

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR DADE
COUNTY, FLORIDA

CRIMINAL DIVISION
CASE NO. 76-8145 (Durant)

STATE OF FLORIDA,)
)
 Plaintiff,)
)
vs.)
)
VALENTIN HERNANDEZ,)
)
 Defendant.)

Miami, Florida
November 15, 1977
3:00 o'clock P.M.

APPEARANCES:

RICHARD E. GERSTEIN, ESQ., State
Attorney, by ROBERT KAYE, ESQ.,
Assistant State Attorney, appearing
on behalf of the Plaintiff.

NATHANIEL L. BARONE, JR., ESQ., and
CARLING H. STEDMAN, ESQ., Special
Assistant Public Defender, appearing
on behalf of the Defendant.

DEPOSITION
OF
MILAGROS NIEVES

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DEPOSITION
OF
MILAGROS NIEVES

I N D E X

<u>Witness</u>	<u>Direct</u>	<u>Cross</u>
Milagros Nieves	3 (CS) 68 (NB)	--

CERTIFIED QUESTIONS:

<u>Page</u>	<u>Line</u>
55	17

Deposition of MILAGROS NIEVES, taken by the Defendant for the purpose of discovery and for use as evidence in the above-styled cause, wherein State of Florida is the Plaintiff and Valentin Hernandez is the Defendant, pending in the Circuit Court of the Eleventh Judicial Circuit in and for Dade County, Florida, Criminal Division, pursuant to notice heretofore filed, before LONNIE C. MORRIS, a Notary Public in and for the State of Florida at Large, at Room 810, Dade County Law Library, Metropolitan Justice Building, 1351 Northwest 12th Street, Miami, Florida, on the 15th day of November 1977, commencing at 3:00 o'clock P.M.

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Thereupon--

FAUSTO OSORIO,
was duly sworn to truthfully and faithfully perform the duties of Interpreter, translating from English to Spanish and Spanish to English.

- - - - -

Thereupon--

MILAGROS NIEVES,
a witness named in the notice heretofore filed,

called by the Defendant, was first duly sworn in the above cause and testified, through the Interpreter, as follows:

DIRECT EXAMINATION

BY MR. STEDMAN:

Q Would you state your name, please?

A Milagros Nieves.

Q What is your home address?

A 6038 Southwest 24th Street, Miami.

Q Do you have a phone?

A Yes.

Q What is the number?

A 666-4020.

Q You are the widow of the deceased in this case, are you not?

A Yes.

Q Are you a mother? That is to say, do you have any minor children at this time?

A Four.

Q What are their names and ages, please, ma'am?

A Otmara Nieves is 16 years old. Fernando Nieves is 14. Elizabeth Nieves is ten years old and Georgina is nine years old.

MATZ, TRAKTMAN & ASSOCIATES

CERTIFIED SHORTHAND REPORTERS

316 BISCAYNE BUILDING

MIAMI, FLORIDA

Q Do all of these children live with you presently?

A Yes.

Q Are you presently employed outside of the home?

A No, I am studying now.

Q What are you presently studying?

A Typing and English.

Q Are you in the public school system or in the University system or in a private school?

A I am at the English Center and the University.

Q Where and when did you first marry the deceased?

A In Santa Clara, Cuba, on the 25th of June 1960.

Q Approximately how old was he at that time, please?

A Twenty-seven.

Q Were you born in Cuba?

A Yes..

Q Was your husband, as far as you know, born in Cuba?

A Yes.

Q Where were you born, please?

A Santa Clara.

Q Where was he born, if you know?

A Santa Clara.

Q When did you first come to this country?

A March 1966.

Q Without asking your age and I am not prying in that direction, but were you an adult?

A I can tell you my age.

Q You were an adult at that time?

A Yes, I was. I had two children already at the time.

Q What type of work did you do in Cuba, please?

A I did some sewing in the home but I did not work outside of that.

Q What type of work did your husband do before he left Cuba, please?

A He was a captain in the army. He worked in the health department. When he was young, he worked for Ambrosia Industries, and his brothers were salesmen for that company and he was working with

them.

Q What did your husband do for Ambrosia Industries?

