

1
2 IN THE UNITED STATES DISTRICT COURT

3 CENTRAL DISTRICT OF CALIFORNIA
4

5 - - -

6 THE ~~HONORABLE~~ A. HOWARD MATZ, JUDGE PRESIDING
7

8 - - -
9

10 -----
11 UNITED STATES OF AMERICA,)
12 PLAINTIFF,)
13 -v-)
14 STEVEN WILLIAM SUTCLIFFE,)
15 DEFENDANT.)
16 -----

CASE NO. CR 20002-350-AHM

17
18 COPY
19

20
21 REPORTER'S TRANSCRIPT OF PROCEEDINGS
22 LOS ANGELES, CALIFORNIA
23 THURSDAY, AUGUST 22, 2002
24

25
26 LYNNE SMITH
27 OFFICIAL COURT REPORTER
28 UNITED STATES DISTRICT COURT
29 312 NORTH SPRING STREET
30 LOS ANGELES, CALIFORNIA 90012

APPEARANCES:

ON BEHALF OF PLAINTIFF:

OFFICE OF THE UNITED STATES ATTORNEY

BY: ELENA DUARTE

ASSISTANT UNITED STATES ATTORNEY

312 NORTH SPRING STREET

LOS ANGELES, CALIFORNIA 90012

ON BEHALF OF DEFENDANT:

MARIA E. STRATTON

FEDERAL PUBLIC DEFENDER

BY: HILARY POTASHNER

DEPUTY FEDERAL PUBLIC DEFENDER

321 EAST SECOND STREET

LOS ANGELES, CALIFORNIA 90012

1 THE COURT: I'm not sure how extensive your need is,
2 going through the notes. I want to make sure you have the
3 opportunity to state on the record --

4 THE DEFENDANT: I'm stating on the record that last
5 night I had taken the time to go through all the discovery, had
6 to put it like in a little context so I could go through it. I
7 will do it like this if Your Honor likes.

8 THE COURT: Talk to me start forward. Then look at the
9 notes. Tell me what is bothering you.

10 THE DEFENDANT: As Ms. Potashner has conveyed to the
11 court, I do have serious concerns at this point that there might
12 be obstruction of justice. I raised that to her supervisor. I
13 was told, don't stir things up.

14 THE COURT: Obstruction of justice by the lawyers who
15 are representing you?

16 THE DEFENDANT: By Ms. Potashner.

17 THE COURT: What do you mean?

18 THE DEFENDANT: When I was first brought into the
19 system I let everybody know that I considered myself a political
20 prisoner. I believe that their malicious prosecution and
21 arbitrary prosecution about to take place against myself, by the
22 government, specifically the FBI, I believe they have been
23 targeting me for the -- since 1998, along with a certain branch
24 of police departments, based on my speech that I have expressed
25 in the past which was directed at those members of law

1 enforcement. I believe that they've misrepresented facts, they
2 have omitted facts. They have tampered with a document.

3 THE COURT: Which document; do you know?

4 THE DEFENDANT: Yes, sir. I have the document right
5 here. It will take me a minute to get it.

6 THE COURT: Go ahead.

7 THE DEFENDANT: Discovery page 65 and discovery page
8 66.

9 THE COURT: Are those references to Bates numbers?

10 THE DEFENDANT: Yes, Your Honor. I would draw
11 Your Honor's attention to the upper right-hand corner of Bates
12 66, page 2 of 2. And note that date to the left of page 2 of
13 66, that was the night I was arrested. That's the night I was
14 tortured in the police department. I have the --

15 THE COURT: That's in the year 2002.

16 THE DEFENDANT: That's correct.

17 THE COURT: Arrested by whom, the police?

18 THE DEFENDANT: Manchester. One officer in there
19 tortured me while the other officers and members of the FBI
20 stood by and watched.

21 THE COURT: Okay. Now I don't have those documents
22 before me. This isn't the appropriate time to find out what
23 happened relating to those documents or on March 26. What is of
24 importance, it's in your interest for you to tell me what it is
25 about your lawyers and their response to your claim that this

1 document was tampered with.

2 THE DEFENDANT: I have been a victim. When I first
3 arrived I first met with the public defender in New Hampshire,
4 Mr. Sax, a very honorable man, gave me a good defense. I
5 expressed to him I was tortured in the police department. He
6 told me to let him know when I got here what happened. I
7 expressed that to Ms. Potashner, that while I was being
8 tortured, my head was being forced, I saw in the upper left hand
9 corner behind, a video tape, a camera pointing down directly at
10 me while I was tortured.

11 I said, "Ms. Potashner, get that tape. I want that
12 tape. It will show everybody standing around watching this
13 happen."

14 She said she would. Months went by. Then I again
15 asked her about the tape. I said did you get the tape. Not
16 yet. I wrote her a letter. I said please tell me why you
17 haven't gotten the tape if you're going to get the tape. If you
18 are not going to, tell me why. That letter was ignored.

