

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
GAINESVILLE DIVISION

THE UNITED STATES OF AMERICA,

Plaintiff,

Docket No. 94CR1009MMP

Gainesville, Florida
May 25, 2000
9:00 a.m.

vs.

JOHN KNOCK and
ALBERT MADRID,

Defendants.

VOLUME 15

TRANSCRIPT OF FOURTEENTH DAY OF JURY TRIAL
WHEN HEARD BEFORE THE HONORABLE SENIOR UNITED STATES
DISTRICT COURT JUDGE MAURICE M. PAUL, AND A JURY.

APPEARANCES:

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-AND-

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1 THE COURT: Be seated, folks.

2 Do you have what you need now?

3 Ladies and gentlemen, we have now reached the stage
4 of the proceedings where I must instruct you on the rules of
5 law that you must follow and apply in deciding upon your
6 verdict. When I'm finished you then will be permitted to go
7 the jury room to begin your actual deliberations.

8 As the lawyers have told you during their closing
9 arguments, I also will send back the written instructions to
10 you. So you don't really need to take any notes. If you just
11 sit back, sort of listen, take them if you want to, but
12 understand that the written documents will be going back to the
13 jury room along with the other exhibits.

14 It will be your duty to decide whether the
15 government's proved beyond a reasonable doubt the specific
16 facts which are necessary to find the defendants guilty of the
17 crime which is charged in the indictment.

18 And you must make your decision only on the basis of
19 the testimony and other evidence that has been presented here
20 during the course of this trial. And you must not be
21 influenced in any way by either sympathy or prejudice for or
22 against the defendants or the government.

23 You must also follow the law as I explain it to you,
24 whether you agree with that law or not. And you must follow
25 all of my instructions as a whole; you may not single out or

1 disregard any of the instructions on the applicable law.

2 Now, as you know the indictment or the formal charge
3 against any defendant is not evidence of any guilt. Indeed,
4 each defendant is presumed by law to be innocent. The law does
5 not require a defendant to prove his innocence or to produce
6 any evidence at all.

7 And if the defendant elects not to testify, you
8 should not and may not consider that in any way during your
9 deliberations.

10 The government has the burden of proving a defendant
11 guilty beyond a reasonable doubt. And if it fails to do so,
12 then you must find that defendant not guilty.

13 While the Government's burden is a strict or is a
14 heavy burden, it's not necessary that the defendants' guilt be
15 proved beyond all possible doubt, it's only required that the
16 Government's proof exclude any reasonable doubt concerning the
17 defendants' guilt.

18 Now, a reasonable doubt is a real doubt. It's one
19 that is based upon reason and common sense after careful and
20 impartial consideration of all of the evidence that has been
21 presented in this case.

22 Proof beyond a reasonable doubt, therefore, is proof
23 of such a convincing character that you would be willing to
24 rely and act upon it without hesitation in the most important
25 of your own affairs. Now, if you are convinced that the

1 defendant has been proved guilty beyond a reasonable doubt,
2 then you should say so. And if you are not convinced, you
3 should say so.

4 As I have said earlier, you must consider only the
5 evidence that I have admitted during the course of this trial.
6 The term evidence includes the testimony of the witnesses and
7 the exhibits that have been admitted into the record and any
8 stipulations of the parties.

9 Remember, also that anything the lawyers say is not
10 evidence in this case. It's your own recollection, it is your
11 own interpretation of the evidence that controls. What the
12 lawyers say is not binding upon you.

13 Also, you should not assume from anything I may have
14 said that I have any opinion concerning any of the issues in
15 this case. And except for my instructions to you on the
16 applicable law, you should disregard anything I may have said
17 during this trial in arriving at your own decision concerning
18 the facts.

19 Now, in considering the evidence, you may make
20 deductions and reach conclusions which reason and common sense
21 lead you to make. You should not be concerned about whether
22 that evidence is direct or is circumstantial. Direct evidence
23 is the testimony of one who asserts actual knowledge of a fact,
24 such as an eye witness.

25 Circumstantial evidence is proof of a chain of facts

1 and circumstances indicating that the defendant is either
2 guilty or is not guilty.

3 Now, the law makes no distinction between the weight
4 that you may give to either direct or to circumstantial
5 evidence.

6 Now, when I say you must consider all of the
7 evidence, I do not mean that you must accept all of the
8 evidence as being true or accurate. You should decide whether
9 you believe what each witness had to say and how important that
10 testimony was. And in making that decision, you may believe or
11 disbelieve any witness in whole or in part. Also the number of
12 witnesses testifying concerning any particular dispute is not
13 controlling.

14 You may decide that the testimony of a smaller number
15 of witnesses concerning any fact in dispute is more believable
16 than the testimony of a larger number of witnesses to the
17 contrary.

18 In deciding whether you believe or do not believe any
19 witness, I suggest that you ask yourself a few questions:

20 Did the person impress you as one who was telling the
21 truth? Did the witness have any particular reason not to tell
22 the truth? Did the witness have a personal interest in the
23 outcome of the case? Did the witness seem to have a good
24 memory? Did the witness have the opportunity and the ability
25 to observe accurately the things that he or she testified

1 about?

2 Did the witness appear to understand the questions
3 clearly and to answer them quickly? Did the witness' testimony
4 differ from the testimony of other witnesses?

5 You should also ask yourself whether there was
6 evidence tending to prove that the witness testified falsely
7 concerning some important fact or whether there was evidence
8 that at some other time the witness said or did or failed to do
9 or say something which was different from the testimony that he
10 or she gave before you during this trial.

11 The fact that a witness has been convicted of a
12 felony offense or of a crime involving dishonesty or false
13 statement is another factor that you may consider in deciding
14 whether you believe that testimony.

15 You should keep in mind, of course, that a simple
16 mistake by a witness does not necessarily mean that the witness
17 was not telling the truth as he or she remembers it, because
18 people naturally tend to forget some things or to remember
19 other things inaccurately.

20 So if a witness has made a misstatement, then you
21 need to consider whether that misstatement was simply an
22 innocent lapse of memory or was an intentional falsehood. And
23 that, in turn, may depend upon whether it has to do with an
24 important fact or with only an unimportant detail.

25 Also, the testimony of some witnesses must be

1 considered with more caution than the testimony of others. For
2 example, a witness who has been promised that he or she will
3 not be charged or prosecuted, or a witness who hopes to gain
4 more favorable treatment in his or her own case may have a
5 reason to make a false statement because he or she wants to
6 strike a good bargain with the government.

7 And with certain individuals, the government has
8 entered into a plea agreement providing that the government
9 will not pursue further charges or providing that the
10 government would dismiss certain charges.

11 Such plea bargaining as it's called has been approved
12 as lawful and is proper, and is expressly provided for in the
13 rules of court.

14 However, a witness who hopes to gain more favorable
15 treatment in his or her own case may have a reason to make a
16 false statement because he or she wants to strike a good
17 bargain with the government. So while a witness of this kind
18 may be entirely truthful when testifying, you should consider
19 that testimony with more caution than the testimony of other
20 witnesses.

21 Also, when knowledge of a technical subject matter
22 might be helpful to the jury, the person having special
23 training or experience in that technical field is permitted to
24 state his or her opinion concerning those technical matters.

25 Merely because such a witness has expressed an

1 opinion, however, does not mean that you must accept that
2 opinion. The same as with any other witness, it's up to you to
3 decide whether to rely upon it.

4 Also, some of the documentary evidence presented by
5 special agents Lee and Lilley of the Drug Enforcement Agency is
6 summary evidence. It's allowed into evidence for the purpose
7 of explaining facts disclosed by books, records and other
8 documents which have been admitted into evidence in this case.

9 If this summary evidence does not correctly reflect
10 the facts and figures shown by the evidence in this case, then
11 you should rely upon your observations and interpretations of
12 the documents upon which the summary is based.

13 Summary evidence is used only as a matter of
14 convenience. To the extent you find the summary evidence is
15 not, in truth, a summary of the facts or figures shown by the
16 evidence in the case, then you should disregard that summary
17 entirely.

18 Also, certain documents have been admitted and have
19 been admitted as typewritten transcripts of the oral
20 conversations which can be heard on tape recordings which have
21 been received in evidence and given a corresponding exhibit
22 number.

23 I have admitted those transcripts for the limited and
24 secondary purpose of aiding you in following the content of the
25 conversation as you listened to those tape recordings.

1 However, you are specifically instructed that whether
2 a transcript correctly or incorrect reflects the content of the
3 conversation is entirely for you to determine, based upon your
4 own examination of the transcript in relation to your hearing
5 of the tape recording itself, which is the primary evidence of
6 its own content.

7 And you should -- and if you should determine that
8 the transcript is in any respect incorrect or unreliable, then
9 you should disregard it to that extent.

10 A second crime or offense is charged in each count of
11 this three-count indictment. Each charge and the evidence
12 pertaining to it should be considered separately. Also, the
13 case of each defendant should be considered separately and
14 individually.

15 The fact that you may find one of the defendants
16 guilty or not guilty of the offense charged should not affect
17 your verdict as to any other offense or the other defendants.

18 I do caution you as members of the jury that you are
19 here to determine from the evidence in this case whether each
20 defendant is guilty or is not guilty, and to remind you that
21 each defendant is on trial only for the specific offense which
22 have been alleged in this indictment.

23 Also, the fact that a person not charged in the
24 indictment has pled guilty or has been found guilty of a crime
25 similar to one charged in the indictment is not evidence in and

1 of itself of the guilt of either of the defendants.

2 Furthermore, you have heard evidence that one of the
3 defendants, Albert Thomas Madrid, pled guilty to certain
4 charges in Canada.

5 You may consider this as evidence in the case, but
6 his plea does not in and of itself establish the guilt of
7 either defendant.

8 Also, you should not concern yourself whether
9 Madrid's guilty plea in Canada bars prosecution in this court.
10 That is a matter of law for me to decide. You should simply
11 evaluate each charge of the indictment and the evidence that
12 pertains to it.

13 Additionally, the question of punishment should never
14 be considered by this jury in any way in deciding this case.
15 If a defendant is found guilty by this jury, then the matter of
16 punishment is for this Court alone to determine.

17 Now, in this case the indictment charges John Richard
18 Knock, also known as Michael Phillip Ryan, also known as Mickey
19 Ryan, also known as John Richard Phillips, also known as
20 Patrick Osborne, also known as Charles Milea, and Albert Thomas
21 Madrid, in Counts 1, 2 and 3.

22 Now, I'm not going to read this indictment to you,
23 because I'll also send back to the jury room a copy of the
24 indictment for your use as you may find it necessary.

25 But, in summary, Count I charges that the defendants

1 knowingly and willfully conspired to possess marijuana with
2 intent to distribute.

3 Count II charges that the defendants knowingly and
4 willfully conspired to import marijuana into the United States.

5 And Count III charges that the defendants knowingly
6 and willfully conspired to launder money.

7 Now, you will note that in all three counts the
8 defendants are not charged with actually carrying out a
9 criminal offense, but rather with having conspired to do so.

10 Now, first I'll explain what a conspiracy is, and
11 then I'll explain the specifics of the three counts that have
12 been charged.

13 The law makes it a separate federal crime or offense
14 for anyone to conspire or agree with someone else to do
15 something which if actually carried out would amount to another
16 crime or offense.

17 So it is, that under the law, a conspiracy is an
18 agreement or a kind of partnership in criminal purposes in
19 which each member becomes the agent or the partner of every
20 other member.

21 In order to establish a conspiracy offense, it's not
22 necessary for the government to prove that all of the people
23 named in the indictment were members of the scheme, or that
24 those who were members had entered into any formal type of
25 agreement.

1 Also, because the essence of a conspiracy offense is
2 the making of the scheme itself, it's not necessary for the
3 government to prove that the conspirators actually succeeded in
4 accomplishing their unlawful plan.

