

1 G E O R G E C A N N O N, called as a witness
2 by the government, being first duly sworn,
3 testified as follows:

4 DIRECT EXAMINATION

5 BY MR. GREEN:

6 Q Where do you live, Mr. Cannon?

7 A Miami, Florida.

8 Q And where do you work?

9 A I'm self-employed as a private investigator.

10 Q How long have you been a private investigator?

11 A Approximately three months.

12 Q What did you do before that?

13 A Prior to that, I was Special Agent of the FBI
14 for nearly twenty-two years.

15 Q Now, before you retired from the FBI, where were
16 you assigned?

17 A In Miami.

18 Q How long were you assigned to the Miami field office?

19 A Nearly fifteen years.

20 Q And what was the nature of the work you did in the
21 Miami field office before you were retired?

22 A I was assigned to a terrorist unit there.

23 THE COURT: Was it a terrorist unit or anti-
24 terrorist unit?

25 THE WITNESS: Well, we called it a terrorist unit.

1 I guess to be correct, it should have been anti-terrorist
2 unit. You're probably correct.

3 Q What was the full name of that unit?

4 A It had a squad designation, actually. It was a
5 squad number. And this was just the unit within that
6 squad.

7 Q Now, during the time you were in the Miami
8 field office, did you work on the investigation of Omega 7?

9 A Yes, I did.

10 Q What was your role in that investigation?

11 A I was the over-all coordinator of the case.

12 In other words, there were several agents who handled the
13 investigation. They had several subjects that they
14 investigated or activities. And I would coordinate their
15 investigation, set forth leads and send out communications,
16 that sort of thing.

17 INTERPRETER KOHN: Excuse me, your Honor, could
18 the witness speak up.

19 THE COURT: Move up and take the microphone closer
20 to yourself. Put it right in front of you. Thank you, sir.

21 In other words, you were the coordinator of the
22 investigation which your squad was conducting into
23 activities of Omega 7, is that correct?

24 THE WITNESS: That's correct.

25 Q Now, when did you stop working on the Omega 7

1 investigation?

2 A In late November, early December, 1982. There
3 was a squad change and that's when I finished my part of
4 the investigation or that assignment, that assignment,
5 I should say.

6 Q Now, during the time that you were working in the
7 Miami field office, did you have occasion to talk with
8 Eduardo Arocena?

9 A Yes, I did.

10 Q Do you see him in the courtroom today?

11 A Yes, I do.

12 Q Would you tell us where he's sitting and what
13 he's wearing?

14 MR. FERNANDEZ: Your Honor, we'll stipulate that
15 he knows Mr. Arocena.

16 THE COURT: Very well.

17 Q How many times did you talk with Mr. Arocena?

18 A On three different occasions all in September of
19 1982.

20 Q When was the first time?

21 A September 15th. It was at his home in the
22 southwest section of Southwest 14 Terrace.

23 Q With whom did you go to Mr. Arocena's home on
24 September 15th of 1982?

25 A Special Agent Robert Lee, who was also assigned to

1 the Miami division.

2 Q Waht was your purpose in going to Mr. Arocena's
3 residence?

4 A We were there to interview him, of course.
5 But prior to that time, Mr. Arocena had been in New York,
6 where he appeared before a federal grand jury. And we
7 felt that part of the testimony that he had provided at
8 that time was perjury.

9 Q Without going into the testimony itself, why
10 don't you just tell us in a general way what your reason
11 for going was?

12 A Well, we had hoped to talk to him and point out
13 this fact to him and solicit his cooperation in the
14 investigation of Omega 7.

15 Q Who was at Mr. Arocena's residence when you
16 arrived there?

17 A His wife answered the door.

18 THE COURT: What was the date of your first visit
19 to his home?

20 THE WITNESS: That was September 15th, 1982.

21 Q And after you saw Mrs. Arocena, did you have
22 occasion to see Mr. Arocena?

23 A Yes, we did.

24 Q And did you speak with him?

25 A We talked with him briefly, yes.

1 Q In what language did you speak to him?

2 A In English.

3 Q And do you speak Spanish?

4 A Yes, I do.

5 Q Approximately how long was your visit that day?

6 A I'd say approximately fifteen minutes.

7 Q And to the best of your recollection, what was
8 said and by whom?

9 A We informed Mr. Arocena that we thought that
10 he might have a problem because of the fact that we believed
11 he had committed perjury during the grand jury trial.

12 THE COURT: During the grand jury proceedings?

13 THE WITNESS: I'm sorry, during the grand jury
14 proceedings.

15 A And we hoped that this time he might consider
16 cooperating with us and give us information on the Omega 7
17 case.

18 Q And what, if anything, was Mr. Arocena's
19 response?

20 A He really didn't respond. He more or less nodded
21 his head as if he understood what we were saying. Then
22 he told us that he did have an attorney, and prior to
23 talking to us, he wished to consult with the attorney. He
24 took our names and telephone number of the office. And that
25 essentially that was it.

T4B

1 Q During the course of your work in the FBI
2 did you ever participate in a surveillance?

3 A Yes, I have.

4 Q What is a surveillance?

5 A It is the following of an individual. It can
6 be a stationary one, where you are watching an apartment,
7 you can follow him while he is walking on foot, or it can
8 be a moving surveillance where he is traveling in an auto-
9 mobile, anything of that nature.

10 Q Approximately how many times have you
11 participated in a surveillance?

12 A I would say 60 to 70 times, maybe more.

13 Q What are some of the methods used by people to
14 avoid surveillances?

15 A They can do a number of things if they feel
16 they are being surveilled. They may vary their speed,
17 speed up, slow down, change lanes, make turns rather
18 suddenly --

19 THE COURT: Double back, things like that?

20 THE WITNESS: Correct.

21 THE COURT: All the things everybody has seen
22 on television, right?

23 THE WITNESS: Everything that you have seen,
24 your Honor.

25 Q Prior to the time that you met Mr. Arocena for

1 the first time, in September of 1982, was he ever placed
2 under surveillance by agents of the FBI?

3 A Yes, he was.

4 Q Did you personally participate in surveilling
5 Mr. Arocena on many occasions?

6 A I did.

7 Q Approximately how many times?

8 A Three times.

9 Q With what other agents did you conduct those
10 surveillances?

11 A Again, with Agent Lee, and on another occasion
12 with Special Agent Walzer, W-a-l-z-e-r.

13 Q As best you recall, when did those surveil-
14 lances take place?

15 A I believe they were probably in the late spring
16 or early summer of that year, 1982.

17 Q What happened on the occasions that you
18 participated in surveillances?

19 A On the first surveillance we almost immedi-
20 ately lost him. He exited his house and drove around
21 the block and left in a different direction. So that
22 was a very, very short one.

23 Q Do you recall what happened on either of the
24 other two occasions?

25 A On the second surveillance it was myself and

1 Agent Lee that were involved and we did follow him for a
2 little distance at that time and I believe that it was a
3 good surveillance we were conducting, but Mr. Arocena
4 almost immediately picked it up. He drove up on the
5 Expressway, traveled south for a while, came back,
6 traveled north for a while, got on and off and it became
7 quite apparent he had picked up the surveillance and we
8 eventually discontinued it.

9 Q Do you recall the third occasion?

10 A The third occasion was one where we knew he
11 was going to be at a specific location, a restaurant in
12 Miami. We saw him go in and we just watched other cars
13 going in, took license plates, and it didn't amount to
14 much more than that.

15 Q You testified that the first time that you
16 spoke to Mr. Arocena was September 15, 1982. When was
17 the next time?

18 A On September 28 of 1982.

19 Q How did that meeting come about?

20 A Prior to that meeting Mr. Arocena had gone to
21 New York, where he spoke with some of our agents there
22 and discussed matters concerning Omega 7, of course, and
23 arrangements were made then for him to travel to Miami
24 and the agents from Miami would speak to him concerning
25 some of the Omega activities we had in the Miami office

1 area, South Florida.

2 Q Where did the meeting on September 28 take
3 place?

4 A In a room at the Ramada Inn, just east of the
5 Miami Airport.

6 Q When you first met Mr. Arocena on that day,
7 who else was present?

8 A Myself, Agent Lee, Agent Wack, from New York,
9 Detective Brandt, from New York, and eventually another
10 one of the Miami agents joined the interview.

11 Q Which agent later joined the interview?

12 A That was Special Agent George Kuszynski.

13 Q Of the Miami field office?

14 A Yes.

15 Q What happened when Mr. Arocena first arrived
16 there?

17 A He first arrived -- they had separate hotel
18 rooms, Detective Brandt and Agent Wack, and he went to
19 one of the hotel rooms where Wack and Brandt talked to
20 him. Myself, Lee and actually Agent Walzer was there
21 also, in the other hotel room. They talked to Mr. Arocena
22 for a short time and then came over and got us and we went
23 over and were introduced. Of course, we had met already.
24 And then we started the interview.

25 Q Let me show you what is marked as Government's

1 Exhibit 623 for identification and ask you if you recognize
2 it?

3 A Yes, I do.

4 Q What is Government's Exhibit 623?

5 A It is an interrogation advice of rights form
6 and a waiver of rights portion on the form also.

7 Q Do you recognize any of the signatures on it?

8 A My signature is on it. I recognize the name
9 of Special Agent Lee and it is signed by Mr. Arocena.

10 Q When was this advice of rights form given to
11 Mr. Arocena?

12 A This was given to him on September 28, 1982,
13 prior to the inception of the interview on that day.

14 Q What happened after it was given to him?

15 A He read it and indicated he understood his
16 rights and signed the waiver portion of it and we com-
17 menced the interview.

18 MR. GREEN: Your Honor, the Government offers
19 Government's Exhibit 623 for identification.

20 MR. AGUILAR: May I just look at it for a
21 minute, your Honor?

22 THE COURT: Certainly.

23 (Pause.)

24 MR. AGUILAR: No objection, your Honor.

25 THE COURT: Received.

1 (Government's Exhibit 623 was received in
2 evidence.)

xx

3 Q After Mr. Arocena signed the advive of rights
4 form, how was the interview conducted?

5 A We proceeded primarily along the oines, asking
6 him about activities, bombings, and so forth, that had
7 taken place in Miami which we thought were -- that Omega 7
8 was responsible for.

9 We asked him about different individuals we
10 thoght might have been connected with Omega 7 to see
11 whether they were actually people who were members of the
12 group.

13 Q Who was present during the interview?

14 A Myself and Special Agent Lee and, as I said,
15 Special Agent Kiszynski also came in later.

16 During the beginning of the interview
17 Special Agent Wack and Detective Brandt were there and
18 they eventually left and went back to the other hotel
19 room.

20 Q Do you recall which bombings Mr. Arocena
21 discussed on that day?

22 A He spoke to several. Among them were the
23 bombing of Replica Magazine, the bombing of the Mexican
24 Consulate, both in 1981, the bombing of the Venezuelan
25 Consulate in Miami, and the attempted bombing of the

Nicaraguan Consulate in Miami.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Q What did Mr. Arocena say about the bombing of the Nicaraguan Consulate?

A Actually, this was one that did not detonate, the bomb did not detonate in this case. He had said he had constructed the device that was used in that instance and he described it as being composed of a watch, C-4 as the explosive, an electrical firing train, an electrical blasting cap, and he also mentioned -- he described the construction of the device a bit, said that he had soldered one of the leads in the circuit to the neck of the device, of the watch, that is, and he indicated that this would be a trademark of his, that this was normally the way he would construct the device.

I recall in this instance also the face of the clock he had removed in order to do the construction and it was glued back, this time with Krazy Glue, and this was the only time that he had used Krazy Glue. Previously, in other instances, he used Epoxy. The device was placed in two boxes and newspaper was used as kind of a packing. He mentioned also that it was placed under a television monitor in the Consulate.

When the device didn't detonate, they went back to get it, pick it up, and it was no longer there. It was found, actually, about two weeks later, I believe

1 on the 25th, but he couldn't account for the fact how it
2 was missing or where it had been during that period.

3 Q Do you recall what Mr. Arocena said about the
4 bombing of the Venezuelan Consulate?

5 A Yes. He said he had constructed that device
6 also. It was a similar device, an electrical device.
7 The explosive this time was composed of not only C-4 but
8 TNT, and again a watch as a timing device was used, a
9 non-volt battery, a Duracell, as the initiator, and an
10 electrical blasting cap.

11 Q What if anything did Mr. Arocena say about
12 the bombing at the Mexican Consulate?

13 A He told us that this was also the work of his
14 people, that the bomb originally had been placed there --
15 it was a similar type bomb he had made and it was placed
16 in a box under a couch in the waiting room of the
17 Consulate. Apparently the first time -- there was tape
18 of some nature on the box and they tried to stick it on
19 the bottom of the couch and it wouldn't work, because
20 there was dirt there or the tape was not strong enough.
21 So it became necessary to remove it and they taped it or
22 put a stronger adhesive on it and went back and were
23 successful in placing it under the couch in that Consulate.

24 Q Did Mr. Arocena mention any other bombings
25 that took place that day?

1 A He mentioned a bombing had taken place at
2 Replica Magazine, on that same date.

3 Q The same date as the Mexican Consulate?

4 A Right.

5 Q Did Mr. Arocena say anything about explosives
6 that were in Miami?

7 A He told us there were several hundred pounds
8 of explosives in Miami, I believe it was Geledyne he was
9 talking about, and said that this was obtained or was in
10 the possession of two individuals who worked on the con-
11 struction site there, crane operators. He identified
12 one of them as El Grande.

13 Q Do you recall anything else that was said about
14 those explosives?

15 A The explosives that were used on Replica
16 Magazine -- he said there were two watches used with it,
17 I recall. There was also a 50 millimeter shell that
18 was part of the explosive train in that bombing, or
19 attempted bombing.

20 Q Did Mr. Arocena say anything about Omega 7
21 communiques?

22 A Yes. He told us how he prepared them.
23 These were typewritten communiques and he said some of
24 them were prepared on these display typewriters in
25 Sears Roebuck, a store like that --

1 THE INTERPRETER: I can barely hear this,
2 your Honor.

3 THE COURT: Please speak into the microphone.

4 What did he say about the notes?

5 A He said the communiques were prepared on a
6 typewriter, for instance, a Sears typewriter, a display-
7 type typewriter, that he would go into the store and
8 type the communique on that on some occasions and on other
9 occasions they would use an old typewriter which he would
10 get rid of after he typed the communique. He would sign
11 them with his name, being Omar, and then he had his own
12 duplicating system, where he would bring that typewritten
13 communique back and they would put the Omega 7 seal or
14 logo on the top and then run them through his duplicating
15 machine so that he had enough copies for whatever he
16 would need.

17 Q What language did the interview take place in
18 on September 28?

19 A In English.

20 Q Were there ever occasions on which Spanish was
21 spoken?

22 A At times when Agent Kiszynski was talking to
23 him he would perhaps lapse into Spanish abit, but they
24 were very, very brief occasions.

