

X

CONTENTS FILED  
FILED

SEP 18 1973

JAMES F. DAVEY, Clerk

TRANSCRIPT  
THIS ENVELOPE CONTAINS THE ORIGINAL AND ONE CARBON COPY OF THE PROCEEDINGS HELD IN JUDGE SIRICA'S CHAMBERS, ON SEPT. 17, 1973, FROM 10:00 AM, TO 10:20 AM, PAGES 1-12, INCLUSIVE, RELATIVE TO DEFENDANT E HOWARD HUNT

(REPORTER'S NOTES ARE ALSO ENCLOSED)

(REPORTER -- NICHOLAS SOKAL.)

CONTENTS ORDERED SEALED  
UNTIL FURTHER ORDER OF  
COURT. SIRICA, CJ.

(COUNSEL PRESENT - RICHARD BEN-VENISTE & PHILIP LACOVARA FROM THE WATERGATE SPECIAL PROSECUTOR'S OFFICE & ROBERT M SCOTT & SIDNEY SACHS, ESQUIRES, ON BEHALF OF DEFENDANT HUNT)

James F. Capitanio  
Court Room Clerk

#361

CONTENTS FILED

FILED

SEP 18 1973

JAMES F. DAVEY, Clerk

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA       )  
                                  )  
                                  )  
                                  )  
                                  )  
                                  )  
                                  )  
                                  )  
GEORGE GORDON LIDDY, et al       )

Criminal No. 1827-72

FILED

SEP 18 1973

JAMES F. DAVEY, Clerk

Monday, September 17, 1973

The following transcript of proceedings held in  
Chambers on Chief Judge JOHN J. SIRICA, from 10:00 a.m. to  
10:20 a.m. is sealed by order of the Court.

APPEARANCES:

RICHARD BEN-VENISTE, Asst. Spec. Prosecutor

PHILIP LACOVARA, Asst. Spec. Prosecutor

ROBERT M. SCOTT, Esq., on behalf of Mr. Hunt

SIDNEY SACHS, Esc., on behalf of Mr. Hunt

TODD CHRISTOFFERSON, Law Clerk

P R O C E E D I N G S

THE COURT: I intend to seal this part of the record after we complete our conference, till further order of the Court.

MR. SACHS: Judge, the reason we suggested we ought to come and talke to you was we have been mindful since Bob Scott was here with Hunt in connection with a grant of immunity about a month ago that you had said to him that you were thinking about what we interpreted you to mean as a September 23 deadline for sentencing of Hunt under 4208(b). We have been trying to formulate what the reply to your question would be.

THE COURT: Let me get you straight. I allegedly said what while Mr. Scott was here? I think I said this --I don't want to be held to this: that I would like to know what position he takes on the sentencing whether he would rather wait till after one of these cases is tried, the so-called cover-up case which is behing held up as we have all be told, pending the decision on the tape problem, whether he would rather wait till that is over or be sentenced now. Is that what I said?

MR. SCOTT: That is what we are here for.

MR. SACHS: OK. That is about the same thing except my understanding of it was there was a problem about the September 23d date under the statute.

In any event, you know we have only been in the case about a month and it is quite a case to absorb in a lot more time than that, so we have been trying to figure out what we'd try to

put ourselves in a position to give you some intelligent answer to that and we are here today because we thought it was courteous to give you some kind of answer.

In the meantime we have decided we are going to file a motion but we didn't want to file the motion --we will probably file it today-- but didn't want to file the motion until we answered your question, and our motion will be similar to the motion filed by the Cubans. We are going to ask for withdrawal of the plea and also to dismiss the proceedings.

THE COURT: On behalf of Mr. Hunt?

MR. SACHS: That is right, on behalf of Mr. Hunt. We hope it will take the prosecutors more than a few days to answer our motion. We are hoping they are going to agree with us, although we haven't discussed it with them.

So that was the principal reason in asking if you would see us today.

MR. BEN-VENISTE: This is the first we heard of such a motion.

MR. SACHS: That is right. We have been working on it.

THE COURT: I understand. You may need more time in that event.

MR. LACOVARA: If it is going to be similar to the motion by the four Miamians, Your Honor might want to set the whole matter --

THE COURT: --I would want to hear it all at one time.

MR. LACOVARA: There may be some legal issues which may require more time.

THE COURT: I see. I think we probably ought not hold you to this next Friday date because you won't want to file an answer to the four Miamiams without knowing <sup>what</sup> your answer will be to Mr. Hunt. It probably will be a joint answer, I don't know.

I think, Todd (addressing the law clerk), instead of our setting this down for a definite date we will wait until the answers come in. You are going to file yours today?

MR. SCOTT: We hope to, Your Honor.

