

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

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UNITED STATES OF AMERICA,
PLAINTIFF,
VS.
PAUL JACOB,
DEFENDANT.

)
) NO. LR-CR-82-119
)
) MONDAY, JULY 1, 1985
) LITTLE ROCK, ARKANSAS
) 9:30 A.M.
)
)
)

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HON. GEORGE HOWARD, JR. AND A JURY

APPEARANCES:

FOR THE PLAINTIFF:

KEN STOLL AND SANDRA CHERRY
ASSISTANT U.S. ATTORNEYS
U. S. POST OFFICE & COURTHOUSE
LITTLE ROCK, AR 72201

FOR THE DEFENDANT:

JOHN WESLEY HALL, JR. AND
LARRY VAUGHT
ATTORNEYS AT LAW
523 W. 3RD.
LITTLE ROCK, AR 72201

REPORTED BY:

PEGGE J. MERKEL
16900 COL. GLENN RD.
LITTLE ROCK, AR 72210

1 MONDAY, JULY 1, 1985

2 - - -

3 THE COURT: LET THE RECORD REFLECT THAT WE ARE IN
4 CHAMBERS AT THE REQUEST OF COUNSEL, AND THE DEFENDANT
5 MR. JACOB IS PRESENT.

6 THE COURT: ALL RIGHT, MR. VAUGHT, MR. HALL.

7 MR. VAUGHT: YOUR HONOR, A COUPLE OF THINGS. FIRST
8 OF ALL, A FAIRLY MINOR PROCEDURAL MATTER. WE HAVE A WITNESS
9 HAVE WHO NEEDS TO MAKE THE 4:40 PLANE AND WE'VE ASKED
10 MR. STOLL IF WE COULD PUT HIM ON OUT OF ORDER ASSUMING WE
11 WON'T GET ANY OBJECTION AND HE SAID HE WON'T HAVE ANY
12 OBJECTION TO THAT IF IT'S OKAY WITH YOU.

13 THE COURT: THAT'S ALL RIGHT. GRANTED.

14 MR. VAUGHT: THE SECOND MATTER CONCERNS AN
15 INSTRUCTION, AND I REALIZE THIS ISN'T THE TIME TO ARGUE
16 INSTRUCTIONS, THAT WE SUBMITTED TO THE COURT CONCERNING OUR
17 INTERPRETATION OF THE CASE OF UNITED STATES VERSUS EKLUND,
18 WHICH IS AN EIGHTH CIRCUIT CASE FROM 1984, THE MOST RECENT
19 EIGHTH CIRCUIT CASE ON DRAFT OR SELECTIVE SERVICE
20 REGISTRATION. AND THE EKLUND CASE, ONE OF THE ISSUES THAT IT
21 DECIDED WAS THAT THE FAILING TO REGISTER IS A CONTINUING
22 OFFENSE WHICH CONTINUES FROM THE DATES LISTED IN THE
23 PRESIDENTIAL PROCLAMATION 4771 AND CONTINUES UNTIL THE 26TH
24 BIRTHDAY OF THE INDIVIDUAL, AND THE EKLUND CASE WENT FURTHER
25 THAN THAT AND SAID THAT IT'S A CONTINUING OFFENSE WHICH IS

1 NOT COMPLETE UNTIL EITHER REGISTRATION OR THE 26TH BIRTHDAY
2 OF THE INDIVIDUAL, AND BASED ON THAT WE SUBMITTED AN
3 INSTRUCTION SAYING THAT IF YOU FIND THAT THE DEFENDANT EITHER
4 FULFILLED THE REQUIREMENT BEFORE HIS 26TH BIRTHDAY OR IN FACT
5 HASN'T REACHED HIS 26TH BIRTHDAY, THEN THE OFFENSE IS NOT
6 COMPLETE AND YOU MUST FIND THEM NOT GUILTY.

7 WE ALSO RAISE THAT AS A PRELIMINARY CHALLENGE TO
8 THE INDICTMENT AND TO THE CHARGE AS IT STANDS RIGHT NOW,
9 BECAUSE IF IT IS IN FACT A CONTINUING OFFENSE AND IF IN FACT
10 THE OFFENSE IS NOT COMPLETE, AS EKLUND SAYS, UNTIL THE
11 STATUTE OF LIMITATIONS BEGINS TO RUN, THEN THE INDICTMENT
12 WHICH CHARGES MR. JACOB WITH FAILING TO REGISTER FOR A
13 TWO-YEAR PERIOD FROM 1980 TO 1982 WOULD BE AN INVALID
14 INDICTMENT, AND IN FACT VOID AND AS NOT STATING AN OFFENSE.

15 THE COURT: MR. STOLL?

16 MR. STOLL: JUDGE, I UNDERSTAND THAT'S THE POSITION
17 OF THE DEFENDANT AND, OF COURSE, IT'S NOT THE GOVERNMENT'S
18 CONTENTION. HOWEVER, WE WOULD LIKE TO HAVE A RULING SINCE I
19 THINK IT IS A MATTER OF LAW. AS MR. VAUGHT SAID, WE KNOW
20 THIS ISN'T THE TIME TO ARGUE INSTRUCTIONS, BUT SINCE IT'S A
21 MATTER OF LAW, I DON'T KNOW IF THE COURT IS FAMILIAR WITH THE
22 INSTRUCTION WHICH MR. VAUGHT PROPOSED OR NOT.

23 THE COURT: I HAVE NOT SEEN IT.

24 MR. STOLL: I HAVE A COPY I'VE MARKED ON, BUT --

25 MR. VAUGHT: YOUR HONOR, I HAVE THE EKLUND CASE

1 HERE WITH THE LANGUAGE THAT I'M REFERRING TO, IF YOU'D LIKE
2 TO LOOK AT IT, TOO.

3 THE COURT: ALL RIGHT, GO AHEAD.

4 MR. STOLL: IN EFFECT, YOUR HONOR, TO ACCEPT THIS
5 ARGUMENT WOULD MEAN THAT THE GOVERNMENT COULD NOT PROSECUTE
6 ANYONE FOR FAILURE TO REGISTER UNTIL THEY HAD REACHED THE AGE
7 OF 26 AND FIVE YEARS THEREAFTER, AND I DON'T THINK THAT'S
8 WHAT CONGRESS INTENDED BY THE STATUTE NOR DO I BELIEVE THAT'S
9 WHAT THE EIGHTH CIRCUIT MEANT BY CLASSIFYING THIS AS A
10 CONTINUING OFFENSE. IT'S A CONTINUING OFFENSE TO THE EXTENT
11 THE STATUTE OF LIMITATIONS IS PAST THAT PERIOD OF TIME, BUT
12 IT DOES NOT BAR THE GOVERNMENT FROM PROCEEDING TO PROSECUTE
13 IF THE PERSON HAS FAILED TO REGISTER DURING THE PRESCRIBED
14 TIME AS SET FORTH IN THE PROCLAMATION. HOWEVER, AS I SAID,
15 IF THE COURT IS OF ANOTHER OPINION, THEN I THINK IT NEEDS TO
16 BE BROUGHT UP NOW AS OPPOSED TO AFTER JEOPARDY HAS ATTACHED
17 SO WE'LL KNOW WHETHER OR NOT WE CAN APPEAL THAT OR NOT APPEAL
18 THAT.

19 THE COURT: WELL, LET ME ASK YOU THIS. IS IT THE
20 GOVERNMENT'S POSITION THAT IF THE COURT BOUGHT MR. VAUGHT'S
21 ARGUMENT THAT THIS WOULD MORE OR LESS FRUSTRATE CONGRESS'
22 PURPOSE?

23 MR. STOLL: YES, YOUR HONOR.

24 THE COURT: IT WOULD RENDER THE CONGRESSIONAL
25 MEASURE VIRTUALLY A NULLITY.

1 MR. STOLL: THAT IS CORRECT. IT WOULD IN EFFECT
2 TELL THE GOVERNMENT THAT YOU CANNOT PROSECUTE ANYONE UNTIL
3 THEY REACH AGE 26.

4 THE COURT: ANYTHING ELSE?

5 MR. VAUGHT: YOUR HONOR, THAT MAY WELL BE TRUE, BUT
6 THE LANGUAGE IN EKLUND IS QUITE CLEAR. IT SPECIFICALLY SAYS
7 THE OFFENSE IS NOT COMPLETE UNTIL THE STATUTE OF LIMITATIONS
8 BEGINS TO RUN AND THAT'S THE LATEST PROCLAMATION OF THE COURT
9 THAT WE'RE UNDER THE JURISDICTION OF.

10 THE COURT: WELL, I SHARE THE GOVERNMENT'S VIEW OR
11 INTERPRETATION, AND THE MOTION IS DENIED BECAUSE I THINK IT'S
12 CLEAR THAT IT WOULD FRUSTRATE CONGRESS' INTENT AND RENDER,
13 VIRTUALLY REDUCE THE CONGRESSIONAL MEASURE TO A NULLITY. SO,
14 THE MOTION WILL BE DENIED. ANYTHING ELSE?

15 MR. VAUGHT: NOT AT THIS TIME.

16 MR. STOLL: JUDGE, I KNOW YOU RULED ON IT. THEY
17 HAVE SUBPOENAED GEN. TURNAGE TO TESTIFY AND WE FILED A MOTION
18 TO QUASH WHICH YOU HAVE RULED ON. HOWEVER, IN REVIEWING
19 THAT, AS I UNDERSTAND THEIR PURPOSE IN CALLING GEN. TURNAGE,
20 WAS THAT PART OF THE DEFENDANT'S PROTEST WAS TO SHOW HIS
21 DISAPPROVAL OF THE REMARKS MADE BY GEN. TURNAGE, AND THEY
22 HAVE ATTACHED COPY OF THOSE REMARKS TO THEIR RESPONSE TO OUR
23 MOTION TO QUASH. THOSE REMARKS, IF THE COURT WILL NOTE, ARE
24 IN 1985 MADE BY GEN. TURNAGE WHICH IS WAY PAST THE PERIOD OF
25 TIME CHARGED IN THE INDICTMENT. I DON'T KNOW HOW THEY CAN

1 RELY UPON REMARKS MADE IN 1985 FOR AN ACT THAT WAS COMPLETED
2 IN 1982.

3 MR. VAUGHT: YOUR HONOR, THERE ARE OTHER REMARKS OF
4 GEN. TURNAGE WHICH WERE MADE IN 1981 AND 1982 THAT I DID NOT
5 HAVE ACCESS TO WHEN I FILED MY RESPONSE. AS YOU KNOW, THIS
6 ALL CAME UP REAL QUICK, AND I FILED IT WITHIN ONE DAY. WE
7 WILL PRESENT QUESTIONS TO GEN. TURNAGE CONCERNING REMARKS
8 MADE BACK AS FAR AS 1981 AND 1982 IN ADDITION TO THOSE THAT
9 WERE ATTACHED TO THE RESPONSE TO THE MOTION.

10 THE COURT: WHAT ABOUT THE 1981 REMARKS?

11 MR. STOLL: I DON'T KNOW WHAT REMARKS THEY ARE
12 REFERRING TO, YOUR HONOR. IT'S BEEN OUR POSITION ALL ALONG
13 THAT REMARKS MADE BY GEN. TURNAGE AND WHETHER THE DEFENDANT
14 AGREES OR DISAGREES WITH THEM IS REALLY IRRELEVANT TO THE
15 CASE BEFORE THE COURT, AND THAT IS WHETHER OR NOT MR. JACOB
16 WAS REQUIRED TO REGISTER, WHETHER HE KNEW HE WAS REQUIRED TO
17 REGISTER, AND WHETHER HE FAILED TO REGISTER. WHETHER OR NOT
18 HE DISAGREED WITH THE ADMINISTRATION OR GEN. TURNAGE AS HEAD
19 OF THE SELECTIVE SERVICE IS REALLY IRRELEVANT AND IMMATERIAL
20 TO THIS CASE.

21 THE COURT: AS I UNDERSTAND YOUR ARGUMENT, THIS MAY
22 HAVE SOME RELEVANCE ON THE ISSUE OF WILLFULNESS.

23 MR. VAUGHT: CRIMINAL INTENT. YOUR HONOR, IN FACT
24 IT WILL, IF MR. JACOB HAD A GOOD FAITH UNDERSTANDING AND
25 BELIEF THAT COMPLIANCE WITH THE REGISTRATION REQUIREMENT WAS

1 A SYMBOL OF APPROVAL OF IT. THEN I THINK IT WOULD GO TO HIS
2 CRIMINAL INTENT TO VIOLATE THE LAW, AND THOSE ARE THE --
3 THAT'S THE GROUND FOR CALLING GEN. TURNAGE, AND THOSE ARE THE
4 GIST OF HIS REMARKS THAT HE MADE AS FAR BACK AS 1981.

5 MR. STOLL: JUDGE, I THINK IT'S WELL ESTABLISHED
6 THAT DISAGREEMENT WITH THE LAW IS NOT A LEGAL DEFENSE TO IT.

7 MR. VAUGHT: DISAGREEMENT WITH THE LAW IS NOT A
8 DEFENSE BUT IT CAN BE GOOD FAITH RELIANCE UPON WHAT HE
9 THOUGHT TO BE THE LAW, WHICH THE FIRST AMENDMENT, AS FAR AS I
10 KNOW IS THE LAW, CAN GO TOWARD TAKING AWAY HIS CRIMINAL
11 INTENT, THE WILLFULNESS.

12 THE COURT: AND, TOO, I THINK THIS IS PROBABLY
13 SOMETHING THAT YOU MIGHT ARGUE TO THE JURY. IT MAY VERY WELL
14 BE THAT THE JURY COULD FIND THAT THE POSITION THAT HE TOOK
15 WAS NOT TO VIOLATE THE LAW AS SUCH BUT TO REGISTER HIS
16 DISSENT, EXERCISE HIS FIRST AMENDMENT RIGHT. IS THIS YOUR
17 POSITION?

18 MR. VAUGHT: THAT'S CORRECT, YOUR HONOR.

19 THE COURT: THIS MAY BE SOMETHING TO ARGUE TO THE
20 JURY, BUT I'M GOING TO PERMIT HIM TO PUT IT ON. NOW, WHAT IS
21 THE RELEVANCY OF WHAT THE GENERAL SAID IN 1983 OR THEREAFTER?

22 MR. VAUGHT: IT JUST SHOWS A CONTINUING POLICY, IF
23 YOU WANT TO CALL IT A POLICY, OF THE SELECTIVE SERVICE SYSTEM
24 THROUGH GEN. TURNAGE, ITS DIRECTOR, OF EQUATING COMPLIANCE
25 WITH APPROVAL. THIS HAS BEEN A LINE OF REASONING AND THOUGHT

1 THAT THE SELECTIVE SERVICE SYSTEM HAS PUT FORTH FROM AT LEAST
2 1981 ALL THE WAY UP UNTIL THE PRESENT AND CONTINUES TODAY,
3 THAT HIGH PERCENTAGES OF COMPLIANCE SHOW THAT THE PUBLIC AND
4 THOSE PERSONS WHO ARE REQUIRED TO REGISTER APPROVE OF
5 SELECTIVE SERVICE REGISTRATION.

6 THE COURT: I DO HAVE TROUBLE WITH THOSE PURPORTED
7 COMMENTS AFTER 1982, BUT IT'S NOT NECESSARY TO MAKE A FINAL
8 DECISION AT THIS POINT. SO WE'LL CROSS THAT BRIDGE WHEN WE
9 GET TO IT.

10 MR. STOLL: JUDGE, ONE OTHER THING. I UNDERSTAND I
11 HAVE A COPY OF A SELECTIVE SERVICE FORM WHICH IS APPARENTLY
12 TYPED WITH MR. JACOB'S NAME AND AN AFFIDAVIT ATTACHED TO IT
13 THAT DEFENDANT'S COUNSEL HAVE PROVIDED ME AND INDICATE THAT
14 THEY INTEND TO INTRODUCE THAT. OF COURSE WE CAN WEIGHT FOR A
15 RULING IF THE COURT WANTS BUT, AGAIN, THIS IS SOMETHING THAT
16 APPARENTLY WAS FILLED OUT IN JUNE OF '85, WHICH IS AGAIN PAST
17 THE PERIOD OF TIME CHARGED IN THE INDICTMENT, AND I REALLY
18 DON'T SEE ITS RELEVANCE TO THIS CASE.

19 MR. VAUGHT: YOUR HONOR, WHETHER THE LANGUAGE IN
20 EKLUND IS CORRECT OR NOT CONCERNING WHEN THE OFFENSE IS
21 COMPLETE, THERE IS NO QUESTION BUT THAT EKLUND HOLDS, AND
22 OTHER COURTS HAVE HELD, THAT IT IS A CONTINUING OFFENSE AND I
23 THINK THAT IF WE CAN SHOW THERE HAS BEEN A PROFFERING OF THE
24 INFORMATION REQUESTED ON THE CERTIFICATE AT ANY TIME, WHETHER
25 IT BE AFTER THE INDICTMENT OR NOT, THAT IT IS RELEVANT. IF

1 YOU'LL LOOK AT THE PRESIDENTIAL PROCLAMATION OF 1980 NUMBER
2 4771, WHICH REQUIRES REGISTRATION, IT SAYS THAT ALL PERSONS
3 BORN IN THE YEAR 1960 SHALL REGISTER BETWEEN JULY 21 AND JULY
4 26 OF 1980, THE 6 DAY PERIOD. NOW, THE GOVERNMENT HAS GONE
5 BEYOND THAT 6 DAY PERIOD AND INDICTED HIM FOR A TWO-YEAR
6 PERIOD FOLLOWING THAT ON THE BASIS OF CONTINUING OFFENSE, AND
7 IF THEY CAN EXTEND THE PERIOD TWO YEARS, I THINK THAT WE CAN
8 SHOW A PROFFERING OF THE INFORMATION WITHIN ANY TIME PERIOD
9 UP UNTIL THE STATUTE OF LIMITATIONS BEGINS TO RUN, WHICH IS
10 WHAT WE'VE DONE. I THINK THIS IS SOMETHING THAT A JURY COULD
11 FIND TO TAKE THE CASE OUT OF CRIMINAL LIABILITY.

12 THE COURT: LET ME ASK YOU THIS. SUPPOSE THE
13 GOVERNMENT OR THE GRAND JURY HAD BROUGHT AN INDICTMENT OH,
14 SAY IN 1981 AND THERE WAS A CONVICTION. WOULD THIS HAVE
15 PRECLUDED THE GOVERNMENT FROM INDICTING THE DEFENDANT A
16 SECOND TIME OR A THIRD TIME?

17 MR. VAUGHT: NOT THE WAY I SEE IT. IF IT IS IN
18 FACT A CONTINUING OFFENSE, THAT MEANS YOU CAN TAKE ANY TIME
19 PERIOD FROM JULY OF 1980 UP UNTIL HE REACHES 26 AND INDICT
20 HIM FOR IT AND YOU CAN INDICT HIM AS MANY TIMES I GUESS AS
21 YOU WANTED TO. THIS HAS BEEN A CHANGE IN THE LAW, AS I SEE
22 IT, WHICH OVERTURNS OR NOT OVERTURNS BUT IS IN DIRECT
23 CONTRAVENTION TO TOUSSIE VERSUS UNITED STATES WHICH IS THE
24 UNITED STATES SUPREME COURT CASE WHICH HELD IT WAS NOT A
25 CONTINUING OFFENSE. ACCORDING TO EKLUND THE CONGRESS

1 CORRECTED THAT BY ADDING A STATUTE OF LIMITATIONS CLAUSE TO
2 SECTION 462(D) WHICH IS A CRIMINAL OFFENSE. THE REASONING IN
3 EKLUND, I THINK, IS STRAINED BUT IN FACT IT IS APPARENTLY THE
4 LAW AND IF IT'S GOING TO BE A CONTINUING OFFENSE, I THINK
5 THAT WE HAVE THE RIGHT TO RELY ON IT JUST AS MUCH AS THE
6 GOVERNMENT DOES, AND IF THEY CAN EXTEND AN INDICTMENT PERIOD
7 BEYOND THE 6 DAYS LISTED IN THE PRESIDENTIAL PROCLAMATION, I
8 THINK WE HAVE A RIGHT TO PRESENT EVIDENCE TO SHOW PROFFERING
9 OF INFORMATION ANY TIME AFTER THE 6 DAY PERIOD UP UNTIL THE
10 26TH BIRTHDAY.

11 MR. STOLL: JUDGE, OF COURSE, I CAN'T CONCEIVE OF
12 ANY COURT ALLOWING THE GOVERNMENT TO CONTINUE TO PROSECUTE A
13 DEFENDANT FOR FAILING TO REGISTER ONCE IT HAD PROSECUTED HIM,
14 AND I THINK IN YOUR EXAMPLE, CONVICTED HIM. THAT'S THE
15 OFFENSE AND IT'S BEEN CHARGED AND YOU KNOW THE JURY WOULD
16 HAVE RENDERED A DECISION. THIS HAS TAKEN PLACE IN JUNE OF
17 '85. EKLUND AGAIN SPEAKS TO CONTINUING OFFENSE TO CONTINUE
18 THE STATUTE OF LIMITATION OR EXTEND THE STATUTE OF LIMITATION
19 FOR FIVE YEARS PAST THE 26TH BIRTHDAY. IT DOES NOT ADDRESS
20 ITSELF TO THE ARGUMENT WHICH MR. VAUGHT IS NOW RAISING. THE
21 REGISTRATION THE STATUTE TITLE 50 APPENDIX 453 TALKS ABOUT A
22 YOUNG MAN TO SUBMIT TO REGISTRATION, TO PRESENT THEMSELVES
23 AND SUBMIT TO REGISTRATION AT SUCH TIME AND PLACE AS IS
24 DETERMINED BY A PRESIDENTIAL PROCLAMATION AND RULES AND
25 REGULATIONS. THE PRESIDENTIAL PROCLAMATION IN THIS CASE

1 REQUIRED ALL MEN BORN IN 1960 AND THEREAFTER DURING A CERTAIN
2 PERIOD OF TIME TO START PRESENTING THEMSELVES AND REGISTERING
3 AT A POST OFFICE. IT'S COVERED BY THE CFR, BY THE RULES AND
4 REGULATIONS MADE PURSUANT THERETO. IN CFR 32, SECTION
5 1615.1, IT TALKS ABOUT REGISTRATION. IT SAYS REGISTRATION
6 UNDER SELECTIVE SERVICE LAW CONSISTS OF ONE COMPLETING OF THE
7 REGISTRATION CARD PRESCRIBED BY THE DIRECTOR OF SELECTIVE
8 SERVICE BY A PERSON REQUIRED TO REGISTER AND RECORDING OF THE
9 INFORMATION FURNISHED BY THE REGISTRANT ON HIS REGISTRATION
10 CARDS AND RECORDED IN THE MASTER COMPUTER FILE OF THE
11 SELECTIVE SERVICE SYSTEM. HERE WE DON'T HAVE ONE. IT'S
12 TAKEN PLACE AFTER THE FACT. I THINK THE CUTOFF DATE IN THE
13 INDICTMENT WAS 1982. THIS IS A CARD FILLED OUT IN 1985, NOT
14 BY THE PERSON WHO IS REQUIRED TO REGISTER. SO, IT'S AFTER
15 THE FACT AND IT'S NOT SIGNED BY THE PERSON WHO, ACCORDING TO
16 THE PROCLAMATION, WAS TO PRESENT HIMSELF IN THE CFR, AND I
17 THINK IT'S IRRELEVANT.

18 THE COURT: CURRENTLY I SHARE THE GOVERNMENT'S
19 VIEW.

20 MR. VAUGHT: YOUR HONOR, I THINK THAT WE HAVE A
21 RIGHT OR SHOULD HAVE A RIGHT TO SHOW THAT THE INFORMATION
22 THAT THE GOVERNMENT IS REQUESTING HAS BEEN GIVEN TO THEM AND
23 IN FACT I THINK WE CAN SHOW THEY'VE HAD THIS INFORMATION FOR
24 SEVERAL YEARS. IT JUST WAS NOT PUT ON THAT FORM.

25 THE COURT: AND WAS IT SUPPLIED BY THE DEFENDANT?

1 MR. VAUGHT: IT'S BEEN -- ANYTIME ANYONE'S ASKED
2 HIM HE HAS ANSWERED QUESTIONS ABOUT IT, BUT THE PURPOSE IS
3 THAT ALL OF THE INFORMATION ON THAT CARD IS VERY BASIC
4 INFORMATION NAME, ADDRESS, BIRTHDATE AND SOCIAL SECURITY
5 NUMBER. THAT'S INFORMATION THAT THE GOVERNMENT HAS HAD. BUT
6 WE'RE NOT PUTTING THE BURDEN ON THE GOVERNMENT TO GET THAT
7 INFORMATION, WE SUPPLIED IT TO THEM RIGHT NOW. IF IN FACT
8 IT'S A CONTINUING OFFENSE, I THINK WE SHOULD HAVE THE RIGHT
9 TO PRESENT EVIDENCE THAT WITHIN THAT CONTINUING TIME PERIOD
10 WE HAVE OFFERED THE INFORMATION. ALL WE'RE DOING IS SAYING
11 WE OFFERED IT.

12 THE COURT: WHAT DO YOU RELY UPON? HAVE YOU GOT
13 ANY CASE LAW THAT IS SUPPORTIVE OF THAT VIEW?

14 MR. VAUGHT: MY CASE LAW IS EKLUND BECAUSE IT SAYS
15 IT'S A CONTINUING OFFENSE WHICH IS NOT COMPLETE UNTIL THE
16 STATUTE OF LIMITATIONS BEGINS TO RUN AND IF THEY CAN EXTEND
17 THE PERIOD OF REGISTRATION FROM WHAT'S LISTED IN THE
18 PRESIDENTIAL PROCLAMATION FOR TWO YEARS THEREAFTER, THEN WE
19 SHOULD BE ABLE TO PUT ON EVIDENCE UP UNTIL THE 26TH BIRTHDAY.
20 THE PRESIDENTIAL PROCLAMATION SIMPLY SAYS YOU'RE GOING TO
21 REGISTER WITHIN 6 DAYS IN 1980. BUT THE INDICTMENT DOESN'T
22 JUST CHARGE FOR THOSE 6 DAYS IN 1980, IT CHARGES AFTER THAT
23 AND GOES FOR TWO YEARS.

24 THE COURT: BUT IT'S AFTER THE FACT.

25 MR. VAUGHT: BUT IT'S STILL WITHIN THE TIME PERIOD

1 UP UNTIL HIS 26TH BIRTHDAY.

2 THE COURT: WELL, YOU WON'T NEED A DEFINITIVE
3 RULING UNTIL YOU PROFFER THIS, IS THAT CORRECT?

4 MR. VAUGHT: THAT'S CORRECT.

5 THE COURT: PRESENTLY, UNLESS YOU COME UP WITH
6 SOMETHING, I WILL SIDE WITH THE GOVERNMENT'S VIEW. I'D LIKE
7 TO SEE SOMETHING ELSE OTHER THAN THE EIGHTH CIRCUIT CASE.

8 MR. STOLL: JUDGE, THEY ARE NOT GOING TO BE ABLE TO
9 ARGUE THAT IN THEIR OPENING STATEMENT TO THE JURY.

10 THE COURT: NO, NO. I'M GOING TO SUSTAIN THE
11 GOVERNMENT'S OBJECTION IF YOU NEED A RULING RIGHT NOW. SO
12 YOU WILL BE PRECLUDED FROM EITHER MENTIONING THIS ON VOIR
13 DIRE OR THE OPENING STATEMENT. ANYTHING ELSE?

14 MR. STOLL: DO WE NEED TO MAKE THIS AN EXHIBIT?

15 THE COURT: ARE YOU PROFFERING THIS?

16 MR. VAUGHT: YOUR HONOR, WE'RE GOING TO PROFFER IT
17 IN TRIAL. I GUESS IF YOU NEED IT AS AN EXHIBIT TO THIS
18 RULING, GO AHEAD AND GIVE IT.

19 THE COURT: WHAT NUMBER DO YOU WANT TO GIVE IT?

20 MR. STOLL: SINCE IT'S A HEARING ON A MOTION WHAT
21 ABOUT A? SO WE CAN KEEP OUR EXHIBITS FOR THE HEARING
22 SEPARATE FROM THE TRIAL, DEFENDANT'S A. JUDGE, I KNOW IN
23 SEVERAL REMARKS, PUBLIC REMARKS MADE BY MR. JACOB, HE HAS
24 MENTIONED SEVERAL TIMES THAT HE CAN'T UNDERSTAND WHY THE
25 GOVERNMENT WANTS TO IMPRISON HIM FOR FIVE YEARS ON AN OFFENSE

1 OF THIS NATURE. I HAD PROPOSED AN INSTRUCTION -- I SENT THE
2 COURT SOME INSTRUCTIONS AND THERE IS ANOTHER INSTRUCTION THAT
3 I TOLD DEFENSE COUNSEL I WILL PROPOSE AND IT'S THE ONE WHICH
4 THE COURT INSTRUCTS THE JURY THAT PUNISHMENT IS NOT THEIR
5 CONCERN.

6 THE COURT: EXCLUSIVELY TO THE COURT.

7 MR. STOLL: I'D ALSO ASK, AS A MOTION IN LIMINE, TO
8 RESTRICT THE DEFENSE FROM ARGUING THAT PUNISHMENT IS NOT PART
9 OF THE JURY --

10 THE COURT: WHAT ABOUT THAT?

11 MR. HALL: I THINK WE CAN AT LEAST LET THE JURY
12 KNOW THE RANGE OF PUNISHMENT BECAUSE IT'S ON AN INDICTMENT
13 NORMALLY.

14 THE COURT: ANY OBJECTIONS TO THE RANGE?

15 MR. STOLL: YES, YOUR HONOR, IT'S NOT IN THE
16 INDICTMENT. WE DON'T PUT IT IN THE INDICTMENT BECAUSE THE
17 COURT RULINGS -- JUST FOR THAT VERY REASON. AND THE SAME
18 THING AS FAR AS AS ARGUING. YOU KNOW, ONE, IF A CONVICTION
19 IS OBTAINED IT BECOMES THE COURT'S FUNCTION TO SENTENCE, AND
20 I DOUBT THAT THE COURT EVEN KNOWS AT THIS POINT IN TIME WHAT
21 SENTENCE IT'S GOING TO IMPOSE.

22 THE COURT: THAT'S RIGHT.

23 MR. STOLL: AND I WOULD ASSUME THAT THE DEFENDANT
24 PROBABLY HAS AS MUCH CHANCE OF RECEIVING PROBATION OR VERY
25 MINIMAL SENTENCE AS HE DOES TO RECEIVE THE MAXIMUM SENTENCE,

1 AND TO ALLUDE TO THE JURY THAT THE DEFENDANT IS GOING TO BE
2 HAULED OUT AND SHACKLED FOR FIVE YEARS, I THINK CONVEYS THE
3 WRONG IMPRESSION.

4 MR. VAUGHT: YOUR HONOR, WE WILL PUT ON EVIDENCE
5 THAT THE GOVERNMENT HAS MADE STATEMENTS THROUGH THE SELECTIVE
6 SERVICE SYSTEM THAT REGISTRATION IS QUOTE "NO BIG DEAL." OUR
7 POSITION IS THAT IF OUR CLIENT IS INDICTED AND ARRESTED AND
8 IS FACING TRIAL TODAY IT MOST CERTAINLY IS A BIG DEAL, AND I
9 THINK THAT WE SHOULD HAVE THE OPPORTUNITY AT LEAST IN
10 ARGUMENT TO SAY WHAT THAT BIG DEAL MAY WELL BE, AND THAT MAY
11 BE THAT HE'S GOING TO GO TO THE PENITENTIARY FOR A PERIOD OF
12 YEARS. NOW, THIS JUST --

13 THE COURT: WHAT ABOUT THE STATEMENT?

14 MR. VAUGHT: THOSE ARE STATEMENTS THAT WE'VE BEEN
15 TRYING TO GET FROM YOU THAT HAVEN'T COME IN YET SUPPOSEDLY.

16 MR. STOLL: IF WE'RE TALKING ABOUT AN ISSUE THAT'S
17 NOT GOING TO COME UP UNTIL ARGUMENT WE MIGHT WAIT AND SEE HOW
18 TRIAL PROGRESSES. REALLY, I DON'T SEE HOW IT'S SUPPOSED TO
19 COME UP IN OPENING STATEMENT, SO YOU MIGHT NOT HAVE TO RULE
20 ON IT, BUT IT'S OUR POSITION THAT, YOU KNOW, TO ARGUE
21 PUNISHMENT JUST GOES OUTSIDE WHAT IS PROFFERED AND WHAT IS
22 ALLOWED.

23 THE COURT: THAT MIGHT BECOME RELEVANT AT THE
24 CLOSING ARGUMENT, BUT AT THE OPENING YOU ARE SIMPLY TELLING
25 THE JURY WHAT YOU EXPECT TO ESTABLISH.

1 MR. VAUGHT: JOHN IS DOING THE OPENING, SO I'LL LET
2 HIM SAY WHAT HE WAS GOING TO DO.

3 MR. HALL: I'M NOT GOING TO REFER TO THE
4 POSSIBILITY OF JAIL IN THE OPENING STATEMENT, BUT I DID WANT
5 TO ADD THAT THERE ARE PEOPLE IN PRISON FOR VIOLATING THIS
6 STATUTE.

7 THE COURT: OF COURSE.

8 MR. HALL: IN A SIMILAR FASHION, SO THERE IS AT
9 LEAST A POSSIBILITY.

10 THE COURT: THE STATUTE PROVIDES A PERIOD OF TIME
11 NOT IN EXCESSE OF FIVE YEARS AND A FINE OF \$10,000 OR BOTH.

12 MR. HALL: SOMEBODY GOT TWO AND A HALF YEARS. I
13 THINK HE AT LEAST FACES THAT POSSIBILITY, AND WHEN YOU FACE
14 THAT POSSIBILITY, I THINK YOU SHOULD BE ABLE TO RAISE IT TO
15 THE JURY.

16 THE COURT: WELL, YOU DON'T HAVE TO MENTION IT
17 DURING --

18 MR. HALL: NO, I WON'T MENTION IT IN OPENING.

19 THE COURT: SUPPOSE THERE'S NO EVIDENCE TO SUPPORT
20 THE PURPORTED STATEMENT ABOUT NO BIG DEAL ABOUT THE
21 REGISTRATION LAW. DO YOU STILL PROPOSE TO MENTION IT DURING
22 CLOSING?

23 MR. HALL: IT WOULD BE UP TO MR. JACOB'S IF HE
24 TESTIFIES, AND MR. VAUGHT IS GOING TO DO THE CLOSING ARGUMENT
25 SO WE'LL CROSS THAT BRIDGE WHEN WE SEE HOW THE PROOF COMES

1 IN.

2 THE COURT: OKAY,, FINE.

3 MR. STOLL: IT'S JUST OUR POSITION, AND I'LL HAVE A
4 COPY OF THAT PROPOSED INSTRUCTION, IT'S A STANDARD
5 INSTRUCTION OUT OF DEVITT AND BLACKMAR, AND I THINK IT'S
6 STANDARD LAW TO THE EIGHTH CIRCUIT.

7 THE COURT: IT IS. PUNISHMENT IS LEFT EXCLUSIVELY
8 TO THE COURT, AND THE JURY NEED NOT CONCERN ITSELF. BUT AS I
9 UNDERSTAND IT, THERE ARE SOME PURPORTED STATEMENTS MADE BY
10 THE GOVERNMENT THAT SERVES AS A FOUNDATION FOR THIS. I THINK
11 THIS IS THEIR POSITION.

12 ALL RIGHT, ANYTHING ELSE?

13 MR. HALL: NO, YOUR HONOR.

14 THE COURT: OKAY. BE READY IN ABOUT THREE MINUTES?

15 MR. STOLL: FINE.

16 (END OF IN-CHAMBERS PROCEEDINGS.)

17 THE COURT: GOOD MORNING. THE NEXT CASE ON THE
18 COURT'S DOCKET IS THE CASE OF UNITED STATES OF AMERICA VERSUS
19 PAUL JACOB, CASE NUMBER LR-CR-82-119. ARE COUNSEL AND THE
20 PARTIES READY TO PROCEED?

21 MR. STOLL: UNITED STATES IS READY, YOUR HONOR.

22 MR. VAUGHT: DEFENDANT IS READY, YOUR HONOR.

23 THE COURT: GENTLEMEN, DO WE NEED ANY ALTERNATES?

24 MR. STOLL: JUDGE, I ANTICIPATE IT'S PROBABLY GOING
25 TO BE A TWO DAY TRIAL.

1 MR. HALL: I DON'T HAVE ANY PREFERENCE ONE WAY OR
2 ANOTHER, BUT WE ARE GOING TO INSIST ON A TRIAL TO A FULL JURY
3 OF TWELVE, SO IT PROBABLY WOULD BE WISE, I GUESS, TO HAVE AN
4 ALTERNATE.

5 THE COURT: IN OTHER WORDS, YOU WOULD NOT BE IN A
6 POSITION TO STIPULATE THAT IN THE EVENT IT BECOMES NECESSARY
7 TO EXCUSE ONE OR MORE JURORS THAT YOU WILL TRY THE ISSUES TO
8 THE SURVIVORS?

9 MR. HALL: NO, YOUR HONOR.

10 THE COURT: THEREFORE, MR. STOLL, YOU THINK PERHAPS
11 WE OUGHT -- WHAT IS THE GOVERNMENT'S POSITION?

12 MR. STOLL: IN VIEW OF THAT I WOULD ASSUME WE WOULD
13 NEED AN ALTERNATE.

14 THE COURT: ALL RIGHT, LET THE RECORD REFLECT THAT
15 WE WILL SELECT THE TRADITIONAL TWELVE AND ONE ALTERNATE.
16 LADIES AND GENTLEMEN OF THE JURY, IT IS MY DISTINCT PRIVILEGE
17 AND PLEASURE TO WELCOME YOU TO FEDERAL COURT THIS MORNING.
18 NOW, SOME OF YOU HAVE SERVED PREVIOUSLY IN THIS COURT AND YOU
19 KNOW EXACTLY WHAT I'M ABOUT TO SAY. ON THE OTHER HAND, THERE
20 ARE OTHERS WHO ARE APPEARING FOR THE FIRST TIME. NOW, THE
21 COURT IS AWARE THAT MANY OF YOU, IN RESPONDING TO THE CALL,
22 ARE CONFRONTED WITH CERTAIN PERSONAL INCONVENIENCES. FOR
23 EXAMPLE, THE HOUSEWIFE COULD BE ABOUT HER BUSINESS AT HOME.
24 THE PROFESSIONAL MAN COULD BE ABOUT HIS CHORES, AS WELL AS
25 THE BUSINESSMAN ABOUT HIS ENDEAVORS. BUT THERE ARE CERTAIN

1 FACTUAL MATTERS IN THIS CASE THAT WILL HAVE TO BE RESOLVED BY
2 A JURY. THEREFORE, WE NEED YOUR INPUT IN ORDER TO SEE THAT
3 JUSTICE IS FULLY IMPLEMENTED AND REALIZED. THEREFORE, THESE
4 LITTLE INCONVENIENCES THAT YOU ARE FACED WITH BY RESPONDING
5 TO THE CALL ARE WORTHWHILE INDEED, AND JUSTICE COULD NOT BE
6 COMPLETE OR FULLY IMPLEMENTED WITHOUT YOUR PARTICIPATION.
7 AND THE COURT HASTENS TO POINT THIS OUT TO YOU THIS MORNING.

8 MADAM CLERK, IN VIEW OF THE FACT THAT WE WILL NEED
9 ONE ALTERNATE, I'M GOING TO ASK YOU AT THIS TIME TO CALL THE
10 FIRST 31 JURORS.

11 THE CLERK: ROBERT GREEN, ROBERT LYNCH, CHRISTINA
12 VAN DALSEN, VERMA MCCLINTON, GARY FOSHEE, JAMES LAMAR,
13 CHARLES CLAY, PATSY HUMES, MICHAEL DILLEHAY, MILDRED GIBSON,
14 CHARLES LAMPKIN, DONALD MONK, ROBERT HIGGINBOTTOM, DEBRA
15 HARVEY, T. H. PETEN, GARY ROBERTS, HARRY CAMPBELL, BRUCE
16 EPPERSON, PATRICIA PARR, MICHAEL HAHN, REX POLLARD, KENNETH
17 RAWLINS, VIRGINIA GANN, GLADYS NEWELL, RUBY YOUNG, DONNA
18 PETRUK, DI ANNA JACKSON, WALTER CATON, BILLY MCCHRISTIAN,
19 BETTY WALDEN, DORI DRUMMOND,

20 THAT'S 31, YOUR HONOR.

21 THE COURT: ALL RIGHT, THANK YOU, MADAM CLERK.
22 NOW, I'M GOING TO ADMONISH THOSE JURORS WHO WERE NOT CALLED
23 IN THE FIRST 31 JURORS JUST CALLED BY THE CLERK TO LISTEN
24 CAREFULLY TO THE STATEMENTS AND THE OBSERVATIONS OF THE COURT
25 AS WELL AS THE REPLIES REGISTERED BY YOUR FELLOW JURORS.

1 NOW, AS I STATED PREVIOUSLY, THIS IS A CRIMINAL
2 CASE THAT COMES BEFORE YOU AS A CONSEQUENCE OF AN INDICTMENT
3 NOW ON FILE IN THE CLERK'S OFFICE. THE INDICTMENT READS AS
4 FOLLOWS. THAT BEGINNING ON OR ABOUT THE 27TH DAY OF JULY,
5 1980 AND CONTINUING TO AT LEAST THE 23RD DAY OF JULY 1982 IN
6 THE EASTERN DISTRICT OF ARKANSAS PAUL JACOB, BEING A PERSON
7 REQUIRED TO PRESENT HIMSELF FOR AND SUBMIT TO REGISTRATION
8 PURSUANT TO THE MILITARY SELECTIVE SERVICE ACT RULES AND
9 REGULATIONS DULY MADE PURSUANT THERETO AND PRESIDENTIAL
10 PROCLAMATION OF JULY 2, 1980 DID KNOWINGLY AND WILLFULLY
11 FAIL, NEGLECT AND REFUSE TO PRESENT HIMSELF FOR AND SUBMIT TO
12 SUCH REGISTRATION IN VIOLATION OF TITLE 50 UNITED STATES CODE
13 APPENDIX SECTIONS 453 AND 462(A).

14 THE DEFENDANT, MR. JACOB, HAS ENTERED A NOT GUILTY
15 PLEA TO THE CHARGES CONTAINED IN THIS INDICTMENT. AS A
16 CONSEQUENCE, THERE ARE FACTUAL ISSUES THAT MUST BE RESOLVED
17 BY A JURY. NOW, I HASTEN TO ADD AND POINT OUT THAT THE
18 INGREDIENTS OF THIS INDICTMENT ARE NOT EVIDENCE. THE
19 EVIDENCE WILL COME FROM THIS WITNESS STAND THROUGH TESTIMONY
20 PROFFERED BY THE GOVERNMENT, THROUGH WITNESSES AS WELL AS ANY
21 DOCUMENTS, IF ANY, PROFFERED BY THE GOVERNMENT.

22 NOW, THIS INDICTMENT SERVES ESSENTIALLY TWO
23 PURPOSES. FIRST, THIS IS A FORMAL METHOD BY WHICH THE
24 GOVERNMENT EMPLOYS IN REGISTERING THIS CHARGE IN COURT
25 AGAINST THE DEFENDANT, AND IT SERVES AS A MEDIUM BY WHICH THE

1 DEFENDANT IS INFORMED OF THE NATURE OF THE CHARGES PENDING
2 AGAINST HIM. AND CONSEQUENTLY, THIS INDICTMENT SERVES NO
3 OTHER USEFUL OR BENEFICIAL PURPOSE. AS A MATTER OF FACT, THE
4 GOVERNMENT HAS THE DUTY AND RESPONSIBILITY TO ESTABLISH THE
5 DEFENDANT'S GUILT BY COMPETENT EVIDENCE BEYOND A REASONABLE
6 DOUBT. MOREOVER, THE DEFENDANT COMES INTO THIS COURTROOM
7 WITH A PRESUMPTION OF INNOCENCE. THIS IS BASIC UNDER
8 AMERICAN JURISPRUDENCE. AS A MATTER OF FACT, IT REMAINS WITH
9 HIM UNTIL SUCH TIME AS THE JURY THAT IS HEARING THIS CASE IS
10 PERSUADED THAT THE GOVERNMENT HAS ESTABLISHED THE DEFENDANT'S
11 GUILT BY COMPETENT EVIDENCE BEYOND A REASONABLE DOUBT.

12 NOW, SOME OF YOU, AS I INDICATED EARLIER, HAVE
13 SERVED PREVIOUSLY IN THIS COURT AND, THEREFORE, YOU ARE
14 KNOWLEDGEABLE OF THE TERM THAT I'M ABOUT TO USE, AND THAT
15 TERM IS VOIR DIRE. ON THE OTHER HAND, I RECOGNIZE THAT THERE
16 ARE JURORS REPORTING FOR THE FIRST TIME AND THEREFORE MAY NOT
17 BE FAMILIAR WITH THIS TERM. I'M GOING TO TAKE A FEW MINUTES
18 TO SUMMARIZE THE MEANING OF THIS TERM AND ITS USE.

19 UNDER AMERICAN JURISPRUDENCE EVERY DEFENDANT WHO
20 COMES INTO THIS COURTROOM IS ENTITLED TO A JURY THAT WILL
21 AFFORD HIM A FAIR AND AN IMPARTIAL TRIAL. IN ORDER TO MAKE
22 SURE THAT THE JURY THAT IS SITTING IN JUDGMENT CAN BE FAIR
23 AND IMPARTIAL, THE LAW SETS UP A PROCEDURE BY WHICH THE
24 ATTORNEYS ARE PERMITTED TO ASK QUESTIONS IN ORDER TO KNOW
25 SOMETHING ABOUT EACH AND EVERY JUROR. TRADITIONALLY, THE

1 COURT WILL COMMENCE THE VOIR DIRE PROCEDURE WITH A GENERAL
2 VOIR DIRE. AS A MATTER OF FACT, THE ATTORNEYS HAVE BEFORE
3 THEM A COMPUTER PRINTOUT WHICH HAS THE NAME OF EACH JUROR IN
4 THIS COURTROOM THIS MORNING. AMONG OTHER THINGS, THAT
5 INFORMATION TELLS THEM SOMETHING ABOUT YOUR MARITAL STATUS,
6 HOW LONG YOU'VE RESIDED IN THE JURISDICTION OF THIS COURT,
7 AND WHERE YOU ARE EMPLOYED.

8 NOW, THIS INFORMATION IS DISCLOSED TO ASSIST THEM
9 IN EXERCISING TWO TYPES OF CHALLENGES THAT THE LAW AFFORDS
10 EACH SIDE. FOR EXAMPLE, IF IT IS DEMONSTRATED THAT A JUROR
11 OR JURORS ARE RELATED TO SOME OF THE PARTIES TO THIS CASE OR
12 ARE RELATED TO THE ATTORNEYS PARTICIPATING IN THIS CASE OR
13 THERE ARE JURORS WHO ARE CURRENTLY EMPLOYED BY THE UNITED
14 STATES GOVERNMENT OR IF THERE'S A JUROR WHO IS CURRENTLY
15 DOING BUSINESS WITH THE GOVERNMENT OR ANTICIPATES DOING
16 BUSINESS WITH THE GOVERNMENT IN THE FUTURE, THE ATTORNEYS
17 WOULD ASK THE COURT TO EXCUSE THAT JUROR OR THOSE JURORS FOR
18 CAUSE.

19 THEN THAT SECOND TYPE OF CHALLENGE IS DESIGNATED OR
20 CHARACTERIZED AS PREEMPTORY CHALLENGE. IN OTHER WORDS, THEY
21 MAY EXCUSE A SET NUMBER OF JURORS FOR ANY REASON OR NO REASON
22 AT ALL. BUT BEFORE THEY CAN EXERCISE, THAT IS TO SAY THESE
23 ATTORNEYS CAN EXERCISE THESE CHALLENGES INTELLIGENTLY, THEY
24 MUST KNOW SOMETHING ABOUT YOU. THEREFORE, THE COMPUTER
25 PRINTOUT AND ALSO VOIR DIRE. AND THE INFORMATION THAT WILL

1 BE ELICITED DURING THIS VOIR DIRE PROCEEDING IS NOT FOR THE
2 PURPOSE OF DISCLOSING YOUR PERSONAL AFFAIRS FOR THE SAKE OF
3 DOING SO BUT SIMPLY TO ASSIST THESE ATTORNEYS IN KNOWING
4 SOMETHING ABOUT YOU AND ENABLING THEM TO EXERCISE THESE
5 CHALLENGES INTELLIGENTLY. BRIEFLY, THIS IS THE PURPOSE AND
6 THE MEANING OF VOIR DIRE.

7 AT THIS TIME I'M GOING TO ASK THE DEFENDANT TO
8 STAND AND FACE THE JURY. ALL RIGHT, YOU MAY BE SEATED. I'M
9 GOING TO ASK MR. STOLL, WHO IS REPRESENTING THE UNITED STATES
10 OF AMERICA, TO HAVE HIS REPRESENTATIVE TO STAND IF THERE'S A
11 REPRESENTATIVE ASSOCIATED.

12 MR. STOLL: SANDRA CHERRY, YOUR HONOR.

13 THE COURT: ALL RIGHT. THE CASE AGENT IS NOT
14 PRESENT OR PARTICIPATING?

15 MR. STOLL: NO, YOUR HONOR.

16 THE COURT: ALL RIGHT.

17 MR. STOLL: DOUG COTTERMAN IS THE ONE WHO DID THE
18 INVESTIGATION IF THE NAME COMES UP, YOUR HONOR.

19 THE COURT: ALL RIGHT. AT THIS TIME I'M GOING TO
20 ASK COUNSEL TO STAND AND IDENTIFY THEMSELVES AND THE FIRM
21 WITH WHICH EACH IS ASSOCIATED. STARTING FIRST WITH COUNSEL
22 FOR THE DEFENDANT.

23 MR. VAUGHT: GOOD MORNING. MY NAME IS LARRY
24 VAUGHT, AND I'M A SOLE PRACTITIONER IN LITTLE ROCK
25 REPRESENTING PAUL JACOB.

1 MR. HALL: I'M JOHN HALL, SOLE PRACTITIONER HERE IN
2 LITTLE ROCK.

3 THE COURT: ALL RIGHT, MR. STOLL HAS ALREADY
4 IDENTIFIED HIMSELF AND HIS ASSISTANT MRS. CHERRY. NOW, TO
5 THE JURORS, IF YOUR REPLY OR IF YOUR ANSWER TO A QUESTION IS
6 YES OR IN THE AFFIRMATIVE, THE COURT WOULD LIKE FOR YOU TO
7 STAND AND GIVE YOUR FULL NAME. IF YOUR RESPONSE TO A
8 QUESTION POSED BY THE COURT IS YES, KINDLY STAND AND GIVE
9 YOUR FULL NAME. THIS WOULD APPLY TO THE FIRST 31 JURORS
10 CALLED BY THE CLERK. DO YOU KNOW THE DEFENDANT IN THIS CASE
11 MR. JACOB OR ARE YOU PERSONALLY ACQUAINTED WITH HIM? ARE YOU
12 RELATED TO HIM BY BLOOD OR MARRIAGE OR DO YOU HAVE ANY
13 BUSINESS DEALINGS WITH THE DEFENDANT OR ANY IMMEDIATE MEMBER
14 OF HIS FAMILY? IF THAT ANSWER WOULD BE YES, KINDLY STAND AND
15 GIVE YOUR FULL NAME. DO YOU KNOW THE DEFENDANT OR ARE YOU
16 RELATED TO HIM, ARE YOU CURRENTLY DOING BUSINESS WITH HIM OR
17 ANY MEMBER OF HIS IMMEDIATE FAMILY? IF THAT ANSWER IS YES,
18 KINDLY STAND AND GIVE YOUR FULL NAME.

19 (NO RESPONSE.)

20 THE COURT: DO YOU KNOW ANY OF THE ATTORNEYS
21 INVOLVED IN THIS CASE? ARE THEY CURRENTLY REPRESENTING YOU
22 OR DO YOU ANTICIPATE EMPLOYING OR ENGAGING THEM IN THE
23 FUTURE? IF THAT ANSWER IS YES, KINDLY STAND AND GIVE YOUR
24 FULL NAME. DO YOU KNOW THESE LAWYERS? HAVE YOU HAD ANY
25 BUSINESS DEALINGS WITH THEM OR DO YOU ANTICIPATE HAVING ANY

1 BUSINESS DEALINGS WITH THEM?

2 (NO RESPONSE.)

3 THE COURT: HAVE YOU SERVED AS A JUROR EITHER IN
4 STATE COURT OR FEDERAL COURT BEFORE TODAY? IF THAT ANSWER IS
5 YES KINDLY, STAND AND GIVE YOUR FULL NAME. HAVE YOU SERVED
6 PREVIOUSLY AS A JUROR.

7 THE COURT: ALL RIGHT, STARTING IN THE JURY BOX
8 FIRST ROW. YOUR FULL NAME, SIR?

9 MR. GREEN: ROBERT GREEN.

10 THE COURT: HAVE YOU SERVED PREVIOUSLY AS A JUROR?

11 MR. GREEN: FEDERAL JUROR YES.

12 THE COURT: WHEN WAS THIS?

13 MR. GREEN: ABOUT A MONTH AGO.

14 THE COURT: WHAT TYPE OF CASE WAS IT?

15 MR. GREEN: CIVIL.

16 THE COURT: WAS THIS THE VERY FIRST TIME?

17 MR. GREEN: YES.

18 MS. VAN DALSEN: CHRISTINA VAN DALSEN, FEDERAL
19 CIVIL CASE ABOUT A MONTH AGO.

20 THE COURT: VERY FIRST TIME?

21 MS. VAN DALESN: UH-HUH.

22 THE COURT: YOU MAY BE SEATED.

23 MR. FOSHEE: GARY FOSHEE, FEDERAL, ABOUT TWO WEEKS
24 AGO, I GUESS.

25 THE COURT: CIVIL CASE?

1 MR. FOSHEE: YES.

2 THE COURT: FIRST TIME?

3 MR. FOSHEE: UH-HUH.

4 MR. LAMAR: JAMES LAMAR, FEDERAL COURT, TWICE.
5 ONCE IN YOUR COURTROOM.

6 THE COURT: CIVIL?

7 MR. LAMAR: YES.

8 THE COURT: YOU MAY BE SEATED.

9 MR. CLAY: CHARLES CLAY. I WAS HERE IN FEDERAL
10 COURT, A CIVIL CASE ABOUT TWO WEEKS AGO.

11 THE COURT: FIRST TIME?

12 MR. CLAY: FIRST TIME.

13 MS. HUMES: PATSY HUMES, AND IT WAS FEDERAL. IT
14 WAS A CIVIL CASE ABOUT A MONTH AGO.

15 THE COURT: FIRST TIME?

16 MS. HUMES: FIRST TIME.

17 MS. GIBSON: MILDRED GIBSON, FEDERAL, CIVIL CASE.

18 THE COURT: FIRST TIME?

19 MS. GIBSON: YES.

20 MR. MONK: DONALD MONK, FEDERAL COURT, CIVIL CASE
21 ABOUT A MONTH AGO.

22 THE COURT: FIRST TIME?

23 MR. MONK: YES, SIR.

24 THE COURT: ALL RIGHT.

25 MR. HIGGINBOTTOM: ROBERT HIGGINBOTTOM, ABOUT TWO

1 WEEKS AGO FEDERAL, CIVIL, FIRST TIME.

2 MS. HARVEY: DEBRA HARVEY, CIVIL CASE, FEDERAL,
3 ABOUT TWO WEEKS AGO.

4 THE COURT: FIRST TIME?

5 MS. HARVEY: YES, SIR.

6 MR. CAMPBELL: HARRY CAMPBELL, ABOUT A MONTH AGO,
7 CIVIL.

8 THE COURT: FIRST TIME?

9 MR. CAMPBELL: YES, SIR.

10 THE COURT: ALL RIGHT, BE SEATED.

11 MR. HAHN: MICHAEL HAHN, ABOUT TWO WEEKS AGO,
12 FEDERAL CIVIL CASE.

13 THE COURT: FIRST TIME?

14 MR. HAHN: FIRST TIME.

15 MR. POLLARD: REX POLLARD, FIRST OF THE MONTH,
16 CIVIL CASE, FEDERAL COURT. COUNTY COURT, WHITE COUNTY, TEN
17 YEARS AGO.

18 THE COURT: THIS CASE IN THE CIRCUIT COURT, WAS IT
19 A CIVIL OR CRIMINAL CASE?

20 MR. POLLARD: BOTH KINDS, SIR.

21 MR. ROBERTS: GARY ROBERTS, FEDERAL COURT ABOUT A
22 MONTH AGO.

23 THE COURT: FIRST TIME?

24 MR. ROBERTS: YES, SIR.

25 THE COURT: MADAM?

1 MS. WALDEN: BETTY WALDEN, FEDERAL COURT, CIVIL,
2 TWO WEEKS AGO.

3 THE COURT: FIRST TIME?

4 MS. WALDEN: FIRST TIME.

5 THE COURT: ALL RIGHT. MADAM?

6 MS. NEWELL: GLADYS NEWELL, AND I SERVED IN YOUR
7 COURT ABOUT THREE WEEKS AGO.

8 THE COURT: AND THAT WAS A CIVIL CASE?

9 MS. NEWELL: YES, SIR.

10 THE COURT: VERY FIRST TIME?

11 MS. NEWELL: NO, THAT WAS MY SECOND TIME.

12 THE COURT: ALL RIGHT. WELL, THE FIRST TIME, WHAT
13 TYPE OF CASE WAS IT, CIVIL OR CRIMINAL?

14 MS. NEWELL: I DON'T REMEMBER.

15 THE COURT: WAS IT A CRIMINAL CASE?

16 MS. NEWELL: ARE YOU TALKING TO ME?

17 THE COURT: YES, MA'AM.

18 MS. NEWELL: I HAVE SERVED TWO TIMES, THE FIRST
19 TIME WAS I DON'T KNOW. I DON'T REMEMBER, AND IN YOUR COURT
20 ABOUT THREE WEEKS AGO.

21 THE COURT: MADAM.

22 MS. PETRUK: DONNA PETRUK, FEDERAL, CIVIL, MY FIRST
23 TIME ABOUT A MONTH AGO.

24 MS. JACKSON: DI ANNA JACKSON, TWO WEEKS AGO, FIRST
25 TIME, CIVIL CASE.

1 MR. MCCHRISTIAN: BILLY MCCHRISTIAN, AND I HAVE
2 SERVED SEVERAL TIMES IN JACKSON COUNTY ON BOTH CIVIL AND
3 CRIMINAL, BUT IT HAS BEEN SIX TO TEN YEARS AGO.

4 THE COURT: AND THIS IS THE FIRST TIME YOU'VE
5 PARTICIPATED FEDERAL WISE, IS THAT CORRECT?

6 MR. MCCHRISTIAN: YES, SIR.

7 THE COURT: ALL RIGHT, YOU MAY BE SEATED. ALL
8 RIGHT, CONTINUING. HAVE YOU OR HAS ANY MEMBER OF YOUR
9 IMMEDIATE FAMILY EVER BEEN THE VICTIM OF A CRIME OR
10 PARTICIPATED IN OR BEEN INVOLVED IN A CRIMINAL CASE OR A
11 CRIMINAL INVESTIGATION AS A COMPLAINANT, A DEFENDANT, OR A
12 WITNESS OR IN ANY OTHER CAPACITY? IF THAT ANSWER IS YES,
13 KINDLY STAND. HAVE YOU BEEN A VICTIM OF A CRIME OR ANY
14 MEMBER OF YOUR IMMEDIATE FAMILY OR HAVE YOU SERVED IN ANY
15 CAPACITY IN A CRIMINAL PROCEEDING, EITHER AS A WITNESS, AS A
16 COMPLAINING PARTY OR IN ANY OTHER CAPACITY? IF THAT ANSWER
17 IS YES, KINDLY STAND AND GIVE YOR FULL NAME.

18 MR. MONK: DONALD MONK, I'M A RETIRED NORTH LITTLE
19 ROCK POLICE OFFICER. I SEVERAL TIMES SERVED IN THAT
20 CAPACITY.

21 THE COURT: ALL RIGHT.

22 MR. ROBERTS: GARY ROBERTS. MY FATHER HAS HAD
23 SOMETHING STOLEN, A THREE WHEELER. HE PRESSED CHARGES FOR
24 THEFT.

25 THE COURT: NOW, THE FACT THAT YOUR FATHER HAS BEEN

1 INVOLVED IN CRIMINAL PROCEEDINGS, WOULD THIS IN ANY WAY
2 PRECLUDE YOU OR PREVENT YOU FROM AFFORDING BOTH MR. JACOB AND
3 THE UNITED STATES GOVERNMENT A FAIR TRIAL IF YOU ARE SELECTED
4 TO SIT IN JUDGMENT IN THIS CASE?

5 MR. ROBERTS: IT WOULD NOT.

6 THE COURT: YOU COULD SET THAT ASIDE AND BASE YOUR
7 VERDICT SOLELY ON THE TESTIMONY THAT IS PRESENTED DURING THE
8 COURSE OF THIS TRIAL?

9 MR. ROBERTS: YES, SIR.

10 THE COURT: ALL RIGHT, I'M GOING TO ASK THE JUROR
11 WHO INDICATED THAT HE SERVED IN THE CAPACITY OF A LAW
12 ENFORCEMENT OFFICER, THE FACT THAT YOU FORMERLY WERE A LAW
13 ENFORCEMENT OFFICER AND AS A CONSEQUENCE PARTICIPATED IN
14 CRIMINAL PROCEEDINGS, WOULD THIS IN ANY WAY PREVENT YOU FROM
15 AFFORDING BOTH THE GOVERNMENT AND THE DEFENDANT A FAIR AND
16 IMPARTIAL TRIAL?

17 MR. MONK: NO, SIR, IT WOULD NOT.

18 THE COURT: YOU COULD SET THAT RELATIONSHIP ASIDE
19 AND BASE YOUR VERDICT SOLELY ON THE EVIDENCE.

20 MR. MONK: YES, SIR, I WOULD.

21 THE COURT: ALL RIGHT, YOU MAY BE SEATED, THE TWO
22 OF YOU.

23 MR. RAWLINS: MY NAME IS KENNETH RAWLINS, AND MY
24 AUNT HAD HER HOME BURGLARIZED.

25 THE COURT: WOULD THIS IN ANY WAY COLOR YOUR

1 JUDGMENT TO THE EXTENT THAT YOU COULD NOT AFFORD BOTH THE
2 GOVERNMENT AND THE DEFENDANT A FAIR TRIAL?

3 MR. RAWLINS: NO, SIR.

4 THE COURT: YOU COULD SET THAT ASIDE AND BASE YOUR
5 VERDICT SOLELY ON THE EVIDENCE.

6 MR. RAWLINS: YES, SIR.

7 THE COURT: MADAM?

8 MS. MCCLINTON: MY NAME IS VERMA MCCLINTON, AND MY
9 SON IS IN SERVICE AND HE WENT AWOL.

10 THE COURT: WOULD THIS IN ANY WAY PREVENT YOU FROM
11 AFORWARDING BOTH THE GOVERNMENT AND THE DEFENDANT A FAIR
12 TRIAL IF YOU ARE SELECTED?

13 MS. MCCLINTON: NO, SIR.

14 THE COURT: YOU COULD SET THAT ASIDE AND DISREGARD
15 IT COMPLETELY?

16 MS. MCCLINTON: YES, SIR.

17 THE COURT: AND BASE YOUR VERDICT SOLELY ON THE
18 EVIDENCE?

19 MS. MCCLINTON: YES, SIR.

20 THE COURT: ANYBODY ELSE?

21 MS. WALDEN: BETTY WALDEN, AND I WAS ROBBED TWICE
22 AND WAS A WITNESS IN LOCAL COURTS.

23 THE COURT: NOW, WOULD THIS PREVENT YOU FROM
24 AFFORDING THE PARTIES TO THIS ACTION A FAIR AND IMPARTIAL
25 TRIAL IF YOU ARE SELECTED?

1 MS. WALDEN: NO, SIR.

2 THE COURT: YOU COULD DISREGARD IT COMPLETELY?

3 MS. WALDEN: YES, SIR.

4 THE COURT: ALL RIGHT, YOU MAY BE SEATED. ANYBODY
5 ELSE? ALL RIGHT, CONTINUING. DO YOU KNOW OR DO YOU BELIEVE
6 YOU MIGHT KNOW ANYTHING AT ALL ABOUT THE FACTS IN THIS CASE?
7 HAVE YOU READ ABOUT IT, HAVE YOU HEARD ABOUT IT, HAS ANYBODY
8 TALKED TO YOU ABOUT THIS CASE? IF THE ANSWER IS YES, KINDLY
9 STAND AND GIVE YOUR FULL NAME. HAVE YOU FORMED AN OPINION
10 ABOUT THE FACTS OF THIS CASE? IF SO, KINDLY STAND AND GIVE
11 YOUR FULL NAME. HAVE YOU HEARD ABOUT THIS CASE? STARTING IN
12 THE JURY BOX.

13 MR. GREEN: ROBERT GREEN. IT'S BEEN ON T. V. LAST
14 NIGHT AS A MATTER OF FACT. IT'S BEEN COVERAGE IN THE
15 NEWSPAPER AND I'VE READ INFORMATION ON IT. I HAVEN'T FORMED
16 ANY PARTICULAR OPINION ABOUT IT.

17 THE COURT: YOU HAVE NOT FORMED AN OPINION.

18 MR. GREEN: NO, SIR.

19 THE COURT: COULD YOU DISREGARD WHAT YOU HAVE SEEN
20 AND WHAT YOU HAVE HEARD AND READ AND BASE YOUR VERDICT SOLELY
21 ON THE TESTIMONY THAT IS PRESENTED DURING THE COURSE OF THIS
22 TRIAL?

23 MR. GREEN: YES, SIR.

24 MR. DILLEHAY: MY NAME IS MICHAEL DILLEHAY. I HAVE
25 HEARD NOTHING ABOUT THIS CASE OTHER THAN WHAT HAS BEEN

1 PRESENTED BEFORE ME THIS MORNING, BUT I FEEL THAT IF THERE
2 ARE ANY POSSIBLE GROUNDS FOR THE CHARGE OF NOT REGISTERING
3 FOR THE SELECTIVE SERVICE ACT THAT I WOULD NOT BE ABLE TO
4 GIVE AN IMPARTIAL DECISION ON THAT, BECAUSE I FEEL VERY
5 STRONGLY ABOUT THAT.

6 THE COURT: YOU FEEL THAT YOU COULD NOT BASE YOUR
7 VERDICT SOLELY ON THE TESTIMONY THAT IS PRESENTED DURING THE
8 COURSE OF THE TRIAL AND FOLLOW THE INSTRUCTIONS OF THE COURT
9 APPLYING THE LAW TO THE ISSUES IN THIS CASE?

10 MR. DILLEHAY: NO, SIR. WITH THE NATURE OF THE
11 CASE AND MY FEELINGS TOWARD THE SELECTIVE SERVICE AND THE
12 MILITARY OF THIS COUNTRY, I HAVE MORE OR LESS ALREADY FORMED
13 AN OPINION IN THE FEW MINUTES I HAVE BEEN HERE.

14 THE COURT: ALL RIGHT, YOU MAY STEP ASIDE. THE
15 COURT WILL EXCUSE YOU. MADAM CLERK, WILL YOU KINDLY CALL
16 ANOTHER JUROR?

17 THE CLERK: NETTIE DACUS.

18 THE COURT: MS. DACUS, HAVE YOU BEEN IN THE
19 COURTROOM SINCE THESE PROCEEDINGS COMMENCED?

20 MS. DACUS: I WAS IN YOUR COURT ABOUT TWO OR THREE
21 WEEKS AGO.

22 THE COURT: I UNDERSTAND THAT, BUT WHAT I'M ASKING
23 NOW HAVE YOU BEEN IN THIS COURTROOM SINCE WE STARTED THIS
24 MORNING?

25 MS. DACUS: YES.

1 THE COURT: HAVE YOU LISTENED CAREFULLY TO THE
2 STATEMENTS AND OBSERVATIONS MADE BY THE COURT AND THE REPLIES
3 REGISTERED BY YOUR FELLOW JURORS?

4 MS. DACUS: YES, SIR.

5 THE COURT: IS THERE ANYTHING YOU WISH TO CALL TO
6 THE COURT'S ATTENTION AT THIS POINT THAT MIGHT HAVE SOME
7 BEARING ON YOUR ABILITY TO SERVE IMPARTIALLY AND FAIRLY AS A
8 JUROR IN THIS CASE?

9 MS. DACUS: NO, SIR.

10 THE COURT: NOW, THE LAST QUESTION WAS WHETHER
11 JURORS HAVE READ ANYTHING ABOUT THIS CASE, TALKED TO ANYBODY
12 ABOUT THIS CASE OR FORMULATED AN OPINION ABOUT THE ISSUES IN
13 THIS CASE. HAVE YOU READ ABOUT THE CASE?

14 MS. DACUS: NO, SIR.

15 THE COURT: HAVE YOU FORMED AN OPINION ABOUT THE
16 CASE?

17 MS. DACUS: NO, SIR.

18 THE COURT: ALL RIGHT, YOU MAY BE SEATED. ALL
19 RIGHT, SIR.

20 MR. LAMAR: JAMES LAMAR. I HAVE HEARD ABOUT THE
21 CASE. I HEARD ABOUT THE CASE LAST NIGHT ON T. V. UPON DOING
22 SO, I DID TURN IT OFF, REALIZING THAT I MIGHT BE IN THIS
23 TRIAL.

24 THE COURT: AND AS A CONSEQUENCE YOU HAVE NOT
25 FORMED AN OPINION?

1 MR. LAMAR: NO, SIR.

2 THE COURT: ALL RIGHT, YOU MAY BE SEATED.

3 MR. MONK: DON MONK. I HAVE READ IT IN THE NEWS,
4 ABOUT THE CASE, IN THE NEWS MEDIA, BUT I HAVEN'T FORMED AN
5 OPINION ONE WAY OR THE OTHER ABOUT IT.

6 THE COURT: ALL RIGHT, YOU MAY BE SEATED.

7 MR. ROBERTS: GARY ROBERTS, THIS MORNING WHILE
8 SHAVING, GETTING READY TO COME UP HERE I HEARD THE WORDS
9 DRAFT REGISTRATION AND TRIAL ON THE RADIO. I DIDN'T HEAR
10 ANYTHING ELSE.

11 THE COURT: HAVE YOU FORMED AN OPINION ABOUT THE
12 ISSUES IN THIS CASE?

13 MR. ROBERTS: NO, SIR.

14 THE COURT: ALL RIGHT, YOU MAY BE SEATED. ALL
15 RIGHT, SIR.

16 MR. HAHN: MY NAME IS MICHAEL HAHN AND I'VE READ
17 QUITE A BIT OF IT IN THE NEWSPAPER.

18 THE COURT: HAVE YOU FORMED AN OPINION ABOUT THE
19 FACTS IN THE CASE?

20 MR. HAHN: YES, I HAVE.

21 THE COURT: YOU HAVE?

22 MR. HAHN: HE SHOULD REGISTER.

23 THE COURT: WELL, LET ME ASK THIS. AS I STATED
24 PREVIOUSLY, MR. JACOB COMES INTO THIS COURTROOM WITH A
25 PRESUMPTION OF INNOCENCE, AND IF THE GOVERNMENT FAILS TO

1 ESTABLISH HIS GUILT BY COMPETENT EVIDENCE AND PROOF BEYOND A
2 REASONABLE DOUBT, THAT PRESUMPTION IS ENOUGH TO ACQUIT HIM.
3 AND I ASK YOU, IF YOU ARE SELECTED TO SIT AS A JUROR IN THIS
4 CASE, COULD YOU SET ASIDE ANY OPINIONS THAT YOU MIGHT HAVE
5 FORMED OR ANY ARTICLES THAT YOU HAVE READ OR ANY STATEMENTS
6 THAT MIGHT HAVE BEEN COMMUNICATED TO YOU IN ANY FORM OR
7 FASHION AND BASE YOUR VERDICT SOLELY ON THE TESTIMONY AND THE
8 INSTRUCTIONS OF THE COURT?

9 MR. HAHN: NO, I COULD NOT.

10 THE COURT: YOU COULD NOT?

11 MR. HAHN: NO, I COULDN'T.

12 THE COURT: I ASK YOU TO STEP ASIDE.

13 MR. VAUGHT: YOUR HONOR, MAY WE APPROACH THE BENCH?

14 (PROCEEDINGS AT THE BENCH.)

15 MR. VAUGHT: AT THIS TIME WE'RE GOING TO MOVE FOR A
16 MISTRIAL AND ASK THAT THE JURY PANEL BE QUASHED IN ITS
17 ENTIRETY BECAUSE OF THE STATEMENTS OF THE JUROR WHO WAS JUST
18 EXCUSED. I THINK IT TAINTED THE ENTIRE PANEL BY HIS STRONG
19 FEELINGS SUGGESTING THE GUILT OF MR. JACOB WITHOUT ANY
20 EVIDENCE BEING INTRODUCED.

21 MR. STOLL: JUDGE, I DON'T THINK IT'S BEEN A BASIS
22 FOR A MISTRIAL. THE JURORS WHEN ACCEPTED HAVE ALL SAID THEY
23 COULD BASE THE VERDICT ON WHAT'S PRESENTED TO THEM AND THE
24 COURT HAS EXCUSED THIS GENTLEMAN WHO HAS APPARENTLY ALREADY
25 FORMED AN OPINION AS TO THE FACTS.

1 THE COURT: PLUS THE FACT THE COURT WENT AHEAD AND
2 POINTED OUT THAT HE ENJOYS A PRESUMPTION OF INNOCENCE. LET
3 ME SAY THIS. I'LL GIVE AN ADDITIONAL CAUTIONARY INSTRUCTION
4 IF YOU'VE GOT ONE, IN ADDITION TO WHAT I'VE SAID.

5 MR. HALL: WE HAVE NO CAUTIONARY INSTRUCTION. YOU
6 CAN SIMPLY DENY THE MOTION. AT LEAST WE REQUEST YOU ADVISE
7 THE JURY AGAIN THAT THERE'S A PRESUMPTION OF INNOCENCE AND GO
8 OVER THAT AGAIN WITH THEM.

9 THE COURT: I'M GOING TO DENY THE MOTION FOR A
10 MISTRIAL. AS THE GOVERNMENT HAS POINTED OUT, THE JURORS HAVE
11 INDICATED THEY COULD BASE THE VERDICT SOLELY ON THE EVIDENCE.
12 I'VE GIVEN THEM ONE CAUTIONARY INSTRUCTION AND WILL
13 RE-EMPHASIZE IT AT YOUR REQUEST.

14 MR. VAUGHT: THANK YOU.

15 (END OF BENCH PROCEEDINGS.)

16 THE COURT: LADIES AND GENTLEMEN OF THE JURY, ONCE
17 AGAIN, I HASTEN TO POINT OUT THAT UNDER AMERICAN
18 JURISPRUDENCE EVERY DEFENDANT THAT COMES INTO THIS COURTROOM
19 ENJOYS A PRESUMPTION OF INNOCENCE, AND THAT PRESUMPTION
20 REMAINS WITH HIM DURING THE COURSE OF THE TRIAL UNTIL SUCH
21 TIME AS THE GOVERNMENT AND INCIDENTALLY, THE GOVERNMENT HAS
22 THE BURDEN OF PROOF. THE DEFENDANT DOES NOT HAVE THE BURDEN
23 OF PROOF OF ESTABLISHING HIS INNOCENCE. THE GOVERNMENT MUST
24 ESTABLISH HIS GUILT BY COMPETENT EVIDENCE BEYOND A REASONABLE
25 DOUBT AND IF THE GOVERNMENT FAILS TO MEET THAT RESPONSIBILITY

1 OR THAT BURDEN, THIS PRESUMPTION OF INNOCENCE ALONE IS
2 SUFFICIENT TO ACQUIT THE DEFENDANT. HE DOES NOT HAVE THE
3 DUTY OR THE OBLIGATION TO ESTABLISH HIS INNOCENCE. ALL
4 RIGHT.

5 THE CLERK: YOUR HONOR, WE NEED TO CALL ANOTHER
6 NAME.

7 THE COURT: ALL RIGHT, WILL YOU GIVE US ANOTHER
8 JUROR?

9 THE CLERK: TESROW MORRIS.

10 THE COURT: MR. MORRIS, HAVE YOU BEEN IN THE
11 COURTROOM SINCE THESE PROCEEDINGS STARTED?

12 MR. MORRIS: YES, SIR.

13 THE COURT: HAVE YOU LISTENED CAREFULLY TO THE
14 STATEMENTS AND THE OBSERVATIONS OF THE COURT AND THE REPLIES
15 REGISTERED BY YOUR FELLOW JURORS?

16 MR. MORRIS: YES, SIR.

17 THE COURT: IS THERE ANYTHING YOU WISH TO CALL TO
18 THE COURT'S ATTENTION THAT MIGHT HAVE SOME BEARING ON YOUR
19 ABILITY TO BE FAIR AND IMPARTIAL IF YOU ARE SELECTED AS A
20 JUROR IN THIS CASE?

21 MR. MORRIS: NO, SIR.

22 THE COURT: YOU HAVE NOT HEARD, READ OR TALKED TO
23 ANYBODY ABOUT THIS CASE?

24 MR. MORRIS: NO, SIR.

25 THE COURT: YOU HAVE NOT FORMED AN OPINION ABOUT

1 THE ISSUES IN THIS CASE?

2 MR. MORRIS: I HAVE NOT.

3 THE COURT: ALL RIGHT, YOU MAY BE SEATED. ALL
4 RIGHT, CONTINUING.

5 MR. BRENTS: YOUR HONOR, YOU STILL HAD ABOUT THREE
6 OR FOUR JURORS THAT WERE STANDING THAT YOU HAD NOT
7 INTERROGATED ON THE LAST QUESTION WHO WERE SEATED.

8 THE COURT: I SEE. ALL RIGHT. ARE THERE OTHER
9 JURORS WHO HAVE READ OR FORMED AN OPINION ABOUT THE ISSUES IN
10 THIS CASE, STARTING ON THE FIRST ROW.

11 MR. POLLARD: I'M REX POLLARD. I SAW THIS YOUNG
12 GENTLEMAN ON T. V. THIS MORNING. JUST A FLASH. THAT'S ALL I
13 KNOW ABOUT IT.

14 THE COURT: HAS THIS IN ANY WAY COLORED YOUR MIND
15 ABOUT THE ISSUES INVOLVED IN THIS CASE?

16 MR. POLLARD: NO, SIR.

17 THE COURT: YOU COULD SET THAT ASIDE AND BASE YOUR
18 VERDICT SOLELY ON THE EVIDENCE THAT IS PRESENTED DURING THE
19 COURSE OF THE TRIAL IF YOU ARE SELECTED?

20 MR. POLLARD: YES, SIR.

21 THE COURT: ALL RIGHT, YOU MAY BE SEATED.

22 MR. RAWLINS: MY NAME IS KENNETH RAWLINS, AND I SAW
23 SOME NEWSPAPER ARTICLES WHEN IT FIRST HAPPENED.

24 THE COURT: HAVE YOU FORMED AN OPINION ABOUT THE
25 ISSUES IN THIS CASE?

1 MR. RAWLINS: NO, SIR.

2 THE COURT: COULD YOU DISREGARD THOSE NEWS ITEMS
3 THAT YOU READ AND BASE YOUR VERDICT SOLELY ON THE EVIDENCE
4 THAT IS PRESENTED DURING THE COURSE OF THIS TRIAL?

5 MR. RAWLINS: YES, SIR.

6 THE COURT: ALL RIGHT, MADAM.

7 MS. DRUMMOND: DORI DRUMMOND. LAST EVENING ON THE
8 TEN O'CLOCK NEWS I HEARD A STATEMENT, AND I DID NOT KNOW WHO
9 THE DEFENDANT WAS OR WHAT THE CASE NAME WAS, BUT HAVING HEARD
10 THE OTHER JURORS, I'M MORE AND MORE CONVINCED THAT IT
11 PROBABLY CAN BE ATTRIBUTED TO THE DEFENDANT IN THIS CASE
12 UNLESS THERE'S ANOTHER SIMILAR CASE PENDING RIGHT NOW.