25 Q Besides the things that you just spoke of, were

1 there other things as well that were discussed during
2 the interview?

3 A Yes. We spoke to other individuals, of
4 course, that I thought might be -- he might be acquainted
5 with or were members of his organization. He touched
6 briefly on some of the Omega activities in New York and
7 things of that nature.

8 Q At the conclusion of the interview, what if
9 any arrangements were made for future meetings?

10 A He was to call Agent Wack the following day.
11 We were going to interview him again on the following day
12 and he was to make the arrangements through Agent Wack to
13 come back to the same hotel room and we would continue
14 the interview.

15 Q Who left that meeting first?

16 A Mr. Arocena did.

17 Q When he left was there any surveillance of him?

18 A No.

19 Q What was the next time that you met Mr. Arocena?

20 A On the following day.

21 Q Who was present during that meeting?

22 A Myself, again, Agent Lee, Agent Kiszynski,
23 Agent Walzer this time, Thomas Walzer, Agent Wack. We were
24 all present during it.

25 Q How did that interview begin?

1 A Again, it started the same way: Agent Walzer
2 gave him the interrogation advice of rights form, which
3 he read and indicated that he understood.

4 Q I show you what has been marked as Government's
5 Exhibit 624 for identification.

6 Do you recognize that exhibit?

7 A Yes, I do.

8 Q What is Government's Exhibit 624 for iden-
9 tification?

10 A Again, it is an interrogation notification of
11 rights form with a waiver of rights portion on the bottom
12 section.

13 Q Do you recognize any of the signatures?

14 A My signature is on it. I recognize the name
15 of George Kiszynski and the signature of Mr. Arocena.

16 Q When was it signed by Mr. Arocena?

17 A 2:27 p.m., September 29, 1982.

18 MR. GREEN: The Government offers Exhibit 624
19 for identification.

20 MR. AGUILAR: No objection.

21 THE COURT: Received.

22 (Government's Exhibit 624 was received in
23 evidence.)

xx 24 Q After Mr. Arocena signed the advice of rights
25 form, what was discussed on the 29th?

1 A Again, the topics were almost the same as
2 the previous day, people involved with the Omega 7
3 organization and bombing activities, and the like, in
4 South Florida.

5 Q Do you recall which bombings were discussed
6 on September 29?

7 A I recall he discussed the bombing of the
8 Padron Cigar factory on that date.

9 Q When did that bombing take place?

10 A Actually, it occurred in July of 1979.

11 Q What did Mr. Arocena say about the bombing in
12 the Padron Cigar factory in July of 1979?

13 A Actually, the bombing was to have taken place
14 in March of that year and it was to take place in co-
15 ordination with other bombings in New York and New Jersey
16 at the time, and I believe it was TWA, Alamacen El Espanol
17 in New Jersey, Programa Cubano in New Jersey, and what
18 happened on this particular occasion, apparently they
19 didn't have enough personnel to carry out the bombings in
20 Miami and he commissioned an individual named Ramon Sanchez
21 to conduct this bombing and the bomb was placed outside
22 the cigar factory but, for some reason, didn't detonate
23 and Sanchez gave the reason that the wiring had gone loose,
24 or something of that nature, and they retrieved the bomb
25 and Mr. Arocena went back several months later and

1 completed the bombing.

2 Q Do you remember what if anything he said
3 about the bomb that was placed in July of 1979 at the
4 Padron Cigar factory?

5 A He said it was again the same type of bomb,
6 with electrical circuit, a watch, Duracell battery,
7 electrical blasting cap, C-4 as the explosive.

8 Q Were there other things discussed on that day?

9 A Yes. We discussed other matters again, as
10 before, names that we had, other things that had taken
11 place, to see whether they were his people who had con-
12 ducted them or whether he was acquainted with any of these
13 people.

14 Q What language was the interview conducted in?

15 A This was in English.

16 Q Was there some Spanish spoken?

17 A There may have been times when it lapsed
18 into Spanish, but it would have been very brief.

19 Q Were any arrangements made to meet with
20 Mr. Arocena again?

21 A Yes. We made arrangements to meet him at
22 the same location the following day. I don't remember
23 whether the time was set at that time, but we did arrange
24 to see him again the following day.

25 Q Did you meet Mr. Arocena again?

1 A No, we did not.

2 Q From the time that Mr. Arocena arrived in
3 Florida, on September 27, to the time that he failed to
4 appear for the meeting on the 30th, was he ever accompanied
5 or placed under surveillance by FBI agents or other law
6 enforcement authorities?

7 A No, he was not.

8 Q During that time were any transmitters or
9 any other electrical surveillance devices placed on his
10 car?

11 A No.

12 Q Did you have any contact with Kiriam Arocena
13 after Mr. Arocena failed to appear on September 30?

14 A Yes. Following that we had a warrant for
15 his arrest. We went out to his house to find him and
16 we went through his house looking for him, actually, and
17 that would be the only occasion that I had any contact
18 with Mrs. Arocena.

19 Q Aside from that occasion, did you ever have
20 any telephone contact with Mr. Arocena?

21 A No, I did not.

22 MR. GREEN: No further questions, your Honor.

23 THE COURT: You may cross-examine, Mr. Fernandez.

ET5A

24 MR. FERNANDEZ: Thank you, your Honor.

25

1 CROSS-EXAMINATION

2 BY MR. FERNANDEZ:

3 Q Good morning, ex-Agent Cannon.

4 A Good morning.

5 Q You have been here since Saturday, is that right?

6 A Yes.

7 Q You were flown here at the U. S. expense?

8 A That is correct.

9 Q They are paying for your hotels?

10 A Yes.

11 Q Are you staying at a nice hotel?

12 A Yes.

13 Q I am glad. When you went to see Mr. Arocena
14 on the 15th of September, 1982, I believe, on a Wednesday,
15 had you spoken to anybody from New York as to his calling
16 the FBI offices?

17 A As to his calling which FBI office, in New York
18 or --

19 Q Either the New York or the Miami office.

20 A No. I had spoken to Agent Wack in New York,
21 but I don't recall that it had anything to do with Arocena
22 calling the office.

23 Q Did you relay a message to Mr. Arocena to call
24 Agent Wack on the 17th, Friday?

25 A Not that I recall, no.

1 Q You don't recall what September 17 is, but we
2 all know it is Mr. Wack's birthday, and I thought perhaps --

3 MR. GREEN: Objection, your Honor.

4 Q You didn't tell him to call on the 17th?

5 A I don't recall telling him that, no.

6 Q You are telling this jury that you spoke to him
7 on the 15th and then he called on the 17th, but you had
8 nothing to do with that?

9 A No.

10 Q You didn't put any pressure whatsoever on
11 Mr. Arocena to call?

12 A I didn't talk to him at all after the interview
13 of the 15th.

14 Q Before you spoke to him on the 15th, you did
15 see his wife?

16 A Yes.

17 Q And you spoke to him approximately for fifteen
18 minutes?

19 A Yes.

20 Q Well, it is known that on the 17th he called.
21 During that conversation on the 15th, you might have
22 mentioned in passing that you suspected that some charges were
23 going to be brought in against him?

24 A Yes.

25 Q Just in passing. Did Mr. Arocena on that occasion

1 ask you to leave your business card?

2 A Yes, he did.

3 Q But you didn't give it to him?

4 A I didn't have a business card.

5 Q You just didn't have a business card that day?

6 A I didn't have a business card, period. I don't
7 have them.

8 Q Do you have business cards now?

9 A No.

10 Q You talked about surveillance and you are an
11 expert at surveillance, from what I gather?

12 A I didn't say that.

13 Q At least sixty times, you have to know what you
14 are doing, right?

15 A It is a difficult thing to be an expert at
16 something like that. I conducted surveillances but---

17 Q If I did sixty trials, I would have some idea
18 of what a trial is, right?

19 A I hope so.

20 MR. GREEN: I object.

21 THE COURT: Let me suggest that you are now asking
22 the witness to testify with respect to your capability
23 in trying a case. I think that is not relevant to the
24 subject of his examination.

25 MR. FERNANDEZ: I think the Court is right.

1 Q You indicated that you had surveilled Mr. Arocena
2 I believe at least on three different occasions, is that
3 correct?

4 A Yes.

5 Q These three occasions that you surveilled him,
6 what dates were these?

7 A I don't recall the dates. As I testified, I
8 believe, to the best of my knowledge, they were in the
9 late spring or early summer of that year.

10 Q Prior to September, 1982?

11 A Correct.

12 Q Who gave you the orders to surveil Mr. Arocena?

13 A This was a case where actually you didn't get
14 orders to do something like that. As I say, we felt
15 that it was necessary this time and we felt something
16 might be gained by conducting the surveillance. It was a
17 case where somebody said, "All right, you go out and
18 conduct the surveillance." We were running the case.

19 Q Don't think I am being disrespectful, but
20 you thought, "Let's follow Eddie and see what happens"?

21 MR. GREEN: Objection.

22 THE COURT: "Let's see where this one leads."

23 Tell us briefly how it came about that you determined
24 to surveil Mr. Arocena in the late spring, early summer of
25 1982.

rmjah 5 Cannon-cross

1 A I believe on these occasions we had
2 developed information of some type that he might be
3 meeting somebody or doing something which would be of interest
4 to us.

5 Q How did you get this information?

6 A Part of it was received, again, I believe, through
7 an electronic surveillance.

8 Q That is because you had wiretaps on his telephone?

9 A That's right.

10 Q Was the other part received from conversations
11 with Agent Wack, agents in New York?

12 A It is possible it could have been, if he made a
13 phone call from his house.

14 Q Did any other people give you information so
15 that you would conduct this free-lance surveillance?

16 MR. GREEN: Objection.

17 THE COURT: You could answer yes or no. I
18 don't buy the "free-lance," but "the surveillance."

19 A You have to understand, the case agent in this
20 case was Agent Lee, and he of course would funnel
21 information through me. He would have received the
22 information saying that this was going to happen, that was
23 going to happen and we perhaps should conduct a
24 surveillance.

25 In effect, despite the fact that I was

1 coordinating the investigation, Agent Lee would approach
2 me and ask if I was available to conduct a surveillance
3 on that particular date. He would be basically the
4 individual who would have had the information to which you
5 refer.

6 Q Agent Lee, that is?

7 A Agent Lee.

8 Q Agent Cannon, when you were conducting this
9 surveillance, how many cars did you all use? How did you go
10 about it?

11 A Well, there was a lot of work on this case, as
12 you probably understand, and we used what cars were
13 available. On the first occasion, there were three cars
14 that we had, myself, Lee and Walzer, we each had a car.
15 On the second occasion, there was just Agent Lee and
16 myself. On the third occasion, at the restaurant, I don't
17 recall, but there were only a couple of cars at that time.
18 It wasn't necessary, actually, to have too many.

19 Q These good people in the jury are not familiar
20 with the Miami area. You lost him on the Miami Expressway,
21 and I assume it is I-95?

22 A I didn't say that.

23 Q I believe the first time you conducted the
24 surveillance at an unknown time in '82 --

25 MR. GREEN: Objection.

1 THE COURT: It is not an unknown time. It was
2 late spring, early summer of 1982.

3 MR. FERNANDEZ: I am sorry.

4 Q He was going north and south on the Expressway?

5 A I think you are probably referring to the
6 second surveillance. The first surveillance --

7 THE COURT: They lost him right away, shortly
8 after he left his home, on the first one. The Expressway
9 situation was the second one.

10 Q The first time -- where was the Arocena house?

11 A On Southwest 14th Terrace, in the 100th
12 Avenue block.

13 Q Do you know what the main thoroughfare in that
14 area is?

15 A Yes.

16 Q Would it be 16th Street, perhaps?

17 A Actually, either way. If you went north,
18 it would be Southwest 8th Street, and the other way it is
19 16th Street.

20 Q He had only two ways to go, 16th Street or
21 8th Street?

22 A That's right.

23 Q So it wasn't that hard to follow somebody?

24 A Actually, if you are going to conduct a
25 surveillance, and again I am not an expert, but you don't sit

1 in front of his house. There are avenues he could take
2 leading out of there, and you put one car on one avenue
3 and the other on another avenue and the third perhaps sitting
4 a little distance away.

5 Hopefully, one of the cars would pick him up when
6 he either came east or west, and that car by radio would
7 notify the others and we would all attempt to join the
8 surveillance then.

9 It is not as easy perhaps as it may seem to you.

10 Q It is not easy for two cars, obviously.

11 A What happened on that day, he came out and went
12 around the block and came directly at one of the cars and
13 left in an opposite direction, and before that car could
14 turn around and follow him or notify us, the other two,
15 he was gone.

16 Q Please tell the people of this jury, is that a
17 very congested area traffic-wise?

18 A It is a residential area. Southwest 8th Street
19 is one of the main thoroughfares that goes across the
20 state, actually. It depends on the time of day. If there
21 are people going to work early in the morning -- it is a
22 residential area and the 100 Avenue is fairly well traveled
23 and the next avenue, 102 -- yes, it could get fairly
24 congested at certain times of the day.

25 Q It is not like Fifth Avenue?

1 A It is not New York, no.

2 Q You don't have a hundred taxis going on it?

3 A No.

4 Q Let's move to the second surveillance. Was
5 this surveillance conducted at the expressway -- I withdraw
6 the question.

7 Could you tell us where you conducted this
8 surveillance?

9 A On this day, we picked him up and I believe
10 he exited 100 Avenue on Southwest 8th Street, traveled
11 east on Southwest 8th Street until he reached probably
12 97th Avenue, and went down Flagler Street --

13 THE COURT: That is one of the main streets,
14 right?

15 THE WITNESS: That is the big street.

16 Q That divides north and south?

17 A Yes.

18 He then went through the Fountainbleu area,
19 came back onto Flagler Street and then got on the Palmetto
20 Expressway, which is a main north-and-south expressway
21 there in Miami.

22 Q And you had what, two cars following him?

23 A Two cars.

24 Q There was a lot more traffic on the Palmetto
25 Expressway, right?

1 A Considerably, yes.

2 Q A lot easier to lose somebody that way.

3 There was the third time, at the restaurant. What restaurant
4 was this?

5 A I think it was Badia's.

6 Q Is that the one on 8th Street and 16th? There is
7 one on 27th and Flagler --

8 A No, it was the one downtown.

9 Q But you remember it was at that restaurant?

10 A I don't really recall. I believe it may have
11 been Badia's, but I am not that certain.

12 Q How did you know he was going to go to that
13 restaurant?

14 A We had the other information we had developed,
15 other investigative information.

16 Q Please tell us what information you had.

17 A That was developed through the electronic
18 surveillance, that he was to meet an individual there.

19 Q Did you receive any information from talking to
20 a Mr. Justo Rodriguez?

21 MR. GREEN: Objection.

22 THE COURT: I will allow it, with a yes or no. At
23 least at that time, did you receive information with regard
24 to this meeting from talking to Justo Rodriguez? Yes or
25 no, or you don't know.