THE COURT: I hope you can get it in by the close of court.

MR. SACHS: Judge, we had put this point that I am about to make in the motion but now have taken it out of the motion and I want to be sure you understand, I think you must. It has been difficult for us to get a feeling of great confidence in this case. in the time we had. The record has been enormous and you can't understand the case without being up on the hearings. There have been something like twenty-five occasions Mr. Hunt has spoken under oath, either in testimony before grand juries or in sessions with the Senate Committee staff, and in addition, he has spoke not under oath on one or more occasions with Mr. Cox's office.

THE COURT: Has he been before the grand jury?

MR. LOCAVARA: Yes.



THE COURT:

MR. BEN-VENISTE:

MR. SACHS: It has been a monumental job, judge.

THE COURT: I understand. We are not being held to the 23d of September date. I don't think it is necessarily, frankly, but I did say something.

MR. SCOTT: That is right.

THE COURT: If you are going to file your motion, that will stop the proceedings, we will be within the time limit if we are being bound by it.

MR. SACHS: On that, judge, we want to be very technical in our present state of insecurity. We don't read the statute as meaning there is a 23d deadline but if there is we don't want to waive it. We don't want to consent to anything that might be minimization of the rights.

I must say, if you read the statute it says nothing about when you sentence, it only talks about when the report is --

THE COURT: --I think it is discretionary with the Court, having in mind all the circumstances and this certainly does bring out new matters we didn't know about --this business about Mr. Hunt filing a motion today, and the others have asked for the withdrawal of the plea. That certainly should stop the running of any time involved. So, anyway, we can't worry about that.

MR. SACHS: One point you will want to know I think is

Hunt is now scheduled to testify before the Ervin Committee on the 24th. Today is the 17th, the 24th is a week off, so that doesn't seem to create any kind of problem.

THE COURT: I wouldn't want to conduct a hearing before his testimony up there.

MR. SACHS: I was really kind of suggesting that. You couldn't anyhow, and we are totally preoccupied with that testimony trying to get straightened out for that. We are still talking frequently with the Senate staff and in the meantime we are trying to digest what the facts are, or what they are alleged to be.

THE COURT: Well, I think what I will do is give you gentlemen, if you can file it this afternoon by the time the Clerk's office closes, fine. If you can't, you ought to be able to do it by tomorrow afternoon.

MR. SACHS: We could work on it for another month but it is at this moment being typed in final form and I think we will file it.

We also have in it which we now eliminated, a plan to supplement as we learn more but have not put that in the motion but still if we have an opportunity --

THE COURT: --I understand. Let me hear from government counsel. What is your position, will you need more time in view of what has been disclosed this morning?



MR. LACOVARA: Particularly in view of Mr. Sachs statement that he is going to testify before the Senate, and what he says before the Senate in supplementing his motion --

MR. SACHS: --excuse me. I didn't mean to say we would take advantage of that, I don't know if he will say anything there that will help us, I only meant the judge might find his testimony relevant some way and we are preoccupied with that hearing. I didn't mean we are going to send him up there to help us on the motion.

MR. LACOVARA: I think that would be our position as well, it may be difficult for us to respond to the extent he makes new allegations of fact in papers filed today or tomorrow because if he testifies in open session before the Senate there may be some changes in that and it might be tilting at windmills for us to reply to these statements under oath if he is going to be saying new things under oath in the same matters.

THE COURT: It seems to me you can file an answer to what you have now with the right to file a supplemental answer if you deem it advisable based upon what he might say in the Senate Committee.

MR. SACHS: Your Honor, might I suggest we are engaging what we hope is not a fantasy but is really a possibility, that you really --and the government actually might agree with our motion--

THE COURT: --I am not going to commit myself.

MR. SACHS: Of course not, I don't expect you to, but it seems to bear on the scheduling. It may be it would make more sense for you all to react to this motion before you set time schedules. Whatever you do will be fine.

THE COURT: That is what I indicated, I think. I don't want to set the case for hearing until I get all the papers before me.

MR. LACOVARA: We can assure you we will reply as quickly as possible. It may not be, say within five days as we will have two separate related motions to reply to, but will be as quickly as humanly possible.

THE COURT: After I study the matter we will set it for hearing. You can probably tell me at this time if you can, in connection with the hearing, looking forward to the hearing on the motions to withdraw their pleas as to the five people, do you expect to call any witnesses other than Mr. Hunt?

MR. SACHS: Well, I think, Your Honor, if we have an evidentiary hearing, which I understand you to mean, and therefore you decide the motion papers are not enough, the likelihood is we are going to call many witnesses. I mean it could be very extensive.

THE COURT: Well then, the government would have an opportunity to answer at the proper time.

