

APPEARANCES:

ON BEHALF OF PLAINTIFF:
OFFICE OF THE UNITED STATES ATTORNEY
BY: ELENA J. DUARTE
 JASON GONZALEZ
ASSISTANT UNITED STATES ATTORNEY
312 NORTH SPRING STREET
LOS ANGELES, CALIFORNIA 90012

ON BEHALF OF DEFENDANT:
GREG NICOLAYSEN
8530 WILSHIRE BOULEVARD
SUITE 404
BEVERLY HILLS, CALIFORNIA 90211

ALSO PRESENT: JEFF CUGNO, FBI CASE AGENT

FRIDAY, JANUARY 17, 2003; LOS ANGELES, CALIFORNIA

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Item Number 1, CR 2002-350-AHM, United States versus Steven William Sutcliffe. Counsel, state appearances, please.

MS. DUARTE: Good morning, Your Honor. Elena Duarte and Jason Gonzalez on behalf of the United States.

MR. GONZALES: Good morning, Your Honor. Jason Gonzales on behalf of the United States.

THE COURT: Good morning.

MR. NICOLAYSEN: Good morning, Your Honor. Greg Nicolaysen from the CJA indigent defense panel here at the request of the court to consider the possibility of appointment.

THE DEFENDANT: Steven Sutcliffe present.

THE COURT: Okay. Mr. Nicolaysen, you were contacted, I think, by the court clerk because of your membership on the CJA panel, and especially because of what I have been informed is your unusually extensive experience with computer law, computer usage and computer technology.

I already reviewed very carefully and at a previous proceeding issues relating to representation by counsel by Mr. Sutcliffe. I don't intend to do that again today. I made a specific finding that he sensibly declined to exercise his right to proceed on his own under the Ferreta doctrine and to represent himself. I explained that was a wise choice but that he had no authority or power and neither did I to arrange for

funds to be provided to him personally to select successor counsel.

You are now appointed as counsel. You will be serving as counsel for Mr. Sutcliffe and we will proceed on that basis.

I think you may already know, Mr. Nicolaysen, but you're free to discuss this with Mr. Sutcliffe as you are everything relating to his situation, that there are two sets of prior counsel in this case. Initially the Federal Public Defenders Office represented Mr. Sutcliffe. And until the hearing on, I think it was Tuesday, Mr. William Harris represented him.

I have explored with Mr. Sutcliffe certain things relating to who would succeed Mr. Harris and what would happen with respect to that relationship. I explored those things outside the presence of the government. I anticipate but would encourage both of you to discuss what I explained to Mr. Sutcliffe when you have an opportunity to confer with each other. You may have learned that after exploring a number of issues at considerable length, acting on my own and exercising my inherent authority as well as my authority under Title 18, I determined that a competency examination would be not only be warranted but necessary.

The prosecutor has submitted a proposed order which we'll turn to later. But I think the first order of business is to arraign Mr. Sutcliffe on the First Superseding Indictment.

Let's do that, please.

THE DEFENDANT: I want to object to these proceedings. I have not authorized this man to speak for me. If anybody in the courtroom thinks they have authority to speak for me I want to see their authority right now.

THE COURT: Mr. Nicolaysen -- sit down, Mr. Sutcliffe.

THE DEFENDANT: I will proceed with my arraignment, if you wish. No man --

THE COURT: Sit down, Mr. Sutcliffe.

THE DEFENDANT: No man speaks for me unless he can show me his authority that I signed over and delegated him to speak for me.

THE COURT: Mr. Nicolaysen is your lawyer and he's proceeding under the authority of the court.

THE DEFENDANT: No, he's not my lawyer. He's your lawyer. He's not my lawyer. He's your lawyer.

THE COURT: Mr. Sutcliffe, you will be arraigned on the Superseding Indictment.

MR. NICOLAYSEN: Does Your Honor wish us to remain at counsel table?

THE COURT: You should go to the lectern.

MR. NICOLAYSEN: Fine. Come on, Steve.

THE DEFENDANT: I object. I object. I want to see your authority to speak for me before you attempt to speak for me.

THE COURT: Mr. Sutcliffe, you will be addressed directly by the clerk.

THE DEFENDANT: I want to see your delegation of authority that I have given you to speak for me.

THE COURT: Mr. Sutcliffe --

THE DEFENDANT: Acknowledge that, sir. You do not speak for me. Acknowledge that, sir.

THE COURT: He has no duty to acknowledge that and you have no authority to interfere with that.

THE DEFENDANT: I have not given you authority to speak for me. Your silence acknowledges that.

Would this court like to arraign me now?

THE COURT: Yes.

THE DEFENDANT: Fine.

THE CLERK: Is Steven William Sutcliffe your true and correct name?

THE DEFENDANT: No.

THE COURT: What is your true and correct name?

THE DEFENDANT: Steven of the Sutcliffes.

The correct spelling is upper case S, lower case t, lower case e, lower case v, lower case e, lower case n, hyphen, upper case W, lower case i, lower case l, lower case l, lower case i, lower case a, lower case m, colon, space, upper case S, lower case u, lower case t, lower case c, lower case l, lower case i, lower case f, lower case f, lower case e.