19 When I finally went to her boss, over her head, I was
20 told don't stir things up. I was told the next day the subpoena
21 had been issued.

22 THE COURT: I don't know if you're aware, that's just
23 actually what I was about to tell you, the subpoena was issued.
24 It was issued August 9th. And it was directed to the Manchester
25 Police Department. I authorized the issuance of it, commanded

1 the production of the video tape and arrest reports pertaining
2 to the booking and detention of you.

3 THE DEFENDANT: Here is my concern, Your Honor. I met
4 with Ms. Potashner that day in the BOP and she -- the first
5 thing she said to me was that the tape doesn't exist. I said,
6 my question was, how do you know that if you just filed the
7 subpoena today. She said that she had conducted a secret
8 investigation of the police department to see if the tape
9 existed.

10 Well, my limited knowledge of law, for what I have
11 studied, I do have great respect for the law, I have studied law
12 for the past seven years, is that when there's potential
13 exculpatory material the safest thing, to keep it from being
14 destroyed or obstructed, is to put the people on notice that you
15 intend to seek that discovery.

16 Waiting as long as she did and not informing me that
17 that tape was not being sought, I felt misled. I felt misled
18 and I felt betrayed. I have no doubt that tape is no longer
19 there.

20 THE COURT: So then what it comes down to is you think
21 she took too long to try to get it. If she had gotten it
22 whenever that was, maybe it would have been produced.

23 THE DEFENDANT: Or maybe preserved. I still think that
24 the truth can be obtained and justice can be obtained as to what
25 really happened that day and that there was a civilian witness

1 in that room.

2 THE COURT: Well, right now you seem to be
3 acknowledging that as to that particular piece of evidence,
4 which I have to tell you, I'm not sure what the relevance would
5 be. It's my job, I'm going to make sure you get a fair trial.
6 The tape of what happened when you were booked by a local police
7 force New Hampshire, I don't know the tape exists. Where does
8 that leave us now?

9 THE DEFENDANT: That leaves me with a lawyer that I
10 basically don't trust. It's not the only -- there's been other
11 misrepresentations to me from my counsel. I asked her to do
12 certain things and at the 11th hour she's changed them without
13 consulting with me. She's told me -- I don't want to crucify
14 her.

15 MS. POTASHNER: Tell him everything.

16 THE COURT: You have a right to be heard about that.

17 THE DEFENDANT: I do not consider myself a threat to
18 the community or the people involved here. I got as far away
19 from those people as I could possibly get from them. I have no
20 intention of ever coming back to California or ever seeing these
21 people again.

22 I asked Ms. Potashner after my bail as denied, I told
23 her I'm not a threat to anybody. I have been charged, I was
24 charged with more serious stuff than this in the past and I
25 represented myself because my lawyer took all my money and

1 anticipating that question. If I may enter that into the
2 record?

3 THE COURT: Go ahead.

4 THE WITNESS: Thank you, Your Honor.

5 I previously voiced my concern to this Court that my
6 court appointed federal public defender had failed to secure
7 and obtain evidence of my physical torture and abuse by the
8 Manchester Police Department in full view of the -- and
9 apparent consent of the FBI, who were present and who observed
10 the incident.

11 This Court permitted me to speak about this,
12 conducted a brief inquiry, and then announced that it found no
13 evidence the Public Defender's Office had engaged in
14 obstruction of justice.

15 The day after the court hearing, I called Hilary
16 Potashner. She told me that after reviewing the evidence she
17 had received by subpoena and that comparing that evidence to
18 the facts I had previously provided her and then reiterated in
19 this phone call -- she stated that she believed me and my
20 description of police brutality and torture had in fact
21 occurred.

22 I asked her to request a hearing before this Court
23 where all participants would be present, by subpoena if
24 necessary, so this Court could determine what -- if it in fact
25 had occurred --

1 THE COURT: Let me just interrupt you. *Interrupt*

2 The record will reflect that you are reading from a
3 statement, which is fine with me. But I just want you to tell
4 me how many pages that statement comprises. How many more
5 pages?

6 THE WITNESS: Approximately five single-side.

7 THE COURT: All right. Go ahead and continue. I
8 don't want to cut you off. But remember, the only question I'm
9 asking you -- and I would really expect an answer that's going
10 to be yes or no -- is whether you want these people to be your
11 lawyers in light of what they've just told me.

12 THE WITNESS: It's addressed in here. I want to make
13 a clean record of why I'm doing what I'm doing.

14 THE COURT: All right.

15 THE WITNESS: You'll understand after I --

16 THE COURT: All right. Make your record. *Interrupt*

17 THE WITNESS: She said she would meet with me the
18 following week to discuss this matter further. As with all of
19 Ms. Potashner's promises, she failed to keep her promise to
20 meet with me the following week or to provide details of the
21 secret investigation she and the public defender's office
22 allegedly had conducted of **the torture.**

23 I have repeatedly told both of my public defenders of
24 **my torture and physical abuse** by the Manchester Police
25 Department and FBI and I believed this conduct constituted a