

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
TRIAL DIVISION-CRIMINAL

COMMONWEALTH	---	:	JANUARY TERM, 1982
		:	
		:	
VS.		:	
		:	
		:	
WESLEY COOK	---	:	1357-1359
		:	

COURTROOM 613, CITY HALL
PHILADELPHIA, PENNSYLVANIA

MAY 13, 1982

MOTIONS

BEFORE: THE HONORABLE PAUL RIBNER, J.

APPEARANCES:

JOSEPH J. MCGILL, ESQUIRE
ASSISTANT DISTRICT ATTORNEY
ATTORNEY FOR THE COMMONWEALTH

ANTHONY E. JACKSON, ESQUIRE
ATTORNEY FOR DEFENDANT

1 THE COURT CRIER: YOUR HONOR,
2 THIS IS THE MATTER OF MUMIA ABU JAMAL.

3 MR. MCGILL: YOUR HONOR, THERE
4 WILL BE CERTAIN MOTIONS TO BE RULED UPON.

5 THE COURT: LET'S GET ON WITH THE
6 LIST. LET'S GO DOWN THE MOTIONS THAT WERE
7 PREVIOUSLY TENDED BY ME.

8 MR. JACKSON: YOUR HONOR, I
9 SUSPECT ONE OF THE MOTIONS, OF COURSE, WAS
10 WITH RESPECT TO OFFICER FAULKNER'S
11 PERSONNEL RECORD, WHICH WAS PARAGRAPH 12 OF
12 THE OMNIBUS MOTION WHICH WAS FILED ON THE
13 18TH OF MARCH THIS YEAR. YOUR HONOR
14 INDICATED AT THE LAST LISTING THAT YOU
15 WOULD OBTAIN THAT RECORD.

16 THE COURT: I'VE OBTAINED IT. I
17 WENT THROUGH THE RECORD MYSELF. I HAVE
18 MADE A LIST, WHICH I'M KEEPING IN MY FILE,
19 WHICH HAS ABOUT EVERYTHING IN THERE. AS A
20 MATTER OF FACT, YOU CAN TAKE A LOOK AT IT
21 AND THEN I WANT IT BACK FOR MY FILE. YOU
22 CAN INITIAL IT AND MR. MCGILL CAN INITIAL
23 IT AND THIS WILL BE POINTED AND THERE WOULD
24 BE NO CHANGES IN THE FILE.

25 THERE IS NOTHING, IN MY JUDGMENT,

1 IN THAT FILE THAT WOULD AID THE DEFENSE IN
2 ANY POSSIBLE WAY. ACCORDINGLY, I AM NOT
3 GOING TO OPEN THE FILE TO THE PUBLIC.

4 I THINK THE ONLY THING LEFT OF
5 THAT LIST IS THE LAST LETTER OF
6 COMMISSIONER SOLOMON ADVISING OF THE DEATH
7 OF OFFICER FAULKNER. IF IT'S NECESSARY FOR
8 YOU LATER, WE'LL HAVE THAT LIST AVAILABLE
9 AND THE FILE IS ALSO AVAILABLE.

10 MR. MCGILL: I HAVE--

11 MR. JACKSON: YOUR HONOR, I WANT
12 TO SHOW IT TO MY CLIENT, MR. JAMAL.

13 (PAUSE.)

14 MR. JACKSON: YOUR HONOR, MY
15 REVIEW-- I HAVE SUPPOSEDLY A SUMMARY OF THE
16 INDEX OF THE ITEMS IN THIS PERSONNEL FILE.
17 AT THE VERY LEAST WE WOULD ARGUE THAT THE
18 PERFORMANCE REPORT OF OFFICER FAULKNER
19 WOULD INDEED BE A RELATIVE MATTER.

20 THE COURT: I DON'T THINK IT
21 TAKES ANY FURTHER ARGUMENT. I HAVE TO LOOK
22 AT THAT ENTIRE FILE AND I HAVE LOOKED AT IT
23 FROM A STANDPOINT OF ANY POSSIBLE QUESTION
24 THAT THE DEFENSE MIGHT HAVE BETWEEN THE
25 FILE AND THIS CASE. THERE IS NOTHING IN MY

1 JUDGMENT AND MY FINDINGS THAT WOULD AID THE
2 DEFENSE IN ANY POSSIBLE WAY. IT'S STRICTLY
3 PERSONNEL INFORMATION ABOUT OFFICER
4 FAULKNER AND I SEE NO REASON TO CHANGE THE
5 ADMINISTRATIVE RULES CONCERNING, THE
6 CONFIDENTIALITY OF THEIR RECORDS. THAT'S
7 MY JUDGMENT. THEIR FILE IS ALWAYS
8 AVAILABLE. THIS LIST WILL ALWAYS BE KEPT
9 AVAILABLE.

10 MR. JACKSON: WILL THIS LIST AND
11 WHAT'S ALLEGED IN THE FILE BE AVAILABLE TO
12 THE TRIAL JUDGE? I WOULD ONLY ARGUE THAT,
13 OF COURSE, YOUR HONOR MAKES THIS JUDGMENT
14 BASED ON THE FACTS THAT HAVE BEEN RECEIVED
15 AND PRESENTED TO YOU AT THIS POINT AND,
16 OBVIOUSLY, YOUR HONOR, WILL NOT HAVE THAT
17 INFORMATION THAT'S BEEN MADE AVAILABLE TO
18 BOTH THE COUNSEL FOR THE COMMONWEALTH AND I
19 HAVE--

20 THE COURT: THAT'S TRUE. I HAVE
21 DONE THIS IN OTHER CASES. I HAVE LOOKED AT
22 THAT FILE, PERSONNEL INFORMATION ABOUT
23 OFFICER FAULKNER, HIS REQUEST, HIS
24 COMMENDATIONS. THIS IS NOT GOING TO HELP
25 THE DEFENSE IN ANY WAY.

1 MR. JACKSON: I AM NOT ARGUING
2 THAT, YOUR HONOR.

3 THE COURT: THERE IS NOTHING IN
4 MY JUDGMENT THAT WOULD PROBABLY HELP THE
5 PROSECUTION OR DEFENSE IN THIS CASE AND I
6 AM NOT GOING TO CHANGE THE ADMINISTRATIVE
7 RULE OF MAINTAINING THE FILE OF A
8 CONFIDENTIAL RECORD. IF THERE WAS ANYTHING
9 THERE THAT HAD ANY BEARING, PERFORMANCE
10 WISE, OR COMPLAINTS, OR ANYTHING ELSE, I
11 WOULD HAVE MADE IT AVAILABLE TO YOU. THAT
12 IS WHY I LOOKED AT THE FILE. THERE IS
13 NOTHING IN THERE THAT CAN HELP YOU. YOU
14 CAN DO WHATEVER YOU WANT LATER BEFORE THE
15 TRIAL JUDGE OR THE APPELLATE COURT, IF THAT
16 BECOMES NECESSARY. THAT'S OPEN TO YOU BUT
17 AS OF NOW, THAT IS MY RULING AND IT'S MY
18 JUDGMENT.

19 MR. MCGILL: YOUR HONOR, I WOULD
20 STATE, AS FAR AS NUMBER SIX, THE COPIES OF
21 COMMENDATIONS AND MERIT LETTERS, AT THIS
22 PARTICULAR POINT, IT WOULD NOT BE RELEVANT
23 FOR THE CASE. HOWEVER, IF AT A TIME IT
24 SHOULD BECOME RELEVANT, I WOULD THEN MAKE--

25 THE COURT: I HAVE ON RECORD OF

1 STANDING THAT THERE IS NOTHING IN THAT FILE
2 THAT CAN EITHER HELP THE PROSECUTION OR
3 DEFENSE. THAT LIST CAN-- THE STENOGRAPHER
4 CAN MAKE A NOTE OF IT AS NUMBER ONE. I
5 WANT IT NOTED BY THE STENOGRAPHER AND THE
6 ORIGINAL WILL BE RETURNED TO MY FILE.

7 MR. MCGILL: LET ME INITIAL IT.

8 THE COURT: I DON'T SEE WHERE A
9 LIST HAS TO BE PUBLISHED. I'LL KEEP IT IN
10 MY FILE, AS LONG AS EVERYBODY HAS INITIALED
11 IT.

12 MR. MCGILL: MR. JACKSON HAS
13 INITIALED IT.

14 THE COURT: IT'S UP TO HIM IF HE
15 DOESN'T--

16 MR. JACKSON: YOUR HONOR, I WOULD
17 LIKE TO ASK THE PURPOSE OF MY INITIALLING--

18 THE COURT: SO THAT AT A LATER
19 DATE YOU SAY WHERE IS THE LIST OF ITEMS
20 THAT WAS IN THAT FILE. I WILL SHOW YOU THE
21 EXACT SAME PAPER I HAVE HERE TODAY WITH ALL
22 OUR THINGS ON IT. I SIGNED MY NAME ON IT.

23 MR. JACKSON: I SEE YOUR POINT.

24 THE COURT: YOU CAN EVEN DRAW A
25 LINE DOWN ON THE BOTTOM OF THE PAGE SO THAT

1 NOTHING CAN BE ADDED TO THIS. I AM DOING
2 THIS FOR EVERYBODY'S PROTECTION, MINE, THE
3 COMMONWEALTH AND THE DEFENSE. THAT LIST
4 WILL REMAIN IN THE FILE AND FOR MY OWN
5 PERSONAL INFORMATION. IF I GET THE FILE
6 AGAIN, EVERYTHING IN THAT LIST MUST BE IN
7 THERE.

8 MR. JACKSON: MAY I HAVE A COPY
9 OF THAT, YOUR HONOR?

10 THE COURT: NO. THAT IS THE
11 PURPOSE IN MY KEEPING THIS.

12 MR. JACKSON: YOUR HONOR, YOU CAN
13 APPRECIATE THE POSITION YOU HAVE PLACED ME
14 IN. I SIGNED A DOCUMENT WHICH I HAVE NO
15 COPY.

16 THE COURT: OKAY. YOU WANT A
17 PHOTOSTAT OF IT, YOU CAN HAVE IT.

18 NOW WE'LL HOLD, FOR THE MOMENT,
19 THE TRIAL DATE, WHICH WE'LL NOW DISCUSS
20 ALSO.

21 THE FOOD, THAT HAS TO BE WORKED
22 OUT FOR MR. JAMAL.

23 MR. JACKSON: AS I UNDERSTAND IT,
24 IT'S STILL ERRATIC. IT'S NOT SATISFACTORY.

25 THE COURT: IF YOU SEND ME A

1 LETTER-- I HAVE SPOKEN WITH THE
2 SUPERINTENDENT BEFORE. HE TRIED TO TELL ME
3 THAT HE WILL GET WHATEVER IS REQUIRED, THE
4 VEGETABLES AND WHATEVER ELSE IS POSSIBLE.
5 IF IT'S NOT AVAILABLE, IT WILL BE.

6 MR. JACKSON: THE PROBLEM HAS
7 BEEN THIS IS NOT A PERSONAL ACT OF THE
8 SUPERINTENDENT. WE RECEIVED THOSE
9 ASSURANCES IN THE PAST AND, NEVERTHELESS,
10 YOUR HONOR, YOUR HONOR'S ORDER HAS NOT BEEN
11 COMPLIED WITH AND THE QUESTION IS--

12 THE COURT: SEND ME A NOTE AS TO
13 EXACTLY WHAT YOU WANT THAT HASN'T BEEN
14 PROVIDED. IT'S THE BEST THAT I CAN DO.
15 WHAT ELSE CAN I DO? WE HAVE NO PROCUREMENT
16 FACILITIES TO ORDER CERTAIN FOOD OUT OF THE
17 COURT SYSTEM.

18 MR. JACKSON: IT WOULD JUST SEEM
19 IF YOUR HONOR WOULD ISSUE AN ORDER AND
20 THOSE PERSONS-- IF THOSE PERSONS DO NOT
21 COMPLY WITH THE ORDER, THEN THEY ARE IN
22 CONTEMPT OF THIS COURT.

23 THE COURT: SEND ME A LIST OF THE
24 FOOD THAT YOU THINK MR. JAMAL HAS AND HE IS
25 NOT GETTING NOW AND I WILL CALL THE

1 SUPERINTENDENT AND IF THE FOOD IS
2 AVAILABLE, I WILL ISSUE AN ORDER. THE
3 REASON WHY I DON'T WANT TO ISSUE AN ORDER,
4 SOME FOOD IS NOT AVAILABLE. IF YOU WANT
5 SOMETHING TO BE BROUGHT IN FROM
6 CALIFORNIA--

7 MR. JACKSON: I ASSURE THIS COURT
8 THAT THERE ARE NO ITEMS THAT HAVE BEEN
9 UNUSUAL IN ANY NATURE.

10 THE COURT: DURING THE WINTERTIME
11 CERTAIN FRESH VEGETABLES ARE NOT AVAILABLE;
12 HOWEVER, THAT IS A MINOR MATTER. I
13 INDICATED I WILL TRY TO GET YOU EVERYTHING
14 YOU WANT.

15 MR. JACKSON: FINE, SIR.

16 THE COURT: ANOTHER BALLISTICS
17 REPORT, NO BALLISTICS ORDER.

18 MR. JACKSON: YOUR HONOR, I JUST
19 SPOKE TO MR. JAMAL. THERE ARE JUST THREE
20 ITEMS AND I CAN BRING THAT TO THE COURT'S
21 ATTENTION.

22 THE COURT: WHAT ARE THEY?

23 MR. JACKSON: GARLIC, ONIONS,
24 WHEAT, POTATOES.

25 THE COURT: THEY SHOULD BE

1 AVAILABLE. I WILL CALL THE SUPERINTENDENT
2 AND TELL HIM THEY SHOULD BE PROVIDED.

3 NOW ON THE BALLISTICS EXPERT, I
4 AM GOING TO RAISE THE AMOUNT THAT IS
5 ORDERED TO \$350.00, WHICH IS ONE I HAVE
6 ALLOWED IN A FEW OTHER CASES FOR BALLISTICS
7 REPORTS.

8 MR. JACKSON: YOUR HONOR,
9 UNFORTUNATELY I DID NOT MAKE A COPY OF
10 MR. FASSNACHT'S (PHONETICALLY) BILL. I DO
11 HAVE A BILL HERE IN COURT.