13 THE COURT: HAVE YOU FORMED AN OPINION AS A
14 CONSEQUENCE OF HEARING THAT NEWS ITEM AND THEN THE COMMENTS
15 REGISTERED BY YOUR FELLOW JURORS?

16 MS. DRUMMOND: WELL, BASED ON THE COMMENTS I HEARD
17 ON THE NEWS, IF I UNDERSTAND THE FUNCTION OF THE JURY, I
18 WOULD HAVE TO SAY THAT YES, I HAVE.

19 THE COURT: YOU COULD NOT SET THIS ASIDE AND BASE
20 YOUR VERDICT SOLELY ON THE TESTIMONY THAT IS PRESENTED AND
21 THE INSTRUCTIONS GIVEN TO YOU BY THE COURT?

22 MR. DRUMMOND: NO, SIR, NOT, AS I SAID, UNLESS I
23 COULD BE ASSURED THAT THIS DEFENDANT WAS NOT THE ONE THAT
24 MADE THE STATEMENT THAT I HEARD.

25 THE COURT: I PREVIOUSLY STATED THAT THERE IS NO

1 RESPONSIBILITY OR DUTY ON THE PART OF THIS DEFENDANT TO PROVE
2 HIS INNOCENCE. AS A MATTER OF FACT, HE NEED NOT EVEN TAKE
3 THE WITNESS STAND. IT CANNOT BE HELD AGAINST HIM. THE
4 GOVERNMENT HAS THE DUTY TO PROVE HIS GUILT BY COMPETENT
5 EVIDENCE BEYOND A REASONABLE DOUBT. THE COURT WILL GIVE YOU
6 INSTRUCTIONS SETTING FORTH THE LAW APPLICABLE TO THE ISSUES
7 INVOLVED IN THIS CASE, AND I ASK YOU AGAIN, COULD YOU SET
8 ASIDE WHAT YOU HAVE HEARD AND BASE YOUR VERDICT SOLELY ON THE
9 EVIDENCE THAT IS PRESENTED AND APPLY THE LAW TO THE FACTUAL
10 MATTERS AS GIVEN TO YOU BY THE COURT?

11 MS. DRUMMOND: I THINK IT WOULD INDEED BE
12 DIFFICULT.

13 THE COURT: IT WOULD BE DIFFICULT. I'M GOING TO
14 ASK YOU TO STEP ASIDE. MADAM CLERK, WILL YOU CALL ANOTHER
15 JUROR.

16 THE CLERK: DOROTHY JOHNSON.

17 THE COURT: MRS. JOHNSON, HAVE YOU BEEN IN THE
18 COURTROOM SINCE WE STARTED THIS MORNING?

19 MS. JOHNSON: YES, SIR.

20 THE COURT: HAVE YOU LISTENED CAREFULLY TO THE
21 STATEMENTS AND OBSERVATIONS OF THE COURT AS WELL AS THE
22 REPLIES REGISTERED BY YOUR FELLOW JURORS?

23 MS. JOHNSON: YES, SIR.

24 THE COURT: IS THERE ANYTHING YOU WISH TO CALL TO
25 THE COURT'S ATTENTION AT THIS TIME THAT MIGHT HAVE SOME

1 BEARING OR RELEVANCE AS TO YOUR IMPARTIALITY IF YOU ARE
2 SELECTED AS A JUROR?

3 MS. JOHNSON: I DID SEE PART OF THE NEWS LAST
4 NIGHT, BUT I HAVE NOT FORMED AN OPINION.

5 THE COURT: COULD YOU SET ASIDE WHAT YOU SAW AND
6 BASE YOUR VERDICT SOLELY ON THE EVIDENCE AND THE LAW GIVEN TO
7 YOU BY THE COURT?

8 MS. JOHNSON: YES, SIR.

9 THE COURT: BEG YOUR PARDON?

10 MS. JOHNSON: YES, SIR.

11 THE COURT: ALL RIGHT, YOU MAY BE SEATED. MADAM?

12 MS. GANN: VIRGINIA GANN, AND I READ AN ARTICLE
13 YESTERDAY IN THE PAPER AND MY HUSBAND IS RETIRED MILITARY,
14 BUT I HAVE NOT FORMED AN OPINION.

15 THE COURT: YOU HAVE NOT FORMED AN OPINION?

16 MS. GANN: NO.

17 THE COURT: COULD YOU SET ASIDE WHAT YOU READ OR
18 SAW AND BASE YOUR VERDICT SOLELY ON THE EVIDENCE THAT'S
19 PRESENTED DURING THE COURSE OF THIS TRIAL?

20 MS. GANN: YES, SIR.

21 THE COURT: AS I UNDERSTAND IT, YOUR HUSBAND IS A
22 FORMER MILITARY PERSONNEL?

23 MS. GANN: RIGHT.

24 THE COURT: WHAT AGENCY OF THE ARMED FORCES?

25 MS. GANN: AIR FORCE.

1 THE COURT: THE FACT THAT YOUR HUSBAND WAS FORMERLY
2 ASSOCIATED WITH THE UNITED STATES AIR FORCE, WOULD THIS IN
3 ANY WAY PRECLUDE YOU FROM BEING FAIR TO BOTH THE GOVERNMENT
4 AND THE DEFENDANT?

5 MS. GANN: I THINK I CAN BE FAIR.

6 THE COURT: IS THERE ANY DOUBT?

7 MS. GANN: NO, SIR.

8 THE COURT: THERE IS NO DOUBT?

9 MS. GANN: NO DOUBT.

10 THE COURT: LET MET PUT IT IN ANOTHER CONTEXT.
11 SUPPOSE YOU WERE IN THE SHOES OF MR. VAUGHT AND MR. HALL, WHO
12 HAVE THE RESPONSIBILITY TO DEFEND MR. JACOB, OR SUPPOSE YOU
13 ARE IN THE SHOES OF MR. JACOB. WOULD YOU FEEL UNCOMFORTABLE
14 REALIZING THAT THE LAWYERS WHO HAVE THE DUTY AND THE
15 RESPONSIBILITY TO REPRESENT THE UNITED STATES OF AMERICA
16 SHARED YOUR CURRENT VIEWS?

17 MS. GANN: YES, SIR.

18 THE COURT: YOU WOULD BE UNCOMFORTABLE?

19 MS. GANN: NO, SIR, I WOULD NOT BE UNCOMFORTABLE.

20 THE COURT: ALL RIGHT, YOU MAY BE SEATED.

21 MS. NEWELL: I SAW AN ARTICLE IN THE NEWS LAST
22 NIGHT, BUT I FORMED NO OPINION.

23 THE COURT: COULD YOU SET ASIDE WHAT YOU SAW AND
24 BASE YOUR VERDICT SOLELY ON THE EVIDENCE THAT IS PRESENTED
25 DURING THE COURSE OF THIS TRIAL?

1 MS. NEWELL: YES, SIR.

2 THE COURT: ALL RIGHT, YOU MAY BE SEATED. MADAM.

3 MS. YOUNG: RUBY LEE YOUNG. I READ IT IN THE
4 NEWSPAPER, AND MY HUSBAND IS RETIRED AIR FORCE, BUT I HAVE
5 FORMED NO OPINION.

6 THE COURT: YOU COULD SET ASIDE WHAT YOU READ

7 MS. YOUNG: I MOST CERTAINLY CAN.

8 THE COURT: AND BASE YOUR VERDICT ON THE EVIDENCE?

9 MS. YOUNG: YES.

10 THE COURT: WHAT BRANCH OF THE SERVICE IS YOUR
11 HUSBAND IN?

12 MS. YOUNG: AIR FORCE.

13 THE COURT: AIR FORCE? COULD YOU DISREGARD THAT
14 FORMER ASSOCIATION

15 MS. YOUNG: I CERTAINLY CAN.

16 THE COURT: AND BASE YOUR VERDICT SOLELY ON THE
17 EVIDENCE?

18 MS. YOUNG: YES.

19 THE COURT: ALL RIGHT, YOU MAY BE SEATED.

20 MR. MCCHRISTIAN: BILLY MCCHRISTIAN, AND I READ THE
21 ARTICLE IN THE NEWSPAPER LAST NIGHT. I HAVE FORMED NO
22 OPINION.

23 THE COURT: CAN YOU DISREGARD WHAT YOU READ AND
24 BASE YOUR VERDICT SOLELY ON THE EVIDENCE AND THE INSTRUCTIONS
25 OF THE LAW?

1 MR. MCCHRISTIAN: YES, SIR.

2 THE COURT: YOU HAVE NO DOUBTS AT ALL?

3 MR. MCCHRISTIAN: NO, SIR.

4 THE COURT: ALL RIGHT, YOU MAY BE SEATED. ANYBODY
5 ELSE WHO HAS READ OR HEARD ANYTHING ABOUT THIS CASE? IF YOU
6 FORMED AN OPINION, THE COURT WOULD LIKE FOR YOU TO STAND AND
7 GIVE YOUR FULL NAME. ALL RIGHT, CONTINUING. DO YOU OR DOES
8 ANY MEMBER OF YOUR IMMEDIATE FAMILY HAVE ANY DEALINGS, THAT
9 IS, CURRENTLY, WITH THE UNITED STATES GOVERNMENT OR ANY OF
10 ITS AGENCIES OR DO YOU ANTICIPATE HAVING ANY BUSINESS
11 DEALINGS WITH THE UNITED STATES GOVERNMENT IN THE FUTURE OR
12 ANY OF ITS AGENCIES. FOR EXAMPLE, THE FARMERS HOME
13 ADMINISTRATION. ARE YOU DOING ANY BUSINESS WITH THAT AGENCY
14 OR DO YOU ANTICIPATE DOING ANY BUSINESS IN THE FUTURE WITH
15 THAT AGENCY OR SIMILAR AGENCIES OF THE GOVERNMENT? IF THAT
16 ANSWER IS YES, KINDLY STAND AND GIVE YOUR FULL NAME.

17 THE COURT: ALL RIGHT, SIR.

18 MR. FOSHEE: GARY FOSHEE, AND I AM DOING BUSINESS
19 WITH FARMERS HOME ADMINISTRATION.

20 THE COURT: THE FACT THAT YOU ARE CURRENTLY DOING
21 BUSINESS WITH THE FARMERS HOME ADMINISTRATION, AN AGENCY OF
22 THE UNITED STATES GOVERNMENT, WOULD THIS IN ANY WAY PREVENT
23 YOU FROM AFFORDING BOTH THE GOVERNMENT AND THE DEFENDANT A
24 FAIR TRIAL?

25 MR. FOSHEE: NO.

1 THE COURT: YOU COULD SET THAT ASIDE COMPLETELY?

2 MR. FOSHEE: YES, SIR.

3 THE COURT: ALL RIGHT, YOU MAY BE SEATED.

4 MR. MONK: DON MONK, I'M EMPLOYED WITH THE ARKANSAS
5 LIVESTOCK AND POULTRY COMMISSION, AND I HAVE TO WORK WITH THE
6 U. S. D. A., DEPARTMENT OF AGRICULTURE DEALING A LOT OF TIMES
7 WITH FEDERAL RULES AND REGULATIONS.

8 THE COURT: WOULD THIS RELATIONSHIP PREVENT YOU
9 FROM AFFORDING BOTH MR. JACOB AS WELL AS THE GOVERNMENT A
10 FAIR TRIAL?

11 MR. MONK: NO, SIR, IT WOULDN'T AFFECT ME.

12 THE COURT: YOU COULD SET THAT ASIDE AND BASE YOUR
13 VERDICT SOLELY ON THE EVIDENCE?

14 MR. MONK: YES, SIR.

15 THE COURT: YOU MAY BE SEATED. ALL RIGHT, SIR?

16 MR. HIGGINBOTTOM: ROBERT HIGGINBOTTOM, AND I, AS
17 WELL, WORK WITH HUD, F. H. A. AND ARKANSAS HEALTH DEPARTMENT.

18 THE COURT: COULD YOU SET THAT ASIDE AND BASE YOUR
19 VERDICT SOLELY ON THE EVIDENCE?

20 MR. HIGGINBOTTOM: YES, SIR.

21 THE COURT: T. H. PETEN, AND I WORK FOR THE V. A.
22 HOSPITAL.

23 THE COURT: HOW LONG HAVE YOU BEEN EMPLOYED BY THE
24 VETERAN'S ADMINISTRATION?

25 MR. PETEN: ABOUT 23 YEARS.

1 THE COURT: COULD YOU SET THAT ASIDE AND BASE YOUR
2 VERDICT SOLELY ON THE EVIDENCE?

3 MR. PETEN: YES, SIR.

4 MR. ROBERTS: GARY ROBERTS. I ANTICIPATE BECOMING
5 AN ATTORNEY, OFFICER OF THE COURT.

6 THE COURT: WELL, COULD YOU SET THAT ASIDE AND BASE
7 YOUR VERDICT SOLELY ON THE EVIDENCE?

8 MR. ROBERTS: YES, SIR.

9 THE COURT: ARE YOU CURRENTLY IN LAW SCHOOL, HAVE
10 YOU COMPLETED.

11 MR. ROBERTS: I'M CURRENTLY IN LAW SCHOOL.

12 THE COURT: WHEN DO YOU ANTICIPATE GRADUATING?

13 MR. ROBERTS: IN ABOUT NINE MONTHS.

14 THE COURT: I SEE. ALL RIGHT, YOU MAY BE SEATED.

15 MS. PARR: PATRICIA PARR. MY SON IS COUNTY
16 DISTRICT TEST DIRECTOR FOR THE GOVERNMENT. HE HAS AN
17 AGRICULTURAL OFFICE IN BENTON.

18 THE COURT: COULD YOU DISREGARD THE RELATIONSHIP
19 THAT YOUR SON CURRENTLY HAS WITH THE UNITED STATES GOVERNMENT
20 AND BASE YOUR VERDICT SOLELY ON THE EVIDENCE.

21 MS. PARR: YES, SIR.

22 THE COURT: ALL RIGHT, YOU MAY BE SEATED. ANYBODY
23 ELSE?

24 THE COURT: DO YOU KNOW OF ANY REASON, ANY FACTOR,
25 THAT YOU THINK THAT YOU OUGHT TO CALL TO THE COURT'S

1 ATTENTION THAT MIGHT HAVE SOME RELEVANCE OR BEARING ON YOUR
2 ABILITY TO BE FAIR IMPARTIAL, ANYTHING?

3 MR. GREEN: ROBERT GREEN. I FEEL STRONGLY THAT THE
4 DRAFT IS A GOOD AND PROPER THING.

5 THE COURT: WOULD THIS PRESENT A PROBLEM IN
6 AFFORDING BOTH THE GOVERNMENT AND MR. JACOB A FAIR TRIAL?

7 MR. GREEN: POSSIBLY.

8 THE COURT: EACH IS ENTITLED TO A FAIR TRIAL.

9 MR. GREEN: THAT'S THE REASON THAT I STOOD. I FEEL
10 THAT THE DRAFT IS A GOOD THING. THERE'S NOTHING WRONG WITH
11 IT, AND YOU SHOULD REGISTER FOR THE DRAFT.

12 THE COURT: YOU FEEL THAT WOULD GIVE YOU A PROBLEM.

13 MR. GREEN: POSSIBLY.

14 THE COURT: YOU'RE NOT SURE.

15 MR. GREEN: NOT UNTIL I HEAR THE FACTS OF THE CASE.
16 IF IN FACT THE DEFENDANT HAS NOT REGISTERED AND SHOULD HAVE,
17 IT WILL. IT'S GOING TO MAKE IT EXTREMELY DIFFICULT FOR ME TO
18 BE IMPARTIAL.

19 THE COURT: GO BACK TO WHAT I'VE SAID PREVIOUSLY.
20 HE DOESN'T HAVE TO TAKE THE WITNESS STAND. AS A MATTER OF
21 FACT, HE ENJOYS A PRESUMPTION OF INNOCENCE UNTIL THE
22 GOVERNMENT PROVES HIS GUILT BEYOND A REASONABLE DOUBT. AND
23 IF THE GOVERNMENT FAILS TO MEET THAT BURDEN OF
24 RESPONSIBILITY, WOULD YOU HAVE A PROBLEM ACQUITTING THE
25 DEFENDANT?

1 MR. GREEN: PROBABLY.

2 THE COURT: I'M GOING TO ASK YOU TO STEP ASIDE.

3 MADAM CLERK, WILL YOU CALL ANOTHER JUROR.

4 THE CLERK: ANNE CAMP.

5 THE COURT: MRS. CAMP, HAVE YOU BEEN IN THE
6 COURTROOM SINCE THESE PROCEEDINGS COMMENCED?

7 MS. CAMP: YES.

8 THE COURT: HAVE YOU LISTENED CAREFULLY TO THE
9 STATEMENTS AND THE OBSERVATIONS MADE BY THIS COURT?

10 MS. CAMP: YES.

11 THE COURT: HAVE YOU LISTENED TO THE REPLIES AND
12 RESPONSES REGISTERED BY YOUR FELLOW JURORS?

13 MS. CAMP: YES.

14 THE COURT: IS THERE ANYTHING YOU WISH TO CALL TO
15 THE COURT'S ATTENTION AT THIS TIME THAT MIGHT HAVE SOME
16 BEARING ON YOUR ABILITY TO BE FAIR AND IMPARTIAL TO BOTH THE
17 GOVERNMENT AND MR. JACOB?

18 MR. CAMP: NO.

19 THE COURT: ALL RIGHT, YOU MAY BE SEATED. AT THIS
20 TIME THE COURT WILL PERMIT COUNSEL TO PARTICIPATE IN VOIR
21 DIRE WITH THE ADMONITION AND INJUNCTION TO AVOID THOSE AREAS
22 ALREADY COVERED BY THE COURT. MR. STOLL?

23 MR. STOLL: MS. CHERRY IS GOING TO DO IT, YOUR
24 HONOR.

25 THE COURT: ALL RIGHT, MS. CHERRY.

1 MS. CHERRY: THANK YOU, YOUR HONOR. IF IT PLEASE
2 THE COURT, LADIES AND GENTLEMEN, YOU'VE HEARD EARLIER I'M
3 SANDRA CHERRY. I'M AN ASSISTANT UNITED STATES ATTORNEY AND
4 WITH ME IS MR. STOLL, KEN STOLL. HE'S AN ASSISTANT UNITED
5 STATES ATTORNEY HERE. WE ARE PART OF THE OFFICE OF MR.
6 GEORGE PROCTOR, THE UNITED STATES ATTORNEY, WHO IS SEATED
7 THERE IN THE CORNER. HE WON'T BE HERE THROUGHOUT THE TRIAL.
8 IT IS OUR DUTY AND OUR RESPONSIBILITY AND PRIVILEGE TO
9 REPRESENT THE UNITED STATES AND TO PRESENT THE CASE OF THE
10 UNITED STATES TO YOU.

11 I'M GOING TO BE ASKING YOU A FEW QUESTIONS THAT ARE
12 SIMILAR TO WHAT THE COURT HAS ASKED YOU. IT IS NOT -- FOR
13 THE SAKE OF TIME I WILL ASK YOU AS A GROUP, AND IT ISN'T
14 NECESSARY FOR YOU TO RESPOND TO MY QUESTION UNLESS YOUR
15 ANSWER IS YES. IF IT IS YES, IF YOU WILL RAISE YOUR HAND AND
16 STATE YOUR NAME, I ASSURE YOU THAT I WON'T EMBARRASS YOU IF
17 YOU RESPOND FRANKLY TO THE QUESTION, AND IF YOU DO RESPOND
18 FRANKLY TO TO THESE QUESTIONS YOU WILL BE DOING THE DEFENDANT
19 AND THE UNITED STATES OF AMERICA A GREAT SERVICE, BECAUSE AS
20 THE COURT HAS TOLD YOU, WE ARE BOTH ENTITLED TO A FAIR TRIAL.

21 IS THERE ANY ONE OF YOU WHO FEELS THAT EITHER OF
22 THESE PARTIES, EITHER THE DEFENDANT OR THE UNITED STATES OF
23 AMERICA, IS NOT SO ENTITLED? IS THERE ANY ONE OF YOU WHO
24 FEELS THAT FOR SOME REASON THE DEFENDANT'S RIGHT TO A FAIR
25 TRIAL IS SOMEHOW GREATER THAN THAT OF THE UNITED STATES?

1 NOW, AS THE COURT HAS INDICATED TO YOU, THE LAW
2 THAT WE WILL BE DEALING WITH IN THIS CASE PROHIBITS THE
3 WILLFUL AND INTENTIONAL FAILURE TO REGISTER WITH THE
4 SELECTIVE SERVICE SYSTEM. NOW, WE'VE ASKED YOU TO BE FRANK.
5 I ASK YOU TO BE FRANK, AND I WILL BE FRANK, THAT EVEN FEDERAL
6 PROSECUTORS FROM TIME TO TIME HAVE LAWS, FOR INSTANCE, THAT
7 WE DO NOT PARTICULARLY LIKE. BUT ON THIS PARTICULAR LAW, IS
8 THERE ANYTHING ABOUT THIS LAW WHICH YOU ARE INCLINED TO THINK
9 WOULD MAKE YOU UNABLE TO RENDER A VERDICT FAIRLY ON IT? IN
10 OTHER WORDS, IS THIS A LAW THAT YOU DO NOT LIKE? DO ANY OF
11 YOU FEEL THAT IF YOU DO NOT LIKE A LAW, IF YOU DO NOT THINK
12 IT SHOULD HAVE BEEN PASSED AND YOU TO DO NOT THINK IT IS A
13 PROPER LAW TO HAVE BEEN GIVEN TO US BY CONGRESS OR BY
14 PRESIDENTIAL MANDATE, DO ANY OF YOU FEEL THAT IT IS THEN YOUR
15 RIGHT TO DISOBEY THE LAW TO SHOW YOUR DISAGREEMENT?

16 IN THIS INSTANCE YOU WILL LEARN THROUGH THE PROOF
17 THAT WILL COME FROM THE WITNESSES THAT AT THE PRESENT TIME
18 THE SELECTIVE SERVICE SYSTEM, THE SELECTIVE SERVICE, DOES NOT
19 HAVE THE AUTHORITY TO ACTUALLY DRAFT OR ACTUALLY INDUCT MEN
20 INTO A MILITARY SYSTEM, THAT THAT AUTHORITY AND POWER CAN
21 ONLY COME FROM SOME OTHER ACT OF CONGRESS IN THE FUTURE, BUT
22 NONETHELESS, DO ANY OF YOU FEEL THAT, KNOWING THAT, IT IS
23 STILL IMPROPER TO REQUIRE A YOUNG MAN TO REGISTER, TO SIGN A
24 CARD AT THE POST OFFICE GIVING HIS NAME, AND GIVING HIS AGE.
25 IN OTHER WORDS, IS THERE ANYONE WHO FEELS THAT THAT IS TOO

1 MUCH OF A REQUIREMENT TO ASK OF ANY INDIVIDUAL CITIZEN?

2 DOES ANYONE, HAVE ANY OF YOU, KNOWN, DO YOU HAVE
3 MEMBERS OF YOUR FAMILY OR YOUR FRIENDS, SOMEONE YOU KNOW WHO
4 HAS FAILED TO REGISTER? I, OF COURSE, DON'T WANT TO KNOW WHO
5 THAT PERSON IS, BUT I ALSO WANT TO EMPHASIZE THAT I'M NOT
6 ASKING IF YOU HAVE ANYONE WHO JUST FAILED TO REGISTER OR
7 PERHAPS IS ALREADY IN THE RESERVES AND DOESN'T KNOW THEY ARE
8 SUPPOSED TO REGISTER. RATHER, DO YOU KNOW ANYONE WHO
9 ACTUALLY HAS REFUSED INTENTIONALLY. REFUSED TO REGISTER WITH
10 THE SELECTIVE SERVICE OFFICE?

11 WE WILL HAVE, BY THE WAY, INDIVIDUALS TESTIFYING
12 FOR THE UNITED STATES WHO WORK FOR THE SELECTIVE SERVICE. DO
13 ANY OF YOU HAVE ANY FEELING ABOUT THE SELECTIVE SERVICE THAT
14 WOULD CAUSE YOU TO GIVE THEIR TESTIMONY LESS WEIGHT, THAT
15 WOULD CAUSE YOU TO DISBELIEVE THOSE PEOPLE?

16 WE WILL ALSO HAVE TESTIMONY FROM THE INVESTIGATIVE
17 AGENT MENTIONED EARLIER MR. DOUG COTTERMAN, WHO IS A SPECIAL
18 AGENT WITH THE FEDERAL BUREAU OF INVESTIGATION. IS THERE
19 ANYONE HERE WHO, FOR ANY REASON, WOULD TEND TO BELIEVE OR
20 DISBELIEVE MR. COTTERMAN LESS THAN YOU WOULD OTHER WITNESSES?

21 PEOPLE REACT TO OTHER PEOPLE AND TO TESTIMONY IN
22 DIFFERENT WAYS. DESPITE THE QUESTIONS I'VE ASKED YOU
23 EARLIER, IF IN THE TESTIMONY, IF YOU GO ALONG AND YOU LEARN
24 SOMETHING ABOUT THE SELECTIVE SERVICE TESTIMONY OR SOMETHING
25 ABOUT THE REGISTRATION LAW THAT YOU DO NOT LIKE, CAN YOU

1 STILL PUT ASIDE WHATEVER YOU HAVE HEARD AND FOLLOW YOUR DUTY
2 UNDER THE LAW AS THE COURT WILL INSTRUCT YOU?

3 I'M ASSUMING BY YOUR SILENCE THAT YOU ARE EACH
4 WILLING, THEN, TO ENFORCE THE LAW. I ALSO ANTICIPATE, AND
5 THE COURT HAS MENTIONED EARLIER, THAT THE JUDGE WILL INSTRUCT
6 YOU AT THE CONCLUSION OF TRIAL THAT THE UNITED STATES MUST
7 PROVE ITS CASE ONLY BEYOND A REASONABLE DOUBT NOT BEYOND ALL
8 DOUBT. NOW, IS THERE ANY ONE OF YOU, WHO, ONCE GIVEN THAT
9 INSTRUCTION BY THE COURT, WILL HOLD MR. STOLL AND I ON SOME
10 MORE DIFFICULT STANDARD OF PROOF, SOME STANDARD NOT REQUIRED
11 BY THE CONSTITUTION?

12 I FURTHER ANTICIPATE THAT THE COURT WILL INSTRUCT
13 YOU THAT IT WILL BE NECESSARY FOR US TO PROVE, ONE, THAT THE
14 DEFENDANT HAD A DUTY TO REGISTER WITH THE SELECTIVE SERVICE
15 SYSTEM, THAT HE FAILED TO REGISTER WITH THAT SYSTEM, AND THAT
16 HE DID SO WILLFULLY, THAT HE INTENTIONALLY DID SO. IF WE
17 OFFER THAT PROOF BEYOND ANY REASONABLE DOUBT, IS THERE ANY
18 ONE OF YOU WHO FEELS THAT THEY CANNOT RENDER A VERDICT OF
19 GUILTY?

20 NOW, THE CONSTITUTION ALSO GIVES TO ALL AMERICANS
21 THE RIGHT TO EXPRESS THEIR PERSONAL BELIEFS. THIS CAN BE
22 ACCOMPLISHED IN MANY WAYS BY SPEECHES, BY PICKETING, BY
23 TALKING WITH THE NEWS MEDIA. AS PART OF OUR CASE WE WILL BE
24 INTRODUCING PROOF THAT THE DEFENDANT ACTUALLY USED SOME OF
25 THOSE MEANS. WE WILL BE INTRODUCING THAT AS PROOF TO SHOW

1 WHAT HE INTENDED TO DO. AS FEDERAL PROSECUTORS, OF COURSE,
2 WE WOULD DEFEND ANYONE'S RIGHT TO EXERCISE THIS FREEDOM, AND
3 I DO NOT ANTICIPATE THAT THE COURT WILL TELL YOU THAT FREEDOM
4 OF SPEECH IS AN EXCUSE FOR VIOLATION OF THE LAW. HOWEVER, DO
5 ANY OF YOU FEEL THAT THE DEFENDANT'S FAILURE TO REGISTER FOR
6 THE DRAFT IS AN EXPRESSION OF HIS RIGHT TO FREE SPEECH AND
7 THEREFORE IT PROTECTS HIM FROM ANY CRIMINAL LIABILITY?

8 THE JUDGE WILL INSTRUCT YOU ALSO AT THE END OF THE
9 CASE, THAT YOU SHOULDN'T LET SYMPATHY IN ANY WAY ENTER INTO
10 YOUR DELIBERATIONS OR INTO THE CONCLUSION OR THE VERDICT THAT
11 YOU RENDER. HAVE YOU HEARD ANYTHING SO FAR THAT CAUSES YOU
12 TO HAVE SYMPATHY FOR THE DEFENDANT? IF YOU'VE HEARD
13 ANYTHING, IF YOU HEAR ANYTHING IN THE COURSE OF THE TRIAL
14 THAT CAUSES YOU TO HAVE SYMPATHY FOR THE DEFENDANT OR HIS
15 FAMILY OR FOR HIS FRIENDS, IS THERE ANYONE WHO CANNOT PUT
16 THAT SYMPATHY ASIDE AND RENDER A VERDICT ACCORDING TO THE LAW
17 THAT THE COURT GIVES YOU?

18 IT REALLY DOESN'T MATTER HOW THE ANSWERS HAVE COME
19 OR WHAT THE ANSWERS WOULD HAVE BEEN TO THE QUESTIONS THAT I
20 HAVE ASKED YOU TO THIS POINT IF YOU CAN ALL ANSWER NO TO THIS
21 FOLLOWING QUESTION. KNOWING EVERYTHING THAT I'VE TOLD YOU
22 ABOUT THE CASE SO FAR, IF WE PROVE EACH AND EVERY ELEMENT
23 THAT THE UNITED STATES IS REQUIRED TO PROVE UNDER THE LAW, IS
24 THERE ANY ONE OF YOU WHO THEN NONETHELESS, CANNOT RETURN A
25 VERDICT OF GUILTY?

1 MS. CHERRY: THANK YOU, YOUR HONOR, FOR THAT
2 OPPORTUNITY.

3 THE COURT: MR. VAUGHT?

4 MR. VAUGHT: THANK YOU, YOUR HONOR. MAY IT PLEASE
5 THE COURT. GOOD MORNING LADIES AND GENTLEMEN OF THE JURY. I
6 WANT TO RE-INTRODUCE MYSELF. I'M LARRY VAUGHT AND ALONG WITH
7 JOHN HALL REPRESENT THE DEFENDANT PAUL JACOB IN THIS ACTION.
8 I, LIKE MS. CHERRY AND MR. STOLL, AM UP HERE TODAY NOT TO PRY
9 INTO YOUR PERSONAL LIFE BY ASKING THESE QUESTIONS BUT TO
10 MERELY DETERMINE, IF WE CAN, WHO AMONG YOU WOULD BE PROPER
11 JURORS, AND THAT MEANS JURORS WHO CAN RENDER A FAIR AND
12 IMPARTIAL VERDICT ON BEHALF OF BOTH THE GOVERNMENT AND THE
13 DEFENDANT PAUL JACOB.

14 I'M GOING TO ASK AS A PRELIMINARY QUESTION A
15 FOLLOW-UP TO ONE THAT JUDGE HOWARD ASKED YOU A FEW MOMENTS
16 AGO. DO ANY OF YOU OR DID ANY OF YOU SERVE ON THE JURY IN
17 JUDGE ROY'S COURT IN THE FEDERAL COURTHOUSE HERE ON MAY 14TH?
18 ANY OF YOU RECALL SERVING ON THAT CIVIL JURY ON MAY 14TH IN
19 JUDGE ROY'S COURT? DO ANY OF YOU RECALL SERVING ON A CIVIL
20 TRIAL IN JUDGE HOWARD'S COURT ON JUNE 7TH? ANY OF YOU SERVED
21 IN JUDGE HOWARD'S COURT? IF YOU WOULD, WOULD YOU PLEASE
22 STAND UP.

23 MR. LAMAR: I'M NOT SURE.

24 MR. VAUGHT: YOUR NAME, SIR?

25 MR. LAMAR: JAMES LAMAR.

1 MR. VAUGHT: YOU HAVE SERVED IN JUDGE HOWARD'S
2 COURT BEFORE? YOU DON'T KNOW IF IT WAS ON JUNE 7TH OR NOT?

3 MR. LAMAR: I'M NOT SURE ABOUT THE DATE.

4 MR. VAUGHT: DO YOU KNOW WHAT KIND OF CASE?

5 MR. LAMAR: IT WAS A CIVIL.

6 MR. VAUGHT: DO YOU KNOW WHO THE PARTIES WERE?

7 MR. LAMAR: THEY WERE INMATES. I'M NOT SURE OF
8 THEIR NAMES. IT WAS A CIVIL CASE.

9 THE COURT: SUING THE DEPARATMENT OF CORRECTION?

10 MR. LAMAR: ACTUALLY, THEY WERE SUING A SHERIFF.
11 IT WAS A SHERIFF. IT WAS A BAILIFF OR JAILER.

12 MR. VAUGHT: THANK YOU.

13 MR. FOSHEE: THAT WAS THE SAME CASE.

14 MR. JOHNSON: SAME CASE.

15 MS. NEWELL: SAME THING.

16 MS. JACKSON: SAME THING.

17 MR. VAUGHT: FIVE JURORS FROM THE SAME TRIAL. IS
18 THERE ANYONE AMONG YOU WHO DOES NOT RESPECT A PERSON FOR
19 STANDING UP FOR WHAT HE OR SHE BELIEFS IN? I KNOW THAT'S
20 KIND OF AN OPEN ENDED QUESTION. I THINK THAT ALL OF US AS
21 AMERICANS HAVE ENGRAINED IN US FROM THE MOMENT THAT WE'RE
22 BORN THAT A PERSON SHOULD HAVE THE STRENGTH OF HIS
23 CONVICTION. IS THERE ANYONE HERE WHO WOULD NOT RESPECT A
24 PERSON FOR THE STRENGTH OF HIS CONVICTIONS EVEN IF THOSE
25 CONVICTIONS FLY IN THE FACE OF WHAT YOU MIGHT PERSONALLY

1 BELIEVE TO BE THE TRUTH?

2 LET ME FOLLOW THAT UP ONE MORE TIME. DOES ANY HERE
3 BELIEVE THAT A PERSON DOES HAVE THE RIGHT TO HIS BELIEFS AND
4 CONVICTIONS, WHETHER THEY BE THE MAJORITY OR THE MINORITY,
5 AND I ASSUME BY YOUR SILENCE THAT EVERYONE BELIEVES THAT A
6 PERSON DOES HAVE THE RIGHT TO HIS PERSONAL BELIEFS.

7 IS THERE ANYONE HERE WHO WOULD RESPECT A PERSON
8 MORE FOR CHANGING HIS BELIEFS TO CONFORM TO THE MAJORITY THAN
9 FOR STANDING UP FOR HIS CONVICTION IF HE ACTUALLY IN TRUTH
10 AND HONESTY BELIEVED THAT HIS CONVICTIONS WERE CORRECT?

11 DOES ANYONE THINK THAT A PERSON SHOULD CONFORM TO
12 THE MAJORITY RULE SIMPLY BECAUSE IT IS THE MAJORITY'S BELIEF?
13 I'M NOT TALKING ABOUT OBEYING OR DISOBEYING THE LAW RIGHT
14 NOW, I'M TALKING ABOUT STRENGTH OF CONVICTIONS, PERSONAL
15 BELIEFS. IS THERE ANYONE HERE WHO WOULD NOT RESPECT A PERSON
16 MORE FOR STANDING UP FOR WHAT HE BELIEVES THAN FOR CONFORMING
17 WITH THE MAJORITY?

18 IS THERE ANYONE HERE WHO BELIEVES THAT THE
19 GOVERNMENT HAS THE POWER OR THE AUTHORITY TO COERSE A PERSON
20 INTO APPROVING OF ITS POLICIES, OF APPROVING OF ITS POLICIES.
21 ANYONE HERE THINK THE GOVERNMENT CAN FORCE YOU TO LIKE OR
22 APPROVE OF WHAT THEY MAY STATE AS A GOVERNMENT POLICY?

23 EACH OF YOU THAT END UP SITTING ON THIS JURY AT THE
24 CONCLUSION OF THE EVIDENCE WILL RETIRE TO DELIBERATE ON YOUR
25 VERDICT, AND AT THAT POINT IN TIME YOU MAY FIND YOURSELF IN A

1 MINORITY. YOU MAY FIND THAT YOU OF THE 12 STRONGLY BELIEVE
2 THE DEFENDANT TO BE NOT GUILTY OR GUILTY AND THE OTHER 11 MAY
3 BELIEVE JUST THE OPPOSITE. IF YOU SINCERELY BELIEVE THAT THE
4 EVIDENCE SHOWS THAT YOU'RE CORRECT, IS THERE ANYONE IN HERE
5 WHO WOULD NOT HAVE THE STRENGTH OF HIS CONVICTIONS TO
6 MAINTAIN THAT BELIEF EVEN IF THE FACE OF 11 OTHERS WHO FEEL
7 JUST THE OPPOSITE? IS THERE ANYONE WHO WOULD NOT STAND UP
8 FOR WHAT YOU BELIEVE EVEN IF YOU ARE THE ONLY ONE STANDING?
9 IS THERE ANY ONE OF YOU WHO WOULD FEEL
10 UNCOMFORTABLE IF YOU WERE SITTING WHERE PAUL JACOB IS SITTING
11 RIGHT NOW KNOWING THAT A PERSON OF YOUR MIND WAS SITTING ON
12 THE JURY IN DELIBERATION OF HIS CASE? ANY OF YOU FEEL THAT
13 IF YOU WERE THE DEFENDANT AND A PERSON WITH YOUR FRAME OF
14 MIND WERE SITTING ON THE JURY THAT YOU WOULD FEEL
15 UNCOMFORTABLE ABOUT THAT?
16 GET DOWN TO A LITTLE BIT MORE PRACTICAL DOWN TO
17 EARTH QUESTION. IS THERE ANY ONE AMONG YOU WHO HAVE PRESSING
18 PERSONAL OR PROFESSIONAL BUSINESS OR CONCERNS THAT ARE GOING
19 TO BE COMING UP WITHIN THE NEXT TWO DAYS THAT WOULD TAKE YOUR
20 MIND SO OFF OF WHAT WAS GOING ON IN THIS COURT THAT YOU WOULD
21 NOT BE ABLE TO CONCENTRATE AND GIVE YOUR FULL AND UNDIVIDED
22 ATTENTION TO THE EVIDENCE THAT'S BEING PRESENTED? IN OTHER
23 WORDS, THIS CASE IS GOING TO LAST MORE THAN LIKELY TWO DAYS.
24 IS THERE ANYONE WAY WOULD NOT BE ABLE TO GIVE ITS FULL AND
25 UNDIVIDED ATTENTION TO THIS TRIAL FOR TWO DAYS BECAUSE OF

1 SOME PRESSING PERSONAL CONCERN OR PROFESSIONAL OR BUSINESS
2 CONCERN THAT'S ON YOUR MIND?

3 MS. JACKSON: I HAVE A QUESTION AS TO HOW LATE IT
4 WOULD RUN. HOW LATE WE MIGHT BE HERE. I HAVE SOMETHING
5 TOMORROW NIGHT.

6 MR. VAUGHT: I ASSUME THE CASE WILL GO UNTIL IT
7 CONCLUDES. RIGHT NOW NO ONE WOULD BE ABLE TO TELL YOU
8 EXACTLY WHAT TIME THAT WOULD BE TOMORROW NIGHT. I
9 ANTICIPATE, UNLESS SOMETHING UNUSUAL HAPPENS, YOU SHOULD
10 THROUGH SOMETIME TOMORROW AFTERNOON, BUT I CAN'T GUARANTEE
11 THAT AND I DON'T THINK MR. STOLL CAN NOR COULD THE JUDGE
12 RIGHT NOW.

13 MS. JACKSON: I HAVE A LAMAS CLASS TOMORROW NIGHT
14 THAT I WOULD REALLY LIKE TO GO TO.

15 MR. VAUGHT: I CAN APPRECIATE AND UNDERSTAND THAT
16 HAVING GONE THROUGH THAT MYSELF WITH MY WIFE A FEW YEARS AGO.
17 WOULD THIS CLASS BE WEIGHING ON YOUR MIND, SO TO SPEAK, COME
18 TOMORROW AFTERNOON WHERE IT LOOKED LIKE WE WOULD NOT BE ABLE
19 TO FINISH IT WOULD TAKE YOUR CONCENTRATION OFF THE TRIAL, DO
20 YOU THINK?

21 MS. JACKSON: I WOULD TRY VERY HARD TO CONCENTRATE
22 ON THE TRIAL BUT I WOULD ALSO BE WANTING TO BE ABLE TO LEAVE.

23 MS. VAUGHT: I APPRECIATE THAT. IS THERE ANYONE
24 ELSE WHO HAS ANY KIND OF PERSONAL OR PROFESSIONAL CONCERNS
25 THAT ARE GOING TO BE COMING UP WITHIN THE NEXT COUPLE OF DAYS

1 THAT YOU WOULD NOT BE ABLE TO KIND OF PUSH TO THE SIDE UNTIL
2 WE GET FINISHED WITH THIS TRIAL?

3 MR. VAUGHT: WHEN JUDGE HOWARD WAS ASKING QUESTIONS
4 TO YOU EARLIER, A FEW OF THE LADIES MENTIONED THAT THEIR
5 HUSBANDS WERE RETIRED MILITARY. THE QUESTION WAS NEVER ASKED
6 DIRECTLY, SO I WOULD LIKE TO ASK NOW ARE ANY OF THE GENTLEMEN
7 ON THE PANEL EITHER PRESENTLY IN THE MILITARY OR RETIRED FROM
8 THE MILITARY? I DON'T MEAN HAVING JUST SERVED AT ONE TIME IN
9 YOUR LIFE BUT ACTUALLY BEEN A CAREER MILITARY PERSON AT SOME
10 POINT POINT. ARE THERE ANY OTHER OF THE LADIES ON THE PANEL
11 WHOSE HUSBANDS WERE IN THAT POSITION AS A CAREER MILITARY
12 PERSONNEL AT SOME POINT? ARE THERE ANY -- STRIKE THAT ONE
13 FOR A MOMENT.

14 I'M GOING TO ONE FINAL QUESTION, AND LIKE MS.
15 CHERRY'S FINAL QUESTION, THIS IS PROBABLY THE MOST IMPORTANT
16 ONE. EACH OF US HAS BIASES AND PREJUDICES THAT SOMETIMES WE
17 ADMIT AND SOMETIMES WE DON'T. BUT WE ALL HAVE THEM, AND I
18 THINK ANYONE WOULD BE A FOOL NOT TO ADMIT THAT SOMETIME IN
19 YOUR LIFE YOU HAVE SOMETHING THAT EITHER YOU'RE BIASED IN
20 FAVOR OF OR AGAINST. BUT EACH OF YOU KNOW THAT AS A JUROR
21 YOU HAVE TO SET ASIDE THEY BIASES, AND I'M GOING TO ASK JUST
22 VERY SIMPLY, IS THERE ANYONE HERE WHO COULD NOT SET ASIDE
23 WHATEVER BIASES, EITHER IN FAVOR OF OR AGAINST PAUL JACOB,
24 THAT YOU MIGHT HAVE DURING THE NEXT TWO DAYS AND DEVOTE YOUR
25 FULL AND UNDIVIDED ATTENTION TO THE EVIDENCE AND RENDER A

1 FAIR AND IMPARTIAL VERDICT? ANYONE WHO COULDN'T DO THAT?

2 THANK YOU VERY MUCH. THANK YOU, YOUR HONOR.

3 THE COURT: ARE THERE ANY CHALLENGES FOR CAUSE?
4 WHAT SAYS THE GOVERNMENT?

5 MR. STOLL: NONE, YOUR HONOR.

6 THE COURT: MR. VAUGHT?

7 MR. VAUGHT: YOUR HONOR, COULD WE APPROACH JUST ONE
8 SECOND.

9 (BENCH CONFERENCE OFF THE RECORD REGARDING EXCUSING MISS
10 JACKSON FOR CAUSE BECAUSE OF HER CLASS TOMORROW NIGHT.)

11 THE COURT: MRS. JACKSON, THE COURT IS GOING TO
12 EXCUSE YOU. YOU MAY STEP ASIDE.

13 MS. JACKSON: THANK YOU. MADAM CLERK, WILL YOU
14 CALL ANOTHER JUROR?

15 THE CLERK: JOHNNA BILLINGS.

16 THE COURT: MS. BILLINGS, HAVE YOU BEEN IN THE
17 COURTROOM SINCE THESE PROCEEDINGS COMMENCED?

18 MS. BILLINGS: YES, SIR.

19 THE COURT: HAVE YOU LISTENED CAREFULLY TO THE
20 STATEMENTS OF THE COURT AND THE REPLIES REGISTERED BY YOUR
21 FELLOW JURORS?

22 MS. BILLINGS: YES, SIR.

23 THE COURT: IS THERE ANYTHING YOU WISH TO CALL TO
24 THE COURT'S ATTENTION AT THIS TIME THAT MIGHT HAVE SOME
25 BEARING ON YOUR ABILITY TO BE FAIR AND IMPARTIAL IF YOU ARE

1 SELECTED?

2 MS. BILLINGS: NO, SIR.

3 THE COURT: ALL RIGHT, YOU MAY BE SEATED. ANY
4 FURTHER CHALLENGES FOR CAUSE?

5 MR. VAUGHT: NO, YOUR HONOR.

6 THE COURT: HOW MUCH TIME DO YOU NEED TO EXERCISE
7 PRE-EMTORY CHALLENGES?

8 MR. HALL: JUST TEN MINUTES, YOUR HONOR.

9 MR. STOLL: THAT SHOULD SUFFICE, YOUR HONOR.

10 THE COURT: ALL RIGHT, WE'RE IN RECESS FOR TEN
11 MINUTES. ALL RIGHT, LADY AND GENTLEMEN, HAVE YOU EXERCISED
12 YOUR CHALLENGES?

13 MR. STOLL: WE HAVE, YOUR HONOR.

14 MR. VAUGHT: YES, YOUR HONOR.

15 THE COURT: ALL RIGHT, MADAM CLERK, WILL YOU KINDLY
16 CALL THE FIRST 13 JURORS.

17 THE CLERK: ROBERT LYNCH, PATSY HUMES, MILDRED
18 GIBSON,, ROBERT HIGGINIBOTTOM,, DEBRA HARVEY, T. H. PETEN,
19 HARRY CAMPBELL, BRUCE EPPERSON, PATRICIA PARR, KENNETH
20 RAWLINS, BETTY WALDEN, NETTIE DACUS, AND TESROW MORRIS.
21 THAT'S 13, YOUR HONOR.

22 THE COURT: ALL RIGHT, THANK YOU, MADAM CLERK.
23 WILL YOU KINDLY SWEAR THE JURY.

24 (JURY SWORN.)

25 THE COURT: ALL RIGHT, TO THOSE JURORS WHO ARE

1 STILL SEATED IN THE SPECTATOR SECTION OR, STATED DIFFERENTLY,
2 WHO WERE NOT INCLUDED IN THE 13 JUST CALLED, YOU ARE EXCUSED
3 UNTIL FURTHER NOTICE. WHEN YOUR PRESENCE IS DESIRED THE
4 CLERK WILL NOTIFY YOU BY COMMUNICATION. AND AGAIN, THE COURT
5 WOULD LIKE TO TAKE THIS OPPORTUNITY TO EXPRESS ITS THANKS TO
6 YOU FOR RESPONDING TO THE CALL. HAVE A GOOD DAY AND YOU'RE
7 EXCUSED.

8 (JURORS EXIT.)

9 THE COURT: LADIES AND GENTLEMEN OF THE JURY, THIS
10 CASE WILL PROCEED IN THE FOLLOWING ORDER. THE GOVERNMENT,
11 THROUGH ITS ATTORNEYS, WILL MAKE AN OPENING STATEMENT. THIS
12 IS PURELY DISCRETIONARY, IT'S NOT COMPULSORY, STRUCTURING THE
13 GOVERNMENT'S CASE. THEN THE DEFENDANT, MR. JACOB, WILL BE
14 AFFORDED THE OPPORTUNITY TO OUTLINE OR STRUCTURE HIS CASE.
15 FOLLOWING OPENING STATEMENTS, THE GOVERNMENT WILL BE AFFORDED
16 THE OPPORTUNITY TO PUT ON EVIDENCE IN SUPPORT OF ITS CASE.
17 FOLLOWING THIS PRESENTATION, THE DEFENDANT IS AFFORDED THE
18 OPPORTUNITY, AND I HASTEN TO POINT OUT HE DOES NOT HAVE TO
19 TAKE THE WITNESS STAND, HE IS NOT COMPELLED TO OFFER ANY
20 EVIDENCE. THE BURDEN AND THE RESPONSIBILITY IS REALLY ON THE
21 GOVERNMENT TO ESTABLISH THE DEFENDANT'S GUILT BY COMPETENT
22 EVIDENCE BEYOND A REASONABLE DOUBT AND AS I STATED
23 PREVIOUSLY, UNDER AMERICAN JURISPRUDENCE, EVERY DEFENDANT
24 ENJOYS A PRESUMPTION OF INNOCENCE. IT STAYS WITH HIM
25 THROUGHOUT THE LENGTH AND BREADTH OF THE TRIAL UNTIL SUCH

1 TIME AS THE GOVERNMENT HAS MET THE BURDEN THAT RESTS UPON ITS
2 SHOULDERS, AND THIS PRESUMPTION IS SUFFICIENT TO ACQUIT HIM
3 IF YOU FIND THE EVIDENCE HAS NOT BEEN PRESENTED, COMPETENT
4 EVIDENCE, BEYOND A REASONABLE DOUBT AND THE FACT THAT IF HE
5 ELECTS NOT TO TAKE THE WITNESS STAND, THIS MAY NOT BE USED
6 AGAINST HIM IN ANY WAY. BUT IF HE DESIRES TO DO SO, AT THE
7 CONCLUSION OF THE GOVERNMENT'S PRESENTATION, THE DEFENDANT IS
8 AFFORDED THE OPPORTUNITY TO OFFER EVIDENCE IN SUPPORT OF HIS
9 CASE.

10 THEN THE NEXT LINE ITEM WILL BE REBUTTAL TESTIMONY.
11 FOLLOWING THE PRESENTATION OF REBUTTAL TESTIMONY, IF ANY, THE
12 ATTORNEYS WILL MAKE THEIR CLOSING ARGUMENTS TO YOU. I ALSO
13 HASTEN TO POINT OUT THAT OPENING STATEMENTS AS WELL AS
14 CLOSING ARGUMENTS ARE NOT EVIDENCE. THE EVIDENCE WILL COME
15 FROM THAT WITNESS CHAIR. OPENING STATEMENTS AND CLOSING
16 ARGUMENTS ARE DESIGNED TO ASSIST YOU IN UNDERSTANDING THE
17 EVIDENCE AS IT UNFOLDS AND ASSIST YOU IN APPLYING THE LAW TO
18 THE FACTS.

19 THEN FOLLOWING CLOSING ARGUMENTS THE COURT WILL
20 GIVE YOU ITS INSTRUCTIONS OR THE LAW APPLICABLE TO THE ISSUES
21 IN THIS CASE. AT THE CLOSE OF THE INSTRUCTIONS YOU WILL BE
22 PERMITTED TO RETIRE TO THE JURY ROOM TO COMMENCE YOUR
23 DELIBERATIONS. NOW, UNTIL WE REACH THIS POINT IN THIS LITTLE
24 SCHEDULE, YOU ARE ADMONISHED NOT TO DISCUSS THE ISSUES IN
25 THIS CASE AMONG YOURSELVES NOR TO PERMIT ANYBODY ELSE TO

1 DISCUSS THE ISSUES WITH YOU. YOU HAVE PROMISED THE COURT AND
2 THE ATTORNEYS THAT YOUR VERDICT WILL BE BASED SOLELY ON THE
3 EVIDENCE, AND YOU CANNOT ENGAGE IN ANY INTELLIGENT DISCUSSION
4 UNTIL SUCH TIME AS ALL OF THE EVIDENCE HAS BEEN PRESENTED,
5 YOU HAVE HEARD THE CLOSING ARGUMENTS OF THE ATTORNEYS AND THE
6 INSTRUCTIONS OF THE COURT, AND DURING EACH RECESS THE COURT
7 WILL ADMONISH YOU NOT TO DISCUSS THE CASE. THE COURT IS
8 REQUIRED TO DO THAT AT EACH RECESS.

9 IN ADDITION, THE COURT IS GOING TO ASK YOU TO
10 REFRAIN FROM CONVERSING WITH THE ATTORNEYS OR THE WITNESSES
11 INVOLVED IN THIS CASE. NOW, YOU MIGHT BE TALKING ABOUT
12 SOMETHING ELSE OTHER THAN THE ISSUES IN THIS CASE, BUT THE
13 OTHER SIDE MIGHT NOT PERCEIVE IT IN THAT FASHION. SO WE'RE
14 TRYING TO AVOID EVEN THE APPEARANCE OF ANY IMPROPRIETY AS
15 WELL AS ANY IMPROPRIETY IN FACT.

16 ALSO, WE SHALL ADHERE TO THIS PROCEDURE DURING THE
17 NEXT TWO DAYS. WE SHALL RECESS AT EVERY HOUR AND 30 MINUTES
18 SO THAT YOU MIGHT HAVE AN OPPORTUNITY TO GET A BREATH OF
19 FRESH AIR, A DRINK OF WATER AND STRETCH. THE COURT IS
20 INTERESTED IN MAXIMIZING YOUR ATTENTION SPAN. WE WANT ONLY
21 ONE ISSUE IN THAT JURY BOX AND THAT'S THE ISSUE INVOLVED OR
22 THE ISSUES INVOLVED IN THIS CASE, AND IF YOU HAVE SOMETHING
23 THAT WE CAN BE OF SOME ASSISTANCE, THAT IS TO SAY, THE
24 MARSHAL OR THE COURT, LET US KNOW. PARKING PROBLEMS OR
25 WHATEVER, LET US KNOW. WE'LL TRY TO ACCOMMODATE YOU IF WE

1 CAN. WE WANT YOUR UNDIVIDED ATTENTION DURING THE NEXT TWO
2 DAYS, AND IF YOU FIND THAT YOU NEED A RECESS BEFORE THE
3 TIMEFRAME IN WHICH THE COURT HAS JUST INDICATED, KINDLY RAISE
4 YOUR HAND OR NOD YOUR HEAD AND I'LL GET THE MESSAGE AND WE'LL
5 RECESS PROMPTLY.

6 ONE HOUR WILL BE AFFORDED FOR THE NOON BREAK. WE
7 SHALL RECESS PROMPTLY AT 5:00 P.M. NOW, IF WE'RE NOT MAKING
8 THAT MUCH PROGRESS WE MAY INVOKE A NIGHT SESSION. WE HAVE
9 GOOD LAWYERS, SO I'M NOT PERSUADED THAT WE WILL NEED TO
10 INVOKE A NIGHT SESSION. SO WE WILL RECESS PROMPTLY AT 5:00
11 P.M..

12 ALL RIGHT, MR. STOLL, YOU MAY GO TO THE JURY WITH
13 YOUR OPENING STATEMENT.

14 MR. HALL: YOUR HONOR, BEFORE MR. STOLL BEGINS,
15 WE'D LIKE TO INVOKE THE RULE.

16 THE COURT: ALL RIGHT, THE RULE HAS BEEN REQUESTED.
17 CONSEQUENTLY, ALL WITNESSES WITH THE EXCEPTION OF THE
18 PARTIES, AND OF COURSE, THE GOVERNMENT IS ENTITLED TO A
19 REPRESENTATIVE TO SIT AT THE COUNSEL TABLE, BUT WITH THE
20 EXCEPTION OF THE PARTIES AND THE GOVERNMENT'S REPRESENTATIVE,
21 ALL WITNESSES ARE REQUESTED TO HAVE A SEAT IN THE WITNESS
22 ROOM. YOU MIGHT FOLLOW THE MARSHAL TO THE WITNESS ROOM OR
23 THE HALLWAY.

24 MR. STOLL: JUDGE, MR. KOTTERMAN, WHO STEPPED OUT
25 WHEN THE COURT FIRST MENTIONED THE EXCLUSION OF THE RULE,

1 WE'RE GOING TO GET HIM AND HE'LL BE SITTING AT THE COUNSEL
2 TABLE.

3 THE COURT: DO YOU HAVE A PROBLEM WITH THAT
4 MR. VAUGHT, MR. HALL?

5 MR. HALL: NO, YOUR HONOR.

6 THE COURT: AS A MATTER OF FACT, IT IS THE POLICY
7 OF THE COURT TO PERMIT THE GOVERNMENT TO HAVE AT LEAST ONE
8 REPRESENTATIVE AT COUNSEL TABLE.

9 MR. STOLL: IF IT PLEASE THE COURT, LADIES AND
10 GENTLEMEN OF THE JURY, I'VE BEEN INTRODUCED BEFORE. I'M
11 GOING TO INTRODUCE MYSELF AGAIN. I'M NAME IS KEN STOLL, I'M
12 ASSISTANT U. S. ATTORNEY. WITH ME IS MRS. CHERRY. SHE HAS
13 APPEARED BEFORE YOU IN THE VOIR DIRE AND WE'LL BE
14 REPRESENTING THE GOVERNMENT IN THIS CASE. I THINK YOU HAVE
15 PICKED UP FROM THE COURT'S VOIR DIRE AND THE VOIR DIRE OF
16 BOTH MRS. CHERRY AND MR. VAUGHT THAT WHAT WE'RE CONCERNED
17 WITH HERE TODAY AND TOMORROW IS A REGISTRATION CASE, THAT IS
18 MR. JACOB, THE DEFENDANT, WAS CHARGED WITH FAILING TO PRESENT
19 HIMSELF AND TO SUBMIT FOR REGISTRATION PURSUANT TO THE
20 MILITARY SELECTIVE SERVICE ACT. THAT'S PART OF THE
21 INDICTMENT, THE COURT HAS READ YOU THE INDICTMENT. THE COURT
22 JUST TOLD YOU ABOUT THE COURSE OF THE TRIAL, SOME OF YOU HAVE
23 SAT ON TRIALS BEFORE, AND I THINK YOU REALIZE HOW THEY GO.
24 AS THE COURT SAID, OPENING STATEMENTS ARE NOT EVIDENCE IN THE
25 CASE NOR ARE CLOSING ARGUMENTS NOR ARE OBJECTIONS NOR ARE

1 QUESTIONS FROM THE ATTORNEYS. IT'S THE ANSWERS FROM THE
2 WITNESSES WHICH FORM THE EVIDENCE AS WELL AS THE EXHIBITS
3 INTRODUCED INTO EVIDENCE.

4 TALKING ABOUT THE CHARGE FOR A SECOND, THE STATUTE
5 IN PART PROVIDES, AND THIS IS FOUND IN TITLE 50, APPENDIX
6 SECTION 453 THAT EVERY MALE CITIZEN OF THE UNITED STATES AND
7 EVERY OTHER MAIL PERSON RESIDING IN THE UNITED STATES WHO ON
8 A DAY FIXED OR THE FIRST OR ANY SUBSEQUENT REGISTRATION IS
9 BETWEEN THE AGES OF 18 AND 26 TO PRESENT HIMSELF AND TO
10 SUBMIT TO REGISTRATION. AT SUCH TIME AT ANY PLACE AND IN
11 SUCH MANNER AS SHALL BE DETERMINED BY PROCLAMATION OF THE
12 PRESIDENT BY RULES AND REGULATIONS PRESCRIBED HEREUNDER.

13 IN 1980 PRESIDENT CARTER ISSUED A PRESIDENTIAL
14 PROCLAMATION WHICH IN PART PROVIDED THAT PERSONS BORN IN THE
15 CALENDAR YEAR OF 1960 SHALL PRESENT THEMSELVES FOR
16 REGISTRATION ON ANY OF THE SIX DAYS BEGINNING MONDAY JULY 21,
17 1980 CONTINUING THEREAFTER. THE PROCLAMATION WENT ON TO
18 PROVIDE THAT PERSONS WHO ARE REQUIRED TO REGISTER MAY
19 REGISTER AT ANY CLASSIFIED POST OFFICE. THAT'S ALL THEY HAD
20 TO DO WAS GO INTO A POST OFFICE. THAT'S THE ONE THAT WE'RE
21 IN HERE TODAY, DOWN IN THE LOBBY, AND ASK FOR A SELECTIVE
22 SERVICE FORM AND REGISTER.

23 THE PROOF THAT THE GOVERNMENT MUST PROVE TO YOU IS
24 THAT, ONE, MR. JACOB WAS REQUIRED TO REGISTER. WE DO THAT BY
25 HIS AGE, WHETHER OR NOT HE WAS BORN DURING THE CALENDAR YEAR

1 1960.

2 SECOND, THAT HE FAILED AND REFUSED TO REGISTER AND
3 THIRD, THAT HIS REFUSAL WAS KNOWINGLY AND WILLFUL. THAT IS,
4 DID HE KNOW HE HAD A DUTY TO REGISTER. NOW, THAT'S THE
5 ELEMENTS, AND THE PROOF THAT THE GOVERNMENT IS GOING TO BE
6 PUTTING BEFORE YOU TO PROVE THESE ELEMENTS IS THAT WE HAVE A
7 BIRTH CERTIFICATE SHOWING PAUL JACOB WAS BORN MARCH 6TH OF
8 1960. THE PLACE IS EVERGREEN PARK, ILLINOIS AND IT HAS HIS
9 PARENTS LISTED ON THERE. MR. JAMES SMITH, THE PRINCIPAL OF
10 NORTHEAST HIGH SCHOOL OVER IN NORTH LITTLE ROCK IS BRINGING
11 SOME SCHOOL RECORDS TO INDICATE THAT PAUL JACOB, WHO WAS BORN
12 ON MARCH 6, 1960, EVERGREEN PARK, ILLINOIS, WITH HIS FATHER'S
13 NAME ON THE SCHOOL RECORDS, ATTENDED NORTH LITTLE ROCK HIGH
14 SCHOOL, LIVED IN NORTH LITTLE ROCK 35 DE SOTO CIRCLE IN NORTH
15 LITTLE ROCK. THAT IS CONNECTING UP THE BIRTH CERTIFICATE
16 WITH THE DEFENDANT.

17 WE ALSO HAVE SOME PHOTOGRAPHS THAT MR. SMITH I
18 BELIEVE WILL BE ABLE TO IDENTIFY TAKEN OF THE DEFENDANT IN
19 FRONT OF THIS BUILDING BACK IN 1981, AND HE WILL BE ABLE TO
20 IDENTIFY THEM, THAT MR. JACOB IS IN THOSE PHOTOGRAPHS. WE'RE
21 GOING TO GET TO THAT IN A MINUTE.

22 MR. JACOB GRADUATED FROM HIGH SCHOOL IN 1978 AND
23 THERE WILL ALSO BE A VOTER REGISTRATION CARD SHOWING
24 MR. JACOB HAD REGISTERED TO VOTE HERE IN PULASKI COUNTY. HE
25 VOTED DURING 1980 HERE IN PULASKI COUNTY, AGAIN, TO ESTABLISH

1 THE PERIOD OF TIME THAT HE'S CHARGED WITH FAILING TO REGISTER
2 THAT HE WAS HERE IN THE EASTERN DISTRICT OF ARKANSAS AND DID
3 NOT REGISTER.

4 THERE'S THREE WITNESSES, AND WE'RE GOING TO TALK
5 ABOUT THE PHOTOGRAPHS, AND IN 1981, IN FRONT OF THE BUILDING,
6 MR. JACOB APPEARED AND VOICED HIS OPPOSITION TO THE
7 REGISTRATION, WHICH HE HAS A PERFECT RIGHT TO DO, AND THE
8 GOVERNMENT IS NOT CHARGING HIM BECAUSE HE VOICED ANY
9 OPPOSITION, AND THE PURPOSE OF THE PARAGRAPHS IS TO ESTABLISH
10 THAT HE KNEW ABOUT THE REGISTRATION PROGRAM. IT GOES TOWARD
11 THE ELEMENT I WAS TALKING TO YOU ABOUT, THAT KNOWLEDGE AND
12 WILLFULNESS ISSUE. THERE WILL BE A PERSON FROM THE ARKANSAS
13 DEMOCRAT WHO WILL TALK ABOUT AN ARTICLE RUN BACK IN 1981,
14 JANUARY OF 1981, TO ESTABLISH THE DATE THAT MR. JACOB WAS OUT
15 IN FRONT OF THE POST OFFICE. WE'LL HAVE THE PHOTOGRAPHER WHO
16 TOOK THE PICTURES WHO WILL IDENTIFY YES, THESE ARE THE
17 PICTURES, I WENT UP TO COVER THE STORY, AND I TOOK THESE
18 PICTURES. THE PHOTOGRAPHER NOR THE REPORTER, I DON'T
19 BELIEVE, HAS ANY INDEPENDENT KNOWLEDGE OF THE EXACT DATE.
20 THAT'S WHY THE OTHER PERSON FOR THE DEMOCRAT IS HERE TO
21 ESTABLISH THAT DATE THAT THE STORY WAS RUN. BOTH THE
22 PHOTOGRAPHER AND THE REPORTER WILL ESSENTIALLY SAY, I
23 ANTICIPATE THEM TO SAY, IS THAT WE COVERED THE STORY. THIS
24 IS THE STORY, THIS WAS MR. JACOB WHO WAS UP THERE. SO WE'LL
25 HAVE THE PHOTOGRAPHER WHO WILL TESTIFY ABOUT TAKING THE

1 PICTURES AND THEN WE'LL HAVE MISS TUCKER WHO WAS THE
2 REPORTER. DURING HER COVERING OF MR. JACOB'S APPEARANCE IN
3 FRONT OF POST OFFICE, SHE TALKED TO HIM AND HE RELATED TO HER
4 THAT HE HAD NOT REGISTERED AND HAD NO INTENT TO REGISTER,
5 WHICH GOES TOWARD THE ELEMENT OF KNOWLEDGE AND INTENT,
6 WILLFULNESS.

7 THERE WILL BE A GENTLEMAN MR. TERRY NOLAN WHO IS
8 EMPLOYED BY THE POST OFFICE AND HE'LL TESTIFY THAT BACK
9 DURING THE PERIOD OF TIME REGISTRATION WAS FIRST IMPLEMENTED
10 HE WAS IN CHARGE OF THE REGISTRATION PROCESS AND WILL TELL
11 YOU THIS IS A POST OFFICE IN WHICH A PERSON COULD REGISTER
12 FOR SELECTIVE SERVICE AS REQUIRED.

13 WE'LL HAVE TWO GENTLEMEN FROM SELECTIVE SERVICE.
14 ONE IS A MR. EARL CRAWFORD. HE WILL TELL YOU ABOUT THE
15 PROGRAM, SELECTIVE SERVICE PROGRAM, WHEN IT FIRST GOT
16 INITIATED, WHAT HIS POSITION WAS WITH THEM, THE PROCEDURE,
17 THE STANDARD PROCEDURE THAT WAS USED REGARDING EVERYONE WHO
18 THEY HAD INFORMATION THAT HAD NOT REGISTERED. THEY WILL
19 RECEIVE INFORMATION, THEY WOULD CHECK IT OUT, ATTEMPT TO
20 CHECK IT OUT, WRITE THE PERSON A LETTER AND JUST FOLLOWED A
21 STANDARD OPERATING PROCEDURE IN AN ATTEMPT TO GET PEOPLE TO
22 REGISTER. IF A PERSON HAD FORGOTTEN TO REGISTER OR DIDN'T
23 KNOW HE WAS SUPPOSED TO REGISTER, THEN THAT'S NOT A KNOWING
24 AND WILLFUL VIOLATION AND HE'LL TELL YOU ABOUT THE PROCEDURE
25 THAT THEY GO THROUGH IN ATTEMPTING TO GET PEOPLE TO REGISTER,

1 EVEN IF IT'S LATE.

2 ANOTHER GENTLEMAN IS MR. DAVID COX WHO IS ALSO WITH
3 THE SELECTIVE SERVICE. HE WAS WITH IT FROM ITS INCEPTION.
4 HE WILL TELL YOU ABOUT HOW THE PROCEDURE WORKED, WHEN A
5 PERSON DOES REGISTER FOR THE SELECTIVE SERVICE. IN TERMS OF
6 REGISTRATION, HE TURNS HIS REGISTRATION CARDS IN AT THE POST
7 OFFICE. THE POST OFFICE PACKAGES THEM UP, SENDS THEM TO
8 SELECTIVE SERVICE. SELECTIVE SERVICE LOOKS THROUGH THEM TO
9 SEE IF IT'S A VALID REGISTRATION, THAT IS, WHETHER IT
10 CONTAINS ALL THE INFORMATION REQUIRED ON THE CARD AND IF IT'S
11 NOT, THEN IT GOES TO ONE STACK AND THEY GET IN CONTACT WITH
12 THE REGISTRANT AND IF IT IS VALID THEN IT GOES ONTO A
13 COMPUTER IN CHICAGO AND THAT THEY HAVE SEARCHED THE RECORDS
14 THAT THEY HAVE FOR SELECTIVE SERVICE AND THEY DO NOT FIND THE
15 DEFENDANT PAUL JACOB HAS EVER REGISTERED FOR THE DRAFT.

16 MR. DOUG KOTTERMAN, WHO IS WITH THE FBI,
17 INVESTIGATED THE CASE, SEATED OVER HERE ALSO NOW AT COUNSEL
18 TABLE, WILL TELL YOU THAT HE INVESTIGATED IT IN NOVEMBER OF
19 1981. HE WENT OUT TO MR. JACOB'S RESIDENCE OR HIS PARENTS'
20 RESIDENCE IN NORTH LITTLE ROCK TRYING TO LOCATE HIM. HE WAS
21 UNABLE TO LOCATE HIM AT THAT TIME AND THAT HE WAS ALSO THE
22 AGENT WHO SUBSEQUENTLY, AFTER THE INDICTMENT WAS RETURNED AND
23 A WARRANT WAS ISSUED, ARRESTED MR. JACOB AT WHICH TIME HE HAD
24 A FALSE IDENTIFICATION GOING UNDER AN ASSUMED NAME.

25 IT'S NOT A COMPLICATED CASE. IT'S AN IMPORTANT

1 CASE, THOUGH, TO BOTH THE DEFENDANT AND TO THE UNITED STATES.
2 WE BELIEVE THAT AGAIN, WHAT I OUTLINED TO YOU GOES TOWARDS
3 THE ESSENTIAL ELEMENTS, AS THE COURT WILL INSTRUCT YOU, OF
4 THE OFFENSE AND THAT IS, WAS MR. JACOB REQUIRED TO REGISTER,
5 DID HE REGISTER, THREE, IF HE DID NOT REGISTER WAS HIS
6 FAILURE TO REGISTER A KNOWING AND WILLFUL VIOLATION. THANK
7 YOU.

8 THE COURT: MR. HALL?

9 MR. HALL: THANK YOU, YOUR HONOR. LADIES AND
10 GENTLEMEN I'M JOHN HALL, A LAWYER HERE IN LITTLE ROCK. I WAS
11 INTRODUCED TO YOU EARLIER BUT THIS IS THE FIRST TIME I'VE
12 SPOKEN TO YOU. MR. VAUGHT AND I ARE ALSO PRIVILEGED TO
13 REPRESENT A PARTY IN THIS CASE, MR. PAUL JACOB THE DEFENDANT.
14 WE'RE HERE TODAY BECAUSE OF AN INDICTMENT. THIS MAN WAS
15 INDICTED BY A GRAND JURY IN THIS DISTRICT IN 1982 FOR FAILING
16 TO REGISTER FOR THE DRAFT. THE WHOLE CASE BOILS DOWN TO
17 THREE WORDS IN THE INDICTMENT. THAT'S THE ISSUE FOR YOU TO
18 DECIDE. THE ISSUE IS NOT REALLY NON-REGISTRATION THE ISSUE
19 IS WHETHER OR NOT HE KNOWINGLY AND WILLFULLY FAILED OR
20 REFUSED TO REGISTER FOR THE DRAFT.

21 PRESENTED FOR YOU WILL BE QUESTIONS OF A STATE OF
22 MIND, WHAT HE WAS THINKING, WHY HE SAID WHAT HE SAID WHEN HE
23 SAID IT, WHY HE'S HERE TODAY. YOU WILL HAVE TO DECIDE
24 WHETHER HIS INTENT WAS SUCH THAT HE WAS INTENDING TO VIOLATE
25 THE LAW OR WHETHER HE WAS ACTING AS A MATTER OF CONSCIENCE

1 TO BELIEVE IN A HIGHER LAW, THAT IS, THE FIRST AMENDMENT OF
2 THE UNITED STATES CONSTITUTION A PERSON HAS A RIGHT OF FREE
3 SPEECH.

4 HE WAS INDICTED, WE SUBMIT TO YOU AND THE PROOF I
5 BELIEVE WILL SHOW THIS, BECAUSE HE DID EXERCISE THE RIGHT OF
6 FREE SPEECH IN FRONT OF THIS VERY BUILDING. ABOUT FOUR YEARS
7 AGO HE WAS PHOTOGRAPHED OUTSIDE THIS BUILDING WITH A PROTEST
8 SIGN. THE GOVERNMENT IS GOING TO PUT THAT PHOTOGRAPH INTO
9 EVIDENCE. IT'LL SHOW MR. JACOB AND THE LADY WHO IS NOW HIS
10 WIFE HOLDING A SIGN PROTESTING THE DRAFT.

11 THE PROOF WILL ALSO SHOW, I SUBMIT TO YOU, THAT
12 THERE ARE A MASSIVE NUMBER OF PEOPLE NOT REGISTERED IN THIS
13 COUNTRY BUT ONLY A HANDFUL HAVE BEEN PROSECUTED, THE MOST
14 VOCAL. MR. JACOB IS ONE OF THE MOST VOCAL.

15 PART OF THE TESTIMONY WILL CENTER AROUND
16 MR. JACOB'S VIEWS OF HOW GOVERNMENT SHOULD OPERATE, AND THAT
17 IS HE IS A LIBERTARIAN, A MEMBER OF THE AMERICAN LIBERTARIAN
18 PARTY. IT'S A RECOGNIZED PARTY, IT'S A SMALL PARTY. SOME OF
19 YOU MAY NOT HAVE EVEN HEARD OF IT, BUT THAT'S WHERE HIS
20 BELIEFS ORIGINATE AND WE'LL PRESENT TO YOU MR. ED CLARK, A
21 WITNESS ON BEHALF OF THE DEFENSE, WHO RAN FOR PRESIDENT IN
22 1980 IN THE AMERICAN LIBERTARIAN PARTY. HE WAS ON THE BALLOT
23 IN EVERY STATE. HE'S A LAWYER IN LOS ANGELES WHO PRACTICES
24 ANTI-TRUST LAW. NOW HE KNOWS THE ROOTS AND SOURCE OF THE
25 AMERICAN LIBERTARIAN PARTY, WHERE IT CAME FROM, WHAT IT IS,

1 WHAT IT BELIEVES, AND ONE OF THE CENTRAL TENANTS OF THE
2 AMERICAN LIBERTARIAN PARTY IS THAT A PERSON IS HIS OWN
3 PROPERTY. THE GOVERNMENT DOES NOT HAVE THE RIGHT TO TELL A
4 PERSON WHAT TO DO, AND ONE OF THOSE THINGS IS REGISTER FOR
5 THE DRAFT.

6 LIBERTARIANS WILL FIGHT TO PROTECT THE COUNTRY IF
7 IT'S INVADED. IT'S NOT A QUESTION OF WHETHER MR. JACOB IS A
8 PASSIFIST. HE'S NOT A PASSIFIST, HE'S NOT A CONSCIENTIOUS
9 OBJECTOR IN THE TRADITIONAL SENSE THAT WE ALL THOUGHT OF
10 ABOUT IN THE VIET NAM WAR ERA OR WORLD WAR II. HE, LIKE
11 EVERYBODY, WILL DEFEND HIS COUNTRY, IF IT'S INVADED BUT THE
12 CONSCRIPTION INVOLVES RAISING A STANDING ARMY, AND RAISING A
13 STANDING ARMY INVOLVES THE FOREIGN POLICY OF THE GOVERNMENT
14 AND INTERVENTIONIST POLICY OF THE GOVERNMENT AND THAT'S AT
15 THE HEART OF THE AMERICAN LIBERTARIAN PARTY.

16 ALSO WHO WILL BE A DEFENSE WITNESS IS GEN. THOMAS
17 TURNAGE, DIRECTOR OF SELECTIVE SERVICE, AND HE MADE
18 STATEMENTS BACK IN 1981 AND '82, DURING THE PERIOD COVERED BY
19 THIS INDICTMENT, THAT A HIGH PERCENTAGE OF REGISTRATION IN
20 THIS COUNTRY AT THE TIME ABOUT 98 PERCENT IS PROOF OF THE
21 AGREEMENT WITH THE SYSTEM, AGREEMENT WITH THE DRAFT, AND THAT
22 FORMS THE BASIS OF THE ISSUE YOU HAVE TO DECIDE. THE HEAD OF
23 SELECTIVE SERVICE IS OUT TELLING THE PUBLIC THAT SIGNING THAT
24 FORM MEANS YOU'RE AGREEING WITH THE SYSTEM AND HOW CAN A
25 PERSON WHO IS DOES NOT AGREE WITH THE SYSTEM SIGN THAT FORM?

1 IT'S AN ETHICAL DILEMMA, IT'S A DILEMMA THAT MR. JACOB FACED.

2 ALSO AT THE HEART OF THAT ISSUE IS WHETHER OR NOT
3 THE GOVERNMENT CAN COMPEL A PERSON TO BELIEVE IN ITS
4 POLICIES. YOU CAN ALWAYS GRIN AND BEAR IT AND NOT BELIEVE IN
5 A POLICY AND SIGN IT, BUT IF YOU HAVE A CONSCIENTIOUS
6 OBJECTION TO SIGNING THE FORM, NOTICE THERE'S A DIFFERENCE
7 BETWEEN CONSCIENTIOUS OBJECTOR TO THE DRAFT AND CONSCIENTIOUS
8 OBJECTION TO A FORM, BECAUSE IT SIGNIFIES APPROVAL. SHOULD
9 YOU STAND UP AND BE COUNTED FOR THAT?

10 THE QUESTION IS DID HE KNOWINGLY FAIL OR WILLFULLY --
11 KNOWINGLY OR WILLFULLY FAIL OR REFUSE TO REGISTER FOR THE
12 DRAFT. DID HE HAVE THE INTENT TO VIOLATE THE LAWS OF THE
13 UNITED STATES? IS THE FIRST AMENDMENT GOING TO BE HIRE IN
14 HIS MIND THAN THE SELECTIVE SERVICE LAW?

15 ONE THING TO KEEP IN MIND WHEN YOU HEAR THE
16 EVIDENCE IN THIS CASE IS A QUOTE THAT OCCURRED IN 1980 RIGHT
17 AFTER PRESIDENT CARTER INITIATED DRAFT REGISTRATION. WHEN HE
18 ISSUED PRESIDENTIAL PROCLAMATION 4751, WHICH YOU'LL HEAR
19 ABOUT, THE DRAFT OR DRAFT REGISTRATION DESTROYS THE VERY
20 VALUES OUR SOCIETY IS COMMITTED TO DEFENDING. RONALD REAGAN
21 SAID THAT WHEN HE WAS A CANDIDATE FOR PRESIDENT AND THAT IS A
22 BASIC LIBERTARIAN VIEW. THANK YOU.

23 THE COURT: LADIES AND GENTLEMEN OF THE JURY, IT'S
24 NOW 12:00. WE'RE GOING TO RECESS UNTIL ONE O'CLOCK. ONCE
25 AGAIN, I ADMONISH YOU NOT TO DISCUSS THE CASE AMONG

1 YOURSELVES OR PERMIT ANYBODY TO DISCUSS IT WITH YOU. YOU
2 SHOULD REPORT DIRECTLY TO THE JURY ROOM NOT LATER THAN 5
3 UNTIL 1:00 AND WE'LL START PROMPTLY AT ONE O'CLOCK. LET
4 EVERYBODY REMAIN SEATED WHILE THE JURY EXITS THE COURTROOM.

5 (JURY EXITS.)

6 (LUNCH RECESS.)

