MONDAY, JUNE 12, 1995

2                               1:30 P.M.

3 DEPARTMENT NO. 106

HON. EDWARD A. FERNS, JUDGE

4  
5                   (AT 1:30 P.M. THE JURY RESUMED  
6                   THEIR DELIBERATIONS; AND AT  
7                   4:00 P.M. THE MATTER WAS  
8                   CONTINUED UNTIL TUESDAY,  
9                   JUNE 13, 1995, AT 9:30 A.M.)  
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1 LOS ANGELES, CALIFORNIA; TUESDAY, JUNE 13, 1995

2 9:30 A.M.

3 DEPARTMENT NO. 106

HON. EDWARD A. FERNS, JUDGE

4

5 (AT 9:30 A.M., THE JURY RESUMED

6                      THEIR DELIBERATIONS; AND AT

7 12:00 P.M. A RECESS WAS TAKEN

8 UNTIL 1:30 P.M. OF THE SAME DAY.)

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1           LOS ANGELES, CALIFORNIA; TUESDAY, JUNE 13, 1995

2                           1:30 P.M.

3 DEPARTMENT NO. 106

HON. EDWARD A. FERNS, JUDGE

4  
5                           (AT 1:30 P.M. THE JURY RESUMED  
6                           THEIR DELIBERATIONS; AND AT  
7                           4:00 P.M. THE MATTER WAS  
8                           CONTINUED UNTIL WEDNESDAY,  
9                           JUNE 14, 1995, AT 9:30 A.M.)  
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1       LOS ANGELES, CALIFORNIA; WEDNESDAY, JUNE 14, 1995

2                       9:30 A.M.

3       DEPARTMENT NO. 106

HON. EDWARD A. FERNS, JUDGE

4  
5                       (AT 9:30 A.M., THE JURY RESUMED

6                       THEIR DELIBERATIONS; AND AT

7                       12:00 P.M. A RECESS WAS TAKEN

8                       UNTIL 1:00 P.M. OF THE SAME DAY.)

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1 LOS ANGELES, CALIFORNIA; WEDNESDAY, JUNE 14, 1995

2 1:00 P.M.

3 DEPARTMENT NO. 106

HON. EDWARD A. FERNS, JUDGE

4 (APPEARANCES AS HERETOFORE NOTED.)

5  
6 (AT 1:00 P.M. THE JURY RESUMED  
7 THEIR DELIBERATIONS; AND AT  
8 1:30 P.M. THE FOLLOWING PROCEEDINGS  
9 WERE HELD IN OPEN COURT OUTSIDE  
10 THE PRESENCE OF THE JURY:)

11  
12 THE COURT: ALL RIGHT. RECALL THE CASE OF REGIS  
13 THOMAS. MR. THOMAS IS PRESENT WITH RESPECTIVE COUNSEL.  
14 WE ARE OUT OF THE PRESENCE OF THE JURORS AND THE  
15 ALTERNATES.

16 MR. JAFFE, MY CLERK INFORMED ME THAT YOU  
17 WANTED TO CALL THIS MATTER THIS AFTERNOON.

18 MR. JAFFE: YES, I WANTED TO ASK THE COURT TO DO  
19 SOMETHING.

20 AS A MATTER OF FACT, JUST AS THE COURT WAS  
21 COMING OUT, MR. THOMAS HAD MADE A STATEMENT TO ME BEFORE  
22 THE COURT CALLED THE CASE. HE SAID WHY DON'T YOU ASK THE  
23 JUDGE TO TELL THE JURY -- NO, HE SAID IF THE JURY DOES  
24 COME BACK WITH A VERDICT OF DEATH, WHY DON'T YOU <sup>pull</sup> POLE THEM  
25 TO SEE WHETHER OR NOT THEY THOUGHT THAT IF THEY WEREN'T  
26 UNANIMOUS, THAT THE GUILT PHASE WOULD HAVE TO BE RETRIED.

27 AND I TOLD HIM THAT'S EXACTLY THE REASON I AM  
28 HERE TODAY.

1                   SO HE UNDERSTANDS THE REASON. I DID NOT EVEN  
2 TELL HIM THE REASON I WAS HERE TODAY. BUT THAT'S EXACTLY  
3 THE REASON I AM HERE, YOUR HONOR.

4                   TODAY IS THE SEVENTH DAY OF DELIBERATIONS.  
5 MY INSTINCTS TELL ME THAT THERE MAY BE A POSSIBILITY THAT  
6 THIS JURY MAY FEEL THAT IF THEY CAN'T REACH UNANIMITY ON  
7 THE PENALTY PHASE THAT THE GUILT PHASE WOULD HAVE TO BE  
8 RETRIED.

9                   AND I REALLY DON'T SEE THE HARM IN ADVISING  
10 THE JURY THAT IF THEY CANNOT REACH A UNANIMOUS DECISION ON  
11 PENALTY, THAT THE VERDICT REGARDING THE GUILT PHASE  
12 REMAINS INTACT. I DON'T SEE THE PROBLEM WITH DOING THAT.

13                  SHOULD, HYPOTHETICALLY, THE JURY THEN COME  
14 BACK WITH A DEATH VERDICT AND WE WERE ABLE TO INTERVIEW  
15 SOME JURORS AND MY INSTINCTS ARE RIGHT THAT THEY FELT THAT  
16 THEY HAD TO BE UNANIMOUS, THEN THEY WOULD HAVE NOT ADHERED  
17 TO THE COURT'S ADMONITION THAT THEY WERE TO DISREGARD ANY  
18 STATEMENT MADE BY THE PROSECUTION IN THE PENALTY PHASE  
19 ARGUMENT THAT A MISTRIAL WOULD BE DECLARED AND THIS WHOLE  
20 THING WOULD HAVE TO BE RETRIED.

21                  NOW, THEY MAY BELIEVE THAT THIS WHOLE THING  
22 WOULD HAVE TO BE RETRIED, MEANING THE ENTIRE CASE,  
23 INCLUDING THE GUILT PHASE.

24                  I JUST CAN'T SEE ANY HARM IN TELLING THE  
25 JURY -- WE ARE NOT TELLING THEM ANY FEW FACTS. WE ARE NOT  
26 TELLING THEM ANY NEW LAW, BUT IF THAT'S A POSSIBILITY, AND  
27 HERE IT'S THE SEVENTH DAY.

28                  THE COURT: MR. ARNOLD?

1 MR. ARNOLD: I WOULD OBJECT TO YOU SAYING ANYTHING.  
2 IT WOULD APPEAR THAT THEY ARE DELIBERATING AS  
3 CONSCIENTIOUSLY AS THEY DID DURING THE GUILT PHASE.

4 THESE PEOPLE KNOW THAT THEY CAN SEND NOTES  
5 OUT TO YOU IF THEY ARE HAVING PROBLEMS, AND IT'S MY  
6 UNDERSTANDING THAT THERE HAVE BEEN NO NOTES. I WOULD ASK  
7 THAT YOU NOT ADMONISH THEM IN ANY WAY.

8 THE COURT: ANYTHING ELSE, MR. JAFFE?

9 MR. JAFFE: NO.

10 THE COURT: WELL, HERE'S THE SITUATION. MY FEELING  
11 ABOUT THIS -- AND I KNOW MS. DOHERTY WAS HERE THE OTHER  
12 DAY ASKING ME NOT EXACTLY THE SAME THING, BUT SOMETHING  
13 VERY SIMILAR ON BEHALF OF MR. THOMAS WHO WAS IN THE  
14 COURTROOM AT THE TIME.

15 AND AS I SAID, SHE POINTED OUT THE ARGUMENT,  
16 THE FINAL ARGUMENT, PENALTY PHASE OF MR. ARNOLD AT PAGE  
17 4861, AND IT BEGAN -- HIS COMMENT WAS AT LINE 20 THROUGH  
18 23.

19 THEN PAGE 4862, LINES 3 THROUGH 8, I  
20 INTERRUPTED HIS ARGUMENT AND TOLD THEM THAT THIS IS NOT A  
21 FACTOR IN THEIR DECISION-MAKING.

22 NOW, THAT WAS EARLY IN HIS ARGUMENT. I THINK  
23 IT WAS CURED.

24 THIS JURY -- YOU KNOW, I DON'T KNOW WHAT THEY  
25 ARE DOING OR HOW THEY ARE GOING ABOUT IT. OBVIOUSLY MANY  
26 OF US THAT HAVE BEEN THROUGH THIS WERE SURPRISED AT THE  
27 LENGTH OF TIME THEY TOOK -- I SHOULD NOT SPEAK FOR THE TWO  
28 OF YOU. I WILL SPEAK FOR MYSELF.

1           IT TOOK A VERY LONG TIME AT THE GUILT PHASE.  
2   AND THEY TOOK A VERY LONG TIME -- I WON'T SAY A VERY LONG  
3   TIME. TYPICALLY, A SIGNIFICANT PERIOD OF TIME IN THE  
4   PENALTY. THEY ARE STILL DELIBERATING.

5           THEY ASKED A QUESTION RIGHT AWAY WHEN THEY  
6   GOT INTO THEIR DISCUSSIONS ABOUT DEFINING THE WORD  
7   "EXTENUATE" OR "EXTENUATING." IT WAS DEFINED FOR THEM.  
8   THEY RETURNED TO CONTINUE THEIR DELIBERATIONS.

9           THEY HAD ASKED FOR SOME EXHIBITS, AND I PUT  
10  ON THE RECORD WHAT EXHIBITS THEY HAVE PREVIOUSLY ASKED  
11  FOR, AND THE CLERK GAVE THEM TO THEM. AND I TOLD THEM IF  
12  THEY NEEDED ANYTHING TO ASK FOR IT.

13          ON JUNE 12TH MY CLERK INFORMED ME -- MY CLERK  
14  INFORMED ME THAT HE CONTACTED BOTH LAWYERS AS FAR AS THEIR  
15  REQUEST FOR PEOPLE'S 11 AND 46. AND THAT WAS PROVIDED TO  
16  THEM.

17          BUT I'M NOT GOING TO INSTRUCT THEM AS TO WHAT  
18  IS THE SIGNIFICANCE AND/OR THE CONSEQUENCES OR LACK OF  
19  CONSEQUENCES ON THE GUILT IF THEY DO NOT REACH A VERDICT  
20  ON THE PENALTY PHASE.

21          THIS IS ONE OF THESE SITUATIONS THAT I  
22  REALIZE, MR. JAFFE, YOU FEEL THAT THERE CAN BE NO HARM IN  
23  IT. WHETHER AN APPELLATE LAWYER TAKES THAT SAME POSITION  
24  IF A DEATH VERDICT WAS RETURNED AND WHETHER THE CALIFORNIA  
25  SUPREME COURT OR THE 9TH CIRCUIT TOOK THAT POSITION, I'M  
26  NOT WILLING AT THIS TIME TO VENTURE AN OPINION OTHER THAN  
27  TO SAY THAT WITHOUT A REQUEST FROM THEM AS TO ANY OTHER  
28  INFORMATION OR ANY OTHER DIRECTION BY THE COURT, I AM NOT

1 GOING TO CALL THEM OUT AND INFORM THEM OF THAT.

2 MR. JAFFE: OKAY.

3 THE COURT: IF IT WERE SOMETHING THAT WAS  
4 SPECIFICALLY ASKED, THEN I WOULD HAVE TO GIVE IT SOME  
5 THOUGHT. BUT AT THIS POINT I'M NOT AT THE REQUEST OF THE  
6 DEFENSE OR THE PROSECUTION ON MY OWN MOTION GOING TO DO  
7 THAT.

8 THEY ARE DELIBERATING. YESTERDAY THEY ASKED  
9 TO GO HOME AT 3:30, AND THEY WERE EXCUSED AT THAT TIME.  
10 BUT OTHER THAN THAT, THEY COME IN IN A TIMELY MANNER.  
11 THEY ARE HERE. I -- THEY GO OUT AT LUNCH. THEY COME  
12 BACK. AS FAR AS I'M CONCERNED, THEY MUST BE DELIBERATING.

13 MR. JAFFE: I KNOW THERE HAVE BEEN CASES -- I KNOW  
14 THIS FROM PERSONAL KNOWLEDGE WHERE THERE HAVE BEEN  
15 MULTIPLE COUNTS TRIED BEFORE A JURY.

16 FOR INSTANCE, THREE COUNTS. THEY COME TO A  
17 VERDICT ON TWO COUNTS, SIGN THOSE VERDICT FORMS, AND NOW  
18 ARE DELIBERATING ON COUNT III, AND THEY SEND A NOTE OUT IF  
19 THEY FAIL TO REACH A VERDICT ON COUNT III DOES THAT  
20 INVALIDATE OUR VERDICTS ON COUNT I AND II.

21 THE COURT: RIGHT.

22 MR. JAFFE: SO IT IS SORT OF A --

23 THE COURT: I HAD THAT HAPPEN IN THE LAST TRIAL,  
24 THE LAST SPECIAL CIRCUMSTANCE. IF WE COULD REACH A  
25 VERDICT ON CERTAIN COUNTS, WHAT HAPPENS IF WE CAN'T ON THE  
26 OTHERS. BUT THAT WAS AN INQUIRY ON THEIR PART.

27 MR. JAFFE: ALL RIGHT.

28 THE COURT: WHILE I HAVE BOTH OF YOU HERE, I WAS

1 GOING TO HAVE MY CLERK BRING YOU IN ON FRIDAY, BUT SINCE  
2 YOU ARE HERE, AS YOU KNOW, MY VACATION BEGINS JUNE 19TH.  
3 JUDGE O'NEILL IS GOING TO TAKE THE VERDICT IF THEY REACH A  
4 VERDICT OR HANDLE ANY QUESTIONS. JUDGE FLYNN ALSO  
5 VOLUNTEERED. I WAS TALKING TO HIM YESTERDAY. SO I FEEL  
6 IT IS IN GOOD HANDS, EITHER ONE OF THEM.

7               HOWEVER, ONE OF THE JURORS HAS NOTIFIED --  
8 INFORMED MY CLERK THAT ON THE 16TH SHE HAS A GRADUATION  
9 FOR A FAMILY MEMBER AT SC IN THE AFTERNOON.

10              SO IF THEY HAVE NOT REACHED A VERDICT, IT IS  
11 MY INTENTION TO CUT THEM -- GIVE THEM FRIDAY AFTERNOON  
12 OFF.

13              ALSO, ANOTHER JUROR HAS INFORMED MY CLERK  
14 THAT HE HAS RESERVATIONS AND HE -- I DON'T KNOW WHETHER HE  
15 MENTIONED IT EARLY ON IN THE CASE, BUT WE DID NOT EXPECT  
16 THEM TO STILL BE HERE. HE AND HIS FAMILY HAVE  
17 RESERVATIONS AT YOSEMITE JUNE 19TH THROUGH JUNE 20TH.

18              NOW, MY INCLINATION WITHOUT HEARING FROM YOU,  
19 AND IF THERE THEY ARE STILL DELIBERATING AS OF FRIDAY,  
20 I'LL HAVE YOU DOWN, BUT MY INCLINATION IS TO GIVE THEM  
21 THOSE TWO DAYS OFF SINCE THEY HAVE BEEN IN THIS PROCESS  
22 NOW FOR SEVEN DAYS, RATHER THAN HAVE -- AND THEN HAVE THEM  
23 COME BACK ON WEDNESDAY TO CONTINUE THEIR DELIBERATIONS.

24              ANOTHER ALTERNATE HAS INFORMED THE COURT  
25 STAFF THAT SHE HAS A VACATION BEGINNING JUNE 19TH. IT MAY  
26 HAVE BEEN THE WOMAN THAT RAISED IT. I KNOW ONE JUROR  
27 RAISED THE FACT THAT THEY HAD A VACATION, AND I SAID DON'T  
28 WORRY ABOUT IT BECAUSE I'LL BE GONE, YOU DON'T HAVE TO



1 WORRY ABOUT BEING HERE.

2 IF IN FACT IT IS ONE OF THE -- IT IS A  
3 SCHEDULED VACATION FOR A WEEK OR TWO WEEKS. IT WOULD BE  
4 MY INCLINATION, UNLESS I HEAR OTHERWISE FROM COUNSEL, TO  
5 EXCUSE HER FROM THE JURY SERVICE SINCE IT'S AN ALTERNATE.

6 AND BASICALLY THEY -- THE FIVE OF THEM SAT  
7 OUT IN THE HALL TALKING TO EACH OTHER EACH AND EVERYDAY,  
8 NOT ABOUT THE CASE. BUT I JUST WANTED TO INFORM YOU OF  
9 THAT SO YOU CAN GIVE IT SOME THOUGHT, BUT THOSE WERE MY --  
10 HOW I FEEL ABOUT HANDLING IT.

11 THEY MAY REACH A VERDICT. I DON'T KNOW. I  
12 DON'T THINK THAT THE JURORS KNOW OR REMEMBER THAT I'M NOT  
13 GOING TO BE HERE. I DON'T THINK THAT WHEN THEY COME IN  
14 THEY SEE THE ITEMS MARKED OFF.

15 THEY KNOW THAT IN THE MORNING WHEN THEY WALK  
16 THROUGH SOMETHING IS DIFFERENT IN THAT I AM CALLING  
17 DEPARTMENT 117S CALENDAR BECAUSE WE HAVE A LOT OF PEOPLE  
18 SITTING IN THE AUDIENCE AND A LOT OF LAWYERS MILLING  
19 AROUND AND TALKING.

20 ANYTHING FURTHER, MR. JAFFE?

21 MR. JAFFE: NO.

22 THE COURT: MR. ARNOLD?

23 MR. ARNOLD: SO YOU ARE GOING TO BE -- THEY WILL  
24 NOT BE DELIBERATING FRIDAY AFTERNOON, MONDAY, OR TUESDAY?

25 THE COURT: YES, THAT'S WHAT I WILL TELL THEM WHEN  
26 I EXCUSE THEM ON FRIDAY IF YOU HAVE NO OBJECTION TO THAT  
27 PROCEDURE.

28 MR. ARNOLD: THAT'S FINE.

1 THE COURT: ALL RIGHT.

2 MR. JAFFE: HAVE A NICE VACATION IF I DON'T SEE  
3 YOU.

4 THE COURT: WELL, YOU'LL SEE ME FRIDAY BECAUSE I  
5 WILL HAVE YOU HERE JUST TO EXCUSE THE ONE ALTERNATE ON THE  
6 RECORD AND EXPLAIN TO THE OTHER JURORS WHAT IS GOING ON.

7 I WILL NOT MENTION TO THEM THOUGH -- WELL,  
8 MAYBE I WILL MENTION TO THEM IF IT IS 12:00 NOON ON FRIDAY  
9 THAT I AM GOING ON VACATION. ANOTHER JUDGE IS GOING TO  
10 HANDLE ANY QUESTIONS OR ANY FURTHER PROCEEDINGS THAT MAY  
11 ARISE IN THE CASE.

12 MR. ARNOLD: IF THERE ARE PROCEEDINGS IN FRONT OF  
13 ANOTHER JUDGE, WILL IT BE IN THIS COURT?

14 THE COURT: COURTROOM?

15 MR. ARNOLD: YES.

16 THE COURT: YES. I WON'T MOVE THEM AROUND.

17 ALL RIGHT. THEN WE'LL BE IN RECESS UNTIL WE  
18 HEAR SOMETHING FROM THE JURORS.

19

20 (AT 3:00 P.M., THE EVENING ADJOURNMENT WAS  
21 TAKEN UNTIL THURSDAY, JUNE 15, 1995, AT  
22 9:30 A.M.)

23

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1           LOS ANGELES, CALIFORNIA; THURSDAY, JUNE 15, 1995

2                           9:30 A.M.

3 DEPARTMENT NO. 106

HON. EDWARD A. FERNS, JUDGE

4  
5                           (AT 9:30 A.M., THE JURY RESUMED  
6                           THEIR DELIBERATIONS; AND AT  
7                           12:00 P.M. A RECESS WAS TAKEN  
8                           UNTIL 1:30 P.M. OF THE SAME DAY.)

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1 LOS ANGELES, CALIFORNIA; THURSDAY, JUNE 15, 1995

2 1:30 P.M.

