

1 MR. AGUILAR: Judge, we don't have a copy of
2 yesterday's transcript.

3 THE COURT: Neither do I.

4 MR. TABAK: I have an extra one.

5 THE COURT: Will you give it to defense counsel.

6 MR. TABAK: Line 9.

7 Q (Continuing) "I do not have the privilege
8 or the honor of being Omar, and neither do I know who is
9 Omar."

10 So is it fair to say that you consider that
11 whoever is Omar would be proud and honored about being
12 Omar, the leader of Omega 7?

13 A Absolutely.

14 Q So if you were Omar, you would be proud to
15 admit that, wouldn't you?

16 MR. AGUILAR: Your Honor, I am going to object
17 to that question.

18 THE COURT: It is argumentative. Sustained.

19 Q Now, do you agree with Omar that the murder of
20 Felix Garcia was a good thing?

21 A I don't know if Omega 7 is responsible for that
22 execution.

23 Q Do you think that execution was a good thing?

24 A If he is a Communist, according to my way of
25 thinking, it is right that he was executed.

1 Q And that is true, even though ig was in the
2 United States, and we have laws against it in the United
3 States?

4 MR. AGUILAR: Your Honor, I am going to object
5 to that.

6 THE COURT: Sustained. It is argumentative.

7 Q Mr. Arocena, do you think that the murder of
8 Jose Negrin was a good thing?

9 A Mr. Negrin is under the same circumstances.
10 Up until now, noobody knows who assassinated him. The
11 Government has blamed the group of Omega 7, but according
12 to the case of Negrin, Negrin is nowin Cuba, and he is
13 honored by the Cuban Government of Fidel.

14 Q And of course, his instructions were that he
15 wanted to buried in the United States, and his instruc-
16 tions were overridden?

17 MR. AGUILAR: Your Honor, I will object again.

18 THE COURT: Well, in view of the answer I will
19 ask if the witness knows that.

20 The reporter will read the question, and the
21 witness may answer it, if he knows that.

22 The objection is overruled.

23 (Question read.)

24 THE COURT: Do you know that?

25 THE WITNESS: No.

1 Q You are not aware that his body was exhumed
2 after it was buried?

3 MR. AGUILAR: Your Honor, I object. He has
4 answered the question.

5 THE COURT: He is asking another one, about
6 the knowledge of the witness.

7 A I don't know if his body was exhumed. I do
8 know that he is honored in Cuba, that a street was named
9 after him and he is considered a martyr of Cuba.

10 Q Therefore you think it was a good thing that
11 he was murdered in front of a 13-year-old boy?

12 MR. AGUILAR: I will object again.

13 THE COURT: It is argumentative. However, I
14 think the question can be asked in a manner that is not
15 objectionable.

16 Q Do you approve of the way he was murdered?

17 A I don't think that it should be carried out
18 that way, but I do think that if he was a Communist he
19 should have been executed anyway.

20 Q Is it your testimony that anybody that you
21 think is a Communist should be murdered in the United
22 States?

23 MR. AGUILAR: I am going to object to that
24 question.

25 THE COURT: Sustained. It is argumentative.

1 Q Now, because you swore to tell the truth here,
2 you would tell the jury if you were Omar, wouldn't you?

3 A Yes.

4 Q And you would be proud; you would want your
5 family to hear it if you were in fact Omar, wouldn't you?

6 A Absolutely.

7 Q But of course you are not Omar?

8 A As I stated before, unfortunately I am not Omar.

9 Q You have never been Omar?

10 MR. AGUILAR: Your Honor, I will object again.

11 The man answered the question about four times already.

12 THE COURT: No, it was asked in a different way.

13 I will allow it.

14 A I have never been Omar.

15 Q When Agent Mawn testified under oath that
16 you said you were Omar, Agent Mawn is lying; is that
17 right?

18 A He and all the others, yes.

19 Q And Agent Menapace also lied under oath; is
20 that correct?

21 A Yes.

22 Q And Agent Lyons also lied under oath?

23 A Yes.

24 Q And Agent Wack also lied under oath; is that
25 correct?

1 A He more than anyone else.

2 Q And Detective Brandt also lied under oath;
3 is that correct?

4 A Yes. He is a great buddy of his.

5 Q Agent Cannon also lied under oath; is that
6 correct?

7 A Yes, sir.

8 Q And Agent Kiszynski also lied under oath?

9 A Yes, sir. They are all interested in closing
10 the case.

11 Q And Agent Walzer also lied under oath?

12 A Yes.

13 Q And when Mr. Necuze testified under oath that
14 you were the head of Omega 7, he was also lying; is that
15 correct?

16 A Yes. God knows what they have done to him.

17 Q And when Justo Rodriguez testified that you
18 were the head of Omega 7, he was also lying; is that
19 correct?

20 A I have never seen a person in my whole life
21 as scared as Mr. Justo Rodriguez. Yes, he was lying.

22 Q And when Manny Fernandez testified that you
23 were the head of Omega 7, he was also lying; is that
24 correct?

25 A Yes. He more than anyone, because he had a

1 lot to gain in this and very little to lose.

2 Q What did he have to gain out of testifying?

3 A He could get out free and not pay for all
4 of the crimes that he has done involving drugs and all
5 of the rotten things he has done, but seems like it is
6 impossible to believe that a country which persecutes
7 people for drugs would use such types of individuals and
8 would make agreements with such types of individuals
9 for them to come in here and put on such a farce.

10 I can see that as far as a Federal agent goes,
11 I can see that as far as Justo Rodriguez or Necuze goes,
12 but a confessed criminal, a man who has a record so long
13 it wouldn't even fit in here, a man who has millions
14 and millions of dollars stashed away, an individual you
15 yourself know the connections he has, and you don't hesitate
16 at all in order to close this case, not only against
17 Eduardo Arocena, but all of the people who are in jail,
18 and that should make you sick. It doesn't make me sick,
19 because the only thing you can do to me is take away my
20 freedom.

21 You are the ones in the long run who are
22 going to lose. I am not going to lose. So you can go
23 on with this farce.

24 Q In other words, this trial is a farce?

25 A Concerning these, yes. With all respect for

1 the Judge and the jury, what you have done for ten years
2 in order to try to cover up what you have not been able
3 to do -- that is the farce that exists here.

4 Q Now, who from the United States Government
5 forced Mr. Fernandez become your friend?

6 A Government agencies.

7 Q I see. And what Government agency caused
8 you to let Mr. Fernandez into your house to make those
9 phone calls that day?

10 A I had explained clearly how that happened,
11 and the record shows clearly that it was only one single
12 telephone call, and the man used the opportunity, apart
13 from -- aside from my will. While I was conversing
14 with my wife in the room, without my knowledge, he made
15 the phone call, phone calls which later on you took a
16 very convenient advantage of, with a series of situations
17 that happened later.

18 Gentlemen, you have had a lot of time to
19 prepare all this. You can surprise anybody else, but
20 you can't surprise me. I know what your game is.
21 I know what the whole purpose of all this.

22 Q Why don't you tell us what the purpose is?

23 A The purpose of all of this? To set Eduardo
24 Arocena up as a cornerstone and as a scapegoat, to cause
25 the destruction of the Cuban fighters in exile. Then

1 little by little knock the heads off of all of those who
2 are in exile, the way they've been doing for the past
3 ten years, where our best men are now in prison, and
4 because you need that all of the Cuban fighters be
5 behind bars so that you can guarantee the tyrant a free
6 entry to the United States.

7 That is the pact that you signed with Cuba.
8 That is what this game's all about, to put all of those
9 Cubans who want freedom, to destroy us in one way or
10 another, to arrest us, to destroy us, no matter how, so
11 that you guarantee Fidel an entrance into this country
12 and to prepare conditions for going back to a dialogue
13 with him and open future relations with Fidel Castro.

14 But remember that you are digging your own
15 grave.

16 Q And who is leading this operation?
17 President Reagan?

18 A You know very well that President Reagan
19 has nothing to do with it, that this country is divided
20 into two powerful forces, conservative and the left, and
21 unfortunately the left is the one that's got the power.
22 They are called liberals. They just hide behind that
23 name. They are working for the destruction of this
24 country, and they are not those liberals that work on
25 different strata. They are confessed Communists. They

1 are simply working for the destruction of the United
2 States and for the destruction of the free world, so
3 that communism will reign in the world, and you know
4 that.

5 And that is the reason we have always been
6 trying to find out who you are, whether you are pro-
7 Communist on the left or whether you are pro-conservative
8 on the right, in other words, who is interested in
9 preserving the democracy in the world and who are fight-
10 ing against it.

11 So there is a line which is set there, and
12 everyone who realizes will realize who is on which side.
13 I don't have to sign myself. Do you?

14 Q Why don't you tell the jury who the Communists
15 are who are in charge of ordering this operation against
16 you?

17 A Which operation are you referring to?

18 Q What you have just testified about.

19 A I am not authorized to give such an exact
20 description, but I don't hold the reins of power in this
21 country, and if you were to ask me to cite names, you
22 would bring Fidel Castro here. You would bring the
23 leaders of the Soviet Union. You would bring here the
24 leaders of Nicaragua, and you would bring the Ayatolla
25 here. You would bring Kadafi here. You would bring

1 Arafat here.

2 Those are your enemies, and they are the
3 enemies of this country. Those are the ones who are
4 plotting for the destruction of this country and of the
5 free world.

6 Do you want any more names? I cannot go
7 into naming internal things of the United States.
8 I don't have that ability. Nor do I have to mention
9 that. If it were like that, I wouldn't have to be
10 sitting here.

11 Remember that I am victim and that I do not
12 speak English well. I don't have a cent, and I don't
13 even have a place to drop dead.

14 I have been sacrificing my family for twenty-
15 five years just for being simply and plainly allied to
16 the United States and allied to democracy and because I
17 swore that loyalty to the struggle against communism
18 and to the freedom of my country, which precisely is
19 under the yoke of communism, and it has been invaded by
20 the Soviet Union, the same ones that have invaded
21 Afghanistan, the same terrorists who blew up the Korean
22 airliner, the part of the same group of terrorists who
23 killed your men in Beirut, the same ones who killed the
24 men in the compound in Beirut, and the same ones who
25 have been killing your ambassadors all around the world.

1 But you ddon't persecure these people, no,
2 because you are afraid of them. You are not going to
3 ask Fidel to render accounts. You are not going to ask
4 the Soviet Union to render accounts. You are going to
5 ask Omega 7, and you have the nerve to go out and fall on
6 them, no matter where they are, and you have the force
7 of hitting them, even when they have been taking care of
8 you, without asking you for any help whatsoever. All
9 they have been doing is doing their duty and being
10 considered enemies of this country and enemies of our
11 country.

12 And I want you to know something, and they
13 will go on being enemies and go on fighting no matter
14 where they are, and without my being Omar, without my being
15 a member of Omega 7, I can guarantee you, they will still
16 go on having communism where it really hurts them.

17 Neither you nor anyone can avoid that, because
18 the struggle will continue. It doesn't matter who falls.
19 The struggle will continue, and my country will be free,
20 because we have an agreement -- there are nine million
21 brothers who are in prison in Cuba, so that, as you can
22 see, I am nobody. In other words, if you think that for
23 your justification I am worth something, finish with this,
24 but I've got a clear conscience. I have fulfilled my
25 duty up to this point. I have done nothing wich hurts me,

1 and my conscience is clear. I owe only to my children.
2 They are the only ones that I have sacrificed and my good
3 wife, and I have kept her through a very violent situ-
4 ation apart from all this, but she has had to understand
5 that that is the way things are, and if I have to go down
6 I will go down. That is the sacrifice I have to make,
7 now and always.

ET5

8

9

10

(Continued on the next page.)

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 Q Since you have no connection with Omega 7,
2 how are you able to guarantee us that Omega 7 is going
3 to continue?

4 A Knowing as I do how the system of compatriots
5 in exile functions, knowing what their ideas and their
6 interested and their ideals are, I am sure that they will go
7 on with the struggle, at any rate, they and all of the
8 other groups. I am just observing the situation that
9 exists and you will be surprised at what is happening,
10 because indeed they, like all of the others of us that
11 are in Cuban exile, we are surprised that under Reagan's
12 Administration, we thought that the line was going to be
13 a little bit more violent against Communism. Unfortunately,
14 it has been just the opposite, and I am referring to the
15 anti-Communist Cubans. Maybe in other aspects it is
16 different, but in this aspect we have quite a lot of
17 examples.

18 Unfortunately, it is true. Nothing is
19 further from my mind than to attack this administration,
20 which I admire, because I do admire President Reagan. He
21 is a great President. Unfortunately, he is alone.

22 Q Since you say you have no connection with
23 Omega 7, can you explain to the jury why there have been
24 no Omega 7 bombings since you have been arrested?

25 MR. AGUILAR: Objection. I move to strike it

1 and move for a mistrial, your Honor.

2 THE COURT: Overruled. Do you know whether
3 or not there have been any incidents credited to Omega 7,
4 such as bombings, since you were arrested?

5 A Well, let me explain something to you.
6 Since I have been in prison, in the hole, I do not have any
7 access to the outside. One of the punishments to which
8 I am submitted is that of not having access to the press.
9 I am very limited in that aspect. I have heard rumors that
10 there have been things on the outside, but I am not sure
11 about it.

12 As I said before -- but I am sure the groups
13 are observing what is happening, and I don't blame them.
14 I don't blame Omega 7 or any of the other clandestine
15 groups, because with the tactics of division which the
16 United States is developing, it has been terrible, the
17 division which is created on the outside, and I am sure
18 that each group is analyzing the security of its members
19 and looking into the truth of what exists and looking to
20 see what kind of a role this Administration is going to
21 take.

22 Q You just testified that your access to the
23 press has been limited.

24 A Yes, sir.

25 Q Isn't it a fact that at your request you have

1 been interviewed by numerous TV stations and newspapers
2 while you have been in prison?

3 A It has been limited in this aspect, that
4 they have come to ask me, and one must remember that
5 it was only on one occasion, and they came to ask
6 questions, not to give me information. On the contrary,
7 some of them were sent by the government and many of
8 those statements were distorted, according to what I
9 heard, according to what was told to me later on.

10 Then there still exists the fact that I do not
11 have any access to the outside, so much so that the
12 Administration doesn't even allow me to receive newspapers
13 and when my family has sent books to me, the Administration
14 has held them back for more than two months from me,
15 and I have copies of where there is an order at the MCC
16 where all of my mail is being supervised, it is being
17 checked and it is being analyzed.

18 Once that happens, after a rather long period
19 of time has passed, if they consider that it is all right,
20 they pass it in to me.

21 My wife is here and she has sent me a group of
22 magazines, she sent me Time, Newsweek, a lot of magazines
23 and newspapers from Miami. I never received any of them.
24 My mother is here, she sent the same thing to me and I
25 have never received them.

1 The only thing I have received have been
2 clips from newspapers and three-fourths of them are
3 unfavorable to me, but I have let my family know that
4 anything that comes out about me regarding my case, I want
5 them to send to me, because I need it in order to
6 analyze it, to know what the situation is on the outside
7 regarding me, since at the present time I am away from
8 everything.

9 The other day here they decided they were
10 going to fix the telephone and to this very day I am still
11 not able to talk on the phone. Why are we going to go
12 into that?

13 Q Mr. Arocena, in what language did you speak
14 to Agent Wack?

15 A At that time, in my poor English.

16 Q That of course is your voice on all the tapes
17 that were played to the jury, with Mr. Wack, is that
18 right?

19 A Those tapes have been tampered with by the
20 government.

21 Q In which part of those tapes are you
22 actually talking to Mr. Wack?

23 A Let me tell you that I have only heard those
24 tapes on two occasions, because when I was at the MCC,
25 I demanded that the government turn my papers over to me

rmjah 5

Arocena-cross

1 and for them to turn over the tapes of mine that
2 were mine, and I had to appeal to the judge so that they
3 would be handed over to me. After a lot of trouble, they
4 finally turned them over to me, but it had to be under
5 a consent, they would give me a certain amount of tapes
6 and then I had to return them immediately.

7 In a few words, I didn't have time to
8 check them. When they turned over these famous interview
9 tapes to me, I was able to hear them just one time and
10 the lady that was in charge of that was immediately asking
11 me to give them back to her. It is also good to remember
12 that at that time, after having been in jail for ten
13 months, the government brought me everything, or at
14 least part of it, an enormous amount, about this size
15 (indicating) --

16 MR. TABAK: May the record reflect that he
17 indicated about four feet off the ground?

18 THE COURT: Yes.

19 A (Continuing) And two months before the
20 trial, with the good intention of filling my head,
21 so that I would spend 24 hours a day just soaking up all
22 that material -- in other words, they wanted to drive me
23 crazy, which is what they have been doing all this time.

24 Q Isn't it the fact that those conversations
25 occurred exactly as they were played to this jury?

1 A No, sir, and I deny those conversations.

2 Q Which parts of those conversations occurred
3 as they were played to the jury?

4 A I don't know, because many of the
5 conversations I had with Mr. Wack are missing. I don't
6 remember hearing on the tape when I asked him why he was
7 so interested in persecuting anti-Communists and why
8 he wasn't interested in the Communist terrorists in the
9 United States, nor about people who were negotiating with
10 drugs from Cuba, and they have quite a bit of
11 knowledge about that.

12 None of that appears there, nor does there
13 appear there when I told Mr. Wack about stopping
14 bothering my family and for him to stop bothering me and
15 to stop going to visit my friends to try to get me to
16 give myself up, or telling them that I was cooperating
17 with the government, which was not true. But that was
18 part of their game, that and many other things which escape
19 my mind at this moment.

20 THE COURT: Mr. Arocena, is the voice that
21 you heard on the tapes of the man who was talking with
22 Agent Wack your voice?

23 THE WITNESS: Your Honor, at times it seems
24 like my voice. I cannot assure you. It seems to be my
25 voice, but I cannot be sure.

rmjah 7

Arocena-cross

1 Q Isn't it the fact that you told Agent Wack
2 about Manny Fernandez?

3 A I think that Mr. Wack learned from Manny
4 Fernandez and not from Eduardo Arocena -- he knows that
5 he learned from Mr. Fernandez through other agents
6 from Miami --

7 Q Isn't it the fact that --

8 MR. AGUILAR: I object to this tone of voice
9 he is using right now.

10 THE COURT: Counsel, please be seated.

11 Let me suggest, Mr. Tabak, you start your
12 questions again in a normal tone of voice.

13 Q Isn't it the fact that you spoke with
14 Agent Wack about Manny Fernandez?

15 THE COURT: Yes or no.

16 A In part, yes.

17 Q And the tapes that were played to the jury
18 were an accurate reproduction of your discussion with
19 Mr. Wack, weren't they?

20 THE COURT: Yes or no.

21 A No.

22 Q What was inaccurate about them?

23 A I would have to hear them again.

24 Q What do you remember telling Agent Wack about
25 Manny Fernandez?

1 A Sir, I might have a very fresh memory if I
2 had not been submitted to the abuse which you have held
3 me under for the last 14 months. Don't forget, under
4 your direction they are still putting drugs in my food.
5 My mind is being destroyed. They are trying to erase from me
6 many things, because you don't want me to tell things here
7 the way they are. I have tried to go along with things
8 the way they are. Unfortunately, I do not remember exactly
9 certain things, and I think that you are even taping
10 all of the conversations that I have with my family at the
11 MCC, and you know when my daughter says to me, "What did
12 you eat, daddy?" and I had just eaten two moments ago,
13 I don't remember what I ate.

14 You know what you are doing with me. Don't
15 ask me, then, to try to remember things, because I don't
16 know exactly. I remember what I see, but you know
17 very well what you are doing with me.

18 Q Now, you remember --

19 A Look for the tapes yourself. I don't have
20 to lie to you. I don't care what you do to me. I am
21 finished. You can't make me do anything more.

22 Q You remember very clearly events that happened
23 20 years ago in Cuba, correct?

24 A I think that you have observed things clearly
25 and you will notice many hesitations in my conversations.

1 Unfortunately, my memory is failing me a lot. And I
2 am quite young for my memory to be failing me. There are
3 very exact things that sometimes remain in the mind.
4 It is a simple state, without having to go into it very
5 deeply, but if you go into details of other situations,
6 sometimes it is more difficult.

7 Q Mr. Arocena, during the 14 months that you
8 have been up here in New York, approximately how many
9 times have you been brought before one or another federal
10 judge here?

11 A The same judge or different judges?

12 Q Altogether, all the judges.

13 A I think three or four judges.

14 Q How many times altogether have you appeared
15 before a federal judge in New York in the last year?

16 THE COURT: Up to the beginning of his trial?

17 MR. TABAK: Yes.

18 A Well, when they brought me from Miami up
19 here in order to take me to Otisville, when the bail,
20 when I had the other judge, who was before Judge Ward.
21 I don't remember exactly.

22 Q And you have appeared before Judge Ward on
23 numerous occasions before the trial started, correct?

24 A I think that was when the bail --

25 THE COURT: No. He asked you if you have

1 appeared before me on many occasions before the beginning
2 of the trial, for bail, to talk with your lawyers, all
3 those things.

4 A Yes, I have spoken to your Honor before.

5 Q And you have come to the court before one
6 judge or another on many occasions before this trial
7 started, correct?

8 A Yes, previously I have.

9 Q And you have complained about things like the
10 phone being out of order for you to make calls from the
11 jail?

12 A Let me say something to you --

13 Q I would just ask you to answer yes or no to
14 the question.

15 THE COURT: You have to answer his question.

16 A Yes, sir.

17 MR. AGUILAR: I think he should be allowed
18 to finish, if he has not finished, your Honor.

19 THE COURT: He asked if Mr. Arocena had complained
20 about the phone being out of order, and he did, right?

21 MR. AGUILAR: But maybe that was not his only
22 complaints before the court.

23 THE COURT: But he didn't ask that. If you
24 want to, or Mr. Fernandez, on redirect, you may.

25 MR. AGUILAR: Thank you, your Honor.

1 Q Would you explain why during all these
2 sessions you never complained before today that you were
3 being drugged?

4 A In the first place, the only judge that I have
5 complained to about my condition and the only judge to
6 whom I brought all my problems, is Judge Ward. He has
7 been the only one that I have to thank, because he signed
8 an order so that they would permit me to see my family and
9 so that I could speak to my lawyer, because you well know
10 that when I was in Otisville, you gave the order so that
11 I would be able to speak to my family only once a month,
12 and twice a month with my lawyer, designed by you.

