

1 UNITED STATES OF AMERICA  
2 UNITED STATES DISTRICT COURT  
3 CENTRAL DISTRICT OF CALIFORNIA  
4 WESTERN DIVISION

5 - - -

6 HONORABLE A. HOWARD MATZ  
7 UNITED STATES DISTRICT JUDGE PRESIDING

8 - - -

9 UNITED STATES OF AMERICA, )

10 PLAINTIFF, )

11 VS. ) CR-02-350 AHM

12 STEVEN WILLIAM SUTCLIFFE, )

13 DEFENDANT. )

14 \_\_\_\_\_ )

**COPY**

15 STATUS CONFERENCE

16 REPORTER'S TRANSCRIPT OF PROCEEDINGS

17 MONDAY, APRIL 7, 2003

18 LOS ANGELES, CALIFORNIA

19 HOPE I. GOLDSMITH, RPR, CSR  
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1  
2 APPEARANCES OF COUNSEL:

3 ON BEHALF OF PLAINTIFF, UNITED STATES OF AMERICA:

4 ELENA DUARTE, AUSA  
5 U.S. DEPARTMENT OF JUSTICE  
6 UNITED STATES ATTORNEY  
7 CENTRAL DISTRICT OF CALIFORNIA  
8 UNITED STATES COURTHOUSE  
9 312 N. SPRING STREET  
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13 ON BEHALF OF DEFENDANT, STEVEN WILLIAM SUTCLIFFE:

14 GREGORY NICOLAYSEN, ESQ.  
15 16000 VENTURA BOULEVARD  
16 SUITE 500  
17 ENCINO, CA 91436  
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1 LOS ANGELES, CALIFORNIA, FRIDAY, APRIL 7, 2003

2  
3 (COURT IN SESSION AT 11:30 A.M.)

4 THE CLERK: CALLING ITEM NUMBER 7-1, CR-02-350(A), U.S.A.  
5 VERSUS STEVEN WILLIAM SUTCLIFFE.

6 COUNSEL, STATE YOUR APPEARANCES, PLEASE.

7 MS. DUARTE: GOOD, MORNING, YOUR HONOR. ELENA DUARTE FOR  
8 THE GOVERNMENT.

9 MR. NICOLAYSEN: GREGORY NICOLAYSEN APPEARING FOR THE  
10 DEFENDANT, WHO IS NOT PRESENT, YOUR HONOR.

11 THE COURT: OKAY. I ARRANGED FOR THIS STATUS CONFERENCE  
12 BECAUSE I HAD SOME QUESTIONS ABOUT THE JOINT PROPOSED AMENDED  
13 ORDER THAT WAS LODGED LAST WEEK UNDER RULE 43. THE DEFENDANT'S  
14 PERSONAL PRESENCE IS NOT NECESSARY, GIVEN THAT HE'S CURRENTLY  
15 REPRESENTED BY MR. NICOLAYSEN. THIS IS PRIMARILY AN ISSUE, AT  
16 THE VERY LEAST, A MIXED ISSUE OF FACT AND LAW, PROBABLY A LEGAL  
17 ISSUE.

18 HERE IS THE REASON I WANTED TO SPEAK TO YOU, COUNSEL. IN  
19 THE PROPOSED ORDER, ON PAGE 2, PAGE 1, AND PAGE 2 THERE ARE  
20 RECITALS THAT SAY, THAT I FIND BY A PREPONDERANCE OF THE EVIDENCE  
21 THAT MR. SUTCLIFF IS PRESENTLY SUFFERING FROM A MENTAL DISEASE OR  
22 DEFECT RENDERING HIM MENTALLY INCOMPETENT, AND THERE'S ADDITIONAL  
23 LANGUAGE IN THAT RECITAL.

