

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

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BEFORE THE HONORABLE MORRISON C. ENGLAND, JR., JUDGE

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UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. CR. S-06-035

ZACHARY JENSON,

Defendant.

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REPORTER'S TRANSCRIPT

CHANGE OF PLEA

TUESDAY, JULY 18, 2006

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Reported by: KIMBERLY M. BENNETT, CSR #8953

RPR, CRR, RMR

APPEARANCES

For the Plaintiff:

McGREGOR W. SCOTT
UNITED STATES ATTORNEY
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Sacramento, California 95814
BY: R. STEVEN LAPHAM
Assistant U.S. Attorney
ELLEN ENDRIZZI
Assistant U.S. Attorney

For the Defendant:

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Sacramento, California 95818
BY: SHARI RUSK
Attorney at Law

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SACRAMENTO, CALIFORNIA

TUESDAY, JULY 18, 2006

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THE CLERK: Calling Criminal Case 06-35; United States versus Zachary Jenson. This matter is on for entry of plea, Your Honor.

THE COURT: Counsel, your appearances, please.

MR. LAPHAM: Good afternoon, Your Honor. Steve Lapham and Ellen Endrizzi for the United States.

THE COURT: Good afternoon.

MS. RUSK: Good afternoon, Your Honor. Shari Rusk on behalf of Zach Jenson, who is present in custody.

THE COURT: Good afternoon.

I understand that we're going to proceed with a waiver of indictment today, Ms. Rusk, and thereafter proceed with a change of plea in this matter; is that correct?

MS. RUSK: Yes, Your Honor.

THE COURT: Thank you.

Ms. Rusk, have you received a copy of the most current information and reviewed it with your client?

MS. RUSK: I have just received a copy, and yes, my client is aware of the contents of it, Your Honor.

THE COURT: Before I go on, Mr. Lapham, Ms. Endrizzi, is there anything I need to address before I continue on?

MR. LAPHAM: No, Your Honor.

1 THE COURT: All right. Ms. Rusk, have you advised
2 your client of the nature of the charges as set forth in that
3 information and his constitutional rights?

4 MS. RUSK: Yes, Your Honor.

5 THE COURT: Mr. Jenson, let me make sure you
6 understand you have a constitutional right to remain silent;
7 do you understand that?

8 THE DEFENDANT: Yes.

9 THE COURT: You also have the right to have counsel at
10 all times, if you cannot afford counsel, to have counsel
11 appointed for you at no cost to you; do you understand that?

12 THE DEFENDANT: Yes.

13 THE COURT: Is it correct that you wish to waive
14 prosecution by indictment and proceed with the change of plea
15 by entering a plea of guilty to an information today?

16 THE DEFENDANT: Yes.

17 THE COURT: Have you fully discussed the concept of
18 waiver of indictment with your attorney?

19 THE DEFENDANT: Yes.

20 THE COURT: Are you fully satisfied with the
21 representation and advice that's been given to you in this
22 case by your attorney?

23 THE DEFENDANT: Yes.

24 THE COURT: I want to have you understand that the
25 charge as set forth in that information is a felony offense;

1 do you understand that?

2 THE DEFENDANT: Yes.

3 THE COURT: Before you can be charged with a felony
4 offense in federal court, you have a constitutional right to
5 have that matter presented to the federal grand jury, and you
6 could not be charged with the offense unless the federal
7 grand jury indicts you; do you understand?

8 THE DEFENDANT: Yes.

9 THE COURT: The grand jury is composed of at least 16
10 and not more than 23 persons, and at least 12 of those
11 persons must agree that there is probable cause to believe
12 that you committed the crime before you would be indicted; do
13 you understand that?

14 THE DEFENDANT: Yes.

15 THE COURT: If the matters were presented to a federal
16 grand jury, you might or might not be indicted; do you
17 understand that as well?

18 THE DEFENDANT: Yes.

19 THE COURT: Has anyone threatened you in any way to
20 try to force you to enter a waiver of indictment today?

21 THE DEFENDANT: No.

22 THE COURT: Has anyone made any promises to you today
23 in order to induce you to waive your right of indictment in
24 this matter?

