

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 2

HONORABLE DENNIS A. AICHROTH, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA, )

PLAINTIFF(S), )

VS. )

(01) ISIDORO )

DEFENDANT(S). )



**COPY**

) NO.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

MONDAY, SEPTEMBER 18, 2006

APPEARANCES:

FOR THE PEOPLE:

STEVE COOLEY, DISTRICT ATTORNEY  
BY: JON HATEMI, DEPUTY  
18000 CRIMINAL COURTS BUILDING  
210 WEST TEMPLE STREET  
LOS ANGELES, CALIFORNIA 90012

FOR DEFENDANT:

KIA FEYZJOU, ATTORNEY AT LAW  
1875 CENTURY PARK EAST, SUIT 1770  
CENTURY CITY, CALIFORNIA 90067

ROSANE D. CASTRO,  
C.S.R. NO. 10454, RPR  
OFFICIAL COURT REPORTER

1 LOS ANGELES, CALIFORNIA; MONDAY, SEPTEMBER 18, 2006

2 9:13 A.M.

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4  
5 (THE FOLLOWING PROCEEDINGS  
6 WERE HELD IN OPEN COURT:)

7  
8 MR. FEYZJOU: YOUR HONOR, COULD THE COURT CALL  
9 NUMBER 9.

10 THE COURT: OF COURSE. ALL RIGHT.

11 PEOPLE VERSUS

12 MR. FEYZJOU: GOOD MORNING, KIA FEYZJOU ON BEHALF OF  
13 MR. WHO IS PRESENT IN COURT AND BEING ASSISTED BY  
14 THE SPANISH LANGUAGE INTERPRETER.

15 THE COURT: WHERE DO WE STAND ON THIS CASE?

16 MR. FEYZJOU: TODAY WAS THE DAY FOR THE COURT TO  
17 EVALUATE WHETHER IT HAS JURISDICTION TO HEAR OUR MOTION TO  
18 VACATE. I KNOW THE PEOPLE FILED THE DOCUMENT; WE FILED AN  
19 OPPOSITION. WE ARE HERE FOR ORAL ARGUMENT, IF NECESSARY.

20 THE COURT: GIVE ME A CHANCE TO READ IT. I'M SORRY I  
21 HAVEN'T READ IT. SECOND CALL.

22  
23 (THE CASE WAS PASSED AND THEN RECALLED.)

24  
25 THE COURT: ISIDORO

26 MS. MARTINEZ: PRISCILLA MARTINEZ, DEPUTY PUBLIC  
27 DEFENDER WITH MS. DEBRA SIMS, SHOULD SHE NEED TO TESTIFY.

28 THE COURT: IS THIS GOING TO BE LENGTHY? IS THIS

1 GOING TO REQUIRE TESTIMONY, COUNSEL?

2 MR. HATEMI: I DON'T THINK TESTIMONY, YOUR HONOR. I  
3 THINK WE WERE HERE LAST TIME AND YOU REQUESTED THAT BOTH  
4 THE PEOPLE AND DEFENSE COUNSEL FILE SUPPLEMENTAL BRIEFS ON  
5 THIS.

6 OUR POSITION ON THIS CASE IS THAT THE COURT  
7 DOES NOT HAVE JURISDICTION TO HEAR THIS MOTION FOR TWO  
8 REASONS: NUMBER ONE, AND MOST IMPORTANT, DEFENDANT IN THIS  
9 CASE IS NOT IN CUSTODY. SO DEFENSE COUNSEL IS ASSUMING  
10 THAT IF THE DEFENDANT GETS INTO CUSTODY REGARDING  
11 IMMIGRATION, THEN AT THAT POINT, YOU KNOW, HE CAN DO  
12 SOMETHING. BUT THE DEFENDANT RIGHT NOW IS NOT IN CUSTODY,  
13 SO HE DOESN'T HAVE THE AFFORDABILITY OF A HABEAS CORPUS;  
14 AND TO BRING A MOTION REGARDING INEFFECTIVE ASSISTANCE OF  
15 COUNSEL, HE CAN'T BRING THAT MOTION BASED ON WHAT HE'S  
16 TRYING TO DO RIGHT NOW. INEFFECTIVE ASSISTANCE OF COUNSEL,  
17 THIS SPECIFIC MOTION IS JUST, IT'S NOT WITHIN THE COURT'S  
18 JURISDICTION TO DO.

19 IF THE DEFENDANT IN THIS CASE WAS ACTUALLY IN  
20 CUSTODY, THEN THE DEFENDANT COULD BRING THIS MOTION BASED  
21 ON THE HABEAS CORPUS, BUT THE DEFENDANT IS NOT IN CUSTODY  
22 IN THIS CASE.

