

Case No. _____

**IN THE
SUPREME COURT OF THE UNITED STATES**

DELMART E.J.M. VREELAND, II,

Petitioner,

v.

DAVID ZUPAN; and
THE ATTORNEY GENERAL OF THE STATE OF COLORADO,

Respondents.

**ON PETITION FOR WRIT OF *CERTIORARI* TO
THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT**

APPENDIX VOLUME II – EXCERPTS OF TRIAL COURT RULINGS
(APPENDICES D-F)

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INDEX TO APPENDICES

Appendix Volume I (A-C) – Court Opinions and Orders

Tenth Circuit Opinion in <i>Vreeland v. Zupan</i> , 906 F.3d 866 (10th Cir. 2017)	App. A
Tenth Circuit Order Denying Petition for Rehearing.....	App. B
Colorado Court of Appeals Opinion in <i>People v. Vreeland</i> , No. 08CA2468 (February 14, 2013) (unpublished)	App. C

Appendix Volume II (D-F) – Excerpts of State Trial Court Rulings

Excerpt of Trial Record in <i>People v. Vreeland</i> , Douglas County, Colorado No. 2004CR706, Hearing Dated June 27, 2006.....	App. D
Excerpt of Trial Record in <i>People v. Vreeland</i> , Douglas County, Colorado No. 2004CR706, Hearing Dated November 17, 2006.....	App. E
Excerpt of Trial Record in <i>People v. Vreeland</i> , Douglas County, Colorado No. 2004CR706, Hearing Dated November 28, 2006.....	App. F

Appendix Volume III (G) – Opinion of the United States District Court

United States District Court Opinion in <i>Vreeland v. Zupan</i> , 14-cv-02175-PAB (Dec. 20, 2016)	App. G
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APPENDIX D

1
2 DISTRICT COURT, DOUGLAS COUNTY,
3 COLORADO

4 Court Address:
5 Douglas County District Court
6 Division 6
7 4000 Justice Way
8 Castle Rock, Colorado 80109

COURT USE ONLY

9 Plaintiff:
10 PEOPLE OF THE STATE OF COLORADO

11 Defendant:
12 DELMART EDWARD VREELAND

Case No. 2004CR706

13
14 REPORTER'S TRANSCRIPT

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

16 FOR THE PEOPLE: DARREN VAHLE, ESQ.
17 Deputy District Attorney

18 FOR THE DEFENDANT: JOSEPH SCHEIDELER, ESQ.
19 Defense Attorney

20 This is a transcript of the proceedings held on
21 Tuesday, June 27, 2006, before the HONORABLE PAUL A. KING,
22 Judge of the District Court.

23 This is a complete transcript.
24
25

1 longer than any motions I've ever dealt with from a lawyer.

2 Judge, given all those things, I would ask the
3 Court to deny any continuance. If Mr. Scheideler wants to
4 join us at trial next week, I would ask the Court to invite
5 him to do so. But my fear, once again, and I expressed this
6 six months ago, was and it is that if the Court grants this
7 continuance what will happen in this is we will get ready
8 for trial and suddenly at trial there will be a conflict of
9 interest with Mr. Scheideler and Mr. Vreeland. Mr.
10 Scheideler will have to get off the case because of that
11 conflict and we will be back to where we were before
12 Mr. Henry got on the case or Mr. Steinberg got on the case.
13 I ask the Court to deny any continuance and allow this case
14 to proceed to trial.

15 THE COURT: Reply, Mr. Scheideler?

16 MR. SCHEIDELER: This Court knows me from prior to
17 the time when this Court was a court and was in the District
18 Attorney's Office. I think I have a reputation in Colorado
19 and in New York, for that matter, that when I say I'm ready
20 for trial that I am ready for trial. I don't ask for
21 continuances lightly. I would like very much to try this
22 case on the 6th. I would like very much to be advisory
23 counsel on the 6th. There is just no possible way I can do
24 so. But I can tell this Court without any hesitation that
25 if this Court would grant us to the end of August, we will

1 waive speedy obviously, I will be ready to try this case and
2 I will have all of the information that I need to digest
3 done at that point in time. It's not only myself but my
4 associate, Michael Solosky (phonetic), who will be working
5 on this matter. So we know that we can be up to speed by
6 the end of August on the case.

7 Secondly, my understanding is that my client filed
8 a motion for a continuance before for the opportunity to
9 obtain counsel. He has interviewed numerous other counsel
10 prior to my taking the case over -- or possibly taking the
11 case it seems right now. And I think he is in good faith
12 regarding that. His Rule 16 rights seem to be, to me, in
13 some way prejudiced here regarding that and his Sixth
14 Amendment right to counsel. I believe it's also something
15 that the Court should take into effect.

16 But if Mr. Vahle's basic problem here is with the
17 continuance, and I understand the frustration, if it is that
18 in August I will come before the Court or previous to that
19 time and say that I have some sort of a problem that will
20 not be the case. I am asking this Court to take me at my
21 word. And I will be ready for trial at that time. There is
22 no way on God's green earth I can be ready by July 6th even
23 to be advisory counsel in this case.

24 THE COURT: Anything else, Mr. Scheideler?

25 MR. SCHEIDELER: No, Your Honor.

1 THE COURT: I won't old it against you that you
2 have a past history from New York. But what I will tell you
3 this, you have entered you appearance in this case, so you
4 are not advisory counsel, you are counsel of record. If you
5 were advisory counsel, the matter would proceed to trial on
6 the 6th of July. The concern the Court has is that there is
7 a manipulative aspect of this that is very obvious to the
8 Court. And I do not want to be played by anybody. And the
9 concern I have is that I agree it would be impossible for
10 you to be prepared to try this case by July 6th.

11 The People's arguments are well taken. This is
12 not the first time we have been placed in this posture and
13 it has not been something that has been generated as a
14 result of what the prosecution or the Court has done. The
15 past history of this case, as articulated by Mr. Vahle,
16 speaks to the issue of there being an attempt to avoid the
17 ultimate resolution of this case before a jury.

18 Having said all that, I believe the Court will be
19 setting up error in this matter for the matter not to be
20 permitted to proceed with competent and effective counsel.
21 And the Court finds there is an entry of appearance in this
22 matter. The Court has accepted that entry of appearance
23 Mr. Scheideler is not advisory counsel. He is
24 Mr. Vreeland's lawyer based upon that entry of appearance.
25 Based upon that, the Court first of all find with respect to

1 the motion today Mr. Vreeland is not counsel at this point
2 time Mr. Scheideler will not be proceeding on pro se motion.

3 I will allow you the opportunity to review those
4 motions and tell me which ones, if any of them, you believe
5 have merit and I will certainly let you address them to the
6 Court at some point later. We are not having Mr. Vreeland
7 act as his lawyer you're the attorney. With respect to the
8 that it's with some reluctance that the Court finds it would
9 be appropriate to grant the request to continue the trial,
10 request the matter be set in August is problematic we will
11 set it along the Court's calender and counsel's calendar.

12 The Court finds that the request by defense to
13 have the matter continue Mr. Scheideler with your permission
14 I will speak to your client with respect to speedy trial
15 issues.

16 MR. SCHEIDELER: Yes.

17 THE COURT: Mr. Vreeland, by asking for a
18 continuance you are agreeing that the People have six months
19 from today's day in order to bring you to trial, do you
20 understand that?

21 MR. VREELAND: Yes, sir.

22 THE COURT: Is that what you wish to do?

23 MR. VREELAND: Yes, I do.

24 THE COURT: The Court will grant that request and
25 direct the matter be set to trial within six months of

APPENDIX E

DISTRICT COURT, COUNTY OF DOUGLAS
STATE OF COLORADO

Court Address:

Douglas County Justice Center
4000 Justice Way, Suite 2009
Castle Rock, CO 80109-7546

COURT USE ONLY
Case No. 04CR706
Division No. 1

Plaintiff: PEOPLE OF THE STATE OF COLORADO

Defendant: DELMART EDWARD VREELAND

REPORTER'S TRANSCRIPT

A motions hearing in this matter commenced on Friday, November 17, 2006, before the HONORABLE PAUL A. KING, District Court Judge in and for the County of Douglas, State of Colorado, Division 1.

This transcript covers the proceedings held in this matter on the above-referenced date in its entirety.