25 THE DEFENDANT: No.

1 THE COURT: Has there been an executed written waiver
2 of indictment, Ms. Rusk?

3 MS. RUSK: Yes, Your Honor. I can pass that on.

4 THE COURT: Would you, please.

5 I have received a written waiver of indictment that
6 has been executed by Mr. Jenson.

7 Mr. Jenson, this is your signature on this document;
8 is that correct?

9 THE DEFENDANT: Yes.

10 THE COURT: And also countersigned by Ms. Rusk.

11 I find that it is in the proper form, and I will sign
12 that as well. And in so doing, I will make a finding that
13 Mr. Jenson is fully competent to waive indictment, and that
14 his waiver of indictment has been made knowingly,
15 voluntarily, and intelligently here today.

16 Do you waive a formal reading of the information at
17 this time, Ms. Rusk?

18 MS. RUSK: Yes, Your Honor.

19 THE COURT: Mr. Jenson, just let me indicate through a
20 summary that you have been charged in this information with
21 the crime of conspiracy, which is a violation of 18 United
22 States Code Section 371; do you understand that?

23 THE DEFENDANT: Yes.

24 THE COURT: There has been a written waiver of plea
25 that has been provided to the Court --

1 MR. LAPHAM: Written plea agreement, Your Honor.

2 THE COURT: Plea agreement, excuse me. I just
3 realized I had misspoken.

4 I have an unsigned copy. Is there a signed one?

5 MS. RUSK: Yes, I have an original signed, Your Honor.
6 I can pass that up as well.

7 THE COURT: Yes. And while you're doing that, madam
8 clerk, will you please administer the oath to Mr. Jenson.

9 (Defendant sworn.)

10 THE DEFENDANT: I do.

11 THE COURT: Thank you.

12 I have received the plea agreement and it has been
13 executed by all parties and does appear to be in proper form.

14 Mr. Jenson, you understand that you have now just
15 taken an oath to tell the truth?

16 THE DEFENDANT: Yes.

17 THE COURT: That means the answers you are going to
18 give to my questions today will be made under the penalty of
19 perjury; do you understand that?

20 THE DEFENDANT: Yes.

21 THE COURT: If at any time you feel you need to speak
22 to your attorney for any reason, that is because you have a
23 question about something that I'm asking you, or just for any
24 reason at all during the course of my colloquy, please let me
25 know and I'll give you ample opportunity to discuss where

1 you're going with your attorney; do you understand that?

2 THE DEFENDANT: Yes.

3 THE COURT: May I have your full name for the record,
4 please.

5 THE DEFENDANT: Zachary Oliver Jenson.

6 THE COURT: Date of birth.

7 THE DEFENDANT: July 23, 1985.

8 THE COURT: Your highest level of formal education.

9 THE DEFENDANT: High school.

10 THE COURT: Your most recent occupation.

11 THE DEFENDANT: I worked at a book store.

12 THE COURT: Have you ever been treated for any type of
13 mental illness?

14 THE DEFENDANT: No.

15 THE COURT: Have you ever been treated for addiction
16 to drugs or alcohol?

17 THE DEFENDANT: No.

18 THE COURT: Are you presently under the influence of
19 any drug, alcohol, or medication today?

20 THE DEFENDANT: No.

21 THE COURT: Have you consumed any type of drug,
22 alcohol, or medication in the last 24 hours?

23 THE DEFENDANT: No.

24 THE COURT: Do either counsel know of any reason why
25 Mr. Jenson is not competent and capable of entering a plea

1 today?

2 MS. RUSK: No, Your Honor.

3 MR. LAPHAM: No, Your Honor.

4 THE COURT: Mr. Jenson, once again, are you fully
5 satisfied with the advice and representation you've been
6 given in this case by your attorney, Ms. Rusk?

7 THE DEFENDANT: Yes.

8 THE COURT: And is it your understanding that it was
9 the discussions between your attorney and the government's
10 attorneys which led to the preparation of the written plea
11 agreement which you've signed and submitted to the Court
12 today?

