

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MIDDLESEX COUNTY
INDICTMENT NO. 869-81

THE STATE OF NEW JERSEY :
 :
 -vs- : Transcript
 : of
 DAMASO VEGA, : Decision
 :
 Defendant. :
 :

November 15, 1989

B E F O R E:

HONORABLE ROBERT P. FIGAROTTA, J.S.C.

A P P E A R A N C E S:

MICHAEL F. McCONNELL, ESQ.
Deputy Attorney General
For the State.

PAUL J. CASTELEIRO, ESQ.
For the Defendant.

By: LINDA URBANIAK
CERTIFIED SHORTHAND REPORTER
MIDDLESEX COUNTY COURTHOUSE
NEW BRUNSWICK, NEW JERSEY

1 THE COURT: This is the matter of
2 **State versus** Damaso Vega, Indictment 569-31, the
3 **matter** out of Monmouth County which was referred
4 here on a motion to change venue.

5 May I have appearances by counsel.

6 MR. CASTELEIRO: Paul Casteleiro on
7 behalf of Denaso Vega.

8 MR. McCONNELL: Michael McConnell,
9 Deputy Attorney General on behalf of the **State**.

10 THE COURT: Mr. McConnell, Mr.
11 Casteleiro, is there anything further that you
12 wish to submit to the Court for consideration?

13 MR. CASTELEIRO: Judge, I have
14 nothing further on behalf of Mr. Vega.

15 MR. McCONNELL: Nor does the State,
16 your Honor.

17 THE COURT: I guess we covered all
18 that when we had our hearing.

19 Okay. Mr. Vega, is there anything
20 ~~that~~ **that** you would like to say before I complete this
21 matter in front of us?

22 THE DEFENDANT: Well, that I'm
23 innocent.

24 THE COURT: Okay. This is a matter
25 that has been referred to this Court on an

1 application for post-conviction relief. First
 2 ~~part~~ of my remarks will be a short procedural
 3 ~~history~~ so that we put everything in perspective.

4 On or about July the 30th of 1980
 5 Maria Rodriguez was murdered. On February the 4th
 6 of 1982 a Monmouth County Grand Jury returned an
 7 indictment, the indictment that is the substance
 8 of the original case, charging the defendant
 9 Damaso Vega with murder. On February 19th of 1982
 10 the defendant entered a plea of not guilty to the
 11 indictment, was then represented by Robert Coogan
 12 who at that time was an attorney with the Public
 13 Defender's Office. On April 1st of 1982 pursuant
 14 to what Mr. Coogan, now Judge Coogan, perceived as
 15 a potential conflict of interest he asked to be
 16 relieved of counsel as one of the new members of
 17 his office had previously been employed by the
 18 Monmouth County Prosecutor's Office and he saw a
 19 ~~potential~~ conflict. That being the case the case
 20 ~~was~~ then assigned out to private counsel through
 21 the Public Defender's Office as is often done and
 22 the defendant was represented for purposes of
 23 trial by Jon Stanger. His appearance was entered
 24 in the case on May 7th of 1982 and on June 2nd of
 25 that year a trial commenced before Judge Ricciardi

1 in Monmouth County and with a jury. On the 3th of
2 **Jury** of that year the jury returned a verdict of
3 **guilty** on the indictment and on July 9th of 1982
4 Judge Ricciardi sentenced the defendant to a life
5 term with 25 years parole ineligibility.

6 Thereafter the case was appealed. On July 5th,
7 1984, the Appellate Division affirmed the
8 determination by the jury. On October 12th of
9 1988 the defendant through his attorney petitioned
10 for post-conviction relief pursuant to Rule 3:22-1
11 seeking a new trial or alternatively a new direct
12 appeal. Part of that was made as part of a motion
13 to change venue. Several further motions were
14 made thereafter. On November 4th of 1988 Judge
15 Ricciardi had a hearing and on December the 1st he
16 issued an order denying the State's motion to
17 dismiss the petition. He entered an order
18 granting the defendant's motion to change venue
19 **and transferred** the case ultimately to Middlesex
20 **County**. That's how it got turned over to me.

