Name CROSSAN D. HOOVER JR.

Address P.O. BOX 400

VACAVILLE, CALIFORNIA 95696-4000

IN PROPRIA PERSONA

CDC or ID Number C-95830

FILED

DEC 22 1998

JOHN P. MONTGOMERY,
Court Executive Officer
MARIN COUNTY COURTS
By: K. Wells, Deputy

SUPERIOR COURT STATE OF CALIFORNIA

COUNTY OF MARIN

(Court)

CROSSAN D. HOOVER, JR.

Petitioner

vs.

Respondent

A.C. NEWLAND, Warden

PETITION FOR WRIT OF HABEAS CORPUS

No. SC105891A

(To be supplied by the Clerk of the Court)

INSTRUCTIONS — READ CAREFULLY

- Read the entire form *before* answering any questions.
- This petition must be clearly handwritten in ink or typed. You should exercise care to make sure all answers are true and correct. Because the petition includes a verification, the making of a statement that you know is false may result in a conviction for perjury.
- Answer all applicable questions in the proper spaces. If you need additional space, add an extra page and indicate that your answer is "continued on additional page."
- If you are filing this petition in the Superior Court, you need file only the original unless local rules require additional copies. Many courts require more copies.
- If you are filing this petition in the Court of Appeal, file the original and four copies.
- If you are filing this petition in the California Supreme Court, file the original and thirteen copies.
- Notify the Clerk of the Court in writing if you change your address after filing your petition.
- In most cases, the law requires service of a copy of the petition on the district attorney, city attorney, or city prosecutor. See Penal Code section 1475 and Government Code section 72193. You may serve the copy by mail.

Approved by the Judicial Council of California for use under Rules 56.5 and 201(f)(1) of the California Rules of Court (as adopted effective January 1, 1992). Subsequent amendments to Rule 44(b) may change the number of copies to be furnished the Supreme Court and Court of Appeal.

Form Approved by the
Judicial Council of California
MC-275 [Rev. January 1, 1992]

This petition concerns:

XXXXX A conviction

_____ A sentence

_____ Jail or prison conditions

_____ Other *(specify)*: _____

_____ Parole

_____ Credits

_____ Prison discipline

1. Your name CROSSAN D. HOOVER JR.

2. Where are you incarcerated? CALIFORNIA STATE PRISON SOLANO

3. Why are you in custody? [XX] Criminal Conviction [ ] Civil Commitment

Answer subdivisions a. through i. to the best of your ability.

a. If criminal conviction, state nature of offense and enhancements (for example, "robbery with use of a deadly weapon") or state reason for civil commitment: MURDER

b. Penal or other code sections: 187 Cal. Penal Code

c. Name and location of sentencing or committing court: CALIFORNIA STATE SUPERIOR COURT MARIN COUNTY

d. Case number: 8401

e. Date convicted or committed: Jun or July 1984

f. Date sentenced: 1984

g. Length of sentence: 26 years to life

h. When do you expect to be released? unknown

i. Were you represented by counsel in the trial court? [XX] Yes. [ ] No. If yes, state the attorney's name and address: Edward Torrice 8 Cimmercial Blvd. Navato, Cal.

4. What was the LAST plea you entered? (check one)

[XX] Not guilty [ ] Guilty [ ] Nolo Contendere [X] Other NOT GUILTY BY REASON OF INSANITY

5. If you pleaded not guilty, what kind of trial did you have?

[XX] Jury [ ] Judge without a jury [ ] Submitted on transcript [ ] Awaiting trial

6. GROUNDS FOR RELIEF

Ground 1: State briefly the ground on which you base your claim for relief. (For example, "the trial court imposed an illegal enhancement.") *If you have additional grounds for relief, use a separate page for each ground. Page 4 is designed so you can state ground 2. For additional grounds, make copies of page 4 and number the additional grounds in order.*

PETITIONERS CONVICTION IS THE RESULT OF PROSECUTION MISCONDUCT AND INEFFECTIVE ASSISTANCE OF COUNSEL THAT IS SO OUTRAGEOUS THAT A MISSCARRIAGE OF JUSTICE HAS OCCURED

a. Supporting facts:
Tell your story briefly without citing cases or law. If you are challenging the legality of your conviction, describe the facts upon which your conviction is based. *If necessary, attach additional pages.*
CAUTION: You must state facts, not conclusions. For example, if you are claiming incompetence of counsel you must state facts specifically setting forth what your attorney did or failed to do and how that affected your trial. Failure to allege sufficient facts will result in the denial of your petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.) A rule of thumb to follow is: *who* did exactly *what* to violate your rights at what time *(when)* or place *(where)*. *(If available, attach declarations, relevant records, transcripts, or other documents supporting your claim.)*

Please see Appendix I and II, and Exhibits A and B, incorporated herein as part of the petition and the verification, for the very complicated facts of this case. See Addendum I for argument of those facts.

b. Supporting cases, rules, or other authority (optional):
(Briefly discuss, or list by name and citation, the cases or other authorities that you think are relevant to your claim. If necessary, attach an extra page.)

Please see Addendum I

7. Ground 2 *(if applicable)*:

THE EVIDENCE WAS INSUFFICIENT TO SHOW THAT PETITIONER WAS SANE AT THE TIME OF THE CRIME (A) THE VERDICT RESTS ON INSTRUCTIONAL ERROR (B) THE VERDICT RESTS ON PROSECUTION MISCONDUCT

a. Supporting facts:

Please see Appendix I and II, Exhibits A and B, incorporated herein as part of the petition and verification, for the complicated facts that make this case. See Addendum I for argument

b. Supporting cases, rules, or other authority:

See Addendum I

8. Did you appeal from the conviction, sentence, or commitment? [X] Yes. [ ] No. If your answer is yes, give the following information about your appeal:
Name of court ("Court of Appeal" or "Appellate Dept. of Superior Court")

california court of appeal First Appellate District

Result **AFFIRMED** Date of decision **10-29-85**

Case number or citation of opinion, if known **A030282 (SEE EXHIBIT B)**

Issues raised: a. **(SEE EXHIBIT B)**

b.

c.

d.

Were you represented by counsel on appeal? [X] Yes. [ ] No. If yes, state the attorney's name and address, if known.

PHILLIP H. CHERNEY 1299 Calif. Ave. Palo Alto Calif.

9. Did you seek review in the California Supreme Court? [XX] Yes. [ ] No. Result **DENIED**

Date of decision **JAN. 1987** Case number or citation of opinion, if known **UNKNOWN**

Issues raised: a. **SAME AS ON APPEAL**

b.

c.

d.

10. If your petition makes a claim regarding your conviction, sentence, or commitment that you or your attorney did not make on appeal, explain why the claim was not made on appeal: **While the issues herein were partly raised, they were raised improperly and on independant state law and not on Constitutional Grounds as determined by the U.S. Supreme Court**

11. Administrative Review:

a. If your petition concerns conditions of confinement or other claims for which there are administrative remedies, *failure to exhaust administrative remedies may result in the denial of your petition, even if it is otherwise* meritorious. (See *In Re Muszalski* (1975) 52 Cal.App.3d 500 [125 Cal.Rptr. 286].)
Explain what administrative review you sought or explain why you did not seek such review:

NA

b. Did you seek the highest level of administrative review available? [ ] Yes. [ ] No.
Attach documents that show you have exhausted your administrative remedies.

12. Other than direct appeal, have you previously filed any petitions, applications, or motions with respect to this conviction, commitment, or issue in any court? [ ] Yes. If yes, continue with number 13. [X] No. If no, skip to number 15.

13. (1) Name of court _____

Nature of proceeding (for example, "habeas corpus petition") _____

Issues raised: a. _____

b. _____

c. _____

Result *(Attach order, if available)* _____ Date of decision _____

(2) Name of court _____

Nature of proceeding _____

Issues raised: a. _____

b. _____

c. _____

Result *(Attach order, if available)* _____ Date of decision _____

For additional prior petitions, applications, or motions, provide the same information on a separate page.

14. If any of the courts listed in number 13 held a hearing, state name of court, date of hearing, nature of hearing, and result.

15. Explain any delay in the discovery of the claimed grounds for relief and in raising the claims in this petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.) **Petitioner was sent to youth authority, he never received his transcripts and legal materials after appeal, he was just able in 1997 through 1998, to obtain intructions, briefs, news articles, and some reports, while closing arguments are missing and most trial testimony. Petitioner has just now began to recover from his mental problems, and has learned to read. Counsel never sought to raise these issues under Federally Protected Rights.** (SEE ATTACHED PAGE)

16. Are you presently represented by counsel? [ ] Yes. [X] No. If yes, state the attorney's name and address, if known.

17. Do you have any petition, appeal, or other matter pending in any court? [ ] Yes. [X] No. *If yes, explain.*

18. If this petition might lawfully have been made to a lower court, state the circumstances justifying an application to this court. **This is the proper court.**

I, the undersigned, say: I am the petitioner in this action. I declare under penalty of perjury under the laws of the State of California that the foregoing allegations and statements are true and correct, except as to matters that are stated on my information and belief, and as to those matters, I believe them to be true.

Date: DEC. 15, 1998.

(Signature of Petitioner)

CROSSAN D. HOOVER, JR.
IN PROPRIA PERSONA

EXPLAIN DELAY, CONTINUED:

My wife has been trying to get my transcripts and other materials since April when the Anti-Terrorism Effective Death Penalty Act was signed in 1996, so that I could prepare a petition, if there were issues. Remember I went to Youth Authority, and either the legal documents were not sent or I did not receive them from prison officals at youth authority

In 1996, my wife, went to the trial court to retrieve the files, however, many trips, many payments for record to be copied, and many more trips and letters to counsel, have resulted in only part of the record being retrieved.

I have the jury instructions, the appellate court opinion, the appellate briefs, news articles, and little else, in that the Youth Authority eiter lost or destroyed my legal work and transcripts, or they were never received, whichever, I have never had them nor received them.

Since the courts and counsel have tried, but records are lost or destryyed, which has impeded all attempts to file a petition.

However, a careful reading of the petition enclosed with show that petitioner has both cause and prejudice, an impediment to filing, and in his case A Miscarriage of Justice has occured that would overcome any procedural default or bar. On the other hand in that petitioner was incompetent and illiterate at the time of appeal, any issues that were not raised, would be the fault of counsel and thereby imputed to the state. DEUTSCHER V. WHITELY 884 F.2d 1152 (9th Cir. 1989). Ineffective Assistance of Counsel will meet the Cause and Prejudice Standard). McCleskey v. Zant 499 U.S. 467 (1991), any impediment to the petitioner in raising his issues, not his fault, will be sufficient to show cause. In SCHLUP V. DELO 56 CrL 2123 U.S. Supreme Court 1-23-95 the court found that New Evidence, or a factual Showing of actual innocence was sufficient to show a miscarrage of Justice, regardless of the vehicle used to show the miscarriage, i.e. IAC, Prosecution Misconduct etc., and would waive any procedural Bar or Default.

[illegible]

MEMORANDUM OF POINTS AND AUTHORITIES

ADDENDUM. I.

MEMORANDUM OF POINTS AND AUTHORITIES

I

PETITIONER'S CONVICTION IS A RESULT OF PROSECUTION MISCONDUCT AND INEFFECTIVE ASSISTANCE OF COUNSEL THAT IS SO OUTRAGEOUS THAT A MISCARRIAGE OF JUSTICE HAS OCCURED

INTRODUCTION:

Petitioner would have the court look to appendix I, and the attached exhibits in support of this claim as part of the facts in this case. The petitioner will set out clearly here the error and misconduct, however, for a full picture of this complex issue the court will need to view the facts in appendix I, and the exhibits attached as indicated.

Petitioner was convicted of murder, to which he plead not guilty and not guilty by reason of insanity. Petitioner also had a co-defendant Richards, who was tried before the petitioner and convicted.

The theory in the Richards prosecution is that he brain washed and manipulated petitioner and others to do his will, through a cult like group called the Pendragon, which he was the head of. (See Appendix I).

In Richards prosecution, the prosecutor brought forth witness upon witness to prove the brain washing by Richards, and argued this theory before the jury and regularly in the news papers and other media. And indeed it is clear that Richards had throughly brain washed at least the petitioner, who was already suffering from mental disorders, sever drug abuse, and now brain washing. See Appendix II.....

Because petitioner does not have a full record, though he has been trying to get one from the courts since 1996, getting pieces here and pieces there, he does not have a full record, nor was he able to obtain a copy of the Richards trial, and thus must relate facts from

[illegible]

[illegible]

[illegible]

the various exhibits, and appendix's attached.

In this case, petitioner was a juvenile when this crime occured and very disturbed, as appendix I and II, will reveal. And it was Richards brain washing of petitioner, who had mental disorders, and a sever drug problem, and was throughly indoctinated in the Pendragon Cult, led to the petitioner to kill on the signal of Mark Richards the cult leader. See Exhibit A1 through A21. This was the prosecutions theory, what the prosecution advanced at Richards trial, what the prosecution had witness after witness testify to before the jury, and finally exactly what the prosecution argued before the jury.

In petitioner's trial, the prosecution denied that petitioner was brain washed, and put forth that he was a cold blooded calculated killer, that killed for money and gain. The teenagers, petitioner included were given marijuana and alcohol at the meetings held by Richards, as well as the petitioner being a drug abuser, which he also consumed all day daily, including at the meetings. Page 20 of Appenxi I. Cooperation, greed, and total obedience was instilled as part of the Pendragon plan. See App. I pages 47, 48, 49 and 50.
Thus because the victim was portrayed to the petitioner as a person who was a Nazi, Faggot, and owed alot of people money, and it would be a servie to get rid of him. He would use the proceeds to further the Pendragon plan to take over Marin County. Appx. I pages 23-25.

See also Appx. II page 4. At Page 10, Appx. II, we see that petitioner was in the shower and chanting kill him, kill him, got to kill him. Themes that Richards had instilled into petitioner, with manipulation, drugs, and promises of power, the doctrine of Pendragon. Killing anyone that opposed or threatened Pendragon was acceptable and part of the doctrine of Richards, killing for gain,

power, to advance the plan of Pendragon, to finance it or protect it was doctrine. Killing undesireables, was also a doctrine of Pen-Dragon, and Mark Richards passed out lititure and pamphlets advancing those doctrines, over the months before the murder, gave drugs liberally, with alcohol. See specifically Appx. I at page 19, and both appx. I and II generally. Clearly this was the prosecutions theory of the case against Richards, and one that he successfully argued to the jury in Richards case. See Exhibit A1 through A21.

During the prosecution case of the petitioner the prosecution not only denied petitioner was a victim of Mark Richards, was not manipulated or brain washed, but he called experts, who deliberately did not go into the area of Pendragon, such a crucial focal point of this case, which ultimately lead to an opinion not based upon all the facts in this case, and an equivocal opinion at best, that could and would have been altered had he really considered the effects of Richards pendragon brain washing. See Appx. page 43.

Here, we have a prosecutor that believed and knew to be true the manipulation and brain washing of a child with mental disorders, who was heavily abusing drugs and alcohol, he argued it in the court and media, and then withheld from the jury his true belief of what occured to petitioner, had experts examine him without knowing the Pendragon facts and evidence, so that he could obtain a conviction based on evidence he himself believed to be false. It is also true that while trial counsel aggressively argued the Pendragon and brainwashing, he failed to bring in the Mark Richards trial transcripts, the prosecutions news and media appearances, and witnesses, that would have totally impeached the prosecution experts, shown misconduct on the part of the prosecution, and withholding from the jury crucial

proven facts, as found by the Richards jury, that the prosecution believed and argued were true, and thereby preserving an argument that the prosecution used evidence it knew to be false, and withheld evidence that it knew supported the petitioner and his insanity defense, and deliberately and calculatingly misled the jury from a truth the prosecution itself had established in the Richards Trial. But the worst and most outrageous conduct on the part of the prosecution was withholding or allowing the prosecution expert to evaluate the petitioner without all the facts concerning the Pendragon cult and how it effected the petitioner, who by all accounts was easily led and influenced.

STANDARD OF REVIEW:

We will start with U.S. V. STEINBERG 96 Daily Journal D.A.R. 13150 (9th Cir. 10-30-96), citing U.S. V. ENDICOTT 869 F.2d 452, 455 (9th 1989), which held, knowing use of perjury, new evidence, is material under the Brady standard, warranting new trial. Typically here the evidence is not new evidence, however, petitioner was not an adult, was suffering from a mental disorder, and could not even read beyond third grade during his trial and appeal, never received his transcripts, and the evidence from the record, until 1998, possibly 1997, and then not all of it, and was unaware of what the prosecution did. Thus via ineffective assistance of counsel, this is new evidence to him, at least to the legal theories applied in his case.

In KYLES V. WHITELY 115 S.Ct. 1555, 1566 (1995), the United States Supreme Court held, ""Reasonable probability of a different result is shown when the Governments evidentiary suppression undermines the confidence in the outcome. And again in U.S. V. BRUMEL-ALVAREZ 991 F.2d 1452, 1463 (9th Cir. 1992), the court held that Evidence

relevent to witnesses credibility, the defendant has a right for the jury to know.

In this case, the prosecution withheld from the jury that it knew, believed, and prosecuted another person based upon that belief, that petitioner was brain washed, conditioned, and manipulated by Mark Richards and his Pendragon Cult. The prosecution not only withheld this evidence from the jury, it withheld this information from its expert, and had him testify contrary to the prosecutions own understanding of the truth. This testimony was directed by the prosecution to undermine the very truth they argued and succeeded on in the Richards case. i.e. the prosecution knowingly suppressed and argued against facts, they knew and proved were true, and deliberately allowed a prosecution expert by direction of the prosecution who questions his expert, and provides him the material to review for evaluation, to undermine true and proven facts about the mental state of the petitioner.

While it is true that counsel argued this failure on the prosectuion experts part, and made a showing that the prosecution had not even told the expert about the Pendragon material, and the facts that it had brought to light in the Richards case, the prosecution argued that evidence that it knew to be true, was in fact false and that petitioner was neither brain washed, conditioned, nor manipulated. As Exhibits A1 through A21 show, this clearly is not what the prosectuion put in evidence at trial of Richards, nor to the news media. It is not consistent with the record of the prosectuion in the Richards case. The prosecution put on knowingly false evidence as to the mental state of the petitioner, and argued a theory that it knew to be false before the jury.

In Kyles v. Whitely, supra., the court held that the test is not a sufficiency of the evidence test. The test is did the conduct undermine the confidence in the outcome of the trial.

It is well established that a prosecutors use of false testimony violates the due process clause of the Fourteenth Amendment. GIGLIO V. U.S. 405 U.S. 150 at 153 (1972).

This portion of due process required not only that the prosecutor avoid soliciting false testimony but that he/she not sit idly by and allow it to go uncorrected when it is given. Giglio at 153. This re quirement applies even when the perjury relates to a witness' credibility rather than bearing directly on the defendants guilt. See People v. Campbell (1981) 118 Cal. 3d 588.

What makes this cases misconduct so outrageous, is that by not requesting, or giving the prosecution expert the evidence and facts about Pendragon, the prosecution manipulated it's own expert witness into giving testimony that the prosecution knew was not true, and that the prosecution itself time and time again argued was true, merely to obtain a conviction of the petitioner.

What is so very disturbing about the prosecution experts revelation that it did not consider the evidence of the case, and the prime theory of the defense, "PENDRAGON BRAIN WASHING AND CONDITIONING", is that we have testimony from Marian Saunders and Michael Bodkin, who in 1981, found that the petitioner was unsophisticate d, emotionally fragile, without good orientation to reality, capable of impulsive acts, but without the mental ability to plan anything complicated. The experts stated that petitioner was a prepsychotic.

Jonathan Edward French, a clinical psychologist, stated that petitioner had a borderline personality disorder, quite capable of

psychotic episodes, enduring hallucinations, and was probably psychotic and hallucinating at or about the time he delievered the blow to the victim. APPX. I Pages 39-41. Dr. Brian S. Gould, noted that petitioner probably slipped into a psychotic episode at the time of the offense. Dr. Roman Rodriguez agreed only with a change in the disorder effecting petitioner. APPX. I Page 41 - 42.

In contrast to the five experts that did extensive testing of the petitioner, and who were clearly of the opinion that petitioner was psychotic at the time of the crime. Dr. Buehler, the prosecution expert, stated petitioner was just in it for the money. APPX I Page 42. However, his opinion was not unequivocal when counsel asked him about Pendragon and gave him the facts that the prosecution did not give him and that they knew to be true. At that point Dr. Buehler stated that his opinion about petitioner would be altered, if he were convinced Mark Richards really believed it and was working at it, yes. See Appx. I Page 43.

It appears here that counsel should have stopped the trial and motioned for further EVALUATION by Dr. Buehler, or motioned for the court to declare a mistrial, in that the prosecution had withheld its own prime theory against Richards, and the effect it had on the petitioner from its own expert, and had attempted to undermine facts the prosecution itself had proven to be true in the Richards trial, and in essense deliberately provided false testimony from Dr. Buehler, by delibertly withholding from Buehler's consideration evidence from the Richards trial, and the prosecutions own theory in the Richards trial. And this is clearly information that would have altered the opinion of Dr. Buehler, and had a substantial effect on the trial itself.

In LINDH V. MURPHY 96 F.3d 856 (7th Cir. 1996) cert. GRANTED u.S. we have a case remarkably close to this case in content. In LINDH , the court held that evidence that would have undermined the credibility of an expert witness could not come in, this of course was error, and in this case, evidence that woudl have undermined the confidence of the expert witness, and does undermine the confidence of the expert witness, was not revealed to the expert witness, and it was not revealed to the jury that the prosecution knowingly withheld this knowledge from the expert, knowledge that the prosecution itself knew to be true, the prosecution after all, proved it true in Richards case, and thereby manufactured evidence they knew to be false as to petitioners mental state, and then argued the credibility of the expert they knew produced, first an incomplete opinion based on only the facts the prosecution wanted considered, and second, a false theory the prosecution knew was false.

In the words of Justice Jones, in HARDNETT V. MARSHALL 94 Daily Journal D.A.R. 12029 (9thCir Hardnett, this case is one of the unusual ones that requires a finding of foot note 9 error, as announced in BRECHT V. ABRAHAMSON 113 S.Ct. 1710, 1722 n.9 (1993). The cases differ in how the evidence was withheld from the jury, however, the importance of the evidence withheld from the jury as well as the expert, is the same, and in fact this case defies a harmless error anayalis, and undermines the confidence in the out come of the sanity phase of the trial.

In BERGER V. U.S. (1935) 295 U.S. 78, the United States Supreme Court set a standard concerning prosecuting Attorney's which stands to day. The court held: "The United States Attorney is the Representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose

> interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done. Assuch, he is in a peculiar and very definite sense the servant of the law, the twofold aim of which is that guilty shall not escape or innocence suffer. He may prosecute with earnestness and vigor, indeed, he should do so. But, while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one."

This language has been repeatedly quoted or paraphrased by both the federal and state courts, and has been accepted as a definitive statement of the limitations on the scope and method of a prosecutor's argument. See Viereck v. U.S. (1943) 318 U.S. 236, People v. Lynch (1943) 60 Cal. App. 2d 133, 141; People v. Lyons (1956) 47 Cal. 2d 311, 318. This language was well settled before the petitioner went to trial, and applicable to this case.

What makes this case so compelling is that the obviousness of the petitioners impairment, and his total inability to plan or premeditate anything, coupled with the excessive and on going drug abuse and alochol abuse, and because we know that periods of being lucid, or appearances of being lucid, does not necessarily mean that a person is not insane. PEOPLE V. KELLY (1973) 10 Cal. 3d 565, 576-577, PEOPLE V. DREW (1978) 22 Cal. 3d 333, i.e. mere verbal knowledge of right and wrong does not prove sanity, Justice Mosk's concurring opinion in Kelly, supra., an argument that the prosecution advanced with vigor, and was used to uphold and affirm the conviction, is in no way compelling, nor does it excuse the misconduct of the prosecution which was so egregious that it infected the whole trial, both sanity, and guilt phases of the trial, with such unfairness as to make the resulting conviction a denial of due process. PEOPLE V. GIANIS (1995) 9 Cal. 4th 1196, and as shown by the attached Appdx. I, Richards

PENDRAGON, doctrine, promoted getting rid of undesireables, and using moneies seized to further the cause and for the comfort of the ruling round table you might say. Thus, the prosecution argued that the petitioner's willingness to kill for gain, that of his self and that for Pendragon, and affirmed by the Appellate Court, was sufficient to excuse such blatant and egregious misconduct as demonstrated by this record and knowingly conducted by the prosecution. While petitioners statements in and of themself do not support that he was sane, as demonstrated supra., and so held by California Supreme Court decisions, supra., the doctrine of Pendragon, undermines the evidentiary probative value of any such statements, as the prosecution so eloquently proposed in the Richards case, as to the part of the kids involved.

It would appear that if the prosecution did not believe what it advanced in the Richards trial, and in fact knew it not to be true, that a reversal of Richards case would be appropriate. However, the evidence in this case, the record itself, proves that the prosecution knew, believed, argued, and proved, that the petitioner was a very unstable youth, with mental disorders, high on drugs and alochol, who was brain washed, conditioned, and manipulated by Richards to kill on command, to phrase the prosecution in Richards case, supports petitioner was mentally disfunctional, probably in a psycotic state and hallucinating at the time the blows were struck. The evidence also supports this in that the petitioner states he did things that clearly were not done and the physical evidence is conclusive on this, also making his verbal ramblings less then probative as to his sanity.

I think the last issue we must look at in this case is clearly that of counsel. Yes, he tried to bring out what the prosecution had done,

withholding evidence from it's own expert, but he made no attempt to ask the court to declare a mistrial for prosecution miscondut, or to have the prosecutor stipulate that in fact it advanced, evidenced, argued, and proved Richards brain washed petitioner, nor did he use the trial transcripts available to impeach the prosecution before the court in such a motion, he did not even use the record from the Richards trial to request of the court that the prosecution witness be excused and told to do an evaluation under the facts and record of Richards case, as well as evaluation of the petitioner himself, or finally in the alternative, to strike the testimony of the prosecution expert, Buehler, as non-probative, and a product of misconduct by the prosecution, he just argued the prosecution was wrong.

Hindsight as to why counsel failed to challenge the prosecutions expert, or the trial itself and request mistrial or any of the other remedies available is hard to tell, it appears, though poorly argued that appellate counsel recognized that misconduct appeared, while the appellate court not directly addressing it found that any prosecution miscondut would be harmless, however, making no difinitive finding based upon any standard of review that is outlined in BERGER V. U.S. Supra, and thus has denied petitioner any meaningful review of this issue.

In NIXON V. NEWSOME (11th Cir. 1989) 888 F.2d 112, the court found that where counsel knew that a witness was testifying falsely, and in direct contrast to her testimoney against a co-defendant held first, and failed to impeach the witnesses, was ineffective assistance of counsel. In Newsome, the court never reached the issue of prosecution misconduct becasue it reversed on counsels errors, but the language indicates the court would have found misconduct on the part of the

pros ecution. Looking at NAPUE V. ILLINOIS 360 U.S. 264 at 269 (1959), GIGLIO V. U.S. Supra., Kyles v. Whitely Supra., and Berger v. U.S. Supra., the court in Newsome would have reversed.

Counsel is bound to make motions as necessary to perserve and protect the rights of his client, especially motions that give the client everything to gain and nothing to lose. U.S. V. MOLINA 934 F.2d 1440, 1447 (9th Cir. 1991), KIMMELMAN V. MORRISON 477 U.S. 365 (1986). The fact that counsel went to such lengths to discredit the expert, and show that the prosecution did not give their expert all the evidence and facts, knew what was argued in the Richards case, showed he knew what the prosecution was doing was improper, but never did anything about it, clearly shows that counsels actio ns were not correct and eliminates that presumption. SUMNER V. MATA 455 U.S. 591, 592. In U.S. V. SPAN (5 F.3d 874, 880 (9th Cir. 1996)), the court found counsels failure to get instructions that would present his only defense ineffective assistance of counsel. Here it was incumbent upon counsel to seek some remedy to the apparent and prevasive misconduct by the prosecution. If nothing else counsel should have asked that the Expert witness by the prosecution, Dr. Buehler, be stricken, and the jury admonished that the testimony be disregarded as it was an opinion rendered without consideration of all the facts and records, and deliberately or inappropriately left out by the prosecution. Here, counsel did none of the foregoing. His efforts were galant, yet ineffective and incompetent in light of the law and the evidence at his disposal to totally discredit the prosecution and expose its miscondut. In at least an attempt to gain the trial courts attention, the trial counsel could have made a motion under the Collateral Estoppel doctrine that

the prosecution had already proven that the petitioner was brain washed, conditioned, and manipulated, while on drugs and alochol, in the Richards trial, and was now precluded from relitigating the contrary. PEOPLE V. TAYLOR (1974) 12 Cal. 3d 686, 691; also see STONE V. POWELL 428 U.S. 465 (1976). While appellate counsel made this motion on appeal, after the fact, it appears that the trial judge who was familar with all the evidence and testimony from both trials would have been in a better position to rule on this issue. However, trial counsel never made a motion to the court.