A He was selling products to the business places.

Q What type of products did the company manufacture?

A All kinds of chocolates, cookies.

Q During the time that your husband was a captain in the army, did he work at that time in a civilian capacity for the government?

A No.

Q What did he do in the health department when he worked there?

A He was in charge of the department in Marianao, but I don't know what he was doing.

Q Was he a civilian at that time?

A Yes.

Q When did he join the army actively, if you recall?

A Before the revolutionaries took over in Cuba.

Q Did he join General Batista's army?

A No.

Q Premier Castro's army?

A Yes, Castro. He was with Castro's army.

Q Was he working for the health department at the time that he joined the army?

A No. He became a member of the health department after he got out of the army.

Q After the revolution?

A Yes, after the revolution.

Q What was your husband doing just prior to joining up with the revolutionists?

A Selling for Ambrosia.

Q What capacity did your husband serve. I understand he was a captain, but was he in the infantry or the air force or the artillery or what?

A He was just with the army.

Q What did he do in his capacity in the army, if you know, as a captain?

A He was captain aide to Camilos Cienfuegos.

Q Who was that person?

A He was a major in the army.

Q What did your husband do as aide to this person?

A He was working right there in the office helping. At that time, I was not married to him. I was his fiancée. I was engaged to him.

MR. KAYE: Let the record reflect that I think that we have gone as far into the background as this is concerned and I would object to any questions relating to what he did in Cuba in the years before this occurred or for that matter, what he did in Cuba before.

MR. STEDMAN: Would you like to put your reason for the objection into the record?

MR. KAYE: It is irrelevant.

MR. STEDMAN: I am going to continue and pursue this deposition.

You can exclude her testimony, if necessary, at the time of trial rather than certify it and go through that, but, again, I am going to pursue it. I am not going into it much more, penetrating into this, but I think what he did in his military capacity is important to this case.

MR. KAYE: If she knows.

MR. STEDMAN: All the answers to the questions would be if she knows.

Q (By Mr. Stedman) What functions did your husband perform in his military capacity, if you know, and I understand you were engaged to him at the time.

A He was in charge of some sections in the navy part of it. Then he was also in charge of some sections of the air corps.

Q Did your husband ever perform any military intelligence duties. That is to say, engaged in espionage or clandestine counter-revolutionary activities while he was in the military?

A I don't know anything about that.

Q Has he ever talked to you or told you about any counter-revolutionary activities that he may have allegedly performed while in the military?

A No, but I know that he was supposed to. They told him that he would have to turn in any member of the army that he knew that was not a good revolutionary, and he would not do that and he would rather resign than do that.

Q Did he, in fact, resign for that reason?

A Yes.

Q Who was it that he resigned over rather than inform against?

A I don't know that.

Q Did he ever tell you the identity of the person that caused his resignation?

A No.

Q Or prompted it?

A No, but nobody had to know who the person was in his department because he was in charge of one department.

Q Was he in charge of espionage or counter-revolutionary activities, if you know?

A No. He was not in charge of that. He was in charge of that department only.

Q When did he first join the revolution, if you know?

A Many years back.

Q Can we please have an approximate time?

MR. KAYE: If you remember.

Q (By Mr. Stedman) All of your testimony is based upon your recollection.

A He was since 1950, with Chibas.

Q As Premier Castro swept across the island from the east end to the west end, where was he at the time your husband joined him?

A At the time of the revolution, he was a prisoner in Havana and he was released after that.

Q I am not talking about the culmination of it, but I am speaking about the months and the great long period of time that it took or that it was necessary to take the entire island from the east end to the west end, coming from the mountainous area over to the flatland and I am trying to find out where the revolution was when he joined it and how he joined it as captain, if he did.

A He went to the mountains and then they gave him the rank of captain. When Fidel came from Santiago, Cuba, to Havana, after the triumph of the revolution, he was incarcerated in Havana.

Q For what reason?

A Because he was sent to Havana on a mission and he was arrested.

Q By Batista's group, initially?

A Yes.

Q He was arrested by Batista's people?

A Yes.

Q Did there come a time when your husband ultimately became disenchanted with the revolution?