21 After much conferencing -- and I wish
22 to say at the very outset because I may at some
23 points lose that train of thought while I'm
24 thinking of it that the Court wishes to express
25 its thanks to both attorneys for the State and for

1 the defense for their tremendous cooperation in
2 **this** case. It was a difficult case, a difficult
3 **hearing** and it certainly was made a lot easier for
4 me in terms of keeping things in order and
5 perspective by your cooperation and I wish to
6 extend my thanks to both of you and to your
7 offices. So I don't want to lose that.

8 The original grounds for
9 post-conviction relief were many and varied and
10 I just wish to review a couple, some of which I
11 will touch on in my remarks, some which I won't
12 and I wish to say that if I don't touch on **them** in
13 my remarks that I didn't feel that they were
14 necessary to address in terms of reaching
15 ultimately a decision. Certainly the usual
16 ineffective assistance of counsel arguments were
17 made not only at the trial level but at the
18 appeal, an issue of newly discovered evidence by
19 **way** of recantations of certain witnesses viewed by
20 **the** State in its presentation of the case. the
21 refreshing of certain evidence which the defense
22 alleged was in the State's province to know or
23 should have known, the fact that it was not turned
24 over to defense counsel at the time of trial but
25 had since that time come to light, the State's

1 victim's sister indicating the motive, the reason
 2 **for the alleged murder.** That was basically the
 3 **theory of the State's case** in review of all of the
 4 testimony.

5 Part of the new evidence which was
 6 presented was a recantation by Mr. Echavarria who
 7 was the witness that allegedly identified the
 8 defendant as being on the porch of the victim's
 9 residence at or about the time the incident
 10 occurred. Mr. Echavarria was here. The Court had
 11 the opportunity to listen to his testimony as it
 12 was then, as it was now, the differences between
 13 them and the testing of his truthfulness and
 14 veracity by reason of direct examination and cross
 15 examination by the parties here in the hearing.
 16 Mr. Echavarria originally gave a statement to the
 17 police shortly after the incident occurred and set
 18 forth a description of the person that he
 19 **identified** as being on the porch of the victim's
 20 **residence.** Some year and-a-half later the
 21 description changed somewhat. It was Mr.
 22 Echavarria's contention at this point that it
 23 changed due to the pressure that was placed upon
 24 him by the investigating officers out of the West
 25 Long Branch Police Department. So he changed his

1 testimony and he identified the defendant as being
 2 ~~the~~ person on the porch. He now recants that
 3 **statement.** He denies that the defendant was the
 4 person he saw. He alleges that it was pressure by
 5 the investigating officer that made him change his
 6 mind.

7 I find his testimony to be truthful.
 8 I accept his testimony. He is also aware I
 9 believe, we discussed with him while he was on the
 10 stand, the fact that he may in fact have committed
 11 perjury. He was somewhat unsure on that, but it
 12 was his contention that I find to be truthful that
 13 the defendant was not the person he saw the night
 14 the incident occurred.

15 The second piece of new evidence was
 16 a statement by a Mr. Pizarro. The essence of
 17 Mr. Pizarro's testimony was that the night after
 18 the alleged murder was committed by this defendant
 19 **that this** defendant confessed to him in certain
 20 **words,** not necessarily I did it, but there was
 21 enough meaning in their conversation that he
 22 admitted to having seen the victim, been with the
 23 victim and probably having committed the murder.

24 There's a lot of discussion with
 25 Mr. Pizarro. He is also a very important witness

1 at my hearing. Mr. Pizarro's statement was not
2 taken under the best of circumstances. There was
3 an allegation that there was pressure by the
4 police officer involved for him to identify the
5 defendant. There involved several incidents where
6 the police had to go up to Rhode Island to secure
7 Mr. Pizarro's presence and allegedly the statement
8 was made to them on, in the way of casual
9 conversation, of course, at least that's the way
10 it was described to me by the police officer, that
11 he admitted that the defendant confessed to him
12 that he in fact committed the offense, perpetrated
13 the murder. There was a lot of testimony before
14 me as to whether or not there was a deal struck
15 between Mr. Pizarro and the Prosecutor's Office or
16 at least the authorities because they wanted Mr.
17 Pizarro for something else. Mr. Pizarro thought
18 he had a deal.