Based on the foregoing, petitioner believes that he has shown egregious and intemperate behavior on the part of the prosecution, sufficient to invoke foot note nine error, requiring per se reveral of this conviction, and in the alternative, ineffective assistance of counsel to the prejudice of the petitioner. Reversal is required.

II

THE EVIDENCE WAS LEGALLY INSUFFICIENT TO FIND PETITIONER SANE AT THE TIME OF THE CRIME

(A) The verdict rests on instructional error

(B) The verdict rests on prosecution misconduct

INTRODUCTION:

The evidence that petitioner was insane at the time of the offense is undisputed, or contradicted by any other evidence before the trier of fact.

Fi ve experts found that petitioner did not know what he was doing that he was probably in a psychotic state and hullucinating at the time of the offense. All found he killed to advance the pendragon take over (DOCTRINE), leaving only Dr. Buehler, who stated otherwise, however, it was revealed in the sanity hearing that Dr. Buehler, did

consider the Pendragon evidence, investigate it as to how it effected the petitioner, and testified, had he, and had he believed Mark Richards really advanced and believed that doctrine, it would alter his opinion in this case. Because, Dr. Buehler, did not consider all the relevent evidence and circumstances, and admits that had he, his opinion might have been different, there is no _____ evidence that is clear and convincing evidence of a contrary conclusion. DAVIS V. HECKLER 868 F.2d 323, 326 (9th Cir. 1989). Because an insanity trial is one that is based upon the preponderance of the evidence, or clear and convincing evidence, it is not unlike an Administrative Law Judges hearings and decisions. Thus it would be persuasive to advance that this court review of the sanity hearing would be the equivalent of a review of and Administrative Law Judges ruling, i.e. The courts role would not be in the role of fact finder, to resolve the conflicts of evidence, RICHARDSON V. PERALES 402 U.S. 389, 400 (1971), however, to affirm, this court would have to find that substantial evidence supported the findings, and the correct legal standards were applied. SWENSON V. SULLIVAN 876 F.2d 683, 687 (9th Cir. 1985). If the evidence supports more then one rational inference, then the court must uphold the findings. ALLEN V. HECKLER 749 F.2d 577, 579 (9th Cir. 1985).

INSTRUCTIONAL ERROR:

The court gave the two pronged M'naghten test instruction on insanity, however, it was given improperly, as conceeded by the California Court of Appeal, See Exhibit B attached.

By using the word and, instead of or, it forced the petitioner two have to meet both prongs of the test, which as the court held in People v. Skinner (1985) 39 Cal. 3d 765, at pg. 778, fn. 9, making

a person meet both prongs of the test, I.E. meeting a conjunctive test would be the same as a drooling idiot test, a proposition rejected long ago by Anglo-American jurisprudence.

The drooling idiot or wild beast test, is cause for reversal, Skinner at p. 771. Petitioner only needed to meet one of these prongs to satisfy his burden of proof. PEOPLE V. HORN (1984) 158 Cal. App. 3d 1014, 1017, at pages 1017, 1020, 1034.

We do not have to debate whether this instruction was error, the question presented here, was the evidence sufficient to cause the error to be harmless beyond a reasonable doubt, or put another way, did the trial court, and appellate court apply the law unconstitutionally, and in violation of holdings by the U.S. Supreme Court.

We must first examine how the Appellate Court reached its finding that the instructional error was harmless. The court stated,

> "In contrast to the compelling nature of Hoover's own statements (talking about statements he made to a girl) the only expert who testified for the defense at the sanity phase was equivocal on the right from wrong issue." See Exhibit H Pages 9 - 10.....

We knew that the court was speaking about Dr. Rodriguez's testimony, but the appellate court was incorrect that that was the only expert to testify at the sanity phase of the hearing, because the jury was instructed to use all of the evidence presented at the guilt phase of the trial also, which included all the expert reports, and testimony from that part of the proceedings, which makes five opinions that are pretty unequivocal, as to the sanity of the petitioner.

It appears that the only equivocal testimony came from the prosecutions expert, he stated that if he had reviewed the pertinante evidence of Pendragon and believed it, it would alter his opinion.

Further, the Appellate Courts opinion flies in the face of the

States own holdings in PEOPLE V. KELLY, and PEOPLE V. DREW, supra., and Justice Mosk's opinion, "mere verbal knowledge of right and wrong does not prove sanity", of course something the jury was not instructed but the Appellate Court should have been very well aware of.

Thereby, the courts reference to the comments by the petitioner, and his comments, by itself was not sufficient to overcome the error in the instruction, and the courts failure to review all the evidence, both post-offense, and pre-offense, guilt phase and sanity phase evidence, undermines any finding that the Appellate Court made in this case.

It must be remembered, that the standards set in KELLY AND DREW, supra., are the same that have been adopted in the Federal Courts. U.S. V. FREEMAN 357 F.2d 606, 616-617 (2d. Cir. 1966), POPE V. U.S. (1967) 372 F.2d 710 (9th Cir.), BLAKE V. U.S. 407 F.2d 908 (6th Cir. 1969); U.S. V. SHAPIRO 383 F.2d 680, 685 (8th Cir. 1967). Because California's two prong trial, quilt phase, and sanity phase is much the same as that in LINDH V. MURPHY, supra., concurring and dissenting opinion of Justice Diane P. Woods, with whom Ripple and Rovner, Joined, at pg. 26, subject to the courts review.

Unlike LINDH, Supra., petitioners case is well evidenced and will presented by substantial evidence, and thus the criminal rules of trial are intact in the sanity phase of the trial.

Thus we must first view the instructions under the U.S. Supreme Court holdings in SARELLA V. CALIFORNIA (1989) 491 U.S. 263, where the court held that where incomplete or improper instructions are given to the jury, it is impermissible for the court to substitute it's findings of the facts to support the verdict, in that it is akin to an impermissible direct verdict by the court. 109 S.Ct. at p 2412.

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and 2422. same as held in OSBORNE V. OHIO (1990) 110 S.Ct. 1691. While in the sanity phase of the trial, petitioner bore the burden of proof, the trial court was not allowed to put a double burden on him, as does the improperly given instruction, nor could the court of appeal in its holding violate its own jurisprudence, to find harmless error, Kelly and Drew, Supra., i.e. petitioners comments, as evidence of sanity, or knowing right from wrong, nor can the reviewing court ignore the whole record, contrary to what the jury had to consider, per the instructions given it, but the court is bound to the record before it in its entirity, YATES V. EVATT 111 S.Ct. 1884 (1991), at 1894. In Yates, Justice Scalia, citing his concurrence in Carella, Justice Scalia elaborates, Even if a reviewing court can properly assume the jury made the ultimate fact determination, it cannot assume that it did so using the appropriate burden of proof.

Here, it is conclusive that the jury was bound to the drooling idiot test, because it is assumed that a jury follows it's own instructions, ZARIRO V. U.S. 113 S.Ct. 933, 939 (1993), further it was the only instruction they were given to follow on the insaity issue.

However, error does not stop there, the jury was not given an instruction that a defendants comments or verbal communications of right and wrong, does not prove sanity. This would be counsels fault, for failure to request the instruction, which is supported by a solid wall of authority. See Kelly and Drew, supra.

To evaluate the error we must look to the evidence that was actually before the jury.

EVIDENCE OF THE DEFENSE:

Pre-Offense Evidence: Marian Saunders and Michael Bodkin, Carl Hansen,

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found that petitioner was unstable and unsophistacated, without good orientation to reality, capable of impulsive acts, without the mental ability to plan anything complicated. He was monitored closely as a prime candidate for suicide. See Appdx. I page 39.

The record is full of testimony about the Pendragon meetings, the drugs used, alcohol used, and Richards presistent pushing of the Pendragon plan. There is testimony of how petitioner told people about the take over and plan, and mega bucks, etc., he was throughly indoctrinated into the Pendragon plan, and obedient to its leader. Plus thre is evidence of a very illiterate young man, with a mental disorder, looking for acceptance from someone, to be a part of something.

POST-OFFENSE EVIDENCE:

There is testimony that petitioner was in the shower chanting kill him, kill him, get to kill him, the exact instructions that he was given by Richards before the murder and during the murder. The Experts by the defense, Jonathan French, Brian Gould, and Dr. Roman Rodriguez, all found that petitioner had a mental disorder, that he believed in Richards at the time of the murder, that drugs and alcohol , coupled with his history of hallucinations, made it probable petitioner was psychotic at the time of the murder and hallucinating, with evidence that he told people he did things that actually did not occur, and though excluded, he said he did to the victim during his interrogation, all clearly hallucianations on his part and what he did. When viewed as a whole there is nothing that is equivocal about the mental state of the petitioner.

PROSECUTION EVIDENCE:

All the evidence from witnesses, both in the petitioners trial and

[illegible] from the reality, [illegible] the [illegible], which [illegible] difficult to view objectively [illegible] thought [illegible] differ [illegible] clearly in [illegible] remained [illegible].

[illegible] evil of [illegible] and the [illegible] the [illegible], which [illegible] that [illegible] in teaching of new [illegible] war [illegible] into the Resurrection [illegible], and [illegible] to evidence of a very illiterate young [illegible] Children, [illegible] the accident on human beings, to [illegible].

[illegible]:

[illegible] which [illegible] under [illegible] the [illegible] by the [illegible] with [illegible] evidence [illegible] which [illegible] introduction [illegible] all the [illegible] viewed [illegible] from [illegible] in the [illegible]

Richards trial, show a pattern of brain washing and conditioning of the petitioner, and his susceptability to it. The only defense evidence by the prosecution that was intended to counter the defense, was Dr. Buehler, whoes opinion was so contrary to the rest of the record that is was clear something was wrong, and this something was in fact brought out by defense counsel, Dr. Buehler, did not review, see or know about the Pendragon evidence other then what he heard in court and was not part of his evaluation, further, once he was told about it, his opinion became very equivocal, and he determined the evidence withheld from his evaluation, could have altered his opinion.

Considering the law of this case, the instructional error, and the entire record, the appellate courts failure to follow its own jurisprudence, and constitutional guidelines on instructional error, and failure to review the whole record that had to be considered by the jury, the finding that the error was harmless is undermined, however, setting aside this finding, the court must see that the evidence that petitioner was insane at the time of the crime, and did not know right from wrong, was in fact clear and convincing, and the prosecution did not present an expert that gave clear and convincing evidence to the contrary, under the standards of a lesser degree such as proof beyond a reasonable doubt, i.e. where there is substantial evidence to support the findings, and whether the correct legal standards were applied, SWENSON V. SULLIVAN 876 F.2d 683, 687 (9th Cir. 1985), also see Davis v. Heckler Supra., this court would have to reverse and set aside the findings of the jury and appellate court.

Here, absent the instrctional error, the equivocal testimony of

Dr. Buehler, was insufficient to find that petitioner knew right from wrong, and no rational trier of fact could have found otherwise, nor was there clear and convincing evidence that would suppot any other conclusion. ALLEN V. HECKLER 749 F.2d 577, 579 (9th Cir. 1985). This being true, it is impossible that the instructional error in this case could have passed the harmless beyond a reasonable doubt standard, CHAPMAN V. CALIFORNIA (1967) 386 U.S. 18, or the substantial and injurious effect on the verdict standard, BRECHT V. ABRAHAMSON, supra., wherefore, reviewing the record in the light most favorable to the prosectuion, absent the instructional error, and absent the prosecution misconduct of not giving his expert the crucial evidence and facts about Pendragon, (see argument I), no rational trier of fact could have found petitioner sane at the time of the offense. Petitoner believes that the court should enter a not guilty by the reason of insanity, but at the very least order a new trial for the petitioner, or reduce the finding of guilt to invluntary manslaughter. Habeas Corpus should issue as a matter of law.

CONCLUSION

Petitioner believes that he has shown that the prosecution in this case committed misconduct, conduct that is outrageous, and egregious, that infected the whole trial and denied petitioner due process of law. U.S. V. GARZA-JUAREZ 992 F.2d 896, 904 (9th Cir. 1993); U.S. V. DUDDEN 65 F.3d 1461, 1466 (9th Cir. 1996).

Petitioner believes that he has shown ineffective assistance of counsel, such as caused petitioner significant prejudice and the loss of potentially meritorious defenses that in all likelihood would have resulted in a verdict more favorable to the petitioner. STRICKLAND V. WASHINGTON 466 U.S. 668 (1984).

Petitioner further contends that the facts and law in this case show that the evidence was insufficient to convict the petitioner and find that he was sane, and if not for the instructional error and the appellate courts misapplication of the law, as well as prosecution misconduct, petitioner would have been found insane as a matter of law.

WHEREFORE, Petitioner prays this court grant the relief requested and or as the court deems just and proper.

Date: Dec. 15, 1998

RESPECTFULLY SUBMITTED

CROSSAN DAVID HOOVER, JR.
PETITIONER
IN PROPRIA PERSONA

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APPENDIX I

INTRODUCTION

The 'Pendragon' murder trial of Mark Richards in Superior Court for the County of Marin received an enormous amount of media coverage in the San Francisco Bay Area during the months of February, March and April, 1984. (CT: 193-246; Post, fn. 1.) Mark Richards was convicted of murder in the first degree of Richard Baldwin, and Richards is now serving a life term in state prison without the possibility of parole; his appeal is pending in Division Three of this First District Court of Appeal. (1/CRIM. NO. A028291.)

The separate trial of Crossan D. Hoover, Jr., the juvenile accused of delivering the blows that killed Richard Baldwin, received little attention by comparison. The reason is fairly simple to explain. In the Richards' case the prosecution revealed his paramilitary plan to take over Marin County, arguing how, in the words of Jack Viets of the San Francisco Chronicle, "Richards manipulated his young workers with the Pendragon fantasy, and brainwashed Crossan Hoover, Jr., then 17, so that on a signal from Richards, he crushed Baldwin's skull with a baseball bat in his shop, and then shoved a chisel and screwdriver into his chest." (CT: 193.) Once the takeover had been revealed, and the cult leader trapped under the lense of a public trial, the light faded some, and the public did not take long to lose interest in a mere pawn of The Pendragon.

However, the government also changed its theory of the case in prosecuting Crossan Hoover. The transformation was complete. Crossan was no longer the "manipulated" or "brainwashed" puppet of a charismatic leader. He had acted in a cold-blooded manner to satisfy his greed.

* * *

Before appellant proceeds to the merits, and there are several sound bases for reversal, it is worthwhile to take a look behind the scenes at the historical background from which this case gathers its depth. For one reason alone such an extra-judicial inquiry is justified: The prosecution's flip-flop on the approach to Pendragon creates important ethical issues that cannot be neatly brushed under the carpet. One question immediately comes to mind. Why would the the People approach the case of Mark Richards on the theory that the "Pendragon fantasy" was a real and powerful force on the minds of the youths involved, and then steer a course clear away from the magnetic pole of Pendragon in the trial of the Hoover case?

Perhaps this introduction will help to explain the reason implicit in the change in course. For Hoover's defense of insanity, unlike that presented in the Richards case, was not based upon denying the reality of Pendragon, but placed its full weight on the meaning and power of Pendragon.

'Pendragon' is derived from Welsh meaning "dragon head," or "foremost leader," and came to mean "Chief Dragon of the Island," as it was first used formally by Sir Thomas Malory in Le Morte d'Arthur in 1485 as surname for Uther, father of Arthur, King of the Britons. (Oxford English Dictionary; The Discovery of King Arthur, Ashe, G. (1985, Anchor Press), p. 8.)

Every school child has heard of King Arthur and his Knights of the Round Table, but few of us appreciate the significant enduring mythic streams that have sprung from the twelfth century well of Geoffrey of Monmouth's quasi-historical, History of the Kings of Britain.

It was not long before King Arthur, Chief Dragon of the Island, was being compared with Alexander the Great and Charlemagne as one of the supreme monarchs in Eurpoean literature. (Discovery of King Arthur, supra, pp. 3-19; The Saxon and Norman Kings, Brooke, C. (Fontana, 1963; 14th imp., 1978), p. 192.) But not much was really known of his life until recently; its mystery is probably overshadowed only by that of Jesus of Nazareth. (King Arthur: King of Kings, Markale, J. (Gordon & Cremonesi, 1976, p.97.)

Great creative -- and destructive -- rivers have since flowed into and out of the pool of the legend, and lest one thinks the power of the myth has diminished in our world, look at its clear reflection in the imagination of the contemporary mind.

In 1983 Berkeley writer Marion Zimmer Bradley's The

Mists of Avalon told the legend from the standpoint of the women in the Arthurian legend and her book stood 12 weeks on the New York Times Best Seller list. In 1978, Thomas Berger, whose works include Little Big Man and Neighbors, wrote another highly praised version, Arthur Rex, a modern, off-the-wall interpretation of Malory's tale, and major publishers have not failed to capitalize on the drift of the current: Mary Stewart's successful Merlin trilogy The Crystal Cave (1970), The Hollow Hills (1973), The Last Enchantment (1979), followed by another title, The Wicked Day (1983); Joy Chant's The High Kings (1983), translated early Welsh folk tales of Arthur from the Dark Ages of Celtic history; and Gillian Bradshaw's Merlin trilogy received academic honors, Hawk of May (1980), Kingdom of Summer (1981) and In Winter's Shadow (1982); Catherine Christian's The Pendragon (1978), is still another recent version of Arthurian legend.

Of course other writers with a slightly different approach to literature made successful forays into the legend, providing the bases for a number of light, popular films and plays: Mark Twain's The Connecticut Yankee in King Arthur's Court (1889) and T.H. White's The Sword in the Stone (1939) and The Once and Future King (1940); Le rner and Lowe adapted the latter into the wonderful Broadway musical and film, Camelot (1960; 1967).

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However, in 1981, John Boorman's British production, Excalibur, starring a major Shakespearean actor, Nicol Williamson, as Merlin, rendered fifth century Britain in sexually explicit, mystically cruel realism. (The production does not shy away from Arthur's conception, accomplished when Uther Pendragon rapes Ygraine while magically disguised by Merlin as her husband, the Duke of Tintagel, or from Arthur bewitched by his half-sister, Morgraine, siring his traitor, Mordret, or from Lancelot and Guinevere in flagrante delicto.)

A number of scholars have devoted a fair amount of their lives to tracing the Medieval literary and political milieu in which Arthurian legends flowered, forming the myth upon which most of current conceptions rest, but the most recent research into late antiquity and the Dark Ages provides convincing historical evidence for Arthur. And Geoffrey Ashe, Arthur's leading historian, and Jean Markale, Professor of Celtic History at the Sorbonne in Paris, have produced their best works within the past decade.

Consequently, the story of The Pendragon is one that cannot be easily ignored like an obscure fairy tale. In fact it has a powerful mythic structure, and Northrop Frye says:

> " Mythology has an encyclopedic quality about it: it tends to cover all the essential concerns of its society .... About two generations ago there was a fashion for crying up the Middle Ages as a golden era in which all aspects of human life were united in a

common body of beliefs and values. The intellectual unity of that time, however, was largely a rationalizing of its centralized authority."

(The Great Code, The Bible and Literature, Frye, N. [HBJ, 1982], p. 51.)

All Arthurian literature centers around its commanding archetypal leader, who, like Robert the Bruce, united his people in the glorious struggle to remain independent, but ultimately were subsumed into the glory that is Great Britain. Unlike The Bruce, however, Arthur has "inspired the chivalries of half the world...." (The Matter of Wales: Epic Views of a Small Country, Morris, J. (Oxford Un.,1984),p.59.)

However, it is in fact a truth that Arthurian legends imply the extinction of the Britons as a separate people, whose Welsh sons and daughters claim as ancestors, but during Arthur's reign he produced a brief golden age in the fifth century when the mysteries of Celtic civilization were revived and joined with Christian mysteries in marriage.

In understanding what the Pendragon murder cases are about then, it is worthwhile to point out a few shadows lurking behind the myth that are often overlooked in the initial blinding attraction of the idyll. One is that "Arthurian chivalry is directed solely towards the satisfaction of honor and the self-interested acquisition of wealth or emotional gain," and the property and lives of others may be taken for the order of the Knights of the Round Table:

" It is worth stressing the point that Arthurian knighthood represents a political attempt on the part of one social class to maintain a system of corrupt feudalism which is profitable to itself."
(King of Kings, supra, pp. 72-73.)

A second dark aspect of the myth is that:

" A leader without an army behind him is just a voice crying in the wilderness. A king without the warrior elite of Britain around him is just a useless figurehead. All the different versions of the Arthurian legend emphasize Arthur's quality as a catalyst."
(Id., at p. 133.)

Finally, the myth derives much of its power from the inscription on Arthur's legendary tombstone:

HIC IACET ARTHURUS REX, REX QUONDAM REXQUE FUTURUS
(Here lies Arthur, King that was, King that shall be.)
(Ashe, The Discovery of King Arthur, supra, p. 191.)

Indeed, in his otherwise masterful historical work, Professor Markale, who early on recognizes "the belief in Arthur's return [as] not a literary invention but a myth deeply rooted among the Celtic peoples...," seems to believe in the messianic spell of the myth himself:

" It is in this sense that the Aruthurian epic, whether it be really historical or mythically real, provides food for thought. For the

Arthurian world is an ideal in which the unity of an extensive nation and the diversity of many very particular social groups are combined. It matters little whether it was a medieval dream or not; it is up to us to bring it to life.

.....

We have made him the symbol of an ideal society such as was promised us by the prophets and poets. One day their predictions must come true. It is our right and our duty to waken King Arthur. "

(King of Kings, supra, p. 53, 220.)

But Geoffrey Ashe warns of an equally valid conclusion:

" Henry VII posed successfully as the King through whom the prophecy would be fulfilled, and an Arthurian movement might be possible today if its chiefs could hit on a formula -- witness the Nazi use of Wagner and the Siegfried mythology. It is easy to conjure up an alarming picture of a latter-day leader being proclaimed as a new Arthur, even as Arthur reincarnate, and attracting influential and sinister mystics promising their own brand of a golden age. "

(The Discovery of King Arthur, Supra, p. 192.)

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As will be shown in the following pages, Mark Richards, born June 28, 1953, painted a picture of a Marin County of the future, a place to establish a new golden age. Backed by millionaire Marin resident, Star Wars' George Lucas, and viewing himself as The Pendragon, he pretended to The Pendragon. The dragon consumed him.

At least those are the broad brush strokes which with the prosecution painted its picture for the Richards' jury.

As Professor Markale demonstrates, however, and Geoffrey Ashe cautions, those who attempt to take control of the mythic power of The Pendragon are dealing with a dangerously potent force. The prosecution in the Richards case portrayed the Pendragon conspiracy to the jury as a reality, building its case stone by meticulous stone upon the spellbinding power of Mark Richards to "brainwash" and "manipulate Crossin (sic) Hoover into the position where he actually killed a man." (Post, Argument II.)

In terms of Jungian psychoanalysis the collective unconscious plays such a critical role in the diagnosis of mental disease:

> " When people lose their hold on the concrete values of life the unconscious contents become overwhelmingly real. Considered from the psychological standpoint, psychosis is a mental condition in which

formerly unconscious elements take the place of reality."

(3 Collected Works of C.G. Jung, The Psychogenesis of Mental Disease (1972 ed.), p. 224.)

And the archetype of the 'hero' is of fundamental pyschic stuff. (Id., Psychology of the Unconscious, p. 191 et seq.)

Appellant will argue that whether Mark Richards believed he could harness the power of Arthur and become The Pendragon should not have been an issue at the trial of Crossan Hoover; the prosecution cast its stone at the Richards' trial. Whether the myth, manipulated by a charismatic big brother, overpowered a juvenile with a documented history of severe emotional problems orienting to life,was the crux of the defense of Crossan D. Hoover, Jr.

The prosecution's efforts to dissuade the jury in the Hoover case from the reality of the Pendragon conspiracy, and any effect it may have had on Crossan Hoover, raises some ethical questions about the government's role in prosecution.

Consequently, although reversal of the sanity phase of trial is mandated under recent, controlling Supreme Court decision, and several other grounds exist for reversal and retrial on guilt and sanity phases, appellant should be found not guilty by reason of insanity as a matter of law.

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PROCEDURAL SUMMARY

After Preliminary Hearing held October 5, 1982 in the Central District Municipal Court of California for the County of Marin, appellant, Crossan ('Crossie') David Hoover, Jr., was bound over to Superior Court for the County of Marin on an Information filed October 18, 1982; he was charged with violating The Penal Code, section 187, in the murder of Richard Alexander Baldwin, alleging the use of a deadly and dangerous weapon (knife, screwdriver and baseball bat) within the meaning of section 12022 (b). (CT: 1-81; 82.) *1

Deputy District Attorney Edward S. Berberian represented the People and Edward Torrico was appointed attorney for appellant in the proceedings below (CT: 1; 83); appellant, although a seventeen year old juvenile at the time of the alleged commission of the offenses (on or about July 6, 1982), was found fit to be charged as an adult, September 13, 1982, and entered pleas of not guilty and not guilty by reason of insanity, denying the section 12022(b) allegation. (CT:83; Cf., CT: 670.) Bail was set at $250,000.00. (CT: 81.)

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1. All statutory references are to The Penal Code of the State of California unless otherwise noted; 'CT' and 'RT' abbreviations refer to the record prepared for this appeal in Clerk's and Reporter's Transcripts respectively, followed by a colon, and page and line references, where appropriate. (There are a number of duplicate page numbers in the record and they are designated by a "/" when necessary.)

After motion to supress appellant's tape-recorded confession under section 1538.5 was denied in Municipal Court, and again when joined with a motion to set aside the information under section 995 in Superior Court, appellant moved to suppress at an in limine hearing held prior to voir dire of the prospective jurors. (CT: 39-42; 73-83; 98-132; 170-181; 183.) The Honorable Louis H. Burke, Judge pro tempore, former Associate Justice of the Supreme Court of California, granted the motion to suppress the confession as unconstitutionally obtained on July 16, 1982, the date appellant was arrested and taken into custody at the San Rafael Police Department. (RT: 1-74/1-74/102; 93-171.)

In other pretrial orders, discovery motions were granted in pertient part, including some 25,000 pages of materials seized from Richards' home (CT: 182; RT: 1033; 1339-1341), the People's consolidation motion was denied (CT: 166-169; 182; 185-186), and appellant's motion for change of venue was denied (RT: 1-8). *2

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2. As pointed out in the Introduction, appellant's case is intertwined with People v. Mark Richards, A028291, tried two months before this action. As a result of the publicity in the Richards case (e.g., CT: 191-214), Judge Burke granted appellant's motion for an in camera hearing of the motion to suppress his confession, May 3, 1984, over the objections of the People and the Press (RT: 30-36), but he denied the motion for change of venue. (CT: 191-214.)

The guilt phase of appellant's trial commenced May 17, 1984, and concluded one month later, upon submission of some 300 exhibits, in a verdict of guilty on the murder charge and a finding that the allegation was true. (RT: 194; 2664/3-2664/6.) During this phase of the trial no major evidentiary objections were raised, although Deputy District Attorney Edward Berberian unsuccessfully attempted to introduce appellant's confession once in the guilt phase and again at the sanity trial. (RT: 172-175; 180-183; 2468-2475.)

However, at the request of the People, over objection (RT: 193/57-193/58), the court instructed the prospective jurors:

> " It is not a case which involves the death penalty, and, incidentally, the matter of penalty is something which the jury must not permit to enter into its discussion or determination of the case in any way. " (RT: 193/58: 4-7.)

