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SUPREME COURT OF THE STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA,)
)
 Plaintiff-Respondent,)
)
 vs.)
)
 KEVIN COOPER,)
)
 Defendant-Appellant.)

CR 72787
 Supreme Court
 No. Crim 24552

APPEAL FROM THE SUPERIOR COURT OF SAN DIEGO COUNTY
 HONORABLE RICHARD C. GARNER, JUDGE PRESIDING
 REPORTER'S TRANSCRIPT ON APPEAL

APPEARANCES:

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 Reporter Pro Tempore

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1 and I've told you I will; I'll keep it out at this time. If
2 you can consider, even consider, going to Los Angeles, is
3 San Diego, downtown, so different from it?

4 If we restrict our jury away from the north county's
5 -- I'm sure they have some sort of jury selection procedure
6 like we do here; they don't call them long distance --

7 MR. NEGUS: The answer is yes.

8 THE COURT: It's completely different?

9 MR. NEGUS: It's completely different.

10 THE COURT: How about minorities? Doesn't it have
11 minorities?

12 MR. KOCHIS: Of course it does. There's a table
13 attached to the change of venue, that I attached, with
14 population change of racial minority, the majority in
15 California. And you can read the percentage of Blacks and
16 Hispanics and Orientals in this county as opposed to -- as
17 opposed to Los Angeles County. It's not all white, by any
18 means.

19 MR. NEGUS: It's -- 5.6 percent of the population of
20 San Diego County is black, 8.9 percent of the city of
21 San Diego. Therefore, I would anticipate that, probably, if
22 the percentage of downtown San Diego -- well, of -- of the
23 district from the Superior Court for downtown San Diego would
24 be somewhere in the neighborhood of 7 percent black and --

25 THE COURT: Our percentage in Ontario is less than
26 that.

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1 Thursday and going Friday, but so far I have a problem with
2 Thursday. And I just want to let you -- everybody be aware
3 of that.

4 MR. NEGUS: I'm sure there's other things we can do
5 on Thursday.

6 THE COURT: Are you ready to proceed on Monday?

7 MR. NEGUS: Yes.

8 MR. KOCHIS: I'll have an expert here on Monday, one
9 on Tuesday, one on Wednesday.

10 MR. NEGUS: And the one on Monday may not be finished
11 on Monday, so we may have to call him back --

12 MR. KOCHIS: And the expert I have on Monday is from
13 northern California; and I would like to finish his testimony
14 on Monday, even if it involves staying in session to 5:00 or
15 5:30 --

16 MR. NEGUS: Is that Wraxall?

17 MR. KOCHIS: Wraxall.

18 -- if that's feasible.

19 THE COURT: Okay. I already told you to move us back
20 to Department 3; strike that.

21 THE CLERK: Are you going to want a daily then,
22 Monday?

23 THE COURT: Yes. And I called off the daily too, so
24 would you have Jon Mikels see if he can get ahold of
25 Mr. Ratekin and get him back on it?

26 Jill will be back Monday, I understand.

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1 THE CLERK: Yes, sir.

2 THE COURT: Okay. So we're going to move on, then,
3 in the case.

4 And I made a couple of changes, now. We've -- I told
5 you about July, and that's fine; but I still -- the plan's
6 that I shall report with the Cooper case to Department 10 in
7 San Bernardino on the 30th of April. When another judge will
8 be occupying my courtroom out there -- the plans initially
9 were that I would handle domestic cases, orders to show
10 cause and so forth, to help out a great need they have in
11 San Bernardino in that regard, on Fridays.

12 Heretofore they have been handling them on Tuesdays
13 of each and every week. And it would be much more convenient
14 for us to work on Cooper on Fridays and give us Tuesdays
15 off --

16 MR. NEGUS: I wouldn't mind taking Mondays off --

17 THE COURT: No. No, no. Mondays would not help me;
18 it would have to be Tuesdays.

19 MR. NEGUS: That's really hard, because one of the --
20 one of the reasons -- Monday or Friday is fine, but if you
21 break it up like that, it makes it difficult -- for me, any-
22 way -- to get all the work done that I have to do.

23 I need the time to work uninterrupted; and usually
24 when I have a situation like that, in the middle of the week,
25 I end up getting -- half the time is just wasted. And in
26 terms of preparation, it's easier to just prepare for a week

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1 my office here over to San Bernardino's. When we're in
2 San Bernardino, it makes it even harder to -- to get work
3 done over there. So I'm -- if you --

4 THE COURT: I assume you would get an office in --

5 MR. NEGUS: That's not necessarily true. And,
6 certainly -- I don't know if you've seen my office, but it's
7 covered with notebooks about the various issues in the case.
8 And that is -- having to move everything back and forth is
9 just almost impossible.

10 THE COURT: I already told Judge Hyde and Conciliation
11 Counselor Moore that I didn't see any reason why it couldn't
12 be done.

13 You know, if -- if I'm interrupted during the day,
14 when I try to do serious research down here, with phones and
15 clerks and the lawyers running in and out, that really
16 bothers me; but if I have as much as one uninterrupted day,
17 it's not breaking me up if I don't have three days --

18 MR. NEGUS: Well, the thing -- I have to move stuff
19 back and forth, and that's a big thing. Plus, it's just
20 easier to plan the work; plus, I also have to go -- on a lot
21 of this technical stuff, I end up having to do -- going to
22 Los Angeles to do the research. And breaking it up like that
23 just makes it very, very difficult.

