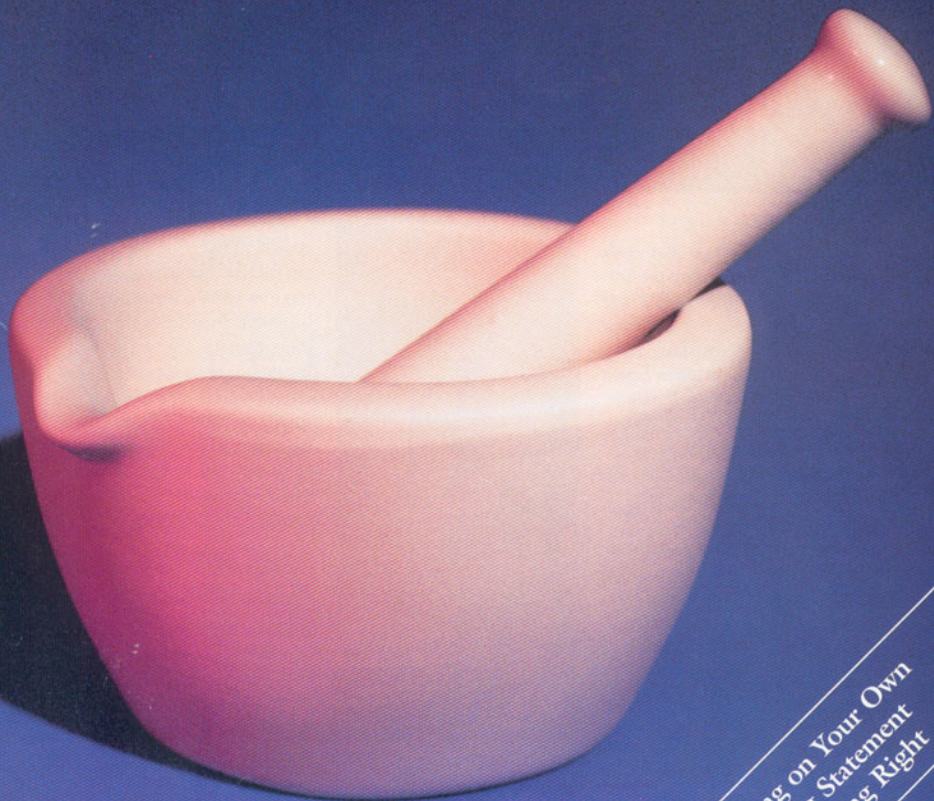


March 1996 \$5.50

TRIAL

Medicines and Drugs
Remedies for 'Bitter' Pills



Practicing on Your Own
Opening Statement
Researching Right

Criminal Justice System on Trial

This is an excerpt from the opening statement of Houston criminal defense attorney Jack B. Zimmermann, who tried the case with his partner Jim E. Lavine. His client, an attorney, was wrongfully accused of selling drugs. The jury acquitted the attorney in less than an hour. (State v. Manuel Satori (the name of the defendant has been changed) (Tex., Harris County Dist. Ct. 1995).)

Manuel Satori was born to a neurosurgeon and his wife in Galveston, Texas. When Manuel was two, the family moved back to El Salvador where Dr. Satori was a professor at the El Salvador Medical School.

Manuel was raised in El Salvador through high school. When it came time for him to go to college, his family sent him back to the United States.

He enrolled at the University of Texas, later transferred to and graduated from Texas A&M University. He attended Oklahoma City Law School in Oklahoma City, Oklahoma, took the bar exams, and was licensed in Texas and Florida.

He moved to Houston and began a law practice devoted to personal injury law, workers' compensation law, and immigration law.

You will hear that in the summer of 1988 the federal government's amnesty program was in high gear. During this time, people who were in the country illegally could apply for amnesty and possibly work toward U.S. citizenship. Basically, during the time frame that's relevant to this case, Mr. Satori was representing illegal immigrants. About 90 percent of his clients were Hispanics from Central or South America or Mexico who were in the country working and wanted to stay here and become U.S. citizens.

Before I finish talking about Mr. Satori, I want to tell you—and you will also hear evidence of this during the trial—that Mr. Satori is recovering from an illness that requires him to take a medicine that will from time to time cause us to ask the court to recess because the medicine sometimes increases fatigue and lessens his concentration. I wanted to let you know that in advance. You have every right to observe Mr. Satori and his demeanor during the course of this trial, and I don't want you to be surprised if he has some kind of adverse reactions to the medicine.

As part of Manuel Satori's practice, he came to represent a Colombian citizen who wanted to stay in the United States. His name was Carlos Mancada. He was an immigration law client. Mr. Satori put an amnesty package together for him, but Mr. Mancada never followed through, never went to the interview with the immigration authorities, and never joined the amnesty program.

Manuel Satori was arrested on August 18 for delivery of cocaine to Lourdes Rodriguez. A couple of weeks later, Carlos Mancada was arrested in a large-scale drug operation. We're talking about 50-some-odd kilograms of cocaine and over a \$1 million in cash. You are going to hear that to reduce his sentence, Carlos Mancada decided to become a government witness, including testifying for the state. He made a deal to testify against Satori and his codefendants in federal court, plus the state agreed not to pursue murder charges against Mancada, or any other charges. His testimony was offered in exchange for a reduced sentence, as counsel has already told you, not just in this case but in other cases as well.

Now, a woman named Lourdes Rodriguez was named in the indictment against Satori. She claims she got cocaine from him. She had been arrested in a large-scale federal drug investigation in Florida in March 1987, a year before the event on which you are going to be called to judge the facts. While charges were still pending and before her case was resolved, she came to Houston with a man named Marcello Najeed, who later became her husband.

