

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

- VERSUS -

DEBORAH GORE DEAN,

DEFENDANT

.
. DOCKET NO.
. CR. 92-181-01
. WASHINGTON, D. C.
. JULY 13, 1992
. 10:30 A. M.

.....

TRANSCRIPT OF ARRAIGNMENT/STATUS
CONFERENCE BEFORE THE HONORABLE
GERHARD A. GESELL, UNITED STATES
DISTRICT JUDGE.

FILED

JUL 15 1992

CLERKS, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

APPEARANCES:

FOR THE GOVERNMENT:

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PAULA SWEENEY, ESQ.
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FOR THE DEFENDANT:

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WASHINGTON, D.C., 20001

P R O C E E D I N G S

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THE DEPUTY CLERK: CRIMINAL CASE NUMBER 92-181,
UNITED STATES VERSUS DEBORAH GORE DEAN. MISS JOANN HARRIS
AND MISS PAULA SWEENEY, INDEPENDENT COUNSEL.
MR. STEPHEN WEHNER AND MR. DONALD SANTARELLI FOR THE
DEFENDANT.

THE COURT: WE SHOULD GO AHEAD WITH THE
ARRAIGNMENT, FIRST OF ALL.

THE DEPUTY CLERK: YOUR HONOR, MAY THE RECORD
REFLECT THAT I'M HANDING THE DEFENDANT DEBORAH GORE DEAN A
COPY OF THE SUPERSEDING INDICTMENT, 13 COUNTS CHARGING
CONSPIRACY, ILLEGAL RECEIPT OF THINGS OF VALUE BY PUBLIC
OFFICIAL, PERJURY, SCHEME TO FALSIFY, CONCEAL AND COVER
UP, AND FALSE STATEMENTS, AND AIDING AND ABETTING. HOW DO
YOU WISH TO PLEAD?

THE DEFENDANT: NOT GUILTY.

THE DEPUTY CLERK: A PLEA OF NOT GUILTY ENTERED,
YOUR HONOR, TO THE 13-COUNT SUPERSEDING INDICTMENT.

THE COURT: ALL RIGHT. THAT'S ALL WE HAVE TO DO
ABOUT THAT.

MR. WEHNER: THANK YOU, YOUR HONOR.

THE COURT: I'M GOING TO CONTINUE HER ON THE
SAME BOND SHE'S ON, PERSONAL RECOGNIZANCE.

NOW, I RECEIVED THE MORNING THE GOVERNMENT'S
NOTICE OF APPEAL OF THE RULING THE COURT MADE WITH RESPECT

1 TO THE ATTEMPT TO USE THE TESTIMONY OF THE DEFENDANT
2 AGAINST HER AND OF COURSE WITH THAT APPEAL PENDING THERE'S
3 NO WAY THAT I CAN SET ANY KIND OF A TRIAL DATE.

4 ON THE OTHER HAND, I WANT TO TALK A BIT ABOUT
5 OTHER ASPECTS OF THE CASE WITH COUNSEL ON BOTH SIDES.

6 WHERE DOES THE INDEPENDENT COUNSEL PRESENTLY
7 BELIEVE THE FIRST INDICTMENT STANDS?

8 MS. HARRIS: YOUR HONOR, THE -- EXCUSE ME. YOUR
9 HONOR, JOANN HARRIS FOR THE OFFICE OF INDEPENDENT COUNSEL.

10 WE FILED THIS MORNING WITH THE COURT, AND YOU
11 MAY NOT HAVE RECEIVED IT, A NOTICE OF COMPUTATION OF TIME
12 WITH RESPECT TO THE SUPERSEDING INDICTMENT WHICH BASICALLY
13 SAYS THAT PURSUANT TO THE LOCAL RULES THE TIME FOR THE
14 SPEEDY TRIAL, AGAIN, RUNNING WITH THE ORIGINAL INDICTMENT,
15 WE HAVE NOW FILED THE SUPERSEDING INDICTMENT WHICH
16 INCLUDES THE OFFENSES ORIGINALLY FILED PLUS OFFENSES THAT
17 SHOULD BE JOINED WITH THOSE ORIGINAL OFFENSES AND WE HAVE
18 GIVEN YOU A CALCULATION OF THE SPEEDY TRIAL TIME WHICH
19 ENDS AT THIS TIME AT SEPTEMBER 8TH, 1992.

20 THE COURT: WELL, YOU THEN I SUPPOSE ARE SAYING
21 TO ME THAT YOU INTEND TO FILE SOME KIND OF A MOTION TO
22 CONSOLIDATE?