And again, at the conclusion of instructions to the jury at the guilt phase, and over objection (RT: 2723-2724), the court gave a 'modified' CALJIC 17.42 instruction to the jury:

> " As I advised you at the onset of the trial, this is not a case involving the death penalty. In your deliberations, the subject of penalty or punishment is not to be discussed or considered by you. This is not a matter which -- I'm sorry. This is a matter which must not in any way affect your verdict. " (RT: 2659: 12-17; CT: 428.)

Furthermore, after the guilty verdict had been returned, and once the sanity trial had concluded, the court instructed the jury according to CALJIC 4.0 in effect at that time:

> " A person is legally insane when by reason of mental distress (sic) or illness he was incapable of knowing or understanding the nature and quality of his act and incapable of distinguishing right from wrong at the time of the commission of the offense. " (RT: 2790: 27-28 - 2791: 1-3.)

In addition, the written form of the instruction was sent in to the jury room during deliberations and read, inter alia:

> " A person is legally insane when [by reason of mental disease or mental defect] he was incapable of knowing or understanding the nature and quality of his act and incapable of distinguishing right from wrong at the time of the commission of the offense."
> (CT: 457; CT: 463-465.)

Moreover, during the sanity phase of the trial, defense motions were made to examine Juror Russell Lessig and to have a physical and mental examination conducted, or to examine the foreperson, in order to seat an alternate in Lessig's place, based upon the observations of court Bailiff, Nancy Sorenson; Deputy Sorenson testified to the unusual behavior of Mr. Lessig during several visits she made to the jury room. (RT: 2801-2812.) The court denied the motions. (RT: 2812-2818.)

The jury determined appellant was not legally insane at the time of commission of the crime. (RT: 2821.)

On November 8, 1984, appellant's motion for a new trial was denied (RT: 2829; Cf., CT: 649-441; 663-668; 735A-1), and he was sentenced to serve a term of 25 years to life imprisonment, with a one-year enhancement; the court directed appellant be committed initially to the California Youth Authority, advising him of the condition of lifetime parole supervision and of his appeal rights. (RT: 2847-2849; CT: 734-735.)

Appellant filed timely notice of appeal and designation of record. (CT: 737-741.) Counsel was appointed February 19, 1985, and the record was filed herein November 21, 1985.

FACTUAL BACKGROUND

ON THE SURFACE

On one level, Mark Richards showed early signs of swimming to the top, when, in the mid-seventies at Dominican College in Marin County, he resurrected the school paper, made excellent grades in History, became a faculty favorite, wooed his 'princess' from the student body, and his early writings suggest at least an ability to imagine and attempt to discipline his fantasies in a highly demanding art form. (RT: 1710-1713; Cf., Post, Argument II.)

However, even though Mark Richards may have been a big fish in his mid-twenties, he was swimming in a very small pond. When he swam into greater seas he proved himself

capable of polluting the waters wherever he went.

For example, his first known enterprise organized shortly after marriage in 1979 to college sweetheart, Caryn Cerruti, was a firm called, 'Engineer Constructors.' It failed dismally, and he and his neighborhood buddy and partner, Craig Andrews, split up on bad terms. (RT: 1060-1061; 1716; 1244.) Then he tried his hand developing an electric-car prototype with Charles Costelli, but that fizzled out quickly in a garage adjoined to the Classic Car Shop on Front Street in San Rafael, where he associated with Richard Baldwin, an eccentric person with a penchant for cars, guns, and, apparently, making money. (RT: 1731-32.)

But on the surface Richards appears to have kept up this creative-genius, high-profile image, maintaining his stable of sports cars, including two leased Porsches and a Jensen Intercepter; thanks to a down-payment gift from his parents, Richards and Caryn were able to purchase a house in San Anselmo at 366 Butterfield Road in November, 1981. (RT: 1744; 1714-1715.)

Caryn, who had held a position at a convalescent home for five years, drew a $800 net monthly salary in January, 1982, but she did not pay any attention to their personal finances, although they were on a tight budget; she just did her work, brought home the money, and entrusted everything to Mark, who would give her a kind of weekly allowance. (RT: 1730.) So in January, 1982, when Mark applied for federal assistance, claiming storm damage to their home that never

occurred, Caryn did not know he had made the claim, forged her signature on documents, or that the Small Business Administration relief check for $5,000 went into their checking account. (RT: 1732; 1740.)

By this time Richards had returned to the construction business, doing odd-jobs around Marin, barely scraping by on what Caryn was making. (RT: 1717.) But Richards was not to be deterred, and his schemes took convoluted turns.

In May, for example, he convinced, Donald Kline, an insurance agent, to let him do the construction on the Klines' house; the Klines wanted to convert their garage into another room with a bath for their new baby. (RT: 187/33 - 187/35.) Their agreement included some cash up front, the remainder at the end, and Mr. Kline agreed to let Richards have his 1965 blue Ford pickup at the front end of the deal. (RT: 187/49 - 187/50.)

However, as Mr. Kline was soon to learn when he and his pregnant wife started to notice the teenagers coming out in early June to the house to do the work, Richards was all talk. (RT: 187/46 - 187/47.) In fact, by the time they realized it, Richards had created an "absolute disaster." (RT: 187/38; 478; 564.) Their dream house was becoming a nightmare, and their inquiries disclosed that Richards was not even a licensed contractor. (RT: 187/38.) The Klines were upset and threatened suit. (RT: 469; 1732-1733.)

But they were not alone. Richards had conned a local church to pay him to construct a kitchen, which he delegated

to his unskilled labor force and which had also turned into a disaster. (RT: 478; 564.) Caryn began receiving late-payment telephone calls from mortgage and automobile lenders. (RT: 1744; 1747.) And eighteen-year old Willy Robles, one of Richards' key employees, who had lived with his girlfriend, fifteen-year old, Kimberly Hoover, at the Richards' home for a couple of months (April-June 1982), suddenly up and left the Richards' home, quit his job in a midnight telephone call, and enlisted in the United States Navy. (RT: 1727; 1749; 1761-62) *3

In the mean time, Richards had signed a $6,000 commercial lease in San Rafael, again forging his wife's signature, and he had apparently entered into a verbal agreement with a woman, "Bob's Wife," to open up a video game and T-shirt store, Star Base One. (RT: 1741-1742; 1759-1761.) Towards the end Richards told his wife they "needed extra money," and he said he was going to start dealing drugs; she was against it, but said she didn't care so long as she left him out of it. (RT: 1729-1730.) Caryn never saw the mortgage foreclosure notice for $4,589.16 arrears; at the time of trial she testified she was paying off an $8,000 tax liability she never knew she had accumulated.(RT: 1747-1748.)

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3. Crossan Hoover tried to enlist too, but he was unacceptable because he had neither a high school diploma nor its equivalent; in his own words, " 'I didn't have enough brains.' " (RT: 2382: 25.)

IMPERIAL MARIN

Mark Richards planned the takeover of Marin County by strategic military actions, the bombing of the Golden Gate and San Rafael-Richmond Bridges to isolate Marin from the south and east, blockading or destroying the two highway arteries from the north, and protected by the ocean and natural barriers on the west, he planned a laser weapon for the high point atop Mount Tamalpais. (RT: 707) As local police forces within the county were swiftly eliminated, the Pendragon knights would then systematically snuff out the undesireables remaining in the county, homosexuals, perverts, and any remaining dissidents. (RT: 568-571; 1830.) The Pendragon would take command of his kingdom, Triskelion, from the San Francisco Theological Seminary, a castle-like structure from which he would rule as far as the eye could see. (RT: 1106-1109; 2120; Cf., Post, Argument II.)

Secretly backed by Marin mogul, and internationally acclaimed science fiction movie director, George Lucas, whose autographed photograph Richards claimed for the wall of his study (RT: 572; 702; 1022), the High King, Mark Richards, in his rightful position as The Pendragon, would then begin to reward his subject knights with property and critical roles in the realm. (RT: 571-572.) His best friend, 'John' (Carrington), a naval medical intelligence officer, another one of Richards' secret wealthy backers (RT: 709; 1107-1108; 1135; 2125), would take his position as War Lord (RT: 702; 1044-1045; 1055.) Willy Robles would be Duke of Deerfield

(RT: 571), John Stapp would be Earl of Tamalpais (RT: 706), Pete Neal would be War Lord and Castellian of Angel Island (RT: 1131), Richard Camaraotta, Earl of Olima (RT: 2021), and Crossie Hoover, Count of Angel Island (RT: 708; 1013; 2387). (Cf., RT: 988-999; 1009-1015; 2387.)

In preparation for the takeover, Richards had apparently convinced Willy Robles of the viability of Triskelion in early 1982, and Willy became his chief recruiter. (RT: 1102; 2116; 2130-2132; 2184-2186.) Willy brought in several kids from the Marin high schools, who then attended Tuesday night meetings with Richards; neither women nor girls were allowed at the meetings. (RT: 2186; 1718-1719.) Marijuana and alcohol were freely consumed at the meetings, and, since Pete Neal, Crossie and Willy Robles used cocaine regularly, it is likely they also used cocaine at the meetings as well. (RT: 1758; 2123.)

At these meetings Richards brought out topographical and aerial maps of Marin County and he directed attention to the strategic points (police stations, bridges, bunkers, etc.), which had been meticulously marked, and Richards did all the talking; if there were any questions, his knights would ask. (RT: 1019-1021; 1141; 1719; 1109; 1139; 2121.) And on several occasions, Richards took his recruits out to the critical sights, such as Angel Island, his future command center at the San Francisco Theological Seminary, Ft. Baker, and Mount Tamalpais, and he would direct attention to the significance of each place. (RT: 568; 705-706; 1016; 1021;

1108; 1131-1133; 1140; 2121; 2133.) Richards developed files for each knight, a history of beach fortifications in the bay area, composed a Pendragon newsletter and other 'top secret' handouts of defense and weapons systems, and he devised a plan for a mock takeover, or war game, on the Renaissance Faire. (RT: 572; 944; 989; 997; 1013; 1024; 1108; 2122.)

Further, Richards maintained some sort of replica of a medeival knight's armour, and several swords were on display (RT: 989; 1021-1022; 1142), but in addition to these somewhat innocuous items, Richards' house was a small arsenal of modern weaponry: Approximately one dozen rifles and handguns -- some fully loaded -- with ample ammunition, were seized from Richards' house in July, 1982. (RT: 998-1007.)

THE DEATH OF RICHARD BALDWIN

Richard Baldwin, 36 at the time of his death, was an old friend of Mark Richards; he went to Mark and Caryn's wedding in 1979 and Caryn had been introduced to him three-four years before that. (RT: 209; 1713-1714.) Baldwin ran the Classic Car Shop at 36 Front Street in San Rafael, where he restored cars and apparently made a pretty decent living; Richards had rented space from Baldwin. (RT: 1714.) He owned a house nearby, a pack-rat's paradise. (RT: 211-212; 351.) Baldwin was also an avid gun collector, and he carried large amounts of cash around, sometimes as much as $1,000.00. (RT: 248; 1083-1100.)

Ellen Baldwin, Richard's mother, described a telephone conversation she had had with her son in May, 1982, in which

he said Richards approached him with a plan to manufacture machine gun and laser weapon parts for "warfare of some kind." (RT: 2167.) Richard then described how Mark wanted the weapons to be stored somewhere in Fresno, where he had a friend. (RT: 2167.) (John Carrington lived in Fresno at the time. [RT: 1046].) Richard explained Mark was "acting 'rather weird,'" and he told his mother about some plan Mark had of taking over Marin County; she said she thought Mark's "fantasy" was a rather "large order," and she suggested he dissociate himself from Richards and his group and inform the police. (RT: 2168.)

A couple of weeks later Mrs. Baldwin asked her son what was happening with Mark, and Richard said the subject had not come up again and Mark was acting more "normal" again. (RT: 2168-2169.)

Little did Baldwin know, Richards had made other plans for his 'friend.'

As previously noted, Richards financial situation was worsening as July approached. Towards the middle of June Richards asked Pete Neal and Willy Robles if they would help him murder Dick Baldwin; he said Baldwin owed him about $2,000 and would not pay up, and he was concerned that Baldwin knew too much about Pendragon and would inform the police. (RT: 1113-1114; 1131.) Pete said he was surprised at the question, but let it slide because no plans were made. (RT: 1114.) Shortly thereafter Willy Robles left the Richards' house, quit working for Richards, and joined the

Navy, probably because Richards had threatened him. Pete Neal stayed away. (RT: 1134; 1762; 2123; 2229.)

Richards wasted no time searching for Kai and Bedwyr.

After a few Pendragon meetings, and steady work with Richards, Andrew Campbell testified Richards approached him with the plot to murder Baldwin; Campbell says he never believed in Pendragon, but Richards sure did. (RT: 523-524.)

> " Q Did Mr. Richards ever tell you what he was going to do with any of the money or the proceeds he got from the killing?
>
> A Wanted to take over Marin County.
>
> Q What are you talking about?
>
> A That was his Pendragon thing. I mean he wanted to get out of debt .... [A]nd he wanted to use the rest for his plot to take over Marin." (RT: 522: 18-26.)

Richard Baldwin had been missing from July 6 to July 15, 1982, when a body was found by the skipper of The Little Sampson floating off Point McNear at the mouth to San Pablo Bay at 5:00 p.m., July 13, 1982. (RT: 205; 210; 304-305; 319-320.) The body decomposed rapidly in the water, but the autopsy showed the cause of death was probably the result of a single blow to the head, a skull fracture and brain hemorrage; there were also two knife-like wounds to the heart that would have been lethal. (RT: 435-439; 456-457.) The victim was identified as Richard Baldwin. (RT: 319-320; 343.)

THE TESTIMONY OF ANDREW CAMPBELL

Andrew Campbell, represented by the Marin County Public Defender, confessed on July 28, 1982, and was granted immunity from prosecution. (RT: 581-585.)

Andrew, a seventeen year old who was not in school and was unemployed, met Mark Richards in April, 1982, when his friend, Crossan Hoover, called him and said he was working for Richards and they needed some extra help. (RT: 467.) He worked for awhile on the Kline construction and he became aware of the construction errors and that Richards did not know what he was doing; he also could only cash Richards' checks in one place or they would bounce. (RT:468-469.)*4

Apparently it was better than nothing; Crossie, who had been Andrew's friend for a year or so before April, 1982, had the blue Ford pickup Richards got in the Kline deal and they were working at a steady job. (RT: 187/38; 470.) But towards the end of June, Richards starting talking about a guy named, "Dick," whom he referred to as " a Nazi ... faggot ...," who "owed a lot of people money...," and "that [it] would be a service to the public to get rid of such a menace...." (RT: 472: 13, 27-28.) Andrew met Baldwin at his

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4. Richards checks all began bouncing in the first week of July, including checks to Gary Ables (RT: 1191-1194), Keith Andrews (RT: 1226; 1243), and Greg Robles (RT: 2132). Richards also wrote a phoney check on a defunct account on July 7, 1982 for $2,500.00. (RT: 785-812.)

house a couple of times around the first of July, when Richards took him out there to work on a job at Baldwin's house; Richards had agreed to do some construction to the house in return for money Richards owed Baldwin. (RT: 472.)

Andrew and Crossie listened again to Richards; he told them he would split the proceeds from sales of Baldwin's cars, and he promised Crossie he could live at the Richards' house in the new addition they were working on there. (RT: 473.) Then around the July 1 or 2, Richards went over his plan in more detail, and he said he had figured a way to get Baldwin out of the house and into his shop so that Baldwin's alarm systems at the house and shop would not be triggered. (RT: 476.) Once he had lured Baldwin away from his home, Andrew would go into Baldwin's house and look it over for valuables. (RT: 476-477.) Richards and Crossie would go to Baldwin's shop on the ruse that Crossie wanted to see all of Baldwin's cars; then, when Richards flicked his hair, Crossie would find something in the shop, and hit Baldwin over the head. (RT: 477.) *5

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5. Other testimony disclosed Richards privately promised Crossie $5,000, a car and a place to live. (RT: 1824-1826; 1941-1942.) Richards started hammering home the fact that Baldwin was a "faggot," a "queer," and a "Nazi," and at one point on the job, while Crossie was using a sledge hammer, Richards came up to him and said he should think about "fags and Nazis." (RT: 564; 1825.)

On or about July 6, Crossie and Andrew were at Richards' house early in the morning for their job assignment; Richards said it was time to actuate the Baldwin plan. (RT: 478.) Crossie had spent the night at Richards' house and had been up until 3:00 a.m. 'freebasing' cocaine, drinking and smoking marijuana. (RT: 2433; 2439; 2341.) The three drove over to Baldwin's house to start work, but there was a yellow Volkswagen there, along with a man named Tom and a little boy. (RT: 481; 484.) They started working on the construction site (RT: 483), but left for lunch (RT: 484), and when they returned, Tom Mills and his step-son were leaving; Richards remarked that it was perfect, because Tom would be the last person seen with Baldwin. (RT: 486; 613-639.) They drove around until the Volkswagen had left (12:00 p.m.), and Richards said it was like " 'calming down a chicken before you snap his neck.' " (RT: 487: 6; 617.) Richards put Andrew and Crossie back to work while he went in the house with Baldwin. (RT: 488-489.) Crossie smoked a joint sometime prior to that. (RT: 1956-1957; 2341; 2433.)

Richards and Baldwin came out of the house around 2:00 p.m.; this was the first time Crossie had been to Baldwin's house. (RT: 489; 547.) Crossie left with Baldwin and Richards in the blue truck and returned a couple of hours later; Andrew asked Crossie what happened and he said it was "'gross,'" but Crossie was too "jittery" and "jumpity" to talk with Andrew. (RT: 491-492; 550.)

They went into the house and found $3,000.00 cash,

several handguns, a garbage bag full of high-grade marijuana, pink slips, and a safe; they took the loot to Mark Richards house. (RT: 493-499.) Eventually, Crossie told Andrew he had hit Baldwin with a baseball bat and it killed him, and he and Richards slid the body under one of the cars.(RT: 493-494.)

THE FALL OF PENDRAGON

Mark Richards' fingerprints were found all over checks Richards had forged on Baldwin's bank accounts, dated after Baldwin's disappearance; he bought gourmet foods and a gold teddy bear bracelet and gold anklet for Caryn. (RT: 1296-1298; 1149-1154; 1173-1176; 1483-1502; 1753-1756.) Richards also pawned several of Baldwin's handguns in the East Bay, where Baldwin's Datsun was dumped, and he sold some valuable coins to a San Rafael dealer. (RT: 520; 524; 525-526; 966-976; 1063-1082.) In addition, Richards went on a spending spree with Baldwin's Montgomery Ward's charge card, purchasing a video recorder, stereo set, records, and automotive products. (RT: 530-537; 813-829; 830-835; 842-849; 850-855; 1177-1182; 1754; 1758.) At Video Concepts Richards had made another major purchase, and was very excited about it, until he found out it was store policy to install all products sold; he cancelled the deal. (RT: 537; 1177-1183.) Richards then attempted to open a $10,000 line-of-credit with Matthews stereo house in Daly City, and had picked out a car stereo, video recorder, large-screen projector, movie camera, stereo speakers and a stereo set,

but the shop needed 24-hour credit approval. (RT: 538.)

Andrew Campbell testified he was with Richards during these ventures, and his testimony was largely corroborated by fingerprint and handwriting specialists from the Department of Justice. (RT: 524-540; 587-612; 1483-1502; 1506-1584.)

Further, Richards had also decided to take the $3,000 from Baldwin's house and purchase a boat to dispose of Baldwin's body in San Francisco Bay. (RT: 502.) Richards found a 17-foot Dorset cabin cruizer with an outboard motor for sale in a local paper, and he, Campbell and Crossan Hoover went together to purchase the boat; Richards paid $1,000 down and the boat's owner, Bernard Healy, kept the pink slip. (RT: 503-506; 717-725.)

The next day, July 7, Richards, Andrews and Hoover went back to Baldwin's shop as the sun was going down, and they wrapped the body in layers of bamboo-curtain and plastic, sinched with coaxial cable and rope, and took the baseball bat and other incriminating evidence to burn in Richards' fireplace later. (RT: 511-513; 556-558.) They dumped the body in the bed of the truck, and hitched the boat to the back; then they went out to Loch Lommand Marina -- armed with handguns -- where they met a security guard, Samuel Paul. (RT: 514; 753.)

Mr. Paul recalls it was around 11:00 p.m. when the three showed up at the Marina; Richards said he was taking the boys out fishing and wanted to get the boat ready for an early start. (RT: 757-760; 775.) It was touch-and-go, but Mr.

Paul, who had been working a number of back-to-back shifts, had locked his keys in the marina bathroom, and was tired and distracted; he eventually fell asleep in his car. (RT: 755; 764.) But at some point later in the evening Paul claims he wrote down the license plate of the truck, because he felt suspicious, but he lost the paper; the boat and truck were gone by daybreak. (RT: 783.)

Richards was not familiar with the engine of the Dorset cabin cruizer, and it stalled a number of times on the way out to the shipping channel where he planned to dump the body. (RT: 514-515.) They drifted with the current. (RT: 515.) They tied weights to the body they had carried down the launch ramp and placed in the cockpit. (RT: 514-515.) They made enough headway towards the Sister Islands and placed the body overboard; the weights snapped and the body floated to the surface. (RT: 515.) They found the spare outboard trolling motor in the cabin and tied it to the body; this time it sunk. (RT: 516; 728-729.) They dumped a a screwdriver and wooden chisel from Baldwin's shop in the water as they were returning to the dock. (RT: 517.)

Caryn was up when they arrived home around 3:00 a.m.; then she went back to bed. (RT: 518.) They started a fire in the fireplace and burned the baseball bat, the mechanic's creeper taken from the shop, some of Baldwin's papers Richards didn't think valuable, and Crossie's pants, which appeared to have blood stains on the cuff. (RT: 518-519.)

A few days later Richards opened Baldwin's safe with a

high-powered drill, but it apparently contained nothing of much value, and was taken to a dump yard. (RT: 521-522.)

KEITH ANDREWS AND GARY ABLES

Keith Andrews, the little brother of Craig, Richards former partner in Engineer Constructors and a student at U.C. Davis, went to work for Richards on or about June 30, only to have his first check bounce July 2. (RT: 1221-1226.) Keith gave the check back to Richards on July 8, who explained he had been having some financial problems, but gave him $50.00 for the time being. (RT: 1227; 1243.) Apparently, however, Keith decided to stick around and work another week. (RT: 1227-1228.)

Gary Ables, a friend of Todd Arwin's, who was working for Richards until he was arrested for drunk driving, met Crossan Hoover around June 20 when he and Todd asked him if he wanted to work. (RT: 1187-1189.) Ables also found the same problem Keith had with Richards' checks; the first one bounced around July 9. (RT: 1193.) Richards offered him a handgun in exchange; Ables took it. (RT: 1210; 1238.) Richards took Ables and Andrews out in the boat July 9 and July 11. (RT: 1195; 2000; 1231-1232.) Both Andrews and Ables asked Richards about the boat, and Richards said it was something he got in exchange for some construction work he had done. (RT: 1197; 1230.)

However, Ables and Andrews, who were not part of the Pendragon group and knew nothing about the takeover plans (RT: 1246), began comparing notes during the week of July 8-

14, 1982; both boys always worked together (RT: 1202-1252), and neither could quite understand how Richards had obtained some of the things he had if he were so broke. For example, where did Caryn get the gold jewelry she was parading around? Where did the video disc player come from that Ables watched the rock concert on at Richards' house come from? And what was that safe doing in Richards' garage? (RT: 1194; 1999; 1209; 1229; 1237.)

Then, on July 13, when Andrews returned from his grandmother's, Ables told Andrews a strange story related to him by Crossan Hoover the day before at the church construction site. (RT: 1228.) When Ables did not show up for work the following day, Andrews became frightened and made an anonymous telephone call to the police. (RT: 1229; 1239.)

Ables had told Andrews on July 13 that he had had a conversation with Crossie Hoover, who he only knew from the construction work; Ables was talking about the bizarre things he had seen in the Philippines, like heads on poles (RT: 1203), when Hoover said he had " 'beat some dude over the head with a baseball bat, and we dumped him the bay.' " (RT: 1204: 5-7.) Crossie told Ables not to talk to Richards about it. (RT: 1204: 19-20.)

Ables didn't believe Crossie, but he told Andrews about it on the 13th. (RT: 1204; 1207; 1228.) Andrews believed the story. (RT: 1228.)

INVESTIGATION AND ARREST

Duncan MacKinnon, who had the shop across the street from Baldwin, knew both Baldwin and Richards well; he recalls Richards coming by on Thursday, July 15, because he had heard about an investigation into Baldwin's disappearance. (RT: 1418; 1463.) MacKinnon told Richards the police had just identified Baldwin's body floating in the bay and so it appeared to be murder. (RT: 1462.) Richards seemed surprised, and said he had recently bought some guns and marijuana from Baldwin and hoped he didn't get drawn into the investigation; he asked MacKinnnon to keep in touch. (RT: 1462; 1464.)

Richards may have been out there when the police had come by the Classic Car Shop to investigate the missing person report, but, in any event, on the 15th he called Campbell and told him Baldwin's body had been found and said, " 'Don't worry about it. I did a great job of pretending I was shocked and surprised and didn't know about it ....' " (RT: 542: 18-20; Cf., RT: 319-320; 1254-1255.)

On reflection, MacKinnon thought Richards had ended their conversation rather abruptly when MacKinnon's girlfriend, Devon Hird, walked into the room; MacKinnon was virtually in mid-sentence. (RT: 1456; 1463.)

After extensive interviews with Keith Andrews on July 14-15, his sworn affidavit was taken, an arrest warrant issued, and several law enforcement agencies prepared for an arrest; at approximately 8:00 a.m., July 16, 1982, Mark

ANDREW CAMPBELL

Richards, Keith Andrews and Crossie Hoover were arrested outside Richards' home in the blue Ford truck as they made they way down the street for another day's work. (RT: 1239-1242; 1270-1271; 876-878; 950.)

THE DEFENSE OF CROSSAN D. HOOVER, JR.

" ONE OF THE MOST DISTURBED KIDS I'VE SEEN.... "

Crossan D. Hoover, Jr., was born in San Francisco on October 23, 1964 to an illiterate, alcoholic father, and an alcoholic mother.(RT: 566; 1961; 2011; 2145; 2249.) Crossie has two younger sisters, Kimberly and Mary. (RT: 1961.)

Crossie's family moved around San Francisco a number of times from 1964 to 1979, and Crossie's father, a part-time mechanic and former teamster, drove a chicken truck early on in the marriage, until he was fired because of a reckless, alcohol-related driving record. (RT: 1963; 1974-1975.) Crossie's mother, Patricia, has worked in San Francisco City and County clerk's office for many years (RT: 1987), and she admits her marital problems existed for at least eight years prior to her divorce in 1981. (RT: 1974.)

In fact, whenever they moved into a new place, Patricia would get together with the kids and discuss an escape route; she and her husband, who did not come home nights regularly, came to physical blows two to three times a year. (RT: 1810; 1975; 2177-2178.) Crossan, Sr., tore the house apart more than once, and he physically beat the children a number of times. (RT: 1976; 2249.)

In the third grade Crossie was referred to a special,

federally funded program for children at San Francisco General Hospital; he was disruptive and unable to concentrate at public school. (RT: 1967-1968.) The program was cancelled when funds ran out, and at about the same time, the Hoovers moved to a new school district; at Diamond Heights school, Crossie spent the fourth-sixth grades in classes for the learning disabled. (RT: 1968.) Then at Dinman Junior High School he continued in special classes until he had to be put into an 'alternative' school, where he lasted a short time until his parents moved again. (RT: 1970.)

Crossie had virtually no friends, got into a lot of accidents, and when he finished the ninth grade in the special education section at Sinaloa Junior High School, he got into a serious fight with some of the kids in the neighborhood. (RT: 1970-1973; 1978-1979.) Pat Hoover moved to Marin County in 1979 with her two daughters and Crossie. (RT: 1964.) Crossan, Sr., would come out to stay with Pat occasionally, but Pat now had a boyfriend. (RT: 1980.)