13 THE DEFENDANT: Yes.

14 THE COURT: Will you be entering your plea of guilty
15 pursuant to the express terms of this written plea agreement?

16 THE DEFENDANT: Yes.

17 THE COURT: Are you entering this plea of guilty
18 voluntarily?

19 THE DEFENDANT: Yes.

20 THE COURT: And because it is what you want to do and
21 you alone?

22 THE DEFENDANT: Yes.

23 THE COURT: May I have the terms of the agreement,
24 please.

25 MR. LAPHAM: Yes, Your Honor.

1 Your Honor, the defendant will plead guilty to the
2 sole count in the superseding information, and agrees that
3 the factual basis attached to the plea agreement as Exhibit A
4 is accurate. He also agrees to cooperate with the government
5 in its continuing investigation and prosecution of this case.

6 In return, the government agrees to move at the time
7 of judgment and sentencing to dismiss the indictment and to
8 bring no further charges as a result of the facts contained
9 in Exhibit A.

10 The government is not otherwise bound with respect to
11 any sentencing recommendation, and may recommend a sentence
12 up to and including the statutory maximum sentence.

13 There are certain agreements with regard to the
14 guidelines, including the base offense level of 24, decreased
15 by three levels as a result of the conspiracy count, and
16 victim related adjustment of the terrorism enhancement which
17 mandates an offense level of 32 and a criminal history
18 category of 6. The government also agrees to a three-level
19 decrease for acceptance of responsibility.

20 And, finally, the defendant waives appeal rights and
21 rights to collateral attack.

22 THE COURT: Mr. Jenson, there are a number of items
23 that were just related by counsel with respect to your
24 agreement. Did you understand all of the terms and
25 conditions of your plea agreement?

1 THE DEFENDANT: Yes.

2 THE COURT: And have you fully discussed those with
3 Ms. Rusk before coming to court today?

4 THE DEFENDANT: Yes.

5 THE COURT: Has anyone threatened you in any way to
6 try to force you to enter a plea of guilty today?

7 THE DEFENDANT: No.

8 THE COURT: Have any other promises other than what
9 has been stated here in court today, and that, I should
10 state, not necessarily any promises, but any other assurances
11 been made to you in any way to try to induce you to enter a
12 plea of guilty today?

13 THE DEFENDANT: No.

14 THE COURT: Are you a citizen of the United States?

15 THE DEFENDANT: Yes.

16 THE COURT: Have you ever been convicted of a felony
17 offense before?

18 THE DEFENDANT: No.

19 THE COURT: The offense to which you're offering to
20 plead guilty is a felony offense; do you understand that?

21 THE DEFENDANT: Yes.

22 THE COURT: That means that if you do plead guilty,
23 the Court -- and the Court accepts your plea, you will be
24 found guilty of a felony. The finding of guilt as to a
25 felony offense is a very serious circumstance; do you

1 understand that?

2 THE DEFENDANT: Yes.

3 THE COURT: Such a finding may deprive you of valuable
4 civil rights, such as the right to vote, the right to serve
5 on the jury, and/or the right to possess any type of firearm;
6 do you understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: Are you on probation or parole for any
9 other offenses?

10 THE DEFENDANT: No.

11 THE COURT: The maximum penalty provided by law for a
12 plea of guilty to a conspiracy in violation of 18 United
13 States Code Section 371 is five years of imprisonment, a fine
14 of \$250,000, a special assessment of \$100, and a period of
15 supervised release of up to two years; do you understand
16 that?

17 THE DEFENDANT: Yes.

18 THE COURT: In the event you are released from prison
19 and placed on supervised release and you violate any terms of
20 that release, you could be sent back to prison for up to two
21 additional years without credit for time served; do you
22 understand?

23 THE DEFENDANT: Yes.

24 THE COURT: In the event there has been economic loss
25 suffered as a result of your criminal conduct, this Court

1 will order you pay restitution, unless it determines that
2 restitution is not appropriate; do you understand that?