1 THE WITNESS: No.

2 Q Did you receive information from Nestor Gomez?

3 MR. GREEN: Objection.

4 THE COURT: At that time, yes or no?

5 THE WITNESS: Could I add actually to it?

6 Q Go ahead.

7 A You have to realize this part of the investigation
8 was -- I was involved with it but these names you are
9 giving me now, as far as I can recall they were names
10 unknown to me at the time that my part of the investigation
11 was completed. I wasn't familiar with either one of them.

12 Q So in good faith your answer would be no, simply
13 no?

14 A No.

15 Q What about Ernesto Rodriguez?

16 A No.

17 Q What about Gerardo Necuze?

18 A No.

19 Q Did you get information from a Mr. Roberto
20 Aguilar?

21 A No.

22 Q What about from Ignacio Gonzelez?

23 A No.

24 THE COURT: I gather you received all of your
25 information from the case agent, Mr. Lee?

1 THE WITNESS: Correct.

2 THE COURT: And he then would ask you to do
3 something and you would do it, such as the surveillance?

4 THE WITNESS: That's correct.

5 Q Let's go now to the second face-to-face meeting.
6 This was approximately September 28?

7 A The second interview?

8 Q Let me backtrack. First it was the 15th of
9 September?

10 A Yes.

11 Q The second time would be on the 28th, at the
12 Ramada Inn, at the airport?

13 A Right.

14 Q Where was this Ramada Inn, about 80th and
15 Palmetto?

16 A It is east of the airport. It would be east of
17 Lejeune Road, I believe.

18 THE COURT: Lejeune Road is one of the perimeter
19 roads around the International Airport?

20 THE WITNESS: Right.

21 Q When you first saw Mr. Arocena at one of the two
22 rented rooms, how long had he been there?

23 A I would say about thirty minutes, maybe a little
24 less -- about thirty minutes.

25 Q I believe your testimony was that Agent Wack and

1 Detective Brandt were with him at that time?

2 A When I first met him, yes.

3 Q I guess they were having drinks or having a good
4 time?

5 MR. GREEN: Objection.

6 THE COURT: Well, let's find out what, if anything,
7 they were doing when you walked in.

8 THE WITNESS: They were not having drinks. As
9 far as I know, it was all very businesslike.

10 Q They were not watching TV or --

11 A Not that I recall, no.

12 THE COURT: Were they engaged in conversation?

13 THE WITNESS: Yes.

14 Q At that time, to your knowledge, was there --
15 strike that.

16 At that time, to your knowledge, did Agent Wack
17 or Detective Brandt have any recording devices?

18 A To my knowledge, they didn't.

19 Q So that these good people here don't think we are
20 backwards in Florida --

21 MR. GREEN: Objection.

22 THE COURT: Nobody around here thinks you people
23 from Florida are the least bit backward. Let's get on with
24 it. We have a Florida attorney and a Florida witness and we
25 have a New York jury.

1 Q You do have recording devices in Florida?

2 A Yes.

3 Q You have top-notch equipment there, top of the
4 line?

5 A We have the same equipment as any other FBI office
6 would have.

7 Q You have stenographers handy if you need them?

8 A Right.

9 Q I notice it took you three minutes to read
10 Mr. Arocena his rights. Did you read them personally?

11 A No.

12 Q Did anybody read them to him?

13 A He read them himself.

14 Q So would it surprise you -- strike that. I assume
15 then that Mr. Brandt -- I take that back -- Detective Brandt
16 and Agent Wack left the room and left you with
17 Mr. Arocena?

18 A Yes, eventually.

19 Q Who was present besides you? I believe you said
20 it was Agent Lee?

21 A An Agent Kiszynski eventually joined the
22 interview.

23 Q So it would be fair to say on any one occasion,
24 Mr. Arocena was accompanied by at least two of the FBI
25 agents, either from New York or from Florida?

1 MR. GREEN: Objection to the form of the
2 question.

3 THE COURT: Sustained. The word "accompanied"
4 is what is objected to. Would you just change that
5 word. "In the presence of" is perfectly all right, or
6 anything else you want to say.

7 When you saw Mr. Arocena, was there always at
8 least one other agent present?

9 THE WITNESS: Yes.

10 Q During the time that you were with him, did
11 he ever go to the bathroom?

12 A No, I don't recall him going, no.

13 Q Did he eat?

14 A I can't recall whether it was before he left, but
15 we might have had some soft drinks or some sandwiches
16 brought up. I can't recall whether it was during or after
17 the interview.

18 Q Did he change clothes?

19 A No.

20 Q Did he call his wife?

21 A Not that I remember.

22 Q Did he call his attorney?

23 A If he were to make a telephone call, he would not
24 use the telephone in the hotel room. If he made any
25 calls, he would go to a pay telephone to do it.

1 Q Did he make calls?

2 A I believe he did. I don't remember if it was the
3 first day or the second day.

4 Q When you discussed the four bombings that day,
5 I believe you spoke about Replica, the Venezuelan Consulate,
6 the Mexican and the Nicaraguan Consulates. Did Mr. Arocena
7 tell you that these bombs were prepared by Gerardo
8 Necuze?

9 A No.

10 Q There was no mention of the name Necuze at
11 that conference?

12 A No.

13 Q When you were exchanging information with
14 Mr. Arocena about what you knew or he knew, did you tell
15 him who your confidential informants were?

16 A No. I don't know what you mean by "confidential
17 informants."

18 Q I am sorry, that is a bad question. Did you have
19 confidential informants at that time?

20 A You mean relating to this case?

21 Q Yes.

22 A No.

23 Q If there were any confidential informants, they
24 would have come from the New York office, not in Miami?

25 MR. GREEN: Objection.

1 THE COURT: Sustained. I gather it is your
2 testimony that you at that time were not aware of any
3 confidential informants?

4 THE WITNESS: That is correct.

5 Q At that time, did you have access to lab reports
6 on the different crime scenes?

7 A Yes. Well, it would depend on how far back
8 they were. The most recent ones, probably not. By "the
9 most recent ones," I mean the Venezuelan and the Nicaraguan.
10 The ones a year previous, we would have had access to
11 those.

12 Q You would have had access to some of the information
13 but not all of the information?

14 A Yes.

15 Q You had some reports but you didn't have any
16 knowledge of confidential informants?

17 MR. GREEN: Objection.

18 THE COURT: I think that has been covered,
19 counsel.

20 Q Did you go to the Nicaraguan building or
21 consulate in Miami?

22 A You mean after the bombing, before?

23 Q It wasn't a bombing, right?

24 A The attempted bombing.

25 Q But no bomb ever went off?

1 A No.

2 Q One thing I have had difficulty understanding --

3 MR. GREEN: Objection to form.

4 THE COURT: Did you to to the scene of the
5 attempted bombing at the Nicaraguan Consulate?

6 THE WITENSS: No, I did not.

7 THE COURT: Next question.

8 Q Do you know how many agents and/or police
9 officers answered the call?

10 A No, I don't.

11 Q But your testimony today was that it was two weeks
12 afterwards that this device was found?

13 A I believe it may have been closer to three
14 weeks. I believe it was found on the 25th.

15 Q Have you ever been to that consulate?

16 A No.

17 Q So you couldn't tell us about the building, even
18 if you wanted to?

19 A No.

20 Q You testified about somebody called El Grande.

21 Would you tell us what "El Grande" means, and who this person
22 was?

23 A "El Grande" means "the big one, the big man,"
24 actually. We eventually determined that he was an individual
25 named Raciél Rodriguez, and the brother of Reinol Rodriguez.

1 Q Is he a member of Omega 7?

2 A I don't think we have ever determined that he
3 has been. He was an individual we have known for years
4 that was involved in anti-Castro activities.

5 Q Where is he now?

6 A He is in Miami, as best I know. I have been
7 retired for a while, and I have not had much to do
8 with this case for a year and a half.

9 Q I believe you testified on direct that the
10 Omega 7 communiques were typewritten or displayed on
11 Sears typewriters?

12 THE COURT: Sears display typewriters.

13 Q Sears, the store?

14 A Yes.

15 Q Was it your testimony today that Mr. Arocena
16 told you he would go to Sears and type up these things?

17 A That is what he told us.

18 Q Have you ever seen those communiques?

19 A Yes.

20 Q They are pretty long, aren't they?

21 A Yes.

22 Q Did you have opportunity to check whether
23 Mr. Arocena was ever seen at Sears?

24 A It would be rather difficult to do. There are
25 numerous Sears stores in Miami, and we didn't think it

1 really was a very pertinent investigative lead at that
2 time.

3 Q So you didn't try to match any typewriter to --

4 A I didn't say that, I didn't say we didn't try to
5 match typewriters. The laboratory may have tried to do
6 that, but I am not personally aware of it.

7 Q You said there were numerous Sears stores in
8 Miami and --

9 A As you know, there is more than one Sears store
10 in Miami. There are several.

11 Q You wouldn't know if they seized a Sears
12 credit card for Mr. Arocena, would you?

13 A No.

14 Q I will backtrack. If they had seized a
15 Sears credit card, you would have known about it?

16 MR. GREEN: Objection.

17 THE COURT: Sustained.

18 MR. FERNANDEZ: Okay, withdraw the question.

19 Q On the 29th, when you and Agent Walzer read
20 Mr. Arocena his rights, was he under custody?

21 A We didn't read him his rights. We gave him a
22 form which he read, but we didn't read his rights, we ourselves

23 Q Is it the procedure of the FBI in Miami to give
24 somebody a waiver of rights if he is not in custody?

25 A It is according to the individual agents. I know

1 what you mean, it is not required by law, but there are
2 times when you feel that perhaps this should be done, that
3 it is to your best interests and may come up in court at
4 some time. It depends on the case and at times you would
5 give somebody the rights form.

6 Q On the 29th of September, did you have any
7 information as to whether any of the FBI agents had
8 sworn a complaint against Mr. Arocena on the 26th of
9 September?

10 A I had no such information.

11 Q You did not know that?

12 MR. GREEN: Objection.

13 THE COURT: Did not know whether any complaint
14 had been sworn prior to the 29th?

15 MR. GREEN: I would ask for a side bar, your
16 Honor.

17 THE COURT: No. The fact that a question is
18 asked, ladies and gentlemen, doesn't mean that the fact
19 is to be assumed.

20 MR. FERNANDEZ: I have two more areas, your
21 Honor.

22 Q You indicated that during the period of
23 September 27 through September 30, there was not any
24 surveillance for Mr. Arocena, is that correct?

25 A No physical surveillance, no.

1 Q But you had on three other occasions prior to
2 September surveilled him?

3 A Right.

4 Q Did somebody give you an order not to surveil
5 him?

6 A No.

7 Q On the 30th I believe you spoke to Mrs. Arocena?

8 A On the 30th?

9 Q Yes. That is the day that he didn't come up
10 for his meeting.

11 A No, I didn't speak to her that day.

12 Q Did you go to his house?

13 A No.

14 Q To your knowledge, did any agents go to the
15 Arocena residence that day?

16 A Not to my knowledge.

17 MR. FERNANDEZ: If I may have just one minute,
18 your Honor?

19 THE COURT: Certainly.

20 (Pause)

21 MR. FERNANDEZ: Your Honor, this may be an
22 appropriate time to take the lunch break.

23 THE COURT: It would be much more appropriate to
24 conclude with this witness.

25 MR. FERNANDEZ: Okay, then give me a minute.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

THE COURT: Certainly.

(Pause)

5B

(Continued on next page)

1 BY MR. FERNANDEZ:

2 Q Refreshing your recollection, on September 30th,
3 1982, did you have occasion to see Mrs. Arocena and
4 Mr. Arocena's daughter in the Arocena residence?

5 A No.

6 Q You have never been to Mr. Arocena's residence?

7 A Yes, I have.

8 THE COURT: No, no, no. Didn't you indicate that
9 there did come a time when you went to the residence and
10 spoke with Mrs. Arocena?

11 THE WITNESS: That's correct. But it wasn't
12 September 30th.

13 Q I'm sorry, when was it, when was the date?

14 A That would have been I believe on October 2nd
15 when we had the arrest warrant for him.

16 Q I stand corrected. It was a couple of days
17 afterwards. And at this time, on October 2nd, did you
18 have occasion to enter the Arocena residence?

19 A Yes, we did.

20 Q And did you have your gun drawn at that time?

21 A No.

22 Q And was his little daughter inside the house?

23 A I believe there were children in the house. I
24 don't remember how many or whatever. There were children in
25 the house, I believe.

1 Q And how many agents?

2 A Whether there was more than one, I don't know.

3 Q How many agents went to the Arocena house?

4 A I'd say four or five. Four or five.

5 Q And the little girl got scared, didn't she?

6 A I don't remember seeing a girl and I don't

7 remember whether she was frightened or not.

8 Q You recall seeing Mrs. Arocena?

9 A Yes.

10 Q We got that established.

11 Did you see anybody else there?

12 THE COURT: He said he believes there were

13 children.

14 A I believe there were children.

15 Q So you wouldn't recall any particular child?

16 A And I certainly don't remember any children

17 being frightened.

18 Q Okay. But you didn't find Mr. Arocena there.

19 A No.

20 Q Did you search the house?

21 A Yes.

22 Q Room by room?

23 A Yes.

24 Q Did you look underneath the bed?

25 A I didn't particularly. Some of the other agents

1 :may have.

2 Q You looked inside the closets?

3 A Yes.

4 Q Did you take anything from that house that
5 day?

6 A I don't recall whether we took anything. There
7 were firearms found in the house. I believe we may have
8 taken them. I myself particularly, no, I didn't actually
9 take anything myself. Some of the agents may have.

10 Q But you didn't see any bombs there, did you?

11 A See any what?

12 Q You didn't see any bombs there.

13 A No.

14 Q And you went in. You didn't get a court order
15 so you could have taken everything you saw there, right?

16 A Well, actually --

17 THE COURT: Sustained.

18 MR. FERNANDEZ: No objection.

19 THE COURT: Yes, but it's two questions in one.

20 You must be fair to the witness and break the question
21 down if you want.

22 MR. FERNANDEZ: All right.

23 Q I'm sorry, you didn't see any explosives there
24 that day.

25 A No, I didn't.

msjah 4 Cannon-cross

1 Q You didn't see any Omega 7 communiques there?

2 A No, I didn't.

3 Q I believe you testified that that was the last
4 time that you saw Mr. Arocena. Is that correct?

5 A No, I didn't say that.

6 Q Okay. Did there come another time when you
7 saw Mr. Arocena?

8 A Yes, there was.

9 Q And this was the time you arrested him, wasn't
10 it?

11 A Yes.

12 Q And you were the one that put the shotgun to his
13 head, weren't you?

14 A No.

15 MR. GREEN: Objection.

16 THE COURT: The fact that a question is
17 asked, ladies and gentlemen, doesn't assume that the
18 information in the question has any evidentiary value. The
19 evidence comes from the answer. You heard the question.
20 The answer is no. That's where the matter stands at the
21 present time.