3 DEPARTMENT NO. 106

HON. EDWARD A. FERNS, JUDGE

4  
5 (AT 1:30 P.M. THE JURY RESUMED  
6 THEIR DELIBERATIONS; AND AT  
7 4:00 P.M. THE MATTER WAS  
8 CONTINUED UNTIL FRIDAY,  
9 JUNE 16, 1995, AT 8:30 A.M.)  
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1           LOS ANGELES, CALIFORNIA; FRIDAY, JUNE 16, 1995

2                   10:50 A.M.

3   DEPARTMENT NO. 106

HON. EDWARD A. FERNS, JUDGE

4                   (APPEARANCES AS HERETOFORE NOTED.)

5  
6                   (AT 8:45 A.M. THE JURORS RESUMED  
7                   THEIR DELIBERATIONS; AND AT 10:50  
8                   A.M. THE FOLLOWING PROCEEDINGS WERE  
9                   HELD IN OPEN COURT OUTSIDE THE  
10                  PRESENCE OF THE JURY:)

11  
12                THE COURT:   CALL THE CASE OF PEOPLE VERSUS REGIS  
13   THOMAS.   MR. THOMAS IS PRESENT.   RESPECTIVE COUNSEL ARE  
14   PRESENT.

15                   I'LL SEE COUNSEL AT THE SIDE.

16  
17                   (THE FOLLOWING PROCEEDINGS WERE HELD  
18                   AT THE BENCH:)

19  
20                THE COURT:   I JUST WANT TO PUT ON THE RECORD WE HAD  
21   TALKED YESTERDAY ON THE RECORD ABOUT SCHEDULING AS FAR AS  
22   LETTING JURORS OFF OR NOT OFF AND THAT TYPE OF THING.

23                   DAVID, WHO WAS THE JUROR THAT HAD A  
24   COMMITMENT THIS AFTERNOON?

25                THE CLERK:   NUMBER 88.

26                THE COURT:   OKAY.   AND HER NAME IS?

27                THE CLERK:   BEVERLY REED.

28                THE COURT:   ALL RIGHT.   AND YOU HAD TOLD HER

1 YESTERDAY THAT WE WOULD LET HER GO TO THE GRADUATION; IS  
2 THAT CORRECT?

3 THE CLERK: THAT'S CORRECT.

4 THE COURT: AND THE CLERK ALSO HAD INFORMED ALL THE  
5 JURORS YESTERDAY AT THE END OF THE DAY THAT THEY WERE  
6 COMING IN AT 8:30 THIS MORNING AND WERE GOING TO BE  
7 EXCUSED AT NOON.

8 AND I THINK THAT THEY BUZZED WITH A VERDICT  
9 ABOUT 9:00.

10 THERE WAS THE OTHER JUROR WHO WAS CONCERNED  
11 ABOUT MONDAY AND TUESDAY, AND WE -- I BELIEVE THEY HAD  
12 COMMUNICATED WITH HIM THAT WE WOULD TAKE IT UP ON FRIDAY  
13 AND NOT TO BE CONCERNED ABOUT HIS PRIOR COMMITMENT. AND I  
14 THINK THAT'S WHAT THE CLERK TOLD HIM.

15 IS THAT CORRECT?

16 THE CLERK: THAT'S CORRECT.

17 THE COURT: ALL RIGHT. IS THERE ANYTHING ELSE?

18 MR. JAFFE: NO.

19 THE COURT: ANYTHING ELSE?

20 ALL RIGHT. WE WILL BE IN RECESS UNTIL -- YOU  
21 SAID THAT DETECTIVE BUMCROT IS ON HIS WAY.

22 MR. ARNOLD: YES, HE LEFT A MESSAGE THAT I RECEIVED  
23 THAT HE WANTS TO BE HERE. HE IS ON THE WAY, BUT HE SAID  
24 HE MAY BE A LITTLE LATE.

25 SO I WOULD ASK THAT YOU WAIT UNTIL 11:15. IF  
26 HE IS NOT HERE BY 11:15, THEN YOU JUST GO FORWARD.

27 THE COURT: MR. JAFFE, I SEE HIS WIFE, MR. THOMAS'  
28 WIFE IS HERE.

1 IS THERE ANYBODY ELSE YOU NEED TO WAIT FOR?

2 MS. DOHERTY: WELL, HIS MOTHER AND HIS AUNT ARE ON  
3 THEIR WAY.

4 THE COURT: ALL RIGHT. WE'LL BE IN RECESS THEN.

5

6 (RECESS)

7

8 (THE FOLLOWING PROCEEDINGS WERE  
9 HELD IN OPEN COURT OUTSIDE THE  
10 PRESENCE OF THE JURY:)

11

12 THE COURT: ALL RIGHT. RECALL THE CASE OF REGIS  
13 THOMAS.

14 MR. THOMAS IS PRESENT. RESPECTIVE COUNSEL.  
15 THE DETECTIVES. WE ARE OUT OF THE PRESENCE OF THE JURORS  
16 AND ALTERNATES.

17 COUNSEL, I MEANT TO BRING UP SOMETHING ELSE  
18 AT THE SIDEBAR. LET ME TALK TO YOU FOR A SECOND.

19

20 (THE FOLLOWING PROCEEDINGS WERE HELD  
21 AT THE BENCH:)

22

23 THE COURT: THE JURORS SENT OUT A NOTE THIS  
24 MORNING, AND IT'S BASICALLY SOMETHING THAT I CAN -- I AM  
25 GOING TO HANDLE ON THE RECORD, BUT I JUST WANTED YOU TO BE  
26 AWARE OF IT.

27

28 THE FIRST ONE IS:  
COULD THE CLERK PLEASE CONTACT THE JURY ROOM

1 TO HAVE THEM GENERATE OUR PAPERWORK.

2 THEY ARE STILL GOING TO HAVE TO GO DOWN  
3 THERE. I THINK THEY WANTED TO GET OUT OF THE BUILDING  
4 WITHOUT THE MEDIA BOTHERING THEM IS MY INSTINCT ON THAT.

5 THE SECOND ONE IS:

6 ALSO, WHATEVER STEPS CAN BE TAKEN TO KEEP OUR  
7 NAMES AND OTHER PERSONAL INFORMATION CONFIDENTIAL WOULD BE  
8 APPRECIATED, UNLESS OTHERWISE DIRECTED ON AN INDIVIDUAL  
9 BASIS.

10 WHAT I AM INTENDING TO DO IS -- I THINK IT'S  
11 237(B) OF THE CODE OF CIVIL PROCEDURE. I AM GOING TO MAKE  
12 AN ORDER CONDITIONALLY SEALING ALL THE INFORMATION THAT  
13 HAS TO DO WITH THE JURORS. AND I'LL FIND THAT THERE IS  
14 GOOD CAUSE BASED ON THE CASE THAT IS INVOLVED.

15 I WILL TELL THE JURORS THOUGH THAT I AM DOING  
16 THAT. I WILL TELL THEM THOUGH THAT IF UNDER THE LAW AT  
17 SOME POINT EITHER OF THE LAWYERS HAS THE RIGHT TO CONTACT  
18 THEM, EITHER PERSONALLY OR BY INVESTIGATORS, THAT I WILL  
19 SEND THEM LETTERS NOTIFYING THEM THAT I HAVE MADE SUCH AN  
20 ORDER, AND THAT THE LAWYERS WILL BE CONTACTING THEM DOWN  
21 THE ROAD OR THEIR INVESTIGATORS. JUST SO THAT THEY ARE  
22 AWARE OF THAT.

23 MR. ARNOLD: ARE YOU GOING TO TELL THEM ON THE  
24 RECORD THAT IF THEY WANT TO TALK TO US, THEY ARE WELCOME  
25 TO DO THAT?

26 THE COURT: YES.

27 MR. ARNOLD: ALTHOUGH I HAVE A FEELING THAT THEY  
28 ARE NOT GOING TO WANT TO.



1 THE COURT: AND WHAT I INTEND TO DO ALSO IS AFTER I  
2 TAKE THE VERDICT, I'M GOING TO HAVE THEM GO BACK IN THE  
3 JURY ROOM WITH THE ALTERNATES.

4 AND IF IN FACT THEY WANT TO BE ESCORTED DOWN  
5 THE BACK ELEVATOR, THE SERVICE ELEVATOR BY THE DEPUTIES,  
6 I'LL LET THEM DO THAT.

7 MR. ARNOLD: ALL RIGHT.

8 THE COURT: AND IT MAY BE A SITUATION THOUGH THAT  
9 THEY HAVE TO GO TO THE 11TH FLOOR FIRST, THE JURY ROOM.  
10 BUT THAT MAY BE WHATEVER.

11 ACTUALLY, WHAT I AM GOING TO DO I AM GOING TO  
12 TELL MY CLERK TO CALL THE JURY ROOM TO TELL THEM TO STAY  
13 OPEN SO THAT THEY DON'T GO TO LUNCH AT A QUARTER TO 12:00.

14 MR. ARNOLD: OKAY.

15 THE COURT: ANYTHING ELSE?

16 MR. JAFFE: NO.

17 THE COURT: READY?

18 MR. ARNOLD: YES. ALL RIGHT.

19

20 (THE FOLLOWING PROCEEDINGS WERE  
21 HELD IN OPEN COURT OUTSIDE THE  
22 PRESENCE OF THE JURY:)

23

24 THE COURT: ALL RIGHT. ARE YOU READY TO PROCEED,  
25 MR. JAFFE?

26 MR. JAFFE: YES.

27 THE COURT: MR. ARNOLD?

28 MR. ARNOLD: SIR?

1 THE COURT: ARE YOU READY?

2 MR. ARNOLD: YES.

3 THE COURT: ALL RIGHT. DO YOU WANT TO BUZZ OUT THE  
4 JURORS, PLEASE.

5 THE BAILIFF: THE ALTERNATES?

6 THE COURT: PLEASE.

7

8 (AT 11:30 A.M. THE JURORS ENTERED  
9 THE COURTROOM AND THE FOLLOWING  
10 PROCEEDINGS WERE HELD:)

11

12 THE COURT: ALL RIGHT. GOOD MORNING, LADIES AND  
13 GENTLEMEN.

14 THE JURY (COLLECTIVELY): GOOD MORNING.

15 THE COURT: THE RECORD SHOULD REFLECT THAT THE  
16 JURORS AND THE ALTERNATES ARE NOW PRESENT.

17 MR. FOREMAN, WE HEARD THREE BUZZES.

18 DO YOU HAVE A VERDICT?

19 THE FOREMAN: YES, WE DO, YOUR HONOR.

20 THE COURT: ALL RIGHT. LET ME JUST COVER  
21 SOMETHING. I MEANT TO DO THIS BEFORE YOU CAME OUT, BUT  
22 I'LL DO IT WHILE YOU ARE HERE.

23 LADIES AND GENTLEMEN, THE FOREPERSON HAS  
24 INDICATED TO ME THEY HAVE A VERDICT. AGAIN, IF -- WE ARE  
25 GOING TO HAVE A PROCEDURE OF READING THE VERDICT AND THEN  
26 PROBABLY POLLING THE JURORS AS WE DID IN THE GUILT PHASE  
27 OF THE CASE.

28 IF THERE IS ANY AUDIBLE OUTCRY LIKE THERE WAS

1 IN THE GUILT PHASE, THAT PERSON WILL BE REMOVED FROM THE  
2 COURTROOM.

3 SO EVERYBODY IS ON NOTICE. AND I'LL STOP  
4 THIS TIME AND HAVE YOU REMOVED. JUST SO THAT YOU ARE ALL  
5 AWARE OF THAT.

6 DID YOU BRING BOTH FORMS OUT?

7 THE FOREPERSON: (NODS HEAD.)

8 THE COURT: CAN YOU HAND BOTH FORMS TO THE BAILIFF,  
9 PLEASE.

10

11 (PAUSE IN THE PROCEEDINGS.)

12

13 THE COURT: ALL RIGHT. I'LL HAVE THE CLERK READ  
14 THE VERDICT FORM.

15 THE CLERK: TITLE OF COURT AND CAUSE:

16

WE, THE JURY IN THE  
17 ABOVE-ENTITLED ACTION, HAVING FOUND THE  
18 DEFENDANT, REGIS DEON THOMAS, GUILTY OF  
19 FIRST DEGREE MURDER IN COUNT II AND III,  
20 AND HAVING FOUND THE SPECIAL CIRCUMSTANCES  
21 TRUE, FIX THE PENALTY OF DEATH.

22 THE VERDICT FORM IS SIGNED THE 16TH DAY OF  
23 JUNE, 1995, BY THE FOREPERSON.

24 LADIES AND GENTLEMEN OF THE JURY, IS THIS  
25 YOUR VERDICT SO SAY YOU ONE, SO SAY YOU ALL?

26

27 (THE JURORS ANSWERED IN THE AFFIRMATIVE.)

28

1 THE COURT: MR. JAFFE, DO YOU WANT THE JURORS  
2 POLLED?

3 MR. JAFFE: YES, PLEASE.

4 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, AS WE  
5 DID IN THE OTHER PHASE OF THE TRIAL, THE CLERK IS GOING TO  
6 CALL OUT YOUR -- THE JUROR NUMBER WE HAVE GIVEN YOU AND  
7 YOUR SEAT DESIGNATION.

8 HE IS GOING TO ASK YOU IF THAT IS YOUR  
9 VERDICT. IF IT IS YOUR VERDICT, YOU SAY YES. IF IT IS  
10 NOT, YOU TELL US IT IS NOT.

11 GO AHEAD, DAVID.

12 THE CLERK: AS I CALL YOUR NAME, PLEASE ANSWER YES  
13 OR NO TO THE FOLLOWING QUESTION: IS THIS YOUR VERDICT?

14 JUROR NUMBER 35 IN SEAT NUMBER 1?

15 JUROR NO. 1: YES.

16 THE CLERK: JUROR NUMBER 97 IN SEAT NUMBER 2?

17 JUROR NO. 2: YES.

18 THE CLERK: JUROR NUMBER 36 IN SEAT NUMBER 3?

19 JUROR NO. 3: YES.

20 THE CLERK: JUROR NUMBER 88 IN SEAT NUMBER 4?

21 JUROR NO. 4: YES.

22 THE CLERK: JUROR NUMBER 13 IN SEAT NUMBER 5?

23 JUROR NO. 5: YES.

24 THE CLERK: JUROR NUMBER 95 IN SEAT NUMBER 6?

25 JUROR NO. 6: YES.

26 THE COURT: JUROR NUMBER 59 IN SEAT NUMBER 7?

27 JUROR NO. 7: YES.

28 THE CLERK: JUROR NUMBER 49 IN SEAT NUMBER 8?

1 JUROR NO. 8: YES.

2 THE CLERK: JUROR NUMBER 68 IN SEAT NUMBER 9?

3 JUROR NO. 9: YES.

4 THE CLERK: JUROR NUMBER 84 IN SEAT NUMBER 10?

5 JUROR NO. 10: YES.

6 THE CLERK: JUROR NUMBER 11 IN SEAT NUMBER 11?

7 JUROR NO. 11: YES.

8 THE CLERK: JUROR NUMBER 23 IN SEAT NUMBER 12?

9 JUROR NO. 12: YES.

10 THE COURT: ALL RIGHT. I'LL ORDER THAT THE CLERK  
11 RECORD THE VERDICT AS READ.

12 LADIES AND GENTLEMEN, I JUST WANT TO MAKE A  
13 COUPLE COMMENTS TO YOU.

14 FIRST OF ALL, YOU HAVE MADE AN INQUIRY ABOUT  
15 THE PRIVACY OF YOUR NAMES AND OTHER PERSONAL INFORMATION.

16 AND PURSUANT TO THE CODE OF CIVIL PROCEDURE  
17 SECTION 237(B), I'LL FIND THAT THERE IS A COMPELLING  
18 GOVERNMENTAL INTEREST AND ORDER THAT ALL THE COURT'S  
19 RECORDS OF THE PERSONAL JURY IDENTIFYING INFORMATION BE  
20 CONDITIONALLY SEALED.

21 WHAT THAT MEANS IT IS NOW CONFIDENTIAL. IT  
22 IS SEALED.

23 WHAT I WANT YOU TO UNDERSTAND THOUGH IS IF  
24 THERE BECOMES A FINDING BY ME OR ANOTHER COURT THAT EITHER  
25 THE DEFENSE OR THE PROSECUTION, EITHER THROUGH THE LAWYERS  
26 INDIVIDUALLY OR THEIR REPRESENTATIVES, ARE ABLE TO CONTACT  
27 YOU, IF IT'S -- IF I MAKE THAT FINDING OR THAT RULING, I  
28 WILL SEND A LETTER TO YOU AT THE ADDRESS THAT HAS BEEN

1 PROVIDED TO THE JURY SERVICES PEOPLE NOTIFYING YOU THAT  
2 THE LAWYERS ARE GOING TO CONTACT YOU OR THEIR  
3 REPRESENTATIVE.

4 AND I WILL SEND THAT TO YOU AND GIVE -- IT  
5 WILL PROBABLY BE A LEAD TIME OF TWO WEEKS SO YOU CAN  
6 ANTICIPATE SOMEBODY CONTACTING YOU.

7 I AM GOING TO DISCHARGE YOU IN A MOMENT.  
8 AFTER I DISCHARGE YOU, I AM GOING TO HAVE ALL OF YOU GO IN  
9 THE JURY ROOM UNTIL THE COURT IS CLEARED, AND THEN WE WILL  
10 ASSIST YOU IN GETTING TO THE JURY ROOM SO THAT YOU CAN  
11 FILL OUT THE APPROPRIATE PAPERWORK TO END YOUR JURY  
12 SERVICE.

13 WHEN YOU ARE DISCHARGED, THE ADMONITION ABOUT  
14 NO LONGER TALKING ABOUT THE CASE WITH ANYONE NO LONGER  
15 APPLIES.

16 THAT MEANS YOU CAN TALK TO PEOPLE ABOUT THE  
17 CASE IF YOU WANT TO. HOWEVER, THE OPPOSITE APPLIES. THAT  
18 IS, YOU DON'T HAVE TO TALK TO ANYBODY IF YOU DON'T WANT  
19 TO.

20 ALL RIGHT. AND I JUST WANT TO SAY THAT ON  
21 BEHALF OF MYSELF AND EVERYBODY INVOLVED AND THE JUDGES OF  
22 THE COURT, I APPRECIATE YOUR PARTICIPATION IN THIS SYSTEM.

23 I AM GOING TO EDITORIALIZE A LITTLE BIT HERE,  
24 BUT I THINK MR. JAFFE TOUCHED ON IT IN HIS ARGUMENT OR  
25 DISCUSSION WITH YOU, THAT WHEN YOU CAME INTO THIS  
26 COURTROOM YOU NEVER EXPECTED TO BE IN THE SITUATION YOU  
27 ARE IN NOW. YOU DID NOT KNOW WHAT KIND OF CASE YOU WERE  
28 GOING TO BE ON, WHAT THE FACTS OF THE CASE WERE, OR WHAT

1 THE POSSIBLE PENALTIES WERE GOING TO BE.

2 YOU HAVE PROBABLY PARTICIPATED IN THE MOST  
3 SIGNIFICANT TYPE OF CASE THAT IS IN THE SYSTEM. AND I  
4 APPRECIATE YOUR CONSCIENTIOUSNESS AND THE AMOUNT OF -- THE  
5 EFFORT THAT YOU PUT IN.

6 DAY IN AND DAY OUT IN THESE COURTS WE HANDLE  
7 THESE KIND -- NOT NECESSARILY THIS PARTICULAR FACTUAL  
8 SITUATION, BUT SPECIAL CIRCUMSTANCE CASES.

9 AND I HAVE SAID BEFORE, AND I THINK WE MIGHT  
10 HAVE SAID IT IN JURY SELECTION, THAT IF YOU READ THE PAPER  
11 OR WATCH TV, YOU WOULD THINK THERE WAS ONLY ONE CASE  
12 OCCURRING IN LOS ANGELES COUNTY. AND I THINK THAT THAT IS  
13 WHAT IS WRONG WITH -- I DON'T WANT TO SAY THE SYSTEM, BUT  
14 THE COVERAGE. IT ALMOST MAKES IT A FARCE.