3 THE DEFENDANT: Yes.

4 THE COURT: Have you discussed with Ms. Rusk the
5 issues of sentencing as they currently stand in the federal
6 court system?

7 THE DEFENDANT: Yes.

8 THE COURT: More specifically, have you discussed with
9 your attorney the sentencing guidelines, although they are
10 advisory at this time, the statutory requirements of 18
11 United States Code Section 3553(a), and any other factors
12 that may be relevant to you as an individual and/or to this
13 particular offense?

14 THE DEFENDANT: Yes.

15 THE COURT: Do you understand that the Court will not
16 be able to determine the precise sentence that you're going
17 to receive in this matter, if there is going to be a
18 sentence, until such time as all cooperation has been
19 completed, there has been a time for comment by counsel, the
20 preparation of the presentence report, and your time to speak
21 to the Court prior to any judgment and sentencing; do you
22 understand that?

23 THE DEFENDANT: Yes.

24 THE COURT: Do you understand that part of your plea
25 agreement requires certain cooperation and certain statements

1 with the government, and do you understand that the
2 determination as to whether or not you have cooperated fully
3 will be a determination made by the Court after consultation
4 with the government's attorneys in this matter?

5 THE DEFENDANT: Yes.

6 THE COURT: Do you understand that if you are
7 sentenced to federal prison for this offense that you will
8 not be released on parole, as parole has been abolished in
9 the federal system?

10 THE DEFENDANT: Yes.

11 THE COURT: Do you understand that in accordance with
12 the terms of your plea agreement, you have waived, that means
13 you have given up, your right to collaterally attack your
14 plea today, or appeal from the sentence that the Court may
15 impose in this matter; do you understand that?

16 THE DEFENDANT: Yes.

17 THE COURT: Counsel, do you join in your client's
18 waivers?

19 MS. RUSK: Yes, Your Honor.

20 THE COURT: Mr. Jenson, you have the right to continue
21 to plead not guilty; do you understand that?

22 THE DEFENDANT: Yes.

23 THE COURT: That would mean that you would have the
24 right to continue to proceed to a jury trial; do you
25 understand that?

1 THE DEFENDANT: Yes.

2 THE COURT: Before I take your plea today, I need to
3 make sure that you understand all of your constitutional
4 rights and are willing to give them all up.

5 The procedure that I follow is I list each of these
6 rights to you here in open court. At the end, I'm going to
7 ask you two questions, the first being, "Do you understand
8 all of your rights?" The second being, "Are you willing to
9 give them all up?"

10 Do you understand my procedure?

11 THE DEFENDANT: Yes.

12 THE COURT: You have the right to have a trial by
13 jury, the right to be presumed innocent, the right to have
14 the government prove your guilt beyond a reasonable doubt.
15 You have the right to have an attorney at all times. If you
16 cannot afford an attorney, to have one appointed for you at
17 no cost to you. You have the right to present a defense to
18 these charges. You have the right to see and hear all
19 witnesses and evidence that will be presented against you
20 during a trial, and you have the right to cross-examine those
21 witnesses during a trial. You have the right to use the
22 power of this Court to bring any witnesses and evidence on
23 your behalf in order for you to present your defense. You
24 have the right to remain silent. You have the right not to
25 have your silence used against you, or your decision not to

1 present witnesses or evidence used against you, during a
2 trial.

3 Do you understand all of your constitutional rights?

4 THE DEFENDANT: Yes.

5 THE COURT: Do you give up each and every one of your
6 constitutional rights?

7 THE DEFENDANT: Yes.

8 THE COURT: Counsel, do you join your client's waiver
9 of his constitutional rights?

10 MS. RUSK: I do, Your Honor.

11 THE COURT: Counsel, may I please have the essential
12 elements of the offense of conspiracy so I can be assured
13 that Mr. Jenson understands each of the elements.

