

1 well, would it be correct to say there is no time written on
2 it?

3 A. That is correct.

4 Q. But if you were physically present it had to be
5 sometime after one o'clock when he signed that, correct?

6 A. Correct.

7 Q. Ballpark, 1:30, give or take?

8 A. I really don't recall. Sometime between o'clock and
9 2:40.

10 Q. Fair enough. Between one o'clock and 2:40 the car
11 had been -- Mr. Casey's car had been in the custody of the
12 Miami Beach Police Department for three, four hours; correct?

13 A. I don't know when the vehicle was originally
14 recovered.

15 MR. HIRSH: I'm sorry. I need the evidence. May I
16 approach again, Your Honor?

17 THE COURT: You may.

18 BY MR. HIRSH:

19 Q. This is State's Exhibit Two, which has also been
20 received in evidence. You were a witness to that as well, I
21 believe?

22 A. Yes, sir.

23 Q. It was signed about the same time?

24 A. No. Actually, much later, right before we left to
25 go to his apartment.

1 Q. So that is the consent to search, number two, the
2 one that I'm referring to is number two?

3 A. Yes.

4 Q. That would have been signed one, at 2:30, 3:00,
5 3:30?

6 A. No. Mr. Casey was placed under arrest at some time
7 around 3:00. That was done at the station again, maybe 2:30
8 tops.

9 Q. Okay. That is the document in which Mr. Casey gives
10 consent to the search of his car, correct?

11 A. Yes. The search of the vehicle and the residence.

12 Q. Thank you. At the time that he signed that document
13 at again, I understand these numbers are approximations, about
14 2:30 in the afternoon, you did not say to him, "Mr. Casey, you
15 are a suspect in a vehicular homicide"?

16 A. That is correct.

17 Q. You did not say to him, "Mr. Casey, we have
18 recovered your automobile and there is every indication that
19 it was the hit and run vehicle in the vehicular homicide"?

20 A. That is correct.

21 Q. Let's talk about your interaction with Mr. Casey for
22 just a second. I think it was your testimony that Sergeant
23 Hundevadt made reference to a possible odor of alcohol coming
24 from Mr. Casey's person; is that correct?

25 A. Yes, sir.

1 Q. And your experience confirmed that, you perceived
2 that yourself?

3 A. Yes.

4 Q. That was about, as you say, one o'clock or so in the
5 afternoon, correct?

6 A. Yes, sir.

7 Q. Prior to that you had not entered his apartment?

8 A. Correct.

9 Q. You personally now?

10 A. No, I had not.

11 Q. Did you enter his apartment later on in the
12 afternoon?

13 A. Yes.

14 Q. When you were in his apartment did you have occasion
15 to look in the kitchen sink to see if there were, for example,
16 half empty glasses of liquor?

17 A. I don't recall doing that, no, sir.

18 Q. Did you in your walking around the apartment, did
19 you happen to notice whether there were open bottles or cans
20 of alcoholic beverages anywhere?

21 A. I saw I believe some alcohol, nothing opened on a
22 shelf in the living room area. Nothing that appeared -- the
23 apartment was very neat and there was some piles of paper on
24 the bed. It appeared ordinarily, not as if a party had
25 occurred and he hadn't cleaned up from the night before. It

1 wasn't a messy place. He keeps a very nice home.

2 Q. My question is not about a party. My question is if
3 you know whether Sean Casey did his drinking between 10:30 in
4 the morning and the time you saw him. You wouldn't be in a
5 position to answer that, would you?

6 A. No, of course not.

7 Q. Notwithstanding your concerns that he smelled of
8 alcohol or that he gave off an impression of alcohol, you were
9 present during an interview, interrogation, use whatever term
10 you like of Mr. Casey, correct?

11 A. Yes, sir.

12 Q. It was a fairly lengthy statement, is it not? I
13 believe it lasted close to an hour?

14 A. I believe you're right, yes.

15 Q. At any time in connection with that did you say,
16 "Mr. Casey, are you concerned that you are too drunk to be
17 giving us that statement?" Did you ever ask him that question
18 or one like it?

19 A. No. I recall that the sergeant asked him if there
20 was any problem with any of the questions, if he understood
21 everything, if he felt capable of answering.

