Mid-July, AUSA Ken Bauman called my office. It was time for the trial of Pepe Chavez. The trial would be my last hurrah. AUSA Bauman requested that former Task Force Agent (Detective) Mickey Guinn and me participate with him and SAUSA Norman Frink. He had sent to Acting Chief Robert Tobin requesting our service,

> "We would consider it a great privilege if you would allow these two police officers to again help us prepare for trial and be present with us in the courtroom during the trial of this case…You should of course discuss whether or not Detective Guinn and Sargent (sic) Tercek want to accept this assignment but I will do everything I can to talk them into doing so…".[1]

AUSA Bauman was gracious; and we accepted without question. And, surprisingly, the Acting Chief also accepted. Mickey and I transferred to the Federal Building, United States Attorney's Office, on June 23, 1986 and began three weeks of intense trial preparation—chasing documents and evidence; preparing exhibits; interviewing and re-interviewing witnesses.

The setting was much the same as in previous trials. Marble columns and floors, thirty-five foot walls and ornate cornice crowns and wooden pews aside—not so intimidating though, this second time through. U.S District Court Judge James Redden was the same—arrogant, for-the-most-part impassioned, and over-the-top responsive to all defendant objections.

By this time, Jose Carlos "Pepe" Chavez had wormed through four defense attorneys. Early this year, the court had appointed another—John Henry Hingson III. John Henry was different—some might say eccentric. He wore a big bowtie, white shirt, and off-color sport coat. His words were theatrical and colorful. John Henry, most certainly, viewed himself in the same league of the great trial orators of the past. Like William Jennings Bryan or Clarence Darrow. *Actually, his antics belied himself; he was little more than a weak throw back.*

The jousting began with the prosecution and defense "witness lists". Pepe's witness list"[2], delivered on July 2nd, six days before trial, was an indicator of the *marathon* that would be his trial. It was a list of Who's Who of the Northwest's major convicted drug law violators—some of them ours. Of course, Hingson had little chance of getting any of these recalcitrant violators to volunteer, but his madness was in his method. It was grandstanding at its barest root. He knew that if they did show, none of these cocaine traffickers would finger Pepe Chavez as their "Kingpin". And at worst, he knew that by merely presenting the list to the court (and the jury), his message (he hoped) could be achieved.

By contrast, the prosecution had a list of forty-three witnesses. Twenty-seven underling co-conspirators plus fourteen other citizen, scientific and law enforcement witnesses.[3] Twenty-seven coconspirators was a risk for us. Anytime a prosecutor chose to use a co-conspirator against *friends* was a risk. The tactic was definitely at the mercy of jury

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[1] Kenneth C. Bauman, Letter to Robert Tobin, "Re: United States v. Jose Carlos Chavez-Vernaza", June 16, 1986.
[2] John Henry Hingson III, "Defendant Chavez's Witness List", United States of America v. Jose Carlos Chavez-Vernaza, No. CR 84-57 & CR 85-78, United States District Court, July 2, 1986.
[3] Kenneth C. Bauman, "Government's Proposed Witness List", United States of America v. Jose Carlos Chavez-Vernaza, No. CR 84-57 & CR 85-78, United States District Court, July 1, 1986.

interpretation. The jury would decide: Was the "rat"—who, many times was afforded a deal not available to those others indicted by the government—telling the truth, or lying to save his own skin at the expense of the others?

In this case, the question had been carefully considered. We had overwhelming circumstantial evidence to support the co-conspirator statements. So much so that some forty-defense motions had been filed to suppress them. So much so that Judge James Redden, with no legal reason whatsoever, disallowed some of it as "cumulative" and therefore unnecessary. Most remained and would be used to make our case.

The other issue of contention. Nineteen prosecution witnesses had been given immunity. Each would be subject to credibility questions by defense attorneys. The prosecution's ace in the whole—no one witness's testimony would stand alone. Each overt act the government alleged would be supported by multiple corresponding witness statements and documented evidence. Yes, the credibilities of Ken Bauman and Norm Frinks' co-conspirator witness were subject to judgments of the jury, but Bauman and Frink rested easy having vetted each of them via a grand jury investigation and volumes of supportive evidence.

On July 7th, jury selection commenced. John Henry challenged every *rational-thinking* witness. Even prospective juror number two, Susan Williams[4], a meek *farmer's daughter*-looking mother of two, noting that *her husband was present in the courtroom*,

> "…I don't know that they have talked. I know that they are in the September of their years, but I assume that they're still is pillow talk in their lives."

Hingson III was *all fun*. He even requested Judge Redden allow him to question the juror's husband *to find out what of the case she had discussed with him*. And so it went; over seventy witnesses appearing in the box before John Henry Hingson III was through.