14 Mr. Jenson, please listen carefully to the elements.

15 MR. LAPHAM: Your Honor, if this case were to proceed
16 to trial, the government would be required to prove beyond a
17 reasonable doubt three elements:

18 That beginning on or about June 2005, and ending on or
19 about January 13, 2006, there was an agreement between two or
20 more persons to commit at least one of the crimes as charged
21 in the information; namely, arson, in violation of 18 USC
22 Section 844(f) and (i).

23 Two, the defendant became a member of that conspiracy
24 knowing of at least one of its objectives and intending to
25 help accomplish it.

1 Three, one of the members of the conspiracy performed
2 at least one overt act for the purpose of carrying out the
3 conspiracy.

4 THE COURT: Mr. Jenson, do you understand each of the
5 elements of the offense of conspiracy?

6 THE DEFENDANT: Yes.

7 THE COURT: Counsel, will you please set forth a
8 factual basis for this plea today.

9 Mr. Jenson, once again, listen carefully to the facts
10 as they will be stated in open court.

11 MR. LAPHAM: Your Honor, I think when I was setting
12 forth the elements I said indictment. Now that he's charged
13 with a superseding information, it would be information.

14 THE COURT: Understood.

15 MR. LAPHAM: Your Honor, if this case were to proceed
16 to trial, the government would show the following facts:

17 In August 2005, the defendant met with Eric McDavid
18 and Lauren Weiner in Philadelphia to discuss ways of
19 forwarding their ideas for protest and activism, including
20 wanting to do something big that would get some notoriety.
21 Among the things that they discussed was using explosives
22 directed at government property and commercial property.
23 Mr. McDavid, one of the co-defendants, first raised that
24 idea, and also talked about specifically targeting cell
25 phones and the United States Forest Service Institute for

1 Forest Genetics.

2 During the weekend of November 18th to the 20th, 2005,
3 the defendant met with McDavid, Weiner, and a confidential
4 source working for the government, to discuss further their
5 plans of sabotage. At the outset, Mr. McDavid indicated that
6 the very act of meeting and talking about this was a crime.
7 The defendant agreed with that assessment, and understood
8 that they were planning on committing crimes, and
9 nevertheless proceeded with the conspiracy.

10 They proceeded to discuss targets, including the cell
11 phone towers and the Institute for Forest Genetics, and also
12 corporate office buildings.

13 At the conclusion of the meeting in November,
14 Ms. Weiner, indicated that she would be purchasing a number
15 of books, including the Poor Man's James Bond, and the
16 Survival Chemist, both of which have formulas for
17 manufacturing explosive devices.

18 From January 8th through the 13th of 2006, the
19 defendant maintained temporary residence at a cabin in Dutch
20 Flat with his coconspirators. During that time he discussed
21 with McDavid and Weiner and the confidential source the plans
22 for using homemade explosive devices and incendiary devices
23 targeted at government and commercial facilities.

24 On January 10, 2006, the defendant traveled with
25 McDavid and Weiner and the confidential source to the

1 Institute for Forest Genetics in Placerville to conduct
2 surveillance and reconnaissance using fake names to disguise
3 their true identities.

4 On January 11, 2006, the defendant was present when
5 chemicals and other paraphernalia were purchased for the
6 construction of explosive devices. He was aware at the time
7 of the purpose for those purchases.

8 On January 12, 2006, defendants Weiner and McDavid
9 began manufacturing a homemade explosive device for use
10 against one of the targets that they had discussed. The
11 defendant was present at the time, and was aware of the
12 purpose for the concoction of those chemicals.

13 Finally, on January 13, 2006, the defendant was
14 arrested after purchasing additional items to be used in
15 making destructive devices, including respirator masks and a
16 mixing bowl to replace one that had been damaged the previous
17 day.

18 THE COURT: Mr. Lapham, would you also indicate the
19 items purchased on January 11th, the canning jars, etc.

20 MR. LAPHAM: Yes, Your Honor.

21 THE COURT: I think the combination of all these items
22 is such that it should be included in the factual basis.

23 MR. LAPHAM: On January 11th, the defendants purchased
24 canning jars, coffee filters, a mixing bowl, hot plate and
25 petroleum jelly, a gasoline can, bleach, extension cord and

1 battery testers.