Shortly after that, Najeed was arrested for exactly the same thing the state has charged attorney Satori with—delivery of over 400 grams of cocaine. Najeed was arrested by Nick Wilson, a Houston police officer, the same officer you are going to see as the first witness today.

And the evidence will show that eventually Najeed entered a contract to save his skin. He agreed to act as a "confidential informant" for the police and to "make cases," that is, set up drug buys from other dealers. If this led to other arrests and the recovery of a designated quantity of drugs, the charges against Najeed would be dismissed. If a lesser quantity of drugs was recovered, the sentence would be reduced, but the charges would not be dismissed.

Najeed spent a couple of months in jail until he cut the deal I just described with police officer Wilson, who got his \$200,000 bond reduced to \$10,000. So

is exactly what happened.

And guess what? Najeed got a 10-year sentence in his state case here. Then when four months passed, Officer Wilson went to the judge, gave her the background, and got Najeed released on probation.

Now, you are going to hear a tape recording of a conversation between Manuel Satori and Lourdes Rodriguez on the day of the arrest. Listen to the tape. You are going to find that it's in Spanish. So, unless you speak Spanish, you may have difficulty understanding it. So anticipating that, the court appointed an interpreter, David Farrow. Farrow listened to that tape over and over again, and has had it on enhanced equipment where you can hear the slightest whisper. So, he knows what's on that tape.

From what he heard, Mr. Farrow has prepared a word-for-word Spanish transcript and has translated that into English. Both will be available to you.

The English transcript has been adopted by the court and agreed to by the parties. There is no dispute among the lawyers about what's on that tape. The dispute is about what it means. Determining that is your job.

The purpose of an opening statement is to outline the evidence and the issues that you will be looking at. As I said before, one of those issues will be: What is the meaning of what's on that tape?

You will hear no evidence that Manuel Satori's fingerprints were on any cocaine. But the state was hoping to find them. They should have been there if Satori had handled the drugs, and they weren't there. But you will hear no witness come in here and say: "Well, we knew there were going to be two deliveries. Rodriguez claimed a 1-kilo delivery in the morning; a second 1-kilo delivery after lunch. Both, allegedly, were from Satori to Rodriguez. We even got notice of one because Rodriguez brought us the drugs. So we had her under surveillance, and we saw him give to her."

You will hear no witness who will testify that there was any surveillance of an exchange of anything between Lourdes Rodriguez and Manuel Satori.

So ladies and gentlemen of the jury, we are convinced that once you listen to the tape and read the translation, hear the witnesses, read the documents, and see the photographs and other evidence, you will reach the conclusion that Manuel Satori did not transfer or deliver any cocaine to Lourdes Rodriguez on August 18, 1988. Thank you. □

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Intro
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Najeed got out on bond while his case was pending and started trying to make cases against dealers and against innocent people like my client in order to get his case dismissed.

You will learn that against the policy existing in the District Attorney's Office, Najeed also got credit for cases that Lourdes Rodriguez made, although she had no deal in writing with the Houston Police Department. In other words, she was not under the direction of a police officer, who would have controlled the money and supervised drug deliveries to prevent bogus arrests and phony charges. You don't just send people like Rodriguez off without control, because there is a great danger that they will make false cases against people.

You will hear that that's exactly the arrangement that Lourdes Rodriguez had. Even though she was not under formal control, whatever drug cases she would lead authorities to would count toward Najeed's sentence—a violation of policy.

Then you will hear that in June 1988 Rodriguez was convicted in her federal case. In June 1988, when she came to work for Manuel Satori as a reception-

ist, she had not yet been sentenced. At that time, she was just trying to help herself.

Meanwhile, Officer Wilson had gotten Najeed out of jail, and Najeed was trying to work his case off. So you've got Rodriguez trying to help herself in Florida and help Najeed in Texas and,

**The evidence
will show that
Najeed entered
a contract to save
his skin.**

then, all of a sudden, she went to work for Manuel Satori and, two-for-one, Rodriguez and Najeed decided they could help themselves by setting up a lawyer.

She made this case—and you are going to determine whether it is a legitimate case or not—against Manuel Satori. Lo and behold, Rodriguez was sentenced

in Florida in a huge federal investigation that involved many, many defendants and a lot—a lot—of drugs. But Lourdes Rodriguez got probation because she had helped the state by making other cases in cooperation with the police. She got rewarded.

Sure enough, Rodriguez returned to Houston, and the very next year began stealing from her new employer and was arrested for felony theft while she was still on probation for the felony in Florida. And guess what, she got out on bond. You will hear that Officer Wilson helped her get that.

Eventually her Houston theft case was resolved; she pleaded guilty and got probation again—even though she is on federal probation and was also convicted of a felony offense here. As far as we know, she's still on probation.

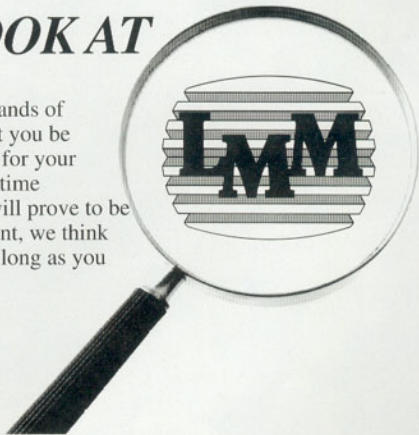
What happened next was that Najeed violated his contract in some way, and the state lost patience with him and put him back in jail. And then he started seeing the light.

So he contacted Officer Wilson and said, "I will work with you, even though I am in custody, through my wife, Lourdes Rodriguez." And sure enough, that

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