A Not before the triumph of the revolution.

Q After the triumph of the revolution, did his opinion and loyalty change?

A Yes, he did.

Q When was that, if you know?

A I already explained when he was in the health department that he was required to turn in those that were against the government and he refused to do so.

Q When was it, please, that he had this change of attitude, if he did?

A When he was in the health department. I do not remember the date.

Q What year was it, if you recall?

A Before he came over here and he came here in 1965. He also was incarcerated there.

Q I am trying to find out when his attitude with regard to his loyalty to the revolution

changed, if it did.

A It could have been around 1960.

Q Was it prompted and motivated by his reluctance or refusal to inform against persons who were counter-revolutionaries or was there some other reason, if you know?

A I only know that one that after he was incarcerated.

Q For what reason?

A Because he was considered to be a counter-revolutionary.

Q Who informed against him, if you know?

A I don't know.

Q Did he ever tell you of any person that he suspected informed against him which caused his incarceration the second time?

A No.

Q How long was your husband incarcerated the second time, please, ma'am, in point of time?

A Two years.

Q Where was he incarcerated, if you know, please?

A At the Principa Cabana.

Q Where is that, because I am not familiar with that?

A It is in Havana.

Q Is it a military or a civilian prison or a fort or what is it?

A I don't know.

Q How long, in point of time, was he in prison at that location, please, ma'am?

A I don't know. I don't remember. I know that it was two years all together but I do not know how long in each place. He was in the G-2, where he spent time.

Q Did he suffer a trial and, if so, was he convicted of counter-revolutionary activities or thoughts or concepts, if you know?

A Yes.

Q Where and when was the trial?

A It was in Havana but I don't remember the date and I was present.

Q Was he in his rank of captain at that time of the accusation?

A No, because the last post he held was a civilian one.

Q When was he stripped, if he was, or when did he resign his commission in the army as a captain, if you know?

A He was not too long in the army.

Q When did he no longer hold the rank of captain?

A I don't remember those dates because at the time I was not married to him as yet.

Q I am not quarreling with you, ma'am, but at the time he was a civilian and when he was accused of this activity, specifically, what was he accused of?

A To be against the regime of Batista.

Q To be against the regime of Batista and not Castro?

A No, you asked me when he was arrested for the first time.

Q I have moved on now to the second time. The second time, what was he charged with as a civilian?

A To be against the regime.

Q Of Castro?

A Yes.

Q Did he suffer a trial as a result of

that charge?

A Yes, I already said I was present there.

Q Was he convicted of that offense then and there?

A Yes, and he was sentenced.

Q To what was he sentenced?

A Twenty years.

Q Was it a specific sentence, and I do not mean to quarrel with you, but was it an indeterminate sentence, like six months to 20 years?

A I don't know. I don't understand that.

Q Were you present at the sentencing?

A Yes.

Q Do you recall if the sentence was 20 years confinement, that is to say, was the 20 years expected to be served?

A I don't remember.

Q Notwithstanding the sentence, he did serve approximately two years, more or less?

A Yes, because we made some moves with friends of ours.

Q Was he released early for any legal reason?

A No, I don't know that. I know that he was released.

Q Did you purchase his release?

A No. He had some friends in the regime and they helped him out.

Q He was released and he did not escape?

A No.

MR. KAYE: The answer is not responsive to the question.

MR. STEDMAN: I asked her, he was released and he did not escape and she stated, no, no meaning he did not escape. No, he did not escape but he was released.

That is what I understood her to say.

MR. KAYE: Well, let's get it clear for the record.

Q (By Mr. Stedman) Did he escape?

A No.

Q Was he released?

A Yes, he was released.

Q After he was released, was he permitted then to leave the island of Cuba or the nation?

A Yes.

Q How long in point of time was it after he was released before he left the island?

A Right away.

Q When you say right away, do you mean the same day or the same week or the same month?

A As soon as he took care of all of his papers.

Q This release was caused by or acknowledged to be caused by friends of his within the administration?

A Friends and members of his family, brothers and people that worked with him like brothers.

Q Are any of those persons, to your knowledge, in the United States now? That is to say, the persons who allegedly were responsible for his release?