12 THE COURT: I THINK IT WAS 350.

13 MR. JACKSON: YES.

14 THE COURT: I AM AUTHORIZING THAT
15 TO BE AMENDED RIGHT AWAY. THAT IS
16 CONSISTENT WITH HIS REPORT IN OTHER CASES.

17 MR. MCGILL: YOUR HONOR, MAY I
18 ASK, IN CONNECTION WITH THAT, IF THERE IS A
19 REPORT, I HAVE NOT RECEIVED A REPORT FROM
20 MR. FASSNACHT (PHONETICALLY).

21 MR. JACKSON: THERE IS NO REPORT
22 YET. I SPOKE WITH MR. FASSNACHT
23 (PHONETICALLY) ON A COUPLE OF OCCASIONS.
24 WE ASKED THE-- WE REVIEWED THE BALLISTICS
25 REPORT. IT WAS PRESENTED TO ME.

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1 MR. FASSNACHT (PHONETICALLY) HAS ANALYZED
2 THAT REPORT. HE HAS INDICATED TO ME THAT
3 HE MAY OR MAY NOT PREPARE A REPORT RELATIVE
4 TO WHAT HIS REVIEW CONTAINS. HE HAS
5 SUGGESTED THAT, AMONG OTHER THINGS HE WOULD
6 DO, IS TO PREPARE QUESTIONS AND ASSIST ME
7 IN THE TECHNICAL NATURE OF THOSE QUESTIONS
8 THAT WOULD BE ASKED OF THE BALLISTICS
9 EXPERT OF THE COMMONWEALTH. SO THERE IS NO
10 REPORT AS OF YET. IF THERE EVER WILL BE
11 ONE-- AND I AM NOT AT ALL CERTAIN. HE HAS
12 NOT REQUESTED, NOR HAS HE SEEN, AS FAR AS I
13 KNOW, THE ACTUAL EVIDENCE HIMSELF, EITHER
14 THE WEAPONS OR BULLET OR ANYTHING OF THAT
15 SORT. HIS INDICATION HAS BEEN THAT HE CAN
16 REVIEW THE RECORDS OF THE POLICE DEPARTMENT
17 AND, BASED ON THAT, HE BELIEVES THAT THE
18 REPORT THAT HE WOULD PRESENT US WOULD BE
19 MORE THAN USEFUL.

20 THE COURT: BUT HE SHOULD PREPARE
21 A REPORT TOO HIMSELF. IF YOU ARE GOING TO
22 PAY HIM, YOU SHOULD GET A REPORT.

23 MR. JACKSON: YES, SIR. YOUR
24 HONOR, IT'S JUST NOT THE REPORT THAT HE'S
25 PREPARING AND THAT'S WHAT I'M SAYING. IT'S

1 NOT SIMPLY A MATTER OF HIM SAYING WELL,
2 \$350.00 FOR A REPORT. HE'S GOING TO
3 PREPARE QUESTIONS FOR CROSS-EXAMINATION, AS
4 WELL AS EXPERT RESOURCES.

5 MR. MCGILL: WELL, NATURALLY,
6 YOUR HONOR, THE ONLY PROBLEM WITH THAT
7 WOULD BE-- AND THAT IS THROUGH THE ABSENCE
8 OF A REPORT UNTIL THE LAST MOMENT-- IS THAT
9 THE COMMONWEALTH BE PRESENTED WITH A REPORT
10 THE DAY BEFORE TRIAL, WHICH IS CERTAINLY--
11 FLIES IN THE FACE OF THE RULES OF DISCOVERY
12 AND CERTAINLY THE MOTIVES BEHIND IT--

13 THE COURT: IF HE'S MERELY GOING
14 TO ASSIST IN THE PREPARATION, THAT IS A
15 MATTER BETWEEN HIM AND MR. JACKSON. IF
16 HE'S GOING TO ISSUE A REPORT DRAWING SOME
17 CONCLUSIONS ABOUT BALLISTIC MATTERS, I
18 THINK THAT SHOULD BE GIVEN TO YOU IN THE
19 NEAR FUTURE AND THAT SHOULD BE TURNED OVER
20 TO THE COMMONWEALTH, EVEN IF HE IS GOING TO
21 TESTIFY ON DIRECT EXAMINATION AS TO CERTAIN
22 CONCLUSIONS.

23 MR. MCGILL: IF HE IS GOING TO DO
24 THAT AND HE IS NOT GOING TO PREPARE A
25 REPORT, I WOULD PREFER, YOUR HONOR, OR AT

1 LEAST I WOULD REQUEST THE COURT-- AND I
2 BELIEVE I WOULD BE ENTITLED TO AN ORAL
3 SUMMARY OR A SUMMARY OF WHAT HE WOULD
4 TESTIFY TO.

5 THE COURT: ON DIRECT
6 EXAMINATION, YES.

7 MR. MCGILL: BECAUSE I ENTER IT
8 WITHOUT KNOWING WHAT HE'S GOING TO SAY,
9 SIMPLY BECAUSE HE DOESN'T ISSUE A REPORT.

10 MR. JACKSON: YOUR HONOR, I
11 APPRECIATE THE COMMONWEALTH'S POSITION AND
12 IF WE GOT TO THE POINT OF AN OFFER OF
13 PROOF, IF I HAD A REPORT, I WOULD PRESENT
14 IT. I HAVE NO REPORT, EITHER ORAL AND
15 WRITTEN, AND, OTHER THAN ORAL DISCUSSIONS,
16 AN ANALYSIS REPORT, WE RECEIVED FROM THE
17 COMMONWEALTH. IF THERE IS A REPORT THAT I
18 RECEIVE SUBSEQUENTLY TO TODAY, I WILL MAKE
19 IT AVAILABLE TO THE COMMONWEALTH.

20 AGAIN, MY POSITION AT THIS POINT
21 IS THAT MR. FASSNACHT (PHONETICALLY) HAS
22 INDICATED THAT HE WOULD ASSIST ME IN BEING
23 AN EXPERT RESOURCE. NO DECISION HAS BEEN
24 MADE WITH RESPECT TO WHETHER, IN FACT, HE
25 WOULD EVEN TESTIFY. WE DON'T KNOW INDEED

"
Yes
No"

1 THAT HIS TESTIMONY WOULD BE NECESSARY,
2 BASED ON HIS REVIEW OF THE BALLISTICS
3 REPORT.

4 MR. MCGILL: ON THE BASIS OF THAT
5 REPRESENTATION, YOUR HONOR, I WOULD SAY
6 THIS AND THAT IS THAT IF MR. FASSNACHT
7 (PHONETICALLY) AT ANY TIME-- OBVIOUSLY IF
8 HE HAS HAD DISCUSSIONS WITH MR. JACKSON AND
9 HE FEELS THAT IT MAY BE OF SOME ASSISTANCE,
10 OBVIOUSLY, THEY HAVE HAD SOME CONVERSATIONS
11 OF SUBSTANCE AND IT IS VERY EASY FOR THOSE
12 CONVERSATIONS, SUBSTANCE, ORALLY AND IN
13 SUMMARY FORM, TO BE PRESENTED ON A SHEET OF
14 PAPER AND MADE AVAILABLE TO ME. IF IT IS
15 NOT, I WILL STATE TO THE COURT THAT IF HE
16 IS CALLED AS A WITNESS, I WILL THEN
17 PETITION TO EXCLUDE HIS TESTIMONY SINCE I
18 HAVE NOT RECEIVED ANYTHING. THAT IS ALL I
19 AM SAYING. I WANT TO MAKE SURE THAT THAT
20 IS OF RECORD.

21 THE COURT: THAT IS SOMETHING YOU
22 MAY DO. IF YOU DECIDED TO USE HIM AS A
23 WITNESS, I THINK AT THAT POINT, WHATEVER
24 PART IT IS, YOU OUGHT TO PROVIDE A SUMMARY
25 OF HIS PROPOSED TESTIMONY TO MR. MCGILL.

1 MR. MCGILL: AND PREFERABLY NOT
2 TEN MINUTES BEFORE HE CAN GET ON THE STAND
3 SO I CAN TAKE A LOOK AT IT.

4 MR. JACKSON: YOUR HONOR, THE
5 RULES ARE CLEAR-- AND I WOULD CERTAINLY
6 COMPLY WITH THE RULES OF COURT.

7 THE COURT: I ASK THE DEFENDANT'S
8 STATEMENTS-- AND IF YOU HAVE SOME
9 STATEMENTS, YOU ARE GOING TO TURN THOSE
10 OVER TO MR. MCGILL.

11 MR. JACKSON: I INDICATED TO MR.
12 MCGILL, YOUR HONOR, THAT WE HAVE TWO
13 STATEMENTS THAT HAVE BEEN TAPE RECORDED.
14 THEY ARE NOW BEING TRANSCRIBED. I HAVE
15 INDICATED TO MR.-- TO COUNSEL THAT IF HE
16 WANTS TO LISTEN TO THE TAPES, HE COULD.
17 OTHERWISE, I WOULD HOPE THAT THE
18 TRANSCRIPTION WOULD BE AVAILABLE BY THE END
19 OF THIS WEEK.

20 MR. MCGILL: THAT'S SATISFACTORY,
21 YOUR HONOR.

22 THE COURT: ON THE PART OF THE
23 PHOTOGRAPHER, INVESTIGATOR AND FORENSIC
24 PATHOLOGIST, I ALREADY ISSUED ORDERS TO
25 RETAIN THEM. I AM GOING TO ISSUE THE SAME

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1 AMOUNT, A HUNDRED AND FIFTY. IF THERE IS
2 ADDITIONAL WORK, THEY CAN SUBMIT ITEMIZED
3 BILLS AND YOU CAN PUT THAT ON PAPER, WHICH
4 WON'T BE THAT MUCH IN THE FUTURE. WE HAVE
5 THIS PROBLEM IN EVERY CASE AND THE POLICY
6 HASN'T BEEN CHANGED YET. IF THERE ARE
7 BILLS, THEY CAN SUBMIT THEM AND THE TRIAL
8 JUDGE IS IN THE BEST POSITION TO DECIDE HOW
9 MUCH WORK HAS BEEN DONE.

10 MR. JACKSON: I APPRECIATE THE
11 TRIAL JUDGE MAY BE IN A POSITION TO
12 DETERMINE HOW MUCH WORK WAS DONE. AS YOU
13 MAY VERY WELL KNOW, THE COURT WOULD, IN ALL
14 LIKELIHOOD, IF THE PETITION FOR PAYMENT OF
15 A FEE WAS FILED, EVEN IN A TIMELY MANNER,
16 IT WOULD TAKE NINE MONTHS TO A YEAR FOR
17 PAYMENT.

18 THE COURT: IT'S NOT NECESSARY.
19 IF YOU FILE A PETITION TO PAY A PETITION
20 FILED, I AM SURE THE COURT WILL APPROVE
21 IT. IF NOT, BRING IT TO ME AND I WILL
22 BRING IT. YOU CAN GET YOUR PAY PETITION
23 FILED AS SOON AS THE TRIAL IS OVER OR GET
24 AN INTERIM PAYMENT. WE HAVE DONE THAT IN
25 CERTAIN CASES.

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1 MR. JACKSON: I WOULD JUST BRING
2 TO THE COURT'S ATTENTION, I BELIEVE, THAT
3 YOUR HONOR'S RULING WILL COMPROMISE THE
4 DEFENDANT. I HAVE MADE CERTAIN
5 REPRESENTATIONS TO THOSE PERSONS WHO WE
6 WOULD BE USING THEIR RESOURCES, WITH
7 RESPECT TO OBTAINING THEIR MONEY. I
8 OBTAINED SERVICE-- IN THAT THEIR SERVICE BE
9 PAID. I CERTAINLY WOULD NEED A FEE FOR
10 THEM. NOW, YOUR HONOR, I WOULD HAVE TO
11 WAIT UNTIL THE CONCLUSION OF THE TRIAL
12 BEFORE SUBMITTING THOSE PAYMENTS. I DARE
13 SAY THAT THOSE SERVICES WILL NOT BE
14 AVAILABLE TO ME IN THE FUTURE.

15 THE COURT: THEY'VE BEEN MADE
16 AVAILABLE FOR OTHER MURDER CASES IN
17 PHILADELPHIA COUNTY. I DON'T THINK YOU
18 HAVE TO COMPROMISE THIS CASE MORE THAN ANY
19 OTHER.

20 MR. JACKSON: OF COURSE, IN ALL
21 DUE RESPECT, THIS IS THE ONLY MATTER THAT
22 IS OF IMPORTANCE AT THIS MOMENT AND IF
23 THOSE PERSONS WOULD NOT MAKE THEIR SERVICES
24 AVAILABLE, I CAN'T MAKE THEM WORK FOR FREE.


25 THE COURT: ON THE OTHER HAND, WE

1 CAN'T AUTHORIZE AN UNLIMITED AMOUNT. THERE
2 IS NO PROVISION FOR THAT IN THE LAW OR THE
3 POLICY.

4 MR. JACKSON: I AM NOT REQUESTING
5 AN UNLIMITED AMOUNT BUT I BELIEVE THAT YOUR
6 HONOR'S RULING WOULD OVERBURDEN THE DEFENSE
7 IN THIS MATTER.

8 THE COURT: YOU MADE YOUR POINT.
9 I DON'T BELIEVE SO. I HAVE AUTHORIZED THE
10 APPOINTMENTS OF AN INVESTIGATOR, A
11 PHOTOGRAPHER AND A FORENSIC PATHOLOGIST.
12 THE ONLY PROBLEM IS THE PAYMENT OF THEIR
13 BILL AND WE HAVE PROVISIONS. IF THESE
14 PEOPLE ALL WANT PAYMENT IN ADVANCE, THEY
15 HAVE DONE WHAT NOBODY ELSE--

16 MR. JACKSON: THEY ALREADY
17 WORKED. THEY EXCEEDED THE AMOUNT.

18 THE COURT: I EXPLAINED MY
19 POSITION. IN THE PAST THERE HAVE BEEN NO
20 PROBLEMS. APPARENTLY THE BILLS HAVE BEEN
21 WORKED OUT. SO THERE SHOULD BE NO REASON
22 WHY THEY CAN'T BE WORKED OUT IN THIS CASE.
23 THAT IS THE RULE AND YOU ARE NOT BEING
24 COMPROMISED IN ANY WAY THAT I CAN SEE. 