19 I find Mr. Pizarro's testimony at
20 ~~that~~ time to be truthful in that he recants the
21 defendant ever testifying to him that he in fact
22 committed a murder. One of the prime reasons is
23 that Mr. Pizarro was very truthful. He was well
24 aware of the fact about the Statute of Limitations
25 had run on perjury. Yes, he knew that. Yes, he

1 had told an untruth at the time of trial. He was
2 **aware** of what he had done and he was aware that he
3 had to wait the required period of time before he
4 could change his testimony. And, yes, he waited
5 before he changed his testimony. I believe him.
6 Mr. Pizarro is that true. I believe what he said.
7 He's factual and he recants his entire testimony
8 about that conversation ever having taken place.
9 In fact Mr. Pizarro may as an aside be more
10 involved in this offense than anyone wishes to
11 think including Mr. Pizarro, but that's a case for
12 another time. I am satisfied that when he says to
13 me that he lied at the time of trial, that he told
14 an untruth and that the confession never in fact
15 took place, I'm satisfied at this time that I can
16 believe him.

17 There was a third piece of evidence
18 which was brought forward at the time of the
19 **hearing** which I don't think anybody anticipated.
20 **I know** for certain that the defense did not. They
21 have been after the victim's sister, Wilda Soto,
22 for purposes of questioning her and that was made
23 abundantly clear in the conferences. It was also
24 put on the record at the time of her testifying.
25 She was brought on by the State for purposes of

1 reaffirming her testimony. Miss Soto knowingly or
2 ~~unknowingly~~ provided the motive in her testimony
3 for the alleged murder and the allegation, of
4 course, was that there was a lover's relationship
5 or at least an attempted lover's relationship
6 between this defendant and the victim and that
7 somehow had been thwarted and the defendant in
8 probably much anger murdered her. There was some
9 testimony by Miss Soto about her having seen the
10 victim and the defendant prior to the incident of
11 July 23rd, 1990, of having seen the victim and the
12 defendant alone together in a car. I believe her
13 testimony was kissing and hugging, at least
14 indicating that there was some sort of lover's
15 relationship between them. That testimony was
16 admitted at the time of trial without cross
17 examination by defense counsel. There may have
18 been a reason that he alleged that he did not
19 **speak** to her about her testimony. I can't fathom
20 ~~what~~ it might be because she's one of the dogs in
21 the wheel that convicted his client. She
22 developed the motive. In fact she says before he
23 that there was no motive, that, yes, she saw her
24 sister in a car. It may have even been the
25 defendant's car but it wasn't the defendant. See

1 doesn't know who it was but it wasn't him, it
2 **didn't** look like him. I think that was to
3 **everyone's** surprise.

4 The third at that point major piece
5 of evidence was for all intents and purposes
6 recanted. There was no identification of the
7 defendant as having any kind of relationship other
8 than knowing the victim, being acquainted with
9 her, having social contact in the streets,
10 whatever, but certainly nothing beyond that, and
11 at that point her testimony as damaging as it was
12 at the time of trial became that much more clear
13 to me that this defendant did not have that kind
14 of relationship with the victim.

15 Those three items in and of
16 themselves certainly calls to question the entire
17 State's case, enough for someone to at least
18 consider the possibility of retrial. But other
19 **things** were developed. And again the
20 **investigation** that was done by the defense in a
21 word was incredible.

22 The essence of what I consider the
23 fourth major contention by the defense is that
24 they did not at the time of trial have information
25 concerning prior reports written by the

1 investigating officer, Detective Lipka, who at
2 ~~that~~ time was employed by the West Long Branch
3 Police Department.