The jurors seated, we wheeled in our *tools of trade*—two five-drawer file cabinet, loaded with exhibits (ledgers, defendant notes, bank and hotel receipts, pictures etc.), police reports, grand jury statements, charts, phone toll analysis, and visual aids. Our table, immediately in front of the Judge's "bench", was bordered on one side with the hardest oak chairs in the world. The prosecutors, Mickey and I all smiling, dressed in our battle fatigues (three-piece suits). Defense attorney Hingson III and his client, Chavez were at their table, immediately to the right of us—Pepe Chavez, pale, hands ringing and thumbs spinning, but dressed *to the nines*. John Henry next to him—*goofy looking*. Minutes after we sat—after organizing our files—Judge James Redden made his grand entrance decked out in traditional flowing black robes. And we were off and running. AUSA Bauman gave the government's "Opening Statement". In his own oratorical manner—one far from the grandiose style of Bryan or Darrow (or Hingson III), more of an *everyman* tone, he characterized Jose Carlos "Pepe" Chavez as the "Money Man", selling "cocaine, more valuable than gold". A "kingpin" who acquired "proceeds" from his illegal trade like "condos, boats, and a Rolls Royce". *I thought it beautiful.* But it was apparently rhetoric to Judge Redden.

Six minutes into Bauman's presentation, the good judge interrupted, apparently thinking Bauman's words too prejudicial,

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[4] Not her real name.

> "…Counsel, confine yourself to outlining what you intend to present. Save your argument for later!"

SAUSA Norman Frink looked across the table, his eyes and jaw expressing disbelief. It was a sign of things to come. If the opening was any indication, it promised to be another uphill battle with Judge James Redden.

Bauman continued, laying out a strong outline of a prosecution loaded with co-conspirator testimony—direct evidence supported by mounds of circumstantial evidence. AUSA summarized of each count of the indictment, naming the co-conspirators, and the supporting evidence. *I knew we had 'em by Pepe's reactions:* Mardy Maltais, for one. AUSA Bauman citing Maltais' trade of his NHRA racecar to Chavez for ten ounces of cocaine. *Pepe, responded with an angry look; leaning forward toward Bauman, hands on his head; elbows jumping onto the table.* It was powerful. When AUSA Ken Bauman finished, the jury fixed in collective stares at Pepe Chavez—a loaded moment in the midst of courtroom silence. It was perfect.

Defense attorney, John Henry Hingson III, was next. He had nothing. At the outset of his "Opening Statement", he announced that he would be only five minutes, "Short and sweet". His main tactic was prowling the front of jury box. Back and forth, facing off each juror in the closest proximity possible, apparently intending authority and confidence in his defense case., I saw it different, however. To me it looked like John Henry set off uneasy body movements and discomforted expressions among the jurors.

Hingson III did have a surprise for jurors, though—not mentioned to us at any time earlier. He told the jury, "Pepe Chavez will testify." He said that Chavez would confess to some of the crimes, And that Chavez would provide explanations for those crimes in the indictment that he did not commit. Finally, in what I thought futile arrogance, said

> "…at the conclusion [Of the trial], we will ask you to convict, but also to acquit for those he did not commit."

Weird, John Henry. Just weird!

Hingson's trial strategy was now evident. He would pretty much concede the "Fail to Appear" Charges—two counts of the second indictment, each carrying a five-year sentence and focus his defense on the first indictment. That most likely because the first indictment carried the most severe penalties: "Conspiracy"—one count, carrying a five-year sentence; "Distribution" and "Possession"– eight counts, each carrying a five-year prison sentence; "Importation"—carrying a five-year sentence; "Engaging in a Continuing Criminal Enterprise (CCE)"—the "Kingpin" section, carrying a twenty-years to life sentence with a "Life Special Parole Term" (Insurance, should the kingpin ever be released from prison).

So, the *slaughter* began. We paraded our witnesses before a progressively intent jury. James Barnard, the first. He was exceptional; even unrelenting, in the face of Hingson III's, Day three attempts to put him in "main kingpin" status, over Pepe Chavez. Barnard was not intimidated. He laid it all out,

> "...sold between 90,000 and 100,000 grams of cocaine...the gross revenue between six (6) and seven (7) million dollars...,"[5]

...though much of it told in tangent with proud account of his own racing accomplishments—probably intended for jury sympathy to discount his own miscreant behavior. And, Barnard was unapologetic for his cooperation with the government, explaining—yes, he was an equal partner with Pepe Chavez, but that the government offered him a deal. He revealed that he was serving a 25 year sentence with a 1999 parole date. He also revealed that the deal. He had agreed to testify and not to pursue an appeal on his previous convictions in exchange for complete and accurate testimony...and a waiver of the government's threat of eighteen months for Contempt of the Grand Jury, if he refused to testify.[6]

