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## TABLE OF CONTENTS

	<u>Page</u>
POINTS TO REMEMBER	
Witnesses: Government Employees	1017
CIVIL DIVISION	
FEDERAL COUNTERFEITING STATUTES	
Fifth Circuit Upholds Government Seizure of Oversized Copies of Paper Currency Produced as Novelty Items	<u>Wholesale Vendors of Texas v. United States (C.A. 5)</u> 1020
SOCIAL SECURITY: JUDICIAL REVIEW	
Ninth Circuit Holds No Judicial Review of Secretary's Refusal to Reopen Social Security Disability Cases	<u>Stuckey v. Weinberger (C.A. 9)</u> 1020
CRIMINAL DIVISION	
NARCOTICS AND DANGEROUS DRUGS	
Stop Made By Agents On Roving Patrol Based on "Founded Suspicion" Held Valid	<u>United States v. Salvador Bugarin- Cases (C.A. 9)</u> 1022
Identity of Informant	<u>United States v. Roberto Able Gamboa (C.A. 9)</u> 1023
When Undisclosed Undercover Agent on Premises, Other Agents Need Not Make Announcement Prior to Entry	<u>United States v. Curtis Keith Glassel (C.A. 9)</u> 1023
FOREIGN AGENTS REGISTRATION ACT OF 1938, AS AMENDED	1025

LAND AND NATURAL RESOURCES DIVISION  
INDIANS

Treaty Fishing Rights;  
Discrimination Under State  
Regulations

Washington Game Department v.  
Puyallup Tribe, Inc., et al.

1029

## ENVIRONMENT

Secretary of the Interior was  
Authorized by Section 5(a)(1) of  
the Outer Continental Lands Act  
and Section 102 of NEPA in  
Suspending Drilling in Santa Barbara  
Channel to Enable Congress to  
Consider his Legislative  
Proposal to Create a National  
Energy Reserve There

Gulf Oil Corporation, et al. v.  
Morton, et al. (C.A. 9)

1029

NEPA; State Preparation of  
EIS Sufficient; Scope of  
Judicial Review Looks to  
Surrounding Circumstances

Iowa Citizens for Environmental  
Quality, Inc., et al. v. Volpe,  
et al. (C.A. 8)

1031

Exception From the 1899 River  
and Harbor Act for Log Driving  
Predating 1900

United States v. Kennebec Log  
Driving Co. (C.A. 1)

1031

Adequacy of Environmental Impact  
Statement; NEPA; State Water  
Board's Decision Irrelevant;  
Standard of Review

Environmental Defense Fund, et al.  
v. Ellis Armstrong  
(C.A. 9)