24 THE RECOLLECTION I HAVE, AND IT'S CORROBORATED BY THE  
25 ORDER THAT I ISSUED ON MARCH 20TH, FOLLOWING OUR LAST HEARING, IS

1 THAT WHAT I CONCLUDED -- WHAT I FOUND AND CONCLUDED -- WAS THAT  
2 THERE WAS A QUESTION AS TO WHETHER MR. SUTCLIFFE IS CURRENTLY  
3 COMPETENT TO STAND TRIAL; AND IN ORDER TO RESOLVE THAT QUESTION,  
4 AND UNDER THE APPLICABLE PROVISIONS OF THE FEDERAL STATUTE  
5 INVOLVED, 18 U.S.C. 4241(D), I WAS DIRECTING THAT HE BE EXAMINED  
6 IN AN FMC FOR THE PURPOSES OF EVALUATING THAT DETERMINATION. I  
7 DID NOT MAKE A FINDING.

8 SO MY QUESTION IS, WHY IS IT PRESENTED AS A FINDING?

9 MR. NICOLAYSEN: DO YOU WANT ME TO GO FIRST?

10 MS. DUARTE: I CAN GO FIRST.

11 MR. NICOLAYSEN: ALL RIGHT.

12 MS. DUARTE: YOUR HONOR, IT'S BEEN -- FEEL FREE TO JUMP IN  
13 ANY TIME.

14 MR. NICOLAYSEN: SURE.

15 MS. DUARTE: IT'S PRESENTED AS A FINDING. BECAUSE IT CAME  
16 TO MY ATTENTION, ACTUALLY, AFTER TALKING TO FMC DEVINS, WHEN THEY  
17 FIRST RECEIVED THE ORDER; THAT THEY WERE OF THE OPINION THAT  
18 UNDER A 4241(D) AS IN DOG ORDER, THERE WAS A FINDING THAT  
19 PRECEDED IT AS TO THE DEFENDANT'S INCOMPETENCY. AND I  
20 CHECKED THE STATUTE; AND I DID A LITTLE BIT OF RESEARCH; AND A  
21 SPOKE WITH MR. NICOLAYSEN AT LENGTH, THAT'S TRUE, AND WE REVIEWED  
22 THE RECORD, AND EVEN THOUGH WE WERE AWARE THAT THE COURT DIDN'T  
23 MAKE THAT SPECIFIC FINDING AT THE HEARING. WE ALSO REVIEWED THE  
24 ADDENDUM THAT HAD COME IN FROM DR. BACKER, WHERE HE RECOMMENDED  
25 RESTORATION.

1 THE COURT: WHEN YOU SAY, RESTORATION, THAT'S A TERM THAT  
2 PUZZLES ME. WHAT DO YOU MEAN BY THAT?

3 MS. DUARTE: WELL, REFERRING TO HIS -- AND MAYBE WE SHOULD  
4 MAKE THIS PART OF THE RECORD UNDER SEAL, IF IT'S NOT ALREADY, THE  
5 FORENSIC EVALUATION ADDENDUM.

6 THE COURT: YES. I MADE IT PART OF THE COURT FILE.  
7 ISSUED AN ORDER ON FRIDAY THAT IT WOULD BE, BUT I'M NOT SURE I  
8 HAVE IT HERE BEFORE ME.

9 MR. NICOLAYSEN: WE HAVE IT HERE, YOUR HONOR. DR. BACKER  
10 SPEAKS SPECIFICALLY, RESTORATION AS ONE OF THE OBJECTIVES THAT  
11 WOULD BE PRUDENT IN THE CONTEXT OF THE MARCH 14TH ORDER.

12 MS. DUARTE: AT THE VERY END, YOUR HONOR.

13 THE COURT: YES. I SEE FOR RESTORATION --

14 MR. NICOLAYSEN: THAT IS A SUB SECTION D AS IN DOG  
15 PROCESS.

16 THE COURT: YES.

17 MS. DUARTE: HAVING REVIEWED THAT, WE ACTUALLY ARE OF THE  
18 OPINION -- AND I'LL TAKE AS MUCH RESPONSIBILITY AS I NEED TO FOR  
19 THIS -- THAT THE ORDER THAT WAS SUBMITTED AND SIGNED ON MARCH  
20 20TH, IS A LITTLE BIT OF A HYBRID, AND IT NEEDED TO BE CLARIFIED.

