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CERTIFIED
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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
PLAINTIFF,	)	
	)	
VS.	)	CASE NO. CR 02-00350-AHM
	)	02-643M
	)	
STEVEN WILLIAM SUTCLIFFE,	)	
	)	LOS ANGELES, CALIFORNIA
	)	APRIL 9, 2002
	)	
DEFENDANT.	)	
	)	

ARRAIGNMENT
BEFORE THE HONORABLE CARLA WOHRLE
UNITED STATES MAGISTRATE JUDGE

FOR THE PLAINTIFF:	JOHN S. GORDON
	UNITED STATES ATTORNEY
	RONALD CHENG
	CHIEF, CRIMINAL DIVISION
	ASSISTANT UNITED STATES ATTORNEY
	BY: ELENA J. DUARTE
	ASSISTANT UNITED STATES ATTORNEY
	312 NORTH SPRING STREET
	LOS ANGELES, CALIFORNIA 90012

FOR THE DEFENDANT:	MARIA E. STRATTON
	FEDERAL PUBLIC DEFENDER
	BY: HILARY POTASHNER
	DEPUTY FEDERAL PUBLIC DEFENDER
	321 EAST 2ND STREET
	LOS ANGELES, CALIFORNIA 90012

PROCEEDINGS RECORDED BY ELECTRONIC SOUND RECORDING;
TRANSCRIPT PRODUCED BY TRANSCRIPTION SERVICE.

1 APPEARANCES: (CONTINUED)

2 COURTROOM DEPUTY/ JANET ARGARIN
3 RECORDER:

4 TRANSCRIBER:

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COURT HOUSE SERVICES
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I N D E X

CASE NO. CR 02-00350-AHM
02-643M

APRIL 9, 2002

PROCEEDINGS: ARRAIGNMENT.

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1 LOS ANGELES, CALIFORNIA; APRIL 9, 2002

2 THE COURT: AS TO ALL OF THE OTHER DEFENDANTS, YOU
3 ARE HERE BECAUSE YOU HAVE BEEN CHARGED WITH A CRIMINAL
4 OFFENSE AGAINST THE UNITED STATES.

5 THE NATURE OF THE OFFENSE IS DESCRIBED IN THE
6 INDICTMENT OR COMPLAINT AND THE ATTACHED AFFIDAVIT THAT YOU
7 HAVE RECEIVED OR WILL RECEIVE.

8 YOU HAVE THE FOLLOWING RIGHTS:

9 YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER AT
10 ALL STAGES OF THESE PROCEEDINGS.

11 YOU ALSO HAVE THE RIGHT TO HAVE A LAWYER PRESENT
12 WITH YOU ANY TIME THAT YOU ARE QUESTIONED BY A LAW
13 ENFORCEMENT OFFICER.

14 IF YOU WISH TO HIRE A LAWYER, OR IF YOU WISH TO
15 TALK FURTHER WITH A LAWYER BEFORE I PROCEED WITH YOUR CASE, I
16 WILL GIVE YOU TIME TO DO SO.

17 IF YOU DON'T HAVE THE MONEY TO HIRE A LAWYER, I
18 WILL APPOINT AN ATTORNEY TO REPRESENT YOU AT NO COST OR
19 EXPENSE TO YOU. HOWEVER, YOU MUST SUBMIT A FINANCIAL
20 AFFIDAVIT TO THE COURT BEFORE I WILL APPOINT COUNSEL TO
21 REPRESENT YOU.

22 IF YOU MAKE A FALSE STATEMENT IN THAT AFFIDAVIT,
23 YOU MAY BE PROSECUTED FOR A SEPARATE VIOLATION OF FEDERAL
24 LAW.

25 YOU HAVE THE RIGHT TO REMAIN SILENT. YOU CANNOT BE

1 REQUIRED TO MAKE A STATEMENT TO ANYONE.

2 IF YOU WAIVE THAT RIGHT AND MAKE A STATEMENT, THE
3 CONTENTS OF THE STATEMENT MAY BE USED AGAINST YOU IN FUTURE
4 PROCEEDINGS.

5 IF A CRIMINAL COMPLAINT HAS BEEN FILED AGAINST YOU,
6 YOU HAVE THE RIGHT TO A PRELIMINARY HEARING WITHIN 10 DAYS IF
7 YOU REMAIN IN CUSTODY AND WITHIN 20 DAYS IF YOU ARE RELEASED
8 FROM CUSTODY.