13 I was deprived of all that and you know that
14 up there I was submitted to this drug treatment and you
15 know that I was stuck in a hole up there and you know
16 that you had me incommunicado up there and you know that
17 you were manipulating my situation on the outside and that
18 you are seeing everybody, making everybody believe that
19 I was cooperating, making them believe that I was one of
20 yours so that you could get confessions out of other
21 companions, and that is the reason you never allowed the
22 press to go up there and visit me and you know that there
23 were many times that I asked to see the press so that I
24 would be able to speak to them, to tell them about all
25 the abuse you were committing against me and all the

1 violations you were doing against me, and why I had
2 to wait for five months before I was even charged and
3 why you were submitting my family to the abuses you were
4 submitting them to, that I was deprived of their visit and
5 every time that they went to visit me, you kept them waiting
6 two or three hours just because you wanted to, where you
7 put them through about 20 different abuses.

8 When I came from the prison to the outside
9 and it was cold and it was snowing, they would take me
10 out with handcuffs on, without a coat and with tennis
11 shoes, while the officials were wearing their boots and
12 their heavy jackets and their good gloves.

13 I never complained. Why? Because one of them
14 said, "You are tough, you really don't have to complain."
15 I said, "I am not complaining," and I just bit down and
16 I kept on going, because I know you wanted to break me and
17 I was really giving it to you and you know all of the
18 things you did to me in this institution, where all of
19 these rumors started going around that I was cooperating
20 with you, where they put the name "John Smith" on me,
21 when they put it on the door and where they looked for
22 guards to start pointing their finger at me, and whenever
23 they moved me they had to hide everybody, but always
24 someone saw things. You always made it so that somebody
25 was always there to see me so that they would say, "There

1 goes the snitch. He's the rat. He's the one that is
2 testifying," so that I would be afraid. But you made a
3 mistake, because I challenge you. I am a man and I am
4 not afraid of any man and if I didn't show it then, I am
5 showing it now, yes, sir. I brought all those problems
6 here, but no one ever listened to me. You were always
7 trying to keep things hidden. You, Mr. District Attorney,
8 have a great deal of power and you have used that great
9 power of yours. You even went to see friends of mine --
10 not you personally, but you sent your people and you sowed
11 fear among my people and you sowed terror among my family
12 because you wanted to finish this case, because that is
13 your career, as it is the career of a lot of others,
14 and it is the justification for your salary, and their
15 salary as well, and indeed, remember the day they went
16 there to present the bail, the first day that Lyons came in
17 to testify, and when you told me either I testified in
18 favor of you or you were going to publish openly that I
19 had helped you, that I would appear as a government
20 witness, that I had talked to the government, that I had
21 squealed on everybody. Either I cooperated with you
22 or you were going to publish it, all of it, and I told
23 you through Walpin, who was my lawyer at that time, to
24 go ahead, that I was ready to hear everything, that I
25 was not afraid, and on the following occasion, Walpin

1 called me at the jail and he said that he had a message
2 from you and that it was the last message you were going
3 to give me and my last chance and that if I didn't cooperate
4 with the government, that you were going to take off this
5 halo of revolutionary that I had, and I told him to take
6 that halo and you could (indicating).

7 Q You made a gesture with your hand instead
8 of finishing the answer, is that correct?

9 A For you to shove it wherever it might fit.

10 THE COURT: We will take our luncheon recess
11 at this time, ladies and gentlemen.

12 Please do not discuss the case among yourselves
13 and continue to keep an open mind.

14 I would ask the audience please not to discuss
15 the case in the corridor, since the jurors will be leaving
16 for lunch. Enjoy your lunch. One hour, 2:15.

17 (Luncheon recess)

T6

18
19
20
21
22
23
24
25

AFTERNOON SESSION

(2:15 p.m.)

(In the absence of the jury:)

THE COURT: We are awaiting the arrival of one additional juror.

During the course of the cross-examination there was a question asked by Mr. Tabak and a motion for a mistrial was made by Mr. Aguilar.

The question was never answered, inasmuch as the Court deemed the question improper and posed a different question, which then resulted in a response by Mr. Arocena.

Is there anything that counsel wishes to note at this time with regard to that matter?

MR. AGUILAR: Your Honor, the only thing I would ask is that Mr. Tabak should refrain from introducing things that have not come up, and to ask, well, there have been no bombings in New York City since you have been in jail -- it is highly prejudicial and tends to create the impression that because this man is in jail Omega 7 has stopped operating.

THE COURT: Let me put it to you this way:

The question was replaced by another question, which resulted in an answer that the witness didn't have

1 access to the media, and he didn't know about the matter.
2 So there isn't anything in the record which is prejudicial,
3 since a question which is not thereafter answered does
4 not constitute evidence.

5 If you wish, I will tell that to the jury.

6 MR. AGUILAR: Yes, your Honor. We would
7 appreciate it if he would do that.

8 THE COURT: Mr. Tabak, if you wish to respond
9 to Mr. Aguilar's statement, that your question did not
10 have any support in this case, you may do so.

11 MR. TABAK: Your Honor, I am not aware of any
12 rule which says that if there is a good-faith basis for a
13 question, the matter has to be already in evidence.

14 My recollection is that Mr. Necuze testified
15 that Omega 7 was destroyed, and Mr. Rodriguez testified
16 that the last Omega 7 action was in January of 1973,
17 shortly before he called up Agent Wack and told him he
18 had done it.

19 However, having heard the Court's views on the
20 subject, I will not explore that area any further.

21 THE COURT: When the jury comes in, I will
22 instruct them briefly that questions that are not answered
23 do not constitute in themselves evidence.

24 (Jury present.)

25 THE COURT: Good afternoon, ladies and gentlemen.

1 Ladies and gentlemen, just on matter that I
2 want to mention to you in the for of an instruction.

3 From time to time during the trial questions
4 are asked and no answer is given. It may be that the
5 question is not pursued or there is no answer or there is
6 an objection which is sustained.

7 I would instruct you that you are not to draw
8 any inference from an unanswered question. Just put it
9 out of your mind and concentrate ont he questions which
10 are asked to which there is no objection or the objection
11 is overruled and the question is responded to.

12 We will now resume with the cross-examination
13
14 of Mr. Arocena.

15 E D U A R D O V I C T O R A R O C E N A P E R E Z,
16 resumed.

17 CROSS EXAMINATION (Continuing)

18 BY MR. TABAK:

19 Q Mr. Arocena, is it a fact that the reason you
20 never before today mentioned to the Judge about being
21 drugged or kidnaped is that you just made it up?

22 A I never had the opportunity before.

23 Q Well, you have had the opportunity to complain
24 that your phone was not working; right?

25 A I also communicated the fact of all the problems

1 that I had in following the record.

2 Q But the fact that you were drugged was not
3 sufficiently important to raise with the Court?

4 A It always was important for me, because it
5 has affected my life. It affected everything around
6 me, and especially it affected my case.

7 Q But the fact is that until today you never
8 mentioned it to any Judge in New York; is that correct?

9 A No one has ever given me the opportunity to
10 listen to me until today.

11 Q Judge Ward never asked you if you had any other
12 complaints to make about your treatment?

13 A On the contrary. Judge Ward has always been
14 very concerned about my conditions, and he is a witness
15 to the fact that I have brought here a series of problems
16 and complaints, and, as I said before, he took it into
17 his own hands to resolve the fact of giving an order so
18 that I could speak to my lawyers, and that finally my
19 conditions improved.

20 Unfortunately, one thing is here and another
21 thing is there, where you control things.

22 If you want to go on listening upon that matter,
23 fine with me.

24 Q It is correct, however, that you have never
25 mentioned to Judge Ward that you have been drugged in

1 prison?

2 MR. AGUILAR: Your Honor, I object. The
3 question has been asked three times.

4 THE COURT: It has been asked. I am not sure
5 it has been answered.

6 Read the question.

7 (Question read.)

8 A If I remember correctly, when I was first
9 arrested, when I was transferred to New York, my lawyer,
10 Dr. Carnesolta, when she came here to New York to see me,
11 she noticed the state or the condition in which I was, and
12 she put out a statement regarding the condition I was in.
13 She did it publicly, and she gave proof of it, and my
14 lawyer has a tape regarding that. Do you want to hear it?

15 Q I would prefer that you answer the question I
16 asked, which is:

17 Did you ever inform Judge Ward that you have
18 been drugged at the MCC?

19 A It is probable that I told the Judge before
20 about the conditions in which I found myself, conditions
21 about which I was not exactly aware of what they were
22 doing to me, conditions which it was difficult for me to
23 realize what they were doing until I realized what the
24 tactics were and I tried to avoid it the best I could.

25 That is the reason I am here, because I have

1 seen those that you have driven crazy, that you have
2 destroyed, and I met them at Otisville, and I saw them
3 here in the MCC a few weeks ago, where they were com-
4 pletely out of their minds, and they were even under
5 treatment as though they were crazy.

6 You know that those are the tactics that you
7 use in prison when you want to hurt a person, when you
8 want to break a person. It is true that I complained on
9 different occasions about my situation, but since so many
10 violations were piling up one on the other I imagine that
11 they were just not noticed.

12 Of course, you have tried to avoid or you
13 have avoided that everything might be known here publicly.
14 Remember, you are the one that had the control over me.
15 You are the one that gave the orders, no one else, so
16 what are you complaining about?

17 Q Mr. Arocena, before today did you ever tell
18 Judge Ward that you were being drugged by the Government?

19 A I don't remember.

20 Q Isn't it a fact you remember very well that
21 you never did tell him before today?

22 A I would have to look in the record to see.

23 Q Isn't it a fact that the only reason you are
24 giving this story is that you want to make it impossible
25 for you to ever be a Government witness against anybody

1 else?

2 A In the first place, I don't have to make up
3 any stories. You try to do it for me. I haven't
4 invented anything. You know that is true.

5 You are the the ones that's trying to save
6 yourself, not I.

7 Q Now, sir, you have testified you have been
8 held in a hole. Will you tell the jury how deep that
9 hole is?

10 A The hole is the name for the cell in which I
11 was held. It is about eight or ten feet long, about
12 three -- five feet wide, with bars, and the window which
13 looks out into a dark area, and I am locked in there
14 twenty-three hours a day. Many times I am in there
15 twenty-four hours a day.

16 When I was in Otisville, they would take me
17 out or try to take me out once a day when it was snowing,
18 and they would ask me if I wanted to go outside. If it
19 was raining, they would ask me if I wanted to go outside.
20 When the temperature was too low, below zero, and I didn't
21 have a coat or shoes and they told me that I could have
22 my recreation outside, and I asked them if they wanted
23 me to get sick. They said no. And if I refused, that
24 I perhaps wouldn't get out of the hole.

25 The hole is a place from which you cannot get

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

out when you want to. You depend on the guards.
If you need anything from them you have to kick on the
door for a long time so that they will come and attend
to you. In my case, no one ever came, and when they
did come they didn't pay any attention to me, and for that
reason I was a forgotten prisoner.

Would you like to know something more about
the internal conditions?

ET7

(Continued on the next page.)

1 Q Well, when you say nobody came, in other words
2 you were starved, you were never given any meals, is that
3 correct?

4 A Now that you are speaking about starving me,
5 yes, they are killing me. At that time with my medical
6 papers in the clinic, the ones that you give out, you knew
7 about my condition regarding diabetes, and my sugar.
8 It was a slight case, but you never took that into
9 consideration and they kept on giving me the food from
10 there, with a lot of sugar and a lot of fat, and they
11 never took into consideration checking me out.

12 I was there about a year, almost 11 months --
13 excuse me, 13 months, I mean -- so that they would remove
14 a tooth, that I got pulled recently. From the moment I
15 arrived at Otisville, the same thing happened with
16 my eye examination. I have been for an examination for
17 7 or 8 months.

18 Going back to the diet which we were supposed
19 to get, they never did any kind of blood exams on me
20 until I came here to the court and began to start
21 complaining, and I made a complaint over there and one of
22 the doctors became interested in my case and when I
23 started to faint in their presence, then they got scared,
24 you got scared, because you were afraid I was going to die
25 and then you didn't have anybody to blame for all this

1 and all of your case was just going to fall down.

2 What happened then? They started giving me
3 a diet, a diet that is not even worth talking about,
4 because the fact is that rather than bringit down, it
5 started to go up, and I have always been a healthy
6 type person, never had any type of vices, I have never
7 smoked or drank, I have never taken drugs. I have always
8 had very strong health and my clinical record is at
9 my job and I always had perfect health and never had
10 any medical problem.

11 What happened? Thank to you, my health is
12 not worth two cents. Not long ago I had problems with
13 blood pressure and I don't know how it is. The problem
14 with the sugar, I don't even know how that is. Have
15 you ever bothered to do any kind of analysis on me?

16 Every day they ask me, "How are you?" And I
17 say, "I am fine. When are you going to do the tests on
18 me?" They say, "One of these days we will do them."
19 You are very, very worried about my health. I am still
20 waiting.

21 Q Your answer is yes, you have gotten three meals
22 a day and your medical situation has been looked after to
23 some extent by one of the doctors in the jail?

24 MR. AGUILAR: Objection. That is not his
25 answer.

1 THE COURT: He can say it is not his answer,
2 if it isn't his answer. I will allow the question.

3 A If you call that receiving medical attention
4 and receiving food, well then I received it.

5 Q You testified yesterday that you were subpoenaed
6 to the grand jury in September, 1982 and you testified
7 that you were thereby forced to go to the grand jury.

8 Now, of course, you remember that you were not
9 forced to answer any questions, correct?

10 A Well, I had to answer the questions that they
11 asked me.

12 Q Isn't it a fact, sir, that as the testimony
13 in the grand jury was read in this trial, that you were
14 fully advised of your Fifth Amendment rights to refuse
15 to answer questions and to stop answering at any time, if
16 you wished to?

17 A Yes, sir.

18 Q So, in other words, you were not forced to
19 answer any questions in the grand jury?

20 A No, I just answered the questions that you
21 asked me.

22 Q And you knew very well that Pedro Remon and the
23 other people were all taking the Fifth Amendment and
24 refusing to answer questions?

25 MR. AGUILAR: Your Honor, I will object to that

1 question.

2 THE COURT: If you know.

3 A I didn't know anything about that.

4 Q Isn't it a fact you had discussions with them
5 in advance, and with Ramon Sanchez in particular?

6 A They wanted to know what I was going to do.

7 Q And in fact they told you that they were all
8 going to take the Fifth, didn't they?

9 MR. AGUILAR: I object to that question.

10 THE COURT: I will allow the answer.

11 Overruled.

12 A I don't remember that.

13 Q But of course you had nothing to hide, so
14 you decided to answer the questions?

15 A Yes.

16 Q And you took a similar oath there to the one
17 that you have taken here today?

18 A Yes, sir.

19 Q And you were advised several times in the
20 grand jury of the consequences that were possible if
21 you did not answer truthfully?

22 A Yes, sir.

23 Q Sir, if telling a falsehood would help the
24 anti-Castro cause, would a person be morally justified in
25 telling a falsehood?

1 MR. AGUILAR: Your Honor, I am going to
2 object as to --

3 THE COURT: Sustained, about a person, at
4 least. You may wish to rephrase it to make it more
5 direct.

6 Q Mr. Arocena, if you felt that by telling a
7 falsehood that you could help the anti-Castro cause, would
8 you feel morally justified in telling the falsehood?

9 A I would always tell the truth.

10 Q Even if it would hurt the anti-Castro cause?

11 A Yes.

12 Q So therefore you told the whole truth in the
13 grand jury?

14 A What I considered at that time, yes.

15 Q Just as you are telling the whole truth here
16 today and yesterday?

17 A Yes, sir. Yes, sir.

18 Q You testified yesterday that when you were
19 asked in the grand jury with Alejandro Medina that you
20 did not fully understand the question, you also said
21 that you realized at lunchtime that you might have given
22 an incorrect answer but that you had no opportunity to
23 correct your testimony when you returned to the grand
24 jury after lunch. Is that correct?

25 A Yes, sir.

1 Q I am going to read to you lines 15 and 16 from
2 the morning sessions of the grand jury, page 41 of
3 Exhibit 10-A, Government's Exhibit 10-A:

4 "Q Have you ever used the name 'A. Medina'?

5 "A No."

6 Would you tell the jury what was confusing
7 about that question?

8 A At that time?

9 Q Yes.

10 A I tried to protect the identity of the
11 document.

12 Q So, therefore, since you felt that telling
13 the truth would hurt the anti-Castro cause, you didn't
14 tell the truth?

15 A On the contrary, what I did not want to do
16 was to hurt the American Government. That was the reason
17 why you did not allow me to rectify. Perhaps if you had
18 listened to me, you wouldn't have gone on with the
19 questions and you would have learned what Alejandro Medina
20 wanted to say and the meaning of this particular
21 document.

22 Q So you did not tell the truth that day and you
23 knew you were not telling the truth, correct?

24 A You practically cornered me with that
25 question, and when I tried to go back to it, you cut me off

1 right away and you kept on going, as if to say, "Now
2 we got you," and I sincerely didn't think that I would
3 have that kind of problem.

4 Q And of course after lunch you didn't have a
5 chance to correct your answer?

6 A No. We are speaking about after lunch.

7 Q I just read you the question before lunch.

8 A No, but when the question was asked of me
9 before lunch, I did not realize the depth of the words.

10 Q But you have testified that after lunch, even
11 though you realized you had a problem that you were not
12 given an opportunity to correct your testimony?

13 A Afterwards, no.

14 Q I am not going to read to you from
15 Government's Exhibit 10-B, which is the afternoon transcript
16 in the grand jury on September 2, 1982. I am going to
17 start at page 17, the last line:

18 "Q Now, you will recall this morning I asked
19 you whether you had ever used a name 'A. Medina.'

20 "A Yes.

21 "Q And do you recall at that time you said you
22 had never used that name?

23 A Yes." Then the transcript goes on,
24 Mr. Tabak saying: "I am going to ask the court reporter
25 to mark as Exhibit 7 a photocopy of an Eastern Airlines

1 ticket, No. 007447984922 as Grand Jury Exhibit 7.

2 "Q Now, I am going to show you this exhibit,
3 which is a copy of an Eastern Airlines ticket from a
4 flight from New York-Newark to Miami, Florida, in the
5 name of Mr. A. Medina. I am going to ask you if you
6 used that ticket.

7 "A No.

8 "Q Did you buy that ticket?

9 "A No.

10 "Q Did you ever travel using the name A. Medina
11 for a ticket that you were buying at any time?

12 "A No."

13 Was that truthful testimony?

14 A Yes, sir.

15 Q In other words, Agent Menapace and the other
16 agents were lying about you having bought that ticket?

17 A I am not sure about that.

18 Q Let me also read to you from the same
19 transcript, page 31, starting at line 5:

20 "Q Now, I want to make sure that you don't have
21 any doubt about one of the questions I have asked you a
22 couple of times and I remind you again that if you testify
23 false before the grand jury, that that could be a criminal
24 offense for which you could be prosecuted. Did you ever
25 purchase a ticket under the name 'Medina' or travel under

1 the name 'Medina' ?

2 "A Not that I recall.

3 "Q Are you saying that it is possible that you
4 did it?

5 "A I don't think so.

6 "Q I am showing you again Exhibit 7, which is the
7 airline ticket, 'A. Medina,' which is from about one year
8 ago. Did you use that ticket or purchase that ticket?

9 "A I don't recall ever using that name or using
10 that ticket. I have always used my name. I have always
11 used my credit cards.

12 "Q You have always used your own name?

13 "A Yes, always.

14 "Q So, therefore, you never used the name Medina
15 when you traveled?

16 "A No.

17 "Q And, in particular, you did not buy and you
18 did not use that ticket?

19 "A No.

20 "Q In other words, your testimony is -- is it
21 correct that your testimony is that you did not buy and
22 you did not use that ticket?

23 "A Yes, that's correct.

24 "Q And you have no doubt about that?

25 "A I have no doubts."

1 Now, Mr. Arocena, isn't it a fact that
2 you had plenty of opportunity to correct that testimony
3 in the grand jury?

4 A When one looks at it from your point of view,
5 yes.

6 Q Is there any other point of view?

7 A Trying to protect the identity of the
8 government, no.

9 Q So, in other words, you did not tell the truth
10 in the grand jury even though you were under oath?

11 A Honestly, in that case, no.

12 Q Was that the only case?

13 A Apparently, yes.

14 Q Of course your testimony before this jury at
15 this trial has been completely truthful?

16 A Yes.

17 Q Yesterday you testified that in the late
18 1960's you went to Miami for two months for training.
19 Do you recall that testimony?

20 A Yes, I know you are referring to the fact
21 that I was also trained in demolition and et cetera.

22 Q And you testified yesterday that you were
23 instructed in explosives and in how to make bombs?

24 A That was part of the training.

25 Q And you also testified yesterday that you were

1 instructed in how to make Molotov cocktails?

2 A Everything regarding warfare.

3 Q And you also testified that you were
4 instructed in how to use and assemble modern weapons, like
5 MAC 10's?

6 A Not to put together and construct, but the
7 handling of the weapons.

8 Q And you also testified yesterday that you were
9 instructed in underwater demolition?

10 A Yes, sir.

11 Q And you remember all this instruction because
12 it was important to you, right?

13 A For the situation, yes.

14 Q I am going to read from the grand jury
15 testimony, Exhibit 10-B, page 22:

16 "Q Now, have you ever been trained in explosives
17 or use of explosives?

18 "A No.

19 "Q Have you ever been trained in underwater
20 demolition?

21 "A No.

22 "Q Have you ever been trained in weaponry?

23 "A No."

24 Now, isn't it a fact that those were not
25 truthful answers that you gave to the grand jury?

1 A Yes.

2 Q But you are testifying truthfully here
3 today?

4 A Yes, sir.

5 Q Mr. Arocena, this morning you testified
6 about a Mr. Saratini and a Mr. Gard. They are from
7 Argentina, correct?

8 A Yes, sir.

9 Q And you remember very well that you met
10 them in 1981 or 1982, correct?

11 A Possibly.

12 Q I believe you testified you did intelligence
13 work for them?

14 A A little bit later, yes.

15 Q But that was before you went to the grand
16 jury in 1982 that you met them?

17 A More or less.

18 Q I am going to read from the grand jury
19 testimony, Exhibit 10-B, at page 23:

20 "Q Have you ever met with anybody from Argentina"
21 -- then the interpreter asked, "Anybody from Argentina?"
22 And I said, "Right."

