

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF NEW YORK

3 -----X  
4 UNITED STATES OF AMERICA, :  
5 v. : 93 M 2072  
6 LEO EMIL WANTA, : November 17, 1993  
7 Defendant. : Brooklyn, New York  
8 -----X

9 TRANSCRIPT OF CRIMINAL CAUSE FOR BAIL APPLICATION  
10 BEFORE THE HONORABLE ALLYNE ROSS  
11 UNITED STATES MAGISTRATE JUDGE

12 APPEARANCES:

13 For the Government: ZACHARY W. CARTER  
14 UNITED STATES ATTORNEY  
15 BY: ERIC BERNSTEIN, ESQ.  
16 ASSISTANT U.S. ATTORNEY  
17 225 Cadman Plaza East  
18 Brooklyn, New York 11201

19 For the Defendant: PETER KIRCHHEIMER, ESQ.

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25 Proceedings recorded by electronic sound recording,  
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1 THE CLERK: United States versus Leo Emil Wanta, 93  
2 20-72 M.

3 Counsel, please state your name for the record.

4 MR. KIRCHHEIMER: Peter Kirchheimer for Mr. Wanta.

5 MR. BERNSTEIN: Eric Bernstein for the Government.

6 THE COURT: Special Agent Denning (ph.), do you swear  
7 to the truth of your complaint?

8 AGENT DENNING: Yes, Your Honor.

9 THE COURT: Okay.

10 Mr. Wanta, do you understand what this proceeding is?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: What does your client wish to do?

13 MR. KIRCHHEIMER: Well, Judge, it's a little unusual  
14 in that it's a UFAB (ph.) not issued in this district, but  
15 issued out of Wisconsin. I think normally they do UFAB here.

16 But my client would be delighted to waive removal to  
17 Wisconsin.

18 In addition to that, we have a bail application. I  
19 think that on the removal, he ought to be out. My  
20 understanding is that he flew into this country with the intent  
21 of going to Wisconsin, number one.

22 Number two, if you read carefully the UFAB affidavit,  
23 not the removal affidavit from this district but the affidavit  
24 from Wisconsin, the State charge in Wisconsin is still a  
25 complaint, there is no indictment, number one.

1           Number two, it is, the complaint is bare of dates.  
2   There is no statement when my client left the country and when  
3   the complaint was returned. The only statement in the UFAB  
4   complaint is once he was abroad, there is a statement that at  
5   some point when he was abroad he was given notice of the  
6   pendency of the charges, and further, earlier before there were  
7   any charges, an agent says that he told him he intended to file  
8   charges.

9           Of course, the agent's intent is almost irrelevant in  
10   this, because the agent, certainly in no jurisdiction that I'm  
11   aware of, has the power to file charges. He can ask a judge to  
12   sign a warrant or he can ask someone to file a complaint. But  
13   he doesn't have the power or the discretion to do that.

14           So any statement of his intent to do that is  
15   something that's going to happen in the future that may or may  
16   not happen.

17           In addition, my client has family in Wisconsin, I've  
18   talked to the family in Wisconsin on the telephone. I think  
19   this case -- my fear is that what will happen if we don't do  
20   this is that Wisconsin will move for extradition and they'll  
21   start a state extradition process, which will take a month.

22           Alternatively, if you remove him in custody, that can  
23   take anywhere from a week to two weeks. The underlying charge  
24   is a state tax charge. I mean, I'm completely unfamiliar with  
25   the local law of Wisconsin. But I have to assume that if it's

1 treated sort of the same way that thing is treated here, that  
2 there's at least a significant possibility that he would not be  
3 facing any time. So that the time he spent in on this or the  
4 threat of time should he not go back when he was told to would  
5 be the severest consequence that he's facing.

6 My understanding is that there was some sort of  
7 airline credit card on him and that with the basis of the  
8 airline credit card he could fly himself back to Madison to  
9 face these charges.

10 He's expressed to me continuously his intent and his  
11 desire to do that. He was arrested coming into the United  
12 States, not going out. And he had been residing before that in  
13 Canada.

14 So that it's my -- I suppose the answer is the  
15 Government can't have it both ways. Either he was aware of the  
16 charges and had left to flee and was coming back aware of those  
17 charges to face those charges, or alternatively he wasn't aware  
18 of the charges and came back thinking he wasn't going to be  
19 arrested. But, of course, if he wasn't aware of the charges,  
20 the UFAB doesn't stand up.

