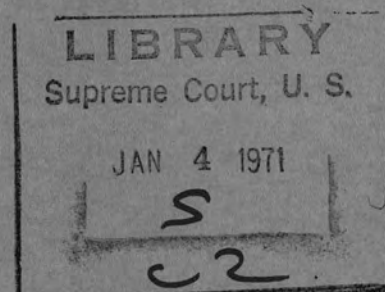


# Supreme Court of the United States

OCTOBER TERM, 1970



Docket No. 205

In the Matter of:

JOHN HARRY BRUNO,

Petitioner,

VS.

PENNSYLVANIA

Respondent.

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Date December 14, 1970

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1 IN THE SUPREME COURT OF THE UNITED STATES  
2 OCTOBER TERM, 1970

3 -----  
4 JOHN HARRY BRUNO, :

5 Petitioner :

6 vs. :

7 No. 205

8 PENNSYLVANIA, :

9 Respondent :  
10 -----

11 Washington, D.C.

12 Monday, December 14, 1970

13 The above entitled matter came on for discussion  
14 at 1:20 o'clock p.m.

15 BEFORE:

16 WARREN E. BURGER, Chief Justice  
17 HUGO L. BLACK, Associate Justice  
18 WILLIAM O. DOUGLAS, Associate Justice  
19 JOHN M. HARLAN, Associate Justice  
20 WILLIAM J. BRENNAN, JR., Associate Justice  
21 POTTER STEWART, Associate Justice  
22 BYRON R. WHITE, Associate Justice  
23 THURGOOD MARSHALL, Associate Justice  
24 HENRY BLACKMUN, Associate Justice  
25

22 APPEARANCES:

23 DANIEL L. QUINLAN, ESQ.  
24 Norristown, Pennsylvania  
25 On Behalf of Petitioner

C O N T E N T S

ARGUMENT OF:

PAGE

DANIEL L. QUINLAN, ESQ.  
On Behalf of Petitioner

4

MILTON O. MOSS, ESQ.  
On Behalf of Respondent

18

REBUTTAL ARGUMENT OF:

DANIEL L. QUINLAN, ESQ.  
On Behalf of Petitioner

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APPEARANCES, (continued)

MILTON C. MOSS, ESQ.  
District Attorney  
Norristown, Pennsylvania  
On Behalf of Respondent

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P R O C E E D I N G S

1 MR. CHIEF JUSTICE BURGER: We'll hear arguments next in  
2 No. 205, Bruno against the state of Pennsylvania. Mr. Quinlan?

3 ARGUMENT OF MR. DANIEL L. QUINLAN, ESQ.

4 ON BEHALF OF PETITIONER

5 MR. QUINLAN: Mr. Chief Justice, and if the Court  
6 please. John Harry Bruno was born and raised in the borough of  
7 Norristown which is about 20 miles west of Philadelphia. Now the  
8 records in this case show that he attended public school, it  
9 was elicited through the various hearings, habeas corpus hear-  
10 ings, suppression hearings, sanity hearings that he had never  
11 been in trouble.

12 Low and behold he was drafted by the United States Army,  
13 in November of 1961, and at some point during his basic training,  
14 abbreviated though it was, it was determined that John was un-  
15 like the other draftees. That he was sick and he was trans-  
16 ferred to Fitzsimmons General Hospital in Denver, Colorado,  
17 where he was in a psychiatric ward.

18 He was discharged by the United States Army in May of 1961  
19 and sent home by himself.

20 Now prior to that, a murder had taken place in October  
21 of 1961, in Norristown, Montgomery County, Pennsylvania. Husband  
22 and wife were killed. Subsequent to John's discharge from the  
23 army, he held jobs in Norristown, and was not in any trouble that  
24 anybody knows of, although the record does show that subsequent  
25 to December of 1963, when two other people were murdered, John

1 was interrogated by the County detectives and/or the District  
2 Attorney's Office, and now its 1964, and given a lie detector  
3 test.

4 Q Mr. Quinlan, how is this background relevant to the  
5 question of whether he can be held in custody pending trial---

6 A Well, Mr. Chief Justice---

7 Q ---while he is under a finding that he is incompetent  
8 to be tried. That's the real issue in the case, isn't it?

9 A Yes, sir. From the very beginning, Mr. Chief Justice,  
10 I entered my appearance within a week or ten days the District  
11 Attorney petitioned for a sanity commission, alleging that John  
12 was insane.

13 And not competent to stand trial---

14 Q Against his background wasn't that almost imperative?

15 A No, sir. All they had to base their petition on was  
16 the confession that they elicited from John Bruno when they  
17 held him for 26 hours---

18 Q Didn't they---

19 A ---without a lawyer.

20 Q Didn't they know his medical history?

21 A No sir, they did not. They subpoenaed his medical---

22 Q Does the record show that they didn't know it?

23 A At that point they didn't know it.

24 Q Does the record show it?

25 A I believe it does, Mr. Chief Justice, yes. The records

1 of his medical records were not brought into the picture until  
2 the sanity commission actually sat in 1967. And they subpoenaed  
3 them. The record will also show that one judge practically signed  
4 all the orders in this case.

5 Now I resisted the appointment of the sanity commission,  
6 at the same time I filed a petition for a habeas corpus hearing  
7 to find out what they did have against John Bruno. As Mr. Jus-  
8 tice Roberts said, at the first appeal in the State Supreme  
9 Court, how in the world can they take an illegal confession and  
10 hold it here and say if John Bruno did these terrible things,  
11 for the reasons that he gave for doing them, then he must be  
12 crazy.

13 Now if the confession is inadmissible in a courtroom, it  
14 should not have been used for them to determine that they should  
15 proceed for a sanity commission.

16 Q In order to maintain that position you would in fact  
17 be saying that a psychiatrist confronted with the statement that  
18 he did, or may have committed these crimes and that this was his  
19 explanation, that the psychiatrist would not say that this man  
20 should not be subject to further psychiatric examination?

21 A Yes, Mr. Chief Justice, and that's just what they did.

22 Q Shouldn't they have done so?

23 A Not in my opinion. This man was arrested, indicted, and  
24 held on open charges for having killed five people. I think that  
25 the plea of insanity is up to him, we never entered a plea of

1 insanity in this case, and all the psychiatrist had at the hear-  
2 ing was John's confession and the army medical records. And the  
3 army medical records were November and December of 1960, and  
4 January, February, April, and March of 1961. The sanity commis-  
5 sion hearings were not held until 1967, and I was there and  
6 the record will show that the sanity commission hearing consisted  
7 of all the police, the county police, detectives, state police,  
8 two police departments, municipalities, saying we were in there,  
9 there was a total of 12 - 15 policemen interrogating John, and  
10 he admitted doing these things and he gave as his reason for  
11 doing it that his father told him that there people had put  
12 the evil eye on him.