A No.

Q After he was released, did he come directly to the United States? Or perhaps, did he go to Spain or some other place, as a political refugee has been known to go?

A Spain.

Q As far as you know, he traveled directly

from Cuba to Spain?

A To Spain.

Q Perhaps, did he go to Mexico first or something of that nature?

A No, directly to Spain.

Q How long was he in Spain, if you know, please, in point of time?

A I don't remember.

Q Did you go to Spain with him?

A No.

Q Did you, at that time, when he left to go to Spain remain in Cuba?

A Yes.

Q Did any other members of his family go with him to Spain to your knowledge?

A No.

Q Did any of the persons who caused his release or you believe were instrumental in causing his release, go with him to Spain?

A No.

Q What activities did your husband engage in other than what you have told me while he was a national of Cuba. That is to say, what other

organizations, either of the social or political, did he belong to, if you know?

A He used to belong to an organization called the 26th of July.

Q Was that when he was a resident here in the United States?

A No, that was in Cuba.

Q Was that primarily at the time he belonged to it, a military, political or social organization or was it a combination of all three if you know?

A First it just started to being a political one and then it ended up being a military one.

Q At the time that your intended husband belonged to it, which was it, in your opinion?

A The 26th of July?

Q Which characterization was it involved in at the time, political, social or military?

A Political.

Q Did your husband, at any time, hold any office in that organization either national or local?

A He was president of the orthodox youth.

Q I know what president is, but what do you mean by president of the orthodox youth?

A I cannot explain it.

Q What did he do then as president?

A To organize the youth so they would agree and cooperate with the organization.

Q Was that an identification process such as information and education or was it a propaganda one?

A Propaganda.

Q Did he pursue his office in that regard actively and attempt to fill the duties, if you know?

A Yes, he was very active in it.

Q What did he do?

A I already told you, he organized the different municipalities, getting them together.

Q Which one did he organize and get together?

A Las Villas.

Q Over how many people was he "president"? Approximately, at its greatest number?

A The whole province. It was combined

into 32 municipalities.

Q How many people would that be, approximately?

A I don't know.

Q Would it be in the thousands?

A Yes, in the thousands.

Q Perhaps 100,000?

A I don't think that many, maybe 10,000.

Q How long did he hold that office and pursue those endeavors, in point of time?

A It was at the beginning of the orthodox youth organization with Chibas.

Q What does that mean?

A He was a person who was against the policies of Grau, Prio and Batista.

Q Then it was a political organization?

A Yes.

Q Did you belong to the groups that your husband headed?

A No.

Q Why not?

A Because at that time I was not married to him and I did not like that.

Q Were you, at that time, in your own mind considering yourself a counter-revolutionary?

A Me being a counter-revolutionary, no.

Q What objections did you have for him belonging to the organizations that your intended, and I do not mean to be flippant, that he headed up?

A I did not want him to be involved in that. My father was not agreeing with that either.

Q Agreeing with what?

A His activities and neither was I.

Q Was it his activities or the concept or the end product of the activities that you or your father disagreed with?

A I was in disagreement with his activities.

Q From what time to what time?

A Well, we were engaged for about ten years.

Q All during that period of time, you were opposed to whatever political activities he engaged in or social activities or military activities that he engaged in?

A I could not take him away from them,

but I disliked that.

Q When did your husband leave Spain and come to wherever he went then?

A He came over here.

Q When was that?

A August of 1965.

Q When did you come to America?

A March 1966.

Q Did your husband arrange for your departure from Cuba and arrival in the United States or was that done by yourself and other persons?

A No, when he left he left all of the papers ready for me to come over here.

Q How long did your husband remain in Spain before he came to the United States?

A I think it was six or seven months.

Q As far as you know, your husband voluntarily left Spain or was he deported for any alleged illegal activities in Spain?

A He came voluntarily.

Q Do you know if your husband came directly to the Greater Miami area or did he enter the United States at some other point, if you know?

A New York.

Q Did he remain in that general area any period of time or did he transport himself or was transportation provided to Dade County?

A No, he came here right away.