9 A PRELIMINARY HEARING IS A COURT PROCEEDING IN
10 WHICH THE GOVERNMENT MUST SHOW PROBABLE CAUSE TO BELIEVE THAT
11 YOU COMMITTED THE OFFENSE YOU ARE CHARGED WITH.

12 HOWEVER, IF YOU ARE INDICTED BY A FEDERAL GRAND
13 JURY BEFORE THE DATE AND TIME SET FOR YOUR PRELIMINARY
14 HEARING, THEN, NO SUCH HEARING IS REQUIRED.

15 IF THE CHARGES AGAINST YOU HAVE BEEN FILED IN A
16 DISTRICT OTHER THAN THE CENTRAL DISTRICT OF CALIFORNIA, AND
17 IN ADDITION TO THE RIGHTS I HAVE PREVIOUSLY EXPLAINED, YOU
18 HAVE THE RIGHT TO AN IDENTITY HEARING IN WHICH THE GOVERNMENT
19 MUST PRESENT EVIDENCE DEMONSTRATING THAT YOU ARE THE PERSON
20 NAMED IN THE OUT-OF-DISTRICT COMPLAINT OR INDICTMENT.

21 ALSO, IF THE COMPLAINT OR INDICTMENT IN WHICH
22 YOU ARE CHARGED HAS NOT YET BEEN FILED IN THIS COURT, YOU
23 HAVE THE RIGHT TO REQUEST A CONTINUANCE FOR ARRIVAL OF
24 PROCESS.

25 IN ADDITION, YOU SHOULD BE AWARE OF RULE 20 OF

1 FEDERAL RULES OF CRIMINAL PROCEDURE, WHICH PROVIDES THAT IF
2 YOU WISH TO PLEAD GUILTY OR NO CONTEST, IT MAY BE POSSIBLE
3 TO DO THAT HERE IN THIS DISTRICT WITHOUT YOUR BEING RETURNED
4 TO THE DISTRICT WHERE THE CHARGES AGAINST YOU WERE FILED.
5 THIS IS SOMETHING FOR YOU TO DISCUSS FURTHER WITH YOUR
6 LAWYER.

7 IF YOU ARE BEFORE THE COURT ON AN ALLEGED VIOLATION
8 OF PROBATION OR AN ALLEGED VIOLATION OF RELEASE CONDITIONS
9 FILED IN ANOTHER DISTRICT, YOU ALSO HAVE THE RIGHT TO AN
10 IDENTITY HEARING BEFORE YOU ARE REMOVED TO THAT DISTRICT TO
11 ANSWER THE ALLEGATIONS.

12 YOU HAVE THE RIGHT IF YOU ARE CHARGED WITH AN
13 OFFENSE AGAINST THE UNITED STATES TO HAVE BAIL DETERMINED IN
14 ACCORDANCE WITH THE BAIL REFORM ACT OF 1984.

15 UNDER THE PROVISIONS OF THAT ACT YOU MAY BE
16 DETAINED IN CUSTODY PENDING FURTHER COURT PROCEEDINGS, OR YOU
17 MAY BE RELEASED ON BAIL, OR BY SETTING OTHER CONDITIONS -- OR
18 BY SATISFYING OTHER CONDITIONS SET BY THE COURT.

19 THE QUESTION OF WHETHER OR NOT YOU WILL BE RELEASED
20 FROM CUSTODY AND ON WHAT CONDITIONS DEPENDS ON MANY FACTORS,
21 SUCH AS:

22 THE NATURE AND CIRCUMSTANCES OF THE OFFENSE
23 CHARGED, YOUR FAMILY TIES, AND LENGTH OF RESIDENCE IN THE
24 COMMUNITY, YOUR EMPLOYMENT STATUS, YOUR PAST HISTORY OF
25 CRIMINAL CONVICTIONS, AND WHETHER OR NOT YOU POSE A DANGER TO

1 ANY PERSON OR TO THE COMMUNITY.

2 IF THE GOVERNMENT SEEKS TO DETAIN YOU IN CUSTODY,
3 YOU HAVE THE RIGHT TO A HEARING ON THE DATE OF YOUR FIRST
4 APPEARANCE OR WITHIN THREE TO FIVE DAYS OF YOUR FIRST
5 APPEARANCE IF A CONTINUANCE IS REQUESTED AND GRANTED.

6 IN THE EVENT THAT YOU ARE ORDERED DETAINED IN
7 CUSTODY, YOU HAVE A RIGHT UPON APPLICATION OF YOUR COUNSEL TO
8 HAVE THE MATTER REVIEWED BY THE CRIMINAL DUTY JUDGE OR OTHER
9 DISTRICT COURT JUDGE WHO MAY BE ASSIGNED.