Crossie started at Novato High School (RT: 1588; 1980), but in the Fall Semester, 1981, he was referred as a new student to the North Marin High School, where he met Mona Lou Arthur, Resource Specialist, head of the Novato School District's learning disabilities program. (RT: 1587-1588.) A few weeks before Crossie's seventeenth birthday in 1981, Ms. Arthur gave Crossie a battery of tests and, for his age group, he scored in the bottom three percent for spelling and

the bottom sixteen percent in arithmetic testing. (RT: 1592.) His reading level was approximately fourth grade, or in the lower four percentage of the population his age. (RT: 1591.) Overall she felt Crossie showed signs of average intelligence, but his 'thematic maturity' level was around fourteen years, and he had severe learning disabilities. (RT: 1594; 1614; 1618.)

Ms. Arthur felt close to Crossie and appeared willing to give him some of the enormous help he would need to graduate from high school. (RT: 1594; 1617.) She also described Crossie as "hyper," a "definite follower," and never saw him instigate anything, good or bad. (RT: 1610; 1611.)

Marian Saunders, psychologist for the Novato Unified School District interviewed Crossie and gave him a number of tests in October, 1981; in addition to finding him dyslectic, with severe learning disabilities, she also reported after three interviews he was fragile emotionally, felt cheated in childhood by his father, " 'a drunk ... son of a bitch,'" and felt alienated generally. (RT: 1628-1636; 1635: 24-26.) She noted psychotic processes at work and described him as not very well-oriented to reality, a very confused, impulsive, and "borderline type of kid who is potentially violent and/or suicidal." (RT: 1648: 27-28.)

However, Ms. Arthur said Crossie seemed to develop some friendships at North Marin High, and he also had a girlfriend, Sherry, who he had been going with until she became pregnant. (RT: 1609; 1982.) There had been a fight;

neither Sherry nor her mother wanted the child. (RT: 1982-1983.) Crossie tried to force his way into Sherry's house; she called the police. (RT: 1983.) He was arrested with a fierce struggle. (RT: 1983.)

After spending five days at Juvenile Hall, Crossie was ordered into a counselling diversion program; he was referred to Michael Bodkin, a youth counsellor for the Novato Youth Service Bureau, supervised by the police department. (RT: 1984; 2090.) Mr. Bodkin, a credentialled counsellor with seven years in youth work, saw Crossie three times in the Fall of 1981 and described him as "one of the most disturbed kids I've seen." (RT: 2097.)

Mr. Bodkin felt Crossie was not a sociopathic kid, with the sort of cool sophistication some kids develop in their run-ins with the law, but that he was out of control emotionally, and he agreed with Marian Saunder's pre-psychotic evaluation; Crossie cried during the interviews, expressing grief and anger over his childhood, and Mr. Bodkin felt Crossie was not his ordinary case, "I was concerned." (RT: 2095; 2998; 2099: 5; 2106.) He telephoned Joe Doherty, supervising probation officer, and Marian Saunders, and expressed his concerns. (RT: 2099.)

But Crossie cut off the voluntary visits (RT: 2101), and when his mother said she was going to move back to San Francisco in January, 1982, he said he wanted to stay in Marin. (RT: 1981.) Crossie moved in with Pete Neal, a kid he'd met at school; they lived with Jack Thomas in Thomas'

house on Los Padres Circle, San Rafael, December, 1981. (RT: 1101; 1625; 1654-1656.)

Jack Thomas let a lot of young boys live at his house; apparently he was a homosexual, but, according to Pete Neal, Thomas did not bother Pete or Crossie. (RT: 1146; 1148.) But Crossie made it clear he did not like gay people; Crossie slept downstairs on the couch with a knife under his pillow. (RT: 1134.) Pete was "real good friends" with Willy Robles (RT: 1103), and Willy, who was going with Crossie's fifteen year old sister, introduced Pete to Mark Richards in March or April, 1982. (RT: 1103-1104; 2176.)

Caryn Richards said Mark told her "he would love to have him [Crossy] around forever," because he was a good worker and Mark had "gotten Crossie's confidence in him to be able to do whatever Mark wanted him to do." (RT: 1734: 25; 27-28.) She could see when Crossie came over for meetings that Crossie was looking up to Mark as if he were his "big brother." (RT: 1728: 10.) But Caryn had no idea that the meetings were about Pendragon; she thought they were work-related. (RT: 1718-1719.) Kim Hoover, Crossie's sister, said Crossie would not even discuss Pendragon with her because he took it so seriously. (RT: 2187.)

DRUGS

Pat and Kim Hoover said Crossie started smoking marijuana when he was fifteen and continued to smoke through July, 1982, smoking several joints a day throughout the first half of 1982. (RT: 1986; 2173.) Pat was aware Pete Neal

used cocaine, but not Crossie. (RT: 1986; 2181.) Kim described the cocaine Crossie, Willy and Pete consumed in April-June, 1982, when she was with them at Jack Thomas' house; she saw it almost every day. (RT: 2179-2180.) Pete was buying from Ladonna Edwards and dealing it. (RT: 1551-1552; 2182.)

Pete Neal did not attempt to hide the fact that he had been dealing, and freebasing cocaine, for months. (RT: 1137-1138.) In fact, the week of July 6, 1982, Pete Neal testified "the week that we were talking about, we freebased over a thousand dollars worth of coke between me and him [Willy] and Crossie." (RT: 1138: 2223-25.)*6

Finally, during the week before, and the week after, July 6, 1982, Pete Neal described himself as "strung out" on drugs; he and Crossie were smoking a lot of marijuana and cocaine. (RT: 1137-1138.) And Jack Thomas and Kim Hoover observed the symptoms in Crossie that go along with prolonged cocaine use: Sleeplessness, poor apetite and irritability. (RT: 1659-1660; 2188.)

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6. Pete Neal describes "freebasing" as follows: "You take the coke, and you boil it down, and you use baking soda to take out the impurities and turn it into a crystal, and you put it in a glass pipe, and you smoke it." (RT: 1138: 28 - 1139: 1-2.) Kim described her brother as a middleman, promoting sales, and, therefore, being given cocaine freely as it was used in the house. (RT: 2182.)

EXPERT TESTIMONY

THE GUILT PHASE

Without relying on the opinions of so-called 'hired guns,' one can see a significant psychological profile of Crossan Hoover, Jr., prior to the events of July 6, 1982. The conclusions reached by virtually every professional who eventually examined Crossan Hoover agreed with the opinions of their colleagues, Marian Saunders and Michael Bodkin, who, in 1981, had diagnosed Crossan Hoover as 'prepsychotic,' i.e., Crossie was an unsophisticated, emotionally fragile young person without good orientation to reality, capable of very impulsive acts, but without the mental ability to plan anything complicated.

Indeed, in the first week after his arrest, another neutral person, Carl Hansen, head of Marin County's Mental Health Department, said he was so concerned about Crossie that he and others on his staff monitored him very closely; they felt he was a prime suicide candidate. (RT: 2190-2200.) And Mr. Hansen noted that Crossie, unlike many of the "true cold-blooded kids" in serious trouble who come through his doors, showed "tremendous remorse" in the group sessions held that first week, and he "wished he would get treatment...," observing the boy crying twice in front of other kids (RT: 2201):

> " It's pretty hard in a group -- in Juvenile Hall -- to take off your mask and bear your soul, and he did that. " (RT: 2201" 13-15.)

Finally, the expert witnesses who did testify pretty much lined up as one would expect in an adversary proceeding.*7

Jonathan Edward French, a clinical psychologist, examined Crossie extensively, giving him a mind-boggling number of statistical examinations, which in his opinion, coupled with all the relevant facts in this case lead him to

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7. As British Psychiatrist, F.A. Whitlock, put it in his classic study 25 years ago, " The long, uneasy flirtation between law and medicine is unlikely to end in harmonious matrimony with understanding and acceptance of the points of view of each side. At the very best one might foresee some mariage de convenance but, more likely, there will be a shotgun wedding forced on the parties concerned by a public impatient both with legal argument and psychiatric differences in open court." (Criminal Responbility and Mental Illness, [Butterworths, 1963], p. 1.) By the looks of things nothing has changed. (See, e.g., Prop. 8, section 25 (1982), discussed in People v. Skinner [1985] 39 Cal.3d 765, 782; Cf., 73 Cal. Law Review (March,1985); The Insanity Defense and The Trial of John W. Hinckley, Jr., Caplan, L. (1984).)

the conclusion Crossie has a "Borderline Personality Disorder," quite capable of psychotic episodes, enduring hallucinations, and he was probably psychotic and hallucinating at or about the time he delivered the blow to Richard Baldwin. (RT: 1765-1850; 1999-2085.) Indeed, when Crossan talked about the murder, he said he recalled sticking a screwdriver into the eye of Baldwin, but Dr. Brazil testified there was absolutely no damage to the eyes. (RT: 460; 2265.) In addition, Crossan said Richard Baldwin kept talking after the first time he hit him, and he hit him at least three more times in the head after the first blow. (RT: 2265.) Dr. Brazil reported there was sign of only one blow to the head. (RT: 457-458.)

Dr. Brian S. Gould (RT: 1854-1960), a noted pharmacologist and psychiatrist, who has worked on a special task force for the Attorney General's Office, also discussed the likelihood Crossan was hallucinating at the time of the murder, and he described the debilitating effects of prolonged cocaine use, and in his opinion the fact that Crossie had been using drugs resulted in stimulant-impairment, a deterioration of the psyche that "sooner or later catches up with you." (RT: 1949: 19.) And the fact that Crossie was up until 3:00 a.m., July 5, freebasing cocaine and drinking alcohol, along with the fact Crossie smoked a powerful "Thai" joint the morning of July 6, coupled with his history of hallucinations, made it probable Crossie slipped into a psychotic episode. (RT: 1956-1957.)

Further, Dr. Gould proposed a novel psychiatric theory, formed one hundred and fifty years ago, that he felt was classic here, **Folie a Deux**. The theory is one that describes two people entering into a delusional pattern together; one is a leader (Mark Richards) and the other a follower (Crossan Hoover), and they embark on venture for material gain. (RT: 1911-1915.)

Dr. Roman Rodriguez, a child pyschiatrist, reached conclusions similar to those reached by Doctors Gould and French. (RT: 2231-2278; 2280-2409.) He believes a "shared paranoid disorder" is an acceptable alternative diagnosis to the **Folie a Deux**. (RT: 2401.)

All three expert witnesses for the defense testified that when they interviewed Crossan Hoover he felt cheated by Mark Richards, but that at the time of the murder he believed in Richards, and in the plausibility of a Richards-directed murder carried out for direct material gain and in the interests of the Pendragon takeover conspiracy. (RT: 1824; 1829-1830; 1872; 1909; 2247; 2255; 2255-2264; 2337.)

The People presented Dr. John Buehler, psychiatrist, on rebuttal in the guilt-phase of the case (RT: 2410-2485), and Dr. Buehler concluded Crossan Hoover was a mere sociopath, suffer ing from what he termed, "Undersocialized Conduct Disorder of the Non-Psychotic Type." (RT: 2422: 25-26.) He felt that Crossan was simply in it for the money, car and his own apartment Mark Richards promised. (RT: 2419; 2437.)

The prosecution, and its expert witnesses, posited that

Crossan had premeditated and deliberated about the murder, and that he had the requisite capacity to form the intent to commit murder; they relied heavily on Crossie's pre-murder discussion with a friend, Nicole Rongey. (RT: 1159-1160.)

However, Dr. Buehler missed most of the critical features of Pendragon, including Mark Richards' writings (RT: 2462), and its potential effects, and he admitted at the end of a long hypothesis, based upon counsel's accurate depiction of the takeover plot, that his opinion about Crossie might have been altered: " If I were convinced Mark Richards really believed it and was working at it, yes." (RT: 2483: 2-3.)

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THE SANITY PHASE

The court instructed the jury that the testimony at the guilt phase could be considered in determining whether Crossan Hoover was legally insane at the time of the commission of the offense. (RT: 2265-2267.) Dr. Rodriguez again testified for the defense (RT: 2671-2713), and in his opinion Crossie was legally insane, suffering from a mental disease or defect that rendered him incapable of knowing or understanding the nature and quality of his acts and incapable of distinguishing between right and wrong. (RT: 2672-2673.)

Doctors Buehler and Gustadt testified for the People that Crossan Hoover was not legally insane because he did not suffer from a mental disease or defect rendering him incapable of knowing or understanding the nature and quality of his acts, and that he was capable of distinguishing right from wrong. (RT: 2726b-2739; 2740-2761.)

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APPENDIX II

Hoover C9 5830

MEDIEVAL MURDER IN MAR...

California™

GOURMET BABIES

Piano lessons, workouts, even reading — there's nothing infantile about the new California baby, by Jonathan Kirsch

Randy Newman takes on California

Dear Senator: Cranston's advice to Pete Wilson

INCORPORATING NEW WEST

THE PENDRAGON CHRONICLES

BY RICHARD D. REYNOLDS

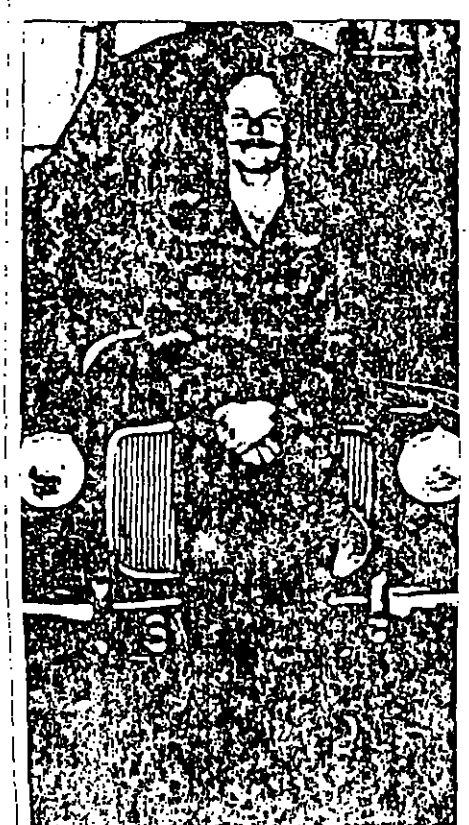
Mark Richards had a dream. When the economy collapsed he and his band of Marin County kids would be ready. Out of the chaos, a new kingdom would arise, ruled by laser and sword. It was pure sci-fi, a fantasy of power. Now the charge is murder one.

Sergeant [illegible] Keaton, a long, tough-as-long-rawhide veteran with the Marin County Sheriff's Department, was working late on Tuesday, July 13, when the U.S. Coast Guard called to say a body had been recovered in the Bay off China Camp. China Camp Park, a desolate section of oak-covered hills and undeveloped marshland three miles east of the Marin County Civic Center, had always been trouble. Dirt bikers liked to tear up the hillsides. It was a lovers' lane and a place for high school kids to smoke pot. In 1975 Chuck Riley and Marlene Olive had butchered the bodies of Olive's foster parents in a fire pit at China Camp—the famous "barbecue" murders. The place was getting to be a regular dumping ground.

Although the body had been found in Marin waters, the coast guard had taken it across the Bay to Solano County, and now there was a question about jurisdiction. Under normal circumstances Keaton would have let Solano County handle the case, but there was a missing person report on his desk. It said that a 36-year-old local auto mechanic named Dick Baldwin, who hadn't been seen for a week, lived just off the road to China Camp. Keaton informed Solano County officials that he would send an ID specialist to the autopsy to lift fingerprints.

It was murder, Keaton learned the next day. The corpse had been in the water for a week, and a hand towel had been stuffed into its mouth. The body had been wrapped in clear plastic and weighted down with a nine horsepower outboard engine. Gases from the decomposing body had filled the plastic, and it had floated to the surface like a hot air balloon. The autopsy revealed that the cause of death was probably a severe blow to the left portion of the skull, caused by a large blunt object. There were also two narrow puncture wounds in the chest that

Sergeant Keaton called Ellen Baldwin. He'd like to stop by and talk about her son, he said. Mrs. Baldwin was waiting at the door when Keaton arrived with the news of her son's murder.



Dick Baldwin: He offered the killers some work.

pierced the heart, [illegible] learn that the prints matched those [illegible] missing person report. The body was Dick Baldwin's.

Keaton was filling out the murder report when an anonymous tip came in. The male caller refused to talk to a deputy. He said he wanted to talk to a detective—"some one who knew what was going on"—and the call was switched upstairs to Keaton.

The caller said he worked for a remodeling contractor and lately he had been hearing strange rumors.

"What kind of rumors?" Keaton asked.

There had been a rip-off and a murder, the caller said, and afterward the body had been dumped into San Francisco Bay.

As the caller talked Keaton snapped his fingers and whispered to another detective to get him the telephone notebook police had retrieved from Dick Baldwin's auto repair shop earlier in the day.

"What is the name of the man you suspect?" Keaton asked the caller.

"Mark Richards," the caller said.

Keaton quickly thumbed through the victim's phone book until he found Mark Richards's name. Bingo, he thought.

Keaton telephoned San Rafael Police Department sergeant Walt Kosta and asked whether he and detective Ted Lindquist, the investigator in charge of crimes against persons, could come in for a meeting in the morning. He had a murder, Keaton said, and it may have been committed within the San Rafael city limits.

Around midnight Keaton called Ellen Baldwin, the victim's mother. He would like to stop by tonight, he said, and talk about her son. Mrs. Baldwin was waiting at the front door when Keaton arrived with the news of her son's murder.

Mark Richards, 29, and his wife, Caryn, lived in a squat mustard-colored home at 366 Butterfield Road in San Anselmo, a few miles west of the San Rafael city limits. Neighbors considered them a lovely couple. Mark, a remodeling contractor, was a member of an advisory committee to the San Rafael Cultural Affairs Commission and had written a walking tour of San Rafael.

On the morning of July 16 Richards and two seventeen year olds were in his driveway hitching a cabin cruiser to his blue pickup. They did not notice the cops parked beyond the woods behind the house or the man in the unmarked sedan across the street. When they pulled out the information was radioed to sergeant Kosta, and the cavalry moved in.

Soon after the arrests Kosta and Lindquist interrogated Crossan ("Crossy") David Hoover Jr., one of the two juveniles who had been taken into custody with Mark Richards. Kosta, supervisor of the nine-member investigations team, was unshaven and a little rummy from being up all night. Lindquist and Keaton had just spent an hour and a half questioning Mark [illegible], a self-described architect/[illegible]/builder, and he had denied any involvement in the murder. But Hoover wanted to talk. He was angry—not about his arrest for murder but because he felt he had been suited by Mark Richards, who had hired him for his contracting business and then had hired him to kill Baldwin, who had been a friend and business associate of Richards's. Kosta read Hoover his rights and asked him whether he wanted his mother there.

"Fan it! I don't need nobody. I'll talk myself," Hoover said.

"Tell me the circumstances," Lindquist said, "under which you, Mark, and Andrew [Campbell, the other juvenile arrested] participated in the killing of Dick Baldwin in his shop on Front Street in San Rafael last week."

"Well," said Hoover, "Mark is hurting for money, so I guess that's the reason why he did this crazy-ass stunt. The man's f—ing insane. I mean, totally insane. He's got so many f—ing ideas it is unbelievable, and that's why he gets all these young kids in on everything, because, just, you know, he's f—ing weird."

"Okay, just tell about it. . . . And tell us the truth."

"If I tell the truth," Hoover said, "I'm going to be—I'm going to be totally f—ed over. Right. I mean, I'll tell the whole f—ing truth, right from the goddamn ground up."

"Okay, let's go," Lindquist said.

"You're on," Kosta said.

Hoover hesitated for a few more seconds. "You're going to lock me up forever, though, huh? What the problem is—I can't handle that. You put me away, I'm going to commit suicide. I tell you that right now."

"It is not up to me who gets locked up," sergeant Kosta said. "It is up to me to find the facts."

During the next hour and a half Hoover gave the officers a rambling, gruesome story about murder and greed, not in the laid-back Marin County society that Cyra McFadden made famous in her novel *The Serial* but in the front seats of pickup trucks and in the less affluent homes and apartments on the fringe of Marin's promised land.

KOSTA REMEMBERS thinking that he had never seen a case fall together so fast. It was his experience that in a murder case you had to dig through mountains of interviews—moving inch by inch to fit the puzzle together. If you were lucky, after weeks of work, you had a picture of the crime and the person who committed it. But within days of the discovery of Dick Baldwin's body Kosta was deluged with information. The problem was that a lot of it didn't make sense.

[illegible] of murder for [illegible]. But [illegible]osta and Lindquist went to [illegible]ds's home, something was out of [illegible]. "It was your average Joe house on [illegible]nerfield Road," Kosta says. The living room was neat, the kitchen clean. It wasn't until the investigators entered the den that they realized they were up against the unfamiliar. The first thing that hit them was an entire wall of science fiction paperbacks. In a corner were piles of magazines—monster magazines, movie magazines, copies of *Soldier of Fortune*, and magazines with titles the detectives had never heard of, such as *Seriatim: the Journal of Ecotopia*.

The den was decorated with paintings and posters of medieval and outer space scenes. There were swords mounted on a wall, and one whole side of the room was filled with filing cabinets, some containing folders on famous people. Even more curious were files labeled WARLORD, LORD OF TRANSPORTATION, and LORD OF ANGEL ISLAND and a newsletter called *Pendragon*.

"Who is this guy?" the detectives wondered as they picked their way through the folders. There seemed to be files on every subject imaginable—movie stars, politicians, laser technology. On the wall they found an autographed photograph of filmmaker George Lucas, whose headquarters are located a half mile from the murder scene. One detective pulled out a file on Farrah Fawcett expecting it to be filled with pinup photos, but it contained only newspaper clippings. The folders were all like that. "It looked like the guy spent every night cutting up newspapers and filing them," Kosta says.

Kosta and Lindquist were searching for evidence directly related to Dick Baldwin's murder, circumstantial evidence such as bloodstained clothing. But as Kosta surveyed this cluttered room in Richards's house his detective instincts told him he was looking at evidence. He couldn't decipher it, but he had the feeling, as he later put it, that he "was standing in the center of the man's soul."

While Kosta and Lindquist searched the Richards home, detective Mike Keller was in Novato, 26 miles north of San Francisco, serving a search warrant at 32 Los Padres Circle, where Crossy Hoover lived with his teenage roommate, Pete Neal, and Jack Thomas, a 50-year-old retired bus driver. The Crossroads housing development is one of the tidy cul-de-sac apartment complexes that popped up along Highway 101 as the suburbs leapfrogged northward into pastoral Marin in the late sixties and seventies. It is a lumpen, middle-class ghetto filled with bored teenagers who, as you drive along its NO OUTLET streets, stare at you with looks on their faces that say, "Where does he think he's going?"

Neal led the officers to a plastic garbage bag of homegrown marijuana that Hoover had given him to hide in the attic. He also [illegible] Keller about some meetings [illegible] held at the Richards house, where [illegible] had handed out newsletters called *Pendragon*, as well as plans for lasers that he hoped to place on top of Mount Tamalpais. One day, Neal continued, Richards had told him that a guy named Dick might leak details about the secret organization to the police and "might have to be taken care of."

Kosta and Lindquist had no idea what connection lasers had with the case, but they soon found themselves back in Richards's den packing the contents of the room into boxes for the district attorney. The search warrant called for them to seize all documents dealing with "plans . . . of a surreptitious operation to disrupt the government of Marin County, including but not limited to documents bearing the name of 'Pendragon.'" They confiscated reels of movie tape, movie files, drawings of energy and transportation systems and castles, and *Pendragon* newsletters. They also took the Lucas photo.

Nobody hates to speculate more than Ted Lindquist does. He is a tough cop. Precise. When a stranger speaks to him he tends to squint defensively until he knows where the question is coming from. He has been on the force eleven years—eleven long years of squinting, so that now the corners of his eyes are stitched with crow's-feet that give him a sad, almost vulnerable look.

As case agent for the Baldwin murder, it was up to him to sort out the incredible stories about Mark Richards. Detectives began thumbing through the material from the den. They went through Richards's banking records and address book. Slowly a picture of the suspect emerged. Mark Richards was a dreamer who hungered for fame, a man who seldom finished anything. He had jumped from profession to profession with a certain clumsiness and arrogance that had amazed his friends. He was a storyteller obsessed with King Arthur and medieval history. And he had money problems.

Richards could make a good impression, though. One of his former history professors at Dominican College in San Rafael said he was a good student. His wife said he didn't sneak around. His neighbor John Quinne had sponsored him into the Corte Madera Lions Club. But there were things he kept quiet. Richards didn't have a contractor's license. His remodeling jobs were often botched. Shortly after the arrests Kosta got a phone call from a retired California Highway Patrol officer who said he remembered arresting Richards on an insurance fraud rap in 1973. He and another man had been accused of moving a car "disappear" so they could collect the insurance money, but Richards's attorney, Carl Shapiro, a well-known civil rights lawyer, succeeded in getting the charges dismissed.

Two days after the arrests Lindquist and [illegible]

Richards's den was decorated with medieval and outer space scenes. There were swords on the walls and filing cabinets containing folders on famous people. "Who is this guy?" detectives wondered.

Richards: "[illegible]"

PHOTOGRAPHED BY DON NORCROSS AND INDEPENDENT

As a boy, Richards often gazed at the castlelike seminary down the hill from his house. In his early teens he told friends of his wish to be a king and showed them his "angel's kiss."

another detective drove up into a wooded San Anselmo neighborhood to visit Mark Richards's parents. On the way they passed the Andrews home, where Mark's childhood friends Craig and Keith grew up. Keith Andrews had been the anonymous caller who turned Richards in for murder. Now the two families weren't speaking, even though they had been close friends for more than fifteen years and lived within sight of each other.

Lindquist knocked at the back door, and Mrs. Richards, a sharp-eyed, white-haired woman, appeared. Her husband, Major E.L. "Rich" Richards, hobbled to the door. He is a frail man who looks older than his 58 years. He was partially paralyzed after a jet he was testing crashed at Hamilton Air Force Base during the Korean War. Lindquist identified himself, and Mrs. Richards glared at him, saying, "I could smell you through the door." The interview went downhill from there.

In a less guarded moment Mrs. Richards talked to a reporter about her son. She was pregnant, she said, when her husband's jet crashed at Hamilton. She rushed to the hospital to find his neck broken and scalp ripped away. When Mark was born, on June 28, 1953, Mrs. Richards swore she [illegible] center of the infant's hair [illegible] husband's scalp wound. Later she showed the streak to some gypsies who said that it was an "angel's kiss," a sign that her son was three times blessed. Mrs. Richards was fond of repeating this story to her son as he grew up.

After Mark's father recovered, the family was transferred overseas. From age six to twelve, Mark lived with his parents in England and in the medieval French town of Laon. His parents loved history, and Mark was treated to frequent visits to castles and other historical sites.

When the family returned to California Mark's interests set him apart from other kids his age. He would spend long hours building cardboard castles and painting his toy army of metal knights. He often gazed from the patio of his parents' house at the castlelike San Francisco Theological Seminary down the hill. In his spare time he would fence or work on his novel. The story's protagonist was Jason Pendragon, named after Mark's sixth-century hero, King Arthur Pendragon. Like all mythical heroes, King Arthur had not really died; he had only disappeared and would return when his country needed him. Mark was in his early teens when he told friends of his wish to be a king and showed them his "angel's kiss."

At Dominican College Richards studied European and California history. After graduating in 1976 he and a friend, Russ Blum, worked on a screenplay called *Tristan (A Knight's Tale)*, which they hoped to film partly at the San Francisco Seminary. They informed the press that James Doohan (Scotty of the *Star Trek* series) had agreed to be in the movie, but the film never got off the ground. A year later they embarked on an educational project called the Castle. Richards borrowed money from his parents and rented Scott Hall, the castlelike building at the seminary. He had a catalog printed listing courses on laser technology and other high-tech subjects. He also planned to hold a sci-fi convention and listed George Lucas, William Shatner of *Star Trek*, and several other celebrities as lecturers. But Richards apparently never contacted his famous guest stars. The venture was another fantasy, and it left him $5,000 in debt.