21 So this case cries out for release on his own  
22 recognizance or -- I'm sorry -- release in a ten or \$15,000  
23 personal recognizance bond.

24 Additionally, I know it's sort of an extraneous but  
25 relevant fact, there is no room at the Metropolitan



1 Correctional Center. Were you to remand him, he would be taken  
2 to a local facility in -- I think they're taking them to  
3 Passaic. It's extremely difficult to use the telephone in  
4 Passaic. I've had -- basically, of the four or five clients  
5 I've had in the Passaic local facility I never get any contact  
6 from them because they just don't seem to be able to use the  
7 phone there.

8 Ii would add that I have personally spoken to family  
9 members. I spoke to his son-in-law in Au Claire, and his wife  
10 was supposed to be on the way to that telephone. I never did  
11 reach her, but my understanding is that there is --

12 I don't have a copy of that.

13 THE COURT: I'll read it out loud.

14 THE COURT: U.S. Ambassador to Somalia?

15 THE DEFENDANT: No. From Somalia to Canada.

16 MR. KIRCHHEIMER: A little bizarre, Judge, but  
17 neither here nor there. On the issue of flight --

18 (Pause in proceedings)

19 THE COURT: This sheds some light.

20 MR. BERNSTEIN: A little, Your Honor.

21 I spoke this afternoon with a woman named Judy  
22 Schultz, who's the Wisconsin Attorney General prosecuting the  
23 underlying case. She supplied me with some of the following  
24 information -- she and/or Agent Denning provided me with some  
25 of the following information:

1           The Defendant was actually served with the Wisconsin  
2   UFAB complaint in Singapore in May of 1992. Shortly after that  
3   time, an attorney in Wisconsin named Thomas Wilson apparently  
4   contacted the Attorney General's office out there and  
5   represented that Mr. Wanta would surrender.

6           That didn't happen. In fact, he went on to Thailand,  
7   where he was arrested for participating in a significant fraud  
8   against a hotel. Apparently, one of the things that was  
9   involved in that case was the Defendant's production or use of  
10   in some capacity -- I don't know exactly what -- of what  
11   purports to be a billion dollar bill, and I'm handing to the  
12   Court a document that's been faxed to me from Wisconsin, which  
13   is a copy of a document that the Defendant produced or  
14   attempted to use in connection with this fraud charge that he  
15   was arrested on in Thailand involving a hotel.

16           After that, the Defendant went on to Switzerland,  
17   here he was arrested on charges involving another fraud, on  
18   Swiss charges involving fraud. He apparently spent several  
19   months in jail in Switzerland. Ultimately, he was not, the  
20   prosecution didn't go forward, and we're not exactly sure why,  
21   but the charges were dropped.

22           The State Department then revoked the Defendant's  
23   passport and the Defendant was deported by Switzerland to the  
24   United States.

25           And so Mr. Kirchheimer's representation that the

1 Defendant simply came back here knowing that there were charges  
2 against him is completely false.

3 In fact, when Mr. Denning was waiting for the  
4 Defendant to get off the plane, the Defendant said, "I'm the  
5 one you're looking for," because he knew that authorities knew  
6 that he was going to be on that plane, and he had been  
7 deported.

8 Ms. Schultz also advises me that the charges that Mr.  
9 Wanta is facing in Wisconsin are substantial under Wisconsin  
10 law; that it involves several hundred thousand dollars worth of  
11 tax fraud, that the maximum penalty is five years. And I asked  
12 Ms. Schultz what is a likely sentence in this case, and she  
13 said they're seeking the maximum and it's likely that he's  
14 going to get something like that.

15 We're not talking about a charge that involves only a  
16 negligible amount of jail time. We're talking about something  
17 that can realistically be expected to result in significant  
18 jail time.

19 We're also informed by Ms. Schultz that in  
20 consultation with this lawyer, Thomas Wilson, that the  
21 Defendant's family out there hasn't heard from him in two  
22 years, which I think the Court can take into account as an  
23 indication of what the nature of the Defendant's contacts with  
24 the United States, obviously.

25 In addition to the various claims that the Defendant

1 makes about himself, as reflected in the Pre-Trial Services  
2 report, which I know the Court has already read, the Defendant  
3 has claimed to work for the CIA and for Customs and an agent in  
4 Minneapolis customs office has been consulted about this and  
5 confirms that the Defendant was never, was simply not working  
6 for Customs.