1033

APPENDIX

FEDERAL RULES OF CRIMINAL PROCEDURE

RULE 6(e): The Grand Jury;  
Secrecy of Proceedings and  
Disclosure

United States v. Tobin Packing Co.,  
Inc. 1035

RULE 6(e): The Grand Jury;  
Secrecy of Proceedings and  
Disclosure

United States v. Eugene L. Smaldone  
(C.A. 10) 1037

RULE 7: The Indictment and the  
Information

United States v. Eugene L. Smaldone  
(C.A. 10) 1039

RULE 7(c): The Indictment and the  
Information; Nature and contents

United States, Appellant, v. Dale  
Paul Gulp, Appellee (C.A. 8)  
1041

RULE 7(f): The Indictment and the  
Information; Bill of Particulars

United States, Appellant, v. Dale Paul  
Gulp, Appellee (C.A. 8) 1043

RULE 8(b): Joinder of Offenses  
and of Defendants; Joinder of  
Defendants

United States v. William Marvin  
Holt (C.A. 5) 1045

RULE 11: Pleas

Kermit Nello Burton v. United  
States (C.A. 9) 1047

RULE 11: Pleas

United States v. Frank Richardson  
(C.A. 8) 1049

RULE 14: Relief from  
Prejudicial Joinder

United States v. William Marvin  
Holt (C.A. 5) 1051

	<u>Page</u>
RULE 16: Discovery and Inspection	<u>United States v. Eugene L. Smaldone (C.A. 10)</u> 1053
RULE 16(a): Discovery and Inspection; Defendant's Statements; Reports of Examinations and Tests; Defendant's Grand Jury Testimony	<u>United States v. Tobin Packing Co., Inc.</u> 1055
RULE 16(b): Discovery and Inspection; Other Books, Papers, Documents, Tangible Objects or Places	<u>United States v. Tobin Packing Co., Inc.</u> 1057
RULE 29(a): Motion for Judgment of Acquittal; Motion Before Submission to Jury	<u>United States v. Vernon J. Fontenot et al. (C.A. 5)</u> 1059
RULE 30: Instructions	<u>United States v. Vernon J. Fontenot et al. (C.A. 5)</u> 1061
RULE 32(a)(2): Sentence and Judgment; Sentence; Notification of Right to Appeal	<u>Ronald Bowman v. United States (C.A. 5)</u> 1063
RULE 32(c)(2): Sentence and Judgment; Presentence Investigation; Report	<u>United States v. Clovis Carl Green, Jr.; Clovis Carl Green, Jr. v. United States (C.A. 10)</u> 1065
RULE 35: Correction or Reduction of Sentence	<u>United States v. Clovis Carl Green, Jr., Clovis Carl Green, Jr., v. United States (C.A. 10)</u> 1067

	<u>Page</u>
RULE 41: Search and Seizure	<u>United States v. Charles E. Sellers, Jr., et al. (C.A. 5)</u> 1069
RULE 42: Criminal Contempt; (a): Summary Disposition (b): Disposition Upon Notice and Hearing	<u>United States v. Mark Lawrence Alter (C.A. 9)</u> 1071
RULE 42: Criminal Contempt; (a): Summary Disposition (b): Disposition Upon Notice and Hearing	<u>United States v. Thomas Henry Marra (C.A. 2)</u> 1073
RULE 52(a): Harmless Error and Plain Error; Harmless Error	<u>United States v. William Marvin Holt (C.A. 5)</u> 1075
RULE 52(b): Harmless Error and Plain Error; Plain Error	<u>United States v. Vernon J. Fontenot et al. (C.A. 5)</u> 1077
FORM 5: Indictment for Internal Revenue Violation	<u>United States, Appellant v. Dale Paul Gulp, Appellee (C.A. 8)</u> 1079
LEGISLATIVE NOTES	LI

POINTS TO REMEMBER

Witnesses: Government Employees

The fuel shortage and reduction in airline flights presents a growing problem for the military and civilian agencies who must supply their employees to testify in Federal Court. In view of this situation, all Assistant United States Attorneys are urged to notify the agencies as far in advance as possible and to provide all the necessary information.

A review of the process for obtaining government witnesses is set out below. Remember, government employees should NOT be subpoenaed. Rather, the following procedures should be followed.

1. Armed Forces Employees (both military and civilian)

- a. From Outside Trial District. Submit Form DJ-49 to: Special Authorizations Branch, Rm. 6142, Office of Legal Administration, Washington, D.C. 20530. This form should be submitted at least two weeks prior to trial date. In an emergency call: 202-739-3547 and send confirming Form DJ-49 or teletype with all information immediately.

The social security number and current office or duty address for all witnesses is required so that travel orders can be issued promptly by the proper command, and travel funds advanced by the agency to the witnesses who have been transferred or reassigned recently. Special Authorizations Branch will determine which agency is properly chargeable for the travel expenses and will advise the agency to seek reimbursement when appropriate directly from the Department. Form USA-54 should be submitted when the agency is to be reimbursed by the Department confirming that no payment was made by the U.S. Marshal.

- b. From Within the Trial District. Contact by phone or letter the legal officer at local military installations giving all data required on Form DJ-49. If the agency is not interested or involved in the litigation and the witness did not investigate the case, the U.S. Marshal can reimburse the agency for travel funds advanced to the witness based on SF 1080 supported by witness travel voucher.

2. Government Employees of Civilian Agencies

- a. Located in Washington, D.C. and Foreign Countries. Send DJ-49 to Special Authorizations Branch, Rm. 6142, Office of Legal Administration, Washington, D.C. 20530, two weeks prior to trial date. In an emergency call: 202-739-3547, and send confirming DJ-49 or teletype

with all necessary information. The employing agency will be advised immediately to prepare travel orders and advance travel funds to the witness. If the agency is not interested in the prosecution and the witness did not investigate the case, the Special Authorizations Branch will advise the agency to seek reimbursement from the Department based on the witness's travel voucher.

