

Ineffective Assistance Of Counsel

Sager v. Maass, 84 F.3d 1212 (9th Cir. 1996) (Counsel was found ineffective for not objecting to inadmissible evidence). [Goes to Nicolaysen and Harris.](#)

*1United States v. Del Muro, 87 F.3d 1078 (9th Cir. 1996) (Prejudice was presumed when trial counsel was forced to prove his own ineffectiveness at a hearing). [\[Goes to William "Bill" Harris, Hearing of 11.21.2003, beginning on or about Page 13-, regarding appointment of expert to learn PC speak.\]](#)

See Transcripts of 11.21.2002 and 12.04.2002 and 01.10.2003

Transcript of 01.14.2003

Docket # 113

Accused waived right to Speedy Trial @ page 32.

Page 15, Lines unknown

“When I asked my counsel for exculpatory material, and I have asked from the day I set foot in this California, in the State of California for certain discovery matters, and to this day, not one hour, not a half hour ago I heard Mr. Harris sit here and talk to the U.S. attorney. And she’s having to explain to him what a hard drive is. If that’s not incompetent, as I raised my previous time issue, that he’s not computer literate. [This is about computers.](#) He [doesn’t even know what a hard drive is](#), has put me at a detriment. Further, at the hearing on Friday, I asked him,”

Continued on Page 16, Lines unknown

“notwithstanding the other requests I have made to him in the past, I asked him to challenge when the U.S. attorney stood up and told this court a [bald-faced lie regarding killercop.com](#) and it’s correlation between evilgx.com. I’m not going to sit here with somebody who’s incompetent and won’t admit it and won’t effectively assist me.”

¹ If a case is preceded by an asterisk (*), that means the case may have been distinguished by another court. It should be researched to see if it is authority in other jurisdictions. None of the cases should be cited without first reviewing the entire opinion.

Transcript of 12.04.2002

Docket #71 & 73, Also Speedy Trial Right @ page 25 & 28

Page 19, Lines 22-24

Harris: “She [BOP paralegal who Sutcliffe accused of attempting to cover up the missing CD-ROMS brought to BOP by Harris] seemed to agree with my point that there certainly would be a way to do this [Provide accused with access to PC discovery] if *he were pro per.*”

Page 20, Lines 8-10

Judge: “Namely, that within reasonable limits Mr. Sutcliffe be given access to a computer into which he could insert hard drives or disks ...”

Page 20, Lines 21-22

Harris: “[t]here’s a *substantial volume* but a finite volume of evidence in this case, ...”

Page 22, lines 3-8

Harris: “Mr. Sutcliffe is the preeminent expert on that.”

Judge: “You don’t want any other experts appointed?”

Harris: “We could. I know how to apply for an expert. I know how to find it. I will do it if that’s in his interest. I will do it if it’s in his interest.”

Page 25, Line 3-4

Accused: “He didn’t even know we haven’t received the grand jury transcripts.”

Page 18, Lines 13-25

Judge: “I don’t think, as I understand the case, and as I understand these charges² that have been filed against Mr. Sutcliffe that the mechanics, the technology, the capacity in a sophisticated way to use computers is really much of an issue in this case. I don’t think that’s what the trial is likely to focus on at all.³ So I think you could have somebody who has never seen a computer but is a d(sic) fine lawyer and a dedicated and hard working one do a perfectly competent, maybe absolutely bank-up job for this defendant. That’s my view⁴.”

Page 19, Lines 5-8

Harris: “That would require some technical expertise but I think Mr. Sutcliffe has that expertise. My statement last time around that ‘I don’t think I need an expert⁵” was premised on the fact I think I have the best in town, if I get access to him. [Speaking of Defendant]

² Court never understood Counts 1-4 since the element changed from general intent to specific intent.

³ See appointment of Nicolaysen. So called Computer Expert.

⁴ See his different view later at Transcript 01.17.2003, page 3.

⁵ See Transcript of 11.21.2003, Pages 14-15, 17-19. NOTE Judges excuse to delay due to court’s “congestion” Does Not Count Toward Speedy Trial Act Waivers Under The Law.

Page 20, Lines 8-10

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Page 26, Lines 18-21

“I object. He’s had two months. He doesn’t even know what the data is. How is he going to represent me in four weeks from now if he can’t tell a CD rom from a floppy disk?”

Transcript of 11.21.2002

Docket # 65

Page 14,1 –22

Harris: “This is a computer case where counsel for Mr. Sutcliffe is like a child learning the scales and Mr. Sutcliffe is playing Beethoven piano sonatas. And that’s about where it’s at. And in MDC we cannot even have a computer unless I am there, sitting there, with all my other cases, to allow Mr. Sutcliffe to have a computer. So with him –“

Court: “Pleas explain to me why your ability effectively to represent him is dependent upon some level of insight or prowess concerning computer technology that you currently lack.”

Harris: “Because these websites are on disks, it’s a matter of manipulating the disks, going back and forth, pulling this out, pulling that out, cross-checking. If this second website is allowed to come in, the task is doubled⁶.”

Court: “Would your ability effectively to represent him be enhanced if, at government expense, at public expense, you were allowed to retain an expert?”

Harris: “You know, what it would really be – an easier solution would be to direct MDC to let Mr. Sutcliffe have access to that computer in the visiting room without me being there.”

Court: “**That I will not do.**”

⁶ [The other website was, in fact, allowed in on the lie of the prosecutor on January 10, 2003, another reason for the dismissal of Harris for failure to object to her lie.](#)

Page 14, Line 25 – Page 15, Lines 1-23

Court: “But I thought you’re the one who needs to get the – I don’t mean to minimize what I think you’re telling me, because **I am in the same boat as you...**”

Harris: “[t] here’s not enough time if I did it 24 hours between now and December 3 that I’d be able to do this thing adequately.”

Court: “In other words, what you’re saying is that the evidence that has been turned over to you, you need your client to evaluate?”

Harris: “Right. Its like if he spoke -- **If it was in Chinese and he spoke Chinese and I didn’t**, and we’re trying to go over and find the gems and uncover them.”

Page 17, Lines 14 – 24

Harris: “No, I mean I’m happy to talk to their investigator, and I don’t that’s as big of a concern as the fact that – the bigger concern is that its tough enough to try represent a client and get ready for trial when they’re in custody anyway, other thing being equal; **in a computer case where you’ve got all sorts of computer evidence coupled with the problem that the client has technical expertise that the lawyer doesn’t**, it just compounds the issue. And all I’m saying is if there’s a way that we can address flight and danger where -- “

Judge: “Well, that would be my ruling on it.”

Page 18, Lines 8-17

Judge: “I’m reaching out for ways to make sure that you, who I know to be a very dedicated, skillful lawyer, will be able to get ready for trial and mount an effective defense so if you find there is some kind of benefit that could accrue to your client if an expert were appointed, and you can locate one and set forth standard information about why and what kind of expertise the individual has and what his hourly rate would be, I would be very inclined to grant that application and, as you know, that application doesn’t have to be made available to the prosecution.”

See also
[Waiver](#) of counsel

BIAS OF JUDGE

See [Bias](#)

See also [Motions Filed](#) for [Recusal](#).