15 SO, AGAIN, I JUST WANT TO THANK YOU ON BEHALF  
16 OF EVERYBODY, AND YOU ARE DISCHARGED AT THIS TIME. AND IF  
17 ALL OF YOU COULD GO IN THE JURY ROOM, PLEASE.

18  
19 (THE JURORS EXITED THE COURTROOM  
20 AND THE FOLLOWING PROCEEDINGS  
21 WERE HELD:)

22  
23 THE COURT: ALL RIGHT. THE RECORD SHOULD REFLECT  
24 THAT THE JURORS AND ALTERNATES HAVE LEFT THE COURTROOM.

25 MR. JAFFE, WHAT DATE DO YOU WANT FOR  
26 SENTENCING?

27 MR. JAFFE: JUST SET IT WITHIN THE STATUTORY  
28 PERIOD, YOUR HONOR.

1 THE COURT: ALL RIGHT. WITHIN 20 DAYS. I THINK IT  
2 IS THE 24TH DAY IF I'M CORRECT.

3 HOW IS JULY 14TH FOR YOUR CALENDAR?

4 MR. JAFFE: THAT SHOULD BE ALL RIGHT. THAT'S FINE.

5 THE COURT: ALL RIGHT. IS THAT ALL RIGHT WITH YOU,  
6 MR. ARNOLD.

7 MR. ARNOLD: I WILL BE HERE.

8 THE COURT: ALL RIGHT. MR. ARNOLD, YOU ALSO HAVE  
9 TO PREPARE THE COMMITMENT ORDER FOR THE SENTENCING.

10 AND AT THAT TIME, MR. JAFFE, IF YOU HAVE ANY  
11 MOTIONS, IF YOU ARE -- WHAT I WOULD ASK IS THAT IF YOU ARE  
12 GOING TO SCHEDULE MOTIONS AND THEY NEED TO BE -- AND YOU  
13 NEED A CONTINUANCE, IF YOU WOULD NOTIFY US SO THAT WE  
14 CAN -- I PLAN ON NOT SETTING ANYTHING THAT DAY, AND THAT  
15 WAY MR. ARNOLD CAN THEN NOTIFY THE PARENTS OR FAMILY OF  
16 THE VICTIMS BECAUSE I THINK PROBABLY THEY WANT TO BE  
17 HEARD.

18 AND I WILL ORDER THAT A PROBATION REPORT BE  
19 PREPARED FOR THE SENTENCING.

20 ANYTHING ELSE?

21 MR. JAFFE: NO.

22 THE COURT: ANYTHING ELSE, MR. ARNOLD?

23 MR. ARNOLD: NO, YOUR HONOR.

24 THE COURT: ALL RIGHT. THEN WE WILL BE IN RECESS,  
25 AND SENTENCING WILL BE CALENDARED ON JULY 14TH.

26

27 (AT 11:37 A.M., AN ADJOURNMENT WAS TAKEN

28 UNTIL FRIDAY, JULY 14, 1995, AT 8:30 A.M.)



1           LOS ANGELES, CALIFORNIA; FRIDAY, JULY 7, 1995

2                           9:00 A.M.

3       DEPARTMENT NO. 106

HON. EDWARD A. FERNS, JUDGE

4                           (APPEARANCES AS HERETOFORE NOTED.)

5  
6           THE COURT:   ALL RIGHT.   CALL THE CASE OF PEOPLE  
7   VERSUS REGIS THOMAS.   MR. THOMAS IS PRESENT WITH HIS  
8   ATTORNEY.   MS. DOHERTY IS HERE ON HIS BEHALF.   THE PEOPLE  
9   ARE REPRESENTED BY MR. ARNOLD.

10                   MS. DOHERTY, MR. JAFFE AND YOU HAD FILED A  
11   MOTION AND ASKED IT CALENDARED ON TODAY'S DATE.   YOU GAVE  
12   NOTICE TO THE PROSECUTION FOR A MOTION TO DISCLOSE THE  
13   NAME, ADDRESSES, AND PHONE NUMBERS OF THE JURORS PURSUANT  
14   TO CODE OF CIVIL PROCEDURE SECTION 206, OR IN THE  
15   ALTERNATIVE FOR THE COURT TO CONTACT JURORS IN ORDER TO  
16   ACCOMMODATE JUROR INTERVIEWS.

17                   AND IT IS FOR THE LIMITED PURPOSE I TAKE IT  
18   OF ANY POSSIBLE MOTION FOR NEW TRIAL?

19           MS. DOHERTY:   THAT'S CORRECT, YOUR HONOR.

20           THE COURT:   DO YOU WANT TO BE HEARD, MR. ARNOLD?

21                   YOU FILED A RESPONSE.   YOUR RESPONSE  
22   INDICATED THE PROCEDURE YOU WOULD LIKE THE COURT TO  
23   FOLLOW, AND I THINK YOU TOOK THAT FROM THE JONES CASE.

24           MR. ARNOLD:   IT IS CONSISTENT WITH JONES VERSUS  
25   SUPERIOR COURT OF SAN DIEGO.   HOWEVER, I WROTE THAT BEFORE  
26   I ACTUALLY RECEIVED THE DEFENDANT'S MOVING PAPERS, AND  
27   THE -- I WOULD OBJECT AT THIS POINT TO THE RELEASE OF THE  
28   ADDRESSES, BUT I DO NOT OBJECT TO COUNSEL'S REQUEST IN THE

1 ALTERNATIVE FOR THE COURT TO CONTACT THE JURORS.

2 AND I HAVE NO PROBLEM WITH THE LETTER, THE  
3 PROPOSED LETTER THAT COUNSEL WOULD LIKE THE COURT TO SEND.

4 THE COURT: ALL RIGHT. HERE'S WHAT I AM GOING TO  
5 DO:

6 ONE IS I AM GOING TO GRANT YOUR REQUEST FOR  
7 THE ADDRESSES OF THE JURORS.

8 THE LETTER THAT WAS PROFFERED TO ME I BELIEVE  
9 IS -- IT'S A FORM THAT COULD BE USED. IT JUST SAYS THAT  
10 THE DEFENSE WANTS TO TALK WITH YOU. I TAKE IT,  
11 MR. ARNOLD, IF THE DEFENSE IS TALK TO THEM, YOU WOULD BE  
12 INCLINED TO TALK TO THEM ALSO OR AT LEAST SOME OF THE  
13 JURORS.

14 MR. ARNOLD: YES, IF THE DEFENSE SPEAKS TO A JUROR,  
15 THEN I WOULD LIKE TO SPEAK TO THAT JUROR.

16 THE COURT: ALL RIGHT. AS IS INCLUDED OR  
17 ARTICULATED IN THE PROPOSED LETTER, I TOLD THE JURORS THAT  
18 I WOULD NOTIFY THEM IF THE LAWYERS WERE GOING TO CONTACT  
19 THEM.

20 THE ONE PROCESS OF ME SENDING A LETTER AND  
21 THEN HAVING THEM INITIAL AND CIRCLE THE APPROPRIATE THING,  
22 CHOICE, AND THEN CONTACTING EACH OF YOU TO INFORM YOU OF  
23 WHAT THEY WANT TO DO, I THINK THAT TYPICALLY IF IT WERE A  
24 SMALL JURISDICTION MIGHT BE A REASONABLE ALTERNATIVE.

25 BUT TRULY I DON'T GET MAIL. I CAN GO THREE  
26 WEEKS, FOUR WEEKS WITHOUT GETTING MAIL THAT HAS BEEN SENT  
27 TO ME BECAUSE OF CONFUSION IN THE COUNTY.

28 SO RATHER THAN HAVE IT BE SCREENED THROUGH ME

1 OR MY CLERK AND THEN THERE'S A SITUATION OF LATER DOWN THE  
2 ROAD IF SOMEBODY, AN APPELLATE LAWYER, IS ABLE TO CONTACT  
3 A JUROR WHO SAYS, OH, I WAS ALWAYS AT THAT ADDRESS, I  
4 DON'T UNDERSTAND WHY I DIDN'T GET IT OR WHAT HAVE YOU, I'M  
5 GOING TO RELEASE THE ADDRESSES DIRECTLY TO COUNSEL.

6 WHAT I AM GOING TO DO IS I AM GOING TO DRAFT  
7 A LETTER USING THE LANGUAGE THAT IS POSED BY THE DEFENSE  
8 BASICALLY STATING THAT COUNSEL FOR THE PROSECUTION AND THE  
9 DEFENSE OR THEIR REPRESENTATIVES MAY DESIRE TO CONTACT YOU  
10 AND DISCUSS THE CASE.

11 THE LANGUAGE WILL THEN SAY THE DECISION  
12 WHETHER OR NOT TO SPEAK WITH COUNSEL IS YOURS AND YOURS  
13 ALONE. YOU ARE NOT REQUIRED TO SPEAK WITH COUNSEL. YOU  
14 MAY DO SO IF YOU CHOOSE. AND I WILL INDICATE THAT I AM  
15 RELEASING THE INFORMATION TO THEM.

16 I WILL PUT IN THE LETTER THAT COUNSEL --  
17 SINCE YOU HAVE POSED IT IN YOUR PROPOSED LETTER, THAT  
18 COUNSEL WILL, IF NECESSARY, MAKE ARRANGEMENTS TO MEET YOU  
19 EITHER AT THE COURTHOUSE, AT THEIR LAW OFFICES, OR AT  
20 THEIR -- YOUR HOMES OR PLACE OF BUSINESS TO ACCOMMODATE  
21 YOU.

22 AND I WILL HAVE THE LETTER PROBABLY -- I'M  
23 GOING TO TRY TO GET THE LETTER MAILED OUT ON MONDAY, WHICH  
24 WILL BE THE 10TH.

25 SO I TAKE IT, MS. DOHERTY, YOU WANT TO VACATE  
26 THE 14TH?

27 MS. DOHERTY: YES, YOUR HONOR.

28 THE COURT: ON YOUR MOTION I'LL VACATE THE 14TH,

1 AND I'LL TAKE A TIME WAIVER IN A MOMENT FROM MR. THOMAS.

2 I WILL RELEASE THE INFORMATION TO COUNSEL.

3 IT WILL BE AVAILABLE ON THE 18TH, ASSUMING THE SECRETARY  
4 GETS THE LETTERS OUT ON THE 10TH OR 11TH. MY CLERK WILL  
5 HAVE THE INFORMATION.

6 WHAT DATE DO YOU WANT FOR THE --

7 MS. DOHERTY: SENTENCING?

8 THE COURT: YES.

9 MS. DOHERTY: WE WOULD REQUEST AUGUST 11TH.

10 THE COURT: ALL RIGHT. AND THAT WILL BE FOR MOTION  
11 FOR A NEW TRIAL.

12 MS. DOHERTY: CORRECT.

13 THE COURT: ALL RIGHT. MR. THOMAS, YOU HAVE HEARD  
14 WHAT HAS BEEN SAID HERE.

15 WE HAD PICKED JULY 14TH FOR YOUR PROBATION  
16 AND SENTENCING HEARING.

17 IS IT AGREEABLE, SIR, THAT WE TAKE THAT DAY  
18 OFF AS FAR AS SETTING IT IN THIS COURT AND SET THAT  
19 HEARING AND MOTION FOR THE NEW TRIAL ON AUGUST 11TH?

20 THE DEFENDANT: YES, SIR.

21 THE COURT: YOU JOIN?

22 MS. DOHERTY: YES, SIR.

23 THE COURT: ALL RIGHT. SO THEN AUGUST 11TH FOR  
24 MOTION FOR NEW TRIAL, FURTHER PROCEEDINGS.

25 AGAIN, MS. DOHERTY, I WOULD ASK THAT IF AS A  
26 RESULT -- OR, MR. ARNOLD, IF AS A RESULT OF TALKING TO  
27 PEOPLE YOU ARE GOING TO FILE PAPERS OR WHAT HAVE YOU AND  
28 YOU DON'T FEEL -- OR YOU CANNOT GET A HOLD OF SOMEBODY

1 BECAUSE HE OR SHE IS ON VACATION OR WHAT HAVE YOU, AND THE  
2 11TH IS NOT GOING TO BE A DAY THAT IS GOING TO PROCEED,  
3 PLEASE NOTIFY OPPOSING COUNSEL SO THAT THEN THE PARENTS OF  
4 THE DEFENDANT AND THE PARENTS OF THE VICTIMS DON'T HAVE TO  
5 MAKE A TRIP HERE UNNECESSARILY.

6 ANYTHING ELSE?

7 MR. ARNOLD: NO, YOUR HONOR.

8 THE COURT: ANYTHING ELSE?

9 MS. DOHERTY: NO, YOUR HONOR. THANK YOU.

10 THE COURT: ONE OTHER THING WHILE WE ARE HERE. MY  
11 CLERK JUST WAVED AT ME, AND I RECALL IT.

12 YESTERDAY MY CLERK BROUGHT TO MY ATTENTION --  
13 AND, MS. DOHERTY, YOU MAY WANT TO TALK TO MR. JAFFE ABOUT  
14 IT. I DON'T THINK IT IS NECESSARY, BUT I'LL PUT IT OVER  
15 IF NECESSARY.

16 THE VERDICT FORMS WERE COUNT I, COUNT II,  
17 COUNT III, AND COUNT IV, WHEN IN REALITY COUNT IV WAS  
18 COUNT VI BECAUSE HE HAD PLED TO COUNT IV AND V.

19 I THINK THAT EVERYBODY UNDERSTOOD THAT WHAT  
20 THAT VERDICT FORM TRULY WAS FOR WAS COUNT VI. IN A WAY IT  
21 PROBABLY INURED TO THE BENEFIT OF THE DEFENDANT IN THAT IT  
22 DIDN'T SEEM LIKE THERE WAS SOMETHING MISSING IN THE  
23 NUMERICAL ORDER.

24 MY QUESTION IS, WHETHER YOU WANT TO DO IT AT  
25 THIS TIME OR PUT IT OVER, BY INTERLINEATION TO STRIKE THE  
26 COUNT IV AND AGREE THAT IT APPLIES TO COUNT VI.

27 MS. DOHERTY: WELL, DUE TO THE NATURE OF THE CASE,  
28 WHY DON'T WE PUT IT OVER, AND I'LL --

1 THE COURT: JUST SO YOU CAN TALK TO MR. JAFFE AND  
2 DISCUSS IT. WE'LL TAKE IT UP AT THAT TIME.

3 MR. ARNOLD: THE ONLY THING I WANT -- I'D LIKE IS  
4 FOR MS. DOHERTY TO NOTIFY ME SHOULD SHE MAKE ARRANGEMENTS  
5 TO CONTACT ANY OF THE JURORS SO I CAN INTERVIEW THEM AFTER  
6 SHE FINISHES.

7 THE COURT: OKAY. AND, OBVIOUSLY, I DON'T REALLY  
8 FEEL IN THIS PARTICULAR CASE I HAVE TO ARTICULATE THIS,  
9 BUT I WILL FOR THE RECORD.

10 THE RELEASE OF THE PERSONAL INFORMATION IS  
11 STRICTLY FOR JUDICIAL PROCEEDINGS IN THIS CASE, NOT TO BE  
12 PROVIDED TO ANY OTHER SOURCE OR ANY OTHER PARTY.

13 DO YOU UNDERSTAND, MS. DOHERTY?

14 MS. DOHERTY: THAT IS WELL UNDERSTOOD, YOUR HONOR.

15 THE COURT: MR. ARNOLD?

16 MR. ARNOLD: SURE.

17 THE COURT: ALL RIGHT. THANK YOU.

18 MR. ARNOLD: THANK YOU, YOUR HONOR.

19

20 (PROCEEDINGS CONTINUED TO JULY 18, 1995, AT

21 8:30 A.M.)

22

23

24

25

26

27

28

1 LOS ANGELES, CALIFORNIA; TUESDAY, JULY 18, 1995

2 8:55 A.M.

3 DEPARTMENT NO. 106

HON. EDWARD A. FERNS, JUDGE

4 (APPEARANCES AS HERETOFORE NOTED.)

5  
6 THE COURT: CALL THE CASE OF REGIS THOMAS.

7 MR. THOMAS IS PRESENT REPRESENTED BY MS. DOHERTY.

8 MR. ARNOLD IS HERE ON BEHALF OF THE PROSECUTION.

9 ALL RIGHT. I MAILED OUT THE -- WELL, I  
10 SIGNED THE LETTERS TO THE JURORS JULY 10. SO ASSUMING THE  
11 SECRETARY EITHER MAILED THEM THAT DAY OR THE FOLLOWING  
12 DAY.

13 SO I'LL PROVIDE TO COUNSEL THE ADDRESSES AND  
14 I BELIEVE IT WAS PHONE NUMBERS OF THE TWELVE JURORS.

15 MS. DOHERTY: FOR THE RECORD, YOUR HONOR, COULD WE  
16 ALSO GET A COPY OF THE LETTER?

17 THE COURT: YES. I SEALED THEM AND PUT THEM IN --  
18 LET ME OPEN IT.

19 DO YOU WANT TO HEAR WHAT IT SAYS?

20 IS THAT WHAT YOU ARE INTERESTED IN?

21 MS. DOHERTY: YES, YOUR HONOR. THANK YOU.

22 THE COURT: I WILL OPEN IT UP. BASICALLY IT'S THE  
23 LANGUAGE THAT WAS TYPICALLY PROPOSED, BUT IT SAYS:

24 "DEAR WHOMEVER:

25 "AS YOU ARE AWARE, DURING THE  
26 TRIAL IN THE CASE OF PEOPLE OF THE STATE  
27 OF CALIFORNIA VERSUS REGIS THOMAS, THE  
28 JURY WAS ANONYMOUS. THIS WAS DONE TO

1 ENSURE YOUR ANONYMITY AND THE  
2 CONFIDENTIALITY OF YOUR HOME AND BUSINESS  
3 ADDRESSES AS WELL AS TELEPHONE NUMBERS.

4 "AS I MENTIONED, AT THE CLOSE  
5 OF TRIAL THE ATTORNEYS MAY DESIRE TO  
6 CONTACT YOU TO DISCUSS THE CASE. THE  
7 DEFENSE COUNSEL AND THE PROSECUTOR HAVE  
8 REQUESTED THE TELEPHONE NUMBERS AND  
9 ADDRESSES FOR THE PURPOSE OF POSSIBLY  
10 DISCUSSING THE CASE WITH YOU.

11 "UNDER THE PRESENT LAW, THEY  
12 ARE ENTITLED TO THIS INFORMATION. THE  
13 DECISION WHETHER OR NOT TO SPEAK WITH THE  
14 TRIAL ATTORNEYS IS YOURS ALONE. YOU ARE  
15 NOT REQUIRED TO SPEAK WITH THE ATTORNEYS,  
16 BUT MAY DO SO IF YOU CHOOSE.

17 "I WILL RELEASE THE REQUESTED  
18 INFORMATION TO THE ATTORNEYS ON TUESDAY,  
19 JULY 18, 1995. THE ATTORNEYS HAVE  
20 INDICATED TO ME THAT IF YOU CHOOSE TO  
21 SPEAK WITH THEM, THEY WILL MAKE  
22 ARRANGEMENTS TO INTERVIEW EITHER AT THE  
23 COURTHOUSE OR SOME OTHER LOCATION THAT IS  
24 CONVENIENT FOR YOU.

25 "THANK YOU AGAIN FOR YOUR  
26 PARTICIPATION IN THE SYSTEM AND IN THIS  
27 PARTICULAR CASE.

28 "SINCERELY YOURS."