4 Detective Lipka became involved in
5 the case in I believe September of 1981 when he
6 was newly placed in the Detective Squad. This
7 unsolved murder case was herded to him and they
8 said here, investigate it and he started and he
9 kept copious notes and wrote reports. And it's
10 fairly interesting that his initial reports never
11 found their way to the files of the Prosecutor's
12 Office in Monmouth County to be given to the
13 defense for purposes of preparing their case.

14 This Court was presented with five
15 pieces of evidence which relate all to be
16 Detective Lipka's reports. The initial report of
17 September 20th shortly after he became involved in
18 the investigation which was admitted as
19 Defendant's Exhibit 32. There was another copy of
20 ~~that~~ report admitted as Defendant's Exhibit 33
21 which was the exact same report although it had
22 some cross-outs, it had some numbers imposed on
23 it. Certainly it was clear that there was some
24 alteration done to this report. There was
25 Defense Exhibit 34 which was a report dated

1 January 6th of 1931 which we then found out should
2 **have been** January 6th, 1932, which was essentially
3 **the report** that was given to defense for purposes
4 of trial but was different from Defense Exhibit 32
5 sufficiently as to remove certain information or
6 revise other information that had originally been
7 given to Detective Kipka along with that was given
8 to Defense Exhibit 34 and 35 which are handwritten
9 notes that Detective Kipka admits to which just so
10 happened to coincide if you read the original
11 report and the end reports -- so we keep it clear,
12 Defense 32, Defense 36, just so happens to
13 coincide with what was altered or changed or
14 modified. What was changed in some instances was
15 essential for defense purposes. It made reference
16 to prior statements of witnesses. It made
17 reference to other statements of witnesses other
18 than what was contained in Defense 36 sufficient
19 **to eliminate** certain vital information for
20 **purposes** of either investigation or cross
21 examination at the time of trial. There was
22 enough to enter the essential element of the
23 report which was he didn't know who the
24 perpetrator of the offense was in his September
25 20th, 1931 report, but in his January the 6th.

1 1982, report D-36, everything pointed to the
2 **defendant.** Certain corroboration which he said
3 **was done** in order to substantiate what was in D-35
4 have not in fact been done. That was revealed by
5 cross examination here. Certain checking of where
6 people were at the time of the occurrence, certain
7 other peripheral facts such as Mr. Pizarro's
8 whereabouts at the time the offense occurred, the
9 verification of the information that he gave as to
10 where he was and what he was doing. Certainly
11 enough that if defense had this information, had
12 these prior reports, a not-so-clear picture of
13 Mr. Pizarro would have been presented to the jury
14 and maybe a better picture of Mr. Vega would have
15 been presented.

16 I don't know the reason for the
17 modifications. I heard Detective Kipka indicate
18 that it was just a matter of dressing up the
19 **report.** I certainly can understand if you want to
20 **do that** in order to make your presentation more
21 concise, but when it eliminates, when it modifies,
22 when it changes the context of what is there that
23 goes beyond dressing up.

24 It's amazing that the original report
25 was found in a peripheral file in the West Long

1 Branch Police Department, not a file concerning
2 **this** offense but concerning a different defendant
3 on a different charge. But there was the original
4 report. Oh, it's told that was properly
5 cross-referenced, but it's interesting that none
6 of it saw the light of day until after Mr. Vega
7 had been found guilty and sentenced.

8 The entire process is one that calls
9 into question everything that Detective Kipka did,
10 everything that he testified to before me,
11 everything that he testified to before the jury
12 back in 1982, enough so that I think it is fair
13 now that we know of the existence of these reports
14 and their annotations, that all of this evidence,
15 if necessary, be presented to a jury and let them
16 make their determination as to what it is they
17 wish to believe.

18 Some of Detective Kipka's testimony
19 I find to be outright incredible. Just doesn't
20 **sit.** It does not follow good police procedure and
21 certainly does not rise to the level that any
22 defendant charged with a major crime should expect
23 in a police investigation.

24 The next element I wish to address is
25 what the defense labeled as ineffectiveness of

1 counsel at the time of trial.