23 A Yes, I did meet somebody from Argentina.

24 Q And who is that?

25 A Guillermo Lemons.

1 Q When did you meet with him?

2 A We haven't met personally. I have had
3 several phone conversations relating to the business of
4 the corporation, my corporation.

5 Q So you have never met him personally?

6 A No.

7 Q Have you ever met personally anybody else
8 from Argentina?

9 A I can't recall anyone else at this moment."
10 Now, that also was not a truthful answer, was
11 it?

12 A Possibly yes, possibly no.

13 Q In other words, you might have forgotten just a
14 few months after you had done intelligence work for these
15 people that you had ever met them?

16 A The intelligence work did not involve precisely
17 those people. They involved the governments of those
18 countries and of other countries, and because of asking
19 about those people, doesn't mean that it was just those
20 people that I had contact with. So don't try to get
21 things all balled up.

22 Q So there were even more people from Argentina
23 that you didn't tell the grand jury about?

24 A Yes, sir.

25 Q You testified that in 1968 or 1969, you were

1 given the identity "Alejandro Medina" and you ²³¹⁴ testified
2 that you were given a driver's license and other identifica-
3 tion papers in 1968 or 1969. But isn't it in fact as
4 Government's Exhibit 1 clearly showed you did not apply
5 for an Alejandro Medina driver's license until 1981?

6 A That is another one.

7

T8

8

(Continued on next page)

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 Q Now, you testified yesterday that you never
2 stopped being an anti-Castro fighter.

3 A Yes, sir.

4 Q And you also testified that when your current
5 wife, Miriam, was eight months pregnant you left her
6 because in your words when one's fatherland calls, one
7 has to leave everything.

8 A Yes, sir.

9 Q Now, during your eighteen years in the United
10 States, what have you done to fight Castro?

11 A Are you going to give this information to
12 Castro?

13 Q I am just asking you a question.

14 A I have helped within my possibilities.

15 Q And indeed you have made bombs; is that right?

16 A No, sir. They are all legal actions.

17 Q Now, Mr. Justo Rodriguez and Mr. Necuze were
18 lying?

19 A They know what they are doing.

20 Q Were they lying when they testified?

21 A They surely were.

22 Q Now, can you explain to the jury why if you
23 have never made a bomb in the United States, all those
24 bomb components were found in your apartment?

25 A Because you all put them there, because you

1 have the key to the place, because Necuze worked for you,
2 because Necuze knew where I was, because he told you where
3 I was, and you had more than enough time to get to that
4 place and put the things there, because the Government
5 says that they caught me the night before, but that was a
6 lie, because they had been surveilling for more than a
7 month, and you know that is the way it was, and you knew
8 that the mini warehouse belonged to Necuze and he gave
9 everything to you, and they blame me for everthing.

10 He is the one who is working for you.

11 I don't blame Necuze. That crumb did the best he could
12 to try to save his own neck.

13 Q So in other words, he has ten years for saving
14 his own neck?

15 A Do you forget that you offered the same thing
16 to me on many occasions and I told you no at that time,
17 up until a few weeks ago, and my answer was always no.

18 Q Isn't it a fact that you were never offered
19 anything remotely approaching ten years' exposure?

20 A No, sir. You did offer that. You even
21 offered me immunity.

22 THE INTERPRETER: I am sorry. I am going
23 to have to go back over that.

24 A (Continuing) You have a paper where you were
25 sure that I was going to cooperate with you, and you were

1 going to offer me immunity so I would testify, where I
2 was not going to be accused of anything, the same thing
3 you offered me, and if my lawyer looks he will find it.

4 Q Isn't it a fact that the best deal you were
5 offered if you would cooperate was the whole indictment
6 except you wouldn't have to take the drug count and the
7 first degree murder count?

8 A No. It's not that way, and it's not true.

9 THE WITNESS: Why doesn't he allow me to talk
10 to my lawyer for a moment, and we will look for that docu-
11 ment?

12 MR. TABAK: I have no objection to that.

13 THE COURT: Certainly.

14 We will take a brief recess.

15 Ladies and gentlemen, please keep an open mind,
16 and do not discuss the case.

17 (Recess.)

18
19 (Continued on the next page.)
20

21

22

23

24

25

ET9

1 (Jury present)

2 THE COURT: Mr. Arocena.

3 You may proceed, Mr. Tabak.

4 MR. TABAK: Thank you, your Honor.

5 BY MR. TABAK:

6 Q Did you find the document you were looking for?

7 A Yes, I found here a copy of the document.

8 Q This is a document marked 3502-S.

9 A Yes, sir.

10 Q And this document was produced to you by the
11 government during the discovery in this case, is that
12 correct?

13 A Yes, sir.

14 Q I see signatures of Janet Reno, State Attorney
15 from Florida, on one letter, and Frederick Mann,
16 Assistant United States Attorney in Florida, on the other
17 letter?

18 A Yes, sir.

19 Q Do you see my signature anywhere?

20 A No, sir.

21 Q Am I mentioned anywhere in there?

22 A Your name? No. But the case, yes.

23 Q Is either of those letters on the letterhead
24 of the United States Attorney's office for the Southern
25 District of New York?

1 A No, but it does mention the people who are
2 testifying against me.

3 Q Now, of course, the agreements regarding
4 Mr. Necuse, Mr. Gonzalez and Mr. Rodriguez all were on
5 the letterhead of the United States Attorney's office
6 for the Southern District of New York?

7 A Yes, sir.

8 Q You testified just before the break that
9 Mr. Necuze had led the FBI to you?

10 A Yes, but I have not finished with this document.
11 I would like to go back to this document.

12 Q I think when your attorney questions you on
13 redirect, he can go into that.

14 Of course Mr. Necuze did not testify that
15 he had been cooperating with the United States Government
16 before you were arrested.

17 A Could you repeat the question, please?

18 Q Of course, Mr. Necuse did not testify that he
19 cooperated with the United States Government before you
20 were arrested?

21 A I don't have any surety about that. I know
22 that he was cooperating with them before that.

23 Q And how do you know that, sir?

24 A Because I have been told that they had relations
25 with the officials in Miami, that he went out to lunch with

1 the agents of the FBI in Miami and that he was on quite
2 intimate terms with them, and at that time he started
3 turning over documents, my documents, to the FBI.

4 Q And where did you learn that, sir?

5 A In Miami.

6 Q Who told you that?

7 A Gonzalez told it to me.

8 Q When did Mr. Gonzalez tell you that?

9 A When I was fleeing.

10 Q And where is Mr. Gonzalez today?

11 A He is outside of here. I don't know where
12 he is.

13 Q Do you know what his legal status is?

14 A We call it underground status.

15 Q Isn't it a fact that the law calls it being a
16 fugitive?

17 A It seems so.

18 Q Isn't it a fact that Mr. Gonzalez publicly
19 pleaded guilty in Miami to 15 years' exposure to Omega 7
20 crimes before he took off?

21 THE COURT: Please read the question back in
22 phrases to the interpreter.

23 (Question read)

24 A He also sent letters to the newspaper
25 explaining what the situation was at that time.

1 Q And of course that is because he wasn't prepared
2 to admit the truth of what he had already done?

3 MR. AGUILAR: Your Honor, I object to that.

4 THE COURT: If you know.

5 A No. The fact is that he had the shamelessness
6 of accusing them in not falling into your hands. That
7 is what he did, because he is a great man.

8 Q Isn't it the fact that you are very well
9 aware of what he testified in the grand jury?

10 A I don't know what he testified in front of the
11 grand jury.

12 Q Isn't it a fact that you have been given a copy
13 of his testimony?

14 A They have given me so many copies that I
15 don't know what copy I have in my hand now at this point.
16 If you will give me a copy, I could read it.

17 MR. TABAK: Do you have a copy?

18 MR. FERNANDEZ: Not here.

19 MR. TABAK: I am prepared to ask someone to
20 go to my office to pick up a copy, your Honor.

21 THE COURT: Let me see if we still have it
22 here.

23 (Pause)

24 MR. AGUILAR: Your Honor, may we have a side
25 bar at this time?

- 1 THE COURT: Let's see what he is going to do.
2 I hand you a document filed on September 4,
3 1984, Mr. Tabak. If that is what you have in mind, you
4 may have it.
- 5 MR. TABAK: Thank you, your Honor.
- 6 THE COURT: I am sure you will be mindful of
7 the limited use you can make of the document.
- 8 MR. TABAK: I am, your Honor.
- 9 THE COURT: Very well. Is that what you had
10 in mind?
- 11 MR. TABAK: Yes, it is, your Honor.
- 12 Q Mr. Arocena, I am going to show you this
13 and ask you if you had a chance to read this before you
14 testified.
- 15 A No, I did not. I don't remember.
- 16 Q You might have read it?
- 17 A I don't remember.
- 18 Q Then I will move on to the next area.
- 19 THE COURT: I will take that, Mr. Palmer.
- 20 Q So your own knowledge or the only basis for
21 your saying that Mr. Necuze cooperated before you were
22 arrested is from Mr. Gonzalez, is that correct?
- 23 A And through other sources as well.
- 24 Q And what are the other sources?
- 25 A Just rumors in the street.

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 And that's it?

A That was enough for me.

Q That is enough for you to state publicly in court at this trial that he is responsible for you being arrested?

A If the person who knew where I was was he and I am arrested and if he is testifying for the government and if he was meeting with government people before and he was giving them papers previously and if he was the one in charge of the famous Mini warehouse and they confiscated all of that, I have to think, I have to deduce that Necuze was the person who handed me over, and if all the things that appeared in the apartment where I was, I don't know how the apartment didn't sink with all the things in there. I don't know at what time they put them in there. I can guarantee it took them a long time.

Q Since Mr. Necuze's testimony is pretty much the opposite of what you have just said, was he lying when he testified here?

A Yes, sir.

Q You testified that the reason you didn't go to Cuba with the Alpha 66 leaders in Miami in 1969, I believe, was because they would not make any financial provision for your wife, who was eight months pregnant? Is

1 that correct?

2 A It isn't that it was just in my case, but
3 they did not do that with anyone and I thought that it
4 was not normal that I would have to go to Cuba and
5 leave my family in that situation, although I did say
6 that it pained me to have to go back. It pains me to
7 recognize that, but that is the way it was.

8 Q So in other words, although your fatherland
9 called, if you couldn't be paid as a mercenary, you
10 wouldn't go?

11 A For the fatherland, one doesn't have to be
12 paid; one goes free. That is one's duty.

13 Q But you did not go?

14 A On that occasion, I did not, but it wasn't
15 only in that aspect; they are the ones who had the means
16 to go. I couldn't get on a log and just swim over.
17 I had to wait for somebody to take me and I just couldn't
18 wait forever in Miami. So I had to go back and face the
19 necessities that I had with my family and to prepare myself
20 for some future date.

21 Q Now, you testified that when you left Cuba
22 in 1965, you left behind your wife and four children.
23 How old were your children at that time?

24 A One was three, one was four -- two, three and
25 four, and she was pregnant.

1 Q And you didn't attempt to have them stow away
2 with you, did you?

3 A It is a little bit difficult putting a
4 family like that on a freighter, considering that the boat
5 is anchored 16 miles off the shore, and in order to get
6 out there, you have to take a tugboat, which was filled
7 with about 30 or 40 friends. I think it was going to be
8 a little bit difficult to hide them there.

9 Q How old was your first wife at that time?

10 A She was about 17 or 18 years of age --
11 about 18 or 19.

12 Q Now, it was less than a year later that you
13 met your second wife and you forgot about your first wife
14 and family?

15 A No, sir. I got married in '69. If I
16 left in 1965 and got married in 1969, that was not one year.
17 Besides that, these are private problems of mine.

18 Q But you did testify that in 1966 is when you
19 met Miriam, your second wife?

20 A She was working in the factory where I began
21 to work also.

22 Q That was the Avery Fisher factory, is that
23 right?

24 A Yes, sir.

25 Q But you had nothing to do with blowing up a

1 bomb at Avery Fisher Hall a few years later?

2 A No, because Fisher is loudspeakers, and I
3 don't think it has anything to do with the other thing
4 you are mentioning. Besides, I don't even know what
5 happened there. I had nothing to do with that. So you
6 are associating names and that is your business.

7 Q Well, the fact is that the Avery Fisher
8 of Avery Fisher Hall is the Avery Fisher of the loudspeaker
9 company, isn't it?

10 MR. AGUILAR: Your Honor, I don't know what
11 this line has to do with anything.

12 THE COURT: I don't know that either. I
13 didn't understand there was any unhappiness with his
14 employer.

15 If you know, tell us. Do you know if the
16 founder of the Fisher Company that you worked for was
17 the person after whom this music hall, Avery Fisher Hall,
18 has been named? Do you know that?

19 THE WITNESS: No, I know nothing about that.

20 Q Can you explain to the jury why you consider
21 Huber Matos to be a coward and a traitor?

22 MR. AGUILAR: There is no testimony in the
23 record that this man ever said he was a coward or a
24 traitor.

25 MR. TABAK: I will be happy to show him some of

1 the documents in which he said that.

2 3 2 7

2 THE COURT: Let him --

3 MR. TABAK: I refer to 2033 and 1030-A,
4 Government's Exhibits.

5 THE COURT: We will take your representation
6 and permit the witness to answer the question.

7 THE INTERPRETER: May I heard the question?

8 (Question read)

9 A Let me tell you that that is a good question,
10 because if I remember correctly, three months before the
11 grand jury, that is, on the 2nd of November, the FBI agents
12 who were after me -- if I remember correctly, I think
13 it was Walzer, one of the so many that were after me, they
14 were after Justo Rodriguez also, Ernesto Rodriguez and
15 Nestor Gomez, people who went around with me. On that
16 occasion, when the FBI began to question them -- precisely,
17 the first question that the FBI asked them was that if
18 they -- if they knew whether Huber Matos was a
19 Communist, and the guys, and I refer to these people I
20 mentioned beforehand, were surprised that the government
21 should refer to Mr. Matos in that way. -- They said that --
22 Huber Matos was a Communist, that they had proof that he
23 worked together with Castro, that he had never had problems
24 in Cuba and that he had been sent here to the
25 United States to create problems and to work with the

1 International Socialist Movement. If I remember
2 correctly, these people answered that they didn't think that
3 that was true, that it was true where Matos was a
4 commander of Castro, but he had nothing to do with that,
5 that he was a controversial person but that among us Cubans
6 they would never get that kind of an answer.

7 That is the same question that Mr. Wack asked
8 me when he interviewed me in the Newark Jetport, that
9 he was interested in Huber Matos. I think at that time
10 he was going to give a lecture in New York and they
11 said he was going to give a lecture about leftist agents
12 and about the International Socialist Movement in
13 which Mr. Huber Matos was a member; that as far as the
14 government was concerned, especially the FBI, Huber Matos
15 was a Communist and he said to me, "What do you think
16 about that?" And I said, "I don't know anything about
17 that."

18 Q I show you Government's Exhibit 1030-A in
19 evidence, and direct your attention to the fourth page.
20 That is the back of the second page. Would you explain to
21 the jury how your fingerprints were found on this document,
22 which in translation says, "Huber Matos, a traitor, a
23 Communist. He should die when the time is right"?

24 A I can tell you why.

25

T10

1 Q That is, of course, your handwriting on there?

2 A I don't think it is mine.

3 Q You heard Agent Martin from the FBI lab testify
4 your fingerprints were on there?

5 A I have also heard him say everything they
6 brought in here was mine.

7 Q So Agent Martin was also lying?

8 A They all form a part of the same team. It's
9 the same pattern.

10 Q Now, you testified yesterday that you admired
11 Justo Rodriguez because he had been a political prisoner
12 in Cuba for sixteen years; is that correct?

13 A Previously when I met him, yes.

14 Q Now, do you recall when Mr. Rodriguez testified
15 here he explained the reason he was finally able to leave
16 Cuba in 1969 was because of the efforts of the Committee
17 of 75, which is to say Mr. Negrin's committee?

18 MR. AGUILAR: Your Honor, I am going to object
19 to the characterization that that was Mr. Negrin's
20 committee.

21 THE COURT: All right. Let us take that
22 part out. You can argue that if you wish, but it is my
23 recollection that he got out in part at least because of
24 the activities of the Committee of 75.

25 A I don't believe that.

1 Q So Mr. Rodriguez was lying about that?

2 A What I would like to say is at that time there
3 were other factors and there were other pressures that
4 were causing people to get out of Cuba.

5 THE COURT: As far as you know, was one of the
6 pressures brought about by the Committee of 75?

7 THE WITNESS: They were one of the ones that
8 were trying to capitalize on the situation. That was
9 one of the strategies of Castro. That was one of the
10 spearheads that he was putting into the United States.
11 It was part of the treaty they were making at that partic-
12 ular time.

13 Q And of course you opposed any establishing of
14 relations with Cuba?

15 A Based on that treason, yes. We only have
16 one way or going back to Cuba: With weapons in our hands.
17 No one has a right to our destiny, just ourselves and our
18 people. You or no one has a right to that, and the
19 fact that we are here we don't hold that to anyone, just
20 the circumstances, but we cannot admit that you should
21 decide our destiny and to allow a group of opportunists
22 to decide the destiny of our country nor the destiny of
23 nine million people there.

24 It is a simple group of miserable scum, the
25 75, and no one else.

1 Q And of course you wanted the most political
2 prisoners, otherwise there would be no need for what you
3 are doing?

4 A We wanted all the Cuban prisons to be opened.
5 We wanted there to be free elections, so that the people
6 could choose their own government, that the people should
7 now what liberty is, not that those miserable scum
8 should go down there and get a group.

9 There were a lot of people who came here who
10 were very select and very good people.

11 Q In other words, the good people should be
12 allowed to rot in political prisons?

13 A It was a prejudiced dialogue. It was not a
14 dialogue at all. It was just a monologue, because
15 Castro was always putting the conditions. Those clowns
16 of the 75 Committee did not go to Cuba. They were
17 nothing more than servants of Castro, serving his inter-
18 ests. That is all they were. They never had anything
19 to do with the interests of our people.

20 They never were worried about the poverty or
21 the misery of our people. They were only interested
22 in the interests of the Communist government of Cuba.
23 They were only interested in their own pocketbook, and
24 they were only interested in bringing a bunch of
25 individuals into the United States to filter here and

1 destroy the United States, and they and they are doing
2 that with your own help, and you know that very well.

3 Q What have I done to help them?

4 A You just persecuted us because you wanted to,
5 and you allowed yourself to fall into all these infamous
6 maneuvers and to prepare all of these lies against us and
7 a million other things.

8 Q Is it your understanding that I run the
9 United States Department of Justice?

10 MR. AGUILAR: Your Honor, I am going to object.

11 THE COURT: Sustained.

12 Q Now, you, of course, were familiar with being
13 a political prisoner in Cuba, because you were one for a
14 few days?

15 A I don't consider myself a political prisoner
16 at that time.

17 Q You were just a common prisoner?

18 A I did not -- that was not my status, either.

19 Q But in any event, it was just a few days,
20 whatever it was?

21 A Fortunately, yes.

22 Q Now, you have testified that you never told
23 Agent Wack anything about the name Omega 7.

24 A No, sir.

25 Q You were, however, familiar with the Greek

1 alphabet; right?

2 A I am not a Greek. I am a Cuban.

3 Q How did you select the name Beta for your
4 company?

5 A It's a name. It's a name of a star. Haven't
6 you ever heard the name of a star? It's the name of a
7 start in a constellation.

8 Q So you had no idea it was also a letter of the
9 Greek alphabet?

10 A I found out from you right now.

11 Q And you never knew that Omega was a letter of
12 the Greek alphabet, the last letter?

13 A No; I didn't.

14 Q So the part of the Jne 14, 1983 tape on which
15 you discussed it with Mr. Wack, that is a fabrication?

16 A Yes.

17 Q Now, how was the United States Government
18 able to fabricate so much of your voice in English when
19 you speak so little Englilsh?

20 MR. AGUILAR: Your Honor, I am going to object
21 to that question. He is asking this man how the United
22 States Government functions.

23 THE COURT: He seems in a position to want to
24 respond.

25 MR. AGUILAR: It is beyond his knowledge.

1 THE COURT: If you know, I will allow the
2 question in that modified form.

3 Read the question.

4 (Question read.)

5 THE COURT: If you know.

6 A Based on the time that they have been
7 recording my conversation, based on the time that they
8 have been interrogating me, based on all of that and based
9 on their technology, the best in the world -- never doubt
10 that -- it's been all fabricated in that way.

11 Q Even the tapes that were so difficult to under-
12 stand?

13 A I can't imagine how Mr. Wack committed the
14 error of leaving so many blank spaces and so many confused
15 tapes, and especially the part about the coin, the
16 telephone where you put in the coin, because it is not
17 at all difficult. I could say that to anybody in any
18 place, and they could just drop a coin, and they start off
19 recording everything.

20 Yes, you are not fooling me. You might be
21 fooling someone else. I know your technology. I have
22 studied it all. I sold that equipment. I know how you
23 work. I know all about you, except that I trusted you
24 too much. I thought you were loyal. I thought you
25 were decent in certain aspects, and I was trusting, and

1 that's what hurts, and a lot of people are goin to get
2 a bad impression, and for that, that is the reason I am
3 here, so my whole country will know how you work, what
4 your tactics are like and what you do with us so that no
5 one will be confused in the future and that they will
6 never be able to set this trap again, and especially what
7 you do with our families, how you terrorize them, how
8 you bug the telephones, how you even get into our mail,
9 how you interfere with everything, how our private life
10 has stopped existing for everything.

11 And many, many other things that I don't
12 have the means to mention here, but you really have
13 disappointed me, at least in a small amount.

14 I want to be fair. I don't want to involve
15 everybody, and you asked me a while ago whether you
16 were the head of the Department of Justice. I don't
17 blame the Department of Justice for everything, but I do
18 blame you, because you are an ambitious person, because
19 you are trying to go up by stepping on me and at the
20 expense of a group of friends and at the expense of a
21 lot of people that are in exile, accompanied by a small
22 group of people who are helping you.

23 I don't wish you luck, because it is at our
24 expense.

25 Q So in other words, the reason you are dis-

1 appointed and you do not trust us is because we have
2 revealed to the world what you actually told the FBI?

3 A No. Because I thought that you were a
4 representative of the law, a representative of the Govern-
5 ment of the United States, that you represented democracy
6 and you protected anti-Communists and that you were
7 helping the forces that were helping to protect this
8 country and those who are trying to destroy communism.

