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1 IN THE MUNICIPAL COURT OF SALINAS JUDICIAL DISTRICT

2 COUNTY OF MONTEREY, STATE OF CALIFORNIA

3 HONORABLE WILLIAM F. MORENO, Judge

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5
6 THE PEOPLE OF THE STATE OF)
7 CALIFORNIA,)

8 Plaintiff,)

9 vs.)

No. 81371

10 STANFORD NORMAN NATHAN,)

11 Defendant.)
12
13

14 PRETRIAL HEARING

15 Courthouse, Salinas, California

16 Tuesday, November 8, 1977
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20
21

22 APPEARANCES:

23 For the People:

For the Defendant:

24 William D. Curtis, Esq.,
25 District Attorney, by
26 PHILLIP M. WATTS, Esq.,
Deputy District Attorney

JOHN T. McTERNAN, Esq.

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TUESDAY, NOVEMBER 8, 1977

8:30 o'clock a.m.

THE COURT: The People versus Stanford Nathan.

MR. McTERNAN: I am John T. McTernan from Los Angeles.

THE COURT: I would like to see this matter dismissed with a stipulation that there would be no lawsuit going on here, that that would be the case.

MR. McTERNAN: May I inquire if that is the People's position, Your Honor?

THE COURT: I don't know. I'm not trying to put pressure on Mr. Watts. I think that there was basically a misunderstanding on something that happened over in the jail, and I really feel that there are times when we should forgive and forget. This is one of them.

MR. McTERNAN: By both sides.

MR. WATTS: This was filed by Assistant District Attorney Dean Flipppo.

THE COURT: Well, if there was a resolution of a dismissal, I would be amenable to it, at least, based upon the comments, and a stipulation for probable cause, that is short of a flat out dismissal.

In the first place, there was a misunderstanding.

MR. McTERNAN: That is correct.

THE COURT: And in that regard, there were arrests earlier in the day and when Mr. Nathan came down there

1 the jailer didn't -- well, the one that came on, came
2 on in the afternoon. He didn't realize that there were
3 three guys that had been arrested in the morning and
4 that the guys that were in there in the afternoon were
5 just being booked. Mr. Nathan thought he was being
6 given the runaround because he thought that they were
7 preventing him from seeing the clients that were being
8 booked, and so there was a misunderstanding. Also, he
9 was given bad information. The jailer told me that he
10 told him that when he wanted to go in there that he
11 couldn't go in there until he got appointed by the
12 court. That is, you know, if I were a lawyer out there
13 and I was thinking I was getting ripped off, I would
14 probably get a little bit vocal, too, and I suppose that
15 there is no lawyer worth his salt that isn't going to
16 get upset at one time or another when he thinks he's
17 getting the runaround.

18 As far as I'm concerned, he was incarcerated.
19 He was in there. He got his shirt ripped. As far as
20 I'm concerned, you know, there was a certain amount of
21 punishment. He hasn't gone scot free, and I think that
22 there are times when it is the time to cool it and I
23 think this is the time. He's not going without punish-
24 ment, and if you don't think that it is humanly degrading
25 to sit in one of those cells, it was humanly degrading.
26 He spent a day, and the way I feel about it, you gentlemen

1 have a duty of keeping law and order in this area, but
2 my own personal feeling on the subject, this is also
3 the time to take into consideration that we are dealing
4 with a fellow lawyer, and take into consideration what
5 was going down, and I think that this thing, it would
6 go against you, but that is my feeling.

7 MR. WATTS: I appreciate that. From my investigation
8 of the matter, I think that this is a situation where
9 there was possibly a misunderstanding on both sides.
10 We would be amenable to this resolution. I would only
11 ask that Mr. Nathan approach the deputy and clear the
12 air in terms of an apology, as far as this incident,
13 because I think it is questionable.

14 THE COURT: Oh, I think that Mr. Nathan knows by
15 now that it is better to butter up those dudes over
16 there because if they want to get in to see their
17 clients, you know, I always did butter up the jailer
18 because they alerted me now and then on things before
19 the District Attorney found out about them, so I think
20 that that is only smart when you're practicing law
21 that you've got to be friendly with the jailer, and
22 I don't think that the jailer was that upset. But
23 you've got to look at the situation and keep that in
24 the back of your mind at the time as to what all was
25 going down. I talked to the jailer and it was his
26 opinion, I was told by the jailer that there was a

1 deputy from the sheriff's office who was in the hospital
2 who was injured, not very seriously, but of course, you
3 know, that always has a tendency to get the blood flowing
4 freely and, you know, you have to really look at what
5 was going on in this case, and actually, if it was one
6 of the private lawyers that had been punched in the
7 snout by a defendant, you know, it is always difficult
8 to be objective, and I think that your point is well
9 taken. I think Mr. Nathan is a gentleman enough to go
10 over there and, you know, apologize for his participa-
11 tion.