22 MR. FERNANDEZ: Thank you. Good luck in your
23 business.

24 THE WITNESS: Thank you.

25 THE COURT: Mr. Green, is there any redirect?

1 MR. GREEN: Yes, there is, your Honor.

2 THE COURT: Please proceed.

3 REDIRECT EXAMINATION

4 BY MR. GREEN:

5 Q Now, Mr. Cannon, you testified that you
6 received money for the time that you're in New York as a
7 witness, is that correct?

8 A That's correct.

9 Q And how much do you receive for hotel and meals?

10 A \$75.

11 Q And do you receive any more than any other
12 witness gets in order to testify at the trial?

13 A No, I don't.

14 MR. FERNANDEZ: If he knows.

15 THE COURT: As far as you know?

16 THE WITNESS: As far as I know, I don't.

17 Q Now, you testified that on October 2nd, you
18 went to Mr. Arocena's house, is that correct?

19 A Yes.

20 Q And did you have an arrest warrant at that time?

21 A Yes, we did.

22 Q Did you have a search warrant?

23 A No, we had no search warrant.

24 Q And did you conduct any search?

25 A We did search the premises for Mr. Arocena.

1 Q And beyond that?

2 A Beyond that, no. We didn't conduct an actual
3 search of the premises.

4 Q Now, you testified that you participated in
5 the arrest of Mr. Arocena. Is that correct?

6 A That's correct.

7 Q Would you have had authority to use a weapon
8 in arresting a fugitive?

9 A Yes.

10 Q And did you, in fact, use a weapon?

11 A I had a weapon at the time.

12 Q But did you point it at anyone?

13 A Actually, yes, I did, when we entered the
14 premises.

15 Q And what happened after that?

16 A Mr. Arocena surrendered.

17 MR. GREEN: No further questions, your Honor.

18 MR. FERNANDEZ: No questions, your Honor.

19 THE COURT: You're excused.

20 THE WITNESS: Thank you, your Honor.

21 (Witness excused)

22 THE COURT: We'll take our luncheon recess

23 at this time and resume at ten minutes past two. Ladies and
24 gentlemen, please don't discuss the case among yourselves,
25 and continue to keep an open mind on all aspects of the case.

1 Enjoy your lunch.

2 (The jury left the courtr-om)

3 THE COURT: Counsel are excused for the luncheon
4 recess.

5 MR. TABAK: May we have a brief discussion
6 either now or right after the recess, your Honor?

7 THE COURT: Now. Now, because if we do it later,
8 it will only delay the jury. I don't mind being delayed
9 a few minutes ourselves.

10 Do we have the interpreter? Very well, we do.
11 Everyone is here.

12 Mr. Tabak.

13 MR. TABAK: Yes, there are two points we would
14 like to raise.

15 The first is, we think the time has come for
16 there to be no further questions about whether there was a
17 confidential informant. Aside from the fact it has been
18 answered a million times that there was not. It is
19 totally irrelevant if there was. There is no legal
20 justification for the question. If Mr. Arocena wants to engage
21 in reprisals against someone, that doesn't make it proper
22 to ask a question which couldn't possibly be relevant to
23 this case.

24 And secondly, I think the time has come to stop
25 asking questions for which there is no good-faith basis.

1 THE COURT: Certainly, no counsel should ask
2 a question for which there is no good-faith basis. I
3 have to assume that, in connection with each of the
4 inquiries, there is a good-faith basis.

5 MR. TABAK: Your Honor, I would inquire what the
6 good-faith basis is for a question about whether a
7 complaint was drafted on September 26th, 1982, when
8 counsel well knows that the only complaint ever filed in this
9 case was drafted October 1st, 1982, after Mr. Arocena
10 was a fugitive. I think it's highly offensive that he
11 asks questions like that purposely designed to mislead the
12 jury with no basis at all.

13 THE COURT: Let me ask counsel, what was the basis
14 for the inquiry?

15 MR. FERNANDEZ: Your Honor, I have a complaint
16 here.

17 THE COURT: What is the date of it?

18 MR. FERNANDEZ: Well, it says here, "Sworn to and
19 subscribed to me the 1st day of October." And it refers
20 to September 26th, '82. And I believe that this is the
21 basis of the complaint against Arocena. I was just
22 clearing that up.

23 THE COURT: Sounds to me like the complaint
24 is dated October.

25 MR. FERNANDEZ: It is. It is dated October 1st.

1 If the impression is that I meant to mislead the Court on
2 the date -- but the date in Paragraph 6 is the 26th of
3 September.

4 THE COURT: I imagine it was an inadvertent error,
5 and I trust that will not occur again.

6 MR. TABAK: Thank you, your Honor.

7 THE COURT: Counsel are excused.

8 MR. TABAK: The other matter was as to
9 repeatedly asking who a confidential informant is. I
10 for one see no possible relevance in asking that question.

11 THE COURT: Well, let me put it to you this
12 way, gentlemen:

13 At least in the context of this case, as I
14 have listened to the evidence for two and a half weeks,
15 which included not only the testimony of sixty-four
16 witnesses to date, but numerous exhibits, it doesn't
17 appear to the Court that it would serve a useful purpose
18 to continue asking questions with regard to the
19 confidential informant or the identity or the information
20 furnished by confidential informants. There may be
21 an exceptional situation, and I would suggest if counsel
22 wishes to go into that matter subsequent to this time,
23 you request a side bar.

24 Then I'll hear you. I'll hear from Mr. Tabak,
25 and if it proves to be appropriate under the particular

1 circumstances present at that time, we can proceed.
2 Otherwise, I'll indicate that it would be inappropriate,
3 you would have made your record, and the matter, in my
4 judgment, would be dealt with in an appropriate
5 fashion.

6 We'll now take our luncheon recess.

7 MR. TABAK: Thank you, your Honor.

8 (Luncheon recess)

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

AFTERNOON SESSION

2:20 p.m.

(The jury entered the courtroom)

THE COURT: Good afternoon, ladies and gentlemen.

THE JURORS: Good afternoon, your Honor.

THE COURT: Good afternoon, gentlemen.

Mr. Tabak, call your next witness.

MR. TABAK: Thomas Menapace.

T H O M A S M E N A P A C E, called as a witness by the government, being previously duly sworn, testified as follows:

THE COURT: Agent Menapace, you were previously sworn in this case, is that correct?

THE WITNESS: That's correct, your Honor.

THE COURT: You will be continuing your testimony at this time under the oath which was administered when you first took the stand. Do you understand?

THE WITNESS: I understand, your Honor.

THE COURT: Please be seated.

DIRECT EXAMINATION

BY MR. TABAK:

THE COURT: You may proceed, Mr. Tabak.

MR. TABAK: Thank you, your Honor.

msjah 12 Menapace-direct

1 Q Agent Menapace, you previously testified about
2 surveilling the defendant, Mr. Arocena, on December 13,
3 1981. Did you ever see Mr. Arocena again after that?

4 A Yes, I did.

5 Q When was that?

6 A September 26th, 1982.

7 Q Where did you see him that day?

8 A At the Westbury Hotel, 69th and Madison Avenue,
9 New York City.

10 Q About what time did you see Mr. Arocena that
11 evening?

12 A I saw him at approximately eleven o'clock that
13 night, on the night of the 26th.

14 Q Was anybody else present when you first saw
15 Mr. Arocena at that time?

16 A Yes. Present in the room with Mr. Arocena
17 when I met him that evening were Agent Larry Wack,
18 Agent James Lyons and Detective Robert Brandt.

19 Q Was there any discussion among you, Agent Lyons and
20 Wack and Detective Brandt, in Mr. Arocena's presence?

21 A Yes. We were advised, Agent Lyons and I were
22 advised, by Agent Wack and Detective Brandt that Mr. Arocena
23 was providing information, however would not provide
24 a taped statement and would not provide a signed statement,
25 but he was providing information.

1 Q Now, did Mr. Arocena say anything when he first
2 arrived?

3 A Yes. When he first arrived, he indicated that he
4 had been in New Jersey at his mother's house having dinner.

5 Q Now, did anybody accompany Mr. Arocena when he
6 arrived?

7 A No, he was alone.

8 Q How long did Agent Wack and Detective Brandt
9 remain with you and Agent Lyons and Mr. Arocena?

10 A It was only a couple of minutes, probably less
11 than ten minutes.

12 Q And what then happened?

13 A Agent Lyons and I advised Mr. Arocena of his
14 rights by showing him a form, setting forth his rights,
15 which he read and signed.

16 Q Now, before you got into advising him of his
17 rights, did Mr. Arocena go anyplace?

18 A Yes, he returned to his room briefly before we
19 advised him of his rights. He went to his room and then
20 returned to the room where we were, for the interview.

21 Q I'm now going to show you what has been marked as
22 Government's Exhibit 4, for identification.

XXXXXX

23 (Government's Exhibit 4 was marked
24 for identification.)

25 Q Do you recognize that?

1 A Yes, I do.

2 Q And what is that?

3 A It's the interrogation advice of rights form
4 that we provided to Mr. Arocena that night, that he signed
5 and Agent Lyons and I witnessed.

6 Q Do you recognize any of the handwriting on that
7 form?

8 A Yes, I do. I recognize my own signature.

9 Q And do you recognize handwriting of anyone else
10 who might have signed that form?

11 A Yes. Mr. Arocena signed it in my presence,
12 and Agent Lyons signed it in my presence as well. Their
13 signatures appear on the form, as well.

14 MR. TABAK: Government offers Exhibit 4 in
15 evidence.

16 MR. FERNANDEZ: No objection, your Honor.

17 THE COURT: Received.

xxxxxx

18 (Government's Exhibit 4 was received
19 in evidence.)

20 THE COURT: I note that the form is in English.
21 Is that correct?

22 THE WITNESS: That's correct, your Honor.

23 Q After Mr. Arocena executed the advice of rights
24 form, did you and Agent Lyons then have a conversation with
25 Mr. Arocena?

- 1 A Yes, we did.
- 2 Q About how long did the conversation last?
- 3 A It was approximately an hour and a half.
- 4 Q Now, do you speak fluent Spanish?
- 5 A No, I do not.
- 6 Q To your knowledge, does Agent Lyons speak any
7 Spanish?
- 8 A I don't believe he speaks any Spanish.
- 9 Q What language was your conversation with
10 Mr. Arocena in?
- 11 A The entire conversation with Mr. Arocena was in
12 English.
- 13 Q What was the reason why you and Agent Lyons
14 were doing this particular interview with Mr. Arocena?
- 15 A Agent Lyons is a bomb technician and has the
16 expertise to ask appropriate questions regarding, you
17 know, construction of various explosive devices.
- 18 I was present for the interview, because I
19 am assigned or was at the time, assigned to the Newark
20 office and had fairly good knowledge of the New Jersey
21 bombings.
- 22 Q Now, are you, yourself, a bomb technician?
- 23 A No, I'm not.
- 24 Q Was there discussion by Mr. Arocena in your presence
25 about the construction of particular bombs?

msjah 16 Menapace-direct

1 A Yes, there was discussion regarding the
2 construction of various bombs.

3 Q Now, aside from the technical bomb discussion,
4 was there also discussion by Mr. Arocena about how
5 particular bombings were carried out?

6 A Yes, there was.

7 Q What do you recall Mr. Arocena saying about any
8 of these particular bombings?

9 A Mr. Arocena discussed the March 25th, 1979,
10 bombings at the TWA facility at Kennedy Airport, the
11 Programa Cubano bombs in Weehawken on March 25th, 1979,
12 and the bombing of Alamacen El Espanol in Union City,
13 also on March 25th, 1979.

14 In regards to the TWA bombing, he stated that
15 that particular bombing was carried out by himself and
16 Mr. Pedro Remon, that they purchased a ticket at
17 Kennedy Airport and checked a piece of luggage containing
18 the explosive device through. They then proceeded to make
19 phone calls to TWA, to warn them that the bomb had been
20 checked through on one of their flights. He indicated that
21 TWA personnel didn't appear to take the matter too
22 seriously, so they made another call from a highway near
23 the airport.

24 That same evening, they returned to New Jersey
25 from New York and planted two bombs, one at Programa Cubano

msjah 17 Menapace-direct

1 and one at Alamacen El Espanol, both incidents being done
2 by Mr. Remon Land: Mr. Arocena, on March 25th, 1979.

3 Q Now, in addition to discussing those three
4 particular bombs of March 25, 1979, did you have any
5 additional conversation with Mr. Arocena about how he
6 did other bombings?

7 A Yes, we did.

8 Q Would you please tell the jury?

9 A He discussed the December 7th, 1979, bombing
10 of the Cuban Mission to the United Nations. He stated
11 that particular bombing was carried out by himself, Pedro
12 Remon, Andres Garcia and Eduardo Losada-Fernandez. In
13 that particular bombing at the Cuban Mission on
14 December 7th, 1979, he indicated that Pedro Remon actually
15 put the bomb down, that he and Mr. Losada-Fernandez
16 essentially served as lookouts, and that Andres Garcia drove
17 the getaway car.

18 Q And did he tell you about any particular incident
19 that happened with regard to that?

20 A Yes. During the course of carrying out that
21 bombing, while he and Mr. Losada were serving as lookouts,
22 and Mr. Remon was actually carrying the bomb to the Cuban
23 Mission, an elderly couple were walking down the street,
24 in the direction of where the bomb was to be placed. He
25 stated that he had detained the couple, to prevent them from

1 walking down the street to prevent injury on their part.

2 Q Now, did you discuss with Mr. Arocena any other
3 bombings that occurred in December of 1979?

4 A Yes. The December 11th, 1979, bombing of the
5 Soviet Mission to the United Nations. He stated, regarding
6 that bombing, that that bombing was carried out by
7 himself and the same three individuals who had carried out
8 the December 7th bombing. Those people being Pedro Remon,
9 Andres Garcia and Eduardo Losada-Fernandez.

10 He stated that they had timed the activity
11 of the police sentries of the Soviet Mission, and at
12 an appropriate time, placed the device at the Mission. As
13 they were leaving the scene, a New York City fireman who
14 was across the street from the Soviet Mission observed them
15 and called to a police office in the area, and the
16 police officer started to come towards them, at which point
17 they fled the scene.

18 Q Now, did Mr. Arocena discuss any additional
19 bombings with you?

20 A Yes. He discussed three bombings that occurred
21 on January 13th, 1980. These three bombings were at the
22 Cuban Consulate, Montreal, Canada, the Padron Cigar Store
23 in Miami, Florida, and the Aeroflot Airlines ticket office in
24 New York City.

25 He stated -- he declined to identify who had

1 carried out the Cuban Consulate bombing in Montreal. He
2 admitted that the bombing of the Padron Cigar in Miami
3 was carried out by himself. And the bombing of the Aeroflot
4 office in New York City was carried out by Pedro Remon and
5 Andres Garcia.

6 During the course of discussing the bombing at
7 the Aeroflot facility, he advised that Pedro Remon had
8 fired a shot at the police officer that was guarding the
9 Aeroflot office during the course of that bombing.