5 A person may become a member of a conspiracy without
6 the full knowledge of all of the details of the unlawful scheme
7 or the names and the identities of all of the other alleged
8 conspirators.

9 So if a defendant has a general understanding of the
10 unlawful purpose of the plan, and knowingly and willful joins
11 in that plan on only one occasion, that is sufficient to
12 convict that defendant for conspiracy, even though the
13 defendant did not participate before, and even though the
14 defendant played only a minor part.

15 Of course, the mere presence at the scene of a
16 transaction or event or the mere fact that certain persons may
17 have associated with each other and may have assembled together
18 and discussed common aims and interests does not necessarily
19 establish proof of a conspiracy.

20 Also, a person who has no knowledge of a conspiracy
21 but who happens to act in a way which advances some purpose of
22 one does not thereby become a conspirator.

23 Throughout those instructions, I'll use the term
24 overt act. An overt act is any transaction or event, even one
25 which may be entirely innocent when considered alone, but which

1 is knowingly committed by a conspirator in an effort to
2 accomplish some object of the conspiracy.

3 In this case the defendants have raised the defense
4 that their prosecution is barred by the statute of limitations.
5 The statute of limitations for all three counts of this
6 indictment is five years.

7 John Richard Knock was first indicted in this case on
8 March 10, 1994. Therefore, the limitations period as to John
9 Richard Knock extends back to March 10, 1989.

10 Albert Thomas Madrid was first indicted on February
11 17, 1999. Therefore, the limitations period as to Albert
12 Thomas Madrid extends back to February 17, 1994.

13 The statute of limitations is an affirmative defense.
14 Therefore the defendants must prove this defense by a
15 preponderance of the evidence. A preponderance of the evidence
16 simply means that amount of evidence which is enough to
17 persuade you that the defendants' claim is more likely true
18 than not true.

19 To prove this defense the defendants must show by a
20 preponderance of the evidence that the charged conspiracy
21 terminated before the limitations period or that the defendants
22 withdrew from the charged conspiracy before the limitations
23 period.

24 To prove the conspiracy terminated, the defendants
25 must show by a preponderance of the evidence that no act in

1 furtherance of the conspiracy occurred after the limitations
2 period.

3 A conspiracy which has financial gain as one of its
4 objectives continues until all of the money due conspirators
5 from their illegal activities is collected, and until all of
6 the debts the criminal organization owes are paid.

7 Additionally, a conspiracy continues where a
8 defendant flees from the United States and lives off of his
9 prior illegal drug proceeds.

10 Furthermore, the arrest of a defendant does not in
11 and of itself conclusively show that a conspiracy has
12 terminated.

13 Now, to prove withdrawal, the defendants must show by
14 a preponderance of the evidence each and every one of the
15 following things: First, that the defendant completely
16 withdrew from the conspiracy. A partial or a temporary
17 withdrawal is not sufficient.

18 Second. That the defendant took some affirmative
19 steps to defeat the objectives of the conspiracy. A mere
20 cessation of activity in the conspiracy is not sufficient to
21 establish withdrawal.

22 Third. That the defendant made a reasonable effort
23 to communicate those acts to his co-conspirators or to disclose
24 the conspiracy to law enforcement.

25 And, fourth, that the defendant withdrew before the

1 limitations period.

2 If a defendant is involved in an ongoing conspiracy
3 to violate the United States law, he does not withdraw from the
4 conspiracy simply by moving his activities to a foreign
5 country. Furthermore, the arrest of a defendant does not in
6 and of itself conclusively show that the defendant has
7 withdrawn from a conspiracy.

8 So, in sum, a person who is involved in a conspiracy
9 which has not terminated or from which he has not withdrawn is
10 responsible for any later act of a co-conspirator which was a
11 necessary or natural part of the conspiracy.

12 Therefore, for John Richard Knock to prove a statute
13 of limitations defense, he must prove by a preponderance of the
14 evidence, that he -- the alleged conspiracy terminated prior to
15 March 10, 1989, or that he withdrew from the alleged conspiracy
16 prior to March 10, 1989.

17 For Albert Thomas Madrid to prove a statute of
18 limitations defense, he must prove by a preponderance of the
19 evidence that either the alleged conspiracy terminated prior to
20 February 1, 1994, or that he withdrew from the alleged
21 conspiracy prior to February 17, 1994.

22 Now, the statute of limitations defense does not
23 relieve the government of its burden of proving that there was
24 any illegal agreement that each defendant knowingly and
25 voluntarily joined in the conspiracy. Now, those are still

1 things that the government must prove beyond a reasonable
2 doubt, in order for you to find the defendant guilty as to the
3 count of the indictment, or the counts of the indictment.

4 Now, with regard to the alleged conspiracy offense,
5 the proof of several separate conspiracies is not proof of the
6 single overall conspiracy charged in the indictment, unless one
7 of the several conspiracies which is proved is the single
8 conspiracy which the indictment charges.

9 In this case the government has alleged three
10 conspiracies. One conspiracy is alleged in Count 1. Another
11 conspiracy is alleged in Count II. And another conspiracy is
12 alleged in Count III.

13 What you must do is determine whether the single
14 conspiracy charged in each count of the indictment existed
15 between two or more conspirators. If you find that no such
16 conspiracy existed, then you must acquit the defendant of that
17 particular count.

18 However, if you decide that such a conspiracy did
19 exist, you must then determine who the members were. And if
20 you should find that a particular defendant was a member of
21 some other conspiracy that is not the one charged in the
22 indictment, then you must acquit that defendant.

23 In other words, to find a defendant guilty, you must
24 unanimously find that such defendant was a member of the
25 conspiracy that is charged in the indictment and not a member

1 of some other separate conspiracy.

2 I will now explain the law concerning each count.
3 When reviewing the instructions on each count you should, of
4 course, refer to my general instructions about conspiracy that
5 I have just given.

6 Count I -- or in Count I, the defendants are charged
7 with violating Title 21 United States Code Section 846.
8 Section 846 makes it a separate federal crime or offense for
9 anyone to conspire or agree with anyone else to do something
10 which if actually carried out would be a violation of Section
11 841(a)(1).

12 Now, Section 841(a)(1) makes it a crime for anyone to
13 knowingly possess marijuana with intent to distribute.
14 Therefore, for you to find the defendants guilty of Count I,
15 the evidence in the case must show beyond a reasonable doubt
16 that two or more persons in some way or manner came to a mutual
17 understanding to try to accomplish a common and unlawful plan,
18 that being the plan as charged in Count I of the indictment.

19 And, secondly, that the defendant knowing the
20 unlawful purpose of the plan willfully joined in it.

21 Count II charges the defendant with violating Title
22 21 U.S. Code Section 963. Section 963 makes it a separate
23 federal crime or offense for anyone to conspire or agree with
24 someone else to do something, which, if actually carried out,
25 would be a violation of Section 952(a). Section 952(a) makes

1 it a crime for anyone to knowingly import marijuana into the
2 United States from someplace outside of the United States.

3 Now, I further instruct you that it's illegal for
4 someone located in a foreign country to conspire to import
5 marijuana into the United States.

6 Therefore, for you to find the defendants guilty of
7 Count II, the evidence in the case must show beyond a
8 reasonable doubt that two or more persons in some way or manner
9 came to a mutual understanding to try and accomplish a common
10 and unlawful plan, that being the plan as described and charged
11 in Count II of the indictment.

12 And, secondly, that the defendant knowingly -- or
13 knowing the unlawful purpose of that plan willfully joined in
14 it.

15 In Count III the defendants are charged with
16 violating Title 18 U.S. Code Section 1956(h).

17 Section 1956(h) makes it a separate federal crime or
18 offense for anyone to conspire or agree with someone else to do
19 something, which if actually carried out would be a violation
20 of Section 1956(A)(2)(A).

21 Now, Section 1956(A)(2)(A) makes it a crime for
22 anyone to knowingly launder money. Money laundering occurs
23 when someone knowingly transfers or attempts to transfer a
24 monetary instrument from a place in the United States to a
25 place outside of the United States with the intent to promote

1 the carrying on of a specified unlawful activity.

2 The term monetary instrument includes the coin or
3 currency of any country, traveler or personal checks, bank
4 checks or money orders or investments, securities or negotiable
5 instruments in such form that title passes upon delivery.

6 For this case, the alleged specified unlawful
7 activity is a conspiracy to import marijuana or a conspiracy to
8 possess marijuana with the intent to distribute that marijuana.

9 For you to find the defendants guilty of the offense
10 in Count III, the evidence in this case must show beyond a
11 reasonable doubt that -- four things.

12 First. That two or more persons in some way or
13 manner came to a mutual understanding to try to accomplish a
14 common and unlawful plan, that being the plan that is charged
15 in Count III of the indictment.

16 Second. That the defendant, knowing the unlawful
17 purpose of the plan, willfully joined in it.

18 Third. That one of the conspirators during the
19 existence of the conspiracy knowingly committed at least one of
20 the methods or overt acts which are described in Count III of
21 the indictment.

22 And, four. That such overt act was knowingly
23 committed at or about the time alleged in an effort to carry
24 out or to accomplish some object of the conspiracy.

25 Again, an overt act is any transaction or event, even

1 one which may be entirely innocent when considered alone, but
2 which is knowingly committed by a conspirator in an effort to
3 accomplish some object of that conspiracy.

4 I caution you that the government need not prove that
5 the defendants committed or even knew the existence of any
6 overt act, rather they must prove that a conspirator committed
7 an overt act.

8 The question of venue is also a question to be
9 decided by this jury as to each count. The trial courts of the
10 United States such as this one are divided into districts, each
11 of which covers a certain geographical area. In a criminal
12 case the government brings the case in a certain district. And
13 venue refers to the proper district where a criminal trial must
14 be brought.

15 The government bears the burden of proving venue by a
16 preponderance of the evidence, and not by proof beyond a
17 reasonable doubt as is required before a finding of guilty may
18 be returned on the charged crimes.

19 Again, a preponderance of the evidence simply means
20 an amount of evidence which is enough to persuade you that the
21 government's claim is more likely true than not true.

22 Venue may be proper in this district by either one of
23 the following ways: First, venue exists in the district where
24 the charged conspiracy was formed or in any district where an
25 overt act was committed in furtherance of the charged

1 conspiracy.

2 An overt act need not take place entirely in a
3 district for the act to occur in that district for venue
4 purposes.

5 For example: If an automobile trip or an airplane
6 flight is found to constitute an overt act, then that act
7 occurs in every district in which the car drives or the plane
8 flies. And venue is proper in each of those districts.

9 Additionally, an overt act does not itself have to be
10 unlawful. A lawful act may be an element of the conspiracy if
11 it was done for purposes of carrying out the conspiracy.

12 Lastly. An overt act may be that of only a single
13 conspirator and the defendants need not participate in the
14 overt act.

15 Once a conspiracy is established, an overt act
16 committed in this district by any conspirator in furtherance of
17 the conspiracy is sufficient for venue to exist in this
18 district.

19 Second. If you find that the conspiracy charged in
20 the indictment and the overt act of that conspiracy occurred
21 entirely -- almost entirely outside of the territory of the
22 United States, then venue may exist in the district where any
23 co-conspirator is arrested or first brought.

24 So, in sum, to find that venue is proper in the
25 Northern District of Florida, you must find as to each

1 defendant as to each count that a preponderance of the evidence
2 shows either, one, that one or more members of this conspiracy
3 did some overt act within the Northern District of Florida
4 which was done for the purpose of carrying out the object of
5 the conspiracy, or, secondly, that the conspiracy charged and
6 its overt acts were committed entirely or almost entirely
7 outside the territory of the United States, and that one of the
8 conspirators was arrested in or first brought to the Northern
9 District of Florida.