2 As I indicated in some of my previous
3 **remarks** he was to some extent handicapped by what
4 he was given, so I cannot make a complete
5 assessment that he was totally ineffective. I
6 suspect that if he had the information that was
7 presented to me that the result of the trial would
8 have been far different than it was. The problem
9 that I have with it, with that aspect, that being
10 ineffectiveness of counsel, is that Mr. Steiger
11 became involved in the case the early part of May
12 and some 30 or so days later commenced trial.

13 There were many aspects of this case
14 that required investigation. Semen samples had
15 been taken. There was a thought by the previous
16 attorney for the defendant to have independent
17 analysis of those samples. That was never
18 followed through although he was aware that there
19 **was that** line of thinking involved. There was a
20 **lack** of interviewing witnesses on the part of the
21 defendant, witnesses that the defendant brought
22 forward that he claimed would either give him an
23 alibi the evening of the occurrence or at least
24 explain a lot of the evidence and testimony that
25 was being presented against him. A lot of that

1 was not even listened to or investigated. I don't
 2 wish to state categorically that his assistance
 3 was totally ineffective. However, when a client
 4 is charged with a major crime wherein the penalty
 5 involved is life in prison certainly more than 60
 6 hours worth of investigation and research is
 7 necessary. I think more than necessary. I think
 8 appropriate. That wasn't done in this case.

9 In certain aspects Mr. Steiger
 10 covered things as adequately as could be done
 11 considering what it was he had to work with, but
 12 some things are unexplained to my satisfaction
 13 such as his failure to cross examine the sister of
 14 the victim or investigate further the allegation
 15 that Mr. Bizarro had worked a deal with the
 16 prosecutor and follow up on that.

17 Those are just two of the examples.
 18 There are many more and I don't wish to recount
 19 them all at this point because I don't think
 20 that's necessary or more probative than it has
 21 to be.

22 I will say that Mr. Steiger and his
 23 defense of the defendant fall short of my
 24 expectation, what I felt should have been done on
 25 his behalf in order to prosecute his defense.

1 One other issue I wish to address and
2 **dismiss** and that's the allegation by the defense
3 **that there** was prosecutorial misconduct involved
4 in this case. The standard for proving
5 prosecutorial misconduct is very strict and
6 appropriately so. Certainly what has been
7 disclosed to me by way of evidence and testimony
8 does not rise to that level and I am not satisfied
9 that the Prosecutor's Office or its staff or trial
10 prosecutor was aware of several of the **reports**
11 that never made it to their file.

12 The testimony before me by **Detective**
13 **Lipka** was that everything was processed in
14 accordance with procedure that required that
15 certain copies of all reports be submitted to the
16 Prosecutor's Office. Interestingly enough they
17 have no record of those reports. It's difficult
18 for a prosecutor to give over discovery in
19 **accordance** with the rules of court when first he
20 **doesn't** have it and, two, doesn't know of its
21 existence. Extremely difficult.

22 I am satisfied by testimony of
23 Trial Prosecutor **Ganiet** and the investigator from
24 the Prosecutor's Office who was assigned to this
25 investigation that there was much in the way of

1 investigation that was conducted, reported that
2 ~~they~~ were not aware of and I dismiss as any
3 grounds for relief the issue of prosecutorial
4 misconduct.

5 It may appear to be inconsistent for
6 me to say that those are all the reasons I am
7 placing on the record in my decision to order a
8 new trial for Mr. Vega. This hearing lasted the
9 better part of two weeks. There was much evidence
10 presented and testimony given by many witnesses
11 and to recant each and every aspect of that
12 hearing would probably take several more hours,
13 the end result of which would be the same.

14 There are many aspects of this case
15 that puzzle me in terms of investigation and
16 reporting. There are many aspects of this case
17 which truthful terrify me to think that these
18 things can still occur within our justice system.
19 **That** sometimes shakes you right from the bottom of
20 ~~your~~ belief in the system that events such as this
21 can still occur, but I guess the system is still
22 run by human beings who are all dedicated to their
23 task and I do not wish that this decision in any
24 way will diminish the system or the integrity of
25 the people who operate within it. Plain and

1 simply I guess we could dismiss this as a mistake.
2 **That's** all too simple for someone like Mr. Vega
3 **who** has spent the last seven years incarcerated.