A P P E A R A N C E S

FOR THE PEOPLE: Mr. Darren L. Vahle, Esq.
Registration No. 28107
Deputy District Attorney

FOR THE DEFENDANT: Mr. Joseph Scheideler, Esq.
Registration No. 21602
Attorney at Law

Mr. Delmart Vreeland, Pro Se

1 imagine how I could be effective.

2 THE COURT: All right. The Court --
3 Mr. Scheideler, let me -- the only -- only issue I'm
4 addressing now is your motion to withdraw. When I
5 received the material, I had your motion, including the
6 correspondence from the defendant. I checked with
7 regulation counsel in this case; there is no formal
8 complaint that's been filed with regulation counsel.
9 So --

10 MR. SCHEIDELER: I expect it will be.

11 THE COURT: Understanding that, I need to have
12 more of a record made with respect to the basis for the
13 withdrawal. I'm not asking you to violate any
14 attorney/client privileges, but I am concerned when I
15 address this issue on the eve of trial.

16 And I will certainly, if necessary, go through
17 a more -- a longer litany of the posture of this case,
18 but my concern is now with respect to your -- your
19 request. When you entered this case on June 27th, I
20 recall specifically that you indicated you could not be
21 ready to try the case on the date of trial, which was
22 July the 6th, but you indicated that you would be ready,
23 willing, and able to try the case if it were reset until
24 August.

25 We reset it until November the 28th. We have

1 litigated numerous motions since that time, and I want
2 to -- I need to hear a little more with respect to the
3 issue of this conflict. Merely having a disagreement
4 with your client Court finds is not adequate grounds for
5 the Court to grant the request to withdraw.

6 And the Court will not address any motion to
7 continue until after we have first addressed and resolved
8 the motion to withdraw. So I'll give you a chance to
9 explain that a little bit more, Mr. Scheideler, because
10 I'm not -- well, I'll give you a chance to explain that a
11 little bit more and provide a little more information to
12 the Court.

13 MR. SCHEIDELER: Well, in the beginning of this
14 case, I reviewed thousands of pages of -- of discovery
15 material, had intense contact by telephone and in person,
16 and associates of my firm also in person, with
17 Mr. Vreeland regarding both federal writs and motions,
18 and in the course of doing so, became very familiar with
19 the facts of the case.

20 I have viewed all of the videotapes, and my
21 method of trying the case would involve a great deal of
22 defense work regarding cross-examining the witnesses.
23 Mr. Vreeland does not agree that that is the method of
24 choice; that although he would agree with that particular
25 method, his -- he would prefer to call numerous

1 witnesses, some of whom I can't agree are -- are cogent
2 or necessary for the -- for the case.

3 As a result of these disagreements, he has
4 considered that I am incompetent and, therefore, not --
5 and -- and also that I'm in league with either the Court
6 or the District Attorney's office and, therefore, I have
7 a conflict of interest in his mind regarding -- regarding
8 the case.

9 Again, I have -- I have reviewed the case to
10 the extent where I am prepared to try the case. Our
11 disagreements go very deep at this point in time. We
12 have had a number of rather harsh exchanges between one
13 another and he no longer trusts me, number one; and
14 number two, he believes that I am incompetent.

15 I have notice that I am, you know, going to be
16 in -- in a lawsuit with him, which further drives a wedge
17 between our cooperation. I -- I have no longer any
18 communication with him; and in this particular case,
19 communication is absolutely essential in order to -- in
20 order to try the case properly.

21 THE COURT: Mr. Scheideler, with respect to the
22 two issues -- other two issues with respect to this
23 lawsuit and the allegations of the grievance, can you
24 speak to those so --

25 MR. SCHEIDELER: Well --

1 THE COURT: -- that I have a better
2 understanding of that?

3 MR. SCHEIDELER: -- I've -- I've been notified
4 by him that I'm going to receive a lawsuit, and I have no
5 doubt that that's going to occur, because he has already
6 sued everyone else, including Mr. Vahle and yourself. So
7 I have no -- no doubt that he's going to go ahead with
8 that.

9 He has filed his own motions. He has reviewed
10 all sorts of law and knows the procedure for filing
11 lawsuits and grievances. So I have to take him at his
12 word. Aside from our disagreements, he has never said
13 that he was going to do something that he didn't do.

14 THE COURT: All right. Anything else,
15 Mr. Scheideler?

16 MR. SCHEIDELER: No, Your Honor.

17 THE COURT: Mr. Vahle?

18 MR. VAHLE: Judge, I would ask the Court to
19 hear from Mr. Vreeland as to his position before I make
20 any statement.

21 THE COURT: All right. I do intend to have
22 Mr. Vreeland address the Court with respect to the motion
23 to withdraw only. Mr. Vreeland?

24 THE DEFENDANT: Your Honor, I've just sit here
25 and listened to what Mr. Scheideler has said, and I did

1 write you that letter -- and my back's been hurt really
2 bad, so I'm leaning over, so I'm sorry.

3 I said inside the letter to you that I would
4 waive the attorney/client privilege with the recorded
5 telephone calls between me and Mr. Scheideler if he'd
6 ever start lying to you. Well, I'm willing to do that
7 now, because he knows that he quit on me.

8 The reason there's no communication is because
9 he won't take my calls. He told me, F. off, don't call
10 me. Sue me. He did that in October. I did everything
11 in my power to get this man to get online and to defend
12 me. I gave him a witness list of 80 people; he hasn't
13 spoken to anyone.

14 And all this is on the telephone and he's
15 sitting here smiling acting like it's no big deal. The
16 things he said about the Court, the things he said about
17 Darren Vahle, all of that is on tape and I'm willing to
18 waive the attorney/client privilege.

19 The problem here wasn't me. I've tried
20 everything that I can to get him to do what he's supposed
21 to do. Name one thing that he said he was going to do
22 that he's ever done.

23 He has this sheet here, talk about he's all
24 ready for trial, the things that he just mentioned to
25 you. In here he talks about how many videotapes he's --

1 he's reviewed. He started reviewing the videotapes of
2 the witnesses a week ago, and he's only went through
3 maybe three of them, and there's 13 two-hour videotapes
4 that he hasn't reviewed.

5 He hasn't reviewed any of the witness
6 statements. He hasn't reviewed any of the witnesses that
7 I've given him. He hasn't spoken to either of the
8 private investigators that I've hired. He's taken almost
9 \$26,000 from my family. He told us he was going to hire
10 a private investigator.

11 He was going to hire a computer expert, which
12 finally he just did hire a computer expert. I sent him
13 money to pay the computer expert by a credit card. He
14 gave the computer expert 500 bucks, didn't even give
15 him all the money that my mother gave him.

16 And as far as lawsuits goes, my parents are
17 suing him in U. S. District Court in the District of
18 Michigan. They've retained new counsel. They are suing
19 you.

20 That's what's going on with the lawsuit. He's
21 misappropriated the funds. He hasn't done anything in
22 this case. He's sitting in this court and he's trying to
23 make it look like I'm trying to accuse him of being in
24 cahoots with this Court or Darren Vahle, and that's shit,
25 that's fantasy. I never said no such thing.

1 And if the Court or Darren Vahle wants to
2 review those tape-recorded conversations of me and
3 Mr. Scheideler when he says the things he says about this
4 Court and about Darren Vahle and about Dea Aragon or
5 anybody else, you're more than welcome to listen to them.

6 We had a verbal agreement and a written
7 agreement on this case. He's done nothing. Now that
8 we're inside the courtroom, he's trying to make it look
9 like he's Mr. Innocent.

10 I have mailed out the complaint against him
11 with the attorney regulation's counsel. I sent the
12 letter to Mr. -- I think it's Fat -- Fatzinger or
13 Fitzinger (phonetic/sic), something like that. I just
14 got a response from him on a different grievance that I
15 filed against Mr. Vahle.

16 He does release attorney/client information.
17 He's -- he's been doing it himself. He's been talking to
18 people about my case, about things that I've said to him,
19 things that have not been made public. Like he just
20 brought up the fact about this lawsuit that I've sued
21 Darren Vahle. I don't know if anybody's been served on
22 that, because federal court ordered us not to tell
23 anybody we were suing him. So I don't understand why
24 he's in the courtroom now telling people that we're suing
25 Darren Vahle.

1 There's no way that this man can represent me.
2 That's why I tried in October to correct this. And I was
3 really specific on the phone, because I know that they
4 record the telephone calls, so I was really specific with
5 it. I asked him specific questions.