22 At the conclusion of the interview, he did the same
23 thing that an attorney does in a deposition, "If you
24 understood all of my questions, is there anything you would
25 like to add," anything of that nature. Mr. Casey did not

1 indicate that he felt incompetent to continue or that any of
2 his prior answers were incomplete or incorrect.

3 Q. Mr. Accetta does it better than most lawyers, but
4 let me ask you this: Did you ask Mr. Casey if he had a cup of
5 coffee before the statement or at any time that day?

6 A. I don't believe I did.

7 Q. Did you ask him if he had eaten at any time that
8 day?

9 A. Not that I recall. I believe before the interview
10 began, at the conclusion of the introductions and such, I
11 believe the sergeant asked Mr. Casey if he wanted anything to
12 eat or drink, as we were still kind of running back and forth
13 with the other officers with needing information that we had
14 in the interview room, and we didn't want the interview to be
15 interrupted if we could avoid it and I don't know whether Mr.
16 Casey was ever provided an opportunity to have anything to eat
17 or drink.

18 Q. Did you ask him if he had slept prior to this
19 statement?

20 A. I had been told that he was asleep during a
21 statement. He indicated that he was awoken -- awakened, I'm
22 sorry, by the officers knocking on the door.

23 Q. You have in your police experience dealt with many
24 drunken people, have you not?

25 A. Yes, sir.

1 Q. Can we agree that a drunk man is often not the best
2 judge of his own sobriety? Can we agree?

3 A. I think you're right.

4 Q. You know what I'm talking about, a fellow often
5 times will say, "I'm sober, I'm fine," when you in fact may
6 conclude that he was anything but sober or fine, correct?

7 A. Yes, sir.

8 Q. That being the case, did you say to Mr. Casey based
9 on your experience in dealing with impaired drivers or
10 impaired people, did you say, "Mr. Casey, based on what I'm
11 smelling, I am concerned that you may be drunk, that you may
12 be drunk right now"?

13 A. No, I did not.

14 Q. You were eager to take his statement?

15 A. I felt comfortable based on the interaction that he
16 was having with the sergeant and later with me, direct eye
17 contact, reviewing his thoughts, repeating statements here and
18 there, that he was fine, for lack of a better phrase. He was
19 able to recall what he said before, he would repeat those
20 statements, he would speak in a fairly clear voice.

21 Again, I have not heard the tape, but from what I
22 recall it was a clear and projected voice.

23 Q. You in fact -- can I interrupt you -- in fact, if
24 you think back about it, at no point during the taped
25 statement did he say to you, "Do you fellows have my car," did

1 he?

2 A. I don't recall.

3 Q. You didn't volunteer the fact that you had his car,
4 did you?

5 A. No, but with an explanation, Your Honor?

6 THE COURT: Go ahead.

7 THE WITNESS: I didn't know that we had his car. I
8 knew we had a vehicle, possible via license plate or
9 serial number because, again, I hadn't seen the vehicle,
10 that was somehow connected with Mr. Casey, whether he is
11 the registered owner, the previous owner, his name was
12 found on the vehicle, at this point, on my drive to the
13 station to meet with the sergeant to assist in an
14 interview, I knew a vehicle had been recovered and I knew
15 it was a BMW, I believe it was a black BMW, being
16 information that I had originally was on the original
17 BOLO and passed on to me via the dispatcher or the
18 communications person that contacted me at home, was we
19 are looking for a black male driving a red BMW.

20 BY MR. ~~HERSH~~:

21 Q. Officer --

22 A. So I didn't know we had Mr. Casey's car.

23 Q. -- you had a drunken man before you, or a man who
24 reeked of alcohol before you.

25 A. That is your phrase, Counselor. He didn't reek.

1 Q. Give me yours.

2 A. He smelled of an alcoholic beverage.

3 Q. Okay. You had a man who smelled of an alcoholic
4 beverage, you knew that there was a car that had been
5 recovered by the police that was in some fashion linked to him
6 that was a black BMW.

7 A. Correct.

8 Q. You didn't tell him that, did you?

9 A. No.

10 Q. You took his statement?

11 A. Yes.

12 Q. All right. Let's talk about the blood draw.

13 Mr. Accetta at some point asked you about your
14 conclusions regarding glass shards. Do you remember those
15 questions?