12 MR. WATTS: I think the appropriate thing would be
13 with the stipulation for probable cause to dismiss.

14 MR. McTERNAN: May I have a moment to confer with
15 counsel, Your Honor?

16 THE COURT: Sure.

17 (At this time other cases were called by the Court.)

18 THE COURT: We will now take up the Nathan matter.

19 MR. WATTS: I have consulted with Mr. Phillips of
20 the District Attorney's office and we are not prepared
21 to move to dismiss the charge on People versus Nathan.

22 MR. McTERNAN: Your Honor, in a summary of the
23 facts that you have made earlier, I think you showed
24 a very good understanding of the entire situation. I
25 think you have the facts in your mind and I would there-
26 fore move the Court for a dismissal of this matter in the

1 interest of justice.

2 THE COURT: Technically, I probably should dis-
3 qualify myself in that I am probably going to be a
4 witness.

5 MR. McTERNAN: That might be a matter at the time
6 of trial, Your Honor. I don't think that it is a
7 problem as far as sitting at this stage of the proceed-
8 ings.

9 THE COURT: I can just see where this is going to
10 go; acquittal and a lawsuit.

11 MR. McTERNAN: I am going to tell you, Your Honor,
12 that if this case goes to trial, there will be a lawsuit.

13 THE COURT: I understand that. This is one of
14 those matters that, you know, in the heat of the moment
15 lots of things are said and done. It's like a husband
16 and wife and, you know, we step in between husband and
17 wife many times and there are a lot of misunderstandings
18 that come out by excited people.

19 MR. McTERNAN: I think that Your Honor said a very
20 wise thing this morning, that a lawyer is not worth his
21 salt unless he fights for his client's rights.

22 THE COURT: I know. He's got a right to see his
23 client, you know. I think that Mr. Nathan felt he was
24 getting the runaround while the cops put him through
25 their number. This gentleman decided not to be a part
26 of that but decided that if he had to fight this thing

1 to see his clients; they were smart enough, in a way.
2 Mr. Nathan found a way of getting in with his clients
3 to find out what was going on, but they were smart
4 enough, at least, to separate them. It could have
5 happened that they would have been dumb enough to have
6 put him right in the cell with the guy that he was
7 trying to talk to, but no, they weren't that dumb.

8 MR. WATTS: I get the impression from listening
9 to the Court that you know more about the case than
10 I do.

11 THE COURT: Well, I was the guy that issued most
12 of the orders. I got a phone call right in the middle
13 of a good football game and was informed that there was
14 some attorney using all kinds of obscenities and things
15 down there and I said, "What's going on," and was
16 informed that he couldn't go in there until he was
17 appointed, but he is a private counsel and that there
18 is not an appointment by the Court for that. Only the
19 Public Defender needs to be appointed, and I learned
20 that he was not a Public Defender but an attorney who
21 wanted to see his client and when I found out that they
22 were booking him I said, "While you're booking him,
23 tell him he's got to wait, and then when you've finished
24 booking him, as soon as you're finished booking him,
25 then he's got a right to see his people, so let him see
26 them, but you've got a right to book him first."

1 Well, I went down there and the next thing I
2 find out is that he told me, "I wanted to see some
3 clients that were booked at 9:00 o'clock this morning
4 who have been back in the jail all day long and it's
5 just a game you're playing with me." The jailer checked
6 and, "There are three guys booked. I didn't know that.
7 I just came on, Judge."

8 Now, what would you do if you were getting
9 this jazz about you couldn't see your clients until they
10 were booked and you knew they were booked at 9:00
11 o'clock and it's now 4:00, 4:30, or 5:00 o'clock. I
12 really think that the jailer was as surprised as
13 everybody else when he looked up in a few minutes and
14 saw the Judge standing there. This is one Judge that
15 believes in action, man. When someone calls for help
16 from me, they'd better not ask me for something unless
17 they would like to get it. I went right down there.
18 I went down to the scene. We weren't talking about
19 some deal over the phone. We were talking about some-
20 body -- when I found out we had a lawyer in our jail
21 that was arrested for disturbing the peace, I went down
22 there to the jail. I think it was my duty to, so I
23 went down there.