6 When he came down to the jail finally after it
7 was 11 weeks of waiting for him to come down, he was here
8 and he told me that his wife would divorce him, and his
9 associate's girlfriend would leave him if they didn't
10 leave right away, so we still couldn't discuss trial
11 strategy. I have never with this man discussed trial
12 strategy, and that's what the arguments have been about
13 all the time. We've never discussed witnesses, we've
14 never discussed theory of the case. We've never
15 discussed anything on this case.

16 He said he was going to do a lot of things, he
17 never did them, and then finally he quit. He said, F.
18 you, F. you, I quit, sue me. I said, Well, then give me
19 my money back. That's when he said, F. you, and he hung
20 up and he quit. Jesse Glassman was present when he did
21 it, it's recorded on the telephone call, and I'm willing
22 to waive the conversations.

23 That's pretty much all I have to say, Judge.

24 THE COURT: All right. Thank you,
25 Mr. Vreeland.

1 What I'll do is give Mr. Vahle a chance to
2 respond, Mr. Scheideler a chance to reply, and then I'll
3 address the motion to withdraw.

4 Mr. Vahle?

5 MR. VAHLE: I think what Mr. Scheideler was
6 referring to was the grievance that Mr. Vreeland filed
7 against me, which I have notice of, but I appreciate the
8 advance notice by Mr. Vreeland of a pending lawsuit.

9 Judge, I don't know that I have a dog in this
10 fight. There clearly is a conflict of interest, though,
11 at least appears to the People, when we have a lawsuit
12 filed, and I think admittedly from the defendant, a
13 grievance filed.

14 Actually, I think there is a conflict.
15 Frankly, Judge, I think it's a conflict set up by
16 Mr. Vreeland, as I said six months ago he would set up so
17 that he would have an ineffective assistance of counsel
18 argument later on. I think this is all part of the game.

19 But as to the actual motion to withdraw, I
20 don't have a position other than to state I think that
21 there is clearly an actual conflict.

22 THE COURT: All right. Mr. Scheideler?

23 MR. SCHEIDELER: Your Honor, I don't see,
24 considering the statements that we just heard, that I can
25 possibly proceed on this case. Obviously, if you were to

1 order me to do so, I would do so; but without the
2 communication, without the trust, and with the -- with
3 the wedge that's being driven between us legally, counsel
4 has advised me that I must -- I must redound to that
5 request to withdraw.

6 As far as the -- the ineffective assistance of
7 counsel argument, I have my detailed hourly work noted
8 from the day I started this case. Despite the fact that
9 it was a flat fee for -- for preparation and a flat fee
10 for trial, I've received almost the entire flat fee for
11 the preparation, not the entire part. I have not
12 received \$26,000.

13 I have given the computer expert the entire
14 \$1200 that was given to me by his mother through credit
15 card to -- to continue the case. I'm informed by that
16 expert that he's spent 15.5 hours and that there's due
17 and owing \$350 more.

18 I've met with Tom Kerwin (phonetic), who is the
19 alleged investigator in this case on two separate
20 occasions, and the fact that the -- the -- the statement
21 that I have not reviewed the witnesses' statements or
22 have not viewed the videotapes is -- is false. It's not
23 true.

24 THE COURT: All right. May I ask you -- may I
25 ask your client a -- a question, Mr. Scheideler?

1 MR. SCHEIDELER: If -- if he wishes to waive
2 his Fifth Amendment --

3 THE COURT: I want to ask him a question about
4 your representation of him, all right?

5 MR. SCHEIDELER: Sure.

6 THE COURT: Mr. -- Mr. Vreeland, is it your
7 desire to have -- to no longer have Mr. Scheideler act as
8 your attorney in this case?

9 THE DEFENDANT: Judge King, I can't. I can't
10 let him represent me anymore. He's lying to you, that's
11 why I agreed to waive the telephone calls that have been
12 recorded, so you can listen here.

13 I understand Darren Vahle thinks it's set up.
14 I'm not suing the man for ineffective assistance of
15 counsel. I'm not even going to go with that claim. I
16 don't even care about that. That's not where I'm going.

17 THE COURT: Mr. Vreeland, I'm not asking you to
18 respond, I just want you to answer my question --

19 THE DEFENDANT: Sir, no, I do not want --

20 THE COURT: -- do you -- do you want
21 Mr. Scheideler to continue as your lawyer?

22 THE DEFENDANT: No, sir, I do not.

23 THE COURT: All right. Having heard this,
24 having heard from counsel, and Mr. Vahle is right to a
25 certain extent, he doesn't have a dog in this fight,

1 except for the fact that the trial has been continued on
2 more than one occasion, and that's where this at least is
3 being postured at this point in time if Mr. Scheideler
4 withdraws here on the eve of trial.

5 The Court does have concerns about the
6 11th-hour nature of this, but the Court has also listened
7 to Mr. Scheideler, has listened to Mr. Vreeland. It
8 appears to the Court it's obvious from the purpose --
9 from the record that there does exist a conflict between
10 the two with respect to how the case is to proceed given
11 the nature of Mr. Vreeland's own statements today and the
12 letter that was written indicating that he intended to
13 sue and to grieve Mr. Scheideler.

14 Given the fact that while there is no grievance
15 that the Court is aware of that's been filed yet, it
16 would seem to the Court that if a client has indicated
17 that his intentions were to grieve and to sue his
18 counsel, that would certainly serve as grounds to put a
19 chill on the relationship between attorney and client and
20 could very well impact or affect the ability of counsel
21 to be effective.

22 Obviously, Mr. Scheideler would have to conduct
23 the trial certainly in a professional manner, but
24 obviously knowing that even before he started that the
25 case was going to be subject to -- he was going to be

1 subject to a potential grievance and a lawsuit, that
2 would not be a cloud upon which -- under which someone
3 should be trying a case.

4 While I understand this, I have some reluctance
5 given the 11th-hour nature of this, but I'm only dealing
6 with the motion to withdraw at this point in time, and I
7 think that the record's been complete with this and the
8 Court believes that Mr. Scheideler's motion does have
9 merit given what I've heard today, and I will permit
10 Mr. Scheideler to withdraw as counsel in this case. I do
11 this reluctantly, not casting any particular aspersion on
12 anybody, just we find ourselves in a very awkward posture
13 at this point in time.

14 Now having said that, I intend to address the
15 motion to continue, which I believe now that
16 Mr. Scheideler is no longer counsel, would be
17 Mr. Vreeland's.

18 So thank you, Mr. Scheideler.

19 MR. SCHEIDELER: Thank you, Your Honor.

20 THE COURT: All right. For the People?

21 THE DEFENDANT: Your Honor, can I ask one thing
22 before Mr. Scheideler leaves, please? We've tried --
23 there was a thought -- we thought at one time I might get
24 forced to go to trial on my own or new counsel might get
25 forced to go to trial within the next few days.

1 We have tried for over a month now to get my
2 stuff from Mr. -- the videos and the discovery and
3 everything from Mr. Scheideler. He won't give it up. He
4 says he's not giving it up until you order him to release
5 it and give it up. He said that. We've recorded it on
6 the telephone when Tom Kerwin (phonetic) went into his
7 office the other day. Can you ask him to please return
8 the stuff so we can prepare for trial?

9 THE COURT: You're asking --

10 MR. SCHEIDELER: I have no problem returning
11 the material now that I'm no longer going to trial.

12 THE COURT: All right. I don't believe the
13 Court has to issue any orders. Clearly, what
14 Mr. Scheideler has to do is appropriate to protect his
15 interest, but he also needs to provide to the defendant
16 whatever discovery has been provided to him.

17 MR. VAHLE: Judge, I just want the record to be
18 clear that Mr. Vreeland did have copies of discovery at
19 the time Mr. Scheideler entered. He had his own set of
20 discovery. My understanding of the videotapes, he gave
21 them to Mr. Scheideler, and I don't know whether the
22 discovery also was transferred to Mr. Scheideler, as
23 well. But he had his own set at one point, and I'm not
24 sure whether we're talking about a different set or the
25 same set, but I just want the record to be clear that

1 Mr. Vreeland has had a voluminous set of discovery.

2 THE COURT: Understood.

3 MR. SCHEIDELER: And so there's no problem, I'm
4 going to deliver all of that material to Lieutenant
5 McMahan.

6 THE COURT: All right. That's the
7 understanding of the Court. Thank you. Now, with
8 respect to the defendant's motion to continue,
9 Mr. Vreeland?