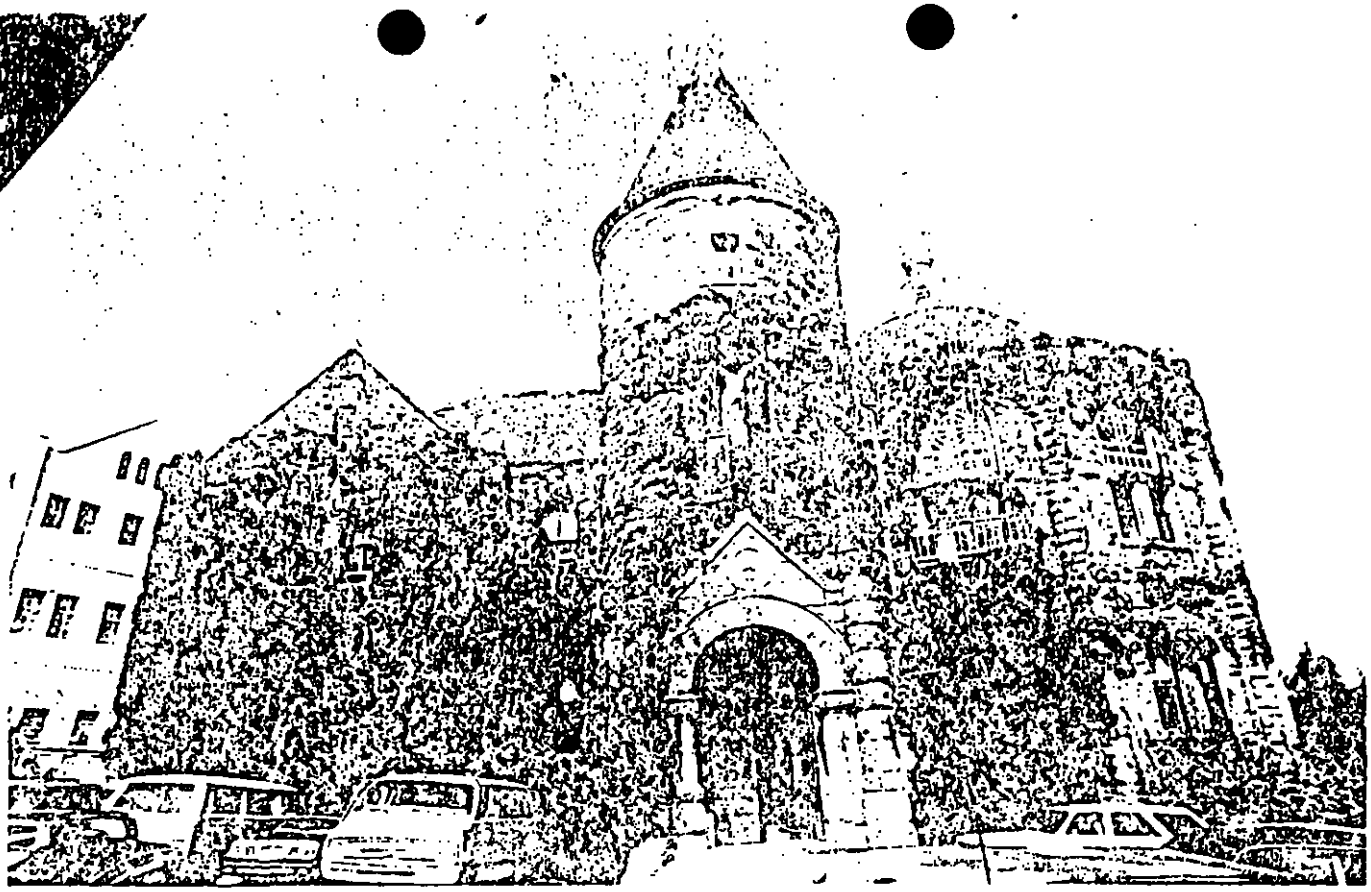
THIRTY-SIX FRONT Street, where the murder was committed, is in the Canal District located on paved-over mud flats east of Highway 101. It is an ugly part of town, a wasteland of greasy garages and low-rent apartment houses. Dick Baldwin's Classic Car Shop was the third unit in a prefab concrete atrium housing a number of artists and crafts people around a courtyard—a kind of island of creativity in the slaze.

[illegible] sense of [illegible] times [illegible]. He was insatiably curious about every subject, but his passion was tinkering with automobiles. Inside his shop he was working on an MG TF, a 1970s Rolls-Royce and at the time he was murdered he had just finished repairs on a Hispano-Suiza, a rare French classic that few mechanics ever see, let alone fix. But his favorite project was a Stutz Bearcat that he was building from the ground up. It was an elegant, rakish two seater, and it was his dream to market the car commercially.

Baldwin had blond hair and sparkling blue eyes, and he usually wore a uniform-like pair of shorts with knee socks—an outfit that gave him the appearance of a Neo-Nazi Youth, one of the tenants noted. He seemed paranoid, distrustful of strangers, and unyielding on money matters, which didn't fit in with the mellow outlook cultivated by his neighbors. One of them, a woodworker named Frank Hubinsky, considered Baldwin a gun freak; others thought of him as a survivalist. He protected his shop with an elaborate alarm system and steel-hardened locks, and he always had a gun within reach. Sometimes he pointed to the ghettolike apartment building across the street and warned the people of the courtyard that they had better arm themselves because the economy was getting worse and the bottom might fall out. It was not unusual for Baldwin to talk for five or six hours straight about the coming apocalypse.

Baldwin was eccentric that way, so maybe it was natural for him to take a liking to the tenant who moved into the workshop next to his in mid-1979. Mark Richards, like Baldwin, was different from the rest. Richards was a charismatic storyteller. He told his new friends at 36 Front Street that he had been a pilot for the Goodyear blimp and that he had been to Hollywood and filmed segments of *The Rockford Files*. He could call himself, with some degree of truth, a writer, a world traveler, a fencing expert, a historian, a teacher. In fact, there seemed to be very little that Richards didn't know something about, and now, he said, he and a friend were designing electric automobiles for the future. His partner, Charles Castelli, was an architect who later became a Hare Krishna devotee and helped design the sect's temple retreat in Mendocino County. Like Castelli, Richards was an architect for a new world. He told the people of the courtyard that he was the publisher of *Seriatim: the Journal of Ecotopia*. (In fact, he edited the transportation section and sold ads.)

Richards introduced Baldwin to his girlfriend's twin sister, Sharyn, and for a while the two men double-dated and talked politics. Richards preached the virtues of Ecotopia, a fantasy world invented by Berkeley writer Ernest Callenbach in which



The seminary in San Anselmo, was a fixture in Richards's fantasies. It was to be the scene of an "imperial ball" at which his followers would be knighted.

Northern California, Oregon, and Washington secede from the United States and establish an independent, environmentally attuned country. Richards looked at America as it approached the end of the twentieth century and perceived a country running out of gasoline and paving over its farmland. It was a crumbling and corrupt empire, and when it collapsed it would be thrown into the dark ages. Perhaps, like King Arthur Pendragon, Richards would emerge from the chaos as a leader to defend Marin against the "barbarians" flooding in from San Francisco and Oakland. Richards's and Baldwin's philosophies joined at this point. They would fantasize about fighting off the "hordes" and talked about setting up a machine gun on top of the garage so they could mow them down. Maybe it was Richards's influence that started Baldwin thinking about lasers. Baldwin told a neighbor that he could manufacture a laser on his precision lathe using parts he had stored in his garage. The only limitation, he said, was the power source. The laser would probably have to be placed on top of Mount Tamalpais, where there is plenty of voltage because of the old Nike missile bases.

Richards dreamed of starting a commune in Northern California with other Europians. In the meantime, he had a falling out with the staff of *Serious*. They owed him money, he said. One night he, Baldwin, and another Front Street pal drove over to the magazine's editorial office in El Cerrito and, according to the friend, carted off a number of things that Richards considered owed to him. The struggling publication never got out another issue.

In August 1979 Richards married Caryn Cerruti, his college sweetheart. Their wedding was the culmination of a long and romantic courtship. Dick Baldwin was an usher and volunteered to chauffeur the couple in his Rolls-Royce. As Dick, Caryn, and Mark drove down the eucalyptus lined roadway leading to St. Vincent's chapel north of town, it was like taking a journey into the past. The musty interior of the chapel, the stained glass windows, and the Spanish courtyard gave the wedding a medieval air. Shortly before the wedding Richards had decided to give up the electric car business (he hadn't produced or sold one car) and get into something solid. One of the ushers at the wedding was Craig Andrews, his longtime friend, who was in the remodeling business. Later the two men formed a partnership called Engineering Constructors.

Andrews and Richards had gone to high school together and Craig had always respected Mark's artistic talents, he was the most imaginative, creative person Andrews had ever met. But Craig had never been in business with him, and that was another matter. Richards was to be the salesman and drum up business. Unfortunately, as a salesman he would promise customers the moon—promises the two could never hope to fulfill. Instead of concentrating on one job and doing it well, Richards insisted on doing several jobs simultaneously, and he hired unskilled teenagers to fill in the gaps. He also kept the account books, and Andrews soon discovered that their bills weren't being paid. In addition, Richards was constantly daydreaming about his novel, *Imperial Marin*. Within six months, Andrew says, his healthy remodeling business became a nightmare.

Andrews remembers going up to Richards's favorite spot, by the old concrete gun emplacements overlooking the Golden Gate Bridge. "It would be nice if this were under my control," Richards said, spreading his hand across the landscape and the Golden Gate Bridge. "We would be impenetrable." Then Richards told Andrews how one could destroy a suspension bridge. Knock out one support, and the whole thing goes. If you cut the Golden Gate Bridge to the south, the Richmond-San Rafael Bridge to the east, the bridge across the Petaluma River to the north, and block off Highway 1, Richards said, you could isolate Marin and establish an empire.

(continued on page 112)

Richard D. Reynolds is an Oakland writer. This is his first story for California Magazine.

PENDRAGON

(Continued from page 54)

Marin was independent the rest of Northern California would follow. Finally, they would threaten to cut off water supplies to the south, and Southern California would "capitulate."

As the recession deepened Richards spoke about his fears that President Reagan would lead the United States into a war. Now was the time to get an organization going, he said, and stockpile supplies. Andrews never took these notions seriously. He could never tell what was real with Richards and what was imaginary. Richards hungered for publicity, and one day he told Andrews how he and Dick Baldwin were manufacturing climbing apparatus for "Spider Dan" Goodwin, the famous climber of skyscrapers. Andrews learned that the story was true, except that Baldwin had done all the work.

By October 1981 Engineering-Constructors was in bad financial straits. A neck injury forced Andrews to leave the partnership, and he moved to Tennessee. Richards promised to send him a check to cover his share of one of their business transactions. The check took six months to arrive, and when it did it bounced.

If Richards was broke, one wouldn't have guessed it from his lifestyle. His parents lent him the down payment for the house on Butterfield Road. He owned two Porsches, an expensive Jensen Interceptor, and a pickup truck. He had several remodeling jobs going at once and boasted to friends that he was making $1,000 a week. When he was introduced to the Corte Madera Lions Club, he wowed Allison Gibbs, the chapter's president.

In Gibbs's opinion Richards typified the "We serve" motto and spirit of the club. He was self-reliant, gracious, well educated, moral. He believed in helping youth, giving them a chance. Referring to the teenagers who worked for him, Richards was quick to admit that some of them had problems and were inexperienced, but, he said, they were fast learners.

Gibbs found Richards's attitude toward youth admirable. In early 1982 the Lions Club came through with $5,000 to remodel a kitchen at the Blind Adult Center at the First United Methodist Church of San Rafael. Richards landed the contract and told Willie Robles, his twenty-year-old foreman, to hire more teenagers.

CROSSY HOOVER was a loser from the start. He couldn't read, he couldn't express himself, he was always in trouble. He smoked pot, in his own words, "like a mad dog," and was arrested three times during the last eight months of 1981, once for assaulting his girlfriend. All the charges were later dropped, but Hoover remained miserable. Be accepted?" he would scream.

He had been abandoned by his father and had lived with his mother in San Francisco's Mission District. Memories of the city sent shivers up his spine. He had been a white boy in a world of black and Chicano teenage gangs. In San Francisco he had run for his life.

Life at the Crossroads wasn't much better, but at least he was back in Marin with his white friends. All the kids knew one another there—Toddy Bear, Pete, Andrew, Willie, Crossy. They were like a big family that didn't need grown-ups.

When Hoover's mother began complaining about the long commute to her job in San Francisco and told him that they were moving back to the city, he simply picked up the few things he had, walked across the housing project to 32 Los Padres Circle, and asked Pete Neal and Jack Thomas whether he could move in. He knew that Jack, a kind, soft-spoken man, would offer him sanctuary.

Hoover was right. Thomas took him in, and his mother returned to San Francisco without him. But he regarded his stay as temporary. He hated sponging off Jack, he said. More than anything else he wanted a job so he could move into his own apartment.

A short time later Willie Robles knocked on the door of the apartment and asked Hoover whether he wanted a job with Mark Richards. Hoover jumped at the chance. He dropped out of school and was soon working as much as twelve hours a day for Richards as a laborer. It was the happiest he had ever been, and soon he was coming home to Thomas with stories about "megabucks."

Mark Richards was the strangest guy Hoover had ever met. Almost every Tuesday night, after his wife left the house to visit her sister, Richards held secret meetings with his crew of teenagers to discuss politics and plans for a fantasy empire. Most of Hoover's friends already knew about Pendragon. They, too, had been recruited by Robles, who was an enthusiastic acolyte. Robles warned them to keep quiet about the organization or else the "warlord" would make sure they were "extinct."

One night, according to the teenagers, Richards spread an aerial map of Marin on the coffee table and pointed to the abandoned bunkers above the Golden Gate Bridge. The gun emplacements had been dismantled after World War II, he said, but he had been talking to the county about restoring them and converting them into a tourist attraction.

"They're biting it," he said, laughing.

After the army had been persuaded to reinstall the twelve-inch guns, he planned to switch the dummy shells with live ones, and before the county knew what was happening he and his army of 200 crack troops would have control of a fortress overlooking

Later Richards and the teenagers held a meeting at the bunkers. The bunker system is a monument to military obsolescence, but in Richards's imagination the crumbling brick and concrete pillboxes were like medieval fortresses. From here, he told the teens, they could lob shells into San Francisco's Financial District. To the northeast was another target: the Chevron USA refinery in Richmond. On their left was Angel Island, where they could see the old Nike missile bases. Richards took the boys to the island one day to reconnoiter its defense possibilities. Later, he made Willie Robles "earl" and Crossy Hoover "duke" of Angel Island.

"What about the other people in Marin? What are they going to do after the revolution?" a teen asked during one of the meetings. Richards said they would be given the choice of joining Imperial Marin or leaving. "You see," he explained, using his personal interpretation of local history, "the farmers in Marin and Sonoma never ratified the peace treaty that made California a state, so it's not treason. Marinites have the right to secede from the United States if they want to." If they could hold out for just 48 hours, France would recognize Imperial Marin and send in planeloads of food and supplies.

In April 1982 Richards started printing the *Pendragon* newsletter and handing it out at the meetings. It bore the symbol of the Red Dragon, or *Y Ddraig Goch*, lifted from the Welsh flag. As a symbol for his ideal community Richards chose the ancient Celtic triskelion, represented by three legs radiating in a circle and joined at the thigh. The triskelion is still used on the banner of the Isle of Man.

"*Pendragon* is the monthly newsletter of the Triskelion," the first issue began, "a community of people on the West Coast of North America who are building a new, more human society to live in. . . . The rest of the world will soon be a mass of freeways and parking lots . . . all we want are a few lovely castles and towers dotting the woods on our land in the middle of nowhere." Inside the newsletter Richards included articles about lasers, facts about the recession, maps showing high-risk areas in the event of a nuclear attack, quotes from T.S. Eliot—pretty intellectual stuff for the teenagers from Novato, three of whom suffered from dyslexia. Hoover's reading level was somewhere around the third grade. One of them couldn't even pronounce "Pendragon."

War games were planned, and Richards told his recruits of his fantasy that George Lucas was building the lasers they were going to place on top of Mount Tamalpais. He said he had met the reclusive filmmaker at a studio during the filming of *Star Trek*, and to back up his story he pointed to the autographed picture hanging on his wall. One day he handed Robles $1,000 and

of Pendragon [illegible]

[illegible]ds told the teenagers that if they [illegible] on the ground floor of the revolution, [illegible]d all be rich. He announced an "im[illegible]al ball" to be held at the San Francisco Theological Seminary on the Fourth of July, at which the teenagers would meet the "money men" behind Pendragon. It was going to be a night of investiture, and loyal followers would be awarded rank and title to fiefdoms in Marin County. Hoover came home singing to Jack Thomas, "We got megabucks. We're gonna make megabucks. We got tanks. Lasers. Guns."

Robles noticed the changes in Mark Richards in May. He began to bend under financial pressures. The bank was threatening to foreclose on his house. Craig Andrews kept calling long distance from Tennessee, furious about the bounced check. At one point Richards went to a job site and pretended that he had just talked to Lucas. "There's going to be a new projection," he said, referring to the collapse of the U.S. economy. "It's going to come down within two and a half years."

Meanwhile Richards and Dick Baldwin had decided to share garage space on Front Street, and Richards was even talking about going in with him on the Stutz Bearcat project. Richards was going to build a garage extension at Baldwin's home, where they could manufacture the parts. Only Richards, as usual, exaggerated his participation. One day Baldwin overheard Richards bragging to people that *he*—Mark Richards—was building a Stutz Bearcat, hinting that it was *his* project, not Baldwin's. Later Baldwin told a friend that Richards's hunger for success made him uneasy.

Richards, too, became discontented with his new partner. He started telling the teenagers who worked for him that Baldwin owed him money. Baldwin owned twenty cars, he said, and was known as a miser who hated banks. He probably had a mattress stuffed with money, and yet, Richards allowed, Baldwin owed him $3,000 for materials on the garage and refused to pay. According to Hoover, Richards was "fed up with the f—ing dude."

According to Willie Robles's testimony, it was in this atmosphere that Richards approached him and asked him to help murder Dick Baldwin. At first Robles figured it was another Mark Richards fantasy, but two weeks later he asked again. He also approached Pete Neal and offered him $1,000 and a dune buggy, according to Neal's affidavit. Robles and Neal compared notes and decided things were definitely getting too weird. Pendragon was fun, but now Richards was talking about murder. When Robles told him that he was going to join the navy Richards was furious and allegedly threatened that "higher-ups" would kill Robles rather than let him escape with his knowledge of the organization.

[illegible]dragon, quit his job at Schoenfeld, [illegible] of the back of Richards's house, [illegible] the navy. Robles grabbed Hoover and took him down to the recruiter. They would join the navy together, he said. Unfortunately, there was an entrance examination. Robles passed, Hoover flunked.

"What's the matter?" Keith Andrews asked Richards after Robles's departure. "You gave him a job, and he split overnight without notice. So he's an asshole. Why get so upset? Has he got something on you?"

"Yeah, well," Mark said, snapping out of it. "I don't think he can do anything about it."

Twenty-year-old Andrews didn't know about Pendragon or the changes in his childhood friend, who had given him a summer job. As far as Keith knew, this was the same old Mark he had known for some fifteen years, his brother Craig's former business partner.

Riding with Richards from the Butterfield house to the Lions Club project at the church one day, Andrews noticed a blueprint of a laser and some other drawings in the backseat.

"What are these?" he asked.

"Pictures for my book. That's a laser on Mount Tamalpais," Richards said.

Andrews looked at the carefully drawn illustration. It was excellent, he thought. There was also a drawing of a knight mounted on a mechanical horse. Richards said he had been working on a science fiction novel called *Imperial Marin*, about Marin County being taken over and run as a medieval kingdom.

"I've got this cult following," he elaborated later at his house. "People have been reading my story out loud at these meetings. Important people. They like my ideas. It's been sold, you know."

Andrews hadn't heard anything about this, and little did he suspect that the "important people" Richards was talking about were semiliterate teenagers.

"It's already out in Los Angeles, and it'll be released in Northern California soon," Richards told Andrews. "That's how I bought my house—with an advance on the royalties from the publisher."

"That is great news," Andrews said.

But Richards seemed depressed, withdrawn. Andrews tried to cheer him up. "Hey, look," he said, "don't worry about it. Now that your book has been published, George Lucas will be knocking on your door wanting to make a movie out of it, and you'll be a millionaire."

"Yeah," Richards said dreamily.

Andrews forgot about this conversation until after work the next day. He was drinking a Moosehead beer in the kitchen of his parents' house and talking to his mother, who had returned from lunch with Richards's mother.

"Isn't it great?" Mrs. Andrews said, spilling out the gossip from across the street. "Mark has been approached by

Hoover hopped into the shower. "Kill him, kill him," he said. "Got to kill him!" Thomas shrugged it off. He thought Hoover was singing the lyrics of some new punk rock song.

George Lucas about making his book into a movie."

WHILE KEITH Andrews adjusted to his new summer job, Mark Richards was training Hoover for murder—at least that's what Hoover later told a psychiatrist. He said he was "shocked for a minute" when Richards first approached him about it, but then he was offered $5,000 and a car. "Murder didn't bother me if money was involved—I could do it all day," Hoover admitted.

He had met Dick Baldwin only once before, but in the weeks before the murder Richards allegedly directed Hoover's inner hatred toward Baldwin. Under police questioning, Hoover said that Richards built the man into the personification of evil. Baldwin was still unmarried, therefore he was a homosexual, possibly a child molester. He belonged to a social club called E Clampus Vitus, which preached self-reliance—clearly a sign of Nazi tendencies. To practice, Hoover smashed cement blocks with a sledgehammer while Richards stood on the sidelines, encouraging him to think of all the things he h

As the day of the murder approached, Hoover's friend Andrew Campbell joined the conspiracy. Like Hoover, Campbell had been in and out of trouble; he had been a suspect in an arson investigation. According to Campbell's testimony, Richards offered him $2,000 to act as a lookout while Richards and Hoover lured Baldwin to the garage on Front Street and murdered him. Afterward, the three planned to clean the victim out of everything he had. They would steal his cars, sell his house, and pump the money into Imperial Marin, Campbell said.

Richards originally set the Fourth of July for the murder, Campbell said, since the cops would be kept busy chasing drunks and kids with firecrackers. Then the murder was delayed so it would coincide with the total lunar eclipse on July 6 at 2:30 A.M. If this was the plan, it was ruined when Dick Baldwin decided to watch the eclipse with a friend in Petaluma.

Baldwin lived on Venetia Meadow Road, an enclave of ramshackle, do-it-yourself houses just east of the Marin County Civic Center. An old friend of his, Tom Mills, was at the house when Richards and the two teenagers arrived around noon on July 6. Mills remembers that Richards didn't look dressed for pouring concrete, which was the reason he gave for being there. But Mills had to return to work in Sausalito, so he said goodbye to Baldwin and left. That was the last time he saw his friend alive.

After Mills drove off, Richards surveyed the work that needed to be done on the garage. According to Campbell, Richards then probed Baldwin about his plans for the week. Was he supposed to meet anyone? No, not that he could recall. Campbell later testified that Richards "calmed Dick down like a chicken before you break its neck." They joked openly about how this would be Baldwin's last day on earth, but Baldwin didn't catch on. Taking something out of the oven, he turned to his guests. "Anybody like any cookies?"

As planned, Richards brought up the subject of cars. Hoover had supposedly saved up $500 and wanted to buy one of the clunkers Baldwin had at his shop. Baldwin, who loved to bargain, agreed to let Hoover look them over, and they got into their cars. Campbell remained behind with the excuse of working on the roof. Hoover remembered thinking, as they drove into San Rafael, "Oh no, I'll never see my mother. I'll never see anybody ever again."

FRANK HUBINSKY HATES to be disturbed. Although his memory is a little hazy on dates, he thinks it was the afternoon of July 6, as he was working in his front office, that a pickup pulled into the courtyard. A moment later Dick Baldwin drove up in his orange Datsun station wagon. Hubinsky glanced at the people

benefit. He had decided that he definitely didn't care for his right-wing neighbor, and had "tuned Dick out."

What happened inside the garage at 36 Front Street is what the case is all about. In his confession, Hoover said he found a baseball bat in the corner of the garage and moved up behind Baldwin. As Hoover waited for Richards's signal he thought he was going to be sick. He didn't want to do this. It was the money that made him wild, he later explained. Richards flicked his hair, and Hoover slammed the bat into the left side of Baldwin's head. The skull fracture was enough to have killed Baldwin, the coroner said later. But when Baldwin hit the garage floor his heart was still beating. According to Hoover, the body was flailing and "jiggling around." Richards screamed, "Finish him off! Finish him off!" and handed Hoover a screwdriver and a knife.

"I hit him the first time," Hoover said. "I stepped back ten feet. I came back in and hit him about three times. I stepped back again. His hand went up his back like he was going to get a gun . . . so I stepped on his hand and pulled his arms apart. . . . I slammed the f—ing screwdriver through. I put a knife up there. . . . I stepped on the knife. The knife crumbled into a billion pieces. I grabbed another regular screwdriver. I stuck it through the side of his head and turned it around like a blender."

In the office next door Hubinsky looked up from his books. He had heard a loud "thud," as though someone had fallen over, and then he heard someone swearing loudly. An unsettled feeling came over him. He turned his radio off and listened. Then he got up from his desk and went to the rear of his shop. He put his ear to the wall that separated his unit from Baldwin's. For a full minute he listened to muffled voices that he couldn't make out. He walked to the front of the building and looked over at Baldwin's shop. The door was down as it usually was when Baldwin had visitors and didn't want to be bothered. For a moment Hubinsky thought he'd better call the police. He stood in the afternoon light and tried to think what to do. If it had been anyone else, he would have banged on the door and investigated. But Baldwin was a private, paranoid person. He would freak out if Hubinsky knocked on his door. So Hubinsky walked back to his office and returned to his paperwork.

Inside the shop Baldwin's blood spilled onto the concrete floor. It was over. Hoover dragged the body over to the Rolls-Royce where they concealed it, and then he sprinkled sawdust over the pool of blood.

"Well?" Campbell asked when Hoover and Richards returned to Baldwin's house.

"Yes, it's done," they told him. "It was bloody and gross. Now let's get the stuff out."

Campbell led them through the house which he had searched after they left. He showed them the locked closet he ha

[illegible] as proof it [illegible] Campbell said. Inside the [illegible] garbage bag of homegrown mari[illegible] and some guns and ammo. As they [illegible] the safe onto Richards's pickup [illegible], Campbell cracked a joke. "Man," he said, "I wish we'd found some money in that house." Then he pulled from his pocket $1,750 in cash he had found in a drawer.

Richards took the money. He said they would need it to buy a boat to dispose of the body. They dropped the safe off at his house. In the newspaper want ads they found a sixteen-foot Dorsett cabin cruiser listed for sale by a Mill Valley resident, Bernard Healey. They drove over to his house to look at the boat. A man who identified himself as Richards did all the talking. He told Healey that they were crazy about night fishing and needed the boat that evening. He showed Healey some identification, and a deal was made. He gave Healey a partial payment and signed a note to pay the remainder in installments. Healey helped Richards hitch the boat trailer to his pickup, and the trio drove off into the night.

They drove east on Pt. San Pedro Road to the Loch Lomond Marina boat launch, where they met a lanky security guard who told them the place was closed. But when they pointed to the open launching ramp, he said, "Yeah, well, they charge $3," and told them to slip the money under the door of the office. As Hoover did so the security guard went to use the bathroom in his office and accidentally locked his keys inside. He was still trying to get the door open as the three launched the boat, tied it up, and drove back to Baldwin's garage to pick up the body.

Campbell said later that Hoover was "screaming" and "freaked out" and had to be calmed down as he dragged the body out from behind the Rolls-Royce. Campbell helped him wrap the body in plastic as Richards collected weights in a plastic milk crate. They hastily cleaned up the blood and lifted the body into the back of the truck.

They returned to Loch Lomond and drove past the security guard, who was asleep in the backseat of his car. The sound of the pickup waked him, and he got out and approached the truck. It was a tense moment since Baldwin's body was in the back with Hoover, and they all had guns. But the guard recognized them and waved them through. They loaded the body onto the boat and shoved off. As the cabin cruiser churned into the open waters of San Francisco Bay, their spirits lifted. But suddenly, a few hundred yards out, the engine stalled. Richards worked on it frantically and, after tapping on the gas line, got it started again. The boat moved out another 50 yards, and then sputtered to a stop. This time they couldn't get it going, and they were stuck, bobbing in the waves, for the next two hours.