23 MS. HARRIS: YOUR HONOR, THE SUPERSEDING
24 INDICTMENT INCLUDES --

25 THE COURT: I KNOW IT DOES.

1 MS. HARRIS: -- THE TWO COUNTS.

2 THE COURT: UNDER A DIFFERENT NAME. YOU'VE DONE
3 IT DIFFERENTLY BUT IT'S THE SAME COUNTS. YOU CALL IT A
4 GRATUITY IN ONE INDICTMENT AND YOU CALL IT A BRIBE IN
5 ANOTHER ONE.

6 MS. HARRIS: YOUR HONOR, I DON'T RECALL THAT IT
7 WAS CALLED A BRIBE EVER.

8 THE COURT: ANYHOW. BUT YOU HAVE IT IN THE NEW
9 INDICTMENT, I UNDERSTAND?

10 MS. HARRIS: THAT IS CORRECT. WHAT WE WOULD
11 INTEND TO DO IS PROCEED ON THE SUPERSEDING INDICTMENT AND
12 AT AN APPROPRIATE TIME MOVE FOR DISMISSAL OF THE ORIGINAL
13 INDICTMENT.

14 THE COURT: THAT'S WHAT I'M ASKING YOU, WHAT ARE
15 YOU GOING TO DO ABOUT THAT?

16 MS. HARRIS: WE WILL MOVE FOR DISMISSAL OF THE
17 ORIGINAL INDICTMENT AT THE TIME THAT THE COURT DECIDES
18 IT'S APPROPRIATE.

19 THE COURT: YOU'RE RUNNING THE CASE. I WAS JUST
20 WONDERING WHAT YOU WERE GOING TO DO. THAT'S ALL. IN
21 OTHER WORDS, YOU INTEND TO MOVE TO DISMISS THE ORIGINAL AT
22 SOME POINT, RIGHT?

23 MS. HARRIS: THAT'S CORRECT.

24 THE COURT: THEN THE NEXT THING I WANT TO DO IS
25 GO FORWARD WITH SOME KIND OF A SCHEDULE THAT WE COULD

1 DISCUSS CONCERNING HOW MUCH FURTHER AMOUNT OF TIME MIGHT
2 BE REQUIRED FOR INFORMAL DISCOVERY AGAINST THE NEW
3 INDICTMENT AND THEN SET UP SOME SORT OF A -- SOME DATES
4 FOR WHAT MOTIONS HAVE TO BE FILED BY EITHER SIDE.

5 WILL YOU -- YOU'LL HAVE A SERIES OF MOTIONS I
6 TAKE IT FROM THE DEFENDANT'S SIDE ADDRESSED TO THE NEW
7 INDICTMENT, AM I CORRECT?

8 MR. WEHNER: THAT'S CORRECT, YOUR HONOR.

9 THE COURT: THE QUESTION I REALLY HAVE IS HOW
10 LONG IT WOULD TAKE AND WHAT KIND OF SCHEDULE YOU MIGHT
11 HAVE IN MIND AND TO THE EXTENT TO WHICH YOU THINK YOU WANT
12 TO PURSUE FURTHER INFORMAL EXAMINATION OF SOME OF THESE
13 PAPERS BEFORE YOU HAVE TO FRAME YOUR MOTION AND I THINK WE
14 OUGHT TO HAVE SOME KIND OF A REASONABLE SCHEDULE. I DON'T
15 BELIEVE IT'S LIKELY THAT THE COURT OF APPEALS WILL ACT
16 PROMPTLY ON THIS APPEAL.

17 MS. HARRIS: YOUR HONOR, WE WILL MOVE TO
18 EXPEDITE THAT APPEAL OF COURSE.

19 THE COURT: I KNOW, BUT IT DOESN'T HAPPEN THAT
20 WAY UPSTAIRS AND I DON'T BELIEVE THE COURT IS HERE THIS
21 SUMMER AND SO I SUPPOSE THE MATTER WILL COME ON IN THE
22 FALL SOMETIME FOR ARGUMENT, BUT I DID WANT TO GO AHEAD
23 WITH OTHER MOTIONS THAT WOULD BE PRESENT FROM EITHER SIDE
24 AND YOU'VE HAD SOME EXAMINATION INTO THE LARGER ASPECTS OF
25 THIS MATTER IN YOUR PREPARATION OF THE ORIGINAL MORE

1 NARROW INDICTMENT, AND WHEN DO YOU THINK YOU WOULD BE IN A
2 POSITION TO FILE YOUR MOTIONS?

3 MR. WEHNER: YOUR HONOR, I WOULD ASK TO HAVE TWO
4 WEEKS AFTER THE DATE THAT THE INFORMAL DISCOVERY IS
5 COMPLETED.

6 THE COURT: AND WHEN DO YOU THINK THAT WOULD BE
7 COMPLETED?

8 MR. WEHNER: I DON'T KNOW THE ANSWER TO THAT. I
9 THINK INDEPENDENT COUNSEL COULD TELL ME. I DON'T THINK --
10 I DON'T KNOW.