10 THE DEFENDANT: Your Honor, I've spoke to
11 Al Haddon's office and Pamela Mackey. She's waiting for
12 me to call her this morning. We do not want a six-month
13 continuance. There's no way she can go to trial in
14 10 days, but I do not want a six-month continuance. I
15 want this over with. He told me he was first quitting on
16 October -- I don't know the exact date, but the second
17 week of October, and I tried to get it resolved then.

18 I'm not asking for a six-month continuance, but
19 I do need a continuance so we can go to trial. What
20 Ms. Mackey is asking to do is inform the Court that if
21 you will set a day, whatever day you pick for appearance
22 of counsel, someone from their office will appear.

23 THE COURT: All right. Anything else, then,
24 Mr. Vreeland?

25 THE DEFENDANT: Other than the fact that I

1 that, but they don't want anything more than that.

2 So I'm asking you that you allow me to hire
3 these counsels, my family's paying them in full up front,
4 and there's no way in the world I'm going to fire
5 these -- these people, because I know they're going to do
6 the job they're supposed to do.

7 That's all I have to say.

8 THE COURT: All right. The Court intends to
9 make a record with respect to this matter. Posture we're
10 in right now is the case is currently set for trial on
11 November the 28th. It is now November the 17th. The
12 Court has granted Mr. Scheideler's motion to withdraw
13 for, I believe, good grounds as have been articulated on
14 the record.

15 The defendant has now moved to continue the
16 trial, the defense -- pardon me, the People have
17 objected, and the Court will make the following record
18 with respect to the defendant's request:

19 The Court will first start in this case with
20 the competency evaluation that was performed on
21 Mr. Vreeland in late 2005. This was done at the request
22 of his then lawyer, Mr. Thomas Henry, because
23 Mr. Vreeland had disclosed a suicidal intent while in the
24 Douglas County Jail and his attorney had brought to the
25 Court's attention that if Mr. Vreeland continued a hunger

1 strike for any length of time, competency would become an
2 issue.

3 Mr. Vreeland was then interviewed by
4 Dr. Chamberlin as part of the competency evaluation that
5 this Court ordered at the request of Mr. Henry, his
6 attorney. I think some of the things that were noted in
7 that competency report are significant as a predicate for
8 the Court's ruling in this case.

9 As part of that process, Dr. Chamberlin took a
10 social history from Mr. Vreeland. When asked if he had
11 acquired any degrees from college, Mr. Vreeland stated,
12 "No comment." When asked about his work history,
13 Mr. Vreeland said, "Can't do it. I was in the military
14 for awhile." "I owned a couple of businesses and I
15 worked for the military."

16 With respect to his medical condition,
17 Dr. Chamberlin noted the following: Mr. Vreeland's
18 medical charts -- excuse me. In Mr. Vreeland's medical
19 chart, he reported being shot in the face in 1998. He
20 has a history of heart palpitations, and Mr. Vreeland
21 reported having a seizure within a week prior to his
22 interview. Doctor Chamberlin noted there were no
23 witnesses to this seizure.

24 Mr. Vreeland has requested to be evaluated for
25 cancer of the left lung, although the record, according

1 to Dr. Chamberlin, noted there was no clinical evidence
2 of cancer. He was also evaluated for back pain after
3 reaching for a mop in the jail. The pain did not
4 persist.

5 With respect to psychiatric history,
6 Dr. Chamberlin noted the following: Mr. Vreeland went on
7 a hunger strike to force the issue of his treatment at
8 the jail. There was concern that if he persisted in his
9 hunger strike, competency might become an issue.
10 Negotiations with the jail apparently prevented the
11 continuation of the hunger strike.

12 Mr. Vreeland demanded to be seen by a
13 psychiatrist on several occasions, those appointments --
14 and those appointments with psychiatrists at the Denver
15 Health were set up for him. He refused to attend the
16 appointments when the times came up. He reported on one
17 occasion his attorney had come to see him and that he was
18 not aware this appointment with a psychiatrist had been
19 made. The other appointment was made without his
20 consultation, and he subsequently refused to attend.

21 When he was admitted to the jail in March
22 of 2005, Mr. Vreeland was noted to be hostile,
23 argumentative, grandiose, with fantastic content. He was
24 noted to be of high average intelligence, was diagnosed
25 with anxiety -- anxiety disorder.

1 On September 6, 2005, Mr. Vreeland was noted to
2 be hostile, sarcastic and dismissive. During the course
3 of an interview with a psychiatric person on that date,
4 Mr. Vreeland escalated in tone during the course of the
5 interview and the interview was terminated because of
6 Mr. Vreeland's hostility. He was diagnosed with
7 malingerling.

8 The interviewer indicated that the inmate
9 remains uncooperative, becomes escalated when he is
10 unable to dominate the interview, he threatened
11 litigation to intimidate, and wants to split the staff.

12 On October 20th, 2005, Mr. Vreeland reported
13 that he has a mental health condition known as Asperger's
14 which causes him to speak fast with racing thoughts.
15 Doctor Chamberlin noted that Asperger's Disorder is a
16 qualitative impairment in social interaction, as
17 manifested by marked impairment in the use of nonverbal
18 behaviors or a failure to develop peer relationships, or
19 a lack of spontaneous seeking to share enjoyment.

20 Mr. -- one of the nurses in the medical clinic
21 in the jail noted that Mr. Vreeland pretty much runs the
22 pod he is on.

23 During the mental status examination performed
24 by Dr. Chamberlin, Dr. Chamberlin noted that when he --
25 when Mr. Vreeland was initially brought in to him, he was

1 asked to perform some mental health examinations;
2 including as part of that was to count backwards from 100
3 by 7s, Mr. Vreeland stated, "I don't need to do that
4 shit. Just figure out if I'm competent or not."

5 The ensuing discussion then was about
6 Mr. Vreeland's need or attempts to control the interview.
7 That resulted in Mr. Vreeland stating, well, he had just
8 woken up and tends to be grouchy when he wakes up.
9 Doctor Chamberlin then concluded that the rest of the
10 interview was without a significant amount of rancor,
11 although Mr. Vreeland clearly sought to orchestrate the
12 interview in a more subtle fashion.

13 When discussing the case with Dr. Chamberlin,
14 Mr. Vreeland emphatically discussed points with which he
15 disagreed on the case, but he would not discuss much of
16 the case itself. His manner was assertive, and at times
17 aggressive. His intelligence level was estimated to be
18 high average, although his performance scores may be
19 lower than his verbal scores based on his mental status
20 examination. Mr. Vreeland dominated some of the
21 interview by sparring or combatively discussing the issue
22 at hand, sometimes by the sheer quantity of his
23 verbalizations.

24 With respect to legal competency,
25 Dr. Chamberlin also indicated that Mr. Vreeland revealed

1 a working knowledge of the legal system that surpassed
2 most individuals. "His responses became so esoteric at
3 times that I had to point out to him we were working with
4 a baseline knowledge level, and his Socratic
5 discussions," lectures described by Dr. Chamberlin, "of
6 issues at hand were prolonging the interview
7 substantially."

8 Mr. Vreeland stated to Dr. Chamberlin in this
9 interview that he was considering representing himself
10 with his -- with his attorney, Tom Henry, acting as a
11 consultant. When asked what happens if a person is found
12 not guilty, Mr. Vreeland responded by stating, "The State
13 gets their asses sued real bad."

14 The diagnostic impression of Dr. Chamberlin was
15 that Mr. Vreeland appears to use the means available to
16 him in the moment to accomplish his goals, including
17 threatening suicide, threatening litigation, and
18 intimidating those around him.

19 Mr. Vreeland tends to dominate the populations
20 with whom he lives. His veracity and the believability
21 of his statements were questioned in the discovery
22 materials by several different persons. He was unlikely
23 to describe or articulate accurately any of his
24 vocational pursuits, and the source of his income was
25 undefined.

1 With respect to a diagnostic formulation,
2 Mr. -- or Dr. Chamberlin indicated that Mr. Vreeland's
3 intelligence level is high average minimally and he has a
4 distinctly acute understanding of the proceedings against
5 him and his ability to work with his attorney to develop
6 the best defense possible is not an issue.