23 MR. FEYZJOU: YOUR HONOR, THE DEFENDANT DOES NOT HAVE  
24 TO BE IN CUSTODY TO BRING A MOTION BEFORE THIS COURT, AND  
25 I'LL CITE SOME CASES FOR THE COURT. THAT TO ME IS A RED  
26 HERRING THAT BASICALLY UNDERMINE SOMEONE'S CONSTITUTIONAL  
27 RIGHTS IF THEY ARE VIOLATED JUST BECAUSE THEY DID SERVE A  
28 SENTENCE OR PROBATION OF SOME SORT.

1 A COUPLE OF THINGS: THE FIRST THING IS THERE'S  
2 A CASE I CITED IN MY MOVING PAPERS.

3 THE COURT: LET'S GET PAST THE JURISDICTIONAL ISSUE.  
4 I'M RULING FOR THE DEFENSE IN THAT RESPECT. LET'S GET TO  
5 THE MEAT OF THE CASE.

6 MR. FEYZJOU: WE CAN SHOW INEFFECTIVE ASSISTANCE BUT  
7 ALSO PREJUDICE. MY CLIENT IS HERE. HE'S WILLING TO  
8 TESTIFY. WE HAVE A DECLARATION. HE'S WILLING TO TAKE THE  
9 STAND. HE WILL BE SUBJECT TO CROSS-EXAMINATION. THE  
10 POLICE --

11 THE COURT: WELL, I HAVE HIS DECLARATION BEFORE ME,  
12 BUT I NEED --

13 MR. FEYZJOU: WE NEED -- IT'S A CASE OF SELF-DEFENSE,  
14 YOUR HONOR. MY CLIENT --

15 THE COURT: WHY ARE YOU TALKING ABOUT SELF-DEFENSE?

16 MR. FEYZJOU: I THOUGHT YOU WERE TALKING ABOUT THE  
17 MEAT OF OUR CASE.

18 THE COURT: NO. THE MEAT OF YOUR MOTION, NOT THE  
19 UNDERLINE CASE.

20 THE COURT: SELF-DEFENSE, ALL RIGHT.

21 WHY DO YOU FEEL THAT IT WAS INEFFECTIVE  
22 ASSISTANCE OF COUNSEL? THAT'S THE BOTTOM LINE, BECAUSE HE  
23 WASN'T ADVISED OF THE IMMIGRATION CONSEQUENCES.

24 MR. FEYZJOU: NOT JUST THAT, YOUR HONOR. THE BASIS  
25 BEHIND THE CLAIM IS THAT AT THE TIME OF THE ARRAIGNMENT,  
26 MAYBE 15 MINUTES OF HAVING MET HIS ATTORNEY, THE PUBLIC  
27 DEFENDER TELLS HIM, "HERE IS THE OFFER: THIRTY DAYS COUNTY  
28 JAIL." BLAH-BLAH-BLAH. "IF YOU DON'T TAKE THE OFFER, THE

1 OFFER WILL GET WORSE." MY CLIENT BECOMES SCARED AND SAYS,  
2 "I DON'T WANT TO GO TO JAIL ANY LONGER," AND BASED ON THAT,  
3 HE PLEADS. LATER ON --

4 THE COURT: WELL, I'M NOT IMPRESSED AT ALL WITH THAT  
5 ARGUMENT. THE ARGUMENT THAT I'M PARTIALLY INCLINED TO  
6 ADOPT IS THAT HE WASN'T ADVISED OF THE CONSEQUENCES OF HIS  
7 PLEA, AND I WANT SOME EVIDENCE TO SUPPORT THAT.

8 MR. FEYZJOU: THAT'S ALSO A SECOND PRONG OF OUR CASE,  
9 THAT GOES TO --

10 THE COURT: I KNOW. I NEED TO HEAR SOME EVIDENCE  
11 WITH RESPECT TO THAT. IS THAT GOING TO REQUIRE THE  
12 TESTIMONY OF THE PUBLIC DEFENDER WHO HANDLED THIS CASE?

13 MR. FEYZJOU: WELL, IT CAN, YOU KNOW. THEY  
14 SUBPOENAED HER NOTES. SHE WAS HERE LAST TIME AND MY CLIENT  
15 WILL TESTIFY THAT HE HAD A U.S. BORN CHILD AT THE TIME.  
16 THAT WASN'T EVEN A DISCUSSION. THEY NEVER TALKED ABOUT --

17 THE COURT: THE ISSUE WAS: WAS HE ADVISED OF THE  
18 CONSEQUENCE OF HIS PLEA? SPECIFICALLY, WAS HE ADVISED THAT  
19 HE WOULD BE DEPORTED IF HE ENTERED A PLEA?

