

1 will be sworn and then take the stand.

2 WHEREUPON,

3 MR. TIM BEACH

4 having been called as a witness by the Defendant in this  
5 matter, and being first duly sworn upon his oath, then took  
6 the witness stand.

7 MR. RACICOT: Your Honor, prior to proceeding with any  
8 witnesses, I think we probably should talk a little bit about  
9 discovery this morning, and as you know, and counsel for the  
10 defendant knows, we have filed two detailed inventory  
11 documents, and then an Amended Inventory document listing  
12 every document that is in our possession that may be relevant  
13 to this case, but there are also some documents that we  
14 received last night when the officers from Louisiana arrived,  
15 and also some documents that were given to me, I believe,  
16 toward the beginning of the week from Lt. Wilson that I would  
17 like to make available to Mr. Moses and I wanted to put it on  
18 the record. First of all, from Lt. Wilson, of the Roosevelt  
19 County Sheriff's office, there are three -- no four, reports  
20 that I believe would be classified as investigative reports  
21 but they don't reflect the names or dates that are involved,  
22 but I do want to make them available and I would like the  
23 record to reflect that I am serving a copy of those particular  
24 reports upon Mr. Moses; and also, I would also like the  
25 record to reflect that I am serving a copy of the Louisiana

1 documents upon Mr. Moses, which consist of the following:  
2 A complaint form, dated one, four, eighty-three, a report  
3 of Deputy County Stutt, dated one, five, eighty-three; a  
4 waiver, dated one, four, eighty-three; an interview of Barry  
5 Allan Beach, dated one, four, eighty-three; an interview of  
6 Caroline Beach, dated one, five, eighty-three and then page  
7 three, of which appears to be a letter, undated, that refers  
8 to the interview of Caroline Beach; a conversation between  
9 Sgt. J. Via and Sheriff Dean Mahlum, of a tape recording,  
10 dated one, five, eighty-three, a chronology of the interview  
11 process that occurred with the defendant on one, seven, eighty-  
12 three; a waiver of rights, dated one, seven, eighty-three at  
13 12:52 PM, and a psychological evaluation dated one, seven,  
14 eighty-three; a statement of several rights, dated two, three,  
15 of eighty-four and a statement of Lt. Allen Warren, dated two  
16 three, eighty-four, and so all of those documents I just  
17 wanted reflected in the records and we will follow up with a  
18 written confirmation, and those are all of the things that we  
19 know that Mr. Moses didn't have, because we just received  
20 them, and then the remainder of the documents are listed in  
21 the two Inventories and I assume have been passed on to Mr.  
22 McCarvel, at least that was our understanding and if there  
23 are any deletions from those inventories we would, of course,  
24 be glad to provide those.

25 THE COURT: Okay.

1 MR. MOSES: May it please the Court, having received these  
2 documents this morning from Mr. Marciot, I would request a  
3 recess for at least ten or fifteen minutes to give me an  
4 opportunity to assess them and to see if any of the  
5 documentation are important with regard to the Motion to  
6 Suppress.

7 THE COURT: All right, we will be in  
8 recess and let me know when you are  
9 ready to proceed.

10 AT THIS TIME, the Court stood in recess from the hour  
11 of 9:05 o'clock A.M., until the hour of 9:23 o'clock  
12 A.M., after which time, the following proceedings took  
13 place:

14 THE COURT: Court is in session, you  
15 may be seated. Let the record reflect  
16 that all of the people that I named  
17 are present back in Court, and so you  
18 may now proceed, Mr. Moses.