13 Q Mr. Quinlan, standing alone, wouldn't that alert any  
14 doctor, even if he were not a psychiatrist, to at least a strong  
15 suspicion that there was something mentally wrong with this man?

16 A Yes, Mr. Chief Justice, except the test for the man's  
17 competency to stand trial in Pennsylvania is whether or not he  
18 -understands the nature of the proceedings against him, and  
19 does he have the ability to confer with counsel.

20 Q Doesn't that put them on notice that they should make  
21 that further inquiry? about his capacity to cooperate in his own  
22 defense? If it doesn't then the laws of all the other 49 states  
23 are wrong, Mr. Quinlan.

24 A Well, I don't think that it can be used to commit him  
25 to an institution for the criminal insane.



1 Q Mr. Quinlan, how long have you had this sanity com-  
2 mission procedure in Pennsylvania? Is this a long established  
3 routine in criminal cases?

4 A The act, I believe, is 1951. The act, since then, has  
5 been repealed. I initially contended that the District Attorney  
6 was not a person under that act entitled to initiate the proce-  
7 edings. The trial court overruled me, the State Supreme Court  
8 said the issue was interlocutory, and on appeal, if Your Honors  
9 please, this case was argued in the Pennsylvania State Supreme  
10 Court in January of 1968.

11 Before an opinion came down, Justice Musminel died. The  
12 Chief Justice, Chief Justice Bell ordered it back on the argu-  
13 ment list, and Justice Primary, who had been appointed in Jus-  
14 tice Musminel's place sat with the court---

15 Q Let me follow through on my inquiry. You say you've  
16 had it since 1951. To what extent---well, let me ask this. Do  
17 you have a procedure for civil commitment---

18 A Yes, sir.

19 Q ---in Pennsylvania?

20 A Yes, Your Honor.

21 Q How do the two procedures differ?

22 A I won't profess to be an expert on it, but basically  
23 in a civil proceeding all you---up until recently all you needed  
24 was a certification by two doctors. Now in Pennsylvania, there  
25 must be a hearing in front of Commonplace Judge, for a civil

1 commitment. This was a civil procedure, the Mental Health Act.  
2 And they had sections in it basically which said that if a man  
3 who's in custody, or in prison, or serving time was found to  
4 be incompetent he could be transferred to an institution for the  
5 criminal insane.

6 There were no cases, Mr. Justice Blackmun, in Pennsylvania,  
7 where this had ever been done before.

8 Q Well, do I understand that the sanity hearing and the  
9 civil commitment procedure are or are not different in Pennsyl-  
10 vania?

11 A Well, basically now they'd be the same.

12 Q At the time. Were they the same at the time?

13 A No, they were different.

14 Q One further question. Would he be likely to end up  
15 -in a different institution under the sanity hearing then he  
16 would if he were civilly committed?

17 A The net result would probably be the same, and that's  
18 why I presented the arguments of the District Attorneys and I  
19 think Mr. Chief Justice Bell, and I know the trial judge, Judge  
20 Honeyman has said that I am taking advantage of this fellow,  
21 whereas I'm not, because the realities of the situation is that  
22 all they have is the confession they have a gun that they can't  
23 use and if we went to trial based on over twenty years of ex-  
24 perience I don't think they would get beyond a demurr, but if  
25 they did get beyond a demurr, and John was convicted, what would

1 he get? He would not get the electric chair because the reality  
2 of the situation is that once the man was convicted I'd put  
3 him on the stand, and nobody would sentence him to the electric  
4 chair so the most he would get would be life.

5 Now he's already been condemned to life in an institution  
6 for the criminal insane which is far worse. They can call it a  
7 hospital, but it's an institution for the criminal insane.

8 Q Well was he likely to end there had he been civilly  
9 committed, in the same institution?

10 A Under present law, yes, sir. The institution could  
11 transfer him and there would n't be a thing I could do about it  
12 but at least he would have had his trial.

13 Q Now one further question and then I'll stop. Are you  
14 familiar with the federal procedure under 18USC 4244?

15 A No, I'm not, sir.

16 Q Well, my question is, and I'd be interested in your  
17 reaction ultimately, whereer if you prevail here, the federal  
18 system is placed in jeopardy, constitutionally.

19 A But I can't answer that question because I'm not  
20 familiar with---

21 Q Could I just ask you I take it that when your client  
22 was committed here that the commisstion that was convened found  
23 that not only was he unfit to stand trial but that he had crim-  
24 inal tendencies, is that right?

25 A Yes, sir.

1 Q Let's assume that the state dropped the criminal  
2 charges against your client right now. Would they have to re-  
3 lease him?

4 A Yes, sir. There's a procedure and he'd be committed  
5 to Morristown State Hospital.

6 Q Well, you mean the commission---enough has already  
7 happend in terms of procedings and findings to warrant this  
8 confinement even if there were no criminal charges against him?

9 A Yes, sir.

10 Q And so your claim really is narrowed down to whe-  
11 ther or not you can prevent a person from having a trial.

12 A Yes, sir. You see, that's been my issue right from  
13 the very begining and I suppose---

14 Q Well, if he were tried and found innocent he stays  
15 exactly where he is.

16 A No. No sie. If he were tried and found innocent they  
17 would have to commit him to an ordinary state hospital. Here  
18 he's in an institution for the criminal insane. That's the only  
19 people who go there. Men who are---

20 Q Well I just asked you a minute ago that if the state  
21 dropped its charges against him whether he would stay exactly  
22 where he is, and you said yes.

23 A I interpreted your---

24 Q He gave the same answer to the question I asked.

25 A I misunderstood---by stay in the same place, I mean



1 he would be confined.