1 MS. DOHERTY: THANK YOU.

2 THE COURT: ALL RIGHT. ANYTHING ELSE?

3 ALL RIGHT. THEN I'LL PUT THIS BACK IN.

4 ALL RIGHT. THEN, MR. THOMAS, WE HAD SELECTED  
5 I BELIEVE IT WAS AUGUST 11TH FOR YOUR SENTENCING.

6 MR. JAFFE AND MS. DOHERTY ARE REQUESTING AUGUST 15TH.

7 IS IT AGREEABLE THAT WE CONTINUE IT TO THAT  
8 DATE, SIR?

9 THE DEFENDANT: YES, SIR.

10 THE COURT: YOU JOIN, MS. DOHERTY?

11 MS. DOHERTY: YES, I DO.

12 THE COURT: THEN AUGUST 15TH WILL BE THE SENTENCING  
13 HEARING.

14 MR. ARNOLD: YOUR HONOR --

15 THE COURT: I'LL VACATE THE DATE OF THE --

16 MR. ARNOLD: -- INITIALLY IT WAS SET ON JULY 14TH.

17 WAS THERE A WAIVER FOR AUGUST 11TH?

18 THE COURT: YES. WE VACATED THE 14TH DAY.

19 MR. ARNOLD: OKAY.

20 THE COURT: AND I AM GOING TO VACATE THE 11TH DAY.

21 ALL RIGHT. WE'LL BE IN RECESS.

22 MR. ARNOLD: THANK YOU, YOUR HONOR.

23 MS. DOHERTY: THANK YOU, YOUR HONOR.

24

25 (PROCEEDINGS CONTINUED TO AUGUST 15, 1995,

26 AT 8:30 A.M.)

27

28

1 LOS ANGELES, CALIFORNIA; TUESDAY, AUGUST 15, 1995

2 9:15 A.M.

3 DEPARTMENT NO. 106

HON. EDWARD A. FERNS, JUDGE

4 APPEARANCES: MARK ARNOLD, DEPUTY DISTRICT  
5 ATTORNEY, REPRESENTING THE PEOPLE OF THE  
6 STATE OF CALIFORNIA; JAY JAFFE AND  
7 VICTORIA DOHERTY, ATTORNEYS AT LAW,  
8 REPRESENTING THE DEFENDANT, REGIS DEON  
9 THOMAS.

10  
11 (THE FOLLOWING PROCEEDINGS WERE HELD  
12 IN CHAMBERS:)

13  
14 THE COURT: WE ARE IN CHAMBERS ON THE CASE OF  
15 PEOPLE VERSUS REGIS THOMAS.

16 MR. JAFFE IS PRESENT, MS. DOHERTY,  
17 MR. ARNOLD.

18 MR. JAFFE, YOU ASKED TO BE HEARD?

19 MR. JAFFE: THANK YOU, YOUR HONOR.

20 I ADVISED MR. ARNOLD THAT MR. THOMAS MADE A  
21 REQUEST OF ME YESTERDAY, AND THAT WAS HE WISHED THE MATTER  
22 CONTINUED TO SEPTEMBER 1ST.

23 I ADVISED HIM THAT I WOULD MAKE THE MOTION ON  
24 HIS BEHALF, THAT HE EXPRESSED REASONS WHY HE WANTED THE  
25 MATTER CONTINUED TO THE 1ST. I TOLD HIM THAT I WOULD  
26 ADVISE THE COURT OF THAT FACT.

27 SO ON HIS BEHALF I AM IN FACT MOVING TO  
28 CONTINUE THIS MATTER TO SEPTEMBER 1ST.

1 THE COURT: ALL RIGHT. AND NO LEGAL BASIS HAVING  
2 BEEN ARTICULATED, THE MOTION WILL BE DENIED.

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5 (WHEREUPON IN CAMERA PROCEEDINGS WERE  
6 CONCLUDED.)  
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1           LOS ANGELES, CALIFORNIA; TUESDAY, AUGUST 15, 1995  
2           DEPARTMENT NO. 106                           HON. EDWARD A. FERNS, JUDGE  
3   9:40 A.M.

4  
5                           (APPEARANCES AS HERETOFORE NOTED.)  
6

7           THE COURT:   ALL RIGHT.

8                           CALLING THE CASES OF PEOPLE VERSUS REGIS  
9           THOMAS, CASE YA004885 AND BA075063, MR. THOMAS IS  
10          PRESENT.   HIS ATTORNEY IS PRESENT ON HIS BEHALF AND THE  
11          PEOPLE ARE REPRESENTED.

12                          TODAY IS THE PROBATION AND SENTENCING THAT  
13          HAS BEEN SET FOR CASE BA075063.

14                          IT'S MY INTENTION TO HANDLE THE PROBATION  
15          CASE INITIALLY SO THAT I CAN RESOLVE THAT AND IN THE  
16          MAKE UP OF THINGS, IT'S PROBABLY A MATTER OF PAPERWORK,  
17          THAT IS YA004885.

18                          MR. JAFFE, DO YOU WANT TO BE HEARD AT ALL  
19          AS TO THAT CASE?

20                          MR. JAFFE:   NO, YOUR HONOR.

21                          THE COURT:   MR. ARNOLD.

22                          MR. ARNOLD:   SUBMITTED.

23                          THE COURT:   ALL RIGHT.

24                          BASED ON THE CONVICTION IN CASE BA075063, I  
25          FIND THE DEFENDANT IN VIOLATION OF PROBATION AND ORDER  
26          THAT HIS PROBATION BE REVOKED.

27                          I'LL SELECT THE MIDTERM OF THREE YEARS IN  
28          STATE PRISON.   ON THAT STATE PRISON COMMITMENT, HE'LL

1 GET CREDIT FOR 1,336 DAYS THAT HE SERVED PENDING THE  
2 PROBATION VIOLATION, 668 GOOD TIME/WORK TIME PLUS THE  
3 270 DAYS THAT HE HAS ALREADY SERVED FOR A TOTAL OF 2,274  
4 DAYS CREDIT.

5 THAT WILL TAKE CARE OF THAT CASE.

6 ALL RIGHT.

7 NOW, IN CASE BA075063, THE FIRST MATTER  
8 I'LL TAKE UP IS THE MOTION FOR NEW TRIAL THAT WAS FILED  
9 BY YOU, MR. JAFFE. I HAVE READ AND CONSIDERED THE  
10 MOTION, AND DID YOU WANT TO ADD ANYTHING TO THAT?

11 MR. JAFFE: NO, YOUR HONOR. I WOULD SUBMIT THE  
12 MATTER ON THE MOTION FILED.

13 THE MOTION FOR NEW TRIAL WITH RESPECT TO  
14 THE GUILT PHASE IS BASED ON 11 SEPARATE MATTERS. THOSE  
15 MATTERS WERE REFERRED TO IN THE MOTION REGARDING THE  
16 GUILT PHASE, AND WE WOULD SUBMIT ON THE PAPERS FILED.

17 SHOULD THE COURT DENY THE MOTION FOR NEW  
18 TRIAL IN THE GUILT PHASE, AT THIS TIME WE WOULD ALSO  
19 MAKE A MOTION FOR NEW TRIAL IN RESPECT TO THE PENALTY  
20 PHASE.

21 SPECIFICALLY, YOUR HONOR, THERE ARE SIX  
22 ENUMERATED ITEMS WITH REGARD TO THE MOTION FOR NEW TRIAL  
23 ON THE PENALTY PHASE.

24 OF COURSE, I BELIEVE THAT THE SINGLE MOST  
25 SIGNIFICANT FACTOR IN GRANTING THE MOTION FOR NEW TRIAL  
26 ON THE PENALTY PHASE IS THE NEWER CONCEPT OF VICTIM  
27 IMPACT.

28 FOLLOWING THE VERDICT IN THIS CASE, BOTH

1 MR. ARNOLD AND I HAD AN OPPORTUNITY TO SPEAK WITH THE  
2 MEMBERS OF THE JURY. AND IT SEEMS THAT MOST OF THE  
3 JURORS WERE, AND UNDERSTANDABLY SO, COMPELLED TO VOTE  
4 THE WAY THEY DID BY VIRTUE OF THE TESTIMONY OF THE  
5 PARENTS OF THE OFFICERS AND THAT IS CERTAINLY  
6 UNDERSTANDABLE.

7 IT WAS VERY COMPELLING TESTIMONY. IT WAS  
8 VERY SAD TESTIMONY. WE ALL SAT THROUGH IT, AND I DON'T  
9 BELIEVE THAT THERE WAS A DRY EYE IN THE HOUSE AFTER BOTH  
10 SETS OF PARENTS TESTIFIED.

11 THE LAW IN PEOPLE VERSUS EDWARDS IS SUCH  
12 THAT THE VICTIM IMPACT IS IMPORTANT EVIDENCE TO THE  
13 EXTENT THAT THE JURY CAN UNDERSTAND THE IMPACT THAT THE  
14 LOSS HAS UPON THE FAMILY.

15 HOWEVER, THE JURY IS NOT TO VIEW VICTIM  
16 IMPACT IN AN EMOTIONAL SENSE. HOW ONE DISTINGUISHES ONE  
17 FROM THE OTHER IS LITERALLY IMPOSSIBLE. TO LISTEN TO  
18 THE VICTIMS' FAMILY SPEAK AND TALK ABOUT THE LIFE AND  
19 WHAT THE LIFE OF THOSE TWO GENTLEMEN MEANT TO THEM, THE  
20 JURY HAS TO TAKE INTO ACCOUNT THE LOSS AND THE IMPACT OF  
21 THE LOSS UPON THE FAMILY AND EXCLUDE FROM THEIR DECISION  
22 HOW THE LOSS AFFECTS THEM EMOTIONALLY.

23 I THINK THAT IS JUST AN IMPOSSIBLE TASK FOR  
24 A JURY TO DO. THAT MAY BE THE STATE OF THE LAW THAT THE  
25 JURY HAS TO TRY TO MAKE THAT DECISION AND EXCLUDE THE  
26 EMOTIONAL IMPACT, BUT TO INCLUDE AND CONSIDER THE  
27 FACTUAL IMPACT OF THE LOSS.

28 SO ON THAT BASIS, YOUR HONOR, I BELIEVE

1 THAT SINCE THE JURY IS UNABLE TO DISTINGUISH THE TWO,  
2 THAT THE COURT SHOULD GRANT THE NEW TRIAL IN RESPECT TO  
3 THE PENALTY PHASE, AND I WOULD SUBMIT IT AS TO THE OTHER  
4 ITEMS WHICH ARE PRESENTED IN THE MOVING PAPERS.

5 AFTER THE COURT RULES ON THIS MOTION, I  
6 WOULD LIKE TO BE HEARD FURTHER.

7 THE COURT: ALL RIGHT.

8 MR. ARNOLD, DO YOU WANT TO BE HEARD?

9 MR. ARNOLD: JUST BRIEFLY, YOUR HONOR.

10 REGARDING THE ISSUES THAT MR. JAFFE HAS SET  
11 OUT IN HIS MOTION FOR NEW TRIAL WITH RESPECT TO THE  
12 GUILT AND PENALTY PHASE, EACH AND EVERY ISSUE WAS  
13 LITIGATED DURING THE COURSE OF THE TRIAL.

14 THE COURT CAME UP WITH A RULING WHICH I  
15 BELIEVE IS WELL SUPPORTED BY THE EVIDENCE, AND I THINK  
16 THAT THE COURT'S RULINGS WERE PROPER.

17 BASED ON THAT, I WOULD ASK THAT YOU DENY  
18 THE MOTION FOR NEW TRIAL BASED ON YOUR PREVIOUS RULINGS.

19 WITH RESPECT TO VICTIM IMPACT EVIDENCE,  
20 THIS TYPE OF EVIDENCE IS ADMISSIBLE IN TRIALS. IT HAS  
21 BEEN FOUND ADMISSIBLE AS YOU KNOW BY THE UNITED STATES  
22 SUPREME COURT AND THE CALIFORNIA SUPREME COURT, AND THE  
23 FACT THAT THE PARENTS OF THE OFFICERS IN THIS CASE  
24 TESTIFIED AND THEY WERE EMOTIONAL, THAT IS CERTAINLY  
25 APPROPRIATE AND PROPER.

26 HOW BEST FOR THE JURY TO UNDERSTAND THE  
27 IMPACT OF WHAT THE DEATHS OF THESE TWO OFFICERS HAS  
28 MEANT TO THEM OTHER THAN TO HEAR IT OUT OF THE MOUTHS OF

1 THE PARENTS.

2 I THINK IT WOULD BE SOMEWHAT ASTOUNDING HAD  
3 THE PARENTS OF THESE OFFICERS NOT DEMONSTRATED SOME  
4 EMOTION. I ALSO THINK THAT IT WOULD BE SOMEWHAT  
5 ASTOUNDING HAD THE JURORS NOT BEEN MOVED BY THAT.

6 IN ANY EVENT SINCE VICTIM IMPACT EVIDENCE  
7 IS ADMISSIBLE AND ALL OF THE EVIDENCE THAT WAS ADDUCED  
8 FROM THE PARENTS OF THE OFFICERS AND FROM THE PARENTS OF  
9 THE RELATIVES OF CARLOS ADKINS WAS PROPER AND  
10 APPROPRIATE, I WOULD ASK YOU TO DENY THE MOTION FOR A  
11 NEW PENALTY PHASE ON THAT GROUND.

12 I WOULD SUBMIT.

13 THE COURT: ALL RIGHT.

14 I BELIEVE THE MATERIALS THAT WERE RAISED,  
15 THE ISSUES THAT WERE RAISED IN THE MOTION FOR NEW TRIAL  
16 WERE LITIGATED THROUGHOUT THE TRIAL AND THERE IS NOTHING  
17 NEW.

18 I KNOW THAT I HAD ORDERED THE RELEASE OF  
19 THE ADDRESSES OF THE JURORS AND THE NAMES OF THE JURORS  
20 SO THAT COUNSEL COULD EACH CONTACT THEM IF IT WAS  
21 NECESSARY, AND I HAD SENT OUT A LETTER THAT WE HAD  
22 TALKED ABOUT BEFORE THAT IT WAS UP TO THE JURORS WHETHER  
23 OR NOT THEY SPOKE WITH YOU.

24 I ASSUME THAT INVESTIGATION HAS BEEN  
25 COMPLETED. THE ISSUES THAT WERE RAISED IN THE MOTION  
26 FOR NEW TRIAL I HAVE ALREADY RULED ON AND THE RULINGS  
27 WILL REMAIN THE SAME.

28 AS FAR AS THE VICTIM IMPACT IS CONCERNED,



1 THE TESTIMONY OF THE PARENTS, I BELIEVE THAT OBVIOUSLY  
2 IT'S ADMISSIBLE UNDER THE LAW.

3 I THINK THAT LOOKING AT THIS PARTICULAR  
4 CASE, I REALIZE, MR. JAFFE, YOU'RE PUT IN A SITUATION,  
5 IT'S A VERY EMOTIONAL SITUATION.

6 HOWEVER, I THINK YOUR APPROACH AND ARGUMENT  
7 IN THE PENALTY PHASE WAS SUCH THAT THERE IS NO EXCUSE  
8 FOR WHAT OCCURRED AND MY HEART GOES OUT TO THE FAMILY  
9 MEMBERS.

10 HOWEVER, YOU ASKED THE JURY TO SPARE YOUR  
11 CLIENT'S LIFE. I BELIEVE THE JURORS DELIBERATED ON THAT  
12 PHASE, IT WAS EITHER SEVEN OR EIGHT DAYS.

13 I THINK INFERENTIALLY I CAN MAKE A FINDING  
14 OR THE APPELLATE COURT COULD MAKE A FINDING THAT IT WAS  
15 NOT AN EMOTIONAL DECISION. WHEN I SAY AN EMOTIONAL  
16 DECISION, ONE OF THESE WHERE PEOPLE GO BACK STRICTLY ON  
17 EMOTION AND MAKE A DECISION AND COME BACK 45 MINUTES OR  
18 AN HOUR LATER AND SAY, "THIS IS OUR FINDING."

19 SO THE MOTION FOR THE NEW TRIAL IS DENIED  
20 AND BASED ON MY PRIOR RULINGS.

21 NOW, THE NEXT THING THAT I'LL TAKE UP IS  
22 THE AUTOMATIC APPLICATION TO MODIFY THE VERDICT PURSUANT  
23 TO 190.4 OF THE CALIFORNIA PENAL CODE.

24 DO YOU WANT TO BE HEARD ON THAT, MR. JAFFE?

25 MR. JAFFE: THANK YOU VERY MUCH, YOUR HONOR.

26 STANDING BEFORE THE COURT ARGUING TO MODIFY  
27 THE VERDICT OF DEATH TO LIFE WITHOUT THE POSSIBILITY OF  
28 PAROLE IS IN MANY RESPECTS A VERY SURREAL EXPERIENCE.

1 THE RESPONSIBILITY IS UPON ME TO ASK THIS  
2 COURT TO SPARE THE LIFE OF REGIS THOMAS. IN A SENSE,  
3 IT'S THE SAME WAY -- RATHER IT'S THE SAME RESPONSIBILITY  
4 IN A SENSE THAT I HAVE AS DID DEFENSE COUNSEL IN ARGUING  
5 TO THE JURY TO SPARE THE LIFE OF REGIS THOMAS.

6 AND AS I TOLD THE JURY, I AS A LAWYER DO  
7 NOT HAVE ANY SPECIAL WISDOM NOR DO I HAVE ANY SPECIAL  
8 KNOWLEDGE OR EXPERIENCE WHICH ALLOWS ME TO ARGUE THIS  
9 POINT AS OPPOSED TO ANY OTHER PERSON WHO MAY NOT HAVE A  
10 LEGAL EDUCATION.

11 WHERE DOES A LEGAL EDUCATION ALLOW AN  
12 INDIVIDUAL OR GIVE AN INDIVIDUAL ANY GREATER WISDOM TO  
13 ARGUE WHY A PERSON'S LIFE SHOULD BE SPARED? IT JUST  
14 DOESN'T. IT JUST DOESN'T HAPPEN.

15 BUT NOTWITHSTANDING THAT, UNDER THE RULES  
16 OF LAW, THE RESPONSIBILITY DOES FALL UPON ME TO MAKE THE  
17 REQUEST. WHETHER THAT IS APPROPRIATE OR NOT, THAT IS  
18 THE WAY IT IS, AND I ACCEPT THAT RESPONSIBILITY, AND I'M  
19 ASKING THE COURT TO SPARE THE LIFE OF REGIS THOMAS FOR  
20 THE REASONS STATED IN MY MOVING PAPERS.

21 I HAVE BEEN PRACTICING FOR SEVERAL YEARS.  
22 THE COURT HAS PRACTICED FOR SEVERAL YEARS AND NOW HAS  
23 BEEN A JUDGE FOR A NUMBER OF YEARS AND HAS SEEN MANY,  
24 MANY SPECIAL CIRCUMSTANCE CASES.

25 AS I TOLD THE JURY, THIS IS NOT A TIME OF  
26 WINNING AND LOSING. THIS IS NOT A TIME FOR CELEBRATION.  
27 GENERALLY ONE SIDE WINS AND THE OTHER SIDE LOSES. BUT  
28 IN THIS CASE, UNFORTUNATELY WE'RE ALL LOSERS.

1 EVERYBODY HAS LOST IN THIS CASE.  
2 MR. THOMAS HAS LOST. HE IS, IN ESSENCE, ABOUT TO LOSE  
3 HIS LIFE. THE OFFICERS LOST THEIR LIVES. THE FAMILIES  
4 OF THE VICTIMS HAVE LOST THE LOVE OF THEIR SONS, AND IN  
5 THE ADKINS CASE, THE LOSS OF A FATHER, A SON.

6 SO THERE ARE NO WINNERS. THIS IS NOT A  
7 TIME TO DEBATE THE RIGHT AND THE WRONG, THE WISDOM OF  
8 THE DEATH PENALTY IN GENERAL. THE VOTERS HAVE SPOKEN.  
9 THE VOTERS OF THE STATE OF CALIFORNIA SPOKE ON THAT  
10 ISSUE.

11 I'M NOT HERE TO SPEAK AGAINST THE DEATH  
12 PENALTY OR IN FAVOR OF THE DEATH PENALTY BUT MERELY TO  
13 TALK ABOUT THE INDIVIDUALIZED DETERMINATION THAT REGIS  
14 THOMAS SHOULD RECEIVE AS IT IS THE RESPONSIBILITY FOR  
15 THE COURT TO INDEPENDENTLY REVIEW THE JURY'S VERDICT.

