

1 Honor.

2 MR. YZURDIAGA: Mr. Durrough wishes to address
3 the Court.

4 THE COURT: Yes, sir, Mr. Durrough?

5 THE DEFENDANT: I'd just like to say this about
6 your duties:

7 (Reading:)

8 Four things belong to the Judge, to hear
9 courteously, to answer wisely, to consider soberly and
10 to decide impartially. That's from Socrates.

11 The principle that a state may not
12 knowingly use false evidence, including false testimony
13 to obtain a tainted conviction implicit in any concept
14 of ordered liberty does not cease to apply merely
15 because the false testimony goes only to the credibility
16 of a witness.

17 The jury's estimate of the truthfulness and
18 reliability of a given witness may well be determinative
19 of guilt or innocence, and it is upon such subtle
20 factors as the possible interest of the witness in
21 testifying falsely that a defendant's life or liberty
22 may depend.

23 As stated by the new Court of Appeals in
24 Napue versus Illinois 369 U.S. 3 L.Ed. 1217: It is no
25 consequence that the falsehood bore upon the witnesses
26 credibility rather than directly upon defendant's guilt.

27 A lie is a lie, no matter what its subject.
28 And if it is in any way relevant to the case -- that the

1 District Attorney's silence was not the result of guilt
 2 or a desire to prejudice matters little, for its impact
 3 was the same -- preventing, as it did, a trial that
 4 could be -- in any real sense -- be determined fair.

5 The reasonable doubt standard in a criminal
 6 case was bottomed (sic) on the fundamental value
 7 determination that it was far worse to convict an
 8 innocent man than to let a guilty man go free. Due
 9 process commands that no man shall lose his liberty
 10 unless the Government has borne the burden of convincing
 11 the fact finder of his guilt. To such end, the
 12 reasonable doubt standard is indispensable. It is being
 13 critical that the moral force of the criminal law not be
 14 diluted by a standard of proof which leaves people in
 15 doubt whether innocent men are being condemned.

16 The District Attorney is the representative
 17 not of an ordinary party to a controversy, but of a
 18 sovereignty whose obligation to govern impartially is as
 19 compelling as its obligation to govern at all -- whose
 20 interest therefore in a criminal prosecution is not that
 21 it shall win a case, but that justice shall be done. As
 22 such, he is in a peculiar and very definite sense, the
 23 servant of the law -- the twofold aim of which is that
 24 guilt shall not escape or innocence suffer.

25 He may prosecute vigorously and with
 26 earnestness, indeed he should do so. But while he may
 27 strike hard blows, he is not at liberty to strike foul
 28 ones. It is as much his duty to refrain from improper

1 methods calculated to produce a wrongful conviction as
2 it is to use every legitimate means to bring about a
3 just one.

4 The search for truth is not served but
5 hindered by the concealment of these things. Although
6 the system of administering criminal justice is
7 adversary in nature, a trial is not a game, its ultimate
8 goal's the ascertainment of truth. And where
9 furtherance of the adversary system comes in conflict
10 with the ultimate goal, the system must give way to
11 reasonable restraints designed to further that goal.

12 I am going to skip this part here. It is
13 just a personal attack.

14 In closing, I concur with the comments of
15 counsel and the Court regarding the greatness -- the
16 majesty of America and its democracy.

17 We've shared much by way of this outrage,
18 this tragedy, but if freedom is to truly reign, then we
19 must also be bold and firm in preserving the guarantees
20 afforded to all by the founding fathers -- The
21 Constitution.

22 That's it.

23 THE COURT: Thank you, Mr. Darrough.

24 Is there anything further you wish to say
25 at this time?

26 MR. YEBURDIAGA: Umm -- Other than it's been an
27 outrage -- umm -- it's been hypocrisy in the highest
28 order -- no.