25 MR. MCGILL: I WOULD ALSO AT THAT

1 POINT, YOUR HONOR, AGAIN ASK IF THERE HAS
2 BEEN ANY REPORT MADE BY EITHER THE
3 INVESTIGATOR OR WHOEVER ELSE HAS BEEN
4 WORKING WITH MR. JACKSON ON THIS CASE. THE
5 COMMONWEALTH HAS RECEIVED NOTHING AND,
6 AGAIN, IF THEY WOULD TESTIFY, I WOULD
7 PETITION TO EXCLUDE THEIR TESTIMONY SINCE I
8 HAVE NOT RECEIVED ANYTHING.

9 THE COURT: THAT IS UP TO YOU AND
10 MR. JACKSON.

11 MR. JACKSON: YOUR HONOR, FOR THE
12 RECORD, AS WELL, I WILL INDICATE THAT THERE
13 ARE PHOTOGRAPHS THAT MR. PERNO
14 (PHONETICALLY) HAS TAKEN, BOTH OF MR. JAMAL
15 WHILE IN THE HOSPITAL AS WELL AS THE SCENE
16 AT 13TH AND LOCUST OR THE 1200 BLOCK OF
17 LOCUST STREET. I WOULD MAKE THOSE
18 PHOTOGRAPHS AVAILABLE TO HIM, IF HE WOULD
19 LIKE.

20 WITH RESPECT TO THE INVESTIGATION
21 OF MR. GREER (PHONETICALLY), THE
22 STATEMENTS, I HAVE INDICATED, ARE BEING
23 TRANSCRIBED. THEY SHOULD BE AVAILABLE BY
24 THE END OF THE WEEK. THE BALANCE OF MR.
25 GREER'S (PHONETICALLY) INVESTIGATION HAVE

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1 NOT BEEN REDUCED TO WRITING AND WHEN AND IF
2 THEY ARE, I WILL CERTAINLY BRING THEM TO
3 THE ATTENTION OF MR. MCGILL.

4 MR. MCGILL: ON THAT POINT,
5 JUDGE, AGAIN, I WOULD SAY, TO AVOID THE
6 POSSIBILITY OF GETTING A REPORT THE LAST
7 MINUTE, WHICH WOULD BE A GREAT PREJUDICE TO
8 THE COMMONWEALTH IN THIS CASE, I WOULD ASK
9 THIS COURT TO SET UP A PARTICULAR DAY,
10 WHICH WOULD BE TWO WEEKS BEFORE THE TRIAL
11 DATE, WERE ALL REPORTS OF INDIVIDUALS THAT
12 MR. JACKSON INTENDS TO CALL BE SUBMITTED TO
13 THE COMMONWEALTH SO THAT I MAY REVIEW IT.
14 INASMUCH AS MR. JACKSON HAS HAD OUR ENTIRE
15 FILE, ALONG WITH THE INTERNAL AFFAIRS FILE
16 FOR MONTHS, IT IS, I THINK, THE VERY LEAST
17 THAT CAN BE EXPECTED OF THE DEFENSE, TO
18 GIVE THE COMMONWEALTH TWO WEEKS NOTICE AND
19 IF ANYTHING BEYOND THAT TWO WEEKS IS MADE
20 OR IN ANY WAY PREPARED, NONE THE LESS, THE
21 WITNESS WOULD BE EXCLUDED. I THINK THAT IS
22 FAIR, YOUR HONOR, BASED ON THE RULES.

23 MR. JACKSON: YOUR HONOR, I WOULD
24 JUST LIKE TO PRESENT THIS TO THE COURT:
25 FIRST OF ALL, AT THIS POINT WE DON'T INTEND

1 TO CALL ANYONE, IN THAT WE HAVE CERTAINLY
2 NOT HEARD THE COMMONWEALTH'S CASE AND WE
3 DON'T KNOW WHAT WITNESSES WE WOULD
4 PRESENT. FOR THE COMMONWEALTH TO IMPLY
5 THAT WE HAVE A BURDEN TO TELL THEM WHO WE
6 ARE GOING TO CALL IN ADVANCE OF WHAT WE
7 HEAR, WHAT THE CHARGES ARE AND WHAT THE
8 ALLEGATIONS ARE, I THINK WOULD BE
9 UNREASONABLE BUT, SECONDLY, YOUR HONOR, AS
10 YOU WELL KNOW, FROM THE REVIEW OF THE
11 INTERNAL AFFAIRS REPORT, AS WELL AS THE
12 LETTER FROM THE DISTRICT ATTORNEY, THAT
13 THEIR INVESTIGATION IS CONTINUING AND THAT
14 MR. MCGILL HAS REPRESENTED TO ME AS WELL
15 THAT THEY ARE CONTINUING THEIR
16 INVESTIGATION. SO WHAT'S GOOD FOR THE
17 GOOSE IS GOOD FOR THE GANDER AND THEY HAVE
18 NOT GIVEN ME A DAILY BASIS--

19 THE COURT: YOU FILE A PETITION
20 WITH ME, WHAT REPORTS YOU THINK YOU ARE
21 ENTITLED TO, PRIOR TO TRIAL, AND HOW MUCH
22 TIME, AND SERVE A COPY TO MR. JACKSON AND A
23 DAY OR TWO LATER HE WILL FILE WHATEVER
24 REPLY HE WANTS AND I WILL ISSUE A RULING ON
25 IT.

1 MR. MCGILL: I'M NOT ASKING FOR
2 WHAT WITNESSES THEY CALL. IT'S POTENTIAL
3 WITNESSES AND, OBVIOUSLY, IF THEY DON'T
4 CALL THEM--

5 THE COURT: THE RULES PROVIDE FOR
6 CERTAIN EXCHANGE OF INFORMATION AND I WILL
7 FOLLOW THE RULES AND THAT IS IT.

8 MR. JACKSON: AND THAT WOULD
9 INDEED BE ADDRESSED BY THE COMMONWEALTH AS
10 WELL AND, AGAIN, THE COMMONWEALTH HAS
11 INDICATED TO ME THAT THEIR INVESTIGATION IS
12 CONTINUING AND WHICH MEANS TODAY
13 INVESTIGATION CONTINUES AND THERE MAY BE
14 POTENTIAL WITNESSES AND I AM SURE,
15 ABSOLUTELY POSITIVE, THAT I HAVE NOT
16 RECEIVED A REPORT OF EACH AND EVERY PERSON
17 THAT I'VE SPOKEN TO WITH REGARD TO THE CASE
18 AND I DON'T THINK MR. MCGILL WILL MAKE THAT
19 REPRESENTATION TO THE COURT.

20 MR. MCGILL: WHATEVER MR. JACKSON
21 MAY THINK, HE HAS, NONE THE LESS, RECEIVED
22 OVER A HUNDRED AND TWENTY FIVE INTERVIEWS.
23 THIS IS ALMOST ABSURD. I'M OBVIOUSLY NOT
24 GOING TO CALL A HUNDRED AND TWENTY-FIVE
25 WITNESSES. HE HAS A RIGHT, HOWEVER-- AND,

1 AS A MATTER OF FACT, HE DID NOT HAVE A
2 RIGHT TO INTERNAL AFFAIRS BUT I AGREED TO
3 GIVE HIM EVERYTHING.

4 MR. JACKSON: I WOULD OBJECT TO
5 THAT.

6 MR. MCGILL: HERE I AM WITH
7 NOTHING.

8 THE COURT: BOTH SIDES ARE TO
9 PROVIDE REPORTS AS RECEIVED AND STATEMENTS
10 AND SO ON.

11 MR. MCGILL: POTENTIAL
12 WITNESSES?

13 THE COURT: POTENTIAL WITNESSES.
14 AND IF THE WITNESS TAKES THE STAND AND SAYS
15 I WAS SOUGHT TO BE A WITNESS THREE MONTHS
16 AGO AND SO ON AND NEITHER COUNSEL DISCOVERS
17 IT, YOU RUN THE RISK OF HAVING IT BARRED.
18 THAT IS VERY SIMPLE.

19 FILE THE PETITION AS TO WHAT
20 EXACTLY YOU WANT. I WILL LOOK AT IT, WILL
21 LOOK IT OVER AND DECIDE WHAT I WANT TO DO
22 ON THE RULES OF DISCOVERY.

23 MR. MCGILL: YES, SIR.

24 THE COURT: NOW THERE WERE
25 SUPPOSED TO BE NAMES OF OTHER WITNESSES MR.

1 JACKSON WAS GOING TO TURN OVER TO MR.
2 MCGILL.

3 MR. JACKSON: I HAVE GIVEN HIM
4 TWO NAMES, YOUR HONOR.

5 MR. MCGILL: THEY ARE DESI
6 HIGHFORN (PHONETICALLY), FOR THE RECORD,
7 ROBERT PICKFORD (PHONETICALLY).

8 THE COURT: INVESTIGATION OF
9 COMPLAINTS OF ABUSE?

10 MR. JACKSON: YES. I WOULD LIKE
11 TO BRING THAT TO THE COURT'S ATTENTION AS
12 WELL. BACK ON DECEMBER-- I BELIEVE IT WAS
13 DECEMBER 29TH-- WE FILED AN INTERNAL
14 AFFAIRS COMPLAINT WITH THE POLICE
15 DEPARTMENT WITH RESPECT TO THE SHOOTING AND
16 OTHER INJURIES SUSTAINED BY MR. JAMAL. IT
17 WAS CARBON COPIED TO THE DISTRICT
18 ATTORNEY. SUBSEQUENTLY, THERE HAVE BEEN A
19 NUMBER OF CORRESPONDENCE BETWEEN THE POLICE
20 DEPARTMENT AND MYSELF WITH CARBON COPIES TO
21 THE DISTRICT ATTORNEY.

22 ON MARCH 10TH I SPECIFICALLY
23 REQUESTED FROM THE DISTRICT ATTORNEY THAT
24 HE PROVIDE ME WITH AN EVALUATION AS TO
25 WHETHER OR NOT THE POLICE DEPARTMENT HAS

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1 ADEQUATELY AND FULLY DISCLOSED THE FACTS AS
2 THEY RELATE TO THE ENTIRE INCIDENT, AMONG
3 OTHER THINGS.

4 I AGAIN SENT A LETTER ON APRIL
5 21ST DEMANDING THE RESULTS OF THAT
6 INVESTIGATION. ON MAY 5TH I RECEIVED A
7 RESPONSE FROM THE DISTRICT ATTORNEY
8 INDICATING THAT UNTIL MY APRIL 21ST LETTER
9 CAME IN THAT THEY HAD NOT INITIATED ANY
10 EFFORTS WHATSOEVER TO RESOLVE THE
11 COMPLAINTS-- IT WAS NOT FORMALLY BROUGHT TO
12 THEIR ATTENTION THAT INDEED THERE WERE
13 COMPLAINTS ABOUT MR. JAMAL AND AS A RESULT
14 OF THAT, THEY WERE JUST THEN BEGINNING TO
15 START THEIR INVESTIGATION.

16 I SPOKE WITH HARRY SPAETH OF THE
17 DISTRICT ATTORNEY'S OFFICE, TO WHOM THIS
18 MATTER WAS REFERRED TO LAST FRIDAY. HE
19 SAYS THAT HE WOULD THEN-- LAST FRIDAY,
20 BEGAN HIS INVESTIGATION. YOUR HONOR CAN, I
21 BELIEVE, WELL APPRECIATE THE FACT THAT MANY
22 OF THE WITNESSES WHO, I BELIEVE, THE
23 COMMONWEALTH WOULD PRESENT IN TESTIMONY
24 AGAINST MR. JAMAL, WOULD ALSO BE THE VERY
25 SAME WITNESSES WHO HAVE BEAT, STRUCK OR

1 SHOT MR. JAMAL. THE REST OF THOSE OFFICERS
2 OR THE RESULTS OF THAT INVESTIGATION WOULD
3 BE RELEVANT TO BIAS AND OTHER MATTERS WITH
4 RESPECT TO THEIR TESTIMONY AND I BELIEVE
5 THE DEFENSE WOULD HAVE A RIGHT TO HAVE THAT
6 INFORMATION AND I WOULD RESPECTFULLY
7 REQUEST THAT THE COURT ORDER THAT
8 INVESTIGATION BE COMPLETED, THAT ANY AND
9 ALL INVESTIGATIONS BASED ON PROBABLE CAUSE
10 BE CONCLUDED BEFORE TRIAL AND THAT
11 INFORMATION BE TURNED OVER TO THE DEFENSE.

12 MR. MCGILL: MAY I HAVE SOME TIME
13 TO RESPOND TO THIS, YOUR HONOR, SO THAT
14 IT'S CLEAR?

15 THE COURT: YES.

16 MR. MCGILL: FIRST OF ALL, YOUR
17 HONOR, I BELIEVE THAT THERE MAY WELL BE,
18 HOWEVER WELL INTENTIONED, A
19 MISUNDERSTANDING AS TO WHAT IS PRIMARY
20 FACTUAL MATTERS AND COLLATERAL ISSUES IN
21 THE CASE BEFORE THE COMMON PLEAS COURT IN
22 THE MURDER CHARGE AGAINST MR. JAMAL. ANY
23 KIND OF COMPLAINT THAT IS BROUGHT UPON BY
24 A-- BROUGHT OUT, RATHER, BY A PARTICULAR
25 VICTIM OR A PARTICULAR DEFENDANT IN A CASE

1 IS REVIEWED BY THE POLICE, WHEN IT IS MADE
2 THROUGH AN EXECUTIVE ORDER.

3 ALSO, AS A MATTER OF COURSE, YOUR
4 HONOR, I THINK THIS IS IMPORTANT TO KNOW,
5 THAT AS A MATTER OF COURSE, EVERY COMPLAINT
6 THAT GOES THROUGH THE POLICE DEPARTMENT IS
7 INVESTIGATED OR REVIEWED BY THE INTERNAL
8 AFFAIRS. AFTER THAT INVESTIGATION IS
9 COMPLETED-- AND IN SOME CASES DURING-- THAT
10 COMPLAINT IS REVIEWED BY THE DISTRICT
11 ATTORNEY'S OFFICE. EVERY ONE OF THEM IS
12 REVIEWED AS A MATTER OF COURSE.