21 IN THAT, IF IT'S GOING TO BE A 4241(D) COMMITMENT, IT  
22 APPEARS THAT THE COURT DOES NEED TO MAKE A FINDING OF  
23 INCOMPETENCY FOR THAT FOUR MONTH -- FOR THAT FOUR MONTH --

24 THE COURT: WHEN YOU SAY, IT APPEARS THAT, IT APPEARS FROM  
25 WHAT SOURCE, THE STATUTE? FROM CASE LAW?

1 MS. DUARTE: STATUTE.

2 THE COURT: A STATUTE FROM WHICH YOU'RE BEING TOLD BY THE  
3 OFFICIALS AT FMC?

4 MS. DUARTE: FROM THE STATUTE, IT APPEARS THAT, AND I  
5 COULDN'T FIND ANY CASE LAW THAT INTERPRETS THE STATUTE MORE  
6 LOOSELY. I COULDN'T FINED VERY MUCH AT ALL ON THAT SPECIFIC  
7 TOPIC.

8 AND MY CONCERN IS WITH THE DURATION OF THE COMMITMENT.  
9 THE FOUR MONTH COMMITMENT APPEARS TO REQUIRE A FINDING OF  
10 INCOMPETENCY. NOW, I REALIZE THAT THE COURT QUERIED DR. BACKER  
11 ON THAT EXACT POINT; AND I'M NOT GOING TO BLAME SHIFT, BUT I  
12 THINK THAT THAT'S WHERE WE ALL ENDED UP WITH THIS HYBRID KIND OF  
13 ORDER, BECAUSE IN THE MARCH 14TH TRANSCRIPT, THE COURT  
14 SPECIFICALLY ASKED DR. BACKER WHETHER OR NOT THE COURT NEEDED TO  
15 MAKE THAT FINDING OF INCOMPETENCY IN ORDER TO ORDER A 4241(D)  
16 EVALUATION. HE RESPONDED THAT YOU DID NOT. I CANNOT FIND  
17 SUPPORT RIGHT NOW FOR THAT ANSWER.

18 MY CONCERN, AGAIN, IS NOT THAT THE COURT SENT THE  
19 DEFENDANT TO \*\* FMC DEVINS. I THINK THAT'S PERFECTLY  
20 APPROPRIATE; NOT THAT THE COURT CONTEMPLATED A 4241(D)  
21 RESTORATION. I THINK THERE'S SUPPORT IN THE RECORD FOR A FINDING  
22 OF INCOMPETENCY.

23 THERE'S ALSO SUPPORT IN THE RECORD, SHOULD THE COURT AMEND  
24 THE ORDER A DIFFERENT WAY FOR A 4241(B), A SECOND 30-DAY  
25 EVALUATION AT \*\* FMC DEVINS, IF THE COURT IS NOT INCLINED TO MAKE

1 THE FINDING OF INCOMPETENCY.

2 MR. NICOLAYSEN AND I DISCUSSED THE TWO, WHAT WE FELT WERE  
3 POSSIBILITIES. WE REVIEWED THE RECORD, AND WE BASICALLY TOOK A  
4 GUESS THAT WHAT THE COURT WOULD NEED TO ORDER THAT WOULD CONFORM  
5 CLOSER WITH THE RECORD WOULD PROBABLY BE THE 4241(D). IF THAT'S  
6 INCORRECT, I DON'T THINK IT WOULD BE INAPPROPRIATE TO AMEND THE  
7 ORDER FOR THE SHORTER DURATION, TO ORDER THE 4241(B).

8 THE COURT: YOU WISH TO BE HEARD?

9 MR. NICOLAYSEN: YOUR HONOR, PERMIT ME. I WANT TO MAKE  
10 SURE THE REPORTER GOT THE LAST RECORD FOR "B" AS IN BOY. THE ONE  
11 JUST BEFORE WAS "D" AS IN DAVID?