10 The Northern District of Florida includes the
11 following counties: Alachua, Bay, Calhoun, Dixie, Escambia,
12 Franklin, Gadsden, Gilchrist, Gulf, Holmes, Jackson, Jefferson,
13 Lafayette, Leon, Levy, Liberty, Madison, Ockaloosa, Santa Rosa,
14 Taylor, Waukulla, Walton and Washington.

15 Throughout those instructions as in the indictment
16 you will see the words knowing, knowingly or knew. Those words
17 mean that the act was done voluntarily and intentionally, and
18 not because of mistake or accident. You will also see the word
19 willful or willfully.

20 Those terms means that the act was committed
21 voluntarily and purposefully with the specific intent to do
22 something the law forbids, that is, with bad purpose either to
23 disobey or to disregard the law.

24 Now, any verdict that you reach in the jury room,
25 whether that be guilty or not guilty must be unanimous. In

1 other words, to return a verdict, you must all agree to that
2 verdict.

3 Your deliberations will be kept secret and you will
4 not be called upon to explain your verdict to any person. It
5 is your duty as jurors to discuss this case with one another in
6 an effort to reach agreement if you can do so.

7 Each of you, though, must decide this case for
8 yourself, but only after full consideration of the evidence
9 with the other members of the jury. Now, while you are
10 discussing the case, do not hesitate to re-examine your own
11 opinion and to change your mind if you become convinced that
12 you were wrong. But do not give up your honest beliefs solely
13 because others think differently or merely to get this case
14 over with.

15 You must remember that in a very real way you are
16 each judges. You are the judges of the facts of this case, and
17 your only interest is to seek the truth from the evidence that
18 has been presented.

19 Now, when you go to the jury room, you should first
20 select one of your members to act as your foreperson. He or
21 she will preside over your deliberations and will speak for you
22 here in open court.

23 A form of verdict has been prepared for your
24 convenience. I would like to go over that verdict form with
25 you at this time. It reads as follows: Verdict. We the jury,

1 unanimously return the following verdict. Count I. As to the
2 offense set forth in Count I of the indictment, conspiracy to
3 possess marijuana with intent to distribute, do you find that
4 the government has proved by a preponderance of the evidence
5 that venue was properly vested in the Northern District of
6 Florida for the charge against John Richard Knock? A space for
7 yes, a space for no.

8 There, in the appropriate space, you would put the
9 unanimous decision of the jury as to that question as to Count
10 I.

11 Then the verdict form tells you parenthetically: If
12 your answer to this question is no, skip the following question
13 and proceed to the question on page 3.

14 If your answer is yes, please answer the next
15 question on page 2. The next question on page 2: As to the
16 offense set forth in Count I of the indictment, conspiracy to
17 possess marijuana with the intent to distribute, we find the
18 defendant, John Richard Knock not guilty, guilty.

19 You would, in the appropriate blank space, put the
20 unanimous decision of the jury as to that defendant as to that
21 count.

22 As to the offense set forth in Count I of the
23 indictment, conspiracy to possess marijuana with intent to
24 distribute, do you find that the government has proved -- has
25 proved by a preponderance of the evidence that venue is

1 properly vested in the Northern District of Florida for the
2 charge against Albert Thomas Madrid? A blank space for yes, a
3 blank space for no.

4 Again, you would, in the appropriate blank space, put
5 the unanimous decision of the jury as to that question as to
6 that defendant.

7 Then again, parenthetically, it says: If your answer
8 to this question is no, skip the following question and proceed
9 to Count II on page 4.

10 If your answer is yes, please answer the next
11 question. The next question: As to the offense set forth in
12 Count I of the indictment, conspiracy to possess marijuana with
13 intent to distribute, we find the defendant, Albert Thomas
14 Madrid, not guilty, guilty.

15 Again, in the appropriate blank space, you would put
16 the unanimous decision of the jury as to that defendant as to
17 that count.

18 Count II. As to the offense set forth in Count II of
19 the indictment, conspiracy to import marijuana, do you find
20 that the government has proved by a preponderance of the
21 evidence that venue was properly vested in the Northern
22 District of Florida for the charge against John Richard Knock.
23 Again, a blank space for yes, a blank space for no.

24 And you would, in the appropriate blank space, put
25 the unanimous decision of the jury as to that count, as to that

1 defendant, as to that question.

2 Again, parenthetically, it says: If your answer to
3 this question is no, skip the following question and proceed to
4 the question on page 5. If your answer is yes, please answer
5 the next question.

6 Next question. As to the offense set forth in Count
7 II of this indictment, conspiracy to import marijuana, we find
8 the defendant, John Richard Knock, not guilty, guilty.

9 Again, in the appropriate blank space, you would put
10 the unanimous decision of the jury as to that defendant as to
11 that count of the indictment.

12 It continues. As to the offense set forth in Count
13 II of the indictment, conspiracy to import marijuana, do you
14 find that the government has proved by a preponderance of the
15 evidence that venue is properly vested in the Northern District
16 of Florida for the charge against Albert Thomas Madrid? Again,
17 a blank space for yes, a blank space for no.

18 And you would, in the appropriate blank space, put
19 the unanimous decision of the jury as to that question as to
20 that defendant as to that count.

21 Again, parenthetically, it says: If your answer to
22 this question is no, skip the following question and go to the
23 following on page 6. If your answer is yes, please answer the
24 next question.

25 Next question. As to the offense set forth in Count

1 II of the indictment, conspiracy to import marijuana, we find
2 the defendant Albert Thomas Madrid not guilty, guilty.

3 Again, in the appropriate blank space, you would put
4 the unanimous decision of the jury as to that defendant as to
5 that count of the indictment.

6 Count III. Excuse me. As to the offense set forth
7 in Count III of the indictment, conspiracy to launder money, do
8 you find that the government has proven by a preponderance of
9 the evidence that venue is properly before you in the Northern
10 District of Florida for the charge against John Richard Knock?

11 Again, a blank space for yes, a blank space for no.

12 And you would, in the appropriate blank space, put
13 the unanimous decision of the jury as to that question as to
14 that count as to that defendant.

15 Parenthetically it says: If your answer to this
16 question is no, skip the following question and proceed to the
17 question on page 7. If your answer is yes, please answer the
18 next question.

19 Next question. As to the offense set forth in Count
20 III of the indictment, conspiracy to launder money, we find the
21 defendant, John Richard Knock, not guilty, guilty.

22 Again, in the appropriate blank space, you would put
23 the unanimous decision of the jury as to that count as to that
24 defendant.

25 It continues. As to the offense set forth in Count

1 III of the indictment, conspiracy to launder money, do you find
2 that the government has proved by a preponderance of the
3 evidence that venue is properly vested in the Northern District
4 of Florida for the charge against Albert Thomas Madrid.

5 Again, the blank space for yes, a blank space for no.
6 And you would, in the appropriate blank space, put the
7 unanimous decision of the jury as to that defendant as to that
8 question, as to that count.

9 And parenthetically it says: If your answer to this
10 question is no, skip the following question, sign and date the
11 verdict form and inform the Court that you have reached a
12 verdict. If your answer is yes, please answer the next
13 question.

14 Next question. As to the offense set forth in Count
15 III of the indictment, conspiracy to launder money, we find the
16 defendant, Albert Thomas Madrid, not guilty, guilty.

17 And once again, in the appropriate blank space, you
18 would put the unanimous decision of the jury as to that
19 defendant as to that count of the indictment.

20 And just to remind you that you have to all agree to
21 whatever you do, the verdict concludes by saying: So say we
22 all. Then there is the place for the date, a signature line
23 for one of your members acting as the foreperson of this jury.

24 You will take this verdict form to the jury room with
25 you. And as I have indicated, when you have reached unanimous

1 agreement, your foreperson should fill it in, date it, sign it,
2 let us know that you have reached a verdict, and we will come
3 back into the courtroom to receive your verdict.

4 If at any time during your deliberations you should
5 desire to communicate with me, I ask that you write down your
6 message or question on a piece of paper that is provided back
7 there that is in the envelope that is provided for that
8 purpose. Pass the note to the security officer. They will
9 bring it to my attention. I will confer with the lawyers as
10 may be appropriate, or not, and I'll respond as promptly as
11 possible to your inquire.

12 I may do so in writing, or I may do so by having you
13 return to the courtroom so that I can address you orally much
14 as in the fashion that I'm now doing. I do caution you,
15 however, that with regard to any message or to any question
16 that you may send out, that you should never tell me or
17 indicate in that message any numerical division of the jury if
18 there is one.

19 A couple of other matters and I'll let you go about
20 your business. You are going to be permitted to take with you
21 into the jury room all of the tangible pieces of evidence that
22 have been received into evidence.

23 Certain of the matters were used only for
24 demonstrative purposes. They are not in evidence. So if you
25 don't have it back there, we are not going to send it back

1 there.

2 We will make available to you, upon your request, a
3 recording device so that you can listen to the tapes, or we
4 will wheel in the TV set if you wish to watch the TV, that
5 cassette. Just let us know and we will get them right back in
6 there to you.

7 When we started this case, we knew it was going to
8 be, you know, three to four, five weeks. And due to the
9 uncertainties that may occur during that length of time, it was
10 necessary that we empanel alternate jurors in the event that if
11 something happened to one of the regular jurors, that there
12 would be someone there with full knowledge of the case from
13 what has gone on in the courtroom and they could take that
14 position.

15 Under the laws -- or under the law that we operate
16 under, I should say, in a criminal proceeding, alternate jurors
17 are not permitted to go back in and actually participate in the
18 deliberations.

19 If this were a civil case in this court, if we had 20
20 jurors, all 20 would deliberate. But, that is not true in a
21 criminal case. And that is unfortunate because every one of
22 you have been very attentive. So the alternate jurors in this
23 case: Ms. Christy Jones, Wendy Andrei, Lori McCormick, ladies
24 when the rest of them go back to the jury room, I ask you to
25 keep your seats. I need to talk to you all out of the presence

1 of the other members.

2 So the rest of you may at this time retire to the
3 jury room to consider your verdict.

4 (Jury out.)

5 THE COURT: Ladies, I'm sorry that you can't go back
6 there because you all have been very attentive. I know I can
7 see the two ladies on the front, they took copious notes. But
8 that is unfortunate. That does not mean, however, that even
9 now, if something happened where we had to replace one of the
10 other ladies and gentlemen, that you could not be called upon
11 to actually participate in the decision-making process with
12 this jury.

13 And because of that possibility, I'm going to ask
14 each of you to abide by these instructions: Even now do not
15 discuss this case among yourselves. Do not allow anyone to
16 discuss it in your presence. Don't tell anyone your views of
17 the case or the evidence or how you think you may have voted if
18 you were a voting member of this jury.

19 You are each going to be free to go. You are free to
20 stay. If you stay, I think we've already ordered your lunch.
21 We will find you a place to make you as comfortable as
22 possible.

23 If it's your decision to go, then we need some way to
24 contact you over the next day or so in the event that we had
25 to, and ask you to come back and be part of this jury.

1 So, again, with the thanks of everyone that is
2 involved in this case, for your time and effort and your
3 attention that you have paid, you are excused subject to being
4 called back under the conditions that I have outlined.

5 I'm going to ask if you would step to the hallway,
6 let the security guard know your decision. And, again, thank
7 you, ladies, very much.

8 Did you leave anything in the jury room that you
9 need? Okay, we'll get them for you.

10 (Alternates out.)

11 THE COURT: Be seated.

12 Do you all have any objections to the instructions as
13 they were read to the jury?

14 MR. KENNEDY: None other than previously stated, Your
15 Honor.

16 MR. DAAR: Same.

17 THE COURT: Government?

18 MR. HANKINSON: No, sir.

19 THE COURT: All right. Then all objections made to
20 the giving of an instruction or the objection made to the
21 failure to give an instruction, all motions or objections
22 raised during the course of the trial are each considered
23 raised at this time. All prior rulings continue to apply.