7 THE COURT: CALL YOUR FIRST WITNESS, MR. STOLL.

8 MR. STOLL: JUDGE, I HAVE A CERTIFIED COPY OF A
9 BIRTH CERTIFICATE AS GOVERNMENT EXHIBIT 1. I'VE SHOWN A COPY
10 TO OPPOSING COUNSEL AND THEY HAVE NO OBJECTION TO IT.

11 THE COURT: ALL RIGHT, LET IT BE RECEIVED.

12 (GOVERNMENT EXHIBIT 1 RECEIVED INTO EVIDENCE.)

13 MR. STOLL: JAMES SMITH.

14 THE COURT: STEP AROUND, MR. SMITH, AND BE SWORN BY
15 THE CLERK.

16 JAMES SMITH, PLAINTIFF'S WITNESS, SWORN
17 BY MR. STOLL:

18 Q. STATE YOUR NAME, PLEASE?

19 A. JAMES SMITH.

20 Q. ARE YOU EMPLOYED, MR. SMITH?

21 A. YES.

22 Q. WHAT OCCUPATION?

23 A. PRINCIPAL NORTHEAST HIGH SCHOOL.

24 Q. HOW LONG HAVE YOU BEEN PRINCIPAL OVER AT NORTHEAST HIGH
25 SCHOOL?

1 A. 14 YEARS.

2 Q. IS THAT IN NORTH LITTLE ROCK?

3 A. YES.

4 Q. PURSUANT TO A SUBPOENA DID YOU BRING SOME SCHOOL RECORDS
5 WITH YOU CONCERNING PAUL JACOB?

6 A. YES, I DID.

7 Q. DO YOU HAVE THAT WITH YOU?

8 A. YES.

9 MR. STOLL: JUDGE, FOR IDENTIFICATION PURPOSES,
10 I'VE MARKED THIS AS GOVERNMENT EXHIBIT NUMBER 2.

11 (GOVERNMENT EXHIBIT 2 MARKED FOR IDENTIFICATION.)

12 BY MR. STOLL:

13 Q. IS THIS A RECORD KEPT BY YOUR SCHOOL OVER THERE ON PAUL
14 JACOB?

15 A. YES.

16 Q. AND DOES IT HAVE HIS DATE OF BIRTH?

17 A. YES.

18 Q. WHAT IS THAT?

19 A. 3-6 OF '60.

20 Q. OKAY. AND THE PLACE?

21 A. EVERGREEN PARK, ILLINOIS.

22 Q. DOES IT HAVE HIS FATHER'S NAME?

23 A. JOHN JACOB.

24 Q. DOES IT HAVE HIS ADDRESS WHEN HE WAS ATTENDING NORTHEAST
25 HIGH SCHOOL?

1 A. NUMBER 35 DE SOTO CIRCLE, NORTH LITTLE ROCK.

2 MR. STOLL: YOUR HONOR, WE'D OFFER GOVERNMENT
3 EXHIBIT NUMBER 2.

4 THE COURT: ANY OBJECTIONS?

5 MR. VAUGHT: NO OBJECTION, YOUR HONOR.

6 THE COURT: ALL RIGHT, ADMITTED.

7 (GOVERNMENT EXHIBIT 2 RECEIVED INTO EVIDENCE.)

8 BY MR. STOLL:

9 Q. MR. SMITH, DO YOU KNOW MR. JACOB?

10 A. YES.

11 Q. DO YOU SEE HIM HERE IN THE COURTROOM?

12 A. YES.

13 Q. COULD YOU POINT HIM OUT?

14 A. (INDICATING.)

15 Q. GENTLEMAN WITH THE BLUE SHIRT ON SITTING OVER HERE?

16 A. YES.

17 Q. AND THAT'S THE GENTLEMAN WHOSE RECORDS YOU WERE
18 TESTIFYING TO?

19 A. YES.

20 Q. AND HE ATTENDED SCHOOL AT NORTHEAST, IS THAT RIGHT?

21 A. YES.

22 (GOVERNMENT EXHIBIT 3 MARKED FOR IDENTIFICATION.)

23 BY MR. STOLL:

24 Q. I'M GOING TO HAND YOU A PACKAGE OF PHOTOGRAPHS, WHICH I
25 MARKED FOR IDENTIFICATION PURPOSES AS GOVERNMENT EXHIBIT

SMITH - DIRECT

1 NUMBER 3 AND ASK YOU TO LOOK THROUGH THOSE. CAN YOU IDENTIFY
2 ANYONE IN THOSE PICTURES?

3 A. YES.

4 Q. WHO?

5 A. PAUL JACOB.

6 Q. SAME GENTLEMAN YOU JUST IDENTIFIED?

7 A. YES.

8 Q. IDENTIFIED HERE IN COURT?

9 A. YES.

10 THE COURT: LET ME SEE COUNSEL A SECOND.

11 (THE FOLLOWING PROCEEDINGS AT THE BENCH.)

12 THE COURT: IT'S JUST BEEN CALLED TO BY ATTENTION
13 BY THE MARSHAL THAT WE HAVE SOME SPECTATORS AND I HAVE
14 DIRECTED HIM TO HAVE THEM TO REMOVE THOSE BUTTONS, AND I WANT
15 EXPRESSION FROM COUNSEL.

16 MR. STOLL: JUDGE, I WOULD AGREE. I SAW ONE IN THE
17 HALL THAT SAYS I THINK FREE PAUL JACOB. I DON'T KNOW WHETHER
18 THAT'S ALL OF THEM, BUT WE REQUEST THAT THEY REMOVE THOSE AS
19 LONG AS THEY ARE HERE IN COURT.

20 MR. VAUGHT: I DON'T UNDERSTAND THE BASIS FOR THE
21 REMOVAL, NUMBER ONE.

22 MR. STOLL: ONE, THAT THEY ARE SITTING ON THE FIRST
23 AND SECOND ROW OF THE COURT. THE ALTERNATE JUROR IS BACKING
24 UP RIGHT TO THEM. THE JURY HAS TO PASS THEM EVERY TIME GOING
25 IN AND OUT FOR EVERY RECESS, AND I DON'T THINK IT'S PROPER

SMITH - DIRECT

1 THAT THEY WEAR THOSE BUTTONS IN THE COURTROOM.

2 MR. VAUGHT: I HAVE NO STRONG FEELING ONE WAY OR
3 THE OTHER.

4 THE COURT: ALL RIGHT, LET THE RECORD REFLECT THAT
5 THIS WAS TAKEN UP WITH COUNSEL AND THERE WAS NO OBJECTION,
6 AND THE COURT HAS DIRECTED THAT THE MARSHAL HAVE THEM REMOVE
7 THE BUTTONS. THEY ARE SITTING RIGHT NEXT TO THE JURY BOX,
8 AND AS A MATTER OF FACT, AS MR. STOLL HAS POINTED OUT, RIGHT
9 NEXT TO THE ALTERNATE JUROR.

10 MR. VAUGHT: YOUR HONOR, WOULD IT BE PROPER FOR
11 MR. JACOB'S FAMILY TO TELL THEM TO REMOVE THE BUTTONS?

12 MR. STOLL: I THINK THEY ARE ALREADY OFF.

13 (THE FOLLOWING PROCEEDINGS IN OPEN COURT, JURY PRESENT.)

14 MR. STOLL: PASS THE WITNESS.

15 THE COURT: MR. HALL?

16 MR. VAUGHT: THANK YOU, YOUR HONOR.

17 CROSS EXAMINATION

18 BY MR. VAUGHT:

19 Q. GOOD MORNING, MR. SMITH. I'M LARRY VAUGHT, ONE OF THE
20 ATTORNEYS FOR PAUL JACOBS. YOU TESTIFIED THAT YOU ARE THE
21 PRINCIPAL AT NORTHEAST, IS THAT CORRECT?

22 A. YES.

23 Q. WHEN DID PAUL GO TO NORTHEAST?

24 A. I BELIEVE HE GRADUATED IN '77-'78, SOMEWHERE ALONG IN
25 THERE.

SMITH - CROSS

1 Q. DID YOU KNOW PAUL AT THAT TIME? I MEAN, DO YOU REMEMBER
2 HIM WHEN HE WAS A STUDENT THERE?

3 A. YES.

4 Q. I MEAN, ARE YOU JUST TESTIFYING FROM YOUR RECORDS?

5 A. BOTH.

6 Q. MR. SMITH, I'M GOING TO SHOW YOU THE EXHIBIT ALREADY
7 INTRODUCED AS GOVERNMENT EXHIBIT NUMBER 2 AND ASK IF YOU
8 COULD LOOK AT IT AND TELL ME WHAT KIND OF A STUDENT PAUL WAS?

9 A. WELL, WE WOULD TERM AS AN EXCELLENT STUDENT.

10 Q. MAINLY A'S, IS THAT CORRECT?

11 A. 3.6 OVERALL GRADE AVERAGE.

12 Q. THAT'S HIS CUMULATIVE OVER ALL THE YEARS HE WAS IN HIGH
13 SCHOOL?

14 A. RIGHT.

15 Q. AND THAT IS WHAT WOULD BE CALLED AN HONOR STUDENT, ISN'T
16 IT?

17 A. YES.

18 Q. AND WOULD YOU SAY THAT PAUL JACOB IS AN INTELLIGENT
19 PERSON?

20 A. YES.

21 Q. AND WOULD YOU SAY FROM YOUR EXPERIENCE AND KNOWLEDGE OF
22 HIM PERSONALLY THAT HE IS A PERSON WHO HAS STRONG CONVICTIONS
23 ABOUT THINGS?

24 A. YES.

25 Q. AND CAN YOU EXPRESS AN OPINION ON THE SINCERITY OF HIS

SMITH - CROSS

1 CONVICTIONS?

2 A. YES, I THINK HE'S VERY SINCERE.

3 Q. THINK HE'S VERY SINCERE?

4 MR. VAUGHT: THANK YOU.

5 THE COURT: ANYTHING ELSE?

6 MR. STOLL: NO, YOUR HONOR.

7 THE COURT: ALL RIGHT, YOU MAY STEP DOWN,

8 MR. SMITH.

9 MR. STOLL: MAY HE BE EXCUSED, YOUR HONOR?

10 THE COURT: MR. VAUGHT?

11 MR. VAUGHT: YES, YOUR HONOR.

12 THE COURT: ALL RIGHT, YOU MAY BE EXCUSED. CALL

13 YOUR NEXT WITNESS.

14 MS. CHERRY: YOUR HONOR, WE HAVE A VOTER
15 REGISTRATION OF THE DEFENDANT PAUL JACOB FOR PULASKI COUNTY
16 NUMBERED AS GOVERNMENT EXHIBIT 4. I WILL SHOW IT TO DEFENSE
17 COUNSEL.

18 (GOVERNMENT EXHIBIT 4 MARKED FOR IDENTIFICATION.)

19 MR. VAUGHT: MAY WE APPROACH, YOUR HONOR?

20 THE COURT: YES.

21 (THE FOLLOWING PROCEEDINGS AT THE BENCH.)

22 MR. VAUGHT: WE DON'T OBJECT TO THE FRONT OF IT,
23 WHICH HAS ALL THE INFORMATION ON IT. WE WOULD OBJECT TO THE
24 BACK SIDE BECAUSE THERE'S SOME GRATUITOUS REMARKS WHICH ARE
25 PUT ON HERE, APPARENTLY BY MR. JACOB FOR WHICH WE THINK MIGHT

SMITH - CROSS

1 BE SOMEWHAT INFLAMMATORY AND PREJUDICIAL, AND THE BACK
2 DOESN'T ADD ANY INFORMATION THAT ISN'T ALREADY IN THE FRONT.

3 MS. CHERRY: YOUR HONOR, WE'RE OFFERING IT TO SHOW
4 THAT MR. JACOBS WAS LIVING HERE AND VOTING HERE IN 1980.
5 THAT'S A PART OF OUR PROOF. WE'VE GOT TO ESTABLISH THAT. WE
6 NEED TO SHOW HIS RESIDENCE AND WHERE HE WAS AND WE'LL BE ABLE
7 TO DO THIS BY SHOWING HE VOTED HERE. I THINK THERE'S ONE IN
8 MAY AND ONE IN NOVEMBER. THE FACT THAT PAUL JACOB WROTE
9 "SMASH THE STATE" ON THERE IS JUST HE WROTE IT ON A PUBLIC
10 DOCUMENT, BUT WE NEED TO INTRODUCE THIS TO SHOW --

11 THE COURT: WHAT ABOUT IT?

12 MR. VAUGHT: CAN WE SUBSTITUTE A COPY TO DELETE
13 THAT?

14 MR. STOLL: THAT'S A RECORD ON FILE, CERTIFIED THE
15 WAY IT IS.

16 THE COURT: ALL RIGHT, I MUST BALANCE THIS, UNDER
17 403, WHETHER THE PROBATIVE VALUE OUTWEIGHS THE PREJUDICIAL
18 EFFECT THAT MIGHT FLOW FROM THIS. YOU ARE SAYING THAT IT'S
19 PREJUDICIAL, IS THAT RIGHT?

20 MR. VAUGHT: YES, YOUR HONOR.

21 THE COURT: WHAT'S THE PROBATIVE VALUE?

22 MS. CHERRY: PROBATIVE VALUE, YOUR HONOR, THERE'S
23 NO OTHER WAY FOR US TO CLEARLY ESTABLISH THAT PAUL JACOB,
24 DURING THAT TIME PERIOD, WAS HERE OTHER THAN THIS.

25 MR. VAUGHT: WHY DON'T YOU HAVE THE DEMOCRAT

SMITH - CROSS

1 REPORTER COME IN?

2 MR. STOLL: THAT WOULD BE IN 1981.

3 THE COURT: WHAT ABOUT "SMASH THE STATE?" NOW, HE'S
4 SAYING THAT WE COULD EXCIZE THIS, PUT SOMETHING OVER IT.

5 MS. CHERRY: WELL, YOUR HONOR, IT'S THE OFFICIAL
6 RECORD. HE WROTE ON IT, WE DIDN'T. IT'S HIS OFFICIAL VOTING
7 RECORD.

8 THE COURT: WHAT'S THE RELEVANCY OF "SMASH THE
9 STATE?"

10 MS. CHERRY: WELL, AS A MATTER OF FACT, I THINK
11 PROBABLY "SMASH THE STATE" IS RELEVANT IN THIS PARTICULAR
12 CASE.

13 THE COURT: WOULD THAT BE RELEVANT TO HIS INTENT
14 AND WILLFULNESS? IS THAT WHAT YOU'RE SAYING IN EFFECT?

15 MR. STOLL: YES, SIR.

16 MR. VAUGHT: I DON'T THINK IT WOULD BE RELEVANT TO
17 ANYTHING, YOUR HONOR, SAYING THAT HIS POLITICAL VIEWS DON'T --
18 I THINK "SMASH THE STATE" IS JUST PROBABLY A BOYISH STATEMENT
19 THAT CAME OFF THE TOP OF HIS HEAD.

20 THE COURT: WELL, YOUR POSITION IS THAT
21 GEN. TURNAGE'S TESTIMONY IS RELEVANT TO SHOW THAT HE DID NOT
22 POSSESS THE REQUISITE INTENT. SO, WE'RE GOING TO LET THAT
23 COME IN. WHY IS IT THAT ISN'T RELEVANT?

24 MR. VAUGHT: I JUST FEEL LIKE THIS IS A GRATUITOUS
25 REMARK, GEN. TURNAGES ARE NOT.

SMITH - CROSS

1 THE COURT: A GRATUITOUS REMARK?

2 MS. CHERRY: TWICE.

3 THE COURT: ALL RIGHT, IN LIGHT OF THE FACT THE
4 COURT HAS PERMITTED YOU TO CALL GEN. TURNAGE IN FINDING THAT
5 HIS TESTIMONY MIGHT BE RELEVANT TO WILLFULNESS OR INTENT, THE
6 COURT IS PERSUADED THAT THIS DOCUMENT SHOULD BE ADMITTED
7 WITHOUT DELETING QUOTE "SMASH THE STATE" END OF QUOTE IN
8 LIGHT OF THE FACT THAT IS MAY BE PROBATIVE WITH REGARD TO
9 WILLFULNESS OR INTENT. THE COURT FINDS THAT THE PROBATIVE
10 VALUE OUTWEIGHS ANY PREJUDICIAL EFFECT THAT IS LIKELY TO FLOW
11 FROM IT.

12 (THE FOLLOWING PROCEEDINGS IN OPEN COURT, JURY PRESENT.)

13 MS. CHERRY: YOUR HONOR, THE VOTER REGISTRATION
14 CARD IS OFFERED TO SHOW THAT MR. JACOB PRESIDED AND VOTED
15 DURING THE TIME PERIOD DURING THE INDICTMENT IN THE PERIOD OF
16 1980. I'D ASK THAT IT BE RECEIVED AS EXHIBIT 4 AND I'D LIKE
17 TO PASS IT TO THE JURY, PLEASE.

18 MR. VAUGHT: ONLY THE OBJECTIONS PREVIOUSLY, YOUR
19 HONOR.

20 THE COURT: ALL RIGHT, ADMITTED.

21 (GOVERNMENT EXHIBIT 4 RECEIVED INTO EVIDENCE.)

22 MS. CHERRY: YOUR HONOR, WE CALL JUDY CRUME.

23 JUDY CRUME, PLAINTIFF'S WITNESS, SWORN

24 DIRECT EXAMINATION

25 BY MS. CHERRY:

CRUME - DIRECT

1 Q. WOULD YOU STATE YOUR NAME FULL NAME, PLEASE, AND SPELL
2 YOUR LAST NAME FOR THE BENEFIT OF THE REPORTER?

3 A. JUDY GREEN CRUME, C. R. U. M. E.

4 Q. MS. CRUME, YOU MAY WANT TO SPEAK INTO THAT MICROPHONE
5 THERE THAT'S BY YOUR CHAIR. AND YOU ARE A NEWS CLERK, ARE
6 YOU NOT, FOR THE ARKANSAS DEMOCRAT?

7 A. YES, I AM.

8 Q. PURSUANT TO A SUBPOENA TO THE DEMOCRAT DID YOU BRING
9 WITH YOU CERTAIN NEWS ARTICLES DATED JANUARY 6, 1981?

10 A. YES, I HAVE IT.

11 Q. IS IT AN ARTICLE CONCERNING PAUL JACOB?

12 A. YES.

13 MS. CHERRY: YOUR HONOR, WE'RE MARKING THIS ARTICLE
14 AS EXHIBIT 5 AND I'LL SHOW IT TO DEFENSE COUNSEL.

15 THE COURT: ANY OBJECTIONS?

16 MR. VAUGHT: NO, YOUR HONOR.

17 THE COURT: ALL RIGHT, ADMITTED.

18 (GOVERNMENT EXHIBIT 5 MARKED AND RECEIVED IN EVIDENCE.)

19 BY MS. CHERRY:

20 Q. MS. CRUME, WILL YOU TELL US, PLEASE, THE REPORTER
21 THAT WAS RESPONSIBLE FOR THE ARTICLE?

22 A. OKAY. THE ARTICLE IS WRITTEN BY SHERRY WARD, A DEMOCRAT
23 STAFF WRITER.

24 Q. AND WHO IS THE PHOTOGRAPHER LISTED ON THE ARTICLE?

25 A. PHOTOGRAPHER IS JAMES ALLISON.

CRUME - DIRECT

1 Q. ALL RIGHT.

2 MS. CHERRY: YOUR HONOR, I'LL PASS THIS TO THE
3 JURY.

4 MS. CHERRY: WE HAVE NOTHING FURTHER OF MS. CRUME.

5 THE COURT: MR. VAUGHT?

6 MR. VAUGHT: NO QUESTIONS, YOUR HONOR.

7 THE COURT: ALL RIGHT, YOU MAY STEP DOWN. CALL
8 YOUR NEXT WITNESS.

9 MS. CHERRY: JAMES ALLISON.

10 THE COURT: ALL RIGHT, MR. ALLISON, STEP AROUND AND
11 BE SWORN BY THE CLERK.

12 JAMES ALLISON, PLAINTIFF'S WITNESS, SWORN

13 DIRECT EXAMINATION

14 BY MS. CHERRY:

15 Q. MR. ALLISON, WOULD YOU STATE YOUR FULL NAME, PLEASE?

16 A. JAMES EDWARD ALLISON.

17 Q. IN JANUARY OF 1981 WERE YOU EMPLOYED AS A PHOTOGRAPHER
18 FOR THE ARKANSAS DEMOCRAT?

19 A. YES.

20 Q. ALL RIGHT. I'D LIKE TO SHOW SOME PHOTOGRAPHS WHICH HAVE
21 BEEN MARKED AS GOVERNMENT'S EXHIBIT 3 AND ASK YOU IF YOU CAN
22 IDENTIFY THEM.

23 A. YES, THESE ARE THE PHOTOGRAPHS I TOOK ON ASSIGNMENT.

24 Q. YOU DID TAKE THEM ON ASSIGNMENT?

25 A. YES.

ALLISON - DIRECT

1 Q. WHO WAS WITH YOU AT THE TIME?

2 A. A REPORTER BY THE NAME OF SHERRY WARD.

3 Q. AND WHERE WERE THOSE PHOTOGRAPHS TAKEN?

4 A. OUTSIDE THIS BUILDING.

5 Q. DOWN IN FRONT HERE?

6 A. YES, JUST OUT ON THE SIDEWALK.

7 MS. CHERRY: YOUR HONOR, IF I MAY HAVE THE ARTICLE
8 BACK JUST ONE MINUTE.

9 BY MS. CHERRY:

10 Q. MR. ALLISON, IF YOU'LL LOOK AT THOSE PHOTOGRAPHS, ARE
11 THESE THE SAME PHOTOGRAPHS TAKEN IN CONJUNCTION WITH THIS
12 NEWSPAPER ARTICLE?

13 A. YES.

14 Q. IS THAT CORRECT?

15 A. YES.

16 Q. ALL RIGHT.

17 MS. CHERRY: YOUR HONOR, WE'D LIKE TO OFFER THE
18 PHOTOGRAPHS ALSO AT THIS TIME AND RETURN THESE.

19 THE COURT: ANY OBJECTION?

20 MR. VAUGHT: NO, YOUR HONOR.

21 THE COURT: ALL RIGHT, ADMITTED. THE PHOTOGRAPHS
22 HAVE BEEN IDENTIFIED AS GOVERNMENT 3?

23 MS. CHERRY: YES, YOUR HONOR. THE PHOTOGRAPHS ARE
24 3, YOUR HONOR. WE HAVE NOTHING FURTHER OF MR. ALLISON.

25 (GOVERNMENT EXHIBIT 3 RECEIVED INTO EVIDENCE.)

ALLISON - DIRECT

1 THE COURT: MR. HALL?

2 MR. HALL: YES, YOUR HONOR.

3 CROSS EXAMINATION

4 BY MR. HALL:

5 Q. DO YOU RECALL WHAT DAY THOSE PICTURES WERE TAKEN?

6 A. YES, JANUARY 5, 1981.

7 Q. DOES IS HAVE THAT DATE STAMPED ON THE BACK OF THE
8 PICTURES?

9 A. IT'S STAMPED ON THE ARTICLE.

10 Q. WERE THERE ANY OTHER PEOPLE PROTESTING OUTSIDE THE
11 COURTHOUSE THAT DAY?

12 A. OTHER THAN MR. JACOB? THERE WAS A YOUNG GIRL THERE. I
13 DON'T KNOW HER NAME.

14 Q. JUST THE TWO PEOPLE IN THE PHOTOGRAPH WERE THE ONLY ONES
15 THERE THAT DAY?

16 A. THE WHOLE DAY WHILE I HAVE THERE. I WAS THERE ABOUT 15
17 MINUTES PROBABLY.

18 Q. THEY WERE THE ONLY TWO PEOPLE THERE?

19 A. UH-HUH.

20 MR. HALL: THANK YOU.

21 MS. CHERRY: NOTHING FURTHER OF MR. ALLISON, YOUR
22 HONOR.

23 THE COURT: ALL RIGHT, MR. ALLISON, YOU MAY STEP
24 DOWN.

25 MS. CHERRY: SHERRY JEAN WARD.

ALLISON - CROSS

1 THE COURT: ALL RIGHT, MS. WARD, STEP AROUND AND BE
2 SWORN BY THE CLERK.

3 SHERRY JEAN WARD, PLAINTIFF'S WITNESS, SWORN
4 DIRECT EXAMINATION

5 BY MS. CHERRY:

6 Q. MS. WARD, WOULD YOU STATE YOUR FULL NAME FOR THE BENEFIT
7 OF THE REPORTER?

8 A. SHERRY JEAN WARD.

9 Q. AND, MS. WARD, IN JANUARY OF 1981 HOW WERE YOU EMPLOYED?

10 A. I WAS A NEWSPAPER REPORTER FOR THE ARKANSAS DEMOCRAT.

11 Q. DURING JANUARY OF THAT YEAR WERE YOU ASSIGNED TO COVER A
12 PROTEST WHICH WAS OCCURRING AT THE LITTLE ROCK POST OFFICE?

13 A. YES.

14 Q. IN THE COURSE OF THAT ASSIGNMENT DID YOU HAVE OCCASION
15 TO INTERVIEW AN INDIVIDUAL NAMED PAUL JACOB?

16 A. YES.

17 Q. ALL RIGHT. LET ME SHOW YOU WHAT'S BEEN MARKED,
18 MS. WARD, AS EXHIBIT 3, A SET OF PHOTOGRAPHS, AND TELL ME IF
19 THAT IS MR. JACOB THERE IN THE PHOTOGRAPH THAT YOU
20 INTERVIEWED?

21 A. YES, AS I REMEMBER.

22 Q. WOULD YOU JUST MARK ON THERE, AT LEAST ON JUST ONE OF
23 THEM, WHICH GENTLEMAN YOU'RE REFERRING TO?

24 A. (COMPLIES.)

25 Q. IN THE COURSE OF INTERVIEWING SOMEONE LIKE THIS,

WARD - DIRECT

1 MS. WARD, HOW DO YOU HANDLE DIRECT QUOTES? IN OTHER WORDS,
2 HOW DO THEY APPEAR IN THE ARTICLE?

3 A. JUST AS THEY WERE SAID. IS THAT WHAT YOU MEAN?

4 Q. YES. LET ME SHOW YOU A COPY OF AN ARTICLE THAT'S BEEN
5 INTRODUCED IN EVIDENCE AS GOVERNMENT'S EXHIBIT 5 AND ASK YOU
6 IF THAT IS AN ARTICLE YOU WROTE ABOUT THE INTERVIEW YOU TOOK
7 FROM PAUL JACOB?

8 A. YES.

9 Q. WHAT, MS. WARD, DID MR. JACOB TELL YOU ABOUT HIS
10 INTENTIONS TO REGISTER OR NOT REGISTER WITH THE SELECTIVE
11 SERVICE SYSTEM?

12 A. HE TOLD ME THAT HE DIDN'T INTEND TO.

13 Q. DID HE TELL YOU WHETHER HE HAD OR ANYTHING ABOUT WHETHER
14 HE HAD OR NOT REGISTERED?

15 A. I ASSUME HE TOLD ME THAT HE DIDN'T OR THAT HE HADN'T.

16 Q. AND DIDN'T INTEND TO?

17 A. YES.

18 Q. ALL RIGHT.

19 MS. CHERRY: YOUR HONOR, WE HAVE NOTHING FURTHER OF
20 MS. WARD.

21 THE COURT: MR. VAUGHT?

22 CROSS EXAMINATION

23 BY MR. HALL:

24 Q. DO YOU REMEMBER WHAT TIME OF DAY YOU WERE THERE?

25 A. MID-DAY I THINK.

WARD - CROSS

1 Q. WAS THERE ANY OTHER PROTESTERS AROUND?

2 A. UH-HUH.

3 Q. HOW MANY OTHERS?

4 A. ONE.

5 Q. AND WAS THAT THE PERSON WHO IS IN THE PHOTOGRAPH?

6 A. UH-HUH.

7 Q. NO OTHER PERSONS WERE THERE?

8 A. NO.

9 MR. HALL: THANK YOU.

10 THE COURT: ANYTHING ELSE?

11 MS. CHERRY: NO, YOUR HONOR.

12 THE COURT: ALL RIGHT, YOU MAY STEP DOWN, MS. WARD.

13 MR. STOLL: TERRY NOLEN.

14 TERRY NOLEN, PLAINTIFF'S WITNESS, SWORN

15 DIRECT EXAMINATION

16 BY MR. STOLL:

17 Q. STATE YOUR NAME, PLEASE?

18 A. MY NAME A TERRELL NOLEN.

19 Q. HOW DO YOU SPELL THAT LAST NAME, MR. NOLEN?

20 A. N. O. L. E. N.

21 Q. ARE YOU EMPLOYED?

22 A. YES, I AM.

23 Q. BY WHOM?

24 A. BY THE POSTAL SERVICE.

25 Q. HOW LONG HAVE YOU BEEN EMPLOYED BY THE POSTAL SERVICE?

NOLEN - DIRECT

- 1 A. GIVE OR TAKE 13 YEARS.
- 2 Q. WHAT'S YOUR POSITION?
- 3 A. MANAGE THE MAIN OFFICE DOWNSTAIRS.
- 4 Q. HERE IN THIS BUILDING?
- 5 A. YES.
- 6 Q. HOW LONG HAVE YOU HAD THAT POSITION?
- 7 A. ABOUT TWO YEARS.
- 8 Q. GOING BACK IN 1981, WHAT POSITION DID YOU HOLD THEN?
- 9 A. AT THAT TIME I WAS A CUSTOMER SERVICE REPRESENTATIVE.
- 10 Q. DID YOU HAVE ANY RESPONSIBILITIES CONNECTED WITH
- 11 SELECTIVE SERVICE AT THAT TIME?
- 12 A. YES, I WAS ASSIGNED AS WHAT WE CALL M. S. C. AS THE
- 13 MANAGEMENT SECTIONAL CENTER COORDINATOR TO IMPLEMENT THE
- 14 SERVICE IN CONJUNCTION WITH THE SELECTIVE SERVICE SYSTEM
- 15 THROUGHOUT WELL, 70 PERCENT OF THE STATE.
- 16 Q. OKAY. AND IN IMPLEMENTING THE SELECTIVE SERVICE
- 17 PROGRAM, HOW DID THE POST OFFICE FIT INTO THAT?
- 18 A. WELL, IF I UNDERSTAND THE QUESTION CORRECTLY, SIMPLY
- 19 BECAUSE OF OUR SIZE. THERE'S A POST OFFICE IN EVERY TOWN.
- 20 BECAUSE OF THIS THE SELECTIVE SERVICE SYSTEM EVIDENTLY FELT
- 21 WE WOULD BE PROBABLY THE BEST AGENCY TO HAVE FACILITIES
- 22 AVAILABLE FOR ANYONE AND EVERYONE WHO WANTED TO REGISTER TO
- 23 BE ABLE TO DO IT CONVENIENTLY, SO THE POSTAL SERVICE WAS USED
- 24 AS A MEANS BY WHICH THAT WAS DONE.
- 25 Q. THE QUESTION, WHAT I'M TRYING TO GET AT, COULD PEOPLE

NOLEN - DIRECT

1 WHO WERE REQUIRED TO REGISTER COME TO A POST OFFICE TO
2 REGISTER?

3 A. YES.

4 Q. THAT WAS THE FUNCTION OF POST OFFICE?

5 A. EMPHATICALLY, YES, REGARDLESS OF WHERE THEY WERE.

6 Q. TO ACCEPT REGISTRATION?

7 A. YES. THEY DID NOT HAVE TO BE IN THEIR OWN HOME TOWN.

8 THEY COULD REGISTER ANYWHERE, BECAUSE THE CARD WENT

9 ULTIMATELY TO ONE LOCATION.

10 Q. AND THIS POST OFFICE IS NOT ANY EXCEPTION, A PERSON
11 COULD REGISTER IN THIS ONE?

12 A. ABSOLUTELY, YES.

13 Q. AS WELL AS THE OTHER ONES LOCATED THROUGHOUT PULASKI
14 COUNTY?

15 A. YES.

16 Q. AFTER THEY REGISTERED YOU WOULD BUNDLE THEM UP AND WHAT?

17 A. SEND THEM TO A LOCATION IN CHICAGO AT WHICH TIME THE
18 SELECTIVE SERVICE TOOK POSSESSION OF THEM AND DID WHATEVER
19 THEY DID WITH THEM.

20 Q. OKAY.

21 MR. STOLL: THANK YOU.

22 THE WITNESS: YES, SIR.

23 MR. STOLL: PASS THE WITNESS.

24 THE COURT: MR. VAUGHT?

25 CROSS EXAMINATION

NOLEN - CROSS

1 BY MR. VAUGHT:

2 Q. MR. NOLEN, TELL ME A LITTLE BIT ABOUT HOW THE ACTUAL
3 REGISTRATION PROCESS WORKS IN THE POST OFFICE, IN THIS POST
4 OFFICE, FOR EXAMPLE. IF I WERE COMING IN TO REGISTER, WHAT
5 WOULD I DO?

6 A. YOU WOULD WALK UP TO THE WINDOW SERVICE AND INDICATE, OF
7 COURSE, THAT YOU WOULD LIKE TO REGISTER FOR THE SELECTIVE
8 SERVICE. AT THAT TIME YOU WOULD BE GIVEN A CARD WHICH GIVES
9 BASIC INFORMATION, YOUR NAME, ADDRESS, SOCIAL SECURITY
10 NUMBER, ET CETERA. AND YOU'LL BE GIVEN A PAMPHLET INDICATING
11 INSTRUCTIONS TO ANY QUESTIONS YOU MIGHT HAVE. WE DON'T HAVE
12 TIME TO ANSWER ALL THE QUESTIONS. CONSEQUENTLY, THIS FORMS
13 GIVES BASIC INFORMATION. ALSO INDICATES THAT IF THERE ARE
14 ANY QUESTIONS THAT THEY SHOULD BE FORWARDED TO A PARTICULAR
15 ADDRESS IN WASHINGTON.

16 Q. IN OTHER WORDS, THE PERSONNEL IN THE POST OFFICE DIDN'T
17 ATTEMPT TO ANSWER QUESTIONS ABOUT SELECTIVE SERVICE?

18 A. NO. WE WERE THERE SIMPLY TO PROVIDE THE FORMS AND THE
19 PAMPHLETS THAT WOULD GIVE THE ADDRESS WHERE QUESTIONS COULD
20 BE ANSWERED.

21 Q. AND ONCE THE INDIVIDUAL FILLED OUT THE CARD, WHAT WOULD
22 HE DO WITH IT?

23 A. ONCE THE CARD IS FILLED OUT, WE ASK FOR IDENTIFICATION,
24 SIMPLY BECAUSE IN THE LOWER RIGHT-HAND PORTION OF THE CARD
25 THERE IS A BLOCK INDICATING IDENTIFICATION, NO IDENTIFICATION

NOLEN - CROSS

1 OR OTHER. IF THE PERSON SUBMITTED A VALID DRIVER'S LICENSE
2 OR WHATEVER, WE WOULD MARK I. D., INDICATING IT WAS
3 IDENTIFICATION. IF THEY DIDN'T HAVE ANY IDENTIFICATION,
4 DIDN'T DRIVE A CAR OR WHATEVER, THEN WE WOULD MARK NO I. D.
5 IF WE FELT THAT THAT PERSON WAS WHO HE SAID HE WAS. WE DID
6 HAVE PRANKS, PEOPLE COME IN AND FILL ONE OUT FOR MICKEY MOUSE
7 OR WHATEVER. AT THAT TIME WE WOULD CHECK THE OTHER
8 INDICATING, OF COURSE, THAT WE DID NOT FEEL THAT THIS WAS
9 VALID.

10 Q. YOU WOULD, THOUGH, ACCEPT A CARD IF A PERSON DID NOT
11 HAVE IDENTIFICATION?

12 A. YES, WE ACCEPTED EVERY CARD.

13 Q. THAT WAS MY NEXT QUESTION. DID YOU ACCEPT EVERY CARD
14 THAT WAS PRESENTED TO YOU?

15 A. YES.

16 Q. EVEN THE ONES YOU KNEW WERE PRANKS?

17 A. YES.

18 Q. AND YOU WOULD SEND THEM ALL IN, NOT MAKING ANY
19 DISTINCTION OR DETERMINATION ON YOUR OWN OTHER THAN CHECKING
20 OFF THE APPROPRIATE BOX?

21 A. 91 WHATSOEVER.

22 Q. THE POST OFFICE FUNCTION WAS SOLELY AS A CONDUIT OF
23 INFORMATION FROM AN INDIVIDUAL TO SELECTIVE SERVICE, IS THAT
24 CORRECT?

25 A. EXACTLY, YES.

NOLEN - CROSS

1 Q. THERE WERE NO DETERMINATIONS OR DECISIONS MADE
2 CONCERNING THE REGISTRATION BY THE POST OFFICE EMPLOYEES, IT
3 WAS JUST A MATTER OF ACCEPTING IT AND SENDING IT ON?

4 A. THAT'S CORRECT.

5 MR. VAUGHT: THANK YOU.

6 THE COURT: ANYTHING ELSE?

7 MR. STOLL: NOTHING FURTHER, YOUR HONOR.

8 THE COURT: ALL RIGHT, YOU MAY STEP DOWN,

9 MR. NOLEN.

10 MR. STOLL: EDWIN CRAWFORD. JUDGE, HE MIGHT BE
11 DOWNSTAIRS. IF I COULD HAVE A MINUTE.

12 MR. STOLL: I APOLOGIZE, YOUR HONOR. I DIDN'T
13 REALIZE WE'D BE MOVING QUITE THIS FAST.

14 THE COURT: ALL RIGHT, MR. CRAWFORD, STEP AROUND
15 AND BE SWORN BY THE CLERK.

16 EDWIN CRAWFORD, PLAINTIFF'S WITNESS, SWORN

17 DIRECT EXAMINATION

18 BY MR. STOLL:

19 Q. STATE YOUR NAME, PLEASE?

20 A. EDWIN CRAWFORD.

21 Q. MR. CRAWFORD, ARE YOU EMPLOYED?

22 A. YES, I AM.

23 Q. BY WHOM?

24 A. WITH THE SELECTIVE SERVICE SYSTEM.

25 Q. IN WHAT POSITION?

CRAWFORD - DIRECT

1 A. I'M AN ANALYST FOR THE SELECTIVE SERVICE SYSTEM IN
2 NATIONAL HEADQUARTERS, WASHINGTON.

3 Q. WHAT'S AN ANALYST?

4 A. WELL, I LOOK OVER THE PROGRAMS AND SEE HOW THEY ARE
5 WORKING AND IF SOMETHING IS WRONG, WHAT MIGHT WE DO TO FIX
6 THEM AND OVERALL WITHIN THE SYSTEM.

7 Q. IS THAT YOUR PRESENT POSITION?

8 A. YES, IT IS.

9 Q. HAVE YOU ALWAYS HELD THAT POSITION?

10 A. NO, I HAVE NOT.

11 Q. WHAT POSITION HAVE YOU HELD?

12 A. WELL, SEVERAL, BUT MY FIRST POSITION WAS WITH THE
13 COMPLIANCE PROGRAM.

14 Q. AND BY THE COMPLIANCE PROGRAM CAN YOU ELABORATE? WHAT
15 ARE YOU SPEAKING OF?

16 A. WELL, I'M TALKING ABOUT WITH THE REQUIREMENTS FOR
17 REGISTRATION. MY JOB WAS TO KEEP -- I WAS CUSTODIAN OF THE
18 FILES FOR THE INFORMATION THAT WAS COMING IN, WHEN THEY
19 INITIALLY SET IT UP AND TRACKING INFORMATION THAT CAME
20 THROUGH.

21 Q. IF YOU WOULD, JUST TELL THE COURT AND JURY IN THAT
22 POSITION, WHEN DID YOU HOLD THAT POSITION?

23 A. IN 1971 FOR ABOUT THREE YEARS TO '74, '73.

24 Q. '71 TO '74?

25 A. ABOUT '73 CLOSE TO '74.

CRAWFORD - DIRECT

1 Q. AND THEN WHAT POSITION?

2 A. THEN I WAS IN EVALUATION AND NOW IN PLANNING. THOSE
3 HAVE BEEN THE TRANSITIONS I'VE GONE THROUGH.

4 Q. ARE YOU PEAKING OF '71 OR '81?

5 A. I BEG YOUR PARDON. I'M SPEAKING OF '81.

6 Q. BACK IN '81 UP THROUGH '83 IN THE COMPLIANCE PROGRAM CAN
7 YOU TELL THE JURY WHAT YOUR DUTIES WERE AND WHAT THE FUNCTION
8 OF SELECTIVE SERVICE WAS REGARDING REGISTRATION AND THE
9 COMPLIANCE PART OF THAT?

10 A. ALL RIGHT. IN NATIONAL HEADQUARTERS WHEN THE COMPLIANCE
11 EFFORT FIRST STARTED, MY PARTICULAR DUTY AND THE DUTY OF OUR
12 OFFICE AT THE TIME, WE WERE RECEIVING INFORMATION INTO THE
13 NATIONAL HEADQUARTERS FROM AROUND THE COUNTRY, AND THIS
14 INFORMATION WAS BEING PROVIDED IN AN UNSOLICITED WAY. IT
15 CAME BY WAY OF TELEPHONE MESSAGE PERHAPS OR A LETTER, AND THE
16 INFORMATION WAS PROVIDED BY INDIVIDUALS WHO SAID THEY WERE
17 REQUIRED TO REGISTER BUT THEY WEREN'T GOING TO, OR IN SOME
18 CASES IT WAS FROM FAMILY MEMBERS OF SUCH INDIVIDUALS OR
19 NEIGHBORS, AND SOME CASES THE INFORMATION WAS PROVIDED
20 ANONYMOUSLY. IN ANY CASE, AFTER SUFFICIENT NUMBER OF SUCH
21 INDIVIDUALS AND THEIR INFORMATION HAD BEEN ACCUMULATED IN OUR
22 OFFICE, WE TOOK ALL OF THIS INFORMATION AND MERGED IT WITH
23 THE DATA PROCESSING EQUIPMENT INTO WHAT WE REFERRED TO AS OUR
24 POTENTIAL NON-REGISTRANT LIST. THIS LIST, THEN, CONTAINING
25 THE NAMES OF THE KIND OF PEOPLE I'VE DESCRIBED, WAS THEN SENT

CRAWFORD - DIRECT

1 TO OUR DATA MANAGEMENT CENTER IN CHICAGO WHERE OUR OFFICIAL
2 FILES WERE KEPT, AND AT THIS PARTICULAR LOCATION, THE NAMES
3 WE HAD ON OUR LIST WERE THEN MATCHED AGAINST THE CURRENT
4 MASTER REGISTRATION FILE IN THE CHICAGO OFFICE, AND AT THAT
5 TIME, ANY INDIVIDUALS WHOSE NAMES APPEARED ON THAT MASTER
6 FILE, THEREFORE, HAD REGISTERED, THE NAMES ON OUR LIST THEN
7 WOULD BE IMMEDIATELY DELETED AND ALL THE CONTENTS OF THE
8 RECORD WOULD BE DESTROYED.

9 ANY OTHER NAMES OF INDIVIDUALS STILL ON THIS
10 POTENTIAL NON-REGISTRANT LIST, AS WE CALLED IT, WERE THEN
11 SENT A CERTIFIED FORM LETTER BY OUR OFFICE. THIS LETTER,
12 AMONG OTHER THINGS, CONTAINED INFORMATION SUCH AS THE
13 REQUIREMENTS TO REGISTER, THE PENALTY FOR NOT REGISTERING,
14 INFORMATION AND PROCEDURES OF WHAT THE YOUNG PERSON COULD
15 TAKE IF HE THOUGHT THAT HE DID NOT HAVE TO REGISTER OR IF HE
16 HAD BEEN UNABLE TO REGISTER BECAUSE OF CIRCUMSTANCES BEYOND
17 HIS CONTROL. THERE WAS GUIDANCE PROVIDED IN THERE AS WELL AS
18 SOME TIMEFRAMES FOR GETTING THE INFORMATION IN AND SOME
19 ADMONISHMENT IN TERMS OF IF THEY DIDN'T COMPLY WITH THE LAW
20 THAT SELECTIVE SERVICE WAS SAYING THIS INFORMATION WOULD BE
21 PASSED ON TO THE DEPARTMENT OF JUSTICE, AND THE LETTER ALSO
22 CONTAINED A FORM ON WHICH THE INDIVIDUAL COULD REGISTER. THE
23 REPLIES TO THESE CERTIFIED LETTERS, THEN, TO THE INDIVIDUALS
24 STILL IN OUR POTENTIAL LIST WERE MONITORED VERY CLOSELY, VERY
25 CAREFULLY. MY JOB WAS INVOLVED IN THIS, AND FOR THOSE

PEGGE J. MERKEL

CRAWFORD - DIRECT

1 INDIVIDUALS WHO REGISTERED OR DID NOT HAVE TO REGISTER AND
2 THEY PROVIDE THAT REQUIRED DOCUMENTATION TO US IN BOTH CASES,
3 THESE NAMES, THEN, AT THIS TIME WERE DELETED FROM THE LIST
4 AND ALL THEIR RECORDS AND FILES DESTROYED.

5 THE REMAINING INDIVIDUALS FROM THIS INITIAL LIST
6 THEN FELL INTO THREE CATEGORIES. INDIVIDUALS WHO RECEIVED A
7 LETTER FROM US WHO RESPONDED IMMEDIATELY AND SAID YES, I'M
8 REQUIRED TO REGISTER, BUT I'M NOT GOING TO; ANOTHER GROUP WHO
9 RECEIVED OUR LETTER BUT NEVER RESPONDED TO US, AND THEN A
10 THIRD GROUP WOULD BE THOSE INDIVIDUALS WHOSE LETTERS WERE
11 RETURNED UNDELIVERABLE. SO THE INDIVIDUALS FALLING INTO
12 THESE THREE CATEGORIES WERE THEN KEPT ON OUR POTENTIAL
13 NON-REGISTRANT LIST.

14 AND THEN THE NEXT PROCEDURE, A LITTLE TIME WOULD
15 TAKE PLACE AFTER, SAY, TWO, THREE WEEKS, A MONTH, IN ALL
16 CASES THEN WE WOULD FOLLOW THE SAME PROCEDURE. WE WOULD SEND
17 THESE NAMES TO CHICAGO, AND MAKE SURE THAT IN THE INTERIM
18 TIME THAT NONE OF THESE NAMES THAT WE HAD ON OUR LIST HAD, IN
19 THE INTERIM TIME, APPEARED ON THE MASTER REGISTRATION FILE IN
20 CHICAGO. NOT BEING THE CASE, NAMES NOT SHOWING UP THERE,
21 THEN THE NAMES OF INDIVIDUALS AND THEIR INDIVIDUAL FILE
22 FOLDER AND CONTENTS, AT THAT POINT, THEN, WERE FORWARDED TO
23 THE DEPARTMENT OF JUSTICE FOR FURTHER INVESTIGATION AND
24 POSSIBLE PROSECUTION.

25 THAT PROCEDURE, THEN, WAS WHAT WE TOOK WITH

CRAWFORD - DIRECT

1 EVERYONE BROUGHT TO OUR ATTENTION IN THE UNSOLICITED WAY AND
2 IN THE COMPLETELY AS I HAVE INDICATED.

3 Q. IS THAT THE PROCEDURE THAT WAS HANDLED WITH EVERYONE?

4 A. YES, SIR.

5 Q. SO, WITH REGARD TO PAUL JACOB, ARE YOU FAMILIAR WITH
6 WHETHER OR NOT THAT PROCEDURE WAS FOLLOWED WITH HIM?

7 A. YES, I AM FAMILIAR WITH THAT.

8 Q. AND THIS LETTER THAT WENT OUT, WAS IT A FORM LETTER?

9 A. YES, IT WAS, SIR.

10 (GOVERNMENT EXHIBIT 6 MARKED FOR IDENTIFICATION.)

11 BY MR. STOLL:

12 Q. I'M GOING SHOW YOU A COPY OF A LETTER MARKED FOR
13 IDENTIFICATION PURPOSES AS GOVERNMENT'S EXHIBIT 6.

14 A. YES, SIR.

15 Q. CAN YOU IDENTIFY THAT LETTER?

16 A. YES, I CAN. THIS IS A LETTER AND HE WAS ON THIS
17 ORIGINAL LIST THAT WE SENT OUT IN JUNE OF '81.

18 Q. OKAY. DO YOU KNOW PRECISELY WHEN THAT LETTER DID GO OUT
19 TO MR. JACOB?

20 A. JUNE 17TH.

21 Q. OF 1981?

22 A. YES.

23 Q. AND DOES YOUR RECORD INDICATE WHETHER OR NOT IT WAS
24 RECEIVED?

25 A. YES. WE USED A CODE, AND HIS PARTICULAR RECORD

CRAWFORD - DIRECT

1 INDICATED THAT YES, THAT IT WAS RECEIVED AND BUT NO RESPONSE.
2 WHEN I INDICATED THE FIRST TWO CATEGORIES OF LETTERS, IN
3 TERMS OF LETTER RECEIVED AND REPLIED THAT SAID NO, I'M NOT
4 GOING TO REGISTER AND THE SECOND CATEGORY IS THE ONE HE CAME
5 UNDER, LETTER RECEIVED BUT NO FURTHER CONTACT WITH US.

6 Q. OKAY.

7 MR. STOLL: YOUR HONOR, WE'D OFFER GOVERNMENT'S
8 EXHIBIT 6.

9 THE COURT: ANY OBJECTION?

10 MR. VAUGHT: TO THE FORM LETTER? NO, YOUR HONOR.

11 THE COURT: ALL RIGHT, ADMITTED.

12 (GOVERNMENT EXHIBIT 6 RECEIVED INTO EVIDENCE.)

13 BY MR. STOLL:

14 Q. AFTER YOU DID NOT GET A RESPONSE TO IT, YOU FOLLOWED
15 YOUR STANDARD PROCEDURE AND EVENTUALLY REFERRED IT TO THE
16 DEPARTMENT OF JUSTICE?

17 A. YES, SIR. IN THAT CASE, AS IN OTHERS, THREE, FOUR
18 ADDITIONAL TIMES, WE WOULD SEND THE LIST TO CHICAGO, DOUBLE
19 CHECK AGAINST THE MASTER FILE AND FINALLY HE, ALONG WITH
20 OTHERS IN THE ORIGINAL GROUP, WERE THEN FORWARDED TO THE
21 DEPARTMENT OF JUSTICE.

22 MR. STOLL: PASS THE WITNESS.

23 CROSS EXAMINATION

24 BY MR. VAUGHT:

25 Q. MR. CRAWFORD, WHEN THE LETTER THAT YOU HAVE TESTIFIED

CRAWFORD - CROSS

1 WAS SENT TO PAUL JACOB, WAS IT SENT CERTIFIED WITH A RETURN
2 RECEIPT?

3 A. YES, IT WAS.

4 Q. AND DO YOU HAVE THAT RETURN RECEIPT?

5 A. NO, I DO NOT.

6 Q. DO YOU KNOW WHO SIGNED FOR THAT LETTER?

7 A. NO, I DO NOT KNOW.

8 Q. DO YOU KNOW WHAT ADDRESS IT WAS SENT TO?

9 A. IT WAS SENT TO THE ADDRESS THAT'S STILL SHOWS IN OUR
10 FILES, IF I CAN REFRESH MY MEMORY. IT'S THE SAME ADDRESS
11 THAT IS SHOWN THE ENTIRE -- I PROVIDED INFORMATION THERE TO
12 IT.

13 Q. BUT YOU DON'T NO WHO SIGNED FOR THAT LETTER. IT WAS NOT
14 SENT CERTIFIED ADDRESS'S SIGNATURE REQUIRED, WAS IT?

15 A. IT WAS --

16 Q. RESTRICTED DELIVERY?

17 A. YES. IT WAS RECEIVED -- ALL OUR RECORDS, ALL I CAN
18 TESTIFY TO AND ALL I CAN RECALL IS THAT IT WAS IN FACT
19 RECEIVED.

20 Q. BY SOMEONE?

21 A. BY SOMEONE.

22 Q. BUT YOU DON'T KNOW IF PAUL JACOB SIGNED THE RECEIPT OR
23 NOT, DO YOU?

24 A. I'D HAVE TO REFRESH MY MEMORY, BECAUSE I LOOKED AT LOTS
25 OF THEM.

CRAWFORD - CROSS

1 Q. IN FACT, IF THAT WAS SENT TO HIS PARENT'S ADDRESS THEY
2 COULD HAVE SIGNED FOR IT, COULDN'T THEY? ANYONE COULD SIGN
3 FOR IT AT THAT ADDRESS, COULDN'T THEY?

4 A. I WOULD ASSUME SO. BUT, LIKE I SAY, I CAN'T TESTIFY TO
5 WHO SIGNED, BECAUSE THAT WAS IN '81 AND I LOOKED AT A LOT OF
6 LETTERS.

7 Q. I UNDERSTAND. I'M NOT TRYING TO BEAT A DEAD HORSE BUT
8 THE POINT I'M MAKING, AND I THINK YOU'VE ALREADY ANSWERED IT,
9 IS THAT YOU CANNOT TESTIFY PAUL JACOB ACTUALLY RECEIVED THE
10 LETTER. ALL YOU CAN TESTIFY IS THAT THE LETTER WAS IN FACT
11 RECEIVED BY SOMEONE?

12 A. THAT'S RIGHT.

13 Q. AND YOU DO NOT HAVE A COPY OF THE RECEIPT TO SHOW WHO
14 THAT PERSON IS WHO RECEIVED THE LETTER?

15 A. NO, I DO NOT HAVE THE RECEIPT. AS I INDICATED, ALL OUR
16 FILES ARE FORWARDED.

17 Q. NOW, YOU TALKED ABOUT SEVERAL DIFFERENT CLASSIFICATIONS
18 OF PERSONS WHO WERE IN YOUR POTENTIAL NON-REGISTRANT LIST?

19 A. YES, SIR.

20 Q. NOW, THE PEOPLE ON THAT POTENTIAL NON-REGISTRANT LIST
21 DID NOT INCLUDE ALL PERSONS WHO HAD NOT REGISTERED, DID IT?

22 A. THERE WOULD BE NO WAY -- NO, IT DEFINITELY COULDN'T BUT
23 I WOULD NOT KNOW THE DIMENSIONS OF THE SHORTFALL, BECAUSE, AS
24 I INDICATED, THAT LIST WAS COMPOSED OF JUST THOSE NAMES
25 BROUGHT TO OUR ATTENTION. SO THOSE NAMES OF PEOPLE WHO HAD

CRAWFORD - CROSS

1 NOT REGISTERED, NOT BROUGHT TO OUR ATTENTION, WE WOULD NOT
2 HAVE AT THAT POINT.

3 Q. WHAT YOU'RE SAYING, THEN, IS IF A PERSON WROTE A LETTER
4 TO SELECTIVE SERVICE SAYING MY NAME IS JOHN DOE AND I'M 20
5 YEARS OLD AND I'M NOT GOING TO REGISTER THAT HE WOULD GO ON
6 THAT LIST, OR AT LEAST THAT WOULD BE THE FIRST INDICATION HE
7 MIGHT BE A CANDIDATE FOR THAT LIST?

8 A. THAT WOULD JUST BE AN INDICATION, OF COURSE, BUT WE HAD
9 TO HAVE MORE THAN JUST A NAME, OF COURSE.

10 Q. I UNDERSTAND. AND ALSO IF YOU GOT A LETTER IN FROM ANY
11 CITIZEN WHO SAID I KNOW OF A YOUNG MAN NAMED JOHN DOE, DATE
12 OF BIRTH SO AND SO WHO IS SUPPOSED TO REGISTER BUT HAS NOTE
13 REGISTERED, THAT WOULD ALSO PUT HIM POTENTIALLY ON THAT LIST
14 TO BE CHECKED OUT?

15 A. INITIALLY IT WOULD GO ON THE LIST AS A FIRST STEP BEFORE
16 GOING THROUGH THE OTHER STEPS THAT I OUTLINED.

17 Q. NOW, AND EVENTUALLY I ASSUME THAT THIS LIST WAS SENT TO
18 THE JUSTICE DEPARTMENT FOR PROSECUTION?

19 A. YES, SIR.

20 Q. DO YOU KNOW HOW MANY INDICTMENTS THERE HAVE BEEN UNDER
21 THE PRESENT SELECTIVE SERVICE REGISTRATION LAW THAT BEGAN IN
22 1980?

23 A. I DON'T-KNOW SPECIFICALLY. I COULDN'T TESTIFY TO THAT.

24 Q. IF I TOLD YOU THAT THERE WERE 17 INDICTMENTS, WOULD THAT
25 SOUND ABOUT RIGHT?

CRAWFORD - CROSS

1 MR. STOLL: I OBJECT. IT'S IRRELEVANT HOW MANY
2 INDICTMENTS ARE RETURNED. WE'RE HERE TO TRY ONE CASE.

3 THE COURT: WHAT'S THE RELEVANCE?

4 MR. VAUGHT: YOUR HONOR, THE RELEVANCE IS IN
5 OPENING STATEMENT --

6 MR. STOLL: EXCUSE ME, COULD WE HAVE OUR REMARKS
7 MADE AT THE BENCH?

8 (THE FOLLOWING PROCEEDINGS AT THE BENCH.)

9 MR. VAUGHT: IN OPENING STATEMENT MR. STOLL STATED
10 THAT PAUL JACOB WAS NOT INDICTED BECAUSE OF HIS VIEWS. I
11 THINK THAT EVIDENCE WILL SHOW THAT THERE'S A VAST POOL OF
12 NON-REGISTERED PEOPLE, MAYBE AS MANY AS A MILLION BUT THERE
13 HAVE ONLY BEEN 17 INDICTMENTS, AND THOSE INDICTMENTS HAVE
14 ONLY BEEN PEOPLE WHO WERE VOCAL, AND THEREFORE, I THINK IT IS
15 RELEVANT TO SHOW THAT THERE'S A GOVERNMENT PURPOSE IN
16 INDICTING AND PROSECUTING PEOPLE WHO ARE OUTSPOKEN SUCH AS
17 PAUL IS.

18 MR. STOLL: JUDGE, ONE, I DON'T AGREE WITH THAT. I
19 THINK IT'S IRRELEVANT TO THIS CASE. THE MOTION HAS ALREADY
20 BEEN FILED WITH THE COURT CONCERNING SELECTIVE PROSECUTION,
21 WHICH IS WHAT I THINK HIS ARGUMENT IS GOING TO. THE COURT
22 HAS ALREADY RULED ON THAT AND, TWO, HE'S ALREADY SAID ONCE
23 IT'S REFERRED TO JUSTICE. THAT'S ALL HE KNOWS. HE HAS NO
24 INDEPENDENT KNOWLEDGE. HE'S TRYING TO MAKE HIS CLOSING
25 ARGUMENT THROUGH THIS WITNESS. HE DOESN'T HAVE ANY PERSONAL

1 KNOWLEDGE AS TO HOW MANY INDICTMENTS AND WHAT THE BASIS OF
2 THOSE INDICTMENTS WERE.

3 MR. VAUGHT: I THINK HE OPENED THE DOOR.

4 THE COURT: WE HAVE ALREADY RULED ON WHETHER THIS
5 IS SELECTIVE PROSECUTION.

6 MR. VAUGHT: YES, SIR, I UNDERSTAND THAT, BUT I
7 THINK MR. STOLL MADE A STATEMENT IN HIS OPENING THAT WE OUGHT
8 TO BE ABLE TO RESPOND TO THROUGH THE EVIDENCE IF WE CAN. HE
9 SAID MR. JACOB HAS A RIGHT TO HIS VIEWS AND HE'S NOT BEING
10 PROSECUTED BECAUSE OF HIS VIEWS, BUT YET THROUGH THIS WITNESS
11 AND OTHER WITNESSES THAT INFACIT ONLY PEOPLE WITH STRONG VIEWS
12 ARE PROSECUTED.

13 THE COURT: DOES IT GO TO YOUR DEFENSE THAT IT WAS
14 NOT WILLFUL?

15 MR. VAUGHT: I DON'T KNOW WHETHER IT DIRECTLY
16 RELATES TO THAT OR NOT, BUT I DON'T THINK WE HAVE TO DIRECTLY
17 RELATE IT TO A DEFENSE TO MAKE IT RELEVANT, DO WE?

18 THE COURT: WHAT'S THE PURPOSE THEN?

19 MR. VAUGHT: YOUR HONOR, THE PURPOSE OF THE PROGRAM
20 HAS NOT BEEN EVEN HANDEDLY EQUALLY ADMINISTERED, THAT THERE
21 IS EVIDENCE OF PROSECUTION ONLY IN VOCAL NON-REGISTRANTS, AND
22 I THINK THIS WITNESS HAS ALREADY TESTIFIED TO THAT.

23 MR. STOLL: I DON'T THINK THE WITNESS TESTIFIED TO
24 ANYTHING OF THE SORT. I MEAN, FROM HIS ARGUMENT THIS ISN'T A
25 PROPER WITNESS. HE SAID THEY GET ALL THE INFORMATION, THEY

CRAWFORD - CROSS

1 CHECK IT THROUGH THE RECORDS IN CHICAGO AND A LETTER GOES OUT
2 TO ALL POTENTIAL NON-REGISTRANTS, IT COMES BACK AND
3 EVENTUALLY, IF THEY DO NOT GET A REPLY, IT IS REFERRED TO
4 JUSTICE.

5 THE COURT: IT'S UP TO JUSTICE TO PROSECUTE. I
6 THOUGHT I DEALT WITH THAT IN THE RULING WE HAD ON YOUR
7 MOTION.

8 MR. VAUGHT: I UNDERSTAND, YOUR HONOR.

9 THE COURT: GIVEN THE FACT THAT YOU STATED THIS HAS
10 NO RELEVANCE TO YOUR DEFENSE, THE COURT IS GOING TO SUSTAIN
11 THE GOVERNMENT'S OBJECTION.

12 MR. HALL: COULD WE INQUIRE INTO THE NUMBER OF
13 PEOPLE THAT WERE REFERRED TO JUSTICE AND NUMBER OF PEOPLE IN
14 THE NON-REGISTRATION POOL?

15 MR. STOLL: JUDGE, I THINK THAT'S IRRELEVANT AS TO
16 THE NUMBER THAT'S REFERRED TO JUSTICE. ONE, I DON'T KNOW
17 THAT HE EVEN HAS THAT INFORMATION. NUMBER TWO, IT'S
18 IRRELEVANT TO THE ISSUES THAT WE'RE HERE TO TRY BEFORE THIS
19 COURT AND THIS JURY. THIS IS WHETHER PAUL JACOB KNOWINGLY
20 AND WILLFULLY.

21 THE COURT: WE'RE ALREADY DEALT WITH THAT.

22 MR. HALL: I THINK WE CAN ASK HIM HOW MANY. HE'S
23 ALREADY REFERRED TO THE FACT -- HE ALREADY REFERRED TO THE
24 FACT THAT THERE WAS A LARGE PROSECUTION POOL.

25 THE COURT: HE SAID THAT THOSE WHO DID NOT RESPOND

CRAWFORD - CROSS

1 WERE REFERRED TO THE JUSTICE DEPARTMENT.

2 MR. HALL: WE JUST WANT TO ASK HIM HOW MANY.

3 THE COURT: HAVE YOU GOT A PROBLEM WITH HOW MANY?

4 MR. STOLL: I THINK IT'S IRRELEVANT.

5 MR. HALL: I THINK THEY OPENED IT UP.

6 THE COURT: WHAT'S THE RELEVANCY?

7 MR. STOLL: HE OPENED IT ON CROSS. I DIDN'T ASK
8 IT.

9 MR. HALL: IN OPENING STATEMENT, BECAUSE IT SHOWS
10 THAT HE WAS ISOLATED FOR PROSECUTION.

11 THE COURT: NO, I SETTLED THAT QUESTION. THE
12 OBJECTION WILL BE SUSTAINED.

13 (THE FOLLOWING PROCEEDINGS IN OPEN COURT, JURY PRESENT.)

14 BY MR. VAUGHT:

15 Q. MR. CRAWFORD, ONCE THE LETTER, THE FORM LETTER THAT'S
16 BEEN INTRODUCED AS A GOVERNMENT'S EXHIBIT, WAS SENT OUT TO
17 THE INDIVIDUALS ON YOUR POTENTIAL NON-REGISTRANT LIST, AND
18 ONCE YOU RECEIVED BACK EITHER A REPLY OR SOME EVIDENCE THAT
19 THE LETTER HAD BEEN RECEIVED AND THAT INFORMATION WAS
20 FORWARDED TO CHICAGO, DID YOU HAVE ANY FURTHER INVOLVEMENT
21 WITH THE COMPLIANCE ASPECT?

22 A. NO, JUST TRACKING THAT INFORMATION. I STAYED INVOLVED
23 UNTIL THE INFORMATION WAS THEN FORWARDED TO THE DEPARTMENT OF
24 JUSTICE AND THAT WOULD -- BUT I WAS INVOLVED CONTINUING TO
25 RECEIVE INFORMATION, AS THE INFORMATION WOULD COME IN, OF

CRAWFORD - CROSS

1 COURSE, I WAS VERY CONSCIOUS -- WE HAD PRINTOUTS OF ALL THE
2 NAMES AND OTHER LISTS WERE ADDED, AND I WAS CONSTANTLY
3 COMPARING INFORMATION COMING IN WITH THE INFORMATION I HAD,
4 AND AS I INDICATED, THEN IN ALL CASES WE MADE TWO, THREE AND
5 OFTENTIMES FOUR ADDITIONAL CHECKS IN CHICAGO TO MAKE SURE
6 THAT IN THE INTERIM THEY HADN'T REGISTERED.

7 Q. WERE THERE ANY INCIDENTS THAT YOU CAN RECALL PERSONALLY
8 WHERE AN INDIVIDUALS NAME WAS SENT AS A POTENTIAL
9 NON-REGISTRANT WHEN IN FACT HE HAD REGISTERED?

10 A. SURELY.

11 Q. IN FACT, THAT HAPPENED QUITE OFTEN?

12 A. WELL, I WOULDN'T QUALIFY IT AS HAPPENING OFTEN BUT IT
13 DID HAPPEN, SURELY.

14 Q. OKAY. THAT WAS ONE OF THE REASONS YOU SENT THE
15 INFORMATION IN, I TAKE IT, SO YOU COULD CHECK TO SEE?

16 A. BOTH WAYS, ABSOLUTELY.

17 Q. AND THERE WAS ALSO INSTANCES WHERE AN INDIVIDUAL'S NAME
18 WAS SENT IN, AND THAT PERSON WAS NOT REQUIRED TO REGISTER.
19 MAYBE IT WAS A GIRL'S NAME WHO SOUNDED LIKE A BOY'S NAME OR
20 SOMETHING LIKE THAT?

21 A. THAT HAPPENED ON SOME OCCASIONS, AND IN THE PROCEDURES
22 WHERE I INDICATED, AFTER WE SENT OUT THE LETTER IN THE FIRST --
23 THE UP FRONT PART, THOSE WHO HAD REGISTERED OR WHO WERE NOT
24 REQUIRED TO REGISTER, AND I PUT THE QUALIFIER IN AND PROVIDED
25 THE NECESSARY DOCUMENTATION, AT THAT POINT THE KIND OF PEOPLE

1 YOU'RE TALKING ABOUT, AT THAT POINT THEY WERE DELETED FROM
2 THE LIST AND ALL THE RECORDS DESTROYED.

3 Q. DO YOU HAVE PERSONAL KNOWLEDGE OF THE TRACKING OF PAUL
4 JACOB'S INFORMATION BEYOND WHEN YOU SENT THE STUFF TO CHICAGO
5 TO CHECK TO SEE IF HE WAS ON THE REGISTRATION FILES? DID YOU
6 PERSONALLY FOLLOW UP ON THAT?

7 A. I'M NOT SURE I UNDERSTAND THE QUESTION.

8 Q. I UNDERSTAND THAT YOU'RE AN ADMINISTRATOR, AND I ASSUME
9 YOU HAVE OTHER PEOPLE WORKING FOR FOR YOU IN THIS DEPARTMENT.

10 A. IN THIS PARTICULAR CASE, THOUGH, I WAS THE ONE MAN -- I
11 WAS THE DOER AND THE ADMINISTRATOR. SO I WAS PERSONALLY
12 INVOLVED.

13 Q. THAT'S WHAT I'M ASKING. DID YOU PERSONALLY TRACK THE
14 RECORDS OR THE INFORMATION ON PAUL JACOB FROM THE TIME YOU
15 FIRST GOT HIS NAME UNTIL IT WAS SENT TO JUSTICE?

16 A. INSIDE THAT OFFICE, YES.

17 Q. INSIDE YOUR OFFICE?

18 A. I CERTAINLY DID.

19 Q. AND YOUR TESTIMONY IS THE FORM LETTER WAS SENT OUT TO
20 HIS ADDRESS THAT YOU HAD IN THE RECORD AND SOMEONE RECEIVED
21 IT, BUT YOU DON'T KNOW WHO?

22 A. YES, I CANNOT RECALL THAT, AND OUR RECORDS INDICATE THAT
23 IT WAS RECEIVED.

24 MR. VAUGHT: THANK YOU.

25 (GOVERNMENT EXHIBIT 7 MARKED FOR IDENTIFICATION.)

CRAWFORD - REDIRECT

1 REDIRECT EXAMINATION

2 BY MR. STOLL:

3 Q. MR. CRAWFORD, I'M GOING TO HAND YOU WHAT I'VE MARKED FOR
4 IDENTIFICATION AS GOVERNMENT EXHIBIT NUMBER 7. CAN YOU
5 IDENTIFY THAT DOCUMENT?

6 A. YES, I CAN.

7 Q. WHAT IS IT?

8 A. THIS IS, WITH JUST THE HIGHLIGHTING OF MR. JACOB, THIS
9 IS WHAT'S TAKEN FROM OUR MASTER FILE THAT HAS OTHER NAMES ON
10 IT, AND IT INDICATES THE CODING AND HOW IT WAS RECORDED ON MY
11 PERSONAL OFFICIAL FILES WERE GOING BACK TO THE TRACKING, AND
12 THIS INDICATES THAT ON THE 6-17-81 THE LETTER WAS SENT TO MR.
13 PAUL JACOB AT THE DE SOTO CIRCLE ADDRESS AND THAT THE 2-10,
14 THE 2 INDICATES, THAT'S OUR CODE, FOR YES, A LETTER WAS
15 RECEIVED BUT NO RESPONSE FROM OUR LETTER. AND THE 10 BEHIND
16 THAT INDICATES THAT THE RECORDS WERE EVENTUALLY FORWARDED TO
17 THE DEPARTMENT OF JUSTICE.

18 Q. THAT SECOND PAGE ATTACHED TO THAT, THAT'S YOUR STATUS
19 CODE, IS THAT CORRECT?

20 A. AND THE SECOND PAGE YES, SIR, IT INDICATES WHAT I JUST
21 SAID, NUMBER 2 SENT LETTER, FAILED TO REPLY AND NUMBER 10
22 REFERRED TO D. O. J. SO THE 2/10 INDICATES WHAT I HAVE JUST
23 SAID. THIS IS THE CODE, AND THIS IS THE WAY MR. JACOB, HIS
24 INFORMATION, APPEARED ON OUR OFFICIAL FILES.

25 Q. WHAT IS THAT ADDRESS?

CRAWFORD - REDIRECT

1 A. 35 DE SOTO CIRCLE.

2 Q. NORTH LITTLE ROCK?

3 A. NORTH LITTLE ROCK, ARKANSAS, 72116.

4 Q. AND THE REASON HIS IS HIGHLIGHTED IS BECAUSE YOUR LIST
5 THAT YOU MADE CONTAINED OTHER PEOPLE ALSO?

6 A. YES, SIR. SO TO PREPARE THIS, I JUST PUT PAPER ON TO
7 BLOCK OUT THE OTHER NAMES.

8 MR. STOLL: WE OFFER NUMBER 7, YOUR HONOR.

9 THE COURT: ANY OBJECTIONS?

10 MR. VAUGHT: NO, YOUR HONOR.

11 THE COURT: ALL RIGHT, ADMITTED.

12 (GOVERNMENT EXHIBIT 7 RECEIVED IN EVIDENCE.)

13 MR. STOLL: PASS THE WITNESS.

14 MR. VAUGHT: NO FURTHER QUESTIONS.

15 THE COURT: ALL RIGHT, YOU MAY STEP DOWN. CALL
16 YOUR NEXT WITNESS.

17 MR. STOLL: DAVID COX.

18 THE COURT: STEP AROUND, MR. COX, AND BE SWORN BY
19 THE CLERK.

20 DAVID COX, PLAINTIFF'S WITNESS, SWORN

21 DIRECT EXAMINATION

22 BY MR. STOLL:

23 Q. STATE YOUR NAME, PLEASE.

24 A. DAVID COX.

25 Q. ARE YOU EMPLOYED, MR. COX?

COX - DIRECT

1 A. YES, SIR, SELECTIVE SERVICE SYSTEM.

2 Q. WHAT POSITION?

3 A. ASSOCIATION DIRECTOR.

4 Q. AND WHAT ARE YOUR DUTIES AND RESPONSIBILITIES AS THE
5 ASSOCIATE DIRECTOR?

6 A. I'M RESPONSIBLE FOR THE ADMINISTRATION, DATA PROCESSING
7 PERSONNEL AND FINANCE FOR THE SELECTIVE SERVICE SYSTEM.

8 Q. HOW LONG HAVE YOU BEEN WITH THE SELECTIVE SERVICE
9 SYSTEM?

10 A. ABOUT FIVE AND A HALF YEARS.

11 Q. EVER SINCE IT WAS IMPLEMENTED?

12 A. YES, BACK WHEN, MARCH OF 1980.

13 Q. OKAY. CAN YOU TELL THE COURT AND JURY JUST HOW
14 SELECTIVE SERVICE BECAME IMPLEMENTED IN 1980?

15 A. YES. IN 1980 PRESIDENT REAGAN RENEWED REGISTRATION, AND
16 WITH THAT WE SUBMITTED A BUDGET TO CONGRESS TO FUND THE
17 REGISTRATION PROCESS. THAT WAS PASSED BY THE CONGRESS AND WE
18 WERE GIVEN FUNDS IN JUNE OF 1980 AND IN 1980, APPROXIMATELY
19 JULY WE BEGAN THE REGISTRATION OF YOUNG MEN WHO WERE BORN IN
20 1960 AND 1961.

21 Q. IN JULY OF 1980 PURSUANT TO PRESIDENTIAL PROCLAMATION,
22 IS THAT RIGHT?

23 A. YES, THE PRESIDENTIAL PROCLAMATION SPECIFIED THE DATES
24 AND TIMES.

25 (GOVERNMENT EXHIBIT 8 MARKED FOR IDENTIFICATION.)

COX - DIRECT

1 Q. OKAY. I THINK YOU WALKED IN AND I HAD A CHART THAT I
2 TOOK FROM YOU THAT I'M MARKING AS GOVERNMENT'S EXHIBIT NUMBER
3 8. CAN YOU IDENTIFY THIS CHART?

4 A. YES. IT'S A CHART WHICH I PREPARED WHICH DESCRIBES THE
5 REGISTRATION PROCESS.

6 Q. OKAY.

7 THE COURT: IF YOU WOULD, WITH THE COURT'S
8 PERMISSION, JUDGE, I'D LIKE TO MOVE THE EASEL OVER AND HAVE
9 MR. COX GO THROUGH THAT.

10 BY MR. STOLL:

11 Q. IF YOU WOULD, AS ASSOCIATE DIRECTOR, AND THIS BEING
12 UNDER YOUR RESPONSIBILITY, JUST TELL THE COURT AND JURY HOW
13 THE REGISTRATION PROCESS WORKS?

14 A. FINE. THE REGISTRATION PROCESS, AT EACH OF THE 35,000
15 POST OFFICES AROUND THE COUNTRY, WE HAVE REGISTRATION CARDS
16 WHICH ARE AVAILABLE, AND THE REGISTRANT GOES TO THE POST
17 OFFICE PICKS UP A CARD, FILLS OUT THE CARD. THE CARD ASKS
18 FOR YOUR NAME, ADDRESS, YOUR DATE OF BIRTH, TELEPHONE NUMBER
19 AND SOCIAL SECURITY NUMBER, AND YOU COMPLETE THE CARD AND
20 HAND IT TO THE POSTAL CLERK ACROSS THE COUNTER, WHO THEY TAKE
21 ALL OF THE CARDS AND THEY BATCH THEM UP WEEKLY, AND THEY
22 FORWARD ALL THE CARDS TO SELECTIVE SERVICE AND THEY FORWARD
23 THEM TO OUR DATA MANAGEMENT CENTER IN CHICAGO, ILLINOIS. AND
24 WHEN WE RECEIVE THE CARDS AT SELECTIVE SERVICE, WE OPEN THE
25 PACKAGES AND IT'S GOT A PACKING SLIP TELLING US WHAT POST

COX - DIRECT

1 OFFICE IT CAME FROM. WE COUNT THE CARDS AND WE PUT A UNIQUE
2 NUMBER ON EACH CARD AND INVENTORY THEM IN SO WE KNOW HOW MANY
3 WE HAVE AND CONTROL THEM FROM THERE.

4 ONCE THE CARDS ARE ENTERED INTO THE INVENTORY, THEY
5 ARE PREPARED FOR ENTRY INTO THE COMPUTER, AND THIS PROCESS IS
6 ANALOGOUS TO TYPING THE INFORMATION AND THE INFORMATION IS
7 TYPED INTO A COMOPUTER BY ONE OPERATOR AND RETYPED BY ANOTHER
8 OPERATOR TO ELIMINATE ANY TYPPGRAPHICAL ERRORS.

9 ONCE THE INFORMATION IS IN A FORM THAT THE COMPUTER
10 CAN READ IT, THERE'S SOME EDITS THAT ARE PERFORMED ON THAT
11 INFORMATION. WE CHECK TO MAKE SURE WE'VE GOT YEARS OF BIRTH,
12 FOR EXAMPLE, SOMEBODY BORN IN 1955 IS NOT REQUIRED TO
13 REGISTER SO THEIR INFORMATION WOULD BE SET ASIDE. WE CHECK
14 TO SEE THAT WE HAVE VERY VALID STATES, ZIP CODES, THINGS OF
15 THAT NATURE.

16 IF WE FIND A PROBLEM WITH THE REGISTRATION, THAT
17 REGISTRATION IS MOVED TO AN ERROR FILE. THE ERROR FILE,
18 THERE'S ONE OF TWO WAYS THAT WE CORRECT REGISTRATIONS THAT
19 ARE IN ERROR. IF IT'S A SITUATION WHERE WE CAN STILL
20 CORRESPOND WITH THE REGISTRANT, WE'VE GOT HIS ADDRESS AND SO
21 FORTH AND LET'S SAY HE'S PUT DOWN THE WRONG DATE OF BIRTH OR
22 CHECKED THE WRONG SEX BLOCK, WE'LL GO AHEAD AND SEND THAT
23 PERSON A LETTER, ASK THEM TO CORRECT THE INFORMATION AND SEND
24 IT BACK TO US SO WE CAN CONTINUE PROCESSING THE REGISTRATION.

25 IF IT'S THE TYPE OF AN ERROR WHERE WE CAN'T

COX - DIRECT

1 COMMUNICATE WITH THE REGISTRANT BY MAIL, THEN WE PRINT IT OUT
2 ON AN ERROR REPORT AND THE CLERK WILL MAKE A PHONE CALL OR IN
3 SOME OTHER WAYS TRY TO GET AHOLD OF THE REGISTRANT. FOR
4 EXAMPLE, IF THEY FORGOT TO PUT DOWN THE STREET ADDRESS.

5 ONCE THAT INFORMATION IS RETURNED TO US, IT COMES
6 BACK THROUGH THIS PROCESS WHERE IT'S NUMBERED AGAIN,
7 RE-ENTERED AND RE-EDITED, AND WE CONTINUE TO DO THAT UNTIL WE
8 GET THE CORRECT INFORMATION FOR THE REGISTRANT.

9 ONCE THE INFORMATION IS CORRECT, AND ABOUT 96
10 PERCENT OF THE INFORMATION COMES IN CORRECT THE FIRST TIME
11 THROUGH, THE PERSON IS ASSIGNED A SELECTIVE SERVICE NUMBER.
12 AT THAT POINT IN TIME THEY ARE OFFICIALLY REGISTERED WITH THE
13 SELECTIVE SERVICE SYSTEM AND WE ADD THEM TO OUR MASTER FILE
14 OF REGISTRANTS.