10 Q Now, did you discuss any additional bombing
11 attempt with Mr. Arocena?

12 A Yes. Mr. Arocena discussed the March 25th,
13 1980, attempted bombing -- bombing assassination of the
14 vehicle that was to be carrying the Cuban Ambassador to
15 the United Nations, Raul Roa. He stated that it was a
16 remote-control bomb that had been constructed by
17 Ramon Sanchez and that participating in this attempted
18 bombing were himself, Pedro Remon, Andres Garcia,
19 Alberto Perez and Eduardo Losada-Fernandez.

20 The bomb was placed on the vehicle. However,
21 he stated that because of the presence of schoolchildren in
22 the area, a decision was made not to detonate the device
23 for fear of harming innocent individuals.

24 Q Did he say where the bomb was at that particoar
25 moment?

1 A I believe he indicated that the bomb -- I'm
2 not sure, but I believe he had said that the bomb had fallen
3 off the car or was in the vicinity of the car, but not
4 actually attached to the car.

5 Q Now, did you also discuss any New Jersey matters
6 relating to Omega 7 with Mr. Arocena on September 26th,
7 1982 in this interview?

8 A Yes. We discussed the machinegun murder of
9 Eulalio Negrin on November 25th, 1979. Mr. Arocena advised
10 that the act was actually carried out by Andres Garcia
11 and Pedro Remon, that Andres Garcia drove the vehicle
12 and that Pedro Remon was actually the triggerman who
13 actually did the shooting of Mr. Negrin on that occasion.

14 He stated that the plan for that murder was
15 that a stolen car was supposed to have been used.
16 However, he is not sure that that is indeed what occurred,
17 because he was not actually present when Mr. Negrin was
18 killed.

19 He did recall that in speaking to Andres Garcia
20 and Pedro Remon after the murder, that Andres Garcia was
21 very upset because a woman had apparently, in Mr. Garcia's
22 opinion, gotten a good look at himself and Pedro Remon
23 following this murder.

24 Q Now, did you discuss any other New Jersey
25 individual with Mr. Arocena during this meeting?

1 A Yes. Mr. Arocena discussed the activity as it
2 related to Omega 7 of an individual named Eduardo Ochoa.

3 Mr. Arocena essentially said that Mr. Ochoa
4 lacked the personal courage to actually carry out a
5 bombing himself. He stated that while Mr. Ochoa had
6 knowledge of Omega 7 activity and did perform a function
7 for them, that he didn't have the courage to actually carry
8 out a bombing.

9 He cited two examples of that, one being a
10 Cuban performer, I believe Alicia Alonso was appearing in
11 New York City, and Eduardo Ochoa was to place an explosive
12 device at the location where she was appearing. Mr. Ochoa
13 was with Mr. Arocena in the vehicle, and when Mr. Arocena
14 gave the explosive device to Mr. Ochoa, Mr. Ochoa was
15 paralyzed with fear, he couldn't get out of the car,
16 and Mr. Arocena indicated, he was so scared he actually
17 wet his pants at the prospect of holding a bomb or getting
18 out or doing anything to it.

19 He cited another situation in which the Cuban
20 boxing team was appearing at Madison Square Garden, and
21 he picked up Mr. Ochoa at Mr. Ochoa's residence, and
22 informed him that they were going to do a bombing that
23 night too, you know, at the location where the Cuban
24 boxing team was appearing.

25 Mr. Ochoa was again very fearful, but Mr. Arocena

1 told him that all he would be expected to do that night
2 would be to drive the car. Mr. Ochoa did indeed drive
3 the car for that bombing.

4 Mr. Arocena said that when they got to the
5 area of Madison Square Garden, the opportunity to actually
6 place the bomb at Madison Square Garden didn't present
7 itself, so he, instead, placed the bomb at a sporting
8 goods store, Gerry Cosby Sporting Goods, which is
9 apparently in the area of Madison Square Garden, but not
10 part of the complex. That's my understanding.

11 Q Now, what, if anything, did you and Agent Lyons
12 do when this meeting with Mr. Arocena ended?

13 A We went to sleep. We stayed in the room.

14 Q And what, if anything, did Mr. Arocena do?

15 A Mr. Arocena returned to his room.

16 Q Did anybody, to your knowledge, watch or
17 surveil Mr. Arocena that night?

18 A No.

19 Q Now, did you see Mr. Arocena again?

20 A Yes, I did.

21 Q And when was that?

22 A I assume the following day.

23 Q Where did you first see him?

24 A I first saw him in the lobby of the Westbury
T6 25 Hotel the following morning.

1 Q And then what happened?

2 A He was present in the lobby. Agent Lyons
3 and I were there and Agent Larry Wack.

4 I then went to the New York office of the FBI.
5 And Agent Wack, Agent Lyons and Mr. Arocena, I believe,
6 went to return a rental car. And then I saw them later
7 at the New York office of the FBI.

8 Q Now, at about what time did you leave the FBI
9 office that day, Monday, September 27th, 1982?

10 A I left the New York office at approximately
11 four p.m. on the 27th.

12 Q Did anybody accompany you at that time?

13 A Yes.

14 Q Who was that?

15 A Eduardo Arocena accompanied me on the 27th.

16 Q And what did you do?

17 A I drove him to the Newark Airport so he could
18 take a flight.

19 Q To your knowledge, did anybody surveill or
20 accompany him on that flight?

21 A No. To my knowledge, no one did.

22 Q Did you have any conversation with Mr. Arocena
23 while you were driving him to Newark Airport that day?

24 A Yes. Our conversation in the car from the
25 New York office to the airport was essentially small talk.

1 Discussed Cuban food, and Mr. Arocena was curious as to
2 whether I had any type of military background.

3 Q Now, I direct your attention to October 20th,
4 1982. What did you do that day?

5 A October 20th, 1982, I was a participant in
6 a search of a supermarket called Fruit Meat King on
7 Prospect Street in Newark, New Jersey.

8 Q I'm going to show you Government's Exhibit
9 27-E --

10 MR. AGUILAR: Your Honor, I'm going to object
11 to this line of questioning. All this has been gone over.
12 And I think it is repetitive and cumulative. All this
13 has been gone into. I think we have had three or four
14 agents that have gone to the Fruit King, and they were
15 there and found certain material. And that's already
16 been introduced.

17 THE COURT: Well, if the Government intends to
18 introduce additional evidence, fine. If not, I would
19 think it is cumulative, since at this point, I would
20 suggest that the evidence which has been testified to has
21 not really been controverted. I do not think the thrust
22 of the cross-examination was in the direction of controvert-
23 ing the testimony of those witnesses who had been at the
24 Fruit King market.

25 MR. TABAK: I agree. The Government only

1 intends to introduce one exhibit through this witness,
2 and not ask him anything further about that day.

3 THE COURT: Very well. You may proceed,
4 under those circumstances.

5 Q I show you Government's Exhibit 27-E for
6 identification (handing).

7 (Government's Exhibit 27-E was marked for
8 identification.)

9 Q Do you recognize that?

10 A Yes, I do.

11 Q What is that?

12 A It's a consent to search form, which I
13 presented to a John Fernandez, owner of the market on
14 Prospect Street in Newark, on October 20th, 1982.

15 Q And did he, in fact, give his consent to
16 search and sign the form?

17 A Yes, he did.

18 Q To your knowledge, is John Fernandez any
19 relation to Eduardo Losada-Fernandez?

20 A To my knowledge, he has no relationship to him
21 at all.

22 MR. TABAK: Government offers Exhibit 27-E.

23 MR. AGUILAR: No objection, your Honor.

24 THE COURT: Let us see. That is not the same
25 exhibit that was shown yesterday.

1 MR. TABAK: No. That was from October 2,
2 1982.

3 THE COURT: All right, no objection?

4 27-E is received.

5 (Government's Exhibit 27-E was received into
6 evidence.)

xx 7 MR. TABAK: I have no further questions.

8 THE COURT: You may inquire, Mr. Aguilar.

9 MR. AGUILAR: Thank you, your Honor.

xx 10 CROSS EXAMINATION

11 BY MR. AGUILAR:

12 Q Agent Menapace, how long altogether did you
13 speak with Mr. Arocena?

14 A On the night of the 26th, sir?

15 Q Altogether on the 26th, 27th, if you give us
16 an estimate of how many hours.

17 THE COURT: Why don't you take it day by day.

18 MR. AGUILAR: I will, your Honor.

19 A On the night of September 26th into the early
20 morning hours of September 27th, 1982, I would say approx-
21 imately an hour and a half.

22 Q And on the next day?

23 A I saw him on occasion -- I would say, as far as
24 speaking to him, a total of maybe 45 minutes, including the
25 car ride.

1 Q And you had found out that other FBI agents
2 had been conversing with him on those two dates;
3 correct?

4 A That's correct.

5 Q Do you remember the number of agents that
6 spoke with Mr. Arocena on those two dates?

7 A On the 26th and the 27th?

8 Q Yes.

9 THE COURT: To your knowledge.

10 Q To your knowledge, sir.

11 A I really couldn't give you an exact number,
12 Mr. Aguilar.

13 Q Would you say it would be about four or five,
14 altogether?

15 A I would say that would probably be a fair
16 estimate.

17 Q Okay. Prior to that day, as part of your
18 investigation of bombings in New Jersey, had the name
19 Eduardo Arocena come up during your investigation?

20 MR. TABAK: Objection.

21 THE COURT: Sustained as to form.

22 Q Had you been investigating Eduardo Arocena?

23 MR. TABAK: Objection: beyond the scope of the
24 direct.

25 THE COURT: Remember what we said. We were

1 going to give him latitude on that.

2 Under those circumstances, I'll allow the
3 inquiry.

4 MR. AGUILAR: Thank you, your Honor.

5 A I had been investigating Omega 7 in New Jersey
6 during that time, and Mr. Arocena had become a suspect.
7 In that regard, he was subject of an investigation.

8 Q Had Mr. Arocena become a subject of the
9 investigation, or to your knowledge, did you in your
10 investigation consider him to be the leader of Omega 7.

11 THE COURT: Before he told anyone at the FBI
12 that he was Omar, did you believe that Eduardo Arocena was
13 the leader of Omega 7?

14 THE WITNESS: Prior to him admitting it, no.
15 I don't believe that I did believe he was indeed the
16 leader.

17 Q Okay. Had you other suspects you believed
18 to be the leader of Omega 7?

19 A At that juncture, I personally could not say
20 that I would point to one or the other and say one was a
21 leader and the others were followers.

22 Q All right. When you conferred with Mr. Arocena
23 in the Westbury Hotel, were you then convinced that this
24 person in front of you was Omar?

25 A Based on his statements to me, yes.

1 Q And you also knew that he had been conversing
2 with the FBI prior to your talking with him; is that
3 correct?

4 A Yes. It was my understanding he had been
5 providing information for a couple of days prior to my
6 speaking to him.

7 Q And it is your testimony that he spoke to you
8 freely and voluntarily?

9 A Completely.

10 Q Completely.

11 And weren't you shocked that here is a man
12 who has told you that he is the leader of a terrorist
13 organization, speaking freely and voluntarily?

14 THE COURT: Were you shocked, surprised?
15 What was your general feeling in the matter?

16 THE WITNESS: My general feeling in the matter,
17 I was pleased that he was coming forward and being candid
18 with the Government.

19 Q Did he indicate to you why he was cooperating
20 with you?

21 A We did not, Agent Lyons and I did not, get
22 into a long-winded discussion of his motivation for coming
23 in. We had been told by Agent Wack and Detective Brandt
24 that -- to keep our interview fairly short so that
25 Mr. Arocena could get some rest. So we were intent on

1 getting as much information from him during the course
2 of the interview as we could to still enable him to get
3 a night's sleep.

4 Q Was there any particular reason why he needed
5 some rest?

6 A Yes. He was to be --

7 MR. TABAK: Objection.

8 May we have a side bar at this time?

9 MR. AGUILAR: Your Honor, --

10 THE COURT: Oh, no, no. Wait, One step at
11 a time.

12 There was a reason why he needed rest; is that
13 right?

14 THE WITNESS: Yes, your Honor.

15 THE COURT: Very well. Was it something that
16 he had requested or that the Bureau wanted?

17 THE WITNESS: Mr. Wack indicated to me --

18 THE COURT: I do not want to know what Mr. Wack
19 indicated, unless counsel wishes to press that matter.

20 THE WITNESS: It was --

21 THE COURT: Wait. I am waiting for counsel
22 now.

23 MR. AGUILAR: I was waiting for your Honor to
24 finish.

25 THE COURT: Oh, no. If Mr. Arocena had said

1 something, I think it would have been appropriate.
2 If Mr. Wack said something, you might not want to
3 press on.

4 Q You were instructed that he was going to be
5 interrogated the next day and that the FBI did not want
6 him to be tired out? Is that correct?

7 A That was my understanding, yes.

8 Q And he had been interrogated on that whole day
9 by the FBI, and he was already very, very tired; correct?

10 A On the 26th, Mr. Aguilar?

11 Q Yes, sir.

12 A I don't know. He spoke to Agent Lyons and I
13 for about an hour and a half. I don't know how long he
14 had been talking to Agent Wack and Detective Brandt on
15 that date.

16 Q And other agents, if you know?

17 A It's my understanding that the only people
18 that spoke to him on September 26th, prior to the arrival
19 of Agent Lyons and myself, were Agent Wack and Detective
20 Brandt.

21 MR. TABAK: Your Honor, the Government would
22 request a side bar at this time to bring something to the
23 Court's attention, and I think it would be appropriate to
24 bring it up at this time.

25 THE COURT: Very well.

1 (At the side bar.)

2 THE COURT: Yes, Mr. Tabak?

3 MR. TABAK: What I would like to bring up, is
4 that I have very assiduously instructed all of the
5 Government's witnesses who have gotten into the subject
6 of what happened on Monday, September 27th, 1982, not
7 to volunteer certain information which I am about to get
8 into, which defense counsel has been aware of for months.

9 I do not want them, unless they understand
10 the situation, to go ahead and elicit this information and
11 then move for a mistrial based on it. That's why I
12 want to stop right now and say that the defense is well
13 aware, and they've gotten the documents on this, that
14 what happened on Monday morning, September 27th, 1982,
15 which required him to have had an adequate amount of
16 sleep was that he was polygraphed by the FBI. He passed
17 the polygraph and that is why he was then -- or one of
18 the reasons why he was allowed to go to Florida.

19 Now, since polygraph results would not
20 normally be admissible, the Government felt it was not
21 appropriate, even to put in any information that there
22 was a polygraph test. Because we do not want to create
23 any potential problems here.

24 And, indeed, there was another rights form that
25 was signed in conjunction with the polygraph that I chose

1 not to put in, to avoid any potential problems..

2 Now, certainly, if Mr. Aguilar wants to
3 inquire, that's fine with me. But I don't want him
4 then, if he doesn't like the answer, jumping up and down
5 and moving for a mistrial on it.