19 MR. MOSES: Mr. Beach would you come forward and take the  
20 stand please. (Having been already sworn in by the Clerk of  
21 District Court)

22  
23 DIRECT EXAMINATION

24 By Mr. Moses:  
25

1 Q Would you state your name please?  
2 A Tim Beach.  
3 Q And where do you live, Mr. Beach?  
4 A Bastrop, Louisiana.  
5 Q And where is that town in relationship to  
6 Monroe, Louisiana?  
7 A It is approximately thirty miles north.  
8 Q What is your occupation, Mr. Beach?  
9 A Mechanic, a general mechanic.  
10 Q And what kind of a mechanic are you?  
11 A A paper mill.  
12 Q And how long have you worked there?  
13 A Thirty years.  
14 Q And how long have you been a resident of  
15 Louisiana?  
16 A All my life.  
17 Q Are you related in any way to Barry Allen Beach  
18 who is sitting here with me at the counsel table?  
19 A Yes sir.  
20 Q And what is that relationship?  
21 A He is my nephew.  
22 Q He would be your brother's son then?  
23 A Yes sir.  
24 Q And what is the name of your brother?  
25 A Bobby Beach.



- 1 Q And where does he live?
- 2 A Well he lives sort of close to -- well, it is
- 3 sort of a suburb of Monroe.
- 4 Q And how big is Monroe, Louisiana?
- 5 A Oh, I don't really know the population, Sir.
- 6 It is a twin city deal.
- 7 Q Would it be fifty to a hundred thousand, in that
- 8 range somewhere?
- 9 A Yes.
- 10 Q Mr. Beach, I am going to direct your attention
- 11 to a period of time, starting with January 4th, 1983, and for
- 12 a period thereafter during that particular week. I am going
- 13 to ask you whether you received any communication from
- 14 Roberta Clincher?
- 15 A Yes I did.
- 16 Q And do you remember when that was, Mr. Beach?
- 17 A Not exactly, Sir, but it was in the evening.
- 18 Q And do you know what day it was?
- 19 A Not exactly, but it was somewhere around the
- 20 5th, or the 4th or the 5th, I don't know exactly.
- 21 Q And who is Roberta Clincher?
- 22 A That was my brother's wife.
- 23 Q She is his ex-wife?
- 24 A Yes.
- 25 Q And is she the mother of Barry Allen Beach?

1 A Yes sir.

2 Q What did she want you to do? I am not asking  
3 you to relate the conversation but simply what did she want  
4 you to do?

5 A Well ---

6 Q Did it concern Barry Allen Beach?

7 A Yes sir. She told me that he was having some  
8 trouble and that he had been arrested and that she wanted me  
9 to go in and investigate and see what the details were, that  
10 he was in jail, and to get him out of jail for her.

11 Q Bond him out?

12 A Yes sir.

13 Q And as a result of that conversation, Mr.  
14 Beach, what did you do?

15 A The next thing I called my brother and he  
16 verified the fact that they were having trouble and that he  
17 did have him arrested, and I asked him if he would release  
18 him to my custody and he said he wouldn't.

19 Q Did you make any arrangements for the posting  
20 of bail, or make any effort to do so?

21 A I tried to, Yes sir.

22 Q What did you do?

23 A I went to my brother's and talked to him and  
24 then I went to the courthouse and talked to the District  
25 Attorney -- the Assistant District Attorney and tried to get

1 him out and couldn't.

2 Q What was the bail, if you know?

3 A Mr. Via told me it was fifteen hundred dollars  
4 bail, and I told him that I was prepared to bail him out and  
5 he asked me what type of bail I was prepared to put up and I  
6 told him cash.

7 Q So that you were ready, willing and able at  
8 that time to put up the bail in the form of cash?

9 A Yes sir.

10 Q And you had the cash available to do that?

11 A Yes, with me, yes sir.

12 Q And did you talk to Mr. Via in that connection?

13 A Yes sir.

14 Q And who is Mr. Via?

15 A He is an investigator, is all that I know.

16 Q Was this bail for the charge of which he had  
17 been arrested, that is, contributing to the delinquency of a  
18 minor?

19 A Yes sir.

20 Q Were you ever able to put up bail to get him  
21 released?

22 A No.

23 Q Did you talk to the District -- do they have  
24 a District Attorney or County Attorney there, or a Parish  
25 Attorney?

1           A           They have a District Attorney, and he had an  
2 Assistant.

3           Q           Do you recall who you talked with?

4           A           No sir, there were several people there and I  
5 am not familiar with any of them; I don't know one from the  
6 other.