10 YOU HAVE THE RIGHT TO BE PRESENT AT ANY SUBSEQUENT
11 HEARING WHERE FURTHER ARGUMENT OR EVIDENCE WILL BE PRESENTED
12 REGARDING YOUR DETENTION OR REGARDING CONDITIONS OF YOUR
13 RELEASE.

14 THE CLERK WILL NOW CALL THE CALENDAR.

15 (PROCEEDINGS HELD IN UNRELATED MATTERS.)

16 THE CLERK: 02-643M, UNITED STATES OF AMERICA
17 VERSUS STEVEN WILLIAM SUTCLIFFE.

18 MS. DUARTE: GOOD AFTERNOON, YOUR HONOR.

19 ELENA DUARTE FOR THE UNITED STATES.

20 THE COURT: GOOD AFTERNOON.

21 MS. POTASHNER: GOOD AFTERNOON, YOUR HONOR.

22 HILARY POTASHNER FOR MR. SUTCLIFFE, WHO'S PRESENT
23 BEFORE YOUR HONOR.

24 THE COURT: GOOD AFTERNOON, COUNSEL.

25 IS STEVEN SUTCLIFFE, YOUR TRUE AND CORRECT NAME --

1 STEVEN WILLIAM SUTCLIFFE?

2 THE DEFENDANT: I AM STEVEN OF THE SUTCLIFFES.

3 THE COURT: PARDON ME?

4 THE DEFENDANT: I AM STEVEN OF THE SUTCLIFFES.

5 THE COURT: OKAY. MR. SUTCLIFFE, I HAVE A
6 FINANCIAL AFFIDAVIT ASKING THAT COUNSEL BE APPOINTED TO
7 REPRESENT YOU.

8 DID YOU COMPLETE AND SIGN THAT AFFIDAVIT?

9 THE DEFENDANT: CORRECT.

10 THE COURT: AND DID YOU UNDERSTAND THE WARNING
11 ABOUT NOT MAKING ANY FALSE STATEMENT IN THE AFFIDAVIT?

12 THE DEFENDANT: CORRECT.

13 THE COURT: OKAY. I'LL APPOINT COUNSEL TO
14 REPRESENT YOU.

15 HAVE YOU RECEIVED A COPY OF THE COMPLAINT THAT'S
16 BEEN FILED IN THIS CASE?

17 MS. DUARTE: YOUR HONOR, I'M SORRY TO INTERRUPT.

18 BUT IF I MAY, THE DEFENDANT ACTUALLY WAS INDICTED
19 ON FRIDAY. I HAVE A COPY OF THE INDICTMENT. IT DOESN'T
20 HAVE THE CASE NUMBER, BUT I DO HAVE THE CASE NUMBER FOR THE
21 COURT.

22 THE COURT: OH, OKAY. HAS THE DEFENDANT BEEN
23 PROVIDED A COPY OF THE INDICTMENT?

24 MS. DUARTE: HE HAS EARLIER.

25 THE COURT: OKAY. THANK YOU.

1 MS. DUARTE: I WAS NOT AWARE THAT THAT WAS NOT IN
2 THE CASE FILE. I'M SORRY, YOUR HONOR.

3 THE COURT: OH, OKAY. THANK YOU.

4 MS. DUARTE: AND THE NUMBER IS 02-350. IT IS NOT
5 YET ASSIGNED. AND, OF COURSE, WE'RE GOING TO ASK FOR A PIA
6 ON MONDAY.

7 THE COURT: ALL RIGHT. THEN, YOU'VE RECEIVED THE
8 INDICTMENT.

9 IS THAT CORRECT?

10 THE DEFENDANT: I'VE RECEIVED A COPY OF SOMETHING
11 CLAIMING TO BE AN INDICTMENT. I DON'T RECOGNIZE THE
12 INDICTMENT.