Then the parade continued. Co-conspirators, Gerry and Joyce Haxton, Ronald Snyder, Michael Gogan, Jerry Houck, John Percich, Michael Allie, Marty Maltais, Kevin Link, and Thomas Eastham. It was a public confessional of sorts for them. All were forthright and outstanding. Together they molded a picture of Pepe Chavez, a cocaine magnate, with all the accoutrements: A home in exclusive Lake Oswego, Oregon, two condominiums, an adult bookstore—purchased with thirty ounces of cocaine; exotic cars—a Rolls Royce, a Mercedes Benz, a Zimmer, two Corvettes, a Lincoln Continental, a racing Camaro, and a Harley Davidson motorcycle. And, oh yeah, two boats—a Sleek Craft and Spectra; and expensive jewelry and a fur coat.

It was quiet satisfaction for me, knowing that the rat-label they had just secured by their witness, would now be theirs forever; that they could not very well get back into the business because of it. And too, that by virtue of these truth sessions, each of them were, also, now afforded second-chance opportunities to reclaim their futures in a law-abiding world. I hoped they would take the opportunity.

John Henry Hingson III tried cross-examining our witnesses with his best *Darrow*. Barnard for some adulterous affairs, and otherwise, with gratuitous attacks on the police officers and task force agents.

> HINGSON III: "By the way, the Government doesn't want you to believe what the DEA did when it searched his [Chavez] house and his wife's underwear. They don't want you to believe that; they want you to believe that he lied about that....[7]
>
> "I charge the United States of America with aiding and abetting Kevin John Link in willful income tax evasion...the Presidential Task Force is guilty; .... all the witnesses have been paid for by the Government, paid for with liberty, paid for with money, bought and paid for... "[8]

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[5] Kenneth C. Bauman, "Brief of the Plaintiff-Appellee", United States Court of Appeals CR 84-57-RE, CR 85-78-RE, March 13, 1987, p.12..
[6] Joan Laatz, "Trial told of dealings in cocaine", The Oregonian, July 9, 1986.
[7] Kenneth C. Bauman, "Brief of the Plaintiff-Appellee", United States Court of Appeals CR 84-57-RE, CR 85-78-RE, March 13, 1987, p. 54.
[8] Ibid, p. 55.

And Hingson III appealed to the jurors hearts,

> "...what happens when a member of your family is charged and every witness against that member of your family has been given immunity by the Government; would you think that your family member got fair justice...?
>
> ...they want to put him [Chavez] in Marion, Illinois, the place that James Barnard described as the killer prison...[9]

But in the end, for the most part, to no avail. After the prosecution ended its presentation, Hingson III also rested the defense case—to a noticeably *astonished* jury.

> HINGSON III: "...because the Government did not present to you the truth, the whole truth and nothing but the truth, I decided to call no witnesses and present no evidence."[10]

And there were more theatrics in Closing arguments. At the end of Hingson III's rebuttal, he orchestrated a dramatic conclusion. Pepe got out of his chair, walked forward in front of the defense table and met his attorney with a handshake. Hingson III quietly wished him "good luck" and accompanied him back to his chair, both with arms about each other's shoulders. Then a direct closing comment to the jury,

> HINGSON III: "The jury should forever resolutely set its face and convict Mr. Chavez of the bail jumping charge and reject the method of prosecution on the remaining counts of these indictments."[11]

At the close of trial, we were confident that our case—and John Henry Hingson III—left the jury with one conclusion, *guilt beyond any reasonable doubt*. Still, Judge Redden *bent over backwards* to compensate—thirty-six pages of "Jury Instructions"—before sending the jury into deliberations. The following are excerpts—mostly canned judicial advice:

> "Members of the Jury, you have now heard all the evidence in this case. You have also listened to the attorneys on each side tell you what they believe the evidence has shown. It is now your duty to decide the facts in this case and reach a decision….
>
> The law permits nothing but legal evidence presented before the jury to be considered in support of any charge against the accused….
>
> Certain things are not evidence…
>
> 1. Arguments and statements by lawyers are not evidence…
> 2. Questions and objections by lawyers are not evidence…
> 3. Testimony that has been excluded or stricken…must not be considered.
>
> There are two kinds of evidence; direct and circumstantial. Direct evidence is direct proof of a fact, such as testimony of an eyewitness.

[9] Ibid, p. 55.
[10] Ibid, p.53.
[11] Ibid, p. 56.