6 MR. AGUILAR: Your Honor, I think in this
7 particular case, I think we are entitled to know how many
8 agents interrogated him. We are entitled to know the
9 length of time they interrogated him.

10 I don't think the polygraph should come in
11 at all. I have not brought it up. I haven't gotten into
12 it. I have known a long time there was a polygraph, and
13 Mr. Fernandez and I discussed it last night, and I haven't
14 gone near that area.

15 MR. TABAK: You have gone very close to it,
16 characterizing it as interrogation. I'm not going to tell
17 the witness what to say. I want you to be aware that if
18 you ask a question that elicits that answer, and then
19 move for a mistrial -- so just be careful what you ask.

20 THE COURT: This is the point I would make to
21 defense counsel.

22 Since the polygraph operator ordinarily
23 conducts the examination by asking questions, I must say
24 I think that an open-ended question could very well open
25 the door. And therefore, you must structure your inquiry

1 very clearly to exclude any tests which may have been
2 conducted, because an open-ended question, "Do you know of
3 any other interrogations by any Government people on the
4 27th," could easily elicit this answer that obviously you
5 do not want. So I caution you to structure your inquiry
6 carefully.

7 MR. TABAK: I will also note for the record
8 that the name, Dan Craft, as an agent did come up. I had
9 instructed, I believe it was Agent Wack who testified
10 about it, only to identify him as an agent and not to
11 spell out that he was a polygraph --

12 THE COURT: I was aware of that from previous
13 information.

14 MR. TABAK: And I have purposely stayed clear
15 of it, and I want the defense counsel to be aware of it.

16 THE COURT: You have put up the red flag of
17 caution, and I am aware of it, as well.

18 MR. TABAK: Thank you, your Honor.

19 THE COURT: You may proceed, Counsel.

20 (In open court.)

21
22 (Continued on the next page.)
23
24
25

ET6B

1 (In open court.)

2 THE COURT: You may proceed, Mr. Aguilar.

3 MR. AGUILAR: Thank you, your Honor.

4 BY MR. AGUILAR:

5 Q Agent Menapace, you said you had no surveillance
6 that night of the 26th on Mr. Arocena, is that correct?

7 A That's correct.

8 Q Did you see him going to his room?

9 A He walked out the door of our room and that
10 is the last I saw of him that night.

11 Q Do you know if anybody had placed any devices
12 in the room itself --

13 THE COURT: In his room.

14 A No.

15 Q In Mr. Arocena's room?

16 A To my knowledge, nothing was placed in his room.

17 Q When you took him to Newark Airport and placed
18 him on a plane to Miami, was there anyone following him?

19 A No, no one.

20 Q ~~Nobody was supposed to pick him up in Miami~~
21 either?

22 A To my knowledge, no one in our Miami office had
23 been instructed to meet him coming off the plane or surveill
24 him.

25 Q Did Mr. Arocena ever tell you during your

1 . conversations with him why he was talking to you?

2 A As I said previously, Mr. Aguilar, we did not
3 have the time to really get into his motivations for coming
4 in and speaking to the Government. He did not go into
5 a long explanation of that.

6 THE COURT: Did he go into a short explanation
7 or did he give you any explanation at all?

8 THE WITNESS: Not really. We did not really
9 pursue that with him.

10 THE COURT: Very well.

11 MR. AGUILAR: May I have a second to confer
12 with counsel, your Honor?

13 THE COURT: Surely.

14 (Pause.)

15 Q Agent Menapace, on the morning of the 26th,
16 when you and other agents of the FBI left the Westbury Hotel,
17 in what fashion did you escort Mr. Arocena?

18 THE COURT: I think that is the 27th?

19 MR. AGUILAR: I am sorry, yes.

20 A I did not accompany Mr. Arocena that morning,
21 to the best of my recollection. I had driven my own
22 Government car to the Westbury and got in my car and drove
23 along to the New York office, by myself.

24 THE COURT: Did you leave first?

25 THE WITNESS: I don't recall, your Honor.

1 THE COURT: In any event, you don't have any
2 knowledge of who went with Mr. Arocena and how he went?

3 THE WITNESS: I believe that Mr. Arocena left
4 the Westbury with Agent Lyons and Agent Wack, but I was
5 not with them. I had my own vehicle and I went from the
6 Westbury to the New York office the morning of the 27th.

7 Q Did all three vehicles pull out of the hotel
8 at the same time?

9 A No. We were parked in various locations and
10 I believe there was a rental car that was to be returned
11 and I believe Agent Lyons had his Government car. So I
12 left in my own car and went right to the New York office.
13 It is my understanding, and again I am not positive as to
14 who was in which car, but that Agent Lyons and Agent Wack
15 and Mr. Arocena left in the other two vehicles. Who was
16 in which vehicle, I really can't say.

17 MR. AGUILAR: Nothing further, your Honor.

18 MR. TABAK: No further questions, your Honor.

19 THE COURT: Thank you, Agent Menapace.

20 (Witness excused.)

21 THE COURT: The Government calls Agent Lyons.

22 - -

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

rms

1258

J A M E S R. L Y O N S , called as a witness
by the Government, being first duly sworn, testified
as follows:

DIRECT EXAMINATION

BY MR. TABAK:

Q Mr. Lyons, what is your occupation?

A I am a special agent with the FBI.

Q How long have you been an FBI agent?

A It will be 14 years in November.

Q Which office are you assigned to?

A I am assigned to the New York office, Terrorist
Task Force.

Q Do you have any additional designation within
the FBI besides special agent?

A Yes. I am a bomb technician.

Q What is that designation of bomb technician
based upon?

A It is based upon various training courses I
have received and experience over the years, starting with
the United States Army's hazardous devices course in
Redstone Arsenal, followed by numerous FBI seminars,
New York City Police Department seminars, and I also teach
in that field.

Q I direct your attention to March 26, 1980.

1 Did you work that day?

2 A Yes, I did.

3 Q What did you do that day?

4 A You said March 26?

5 Q Yes.

6 A I responded to the New York City Police Department
7 Bomb Squad to retrieve evidence of a bombing attempt that
8 had occurred on the previous day, the 25th of March.

9 Q Do you know who that bombing attempt related to?

10 A It was an attempted bombing assassination of
11 Raul Roa, the Cuban Ambassador to the United Nations.

12 Q Did you at the police office observe any
13 components of that bomb?

14 A At the Bomb Squad office I obly observed the
15 explosives themselves that were used in the bomb. I later
16 went to the Police Department laboratory and retrieved the
17 components of the bomb.

18 Q How much of the explosive did you see at the
19 Bomb Squad's office?

20 A Just a small sample, maybe an ounce.

21 Q Do you know where --

22 A And the detonating cord and the caps.

23 Q Do you know where the rest of the explosives
24 were?

25 A At the Police Department range at Rodman's Neck.

1 Q What did you observe about the explosives you
2 saw at the Bomb Squad office?

3 A The explosives were what appeared to be
4 military composition C-4, a plastic explosive -- the color
5 was black -- two Dupont No. 6 electric blasting caps and
6 detonating cord, also called primacord.

7 Q What order of explosives are those?

8 A They are high explosives.

9 MR. FERNANDEZ: Your Honor, most respectfully,
10 I believe this testimony is cumulative. I recall Agent
11 Kelly testified this morning and all the questions were
12 asked.

13 THE COURT: But, you know, you did cover one
14 thing in an objection: You pointed out that there were
15 some holes in a blasting cap and I remember there was some
16 objection lodged to the exhibits being received. Detective
17 Kelly, as I recall, said he didn't make the holes and nobody
18 at the New York City Bomb Squad did and he pointed the
19 finger at the FBI. So I guess they are going to fill
20 it in.

21 THE COURT: I will let counsel go in his
22 own way.

23 MR. TABAK: Thank you, your Honor.

24 Q What if anything did you do with the items that
25 you saw at the Bomb Squad office?

1 A I transported them to the Explosives Unit
2 of the FBI labortory in Washington, D.C. on the following
3 day, the 27th of March.

4 Q How did you get to Washington with these items?

5 A I drove them.

6 Q Do you know if anything was done to alter in
7 any way the plastic caps?

8 A I did not alter them in any way.

9 THE COURT: Does the FBI have a procedure
10 whereby they do anything to blasting caps that are brought
11 into the lab?

12 THE WITNESS: Yes. They render them safe, or
13 inert. The exact procedure they use, your Honor, I do
14 not know.

15 THE COURT: Very well.

16 Q Agent Lyons, you also went to the Police
17 Department laboratory?

18 A Yes, I did.

19 Q Did you retrieve any items from there?

20 A Yes, the electrical components and the remainder
21 of the explosive device, other than the explosives.

22 Q What if anything did you do with those items?

23 A I also transported them to Washington, D.C., to
24 the FBI laboratory.

25 Q I am now going to show you Government's Exhibit

1 709, which is in evidence.

2 THE COURT: Do you recognize that?

3 THE WITNESS: Yes, I do.

4 THE COURT: What is it?

5 THE WITNESS: These are six servo switches and
6 a power pack for a Fuvava, a model airplane remote control
7 device.

8 Q Where did you first see it?

9 A At the Police Department laboratory.

10 Q Could you hold up for the jury a servo switch
11 so they will know what it is?

12 A Yes. These are individual servo switches, and
13 I am holding two.

14 Q What is the purpose of a servo switch?

15 A When a transmitter emits the signal on the
16 radio frequency, the switches will close and when all of
17 the switches close, in a case of an explosive device, the
18 bomb can fire, can detonate.

19 THE COURT: In other words, when the entire
20 circuit is closed, the blast can be set off?

21 THE WITNESS: Yes, your Honor.

22 THE COURT: That is done, you say, without any
23 wires? It is done by remote radio transmission?

24 THE WITNESS: Yes, it is.

25 THE COURT: Very well.

1 Q Are Fuvava receivers and transmitters
2 commercially available to anybody?

3 A Yes.

4 Q What is their normal use?

5 A To fly model airplanes.

6 Q How many servo switches do the Fuvava receivers
7 normally come with?

8 A The one we purchased had four in it.

9 Q How many did the one that you retrieved from
10 the Police Department laboratory have?

11 A Six.

12 Q Can you explain, based upon your experience
13 and training as a bomb technician, why someone might put
14 six in instead of the four?

15 A For additional safety precautions, so that there
16 would not be a premature detonation due to stray radio
17 energy, electricity, because six switches have to close,
18 as opposed to four or two or one.

19 Q I am now going to show you Government's Exhibit
20 706, which is in evidence, and ask you if you recognize it?

21 A Yes. This is the receiver that was part of
22 the explosive device, the Fuvava receiver.

23 Q What frequency does it indicate that this
24 receiver -- what frequency is listed on the receiver?

25 A 72.240 megahertz.

1 MR. TABAK: With the Court's permission, I
2 would like to show this to the jury.

3 THE COURT: You may.

4 (Pause.)

5 Q I am now going to show you Government's Exhibit
6 701 in evidence and ask if you recognize this?

7 A Yes. This is a piece of pressed board panel-
8 ing that the explosive device was mounted on.

9 Q I am also going to show you Government's Exhibit
10 710 in evidence. In particular, I direct your attention
11 to one particular piece that was in there. What is that,
12 if you recognize it?

13 A This is also a piece of pressed board paneling.
14 Exactly how -- these pieces of wood and dowels were used
15 to secure the magnets on the device. How exactly they
16 were on there, I don't know, because I didn't see it all
17 in one piece. It was disassembled at that time.

18 Q Where did you obtain this?

19 A From the Crime Laboratory in the Police Depart-
20 ment.

21 THE COURT: New York City Police Department?

22 THE WITNESS: Yes.

23 Q That was also March 26, 1982?

24 A Yes, it was.

25 MR. TABAK: I would like to pass to the jury

1 these two items, which are Exhibit 701 in evidence and
2 the one portion of Exhibit 710 in evidence, if your Honor
3 please.

4 THE COURT: Why don't you just show it to them?

5 MR. TABAK: Yes, your Honor.

6 (Pause.)

7 Q Agent Lyons, I now direct your attention to
8 the evening of Sunday, September 26, 1982. Did you work
9 that evening?

10 A Yes, I did.

11 Q Where did you go that evening?

12 A I went to the Westbury Hotel, at East 69th
13 Street and Madison Avenue, here in Manhattan.

14 Q I will ask you to talk a bit louder so all
15 the jurors can hear you.

16 THE COURT: Did you go there with someone?

17 THE WITNESS: No, your Honor, I went by myself.

18 Q About what time did you arrive at the Westbury
19 Hotel that evening?

20 A Approximately six or seven p.m.

21 Q Did you come to meet anybody else at the hotel
22 that evening?

23 A Yes, Special Agent Larry Wack, Detective Robert
24 Brandt and Special Agent Thomas menapace.

25 Q What was your purpose in going to the Westbury

1

Hotel that evening?

ET7A

2

A To conduct an interview of Eduardo Arocena.

3

4

(Continued on the next page.)

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

rmjah 1 Lyons-direct

1 Q Was Mr. Arocena there when you arrived?

2 A No.

3 Q Did he arrive sometime that evening?

4 A Yes, he did. He arrived at approximately

5 11:00 p.m.

6 Q Did anybody accompany Mr. Arocena when he arrived?

7 A No, he arrived alone.

8 Q What, if anything, happened when he arrived?

9 A Special Agent Wack and Detective Brandt left
10 and myself and Tom Menapace interviewed Mr. Arocena in the
11 hotel room.

12 Q Do you see Mr. Arocena here in the courtroom
13 today?

14 A Yes, I do.

15 Q Can you point him out or identify him?

16 A Yes. He is sitting at the table wearing a gray
17 suit, with a headset.

18 MR. AGUILAR: I stipulate this is Mr. Arocena.

19 THE COURT: It is conceded that the witness
20 recognizes Mr. Arocena.

21 Q What types of subjects were discussed during this
22 interview generally?

23 A The activities of Omega 7, the bombings, murders,
24 how the organization was formed, things of that nature.

25 Q Did you participate in this interview for any

1 particular reason?

2 A Yes. I participated because I was assigned the
3 investigation but I also participated as a bomb technician to
4 question Mr. Arocena about the construction of some of the
5 explosive devices utilized by Omega 7.

6 Q What, if anything, did Mr. Arocena tell you
7 about who had made Omega 7 bombs?

8 A He stated that he made -- he personally constructed
9 almost all of the devices.

10 Q Did he tell you any exceptions?

11 A Yes, one exception in particular, the Fubava
12 device we are speaking about here, which was originally
13 made in 1979 by Ramon Sanchez. That device was made in
14 October, 1979 to be used against Fidel Castro when he
15 visited New York City.

16 Q Did Mr. Arocena tell you anything about that
17 device being in his possession at any time?

18 A Yes. He told me that the opportunity to use
19 it against Fidel Castro did not present itself, and it was
20 partially dismantled and that he re-assembled it in the
21 Fruit & Meat King Supermarket in Newark, New Jersey, to be
22 used in the attempt on Raul Roa.