- b. Located in the Trial District. Contact by phone or letter the personnel office of the local agency requesting that travel orders and travel funds be advanced to the witness, if necessary. If the agency is not interested or involved in the litigation and the witness did not investigate the case, the U.S. Marshal can reimburse the agency for travel funds advanced to witness based on SF 1080 supported by witness' travel voucher.

### 3. Payment to Government Witnesses

- a. Attendance Fee. Government employees receive no fee (5 U.S.C. 5537).
- b. Travel Funds. If necessary, travel funds should be advanced to the witness by the employing agency. If the case does not involve the employing agency or if witness did not investigate the case, the agency can seek reimbursement. If Form DJ-49 was submitted to the Department, any reimbursement will be made by the Accounting Section, Office of Legal Administration, Washington, D.C. USA-54 is required for all witnesses when reimbursement is to be made by the Department.

### 4. Changes in Trial Date. (Cancellations, Postponements, etc.)

- a. Local Witnesses. Notify witness immediately whenever attendance dates are changed or cancelled. If unable to locate witness directly, contact employing agency requesting that witness be notified immediately.
- b. Others. Call or send teletype to Special Authorizations Branch, Office of Legal Administration, so that witness can be notified immediately and travel orders amended or cancelled. This will prevent all unnecessary travel of witnesses.



5. Statutory Authority.

a. Title 5, U.S. Code;

- (1). Section 5537 states that no attendance fee is paid to government employees.
- (2). Section 6322 states that witness is in official duty status while testifying for Government. Civil Service Commission has issued regulations for government employees serving as witnesses.
- (3). Section 5751 states that the employing agency is responsible for travel expenses of its witnesses while testifying in cases involving that agency. Travel of all investigating agents serving as witnesses is paid by the employing agency.

b. Title 28, Code of Federal Regulations, Part 21

Gives regulations for government employees serving as witnesses, and prescribes payment and reimbursement for travel of witnesses.

6. Call Special Authorizations Branch (202-739-3547) if in doubt about which agency is responsible for expenses of witness or any other special problems relating to attendance of witnesses.

CIVIL DIVISION

Acting Assistant Attorney General Irving Jaffe

COURT OF APPEALSFEDERAL COUNTERFEITING STATUTESFIFTH CIRCUIT UPHOLDS GOVERNMENT SEIZURE OF OVERSIZED  
COPIES OF PAPER CURRENCY PRODUCED AS NOVELTY ITEMSWholesale Vendors of Texas v. United States (C.A. 5,  
No. 73-2381, November 28, 1973, D. J. 145-3-1202)

Wholesale Vendors sued to enjoin the United States from seizing as counterfeit oversize photographic reproductions of silver certificates and federal reserve notes produced and sold as novelty items, arguing that since it had no intent to pass the bills off as counterfeit, and, in fact, the bills had not violated the federal counterfeiting statutes. Plaintiffs' novelty bills were approximately four times as large as the original currency. The district court accepted the government's argument that the printing of such items was in violation of 18 U.S.C. 474 which prohibits all unauthorized prints or impressions in the likeness of U. S. currency, regardless of intent. Moreover, the district court agreed that the novelty bills were not authorized under 18 U.S.C. 504 which permits the printing of illustrations of currency for certain educational purposes. Therefore, the district court declined to issue the requested injunction. The court of appeals affirmed per curiam.

Staff: Jean A. Staudt (Civil Division)

SOCIAL SECURITY: JUDICIAL REVIEWNINTH CIRCUIT HOLDS NO JUDICIAL REVIEW OF SECRETARY'S  
REFUSAL TO REOPEN SOCIAL SECURITY DISABILITY CASESStuckey v. Weinberger (C. A. 9, No. 25487, November 21, 1973,  
D.J. 137-61-146)

Plaintiff sought to reopen a prior determination of the Appeals Council of the Social Security Administration denying his claim for disability benefits under the Social Security Act. The Appeals Council concluded that **plaintiff** failed to adduce new evidence which would justify reopening, and