Q From the time that you arrived in Miami and were reconciled with him, did you bring the children with you at that time?

A Yes, there were two that I had then and then we had two others after we started living here.

Q Did your parents come with you when you came?

A No. I came by myself, with the two children.

Q And his parents did not come with you?

A No.

Q Have your parents ever arrived?

A No.

Q Have his parents ever arrived, if you know?

A No.

Q Does he have any brothers or sisters

or any other next of kin other than yourself and the children residing in this country at this time, if you know?

A He had two children then.

Q I understand that, but what I am saying, does he have any other relatives, other than you and the children here?

A No.

Q Since he came here, what political or social or civic or military organizations has he belonged to, to your knowledge?

I am not asking if he is a democrat or republican or an independent, but I am trying to find out what social organizations or military activities groups he belongs.

A To none.

Q Absolutely nothing, to your knowledge?

A No, he did not belong to any organization.

Q What kind of employment did your husband follow since he has been here, to your knowledge?

A He was working at hotels and in construction.

Q Was he working for contractors during the time that he was working in construction or was he, and I do not mean to be flippant, but was he doing what we call, catching a break from day to day?

A No, he worked for a construction company.

Q What was that company, if you know?

A He worked with several of them. The one that he worked with the most, was Ramon.

Q What did your husband do for the construction company?

A The kind of work he did was to bury some tubes in the ground for construction and then fill them with cement with concrete.

I don't know what that is called.

Q In his hotel work, what did he do there?

A Waiter.

Q Have you ever worked outside of the home since you have been here in Miami?

A No.

Q I apologize for being personal, but was your income, during the time that your husband was alive, derived solely from his earning capacity at his

jobs?

A Yes.

Q You had no other source of income during that period of time, to your knowledge?

A No.

Q At that time, the children were too young to work gainfully employed?

A Yes.

Q Did you own your own home prior to your husband's death?

A No.

Q You were living in rented premises?

A Yes.

Q Did your husband own a vehicle at the time of his death?

A No.

Q Did you own a vehicle at the time of your husband's death?

A Yes, I had one.

Q What kind of a vehicle did you have, please, ma'am?

A A Chevrolet 1970, I think, but I do not remember exactly the year.

Q Was that vehicle in your name?

A Yes.

Q Did you own any other vehicle other than the one you have just related?

A No.

Q Did your husband have the use of a vehicle, prior to his death, other than your own vehicle?

A Yes. He was using another car, but it did not belong to him.

Q What type of a car was he using then, please?

A It was -- I don't remember.

Q Do you know who, allegedly, owned that other vehicle?

A Yes, it was a friend of his.

Q Who?

A Alberto Rodriguez.

Q Where does he live?

A Puerto Rico.

Q Presently?

A Yes.

Q At the time that your husband was using

that car, was Mr. Rodriguez living here?

A No, he was in Puerto Rico.

Q And your husband was taking care of the car and keeping it for him?

A Yes.

Q Other than Mr. Rodriguez, did your husband have the use of any other person's vehicle?

A No, only that one.

Q Did your husband own, at the time of his death, firearms?

A Yes.

Q How many firearms did he own or possess or have custody of at the time of his death?

A Only one.

Q What type of firearm was it, if you recall?

A A pistol, .45 caliber.

Q Was it a revolver or a semi-automatic pistol?

A It was a pistol. The police impounded it. I told them it was in the trunk of the car and they took it from there.

Q Was the pistol that he had a Colt .45

caliber semi-automatic pistol that has a slide that comes back each time the pistol is fired, if you know?

A Yes, that is the one.

Q What color was it, that is to say, was it bright shiny color or, perhaps a dark blue or gray or a blackish color?

A The color of the metal, you mean?

Q It was not chrome-plated?

A No.

Q Was it nickelplated, in any way?

A No. It was black.

Q Was that your husband's own handgun? That is to say, owned by him, if you know?

A It was the one that he used all of the time. He always had it or kept it in the trunk of the car.

Q When did he obtain that handgun, if you know?

A After he was hit with a chair. It was after he was attacked with a chair and he had his forehead broken up.

Q Do you recall, date-wise when he obtained the handgun? I understand your answer is

incident-wise, but I am trying to determine date-wise.