9 The weapons that you use to confuse us, to
10 penetrate into us, to divide us, to get all that informa-
11 tion and to send it to our enemies, to Castro, to Russia,
12 to God knows how many more enemies of this country, all
13 looking for our destruction, and after it is all over it
14 will be your own destruction.

15 Q So in other words you are upset that we have
16 made public what you told Agent Wack and the other agents?

17 A In the first place, I deny all of that.
18 In the second place, if I were worried, if I had any
19 doubts about that, I would have made a deal with you, and
20 no one would have ever found out about it, and I would
21 be one more of your rats.

22 I would sink half the world. I would be with
23 my family, and I wouldn't be for a year -- I wouldn't
24 have been running for a year and with \$20,000 lost and
25 going hungry and having all sorts of other needs and going

1 through all of those things that you are making me go
2 through, not only myself but so many companions and so
3 many compatriots of mine.

4 I felt I never had adny doubts. There was
5 no reason for me to be concerned about that. On the
6 contrary. I wanted to bring that out, and here I am.

7 Q Well, you knew very well before you started
8 making your admissions to Agent Wack that Agent Wack told
9 you he was investigating bombings and murders in the
10 United States?

11 A I also know that Mr. Wack has been trying to
12 put a lot of people behind jail for a long time, and he
13 has not been able to do so.

14 I also know that you have been trying to do
15 the same thing for a long time, and you have not been able
16 to, and I know that you cannot recover from that wound,
17 and basing yourself on that you came back at it, and then
18 you came against us, and you picked me out, and you selected
19 a whole bunch of crumbs that had nothing to do with any-
20 thing, and they submitted to a series of pressures, of
21 blackmail, and these louses have had to submit to these
22 twenty different situations.

23 These people will never be people again,
24 because you have destroyed them. They will never be
25 decent people or looked at decently by our community.

1 The majority of them will have to disappear, because they
2 will never be able to look anyone in the eye again, and
3 they will have to disappear from public life with another
4 identity, which is exactly what you are accustomed to do,
5 to give a new identity to the person who testifies, so
6 that they will help you, and when you no longer need them,
7 you turn them over.

8 Q Is it your testimony that Agent Wack is not
9 responsible for anybody else being in jail but you?

10 A I don't think that Mr. Wack is responsible for
11 my being in jail, because the fact that I am in jail, I
12 owe that to you, because when my bail was put up you asked
13 them to raise it.

14 Q Of course, the Judge made the decision.

15 MR. AGUILAR: Your Honor, I object. He should
16 be allowed to finish his answer, and he should not be
17 interrupted by Mr. Tabak.

18 THE COURT: Yes.

19 You my finish your answer.

20 A You remember that when they set my bail, that
21 my community, my family, my friends put up their property,
22 the little bit of money that they got together, little by
23 little. They managed to get together a certain amount
24 of money, and the day that they were to present the bail,
25 you appeared, and they said, no bail.

1 Q And the bail was revised by a United States
2 District Judge; right?

3 A Because you came in with a letter, you remember?
4 A letter which the Judge read, a letter which was a
5 translation in Spanish, from Spanish, a letter which my
6 wife wrote, a letter in Spanish, which I never saw, and
7 that letter was read in the court, and it said that I
8 waived everything, that I was a person who was going to
9 fight, and that my scene was to to the very end, that I
10 had a lot of enemies and a million other things.

11 I have never seen the copy in Spanish. Where
12 is it?

13 Q Are you referring to the letter where you
14 called your wife a coward, Exhibit 1019?

15 MR. AGUILAR: Your Honor, may we see what
16 letter Mr. Tabak is referring to?

17 MR. TABAK: 1019 in evidence.

18 THE COURT: He is referring to Exhibit 1019
19 in evidence.

20 THE WITNESS: May I take it out?

21 THE COURT: Surely. You may take it out, and
22 you may read it.

23 (Pause.)

24 Q Now that you have read the letter, you wrote
25 that letter, didn't you?

1 A No, sir. How is it that you have it and
2 my wife never received it?

3 Q It is a copy, a carbon copy.

4 A A carbon copy, and it seems to have my original
5 signature on it. You really did a good job.

6 Q That is just one more attempt by the Govern-
7 ment --

8 A Let me tell you something, because I was
9 consulting with my lawyers.

10 I remember, when I was a fugitive that I went
11 by the place where I had my office, and I saw the Federal
12 officers of the FBI outside my office, and I saw them
13 going into my office, and in my office there was a whole
14 pile of papers, and you took those. I wouldn't be at all
15 surprised to see a lot of my papers end up there.

16 And they took my typewriter, and they took
17 my private papers and a million other things.

18 I never saw that, nor does my family know
19 what happened to that.

20 You have had a lot of time to prepare this crap.
21 One more, what does that matter?

22 But it does surprise me that my wife never
23 received this letter, and this is the first time that I
24 have seen it, because the only thing that was in my
25 hands was a copy in English, never this one.

1 It is true that the other day I received a
2 copy, where the FBI had sent something though the mail,
3 where my correspondence was being violated. It is
4 possible that something strange happend there, too.

5 Q After your bail was reset, isn't it a fact
6 thawt you appealed it to the United States Court of Appeals?

7 A Yes, sir.

8 Q And the three-Judge panel unanimously left the
9 bail where it had been set by lhe United States District
10 Judge?

11 A Yes. I do believe it was that way.

12 Q So you did not personally set your bail?

13 A You were the one who made the recommendation,
14 so you are the one who makes all the strings go here, you
15 and your office.

16 Q We tell the Judges what to do, and the Judges
17 don't think on their own?

18 MR. AGUILAR: Your Honor, he is being argu-
19 mentative to the witness.

20 Q Will you explain what you meant by your
21 statement?

22 THE COURT: The witness has made a response,
23 and I will let it stand. I do consider the question
24 argumenative, but he has made the statement.

25 Q Will you explain what you meant by your state-

1 ment?

2 A I am sure without the Judges having to go
3 along with what you say, and I was quite clear that the
4 Judges have their own way of doing things, and I am sure
5 that none of you can change the mentality of any Judge,
6 because they are the ones who have the responsibility of
7 doing things correctly, thank God, because if not, woe
8 is me.

9 If it were up to you, you would have already
10 destroyed me, but thanks to the Judge, who even brought
11 my bail down, but what happened, you said that if I got
12 out with that bail they would put \$10 million bail on me
13 in Miami, and you understand that I don't even have a
14 cent to pay my lawyers. Where the devil am I going to
15 get the money to pay my bail?

16 Nor am I going to submit all of my people in
17 exile to the tactics that you have been using up to now,
18 forcing them to pillage their own pocketbooks and putting
19 our men in prison, innocently, to force them to look for
20 lawyers in order to drain our economy.

21 For that reason I decided not to appeal the
22 bail any longer, and I told my family to forget about the
23 bail, that I was going to remain in jail, and I would
24 wait until the day of the trial, because I was no longer
25 willing to go along with the Government's games for them

1 to be exploiting the mentality of the people in exile,
2 their pockets, because it is quite difficult for them to
3 get the money that they do earn, and the Government does
4 not take that into consideration.

5 Considering that at that time there was a
6 series of compatriots in the same circumstances, and
7 apparently, with the investigation of the grand jury and
8 the Government bringing in more people to the grand jury,
9 a panic was created in the streets, and people got
10 scared, and I refused to take any part of that situation,
11 and I decided to step back so that the Defense League
12 of Cubans would take charge of the other companions, and
13 I decided to wait for my turn in my trial, which gave
14 you the time that you wanted to prepare the case, to
15 really put a gold clasp on the whole thing and to get
16 hold of Necuze, Gonzalez, Justo Rodriguez and other
17 people who later on backed out, and I have knowledge of
18 that, but I do not intend to mention that here, and you
19 well know that you prepared yourself very well.

20 You remember that I was five months and a
21 it over five months and then the accusations were made
22 against me. I don't know why that happened, but I
23 understand that a person is supposed to be charged in
24 the first ten days or thirty days and that you're saying
25 that you didn't have any idea of my cooperating with you,

1 but you sent me to Otisville under false pretenses, and
2 you sent the lawyer, Walpe --

3 THE COURT: Walpin.

4 A (Continuing) -- Walpin, to carry messages or
5 to bring a message to have an interview with you, and
6 interview which I refused to do.

7 You remember that I accepted aonly because I
8 didn't have any intention of saying anything, and I took
9 some notes, and I checked them, and I have some minutes
10 that I took down, and I was analyzing more or less what
11 happened, and I saw what you offered at that time.

12 You offer me and my family a new identity.
13 You offered me protection for me and my family. You
14 offered me to get rid of several charges. You practically
15 offered to put me out on the street again. All I had to
16 do was testify. You told me about all the people who
17 were cooperating against me. I was shown an enormous
18 amount of papers and statements and tapes of different
19 compatriots who were testifying and who were cooperating
20 with you and that it was better for me to cooperate because
21 those people were going to do it.

22 But many of them were waiting for me, so I
23 would testify, and after seeing me do it they would all
24 come.

25 For that reason I told you and told you I

ET11

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

didn't care what others were going to do but that I never
would testify for you, and that situation took on three
or four different occasions, and each time you kept tighten-
ing up more, tightening it up.

(Continued on the next page.)

1 On another occasion, you threatened my family.
2 You said that if I didn't cooperate with you, that you
3 would tell the people in exile that I had denounced the
4 whole group and you remember that I never opened my
5 mouth, that I was completely silent the whole time, and
6 you remember that you threatened to tell the people who
7 were dealing with drugs that I had given that information
8 to the government and that those people were in jail
9 because of that information, and that those people were
10 really big wheels in the drug industry, that they were
11 very powerful people, and that those people were trying
12 to find a way to hurt my family and that if I didn't
13 cooperate with you and with the government, you were
14 going to let that information out, and I said nothing.

15 You said to me that I was a coward
16 because I didn't say anything, because I didn't cooperate
17 with you and because I let that situation go on, and I
18 told you that I never would testify. That was at the
19 end, when I was ready to leave.

20 And then there was a moment when all of that
21 ended and I had another lawyer, and then I had an
22 interview with Mr. Aguilar and you and the District Attorney
23 for Miami, the same signature which appears here, and he
24 offered me the same thing, and you offered to get rid
25 of the charges in Miami if I cooperated and testified

1 against a whole big group of other people, and I said
2 that I didn't have to testify against anybody, that
3 I didn't know anything about anyone, and they said
4 that they were really going to sink me.

5 You told him that between the two of you,
6 that you would find a way to keep me from ever getting out
7 free again, that I would rot in a jail, that I should
8 think about it well, and I told you that I would run
9 that risk, that I preferred to come here before a jury
10 and take that risk, but that I never would testify for
11 you, and here I am.

12 Q In other words, the government told you
13 that if you would be a man and testify, the government
14 would try to protect your family?

15 A I remember that you told me that it was
16 easier to testify than to try to take this position, and
17 I told you that it was easier for you but not for a
18 decent man and a man with principles to sit in a
19 seat like this and to testify against his own compatriots
20 when it wasn't true, just in order to go along with the
21 game, in order to save my own neck.

22 In favor of my family, I am sorry, because of
23 my family, I am sorry because of all of my compatriots,
24 if because of your conspiring, if because of the scene
25 you have drawn here, because of this package which you have

rmjah 3

Arocena-cross

1 prepared, I turn out to be convicted -- tough luck.

2 Q Isn't it a fact that when Mr. Walpin was
3 still representing you, that you said you wanted to think
4 about the government's offer and that to buy some time
5 with the Cuban community, which was giving you a lot of
6 pressure, that you wanted there to be a phony hearing
7 before a magistrate where the government would make believe
8 that somebody other than you had been the informant in the
9 complaint?

10 MR. AGUILAR: Your Honor, I object to the
11 question.

12 THE COURT: Grounds?

13 MR. AGUILAR: Well, your Honor, I think there
14 is no good-faith foundation for this particular question,
15 and it is completely irrelevant as to what is going on in
16 this case.

17 MR. TABAK: I think there is an obvious
18 witness who can testify who the defense is free to
19 call if they want to know if there is a good-faith basis:
20 Mr. Walpin.

21 THE COURT: I will let you ask the question.

22 A Would you please repeat the question?

23 (Question read)

24 MR. AGUILAR: Your Honor, before he answers
25 the question, may we have a side bar? I have a real concern

1 as to the witness Mr. Tabak said I should call to
2 confirm or deny this, and I would like to make it clear
3 on the record why I made the objection before?

4 THE COURT: Very well.

5 (At the side bar)

6 MR. AGUILAR: Your Honor, the reason I
7 objected was I believe the person Mr. Tabak is referring
8 to is Mr. Walpin. I have internal memorandums prepared
9 by Gerald Walpin concerning this particular case, and
10 I have a memorandum prepared by his office dated
11 August 30 which says that Arocena stated he decided he
12 was going to fight the government and contest any charges
13 filed against him.

14 We do not intend to call Mr. Walpin, and I
15 feel there is no good faith for that question, when
16 I have memorandums from Mr. Walpin's office saying that
17 never happened.

18 MR. TABAK: If Mr. Walpin were called to
19 testify by the defense, I have no doubt he would testify
20 truthfully and I believe that his testimony would be the
21 following: That before the preliminary hearing was held,
22 Mr. Walpin contacted me and informed me that Mr. Arocena
23 was getting a lot of pressure from the Cuban community
24 to get a Cuban lawyer to replace him, and Arocena wanted to
25 buy time to decide whether he would accept a deal with the

1 government.

2 Mr. Walpin further advised me that what
3 Mr. Arocena wanted done was to go ahead with the
4 preliminary hearing and at that hearing for the defense,
5 to ask that the unnamed informant in the complaint, who
6 we all knew was Mr. Arocena, be revealed, the government
7 to object and that before the hearing would be held
8 that Mr. Walpin and I go in to the magistrate and
9 inform him of the situation, explain we both knew
10 Mr. Arocena was the informant but that Mr. Arocena didn't
11 want that information to come out and to give him more
12 time to think about the situation, that we would have
13 this hearing.

14 I am sure Mr. Walpin would further testify
15 that after I consulted with my unit chief, Shirah Neiman,
16 and with the chief of the Criminal Division and with the
17 United States Attorney himself, Mr. Giuliani, that the
18 decision was made by Mr. Giuliani personally that he
19 would not permit any such sort of sham hearing to go forward
20 or permit us to make believe it was a third party who was
21 the confidential informant.

22 Mr. Walpin told me he thought we were making
23 a big mistake, because he felt Mr. Arocena was seriously
24 thinking about the situation. However, Mr. Walpin was
25 informed Mr. Giuliani's position was immutable, that he

1 would not go along with any sham hearing, that we had
2 protected Mr. Arocena long enough by naming him as an
3 unnamed co-conspirator in a complaint on which he was being
4 arrested, and that Mr. Arocena could either waive the
5 hearing, which was his right, or go to the hearing and not
6 ask that the informant be disclosed, and Mr. Walpin,
7 after telling me that he thought we were making a mistake
8 in the overall picture for this case, informed me a day
9 later -- or a day later I got a phone call from
10 Mr. Paul Goldberger that Mr. Arocena or his wife had
11 contacted him and Mr. Goldberger was going to come into
12 the case.

13 MR. AGUILAR: The government could have
14 called Mr. Walpin before. Now we have what he told
15 allegedly Mr. Tabak and what he wrote as an internal
16 memo for this case. I don't think this whole line of
17 questioning --

18 THE COURT: Under the circumstances, I
19 think the point I have to determine is whether the
20 government at this point has a good-faith basis for making
21 the inquiry. In view of the statements just made by
22 counsel with regard to matters as to which he was
23 personally involved, I would suggest that there is a good-
24 faith basis. Exactly where this takes us, in view of all
25 other testimony that I have heard today, I am not sure,

1 but if the question that is put to the court is does the
2 court find that the government has a good-faith basis
3 for making the inquiry, I say on the basis of the
4 representations which have just been made by Mr. Tabak,
5 the government does have a good-faith basis for making the
6 inquiry.

7 I can see, Mr. Aguilar, the point that you
8 made and the reason why you wished to come to the side
9 bar, but in view of the statements just made by Mr. Tabak
10 with respect to a number of matters as to which he was
11 personally involved, I find the government has a good-faith
12 basis for this inquiry.

13 Is there anything further?

14 MR. TABAK: I would note for the record that
15 obviously if Mr. Walpin was communicating at his client's
16 direct a position to the government, that was not
17 violative of the attorney-client privilege or anything
18 else.

19 THE COURT: An attorney who makes statements
20 on his client's behalf in representation of his client to
21 third parties doesn't have the right to claim a privilege,
22 at least with regard to the matters revealed to the third
23 parties.

24 Thank you.

25 (In open court)

1 THE COURT: You may proceed, Mr. Tabak.

2 MR. TABAK: At this point I forget whether the
3 question was answered. I believe it was not. I would
4 ask it be read back.

5 (Question read)

6 A Are you sure that I was the person of which you
7 are talking about? Because I don't remember such a thing.
8 Because in the first place, I have always been very
9 proud of my community and I have always been very proud
10 of our people in exile, and especially at the difficult
11 time I am going through now, and that they have behaved
12 so well toward me and in spite of all the poison you have
13 spread and all of the division which you have spread,
14 they never put any pressure on me.

15 On the contrary, they united around me more
16 than ever. They encouraged me more than ever and how would
17 I ever lend myself to something like that?

18 Finally, never would I have presented myself to
19 any kind of crap like that, when I have always said quite
20 clearly that I would never make any kind of deal with the
21 government. I am tired of repeating it, from the very
22 beginning until the end, so I am not surprised that you
23 come out with this now. I never said such a thing.
24 I never spoke of any fictitious hearing.

25 Maybe that is a usual practice for you, but I am

1 not used to that. That is the reason I say maybe you made
2 a mistake. I don't blame you for that.

3 Q So if somebody would testify that that
4 in fact did happen, that person would also be lying?

5 A I know that that is a product of your imagination.
6 If another person would lend himself to saying such a thing,
7 something which I doubt very much, I don't know what would
8 happen.

9 Q You testified yesterday that Pedro Remon
10 is a good person and a good revolutionary.

11 A Yes, sir. I said it yesterday and I say it
12 today, he is a great revolutionary. He is a friend of
13 mine and he is a very worthy person.

14 Q What makes him a great revolutionary?

15 A He is a man who is concerned with the
16 liberation of our country, a man who believes in what he is
17 doing, and a man who has never broken the laws in this
18 country, except the problem which he had with the car.
19 I don't have any knowledge of his having had any other
20 trouble.

21 THE COURT: You are speaking of the incident
22 in Belleville, New Jersey?

23 THE WITNESS: Yes, sir. Up until now, that is
24 the only knowledge I have, and back from that time, I have
25 the best references regarding him. I was talking to him

1 personally the other day, a few hours before he was
2 sentenced. I spoke to him about an hour and a half
3 and may it be said --

4 A Didn't you say that he and I wanted to kill
5 ourselves, or that we wanted to kill each other. Didn't
6 you say that we were deadly enemies? Didn't you use
7 that as a reason to give him a longer sentence? Didn't
8 you use that as a reason to put on a miserable sentence to
9 the rest of our compatriots who are in prison? Didn't
10 you use that same argument in order to put me into the
11 hole and to separate me from the rest of the population?
12 When I came here and asked you to put me with the rest
13 of the population, as I deserved to be, the first thing
14 that you said to me was that they wanted to kill me,
15 or that I wanted to kill them, and I challenged you,
16 I challenged the government that you put us together,
17 that it was all a lie, that it was just made up by
18 you, that these were just circumstances that you were
19 looking for in order to divide us, your favorite weapon,
20 the weapon which you have been destroying us with little
21 by little, or trying to destroy us little by little, luckily
22 we are learning your tactics, and we are learning. We are
23 preparing ourselves for a future of not falling again
24 into that same trap, and we have to have confidence in
25 our brothers because only our unity, the unity of all of

1 us -- only by our unity, can we go back to our country.
2 We cannot allow you to go on dividing us in the
3 miserable way that you have been doing. That is something
4 very difficult that we learned from you, and we are taking
5 note of that, because some day you will have to answer
6 before history for the harm that you have done to our
7 country because of protecting the tyrant who is treading
8 on our country and who has had our country as a prisoner
9 for almost more than 25 years, trying to destroy all of
10 the fighting community.

11 You want to welcome Castro to the United States
12 and you are preparing conditions for agreement. That is
13 what this is all about, because I wasn't the first one,
14 nor am I the last one. I know that after me there will be
15 others, there will be more victims, there will be other
16 people to come and sit right here who will be destroyed
17 by you. I hope that tomorrow history will sit you here
18 on this chair and you will have to answer to our people
19 and to history, with a jury like this one as witnesses.
20 You will not be able to escape from that judgment. You
21 won't be able to escape from that verdict either.

22 Q Since you had such a long chat with Mr. Remon,
23 you are of course fully aware that the reason he just
24 got sentenced was for a crime that he pleaded guilty to,
25 totally separate and apart from the Belleville incident,

1 namely, disobeying an order of a federal district judge
2 to testify under immunity?

3 MR. AGUILAR: I object to that question.

4 THE COURT: If he knows. He said he had a
5 conversation with the man.

6 MR. AGUILAR: I don't know the relevancy of this.

7 THE COURT: He did make the statement about the
8 only involvement the man had with the law was the other
9 incident, and you recall that was the one at Belleville.
10 I think it is appropriate.

11 Overruled.

12 A Could we hear the question again?

13 THE COURT: Certainly.

14 (Question read)

15 A Yes, sir, I am aware of that. He explained
16 it to me. I know the reason why he used that tape of
17 an argument. I know why he went to the grand jury and why
18 he was convicted, because he didn't go along with this
19 type of Roman circus prepared by you and he preferred,
20 together with other compatriots, to suffer the circumstance
21 of those conditions and not testify, which of course served
22 your purposes, which is to put everyone, all of the heads
23 into jail.

24 In other words, he save you time, isn't that
25 true?

1 Q Would you agree that it is more honorable --

2 MR. AGUILAR: I don't mean to interrupt,
3 but perhaps the interpreter may need a break at this time.

4 THE INTERPRETER: That would be very nice.

5 THE COURT: Where is the other interpreter?

6 MS. KOHN: The other interpreter had a death
7 in his family, and he had to leave.

8 THE COURT: Miss Kohn, who is our chief court
9 interpreter, who I know you find fluent in Spanish, will
10 cover for Mr. Palmer for, say, five minutes so we can move
11 matters along.