> Circumstantial evidence is indirect evidence, that is, proof of a chain of facts from which you could find that another fact exists, even though it has not been proved directly…The law permits you to give equal weight to both, but is for you to decide how much weight to give to any evidence….
>
> …The law does not compel a defendant in a criminal case to take the witness stand and testify, or to present evidence …no presumption of guilt may be raised, and no inference of any kind may be drawn from the failure of a defendant to testify or to present evidence….
>
> You are the judges of whether the witnesses were telling the truth when testifying…. If you find that a witness intentionally lied in one part of his or her testimony, you are free to disregard anything else that the witness said…."[12]

…Until the middle section of the "Jury Instructions"—at least slightly, *over backwards*, anyway:

> "…You are not required to accept the truth of testimony, even though the testimony is uncontradicted and the witness is not impeached.
>
> The witness, Michael Gogan, has pleaded guilty to a crime arising out of the same events for which the defendant is on trial. This guilty plea is not evidence against the defendant, and you may consider it only in determining this witness' believability. You should consider this witness' testimony with great caution….
>
> In evaluating the testimony of these witnesses you should consider whether the testimony may have been influenced by the government's promise of immunity given in exchange for it, and you should consider that testimony with greater caution than that of other witnesses.
>
> You may have heard testimony from Mr. Link who has received compensation or favored treatment from the government in connection with this case. You should examine his testimony with greater caution than that of ordinary witnesses….
>
> You may have heard testimony from persons who claim to have committed or participated in the commission of the crimes charged…You should consider such testimony with greater caution than that of an ordinary witness…."[13]

Then, finally, Judge Redden closed with *legalese made simple*:

> "In order for the defendant to b found guilty of Engaging in a Continuing Criminal Enterprise…the government must prove five (5) things beyond a reasonable doubt.

[12] Judge James Redden, Jury Instructions, USA v. Jose Carlos Chavez-Vernaza, No. CR 84-57-RE, No. 85-78-RE, United States District Court, July 22, 1986, pp. 1-7.
[13] Ibid, pp. 8-10.

> First: The defendant Jose Carlos Chavez-Vernaza…committed at least one (1) of the following offenses charged in the first indictment….
>
> Second: That the offenses were part of 3 or more offenses, on which you all agree, committed by Mr. Chavez over a definite period of time in violation of the federal narcotics laws…
>
> Third: That the defendant Mr. Chavez committed the offenses together with five (5) or more persons; and
>
> Fourth: That the defendant Mr. Chavez acted as an organizer, supervisor or manager of the five (5) or more persons; and
>
> Fifth: That the defendant Mr. Chavez obtained substantial income or resources from the violations….
>
> In this case, the defendant is accused of having been a member of a conspiracy. A conspiracy is a kind of criminal partnership – an agreement of two or more people to do something unlawful. The crime is the agreement to do something unlawful; it does not matter whether it was successful or not….
>
> The government must establish beyond a reasonable doubt that the defendant was aware of the basic purposes and objectives of the conspiracy and entered into the conspiracy with a specific criminal intent, that is, with the purpose to violate the law….
>
> The first indictment [CR-84-57] will be with you in the jury room…37 counts [Eleven counts charged against Chavez; Others previously litigated in the Barnard, Ruth, Palmer, Gogan trial]. Nearly a year ago I dismissed count 37 on procedural grounds…. Counts 1 and 2 of the second indictment [CR-85-78] in this case charge that Mr. Chavez was released from custody in this case prior to trial and that later failed to appear for trial….
>
> The punishment provided by law for these crimes is for the court to decide…. Each of you must decide the case for yourself…. You are judges, judges of the facts. Your sole interest is to seek the truth from the evidence in the case and pronounce the truth by indicating what is in your verdict…."[14]

The verdict came in on July 29th.[15] On the Conspiracy count – guilty; On the distribution and possession counts, guilty on six counts, not guilty on two; On the Fail to Appear counts, guilty on both; On the Importation count, guilty; and on the Engaging in a Continuing Criminal Enterprise, guilty—**the first conviction in state of Oregon history on the charge CCE**![16]

Judge Redden set the sentencing of Jose Carlos "Pepe" Chavez for September 18, 1986. It had been a long slog. Four years of investigation detailing illegal drug activities since

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[14] Ibid, pp. 11-36.
[15] Verdict, United States of America v. Jose Carlos Chavez-Vernaza, United States District Court for the District of Oregon, No. 84-57 RE, No. 85-78-RE, July 29, 1986.
[16] Joan Laatz, "Jury convicts Chavez as cocaine ring kingpin", The Oregonian, July 30, 1986.

1979; 6,474 pages of formal discovery. 1000 pages of trial transcript in the 1985 Barnard et al trial; 1493 pages in this one. Over eighty inches of documents. And conviction!

It was a good day in America for all Task Force members who participated in the Northwest's first Presidential Drug Task Force in President Ronald Reagan's War on Drugs.