13 ALSO, I UNDERSTAND, OF THOSE
14 COMPLAINTS, COMPLAINTS ARE SENT DIRECTLY TO
15 THE DISTRICT ATTORNEY'S OFFICE BECAUSE OF
16 THE COOPERATION BETWEEN THE DISTRICT
17 ATTORNEY'S OFFICE AND THE PRESENT POLICE
18 ADMINISTRATION AND AS INDICATED BY MR.
19 RENDELL IN HIS LETTER OF MAY 5TH, 1982, THE
20 RESULTS OF INVESTIGATIONS ARE REVIEWED AT
21 THE TIME THAT THE INVESTIGATION IS
22 COMPLETED, UNLESS SPECIFICALLY ASKED TO GO
23 FORWARD WITH AN INDEPENDENT INVESTIGATION.

24 NOW IN THAT PARTICULAR CASE OR IN
25 ALL CASES, WE WOULD WAIT FOR THE ENTIRE

1 INVESTIGATION TO BE COMPLETED. IN SOME
2 CASES, WHEN INDEPENDENTLY ASKED, WE WOULD
3 WORK IN CONJUNCTION WITH THE INTERNAL
4 AFFAIRS OR WE WOULD WORK INDEPENDENTLY.

5 YOUR HONOR, IN REFERENCE TO
6 INVESTIGATIONS BEING MADE AND SO FORTH, I
7 EVEN HEARD AND READ SOMETHING YESTERDAY
8 ABOUT A PROBE UNDER WAY. YOUR HONOR, I
9 THINK THAT-- AND IT IS IMPORTANT THAT THIS
10 BE MADE AS A PART OF THE RECORD TO THIS
11 COURT AND TO THE PUBLIC-- IT IS PURELY IN
12 THE COURSE OF NORMAL PROCEDURE THAT THE
13 DISTRICT ATTORNEY'S OFFICE WILL REVIEW, NO
14 MATTER HOW SPECIOUS, EVERY COMPLAINT MADE
15 BY A DEFENDANT OR MADE BY A COMPLAINANT ON
16 THE STREET WHO MAY NOT BE ARRESTED. EVERY
17 ONE OF THEM IS REVIEWED. THIS, IN
18 CONNECTION WITH EVERY ONE, WILL BE
19 REVIEWED, AS INDICATED BY LETTER OF MAY 5TH
20 THAT MR. RENDELL SENT.

21 I WILL POINT OUT TO THIS COURT
22 THAT THERE IS NO PARTICULAR REASONABLE
23 CAUSE OR NO PARTICULAR PIECE OF INDEPENDENT
24 EVIDENCE, OTHER THAN AS A NORMAL CITIZEN.
25 MR. JACKSON IS MAKING A COMPLAINT THAT THIS

1 OFFICE IS REVIEWING THE INTERNAL AFFAIRS
2 INVESTIGATION AND CONDUCTING ITS OWN, FOR
3 NO OTHER REASON. I WOULD ALSO LIKE TO ADD,
4 YOUR HONOR-- AND I THINK YOUR HONOR MAY
5 HAVE EVEN SEEN IT PUBLISHED IN THE PAPERS
6 THIS MORNING, IN THE INQUIRER, WHICH GAVE A
7 RATHER LENGTHY ARTICLE ABOUT THE INTERNAL
8 AFFAIRS UNIT.

9 IN 1981, YOUR HONOR, THERE WERE--
10 I'M NOT EXACTLY SURE. I THINK 636
11 COMPLAINTS THAT WENT THROUGH THE INTERNAL
12 AFFAIRS. NOT IN THE INQUIRER WAS THE FACT
13 THAT THAT TOTAL NUMBER OF REVIEWS OF
14 COMPLAINTS WHERE THEY GO DIRECTLY THROUGH
15 THE INTERNAL AFFAIRS OR INITIATED BY THE
16 DISTRICT ATTORNEY'S OFFICE WAS OVER 722 IN
17 1981. THAT AMOUNT HAD DECREASED SINCE THE
18 NUMBER IN 1981. OF ALL OF THOSE
19 COMPLAINTS, 722 OUT OF THE DISTRICT
20 ATTORNEY'S OFFICE, IN TERMS OF INITIATING
21 INVESTIGATIONS, THERE WERE NO, ZERO,
22 ARRESTS THAT CAME OUT. OUT OF THE INTERNAL
23 AFFAIRS UNIT THERE WAS LESS THAN ONE
24 PERCENT OF THOSE 636.

25 MR. JACKSON: YOUR HONOR, I'M

1 GOING TO OBJECT TO COUNSEL TESTIFYING. I
2 THINK I AM GOING TO OBJECT. I THINK I KNOW
3 MORE ABOUT THE INVESTIGATION OF INTERNAL
4 AFFAIRS THAN MR. MCGILL.

5 THE COURT: LET HIM FINISH.

6 MR. JACKSON: WILL I BE ALLOWED
7 TO GIVE TESTIMONY WITH RESPECT TO
8 INVESTIGATIONS AS WELL?

9 THE COURT: HAVE I EVER STOPPED
10 YOU BEFORE?

11 MR. JACKSON: NO BUT IF YOU'RE
12 NOT GOING TO PERMIT ME TO TESTIFY--

13 THE COURT: THIS IS IN THE NATURE
14 OF ARGUMENT. THIS IS NOT ACTUAL
15 TESTIMONY.

16 MR. JACKSON: FINE, SIR.

17 MR. MCGILL: YOUR HONOR, I
18 BELIEVE WHERE I WAS BEFORE INTERRUPTED WAS
19 THAT THERE WAS APPROXIMATELY 636 THAT GO
20 THROUGH THE POLICE. LESS THAN ONE PERCENT
21 WHERE THERE WERE ARRESTS. THERE IS A
22 NUMBER WHICH IS PUBLISHED IN THE PAPER
23 WHERE THERE IS SOME SORT OF DISCIPLINE
24 MADE. I WANT TO MAKE IT PERFECTLY CLEAR TO
25 EVERYONE IN THIS COURTROOM AND TO THIS

1 COURT THAT THE MERE REASON THAT THE
2 DISTRICT ATTORNEY'S OFFICE IS INITIATING AN
3 INVESTIGATION IS BECAUSE OF THE COMPLAINT
4 BY MR. JACKSON AND NOT BECAUSE OF ANY OTHER
5 PARTICULAR REASON, JUST AS IT HAS REVIEWED,
6 AND IN SOME CASES, CONDUCTED INVESTIGATIONS
7 ON ITS OWN IN THE PAST. SO WITH THAT
8 VOLUME OF INFORMATION, YOUR HONOR, TO EVEN
9 SUGGEST THAT THERE WERE GOING TO BE
10 ARRESTS, TO EVEN SUGGEST THAT THERE WERE
11 GOING TO BE ANYTHING AT ALL, IN A MATTER OF
12 WEEKS BEFORE THE TRIAL, IS REALLY GUESSING
13 AND I WOULD JUST PERHAPS EVEN WISH--
14 PARTICULARLY BASED ON THE STATISTICS THAT I
15 TOLD YOU, JUDGE, I THINK TWO POSSIBLE
16 REASONS FOR, PERHAPS, MR. JAMAL, WHO'S
17 INITIATING THIS PARTICULAR APPROACH TO THE
18 COURT: NUMBER ONE, A FAILURE TO UNDERSTAND
19 THE DIFFERENCE BETWEEN A PRIMARY AND
20 COLLATERAL ISSUE AND PERHAPS-- I KNOW MR.
21 JACKSON TO BE A VERY INTELLIGENT PERSON.
22 SO I DOUBT THAT AND, NUMBER TWO, I BELIEVE
23 IT MAY VERY WELL BE AND INTENTIONAL ACT IN
24 ORDER TO DIVERT ATTENTION FROM THE FACTS
25 WHICH HAPPENED TO THE INDIVIDUALS AND THE

1 DEFENSE FEAR ARE DAMNING TO THEIR CASE AND,
2 AS A RESULT, TO DIVERT ATTENTION FROM THAT
3 AND TRY TO BUILD UP AND FOCUS ON A
4 COLLATERAL ISSUE WITH A HOPE THAT IT
5 SWALLOWS UP THE PRIMARY ONE. NO MATTER
6 WHAT HAPPENS AFTER AN INCIDENT, NO MATTER
7 WHERE, AN HOUR, TWO HOURS, TWO MINUTES,
8 THAT IS NOT WHAT'S ON TRIAL. SO I OBJECT
9 TO THIS WHOLE PROCEDURE AND I THINK I
10 CALLED IT FOR WHAT IT'S WORTH.

11 THE COURT: MR. JACKSON, YOU CAN
12 RESPOND.

13 MR. JACKSON: YOUR HONOR, I WILL
14 TRY TO BE VERY BRIEF.

15 THE COURT: I UNDERSTAND YOU HAVE
16 ANOTHER MATTER THIS MORNING.

17 MR. JACKSON: YES, IN FEDERAL
18 COURT AND I BELIEVE MR. FOY (PHONETICALLY)
19 HAS RESOLVED THAT WITH JUDGE BRODERICK.

20 YOUR HONOR, TO RESPOND TO
21 COUNSEL'S ARGUMENT WITH RESPECT TO THE
22 NATURE WHY WE PRESENTED THIS COMPLAINT--
23 AND I THINK IT'S VERY CLEAR WHY WE
24 PRESENTED THE COMPLAINT TO THE POLICE
25 DEPARTMENT. MR. JAMAL WAS SHOT, YOUR

1 HONOR. THERE'S BEEN NO INFORMATION-- WITH
2 ALL OF THE INFORMATION THAT THE
3 COMMONWEALTH HAS INDICATED AND REPRESENTED
4 TO THE COURT THAT THEY HAVE PROVIDED ME,
5 THERE HAS BEEN NO INDICATION WHATSOEVER AS
6 TO HOW OR WHY MR. JAMAL WAS SHOT.

7 SECONDLY, YOUR HONOR--

8 THE COURT: SO WAS THE BULLET
9 TAKEN FROM MR. JAMAL RECOVERED?

10 MR. JACKSON: I BELIEVE IT WAS,
11 YOUR HONOR.

12 THE COURT: WAS IT CAPABLE OF
13 BEING SUBJECT TO A BALLISTICS TEST?

14 MR. JACKSON: YES, IT WAS, YOUR
15 HONOR. THERE STILL IS NO INDICATION AS TO
16 WHO SHOT MR. JAMAL AND WHY HE WAS SHOT.

17 MR. MCGILL: YOUR HONOR, MAY I
18 RESPOND TO THAT QUESTION?

19 THE COURT: LET HIM FINISH. LET
20 MR. JACKSON FINISH.

21 MR. JACKSON: AGAIN, MR. JAMAL
22 WAS SHOT. THERE IS NO INFORMATION, NO
23 INDICATION WHATSOEVER AS TO HOW MR. JAMAL
24 WAS SHOT. WE KNOW-- AT LEAST THE REPORTS
25 WOULD SUGGEST THAT MR. JAMAL WAS SHOT--

1 THE COURT: YOU HAVE TO REMEMBER
2 THAT I SAT HERE AND LISTENED TO THE
3 TESTIMONY OF THE WITNESS AT THE BAIL
4 HEARING OF THE EYE WITNESS AND THERE WAS
5 AND INDICATION OF THE RELATIVE POSITIONS OF
6 THE PARTIES AND SO ON. SO THERE MIGHT BE
7 SOME INDICATION AS TO HOW THE SHOOTING TOOK
8 PLACE, IF YOU ARE REALLY IN DOUBT ABOUT
9 IT.

10 MR. JACKSON: I AM CERTAINLY IN
11 DOUBT, YOUR HONOR, AND PERHAPS YOU CAN
12 APPRISE ME. I DIDN'T CERTAINLY HEAR
13 SOMEONE SAY HOW MR. JAMAL WAS SHOT. I
14 CERTAINLY DID NOT HEAR THAT.

15 THE COURT: GO AHEAD.

16 MR. JACKSON: AGAIN, THAT'S THE
17 NATURE OF THE COMPLAINT, YOUR HONOR, THAT
18 MR. JAMAL WAS SHOT FOR NO REASON
19 WHATSOEVER. MR. JAMAL WAS BEATEN AT THE
20 TIME AND, AS YOUR HONOR WELL KNOWS,
21 INSPECTOR GEE (PHONETICALLY) TESTIFIED
22 SOMEHOW MIRACULOUSLY MR. JAMAL MADE A
23 PURPORTED STATEMENT TO HIM AND CONFESSION
24 TO HIM AND, OF COURSE, THAT WAS ONE OF THE
25 VERY PERSONS THAT MR. JAMAL INDICATED

1 STRUCK HIM IN THE HEAD IN THE CAR. MR.
2 JAMAL WAS ALSO BROUGHT IN-- AND I AM GIVING
3 YOU FACTS THAT HAVE BEEN PRODUCED BY THE
4 COMMONWEALTH, THAT MR. JAMAL WAS TAKEN INTO
5 THE HOSPITAL. HE WAS DROPPED AND HE WAS
6 KICKED. HE WAS SUBSEQUENTLY-- HIS URINE
7 LINE WAS SUBSEQUENTLY STEPPED ON AND A
8 NUMBER OF OTHER THINGS HAPPENED AS WELL
9 WHILE HE WAS AT THE HOSPITAL.

10 WITH RESPECT TO WHETHER OR NOT
11 THEY ARE DIRECT MATTERS OR COLLATERAL
12 MATTERS, THE COMMONWEALTH-- AND, OF COURSE,
13 INDEED THE COURT WOULD HAVE TO PREJUDGE AND
14 PRESUPPOSE WHAT IT IS THAT THE DEFENSE
15 WOULD PRESENT IN ITS DEFENSE BUT, YOUR
16 HONOR, AGAIN, BASED ON THE REPORTS OF THE
17 POLICE DEPARTMENT AND THE DISTRICT
18 ATTORNEY'S OFFICE ALONE, THERE IS INDEED
19 AMPLE REASON TO SUSPECT THAT THERE WAS
20 PROBABLE CAUSE FOR THOSE TO INVESTIGATE
21 THOSE OFFICERS AND THAT THERE WAS NO REASON
22 WHATSOEVER FOR MR. JAMAL TO BE SHOT, THERE
23 WAS NO REASON FOR MR. JAMAL TO BE BEATEN
24 AND THERE WAS NO REASON FOR HIM TO BE
25 KICKED AT THE HOSPITAL.