A If you could supply me with the date that my husband was attacked with the chair, then I could tell you that it was about a month after that, but I do not remember the date.

Q Did your husband purchase the handgun or was it given to him as a gift or perhaps loaned to him by a friend on consignment or how did he come in possession of the gun?

A He bought it.

Q Where?

A On Southwest 8th Street.

Q Were you present at that time?

A Yes.

Q Was it in a gun store or some sort of other store?

A It was a store.

Q Do you remember the name of the place?

A It was on Southwest 8th Street, but I do not remember the name of it.

Q Do you remember the location of the store?

A No.

Q At the time that your husband possessed the weapon, did he also possess live ammunition for the gun?

A Yes.

Q Were you with him when he bought the live ammunition?

A Yes, when he bought the gun he bought the live ammunition.

Q At the same time and place?

A Yes.

Q Where did your husband ordinarily and customarily keep the pistol for safekeeping purposes, please, ma'am?

A Under the mattress.

Q In the bedroom?

A Yes.

Q Did he keep it there only at night or did he keep it there 24 hours a day, seven days a week, if you know?

A Only at night when he was at home.

Q Where did he keep it in the daytime, if you know?

A In the glove compartment of the car.

Q Which car?

A The car that he was driving.

Q Is that your car or Mr. Rodriguez' car?

A First my car and then his friend's car.

Q Whatever car he was operating at the time, he kept the weapon in the glove compartment of that car; is that correct?

A Yes, of either car.

Q Did you and he ever discuss, perhaps why he kept the weapon with him in the daytime?

A We talked about it and he claimed that he needed it.

Q Why?

A I did not want him to have the gun in the house with the kids but he claimed that he needed the gun because he used to tell me, "Look what they did to me. I need the gun for protection."

Q Was that the extent of the conversation with regard to you and him about the gun?

A Yes.

Q Did this conversation occur on many occasions or more than one occasion?

A Well, it was several occasions.

Q Did he transport the gun from the car into the house every night on his person and then transport it back every morning after removing it from under the mattress back to the car?

A Yes. He had it in his hand.

Q Your husband carried it back and forth in his hand, as the case may be?

A The car was parked right in the grass.

Q I understand that and I am not quarreling with that, but I want to know if your husband is the one that transported it back and forth?

A Yes, he was. I never touched it.

Q Did your husband ever go target shooting or practicing with the weapon, to your knowledge?

A I don't know.

Q Did your husband ever bring his male friends to the house for social visits?

A Yes. He had lots of friends.

Q Did any of the men that your husband brought to the house or invited to the home as guests carry weapons to your knowledge?

A No.

Q Did you ever see any of the men who ever

they may be, whenever it may have occurred, if it did, have a weapon on that person or perhaps display it inadvertently or perhaps even lay it on the table?

A No.

Q Did you ever overhear any conversation from any of the men that your husband ever invited to the house concerning their carrying weapons or arms of any kind?

A No.

Q What did your husband and the men talk about when they came to the house?

A The political situation.

Q What does that mean to me?

A About the Cuban political situation.

Q How did your husband feel, if you know, and what was your husband's attitude at the time that these persons, whoever they were, came to the house and talked about political activities in Cuba?

A He was against the Castro regime.

Q Who is he?

A My husband.

Q Your husband was opposed to the Castro regime; is that correct?

A Yes.

Q How about the persons that came to the house; were they sympathetic to your husband's views or were they opposed to your husband's views of a political nature?

A Some of them were with him and some were in disagreement with him, but they never fought about it.

Q Physically fought?

A No.

Q Did they verbally fight?

A Yes, they did. They argued.

Q Did your husband ever form or join a group that was of the same sympathetic views to his opinion about opposition to Castro here in Miami?

A He did not form any organization or belong to anything to that effect, but he would talk to his friends and try to convince his friends that they are to be in favor of his opinion about the situation in Cuba and about the way to fight it because he was of the opinion that we should go to Cuba and go to elections and overcome Fidel Castro through elections and he was trying to get people to go on his

side, and be a part of his opinion, so far as that went.