They decided to dispose of the evidence [illegible] "boots" into the Bay and then dumped the body overboard. But the milk crate anchor proved too much for the rope attaching it to the body. The rope snapped, the weights sank to the bottom, and the corpse floated to the surface.

In a panic they tried poking it with an oar, but the body would not sink. The engine still wouldn't start, and they were rapidly drifting toward shore with the tide. According to Hoover, his accomplices were too "f—ing chicken" to touch the body so he reached down and grabbed it while they tied an extra outboard motor to it. They dropped the engine into the water, and the body sank. But the water was only twelve feet deep in the channel, and with a little imagination you could almost see the plastic-covered corpse floating like a ghost just below the surface.

CROSSY WAS GOOD about coming home at night, Jack Thomas remembered. He had never been out all night without calling, so when he didn't show up the night of July 6 Thomas was worried. In the morning Hoover telephoned and apologized. He had gone fishing, he said, but the boat had broken down and they had had to paddle to shore with their hands. He apologized again, and Thomas felt better. Crossy was thoughtful that way.

When Hoover got home, he stuffed bloodstained clothes in the bottom drawer of his dresser and hopped into the shower. He had a habit of talking to himself out loud, and Thomas could hear him saying, "Kill him. Kill him!"

Now he was uttering, "Got to kill him!"

Thomas shrugged it off. He thought Crossy was singing the lyrics of some new punk rock song.

Later, Richards and Campbell went shopping with the victim's charge cards, choosing a place that had a reputation for easy credit. "Everybody's been harping at me to buy something, so I might as well buy it all at one time," Richards told Raul Artega, a salesclerk at Matthew's TV & Stereo in Daly City.

Artega followed Richards around the store as he selected TV, stereo, and video equipment he wanted put aside. The salesclerk totaled the bill—it came to $10,035.50. Richards said he'd be back to pick up the merchandise after the credit application cleared. According to Artega's testimony, Richards signed the application with Dick Baldwin's name.

Hoover was left behind at the Lions Club project with Keith Andrews and another young employee, twenty-year-old Gary Ables, and he was getting mad. Since the murder, Richard's house had been filling up with "goodies," but where was his share? That's what he wanted to know. Where was his $5,000? He had gone on a cocaine binge

help him "forget all [illegible] things" [illegible] it hadn't worked. He be[illegible] telling people how he had hammered a man with a baseball bat and pushed a screwdriver into his head and "stirred it around." The guy he killed was a pervert, he told a sixteen-year-old girl who lived at the Crossroads. He showed his roommate Pete Neal the pistols he had taken. He asked him to stash the garbage bag of marijuana in the attic and to try to sell it.

WHEN KEITH Andrews's paycheck for $110 bounced on July 7, the day after the murder, he went over to Richards's house, handed it to him, and told him not to worry about it. "Hey, you don't have to pay me," he said. "I know you've got money problems right now. I'm not upset. Let it slide."

While talking to Richards he caught a glimpse of a safe in the garage. A few days later the safe was cracked open, and he noticed other things that seemed odd. If Richards was so broke, where had he got the money to buy all these new things Andrews saw in the house—like the new Wards videotape cassette player. And what about the cabin cruiser sitting in his driveway? Mark's wife, Caryn, dangled a gold bear necklace in front of him and said, "See what Mark got me?" Richards explained that the goods had been given to him by clients in lieu of cash, but Andrews wasn't totally convinced. Caryn was so trusting, he thought, she wasn't the type to question Mark about the source of money for all these things. She was still living in the champagne and candlelight world that Mark had set aside for her so that she would stay innocent all her life. Mark Richards, the world traveler, hadn't taken Caryn anywhere.

About the same time, the U.S. Coast Guard informed authorities it had recovered a body. Keith Andrews and Gary Ables were getting off work at the Lions Club project in San Rafael. They had been working for Richards for less than three weeks, and they barely knew each other. Nonetheless, Ables cleared his throat and told Andrews he should hear the story Hoover had told him the day before. Hoover and Campbell had ripped off credit cards and a safe from someone's house, and Hoover said he had murdered the owner with a baseball bat. They had dumped the body into the Bay using the boat that was sitting in Richards's driveway.

Andrews was shocked. "Wow, that's heavy. Real heavy."

Then he shook himself and came back angrily, "That's a bunch of garbage."

"Yeah, that's what I thought," Ables said.

But the question surfaced again as they continued down Butterfield Road. The more Keith thought about it, the more everything fit. The two [illegible] looked at each other and said, almost simultaneously, "What if it is real?" That sent shivers up their spines.

"Whether it's true or not, I don't want to be around," Ables said. "Today's my last day."

When Ables failed to show up for work the following morning, Andrews was worried. When he asked what happened to Gary, Richards's vague reply set him on edge. After work Andrews went over to a friend's house, and they talked over the situation. His friend was several years older than he and worked as a bus driver. He told Andrews that he had a moral and legal obligation to report what he knew to the police. Andrews took his advice and made an anonymous telephone call to the Marin County Sheriff's Department. He spoke to Rich Keaton.

THERE WAS A KNOCK at the door of the interview room, and Mrs. Hoover was ushered in. She looked worn-out, used up, as though she was carrying around a deadness in her soul. Kosta informed her that Hoover had just confessed to murder. She sighed and asked her son why he hadn't waited and talked to a lawyer first.

"I don't need nobody else. I'm my own lawyer," he replied. "Why do I have to have the legal advice? I'm telling the truth, Ma. I'm not going to stink my way out of this."

His mother sat down, stunned, as Crossy began retelling his story to her. His confession became intense and emotional. For the first time, he cried.

"Love is what I wanted. That's why I wanted the money. . . I wanted love. . . . It is unbelievable. I wanted everything. . . . I wanted to make it for myself, like everybody else does."

Mrs. Hoover took her son's hand.

"You were making it. You were so happy two weeks ago," she said.

"Yeah, but then when the money came . . . I snapped. . . . Remember you guys thought I was nuts when I told you about Marin County is going to go into one of these f—ing Helter Skelter things. Nobody would listen to me."

"He knew him, Mom," Crossy added, pointing to sergeant Kosta.

"The victim was a personal friend," Kosta told Mrs. Hoover.

Mrs. Hoover heaved a sigh. "It's almost like I'm in a f—ing nightmare."

"He's still lying like hell to us," Ted Lindquist said, referring to Mark Richards in the next room.

Mrs. Hoover was putting the picture together. "So while you two were doing all this little dirty work he [Richards] was standing there, watching?"

"He was watching the whole time, handing me the screwdriver, handing me the knives."

"Just standing there, instructing you."

"Instructing . . . the instructor, as Andrew calls him—coach."

Kosta figured he had heard enough. He turned off the tape recorder. He and Lindquist stepped outside so Mrs. Hoover could be alone with her son.

The sergeant could tell when someone was lying or laying it out. Hoover was laying it out, saying he did it all. Kosta had told Crossy a little white lie. Dick Baldwin had not been a friend of his. They had met once, briefly. But Kosta wanted to impress upon the teenager that he hadn't just smashed a "thing." He had murdered a real person who was going to be missed.

As this story goes to press, the trials of Mark Richards and Crossy Hoover are scheduled to begin on January 17. Andrew Campbell has been released, and, in return for his testimony, all charges against him have been dropped. Hoover, through his public defender, Ed Torrico, has entered a double plea of not guilty and not guilty by reason of insanity. Torrico intends to challenge the admissibility of Hoover's confession, which he claims was taken in violation of Hoover's Miranda Rights.

Mark Richards is charged with murder and murder in the commission of a robbery. If convicted of the latter charge, he could be sentenced to death. His attorney, Carl Shapiro, the lawyer who successfully defended him in his insurance fraud case, is an unconventional man with long silver hair and is a brilliant legalist. In the early 1960s, when he lost an appeal and a client went to the gas chamber, he swore he would never plead a capital case. But he and Richards have become friends over the years, and he is convinced that his client is innocent. He is expected to dwell on inconsistencies in testimony regarding the time of the murder and to argue that Richards lacked a motive. Pendragon was merely a novel that Mark was writing, Shapiro says, and he was using the teenagers as a sounding board. He never intended to take over Marin County or to place lasers on top of Mount Tamalpais. He was misinterpreted by the youths who committed the crime and who were trying to blame Mark Richards.

Maybe so, but Kosta doubts it. Pendragon was a fantasy to conceal the truth. The motive was financial gain.

"It doesn't matter what the motive was," Ted Lindquist says. "You can speculate from now till doomsday. What counts is that Mark Richards did it, and we can prove it."

Speculation will get you nowhere. Every detective knows that. Find the facts. Document the crime. Let the DA put it together, and let the jury decide. Pendragon might not even come up at the trial. But even a good detective like Kosta can't help but speculate about a man like Mark Richards. "Science fiction came and got him and took him away," he says.

Kosta knew that the moment he walked into the man's house and saw his den.

EXHIBITS A1 THROUGH A21

marin news
Independent Journal

Wednesday, April 4, 1984

Pendragon slaying case goes to jury

By Erik Ingram
Of the IJ staff

A Marin jury today began deliberating the guilt or innocence of Pendragon murder defendant Mark Richards, a 31-year-old San Anselmo contractor accused of masterminding the brutal slaying of a friend.

Closing arguments in the case, which ran 28 court days, ended Tuesday with Deputy District Attorney Edward Berberian saying the evidence warrants a first-degree murder verdict.

If the jury returns that verdict, coupled with a finding that the slaying occurred as part of a plan to burglarize the victim's home and auto restoration shop, the panel will be asked to decide Richards' sentence.

The penalty the jury would be asked to decide is whether Richards should be sentenced to life with the possibility of parole or life without that possibility.

Richards and two teen-age employees of his contracting firm were arrested July 16, 1982, on suspicion of murdering Richard Baldwin.

Baldwin's bludgeoned and stabbed body was found floating in San Pablo Bay a few days earlier.

Investigation showed that he was murdered on July 6, 1982, in his auto shop in the Canal area of San Rafael, Berberian said.

The motive, the prosecutor told the jury, was to rob Baldwin of his possessions and use the proceeds to bail out Richards' financially troubled contracting business.

He manipulated the two teen-agers — Crossan Hoover Jr. and Andrew Campbell, both 17 at the time — into participating in the crime with a bizarre tale of a plan to take over Marin, Berberian said.

Campbell, who said he only took part in disposing of the body, later was granted immunity and was the prosecution's key witness against Richards.

Hoover, who has pleaded not guilty by reason of insanity, confessed to actually killing Baldwin on a prearranged signal from Richards. Hoover will be tried separately.

During the trial, Berberian introduced more than 400 exhibits that he believes link Richards with the murder of a man who was a member of Richards' wedding party a few years earlier.

Many of those exhibits dealt with Pendragon, a group headed by Richards, according to Berberian. Those documents indicate a plan for the armed takeover of Marin.

Whether it was fact or fantasy, Berberian told the jury, doesn't really matter. The importance of the Pendragon tale was the way Richards used it to manipulate the youths, primarily Hoover, into taking part in the murder.

Hoover believed the plot was true, Berberian said, and believed he would be paid $5,000, given a car, and made a duke in the Marin kingdom of the future if he followed Richards' orders.

Defense attorney Carl Shapiro countered that the Pendragon documents were part of his client's research for a science-fiction novel.

The weekly Pendragon meetings at Richards' home on Butterfield Road were merely a game of dungeons and dragons with Richards being King Arthur, Shapiro said.

But the teen-agers involved didn't understand that, he added, and turned it into a game of cop and robbers.

His client was set up by Hoover and Campbell, who actually did the killing, Shapiro said, admitting, however, that his client later helped to coverup the murder.

Shapiro also admitted that his client went on a spending spree with Baldwin's checks and credit cards.

But that doesn't prove murder, added.

In his day-long rebuttal argument, Berberian accused Shapiro of "at a minimum, oversimplifying the evidence" against his client.

He noted at one point that Richards, during a Pendragon meeting, distributed literature on how to make homemade submachine guns.

"So this was King Arthur and the boys playing knights of the roundtable," Berberian said. "This was just fun and games."

Evidence of Richards' financial troubles was introduced to show a motive, Berberian added.

"Why would he kill a friend? Why? His financial troubles explain that why," the prosecutor said.

2 San Francisco Chronicle ★★★★ Tues., April 10, 1984

Pendragon Fantasy Leader Found Guilty of Marin Murder

By Jack Viets

Mark Richards, the creator of the bizarre Pendragon fantasy about an armed takeover of Marin, was found guilty yesterday of first-degree murder for the savage slaying of a classic-car restorer.

He shook his head in anguished shock as the jury's verdict was read.

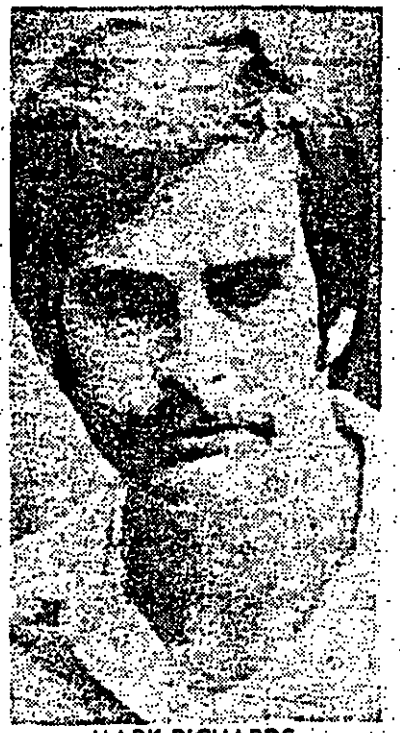
The jury — which had deliberated four days — also found the Marin contractor guilty of two counts of burglary for looting the shop and home of the victim, Richard Baldwin, 38, of San Rafael.

When Richards was ordered to jail after the jury's verdict, his mother, Lois, angrily threatened a newspaper reporter as she stalked out of the the courtroom.

"You're the one I'm going to get," she snapped to Independent Journal reporter Eric Ingram. "You're the one who hung him (her son)."

The beaten body of Baldwin, wrapped in a plastic shroud and weighted by an outboard motor, was found floating near the Sisters Islands in July 1982 by a tugboat skipper.

During the two-month trial, prosecutor Edward Berberian introduced a courtroom full of evidence that linked Richards to the murder of Baldwin, a man Richards described to police as "my friend."



MARK RICHARDS
He shook his head in shock

Although Richards "did not dirty his hands, did not inflict the fatal blow," he was responsible for the murder, the prosecutor said.

The evidence he brought before the jury was designed to show that Richards manipulated his young workers with the Pendragon fantasy, and brainwashed Crossan Hoover Jr., then 17, so that on a signal from Richards, he crushed Baldwin's skull with a baseball bat in his shop, and then shoved a chisel and screwdriver into his chest.

The Pendragon fantasy called for the takeover of Marin by a paramilitary force of young men, who would be aided by a death laser Richards said would be installed atop Mount Tamalpais.

The evidence indicated that Richards, whose contracting business was failing, then went on a spending spree with the dead man's checkbook and credit cards.

Young witnesses — members of Richards' mysterious Pendragon group — testified that Richards offered Hoover $2000 and a car if he followed Richards' orders to get rid of Baldwin.

Hoover was also promised he would be made a duke in the Marin of the future.

Hoover, who will be tried separately, confessed to killing Baldwin on Richards' command. He has pleaded not guilty by reason of insanity.

The jury will return to the courtroom April 12 to determine the "special circumstances" penalty of the case.

Jurors will be asked to decide whether Richards should be sentenced to life without possibility of parole or given a life sentence with chance of parole.

EXHIBIT "A"

A2 Tuesday, April 10, 1984 Independent Journal

Pendragon trial

Guilty verdict; judge calls it ruthless killing

By Erik Ingram
Of the IJ staff

A 31-year-old San Anselmo contractor faces life in prison following his conviction for what a Marin judge called a "ruthless killing" linked to a bizarre fantasy called Pendragon.

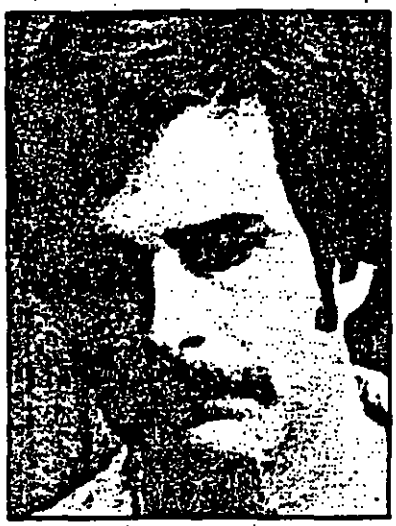
Mark Richards was convicted Monday of the brutal slaying of a friend who had been an usher at his wedding party.

Richards slowly shook his head in disbelief as Superior Court Judge E. Warren McGuire read the first-degree murder verdict.

Richards, who authorities said had a fantasy involving an armed take-over of Marin with him serving as a benevolent King Arthur, also was convicted of burglarizing the home and auto restoration shop of Richard Baldwin, the victim.

Richards displayed little emotion until McGuire revoked his $250,000 bail and ordered him held in jail without bail.

"He obviously poses a threat to the community," McGuire said in revoking bail. "It was a planned, deliberate, ruthless killing...for financial gain."



Mark Richards
Became ill after verdict

Richards' mother, Lois, a long-

See Pendragon, page A9

Pendragon

From page A1

time San Anselmo resident, sobbed quietly as the verdict was read.

Her anguish turned to anger as the court recessed, and as she left the courtroom she threatened a newspaper reporter and kicked the camera case of a freelance writer who had followed the case.

"You're the one I'm going to get," she said, shaking her finger at an Independent Journal reporter. "You're the one who hung him (her son)."

It was unclear what she meant. The comment may have been a reference to reporting on the case.

Moments later, as a bailiff was preparing to take him to jail, Richards sagged back against a courtroom table as his knees buckled slightly. His eyes appeared glassy.

Once in the jail, he became pale and began sweating profusely, jailers said.

Richards was rushed to Marin General Hospital, where he told medical personnel that he had taken three pills. He declined to say what kind of pills.

His stomach was emptied and the contents will be analyzed, Lt. William Donovan, the jail commander, said today.

Sgt. Dan Payne, another jail officer, said Richards ate breakfast today.

The jury deliberated four days before reaching its verdict.

During the two month trial, Deputy District Attorney Edward Berberian presented a mountain of evidence linking Richards to the July 6, 1982 murder of Baldwin.

Baldwin's body was found floating in San Pablo Bay a week later. His skull had been crushed with a baseball bat and he had been stabbed in the head and heart with a screwdriver.

The prosecution's key witness, Andrew Campbell, 19, testified under a grant of immunity and admitted helping dispose of the victim's body with a boat Richards had purchased for that purpose.

Campbell said the death blows were struck by another youth, Crossan Hoover Jr., also 19, who faces a separate trial.

The motive was a plan to rob Baldwin and bail out Richards' financially troubled contracting business, Campbell told the jury.

Some of the money could be used to purchase weapons for Pendragon, he quoted Richards as saying.

Richards offered both youths money in return for their roles in the slaying, he said.

He also described a spending spree cards and checkbook.

Hoover has admitted killing Baldwin but said he did it at Richards' command. Hoover has pleaded not guilt by reason of insanity.

Richards created the fictitious cult of Pendragon, a paramilitary force that would take over Marin County, aided by a "death laser" atop a nearby mountain, prosecutors said.

Authorities said Richards manipulated young men who worked for his contracting business into believing his fantasy. Some former followers testified that a group of about 10 young men met weekly at Richards' San Anselmo home to plot their new kingdom, which was to be known as Imperial Marin.

Richards "talked about setting up an alternative government. These young men believed what he told them," Berberian told jurors.

Defense attorney Carl Shapiro called the Pendragon story "nonsense" during the trial and argued that his client was the victim of a concocted story.

The jury will return to the courtroom Thursday to decide whether Richards should serve life in prison without the possibility of parole.

Normally, first-degree murder carries a sentence of 25 years to life with parole possible after about 18 years.

Pendragon witness tells of marina scene

By Erik Ingram
Of the IJ staff

A former security guard at the Loch Lomond Marina told the jury in the Pendragon murder case Thursday that he observed a man and two boys launching a boat late on the night of July 6, 1982.

The testimony of Sam Paul was offered by the prosecution to support its theory that defendant Mark Richards and two teen-agers murdered Richard Baldwin that day and then dumped his body in the bay.

Paul, who said he encountered the trio twice that night, could not positively identify Richards as the adult in the group.

However, he told the jury, the man at the marina fit Richards' general description.

He said he first saw the trio at about 10:30 p.m. and was told by the adult that they wanted to launch the boat, described by Paul as from 15 to 18 feet long.

Paul said he then took a nap in his car and was awakened by the same three people about 90 minutes later.

The adult said they had left to get something and were just returning, Paul said.

"They woke me up and told me it would be them at the boat ramp," Paul added.

He said he did not see them again but noticed their old truck still parked at the ramp as he was getting off duty at about 5:30 a.m. the next day.

Deputy District Attorney Ed Berberian maintains that the trio first launched the boat and then left to pick up Baldwin's body at the victim's auto restoration shop in San Rafael.

He has introduced evidence intended to show that Richards masterminded the murder of his friend, Baldwin, as part of a plot to rob the victim and keep Richards' troubled contracting business from going bankrupt.

Defense attorney Carl Shapiro of San Anselmo ent learned of the murder afterwards and used the victim's credit cards and checkbook. But, Shapiro maintained, his client took no part in planning or carrying out the slaying.

Shapiro claims that it was the work of two teen-aged employees of his client — Crossan Hoover Jr. and Andrew Campbell — and that Richards was set up by the youths, both 17 at the time.

Baldwin's body was found floating in San Pablo Bay on July 13, 1982 and informants tipped police investigators that Richards and the youths might be responsible.

The trio was arrested several days later and Hoover gave police a full confession.

Hoover, who has pleaded not guilty by reason of insanity, will be tried after Richards.

Campbell, who police think took part only in disposing of the body, was granted immunity from prosecution in return for his testimony against Richards.

He testified earlier that it was Hoover who did the actual killing on a prearranged signal from Richards, who allegedly lured Baldwin to his auto restoration shop, where the slaying occurred.

A Mill Valley man later testified that Richards purchased a 17-foot boat from him on July 6 and appeared in a hurry to try it out.

Richards' former wife, Caryn, testified that she was surprised to see the boat in the couple's driveway, given their financial troubles.

In other testimony Thursday, two expert witnesses — one a fingerprint authority and the other a handwriting expert — testified that it was Richards who made out several of Baldwin's checks in the days that followed the slaying.

The investigation of the murder led to documents at Richards' San Anselmo home that indicated a group called Pendragon was formed to take over Marin. Berberian thinks the Pendragon group was a tool Richards' used to manipulate the youths into taking part in the crime.

B4 Friday, March 16, 1984 Independent Journal

Tuesday, March 13, 1984

Independent Journal

Playing king of the mountain

Pendragon trial witness tells of military boast from Mount Tam

By Spencer Sias
Of the IJ staff

Mark Richards, the defendant in the Pendragon murder trial, surveyed Marin County from the top of Mount Tamalpais like a general and outlined strategy for taking military control of the county, a witness testified Monday.

Craig Andrews, a friend of the contractor, told a Marin County Superior Court jury that Richards took him to the top of the mountain to show him his plan for isolating Marin.

"We could blow up the Golden Gate Bridge down there," Craig remembers Richards saying. "And we could blow up the Richmond-San Rafael Bridge and destroy the Richmond oil refineries.

"And if we went farther north and blew up the bridge to Petaluma, Marin would be isolated," he said Richards said.

Andrews, who now lives in Tennesee, said he did not take Richards seriously.

Richards is suspected of arranging the murder of Richard Baldwin of Santa Venetia in order to get money to keep his troubled contracting business from going bankrupt.

Another witness testified earlier that Richards said if they got enough money, it could also be used to buy weapons for an army that could take over Marin.

They said Richards told them he might get as much as $50,000, by selling Baldwin's possessions, including the equipment in his San Rafael auto restoration shop and vintage cars.

Baldwin was beaten with a baseball bat and stabbed to death on July 6, 1982 at his shop. His body was found floating in the bay on July 13.

Andrew Campbell, a 19-year-old witness, told the court earlier that the murder was planned and carried out by Richards and another youth, Crossan Hoover Jr., who will stand trial separately.

Earlier on Monday, the 19th day of the trial, the court heard testimony from Richards' former wife, Caryn Cerutti.

She said that on the night of July 6, when the prosecutor believes Richards dumped Baldwin's body in the bay, her husband left the house at about 11:30 p.m. and did not return until about 3 a.m. when he fell into a deep sleep.

Cerutti told the court that Richards left the house that night with Hoover ar Andrew Campbell, saying that he had t finish a contracting job.

She also testified that she was surprised that Richards felt he had enough money to buy the boat that the prosecution believes was purchased on the day of the murder for the purpose of dumping the body in the bay.

Cerutti told the jury she was surprised to see a refrigerator full of food and to get a charm bracelet from Richards shortly after the day of the murder.

She remembered getting calls at work from lenders asking about late payments on their car loans.

Pendragon recruiting described at trial

A8 Wednesday, March 7, 1984 Independent Journal ☆

By Erik Ingram
Of the IJ staff

A former employee of murder defendant Mark Richards told a Marin jury Tuesday he was approached about joining a mysterious group called Pendragon and was then warned that he would "be eliminated" if he said anything.

The testimony by Mike Fuller, a 23-year-old service station manager, came during a day that saw the prosecution introduce physical evidence intended to link Richards with the July 6, 1982, murder of his friend, Richard Baldwin of Santa Venetia.

Deputy District Attorney Ed Berberian maintains that Richards masterminded the murder-for-hire slaying of Baldwin as part of a plot to rob Baldwin and bail out Richards' financially troubled contracting firm.

Berberian claims that Richards used Pendragon, a group that allegedly discussed the armed takeover of Marin, to manipulate two teen-agers

See Pendragon, page A8

Pendragon

From page A1

into participating in the murder.

Richards' attorney, Carl Shapiro, counters that no takeover was planned. Documents related to Pendragon that were seized at Richards' home in San Anselmo are part of his research for a science-fiction novel about a Marin of the future, the attorney claims.

Fuller told the Superior Court jury that he worked for Richards' contracting firm in early 1982 and during the time was approached by another young man, Willie Robles, about joining Pendragon.

Fuller said he was later solicited by Richards to drive gas trucks from Richmond to Marin after the takeover occurred.

He quoted Richards as telling him, "Don't say anything or you will be eliminated."

Fuller said he never joined the group and left his job with Richards on the advice of his mother, who had become aware of the situation.

Robles, the man who attempted to recruit Fuller into Pendragon, testified earlier that Richards paid him to find members.

He said on one occasion Richards told him he had a problem with Dick — an apparent referrence to Baldwin — and that something would have to be done about him.

Baldwin's body was found floating in San Pablo Bay on July 13, 1982, by a tugboat captain.

Investigation showed he had been bludgeoned and stabbed to death at the auto restoration shop he owned in San Rafael.

The body was found tied with duct tape and television cable, and a small outboard motor was attached to it with hemp rope.

A tipster told police Richards and two teen-aged employees — Andrew Campbell and Crossan Hoover Jr., both 17 at the time — might be involved.

San Rafael Detective Ted Lindquist and other investigators then determined that Richards allegedly had gone on a buying spree with Baldwin's credit cards and checkbook.

The three were arrested outside Richards' San Anselmo home three days after the body was found.

Investigators were told that the three were taking trash to the dump.

Hoover confessed to actually killing Baldwin, saying he crushed the victim's skull with a baseball bat on a prearranged signal from Richards.

Campbell, granted immunity from prosecution in return for his testimony against Richards, said he took part only in disposing of the body, which he said was dumped in the bay from a boat Richards had just purchased.

Richards, in his initial interview with police shortly after his arrest, at first denied any knowledge of the murder but later said he learned of it from Hoover and admitted using the credit cards.

He flatly denied planning or taking part in the killing.

His attorney, Shapiro, maintains that his client has been set up by Hoover and Campbell.

Michael Waller, an expert from the state crime laboratory, testified Tuesday that evidence found in the back of Richards' truck and boat the day he was arrested can be linked to the crime.

The most significant piece of evidence, he said, was television cable seized in the truck.

