

1 MR. SPENCER: --- problem.

2 THE COURT: One housekeeping matter that I do need to
3 take care of before we proceed: I only received Judge
4 Griffith's letter last week. And I received a copy of the
5 -- most of the materials which had been provided to him.
6 And the letter that I'm talking about is dated May the
7 30th, in which Judge Griffith informed Ms. Dudgeon --
8 Dudgeon, Mr. Bruner, and Mr. Spencer that he was recusing
9 himself from further action on the case.

10 The letter also indicated that I would be able to hear
11 these motions -- or the pending motions today. And in that
12 material that I reviewed yesterday, it included the order
13 of Judge Toal -- Justice Toal, rather -- dated January 17th
14 of this year, which appointed Judge Griffith as chief judge
15 for administrative purposes to hear this particular matter.
16 Apparently, Judge McMahon and Keesley had conflicts on
17 hearing the case.

18 I contacted court administration because I was a
19 little concerned about the -- what was in the body of the
20 order. It basically indicated that Judge Griffith had been
21 appointed. Judge Griffith had been under the impression,
22 based on a conversation I had with him last night, that
23 because he was chief judge for administrative purposes, he
24 could appoint this matter or assign this matter to me or
25 some other judge.

1 In conversing with court administration last night,
2 what they basically said was that -- that that's an
3 incorrect reading of the Chief Justice's order, but that
4 what they could do is get a -- do another order, in light
5 of Judge Griffith's conflict; appoint somebody else as
6 chief admin judge to hear this matter: either appoint me
7 or appoint somebody else who could then assign it to me.

8 The gentleman, Motte Talley, who I spoke with late
9 yesterday evening, told me that he's on vacation for the
10 next two days so -- or next three days -- today, tomorrow,
11 and Friday. So he was not going to be able to do an order
12 last night in advance of this hearing. Usually, the way
13 that we handle these things is that they're done *nunc pro*
14 *tunc* when they eventually get around to it.

15 Is everybody okay proceeding today? is what I'm
16 basically asking, with the anticipation that court
17 administration will be issuing this order, probably
18 sometime early next week, giving me authority to hear this
19 matter. And -- and so basically what I'm asking is: Is it
20 -- the -- what I'm saying is the order is en route; it's
21 just not here yet. Everybody okay to go forward today?
22 Mr. Spencer, you're all right with that?

23 MR. SPENCER: Yes, sir.

24 THE COURT: All right. Y'all are okay?

25 MS. DUDGEON: Yes, Your Honor.