Now, is there anything else we want to discuss?

MR. SACHS: There is one thing I would like to discuss.

THE COURT: All right.

MR. SACHS: We have two problems which relate to the housing, the place of confinement of defendant Hunt.

The facts are, he has been at Danbury primarily but the Senate Committee has arranged for him to come down here. I guess Mr. Cox's office brought him in August. He stayed at the Montgomery County Detention Center during the grand jury proceedings and the preliminaries and for a week or so he has been here at the request of the Ervin Committee staying at the detention center, and we have been able to talk to him almost every day. The detention center is at Rockville but when they bring him down, to talk to him we have to deal with him in a little room at the Senate Office Building. Well, two problems arise out of this: one problem is I think easily disposed of, and that is the Committee, through Sam Dash, has indicated they are sympathetic to this point, that being housed at the detention center the radios and televisions <sup>do not</sup> go off, I think he said till 2:00 in the morning and he has to get up at 5:00 o'clock in the morning for breakfast. So the situation is very difficult and not conducive to a really alert and healthy witness.

So my understanding is that Sam has spoken to, I think, Bill Merrill --somebody at your office-- to suggest that at least with regard to the up-coming hearing it would be helpful if he could be housed someplace where he could get some sleep for a few days or some period of time before next Monday. And I guess

what we would like is for you to say you think that is a great idea. We are aware of the fact that at sometime you have said you don't think this is your problem, and if you said that that is OK too. I would hope you wouldn't say that you oppose anything of that nature.

The second problem that arises out of this, Your Honor, is that being new in the case and having the need for a great deal of communication with him, it would be a tremendous help to us and we think to the whole operation, if he could be housed at some reasonably comfortable place here in this area. I understand in that connection there have been times when people in his situation, and he himself has been housed at a motel under guard.

Another possibility is a place of confinement at Fort Holabird, which is a safe house, or something like that, which I am told by the Bureau of Prisons is maintained for white collar prisoners who are needed for testifying. I have never seen it but I am told it is a place a little more comfortable and a place you can sit and talk to your client. At the detention center it is impossible, judge. The room is as wide as your desk and it is about from here to that window with a chain across it. He is on that side and we are on this side. There is a locked door here. It is terribly confined and that just isn't appropriate for real work. So I am bringing up two questions about his confinement. One has to do about giving him sleep

before he testifies, and the other has to do with some kind of arrangement that would be easier for us to work with him during the weeks coming up.

THE COURT: All right. Have you finished?

MR. BEN-VENISTE: We have discussed this matter previously, Your Honor, in an attempt to accommodate counsel as best we could. The suggested safe house was considered by us for sometime and it appears to be quite insecure in terms of housing a prisoner there in Mr. Hunt's condition.

MR. SACHS: Which safe house --Fort Holabird?

MR. BEN-VENISTE: Yes. I would say it is --whether minimum security-- it is marginal security, Your Honor.

MR. LACOVARA: We have done a fair amount of investigation on the subject.

THE COURT: I understand the problem but I think so far as I am concerned, the place of confinement as to Mr. Hunt or the four Miamians, or any person who is incarcerated pursuant to offenses against the United States ought to be left up to the Director of Prisons. That is my position. I will not interfere with it.

MR. BEN-VENISTE: To the extent possible we have agreed with Mr. Sachs to bring Mr. Hunt down on a writ so he won't have to travel up to Danbury, but within the area that is something that has to be left up to the Marshals or Bureau of Prisons.

THE COURT: That is my position.

MR. SACHS: If the government would take the position that it is really left up to the Bureau of Prisons instead of taking the position that the facility at Fort Holabird is inadequate, we would be in good shape because I've been informed the Department of Justice has no problem with confinement of people similar to Mr. Hunt.

MR. BEN-VENISTE: Not to belabor this point, I think they would put him there on our specific recommendation.

MR. SACHS: That is the problem.

THE COURT: Anyway, you understand the Court's position and you understand the government's position.

MR. SACHS: All right. I think that is it, Your Honor.

THE COURT: We will await the filing of your motion and maybe you can get yours in by next Monday. If you need a couple more days I am sure we won't have any problem working that out.

That takes care of the four people from Miami. Your answer was due by Friday. I think I will have you call up Mr. Schultz, Todd, and naturally you don't have to tell him what happened here because he is not a party to this meeting today, and say in view of subsequent developments you are going to give the government until at least next Monday to answer the motion and maybe get it in as to both of them. All right.

\* \* \* (10:20 a.m.)

CERTIFICATE

It is certified the foregoing is the official transcript of proceedings indicated. *Nicholas Sokal*  
NICHOLAS SOKAL Official Reporter