7 With respect to that, the Court clearly notes
8 for the purposes of this record that Mr. -- Mr. Vreeland,
9 as articulated by Dr. Chamberlin in the report, has a
10 tendency -- first of all, is highly intelligent,
11 understands the criminal justice system very well, and
12 is, as Dr. Chamberlin noted, will "use the means
13 available to him in the moment to accomplish his goals,
14 including threatening suicide, threatening litigation,
15 and intimidating those around him."

16 The Court harkens back to the first appearance
17 of Mr. Vreeland before the Court in which Mr. Vreeland
18 described the Court and said the following after the
19 Court had entered an order: "So you will not let me
20 contact my counsel? Okay. No problem. Piece of shit.
21 Mother fucker piece of shit." Clearly, an attempt by
22 Mr. Vreeland to intimidate the Court.

23 The Court also notes the following:
24 Mr. Vreeland had a long history of contacts with previous
25 counsel in this case. I'm going to spend a moment of

1 time to go through that history in some detail.

2 Mr. Vreeland, on January 28th, indicated -- one
3 of his earlier appearances on January 28th, 2005,
4 indicated that he had retained private counsel, he did
5 not wish to have the public defender appointed to
6 represent him. On February 23d, the Court appointed the
7 alternate defense counsel to represent the defendant
8 because of an obvious conflict with the public defender's
9 office. No lawyer had appeared on behalf of
10 Mr. Vreeland.

11 Mr. Vreeland made requests as early as the 17th
12 of February, 2005, to have the alternate defense counsel
13 withdraw, and on the -- Court indicated that alternate
14 defense counsel would remain on the case until the
15 defendant had retained other counsel. On the 24th, the
16 preliminary hearing that was set for that date was
17 continued at the request of all parties based upon
18 Mr. Vreeland's representations that he was retaining
19 private counsel and that alternate defense counsel would
20 not be proceeding.

21 On the 10th of March, a lawyer named Tucker,
22 who I believe is associated with Mr. Steinberg's office,
23 Steinberg and -- pardon me, Springer and Steinberg --
24 appeared and the matter was set for preliminary hearing
25 on the 12th of May, 2005. On the 12th of May, the

1 defendant again moved to continue the preliminary
2 hearing, that was denied. The preliminary hearing was
3 held on the 12th of May. On the 19th of May, a county
4 court judge made findings and bound the case over to
5 district court.

6 Mr. Vreeland appeared in district court on the
7 31st of May, 2005, with Mr. Steinberg. The arraignment
8 was set for July the 6th. Mr. Steinberg appeared,
9 Mr. Vreeland also appeared, on July the 6th, 2005. The
10 matter was then set for trial with a motions hearing
11 being set.

12 On the 13th of September, Mr. Steinberg filed a
13 motion to withdraw. Mr. Vreeland indicated that a
14 gentleman named Mr. Young would be entering his
15 appearance on behalf of the defendant. Mr. Vreeland
16 provided a phone number for Mr. Young.

17 On the 22d of September, 2005, a Thomas Henry
18 appeared on behalf of the defendant. The matter was set
19 over for further proceedings to the 30th of September.
20 On the 3d of November -- and trial in this case had been
21 set for December the 6th. On the 3d of November, the
22 defendant refused to appear in court. His -- the issue
23 of competency was raised by Mr. Henry.

24 The Court then directed that in accord with the
25 statutes that an examination be conducted, I just read

1 from portions of that examination that eventually
2 occurred, and the trial date was then vacated due to the
3 defense counsel raising the issue of competency.

4 On January, 2006 -- January 6th, 2006, the
5 Court found, based upon Dr. Chamberlin's report, that the
6 defendant was competent. Jury trial was reset within
7 speedy trial. On the 1st of February, counsel for
8 Mr. Vreeland, Mr. Henry, raised the issue of a potential
9 conflict, which included the defendant accusing Mr. Henry
10 of blackmailing him.

11 On the 8th of February, Mr. Henry reasserted
12 that conflict. The Court, having heard that and also
13 having heard that that was Mr. Vreeland's desire, to have
14 Mr. Henry withdraw, granted that request. Mr. Vreeland
15 requested to represent himself. The Court conducted
16 several Arguello advisements and went into detail.
17 Mr. Vreeland adamantly asserted his right to represent
18 himself.

19 On the 22d of February, in spite of the
20 defendant having previously indicated he had no desire to
21 continue the trial, the defendant asked to have the trial
22 continued. The Court granted that request, directed that
23 trial be set for July the 6th of 2006. The defendant
24 made another request to continue that trial on
25 June 16th, 2006. That was denied.

1 On the 27th of June, the Court permitted
2 Mr. Scheideler to enter his appearance. The Court notes,
3 and as the Court has indicated previously, Mr. Scheideler
4 indicated he would be unable to try the case on July 6th,
5 the trial date, but he would be able to go later on, and
6 at that time he was only asking the Court for a short
7 continuance. He indicated to the Court that he would be
8 not able to try the case on the 26th (sic); there was no
9 way on God's green earth that he could be competent and
10 ready to proceed on July the 6th.

11 The Court then permitted the trial to be reset,
12 over the objection of the defendant -- over the
13 objection -- over the objection of the People, to
14 November the 28th. The Court notes that Mr. Scheideler
15 represented the defendant, motions were litigated by
16 Mr. Scheideler between the -- his entry of appearance and
17 the day of trial, and on the 17th of November, today's
18 date, 2006, the Court permitted the defendant to
19 withdraw -- pardon me, Mr. Scheideler to withdraw from
20 representing the defendant.

21 What's clear to the Court is that the pattern
22 in this case is quite stark and is quite clear:
23 Mr. Vreeland, while having the ability to certainly
24 retain counsel, retains counsel, inescapably enters into
25 a conflict, fires that lawyer, and has to seek to retain

1 new counsel; it's occurred with -- it occurred with
2 Mr. Steinberg, it occurred with Mr. Henry, and it lastly
3 occurred with Mr. Scheideler.

4 With -- with respect to Mr. Henry and
5 Mr. Scheideler, the Court is aware that Mr. Vreeland made
6 allegations that the -- that counsel were behaving
7 improperly; either incompetently, as Mr. Scheideler
8 articulated, or the issue of blackmail, as Mr. Henry
9 articulated.

10 It's absolutely, positively clear to the Court
11 that Mr. Vreeland has the ability, as Dr. Chamberlin
12 indicated, to dominate and control to seek to try and, if
13 you would in a very simple term, get his way no matter
14 what the cost, and he clearly has a working knowledge of
15 the criminal justice system.

16 In this case, this case has been continued on
17 more than one occasion. The preliminary hearing
18 originally set for the 24th of February, 2005, was
19 continued. There was a request to continue the
20 May 12th, 2005, preliminary hearing that was denied.

21 The first trial was set on July the 6th, 200 --
22 pardon me, on July the 6th, the trial was set for
23 December the 6th of 2005. The defendant -- his lawyer
24 raised the question of competency. That then tolled that
25 trial date and the trial date was reset by the Court when

1 the Court found the defendant competent on July the 6th.
2 The trial date was reset for February the 22d. On the
3 day of trial, the trial was continued at the request of
4 the defendant based upon his representations to the Court
5 that he would be unprepared.

6 A trial date was set for July the 6th. On the
7 16th of July (sic), the defendant, in a pro se fashion,
8 asked to continue the trial. This Court denied that
9 request. But on the 27th of June, the Court permitted
10 Mr. Henry to enter his appearance. The Court permitted
11 Mr. Henry -- pardon me, Mr. Vreeland -- pardon me,
12 Mr. Scheideler to enter his appearance on
13 June 27th, 2006.

14 On June 27th, 2006, over the objection of the
15 People, the Court granted Mr. Scheideler's request to
16 continue the trial after his appearance was entered and
17 trial was then set for the 28th of November.

18 The Court also wants to mention briefly some of
19 the prior motions filed by the defendant; and the Court
20 harkens back, once again, to Dr. Chamberlin's statements
21 about Mr. Vreeland using any means available to him in
22 the moment to accomplish his goals, including threatening
23 suicide, threatening litigation, and intimidating those
24 around him.