23 Q Did Mr. Arocena give you any description of the
24 types of materials that he used in making bombs?

25 A Yes. He described that most of his explosive

1 devices consisted of either Geledyne, dynamite, or
2 Composition C-4. He stated that he had approximately fifty
3 pounds of Geledyne, to start with, but that he used it
4 all up in his various devices.

5 He stated that he utilized in seventy-five
6 percent of his devices primacord, or detonating cord,
7 as a booster to the main charge.

8 Q Can you explain what a booster is?

9 A Yes. All his explosives, dynamite and
10 Composition C-4 being his explosives, require a blasting cap
11 to detonate them, the blasting cap itself having his
12 explosives in it. Some explsoives in the particular
13 Composition C-4 -- that is a very stable explosive and it
14 therefore requires a larger blasting cap to detonate it,
15 requires a greater punch.

16 Some blasting caps are too small to detonate
17 the main charge explosive and, therefore, a booster is
18 used. In this case, the blasting cap is primed into the
19 detonating cord. It will fire the detonating cord, which
20 then fires the main charge.

21 THE COURT: So it is a three-stage situation?

22 THE WITNESS: Yes, your Honor.

23 A The method Mr. Arocena described in how he
24 utilized the detonating cord was to tie a knot in one end
25 and prime the main charge explsoive by putting the knot inside

1 the explosive. By having a knot, you get that much more
2 punch to it.

3 Q Based upon your training and expertise as a
4 bomb technician, would the procedures that Mr. Arocena told
5 you about in fact be able to detonate a high explosive
6 such as Military C-4 or dynamite?

7 A Yes, it would.

8 Q Did Mr. Arocena tell you how the Geledyne that
9 he used came?

10 A It originally came, he stated, in two-inch-by-
11 24-inch cartridges, and that he cut the dynamite cartridges
12 into thirds, making them two-inch by eight-inch. He said the
13 devices where he used the Geledyne, he used approximately
14 two and a half pounds, which would be two to three
15 cartridges of the two-by-eight-inch.

16 Q To your knowledge, do Geledyne explosives come
17 in two-inch-by-24-inch cartridges?

18 A Yes, they do.

19 Q Did Mr. Arocena give any other description about
20 ways that he would detonate the explosives?

21 A Yes. He said in some of his devices, he used a
22 non-electric blasting cap and safety fuse, with a black
23 insulation.

24 A safety fuse is a burning type fuse where you
25 light one end and it burns into the blasting cap, fires the

1 blasting cap and then the explosives. That is one method
2 he used.

3 The other method that he used, that he described
4 to me, was an electrical firing system where he used
5 pocket watches for his time delay and batteries and electric
6 blasting caps. An electric blasting cap requires some
7 power and the battery acts as that power source.

8 Q With regard to the fused bombs he discussed, did
9 he tell you any particular way he would ignite the fuses?

10 A Yes. He stated that he would slit the end of the
11 fuses, and a safety fuse has a black powder core and
12 you have to light that, and he stated he took a knife and
13 split the fuse open, inserted matchheads into the black
14 powder core, tied it with string and then could use a
15 cigarette lighter to ignite the matchheads, which would
16 then ignite the powder.

17 Q Is that a way of igniting a fuse bomb?

18 A The standard way is to use a commercial
19 friction type fuse lighter or Military fuse lighter,
20 which he mentioned, but in the absence of those, that is
21 the way I was taught to do it.

22 Q During the interview with Mr. Arocena on the evening
23 of December 26, 1982, did he discuss any specific bombs
24 he had made?

25 A Yes.

1 Q Which bombs do you recall he described in detail?

2 A He described the Match 25, 1979 bombing of the
3 TWA baggage area at Kennedy Airport, and there were two
4 other bombings that night in New Jersey that he described,
5 one at Alamacen El Espanol and at Programa Cubano. Those
6 three bombings occurred on the same night.

7 He also described the December 7, 1979 bombing of
8 the Cuban Mission to the United Nations, the December 11, 1979
9 Soviet Mission to the United Nations bombing, the
10 attempted assassination of Raul Roa, of course, and the
11 bombing of the Aerofloat Soviet office, which occurred on
12 January 13, 1980, and on that same evening, the bombing
13 of the Padron Cigar factory in Miami.

14 Q What did Mr. Arocena tell you about the TWA
15 bombing, as to the composition of the bomb?

16 A He stated that the device consisted of Geledyne
17 explosive, approximately three sticks, or cartridges.
18 He stated that it was contained in a Samsonite briefcase.
19 He stated that he used a dual firing system in this
20 particular device. One of the firing systems consisted of
21 two Ingersoll or satellite pocketwatches and an accompanying
22 battery and blasting cap.

23 The other system consisted of what is called a
24 printed circuitboard, also called a 555 time, with its
25 accompanying battery and electric blasting cap.

1 Q Did he tell you what types of batteries he used
2 in this bomb?

3 A Yes. He used two nine-volt batteries and four
4 double-A batteries in a holder with a snap connector on it.

5 Q Did he tell you why he used two firing systems
6 for the one bomb?

7 A Yes. By using two firing systems, he was
8 giving himself insurance that if one system failed, the
9 other one would work and the bomb would still detonate.

10 Q What did Mr. Arocena tell you about the
11 construction of the Alamacen and Programa Cubano bombs?

12 A He stated those were the fused type bombs, using
13 the black insulated fuse. He stated the Alamacen bomb
14 consisted of two sticks of dynamite, Geledyne, and the
15 Programa Cubano bomb consisted of three sticks of
16 Geledyne.

17 Q Did he tell you why he used only two sticks
18 at Alamacen?

19 A Yes, because there were residences on the upper
20 floors, and he didn't want to injure innocent people.

21 Q What did Mr. Arocena tell you about the Cuban
22 Mission's bomb construction from December of 1979?

23 A He said the Cuban Mission bomb was also a
24 non-electric bomb, consisting of approximately three sticks
25 of Geledyne explosives, the black insulated fuse and a

1 non-electric blasting cap.

2 Q What did he tell you about the December, '79
3 Soviet Mission to the United Nations' bomb as to the
4 construction?

5 A That was similar to the Cuban Mission bomb,
6 approximately three sticks of Geledyne with a non-electric
7 firing system.

8 Q What did Mr. Arocena tell you about the way he
9 built the Aeroflot bomb?

10 A That was also a non-electric system, but he
11 stated that he used Geledyne and some Composition C-4
12 mixed in in that particular device, and the Padron Cigar
13 Company bomb, on the same evening, was constructed using the
14 Ingersoll or Satellite pocketwatch, a battery, I am not
15 sure what kind, and Geledyne.

16 Q What did Mr. Arocena tell you about the
17 construction of the Roa bomb?

18 A He stated that the bomb consisted of Composition
19 C-4, a black plastic explosive. He stated that there were
20 six servo -- he said switches, I said servo, and we agreed
21 that is what we were referring to -- he said there were
22 nine-volt batteries in it, that it was mounted on pressed-
23 board paneling, was contained in a gun box and it was
24 boosted with primacord and two electric blasting caps.

25 Q Based upon your training and experience, would

rmjah 9 Lyons-direct

1 bombs constructed along the lines of each of the ones you
2 described be working bombs?

3 THE COURT: In your opinion?

4 A Yes.

5 Q Did Mr. Arocena tell you anything about the then
6 current whereabouts of any explosives?

7 A Yes. He stated there were still 600 pounds
8 of explosives in possession of some of the Omega 7 people,
9 and that 300 pounds were being moved to New Jersey and the
10 other 300 were in Miami.

11 Q Did he describe any other types of explosives?

12 A He said -- he didn't give me a particular
13 location, but he said C-4 was easily obtained in Miami.

14 Q Did he describe any particular type of way
15 the C-4 came?

16 A Yes. He described the blocks to me, and the
17 blocks he described, the sizes and weight, are called
18 M-112 blocks.

19 Q With regard to the Roa bomb, did Mr. Arocena tell
20 you how that bomb came to be inside Manhattan?

21 A Yes. He stated he and Pedro Remon transported the
22 device from New Jersey.

23 Q What happened at the conclusion of your
24 interview with Mr. Arocena?

25 A We had two rooms. Tom Menapace and I slept in one

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

room and he went into the other room, his room.

MR. TABAK: Your Honor, I have more questions for the witness, and I can proceed now or we could take the mid-afternoon break at this point.

THE COURT: We will take our break.

Ladies and gentlemen, please do not discuss the case and continue to keep an open mind.

We will take our mid-afternoon break at this time.

(Continued on next page)

T7B

1 A It was in the evening hours, and I went to the
2 home of Judge Duffy to present him with United States
3 Attorney John Martin and swore to the complaint in
4 Judge Duffy's home.

5 Q Do you know when this complaint was first
6 drafted?

7 A That same day, October 1st. I was present
8 during the drafting of the complaint.

9 Q Do you know what precipitated the drafting of
10 the complaint?

11 A Yes. Eduardo Arocena had decided to flee
12 and not cooperate any more.

13 MR. TABAK: The Government offers Exhibit 9
14 in evidence.

15 MR. AGUILAR: Your Honor, we have no objection,
16 although we believe it is part of the Court file.

17 THE COURT: If you have no objection, I will
18 take it.

19 Received.

20 (Government's Exhibit 9 was received into
21 evidence.)

xx 22 Q Who are named as defendants in this complaint?

23 THE COURT: The document speaks for itself.

24 MR. TABAK: If I may, I will just read the
25 names of the defendants.

1 Pedro Remon, Eduardo Arocena, Eduardo
2 Losada-Fernandez, Andres Garcia and Alberto Perez.

3 Q Now, was anything obtained from Judge Duffy
4 as a result of, and after the swearing of, this complaint?

5 A Yes. Arrest warrants.

6 Q Now, in the complaint which you swore,
7 Exhibit 9 in evidence, it refers to a confidential informant
8 who had provided information on September 26th, 1982.
9 Who was that person identified as a confidential informant?

10 A Eduardo Arocena.

11 MR. FERNANDEZ: Excuse me. Could you repeat
12 the answer?

13 THE COURT: "Eduardo Arocena."

14 In other words, he has testified that the
15 confidential informant named in the complaint is Mr. Arocena.

16 MR. FERNANDEZ: Thank you, your Honor.

17 Q What was the reason, Agent Lyons, when Mr.
18 Arocena, who is listed as a defendant in the complaint,
19 was in the body of the complaint not named in the phrase,
20 "confidential informant"?

21 MR. AGUILAR: Your Honor, I'm going to object
22 to that question.

23 THE COURT: Sustained.

24 Q Now, I direct your attention to October 19th,
25 1982. Did you do anything that day?

1 A Yes, I did. I conducted a search, along
2 with Special Agent Donald Wofford from the Newark office
3 from the FBI. And the search was conducted at the
4 Fruit Meat King supermarket in Newark, New Jersey.

5 Q Now, I'm going to show you --

6 MR. TABAK: This is a different exhibit.

7 THE COURT: I was going to ask. But you have
8 now answered. All right.

9 Q -- Government's Exhibit 27-D, for identifica-
10 tion (handing).

11 (Government's Exhibit 27-D was marked for
12 identification.)

x 13 THE COURT: 27-D?

14 MR. TABAK: Yes, your Honor.

15 THE COURT: Very well.

16 Q Do you recognize that, Agent Lyons?

17 A Yes, this is a consent to search form that
18 we presented to the owner, one of the owners, of the
19 Fruit Meat King building, authorizing us to conduct a
20 search of his building.

21 Q And did the owner sign that in your presence
22 and give consent?

23 A Yes, he did.

24 MR. TABAK: The Government offers Government's
25 Exhibit 27-D in evidence.

1 MR. AGUILAR: No objection, your Honor.

2 THE COURT: Received.

3 (Government's Exhibit 27-D was received into
4 evidence.)

5 THE COURT: What was the date of that?

6 MR. TABAK: October 19th.

7 THE COURT: '82?

8 MR. TABAK: Yes.

9 Q Now, Agent Lyons, were you aware on October
10 19th of 1982 that Agent Amaya had already done a search of
11 part of the Fruit Meat King on October 2, 1982?

12 A Yes, I was.

13 Q Why were you interested in doing another
14 search?

15 A Agent Amaya's search, they were principally
16 looking for the .45 caliber bullets, shell casings or the
17 machine-gun pattern of fire on the wall. I was particu-
18 larly interested in finding evidence that would -- evidence
19 of the construction of the remote control bomb utilized
20 against Raul Roa.

21 Q Was there anything in particular that made you
22 think you might find something there?

23 A Yes. One of the detectives on the squad,
24 Santo Parola, was present at the search conducted by
25 Agent Amaya on October 2nd. And we were in our squad

1 area, and I was looking at some photos of the Roa device,
2 and Parola noticed --

3 THE COURT: And he said something to you,
4 didn't he?

5 THE WITNESS: Yes, he said --

6 THE COURT: No, don't tell us what he said.

7 Q And as a result, did you decide to look for
8 anything in particular when you went there on October 19th,
9 1982?

10 A Yes.

11 Q And what were you looking for?

12 A Mainly we were looking for pressboard paneling.

13 Q All right. I'm going to show you Government's
14 Exhibit 3004, for identification (handing).

15 (Government's Exhibit 3004 was marked for
16 identification.)

xx 17 A Yes, this is the pressboard paneling that we
18 found in the Fruit Meat King on October 19th, 1982.

19 MR. TABAK: The Government offers Exhibit 3004
20 in evidence.

21 MR. FERNANDEZ: No objection, your Honor.

22 THE COURT: Exhibit 3004 received.

23 (Government's Exhibit 3004 was received into
xx 24 evidence.)

25 Q Now, did you do any further search of the Fruit

1 Meat King the following day, October 20th, 1982?

2 A Yes.

3 Q What is the reason you went back the following
4 day?

5 A On the 19th, it was only myself and Wofford,
6 and we needed -- we felt we needed more time since we
7 found the pressboard paneling, we felt we could possibly
8 find other evidence used in the construction of the Roa
9 device.

10 Q And did you find any further evidence on
11 October 20th, 1982, at the upstairs of the Fruit Meat
12 King?

13 A Yes, we found some electrical tape, electri-
14 cian's tape, a roll of that; some miscellaneous tape.
15 We found some string, and we also found three newspapers.

16 Q And were there other items?

17 A Yes, there were.

18 Q I'm now going to show you Government's Exhibits
19 3000, 3001, 3002, 3003 and 3013, for identification.

20 (Handing.)

21 (Government's Exhibits 3000, 3001, 3002, 3003,
22 and 3013 were marked for identification.)

xx 23 Q Do you recognize those items?

24 A Yes, I do.

25 Q And without showing them to the jury, would

1 you describe what each of those items is, identifying it
2 by exhibit number?

3 A Okay. Exhibit 3002 is some string.

4 THE COURT: Do not show it to the jury. It
5 has not yet been received.

6 THE WITNESS: Sorry, your Honor.

7 THE COURT: String. All right.

8 Q Now, go to the next.

9 A Exhibit 3003 is pressboard paneling.

10 Exhibit 3000 is electrician's tape.

11 3001 is a roll of electrician's tape.

