

Tape 9, Track A

0:00:02.540,0:00:03.040

That sounds like hell.

0:00:07.000,0:00:12.500

There.

0:00:12.500,0:00:13.000

What... what'd you say, Ariane?

0:00:20.000,0:00:20.500

Well, anyway...

0:00:21.210,0:00:26.070

Well why don't we... let's go to Chapter 19,
we'll work through the end and then

0:00:26.070,0:00:30.119

we'll start and go back to the ones that
we did because we're in the same...

0:00:30.119,0:00:39.000

Sure, sure--well, however you want to do it... I wasn't sure if we had covered that point.

0:00:39.000,0:00:45.420

Oh. Well, in the spring of
'63 in the Supreme Court hands down

0:00:45.420,0:00:50.850

this landmark ruling, which ordered all
the federal courts to reexamine prior

0:00:50.850,0:00:56.120

state convictions and make sure that the
defendants' rights had not been violated.

0:00:56.120,0:01:03.570

What, did Bailey come to you and say that
he wanted to appeal this on the basis of

0:01:03.570,0:01:16.680

that? Was that...? Yes, and Mr. Bailey had
indicated previous to this that he felt

0:01:16.680,0:01:24.689

that we had a strong case on the writ of
habeas corpus--Thank you, could I have

0:01:24.689,0:01:27.439

another one of these things?--

0:01:30.130,0:01:38.110

When he first took the case, though he
said the law has not been clarified on

0:01:38.110,0:01:44.380

some of these points of publicity, he
said there's no question of the fact

0:01:44.380,0:01:59.680

that the jury made illegal phone calls
and that this was definitely something

0:01:59.680,0:02:08.259

that denied my constitutional right of a fair trial and he said in all cases that

0:02:08.259,0:02:13.260

he had been able to research on this point particularly

0:02:14.040,0:02:21.730

prejudice is presumed when a juror makes a phone call during deliberation,

0:02:21.730,0:02:31.540

which is not monitored on both ends. And he said he wanted to try the other tack first,

0:02:31.540,0:02:35.790

he wanted to try to get cooperation from the state officials and

0:02:35.790,0:02:46.000

obtain a polygraph test first and do it in a nice, refined cooperative way but he

0:02:46.000,0:02:54.790

said if... if not, if we don't get anywhere, we're going to go on to the Supreme Court

0:02:54.790,0:02:58.870

of the United States if necessary or at least go into the federal court system

0:02:58.870,0:03:05.489

on a writ of habeas corpus. Now he outlined this when we first talked and

0:03:05.489,0:03:13.269

it was very fortunate, I think, or certainly helpful that the Supreme Court

0:03:13.269,0:03:20.500

had had the Gideon case and some of the other cases that they made decisions on

0:03:20.500,0:03:26.079

just as Mr. Bailey decided that, well, it's time we have to go ahead in the

0:03:26.079,0:03:32.060

Supreme Court since I was denied any consideration of clemency and

0:03:32.060,0:03:38.510

on the basis of oversleeping three times, which seemed ludicrous to say the least,

0:03:38.510,0:03:51.020

if not anomalous. So, of course he then... at the time that he was ready to submit the

0:03:51.020,0:03:56.570

writ, he did come and appraise [sic] me of it, of course. Well then you had to make a decision didn't you? Should you

0:03:56.570,0:04:00.920

wait out the remaining year-and-a-half of a minimum ten years?

0:04:00.920,0:04:06.709

Well there was no deci--well, yes, but it was very easy to make, I told him to

0:04:06.709,0:04:11.239

go to it. And there was no question that you would rather serve out the

0:04:11.239,0:04:17.120

year and a half and apply for parole?

Well, you see, I could be paroled

0:04:17.120,0:04:22.910

while I was litigating the case, and even while on parole and of course under the

0:04:22.910,0:04:29.840

sentence of second-degree murder in this state, this entails a life parole. So even

0:04:29.840,0:04:36.520

on parole I'm still essentially under...

I'm still incarcerated, technically.

0:04:37.000,0:04:42.240

Yeah, you should [unintelligible]... of what it means to be paroled.

0:04:42.580,0:04:53.600

Well, parole is merely a... an honor incarceration--it's a state of being under full control

0:04:53.600,0:05:06.710

of the officialdom of the state of Ohio.

The rights--the right to vote and some of

0:05:06.710,0:05:11.930

these things are not permitted. I would not be able to get married unless I had

0:05:11.930,0:05:19.280

permission, which--no driver's license--well, I could get a license IF permitted, but

0:05:19.280,0:05:24.410

everything had to be approved and okayed by the parole officer and of course

0:05:24.410,0:05:32.210

in my case I would imagine it would go right back to brother Koblentz and some

0:05:32.210,0:05:39.740

of the other assholes in the central government of Ohio, the police state of

0:05:39.740,0:05:42.430

Ohio, and...