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February 24, 1994

Hon. Cecil J. Mills
Presiding Judge of the Superior Court
Criminal Courts Building
210 West Temple Street
Los Angeles, California 90012

COPY

re: People v. Hooman Panah, LA 015927

Dear Judge Mills:

Pursuant to a grand jury indictment alleging a special circumstances homicide, the above defendant is scheduled for arraignment in Department 100 on Friday, February 25, 1994. Because the defendant has become indigent, the court will be asked to appoint counsel for him. This letter addresses the question of whether under Penal Code section 987.2, considering the unique circumstances of this case, it would be appropriate to appoint counsel other than the public defender.

I.

There can be no doubt that Department 100 must be accorded the widest latitude in its determination of issues relating to appointment of counsel. Alexander v. Superior Court, 93 Daily App. Rpt. 2077 (Feb. 17, 1994). Nevertheless, it still remains clear that there may be circumstances wherein the interests of justice would be served by the appointment of a particular attorney. Harris v. Superior Court, 19 Cal.3d 786.

II.

In this case, defendant Panah is a Persian-born, Farsi-speaking immigrant. Though he is accused of killing a young girl, Panah has a documented history of mental instability and hospitalization -- both in Iran and in the United States. He has no criminal history, and, at the time of the incident, was employed at Mervyn's department store.

Since the day he came to the United States more than six years ago, defendant Panah has maintained a close personal relationship with Syamak Shafania, a Farsi-speaking member of the Bar. Throughout the time defendant attended Taft high school and Pierce college, Mr. Shafania acted as defendant's tutor, mentor and advisor. For more than six years defendant has reposed enormous trust and confidence in Mr. Shafania.

At the time of his November 1993 arrest in this case, defendant immediately turned to Mr. Shafania, his friend and confidant. When the case was first filed in division

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119 in Van Nuys, it was Mr. Shafania who stood by defendant's side. Throughout numerous appearances in the municipal court, Mr. Shafania served as counsel of record for defendant.

At the same time, Mr. Shafania and the Panah family had begun a search for co-counsel -- someone experienced and skilled in special circumstances cases. Having consulted with any number of attorneys, the Panah family selected Robert Sheahen, a criminal lawyer of more than 20 years experience in homicide cases. (Mr. Sheahen is not a downtown panel attorney but has served with distinction by court appointment in death cases in Santa Monica and Van Nuys.)

Retained for purposes of the preliminary hearing only, Mr. Sheahen and Mr. Shafania thoroughly prepared the case. Together they worked with an investigator, interviewed witnesses and even caused two psychiatrists to be appointed to assess the boy's troubled background. They sought out his prior mental hospital records in this country and initiated contacts with Farsi-speaking witnesses in Tehran. They further spent countless hours interviewing the defendant in jail, working with the prosecutor and developing the ability to insure the trust and cooperation of the Panah family. (Though the case was exhaustively prepared, the preliminary hearing itself was not held due to the district attorney's resort to the superseding indictment.)

III.

Under these circumstances, (it appears likely that the court system would be saved a great deal of time and the taxpayers would be saved a great deal of money if Mr. Sheahen and Mr. Shafania are appointed as counsel for defendant.) They know the case and they know the defendant. Given the defendant's long-standing reliance on the counsel of Mr. Shafania and the defendant's complete faith in Mr. Sheahen, it is probable that he would follow their advice to enter a plea at an early stage of proceedings. On the other hand, were the public defender to be appointed, this sense of trust would not exist and the result might be an extremely costly trial.

It would thus appear that the Court has sufficient ground to find good cause for appointment of counsel other than the public defender.

Most sincerely,


Robert Sheahen

Rs/sjf

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