15 A. WE SEND THEM AN ACKNOWLEDGEMENT LETTER, WHICH IS A
16 TWO-PART LETTER. IT ACKNOWLEDGES THE REGISTRATION,
17 RECONFIRMS ALL THE INFORMATION THEY GAVE US AND ALSO INCLUDES
18 A CHANGE OF INFORMATION FORM WHICH THEY CAN USE IN THE FUTURE
19 IF THEY MOVE OR SOME OF THE INFORMATION CHANGES AND AN
20 ENVELOPE THEY CAN USE TO SEND THE INFORMATION BACK TO US.

21 IN 18 MONTHS WE SEND OUT A VERIFICATION LETTER TO
22 ANYBODY THAT WE HAVEN'T HEARD FROM DURING THAT PERIOD OF TIME
23 TO MAKE SURE THAT THEY ARE STILL AT THE SAME ADDRESS THAT
24 THEY INDICATED BEFORE, AND IF THEY MOVE WE GIVE THEM THE
25 OPPORTUNITY TO UPDATE THAT INFORMATION WITH US SO WE CAN KEEP

COX - DIRECT

1 OUR REGISTRATION FILE UP TO DATE. AND RESPONSES TO THAT
2 LETTER COME IN AND, ONCE AGAIN, EVERYTHING IS NUMBERED AND
3 BATCHED AND MOVED THROUGH. SO THAT'S HOW THE REGISTRATION
4 PROCESS WORKS.

5 Q. AND THE REGISTRANT IS NOT ACTUALLY REGISTERED WITH
6 SELECTIVE SERVICE UNTIL HE IS ASSIGNED A SELECTIVE SERVICE
7 NUMBER, IS THAT CORRECT?

8 A. YES.

9 Q. NOW, HAVE YOU CHECKED THE FILES CONCERNING THE
10 REGISTRATION OF PAUL JACOB?

11 A. YES, SIR. WE'VE CHECKED BOTH THE REGISTRATION FILE, THE
12 MASTER FILE, AS WELL AS THE ERROR FILE, AND PAUL JACOB IS NOT
13 REGISTERED WITH THE SYSTEM.

14 Q. DO YOU HAVE SOME CERTIFICATES TO THAT EFFECT?

15 A. YES, I DO.

16 Q. AND YOU BROUGHT THEM WITH YOU?

17 A. YES, I DID.

18 (GOVERNMENT EXHIBIT 9 MARKED FOR IDENTIFICATION.)

19 BY MR. STOLL:

20 Q. MR. COX, I'VE MARKED THE DOCUMENT YOU BROUGHT AS
21 GOVERNMENT EXHIBIT NUMBER 9, I BELIEVE, THERE IN FRONT OF
22 YOU. ARE THOSE THE CERTIFICATES THAT YOU BROUGHT?

23 A. YES, THEY ARE.

24 Q. OKAY. CAN YOU JUST TELL US WHAT THEY ARE?

25 A. YES. THEY CERTIFY THAT WE'VE SEARCHED THE FILES FOR THE

COX - DIRECT

1 REGISTRATION OF PAUL JACOB AND THAT HE IS NOT REGISTERED WITH
2 SELECTIVE SERVICE. IF HE HAD REGISTERED WITH THE SELECTIVE
3 SERVICE ON OR BEFORE MAY 3RD OF THIS YEAR, WE WOULD HAVE HAD
4 HIS REGISTRATION IN OUR FILES, AND WE DO NOT.

5 MR. STOLL: WE OFFER GOVERNMENT'S EXHIBIT 9, YOUR
6 HONOR.

7 THE COURT: ANY OBJECTION?

8 MR. VAUGHT: YES, YOUR HONOR, I DO HAVE AN
9 OBJECTION. I'D LIKE TO VOIR DIRE OR CROSS EXAMINATION THE
10 WITNESS BEFORE IT'S OFFERED INTO EVIDENCE.

11 THE COURT: MR. VAUGHT, IN FEDERAL COURT, YOU'RE
12 REQUIRED TO STAND.

13 MR. VAUGHT: YOUR HONOR, I WOULD LIKE TO VOIR DIRE
14 THE WITNESS, IF I COULD. I BELIEVE THERE'S CERTAIN
15 PROCEDURAL FOUNDATIONS WHICH HAVE TO BE LAID BEFORE THE
16 INTRODUCTION OF A CERTIFICATE OF PROVING AN ABSENCE OF A
17 GOVERNMENT RECORD, AND I DON'T THINK A PROPER FOUNDATION HAS
18 BEEN LAID BY MR. STOLL.

19 THE COURT: MR. STOLL, WHAT SAYS THE GOVERNMENT?

20 MR. STOLL: IF HE WANTS TO VOIR DIRE THE WITNESS, I
21 HAVE NO OBJECTION.

22 THE COURT: ALL RIGHT, PROCEED.

23 VOIR DIRE EXAMINATION

24 BY MR. VAUGHT:

25 Q. MR. COX, HOW MANY POST OFFICES DID YOU SAY THERE WERE?

COX - VOIR DIRE

1 A. APPROXIMATELY 35,000.

2 Q. AND I TAKE IT THAT YOU PERSONALLY DON'T HANDLE EVERY
3 CARD THAT COMES IN FROM EVERY POST OFFICE IN THE COUNTRY?

4 A. NO, SIR, I PERSONALLY DON'T. MY STAFF DOES.

5 Q. AND THEREFORE THERE MUST BE SOME METHOD OF GARNERING ALL
6 OF THIS INFORMATION AND PUTTING IT INTO ONE SPECIFIC SPOT
7 BEFORE IT CAN BE USED TO MAKE A SEARCH CERTIFICATE LIKE THE
8 ONE THAT'S BEEN OFFERED HERE?

9 A. YES, THE PROCESS IS WHAT I DESCRIBED THERE.

10 Q. HOW DO YOU PERSONALLY KNOW WHETHER EVERY POST OFFICE IN
11 THE UNITED STATES HAS SENT EVERY CARD THAT'S BEEN TENDERED TO
12 THEM TO YOU?

13 A. HOW DO I PERSONALLY KNOW THAT THEY HAVE SENT THEM ALL?

14 A. THEY ARE REQUIRED BY THEIR POSTAL REGULATIONS TO SEND US
15 ALL OF THE CARDS THAT THEY RECEIVE.

16 Q. HOW DO YOU KNOW THAT SOME OF THEM HAVEN'T BEEN LOST IN
17 TRANSIT?

18 A. TO THE BEST OF MY KNOWLEDGE I DON'T KNOW NONE HAVE.

19 (DEFENDANT'S EXHIBIT 1 MARKED FOR IDENTIFICATION.)

20 BY MR. VAUGHT:

21 Q. OKAY. NOW, THE CARD THAT AN INDIVIDUAL FILLS OUT AT THE
22 POST OFFICE, I'M GOING TO SHOW YOU A CARD THAT I'M GOING TO
23 MARK AS DEFENDANT'S EXHIBIT NUMBER 1 AND ASK IF YOU CAN
24 IDENTIFY IT.

25 A. THAT'S ONE OF THE REGISTRATION CARDS.

COX - VOIR DIRE

1 Q. THIS IS THE CARD THAT THE INDIVIDUAL WOULD FILL OUT AT
2 THE POST OFFICE, IS THAT CORRECT?

3 A. YES.

4 Q. IS THIS THE FORM THAT THE CARD IS IN WHEN THAT
5 INDIVIDUAL FILLS IT OUT?

6 A. YES.

7 Q. ONE SINGLE SHEET?

8 A. YES.

9 Q. DOES THE POST OFFICE HAVE A COPY THAT THEY KEEP IN THEIR
10 FILE TO CHECK TO MAKE SURE THAT THEY ALL GET SENT TO YOU?

11 A. NO, THEY DON'T.

12 Q. DOES THE POST OFFICE LOG IN THE INFORMATION AND KEEP A
13 SEPARATE DOCKET OF ALL REGISTRATIONS THAT ARE MADE WITH THAT
14 POST OFFICE SO THEY CAN BE CHECKED AGAINST THE MASTER LIST TO
15 SEE THAT EVERYTHING HAS GOTTEN THERE?

16 A. NO, THEY DON'T, AND THE REASON FOR THAT IS THAT WE
17 RECEIVE THAT INFORMATION IN, THEY COLLECT IT FOR US, AND AS
18 WE GO THROUGH THE PROCESS, ONCE WE'VE MADE SURE EVERYTHING IS
19 CORRECT, THEN IT'S AN OFFICIAL REGISTRATION.

20 Q. I UNDERSTAND THAT.

21 A. THAT'S THE REASON IT'S ESTABLISHED THAT WAY.

22 Q. I UNDERSTAND THAT, BUT WHAT I'M SAYING IS THAT IF A
23 PERSON CAME TO POST OFFICE X, ANYWHERE IN THE UNITED STATES
24 AND FILLED OUT ONE OF THESE CARDS AND GAVE IT TO THE POST
25 OFFICE EMPLOYEE, AND THAT EMPLOYEE, THROUGH MISTAKE,

COX - VOIR DIRE

1 INADVERTENCE, OR WHATEVER ELSE MISPLACED THAT CARD OR DIDN'T
2 PUT IT IN THE PROPER PLACE, OR DROPPED IT, OR LOST IT OR
3 WHATEVER, THEN THERE WOULD BE NO RECORD WHATSOEVER ANYWHERE
4 IN THE COUNTRY THAT THAT INDIVIDUAL HAD EVER FILLED OUT THAT
5 CARD AND TENDERED IT IN AN ATTEMPT TO REGISTER, WOULD THERE?

6 A. THAT'S CORRECT.

7 Q. OKAY. NOW, THE CERTIFICATE THAT'S BEEN OFFERED INTO
8 EVIDENCE INDICATES THAT PURSUANT TO YOUR RECORDS THAT YOU
9 KEEP AND PURSUANT TO POST OFFICE REGULATIONS THE POST OFFICES
10 HAVE FORWARDED ALL THE STUFF TO YOU AND YOU LOOKED THROUGH IT
11 AND CAN'T FIND A LISTING FOR PAUL JACOB, IS THAT CORRECT?

12 A. THAT'S CORRECT.

13 Q. ISN'T IT TRUE THAT PRESIDENTIAL PROCLAMATION 4771 ISSUED
14 IN 1980, UNDER WHICH WE'RE OPERATING NOW, INDICATED THAT AN
15 INDIVIDUAL COULD REGISTER AT OTHER PLACES OTHER THAN POST
16 OFFICES?

17 A. YES, YOU WERE ALLOWED TO REGISTER AT EMBASSIES, FOR
18 EXAMPLE, OVERSEAS.

19 Q. THE CERTIFICATE THAT YOU HAVE OFFERED DOES NOT INDICATE
20 THAT RECORDS FROM U. S. EMBASSIES OR CONSULATES HAVE BEEN
21 ENTERED INTO YOUR SEARCH, DOES IT?

22 A. IT SAYS ALL REGISTRATIONS THAT WE HAVE RECEIVED, IF I'M
23 NOT MISTAKEN, WHICH WOULD INCLUDE THOSE FROM EMBASSIES AND
24 OTHER RECEPTION POINTS THAT WE HAVE OR UNDER THE COMPLIANCE
25 PROGRAM WHICH WE HAVE.

COX - VOIR DIRE

1 Q. I UNDERSTAND, MR. COX, BUT THE CERTIFICATE STATES I
2 CERTIFY THAT THE UNITED STATES POST OFFICES PURSUANT TO
3 POSTAL REGULATIONS MUST FORWARD AND I HEREBY CERTIFY THAT
4 THEY HAVE FORWARDED THEM ALL AND I HEREBY CERTIFY WE'VE
5 RECEIVED THEM AND ALL THAT STUFF. IT DOESN'T SAY ANYTHING
6 ABOUT EMBASSIES OR CONSULATES, DOES IT?

7 A. IT DOESN'T SAY THAT, BUT ON THE NEXT PAGE IT SAYS I
8 CERTIFY THAT AT OUR DATA MANAGEMENT CENTER, WHERE WE RECEIVE
9 EVERY REGISTRATION IN THE WORLD, HE'S NOT REGISTERED, IS WHAT
10 I'M CERTIFYING TO.

11 Q. IT SAYS EVERYWHERE IN THE WORLD?

12 A. NO, SIR, I JUST SAID THAT.

13 Q. THAT'S WHAT I THOUGHT. I THOUGHT MAYBE I'D MISSED
14 SOMETHING THERE. AS I UNDERSTAND THE CERTIFICATE THAT I JUST
15 HAD BEEN READING, IT TALKS ABOUT POST OFFICES, AND IT NEVER
16 MENTIONED THAT AN INDIVIDUAL CAN GO SOMEWHERE OTHER THAN A
17 POST OFFICE AND REGISTER, IS NOT THAT CORRECT?

18 A. THE CERTIFICATE DOESN'T SAY THAT.

19 Q. OKAY.

20 MR. VAUGHT: YOUR HONOR, I WOULD OBJECT TO THE
21 INTRODUCTION OF THE CERTIFICATE OR, ON THE OTHER HAND, I
22 WOULD ALLOW THE CERTIFICATE TO BE INTRODUCED BUT MOVE TO
23 STRIKE THE TESTIMONY OF THIS PERSON AS GIVEN BECAUSE IT DOES
24 NOT PROVE WHAT IT SETS OUT TO PROVE, THAT IS, A CERTIFICATE
25 OF NON-REGISTRATION. ALL THAT IT SHOWS AT MOST IS THAT A

1 PERSON NAMED PAUL JACOB DID NOT REGISTER AT ANY POST OFFICE
2 IN THE UNITED STATES DURING THE TIME IN QUESTION. IT DOES
3 NOT SAY HE DIDN'T REGISTER SOMEWHERE ELSE, AND I THINK THE
4 GOVERNMENT CANNOT PROVE BEYOND A REASONABLE DOUBT THAT HE
5 DIDN'T REGISTER SOMEWHERE ELSE.

6 THE COURT: BEFORE WE HEAR FROM THE GOVERNMENT, IS
7 THE THRUST OF YOUR OBJECTION TO WEIGHT AS OPPOSED TO
8 ADMISSIBILITY? IS THIS SOMETHING FOR YOU TO ARGUE TO THE
9 JURY?

10 MR. VAUGHT: YOUR HONOR, I THINK IT COULD BE RULED
11 EITHER TO THE WEIGHT OF THE EXHIBIT OR TO THE ADMISSIBILITY
12 BOTH. A CERTIFICATE OF NON-REGISTRATION, IF I UNDERSTAND THE
13 RULES OF EVIDENCE, THE PURPOSE OF IT IS TO SHOW THAT A
14 DILIGENT SEARCH HAS BEEN MADE AND THAT THE SEARCH HAS BEEN
15 MADE OF TRUSTWORTHY DOCUMENTS AND THAT THERE'S BEEN NO
16 REGISTRATION FOR A CERTAIN INDIVIDUAL FOUNDM AND IF THAT'S
17 CERTIFIED, THEN IT CAN BE INTRODUCED AS AFFIRMATIVE EVIDENCE
18 OF NON-REGISTRATION. MY OBJECTION IS TWO-FOLD. FIRST OF
19 ALL, I BELIEVE THAT THERE COULD BE NO VALID CERTIFICATE OF
20 NON-REGISTRATION WHEN ALL OF THE SOURCES OF INFORMATION HAVE
21 NOT BEEN CHECKED, AND THAT WITNESS HAS TESTIFIED THAT A
22 PERSON CAN REGISTER NOT ONLY AT POST OFFICES BUT ALSO AT
23 AMERICAN EMBASSIES AND CONSULATES AND THAT THAT IS NOT
24 INCLUDED ON THE FACE OF THE CERTIFICATE. THEREFORE, THE
25 CERTIFICATE DOES NOT CERTIFY WHAT IT PURPORTS TO CERTIFY.

COX - VOIR DIRE

1 MR. STOLL: DO YOU WANT A RESPONSE TO THAT OR?

2 THE COURT: I'VE JUST ABOUT HEARD ENOUGH ON THAT.

3 NOW, WHAT'S YOUR REPLY?

4 MR. STOLL: JUDGE, I'M NOT UNDERSTANDING THE
5 TESTIMONY OF MR. COX APPARENTLY THE SAME WAY MR. VAUGHT IS.
6 I MEAN, HE'S HERE AND HE'S TOLD THE JURY ABOUT THE WHOLE
7 PROCESS, THROUGH GOVERNMENT'S EXHIBIT NUMBER 8, THAT ALL
8 REGISTRATION CARDS COME INTO THEIR COMPUTER DATA BACK IN
9 CHICAGO, NOT JUST THE ONES FROM THE POST OFFICE. JUST
10 BECAUSE HE DOESN'T MENTION EMBASSIES ON THE NON-REGISTRATION
11 CERTIFICATE, AND AS HE SAID ON PAGE 2 HE HAS MADE A DILIGENT
12 SEARCH OF THEIR RECORDS OF THE DATA MANAGEMENT CENTER OF THE
13 SELECTIVE SERVICE SYSTEM AND THAT THERE IS NO RECORD OF PAUL
14 JACOB BEING REGISTERED. I THINK HIS TESTIMONY SPEAKS FOR
15 ITSELF. I REALLY FAIL TO SEE THE OBJECTION, THE PURPOSE OF
16 THE OBJECTION. WE HAVE THE WITNESS HERE WHO IS IN CHARGE OF
17 IT. HE SAYS THEY ALL COME IN AND HE'S SEARCHED, AND TO THE
18 BEST OF HIS ABILITY THERE'S NO RECORD OF PAUL JACOB.

19 THE COURT: YOU HAVE THE CLOSE.

20 MR. VAUGHT: YOUR HONOR, THE WITNESS' TESTIMONY IS
21 THAT HE PERSONALLY DOESN'T OVERSEE EVERY CARD THAT COMES IN,
22 THAT HE IS A CUSTODIAN, I SUPPOSE, OF THE RECORDS AND IN THAT
23 SENSE CAN TESTIFY TO THE CERTIFICATE, BUT THE CERTIFICATE
24 SPEAKS FOR ITSELF AND SPEAKS ONLY TO REGISTRATION
25 CERTIFICATES THAT HAVE COME FROM POST OFFICES, AND I THINK

COX - VOIR DIRE

1 UNDER THE STATUTE AND THE PRESIDENTIAL PROCLAMATION, THAT IT
2 DOESN'T COVER EVERYTHING, EVERYPLACE THAT HE COULD HAVE BEEN
3 REGISTERED.

4 THE COURT: THE COURT IS PERSUADED THAT THE THRUST
5 OF YOUR OBJECTION GOES TO WEIGHT AS OPPOSED TO ADMISSIBILITY.
6 THE JURY HAS HEARD MR. COX, AND OF COURSE, THIS IS A
7 CERTIFIED CERTIFICATE, AND IT'S WITHIN THE PREROGATIVE OF THE
8 JURY TO GIVE WHATEVER WEIGHT IT WISHES TO HIS TESTIMONY AND
9 TO THE EXHIBIT. ACCORDINGLY, THE OBJECTION IS OVERRULED.

10 MR. VAUGHT: THANK YOU, YOUR HONOR.

11 MR. STOLL: IS THE EXHIBIT RECEIVED, YOUR HONOR?

12 THE COURT: YES.

13 (GOVERNMENT EXHIBIT 9 RECEIVED IN EVIDENCE.)

14 MR. STOLL: MAY I PASS IT TO THE JURY?

15 DIRECT EXAMINATION (CONT'D)

16 BY MR. STOLL:

17 Q. MR. COX, DOES THE SELECTIVE SERVICE SYSTEM, AS IT
18 PRESENTLY EXISTS NOW, HAVE THE AUTHORITY TO INDUCT ANYONE IN
19 THE ARMED FORCES?

20 A. NO, SIR.

21 Q. WHAT IS THE PURPOSE OF THE SELECTIVE SERVICE SYSTEM,
22 THEN, IF YOU CONDITION INDUCT ANYONE?

23 A. OUR ASSIGNMENT IS TO REGISTER YOUNG MEN AS THEY TURN 18
24 AND TO HAVE A BANK OF NAMES AVAILABLE IN THE EVENT OF A
25 NATIONAL EMERGENCY WHEN CONGRESS WOULD SPECIFICALLY HAVE TO

COX - DIRECT

1 AUTHORIZE A RETURN TO THE DRAFT. SO THAT IT CAN BE USED IN
2 THAT EVENT.

3 Q. OKAY. IS THERE A TIME ELEMENT AS FAR AS MOBILIZATION IF
4 YOU DID NOT HAVE THIS DATA BANK OF NAMES AVAILABLE?

5 A. OH, YES, SIR, VERY DEFINITELY. WITH THE INFORMATION AS
6 WE HAVE IT HERE, WE COULD BEGIN ISSUING INDUCTION NOTICES
7 WITHIN TWO DAYS AND PEOPLE WOULD BEGIN TO BE INDUCTED INTO
8 THE ARMED FORCES WITHIN 13 DAYS FOLLOWING THE TIME THE
9 CONGRESS ASKED US TO DO SO. IF YOU DIDN'T HAVE THIS
10 INFORMATION IN THE DATA BANK AND WERE REQUIRED TO GATHER THE
11 INFORMATION, BEGIN DRAFTING FOR A NATIONAL EMERGENCY IT WOULD
12 TAKE APPROXIMATELY 58 DAYS TO GO THROUGH ALL THE STEPS
13 NECESSARY TO REGISTER EVERYBODY AND SORT THROUGH WHO SHOULD
14 BE DRAFTED AND WHO SHOULDN'T. SO FROM A MOBILIZATION
15 READINESS STANDPOINT THERE IS A SIGNIFICANT DIFFERENCE IN
16 TERMS OF TIMELINESS.

17 Q. AND YOU JUST SAID THAT IN GOING THROUGH THE
18 CLASSIFICATIONS TO DETERMINE WHO SHOULD BE DRAFTED AND WHO
19 SHOULD NOT BE DRAFTED, BY SIGNING THE REGISTRATION FORM ARE
20 PEOPLE GIVEN A CLASSIFICATION AT THAT TIME?

21 A. NO, SIR, THERE'S NO CLASSIFICATION.

22 Q. AND BY CLASSIFICATION CAN YOU EXPOUND UPON THAT? WHAT
23 ARE WE TALKING ABOUT BY CLASSIFICATION?

24 A. WELL, IN THE EVENT OF RETURN TO A DRAFT, CONGRESS
25 INDICATED WHAT WE SHOULD DO IS CONDUCT A LOTTERY OF THOSE

COX - DIRECT

1 PEOPLE BORN IN A SPECIFIC YEAR, AND EVERY BIRTHDAY WOULD BE
2 ASSIGNED A LOTTERY NUMBER, 1 THROUGH 365, AND DRAFTING WOULD
3 START WITH LOTTERY NUMBER 1 AND WORK DOWN THROUGH THE FINAL
4 NUMBERS, AND THOSE PEOPLE, ONCE YOU RECEIVED A DRAFT NOTICE,
5 THEN YOU HAVE AN OPPORTUNITY TO EITHER REPORT FOR A PHYSICAL
6 EXAM OR TO FILE A CLAIM OR AN APPEAL FOR WHATEVER YOU MAY
7 WISH WHETHER IT'S A HARDSHIP DEFERMENT OR CONSCIENCIOUS
8 OBJECTORS DEFERMENT OR WHATEVER THE SITUATION IS, AND YOUR
9 CLAIM OR YOUR REQUEST FOR APPEAL WOULD BE HEARD AND THAT
10 DECISION WOULD BE MADE BY A LOCAL DRAFT BOARD PRIOR TO YOU
11 EVER BEING INDUCTED INTO THE ARMED FORCES. SO THAT'S THE
12 CLASSIFICATION PROCESS THAT GOES ON AFTER YOU ARE DRAFTED,
13 ONCE AGAIN, AFTER THE CONGRESS GAVE US THE AUTHORITY TO
14 RETURN TO A DRAFT WHICH WE DON'T CURRENTLY HAVE.

15 Q. BEFORE ANYONE CAN ACTUALLY BE DRAFTED INTO THE ARMED
16 FORCES IT HAS TO BE APPROVED BY CONGRESS?

17 A. YES, SIR.

18 Q. AND THEN AT THAT TIME, IF CONGRESS SO SEES FIT TO
19 INSTITUTE THE DRAFT, THE REGISTRANTS, THE PEOPLE WHO DO SIGN
20 UP, HAVE AVAILABLE TO THEM ALL THE RIGHTS AND CLAIMS THAT
21 THEY MIGHT HAVE OTHERWISE?

22 A. OH, ABSOLUTELY.

23 Q. NOW, THE REGISTRATION PROCESS STARTED, THE ONE WE WERE
24 JUST DISCUSSING NOW, BACK IN 1980, IS THAT CORRECT?

25 A. YES, SIR.

COX - DIRECT

1 Q. AND IT'S STILL IN EXISTENCE TODAY, RIGHT?

2 A. YES, IT IS.

3 Q. WAS THERE A PERIOD OF GRACE EVER DECLARED SOMEPLACE?

4 A. YES, SIR. IN 1982, JANUARY OF 1982, THERE HAD BEEN SOME
5 STUDY GOING ON DURING THE DECEMBER TIME PERIOD, AND THE
6 PRESIDENT ANNOUNCED DRAFT REGISTRATION WAS IN EFFECT AND THAT
7 EVERYBODY SHOULD DO IT AND THAT THERE WAS A GRACE PERIOD FROM
8 JANUARY 7TH THROUGH FEBRUARY 28TH OF 1982 WHERE ANYBODY WHO
9 HADN'T REGISTERED HERETOFOR COULD REGISTER REGARDLESS OF
10 WHETHER THEY HAD OR HADN'T BEEN TIMELY IN THE PAST, AND IT
11 WOULD BE ACCEPTED WITHOUT ANY PENALTY.

12 MR. STOLL: THANK YOU. PASS THE WITNESS

13 THE COURT: MR. VAUGHT?

14 CROSS EXAMINATION

15 BY MR. HALL:

16 Q. WHY WAS THERE A GRACE PERIOD?

17 A. WHY WAS THERE A GRACE PERIOD?

18 MR. STOLL: EXCUSE ME, JUDGE. MAY WE APPROACH THE
19 BENCH?

20 (THE FOLLOWING PROCEEDINGS AT THE BENCH.)

21 MR. STOLL: I MY UNDERSTANDING YOU HAVE TO STAY
22 WITH A WITNESS.

23 THE COURT: MR. VAUGHT?

24 MR. VAUGHT: THAT'S FINE, YOUR HONOR.

25 THE COURT: DID YOU COMMENCE WITH --

COX - CROSS

1 MR. VAUGHT: I VOIR DIRED HIM ON THE CERTIFICATE.

2 THE COURT: THIS WAS NOT CROSS.

3 MR. VAUGHT: NO, SIR.

4 THE COURT: THIS WAS ESSENTIALLY VOIR DIRE, SO
5 THERE MAY NOT BE A CONFLICT.

6 MR. VAUGHT: IT DOESN'T REALLY MATTER, WHATEVER.

7 MR. HALL: WHILE WE'RE UP HERE, I'M GOING TO ASK
8 HIM WHY WAS THERE A GRACE PERIOD. I THINK THE TESTIMONY WILL
9 BE THERE WERE NUMEROUS NOT REGISTERED.

10 MR. STOLL: WE HAVEN'T OFFERED THE THE NUMBER.

11 MR. HALL: I'M GOING TO ASK HIM ABOUT WHY THERE WAS
12 A GRACE PERIOD.

13 THE COURT: I'M GOING TO SUSTAIN IT. DO YOU OBJECT
14 TO THAT SIMPLE QUESTION?

15 MR. STOLL: YES. I THINK THE PROBLEM IS HE CAN
16 PROBABLY ASK HIM WHY THERE WAS A GRACE PERIOD SINCE I BROUGHT
17 IT UP.

18 MR. HALL: I'M GOING TO ALSO ASK WHAT IS THE
19 NUMBER, AND IF YOU'RE GOING TO OBJECT TO IT --

20 MR. STOLL: I OBJECT TO IT ON THE SAME GROUND.

21 MR. HALL: WELL, THE GOVERNMENT HAS OPENED THE
22 DOOR. HE TESTIFIED THERE WAS A GRACE PERIOD. I WANT TO KNOW
23 WHY THERE WAS A GRACE PERIOD. THE TESTIMONY IS GOING TO BE
24 BECAUSE OF SUBSTANTIAL NON-COMPLIANCE.

25 THE COURT: IS THERE A DIFFERENCE BETWEEN THE PRIOR

1 PROFFER AND THIS ONE?

2 MR. HALL: IT WOULD BE THE SAME INFORMATION.

3 THE COURT: DOES IT GO TO A DEFENSE?

4 MR. HALL: I'M JUST PRESERVING THE RECORD.

5 THE COURT: ALL RIGHT.

6 BY MR. HALL:

7 Q. WHY WAS THERE A GRACE PERIOD?

8 A. THERE WAS AN OPPORTUNITY FOR PEOPLE WHO HAD NOT
9 REGISTERED TO REGISTER WITHOUT PENALTY.

10 Q. HAS THERE BEEN ONLY ONE?

11 A. TO THE BEST OF MY KNOWLEDGE, YES.

12 MR. HALL: THANK YOU.

13 THE COURT: ANYTHING ELSE FROM MR. COX?

14 MR. STOLL: NO, YOUR HONOR.

15 THE COURT: YOU MAY STEP DOWN. CALL YOUR NEXT
16 WITNESS.

17 MS. CHERRY: JOHN KOTTERMAN

18 DOUG KOTTERMAN, PLAINTIFF'S WITNESS, SWORN

19 DIRECT EXAMINATION

20 BY MS. CHERRY:

21 Q. MR. KOTTERMAN, STATE YOUR FULL NAME.

22 A. JOHN D. KOTTERMAN.

23 Q. AND YOU ARE A SPECIAL AGENT WITH THE FEDERAL BUREAU OF
24 INVESTIGATION, IS THAT RIGHT?

25 A. YES, I AM.

COX - CROSS

1 Q. WHERE ARE YOU PRESENTLY LOCATED?

2 A. LITTLE ROCK.

3 Q. HOW LONG HAVE YOU BEEN WITH THE FBI?

4 A. 19 YEARS.

5 Q. IN THE COURSE OF YOUR DUTIES, AGENT KOTTERMAN, WITH THE
6 FBI, WERE YOU ASSIGNED TO INVESTIGATE THE MATTER OF PAUL
7 JACOB?

8 A. YES, I WAS.

9 Q. WHEN DID YOU RECEIVE THIS ASSIGNMENT?

10 A. SEPTEMBER OF 1981, SEPTEMBER 17TH THE CASE WAS ASSIGNED
11 TO ME.

12 Q. FOLLOWING YOUR ASSIGNMENT OF THIS CASE WHAT STEPS, IF
13 ANY, DID YOU TAKE TO TALK WITH PAUL JACOB?

14 A. I INITIALLY CONSULTED WITH THE U. S. ATTORNEY'S OFFICE
15 ABOUT THE MATTER, AND THEN TRIED TO LOCATE MR. JACOB AND TALK
16 TO HIM.

17 Q. WHEN YOU GO TO TALK TO SOMEONE SUCH, AS MR. JACOB WHO IS
18 REPORTED TO YOU TO BE A NON-REGISTRANT, WHAT IS YOUR
19 OBJECTIVE WHEN YOU GO OUT TO TALK TO HIM?

20 A. WELL, TO FIND OUT IF HE HAS REGISTERED, IF HE INTENDS TO
21 REGISTER AND WHAT HIS INTENTIONS ARE SO THE GOVERNMENT CAN
22 DECIDE WHAT ACTION THEY WANT TO TAKE.

23 Q. SO AT THAT TIME YOU JUST INTENDED TO TALK TO HIM, IS
24 THAT CORRECT?

25 A. UH-HUH.

COX - CROSS

- 1 Q. JUST VISIT WITH HIM?
- 2 A. THAT'S RIGHT.
- 3 Q. WHEN YOU WENT OUT TO TALK TO MR. JACOB, TO WHAT LOCATION
- 4 DID YOU GO?
- 5 A. 35 DE SOTO CIRCLE, NORTH LITTLE ROCK, ARKANSAS.
- 6 Q. WHY DID YOU GO TO THAT PARTICULAR LOCATION?
- 7 A. I UNDERSTOOD THAT WAS HIS HOME AND WHERE HIS FAMILY
- 8 RESIDED AND HE RESIDED ALSO.
- 9 Q. WHEN YOU GOT THERE, WHO WERE YOU ABLE TO TALK TO?
- 10 A. I TALKED TO MRS. JACOB, HIS MOTHER.
- 11 Q. WERE YOU ABLE TO LEARN HIS WHEREABOUTS?
- 12 A. NO, I WAS NOT.
- 13 Q. DID YOU LEAVE ANY INFORMATION WITH THE JACOBS, AS TO HOW
- 14 THEY COULD GET IN TOUCH WITH YOU?
- 15 A. I BELIEVE I LEFT MY BUSINESS CARD THERE AND I TOLD THEM
- 16 MY INTENTIONS, I WOULD LIKE TO TALK WITH HIM IF HE WAS
- 17 AVAILABLE.
- 18 Q. DID YOU CONTINUE TO LOOK FOR PAUL JACOB?
- 19 A. AT THAT TIME I DID THE NORMAL THINGS, CHECK THE CITY
- 20 DIRECTORY TELEPHONE BOOK, TO SEE IF HE MIGHT HAVE A RESIDENCE
- 21 THAT WAS PUBLIC, AND I FOUND NONE.
- 22 Q. WHEN WERE YOU SUBSEQUENTLY ABLE TO LOCATE HIM?
- 23 A. WHEN I ARRESTED HIM DECEMBER 6, 1984.
- 24 Q. ALL RIGHT. WOULD YOU TELL THE JURY THE CIRCUMSTANCES OF
- 25 THE ARREST?

COX - CROSS

1 A. WELL, MY INVESTIGATION LED ME TO A RESIDENCE AT 47 NORTH
2 HICKORY STREET IN NORTH LITTLE ROCK. I UNDERSTOOD THAT HE
3 LIVED THERE WITH HIS WIFE AND MY AND MYSELF AND AGENT KAREN
4 TOOMEY (PHONETIC) AND JAMES BARTEN WENT THERE TO TRY TO
5 LOCATE HIM ON THE 6TH OF DECEMBER.

6 Q. WERE YOU ABLE TO FIND HIM AT THAT TIME?

7 A. YES, I WAS.

8 Q. WOULD YOU TELL US HOW YOU LOCATED MR. JACOB? DID YOU GO
9 UP TO THE DOOR OR WHO DID?

10 A. AGENT TOOMEY WENT TO THE DOOR AND KNOCKED AND WE WEREN'T
11 SURE IF HE WAS THERE OR NOT. SHE KNOCKED ON THE DOOR AND
12 ASKED TO SPEAK TO HIS WIFE, I THINK IT'S RHONDA. HE SAID SHE
13 WASN'T THERE AND SHE ASKED HIM ARE YOU PAUL JACOB AND HE SAID
14 NO. SHE ASKED HIM AGAIN HE SAID NO. I STEPPED IN FRONT I
15 SAID, ARE YOU PAUL JACOB, HE SAID NO. I SAID YOU ARE PAUL
16 JACOB, HE SAID YES, I AM.

17 Q. DO YOU SEE THE INDIVIDUAL YOU WERE REFERRING TO AS PAUL
18 JACOB IN THE COURTROOM?

19 A. SITTING RIGHT THERE (INDICATING.)

20 MS. CHERRY: FOR THE RECORD, LET THE RECORD REFLECT
21 THAT SPECIAL AGENT KOTTERMAN HAS IDENTIFIED THE DEFENDANT.

22 BY MS. CHERRY:

23 Q. SUBSEQUENT TO THIS MOMENT, MR. KOTTERMAN, DID YOU SEARCH
24 HIM INCIDENT TO ARREST?

25 A. YES, I DID.

1 Q. DID YOU TAKE FROM HIM AT THAT TIME AN INDICATION CARD ON
2 HIS PERSON?

3 A. I DID.

4 MS. CHERRY: YOUR HONOR, WE HAVE A CARD MARKED AS
5 EXHIBIT 10, WHICH I'LL SHOW TO DEFENSE COUNSEL.

6 (GOVERNMENT EXHIBIT 10 MARKED FOR IDENTIFICATION.)

7 BY MS. CHERRY:

8 Q. MR. KOTTERMAN, I SHOW YOU AN IDENTIFICATION CARD MARKED
9 AS GOVERNMENT EXHIBIT 10 AND ASK YOU IF THAT'S THE CARD YOU
10 TOOK FROM MR. JACOB?

11 A. YES, IT IS.

12 Q. WHO IS IDENTIFIED ON THAT CARD?

13 A. IT'S IN THE NAME OF JOHN D. HENDRICKSON VIRGINIA
14 PERSONAL IDENTIFICATION CARD.

15 MS. CHERRY: YOUR HONOR, WE ASK THAT THAT BE
16 RECEIVED, AND I'D LIKE TO SHOW IT TO THE JURY.

17 THE COURT: MR. VAUGHT OR HALL?

18 MR. HALL: NO OBJECTION, YOUR HONOR.

19 THE COURT: ALL RIGHT, ADMITTED.

20 (GOVERNMENT EXHIBIT 10 RECEIVED INTO EVIDENCE.)

21 BY MS. CHERRY:

22 Q. MR. KOTTERMAN, DID YOU SUBSEQUENTLY PARTICIPATE IN A
23 BOND HEARING WITH MR. JACOB? WAS HE RELEASED ON BOND AFTER
24 THAT TIME?

25 A. WE ARRESTED HIM AND TOOK HIM TO OUR OFFICE WHERE WE DID

COX - CROSS

1 OUR NORMAL THING AND TOOK HIM BEFORE A JUDGE FOR A HEARING,
2 WHICH WE'RE REQUIRED TO DO, AND HE WAS SET -- THE FOLLOWING
3 DAY THEY SET BOND.

4 Q. ALL RIGHT, THANK YOU.

5 MS. CHERRY: YOUR HONOR, WE HAVE NOTHING FURTHER
6 FROM MR. KOTTERMAN. PASS THE WITNESS.

7 THE COURT: MR. HALL?

8 CROSS EXAMINATION

9 BY MR. HALL:

10 Q. MR. KOTTERMAN, DID THIS CASE COME TO YOU FROM THE
11 DEPARTMENT OF JUSTICE IN WASHINGTON OR THE U. S. ATTORNEY'S
12 OFFICE?

13 A. IT'S REFERRED TO US FROM OUR HEADQUARTERS IN WASHINGTON
14 WHICH WE GOT IT VIA, IT'S MY UNDERSTANDING FROM COMMUNICATION
15 FROM THE SELECTIVE SERVICE HEADQUARTERS. IT COMES OVER FROM
16 THE DEPARTMENT OF JUSTICE AND OF COURSE, WE'RE PART OF THAT
17 AND IT WAS ULTIMATELY REFERRED TO OUR AGENCY FOR
18 INVESTIGATION.

19 Q. WHAT DATE DID YOU GO TO HIS PARENT'S HOME?

20 A. NOVEMBER 6, 1981, AND I ALSO WENT, FOLLOWING HIS
21 INDICTMENT. WHEN HE WAS INDICTED IN '82, I WENT OUT TO TALK
22 TO HIS PARENTS TO SEE IF THEY KNEW HIS WHEREABOUTS AT THAT
23 TIME ALSO.

24 Q. SO YOU WENT THERE TWICE?

25 A. TWICE. BEFORE AND AFTER INDICTMENT.

KOTTERMAN - CROSS

- 1 Q. WHEN DID YOU BECOME AWARE THAT HE WAS PROBABLY IN THE
2 LITTLE ROCK AREA?
- 3 A. IN DECEMBER.
- 4 Q. OF '84?
- 5 A. OF '84.
- 6 Q. DID YOU SUBSEQUENTLY LEARN HE WAS IN LITTLE ROCK FROM
7 NOVEMBER OF '83, THE LITTLE ROCK AREA?
- 8 A. THE LITTLE ROCK AREA? SAY THAT AGAIN. THE FIRST
9 INFORMATION I HAD WAS IN DECEMBER 6, '84. I HAD SOME INKLING
10 HE WAS IN THIS AREA PRIOR TO THAT BUT POSITIVE INFORMATION
11 WAS DECEMBER 6TH OF '84.
- 12 Q. DID YOU CHECK THE I. R. S. RECORDS TO DETERMINE HIS
13 WHEREABOUTS?
- 14 A. I HAVE NO ACCESS TO I. R. S. RECORDS.
- 15 Q. WAS THERE ANYONE ELSE IN THE HOUSE WHEN HE WAS ARRESTED?
- 16 A. THERE WAS A SMALL CHILD THERE, AND I HAD HIM NOTIFY HIS
17 MOTHER-IN-LAW. SHE CAME OVER TO TAKE CARE OF THE CHILD WHEN
18 WE LEFT. JESSICA.
- 19 Q. HIS CHILD?
- 20 A. THE DAUGHTER. JESSICA.
- 21 Q. WAS IT HIS CHILD?
- 22 A. THAT'S WHAT I UNDERSTAND, YES.
- 23 Q. WHAT WAS HE DOING AT THAT TIME WHEN HE WAS ARRESTED?
- 24 A. TAKING CARE OF THE BABY, THE IMPLICATION. HE WAS LIVING
25 THERE. I DON'T KNOW WHAT HE WAS DOING EXACTLY, BUT THERE WAS

KOTTERMAN - CROSS

1 A BABY THERE. I GUESS HE WAS TAKING CARE OF THE BABY.

2 Q. AFTER HE IDENTIFIED HIMSELF OR AFTER YOU SAID YOU ARE
3 PAUL JACOB AND HE SAID YES, WHAT HAPPENED THEN?

4 A. HE WAS PLACED UNDER ARREST AND SEARCHED. HE WAS
5 HANDCUFFED AND TAKEN TO OUR OFFICE FOR FINGERPRINTING AND
6 PHOTOGRAPHING WHICH IS ROUTINE FOR ANYONE WE ARREST, AND A
7 HEARING WAS SET BEFORE JUDGE HENRY L. JONES WHO WAS TO
8 DETERMINE HIS IDENTITY AND SET BOND.

9 Q. THAT WAS THE FOLLOWING DAY?

10 A. THAT WAS THE SAME DAY. I TOOK HIM BEFORE JUDGE JONES
11 THAT SAME DAY.

12 Q. DID HE REMAIN IN CUSTODY OVERNIGHT UNTIL THE BOND
13 HEARING?

14 A. THAT'S TRUE.

15 MR. HALL: THANK YOU.

16 THE COURT: ANYTHING ELSE?

17 MS. CHERRY: YOUR HONOR, NOTHING FURTHER FROM
18 MR. KOTTERMAN.

19 THE COURT: ALL RIGHT, YOU MAY STEP DOWN
20 MR. KOTTERMAN. CALL YOUR NEXT WITNESS, MR. STOLL.

21 MR. STOLL: WE REST, YOUR HONOR.

22 THE COURT: I BEG YOUR PARDON?

23 MR. STOLL: GOVERNMENT RESTS.

24 THE COURT: ALL RIGHT, MR. HALL?

25 MR. VAUGHT: YOUR HONOR, SINCE IT'S 2:30 COULD WE

KOTTERMAN - CROSS

1 ASK FOR A BRIEF RECESS SO WE CAN SPEAK TO YOU IN CHAMBERS?

2 THE COURT: ALL RIGHT, LADIES AND GENTLEMEN OF THE
3 JURY, THERE ARE SOME HOUSEHOLD MATTERS WE NEED TO TAKE UP IN
4 YOUR ABSENCE. CONSEQUENTLY, WE'RE GOING TO RECESS FOR THE
5 NEXT 15 OR 20 MINUTES. ONCE AGAIN, I ADMONISH YOU NOT TO
6 DISCUSS THE CASE AMONG YOURSELVES. LET EVERYBODY REMAIN
7 SEATED WHILE THE JURY LEAVES THE COURTROOM.

8 (JURY EXITS.)

9 THE COURT: MR. VAUGHT, INASMUCH AS THE JURY IS NO
10 LONGER IN THE COURTROOM, WE MAY TAKE THIS MATTER UP AT THIS
11 TIME.

12 MR. VAUGHT: OKAY, YOUR HONOR. YOUR HONOR, AT THIS
13 TIME THE DEFENDANT MOVES FOR A DIRECTED VERDICT OF ACQUITTAL
14 ON THE FOLLOWING GROUNDS. THE TESTIMONY OF THE GOVERNMENT'S
15 WITNESSES CONCERNING NON-REGISTRATION DOES NOT SHOW THAT ALL
16 AVENUES OF REGISTRATION HAVE BEEN CERTIFIED AS BEING SEARCHED
17 IN ORDER TO ESTABLISH THAT MR. JACOB HAS NOT REGISTERED.
18 SPECIFICALLY, THEY DO NOT SHOW THAT UNITED STATES EMBASSIES
19 OR CONSULATES HAVE BEEN CHECKED AS OPPOSED TO MERELY POST
20 OFFICES, AND THE PRESIDENTIAL PROCLAMATION DOES GIVE THE
21 ALTERNATIVE OF REGISTERING AT UNITED STATES EMBASSIES OR
22 CONSULATES AS WELL AS POST OFFICES.

23 NUMBER TWO, THE TESTIMONY OF MR. COX, AND THIS
24 PROBABLY JUST GOES TO WEIGHT, BUT I'M GOING TO SAY IT ANYWAY,
25 TESTIFIED THAT THERE IS NO MEANS FOR CHECKING OR BACK

1 CHECKING WHETHER A CARD HAS IN FACT BEEN SENT IN. IN OTHER
2 WORDS, WHEN A POST OFFICE RECEIVES THE ONE LITTLE CARD WITH
3 NO CARBON COPY, IT IS SENT IN, THERE IS NO RECORD AT THE POST
4 OFFICE THAT THE INDIVIDUAL HAS IN FACT REGISTERED AND
5 TENDERED THAT CARD TO THE POST OFFICE. THEREFORE, I THINK
6 THERE IS CERTAINLY MARGIN OF ERROR OR POSSIBILITY OF ERROR
7 THAT MAKES IT GOES AND TAKES IT BEYOND -- IT DOES NOT TAKE IT
8 BEYOND A REASONABLE DOUBT.

9 THIRD, THE GOVERNMENT HAS NOT INTRODUCED ANY PROOF
10 ON THE ISSUE OF WILLFULNESS OR CRIMINAL INTENT EXCEPT FOR THE
11 TESTIMONY OF THE PEOPLE FROM THE ARKANSAS DEMOCRAT CONCERNING
12 A DEMONSTRATION MR. JACOB WAS INVOLVED IN ON JANUARY 6, 1981.
13 THE INDICTMENT ALLEGES THAT HE FAILED TO REGISTER, WILLFULLY
14 FAILED TO REGISTER FROM A PERIOD BEGINNING JULY OF 1980 UNTIL
15 I BELIEVE JULY OF 1982. I THINK THAT THE PERIOD HAS TO SHOW
16 A WILLFUL STATE OF MIND THROUGHOUT THE PERIOD, AND ONE
17 INCIDENT OF EVIDENCE OF WILLFULNESS IN JANUARY OF 1981 IS NOT
18 SUFFICIENT TO PROVE CRIMINAL INTENT THROUGHOUT THE PERIOD OF
19 INDICTMENT.

20 THE COURT: MR. STOLL?

21 MR. STOLL: NATURALLY, JUDGE, I DISAGREE. I THINK
22 WE'VE MADE A SUBMISSIBLE CASE FOR THE JURY TO DECIDE. MR.
23 COX'S TESTIMONY AND MR. CRAWFORD'S TESTIMONY TALKS ABOUT THE
24 REGISTRATION PROCESS. MR. COX SAID THAT HE HAS HAD HIS
25 RECORDS IN CHICAGO SEARCHED FOR ANY REGISTRATION. JUST

1 BECAUSE IT'S NOT MENTIONED IN THE CERTIFICATION ABOUT
2 EMBASSIES, THE SECOND PAGE GOES TO HE COULD FIND NO RECORD AT
3 ALL CONCERNING THE REGISTRATION FOR PAUL JACOB.

4 AGAIN, I THINK WHAT THE COURT RULED ON EARLIER, IT
5 GOES TO THE WEIGHT, IF ANY, MORE THAN ADMISSIBILITY.

6 THE WILLFULNESS, JUDGE, AS I UNDERSTAND THE
7 ELEMENTS OF THIS OFFENSE IS THAT A PERSON HAS TO HAVE THE
8 DUTY TO REGISTER AS BY HIS AGE. WE SHOW THAT BY THE BIRTH
9 CERTIFICATE AS WELL AS MATCHING IT UP WITH THE SCHOOL RECORD.
10 HE DID HAVE THE DUTY TO REGISTER. MR. COX TELLS US THAT THEY
11 CAN FIND NO REGISTRATION FOR PAUL JACOB AND THIRD, THE
12 WILLFULNESS AND KNOWING ISSUE, THE PHOTOGRAPHS AND THE
13 TESTIMONY OF SHERRY WARD TUCKER SHOWS THAT IN 1981 HE WAS
14 PROTESTING NOT TO REGISTER AND DURING THAT PROTEST HE MADE
15 EXPLICIT STATEMENTS TO THE REPORTER THAT HE HAD NOT
16 REGISTERED AND DID NOT INTEND TO REGISTER. THAT'S FOUND IN
17 THE ARTICLE THAT WAS INTRODUCED AS AN EXHIBIT AS A QUOTE FROM
18 HIM AND MS. WARD SAID SHE TAKES QUOTES DOWN EXACTLY AS THEY
19 ARE SAID. I THINK THAT THERE'S AMPLE EVIDENCE THERE FOR THE
20 JURY TO FIND BEYOND A REASONABLE THAT HE HAS FAILED TO
21 REGISTER.

22 THE COURT: ALL RIGHT, YOU HAVE THE CLOSE
23 MR. VAUGHT.

24 MR. VAUGHT: YOUR HONOR, I BELIEVE I'VE JUST ABOUT
25 SAID EVERYTHING THAT I HAVE TO SAY ON IT. I WOULD LIKE TO

1 REITERATE THAT IF THE GOVERNMENT IS GOING TO DEPEND UPON AN
2 INDICTMENT THAT ALLEGES A CONTINUING OFFENSE DURING A
3 TWO-YEAR PERIOD, I BELIEVE THEY ARE UNDER A DUTY TO SHOW THE
4 CONJUNCTION OF THE WILLFUL STATE OF MIND THROUGHOUT THE
5 INDICTMENT PERIOD, AND I DON'T BELIEVE THAT THEY'VE DONE THAT
6 IN THIS CASE. FURTHER, I WOULD LIKE TO ADD ONE OTHER THING,
7 WHICH GOES ALONG WITH THIS SAME ISSUE, AND THAT IS THAT THE
8 SCHOOL RECORDS AND THE BIRTH RECORDS AND THE VOTER
9 REGISTRATION RECORDS DO NOT ESTABLISH VENUE WITHIN THE TIME
10 PERIOD ALLEGED IN THE INDICTMENT. I BELIEVE THOSE ALL
11 PRE-DATE THE INDICTMENT.

12 THE COURT: ALL RIGHT, AFTER CAREFULLY CONSIDERING
13 DEFENDANT'S MOTION FOR ACQUITTAL, ARGUMENT OF COUNSEL,
14 EVIDENCE THAT HAS BEEN PRESENTED INCLUDING ALL EXHIBITS, THE
15 COURT IS PERSUADED THAT A JURY CONSISTING OF REASONABLE MEN
16 COMMITTED TO IMPARTIALITY COULD FIND THE DEFENDANT GUILTY
17 BEYOND A REASONABLE DOUBT BASED UPON RELEVANT EVIDENCE IN THE
18 RECORD. THEREFORE, THE MOTION FOR ACQUITTAL, AND STATED IN
19 THE TERMS OF THE DEFENSE COUNSEL'S MOTION FOR DIRECTED
20 VERDICT, WILL BE DENIED.

21 NOW, DO YOU NEED SOMETIME TO PREPARE FOR THE
22 PRESENTATION OF YOUR CASE?

23 MR. VAUGHT: YOUR HONOR, IF I MIGHT, WE HAVE ONE
24 WITNESS WHO IS READY TO GO, BUT IN ANTICIPATION OF THE
25 GOVERNMENT TAKING A LITTLE BIT LONGER, AFTER WE GET PAST THIS

1 FIRST WITNESS TODAY, OUR NEXT WITNESS IS GEN. TURNAGE, WHO IS
2 NOT SUPPOSED TO BE HERE UNTIL IN THE MORNING AND DR. RON
3 PAUL, WHO IS ALSO SUPPOSED TO BE HERE IN THE MORNING, AND IF
4 IT WOULD NOT PUT AN UNDUE BURDEN ON EVERYONE, I WOULD LIKE TO
5 JUST DO ONE WITNESS AND TAKE A RECESS FOR THE AFTERNOON IF
6 THAT WOULD BE POSSIBLE.

7 THE COURT: WHAT SAYS THE GOVERNMENT?

8 MR. STOLL: I'M ASSUMING THAT WE'RE STILL ON ABOUT
9 THE SAME KIND OF TABLE OF FINISHING TOMORROW?

10 MR. VAUGHT: YOUR HONOR, I DON'T SEE ANY PROBLEM
11 WITH FINISHING THE CASE BY EITHER NOON OR EARLY AFTERNOON IF
12 WE ADJOURN AFTER THE FIRST WITNESS TODAY.

13 THE COURT: HOW MUCH TIME DO YOU THINK YOU NEED TO
14 PRESENT YOUR CASE IN TESTIMONY IN CHIEF OF THE WITNESS YOU
15 PLAN TO CALL?

16 MR. VAUGHT: TODAY?

17 THE COURT: YES. PROBABLY 30, 40 MINUTES.

18 THE COURT: ALL RIGHT. LET'S TAKE ABOUT A 15
19 MINUTE BREAK AND WE'LL COME BACK AND TAKE THIS WITNESS AND
20 RECESS UNTIL TOMORROW.

21 (RECESS.)

22 THE COURT: ALL RIGHT, MR. HALL, CALL YOUR FIRST
23 WITNESS.

24 THE COURT: ALL RIGHT, RAISE YOUR RIGHT-HAND.

25 EDWARD CLARK, DEFENDANT'S WITNESS, SWORN

CLARK - DIRECT

1 DIRECT EXAMINATION

2 BY MR. HALL:

3 Q. STATE YOUR NAME AND ADDRESS, PLEASE?

4 A. MY NAME IS EDWARD CLARK AND I LIVE AT 3445 MONTEREY ROAD
5 AND SAN MARINO, CALIFORNIA.

6 Q. WHAT DO YOU DO FOR A LIVING?

7 A. I'M AN ATTORNEY.

8 Q. DID YOU EVER SERVE IN THE MILITARY?

9 A. YES, I DID. I WAS IN THE NAVAL RESERVE OFFICER TRAINING
10 CORPS FROM 1948 TO 1952 AND THEN I SERVED IN ACTIVE DUTY IN
11 THE UNITED STATES NAVY FROM 1952 TO 1954 AS AN ENSIGN AND
12 LIEUTENANT JUNIOR GRADE, AND I WAS ASSISTANT GUNNERY OFFICER
13 AND GUNNERY OFFICER ON THE SHIP.

14 Q. AND HAVE YOU EVER RUN FOR POLITICAL OFFICE?

15 A. YES, I HAVE.

16 Q. WHAT OFFICE WAS THAT?

17 A. I RAN FOR GOVERNOR OF THE STATE OF CALIFORNIA IN 1978.

18 Q. WHAT PARTY?

19 A. LIBERTARIAN PARTY. I GOT FIVE AND A HALF PERCENT OF THE
20 VOTE, GOT 340,000 VOTES. AND I THEN I RAN IN 1980 AS THE
21 LIBERTARIAN CANDIDATE FOR PRESIDENT OF THE UNITED STATES.

22 Q. HOW MANY STATES WERE YOU ON THE BALLOT?

23 A. I WAS ON THE BALLOT IN ALL 50 STATES IN THE UNITED
24 STATES FOR 1980.

25 Q. HOW MANY VOTES DID YOU GET?

CLARK - DIRECT

1 A. I GOT 928,000 VOTES MORE OR LESS.

2 Q. DO YOU KNOW PAUL JACOB?

3 A. YES, I DO KNOW PAUL JACOB.

4 Q. HOW DID YOU HAVE OCCASION TO COME IN CONTACT WITH HIM?

5 A. HE'S BEEN VERY ACTIVE IN THE LIBERTARIAN PARTY, IN THE
6 LIBERTARIAN MOVEMENT FOR A LONG PERIOD OF TIME. I THINK
7 PERHAPS THE FIRST TIME I MAY HAVE MET HIM WAS WHEN I WAS
8 CAMPAIGNING FOR THE NOMINATION OF THE LIBERTARIAN PARTY IN
9 1979, AND I CAME TO THE CONVENTION OF THE LIBERTARIAN PARTY
10 OF ARKANSAS AND HE WAS AT THAT CONVENTION. I BELIEVE I
11 TALKED TO HIM AT THAT TIME.

12 Q. WOULD YOU EXPLAIN TO THE COURT AND JURY WHAT THE BASIC
13 TASK OR THE BASIC PHILOSOPHY OF THE LIBERTARIAN PARTY IS
14 STARTING FROM WHERE HIS ROOTS ARE, HOW IT CAME TO THE PRESENT
15 DAY?

16 A. YES, I CAN. LIBERTARIAN PARTY AND LIBERTARIAN MOVEMENT
17 IS A PARTY AND MOVEMENT THAT BELIEVES IN INDIVIDUAL RIGHTS.
18 THEY THINK THAT THE INDIVIDUAL IS THE IMPORTANT UNIT IN
19 SOCIETY AND THAT AS SOCIETIES BECOME FREER, AS THEY HAVE IN
20 THE UNITED STATES AND AS THEY HAVE IN WESTERN EUROPE OVER THE
21 LAST TWO OR THREE HUNDRED YEARS, MORE FREEDOM SPREADS THROUGH
22 SOCIETY, EACH INDIVIDUAL IS ALLOWED TO RISE UP CLOSER TO THE
23 POTENTIALITIES AND THEREFORE PEOPLE ARE BETTER AND THEREFORE
24 SOCIETY IS BETTER, AND REALLY THE FOUNDING OF THE WHOLE
25 MODERN IDEA OF INDIVIDUAL RIGHTS CAME ABOUT IN ENGLAND DURING

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1 THE ENGLISH CIVIL WAR. IT WAS A LONG TIME AGO. IT WAS IN
2 THE 1640'S AND THE PROTESTANTS THE CALVINISTS, THE
3 CONGREGATIONALISTS AND PEOPLE WHO LATER BECAME METHODISTS AND
4 BAPTISTS WERE IN THE MIDST OF A REVOLT AGAINST THE KING,
5 AGAINST THE ESTABLISHED CHURCH, WHICH WAS THE ANGLO-EPISCOPAL
6 CHURCH WHICH WAS VERY CATHOLIC IN THOSE DAYS AND AGAINST THE
7 NOBILITY, AND THE IDEA OF THE CIVIL WAR WAS TO GENERALLY TO
8 CREATE LIBERTY IN ENGLAND FOR COMMON MAN AS OPPOSED TO
9 NOBILITY AND CLERGY, AND DURING A LULL IN THE CIVIL WAR THEY
10 DID A SERIES OF DEBATES WHICH WENT INTO THIS ISSUE VERY
11 CLEARLY, AND THE IDEA THAT CAME OUT OF THAT IS THE
12 FOUNDATION, I THINK, OF DEMOCRACY AND CERTAINLY A FOUNDATION
13 OF LIBERTARIANISM IS THAT EACH INDIVIDUAL OWNS HIMSELF OR
14 HERSELF, THAT THE KING DOESN'T OWN YOU AND THE CHURCH DOESN'T
15 OWN YOU AND THE LORD OF YOUR MANNER THAT USED TO BE ABLE TO
16 TELL YOU WHAT TO DO DOESN'T OWN YOU BUT THAT YOU OWN
17 YOURSELF, AND THIS CONCEPT OF SELF-OWNERSHIP IS THE BASIC
18 PART OF THE LIBERTARIAN PHILOSOPHY, AND THAT WAS PUT INTO
19 MUCH MORE FORMAL TERMS BY PROBABLY THE LEADING POLITICAL
20 PHILOSOPHER OF WESTERN SOCIETY JOHN LOCKE AND JOHN LOCKE
21 DEvised A SYSTEM OF GOVERNMENT THAT WAS VERY, VERY IMPORTANT
22 TO THE FOUNDER OF THE UNITED STATES.

23 MS. CHERRY: EXCUSE ME, I OBJECT ON THE GROUND OF
24 RELEVANCE.

25 THE COURT: WHAT'S THE RELEVANCE?

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1 MR. HALL: IT'S GOING TO GO TO MR. JACOB'S INTENT
2 THAT MR. JACOB WILLFULLY VIOLATED THE SELECTIVE SERVICE LAW.
3 THIS IS ALL BACKGROUND INFORMATION ON HOW THE LIBERTARIAN
4 PARTY CAME TO BE WHAT IT IS, WHAT THE LIBERTARIAN PARTY
5 BELIEFS ARE, AND THEIR OBJECTION NOW I THINK IS PREMATURE AT
6 BEST.

7 MS. CHERRY: YOUR HONOR, IT ISN'T PREMATURE. WE
8 LET MR. CLARK GO BECAUSE WE UNDERSTAND HE'S COME HERE AND SO
9 FORTH, BUT AFTER AWHILE IT'S PERFECTLY APPARENT THAT THIS
10 DOES NOT HAVE ANYTHING TO DO WITH WHETHER PAUL JACOB WAS
11 AUTHORIZED, YOU KNOW, HAD A DUTY TO REGISTER AND REGISTERED,
12 AND IT HAS NOTHING TO DO WITH HIS PERSONAL INTENT. MR. CLARK
13 IS A NATIONAL POLITICAL FIGURE WITHIN THAT PARTY, BUT IT DOES
14 NOT HAVE ANYTHING TO DO WITH WHAT PAUL JACOB INTENDED DURING
15 THE TIME PERIOD CHARGED IN THE INDICTMENT.

16 THE COURT: WELL, THE COURT IS GOING TO OVERRULE
17 THE OBJECTION. GO AHEAD.

18 MR. HALL: THANK YOU, YOUR HONOR.

19 BY MR. HALL:

20 Q. PROCEED, PLEASE.

21 A. JOHN LOCKE'S IDEAS WERE THE SAME, THAT EACH INDIVIDUAL
22 OWNS HIMSELF OR HERSELF AND THAT THE GOVERNMENT DOESN'T OWN
23 YOU, THE GOVERNMENT DOESN'T HAVE THE RIGHT TO PUSH YOU
24 AROUND. SO LONG AS YOU DON'T TRY TO PUSH OTHER PEOPLE
25 AROUND, YOU'RE ENTITLED TO BE FREE AND DO WHAT YOU WISH TO DO

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1 AND THAT THAT THE WAY TO A BETTER SOCIETY, AND HE HAD VERY
2 STRONG VIEWS ON THE MILITARY AND THE PROPER WAY TO DEFEND THE
3 FREE SOCIETY, AND HE SAID IT WASN'T PROPER TO TAX THE PEOPLE
4 OR FORCE THE PEOPLE TO FIGHT EXCEPT IF YOU ACTUALLY WERE
5 GOING TO DEFEND YOUR OWN COUNTRY AND THE PEOPLE WITHIN YOUR
6 OWN COUNTRY, AND THAT YOU SHOULD IN NO WAY TAX THE PEOPLE TO
7 TRY TO BUILD UP AN EMPIRE FOR GREAT BRITAIN.

8 Q. COULD YOU TELL US WHAT YEAR THAT WAS THAT, MR. LOCKE
9 WROTE THAT?

10 A. 1688 IS HIS TREATIS OR SECOND TREATIS ON GOVERNMENT AND
11 ANOTHER ONE CAME ALONG IN 1692, AND THESE IDEAS BECAME, IF I
12 MAY CONTINUE, THE IDEAS OF THE WHIG PARTY IN ENGLAND, AND THE
13 WHIG PARTY AND ITS SUCCESSOR PARTY, THE LIBERAL PARTY IN
14 ENGLAND, HAS ALWAYS HELD TO THESE IDEAS AND THE WHIGS AND THE
15 EARLY 1700'S WERE WRITING PAMPHLETS AND BOOKS ON THIS
16 SUBJECT, AND WHEN THE AMERICAN COLONISTS WERE BEGINNING TO
17 START TO THINK WHETHER THEY SHOULD CUT THE TIES WITH ENGLAND,
18 THESE BOOKLETS AND THESE PAMPHLETS WRITTEN IN ENGLAND BY THE
19 WHIGS CALL CATOS (PHONETIC) LETTERS, WHICH INCLUDED THE IDEAS
20 WHICH I HAVE JUST TALKED ABOUT, WERE THINGS THAT THE
21 COLONISTS WERE VERY INTERESTED IN BECAUSE IT GAVE THEM
22 ARGUMENT AGAINST THE ENGLISH EMPIRE, GAVE THEM ARGUMENT WHY
23 THEIR COUNTRY SHOULD BE FREE, GAVE THEY ARGUMENT WHY THEIR
24 TAXES SHOULD BE LOWER, GAVE THEM ARGUMENTS WHY THEY SHOULD
25 NOT BE SUBJECT TO THE SUPPRESSION AND CONTROL OF GOVERNMENT.

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1 SO THAT THESE IDEAS BECAME THE DOMINANT IDEA OF THE AMERICAN
2 REVOLUTION. AND THOMAS JEFFERSON WAS CERTAINLY A LEADING
3 FIGURE IN THE REVOLUTION, AND PERHAPS HIS MOST FAMOUS REMARK
4 IS THAT GOVERNMENT IS BEST WHICH GOVERNS LEAST, AND WHEN IT
5 COMES TO FOREIGN POLICY AND MILITARY POLICY GEORGE
6 WASHINGTON'S FAMOUS STATEMENT ON THAT WAS IN HIS FAIR WELL
7 ADDRESS WHEN HE SAID WHAT I THINK THE RIGHT FOREIGN POLICY IS
8 FOR THE UNITED STATES IS PEACE AND FRIENDSHIP WITH ALL
9 COUNTRIES AND ENTANGLING ALLIANCES WITH NONE. SO THE
10 LIBERTARIAN FOREIGN POLICY HAS ALWAYS BEEN A FOREIGN POLICY
11 TO DEFEND YOUR OWN COUNTRY, BUT TO DO THAT IN A WAY THAT WAS
12 NOT OPPRESSIVE AGAINST YOUR OWN PEOPLE, AND CARRYING THOSE
13 IDEAS FORWARD IN THE WAR OF 1812, WHICH IS ANOTHER WAR THE
14 UNITED STATES WAS IN, WE DIDN'T HAVE A DRAFT, WE DIDN'T HAVE
15 ANY CONSCRIPTION IN THAT WAR, AND ONE OF THE REASONS THAT WE
16 GOT INTO THAT WAR IS THAT THE BRITISH WERE TAKING OUR SHIPS
17 AND TAKING PEOPLE OFF THOSE SHIPS THAT THEY SAID WERE BRITISH
18 CITIZENS AND FORCING THEM TO SERVE IN THE BRITISH NAVY AND
19 BRITISH ARMY, AND WE WERE OFFENDED BY THAT BECAUSE THE
20 PRINCIPALS OF THE UNITED STATES DIDN'T PERMIT THAT TYPE OF
21 CONDUCT.

22 ANOTHER LEADING 19TH CENTURY LIBERTARIAN IS HENRY
23 THOREAU WHO WROTE A FAMOUS BOOK ON WALDEN, WALDEN POND, AND
24 THAT BOOK AND HIS OTHER WRITINGS CAME OUT VERY STRONGLY
25 AGAINST THE CONSCRIPTION AND VERY STRONGLY AGAINST THE

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1 MEXICAN-AMERICAN WAR. HE THOUGHT MILITARY POLICY AND FOREIGN
2 POLICY SHOULD BE DEFEND THE UNITED STATES AND NOT TO PUSH
3 OTHER COUNTRIES AROUND, AND ALL DURING THE 19TH CENTURY ONE
4 OF TWO BIG PARTIES IN ENGLAND WAS THE LIBERAL PARTY AND THE
5 POLICY OF THE LIBERAL PARTY WAS ALWAYS AGAINST THE DRAFT AND
6 ALWAYS AGAINST CONSCRIPTION. THEY WERE IN OFFICE DURING THE
7 FIRST WORLD WAR IN ENGLAND AND AS LONG AS THEY WERE IN OFFICE
8 ENGLAND HAD NO DRAFT AND NO CONSCRIPTION. ENGLAND FOUGHT THE
9 FIRST WORLD WAR ON VOLUNTEERS CARRYING OUT THE LIBERTARIAN
10 IDEA THAT YOU CANNOT DEFEND A FREE SOCIETY WITH COMPULSION
11 AND HAVE IT REMAIN A FREE SOCIETY.

12 AFTER THE FIRST WORLD WAR AND DURING THE 30'S AND
13 40'S LIBERTARIAN IDEAS WERE LESS POPULAR IN THE UNITED STATES
14 LESS POPULAR IN GREAT BRITAIN BUT BACK AGAIN IN THE LATE
15 60'S, PEOPLE IN OPPOSITION OF THE VIET NAM WAR SAID HOW CAN
16 WE DRAFT AMERICAN PEOPLE AND SEND THEM TO VIET NAM AND USE
17 FORCE AND COMPULSION WHEN WE SAY WHAT WE'RE TRYING TO DO IS
18 TO BUILD A FREE SOCIETY IN VIET NAM. HOW CAN YOU BUILD A
19 FREE SOCIETY BY THE USE OF FORCE BY THE USE OF COMPULSION.
20 AND THIS WAS ONE OF THE THINGS THAT PROMPTED THE, REALLY,
21 FOUNDING OF THE LIBERTARIAN PARTY AND LIBERTARIAN MOVEMENT.
22 THE AMERICAN LIBERTARIAN PARTY WAS FOUNDED IN THE SUMMER OF
23 1971. I WENT TO THE FIRST CONVENTION IN THE SPRING OF 1972
24 AND WE CAME OUT AGAINST THE DRAFT AT THAT TIME AND AGAINST
25 ALL STEPS LEADING TO THE DRAFT, AND WE'VE HAD IT AT EVERY

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1 SINGLE ONE OF OUR PLATFORMS EVER SINCE.

2 Q. WHAT IS THE PARTY'S POSITION, THE AMERICAN LIBERTARIAN
3 PARTY'S POSITION REGARDING CIVIL DISOBEDIENCE OF THE DRAFT?

4 A. THE LIBERTARIAN PARTY POSITION IS THAT REGISTRATION FOR
5 THE DRAFT AND ACTUAL CONSCRIPTION IN MY VIEW, THERE'S NO
6 REASON TO HAVE REGISTRATION TO LEAD TO CONSCRIPTION, THAT
7 THESE ARE BOTH COERSIVE STEPS, THAT THEY ARE BOTH IMMORAL
8 STEPS AND THAT ETHICALLY PEOPLE SHOULD OPPOSE THEM.

9 Q. DOES THAT POINT TO THE OF NON-REGISTRATION?

10 A. THAT MEANS TO THE POINT OF NON-REGISTRATION IF PEOPLE
11 WISH TO HAVE THE COURAGE TO STAND UP FOR WHAT IS RIGHT TO DO
12 THAT, YES.

13 Q. WHEN WAS THAT POSITION ADOPTED BY THE A. L. P?

14 A. THAT HAS BEEN A PART OF THE POSITION OF THE LIBERTARIAN
15 PARTY OF THE UNITED STATES EVER SINCE JUNE 1972 WHEN THE
16 PARTY HAD ITS FIRST CONVENTION AND ADOPTED ITS FIRST
17 PLATFORM.

18 Q. WHAT GOVERNMENT AND HISTORY WOULD YOU CHARACTERIZE AS
19 BEING A LIBERTARIAN GOVERNMENT?

20 A. I THINK THE REVOLUTIONARIES, GOVERNMENT OF THE UNITED
21 STATES, WHICH WAS PERHAPS THE ONLY MAJOR REVOLUTION IN
22 HISTORY WHOSE GOAL WAS TO REDUCE THE POWER AND SIZE OF
23 GOVERNMENT WAS A VERY LIBERTARIAN GOVERNMENT. THEY WANTED TO
24 THROW OFF THE SHACKLES OF THE ENGLISH RULE, CERTAINLY A
25 LIBERTARIAN POSITION. THEY WANTED TO REDUCE THE SIZE OF

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1 GOVERNMENT, THEY WANTED TO REDUCE TAXES, THEY WANTED TO ALLOW
2 FREE SPEECH AND THEY WANTED TO ALLOW THE COLONISTS TO TRADE
3 WITH ALL OF THE COUNTRIES AND NOT JUST BE FORCED TO TRADE
4 WITH ENGLAND ALONE, AS HAD BEEN THE SITUATION, AND I THINK
5 THE UNITED STATES FROM THEN UP UNTIL THE 1850'S HAD IN THE
6 FEDERAL LEVEL THE SMALLEST GOVERNMENT OF ANY MAJOR GOVERNMENT
7 IN HISTORY. THAT WAS A VERY LIBERTARIAN GOVERNMENT. IN THE
8 19TH CENTURY IN ENGLAND THE ENGLISH LIBERAL PARTY WAS IN
9 POWER AND IN ENGLAND LIBERAL MEANS LIBERTARIAN AND THEY
10 PRODUCED IN THE MID-19TH CENTURY THE LOWEST LEVEL OF TAXATION
11 OF ANY COUNTRY IN THE WORLD. THEY WERE ALWAYS AGAINST THE
12 DRAFT. THE LIBERALS WERE ALWAYS TRYING TO GET A STRONGHOLD
13 INTO IRELAND AND TO DISMANTLE THE BRITISH EMPIRE SO THERE
14 WOULDN'T BE ENGLISH PEOPLE RULING OTHER PEOPLE, WHICH THEY
15 THOUGHT WAS WRONG, AND THEY ALWAYS STOOD AGAINST CONSCRIPTION
16 AND THE DRAFT.

17 Q. ARE ANY LIBERTARIANS, TO YOUR KNOWLEDGE, HOLDING
18 POLITICAL OFFICE IN THE UNITED STATES?

19 A. YES, SIR, THERE ARE ABOUT 50 LIBERTARIANS WHO HOLD
20 POLITICAL OFFICE. WE HAD A MAN WHO WAS IN THE LAST
21 LEGISLATURE WHO HAS CAMPAIGNED AND ELECTED AS A LIBERTARIAN,
22 WHO SPEAKS FOR THE SAME KIND OF PROGRAMS THAT I'M SPEAKING
23 FOR. IN MY OWN STATE OF CALIFORNIA WE HAVE TWO PEOPLE WHO
24 ARE SUPERVISORS, COUNTY SUPERVISORS, AND WE HAVE ANOTHER 45
25 OR SO PEOPLE ACROSS THE UNITED STATES HOLDING OTHER ELECTIVE

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1 OFFICE WHO ARE LIBERTARIANS.

2 Q. WOULD YOU SUMMARIZE THE FOREIGN AND MILITARY POLICIES OF
3 THE AMERICAN LIBERTARIAN PARTY?

4 A. THE LIBERTARIAN PARTY POSITION ON FOREIGN POLICY AND
5 MILITARY POLICY IS THAT IT SHOULD BE DESIGNED TO DEFEND THE
6 PEOPLE AND PROPERTY WITHIN THE UNITED STATES, THAT GOVERNMENT
7 OFTEN ACTS IN WAYS THAT ARE IRRATIONAL AND HARMFUL, THAT IT'S
8 VERY DIFFICULT FOR GOVERNMENT TO DO A GOOD JOB WITHIN ITS OWN
9 COUNTY, WITHIN ITS OWN CITY, ITS OWN STATE WITHIN THE UNITED
10 STATES, BUT THAT IT'S ALMOST IMPOSSIBLE TO DO ANYTHING
11 BENEFICIAL TO ANOTHER COUNTRY, ANOTHER CIVILIZATION, ANOTHER
12 SOCIETY, SO THAT THE ONLY PLACE THAT YOU SHOULD USE MILITARY
13 FORCE IS TO DEFEND YOUR OWN SOCIETY WHICH YOU STAND THE BEST
14 CHANCE OF UNDERSTANDING AND THAT YOU SHOULD DEFEND THAT
15 SOCIETY AND THE REASON YOU ARE DEFENDING IT IS BECAUSE IT'S
16 FREE IS THE REASON. YOU SHOULD DEFEND THAT BY MEANS OF
17 VOLUNTEER PEOPLE IN YOUR OWN FORCES. WITH THE EXCEPTION OF A
18 FEW YEARS DURING AND AFTER WORLD WAR II, THAT HAS BEEN THE
19 PRINCIPLE ALMOST THROUGHOUT THE ENTIRE HISTORY OF THE UNITED
20 STATES. IT'S CONSISTENT WITH AMERICAN IDEALS AND, IN MY
21 VIEW, IT'S A VERY PRACTICAL THING TO DO. YOU DON'T WANT
22 PEOPLE DEFENDING YOU WHO DON'T WANT TO DO IT, AND IF YOU HAVE
23 A GOOD SOCIETY AND DECENT YOU'LL ALWAYS HAVE MORE THAN ENOUGH
24 VOLUNTEERS TO DEFEND YOUR COUNTRY. THAT'S THE WAY WE THINK
25 IT SHOULD BE DEFENDED. WE FEEL THAT ON ETHICAL GROUNDS, ON

PEGGE J. MERKEL

CLARK - DIRECT

1 MORAL GROUNDS, AS WELL, BECAUSE WE THINK HARMFUL WARS LIKE
2 THE VIET NAM WAR WHICH WAS DEVISIVE WITHIN THE UNITED STATES
3 WHICH KILLED A 1,055,000 PEOPLE AND ACHIEVED NO GOOD. YOU
4 COULD NOT HAVE THAT KIND OF A WAR IF YOU HAD A VOLUNTEER
5 FORCE BECAUSE PEOPLE WOULD NOT HAVE VOLUNTEERED FOR THAT, AND
6 IF YOU HAD A VOLUNTEER MILITARY AT THAT TIME, WE WOULD HAVE
7 AVOIDED THAT WHOLE TRAGEDY AND WE WOULD BE A MUCH BETTER AND
8 STRONGER COUNTRY TODAY THAN WHAT WE WERE BECAUSE OF THE
9 DRAFT.

10 Q. YOU TESTIFIED BEFORE, I BELIEVE, THAT YOU DO KNOW
11 MR. JACOB?

12 A. YES, I DO.

13 Q. AND IS HE A LIBERTARIAN?

14 A. YES. YES, HE'S A LIBERTARIAN. I HAVE SEEN TAPES OF HIM
15 SPEAKING, I'VE HEARD HIM SPEAK I HAVE READ LETTERS THAT HE'S
16 WRITTEN, AND I'VE TALKED TO HIM PERSONALLY AND I KNOW THAT HE
17 IS A DEEPLY COMMITTED LIBERTARIAN. SOMEONE DEEPLY COMMITTED
18 ON ETHICAL GROUNDS TO UPHOLD LIBERTARIAN IDEAS.

19 MR. HALL: THANK YOU. PASS THE WITNESS.

20 THE COURT: MS. CHERRY?

21 CROSS EXAMINATION

22 BY MS. CHERRY:

23 Q. MR. CLARK, I JUST WANT TO ASK YOU A FEW QUESTIONS. I'M
24 SANDRA CHERRY, I'M AN ASSISTANT UNITED STATES ATTORNEY. I
25 ASSUME, SIR, FROM THE ELECTIONS THAT YOU HAVE PARTICIPATED IN

CLARK - CROSS

1 THAT YOU APPARENTLY BELIEVE IN THE PEOPLE'S POWER OF THE
2 PUBLIC VOTE. WOULD YOU AGREE WITH THAT?

3 A. I THINK THAT GOVERNMENT SHOULD BE VERY SMALL BUT TO THE
4 EXTENT THAT YOU ARE GOING TO HAVE ISSUES DECIDED BY VOTES, I
5 THINK DEMOCRACY IS ABSOLUTELY THE RIGHT THING, BUT I DO NOT
6 BELIEVE THAT JUST BECAUSE YOU HAVE MAJORITY VOTE ON PASSING
7 SOME ISSUE LIKE KILLING THE JEWS IN GERMANY OR CREATING
8 SLAVERY, I DON'T THINK BECAUSE YOU MAY HAVE MAJORITY FOR
9 THOSE TERRIBLE POSITIONS THAT THEY ARE RIGHT.