16 A. Yes.

17 Q. Do you recall which part of the windshield was most
18 damaged?

19 A. Based upon my observations after the blood draw and
20 once I went to the station and saw the vehicle?

21 Q. Yes.

22 A. Yes. I believe it was the passenger side, but it
23 was -- yes, the windshield, not the side windows, but actually
24 windshield.

25 Q. Windshield?

1 A. Yes.

2 Q. So if I were to say to you that it was the least as
3 likely that Mr. Casey was in the passenger side of the car as
4 the driver's side of the car, that is something that we can't
5 really know, correct?

6 A. I disagree.

7 Q. Tell me why.

8 A. If I put you in any chair there and threw, for
9 safety factor, baby powder at you instead of --

10 Q. Shards?

11 A. -- instead of glass shards --

12 Q. I appreciate that.

13 A. -- and if you stood up, the chair that you are
14 occupying would be the least covered in baby powder because
15 the baby powder would be probably on your clothes. That's the
16 same thing with the glass, upon my investigation of the
17 vehicle later, if you look at the photographs, the driver's
18 side, passenger side of the car, these are the photographs
19 that were taken at the scene before the vehicle was removed,
20 the passenger's seat is covered, not only in what appears to
21 be glass and some body tissue, but also I believe a can of
22 beer and some other grocery items. The driver's seat is
23 nearly bare as compared to the passenger seat, indicating that
24 there was most likely not a passenger in the car, but that the
25 operator of the car should be or their clothing should be

1 covered with glass.

2 Q. You very properly used the expression most likely.

3 A. Yes.

4 Q. Having in mind that was merely most likely, can we
5 back up to the events for a moment and agree certainly you
6 were not an eyewitness to the accident, correct?

7 A. Yes.

8 Q. You had not at the time of the blood draw spoken to
9 any eyewitnesses to the accident?

10 A. Correct.

11 Q. You are aware from very considerable experience, you
12 are familiar with the area where the accident took place?

13 A. Yes, sir.

14 Q. You are aware that that is an area where many auto
15 accidents take place?

16 A. Yes.

17 Q. If you recall correctly, March 7th, so that is four
18 days before these events, there had been an accident,
19 automobile accident involving a bicyclist at that very area.

20 MR. ACCETTA: Objection, relevance.

21 THE COURT: What is the relevance?

22 MR. HIRSH: It goes to whether or not -- not every
23 accident is a vehicular homicide, Your Honor. We are
24 talking about the blood draw here. There had to be
25 probable cause or some substantial cause to be believe

1 that the driver is responsible for a crime, not a
2 tragedy.

3 THE COURT: Overrule the objection.

4 BY MR. HIRSH:

5 Q. Do you recall that accident three or four days
6 before this one?

7 A. Yes, sir.

8 Q. We have agreed that it is an area that is prone to
9 accidents, correct?

10 A. Yes.

11 Q. Car accidents. I am not talking about pedestrians,
12 car accidents.

13 A. In this case, with the bicyclist and yes,
14 pedestrians, but motor vehicles travel through there at high
15 rates and there is a lot of accidents.

16 Q. You had no one to put Mr. Casey behind the wheel?

17 A. With certainty, no. I had no one.

18 Q. You informed him that pursuant to the statute you
19 had authority to draw his blood?

20 A. Yes, sir.

21 Q. Which is true, by the way, is it not?

22 A. Yes, sir.

23 Q. He did not provide a written consent of any kind for
24 the blood draw?

25 A. That is correct.

1 Q. The blood draw took place at about 4:00 or 4:30 in
2 the afternoon?

3 A. It would be on the actual forms themselves. I don't
4 have them, but I believe we did a 20-minute wait between
5 bloods as per requirement.

6 Q. May I approach? I'm not even familiar with these
7 documents, so I don't know but it is reflected in State's --

8 A. This is State's Four and Five.

9 Q. Is it reflected in Four or Five what time the blood
10 draws took place?

11 A. In State's Five there is an indication that at 4:27
12 or 16:27 hours that is when the initial blood draw was
13 obtained.