11 THE COURT: HOW ARE YOU SET UP WITH RESPECT TO
12 INFORMAL DISCOVERY AT THIS STAGE?

13 MS. HARRIS: YOUR HONOR, I AM MAKING SOME
14 ASSUMPTIONS HERE ABOUT WHAT THE DEFENDANT WILL REQUEST IN
15 TERMS OF THE BROADER INDICTMENT BUT I DARE SAY I CAN
16 ASSUME THAT THEY WILL SEEK AT LEAST WHAT THEY SOUGHT WITH
17 THE NARROW INDICTMENT AND THAT IS ALL HUD DOCUMENTS. ALL
18 HUD DOCUMENTS CONSISTS OF PROBABLY 20 OR 25 FILE CABINETS
19 FULL OF DOCUMENTS. THESE ARE THE DOCUMENTS THAT I OFFERED
20 TO GIVE THEM EARLIER BUT NO ONE WANTED THEM THEN.

21 THE COURT: WELL, NOW, HE MAY WANT TO JUST HAVE
22 SOME FUN LOOKING AT IRRELEVANT STUFF BUT WHAT I THINK
23 HE'LL WANT TO LOOK AT IS EVERYTHING THAT RELATES IN ANY
24 WAY TO THESE SOME 12 OR 13 SPECIFIC SITUATIONS THAT YOU
25 OUTLINED IN YOUR INDICTMENT. ARE THOSE THOSE MATERIALS

1 SEPARATE SO THAT HE CAN GET THEM AND LOOK AT THEM?

2 MS. HARRIS: YOUR HONOR, WITH RESPECT TO THESE
3 SPECIFIC OCCASIONS IN THE BACKGROUND NECESSARY TO
4 UNDERSTANDING THESE SPECIFIC OCCASIONS IT IS DISTINCTLY
5 POSSIBLE THAT THE DEFENDANT WILL WANT ALL HUD DOCUMENTS.
6 I CANNOT SAY THAT THEY ARE IRRELEVANT.

7 THE COURT: YOU'RE NOT ANSWERING MY QUESTION.
8 HAVE YOU SEPARATED SOMEWHERE IN YOUR FILES DOCUMENTS THAT
9 RELATE TO THOSE SPECIFIC INSTANCES?

10 MS. HARRIS: CERTAINLY, YOUR HONOR, UP TO A
11 POINT BUT BEYOND THAT --

12 THE COURT: ALL RIGHT. THAT WOULD BE WHERE HE'D
13 START.

14 MS. HARRIS: OF COURSE, BUT BEYOND THAT --

15 THE COURT: HE WAY MAY WANT TO GO FURTHER.

16 MS. HARRIS: I JUST WANT THE COURT TO UNDERSTAND
17 THAT THE ORIGINAL REQUEST IN THE NARROW INDICTMENT WAS FOR
18 ALL HUD DOCUMENTS. THERE IS CONSIDERABLE BACKGROUND HERE
19 CONTAINED IN ALL HUD DOCUMENTS.

20 THE COURT: I DON'T THINK HE'LL NEED THE
21 EDUCATION YOU NEEDED AND I'M SURE HE'LL WANT TO LOOK AT
22 SOME OF THEM, BUT YOU DO HAVE THOSE ITEM SEPARATED THAT
23 YOU THINK --

24 MS. HARRIS: WE HAVE SOME DOCUMENTS SEPARATED
25 WITH RESPECT TO EACH COUNT OF THE INDICTMENT OR EACH

1 OCCASION.

2 THE COURT: IN OTHER WORDS, YOU HAVE NOT
3 SEPARATED THE DOCUMENTS RELATING TO THE INCIDENTS, YOU
4 HAVE SIMPLY SEPARATED SOME DOCUMENTS RELATING TO THE
5 INCIDENTS.

6 MS. HARRIS: THAT'S CORRECT. WE ARE STILL
7 PROCESSING THE VAST NUMBERS OF DOCUMENTS THAT HAVE BEEN
8 GIVEN TO THE OFFICE OF INDEPENDENT COUNSEL PURSUANT TO
9 SUBPOENAS.

10 THE COURT: IN OTHER WORDS, YOU HAVE NOT
11 SEPARATED OUT OF THE HUD DOCUMENTS THE DOCUMENTS THAT
12 RELATE DIRECTLY TO THE SPECIFIC INCIDENTS IN THE
13 INDICTMENT?