1 THE COURT: WHAT DO YOU WANT ME
2 TO DO AT A PRETRIAL MATTER? WHAT ARE YOU
3 ASKING HE TO DO?

4 MR. JACKSON: TO ORDER THE
5 DISTRICT ATTORNEY TO GIVE ME THE RESULTS OF
6 WHETHER THEY ARE GOING TO INVESTIGATE AN
7 OFFICER OR OFFICERS, TO DO THAT NOW
8 IMMEDIATELY, OR TO TELL US WHY THEY ARE NOT
9 INVESTIGATING. YOUR HONOR, I DON'T REALLY
10 WANT TO ARGUE THE POLICY OF THE DISTRICT
11 ATTORNEY'S OFFICE.

12 THE COURT: YOU WANT THE RESULTS
13 OF THE INVESTIGATION. ALL RIGHT.

14 MR. JACKSON: YES.

15 THE COURT: MR. MCGILL.

16 MR. JACKSON: YOUR HONOR, IF I
17 CAN CONTINUE JUST BRIEFLY AS WELL? MR.
18 MCGILL HAS SAID IT IS THE POLICY OF THE
19 DISTRICT ATTORNEY'S OFFICE TO AWAIT THE
20 CONCLUSION OF THE INTERNAL AFFAIRS
21 INVESTIGATION BEFORE THEY DO ANYTHING BUT,
22 OF COURSE, WE ARE IN A CATCH 22 SITUATION.
23 THE POLICE DEPARTMENT SAYS WELL, WE ARE
24 CONTINUING TO INVESTIGATE. OF COURSE, MR.
25 JAMAL STANDS READY TO GO TO TRIAL WHILE THE

1 POLICE DEPARTMENT IS CONTINUING TO
2 INVESTIGATE AND MR. RENDELL HAS AT LEAST
3 PREVIOUSLY INDICATED THAT WE ARE GOING TO
4 WAIT. NOW THEY ARE SAYING WELL, SINCE YOU
5 HAVE MADE A SPECIFIC DEMAND, NOW WE ARE
6 GOING TO DO SOMETHING. THE BIAS, THE
7 CREDIBILITY OF WITNESSES, OF ALL WITNESSES
8 WHEN THEY TESTIFY IN ANY CASE, YOUR HONOR,
9 IS A RELATIVE CONSIDERATION. I BELIEVE WE
10 NEED THAT INFORMATION AT THE TIME OF
11 TRIAL. THIS IS NOT A SMOKE SCREEN. THIS
12 IS SOMETHING THAT IS INDEED VERY IMPORTANT
13 AND CRITICAL TO THE DEFENSE. I THINK THAT
14 THE POLICY OF THE POLICE DEPARTMENT OR THE
15 POLICY OF THE DISTRICT ATTORNEY'S OFFICE IS
16 HIGHER THAN THE RULES OF COURT. I
17 UNDERSTAND THE RULES OF DISCOVERY, YOUR
18 HONOR, AND I UNDERSTAND THE RIGHTS THAT MR.
19 JAMAL HAS. IF MR. JAMAL IS DENIED THAT
20 INFORMATION, THEN HE WOULD BE SEVERELY
21 DENIED HIS RIGHT TO EFFECTIVE
22 CROSS-EXAMINATION AND FOR THAT REASON, YOUR
23 HONOR, I THINK HE HAS A CONSTITUTIONAL
24 RIGHT TO RECEIVE THAT INFORMATION AT OR
25 BEFORE TRIAL.

1 THE COURT: MR. MCGILL.

2 MR. MCGILL: YES, YOUR HONOR.

3 VERY BRIEFLY.

4 THE COURT: ADDRESS YOURSELF TO
5 TWO THINGS. I ASKED ABOUT THE QUESTION OF
6 WHERE THE BULLET CAME FROM AND, TWO, DID
7 YOU REQUEST AN ORDER ORDERING AN
8 INVESTIGATION AND HE WANTS THE RESULTS OF
9 THAT INVESTIGATION BEFORE TRIAL.

10 MR. MCGILL: YES, I WILL, THOSE
11 TWO AREAS. THE FIRST AREA, YOUR HONOR AND
12 COUNSEL HAS BEEN PROVIDED WITH BOTH THE
13 REPORTS, CERTAINLY THE BALLISTIC REPORT, AS
14 WELL AS PROPERTY RECEIPTS FOR THE WEAPONS,
15 AS WELL AS THE FACT THAT IT WAS REGISTERED
16 TO MR. JAMAL AND ALSO THE WEAPON THAT WAS
17 REGISTERED TO OFFICER FAULKNER. YOUR
18 HONOR, THE EVIDENCE WHICH HAS BEEN
19 PRESENTED TO MR. JACKSON IS CLEARLY THE
20 BULLET THAT WAS TAKEN FROM MR. JAMAL--

21 THE COURT: MR. JACKSON, I WANT
22 YOU TO HEAR THIS.

23 MR. JACKSON: I'M LISTENING, YOUR
24 HONOR. BELIEVE ME, I AM.

25 THE COURT: GO AHEAD, MR.

1 MCGILL. MR. JACKSON SAID HE'S LISTENING.

2 MR. JACKSON: I AM LISTENING. I
3 LEARNED TO DO TWO THINGS AT ONCE.

4 THE COURT: GO AHEAD.

5 MR. MCGILL: THE BULLET THAT WAS
6 TAKEN FROM MR. JAMAL WHO, BY THE WAY, YOUR
7 HONOR, WAS TAKEN IMMEDIATELY TO THE
8 HOSPITAL IN ORDER TO PROVIDE HIM TREATMENT
9 AFTER HE WAS SHOT AND HE WAS TAKEN TO THE
10 HOSPITAL BY THE PHILADELPHIA POLICE THAT
11 HE'S NOW CLAIMING SO ABUSED HIM AND IF HE
12 HAD NOT BEEN TAKEN TO THE HOSPITAL AND IF
13 TREATMENT HAD NOT BEEN URGED UPON HIM, HE
14 MAY NOT BE HERE TODAY BUT I WOULD SAY, YOUR
15 HONOR, THAT THE BULLET THAT WAS TAKEN FROM
16 MR. JAMAL WAS SHOT AND IT WAS TESTED BY
17 BALLISTICS. IT WAS DETERMINED THAT THIS
18 BULLET WAS SHOT FROM THE GUN, THE WEAPON
19 THAT POLICE OFFICER FAULKNER HAD. THE GUN
20 THAT WAS REGISTERED TO HIM. THAT EVIDENCE
21 WAS QUITE AVAILABLE TO MR. JACKSON AT A
22 VERY EARLY DATE. WITH THE--

23 THE COURT: WAS THAT GIVEN TO MR.
24 JACKSON?

25 MR. JACKSON: YES, I BELIEVE,

1 THAT WAS GIVEN TO HIM.

2 THE COURT: YOU HAVE SOME--

3 MR. JACKSON: I DON'T, YOUR
4 HONOR. I HAVE, AT BEST, FROM WHAT GUN THE
5 BULLET CAME FROM. MY QUESTION IS WHO SHOT
6 HIM AND WHEN AND FOR WHAT REASON? THERE IS
7 A DIFFERENCE, YOUR HONOR, A BIG DIFFERENCE.

8 THE COURT: THAT IS NOT AT THE
9 TRIAL.

10 MR. JACKSON: NO, IT'S NOT, YOUR
11 HONOR. THAT IS MY POINT. IT WAS WHY I
12 WANT TO INVESTIGATE, BECAUSE THE
13 INVESTIGATION, IN MY MIND, WILL SHOW, IN
14 FACT, THAT OFFICER FAULKNER DID NOT SHOOT
15 MR. JAMAL.

16 MR. MCGILL: WELL, HE MAY
17 INDICATE-- YOUR HONOR, IN SOME WAY HE MIGHT
18 THINK AND INVESTIGATION-- AND AMAZINGLY
19 SPECULATIVE ONE, BECAUSE OF ALL THE
20 STATEMENTS THAT WERE MADE BY ALL OF THE
21 WITNESSES THAT WERE PRESENT AND IMMEDIATELY
22 THAT HAD ARRIVED ON THE SCENE, ALL OF THE
23 STATEMENTS THAT WERE NOT THE LEAST BIT
24 RELEVANT TO THOSE INDIVIDUALS THAT ACTUALLY
25 OBSERVED ANYTHING AT ALL OR HEARD ANYTHING

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1 AT ALL IN RELATION TO THE SHOTS, THE
2 SHOOTING THAT HAD OCCURRED, WAS WHETHER MR.
3 JAMAL AND OFFICER FAULKNER WAS THERE AFTER
4 OFFICER FAULKNER HAD STOPPED HIS BROTHER
5 WILLIAM COOK. THERE WERE NO SHOTS FIRED
6 AFTER THAT TIME. THERE WERE NO SHOTS
7 FIRED, CERTAINLY, BY THE POLICE AT ANY
8 TIME, OTHER THAN OFFICER FAULKNER.

9 THE COURT: THAT'S A MATTER FOR
10 TRIAL.

11 MR. MCGILL: THERE IS JUST NO
12 EVIDENCE.

13 THE COURT: IF ANOTHER BULLET
14 WOULD HAVE BEEN FIRED LATER ON, SOMEBODY
15 WOULD HAVE HEARD A GUN SHOT.

16 MR. JACKSON: THERE IS THE STRONG
17 PREMISE, YOUR HONOR--

18 MR. MCGILL: THIS AGAIN IS WHAT I
19 AM SAYING, JUDGE. THERE IS TWO REASONS FOR
20 ALL THESE COLLATERAL ISSUES.

21 THE COURT: WHAT ABOUT THE REPORT
22 FROM YOUR INVESTIGATION AS TO WHETHER THERE
23 WAS ANY SUBSEQUENT SHOOTINGS AND SO ON?

24 MR. MCGILL: YES-- AND IT'S BEEN
25 ABSOLUTELY FOUND, ANY POSSIBILITY THAT

1 ANYBODY ELSE HAD SHOT THE GUN.

2 THE COURT: WHEN DO YOU THINK THE
3 REPORTS WOULD BE MADE AVAILABLE TO MR.
4 JACKSON?

5 MR. MCGILL: THE INVESTIGATION OF
6 THE DISTRICT ATTORNEY'S OFFICE?

7 THE COURT: YES.

8 MR. JACKSON: I REALLY DO NOT
9 HAVE THAT INFORMATION. I WOULD IMAGINE
10 THAT IT WOULD TAKE SOME TIME. WE WOULD
11 REVIEW ALL OF THE STATEMENTS AND, AS I
12 SAID, THERE WAS 125 AND APPARENTLY THE
13 COMPLAINTS THAT MR. JACKSON HAD MADE WAS
14 MORE THAN JUST SHOOTING. IT GOES TO THE
15 HOSPITAL AND OTHER THINGS.

16 THE COURT: I AM GOING TO DO
17 THIS: I AM NOT GOING TO ISSUE MR. JACKSON
18 A DIRECT ORDER FROM THE DISTRICT ATTORNEY'S
19 OFFICE. I AM GOING TO TELL YOU THAT YOU
20 COMPLETE AN INVESTIGATION, REGARDLESS OF
21 HOW MUCH TIME YOU HAVE TO PUT IN ON IT, IN
22 THE IMMEDIATE FUTURE, BECAUSE WE'RE GETTING
23 CLOSE TO THE TRIAL DATE. SO IF IT TAKES
24 PUTTING ENOUGH PEOPLE ON TO GO THROUGH ALL
25 THAT, YOU HAVE TO DO IT. THERE IS NO

1 REASON TO DELAY THAT FOR ANY PERIOD.

2 MR. MCGILL: NO, YOUR HONOR. THE
3 ACTUAL INVESTIGATION BY THE POLICE AND THE
4 INVESTIGATION BY THE DISTRICT ATTORNEY'S
5 OFFICE, YOU ARE TALKING ABOUT TWO SEPARATE
6 ONES. THAT INVESTIGATION OF THE POLICE IS
7 CONTINUING TO DATE AND YOUR HONOR HAS SEEN
8 THE FILE. THERE IS NOT ONLY AN ABSENCE OF
9 RECOMMENDATION OF ANY KIND OF ARRESTS,
10 THERE IS A BLATANT ABSENCE.

11 THE COURT: I WOULD LIKE TO
12 TERMINATE THAT AND GET ON WITH THE TRIAL.
13 IF YOU HAVE 5,000 STATEMENTS, PUT AN EXTRA
14 20 PEOPLE ON IT BUT GET THE THING DONE.
15 PRESUMABLY ALL EVIDENCE IS ALREADY IN. YOU
16 KNOW WHAT YOU HAVE TO LOOK AT. YOU KNOW
17 THE STATEMENTS AND THE PEOPLE YOU WANT TO
18 INTERVIEW, IF NECESSARY. DO IT. NOW LET'S
19 GET IT DONE AND WE WILL GET A COPY OF THAT
20 REPORT, CONCLUSIONS AND/OR ANY ACTION FOR
21 MR. JACKSON AND THAT'S IT.

22 MR. JACKSON: YOUR HONOR, I HAVE
23 ONE ALTERNATIVE MOTION TO THAT. IF INDEED
24 BASED ON THAT-- AS MR. MCGILL KNOWS THIS--
25 WITH RESPECT TO STATEMENTS OF WITNESSES WHO

1 WOULD TESTIFY THAT MR. JAMAL WAS BEATEN AND
2 THINGS OF THAT SORT THAT INFORMATION IS
3 CONTAINED IN THE INFORMATION--

4 MR. MCGILL: I WOULD OBJECT TO
5 THAT. I KNOW THAT HE WAS BEATEN?

6 MR. JACKSON: YES.

7 THE COURT: THAT'S A STATEMENT,
8 ARGUMENT, AND HE SAYS HE WASN'T BEATEN.

9 MR. JACKSON: WE CAN GO THROUGH
10 EACH WITNESS AND I CAN SHOW YOU IN THE
11 REPORT WHERE THEY SAID YES, MR. JAMAL WAS
12 BEATEN WHILE HE WAS HANDCUFFED. YES, MR.
13 JAMAL WAS DROPPED AND KICKED IN THE
14 HOSPITAL.

