

SUPREME COURT OF THE STATE OF CALIFORNIA

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

Supreme Court
Crim 24552

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

Vol. 7

APPEARANCES:

For Plaintiff-Respondent:

HON. JOHN VAN DE KAMP
State Attorney General
Department of Justice
110 West A Street, Suite 600
San Diego, California 92101

For Defendant-Appellant:

In Propria Persona

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C O P Y

NORETA VAN BUSKIRK, C.S.R. C 2116
OFFICIAL REPORTER SUPERIOR COURT

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO
DEPARTMENT NO. 1 (ONT) HON. CLIFTON L. ALLEN, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,)
Plaintiff,) San Bernardino
County No. OCR-9319
-vs-)
San Diego County
KEVIN COOPER,) No. CR-72787
Defendant.)

REPORTER'S TRANSCRIPT OF PROCEEDINGS
JANUARY 18, 1984

APPEARANCES:

For the People: DENNIS KOTTMEIER
District Attorney
316 North Mountain View Avenue
San Bernardino, California

For the Defendant: CHARLES E. WARD
Public Defender
By: DAVID W. NEGUS
Deputy Public Defender

NORETA VAN BUSKIRK, C.S.R.
Official Reporter, C-2116

C O P Y

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1 ONTARIO, CALIFORNIA; WEDNESDAY, JANUARY 18, 1984; 8:30 A.M.

2 DEPARTMENT NO. 1 (ONT) HON. CLIFTON L. ALLEN, JUDGE

3 APPEARANCES:

4 The Defendant with his Counsel, DAVID
5 W. NEGUS, Deputy Public Defender of
6 San Bernardino County; DENNIS KOTTMEIER,
7 District Attorney of San Bernardino
8 County, representing the People of the
9 State of California.

10 (Noretta Van Buskirk, C.S.R., Official
11 Reporter, C-2116)

12
13 (The following proceedings were held
14 in the jury room:)

15 THE COURT: Let the record reflect that this is
16 People versus Kevin Cooper. We are in the jury room at
17 the present time at the request of Counsel.

18 MR. NEGUS: Yes. I would just like to register
19 the objection to the extended coverage. I believe that any
20 additional coverage on television makes it that much more
21 unlikely that Mr. Cooper will ever receive a fair trial
22 because of the publicity in the case.

23 THE COURT: Mr. Kottmeier.

24 MR. KOTTMEIER: I have nothing to offer in
25 regard to argument.

26 THE COURT: All right. Your motion is to

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exclude the coverage, is that it?

MR. NEGUS: Not to have extended coverage: television, and cameras, and radio.

THE COURT: I will deny the motion.

MR. NEGUS: One other thing, your Honor. We mentioned having a conference with Judge Bierschbach between Mr. Kottmeier and myself this afternoon at 1:30. I have explained that what we would be talking about are logistics and just introducing ourselves to Judge Bierschbach. Mr. Cooper would request that he not be made to attend that conference and he would waive his appearance for that conference.

THE COURT: Is that agreeable with you, Mr. Cooper?

THE DEFENDANT: Yes, sir.

MR. KOTTMEIER: That's fine, as long as we have a court reporter present so there is no question as to what went on in Mr. Cooper's absence.

MR. NEGUS: That's fine.

THE COURT: The conference, then, will be at 1:30 in Department 4. He will not have to be present.

(The following proceedings were held in open court:)

THE COURT: Okay. People versus Kevin Cooper.

MR. NEGUS: David L. McKenna, by David Negus, appearing for Mr. Cooper.

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1 MR. KOTTMEIER: Dennis Kottmeier of San
2 Bernardino County appearing on behalf of the People, your
3 Honor.

4 THE COURT: Do you have a copy of the
5 Information?

6 MR. NEGUS: I do.

7 THE COURT: Do you wish to be heard?

8 MR. NEGUS: I would waive formal arraignment on
9 the Information, advisal of rights, reading of the
10 Information, your Honor, and at this point in time I would
11 enter a plea of not guilty on behalf of Mr. Cooper to all
12 six counts and deny all five of the special allegations.