7           Q           But you did talk with an attorney?

8           A           Yes sir.

9           Q           And you also talked with Mr. Via?

10          A           Yes sir.

11          Q           And did the father talk to the County Attorney?

12          A           Yes sir.

13          Q           And do you know whether anyone was present,  
14 other than the County Attorney and the father of Mr. Beach?

15          A           I don't know who was in the room because when  
16 we first got there, he left me outside and said he would be  
17 right back and they went in the back and talked for hours  
18 in the back there.

19          Q           When you say "hours" how long would you  
20 estimate it to be?

21          A           Two or three hours, before he came back out.

22          Q           Did Mr. Via make any statement with respect to  
23 whether Barry Beach needed any help with a psychological or  
24 psychiatric problems?

25          A           Yes sir, he told me that he needed help and that

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1 he would get him help.

2 Q Now do you know what day this was that you were  
3 at the courthouse with your brother?

4 A No sir, 'cause I was there three days, you know,  
5 on three different days, you know.

6 Q Trying to get him out?

7 A Yes sir.

8 Q Were you ever able to personally talk to Barry  
9 Beach face to face?

10 A No sir.

11 Q Did you try?

12 A Yes sir. I stayed there until after midnight  
13 trying.

14 Q Now there is some testimony in this case that  
15 will be produced that he gave a statement, that Barry Beach  
16 gave a statement sometime on January 7th, 1983 of that evening.  
17 Did you have any conversation with the father about dropping  
18 the charges with respect to Barry?

19 A Yes sir, he finally agreed that he would drop  
20 the charges if I would get him back to Montana.

21 Q Was that before he made his statement to them?

22 A Well I don't know when he made his statement.

23 Q What did you do when Mr. Beach agreed to drop  
24 the charges?

25 A We went to the District Attorney's Assistant

1 and he told the Assistant District Attorney that he was  
2 dropping all charges, and he said to go to the courthouse  
3 and wait and he would be released.

4 Q Did you talk to Mr. Via too about that?

5 A Well at that time, I am not sure. I had seen  
6 him so many times, but I do think that both the District  
7 Attorney and Mr. Via said he would be released and that we  
8 could go to the courthouse.

9 Q And did you go to the courthouse?

10 A Yes sir.

11 Q And what did you do at the Courthouse, Mr.  
12 Beach?

13 A We went over there and waited for an hour or  
14 two and the release didn't show up and so we went and talked  
15 to the Sgt. at the courthouse there and asked him about this  
16 and he said that he hadn't received any release forms at all,  
17 and he said he would check it out and so he got on the phone  
18 and then he came back and said that Mr. Via wanted to see  
19 us again, and so we went back over and we were informed that  
20 some more charges had been brought.

21 Q What did he tell you about releasing him?

22 A He said he couldn't release him.

23 Q Why not?

24 A He said he was holding him for some investigation  
25 on some murders that had occurred.

1 Q Would he release Barry under any circumstances?

2 A No sir, later on I asked him that question.

3 Q And what did he say?

4 A He said he couldn't or wouldn't.

5 Q I take it that for a period of two or three  
6 days then that you were in and out of the courthouse trying  
7 to get Mr. Beach released on bail and you were trying to talk  
8 to him and that you were unsuccessful in either posting bail  
9 or get in to see him?

10 A I was wanting to talk to him to find out what  
11 his side of the story was. I had heard my brother's side of  
12 the story but I still didn't really know what had happened,  
13 you know.

14 Q How many days were you there, trying to get  
15 bail for -- to post bail for Mr. Beach, one or two days?

16 A At least two days and part of the third day.

17 MR. MOSES: I have no further questions for Mr. Beach, and  
18 now Mr. Beach, the other side gets to ask you some questions.

19

20 CROSS EXAMINATION

21 By Mr. Racicot:

22 Q Mr. Beach, you're not sure what day it was that  
23 Roberta Clincher called you?

24 A Not exactly, Mr. Racicot, but I could look it  
25 up maybe.



1 Q Would you be able to tell me that by looking  
2 it up?

3 A Yes sir.

4 Q If the Defendant was arrested on the 4th of  
5 January, on the contributing charge, it could have been either  
6 the fourth or the fifth?