14 Q. Based on an accident that took place at perhaps
15 10:00, 10:30 in the morning?

16 A. Correct.

17 Q. Did you see any blood on Mr. Casey's person?

18 A. He had some minor scrapes on his arms and on his
19 hands.

20 Q. Did you see any cuts consistent with glass shards?

21 A. Yes. Again, the small little markings on him were
22 consistent with someone having maybe wiped a piece of glass or
23 some glass off of them.

24 Q. Can we agree that glass shards are very sharp and
25 cut very readily?

1 A. Yes.

2 Q. He was not bleeding or there was no indication of
3 recent bleeding anywhere on his person, was there?

4 A. There were nicks consistent with someone -- again,
5 this is from an accident investigator who has to crawl inside
6 these cars on occasion and comes up with small little nicks
7 and cuts and by your own indication this happened three hours
8 prior to my original contact with him and in as many as five
9 hours prior to the photographs that were taken that marks on
10 his body were consistent with someone who may have been cut by
11 a small piece of glass or brushed them off his body.

12 Q. Were the airbags inflated?

13 A. I don't recall.

14 Q. Would the scrapes that you saw on him be consistent
15 with air bags?

16 A. No. This would have been on the interior forearms
17 and body, not on the exterior hair or hands.

18 Q. Not if he were the driver. Did you consider the
19 possibility that he was a passenger?

20 A. I don't believe the airbags deployed, Counselor.
21 You are asking me for sure, but I am fairly certain they did
22 not deploy.

23 Q. You did not consider the possibility that he was a
24 passenger?

25 A. Not based on the statement made by the officer on

1 the scene.

2 Q. Who was not an eyewitness to the crime?

3 A. No, but who was looking at the vehicle and had
4 recently viewed the vehicle.

5 MR. HIRSH: Judge, if you will just give me with the
6 Court's indulgence, a few seconds, please.

7 BY MR. HIRSH:

8 Q. Were you present when the clothing was impounded?

9 A. No, because I had taken -- Crime Scene remained
10 behind to do the processing. I believe they found glass
11 elsewhere in the apartment that I was unaware of until later,
12 a couple days ago and I had taken Mr. Casey over to get the
13 blood draw done as soon as possible. I drove him directly to
14 the fire station at 11th Street and Jefferson Avenue.

15 Q. So you were not present when the clothing was
16 impounded?

17 A. No.

18 Q. At the time that Mr. Casey was Miranda'd; however,
19 you were present, correct, and he was advised at that time
20 that he was the subject in a vehicular homicide?

21 A. Yes.

22 Q. And was he asked if he still gave a consent to
23 search of his apartment?

24 A. No. That never came up. I read him the card and he
25 indicated he understood, he chose not to speak any further and

1 he never asked -- we never asked him again to do a search and
2 he never asked us to discontinue.

3 Q. And at that point he was taken away?

4 A. Again, he remained on the scene for quite some time
5 while he was making arrangements for his employer to
6 substitute his -- apparently very important need to be out of
7 the country and we tried to do what we could from his home
8 because he had access to the telephone numbers and stuff. We
9 were there, I'm guessing, about another half-hour before we
10 left.

11 Q. You indicated that you didn't know about certain
12 evidence until a couple days ago. Is that what you just said?

13 A. That's correct. It was part of the original day of
14 the investigation and after that I heard bits and pieces as
15 far as --

16 Q. What happened a couple days ago that caused you to
17 hear something?

18 A. I spoke with some other officers.

19 Q. In preparation for this hearing?

20 A. Yes, partial.

21 Q. Do you know if any testing has been done on any
22 material?

23 MR. ACCETTA: Judge, objection. What is the
24 relevance of a motion to suppress of testing of any
25 material?

1 THE COURT: What is the relevance?

2 MR. HIRSH: It depends on whether it was done prior
3 to the time that they obtained several months after the
4 fact a search warrant. If it was done prior to that time
5 it goes to fruits of the poisonous tree.

6 MR. ACCETTA: There is no relevance to any material,
7 whether it is going to a motion to suppress or not,
8 Judge.

9 THE COURT: You are saying that if the have had been
10 tested at a later point and evidence is obtained as to
11 this testing, there would be proof of something?

12 MR. HIRSH: At some point I told Mr. Accetta months
13 after the fact a search warrant was obtained.

14 THE COURT: Right.

15 MR. HIRSH: The search warrant itself or any testing
16 done prior to it is fruit of the poisonous tree. That is
17 why I want to ask this officer what, if any, testing was
18 done so I can ask him when.