14 MS. HARRIS: WE HAVE SEPARATED OUT FROM THE HUD
15 DOCUMENTS DOCUMENTS THAT RELATE TO THE SPECIFIC INCIDENCES
16 IN THE INDICTMENT. THE THING THAT I'M RELUCTANT TO SAY,
17 YOUR HONOR, AND I CANNOT SAY IS WHETHER OR NOT AS WE
18 CONTINUE TO PROCESS THE HUD DOCUMENTS WE WILL FIND MORE
19 DOCUMENTS RELEVANT TO THESE INCIDENCES.

20 THE COURT: BUT GENERALLY YOU THINK YOU HAVE
21 SEPARATED THEM OUT?

22 MS. HARRIS: YOUR HONOR, WE HAVE SEPARATED OUT
23 DOCUMENTS WITH RESPECT TO EACH INCIDENT.

24 THE COURT: IT'S THE SIMPLEST QUESTION IN THE
25 WORLD.

1 MS. HARRIS: AND THE ANSWER IS YES, WE HAVE
2 SEPARATED OUT.

3 THE COURT: ALL RIGHT. THANK YOU. THANK YOU.
4 THEN THEY'LL WANT TO LOOK AT THAT, I WOULD ASSUME.

5 MR. WEHNER: YES, SIR.

6 THE COURT: AND WHAT ELSE DO YOU HAVE IN MIND
7 BEYOND THAT OTHER THAN A GENERAL PURSUING OF SOME OF THE
8 OTHER MATERIAL? THAT'S PRIMARILY WHAT YOU'D BE LOOKING
9 FOR.

10 MR. WEHNER: PRIMARILY WHAT WE'D BE LOOKING FOR,
11 YOUR HONOR, IT IS POSSIBLE OR PROBABLE THAT WE WILL BE
12 MAKING BASED ON WHAT IS NOT THERE A VERY SPECIFIC BRADY
13 REQUEST.

14 THE COURT: LOOKING INTO THE OTHER MATERIALS.

15 MR. WEHNER: LOOKING FOR OTHER MATERIAL.

16 THE COURT: SURE, I UNDERSTAND THAT.

17 MR. WEHNER: BUT THAT'S -- WITH THOSE FILES PLUS
18 OUR BRADY REQUEST THAT SHOULD COVER THE WATERFRONT.

19 THE COURT: WELL, I'VE ALERTED YOU TO THE RECENT
20 BRADY RULING IN THE PAPERS THAT ORIGINALLY SCHEDULED THIS
21 AND I DON'T HAVE TO DO MORE THAN THAT NOW.

22 SO WHEN WOULD YOU THINK, ROUGHLY YOU'D START --
23 YOU'D HAVE YOUR MOTIONS READY? WOULD YOU THINK THAT IF
24 YOU HAD A MONTH FOR INFORMAL OR WOULD YOU -- I'LL JUST
25 TRYING TO --

1 MR. WEHNER: YES, SIR, I THINK -- MY SENSE IS
2 THAT THE OFFICE OF THE INDEPENDENT COUNSEL HAS BEEN
3 REASONABLE IN TERMS OF INFORMAL DISCOVERY. I BELIEVE THAT
4 BASED ON OUR PRIOR PRACTICE, PRIOR EXPERIENCE THAT A MONTH
5 IS SUFFICIENT FOR INFORMAL DISCOVERY BUT I'LL DEFER TO
6 MISS HARRIS TO SEE IF SHE CONCURS WITH THAT.

7 THE COURT: IF WE WERE A LITTLE TOLERANT ABOUT
8 THAT BECAUSE OF AUGUST AND ALL THE REST OF IT WHY WOULD
9 THAT NOT LEAD TO FILING MOTIONS MID-SEPTEMBER?

10 MR. WEHNER: THAT SOUNDS REASONABLE TO ME,
11 JUDGE.

12 THE COURT: YOU SEE, WE'RE AT THE 13TH. I'M NOT
13 TRYING TO DO ANY MORE THAN -- UNLESS YOU ALL HAVE DATES
14 NOTHING IS GOING TO HAPPEN.

15 MR. WEHNER: THAT SOUNDS REASONABLE TO ME,
16 JUDGE, WHICH WOULD GIVE US THE MONTH. YES, THAT SOUNDS
17 REASONABLE.

18 MS. HARRIS: AND, YOUR HONOR, LET ME STATE THAT
19 I THINK THAT'S REASONABLE AS WELL.

20 THE COURT: YOU'LL HAVE A RECIPROCAL MOTION.

21 MS. HARRIS: YES, OF COURSE. HOPEFULLY WE WON'T
22 HAVE TO MAKE A MOTION. WE'LL JUST MAKE OUR DEMAND AND THE
23 DEFENSE WILL COMPLY.