Q Would it be your opinion that it was your husband's opinion that the best way to overthrow Castro, if there is a best way, would be by peaceful means?

A Yes.

Q Was your husband, during this period that we are now speaking of, opposed to the violent overthrow of Castro by violent means, that is to say, perhaps armed invasion or assassination or other methods of violence as opposed to peaceful means?

A Yes.

Q Did you have the occasion to be with your husband on or in the presence of your husband when he suffered the assault with the chair?

A No.

Q What did your husband tell you, if anything, with regard to the assault with the chair?

MR. KAYE: I am going to object as being hearsay.

THE WITNESS: That he was hit by a man that belonged to the group of the Pragmatistas.

Q (By Mr. Stedman) That was to your knowledge?

A I don't know.

Q Have you ever heard that term before your husband told you about it?

A No, but I know that he knew of it because he was going to press charges for that attack. He took newspaper clippings which shows that organization that they were assigned with, the Pragmatistas.

Q How did your husband, in relating to you, associate the attack upon him with the chair with an organization such as the name you have given us, if you know?

A Because he told me that he was a member of the organization.

Q That who was a member of the organization?

A The one that hit him with the chair.

Q Did you inquire then of your husband about that organization?

A No.

Q At that time, you were not interested in what you have termed as the Pragmatistas?

A No, I did not know who that was.

Q Have you learned since then what the Pragmatistas was, if that be the case?

A Well, there were some articles written in that small Cuban newspaper about the Pragmatistas.

Q Did you read the articles?

A No.

Q Did someone else read the articles and recite to you what they allegedly contained?

A I know that he talked about the Pragmatistas, but I do not know anything about them.

Q Do you know if the Pragmatistas are pro-Castro or anti-Castro?

A I don't know, but I feel that they should be in favor of Castro since my husband was against Castro.

Q Have you ever known any person to admit to you whomever he or she may be, that that person was a member of the Pragmatistas?

A No.

Q Do you know the Defendant in this case, Mr. Valentin Hernandez?

A No.

Q Have you ever met him in any capacity whatsoever, that is to say, either political or social or business-wise?

A No.

Q Other than being in Court and I have no personal knowledge of this, but have you ever seen Mr. Hernandez at any other place other than in Court?

A No.

Q Do you know any persons who are purportedly friends of Mr. Hernandez?

A Jesus Lazo threatened my husband at a Grand Union Supermarket a week before he was attacked.

Q Who is Jesus Lazo, if you know, please?

A I think he is another member of the Pragmatistas.

Q What is the basis of your thoughts that he is a member of the Pragmatistas?

A Because they were in a group.

Q Who was in a group?

A My husband used to say that the person that attacked him, he and Lazo and some other whose name I do not remember, were members of the Pragmatistas.

He used to say that.

Q Other than your husband saying that, is that the only source of your information and conclusion?

A No, but I know that he used to show the clippings of the newspaper or mention the Pragmatistas to some of his friends.

Q Who would used to show the clippings?

A My husband showed it to his friends.

Q Other than your husband, what is your other source of information?

A Of information concerning the Pragmatistas?

Q Yes, and especially the person who allegedly threatened your husband in Grand Union.

A I don't remember the name. I cannot recall the name.

Q I am speaking of the source, not the identity.

A I don't remember.

Q I am speaking of the source of your information other than your husband.

A No, I had no other information. I was

at home taking care of my kids.

Q Haven't you received information from friends and acquaintances and compatriots of your husband?

A No.

Q No one other than your husband has given you the information concerning the alleged Pragmatistas?

A I used to hear him talking to his friends about it.

Q I am speaking that your source of information was derived solely from your husband?

A Yes, only from my husband.

Q And his conversation directly with you or overheard talking to other persons?

A He did not talk politics with me. It was conversation I overheard with his friends.

Q Didn't your husband tell you that Jesus had threatened him in the Grand Union store?

A No, he did not tell me that because -- but I heard it.

Q -- Where were you when you heard it?

A We were just buying some merchandise

there.

Q What did you hear Jesus say?

A That he was going to kill him, "Now we are really going to kill you."

Q What were the words again?