4 My apologies, Mr. Vega. We will
5 attempt to reconcile the mistake.

6 It is, therefore, the decision of
7 this Court that the verdict entered by the jury be
8 vacated, that a new trial be ordered.

9 I am going to remand Mr. Vega back to
10 Monmouth County. He now stands in the position of
11 someone awaiting trial, someone no longer
12 convicted.

13 It is my intention at this time to
14 reinstate his bail.

15 Any questions?

16 MR. CASTLEIRO: Judge, I would like
17 to address the Court with respect to bail and the
18 intention of the Court to reinstate it.

19 I think the bail should, of course,
20 **be** reinstated, but the previous bail in 1982 was
21 \$100,000. It was a time when I'm sure a Court was
22 presented with overwhelming so-called evidence of
23 Mr. Vega's guilt and not presented with the
24 evidence that has been developed in the last
25 number of years and presented to this Court in

1 June of this year. There really I don't think,
2 **Judge**, when you analyze the case at this point is
3 **any evidence** whatsoever of Mr. Vega's guilt to
4 this charge and there is much evidence to show
5 quite clearly that he was framed on this charge,
6 and we have restructured reports, modified
7 reports, and it seems to me, Judge, that for him
8 to remain in jail another minute, another hour or
9 another day, however long it takes for us to go to
10 Monmouth County and to get a hearing and to have
11 Mr. Vega produced, is a further injustice to
12 Mr. Vega. There's just no need for it.

13 We can post a reasonable bail, Judge,
14 that will insure his presence. He will remain in
15 the home of Kate Hill who is a member of the staff
16 of Centurion Ministries in Princeton, New Jersey.
17 We can insure his presence at any hearings he has
18 to be at. He has his family here, Judge.
19 **Everything** he has is here. He's going nowhere.
20 **We feel** that he has been vindicated today and he
21 has absolutely nothing to fear, Judge, by fleeing
22 and there is just no need to maintain his
23 incarceration any further. The only reason he's
24 in jail is because he was convicted of a crime he
25 didn't commit. And I'd ask the Court -- Judge.

1 and we can post up to \$10,000 by check today for
2 ~~bail~~ for Mr. Vega, I think a personal recognizance
3 ~~bond~~ in this case would be appropriate, and I'd
4 ask the Court to set bail along those lines within
5 the Court's discretion and allow Mr. Vega to walk
6 out of this courtroom today.

7 THE COURT: Mr. McConnell.

8 MR. McCONNELL: Judge, I think it
9 appropriate if the matter be remanded to Monmouth
10 County for a hearing over there as to what the
11 bail should be in this case. This is, after all,
12 a murder case. It may not well be the final line
13 in this case. It's just a step, possibly along the
14 way. I don't know that at this point, but that is
15 nonetheless one of the possibilities here. I have
16 no objection to reasonable bail being set, but I
17 think it should be set in Monmouth County and
18 Mr. Vega remanded there pending a disposition on
19 ~~the~~ bail application.

20 MR. CASTELEIRO: Judge, if the
21 prosecutor has no objection to a reasonable bail
22 being set --

23 THE COURT: But the use of the word
24 reasonable, your reasonable and his reasonable,
25 may be different.

1 MR. CASTELFIPO: Probably different,
2 **Judge.** I'm sure.

3 It would seem appropriate to set it
4 here and now or maybe someone can have some
5 communication with Monmouth County with respect to
6 this issue at this point. If the Court feels that
7 it's absolutely essential they have input into it.

8 THE COURT: I think it is. I think
9 at least the aspect at this point is that the
10 decision to either go forward with this case or
11 not is appropriately set in Monmouth County and
12 and I think that's a decision that is going to
13 have to be made at the Prosecutor's Office level.
14 I don't think the Attorney General's Office other
15 than having him put in a decision may be based
16 upon the hearing, what we've disclosed here, would
17 want to make that kind of decision and I respect
18 Mr. McConnell enough at this point not to force
19 **him to do that.** I would like him certainly to
20 **input** and I think he would like to have input
21 in the case, but I think that's a decision that's
22 going to have to be made at the Monmouth County
23 Prosecutor's Office as to whether they wish to
24 continue with the case. In light of that we are
25 dealing with what appears at this point still to

1 be a murder allegation.