24 THE COURT: I WANT TO SAY ONE THING ABOUT THE
25 MOTIONS, UNINFORMED AS I AM, BUT FOR THE GUIDANCE OF THE

1 ATTORNEYS, THE PROSPECT OF TRYING AT THE SAME TIME THREE
2 CONSPIRACIES THAT OVERLAP AS TO TIME AND OVERLAP WITH
3 DIFFERENT ALLEGED CO-CONSPIRATORS IS ONE THAT I AM
4 CONCERNED ABOUT, CONSIDERING THAT THE JURY IN ADDITION
5 WOULD BE CONSIDERING A WHOLE GAGGLE OF OTHER COUNTS AS
6 WELL.

7 I HAVE SOME INABILITY TO SEE HOW IT WILL BE
8 POSSIBLE TO TRY THE THREE CONSPIRACIES SIMULTANEOUSLY IN
9 TERMS OF JURY UNDERSTANDING AND I DON'T SEE ANY NECESSITY
10 OF IT IN TERMS OF RESULT. AND I HOPE COUNSEL WILL HAVE
11 THAT IN MIND WHEN THEY'RE LOOKING AT THIS INDICTMENT
12 BECAUSE IT'S GOING TO BE A VERY CUMBERSOME INDICTMENT TO
13 TRY. I NEED TO KNOW AND I'M SURE YOU WILL DISCLOSE AS
14 PROMPTLY AS YOU CAN WHO THESE CO-CONSPIRATORS ARE. YOU'VE
15 NUMBERED THEM.

16 MS. HARRIS: YOUR HONOR, PURSUANT TO DEPARTMENT
17 OF JUSTICE POLICY WE DID NOT NAME THEM.

18 THE COURT: IT MAY BE THEIR POLICY BUT IT'S ONE
19 THEY NEVER FOLLOW, I ASSURE YOU. BUT ANYHOW I'M NOT
20 TRYING TO GET INTO THAT. THAT'S YOUR PROBLEM WITH THE
21 DEPARTMENT OF JUSTICE, NOT MINE. THE REASON I NEED TO
22 KNOW IS NOT CURIOSITY, I JUST HAVE TO BE SURE I'M NOT
23 RECUSED BECAUSE THERE'S SOMEBODY IN THIS CASE THAT IS SO
24 CLOSE TO ME IN SOME WAY THAT I SHOULDN'T BE TRYING THE
25 CASE. I DOUBT THAT BUT IT SEEMS TO ME YOU OUGHT TO KNOW

1 IT IF YOU'RE NAMING CO-CONSPIRATORS HERE AND THEY HAPPEN
2 TO BE PEOPLE THAT ARE VERY WELL KNOWN TO ME, I THINK IT
3 UNLIKELY, BUT I WANT TO GET THAT OUT OF THE WAY.

4 MS. HARRIS: LET ME MAKE THIS STATEMENT, WE'RE
5 NOT TRYING TO HIDE THIS FROM THE DEFENSE. I WILL CAUSE TO
6 BE SERVED OR DELIVERED TO YOU A LIST OF THEIR NAMES WITH A
7 LIST --

8 THE COURT: IF YOU COULD GET SOMETHING OVER BY
9 TOMORROW WITH A LIST OF NAMES. I HAVE NO REASON TO THINK
10 I HAVE ANY PROBLEM BUT I CERTAINLY WANT YOU TO KNOW IF I
11 DO RIGHT AWAY.

12 MS. HARRIS: OF COURSE. WE WILL ALSO GIVE
13 MR. WEHNER A COPY OF THAT LETTER TO YOU.

14 THE COURT: FINE.

15 MS. HARRIS: OUR CONCERN IS THE DEPARTMENT OF
16 JUSTICE POLICY WHICH SIMPLY FOR WHATEVER REASONS --

17 THE COURT: WELL, I LEAVE THAT TO YOU. I'M NOT
18 INTO THAT.

19 MS. HARRIS: WELL, GIVEN THE POLICY, YOUR HONOR,
20 I WOULD SIMPLY REQUEST THAT MR. WEHNER KEEP IT TO HIMSELF,
21 IN OTHER WORDS.