12 THE COURT REPORTER: YES, I DID.

13 MR. NICOLAYSEN: THANK YOU SO MUCH. YOUR HONOR,  
14 GOVERNEMENT COUNSEL TRACKS MY THINKING AS WELL. I WANT TO ASSURE  
15 THE COURT. WE AGONIZED OVER THIS. WE SPENT WELL OVER AN HOUR ON  
16 THE PHONE FRIDAY. SPOKE AGAIN ON SATURDAY ANTICIPATING THAT YOUR  
17 HONOR MAY VERY WELL WANT SOME FEEDBACK ON THIS VERY POINT, SO  
18 WE'RE NOT TRYING TO PUT WORDS INTO THE COURT'S MOUTH BY ASKING  
19 YOU TO MAKE A FINDING THAT YOU DIDN'T MAKE; HOWEVER --

20 THE COURT: WELL, I'M A JUDGE WHO READS EVERYTHING THAT'S  
21 GIVEN TO ME.

22 MR. NICOLAYSEN: YEAH. IT IS A SCENARIO THAT DOES INVOLVE  
23 A HYBRID, TO BORROW THE GOVERNMENT'S WORD, AND WE USED THE WORD  
24 HYBRID WHEN WE SPOKE FRIDAY, AND AGAIN ON SATURDAY; AND WE FOUND  
25 THAT THAT WOULD BE THE INHERENT LEGAL DEFECT IN THE ORDER WHERE

1 WE END UP IN A SITUATION WHERE THE COURT DOES ORDER A "D" AS IN  
2 DAVID PROCEDURE AT \*\* DEVINS, BUT IT DOES SO IN THE CONTEXT OF A  
3 FURTHER EVALUATION, AS IF WE WERE SIMPLY CONTINUING THE  
4 DIAGNOSTIC EVALUATION PROCESS THAT WE HAD DONE FROM JANUARY  
5 THROUGH MARCH.

6 RATHER THAN DO THAT, I THINK THE BETTER APPROACH IS TO  
7 RECOGNIZE THAT YOUR HONOR DID REFERENCE SUBSECTION "D" AS IN  
8 DAVID AT THE MARCH 14TH HEARING. SPECIFICALLY SET A TIMETABLE  
9 FOR THE STATUS CONFERENCE IN AUGUST AND THE SEPTEMBER TRIAL DATE  
10 WITH THE FOUR MONTH TIME PERIOD THAT SUBSECTION "D" AS IN DAVID  
11 SPEAKS OF.

12 AND THIRD, YOUR HONOR DID, IN FACT, SPEAK IN TERMS OF  
13 RESTORATIONIAL TREATMENT AS ONE OF THE CONSIDERATIONS FOR  
14 HAVING THIS FOUR MONTH PERIOD, WHICH IS SPECIFICALLY A SUBSECTION  
15 "D" AS IN DAVID PROCEDURE.

16 ONCE WE TALKED THE LANGUAGE OF RESTORATION, WE ARE NO  
17 LONGER AT THE INITIAL DIAGNOSIS EVALUATION STAGE. WE ARE NOW  
18 MAKING THE SHIFT TO SUBSECTION "D" AS IN DAVID.

19 WHEN THE ADDENDUM BY DR. BACKER WAS SENT SUBSEQUENT TO  
20 MARCH 14TH, IT ALSO SPOKE OF RESTORATION AND REFLECTS THAT THAT,  
21 INDEED, WAS BACKER'S VIEW AS TO WHY HE COULD NO LONGER STAND BY  
22 HIS INITIAL CONCLUSION THAT MY CLIENT WAS COMPETENT. BACKER NOW  
23 FEELS, FOR THE REASONS STATED IN THE ADDENDUM, THAT RESTORATIONIAL  
24 TREATMENT IS AN APPROPRIATE AND PRUDENT CONSIDERATION. ONCE  
25 AGAIN, THAT TAKES US TO SUBSECTION "D" AS IN DAVID; AND I THINK