13 THE COURT: OKAY. BUT THE DOCUMENT THAT'S BEEN
14 FILED WITH THE COURT, THE INDICTMENT, YOU HAVE A COPY OF
15 THAT.

16 IS THAT CORRECT?

17 THE DEFENDANT: I HAVE A COPY OF SOMETHING CLAIMING
18 TO BE OF THAT FORM, YES.

19 THE COURT: AND DO YOU WANT ME TO READ THE CHARGE
20 OUT IN COURT THIS AFTERNOON?

21 THE DEFENDANT: THAT'S NOT NECESSARY.

22 THE COURT: DO YOU UNDERSTAND THE NATURE OF THE
23 CHARGE THAT'S MADE IN THAT DOCUMENT?

24 THE DEFENDANT: NO. I UNDERSTAND THE CAUSE, BUT
25 I'M RESERVING MY RIGHT TO CHALLENGE SUBJECT MATTER

1 JURISDICTION AND THE NATURE OF THE CLAIM.

2 THE COURT: CERTAINLY ALL YOUR RIGHTS ARE RESERVED.

3 THE DEFENDANT: THANK YOU.

4 THE COURT: IT'S SIMPLY A QUESTION OF WHETHER YOU
5 UNDERSTAND THE NATURE OF WHAT THE DOCUMENT SAYS.

6 THE DEFENDANT: I DO NOT RECOGNIZE THE NATURE OF
7 THIS CHARGE. I UNDERSTAND THE CAUSE --

8 THE COURT: OKAY.

9 THE DEFENDANT: -- BECAUSE I CAN READ, BUT.

10 THE COURT: I THINK THAT'S THE SAME THING. I
11 UNDERSTAND THE DISTINCTION YOU'RE DRAWING. AND FOR MY
12 PURPOSES --

13 THE DEFENDANT: THANK YOU.

14 THE COURT: -- I'M SATISFIED THAT YOU UNDERSTAND
15 THE CAUSE THERE.

16 THE DEFENDANT: THANK YOU, YOUR HONOR.

17 THE COURT: ALL RIGHT. THERE IS NOW IN THIS CASE
18 AS WELL, AS I UNDERSTAND IT, A DETENTION ORDER THAT'S BEEN
19 ISSUED IN THE DISTRICT OF NEW HAMPSHIRE; IS THAT CORRECT?

20 MS. POTASHNER: I BELIEVE --

21 MS. DUARTE: THAT IS CORRECT, YOUR HONOR.

22 MS. POTASHNER: YES, YOUR HONOR. I BELIEVE IT WAS
23 ISSUED WITHOUT PREJUDICE.

24 THE COURT: YES. AND I SAW THE ORDER, AND IT IS
25 WITHOUT PREJUDICE. AND SINCE THIS CASE IS NOT YET ASSIGNED

1 TO A DISTRICT COURT JUDGE, THERE WOULD BE -- IT WOULD
2 TECHNICALLY BE A MOTION FOR RECONSIDERATION OF THE PRIOR
3 ORDER, BUT IT WOULD BE PROPERLY MADE TO THIS COURT.

4 SO, LET ME UNDERSTAND. THE GOVERNMENT, I TAKE IT,
5 IS REQUESTING A CONTINUANCE OF THE DETENTION ORDER?

6 MS. DUARTE: CONTINUANCE OF THE ORDER, YOUR HONOR.

7 I DID NOT FILE A SEPARATE ORDER BECAUSE IT WAS MY
8 UNDERSTANDING THAT PROCEDURALLY THAT ORDER WOULD CONTINUE
9 UNLESS THERE WAS A MOTION.

10 THE COURT: YES. THAT'S MY UNDERSTANDING AS WELL.

11 MS. POTASHNER: THAT'S FINE, YOUR HONOR.

12 THE COURT: COUNSEL, WHAT IS YOUR POSITION WITH
13 RESPECT TO THE ORDER AT THIS STAGE?

14 MS. POTASHNER: YOUR HONOR, I WOULD SUBMIT TO THE
15 COURT. I AGREE --

16 THE COURT: OKAY.

17 MS. POTASHNER: -- THAT IT WOULD REMAIN IN EFFECT.

18 WE'D ASK THAT IT BE SET FOR FRIDAY, A DETENTION
19 HEARING SET FOR FRIDAY.

20 THE COURT: A MOTION FOR RECONSIDERATION --

21 MS. POTASHNER: YES, YOUR HONOR.

22 THE COURT: -- OF THE DETENTION ORDER?

23 MS. POTASHNER: YES, YOUR HONOR.

24 MS. DUARTE: YOUR HONOR, IF I MAY, BEFORE THE COURT
25 SETS, JUST ASK IF THE COURT IS INCLINED TO ASK FOR A PROFFER

1 GIVEN THAT IT'S MY UNDERSTANDING, AT LEAST OF THE PROCEDURE,
2 THAT THE MOTION FOR RECONSIDERATION REQUIRES EVIDENCE NOT
3 PREVIOUSLY KNOWN TO THE MOVANT AT THE TIME OF THE EARLIER
4 DETENTION HEARING TO BE SET FORTH.