22 THE COURT: HE'LL USE IT FOR HIS PREPARATION OF
23 HIS CASE.

24 MS. HARRIS: IF HE USES IT FOR HIS PREPARATION
25 OF HIS CASE I HAVE NO PROBLEMS, YOUR HONOR. I'M CONCERNED

1 ABOUT PUBLICITY.

2 THE COURT: YES.

3 NOW, SO WE PUT THE MOTION DATE THEN AT -- LET'S
4 SEE WHERE SEPTEMBER 15TH FALLS.

5 THE DEPUTY CLERK: IT'S ON A TUESDAY, YOUR
6 HONOR.

7 THE COURT: THAT'S ON A TUESDAY. ALL RIGHT.
8 WELL, THAT'S AS GOOD A DATE AS ANY, ISN'T IT?

9 MR. WEHNER: YES, SIR.

10 THE COURT: SEPTEMBER 15TH, AND THEN WE'LL SEE
11 TO WHAT EXTENT THEY'RE EVIDENTIARY AND TO WHAT EXTENT THEY
12 ARE LEGAL AND PERHAPS WE'LL HAVE SOME BETTER INDICATION
13 THEN OF THE SCHEDULE OF THE COURT OF APPEALS WITH RESPECT
14 TO THE APPEAL.

15 NOW, IN THAT REGARD, IS THERE ANY WAY THAT WE
16 CAN PREVENT TWO APPEALS? WHAT YOU'VE GOT NOW IS AN APPEAL
17 FROM A RULING THAT I MADE IN CONNECTION WITH THE FIRST
18 INDICTMENT. I HAVE NOT THE SLIGHTEST DOUBT THAT UNTIL
19 OTHERWISE INSTRUCTED I WOULD RULE THE SAME WAY WITH
20 RESPECT TO PAPERS IN THE SECOND INDICTMENT UNLESS THERE'S
21 SOMETHING DIFFERENT ABOUT THOSE PAPERS THAT I'M NOT AWARE
22 OF.

23 MS. HARRIS: YOUR HONOR, WE HAVE SAID FROM THE
24 BEGINNING THAT WHAT IS INVOLVED HERE IS A LEGAL ISSUE AND
25 THE LEGAL ISSUE IMPACTS NOT ONLY UPON THE NARROW CASE BUT

1 ON THE ENTIRE PRODUCTION THAT WAS MADE BY MISS DEAN
2 PURSUANT TO THE COURT'S ORDER AFTER THE APPEAL ON THE
3 GRAND JURY --

4 THE COURT: WELL, THEN, WHY DON'T I AUTHORIZE
5 BOTH OF YOU TO TELL THE COURT OF APPEALS IN WHATEVER WAY
6 YOU WANT THAT MY RULING IS ALREADY THE SAME ON THE OTHER
7 DOCUMENTS. THERE'S NO POINT IN GOING UP THERE TWICE.
8 YOU'VE BEEN UP THERE TOO MANY TIMES ALREADY. AND IT SEEMS
9 TO ME I OUGHT TO DO WHATEVER I CAN TO -- AND IF THEY NEED
10 SOME PIECE OF PAPER FROM ME I'LL GIVE IT TO THEM. I'LL
11 COUNT ON BOTH OF YOU LETTING THEM KNOW, FAIR ENOUGH?

12 MR. WEHNER: YES, SIR.

13 MS. HARRIS: YES. THEY MAY REQUIRE AN ORDER,
14 JUDGE.

15 THE COURT: AND THERE IS ONE OTHER THING I WANT
16 TO SAY AND THEN I GUESS WE'RE DONE UNLESS YOU -- EITHER OF
17 YOU HAVE SOMETHING YOU WANT TO RAISE WITH ME. WE'RE GOING
18 TO HAVE TO GET A SPECIAL JURY PANEL FOR THE TRIAL OF THIS
19 CASE AND I HAVE BEEN IN TOUCH MORE THAN ONCE WITH THE
20 CLERK'S OFFICE. I NEED AT A MINIMUM THREE WEEKS TIME TO
21 GET SUCH A JURY AND THEREFORE I'M GOING TO BE THINKING
22 ABOUT SETTING A TRIAL DATE AS WE GET THROUGH THE MOTION
23 PRACTICE. I WANT YOU TO HAVE IN MIND THAT I CAN'T SET A
24 TRIAL DATE WITHOUT THREE WEEKS LEAD TIME TO PRE-SCREEN
25 JURORS TO FIND JURORS THAT ARE NOT GOING TO BE INVOLVED IN

1 VACATION PLANS OR OPERATIONS AND THINGS OF THAT KIND THAT
2 WOULD MAKE THEM UNAVAILABLE FOR A TRIAL THAT I ASSUME
3 MIGHT TAKE TWO OR THREE WEEKS.