12 MR. AGUILAR: No problem.

13 Mr. Palmer, when you are ready, you can then
14 cover for Ms. Kohn.

15 MR. PALMER: I will do that.

16 BY MR. TABAK:

17 Q Would you agree that it is more honorable
18 for someone to refuse to lie than for someone to go ahead
19 and lie?

20 MR. AGUILAR: I object.

21 THE COURT: Grounds?

22 MR. AGUILAR: Argumentative and it is a
23 hypothetical this man cannot answer at this time.

24 THE COURT: It really is argumentative. I
25 will sustain an objection on that ground. You may wish to

1 restructure your inquiry, but the objection is sustained
2 on the grounds that the question is argumentative.

3 Q Do you think it is honorable for a person
4 to tell falsehoods to try to get off of certain charges?

5 A I do not think so.

6 Q And that is why you are testifying as truthfully
7 today as you did in the grand jury?

8 MR. AGUILAR: I am going to object.

9 THE COURT: Grounds?

10 MR. AGUILAR: First of all, this question
11 has been asked about 17 times already, whether he is
12 testifying differently today than the other day, and now
13 he is arguing with the witness and putting words into the
14 witness' mouth that he never testified to.

15 THE COURT: I will sustain the objection on
16 the second ground, argumentative.

17 Q A few minutes ago you referred to a Roman circus.
18 What is a Roman circus?

19 A A roman circus, it was the place in which they
20 were sacrificed. Let me see if I can remember the name
21 in Spanish: The place where they sacrificed people who
22 believed in God. At that time they would bring them into
23 the arena or they would throw them into an arena with lions.
24 That refers to Christians.

25 Q Can you explain to this jury why you feel this

1 trial is a Roman circus?

2 A With great pleasure.

3 First, because you never gave me the opportunity
4 to defend myself, because from the moment in which I was
5 apprehended, you showed up in Miami, along with Agent Wack,
6 who went to my home trying to find my wife to scare her
7 and to threaten her, to leave a message with her that
8 they had to speak with me, that she should remember that
9 I had -- I had to see them, in any event, that I had to
10 see the prosecutor because there were important things
11 that had to be dealt with. That was dealt with on several
12 occasions.

13 They tried to call me in prison on three or
14 four occasions. Even on several occasions when I was in
15 jail, officials from the prison came and I remember that
16 I was with another prisoner inside the hole and they
17 said, "There are some FBI agents that want to talk to
18 you," and the individual who was with me opened his eyes to
19 this size (indicating) and he said to me, "Who are you
20 and why do you have to talk to the FBI?" And the guy
21 got frightened, and I said, "I don't have to talk to
22 anyone."

23 When my family came, I said to Miriam, my wife,
24 that if Mr. Wack got into contact with her again, that she
25 should send him away, so as to not use another word.

rmjah 16

Arocena-cross

1 When my lawyer came, who was Miss Carnesolta,
2 she came with the message that the prosecutor wanted
3 to see me, that he had a message to give me, that I
4 should look carefully at the paper, at the indictment
5 papers, that there was a line there in which they were
6 going to state that I had cooperated with them, that
7 i was to speak with them to say it exactly.

8 She said to me, "What's happening?"

9 I said to her I didn't know what was
10 happening. I already imagined what it was. She told me
11 that Miriam had told her that there were strange cars that
12 were going around the house.

13 When we went to court, we had an interview
14 with Mr. Tabak -- that is Miss Carnesolta, who did not
15 permit Mr. Tabak to be present.

16
17
18
19 (Continued on next page)

1 THE COURT: I note that Mr. Palmer has
2 returned, obviously refreshed, and has taken his place.

3 Q Mr. Arocena --

4 A I haven't finished -- or do you want me to
5 finish me?

6 THE COURT: You may finish. If you have not
7 finished your prior answer, you may do so.

8 A (Continuing) I remember when we were at that
9 interview, the District Attorney was trying to convince me
10 that I should deny that they would deal with my case in
11 Miami and it would be transferred here in New York, that
12 that would be better for me, because otherwise they
13 were going to bring out a whole bunch of things.

14 What happened at that time, I said to them,
15 "What do you have against me?"

16 He said, "A million things. It's best that
17 you go back there with us and for the trial to take place
18 there."

19 At any rate, he said to me that the majority
20 of the charges would be here in New York, and then I
21 stopped him and I said to my lawyer, and I asked him
22 whether I would have to respond to the charges in Miami
23 there, and she said yes, and then the District Attorney
24 said yes, it was true that I could face the charges in
25 Miami when I came back to New York and that I was taken

1 there practically without any knowledge of my lawyer,
2 and, as I explained before, I was taken on a charter
3 plane and brought here to the MCC in New York and taken
4 to Otisville, if I remember correctly.

5 I was brought back shortly after that to
6 be presented before a Judge. At that time, my lawyer
7 was not present. I went back to Otisville, and after
8 that time they didn't allow me to have Miss Carnesolta any
9 longer. They started litigations or arguments with her.
10 The Government began to say that there were legal problems,
11 conflicts of interest, and they disqualified her, and
12 then they put Mr. Wolpin on, and I said that I wanted to
13 find a lawyer of my own, and I kept on struggling in that
14 sense.

15 The Government, thinking that, let me in
16 Otisville and kept on manipulating with my situation.
17 They left me, as I said before, in Otisville, completely
18 out of circulation, without any communication with the
19 outside world, so that I would have no contact with the
20 defense.

21 At that time, one has to remember, as I said
22 before here, that Mr. Tabak gave an order at the institu-
23 tion, I mean in Otisville, that I should be able to have
24 access to the telephone only once a month.

25 When I had the opportunity, I told my wife to

1 look for another lawyer. Indeed, she got in touch with
2 Mr. Goldberger, and when I said to do the same thing with
3 Mr. Goldberger, they applied the same situation. They
4 got rid of Goldberger, and I went on with Walpin.

5 But since I never did care for Mr. Walpin,
6 and with all the respect to Mr. Walpin, because after all,
7 he was a professional person, I felt that my interests
8 were not being well represented, and I wanted a lawyer of
9 my own choice.

10 And I kept working and trying in that direction,
11 working in that direction, and during all this time I was
12 admitted to having only one call a month, and so the
13 day that I had to come to court was getting closer, and
14 if I didn't get another lawyer I would have to remain with
15 Mr. Walpin.

16 I had already told my wife to get another
17 lawyer, and she got Mr. Orta for me. Mr. Orta went to
18 see me, and he didn't last at all. That miserable man,
19 I think about a month later, about a month and a half
20 later, he found a machine-gun in his work, and he said
21 to me, "Eduardo, I don't know what this is all about,"
22 and I said, "I know what this is all about. They gave
23 you a setup, They set you up so that you would not
24 represent me."

25 And I said to Miriam, "Immediately look for

1 another lawyer for me."

2 Then I got Mr. Mr. Aguilar and Mr. Fernandez,
3 and I have them now, thank God, up to now.

4 And when I said Roman circus, and I refer
5 to that exactly, and the destiny of those Christians
6 which they used to let loose among the lions, without
7 any weapons, without any way of defending themselves,
8 naked, and the head of state up above, the ones who
9 caused that situation, all they were looking for was the
10 blood and th extermination of these Christians, and all
11 I can do is notice the connection between that and my
12 case and blame you, Mr. Tabak, because you are the cause
13 of this.

14 You are the person who has been maneuvering
15 in my situation. This is your case. This is your case,
16 and this is your opportunity to become a big person.
17 Here you've got the opportunity to go up the ladder to
18 become a great politician some day. Who knows up to
19 what point you may get? But I hope it is not going to
20 be at my expense nor at the cost of any our compatriots.

21 Becasuse of that, I cannot wish you good luck.

22 I think I explained to you what the meaning of
23 a Roman circus is.

24 Q Well, since I am not going to be deciding
25 whether you are guilty or innocent, can you explain how

1 this trial is a Roman circus?

2 A When I talk about a Roman circus, I speak
3 looking at you. I don't mention the Judge; I don't
4 mention the jury. I am mentioning you all. I mention
5 them, the Government. You are the ones who are guilty.
6 You are the ones who have divided us.

7 The Judge has nothing to do with it. The jury
8 has nothing to do with it. They put a red hot potato
9 in the Judge's hand. It was worse with the jury. They
10 are the ones that have to decide.

11 I have never implicated the Judge or the jury.
12 It is just you, you all.

13 Q So you agree you are having a fair trial?

14 A I think that I have the opportunity, apart from
15 what you have set up here, that for the jury and the Judge
16 to make their own decision. They know what they have
17 to do. They don't have to ask you nor me nor anyone.
18 It is their conscience.

19 If I am guilty, I am guilty. If I am innocent,
20 I am innocent. Whatever happens, I will take it as it
21 comes, and I have no problem in that aspect.

22 Moreover, I will remain quietly, because at
23 least I know that I have got you off my back, and I already
24 know, it doesn't matter what you say. My destiny does
25 not depend on you. It depends on them and on him, on his

1 Honor and on the jury. That's all.

2 Q So in a word, you believe you are having a
3 fair trial?

4 A Regarding the mentality of the jury, yes.
5 I trust that completely. I don't have the slightest
6 doubt.

7 Q Now, in the meeting that you testified about
8 with Miss Carnesolta in Miami, after you were arrested,
9 you recall you did not want Agent Wack there, so another
10 Assistant United States Attorney, named Schnapp sat in?

11 A I never asked ro Wack to be there or not to
12 be there. I wasn't at all interested in that interview.
13 It was you. You are the one who orchestrated that.
14 You are the one who invented all those things. Everything
15 came out afterwards.

16 You also had the opportunity in a hearing
17 afterwards that you had put down that I had transmitted
18 some signals, and I was discussing that with my lawyer,
19 and I really laughed about that.

20 The same way as all the other things that
21 have happened, because you said that you weren't satiated
22 with everything that there is. You were not in agreement,
23 or you were not sure, and you want to put on more and more
24 and more.

25 So I don't know what you are referring to at

1 this moment, this tactic.

2 Q So if Assistant United States Attorney Schnapp
3 were to testify that at this meeting you were secretly
4 sending signals because you didn't want Miss Carnesolta
5 to know that you had been the informant in the complaint,
6 then he would be lying; correct?

7 MR. AGUILAR: Your Honor, I am going to object
8 to that question.

9 THE COURT: Sustained.

10 MR. AGUILAR: Move to strike, your Honor.

11 THE COURT: I sustained the objection. I have
12 already indicated to the jury what they are to do with a
13 question that is asked and an objection to which has been
14 sustained.

15 MR. AGUILAR: Thank you, your Honor.

16 Q Mr. Arocena, isn't it a fact that you chose
17 not to have a removal hearing in Florida?

18 MR. AGUILAR: I will object to that question.

19 THE COURT: I will allow it.

20 Q In the first place, I don't have now nor did
21 I have at that time any idea about legal technicalities.
22 My lawyer at that time, Miss Carnesolta, told me that I
23 could come here, because at any rate I would have to go
24 through the other trial there, and I think that exactly
25 because of my ignorance that you have been using me,

1 because legally I know nothing.

2 Bur you know that I have been in this country
3 for eighteen years, and except for the situation which I
4 have right now, I have never had any problems with justice.
5 I have never crossed the threshold of a court. I don't
6 know anything about things referiring to justice.

7 In regard to what you are asking me, it is
8 as if you were speaking to my enemies. My lawyer said
9 to me -- my lawyer asked me whether I wanted to come to
10 New York, and I asked her if it was necessary to come to
11 New York and she said, "Yes, you have to come to New York."
12 I had no other option, no other alternative.

13 Q So therefore, after the meeting with Miss
14 Carnesolta and Mr. Schnapp and me, you voluntarily not
15 to have a removal hearing in Florida and be transferred to
16 New York?

17 A Let me tell you something. We have been
18 talking about things, talking about things about drugs.
19 You remember when I was in jail in Miami they injected
20 me in Miami, also. That was protested there. Do you
21 have any knowledge about that?

22 Q I think the question called for a yes-or-no
23 answer.

24 THE COURT: You did not restrict the question
25 to a yes or no answer. Therefore the witness has made

1 the response that he did.

2 I suggest if you want a yes-or-no answer
3 you should indicate that when you pose the question.

4 Q Would you please answer with a yes or no,
5 whether you voluntarily chose not to have a removal
6 hearing in Florida?

7 THE COURT: Yes or no or you can't answer
8 that question?

9 A I don't really have any knowledge of that,
10 exact knowledge of that.

11 Q Can you answer yes or no whether you showed
12 up in court with your attorney and stated that you did
13 not want a removal hearing?

14 A Well, they were bringing me from the prison.
15 They put me in front of the Court. My lawyer came in,
16 and he read things to me, rapidly, all that rapidly there.
17 Everything was practically already done, and I had no
18 knowledge of what was happening.

19 Sincerely, my head was not all right.

20 Now, I suppose that my lawyer was there, and
21 if she agreed to that, there was no type of problem.

22 Are you trying to insinuate something?

23 Q Isn't it a fact that you chose voluntarily
24 not to have the removal hearing because you didn't want
25 your status as the confidential informant in the complaint

1 to be revealed at that time? I think you can answer
2 that with a yes or no.

3 THE COURT: He wants a yes or no answer.

4 A No.

5 MR. AGUILAR: Your Honor, he should be allowed
6 to explain his answer.

7 THE COURT: No. It is not for you to say
8 at this time. It may be that on redirect examination
9 he may wish to explain the matter further, although he
10 has explained it already.

11 Mr. Tabak, if you are going to be an appreci-
12 anle length of time, I note it is getting on to five-
13 thirty. Do you expect to take very much time? Yes
14 or no?

15 MR. TABAK: At this rate, yes.

16 THE COURT: Then we will recess until tomorrow
17 morning at ten o'clock.

18 Do you think we can start at ten o'clock?
19 I know there have been some reasons why we have not been
20 able to start on time the last two days, but let me hope
21 that we can tomorrow morning.

22 Ladies and gentlemen, please don't discuss the
23 case among yourselves or with anyone else. If you learn
24 anything concerning the case from any source outside the
25 courtroom you are directed to report that fact directly to

1 Mr. Guranich, not to any other juror.

2 Until you come back tomorrow morning, finally,
3 please keep an open mind and don't discuss the case.

4 (The jury left the courtroom.)

5 MR. AGUILAR: Your Honor, just one point.

6 We would like our client to give us a call
7 tonight, and I hear that all the telephones are broken
8 at MCC.

9 Is there any way that we can have the word
10 passed?

11 MR. TABAK: Your Honor, we can arrange for
12 Mr. Aguilar to go to the MCC.

13 THE COURT: If the telephones are down that
14 might be the easier way. I will ask the Marshals to
15 request that Mr. Arocena have access to a telephone if it
16 is at all possible. Of course, I can't guarantee that,
17 but I make that request.

18 (Adjourned to September 12, 1984, at 10:00 a.m.)

19 ---

20

21

22

23

24

25

1 UNITED STATES OF AMERICA

2 v.

S 83 Crim. 821 (RJW)

3 EDUARDO AROCENA

4
5 September 12, 1984
10:10 a.m.

6 (Trial resumed; jury present)

7 THE COURT: Good morning, ladies and
8 gentlemen.

9 Mr. Arocena

10 E D U A R D O A R O C E N A,

11 resumed.

12 THE COURT: Mr. Arocena, you will be continuing
13 your testimony under the oath which was administered when
14 you first took the stand.

15 Do you understand?

16 THE WITNESS: Yes, your Honor.

17 THE COURT: You may proceed, Mr. Tabak.

18 MR. TABAK: Thank you, your Honor.

19 CROSS-EXAMINATION (Continued)

20 BY MR. TABAK:

21 Q Mr. Arocena, you testified yesterday that on
22 Sunday, September 26, 1982 you were drugged by the FBI,
23 and you mentioned sodium pentathol.

24 Now, the transcript at page 2234 reflects
25 that you were asked:

1 "Q In the event, you didn't tell them anything
2 at headquarters that day, did you?

3 "A No, sir, absolutely not, not from my own
4 free will. So that if they got anything out of me --"

5 And at that point another question was asked.

6 Is it possible that you admitted to the
7 FBI that day the truth about your Omega 7 involvement and
8 that you just don't remember it?

9 A No, sir, it is not true.

10 Q It is not possible?

11 A No, it is not possible.

12 Q And that is even though you were drugged
13 and you have no idea what happened while you were drugged?

14 A A person who is drugged, I don't think
15 he has any knowledge about what he says.

16 Q So therefore it is possible that you
17 told the FBI about your Omega 7 involvement?

18 A They never said anything to me about that.

19 Q Is it possible?

20 A What is possible?

21 Q Is it possible that while you claim you
22 were drugged that you told the FBI about Omega 7?"

23 MR. AGUILAR: I object. He has already
24 answered the question about four times now.

25 THE COURT: I will let him respond again.

1 THE INTERPRETER: May I have the question
2 again, please.

3 (Question read)

4 A In the first place, I don't claim to have
5 been drugged; I was definitely drugged.

6 In the second place, when I mentioned sodium
7 pentathol, I mentioned that they might have used some
8 other type of drug, and you know very well that they are
9 accessible to you. When a person is under that treatment,
10 he doesn't have any knowledge about what is happening.
11 He simply doesn't remember what happened. Simply, the
12 persons who are asking the questions obtain the information
13 that they need and they never showed me what they got from
14 me and consciously I have never admitted anything, nor have
15 I ever admitted to them being Omar or having
16 belonged to the Omega 7. That is my answer. Are you
17 satisfied with it?

18 Q The question, which I believe is now the fourth
19 time I am asking it, calls for a yes or no answer. Is it
20 possible that you gave information to the FBI that day that
21 you don't remember?

22 MR. AGUILAR: Objection. He is asking the
23 witness to speculate on something he cannot possibly
24 testify to.

25 THE COURT: If he believes it to be possible,

1 he can answer yes. If he doesn't believe it to be possible,
2 he can answer no. If he doesn't know, he may say so.

3 A Consciously, no.

4 Q That is not the question, sir.

5 MR. AGUILAR: Now he is arguing with the
6 witness.

7 A I cannot give you any other answer, not
8 the one that you want.

9 What do you want me to do? Do you want me
10 to lie here before the jury?

11 Q No. I would like you to tell the truth to the
12 jury.

13 MR. AGUILAR: He is arguing with the witness.

14 THE COURT: No arguments. The witness has
15 indicated that he has answered the question to the best of
16 his recollection, to the best of his knowledge. In essence,
17 he is saying he can't respond with a yes or no answer.

18 Is that correct, Mr. Arocena?

19 THE WITNESS: Yes, your Honor.

20 MR. TABAK: Thank you, your Honor.

21 Q You also claimed that the FBI kidnapped you that
22 day.

23 A Yes, sir, that is true.

24 Q But of course you testified yesterday that they
25 did not handcuff you at any time that day, isn't that correct?

1 ~~A Yes, sir, that's true.~~

2 Q And indeed you also testified yesterday that
3 you didn't even insist they get an arrest warrant for you
4 to come down, you just came with them?

5 A That is not true. I asked them whether I was
6 under arrest and they told me that I wasn't, but that if
7 I gave them any problems, that they had orders to take me
8 forcefully, or by force, and if they had shown me any
9 document like that -- at any rate, they wanted to take me
10 down to headquarters, that that was the order that they had,
11 that they had to go, one way or another.

12 So what did you expect me to do, kill them at
13 that moment? I had no reason to get into a fight with them
14 at that moment.

15 Q So therefore you did not use any force, you
16 just went with them?

17 A They are very convincing when they want to be.

18 Q Would you answer with a yes or no whether you
19 used any force or whether you just went with them?

20 A I accompanied them.

21 Q You did not use any force?

22 A No, I did not use any physical force.

23 Q And this is what you call kidnapping?

24 A Taken away against my will, yes, because I
25 told them I didn't want to go, that I had everything ready

1 to go back to Miami, and they practically forced me to go to
2 New York, and you say to me that that is not forcing me? .

3 Remember, they have a usual way of intimidating citizens
4 who don't like to have problems with anyone.

5 Q Of course, since you were an Olympic caliber
6 wrestler, you could not be easily intimidated, could you?

7 A Just imagine that a traffic cop were to stop
8 me and he asked me for my license and I opened the door,
9 I started kicking him because I am an Olympic wrestler and
10 I don't want to go with them and I don't want to show him
11 my license. Don't give me that stuff.

12 Q But you told the truth when you said you were
13 an Olympic caliber wrestler, correct?

14 A It is on my record. It is in all my records
15 and you have all my records since I came to this country,
16 and I am sure that you must have checked it out with Castro.
17 I was very well known in Cuba because of that, and since
18 you are used to interchanging intelligence matters, one with
19 the other, and I am sure that the file on me that Castro has
20 and the file that you all have on me here has been inter-
21 changed between the two of you, so that you at this time and
22 Castro at this time know completely who Eduardo Arocena is.
23 So I have nothing to hide, and much less about my past.

24 MR. TABAK: I would ask that everything in that
25 answer other than his response that he had been an Olympic

1 caliber wrestler be stricken.

2 MR. AGUILAR: He asked him that and he
3 wants to show the people how a lot of people know that he
4 was such a wrestler and he opened the door wide, your
5 Honor. Now he doesn't like the answer and he wants it
6 stricken, your Honor.

7 THE COURT: I will let it stand. The answer
8 has been heard by the jury, and although it went beyond
9 a response to the question as asked, since the jury has
10 heard it, I will let it stand.

11 MR. TABAK: I would ask that the witness be
12 directed to respond to the questions and not to volunteer
13 any other information.

14 THE COURT: Yes, I will do that. And my
15 suggestion to you is that if you wish to keep the witness
16 from responding at greater length than you desire, that you
17 ask for a yes or no answer and then if he says he can't
18 answer the question yes or no, make a decision whether
19 you wish to pursue the matter.

20 Mr. Arocena, I do direct you to listen
21 to the questions and then answer the question as it is
22 asked. If there is something else, your attorneys will
23 have the opportunity on redirect examination to ask what
24 they believe should be asked after the questions which have
25 been put by the prosecutor.

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

Do you understand?

THE WITNESS: Yes, your Honor.

THE COURT: Very well.

(Continued on next page)

T1

1 mps Arocena - cross

2 Q Mr. Arocena, would you answer with either a
3 yes or no whether you received any kind of martial arts or
4 karate training?