7 A I think it was the 5th, because I know I didn't  
8 go in until the next day, and I think she called me one night  
9 on either the 4th or the 5th. She called me at night.

10 THE COURT: Do you need a calendar?

11 A No. I know that I couldn't go that night, it  
12 was late, but I did go the next morning and I called my  
13 brother that night and made an agreement that I would meet  
14 him the next morning as scheduled, and try to find out what  
15 happened, you know.

16 Q But you are not really clear just what day that  
17 was?

18 A No.

19 Q But it was after the Defendant was in jail?

20 A Oh yes.

21 Q On the contributing charge?

22 A Yes. You see, he had called his mother and in  
23 return, she called me to see if I could get bail for him and  
24 try to get him out; they was in real serious trouble at that  
25 time, fighting among themselves, you know.

1 Q Okay and so you were aware of what had taken  
2 place between Bob Beach and the defendant? Bob and Caroline  
3 Beach and the Defendant?

4 A Only what they told me of what had happened.

5 Q And they informed you about all of the circum-  
6 stances surrounding the contributing charge?

7 A Well my brother did, he told me what had  
8 happened, yes.

9 Q Were you aware of their concerns about and why  
10 they had filed charges against the Defendant?

11 A Oh yes.

12 Q You were aware of the fact that the Defendant  
13 had threatened to kill him?

14 A My brother -- well the only thing I know is what  
15 my brother said, and his wife. Said they had threatened to  
16 kill each other.

17 Q Did your brother tell you the fact that the  
18 defendant threatened to kill his wife, and him?

19 A They threatened to kill each other, they had  
20 threatened to kill Barry, and Barry had threatened to kill  
21 them, or him.

22 Q Now you are not sure what day that was? It  
23 could have been the 5th, but you are not sure, it could have  
24 been the 5th or the 6th?

25 A I think it was the 5th, anyhow, I got the call  
one night from her and I went in the next day and talked to

1 my brother and he told me what had happened, you know, and of  
2 course his wife was there any everything.

3 Q But my question is: You are not exactly certain  
4 of what day it was?

5 A No, but it was the day after I got the call.

6 Q But that could have been anywhere from the 4th  
7 to the 6th of January?

8 A Like I say, I don't remember the exact date. I  
9 would have to look it up and work on that.

10 Q Okay. So you went to the courthouse the next  
11 day after you got the call from Roberta Clincher, you went to  
12 the courthouse the next day with your brother?

13 A Yes.°

14 Q And your purpose in going there was to see if  
15 you couldn't post a bond to get the defendant released?

16 A To talk to him to find out what really happened  
17 and tried to get this thing squished down, you know.

18 Q And did you talk to Sgt. Via that morning? Was  
19 it in the morning that you went to the courthouse?

20 A Yes sir.

21 Q And you talked to Sgt. Via that morning?

22 A The best I remember, and like I say, I was  
23 three days there, and we talked that morning.

24 Q Okay and it was at that time that you inquired  
25 as to what the bail was?

1           A           Yes.

2           Q           And the purpose of it was to see if you couldn't

3 post bail and get Barry out of jail?

4           A           Yes, and talk to him and try to find out what

5 really happened.

6           Q           And this was on the first day, was it?

7           A           Yes, my brother and I spent the whole day out

8 there.

9           Q           And so you were there for the whole day, and

10 working with this thing during this period of time there at

11 the courthouse, is that what you are saying?

12          A           Yes sir.

13          Q           And then you went to see Sgt. Via?

14          A           Yes.

15          Q           And did you have a chance to talk to him?

16          A           Yes sir, but my brother talked to him first for

17 two or three hours.

18          Q           It was a two or three hour conversation?

19          A           Yes, well I know that it was for a long period

20 of time, and I was sitting out there on a hard bench and

21 just walking around waiting to see what was going on.

22          Q           And did you then find out what the bail was set

23 at?