2 Now if he was tried---

3 Q There are enough findings already made to justify  
4 his confinement somewhere----

5 A That's right. But one's a criminal institution and  
6 the other's just a state hospital. Now---

7 Q Can no one who is committed by civil proceedings end  
8 up in the institution that he is now in?

9 A I suppose it's possible if the---

10 Q If they find he has criminal tendencies.

11 A Yes, sir.

12 Q But the commission here found he had criminal ten-  
13 dencies.

14 A I know, Mr. Justice White, but they did it on the  
15 basis of an illegal confession where he says that---

16 Q Well, they didn't just rest, as I understand it on  
17 the fact that he was charged with this crime.

18 A And his army medical record, he didn't answer any  
19 questions, because I didn't let him. He drew some figures, they  
20 asked him to draw some squares and blocks. I don't know what---

21 Q What's the basis for the commission's finding that he  
22 had criminal tendencies?

23 A The confession where he said he killed five people  
24 because they had put the evil eye on his parents. And the army  
25 medical record which says that he was a schizophrenic.

1 Q Were you permitted to put in evidence before the  
2 conmission?

3 A No, sir, but---

4 Q But you could have.

5 A I could have, but my evidence would have necessitated  
6 putting John Bruno on the stand.

7 Now subsequent to the adoption of the sanity commissions  
8 report, Judge Honeyman, who was the judge who appointed the  
9 commission said that under the act I had a right to a hearing.  
10 And I didn't ask for a hearing because I would have had the  
11 hearing in front of a judge and I would have had to put John  
12 on the stand.

13 So I simply filed exceptions to the sanity commission  
14 recommendation. Now he had two psychiatrists, the judge did,  
15 and a lawyer, a very distinguished senior member of our bar, but  
16 he doesn't practice criminal law and he hasn't for at least  
17 fifteen years, and that lawyer recieved an order, this is on the  
18 record from the judge, you admit John's army medical record.  
19 By order of the court. Thay's all they had to decide - the army  
20 said he's schizophrenic, and Jphn days he killed five prople -  
21 he must have criminal tendencies.

22 And the record will also show that I said, and that I  
23 offered to swear to it, that in my opinion as a lawyer, John did  
24 understand the nature of the procédings against him, he knows  
25 very well that he's been charged with killing five people, and

1       that he could confer with counsel. And they said, well we're  
2 not interested---

3           Q       Did you undertake to have him examined by an indep-  
4 endent psychiatrist, and have the psychiatrist testify to those  
5 same facts?

6           A       I had him examined, Mr. Chief Justice, but I didn't  
7 have the psychiatrist testify. I had him examined to find out  
8 primarily if John is telling the truth and I'm still not sure  
9 tisay if John killed these five people or his father did.

10          His father is---

11          Q       Wouldn't this have been the occasion for you to have  
12 the psychiatrist at least to indicate the objective factors to  
13 would show capacity to understand the nature of the charges and  
14 cooperate with counsel in defense?

15          A       Mr. Chief Justice, I didn't want to do it. I did not  
16 think I had to do it---

17          Q       Well, it's done every day in the week in a great  
18 many places.

19          A       I know, but there were no statutes in Pennsylvania  
20 that required that I do it that way and I felt that if John  
21 had been arrested and indicted and charged with five murder  
22 that he had a right to stand trial.

23          I realize the state Supreme Court had narrowed the issues.  
24 The late Justice Collins said this case raises the question of  
25 the rights of an incompetent. Who decides whether he stands

1 trial? Two psychiatrists? Or his lawyer?

2 Q Where is the sanity commissions report? Is that in  
3 the record?

4 A Yes, sir.

5 Q In the record?

6 A Sir? Well, they didn't print the record. They sent  
7 down all the---this is formal corpus.

8 Q Then it's your position then, I take it, that in  
9 examinations such as went on here, connected with a criminal  
10 charge, to see if he's competent to stand trial, that you were  
11 privileged not to have him testify.

12 A Yes, sir.

13 Q I mean before the commission.

14 A Yes, sir.

15 Q Whereas you wouldn't have had in the civil commit-  
16 ment (inaudible).

17 A Yes, sir. Now the Pennsylvania cases do say that  
18 sanity commission proceedings are not criminal nature. I say  
19 they are in this case, because they committed him to an insti-  
20 tution for the criminal insane. They've sentenced him.

21 Q You mean your position is that you can stop the  
22 psychiatrist from talking to your client in order to decide  
23 whether he's competent to stand trial?

24 A Yes, Mr. Justice White. Now the fact of the matter  
25 is when they asked him to draw pictures and squares and blocks



1 I let him do it and they showed him pictures and asked him what  
2 this means to you and I let him do that, but I would not let  
3 them ask him any questions about the alleged five murders,  
4 which obviously they wanted to do.

5 Q Are there procedures in Pennsylvania where you can  
6 test his present condition if you wish?

7 A Right Now? Yes, sir.

8 Q Have you done that since he was committed---

9 A No, sir.

10 Q ---or attempted to?

11 A No, sir. It would be done by the psychiatrist at  
12 the institution.

13 Q You haven't requested that or made any proceedings  
14 for it, have you?

15 A And I might add that I have never denied in any of  
16 the hearings, to any of the judges or justices, that John's  
17 mentally sick. I've never denied that.

18 Q Well, if you went to trial, as you requested, would  
19 it not be the absolute duty of the court against all of this  
20 background to see to it that he had a psychiatric examination  
21 before he went to trial?

22 A Mr. Chief Justice, that's what they say, and that's  
23 the way they ruled and I disagree with them.

24 Q Well, do you take the position that the court would  
25 have no obligations?

1           A       I think his competency, whether or not he is going  
2 to plead insanity is personal to him. I don't see how on the one  
3 hand as Mr. Justice Roberts said in his dissenting opinion, his  
4 most recent one, how can the Commonwealth arrest someone, im-  
5 prison him, this man has been confined now since April of 1966,  
6 say that he signed this confession, and they're the prosecutor.

7           And on the next hand as soon as they realize, well we  
8 have a confession that we can't use, we have a gun that we can't  
9 use, now they're his benefactor. I don't see how they can be  
10 both. And that's what they've done.

11           And as I said in my brief, I think it's frightening that  
12 they can arrest a person and hold him for 25 - 26 hours, and  
13 then say he signed this confession, he said he killed five peo-  
14 ple, and to do it for the reason he said he did it, he must be  
15 crazy, and especially since we can't prove it, because we can't  
16 use this confession we're going to ship him off to (inaudible).

17           And that's just what they did. And the record will show  
18 that I fought every inch of the way simply to protect the re-  
19 cord and about the only round I won I guess so far is when this  
20 honorable Court granted the Writ of Certiorari.

21           Q       Your claim, basically, and as I understand it your  
22 sole claim, Mr. Quinlan, is this, and you tell me if I'm wrong.  
23 That until or unless you bring to the attention, you or the  
24 defendant, as his counsel, bring to the attention of the trial  
25 court, that your client is or may be mentally incompetent, then

1 the trial court, under the constitution, has an absolute duty to  
2 give your client a speedy public trial.