24 I think that there were two things wrong.
25 One was that Mr. Nathan doesn't have to be appointed
26 by a Court to see his client. He can see his client

1 at any times that are reasonable after booking; he
2 doesn't have a right to before the booking, but when
3 that is completed, and they were booked at 9:00 o'clock,
4 and then for the jailer to say that you can't see some-
5 body at 4:30 or so, that is strange. Now, what is
6 strange is that the jailer didn't realize, somebody
7 didn't advise him that these guys had already been
8 booked, and so I know that the jailer didn't understand.
9 What he was talking about was different. He did not
10 see the whole shot that was going on all day long from
11 San Ardo, and so I knew that there was a misunderstanding
12 there. I said to the jailer, "He should be able to
13 see somebody that has been here since 9:00 o'clock,"
14 and so I suggested that we go back and find out who he
15 wanted to see and we found out that they were there and
16 so they were brought back to the attorney interview
17 room and things were set up there, and the last I saw
18 things were calm and docile. It was just a misunder-
19 standing. It was a bad situation and a misunderstanding
20 and, you know, I don't know that your office wants to
21 make a big federal case out of this, but I'm not going
22 to deny you that pleasure. You can just go right ahead
23 and do it. If you want to object to my dismissing it,
24 be my guest.

25 MR. McTERNAN: On my motion, I haven't heard an
26 objection from the People.

1 THE COURT: I made a speech. He's got a right to
2 reply to my speech.

3 Do you want to have a trial, sir? Is that
4 what you want?

5 MR. WATTS: Your Honor, at this time we are not
6 prepared to consent to the dismissal on the 148.

7 THE COURT: You do what you want.

8 Could I have a trial date?

9 MR. McTERNAN: Is the motion denied?

10 THE COURT: The motion is denied, sir. I think
11 that there comes a time -- you may think that I have
12 done you harm. I don't think that I have. I think
13 that I may educate somebody here, because I see where
14 this case is going. I believe I've said all that I'm
15 going to say on the subject, and as far as I'm concerned,
16 the District Attorney feels that this is a case where
17 the interest would be best served by prosecuting it.
18 If they feel that way, all right. Fine. So let her rip.

19 THE CLERK: January 26th at 8:30.

20 THE COURT: Do you waive time?

21 MR. McTERNAN: Time waived. May I advise the Court
22 that we do, and it was my plan before I came here this
23 morning, I do feel that it is necessary to call Your
24 Honor as a witness in this trial.

25 THE COURT: I guess I'm getting to be a popular
26 witness these days, so I don't know. Maybe I should do

1 like a lot of the rest of the other Judges and stay on
2 the other side of the phone, but I would be surprised
3 on this if I wasn't called as a witness, and for your
4 information, his shirt was torn.

5 MR. McTERNAN: Thank you, Your Honor.

6 THE COURT: I guess this is a case that has got to
7 be heard, and as a matter of fact, if either of you feel
8 that you want a further pretrial, or if you feel that
9 it would be helpful to have a pretrial before some Judge
10 who wasn't as involved.

11 MR. WATTS: I'd appreciate that, Your Honor.

12 THE COURT: Do you want one?

13 MR. McTERNAN: No, I don't think it is necessary.

14 THE COURT: All right. We have the jury trial date
15 of January 26th, and of course they will have to dis-
16 qualify me as a Judge to hear it because I am a witness.
17 Thank you very much.

18 MR. McTERNAN: Thank you, sir.

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1 STATE OF CALIFORNIA)
 2) ss.
 3 COUNTY OF MONTEREY)

4 I, JOHN P. HINTZE, a Qualified Shorthand Reporter
 5 in and for the State of California, do hereby certify that
 6 I am the Reporter, duly appointed and sworn, who reported the
 7 above and foregoing proceedings in the matter entitled THE
 8 PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, versus STANFORD
 9 NORMAN NATHAN, Defendant, at the time and place first therein
 10 mentioned; that I reported the said proceedings fully and
 11 correctly, and that the foregoing pages, number 1 through
 12 number 10, inclusive, are a fully, true, complete and correct
 13 transcription of my stenotypy notes taken at said time and
 14 place, prepared under my direction and supervision; and that
 15 the said pages constitute a full, true, complete and correct
 16 statement of the said proceedings then and there had.

17 Dated this ____ day of _____, 19____.

18
 19
 20 _____
 21 Qualified Shorthand Reporter
 22
 23
 24
 25
 26