

improperly utilized. The lower court should have dismissed these claims from the case.

- III. The district court, through the actions of the presiding judge, erred when it involved itself in the negotiations of a plea agreement. By announcing to all parties the sentencing parameters it would accept, the court became a partner in the negotiations. The court exercised this role materially and prejudicially when the court refused to allow the government its inherent right to dismiss claims in an indictment. These errors call into question the integrity of the judicial process and served to substantially prejudice York by leaving York with no choice but to go to trial. Accordingly, York's convictions must be overturned.
- IV. Just a few weeks prior to this long and arduous trial, the district court permitted new counsel, Andrian Patrick, to enter an appearance as counsel for York. The court also permitted previous counsel to withdraw from the case. In attempting to review the 20 months of activity in the case, including, indictments, superseding indictments, discovery information, motions, and court orders; new counsel requested an extension in the trial date so that he could adequately prepare for trial. The district court refused and trial proceeded as planned. The court's failure to grant an extension, given the circumstances, deprived York of his right to counsel, due process and a fair trial.
- V. When faced with new evidence of York's actual innocence to the charges, the district court abused its discretion when it failed to grant York's motion for