24 I want you to check this evidence, make sure only
25 what is going back there is supposed to go back there. There

1 may be one or two that didn't get in, but I'm not sure.

2 But, when the clerk comes back, check it out. We
3 have ordered lunch. When it comes in, we are just going to
4 give it to them. If they ask for recording playback devices,
5 I'm going to furnish them. If you all wish to be advised, I'll
6 advise you of it.

7 I need some method or way we can contact you in case
8 I have a jury message or something comes up that I need to
9 contact you. So, check, if you all come up, as soon as we get
10 Blair back here, check out this evidence, and then once you say
11 it's okay we'll send it back, and then we'll stand in recess
12 awaiting the verdict of this jury.

13 MR. HANKINSON: Was there some decision made as to
14 what we were going to do tomorrow, assuming they are still
15 deliberating?

16 THE COURT: Good thinking.

17 What are we going to do if this jury is --

18 MR. KENNEDY: I have to go to New York tomorrow.

19 THE COURT: What about your associates?

20 MR. KENNEDY: Well, my associate can be here.

21 Mr. Knock is unwilling to proceed without my presence.

22 So I submit it to the Court. The other thing I will
23 say, respectfully, is that because we advised this jury that
24 tomorrow is going to be a nonworkday when we began, they may
25 have made some plans. I don't know about that, Your Honor.

1 THE COURT: Well, that is true too. That is a
2 separate hurdle. The first one is to decide what we are going
3 to do in as far as you are concerned.

4 MR. KENNEDY: I regret causing any inconvenience to
5 the Court because of my personal problem.

6 THE COURT: I don't want to send this jury home for
7 three days while they are deliberating. We will approach that
8 later.

9 MR. DAAR: Okay. I would just join. I have actually
10 made plans myself to be home with my wife.

11 THE COURT: I've made plans too.

12 MR. DAAR: I would think that the jury has also done
13 so.

14 THE COURT: They may have. We'll wait and see.

15 MR. KENNEDY: Let's let it evolve, Your Honor, and
16 see what happens.

17 THE COURT: Check these things out, please.

18 I'll send a note back to them.

19 (Recess taken.)

20 THE COURT: We did receive a reply. It reads as
21 follows. Regards the response to the jury inquiry: The
22 answers is that several members of the jury made plans based on
23 the assumption that May 26th and 29th would be days off.

24 And in some cases then serving on Friday or Monday
25 would inconvenience members of the jury.

1 On another matter. If such is available, may the
2 jury receive a numerical list of evidence and transcripts of
3 the testimony of Julie Roberts, Sonya Vacca Marshall Way and
4 Ken Cowles?

5 Thank you for your consideration.

6 So I guess that means that if they don't return a
7 verdict by tonight or today, we will just have to bite the
8 bullet and do it Tuesday.

9 MR. HANKINSON: Yes, sir.

10 THE COURT: On the other inquiry?

11 MR. HANKINSON: We are in the process of coming up
12 with an evidence list that I think is acceptable to everyone.
13 And I think that would answer their questions.

14 THE COURT: Only partially. They want transcripts.

15 May the jury receive a numerical list of evidence and
16 transcripts of the testimony of Julie Roberts, Sonya Vacca
17 Marshall Way and Ken Cowles.

18 MR. HANKINSON: I misunderstood.

19 THE COURT: Read it. Sometimes it is better to read
20 them than to listen to it.

21 MR. KENNEDY: May I inquire, Your Honor, as to in
22 your local procedure, the request transcripts. Do you read
23 them back automatically, do you ask them to --

24 THE COURT: Well, they are not asking for them. They
25 are not asking for read back. They want the actual --

1 What I would tell them is that transcripts are not
2 available. That if they desire any particular evidence to be
3 reread to them, that we would make arrangements to do that in
4 open court.

5 MR. KENNEDY: May I come forward and get the note,
6 Your Honor?

7 MR. HANKINSON: So sorry.

8 THE COURT: We'll make you all a copy. You ought to
9 have one.

10

11 I'm not sure we ought to be sending back an evidence
12 list unless you all can absolutely agree on what that should
13 be.

14 That is pretty dangerous waters to be treading here.
15 What they testified to, and it's something else some other
16 piece of evidence that they refer to in their testimony.

17 MR. HANKINSON: We are talking about the Clerk's
18 evidence list. And we are -- that is what we are talking about
19 sending them.

20 MR. KENNEDY: I view this quote numerical list of
21 evidence as a request for what we would call the exhibit list.
22 That is how I read it. I could be wrong.

23 THE COURT: If that is the way you all agree, if that
24 is the way you it.

25 MR. HANKINSON: Yes, sir.

1 THE COURT: Then you all can agree on it, fine. If
2 you can't, fine too.

3 MR. HANKINSON: That is what we are working through.
4 Taking the clerk's, which is actually the evidence list we
5 started with, and deleting anything that maybe is arguable as
6 to whether the description is accurate. I don't think that
7 is a bad thing to do.

8 THE COURT: Let me know when you all get something.
9 We'll get back together.

10 (Recess taken.)

11 THE COURT: Be seated, please.

12 All right. I have been presented a copy of an
13 exhibit list. You all have agreed to its content and it can go
14 back.

15 MR. KENNEDY: That's correct.

16 MR. DAAR: Yes, Your Honor.

17 THE COURT: All right. I intend to respond to them
18 and tell them, we are enclosing the list as they requested.
19 But there is no transcripts available.

20 I'm going to leave it at that. If they come back
21 later we'll -- we'll roll with that.

22 MR. DAAR: Your Honor, I gather from your answer that
23 there is no desire by the Court to inquire of them about the
24 possibility of readback as opposed to transcripts?

25 THE COURT: What do you want me to do?

1 MR. DAAR: Well, I would like that you tell the jury
2 that there is read back possible, but it's extremely time
3 consuming and that some of those witnesses that they have asked
4 for are very long. Some are shorter. After deliberating
5 amongst themselves and testing their collective recollection,
6 their notes, that if they feel it would still be helpful, that
7 such a thing is available to them.

8 Because I think the use of the word transcripts
9 really is not a precise usage of the term. What they are
10 really requesting is a readback, they just don't understand how
11 to say it.

12 And I think when you tell them that that is not
13 possible, then they may believe, in fact, that they cannot get
14 a read back, if there is a critical dispute in the jury about
15 what was said, they will be deprived of that.

16 MR. KENNEDY: I concur in that, Your Honor.

17 THE COURT: I enclose exhibit list as you requested.
18 No transcript of trial testimony is available. If you desire
19 the testimony of a particular witness be read to you in open
20 court, let me know.

21 MR. DAAR: Thank you, Your Honor.

22 MR. KENNEDY: Thank you, Your Honor.

23 THE COURT: All right.

24 MR. KENNEDY: Thank you, Your Honor.

25 We've got a civil case if you want to stick around

1 and see what one is like.

2 MR. HANKINSON: Should I take that as a hint, Judge?

3 THE COURT: All right.

4 (Recess taken.)

5 (Jury in.)

6 THE COURT: Just be seated, please.

7 Ladies and gentlemen, based upon the note that we've
8 exchanged, we are going to let you discontinue your
9 deliberations now. We are going to send you home. We promised
10 you you would not work Friday and Monday. We understand you
11 made plans based on that.

12 So we will recess this proceeding until 9 o'clock
13 Tuesday morning. Beginning right now, you must not discuss
14 this case among yourselves, with anyone. Don't let them
15 discuss it in your presence.

16 Do not read or listen to or watch any news accounts
17 of this trial if any there may be. I need to ask you one
18 question. Is there anything on the -- should we lock up the
19 jury room and leave it like it is, or can we clean it up, you
20 know, and gather all of the evidence and put it in our vault?
21 I don't know if you have written on the boards or anything like
22 that.

23 JURY FOREPERSON: Well, we erased what was on the
24 board.

25 THE COURT: So what we ask you to do is go back in

1 when you leave, collect your notebooks, collect the evidence,
2 put them up. That is good.

3 Because we don't want to go back in there if you had
4 left writing on it.

5 JURY FOREPERSON: There is one thing I would like to
6 go back in and --

7 THE COURT: You all can go back in there and get
8 whatever it is. And then when you leave, just leave your notes
9 and all in there. And Blair will be in after we know you all
10 are gone. We'll go in there and clean it up so the crew can go
11 in and clean up behind you all.

12 Thank you, folks. See you all Tuesday morning at
13 nine o'clock.

14 Jury out.

15 (Court stood in recess.)
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C E R T I F I C A T E

1
2
3 STATE OF FLORIDA)
4 COUNTY OF ALACHUA)
5


6 I, Mark N. Stuart, RPR, United States Court Re:
7 in Gainesville, Florida, do hereby certify as follows :
8

9 THAT I correctly reported in computer-aided ma:
10 shorthand the foregoing transcript of proceedings at the
11 and place stated in the caption thereof;
12

13 THAT I later reduced my shorthand notes to
14 computer-aided transcription, or under my supervision, at
15 the foregoing pages numbered 1 through 41, both inclusive
16 contain a full, true and correct transcript of the proceed
17 on said occasion;
18

19 THAT I am neither of kin nor of counsel to any
20 involved in this matter, nor in any manner interested in
21 results thereof.
22

23 DATED THIS 1st DAY OF June, 2001.
24
25


Mark N. Stuart, RPR
United States Court Reporter

COPY

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
GAINESVILLE DIVISION

THE UNITED STATES OF AMERICA,

Plaintiff,

Docket No. 94CR1009MMP
Gainesville, Florida
May 30, 2000
9:00 a.m.

vs.

JOHN KNOCK and
ALBERT MADRID,

Defendants.

OFFICE OF CLERK
U.S. DISTRICT CT.
NORTH DARIEN, FLA.
GAINESVILLE, FLA.

01 AUG 21 PM 1:50

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VOLUME 16

TRANSCRIPT OF FIFTEENTH DAY OF JURY TRIAL
WHEN HEARD BEFORE THE HONORABLE SENIOR UNITED STATES
DISTRICT COURT JUDGE MAURICE M. PAUL, AND A JURY.

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1 THE COURT: Good morning, folks. Be seated, please.
2 Welcome back.

3 Ladies and gentlemen. I want to remind you of the
4 instructions that you were previously given last Thursday.

5 And at this time you may retire to the jury room.
6 You may continue with your deliberations.

7 I ask that -- once you let us know that you are
8 hungry, we need that hour at least to get something here. So
9 let the security guard know. If you need the TVs or anything,
10 remember we have them and we'll get them in there to you.

11 Okay, folks. You may retire to continue with your
12 deliberations.

13 (Jury out.)

14 (Court stood in recess.)

15 (Jury in.)

16 THE COURT: Be seated, folks, please.

17 I understand you have now reached a verdict in the
18 case.

19 JURY FOREPERSON: Yes, sir.

20 THE COURT: Hand the verdict form, please, to the
21 security officer. Thank you.

22 Publish the verdict. Defendants please stand.

23 THE CLERK: Yes, sir.

24 In the United States District Court for the Northern
25 District of Florida, Gainesville Division. In the cause United

1 States of America versus John Richard Knock and Albert Thomas
2 Madrid. Verdict. We the jury unanimously return the following
3 verdict. Count 1. As to the offense set forth in Count 1 of
4 the indictment, conspiracy to possess marijuana with the intent
5 to distribute, do you find that the government has proven by a
6 preponderance of the evidence that venue is properly vested in
7 the Northern District of Florida for the charge against John
8 Richard Knock? Answer: Yes.

9 As to the offense set forth in Count 1 of the
10 indictment, conspiracy to possess marijuana with intent to
11 distribute, we find the defendant John Knock guilty.

12 As to the offense set forth in Count 1 of the
13 indictment, conspiracy to possess marijuana with intent to
14 distribute, do you find that the government has proven by a
15 preponderance of the evidence that venue is properly vested in
16 the Northern District of Florida for the charge against Albert
17 Thomas Madrid? Answer: Yes.