25 Mr. Vreeland, through counsel, filed, I

1 believe, three or four motions to recuse this Court.
2 Those motions were utterly without merit. There was
3 absolutely no substance to any of those. Mr. Vreeland
4 has also filed in a pro se fashion other motions that are
5 completely devoid of merit. He filed a motion to recuse
6 the District Attorney's Office or disqualify them. He
7 has responded to court orders in an argumentative
8 fashion.

9 He has asked in some fashion for a trial to the
10 Court after asking this Court on four separate occasions
11 to either grant a request to recuse or to reconsider the
12 Court's -- the Court's previous denial of the request to
13 recuse.

14 Mr. Vreeland, when he was pro se, was adamant,
15 adamant in his desire to represent himself. It starts
16 with Dr. -- at least it's documented with respect to
17 Mr. Vreeland in an interview with Mr. -- Dr. --
18 Dr. Chamberlin in which he indicated that his desire was
19 to represent himself with Mr. Henry acting as a
20 consultant.

21 The defendant's own pro se pleadings reflect a
22 persistent, adamant desire to represent himself. In a
23 pleading or a motion encapsuled -- or -- or pardon me,
24 entitled "Motion to Re-File and Argue" Positions --
25 pardon me -- "Argue Portions of Previously Filed Motions

1 As Well As New Motions Never Filed Before" filed on
2 February 9th, the defendant indicated that he had
3 "requested to represent himself in pro se form for at
4 least 12 months, all on the record as recent as
5 January 23d, 2006."

6 In a motion entitled "Motion to Send Back to
7 Lower Court For the Purpose of Challenging Probable Cause
8 Based on Full Disclosure and For New Preliminary Exam,"
9 the defendant indicated on January 28th, 2005, the
10 defendant made a request to represent himself in the
11 case. That was denied, according to the defendant, and
12 the defendant had alternate defense counsel forced upon
13 him. The defendant was left with no alternative but to
14 accept this counsel as he was, in fact, denied his right
15 to contact his retained counsel and/or family as required
16 by law.

17 The defendant went on to mention at paragraph
18 15 of this particular motion that in every stage of the
19 court's proceedings, this defendant mentioned that he
20 wanted to contact his privately-retained attorney or
21 represent his self. Each and every time this request was
22 mentioned, it was ignored.

23 Paragraph 17, defendant maintains and swears to
24 the fact that the only reason he ever retained
25 Mr. Steinberg -- Steinberg was because he was not allowed

1 to contact his own-retained counsel, nor represent
2 himself.

3 At paragraph 23 (sic), the defendant stated,
4 (as read) "This defendant maintains that had this court
5 or Judge Marker" -- let me just -- when he says "this
6 court," he's referring to this Court here, Division 1 --
7 "or Judge Marker's court allowed this Defendant to
8 proceed pro se from the onset, we would not be where we
9 are today. Now that we have taken 15 months to get this
10 court to give the Defendant a chance to defend himself,
11 this Defendant requests that he be allowed to defend
12 himself on all matters anew from the preliminary hearing
13 aspect to the trial, if it gets that far."

14 The defendant has in the past had three
15 privately-retained counsel represent him that this Court
16 is aware of. If Mr. O'Donnell appeared at an earlier
17 time, his name is not reflected on the minutes. It's
18 equally clear that each of those retained counsel have
19 filed motions to withdraw based upon their inability to
20 work with Mr. Vreeland, and at least with respect to two
21 of them, based upon Mr. Vreeland either threatening them
22 or accusing them of being incompetent.

23 Mr. Vreeland now tells the Court that he has
24 contacted the firm of Haddon, Morgan & Foreman to
25 represent him. Given his history in this case, any

1 lawyer, any lawyer would be wise certainly to keep in
2 mind their own desire to be free of a grievance or a
3 lawsuit.

4 As the Court cannot tell whether the law firm
5 of Haddon, Morgan & Foreman will enter their appearance,
6 this Court's certainly not precluding them from doing so,
7 but the record reflects quite clearly they have not done
8 so as of today's date.

9 What the Court will find is that the defendant
10 is, in fact, highly intelligent. He has a very good
11 understanding of the criminal justice system and this
12 process. This has been reinforced by counsel having to
13 withdraw in previous circumstances. Mr. Vreeland knows
14 exactly what it takes to have counsel withdraw from a
15 case; complain about them, intimidate them in some way,
16 or allege that you are going to be filing a lawsuit or a
17 grievance.

18 Mr. Vreeland, as noted by Dr. Chamberlin, has
19 an extremely high interest in exercising control,
20 manipulating and dominating. He has obviously manifested
21 a desire to represent himself in the past. This Court
22 has conducted extensive Arguello advisements of the
23 defendant at the time in which he insisted, after being
24 advised of -- fully of his rights with respect to
25 Arguello, that his desire was to represent himself.

1 The Court notes in this case that this matter
2 is a 2004 case that has not yet been brought to trial.
3 I've articulated the prior continuances in this matter.
4 I'm also mindful of the language in 18-3-411(4) in which
5 our legislature has mandated that cases of this nature be
6 given a preference for the -- with respect to them
7 proceeding efficiently through the court system.

8 Certainly, while Mr. Vreeland has a right to a
9 trial in this case, at this point in time, given the past
10 machinations of this case, there also are other rights
11 involved. There are rights of the alleged victim to have
12 this matter resolved in a timely fashion. There are
13 rights of the People, as articulated by 18-3-411, to have
14 this matter brought to trial in an efficient fashion.
15 There's also an obligation the court system has to do so.

16 Mr. Vreeland has attempted to create the
17 perfect storm, if you would, from the standpoint of
18 continually obtaining counsel and then firing them on the
19 eve of trial. This Court finds that there is no good
20 grounds for this Court to continue the trial in this
21 matter. The defendant's request to continue the trial is
22 denied.

23 Should the law firm of Haddon, Morgan & Foreman
24 enter their appearance, I will obviously consider any
25 motions they may file, but this matter is set for trial

1 on the 28th of November. It is the Court's intention to
2 bring this matter to conclusion on that date.

3 The Court has ruled on all pending motions.
4 The Court will now be in recess. The defendant is
5 remanded. We will see the parties back here on the 28th
6 of November for trial. Court is in recess.

7 THE DEFENDANT: Judge King, can I ask you a
8 question before you recess, please?

9 THE COURT: The Court is in recess.

10 THE DEFENDANT: Okay. Piece of shit.

11 (The court adjourned this matter at 10:22 a.m.)
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APPENDIX F

DISTRICT COURT,
DOUGLAS COUNTY, COLORADO

Court Address: 4000 Justice Way
Castle Rock, CO 80109

Plaintiff: PEOPLE OF THE STATE OF
COLORADO

Defendant: DELMART VREELAND

COURT USE ONLY

Case No. 04CR706

Division 1

REPORTER'S TRANSCRIPT

Tuesday, November 28, 2006

A P P E A R A N C E S

FOR THE PEOPLE: Darren L. Vahle, Reg. No. 28107
Deputy District Attorney

FOR THE DEFENDANT: Pro se

ADVISORY COUNSEL: Scott Jurdem, Reg. No. 7840
Attorney at Law

The trial in this matter commenced on Tuesday,
November 28, 2006, and continued through Monday,
December 11, 2006, before the HONORABLE PAUL A. KING,
Judge of the District Court, and a Jury of 12 with one
alternate.

MORNING SESSION, TUESDAY, NOVEMBER 28, 2006

(At 9:36 a.m., with counsel present, and the defendant present in custody, the following proceedings were conducted out of the presence and hearing of the jury panel:)

THE COURT: The Court is calling Case 04 CR 706 and 05 CR 318, the People v. Delmart Vreeland in both cases.

MR. VAHLE: Good morning, Your Honor.

Darren Vahle on behalf of the People. Also seated at counsel table is Investigator Dea Aragon with the Douglas County Sheriff's Department.

THE COURT: All right.

MR. JURDEM: Good morning, Your Honor.

For the record, my name is Scott Jurdem, Registration No. 7840, and I'm appearing for today with Mr. Vreeland pursuant to the pleading I filed this morning with the court.

THE COURT: All right. The matter comes on for trial today. Are the parties

1 prepared to proceed?

2 MR. VAHLE: People are ready to
3 proceed.

4 MR. JURDEM: Your Honor, I am not
5 ready to proceed as I explained in my Entry of
6 Appearance and Request for a Continuance of
7 Trial.