20 MR. FEYZJOU: IT'S OUR POSITION THAT HE WASN'T.

21 THE COURT: ALL RIGHT. NOW, I WANT TO HEAR SOME  
22 PROOF.

23 MR. FEYZJOU: I WOULD LIKE MR. ( ) TO TAKE THE  
24 STAND, IF THAT WOULD PLEASE THE COURT.

25 THE COURT: WELL, THAT'S REALLY, YOU KNOW, I DON'T HAVE  
26 TIME FOR IT THIS MORNING, THAT'S THE PROBLEM. I'M  
27 STARTING A TRIAL AT 10:00, AND THEN I'M GOING TO START  
28 ANOTHER ONE AT 1:30, AND I'VE GOT A LOT OF OTHER CASES I'VE

1 GOT TO RESOLVE.

2 HAVE YOU TALKED TO THE PUBLIC DEFENDER? IS THE  
3 PUBLIC DEFENDER WILLING TO TALK TO YOU ABOUT HER  
4 RECOLLECTION ABOUT WHETHER OR NOT HE WAS ADVISED, INDEED,  
5 ADVISED OF THE IMMIGRATION CONSEQUENCES? THAT'S THE HEART  
6 OF YOUR CASE. IF SHE GETS UP THERE -- WELL, I DON'T KNOW  
7 WHAT SHE'S GOING TO TESTIFY TO.

8 MR. FEYZJOU: WELL, I ANTICIPATE IT WILL BE  
9 SELF-SERVING IN NATURE, YOUR HONOR, UNLESS SHE  
10 RECOLLECTS.

11 THE COURT: I SUSPECT YOU ARE RIGHT.

12 MR. FEYZJOU: TWELVE YEARS. BUT THAT'S WHY I WANTED  
13 TO ADD THE INEFFECTIVE ASSISTANCE ISSUE BECAUSE THAT HAS  
14 MORE MEAT TO IT.

15 THE COURT: I DON'T THINK SO. YOU CAN PUT THAT ON,  
16 BUT IT'S GOING TO BE A HARD SELL WITH ME BASED ON MY  
17 EXPERIENCE WITH WHAT GOES ON IN PLEA BARGAIN, THAT I THINK  
18 OF SITUATIONS.

19 MR. FEYZJOU: I ONLY NEED TEN MINUTES OR LESS WITH  
20 THE CLIENT ON THE STAND, BUT --

21 THE COURT: WHY DON'T WE PUT IT OVER? I HATE TO PUT  
22 IT OVER TO ANOTHER DAY. JUST PUT IT OVER TO 11:00 O'CLOCK.

23 MR. FEYZJOU: OKAY. I HAVE A MATTER IN LANCASTER.  
24 CAN I HAVE YOUR CLERK CONTACT THE CLERK IN THE OTHER COURT?  
25 MAYBE I CAN PUSH THAT TO 1:30. I WILL -- I'LL LET HIM  
26 KNOW.

27 THE COURT: JUST TELL THEM YOU ARE TIED UP IN  
28 JUDGE AICHROTH'S COURT. ALL RIGHT. I'LL SEE YOU AT

1 11:00 O'CLOCK. ALL PARTIES ARE ORDERED BACK AT THAT  
2 TIME.

3 MR. HATEMI: YES, YOUR HONOR.

4

5 (THE CASE WAS PASSED AT 9:36 AND  
6 THEN LATER RECALLED.)

7

8 THE COURT: ALL RIGHT. MR.

9 ALL RIGHT. PEOPLE'S MOTION.

10 MR. HATEMI: WE RAN A RAP OF THE DEFENDANT AND NO  
11 HITS SINCE THE PRIOR 273.5. AND SO, BASED ON THAT, THE  
12 PEOPLE ARE WILLING TO ALLOW DEFENDANT, IF IT PLEASURES THE  
13 COURT, TO VACATE THE "GUILTY" PLEA IN THE 273.5 AND PLEAD  
14 "GUILTY" TO A 242.

15 THE COURT: MOTION IS GRANTED AND IT'S REDUCED TO A  
16 242.

17 MR. HATEMI: SAME, TIME SERVED.

18 THE COURT: ALL RIGHT. TIME SERVED. LET THE RECORD  
19 REFLECT THAT HE'S BEEN CONVICTED OF A 242, SIMPLE  
20 BATTERY.

21 MR. FEYZJOU: THANK YOU VERY MUCH.

22 THE COURT: I'M GLAD YOU GUYS COULD WORK THAT OUT.

23 (END OF PROCEEDINGS AT 9:59 A.M.)

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FOR THE COUNTY OF LOS ANGELES

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REPORTER'S  
CERTIFICATE

I, ROSANE D. CASTRO, OFFICIAL REPORTER OF THE  
SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE  
COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE  
FOLLOWING PAGES, 1 THROUGH 7, INCLUSIVE,  
COMPRISE A FULL, TRUE, AND CORRECT TRANSCRIPT OF  
PROCEEDINGS HELD IN THE ABOVE-ENTITLED MATTER ON  
SEPTEMBER 18, 2006.

DATED THIS 18TH DAY OF OCTOBER, 2006.



ROSANE D. CASTRO,  
R.P.R., C.S.R. NO. 10454  
OFFICIAL COURT REPORTER