10 Q. SO IN OTHER WORDS, YOUR CRITICISM GOES TO NOT JUST THE
11 DRAFT BUT THE ENTIRE AMERICAN SYSTEM AS IT'S STRUCTURED
12 TODAY, IS THAT CORRECT?

13 A. NOT AT ALL. I'M COMPLETELY IN FAVOR OF DEMOCRACY, BUT I
14 THINK THE DRAFT IS AN EVIL AND WE SHOULD OPPOSE IT THROUGH
15 DEMOCRATIC MEANS.

16 Q. YOU DO STILL ACKNOWLEDGE, I PRESUME, BY YOUR
17 PARTICIPATION IN ELECTIONS, HOWEVER, THAT YOU DO BELIEVE IN
18 THE FACT THAT THE WAY A PARTICULAR THING IS HANDLED IN THIS
19 COUNTRY IS DETERMINED BY THE MAJORITY, EITHER BY CONGRESS OR
20 THE MAJORITY OF THE PEOPLE, IS THAT CORRECT?

21 A. WHEN CONGRESS PASSES A LAW, IT IS A LAW. BUT IF THEY
22 PASS AN EVIL LAW, IT IS STILL AN EVIL LAW. THE WAY TO HAVE
23 GOVERNMENT RUN, IN MY VIEW, IS TO HAVE DEMOCRACY PREVAIL AND
24 PEOPLE VOTE BUT DEMOCRACIES MAKES MISTAKES AND THEY DO
25 HIDEOUS THINGS, AND IN THOSE CASES THEY SHOULD BE OPPOSED,

CLARK - CROSS

1 THAT IS NOT OPPOSE THE SYSTEM, BUT IF A DEMOCRATIC SYSTEM
2 MAKES A HIDEOUS MISTAKE IT SHOULD BE RIGHTED.

3 Q. I BELIEVE HAVE YOU EVER HEARD THE EXPRESSION -- I
4 BELIEVE THE STATEMENT MADE BY WINSTON CHURCHILL THAT
5 DEMOCRACY WAS ONE OF THE MOST POORLY RUN GOVERNMENTS ON EARTH
6 BUT IT WAS THE BEST ONE WE'D EVER BEEN ABLE TO DEVISE?

7 A. I DON'T AGREE WITH THAT AT ALL. I THINK IT IS THE BEST
8 SYSTEM. I THINK THERE'S NO QUESTION IN MY MIND THAT IT IS
9 THE BEST SYSTEM, AND IT IS THE BEST SYSTEM BECAUSE GENERALLY
10 IT TENDS TO CREATE THE SMALLEST GOVERNMENT AND TOTALITARIAN
11 GOVERNMENT WHERE EVERYBODY OBEYS THE LORD AND YOU CAN'T HAVE
12 A TRIAL LIKE THIS AND WHERE PEOPLE CAN'T SPEAK UP, I THINK
13 THOSE ARE MUCH WORSE. SO I THINK DEMOCRACY IS BY FAR THE
14 BEST SYSTEM, BUT ONE OF ITS GREAT VIRTUES IS IT ALLOWS ENOUGH
15 DISCUSSION TO CORRECT ITS WRONGS.

16 Q. YES. THROUGH THE LAW AND THROUGH THE SYSTEM?

17 A. THROUGH THE OPPORTUNITY THAT PEOPLE HAVE TO TESTIFY AND
18 THROUGH THE OPPORTUNITY THAT PEOPLE HAVE TO OPPOSE UNJUST AND
19 UNETHICAL LAWS.

20 MS. CHERRY: YOUR HONOR, MAY I HAVE JUST ONE
21 MINUTE?

22 THE COURT: YES.

23 MS. CHERRY: YOUR HONOR, WE DON'T HAVE ANYTHING
24 FURTHER FROM MR. CLARK.

25 THE COURT: MR. HALL?

CLARK - CROSS

1 MR. HALL: NO REDIRECT, YOUR HONOR.

2 THE COURT: ALL RIGHT, YOU MAY STEP DOWN,

3 MR. CLARK.

4 THE WITNESS: THANK YOU.

5 THE COURT: MR. HALL, AS I UNDERSTAND IT, THIS IS
6 YOUR LAST WITNESS FOR TODAY?

7 MR. HALL: YES, YOUR HONOR. WE HAVE THE VIDEO TAPE
8 THAT WE HAVE TO SEE AT THE GOVERNMENT'S OFFICE AND I WOULD
9 SUGGEST WE RECESS FOR THE DAY.

10 THE COURT: ALL RIGHT, LADIES AND GENTLEMEN OF THE
11 JURY, WE'RE GOING TO RECESS UNTIL TOMORROW MORNING AT NINE
12 O'CLOCK AND YOU SHOULD ARRIVE IN THE JURY ROOM NOT LATER THAN
13 TEN UNTIL THE HOUR. WE WILL ENDEAVOR TO START IMMEDIATELY AT
14 NINE O'CLOCK. AND ONCE AGAIN, DO NOT DISCUSS THE CASE OR
15 PERMIT ANYBODY TO DISCUSS IT WITH YOU. THE COURT IS
16 PERSUADED THAT THIS CASE DOES HAVE SOME NEWS VALUE, SO IF YOU
17 ARE VIEWING YOUR TELEVISION SETS OR READING YOUR MORNING
18 NEWSPAPER AND YOU RUN ACROSS AN ARTICLE PERTAINING TO THIS
19 CASE POLITELY SWITCH TO THE NEXT CHANNEL OR FLIP TO THE NEXT
20 PAGE OR PUT THE PAPER DOWN OR STEP OUT OF YOUR LIVING ROOM,
21 BECAUSE YOUR VERDICT IS TO BE BASED SOLELY UPON THE TESTIMONY
22 THAT UNFOLDS DURING THE COURSE OF THE TRIAL. AND I'M
23 PERSUADED YOU ARE GOING TO AFFORD EACH SIDE A FAIR AND
24 IMPARTIAL TRIAL. WITH THAT ADMONITION HAVE A GOOD EVENING
25 AND WE'LL SEE YOU TOMORROW MORNING AT NINE O'CLOCK. LET

CLARK - CROSS

1 EVERYBODY REMAIN SEATED WHILE THE JURY EXITS THE COURTROOM.

2 (JURY EXITS.)

3 THE COURT: ARE THERE ANY MATTERS WE NEED TO TAKE
4 UP BEFORE THE RECESS THIS AFTERNOON?

5 MR. STOLL: THE ONLY THING, YOUR HONOR, I WAS
6 CHECKING WITH THE CLERK AND SHE DOESN'T HAVE ALL THE
7 EXHIBITS. BEFORE EVERYBODY GETS OUT, I JUST WANT TO MAKE
8 SURE WE'VE GOT ALL THE EXHIBITS THAT WERE INTRODUCED.

9 THE COURT: MR. HALL, CAN YOU ASSIST US ON THE
10 EXHIBITS?

11 MR. STOLL: SOME ARE BACK HERE, YOUR HONOR. MAYBE
12 THEY ARE ALL HERE.

13 THE COURT: ALL RIGHT, RECESS UNTIL NINE O'CLOCK.

14 (RECESS.)

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1 IN THE UNITED STATES DISTRICT COURT
 2 EASTERN DISTRICT OF ARKANSAS
 3 WESTERN DIVISION

4	UNITED STATES OF AMERICA,)	NO. LR-CR-82-119
5)	
5	PLAINTIFF,)	TUESDAY, JULY 2, 1985
6	VS.)	LITTLE ROCK, ARKANSAS
6)	9:00 A.M.
7	PAUL JACOB,)	
8)	
8	DEFENDANT.)	
9)	

10 TRANSCRIPT OF PROCEEDINGS
 11 BEFORE THE HON. GEORGE HOWARD, JR. AND A JURY

12
 13 APPEARANCES:

14 FOR THE PLAINTIFF:

KEN STOLL AND
 SANDRA CHERRY
 ASSISTANT U. S. ATTORNEYS
 U. S. POST OFFICE & COURTHOUSE
 LITTLE ROCK, AR 72201

17 FOR THE DEFENDANT:

JOHN WESLEY HALL, JR. AND
 LARRY VAUGHT
 ATTORNEYS AT LAW
 523 W. 3RD
 LITTLE ROCK, AR 72201

23 REPORTED BY:

PEGGE J. MERKEL
 16900 COL. GLENN RD.

24
 25
 PEGGE J. MERKEL

1 TUESDAY, JULY 2, 1985

2

- - -

3 THE COURT: GOOD MORNING,. ALL RIGHT, MR. HALL,
4 WILL YOU CALL YOUR NEXT WITNESS.

5 MR. HALL: FIRST THING THIS MORNING, YOUR HONOR, WE
6 HAVE WHAT'S GOING TO BE JOINT EXHIBIT 1 BY AGREEMENT WHICH
7 HAS THE VIDEO TAPE PUBLIC SERVICE ANNOUNCEMENTS DONE BY THE
8 SELECTIVE SERVICE SYSTEM. WE'VE SELECTED A REPRESENTATIVE
9 SAMP224 AND FOR THE RECORD, THEY WILL BE NUMBERS 3, 6, 7, 8,
10 11, 12, 13, 14, 17 AND 31, AND I'LL GIVE THE LIST TO THE
11 COURT REPORTER SO SHE CAN IDENTIFY THEM.

12 THE COURT: ALL RIGHT, YOU MAY PROCEED.

13 MR. STOLL: WITH THE COURT'S PERMISSION I'M GOING
14 GOING IN THE CORNER OVER HERE.

15 (VIDEO TAPE SHOWN.)

16 MR. HALL: I FORGOT TO MENTION, YOUR HONOR, THESE
17 ARE REPRESENTATIVE SAMPLES THAT RAN FROM JANUARY, EARLY
18 JANUARY 1981 TO DECEMBER OF '84.

19 (VIDEO TAPE CONTINUED.)

20 THIS LAST ONE MAY HAVE BEEN LIMITED TO THE WASHINGTON, D. C.
21 AREA. (REFERRING TO THE ONE BY GENERAL TURNAGE.)

22 MR. HALL: FOR OUR FIRST WITNESS WE'LL CALL GENERAL
23 TURNAGE.

24 THE COURT: ALL RIGHT, HAVE HIM STEP AROUND. ALL
25 RIGHT, GENERAL, STEP AROUND AND BE SWORN BY THE CLERK.

TURNAGE - DIRECT

1 THOMAS K. TURNAGE, DEFENDANT'S WITNESS, SWORN

2 DIRECT EXAMINATION

3 BY MR. HALL:

4 Q. COULD YOU STATE YOUR NAME AND OCCUPATION, PLEASE?

5 A. MY NAME IS THOMAS K. TURNAGE. I'M THE DIRECTOR OF THE
6 SELECTIVE SERVICE OF THE UNITED STATES.

7 Q. WHERE DO YOU LIVE?

8 A. I LIVE IN WASHINGTON, D. C.

9 Q. AND YOU'RE RETIRED MILITARY?

10 A. YES, I AM.

11 Q. WOULD YOU TELL THE JURY YOUR MILITARY EXPERIENCE?

12 A. YES. I WAS INITIALLY CALLED INTO WORLD WAR II AS A
13 RESERVE OFFICER. I SERVED IN BOTH EUROPE AND IN THE PACIFIC.
14 I CAME BACK AFTER WORLD WAR II AND WENT TO COLLEGE UNDER THE
15 G. I. BILL OF RIGHTS. AT THE CONCLUSION OF THAT TRAINING I
16 WAS, BY HAPPENSTANCE, THEN CALLED BACK INTO KOREA. I WENT
17 BACK AND SERVE A SECOND TOUR THERE. SUBSEQUENTLY, I BECAME
18 FULL TIME INVOLVED WITH THE NATIONAL GUARD OF THE STATE OF
19 CALIFORNIA AND THEN WITH INTERIM MILITARY TOURS FOR PURPOSES
20 OF PROFESSIONAL EDUCATION, I WAS ON A LAST TOUR OF THE
21 PENTAGON FROM 1979 THROUGH 1981, DURING WHICH TIME THE REAGAN
22 ADMINISTRATION CAME INTO OFFICE. DURING THAT TIME THEN, I
23 WAS INVITED TO BECOME THE DIRECTOR OF SELECTIVE. I WAS
24 CONFIRMED AS THE DIRECTOR ON 30TH OCTOBER OF 1981.

25 Q. SO YOU WERE NOT THE DIRECTOR OF SELECTIVE SERVICE WHEN

TURNAGE - DIRECT

1 IT WAS FIRST CREATED?

2 A. NO, SIR.

3 Q. AND YOU'RE A CIVILIAN NOW?

4 A. THAT'S CORRECT.

5 Q. WHAT DOES IT REQUIRE TO CONVERT REGISTRATION INTO A
6 DRAFT?

7 A. IT REQUIRES AN ACTION BY THE CONGRESS OF THE UNITED
8 STATES. THE PRESIDENT DOES NOT HAVE THAT IN HIS AUTHORITY,
9 BUT THE CONGRESS RETAINS THAT RIGHT, AND NO ONE CAN BE CALLED
10 WITHOUT ACTION BY THE CONGRESS.

11 Q. IS THAT IN THE SELECTIVE SERVICE ACT ITSELF?

12 A. IT'S PART OF THE MILITARY SELECTIVE SERVICE ACT WHICH
13 HAS HAD DIFFERENT UPDATES OVER A PERIOD OF YEARS, SINCE ABOUT
14 1940.

15 (DEFENDANT'S EXHIBIT 2 MARKED FOR IDENTIFICATION.)

16 BY MR. HALL:

17 Q. I'LL SHOW YOU WHAT'S MARKED AS DEFENDANT'S EXHIBIT 2 AND
18 ASK YOU IF YOU RECOGNIZE THIS POSTER?

19 A. YES, I'M FAMILIAR WITH THE POSTER.

20 Q. AND YOU AUTHORIZED THAT AS HEAD OF SELECTIVE SERVICE?

21 A. YES, I AUTHORIZED THAT.

22 Q. AND DO YOU KNOW APPROXIMATELY WHEN THAT WAS ISSUED?

23 A. I DO NOT.

24 Q. DO YOU KNOW HOW IT WAS DISTRIBUTED TO POST OFFICES OR
25 WHATEVER?

TURNAGE - DIRECT

1 A. I DO NOT. WE HAVE A DIRECTOR OF PUBLIC AFFAIRS FOR THE
2 SELECTIVE SERVICE SYSTEM. SHE HAS A VERY COMPREHENSIVE ROLE,
3 A VERY RESPONSIBLE ROLE. I HAVE GREAT CONFIDENCE IN HER
4 CAPABILITIES AS DIRECTOR OF PUBLIC AFFAIRS, AND WITHIN THAT
5 CONTEXT, SHE MAKES DECISIONS RELATING TO PUBLIC SERVICE
6 ANNOUNCEMENTS AND WITH REGARD TO POSTERS SUCH AS THIS THAT
7 HAS BEEN DISPLAYED TO ME HERE.

8 IF WE ARE TALKING ABOUT POLICY MATTERS, IF WE'RE
9 SPEAKING ABOUT THE INCUMBERENCE OF FUNDS IN SOME SUBSTANTIAL
10 QUANTITY OBVIOUSLY I RETAIN THE RIGHT OF APPROVAL OR
11 OTHERWISE. HOWEVER, WITHIN THE POLICY FRAMEWORK THAT HAS
12 BEEN GRANTED TO HER, SHE MAKES DECISIONS ABOUT THE
13 DISTRIBUTION OF SUCH THINGS, AND THOSE PARTICULAR FORMULAS, I
14 MAY NOT BE FAMILIAR WITH.

15 MR. HALL: YOUR HONOR, I MOVE DEFENDANT'S 2 BE
16 ADMITTED.

17 THE COURT: ALL RIGHT, ANY OBJECTION?

18 MR. STOLL: NO OBJECTION, YOUR HONOR.

19 THE COURT: ALL RIGHT, DEFENDANT'S EXHIBIT NUMBER?

20 MR. HALL: DEFENDANT'S 2.

21 (DEFENDANT'S EXHIBIT 2 RECEIVED INTO EVIDENCE.)

22 BY MR. HALL:

23 Q. YOU STATED PREVIOUSLY, I BELIEVE, IT WOULD TAKE 13 DAYS
24 TO HAVE THE FIRST CALL UP IF THERE WERE A DRAFT?

25 A. THAT'S CORRECT.

TURNAGE - DIRECT

1 Q. NOW, IF THERE WERE A NATIONAL EMERGENCY THERE WOULD BE
2 VOLUNTEERS IN THE INTERIM, WOULD THERE NOT, NORMALLY?

3 A. PROBABLY. THIS CANNOT BE QUANTIFIED, AND BASED ON
4 HISTORICAL FACT, ON HISTORICAL DATA, THE RESPONSE FOR
5 VOLUNTEERS HAS VARIED UNDER DIFFERENT CONDITIONS AT DIFFERENT
6 TIMES IN THE NATION'S HISTORY. FOR EXAMPLE, IMMEDIATELY UPON
7 THE OUTBREAK OF WORLD WAR II THERE WAS INITIALLY A
8 SUBSTANTIAL NUMBER OF VOLUNTEERS THAT RESPONDED TO THE
9 NATION'S NEEDS. HOWEVER, CONTRARY TO A POPULAR IMPRESSION,
10 YOU FIND THAT THERE HAS ALWAYS BEEN A VERY HIGH CORRELATION
11 BETWEEN THE NUMBER OF VOLUNTEERS AND THE DRAFT CALL AT ANY
12 PARTICULAR TIME.

13 Q. WHEN PEARL HARBOR WAS INVADED THERE WAS A SUBSTANTIAL
14 NUMBER OF VOLUNTEERS IMMEDIATELY THEREAFTER, WAS THERE NOT?

15 A. THAT'S CORRECT, AND IT DIMINISHED SHORTLY THEREAFTER.

16 Q. THROUGH WORLD WAR II THERE WAS A SUBSTANTIAL VOLUNTEER
17 ARMY, WAS THERE NOT?

18 A. IT WAS NOT A VOLUNTEER ARMY. THE MAJORITY OF PEOPLE WHO
19 WERE IN WORLD WAR II WERE RESPONSIVE TO THE DRAFT AND, AS
20 STATED EARLIER IN THE ANSWER TO YOUR PREVIOUS QUESTION, THERE
21 WAS A GREAT CORRELATION BETWEEN THE RESPONSES OF VOLUNTEERS
22 AND THE LEVEL OF THE DRAFT CALL. THAT NOT ONLY RELATED TO
23 WORLD WAR II BUT ALSO TO KOREA AND ALSO TO VIET NAM.

24 Q. NONE OF THOSE WARS, THOUGH, EXCEPT FOR WORLD WAR II WAS
25 THE UNITED STATES ACTUALLY INVADED.

TURNAGE - DIRECT

1 A. WELL, OF COURSE, THE UNITED STATES HAS NOT BEEN INVADED
2 IN THAT SENSE.

3 Q. HAWAII WAS A TERRITORY AT THE TIME, THOUGH, WAS IT NOT?

4 A. YES.

5 Q. AROUND MARCH 1, 1982 DID YOU NOT STATE PUBLICLY THAT THE
6 ADMINISTRATION WAS LOOKING TOWARD MAKING THIS OFFENSE A
7 MISDEMEANOR?

8 A. FIRST OF ALL, I CAN'T RELATE TO THAT PARTICULAR TIME AND
9 SECONDLY, I RECALL HAVING MADE NO SUCH COMMENT IN THE SENSE
10 THAT DISTINGUISHING BETWEEN A MISDEMEANOR AND A FELONY.
11 THAT'S NOT WITHIN MY PURVIEW. IT'S NOT MY PREROGATIVE. THAT
12 IS A JUDGMENT OF THE CONGRESS OF THE UNITED STATES.

13 Q. BUT YOU'RE PART OF THE ADMINISTRATION, ARE YOU NOT?

14 A. THAT'S CORRECT.

15 Q. AN EXECUTIVE EMPLOYEE?

16 A. YES, SIR.

17 Q. EXECUTIVE APPOINTEE APPROVED BY CONGRESS?

18 A. YES, SIR.

19 Q. BUT YOU DID STATE BY ASKING CONGRESS TO REDUCE THE
20 PENALTY OF THIS CRIME?

21 A. I DON'T RECALL ANY SUCH STATEMENT.

22 Q. SO IF YOU WERE QUOTED IN THE ASSOCIATED PRESS AS SAYING
23 THAT, YOU DENY IT?

24 A. IN MY JOB I FIND THAT THE DIRECTOR OF SELECTIVE SERVICE
25 HAS SOME CONTROVERSY ASSOCIATED WITH IT, SIMPLY BECAUSE OF

TURNAGE - DIRECT

1 THE NATURE OF THE JOB, AND I FIND ALSO THAT, BASED ON SOME
2 QUOTATIONS THAT HAVE BEEN ATTRIBUTED TO ME IN THE PRESS, I
3 FIND THAT THERE IS A CONSIDERABLE DISPARITY BETWEEN THAT AND
4 WHAT I REALLY SAID OR WHAT I CONSIDERED TO BE FACT.

5 Q. YOU CONSIDER, DO YOU NOT, THE HIGH PERCENTAGE OF
6 REGISTRATION TO BE APPROVAL OF SELECTIVE SERVICE?

7 A. I THINK IT'S APPROVAL OR UNDERSTANDING OF THE FACT THAT
8 YOUNG MEN HAVE FOUND IT IMPORTANT TO OBEY THE LAW OF THE
9 LAND, AND I CAN THINK OF NO OTHER PROGRAM, AS A MATTER OF
10 FACT, THAT HAS THE KIND OF COMPLIANCE RATE THAT WE HAVE IN
11 THIS PARTICULAR PROGRAM. WHEN YOU STOP AND THINK OF THE
12 MILLIONS OF PEOPLE WITH WHICH WE'RE INVOLVED AND YOU THINK OF
13 THE PERCENTAGE OF THOSE WHO HAVE COMPLIED WITH THE LAW,
14 NOTWITHSTANDING THE FACT THAT SOME HAVE NOT BEEN IN AGREEMENT
15 WITH THE SYSTEM, THE FACT IS I THINK IT'S RATHER PHENOMINAL,
16 AND I CONSIDER THAT TO BE AN ENDORSEMENT OF THE KIND OF
17 GOVERNMENT WE HAVE IN THE COUNTRY.

18 Q. HOW MANY MEN ARE REGISTERED?

19 A. OVER 14 MILLION.

20 Q. WHAT PERCENTAGE ARE REGISTERED, TO YOUR KNOWLEDGE?

21 A. THERE ARE ABOUT THREE DIFFERENT FIGURES THAT ARE
22 IMPORTANT HERE. FIRST OF ALL, THE FIGURE THAT WE QUOTE MOST
23 FREELY IS THE ONE RELATING TO DRAFT ELIGIBLES. NOW WE
24 SEPARATE THOSE CATEGORIES SIMPLY BECAUSE OF THE FACT THAT IF
25 THE CONGRESS WERE TO MAKE THE DECISION TONIGHT OR TOMORROW

TURNAGE - DIRECT

1 MORNING AND WE HAD TO INSTITUTE THE DRAFT, WE WOULD START
2 CALLING FROM THOSE PEOPLE WHO ARE AGE 20 AND THEN PROGRESS TO
3 THE OLDER AGES. IT WOULD GO IN THE ORDER OF 20 TO 21 TO 22
4 AND SO FORTH. NOW, OF THAT NUMBER WE NOW HAVE SIX YEARS OF
5 BIRTH GROUP THAT FALL INTO THAT DRAFT ELIGIBLE GROUP. WE
6 HAVE THOSE FROM 1960, BORN IN 1960, '61, '62, '63, '64 AND
7 '65. OF THAT TOTAL NUMBER WE HAVE 99 PERCENT OF THEM THAT
8 ARE IN COMPLIANCE WITH THE LAW. THAT'S BASED ON THE BEST
9 DATA THAT WE CAN ASSEMBLE. IT'S SUBJECT TO REVIEW AND IN
10 FACT HAS BEEN DONE SO BY OTHER GOVERNMENT AGENCIES.

11 NOW, FOR THE ONES WHO WERE TO HAVE REGISTERED LAST
12 YEAR IN OUR SYSTEM, IT IS A LOWER FIGURE, AND FOR THOSE WHO
13 ARE CURRENTLY REGISTERING, THOSE THAT TURN 18 AND ARE
14 OBLIGATED TO GO TO THE POST OFFICE AT THE TIME THEY ACHIEVE
15 18, WE HAVE A LOWER FIGURE, AND THAT FIGURE HAPPENS TO VARY
16 EVERY WEEK. IT VARIES BECAUSE THERE ARE SOME 5,000 YOUNG MEN
17 WHO TURN 18 EACH DAY, AND OF THOSE, OF THAT NUMBER, WE FIND
18 OUT THAT THERE ARE A NUMBER OF FACTORS WHICH INFLUENCE THE
19 TIME AT WHICH THEY ACTUALLY DO ACHIEVE THE REGISTRATION
20 PROCESS.

21 NOW, IN THE SYSTEM THERE ARE TWO QUALITIES, TWO
22 FACTORS IN WHICH WE'RE VERY CONSCIOUS AND WE EMPHASIZE.
23 FIRST WE EMPHASIZE THE RESPONSIVENESS TO THE NATION IN THE
24 EVENT WE HAVE A NATIONAL EMERGENCY, AND IN THE EVENT THE
25 SYSTEM HAS TO BE IMPLEMENTED WE CAN DO SO IN THE FRAMEWORK

TURNAGE - DIRECT

1 THAT WAS SUGGESTED BY THE QUESTION EARLIER. WE CAN HAVE THE
2 FIRST MEN TO THE PROCESSING CENTER IN 13 DAYS. SO
3 RESPONSIVENESS IS ONE OF OUR OBLIGATIONS TO THE NATION, AND
4 WE ARE CONFIDENT THAT THAT CAN BE ACHIEVED.

5 THE SECOND OBLIGATION WE HAVE, WHICH IS
6 CHARACTERISTIC OF THE SYSTEM OR WE WANT TO BE AND WE'RE
7 ACHIEVING IT, IS EQUITY. IN THE EVENT WE HAVE A CALL, IT'S
8 VERY IMPORTANT THAT ALL PEOPLE WHO SHOULD BE IN THE POOL OF
9 NAMES FROM WHICH THE LOTTERY WOULD BE DRAWN, THAT THEY IN
10 FACT ARE THERE. BY REGISTERING THEY DO NOT COMPROMISE OR
11 ABROGATE ANY OF THEIR RIGHTS FOR CONSCIENCIOUS OBJECTION OR
12 FOR HARDSHIP OR FOR THE OTHER PROVISIONS THAT ARE IN THE LAW
13 FOR CONSIDERATION AT THAT TIME, JUDGMENTAL FACTORS, BUT THE
14 FACT IS THEY SHOULD BE THERE BECAUSE IT'S NOT A VICTIMLESS
15 CRIME. IF THEY ARE NOT THERE, IF THEY HAVE AVOIDED
16 REGISTRATION, THEY ARE SHIFTING RESPONSIBILITY FOR SERVICE TO
17 SOMEONE ELSE. SO THAT'S WHY WE SO ZEALOUSLY PUSH THE IDEA OF
18 HAVING EVERYONE IN THE POOL THAT SHOULD BE THERE IN THE
19 INTEREST OF WHAT WE CONSIDER TO BE ETHICS, MORALITY, THE LAW
20 AND EQUITY.

21 SO FROM THE TIME THAT A YOUNG MAN IS 18 UNTIL THE
22 TIME HE REACHES 20 WHEN HE WOULD BE VULNERABLE, THOSE ARE THE
23 TIMES THAT -- THAT IS THE PERIOD DURING WHICH WE ARE ABLE TO
24 MATCH THE FILES WITH SOCIAL SECURITY AND NUMBER OF OTHER
25 FILES IN ORDER TO DETERMINE WHETHER OR NOT IN FACT HE HAS

TURNAGE - DIRECT

1 COMPLIED. THEN IF HE HASN'T COMPLIED, WE SEND HIM NOTICES
2 SUGGESTING THAT BECAUSE OF OUR RECORDS, IF YOU HAVEN'T
3 COMPLIED WITH THE LAW, WE UNDERSTAND THAT YOU SHOULD DO SO.
4 IF YOU HAVE ANY INFORMATION TO THE CONTRARY, YOU SHOULD
5 ADVISE US. SO FROM THE TIME THE INDIVIDUAL SHOULD REGISTER
6 AT 18 UNTIL THE TIME IN FACT WE HAVE HIM IN THE SYSTEM, WE
7 HAVE AN INTERIM PERIOD THERE THAT WE HAVE AN OPPORTUNITY TO
8 FOLLOW UP IF HE HASN'T, AND FOR EXAMPLE, WE FIND SOME
9 CONDITIONS THAT YOU CAN APPRECIATE VERY CLEARLY. WE RUN INTO
10 PEOPLE WITH NAMES LIKE TRACY OR JOHNNIE OR SIMILAR NAMES
11 WHERE IT WOULD BE MALE OR FEMALE. AND OCCASIONALLY YOU'LL
12 SEE SOMETHING IN THE NEWS WHERE WE HAVE ASKED A FEMALE TO
13 REGISTER AND IN FACT THEY ARE NOT OBLIGATED TO BUT THERE IS A
14 NAME PROBLEM.

15 SO WE FIND THAT, AS THE INDIVIDUAL IN HIS CORPORATE
16 CONSCIOUSNESS HAVE THE REQUIREMENT TO BUT IF HE HASN'T, THEN
17 WE PURSUE IT AND, LIKE I SAY, WE DO IT WITH SOME VIGOR AND
18 ZEALOUSNESS BECAUSE WE WANT TO MAKE THE SYSTEM FAIR AND IT
19 CAN ONLY BE FAIR IF ALL ARE PARTICIPATING.

20 Q. OF THE 14 MILLION WHO HAVE REGISTERED ONE PERCENT OR
21 140,000 ARE UNREGISTERED?

22 A. OF THE DRAFT ELIGIBLE GROUP WHICH I SUGGESTED, THE SIX
23 YEAR GROUP, IT'S LESS THAN 140,000.

24 Q. HOW MANY OF THOSE HAVE BEEN PROSECUTED?

25 A. OF THOSE THAT HAVE BEEN PROSECUTED, I THINK THAT FIGURE

TURNAGE - DIRECT

1 NOW IS ABOUT 19. I SHOULD MAKE ANOTHER STATEMENT, HOWEVER,
2 AT THIS POINT.

3 Q. GO AHEAD.

4 A. FROM THE OUTSET OF THE SYSTEM, FROM THE TIME IN JANUARY
5 7, 1982, WHEN PRESIDENT REAGAN MADE THE DECISION THAT HE
6 WOULD CONTINUE THE REGISTRATION PROCESS THAT HAD BEEN STARTED
7 BY PRESIDENT CARTER, WE SAID THAT OUR OBJECTIVE IS
8 REGISTRATION AND NOT PROSECUTION, AND IN EACH INSTANCE EVERY
9 INDIVIDUAL WHO HAS FAILED TO REGISTER HAS BEEN GIVEN MORE
10 THAN ONE CHANCE TO COMPLY WITH THE LAW, AND AS A MATTER OF
11 FACT, THOSE PEOPLE THAT HAVE BEEN PROSECUTED HAVE BEEN THOSE
12 WHO DIDN'T TAKE ADVANTAGE OF THAT OPPORTUNITY THAT HAD BEEN
13 GIVEN IN ORDER TO COMPLY WITH THE LAW. AND MANY OTHERS,
14 OTHER THAN THE 19, HAVE BEEN PROCESSED THROUGH THE DEPARTMENT
15 OF JUSTICE SYSTEM TO INCLUDE THE LOCAL U. S. ATTORNEYS AND
16 WHERE THEY ARE AND AN FBI AGENT GOES TO THEIR HOME AND ASKS
17 THEM TO REGISTER. THEY ARE GIVEN THAT OPPORTUNITY.

18 THE ONES WHO HAVE BEEN PROSECUTED ACTUALLY IN A
19 COURT OF LAW ARE THOSE WHO REFUSED TO DO SO.

20 Q. SO YOU'RE SAYING THAT ONLY 19 HAVE ABSOLUTELY REFUSED?

21 A. OF THOSE WHO HAVE AT THIS TIME BEEN PROCESSED THROUGH
22 THE SYSTEM.

23 Q. IF THE FBI DOESN'T CONTACT THEM, THEY ARE STILL
24 PROSECUTED?

25 A. PLEASE ASK THAT AGAIN.

TURNAGE - DIRECT

1 Q. IF THE FBI OR THE GOVERNMENT DOES NOT CONTACT THEM, THEY
2 ARE STILL PROSECUTED?

3 A. TO MY KNOWLEDGE AND IN MY JUDGMENT THERE HAS BEEN NO
4 PROSECUTION WITHOUT HAVING A CONTACT BY AN FBI AGENT.

5 (DEFENDANT'S EXHIBIT 3 MARKED FOR IDENTIFICATION.)

6 BY MR. HALL:

7 Q. I'M SHOWING YOU WHAT'S MARKED AS DEFENDANT'S EXHIBIT 3,
8 WHICH IS A STATEMENT YOU MADE BEFORE CONGRESS, I SUPPOSE, IN
9 YOUR 1982 APPROPRIATION. IF YOU WOULD, SEE IF YOU CAN
10 IDENTIFY IT FIRST.

11 A. ALL RIGHT.

12 MR. STOLL: EXCUSE ME, JOHN.

13 MR. HALL: IT WAS ATTACHED TO THE ORIGINAL.

14 BY MR. HALL:

15 Q. AGAIN, THIS IS YOUR STATEMENT BEFORE CONGRESS 1982.
16 DEFENSE EXHIBIT 3. I'M NOT GOING TO HAVE YOU READ THE WHOLE
17 THING BUT READ TO THE JURY THE LAST TWO SENTENCES ON THIS
18 PAGE.

19 A. IT SAYS "ALL OF US SERVING IN THE GOVERNMENT, EXECUTIVE,
20 LEGISLATIVE, JUDICIAL NEED TO DO A BETTER JOB OF EXPLAINING
21 TO THE NEXT GENERATION THAT UNITED STATES CITIZENSHIP NOT
22 ONLY GUARANTEES EQUAL RIGHTS, PRIVILEGES AND OPPORTUNITIES
23 BUT ALSO IMPOSES DUTIES, OBLIGATIONS AND RESPONSIBILITIES.
24 PEACE TIME REGISTRATION EFFECTIVELY SIGNALS AMERICA'S
25 RESOLVE. IT IS A DEMOCRATIC RESPONSE TO A PROBLEM FORCED

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1 UPON US BY THE KREMLIN."

2 (DEFENDANT'S EXHIBIT 4 MARKED FOR IDENTIFICATION.)

3 BY MR. HALL:

4 Q. GENERAL, THIS IS DEFENDANT'S 4, WHICH IS YOUR 1984
5 COMMENTS IN FEBRUARY BEFORE THE SUBCOMMITTEE AND HOUSE
6 APPROPRIATIONS. ON PAGE 1 I'D LIKE YOU TO READ THE
7 UNDERScoreD PARTS.

8 MR. STOLL: CAN I LOOK AT IT FIRST?

9 THE WITNESS: IT SAYS, "MR. CHAIRMAN, I COME BEFORE
10 THE COMMITTEE WITH CONFIDENCE. THIS BECAUSE I'M ABLE TO
11 REPORT TO YOU THAT THERE IS A DEMONSTRABLE PUBLIC SUPPORT FOR
12 PEACE TIME REGISTRATION AND WE'RE HAVING REMARKABLE SUCCESS
13 IN CONDUCTING THAT PROGRAM. THIS PUBLIC SUPPORT HAS RESULTED
14 IN EVER HIGHER COMPLIANCE RATES."

15 (DEFENDANT'S EXHIBIT 5 MARKED FOR IDENTIFICATION.)

16 BY MR. HALL:

17 Q. DEFENDANT'S EXHIBIT 5 IS 1985, SAME TIME OF THE YEAR
18 BEFORE THE SAME COMMITTEE, PAGE 4. PART OF THIS IS MARKED
19 OUT THAT YOU DID NOT READ THAT PART TO CONGRESS, BUT PLEASE
20 READ THE UNDERScoreD PART.

21 A. PLEASE BE MINDFUL OF ONE THING. FIRST OF ALL, WE SUBMIT
22 FOR THE RECORD AND IT'S PUBLISHED IN THE CONGRESSIONAL RECORD
23 THAT WHICH IS THE PUBLIC AND THE COMPLETE STATEMENT. THIS
24 STATES IT'S AN ABBREVIATED STATEMENT, AND I MAY HAVE MADE
25 ADDITIONS OR DELETIONS TO IT. IF YOU ASK ME TO STATE WHETHER

TURNAGE - DIRECT

1 OR NOT I READ THE MARKED OUT PORTION, I CANNOT ATTEST TO
2 THAT, BUT I CAN READ WHAT YOU'VE ASKED ME TO.

3 Q. OKAY, PLEASE DO SO.

4 A. "THE PUBLIC AWARENESS ACTIVITIES OF SELECTIVE SERVICE
5 HAVE PROMOTED A NATIONWIDE POLITICAL AND SOCIAL CONSENSUS
6 SUPPORTING PEACE TIME REGISTRATION. THIS ONCE CONTROVERSIAL
7 PROGRAM IS NOW FULLY ACCEPTABLE."

8 Q. DO YOU STAND BY ALL THOSE COMMENTS TODAY?

9 A. INDEED I DO. LET ME SUGGEST WHY. I THINK THAT A
10 RATIONALE FOR THAT IS SIGNIFICANT. FIRST OF ALL, WHEN YOU
11 HAVE A PROGRAM WHICH ALL PEOPLE IN THE NATION DO NOT AGREE
12 WITH AND YOU FIND, FOR EXAMPLE, THAT EVEN SOME INDIVIDUALS IN
13 THE CONGRESS OF THE UNITED STATES ARE NOT IN COMPLETE
14 AGREEMENT, THE FACT IS YOU DEPEND UPON THE SUPPORT THAT COMES
15 FROM THE NATION OVERALL AND COMPLIANCE WITH ITS LAW. WE'RE A
16 NATION OF LAWS AND WE'RE NOT AN ANARCHY. SO IT'S IMPORTANT,
17 IT SEEMS TO ME, THAT FIRST OF ALL, IF IT IS THE LAW OF THE
18 LAND, YOU FIRST COMPLY WITH IT, AND THEN WE HAVE THE
19 PRIVILEGE IN THE COUNTRY OF TRYING TO CHANGE THAT LAW, AND IN
20 FACT SOME OF THAT IS GOING ON. BUT AS I GO AROUND THE
21 COUNTRY, THERE ARE ABOUT THREE OR FOUR FACTORS THAT INFLUENCE
22 MY JUDGMENT AS TO THE FACT THAT THIS SYSTEM HAS COMPLETE
23 SUPPORT. THE FIRST OF THE FACT OF THAT YEAR OR COHORT OF
24 BIRTH GROUPS IN THE NATION, WE HAVE 99 PERCENT COMPLIANCE OF
25 THE YOUTH. THAT'S A FACTUAL INDICATIVE INDICATOR OF WHAT I

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1 CONSIDER TO BE SUPPORT OF THE PROGRAM.

2 THE SECOND ASPECT OF IT IS THE FACT THAT IN SOME
3 SPECIFIC INSTANCES WHERE WE HAVE HAD NATIONAL SO-CALLED
4 CRISES OR ISSUES THAT HAVE OCCURRED BEFORE THE PUBLIC, WE
5 HAVE FOUND IMMEDIATE RESPONSE IN THE FORM OF NUMBERS OF
6 REGISTRATIONS THAT HAVE OCCURRED IN OUR SYSTEM.

7 I STATED EARLIER THAT WE GET ABOUT 5,000 YOUNG MEN
8 WHO TURN 18 EVERYDAY. THAT MEANS THAT TRANSLATES INTO ABOUT
9 35,000 REGISTRATIONS THAT WE SHOULD BE EXPECTING ON A WEEKLY
10 BASIS. IMMEDIATELY AFTER THE DOUBLE 07 KOREAN AIRLINER WAS
11 SHOT DOWN BY THE SOVIETS, IMMEDIATELY AFTER THE AMERICAN
12 TROOPS WENT INTO GRENADA, IMMEDIATELY AFTER THE MARINE
13 OCCURRENCE IN BEIRUT, WE IN SOME CASES WENT OVER 60,000 IN
14 THAT WEEK IN COMPLIANCE REGISTRATION THAT CAME TO OUR OFFICE.
15 THAT WAS BECAUSE OF NO ADDITIONAL EMPHASIS THAT WE PUT ON THE
16 SYSTEM. IT WAS A RESULT OF THE PUBLIC RESPONSE TO THOSE,
17 WHAT I CONSIDER TO BE OR PERCEIVE TO BE A CRISIS FOR THE
18 NATION AND PEOPLE RESPOND.

19 I SEE SIMILAR TYPES OF SUPPORT THROUGHOUT THE
20 NATION TO INCLUDE THE FACT THAT THE CONGRESS HAS PASSED THE
21 SOLOMON AMENDMENT AND THEN SOLOMON 2, RELATING THAT
22 ENDORSEMENT OF OUR SYSTEM, THAT ANY YOUNG MAN WHO ACCEPTS THE
23 BENEFITS OF THE NATION IN EFFECT, HAS TO ACCEPT ITS
24 OBLIGATION, AND THEN THE OTHER FACT IS THAT ON A LOCAL BASIS
25 IN MANY OF THE STATES OF THE NATION NOW THEY ARE ALSO PASSING

1 SIMILAR LAWS THAT SAY IF YOU WANT THE BENEFITS OF THE STATE
2 EDUCATIONAL SYSTEM YOU MUST BE A REGISTRANT WITH THE
3 SELECTIVE SERVICE SYSTEM. RIGHT NOW, FOR EXAMPLE, THERE'S A
4 LAW PENDING IN THE CONGRESS, BEEN PASSED BY THE SENATE THAT
5 SAYS THAT ANY YOUNG MAN WHO WANTS TO BECOME A PART OF THE
6 CIVIL SERVICE SYSTEM IN THE NATION MUST BE REGISTERED WITH
7 THE SYSTEM. ALL OF THESE, IT SEEMS TO ME ARE INDICATORS OF
8 THE KIND OF SUPPORT THAT EXIST FOR THIS SYSTEM.

9 Q. THERE'S NO SUCH LAW IN THE STATE OF ARKANSAS, IS THERE,
10 TO YOUR KNOWLEDGE?

11 A. NOT TO MY KNOWLEDGE.

12 Q. DO YOU KNOW THE NUMBER OR THE PERCENTAGE OF THE
13 REGISTRANTS IN ARKANSAS?

14 A. YES, SIR. RIGHT NOW IT'S SOMEWHERE IN EXCESS OF 99
15 PERCENT. IT'S REALLY ONE OF THE ROLE MODELS OF THE NATION.

16 Q. HAVEN'T YOU SHOWED OR PUBLISHED FIGURES IN THE PAST THAT
17 SHOWED THE FIGURES TO BE OVER A HUNDRED PERCENT?

18 A. I CAN'T ATTEST TO THAT. WE HAVE 50 STATES. LET ME
19 SUGGEST HOW THAT MIGHT OCCUR. WE DEPEND ON CENSUS FIGURES.
20 THAT IS THE BEST INDEX WE HAVE OF THE POPULATION FROM WHICH
21 WE SHOULD BE CONCERNED. YOU HAVE IN THIS COUNTRY, BASED ON
22 THE AGE GROUPS OF WHICH WE'RE WORKING, YOU HAVE A GREAT DEAL
23 OF MOBILITY, PARTICULARLY FROM THE STANDPOINT OF FINDING
24 JOBS, FROM THE STANDPOINT OF GOING COLLEGE, FROM THE
25 STANDPOINT OF OTHER CHANGES AND SHIFTS THAT OCCUR IN SOCIETY.

TURNAGE - DIRECT

1 THE MOST CREDIBLE FIGURE WE HAVE FOR DETERMINING THE DEGREE
2 OF COMPLIANCE THAT WE HAVE IS THE NATIONAL FIGURE OBVIOUSLY.
3 HOWEVER, WITHIN THE STATES WE FIND OUT OR WITHIN COMMUNITIES
4 WE FOUND THAT THERE ARE CONSIDERABLE SHIFTS. AS A RESULT, WE
5 THINK THE MOST CREDIBLE FIGURE THAT WE USE IS THAT RELATING
6 TO THE NATIONAL ONE. MOREOVER, WE KNOW THAT, FOR EXAMPLE, IN
7 THE YEAR 1961, 1962, WE HAVE HAD MORE REGISTRANTS THAN THE
8 CENSUS STATED WERE IN THE POPULATION, AND SO WHAT WE'VE DONE
9 ACTUALLY, IS TO INCREASE THE REGISTRANT BASE OR POPULATION
10 AND THE CENSUS HAVE FELT THAT THAT'S SUFFICIENTLY SIGNIFICANT
11 TO THEM THAT THEY'VE COME AND ASKED US FOR ADDITIONAL DATA SO
12 THEY CAN REFINE THEIR RECORDS.

13 Q. YOU STATED WE'RE A GOVERNMENT OF LAWS, NOT OF MEN. I
14 DON'T THINK ANYBODY DISAGREES WITH THAT. DID YOU SEE
15 ANYPLACE FOR CIVIL DISOBEDIENCE IN THIS SYSTEM?

16 A. YES, SIR. AS A MATTER OF FACT, I THINK THERE ARE MANY
17 PRECEDENTS FOR CIVIL DISOBEDIENCE. BUT IF AN INDIVIDUAL
18 ACCEPTS THAT ROLE, THEN I THINK HE MUST ALSO ACCEPT THE
19 PENALTIES ASSOCIATED WITH IT.

20 Q. WHAT IS THE PENALTY?

21 A. I THINK IT DEPENDS ON THE PARTICULAR CASE, DOES IT NOT?

22 Q. WHAT DOES CONGRESS PROVIDE FOR?

23 A. FOR EXAMPLE, I THINK MR. GANDI SAID, MR. THOREAU SAID, I
24 THINK MR. MARTIN LUTHER KING SAID, ALL OF THEM SAID, IF YOU
25 PERFORM CIVIL DISOBEDIENCE AND IN SOME INSTANCES THEY

TURNAGE - DIRECT

1 ADVOCATED THAT AND THEY WERE PART AND PARCEL OF THAT
2 PHILOSOPHY THEN THEY JOYFULLY ACCEPTED THE PENALTIES.

3 Q. THERE IS A FELONY, IS IT NOT?

4 A. WHICH ARE YOU SPEAKING ABOUT?

5 Q. THIS CRIME.

6 A. FAILING TO REGISTER IS A FELONY.

7 Q. WHAT IS THE RANGE OF PUNISHMENT?

8 MR. STOLL: JUDGE, I THINK WE'RE GETTING INTO A
9 MATTER WITHIN THE PROVINCE OF THE COURT. I THINK THE COURT
10 AT THE APPROPRIATE TIME WILL TELL THE JURY THE PUNISHMENT, IF
11 THE DEFENDANT IS FOUND GUILTY, IS LEFT UP TO YOU.

12 THE COURT: WHAT'S YOUR REPLY?

13 MR. HALL: I AGREE WITH THAT AS A CAUTIONARY
14 INSTRUCTION, BUT THERE ARE TWO GOVERNMENT EXHIBITS IN THAT DO
15 SPECIFY WHAT THE PENALTY RANGE IS. THE COURT CAN CAUTION THE
16 JURY IT IS WITHIN THE COURT'S PREROGATIVE NOT THE JURY'S, BUT
17 SINCE THIS IS A FELONY, I THINK THE JURY SHOULD BE ALLOWED TO
18 KNOW WHAT THE RANGE IS.

19 THE COURT: I'M GOING TO SUSTAIN THE GOVERNMENT'S
20 OBJECTION. THE JURY HAS NOTHING TO DO WITH THE SANCTION TO
21 BE IMPOSED. THIS IS THE RESPONSIBILITY THAT IS EXCLUSIVELY
22 WITHIN THE PROVINCE OF THE COURT. SO THE OBJECTION IS
23 SUSTAINED.

24 MR. HALL: THANK YOU, YOUR HONOR. THAT'S ALL THE
25 QUESTIONS I HAVE.

TURNAGE - DIRECT

1 THE COURT: MR. STOLL?

2 MR. STOLL: I DON'T HAVE ANY QUESTIONS.

3 THE COURT: ALL RIGHT, GENERAL, YOU MAY STEP DOWN.

4 MR. STOLL: MAY HE BE EXCUSED, YOUR HONOR?

5 MR. HALL: HE MAY, YOUR HONOR.

6 MR. STOLL: GENERAL, BEFORE YOU STEP DOWN JUST A
7 SECOND.

8 THE COURT: ALL RIGHT, MR. VAUGHT, CALL YOUR NEXT
9 WITNESS.

10 MR. VAUGHT: GAIL HOPKINS.

11 THE COURT: ALL RIGHT, MS. HOPKINS, STEP AROUND AND
12 BE SWORN BY THE CLERK.

13 GAIL HOPKINS, DEFENDANT'S WITNESS, SWORN

14 DIRECT EXAMINATION

15 BY MR. VAUGHT:

16 Q. WOULD YOU STATE YOUR NAME AND ADDRESS, PLEASE?

17 A. GAIL HOPKINS, 4701 LOCKRIDGE IN NORTH LITTLE ROCK.

18 Q. MS. HOPKINS, WHAT'S YOUR OCCUPATION?

19 A. SCHOOLTEACHER.

20 Q. WHERE DO YOU TEACH?

21 A. NORTHEAST HIGH SCHOOL IN NORTH LITTLE ROCK.

22 Q. HOW LONG HAVE YOU TAUGHT THERE?

23 A. SINCE 1972.

24 Q. AND WHAT SUBJECTS DO YOU TEACH?

25 A. JOURNALISM AND ENGLISH.

1 Q. MS. HOPKINS, DURING YOUR TIME TEACHING AT NORTHEAST, DID
2 YOU KNOW AND DO YOU KNOW MR. PAUL JACOB?

3 A. YES.

4 Q. WAS HE A STUDENT OF YOURS AT NORTHEAST?

5 A. IN JOURNALISM, YES.

6 Q. WOULD YOU STATE TO THE JURY YOUR IMPRESSION, FIRST OF
7 ALL, OF PAUL JACOBS AS A STUDENT. WHAT KIND OF STUDENT WAS
8 HE?

9 THE COURT: SPEAK DIRECTLY INTO THE MICROPHONE.

10 THE WITNESS: HE WAS AN EXCELLENT STUDENT AND
11 EXCELLENT WRITER AND ONE WHO TOOK HIS ASSIGNMENT SERIOUSLY
12 AND DID WHATEVER IT TOOK. HE WAS AN EXCELLENT STUDENT AND
13 ONE WHO TOOK HIS ASSIGNMENT SERIOUSLY AND DID WHATEVER IT
14 TOOK TO GET THE ASSIGNMENT DONE IN JOURNALISM. HE WAS A
15 JOURNALISM STUDENT.

16 BY MR. VAUGHT:

17 Q. WOULD YOU GIVE ME YOUR IMPRESSION OF PAUL AS A THINKER
18 AND INTELLIGENT PERSON, HIS THOUGHTS?

19 A. HE'S A HIGHLY INTELLIGENT PERSON AND HE DOES THINK
20 THINGS THROUGH. WHEN YOU TELL HIM SOMETHING HE NEVER JUST
21 BLINDLY DOES ANYTHING. HE ALWAYS THINKS THROUGH WHAT HE'S
22 BEEN ASKED TO DO.

23 Q. DO YOU CONSIDER PAUL A PERSON OF STRONG MORAL AND
24 PERSONAL CONVICTIONS?

25 A. YES.

HOPKINS - DIRECT

1 Q. ARE YOU FAMILIAR WITH HIS STAND ON CERTAIN POLITICAL
2 ISSUES, SPECIFICALLY ON SELECTIVE SERVICE REGISTRATION?

3 A. YES.

4 Q. DID HE HOLD THOSE VIEWS OR WAS HE BEGINNING TO DEVELOP
5 THOSE VIEWS WHEN HE WAS IN NORTHEAST HIGH SCHOOL, TO YOUR
6 KNOWLEDGE?

7 A. TO MY KNOWLEDGE HE DID. I DON'T REALLY KNOW WHAT HE
8 THOUGHT ABOUT IT AT THAT TIME. I DO KNOW THAT WHENEVER HE'S
9 ASKED TO DO ANYTHING HE THINKS IT THROUGH AND HE WAS DOING
10 THAT KIND OF THING AT THAT TIME.

11 Q. YOU'RE FAMILIAR AND YOU HAVE BEEN IN SOME CONTACT WITH
12 PAUL THROUGH THE YEARS SINCE HE LEFT NORTHEAST, HAVEN'T YOU?

13 A. SOME. NOT MUCH BUT SOME, AND WITH HIS FAMILY.

14 Q. YOU DO KNOW HIS FAMILY?

15 A. YES.

16 Q. DO YOU CONSIDER PAUL JACOB TO BE A SINCERE PERSON?

17 A. YES.

18 Q. DO YOU CONSIDER HIM TO BE AN HONEST PERSON?

19 A. YES.

20 Q. DO YOU THINK THAT HE IS THE TYPE OF PERSON WHO WOULD
21 SUBMIT TO SOMETHING THAT HE FELT WAS NOT RIGHT OR NOT MORAL?

22 A. NO.

23 MR. VAUGHT: THANK YOU.

24 MR. STOLL: I DON'T HAVE ANY QUESTIONS, YOUR HONOR.

25 THE COURT: ALL RIGHT, YOU MAY STEP DOWN. CALL

1 YOUR NEXT WITNESS.

2 MR. VAUGHT: SALLY LAIDLAW.

3 (THE FOLLOWING PROCEEDINGS AT THE BENCH.)

4 MR. STOLL: JUDGE, I DIDN'T OBJECT TO THIS LAST
5 WITNESS BUT I REALLY FAIL TO SEE THE RELEVANCY OF THESE
6 QUESTIONS, AND I UNDERSTAND THE NEXT WITNESS IS GOING TO BE
7 TESTIFYING ABOUT THE SAME THING. WE'RE NOT TALKING ABOUT
8 CHARACTER, WE'RE TALKING ABOUT THEIR IMPRESSION OF MR. JACOB.
9 I THINK IT'S IRRELEVANT.

10 THE COURT: WHAT'S THE RELEVANCE?

11 MR. VAUGHT: YOUR HONOR, IT'S RELEVANT BECAUSE IT
12 GOES TOWARDS HIS STATE OF MIND AND HIS CRIMINAL INTENT TO
13 COMMIT THE ACT WITH WHICH HE'S BEEN CHARGED. ONE OF OUR
14 DEFENSES, AS WE'VE PRESENTED TO THE COURT EARLIER, IS THAT IN
15 HIS MIND HE FELT THAT REGISTRATION WAS TANTAMOUNT TO APPROVAL
16 OF SELECTIVE SERVICE. THAT'S WHY WE PUT ON GENERAL TURNAGE,
17 AND I THINK THAT WE NEED TO SHOW TO THE JURY THAT HE IS A MAN
18 OF CONVICTIONS WHO, ONCE HE MAKES UP HIS MIND, WILL STAND BY
19 THOSE CONVICTIONS NO MATTER WHAT. I THINK IT GOES TO HIS
20 CRIMINAL INTENT TO BREAK THE LAW.

21 THE COURT: I DON'T SEE THE RELEVANCE, BUT I'M
22 GOING TO PERMIT YOU TO PUT IT ON. I THINK THE OBJECTION HAS
23 MERIT.

24 MR. VAUGHT: THIS IS THE ONLY OTHER WITNESS ON THIS
25 ISSUE, THEN WE'LL BE THROUGH WITH IT.

LAIDLAW - DIRECT

1 ETHYL R. LAIDLAW, DEFENDANT'S WITNESS, SWORN

2 DIRECT EXAMINATION

3 BY MR. VAUGHT:

4 Q. WOULD YOU STATE YOUR NAME AND ADDRESS, PLEASE?

5 A. I'M MRS. ETHYL R. LAIDLAW, AND I LIVE AT ROUTE 1, BOX
6 148-AC IN NORTH LITTLE ROCK.

7 Q. MS. LAIDLAW, WHAT IS YOUR OCCUPATION?

8 A. I'M A TEACHER.

9 Q. WHERE DO YOU TEACH?

10 A. AT NORTHEAST HIGH SCHOOL.

11 Q. AND HOW LONG?

12 A. NORTH LITTLE ROCK.

13 Q. HOW LONG HAVE YOU TAUGHT THERE?

14 A. 11 YEARS.

15 Q. MS. LAIDLAW, DO YOU KNOW PAUL JACOB?

16 A. YES.

17 Q. DO YOU KNOW HIM AS A FORMER STUDENT OF YOURS?

18 A. YES.

19 Q. AND HOW ELSE?

20 A. AND ALSO AS A FAMILY FRIEND.

21 Q. DID YOU KNOW HIM AND HIS FAMILY BEFORE HE WAS YOUR
22 STUDENT?

23 A. YES, I DID.

24 Q. AND DO YOU STILL MAINTAIN A SOCIAL RELATIONSHIP WITH HE
25 AND HIS FAMILY NOW?

LAIDLAW - DIRECT

1 A. YES.

2 Q. MS. LAIDLAW, DURING THE TIME THAT YOU HAVE KNOWN PAUL
3 JACOB, CAN YOU GIVE ME YOUR IMPRESSIONS OF HIM AS, FIRST, A
4 STUDENT OF YOURS?

5 A. A VERY GOOD STUDENT, THE KIND THAT IS MY FAVORITE
6 BECAUSE HE HAS A MIND AND HE LIKES TO USE IT.

7 Q. DO YOU CONSIDER HIM TO BE A PERSON OF STRONG MORAL
8 CHARACTER?

9 A. VERY, VERY STRONG.

10 Q. DO YOU CONSIDER HIM TO BE A PERSON WITH HIGH IDEALS?

11 A. YES, I DO AND THE COURAGE OF THOSE IDEALS.

12 Q. FOLLOWING UP ON THAT COURAGE, DOES HE HAVE STRENGTH TO
13 MAINTAIN HIS CONVICTIONS, DO YOU BELIEVE?

14 A. YES, HE DOES, BEYOND THE ORDINARY.

15 Q. DURING THE TIME THAT YOU HAVE KNOWN HIM AND ESPECIALLY
16 DURING THE TIME THAT HE WAS IN YOUR CLASSES AT NORTHEAST, HAD
17 THERE BEEN TIMES WHEN HE WOULD TAKE A POSITION ON AN ISSUE
18 THAT YOU DIDN'T AGREE WITH?

19 A. FREQUENTLY.

20 Q. ARE YOU FAMILIAR WITH HIS STANCE ON SELECTIVE SERVICE
21 REGISTRATION?

22 A. YES.

23 Q. DO YOU KNOW IF HE, IN YOUR MIND, COULD BE PERSUADED THAT
24 IT WAS INCORRECT, THAT HIS STANCE IS INCORRECT?

25 A. I THINK THAT HIS MIND IS OPEN, BUT I BELIEVE THAT HE HAS

LAIDLAW - DIRECT

1 THOROUGHLY THOUGHT THIS THING OUT AND THAT IS WHAT HE
2 BELIEVES, AND I THINK IT'S NOT LIKELY THAT HE COULD BE
3 PERSUADED THAT IT'S INCORRECT.

4 Q. HAS HE BEEN FAIRLY CONSISTENT IN HIS THOUGHT PROCESSES
5 AND HIS DEVELOPMENT OF THESE IDEALS TO YOUR KNOWLEDGE?

6 A. YES.

7 Q. MS. LAIDLAW, IS THERE ANYTHING ELSE ABOUT PAUL JACOB
8 THAT YOU THINK IS IMPORTANT FOR THIS JURY TO KNOW?

9 A. I WOULD LIKE TO SAY THAT HE IS THE KIND OF STUDENT THAT
10 I LIKE TO TEACH BECAUSE HE DOESN'T ACCEPT WITHOUT QUESTION
11 EVERYTHING THAT'S SAID TO HIM. IN FACT, I FOUND THAT HE
12 QUESTIONED ALMOST EVERYTHING. IT MAKES A MOST INTERESTING
13 CLASS BECAUSE HE CHALLENGES WHAT A TEACHER SAYS AND WITH GOOD
14 BASIS AND GOOD UNDERSTANDING, AND HE MAKES ME THINK MORE
15 CAREFULLY WHAT I'M DOING AS A TEACHER.

16 Q. DID PAUL JACOB EVER TRY TO HIDE HIS VIEWS FROM YOU OR
17 FROM ANYONE?

18 A. NEVER.

19 Q. DO YOU CONSIDER HIM AN HONEST PERSON?

20 A. I CERTAINLY DO, EXTREMELY HONEST.

21 MR. VAUGHT: THANK YOU, YOU MAY ASK.

22 THE COURT: MR. STOLL?

23 MR. STOLL: NO QUESTIONS, YOUR HONOR.

24 THE COURT: ALL RIGHT, YOU MAY STEP DOWN. CALL
25 YOUR NEXT WITNESS.

LAIDLAW - DIRECT

1 MR. VAUGHT: YOUR HONOR, THE NEXT WITNESS ON MY
2 LIST IS A MAN WHO WAS SUPPOSED TO BE FLYING IN HERE AND WAS
3 SUPPOSED TO BE HERE BY 9:30. COULD I CHECK TO SEE IF HE'S
4 ARRIVED?

5 THE COURT: YES.

6 MR. VAUGHT: YOUR HONOR, WOULD IT UPSET THE COURT'S
7 SCHEDULE TOO MUCH IF WE TOOK ABOUT A 15 MINUTE BREAK NOW? I
8 THINK HE'S SUPPOSED TO BE ON HIS WAY HERE FROM THE AIRPORT.

9 THE COURT: ALL RIGHT, LADIES AND GENTLEMEN OF THE
10 JURY, WE'RE GOING TO TAKE A 15 MINUTE BREAK. DO NOT DISCUSS
11 THE CASE. LET EVERYBODY REMAIN SEATED WHILE THE JURY LEAVES
12 THE COURTROOM.

13 (JURY EXITS.)

14 THE COURT: ALL RIGHT, CALL YOUR NEXT WITNESS, MR.
15 VAUGHT.

16 MR. VAUGHT: CALL DR. RON PAUL.

17 RON PAUL, DEFENDANT'S WITNESS, SWORN

18 DIRECT EXAMINATION

19 BY MR. VAUGHT:

20 Q. WOULD YOU STATE YOUR NAME AND ADDRESS, PLEASE?

21 A. MY NAME IS RON PAUL. I LIVE AT 101 BLOSSOM, LAKE
22 JACKSON, TEXAS.

23 Q. AND WHAT IS YOUR OCCUPATION?

24 A. I AM A PHYSICIAN, AND I'M ALSO A NEWSLETTER WRITER.

25 Q. HOW LONG HAVE YOU BEEN PRACTICING MEDICINE?

PAUL - DIRECT

- 1 A. I HAVE BEEN PRACTICING MEDICINE, FINISHED MY RESIDENCY
2 AND STARTED PRIVATE PRACTICE IN 1968.
- 3 Q. DR. PAUL, HAVE YOU EVER SERVED IN A POLITICAL OFFICE?
- 4 A. YES, I HAVE.
- 5 Q. WHAT WOULD THAT BE?
- 6 A. I WAS IN THE U. S. CONGRESS.
- 7 Q. WHEN WERE YOU IN THE U. S. CONGRESS?
- 8 A. I WAS FIRST ELECTED IN '76 AND I LEFT THE U. S.
9 CONGRESS JANUARY 3RD OF THIS YEAR.
- 10 Q. AND WHAT DISTRICT DID YOU REPRESENT?
- 11 A. IT WAS THE 22ND DISTRICT WHICH, OF COURSE, TAKES IN MY
12 HOME AND PART OF HOUSTON, TEXAS.
- 13 Q. DR. PAUL, HAVE YOU EVER SERVED IN THE MILITARY?
- 14 A. YES, I HAVE.
- 15 Q. WOULD YOU TELL US YOUR MILITARY EXPERIENCE, PLEASE?
- 16 A. IN 1960, END OF 1960 DURING THE CUBAN CRISIS, I
17 VOLUNTEERED TO JOIN THE AIR FORCE, WAS SWORN IN, IN JANUARY
18 '61, SERVED TWO AND A HALF YEARS AS ACTIVE DUTY AS A FLIGHT
19 MEDICAL OFFICER IN THE AIR FORCE AND THEN SUBSEQUENTLY SERVED
20 TWO AND A HALF YEARS IN THE AIR NATIONAL GUARD IN PITTSBURG,
21 PENNSYLVANIA.
- 22 Q. DR. PAUL, WHEN YOU WERE SERVING IN THE UNITED STATES
23 CONGRESS WHAT PARTY AFFILIATION DID YOU SERVE UNDER OR WHAT
24 WAS YOUR PARTY AFFILIATION WHEN YOU WERE ELECTED?
- 25 A. REPUBLICAN.

PAUL - DIRECT

1 Q. HOW LONG HAVE YOU BEEN A REPUBLICAN?

2 A. ALL MY LIFE.

3 Q. ALL YOUR LIFE?

4 A. I GUESS. AS LONG AS I CAN REMEMBER.

5 Q. DR. PAUL, WHILE YOU WERE IN THE UNITED STATES CONGRESS,
6 AND EVEN BEFORE YOU WERE IN THE UNITED STATES CONGRESS, HAVE
7 YOU TAKEN PUBLIC STANDS CONCERNING THE SELECTIVE SERVICE
8 SYSTEM?

9 A. YES, I DID.

10 Q. AND WOULD YOU BRIEFLY TELL THE JURY, PLEASE, WHAT THOSE
11 STANDS WERE?

12 A. WELL, I WAS VERY STRONGLY OPPOSED TO SELECTIVE SERVICE
13 AND THE REGISTRATION, AND THIS CAME UP ON SEVERAL OCCASIONS,
14 AT LEAST TWO OCCASIONS WHILE IN THE CONGRESS.

15 Q. DID YOU IN FACT SUBMIT LEGISLATION OR BILLS FOR
16 LEGISLATION TO ABOLISH THE SELECTIVE SERVICE SYSTEM?

17 A. YES, I INTRODUCED LEGISLATION THAT WOULD ABOLISH
18 SELECTIVE SERVICE.

19 Q. WHAT WAS THE BASIS OF YOUR OPPOSITION TO SELECTIVE
20 SERVICE?

21 A. WELL, I ORIGINALLY RAN FOR CONGRESS MAINLY FOR THE
22 PURPOSE AND SOLE DESIRE OF PRESERVING AND PROMOTING
23 INDIVIDUAL FREEDOM IN THIS COUNTRY, AND I SAW THAT, AT LEAST
24 IN MY VIEWPOINT, SELECTIVE SERVICE, WHICH IS REALLY A
25 MISNOMER, IT'S COMPULSORY SERVICE, IS PROBABLY THE FURTHEST

PAUL - DIRECT

1 THING FROM INDIVIDUAL LIBERTY. SO THEREFORE, I THOUGHT IT
2 WAS VERY APPROPRIATE, BEING THE CHAMPION OF INDIVIDUAL
3 FREEDOM, THAT I TRY MY VERY BEST WHILE THERE TO GET RID OF
4 THE VERY THING THAT IS THE MOST SEVERE ATTACK ON PERSONAL
5 LIBERTY.

6 Q. DO YOU CONSIDER YOUR OPPOSITION OF SELECTIVE SERVICE TO
7 BE PART OF YOUR ENTIRE PHILOSOPHY ON POLITICAL AND INDIVIDUAL
8 LIBERTIES?

9 A. YES. IT WOULD BE VERY DIFFICULT FOR ME TO DIVORCE IT
10 FROM A PHILOSOPHY OF FREEDOM AND LIBERTY AND YET IT'S NOT
11 LIMITED TO THAT. NOT ONLY IS THERE A PHILOSOPHIC BASE TO IT,
12 I THINK OVER THE YEARS ON STUDYING THE ISSUE IT BECAME -- I
13 LEARNED THAT THERE WERE OTHER DEFENSES, BOTH PRACTICAL AND
14 ECONOMIC AS WELL.

15 Q. DID YOU CONSIDER YOUR OPPOSITION TO SELECTIVE SERVICE TO
16 HAVE CONSTITUTIONAL BACKGROUND OR SUPPORT?

17 A. I'M SORRY, WOULD YOU REPEAT THAT QUESTION, PLEASE.

18 Q. DO YOU CONSIDER YOUR OPPOSITION TO SELECTIVE SERVICE TO
19 BE GROUNDED IN THE CONSTITUTION?

20 A. ABSOLUTELY.

21 Q. HOW DO YOU?

22 A. WELL, IN THE INTERPRETATION OF THE CONSTITUTION, WHICH
23 IS THE ONLY OATH THAT WE TAKE IN WASHINGTON, I TOOK IT RATHER
24 SERIOUSLY, IS TO UPHOLD THE CONSTITUTION, AND IF ONE READS
25 THE CONSTITUTION CAREFULLY, THEY REALIZE THAT THE FEDERAL

PAUL - DIRECT

1 GOVERNMENT, AND THAT IS THE CONGRESS, HAS NO AUTHORITY
2 WHATSOEVER TO DO ANYTHING OTHER THAN WHAT IS AUTHORIZED BY
3 THE CONSTITUTION, AND THERE IS ABSOLUTELY NO AUTHORIZATION IN
4 THE CONSTITUTION TO SELECTIVELY CONSCRIPT A SEGMENT OF OUR
5 POPULATION TO DEFEND THE OTHER SEGMENT.

6 Q. DOES YOUR OPPOSITION TO SELECTIVE SERVICE JUST RELATE TO
7 PEACE TIME CONSCRIPTION OR TO CONSCRIPTION IN GENERAL?

8 A. NO, TO HAVE A CONSISTENT DEFENSE AND PHILOSOPHY ON
9 FREEDOM, IT WOULD HAVE TO BE AT ALL TIMES. FREEDOM IS
10 FREEDOM AND THEREFORE, THE NATURE OF THE THREAT REALLY IS
11 IRRELEVANT. IF ONE BELIEVES IN FREEDOM, WHETHER IT'S PEACE
12 TIME OR WAR TIME, WE'D HAVE TO DEFEND THOSE PRINCIPLES IN THE
13 SAME MANNER.

14 Q. DO YOU CONSIDER YOUR VIEWS TO BE AN ABERRATION WITH
15 RESPECT TO POLITICAL THOUGHT IN AMERICA, OR DO YOU CONSIDER
16 THEM TO BE WITHIN THE MAINSTREAM OR AT LEAST A MAINSTREAM OF
17 POLITICAL THOUGHT?

18 A. WELL, I HAPPEN TO BELIEVE IT'S THE PERFECT AMERICAN
19 MAINSTREAM POSITION. IT'S THE POSITION THAT THE FOUNDING
20 FATHERS HELD. THEY WERE VERY ANTI-MILITARY. THEY WERE VERY
21 ANNOYED WITH THE TROOPS IN THIS COUNTRY AND SOME OF THE
22 THINGS THE BRITISH WERE DOING. THERE WERE STRONG STATEMENTS
23 IN THE WAR OF 1812 DURING THE WAR, AS THEY WERE BOMBING
24 WASHINGTON, D. C. MEMBERS OF THE HOUSE OF REPRESENTATIVES
25 STOOD UP AND DEFENDED THE POSITION OF NO MILITARY DRAFT AND

PAUL - DIRECT

1 THE MILITARY SHOULD BE COMPLETELY VOLUNTARY. THROUGHOUT THE
2 19TH CENTURY, OTHER THAN A VERY DISASTEROUS AND UNSUCCESSFUL
3 ATTEMPT TO IMPOSE A DRAFT ON THE AMERICAN PEOPLE DURING THE
4 CIVIL WAR, THERE WAS REALLY NO TALK ABOUT IT. IT'S ONLY BEEN
5 IN THIS CENTURY THAT THE AMERICAN IDEAL OF INDIVIDUAL LIBERTY
6 AND PERSONAL FREEDOM HAS BEEN REJECTED. WE HAVE, IN MANY
7 WAYS, BECOME VERY DOCILE AND WILLING TO ACCEPT COERSION, AND
8 IT GOES ALONG WITH A LOT OF OTHER THINGS THAT HAVE HAPPENED
9 IN THIS CENTURY, BUT I WOULD SAY THE AMERICAN TRADITION, THE
10 CONSTITUTIONAL PRINCIPLES HAS DEFINITELY BEEN VOLUNTEERISM,
11 AND WHEN YOU THINK ABOUT IT, VOLUNTEERISM THAT EXISTED TO
12 DEFEND THIS COUNTRY AND TO DEFEND THE COLONIES AND DEFEAT THE
13 BRITISH ENTIRE VERSUS WHAT HAS HAPPENED IN THE 20TH CENTURY
14 WITH CONSCRIPTION WHERE YOU SEE THE DISASTERS OF THE VIET
15 NAMS, I THINK THAT THE AMERICAN TRADITION IS VERY CLEARLY
16 THAT OF INDIVIDUAL CHOICE AND VOLUNTEERISM, SOMETHING WHICH
17 MANY CURRENT POLITICIANS SPEAK ABOUT TODAY.

18 Q. DR. PAUL, WHEN YOU WERE IN THE UNITED STATES CONGRESS
19 DID YOU CONSIDER YOURSELF OR WERE YOU CONSIDERED, IF YOU
20 KNOW, BY YOUR COLLEAGUES TO BE PRIMARILY A LIBERAL OR A
21 CONSERVATIVE?

22 A. I THINK A LOT OF PEOPLE HAD TROUBLE PUTTING A LABEL ON
23 ME. I RAN AS A REPUBLICAN. I VOTED AS A FISCAL
24 CONSERVATIVE. THEREFORE, I WOULD SAY THE GENERAL CONNOTATION
25 WAS THEY SAW ME AS A CONSERVATIVE, BUT BECAUSE I FREQUENTLY

PAUL - DIRECT

1 VOTED AS AN INDEPENDENT AND FREQUENTLY WOULD IDENTIFY ON
2 SOCIAL AND SOME MILITARY ISSUES WITH LIBERALS, IT REALLY
3 CONFUSED A LOT OF PEOPLE, AND YET I BELIEVE OVER THE YEARS I
4 GAINED A LOT OF RESPECT, BUT I WOULD HAVE TO SAY THAT
5 GENERALLY I WAS SEEN AS A CONSERVATIVE BUT ONE WITH A GREAT
6 DEAL OF INDEPENDENCE.

7 Q. DID YOU CONSIDER YOUR VIEWS ON SELECTIVE SERVICE TO BE
8 IN CONFLICT WITH YOUR VIEWS ON FISCALLY CONSERVATIVE
9 POLICIES?

10 A. YES, I THINK SO, VERY MUCH. NOT ONLY DID I COME TO THE
11 POSITION, WHICH I DIDN'T ALWAYS HOLD ON THE DRAFT, I CAME SAY
12 THIS STUDY OF THE CONSTITUTION AND UNDERSTANDING THE
13 PHILOSOPHY OF INDIVIDUAL FREEDOM, BUT AS A FISCAL
14 CONSERVATIVE, I SAW THIS AS A VERY UNFAIR TAX. WE REALLY ARE
15 TAXING PEOPLE, SO THIS -- TAXING A SELECT GROUP. SO AS A
16 FISCAL CONSERVATIVE AND ONE WHO ADVOCATED, AS SO MANY
17 CONSERVATIVES DO, THAT GOVERNMENT SHOULD BE LIMITED, I WOULD
18 SAY THAT IT FIT THE PHILOSOPHY, BUT I WOULD CONFESS THAT
19 THERE ARE MANY CONSERVATIVES WHO MIGHT NOT ACCEPT THAT SAME
20 VIEWPOINT.

21 Q. DOCTOR, ARE YOU FAMILIAR WITH PAUL JACOB'S STAND THAT HE
22 HAS MADE ON SELECTIVE SERVICE REGISTRATION?

23 A. YES, I AM.

24 Q. DO YOU CONSIDER THAT TO BE A STAND WHICH HAS SUPPORT IN
25 THE TYPE OF PHILOSOPHY THAT YOU ESPOUSE?

PAUL - DIRECT

1 A. ABSOLUTELY. I MEAN, IT IS THE POSITION THAT ONLY
2 COURAGEOUS PEOPLE CAN HOLD AND ACTION ONLY VERY COURAGEOUS
3 PEOPLE CAN TAKE.

4 Q. IF A PERSON SUCH AS PAUL JACOB DOES NOT REGISTER BECAUSE
5 OF AN ACT OF CONSCIOUS HE CANNOT SUPPORT SELECTIVE SERVICE,
6 DO YOU CONSIDER THAT TO BE A POSITION SUPPORTING THE
7 CONSTITUTION?

8 A. IT'S ABSOLUTELY A CONSTITUTIONAL POSITION. THERE'S NO
9 OTHER WAY YOU CAN INTERPRET IT. OTHERWISE, YOU WOULD ENDORSE
10 A SYSTEM OF GOVERNMENT WHERE THE FEDERAL GOVERNMENT, THE
11 CONGRESS, THE ADMINISTRATION, THE COURTS CAN DO ANYTHING THEY
12 WANT WITH ANYONE. THEY COULD CONSCRIPT WORKERS TO WORK IN
13 STEEL MILLS IF IT WAS FOR A NATIONAL EFFORT. SO I WOULD SAY
14 THIS IS THE KEY. THIS IS THE KEY TO WHETHER OR NOT THIS
15 NATION WILL PURSUE A POLICY OF PROTECTING AND DEFENDING
16 INDIVIDUAL LIBERTY OR NOT.

17 MR. VAUGHT: THANK YOU.

18 THE COURT: MR. STOLL?

19 MR. STOLL: MRS. CHERRY.

20 THE COURT: ALL RIGHT.

21 CROSS EXAMINATION

22 BY MS. CHERRY:

23 Q. DR. PAUL, YOU STATED YOU LEFT CONGRESS IN '85, IS THAT
24 CORRECT?

25 A. THAT'S RIGHT IN JANUARY OF '85.

PAUL - CROSS

1 Q. WHY DID YOU LEAVE?

2 A. I DID NOT REFILE FOR THE CONGRESSIONAL HOUSE SEAT.

3 Q. YOU JUST LEFT AND WENT HOME BACK TO PRACTICE, IS THAT
4 RIGHT?

5 A. I DID NOT FILE. I RAN IN A SENATE RACE AND DID NOT WIN
6 AND THEN I WENT BACK HOME AND DOING WRITING AND DOING SOME
7 MEDICINE.

8 Q. ALL RIGHT. YOU MENTIONED, I BELIEVE, THAT YOU HAD
9 INTRODUCED LEGISLATION TO ABOLISH THE SELECTIVE SERVICE
10 SYSTEM?

11 A. THAT'S RIGHT.

12 Q. I TAKE IT, I THINK WE CAN ASSUME HERE THAT IT DID NOT
13 PASS?

14 A. THAT'S RIGHT.

15 Q. YOU MENTIONED, DR. PAUL, THAT THERE WAS -- YOU DID NOT
16 BELIEVE THERE WAS ANY AUTHORIZATION FOR CONGRESS TO CONSCRIPT
17 YOUNG MEN OR TO HAVE A SELECTIVE SERVICE SYSTEM, IS THAT
18 CORRECT?

19 A. IN THE CONSTITUTION, THAT IS CORRECT.

20 Q. YOU DON'T DISAGREE WITH THE FACT THAT THE CONSTITUTION
21 GIVES CONGRESS THE AUTHORITY TO RAISE ARMIES, DO YOU?

22 A. THEY HAVE THE AUTHORITY TO RAISE ARMIES, BUT IN NO WAY
23 DID THEY TIE THAT IN WITH COMPULSION.

24 Q. ALL RIGHT. YOU ALSO STATED, I BELIEVE, THAT YOU ARE
25 FAMILIAR WITH PAUL JACOB'S VIEWS?

PAUL - CROSS

1 A. YES. I THINK, YOU KNOW, WITHIN REASON. I KNOW HIS
2 POSITION, ESPECIALLY ON THIS ISSUE.

3 Q. ALL RIGHT. AND I BELIEVE THE QUESTION THAT MR. VAUGHT
4 ASKED YOU WAS THERE IS SUPPORT OF THE TYPE OF PHILOSOPHY THAT
5 YOU ADVOCATE.