7 He also claims to be the Somali ambassador to Canada  
8 and gave Ms. Denning a document to that effect; and in fact  
9 when Ms. Denning asked him what his permanent address was, he  
10 specified an address in Toronto, Canada, not in the United  
11 States.

12 I couldn't disagree more strongly with Mr.  
13 Kirchheimer's statement that this is a case that cries out for  
14 bail. This is a case that cries out for detention, because the  
15 Defendant has been traveling around the world avoiding this  
16 prosecution and committing other frauds and engaging in all  
17 kinds of falsification of his own identity.

18 Under these circumstances, he is an enormous risk of  
19 flight, and the Government seeks detention.

20 MR. KIRCHHEIMER: A number of responses, Judge.

21 Lastly, of course, the Minneapolis, the unnamed  
22 Minneapolis customs officer --

23 MR. BERNSTEIN: I'll name him. His name is Mike  
24 Vanas, V-a-n-a-s.

25 MR. KIRCHHEIMER: -- who doesn't think that my client



1 worked for Customs.

2           Some years ago there was a trial in this courthouse,  
3 the IRA trial, one of the IRA trials in front of Judge  
4 Coughlin, in which Ramsey Clark, who had previously been an  
5 Attorney General of the United States, took the witness stand  
6 and testified that on a prior similar trial to that he had  
7 informed the Court in question that the CIA had told him as  
8 Attorney General of the United States that they had no  
9 involvement in a particular case, and then in the middle of  
10 that case the prosecution was abandoned when the CIA changed  
11 its position.

12           The relevance of that, of course, is that who knows  
13 which Government agency --

14           THE COURT: Who knows? That's my problem.

15           MR. KIRCHHEIMER: I'm not sure that the Government  
16 agencies are all that tremendously relevant.

17           The key here is that what Mr. Bernstein keeps talking  
18 about repeatedly is the foreign travel. But the problem is  
19 that there is no claim, because we don't have the date from  
20 when the accusation was returned, that he left after the  
21 institution of charges or after being aware of the institution  
22 of charges.

23           The only claim is that while --

24           THE COURT: Do you want a probable cause hearing?

25           MR. KIRCHHEIMER: Well, I think that's a separate

1 issue, but right now I think more important is bail.

2 THE COURT: No, I'm not going to let him out. I'll  
3 tell you that. I just can't.

4 MR. KIRCHHEIMER: Then what I --

5 THE COURT: So what would you like to do?

6 MR. KIRCHHEIMER: Give me a moment.

7 THE COURT: Okay.

8 (Discussion off the record.)

9 MR. KIRCHHEIMER: Judge, I have a second alternative  
10 suggestion before we deal with the issue of going back. I have  
11 been in contact with the family and I believe that the family  
12 lives in Au Claire, Wisconsin. The family may be willing to go  
13 to Madison.

14 I spoke to the son-in-law, who opined that my  
15 client's wife is likely to be willing to go to Madison to sign  
16 a bond in Madison.

17 THE COURT: Do you want to just put this off?

18 MR. KIRCHHEIMER: What I suggest is that we put it  
19 off for tomorrow and I attempt to, I'll try and talk to the  
20 family and see if I can present a surety.

21 THE COURT: A PRB wouldn't do in this instance. I  
22 would need some security. I see real problems with this case,  
23 Mr. Kirchheimer.

24 MR. KIRCHHEIMER: I guess I'd like --

25 THE COURT: A little more time?

1 MR. KIRCHHEIMER: I'm just trying to -- what's good  
2 for the Court on Friday?

3 THE COURT: Friday? You want to come before or after  
4 those gentlemen?

5 MR. KIRCHHEIMER: Oh, those folks are on? How about  
6 tomorrow then?

7 THE COURT: Actually, we could do it Friday morning,  
8 though.

9 MR. KIRCHHEIMER: Friday morning?

10 THE COURT: Yes. 11 o'clock? I'm free.

11 MR. KIRCHHEIMER: I have an 11 o'clock. Could you do  
12 it at 10:30?

13 THE COURT: I can do it at 10:30.

14 MR. BERNSTEIN: I'd like to reserve the question of  
15 -- my belief is that in the end we will waive removal, but  
16 before that happens I'd like to deal with the bail issue.

17 THE COURT: Okay. So that's November 19 at 10:30 in  
18 the morning.

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**CERTIFICATION**

I, Thomas Kramer, certify that the foregoing is a correct transcript from the electronic sound recordings of the proceedings in the above-entitled matter.



July 15, 1994

Thomas Kramer



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