Microscopic examination positively matched the cable with that used to wrap Baldwin's body, Waller testified.

That match was made in studying how the cable was cut, he said, adding that a flap of the rubber cable covering was created during the cut.

That flap matched perfectly when the two pieces were put together, he said.

While he could not positively match the duct tape and hemp rope found with that used to dispose of the body, Waller said there were many similarities and no significant dissimilarities.

The rope was similar in terms of the same number of strands, the same twist and the same fiber, Waller told the jury.

The duct tape was similar in color, weave and a manufacturing flaw in weave, which created a double weave in the tape.

Waller also said a small spot of blood, found on a boat cushion, was type B, the same as Baldwin's.

Not enough blood was found to do additional tests to confirm that it was the victim's, he said.

Berberian also introduced bank and other records that showed Richards' personal and business finances were in troubled waters shortly before the slaying.

Pendragon bail upheld

A-2 — Novato Advance, Wednesday, March 7, 1984

A Marin Superior Court judge has ordered a metal detector be placed at the entrance of the courtroom during the Pendragon murder trial is being held.

But the judge refused to revoke Mark Richards' bail despite testimony that the defendant was seen with a gun.

Judge E. Warren McGuire ordered the special security measure but rejected the request from prosecuting attorney Ed Berberian on the grounds that the testimony did not provide enough evidence.

McGuire's rulings were made Monday after San Rafael Police Sgt. Ted Lindquest testified that he had talked to a woman who had dated Richards and had seen him with a gun.

One of the conditions of Richards' $250,000 bail was that he could not carry a firearm.

The woman, Linda Lipes of San Rafael, testified that Richards introduced himself as Francois Ragocazy, a South American official, when she met him.

She testified that she saw a gun in the glove compartment of Richards' car while on a date with him.

Richards, 30, is accused of masterminding the murder of Richard Baldwin, whose battered body was found floating in San Francisco Bay.

He was arrested along with two Novato teen-agers — Andrew Campbell and Crossan Hoover, Jr. — on July 16, 1982. The two youths were 17 when arrested.

Campbell, who claims his only involvement was in helping dispose of the body, was granted immunity from prosecution in exchange for his testimony.

According to Campbell's testimony in earlier proceedings, Richards planned the murder because he wanted the victim's money.

He said that Hoover did the actual killing after being persuaded by Richards.

At the proceedings on Monday, defense attorney Cari Shapiro put his client on the stand.

Richards said that Lipes testimony was correct but that he had not known a gun was in the car he had borrowed from his parents.

Mrs. Richards, who was called to the stand before Lipes testified, said that "Francois" was a family nicknamed given to her son.

She also said she owned handguns which she had bought for self-protection.

When the initial investigation began, police said Pendragon was a small group of no more than a dozen young people, led by Richards. San Rafael investigators discounted the seriousness of reported goals, such as the armed takeover of Marin.

Richards' attorney has said his client was preparing to write a book, not leading a secret society.

Judge refuses to revoke bail of Pendragon murder suspect

By Erik Ingram
Of the IJ staff

A Marin judge, who ordered special courtroom security measures Monday morning in the so-called Pendragon murder case, later rejected a request from the prosecutor that defendant Mark Richards' bail be revoked.

Superior Court Judge E. Warren McGuire said evidence supporting allegations that Richards possessed a pistol in violation of his bail conditions was not strong enough to justify increasing the bail or holding the defendant without bail.

But McGuire let stand his earlier ruling that all entering the courtroom — with the exception of the jurors and court personnel — pass through a metal detector at the front door.

The hearing took place outside the jury's presence.

The trial is now in its third week. Richards, a 30-year-old contractor from San Anselmo, is accused of masterminding the murder-for-hire slaying of a friend, Richard Baldwin, as part of a robbery plot.

During the investigation, detectives discovered documents that have been interpreted by some as evidence of a plot for the forced takeover of Marin.

Richards' defense attorney, Carl Shapiro of San Anselmo, said the documents were part of his client's research for a science fiction novel, called Pendragon, about a Marin of the future.

McGuire's security order came after he heard a tape-recorded conversations between Sgt. Ted Lindquist, the San Rafael detective assigned to the Pendragon case, and a woman Richards began dating after he was released last December on $250,000 bail.

The woman, Linda Lipes of San Rafael, testified in the afternoon that on one occasion she saw a pistol in the glove box of a car Richards was driving.

On another occasion, she said, she felt something hard under his jacket on the side of his waist.

Lipes said Richards identified himself to her as Francois Ragocazy and his mother, Lois, as his aunt.

He told her he had a cousin, named Mark Richards, who was in trouble with the law, she said.

As Francois Ragocazy, she added, Richards portrayed himself as a consulate official from South America who wanted to tour San Francisco.

They met shortly before Christmas and had about 10 outings, she said.

When she asked him about the gun in his car, Lipes said, he responded that it was there for "political reasons."

When she finally discovered his true identity last week, Lipes said, she was "quite surprised and shocked about it."

"I didn't believe it ... I thought it was someone else," she added.

Under cross-examination by Shapiro, Lipes was shown a starter's pistol that fires only blanks.

Lipes said it was about the same size as the gun she saw in the car but didn't know if it was the same.

Shapiro then put Richards on the stand.

The defendant said everything Lipes testified to was true, but said he didn't know beforehand that the gun was in the glove box of the car he borrowed from his father.

He denied ever touching it or any other gun since his release.

Asked by Deputy District Attorney Ed Berberian to explain his comment that it was for political reasons, Richards responded that he considers his trial to be political.

"I see this trial as political. You two are trying to save your necks from a bad bust," he said, referring to Berberian and Lindquist.

He said he also believes police officers are responsible for entering his parents' home in San Anselmo several months ago and "tearing it to shreds."

"Which police agency?" Berberian asked.

"I don't know," Richards answered. "My parents told me ... They told me the house had been ransacked. The same kind of cigarettes were left behind as those smoked by the police when they searched the house" after his arrest.

The hard object Lipes felt on his waist was probably his keys, he added.

Late last year, when Richards' bail was reduced from $500,000 and he was freed, the court set several conditions, among them that he not own or possess a gun.

According to Lindquist, he first learned that Richards might have a gun from John Hikish, with whom he spoke on Saturday.

Hikish said a friend of his wife's had been dating a man he suspected of being Richards.

The man was using another name, he said, but another acquaintance, after watching television coverage of the trial, later identified him as Richards.

Hikish attended court last week and confirmed the identity, Lindquist told Judge McGuire.

Richards' attorney also called his client's mother, Lois, to the stand to dispute the allegations.

Her son's use of another name has been "a game" within the family for years, she said.

Under cross-examination, Mrs. Richards said she owns four pistols, kept for self protection.

She said her family has been harassed for a year by a neighbor whose son, Keith Andrews, was a prosecution witness against Richards.

"I have no idea when he (the neighbor) is going to come in and shoot," she said, adding she has carried a pistol while walking her property or riding in her car.

In response to a question from Berberian, she said she didn't know what kind of guns they are but said, "I'm a darn good shot. Would you like me to show you?"

"I'll pass on that," Berberian responded.

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A4 Saturday, March 3, 1984 Independent Journal

From museum to murder plot

By Erik Ingram
Of the IJ staff

Pendragon, a mysterious group that came to light as police investigated the murder of a Santa Venetia man, originally started out with the idea of creating a museum out of the old gun bunkers on the Marin Headlands, a Marin jury was told Friday.

But what started out to be a museum turned into a plot to take over Marin, a former member, Willie Robles, testified.

Robles' testimony came during the trial of Mark Richards, a 30-year-old contractor accused of masterminding the murder of his friend, Richard Baldwin, whose body was found floating in San Pablo Bay on July 13, 1982.

Robles said he went to work for Richards' firm in November 1981 and lived with Richards from December 1981 to June 1982.

He attended many weekly Pendragon meetings, he said, adding there was discussion of storming police stations and taking over the county.

Robles said Richards wanted him "to secure Angel Island" when the takeover occurred.

Robles, who now is in the Navy, said at one point Richards gave him $1,000 and said it was a donation to Pendragon from filmmaker George Lucas.

Lucas, a San Anselmo resident, has no connection with Pendragon.

For a while, Robles said, he believed there were "higher-ups" in the organization and at one point tried to call Lucas.

Lucas did not return the call, he told the jury.

Robles left Marin to join the Navy prior to the slaying of Baldwin.

The prosecution's star witness, Andrew Campbell, continued under cross-examination Friday by defense attorney Carl Shapiro.

Shapiro continued to hammer on discrepancies in Campbell's testimony about when the killing occurred and when he said he helped Richards and another youth, Crossan Hoover Jr., dispose of the body.

The motive for the murder was financial gain by looting Baldwin's home and auto restoration shop, Campbell said.

Richards and Hoover lured the victim to his shop, where Hoover slammed him over the head with a baseball bat and stabbed him in the chest with a screwdriver, Campbell said he was told by Hoover.

His own involvement was helping dispose of the body, Campbell said.

Campbell, granted immunity in return for his testimony, testified earlier that he wasn't sure whether Baldwin was killed on July 5 or July 6. Campbell also offered conflicting testimony as to when Baldwin body was loaded into a boat and dumped in the bay.

Asked about Pendragon by Shapiro, Campbell said he attended one meeting but "didn't take it seriously."

He said Richards told him he planned to put the takeover plot into effect in two or three years.

He also recounted how Richards once took him to the San Francisco Theological Seminary in San Anselmo, where they toured the castle-like buildings.

"This is where we are going to live" after the takeover, Campbell quoted Richards as saying.

Shapiro maintains that Pendragon documents seized at Richards home in San Anselmo are actually research materials his client was using to write a science-fiction novel about a Marin of the future.

The trial resumes on Monday.

dependent Journal

Money for guns cited as motive

Star murder witness testifies

By Erik Ingram
Of the IJ staff

Accused murderer Mark Richards hoped to get enough money from his victim to help finance an arsenal of guns for a mysterious group called Pendragon, the prosecution's star witness testified Thursday.

Andrew Campbell, 19, who was granted immunity from prosecution in return for his testimony, made the accusation as he told a Marin Superior Court jury how he helped dispose of Richard Baldwin's body in July 1982.

"He said if we made enough money he could use some of it to buy guns for Pendragon," Campbell said, referring to a comment Richards made after the slaying.

Money was the motive, he said, adding Richards needed money to save his financially troubled contracting business from going bankrupt.

Baldwin's Santa Venetia home was ransacked after the slaying, Campbell said. Richards told the youths they might get as much as $50,000 by selling Baldwin's possessions, including his shop equipment and vintage cars.

Baldwin, a friend of Richards, was bludgeoned and stabbed to death July 6, 1982 in the auto restoration shop he operated in San Rafael.

His body was found floating in the bay by a tugboat captain on July 13.

Campbell testified earlier that the slaying was conceived, planned and carried out by Richards and another youth, Crossan Hoover Jr., who will stand trial separately.

Campbell said Thursday he knew days in advance that Baldwin would be killed and agreed to help dispose of the body in return for $2,000 promised by Richards.

He said Baldwin was murdered after Richards and Hoover lured him to his restoration shop, where Hoover crushed his skull with a baseball bat and stabbed him in the chest with a screwdriver.

After ransacking the house, Campbell said, the trio purchased a boat from a Mill Valley man using money stolen from Baldwin.

Campbell said the body was disposed of the day after the murder, a recollection which conflicts with other evidence collected by the prosecutor, who believes the body was disposed of the same day.

In purchasing the boat, Campbell said, Richards told the seller that he had to have it immediately because he wanted to take Campbell and Hoover fishing.

They towed the boat to the Loch Lomond Yacht Harbor in San Rafael and launched it at night, Campbell said.

While launching it, the three were noticed by a security guard who questioned but did not stop them.

The trio then returned to the restoration shop and put Baldwin's body, wrapped in plastic, in the rear of Richards' truck. They then returned to the yacht harbor where once again the security guard questioned them and let them pass.

All three were armed with pistols, Campbell said.

It was Richards' plan to dump the body in a deep shipping channel where it wouldn't be seen at low tide, Campbell said, adding, however, that plan was abandoned when the boat developed engine trouble.

Richards then decided to put the body overboard at the Sisters Islands, Campbell said.

But the body didn't sink so Richards ordered the teen-agers to attach a small outboard motor to it, the witness said.

The body sank and Richards said, " 'It's done. We have to get out of here,' " Campbell added.

They then returned to Richards' San Anselmo home and burned the baseball bat, Hoover's blood-stained pants, and other papers that could link the trio with the murder, Campbell testified.

In the days that followed, Campbell recounted, he and Richards went on a buying spree using the victim's checkbook and credit cards.

He described one day in which they used Baldwin's Montgomery Wards charge card to purchase nearly $900 worth of items at an East Bay Wards store and then rushed over to the South San Francisco store to buy more.

"Mark said he wondered how fast the (credit) computers work," Campbell said, adding the defendant wanted to, in effect, double the card's $900 line of credit.

When he checked the credit at the South Bay store, the computer had already recorded the East Bay purchases, Campbell added.

Under cross-examination by Richards' defense attorney, Carl Shapiro of San Anselmo, Campbell admitted he had been involved in two burglaries in 1982.

He also admitted owning a lock pick set, confiscated by police when they searched his home.

The cross-examination was to continue today.

An earlier witness, John Carrington of Dinuba, near Fresno, testified that Richards was writting a science fiction novel about a Marin of the future.

The novel was titled "Pendragon," Carrington said, adding he had read some of the manuscript.

"It involved the separation of Marin from the rest of the country," he said.

Deputy District Attorney Ed Berberian maintains that Richards formed a group of youths into an organization called Pendragon and used it to manipulate Hoover into killing Baldwin.

4 San Francisco Chronicle ★★★ Fri., March 2, 1984

Pendragon Murder Trial Told of Plan to Buy Guns

By Jack Viets

Mark Richards, the creator of the Pendragon fantasy about an armed takeover of Marin County, planned to buy guns for the Pendragon paramilitary group with part of the estate of the man he is charged with murdering, the prosecution's star witness testified yesterday.

Andrew Campbell, a rosy-cheeked 19-year-old from Novato, told a jury that Richards believed there was equipment worth $50,000 in Richard Baldwin's San Rafael auto restoration shop, plus a stable of "high-priced" antique and classic cars.

The bludgeoned body of the auto restorer, wrapped in a plastic shroud with an outboard motor, floated to the surface of the bay near the Sisters Islands off San Rafael on July 13, 1982.

Campbell, who was granted immunity from prosecution in return for his testimony, quietly told the jurors how he helped "dispose of the body" and testified that Richards planned to sell everything Baldwin owned.

"Mark said that if we made enough money, he would use some of it to get some more guns for Pendragon."

But Richards, the operator of a floundering general contracting business, indicated that his main priority for the money was "to get out of debt," Campbell said.

A day or two before Richards was arrested with Campbell and Crossan D. (Crossie) Hoover, another of his teenage workers, Campbell testified, Richards suddenly started talking about the Pendragon movement.

"Mark said he was going to be warlord. He was going to be king. He said Crossie was going to be in charge of nature and taking care of the animals, and that I could be a duke if I wanted."

The Pendragon conversation stopped when Campbell "made a joke," he said.

During his testimony, Campbell testified that Hoover, then 17, told him he had smashed Baldwin on the side of the head with a baseball bat after Richards tricked the victim into looking down at one of the classic cars in his San Rafael shop.

"Crossie was really jumpity. He just said it was gross."

Baldwin, who has pleaded not guilty of murder by reason of insanity, will be tried after Richards' trial is completed.

An earlier witness, John Carrington of Dinuba, near Fresno, testified that he had seen Pendragon manuscripts in the Richards' family home eight years ago when he first met the defendant.

Pendragon was a science fiction story that Richards had been writing for years, he said, and "to the best of my recollection was based on something that was happening in the year 2000."

"It involved the separation of Marin from the rest of the U.S.," Carrington testified.

Novato Advance, Wednesday, Feb. 29, 1984 — A-3

Courthouse Beat

Defense accuses Novatan

A Novato teen-ager who has promised to testify against murder defendant Mark Richards is the one who should be on trial, according to a defense attorney.

Attorney Carl Shapiro, one of Richards two attorneys, told a Superior Court jury that his client was framed by Andrew Campbell, 17.

Campbell, Richards, 31, and Novato resident Crossan D. Hoover Jr., 18, were arrested July 16, 1981 in connection with the slaying of Richard Baldwin, 36, of Santa Venetia.

After the arrests, investigators found documents linking Richards to a secret organization called Pendragon that allegedly planned an armed takeover of Marin. Hoover and Campbell were allegedly involved in the organization.

Richards' jury trial began two weeks ago, almost 18 months after the victim's body was found floating in the bay.

Hoover, who allegedly admitted to police that he had stabbed and beaten the victim to death, will go on trial after Richards case is heard.

Campbell claims his only part in the murder was in helping dispose of the body. He was granted immunity in exchange for his promise to testify against Richards.

In his opening statement, Shapiro accused Campbell of lying to police during the initial investigation.

"He (Campbell) is walking the streets today although he is guilty of murder," Shapiro said to the jury of nine women and three men. Shapiro also said Campbell's testimony "lacked credibility".

"He will create a picture so the finger of guilt is on Richards," Shapiro said. "He bought his freedom" in exchange for his testimony, he added.

Shapiro said Richards only took part in helping the two teen-agers cover up the evidence of the crime.

He also said Pendragon was merely a literary project his client had been working on.

"This was brought before you as a distraction," Shapiro said. "Pendragon is nonsense; it's an attempt to mislead you."

Prosecuting attorney Ed Berberian said he did not intend to prove that Richards had actually planned an armed take over of Marin but that he had used Pendragon to manipulate the two boys to help carry out the murder for financial gain.

Independent Journal Friday, February 24, 1984

Pendragon murder jury hears tape of interrogation

By Erik Ingram
Of the IJ staff

A portion of a tape-recorded interrogation, which the prosecution believes will help prove Mark Richards masterminded the brutal murder of a friend, was played Thursday for a jury that has been asked to return a first-degree murder verdict.

The interview, conducted by investigators shortly after the 30-year-old contractor and two teen-age employees were arrested, was the first major piece of evidence introduced linking Richards to events surrounding the slaying of Richard Baldwin.

In the three-hour portion played, Richards inititally denied any involvement in Baldwin's slaying, saying, "This was my friend...I had no reason to kill him."

As the interrogators — San Rafael Detective Ted Lindquist and Sheriff's Sgt. Richard Keaton — pointed out discrepancies in Richards' statements, the defendant, in a step-by-step retreat, eventually admitted helping cover up the crime.

At one point, Richards said he knew there was evidence that might appear as if he had taken part, including some of Baldwin's possessions that were found in Richards' home.

But, Richards added, he and his friend frequently traded belongings without exchanging receipts.

"I'm scared to death," he added. "What if Dick's blood is in my house, my car or my boat?"

"Why would it be?" Keaton asked.

Richards explained that Baldwin "helped me launch my boat" and had cut his forehead when he bumped into a cabinet in the cabin.

"What if a drop of blood is on it?" Richards said.

At another point, Richards made the first of what investigators believe to be an admission.

"Whom do you employ?" Keaton asked.

Richards answered: "...the two kids with me today unfortunately. The poor kids, I mean. I should take the fall for this, not them. OK. You know, like if somebody is going to go down for anything."

Keaton: "Why should you take a fall?"

Richards: "Well, you know, I understand what it must look like. OK. And all I'm saying is these are kids. You know, they don't have...they wouldn't have had anything to do with anything like this. Dick didn't owe them any money or anything like that."

Keaton: "Does that mean you did?"

Richards: "No, no. I'm just saying that, you know, I'm just saying that (pause). Forget it. It doesn't sound right, I know."

In the last hour of the tape, which will be played when the trial resumes Monday, Richards reportedly said that one of his teen-age employees had confessed the crime to him.

Richards told investigators he remained silent, not alerting Baldwin's parents or police, because he was frightened of the teen-ager.

Baldwin, 36, was found floating in San Pablo Bay on July 13, 1982 — approximately one week after his murder at the auto restoration shop he owned in San Rafael.

Baldwin's skull had been crushed and his chest stabbed. His body had been wrapped in plastic and a bamboo curtain and dumped in the bay, weighed down

Arrest warrants for the trio were issued after another employee of Richards, Keith A. Andrews, told sheriff's investigators that he believed the three might be responsible.

Andrews, a college student, testified Thursday that he went to work for Richards as a laborer on June 30, 1982.

His first paycheck was signed over to another person who had done work on his car, Andrews said, adding the check bounced and was returned to him.

In the days that followed, he told the jury, he noticed that Richards had acquired a boat, purchased jewelry for his wife and new video equipment.

This seemed strange to him, Andrews said, because Richards didn't have money to pay his employees yet he was acquiring new things.

Andrews also said he noticed a safe on the floor of Richards' garage and was told by Richards that it had been given to him by a person for whom he had done some home remodeling work.

Andrews added that he later observed that the safe had been "punched open."

He said he first saw the boat in Richards' driveway on July 7 — the day after prosecutors allege that Baldwin was murdered and his body dumped in the bay.

He alerted detectives after another of Richards' employees, Gary Ables, told him that Hoover had been "bragging" about killing a man and burglarizing his home, Andrews added.

Andrews' testimony that he saw the boat on July 7 was challenged by defense attorney Carl Shapiro, who noted that Andrews had testified that he fixed the date because of the returned paycheck.

But, Shapiro pointed out in cross-examination, the paycheck was initially cleared for payment on July 6.

"Are you sure you got the check back before you saw the boat?" Shapiro asked.

"I'm not sure," Andrews responded.

Shapiro, in his opening statement to the jury last week, said the evidence will show that his client participated in a coverup of the murder but won't prove he took part.

Shapiro said the teen-agers were the ones responsible.

A-2 — Novato Advance, Wednesday, Feb. 22, 1984

Pendragon trial under way

Mark Richards organized a secret group and used it to persuade two Novato teenagers to help him carry out a murder for financial gain, a prosecuting attorney told a Superior Court jury.

Deputy District Attorney Ed Berberian also told the jury that it was not his intent to try and show that Richards had actually planned an armed takeover of Marin.

Richards is accused of murdering a friend in what has become known as the Pendragon case. His trial began last week, almost 18 months after the victim's body was found floating in the bay.

The 31-year-old San Anselmo contractor and two Novato youths — Crossan D. Hoover Jr., 18, and Andrew Campbell, 17, — were arrested July 16, 1981 in connection with the brutal slaying of Richard Baldwin, 36, of Santa Venetia.

Berberian told the jury of nine women and three men that Hoover actually committed the murder but that Richards had used Pendragon, "to manipulate and condition Mr. Hoover to do an act that he wanted him to do."

Campbell, who alleges that his only role in the murder was in helping dispose of the body, was granted immunity to testify against Richards.

In his opening statement, Defense Attorney Carl Shapiro, said that Campbell's testimony "lacks credibility."

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☐ *Police report/* page A4

☐ *Gains for teachers/* page A6

Wednesday, Feb. 15, 1984

Pendragon defense denies guilt

By Erik Ingram
Of the IJ staff

A defense attorney told a Marin jury Tuesday that the wrong man is on trial for killing a Santa Venetia man and that the prosecution's key witness "is guilty of murder."

Carl Shapiro, chief attorney for Mark Richards of San Anselmo, admitted that his client participated in trying to cover up the July 6, 1982, murder of Richard Baldwin.

Richards did so only out of misguided loyalty to two teen-agers who bludgeoned and stabbed the victim as part of a burglary of his home, Shapiro said.

Shapiro's allegation against key witness Andrew Campbell came during his opening statement to the Superior Court jury of nine women and three men.

"The whole key to this case is Andrew Campbell," Shapiro said, noting Campbell was granted immunity from prosecution in return for his testimony against Richards.

Richards, Campbell and another Novato youth, Crossan Hoover Jr., were arrested July 16, 1982, on suspicion of murdering the 36-year-old victim, who operated an antique car refurbishing shop in San Rafael.

In his opening statement, Deputy District Attorney Edward Berberian accused Richards, 31, of mastermining the killing as part of a plan to burglarize Baldwin's home.

Hoover, the prosecutor said, actually delivered the death blow by striking Baldwin on the head with a baseball bat after the victim had been lured to his [illegible] by Richards and Hoover.

Campbell helped Richards and Hoo[illegible]r dump the body in San Pablo Bay, [illegible]erberian said. The body, wrapped in [illegible]astic and weighted with a small [illegible]tboard motor, was found floating near [illegible]e Sister Islands by a tugboat captain.

After the slaying, Berberian told the [illegible]ry, Richards used Baldwin's credit [illegible]rds and checkbooks to buy jewelry and [illegible]ereo equipment.

Fingerprint and handwriting experts [illegible]ill testify that it was Richards who [illegible]rote the forged checks, signed the [illegible]edit card receipts and submitted an [illegible]plication, in Baldwin's name, for a [illegible]0,000 line of credit at a South Bay stereo store, Berberian added.

The prosecutor said other evidence will show that Richards, a home repair contractor, was in serious financial trouble and had written checks to his employees drawn on an account with insufficient funds.

Documents and witnesses' testimony will show that he formed a clandestine group of teen-agers, known as Pendragon, and used it to manipulate Hoover, Berberian added.

The prosecution does not plan to try proving that Richards was planning a takeover of Marin, as some members believed, Berberian said.

"No, we can't prove that was his intent," he said. However, he added that the prosecution will try to show that he used the group to "manipulate and condition Mr. Hoover to accomplish the (murder)."

Berberian concluded that the victim was not without "character flaws."

"Mr. Baldwin had character flaws. The one large character flaw he possessed was that he had Mark Richards for a friend."

Shapiro countered that while the evidence "points a finger of suspicion" at Richards, the evidence is not sufficient for a murder conviction.

Campbell, he said, "bought his freedom" by concocting a story implicating Richards in the murder itself.

Campbell did so to protect himself and Hoover, Shapiro added.

He said he will produce witnesses who saw Baldwin alive hours after the time the prosecution claims he was murdered.

Shapiro also said Campbell's testimony is riddled with discrepancies, which will show that Richards is innocent of the murder.

The trial, in recess today, will continue Thursday.

IJ photo/Tom Strickland

Defendant Mark Richards (right) confers with attorney Dennis Berrian before opening arguments

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Tuesday, Feb. 14, 198

Obituaries 4

Pendragon murder trial begins

By Erik Ingram
Of the IJ staff

Mark Richards, a San Anselmo carpenter accused of murdering a close friend in what has become known as the Pendragon case, was described today as the one who planned and instigated the slaying and then "did not dirty his hands in the killing."

Instead, he solicited others to kill Richard Baldwin, Deputy District Attorney Edward Berberian said in his opening statement to a Marin Superior Court jury of nine women and three men.

Berberian said he will prove through several different legal theories that the 31-year-old Richards is guilty of first-degree murder in the July 6, 1982 death of Baldwin.

The trial before Judge E. Warren McGuire got under way this morning, nineteen months after the bludgeoned and stabbed body of Baldwin was found floating in San Pablo Bay.

Richards, free on $250,000 bail, was accompanied to court by his mother, Lois, and his two defense attorneys — Carl Shapiro and Dennis Riordan.

Shapiro, scheduled to make his opening statement this afternoon, has said in the past that his client is an innocent man falsely accused by an emotionally disturbed teen-ager, Crossan Hoover Jr., who has confessed to taking part in the murder.

Berberian believes, however, that the evidence shows Richards should be imprisoned for life without the possibility of parole.

Berberian announced earlier he would not seek the death penalty. He said Richards' lack of a past criminal record was the deciding factor.

The jury has not been told that Richards, if convicted of first-degree murder with special circumstances, could face life imprisonment.

The trial is expected to take about 10 weeks. Berberian has a list of more than 100 potential witnesses, although probably not all will testify.

A brief chronology of events:

- July 6, 1982 — Richard Baldwin of Santa Venetia, a 36-year-old auto body shop operator, is last seen alive.
- July 13, 1982 — Baldwin's mother, Ellen, files a missing person report, saying she had not seen her son for a week.
- July 13, 1982 — Baldwin's body, wrapped in plastic and weighted down with a small outboard motor, is found floating near the Sisters Islands by a tugboat operator.
- July 14-15, 1982 — An autopsy shows Baldwin's skull had been crushed with a blunt object and he had been stabbed in the chest. Two young men, employed by Richards' remodeling firm, contact investigators to report that Hoover talked of the killing on July 12, a day before the body was found, officials said.
- July 16, 1982 — Based on the statements of the two young men, and other evidence developed by investigators, detectives arrest Richards at his home on Butterfield Road. Arrested with him are Hoover and another 17-year-old Novato youth, Andrew Campbell.