1 THAT'S PART OF THE OVERALL FRAMEWORK OF THE MARTH 14TH  
2 ASSESSMENT.

3 WITH THOSE CONSIDERATIONS IN MIND, THE GOVERNMENT AND I  
4 FELT THAT IT WAS APPROPRIATE FOR US TO ASK YOUR HONOR TO MAKE THE  
5 SPECIFIC PREDICATE FINDING IN SUBSECTION "D" AS IN DAVID THAT THE  
6 STATUTE SPEAKS ON, EVEN THOUGH YOUR HONOR ACTUALLY SAID ON THE  
7 RECORD, THAT YOU WERE NOT ON MARCH 14TH INCLINED TO MAKE THAT  
8 FINDING; BUT I THINK THE RECORD SUPPORTS IT, AND THE STATUTE  
9 REQUIRES IT AS A PREDICATE FOR THE SUBSECTION "D" AS IN DAVID  
10 PROCEDURES.

11 AND IT IS WITH THOSE VIEWS IN MIND THAT WE WENT AHEAD AND  
12 PUT THAT FINDING IN THE AMENDED ORDER.

13 MS. DUARTE: AND, YOUR HONOR, IF I MAY JUST ADD, THAT WE  
14 ARE VERY AWARE, AT LEAST, SPEAKING FOR MYSELF, THAT THE COURT  
15 DOES READ EVERYTHING. AND THIS WAS NOT INTENDED TO SLIDE BY.  
16 THIS WAS INTENDED TO BE SUBMITTED FOR THE COURT TO READ AND  
17 DECIDE WHETHER THE COURT WAS COMFORTABLE MAKING THAT ORDER.

18 THE COURT: OKAY. I WASN'T SUGGESTING THAT ANYBODY WAS  
19 LOOKING OVER ME.

20 MS. DUARTE: OKAY. BUT, YOUR HONOR, ALONG THE SAME LINES,  
21 AND BEFORE I FORGET. IF I COULD JUST MENTION, SO THAT THE  
22 COURT'S NOT SURPRISED OR BLINDSIDED IN ANY WAY THIS. AFTER MR.  
23 NICOLAYSEN AND I HAD THIS DISCUSSION, I RECEIVED ANOTHER FILING  
24 IN THE 9TH CIRCUIT BY MR. MACAFEE, WHO PURPORTS TO REPRESENT THE  
25 DEFENDANT THERE.

1 THE COURT: YES.

2 MS. DUARTE: AND IT WAS A PETITION FOR REHEARING. THE  
3 COURT'S ALREADY BEEN AFFIRMED ON THE ORDER; AND I SKIMMED IT.  
4 AND THE GROUNDS FOR THE PETITION FOR REHEARING WERE THE LACK OF  
5 THIS FINDING THAT WE'RE DISCUSSING.

6 IT'S PURELY A COINCEDENCE; AND IT CAME UP AFTER HE AND I  
7 NOTICED IT, DISCUSSED IT, AND CAME UP WITH --

8 THE COURT: HE MEANING, MR. NICOLAYSEN?

9 MS. DUARTE: MR. NICOLAYSEN AND I NOTICED IT AND DISCUSSED  
10 IT.

11 BUT THE 9TH CIRCUIT HAS NOT ORDERED ANY ACTIONS. FRANKLY,  
12 I DON'T EXPECT THEM TO, BUT I WANTED TO MAKE SURE THE COURT WAS  
13 AWARE OF THIS.

14 THE COURT: OKAY. WELL, HERE ARE MY FINDINGS. I THINK  
15 THAT, PARTICULARLY, IN LIGHT OF WHAT HAPPENED AT THE HEARING, AND  
16 THE LANGUAGE IN DR. BACKER'S SUPPLEMENTAL REPORT, THERE IS A  
17 SUFFICIENT BASIS TO FIND THAT MR. SUTCLIFF ALREADY IS AFFLICTED  
18 WITH A DISEASE OR A DEFECT THAT MAKES HIM INCOMPETENT FOR  
19 PURPOSES OF STANDING TRIAL.