5 A Yes.

6 Q Now, isn't it a fact, Mr. Arocena, that the
7 very night of the day in which you claim you were kid-
8 naped you drove alone in your car to your mother's house
9 for dinner?

10 Please answer with a yes or no.

11 A Yes.

12 Q And isn't it a fact, as you testified yesterday,
13 that although you thought there might have been a finder
14 in the car, that you never saw one?

15 A I have problems with that answer.

16 Q Did you see a finder or a beeper in the car
17 that you drove to your mother's home on Sunday evening,
18 September 26, 1982? Yes or no?

19 THE COURT: I thought he answered that question
20 yesterday, in response to a question which I asked him, and
21 he said he did not see one.

22 Does counsel recall that?

23 MR. AGUILAR: Yes, your Honor. I think he
24 said they were hard to spot, but he did not see one.

25 THE COURT: Did the jurors hear that?

1 Needless to say, if the witness wants to
2 enlarge on his answer or change it, he may do so.

3 MR. FERNANDEZ: It is on Page 2230, your Honor.
4 It was asked and answered.

5 BY MR. TABAK (Continuing):

6 Q You don't wish to change that answer from
7 yesterday?

8 A No, sir. It is exactly the way I answered
9 yesterday.

10 Q Now, you also testified yesterday, on Page 2235
11 of the transcript, that when you drove to your mother's
12 house that night you gave the FBI a hard time and you made
13 them really run for their money.

14 A It's true.

15 Q And isn't it a fact that you lost them but when
16 you got to the house they were there?

17 A I knew they were waiting for me there. I know
18 how they operate.

19 Q And you lost them on the way?

20 A The ones that were following me, yes.

21 Q Mr. Arocena, why didn't you just get out of
22 the car and leave if you lost them?

23 A Because it was a very short distance at that
24 point.

25 Q That was in New Jersey?

1 A I was already in the area of Newark. Knowing
2 how they operate, my chances were too limited, too limited.

3 Besides, we must take into consideration that
4 I could have gotten out of the car, that they would locate
5 the car, but I refer to the time it would take for them
6 to locate the car and to the time for them to locate me
7 in the area would be a matter of minutes, and I wouldn't
8 have had enough time to get away.

9 I know how they function, and I would have
10 to wait for the opportune moment, and that's exactly
11 what I did when I got to Miami.

12 I didn't run away when I was there. I think
13 I have proven my point.

14 Q Weren't you being surveilled in Miami?

15 A In Miami? More than you could imagine.

16 Q And yet you escaped in Miami, but yet you
17 didn't try to run away when you lost the surveillance
18 in New Jersey.

19 You can answer with a yes or no.

20 A I'm not sure about that answer.

21 Q Now, while you were driving to your mother's
22 house on September 26, 1982, you didn't stop at a phone
23 booth to call for a lawyer or call for help, did you?

24 Please answer with a yes or no.

25 A No, sir.

1 Q And of course that day when you were at the
2 FBI you had repeatedly demanded a chance to call a lawyer,
3 didn't you?

4 A Yes, sir. They had not drugged me at that
5 point.

6 Q But when you were driving from Manhattan to
7 New Jersey, you never stopped at a pay phone to make a
8 call?

9 A The agents were right behind me up to the
10 entrance of the Turnpike at Newark. That's where I lost
11 them. They made a wrong turn, and in the circle there,
12 there that's where I lost them, because that's the area
13 where I work, and that's where I was able to get away
14 into a side street.

15 Q But you didn't go to a pay phone and call
16 for a lawyer or call for help, did you?

17 A I didn't have time enough for anything.

18 Q And while you were driving you never honked
19 your horn or anything else in Manhattan to attract
20 attention, did you?

21 A To call whose attention?

22 Q Anybody's attention, since you were being
23 drugged and kidnaped and everything else?

24 A I didn't have any reason to call the attention
25 of anybody in the street. I wanted to get in touch with

1 my lawyer, somebody who knew something about my case,
2 and what I actually did was to do what I did, and that
3 was to escape from you.

4 Q But not in New Jersey or New York?

5 A If I had enough opportunity I would have done
6 it, but you tried very hard to keep me from doing it.

7 Q Now, it was very important for you to reach
8 a lawyer, wasn't it?

9 A Considering the circumstances, yes.

10 Q Now, please answer with a yes or no whether
11 your mother had the instrument known as a telephone at
12 her house that night.

13 A Yes.

14 Q But you didn't call a lawyer, did you?

15 A No, sir.

16 Q Even though you continued to meet with the FBI
17 the next several days between New York and Miami; isn't
18 that a fact?

19 A In the first place, remember now, it was
20 Sunday morning. In the second place, when I got back
21 to Miami it was already late, and when I began on Tuesday
22 you had already put surveillance on me.

23 Actually, my situation was not a question of
24 going to the lawyer. It was the getting away from you.

25 Q And you knew very well that the person who

6mps

Arocena - cross

1 might help you to see that justice was done would be a
2 lawyer?

3 A Yes; of course.

4 Q But you didn't call a lawyer, did you?

5 A Later on I did try to call a lawyer.

6 Q But on Sunday, September 26th, at your mother's
7 house, you did not call a lawyer, did you?

8 A With the offices closed, how was I going to
9 call?

10 Q And you didn't ask your mother to call a
11 lawyer for you the following day, did you?

12 A My family doesn't know what was going on.
13 I had no reason to worry them with that problem. I have
14 never taken my problems to them.

15 Q That is because you never were kidnaped --
16 MR. AGUILAR: Your Honor, I think he should
17 be allowed to finish his answer.

18 THE COURT: Finish your answer, and then you
19 can ask the next question.

20 A I have never involved my family in anything,
21 so I had no reason to tell them what happened. It was
22 my problem with you, and I tried to solve it in the best
23 manner possible.

24 I tried to warn my companions and my com-
25 patriots what you are planning, what your plans were and

1 to warn them of them of the witch hunt that was after me
2 and everything that you did afterwards.

3 It worked out, because fortunately you haven't
4 been able to destroy it all. You have kind of destroyed
5 about half of the exile group, which has nothing to do with
6 anything, but you didn't destroy everybody.

7 I think that at least I cooperated somewhat
8 in that.

9 Q Are you completed with your answer?

10 A More or less.

11 Q Well, is there any more you would like to say
12 in response to that question?

13 A Is there anything else you want to know?

14 Q Yes. I would like to know and perhaps the
15 jury would like to know why you didn't even ask your mother
16 to try to get in contact with a lawyer the following day
17 for you?

18 MR. AGUILAR: Your Honor, he has already
19 answered that question.

20 THE COURT: I will let him go further.

21 If there is anything else the witness wishes
22 to say, I will allow it.

23 A I told you previously and you know better than
24 anyone that not my mother but my wife, who lives with me,
25 never, has never known anything about what I do.

1 I have never involved anybody in my family
2 in anything. I had no reason to get her involved in
3 what what was happening to me at that time.

4 My mind was a bit confused. I didn't know
5 exactly what was happening at that time. I was trying
6 to coordinate my ideas, and I tried to deal with the
7 situation the best that I could.

8 I think that's the best thing that I did.

9 Q Isn't it a fact that after the Court appointed
10 Mr. Walpin for you you had your wife get a lawyer for you?
11 Mr. Orta?

12 A I did not understand that very well.

13 Q Isn't it a fact that after the Court had
14 appointed Mr. Walpin to represent you, you asked your wife
15 to find another lawyer, and she found Mr. Orta, another
16 lawyer, for you?

17 A That's true.

18 Q Now, Mr. Arocena, you testified yesterday that
19 after you had dinner with your mother that day you saw two
20 friends of yours?

21 A Yes.

22 Q Did you see them at your mother's house or some
23 place else?

24 A In the backyard of the building there.

25 Q Who were these two friends?

1 A I don't remember at this moment.

2 Q But you warned them about your situation;
3 right?

4 A About what you were trying to do, yes.

5 Q And you didn't ask them to get you a lawyer,
6 either, did you?

7 A I told them what was happening, that you had
8 taken me to New York by force and that you had drugged me
9 and that you were following me and that you were outside
10 and that you wanted me to go back.

11 That's what I told them.

12 Q And of course you didn't ask them for any help
13 of any kind, did you?

14 A When they asked me what I wanted from them, I
15 told them, nothing, absolutely nothing.

16 Q And that is because you didn't really need any
17 help, since you had not been kidnaped or drugged, had you?

18 A No. I just didn't want them to get involved
19 in anything either and to give you the opportunity to get
20 two more wretches.

21 Q So you did not ask them to try to get a lawyer
22 for you or other help for you?

23 MR. AGUILAR: Your Honor, I will object.

24 He has already testified, no, he didn't ask them to get
25 a lawyer.

1 THE COURT: I think he did. All right.

2 Let him respond again. I thought he did, too, frankly.

3 A I told them about the situations that existed,
4 and that's all.

5 Q Now, on Monday, September 27th, when you
6 flew home to Miami, you stayed at your own home that night;
7 correct?

8 A Yes, sir.

9 Q And there were no FBI agents inside the house
10 with you, were there?

11 A It would have been a rather serious problem
12 for my wife, but they were outside. Two cars.

13 Q The question is, were there any agents inside
14 the house that night?

15 A They may have been in the yard of the house,
16 but there were two cars outside.

17 Q The question is, and I think you can answer
18 with a yes or no: Were there any FBI or other Government
19 agents inside your house that night?

20 A Outside the house.

21 Q Were there any inside the house?

22 A They weren't under the bed.

23 Q Were there any inside the house?

24 A Not that I saw.

25 Q Did you have a telephone in your house?

1 A Yes, sir.

2 Q Did you call for a lawyer or for any other kind
3 of help?

4 A First of all, I knew that my telephone was
5 already bugged by you, and in the second place my lawyer's
6 office was closed.

7 In the third place, I had already decided that
8 I had to leave.

9 At any rate, I did not need a lawyer nor ten
10 lawyers. I just had to get away from you, and that's
11 what I did.

12 Q And that's why you went to your office the
13 following morning, because the FBI couldn't find you there?

14 A No, sir. I went to my office to put my
15 matters in order, to pick up certain documents that I had
16 there, and I noticed that the office had been opened, and
17 I noticed that certain papers had been shuffled, and I
18 noticed, I had set the numbers on the copying machine, and
19 I noticed that they had made two hundred or three hundred
20 extra copies on it, and no one works at my office.

21 You all entered there. You took my papers
22 and you took the extra copies that were there. You knew
23 what you were doing.

24 Q Are those the Omega 7 documents that have been
25 introduced at the trial?

1 A No, sir. My legal papers and the papers that
2 I used in my office, the normal ones, the legal white
3 papers, and I usually had quite a supply of them there.

4 Q Now, that same day, Tuesday, September 28th,
5 1982, you drove on your own to meet the agents at the
6 Ramada Inn; is that correct?

7 A When I left my house, the Federal agents
8 followed me to my office. When I got there, I saw the
9 cars parked, and when during the morning when I was at
10 the office, Agent Wack called me, and he told me what room
11 he was in, and he told me what time he wanted me to go
12 there and meet them and for me to be there punctually and
13 to try not to be late.

14 Q Will you please answer with a yes or a no?

15 MR. AGUILAR: Your Honor, the man is trying to
16 answer the question.

17 THE COURT: He has a right to ask the question
18 that way, and the witness should respond yes or no or he
19 cannot answer the question that way.

20 MR. AGUILAR: I think he is making a sincere
21 attempt to answer the question.

22 THE COURT: Don't editorialize on your belief.
23 You are thrusting your opinion into the case. He is
24 speaking words. If the jury believes he is answering the
25 question to the best of his ability they will accept that.

1 If they don't, they will reject it.

2 It is not for you or me to evaluate his
3 credibility.

4 MR. AGUILAR: Your Honor, I am not trying to
5 argue with the Court. I am just trying to say he is
6 trying to get to the answer.

7 THE COURT: Let's get on with it.

8 Q Please answer yes or no:

9 Did you drive alone in your car to the Ramada
10 Inn that day?

11 A Yes, sir.

12 Q And did you -- and please answer with a yes
13 or no -- meet with the FBI agents there that day?

14 A Yes, with a whole bunch of them.

15 Q And did you -- please answer yes or no --
16 excuse me. Was this two days after you had been kidnaped
17 and drugged?

18 A It was a Tuesday.

19 Q So since you were kidnaped and drugged, accord-
20 ing to your testimony, on Sunday, this was two days later;
21 is that correct?

22 A Yes. A Tuesday, yes, sir.

23 Q And you did not make any attempts to have a
24 lawyer with you there with the FBI; yes or no?

25 A I answered you previously that my intention

1 was not that of looking for a lawyer but of looking for
2 the chance to get away, and I don't know whether you
3 realize that, but it is probable if you would analyze my
4 telephone calls you would know it was very difficult for
5 me to get in contact with my lawyer, Villa Lobos, very
6 difficult to try to make an appointment with him, and
7 actually I didn't want to lose any more time and to give
8 you the opportunity to know what my intentions were, because
9 you let me know why clearly you don't have the slightest
10 chance with a lawyer; you've got to cooperate with us.
11 We are going to give you all you need so that you will
12 cooperate with us.

ET2

13
14 (Continued on the next page.)
15
16
17
18
19
20
21
22
23
24
25

1 Q Isn't it a fact, sir, that the only time you
2 ever met personally with me before you ran away was in
3 the grand jury where I read you all your rights, including
4 the right to a lawyer?

5 A And isn't it true, Mr. District Attorney, that
6 you are the one who is in charge of the grand jury?

7 MR. TABAK: I ask that the answer be stricken.

8 MR. AGUILAR: I ask that Mr. Tabak not argue
9 with the witness.

10 THE COURT: He is not arguing with the witness.
11 He asked that the answer be stricken. The witness has
12 not completed his answer and it is the normal practice
13 in my court to let the witness complete his answer,
14 and then you can move as you seem appropriate.

15 Let's have the question and answer read up
16 to this point, but the answer must respond to the question
17 he asked.

18 (Record read)

19 THE COURT: Isn't that the only time you met
20 face to face with Mr. Tabak?

21 THE WITNESS: Yes, but he didn't let me
22 finish.

23 THE COURT: You may finish.

24 THE WITNESS: Thank you, your Honor.

25 A And isn't it true, Mr. Tabak, that you are up to

(Strickman 2308)

1 date on all of the investigation regarding me, that the
 2 day that I appeared before the grand jury you had all of
 3 the information regarding me for quite some time back,
 4 because you already knew quite some time before that
 5 who Eduardo Arocena was, because Mr. Wack and the federal
 6 agents were giving it to you and you were already preparing
 7 the set-up for me on that occasion, because you knew
 8 perfectly well who Eduardo Arocena was? Even more than
 9 that, you even knew the questions you were going to have to
 10 ask me, indeed, even the questions that you knew you
 11 could catch me in perjury with, because you knew well
 12 that the identity of Medina had to do with the government
 13 of the United States, and when you asked me, knowing that
 14 I had been turned over, I had to protect it and that is
 15 what I did, and that I had been trained in explosives and
 16 trained in underwater demolition and trained in arms and
 17 trained in infiltration and trained in many other thing,
 18 and I had to protect all of that.

19 That is the reason I lied before the grand jury,
 20 because you knew very well who I was, because for that
 21 reason I didn't need a lawyer at that time, because I
 22 thought that I could act like a normal person, like any
 23 other person, and I tried to be as honest as possible, but
 24 you knew exactly who I was and you knew how to catch me
 25 in that situation, because the trap was already prepared,

1 not only for me, but for all of our compatriots.

2 Now you can go on with your game.

3 MR. TABAK: Your Honor, I ask first that
4 everything in the answer except the word "yes" be stricken
5 and I ask that the witness be ordered and explained the
6 consequences of disobeying the order, to answer only the
7 questions.

8 MR. AGUILAR: May we have a side bar?

9 THE COURT: No. Let me hear the question.

10 (Question read)

11 THE COURT: Mr. Arocena, you gave a long
12 answer. Can you answer Mr. Tabak's question, which was
13 just read back -- can you answer that question yes or
14 no, and if you want it read back once again and
15 translated, I will have that done.

16 THE WITNESS: Your Honor, how can I answer
17 Mr. Tabak, give him an answer, in the way that he asks
18 me?

19 THE COURT: That is my point. If you cannot
20 answer the question he asked yes or no, just say that you
21 can't.

22 THE WITNESS: I am trying to give the best
23 possible answer, but he takes me and he corners me in a
24 certain way, and I am afraid to lie here.

25 THE COURT: It is very important, obviously,

1 that you tell the truth. You are under oath, and the
2 jury as well as the court expects you to tell the truth.

3 If he asks you a question where he says,
4 "Answer yes or no," I give you a third choice: You either
5 answer yes or you answer no or you say, "I can't answer the
6 question yes or no." Then he can ask either another
7 question or he can drop the matter.

8 Do you understand?

9 THE WITNESS: Now I do understand.

10 THE COURT: We will have the question that was
11 asked by Mr. Tabak a few minutes ago read back to you,
12 with my comments to you in your mind. All right?

13 THE WITNESS: Yes, your Honor.

14 THE COURT: We will strike at this point the
15 prior response, and have the question re-put to the
16 witness.

17 (Question read)

18 A Yes, sir.

19 Q Mr. Arocena, you testified yesterday, and I am
20 referring to pages 2289 and 2290 in the transcript, that
21 after you were sent to Otisville, after you were arrested,
22 and I am quoting from line 21, "You never allowed the
23 press to go up there and visit me and you know that there
24 were many times that I asked to see the press, so that I
25 would be able to speak to them, to tell them about all the

1 abuse you were committing against me and all the violations
2 you were doing against me," and so on.

3 MR. AGUILAR: I object. If he wants to refer
4 to that, I think he should read the whole answer, which begins
5 on page 2289.

6 MR. TABAK: I will read the rest of the
7 paragraph.

8 MR. AGUILAR: Your Honor, that is not fair
9 enough. If he is going to refer to this particular answer,
10 he should read the whole answer, the question and the
11 answer.

12 THE COURT: Read the whole question and the
13 answer.

14 Q The question was:

15 "Q Would you explain why during all these sessions
16 you never complained before today that you were being
17 drugged?" And then you answer:

18 "A In the first place, the only judge that I have
19 complained to about my condition and the only judge to whom
20 I brought all my problems is Judge Ward. He has been the
21 only one that I have to thank because he signed an order
22 so that they would permit me to see my family and so that I
23 could speak to my lawyer because you well know that
24 when I was in Otisville, you gave the order so that I
25 would be able to speak to my family only once a month and

1 twice a month with my lawyer, designed by you. I was
2 deprived of all that, and you know that up there I was
3 submitted to this drug treatment and you know that I was
4 stuck in a hole up there and you know that you had me
5 incommunicado up there and you know that you were manipulating
6 my situation on the outside and that you are seeing
7 everybody, making everybody believe that I was cooperating,
8 making them believe that I was one of yours so that you
9 could get confessions out of other companions. And that
10 is the reason you never allowed the press to go up there
11 and visit me and you know that there were many times
12 that I asked to see the press so that I would be able to
13 speak to them to tell them about all the abuse you were
14 committing against me and all the violations you were
15 doing against me, and why I had to wait for five months
16 before I was even charged and why you were submitting my
17 family to the abuses you were submitting them to, that
18 I was deprived of their visit and every time that they
19 went to visit me, you kept them waiting two or three hours
20 just because you wanted to, where you put them through
21 about 20 different abuses."

22 I have finished quoting at this time. The
23 answer goes on for another two pages, and I would just
24 like to ask about the portion that was read up to this
25 point.

1 Mr. Arocena, isn't it a fact that you were
2 interviewed at Otisville by a reporter from the New York Post
3 at your request? Please answer yes or no.

4 MR. AGUILAR: I object to that question.

5 THE COURT: Overruled.

6 MR. AGUILAR: Thank you, your Honor.

7 A I am going to use the third option which the
8 judge gave me, that is, that I want to explain why.

9 Q Instead of doing that --

10 MR. AGUILAR: I object.

11 THE COURT: I will let you do this: First
12 answer yes or no, and then I will ask you the question if
13 you wish to explain why.

14 THE WITNESS: I see.

15 THE COURT: Answer his question yes or no.

16 A No.

17 THE COURT: You did not meet with a reporter
18 from the New York Post at Otisville? The answer is no?

19 THE WITNESS: No, I did meet with a reporter.

20 THE COURT: From the New York Post?

21 THE WITNESS: Yes, sir.

22 THE COURT: Who came to the prison at Otisville
23 and interviewed you?

24 THE WITNESS: Yes, but I want to explain how.

25 THE COURT: Now I will let you explain how.

1 MR. FERNANDEZ: Thank you, your Honor.

2 THE COURT: Go ahead.

3 THE WITNESS: Thank you.

4 A Indeed, I wanted to speak to the press and
5 explain my situation to them. First of all, I tried to get
6 in contact with our newspapers, and you tried to keep that
7 from happening, starting with Pedro Hernandez. When he
8 tried to see me, you blocked his visit.

9 Then I tried to get in touch with Karen Payne,
10 of the Miami News, and on numerous occasions she tried to
11 get in touch with me, and you always, especially you,
12 Mr. Tabak, would send an order to Otisville so that I would
13 be kept incommunicado, so that the press would not be
14 able to speak to me.

15 It so happened that a reporter from the
16 New York Post had the courage to sneak in and give me
17 an interview, and he came in posing as a friend of my
18 sister. When I saw him, I asked him who he was and he
19 told me that he was a newspaperman, that he worked for
20 the New York Post, which made me very happy, and I,
21 basing myself on the time that we had, I gave him an
22 interview and the interview is around here somewhere.

23 Q Isn't it a fact that the government asked
24 the judge not to permit you to be interviewed unless the
25 judge first explained to you that anything you said

1 could be used against you? Yes or no.

2 A Yes, sir.

3 Q Isn't it a fact that after Judge Ward did
4 explain that to you, that the government no longer objected
5 to you being interviewed, since you understood the
6 situation? Yes or no.

7 A I would like to explain to the judge, because he
8 doesn't give me a chance to explain things --

9 THE COURT: Go ahead.

10 A You are asking me whether the judge said all
11 that to me. Indeed, he did, but you forget that those
12 interviews were before I saw Judge Ward, a long time before
13 that, and precisely when I finally came into Judge Ward's
14 presence, already the interviews, not only that of the
15 New York Post but that in Miami, were already there,
16 so that your information is not exact. I suggest that you
17 check it out better.