3 A Yes, sir, that's my position.

4 Q And can do nothing else.

5 A Yes, sir.

6 Q That's it.

7 A That's it. Thank you.

8 Q Thank you, Mr. Quinlan. Mr. Moss?

9 ARGUMENT OF MILTON O. MOSS, ESQ.

10 ON BEHALF OF RESPONDENTS

11 MR. MOSS: Mr. Chief Justice, and may it please the  
12 Court. I think there are certain factors that have been present-  
13 ed to the Court by my opponent that should be clarified.

14 I think that Your Honors will accurately find within the  
15 record a complete safeguard of every constitutional right of  
16 this defendant in the procedures that were taken against him by  
17 the Commonwealth of Pennsylvania through the District Attorneys  
18 office of Montgomery County.

19 We have heard from Mr. Quinlan that the only piece of  
20 evidence that the Commonwealth had in the prosecution for five  
21 murder cases was in fact an alleged illegally obtained confes-  
22 sion. It should be noted, Your Honors, that this defendant was  
23 arrested in April of 1966. On approximately May 13, 1966, one  
24 month prior to the Miranda decision that negated the validity  
25 and admissibility of confession, the District Attorney of the

1 county of Montgomery filed a petition with the court having full  
2 knowledge, not only of the defendants present state of mind and  
3 incompetence, but also his prior psychiatric background.

4 As a result of his knowledge, and I suggest to the Court  
5 his obligation to the Court, and there generally and as a quasi-  
6 judicial officer, it was his obligation to protect---

7 Q The prosecuting attorney?

8 A I beg your pardon?

9 Q Who is the "he" you're talking about? The prosecu-  
10 ting attorney?

11  
12 A The District Attorney.

13 Q The District Attorney, is that---

14 A The District Attorney, yes, sir, petitioned the  
15 Court on his own motion as I felt he was required to do, to  
16 impanel a sanity commission under the Mental Health Act at that  
17 time. And this was opposed by Defense Counsel.

18 Previous to that issue, Your Honors will find in the doc-  
19 ket entries of this case, that a suppression hearing was in fact  
20 held, evidence presented to the Court, and a rule given as to  
21 the admisibility of evidence other than the confession. Namely  
22 the admisibility of the gun that was located and found pursuant  
23 to a valid search warrant issued by the Court, at the room oc-  
24 cupied by the defendant.

25 Subsequent to the obtaining of the gun, by the police, the



1 confession was obtained from the defendant, setting forth his  
2 involvement with the five murders starting in 1961, and ending  
3 in 1966.

4 Q How was that gun linked up to the defendant?

5 A The gun was stolen from a Sears & Roebuck store,  
6 Your Honor, back in 1960 or 1961. It was found in a drawer se-  
7 creted under a table, in a box that was obtained by the defen-  
8 dant, and retained in that box, were various shells for use.

9 Q Did ballistics tests---

10 A Ballistically---

11 Q ---help any?

12 A Ballistically it would bear bear out the fact that  
13 this gun in fact was used to kill, as I recall at least three  
14 of the defendants.

15 Now in addition to the gun, Your Honors, there was addi-  
16 tional evidence that was introduced by the Commonwealth to the  
17 sanity commission. And that was a list of seven names that had  
18 been retained by the defendant during these prior years to 1966,  
19 of seven names that he alleged and held responsible for the  
20 psychotic condition of his mother, and it was his purpose in  
21 life to murder and annihilate all seven persons on that list,  
22 in order to relieve the "evil eye, hex voodoo, and witch-  
23 craft" that these individuals, all of whom were friendly with  
24 the defendants family had imposed upon her and subjected her to  
25 this type of life.

1 Q Now Mr. Moss, in addition to that, the confessions  
2 were introduced---

3 A Yes, sir.

4 Q ---and there was a sanity hearing, as I understand  
5 it, the Petitioner doesn't quarrel with the procedural due  
6 process aspect of that hearing. But his claim is that once his  
7 client was indicted, until and unless he raised the issue of  
8 his clients' insanity or incompetence it was your absolute and  
9 constitutional duty to bring him to trial in a criminal court.

10 A speedy and a public trial. That's the issue, here, isn't  
11 it?

12 A Now, Mr. Justice---

13 Q And the only one, as I understand the case as sub-  
14 mitted by the Petitioner.

15 A Mr. Justice Stewart I think that that is the pin-  
16 head of this case. It's the essence of the legal issue, that  
17 brings us before this honorable Court. And I think that this,  
18 as the Court has held in previous cases, is not an absolute  
19 right.

20 We cannot subject an incompetent individual to a speedy  
21 trial when he is incapable and unable to confer meaningfully  
22 with his counsel, to exercise all of the constitutional rights  
23 that he must do personally in the course of the trial, when he  
24 is unable to do so.

25 Q Well, his point is that our procedure in this country

1 and in Pennsylvania and in each of the other 49 states under  
2 the federal system that our procedure, for better or for worse,  
3 is an adversary procedure, and an adversary system, so that  
4 until or unless he as the defendart raises the issue of incom-  
5 petence or insanity, you have a single constitutional duty.

6 Having indicted him, having chosen to proceed criminally  
7 against this man, having charged whm with murder and indicted  
8 him for it, and required him to plead, that you have an absolute  
9 constitutional duty to bring him to trial.

10 A I think that is---

11 Q You're on one side of the case, and he's on the  
12 other. And it's an adversary procèding.

13 A I think there are certain---

14 Q That it's not your duty to look out for his rights,  
15 it's his duty to assert them if he wants to.

16 A We are aware of his position, Mr. Justice Stewart,  
17 and we have opposed that for numerous reasons. I think that the  
18 Court can readily agree that there are numerous issues that  
19 would violate the individuals rights himself. Not necessarily,  
20 sir. He would be subjected to the same type of disposition if  
21 he were convicted, acquitted, acquitted onthe grounds of insan-  
22 ity, or committed pursuant to a civil commitment procedure pro-  
23 vided for in the very same act of the preceding one.

24 Q Let me ask you, let's assume you tried him and he  
25 was acquitted, now what constitutional rights of his would have

1 been violated during the trial?