2 THE COURT: Mr. Jenson, do you agree with the factual
3 basis as just stated by the government's attorney?

4 THE DEFENDANT: Yes.

5 THE COURT: How do you now plead to the count in the
6 information stating a violation of 18 United States Code
7 Section 371 for conspiracy; guilty or not guilty?

8 THE DEFENDANT: Guilty.

9 THE COURT: It is the finding of this Court in the
10 United States versus Zachary Jenson that this defendant is
11 fully competent and capable of entering an informed plea.
12 The Court also finds there has been a factual basis stated
13 for his plea, and that he has made a voluntary, knowing, and
14 intelligent waiver of all of his constitutional rights. His
15 plea is accepted and he is now adjudged guilty of that
16 offense.

17 Mr. Jenson, a written presentence report is to be
18 prepared by probation to assist the Court in sentencing.
19 You're going to be asked to give information for that report,
20 you can have your attorney present if you so desire. At the
21 time of judgment and sentencing, you will be permitted to
22 speak to the Court, as will your attorney, as well as the
23 government's attorney. You are formally referred to the
24 probation officer for the preparation of that presentence
25 report.

1 I am setting the date for judgment and sentencing for
2 October 3, 2006 at 8:30 a.m. in this courtroom.

3 Ms. Rusk, is there anything further at this time?

4 MS. RUSK: Yes, Your Honor. I don't know if I need to
5 take a minute to talk to the government, but pretrial
6 services had recommended release in Mr. Jenson's case on some
7 conditions. We had a hearing before the magistrate and his
8 release was denied.

9 Now facts have changed, obviously; he's cooperated and
10 he's pled guilty. The government needs to review the release
11 package. And since he's already pled, the matter can
12 probably be before Your Honor as opposed to a magistrate
13 since it's post guilty plea.

14 The other thing is, I understand now that -- I had one
15 of the plea agreements filed under seal, since he has
16 cooperated. I understand that I think there is already
17 information that the press may have, and that I'm concerned
18 about his going back to Sacramento County Jail. So, I don't
19 know, we may be able to reach an agreement with the
20 government about how soon this matter can be heard before
21 Your Honor to deal with the issue of his release. But I
22 would like to at least -- if it's not today, at least set a
23 date today.

24 THE COURT: I think that probably the best thing to do
25 is for you to meet with the government's counsel. To be

1 quite frank with you, I don't believe that I have the
2 information, even though it's post plea, what would be the
3 change in circumstance that has come about, other than the
4 fact that he has now admitted to the fact of conspiring to
5 construct explosive and incendiary devices to destroy
6 government and commercial property in Northern California,
7 which would seem to present, at least at the outset, the
8 belief that he might be a danger to the community.

9 MS. RUSK: I think, Your Honor, as a result of the
10 fact that he's cooperated with the government and changed his
11 plea, I think the government may be in a position, since the
12 facts have changed, to recommend release, or to not be
13 opposed to release once they've reviewed this.

14 THE COURT: Then I will allow this to take place
15 through a review, but I will just advise you that if there is
16 going to be any further review, it's going to be before this
17 Friday as I will not be returning until the following Friday.
18 If you wish to try to short set on special notice, I will be
19 willing to do that.

20 At this point in time, any request for him to be
21 released will be denied without prejudice as I don't find
22 there has been a change of circumstance, other than the fact
23 that I do find that he would be a potential threat, absent
24 other information than what I have.

25 MR. LAPHAM: Your Honor, you're saying you would like

1 to hear it yourself?

2 THE COURT: Yes, at this point in time.

3 MR. LAPHAM: Then I suggest we'll meet and confer and
4 we can get back to you before the end of the week.

5 THE COURT: I understand that there are certain
6 matters that are being dealt with almost as we speak. I am
7 not privy to that information other than what I have seen and
8 heard in the factual basis at this point in time.

