

No. 1350e

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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

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HON. A. HOWARD MATZ, U.S. DISTRICT JUDGE, PRESIDING

- - -

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 STEVEN WILLIAM SUTCLIFFE, )  
 )  
 Defendant. )

Case No. CR2002-350-AHM

Los Angeles, California

September 25, 2002

1:00 p.m.

- - -

Gary D. George, RPR  
Official Court Reporter  
United States Courthouse  
Room 410  
312 N. Spring Street  
Los Angeles, CA 90012  
(213) 621-3164

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APPEARANCES:

On behalf of the Plaintiff:

DEBRA WANG,  
United States Attorney  
BY: Arif Alikhan,  
Assistant United States Attorney  
312 N. Spring Street  
Los Angeles, CA 90012  
(213) 894-2476

On behalf of the Defendant:

FEDERAL PUBLIC DEFENDER'S OFFICE  
BY: Marilyn Bednarski  
Hiliary Potashner  
Deputy Federal Public Defenders  
312 N. Spring Street  
Los Angeles, CA 90012  
(213) 894-

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P R O C E E D I N G S

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2  
3 THE DEPUTY CLERK: Item 2, Criminal 2002-350-AHM,  
4 USA vs. Stephen William Sutcliffe.

5 Appearances, counsel.

6 MR. ALIKHAN: Good afternoon, Your Honor.

7 I am Arif Alikhan. I'm standing in for Assistant  
8 U.S. Attorney Elena Duarte.

9 THE COURT: Good afternoon to you.

10 MS. BEDNARSKI: Good afternoon, Your Honor.

11 Marilyn Bednarski and Hiliary Potashner, also  
12 present in court is Mr. Steven Sutcliffe.

13 THE COURT: Good afternoon to all three of you.

14 And Mr. Harris, would you please approach the  
15 lectern and make your appearance as well.

16 MR. HARRIS: Good afternoon, Your Honor.

17 Bill Harris here at the Court's request.

18 THE COURT: The reason I requested Mr. Harris to be  
19 here is that, as I told you I would do when you last were  
20 here, Mr. Sutcliffe, I have arranged for a lawyer to be  
21 appointed from the Court's Indigent Defense Panel to be your  
22 lawyer in this case.

23 Ordinarily I could have arranged for that without  
24 any court appearance, but I did something unusual in  
25 scheduling this hearing because I wanted to explain

1 something to you, so please listen very carefully.

2 I know Mr. Harris, although entirely on a  
3 professional basis, he has been before me on many occasions  
4 and coincidentally he happened to be here in court for at  
5 least part of the proceeding a couple of days ago. He's a  
6 lawyer who fights remarkably hard and vigorously, honestly  
7 and effectively for his clients.

8 Now I can't guarantee any particular chemistry  
9 between a lawyer and his client or a client and his lawyer,  
10 but I want you to understand that I really doubt very much  
11 whether under the circumstances that you are currently  
12 proceeding in this case that you will be able to find, no  
13 matter how difficult it may be, to have all your wishes  
14 accommodated a lawyer better equipped and more dedicated to  
15 servicing your interest than Mr. Harris.

16 I'm not vouching for any particular thing he will  
17 do because I don't know what he will do and most of what he  
18 will do I probably won't learn about because a lot of it  
19 behind the scenes.

20 But you now have a lawyer. I have the authority to  
21 appoint Mr. Harris. I am appointing him and that completes  
22 the arrangements that we made on Monday pending which the  
23 substitution of counsel that was the subject of that  
24 proceeding had it yet to be completed.

25 Now I already made a very clear record, I believe,

1 as to the duties I expect the lawyers who are here from the  
2 Public Defender's office to carry out in the process of  
3 transition.

4 Mr. Harris, are you aware of the trial date on this  
5 case?

6 MR. HARRIS: Yes, December 3, Your Honor.

7 THE COURT: Okay. And I intend to do my best along  
8 with my staff, and I expect the lawyers will be doing the  
9 same to make sure that we are ready to go on December 3rd.

10 Mr. Sutcliffe has requested that a transcript be  
11 compiled of a much earlier proceeding involving an  
12 application he made to me to reconsider -- well, actually  
13 the application, I believe, was made by the U.S. Attorney's  
14 office to have the terms of bail that was set by a  
15 magistrate judge changed and I granted that and as a result,  
16 Mr. Sutcliffe is currently in custody.

17 That's an issue I know that he wants to have  
18 reconsidered. I have not told him that it necessarily will  
19 be. I think that's a question for you and he to explore and  
20 you will, as every lawyer, will continue to enjoy the right  
21 to form your own independent conclusions based on your best  
22 judgment as to what's in your client's interest and to  
23 discuss that with him. But I have ordered the transcript to  
24 be compiled. And as soon as it is available my staff will  
25 let you, Mr. Harris, know and you can proceed accordingly.

1 MR. HARRIS: Thank you.

2 THE COURT: Is there anything further that needs to  
3 be addressed this afternoon?

4 Mr. Sutcliffe.

5 THE DEFENDANT: Yes, Your Honor, I have two  
6 concerns, one regarding communication with my new counsel,  
7 which I appreciate you appointing for me. Currently in MDC  
8 all my phone calls are subject to monitoring and I cherish  
9 the attorney-client privilege and I waive it only in extreme  
10 circumstances.

11 Secondly, to call counsel would he accept collect  
12 phone calls?

13 MR. HARRIS: Yes.

14 THE COURT: All right, you got an answer from him.  
15 The answer is yes.

16 And as far as a means and methods that are adopted  
17 by the Bureau of Prisons in administering the facility at  
18 the MDC, which do involve the right and often the exercise  
19 of recording certain calls I'm not going to make any ruling  
20 and I'm not going to interfere with what is the ordinary  
21 practice.

22 I can tell you Mr. Harris is very familiar with how  
23 the MDC functions and you and he will do the best to  
24 accomplish what you need to and he will be able to assure  
25 you that whatever you discuss with each other remains

1 confidential unless it's authorized for disclosure.

2 Okay, I think that takes care of everything. We  
3 are adjourned.

4 (Whereupon, the hearing was concluded at 1:20 p.m.)  
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## CERTIFICATE

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3 I, GARY D. GEORGE, being an Official United States  
4 Court Reporter for the Central District of California, Los  
5 Angeles Division, do hereby certify that the foregoing  
6 transcript pages 1 through 7, is a true and correct  
7 transcription of my shorthand notes to the best of my skill  
8 and ability of the proceedings taken before me at the time  
9 and place stated in the caption thereof.

10 I further certify that I am not of counsel to  
11 either of the parties hereto, or otherwise interested in  
12 said case.

13 IN WITNESS WHEREOF, I hereunto set my hand this  
14 28th day of September, 2004.

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17 GARY D. GEORGE, RPR  
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