12 And 3013 is miscellaneous lengths of electri-
13 cian's tape.

14 THE COURT: And you recognize all of this as
15 having been obtained at the Fruit Meat King market?

16 THE WITNESS: Yes, I do.

17 THE COURT: Very well.

18 Q To the extent that electrician's tape in those
19 exhibits is not on a roll but is loose or cut, is that
20 the condition that it was found in?

21 A The laboratory, when they did their examinations,
22 mounted this tape.

23 Q But was the tape in separate pieces at the time
24 it was found?

25 THE COURT: Or was it on a roll?

1 A No, it was separate pieces.

2 MR. TABAK: The Government offers Exhibits
3 3000, 3001, 3002, 3003 and 3013 into evidence.

4 MR. FERNANDEZ: No objection, your Honor.

5 THE COURT: Received.

6 (Government's Exhibits 3000, 3001, 3002, 3003
7 and 3013 were received into evidence.)

xx 8 MR. TABAK: With the Court's permission, I
9 would like to display to the jury Exhibits 3003 and 3004
10 in evidence.

11 THE COURT: You may.

12 (Government's Exhibits 3003 and 3004 were
13 displayed to the jury.)

14 MR. TABAK: I have no further questions of the
15 witness.

16 THE COURT: You may inquire, Counsel.

17 MR. AGUILAR: Thank you, your Honor.

xx 18 CROSS EXAMINATION

19 BY MR. AGUILAR:

20 Q Agent Lyons, how soon after you first met
21 Mr. Arocena at the Westbury Hotel on the 26th of September
22 did you read him his rights?

23 A Approximately five, ten minutes.

24 Q That means he came in the room, you sat down
25 with him, started talking to him and then, after five

1 minutes had transpired, then you read him his rights?

2 Is that correct?

3 A I spoke to him about general things. I asked
4 him how his mother was. I spoke to Agent Wack and
5 Detective Brandt. And when they left, I advised him of
6 his rights.

7 Q Agent Lyons, is there anything unusual about
8 that paneling that was shown to you before?

9 A No, sir.

10 Q It's common paneling shown anywhere?

11 A I don't know how common it is. I can't answer
12 that.

13 Q It's paneling found anywhere?

14 A I don't know how common it is.

15 THE COURT: There is nothing unique about it.
16 I think that is counsel's question.

17 THE WITNESS: No, I don't think there is any-
18 thing unique about it.

19 Q I can go to any lumber yard and buy this type
20 of paneling?

21 THE COURT: He doesn't know about any lumber
22 yard.

23 But it would be available, in your opinion, for
24 someone who would look for it?

25 THE WITNESS: Yes.

1 Q And this type of tape, is it unusual?

2 A No, it's not unusual.

3 Q Pretty common?

4 A Yes, it is.

5 Q Do you have some at home?

6 A Yes, I do.

7 Q Okay. You can buy it anywhere --

8 A Yes.

9 Q -- that sells it?

10 A Yes.

11 Q When you went to the Fruit Meat King market,
12 was the owner waiting for you already? Did you phone
13 ahead?

14 THE COURT: When he went when? He went a
15 couple of times.

16 MR. AGUILAR: I'm sorry, your Honor.

17 Q The particular day you found the paneling.

18 THE COURT: That would have been on October
19 19th.

20 A I don't recall if we phoned ahead. I may have,
21 but I don't recall.

22 THE COURT: That's when he found the paneling.
23 When you found the tape, do you recall anything
24 about that?

25 THE WITNESS: About calling ahead? No, I don't.

1 THE COURT: Very well.

2 Q Do you happen to know the nationality of the
3 owner of the Fruit King market?

4 A No, I do not.

5 Q It wouldn't surprise you to find out that he's
6 Cuban?

7 A No.

8 MR. TABAK: Objection.

9 May we have a side bar on this, your Honor?

10 THE COURT: No. We will stop at that point.
11 He said he did not know the nationality of the owner of
12 the Fruit King market. I think that is as far as it
13 goes. The rest of it strikes me as being somewhat
14 speculative.

15 You wouldn't be surprised. Since counsel
16 can't testify, we'll leave it that he doesn't know. If
17 you want to follow up, you may do so.

18 MR. AGUILAR: Thank you, your Honor.

19 Q Where is that market located?

20 A It's in Newark, New Jersey.

21 Q Is it a predominantly Spanish speaking area?

22 THE COURT: So far as you know.

23 A So far as I know, yes.

24 Q And predominantly Cuban?

25 THE COURT: So far as you know.

1 A So far as I know, yes.

2 Q Was there anything unusual about the news-
3 papers that you found there?

4 A Only that they dealt, all three dealt, with
5 the assassination of Felix Garcia.

6 Q Okay.

7 THE COURT: Which had taken place how long
8 before your search?

9 THE WITNESS: It was on September 11th, 1980,
10 your Honor, two years.

11 THE COURT: And your search, when you found
12 the newspapers, was October 20th, 1982?

13 THE WITNESS: Yes.

14 THE COURT: Very well.

15 Q And did you assume that that newspaper had
16 been there for quite a long time?

17 A Yes, it appeared to have been there a long
18 time.

19 Q And you don't know who had placed it there?

20 A No, I do not.

21 Q The owner of the establishment could have
22 placed it there?

23 A Yes.

24 Q Did you ask him about the newspaper?

25 A I personally did not.

1 Q During your investigation, did you come to
2 realize that the Cubans living in that particular area
3 have an antagonistic feeling toward Fidel Castro or
4 anything dealing with --

5 MR. TABAK: Objection. There is no testimony
6 that Cubans live in that area. People that live in that
7 area --

8 THE COURT: Let us leave it at that. It is
9 a residential neighborhood, so people live there.

10 Do you know that people there have those views,
11 or do you not know that?

12 THE WITNESS: I don't know that.

13 Q Okay. Now, the transmitter you spoke about
14 before --

15 A Yes.

16 Q -- is it illegal to own one of those trans-
17 mitters?

18 A No, it is not.

19 Q Where does one usually purchase that type of
20 transmitter?

21 A In a hobby shack or hobby store.

22 THE COURT: You could go to Radio Shack, for
23 example, could you?

24 THE WITNESS: A store like Radio Shack, yes,
25 your Honor.

1 THE COURT: Or a hobby store?

2 THE WITNESS: A hobby store that features
3 model airplanes.

4 THE COURT: Yes.

5 Q And you can change the frequency on those
6 transmitters; right?

7 A Yes. There are crystals or plugs and
8 they're removable.

9 Q And it is not unusual for hobbyists who fly
10 model airplanes to change frequencies, if you know?

11 A I wouldn't think so, but I'm not a hobbyist,
12 so I don't know.

13 THE COURT: You don't fly model airplanes.

14 THE WITNESS: No, I do not.

15 THE COURT: Very well.

16 Q When you executed the affidavit on the com-
17 plaint that you obtained October 1st, I believe --

18 THE COURT: He signed it on October 1st.
19 I believe that's what he said.

20 MR. AGUILAR: Yes, your Honor.

21 Q You said it was prepared in your presence.

22 Is that correct?

23 A Yes.

24 Q And who was preparing it in your presence?

25 A Assistant United States Attorney Michael Tabak.

Q Was there any particular reason that in Para-

1 graph 6 and 7 you didn't use the name of Eduardo Arocena?

2 A Yes, there was.

3 Q Was it to put pressure on him?

4 A No, it was to protect his life.

5 Q To protect his life.

6 Did you ever tell Judge Duffy that Paragraph 6
7 and 7 dealt with Eduardo Arocena?

8 A I believe so, yes.

9 Q When the complaint was drafted in your presence,
10 wasn't it mentioned that one of the ways to get Eduardo
11 Arocena to testify or cooperate further would be to put
12 this type of pressure on him?

13 A No.

14 MR. TABAK: Objection. That's not the testi-
15 mony.

16 THE COURT: He has answered the question. He
17 said no. I will let it stand.

ET8A

18

19 (Continued on the next page.)

20

21

22

23

24

25

1 Q You were in the room on the 26th at the
2 Westbury Hotel with Agent Menapace, is that correct?

3 A Yes, that's correct.

4 Q And you had conversations with Mr. Arocena.

5 A That's correct, yes.

6 Q Had you been informed or learned that he had been
7 the subject of an investigation concerning Omega 7 prior to
8 that day?

9 A Yes.

10 Q Okay. And did it shock you at all that Eduardo
11 Arocena was here freely and voluntarily talking to you?

12 A No, it didn't shock me.

13 Q Surprise you?

14 A It's always a surprise when someone wants to come
15 in and talk to you.

16 MR. AGUILAR: Your Honor, may I have a moment?

17 (Pause)

18 Q Agent LYons, did you meet Eduardo Arocena on
19 September 2nd, 1982?

20 A Yes.

21 Q Where did you meet him?

22 A In this courthouse.

23 Q Can you tell us --

24 A Outside of the grand jury room.

25 Q Okay, did you ride in an elevator with him and

1 Agent Wack?

2 A Yes, I did.

3 Q Okay. In this courthouse?

4 A Yes.

5 Q Were you assigned to do that?

6 A No, I was not.

7 Q Did you have any conversations with Mr. Arocena
8 in that elevator?

9 A No, I did not.

10 Q Did anybody have any conversations with him
11 in that elevator?

12 A Not that I recall.

13 Q You never said to him in the elevator --

14 MR. TABAK: Objection.

15 THE COURT: He said he didn't have any conversation
16 with him.

17 Q Did you say to him outside of the elevator, "We
18 got you now, you better cooperate or else we'll break
19 you"?

20 A No, I did not.

21 Q Did you hear Agent Wack say that?

22 A No, I did not.

23 Q Nobody ever said that?

24 A Not in my presence.

25 Q Okay.

1 MR. AGUILAR: I have nothing further, your Honor.

2 THE COURT: Mr. Tabak.

3 REDIRECT EXAMINATION

4 BY MR. TABAK:

5 Q Agent Lyons, with regard to Government's
6 Exhibits 3000 and 3013 in evidence, the strips of tape
7 (handing), I believe you testified that that type of tape
8 is not unusual, is that correct?

9 A That's correct.

10 Q To your knowledge, is there anything unusual
11 about the way this tape was cut?

12 A Yes, there is.

13 Q And what is that?

14 A It's cut in somewhat of a V fashion.

15 Q And is that of significance in any respect that
16 you're aware of with regard to Omega 7 bombs?

17 A Yes, it is.

18 Q In what way?

19 A The tape that was used to wrap the remote-control
20 device in the Roa case was cut in similar fashion.

21 Q Now, Agent Lyons, I direct your attention to
22 the neighborhood of the Fruit & Meat King. Do you happen
23 to know what the predominant nationality in that neighborhood
24 is?

25 A Yes, I believe, I believe so.

1 Q What do you believe it is?

2 A I believe it's Cuban.

3 Q Have you ever been told that it's any other
4 nationalities?

5 MR. AGUILAR: Your Honor, I'm going to object
6 if he's been told anything. He has testified.

7 THE COURT: Apparently he didn't know it of
8 his own knowledge. So apparently someone told him.

9 MR. TABAK: Your Honor, I'll withdraw the
10 question. We'll put on another witness on this subject,
11 if necessary.

12 THE COURT: Well, if the neighborhood around the
13 Fruit King market is or at least at the time in question
14 was predominantly Cuban, it does seem to me that the
15 parties could agree on that, since I thought that was the
16 thrust of Mr. Aguilar's question, as well.

17 MR. TABAK: We cannot stipulate because in fact
18 it is not Cuban.

19 THE COURT: All right.

20 MR. AGUILAR: Your Honor --

21 MR. FERNANDEZ: He's testifying.

22 THE COURT: All right. That was not necessary.
23 You could have stopped by saying, "We cannot stipulate."

24 Ladies and gentlemen, counsel on both sides have
25 a tendency to make little statements. That's a form of

1 testimony. They're not under oath, they're not
2 testifying. Their statements should not be considered by
3 you, and that goes for both sides.

4 The jury will disregard the last statement. Although
5 it is fair to say that counsel have been unable to stipulate
6 on this subject. It is now an open matter as to what the
7 neighborhood around the Fruit King market is. Unless
8 further evidence is developed, that little area shall remain
9 blank until filled in by some evidence.

10 Do you understand?

11 You may proceed.

12 MR. TABAK: Thank you, your Honor.

13 Q The Fuvava received that previously came into
14 evidence as Exhibit 706 (handing), do you know whether
15 that was found in the vicinity of a model airplane?

16 A Yes, it was not.

17 Q And what was it found in the vicinity of, to
18 your knowledge?

19 A A bomb.

20 Q Now, I direct your attention to the evening of
21 October 1st, 1982. Who, if anyone, accompanied you to
22 Judge Duffy's home with regard to the complaint?

23 A John Martin, who was the U. S. Attorney for the
24 Southern District of New York at that time.

25 THE COURT: I believe he had testified to that

1 already.

2 MR. TABAK: Yes, I just want to cover one last
3 matter based on cross.

4 THE COURT: That's all right.

5 Q Was there any discussion in your presence between
6 John Martin, the U. S. Attorney and Judge Duffy, with
7 regard to who the confidential informant in the complaint
8 was, just answer yes or no?

9 A Yes.

10 MR. TABAK: No further questions.

11 THE COURT: Mr. Aguilar?

12 MR. AGUILAR: Thank you, your Honor.

13 RE-CROSS EXAMINATION

14 BY MR. AGUILAR:

15 Q As to the V cut of the tape, you say it's unusual
16 because somebody told you that it's unusual. You have no
17 independent knowledge that it's unusual, isn't that
18 correct?

19 A I have never seen it before. I wouldn't cut it
20 that way.

21 Q But you're not an electrician. I'm asking
22 you, did somebody tell you that it's unusual?

23 A Yes.

24 Q You didn't have any knowledge of that.

25 A I thought it to be unusual.

1 THE COURT: Well, let me see if I can clarify
2 this.

3 Did you testify before that it's unusual because
4 you thought it was unusual or because someone told you
5 it was unusual?

6 THE WITNESS: Really both, your Honor.

7 THE COURT: Both. All right.

8 Q You testified before on September 21st, 1983, here
9 in the Southern District of New York, that you were told
10 by the examiner in the FBI lab that it would be unusual.
11 But you didn't have any independent knowledge of that,
12 did you?

13 A No one asked me, I don't believe, what my
14 opinion was. They asked me if I was told and I said yes.

15 MR. AGUILAR: I have nothing further, your Honor.

16 MR. TABAK: Nothing further, your Honor.

17 THE COURT: Thank you, Agent Lyons, you're
18 excused.

19 THE WITNESS: Thank you, your Honor.

20 (Witness excused)

21 MR. TABAK: The government calls Donald Woffard.

22 THE COURT: Would you ask Mr. Woffard to come in,
23 Agent Lyons.

24 Mr. Woffard, would you come forward, please.

25