19 THE COURT: Well, I think a better question would be
20 was there -- if he was aware of any evidence that was
21 obtained other than subsequent testing.

22 MR. HIRSH: That is indeed a better question.

23 BY MR. HIRSH:

24 Q. That is my question, Officer.

25 A. No. I do not know the results of any tests if tests

1 were concluded. I believe it was discussed but again, my
2 involvement was March 11th and nominal since then.

3 MR. HIRSH: Thank you, Officer.

4 THE COURT: Thank you. Redirect.

5 REDIRECT EXAMINATION

6 BY MR. ACCETTA:

7 Q. Officer, when you were at the station when you
8 originally arrived and met with Sergeant Hundevadt were you
9 informed that there was a bank receipt that was also recovered
10 from this defendant at his apartment earlier that day?

11 A. At some point prior to the actual taped interview,
12 yes.

13 Q. Showing you what has been marked as 1-F for
14 identification, do you recognize it?

15 A. Yes, sir. It is a photocopy of a bank receipt
16 indicating the Alton Road Bank of America or Barnett Bank from
17 that day at 10:39 a.m.

18 Q. Was this the information that you were told about at
19 the station that this defendant had given to the other
20 officers?

21 A. Yes, apparently.

22 MR. ACCETTA: I would like to move 1-F for
23 identification into evidence.

24 MR. HIRSH: I have no objection, Your Honor. I am
25 not quite sure what the relevance is, but as a courtesy

1 to Mr. Accetta, I have no objection.

2 THE COURT: Without objection.

3 THE CLERK: State's Exhibit 1-F for identification
4 becomes State's Exhibit Number Six.

5 (Whereupon, the above referred to document was
6 marked for identification as State's Exhibit Number Six.)

7 BY MR. ACCETTA:

8 Q. Showing you what has been marked into evidence, do
9 you see a time and date on the receipt?

10 A. Yes, sir. It is March 11th, the date of the
11 incident and at 10:39, which appears to be 10:39 in the
12 morning. There is no a.m. or p.m.

13 Q. There is also a copy of a bank card with the
14 defendant's name on it.

15 A. That's correct. And the last four digits on the
16 card correspond with the last identification as listed on that
17 same receipt, 5587.

18 Q. You knew this information prior to making an arrest
19 on that date of March 11th?

20 A. Yes, sir.

21 MR. ACCETTA: No further questions.

22 MR. HIRSH: This is new material. May I recross?

23 THE COURT: You may.

24 RE-CROSS-EXAMINATION

25 BY MR. HIRSH:

1 Q. Officer, this is new to me, so bear with me here.
2 You indicated that has a time of 10:39 on it?
3 A. I believe that's what it says.
4 Q. At what location?
5 A. At Miami Beach, Alton Road Bank of America.
6 Q. You know Miami Beach better than I. How far is that
7 location from the scene of this terrible accident?
8 A. Quite a ways, several miles.
9 Q. Six, seven miles?
10 A. Correct.
11 Q. Six, seven miles?
12 A. You're asking me in proximity to your client's home?
13 Q. I assume it isn't right near your home.
14 A. Just a couple blocks away.
15 Q. That is the part I don't get. Have we agreed that
16 the accident took place about 10:15 in the morning?
17 A. Again, I don't have a copy of the crash report.
18 That would have the exact time.
19 Q. That withdrawal took place 25 minutes after that,
20 yes?
21 A. Yes.
22 Q. Six or seven miles away.
23 A. While your client was supposed to be sleeping, yes.
24 Q. Let's see. How fast can you run, Officer?
25 A. Relevance?

1 MR. ACCETTA: Yes. I didn't even hear the question.

2 THE COURT: Objection overruled.

3 THE WITNESS: How fast can I run was the question.

4 MR. HIRSH: Overruled.

5 THE WITNESS: Independently.

6 MR. ACCETTA: I didn't hear it.

7 THE WITNESS: I don't know.

8 BY MR. HIRSH:

9 Q. There are six or seven miles. In 25 minutes?

10 A. Definitely not.

11 Q. Neither can I.

12 MR. ACCETTA: Judge, is this like a whodunit?

13 MR. HIRSH: It wasn't but it is now.

14 I have nothing further. It is now. I'm just trying
15 to figure out how someone can get there. I have nothing
16 further.