24          A           Yes, but that was later.

25          Q           Later that day?

- 1           A           Yes.
- 2           Q           And did you talk to the Assistant District  
3 Attorney also that day?
- 4           A           They were in the same office, together.
- 5           Q           And with Sgt. Via?
- 6           A           Yes.
- 7           Q           And was your brother present at that time?
- 8           A           Yes sir.
- 9           Q           At any point in time, on that day, did you also  
10 have another conversation with Roberta Clincher?
- 11          A           One night we did, yes, but that was lat at  
12 night.
- 13          Q           And was it to your brother that this matter  
14 about psychological or psychriatric help was mentioned to?
- 15          A           Mr. Via told me and my brother.
- 16          Q           And it is your recollection that it was for  
17 about a period three days that you were trying to get bail  
18 posted?
- 19          A           Yes.
- 20          Q           And it is your recollection that you didn't  
21 do anything the night that Roberta Clincher called you?
- 22          A           I didn't do anything that night, no.
- 23          Q           And then for the nextthhree days after that,  
24 you were at the courthouse?
- 25          A           In and out, yes.

1 Q You were in and out of the courthouse for the  
2 next three days?

3 A Yes.

4 Q And you also talked with your brother and his  
5 family?

6 A Yes.

7 Q And going back and forth to the courthouse?

8 A Yes, sometimes we went over there together.

9 Q And talked to Roberta Clincher also?

10 A On the telephone, yes.

11 Q And you stated, I believe, that you stayed there  
12 one day attempting to see the Defendant?

13 A Yes.

14 Q And do you recall what day that was?

15 A No.

16 Q It could have been the first day, the second  
17 day or the third?

18 A Well I know it wasn't the third day, so it had  
19 to be either the first or second day.

20 Q One night you wanted to talk to Barry?

21 A Yes, and that could have been the first night, yes.

22 Q And you stayed there until after midnight?

23 A Yes.

24 Q Were you told by somebody that you may get to  
25 see him?

1           A           Well I was inquiring about that, yes, that I  
2 wanted to see him.

3           Q           And was it during visiting hours?

4           A           No.

5           Q           Do they have normal visiting hours?

6           A           Right, but this wasn't during regular visiting  
7 hours and so I didn't get to see him.

8           Q           Was he present in that building?

9           A           Nothing said about that.

10          Q           And you did make a request that you wanted to  
11 see him?

12          A           Yes.

13          Q           And you did attempt to see him?

14          A           Yes, to try to talk to him and find out his  
15 side of the story.

16          Q           But as I understand it, you did talk to him on  
17 the phone?

18          A           One time, yes sir.

19          Q           And did you hear his side of the story?

20          A           No.

21          Q           Didn't you ask him what had happened?

22          A           Not on the phone.

23          Q           Why not?

24          A           Well first of all, he had talked to his mother,  
25 and he told me that he didn't want to have me tell his mother  
what had happened, didn't want to worry her, I guess.



1 Q Well at that time, wasn't it your belief that  
2 he should be released immediately and that you tried to  
3 convince your brother of that fact?

4 A I talked to him about it, yes, I talked to my  
5 brother about that.

6 Q And when was that?

7 A One late night, and I think it would be the  
8 first or second night, I don't know, I am not sure.

9 Q So that you don't know if it was the last day  
10 you were involved in this three day process when you convinced  
11 Bob Barry to drop the charges, is that right?

12 A I believe it was on the second day that I was  
13 involved in this, and he finally agreed that he would drop  
14 the charges and they wouldn't drop the charges?

15 Q That was the third day that you found out he  
16 couldn't be release, am I right on this?

17 A The second day I think, and then on the third  
18 day we went to see the lawyer.

19 Q Okay.

20 A And once the lawyer went over there too; he  
21 went over there too.

22 Q Now the defendant had called you on the phone  
23 didn't he?

24 A Sgt. Via said Barry tried to, yes.

25 Q Did you tell Sgt. Via that you wanted to talk  
to the defendant?

1           A           Yes.

2           Q           And did he agree to that?

3           A           Yes.

4           Q           And you finally did talk to him on the phone?

5           A           Yes, late at night.

6           Q           Didn't the defendant tell you that he didn't  
7 want to get out?

8           A           At that time he said he didn't.

9           Q           That is right, on the phone that night -- was  
10 it not true that by that time, everybody thought that it would  
11 be a good idea if he stayed in jail?