6 A. OH, CERTAINLY. IT IS CERTAINLY ENDORSED AND SUPPORTED
7 IN MY CONGRESSIONAL DISTRICT HAVING WON EACH TIME BY GROWING
8 NUMBERS AND NOT EVEN HAVING AN OPPONENT THE LAST TIME AND IT
9 WASN'T THAT I WAS NOT OUTSPOKEN. I WAS VERY OUTSPOKEN ON
10 THESE ISSUES.

11 Q. LET ME SHOW YOU, DR. PAUL, WHAT'S BEEN INTRODUCED AS
12 GOVERNMENT'S EXHIBIT 4 WHICH IS MR. JACOB'S VOTER
13 REGISTRATION CARD, AND YOU'LL NOTICE HERE THAT IN NOVEMBER OF
14 1980 AND THEN AGAIN IN NOVEMBER OF 1984 HE'S WRITTEN THERE
15 BEFORE HE VOTES, "SMASH THE STATE." IS THAT AN OPINION OR AN
16 ATTITUDE THAT YOU THINK FINDS SUPPORT AMONG PEOPLE OF YOUR
17 PHILOSOPHY?

18 A. WELL, YOU KNOW, AS FAR AS I'M CONCERNED THE STATE IS
19 MASSIVE. THE LAST COUPLE YEARS I WAS IN CONGRESS I VOTED
20 AGAINST 99 PERCENT OF THE EXPENDITURES OF THE STATE MAINLY
21 BECAUSE WE'RE BEING DRIVEN INTO A BANKRUPT STATE. I DON'T
22 USE THAT TYPE OF LANGUAGE. I DON'T USE THOSE WORDS BUT IF
23 YOU TOOK MY VOTING RECORD, I CERTAINLY WOULD REDUCE THE STATE
24 IN A VERY SIGNIFICANT MANNER, BECAUSE THE STATE NOW IS
25 ENCROACHING ON OUR PERSONAL LIBERTIES, IT'S ENCROACHING

PAUL - CROSS

1 THROUGHOUT THE WORLD ON A DAILY BASIS ON WHAT THEY ARE DOING
2 AND ALSO IN THE ECONOMY, AND FOR THIS REASON, I THINK THE
3 STATE ITSELF IS A THREAT TO US. IT'S A THREAT TO THE
4 INDIVIDUAL LIBERTIES, NOT ONLY OF PAUL JACOB BUT TO EVERY
5 SINGLE SOLITARY PERSON IN THIS COUNTRY. SO THEREFORE, I
6 THINK THE VERB IS ONE THAT I WOULDN'T HAVE CHOSEN, BUT I
7 CERTAINLY WOULD CHOOSE WORDS LIKE SIGNIFICANTLY REDUCE THE
8 ROLE OF GOVERNMENT OVER OUR LIVES.

9 Q. ALL RIGHT. ONE OTHER THING I'D LIKE TO GO BACK TO, DR.
10 PAUL. I'M SORRY, BUT I HAD TO SEND FOR THIS. I HAVE HERE A
11 COPY OF ARTICLE 1, SECTION 8 OF THE CONSTITUTION AND IT, I
12 BELIEVE, SETS OUT THE WAR POWERS OF CONGRESS, AND IF YOU
13 WOULD READ, FIRST OF ALL, HERE SECTIONS 13, 14, 15 AND 16.

14 A. 13 NAVY, TO PROVIDE AND MAINTAIN A NAVY, 14 GOVERNMENT
15 AND REGULATION OF LAND AND NAVAL FORCES TO MAKE RULINGS FOR
16 THE GOVERNMENT AND REGULATION OF LAND AND NAVAL FORCES,
17 CALLING 40 MILITIA. TO PROVIDE FOR CALLING FORTH THE MILITIA
18 TO EXECUTE THE LAWS OF THE UNION SUPPRESSED INSURRECTIONS AND
19 REPEL INVASIONS.

20 Q. AND NUMBER 16.

21 A. 16 ORGANIZING MILITIA. TO PROVIDE FOR ORGANIZING ARMING
22 AND DISCIPLINING THE MILITIA AND FOR GOVERNING SUCH PART OF
23 THEM AS MAY BE EMPLOYED IN THE SERVICE OF THE UNITED STATES
24 RESERVING TO THE STATES RESPECTIVELY THE APPOINTMENT OF THE
25 OFFICERS AND THE AUTHORITY OF TRAINING THE MILITIA TO THE

PAUL - CROSS

1 DISCIPLINE PRESCRIBED BY CONGRESS.

2 Q. ALL RIGHT, THANK YOU. THAT'S ALL I HAVE, DR. PAUL.
3 THANK YOU.

4 REDIRECT EXAMINATION

5 BY MR. VAUGHT:

6 Q. DR. PAUL, WHAT DOES THE MILITIA MEAN IN THE CONSTITUTION
7 IN YOUR UNDERSTANDING?

8 A. WELL, MY UNDERSTANDING IS THAT AT THAT TIME EACH COLONY
9 HAD A MILITIA AND THERE WAS TO FEDERAL ARMY, AND IF THERE WAS
10 AN INSURRECTION OR A THREAT TO THE SECURITY OF THE NATION THE
11 PRESIDENT THEN WOULD HAVE THE AUTHORITY TO CALL UP A MILITIA
12 AND USE IT IN FEDERAL SERVICE AND, YOU KNOW, REALLY IT HAD
13 NOTHING TO DO WHATSOEVER WITH CONSCRIPTING INDIVIDUALS.

14 Q. IT NEVER MENTIONSS CONSCRIPTION, DOES IT?

15 A. TOTALLY IRRELEVANT.

16 MR. VAUGHT: THANK YOU. THAT'S ALL, YOUR HONOR.

17 THE COURT: ANYTHING ELSE?

18 MS. CHERRY: NO, YOUR HONOR.

19 THE COURT: ALL RIGHT, YOU MAY STEP DOWN. CALL
20 YOUR NEXT WITNESS.

21 THE COURT: CALL PAUL JACOB.

22 THE COURT: STEP AROUND, MR. JACOB, AND BE SWORN BY
23 THE CLERK.

24 PAUL JACOB, DEFENDANT, SWORN

25 MR. VAUGHT: YOUR HONOR, THIS IS A VISUAL AID.

JACOB - DIRECT

1 IT'S A BLOW-UP OF WHAT'S ALREADY BEEN INTRODUCED AS
2 DEFENDANT'S EXHIBIT NUMBER 1, AND I WILL GO AHEAD AND MARK IT
3 AS A SEPARATE EXHIBIT, BUT I JUST WANT TO INFORM WHICH] THE
4 COURT AND THE JURY IT'S THE SAME THING AS WHAT'S ALREADY BEEN
5 INTRODUCED IN A SMALLER FORM.

6 THE COURT: WHAT SAYS THE GOVERNMENT?

7 MR. STOLL: I HAVE NO OBJECTION, YOUR HONOR.

8 THE COURT: THAT WOULD MAKE IT WHAT EXHIBIT NUMBER?
9 7?

10 MR. VAUGHT: 6.

11 DIRECT EXAMINATION

12 BY MR. VAUGHT:

13 Q. PAUL, WOULD YOU STATE YOUR FULL LEGAL NAME.

14 A. PAUL LAWRENCE JACOB.

15 Q. WHAT'S YOUR DATE OF BIRTH?

16 A. I WAS BORN MARCH 6, 1960.

17 Q. ARE YOU MALE OR FEMALE?

18 A. MALE.

19 Q. WHAT'S YOUR SOCIAL SECURITY NUMBER?

20 A. IT IS 429-06-0537.

21 Q. WHAT'S YOUR CURRENT MAILING ADDRESS?

22 A. I LIVE AT 5732 CAMP ROBINSON AND IT'S BUILDING 4,
23 APARTMENT 2.

24 Q. WHAT CITY?

25 A. THAT'S NORTH LITTLE ROCK.

JACOB - DIRECT

- 1 Q. ARKANSAS?
- 2 A. ARKANSAS.
- 3 Q. ZIP CODE?
- 4 A. 72118.
- 5 Q. IS YOUR PERMANENT MAILING ADDRESS THE SAME?
- 6 A. YES, IT IS.
- 7 Q. WHAT'S YOUR CURRENT TELEPHONE NUMBER?
- 8 A. IT'S AREA CODE 501 AND THE NUMBER IS 753-6463.
- 9 Q. WHAT'S TODAY'S DATE?
- 10 A. IT IS -- I'M NOT SURE. JULY 2ND. IT'S BEEN SO
- 11 CONFUSING. --
- 12 Q. ALL OF THE INFORMATION THAT YOU HAVE JUST GIVEN TO ME IS
- 13 TRUE, ISN'T IT?
- 14 A. YES, IT IS.
- 15 Q. AND THAT'S THE INFORMATION THAT'S REQUESTED ON THE
- 16 SELECTIVE SERVICE SYSTEM REGISTRATION FORM, ISN'T IT?
- 17 A. YES, SIR, IT IS.
- 18 Q. WHEN THE SELECTIVE SERVICE SYSTEM WAS REINSTATED IN
- 19 1980, '81, WERE YOU ONE OF THE INDIVIDUALS WHO WAS REQUIRED
- 20 TO REGISTER?
- 21 A. WELL, I FELT -- WELL, I CERTAINLY WAS AWARE THAT THERE
- 22 WERE STATEMENTS BY GENERAL TURNAGE AND, OF COURSE, THE
- 23 PRESIDENT THAT THEY WERE BEGINNING A REGISTRATION PROGRAM AND
- 24 THAT I FELL INTO THAT YEAR.
- 25 Q. YOU WERE BORN IN THE YEAR 1960?

JACOB - DIRECT

1 A. YES, I WAS.

2 Q. WHAT HAS BEEN YOUR POSITION WITH REGARD TO SELECTIVE
3 SERVICE REGISTRATION?

4 A. WELL, I THINK THAT THE REGISTRATION PROGRAM IS A MEANS
5 OF GETTING YOUNG PEOPLE TO APPROVE THE BRINGING BACK OF THE
6 DRAFT. I THINK THAT VERY CLEARLY THEY HAVE USED THOSE PEOPLE
7 WHO REGISTER, SOME FOR FEAR OF THE FIVE YEAR PENALTY FOR NOT
8 REGISTERING, THAT'S THE MAXIMUM PENALTY, THEY HAVE USED THOSE
9 REGISTRATIONS AS A SIGN OF SUPPORT, AS AN ENDORSEMENT FOR THE
10 PROGRAM, AND I FEEL VERY MUCH THAT IT'S NOT ONLY AN UNJUST
11 PROGRAM, I DON'T THINK THE GOVERNMENT HAS THE RIGHT TO TAKE
12 CITIZENS OUT OF THEIR HOMES AND COMPEL THEM INTO THE ARMED
13 FORCES. I THINK THAT THAT SMACKS OF WHAT THEY WOULD DO IN
14 THE SOVIET UNION OR SOMEPLACE, NOT IN THE UNITED STATES.

15 I ALSO THINK THAT IT'S A VERY DANGEROUS PROGRAM
16 BECAUSE 20 YEARS AGO PEOPLE REGISTERED FOR THE DRAFT. THEY
17 REGISTERED WITH SELECTIVE SERVICE. THEY WERE CALLED BY
18 SELECTIVE SERVICE AND IT WAS SELECTIVE SERVICE WHO SENT THEM
19 INTO THE MILITARY AND THEY WERE SENT TO THE TO REPEL THE
20 INVASIONS AS THE CONSTITUTION STATES BUT THEY WERE SENT TO
21 VIET NAM TO FIGHT A VERY STUPID AND AWFUL WAR, AND I DIDN'T
22 WANT TO TAKE THE FIRST STEP IN DOING THAT ONCE AGAIN. I
23 DIDN'T WANT THAT TO HAPPEN TO ME AND I SURELY DIDN'T WANT IT
24 TO HAPPEN TO MY FRIENDS, AND I DON'T THINK I OR ANYONE ELSE
25 WANTS THAT TO HAPPEN TO OUR COUNTRY AGAIN AND I DEFINITELY

JACOB - DIRECT

1 THOUGHT THAT TO REGISTER WOULD BE A SIGN THAT I ACCEPTED THAT
2 AS A GOOD PROGRAM, THAT I ENDORSED THAT PROGRAM, THAT I
3 APPROVED THAT PROGRAM AND I DON'T.

4 Q. LET'S GO BACK FOR A MINUTE TO WHEN YOU WERE YOUNGER,
5 HIGH SCHOOL OR EVEN BEFORE. DO YOU RECALL WHEN YOU BEGAN TO
6 DEVELOP THESE VIEWS ON THE DRAFT AND ON REGISTRATION FOR
7 SELECTIVE SERVICE?

8 A. IT'S HARD FOR ME TO DECIDE WHEN I BEGAN DEVELOPING THESE
9 VIEWS, BECAUSE I WAS BORN INTO A FAMILY THAT, FROM MY
10 EARLIEST MEMORIES, TOLD ME TO THINK FOR MYSELF AND CERTAINLY
11 OFFERED A GREAT DEAL OF INFORMATION TO DO JUST THAT. AS A
12 YOUNG CHILD I CAN REMEMBER GOING ON VACATION AND VISITING
13 WASHINGTON, D. C. AND VISITING CIVIL WAR BATTLE FIELDS AND
14 THINGS THAT WERE MONUMENTS OF HISTORICAL IMPORTANCE TO THE
15 COUNTRY AND, OF COURSE, BOTH OF MY PARENTS AND SUBSEQUENTLY
16 THEIR CHILDREN ARE VERY, VERY INTERESTED IN HISTORY AND IN
17 THE TRADITIONS OF THIS COUNTRY, AND I DOUBT THAT I WAS A YEAR
18 OLD BEFORE I HEARD THE NAME OF THOMAS JEFFERSON AND THOMAS
19 PAYNE AND PATRICK HENRY AND DANIEL WEBSTER, SO IT'S VERY
20 DIFFICULT TO SAY WELL, I BEGAN TO THINK THIS WAY THEN.

21 I WAS ALWAYS TAUGHT THAT THE GOVERNMENT WAS THERE
22 TO PROTECT THE FREEDOMS THAT ARE WHAT MAKES THIS COUNTRY
23 GREAT AND THAT THE ROLE OF A CITIZEN IS TO MAINTAIN THOSE
24 FREEDOMS, TO DO SO BY VOTING PEOPLE INTO OFFICE WHO WILL
25 RESPECT THAT CONSTITUTION AND BY DOING WHATEVER ELSE IS

JACOB - DIRECT

1 NECESSARY TO KEEP THAT CONSTITUTION CHERISHED AND IN CONTROL
2 OF GOVERNMENT, BECAUSE IT'S VERY CLEAR THAT THE FOUNDING
3 FATHERS ESTABLISHED THAT CONSTITUTION NOT TO GATHER DUST BUT
4 TO STOP WHAT THEY SAW AS -- YOU KNOW, POLITICIANS LIKE POWER
5 AND THAT'S WHAT THE CONSTITUTION IS THERE TO STOP AND TO
6 CONTROL THE POWER THAT POLITICIANS HAVE. SO, YOU KNOW, MY
7 PARENTS HAD ALWAYS TAUGHT ME TO RESPECT THAT CONSTITUTION AND
8 DECLARATION OF INDEPENDENCE AND THE BILL OF RIGHTS AND MY
9 UPBRINGING FROM THE EARLIEST AGES HAD TO DO WITH THAT, AND SO
10 IT'S HARD FOR ME TO SAY WHEN BUT I CAN TELL YOU THAT BY THE
11 TIME I WAS OF LEGAL AGE AND FIVE, SIX, SEVEN, EIGHT YEARS
12 BEFORE THAT, BY THE TIME I WAS 12, 13 OR 14 I KNEW THAT I
13 COULD NOT SUPPORT THINGS LIKE THE GOVERNMENT CONSCRIPTING
14 CITIZENS INTO ITS SERVICE, WHETHER IT BE FOR THE MILITARY OR
15 E. P. A. OR WHATEVER PROGRAM, AND THAT IF WE GAVE THEM THAT
16 POWER IT WOULD BE SOMETHING THAT GOOD CITIZENS SHOULD
17 DEFINITELY FIGHT AGAINST.

18 Q. HAVE YOU EVER MADE A SECRET OF YOUR VIEWS?

19 A. NO, I DON'T THINK I'VE EVER ACCUSED OF THAT. THAT'S WHY
20 WE HAVE FREE SPEECH IN THIS COUNTRY. IT'S NOT SOMETHING TO
21 JUST, LIKE THE CONSTITUTION, IT'S JUST NOT THERE TO SIT ON
22 THE SHELF, AND I THINK THAT THAT'S THE BEAUTY OF OUR SYSTEM
23 IS THAT WE'RE ABLE TO SPEAK TO OTHER PEOPLE AND TO LET THEM
24 KNOW HOW WE FEEL, AND THAT'S WHY FREE SPEECH IS THERE SO WE
25 CAN COMMUNICATE AND SO THAT WHEN THE GOVERNMENT DOES INCREASE

JACOB - DIRECT

1 ITS POWER AND TRY TO TAKE SOME CONTROL OVER OUR LIVES, WE CAN
2 COMMUNICATE WITH EACH OTHER AND TRY TO GET THAT CONTROL BACK.
3 AND SO I HAVE ALWAYS TRIED TO SPEAK OUT AS MUCH AS POSSIBLE.

4 Q. PAUL, WHAT DOES IT MEAN TO YOU WHEN GEN. TURNAGE MAKES
5 STATEMENTS SUCH AS THOSE THAT HE MADE BEFORE CONGRESS AND
6 SUCH AS THOSE THAT HE MADE ON THE STAND A FEW MINUTES AGO
7 THAT THE REGISTRATION STATISTICS SHOW A GENERAL APPROVAL FOR
8 SELECTIVE SERVICE?

9 A. WELL, IT CONFIRMS EVERYTHING THAT I HAVE THOUGHT SINCE
10 THE PROGRAM WAS FIRST INTRODUCED BACK IN 1980. IT WAS
11 INTRODUCED AND IT WAS PUSHED AS A WAY THAT EVERYONE COULD
12 SIGN UP AND SHOW THEIR SUPPORT FOR THE POLICIES THAT JIMMY
13 CARTER WAS THEN INSTITUTING IN RESPONSE TO HIS FOREIGN POLICY
14 WHICH WAS IN SHAMBLES BASICALLY, AND I SAW THAT WHAT THEY
15 WERE WANTING US TO DO WAS TO SIGN UP AND SHOW THAT WE WERE
16 BEHIND THOSE POLICIES AND BEHIND THE REACTIVATION OF
17 SELECTIVE SERVICE, AND IN FACT I TOLD FRIENDS AT THAT POINT
18 THAT IF YOU SIGN THAT PIECE OF PAPER THEY ARE GOING TO USE
19 THAT AS A SIGN THAT YOU APPROVE THIS LAW, THAT YOU SUPPORT
20 THIS LAW. AND I DIDN'T SUPPORT IT AND THAT'S WHY I WAS NOT
21 ABLE TO SIGN MY NAME ON THAT PIECE OF PAPER.

22 Q. YOU'RE TALKING ABOUT THE SIGNATURE LINE ON THIS CARD
23 RIGHT HERE, IS THAT RIGHT?

24 A. YES.

25 Q. WHAT DOES THAT SIGNATURE LINE MEAN TO YOU?

JACOB - DIRECT

1 A. WELL, THAT MEANS THAT YOU APPROVE THE INFORMATION THERE,
2 THAT YOU ENDORSE THAT INFORMATION. IF SOMEONE COMES TO GET
3 ME TO SIGN MY NAME TO SOMETHING THAT SIGNATURE IS A VERY,
4 VERY IMPORTANT THING. I DON'T SIGN MY NAME TO JUST ANYTHING
5 THAT ANYONE ASKS ME TO. I'M NOT GOING TO SIGN MY NAME TO A
6 DOCUMENT UNLESS I AGREE AND APPROVE THAT DOCUMENT.

7 Q. I'M GOING SO SHOW YOU A POSTER THAT'S BEEN PREVIOUSLY
8 MARKED AND INTRODUCED AS DEFENDANT'S EXHIBIT NUMBER 2 AND ASK
9 IF YOU CAN RECOGNIZE THE DOCUMENT THAT'S PORTRAYED IN THAT
10 POSTER?

11 A. THAT'S THE DECLARATION OF INDEPENDENCE WHICH ESTABLISHED
12 THE UNITED STATES.

13 Q. DOES THAT DECLARATION OF INDEPENDENCE CONTAIN STATEMENTS
14 THAT YOU AGREE WITH?

15 A. COMPLETELY AGREE WITH.

16 Q. DO YOU CONSIDER IT TO BE TRUTHS?

17 A. I THINK THAT IT IS THE GREATEST DOCUMENT THAT HAS EVER
18 BEEN WRITTEN ABOUT GOVERNMENT.

19 Q. IS IT ANY LESS TRUE IF IT HAD NO SIGNATURES ON IT?

20 A. IT'S MEANINGLESS IF IT DOESN'T HAVE ANY SIGNATURES ON
21 IT, BECAUSE NOBODY IS THEN ENDORSING OR APPROVING OR
22 SUBMITTING THAT INFORMATION. THOSE SIGNATURES ON THAT MEAN
23 THAT THOSE PEOPLE BELIEVE THAT. THAT'S WHY THEY SIGNED IT
24 AND THAT'S WHY JOHN HANCOCK SIGNED THAT NAME SO LARGE BECAUSE
25 HE REALLY BELIEVED THAT. TO ME THAT'S --

JACOB - DIRECT

1 Q. IS THAT A DOCUMENT THAT YOU WOULD SIGN?

2 A. I WOULD SIGN THAT DOCUMENT VERY GLADLY.

3 Q. WHEN SELECTIVE SERVICE ASKED YOU TO SIGN THIS DOCUMENT,
4 WHY WOULD YOU NOT SIGN IT?

5 A. BECAUSE I DON'T APPROVE OF THAT DOCUMENT, AND I CAN'T --
6 YOU KNOW, IT WOULD BE VERY EASY, I GUESS TO SIGN IT AND I'D
7 BE ABLE TO WALK OUT OF HERE, YOU KNOW, AND ENJOY LIFE AS I
8 COULD, BUT I COULDN'T ENJOY LIFE BECAUSE I KNOW I MADE AN
9 APPROVAL OF SOMETHING THAT I DON'T APPROVE OF, THAT I NO
10 LONGER HAVE THE INTEGRITY OF MY OWN MIND BECAUSE I'VE MADE A
11 STATEMENT OF SUPPORT FOR SOMETHING THAT NOT ONLY DO I NOT
12 SUPPORT, BUT I THINK IS VERY, VERY DESTRUCTIVE AND DANGEROUS.

13 Q. PAUL, IF THE UNITED STATES WAS INVADED BY A FOREIGN
14 POWER, WHAT WOULD BE YOUR POSITION?

15 A. I WOULD PICK UP A GUN AND ENLIST IN THE ARMED FORCES.

16 Q. HOW DO YOU CONSIDER THAT THAT POSITION GOES ALONG WITH
17 REFUSING TO REGISTER?

18 A. WELL, I THINK THAT'S THE MOST FRUSTRATING THING IS THAT
19 CONSTANTLY THEY TALK ABOUT HOW WE HAVE TO HAVE THIS
20 REGISTRATION FOR THE DEFENSE OF THE COUNTRY, AND THE TRUTH IS
21 THAT THE DRAFT DOESN'T HAVE ANYTHING TO DO WITH THE DEFENSE
22 OF THE COUNTRY. WE HAD GEN. TURNAGE HERE TELLING US THAT
23 WITHIN 13 DAYS HE CAN GET A HUNDRED THOUSAND PEOPLE TO DEFEND
24 AGAINST AN INVASION OF THE UNITED STATES. I COULD GET A
25 HUNDRED THOUSAND PEOPLE THERE IN LESS THAN 13 DAYS IN WE'RE

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1 ACTUALLY INVADED. IF THE RUSSIANS ARE TAKING FLORIDA WE'VE
2 GOT BEUROCRATS TALKING ABOUT GETTING PEOPLE THERE IN 13 DAYS.
3 THAT'S NOT HOW A FREE COUNTRY DEFENDS ITSELF. THERE WOULD BE
4 VOLUNTEERS THERE THE NEXT DAY AND IT'S VERY CLEAR THAT THE
5 ONLY TIME IN THIS CENTURY THAT WE WERE ATTACKED, IN PEARL
6 HARBOR, THERE WERE VOLUNTEERS THERE THE NEXT DAY. YOUNG
7 PEOPLE ARE NOT A BUNCH OF COWARDS AND THEY ARE NOT
8 UNPATRIOTIC. IN FACT, AFTER LEBANON, IN WHICH THE TRUCK BOMB
9 KILLED HUNDREDS OF SOLDIERS, AND IT WAS VERY CLEAR THAT
10 RONALD REAGAN HAD PUT THOSE PEOPLE THERE, HE CALLS THEM PEACE
11 KEEPERS AND YET THEY ARE BEING SHOT AT DAY AFTER DAY AFTER
12 DAY AND THEN A BUNCH OF THEM ARE KILLED AND YOU WOULD THINK,
13 ACCORDING TO THESE PEOPLE WHO ARE ALWAYS TALKING ABOUT HOW
14 YOUNG PEOPLE WON'T VOLUNTEER, YOU WOULD THINK THAT EVERYONE
15 WOULD STOP VOLUNTEERING, BUT IN FACT THEY SAW A THREAT TO OUR
16 COUNTRY BECAUSE OF THAT AND THE ENLISTMENT RATE WENT
17 TREMENDOUSLY UP. YOUNG PEOPLE WILL DEFEND THE COUNTRY AND
18 THEY'LL DO IT VOLUNTARILY. THEY DON'T WANT TO BE FORCED,
19 THOUGH, TO FIGHT THE TYPES OF WARS THAT WE HAVE FOUGHT WITH
20 THE DRAFT. VIET NAM, WE WERE ABLE TO GET INVOLVED IN THAT
21 AND FIGHT YEAR AFTER YEAR AFTER YEAR EVEN THOUGH THERE WAS NO
22 PURPOSE AND NO, YOU KNOW, NO POLICY IN WHICH WHAT ARE WE
23 DOING OVER THERE. NOBODY KNEW, BUT THE REASON THEY WERE ABLE
24 TO FIGHT THAT WAR IS BECAUSE NOBODY HAD A CHOICE. THEY JUST
25 FORCED MORE AND MORE PEOPLE INTO THE MILITARY AND CONTINUED

PEGGE J. MERKEL

JACOB - DIRECT

1 TO SEND THEM OVER THERE. AND SO I THINK THAT THIS DOCUMENT
2 AND EVEN RONALD REAGAN SAYS IT DECREASES OUR READINESS.
3 SELECTIVE SERVICE REGISTRATION IS A BOGUS WAY, IS A FALSE
4 WAY, TO TRY TO PRETEND THAT WE ARE PREPARED. THE WAY TO BE
5 PREPARED IS TO HAVE THE FREEDOMS IN THIS COUNTRY THAT ARE
6 WORTH DEFENDING AND ONE OF THOSE FREEDOMS IS THE CHOICE TO
7 SAY YES OR NO TO A WAR. I HAVE NO DOUBT THAT PEOPLE WILL BE
8 SAYING YES TO A WAR IF SOMEONE ATTACKS OUR COUNTRY.

9 I'M FACING SOME TIME IN PRISON, AND I AM WILLING TO
10 DO THAT, AND I KNOW THAT THERE'S AN AWFUL LOT OF OTHER PEOPLE
11 OUT THERE WHO ARE VERY MUCH WILLING TO DO THAT BUT WE'RE NOT
12 WILLING TO JUST GIVE UP THAT CHOICE AND SAY GO AHEAD TAKE US
13 TO VIET NAM AGAIN OR TAKE US TO LEBANON AND LET US FIGHT
14 BETWEEN ALL THESE RELIGIOUS FACTIONS AND SO ON. OUR COUNTRY
15 IS NOT OVER THERE, AND IT'S NOT RIGHT THAT OUR GOVERNMENT
16 WOULD FORCE US INTO SERVICE AND THEN SEND US OVERSEAS TO KILL
17 AND BE KILLED AND IN SOMEBODY ELSE'S COUNTRY.

18 Q. PAUL, WHEN YOU MADE YOUR DECISION NOT TO REGISTER, DID
19 YOU FEEL LIKE THE CONSTITUTION GAVE YOU A STRONG
20 UNDERPINNING?

21 A. I THINK THAT THE CONSTITUTION IS A WONDERFUL DOCUMENT,
22 AND IF PEOPLE WOULD JUST READ IT, ESPECIALLY PEOPLE IN
23 GOVERNMENT, WE'D BE IN A LOT BETTER SHAPE. THE CONSTITUTION,
24 THEY HAD PEOPLE READ SOME OF IT, CONGRESSMAN RON PAUL, READ
25 SOME OF THAT CONSTITUTION, AND IT VERY CLEARLY SAYS THEY HAVE

JACOB - DIRECT

1 THE POWER TO RAISE ARMIES, AND THEN IT STATES HOW THEY WOULD
2 DEAL WITH PEOPLE SO EMPLOYED. IT'S VERY CLEARLY TO RAISE
3 ARMIES YOU RAISE MONEY AND YOU EMPLOY THOSE PEOPLE. THAT'S
4 THE AMERICAN WAY. YOU DON'T FORCE PEOPLE TO WORK AT THIS JOB
5 OR THAT JOB. WE GOT RID OF THAT A LONG TIME AGO, AND TO ME
6 THE CONSTITUTION VERY CLEARLY STATES THAT THEY HAVE ONLY THAT
7 POWER, AND OF COURSE, ANY POWER THAT THEY HAVE IS CONTROLLED
8 BY THE BILL OF RIGHTS AND THE AMENDMENTS TO THE CONSTITUTION,
9 AND OF COURSE, THE 13TH AMENDMENT SAYS THAT NEITHER SLAVERY
10 NOR INVOLUNTARY SERVITUDE SHALL EXIST, AND WHAT IS THE DRAFT
11 BUT INVOLUNTARY SERVITUDE? YOU'RE SERVING AND IT'S
12 INVOLUNTARY. ANYONE CAN TELL JUST BY COMMON SENSE THAT
13 THAT'S WHAT THE DEFINITION OF INVOLUNTARY SERVITUDE IS AND YET
14 THEY DISREGARD THAT CONSTITUTION.

15 Q. PAUL, WHEN YOU MADE YOUR DECISION NOT TO REGISTER,
16 YOU'VE TESTIFIED EARLIER THAT THE DECISION WAS MADE BECAUSE
17 YOU DO NOT APPROVE OF THE SYSTEM?

18 A. YES.

19 Q. DID YOU SEE ANY WAY OF VOICING YOUR APPROVAL, ANY
20 MEANINGFUL WAY, OTHER THAN FAILING TO REGISTER?

21 A. NO, I DON'T THINK SO. BECAUSE I KNOW FOR ONE, AND I
22 FELT FROM THE VERY BEGINNING THAT THEY WOULD USE EVERY
23 REGISTRATION, WHICH GEN. TURNAGE WAS JUST HERE TODAY TALKING
24 ABOUT HOW THIS IS A SUPPORTED PROGRAM, LOOK AT OUR HIGH RATE
25 OF COMPLIANCE. WELL, THOSE PEOPLE WHO COMPLIED WERE

JACOB - DIRECT

1 THREATENED WITH YEARS IN PRISON, AND I KNEW THAT EVEN THOUGH
2 THEY THREATENED THAT, IF YOU DO GO AHEAD AND SIGN, THEY WILL
3 THEN USE THAT AS A SIGN OF APPROVAL. AND, YOU KNOW, I HAD --
4 PEOPLE HAD SUGGESTED YOU COULD WRITE SOMETHING ON THE FORM OR
5 SOMETHING, BUT THEY STILL PUT IT IN THE SAME BLANK AND THEY
6 STILL USE IT AS A SIGN OF APPROVAL. IN FACT, A FEDERAL JUDGE
7 IN ONE OF THE TRIALS OF ONE OF THE OTHER NON-REGISTRANTS
8 ORDERED THAT THEY ALLOW HIM TO WRITE ON HIS REGISTRATION CARD
9 THAT HE WAS A CONSCIENTIOUS OBJECTOR. IT'S NOT A WHOLE LOT
10 TO ASK. WELL, THE SELECTIVE SERVICE SAID RECENTLY BEFORE
11 CONGRESS THAT, WHILE THE JUDGE ORDERED THEM TO DO THAT, THAT
12 THEY HAVE NO RECORD OF HIM AS A C. O.. IN OTHER WORDS, YOU
13 SIGN THE INFORMATION, YOU WRITE THE INFORMATION AND SIGN IT,
14 AND THEY USE THAT INFORMATION REGARDLESS OF WHAT YOU HAVE
15 SAID OR WRITTEN ON THE FORM OR ANYTHING ELSE AS A SIGN OF
16 APPROVAL, AND I DON'T SEE ANY WAY EXCEPT FOR NOT REGISTERING
17 TO VOICE THAT DISAPPROVAL AND DISSENT.

18 Q. PAUL, BETWEEN THE TIME WHEN YOU WERE FIRST INDICTED IN
19 1982 UNTIL THE TIME THAT YOU WERE ARRESTED IN DECEMBER OF
20 1984, DID YOU EVER USE THE FALSE IDENTIFICATION CARD THAT'S
21 BEEN INTRODUCED INTO EVIDENCE HERE TO PASS YOURSELF OFF AS
22 SOMEONE ELSE?

23 A. NO, I DIDN'T.

24 Q. WERE YOU LIVING UNDER THE NAME OF PAUL JACOB?

25 A. YES, I WAS.

JACOB - DIRECT

- 1 Q. DID YOU EVER USE THAT FALSE IDENTIFICATION CARD TO TRY
2 SAY GET A JOB.
- 3 A. NO, I DID NOT.
- 4 Q. CASH A CHECK?
- 5 A. NO.
- 6 Q. ANYTHING AT ALL?
- 7 A. NO. IT WAS NEVER USED. IT WAS THERE BASICALLY SO THAT
8 IF I WANTED TO LEAVE ARKANSAS AND GO ON THE RUN AND WORK
9 UNDER A DIFFERENT NAME IT WOULD BE EASIER, BUT I HAD ALREADY
10 MADE THE DECISION THAT I WAS GOING TO -- I HAD BEEN
11 UNDERGROUND, AND I HAD LIVED THAT WAY AND I HAD MADE THE
12 DECISION TO COME BACK AND TO LIVE OPENLY AS MUCH AS I COULD.
13 I VERY MUCH RESENTED NOT BEING ABLE TO BE EVEN MORE OPEN.
- 14 Q. WHEN DID YOU RETURN TO ARKANSAS?
- 15 A. IN NOVEMBER OF 1983.
- 16 Q. AND YOU WERE ARRESTED IN DECEMBER OF '84?
- 17 A. RIGHT.
- 18 Q. SO YOU LIVED FOR 13 MONTHS IN NORTH LITTLE ROCK BEFORE
19 YOU WERE ARRESTED?
- 20 A. YES.
- 21 Q. WHAT NAME WERE YOU LIVING UNDER?
- 22 A. PAUL JACOB.
- 23 Q. DID YOU FILE INTERNAL REVENUE TAX REPORTS EVERY YEAR?
- 24 A. WE FILED IN 1984, YES, IN APRIL OF '84 MY WIFE AND I
25 JOINTLY FILED A TAX RETURN.

JACOB - DIRECT

1 Q. WHAT NAME DID YOU USE WHEN YOU FILED THAT TAX RETURN?

2 A. PAUL JACOB.

3 Q. PAUL, WHEN YOU MADE YOUR DECISION NOT TO REGISTER, WAS
4 IT YOUR CRIMINAL INTENT TO VIOLATE THE SELECTIVE SERVICE
5 REGISTRATION LAW?

6 A. NO. I IN NO WAY, YOU KNOW, I DON'T WANT TO BREAK THE
7 LAW, I DON'T WANT TO BE HERE TODAY. I DON'T WANT TO BE IN
8 OPPOSITION TO MY GOVERNMENT. I WOULD VERY MUCH LIKE TO SEE A
9 SITUATION IN WHICH PEOPLE SUCH AS MYSELF COULD HAVE A RIGHT
10 TO THEIR OPINION AND NOT BE FORCED TO MAKE SOME STATEMENT OF
11 APPROVAL FOR A SYSTEM WE DON'T APPROVE, AND I WOULD LIKE TO
12 SEE THERE NOT BE A DRAFT THERE AND A REGISTRATION.

13 Q. DID YOU FEEL LIKE THE FIRST AMENDMENT TO THE
14 CONSTITUTION GAVE YOU THE OPTION OF VOICING THIS DISAPPROVAL?

15 A. I THINK THE FIRST AMENDMENT CERTAINLY DOES GIVE YOU THAT
16 OPTION, AND I THINK THAT IN THIS CASE THE ONLY WAY TO HAVE
17 THAT OPTION THAT'S GUARANTEED UNDER THE FIRST AMENDMENT WAS
18 TO NOT REGISTER AND SPECIFICALLY TO NOT SIGN YOUR NAME ON
19 THAT REGISTRATION FORM. WHEN YOU HAD ASKED ME A WEEK AGO IF
20 THE INFORMATION WAS ANY PROBLEM, WE TENDERED THAT INFORMATION
21 TO THE DISTRICT OR THE U. S. ATTORNEY IN THIS CASE AND TO THE
22 POST OFFICE AND HAVE IN FACT THE INFORMATION THAT I GAVE HERE
23 TODAY HAS BEEN GIVEN TO EVERYONE. THE ONLY THING IS I WILL
24 NOT SIGN THAT FORM. I CAN'T SIGN THAT FORM.

25 MR. STOLL: YOUR HONOR, MAY WE APPROACH THE BENCH A

JACOB - DIRECT

1 MINUTE.

2 (THE FOLLOWING PROCEEDINGS AT THE BENCH.)

3 MR. STOLL: I THINK HE WAS GETTING READY TO GO INTO
4 THE CURRENT EXHIBIT WE TALKED ABOUT IN CHAMBERS. I THOUGHT
5 THE COURT HAD ALREADY MADE A RULING THAT THIS WAS AFTER --

6 MR. VAUGHT: HE'S ALREADY TESTIFIED TO IT.

7 MR. STOLL: HE JUST BLURTED IT OUT A MINUTE AGO
8 THAT HE TENDERED THE INFORMATION, BUT I STILL OBJECT.

9 THE COURT: I SUSTAIN THE GOVERNMENT'S OBJECTION.

10 MR. VAUGHT: JUST FOR THE RECORD I WANT TO AGAIN
11 OFFER IT AS A PART OF MR. JACOB'S TESTIMONY, THAT HE'S
12 ALREADY TESTIFIED TO IT.

13 THE COURT: OF COURSE, COUNSEL, YOU'RE AWARE YOU
14 SHOULD HAVE DONE THAT OUT OF THE PRESENCE OF THE JURY.
15 FORTUNATELY MR. STOLL CAUGHT IT BEFORE YOU SUBMITTED IT. DO
16 YOU WANT TO PROFFER IT NOW?

17 MR. VAUGHT: I DO PROFFER IT, YOUR HONOR. IT'S
18 ALREADY IN THE RECORD FROM THE PRETRIAL HEARING ANYWAY.

19 MR. STOLL: WE'D OBJECT TO ANY MORE QUESTIONS OR
20 ANSWERS REGARDING IT.

21 MR. VAUGHT: I WON'T QUESTION HIM FURTHER ON IT.

22 (THE FOLLOWING PROCEEDINGS IN OPEN COURT, JURY PRESENT.)

23 MR. VAUGHT: YOU MAY ASK.

24 CROSS EXAMINATION

25 BY MR. STOLL:

JACOB - CROSS

1 Q. MR. JACOB, I THINK YOU JUST FINISHED STATING THAT YOU
2 DON'T PARTICULARLY WANT TO BE HERE TODAY AND YOU DON'T WANT
3 TO BREAK THE LAW?

4 A. NO, SIR, I DON'T WANT TO DO EITHER OF THOSE THINGS. I
5 CERTAINLY DON'T WANT TO BREAK THE LAW IF I CAN HELP IT.

6 Q. WERE YOU AWARE WHEN YOU FAILED TO REGISTER THAT YOU WERE
7 BREAKING THE LAW?

8 A. IT'S ALL A MATTER OF WHETHER THAT IS THE LAW OR NOT. I
9 KNOW THAT IN THE EARLY 60S WHEN MARTIN LUTHER KING WAS
10 DEMONSTRATING AND SO ON IN ALABAMA THE POLICE SEEMED TO THINK
11 HE WAS BREAKING THE LAW AND AS GEN. TURNAGE SAID HERE TODAY
12 HE JOYFULLY ACCEPTED THAT, BUT AS THEY WERE BEATING HIM WITH
13 NIGHT STICKS AND SO ON, I DOUBT THAT THAT WAS THE CASE, AND I
14 THINK THAT WHEREAS HE WAS MAYBE BREAKING SOME LAW IN ALABAMA,
15 I THINK THAT THE LAWS OF THIS COUNTRY AND THE CONSTITUTION
16 SUPPORTED EXACTLY WHAT HE DID, AND I THINK AS THE YEARS HAVE
17 UNFOLDED WE REALIZE THAT HE REALLY WASN'T BREAKING THE LAW,
18 HE WAS UPHOLDING THE VERY HIGHEST LAWS THAT WE HAVE IN THIS
19 COUNTRY.

20 Q. I STILL DON'T THINK YOU ANSWERED MY QUESTION. IT SEEMS
21 LIKE TO ME YOU'RE TELLING US ON ONE HAND THAT YOU OPPOSE THE
22 REGISTRATION LAW AND YOU'RE SPEAKING OUT AGAINST IT, WHICH IS
23 FINE, AND THEN ON THE OTHER HAND YOU'RE TELLING US THAT YOU
24 DON'T KNOW WHETHER OR NOT IT'S REALLY THE LAW OR NOT. IF
25 IT'S THE LAW AND THE COURT IS GOING TO INSTRUCT ON WHAT THE

JACOB - CROSS

1 LAW IS AND THE STATUTES, JUST TELL THE LADIES AND GENTLEMEN
2 OF THE JURY WERE YOU AWARE THAT YOU HAD A DUTY TO REGISTER?

3 A. I WAS AWARE THAT THERE WAS A REGISTRATION PROGRAM. I
4 FELT I HAD A DUTY NOT TO REGISTER. I BELIEVE THE
5 CONSTITUTION, WHICH I THINK EVERY CITIZEN HAS A RIGHT TO READ
6 AND INTERPRET IS THE LAW OF THE LAND AND I MEAN, MAYBE I'M
7 NOT ANSWERING YOUR QUESTION, BUT MY INTERPRETATION OF WHAT
8 THE LAW IS I THINK MAY BE DIFFERENT FROM YOUR INTERPRETATION,
9 AND I MAY HAVE BROKEN SELECTIVE SERVICE STATUTES, BUT I FELT
10 LIKE I WAS OBEYING THE HIGHEST LAW OF THIS LAND, WHICH IS THE
11 CONSTITUTION OF THE UNITED STATES AND THE BILL OF RIGHTS.

12 Q. I THINK YOU STATED ON DIRECT TESTIMONY THAT YOU WERE
13 BORN IN 1960?

14 A. YES, SIR, I WAS.

15 Q. AND THAT YOU WERE BORN IN EVERGREEN PARK ILLINOIS, IS
16 THAT CORRECT?

17 A. THAT'S CORRECT. I DON'T REMEMBER BUT.

18 Q. YOU DON'T DISPUTE THAT?

19 A. NO, I DO NOT, SIR.

20 Q. YOU EVENTUALLY MOVED TO NORTH LITTLE ROCK, ARKANSAS, AND
21 GRADUATED FROM NORTHEAST HIGH SCHOOL?

22 A. YES, SIR.

23 Q. I THINK GRADUATED IN 1978?

24 A. YES, SIR, I DID.

25 Q. THEN DID YOU LIVE IN THIS COMMUNITY FROM THAT PERIOD ON?

JACOB - CROSS

1 A. I WENT TO SCHOOL IN '78-79 AT WESTMINSTER COLLEGE WHICH
2 IS A SMALL COLLEGE IN MISSOURI, AND THEN I RETURNED AND WENT
3 TO SCHOOL AT U. A. L. R. AND LIVED HERE FROM '79 THROUGH '81
4 WHEN I MOVED.

5 Q. SO YOU WERE HERE DURING THE PERIOD OF TIME THAT
6 REGISTRATION CAME IN EFFECT?

7 A. WELL, MY RESIDENCE WAS HERE. PART OF THAT TIME I WAS
8 TRAVELING WORKING ON ED CLARKS CAMPAIGN FOR PRESIDENT AS A
9 LIBERTARIAN AND DOING POLITICAL WORK OUTSIDE THE STATE ALSO,
10 BUT MY RESIDENCE WAS HERE.

11 Q. AND YOU WERE AWARE THAT THERE WAS A SELECTIVE SERVICE
12 PROGRAM WHICH REQUIRED REGISTRATION?

13 A. I WAS AWARE OF THAT PROGRAM, YES, SIR.

14 Q. AND YOU WERE AWARE THAT YOU FELL WITHIN THE
15 CLASSIFICATION BEING BORN IN 1960 THAT THEY WANTED YOU TO
16 REGISTER?

17 A. I REALIZED THAT THEY WANTED ME TO REGISTER, YES, SIR.

18 Q. AND THAT YOU HAVE, YOU STATED HERE TODAY, YOU HAVE
19 FAILED TO REGISTER?

20 A. I WILL NOT AND HAVE NOT SIGNED MY NAME ON THE
21 REGISTRATION FORM.

22 Q. YOU WERE TALKING ABOUT THE DRAFT AND BEING INVOLUNTARY
23 SERVITUDE. THERE'S BEEN MUCH TESTIMONY BY MR. COX AND GEN.
24 TURNAGE AND OTHERS THAT THE DRAFT IS NOT IN EXISTENCE. ARE
25 YOU AWARE OF THAT?

JACOB - CROSS

1 A. I'M VERY AWARE OF THEIR TESTIMONY BOTH HERE TODAY AND
2 THROUGHOUT THIS REGISTRATION PROGRAM, AND WHILE THEY ARE
3 TELLING THE AMERICAN PEOPLE THROUGH THOSE PUBLIC SERVICE
4 ANNOUNCEMENTS THAT IT'S NO BIG DEAL, THAT TAKES A SPECIAL ACT
5 OF CONGRESS, I'LL TELL YOU SOMETHING, THAT THERE'S NO
6 DIFFERENCE BETWEEN AN ACT OF CONGRESS AND THIS QUOTE "SPECIAL
7 ACT OF CONGRESS" THEY KEEP TALKING ABOUT. THEY ARE TRYING TO
8 PRETEND THAT IT TAKES A WHOLE LOT. THERE ARE BILLS IN
9 CONGRESS RIGHT NOW TO BRING BACK THE DRAFT. GEN. TURNAGE IN
10 1983 SAID THAT THEY WERE READY TO CONSCRIPT, THEY SET UP
11 DRAFT BOARDS ALL ACROSS THE COUNTRY AND WHILE THEY ARE DOING
12 THIS, THEY ARE PRETENDING TO YOUNG PEOPLE THAT IT'S NO BIG
13 DEAL, THAT THERE IS NO DRAFT BEHIND IT, THEY SAY THAT EVERY
14 TIME, BUT THE ONLY REASON TO HAVE A REGISTRATION PROGRAM IS
15 TO DRAFT, AND I DON'T BELIEVE THE DRAFT IS GOING TO BE USED
16 FOR NATIONAL DEFENSE, BECAUSE IT'S NOT NECESSARY TO DEFEND
17 OUR COUNTRY, IT'S ONLY NECESSARY IF THEY ARE GOING TO FIGHT
18 SOME WAR THAT PEOPLE DON'T AGREE WITH, AND THEN THEY ARE
19 GOING TO HAVE TO FORCE YOUNG PEOPLE TO FIGHT IT. THAT'S WHAT
20 THE DRAFT IS ALL ABOUT, FORCING YOUNG PEOPLE TO DO SOMETHING
21 THAT THEY DON'T BELIEVE IN, BECAUSE IF THEY BELIEVED IN IT,
22 THEY WOULD VOLUNTEER, AND I THINK THEY WILL DEFINITELY
23 VOLUNTEER IF IT'S ABOUT DEFENDING THE COUNTRY, BUT THE DRAFT,
24 AS WE ALL KNOW, IN VIET NAM WAS NOT ABOUT DEFENDING THE
25 COUNTRY, IT WAS ABOUT BEING FORCED TO FIGHT A VERY STUPID AND

JACOB - CROSS

1 AWFUL WAR A LONG WAY AWAY FROM THIS COUNTRY.

2 Q. AGAIN, THOSE ARE YOUR PERSONAL BELIEFS THAT YOU HAVE
3 JUST STATED ABOUT THE DRAFT?

4 A. YES, SIR, THEY ARE.

5 Q. THE DRAFT IS NOT IN EXISTENCE AS OF TODAY, IS IT?

6 A. NO.

7 Q. AND IT WAS NOT IN 1980, WAS IT?

8 A. NO, SIR.

9 Q. NOR 1981? NOR 1982. THERE IS NOT DRAFT, IS THERE?

10 A. NO, AND I THINK THE REASON THERE ISN'T ONE IS BECAUSE
11 YOUNG PEOPLE SUCH AS MYSELF AND HUNDREDS OF THOUSANDS OF
12 OTHERS HAVE HAD THE COURAGE TO SAY NO WE'RE NOT GOING TO
13 APPROVE THE REGISTRATION PROGRAM AND THEREFORE THE PEOPLE IN
14 WASHINGTON REALIZE THAT THE DRAFT IS NOT SUPPORTED BY THE
15 AMERICAN PEOPLE.

16 Q. WELL, THE REGISTRATION PROGRAM WAS IMPLEMENTED BY
17 PRESIDENTIAL PROCLAMATION AND WAS FUNDED BY CONGRESS?

18 A. YES, SIR.

19 Q. AND YOU HEARD GEN. TURNAGE TALKING ABOUT THE SOLOMON
20 AMENDMENTS. ARE YOU AWARE OF THOSE?

21 A. YES, I AM.

22 Q. IF I UNDERSTAND THOSE, THEY DENY BENEFITS, EDUCATIONAL
23 BENEFITS, STUDENT LOANS AND THAT, UNLESS YOU HAVE REGISTERED
24 FOR THE DRAFT AND CONGRESS HAS PASSED THAT LAW, HAVE THEY
25 NOT?

JACOB - CROSS

1 A. I THINK THAT'S FINE. I THINK THAT --

2 Q. GEN. TURNAGE --

3 A. I THINK THEY HAVE A RIGHT TO WITHHOLD THOSE BENEFITS AND
4 I DEFINITELY THINK IF THEY PASS THAT LAW, I'M NOT INTERESTED
5 IN THOSE BENEFITS, AND I THINK THAT PEOPLE SHOULD NOT BE
6 ASKING FOR THOSE BENEFITS FROM THE GOVERNMENT.

7 Q. GEN. TURNAGE ALSO TESTIFIED ABOUT SEVERAL STATES ALSO
8 PASSING SIMILAR STATUTES?

9 A. VIRGINIA AND TENNESSEE HAVE TRIED. I DON'T KNOW IF THEY
10 HAVE PASSED THEM.

11 Q. AND IT WOULD TAKE AN ACT OF CONGRESS TO IMPLEMENT A
12 DRAFT?

13 A. ACTUALLY I DON'T KNOW THAT THAT'S THE CASE. I BELIEVE
14 THAT THE PRESIDENT COULD CALL A STATE OF EMERGENCY AND DO
15 QUITE A NUMBER OF THINGS, INCLUDING CONSCRIPTING CITIZENS,
16 WITHOUT THE APPROVAL OF CONGRESS. SO I THINK THAT THAT ISN'T
17 ENTIRELY CORRECT.

18 Q. YOU ALSO HEARD I THINK IT WAS MR. COX TALKING ABOUT THAT
19 THE REGISTRATION REQUIRES EVERY PERSON 18, WHO REACHES AGE 18
20 TO REGISTER. AFTER THEY REGISTER THEY STILL HAVE ALL THEIR
21 RIGHTS AND PRIVILEGES THAT THEY ATTAINED BEFORE AS FAR AS ANY
22 TYPE OF CLASSIFICATION, IS THAT CORRECT?

23 A. WELL, I DON'T KNOW WHAT -- I DON'T BELIEVE THAT
24 GOVERNMENT HANDS OUT PRIVILEGES. HE TALKS ABOUT IT AND I'VE
25 READ THAT --

JACOB - CROSS

1 Q. MY QUESTION WAS DID YOU HEAR THAT TESTIMONY?

2 A. I HEARD THE TESTIMONY --

3 Q. OKAY.

4 A. -- OF GEN. TURNAGE.

5 Q. THAT WAS MR. COX.

6 A. IS THIS MR. COX? I DON'T REMEMBER HIM MENTIONING
7 PRIVILEGES AND SO ON BUT I WILL THAT ACCEPT DID.

8 Q. AND YOU STILL HAVE -- ANYONE WOULD STILL HAVE THEIR
9 RIGHT TO APPLY FOR CONSCIENTIOUS OBJECTOR?

10 A. THE RIGHT TO --

11 Q. STUDENT DEFERMENT

12 A. THE RIGHT THAT THEY HAVE --

13 Q. OR ANY OTHER TYPE OF CLASSIFICATION?

14 THE COURT: JUST A SECOND. MR. JACOB, I'D LIKE FOR
15 YOU TO LISTEN AT MR. STOLL. LET HIM COMPLETE HIS QUESTION.
16 WHEN YOU REPLY, JUST ANSWER THE QUESTION. DON'T GIVE ANY
17 GRATUITOUS STATEMENTS. NOW, IF YOUR ATTORNEY WOULD LIKE FOR
18 YOU TO ELABORATE ON YOUR ANSWER, THEY WILL DO SO ON REDIRECT.
19 UNDERSTAND?

20 THE WITNESS: YES, SIR.

21 THE COURT: MR. STOLL, PERMIT HIM TO COMPLETE HIS
22 ANSWER BEFORE YOU POSE ANOTHER QUESTION.

23 MR. STOLL: YES, YOUR HONOR.

24 THE COURT: ALL RIGHT.

25 BY MR. STOLL:

JACOB - CROSS

1 Q. MR. COX WAS TALKING ABOUT THAT AFTER REGISTRATION AN
2 INDIVIDUAL STILL HAS ANY RIGHT HE MIGHT HAVE BEFORE
3 REGISTRATION CONCERNING CLASSIFICATION. ARE YOU FAMILIAR
4 WITH CLASSIFICATION?

5 A. CONCERNING SPECIFICALLY CLASSIFICATION YES, THEY WOULD
6 ALTHOUGH I WOULD LIKE TO ELABORATE.

7 Q. AND BY CLASSIFICATION WE'RE TALKING ABOUT CONSCIENTIOUS
8 OBJECTOR STATUS, STUDENT DEFERMENT, PHYSICAL IMPAIRMENT AND
9 ANY OTHER NUMBER OF THINGS THAT A PERSON COULD APPLY FOR, IS
10 THAT CORRECT?

11 A. A PERSON CAN APPLY FOR THOSE ALTHOUGH I WOULD NOT.

12 Q. AND THAT IS STILL AVAILABLE TO THEM?

13 A. I IMAGINE IT IS IF THEY FILE IT WITHIN THAT TEN DAY
14 PERIOD.

15 Q. OKAY. YOU TESTIFIED SOME ABOUT VOLUNTEERS, AND IF WE
16 WERE INVADED WE WOULDN'T HAVE ANYTHING TO WORRY ABOUT BECAUSE
17 THERE WOULD BE ALL VOLUNTEER ENLISTMENT PROGRAM?

18 A. YES.

19 Q. I THINK GEN. TURNAGE TESTIFIED THAT DURING WORLD WAR II,
20 OF COURSE, RIGHT AFTER PEARL HARBOR THERE WAS A LARGE AMOUNT
21 OF PEOPLE WHO VOLUNTEERED, BUT THEY ALSO HAD THE DRAFT TO
22 IMPLEMENT THE ONGOING OF WORLD WAR II. WERE YOU AWARE OF
23 THAT?

24 A. I'M AWARE THAT IN WORLD WAR II THEY HAD THE DRAFT BEFORE
25 THE WAR EVER STARTED. SO IN OTHER WORDS, THERE WAS ALREADY A

JACOB - CROSS

1 DRAFT PROGRAM IN PLACE. THEN WHEN PEARL HARBOR HAPPENED
2 THERE WERE MILLIONS OF VOLUNTEERS THE NEXT DAY. I MEAN, WE
3 HAD JUST BEEN ATTACKED, AND IF YOU LOOK AT THE HISTORY IT'S
4 THE FIRST TIME WE WERE ATTACKED IN THIS CENTURY, AND IT WAS A
5 VERY SERIOUS SITUATION. AFTER THAT, OF COURSE, EVERYONE WHO
6 DIDN'T IMMEDIATELY ENLIST WAS BEING DRAFTED AT SUCH A HIGH
7 RATE THAT I DON'T THINK THERE WAS ANY CHANCE FOR THERE TO BE
8 ENLISTMENT SIX MONTHS LATER, BECAUSE EVERYONE WHO DIDN'T
9 ENLIST WAS ALREADY DRAFTED, SO I THINK THE STATEMENT THAT THE
10 DRAFT WAS NECESSARY IN WORLD WAR II IS NOT ONLY INCORRECT,
11 BUT I THINK IT'S AN INSULT TO THE PEOPLE WHO FOUGHT THAT WAR,
12 BECAUSE THEY CERTAINLY DIDN'T HAVE TO BE FORCED TO DEFEND
13 THEIR COUNTRY AT THAT TIME.

14 Q. I TAKE IT, THEN, IT'S JUST A PERSONAL STATEMENT OF
15 YOURS. YOU DON'T HAVE ANY STATISTICS TO BACK IT UP OR TALK
16 TO THE PEOPLE BACK THERE. THE FACT IS THAT THERE WAS A DRAFT
17 DURING WORLD WAR II?

18 A. THERE WAS A DRAFT BEFORE WORLD WAR II AND THROUGHOUT THE
19 WAR, BUT I THINK THAT THE PRIMARY MOTIVATION WAS VOLUNTEERING
20 FOR THAT WAR, AND I THINK THAT IT WAS A JUST WAR BECAUSE WE
21 WERE ATTACKED AND WE WERE DEFENDING OUR COUNTRY.

22 Q. SO IF I UNDERSTAND IT, THEN, EACH INDIVIDUAL INCLUDING
23 YOURSELF, SHOULD HAVE THE RIGHT TO MAKE THE DETERMINATION AS
24 WHAT IS A JUST AND WHAT IS AN UNJUST WAR?

25 A. YES. I THINK THAT'S THE VERY THING THAT KEEPS OUR

JACOB - CROSS

1 COUNTRY FROM FIGHTING UNJUST WARS IS THAT -- AND I THINK
2 THAT'S THE BEAUTIFUL PART OF OUR SOCIETY IS THAT WE RESPECT
3 THE RIGHT OF THE INDIVIDUAL, AND I THINK OUR WORST MISSTAKES
4 HAVE BEEN WHEN WE STOPPED RESPECTING THOSE RIGHTS OF THE
5 INDIVIDUAL.

6 Q. AND IRREGARDLESS OF WHAT CONGRESS, WHO IS ELECTED BY THE
7 PEOPLE, SENT TO WASHINGTON TO REPRESENT THE PEOPLE, DECIDES
8 OR MIGHT DECLARE A WAR OR NOT A WAR, IT REALLY DOESN'T MATTER
9 AS FAR AS YOU'RE CONCERNED?

10 A. WELL, IT DOES MATTER WHAT CONGRESS DECLARES, BECAUSE I
11 RECOGNIZE THAT THEY DECLARE WAR IN WORLD WAR II AND YET IN
12 KOREA, WHEN WE FOUGHT UNDER THE U. N. FLAG AND PEOPLE WERE
13 DRAFTED FOR THAT WAR AND VIET NAM, CONGRESS NEVER DECLARED
14 WAR. SO IT'S VERY CLEAR THAT WE CAN HAVE A DRAFT AND FIGHT A
15 WAR WITHOUT CONGRESS EVER DECLARING IT, AND OF COURSE,
16 CONGRESS IS NOT ALWAYS THE VOICE OF THE PEOPLE BUT THEY TEND
17 TO BE MORE THE VOICE THAN A PRESIDENT. THAT'S JUST ONE MAN,
18 AND THEY'VE BEEN ABLE SAY FIGHT TWO WARS AND KILL HUNDREDS OF
19 THOUSANDS OF PEOPLE ON BOTH SIDES WITHOUT CONGRESS EVER
20 DECLARING WAR.

21 Q. THERE'S BEEN A LOT OF DEBATE OVER THE VARIOUS WARS BY
22 BOTH SIDES PRO AND CON, RIGHT?

23 A. I THINK THERE ARE PEOPLE ON BOTH SIDES, YES.

24 Q. AND YET WHENEVER CONGRESS PASSES A LAW TO IMPLEMENT THE
25 DRAFT, TO DECLARE WAR OR NOT TO DECLARE WAR, THEN THE COUNTRY

JACOB - CROSS

1 HAS SPOKEN THROUGH CONGRESS?
2 A. I DON'T THINK THAT THAT'S ALWAYS THE CASE. I THINK THAT
3 WE ALL KNOW TIMES IN WHICH CONGRESS HAS BOWED TO SPECIAL
4 INTERESTS AND HAS FOUGHT WARS OR DONE OTHER THINGS THAT
5 DIDN'T BENEFIT THE GREAT BULK OF THE AMERICAN PEOPLE AND THAT
6 IN FACT MOST PEOPLE WERE ANGRY ABOUT, BUT IT'S SO DIFFICULT
7 TO HAVE ANY REAL CHECK ON YOUR CONGRESSMEN AND ON ELECTED
8 LEADERS, THAT IT'S A SITUATION I THINK IN WHICH VERY OFTEN
9 THEY DON'T SPEAK FOR THE WILL OF THE AMERICAN PEOPLE, AND I
10 WOULD ADD THAT WHEN THEY DO SPEAK FOR THE MAJORITY AND THAT
11 SPEECH IS AIMED AT INSLAVING OR IN SOME WAY HARMING THE
12 MINORITY THAT THE MINORITY HAS A VERY REAL RIGHT TO USE
13 WHATEVER METHODS. I KNOW THAT GEN. TURNAGE IN HIS TESTIMONY
14 BEFORE CONGRESS MENTIONED DANIEL WEBSTER AND SAID THAT DANIEL
15 WEBSTER WAS A GREAT POLITICAL LEADER. WELL, THIS IS A
16 DEFENDER OF THE CONSTITUTION, A GREAT AMERICAN, AND HE NOT
17 ONLY SAID THAT WE SHOULD BE AGAINST THE DRAFT BUT HE URGED
18 HIS CONSTITUENTS TO RESIST THE DRAFT. SO I THINK IT IS VERY
19 CLEAR THAT WHEN GOVERNMENT BECOMES OPPRESSIVE, WHEN PEOPLE
20 FEEL THAT GOVERNMENT HAS OVERSTEPPED THEIR BOUNDS AND THIS IS
21 WRITTEN IN THE DECLARATION OF INDEPENDENCE THAT PEOPLE HAVE
22 THE RIGHT AND IN FACT, NOT ONLY THE RIGHT BUT THE DUTY. IT'S
23 NOT JUST THAT THEY HAVE THE RIGHT TO CHANGE THEIR GOVERNMENT
24 BUT THEY ARE SUPPOSED TO. THEY ARE SUPPOSED TO DO WHAT THEY
25 THINK IS RIGHT. THEY ARE SUPPOSED TO TRY TO MAKE THEIR

JACOB - CROSS

1 COUNTRY, NOT SKIP AROUND THE LAW BUT TRY TO MAKE THOSE LAWS
2 RIGHT. IF THE GOVERNMENT IS RIGHT DEFEND IT, AND IF IT'S
3 WRONG RIGHT IT.

4 Q. AND HOW SHOULD YOU RIGHT IT?

5 A. I THINK THAT YOU SHOULD RIGHT IT BY SPEAKING OUT AND BY
6 DOING WHAT IS NECESSARY TO LET PEOPLE KNOW THAT THEY CAN
7 CHANGE THAT, AND IF THAT MEANS NOT SIGNING YOUR NAME ON A
8 PIECE OF PAPER THAT WILL BE USED AS AN APPROVAL FOR A DRAFT
9 PROGRAM, I THINK THAT'S WHAT YOU HAVE TO DO REGARDLESS OF
10 WHAT THE PENALTY IS.

11 Q. MR. CLARK TESTIFIED IN YOUR CASE AND I THINK HE RAN FOR
12 PRESIDENT ON THE LIBERTARIAN GROUND.

13 A. YES.

14 Q. AND HE WAS TRYING TO PUT FORTH HIS VIEWS TO THE PEOPLE
15 HOW HE THOUGHT THINGS SHOULD BE DONE. IT WAS A PUBLIC FORUM
16 AND THE PEOPLE HAD A CHANCE TO VOTE ON IT, IS THAT RIGHT?

17 A. WELL, SOME PEOPLE HAD A CHANCE TO VOTE ON IT, YES.

18 Q. SO THERE IS A WAY AND THERE IS A PROCEDURE IF YOU
19 DISAGREE WITH THE LAW, AND I SUBMIT THAT EVERYONE HAS A RIGHT
20 TO DISAGREE WITH SOME LAWS THAT CONGRESS PASSED, BUT IT'S
21 STILL THE DUTY OF EVERY CITIZEN TO OBEY THE LAW?

22 A. THAT'S NOT WHAT THOMAS JEFFERSON WROTE IN THE
23 DECLARATION OF INDEPENDENCE AND THAT'S WHAT FORMED OUR
24 COUNTRY. HE WROTE THAT IT IS THE DUTY OF A CITIZEN, IF HE
25 FEELS THAT THE LAW IS OPPRESSIVE, TO CHANGE THAT LAW, TO DO

JACOB - CROSS

1 WHATEVER IS NECESSARY, AND I DON'T THINK I'VE HARMED ANYONE
2 IN TRYING TO STOP THIS LAW AND TRYING TO STOP FROM HAVING TO
3 APPROVE THIS LAW. I DON'T THINK ANYONE CAN BE BROUGHT ON THE
4 STAND WHO WILL SAY THAT I HAVE HARMED THEM IN ANY WAY. SO I
5 DON'T THINK I'M DOING SOMETHING THAT'S DESTRUCTIVE OF THE
6 COUNTRY, I THINK I'M DOING SOMETHING THAT IS VERY IMPORTANT.

7 Q. WHAT ABOUT ALL THE --

8 A. I'M SORRY. I WOULD ADD THAT IN 1980 NOT ONLY DID ED
9 CLARK SAY THAT THE DRAFT WAS WRONG BUT RONALD REAGAN SAID
10 THAT THE DRAFT OR DRAFT REGISTRATION DESTROYS THE VERY VALUES
11 THAT OUR SOCIETY IS COMMITTED TO DEFENDING, THAT IN OTHER
12 WORDS, YOU CAN'T ENSLAVE PEOPLE TO DEFEND FREEDOM. SLAVES
13 MAKE LOUSY DEFENDERS OF FREEDOM AND RONALD REAGAN MADE THAT
14 PROMISE TO THE AMERICAN PEOPLE AND THEY COULD VOTE FOR HIM,
15 BUT UNFORTUNATELY THEN HE TURNED AROUND ON HIS PROMISE. SO I
16 THINK TO SAY THAT THERE ARE OTHER CHANNELS TO VOICE YOUR
17 DISSENT, I THINK THOSE CHANNELS HAVE BEEN CLOSED.

18 Q. YOU'RE TALKING ABOUT YOU DON'T THINK THAT ANYONE HAS
19 BEEN HARMED BY YOUR FAILING TO REGISTER. WHAT ABOUT ALL THE
20 THOUSANDS AND MILLIONS OF YOUNG MEN WHO DID REGISTER?

21 A. I THINK THAT MOST OF THOSE YOUNG PEOPLE WHO DID REGISTER
22 REGISTERED OUT OF THE THREAT OF BEING IMPRISONED OR OUT OF
23 NOT BEING ABLE TO GET STUDENT AID OR ANY NUMBER OF THINGS,
24 AND I DON'T THINK THAT THEY SUPPORT THE PROGRAM NOR HAVE THEY
25 VOICED ANY ANGER AT ME FOR NOT BEING WILLING TO SIGN MY NAME

JACOB - CROSS

1 ON THAT. I THINK IF THEY ARE HARMED IN ANY WAY THEY ARE NOT
2 HARMED BY ME NOT REGISTERING, THEY WERE HARMED BY THE
3 SELECTIVE SERVICE SYSTEM TAKING THEM AWAY FROM THEIR FAMILIES
4 AND AWAY FROM THEIR LIVES AND FORCING THEM INTO THE MILITARY.
5 I DON'T THINK THE SELECTIVE SERVICE CAN TAKE PEOPLE TO A WAR
6 LIKE VIET NAME AND THEN BLAME IT ON THE FEW PEOPLE WHO HAD
7 THE COURAGE TO STAND AGAINST THAT DIRECTION THE GOVERNMENT
8 WAS HEADED FROM THE BEGINNING.

9 Q. MR. JACOB, WE REALLY WON'T KNOW WHY THEY REGISTERED
10 UNLESS WE MARCHED EVERYONE OF THEM IN HERE BEFORE THE JURY,
11 WOULD WE?

12 A. WELL, I THINK WE WOULD BECAUSE THERE HAVE BEEN PUBLIC
13 RELATIONS STUDIES DONE BY THE SELECTIVE SERVICE WHICH I'VE
14 READ, AND IN FACT WHICH I HAVE ON THE TABLE OVER THERE, AND
15 THEY SAY 80 PERCENT OF THE PEOPLE WHO DON'T REGISTER ARE
16 VERY, VERY MUCH AWARE OF THE LAW BUT THAT THEY FEEL THAT
17 REGISTERING WOULD BE, AS IN MY CASE A SIGN OF APPROVAL FOR
18 THE LAW THAT THEY DON'T APPROVE OR THAT THEY FEEL THAT THERE
19 IS A VERY REAL DRAFT BEHIND THIS IF ENOUGH PEOPLE REGISTER,
20 AND IN SO DOING APPROVE OR ENDORSE THE PROGRAM. SO I THINK
21 WE DO HAVE SOME INDICATION OF WHY PEOPLE REGISTER AND WHY
22 THEY DON'T.

23 Q. GEN. TURNAGE WAS TALKING ABOUT EQUITY IF WE HAD TO GO TO
24 A DRAFT AND IN THE REGISTRATION PROGRAM. AND BY PEOPLE LIKE
25 YOURSELF WHO DO NOT REGISTER AND YOU AND FOR EVERYONE WHO

JACOB - CROSS

1 DOES REGISTER INCREASES ODDS OF MILLIONS OF PEOPLE WHO DO
2 REGISTER, THAT IF THE DRAFT COMES, IF CONGRESS IMPLEMENTS A
3 DRAFT, THEN THEIR ODDS TO BE CALLED WILL BE HIGHER BECAUSE
4 PEOPLE LIKE YOU HAVE FAILED TO REGISTER?

5 A. I THINK THAT THAT'S FAIRLY INSIGNIFICANT IN REGARDS TO
6 THE FACT THAT THEIR CHANCES OF BEING CALLED, I MEAN, IF HE'S
7 TALKING ABOUT EQUITY, MAYBE HE SHOULD LOOK AT THE SYSTEM THAT
8 THE SELECTIVE SERVICE HAS SET OUT IN WHICH YOU GO BEFORE A
9 DRAFT BOARD, AND DURING VIET NAM THE DRAFT BOARDS WERE
10 OVERWHELMINGLY WHITE AND ENDED UP NOT GRANTING C. O. STATUS
11 TO BLACKS ON THE WHOLE. THERE WERE TREMENDOUS INEQUITIES IN
12 THE DRAFT PROCESS, AND EVEN TODAY THE LEVEL OF POOR AND
13 MINORITIES BEING IN COMBAT READY UNITS AND BEING MORE APT TO
14 DIE IF WE DO GET INTO A WAR IS VERY CLEAR. SO, I THINK THE
15 INEQUITIES IN THE SYSTEM, THE SIGNIFICANT INEQUITIES EXIST
16 AFTER YOU REGISTER AND WHEN YOU ARE PULLED BEFORE THE DRAFT
17 BOARD, AND EVEN BEYOND THAT EXIST IN THE MILITARY THAT WE
18 HAVE TODAY.

19 Q. THE FACT REMAINS THAT FOR THE NUMBER OF PEOPLE WHO DO
20 NOT REGISTER IT INCREASES THE ODDS OF THE PEOPLE WHO REGISTER
21 THAT THEY WILL BE CALLED?

22 A. WELL, YOU KNOW, WE'VE BEEN TOLD --

23 Q. YES OR NO. DO YOU AGREE OR DISAGREE?

24 A. NO, I DON'T THINK IT INCREASES THE ODDS. I THINK IT
25 DECREASES, BECAUSE I THINK FOR EVERY PERSON WHO FAILS TO

JACOB - CROSS

1 APPROVE THIS LAW, THE CONGRESS AND THE PRESIDENT IS THAT MUCH
2 LESS LIKELY TO START A DRAFT.

3 Q. THERE WAS SOME QUESTIONS ASKED CONCERNING YOUR FALSE
4 IDENTIFICATION, I THINK, WHICH WAS GOVERNMENT'S EXHIBIT 10.
5 I HAND YOU GOVERNMENT EXHIBIT 10. CAN YOU IDENTIFY THAT?

6 A. YES, IT'S A VIRGINIA I. D.

7 Q. IS THAT YOUR PICTURE ON IT?

8 A. YES, IT IS.

9 Q. WHAT NAME IS ON THERE?

10 A. JOHN D. HENDRICKSON.

11 Q. WHAT WAS THE PURPOSE IN OBTAINING THAT?

12 A. WELL, THE PURPOSE WAS THAT SOME PEOPLE FELT THAT I WOULD
13 HAVE AN EASIER TIME IF I HAD AN ALTERNATIVE IDENTITY AND THEY
14 WENT THROUGH THE WORK OF FINDING -- A POSSIBILITY TO GET AN
15 IDENTIFICATION LIKE THAT AND WHEN I WAS IN THAT AREA URGED ME
16 AND PAID FOR MY IDENTIFICATION, I WENT AND GOT IT. I HAD
17 DONE IT BASICALLY TO LET THEM KNOW THAT THEY WERE CONCERNED
18 THAT I GET OUT OF ARKANSAS, THAT I NOT LIVE HERE UNDER MY OWN
19 NAME WITH MY WIFE BECAUSE THEY DIDN'T WANT ME TO BE ARRESTED.
20 AND I HAD PRETTY MUCH COME TO THE CONCLUSION THAT FREEDOM
21 WITH A FALSE I. D. IS NOT THE TYPE OF FREEDOM THAT WE'RE
22 TALKING ABOUT TODAY AND IN THIS COUNTRY, THAT THE FREEDOM TO
23 LIVE BY AVOIDING THE GOVERNMENT. I DIDN'T WANT TO GO TO
24 PRISON. I DON'T THINK ANYBODY DOES, AND I WANTED TO AVOID
25 PROSECUTION, BUT AT THE TIME THIS I. D. WAS GOTTEN I HAD

JACOB - CROSS

1 PRETTY MUCH MADE THE DECISION THAT THAT WAS NOT THE FREEDOM I
2 WANTED. I WANTED TO LIVE COMPLETELY UNDER MY OWN NAME WITH
3 PEOPLE I LOVED HERE IN LITTLE ROCK AND NORTH LITTLE ROCK.

4 Q. I THINK YOUR ATTORNEY SAID YOU CAME BACK AND OBTAINED AN
5 APARTMENT, AND WHOSE NAME DID YOU USE?

6 A. I BELIEVE IT WAS UNDER MY WIFE RHONDA ALLEN AND MINE AND
7 PAUL JACOB.

8 Q. AND I THINK HE INDICATED THAT YOU FILED TAX RETURNS IN
9 YOUR NAME.

10 A. YES, SIR, I DID.

11 Q. AND THAT YOU WEREN'T TRYING TO DENY YOUR IDENTITY?

12 A. NO, I WAS NOT INTERESTED IN, YOU KNOW, I SAW PEOPLE ON A
13 DAILY BASIS WHO KNEW ME, AND THE ONLY PURPOSE I COULD SEE FOR
14 DENYING MY IDENTITY, I IMAGINE IF I POLICEMAN PICKED ME UP I
15 WOULDN'T HAVE TOLD HIM WHO I WAS AND I CERTAINLY DON'T THINK
16 HE HAS A RIGHT TO KNOW AND HE WOULD USE THAT INFORMATION TO
17 ARREST ME AND IMPRISON ME.

18 Q. SO A POLICEMAN DOESN'T HAVE A RIGHT TO KNOW WHO YOU ARE?

19 A. NOT IF HE WOULD USE THAT INFORMATION TO TAKE ME AWAY
20 FROM MY FAMILY, NO.

21 Q. AND IN FACT WHEN THE FBI DID COME TO ARREST YOU, YOU DID
22 DENY YOUR IDENTITY, DIDN'T YOU?

23 A. YES, I DID, ONCE.

24 Q. HOW MANY TIMES?

25 A. ONCE.

JACOB - CROSS

1 Q. JUST ONCE?

2 A. JUST ONCE. THE TESTIMONY BEFOREHAND WAS INACCURATE.

3 Q. I THINK YOU'VE BEEN OUTSPOKEN ON THIS ISSUE FOR SOME
4 TIME?

5 A. YES, SIR, I HAVE.

6 Q. EVEN AFTER YOUR INDICTMENT?

7 A. YES, SIR.

8 Q. AND I THINK YOU HAVE BEEN DESCRIBED IN SOME ARTICLES AS
9 BEING THE FIRST UNDERGROUND DRAFT RESISTER?

10 A. I WAS DESCRIBED THAT WAY WAY BACK IN 1981, I BELIEVE, BY
11 ROLLING STONE MAGAZINE.

12 Q. WHAT IS THE SIGNIFICANCE OF BEING AN UNDERGROUND DRAFT
13 RESISTER?

14 A. IT'S NOT THE TERM I USED, IT'S THE TERM THEY USED, BUT I
15 THINK THE SIGNIFICANCE IS THAT I WASN'T LOOKING FOR LEGAL
16 CHANNELS, I WASN'T LOOKING FOR LITTLE TECHNICALITY TO STOP
17 THE DRAFT. SEE, I'M INVOLVED IN THIS NOT TO WEASEL OUT OF
18 THE DRAFT OR AVOID THE DRAFT BUT TO STOP THE DRAFT FROM
19 COMING BACK. WE ARE HEADED TOWARD A DRAFT. WE ARE HEADED
20 TOWARD THE TYPE OF WAR THAT A DRAFT WOULD CAUSE TO BE FOUGHT
21 OR ENABLE TO BE FOUGHT. SO I'M TRYING TO STOP THAT DRAFT,
22 AND I THOUGHT THAT GOING THROUGH LEGAL CHANNELS AND BRINGING
23 UP LITTLE TECHNICALITIES ABOUT THE LAW WAS NOT THE WAY TO DO
24 THAT. THE WAY TO DO THAT WAS TO REMAIN FREE ENOUGH TO BE
25 ABLE TO TRAVEL AROUND AND TALK TO YOUNG PEOPLE AND TO OTHER

JACOB - CROSS

1 PEOPLE AND TO CONVINCING THEM THAT THIS WAS NOT THE THING THAT
2 WE SHOULD DO.

3 Q. I THINK YOU WERE ALSO QUOTED IN THAT ARTICLE AS GOING
4 AROUND AND WORKING AT ODD JOBS AND MAKING SPEECHES AND YOU
5 WERE MAKING THE POINT THAT IT'S FAIRLY EASY TO AVOID
6 PROSECUTION IF YOU WERE MOBILE AND SEMI-SECRETIVE, IS THAT
7 CORRECT?

8 A. THAT'S TRUE, AND I THINK THAT'S THE REASON THAT I
9 TRAVELED AROUND AND THE REASON, AS I TOLD YOU, THAT IF A
10 POLICEMAN ASKED ME WHO I WAS THAT I CERTAINLY WOULDN'T TELL
11 HIM.