2 MR. CASTELEIRO: Judge, if I just
3 may --

4 THE COURT: Sure.

5 MR. CASTELEIRO: -- if this is going
6 to go back to the Monmouth County Prosecutor's
7 Office and for the Monmouth County Prosecutor's
8 Office to have input it must be remembered that
9 since this case was prosecuted in 1982 Patrick
10 Lipka has been promoted to be an investigator with
11 the Monmouth County Prosecutor's Office and it
12 seems to me given his conduct in this case, the
13 same allegation, Judge, with respect to their
14 participation in this case, remains that they
15 withdrew from the case during the pendency of this
16 application due to the conflict that they had
17 where they could not defend, where they could not
18 cross examine members of their own staff, and I
19 think it's entirely appropriate that the Attorney
20 General maintains decision-making ability in the
21 case and that the bail be set here.

22 MR. MCCONNELL: Judge, I am making a
23 decision. I think the case should be remanded to
24 Monmouth County for a decision on bail over there.

25 This situation now, the posture of

1 this case, is no different than if Mr. Vega had
2 ~~been~~ arrested for murder, has to go before a judge
3 to have bail set, and I think it's appropriate
4 that it be done there. This was a limited
5 hearing --

6 THE COURT: The problem at this point
7 is the issue is now before me and I wish to
8 dispose of it in this manner. I am going to
9 reinstate the bail as of today.

10 I will ask Mr. Gasteleiro if he would
11 draw an order consistent with my opinion today.
12 Leave out the issue of bail other than I guess an
13 amount as an issue to be decided, submit the order
14 to me with a copy to the Attorney General's
15 Office. I intend to discuss this matter with
16 Judge Milberg, the Assignment Judge in Monmouth
17 County, and I will basically do what he and I
18 agreed. I will consult with him. If he feels it
19 better that they establish bail other than just
20 ~~reinstating~~ it at this point and let Monmouth
21 County handle an application for reduction or
22 modification then I will exceed to that, I will
23 consult with him to determine that. I will advise
24 both of your offices as soon as I discuss with him
25 what that decision is. And you may incorporate it

1 in the order. I'll try and do that this afternoon
2 ~~it~~ can reach him. Okay? That's the best I can
3 give you.

4 MR. CASTELEIRO: Can I give you an
5 order tomorrow morning, Judge?

6 THE COURT: If you don't hear from me
7 by noontime tomorrow call me.

8 MR. CASTELEIRO: Okay.

9 THE COURT: Again I thank counsel for
10 their participation in this case. Made it a lot
11 easier for me to see the facts in this case.

12 MR. CASTELEIRO: Judge, with respect
13 to Mr. Vega's lodging for the evening, could he
14 remain in Middlesex County?

15 THE COURT: We'll find out if I can
16 keep him. If not I'll have him remanded right to
17 Monmouth County rather than go back to East Jersey
18 State Prison. I'll see if I can send him right to
19 ~~Monmouth~~ County, let them know he's coming.

20 Thank you, gentlemen.

21 MR. McCONNELL: Thank you.

22 MR. CASTELEIRO: Thank you.

23 * * *

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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MIDDLESEX COUNTY
INDICTMENT NO. 569-81

THE STATE OF NEW JERSEY :
 :
 -vs- :
 :
 DAMASO VEGA, :
 :
 Defendant. :
 :

CERTIFICATE

I, LINDA URBANIAK, a Certified **Shorthand**
Reporter and Notary Public of the State of New
Jersey, do hereby certify the foregoing was **taken**
by me on November 15, 1989, a. was reported
stenographically by me and the foregoing is a true
and accurate transcription of my stenographic
notes.

Linda Urbaniak

LINDA URBANIAK
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