16 I'M MINDFUL OF THE FACT THAT I DON'T KNOW  
17 WHETHER THERE HAS EVER BEEN A JURY VERDICT WHICH HAS, IN  
18 FACT, BEEN MODIFIED TO LIFE WITHOUT PAROLE. THERE WOULD  
19 HAVE TO BE SOME SPECIAL OR UNUSUAL CIRCUMSTANCES I  
20 SUPPOSE FOR THE COURT TO DO THAT. AND SO WHEN I READ IN  
21 THE NEWSPAPER OR HEAR ON THE NEWS THAT A JURY RECOMMENDS  
22 THE DEATH PENALTY, I MUST CHUCKLE TO SOME DEGREE BECAUSE  
23 IT'S MORE THAN A RECOMMENDATION. IT IS, IN FACT, A  
24 VERDICT AND THAT VERDICT GENERALLY DOES STAND.

25 HOWEVER, I'M ASKING THE COURT TO REVIEW  
26 THIS MATTER INDEPENDENTLY AND ORDER THAT MR. THOMAS  
27 SERVE A LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF  
28 PAROLE FOR THE FOLLOWING FACTORS, FOR THE FOLLOWING

1 REASONS:

2 MR. THOMAS UNLIKE MANY OTHER DEFENDANTS WHO  
3 APPEAR BEFORE THE COURTS IN SPECIAL CIRCUMSTANCE CASES  
4 LACKS A PREVIOUS VIOLENT CRIMINAL HISTORY.

5 TWO, HE LACKS A SUBSTANTIAL CRIMINAL  
6 RECORD. I THINK THE COURT CAN TAKE INTO EFFECT THAT THE  
7 DEFENDANT HAD NEVER MET HIS BIOLOGICAL FATHER AND WHAT  
8 EFFECT OF HAVING NO BIOLOGICAL FATHER IN THE HOUSE HAD  
9 UPON HIM.

10 THE EFFECT OF HIS UPBRINGING IN THE  
11 NICKERSON GARDENS AS OPPOSED TO BEING BROUGHT UP IN  
12 PERHAPS ANOTHER AREA OF TOWN. THE EFFECT OF THE  
13 DEFENDANT'S CHILDHOOD AND FAMILY LIFE. THE IMPORTANCE  
14 OF THE DEFENDANT'S INFLUENCE AND GUIDANCE IN THE  
15 UPBRINGING OF HIS CHILDREN. THE RELATIONSHIP BETWEEN  
16 THE DEFENDANT AND HIS MOTHER, SIBLINGS, COUSINS, WIFE,  
17 CHILDREN AND OTHER CLOSE FRIENDS.

18 AND ALSO THE FACT OF THE DEFENDANT'S  
19 BENEVOLENT NATURE AND THE FACT THAT HE GAVE MONEY TO  
20 HOMELESS PEOPLE AND HE AIDED A HANDICAPPED YOUNGSTER.

21 I CAN IMAGINE WHEN YOU HEAR THESE FACTORS,  
22 ANY ONE OF WHICH COULD HAVE JUSTIFIED THE JURY'S GIVING  
23 LIFE INSTEAD OF DEATH, WHAT MAY STAND OUT IN RESPONSE TO  
24 THAT ARGUMENT IS, YES, BUT THERE ARE OTHERS WHO WERE  
25 BROUGHT UP IN THE NICKERSON GARDENS, AND THERE ARE  
26 OTHERS WHO HAVE BEEN DISADVANTAGED IN THEIR YOUTH, AND  
27 THERE ARE OTHERS WHO HAVE BEEN BROUGHT UP IN A FAMILY  
28 WHERE THERE HAS BEEN NO FATHER AND YET THOSE PERSONS DID

1 NOT KILL THREE PEOPLE.

2 CERTAINLY THAT IS A CONTRARY ARGUMENT AND I  
3 UNDERSTAND THAT THAT IS THE CONTRARY ARGUMENT.

4 BUT IN THIS CASE, THE JURY, IT SEEMS TO ME,  
5 BASED UPON THE CIRCUMSTANCES OF THE CRIME AND THE  
6 GRAVITY OF THE CRIME FOUND THAT THAT SO OVERWHELMINGLY  
7 WEIGHED AGAINST THESE FACTORS THAT THEY FELT THAT DEATH  
8 WAS THE APPROPRIATE PUNISHMENT.

9 BUT I THINK THAT AN ARGUMENT, ALSO, COULD  
10 BE MADE THAT FOR AN INSTANT IN MR. THOMAS' YOUNG LIFE,  
11 THAT THE DECISION THAT WAS MADE TO TAKE THE LIFE OF THE  
12 OFFICERS WAS MADE IN A RASH IMPULSIVE MOMENT, AND IN  
13 THAT RASH, IMPULSIVE MOMENT WITHOUT DUE DELIBERATION,  
14 CONSIDERATION, DELIBERATION, THOUGHT THAT HE AT THAT  
15 TIME WOULD HAVE FORFEITED HIS LIFE, THAT IS A FAR CRY  
16 FROM THE INDIVIDUAL WHO PLANS FOR PURPOSES OF GREED, FOR  
17 PURPOSES OF REVENGE, FOR PURPOSES OF HATRED, THE DEATH  
18 OF ANOTHER HUMAN BEING.

19 THERE YOU HAVE THE TYPE OF DELIBERATION  
20 THAT I BELIEVE THAT THE LAW ENVISIONED WHEN IT FELT THAT  
21 THE DEATH PENALTY WOULD BE APPROPRIATE.

22 IN THIS CASE, I DON'T BELIEVE THAT THOSE  
23 CIRCUMSTANCES EXIST. THE CIRCUMSTANCES OF THE CRIME IN  
24 THIS CASE WERE SUCH THAT THE SHOOTING OCCURRED WITHIN  
25 SECONDS, AND WITHIN THOSE SECONDS THAT REGIS THOMAS  
26 WOULD HAVE, IF THE COURT AFFIRMS THE JURY'S VERDICT,  
27 WOULD HAVE FORFEITED HIS LIFE.

28 IT'S NOT THE TYPE OF DELIBERATION AND

1 PREMEDITATION THAT WOULD REQUIRE, AS FAR AS I CAN SEE,  
2 THE IMPOSITION OF THE PENALTY OF DEATH. THAT DOES NOT  
3 MEAN TO MINIMIZE THE RESULT THAT OCCURRED IN THIS CASE.

4 FOR ALL OF THESE REASONS, YOUR HONOR, I  
5 WOULD ASK THE COURT TO INDEPENDENTLY REVIEW THE  
6 EVIDENCE, KEEPING IN MIND THE FACTORS THAT I HAVE  
7 INDICATED TO THE COURT AND FIND THAT THE APPROPRIATE  
8 PUNISHMENT IN THIS CASE IS LIFE WITHOUT THE POSSIBILITY  
9 OF PAROLE RATHER THAN THE PENALTY OF DEATH.

10 THE COURT: MR. ARNOLD.

11 MR. ARNOLD: YOUR HONOR, WERE IT NOT FOR THIS  
12 DEFENDANT AND BARRING SOMETHING UNFORESEEN, CARLOS  
13 ADKINS WOULD BE ALIVE TODAY. HE WOULD BE ABLE TO ENJOY  
14 HIS FAMILY AND BASICALLY DO THE THINGS AND ENJOY THE  
15 THINGS THAT PEOPLE DO.

16 NEVERTHELESS, THIS DEFENDANT MADE THE  
17 DECISION TO KILL HIM IN 1992 FOR THE EGREGIOUS SIN OF  
18 CARLOS ADKINS SAYING, "YOU DON'T KNOW ME, EITHER."

19 THE DEFENDANT COULD HAVE LEFT. HE COULD  
20 HAVE NOT BEEN INVOLVED ANY MORE THAN HE ALREADY HAD, BUT  
21 HE THEN MADE THE DECISION TO PLACE THE GUN AGAINST  
22 CARLOS ADKINS' HEAD. AS YOU KNOW, THE STRUGGLE ENSUED  
23 AND CARLOS ADKINS DIED ON ANDRE CHAPPELL'S COUCH.

24 THERE WAS NO REASON FOR THAT TO HAPPEN.  
25 THIS DEFENDANT WAS CLEARLY THE AGGRESSOR. THERE WAS NO  
26 JUSTIFICATION AT ALL. THERE WAS JUST NO EXCUSE FOR IT.

27 NEVERTHELESS, THIS DEFENDANT MURDERED  
28 REALLY WITHOUT REASON.

1 KEVIN BURRELL TODAY, WERE IT NOT FOR THIS  
2 DEFENDANT AND AGAIN BARRING SOMETHING UNFORESEEN, HE  
3 WOULD BE PROCEEDING WITH A SUCCESSFUL CAREER WITH THE  
4 COMPTON POLICE DEPARTMENT. MAYBE TODAY HE WOULD BE AN  
5 EXPERIENCED OFFICER, TRAINING OFFICER. MAYBE HE WOULD  
6 BE A DETECTIVE. MAYBE HE WOULD BE A SERGEANT. HE WOULD  
7 BE ENJOYING HIS CHILD. HE WOULD BE ENJOYING THE THINGS  
8 THAT WE'RE SUPPOSED TO. HE WOULD BE ENJOYING THE RIGHTS  
9 OF PASSAGE.

10 JAMES MACDONALD, WERE IT NOT FOR THIS  
11 DEFENDANT, WOULD BE SOMEWHAT OF A SEASONED OFFICER NOW  
12 WITH THE SAN JOSE POLICE DEPARTMENT. BUT NEITHER OF  
13 THESE THINGS OCCURRED. KEN BURRELL WAS NOT ABLE TO  
14 CONTINUE WITH HIS CAREER AND ENJOY HIS FAMILY AND JIMMY  
15 MACDONALD WAS NOT ABLE TO EVEN START HIS CAREER WITH THE  
16 SAN JOSE POLICE DEPARTMENT AND CONTINUE HIS ENJOYING HIS  
17 LIFE WITH HIS FAMILY BECAUSE THIS DEFENDANT KILLED THE  
18 BOTH OF THEM.

19 AND IT'S NOT SO MUCH OF THE KILLING OF TWO  
20 POLICE OFFICERS. IT'S THE MANNER IN WHICH IT WAS DONE.

21 AS I HAD MENTIONED TO THE JURY IN FINAL  
22 ARGUMENT, THAT IF THE DEFENDANT DID WHAT HE DID BECAUSE  
23 HE HAD SOMETHING IN THAT TRUCK THAT HE DIDN'T WANT THE  
24 OFFICERS TO FIND OUT OR PERHAPS IT'S BECAUSE HE KNEW HE  
25 HAD A GUN AND THAT HE WAS GOING TO GO TO JAIL FOR BEING  
26 A FELON IN POSSESSION OF A FIREARM.

27 HE HAD ALREADY SHOT THE OFFICERS. THEY  
28 WERE ALREADY DOWN. THEY WERE OUT OF THE PICTURE. THEY

1       POSED NO THREAT TO HIM ANYMORE, BUT HE, NEVERTHELESS,  
2       TOOK THE ADDITIONAL STEP OF BENDING DOWN AND SHOOTING  
3       KEVIN BURRELL IN THE HEAD FATALLY.

4               HE NEVERTHELESS TOOK THE ADDITIONAL STEP OF  
5       BENDING DOWN AND PUTTING THAT NINE MILLIMETER AGAINST  
6       THE EAR, BEHIND THE EAR OF JIMMY MACDONALD AND SHOOTING  
7       HIM.   THESE WERE EXECUTION ROUNDS, EXECUTION SHOTS.

8               IT WASN'T NECESSARY TO DO THAT, AND IN MY  
9       VIEW, THOSE LAST SHOTS, IF NOTHING ELSE, THOSE SHOTS  
10      CALL OUT FOR THIS DEFENDANT TO SUFFER THE ULTIMATE  
11      PENALTY.

12              MR. JAFFE SUGGESTS TO YOU IT'S THE  
13      DEFENDANT'S UPBRINGING AND IT'S THE FACT THAT HE GREW UP  
14      IN NICKERSON GARDENS, AND HIS MOTHER UNFORTUNATELY WAS  
15      ADDICTED TO DRUGS.   NONE OF THIS IS JUSTIFICATION, IT'S  
16      NOT AN EXCUSE.   NONE OF THIS CAUSED THIS DEFENDANT TO  
17      PULL THE TRIGGER ON CARLOS ADKINS, TO SHOOT JIMMY  
18      MACDONALD AND TO SHOOT OFFICER BURRELL, KEVIN BURRELL  
19      AND THEN BEND DOWN AND ADMINISTER THOSE EXECUTION SHOTS.

20              THERE ARE MANY YOUNG MEN AND WOMEN WHO GROW  
21      UP IN SOUTH CENTRAL LOS ANGELES WHO DON'T ENGAGE IN THIS  
22      TYPE OF ACTIVITY.   MANY PEOPLE HAVE UNFORTUNATELY GROWN  
23      UP IN ONE PARENT FAMILIES WHERE THERE ARE DRUG PROBLEMS.

24              NONE OF THIS SPEAKS TO ANY TYPE OF EXCUSE  
25      OR MITIGATION.   I WOULD ASK YOU NOT TO FIND THAT THERE  
26      IS ANY MITIGATION OR EXCUSE IN THE DEFENDANT'S  
27      UPBRINGING.

28              AS A RESULT OF WHAT THIS DEFENDANT DID, IN



1 THE KILLING OF THREE PEOPLE WHICH IS IMPACTED OBVIOUSLY  
2 NOT ONLY THE THREE VICTIMS BUT THE FAMILIES AND THE  
3 EXTENDED FAMILIES OF CARLOS ADKINS, KEVIN BURRELL AND  
4 JIMMY MACDONALD.

5 WHAT THIS DEFENDANT HAS DONE HAS IMPACTED  
6 MANY, MANY LIVES, MANY, MANY LIVES AND THE DEATH  
7 PENALTY, YOUR HONOR, BASED ON THE DEFENDANT'S CONDUCT IN  
8 THIS CASE AND NOT THE FACT THAT THREE MURDERS OCCURRED,  
9 AND NOT SO MUCH THE FACT THAT IT WAS TWO FIRST DEGREE  
10 MURDERS, BUT IT'S THE MANNER IN WHICH THEY WERE CARRIED  
11 OUT.

12 I WOULD ASK YOU TO BE MINDFUL OF THAT AND  
13 TO BE MINDFUL, ALSO, OF THE VICTIM IMPACT EVIDENCE THAT  
14 YOU HEARD OF THE PARENTS OF THE OFFICERS, AND BE MINDFUL  
15 FROM THE TESTIMONY OF THE CORONER AS TO THE MANNER IN  
16 WHICH THESE SHOTS WERE ADMINISTERED, AND AS A RESULT OF  
17 ALL OF THAT, FIND THAT THIS CASE IS, IN FACT, THE  
18 APPROPRIATE CASE FOR THE ULTIMATE PUNISHMENT.

19 I WOULD ASK YOU TO NOT MITIGATE THE  
20 SENTENCE TO LIFE WITHOUT PAROLE BUT TO GO AHEAD AND TAKE  
21 THE JURY'S RECOMMENDATION AND SENTENCE THIS DEFENDANT TO  
22 A SENTENCE THAT HE SO JUSTLY DESERVES AND THAT IS THAT  
23 HE SUFFER THE PENALTY OF DEATH.

24 THE COURT: MR. JAFFE, DO YOU WANT TO RESPOND AT  
25 ALL?

26 MR. JAFFE: NO, YOUR HONOR.

27 THE COURT: ALL RIGHT.

28 ALL RIGHT, COUNSEL. IN THIS PARTICULAR

1 CASE, I REREAD THE DAILY TRANSCRIPTS OF THE ARGUMENTS OF  
2 COUNSEL, AND I REVIEWED MY NOTES ON THE CASE, AND I WILL  
3 INDICATE THAT I HAVE GIVEN THIS SOME THOUGHT. AS I  
4 SAID, I HAVE REVIEWED THE MATERIALS. AND I HAVE WRITTEN  
5 OUT SOME THOUGHTS THAT I HAVE, AS A RESULT OF MY REVIEW,  
6 AND BOTH COUNSEL BASICALLY TOUCHED ON POINTS THAT WERE  
7 IN THE PREVIOUS OR IN THE TRANSCRIPTS THAT I PREVIOUSLY  
8 REVIEWED.

9 IN THIS CASE, THE DEFENDANT WAS CONVICTED  
10 ON MAY 17TH, 1995, OF FIRST DEGREE MURDER -- EXCUSE  
11 ME -- OF FIRST DEGREE MURDER AS CHARGED IN COUNT 2, THE  
12 MURDER OF KEVIN BURRELL. THE JURY FOUND TRUE THE  
13 SPECIAL CIRCUMSTANCE ALLEGATION THAT KEVIN BURRELL WAS A  
14 PEACE OFFICER WHO WAS INTENTIONALLY KILLED WHILE ENGAGED  
15 IN THE PERFORMANCE OF HIS DUTIES, WITHIN THE MEANING OF  
16 PENAL CODE SECTION 190.2(A) SUBSECTION 7; OF FIRST  
17 DEGREE MURDER AS CHARGED IN COUNT 3, THE MURDER OF JAMES  
18 MACDONALD.

19 THE JURY FOUND TRUE THE SPECIAL  
20 CIRCUMSTANCES ALLEGATION THAT JAMES MACDONALD WAS A  
21 PEACE OFFICER WHO WAS INTENTIONALLY KILLED WHILE ENGAGED  
22 IN THE PERFORMANCE OF HIS DUTIES, WITHIN THE MEANING OF  
23 PENAL CODE SECTION 190.2 PARAGRAPH A, SUBSECTION 7, AND  
24 OF SECOND DEGREE MURDER CHARGED IN COUNT 1, THE MURDER  
25 OF CARLOS ADKINS.

26 THE JURY FURTHER FOUND THAT THE SPECIAL  
27 CIRCUMSTANCE ALLEGATION OF MULTIPLE MURDERS, WITHIN THE  
28 MEANING OF PENAL CODE SECTION 190.2 (A) SECTION 3 TO BE

1 TRUE.

2 FURTHER, THE JURY TRIAL IN THE PENALTY  
3 PHASE COMMENCED ON MAY 31, 1995, AND WAS CONCLUDED WITH  
4 A VERDICT DECREETING DEATH FOR REGIS DEON THOMAS. THE  
5 VERDICT WAS SIGNED JUNE 16, 1995.

6 PENAL CODE SECTION 190.4 PROVIDES IN EVERY  
7 CASE IN WHICH A TRIER OF FACT HAS RETURNED A VERDICT  
8 IMPOSING DEATH, THE DEFENDANT IS DEEMED TO HAVE MADE AN  
9 AUTOMATIC APPLICATION FOR A MOTION TO MODIFY THE  
10 VERDICT.

11 IN RULING ON THE MOTION TO MODIFY THE  
12 VERDICT, THE COURT ACKNOWLEDGES THAT ITS FUNCTION IS NOT  
13 TO MAKE AN INDEPENDENT AND DE NOVO PENALTY  
14 DETERMINATION. RATHER, THE COURT'S ROLE IS TO REWEIGH  
15 THE EVIDENCE OF AGGRAVATING AND MITIGATING FACTORS, AND  
16 TO DETERMINE WHETHER IN THE COURT'S INDEPENDENT JUDGMENT  
17 THE WEIGHT OF THE EVIDENCE SUPPORTS THE JURY'S VERDICT.

18 THE COURT IS ALSO AWARE OF ITS OBLIGATION  
19 TO ASSESS THE CREDIBILITY OF WITNESSES, TO DETERMINE THE  
20 PROBATIVE FORCE OF THE TESTIMONY AND WEIGH THE EVIDENCE  
21 INCLUDING REVIEWING THE FACTORS UNDER PENAL CODE SECTION  
22 190.3.