2 A During the trial?

3 Q By the trial.

4 A I think this Court, Your Honor, has stated frequently  
5 that the right to participate and actually decide intelligently  
6 on the various issues at the trial---

7 Q Well, if he were acquitted he must have done pretty  
8 well.

9 A Not necessarily. We have a valid, bona fide criminal  
10 charge against him. In contrast to what Mr. Quinlan has advised  
11 the Court, we have sufficient evidence to proceed and convict  
12 this man.

13 Q He wants to say, well if you can convict me, maybe  
14 your conviction will be no good, but I may be innocent.

15 A Well, I think the law over the years has generally  
16 encouraged useful acts. If we are going to permit this defendant  
17 to order society to subject him to trial, when he is unable to  
18 comprehend the nature of the charges, the defense itself or  
19 cooperate with his counsel in any type of intelligent or mean-  
20 ingful fashion, we will override the protection that society has  
21 afforded in the past, and that is that he just cannot meaning-  
22 fully participate. And why subject him to a trial on the merits  
23 and thereafter allow him to raise the incompetency issue?

24 Q Mr. Moss, how does Pennsylvania define competency  
25 to stand trial, by statute?

1 A By statute, Your Honor. It's under the (inaudible)

2 Q What are the standards?

3 A The standard is this. It uses the term "mental dis-  
4 ability". It says "mental disability means any mental illness,  
5 mental impairment, mental retardation, or mental deficiency  
6 which so lessens the capacity of a person to use his customary  
7 self control, judgement, and discretion in the conduct of his  
8 affairs and social relations as to make it necessary or advis-  
9 ible for him to be under care as provided in this Act".

10 Q Is that competency to stand trial or for a commit-  
11 ment?

12 A I'm sorry I didn't hear you.

13 Q Is that the standard for judging competency to stand  
14 trial, or is that the standard for commitment under a civil pro-  
15 ceeding?

16 A That is the standard for commitment. It is bolstered  
17 further by psychiatric reports and evaluations---

18 Q But I'm getting just at the standard. Does Pennsyl-  
19 vania have a statute comparable to that in the federal statutes  
20 describing, or does it have it by common law---

21 A It has---

22 Q describing what the man's condition must be in order  
23 to permit him to go to trial?

24 A The standard that is used, Your Honor, is the com-  
25 mon law standard of ability to comprehend the nature and conse-



1 quences of his act and of the charges to cooperate meaningfully  
2 and intelligently with his counselor, and to comprehend the  
3 course of the trial and his rights. That's by common law and  
4 case law. The procedure that I read to you, Your Honor, is solely  
5 the method and the standard by which a commitment may be pursued  
6 either for a civil commitment or after a criminal charge.

7 Q The competency standard could not be sufficient in  
8 the civil proceedings to confine a man?

9 A I would not think so, Mr. Justice Black.

10 Q But you are confining him---what more than just that  
11 competency standard was found here?

12 A His criminal tendencies, his lack of self control,  
13 his assertions---

14 Q Why did they go on and make those findings?

15 A I'm sorry---

16 Q Why did they go on and make those findings about  
17 criminal tendencies here?

18 A Because they were part of the testimony and evidence  
19 that was introduced and actually was in fact the criminal charge  
20 triggered the attention of the public to this man's conduct, and  
21 in competency.

22 Q Mr. Moss, why has he not been civilly committed in  
23 the meantime?

24 A I think there's been no definite determination on  
25 that issue, Mr. Justice Blackmun, because of the tendency of

1 these various proceedings.

2 Q Let me then ask you the same question I asked Mr.  
3 Quinlan. Is the ultimate result the same, to wit, incarceration,  
4 if we can call it that, anyway, placement in the same type of  
5 institution, whether the route followed is that of civil commit-  
6 ment or that of a sanity hearing?

7 A The eventual place of commitment, Your Honor, will  
8 be the very same. His course of treatment will be the very same.  
9 This is not, as it has been referred a confinement facility.

10 This is a hospital. Part of the hospital system of the  
11 Commonwealth of Pennsylvania. And he will be there primarily  
12 because of the maximum security type of protection for society  
13 that is necessary from this individual.

14 Q Then your answer to my first question would not  
15 be to wit, there is no civil commitment procedure because it  
16 would be useless - he's already where he would end up.

17 A He would end up here, Mr. Justice Blackmun, under  
18 any circumstances imaginable. Either as a result of criminal  
19 trials and the verdicts that would be rendered by that jury, or  
20 through civil commitment.

21 Q One last question. Is the release standard the same  
22 under confinement because of the sanity commission and the  
23 Courts determination, as it would be after civil commitment?

24 A No. Under a sanity commissiton, this defendant has  
25 a right to pursue a writ of habeas corpus at any stage of the

1 proceedings when he is, or at least represents, that he is com-  
2 petent to be released, remanded back to the trial level, to stand  
3 trial on the charges. This has not been pursued, and as a matter  
4 of fact there is a level of the defendants (inaudible) status.  
5 He is evaluated periodically to determine his competency to  
6 stand trial and answer the criminal charges.

7 This has not been pursued in the last three and a half  
8 years, since his commitment by order.

9 Q But if he went to the Common Pleas Court with a writ  
10 of habeas corpus he would have to sustain some of the burden  
11 of showing what you contend he cannot show, and therefore the  
12 Common Pleas Court would likely be somewhat influenced by the  
13 Pennsylvania Supreme Court's holding, would they not?

14 A I don't think so, Mr. Chief Justice. This defendant  
15 has a right not only to pursue the matter on a writ of habeas  
16 corpus, but can be examined by his own physician, unrelated to  
17 the institution where he is committed, and present evidence on  
18 his own behalf as to his competency.

19 Q But counsel has indicated that he did not elect to  
20 follow that course, originally. Is there any reason to believe  
21 that on a habeas corpus proceeding that he would be any more  
22 inclined to put in the testimony of a psychiatrist?

23 A If the contentsoof this defendants psychiatric re-  
24 ports, periodic reports and evaluations by Farview State Hos-  
25 pital are as they are as of September 28, 1970, he would not

1 have any success, in any release. This man is convinced of his  
2 dedication in life to annihilate the seven on his list and in  
3 the event this brings no relief to his psychotic mother he will  
4 find and search out other people in the community whom he feels  
5 is responsible for his mothers condition. And this is so stated  
6 in the record.

