

**To:** Mac  
**From:** Betsy Johnston  
**Subject:** Phone conversation with Judge Hanshaw  
**Date:** February 19, 1997

## MEMORANDUM

I called Judge Hanshaw's office again this morning to find out when we could reschedule the hearing that was set for Thursday, Feb. 13, 1997 (which was "snowed out") so that we could take up our motions to compel discovery and to stop the State Hospital evaluation until we had discovery. The Judge's position, as conveyed to me, is this:

1. The hearing that we're trying to get rescheduled was only "tentatively set" for Thursday, February 13th at 11:00 a.m. But, he can't hold a hearing in the Stocks case right now because a) Heath would have to be there for it, and he's at the State Hospital, and b) all proceedings have been stayed until the State Hospital issues its report to the Court.

2. He feels that whatever problems we're having with discovery from the Prosecutor's office are purely honest mistakes, because the Prosecutor is getting this file from the State Police in pieces, he doesn't have enough support staff, and because this isn't the only case that the Prosecutor has. The Judge suggested that if we're missing something, that we call Larry Cook's office and ask for it, and he would send it to us ASAP.

3. The Judge wants the State Hospital evaluation to continue because their evaluation isn't a matter of defense strategy, but is being done in the interest of justice. If Edgar hadn't moved for an evaluation, the Judge says he would've ordered one on his own motion. He also said that we really couldn't begin to formulate our defense until the State Hospital comes back with its report in the first place, since he hasn't yet been found fit to proceed. I did point out to the judge that we are interested in more issues than Stocks' fitness to proceed, and that ultimately, Stocks' cooperation with the evaluation (or lack thereof) could seriously affect the efficacy of the evaluation. Particularly since, as far as we know, this is still a death case. He was unconvinced, stating that this evaluation is something that's done in the interest of justice and that it was something that the Court had an interest in seeing that it's done properly, and quickly. The Judge believes that the State Hospital can perform its evaluation whether Heath cooperates with them or not.

4. The Judge resents "Mr. Carder's" claim that the Judge has been calling the State Hospital hurrying up Stocks' evaluation. I tried to explain to the Judge that that wasn't our claim, but that the Prosecutor was doing that, telling the State Hospital that he had "just gotten off of the phone with the Judge. . . etc." The Judge said that the reason Heath was sent to the ASH so quickly was out of concern for Heath's well-being, considering the alleged facts of the case, the way Heath looked and acted at his first appearance, and because we were obviously concerned enough about him to have our own Psychiatrist go see him. In fact, the Judge said that that's why he called the Sheriff and had Heath placed on suicide watch.