15 THE COURT: MR. MCGILL DENIES
16 IT. THAT'S NOT RELEVANT FOR THE PURPOSES
17 OF MY RULINGS TODAY.

18 MR. JACKSON: THE CORNER THAT I
19 HAVE IS INDEED THE COMMONWEALTH WILL DO
20 WHAT I SUSPECT THAT THEY WILL DO, AT BEST,
21 IS REPEAT THEIR STATEMENTS THAT THE POLICE
22 DEPARTMENT HAS ALREADY AND WHAT I AM
23 SAYING, YOUR HONOR, IS THAT THERE IS AMPLE
24 REASON, AMPLE EVIDENCE ALREADY THAT WOULD--
25 THERE IS PROBABLE CAUSE TO ARREST SEVERAL

1 POLICE OFFICERS. AS YOUR HONOR WELL KNOWS,
2 THERE IS STILL A RULE OF COURT THAT WILL
3 ALLOW A COURT OF COMMON PLEAS TO ISSUE AN
4 ARREST WARRANT. IF MR. RENDELL FAILS OR
5 REFUSES TO ARREST THOSE OFFICERS, WOULD
6 YOUR HONOR, EVEN TODAY, CONSIDER ARRESTING
7 THOSE OFFICERS BASED ON PROBABLE CAUSE?

8 THE COURT: I DON'T HAVE ANYTHING
9 IN FRONT OF ME.

10 MR. JACKSON: I WOULD PRESENT
11 THAT EVIDENCE TO YOU AND I AM PREPARED TO
12 DO THAT TODAY BY WAY OF STATEMENTS, YOUR
13 HONOR, SINCE IT APPEARS THAT MR. RENDELL--

14 THE COURT: THE ONLY THING I WANT
15 NOW IS TO HAVE THAT INVESTIGATION COMPLETED
16 THAT THE DISTRICT ATTORNEY'S OFFICE IS
17 CONDUCTING GIVEN TO YOU SO THAT YOU CAN
18 HAVE IT BEFORE TRIAL.

19 MR. JACKSON: I AM SUGGESTING TO
20 THE COURT THAT MR. RENDELL WILL NOT
21 COMPLETE THEIR INVESTIGATION AND IT WILL BE
22 ALMOST A CARBON COPY OF WHAT IS AVAILABLE
23 ALREADY AND I AM SUGGESTING TO THIS COURT
24 THERE IS PROBABLE CAUSE BASED ON THOSE
25 REPORTS, THOSE WITNESSES ALONE.

1 THE COURT: THAT'S ANOTHER
2 MATTER. I WANT TO GET THE CASE READY FOR
3 TRIAL.

4 MR. JACKSON: IT'S NOT A
5 COLLATERAL MATTER, YOUR HONOR. IT'S A
6 MATTER THAT DIRECTLY PERTAINS TO THE
7 DEFENSE IN THIS CASE.

8 MR. MCGILL: JUDGE, THAT'S MY
9 POINT. JUDGE, THIS IS NOT RELEVANT.

10 THE COURT: I RULED ALREADY.
11 THIS IS NOT RELEVANT TO MY ORDERS NOW. IF
12 THIS IS PART OF CROSS-EXAMINATION, IT'S
13 PRODUCED AT THE TIME OF CROSS-EXAMINATION,
14 MR. JACKSON.

15 MR. JACKSON: I THINK I HAVE THE
16 JUDGE'S ATTENTION. YOUR HONOR, IF THERE IS
17 PROBABLE CAUSE TO ARREST THOSE POLICE
18 OFFICERS, IF NOT TODAY-- IF NOT BY DECEMBER
19 9TH-- I'M SAYING TODAY, ON MAY 13TH, THERE
20 IS PROBABLE CAUSE TO ARREST THOSE POLICE
21 OFFICERS. TO SUGGEST THAT WE SHOULD WAIT
22 UNTIL THE TIME OF TRIAL OR AFTER THE TRIAL
23 TO ARREST THOSE OFFICERS DENIES MR. JAMAL
24 AN EFFECTIVE CROSS-EXAMINATION BECAUSE IF
25 THEY ARE ARRESTED, THEY SHOULD BE ARRESTED.

1 THE COURT: I AM RULING RIGHT NOW
2 AND SO RULING ON THE RECORD THAT THERE IS
3 NOTHING SO FAR THAT PREJUDICES YOUR RIGHT
4 TO CROSS-EXAMINATION OR TO EFFECTIVE
5 PREPARE FOR TRIAL. I HAVE SAID THAT THE
6 DISTRICT ATTORNEY'S OFFICE SHOULD COMPLETE
7 THEIR INVESTIGATION AND MAKE THAT AVAILABLE
8 FOR YOU FOR WHATEVER PURPOSE IT SHALL BE
9 FOR AND IT WILL BE DONE BEFORE TRIAL.

10 MR. JACKSON: AND ARE YOU SAYING
11 YOU WILL NOT CONSIDER A MOTION FOR THE
12 ISSUANCE OF ARREST WARRANTS FOR THOSE
13 OFFICERS?

14 THE COURT: I THINK IT'S TOTALLY
15 IMPROPER TO ASK ME THAT ALONG THAT LINE. I
16 DON'T THINK ANYTHING FALLS ON ME AND I
17 DON'T THINK IT'S RELEVANT FOR THE CASE TO
18 BE PREPARED FOR TRIAL.

19 MR. JACKSON: FINE. I CAN
20 PRESENT THAT PETITION TO YOU. YOUR HONOR
21 KNOWS THERE ARE CERTAINLY PROVISIONS WITHIN
22 OUR STATE LAW THAT WOULD ALLOW YOUR HONOR
23 TO ISSUE WARRANTS FOR THE ARREST OF THOSE
24 OFFICERS?

25 THE COURT: YOU CAN FORWARD THAT

1 PETITION TO ME AND I WILL LOOK IT OVER, AND
2 SERVE A COPY ON THE DISTRICT ATTORNEY'S
3 OFFICE.

4 MR. MCGILL: ON THIS POINT,
5 JUDGE, IF THAT BE PERMITTED--

6 THE COURT: IF WHAT BE
7 PERMITTED?

8 MR. MCGILL: THE PARTICULAR
9 BUSINESS ABOUT INVESTIGATIONS BEING
10 COMPLETED, HIS HAVING AN OPPORTUNITY TO
11 CROSS-EXAMINE ON INVESTIGATIONS, IT WOULD
12 BE VERY EASY, YOUR HONOR, FOR EVERY
13 DEFENDANT AND EVERY DEFENSE COUNSEL TO
14 DEMAND AN INVESTIGATION BECAUSE HIS CLIENT
15 IS-- HE BELIEVES IN SOME WAY ABUSED AND,
16 THEREFORE, CAUSE A DELAY OR WHATEVER.

17 THE COURT: IF YOU FIND THAT
18 BECAUSE FOR ONE REASON OR ANOTHER IT'S
19 IMPOSSIBLE FOR YOU TO COMPLETE ANYTHING YOU
20 WANT TO COMPLETE BEFORE TRIAL, JUST SEND A
21 COPY OF THAT STATEMENT TO MR. JACKSON AND
22 TELL HIM WHY. THAT'S IT. THEN HE CAN MAKE
23 USE OF THAT AT TRIAL OR APPEAL, IF
24 NECESSARY, IF IT'S NECESSARY FOR APPEAL. I
25 DON'T KNOW IF IT WILL BE, ONE WAY OR THE

1 OTHER.

2 MR. MCGILL: I WOULD STATE, YOUR
3 HONOR, THAT MR. JACKSON JUST MENTIONED THE
4 BUSINESS ABOUT GETTING AN ORDER OF THAT.
5 YOUR HONOR, ALL OF THOSE WITNESSES-- IT IS
6 CLEAR OUT OF THE ENTIRE NUMBER OF WITNESSES
7 THAT WERE PRESENT, OF THOSE THAT WERE ABLE
8 TO SEE CLOSE AT HAND AS TO WHAT HAD
9 OCCURRED, THAT AT THE TIME OF APPREHENSION
10 MR. JAMAL, AT THE SCENE, WHERE THAT OFFICER
11 WAS THERE, THERE WERE TWO WEAPONS CLOSE TO
12 MR. JAMAL. I MEAN ALL OF THIS IS SO MUCH A
13 PART. HE JUST SAYS THERE IS PROBABLE
14 CAUSE.

15 THE COURT: I REJECTED THAT. YOU
16 CAN FILE-- IF YOU WANT, YOU CAN FILE
17 ANYTHING AND I WILL MAKE A RULING ON IT ONE
18 WAY OR THE OTHER.

19 MR. JACKSON: I JUST WANT THIS TO
20 BE CLEAR, YOUR HONOR. ASSUMING I FILE A
21 PETITION FOR YOUR HONOR TO ISSUE A WARRANT
22 FOR THE ARREST OF THOSE OFFICERS, AS YOUR
23 HONOR WELL KNOWS, WE HAVE THE STATEMENTS OF
24 THE WITNESSES. WE DON'T HAVE THEIR
25 ADDRESSES. WE CAN DO IT ONE OF SEVERAL

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1 MR. JACKSON: YOUR HONOR, JUST
2 ONE ADDITIONAL VISITOR, ADELE JONES, WHO IS
3 ALSO PRESENT IN THE COURT TODAY. MR. JAMAL
4 HAS REQUESTED THAT HE BE PERMITTED TO VISIT
5 WITH HER. MS. JONES HAS BEEN AFFILIATED
6 WITH THE PRISONERS' RIGHTS ORGANIZATION.
7 THE SUPERINTENDENT OF PRISONS HAS ALLOWED A
8 NUMBER OF PERSONS TO VISIT WITH MR. JAMAL.
9 A LIST WILL BE PREPARED. I KNOW THE
10 ORGANIZATION HAS ALREADY BEEN SANCTIONED BY
11 MR. OWENS.

12 THE COURT: DO WE HAVE ANY
13 PROBLEMS? SUPERINTENDENT OWENS USUALLY
14 HANDLES THESE MATTERS. IS THERE ANY
15 PROBLEM WITH VISITORS?

16 MR. JACKSON: THERE HAVE BEEN A
17 NUMBER OF PROBLEMS WHICH MAY OR MAY NOT BE
18 A RESULT OF MR. OWENS.

19 THE COURT: I WANT TO LEAVE THAT
20 IN THE SUPERINTENDENT'S OWN HANDS. IF YOU
21 THINK HE'S VIOLATING THE LAW IN ANY WAY,
22 SEND ME A SHORT NOTE. IF HE VIOLATES THE
23 LAW IN ANY WAY, I WILL LOOK AT IT. OTHER
24 THAN THAT, I SEE NO REASON TO DISCUSS THAT
25 RIGHT NOW.

1 MR. JACKSON: VERY WELL, YOUR
2 HONOR.

3 THE COURT: I BELIEVE THAT'S AN
4 ADMINISTRATIVE MATTER WITH THE
5 SUPERINTENDENT. IF YOU THINK HE IS
6 VIOLATING THE LAW, YOU LET ME KNOW.

7 NOW THE REMAINING MATTER IS A
8 TRIAL DATE. YOU HAVE A RUN DATE OF JUNE 7
9 AND THE CASE SHOULD BE ASSIGNED BEFORE
10 THAT.

11 MR. JACKSON: I HAVE A COUPLE OF
12 MATTERS BEFORE THAT. NOTES OF TESTIMONY
13 TAKEN BEFORE JUDGE MEKEL ON THE 8TH OF
14 JANUARY, I HAVE ATTEMPTED ON NUMEROUS
15 OCCASIONS TO OBTAIN THOSE NOTES OF
16 TESTIMONY. I HAVE BEEN TOLD--

17 THE COURT: DO YOU WANT ME TO
18 ISSUE AN ORDER FOR JUDGE MEKEL--

19 MR. JACKSON: YOUR HONOR, THE
20 NOTES, AS I UNDERSTAND IT, HAVE BEEN
21 TRANSCRIBED. THE REPORTER IS SALVATORE
22 NATALE. I HAVE BEEN TOLD VARIOUS THINGS ON
23 OCCASION. HE IS UNAVAILABLE, THAT NOTES
24 ARE MISSING. I HAVE NOT GOTTEN THEM. IT'S
25 MY UNDERSTANDING THAT SALVATORE NATALE IS

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1 IN 675 THIS MORNING. I HAVE NOT RECEIVED
2 THE NOTES OF TESTIMONY AND I OBVIOUSLY NEED
3 THEM.

4 THE COURT: DO YOU HAVE A COPY OF
5 THE NOTES, MR. MCGILL?

6 MR. MCGILL: I BELIEVE I HAVE A
7 COPY OF THE NOTES, BOTH, OF OUR HEARING, AS
8 WELL AS THE PRELIMINARY HEARING.

9 MR. JACKSON: I DON'T HAVE THEM.

10 THE COURT: DID YOU ASK MR.
11 NATALE? WE'LL CHECK IT OUT AND GIVE YOU A
12 CALL.

13 MR. JACKSON: FINE, SIR, AND
14 BEFORE ASSIGNING A TRIAL DATE, MR. JAMAL
15 WOULD LIKE TO ADDRESS THE COURT.

16 THE COURT: DO YOU THINK IT'S
17 ADVISABLE?

18 MR. JACKSON: YES, SIR.

19 THE COURT: IF YOU THINK IT'S
20 RELEVANT--

21 MR. JACKSON: YES, SIR.

22 THE COURT: I'M IN THE MIDDLE OF
23 A JURY TRIAL RIGHT NOW.

24 MR. JACKSON: YOUR HONOR, I
25 BELIEVE IT'S A MATTER OF CRITICAL

1 IMPORTANCE.

2 MR. JAMAL.

3 ... MUMIA ABU JAMAL, HAVING BEEN
4 FIRST DULY SWORN AS A WITNESS, IS EXAMINED
5 AND TESTIFIES AS FOLLOWS...