18 As to the offense set forth in Count 1 of the
19 indictment, conspiracy to possess marijuana with intent to
20 distribute, we find the defendant Albert Thomas Madrid guilty.

21 Count 2. As to the offense set forth in Count 2 of
22 the indictment, conspiracy to import marijuana do you find that
23 the government has proven by a preponderance of the evidence
24 that venue is properly vested in the Northern District of
25 Florida for the charge against John Richard Knock? Answer:

1 Yes.

2 As to the offense set forth in Count 2 of the
3 indictment, conspiracy to import marijuana, we find the
4 defendant John Knock guilty.

5 As to the offense set forth in Count 2 of the
6 indictment, conspiracy to import marijuana, do you find that
7 the government has proven by a preponderance of the evidence
8 that venue is properly vested in the Northern District of
9 Florida for the charge against Albert Thomas Madrid? Answer:
10 Yes.

11 As to the offense set forth in Count 2 of the
12 indictment, conspiracy to import marijuana, we find the
13 defendant Albert Thomas Madrid not guilty.

14 Count 3. As to the offense set forth in Count 3 of
15 the indictment, conspiracy to launder money, do you find that
16 the government has proven by a preponderance of the evidence
17 that venue is properly vested in the Northern District of
18 Florida for the charge against John Richard Knock? Answer:
19 Yes.

20 As to the offense set forth in Count 3 of the
21 indictment, conspiracy to launder money, we find the defendant
22 John Richard Knock guilty.

23 As to the offense set forth in Count 3 of the
24 indictment, conspiracy to launder money, do you find that the
25 government has proven by a preponderance of the evidence that

1 venue is properly vested in the Northern District of Florida
2 for the charge against Albert Thomas Madrid? Answer: Yes.

3 As to the offense set forth in Count 3 of the
4 indictment, conspiracy to launder money, we find the defendant
5 Albert Thomas Madrid, not guilty.

6 So say we all dated this 30th day of May, 2000, in
7 Gainesville, Florida, signed by foreperson, Harry Shaw.

8 THE COURT: Be seated, folks.

9 Ladies and gentleman, I'm going to ask the clerk to
10 poll the jury. That simply means that he's going to call your
11 name. When he does, please answer audibly if this is in fact
12 your individual verdict as well as the collective verdict of
13 the jury as to each defendant as to each count.

14 THE CLERK: Mr. Shaw, is this your verdict?

15 MR. SHAW: Yes.

16 THE CLERK: Mr. Whitfield, is this your verdict?

17 MR. WHITFIELD: Yes.

18 THE CLERK: Ms. Kloeppel, is this your verdict?

19 MS. KLOEPPEL: Yes.

20 THE CLERK: Mr. Peoples, is this your verdict?

21 MR. PEOPLES: Yes.

22 THE CLERK: Mr. Dickerson, is this your verdict?

23 MR. DICKERSON: Yes.

24 THE CLERK: Ms. Killian, is this your verdict?

25 MS. KILLIAN: Yes.

1 THE CLERK: Ms. Watson, is this your verdict?

2 MS. WATSON: Yes.

3 THE CLERK: Ms. Crum, is this your verdict?

4 MS. CRUM: Yes.

5 THE CLERK: Ms. Garst, is this your verdict?

6 MS. GARST: Yes.

7 THE CLERK: Ms. Craig, is this your verdict?

8 MS. CRAIG: Yes.

9 THE CLERK: Ms. Wyatt, is this your verdict?

10 MS. WYATT: Yes.

11 THE CLERK: And, Ms. Cadwallader, is this your
12 verdict?

13 MS. CADWALLADER: Yes.

14 THE COURT: Record the verdict.

15 THE CLERK: Yes, sir.

16 THE COURT: Ladies and gentlemen, you all have worked
17 hard on this for a number of weeks, and I wish that I could
18 tell you that you are through, but you're not.

19 A portion of the indictment that you have not yet
20 seen is a forfeiture count. And I have to -- the government
21 has to have the opportunity to present that forfeiture count to
22 you. We're not going to do it tonight, we're going to do it
23 first thing tomorrow morning at 9:00.

24 I ask that you not consider the case any more, go
25 home, relax. If you're here tomorrow morning by 9:00, we'll

1 put on -- the government will put on whatever additional
2 testimony, if any, they wish to put on. You will hear whatever
3 additional argument that the lawyers wish to make, and then I
4 will instruct you on the law concerning forfeitures.

5 So with that admonition in mind, you're excused until
6 9:00 tomorrow morning.

7 (Jury out.)

8 THE COURT: I have got some proposed instructions on
9 the forfeiture. I have to modify them a little. We prepared
10 them last week not knowing what was going on. And, if you will
11 give us about five minutes -- we'll give you copies.

12 I have an 8:45 in the morning. I'll meet with you
13 all at 9:00. We'll go over the instructions and we'll start
14 with the jury at 9:30.

15 Brian tells me that we received a copy of proposed
16 instructions from the government on the forfeiture.

17 MR. HANKINSON: Just on the verdict.

18 THE COURT: On the verdict form. I didn't know what
19 it was. If you have any on the verdict form or instructions,
20 if you all will present them to us tomorrow morning, we'll go
21 over them then.

22 I have another jury coming in at 9:00, but we'll do
23 this one first.

24 MR. HANKINSON: Just for planning purposes, Your
25 Honor, I would expect our testimony that we would be putting on

1 about ten minutes of testimony would be my estimate. I'm not
2 going to feel the need to make an opening statement. So ten
3 minutes of testimony and maybe ten minutes or argument would be
4 all I would envision.

5 THE COURT: All right. I don't think that we have a
6 home telephone number for your counterpart that is doing the
7 other case. Can you find one and advise them that we'll be a
8 little late. I'll find one for the defendant's lawyer.

9 MR. HANKINSON: What time?

10 THE COURT: He can come on, because the jury will be
11 here at 9:00. But tell him that we're going to be a little
12 late reaching the case. Certainly by 10:00 we ought to be
13 ready to do it. Let him know in case there's something going
14 on.

15 We'll stand in recess.

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C E R T I F I C A T E

STATE OF FLORIDA)

COUNTY OF ALACHUA)

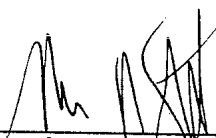
I, Mark N. Stuart, RPR, United States Court Reporter
in Gainesville, Florida, do hereby certify as follows:

THAT I correctly reported in computer-aided machine
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and place stated in the caption thereof;

THAT I later reduced my shorthand notes to
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the foregoing pages numbered 1 through 9, both inclusive,
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on said occasion;

THAT I am neither of kin nor of counsel to any party
involved in this matter, nor in any manner interested in the
results thereof.

DATED THIS 1st DAY OF June, 2001.



Mark N. Stuart, RPR
United States Court Reporter

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
GAINESVILLE DIVISION

THE UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHN KNOCK and
ALBERT MADRID,

Defendants.

Docket No. 94CR1009MMP

Gainesville, Florida
May 31, 2000
9:00 a.m.

VOLUME 17

TRANSCRIPT OF SIXTEENTH DAY OF JURY TRIAL
WHEN HEARD BEFORE THE HONORABLE SENIOR UNITED STATES
DISTRICT COURT JUDGE MAURICE M. PAUL, AND A JURY.

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1 THE COURT: Good morning. My law clerk told me that
2 there may be some objection to some portion of these
3 instructions on the forfeiture count.

4 And that -- he also told me that you all didn't think
5 it would take about a couple of minutes and we could do it here
6 in open court.

7 MR. KENNEDY: Well, that's correct, Your Honor. Your
8 clerk informed you properly.

9 What I want to do is to make a record with reference
10 to certain constitutional arguments on behalf of John Knock.

11 And, fundamentally, they have to do with 5th
12 Amendment due process. Because, in the indictment itself, and
13 indeed in the special instructions and special verdict there is
14 no specification of the property to be forfeited.

15 The difficulty that that creates is that it does not
16 then give the defendant notice of what property he needs to
17 prepare to try to defend.

18 Secondly, the lack of specificity with reference to
19 the property prevents us from determining under 11th Circuit
20 law, which of the theories of 853 are being applied.

21 Is it the proceeds theory, or is it the property used
22 to facilitate criminality theory? And again without
23 specification of the property to be forfeited, there is no
24 notice given to the defendant or opportunity to defend himself
25 or his interests in that particular property.

1 As Your Honor knows, only the defendant's interests
2 can be forfeited under 853, and I think your instructions
3 appropriately specify.

4 In the instructions themselves, Your Honor, where you
5 talk about the preponderance of the evidence, I have read the
6 11th Circuit law. And I realize it provides me with very
7 little comfort for the Constitutional arguments that I am
8 making, but nevertheless in the fullness of time things change
9 and I want to make certain that on behalf of Mr. Knock that we
10 have an appropriate record here.

11 I believe the standard ought not to be preponderance
12 of the evidence, but in fact ought to be beyond a reasonable
13 doubt. Because, the forfeitures that are involved here are --
14 can be as disproportionate as almost any penalty applied.

15 Therefore, because they are criminal and punitive in
16 nature, the normal standard of beyond a reasonable doubt out be
17 applicable here and not the preponderance of the evidence.

18 Also, Your Honor, you will note that in your proposed
19 charge to the jury when you speak of preponderance of the
20 evidence, you also associate it with the adverb simply.

21 Preponderance of the evidence simply means more true
22 than not, to paraphrase your language, or more likely than not.
23 I object to the use of the word simply, because I think that
24 further reduces what is already too narrow a burden of proof
25 placed upon the government with reference to this.

1 THE COURT: I'm looking for simply, Mr. Kennedy. If
2 you -- what page?

3 MR. KENNEDY: It has been moved actually.

4 THE COURT: I found it. It is on page 3. Surely.

5 MR. KENNEDY: Do you see where the word simply is?

6 THE COURT: Uh-huh.

7 MR. KENNEDY: I think that inappropriately diminishes
8 that standard, Your Honor, and I would ask you to strike that
9 adverb, please.

10 The next point I want to make is that you are seeking
11 forfeiture -- the government is seeking forfeiture. You are
12 instructing on forfeiture with reference to gross proceeds.
13 Again I confess the familiarity with the 11th Circuit law. I'm
14 not saying that that is not supported by the 11th Circuit law.

15 But, it seems to me that that is also excessive. I
16 think we have an 8th Amendment argument here, that gross
17 proceeds to be forfeited, actually is -- creates a lack of
18 proportionality, a disproportionate forfeiture and that the
19 standard ought to be net profits. Gross proceeds constitutes
20 an unfair penalty in violation of the 8th Amendment.

21 The rebuttal presumption that I --

22 THE COURT: Excuse me one second.

23 MR. KENNEDY: Certainly, Your Honor.

24 THE COURT: I have a recollection that the Supreme
25 Court, within the last few months spoke on forfeiture and so

1 forth, civil and criminal forfeitures and the difference. And
2 I have asked him to go get the case.

3 MR. KENNEDY: I believe you are right.

4 THE COURT: But I don't remember enough of the facts
5 of the case to tell you if it's anywhere applicable here.

6 MR. KENNEDY: I don't either.

7 THE COURT: I know there is a case.

8 MR. KENNEDY: If I found something on it I would have
9 presented it to you.

10 THE COURT: I need to get it for my own piece of
11 mind.

12 MR. KENNEDY: Absolutely. Thank you for that, Your
13 Honor.

14 May I continue?

15 THE COURT: Please.

16 MR. KENNEDY: The rebuttable presumption within 853
17 and within the confines of your instructions, I suggest,
18 violates the 5th Amendment right of the defendants.