4 MS. HARRIS: YOUR HONOR, I THINK THE TRIAL WILL
5 TAKE LONGER THAN TWO OR THREE WEEKS.

6 THE COURT: I HOPE NOT. I WOULD CERTAINLY HOPE
7 NOT.

8 MS. HARRIS: AND I MUST SAY THAT I HOPE THAT WE
9 CAN GIVE YOU MORE THAN THREE WEEKS' NOTICE WITH RESPECT TO
10 THE TRIAL DATE. IN OTHER WORDS, JUST IN TERMS OF
11 WITNESSES AND LOGISTICS I THINK THAT ALL OF US WILL IN THE
12 END HAVE MORE THAN THREE WEEKS' NOTICE OF THE TRIAL DATE.

13 THE COURT: WELL, YOU UNDERSTAND THAT THE SPEEDY
14 TRIAL RULES ARE RUNNING. SOMETIMES IT'S NOT POSSIBLE TO
15 DO THAT, BUT I'LL HAVE IN MIND THAT YOU WANT THE MOST
16 ADVANCE NOTICE YOU CAN OF THE TRIAL DATE AND I WANTED YOU
17 TO KNOW THAT I HAVE TO HAVE AT LEAST THREE WEEKS.

18 MS. HARRIS: YES.

19 THE COURT: AND AS WE GO ALONG WE'LL BE TALKING
20 ABOUT A TRIAL DATE AND TRY TO GET ONE PINNED DOWN AS
21 QUICKLY AS WE CAN.

22 MS. HARRIS: YES, YOUR HONOR. I THINK CERTAINLY
23 WITH RESPECT TO THE TRIAL DATE IT IS IMPORTANT TO ALL OF
24 US, LET ME JUST ASK, DOES IT MAKE ANY SENSE FOR YOU TO FIX
25 A TRIAL DATE AT THIS TIME? UNDERSTANDING THAT THE CIRCUIT

1 MAY VERY WELL --

2 THE COURT: WELL, BEFORE I GOT YOUR BILLET DOUX
3 HERE, IT WAS DELIVERED TO ME JUST AS I CAME ON THE BENCH,
4 I WAS GOING TO SET THE TRIAL OCTOBER 1ST AT 9:30, READY TO
5 GO. I DIDN'T THINK THERE WOULD BE ANY PROBLEM WITH THAT
6 AT ALL. BUT NOW I AM -- I CAN'T DO IT. I DON'T HAVE A
7 CASE I CAN TRY. I WAS GOING TO SET IT OCTOBER 1ST WITH
8 YOU BUT NOW I HAVE TO WAIT FOR THE COURT OF APPEALS AND I
9 CANNOT CONTROL WHEN THE COURT OF APPEALS WILL RESOLVE IT
10 OR WHAT THEIR SCHEDULE IS. I DON'T KNOW.

11 SO IF YOU'RE TALKING ABOUT SUBSEQUENT DATES
12 ISN'T IT VERY DIFFICULT UNTIL WE KNOW THAT WE'VE GOT A
13 CASE? WE HAVE TO GO THROUGH THE MOTIONS ON SEPTEMBER 15TH
14 AND I WOULD THINK WE OUGHT TO LOOK AT IT AGAIN ABOUT
15 OCTOBER 1ST TO SEE WHAT HAS HAPPENED IN TERMS OF UPSTAIRS
16 IN THE APPEAL AND ALSO WHERE WE ARE ON THE MOTIONS BECAUSE
17 BY THAT TIME THEY WILL BE BRIEFED AND WE'LL KNOW KIND OF
18 WHERE WE ARE. I THINK THAT'S THE BEST I CAN DO UNLESS
19 YOU'RE TALKING ABOUT WANTING A DEFINITE DATE. IT'S VERY
20 HARD FOR ME TO DO THAT BECAUSE IF I GAVE IT TO YOU I'D
21 HAVE TO SAVE IT AND I CAN'T SAVE IT UNLESS IT'S REAL. YOU
22 FOLLOW WHAT I MEAN. I CAN'T --

23 MS. HARRIS: YES, SIR.

24 THE COURT: AND SO WE'LL JUST HAVE TO WAIT UNTIL
25 SOMETIME AROUND THE 1ST OF OCTOBER TO FIND A DATE AND THEN

1 WE'LL REACH OUT FOR IT AND PERHAPS WE'LL TRY IT UP TO
2 CHRISTMAS WEEK OR SOMETHING LIKE THAT OR HAVE THE JURY GO
3 OUT ON CHRISTMAS EVE, YOU KNOW. I DON'T KNOW. WE'LL SEE
4 WHERE WE COME OUT.