8 And let me start off by saying,
9 first of all, I have nothing but the utmost
10 respect for this Court. The Court doesn't
11 know me and I feel certainly on the spot
12 coming in here after the Court has put all the
13 work into the case that the Court has and has
14 years of experience with it as though I'm
15 coming in here in some way and being
16 disrespectful to you or what is going on here.

17 What I need the Court to understand
18 is I've been retained by Mr. Vreeland. My
19 position is stated in my pleading. I'm trying
20 to comply with a number of different concerns.

21 One are my ethical responsibilities
22 under the Rules of Professional Conduct, my
23 duty of candor to the Court, and my duty as an
24 attorney to my client Mr. Vreeland.

25 I don't know how else to proceed

1 other than the way I am. If I had another way
2 to do this, I would do it because the last
3 thing I want is for this Court to think that
4 I'm coming in here with some kind of an
5 attitude that of course you have to grant the
6 continuance because Scott Jurdem filed an
7 entry of appearance. I sure as hell don't
8 think that. And so I'm telling the Court what
9 I can tell the Court as I said in the
10 pleading.

11 I am certainly not in a position to
12 try Mr. Vreeland's case. I haven't read his
13 discovery. I haven't prepared for trial in
14 any way. It's a serious case where he's
15 facing a tremendous amount of time, and as I
16 understand it, potentially a life sentence.

17 He has expressed to me that he does
18 not want to go to trial pro se, that he would
19 like to have an attorney representing him at
20 trial. I can't be that attorney if trial is
21 commencing this morning. I will promise to be
22 that attorney if the matter can be continued.

23 I understand trial has been set in
24 December of '05, February of '06, in July
25 of '06, and now again, and that Mr. Vreeland

1 has had a number of different attorneys and
2 the Court has grave concerns about that and
3 the seriousness of this matter.

4 I'm trying to behave as an officer
5 of the Court in an upstanding way and not
6 offend the Court or the process in which we're
7 engaged. I consulted the ethical rules. I
8 tried to figure out the best way to handle
9 this other than to phrase it the way I have.

10 It would certainly be a sham and an
11 ethical violation for me in any way attempt to
12 proceed to trial and I can't. If the Court
13 believes it cannot accept my entry of
14 appearance, the record would be made, and I
15 think we would take it from there.

16 I'm asking the Court to accept my
17 entry and grant a continuance which is the
18 only way I could proceed. I don't know that
19 there are any other magic words.

20 THE COURT: All right. Anything
21 else, Mr. Jurdem?

22 MR. JURDEM: Your Honor, I don't
23 think I should address the past matters that
24 have occurred here. I have read the Court's
25 order.

1 I know my client has some strong
2 feelings about the reasons for the past
3 continuances. He's expressed to me that in
4 February of '06, the continuance was
5 necessitated by the last minute provision of
6 voluminous discovery, 850 hours of telephone
7 conversations.

8 He expressed to me that the
9 problems with Mr. Scheideler may have been
10 observed in open court, that this Court itself
11 had some concern about him filing some
12 motions. For example, a search motion without
13 a -- a veracity attack without an affidavit,
14 things like that if that was his problem. I
15 don't know.

16 I raise that to say those are
17 issues my client would I know like me to be
18 speaking about because you're giving me the
19 opportunity to speak, but the main issue here
20 is if the Court would consider a continuance,
21 then I will be prepared to represent
22 Mr. Vreeland at the next trial.

23 I don't know what else to say, Your
24 Honor.

25 THE COURT: All right. Mr. Vahle.

1 MR. VAHLE: Judge, as a matter of
2 record, I had new discovery delivered to me
3 this morning. I didn't know whether to submit
4 those to Mr. Vreeland pro se or counsel, so
5 I'll give it to whoever is taking it at this
6 point.

7 As to the motion to continue,
8 Judge, and the motion to enter appearance, the
9 Court made its order that a conditional entry
10 of appearance was no motion whatsoever, that
11 there was no such motion under law, and,
12 Judge, I think this is exactly the same motion
13 worded in different language.

14 Paragraph 7 is very clear. It
15 says, "Financial arrangements have been made
16 and completed pursuant to a fee agreement for
17 Mr. Vreeland's representation of the case.
18 Undersigned counsel stands ready to enter his
19 appearance and provide Mr. Vreeland legal
20 representation from this point forward
21 assuming the presently scheduled trial date
22 can be continued as requested herein."

23 I asked Mr. Jurdem if the Court
24 allows you on the case and then denies a
25 continuance, are you going to be the lawyer

1 during the trial that starts today, and he
2 said no of course not I can't be.

3 So I think we're still with a
4 conditioned entry of appearance as opposed to
5 simply entering appearance.

6 Judge, the phrase "here we go
7 again" is what comes to mind and the Court
8 made a lengthy record. I don't think I need
9 to belabor the point too much about the number
10 of times this case has been continued for
11 lawyer problems.

12 The defendant has a right to
13 counsel, he has a right to effective counsel,
14 but he can waive both of those rights by his
15 actions, and the People's position is he has
16 waived those rights by his actions in this
17 case over and over and over again having
18 insisted on proceeding pro se, having demanded
19 proceeding pro se, and having numerous times
20 continued the case for conflicts with lawyers
21 and then sought continuances thereafter.

22 Judge, I don't think I need to
23 belabor the point. The People object to any
24 continuance. We believe that this is a case
25 that needs to be tried and move forward.

1 THE COURT: Mr. Jurdem, reply.

2 MR. JURDEM: Your Honor, again, I
3 can only proceed in good faith with this Court
4 governed by the guidelines that control the
5 profession in which we practice. I've
6 attempted to so state that in the pleading.

7 I know my client has strong
8 feelings about the causes of the prior
9 continuances and disagrees with Mr. Vahle's
10 position with all due respect that he was the
11 cause of all those. Certainly the February of
12 '06 continuance didn't appear from even a
13 cursory review, which is all I've had a chance
14 to undertake, to be that.

15 I also have to respond to
16 Mr. Vahle's reference to the conditional
17 versus unconditional entry of appearance.

18 Mr. Vahle asked me and I didn't
19 feel I had an obligation to answer him but I
20 felt like as an officer of the court I would
21 what my position was on participating in the
22 trial, and I said as I was required to do by
23 Rule of Professional Conduct 1.1 that I could
24 not possibly undertake Mr. Vreeland's
25 representation in a trial this morning.

1 I don't think it was a trick
2 question on his part, but I think the answer
3 could not have been anything different, so I
4 answered in that way as he reflected, but
5 again, I don't have a choice here.

6 I've been retained, I've been asked
7 to appear. If the Court can grant a
8 continuance, I can represent Mr. Vreeland. If
9 the Court cannot, as an officer of the court,
10 I have to disclose to you and as I have in the
11 pleading that I am not competent, as that term
12 is defined clearly in Rule 1.1, to proceed to
13 trial.

14 That's all I'm trying to do. I'm
15 not trying to play any tricks or to do any
16 maneuvering or do anything to upset the Court
17 or to intervene in a manner where I'm not
18 acceptable by the Court.

19 THE COURT: Thank you.

20 With respect to the circumstance
21 today, the Court will incorporate its previous
22 ruling that it made when the defendant sought
23 to move to continue this trial back on the
24 17th of November.

25 The Court made a lengthy record at

1 that time, recited lengthy aspects of the
2 competency evaluation of the defendant done at
3 the request of his previous counsel who raised
4 the issue of competency.

5 The Court cited at length from that
6 document, including the efforts of
7 Mr. Vreeland to manipulate, control, and
8 intimidate the environment that he finds
9 himself in.

10 The Court received on the 20th or
11 22d of November a conditional entry of
12 appearance by Mr. Jurdem. The Court entered
13 an order with respect to that. I'll not
14 repeat it, but I'll certainly incorporate that
15 order as part of the findings today.

16 In essence, the Court said that
17 there is no such animal as a conditional entry
18 of appearance. If you enter your appearance,
19 you are announcing to the world that you are
20 in fact ready to proceed, especially in light
21 of the trial date.

22 A lawyer obviously knows and is
23 aware of what an obligation means -- what the
24 trial means when it comes to an obligation on
25 his part. The trial date in this case has

1 been set for some time.

2 When a lawyer enters his
3 appearance, he is indicating to the Court
4 quite clearly that he is aware of the trial
5 date and accepting the entry of appearance
6 with that trial date in mind.