In their initial interviews with police, all three made statements, according to investigators.

Richards, on one hand, denied involvement, but on the other, according to officers, told officers he "should take the fall for this . . . "

Hoover, in a confession, described the murder, saying he and Richards lured Baldwin to his auto repair shop on the pretext of looking at antique vehicles.

On a prearranged signal from Richards, Hoover said, he picked up a baseball bat and struck Baldwin on the head.

He then used a screwdriver to stab the man in the chest, Hoover said.

Hoover said Richards told him Baldwin owed him money. Richards offered Hoover $5,000 and a car if he participated in the murder, Hoover said in his confession.

Campbell told authorities that his role in the crime was to help dispose of the body.

Berberian today said evidence will show that the evening after Baldwin was killed, Richards purchased a 17-foot boat from a Mill Valley man.

It was important to Richards to have the boat immediately, Berberian told the jury, adding the defendant told the seller he wanted to go "night fishing."

"He put $1,000 cash down and wrote an IOU for the remaining money," Berberian said. "Remember the $1,000 cash."

While it was Hoover who dealt the death blow, he added, Richards is just as guilty because he planned the conspiracy.

A search of Richards' home turned up some of Baldwin's possessions, Berberian said earlier, and investigators traced to Richards a number of credit card purchases involving Baldwin's credit cards.

During a search of Richards' home, officers also seized an assortment of documents.

Those documents, coupled with witnesses' statements, Berberian believes, show that Richards had organized a clandestine group of youths known as Pendragon.

Documents and statements from some of the youths indicate Richards talked of an armed takeover of Marin, Berberian believes.

Investigators said they don't know whether the matter was fact or fantasy.

The motive for the killing was financial gain by stealing Baldwin's possessions, Berberian said.

Richards used the Pendragon group to manipulate Hoover into taking part in the killing, the prosecutor added.

Hoover, who has pleaded not guilty by reason of insanity, will be tried separately after Richards' trial is over.

Campbell was granted immunity from prosecution in return for his testimony against Richards.

EXHIBIT B

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff and Respondent,

v.

CROSSAN DAVID HOOVER,

Defendant and Appellant.

A030282

Marin Super. Ct.
No. 8401

In this multi-issue criminal appeal we hold that the trial court erred in instructing the jury on the elements of legal insanity, but the error was harmless.

Crossan David Hoover appeals from a judgment of conviction for murder (Pen. Code, § 187) and use of a deadly weapon (Pen. Code, § 12022, subd. (b)). We affirm.

The killing occurred within the context of a bizarre conspiracy, led by Mark Richards, for a paramilitary takeover of Marin County and creation of a modern-day Camelot with Richards as King Arthur and his crew of teenaged construction workers as his knights. Richards, a 29-year-old contractor, employed a number of teenagers, including 17-year-old Hoover. In regular meetings Richards promoted his plan to isolate Marin County by destroying the Golden Gate and Richmond-San Rafael bridges and to defend the new kingdom through the use of laser

guns placed on Angel Island and Mt. Tamalpais. The conspiracy was called Pendragon.[1]

Richards developed financial difficulties in mid-1982. He decided to kill his friend Richard Baldwin in order to obtain money. Baldwin was known to carry large amounts of cash.

After failing in an attempt to solicit two of his followers to kill Baldwin, Richards turned to Hoover and another teenaged employee, Andrew C. He told them Baldwin owed him money and was a "Nazi" and a "faggot," and it "would be a service to the public to get rid of such a menace." The two agreed to participate in the killing in exchange for a share of proceeds from the sale of property to be taken from Baldwin's house, as well as lodging in a remodeled portion of Richards' house. Hoover later stated he had expected to receive $5,000, a car, and a place to live.

On July 6, 1982, Richards drove Hoover and Andrew to Baldwin's house to work on a construction job there. In the afternoon, pursuant to a plan devised by Richards, he asked Baldwin to show him and Hoover classic cars located in Baldwin's auto shop. The three left around 2 p.m. in Richards' truck. Andrew stayed behind and searched the house.

At the shop, upon a prearranged signal from Richards,

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1. Pendragon is primarily known as the title of King Arthur's father, Uther Pendragon, but may also refer to any ancient British or Welsh leader holding or claiming supreme power. (7 Oxford English Dict. (1933) p. 638.)

Hoover struck Baldwin on the head with a baseball bat. Hoover then stabbed Baldwin in the head with a screwdriver and in the chest with a chisel.

Richards and Hoover returned to Baldwin's house. With Andrew, they took $3,000 in cash and various other items from the house, including guns and marijuana. Later that day Richards bought a boat, using Baldwin's money to make a down payment. He and the two teenagers retrieved Baldwin's body from the auto shop and used the boat to dump the body in San Francisco Bay.

Over the next few days Hoover admitted the killing to several persons. Baldwin's body was found on July 13. The next day the Marin County Sheriff's Department received an anonymous telephone call which led to the arrest of Hoover and Richards on July 16.

An information charged Hoover, as an adult, with murder and use of a deadly weapon. He pleaded not guilty and not guilty by reason of insanity.

Richards was tried separately, and shortly before Hoover's trial was convicted of first degree murder. Andrew received immunity in exchange for a statement and trial testimony.

Hoover's jury trial was bifurcated into a guilt phase and a sanity phase. At the close of the guilt phase the jury convicted him of first degree murder and use of a deadly weapon. Five days later the jury found Hoover was not legally

insane at the time of the killing. The court sentenced him to a term of 26 years to life.

I.

Hoover contends the judgment must be reversed as to the question of insanity because of error in the court's instruction on the elements of legal insanity.

Penal Code section 25, subdivision (b), added by Proposition 8 on June 8, 1982, provides that the defense of insanity "shall be found by the trier of fact only when the accused person proves by a preponderance of the evidence that he or she was incapable of knowing or understanding the nature and quality of his or her act <u>and</u> of distinguishing right from wrong at the time of the commission of the offense." (Emphasis added.) In accordance with the conjunctive language of the statute, the trial court in the present case instructed the jury that both of the prescribed elements were required for a finding of legal insanity.

The California Supreme Court subsequently held, however, that the electorate intended to return the California law of legal insanity to the traditional M'Naghten test, under which a finding of insanity requires only the presence of <u>either</u> of the two prescribed elements. (<u>People</u> v. <u>Skinner</u> (1985) 39 Cal.3d 765, 775-777.) The Supreme Court characterized the use of the conjunctive "and" rather than the disjunctive "or" as "apparently inadvertent." (<u>Id</u>., at p. 777.)

Thus in the present case the trial court erred in instructing the jury on the elements of legal insanity, and the Attorney General concedes the error. The question presented is whether the error was prejudicial. Reversal on the insanity issue is required only if it is reasonably probable that a finding of insanity would have been made absent the error. (People v. Leever (1985) 173 Cal.App.3d 853, 869; see People v. Watson (1956) 46 Cal.2d 818, 836.)[2]

More specifically, the only issue on appeal is whether it is reasonably probable the jury found Hoover was incapable of distinguishing right from wrong at the time of the killing. As the court explained in Leever, "had the jurors been persuaded that [defendant] did not know the nature and quality of his act . . . , the instruction [requiring both elements] would have been harmless as a matter of law, for 'a person who is unaware of the nature and quality of his act by definition cannot know that the act is wrong. In this circumstance the "nature and quality" prong subsumes the "right and wrong" prong.' (Fn. omitted, People v. Skinner, supra, 39 Cal.3d 765, 777-778; cf. People v. Richardson (1961) 192 Cal.App.2d 166, 172-173 [13 Cal.Rptr. 321].) Thus, the only potential harm in

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2. The court in People v. Leever, supra, 173 Cal.App.3d at pages 869-870, reasoned that the Watson test applies by analogy to its application in previous cases where the M'Naghten test was erroneously used instead of the less stringent American Law Institute test adopted in People v. Drew (1978) 22 Cal.3d 333.) Hoover and the Attorney General both agree that the Watson test applies here.

the instruction would be the converse situation -- that is, if they found that he did not know his act was wrong but nevertheless found him sane because they believed that he knew the nature and quality of his act." (173 Cal.App.3d at p. 869.) If it is not reasonably probable that the jury found Hoover was incapable of distinguishing right from wrong at the time of the killing, then the instructional error was harmless.

Two key factors demonstrate an absence of prejudice in this regard: (1) Hoover's own comments several months after the killing, indicating an awareness at the time of the killing that the act was wrong, and (2) the equivocal nature of testimony by the only defense expert to testify on the sanity issue.

Defense counsel conceded in closing argument on the sanity issue that "since the time of the homicide . . . Crossan Hoover realizes that what he did was wrong." Hoover's defense was <u>temporary</u> insanity. Counsel argued that just prior to the killing Hoover slipped into a temporary psychotic state which rendered him legally insane <u>at that time</u>.

In September 1982, however, Hoover made the following comments to a clinical psychologist regarding his state of mind just before the killing: "It was like [Richards] was coaching me. He would listen to what I said and push me on. When I was with Baldwin, I kept thinking this is the guy standing between me and money. It made me excited. I thought about guns I could buy and all the other stuff. <u>I knew it was wrong, but I</u>

didn't give a shit. Did you ever think of getting $5,000? Did you ever think of wanting to be with your mother? My mother could come back to Marin County. I could have my own room so I wouldn't have to look at her all the time. Oh, man. I was just thinking of how happy I'd be, how much love I would get, how many things I'd have." (Emphasis added.)

This admission of contemporaneous knowledge of wrongfulness clearly demonstrates Hoover was capable of distinguishing right from wrong at the time of the killing, and the prosecutor made it a fundamental part of his closing argument on the insanity issue. Hoover claims the statement could be construed as indicating awareness of only legal wrongfulness and not moral wrongfulness. (See People v. Skinner, supra, 39 Cal.3d at p. 783.) But nothing in the statement suggests Hoover was referring only to legal wrongfulness, and the contrary is suggested by another comment by Hoover, to a psychiatrist, that killing "just takes a few minutes, but it fucks with your conscience."

In cross-examining a prosecution expert, Hoover's trial counsel brought out the fact that the expert's written report of a January 1983 interview with Hoover indicated Hoover said, "He thought at the time that it was not wrong; that Richards told him to do it 'for the better of the country.'" Despite this comment, however, the report concluded "it is obvious from my interview with him and from the reports I have read as well, that he does, and did at the time, appreciate

that what he was doing was wrong, so far as his taking the life of another person was concerned; however, he felt that greater benefit might come to mankind if he continued to carry this out, but this was not as the consequence of a delusion or hallucination." (Emphasis added.) In light of the examining doctor's conclusions, Hoover's comments to him did not significantly lessen the impact of Hoover's September 1982 admission that he knew the killing was wrong.

Other comments by Hoover also indicated he was capable of distinguishing right from wrong at the time of the killing. Hoover told a psychiatrist "he was uneasy from the moment of the killing, like there were butterflies in his stomach." This indicates awareness of wrongfulness at the moment of the killing. The same could be said for Hoover's comment that killing "fucks with your conscience," although it is not entirely clear whether this referred to contemporaneous or subsequent state of mind.

In contrast to the compelling nature of Hoover's own comments, the only expert who testified for the defense at the sanity phase was equivocal on the "right from wrong" issue.

When defense counsel first asked whether Hoover was capable of distinguishing right from wrong at the time of the killing, the witness answered only that "I'm not sure I could answer that except to say that he -- what he was doing, he felt, was right. He had been conditioned for that." When counsel repeated the question the witness answered, "Well, I'm

sure he wasn't even thinking of that at the time of the act." This was followed shortly by the following colloquy: [The witness] "I'm of the opinion that he was conditioned not to be thinking about those sorts of things. That he was conditioned to feel at a gut level that what he was doing was necessary." [¶] [Defense counsel] "So based upon that conditioning, would it be your answer to the question that he did not know that he was doing was wrong?" [¶] [The witness] "Under those circumstances, yes." (Emphasis added.) On cross-examination, when confronted with Hoover's prior admission that "I knew it was wrong, but I didn't give a shit," the witness never denied that the statement indicated contemporaneous awareness of wrongfulness, but simply emphasized the part of Hoover's statement that referred to coaching by Richards.

Thus the defense expert never asserted unequivocally that Hoover was incapable of distinguishing right from wrong at the time of the killing. The witness was unequivocal only to the extent he asserted Hoover was "conditioned" not to think about right and wrong but instead to feel that the killing was "necessary." The expert's single assertion of unawareness of wrongfulness was qualified by the phrase "under those circumstances," apparently referring to such conditioning. This was not an assertion of incapability of distinguishing right from wrong, but simply one of conditioning not to think about it.

In light of the equivocal nature of the defense

expert's testimony, as contrasted with the compelling nature of Hoover's own statements demonstrating contemporaneous awareness of wrongfulness, it is not reasonably probable the jury found Hoover was incapable of distinguishing right from wrong at the time of the killing. The instructional error was harmless.

II.

Hoover next challenges the propriety of the prosecutor's assertion in closing argument at the guilt phase that Hoover committed the killing for financial gain. He relies on the same prosecutor's purportedly inconsistent assertion in closing argument at the Mark Richards trial that Richards' relationship with Hoover revolving around the Pendragon conspiracy enabled him to manipulate Hoover into killing Baldwin. Hoover asserts several legal theories: (1) the shift in theory at Hoover's trial constituted prosecutorial misconduct and a denial of due process, (2) the prosecutor should have been bound to the Pendragon theory under principles of collateral estoppel, and (3) the prosecutor's assertion of the Pendragon theory at the Richards trial compelled a finding at Hoover's trial that Hoover was legally insane as a matter of law.[3]

Even assuming these novel arguments are cognizable on appeal despite Hoover's failure to assert them below, each is meritless.

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3. In order to permit consideration of these issues, we take judicial notice of the record on appeal in People v. Richards (A028291).

First, no rule of misconduct or due process binds a prosecutor to a theory asserted in closing argument in a related prosecution. Broadly speaking, "The right of counsel to discuss the merits of a case, both as to the law and facts, is very wide, and he has the right to state fully his views as to what the evidence shows, and as to the conclusions to be fairly drawn therefrom. The adverse party cannot complain if the reasoning be faulty and the deductions illogical, as such matters are ultimately for the consideration of the jury." (People v. Beivelman (1968) 70 Cal.2d 60, 76-77, overruled on other grounds in People v. Green (1980) 27 Cal.3d 1, 33-34, quoting People v. Eggers (1947) 30 Cal.2d 676, 693, and People v. Sieber (1927) 201 Cal. 341, 355-356.) At Hoover's trial his counsel was as free to argue a Pendragon theory as was the prosecutor to argue the financial gain theory.

Second, the Mark Richards' judgment could not have had the claimed collateral estoppel effect or have established that Hoover was insane as a matter of law, because Hoover's motive and sanity were not issues that were "necessarily decided" at the Richards' trial. (People v. Taylor (1974) 12 Cal.3d 686, 691.) Hoover concedes his insanity was not necessarily decided, but argues "it may be implied that an issue 'necessarily decided' at the Richards trial was that he was found guilty of murder on the People's theory that he manipulated Crossan Hoover into committing the crime by brainwashing him to believe he was doing it for Pendragon."

It is impossible to know, however, the theory upon which the Richards' jury reached its verdict.

Finally, the prosecutor's theories at the Richards' and Hoover trials varied, but they were not necessarily inconsistent. At the Richards' trial the prosecutor's theory was that due to the relationship between Richards and Hoover revolving around the Pendragon conspiracy, Richards "was able to manipulate Crossan Hoover into the position where he actually killed a man." At Hoover's trial the prosecutor conceded, consistently, that "Mr. Richards manipulated Crossan Hoover," but added that "there is a far difference between manipulation and control in the sense that what the defense is trying to argue and urge upon you . . . ." (Emphasis added.) Even assuming that fundamental notions of fairness and due process should preclude a prosecutor from asserting diametrically opposed theories in related prosecutions, nothing of the sort occurred here.

III.

Hoover contends the court erred when it instructed the jury that the present action was "not a case which involves the death penalty."

The challenged instruction occurred during jury voir dire, after a prospective juror, on a written questionnaire, expressed reservations about the ability to sit as a juror if the case involved the death penalty. Over defense counsel's objection the court gave the following instruction: "One of

the jurors expressed some concern in the answer to a question given on the questionnaire as to whether or not this is a case which involves the death penalty should the defendant be convicted. It is not a case which involves the death penalty, and, incidently, the matter of penalty is something which the jury must not permit to enter into its discussion or determination of the case in any way."

At the close of the guilt phase the court again instructed the jury, "As I advised you at the onset of the trial, this is not a case involving the death penalty. In your deliberations, the subject of penalty or punishment is not to be discussed or considered by you. . . . This is a matter which must not in any way affect your verdict."

Hoover contends the challenged instruction violated the rule precluding jury consideration of a defendant's possible punishment. (See People v. Holt (1984) 37 Cal.3d 436, 458.) He further argues the purported error was prejudicial because the jurors might have become more likely to convict because they knew he would not be executed.

Hoover's assertion of prejudice, however, cuts two ways. Another way of stating his complaint is that the court deprived him of the reluctance to convict that the jurors might have harbored had they not been assured the case did not involve the death penalty. In view of the rule precluding jury consideration of possible punishment, this concern is not legitimate.

Regardless of the contradictions inherent in Hoover's assertion of prejudice, the court did not err. The subject of the death penalty was raised not by the court or prosecutor but by a prospective juror, and failure to address and dispel this person's concerns might have resulted in improper consideration of such punishment by the jury ultimately selected.[4] Any potential for harm was averted by the court's immediate and subsequent admonitions that the jury was not to consider the subject of punishment in its deliberations. (Cf. People v. Holt, supra, 37 Cal.3d at p. 458 [court failed to cure error from prosecutor's reference to punishment by admonishing jury not to consider penalty].) Given the need for a response to the prospective juror's concerns, coupled with the giving of the appropriate admonishments, the court did not err in proceeding as it did.

IV.

Hoover contends in his opening brief that the trial court abused its discretion in denying a motion for a change of venue. Hoover made the motion prior to jury selection, based on media coverage of the recently completed Mark Richards' trial and media references to a suppressed confession by Hoover. (See, e.g., Martinez v. Superior Court (1981) 29

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4. An instruction to the concerned party alone rather than to the entire panel would not necessarily have been "less intrusive" as asserted by defense counsel at trial, as that person might have passed the instruction along to ultimate jurors.

Cal.3d 574, 577-578.) The court denied the motion, subject to reconsideration should the use of written questionnaires reveal extensive public exposure to the pretrial publicity.

At the close of voir dire, defense counsel requested and was afforded time to discuss with Hoover the present composition of the jury and the change of venue motion. Counsel then passed the jury without renewing the venue motion.

The Attorney General correctly points out that Hoover waived any claim of error by declining to renew the venue motion at the close of voir dire. (People v. Staples (1906) 149 Cal. 405, 412, disapproved on another point in People v. Newland (1940) 15 Cal.2d 678 and People v. Daugherty (1953) 40 Cal.2d 876.) "[I]t is no error for the trial court to postpone the consideration of an application for a change of venue until an attempt is made to impanel the jury, where leave is granted to counsel to renew his application if the facts disclosed on the impanelment should further warrant it, and . . . where counsel fails thereafter to renew his motion, he cannot claim that error was committed by the court in failing to order a change of venue." (Ibid.; see People v. Wallace (1936) 6 Cal.2d 759, 763.) The failure to renew a temporarily denied motion for a change of venue is "an abandonment and waiver of the whole question, and fatal to any claim based upon the original application." (People v. Staples, supra, 149 Cal. at p. 412.)

In his reply brief Hoover concedes the Attorney

General's "procedural points on failure to renew the motion for change of venue are well taken." Hoover argues, nevertheless, that the court should have granted his motion immediately, before voir dire, because grounds for a change of venue existed at that time. It is settled, however, that the court was authorized to proceed as it did and defer a final ruling pending the examination of prospective jurors and a determination of the effect of pretrial publicity upon them. (People v. Wallace, supra, 6 Cal.2d at p. 763; People v. Staples, supra, 149 Cal. at p. 412.)

Because defense counsel declined to renew the change of venue motion at the close of jury selection despite being given an opportunity to do so, no error is cognizable on appeal.

V.

Finally, Hoover contends the court erred by denying a request for examination of a juror for possible misconduct.

The misconduct issue arose at the end of the first day of deliberations on the insanity issue, when a bailiff reported certain observations of juror R.L. The next morning the bailiff testified as follows: She had entered the jury room several times during the previous day. The first time, when she entered to receive a note for the judge, she noticed R.L. "in a corner of the jury room . . . in the drapes with the drapes wrapped around him facing its corner." When she returned five or ten minutes later, R.L. was "sitting in the same place without the drapes wrapped around him facing the

corner." When the bailiff subsequently brought the jurors their lunches, she saw R.L. sitting in the same spot, though not facing the corner. In the afternoon the bailiff brought the jurors to the courtroom. When she entered the jury room R.L. was "in the corner once again with his head down and his arms kind of over his head, facing the wall." Two jurors approached him and seemed to comfort him, and then he got up and walked with the jurors into the courtroom, where he took a seat away from the rest of the jurors. The bailiff never heard R.L. say anything.

Defense counsel, contending the bailiff's testimony indicated R.L. was not participating in deliberations, requested either (1) replacement of R.L. with an alternate juror, (2) courtroom examination of R.L., as well as the jury foreperson and "as many jurors as necessary," or (3) a mental and physical examination of R.L. The court denied the motion, subject to reconsideration at the end of the day after further deliberations and additional observation by the bailiff. The jury reached its verdict before the day ended. On appeal Hoover contends the court should have permitted a courtroom examination of R.L.

A court must conduct "an inquiry sufficient to determine the facts . . . whenever the court is put on notice that good cause to discharge a juror may exist." (People v. Burgener (1986) 41 Cal.3d 505, 519.) For example, in Burgener the foreperson's report to the trial judge that a juror had

seemed intoxicated during deliberations was "sufficient to raise the possibility" that the juror was unfit for the proper discharge of her duty. (Id., at p. 520.)

In the present case the trial judge gave four persuasive reasons for concluding there had been no indication of nonparticipation: (1) R.L. had been a college drama student (as learned in voir dire), and during the six-week trial the judge observed he "sort of displays . . . that ham actor kind of attitude . . . ," (2) R.L. had participated in deliberations on the guilt issue with no complaint or appearance of irregularity, (3) the conduct described by the bailiff indicated no more than commonplace "temporary withdrawal from active participation," and (4) there had been no complaints by the foreperson or any other jurors, and the court had "every reason to believe that, if there is anything untoward that has occurred or is occurring, that they would call that to the court's attention." (Compare People v. Burgener, supra, 41 Cal.3d at pp. 516-517 [foreperson complained of misconduct].)[5]

For the reasons cogently stated by the trial judge, the bailiff's testimony was insufficient to raise the possibility of nonparticipation by R.L. In particular, after six weeks of trial the judge was in a far better position than we are to evaluate R.L.'s demeanor and to decide whether his fellow jurors would likely have reported any misconduct, and

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5. It is also noteworthy that R.L. answered questions intelligently and lucidly during voir dire.

the trial court's conclusions on these points are entitled to substantial deference. We conclude, as did the trial court, that the bailiff's testimony was insufficient to require further inquiry into the possibility of misconduct.

The judgment is affirmed.

King, J.

We concur:

Low, P.J.

Haning, J.

A030282

Trial court:	Marin County Superior Court
Trial judge:	Hon. Louis H. Burke
Counsel for plaintiff and respondent:	JOHN K. VAN DE KAMP Attorney General DANE R. GILLETTE Deputy Attorney General LANDRA E. ROSENTHAL Deputy Attorney General 6000 State Building San Francisco, CA 94102
Counsel for defendant and appellant:	PHILLIP H. CHERNEY, ESQ. Attorney at Law P.O. Box 60601 Palo Alto, CA 94306

A030282

AFFIDAVIT/APPLICATION IN SUPPORT OF
FORMA PAUPERIS

I Crossan D. Hoover Jr. do declare the following:

1. I am incarcerated in the California State Prison Solano.

2. I am indigent and do not have the monies to pay the filing fee.

3. I have no checking or saving accounts.

4. I have no stocks, bonds, or real property.

5. I have no independant source of income.

6. I have approximately $ 75.00 on my prison account.

7. I have not worked since my incarceration.

Wherefore, I request that I be allowed to proceed in forma pauperis.

I swear under the penalty of perjury the foregoing is true and correct.

Date: Dec. 15, 1998

CROSSAN D. HOOVER, JR. AFFIANT

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF MARIN

FILED

JAN 22 1999

JOHN P. MONTGOMERY,
Court Executive Officer
MARIN COUNTY COURTS
By: M. Ashley, Deputy
M. Ashley

In the Matter of the Application of CROSSAN D. HOOVER, JR. Petitioner. for Writ of Habeas Corpus C-95830	No. SC105891A **ORDER DENYING PETITION**

It is quite apparent from the Court's review of the above-entitled petition for writ of habeas corpus that petitioner improperly seeks by it a review of the trial proceedings that led to his conviction and present incarceration in the California State Prison facility in Vacaville.[1]

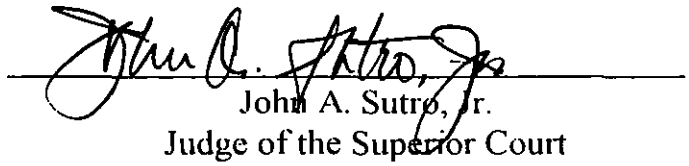
Petitioner additionally complains that ineffective representation of counsel caused him "significant prejudice and the loss of potentially meritorious defenses that in all likelihood would have resulted in a verdict more favorable to him" (Pet., p. 20). The allegations of the petition and attachments thereto are clearly insufficient to sustain his complaint in this regard.

Accordingly, it is hereby **ORDERED** that the above-entitled petition for writ of

[1]As indicated by the petition, petitioner has in fact unsuccessfully appealed the judgment entered against him (*People v. Hoover* (1986) 187 Cal.App.3d 1074).

habeas corpus be and the same is hereby denied.

Dated: January 20, 1999



John A. Sutro, Jr.
Judge of the Superior Court

Mailed 1-22-99 M. Ashley

cc: Petitioner
Warden
District Attorney
Attorney General

COPY

COURT OF APPEAL, FIRST APPELLATE DISTRICT
350 MCALLISTER STREET
SAN FRANCISCO, CA 94102
DIVISION 5

March 8, 2000

IN RE CROSSAN D. HOOVER ON HABEAS CORPUS.

A090153
Marin County No. 8401

FILED
Court of Appeal-First App. Dist.

MAR 1 0 2000

RON D. BARROW, CLERK
BY _____ DEPUTY

BY THE COURT:

The petition for writ of habeas corpus is denied.

Date: MAR 1 0 2000

JONES, P.J. P.J.

orcc

COPY

COURT OF APPEAL, FIRST APPELLATE DISTRICT
350 MCALLISTER STREET
SAN FRANCISCO, CA 94102
DIVISION 5

March 8, 2000

IN RE CROSSAN D. HOOVER ON HABEAS CORPUS.

A090153
Marin County No. 8401

FILED
Court of Appeal-First App. Dist.

MAR 1 0 2000

RON D. BARROW, CLERK
BY _____
DEPUTY

BY THE COURT:

The petition for writ of habeas corpus is denied.

Date: MAR 1 0 2000

JONES, P.J. P.J.

orcc

COPY

COURT OF APPEAL, FIRST APPELLATE DISTRICT
350 MCALLISTER STREET
SAN FRANCISCO, CA 94102
DIVISION 5

February 11, 1999

IN RE CROSSAN D. HOOVER, JR., ON HABEAS CORPUS.

A085818
Marin County No. 8401

FILED
Court of Appeal-First App. Dist.

FEB 11 1999

RON D. BARROW, CLERK
BY _____ DEPUTY

BY THE COURT:

The petition for writ of habeas corpus is denied.

Date: FEB 11 1999

JONES, P.J. P.J.

orcc