17 MR. ACCETTA: No further questions.

18 THE WITNESS: Can I ask a question?

19 THE COURT: Yes.

20 THE WITNESS: At one point Mr. Hirsh said the search
21 warrant and everything was prior to it would be illegal
22 with regard to the poisonous tree.

23 MR. ACCETTA: Judge, I think we are done.

24 THE WITNESS: I'm assuming the search warrant itself
25 and anything issued aren't signed by --

1 THE COURT: We are not even talking about search
2 warrants.

3 THE WITNESS: That was brought up and I had a
4 question as to -- thank you, sir.

5 THE COURT: Thank you.

6 State?

7 MR. ACCETTA: At this point, Judge, the State has no
8 further witnesses. The motion to suppress the
9 statements, which according to Mr. Hirsh, are statements
10 given at the station on tape, which Your Honor has.

11 Secondly, the items which we recovered such as the
12 glass shards and the shirt and a pair of shoes and
13 recovered from the defendant's home, as well as the blood
14 results that were drawn from the defendant on March 11th,
15 those three issues which I had addressed through the
16 witnesses, I have no further questions, no further
17 witnesses in regard to that motion.

18 MR. HIRSH: Your Honor, I intend to present no
19 evidence at this time. May I make a suggestion?

20 THE COURT: Go ahead.

21 MR. HIRSH: The hour is late. We have had a great
22 deal of evidence. I would appreciate it if I could be
23 permitted to order the transcript and file a brief
24 memorandum rather than the Court ruling from the bench.
25 I think there is a lot to consider here and I don't want

1 to urge any arguments that I can't back up. I think if I
2 can get the transcript, I can file a memorandum very
3 promptly.

4 THE COURT: I will allow it.

5 MR. HIRSH: Thank you very much.

6 MR. ACCETTA: Over State's objection. I was well
7 aware of this motion for the past two months, just like
8 defense counsel was aware of it.

9 Number one, we are going out of the ordinary
10 procedure of this courtroom with any motion to suppress
11 prior to trial.

12 Secondly, I have prepared case law, no arguments, I
13 am assuming defense counsel has done this much longer
14 than I have, according to him, and he was well aware of
15 the arguments and issues at hand, and at this point,
16 Judge, I would object to any further hearing again. It
17 takes my afternoon away.

18 MR. HIRSH: I don't want to hear argument.

19 MR. ACCETTA: Judge, I would want you to hear it.

20 THE COURT: There won't be any further hearing on
21 this. I am going to listen to any arguments you want to
22 present this afternoon. If you want to supplement that
23 with any written authority, that is what Mr. Hirsh is
24 asking to do, I will take the matter under advisement
25 until I have gotten any written or supplement pleadings.

1 Let me ask you, Mr. Hirsh: How long do you think it
2 will take to get that?

3 MR. HIRSH: From the time I receive the transcript I
4 would think, you know, five days, business days.

5 MR. ACCETTA: Then he would have to provide me with
6 a written memorandum and can I respond, Judge, in
7 writing?

8 THE COURT: If you chose to, yes, you certainly can.

9 MR. ACCETTA: If I choose not to I can respond
10 orally before --

11 THE COURT: No. We are not going to have another
12 hearing. On this I will just announce next time we are
13 here on this, I am going to announce my decision on it,
14 so if you want to respond in writing, you can.

15 MR. ACCETTA: You see, that is my objection, Judge.
16 I would rather respond orally with Your Honor and have
17 the case law presented. I have to sit down and write a
18 memorandum and respond to defense counsel's probably 20
19 page memorandum.

20 MR. HIRSH: Your Honor, I have no objection to
21 whatever Mr. Accetta is allocating at this time, none
22 whatsoever. All I am saying is I would like to do in
23 writing later when I have the facts in writing before me.

24 THE COURT: All right. Let me ask the court
25 reporter. This case is set for trial when?

1 THE CLERK: 11-13 for trial.

2 MR. ACCETTA: Can you put it the first week? I am
3 going to need a week to respond.

4 THE COURT: 11-13 for trial and 11-2 for sounding.
5 I am going to put it on a sounding day.

6 MR. HIRSH: Obviously, it is going to be a very big
7 decision on Your Honor's part when most of the evidence
8 and statements were recovered.