6 THE DEFENDANT: MUMIA ABU JAMAL.
7 AND AT THIS TIME I WISH TO PETITION THE
8 COURT WITH NOTICE OF INTENT TO REPRESENT
9 MYSELF. I BELIEVE THAT SUCH AN ACTION IS
10 CONSTANT AND CONSISTENT WITH MY RELIGIOUS
11 BELIEFS, WHICH ARE DEEMED HELD--

12 THE COURT: YOU HAVE THAT RIGHT.
13 LET'S TAKE THIS MATTER. YOU MAY REPRESENT
14 YOURSELF. I AM GOING TO ORDER MR. JACKSON
15 TO BE PRESENT AT ALL TIMES AS BACKUP
16 COUNSEL TO ASSIST YOU IF YOU WISH. YOU
17 HAVE A RIGHT TO REPRESENT YOURSELF, AS LONG
18 AS IT DOESN'T INTERFERE WITH THE COURT
19 PROCESSES OR ADMINISTRATION OF JUSTICE.
20 MR. JACKSON WILL BE AVAILABLE AS BACKUP
21 COUNSEL TO HELP YOU IN ASSISTING IN ANY WAY
22 AND IF AT ANY TIME YOU ARE UNABLE TO
23 REPRESENT YOURSELF OR YOU WAIVE YOUR RIGHT
24 TO REPRESENT YOURSELF, HE WILL BE ASKED TO
25 TAKE OVER THE REPRESENTATION.

1 MR. JACKSON: IF IT PLEASES THE
2 COURT, YOUR HONOR, I APPRECIATE THAT YOUR
3 HONOR HAS GRANTED MR. JAMAL'S PETITION.
4 WITH RESPECT TO YOUR HONOR THAT I WOULD BE
5 ASSIGNED AS BACKUP COUNSEL, I, OF COURSE,
6 HAVE BEEN TRAINED AS A LAWYER TO REPRESENT
7 INDIVIDUALS. I HAVE NOT BEEN TRAINED AS
8 BACKUP COUNSEL. YOUR HONOR WOULD BE
9 PLACING ME IN A SITUATION I AM UNFAMILIAR
10 WITH. I HAVE NEVER DONE THIS BEFORE AND I
11 AM NOT SURE, FEELING THAT I WOULD BE
12 EFFECTIVE IN PROVIDING--

13 THE COURT: WHAT DO YOU WANT TO
14 DO?

15 MR. JACKSON: I WOULD REQUEST
16 THAT EITHER ADDITIONAL OR OTHER COUNSEL BE
17 PROVIDED AS BACKUP FOR MR. JAMAL. I WOULD
18 CERTAINLY CONTINUE TO ASSIST MR. JAMAL IN
19 WHATEVER MANNER I POSSIBLY COULD BUT I
20 WOULD NOT FEEL COMFORTABLE BEING MR.
21 JAMAL'S--

22 THE COURT: YOU ARE COURT
23 APPOINTED?

24 MR. JACKSON: YES.

25 THE COURT: YOU'RE COURT

1 APPOINTED AND YOUR PAY PETITION WILL
2 REFLECT--

3 MR. JACKSON: THE APPOINTMENT
4 THAT I ACCEPTED WAS TO REPRESENT MR. JAMAL

~~5 THAT I, IN FACT, THE CONTRACT THAT I~~
6 SIGNED, TO REPRESENT HIM, AND I DON'T
7 BELIEVE YOUR HONOR--

8 THE COURT: I DON'T WANT
9 EXTENSIVE ARGUMENT ON THIS. THE PRESENT
10 COURT RULE IS TO HAVE COUNSEL REMAIN AS
11 BACKUP COUNSEL AND THAT'S WHAT I'M DOING.
12 MR. JAMAL CAN HANDLE HIS OWN DEFENSE.

13 MR. JACKSON: MOST RESPECTFULLY,
14 I WOULD LIKE TO LET THE RECORD SHOW AS WELL
15 THAT I WOULD REFUSE TO BE BACKUP COUNSEL.
16 IF THAT REQUIRES MY INCARCERATION--

17 THE COURT: INCARCERATION?

18 MR. JACKSON: YES.

19 THE COURT: I DON'T HAVE-- I AM
20 NOT GOING TO HAVE YOU ARRESTED.

21 MR. JACKSON: I'M NOT GOING TO--

22 THE COURT: IF YOU EQUATE GOING
23 TO MY COURTROOM AS GOING TO PRISON, I FEEL
24 SORRY.

25 MR. JACKSON: I'M SAYING I AM NOT

1 GOING TO ACCEPT AN APPOINTMENT FOR BACKUP
2 COUNSEL. I ACCEPTED AN APPOINTMENT AS
3 COUNSEL AND I DON'T BELIEVE THAT THE COURT
4 HAS ANY JURISDICTION. SLAVERY HAS BEEN
5 ABOLISHED, YOUR HONOR, AND I DON'T BELIEVE
6 THAT THIS COURT, IN ALL DUE RESPECT TO MR.
7 JAMAL, THAT I BELIEVE THAT I CAN BE
8 REQUIRED TO BE BACKUP COUNSEL. MR. JAMAL
9 KNOWS AND I DISCUSSED THIS AND I WOULD
10 CONTINUE TO ASSIST IN AN INDIVIDUAL AND
11 PERSONAL CAPACITY BUT I DON'T WISH TO
12 BECOME BACKUP COUNSEL AND I DON'T BELIEVE
13 THAT THIS COURT--

14 THE COURT: YOU SEE, YOU ARE
15 PUTTING THE COURT IN A POSITION BECAUSE
16 THERE MIGHT BE A DELAY IN TRIAL AND I AM
17 NOT GOING TO PERMIT IT OR TOLERATE IT. LET
18 ME FINISH. IF I CAN APPOINT OR ASK FOR THE
19 APPOINTMENT OF ADMINISTRATION OF ANOTHER
20 ATTORNEY, HE WOULDN'T FEEL CONFIDENT THAT
21 HE CAN SIT AND ADVISE COUNSEL OF ANYTHING.
22 HE WOULD WANT THE RECORD AND START IT
23 OVER. I AM NOT GOING TO PERMIT IT.

24 THAT SLAVERY HAS BEEN ABOLISHED,
25 I WILL ANNOUNCE, IF THERE IS ANY DOUBT

1 ABOUT IT. YOU ARE AN OFFICER OF THE
2 COURT. WE ALL ARE. IT DOESN'T MATTER
3 WHETHER YOU EFFECTIVELY PRESENT THE CASE OR
4 STAY IN IT AS BACKUP COUNSEL BUT YOU'RE
5 STILL PERFORMING A FUNCTION AS AN ATTORNEY,
6 A DEFENSE COUNSEL, AND BACKUP COUNSEL, AN
7 OFFICER OF THE COURT, AND I'M ORDERING YOU
8 TO DO SO.

9 MR. JACKSON: YOUR HONOR, AS YOU
10 WELL KNOW I DON'T BELIEVE THAT YOUR HONOR
11 CAN DO THAT. I AM SUGGESTING THAT WITHOUT
12 DUE PROCESS YOUR HONOR IS REQUIRING ME TO
13 PERFORM A FUNCTION I HAVE NEVER PERFORMED
14 IN A MATTER WHERE A MAN'S LIFE IS AT RISK
15 AND I DON'T BELIEVE UNDER THE CIRCUMSTANCES
16 THAT YOUR HONOR SHOULD OR--

17 THE COURT: YOU KNOW THAT AND MR.
18 JAMAL IS MAKING THE DECISION. IF HE WANTS
19 COUNSEL TO REPRESENT HIM, HE MAY DO SO.

20 MR. JACKSON: I AM NOT CONCERNED
21 RIGHT NOW, FOR THE SAKE OF DISCUSSION, WITH
22 MR. JAMAL'S RIGHTS. MR. JAMAL HAS HIS
23 RIGHTS. I AM TALKING ABOUT MY RIGHTS. I
24 HAVE A RIGHT A TO PICK AND CHOOSE AND WHICH
25 APPOINTMENTS I WILL PROVIDE TO THE COURT.

1 I ACCEPTED AN APPOINTMENT.

2 THE COURT: I THINK IN YOUR
3 FUNCTION AS AN OFFICER OF THE COURT, MR.
4 JACKSON, YOU CAN CERTAINLY REFUSE AN
5 APPOINTMENT INITIALLY, IF YOU WANTED TO DO
6 IT IN THIS CASE. YOU TOOK THE
7 REPRESENTATION OF MR. JAMAL. AT THAT POINT
8 THAT REPRESENTATION IS NOT BEING RESOLVED.
9 IT IS MERELY CHANGING ITS CHARACTER AND
10 NATURE.

11 MR. JACKSON: AS TO THE NATURE OF
12 THE CONTRACT, YOUR HONOR.

13 THE COURT: YOU WILL REMAIN AS
14 BACKUP COUNSEL AND PROVIDE THAT FUNCTION TO
15 MR. JAMAL. HE HAS THE RIGHT TO WAIVE THE
16 ACTIVE PARTICIPATION OF AN ATTORNEY AND I
17 AM GRANTING HIM THAT RIGHT AND GRANTING HIS
18 MOTION.

19 MR. JACKSON: I UNDERSTAND THAT,
20 YOUR HONOR, BUT, I BELIEVE, AGAIN, YOUR
21 HONOR IS NOT EMPOWERED TO SUPERCEDE THE
22 APPOINTMENT OF JUDGE WILSON TO DEMAND OR
23 ORDER ME TO CONTINUE SINCE, IN FACT--

24 THE COURT: WE DO HAVE A LEGAL
25 RIGHT TO REFUSE TO PERMIT COUNSEL TO

1 WITHDRAW FROM A CASE. WITHDRAWAL FROM A
2 CASE, ONCE THE REPRESENTATION HAS BEEN
3 UNDERTAKEN, IS NOT WITHIN THE PROVINCE OF
4 AN ATTORNEY WITHOUT LEAVE OF THE COURT AND
5 IF YOU CHECK THE LAW AND STANDINGS ON THIS,
6 YOU WILL FIND THAT IS TRUE. IF YOU ARE
7 ASKING TO WITHDRAW, I AM DENYING YOUR
8 PETITION TO WITHDRAW.

9 MR. JACKSON: BUT, YOUR HONOR,
10 AGAIN I AM NOT ASKING TO WITHDRAW. I AM
11 SAYING THAT IN THIS CASE I WILL EITHER BE A
12 LAWYER OR I WILL NOT BE A LAWYER. THAT'S
13 ALL AND YOU ARE TRYING TO SUGGEST, YOUR
14 HONOR, THAT-- I BELIEVE, YOUR HONOR-- THAT
15 I AM WITHDRAWING FROM THIS CASE. I AM
16 SAYING I AM THE LAWYER, NOTWITHSTANDING MR.
17 JAMAL, CERTAINLY NOT WITH ANY--

18 THE COURT: YOU CAN FIGHT THAT
19 OUT WITH MR. JAMAL. IT'S HIS REQUEST THAT
20 HE REPRESENT HIMSELF. I REFUSE TO BE PUT
21 IN A DILEMMA HERE. YOU WILL REMAIN IN THE
22 CASE AS BACKUP COUNSEL BECAUSE I WILL NOT
23 PERMIT YOU TO WITHDRAW, AT LEAST NOT AT
24 THIS STAGE OF THE GAME. WE'RE NOT GOING TO
25 DELAY TRIAL BECAUSE OF THIS. THAT'S THE

1 END. I RULED.

2 IF YOU WISH TO GO TO THE SUPREME
3 COURT AND ASK FOR, SAY, FURTHER RELIEF,
4 FEEL FREE TO DO SO.

5 MR. JACKSON: WOULD YOU CERTIFY
6 THE QUESTION--

7 THE COURT: NOT TO DELAY TRIAL.

8 MR. JACKSON: YOU ARE SAYING YOU
9 WILL ALLOW ME TO GO TO THE SUPREME COURT.
10 THE ONLY WAY I WOULD DO THAT IS FOR YOUR
11 HONOR TO CERTIFY THE QUESTION--

12 THE COURT: I AM NOT GOING TO
13 CERTIFY ANY QUESTION BECAUSE I THINK THERE
14 IS NO QUESTION ABOUT MY LEGAL RIGHT TO
15 ORDER YOU TO REMAIN AS BACKUP COUNSEL. I'M
16 NOT GOING TO DO ANYTHING THAT WILL DELAY
17 THE START OF THIS TRIAL. IF YOU WISH TO GO
18 TO THE SUPREME COURT AND GET A WRIT OF
19 PROHIBITION PROHIBITING ME ASKING YOU TO--
20 ASKING THEM TO RELIEVE YOU AS BACKUP
21 COUNSEL, YOU CAN DO IT.

22 THE DEFENDANT: JUDGE RIBNER, IT
23 IS NOT MY INTENTION-- AND I ASSURE YOU IT
24 IS NOT THE ATTENTION TO DELAY TRIAL. WE
25 HAVE BEEN WORKING ON THIS FOR SEVERAL

1 MONTHS NOW, AS YOU WELL KNOW. THIS HAS
2 BEEN A POSITION THAT I HAVE HELD FOR
3 SEVERAL MONTHS NOW. IT HAS BEEN MY
4 INTENTION TO DEFEND MYSELF.

5 THE COURT: IT'S THE FIRST TIME
6 THAT YOU MENTIONED IT TO ME.

7 THE DEFENDANT: THIS HAS BEEN MY
8 INTENTION.

9 THE COURT: I AM GRANTING YOUR
10 MOTION.

11 THE DEFENDANT: THE POINT I AM
12 MAKING IS I AM FACED NOW WITH AN ATTORNEY
13 WHO HAS SAID IN FULL COURT THAT HE IS NOT
14 FUNCTIONING AS BACKUP COUNSEL. I NEED AN
15 ATTORNEY WHO'S COMFORTABLE DOING THAT. AS
16 I EXPRESSED, I WORKED VERY CLOSELY WITH MR.
17 JACKSON BUT I FEEL IT IS NOW TIME FOR ME TO
18 DEFEND MYSELF. IT IS MY LIFE AT STAKE
19 HERE, NOT YOURS, NOT MR. JACKSON'S. MAY I
20 FINISH, SIR?