12          A           Yes.

13          Q           Including you?

14          A           Yes.

15          Q           At that time?

16          A           Yes.

17          Q           And that was on the night after Roberta Clincher  
18 had called you and asked you if you could try to get him  
19 released, right?

20          A           Well this is over a year and a half ago. I  
21 didn't take any notes, you know.

22          Q           But it could have been either the first or the  
23 second night?

24          A           Yes, it had to be either the first or the  
25 second night, yes sir.

1 Q Okay. And one of the things that Bob Beach  
2 told you when he said he would be willing to drop the charges,  
3 was that he wanted the defendant leave there and come back  
4 to Montana?

5 A SAid they couldn't get along together, right.

6 Q And his idea was that if you took him or sent  
7 him back here to Montana that he would drop the charges?

8 A Yes.

9 Q And so you went to see the District Attorney  
10 or the Assistant District Attorney then?

11 A Yes.

12 Q And you think that this was on the second day?

13 A Yes I am sure of that.

14 Q And the Assistant District Attorney said they  
15 would drop the charges?

16 A Yes.

17 Q And then he went over to the jail?

18 A Yes.

19 Q To get this release?

20 A Yes.

21 Q And then you were informed by Sgt. Via that  
22 there had been some new charges filed?

23 A He didn't say charges, he said they were holding  
24 him as a suspect for murder.

25 Q And this was on the second day?

A Yes.

- 1 Q But it could have been the third day?
- 2 A Yes sir.
- 3 Q That is correct?
- 4 A Yes sir. I am not sure, I didn't write all of
- 5 this stuff down, you know.
- 6 Q I am not trying to trick you, Mr. Beach, and all
- 7 I am trying to do is to clear some of these details about it
- 8 up, what day a thing happened.
- 9 A Sure.
- 10 Q Now when you say you wanted to talk to Barry
- 11 for two or three days, isn't it a fact that you did talk to
- 12 him on the phone, either on the 2nd or third night, and he
- 13 said he was content to stay in jail, and you were content
- 14 that he stay there, and Bob Beach was and so was Roberta
- 15 Clincher?
- 16 A Yes sir.
- 17 Q But that would be an accurate statement?
- 18 A Pretty close, yes.
- 19 Q Did Sgt. Via tell you that it was up to you if
- 20 you wanted to post bail for Barry?
- 21 A No.
- 22 Q Then what happened?
- 23 A Well at that point in time, I hired a lawyer
- 24 and told him about the situation, what it was.
- 25 Q You didn't go to anyone else and ask if you

1 could post this bail?

2 A No, I thought that I had the right to post  
3 bail.

4 Q Did you have the cash?

5 A Yes sir.

6 Q Did you offer the cash as a bond?

7 A Yes sir.

8 Q You offered \$1,500.00 in cash for a bail bond?

9 A Yes, he asked me if I had cash and I said I  
10 had the cash to do it.

11 Q You told Sgt. Via that?

12 A Yes sir, and he said he wouldn't do it.

13 Q He wouldn't accept the bond, the cash for the  
14 bond?

15 A At that time, he said he wouldn't accept it,  
16 or words to that effect.

17 Q What words?

18 A He said that -- in words to the effect that  
19 if Barry was released, that it is possible that someone would  
20 get killed, that Barry and Bob and Caroline Beach were not  
21 getting along, threatening to kill each other.

22 Q Now this was on the morning of the first day?

23 A Late at night.

24 Q Of the first day?

25 A Second day I believe.

1 Q The second day?

2 A Yes.

3 Q I see.

4 A That we should leave him there until everybody  
5 got cooled down, and then maybe to post the bond.

6 Q And at that time, he had been there, in jail  
7 for a couple of days?

8 A I don't know what time, what day, he was  
9 arrested, Sir.

10 Q But you didn't attempt to post bond until the  
11 second day, on the evening of the second day?

12 A Well that day, yes.

13 Q And that it was after you had offered to post  
14 bond, that you talked to the defendant on the phone?

15 A I talked to him on the same night.

16 Q That you offered the bond?

17 A Well, after offering the bond, we talked to  
18 him. Sgt. Via told us that it would be best just to leave  
19 him there, as it was just a misdemeanor charge, and I was  
20 trying to or wanting to post this \$1,500.00 bond.