7 Q Perhaps you've already said it, did the findings that  
8 the commission made satisfy civil commitment standards?

9 A Yes, sir.

10 Q What does a civil commitment have to conclude to  
11 confine a person?

12 A Whenever a person is believed to be mentally dis-  
13 abled and in need of care or treatment by reason of such mental  
14 disability and examination of such person has been made by a psy-  
15 sician or physicians or for any reason the examination of such  
16 person cannot be made, a petition may be presented to the Court  
17 of Common Pleas of the county in which the person resides or is  
18 for his immediate examination or commitment, to an appropriate  
19 facility for examination, observation, and diagnosis. And they  
20 thereafter adopt the same type of mental disability standard  
21 by which the individual would be committed.

22 Q So under the civil proceedings he wouldn't even have  
23 to be found to have criminal tendencies?

24 A That is correct, Mr. Justice White.

25 We have an exaggerated case here of an individual who is

1 terribly psychotic, has in fact murdered five people, and is des-  
2 tined to murder others if released upon society.

3 Q Of course if he's psychotic he didn't murder them.  
4 Killed them, maybe, but he's not guilty of murder.

5 A That is true, Your Honor, I think the Commonwealth  
6 in any proceeding would acknowledge the defendants incompetency  
7 and insanity.

8 The records---

9 Q So then it's not really murder, if the facts you  
10 state are correct.

11 A And if we were to do this, sir, and a court would  
12 proceed the trial regardless of the verdict that would be entered.  
13 And this defendant would be committed to Farview State Hospital  
14 for treatment and rehabilitation and/or release.

15 Q If this man were brought to trial, as he urges, in  
16 your view would it be the obligation of the prosecutor to bring  
17 his medical history to the attention of the Court if he failed  
18 to do so on his own behalf?

19 A Mr. Chief Justice I've weighed that very problem and  
20 I have kicked it around in my own mind as to whether or not it  
21 is my obligation. I suggest to Your Honor that this would be  
22 my obligation in the event that the defense counsel gave no in-  
23 dication of raising an insanity defense.

24 Q I think the American Bar Association standards for  
25 the prosecution, the conduct of the prosecution would say that



1 you have an absolute duty to do so.

2 A I'm glad that I think my inclination was consistent  
3 with the standard of ethics, but I feel that it is the obligation  
4 of the prosecution to interpose any favorable type of evidence  
5 that is in our possession.

6 As a matter of fact, as in the possession of the defen-  
7 dant as well. And at no time, other than today, have I been  
8 aware of Mr. Quinlan's assertion of his knowledge of an insanity  
9 defense. I think we have a counsel for the defendant in this  
10 case who may not be counsel throughout the entire proceedings on  
11 this case, and we are not assured of the defendants full pro-  
12 tection by his being speeded to trial when he is unable to  
13 really comprehend the charges.

14 And it would only take a moment to---

15 Q Would you still be making the same argument if all  
16 the commission had found was that he's incapable of understanding  
17 the situation with which he's faced and is incapable of cooper-  
18 ating with counsel, and if the commission had not gone on and  
19 found that he had criminal tendencies?

20 A And that was the only finding that was made?

21 Q Yes, but it was sufficient to satisfy the incompetent  
22 to stand trial standard in Pennsylvania.

23 A It would depend on what other information we would  
24 have available to us in evaluating whether we should proceed.

25 Q Because that seems to be a more interesting question

1       which is perhaps unreachable because the commission also found  
2 the criminal tendencies. But would you say Pennsylvania could  
3 continue to hold a person for the rest of his life without a  
4 trial just because you found he was incompetent to stand trial,  
5 and that he would never get any better?

6       A       I don't think so, Mr. Justice White---

7       Q       What would you do---

8       A       I think there'd have to be a lot more---

9       Q       What would you do if Pennsylvania---you'd have to  
10 civilly commit him if you wanted to hold him.

11       A       If we wanted to do that or if we were not satis-  
12 fied with the validity of those findings, we would proceed to  
13 trial---

14       Q       Let's say that everybody concedes that the findings  
15 are valid, both defense and prosecution, that he's incompetent  
16 to stand trial. That it's not found that he's a danger to him-  
17 self or anybody else. Would you say you could continue to hold  
18 him just because you had a charge against him?

19       A       We would probably proceed to trial.

20       Q       But you couldn't. He's incompetent to stand trial.

21       A       If those were the only findings, we would not.

22       Q       Then what would you do?

23       A       He would just proceed on his character---

24       Q       Stay where he is?

25       A       Yes, sir.

1 Q Without any more findings of---

2 A Eventually I could tell you by practice, Your Honor,  
3 what the Commonwealth does, is relieve the defendant at some  
4 time of criminal charges by nol. prossing the charges against  
5 him, and when we---

6 Q And then that would bring up whether or not there  
7 should be a civil commitment.

8 A That normally is in conjunction with the findings,  
9 recommendations, and reports that are submitted to us periodical-  
10 ly by the institution itself.

11 Q How did you get (inaudible)---

12 A Unfortunatley, Mr. Justice Black, he was not ap-  
13 prehended by the police until 1966 after his fifth murder.

14 Q Oh, he was not caught.

15 A That's correct. And it was at that time that we pre-  
16 ceded with our action.

17 Q In Pennsylvania practice is the prosecutor in a po-  
18 siton to institute a civil commitment proceeding?

19 A Yes, sir. We suggest to the Court that we do have a  
20 conflict between the right of his fair trial and the right of a  
21 speedy trial. There are numerous reasons why we would not want  
22 to subject the defendant to the speedy trial. The court has  
23 definitely held that to proceed and prosecute a defendant who  
24 is incompetent violates due process, and we are not violating  
25 the right to a speedy trial. We are merely defering it until such

1 time that the defendant can exercise, in conjunction with his  
2 counsel, the personal constitutional rights that he must de-  
3 cide upon during the course of the trial. We feel that the  
4 standards by which the Commonwealth of Pennsylvania proceeds  
5 in matters of this type afford him every protection, and we  
6 therefore suggest to this Court that this defendant is not  
7 competent and not able to proceed to trial in spite of the re-  
8 commendations or assertions of his defense counsel. Thank you.

9 Q Thank you, Mr. Moss. Mr. Quinlan, do you have any-  
10 thing further?

11 A Yes, Mr. Chief Justice, I reserved ten minutes in  
12 rebuttal.

13 I'm afraid I'm not making my point here. I say by what  
14 right does the Commonwealth arrest a man, indict him, and then  
15 say no, we're not going to put him to trial because the sanity  
16 commission says he has criminal tendencies, and the only thing  
17 in the record before the sanity commission for them to conclude  
18 that he had criminal tendencies, was the illegal confession.