5 MR. WEHNER: YOUR HONOR, WE WOULD APPRECIATE
6 THAT.

7 THE COURT: I THINK IT WILL BE LATER THAN THAT
8 PROBABLY.

9 ALL RIGHT. IS THERE ANYTHING YOU WANT TO BRING
10 UP WITH ME ON EITHER SIDE THAT I HAVEN'T COVERED?

11 MS. HARRIS: YOUR HONOR, DO YOU WISH TO AT THIS
12 TIME FIX A TIME FOR US TO RESPOND TO THE PRETRIAL MOTIONS
13 FROM THE DEFENSE?

14 THE COURT: I WOULD THINK TWO WEEKS WOULD BE
15 PLENTY OF TIME.

16 MS. HARRIS: IT CLEARLY DEPENDS UPON THE NATURE
17 OF THOSE MOTIONS.

18 THE COURT: SURE, BUT I WOULD THINK SO. THERE
19 WON'T BE ANYTHING VERY NOVEL IN THEM, I WOULDN'T THINK,
20 EXCEPT QUESTIONS THAT I'VE RAISED ABOUT HOW WE CAN TRY ALL
21 OF THESE THINGS TOGETHER. I HAVEN'T SEEN THE NEED OF THE
22 CONSPIRACY CLAIMS. I TAKE IT THERE ARE EVIDENTIARY
23 PROBLEMS THAT MAKES YOU PROCEED BY CONSPIRACY RATHER THAN
24 SUBSTANTIVE 1001 CLAIMS AND IN OTHER WORDS YOU WANT TO USE
25 THE STATEMENTS OF PEOPLE LIKE NUNN AND OTHER PEOPLE LIKE

1 THAT ON A HEARSAY BASIS TO ESTABLISH -- SUFFICIENT TO GO
2 TO THE JURY BECAUSE OTHERWISE THEY'RE STRAIGHT 1001 CASES,
3 AND YOU DON'T HAVE TO HAVE A CONSPIRACY.

4 MS. HARRIS: WITH ALL DUE RESPECT, THE
5 CONSPIRACY IS A CONSPIRACY TO DEFRAUD THE UNITED STATES BY
6 DEPRIVING THE --

7 THE COURT: I KNOW WHAT THE CONSPIRACIES ARE.
8 I'VE READ IT. DIFFERENT PEOPLE ARE THERE AT DIFFERENT
9 TIMES. THEY'RE ALL GOING ON AT THE SAME TIME. AND YOU'VE
10 GOT TO REMEMBER I'VE GOT TO BE SURE I HAVE A JURY IN FOCUS
11 AND WE'LL DEAL WITH THAT IN THE MOTIONS, BUT OTHER THAN
12 THAT I TAKE IT IT WOULD BE MUCH THE SAME AS THE VARIOUS
13 MOTIONS WE HAD BEFORE AND I WOULDN'T BE A BIT SURPRISED IF
14 MY RULINGS WOULD BE PRETTY MUCH THE SAME TOO.

15 MR. WEHNER: DOES YOUR HONOR WISH TO SET A DATE
16 FOR A MOTIONS HEARING?

17 THE COURT: WELL, I CAN DO THAT WITHOUT ANY
18 DIFFICULTY. YOU'D WANT A WEEK TO REPLY TO THE -- TWO
19 WEEKS --

20 THE DEPUTY CLERK: IT WOULD TAKE YOU TO OCTOBER
21 5TH,, YOUR HONOR, FOR THE RESPONSE.

22 THE COURT: I HAVE THE 15TH AND 16TH OF OCTOBER
23 OPEN. HOW ABOUT THE 15TH OF OCTOBER AT 9:30?

24 MR. WEHNER: YES, SIR.

25 MS. HARRIS: GOOD.

1 THE COURT: ALL RIGHT. NOTHING ELSE?

2 MR. WEHNER: NO, YOUR HONOR.

3 MS. HARRIS: NO, SIR.

4 THE COURT: ALL RIGHT. AND YOU'LL TAKE CARE OF
5 FORMALIZING THE BOND, THE SAME PERSONAL RECOGNIZANCE?

6 THE DEPUTY CLERK: YES, YOUR HONOR.

7 THE COURT: ALL RIGHT.

8 MR. WEHNER: THANK YOU, YOUR HONOR.

9 (PROCEEDINGS CONCLUDED AT 11:00 A. M.)

10 CERTIFICATE OF OFFICIAL REPORTER

11 I CERTIFY THAT THE FOREGOING IS A CORRECT
12 TRANSCRIPT FROM THE RECORD OF PROCEEDINGS IN THE
13 ABOVE-ENTITLED MATTER.

14 Santa Beggs

7-11-92

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