5 THE COURT: WELL, IN THIS CASE IT WAS EXPRESSLY AN
6 ORDER WITHOUT PREJUDICE. AND IT WAS SUBJECT TO THE
7 POSSIBILITY OF ADDITIONAL INFORMATION. WE DON'T HAVE A NEW
8 PRETRIAL REPORT. AND, SO, IT'S KIND OF A CATCH-22.

9 I THINK COUNSEL MIGHT PROFFER MORE INFORMATION IF
10 THERE WERE A PRETRIAL SERVICES REPORT. IF I DON'T HAVE ANY
11 ADDITIONAL INFORMATION, THEN THE MOTION FOR RECONSIDERATION
12 IS NOT GOING TO GO VERY FAR.

13 BUT I WOULD EXPECT THAT IF IT'S GOING TO BE A
14 SUBSTANTIVE MOTION, THAT IT WOULD NEED SOME FURTHER INPUT
15 FROM OUR PRETRIAL SERVICES.

16 MS. POTASHNER: YES, YOUR HONOR. I WOULD ASK THAT
17 THE COURT ASK PRETRIAL SERVICES TO INTERVIEW MR. SUTCLIFFE.
18 IT APPEARS FROM WHAT I READ ANYWAY THAT THE INTERVIEW WAS
19 VERY TRUNCATED BECAUSE THEY WERE JUST RELYING ON THE PREVIOUS
20 INTERVIEW.

21 THE COURT: YES. WHICH WAS WHAT THEY WERE SUPPOSED
22 TO DO UNTIL YOU MOVED FOR RECONSIDERATION.

23 MS. POTASHNER: RIGHT, EXACTLY. SO --

24 THE COURT: WE'VE JUST SORT OF RECENTLY CLARIFIED
25 THESE PROCEDURES. AND IT SEEMS TO MAKE SENSE.

1 ALL RIGHT. NOW, THE PROBLEM IS FRIDAY IS -- FRIDAY
2 IS GETTING A BIT CROWDED.

3 WHAT ABOUT FRIDAY AFTERNOON?

4 MS. POTASHNER: THAT'S FINE.

5 THE COURT: OKAY. WE SET SOMETHING FOR 1:30,
6 RIGHT? SO, 2:00 OR 2:30?

7 MS. DUARTE: 2:00 IS FINE, YOUR HONOR.

8 MS. POTASHNER: THAT'S FINE.

9 MS. DUARTE: 2:00.

10 THE COURT: OKAY. 2:00 ON FRIDAY.

11 MS. DUARTE: SO, YOUR HONOR, JUST FOR
12 CLARIFICATION. FRIDAY IS FOR HEARING OF DEFENDANT'S MOTION
13 TO RECONSIDER.

14 THE COURT: TO RECONSIDER. THAT'S CORRECT.

15 I'M GOING TO EXCUSE THEIR NEEDING TO BE A WRITTEN
16 MOTION AT THIS POINT.

17 MS. POTASHNER: THANK YOU, YOUR HONOR.

18 THE COURT: AGAIN, GIVEN THAT THE ORDER WAS
19 EXPRESSLY WITHOUT PREJUDICE TO RECONSIDER THE ISSUE IN
20 CALIFORNIA.

21 OKAY. AND WE'LL ASK FOR A PRETRIAL SERVICES
22 INTERVIEW. I JUST WANT TO MAKE SURE PRETRIAL KNOWS THAT.

23 WE DO NEED AN INTERVIEW OF MR. SUTCLIFFE.

24 THE PRETRIAL SERVICES OFFICER: YES, YOUR HONOR.

25 THE COURT: OKAY. THANK YOU.

1 POST-INDICTMENT ARRAIGNMENT, THOUGH, MONDAY, APRIL
2 15TH AT 8:30 A.M. BEFORE THE DUTY MAGISTRATE JUDGE IN THIS
3 COURTROOM.

4 OKAY. THANK YOU.

5 MS. POTASHNER: THANK YOU, YOUR HONOR.

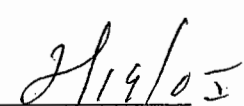
6 MS. DUARTE: THANK YOU.

7 (PROCEEDINGS CONCLUDED.)
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C E R T I F I C A T E

I CERTIFY THAT THE FOREGOING IS A CORRECT
TRANSCRIPT FROM THE ELECTRONIC SOUND RECORDING OF THE
PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.


FEDERALLY CERTIFIED TRANSCRIBER
DOROTHY BABYKIN


DATED