21 Q Well there were actually two charges, correct?

22 A I don't recall just what charges there were,  
23 except what my brother told me and Sgt. Via.

24 Q And that was after posting the bond?

25 A I didn't post the bond. Tried to.

1 Q Or offered cash to bond him out?

2 A Yes.

3 Q And that was when he said, that is, Sgt. Via,  
4 told you that he could stay there overnight and then be  
5 released to your custody the next day?

6 A Yes.

7 Q And that you believe that this occurred on the  
8 second day?

9 A Yes.

10 Q And then the next day you went and hired a  
11 lawyer?

12 A Well the next day, they didn't release him and  
13 that was when we went to hire a lawyer, 'cause the next day  
14 they wouldn't release him.

15 Q And did you talk to Sgt. Via about hiring a  
16 lawyer?

17 A Yes.

18 Q And did he offer you some advise in that regard?

19 A Yes.

20 Q Did he say that that was a decision that you  
21 had to make?

22 A He said I was wasting my money.

23 Q Wasting your money?

24 A Yes.

25 Q Do you recall him telling you that the Defendant



1 had an absolute right, a legal right to counsel?

2 A He said he didn't want a lawyer.

3 Q What?

4 A He said he didn't want a lawyer.

5 Q Did Barry tell you that?

6 A No.

7 Q Did you ask him that?

8 A No.

9 Q Sgt. Via didn't tell you that it was your  
10 decision, the defendant's decision to have counsel if he  
11 wanted one, that he had an absolute right to counsel?

12 A I knew that he couldn't hire a lawyer.

13 Q Do you recall if Sgt. Via told you that Barry  
14 had an absolute right to hire a lawyer and that he would not  
15 make that decision for him?

16 A That Barry had a right to have one?

17 Q Did Sgt. Via tell you that the Defendant had  
18 an absolute right to have a lawyer?

19 A Well I don't remember that part of it, but I  
20 do remember him telling me that if I wanted to hire a lawyer,  
21 to go ahead, but that I was wasting my money.

22 Q That is how you recall the conversation?

23 A Yes sir.

24 Q You don't recall him telling you that Barry had  
25 an absolute right to counsel, but that either you or Barry  
Beach would have to make that decision?

1           A           He said he could have a lawyer, but that I  
2 would be wasting my money.

3           Q           But that he, Sgt. Via, didn't want to make  
4 that decision, and that either you or the Defendant had to  
5 make that decision?

6           A           I guess so.

7           Q           Did you ask Sgt. Via if he could have a  
8 lawyer?

9           A           Yes.

10          Q           And did Sgt. Via say to you that he had the  
11 right to hire a lawyer?

12          A           Yes, and if I wanted to waste my money, Okay,  
13 and he told me that if my brother dropped those charges, he  
14 would be free, that he would be free to go.

15          Q           You don't recall though that Sgt. Via told you  
16 that the defendant had an absolute right to counsel, to have  
17 a lawyer.

18          A           Well I knew that, I already knew that.

19          Q           And he told you that this would have to be  
20 your decision?

21          A           That it was Barry's decision.

22          Q           Did Sgt. Via say to you that it would have to  
23 be Barry Beach's decision?

24          A           Well it wasn't my decision.

25          Q           You are not answering my question. What did

1 Sgt. Via tell you? Did he tell you that the decision to  
2 get an attorney would have to be your decision, or Barry's  
3 decision?

4 (No response)

5 Q And that Sgt. Via wasn't going to make that  
6 decision for you?

7 A He wouldn't make that decision, right.

8 Q And he told you that any decision to get a  
9 lawyer, would have to be made by the defendant ---

10 A That it would be up to me.

11 Q Yes.

12 A Yes.

13 Q Or the defendant, if he wanted counsel?

14 A Yes.

15 Q He didn't tell you that you couldn't have a  
16 lawyer, did he?

17 A No, Oh no.

18 Q Now when you went to see Sgt. Via to have the  
19 Defendant bailed out, on the evening of the second day, or  
20 second night, was Bob Beach at that time trying to convince  
21 you to leave the defendant in jail?