9 THE COURT: All right. It is the Court's intention
10 to rule on this at sounding.

11 MR. HIRSH: What is the date of sounding? I don't
12 have that.

13 THE COURT: November 2nd.

14 MR. HIRSH: Could we move that up one day, Judge,
15 would that be possible?

16 THE COURT: Move it up one day?

17 MR. HIRSH: Yes, move it up to November 1st. Will
18 that be acceptable to you?

19 MR. ACCETTA: Judge, again, my witness coordinator
20 prepared by witness sheet for November 2nd. Again, it
21 would be --

22 THE COURT: Witnesses for sounding?

23 MR. ACCETTA: Judge, I have to announce ready or not
24 ready and I don't know that until -- trust me, my last
25 sounding I had witnesses the morning of.

1 THE COURT: What is the problem with the 2nd?

2 MR. HIRSH: I will be in Sante Fe, New Mexico on the
3 2nd, Judge. Of course, I will cancel if you order me to,
4 but --

5 THE COURT: Well, Mr. Accetta --

6 MR. ACCETTA: Judge, I have no problem with the day
7 before. I don't want to take Mr. Hirsh's trip away. I
8 will prepare the witness list ahead of time, so we will
9 have a hearing whether or not the transcripts are ready,
10 Judge, by the 1st?

11 THE COURT: Just to add, to try to give a little bit
12 more time for a State response, November 5th, which would
13 be the Monday. Would that give you enough time to
14 subpoena any witnesses that you will need for the 12th?

15 MR. ACCETTA: You mean the trial date or the --

16 THE COURT: For the trial date. The 12th is a
17 holiday. The 13th?

18 MR. ACCETTA: No. Usually I need 10 days, Judge.
19 So, in other words, Your Honor, if you were to make a
20 decision on the motion, I would rather it be on the 1st.

21 THE COURT: Well, my only concern is on the 1st I
22 have that arraignments only on November 1st, so on the
23 5th, I thought you might need five days for witnesses on
24 this case.

25 MR. ACCETTA: At this particular case, Judge, I

1 believe there is an out of state witness, which is the
 2 reason why I would need 10, because I have to make flight
 3 arrangements, number one, and I have to make sure there
 4 is a trial certain and I usually do that at the sounding.

5 THE COURT: Okay. October 31st for announcement of
 6 my decision.

7 State, given the fact that it is really cutting you
 8 short for a response, if you want to respond to me orally
 9 on the 31st, I will allow you to do that.

10 MR. ACCETTA: I appreciate that.

11 THE COURT: Okay.

12 MR. HIRSH: At that point we are set for trial when?

13 THE COURT: For November 13th. This will be on the
 14 8:30 calendar October 31st.

15 MR. HIRSH: Thank you very much, Your Honor.

16 THE COURT: Thank you.

17 MR. ACCETTA: Judge, if I have any case law I would
 18 like to submit it prior to that hearing.

19 THE COURT: You may, as long as a copy goes to the
 20 defense.

21 All right. Let's take a five minute recess, then
 22 start the next hearing.

23 (Thereupon, the hearing was concluded).

24 * * * * *

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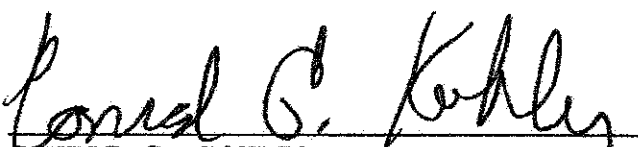
CERTIFICATE

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STATE OF FLORIDA)
) SS
COUNTY OF DADE)

I, CONRAD G. KOHLER, Shorthand Reporter and Notary Public in and for the State of Florida at Large, do hereby certify that I did prepare the foregoing transcript from my stenographic notes, that the foregoing proceedings had in the cause of STATE OF FLORIDA versus SEAN D. CASEY, Case Number F01-7975, heard before the Honorable DARYL E. TRAWICK, and that the foregoing transcript is a true record thereof, to the best of my ability.

I WITNESS MY HAND and affix my official seal this 23rd day of October, 2001.



CONRAD G. KOHLER