19 And I'm speaking actual of defendant John Knock. I
20 didn't mean to speak in the plural. With reference to the
21 defendant John Knock when you say to them that there is -- that
22 a rebuttable presumption is created, and then it's incumbent
23 upon the defendants to come forward with evidence to try to
24 rebut or overcome that presumption, what in fact you are doing
25 is adversely implicating the Fifth Amendment right of the

1 defendant John Knock.

2 He has no burden, no responsibility whatsoever, to
3 have to come forward. I think that rebuttal presumption --
4 again, Your Honor, I confess familiarity with the 11th Circuit
5 law. That rebuttable presumption reverses the impact of the
6 5th Amendment and I think violates Mr. Knock's Fifth Amendment
7 right.

8 The next point, Your Honor, is, that it's impossible
9 for us to determine nexus. 853 and the cases, including the
10 11th Circuit cases and the Supreme Court cases require that
11 there be a demonstrated nexus by the government between that
12 which is to be forfeited and the criminality upon which guilty
13 guilt has been based.

14 It gets back to my earlier argument, Your Honor, that
15 with the lack of specificity with reference to the property to
16 be forfeited, denies John Knock due process of law because he
17 cannot defend against either of the theories of nexus, either
18 proceeds or facilitation of -- property used in facilitation.

19 That's it, Your Honor. Those are my arguments.

20 THE COURT: Thank you, Mr. Kennedy.

21 Mr. Daar, do you have any additional?

22 MR. DAAR: Yes, Your Honor. I just join in
23 Mr. Kennedy's comments on behalf of Mr. Madrid.

24 MR. KENNEDY: I'm sorry. There was one other thing.

25 THE COURT: Surely.

1 MR. KENNEDY: That if in fact the government is in a
2 position to provide us with specificity with reference to
3 property, I am inclined to doubt that, I don't speak for them,
4 they can speak for themselves of course.

5 If in fact they are prepared to give us specific
6 notice of what properties are to be forfeited under this
7 forfeiture proceeding, then what I will do is ask for a
8 reasonable continuance, Your Honor, in order to be able to
9 prepare a defense against whatever properties it is that the
10 United States specifies. Thank you.

11 MR. DAAR: Yes, Your Honor. Randolph Daar. I would
12 join in Mr. Kennedy's comments on behalf of Mr. Madrid. And,
13 just briefly two minor suggestions to the Court. Page 2,
14 paragraph beginning: However, if you believe by a
15 preponderance. The Court has underlined you must presume
16 unless such presumption.

17 I would suggest to the Court that such underlining
18 overemphasizes the presumption.

19 Secondly, at the conclusion of that paragraph is a
20 phrase outweighed by evidence offered by the defendants. I
21 understand defendants have the ability to offer such evidence.

22 But, in fact, I think if that sentence just said
23 outweighed by evidence to the contrary, it wouldn't create a
24 presumption, pardon the expression to the jury that the
25 defendant has to present their own evidence rather than merely

1 cross-examining the evidence presented by the prosecution.

2 Do you see, it raises that inference, Your Honor?

3 THE COURT: Excuse me one moment.

4 Go ahead, Mr. Daar. Sorry.

5 MR. DAAR: Your Honor, I just make the same comments
6 of the same nature with respect to paragraph on page 3
7 beginning: While deliberating you may consider any evidence
8 offered by the parties. I would again suggest to the Court
9 that it just be evidence offered during the trial as opposed to
10 by the parties.

11 Because, again, it creates this expectation that we
12 have to offer evidence as opposed to cross-examining the
13 prosecution's evidence.

14 And, lastly, I'm sure the Court is aware of a long
15 line of cases that discuss whether criminal forfeiture is in
16 fact a form of double jeopardy. With respect to the criminal
17 conviction in this case and to preserve the record, I would
18 also raise that at this time.

19 MR. KENNEDY: And --

20 THE COURT: My crack lawyer told me that I was wrong,
21 that there hadn't been anything this term. And I told him
22 that -- to fall back to Congress, because I thought maybe
23 Congress had acted. And he's searching that. And I think they
24 have acted in the civil forfeiture field. I'm not sure that
25 they've acted in the criminal forfeiture field.

1 MR. KENNEDY: That's right. Congressman Hyde.

2 THE COURT: We are pulling that up to be sure. But
3 that might be where --

4 MR. KENNEDY: That is where it kicked in.

5 THE COURT: My brain cells were working then.

6 MR. KENNEDY: You are right about that. I wish that
7 could avail us something here as well.

8 I thank you, Your Honor, for your diligence. May
9 Mr. Knock be deemed to have joined in the objections of
10 Mr. Madrid?

11 THE COURT: Certainly. Both of you. It goes both
12 ways.

13 Hear from the government.

14 MR. HANKINSON: Yes, sir, Your Honor. In terms of
15 the defense notice argument, as the Court is well aware, the
16 defense did have and should have if they had such concerns come
17 to the Court for a statement of particulars as to their
18 concerns. They've failed to do that so I think that they've
19 waived that argument.

20 The government will be asking for a sum of dollars
21 reflecting the gross proceeds derived by the defendants from
22 their illegal drug activities. We are not requesting any other
23 specific items of property. I fail to see how the defense is
24 prejudiced in any way by the wording of the indictment.

25 In terms of the nexus, the nexus is covered by the

1 Court's instructions where the jury specifically is told that
2 this must related to the counts in the indictment for which the
3 defendants were convicted, therefore, it becomes a jury
4 question.

5 I think all of the other arguments the defense has
6 made have been ruled against them by the 11th Circuit. I don't
7 think there is any meat in them.

8 THE COURT: What about the -- their objection to the
9 word simply on page 3?

10 MR. HANKINSON: If it's not, you know, logistically
11 difficult to do, I don't have any problem with removing the
12 word simply from there. I don't think it changes the meaning,
13 in any significant fashion. And I don't have any problem with
14 deleting that word.

15 THE COURT: What about their request on page 2 that
16 we omit the underlining of the words must and unless?

17 MR. HANKINSON: I don't object to that.

18 THE COURT: All right.

19 You all wish to respond to the government?

20 MR. KENNEDY: No, Your Honor. Submit it.

21 MR. DAAR: Just offer -- I don't have it in front of
22 me, but I know I did file a bill of particulars in this case
23 requesting that.

24 THE COURT: All right. I think Mr. Kennedy is
25 correct in what he said in as far as the 11th Circuit has

1 spoken about every issue that he has raised here. I'm going to
2 follow their precedent. I'm not going to change the
3 instructions.

4 The objections as well as Mr. Daar's are overruled
5 except on page 2 the -- the words must and unless, which are
6 now underlined, that underlining will be deleted, and from page
7 3 the word simply will be deleted, referring to the
8 preponderance of the evidence.

9 And the verdict forms, any additional objection --
10 conversation about the verdict forms?

11 MR. KENNEDY: Again, Your Honor it has to do with
12 specificity and probably is --

13 THE COURT: I think it went to your argument. I'm --

14 MR. KENNEDY: I believe they should be broken down
15 separately is all in terms of the nexus theory.

16 THE COURT: Thank you.

17 MR. KENNEDY: Thank you, Your Honor.

18 THE COURT: Mr. Daar, the same?

19 MR. DAAR: I join.

20 THE COURT: Same rulings. I'm going to give them
21 like this. I need to take one or two minutes before we bring
22 this jury in to tell Brian what changes to make, and get you a
23 clean copy.

24 By then I think he will have gotten that Hyde
25 Amendment so that I'm satisfied that it only spoke to a civil

1 forfeiture.

2 We'll get you a complete set of these and let's say
3 at 9:30 we'll start. That is 7 minutes from now. We ought to
4 be ready for you by 9:30.

5 Also, I have been handed by the clerk a judgment of
6 acquittal as to Mr. Madrid on Counts 2 and 3. Unless there is
7 objection by the government, I'm going to enter the judgments
8 of acquittal as to Mr. Madrid on Counts 2 and 3. It's done.

9 See you in a few minutes.

10 Incidentally, I'm sending the entire indictment back
11 this time, not just Count 4, but I'm going to send them a new
12 copy of the indictment which includes Count 4.

13 (Recess taken.)

14 THE COURT: Be seated, please.

15 My clerk said he has giving you corrected copies. I
16 have finished my research. I'm convinced that the amendment of
17 which we spoke -- as a matter of fact, I can't find it. I
18 don't know if it has passed out of committee yet. But I have
19 read it and am satisfied that we have covered that situation.

20 MR. KENNEDY: Thank you, Your Honor.

21 (Jury in.)

22 THE COURT: Be seated when you can. Good morning.
23 Welcome back.

24 Ladies and gentlemen I told you when we departed
25 company last night that there was a provision in this

1 indictment of which you were unaware and under the law you
2 should not have been aware of it, that is, a forfeiture
3 provision.

4 And in view of your verdict that the defendant, John
5 Richard Knock was guilty of the offenses in Counts 1 and 2, and
6 that Albert Thomas Madrid is guilty of the offense in Count 3,
7 then, you are going to have to decide whether each defendant
8 should forfeit any interest that that defendant may have in any
9 property or any proceeds of those properties --

10 Did I say Count 3? Count I. I just misread it.
11 Count I for Mr. Madrid.

12 I will explain all of that law to you in brief
13 instructions in just a moment. I'm going to first give the
14 government and the defense the opportunity if they wish to make
15 any brief opening statement.

16 And following the opening statement, we will proceed
17 to the reception of any additional evidence that they may wish
18 to present. Then we will have closing arguments and then I
19 will read the instructions to you, and then you will be asked
20 to go to jury room to consider Count 4.

21 Does the government wish to make an opening
22 statement?

23 MR. HANKINSON: No, sir. The government would waive
24 opening statement.

25 THE COURT: Mr. Kennedy?

1 MR. KENNEDY: No. Thank you, Your Honor.

2 MR. DAAR: No. Thank you, Your Honor.

3 THE COURT: Then the government wish to present any
4 additional testimony?

5 MR. HANKINSON: Yes, sir, Your Honor. The government
6 would like to recall Agent Lilley briefly.

7 THE COURT: Agent Lilley, you are still under oath,
8 sir.

9 THE WITNESS: Yes, sir.

10 DIRECT EXAMINATION

11 BY MR. HANKINSON:

12 THE COURT: Tell the jury your name so they will have
13 it again.

14 THE WITNESS: Carl Lilley.

15 DIRECT EXAMINATION

16 BY MR. HANKINSON:

17 Q. Remind us what you do, Agent Lilley?

18 A. I'm a group supervisor in Denver, Colorado for the United
19 States Drug Enforcement Administration.

20 MR. HANKINSON: If I might approach, Your Honor.

21 THE COURT: Yes, sir.

22 Q. I have placed before you what has been marked for
23 identification as Government Exhibit 241. Are you familiar
24 with that document, Agent Lilley?

25 A. Yes, sir, I am.

1 Q. Okay. And is that a summary that has been prepared of
2 the drug activity that has been testified to in this case?

3 A. Yes, sir.

4 MR. HANKINSON: I would offer that into evidence as
5 Government Exhibit 241, Your Honor.

6 MR. KENNEDY: Objection, Your Honor, in terms of its
7 variance from the actual evidence presented.

8 THE COURT: Overruled. It will be received.

9 Again, as in any summary, if it's not what evidence
10 which underlies it shows, than you should disregard it.

11 MR. HANKINSON: Thank you.

12 (Government Exhibit No. 241 admitted.)

13 MR. HANKINSON: If I might publish for the jury what
14 has been placed in evidence as Government Exhibit 241.

15 THE COURT: You may do so.

16 Q. All right.

17 Now, I believe this is basically, the -- the chart
18 that was shown during closing argument for the most part?

19 A. Yes, sir.

20 Q. Okay. And tell us what you have tried to do here in this
21 chart, Agent Lilley?

22 A. We put down the approximate date, being summer, winter,
23 fall, with the type of substance it was, whether it was
24 hashish, or Thai marijuana.