20 THE REASON I DIDN'T WANT TO MAKE THAT FINDING AND DECLINED  
21 TO MAKE THAT FINDING WAS PRIMARILY BECAUSE I DIDN'T WANT TO  
22 INFLAME HIM; NOT BECAUSE I HAD ANY DOUBTS ABOUT APPLYING THE  
23 APPLICABLE STANDARDS TO WHAT I PERCEIVED TO BE HIS THEN  
24 CONDITION.

25 MY PERCEPTION HAS BEEN REINFORCED BY DR. BACKER'S

1 SUPPLEMENTAL CONCLUSION. AND GIVEN THAT THE TWOFOLD PURPOSE OF  
2 ALL THAT'S GOING ON, IS TO DETERMINE WHETHER, IF NOT CURRENTLY,  
3 TO GIVE MR. SUTCLIFF A BASIS TO PROCEED PROPERLY TO TRIAL, AS IS  
4 HIS RIGHT.

5 AND, SECONDLY, TO ASSURE THAT HE GETS THE FULL BENEFIT OF  
6 ALL APPLICABLE PROCEDURES, DIAGNOSES, AND TREATMENT THAT THE  
7 BUREAU OF PRISONS CAN PROVIDE. IT'S ACTUALLY FOR THAT TWOFOLD  
8 REASON THAT I'LL FEEL COMFORTABLE IN INCORPORATING THIS DIFFERENT  
9 LANGUAGE IN THE ORDER THAT I'LL ISSUE NOW.

10 MS. DUARTE GAVE ME A DISK. I MAY FIDDLE WITH SOME OF THE  
11 RECITALS, WORKING OFF OF THE DISK; BUT NOW THAT I UNDERSTAND WHAT  
12 YOUR THINKING WAS, I'M PREPARED TO ACCEPT IT. I WILL ISSUE  
13 EITHER THIS PRECISE ORDER, OR ONE SUBSTANTIALLY SIMILAR, LATER  
14 TODAY.

15 MR. NICOLAYSEN: THANK YOU, YOUR HONOR. WE APPRECIATE THE  
16 COURT'S TIME.

17 WOULD YOUR HONOR ALSO ALLOW A TRANSCRIPT OF THIS MORNING'S  
18 STATUS CONFERENCE, SO WE WOULD HAVE IT?

19 THE COURT: YES. THE U.S. ATTORNEY SHOULD ORDER THE  
20 TRANSCRIPT. AND THE TRANSCRIPT SHOULD BE SENT TO -- WHERE IS MR.  
21 SUTCLIFFE NOW?

22 MS. DUARTE: HE IS IN TRANSIT. ACCORDING TO MDC, HE IS  
23 GONE FROM THERE. AND ACCORDING TO \*\* DEVINS, I CHECKED BOTH THIS  
24 MORNING. DEVINS EXPECTS HIM TO ARRIVE WEDNESDAY OR THURSDAY,  
25 APRIL 9TH OR 10TH OF THIS WEEK.

1 MR. NICOLAYSEN: IF YOUR HONOR LOOKED AT THE PROPOSED  
2 ORDER, WE HAVE ADJUSTED THE AUGUST TIME, WITH THAT IN MIND.

3 THE COURT: YES. I SAW THAT. WELL, I WANT IT TO BE SENT  
4 BOTH TO THE WARDEN WITH SPECIFIC -- "IT" BEING THE TRANSCRIPT --  
5 WITH SPECIFIC DIRECTIONS THAT IT BE MADE AVAILABLE TO THOSE  
6 RESPONSIBLE, NOT ONLY FOR MR. SUTCLIFFE'S TREATMENT -- DIAGNOSIS  
7 AND TREATMENT, BUT ALSO TO THOSE RESPONSIBLE FOR HIS CUSTODY; SO  
8 THAT IF HE, FOR SOME REASON, RESPONDS TO THIS, THEY'LL, AT LEAST,  
9 BE AWARE OF WHAT MAY HAVE BEEN IN HIS MIND.