22 A Yes.

23 Q And he is the defendant's father?

24 A Yes.

25 Q And you wanted to know at that point in time

1 in talking to Sgt. Via, if the defendant could be made to  
2 undergo psychological treatment?

3 A That was ---

4 Q To treat his emotional problems?

5 A That was between Bob Beach and the defendant,  
6 excuse me, Bob Beach and Sgt. Via?

7 A Yes, he told him that he could get free help  
8 from the court, through the court, if we would leave him in  
9 there and he could get free help, you know, a doctor's help  
10 if he needed it, and if he was bonded out, he wouldn't get  
11 that help.

12 Q And was the Assistant DA there then?

13 A No sir.

14 Q Now wasn't it a fact, Mr. Beach, isn't it a  
15 fact, that this is what Mr. Via told you, that if the  
16 defendant was found guilty of the charges, all of the things  
17 that was involved in this would be pointed out to the Judge  
18 and that it would be up to the Judge to allow him psychological  
19 treatment?

20 A No sir, that wasn't the way it was at all.

21 Q Didn't you tell Sgt. Via at the time that you  
22 were trying to post bond that you were acting only at the  
23 request of the defendant's mother?

24 A Yes sir.

25 Q Roberta Clincher?

A Yes sir.

1 Q And you want further and told him that if she  
2 did not want him out of jail, that you would abide by her  
3 wishes?

4 A That is true.

5 Q And in fact she made it know that she didn't  
6 want him out of jail, correct?

7 A Yes sir.

8 Q Okay, and ---

9 A That is when I left.

10 MR. RACICOT: Your Honor, could I have just one moment please?

11 THE COURT: Yes.

12 Q Mr. Beach, it is your recollection that you  
13 had serveral different meetings, several different  
14 conversations over this three day period with Sgt. Via?

15 A Yes.

16 Q Now do you remember when you made your decision  
17 not to bond the defendant out on the evening of the second  
18 night, was Commander Calhoun there?

19 A There was a Gentleman there, in and out, but  
20 I don't remember who he was.

21 Q You don't see him here in the courtroom?

22 A I just don't remember him. I know Sgt. Calhoun,  
23 I know him lately, you know.

24 MR. RACICOT: Okay. Nothing further of this witness.

25 REDIRECT EXAMINATION

1 By Mr. Moses:

2 Q Mr. Beach, I understand that on cross examin-  
3 ation that Mr. Via told you that if you got an attorney it  
4 would be a waste of time or money, because this was just a  
5 misdemeanor but you could go ahead and do it, but it would be  
6 a waste of money, or something to that effect?

7 A Yes sir.

8 Q And when you were there to produce the bond,  
9 did you have the cash with you?

10 A Yes sir.

11 Q And then the matter was deferred and you under-  
12 stood that Barry Allan Beach was going to be released the  
13 following day, is that right?

14 A Yes sir. My brother and I went there and waited  
15 for him.

16 Q And how long did you wait?

17 A A couple of hours there, waiting for him.

18 Q And how long did you wait, did you say?

19 A Couple of hours.

20 Q And you had been advised that he was going to  
21 be released and you wouldn't have to put up bail, weren't you?

22 A Right.

23 MR. MOSES: I have no further questions.

24 RECROSS EXAMINATION

25 By Mr. Racicot:

1           Q           Mr. Beach, are you telling me that the night  
2 you attempted to post bond, you were told that the defendant  
3 would be released the next day?

4           A           No sir.

5           Q           That was the next day?

6           A           Next morning, that we showed up.

7 MR. RACICOT: Thank you.

8 MR. MOSES: I have nothing further from Mr. Beach. He has  
9 come from Louisiana and I would ask that he be permanently  
10 excused.

11 MR. RACICOT: We have no objections to that.

12           WHEREUPON this witness was then EXCUSED.

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