12 Q. ARE YOU AWARE THAT LETTERS WERE SENT TO YOUR PARENTS
13 HOME AT 35 DE SOTO CIRCLE BY THE U. S. ATTORNEYS OFFICE
14 TRYING --

15 A. I'M AWARE AT THIS TIME THAT THEY WERE. I'M REALLY NOT
16 SURE WHEN I WAS FIRST AWARE OF THAT.

17 Q. HERE IS A COPY OF AN ENVELOPE RETURN ADDRESS U. S.
18 DEPARTMENT, U. S. ATTORNEY'S OFFICE, EASTERN DISTRICT OF
19 ARKANSAS SENT TO YOU AT 35 DE SOTO CIRCLE. I THINK IT BEARS
20 A POSTMARK OF SEPTEMBER 24, '81, WHICH WAS UNCLAIMED. WERE
21 YOU AWARE THAT LETTER WAS SENT?

22 A. I AM TO THIS DAY BUT I WASN'T LIVING AT HOME AT THAT
23 TIME AND IN FACT WAS NOT IN REGULAR COMMUNICATION WITH ANYONE
24 AT MY HOUSE.

25 Q. YOU MIGHT NOT BE IN REGULAR COMMUNICATIONS BUT I TAKE IT

JACOB - CROSS

1 THAT I THINK YOU LEFT IN JULY OF '81?

2 A. JULY 4, 1981.

3 Q. AND YOU WEREN'T EVEN INDICTED UNTIL '82, WERE YOU?

4 A. RIGHT.

5 Q. I TAKE IT YOU DID HAVE SOME CONTACT WITH YOUR PARENTS
6 DURING THIS PERIOD OF TIME?

7 A. YES, THERE WAS SOME CONTACT.

8 Q. DID THEY EVER MENTION THE FACT THAT THE U. S. ATTORNEY
9 HAS WRITTEN A LETTER TO YOU?

10 A. THEY MENTIONED A LETTER AND THAT THEY COULD NOT SIGN FOR
11 IT SINCE THEY DIDN'T KNOW MY WHEREABOUTS, AND OF COURSE, WE
12 HAD IN IDEA WHAT WAS IN THE LETTER.

13 Q. I SHOW YOU A COPY OF THE LETTER DATED AUGUST 16, 1982
14 AND ASK YOU TO TAKE A MINUTE AND LOOK AT THAT. IT'S
15 ADDRESSED TO YOUR PARENTS, I BELIEVE.

16 A. YES, IT IS.

17 Q. THERE IS A RETURN RECEIPT AND I THINK IT'S BEEN SIGNED
18 FOR. CAN YOU MAKE OUT THE SIGNATURE ON THE RETURN RECEIPT?

19 A. IT'S MY YOUNGER BROTHER.

20 Q. SO THAT LETTER WAS RECEIVED AT YOUR PARENT'S HOME, TO
21 THE BEST OF YOUR KNOWLEDGE?

22 A. TO THE BEST OF MY KNOWLEDGE IF HE SIGNED FOR IT I'M SURE
23 IT WAS RECEIVED.

24 Q. DID THEY EVER DISCUSS WITH YOU THE CONTENTS OF THAT
25 LETTER?

JACOB - CROSS

1 A. NO, THEY DID NOT. AT THIS POINT I WAS EXPECTING THAT
2 THERE COULD BE AN INDICTMENT AND SO ON, SO I WAS NOT IN
3 COMMUNICATION WITH THEM.

4 Q. THE LETTER IN ESSENCE STATES THAT YOU HAD NOT BEEN
5 INDICTED YET BUT YOU NEEDED TO CONTACT THE OFFICE IF YOU HAD
6 ANY INFORMATION WHY YOU HAD NOT REGISTERED, IS THAT RIGHT?

7 A. YES, IT ASKS ME TO CONTACT THEM TO EXPLAIN, YES.

8 Q. GO AHEAD.

9 A. EXPLANATION -- IF YOUR SON HAS AN EXPLANATION IF HE HAS
10 AN EXPLANATION FOR HIS FAILURE TO REGISTER, HE SHOULD CONTACT
11 THIS OFFICE, AND I IMAGINE THAT WAS YOUR OFFICE.

12 Q. WHO IS IT SIGNED BY?

13 A. IT'S NOT SIGNED HERE, BUT IT'S FROM GEORGE PROCTOR AND
14 YOURSELF KENNETH STOLL.

15 Q. OKAY. YOU'RE SAYING YOUR PARENTS NEVER TOLD YOU ABOUT
16 THIS?

17 A. NO, I'M SAYING THAT THEY TOLD ME ABOUT IT, BUT I'M NOT
18 SURE IF IT WAS, YOU KNOW, BEFORE 1984 OR NOT. I MOVED BACK
19 IN '83, AND I IMAGINE I WAS AWARE OF IT AT THAT POINT, BUT I
20 DON'T KNOW WHEN MY CONTACT WITH THEM WAS. I'M CERTAIN THAT I
21 WASN'T AWARE OF THAT BEFORE MY INDICTMENT, I'M PRETTY SURE.

22 Q. YOUR INDICTMENT WAS IN SEPTEMBER OF '82, RIGHT?

23 A. IT WAS SEALED. I'VE GOT A FEW CONFLICTING DATES, BUT I
24 BELIEVE IT WAS EITHER LATE SEPTEMBER OR EARLY OCTOBER OF '82.

25 Q. AND THE LETTER IS DATED WHEN?

JACOB - CROSS

1 A. AUGUST OF 1982.

2 MR. STOLL: THAT'S ALL I HAVE, YOUR HONOR.

3 THE COURT: MR. VAUGHT?

4 REDIRECT EXAMINATION

5 BY MR. VAUGHT:

6 Q. PAUL, JUST VERY BRIEFLY, DURING THE PERIOD OF TIME
7 BETWEEN JULY OF 1981 WHEN YOU LEFT ARKANSAS UNTIL YOU
8 RETURNED I BELIEVE YOU SAID OCTOBER OF '83?

9 A. NOVEMBER OF '83.

10 Q. WHAT WERE YOU DOING DURING THAT TIME?

11 A. DURING THE TIME WHEN I WAS GONE?

12 Q. YES.

13 A. WELL, I TRAVELED QUITE A BIT, AND I TRIED TO SPEAK TO
14 ANTI-DRAFT GROUPS AND STUDENT GROUPS AND SO ON AND LET THEM
15 ME KNOW WHAT WAS HAPPENING WITH THE ISSUE AND WHAT THEY COULD
16 DO TO TRY TO LET OTHER PEOPLE KNOW AND TO TRY TO MAKE THE
17 TYPE OF STATEMENT THAT WE NEEDED TO MAKE TO WAKE PEOPLE UP
18 ABOUT WHAT WAS REALLY HAPPENING, AND OTHER THAN THAT I,
19 UNFORTUNATELY, LIKE WE ALL DID, HAD TO WORK A LITTLE BIT, AND
20 I WORKED AT DIFFERENT JOBS AND PEOPLE HELPED ME, YOU KNOW,
21 FINDING ODD JOBS FOR CASH AND THERE WAS A GREAT DEAL OF
22 SUPPORT OUT THERE.

23 Q. WERE YOU MAKING PUBLIC STATEMENTS?

24 A. YES, I MADE PUBLIC STATEMENTS AT DIFFERENT TIMES.

25 Q. USING YOUR OWN NAME?

JACOB - REDIRECT

1 A. YES. I HAD MADE ONE STATEMENT OR A SPEACH BEFORE I WAS
2 EVEN INDICTED IN WHICH I HAD REFUSED TO BE NAMED JUST BECAUSE
3 I THOUGHT THEY MIGHT AT THAT POINT COME AND ARREST ME, AND
4 THEN I DECIDED AFTER THAT THAT PEOPLE NEEDED TO KNOW THAT I
5 WAS A REAL PERSON AND THAT I HAD A REAL NAME, SO I CONTINUED
6 AT THAT POINT TO SPEAK OUT BUT TO USE MY NAME AND TO LET THEM
7 KNOW WHERE I WAS COMING FROM AND SO ON.

8 MR. VAUGHT: THANK YOU.

9 THE COURT: ANYTHING ELSE, MR. STOLL?

10 MR. STOLL: NO, YOUR HONOR.

11 THE COURT: ALL RIGHT, YOU MAY STEP DOWN, MR.

12 JACOB. CALL YOUR NEXT WITNESS, MR. VAUGHT.

13 MR. VAUGHT: YOUR HONOR, DEFENDANT RESTS.

14 THE COURT: ALL RIGHT, DEFENDANT RESTS.

15 MR. STOLL: NO REBUTTAL, YOUR HONOR.

16 THE COURT: HOW DO WE STAND RELATIVE TO
17 INSTRUCTIONS? DO WE HAVE ANY PROBLEMS?

18 MR. STOLL: MINOR PROBLEMS, JUDGE. I WOULDN'T
19 THINK IT WOULD TAKE LONG TO IRON THEM OUT.

20 MR. VAUGHT: THAT'S PROBABLY CORRECT, YOUR HONOR.

21 THE COURT: HOW MUCH TIME DO YOU THINK YOU NEED TO
22 MAKE YOUR CLOSING ARGUMENTS?

23 MR. STOLL: CAN WE HAVE A MINUTE HERE TO CONFER,
24 YOUR HONOR.

25 (DISCUSSION AT THE BENCH OFF THE RECORD.)

1 THE COURT: LADIES AND GENTLEMEN OF THE JURY, I'D
2 LIKE TO REFRESH YOUR MEMORY RELATIVE TO THAT LITTLE SCHEDULE
3 THAT I DISCUSSED WITH YOU WHEN WE STARTED THIS TRIAL ON
4 YESTERDAY. YOU WILL RECALL THE FIRST LINE ITEM WAS OPENING
5 STATEMENTS, AND THE GOVERNMENT WOULD BE AFFORDED THE
6 OPPORTUNITY TO OFFER TESTIMONY IN SUPPORT OF ITS CASE. THEN
7 THE DEFENDANT WOULD BE PERMITTED THE SAME OPPORTUNITY. THEN
8 REBUTTAL TESTIMONY, THEN CLOSING ARGUMENTS OF COUNSEL AND
9 INSTRUCTIONS OF THE COURT AND THEN YOU WOULD BE PERMITTED TO
10 RETIRE TO THE JURY ROOM TO COMMENCE YOUR DELIBERATIONS. NOW
11 WE'VE REACHED THE POINT WHERE ALL OF THE EVIDENCE IS IN. THE
12 NEXT ITEM, OF COURSE, IS CLOSING ARGUMENT. AND WE NEED TO
13 TAKE SOME MATTERS UP IN YOUR ABSENCE. CONSEQUENTLY, WE'RE
14 GOING TO RECESS FOR THE NOON BREAK AT THIS TIME. IT IS NOW
15 11:25. WE WILL RESUME AT 12:30. YOU SHOULD REPORT BACK TO
16 THE JURY ROOM NOT LATER THAN 12:25. BETTER MAKE IT 12:20,
17 AND DO NOT DISCUSS THE CASE. LET EVERYBODY REMAIN SEATED
18 WHILE THE JURY LEAVES THE COURTROOM.

19 (JURY EXITS.)

20 THE COURT: NOW, RELATIVE TO CLOSING ARGUMENTS, 30
21 MINUTES WILL BE ALLOTTED TO THE GOVERNMENT. NOW, IS IT YOUR
22 WISH TO APPORTION THIS FOR THE FIRST AND CLOSING?

23 MR. STOLL: YES, YOUR HONOR.

24 THE COURT: HOW MUCH FOR THE --

25 MR. STOLL: MS. CHERRY WILL TAKE PROBABLY 20

1 MINUTES AND I'LL HAVE 10 MINUTES ON REBUTTAL.

2 THE COURT: 20 AND 10, AND 30 FOR THE DEFENSE?

3 MR. VAUGHT: YES, YOUR HONOR.

4 THE COURT: OKAY. ALL RIGHT, WE'RE IN RECESS UNTIL --

5 MR. HALL: ONE OTHER MATTER. FOR THE RECORD, AND
6 PURELY FOR THE RECORD, WE RENEW THE MOTION FOR JUDGMENT OF
7 ACQUITTAL ON THE GROUNDS PREVIOUSLY STATED AND ALSO THAT THE
8 GOVERNMENT HAS NOT PROVED ITS CASE SUFFICIENTLY TO MAKE A
9 SUBMISSIBLE CASE.

10 THE COURT: MR. STOLL?

11 MR. STOLL: JUDGE, MY REPLY WOULD BE THE SAME AS AT
12 THE CLOSE OF OUR CASE UNLESS THE COURT HAS ANY FURTHER
13 QUESTIONS. I THINK IT WAS AMPLE. THE COURT RULED ON IT THEN
14 AND THERE'S AMPLE PROOF TO SUBMIT THIS CASE TO THE JURY.

15 THE COURT: WELL, THE COURT HAS NOT BEEN PERSUADED
16 THAT IT SHOULD CHANGE THE POSTURE THAT IT TOOK AT THE CLOSE
17 OF THE GOVERNMENT'S CASE. CONSEQUENTLY, THE COURT WILL
18 ADHERE TO THE PRIOR RULING, THAT IS TO SAY THAT THE COURT IS
19 PERSUADED THAT A JURY CONSTITUTING REASONABLE MEN COMMITTED
20 TO IMPARTIALITY COULD FIND THE DEFENDANT GUILTY BEYOND A
21 REASONABLE DOUBT BASED UPON THE RELEVANT EVIDENCE CURRENTLY
22 IN THE RECORD. SO THE MOTION WILL BE DENIED.

23 (LUNCH RECESS.)

24 (PROCEEDINGS IN CHAMBERS.)

25 THE COURT: FIRST, OF ALL LET'S TAKE THE VERDICT

1 FORM. THIS IS THE PROPOSED FORM.

2 MR. STOLL: I DON'T HAVE ANY PROBLEM.

3 MR. VAUGHT: FINE.

4 THE COURT: ALL RIGHT. LET'S TAKE UP THE
5 GOVERNMENT'S POSITION. ANY PROBLEMS YOU WISH TO CALL TO THE
6 COURT'S ATTENTION?

7 MR. STOLL: JUDGE, WITH RESPECT TO THE INSTRUCTIONS
8 I PROPOSED TO YOU, I DON'T HAVE ANY PROBLEMS WITH THOSE, AND
9 I ASSUME THE COURT ALSO GOT THE INSTRUCTION ON PUNISHMENT. I
10 THINK I GAVE YOU THAT YESTERDAY.

11 THE COURT: YES.

12 MR. STOLL: THE TWO INSTRUCTIONS WHICH THE
13 DEFENDANT PROPOSED, I THINK ONE OF THEM WE WENT OVER BRIEFLY
14 YESTERDAY MORNING. OF COURSE, I OBJECT TO THAT ONE.

15 THE COURT: WELL, I SUSTAINED THE GOVERNMENT'S
16 POSITION, I BELIEVE, ON YESTERDAY, IS THAT CORRECT?

17 MR. STOLL: YES. THEN THE OTHER INSTRUCTION THAT
18 THE DEFENDANT PROPOSED, WE WOULD ALSO OBJECT TO THAT. THAT'S
19 THE SHORT ONE, THE FIRST AMENDMENT TO THE UNITED STATES IS
20 HOW IT STARTS OFF. THE SECOND SENTENCE, JUDGE, WHILE THIS
21 APPROVAL IS NOT A DEFENSE AS SUCH IF A PERSON BELIEVES IT
22 SIGNIFIES APPROVAL OF THAT POLICY, THEN YOU MAY CONSIDER HIS
23 FAILURE TO COMPLY WAS NOT DONE WILLFULLY BUT WITH A GOOD
24 FAITH BASIS THAT THE ADMISSION WAS LAWFUL. JUDGE, I DON'T
25 THINK THAT'S THE LAW. I BELIEVE THIS IS ALSO COVERED BY THE

1 OTHER INSTRUCTIONS, SPECIFICALLY THE ONES ABOUT SPECIFIC
2 INTENT AND WILLFULNESS.

3 THE COURT: MR. VAUGHT?

4 MR. VAUGHT: YOUR HONOR, I DON'T BELIEVE IT IS
5 COVERED BY THE SPECIFIC INTENT OR WILLFULNESS INSTRUCTIONS.
6 I BELIEVE THAT THERE'S NO QUESTION BUT THAT THE FIRST
7 SENTENCE OF THE INSTRUCTION IS TRUE AND IS THE LAW, AND THE
8 FIRST AMENDMENT SO STATES, AND I BELIEVE THAT AS AN ELEMENT
9 OF SPECIFIC INTENT. A PERSON CAN RAISE A GOOD FAITH BASIS
10 FOR THE BELIEF THAT THE OMISSION IS LAWFUL, AND IF THE FIRST
11 AMENDMENT GIVES HIM A GROUND FOR THAT GOOD FAITH BASIS, THEN
12 I THINK THIS WOULD BE A PROPER STATEMENT OF LAW.

13 THE COURT: I'VE LOOKED AT THE CASES THAT YOU HAVE
14 CITED. I'M NOT PERSUADED THAT THE CASES SUPPORT THIS
15 INSTRUCTION. NOW, THE SUPREME COURT IN MURDOCK SAID THE
16 COURT, TRIAL COURT, SHOULD HAVE GIVEN THE INSTRUCTION THAT
17 WAS PROFFERED IN THAT CASE AND LET'S READ THAT PROFFERED
18 INSTRUCTION. THE RESPONDENT'S REQUEST FOR AN INSTRUCTION THE
19 FOLLOWING WORD WAS REFUSED. I THINK THIS IS THE INSTRUCTION.
20 "IF YOU BELIEVE THAT THE REASONS STATED BY THE DEFENDANT IN
21 HIS REFUSAL TO ANSWER QUESTIONS WERE GIVEN IN GOOD FAITH AND
22 BASED UPON HIS ACTUAL BELIEF, YOU SHOULD CONSIDER THAT IN
23 DETERMINING WHETHER OR NOT HIS REFUSAL TO ANSWER THE
24 QUESTIONS WERE WILLFUL."

25 MR. STOLL: I'VE GOT A COPY JUST OF THAT PART YOU

1 READ, YOUR HONOR.

2 MR. VAUGHT: YOUR HONOR, I WOULD SUBMIT THAT THIS
3 BASICALLY SAYS THE SAME THING, BUT I WOULD NOT BE OPPOSED TO
4 PUTTING IT IN TERMS OF THE MURDOCK INSTRUCTION IF THAT WOULD
5 BE ACCEPTABLE TO YOU.

6 THE COURT: I THINK IT GOES A BIT FAR. IT MAY BE
7 TANTAMOUNT TO DIRECTING THE JURY TO FIND THAT THIS IS GOOD
8 FAITH, THAT THERE IS NO WILLFULNESS, BUT THIS CASE SEEMS TO
9 SAY THAT THE JURY MAY TAKE THIS INTO CONSIDERATION IN
10 DETERMINING WHETHER OR NOT IT WAS WILLFUL, AND I THINK THIS
11 WAS THE THRUST OF YOUR --

12 MR. VAUGHT: I UNDERSTAND.

13 THE COURT: -- ARGUMENT FOR THE TESTIMONY OF GEN.
14 TURNAGE.

15 MR. VAUGHT: THAT'S CORRECT.

16 THE COURT: SO, HAVING SAID THAT, MR. PROSECUTOR,
17 WHAT IS YOUR POSITION RELATIVE TO -- MR. STOLL, WHAT IS YOUR
18 POSITION TOWARDS MODIFYING?

19 MR. STOLL: WE TELL THEM IN THE INSTRUCTIONS THAT
20 DISAGREEMENT WITH THE LAW IS NOT A DEFENSE. IN FACT,
21 EVERYONE IS TO OBEY THE LAW.

22 THE COURT: YEAH, THAT'S TRUE.

23 MR. STOLL: WHICH I THINK IS CORRECT. AND THEN
24 LATER ON WE'RE SEEMING TO TELL THEM IF YOU DO DISAGREE WITH
25 IT THEN YOU CAN CONSIDER THAT DISAGREEMENT ON THE ISSUE OF

1 WILLFULNESS.

2 THE COURT: WHICH ONE IS THAT NOW? YOU SAY WE
3 ALREADY HAVE IT.

4 MR. VAUGHT: YOUR HONOR, I'M GOING TO OBJECT ANYWAY
5 TO THE TWO SENTENCES THAT WERE IN THE KNOWINGLY AND
6 WILLFULLY, TO OMIT THAT INSTRUCTION AND SUGGEST THAT OUR
7 INSTRUCTION SHOULD BE SUBSTITUTED OR THE MODIFIED INSTRUCTION
8 SHOULD BE SUBSTITUTED FOR THOSE TWO SENTENCES ANYWAY. THAT
9 MIGHT BE A COMPROMISE WAY OF DOING IT.

10 MR. STOLL: I DON'T WANT THAT OUT, JUDGE. I DON'T
11 KNOW HOW THE COURT HAS ITS NUMBERED. IT'S TITLED KNOWINGLY
12 AND WILLFULLY.

13 THE COURT: SHE HASN'T NUMBERED THEM YET. AS SOON
14 AS WE APPROVE THEM, THEN SHE WILL GO AHEAD AND NUMBER THEM AS
15 THE COURT'S INSTRUCTIONS.

16 MR. VAUGHT: THE LAST TWO SENTENCES.

17 THE COURT: DEFENDANT'S CONDUCT IS NOT WILLFUL IF
18 HE ACTED THROUGH NEGLIGENCE, INADVERTENCE OR MISTAKE OR DUE
19 TO HIS GOOD FAITH MISUNDERSTANDING OF THE REQUIREMENTS OF THE
20 LAW. IT SHOULD BE POINTED OUT, HOWEVER, THAT DISAGREEMENT
21 WITH THE LAW IS NOT A DEFENSE. IT IS THE DUTY OF ALL
22 CITIZENS TO OBEY THE LAW WHETHER THEY AGREE WITH IT OR NOT.
23 THAT DOESN'T SAY WHAT YOU WANT?

24 MR. VAUGHT: NOT QUITE.

25 THE COURT: I WANT TO GIVE HIM THE BENEFIT OF HIS

1 DEFENSE, THAT WHAT HE WAS TRYING TO DO WAS TO EXERCISE HIS
2 FIRST AMENDMENT RIGHT AND HE HAD NO WILLFUL -- I UNDERSTAND
3 YOUR POSITION THAT IT WAS, BUT HE WANTS THE JURY TO TAKE INTO
4 CONSIDERATION HIS FIRST AMENDMENT RIGHT AND I'M NOT QUITE
5 PERSUADED --

6 MR. STOLL: JUDGE --

7 THE COURT: GO AHEAD.

8 MR. STOLL: IF YOURS IS IN THE SAME ORDER THAT MINE
9 ARE, IF YOU GO BACK ONE INSTRUCTION WE TALK ABOUT SPECIFIC
10 INTENT.

11 THE COURT: THE CRIME CHARGED IN THIS CASE IS A
12 SERIOUS CRIME WHICH REQUIRES PROOF OF SPECIFIC INTENT BEFORE
13 DEFENDANT CAN BE CONVICTED. SPECIFIC INTENT, AS THE TERM
14 IMPLIES, MEANS MORE THAN GENERAL INTENT TO COMMIT THE ACT.
15 TO ESTABLISH SPECIFIC INTENT THE GOVERNMENT MUST PROVE THAT
16 THE DEFENDANT KNOWINGLY FAILED TO DO AN ACT WHICH THE LAW
17 REQUIRES PURPOSELY INTENDING TO VIOLATE THE LAW. SUCH INTENT
18 MAY BE DETERMINED FROM ALL THE FACTS AND CIRCUMSTANCES
19 SURROUNDING THE CASE. AN ACT OR A FAILURE TO ACT IS DONE
20 KNOWINGLY IF DONE VOLUNTARILY AND INTENTIONALLY AND NOT
21 BECAUSE OF MISTAKE OR ACCIDENT OR OTHER INNOCENT REASON.

22 MR. STOLL: I SUBMIT THAT INSTRUCTION WHICH TALKS
23 IN THERE ABOUT PURPOSELY INTENDING TO VIOLATE THE LAW AND THE
24 KNOWINGLY AND WILLFULLY INSTRUCTION ADEQUATELY COVERS IT AND
25 IT COVERS HIS DEFENSE.

1 THE COURT: YES, BUT HE'S SAYING SOMETHING MORE.
2 HE'S SAYING THAT GEN. TURNAGE TOLD THE SUBCOMMITTEE OF
3 CONGRESS IF NOT HUNDRED PERCENT, 99 PERCENT OF THE PEOPLE IN
4 THIS COUNTRY ACCEPT REGISTRATION. WE DON'T HAVE THAT MANY
5 DISSENTING. SO HE'S SAYING THAT GEN. TURNAGE WAS INSENSITIVE
6 TO HIS POSITION AND OTHERS WHO FALL IN THAT CATEGORY. SO HE
7 ASSUMES THE STANCE THAT HE TOOK IN ORDER TO EDUCATE CONGRESS
8 AND THE NATION THAT HE AND OTHERS WHO TAKE THE POSITION THAT
9 THIS IS WRONG AND HE'S SAYING THAT HE DID WHAT HE DID BECAUSE
10 OF THE FIRST AMENDMENT.

11 NOW, IT MAY VERY WELL BE THAT HE'S PURSUING A
12 CONTRADICTORY POSITION BECAUSE HE DID STATE ON CROSS
13 EXAMINATION HE KNEW HE WAS VIOLATING THE LAW, HE KNEW THAT HE
14 WAS REQUIRED TO REGISTER BUT I DO THINK THIS IS SOMETHING
15 THAT THE JURY OUGHT TO CONSIDER, WHETHER OR NOT HE DID IT IN
16 GOOD FAITH PURSUANT TO HIS FIRST AMENDMENT RIGHTS, AND THEY
17 MAY CONSIDER THIS IN DETERMINING WHETHER HE DID IT WILLFULLY
18 IN ORDER TO VIOLATE THE LAW AS SUCH. IS THIS YOUR POSITION?

19 MR. VAUGHT: THAT'S CORRECT, YOUR HONOR. THAT'S
20 THE REASON WHY, IN MY PROFFERED INSTRUCTION, I PUT, WHILE
21 DISAPPROVAL IS NOT A DEFENSE AS SUCH. I RECOGNIZE WE'RE
22 RECOGNIZING THAT DISAPPROVAL IS NOT THE DEFENSE BUT THAT
23 RELIANCE UPON THE FIRST AMENDMENT IS THE OFFENSE AND I WOULD
24 BE MORE THAN HAPPY TO TAKE THE MURDOCK INSTRUCTION AS A
25 SUBSTITUTE FOR THIS ONE, AND I HAVE NO PROBLEM WITH THAT.

1 AND I DON'T THINK THAT THAT CONFLICTS WITH THE KNOWINGLY AND
2 WILLFULLY INSTRUCTION OFFERED BY MR. STOLL, BECAUSE IT'S
3 TAKING TWO SEPARATE THINGS. IT'S TAKING DISAPPROVAL AS A
4 DEFENSE AND SAYING THAT'S NOT OKAY BUT TAKING DISAPPROVAL
5 COUPLED WITH RELIANCE ON THE FIRST AMENDMENT HAS TAKEN IT OUT
6 OF CRIMINAL INTENT AND I THINK THAT MAKES THE DISTINCTION.

7 MR. STOLL: I STILL OBJECT, JUDGE. I MEAN, IT
8 SEEMS LIKE WE'RE GETTING READY TO TELL THE JURY THAT IF YOU
9 DON'T APPROVE OF THE LAW THEN YOU DON'T HAVE TO OBEY IT, AND
10 I DON'T THINK THAT'S THE LAW. HE'S MADE THAT STATEMENT MANY
11 TIMES ON THE STAND AND HE CAN ARGUE THAT, AND I THINK THE
12 SPECIFIC INTENT INSTRUCTION GOES TO EXACTLY THAT, THAT YOU
13 HAVE TO PROVE THAT HE INTENDED TO VIOLATE THE LAW WITHOUT
14 SETTING OUT HIS DEFENSE IN THE INSTRUCTIONS.

15 THE COURT: WHAT ABOUT THAT? HE SAYS THAT THIS IS
16 ARGUMENT.

17 MR. VAUGHT: YOUR HONOR, I THINK IT'S NOT JUST
18 ARGUMENT FOR THE VERY REASON THAT YOU STATED A MINUTE AGO,
19 THAT RELIANCE UPON THE FIRST AMENDMENT GOES FURTHER THAN JUST
20 SAYING WHAT THE SPECIFIC INTENT INSTRUCTION DID, AND THAT
21 MURDOCK RECOGNIZED THAT IN THAT CASE AND THAT'S THE BASIS
22 THAT WE SUBMITTED THIS.

23 MR. STOLL: I THINK MURDOCK, AND I HAVEN'T HAD A
24 CHANCE TO READ ALL THESE. IS MURDOCK THE PARTNERSHIP THAT
25 DEALT WITH TAXES?

1 MR. VAUGHT: YEAH.

2 MR. STOLL: AND THE DEFENDANT MIGHT HAVE A FIFTH
3 AMENDMENT RIGHT OR SOMETHING? WHICH WE'RE NOT TALKING ABOUT
4 THAT HERE. I MEAN, NOBODY IS DISAGREEING THAT A PERSON HAS
5 THE FIRST AMENDMENT RIGHT BUT IT DOES NOT NECESSARILY
6 CONFLICT WITH LAW. I MEAN, YOU CAN STILL VOICE YOUR
7 OPPOSITION IN COMPLYING WITH THE LAW.

8 MR. VAUGHT: BUT IF IN GOOD FAITH HE DIDN'T THINK
9 THAT YOU COULD, I THINK THAT MAKES IT GO TO CRIMINAL INTENT.

10 MR. STOLL: I DISAGREE THERE, JUDGE. WE'D HAVE
11 EVERYBODY COMING IN AND SAY WELL, I JUST REALLY DIDN'T
12 BELIEVE MY ACTIONS WERE IN VIOLATION OF THE LAW.

13 MR. VAUGHT: THEY WOULDN'T HAVE A WITNESS LIKE GEN.
14 TURNAGE ADMITTING TO THE STATEMENTS IN EVIDENCE OR THE
15 SINCERITY LIKE PAUL DOES.

16 MR. STOLL: THE STATEMENTS THAT WERE QUOTED, BOTH
17 OF THEM OR TWO OF THEM CAME IN 1984 AND 1985, PAST THE PERIOD
18 OF TIME THAT THE DEFENDANT IS CHARGED IN THE INDICTMENT.

19 MR. VAUGHT: GEN. TURNAGE TESTIFIED THAT'S BEEN HIS
20 POSITION EVER SINCE HE'S BEEN THERE.

21 MR. STOLL: I DON'T CARE.

22 MR. VAUGHT: AND IT'S BEEN STATED.

23 MR. STOLL: I DON'T THINK THERE HAVE BEEN ANY
24 SPECIFIC QUESTIONS REGARDING THAT. IRREGARDLESS OF WHAT GEN.
25 TURNAGE OR THE PRESIDENT OR ANY OTHER PERSON SAYS ABOUT WHAT

1 THEIR OPINION IS, GEN. TURNAGE TESTIFIED WHY HE MADE THE
2 REMARKS HE DID AND THE AMENDMENT AND THE STATES PASSING THE
3 LEGISLATURE. THAT WAS HIS OPINION, JUST AS MR. JACOB HAS HIS
4 OPINION. I MEAN, BECAUSE OF THAT OPINION HE HAS A RIGHT TO
5 THIS INSTRUCTION?

6 THE COURT: WELL, THE ONLY THING I'M SAYING IS
7 THIS. IN CONSIDERING WHETHER MR. JACOB DID IT WILLFULLY AND
8 WANTONLY THE JURY MAY TAKE INTO CONSIDERATION THE FIRST
9 AMENDMENT GOOD FAITH. I'M NOT DIRECTING THE JURY TO SO FIND
10 BUT THEY MAY CONSIDER THIS, AND ACCORDING TO MURDOCK HE'S
11 ENTITLED TO IT.

12 MR. STOLL: JUDGE, OF COURSE I THINK IT'S COVERED.
13 YOU KNOW, HE CAN ARGUE THAT THE FIRST AMENDMENT -- NOBODY HAS
14 CHALLENGED THE FIRST AMENDMENT IN THIS CASE. AND THE
15 SPECIFIC INTENT INSTRUCTION SPECIFICALLY GOES TO THAT, THAT
16 HE PURPOSELY INTENDED TO VIOLATE THE LAW. AND THEY CAN ARGUE
17 THE FIRST AMENDMENT AND THAT INSTRUCTION, TO ME, IS ALREADY
18 COVERED.

19 THE COURT: HAVE YOU GOT A FIRST AMENDMENT
20 INSTRUCTION?

21 MR. VAUGHT: THAT'S THE ONE THAT I OFFERED, YOUR
22 HONOR.

23 THE COURT: THAT'S THE ONLY ONE?

24 MR. VAUGHT: THAT'S THE ONE THAT I OFFERED. IT
25 JUST SAYS YOU MAY CONSIDER THAT IT WAS NOT DONE WILLFULLY.

1 IT DOESN'T SAY THAT YOU HAVE TO FIND THAT HE DID IT
2 WILLFULLY. I WAS VERY CAREFUL, WHEN I DRAFTED THIS, NOT TO
3 GO WHAT I THOUGHT WAS BEYOND THE PARAMETERS OF MURDOCK, BUT I
4 WOULD BE MORE THAN HAPPY TO MODIFY MURDOCK. I EVEN THREW IN
5 THE WHILE DISAPPROVAL IS NOT A DEFENSE AS SUCH SO THAT WE CAN
6 RECOGNIZE THAT THAT'S NOT THE DEFENSE.

7 MR. STOLL: JUDGE, EXCUSE ME. WHAT ABOUT JUST
8 TAKING THAT FIRST SENTENCE, "THE FIRST AMENDMENT TO THE
9 UNITED STATES CONSTITUTION INSURES THAT ALL PERSONS HAVE
10 FREEDOM OF SPEECH WHICH INCLUDES THE FREEDOM TO DISAPPROVE OR
11 OPPOSE OF ANY GOVERNMENT POLICY"?

12 THE COURT: YOU DON'T OPPOSE THAT?

13 MR. STOLL: I MEAN, IF WE'RE LOOKING FOR A
14 COMPROMISE, AND THEN PUT THAT RIGHT IN FRONT OF THE SPECIFIC
15 INTENT INSTRUCTION AND THEN WE'D HAVE MENTION OF FIRST
16 AMENDMENT, WE'D HAVE THE SPECIFIC INTENT AND WE'D HAVE THE
17 KNOWINGLY AND WILLFULLY.

18 THE COURT: WHAT ABOUT THAT? THAT SEEMS TO BE AN
19 ACCEPTABLE COMPROMISE. JUST THAT FIRST SENTENCE IN YOUR
20 PROFFERED INSTRUCTION. THEN YOU CAN ARGUE --

21 MR. VAUGHT: YOUR HONOR, I STILL BELIEVE THAT IT
22 WOULD BE MORE APPROPRIATE TO USE THE LANGUAGE FROM MURDOCK IN
23 ADDITION TO THAT FIRST SENTENCE, BECAUSE THAT SAYS THE FIRST
24 AMENDMENT INSURES THAT ALL PERSONS HAVE FREEDOM OF SPEECH AND
25 INCLUDES FREEDOM TO DISAPPROVE OR OPPOSE AND THEN IT SAYS IF

1 YOU BELIEVE THAT THE REASONS STATED BY THE DEFENDANT IN HIS
2 REFUSAL TO REGISTER WERE GIVEN IN GOOD FAITH BASED UPON HIS
3 ACTUAL BELIEF YOU SHOULD CONSIDER THAT IN DETERMINING WHETHER
4 IT WAS WILLFUL.

5 THE COURT: WELL, I DON'T KNOW. I LIKE MR. STOLL'S
6 OFFER HERE. YOU WANT TO SIMPLY ADD THAT YOU MAY TAKE INTO
7 CONSIDERATION THE EXERCISE OF THE FIRST AMENDMENT IN
8 DETERMINING WHETHER HE DID IT WILLFULLY?

9 MR. VAUGHT: THAT'S CORRECT, YOUR HONOR.

10 THE COURT: AND WANTONLY? WHAT ABOUT THAT, MR.
11 STOLL? IS THAT GOING TOO FAR IN YOUR JUDGMENT?

12 MR. STOLL: I COULDN'T FOLLOW EVERYTHING. HOW IS
13 IT GOING TO BE WORDED?

14 MR. VAUGHT: WHAT WAS JUST SUGGESTED WAS TAKE THE
15 FIRST SENTENCE OF MY INSTRUCTION AND STICK IT ONTO THE FRONT
16 OF THE MURDOCK INSTRUCTION THEN JUST USE THE REST OF MURDOCK,
17 SUBSTITUTING REGISTER FOR ANSWER QUESTIONS. WHERE IT SAYS
18 ANSWER QUESTIONS PUT REFUSAL TO REGISTER.

19 MR. STOLL: BASED UPON HIS ACTUAL BELIEF THAT HE
20 DID NOT HAVE TO REGISTER?

21 MR. VAUGHT: ACTUAL BELIEF IN THE FIRST AMENDMENT,
22 I BELIEVE, IS WHAT THAT MEANS, I BELIEVE.

23 MR. STOLL: I DON'T THINK SO.

24 MR. VAUGHT: WHAT WOULD YOU SUGGEST? THAT'S THE
25 WAY IT READ TO ME. WE'RE TALKING ABOUT THE FIRST AMENDMENT

1 AND HIS REFUSAL TO REGISTER WAS BASED UPON HIS ACTUAL BELIEF
2 ON THE FIRST AMENDMENT.

3 MR. STOLL: WERE GIVEN IN GOOD FAITH AND BASED UPON
4 HIS ACTUAL BELIEF. I WOULD THINK IT WOULD BE ACTUAL BELIEF
5 THAT HE DID NOT HAVE TO REGISTER. I MEAN, WE'RE GETTING INTO
6 HE DIDN'T BELIEVE HE HAD TO REGISTER.

7 MR. VAUGHT: BASED ON THE FIRST AMENDMENT HE
8 DIDN'T. THAT'S WHAT WE'RE TALKING ABOUT, THE FIRST
9 AMENDMENT.

10 MR. STOLL: IF THE COURT IS CONSIDERING GIVING IT I
11 WOULD THINK THAT HIS REFUSAL TO REGISTER WITH SELECTIVE
12 SERVICE WERE GIVEN IN GOOD FAITH AND BASED ON HIS ACTUAL
13 BELIEF THAT HE WAS NOT REQUIRED TO. YOU CAN CONSIDER THAT IN
14 DETERMINING. I THINK THAT'S WHAT IT'S GOING TO. WHAT IS HIS
15 POSITION, THE REASON HE STATES HE BELIEVED HE DIDN'T HAVE TO
16 REGISTER? WHAT IS THAT ARGUMENT? WHAT IS HIS POSITION? I
17 TAKE IT HE'S SAYING HE DIDN'T BELIEVE HE HAD TO REGISTER
18 BECAUSE HE WAS DISAGREEING WITH GEN. TURNAGE.

19 MR. VAUGHT: HE DISAGREES WITH THE SELECTIVE
20 SERVICE AND BASED ON THE STATEMENT OF GEN. TURNAGE HE FELT
21 THAT REGISTRATION WAS APPROVAL.

22 THE COURT: ALL RIGHT, WE'RE GOING TO TAKE THE
23 FIRST SENTENCE IN YOUR PROFFERED INSTRUCTION AND MR. STOLL'S
24 RECOMMENDATION, THAT IS, THE MODIFICATION AS HE PERCEIVES IT
25 OF THE INSTRUCTION CONTAINED IN MURDOCK. SO MR. STOLL, GO

1 AHEAD AND GIVE IT TO HER AGAIN.

2 MR. VAUGHT: I WOULD OBJECT TO THAT ONE PHRASE THAT
3 MR. STOLL PUT IN, BUT OTHER THAN THAT I FIND IT ACCEPTABLE.

4 THE COURT: YOU OBJECT TO WHAT PHRASE NOW?

5 MR. VAUGHT: THE PHRASE THAT SAYS THAT HIS ACTUAL
6 BELIEVE THAT HE DID NOT HAVE TO REGISTER. I THINK HIS ACTUAL
7 BELIEF GOES TO THE RELIANCE ON THE FIRST AMENDMENT BUT I'LL
8 ACCEPT IT THAT WAY.

9 THE COURT: YOU'LL ACCEPT IT? OKAY.

10 MR. VAUGHT: I'LL ACCEPT IT THAT WAY.

11 THE COURT: ALL RIGHT, THE COURT IS GOING TO GIVE
12 THE GOVERNMENT'S PROFFERED INSTRUCTION ABOUT SANCTIONS.

13 THAT'S STANDARD AND RIGHT OUT OF DEVITT AND BLACKMAR.

14 MR. VAUGHT: JUST FOR THE PURPOSES OF THE RECORD WE
15 WOULD OBJECT TO IT BECAUSE THE PENALTY HAS BEEN INTRODUCED IN
16 EVIDENCE THROUGH GOVERNMENT'S EXHIBITS.

17 THE COURT: ANYTHING ELSE?

18 MR. VAUGHT: IN LIGHT OF THE INSTRUCTION THAT WE
19 JUST MODIFIED AND DRAFTED IS THE COURT -- LET ME PUT IT THIS
20 WAY. IN LIGHT OF THE INSTRUCTION JUST MODIFIED AND DRAFTED I
21 WOULD OBJECT TO THE LAST TWO SENTENCES OF THE KNOWINGLY AND
22 WILLFULLY INSTRUCTION IN THE GOVERNMENT'S PACKET.

23 THE COURT: MR. STOLL, WHAT IS YOUR POSITION?

24 MR. STOLL: JUDGE, I THINK THAT CORRECTLY --

25 THE COURT: TRACKS THE LAW?

1 MR. STOLL: YES.

2 THE COURT: OKAY. THE COURT WILL DENY YOUR
3 REQUEST.

4 MR. VAUGHT: THAT'S ALL THAT I HAVE, YOUR HONOR.

5 THE COURT: ALL RIGHT, DO YOU WANT TO NUMBER THESE,
6 PAM. YOU ALL MAY USE THESE IF YOU WISH IN CONNECTION WITH
7 YOUR CLOSING ARGUMENTS.

8 MR. VAUGHT: CAN WE GET A COPY OF THAT BEFORE WE
9 START ARGUMENT?

10 THE COURT: OKAY, THAT'S THE ONLY ONE I WILL HAVE.

11 (THE FOLLOWING INSTRUCTION WAS DENIED AND WAS PROFFERED
12 IN THE PRETRIAL MOTIONS YESTERDAY.)

13 ACCORDING TO PRESIDENTIAL PROCLAMATION 4771, MALE
14 PERSONS ELIGIBLE FOR REGISTRATION WITH SELECTIVE SERVICE WHO
15 WERE BORN IN CALENDAR YEAR 1960 WERE REQUIRED TO PRESENT
16 THEMSELVES FOR AND SUBMIT TO REGISTRATION ON THE DATES
17 BEGINNING JULY 21 THROUGH JULY 26, 1980. IN ADDITION,
18 SECTION 462(D) OF THE MILITARY SELECTIVE SERVICE ACT IMPOSES
19 ON ELIGIBLE INDIVIDUALS A CONTINUING DUTY TO REGISTER UNTIL
20 THEY REACH AGE TWENTY-SIX. CONSEQUENTLY, FAILURE TO REGISTER
21 IS A CONTINUING OFFENSE BUT THE OFFENSE IS NOT COMPLETE UNTIL
22 THE INDIVIDUAL REACHES AGE TWENTY-SIX. IF YOU FIND THAT
23 DURING THE CONTINUING DUTY PERIOD THE DEFENDANT WAS UNDER A
24 LEGAL OBLIGATION TO REGISTER WITH SELECTIVE SERVICE, HIS
25 FAILURE TO HONOR THAT OBLIGATION MAKES HIM GUILTY OF A

1 CRIMINAL OFFENSE IF HIS FAILURE WAS KNOWING AND WILLFUL. BUT
2 IF YOU FIND THAT TH4E DEFENDANT FULFILLED THE REQUIREMENTS
3 BEFORE HIS TWENTY+SIXTH BIRTHDAY, THE OFFENSE IS NOT COMPLETE
4 AND YOU MUST FIND HIM NOT GUILTY.

5 (END OF PROCEEDINGS IN CHAMBERS.)

6 (THE FOLLOWING PROCEEDINGS IN OPEN COURT, JURY PRESENT.)

7 THE COURT: ALL RIGHT, MR. STOLL, YOU MAY GO TO THE
8 JURY WITH YOUR CLOSING OR, MRS. CHERRY, YOU MAY GO TO THE
9 JURY WITH YOUR CLOSING ARGUMENT.

10 MS. CHERRY: IF IT PLEASE THE COURT, MR. HALL, MR.
11 VAUGHT AND THE DEFENDANT, LADIES AND GENTLEMEN, I HAVE COME
12 TO THINK THAT THIS IS, IN TRYING CASES, THAT THIS IS THE TIME
13 WHEN THE BURDEN THAT YOU HEAR ABOUT ALL THROUGH THE TRIAL IN
14 EFFECT SHIFTS TO YOU. YOU HEAR A GREAT DEAL ABOUT THE
15 GOVERNMENT'S BURDEN OF PROOF, BUT AT THIS TIME IT'S YOUR DUTY
16 TO TAKE WHAT YOU'VE HEARD AND SIFT THROUGH ALL OF IT, MAKE
17 SOME SENSE OF IT AND REACH THE ULTIMATE TRUTH. AND AS IS
18 ALWAYS THE CASE, THERE IS ALWAYS TWO SIDES THAT HAVE BEEN
19 PAINTED FOR YOU. AND IT IS YOUR JOB TO SORT OUT WHAT YOU'VE
20 HEARD FROM THOSE TWO SIDES AND MAKE YOUR DETERMINATION.

21 IN THE BEGINNING THE COURT ASKED YOU, AND I BELIEVE
22 THAT I ASKED YOU, IF YOU COULD FOLLOW YOUR DUTY UNDER THE
23 LAW, AND THAT OF COURSE, IS ALWAYS IMPORTANT FOR JURIES. YOU
24 KNOW, THAT'S NEVER UNIMPORTANT, BUT IN THIS CASE IT'S
25 PARTICULARLY IMPORTANT BECAUSE THAT'S WHAT THIS CASE IS ALL

1 ABOUT. IT IS SIMPLY ABOUT OBEDIENCE TO THE LAW. OBEDIENCE
2 TO LAW. FOLLOWING WHAT THE LAW IS.

3 FOLLOWING THE LAW IS JUST THE BASIC DUTY OF
4 CITIZENSHIP. WE'RE A NATION OF LAWS. FOR 200 YEARS WE
5 FOLLOWED THOSE LAWS AND THEY'VE KEPT US FREE. THIS IS THE
6 CASE WHERE THE DEFENDANT, FOR SIMPLY HIS OWN PURPOSES,
7 DECIDED TO DISREGARD IT.

8 NOW, THE EVIDENCE THAT WE'VE PRESENTED FOR YOU IS
9 SIMPLE AND UNCLUTTERED. AS THE COURT HAS TOLD YOU AND WILL
10 INSTRUCT YOU I ANTICIPATE AGAIN, OUR BURDEN IS TO SIMPLY SHOW
11 THAT HE HAD A DUTY TO REGISTER, THAT HE DID NOT REGISTER, AND
12 THAT HE DID NOT REGISTER INTENTIONALLY.

13 NOW, JUST BRIEFLY I'LL GO BACK OVER WHAT WE OFFERED
14 TO YOU ON THOSE POINTS. SO FAR AS HAVING A DUTY TO REGISTER,
15 WE HAVE INTRODUCED HIS BIRTH CERTIFICATE AND ALSO HIS SCHOOL
16 RECORDS TO SHOW THAT THE PAUL JACOB ON THE BIRTH CERTIFICATE
17 IS THE SAME PAUL JACOB SEATED HERE TODAY, THAT THAT
18 INDIVIDUAL WAS 18 YEARS OLD WHEN THE PRESIDENTIAL
19 PROCLAMATION SAID YOU MUST REGISTER BETWEEN THESE TWO PERIODS
20 BECAUSE YOU ARE OF A CERTAIN AGE. AND THEN SECONDLY WE
21 OFFERED THAT HE DID NOT DO THAT.

22 NOW, DAVID COX FROM THE SELECTIVE SERVICE OFFICE
23 TOLD YOU, OF COURSE, THAT HE DID NOT DO THAT. I WAS A LITTLE
24 CONFUSED AT THAT POINT, BECAUSE I THOUGHT FOR A MINUTE WE
25 WERE GOING TO ARGUE THAT HE HAD REALLY REGISTERED AT AN

1 EMBASSY, YOU KNOW, THAT ALL WAS ARGUED ABOUT BUT DAVID COX
2 ABSOLUTELY TOLD YOU THAT HE HAD NOT REGISTERED BUT MORE
3 IMPORTANT THAN THAT, THE DEFENDANT HAS TOLD YOU I DID NOT
4 REGISTER. BUT WE OFFERED FURTHER EVIDENCE OF WHAT HE
5 INTENDED. THAT IS PART OF OUR BURDEN AND IT'S A HEAVY BURDEN
6 AND IT SHOULD BE THAT WAY. WE OFFERED WHAT WAS IN PAUL
7 JACOB'S MIND. NOW WE CAN'T ALWAYS SHOW WHAT'S IN SOMEONE'S
8 MIND BUT IN HIS CASE WE HAD PRETTY GOOD CLEAR PROOF. WE HAD
9 THE PHOTOGRAPH WITH THE SIGN THAT SAYS DON'T REGISTER. WE
10 HAVE PAUL JACOB TELLING SHERRY WARD WITH THE DEMOCRAT I DO
11 NOT INTEND TO REGISTER AND HE CONFIRMED THAT HERE IN THIS
12 COURTROOM RIGHT THERE. I DO NOT INTEND TO REGISTER. SO THAT
13 IS THE ULTIMATE PROOF THAT YOU CAN OFFER ON THOSE ISSUES.

14 NOW, THERE IS A DISTINCTION BEING MADE BY THE
15 DEFENDANT. THERE'S REALLY ONLY ONE AND IT IS THAT HE DIDN'T
16 REGISTER TO SHOW HIS DISAGREEMENT, SOMEHOW INDICATING THAT IT
17 WAS SORT OF A BENIGN UNOFFENSIVE DISAGREEMENT, BUT I WOULD
18 SUBMIT TO YOU THAT YOU WILL HAVE TO JUDGE THAT BASED ON WHAT
19 HE TOLD YOU, WHAT YOU KNOW ABOUT HIM, AND ASSESS HIS HONESTY
20 ON THAT PARTICULAR POINT.

21 THIS IS A YOUNG MAN WHO IN 1980 WHEN HE WENT IN TO
22 VOTE WROTE SMASH THE STATE ON HIS VOTER REGISTRATION CARD AND
23 FOUR YEARS LATER HE COMES BACK TO VOTE AND WRITES SMASH THE
24 STATE ALL OVER IT AGAIN, BUT HE TELLS YOU NOW THAT HE JUST
25 WANTED TO SHOW THAT HE DISAGREED A LITTLE BIT. YOU'LL HAVE

1 TO ASSESS HIS HONESTY WITH YOU.

2 NOW, HIS TEACHERS SAID THAT THEY REMEMBERED HIM
3 BEING HONEST BUT THE TEACHERS, YOU KNOW, MAYBE DID NOT
4 UNDERSTAND THAT PAUL JACOB TOLD THE FBI THAT HE WAS NOT PAUL
5 JACOB, PAUL JACOB MUST HAVE TOLD THE VIRGINIA AUTHORITIES
6 THAT HE WAS SOMEONE ELSE TO GET THAT I. D. CARD AND HE TOLD
7 YOU HIMSELF THAT IF A POLICEMAN ASKED HIM HIS NAME HE'D TELL
8 HIM SOMETHING ELSE. WELL, HE MIGHT VERY WELL IN THIS
9 SITUATION, NOW THAT THE CHIPS ARE DOWN HE WAS AFRAID THAT
10 POLICEMAN WOULD ARREST HIM IF HE TOLD HIM THE TRUTH AND HE
11 MAY BE AFRAID THAT YOU WOULD FIND HIM GUILTY IF HE TELLS YOU
12 THE TRUTH.

13 PAUL JACOB ISN'T SAYING IN THIS PARTICULAR INSTANCE
14 THAT HE'S NOT GUILTY. PAUL JACOB IS SAYING PAUL JACOB HAS
15 THUMBED HIS NOSE AT THE UNITED STATES AND ITS LAWS AND HE'S
16 SIMPLY ASKING YOU TO DO THE SAME. NOW, THEY MADE REFERENCE
17 IN THE ADVERTISEMENTS TO WHAT WAS SAID ABOUT NO BIG DEAL AS
18 THOUGH THE SELECTIVE SERVICE WAS PORTRAYING IT AS NO BIG DEAL
19 AND IT REALLY WAS. YOU KNOW JOHN KENNEDY, RIGHT BEFORE HE
20 WAS INAUGURATED SAID, FROM THOSE TO WHOM MUCH HAS BEEN GIVEN,
21 MUCH WILL BE REQUIRED. WELL, WE SUBMIT TO YOU THAT NOT MUCH
22 HAS BEEN REQUIRED OF PAUL JACOB, TO SIMPLY STAND UP AND SAY I
23 AM PAUL JACOB AND I AM 18; TO SIMPLY BE COUNTED IN THIS
24 UNCERTAIN DANGEROUS WORLD WE LIVE IN. HE HASN'T BEEN ASKED
25 TO FIGHT OR SHOOT OR TRAIN OR EVEN LEAVE HOME AS MEN HAVE

1 DONE IN PEACE TIME AND IN WAR TIME. HE HAS SIMPLY BEEN ASKED
2 TO BE COUNTED. NO DUSTY BOOTS, NO DIRTY HANDS, VERY LITTLE.
3 SIMPLY TO STAND UP IN HIS HOME LAND AND SAY I AM HERE. AND
4 HE WAS STILL FREE TO SIT IN A RECLINER IN AN AIR CONDITIONED
5 ROOM AND INTELLECTUALIZE ALL HE WANTS TO ABOUT JOHN LOCKE AND
6 THE EVILS OF WAR AND INDIVIDUAL FREEDOM AND COME DOWN HERE IN
7 FRONT OF THE COURTHOUSE AND DO IT, YOU KNOW, WITHOUT
8 RESTRAINT, BUT TO STILL ABIDE BY THE LAW. AND IF THE TIME
9 CAME, IF HE HAD REGISTERED, WHEN THE TIME CAME, WHEN THE
10 NATION MAYBE NEEDED TO RAISE THAT ARMY, HE STILL HAD AN
11 OPPORTUNITY, IF HE WAS A CONSCIOUS OBJECTOR, WHICH HE ISN'T,
12 IF HE WAS A MARRIED MAN MAYBE WITH CHILDREN OR WHATEVER, HE
13 COULD STILL WORK WITHIN THE FRAMEWORK OF THE LAW. BUT AS
14 GEN. TURNAGE TOLD YOU IT'S IMPORTANT IN SOMETHING LIKE THIS
15 THAT EVERYONE OBEY THE LAW. HE SIMPLY MAKES THE ODDS GREATER
16 FOR THOSE INDIVIDUALS WHO FOLLOW THE NATION'S MANDATE.

17 THERE ISN'T AN INDUCTION COMING UP. THERE HASN'T
18 BEEN A DRAFT. THERE HASN'T BEEN A DRAFT IN TEN YEARS. THIS
19 IS A CRISIS MEASURE. IT WAS A MEASURE DEvised BY A PRESIDENT
20 AND APPROVED BY CONGRESS IN A TERRIBLE TIME OF TROUBLE, IF
21 YOU ALL WILL THINK BACK TO 1980, DEvised BY ONE PRESIDENT AND
22 ADOPTED BY ANOTHER PRESIDENT, BY JIMMY CARTER AND RONALD
23 REAGAN, TWO PRESIDENTS WHO ARE POLES APART ON MANY THINGS,
24 BUT THEY JOINED HANDS ON THIS. IT'S A MEANS OF QUICK
25 MOBILIZATION, AND I SUBMIT TO YOU THAT PAUL JACOB IS NOT

1 WILLING TO PARTICIPATE IN ANY CASE.

2 NOW MAYBE THAT TIME WILL NEVER COME, THAT TIME TO
3 MUSTER ALL AMERICANS THAT WE KIND OF TALKED ABOUT ALL THROUGH
4 THE TRIAL. TO MUSTER AMERICANS LIKE WAS DONE AFTER PEARL
5 HARBOR OR, MORE IMPORTANTLY, BACK WHEN THE FREEDOMS THAT PAUL
6 JACOB GIVES SUCH LIP SERVICE TO WERE FIRST PURCHASED BY THE
7 BLOOD OF AMERICANS, BACK IN THE TIME WHEN PATRICK HENRY SAID
8 THAT PEACE COULD ONLY BE PURCHASED BY CHAINS AND SLAVERY.
9 THAT'S A CONFLICT, YOU KNOW, THAT PAUL JACOB SAYS THAT HE
10 WOULD HAVE JOINED IN, THE AMERICAN REVOLUTION.

11 HE OFFERED THIS EXHIBIT, EXHIBIT NUMBER 2, THE
12 DECLARATION OF INDEPENDENCE, AND HE SAID I WOULD HAVE SIGNED
13 THAT. I WOULD HAVE GONE ALONG WITH THAT.

14 NOW, I SPENT HALF MY ADULT LIFE AS A LAWYER, AND I
15 SPENT THE OTHER HALF AS A CIVIC TEACHER, AND ALTHOUGH THIS IS
16 ROLLED UP AND YOU CAN'T SEE ALL THE BOTTOM OF THAT LINE, I
17 WISH YOU'D PERMIT ME TO TELL YOU WHAT I THINK IT SAYS FROM
18 MEMORY. IT SAYS "IN SUPPORT OF THIS DECLARATION AND WITH THE
19 RELIANCE ON THE DIVINE PROVIDENCE, WE PLEDGE OUR LIVES, OUR
20 FORTUNES AND OUR SACRED HONOR." I SUBMIT TO YOU THAT GEORGE
21 WASHINGTON WOULD STILL BE WAITING ON PAUL JACOB.

22 PRESIDENT THEODORE ROOSEVELT SAID THAT NO MAN IS
23 ABOVE THE LAW, THAT WE DO NOT ASK THEIR PERMISSION WHEN
24 YOU'RE REQUIRED TO OBEY IT. IF YOU DO NOT LIKE SOMETHING IN
25 THIS COUNTRY YOU HAVE A MEANS TO CHANGE IT. YOU HAVE MANY

1 VARIOUS AVENUES THAT YOU CAN TAKE TO MAKE AN ALTERATION IN
2 SOMETHING THAT YOU THINK IS WRONG. THAT'S THE RULE OF THE
3 MAJORITY. IF YOU THINK THE MAJORITY HAS DONE SOMETHING
4 WRONG, THEN YOU WORK TO BECOME PART OF THAT MAJORITY AND
5 CHANGE IT. YOU MAKE USE OF THOSE FREEDOMS THAT HAVE BEEN
6 PURCHASED VERY DEARLY BY AMERICANS IN THE PAST, BY THOSE
7 AMERICANS WHO LIE UNDER THOSE WHITE CROSSES AT ARLINGTON AND
8 ON NORMANDY BEACH SO THAT PEOPLE LIKE PAUL JACOB CAN DO THEIR
9 OWN THING. THOSE POOR CONFORMISTS, I SUPPOSE HE WOULD CALL
10 THEM.

11 AS GEN. TURNAGE SAID WE HAVE THE PRIVILEGE IN THIS
12 COUNTRY AND THE MEANS TO ALWAYS CHANGE IT IF WE DON'T LIKE
13 IT. WE HAVE THE MEANS, AS PAUL JACOB HAS ALWAYS HAD, TO
14 SPEAK OUT, TO VOTE, TO CAMPAIGN AS HE SAID HE DID, TO WRITE,
15 HE HAS SOME JOURNALISTIC TALENT, TO ASSEMBLE THOSE OF LIKE
16 VIEWS AND IF YOU'RE A MINORITY, MAKE THAT MINORITY A
17 MAJORITY, BUT THE MAJORITY STILL RULES IN THIS COUNTRY.
18 THOSE RIGHTS THAT PAUL JACOB ENJOYS WERE PAID FOR WHEN, AND
19 THIS IS HIS TERM FOR THE NEWSPAPER ARTICLE, WHEN SOMEONE ELSE
20 WAS CANNON FIGHTER.

21 LADIES AND GENTLEMEN, GO BACK, PLEASE, AND
22 DELIBERATE OVER WHAT YOU HAVE HEARD AND SIFT THROUGH THE PAST
23 TWO DAYS, BUT COME BACK AND WE'RE ASKING YOU WITH YOUR
24 VERDICT TELL PAUL JACOB THAT THE PRIVILEGES THAT WE ENJOY IN
25 THIS COUNTRY ARE NOT ABSOLUTELY FREE, THAT YOU BELIEVE IN A

1 NATION THAT IS STILL GOVERNED PRIMARILY BY LAW AND THAT HE
2 HAS VIOLATED THAT LAW AND THAT HE IS GUILTY. THANK YOU.

3 THE COURT: MR. VAUGHT?

4 MR. VAUGHT: THANK YOU, YOUR HONOR. MAY IT PLEASE
5 THE COURT, LADIES AND GENTLEMEN OF THE JURY, ON BEHALF OF
6 JOHN HALL AND ESPECIALLY ON BEHALF OF PAUL JACOB, WE THANK
7 YOU FOR YOUR PATIENCE AND YOUR ATTENTIVENESS THROUGH THESE
8 LAST TWO DAYS. I KNOW THAT THERE HAVE BEEN TIMES DURING THE
9 LAST COUPLE OF DAYS WHEN IT'S BEEN TRYING ON YOU AND IT'S
10 CERTAINLY BEEN TRYING ON US. IF I MAY SAY SO, THEY'VE BEEN
11 ESPECIALLY TRYING ON ME AND I'M GOING TO BE A LITTLE BIT
12 INTROVERTED HERE FOR A MINUTE. AS A CRIMINAL DEFENSE LAWYER
13 I'M NORMALLY ABLE TO KEEP OBJECTIVITY FROM A CLIENT AND DEAL
14 AT ARM'S LENGTH, BUT I CAN'T DO THAT WITH PAUL JACOB, BECAUSE
15 PAUL JACOB IS NOT A CRIMINAL, AND AS HIS ATTORNEY I HAVE A
16 BOND WITH HIM WHICH GOES BEYOND ATTORNEY AND CLIENT
17 RELATIONSHIP.

18 PAUL IS A MAN OF UNUSUALLY DEEP AND SINCERE
19 CONVICTIONS. I DON'T THINK ANYONE COULD HAVE HEARD HIS
20 TESTIMONY, WHETHER THEY BELIEVED HIM OR WHETHER THEY AGREED
21 WITH HIM OR WHETHER THEY JUST WALKED IN OFF THE STREET
22 WITHOUT REALIZING THAT PAUL JACOB IS UNUSUALLY AND DEEPLY
23 SINCERE.

24 I KNOW IN MY HEART THAT PAUL JACOB IS NOT A
25 CRIMINAL. PAUL'S BELIEF IN INDIVIDUAL LIBERTY, HIS

1 OPPOSITION TO FORCED CONSCRIPTION ARE NOT ABERRATIONS. WE'RE
2 NOT TALKING ABOUT A WILD EYED RADICAL KID WHO HAS NEVER BEEN
3 OUTSIDE OF HIS HOUSE AND WHO DOESN'T THINK ANYTHING ABOUT
4 WHAT'S GOING ON AROUND HIM. THIS IS AN INTELLECTUAL, AN
5 INTELLIGENT PERSON, A THINKING PERSON, A PERSON WHO HAS FOUND
6 HIS CONVICTIONS THROUGH CAREFUL, LONG AND ARDUOUS THOUGHT
7 PROCESSES.

8 YOU HEARD ED CLARK, WHO WAS THE PRESIDENTIAL
9 CANDIDATE FOR THE LIBERTARIAN PARTY IN 1980, WHO IS AN
10 ATTORNEY, WHO IS OBVIOUSLY A VERY INTELLIGENT MAN, FROM
11 LISTENING TO HIS TESTIMONY, GIVE A HISTORY OF THE BACKGROUND
12 OF THE LIBERTARIAN THOUGHT. LIBERTARIAN THOUGHT COMES FROM,
13 AMERICAN LIBERTARIAN THOUGHT, COMES FROM THE BILL OF RIGHTS
14 WHICH WAS PRIMARILY ADOPTED FROM PHILOSOPHICAL THOUGHT IN
15 ENGLAND.

16 YOU HEARD DR. RON PAUL TESTIFY, A PHYSICIAN, WELL
17 EDUCATED MAN, RAN FOR AND WAS ELECTED TO CONGRESS THREE TIMES
18 AS A REPUBLICAN FROM A DISTRICT IN TEXAS. HIS VIEWS ON
19 SELECTIVE SERVICE ARE VERY SIMILAR TO PAUL'S. HE SUPPORTS
20 PAUL. PAUL'S VIEWS ARE NOT AN ABERRATION. THEY ARE NOT
21 SOMETHING SO FAR OUT IN LEFT FIELD THAT THEY SHOULDN'T BE
22 ACCEPTED AS VALID, VIABLE ALTERNATIVES, AND THAT'S WHAT PAUL
23 OFFERS. PAUL JACOB IS NOT A CRIMINAL, BECAUSE HE DID NOT
24 WILLFULLY FAIL OR REFUSE TO REGISTER. HE HAD A RIGHT UNDER
25 THE FIRST AMENDMENT TO DISAPPROVE AND OPPOSE THE DRAFT.

1 GEN. TURNAGE TESTIFIED THAT HE HAD PUBLICLY STATED
2 THAT APPROVAL WAS EVIDENT BECAUSE OF HIGH REGISTRATION
3 STATISTICS. THEREFORE PAUL'S MIND REGISTRATION IS TANTAMOUNT
4 TO APPROVAL, AND BECAUSE OF HIS BELIEFS AND BECAUSE OF HIS
5 CONVICTIONS, HE CANNOT APPROVE. HE CANNOT GIVE UP WHAT IS
6 DEAR TO HIM IF IT MEANS APPROVAL OF THE SELECTIVE SERVICE
7 SYSTEM.

8 GEN. TURNAGE TESTIFIED TODAY THAT HE CONSIDERED THE
9 HIGH REGISTRATION RATE AN APPROVAL, AN ENDORSEMENT OF THIS
10 ADMINISTRATION'S POLICIES. THIS ADMINISTRATION OF RONALD
11 REAGAN, A MAN WHO IN 1980, WHEN HE WAS RUNNING FOR PRESIDENT,
12 SAID THAT SELECTIVE SERVICE REGISTRATION ATTACKED THE VERY
13 FIBERS OF THIS COUNTRY. GEN. TURNAGE SAID THAT THE
14 REGISTRATION STATISTICS SHOW COMPLETE SUPPORT. THERE'S NOT
15 COMPLETE SUPPORT AND PAUL JACOB WILL STAND UP, AND HAS STOOD
16 UP, TODAY TO SAY THAT THERE IS NOT COMPLETE SUPPORT. AND
17 WITHOUT PEOPLE LIKE PAUL JACOB THIS COUNTRY CANNOT FUNCTION
18 AS AN INDEPENDENT NATION BASED ON INDIVIDUAL LIBERTIES.

19 WHAT HAPPENS WHEN THE FIRST AMENDMENT APPEARS TO BE
20 IN DIRECT CONFLICT WITH THE STATUTORY DUTY SUCH AS THE
21 STATUTORY DUTY UNDER THE SELECTIVE SERVICE LAW? U. S.
22 SUPREME COURT, IN 1943, CONFRONTED THIS QUESTION IN A CASE
23 CALLED BOARD OF EDUCATION VERSUS US BARNETT. STATED "THE
24 TASK OF TRANSLATING THE MAJESTIC GENERALITIES OF THE BILL OF
25 RIGHTS CONCEIVED AS PART OF THE PATTERN OF THE LIBERAL

1 GOVERNMENT IN THE 18TH CENTURY IN THE CONCRETE RESTRAINTS ON
2 OFFICIALS DEALING WITH PROBLEMS OF THE 20TH CENTURY IS ONE TO
3 DISTURB SELF-CONFIDENCE." THERE IS A CONFLICT. THERE IS A
4 CLASH. "THESE PRINCIPLES GREW IN SOIL WHICH ALSO PRODUCED
5 THE PHILOSOPHY THAT THE INDIVIDUAL WAS THE CENTER OF
6 SOCIETY." THAT IS LIBERTY WAS ATTAINABLE THROUGH MERE
7 ABSENCE OF GOVERNMENTAL RESTRAINTS AND THE GOVERNMENT SHOULD
8 BE ENTRUSTED WITH FEW CONTROLS AND OVER MILD SUPERVISION OVER
9 MEN'S AFFAIRS. NATIONAL UNITY AS AN END WHICH OFFICIALS MAY
10 FOSTER BY PERSUASION AND EXAMPLE HIS NOT IN QUESTION." IF WE
11 CAN ALL BE UNITED THAT'S GREAT. AND IF WE CAN DO THAT BY
12 PERSUASION AND BY INTELLIGENT THOUGHT AND INTELLIGENT
13 LEADERS, THAT'S GREAT. "THOSE WHO BEGIN COERSIVE ELIMINATION
14 OF DISSENT SOON FIND THEMSELVES EXTERMINATION DISSENTERS."
15 THIS IS THE SUPREME COURT TALKING. "COMPULSORY UNIFICATION
16 OF OPINION ACHIEVES ONLY THE UNANIMITY OF THE GRAVEYARD. IT
17 IS TRITE BUT NECESSARY TO SAY THAT THE FIRST AMENDMENT TO OUR
18 CONSTITUTION WAS DESIGNED TO AVOID THESE ENDS BY AVOIDING
19 THESE BEGINNINGS. THERE IS NO MYSTICISM IN THE AMERICAN
20 CONCEPT OF THE STATE OR THE NATURE OR THE ORIGIN OF ITS
21 AUTHORITY. WE SET UP GOVERNMENT BY CONSENT OF THE GOVERNED
22 AND THE BILL OF RIGHTS DENIES THOSE IN POWER ANY LEGAL
23 OPPORTUNITIES TO COERSE THAT CONSENT. AUTHORITY HERE IS TO
24 BE CONTROLLED BY PUBLIC CPINION, NOT PUBLIC OPINION BY
25 AUTHORITY." DOES THAT SOUND LIKE ED CLARK TALKING? SOUND

1 LIKE RON PAUL TALKING? SOUND LIKE PAUL JACOB TALKING? IT
2 IS. IT'S THE UNITED STATES SUPREME COURT TELLING US WHAT
3 THIS COUNTRY IS ALL ABOUT, TELLING US WHAT THE FIRST
4 AMENDMENT IS ALL ABOUT.

5 PAUL JACOB IS NOT A CRIMINAL. AS THE COURT WILL
6 INSTRUCT YOU NON-REGISTRATION IS WILLFUL IS DONE WITHOUT
7 GROUNDS FOR BELIEVING THAT THE OMISSION IS LAWFUL. SUPREME
8 COURT AGAIN. "FREEDOM TO DIFFER IS NOT LIMITED TO THINGS
9 THAT DO NOT MATTER MUCH THAT WOULD BE A MERE SHADOW OF
10 FREEDOM. THE TEST OF ITS SUBSTANCE IS THE RIGHT TO DIFFER AS
11 TO THINGS THAT TOUCH THE HEART OF THE EXISTING ORDER."

12 BARNETT CASE IS THE LAW IN THIS COUNTRY. THE FIRST
13 AMENDMENT IS CERTAINLY THE LAW. IT'S THE HIGHEST FORM OF
14 LAW. THE CONSTITUTION OF THE UNITED STATES IS THE ULTIMATE
15 LAW IN THE UNITED STATES AND THE FIRST AMENDMENT IS A PART
16 OF IT. RELIANCE ON THE FIRST AMENDMENT CONSTITUTES QUOTE
17 "GROUNDS FOR BELIEVING THE OMISSION IS LAWFUL," AND YOU CAN
18 SO FIND. YOU CAN CONSIDER THAT IF PAUL BELIEVED, TRULY
19 BELIEVED, WHAT HE STATED TO YOU ON THE STAND TODAY, THEN HIS
20 REFUSAL TO REGISTER WAS NOT WILLFUL, AND IF THE REFUSAL TO
21 REGISTER WAS NOT WILLFUL, IT IS NOT A VIOLATION AND YOU MUST
22 FIND HIM NOT GUILTY.

23 THE GOVERNMENT'S CASE, AS REVIEWED BY MRS. CHERRY
24 THEY FELT WAS CUT AND DRIED, BUT THEIR EVIDENCE OF
25 WILLFULNESS CONSISTED OF A STATEMENT SUPPOSEDLY MADE BY PAUL

1 WHEN BEING INTERVIEWED BY A NEWSPAPER REPORTER IN WHICH HE
2 SAID I HAVEN'T REGISTERED AND I DON'T INTEND TO. WITH NO
3 EXPLANATION, NO REASONING, NONE OF THE BACKGROUND THAT IS SO
4 MUCH A PART OF THIS YOUNG MAN'S THOUGHT AND HIS IDEALS.

5 MR. JAMES SMITH WHO WAS PAUL'S PRINCIPAL IN
6 NORTHEAST HIGH SCHOOL TESTIFIED THAT PAUL WAS VERY SINCERE
7 THAT HE BELIEVED WHAT HE SAID THAT HE BELIEVED. EVERYONE WHO
8 HAS TESTIFIED IN THIS COURTROOM THAT KNOWS PAUL JACOB AGREES
9 THAT HE IS SINCERE, THAT HE BELIEVES WHAT HE SAYS, AND THE
10 COURT WILL INSTRUCT YOU THAT IF YOU FIND THAT HE BELIEVES
11 WHAT HE SAYS, THEN YOU CAN CONSIDER THAT AS EVIDENCE GOING TO
12 WILLFULNESS.

13 PAUL JACOB IS NOT A CRIMINAL. HE HAS TRULY GIVEN
14 ALL OF THE INFORMATION ON THIS CARD. HE GAVE IT TODAY RIGHT
15 HERE IN COURT. WE WENT DOWN ON HIS TESTIMONY AND FILLED IN
16 ALL THOSE BLANKS THERE. HE ONLY REFUSES TO SIGN HIS JOHN
17 HANCOCK. WE'VE ALL HEARD THAT TERM. THE REASON WE SAY YOU
18 SIGN YOUR JOHN HANCOCK BECAUSE JOHN HANCOCK WAS THE FIRST
19 PERSON TO SIGN THE DECLARATION OF INDEPENDENCE, AND HE MADE
20 IT ABOUT TWICE AS BIG AS ANYONE ELSE WHO SIGNED IT BECAUSE HE
21 BELIEVED. HE BELIEVED THE TRUTHS THAT ARE IN THAT DOCUMENT.
22 PAUL JACOB BELIEVES THE TRUTHS THAT ARE IN THAT DOCUMENT.

23 THE SENTENCE READ BY MRS. SHERRY IS AN EXTREMELY
24 IMPORTANT PART OF THAT DOCUMENT. PAUL BELIEVES THAT. HE
25 ADHERES TO THOSE PRINCIPLES, JUST LIKE THOMAS JEFFERSON

1 ADHERED TO THE FIRST AMENDMENT AND WAS A PART OF THAT.
2 DECLARATION OF INDEPENDENCE IS A LIBERTARIAN
3 DOCUMENT IF EVER THERE WAS ONE. REMEMBER ED CLARK'S
4 TESTIMONY? THE CLOSEST GOVERNMENT THAT THE WORLD HAS EVER
5 SEEN TO A LIBERTARIAN GOVERNMENT OR A GOVERNMENT WHICH HAD
6 THE SAME IDEALS AS THE MODERN LIBERTARIAN PARTY DOES WAS THAT
7 REVOLUTIONARY GOVERNMENT, THE UNITED STATES DURING AND AFTER
8 THE REVOLUTION. THE TRUTHS OF THE DECLARATION OF
9 INDEPENDENCE IS APPARENT. IT WOULD BE NO LESS TRUE IF NO ONE
10 HAD SIGNED IT, BUT LIKE PAUL JACOB SAID, IF THEY DIDN'T SIGN
11 IT, IT DOESN'T MEAN ANYTHING, BECAUSE THAT'S THE APPROVAL
12 THAT MAKES IT VIABLE. PAUL WOULD SIGN THE DECLARATION OF
13 INDEPENDENCE BECAUSE HE APPROVES IT, AND HE WOULD HAVE SIGNED
14 IT IN 1776 IF HE HAD BEEN THERE. BECAUSE HE HAS THE COURAGE
15 ENOUGH TO SEE THE TRUTH AND STAND UP FOR IT AND TO REMAIN
16 STANDING UP FOR IT WHEN HE'S THE ONLY PERSON WHO APPARENTLY
17 IS AT SOMETIMES IN HIS LIFE. I'M SURE HE FELT LIKE HE WAS
18 THE ONLY PERSON IN THE WORLD THAT SHARED HIS VIEWS AT CERTAIN
19 TIMES. THE SIGNERS OF THE DECLARATION OF INDEPENDENCE WERE
20 JEOPARDIZING THEIR LIVES AND THEIR FREEDOM BY SIGNING IT.
21 THEY WERE COMMITTING TREASON IN THE EYES OF ENGLISH, BUT THEY
22 WERE RIGHT AND THEY HAD THE COURAGE OF THEIR CONVICTIONS.
23 PAUL HAS THE COURAGE OF HIS CONVICTIONS. I WANT YOU TO HAVE
24 THE COURAGE OF YOUR CONVICTIONS.
25 WHEN WE WERE SELECTING THE JURY YESTERDAY MORNING I

1 ASKED A QUESTION, THAT IF YOU FOUND YOURSELF IN THE JURY ROOM
2 AND WERE ONLY ONE WHO HELD A BELIEF ONE WAY AND THE 11 HELD A
3 BELIEF THE OTHER WAY, WOULD YOU HAVE THE COURAGE TO STAND UP
4 TO YOUR CONVICTIONS. PAUL DOES. I HOPE THAT YOU DO. I
5 THINK THAT YOU WILL. I THINK THAT EVERY AMERICAN LIKES TO
6 FEEL THAT IN HIS OWN MIND WHEN HE KNOWS THAT THERE IS
7 SOMETHING THAT HE BELIEVES IN ABSOLUTELY HE WILL DEFEND IT
8 ABSOLUTELY. PAUL WILL DO THAT. HE HAS SHOWN THAT HE HAS.
9 HE'S GONE THROUGH THE LAST FIVE YEARS AND THAT'S WHAT BROUGHT
10 HIM HERE TODAY.

11 WE SHOWED YOU SOME VIDEO TAPES OF SOME PUBLIC
12 SERVICE ANNOUNCEMENTS MADE BY THE SELECTIVE SERVICE SYSTEM
13 PROMOTING REGISTRATION AND IN ONE OF THEM THREE YOUNG MEN
14 DANCED INTO THE POST OFFICE TO REGISTER AND THE ANNOUNCERS
15 VOICE SAYS NO BIG DEAL. LADIES AND GENTLEMEN, OUR PRESENCE
16 HERE TODAY SAYS IT IS A BIG DEAL.

17 THE GOVERNMENT INTRODUCED A DOCUMENT WHICH WAS A
18 FORM LETTER SENT OUT TO ALL NON-REGISTRANTS. THAT TOLD THEM
19 IT WAS A BIG DEAL. THAT TOLD THEM THAT IT IS DEFINITELY A
20 BIG DEAL. THAT'S THE PRICE THAT'S BEEN PUT ON THE FIRST
21 AMENDMENT. PAUL BELIEVES IN THE FIRST AMENDMENT. HE COULD
22 HAVE SIGNED A CARD LIKE THIS. HE WOULD NEVER HAVE BEEN
23 PROSECUTED BUT HE WOULD HAVE BEEN DENYING HIS VERY REASON FOR
24 BEING HERE. ALL OF US HAVE TO LIVE WITH OURSELVES BEFORE WE
25 CAN LIVE WITH ANYONE ELSE, AND PAUL JACOB HAS THE STRENGTH TO

1 KNOW THAT IF HE IS DISHONEST WITH HIMSELF THEN HE WILL NEVER
2 BE PAUL JACOB BECAUSE THAT'S WHAT PAUL JACOB IS.

3 I'M GOING TO READ ONE MORE QUOTATION FROM THE
4 BARNETT CASE BECAUSE I LOVE THIS CASE. WORDS UTTURED UNDER
5 COERSION ARE APPROVED OF LOYALTY TO NOTHING BUT SELF
6 INTEREST. EASY WAY OUT. PAUL DIDN'T TAKE THE EASY WAY OUT.
7 HE HAS THE STRENGTH OF HIS CONVICTIONS. I HOPE THAT YOU HAVE
8 THE STRENGTH OF YOUR CONVICTIONS.