18 Q Mr. Arocena, did you testify truthfully
19 yesterday when you testified that there were no interviews
20 with the press when you were at Otisville? Yes or no.

21 A Yes.

22 Q But you have just told us you were interviewed
23 at Otisville by the press, didn't you?

24 THE WITNESS: Your Honor, I would like to
25 explain.

1 THE COURT: Go ahead.

2 A I again repeat to you that I tried in every
3 manner possible, from the time I was in Otisville, to get
4 in touch with the press, and I even sent letters to the
5 press, and there is a lot of proof of that, and basing
6 myself on the letters and the context I tried to make, you
7 all got scared, because you didn't want my compatriots
8 to know the truth and you tried -- all the time you tried
9 to keep me from making any contact with the press.

10 Even after having made contact with the press,
11 you tried to force me here not to have any future contact
12 with the press, and it was then when Judge Ward warned me
13 about the consequences of my future statements, that they
14 might be used against me, and basing myself on that, I
15 had to have a lawyer present, because you were afraid
16 that I would say certain things, these very things
17 that I am saying right now.

18 At that time, I didn't want to say, because
19 I didn't want to tell anybody what was happening, because
20 you sent a lot of messengers to find out what I had
21 against you, because you were afraid of losing the case,
22 like you are right this minute. For that reason, you
23 don't want to even give one inch of credibility to my
24 things. You are never satisfied when you start piling up
25 evidence over there, because you are afraid, because you are

1 not sure that you got me, because it is your career which
2 is at stake, not only my freedom.

3 Everything that I have said here is on the
4 record and maybe I will remember a little bit more, a little
5 bit less, but everything is there and I have nothing to
6 hide. So you can go on asking me questions.

7 MR. TABAK: Your Honor, the question clearly
8 called for a yes or no and did not require any explanation.
9 I ask that the entire answer be stricken.

10 THE COURT: I will let it stand, but I will
11 let you ask a follow-up question.

12 MR. AGUILAR: Your Honor, if I may follow it
13 up with an objection --

14 THE COURT: Why should you? I said I would
15 let the answer stand. You have nothing more to say,
16 do you?

17 MR. AGUILAR: No, I don't, your Honor.

18 Q Mr. Arocena, yes or no, were you interviewed
19 by the New York Post reporter while you were at Otisville?

20 MR. AGUILAR: That has been asked and answered
21 already, your Honor.

22 THE COURT: Let's get it clear on the record.
23 Mr. Tabak doesn't think he recalls the answer, but I do,
24 and I thought he said that there was a point in time
25 when he was at Otisville where someone from the Post

1 actually was able to talk with him.

2 Is that correct?

3 THE WITNESS: Yes, your Honor.

4 Q And that reporter was someone that you wanted
5 to talk to, correct? Yes or no.

6 A Yes, sir.

7 Q And is it also correct that you had a
8 two-hour interview with him? Yes or no.

9 A Approximately, yes.

10 Q Isn't it a fact that at no time during that
11 interview did you tell him anything about having been
12 kidnapped or drugged? Yes or no.

13 A I don't remember that.

14 Q I show you Government's Exhibit 23 for
15 identification --

16 MR. AGUILAR: I object to that, your Honor.

17 THE COURT: He may show it to him. I don't
18 know where it is going.

19 Q Do you recognize that article from the New York
20 Post about that interview?

21 A Yes, sir.

22 Q Does that refresh your recollection that you
23 didn't say one word to the New York Post reporter about
24 having been drugged or kidnapped?

25 A No, it doesn't.

1 MR. TABAK: The government offers Exhibit 23
2 in evidence.

3 MR. AGUILAR: I object to it, your Honor.

4 THE COURT: Sustained.

5 THE WITNESS: I would like to say something.

6 THE COURT: Well, there is no question pending.

7 Q Isn't it also a fact that answers that you sent
8 to Karen Payne were published in the Miami News while you
9 were at Otisville? Yes or no.

10 A Clandestinely, yes.

11 Q They were published publicly in the Miami News,
12 yes or no?

13 THE COURT: On Saturday, February 4, 1984?

14 THE WITNESS: Yes, sir.

15 Q It was a very lengthy article, wasn't it?
16 Yes or no.

17 A Yes, sir.

18 Q And at no time did you tell the Miami News
19 that you had been drugged or kidnapped, did you, sir?
20 Yes or no.

21 A No, sir.

22 Q You testified on Monday that the reason you
23 came to the United States as a stowaway from Spain is
24 that the red tape of coming legally was taking too long.
25 Isn't it a fact that it was only a few months that you

1 waited in Spain before you came to the United States
2 illegally? Yes or no.

3 A Yes, just a couple of months.

4 Q So you decided you didn't have to follow the
5 Immigration laws of the United States? Yes or no.

6 MR. AGUILAR: Your Honor, I am going to object
7 to that.

8 THE COURT: I will allow an answer, if the
9 witness can answer.

10 Overruled.

11 A In accordance with my situation, yes.

12 Q And of course you already had gotten asylum
13 in Spain, had you not? Yes or no.

14 A Yes, but my final destination was the
15 United States.

16 Q But you already had asylum in Spain, correct?

17 A I had asylum through the American Embassy in
18 Morocco.

19 Q You also testified on Monday that you opened
20 a handbag that belonged either to Manny Fernandez or
21 Tony Ibarria while they were out of the office getting
22 coffee, and that you photographed an address book that was
23 in there?

24 A Yes, sir.

25 Q Did you have their permission to do that?

1 A No, sir.

2 Q Did you have any kind of court order permitting
3 you to do that?

4 A The same ones that you have that gives you
5 permission to go in anyplace when you want to, to find
6 out something, when you want to penetrate where the enemy
7 is.

8 Q What judge gave you that court order that you
9 had?

10 A Morality.

11 Q So morality allows you to do things that are
12 against the law?

13 A If to look for the way to destroy or to look
14 for evidence, to look for information about individuals
15 who are cited, who are mentioned as Castro agents
16 infiltrated into the United States and who are in charge
17 of introducing drugs into the United States, and if
18 I have received the order of checking on them and many
19 others, I don't have to mention the name of any judge to
20 carry out those missions, and many others.

21 Q And that is because there was no judge, was
22 there?

23 A You know very well that in this kind of thing
24 there at no judges. When they give you orders to do
25 things, you do them, the same one that Mr. Mack told me.

T3

1 Q Isn't it a fact that during this very trial
2 and before the trial you have seen the Court order signed
3 by a Federal Judge for the wiretap on your phone and that
4 you have seen the Court order signed by a Federal Judge
5 for a search warrant of the place you were arrested?
6 Yes or no?

7 A Yes. I saw them after about a year. I'm sure
8 it was quite difficult for you to get those orders.

9 Q And of course you saw the dates on those orders
10 were before the wiretap started and before the search
11 started?

12 A I haven't seen others which I know were previous
13 to that as well as I haven't seen other documents that
14 you haven't wanted to show to me.

15 There are a lot of things taht you haven't
16 wanted to show, and you know that quite well.

17 MR. TABAK: Your Honor, I ask that the answer
18 be stricken.

19 THE COURT: I will let it stand.

20 Q Mr. Arocena, you testified yesterday that you
21 legally owned several weapons, including an AR-15 and
22 an Uzi.

23 A Yes, sir.

24 Q You have identified Government's Exhibits 1023
25 and 1025 as two of the five receipts you had for those

1 weapons; is that right?

2 A Yes, sir.

3 Q And, indeed, when you were before the grand
4 jury on September 2, 1982, you also produced receipts
5 for those same weapons; is that correct?

6 A Yes. I turned them over to you, and you read
7 them all.

8 Q And they were given back to you that day?

9 A Yes, because they were mine.

10 Q And as the receipt shows --

11 A Excuse me. You asked me to give them to the
12 FBI so they would make copies of them, which I did, and
13 then they gave them back to me.

14
15 Q Now, is the receipt correct that the AR-15
16 cost you \$572?

17 A Yes. The amounts that appear there. That's
18 what it cost.

19 Q And did you pay cash for that?

20 A Possibly, yes.

21 Q And is it correct that the Uzi and accessories
22 and the clips and ammunition cost you \$640?

23 A Yes, sir.

24 Q And once again you paid cash?

25 A I didn't have any reason to pay with a credit.

1 card.

2 Q And so you paid cash?

3 A And the dealer was quite happy about that.

4 Q Of course, you did have credit cards and a
5 checking account at that time, didn't you?

6 A Yes, sir.

7 Q Now, are the serial numbers on those receipts,
8 Exhibits 1023 and 1025, the correct serial numbers for
9 the weapons you bought?

10 A Yes, sir.

11 Q Now, in the grand jury on September 2, 1982,
12 you testified that you had never loaned any weapons, these
13 or any others, to anybody; is that true?

14 A Yes, sir.

15 Q Will you explain to the jury how Government's
16 Exhibit 2077, which is an AR-15, and Government's Exhibit
17 2078-A, which is an Uzi, which bear the same serial numbers
18 and the serial numbers on those receipts of yours, were
19 found at this Mini-Stor-It locker that you say you never
20 had any connection with?

21 A Yes, sir. Ask your witness. Ask your
22 witness Necuze. He's the one that was keeping the files.
23 He's the one that was in charge of that mini warehouse.

24 When I was on the run, I went, when my wife
25 wasn't there, I went to my house, and I took all the

4mps

Arocena - cross

1 weapons. I took clothes and the necessary things, and
2 then I called her later. I told her about it. I told
3 her not to be afraid nor to think that she had been
4 robbed, that I had been at the house.

5 She said she was going to change the latches,
6 because she did not like the situation, and I told her
7 that was fine, and I never thought about bothering her
8 again, and if I am not mistaken I think the combination
9 is somewhere around there.

10 All of this landed up in the custody of Mr.
11 Necuze and Mr. Gonzalez, who is a friend of mine, a very
12 fine person.

13 In some way or other, Mr. Necuze put it all
14 in a corresponding place, and he gave it to you, and he
15 sat right here to testify against me.

16 He is your witness. All of that, he is the
17 one who produced it. For that reason I am explaining to
18 the jury where these things all appeared from, because
19 everything appeared in my house -- not in my house but
20 in the apartment where you arrested me, because he had
21 the key to that place, because I was reading a bunch of
22 things the other day, and I had been located there already
23 a month, and you had more than enough time, and you
24 prepared the situation there, because you know that I
25 came i and I left the place for several days, and you

1 prepared that situation, and when you arrested me you
2 stuck all of those things in the house, and that's the
3 reason it appeared in a different place, because one
4 single person who helped you, my friend, Gerardo Necuze,
5 your witness.

6 Q Of course, that is not what his testimony was,
7 was it?

8 A I suppose, I imagine he said what you told him
9 to say. Aren't those the rules of the game? Isn't
10 that what you promised him, that he had to say that in
11 order to get what he wanted?

12 Q Have you read his cooperation agreement?

13 A I don't think there is a single human being
14 who could possibly absorb the enormous amount of papers
15 that were given to a person in such a short period of time
16 like the papers that were given to me.

17 In practically just about a month in the
18 situation that happened, and everyone has seen me every
19 single day, dragging in that great big suitcase that I
20 have there, and if you go to my cell you will see that
21 I've got a three- or four-foot high pile of documents,
22 apart from the two or three hundred tapes that you brought
23 to me.

24 Apart from all of the problems, the enormous
25 amount of problems that I have all day, every day with

6mps

Arocena - cross

1 you, I have tried to cover in the shortest possible time
2 without going crazy and to prepare myself the best way I
3 can and to bring myself up to date on everything and to
4 try to deal with the situation.

5 So that whenever you asked me whether I have
6 seen certain things, unfortunately sometimes I haven't
7 seen them until the day before or the night before.

8 For instance, last night I saw the testimony
9 of Justo Rodriguez, because you went home to sleep early
10 last night in your house, but I had to spend almost two
11 hours waiting for them to send me from the MCC upstairs,
12 because you know that that is how they make me sweat, of
13 making you waste time, and I went to bed last night at
14 about two in the morning, checking my papers, to prepare
15 myself the best I could for all this crap that you bring
16 in here.

17 And for that reason I answered you the best
18 I could, and I will tell the jury where did all this come
19 from.

20 Are you satisfied with my answer or do you
21 want more?

22 Q In other words, you thought Mr. Necuze's
23 testimony was so unimportant and so uninteresting to you
24 that you never bothered to read his grand jury testimony
25 and his cooperation agreement? Is that your testimony?

1 Yes or no?

2 A I would like to answer.

3 Q I will ask if you can answer:

4 Did you ever read Mr. Necuze's grand jury
5 testimony and cooperation agreement, which was provided
6 to you by the Government? Yes or no?

7 A I have not been able to read it.

8 Q Now, whom did you give your Omega 7 documents
9 to, to hide for you?

10 A I have never had any documents from Omega 7.

11 Q We will start with Exhibit 1109, yellow and
12 white tag, and 1109-A and 1109-B.

13 Will you explain to the jury how your finger-
14 prints got on all of these?

15 A Maybe I can explain the origin of that card-
16 board thing.

17 That cardboard, I had quite a few of them.
18 They were not mine. They belonged to my wife. They
19 were for her pinata business.

20 Do you know where they were? They were in
21 my office, where you broke in and took them and the rest
22 you all did, and maybe Necuze did or any other one of
23 those people, and then they got my fingerprints, and I
24 have not denied the fact that the fingerprints are on them,
25 but it is doubtful.

1 Q I am going to show you Exhibit 1008, an
2 Omega 7 communique, and Exhibit 1030-C, which is the
3 Anarchist's Cook Book.

4 Did your wife use those for her pinata busi-
5 ness, too?

6 A No, sir. No. I had this book. I bought
7 it at a book store.

8 THE COURT: Indicating Exhibit 1030-C.

9 A (Continuing) And I bought the other one, the
10 Big Brother's Game, which explains all of your techniques,
11 a very interesting book, which everybody should read and
12 which does not show up very often in book stores.

13 Q So the Government didn't put your fingerprints
14 on there; they got there because you had them?

15 A This was in my apartment together with a
16 variety of books.

17 Q And how about Exhibit 1008, the Omega 7 com-
18 munique, which Agent Martin testified had you prints
19 on it?

20 THE COURT: Repeat the question, Mr. Reporter.

21 (Question read.)

22 A What was so difficult about this document?

23 Q How did your fingerprints get on there?

24 A I have already explained that you broke into
25 my office, and in my office there was an enormous amount

1 of boxes of paper and blank paper, and I still doubt
2 whether my fingerprints are on there, knowing that you
3 are capable of lifting a fingerprint and putting it
4 wherever you want, because that is the way you operate.
5 That's the way you do things.

6 With regard to this document, anyone could
7 have made it. I go to your office, I can take one of
8 the things that you use, a blank one. I look for a
9 typewriter, and I write what I have to write, and I take
10 one of these stickers, I stick it on the top, and I say
11 "Mr. Tabak", because it's got Mr. Tabak's prints on it.

12 Come on. I thought that you could do some-
13 thing better than that.

14 Q Of course, you never had an Omega 7 communique,
15 because you never were a member of Omega 7?

16 A Let me tell you something.

17 Having heard the testimony of Mr. Wack, as
18 careful as I was, because it seems because I wrote it with
19 balloons on my hands, I used gloves -- I was a professional.
20 I didn't leave any kind of fingerprints, and there are
21 also four or six sets of gloves.

22 Don't you think if I were Omar in eight or ten
23 years that you would never have been able to get a single
24 fingerprint of that person or any of his members, that I
25 was going to suddenly appear with this amount of finger-

1 prints, so easy?

2 Q So your testimony is you were never a member
3 of Omega 7?

4 A I told you before that I don't have the
5 privilege, the honor to be a member of Omega 7, because
6 for me it would be an honor.

7 I don't care what you say. That is what I
8 feel for them.

9 Q And you have always supported Omega 7, what
10 it does?

11 A Yes, from deep down in my heart, and about
12 that I will take any consequences that I have to take, and
13 if you want to find me guilty for that, fine, and if you
14 don't, let the trial finish right here and now, because
15 I don't feel at all ashamed to that, because as a Cuban,
16 as an expatriate, which I am, and as an anti-Communist and
17 as a fighter, which I am, I feel very proud of that group
18 as well as of many other clandestine groups, and all they
19 do is fight against Communism and to be allies of this
20 country and to try to destroy Communism and to fight against
21 Imperialist Russia, the very ones who are trying to destroy
22 this country.

23 Unfortunately, you don't do anything against
24 them. On the contrary, you are trying to destroy those
25 who are struggling against them.

1 Q In other words, you believe that people who
2 blow up buildings and murder people in the United States
3 should not be prosecuted as long as they don't like Castro?

4 A I think that people who violate the law in
5 the United States, if they are captured they should be
6 judged in accordance with the situation.

7 In our case, and I am referring to the case
8 of Cubans, it should be remembered that the situation that
9 we are in is not our fault. It has been provoked by
10 the American Government because of the pact which they
11 signed, where they miserably tied our hands trying to keep
12 us from carrying out our duty to free our country from
13 the hands of the red tyrant and from a foreign power which
14 has the Island completely covered with missiles and
15 nuclear arms, and invading armies from other countries,
16 pointing where? Pointing at the United States, looking
17 for instructions at any time.

18 And who are we? The only ones who can stop
19 that, and they don't want to give us the opportunity, and
20 for twenty-five years they have been betraying us.

21 And what do you want us to do? Surrender?
22 We are not going to. As long as there is an exiled
23 Cuban we are going to go on fighting, and they will go on
24 living here, and in any court of the United States, and
25 the juries will go on, because we will go on no matter

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

ET4

what the price is.

That's all.

(Continued on the next page.)

1 Q So, in other words, you agree that the
2 United States Government should prosecute murderers and
3 bombers in the United States, but you just feel that we
4 have the wrong man this time?

5 A It would be very easy for me to say that you
6 made a mistake, which is true. You say no, but luckily
7 for me, my luck is not in your hands; I put it in the
8 hands of the jury. They are the ones that have to make
9 the decision.

10 Q But you agree completely that the United States
11 Government should prosecute people who commit murders
12 and bombings in the United States, is that correct? Yes
13 or no.

14 A In accordance with the law, yes.

15 Q Can you explain to the jury why out of
16 220 million people in the United States, we have picked
17 on you?

18 A Because I already explained to you before
19 that you and an elite group, in order to cover up a series
20 of situations, used me as a cornerstone and as a ^{scapegoat} squealer.
21 I am not the first one, nor am I the last, and the example
22 has been given before, and even at this moment, and
23 will continue in the future, because all of this is part
24 of a plan so that you can get out of it the way that
25 you are trying to, so that you can comply with the pact

1 that you have signed, so that you can cover up your own
2 cowardice, because you don't have the nerve to fight
3 against Communism, because there are groups that do
4 have the courage to do it and you are the ones that put
5 them into difficult situations and you cannot allow
6 that because one has to respect pacts.

7 You are the ones that respect pacts. The
8 United States respects pacts. One part of the
9 United States forces them to respect pacts, precisely, the
10 Communist allies. The Communist allies are the ones that
11 force these pacts to be respected.

12 Q And why did the United States Government pick
13 on you instead of Pedro Remon or somebody else?

14 A Because, simply, when everything began,
15 I was supposed to instead of testifying -- I was supposed
16 to have taken the Fifth Amendment, because the plan is to
17 put all of the heads inside of jail, and when I say
18 "head," I refer to hotheads, which is the way you refer to
19 us, we people who are worried about fighting for our
20 country, revolutionaries and fighters, people who are
21 concerned about democracy. Those are the ones you call
22 hotheads, people who don't allow Communists to do whatever
23 they want to with the United States, people who base
24 themselves on their own constitution to abuse the
25 United States, to try to destroy it, to become allies with

1 the enemy, they create destruction within the United States,
2 and when someone who shows up who is against those forces,
3 they are hotheads, they are opposed to pacts. One has
4 to destroy these people and that started more than ten
5 years ago, after the pact you had to put everyone in jail,
6 and you did little by little, little by little.

7 Q Isn't it a fact that in September, 1982,
8 you concluded that Pedro Remon had ratted on you and
9 you decided to rat on him and everyone else in the group?

10 A It is not true. On the contrary, all of the
11 rumors that you started going in the street were completely
12 backwards. You also said that through Pedro Remon you
13 had gotten to me, when the truth is really something else.
14 You are protecting some people who from since the year
15 1979 -- some person gave my name and you know who that is,
16 and you changed that person's situation at that time and
17 started pointing at me and pointing at a whole series of
18 compatriots who are in exile.

19 Don't blame Pedro Remon. Don't blame anyone.
20 You are the ones who created the situation which is dividing
21 us completely. You showed me papers, you showed me
22 statements, you showed me tapes of conversations with all
23 of these compatriots who were testifying against me and
24 giving information against me and against other compatriots,
25 trying to get me to cooperate, that they were enemies of the

1 United States, that they were even cooperating with Cuba,
2 and I heard you and I told you at that time I didn't want
3 anything to do with that because we Cubans have a pact
4 among ourselves. We do not believe anything until the
5 person sits down here and starts talking. I am telling
6 you so that you will know what the thing is like, so that
7 you will know how we Cubans are, so that you will know how
8 Justo Rodriguez had to feel, and Necuze, when they sat
9 here, and that other crap about Manny Fernandez doesn't
10 interest me because he is nothing but a criminal, and you
11 know who he is. He is a criminal who works for Castro,
12 a confessed criminal who has been ruining this country
13 with drugs, but you are protecting him.

14 Q And that is why you let him in your house
15 where your children live?

16 MR. FERNANDEZ: Your Honor, most respectfully,
17 could we have a side bar or a small break? We have a
18 matter that really shouldn't come before the jury. It is
19 collateral to the trial, but we need a break at this time.

20 THE COURT: We will take a short recess,
21 ladies and gentlemen.

22 Ladies and gentlemen, please do not discuss the
23 case among yourselves, and continue to keep an open mind.
24 There will be a brief recess, perhaps ten, maybe a few more
25 minutes than that.

1 (The jury left the courtroom)

2 THE COURT: We will proceed to the side bar.

3 (At the side bar)

4 MR. FERNANDEZ: I will preface my comment or
5 statement by making a comment that the work of the
6 interpreter has been excellent. However, I noted that
7 he has been translating for approximately two hours
8 and in the last response, which got somewhat winded, there
9 were a couple of words that were perhaps crucial and
10 at the same time I thought perhaps he needed a break.
11 I asked the head of the interpreters if it would be
12 proper and she said to take the matter at the side bar.