24 THE COURT: I haven't got you on my side, Mr. Kochis?

25 MR. KOCHIS: Part of my problem is, your Honor, I'm
26 often the one getting -- involved in getting the witnesses

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1 lined up for the next week. And I can call them on Thursday
2 and then spend all day Friday bickering about getting them
3 lined up for the following week --

4 THE COURT: Gentlemen, we all three have our work
5 cut out in this case. And I don't want to lean on you
6 fellows any more than I have, recognizing the difficulty of
7 your job and mine -- and I'm not going to in this instance --
8 but, please, don't get the idea that you're going to tell
9 me -- my clerk is beginning to think that I'm -- I'm being
10 very agreeable on the Cooper case, perhaps too agreeable.

11 Don't get the idea that you're going to tell me what
12 to do all the way through this trial and that I've lost
13 complete control on the case. I don't want to be a rascal
14 on the bench, in any way. But, please, be considerate of
15 other cases I have to do; I have other litigants.

16 And I'll work this thing out in San Bernardino. But
17 let's try it in as cooperative a manner as we consistently
18 can, in regards to your rights to your clients.

19 MR. NEGUS: No one thought you were letting us run the
20 case.

21 THE COURT: Oh, I have memos on that.

22 But this is going to be difficult enough without us
23 being abrasive to each other about our respective obligations.
24 It's a little different in some respects because this is
25 basically the only case you fellows are going to be handling,
26 where I'm also handling other things.

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1 MR. KOCHIS: Your Honor, if you get to the point where
2 you need more than Friday or Tuesdays off, Mr. Negus and I
3 are not going to complain.

4 MR. NEGUS: I'm somewhat surprised that you're doing
5 other cases, to tell you the truth.

6 THE COURT: I told -- it's been kind of hard to move
7 this case somewhere. And I told the Judicial Council that,
8 you know, where ever I went -- consistent with maybe trying
9 to get away early, for travel purposes, I would expect to
10 help the other courts where ever I went, on at least a
11 portion of the -- of an extra day a week; that I've made a
12 commitment to each of you, that you need one day during the
13 week, at least, to do other things, so we'd be a four-day-
14 trial department.

15 I fully expect to help San Diego County, and that's
16 been communicated to them. I fully expect to be working in
17 San Bernardino. They asked me, so I'm going to work on
18 Fridays or Tuesdays.

19 I also start in the mornings with matters between --
20 at 8:30 to 9:30. And then give me warning if there's some-
21 thing that does in deed take another day of my time or some-
22 thing and I'll just have to handle it and make other arrange-
23 ments.

24 Okay. Is there anything else I can anticipate or
25 guard against?

26 As far as the transfer order, I'm definitely not

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1 going to put that through on Monday. As far as -- I'm going
 2 to -- I've got -- I called down there and, as I found out that
 3 Judge Low is on vacation, I did talk to the Assistant P.J. and
 4 told him basically what was going on. And I'll talk to
 5 Judge Low on Monday; mid morning sometime is when I'm set up
 6 to do that. So I'm going to tell him that tentatively -- and
 7 the Judicial Council has requested I do this, too. They want
 8 to know approximately when you're coming.

9 So if I'm gone the -- July -- let's see. I've changed
 10 my vacation somewhat. I'm going to be gone the week of --
 11 this is really better for the purposes of the other jurisd-
 12 iction. Before, I was going to be gone the second week of
 13 July, and now it's going to be the first week in July. So I
 14 would suggest that we plan on starting about the 9th of July,
 15 as far as giving them a tentative date, subject to the Court
 16 of Appeal, the Supreme Court, or whatever.

17 MR. NEGUS: And also in us getting done in that
 18 period of time. I mean, our July 2nd was just an estimate;
 19 I mean, there is no way --

20 MR. KOCHIS: Hopefully we'll be done by July. I hope
 21 to be done by July 9th.

22 MR. NEGUS: Yeah.

23 THE COURT: We may want to get another week's
 24 extension on the waiver from the defendant, on that.

25 MR. NEGUS: Can we just wait on that?

26 THE COURT: Of course. Well, you don't want to do it

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1 first thing Monday, then.

2 MR. NEGUS: Mr. Cooper is not all that happy about
3 going to San Diego. He shares some of my feelings about that.

4 MR. KOCHIS: We have, in effect, a waiver beyond the
5 2nd; we have a ten-day waiver, anyway, so we're protected
6 until the 9th.

7 THE COURT: I have no idea what's come out in the
8 San Diego papers. I think I know something did, because the
9 Assistant P.J. said all he knows is what he reads in the
10 paper.

11 But -- I remember one time I said that I trusted that
12 you two would be heartfelt enough in your expressions that you
13 would not rile the citizens of the jurisdiction that we go.
14 Be careful. Don't say, flatly, "My client can't get a fair
15 trial; the people of San Diego are prejudice against my
16 client." I'm concerned about this.

17 MR. NEGUS: I've already said that, in effect; I'm
18 sure I've been quoted in saying that. And that's my feeling,
19 so what can I say.

20 THE COURT: Okay. Then we shall see you --

21 MR. KOCHIS: Monday morning.

22 THE COURT: -- Monday morning, here.

23 We're only going to be here basically a week before
24 we go to San Bernardino.

25 And I'll give a call right now to the people of
26 San Bernardino, to see if they can retract that Tuesday thing.

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Okay. Thank you.

(The proceedings in the above-entitled matter
were concluded.)

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