23 IN ITS REVIEW, THE COURT HAS MADE THE  
24 DETERMINATION THAT THE VERDICT IS NOT CONTRARY TO THE  
25 LAW OR TO THE EVIDENCE. THE COURT FINDS THAT THE TRUTH  
26 OF THE SPECIAL CIRCUMSTANCES WAS PROVEN BEYOND ANY  
27 DOUBT. THE COURT'S CONCLUSION IS THAT THE JURY'S  
28 FINDING OF DEATH IS PROPER ACCORDING TO THE LAW AND THE

1       FACTS UNDER AN INDEPENDENT REVIEW BY THE COURT OF ALL  
2       THE EVIDENCE.

3               AS TO THE CREDIBILITY OF WITNESSES, THE  
4       COURT FINDS THE PROSECUTION WITNESSES TO BE CREDIBLE AND  
5       REASONABLE. A SPECIFIC COMMENT, THOUGH, SHOULD BE MADE  
6       CONCERNING CALVIN COOKSEY. ALTHOUGH MR. COOKSEY HAD A  
7       CIVIL SUIT PENDING AND THE COURT RULED THAT HE WAS IN  
8       CONTEMPT OF THIS COURT'S ORDER THAT HE TESTIFY IN THE  
9       TRIAL, THIS COURT IS SATISFIED THAT HIS TESTIMONY ON THE  
10      MATERIAL AND RELEVANT ISSUES BEFORE THE TRIER OF FACT  
11      WAS CORROBORATED BY THE TESTIMONY OF OFFICER WILLIAM  
12      JACKSON, DEPUTY LARRY BRANDENBURG, KEYON PYE, ROBERT  
13      ROJAS, ALICIA JORDON, AND MARGARETTA GULLY AND THUS  
14      FINDS HIS TESTIMONY IMPLICATING THE DEFENDANT AS THE  
15      KILLER OF OFFICERS MACDONALD AND BURRELL TO BE TRUTHFUL.

16             THE COURT AGREES WITH THE JURY'S IMPLICIT  
17      FINDINGS THAT THE CIRCUMSTANCES IN AGGRAVATION  
18      SUBSTANTIALLY OUTWEIGH THE CIRCUMSTANCES IN MITIGATION  
19      AS TO THE DEFENDANT, WARRANTING THE PENALTY OF DEATH AS  
20      TO MR. REGIS DEON THOMAS.

21             THE JURY'S ASSESSMENT OF THE EVIDENCE THAT  
22      THE FACTORS IN AGGRAVATION SUBSTANTIALLY OUTWEIGH THE  
23      FACTORS IN MITIGATION AND THAT DEATH IS WARRANTED IS  
24      SUPPORTED BY THE EVIDENCE. IN REVIEWING THE FACTORS OF  
25      SECTION 190.3 OF THE PENAL CODE, THE COURT FINDS AS  
26      FOLLOWS:

27             AS TO FACTOR A, THAT IS THAT THE  
28      CIRCUMSTANCES OF THE CRIME WHICH THE DEFENDANT WAS

1 CONVICTED IN THE PRESENT PROCEEDING AND THE EXISTENCE OF  
2 THE SPECIAL CIRCUMSTANCES FOUND TO BE TRUE.

3 THIS CASE INVOLVED THE KILLING OF THREE  
4 PEOPLE, CARLOS ADKINS, KEVIN BURRELL, AND JAMES  
5 MACDONALD. CARLOS ADKINS WAS KILLED FOR MISTAKENLY  
6 CALLING SOMEONE "ROMEO." OFFICER BURRELL AND OFFICER  
7 MACDONALD WERE KILLED IN COLD BLOOD WHILE PERFORMING  
8 THEIR LAWFUL DUTIES AS POLICE OFFICERS. THEY WERE  
9 EXECUTED DURING WHAT APPEARED TO BE A ROUTINE TRAFFIC  
10 STOP BY THE DEFENDANT WHO FIRED MULTIPLE ROUNDS AT EACH  
11 OF THE OFFICERS.

12 FACTOR B IS THE PRESENCE OR ABSENCE OF  
13 CRIMINAL ACTIVITY BY THE DEFENDANT WHICH INVOLVED THE  
14 USE OR ATTEMPTED USE OF FORCE OR VIOLENCE. THE  
15 DEFENDANT SUFFERED THE CONVICTION OF THE CRIME OF  
16 BATTERY ON A PEACE OFFICER, WHICH OCCURRED ON FEBRUARY  
17 16TH, 1990.

18 AS TO FACTOR C, THE PRESENCE OR ABSENCE OF  
19 THE PRIOR CONVICTION, AND I PERMITTED THE EVIDENCE  
20 FINDING THAT THESE WERE THE COUNTS ALLEGED IN THE  
21 INFORMATION IN COUNT 4 AND 5 TO WHICH THE DEFENDANT  
22 PLEADED GUILTY PRIOR TO THE PRESENTATION OF EVIDENCE IN  
23 THE GUILT PHASE OF THE TRIAL.

24 FACTORS D, E, F, G, H AND J ARE NOT  
25 RELEVANT SINCE NO EVIDENCE WAS PRESENTED CONCERNING  
26 THESE FACTORS. AS TO FACTOR I, THE DEFENDANT WAS 22  
27 YEARS OLD AT THE TIME OF THE KILLINGS OF KEVIN BURRELL  
28 AND JAMES MACDONALD.

1 AS TO FACTOR K, SEVERAL WITNESSES WERE  
2 PRESENTED BY THE DEFENDANT, INCLUDING SEVERAL RELATIVES  
3 AND FRIENDS OF THE DEFENDANT WHO TESTIFIED CONCERNING  
4 THE EFFECT OF THE DEFENDANT'S MOTHER'S NARCOTICS  
5 ADDICTION; THAT THE DEFENDANT NEVER MET HIS BIOLOGICAL  
6 FATHER, AND THE EFFECT OF HAVING NO BIOLOGICAL FATHER  
7 PRESENT IN THE HOME; THE EFFECT OF THE DEFENDANT'S  
8 UPBRINGING IN NICKERSON GARDENS; THE DEFENDANT'S  
9 CHILDHOOD AND FAMILY LIFE; THE IMPORTANCE OF THE  
10 DEFENDANT'S INFLUENCE AND/OR GUIDANCE IN THE UPBRINGING  
11 OF HIS CHILDREN, AND THE DEFENDANT'S AIDE TO A  
12 HANDICAPPED YOUTH.

13 IN REVIEWING ALL THE EVIDENCE AVAILABLE  
14 PURSUANT TO PENAL CODE SECTION 190.3, AND IN CAREFULLY  
15 AND SEPARATELY WEIGHING THE AGGRAVATING AND MITIGATING  
16 FACTORS, THE COURT FINDS THAT THE AGGRAVATING EVIDENCE  
17 AS TO MR. THOMAS SUBSTANTIALLY OUTWEIGHS THE MITIGATING  
18 EVIDENCE WARRANTING THE DEATH PENALTY AND SUPPORTING THE  
19 JURY'S CONCLUSION TO THAT EFFECT.

20 I MUST STATE THAT THE CIRCUMSTANCES OF THE  
21 KILLINGS OF THE POLICE OFFICERS STANDING ALONE  
22 SUBSTANTIALLY OUTWEIGH THE MITIGATING EVIDENCE PRESENTED  
23 BY THE DEFENDANT.

24 THE COURT HEREBY ORDERS A TRANSCRIPT BE  
25 MADE OF THE COURT'S REASONS FOR DENYING THE MOTION FOR A  
26 NEW TRIAL AND AUTOMATIC MOTION FOR MODIFICATION OF  
27 VERDICT AND ENTERED IN THE CLERK'S MINUTES.

28 NOW, MR. JAFFE, DID YOU WANT TO BE HEARD ON

1 SOME OTHER MATTER AT THIS PARTICULAR TIME OR SHOULD WE  
2 PROCEED WITH THE HEARING OF THE WITNESSES IN THE  
3 SENTENCING?

4 MR. JAFFE: WE CAN PROCEED, YOUR HONOR.

5 THE COURT: JUST SO THE RECORD IS CLEAR, WHAT MY  
6 INTENTION IS -- I HAVE NOT READ THE PROBATION REPORTS.

7 IT'S MY INTENTION TO HEAR FROM WHOMEVER  
8 INTENDS TO SPEAK, EITHER FROM THE PROSECUTION OR THE  
9 DEFENSE. THEN I'LL TAKE A BREAK, AND I WILL REVIEW THE  
10 PROBATION REPORT.

11 IF EITHER COUNSEL WANT TO BE HEARD AS TO  
12 THE CONTENTS OF THE PROBATION REPORT AS TO CORRECTING OR  
13 MODIFYING THAT IS ARTICULATED IN THE PROBATION REPORT,  
14 I'LL HEAR FROM THAT AND THEN I'LL PROCEED WITH THE  
15 SENTENCING ON THIS PARTICULAR CASE.

16 MR. ARNOLD.  
17  
18  
19  
20  
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28

1 MR. ARNOLD: THANK YOU, YOUR HONOR.

2 YOUR HONOR, I BELIEVE THAT SEVERAL PEOPLE  
3 WANT TO MAKE STATEMENTS PURSUANT TO THE VICTIM'S BILL OF  
4 RIGHTS: CHIEF HEURIE TAYLOR OF THE COMPTON POLICE  
5 DEPARTMENT, MR. CLARK BURRELL, AND MR. AND MRS. JAMES  
6 MACDONALD.

7 THE COURT: ALL RIGHT. IN THIS PARTICULAR  
8 PROCEEDING, I AM GOING TO HAVE THEM SPEAK FROM THE PODIUM.

9 SO WHOMEVER YOU WANT TO HAVE ADDRESS THE  
10 COURT FIRST, HAVE THEM DO THAT, AND THEN, MR. JAFFE, IF  
11 YOU HAVE PEOPLE OR ANYBODY ON BEHALF OF MR. THOMAS WANTS  
12 TO MAKE A STATEMENT, I WILL GIVE THEM THE OPPORTUNITY.

13 MR. BURRELL, CAN YOU -- YOU ARE GOING TO DO  
14 IT RIGHT THERE FROM THE PODIUM.

15 CAN YOU PLEASE STATE YOUR NAME, PLEASE, FOR  
16 THE RECORD.

17 MR. CLARK BURRELL: CLARK FITZ BURRELL.

18 THE COURT: ALL RIGHT. MR. BURRELL, GO AHEAD.  
19 THIS IS YOUR OPPORTUNITY TO ARTICULATE YOUR THOUGHTS.  
20 PLEASE DIRECT THEM TOWARDS ME.

21 MR. CLARK BURRELL: OKAY.

22 THE COURT: THANK YOU. GO AHEAD.

23 MR. CLARK BURRELL: GOOD MORNING, YOUR HONOR, AND  
24 EVERYBODY IN THE COURTROOM.

25 I AM KEVIN BURRELL'S FATHER, BUT IT'S HARD TO  
26 REALLY SAY WHAT'S ON MY MIND. FOR SOMEBODY TO  
27 DELIBERATELY DO SOMETHING LIKE THAT. IT'S PITIFUL.

28 AND EVER SINCE I WAS A LITTLE CHILD, MY DAD



1 ALWAYS TOLD US EACH AND EVERY DAY TO RESPECT EVERY HUMAN  
2 BEING FOR THE PRIVILEGE OF THE UNITED STATES.

3 SO WHY THEY LAYING ON THE STREET? THEY STEAL  
4 A HUMAN BEING, AND WHEN YOU HAVEN'T GOT RESPECT FOR A  
5 PERSON LIKE THIS, HOW YOU EXPECT TO GET RESPECT? BUT IF  
6 YOU GIVE RESPECT, YOU WILL ALSO RECEIVE RESPECT.

7 AND HOW CAN YOU GO AROUND AND JUST  
8 DELIBERATELY TAKE ANOTHER INDIVIDUAL'S LIFE IS HARD TO  
9 SAY. WHAT KIND OF PERSON COULD DO THAT?

10 MR. THOMAS, YOU TOOK THREE, BUT I DO HOPE  
11 THAT THE GOOD LORD WILL TAKE CARE OF ALL OF YOUR BAD  
12 WRONGS THAT YOU HAVE DONE. IT'S PITIFUL. IT'S SHAMEFUL.

13 THANK YOU, YOUR HONOR.

14 THE COURT: ALL RIGHT. NEXT WITNESS, PLEASE.

15 MR. ARNOLD: THAT WILL BE TONIA MACDONALD, YOUR  
16 HONOR.

17 THE COURT: MS. MACDONALD, CAN YOU STATE YOUR NAME  
18 FOR THE RECORD, PLEASE.

19 MS. TONIA MACDONALD: TONIA MACDONALD.

20 THE COURT: ALL RIGHT.

21 MS. TONIA MACDONALD: FIRST OF ALL, JUDGE FERNS, I  
22 WOULD LIKE TO THANK YOU FOR THE COMPASSION YOU HAVE SHOWN  
23 THROUGH THIS WHOLE TRIAL.

24 I DON'T FEEL REGIS THOMAS DESERVES TO LIVE.  
25 AT FIRST I THOUGHT I COULD SETTLE WITH HIM GETTING LIFE IN  
26 PRISON, JUST KNOWING THAT HE WOULD NEVER BE OUT AGAIN AND  
27 THAT HIS DAYS WOULD BE THE SAME FOR THE REST OF HIS LIFE.

28 HE WOULD BE LOSING SOME OF THE SAME THINGS HE

1 TOOK AWAY FROM JIMMY AND KEVIN. HE WOULD NEVER SEE HIS  
2 CHILDREN GROWN, NEVER SEE THEM GET MARRIED. HE WOULD  
3 NEVER HOLD ONE OF HIS OWN GRANDCHILDREN IN HIS ARMS.

4 BUT THEN MY HUSBAND SAID WHY SHOULD HE BE  
5 ALLOWED TO LIVE UNDER ANY CIRCUMSTANCES WHEN JIMMY AND  
6 KEVIN WERE NOT ALLOWED TO LIVE. HE WAS RIGHT.

7 JIMMY AND KEVIN HAD A LOT TO OFFER MANKIND.  
8 WHAT DOES REGIS THOMAS HAVE TO OFFER? NOTHING.

9 SO HE SHOULD -- HE SHOULD GET JUST WHAT HE  
10 GAVE OUR BOYS, DEATH.

11 FOR OVER SEVEN WEEKS I SAT IN THIS COURTROOM.  
12 I HAD A NUMBER OF PEOPLE ASK ME HOW I COULD STAY. I SAW  
13 AND HEARD THINGS NO PARENT SHOULD HAVE TO SEE OR HEAR  
14 ABOUT HOW THEIR CHILD DIED.

15 I WAS HERE FOR TWO REASONS. THE FIRST WAS TO  
16 REPRESENT MY SON. HE NEEDED TO HAVE SOMEONE IN THE  
17 COURTROOM KNOW. HE NEEDED TO HAVE EVERYONE IN THE  
18 COURTROOM KNOW THAT HE WAS A PERSON AND NOT JUST A NAME.

19 THE SECOND REASON WAS FOR OUR OWN STATE OF  
20 MIND. WE HAD TO KNOW WHAT THE LAST FEW HOURS OF OUR SON'S  
21 LIFE WAS LIKE.

22 WE HEARD THAT JIMMY ATE HIS LAST MEAL WITH  
23 THE BURRELL'S. I FELT GOOD HEARING THAT.

24 WE WERE ORIGINALLY TOLD THAT JIMMY DIED  
25 INSTANTLY. THEN FROM THE CORONER I HEARD HE LIVED AN HOUR  
26 AFTER BEING SHOT.

27 I'LL ALWAYS WONDER IF HE KNEW HE WAS DYING,  
28 IF HE WAS AFRAID, AND IF IN HIS MIND HE CALLED OUT TO ME,

1 HIS MOTHER, LIKE HE DID WHEN HE WAS A LITTLE BOY AND GOT  
2 HURT.

3 I LISTENED TO REGIS THOMAS' RELATIVES TELL  
4 ABOUT WHAT A LOVING FATHER, GOOD HUSBAND, AND THOUGHTFUL  
5 SON HE IS.

6 NO LOVING FATHER, GOOD HUSBAND, OR THOUGHTFUL  
7 SON WOULD PUT HIS FAMILY THROUGH WHAT REGIS THOMAS IS  
8 PUTTING HIS THROUGH.

9 I AM SORRY FOR HIS CHILDREN. NOT BECAUSE  
10 THEY WILL NEVER -- NO LONGER HAVE A FATHER AROUND, BUT  
11 BECAUSE THEY ONLY HAD HIM FOR A ROLE MODEL.

12 MR. JAFFE STATED IN A NEWS CONFERENCE THAT  
13 REGIS THOMAS SHOWED REMORSE FOR WHAT HE HAD DONE, HE FELT  
14 BAD FOR THE FAMILIES.

15 THIS WAS OBVIOUSLY SAID WITHOUT REGIS'  
16 KNOWLEDGE, BECAUSE NOT ONCE IN THIS COURTROOM DID HE SHOW  
17 ANY REMORSE. EVEN WHEN HIS OWN MOTHER BEGGED THE JURY NOT  
18 TO LET HER SON DIE, HE ONLY LOWERED HIS HEAD AND LOOKED AT  
19 THE TABLE.

20 HE COULD NOT EVEN SHED A TEAR FOR HIS OWN  
21 MOTHER, LET ALONE THE FAMILIES HE HAS DAMAGED.

22 REGIS' MOTHER SAID SHE FELT THE SAME PAIN IN  
23 HER HEART THAT WE FEEL. NO ONE KNOWS WHAT WE FEEL UNLESS  
24 THEY TOO HAVE LOST A CHILD.

25 MAYBE WHEN REGIS IS DEAD HIS MOTHER WILL KNOW  
26 WHAT REAL PAIN IS LIKE.

27 ANY PUNISHMENT THAT YOU, REGIS, RECEIVE FROM  
28 NOW UNTIL THE TIME YOU DIE IS GOING TO BE MENTAL.

1 CLARK BURRELL SAID IT BEST WHEN HE SAID YOU  
2 TOOK THE LIVES OF THREE PEOPLE. YOU SHOULD GET ONE NOW,  
3 AND THE OTHER TWO YOU CAN PAY FOR IN HELL. THAT IS I KNOW  
4 WHERE GOD WILL SEND YOU, AND THAT IS WHEN YOUR REAL  
5 PHYSICAL PAIN WILL BEGIN.

6 YOU WILL FEEL A THOUSAND TIMES MORE PAIN THAN  
7 OUR BOYS DID, AND YOUR PAIN WILL GO ON FOR ETERNITY.

8 WHEN YOU SEE YOUR FAMILY FOR THE LAST TIME  
9 BEFORE YOU LEAVE FOR PRISON, MAKE SURE AND HOLD IN YOUR  
10 MIND WHAT IT FEELS LIKE TO HOLD AND KISS THEM BECAUSE YOU  
11 WILL NEVER AGAIN HAVE ANY PHYSICAL CONTACT WITH ANY OF  
12 THEM.

13 IN PRISON YOU WILL VISIT THROUGH A GLASS  
14 WINDOW AND OVER A PHONE. YOUR VISITS WILL NOT BE OFTEN.  
15 VISITORS HAVE TO MAKE AN APPOINTMENT TO COME AND SEE YOU.

16 MY STRENGTH THROUGH ALL THIS HAS BEEN IN  
17 KNOWING THAT SOME DAY I WILL HOLD MY SON IN MY ARMS AGAIN.  
18 AFTER YOU DIE, YOUR MOTHER AND FAMILY WILL NEVER BE WITH  
19 YOU AGAIN.

20 WE WILL NEVER FORGET NOR FORGIVE YOU FOR WHAT  
21 YOU HAVE DONE TO OUR FAMILIES. AND WHEN YOUR EXECUTION  
22 DAY ARRIVES, YOU WILL NOT DIE ALONE BECAUSE WE WILL BE  
23 THERE TO WATCH YOU DIE JUST LIKE YOU WATCHED OUR BOYS DIE.

24 THE COURT: NEXT WITNESS, PLEASE.

25 MR. MACDONALD, CAN YOU SAY YOUR NAME FOR THE  
26 RECORD.

27 MR. JAMES MACDONALD: JAMES MACDONALD.

28 THE COURT: THANK YOU. GO AHEAD, SIR.

1 MR. JAMES MACDONALD: THE DAY MY SONS WERE BORN, I  
2 THANK GOD FOR THEM. I FINALLY HAD A FAMILY THAT I WANTED  
3 SO BADLY, AS I WAS A KID WITHOUT A FATHER.

4 THEY ALWAYS GAVE JOY TO ME AND A FEELING OF  
5 DEEP JOY AND SATISFACTION TO PUT THE REQUEST OF THE BOYS  
6 AHEAD OF OUR INDIVIDUAL NEEDS.