9 MS. RUSK: Is the Court available tomorrow?

10 THE COURT: I'm going to be in an evidentiary hearing
11 that starts tomorrow at 9:00 o'clock, but I'm not -- unless
12 you're telling me that it's going to be a long hearing, I'm
13 assuming, looking at the way things are, the body language,
14 it probably won't be, and may even be done by writing.

15 MS. RUSK: That would be fine. Why don't I suggest
16 this, we could present a stipulation in writing, if the
17 government is agreeable, but if we need to be before the
18 Court should we set a time now so that we're here and that
19 Mr. Jenson is brought over?

20 THE COURT: For a fail-safe, I'll make it 9:00 o'clock
21 a.m. on Friday. That's the 21st of this month. If it's done
22 before then, that's fine, but at least that will be the last
23 day. Everyone will know that at the latest there will be a
24 hearing before me at 9:00 o'clock, and I can schedule around
25 that with my evidentiary hearing at that time.

1 MS. RUSK: We could submit a stipulation before then.

2 THE COURT: It may be that after I review the
3 stipulation I may want additional information, which I may
4 bring that up even before Friday. But the main thing right
5 now is that you alluded to the fact that the plea agreement
6 was going to request to be sealed?

7 MS. RUSK: That was my request. At this point, you
8 know, if the press already knows about it, it may not make
9 much difference, but that was my request, that it not be
10 electronically filed so the other parties would not know of
11 his cooperation while he was sent back to Sac County Jail.

12 MR. LAPHAM: Well, it seems like closing the barn door
13 after. We certainly have no objection, if you want to seal
14 it, but --

15 THE COURT: At this point I'm not certain what it
16 would do.

17 MS. RUSK: I understand, Your Honor. I think it's
18 unfortunate that it happened this way, but there is probably
19 nothing we can do about it.

20 THE COURT: Under the circumstances, in light of how
21 this has all come about, I don't think there is any other way
22 this could have taken place, other than the fact that I would
23 ask the marshals to please advise the county jail of the fact
24 that there has been a plea here, and the circumstances, so
25 that they can be made aware of the circumstances and take

1 whatever precautions are necessary to ensure Mr. Jenson's
2 safety while incarcerated in Sacramento County custody.

3 MS. ENDRIZZI: Your Honor, if I may, I think he's
4 currently in T-SEP, so one of the specific ways of preventing
5 any sort of conflict is to make sure he doesn't have his
6 three hours of release while Eric McDavid does. So that
7 could possibly be --

8 THE COURT: That's going to be something that I'll
9 deal with the county sheriff's department with, but I think
10 once they've been advised that this is the circumstance that
11 they will know how to make the arrangements as to where to
12 put him and where not to.

13 Making direct orders to the deputies that are having
14 to deal with the housed inmates can be problematic at times,
15 because when the Court makes them in a vacuum, you're not
16 taking into consideration what they're doing, and I find that
17 it doesn't always work. It usually ends up creating more of
18 a problem in the long run.

19 So, the general information that's conveyed by law
20 enforcement generally takes care of things.

21 MR. LAPHAM: Thank you.

22 THE COURT: Thank you. Court is adjourned.

23 (Court adjourned, 3:27 p.m.)

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REPORTER'S CERTIFICATE

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STATE OF CALIFORNIA)
COUNTY OF SACRAMENTO)

I, KIMBERLY M. BENNETT, certify that I was the Official Court Reporter, and that I reported verbatim in shorthand writing the foregoing proceedings; that I thereafter caused my shorthand writing to be reduced to typewriting, and the foregoing pages constitute a complete, true, and correct record of said proceedings:

COURT: U.S. District Court
Eastern District of California
JUDGE: Honorable MORRISON C. ENGLAND, JR., Judge
CASE: UNITED STATES OF AMERICA vs. ZACHARY JENSON
DATE: JULY 18, 2006

IN WITNESS WHEREOF, I have subscribed this certificate at Sacramento, California.

/s/ Kimberly M. Bennett
KIMBERLY M. BENNETT
CSR No. 8953, RPR, CRR, RMR