25 The approximate amount, which we did in tons. And

1 then the location that it came into, and then the witnesses who
2 testified to those events during the trial.

3 THE COURT: Excuse me a minute. Ladies and
4 gentlemen, I see you all writing feverishly. This document
5 summary is in evidence. It will actually be with you in the
6 jury room. I'm not trying to keep you from writing, but --

7 MR. HANKINSON: If we can scroll through that,
8 please.

9 Q. All right. You indicated that these drug amounts were an
10 approximation; is that correct?

11 A. Yes, sir.

12 Q. Okay. In most instances do we have any exact measurement
13 of how much drugs there were?

14 A. No, sir, we do not.

15 Q. Based on that, did you come up with an approximation of
16 the total amount of drugs moved by this organization?

17 A. Yes, sir.

18 Q. Okay. And what was that?

19 A. Four hundred forty-four tons.

20 Q. Okay. And did you come up with an approximation of the
21 gross proceeds that would have been realized from the sale of
22 those drugs?

23 A. Yes, sir. It was between 1.1 and 2.2 billion dollars.

24 Q. And how did you arrive at those figures?

25 A. The 1.1 billion was arrived at using 12 hundred dollars

1 per pound. The 2.2 billion used the figure of 2,500 dollars,
2 which is what the deal sheet that Sonia Vacca and Martenyi had
3 prepared for me using that figure, 2,500.

4 Q. So the 12 hundred dollar figure, where did that come
5 from?

6 A. That came from a number of witnesses, in particular
7 Vincent Mott, Kenneth Cowles, that anything above 12 hundred
8 dollars would be their profits. They might make 50 to 500
9 dollars per pound.

10 But what went back to Mr. Knock and Duboc was the 1.1
11 or the -- the 11 hundred dollar figure -- the 12 hundred dollar
12 figure, would be their profit is what it works out.

13 Q. And based on that information, your investigation, in
14 this case, have you -- do you have an opinion as to the gross
15 proceeds derived by Mr. Knock from those drug loads?

16 A. You would take 25 percent of either one of the figures,
17 because at any given time there would be four partners at the
18 top that shared with Mr. knock.

19 Mr. Duboc and Knock shared half of it, and then there
20 were two other partners being the sources of supply. And at
21 one time, you will see in the load charts Richard Ezidro was
22 mentioned. He was a partner of Knock's. So at any given time,
23 the fair estimate would be divide that figure by four for what
24 would go towards Mr. Knock.

25 Q. And have you done that math for us?

1 A. Well, the 1.1 billion it would be just over 250 million.

2 Q. Basically if you did the math, you divide the 1.1 billion
3 or the 2.2 billion by four. That would give you the range of,
4 in your opinion, the gross proceeds Mr. Knock realized?

5 A. Yes, sir.

6 Q. Okay. As to Mr. Madrid, the other defendant, do you have
7 an opinion as to the minimum amount of gross proceeds that
8 Mr. Madrid would have realized.

9 A. On the average, at a minimum, Mr. Madrid was one million
10 dollars per load, at 7 loads.

11 Q. So that would be 7 million dollars?

12 A. Seven million dollars. That was the testimony.

13 Q. Now, other than the Singapore dollars that there has been
14 testimony about, has there been -- have you had any success
15 finding Mr. Knock or Mr. Madrid's money?

16 A. With Mr. Knock, approximately 7 million in Singapore.
17 The two million dollar house, and the three pieces of property
18 subject to seizure. That is all that we have been able to
19 locate.

20 Q. Okay. What about Mr. Madrid?

21 A. Mr. Madrid, we haven't been able to locate any of his
22 assets other than the just over 3 million dollar account in the
23 name of John Burn over in Singapore.

24 Q. Now, you mentioned the money seized in Singapore. Have
25 you had any success in getting any of those Singapore dollars

1 back to the United States?

2 A. No, sir, we have not.

3 Q. Will you continue to look for Mr. Knock and Mr. Madrid's
4 dollars?

5 A. Yes, sir, we will.

6 Q. And is that what you are -- I believe you have indicated
7 you are currently in a forfeiture position?

8 A. Yes.

9 Q. And will that be part of what you do is look for that
10 money?

11 A. Yes, it is.

12 Q. Now, was some of Mr. Duboc's hidden money located?

13 A. Yes. That was through another undercover operation that
14 we used on Duboc while he was in prison. We located
15 approximately 20 million dollars in the country of Austria that
16 we had not known about before.

17 MR. HANKINSON: Those are all of the questions that I
18 have at this time.

19 THE COURT: Mr. Kennedy.

20 MR. KENNEDY: No, Your Honor. For the reasons set
21 forth in our earlier argument.

22 THE COURT: Mr. Daar?

23 MR. DAAR: No questions, Your Honor.

24 THE COURT: You may step down.

25 Your next witness.

1 MR. HANKINSON: That would be the additional
2 testimony that we would offer, Your Honor.

3 THE COURT: Mr. Kennedy, do you wish to produce any
4 additional testimony?

5 MR. KENNEDY: No. Thank you, sir.

6 THE COURT: Mr. Daar, do you?

7 MR. DAAR: No, Your Honor.

8 THE COURT: Then all sides rest? Government?

9 MR. HANKINSON: Yes, sir.

10 THE COURT: I will allow you to make your closing.

11 MR. HANKINSON: Thank you, Your Honor.

12 I just want to make a few brief comments on the
13 procedure that we're now going through. I know it probably
14 came as some shock to you-all last night when you were told you
15 had to come back today. And we do apologize for that, but that
16 is the procedure, you know, we have to go through.

17 And we can't get mixed up -- this first phase, mixed
18 up with the second phase and have people concerned about that.
19 So that is kind of why. It may have seemed that it was a
20 little bit sprung on you. I apologize for that. But that is
21 the way the procedure has to work.

22 We will hopefully be brief here and then you can go
23 back and decide your forfeiture verdict and then you will be on
24 your way. As I indicated earlier, I do appreciate your
25 attention.

1 The forfeitures that we are talking about is
2 something that Congress implemented. And basically it gives us
3 a tool to try to go out and find money that drug dealers have
4 made from their illicit drug activity. It gives us a vehicle to
5 go out, and if we can locate their money, that we have the
6 ability to seize it, because frankly that is why they are in
7 this business, and why Congress has decided to implement these
8 kind of procedures is to try to take some of the profit out of
9 it.

10 As you have heard, it's often difficult to find this
11 money. It's hidden in foreign countries where it's difficult
12 to locate. And that is the kind of things that people like
13 Agent Lilley, you know, spend their time working on trying to
14 locate it. Whether we will succeed or not remains to be seen.
15 But, that is what we are asking you to do is give us the
16 ability to go after that money. If we can find the money, that
17 it be forfeited to the government.

18 It's money that was either derived from their drug
19 trafficking activities or money that was used to facilitate
20 those drug activities, is the theory of the forfeiture.

21 We are asking for you to give us a dollar amount, a
22 judgment amount, as to each of the defendants, so that if we
23 locate any of their ill-gotten gains, that money can be seized.

24 I know in the sense of Mr. Knock sometimes it sounds
25 almost like Monopoly money, when you start talking about 250

1 million dollars, that, you know, that just seems beyond the
2 realm of comprehension of us as normal people.

3 But, you know, it's not Monopoly money. You have
4 heard in the instance of Mr. Duboc, his partner, that we did in
5 fact find in the neighborhood of a hundred million dollars
6 that, you know, was found. So we're not talking about fairy
7 tails. We're talking about real dollars that are out there.
8 And what we want to try to do is locate them.

9 Obviously, the money as to Mr. Madrid is a smaller
10 amount. We are asking for a judgment of seven million dollars,
11 which reflects the minimum of what he would have made from the
12 seven offloads that he was involved in.

13 As the judge will tell you in these instructions,
14 what we prove here must be proven by a preponderance of the
15 evidence. It's not the reasonable doubt standard that we
16 originally talked about in terms of the criminal prosecution.

17 It deals with gross proceeds, which, in other words,
18 you don't get into trying to net out: Well, what was their
19 expense for this? Or what was their expense for this helper?
20 As the law has defined it, it deals with gross proceeds, what
21 they received.

22 One thing that sometimes juries worry about, and I
23 want to be clear on this: This does not impact any third party
24 interest. There will be a procedure followed, and the judge
25 will explain that to you, that if someone has a legitimate

1 claim to the property or the money, they will have the ability
2 to come before the Court and make that claim.

3 And if they can prove that they are truly an innocent
4 owner of this property, they would -- their rights would not be
5 affected. This only affects the rights of Mr. Knock and
6 Mr. Madrid, no other third party. And that is something
7 that sometimes people are concerned with. The judge will
8 explain that to you.

9 As I have indicated, we are asking you for a money
10 judgment. And the -- in Mr. Knock's instance, in the vicinity
11 of 250 million dollars. Mr. Madrid's instance, the ability of
12 seven million dollars. Again, in terms of Madrid, we don't
13 have as much information as we would like to have as to exactly
14 how much he made.

15 But, you heard the testimony that at least -- I think
16 the figure was he had about three and a half million dollars in
17 a Singapore bank account. So you know he at least made that
18 much money from his illicit drug activity. You heard the
19 testimony that normally those offloaders were making
20 approximately a million dollars per load.

21 Those are the comments I have. Thank you for your
22 attention.

23 THE COURT: Thank you. Mr. Kennedy.

24 MR. KENNEDY: Nothing, Your Honor.

25 THE COURT: Mr. Daar?

1 MR. DAAR: Nothing, Your Honor.

2 THE COURT: Ladies and gentlemen, again, in view of
3 your verdict that defendant John Richard Knock is guilty of the
4 offenses charged in Counts 1 and 2, and that Albert Thomas
5 Madrid is guilty of the offense that is charged in Count I, you
6 must now decide whether each defendant should forfeit any
7 interest that each defendant may have in the property described
8 in Count 4 of the indictment as a penalty for committing that
9 offense.

10 Now, forfeiture means to be divested or deprived of
11 the ownership of something as a penalty for the commission of a
12 crime.

13 In order to be entitled to forfeiture, the government
14 must prove by a preponderance of the evidence either of the
15 following facts. First, the property to be forfeited
16 constitutes or was derived from the proceeds the defendants
17 obtained directly or indirectly as the result of a commission
18 of the conspiracy of which you found them guilty.

19 Or, secondly, the property to be forfeited was used
20 or was intended to be used in any manner or part to commit or
21 to facilitate commission of the conspiracies of which you found
22 them guilty.

23 Now, before you can find that the defendant must
24 forfeit any property under either of those standards, you must
25 unanimously agree upon which of the two standards should be

1 applied in forfeiting a particular asset.

2 However, if you believe by a preponderance of the
3 evidence that the defendants acquired any of the property
4 during the period of the conspiracy charged in this indictment,
5 that is January 1 of '82 to April 17, 1996, and there -- and
6 that there was no likely source for such property other than
7 from the violations for which the defendants have been
8 convicted, then you must presume that such property is subject
9 to forfeiture, unless such presumption is outweighed by
10 evidence offered by the defendants to the contrary.

11 Property subject to criminal forfeiture includes real
12 property, including things growing on, affixed to and found in
13 land. It includes tangible and intangible personal property,
14 including rights, privileges, interests, claims, and
15 securities.

16 Proceeds means the gross proceeds derived by a
17 defendant through his illegal drug activity. It does not mean
18 the net profits earned from those activities.

19 To facilitate the commission of an offense means to
20 aid, promote, advance or make easier the commission of the act
21 or acts constituting the offense.

22 Property used to facilitate an offense can be in
23 virtually any form, such as the use of an automobile to
24 facilitate the transportation of illegal drugs. You must
25 determine what property, if any, should be forfeited.

1 A preponderance of the evidence means an amount of
2 evidence which is enough to persuade you that a claim or
3 contention is more likely true than not true.