13 In all fairness to him, the interpretation
14 has been excellent. The one word that gave me a problem
15 was "chivo expiatorio," and the word that the interpreter
16 used or translated was as "squealer" --

17 THE INTERPRETER: And it should have been
18 "scapegoat."

19 MS. KOHN: We both agree with that, your
20 Honor.

21 THE INTERPRETER: I couldn't stop and go back.
22 I caught it myself, but there was no way to go back.

23 THE COURT: I suggest we correct the record when
24 the jury returns.

25 All right, we will have a brief recess.

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

(Recess)

(Jury present)

THE COURT: Mr. Arocena, Mr. Palmer.

Ladies and gentlemen, during the recess I had a conference with counsel and our official court interpreter, Miss Dena Kohn, and it was brought to my attention that about five minutes before the recess, in an answer which was interpreted by Mr. Palmer, he interpreted a Spanish word as "squealer." You may remember the answer. It has been agreed that the correct interpretation of the word used by the witness at that point was "scapegoat."

Gentlemen, does that accord with our discussion?

MR. FERNANDEZ: Thank you, your Honor, yes.

THE COURT: You may proceed, Mr. Tabak.

MR. TABAK: Thank you, your Honor.

Q I believe there was a question pending before the break. Was there a question pending?

(Question read)

BY MR. TABAK:

Q I was referring to Manny Fernandez.

A No, sir. I explained previously what the circumstances were.

Q You testified that you were surveilling him, not that he was surveilling you, correct?

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

A That's correct.

Q And you knew this man was a drug dealer,
correct?

A Yes, sir.

Q And you hate drugs, correct?

A With all the strength of my heart.

Q And you had that man, with your knowledge,
inside your house, correct? Yes or no.

A That man made a phone call to me against my
will.

T5

(Continued on next page)

1 Q Did you let him in your house?

2 THE COURT: Are you saying that he made a phone
3 call from your house?

4 THE WITNESS: Yes.

5 THE COURT: And is it your testimony that that
6 was done without your knowledge?

7 THE WITNESS: No, your Honor. He was outside
8 in the car, and he asked me whether he could call his
9 lawyer. I tried to put things off, and he told me it was
10 very important for him to call his lawyer at a specific
11 time, and I had no other choice, just out of courtesy and
12 so that Ignacio would not get angry in the future, and so
13 he himself wouldn't get angry for a little thing like
14 calling on the phone.

15 And so, contrary to my will, I let him go into
16 the house and make the call, but I did tell him quite
17 clearly -- but I warned him quite clearly for him not to
18 make any other kind of call.

19 I put the packages that I had brought from
20 the store, I put them down, in other words, and I went
21 into the other room to speak to my wife and to give her
22 some money that was necessary for the rent, and during
23 that time Mr. Fernandez took advantage of that to go into
24 the family room in order to make the phone call.

25 Q In other words, you showed him your house and

1 you let him into your house? Yes or no?

2 THE COURT: He asked for a yes or no.

3 A Yes, sir, but I would like to explain.

4 Q Well, your attorney can ask you on redirect.

5 MR. AGUILAR: Your Honor, I don't think it is
6 up to Mr. Tabak to instruct the witness.

7 THE COURT: I will let him explain now, but
8 not what he just told us. If he wishes to explain his
9 answer -

10 THE WITNESS: As you know and based on the
11 relationship with Mr. Fernandez, when I took him into my
12 house I went round and round so he would not know where
13 my house was, and the way I went in was so that he would
14 not be able to see the number on my house, because I was
15 not the least bit interested in Mr. Fernandez knowing
16 where I live, because I had no intention of letting
17 Mr. Fernandez go into my house.

18 All I had to do was to arrive at the house
19 and leave the packages which my wife needed and leave the
20 money for the rent, the money that she needed to pay the
21 rent and leave immediately.

22 Q Is there a street sign on the corner at your
23 house?

24 A It's covered with political propaganda paper.

25 Q Is there a street sign by your house that bears

1 the name of the street?

2 A It's covered with strips of political docu-
3 ments.

4 Q And you remember on that day, two and a half
5 years ago, it was covered so Mr. Fernandez would not be
6 able to see what street you lived on?

7 A In the way that I drove him there, yes. In
8 the way that he saw later, at my reference, and I made
9 reference to that later when you asked me, I said that the
10 Government had taken him later on there for him to find
11 out where I lived, because I am very sure that Mr. Fernandez
12 up to that point did not know where I lived.

13 Q The fact is that this street sign was
14 uncovered on the day he was there?

15 A No, sir.

16 Q You remember that from two and a half years
17 ago?

18 A Well, I saw it every single day when I went
19 to my house.

20 Q And did you have the number of your house out-
21 side your house?

22 A It's in a position that people can hardly
23 realize it's there, because everyone who goes there looks
24 for the number stuck on the wall.

25 Q But it is outside the house?

1 A It is on a black sign. You have to go
2 around to the side and look at it.

3 Q And of course you didn't run on ahead and
4 cover the number so Mr. Fernandez couldn't see it, did
5 you?

6 A No, but the sign is over here, and I came in
7 this way. It's impossible to see the number, because
8 my driveway is circular.

9 Q And of course when you were driving Mr. Fernandez
10 around to make sure he couldn't see any other street signs
11 that were uncovered, you blindfolded him; is that right?

12 A No, but I was looking at his eyes and I was
13 talking to him, to be sure that he wasn't looking at any
14 other place, because he understood very well what the
15 message was.

16 THE COURT: Could we stay with that just a
17 moment?

18 MR. TABAK: Yes, your Honor.

19 THE COURT: He went into your house and used
20 your telephone to call his lawyer?

21 THE WITNESS: That's what he told me, your
22 Honor.

23 THE COURT: Was there a number on your tele-
24 phone?

25 THE WITNESS: Yes.

1 THE COURT: Very well. Proceed.

2 THE WITNESS: Right on the telephone.

3 THE COURT: Right on the telephone was your
4 telephone number?

5 THE WITNESS: Yes.

6 BY MR. TABAK (Continuing):

7 Q Before Mr. Fernandez made the telephone call,
8 did you take some black electrician's tape and cover the
9 telephone number so Mr. Fernandez couldn't see the number?

10 THE COURT: He didn't say anything like that.
11 Why don't you leave that alone.

12 You don't have to answer that, Mr. Arocena.

13 Next question.

14 Q Mr. Arocena, you testified that Enrique Castro
15 is a friend of yours.

16 A Yes, sir. He is a good person. He is a
17 person I have known for a long time. He is a person who
18 has a very solid reputation in the community. As far as
19 I know, and I have known him for quite some time, he has
20 had different businesses in different places, and he is a
21 man who is accustomed to helping everyone, and he is a
22 person who you were precisely interested in hurting.
23 I don't know for what reason. But as far as I am con-
24 cerned Mr. Castro is a fine person, a very good person.

25 Q Now, you recall that on the day that Mr. ^{Felix} Hubert

1 Garcia was murdered, when you got the parking ticket
2 near the Cuban Mission, that was because you were making
3 a phone call to Mr. Enrique Castro; is that true?

4 A Possibly, among some of the phone calls that
5 I was making, yes.

6 Q And on that tape that has been placed before
7 the jury, where you told Mr. Wack about Mr. Enrique Castro's
8 drug operations and other activities, that was also a
9 fabrication, that tape?

10 A Absolutely. I deny that absolutely. You
11 have gotten that from some other source, because you
12 wanted to hurt that man, and I don't know for what reason.

13 Q I show you Government's Exhibit 2, the advice
14 of rights form from September 25, 1982. That is your
15 signature; isn't it?

16 A Yes, sir.

17 Q And I show you Exhibit 3, which is the advice
18 of rights form in Spanish from September 25, 1982. That
19 is your signature on it, is it not?

20 A Yes, sir.

21 Q I am going to show you Exhibit 4, which is
22 the advice of rights form from September 26, 1982. Is
23 that your signature?

24 A Yes. They all look quite a lot like my
25 signature.

1 Q I show you Exhibit 5, which is the advice
2 of rights form from September 25, 1982. Is that your
3 signature?

4 A Yes. It also looks like my signature.
5 I would say that it is my signature.

6 Q I show you Exhibit 623, which is the advice of
7 rights form from September 28, 1982.
8 Is that your signature?

9 A It looks like my signature.

10 Q I am going to show you Exhibit 624, which is
11 the Spanish advice of rights form from September 26, 1982.
12 Is that your signature?

13 A It seems to be my signature.

14 Q I show you Exhibit 631-A, which is the per-
15 mission to search in Spanish from September 22, 1982.
16 Is that your signature?

17 A No. This does not look like my signature.

18 Q Isn't it a fact that on all these dates in
19 September 1982 you told the FBI all about yourself and
20 Omega 7 and that you have made up everything you have
21 said about Mr. Necuze, about being drugged and kidnaped?

22 MR. AGUILAR: Your Honor, I am going to object
23 to it as a compound question.

24 THE COURT: Yes. It is a compound question.
25 I think the form is inappropriate. Break it down, and you

1 may inquire.

2 MR. TABAK: I will use the second half of
3 the question.

4 Q Isn't it a fact that you are trying to blame
5 Mr. Necuze for things that you did?

6 A No, sir.

7 MR. TABAK: I have no further questions.

8 THE COURT: I have just a few, before the
9 redirect examination.

10 Mr. Arocena, you testified yesterday at
11 Page 2334, beginning at line 23, talking about a con-
12 versation that you had with Mr. Wack, and you said, begin-
13 ning on line 23, to Mr. Wack:

14 "I know all about you, except that I trusted
15 you too much. I thought you were loyal. I thought
16 you were decent in certain aspects, and I was trust-
17 ing, and that is what hurts, and a lot of people are
18 going to get a bad impression. That is the reason
19 I am here, so my whole country will know how you
20 work, what your tactics are like, what you do with
21 us, so that no one will be confused in the future
22 and that they will never be able to set this trap
23 again, and especially what you do with our families,
24 how you terrorize them, how you bug the telephone,
25 how you even get into our mail, how you interfere

1 with everything, how our private life has stopped
2 existing for everything."

3 Did you say those things to Mr. Wack on the
4 telephone?

5 THE WITNESS: Yes, your Honor.

6 THE COURT: You indicate here that you trusted
7 him, and my question to you is:

8 When did you stop trusting Agent Wack? Was
9 it before or after September 26, 1982, when you say you
10 were drugged by the FBI?

11 THE WITNESS: I refer to trusting him, I refer
12 to the way in which they have acted, what they mean, that
13 I never thought that they were capable of doing such a
14 thing.

15 THE COURT: Did there come a time when you
16 stopped trusting him, or do you trust him today?

17 THE WITNESS: I do not trust him, but I do
18 trust in the rest of North American justice, which is
19 what I am trying to point out here.

20 THE COURT: You told us that. In any event,
21 you indicate there did come a time, some time before
22 today, when you stopped trusting Mr. Wack; is that
23 correct?

24 THE WITNESS: Yes, your Honor.

25 THE COURT: Before you stopped trusting Mr.

1 Wack, did you give him any information which you thought
2 would help in your fight against Castro and Communism?
3 Yes or no?

4 THE WITNESS: No, jir.

5 THE COURT: In other words, you never gave
6 him any information concerning Omega 7 fighting against
7 Castro and Communism; is that correct?

8 THE WITNESS: No, sir. What he said to me,
9 that he had an order from his Government for us to help
10 him to fight against terrorism in the United States,
11 Communist terrorism, the infiltration, the Communist
12 infiltration, Castro Communist infiltration.

13 THE COURT: Well, did you help him in this
14 fight against Castro and Communism? Yes or no?

15 THE WITNESS: No, sir. I simply listened to
16 him.

17 THE COURT: And you never gave him any informa-
18 tion to help him in the fight in which he was engaged; is
19 that correct?

20 THE WITNESS: Yes, your Honor. The only thing
21 that hurt me was that I had another image of him. I thought
22 that they were our allies and then I saw everything was a
23 lie and what they wanted to do was destroy us, and that
24 is the reason I say that I will never again trust him,
25 nor will I ever trust anyone again.

1 THE COURT: You just said that you thought
2 they were your allies; is that correct?

3 THE WITNESS: The same that I thought they
4 were allies of all of us.

5 THE COURT: When you thought they were allies
6 and you trust them, did you help them? Yes or no?

7 THE WITNESS: No, your Honor. Not in the way
8 that they expressed. I did not help them.

9 THE COURT: Did you help them in some other way?

10 THE WITNESS: No. I simply listened to what
11 he was saying. I listened to him all the time.

12 THE COURT: You always listened and you never
13 said anything?

14 THE WITNESS: I put before them the political
15 statements which I feel as a Cuban. They asked me what
16 I felt for my country. They asked me about the trips
17 that I had made to Cuba. They asked me a lot of things
18 but nothing that would indicate that I should give them
19 information about anybody.

20 THE COURT: What about all the tapes we heard
21 that were played here in court? Wasn't that you speaking
22 with Mr. Wack?

23 THE WITNESS: Your Honor, there were normal
24 conversations, normal interrogations that I make.

25 THE COURT: The conversations: Were they the

1 conversations that we heard here in this courtroom during
2 the trial? Yes or no?

3 THE WITNESS: It is possible some. They
4 extract things from the tapes. In the way they function
5 they extract the words. They make a questionnaire up,
6 and then they get the answers. They put them all
7 together, and it looks like a normal conversation. That
8 I can do. Anyone can do that with a bunch of different
9 tapes. They know they can do that. They know what
10 I am talking about.

11 THE COURT: In other words, it is your
12 testimony that this is your voice but that these con-
13 versations were changed around? Is that your testimony?

14 THE WITNESS: On some occasions I recognize my
15 voice. At other times I don't.

16 THE COURT: When you recognized your voice,
17 were those the words that you spoke at the time?

18 THE WITNESS: Not in the coordination in which
19 it is set down there.

20 THE COURT: So it is your voice but the words
21 were changed around? Is that your testimony?

22 THE WITNESS: Not in all the tapes, your Honor.

23 THE COURT: In some of them; is that correct?

24 THE WITNESS: Yes, your Honor. They have
25 altered the tapes.

1 THE COURT: It is your testimony that it is
2 your voice on many of the tapes but that the tapes were
3 altered by the Government? Yes or no?

4 THE WITNESS: Yes, your Honor. That's
5 correct.

6 THE COURT: If counsel wishes to make any
7 further inquiry on cross-examination in view of the ques-
8 tions asked by the Court, he may proceed. If not, we
9 will proceed to the redirect examination.

10 MR. TABAK: I have nothing further on cross-
11 examination, your Honor.

12 MR. FERNANDEZ: May I have a minute, your
13 Honor?

14 THE COURT: Certainly.

15 (Pause.)

16 THE COURT: Incidentally, ladies and gentlemen,
17 I would like to instruct you that the questions asked by
18 the Court are asked for clarification. They do not mean
19 and they should not mean to you that I take a position one
20 way or another.

21 You may proceed, Counsel.

22 REDIRECT EXAMINATION

XX 23 BY MR. FERNANDEZ:

24 Q Mr. Arocena, you indicated in one of the answers
25 on cross-examination asked by Mr. Tabak --

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: I thought he said it right.

Let's hear the question.

(Question read.)

THE COURT: You meant questions asked by Mr. Tabak or Mr. Tabak's cross-examination, but in any event why don't we start again.

Q You indicated your destiny when you were in Spain was to come to the U.S. Why did you want to come to the U.S.?

A Because in the first place the United States called to us Cubans. They offered United States territory to us to train us so that we could go back to Cuba and to overthrow the Communist regime in Cuba.

Q Sir, you indicated that in your apartment you had several books.

MR. FERNANDEZ: May I just approach counsel table?

A That is the so-called Anarchist Cook Book, which is in evidence. The tag merely reads for identification, but I recall we received a large number of exhibits at that time, and they were not actually marked in evidence.

MR. FERNANDEZ: 1030-B and 1030-C.

THE COURT: I don't think the tags are up to date.

1 MR. TABAK: Indeed, we would request, without
2 wasting the jury's time, that all those exhibits received
3 be appropriately marked.

4 THE COURT: Very well.

5 Q The two books, the Big Brother Game and the
6 Anarchist's Cook Book: How did you get these books?

7 A At a place where they sell magazines. It is
8 a public place where thpy sell them.

9 Q A regular bookstore?

10 A Yes. It is a place where they sell newspapers
11 and magazines. It is near my house.

12 Q You read the books?

13 A Yes, in part.

14 Q And you had the books at your house?

15 A Yes. I had a great amount of books. I had
16 dictionaries.

17 Q Now, when you stowed away from Cuba, I believe
18 in 1965, and you left your family in Cuba, who was taking
19 care of your family?

20 A My mother and my father, basically they, because
21 I had entrusted them with that.

22 Q These are other family members?

23 A Yes. The rest of the family.

24 Q You didn't leave your wife and kids alone?

25 A No. And besides that, she was living with

1 her parents. The only thing that I asked my parents
2 was the part that was up to me, that they help them,
3 and whenever I could I would pay them back for that.

4 Q Now, you indicated that your attorney in Miami
5 in 1982 was Jose Villa Lobos.

6 A Yes, sir.

7 Q Did you have a business car from Mr. Villa Lobos?

8 A I don't remember at this time.

9 Q Did you have his home number, sir?

10 A No, just his office.

11 Q This was in Miami; right?

12 A Yes, in Miami.

13 Q Around the 23rd or the 24th, when you came in
14 from New York, it was late when you arrived?

15 A Yes, sir.

16 Q You have indicated that you would do anything
17 to help the Cuban cause against Communism. Is there an
18 American cause against Communism?

19 A I don't understand the question.

20 Q Is the Cuban struggle against Communism
21 antagonistic to the American cause for democracy?

22 A I still don't understand the question.

23 Q Do you respect the laws of this country, sir?

24 A Yes, all the time.

25 Q Do you believe what this country stands for,

1 sir?

2 A Yes, sir.

3 Q What does this country stand for?

4 A Democracy.

5 MR. FERNANDEZ: Thank you. I have no further
6 questions.

7 RE CROSS EXAMINATION

8 BY MR. TABAK:

9 Q You just testified that the reason why you
10 came to the United States in violation of the Immigration
11 laws --

12 MR. AGUILAR: I am going to object. Mr. Tabak
13 is telling the jury that this witness violated the
14 Immigration laws. This man may have legal status in
15 the United States. We don't know that. It has never
16 been shown to the jury.

17 THE COURT: I think you have to go back one
18 step, Mr. Tabak.

19 MR. TABAK: I will phrase the question differ-
20 ently.

21 Q You testified when you came to the United States
22 the reason was because you wanted to train and go back to
23 train and fight in Cuba.

24 A Yes, sir.

25 Q And I believe on direct examination you also

1 testified that you were interested in getting your wife
2 and children here to the United States.

3 A It was the normal practice, because it was
4 human.

5 Q And that is why immediately upon your arrival
6 you volunteered to go to Vietnam?

7 A As part of obeying the North American laws I
8 had to do it, yes, sir, because whenever the North American
9 Government needed me I had to accept that, because that is
10 the way I felt about it, and I still feel that way about
11 it. I don't care what they do.

ET6

12

13

(Continued on the next page.)

14

15

16

17

18

19

20

21

22

23

24

25

1 Q But you were not a citizen, you just volunteered?

2 A Yes, sir, because I believed in this country,
3 and I still believe in this country, and I have been
4 fighting against the Communists and wherever Communism
5 exists, if they ask for my help, especially this country,
6 they will always have me right there.

7 Q You have also just testified that you always
8 have obeyed the United States law.

9 A I have been showing it for 18 years and I
10 have never had any problems with the United States, except
11 the situation which I have right now.

12 Q Isn't it a fact, however, that as is
13 reflected by Government's Exhibit 202-T and by the
14 tape, Exhibit 202, that in a conversation that you
15 placed to Larry Wack on December 19, 1982, you said,
16 "I know it's difficult because I know I broke the law
17 in many places and, you know, I can't do nothing about
18 it, so I have to keep going. If I -- I told you before
19 I don't sorry, I didn't sorry about that, I don't
20 regret --"

21 Those were your words to Agent Wack?

22 A That is what you arranged on the tapes. I deny
23 everything that you put on those tapes. I denied it
24 before, and I am still denying it right now, because
25 you prepared them and you fixed them up and you know very

1 well, and I don't care what you bring here. You know that
2 you are lying and that I am better than you are because
3 I am cleaner than you are.

4 MR. TABAK: I have no other questions for
5 this gentleman.

6 THE COURT: Mr. Fernandez?

7 MR. FERNANDEZ: No redirect, your Honor.

8 THE COURT: You may step down, Mr. Arocena.

9 THE WITNESS: Thank you, your Honor.

10 (Witness excused)

11 MR. FERNANDEZ: May we have just one second,
12 your Honor?

13 THE COURT: Yes.

14 (Pause)

15 MR. AGUILAR: On behalf of Mr. Arocena, we
16 rest.

17 THE COURT: The defendant rests?

18 MR. AGUILAR: Yes, your Honor.

19 MR. TABAK: Your Honor, the government, on
20 rebuttal, doesn't call any witnesses but we at this time
21 offer in evidence Government's Exhibit 325, which was
22 verified or identified at page 1674 of the transcript
23 by Mr. Necuze. This is the cooperation agreement relating
24 to Mr. Necuze, which we believe is admissible because his
25 credibility is attacked, and we cite among other cases

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

United States v. Edwards, 631 F.2d, 1049, a 1980
Second Circuit case.

MR. AGUILAR: No objection.

THE COURT: Received.

(Government's Exhibit 325 was
received in evidence.)

MR. TABAK: I would like to read the last
two paragraphs of page 2 to the jury, your Honor.

MR. AGUILAR: We object to that, your Honor.

THE COURT: He can read the entire document,
if you insist, or the two paragraphs which he wishes to
read, if you have no objection to that.

MR. AGUILAR: It would be taken completely out
of context, and I think the whole document should be
read.

THE COURT: All right, if you wish to read the
document, which is Exhibit 325 in evidence, you may do so.

MR. TABAK: I will read the entire document.

(Mr. Tabak read to the jury from
Government's Exhibit 325 in evidence.)

MR. TABAK: The government has nothing
further, your Honor.

THE COURT: Do both sides rest?

MR. TABAK: Yes, your Honor.

MR. AGUILAR: Yes, your Honor.

xxxxxx