13 THE COURT: All right.

14 MR. NEGUS: In addition, your Honor, I would
15 request that the matter be set down for jury trial within
16 sixty days. I believe we have discussed March 19th as
17 being the jury trial date, and I will be making a series
18 of motions. The first set will be discovery motions, and
19 I would request that that be set for February the 10th at
20 8:30.

21 I believe that you have indicated to us
22 previously that you will be assigning this case to Judge
23 Bierschbach in his department, and we will -- my
24 understanding is that we will be negotiating with him --
25 talking with him, not negotiating, about which actual
26 department the hearing would be held in. At that point in

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1 time, I would also request a hearing on four additional
2 motions which I have in writing and which I am submitting
3 at this point in time: a notice of request for daily
4 transcripts, motions regarding certain records in the
5 Municipal Court proceedings, a motion to compel disclosure
6 of any prior acts the prosecution intends to introduce
7 pursuant to Evidence Code Section 1101(b), and a motion to
8 set time for the filing of notice of evidence in aggravation.

9 THE COURT: Mr. Kottmeier, do you want to be
10 heard?

11 MR. KOTTMEIER: No, your Honor. Those motions
12 can all be handled by whichever judge is assigned by this
13 Court.

14 THE COURT: Okay.

15 All right. I am going to be, then, assigning
16 this case to Department 4, Judge Bierschbach. He will be
17 assigned to handle all motions and subsequent proceedings,
18 including the trial, if there is a trial, and I will
19 assign it for February the 10th, Friday, at 8:30 in
20 Department 4 for a motion for your discovery on these
21 various matters that you have requested. Also --

22 MR. NEGUS: I will be making the written motion
23 for discovery, your Honor. At that point in time I will
24 also be making a motion, which I will file in writing, for
25 a change of venue in this particular case. I will be
26 making a motion pursuant to Penal Code Section 995 dismissing

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1 the information, and I will likewise be making a motion
2 to suppress pursuant to Section 1538.5. Pursuant to our
3 discussions yesterday, I would expect that we would be
4 setting dates with Judge Bierschbach.

5 MR. KOTTMEIER: One minor procedural matter that
6 may have been taken earlier on calendar, I'm not sure:
7 have we appointed the public defender for this hearing in
8 Superior Court?

9 THE COURT: I will appoint the public defender,
10 specifically Mr. Negus, since he was representing him in
11 the lower court. Anything further?

12 MR. KOTTMEIER: The time of 8:30 on February
13 the 10th may be subject to change at a later point because
14 I have the pronouncement of judgment in People versus
15 Lambert in San Bernardino Central that same morning.

16 THE COURT: Let's make it 10:00 instead of 8:30
17 on that date.

18 MR. NEGUS: I have subpoenas typed up. We can
19 change the date. He has a morning calendar that he may
20 have to complete, anyway, by that time, and then I will
21 then tentatively set the jury trial date for March the
22 19th at 8:30.

23 THE COURT: And then Judge Bierschbach will
24 handle all other matters, including the setting of dates
25 for motions that may come before the Court.

26 MR. NEGUS: Thank you.

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MR. KOTTMEIER: Thank you, your Honor.
(The proceedings in the above-entitled
matter were concluded.)

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN BERNARDINO

DEPARTMENT NO. 1 (ONT)

HON. CLIFTON L. ALLEN, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,)

Plaintiff,)

-vs-

KEVIN COOPER,

Defendant.)

No. OCR-9319

REPORTER'S
CERTIFICATE

STATE OF CALIFORNIA)

) ss

COUNTY OF SAN BERNARDINO)

I, NORETA VAN BUSKIRK, Official Reporter of the Superior Court of the State of California, for the County of San Bernardino, do hereby certify that the foregoing pages, 1 through 6, comprise a full, true, and correct transcript of the proceedings taken in the matter of the above-entitled cause on January 18, 1984.

Dated this 17th day of June, 1984.

Noreta Van Buskirk
Official Reporter, C-2116

17-19-84