19 Q But Mr. Quinlan, the basic finding that they made  
20 was that he was not competent to stand trial. That he cannot  
21 understand and cooperate, doesn't understand the nature of the  
22 charges. That's why he is being held, not because of his con-  
23 fession.

24 A Well, the only criminal tendencies---the only thing  
25 they had in front of them was that he said he killed five people

1 for these crazy reasons and they had no right to conclude that  
2 he could not confer with counsel and did not understand the na-  
3 ture of the proceedings because I was there and as his lawyer I  
4 said he does understand them, and he has conferred with me, and  
5 I'll swear to it.

6 Now---

7 Q Mr. Quinlan, why didn't somebody have a right to  
8 conclude that five killings was enough?

9 A Mr. Justice Black, this man, and the record shows  
10 this, was taken into custody with his father, held for 24 hours,  
11 before the Justice of the Peace said his rights having been ex-  
12 plained to him. Three times, and this is in the record, the  
13 then District Attorney swore under oath, and all this is in the  
14 Appendix, that John Brunos rights were explained to him, and  
15 he undersotod what he was being held for.

16 He swore to all this when he filed answers to my motions  
17 to suppress answers to my petitions to dismiss the sanity con-  
18 mission, he said John Brunos constitutional rights had not been  
19 offended because we explained everything to him, and he under-  
20 stood it.

21 Now they can't have it both ways---

22 Q But perhaps, Counsel, you're trying to have it both  
23 ways---

24 A Yes, sir, and---

25 Q If you had taken the stand in this hearing, and tes-



1     tified to all that you have been suggesting to us, outside of  
2     the record, about his capacity and his understanding, perhaps  
3     that commission would have found that he was competent to stand  
4     trial and we wouldn't be here.

5             A       I offered to do that. That's in the record. I offered  
6     to take the stand and---

7             Q       Did you have an associate counsel there who could  
8     have conducted the examination?

9             A       No, sir, as I say, I'm sort of a volunteer in this  
10    case, but the case, and I think the transcript of the docket  
11    entries will show, it sort of deteriorated into whether or not  
12    Mr. Quinlan was going to force a trial in this case, or whether  
13    the District Attorney was going to be able to sweep under the  
14    rug, the fact that he had announced publically that five mur-  
15    ders had been solved, he solved them, with his staff, but now  
16    I'm not going to put them on trial.

17            Now three times under oath, the District Attorney says I  
18    explained all his rights to him. Now how could he do that? This  
19    confession was illegal under Escobito. We didn't need Miranda  
20    for this.

21            Q       Mr. Quinlan, how do you account for the fact that  
22    he's still there, they haven't released him---

23            t       A       Mr. Justice Marshall, they'll never release him.

24            Q       If he is insane and if he never gets sane, they  
25    will not release him..

1 A No, they won't.

2 Q That's right. But the independent body which is the  
3 hospital, I assume, has found that he's insane. The reason I  
4 say that is because he's still there. And is it not true that if  
5 they find him sane they will release him?

6 A They're supposed to certify him for trial.

7 Q Well, that's what I mean. But they haven't done that.

8 A I don't get any information from them. This is a  
9 state institution. Under the auspices---

10 Q But state institutions aren't illegal---

11 A No, I don't mean that---

12 Q Just because they're state institutions.

13 A But they don't send me reports. I've never seen a re-  
14 port since he's been there. He was there in June of 1967.

15 Q And I also understand you haven't tried to get one.  
16 You said that.

17 A No, I didn't.

18 Q Didn't somebody on this Court ask you if you tried to  
19 get---

20 A No, I said I did not try to get one.

21 Q You did not?

22 A No, this case has been in litigation up through 1969.

23 Q Well, assume now that this Court grants you the re-  
24 lief you want. And he's brought back in. Where's he going to  
25 be brought? To the criminal court?

1           A       If I get the relief that I've asked for, yes, they'd  
2 have to put him on trial. And I'll defend him.

3           Q       And suppose he's obviously insane in the courtroom.  
4 Then what happens?

5           A       If it's obvious that he's insane?

6           Q       Yes. Six psychiatrists testify that---

7           A       Well, it wouldn't happen that way. If they bring  
8 him to trial---

9           Q       How do you know?

10          A       Well, I'd---

11          Q       You're not a psychiatrist, are you?

12          A       No, Mr. Justice Marshall.

13          Q       Well there, do you see? How do you know whether he's  
14 sane or not?

15          A       Because I---

16          Q       (inaudible)---a defense of insanity, isn't that it?

17          A       I have never pleaded a defense of insanity.

18          Q       And until or unless you do, there'll be no psy-  
19 chiatrist around.

20          A       Exactly.

21          Q       Prosecution may put the psychiatric testimony on---

22          A       Well, Mr. Chief Justice, there is a very easy sol-  
23 ution to this whole case, which I propose under our rules. That  
24 a jury could have been impaneled and the Commonwealth could have  
25 put a psychiatrist on the stand, and without any other testimony

1 the trial judge could have said I declare this man not guilty  
2 by reason of insanity and this fellow would have been committed  
3 to an Army hospital in Coatsville, Pennsylvania with maximum se-  
4 curity.

5 Now before I sit down I'd like to suggest by analogy one  
6 frightening thing that could happen because of this type of pro-  
7 cedure. There's a youngster who lives in my community who's now  
8 20 or 21. He's mentally unbalanced. He's constantly talking about  
9 girls, and I would like a girl, and this and that. The neigh-  
10 bors complain. He's never been in trouble. When and if there's  
11 a sex crime in this community he's going to be the first boy  
12 the police pick up, he's going to sign anything they want him to  
13 sign, which is just what happened to John Bruno, because the  
14 record shows, if you sign this John, we'll take care of you, and  
15 taking care of him meant sending him to a hospital.

16 They can take this fellow to the Court House, say he signed  
17 a confession, that he committed all these terrible crimes, and  
18 if he did it he's obviously mentally incompetent, and ship him  
19 off to Farview. And if they can do this to John Bruno, I res-  
20 pectfully submit that they can do it to anybody.

21 Q Mr. Quinlan, as I understand it the relief you're  
22 requesting is an order requiring that he be put to trial.

23 A Yes, sir.

24 Q Suppose that this relief were granted and the state  
25 moved as Mr. Moss said he had the power to move, for a civil

1 committment. Would you oppose this?

2 A Not if they first directed a verdict of not guilty  
3 by reason of insanity. I don't want this hanging over his head  
4 for the rest of his life.

