

# Exhibit 1

1 before the Court at this time before we commence  
2 with jury selection?

3 MR. SEBREE: The first week in April prior  
4 to the preliminary examination, we specifically  
5 requested video surveillance that may have existed  
6 within Cass Technical High School. .

7 As a result, we requested that the Judge  
8 give us a discovery order. At that point in time,  
9 the Prosecutor advised us that they didn't know  
10 whether or not the videotape existed or did not  
11 exist.

12 Later, at the next hearing, we were  
13 advised that in fact a videotape was in existence  
14 and that some portion of the videotape was in fact  
15 reviewed but that the reviewed portion of the  
16 videotape and any other videotape with respect to  
17 that specific incident had in fact been destroyed or  
18 deleted.

19 As a result, Judge, there is going to be  
20 during the course of this trial certain evidence  
21 that is going to come out from witnesses, through  
22 witness testimony, that we may use as a curative  
23 instruction at the end with respect to this  
24 destruction of evidence in our view.

25 So as opposed to bringing it up later at

# Exhibit 2

1 the end of the trial with respect to a request for a  
2 curative instruction, I just wanted to bring that to  
3 the Court's attention at the outset.

4 JUDGE BOYKIN: Was there an order for this  
5 tape?

6 MR. SEBREE: That is correct, Judge.

7 JUDGE BOYKIN: The last time?

8 MR. SEBREE: Judge, this was prior to us  
9 even getting here. This was a preliminary--

10 JUDGE BOYKIN: Why wasn't this brought to  
11 the Court before the day of trial? If there is  
12 non-compliance with a discovery order, that needs to  
13 be resolved instead of waiting for the trial and  
14 saying they didn't produce it.

15 MR. SEBREE: Well, the prior Judge had a  
16 ruling with respect to my request to dismiss, and  
17 she did not grant it.

18 JUDGE BOYKIN: Well, that is in the  
19 District Court. Here, if there are discovery  
20 issues, they should have come before this Court on a  
21 motion long before here we are on the day of trial,  
22 and I could have made a ruling.

23 Back on the 28th of June of this year, I  
24 entered a final pre-trial order. All motions,  
25 including those in limine, must be filed and heard