7 EVEN TODAY IN THE DEEPEST PAIN I CAN IMAGINE,  
8 I AM THANKFUL JIMMY WAS IN MY LIFE. HIS FEARFUL  
9 ADVENTURES SOMETIMES CAUSED US ANXIETY, BUT HE NEVER GAVE  
10 US A MINUTE OF SORROW.

11 THE PAIN OF JIMMY'S DEATH SHATTERS MY DAYS  
12 AND INVADES MY NIGHT. I CONSTANTLY WONDER HOW LONG HE  
13 SUFFERED, HOW LONG HE LAID THERE IN PAIN KNOWING HE WAS  
14 DYING.

15 MY FIRST WAKING PICTURE EVERY MORNING IS MY  
16 BEAUTIFUL SON BEING MURDERED BY A CRAZY LUNATIC.

17 I LIE THERE IN THE ROAD SIDE WITH HIM AND  
18 FEEL HIS FEAR. I WOULD TRADE PLACES WITH HIM IN A HEART  
19 BEAT.

20 MY LIFE AND THE LIVES OF MANY PEOPLE WERE  
21 SHATTERED BY YOUR GRUESOME, UNCONSCIOUS ACT, REGIS THOMAS.

22 YOU DESTROYED NOT JUST MY SON AND KEVIN  
23 BURRELL, BUT THE HEART OF EVERY MEMBER OF THEIR FAMILIES.

24 I HOPE AND PRAY YOU ARE SENTENCED TO DEATH  
25 AND THAT I WILL BE ALLOWED TO WATCH YOU DIE.

26 THERE ARE PEOPLE WHO -- THERE ARE PEOPLE WHO  
27 DO NOT DESERVE THE GIFT OF LIFE ON THIS BEAUTIFUL PLANET.

28 JIMMY AND KEVIN DESERVE TO LIVE. REGIS

1 THOMAS DOES NOT.

2 THE COURT: THANK YOU, SIR.

3 NEXT.

4 MR. ARNOLD: YOUR HONOR, THE LAST WITNESS WILL BE  
5 CHIEF HEURIE TAYLOR FROM COMPTON POLICE DEPARTMENT:

6 THE COURT: GO AHEAD, CHIEF TAYLOR.

7 CHIEF HEURIE TAYLOR: GOOD MORNING, YOUR HONOR.

8 LADIES AND GENTLEMEN, MR. AND MRS. BURRELL,  
9 MR. AND MRS. MACDONALD, FAMILY, FRIENDS, AND COWORKERS.

10 YOUR HONOR, I REALLY DON'T KNOW IF I CAN  
11 ADEQUATELY EXPRESS THE EMOTION THAT WE HAVE GONE THROUGH  
12 IN THE COMPTON POLICE DEPARTMENT IN REFERENCE TO THIS  
13 SITUATION.

14 YOU KNOW, WHEN YOU SIGN ONTO THIS JOB, YOU DO  
15 IT TO, YOU KNOW, CONTRIBUTE TO SOCIETY, TO HELP MAKE OUR  
16 ENVIRONMENT A BETTER PLACE TO LIVE. YOU DON'T SIGN ON TO  
17 BE EXECUTED IN THE PERFORMANCE OF YOUR DUTIES.

18 WE IN THE COMPTON POLICE DEPARTMENT ARE VERY  
19 SMALL. WE HAVE, OF COURSE, A VERY ACTIVE CITY. OVER THE  
20 YEARS THE -- I THANK THE GOOD LORD HAS BLESSED US AND  
21 WATCHED OVER US. WE ORIGINALLY ONLY HAD ONE OTHER  
22 INDIVIDUAL KILLED IN THE LINE OF DUTY.

23 AND THEN TO HAVE AN INCIDENT LIKE THIS WHERE  
24 WE HAVE TWO POLICE OFFICERS JUST ATROCIOUSLY KILLED AND  
25 EXECUTED SIMULTANEOUSLY IN A SINGLE INCIDENT, IT'S -- I  
26 MEAN IT'S JUST REALLY HEART WRENCHING.

27 I DON'T KNOW IF WE WILL EVER GET OVER IT. I  
28 MEAN I KNOW THAT WE'LL ALWAYS -- THE MEMORIES OF THESE

1 OFFICERS WILL ALWAYS BE IMPRINTED IN OUR MINDS AND HEARTS.

2 BUT I THINK AS A SOCIETY AS DIFFICULT AS IT  
3 IS TO MAINTAIN ORDER AND SAFETY NECESSARY IN SOCIETY AND  
4 THE MAGNIFICENT JOB THAT OUR LAW ENFORCEMENT OFFICERS DO,  
5 I THINK WE AS A SOCIETY ARE MANDATED TO PROTECT OUR  
6 OFFICERS AS BEST WE CAN.

7 AND WE HAVE SITUATIONS LIKE THIS WHERE  
8 DESPICABLE INDIVIDUALS JUST ATROCIOUSLY AND WANTONLY WITH  
9 ANY DISREGARD -- WITHOUT ANY REGARD GO OUT AND KILL  
10 SOCIETY'S PROTECTORS, I THINK THAT WE NEED TO MOVE  
11 AGGRESSIVELY AND EXPEDITIOUSLY IN BRINGING THOSE  
12 INDIVIDUALS TO JUSTICE.

13 I JUST URGE YOU, YOUR HONOR -- AND I KNOW IT  
14 IS AGAIN A DIFFICULT DECISION, CERTAINLY NOT ONE -- WHEN  
15 THE DEATH SENTENCE IS IMPOSED, BUT I THINK IT NEEDS TO BE  
16 IMPOSED, AND MR. THOMAS NEEDS TO GIVE THE ULTIMATE PRICE,  
17 THE PRICE OF HIS LIFE BECAUSE OF THE THREE INDIVIDUALS  
18 THAT WERE KILLED BY HIM IN THIS SITUATION.

19 AGAIN, IT IS CERTAINLY NOT GOING TO BRING --  
20 BRING THESE INDIVIDUALS BACK, BUT I THINK IT WILL SEND A  
21 MESSAGE TO MR. THOMAS AND INDIVIDUALS LIKE HIM WHO THINK  
22 THAT THEY CAN JUST COME AND KILL LAW ENFORCEMENT OFFICERS.

23 I JUST THINK THAT MESSAGE NEEDS TO BE SENT  
24 OUT AND PEOPLE NEED TO KNOW THAT WE AS A SOCIETY WON'T  
25 TOLERATE THAT.

26 THANK YOU VERY MUCH.

27 THE COURT: ALL RIGHT. THANK YOU, SIR.

28 MR. ARNOLD, IS THERE ANYBODY ELSE ON BEHALF

1 OF THE VICTIMS OR FAMILY MEMBERS THAT WANT TO BE HEARD?

2 MR. ARNOLD: NO, YOUR HONOR.

3 THE COURT: ALL RIGHT. MR. JAFFE?

4 MR. JAFFE: MAY I HAVE A MOMENT?

5 THE COURT: YES.

6

7 (PAUSE IN THE PROCEEDINGS.)

8

9 THE COURT: MR. JAFFE, I THINK SOMEBODY WANTS TO  
10 SPEAK.

11 MR. JAFFE: DESHAUNNA CODY.

12 THE COURT: MA'AM, CAN YOU JUST GO TO THE PODIUM,  
13 PLEASE, AND SPEAK FROM THERE AND SAY YOUR NAME FOR THE  
14 RECORD, PLEASE.

15 MS. DESHAUNNA THOMAS: DESHAUNNA THOMAS.

16 THE COURT: ALL RIGHT. GO AHEAD, MA'AM.

17 DESHAUNNA THOMAS: I HAVE LISTENED TO WHAT THE  
18 FAMILY MEMBERS HAVE TO SAY OF THE DECEASED, AND I AM SORRY  
19 FOR THEM.

20 BUT NEVER HAVE I HEARD OR READ OF IN THE  
21 BIBLE WHERE IT SAYS WHEN SOMEONE GETS KILLED YOU TAKE A  
22 LIFE FOR A LIFE. THIS IS MY FIRST TIME HEARING THAT.

23 AND I AM SORRY FOR YOUR FAMILY, BUT I STILL  
24 DON'T BELIEVE MY HUSBAND IS THE ONE THAT DONE IT.

25 THE COURT: ALL RIGHT. THANK YOU, MA'AM.

26 MR. JAFFE?

27 MR. JAFFE, I BELIEVE HIS MOTHER WANTS TO  
28 SPEAK.



1 MA'AM, CAN YOU JUST SAY YOUR NAME FOR THE  
2 RECORD, PLEASE.

3 MS. IRIS THOMAS: MY NAME IS IRIS THOMAS.

4 YOU SAY -- YOU SAY MY SON'S LIFE IS GOING TO  
5 MAKE YOU -- MAKE UP FOR YOU, YOUR SONS. IT'S NOT GOING TO  
6 HELP YOUR SONS BY TAKING MY SON'S LIFE.

7 I DON'T KNOW HOW YOU FEEL THAT YOUR SONS ARE  
8 DEAD, BUT I HAVE A HURT INSIDE OF ME BECAUSE YOU TRYING TO  
9 KILL MINE.

10 YOU KNOW, IT -- IT'S NOT -- YOU TAKING MY  
11 SON'S LIFE IS NOT GOING TO BRING YOURS BACK, AND THE  
12 FEELINGS ARE STILL GOING TO BE THERE.

13 SO WHY -- EVERYBODY HAS CONVICTED MY SON  
14 BEFORE -- THERE WAS NO -- I MEAN I DON'T UNDERSTAND WHAT  
15 HAPPENED REALLY, THE WAY THIS WENT DOWN.

16 THERE WAS -- YOU GOT THIS CRIMINAL THAT'S  
17 TESTIFIED SAYING MY SON DID THIS, MY SON DID THAT. NO ONE  
18 KNOWS WHO DID THIS. YOU GOT A RED TRUCK. IT'S PLENTY OF  
19 THEM AROUND THROUGH MY PROJECTS NOW. IT STILL DON'T SAY  
20 THAT THAT WAS MY SON.

21 WHY DO YOU KEEP ON WANTING TO SAY MY SON DID  
22 THIS? EVEN HIS LAWYER -- HIS LAWYER FEELS HE DONE THIS.

23 HE STANDING THERE TELLING ME HE DIDN'T DO IT.  
24 WHY DO YOU KEEP WANTING TO KILL MY SON? DO YOU REALLY  
25 THINK MY SON DID THIS?

26 YOU SAY YOU REALLY THINK. HOW DO YOU -- WHY  
27 DO YOU THINK MY SON DID THIS? BECAUSE YOU HAVE NO OTHER  
28 WITNESSES. IF YOU HAD SOMEONE ELSE THERE BESIDE HIM TO

1 SAY THAT HE DID IT, YOU WOULD THINK HE DID IT TOO.

2 PLEASE DON'T KILL MY SON.

3 I LOVE YOU, REGGIE.

4 THE DEFENDANT: THANK YOU, MAMA.

5 THE COURT: MR. JAFFE, ANYBODY ELSE?

6 MR. JAFFE: YES, MR. THOMAS WANTS TO ADDRESS THE  
7 COURT.

8 THE COURT: ALL RIGHT. MR. THOMAS, YOU CAN DO  
9 IT -- YOU DON'T HAVE TO STAND. YOU CAN DO IT SITTING  
10 DOWN, SIR. AND IF YOU CAN KEEP YOUR VOICE UP SO THE  
11 REPORTER CAN HEAR YOU.

12 THE DEFENDANT: TO THE BURRELLS AND MACDONALDS, I  
13 HOPE YOU CAN PLEAD WITH -- I KNOW IT DON'T MEAN ANYTHING  
14 TO YOU OR ANYTHING LIKE THAT, BUT I HOPE YOU CAN ACCEPT MY  
15 MOST HUMBLEST CONDOLENCES.

16 BUT I BEEN SITTING HERE -- I BEEN IN JAIL FOR  
17 TWO AND A HALF YEARS. I KNEW THE DAY THAT I CAME TO JAIL  
18 I KNEW I WAS GOING TO BE CONVICTED. I KNEW THAT THEY WAS  
19 GOING TO GIVE ME THE DEATH PENALTY EVEN THOUGH I KNOW  
20 WITHIN MY HEART I DIDN'T DO IT. AND I KNOW YOU PEOPLE  
21 KNOW WITHIN YOUR HEARTS, KNOW I DIDN'T DO IT.

22 BUT I HAVE TO PAY THE PRICE FOR SOMEONE ELSE  
23 BECAUSE THIS IS HOW SOCIETY IS.

24 BUT IT'S LIKE, YOU KNOW, I GOT TO GO BACK  
25 THERE. I WILL NEVER BE ABLE TO HAVE A CHANCE TO HOLD MY  
26 KIDS AGAIN. I HAVE EIGHT KIDS. I WILL NEVER BE ABLE TO  
27 HAVE A CHANCE TO HOLD MY WIFE.

28 THE COURT: MR. THOMAS -- MR. THOMAS, CAN YOU

1 DIRECT THEM TO ME. I WILL GIVE YOU A CHANCE TO TALK TO  
2 THE BURRELLS. IF YOU CAN TALK TO ME, PLEASE.

3 THE DEFENDANT: AND IT'S -- YOU KNOW, ALL I'VE  
4 HEARD IN THIS WHOLE COURTROOM IS KILL, KILL, KILL.

5 AND I'VE ALWAYS THOUGHT -- AND I'VE ALWAYS  
6 LEARNED THAT KILLING WAS WRONG. BUT I -- I SEE DIFFERENT.  
7 PEOPLE ARE BEGGING THIS COURT TO KILL ME, BEGGING THIS  
8 COURT TO KILL ME.

9 I UNDERSTAND YOUR SONS ARE GONE. I -- LORD  
10 KNOWS -- LORD KNOWS HOW MUCH -- HOW I FEEL RIGHT NOW, OR  
11 HOW I'VE BEEN FEELING.

12 PEOPLE SAY I HAVEN'T SHOWED REMORSE. WHEN MY  
13 MOTHER WAS ON THE STAND, I COULDN'T CRY FOR MY MOTHER. I  
14 JUST PUT MY HEAD DOWN. BECAUSE I'M A STRONGER MAN THAN  
15 THAT. BUT I DO CRY. ALL MEN CRY, ALL GOOD MEN. I'M NOT  
16 GOING TO SAY I'M THE BEST MAN IN THE WORLD, BUT I DO TRY  
17 MY BEST. I TRY MY BEST IN EVERYTHING I DO.

18 YES, I WAS OUT THERE. I WAS A LITTLE HARD  
19 HEAD, DOING THIS, DOING THAT. BUT I'M NOT SUPERMAN. I  
20 CAN'T TAKE TWO PEOPLE. NOT AT THE SAME TIME, ESPECIALLY  
21 TWO HIGHLY TRAINED PROFESSIONALS.

22 THIS IS SOMETHING I DIDN'T DO. I DONE DID A  
23 LOT OF THINGS IN MY LIFE, BUT SOMETHING LIKE THAT,  
24 UNH-UNH.

25 BUT I DO SEND ALL MY LOVE TO YOUR FAMILIES.  
26 YOU KNOW, I DO SEND ALL MY LOVE TO YOUR FAMILIES. IF YOU  
27 CAN ACCEPT IT, ACCEPT IT. IF NOT, THAT'S -- MUCH LOVE.

28 THE COURT: ALL RIGHT. ANYTHING ELSE, MR. JAFFE?

1 MR. JAFFE: NO.

2 THE COURT: ALL RIGHT. WHAT WE WILL DO IS WE WILL  
3 TAKE A FIFTEEN-MINUTE BREAK, AND I WILL REVIEW THE  
4 PROBATION REPORTS AS I HAVE NOT READ IT YET. I WILL TAKE  
5 A LOOK AT THE PROBATION REPORT, AND THEN I WILL COME OUT  
6 AND COMPLETE THE SENTENCING.

7 WE'LL BE IN RECESS UNTIL 10:45.

8

9 (RECESS.)

10

11 THE COURT: ALL RIGHT. RECALL THE CASE OF PEOPLE  
12 VERSUS REGIS THOMAS, CASE BA075063. MR. THOMAS IS PRESENT  
13 WITH HIS ATTORNEYS. THE PEOPLE ARE REPRESENTED.

14 AND THE RECORD SHOULD REFLECT THAT I HAVE  
15 READ AND REVIEWED THE PROBATION OFFICER'S REPORT.

16 MR. JAFFE, DO YOU WANT TO BE HEARD AT ALL AS  
17 FAR AS ANY OF THE ENTRIES IN THE REPORT?

18 MR. JAFFE: NO, YOUR HONOR.

19 THE COURT: ALL RIGHT. MR. ARNOLD?

20 MR. ARNOLD: NO, YOUR HONOR.

21 THE COURT: ALL RIGHT. IT IS THE ORDER OF THE  
22 COURT THAT:

23 TO THE SHERIFF OF THE COUNTY OF LOS ANGELES  
24 AND TO THE WARDEN OF THE STATE PRISON OF CALIFORNIA AT SAN  
25 QUENTIN:

26 BE IT REMINDED THAT ON OCTOBER 20, 1993, AN  
27 INFORMATION NO. BA075063 WAS DULY FILED AGAINST THE  
28 DEFENDANT REGIS DEON THOMAS BY THE DISTRICT ATTORNEY OF

1 LOS ANGELES COUNTY, CHARGING SAID DEFENDANT WITH THE  
2 FOLLOWING CRIMES:

3 IN COUNT I OF THE INFORMATION WITH THE CRIME  
4 OF THE MURDER OF CARLOS ADKINS, A VIOLATION OF PENAL CODE  
5 SECTION 187(A), A FELONY.

6 IT IS FURTHER ALLEGED THAT THE DEFENDANT  
7 PERSONALLY USED A FIREARM, A NINE MILLIMETER HANDGUN,  
8 DURING THE COMMISSION OF THE MURDER WITHIN THE MEANING OF  
9 PENAL CODE SECTION 12022.5(A).

10 IN COUNT II OF THE INFORMATION WITH THE CRIME  
11 OF THE MURDER OF OFFICER KEVIN BURRELL, A VIOLATION OF  
12 PENAL CODE SECTION 187(A), A FELONY.

13 IT WAS FURTHER ALLEGED THAT THE DEFENDANT  
14 PERSONALLY USED A FIREARM, A NINE MILLIMETER HANDGUN,  
15 DURING THE COMMISSION OF THE MURDER WITHIN THE MEANING OF  
16 PENAL CODE SECTION 12022.5(A).

17 IT WAS FURTHER ALLEGED THAT THE VICTIM,  
18 OFFICER KEVIN BURRELL, WAS A PEACE OFFICER WHO WAS  
19 INTENTIONALLY KILLED WHILE ENGAGED IN THE PERFORMANCE OF  
20 HIS DUTIES WITHIN THE MEANING OF PENAL CODE SECTION  
21 190(A)(7).

22 IN COUNT III OF THE INFORMATION, WITH THE  
23 CRIME OF MURDER OF OFFICER JAMES MACDONALD, A VIOLATION OF  
24 PENAL CODE SECTION 187(A), A FELONY.

25 IT WAS FURTHER ALLEGED THAT THE DEFENDANT  
26 PERSONALLY USED A FIREARM, A NINE MILLIMETER HANDGUN,  
27 DURING THE COMMISSION OF THE MURDER WITHIN THE MEANING OF  
28 PENAL CODE SECTION 12022.5(A).

1           IT WAS FURTHER ALLEGED THAT THE VICTIM,  
2 OFFICER JAMES MACDONALD, WAS A PEACE OFFICER WHO WAS  
3 INTENTIONALLY KILLED WHILE ENGAGED IN THE PERFORMANCE OF  
4 HIS DUTIES WITHIN THE MEANING OF PENAL CODE SECTION  
5 190.2(A)(7).

6           IT WAS FURTHER ALLEGED THAT THE MURDERS  
7 ALLEGED IN COUNTS I, II, AND III WAS MULTIPLE MURDER  
8 WITHIN THE MEANING OF PENAL CODE SECTION 190.2(A)(3).

9           IN COUNT IV OF THE INFORMATION WITH THE CRIME  
10 OF POSSESSION OF A FIREARM BY A FELON, WITHIN THE MEANING  
11 OF PENAL CODE SECTION 12021(A), A FELONY.

