

Trial Judge Orders Deletion Made in Official Transcript

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Superior Court Judge Alfred Burka yesterday ordered a court stenographer to delete almost a page from an official transcript of a trial in apparent violation of court rules banning alterations of transcripts.

The passage was removed from the 30-page transcript of a proceeding that ended in a mistrial after Judge



JUDGE ALFRED BURKA
... "personal comment"

Burka repeatedly complained of the operation of the U.S. attorney's office and charged prosecutors with "constant sloppiness."

Shortly after ordering the deletion from this transcript, the judge permitted release of a transcript in another proceeding without change. The second transcript quoted him as criticizing the city's narcotics treatment administration and telling a drug user that "methadone is totally useless."

Judge Burka said that he directed removal of the one passage before making the transcripts available to The Washington Post, which had ordered them, because it represented "just a personal comment between an FBI agent and myself."

According to the judge, "It didn't have anything to do with the trial." However, the unidentified agent had been summoned to the courtroom in connection with the proceeding.

The deleted section of the transcript indicates the agent and the judge exchanged several remarks in the midst of the hearing just after a prosecutor announced, "The agent is present and available."

Court spectators, who declined to be identified, said the remarks represented a joke with the agent. "The judge just cracked a joke," one court aide said.

Anne Teoby, a court stenographer, said she deleted the passage at the judge's order. "His comment was straight," she said.

... of the transcript...
... made by the court (judge) except on notice to the prosecutor and counsel for the defendant.

"Where changes are made in the transcription of proceedings, the corrections and deletions shall be shown," the rule states.

An explanatory comment attached to the rule also notes, "The rule further requires any change in the transcript to appear together with the corrected material."

"We certainly had no notice of any deletion from the transcript," Richard Stuckey, acting chief of the felony trial section of the U.S. Attorney's office at Superior Court, said yesterday. Stuckey and Assistant U.S. Attorney Peter Goldberg had prosecuted the case.

William F. Dow III, a Public Defender Service attorney, who represented the defendant, Edward L. Allen, also said he had no knowledge of the deletion.

The provision on transcripts

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Official Transcript Deletion Is Ordered by Trial Judge

BURKA, From D1

was inserted in the Superior Court rules last Feb. 1 to make sure that judges do not alter transcripts, court sources said.

They said it was extremely rare, however, for a judge to order a portion of the record removed. There is no penalty prescribed for violating the rules.

The transcript shows that Allen was granted a mistrial last Wednesday on grounds that prosecutors had not been prepared to furnish the defense with statements made by government witnesses.

A new trial for Allen, 24, who is charged with stealing a car from a car rental agency where he worked and taking it to California, is set for Jan. 11.

At one point during the trial, Judge Burka said, according to the transcript, "I'm getting irritated with the government with the constant sloppiness which I must attribute to Mr. Evans (John Evans, head of the felony trial section) . . . I have been trying to protect the government but I can no longer put up with this

The other transcript, which details a sentencing last Thursday, quotes him as agreeing with a narcotics user, Sonny E. Brown, that the city's narcotics treatment administration program, which uses the drug, methadone, lacks merit.

When Brown, before him on

a felony conviction of carrying a gun illegally, said, ". . . the methadone is worse than the narcotics," Judge Burka agreed.

"I don't know anyone who has died as a result of withdrawing from heroin," the judge told him. "However, I do know people who have died as a result of withdrawing not only from methadone but from barbiturates . . . Methadone is totally useless."

He also told Brown, whom he put on probation, that he did not think the Blackman's Development Center, which runs a drug treatment pro-

gram, could aid him. Calling the center personnel, "a bunch of criminals," he said, "they're not the type of people you could associate with and feel comfortable . . ."

In the past Judge Burka has been critical of newspapermen for printing transcripts of his comments from the bench. He also has barred the U.S. attorney's office from obtaining a transcript of a court hearing in which he reportedly criticized the office's operation.

A transcript is an official court document recording everything that happens during a legal proceeding.