21 THE COURT: WELL, I'LL LET YOU
22 FINISH. KEEP TO THE POINT.

23 THE DEFENDANT: I AM KEEPING TO
24 THE POINT EXACTLY. MY POINT IS THAT IF I
25 HAVE A COURT APPOINTED COUNSEL ASSIGNED AS

1 BACKUP COUNSEL, WHO HAS EXPRESSED HIS
2 INABILITY TO FUNCTION IN THAT ROLE, THEN
3 OUR RELATIONSHIP IS COMPROMISED. MY
4 ABILITY TO DEPEND ON HIS RESOURCES IS
5 COMPROMISED.

6 THE COURT: I HAVEN'T HEARD MR.
7 JACKSON SAY HE IS UNAVAILABLE.

8 MR. JACKSON: I WILL SAY IT.

9 THE COURT: WE ARE GOING ABOUT A
10 DISCIPLINARY MATTER BECAUSE YOU ARE TRYING
11 TO CREATE REVERSIBLE ERROR BY SAYING YOU
12 CANNOT FUNCTION AS BACKUP COUNSEL AND I
13 WILL PURSUE THAT, MR. JACKSON. I THINK
14 THIS IS A DIRECT ATTEMPT TO TRY TO CREATE A
15 DELAY IN THE TRIAL OF THIS CASE.

16 THE DEFENDANT: IT IS NOT.

17 MR. JACKSON: WHAT I'M SAYING,
18 YOUR HONOR, IS THAT I HAVE NEVER, NEVER,
19 SINCE I HAVE BEEN PRACTICING LAW, BEEN
20 BACKUP COUNSEL AND I AM SAYING THAT I DO
21 NOT KNOW HOW I WOULD FUNCTION AND I FEEL
22 UNCOMFORTABLE THAT INDEED I MIGHT BE
23 INEFFECTIVE BECAUSE, I BELIEVE, MY SKILLS
24 AND RESOURCES ARE IN MY ABILITY TO TRY A
25 CASE AND NOT NECESSARILY TRAIN SOMEONE IN

1 THE LAW, TRAIN ONE IN A MANNER THAT THEY
2 ARE TO ASK QUESTIONS, AND I AM SAYING THAT,
3 IN FACT, I MAY BE INEFFECTIVE AND THAT
4 THERE MAY BE OTHERS WHO ARE BETTER SUITED
5 TO DO THAT. I AM NOT SEVERING MY
6 RELATIONSHIP.

7 THE COURT: YOU KNOW AS WELL AS I
8 DO THAT THERE IS NO COURSE IN LAW SCHOOL ON
9 BACKUP COUNSELLING.

10 MR. JACKSON: THAT'S MY POINT.

11 THE COURT: LET ME FINISH. AND I
12 REGARD THAT AS OUTRAGEOUS ARGUMENT AND I AM
13 SO STATING FOR THE RECORD. YOU ARE AN
14 ATTORNEY, AN OFFICER OF THE COURT. YOU
15 KNOW HOW TO HANDLE A CASE AND YOU DO VERY
16 WELL IN HANDLING THE CASES.

17 MR. JACKSON: WHEN I--

18 THE COURT: MAY I FINISH WITHOUT
19 BEING SHOUTED OUT?

20 MR. JACKSON: MY APOLOGIES, SIR.

21 THE COURT: YOU KNOW HOW TO
22 HANDLE A CASE. YOU KNOW HOW TO REPRESENT A
23 CLIENT. I'M NOT SAYING THAT YOU DO
24 ANYTHING MORE THAN COUNSELLING TO
25 PARTICIPATE IN THIS CASE AND IN MY VIEW,

1 THE BEST PERSON CAPABLE OF ADVISING MR.
2 JAMAL AS TO CERTAIN MATTERS IS THE ONE WHO
3 HAS WORKED ON THIS CASE FROM THE
4 INCEPTION. I DON'T THINK ANY OTHER
5 ATTORNEY COULD STEP IN THE CASE AND
6 FUNCTION AS WELL AS YOU COULD IN THIS
7 CASE. I REGARD IT AS IMPROPER FOR YOU TO
8 WITHDRAW AS BACKUP COUNSEL. I DENIED YOUR
9 PERMISSION TO WITHDRAW IN THE CASE. IF YOU
10 WANT TO TAKE OTHER ACTION, FEEL FREE TO DO
11 SO.

12 NOW THE NEXT POINT? ANYTHING
13 ELSE?

14 MR. JACKSON: THAT'S IT.

15 THE COURT: NOW THE TRIAL DATE--
16 I PRESUME MR. JAMAL WANTS TO HANDLE THAT
17 HIMSELF. THE RUN DATE IS JUNE 7TH.

18 MR. MCGILL: THAT'S CORRECT, SIR.

19 THE COURT: WHEN WILL YOU BE
20 READY TO GO TO TRIAL, MR. MCGILL?

21 MR. MCGILL: YOUR HONOR, AT ANY
22 TIME, REALLY. I THINK ORIGINALLY, WHEN MR.
23 JACKSON AND YOU WERE SPEAKING, WE WERE
24 TALKING IN TERMS OF AROUND JUNE THE 1ST,
25 AROUND THAT TIME, I THINK, IS WHEN WAS

1 AVAILABLE. I THINK HE HAD SOME MATTERS
2 BEFORE THEN AND I SAID I HAVE NO OBJECTION
3 TO THAT TIME.

4 ISN'T THAT WHAT YOU SAID, MR.
5 JACKSON?

6 MR. JACKSON: YES. I BELIEVE--
7 WITH ALL DUE RESPECT TO MR. JAMAL, I
8 BELIEVE THAT MR. JAMAL IS NOW THE ONE THAT
9 THOSE--

10 THE COURT: THAT'S WHAT I SAID.
11 MR. JAMAL, THE CASE WILL BE ASSIGNED FOR
12 TRIAL ON TUESDAY, JUNE THE 1ST, OR AS SOON
13 THEREAFTER AS A COURTROOM IS AVAILABLE BUT
14 IT WILL BE TRIED BEFORE JUNE 7TH.

15 YOU WILL BE READY WITH
16 PROSECUTION?

17 MR. MCGILL: I CERTAINLY WILL.

18 THE COURT: I PRESUME YOU WILL BE
19 READY BY JUNE 1ST THEN?

20 THE DEFENDANT: I HOPE SO.

21 THE COURT: IF YOU HAVE ANYTHING
22 TO PRESENT, YOU PRESENT IT DIRECTLY TO THE
23 COURT BY WAY OF LETTER OR PETITION AND YOU
24 HAVE A RIGHT TO ASK MR. JACKSON TO HELP YOU
25 OR FACILITATE GETTING IT OUT. YOU MAKE

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1 YOUR DECISIONS AND I HAVE ORDERED HIM TO
2 REMAIN TO ASSIST YOU IN ANY WAY YOU CAN.

3 MR. JACKSON, ARE WE CLEAR ON
4 THAT? IF YOU THINK I DON'T HAVE THE
5 AUTHORITY TO DO THAT, TAKE WHATEVER
6 REMEDIES YOU FEEL ARE NECESSARY.

7 MR. JACKSON: I CERTAINLY WILL,
8 YOUR HONOR. THANK YOU.

9 THE COURT: THAT CONCLUDES THE
10 MATTERS AND THE NEXT THING WILL BE THE
11 TRIAL ON OR BEFORE JUNE 1ST.

12 MR. MCGILL: YES, SIR.

13 THE COURT: MR. JAMAL, WE'RE
14 GOING TO SEND MATTERS DIRECTLY TO YOU. WE
15 HAVE JUDGE-- THOSE NOTES FROM THE COURT OF
16 JUDGE MEKEL. IF WE CAN GET ANOTHER COPY OF
17 THE NOTES-- IF NOT, THESE WILL BE
18 PHOTOSTATED AND SENT TO YOU.

19 MR. MCGILL: YOUR HONOR, I'M JUST
20 WONDERING. PERHAPS THE PROPER TIME WOULD
21 BE TRIAL BUT DO YOU THINK A COLLOQUY OF THE
22 DEFENDANT, IN REFERENCE TO HIS REPRESENTING
23 HIMSELF, WOULD BE APPROPRIATE AT THIS
24 TIME?

25 THE COURT: WELL, CERTAINLY

1 BEFORE TRIAL.

2 MR. MCGILL: YES, SIR. IT WOULD
3 BE. THEN IN TERMS OF PREPARATION OR
4 ANYTHING LIKE THAT, PRETRIAL MOTIONS, I
5 GUESS, ALSO, THAT'S WHAT WE'RE REFERRING
6 TO, BECAUSE BOTH MOTIONS AND TRIAL WILL BE
7 AT THE SAME TIME. PERHAPS THE COURT
8 SHOULD--

9 THE COURT: MR. JAMAL, DO YOU
10 WANT TO COME UP HERE. I WANT TO DISCUSS
11 SOMETHING WITH YOU. I WANT YOU TO SAY ON
12 THE RECORD THAT YOU'RE TOTALLY FAMILIAR
13 WITH THE FACT THAT YOU HAVE AN ABSOLUTE
14 RIGHT TO HAVE COUNSEL APPOINTED TO
15 REPRESENT YOU AT ALL PROCEEDINGS WITHOUT
16 COST TO YOU.

17 THE DEFENDANT: YES.

18 THE COURT: YOU ALREADY SAT
19 THROUGH THE PROCEEDINGS. I HAVE GIVEN
20 CERTAIN ORDERS FOR INVESTIGATORS AND SO
21 FORTH AND I HAVE OPENED THE DOOR TO THOSE?

22 THE DEFENDANT: YES, SIR.

23 THE COURT: OF COURSE, YOU HAVE A
24 RIGHT TO WAIVE COUNSEL-- IT'S YOUR
25 CONSTITUTIONAL RIGHT-- AND REPRESENT

1 YOURSELF. IN THIS CASE, AS YOU ARE ALREADY
2 AWARE, I HAVE ASKED YOUR ATTORNEY, MR.
3 JACKSON, TO FUNCTION AS BACKUP COUNSEL AND
4 TO REMAIN IN THE CASE AND HE WILL BE
5 AVAILABLE TO ASSIST YOU AND AID YOU IN ANY
6 WAY THAT YOU REQUEST. IF AT ANY TIME YOU
7 WAIVE THE RIGHT TO REPRESENT YOURSELF, FOR
8 ONE REASON OR ANOTHER, OR IT BECOMES
9 IMPOSSIBLE FOR YOU TO REPRESENT YOURSELF,
10 MR. JACKSON WILL BE ASKED TO CONTINUE THE
11 CASE TO THE END OF TRIAL, WHETHER YOU ARE
12 PRESENT OR ABSENT OR WHATEVER. I DON'T
13 KNOW WHAT MIGHT OCCUR. HE'S GOING TO BE
14 AVAILABLE TO TAKE OVER THE CASE UNDER OUR
15 PRESENT ARRANGEMENT.

16 IN THE MEANTIME, ANY MATTERS THAT
17 YOU WANT TO FILE WITH THE COURT OR PRESENT,
18 YOU CAN DO SO DIRECTLY AND YOU HAVE A RIGHT
19 TO ASK MR. JACKSON TO ASSIST YOU IN DOING
20 THAT. IF THERE IS ANY DISAGREEMENT BETWEEN
21 YOU AS TO WHAT THE COURSE OF ACTION IS, YOU
22 HAVE TO BE GUIDED BY YOUR OWN DECISION,
23 SINCE YOU ARE EFFECTIVELY REPRESENTING
24 YOURSELF.

25 NOW IS THERE ANYTHING I HAVE SAID

1 THAT YOU HAVE ANY QUESTION ABOUT? IT'S THE
2 COURT'S IMPRESSION-- I AM STATING FOR THE
3 RECORD THAT YOU ARE COMPLETELY AWARE OF
4 EVERYTHING THAT IS HAPPENING IN THE
5 COURTROOM, YOU ARE ACTING KNOWLEDGABLY AND
6 YOU ARE MAKING AN INTELLIGENT WAIVER?

7 THE DEFENDANT: THAT'S CORRECT.

8 THE COURT: IT'S THE COURT'S
9 IMPRESSION THAT MR. JAMAL IS COMPLETELY
10 ALERT. HE'S NOT UNDER THE INFLUENCE OF ANY
11 SUBSTANCE AND HE CERTAINLY CAN READ AND HE
12 WRITES PRETTY NICELY AND HE IS FULLY AWARE
13 OF HIS RIGHTS.

14 MR. MCGILL, ANYTHING ELSE?

15 MR. MCGILL: THANK YOU VERY
16 MUCH. I HAVE NOTHING ELSE.

17 THE COURT: IF YOU HAVE ANY
18 QUESTIONS, PLEASE FEEL FREE TO INDICATE
19 THEM TO ME, ANY.

20 THE DEFENDANT: I WOULD JUST LIKE
21 TO-- OBVIOUSLY WHAT MR. JACKSON HAS DONE,
22 UNDERSTAND HIS PROTEST, UNDER HIS PERSONAL
23 PROTEST, MINE AS WELL, HIM NOT WANTING TO
24 PERFORM THAT FUNCTION, COMPROMISES OUR
25 ABILITY TO WORK.

1 THE COURT: ALL RIGHT. WE HEARD
2 THAT.

3 MR. JACKSON, I DON'T WANT TO
4 INTERRUPT YOUR CONVERSATION. I AM IN THE
5 MIDDLE OF A MURDER TRIAL. SO WE DO HAVE TO
6 GET STARTED.

7 MR. JACKSON: IT WILL JUST TAKE
8 ONE MINUTE. WE HAVE TO WORK OUT A FEW
9 THINGS AND YOU UNDERSTAND, BECAUSE I HAVE
10 TO GO TO FEDERAL COURT.

11 MR. MCGILL: BY THE WAY, YOUR
12 HONOR, I WANT TO STATE FOR THE RECORD THAT
13 THIS IS THE FIRST TIME I HAVE HEARD, OTHER
14 THAN YESTERDAY TALKING TO MR. JACKSON, THE
15 POSSIBILITY OF MR. JAMAL'S REPRESENTING
16 HIMSELF.

17 THE COURT: OKAY.

18 (PAUSE.)

19 MR. JACKSON: THANK YOU, YOUR
20 HONOR.

21 (HEARING ADJOURNED).
22
23
24
25