

1 SUPREME COURT OF THE STATE OF NEW YORK
2 COUNTY OF NEW YORK: CRIMINAL TERM: PART 32

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4 THE PEOPLE OF THE STATE OF NEW YORK Indictment NO.
11987/91
5 -against-
6 DOMINIC FRANZA, 110/125.25
7 Defendant Proceedings

8 -----
9 September 27, 1993
10 111 Centre Street
New York County

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12 B E F O R E:

13 HONORABLE PAUL BOOKSON, JUSTICE

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15 A P P E A R A N C E S:

16 ASSISTANT DISTRICT ATTORNEY
17 DAVID SQUIRREL, ESQ.
NEW YORK COUNTY

18 FOR THE DEFENDANT
19 PETER VERBY, ESQ.
NEW YORK COUNTY

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22 MARCIA MARSHALL
23 SENIOR COURT REPORTER
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2 THE COURT: For the record, the motion is
3 now submitted for the Court. There are papers
4 for the Court. We will have a decision next week.

5 MR. SQUIRREL: I have one response. I don't
6 know if you have it or defense has it.

7 MR. VERBY: Your Honor, Mr. Franza has prepared
8 a reply to the opposition. There is a technical
9 problem which I hope the People will waive since
10 he's incarcerated. He was unable to get a notary
11 to sign the affidavit. Perhaps the People would
12 be kind enough to waive that requirement, unless
13 there is somebody here in the courtroom that can
14 notarize it.

15 MR. SQUIRREL: I have no objection to that,
16 Judge.

17 MR. VERBY: Your Honor, this is Mr. Franza's
18 reply to the --

19 THE COURT: It's not a reply to this? Is
20 it a reply to this?

21 MR. VERBY: Yes. Mr. Franza's position is
22 that the reply submitted by the District Attorney
23 is legally insufficient as a matter of law; that
24 he fails to comply with the statutory requirements
25 in response to a 440.

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2 And I do note, it appears to be only a one
3 page reply to a motion that was close to 200 pages.

4 THE COURT: I'll look at it. Anything else?

5 MR. VERBY: Mr. Franza wants to be able to
6 read his reply into the record.

7 THE COURT: No need for that. The court
8 has a copy of it.

9 MR. VERBY: Do I understand, your Honor,
10 then that we're waiting now for the Court to be
11 able to evaluate the motion, the reply, and the --

12 THE COURT: I'll read the papers, and I will
13 make a determination. That's all.

14 MR. VERBY: So you may make a ruling that
15 there will be a hearing done or --

16 THE COURT: I'm not prognosticating anything.
17 I will do -- after I read it, digest it, and make
18 a determination, you will know what I concluded.

19 MR. VERBY: Your Honor, Mr. Franza has a
20 few brief remarks he would like to make on the
21 record.

22 THE COURT: I'm sure they're brief; they
23 will be.

24 MR. FRANZA: Thank you, your Honor. With
25 respect to my reply, okay, there is only one issue

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2 before this court.

3 THE COURT: No, no. If there is going to
4 be an elaboration of the reply, then that's not
5 fair. It's not fair to the District Attorney.
6 It's not fair to anyone.

7 MR. FRANZA: Well, then, I'll hold off on
8 it then.

9 THE COURT: Hold off on it. I have the papers.
10 Anything you wanted, you have included in the
11 papers.

12 MR. FRANZA: This is just an addition.

13 THE COURT: Well, there are no additions.
14 If there are additions, you file an addendum.

15 MR. FRANZA: Okay, your Honor.

16 THE COURT: Anything else?

17 MR. VERBY: I don't think so, Judge.

18 THE COURT: Very well, this concludes the
19 matter.

20 MR. VERBY: Excuse me, one second, your Honor.
21 Your Honor, the matter that Mr. Franza is raising,
22 I think is an appropriate one.

23 THE COURT: What?

24 MR. VERBY: The matter that Mr. Franza is
25 raising now has to do with where he's

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2 going to be during the pendency of the decision.
3 The reason that's significant is, you can see,
4 most of the work he does is pro se, and it's in
5 depth.

6 They brought him from Upstate and he's being
7 held at Rikers Island, where there is no legal
8 research facility. So he was trying to get an
9 idea --

10 THE COURT: I believe he'll be returned to
11 where he's being housed.

12 MR. VERBY: Would you be willing to make
13 a recommendation --

14 THE COURT: I do not dictate where someone
15 is held, nor do I control Corrections. But from
16 my familiarity with the system, he will return
17 to whence he was brought down here by People's
18 order.

19 MR. VERBY: May I ask how long an adjourned
20 date you're contemplating, your Honor?

21 THE COURT: Probably two weeks. October
22 14th. And that's it.

23 MR. VERBY: Could we have the 15th by any
24 chance. The 14th I have to be out of the borough.
25 I have a hearing in --

PROCEEDINGS

THE COURT: The 18th.

MR. VERBY: Thank you.

THE ABOVE IS CERTIFIED TO
BE A TRUE AND ACCURATE TRANSCRIPT
OF THE TESTIMONY.

Marcia Marshall

MARCIA MARSHALL

SENIOR COURT REPORTER

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