4 Now, while deliberating you may consider any evidence
5 offered by the parties at any time during the trial. However,
6 you must not reexamine your previous determination regarding
7 the defendants' guilt.

8 All of the instructions previously given to you
9 concerning your consideration of the evidence, the credibility
10 of the witnesses, your duty to deliberate together, your duty
11 to base your verdict solely on the evidence without prejudice,
12 bias or sympathy, and the necessity of a unanimous verdict will
13 continue to apply during these deliberations.

14 Additionally, you should not concern yourself about
15 the interests that any third person may or may not have in the
16 property derived by either defendant through his illegal drug
17 activities, if you in fact determine that either defendant has
18 obtained property from illegal drug activities.

19 In the event that the government initiates forfeiture
20 proceedings upon certain assets pursuant to your verdict,
21 notice will be given to all third persons who claim an interest
22 in those assets, and those persons will have a full opportunity
23 to present their claim to the Court.

24 If such claims are presented, the Court will hold a
25 separate hearing to determine whether or not the third person

1 has a rightful claim of ownership to the asset or assets in
2 question.

3 Such issues, however, do not concern you today. It
4 is only the defendants' interests in any such property or
5 proceeds that can be foreclosed by the verdict that you may
6 reach.

7 Now, with respect to this claim of forfeiture, you
8 will be provided a special verdict form for your convenience.
9 Let me go over that form with you now.

10 It says: Special verdict. We the jury unanimously
11 find by a preponderance of the evidence the following: Number
12 1. Did the defendant, John Richard Knock, either, one. Obtain
13 property that constituted or was derived from any proceeds
14 obtained directly or indirectly as the result of the commission
15 of Count 1 or 2?

16 Or, number 2. Obtained property used or intended to
17 be used in any manner or part to commit or facilitate the
18 commission of Count 1 or 2?

19 A blank space for yes, a blank space for no. And in
20 the appropriate blank space you would put the unanimous
21 decision of the jury, as to that question.

22 Then it continues: If your answer to question 1 is
23 yes, please answer question 2. If your answer to question 1 is
24 no, please move directly to question 3.

25 Question 2: Please set forth in US dollars the sum,

1 if any, you find by a preponderance of the evidence that the
2 defendant, John Richard Knock, obtained from his illegal drug
3 activity during and in furtherance of the conspiracy.

4 Then a blank space for you to insert the amount of
5 money, if any, that you the jury unanimously find that the
6 defendant, John Richard Knock, obtained from such described
7 activities.

8 Question 3. Did the defendant, Albert Thomas Madrid,
9 one. Obtain property that constituted or was derived from any
10 proceeds obtained directly or indirectly as to result of the
11 commission of Count 1?

12 Or, 2. Obtain property used or intended to be used
13 in any manner or part to commit or facilitate the commission of
14 Count 1?

15 Again, a blank space for yes, a blank space for no.
16 And in the appropriate blank space you would put the unanimous
17 decision of the jury as to that defendant as to that question.

18 It continues. If your answer to question 3 is yes,
19 please answer question 4. If your answer to question 3 is no,
20 please skip the following question, sign and date the verdict
21 form, and inform the security officer that you have reached a
22 verdict.

23 Question 4. Please set forth in US dollars, the sum,
24 if any you find by a preponderance of the evidence, that the
25 defendant, Albert Thomas Madrid, obtained from his illegal drug

1 activity during and in furtherance of the conspiracy.

2 Again, there's a blank space. And you in that blank
3 space would put the unanimous decision of the jury as to that
4 question as to that defendant.

5 Then again, just to remind you that you all have to
6 agree to it, it concludes by saying: So say we all.

7 Then a place for the date, a signature line for one
8 of your members, and we now know who that member is, acting as
9 the foreperson of this jury.

10 And in addition to a part of the indictment not
11 previously furnished to you describes Count 4. As I have told
12 you, you will have a copy of the indictment that contains that
13 Count 4 with you in the jury room for study during your
14 supplemental deliberations.

15 You may take the verdict form, the indictment and
16 those instructions to the jury room. When you have reached
17 unanimous agreement as to each defendant, again, your foreman
18 should fill it in, date it, sign it, let us know that you have
19 reached a verdict and are ready to return to the courtroom and
20 we will come to receive that verdict.

21 So, ladies and gentlemen, you may at this time retire
22 to consider your supplemental verdict.

23 (Jury out.)

24 THE COURT: Objections as read?

25 MR. KENNEDY: None other than previously stated, Your

1 Honor.

2 MR. DAAR: No, Your Honor.

3 THE COURT: All right. Then all previous objections
4 raised throughout this trial and those made with reference
5 particularly to the supplemental proceeding are raised again.
6 All rulings continue to apply.

7 MR. KENNEDY: Thank you, Your Honor. Just one
8 additional thing. On behalf of Mr. Knock, pursuant to Federal
9 Rule of Criminal Procedure 29, with reference to the forfeiture
10 count itself, Your Honor already has under submission our
11 motions with reference to the other counts.

12 We move for an order of judgment of acquittal with
13 reference to Mr. Knock on the forfeiture count on the grounds
14 that it's purely speculative.

15 MR. DAAR: I would join on behalf of Mr. Madrid.

16 THE COURT: They are both denied.

17 MR. KENNEDY: Just one last thing, Your Honor.

18 THE COURT: Yes.

19 MR. KENNEDY: I have a commitment in New York that if
20 I leave now, I can actually make. And Mr. Knock has agreed
21 that in my absence that Mr. Rionda can stand in my stead.

22 THE COURT: Mr. Knock is that satisfactory?

23 THE DEFENDANT: That is fine, Your Honor.

24 MR. KENNEDY: Thank you, Your Honor, for that
25 accommodation.

1 We should maybe try to set the sentencing date, Your
2 Honor.

3 THE COURT: I can do that. Sentencing is set for
4 Friday the 11th day of August this year here in this courtroom,
5 this building.

6 Mr. Madrid is set for 2 o'clock in the afternoon,
7 Mr. Knock at 2:30.

8 MR. DAAR: Friday the 11th?

9 THE COURT: Friday the 11th day of August.

10 I do order a prepare presentence investigation report
11 as to each defendant. I withhold adjudication of guilt as to
12 each defendant as to each count. Anything else?

13 I have instructed the clerk not to take any of the
14 other evidence into the jury room, only the additional evidence
15 received. I instructed him to ask if they wish any or all of
16 the other evidence, if so, I directed him to deliver it to them
17 promptly.

18 MR. DAAR: Your Honor, with respect to the August
19 11th date, I have a trial set in federal court in the state of
20 Oregon beginning on the 8th. I think it's a soft date, if you
21 will. But I wanted to advise you of that trial, that I will be
22 moving to continue the sentencing.

23 THE COURT: All right.

24 I appreciate you telling me that. Anything else? We
25 will be in recess. You all have to clean it up. We have

1 another trial going on as you know.

2 (Court stood in recess.)

3 (Jury in.)

4 THE COURT: Be seated, folks, please.

5 I have received a note that the jury has now reached
6 a verdict as to this supplemental verdict.

7 JURY FOREPERSON: Yes, sir.

8 THE COURT: Would you hand the verdict to the
9 security officer, please. Thank you.

10 Publish the verdict.

11 THE CLERK: Yes, sir.

12 United States District Court for the Northern
13 District of Florida, Gainesville Division. In the cause United
14 States of America vs. John Richard Knock, Albert Thomas Madrid.
15 Special verdict. We, the jury unanimously find by the
16 preponderance of the evidence the following:

17 1. Did the defendant John Richard Knock either
18 obtain property that constituted or was derived from any
19 proceeds obtained directly or indirectly as a result of the
20 commission of Count 1 or 2 or, 2, obtained property used or
21 intended to be used in the manner or part to commit or
22 facilitate the commission of Count 1 or 2? Yes.

23 Question 2. Please set forth in US dollars the sum,
24 if any, you find by a preponderance of the evidence that the
25 defendant John Richard Knock obtained from his illegal drug

1 activity during and in furtherance of the conspiracy. \$438
2 million.

3 Did the defendant Albert Thomas Madrid, 1, obtain
4 property that constituted or was derived from any proceeds
5 obtained directly or indirectly as a result of the commission
6 of Count 1?

7 Or, 2, obtained property used or intended to be used
8 in the manner or part to commit or facilitate the commission of
9 Count 1? Yes.

10 Question 4. Please set forth in US dollars the sum,
11 if any, you find by the preponderance of the evidence that the
12 defendant Albert Thomas Madrid obtained from his illegal drug
13 activity during and in furtherance of the conspiracy.
14 \$8,800,000.

15 So say we all dated this 31st day of May, 2000, in
16 Gainesville, Florida. Signed by foreperson Harry Shaw.

17 THE COURT: Ladies and gentleman, again, I'm going to
18 ask the clerk to poll the jury. That simply means that he's
19 going to ask you if this is in fact your verdict, the special
20 verdict and your individual verdict as well as the collective
21 verdict of the jury.

22 THE CLERK: Mr. Shaw, is this your verdict?

23 MR. SHAW: Yes.

24 THE CLERK: Mr. Whitfield, is this your verdict?

25 MR. WHITFIELD: Yes.

1 THE CLERK: Ms. Kloeppel, is this your verdict?

2 MS. KLOEPPPEL: Yes.

3 THE CLERK: Mr. Peoples, is this your verdict?

4 MR. PEOPLES: Yes.

5 THE CLERK: Mr. Dickerson, is this your verdict?

6 MR. DICKERSON: Yes.

7 THE CLERK: Ms. Killian, is this your verdict?

8 MS. KILLIAN: Yes.

9 THE CLERK: Ms. Watson, is this your verdict?

10 MS. WATSON: Yes.

11 THE CLERK: Ms. Crum, is this your verdict?

12 MS. CRUM: Yes.

13 THE CLERK: Ms. Garst, is this your verdict?

14 MS. GARST: Yes.

15 THE CLERK: Ms. Craig, is this your verdict?

16 MS. CRAIG: Yes.

17 THE CLERK: Ms. Wyatt, is this your verdict?

18 MS. WYATT: Yes.

19 THE CLERK: And, Ms. Cadwallader, is this your
20 verdict?

21 MS. CADWALLADER: Yes.

22 THE COURT: Record the special verdict.

23 THE CLERK: Yes, sir.

24 THE COURT: Ladies and gentlemen, now this will

25 conclude your service in this case. I want to thank you for

1 the time and the energy that you have devoted to this matter.
2 I mean that as a reflection on your service, not on the verdict
3 that you have returned.

4 Not only will this conclude your service as a juror
5 in this case, it will conclude your service as a federal juror
6 in this district for at least two years. If the computer slips
7 and you get a summons, just call the clerk's office, identify
8 yourself, and they will excuse you.

9 If you need anything from the clerk today for work
10 purposes, if you will see him when you leave the courtroom. We
11 have ordered you lunch. You can take it to go or you can stay
12 here and eat it, whatever you do.

13 Other than that, with the thanks of this Court, you
14 are excused. Thank you, very much.

15 (Jury out.)

16 (Court stood in recess.)
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C E R T I F I C A T E

STATE OF FLORIDA)

COUNTY OF ALACHUA)

I, Mark N. Stuart, RPR, United States Court Reporter
in Gainesville, Florida, do hereby certify as follows:

THAT I correctly reported in computer-aided machine
shorthand the foregoing transcript of proceedings at the time
and place stated in the caption thereof;

THAT I later reduced my shorthand notes to
computer-aided transcription, or under my supervision, and that
the foregoing pages numbered 1 through 36, both inclusive,
contain a full, true and correct transcript of the proceedings
on said occasion;

THAT I am neither of kin nor of counsel to any party
involved in this matter, nor in any manner interested in the
results thereof.

DATED THIS 1st DAY OF June, 2001.



Mark N. Stuart, RPR
United States Court Reporter