7 There can simply be no other way to
8 proceed, especially in light of this case in
9 which the matter has been set for trial.

10 Mr. Jurdem enumerated that based on I believe
11 the Court's prior order in which the matter
12 was set for trial in December of '05, February
13 of '06, July of '06, and now finally here in
14 November.

15 The trial date in December was
16 continued because of the issue of competency
17 to which the defendant adamantly insisted he
18 was competent to proceed. The matter was set
19 for trial in February after the defendant --
20 pardon me, at that time the defendant had
21 issues with Mr. Henry who was his then lawyer
22 including allegations that Mr. Henry was
23 blackmailing him and that the Court permitted
24 Mr. Henry to withdraw.

25 Mr. Vreeland was adamant in his

1 insistence in representing himself. In fact,
2 the myriad of pro se motions that he filed had
3 a theme to them, and that theme is that it was
4 his intention all along from the very
5 inception of this case to represent himself.

6 Then on the day of trial with
7 jurors gathered downstairs ready to come
8 upstairs, Mr. Vreeland moved to continue the
9 trial. The Court granted that request.

10 And with respect to any issues
11 involving discovery, the Court has already
12 imposed a sanction on the People. We're not
13 plowing that ground again. I have dismissed
14 certain counts in February based upon what the
15 Court perceived to be discovery violations.
16 The issue of discovery has been plowed over
17 and over again.

18 The issues before this Court have
19 to do with whether the People can prove the
20 allegations they have made against
21 Mr. Vreeland.

22 The matter was set for trial in
23 July, and at the end of June Mr. Scheideler
24 entered his appearance, and the very same
25 words that Mr. Jurdem used were used by

1 Mr. Scheideler. Judge, I can enter on this
2 case but there is no way that I can be ready
3 to proceed on July 6th. Later in August maybe
4 I could proceed, but there is no way that I
5 can be able to proceed. There is no way on
6 God's green earth that I can be able to
7 proceed.

8 Over the objection of the People,
9 the Court permitted Mr. Scheideler to enter
10 his appearance, the matter was set for trial
11 in November, and lo and behold, in November
12 Mr. Scheideler and Mr. Vreeland are not
13 getting along.

14 Stunning enough, stunning
15 development based upon past behavior in this
16 case that Mr. Vreeland would be unable to get
17 along with his lawyer. It's happened with
18 every lawyer in this case: Ms. Miner,
19 Mr. Steinberg, Mr. Henry, Mr. Scheideler. The
20 theme plays out over and over and over again.

21 And now Mr. Jurdem tells me on the
22 morning of trial that he wants to enter but he
23 really is not competent and ready to proceed
24 today so he needs a continuance. In essence,
25 he is holding that over the Court, and I have

1 already found that Mr. Vreeland by his
2 actions, by his behavior, by his words and
3 deeds has waived his right to counsel by
4 everything that he has done in this case and
5 his manifestations that he wants to represent
6 himself in this matter and the repeated
7 insistence on doing so. The Court has found
8 that has taken place.

9 Now Mr. Jurdem wishes to enter his
10 appearance, but it sure looks like and sounds
11 like this is a conditional entry of
12 appearance. Judge, I'm ready to enter but I'm
13 not ready to try the case, and I find that to
14 be troubling at best.

15 Clearly if you enter your
16 appearance in this case and the matter is set
17 for trial, you're telling the Court you are in
18 fact ready to proceed to trial on this date at
19 this time.

20 How could you enter an appearance,
21 how could you be competent, how could you
22 engage in a contractual relationship with a
23 client and not be ready to do what the Court
24 has set and what the Court has set not only
25 once, not only twice, but this is the fourth

1 trial setting, and there is no guarantee that
2 we won't find ourselves in the same straits
3 down the road.

4 All Mr. Vreeland has to do is what
5 he has done in the past is threaten to grieve
6 you or threaten to sue you, Mr. Jurdem, which
7 is the situation that previous counsel find
8 themselves in. And then where do I find
9 myself? How can I let you remain on a case in
10 which your client is raising those issues?
11 Because it's happened in the past and there is
12 absolutely no guarantee that it won't happen
13 in the future again.

14 I have grave concerns about the
15 posture and status of this case given the past
16 history. While I certainly think Mr. Vreeland
17 is entitled to have counsel represent him, he
18 is not entitled to abuse the process, abuse
19 the system any more than he already has done.

20 Mr. Jurdem, if you enter your
21 appearance in this case, the Court finds you
22 are telling the Court that you are ready to
23 proceed in this case. I am willing to
24 consider -- pardon me.

25 The Court finds if that's what the

1 situation is, if you are telling the Court
2 that you are ready to proceed today, I will
3 consider the motion to continue after I
4 determine whether I'm going to permit you to
5 enter your appearance, but I want you to
6 understand first and foremost, Mr. Jurdem,
7 that when you enter your appearance in this
8 case in this courtroom, it is not conditional.
9 You are telling the Court that you are ready
10 today to provide competent and effective
11 representation of Mr. Vreeland.

12 If that can't happen, that's a
13 decision that you have to make, but clearly as
14 far as the Court is concerned, you're telling
15 the Court today that you're entering and able
16 to represent Mr. Vreeland with respect to this
17 matter today.

18 So is it your desire to enter your
19 appearance then, Mr. Jurdem, in this case?

20 MR. JURDEM: Your Honor, I cannot
21 tell you that I'm ready to represent
22 Mr. Vreeland in trial today. That would be a
23 misrepresentation and a violation of my
24 ethical responsibilities. I think I stated
25 that in my pleading, and I'm again in a

1 difficult position.

2 I would ask the Court only when the
3 Court is thinking about what's happening here
4 at least as far as I am concerned, that it is
5 not unusual in the 30 years that I've been
6 doing this to get asked to enter appearance
7 within time limits that are too short to
8 conduct the proceedings that are scheduled. I
9 think that is in fact something the Court has
10 seen on many occasions.

11 This case is obviously extremely
12 unusual. I apologize again for coming in here
13 on the morning of trial like this, but I
14 cannot -- I don't feel like I could have
15 handled it any other way than I did from my
16 own standard as a professional, ethical
17 attorney.

18 I will tell the Court no I cannot
19 try the case this morning, absolutely not.

20 THE COURT: Having heard that, what
21 the Court will do is I believe I've heard
22 enough argument with respect to the issue of
23 continuing the trial. The Court will deny the
24 request to continue the trial.

25 The Court finds that Mr. Jurdem's

1 decision whether to enter or not is his
2 decision, but I'll not be held hostage by a
3 claim that Mr. Jurdem cannot be prepared given
4 the fact that this is the fourth trial setting
5 in this matter, and the Court obviously
6 pursuant 18-3-411 is obligated to proceed with
7 some degree of speed with respect to resolving
8 cases involving allegations of sexual assault,
9 inducement, child prostitution, and sexual
10 exploitation of children.

11 What the Court would do at this
12 point in time is the Court will direct that
13 the trial -- pardon me. The Court will permit
14 jury selection to take place today. I will
15 permit Mr. Jurdem to conduct that jury
16 selection. I will recess this trial after the
17 jury has been selected. I will direct that
18 the jury is to return on Thursday morning the
19 30th of November, and we'll proceed with
20 evidence at that point in time.

21 Mr. Jurdem, while you may not have
22 a lot of time, you'll have probably a day and
23 a half to acclimate yourself to this case.
24 The Court believes that that's appropriate
25 given what's gone on in the past history of

1 this case, the past manipulation of the
2 process, and the manipulation by the
3 defendant, and the Court will permit
4 Mr. Jurdem to have that time to conduct any
5 and to prepare himself for trial that will
6 take place then on the morning of the 30th.

7 With that in mind, let's cover some
8 issues involving the trial process. The
9 Court's ready to discuss some issues involving
10 procedural matters with respect to the trial.

11 Mr. Vahle, I believe that the
12 counts are I think Counts 1 through 14 at this
13 point in time; is that correct?

14 MR. VAHLE: That is correct, Judge,
15 and I would ask to be heard -- actually,
16 Judge, I would ask that the Court make a
17 record with Mr. Jurdem as to whether he is
18 entering his appearance under the conditions
19 the Court just set out.

20 Secondly, the People would ask to
21 be heard as to those conditions given the
22 multiple out-of-state and one out of country
23 witnesses that we already have flying and we
24 have reservations for and we already have
25 appointments for this week.