5 Q Well, do they have to do this?

6 A Either that or put him on trial.

7 Q Back to my question. Suppose they started the mach-  
8 inery moving for a civil commitment. What would be your response  
9 as his counsel?

10 A I would object to it because they would have him  
11 civilly committed to an ordinary mental hospital, and then  
12 through their inter-hospital procedures they would transfer him  
13 back to Farview.

14 Q So that he would end up exactly where he is now.

15 A Yes, sir.

16 Q How can you prevent that?

17 A Well, I guess just file more petitions for writs of  
18 habeas corpus, that's the way I've been doing it so far, although  
19 I haven't been too sucessful. I just think it's terrible---

20 Q Mr. Quinlan, suppose---

21 A That they can do---

22 Q Instead---

23 A ---such a thing.

24 Q Instead of that route, as Mr. Justice Blackmun sug-  
25 gested, suppose the state now decides to give up, and they bring



1 your man into the Common Pleas Court for trial, against this  
2 background have you any doubt that the Common Pleas Judge is  
3 going to first conduct a hearing to determine for himself whether  
4 your client is competent to stand trial by the standards of com-  
5 mon law? Isn't that what he's going to do?

6 A Yes, sir.

7 Q Well, then if he decides that he's not competent  
8 to stand trial, he's right back where he is now residing, isn't  
9 he?

10 A Yes, sir. Except for this, though. The Common Law  
11 as outlined in the (inaudible), and this is in all the dissenting  
12 opinions of the Pennsylvania Supreme Court, that's why I didn't  
13 cite any cases in my brief.

14 I rely on the Constitution , and the Supreme Court of Penn-  
15 sylvania reviewed all the cases on this subject---

16 Q Yes, but you just have the dissenters on your side.

17 A Well, that's been my role in this whole case. We've  
18 lost all time---as I say, if they can do this to John Bruno,  
19 they can do it to me on my way home, when I cross the county  
20 line they can pick me up, hold me for 24 hours, come on televis-  
21 sion the next day. They can announce to the press "Quinlan  
22 committed sex crimes, and he did it because he hates his mo-  
23 ther", and anybody who'll do that because he hates his mother  
24 is crazy. And knowing that they can't prove it, they ship me  
25 off to Farview.

1           Now maybe this has happened a lot of times, I don't know.  
2 I just sort of stumbled into this case.

3           Q       The record seems to show that he's stated a number  
4 of times that an evil eye is on him. Do you know that or not?

5           A       They say that in the confession he---

6           Q       Do you know---

7           A       Do I know it?

8           Q       Do you know whether or not he thinks an evil eye  
9 is on him?

10          A       Yes, sir, I do know it.

11          Q       Well, do you not think it's your duty instead of  
12 trying to get him tried by the Court to tell the Court that you  
13 think he's insane?

14          A       Well, I don't think he ought to have five indictments  
15 because I know Bruno, and I know his father, and his father be-  
16 lieves the same thing, I don't know who killed these five people.  
17 I don't think the District Attorneys office does.

18          Q       I don't mean who killed them. Do you not believe that  
19 a man who thinks there's an evil eye chasing him around over the  
20 area is insane? Should be committed?

21          A       Yes, and I made arrangements through the Department  
22 of the Army to have him committed to Coatsville maximum security  
23 building.

24          Q       Well, why do you want him tried?

25          A       Because the Army will not so commit him as long as

1 there's a pending criminal charge against him.

2 Q You want to get him committed to another place.

3 A Yes, sir.

4 Q And that's all it's about?

5 A If you put him out on the street, no, its not all  
6 that it's about. All that it's about is that can they deny my  
7 man a right to a trial?

8 Q You want to get these criminal charges disposed of,  
9 because until they are, the Army will not take him, isn't that  
10 right?

11 A That's correct.

12 Q That's the reason you're making this claim in this  
13 case.

14 A One of them, yes.

15 Q You would be satisfied if they didn't try him, they  
16 just nol. prossed the charges.

17 A Yes, sir.

18 Q He'd still stay where he is.

19 A Well, I don't think so. I think I could have him  
20 transferred to the Army. I have a letter saying so. They'd put  
21 him in a Veterans Hospital, with maximum security. And some  
22 psychiatric help which he's not going to get in Farview.

23 Q You don't think Pennsylvania has gone through en-  
24 ough proceedings already to hold him except during the pendancy  
25 of the criminal Charge?

1           A       Well, of course, they've held him for going on five  
2 years, now. I think that if they nol. pros, the indictments  
3 through a petition for writ of habeas corpus I would prevail,  
4 and have him confined to a veterans hospital.

5           Q       You think he's not guilty on the grounds of insanity,  
6 I guess.

7           A       No, Mr. Justice Black, I---

8           Q       They just can't proove the charge?

9           A       They just can't proove it. And I'm not sure in my  
10 own mind whether John killed these five people or his father  
11 did.

12          Q       They can't proove he's insane?

13          A       How are they going to proove he's insane? I'n not  
14 going to put him on the--

15          Q       I understood you to---

16          A       The realities of it is what---

17          Q       I understood you to say that an evil eye was chasing  
18 him all around---

19          A       Well, really the problem here is that John Bruno and  
20 his lawyer Quinlan win no matter what happens, because if they  
21 convict him in front of a jury, I then put him on the stand, or  
22 put on a psychiatrist and no one will send him to the electric  
23 chair. He's going to get life. Which is what he's got now, with-  
24 out a trial.

25          Q       Hav you tried to arrange with the prosecuting at-

1 torney or the judge to do something with the case that would  
2 permit the Army to put him in as an insane man? I understood  
3 you to say that's what you want.

4 A I did that, Mr. Justice Black. I Tried, through the  
5 former District Attorney and the judge, to bring him to trial,  
6 empanel a jury---

7 Q But you don't have to bring him to trial, do you?

8 A Well, either that or nol. pros. the indictments.

9 Q Suppose the government would agree to take him?

10 A They won't, Your Honor.

11 Q Have you tried it?

12 A Yes, sir.

13 I have correspondence saying we won't take him while  
14 there are open criminal charges against him.

15 Q Has the District Attorney agreed to help you on  
16 that, or not?

17 A No. they flatly said no. Not this District Attorney,  
18 his predecessor.

19 Q I think your time is up, Mr. Quinlan, thank you.  
20 Thank you gentlemen, the case is submitted.

21 (Whereupon, at 2:20 o'clock p.m., argument in the  
22 above entitled matter was concluded.)  
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