9 I'M GOING TO SIT DOWN NOW LEAVING YOU WITH ONE
10 FINAL THOUGHT. THIS IS THE LAST TIME THAT THE DEFENSE WILL
11 BE ALLOWED TO ADDRESS THE JURY. THE GOVERNMENT WILL HAVE THE
12 REBUTTAL ARGUMENT AFTER MINE AND SO THIS IS THE LAST TIME I
13 WILL BE ABLE TO SAY ANYTHING TO YOU, AND I WANT YOU TO KNOW
14 THAT THE UNITED STATES OF AMERICA IS YOU. YOU ARE THE PEOPLE
15 AND THE PEOPLE WILL DECIDE THIS CASE, AND I KNOW THAT YOU'RE
16 HERE TO DO JUSTICE AND PAUL WANTS THAT JUSTICE. HE RESPECTS
17 YOUR ABILITY TO SEE THAT HE IS A MAN OF HIS CONVICTIONS AND
18 RESPECTS YOU TO BE ABLE TO MAKE THE PROPER DECISION AND,
19 AGAIN, I THANK YOU VERY MUCH.

20 THE COURT: MR. STOLL?

21 MR. STOLL: IF IT PLEASE THE COURT, LADIES AND
22 GENTLEMEN OF THE JURY, I, LIKE MR. VAUGHT, ALSO LIKE TO THANK
23 YOU FOR YOUR TIME AND ATTENTION. I KNOW SERVING ON JURY DUTY
24 IS NOT ALWAYS THE EASIEST AND IT'S MANY TIMES INCONVENIENT,
25 BUT THAT'S WHAT OUR JUDICIAL SYSTEM IS BASED UPON AND I THANK

1 YOU FOR YOUR TIME AND ATTENTION. I'M NOT GOING TO RE-HASH
2 ALL THE EVIDENCE OF THE CASE. IT'S NOT A COMPLICATED CASE,
3 IT WASN'T A VERY LONG CASE. WE FINISHED UP FAIRLY EARLY
4 YESTERDAY AND HERE WE ARE NOON, A LITTLE PAST NOON AND THE
5 TESTIMONY IS ALL IN, AND AS THE COURT TOLD YOU INITIALLY IT'S
6 JUST THE ARGUMENT. THIS IS NOT EVIDENCE. WHAT I SAY IS NOT
7 EVIDENCE, WHAT MS. CHERRY SAID IS NOT EVIDENCE NOR MR.
8 VAUGHT. YOU'VE HEARD THE EVIDENCE. THIS IS OUR OPPORTUNITY
9 TO ARGUE THE CASE TO YOU.

10 NOW, THE DEFENSE HAS TRIED TO PAINT A PICTURE THAT
11 WE HAVE THE FIRST AMENDMENT OVER HERE AND WE HAVE
12 REGISTRATION OVER HERE, AND I SUBMIT TO YOU THAT'S NOT THE
13 CASE. YOU CAN HAVE REGISTRATION AND STILL VOICE YOUR FIRST
14 AMENDMENT RIGHTS. EVERYONE HAS THEIR FIRST AMENDMENT RIGHTS
15 TO SPEAK OUT. NO ONE IS TRYING TO OPPRESS THAT OR STAMP IT
16 OUT IN ANY WAY. MR. JACOB HAS AND CAN PROTEST THE
17 REGISTRATION SYSTEM. THAT IS NOT A LAW AGAINST THAT. THE
18 LAW IS, HOWEVER, THAT IF YOU'RE A YOUNG MAN AND YOU FALL
19 WITHIN THE CLASSIFICATION AND BACK WHEN HE WAS CHARGED HE WAS
20 BORN IN 1960, WHICH HE'S ADMITTED, WHICH THE BIRTH
21 CERTIFICATE IS IN, AND HE WAS REQUIRED TO REGISTER AND HE DID
22 NOT. HE COULD HAVE REGISTERED AND STILL PROTESTED THE LAW
23 FROM HERE TO ETERNITY AND SAY, GEN. TURNAGE I DISAGREE WITH
24 YOU. WRITE HIS SENATORS AND SAY I DISAGREE. WRITE THE
25 PRESIDENT AND SAY I DISAGREE. AND YOU CAN DISAGREE WITH THE

1 LAW AND I'D VENTURE TO SAY THAT THERE'S LAWS WE ALL DISAGREE
2 WITH. THERE'S A SECTION OF SOCIETY OUT THERE THAT BELIEVES
3 THAT DRUGS OUGHT TO BE LEGALIZED. THERE'S A SECTION OF
4 SOCIETY THAT MIGHT SAY HEY, I DON'T BELIEVE THAT THE UNITED
5 STATES OUGHT TO SPEND MONEY FOR WHATEVER REASON, FOR THE
6 SPACE PROGRAM, SO THEREFORE, I'M NOT GOING TO PAY ANY TAXES
7 BECAUSE I DISAGREE WITH IT. THAT'S NOT THE WAY TO GET THINGS
8 ACCOMPLISHED, NOT HERE. WE HAVE REPRESENTATIVES THAT WE
9 ELECT. IF THEY DO NOT VOICE YOUR OPINION, YOU CAN VOTE THEM
10 OUT, AND YOU CAN WRITE THEM AND YOU CAN EXPRESS YOUR OPINION.
11 AND I ANTICIPATE THE COURT IS GOING TO TELL YOU THAT IT'S NOT
12 A DEFENSE TO DISOBEY THE LAW.

13 WE DON'T HAVE THE FIRST AMENDMENT ON ONE HAND AND
14 REGISTRATION ON THE OTHER. YOU CAN PROTEST ALL YOU WANT TO,
15 BUT IF IT'S THE LAW AND YOU KNOW ABOUT IT, YOU HAVE TO OBEY
16 IT. I THINK THEY ASKED GEN. TURNAGE ABOUT CIVIL DISOBEDIENCE
17 AND HE SAID YES, BUT YOU HAVE TO BE WILLING TO PAY THE PRICE.

18 MR. VAUGHT SAID SEVERAL TIMES THAT I KNOW THAT PAUL
19 JACOB IS NOT A CRIMINAL. I KNOW THAT IN MY HEART. WELL,
20 THAT'S A PERSONAL OPINION OF MR. VAUGHT. IT'S NOT WHETHER HE
21 THINKS PAUL JACOB IS A CRIMINAL OR NOT OR WHETHER I THINK
22 HE'S A CRIMINAL. YOU'RE HERE TO TRY THE FACTS AND ISSUES
23 BEFORE YOU. DID PAUL JACOB KNOWINGLY REFUSE TO REGISTER WHEN
24 HE WAS REQUIRED TO DO SO. I SUBMIT TO YOU THAT THE PROOF IS
25 OVERWHELMING.

1 WE PUT OUR CASE ON AND THEN WHEN MR. JACOB TOOK THE
2 STAND HE ESSENTIALLY ADMITTED TO EVERYTHING YES, I WAS BORN
3 HAD 1960. I DON'T REMEMBER EVERGREEN PARK, BECAUSE I WAS
4 JUST BORN BUT APPARENTLY THAT'S WHERE IT WAS BUT YES, I'M
5 PAUL JACOB BORN IN 1960. I LIVED IN PULASKI COUNTY, NORTH
6 LITTLE ROCK, AND I WAS AWARE OF THE REGISTRATION PROGRAM BUT
7 I DISAGREED.

8 NOW THEY'VE TALKED ABOUT THEY HAD THEIR CHART AND
9 THEY WENT THROUGH IT AND THEY ASKED ALL THE NAME, THE SEX
10 MALE OR FEMALE, SOCIAL SECURITY NUMBER AND EVERYTHING ELSE,
11 AND I DON'T KNOW IF THEY WERE TRYING TO EQUATE THAT WITH
12 REGISTRATION OR NOT BUT THEY SAID THERE IT IS, THERE IS THE
13 INFORMATION. THE UNITED STATES HAS IT.

14 THE LAW REQUIRES THAT YOU PRESENT YOURSELF AND
15 SUBMIT TO REGISTRATION. ONE THING THAT MR. JACOB SAID IN HIS
16 TESTIMONY WHEN WE WERE TALKING ABOUT THE DECLARATION OF
17 INDEPENDENCE AS MR. VAUGHT JUST TOLD YOU A MINUTE AGO WITHOUT
18 THE NAME WHAT, WITHOUT THE NAME IT'S MEANINGLESS. IT'S THE
19 SAME THING. HE WOULD NOT SUBMIT HIMSELF AND PRESENT HIMSELF
20 TO THE POST OFFICE AND PUT HIS NAME ON A CARD AND REGISTER.

21 AS GEN. TURNAGE ALSO SAID IT IS NOT A VICTIMLESS
22 CRIME. HE CAN PROTEST. WE'RE NOT TRYING TO STOP ANY PROTEST
23 AT ALL. THAT'S ONE THING ABOUT THIS COUNTRY THAT MAKES IT
24 GREAT. BUT THERE ARE CONSEQUENCES TO HIS ACTIONS AND ACTIONS
25 OF OTHERS LIKE HIM. IF THERE IS A DRAFT, WHICH THERE IS NOT,

1 HASN'T BEEN IN TEN YEARS. IF THERE IS A DRAFT AND YOU HAVE A
2 POOL OF NAMES, FOR EVERYONE THAT'S NOT IN THERE, THE PEOPLE
3 WHO ARE IN THERE THE MANY, MANY PEOPLE, THOUSANDS OF PEOPLE
4 WHO HAVE SIGNED UP FOR REGISTRATION, THEIR ODDS INCREASE ON
5 BEING CALLED. IS IT FAIR TO THEM TO ALLOW PEOPLE LIKE PAUL
6 JACOB TO TURN THEIR BACK ON THE LAW? I SUBMIT IT'S NOT.

7 MR. VAUGHT INDICATED THAT THE COURT WAS GOING TO
8 INSTRUCT YOU, AND I CAN'T QUOTE HIM VERBATIM, NOT GOING TO
9 TRY TO QUOTE HIM VERBATIM, NOR AM I TRYING TO QUOTE ANYONE
10 VERBATIM BECAUSE I DON'T THINK I COULD DO IT. SO IF I SAID
11 SOMETHING THAT DIDN'T EXACTLY JIBE WITH THE WAY YOU REMEMBER
12 IT, YOU RELY ON YOUR MEMORY, BECAUSE YOU ARE THE FINDERS OF
13 THE FACTS. HE WAS TALKING ABOUT WHAT HE THOUGHT THE COURT
14 WOULD INSTRUCT YOU. I THINK HE WAS SAYING THAT IF MR. JACOB
15 TRULY BELIEVED IN WHAT HE WAS DOING, THEN IT WAS NOT WILLFUL.
16 I DON'T BELIEVE THAT'S GOING TO BE ESSENTIALLY THE INSTRUCTION
17 OF THE COURT, BUT YOU LISTEN TO THE COURT AS IT GIVES YOU THE
18 INSTRUCTIONS. I THINK THE COURT IS GOING TO SAY SOMETHING
19 MORE ALONG THE LINE THAT IF THE DEFENDANT, IN HIS REFUSAL TO
20 REGISTER, WAS GIVEN IN GOOD FAITH AND BASED UPON HIS ACTUAL
21 BELIEF THAT HE DID NOT HAVE TO REGISTER YOU MAY CONSIDER
22 THAT. IF THE DEFENDANT BELIEVED THAT HE DID NOT HAVE TO
23 REGISTER, IF YOU FIND THAT HE HAD THAT BELIEF THAT HE DID NOT
24 HAVE TO REGISTER, NOT THAT HE DIDN'T WANT TO REGISTER, BUT
25 THAT HE DID NOT HAVE TO REGISTER, I DON'T KNOW WHAT IT'S

1 BASED ON, BECAUSE HE TOLD YOU FROM THE WITNESS STAND I KNEW
2 ABOUT THE SELECTIVE SERVICE PROGRAM. I THINK THE PROOF IS
3 AMPLE THERE. I WAS BORN IN 1960. THE LAW IMPOSES A DUTY
4 UPON ME TO REGISTER AND I KNEW ABOUT IT, BUT IF I DID I WOULD
5 BE, IN MY MIND, APPROVING OF IT AND I DON'T APPROVE OF IT.
6 DISAGREEMENT IS NOT A DEFENSE. HE CAN DISAGREE WITH IT ALL
7 HE WANTS TO AS LONG AS HE OBEYS IT.

8 I SUBMIT TO YOU THAT BASED UPON THE TESTIMONY AND
9 THE EVIDENCE THAT'S BEEN SUBMITTED TO YOU THAT PAUL JACOB IS
10 GUILTY AS CHARGED IN THE INDICTMENT, AND I ASK YOU TO SO
11 FIND. THANK YOU.

12 THE COURT: LADIES AND GENTLEMEN OF THE JURY, THE
13 FAITHFUL PERFORMANCE OF YOUR DUTIES AS JURORS IS ESSENTIAL TO
14 THE PROPER ADMINISTRATION OF JUSTICE. IT IS MY DUTY AT THIS
15 TIME TO INFORM YOU OF THE LAW APPLICABLE TO THIS CASE BY
16 INSTRUCTIONS, AND IT IS YOUR DUTY TO ACCEPT AND FOLLOW THEM
17 AS A WHOLE, NOT SINGLING OUT ONE INSTRUCTION TO THE EXCLUSION
18 OF OTHERS.

19 YOU SHOULD NOT CONSIDER ANY RULE OF LAW WITH WHICH
20 YOU MAY BE FAMILIAR UNLESS IT IS INCLUDED IN THESE
21 INSTRUCTIONS. IT IS YOUR DUTY TO DETERMINE THE FACTS FROM
22 THE EVIDENCE PRODUCED DURING THE COURSE OF THE TRIAL. YOU
23 ARE TO APPLY THE LAW AS CONTAINED IN THESE INSTRUCTIONS TO
24 THE FACTS AND RENDER YOUR VERDICT UPON THE EVIDENCE AND THE
25 LAW. YOU SHOULD NOT PERMIT SYMPATHY, PREJUDICE, OR LIKE OR

1 DISLIKE OF ANY PARTY TO THIS ACTION OR OF ANY ATTORNEY TO
2 INFLUENCE YOUR FINDINGS IN THIS CASE.

3 IN DECIDING THE ISSUES, YOU SHOULD CONSIDER THE
4 TESTIMONY OF THE WITNESSES AND THE EXHIBITS RECEIVED IN
5 EVIDENCE. THE INTRODUCTION OF EVIDENCE IN COURT IS GOVERNED
6 BY LAW. YOU SHOULD ACCEPT WITHOUT QUESTION MY RULINGS AS TO
7 THE ADMISSIBILITY OR REJECTION OF EVIDENCE, DRAWING NO
8 INFERENCES THAT BY THESE RULINGS I HAVE IN ANY MANNER
9 INDICATED MY VIEWS ON THE MERITS OF THE CASE.

10 OPENING STATEMENTS, REMARKS DURING THE TRIAL, AND
11 CLOSING ARGUMENTS OF THE ATTORNEYS ARE NOT EVIDENCE BUT ARE
12 MADE ONLY TO HELP YOU IN UNDERSTANDING THE EVIDENCE AND THE
13 APPLICABLE LAW.

14 ANY ARGUMENT, STATEMENTS OR REMARKS OF ATTORNEYS
15 HAVING NO BASIS IN THE EVIDENCE SHOULD BE DISREGARDED BY YOU.

16 I HAVE NOT INTENDED BY ANYTHING I HAVE SAID OR DONE
17 OR BY ANY QUESTIONS THAT I MAY HAVE ASKED TO INTIMATE OR
18 SUGGEST WHAT YOU SHOULD FIND TO BE THE FACTS OR THAT I
19 BELIEVE OR DISBELIEVE ANY WITNESS WHO TESTIFIED. IF ANYTHING
20 THAT I HAVE DONE OR SAID HAS SEEMED TO SO INDICATE, YOU WILL
21 DISREGARD IT.

22 INSTRUCTION NO. 2. THERE ARE TWO TYPES OF EVIDENCE
23 FROM WHICH YOU MAY FIND THE TRUTH AS TO THE FACTS OF THE
24 CASE, DIRECT AND CIRCUMSTANTIAL EVIDENCE. DIRECT EVIDENCE IS
25 THE TESTIMONY OF ONE WHO ASSERTS ACTUAL KNOWLEDGE OF A FACT

1 SUCH AS AN EYE WITNESS. CIRCUMSTANTIAL EVIDENCE IS PROOF OF
2 A CHAIN OF FACTS AND CIRCUMSTANCES INDICATING THE GUILT OR
3 INNOCENCE OF A DEFENDANT. THE LAW MAKES NO DIFFERENCE OR
4 DISTINCTION BETWEEN THE WEIGHT TO BE GIVEN TO EITHER DIRECT
5 OR CIRCUMSTANTIAL EVIDENCE, NOR IS A GREATER DEGREE OF
6 CERTAINTY REQUIRED OF CIRCUMSTANTIAL EVIDENCE THAN OF DIRECT
7 EVIDENCE. YOU SHOULD WEIGH ALL THE EVIDENCE IN THE CASE.
8 AFTER WEIGHING ALL THE EVIDENCE, IF YOU ARE NOT CONVINCED OF
9 THE GUILT OF THE DEFENDANT BEYOND A REASONABLE DOUBT, YOU
10 WILL FIND HIM NOT GUILTY.

11 INSTRUCTION NO. 3. YOU ARE THE SOLE JUDGES OF THE
12 WEIGHT OF THE EVIDENCE AND THE CREDIBILITY OF THE WITNESSES.
13 IN DETERMINING THE CREDIBILITY OF ANY WITNESS AND THE WEIGHT
14 TO BE GIVEN HIS TESTIMONY, YOU MAY TAKE INTO CONSIDERATION
15 HIS Demeanor WHILE ON THE WITNESS STAND, ANY PREJUDICE FOR OR
16 AGAINST A PARTY, HIS MEANS OF ACQUIRING KNOWLEDGE CONCERNING
17 ANY MATTER TO WHICH HE TESTIFIED, ANY INTEREST HE MAY HAVE IN
18 THE OUTCOME OF THE CASE, AND THE CONSISTENCY OR INCONSISTENCY
19 OF HIS TESTIMONY AS WELL AS ITS REASONABLENESS OR
20 UNREASONABLENESS.

21 INSTRUCTION NO. 4. THE LAW PRESUMES A DEFENDANT TO
22 BE INNOCENT OF CRIME. THUS, HE, ALTHOUGH ACCUSED, BEGINS THE
23 TRIAL WITH A CLEAN SLATE, WITH NO EVIDENCE AGAINST HIM. THE
24 LAW PERMITS NOTHING BUT LEGAL EVIDENCE PRESENTED BEFORE THE
25 JURY TO BE CONSIDERED IN SUPPORT OF ANY CHARGE AGAINST THE

1 ACCUSED. SO, THE PRESUMPTION OF INNOCENCE ALONE IS
2 SUFFICIENT TO ACQUIT THE DEFENDANT UNLESS YOU ARE SATISFIED
3 BEYOND A REASONABLE DOUBT OF HIS GUILT AFTER CAREFUL AND
4 IMPARTIAL CONSIDERATION OF ALL THE EVIDENCE IN THE CASE.

5 IT IS NOT REQUIRED THAT THE GOVERNMENT PROVE GUILT
6 BEYOND ALL POSSIBLE DOUBT. THE TEST IS ONE OF REASONABLE
7 DOUBT. A REASONABLE DOUBT IS A DOUBT BASED UPON REASON AND
8 COMMON SENSE, THE KIND OF DOUBT THAT WOULD MAKE A REASONABLE
9 PERSON HESITATE TO ACT. PROOF BEYOND A REASONABLE DOUBT
10 MUST, THEREFORE, BE PROOF OF SUCH A CONVINCING CHARACTER THAT
11 A REASONABLE PERSON WOULD NOT HESITATE TO RELY AND ACT UPON
12 IT IN THE MOST IMPORTANT OF HIS OWN AFFAIRS.

13 YOU SHOULD REMEMBER THAT THE DEFENDANT IS NEVER TO
14 BE CONVICTED ON MERE SUSPICION OR CONJECTURE. THE BURDEN IS
15 ALWAYS ON THE GOVERNMENT TO PROVE GUILT BEYOND A REASONABLE
16 DOUBT. THIS BURDEN NEVER SHIFTS TO THE DEFENDANT, FOR THE
17 LAW NEVER IMPOSES ON A DEFENDANT IN A CRIMINAL CASE THE
18 BURDEN OR DUTY OF CALLING ANY WITNESSES OR PRODUCING ANY
19 EVIDENCE.

20 SO, IF YOU, AFTER CAREFUL AND IMPARTIAL
21 CONSIDERATION OF ALL OF THE EVIDENCE IN THE CASE HAVE A
22 REASONABLE DOUBT THAT THE DEFENDANT IS GUILTY OF THE CHARGE,
23 YOU MUST ACQUIT. IF YOU VIEW THE EVIDENCE IN THE CASE AS
24 REASONABLY PERMITTING EITHER OF TWO CONCLUSIONS, ONE OF
25 INNOCENCE AND THE OTHER OF GUILT, YOU SHOULD OF COURSE ADOPT

1 THE CONCLUSION OF INNOCENCE.

2 INSTRUCTION NO. 5. THE EVIDENCE IN THE CASE
3 CONSISTS OF THE SWORN TESTIMONY OF THE WITNESSES, REGARDLESS
4 OF WHO MAY HAVE CALLED THEM, AND ALL EXHIBITS RECEIVED IN
5 EVIDENCE, REGARDLESS OF WHO MAY HAVE PRODUCED THEM, AND ALL
6 FACTS WHICH MAY HAVE BEEN ADMITTED OR STIPULATED. STATEMENTS
7 AND ARGUMENTS OF COUNSEL, AS I'VE STATED PREVIOUSLY, ARE NOT
8 EVIDENCE IN THE CASE UNLESS MADE AS AN ADMISSION OR
9 STIPULATION OF FACT. WHEN THE ATTORNEYS ON BOTH SIDES
10 STIPULATE OR AGREE AS TO THE EXISTENCE OF A FACT, HOWEVER,
11 YOU MUST, UNLESS OTHERWISE INSTRUCTED, ACCEPT THE STIPULATION
12 AS EVIDENCE AND REGARD THAT FACT AS PROVED.

13 ANY EVIDENCE AS TO WHICH AN OBJECTION WAS SUSTAINED
14 BY THE COURT AND ANY EVIDENCE ORDERED STRICKEN BY THE COURT
15 MUST BE ENTIRELY DISREGARDED. YOU ARE TO CONSIDER ONLY THE
16 EVIDENCE IN THE CASE, BUT IN YOUR CONSIDERATION OF THE
17 EVIDENCE YOU ARE NOT LIMITED TO THE BALD STATEMENT OF THE
18 WITNESSES. IN OTHER WORDS, YOU ARE NOT LIMITED SOLELY TO
19 WHAT YOU SEE AND HEAR AS THE WITNESSES TESTIFY. YOU ARE
20 PERMITTED TO DRAW FROM FACTS WHICH YOU FIND HAVE BEEN PROVED
21 SUCH REASONABLE INFERENCES AS YOU FEEL ARE JUSTIFIED IN THE
22 LIGHT OF EXPERIENCE.

23 INSTRUCTION NO. 6. THE INDICTMENT IN THIS CASE
24 CHARGES THAT BEGINNING ON OR ABOUT THE 27TH DAY OF JULY 1980
25 AND CONTINUING TO AT LEAST THE 23RD DAY OF JULY 1982, IN THE

1 EASTERN DISTRICT OF ARKANSAS, PAUL JACOB, BEING A PERSON
2 REQUIRED TO PRESENT HIMSELF FOR AND SUBMIT TO REGISTRATION
3 PURSUANT TO THE MILITARY SELECTIVE SERVICE ACT RULES AND
4 REGULATIONS DULY MADE PURSUANT THERETO, AND PRESIDENT
5 PROCLAMATION OF JULY 2, 1980, DID KNOWINGLY AND WILLFULLY
6 FAIL, NEGLECT AND REFUSE TO PRESENT HIMSELF FOR AND SUBMIT TO
7 SUCH REGISTRATION IN VIOLATION OF TITLE 50 UNITED STATES CODE
8 APPENDIX SECTIONS 453 AND 462(A).

9 INSTRUCTION NO. 7. AN INDICTMENT IS BUT A FORMAL
10 METHOD OF ACCUSING A DEFENDANT OF A CRIME. IT IS NOT
11 EVIDENCE OF ANY KIND AGAINST THE ACCUSED.

12 INSTRUCTION NO. 8. YOU WILL NOTE THE INDICTMENT
13 CHARGES THAT THE OFFENSE WAS COMMITTED ON OR ABOUT A CERTAIN
14 DATE. THE PROOF NEED NOT ESTABLISH WITH CERTAINTY THE EXACT
15 DATE OF THE ALLEGED OFFENSE. IT IS SUFFICIENT IF THE
16 EVIDENCE IN THE CASE ESTABLISHES BEYOND A REASONABLE DOUBT
17 THAT THE OFFENSE WAS COMMITTED ON A DATE REASONABLY NEAR THE
18 DATE ALLEGED.

19 INSTRUCTION NO. 9. THE DEFENDANT HAS PLEADED NOT
20 GUILTY TO THE CHARGE CONTAINED IN THE INDICTMENT. THIS PLEA
21 PUTS IN ISSUE EACH OF THE THREE ESSENTIAL ELEMENTS OF THE
22 OFFENSE AS DESCRIBED IN THESE INSTRUCTIONS AND IMPOSES ON THE
23 GOVERNMENT THE BURDEN OF ESTABLISHING EACH OF THESE ELEMENTS
24 BY PROOF BEYOND A REASONABLE DOUBT.

25 INSTRUCTION NO. 10. SECTION 462(A) OF TITLE 50 OF

1 THE UNITED STATES CODE APPENDIX PROHIBITS, IN PART, THE
2 KNOWING AND WILLFUL FAILURE, EVASION OR REFUSAL TO REGISTER
3 WITH THE SELECTIVE SERVICE SYSTEM BY A PERSON HAVING A LEGAL
4 DUTY TO REGISTER.

5 INSTRUCTION NO. 11. THREE ESSENTIAL ELEMENTS ARE
6 REQUIRED TO BE PROVED IN ORDER TO ESTABLISH THE OFFENSE
7 CHARGED IN THE INDICTMENT. FIRST, THAT THE DEFENDANT AT THE
8 TIME CHARGED IN THE INDICTMENT HAD A LEGAL DUTY TO REGISTER
9 WITH SELECTIVE SERVICE.

10 SECOND, THAT THE DEFENDANT FAILED, EVADED OR OR
11 REFUSED TO REGISTER AND THEREFORE, DID NOT PERFORM THAT DUTY
12 AND THIRD, THAT THIS FAILURE, EVASION OR REFUSAL WAS KNOWING
13 AND WILLFUL.

14 AS STATED BEFORE, THE BURDEN IS ALWAYS ON THE
15 PROSECUTION TO PROVE BEYOND A REASONABLE DOUBT EVERY
16 ESSENTIAL ELEMENT OF THE CRIME CHARGED. THE LAW NEVER
17 IMPOSES UPON A DEFENDANT THE BURDEN OR DUTY OF CALLING ANY
18 WITNESSES OR PRODUCING ANY EVIDENCE.

19 INSTRUCTION NO. 12. ONE OF THE ESSENTIAL ELEMENTS
20 TO BE PROVED BEYOND A REASONABLE DOUBT IS THAT THE DEFENDANT
21 AT THE TIME CHARGED IN THE INDICTMENT HAD A LEGAL DUTY TO
22 REGISTER WITH SELECTIVE SERVICE. UNDER SECTION 453 OF TITLE
23 50 OF THE UNITED STATES CODE APPENDIX PRESIDENTIAL
24 PROCLAMATION 4771, IT IS GENERALLY THE DUTY YOU EVERY MALE
25 CITIZEN OF THE UNITED STATES AND EVERY OTHER MALE PERSON

1 RESIDING IN THE UNITED STATES BORN ON OR AFTER JANUARY 1,
2 1960 TO PRESENT HIMSELF FOR AND SUBMIT TO REGISTRATION AT THE
3 TIME, PLACE AND IN THE MANNER PRESCRIBED BY THE PRESIDENTIAL
4 PROCLAMATION AND DULY ISSUED RULES AND REGULATIONS.

5 UNDER SECTION 1-102 OF PRESIDENTIAL PROCLAMATION
6 4771, MEN BORN ON OR AFTER JANUARY 1, 1960 HAVE A DUTY TO
7 REGISTER WITH SELECTIVE SERVICE. THOSE INDIVIDUALS BORN IN
8 CALENDAR YEAR 1960 WERE TO PRESENT THEMSELVES FOR
9 REGISTRATION ON THE DATES BEGINNING JULY 21 THROUGH JULY 26,
10 1980.

11 THE DEFENDANT IS A MALE PERSON REQUIRED TO REGISTER
12 WITH THE SELECTIVE SERVICE IF HE WAS BORN ON OR AFTER MAY 1,
13 1960 AND IS NOT EXPRESSLY EXEMPT FROM REGISTRATION BY A
14 PARTICULAR PROVISION OF TITLE 50 APPENDIX. THE DEFENDANT
15 BEARS THE BURDEN OF CLEARLY ESTABLISHING A RIGHT TO SUCH AN
16 EXEMPTION. IF THE DEFENDANT WAS BORN IN CALENDAR YEAR 1960,
17 THEN HE WAS REQUIRED TO REGISTERED WITH SELECTIVE SERVICE
18 DURING THE PERIOD BEGINNING JULY 21 THROUGH JULY 26, 1980.

19 MR. STOLL: EXCUSE ME, YOUR HONOR, COULD I APPROACH
20 THE BENCH JUST ONE SECOND?

21 (DISCUSSION OFF THE RECORD.)

22 THE COURT: ALL RIGHT, RE-READING THE LAST
23 PARAGRAPH. I MAY HAVE INADVERTENTLY SAID MAY INSTEAD OF
24 JANUARY. RE-READING IT FOR CLARITY AND TO AVOID ANY
25 CONFUSION. CONTINUING. THE DEFENDANT IS A MALE PERSON

1 REQUIRED TO REGISTER WITH SELECTIVE SERVICE IF HE WAS BORN ON
2 OR AFTER JANUARY 1, 1960 AND IS NOT EXPRESSLY EXEMPT FROM
3 REGISTRATION BY A PARTICULAR PROVISION OF TITLE 50 APPENDIX.
4 THE DEFENDANT BEARS THE BURDEN OF CLEARLY ESTABLISHING A
5 RIGHT TO SUCH AN EXEMPTION. IF THE DEFENDANT WAS BORN IN
6 CALENDAR YEAR 1960 THEN HE WAS REQUIRED TO REGISTER WITH
7 SELECTIVE SERVICE DURING THE PERIOD BEGINNING JULY 21 THROUGH
8 JULY 26, 1980.

9 INSTRUCTION NO. 13. ACCORDING TO PRESIDENTIAL
10 PROCLAMATION 4771 MALE PERSONS ELIGIBLE FOR REGISTRATION WITH
11 SELECTIVE SERVICE WHO WERE BORN IN CALENDAR YEAR 1960 WERE
12 REQUIRED TO PRESENT THEMSELVES FOR AND SUBMIT TO REGISTRATION
13 ON THE DATES BEGINNING JULY 21 THROUGH JULY 26, 1980. IN
14 ADDITION, SECTION 462(D) OF THE MILITARY SELECTIVE SERVICE
15 ACT IMPOSES ON ELIGIBLE INDIVIDUALS A CONTINUING DUTY TO
16 REGISTER UNTIL THEY REACHED AGE 26. CONSEQUENTLY, FAILURE TO
17 REGISTER IS A CONTINUING OFFENSE. IF YOU FIND THAT ANY TIME
18 DURING THE PERIOD COVERED BY THE INDICTMENT THE DEFENDANT WAS
19 UNDER A LEGAL OBLIGATION TO REGISTER WITH SELECTIVE SERVICE,
20 HIS FAILURE TO HONOR THAT OBLIGATION MAKES HIM GUILTY OF A
21 CRIMINAL OFFENSE IF HIS FAILURE WAS KNOWING AND WILLFUL.

22 INSTRUCTION NO. 14. THE CRIME CHARGED IN THIS CASE
23 IS A SERIOUS CRIME WHICH REQUIRES PROOF OF SPECIFIC INTENT
24 BEFORE THE DEFENDANT CAN BE CONVICTED. SPECIFIC INTENT, AS
25 THE TERM IMPLIES, MEANS MORE THAN THE GENERAL INTENT TO

1 COMMIT THE ACT. TO ESTABLISH SPECIFIC INTENT THE GOVERNMENT
2 MUST PROVE THAT THE DEFENDANT KNOWINGLY FAILED TO DO AN ACT
3 WHICH THE LAW REQUIRES, PURPOSELY INTENDING TO VIOLATE THE
4 LAW. SUCH INTENT MAY BE DETERMINED FROM ALL THE FACTS AND
5 CIRCUMSTANCES SURROUNDING THE CASE. AN ACT OR FAILURE TO ACT
6 IS KNOWINGLY DONE IF DONE VOLUNTARILY AND INTENTIONALLY AND
7 NOT BECAUSE OF MISTAKE OR ACCIDENT OR OTHER INNOCENT REASON.

8 INSTRUCTION NO. 15. THE PURPOSE OF ADDING THE WORD
9 KNOWINGLY IS TO INSURE THAT NO ONE WILL BE CONVICTED BECAUSE
10 AN OMISSION OR FAILURE TO ACT DUE TO MISTAKE OR ACCIDENT OR
11 OTHER INNOCENT REASON.

12 AN OMISSION OR FAILURE TO ACT IS WILLFULLY DONE IF
13 DONE VOLUNTARILY AND INTENTIONALLY AND WITH THE SPECIFIC
14 INTENT NOT TO DO SOMETHING WHICH THE LAW REQUIRES TO BE DONE.
15 THAT IS, WITHOUT GROUNDS FOR BELIEVING THAT THE OMISSION IS
16 LAWFUL. DEFENDANT'S CONDUCT IS NOT WILLFUL IF HE ACTED
17 THROUGH NEGLIGENCE, INADVERTENCE, OR MISTAKE OR DUE TO HIS
18 GOOD FAITH MISUNDERSTANDING OF THE REQUIREMENTS OF THE LAW.
19 IT SHOULD BE POINTED OUT, HOWEVER, THAT DISAGREEMENT WITH THE
20 LAW IS NOT A DEFENSE. IT IS THE DUTY OF ALL CITIZENS TO OBEY
21 THE LAW WHETHER THEY AGREE WITH IT OR NOT.

22 INSTRUCTION NO. 16. THE FIRST AMENDMENT TO THE
23 UNITED STATES CONSTITUTION INSURES THAT ALL PERSONS HAVE
24 FREEDOM OF SPEECH WHICH INCLUDES THE FREEDOM TO DISAPPROVE OR
25 OPPOSE ANY GOVERNMENT POLICY. IF YOU BELIEVE THAT THE

1 REASONS STATED BY THE DEFENDANT IN HIS REFUSAL TO REGISTER
2 WERE GIVEN IN GOOD FAITH AND BASED UPON HIS ACTUAL BELIEF
3 THAT HE DID NOT HAVE TO REGISTER, YOU SHOULD CONSIDER THAT IN
4 DETERMINING WHETHER OR NOT HIS REFUSAL TO REGISTER WAS
5 WILLFUL.

6 INSTRUCTION NO. 17. INTENT ORDINARILY MAY NOT BE
7 PROVED DIRECTLY BECAUSE THERE IS NO WAY OF SCRUTINIZING THE
8 OPERATIONS OF THE HUMAN MIND, BUT YOU MAY INFER THE
9 DEFENDANT'S INTENT FROM THE SURROUNDING CIRCUMSTANCES. YOU
10 MAY CONSIDER ANY STATEMENT MADE OR ACT DONE OR OMITTED BY THE
11 DEFENDANT AND ALL OTHER FACTS AND CIRCUMSTANCES IN EVIDENCE
12 WHICH INDICATE HIS STATE OF MIND. YOU MAY CONSIDER IT
13 REASONABLE TO DRAW THE INFERENCE AND FIND THAT A PERSON
14 INTENDS THE NATURAL AND PROBABLE CONSEQUENCES OF ACTS
15 KNOWINGLY DONE OR KNOWINGLY OMITTED.

16 INSTRUCTION NO. 18. THE PUNISHMENT PROVIDED BY LAW
17 FOR THE OFFENSE CHARGED IN THE INDICTMENT IS A MATTER
18 EXCLUSIVELY WITHIN THE PROVINCE OF THE COURT AND SHOULD NEVER
19 BE CONSIDERED BY THE JURY IN ANY WAY IN ARRIVING AT AN
20 IMPARTIAL VERDICT AS TO THE GUILT OR INNOCENCE OF THE
21 ACCUSED.

22 INSTRUCTION NO. 19. THE VERDICT MUST REPRESENT THE
23 CONSIDERED JUDGMENT OF EACH JUROR. IN ORDER TO RETURN A
24 VERDICT IT IS NECESSARY THAT EACH JUROR AGREE THERETO. YOUR
25 VERDICT MUST BE UNANIMOUS. IT IS YOUR DUTY AS JURORS TO

1 CONSULT WITH ONE ANOTHER AND TO DELIBERATE WITH A VIEW TO
2 REACHING AN AGREEMENT IF YOU CAN DO SO WITHOUT VIOLENCE TO
3 INDIVIDUAL JUDGMENT. EACH OF YOU MUST DECIDE THE CASE FOR
4 HIMSELF BUT DO SO ONLY AFTER AN IMPARTIAL CONSIDERATION OF
5 THE EVIDENCE IN THE CASE WITH YOUR FELLOW JURORS.

6 IN THE COURSE OF YOUR DELIBERATIONS, DO NOT
7 HESITATE TO RE-EXAMINE YOUR OWN VIEWS AND CHANGE YOUR OPINION
8 IF CONVINCED IT IS ERRONEOUS, BUT DO NOT SURRENDER YOUR
9 HONEST CONVICTION AS TO THE WEIGHT OR EFFECT OF EVIDENCE
10 SOLELY BECAUSE OF THE OPINION OF YOUR FELLOW JURORS OR FOR
11 THE MERE PURPOSE OF RETURNING A VERDICT. REMEMBER AT ALL
12 TIMES YOU ARE NOT PARTISANS, YOU ARE JUDGES, JUDGES OF THE
13 FACTS. YOUR SOLE INTEREST IS TO SEEK THE TRUTH FROM THE
14 EVIDENCE IN THE CASE.

15 INSTRUCTION NO. 20. UPON RETIRING TO THE JURY ROOM
16 YOU WILL SELECT ONE OF YOUR NUMBER TO SERVE AS YOUR
17 FOREPERSON WHO WILL PRESIDE OVER YOUR DELIBERATIONS AND WILL
18 BE YOUR SPOKESMAN HERE IN COURT.

19 A VERDICT FORM HAS BEEN PREPARED FOR YOUR USE AND
20 BENEFIT IN INDICATING YOUR VERDICT, AND THIS FORM READS IN
21 MATERIAL PART AS FOLLOWS. WE THE JURY IN THE ABOVE ENTITLED
22 AND NUMBERED CASE FIND THE DEFENDANT PAUL JACOB, THEN FOLLOWS
23 A BLANK SPACE, AND BELOW THIS BLANK SPACE IN PARENTHESES ARE
24 THE FOLLOWING, GUILTY OR NOT GUILTY, OF THE CRIME CHARGED IN
25 THE INDICTMENT. WHEN YOU HAVE REACHED A UNANIMOUS VERDICT,

1 YOUR FOREPERSON WILL WRITE THE APPROPRIATE TERM IN THIS BLANK
2 SPACE INDICATING YOUR VERDICT. THE FOREPERSON WILL SIGN HIS
3 OR HER NAME AS THE CASE MAY BE IN THE FIRST BLOCK ON THE LEFT
4 HAND-SIDE OF THIS DOCUMENT. THEN YOUR FOREPERSON MUST PUT
5 THE DATE IN THE LAST BLOCK TO THE EXTREME RIGHT.

6 YOU WILL NOTE THAT ALL PERSONS ARE PRECLUDED FROM
7 COMMUNICATING WITH YOU IN ANY FORM OR FASHION PERTAINING TO
8 THE ISSUES INVOLVED IN THIS CASE. THIS INCLUDES THE UNITED
9 STATES MARSHAL. YOU ARE ALSO ADMONISHED YOU ARE NEVER TO
10 DISCLOSE TO ANYONE, NOT EVEN TO THE COURT, HOW YOU STAND
11 NUMERICALLY ON THE ISSUES BEFORE YOU UNTIL AFTER YOU HAVE
12 ARRIVED AT A UNANIMOUS VERDICT. BUT, IN THE EVENT IT BECOMES
13 NECESSARY FOR YOU TO COMMUNICATE WITH THE COURT CONCERNING
14 YOUR DELIBERATIONS ON THE ISSUES IN THIS CASE YOU WILL DO SO
15 ONLY BY A WRITTEN COMMUNICATION DATED AND SIGNED BY YOUR
16 FOREPERSON. ON THE OTHER HAND, THE COURT WILL NOT
17 COMMUNICATE WITH YOU REGARDING THE ISSUES IN THIS CASE UNLESS
18 IT IS BY WAY OF A WRITTEN COMMUNICATION DATED AND SIGNED BY
19 THE COURT OR THE COURT WILL REQUEST THE MARSHAL TO HAVE YOU
20 TO RETURN INTO OPEN COURT IN WHICH CASE WE WILL DEAL WITH THE
21 ISSUE IN OPEN COURT IN THE PRESENCE OF COUNSEL AND ALL
22 CONCERNED PARTIES.

23 AT THIS TIME THE MARSHAL IS REQUESTED TO STEP
24 FORWARD AND TAKE THE OATH.

25 (MARSHAL SWORN.)

1 THE COURT: MR. MORRIS, WILL YOU STAND? IT IS MY
2 DISTINCT PLEASURE AT THIS TIME TO AGAIN EXPRESS MY THANKS TO
3 YOU FOR YOUR RESPONSE TO THE CALL. INASMUCH AS WE HAVE NOT
4 BEEN REQUIRED TO CALL UPON YOU AS AN ALTERNATE, THE COURT IS
5 GOING TO EXCUSE YOU AT THIS TIME. YOU'RE NOW EXCUSED.

6 LET THE RECORD REFLECT THAT I NOW HAND TO THE
7 MARSHAL THE VERDICT FORM WHICH WILL BE PASSED TO THE JURY IN
8 THE JURY ROOM. THE JURY IS DIRECTED TO FOLLOW THE MARSHAL TO
9 THE JURY ROOM AND COMMENCE YOUR DELIBERATIONS.

10 (JURY EXITS.)

11 THE COURT: ALL RIGHT, LADY AND GENTLEMEN, ARE
12 THERE ANY MATTERS WE NEED TO TAKE UP IN THE ABSENCE OF THE
13 JURY AT THIS TIME?

14 MR. STOLL: I KNOW OF NONE, YOUR HONOR.

15 MR. VAUGHT: NONE, YOUR HONOR.

16 THE COURT: ALL RIGHT. LET ME RAISE ONE MATTER
17 THAT MIGHT EXPEDITE MATTERS. IN THE EVENT THE JURY IS
18 INTERESTED IN HAVING ALL EXHIBITS DELIVERED TO THE JURY ROOM
19 AND IF THEY ARE INTERESTED IN REVIEWING THE INSTRUCTIONS OF
20 THE COURT, WHAT IS THE POSITION OF THE GOVERNMENT FIRST?

21 MR. STOLL: WE HAVE NO OBJECTION, YOUR HONOR.

22 MR. VAUGHT: NEITHER DOES THE DEFENDANT, YOUR
23 HONOR.

24 THE COURT: ALL RIGHT, THEN, WE HAVE A STIPULATION
25 FOR THE RECORD THAT THE CLERK MAY DELIVER ALL THE EXHIBITS TO

1 THE UNITED STATES MARSHAL WHO IN TURN WILL DELIVER THEM TO
2 THE JURY WITHOUT CONVENING COURT. ALSO, THE COURT'S
3 INSTRUCTIONS ARE HERE ON THE BENCH, MADAM CLERK, AND IF THAT
4 REQUEST COMES IN FOR THE INSTRUCTIONS, YOU MAY ALSO DELIVER
5 THE INSTRUCTIONS TO THE MARSHAL.

6 ALL RIGHT. I WOULD ADMONISH COUNSEL TO REMAIN IN
7 CLOSE PROXIMITY OF THE FEDERAL BUILDING. IF YOU ELECT TO
8 LEAVE, KINDLY INFORM THE CLERK HOW YOU MAY BE REACHED BY
9 PHONE. WE WILL NOT ENTERTAIN ANY COMMUNICATION FROM THE JURY
10 UNTIL COUNSEL ARE PRESENT. UNTIL THAT TIME WE'RE IN RECESS.

11 (RECESS.)

12 (THE FOLLOWING PROCEEDINGS IN CHAMBERS.)

13 THE COURT: WE HAVE A NOTE FROM THE JURY AND IT'S
14 FROM MR. LYNCH, WHO IS THE FOREPERSON. NUMBER ONE, COPY OF
15 INSTRUCTIONS, BUT THE SECOND REQUEST IS THE REASON I NEEDED
16 YOU ALL TO COME IN AND MAKE A RECORD. COPY OF PROCLAMATION
17 OF 1980 OF SELECTIVE SERVICE. THAT'S IT. SO THEY ARE NOT
18 ASKING FOR ALL OF THE EXHIBITS, THEY ARE SIMPLY SINGLING OUT,
19 APPARENTLY ONE EXHIBIT, THE PROCLAMATION. IS THE
20 PROCLAMATION?

21 MR. VAUGHT: IT'S IN THE INSTRUCTIONS. THE
22 SUBSTANCE OF IT IS IN THE INSTRUCTIONS.

23 THE COURT: WELL, THEY SAY COPY OF INSTRUCTIONS,
24 NUMBER TWO, COPY OF PROCLAMATION. SO I GUESS WE CAN SERVE
25 THE DUAL REQUEST BY SIMPLY DELIVERING THEM THE INSTRUCTIONS.

1 MR. HALL: PUT A NOTE ON THE BOTTOM AND SAY IT'S IN
2 THE INSTRUCTIONS.

3 MR. STOLL: SAY THE SUBSTANCE OF THE PROCLAMATION
4 IS IN THE INSTRUCTIONS.

5 THE COURT: ALL RIGHT, THAT'S THE RESPONSE I'LL
6 GIVE.. OKAY, HERE IS THE STATEMENT. LADIES AND GENTLEMEN OF
7 THE JURY, THE COURT IS SUBMITTING THE INSTRUCTIONS. THE
8 SUBSTANCE OF THE PROCLAMATION OF 1980 IS INCLUDED IN THE
9 INSTRUCTIONS, AND SIGN IT. OKAY, MARSHAL.

10 MR. STOLL: JUDGE, ON YOUR INSTRUCTIONS DID IT HAVE
11 JANUARY? I DIDN'T KNOW IF YOU MISREAD IT.

12 THE COURT: IT HAD JANUARY. WE'LL AWAIT AND SEE IF
13 THERE ARE ANY FURTHER REQUESTS BEFORE WE RECESS.

14 (RECESS.)

15 THE COURT: LADIES AND GENTLEMEN OF THE JURY, IT IS
16 BY INFORMATION THAT YOU HAVE REACHED A VERDICT. IS THAT
17 TRUE, MR. LYNCH?

18 MR. LYNCH: YES, YOUR HONOR.

19 THE COURT: WILL YOU KINDLY PASS THE VERDICT TO THE
20 MARSHAL.

21 THE COURT: MARSHAL, WILL YOU PASS IT TO THE CLERK
22 AND, MADAM CLERK, WILL YOU READ THE JURY'S VERDICT.

23 THE CLERK: IN THE MATTER OF UNITED STATES OF
24 AMERICA VERSUS PAUL JACOB, CASE NUMBER LR-CR-82-119, WE THE
25 JURY IN THE ABOVE ENTITLED AND NUMBERED CASE FIND THE

1 DEFENDANT PAUL JACOB GUILTY OF THE CRIME CHARGED IN THE
2 INDICTMENT. AND IT'S SIGNED BY THE JURY FOREMAN ROBERT E.
3 LYNCH DATED TODAY.

4 THE COURT: ALL RIGHT, LADY AND GENTLEMEN, INASMUCH
5 AS YOU'VE HEARD THE READING OF THE JURY'S VERDICT ARE THERE
6 ANY OBSERVATIONS YOU WISH TO MAKE IN THE PRESENCE OF THE
7 JURY?

8 MR. HALL: REQUEST YOU POLE THE JURY, YOUR HONOR.

9 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN OF THE
10 JURY, THE COURT HAS BEEN REQUESTED TO POLE THE JURY. MR.
11 LYNCH, IS THIS YOUR VERDICT?

12 MR. LYNCH: YES, YOUR HONOR.

13 THE COURT: MRS. HUMES?

14 MS. HUMES: YES, YOUR HONOR.

15 THE COURT: MRS. GIBSON?

16 MS. GIBSON: YES, YOUR HONOR.

17 THE COURT: MR. HIGGINBOTTOM?

18 MR. HIGGINBOTTOM: YES, YOUR HONOR.

19 THE COURT: MRS. HARVEY?

20 MRS. HARVEY: YES, YOUR HONOR.

21 THE COURT: MR. PETEN?

22 MR. PETEN: YES, YOUR HONOR.

23 THE COURT: MR. CAMPBELL?

24 MR. CAMPBELL: YES, YOUR HONOR.

25 THE COURT: MR. EPPERSON?

1 MR. EPPERSON: YES, YOUR HONOR.
2 THE COURT: MRS. PARR?
3 MS. PARR: YES, YOUR HONOR.
4 THE COURT: MR. RAWLINS?
5 MR. RAWLINS: YES, YOUR HONOR.
6 THE COURT: MRS. WALDEN?
7 MS. WALDEN: YES, YOUR HONOR.
8 THE COURT: MRS. DACUS?
9 MS. DACUS: YES, YOUR HONOR.
10 THE COURT: I HAVE POLLED THE JURY. THERE ARE ANY
11 OTHER INQUIRIES OR OBSERVATIONS?
12 MR. HALL: NOT AT THIS TIME, YOUR HONOR.
13 MR. STOLL: NO, YOUR HONOR.
14 THE COURT: LADIES AND GENTLEMEN OF THE JURY, IT IS
15 AGAIN MY DISTINCT PRIVILEGE TO EXPRESS MY PERSONAL THANKS TO
16 YOU FOR THE SERVICES THAT YOU HAVE RENDERED THE LAST TWO
17 DAYS. IF YOU WILL RECALL IMMEDIATELY BEFORE WE INSTITUTED
18 THE VOIR DIRE PROCEEDINGS ON YESTERDAY, I INFORMED YOU THAT
19 JUSTICE COULD NOT BE FULLY IMPLEMENTED OR REALIZED WITHOUT
20 YOUR INPUT INASMUCH AS THERE ARE FACTUAL ISSUES IN THIS CASE
21 AND IN MOST CASES THAT COME INTO THIS COURT THAT WILL HAVE TO
22 BE RESOLVED BY A JURY AND THEREFORE THESE LITTLE PERSONAL
23 INCONVENIENCES THAT YOU ARE CONFRONTED WITH AS A CONSEQUENCE
24 OF RESPONDING TO THE CALL ARE WORTHWHILE INDEED. THE COURT
25 IS HIGHLY IMPRESSED WITH THE ATTENTION THAT YOU AFFORDED THIS

1 CASE. YOU FOLLOWED THE TESTIMONY CAREFULLY AND CLOSELY AND
2 I'M HIGHLY IMPRESSED WITH YOUR PERFORMANCE. AND AGAIN, THE
3 COURT WISHES TO THANK YOU, AND WITH THAT ADMONITION HAVE A
4 GOOD AFTERNOON.

5 LET EVERYBODY REMAIN SEATED WHILE THE JURY EXITS
6 THE COURTROOM.

7 (JURY EXITS.)

8 THE COURT: ALL RIGHT, LADY AND GENTLEMEN, INASMUCH
9 AS WE ARE IN THE ABSENCE OF THE JURY ARE THERE ANY
10 OBSERVATIONS OR COMMENTS YOU WISH TO MAKE AT THIS TIME FOR
11 THE RECORD?

12 MR. STOLL: NO, YOUR HONOR.

13 THE COURT: MR. HALL?

14 MR. HALL: ONLY AS TO THE MATTER OF BAIL PENDING
15 APPEAL, YOUR HONOR.

16 THE COURT: LET ME TAKE THIS UP. NOW, UNDER THE
17 1984 COMPREHENSIVE CRIME CONTROL ACT PASSED BY THE CONGRESS
18 WHICH BECAME EFFECTIVE OCTOBER 18, 1984 THERE ARE THREE
19 FACTORS THAT THE COURT MUST TAKE INTO CONSIDERATION IN
20 AFFORDING BAIL OR RELEASE FOLLOWING A CONVICTION AND THEY
21 ARE, FIRST, WHETHER THE DEFENDANT POSES A THREAT TO HIMSELF
22 OR TO SOCIETY, SECONDLY, WHETHER HE IS LIKELY TO FLEE THE
23 JURISDICTION OF THE COURT IF BAIL IS PERMITTED AND FINALLY,
24 WHAT IS THE LIKELIHOOD THAT THIS COURT'S JUDGMENT OR THE
25 VERDICT OF THE JURY WILL BE MODIFIED IN ANY WAY. THE LAW HAS

1 CHANGED SINCE THE PASSAGE OF THE COMPREHENSIVE CRIME ACT. AS
2 A MATTER OF FACT, THERE IS SORT OF A PRESUMPTION THAT HE'S
3 NOT ENTITLED TO BAIL. HE'S NOT ENTITLED TO RELEASE UNLESS
4 YOU ESTABLISH THE FACT THAT THERE'S NO LIKELIHOOD THAT HE
5 POSES A THREAT TO HIMSELF OR TO SOCIETY AND THAT HE IS NOT
6 LIKELY TO FLEE THE JURISDICTION, AND GIVEN WHAT THE COURT HAS
7 HEARD FROM THE TESTIMONY THAT THE FBI HAD SOME DIFFICULTY IN
8 LOCATING HIM, THERE MAY HAVE BEEN SOME DIFFICULTY ON THE PART
9 OF HIS PARENTS TO COMMUNICATE WITH HIM REGARDING THE EFFORTS
10 OF THE GOVERNMENT TO REACH HIM, GIVEN THE FACT THAT THERE WAS
11 AN I. D. CARD WITH AN ALIAS, YOU'RE GOING TO HAVE A PRETTY
12 HARD TIME CONVINCING ME THAT I SHOULD AFFORD BAIL. HOWEVER,
13 I'M READY AND WILLING TO SEE WHAT THE UNITED STATES
14 GOVERNMENT'S POSITION IS ON THIS. WHAT IS THE POSITION OF
15 THE GOVERNMENT TO THIS REQUEST? AND INCIDENTALLY, LET ME SAY
16 THIS. IT'S MY INFORMATION THAT THE PROBATION REPORT IS READY
17 AND WE COULD SENTENCE THE DEFENDANT THIS AFTERNOON. AS A
18 MATTER OF FACT, I MIGHT DO THAT BUT WHAT IS THE GOVERNMENT'S
19 POSITION?

20 MR. STOLL: JUDGE, WE'D HAVE NO OBJECTION TO
21 PROCEEDING WITH SENTENCING AT THIS TIME. I DON'T VIEW
22 MR. JACOB'S AS BEING A THREAT TO HIMSELF OR OTHERS. HOWEVER,
23 I SHARE THE COURT'S CONCERN WITH THE POSSIBILITY OF FLIGHT.
24 HE HAS FLED ONCE AND HAS BEEN A FUGITIVE. WHEN HE WAS
25 APPROACHED BY THE FBI HE DENIED HIS IDENTITY INITIALLY TO

1 THEM AND, OF COURSE, I DON'T KNOW WHAT POINTS MR. HALL
2 INTENDS TO APPEAL, IF HE DOES APPEAL THIS SENTENCE, SO IT'S
3 HARD TO GO INTO THE OTHER ASPECTS OF THE CASE AS TO WHETHER
4 OR NOT THERE IS A SUBSTANTIAL QUESTION. IN TALKING BRIEFLY
5 WITH MR. HALL I THINK HE INDICATED THAT IF THE CONVICTION WAS
6 OBTAINED AND THEY APPEALED, THEY MIGHT GO UP ON THE SELECTIVE
7 PROSECUTION ISSUE, BUT IT WOULD BE OUR POSITION THAT THAT HAS
8 BEEN RULED ON BY THE EIGHTH CIRCUIT.

9 THE COURT: YES.

10 MR. STOLL: SO, WE'RE PREPARED TO GO TO SENTENCING.

11 THE COURT: SO IT'S UNLIKELY THAT THE JUDGMENT OF
12 THIS COURT AND INDEED THE VERDICT OF THE JURY IS LIKELY TO BE
13 MODIFIED. IS THAT YOUR POSITION?

14 MR. STOLL: THAT'S OUR STATEMENT, YOUR HONOR.

15 THE COURT: YES. SO GIVEN THAT AND ESPECIALLY MY
16 GREATEST CONCERN, OF COURSE, IS WHAT'S THE LIKELIHOOD THAT HE
17 MIGHT FLEE THE JURISDICTION GIVEN WHAT WE HAVE HEARD ALREADY.

18 MRS. JACOB: MAY I SAY SOMETHING?

19 MR. HALL: MAY I APPROACH THE PODIUM, YOUR HONOR?
20 FIRST OF ALL, YOUR HONOR, HIS PARENTS HOUSE IS THE BOND AND
21 HE'S NOT ABOUT TO FLEE AND CAUSE HIS PARENTS HOUSE TO BE
22 FORFEITED TO THE U. S. GOVERNMENT. SECONDLY, HE HAS A WIFE
23 AND CHILD HERE AND HIS WIFE IS PREPARED TO TESTIFY, AND HIS
24 PARENTS ARE, THAT THEY WILL KEEP TABS ON HIM DURING THE
25 PENDENCY OF THE APPEAL. AND OF COURSE IT IS OUR BURDEN THAT

1 THERE IS NO LIKELIHOOD TO FLEE. JUDGE JONES FOUND THAT AT
2 THE PRETRIAL STAGE THERE WAS NO LIKELIHOOD HE WOULD FLEE AND
3 OF COURSE, HE'S BEEN TO ALL THE PROCEEDINGS.

4 THE COURT: YES, BUT WE'VE GOT A CONVICTION NOW.
5 THE SITUATION HAS CHANGED DRAMATICALLY SINCE JUDGE JONES.

6 MR. HALL: SURE, YOUR HONOR, BUT THE HOUSE IS STILL
7 ON THE BOND, AND ANYBODY WHO WOULD FLEE AND CAUSE THEIR
8 PARENTS TO LOSE THEIR HOME IS HARDLY WORTH DEFENDING ANYWAY.
9 AS FAR AS THE PARENTS ARE CONCERNED, THEY HAVE ENOUGH BELIEF
10 TO BE HERE THAT THEY'LL STAY ON THE BOND.

11 THE COURT: WELL, INASMUCH AS WE DO HAVE A
12 PRE-SENTENCE REPORT WE'RE GOING TO RECESS UNTIL QUARTER UNTIL
13 5:00. THAT WILL AFFORD YOU AN OPPORTUNITY TO REVIEW THE
14 PRE-SENTENCE REPORT, THE UNITED STATES GOVERNMENT, THROUGH
15 ITS ATTORNEYS, TO REVIEW THE REPORT, AND WE'LL COME BACK AND
16 SENTENCE THE DEFENDANT AND THEN WE'LL FIND OUT WHAT THE
17 GOVERNMENT'S POSITION IS, THAT IS, WHETHER THERE'S A CHANGE
18 SINCE VIEWING THE PRE-SENTENCE REPORT. BUT I'M NOT PERSUADED
19 THAT BOND SHOULD BE AFFORDED UNDER THE CIRCUMSTANCES AS I
20 VIEW IT NOW.

21 MR. HALL: COULD I ADDRESS THE QUESTION OF
22 LIKELIHOOD OF SUCCESS ON THE MERITS?

23 THE COURT: YOU MAY DO SO AFTER WE COME BACK.

24 (RECESS.)

25 THE COURT: ALL RIGHT, MR. VAUGHT, WILL YOU AND

1 MR. JACOB STEP TO THE PODIUM, PLEASE. MR. HALL ALSO.

2 MR. VAUGHT, HAVE YOU AND MR. HALL HAD AN OPPORTUNITY TO
3 REVIEW THE PRE-SENTENCE REPORT?

4 MR. VAUGHT: YES, WE HAVE, YOUR HONOR. MR. HALL
5 WILL MAKE OUR PRESENTATION.

6 THE COURT: HAVE YOU DISCUSSED THE PRE-SENTENCE
7 WITH WITH MR. JACOB?

8 MR. HALL: WE HAVE, YOUR HONOR.

9 THE COURT: ARE THERE ANY MATTERS YOU WISH TO BRING
10 TO THE COURT'S ATTENTION PERTAINING TO THE INTEGRITY OF THE
11 REPORT ITSELF?

12 MR. HALL: IT APPEARS TO BE COMPLETELY CORRECT,
13 YOUR HONOR.

14 THE COURT: MR. STOLL?

15 MR. STOLL: NO PROBLEMS WITH IT, YOUR HONOR.

16 THE COURT: ALL RIGHT. MR. JACOB, ARE THERE ANY
17 MATTERS YOU WISH TO BRING TO THE COURT'S ATTENTION PERTAINING
18 TO THE REPORT ITSELF?

19 MR. JACOB: NO, SIR.

20 THE COURT: ALL RIGHT, MR. HALL, YOU MAY ADDRESS
21 THE COURT RELATIVE TO MITIGATION OF PUNISHMENT.

22 MR. HALL: YOUR HONOR, I SUBMIT TO THE COURT THAT
23 PUTTING THIS MAN IN PRISON WOULD SERVE NO REAL PURPOSE IN
24 THIS CASE. FIRST OF ALL, HE DOES HAVE A FAMILY THAT NEEDS
25 HIS SUPPORT. SECONDLY, IT'S NOT THE TYPE OF CRIME THAT

1 DESERVES IMPRISONMENT. I NOTE FROM THE PRE-SENTENCE REPORT
2 AND THE TESTIMONY THAT THE COURT'S ALREADY HEARD THAT HE IS A
3 VERY FORTHRIGHTLY HONEST PERSON. HE'S WORKED CONTINUOUSLY
4 WHEN HE WASN'T IN SCHOOL AND HE WORKS WELL WITH CHILDREN, AND
5 HE TOOK CARE OF HIS OWN CHILD AT HOME WHEN HE WASN'T WORKING,
6 AND HE DID THIS ALL THROUGH HIGH SCHOOL WHEN HE WAS WORKING
7 WITH CHILDREN AND LITTLE LEAGUE BASEBALL AND SOFTBALL AND
8 LAKEWOOD PROPERTY OWNERS ASSOCIATION. HE STILL DOES THAT
9 TODAY. I NOTE IN THE PRE-SENTENCE REPORT HE TAKES CARE OF
10 CHILDREN AT THE NURSERY IN HIS CHURCH. HE'S DEVOTED TO HIS
11 FAMILY AND I THINK THAT ALSO RELATES TO THE QUESTION OF HIS
12 ABILITY TO FLEE OR WILLINGNESS TO FLEE, THAT HE WOULD NOT
13 LEAVE HIS FAMILY UNDER ANY CIRCUMSTANCE. HE WANTS ALSO TO
14 SEE THIS CASE THROUGH TO THE END BECAUSE WE DO BELIEVE WE
15 HAVE AN APPEALABLE ISSUE AND OF COURSE, IF SOMEBODY FLEES YOU
16 MOOT THE APPEAL. I DON'T BELIEVE HE WANTS TO DO THAT.
17 AGAIN, IT WOULD BE A FINANCIAL BURDEN ON HIS FAMILY. NOW IN
18 OTHER CASES, OTHER DRAFT CASES, THE SENTENCES HAVE RESULTED
19 FROM A MAXIMUM OF A YEAR AND A DAY IN JAIL TO ALLOW FOR
20 PEROLE ELIGIBILITY DOWN TO AS LITTLE AS 35 DAYS, BUT AN EQUAL
21 NUMBER HAVE GOTTEN NO JAIL TIME AT ALL THAT IS COMMUNITY
22 SERVICE, A FIXED AMOUNT OF THOUSAND OR 2000 HOURS. I THINK
23 IN THIS TYPE OF CASE COMMUNITY SERVICE IS MORE APPROPRIATE
24 FOR THE TYPE OF CRIME, MORE APPROPRIATE FOR THE TYPE OF
25 INDIVIDUAL THAT HE WOULD BE MORE THAN WILLING TO SERVE

1 COMMUNITY SERVICE AT THE REQUEST OF THE COURT IN AN AMOUNT
2 THE COURT WOULD DESIRE.

3 I ALSO NOTE THAT CONSCIOUS OBJECTORS HAVE TO SERVE
4 ALTERNATIVE SERVICE IN THE FORM OF COMMUNITY SERVICE SHOULD
5 THEY BE GIVEN SUCH A DEFERMENT FROM THE SELECTIVE SERVICE,
6 AND I THINK THAT'S SOMEWHAT AKIN TO WHAT THIS IS, AND I THINK
7 THAT'S THE APPROPRIATE RESULT, AND I WOULD REQUEST THE COURT
8 TO PUT HIM ON COMMUNITY SERVICE.

9 THE COURT: ALL RIGHT, MR. JACOB, YOU MAY ADDRESS
10 THE COURT RELATIVE TO MITIGATION OF PUNISHMENT IF YOU WISH.

11 MR. JACOB: I WOULD JUST LIKE TO SAY THAT I BELIEVE THAT WHAT
12 I HAVE DONE, AS FAR AS MY SINCERE BELIEFS IS A DEFENSE OF MY
13 COUNTRY AND I SURELY IF I THOUGHT THERE WAS SOME OTHER
14 ALTERNATIVE BUT TO TAKE THE ACTIONS I HAVE, I WOULD HAVE
15 SEARCHED OUT THAT ALTERNATIVE. SO I FEEL IN A SENSE THAT I
16 DON'T HAVE A CHOICE ABOUT MY CONDUCT AND OTHERWISE I WOULD
17 HAVE CHANGED IT. I CERTAINLY DO NOT WISH TO GO TO PRISON. I
18 THINK THAT MY WIFE HAS BEEN THROUGH ENOUGH, AND I CERTAINLY
19 WOULDN'T WANT TO SPEND ANY TIME AWAY FROM MY DAUGHTER IF I
20 COULD HELP IT, AND I THINK IT WOULD CONSTITUTE A VERY
21 TREMENDOUS BURDEN BOTH MENTALLY AND FINANCIALLY ON MY WIFE.
22 I GUESS BEYOND THAT I DON'T HAVE ANYTHING TO SAY.

23 THE COURT: MR. STOLL?

24 MR. STOLL: JUDGE, OF COURSE THE VERDICT SPEAKS FOR
25 ITSELF. THE JURY HAS FOUND HIM GUILTY. WE FEEL LIKE THE

1 OFFENSE LIKE THIS, OF COURSE, THERE'S TWO PURPOSES FOR
2 SENTENCING. ONE IS FOR PUNISHMENT AND ONE IS ALSO FOR
3 DETERRENTS. THIS CASE, AS THE COURT HAS NOTICED, HAS A LOT
4 OF PUBLICITY. IT'S BEEN FOLLOWED BY THE MEDIA BOTH HERE, AND
5 I'M ASSUMING OUTSIDE THE STATE OF ARKANSAS. I THINK FOR
6 DETERRENT PURPOSES THAT A PERIOD OF INCARCERATION IS
7 WARRANTED IN THIS TYPE OF A CASE.

8 THE COURT: ALL RIGHT, ANYTHING ELSE?

9 MR. HALL: NO, YOUR HONOR.

10 THE COURT: ALL RIGHT. IT IS ADJUDGED THAT ON
11 COUNT 1 THE DEFENDANT IS COMMITTED TO THE CUSTODY OF THE
12 ATTORNEY GENERAL FOR A PERIOD OF FIVE YEARS. UPON SERVICE OF
13 SIX MONTHS IMPRISONMENT, EXECUTION OF THE REMAINDER OF THE
14 SENTENCE IS SUSPENDED. NOW, THE DEFENDANT IS PLACED ON
15 SUPERVISED PROBATION FOR A PERIOD OF FOUR AND ONE HALF YEARS.
16 AS A SPECIAL CONDITION OF PROBATION THE DEFENDANT IS ORDERED
17 TO PERFORM VOLUNTEER COMMUNITY SERVICE WORK FOR A PERIOD OF
18 EIGHT HOURS A WEEK FOR TWO YEARS AT THE DIRECTION OF THE
19 PROBATION OFFICE.

20 ALSO, LET ME POINT OUT FOR THE RECORD THE COURT IS
21 AWARE THAT MR. JACOB IS PRESENTLY AGED 25. THIS CASE, THE
22 INDICTMENT WAS FILED SEPTEMBER 2, 1982. AS THE COURT
23 EMPHASIZED EARLIER, CONGRESS, IN THE FALL OF 1984, PASSED THE
24 COMPREHENSIVE CRIME CONTROL ACT AND THERE HAS BEEN SOME
25 MODIFICATION RELATIVE TO THE YOUTH CORRECTIONS ACT. IT MAY

1 VERY WEL BE THAT MR. JACOB QUALIFIES TO BE SENTENCES UNDER
2 THE YOUTH CORRECTIONS ACT, BUT THE COURT FINDS THAT HE WOULD
3 NOT DERIVE ANY BENEFIT FROM BEING SO SENTENCED UNDER THE
4 YOUTH CORRECTIONS ACT AND CONSEQUENTLY, HAS SENTENCED HIM
5 UNDER THE ADULT PROVISION. I ALSO HASTEN TO POINT OUT,
6 MR. JACOB, IF YOU FAIL TO COMPLY WITH THE DIRECTIVES OF THE
7 PROBATION DEPARTMENT AND YOU ARE BROUGHT BACK HERE IN THIS
8 COURT, THE COURT HAS THE OPPORTUNITY OR THE DISCRETION TO
9 INCARCERATE YOU FOR THE REMAINDER OF THE FIVE YEAR PERIOD AT
10 THAT TIME. SO I'M ADMONISHING YOU TO ADHERE CLOSELY AND
11 FOLLOW THE DIRECTIONS OR THE DIRECTIVES OF THE PROBATION
12 OFFICE. DO YOU UNDERSTAND THIS?

13 MR. JACOB: YES, SIR.

14 THE COURT: ALL RIGHT. DO WE HAVE ANY QUESTIONS OR
15 OBSERVATIONS?

16 MR. HALL: NOT ABOUT THE SENTENCE, YOUR HONOR.

17 MR. STOLL: NOT ABOUT THE SENTENCE, YOUR HONOR.

18 THE COURT: ALL RIGHT. NOW, I'M ALSO DUTY BOUND TO
19 INFORM YOU, MR. JACOB, IF YOU DISAGREE WITH THE JUDGMENT OF
20 THIS COURT AND THE VERDICT OF THE JURY YOU HAVE A RIGHT TO
21 APPEAL THIS DECISION TO THE UNITED STATES CIRCUIT COURT OF
22 APPEALS AT ST. LOUIS, AND IF YOU ARE NOT FINANCIALLY ABLE TO
23 PERFECT THE APPEAL, YOU MAY SEEK ASSISTANCE FROM THE CLERK OF
24 THE COURT AND MOREOVER, THE CLERK CAN ASSIST YOU IN ACQUIRING
25 A TRANSCRIPT OF THESE PROCEEDINGS IF YOU ARE NOT ABLE

1 FINANCIALLY TO ASCERTAIN THE TRANSCRIPT. IS THERE ANYTHING
2 ELSE?

3 MR. HALL: NOT ON THAT PART OF IT, YOUR HONOR, NO.

4 THE COURT: ALL RIGHT.

5 MR. HALL: THE QUESTION OF BAIL NOW. THE COURT HAS
6 GIVEN HIM AN EFFECTIVE SENTENCE OF SIX MONTHS TO SERVE AND OF
7 COURSE, IT WILL TAKE MORE THAN SIX MONTHS TO COMPLETE THE
8 APPEAL. IT TAKES NORMALLY SIX MONTHS TO GET A CRIMINAL
9 APPEAL SUBMITTED FROM THE TIME THE FIRST BRIEF IS FILED. ON
10 THE QUESTION OF FLIGHT THAT THE COURT RAISED EARLIER,
11 CIRCUMSTANCES HAVE CHANGED SUBSTANTIALLY SINCE HE WAS ON THE
12 ROAD AND UNDERGROUND. HE'S GOTTEN A LOT OLDER NOW. HE'S
13 ALSO GOTTEN MARRIED SINCE THEN, HAS A CHILD SINCE THEN. HE
14 HAS ROOTS IN THIS COMMUNITY. HIS PARENT'S HOUSE IS ON THE
15 BOND THEY ARE HERE PREPARED TO TESTIFY TO STAY ON THE BOND TO
16 GUARANTEE HIS APPEARANCE AND ALSO HE TESTIFIED BEFORE JUDGE
17 JONES AND WILL TESTIFY HERE TODAY HE HAD PLANNED TO TURN
18 HIMSELF IN AND WAS GOING TO WAIT UNTIL AFTER THE FIRST OF THE
19 YEAR TO DO AND IT WAS ARRESTED IN DECEMBER ANYWAY, AND THAT
20 HAS NOT BEEN CONTRADICTED. HE TESTIFIED TO THAT BACK LAST
21 DECEMBER AND IS PREPARED TO TESTIFY TO IT AGAIN. IT IS IN
22 THE PRE -SENTENCE REPORT.

23 ON THE LIKELIHOOD OF SUCCESS ON THE MERITS, ON THE
24 POWELL CASE WE THINK WE DO HAVE A SUBSTANTIAL QUESTION HERE
25 ON THE SELECTIVE PROSECUTION ISSUE. OF COURSE, THE COURT HAS

1 ALREADY RULED AGAINST US ON THAT ISSUE BUT THE ISSUE IS
2 FRAMED IN THIS CASE IN A DIFFERENT MANNER THAN IT WAS IN
3 EKLAND AND WAITE. BECAUSE OF THE FACTUAL DIFFERENCES THAT
4 THIS PERSON DID NOT REPORT HIMSELF LIKE EKLAND AND THE OTHERS
5 WHO WERE INDICTED. THE COURT MENTIONED IN THE WAITE CASE
6 THAT ALL THESE PEOPLE WERE SELF REPORTED BUT THIS MAN IS NOT
7 SELF REPORTED.

8 ON THE TRIAL, EVIDENCE WAS EXCLUDED ON THE QUESTION
9 OF SELECTIVE PROSECUTION FOR THE SAME REASON, BECAUSE IT WAS
10 RULED ON AT PRETRIAL, BUT THAT IF -- WE OF COURSE, PROFFERED
11 THAT EVIDENCE, PRESERVED THE RECORD AND WE BELIEVE IT IS A
12 SUBSTANTIAL ISSUE. ALSO THERE IS A QUESTION OF JURY
13 INSTRUCTIONS. WE DON'T KNOW HOW SUBSTANTIAL THAT ISSUE IS,
14 BUT IT IS GOING TO BE AN ISSUE ON APPEAL.

15 19 PEOPLE WERE INDICTED NATIONWIDE OUT OF A PROGRAM
16 THAT GEN. TURNAGE SAID HAD AT LEAST 100,000 PEOPLE ON
17 UNREPORTED. WE HAD PROFFERED EVIDENCE TO THE COURT AT THE
18 PRETRIAL MOTIONS STAGE SHOWING THERE WAS CLOSER TO 300,000
19 PEOPLE. WE THINK THAT THERE IS ENOUGH FACTUAL DIFFERENCE
20 BETWEEN THIS CASE AND THE EKLAND CASE THAT THIS CASE WILL BE
21 REVIEWED AS NON-TRIVIOUS, THAT IT IS AN ISSUE UPON WHICH
22 PEOPLE COULD DIFFER. I DON'T THINK THERE IS ANY POINT IN
23 HAVING MR. JACOB GOING TO PRISON AND BE OUT BEFORE THE APPEAL
24 IS EVEN SUBMITTED BECAUSE THAT'S WHAT THE RESULT WOULD BE.

25 THE COURT: MR. STOLL, DO YOU CARE TO ADDRESS THIS

1 QUESTION?

2 MR. STOLL: JUDGE, AS TO WHETHER OR NOT -- I KNOW
3 HE TESTIFIED IN THE BOND HEARING IN FRONT OF JUDGE JONES THAT
4 HE HAD INTENTIONS TO TURN HIMSELF IN. OF COURSE, I DON'T
5 KNOW HOW WE COULD REBUT THAT EXCEPT TO THE FACT THAT WHEN THE
6 FBI WENT THERE BEFORE THE FIRST OF YEAR HE WAS EVEN THEN
7 DENYING WHO HE WAS. YOU KNOW, I JUST SUBMIT THAT TO -- I
8 DON'T KNOW WHETHER HE INTENDED TO TURN HIMSELF IN OR NOT TURN
9 HIMSELF IN.

10 CONCERNING THE LIKELIHOOD OF SUCCESS ON THE APPEAL,
11 EKLAND HAS SPOKEN TO SELECTIVE PROSECUTION. I DON'T SEE THAT
12 THERE'S THAT MUCH OF A DISTINCTION BETWEEN THIS CASE AND
13 EKLAND. MR. HALL REFERS TO THE FACT THAT THE WAITE CASE AND
14 EKLAND WERE SELF REPORTED WHERE THIS MAN WAS NOT. IN EFFECT
15 WHILE HE DID NOT WRITE TO SELECTIVE SERVICE AND SAY I'M NOT
16 GOING TO REGISTER HE, IN EFFECT, DID THE SAME THING, WE
17 SUBMIT, BY HIS VOICED OPPOSITION TO IT, WHICH HE HAS A RIGHT
18 TO DO, BUT BY THE SAME TOKEN I DON'T SEE THAT IT CHANGES THE
19 ISSUE ON APPEAL THAT MUCH MR. EKLAND. I DON'T THINK UNDER
20 THE LAW AS IT'S ESTABLISHED NOW UNDER THE COMPREHENSIVE CRIME
21 CONTROL ACT OF 1984 THAT HE'S ELIGIBLE FOR BOND.

22 THE COURT: I DON'T HAVE ANY DISCRETION, MR. HALL,
23 SINCE CONGRESS HAS ENACTED THE COMPREHENSIVE CRIME CONTROL
24 ACT OF '84. THE BURDEN IS ON YOU TO PERSUADE ME THAT THERE
25 WILL BE, IN ALL LIKELIHOOD, A MODIFICATION OF THE JURY'S

1 VERDICT OR THIS COURT'S JUDGMENT AND THAT HE WILL NOT FLEE
2 THE JURISDICTION, AND I CAN'T CLOSE MY EYES TO THE EVIDENCE
3 THAT WAS PRESENTED BY THE GOVERNMENT, THE TROUBLE HE GAVE THE
4 FBI, THE I. D. CARD AND SO ON. SO, THE MOTION FOR BAIL WILL
5 BE DENIED AND OF COURSE, THE MARSHAL IS TO TAKE IMMEDIATE
6 CUSTODY OF HIM. I WILL SUGGEST TO THE MARSHAL THAT MRS.
7 JACOB AND HIS FAMILY MEMBERS BE AFFORDED REASONABLE
8 OPPORTUNITY TO VISIT WITH HIM AND THAT'S ABOUT THE EXTENT OF
9 IT. IS THERE ANYTHING ELSE WE NEED TO TAKE UP?

10 MR. HALL: NO, YOUR HONOR, WE DO ADVISE WE ARE
11 GOING TO APPEAL NOT ONLY THE JURY VERDICT BUT THE PRETRIAL
12 ORDERS AND THE DENIAL OF BAIL.

13 THE COURT: WELL, YOU'LL HAVE TO GO TO THE COURT OF
14 APPEALS FOR RELIEF.

15 MR. HALL: I UNDERSTAND.

16 THE COURT: I HAVE NO DISCRETION UNDER THE NEW
17 PROVISION. THE GOVERNMENT HAS POINTED OUT QUITE CLEARLY THAT
18 IT'S MANDATORY. ALL RIGHT. IF THERE'S NOTHING FURTHER,
19 WE'RE IN RECESS.

20 (PROCEEDINGS ADJOURNED.)

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