12           IT WAS ALLEGED THAT THE DEFENDANT HAD BEEN  
13 CONVICTED OF PERJURY, A FELONY, ON SEPTEMBER 26, 1990, IN  
14 LOS ANGELES COUNTY SUPERIOR COURT.

15           IN COUNT V OF THE INFORMATION WITH THE CRIME  
16 OF CONVICTED PERSON HAVING CONCEALED FIREARM IN A VEHICLE  
17 WITHIN THE MEANING OF PENAL CODE SECTION 12025(A)(1).

18           IT WAS ALLEGED THAT THE DEFENDANT HAD BEEN  
19 CONVICTED OF CARRYING A CONCEALED WEAPON IN A VEHICLE  
20 WITHIN THE MEANING OF PENAL CODE SECTION 12025(A) ON  
21 JANUARY 31, 1989, IN LOS ANGELES COUNTY MUNICIPAL COURT.

22           THE DEFENDANT WAIVED A FORMAL READING OF THE  
23 INFORMATION AND STATEMENT OF HIS CONSTITUTIONAL RIGHTS.

24           TO THE CHARGES HE ENTERED PLEAS OF NOT GUILTY  
25 AND DENIED THE SPECIAL ALLEGATIONS.

26           ON JANUARY 27, 1994, THE DISTRICT ATTORNEY OF  
27 LOS ANGELES COUNTY MOVED TO AMEND THE INFORMATION ADDING A  
28 COUNT VI, WHICH ALLEGED THE CRIME OF POSSESSION OF A

1 FIREARM BY A FELON, WITHIN THE MEANING OF PENAL CODE  
2 SECTION 12021(A), A FELONY.

3 IT WAS ALLEGED THAT THE DEFENDANT HAD BEEN  
4 CONVICTED OF PERJURY, A FELONY, ON SEPTEMBER 26, 1990, IN  
5 THE LOS ANGELES COUNTY SUPERIOR COURT.

6 THE DEFENDANT WAIVED FORMAL READING OF THE  
7 AMENDED INFORMATION AND PLEADED NOT GUILTY.

8 ON MARCH 6, 1995, DEFENSE MOTION TO SEVER  
9 COUNTS I, IV, AND V OF THE AMENDED INFORMATION WAS HEARD,  
10 ARGUED, AND DENIED BY THE COURT.

11 ON MARCH 17, 1995, THE DEFENDANT PERSONALLY  
12 WITHDREW HIS PLEA OF NOT GUILTY TO COUNT IV AND V AND  
13 ENTERED PLEAS OF GUILTY TO BOTH COUNTS.

14 THIS WAS DONE WITH THE APPROVAL OF THE COURT,  
15 THE DEFENSE COUNSEL, AND THE DISTRICT ATTORNEY.

16 SENTENCING ON COUNT IV AND V WAS CONTINUED  
17 UNTIL THE CONCLUSION OF THE TRIAL.

18 ALSO, ON MARCH 17, 1995, JURY SELECTION  
19 COMMENCED WITH THE VOIR DIRE PROCESS.

20 ON MARCH 22, 1995, THE JURY WAS DULY AND  
21 REGULARLY IMPANELED AND SWORN TO TRY THE CASE. THE JURY  
22 WAS ORDERED TO RETURN ON MARCH 27, 1995.

23 ON MARCH 27, 1995, EVIDENCE WAS PRESENTED TO  
24 THE JURY AS TO THE ISSUES RAISED BY THE DEFENDANT'S PLEAS  
25 OF NOT GUILTY AND HIS DENIAL OF THE SPECIAL CIRCUMSTANCE  
26 ALLEGATIONS CONTAINED IN THE AMENDED INFORMATION.

27 ON MARCH 28, 1995, ALTERNATE JUROR JOSEPH  
28 TRIMBOLI WAS EXCUSED AND DISCHARGED PER STIPULATION OF THE

1 PARTIES.

2 ON APRIL 27, 1995, AFTER THE PROSECUTION AND  
3 DEFENSE CONCLUDED A PRESENTATION OF THE EVIDENCE, THE  
4 COURT INSTRUCTED THE JURY AS TO THE LAW APPLICABLE TO THE  
5 CASE.

6 ON APRIL 28, 1995, BOTH PROSECUTION AND  
7 DEFENSE PRESENTED THEIR ARGUMENTS TO THE JURY. THE JURY  
8 THEN RECEIVED CONCLUDING INSTRUCTIONS FROM THE COURT.

9 ON MAY 1, 1995, THE JURY BEGAN ITS GUILT  
10 PHASE DELIBERATIONS.

11 ON MAY 17, 1995, THE JURY RENDERED A VERDICT  
12 AS TO THE DEFENDANT REGIS DEON THOMAS AS FOLLOWS:

13 GUILTY OF MURDER IN THE SECOND DEGREE AS  
14 CHARGED IN COUNT I OF THE AMENDED INFORMATION, THE MURDER  
15 OF CARLOS ADKINS, A VIOLATION OF PENAL CODE SECTION 187.

16 THE JURY FOUND TRUE THE ALLEGATION THAT THE  
17 DEFENDANT PERSONALLY USED A FIREARM DURING THE COMMISSION  
18 OF THE OFFENSE WITHIN THE MEANING OF PENAL CODE SECTION  
19 12022.5.

20 GUILTY OF MURDER IN THE FIRST DEGREE AS  
21 CHARGED IN COUNT II OF THE AMENDED INFORMATION, THE MURDER  
22 OF OFFICER KEVIN BURRELL, A VIOLATION OF PENAL CODE  
23 SECTION 187.

24 THE JURY FOUND TRUE THE ALLEGATION THAT THE  
25 DEFENDANT PERSONALLY USED A FIREARM DURING THE COMMISSION  
26 OF THE OFFENSE WITHIN THE MEANING OF PENAL CODE SECTION  
27 12022.5.

28 THE JURY ADDITIONALLY FOUND TRUE THE SPECIAL



1 CIRCUMSTANCE ALLEGATION THAT OFFICER KEVIN BURRELL WAS A  
2 PEACE OFFICER AND WAS INTENTIONALLY KILLED WHILE IN THE  
3 PERFORMANCE OF HIS DUTIES WITHIN THE MEANING OF PENAL CODE  
4 SECTION 190.2(A)(7).

5 GUILTY OF MURDER IN THE FIRST DEGREE AS  
6 CHARGED IN COUNT III OF THE AMENDED INFORMATION, THE  
7 MURDER OF OFFICER JAMES MACDONALD, A VIOLATION OF PENAL  
8 CODE SECTION 187.

9 THE JURY FOUND TRUE THE ALLEGATION THAT THE  
10 DEFENDANT PERSONALLY USED A FIREARM DURING THE COMMISSION  
11 OF THE MURDER WITHIN THE MEANING OF PENAL CODE SECTION  
12 12022.5.

13 THE JURY ADDITIONALLY FOUND TRUE THE SPECIAL  
14 CIRCUMSTANCE ALLEGATION THAT OFFICER JAMES MACDONALD WAS A  
15 PEACE OFFICER AND WAS INTENTIONALLY KILLED WHILE IN THE  
16 PERFORMANCE OF HIS DUTIES WITHIN THE MEANING OF PENAL CODE  
17 SECTION 190.2(A)(7).

18 THE JURY ALSO FOUND TRUE THE SPECIAL  
19 CIRCUMSTANCE ALLEGATION OF MULTIPLE MURDER WITHIN THE  
20 MEANING OF PENAL CODE SECTION 190.2(A)(3).

21 GUILTY OF POSSESSION OF A FIREARM BY A FELON  
22 AS CHARGED IN COUNT VI OF THE AMENDED INFORMATION WITHIN  
23 THE MEANING OF PENAL CODE SECTION 12021(A).

24 FURTHER, COUNSEL, I MEANT TO BRING THIS UP  
25 EARLIER. THE VERDICT FORM READ COUNT IV, BUT EVERYBODY  
26 UNDERSTOOD IT WAS AS TO COUNT VI.

27 IS THAT CORRECT, MR. JAFFE?

28 MR. JAFFE: YES.

1 THE COURT: MR. ARNOLD?

2 MR. ARNOLD: YES, YOUR HONOR.

3 THE COURT: ALL RIGHT.

4 ON MAY 30, 1995, THE COURT IMPOSED THE  
5 SENTENCE ON THE DEFENDANT HAVING BEEN FOUND -- HAVING BEEN  
6 CONVICTED BY PLEA ON COUNT IV AND V OF THE AMENDED  
7 INFORMATION.

8 SENTENCE IMPOSED ON COUNT IV WAS THREE YEARS  
9 IN THE STATE PRISON WITH CREDIT FOR 1,179 DAYS IN CUSTODY.

10 SENTENCE IMPOSED ON COUNT V WAS THREE YEARS  
11 IN STATE PRISON WITH CREDIT FOR 1,179 DAYS IN CUSTODY.  
12 THE. THE SENTENCE ON COUNT V WAS THEN STAYED PURSUANT TO  
13 PENAL CODE SECTION 654.

14 ALSO, A DEFENSE MOTION FOR A NEW TRIAL WAS  
15 HEARD, ARGUED, AND DENIED.

16 ON MAY 31, 1995, JURY TRIAL IN THE PENALTY  
17 PHASE WITH RESPECT TO COUNTS I, II, AND III OF THE AMENDED  
18 INFORMATION COMMENCED.

19 ON JUNE 6, 1995, AFTER THE PROSECUTION AND  
20 DEFENSE CONCLUDED PRESENTATION OF EVIDENCE AND ARGUMENT BY  
21 BOTH SIDES, THE COURT INSTRUCTED THE JURY AS TO THE LAW  
22 APPLICABLE TO THE PENALTY PHASE, AND DELIBERATIONS BEGAN.

23 ON JUNE 16, 1995, THE JURY RENDERED A VERDICT  
24 DECREETING DEATH FOR THE DEFENDANT REGIS DEON THOMAS.  
25 SENTENCING WAS SET FOR JULY 14, 1995.

26 ON JULY 7, 1995, DEFENSE COUNSEL'S MOTION TO  
27 CONTACT THE TRIAL JURORS PURSUANT TO CODE OF CIVIL  
28 PROCEDURE SECTIONS 206 AND 237 WAS GRANTED BY THE COURT.

1 THE JULY 14, 1995, SENTENCING DATE WAS  
2 VACATED UPON MOTION OF THE DEFENSE.

3 ON AUGUST 15, 1995, THE DEFENDANT'S MOTION  
4 FOR A NEW TRIAL, MODIFICATION OF THE VERDICT, AND FINDING  
5 IMPOSING THE DEATH PENALTY WERE HEARD BY THE COURT.

6 THE MOTIONS WERE DENIED, AT WHICH TIME  
7 COUNSEL STATED THERE IS NO LEGAL CAUSE WHY SENTENCE SHOULD  
8 NOT NOW BE PRONOUNCED.

9 THE COURT PRONOUNCED JUDGMENT AS FOLLOWS:

10 REGIS DEON THOMAS, IT IS THE JUDGMENT AND  
11 SENTENCE OF THIS COURT THAT FOR THE OFFENSE OF MURDER OF  
12 CARLOS ADKINS, CHARGED IN COUNT I OF THE AMENDED  
13 INFORMATION, FOR WHICH YOU WERE FOUND GUILTY ON MAY 17,  
14 1995, THE JURY HAVING FOUND THIS OFFENSE TO BE MURDER IN  
15 THE SECOND DEGREE; FOR THE MURDER OF KEVIN -- EXCUSE ME --  
16 FOR THE MURDER OF OFFICER KEVIN BURRELL, CHARGED IN COUNT  
17 II OF THE AMENDED INFORMATION, FOR WHICH YOU WERE FOUND  
18 GUILTY ON MAY 17, 1995, THE JURY HAVING FURTHER FOUND THE  
19 OFFENSE CHARGED IN COUNT II TO BE MURDER IN THE FIRST  
20 DEGREE AND THE SPECIAL CIRCUMSTANCE THAT OFFICER KEVIN  
21 BURRELL WAS A PEACE OFFICER WHO WAS INTENTIONALLY KILLED  
22 WHILE PERFORMING HIS DUTIES WITHIN THE MEANING OF PENAL  
23 CODE SECTION 190.2(A)(7) WAS TRUE; FOR THE MURDER OF  
24 OFFICER JAMES MACDONALD, CHARGED IN COUNT III OF THE  
25 AMENDED INFORMATION, FOR WHICH YOU WERE FOUND GUILTY ON  
26 MAY 17, 1995, THE JURY HAVING FURTHER FOUND THAT THE  
27 OFFENSE CHARGED IN COUNT III TO BE MURDER IN THE FIRST  
28 DEGREE AND THE SPECIAL CIRCUMSTANCE THAT OFFICER JAMES

1 MACDONALD WAS A PEACE OFFICER INTENTIONALLY KILLED WHILE  
2 PERFORMING HIS DUTIES WITHIN THE MEANING OF PENAL CODE  
3 SECTION 190.2(A)(7), AND THAT THE MURDERS CHARGED IN COUNT  
4 II AND III3 WERE MURDERS OF THE FIRST DEGREE WITHIN THE  
5 MEANING OF PENAL CODE SECTION 190.2(A)(3) WERE TRUE, AND  
6 THE JURY ON JUNE 16, 1995, HAVING FIXED THE PENALTY FOR  
7 THESE OFFENSES AT DEATH, THE COURT HAVING DENIED YOUR  
8 MOTIONS FOR A NEW TRIAL AND APPLICATION FOR MODIFICATION  
9 OF VERDICT AND FINDING IMPOSING THE DEATH PENALTY, SAID  
10 PENALTY SHALL BE INFLICTED UPON YOU, REGIS DEON THOMAS,  
11 WITHIN THE WALLS OF THE STATE PRISON AT SAN QUENTIN,  
12 CALIFORNIA IN THE MANNER PRESCRIBED BY LAW AT A TIME TO BE  
13 SET BY THIS COURT IN THE WARRANT OF EXECUTION.

14 SENTENCE IS TO BE IMPOSED AS FOLLOWS:

15 AS TO COUNTS I, II, AND III, YOU, REGIS DEON  
16 THOMAS, ARE SENTENCED TO DEATH.

17 AS TO COUNT VI, YOU, REGIS DEON THOMAS, ARE  
18 SENTENCED TO THE HIGH TERM OF THREE YEARS IN STATE PRISON.

19 THE COURT SELECTS THE HIGH TERM FINDING THAT  
20 THE DEFENDANT WAS ON PROBATION WHEN THE CRIME WAS  
21 COMMITTED AND THE RECORD OF CRIMES ARE OF INCREASING  
22 SERIOUSNESS.

23 THE THREE YEARS AS TO COUNT VI SHALL BE  
24 ORDERED STAYED PURSUANT TO PENAL CODE SECTION 654.

25 AS TO THE ALLEGATIONS WITHIN THE MEANING OF  
26 PENAL CODE SECTION 12022.5 OF PERSONAL USE OF A FIREARM,  
27 WHICH THE JURY FOUND TO BE TRUE AS TO COUNTS I, II, AND  
28 III, THE COURT IMPOSES SIX YEARS AND FOUR MONTHS IN THE

1 STATE PRISON.

2 THE COURT SELECTS THE HIGH TERM OF FIVE YEARS  
3 FOR THE PERSONAL USE ALLEGATION FOUND TO BE TRUE AS TO  
4 COUNT III.

5 THE COURT SELECTS THE HIGH TERM FINDING AS A  
6 CIRCUMSTANCE IN AGGRAVATION THE MANNER IN WHICH THE GUN  
7 WAS USED, THAT IS, THE FIRING OF MULTIPLE SHOTS.

8 AS TO THE PERSONAL USE ALLEGATION IN COUNT  
9 II, THE COURT SELECTS THE HIGH TERM OF FIVE YEARS.

10 IT IS ORDERED THAT THIS TERM BE ORDERED  
11 STAYED PURSUANT TO PENAL CODE SECTION 654 AND THE HOLDING  
12 OF IN RE CULBRETH, WHICH WAS THE APPLICABLE LAW AT THE  
13 TIME OF THE MURDERS. CONSECUTIVE THERETO, AN ADDITIONAL  
14 ONE YEAR AND FOUR MONTHS FOR THE PERSONAL USE ALLEGATION  
15 IN COUNT I.

16 THE TOTAL DETERMINATE TERM IMPOSED SHALL,  
17 THEREFORE, BE SIX YEARS AND FOUR MONTHS.

18 THIS TERM IS ORDERED TO RUN CONCURRENTLY,  
19 PENDING EXECUTION OF THE DEATH PENALTY AS THE SENTENCE  
20 IMPOSED IN COUNTS I, II, AND III.

21 IT IS THE INTENTION OF THIS COURT THAT ANY  
22 SENTENCE STILL TO BE SERVED, IF ANY, AS TO ANY OF THE  
23 PERSONAL USES OF THE FIREARM IN COUNTS I, II, AND III  
24 SHALL TERMINATE AND BE DEEMED SERVED WHEN THE SENTENCE OF  
25 DEATH IS ACTUALLY EXECUTED.

26 REGIS DEON THOMAS, YOU ARE REMANDED TO THE  
27 CARE, CUSTODY, AND CONTROL OF THE SHERIFF OF LOS ANGELES  
28 COUNTY TO BE DELIVERED TO THE WARDEN OF THE STATE

1 PENITENTIARY AT SAN QUENTIN, CALIFORNIA, WITHIN TEN DAYS  
2 FROM THE DATE OF THIS JUDGMENT FOR THE EXECUTION OF THE  
3 SENTENCE OF DEATH.

4 YOU ARE TO BE HELD BY SAID WARDEN PENDING THE  
5 FINAL DETERMINATION OF YOUR APPEAL IN THIS MATTER, WHICH  
6 IS AUTOMATIC.

7 THE DEATH PENALTY SHALL BE EXECUTED UPON  
8 FINAL DETERMINATION OF SAID APPEAL, AND YOU ARE TO BE HELD  
9 BY SAID WARDEN DURING SAID PERIOD OF TIME UNTIL FURTHER  
10 ORDER OF THIS COURT. IT IS SO ORDERED.

11 THIS ORDER IS TO COMMAND YOU, THE SHERIFF OF  
12 LOS ANGELES COUNTY, AS PROVIDED IN SAID JUDGMENT AND  
13 SENTENCE TO TAKE REGIS DEON THOMAS TO THE STATE PRISON OF  
14 THE STATE OF CALIFORNIA AND TO DELIVER HIM INTO THE  
15 CUSTODY OF THE WARDEN OF THE SAID STATE PRISON WITHIN THE  
16 TIME PERIOD DESCRIBED ABOVE.

17 FURTHER, THIS ORDER IS TO COMMAND YOU, THE  
18 WARDEN OF THE STATE PRISON OF THE STATE OF CALIFORNIA AT  
19 SAN QUENTIN, CALIFORNIA, TO HOLD IN YOUR CUSTODY THE SAID  
20 REGIS DEON THOMAS, PENDING THE DECISION OF THIS CASE ON  
21 APPEAL, AND UPON THE JUDGMENT AND SENTENCE HEREIN BECOMING  
22 FINAL, TO CARRY INTO EFFECT THE JUDGMENT AND SENTENCE OF  
23 THIS COURT AT A TIME AND ON A DATE TO BE HEREAFTER FIXED  
24 BY ORDER OF THIS COURT WITHIN THE STATE PRISON, AT WHICH  
25 TIME AND PLACE YOU SHALL THEN AND THERE PUT TO DEATH THE  
26 SAID REGIS DEON THOMAS IN THE MANNER AND MEANS PRESCRIBED  
27 BY LAW.

28 IN WITNESS THEREOF, I HAVE HERE UNTO SET MY

1 HAND AS JUDGE OF THE SAID SUPERIOR COURT AND HAVE CAUSED  
2 THE SEAL OF THE SAID COURT TO BE AFFIXED THERETO.

3 THIS HAS BEEN DONE IN OPEN COURT THIS 15TH A  
4 DAY OF AUGUST, 1995.

5 WE'LL STAND IN RECESS.

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7 (PROCEEDINGS CONCLUDED.)

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