10 I ALSO WANT IT TO BE SENT BY MR. NICOLAYSEN DIRECTLY TO  
11 MR. SUTCLIFF.

12 MR. NICOLAYSEN: I WILL DO SO, YOUR HONOR, AS I DID THE  
13 MARCH 14TH TRANSCRIPT.

14 THE COURT: AND PROMPTLY SO, AT DEVINS, PLEASE.

15 MR. NICOLAYSEN: I WILL DO THAT.

16 (OFF THE RECORD.)

17 THE COURT: IN CASE THE RECORD ISN'T CLEAR, I THINK I  
18 ARRANGED LAST WEEK TO HAVE DR. BACKER'S SUPPLEMENTAL REPORT.  
19 YES. IT WAS FILED ON APRIL 1ST. IT ACTUALLY WASN'T FILED.

20 THE CLERK: NO, IT WASN'T FILED.

21 THE COURT: WELL, IT SHOULD BE PLACED IN THE FILE. WE  
22 SENT OUT A MINUTE ORDER ON APRIL 1ST. IT SAYS, ON APRIL 1ST,  
23 2003 THE COURT RECEIVED DR. RUSHTON BACKER'S FORENSIC EVALUATION  
24 ADDENDUM DATED MARCH 21ST, 2003, AND HAVE FAXED A COPY OF THIS  
25 ADDENDUM UNDER SEPARATE COVER DIRECTLY TO COUNSEL. FILE

1 THAT ADDENDUM UNDER SEAL IN THE FILE OF THIS CASE, AND MAKE SURE,  
2 MR. NICOLAYSEN, THAT MR. SUTCLIFF RECEIVES A COPY OF THAT  
3 SUPPLEMENTAL REPORT.

4 MR. NICOLAYSEN: I WILL DO SO, THEN. YES, SIR.

5 THE COURT: OKAY. AND YOU SHOULD MAKE SURE THAT THE  
6 REPORT GOES TO THE PEOPLE AT \*\* FMC DEVINS. I THINK IT WAS  
7 ALREADY MY RULING THAT IT SHOULD.

8 MS. DUARTE: I WILL DO THAT, YOUR HONOR.

9 THE COURT: ALL RIGHT. THANK YOU. WE'RE ADJOURNED.

10 MR. NICOLAYSEN: THANK YOU, VERY MUCH, YOUR HONOR.

11 MS. DUARTE: THANK YOU, YOUR HONOR.

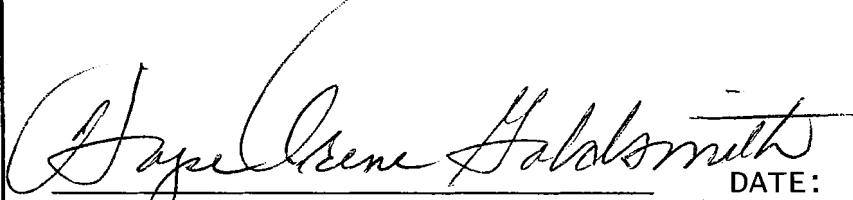
12 (THE PROCEEDINGS CONCLUDED AT 12:05 P.M.)  
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CERTIFICATE OF REPORTER

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COUNTY OF LOS ANGELES        )  
  ) SS.  
STATE OF CALIFORNIA         )

I, HOPE IRENE GOLDSMITH, OFFICIAL REAL-TIME COURT REPORTER,  
REGISTERED PROFESSIONAL REPORTER, IN AND FOR THE UNITED STATES  
DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA, DO HEREBY  
CERTIFY THAT I REPORTED, STENOGRAPHICALLY, THE FOREGOING  
PROCEEDINGS AT THE TIME AND PLACE HEREINBEFORE SET FORTH; THAT  
THE SAME WAS THEREAFTER REDUCED TO TYPEWRITTEN FORM BY MEANS OF  
COMPUTER-AIDED TRANSCRIPTION; AND I DO FURTHER CERTIFY THAT THIS  
IS A TRUE AND CORRECT TRANSCRIPTION OF MY STENOGRAPHIC NOTES.

  
DATE: 8-2-04  
HOPE IRENE GOLDSMITH, RPR  
FEDERAL OFFICIAL COURT REPORTER