A "Now we are really going to kill you."

Q Were those words spoken without any other preamble, just those plain words?

A No, they offended each other.

Q How did they offend each other?

A They used some profane language toward each other.

Q What profane language?

A That he was a son of a bitch.

Q Who was the son of a bitch?

A My husband and then he says, "Now we are going to really kill you."

Q Who called who a son of a bitch first?

A Lazo to my husband and then my husband asked him, "What do you want to do. Do you want to fight me?"

And then he says, "No, I don't want to fight you because you are armed," and then he opened

his coat.

Q Who opened his coat?

A My husband told Jesus Lazo, "Let's have a fight. You want to fight me," and then Jesus Lazo told him, "No, because you are armed."

Then my husband opened his coat and said, "I am not armed. Look. I am not armed. Let's go up Flagler," and then we went behind the Grand Union store and they did not fight.

Q Did you go out and observe what happened behind the Grand Union store?

A Then my husband, he asked around the Grand Union store who that man was and he was working there, just setting up some bottles in the Grand Union. Then he was told that he was an employee of Canada Dry that was there working. He was with another person. Lazo was with another person.

Q Did you go out back to see what happened if anything?

A No.

Q How long was your husband out there?

A Lazo and his friend left and then my husband remained there trying to investigate with the

employer of Grand Union who that man was that had threatened him.

Q Did your husband leave the store and allegedly go out back before Jesus Lazo left?

A No.

Q Were you in the presence of your husband at all times at the store?

A Yes. I did not let him go to the back of the store. I was with him all of the time.

Q How long in point of time did the Grand Union incident consume?

A A few minutes only.

Q Did the other person that was with Jesus enter into any of the conversations or actions?

A Yes, he argued with my husband.

Q What did the other man say?

A I think that he was sentenced. I do not remember what he said but they had some argument.

Q Did you ever determine or did your own husband ever determine the identity of the other man other than Jesus Lazo?

A Yes, my husband found out who he was.

Q Who was he?

A I don't know his name but I think that he was already sentenced.

Q Here?

A I think so.

Q The other man we are talking about, not Jesus?

A Yes, because they were in conspiracy.

Q What do you base that conclusion on?

A He was sentenced.

Q No, the conclusion that they were in conspiracy?

A Because there was a trial and there was some evidence that related to the conspiracy to kill my husband.

Q The other person that was in this Grand Union store with Jesus has been sentenced in the Courts locally for conspiracy to kill your husband?

A Yes. I do not know the details very well, but I know two persons were sentenced for that, one was sentenced to five years and the other for three years.

Q Are you positive that the other person that was in the store with Jesus helping Jesus put up

the bottles for Canada Dry, whoever it was, is the one and the same person that has been previously sentenced for conspiracy?

A I am not sure because I do not know his name.

Q Were you present at the conspiracy sentencing previously had?

A No.

Q Have you been in attendance at any previous trials with regard to this case?

A No, I was not summoned.

Q Did you appear as a spectator and sit in the audience, perhaps, or walk around the halls?

A No.

Q Has anyone provided you with any photographs of any of the individuals involved in this case?

A I saw them in the paper.

Q I am speaking of any law enforcement agency or prosecutors giving you photographs of people for you to view?

A No, I have seen them only in television and papers.

Q Have you saved the newspapers that contained those photographs or articles or the clippings from the papers?

A No.

Q Have you appeared as a witness and testified in regard to your husband's death in any proceeding previous to today?

A The other day I was here, I had a fever and I had to leave.

Q Have you testified, that is to say, given testimony anywhere else?

A No.

Q Have you ever given the police a statement with regard to this case?

A To the police officer, I did, and he was killed that day.

Q Have you ever given the police a statement with regard to this case?

A Yes, when he was killed, when I was interrogated.

Q Was that on the same day that your husband suffered his death?

A Yes.

Q Was it at the police station?

A No, the hospital where I had my boy.

Q Was it question and answer form?

A I answered whatever I could answer because I was not feeling well at all at that time.

Q I extend my sympathies to you and I am not trying to have you suffer any here today. It is not my intention to hurt you or harm you in any way whatsoever.

A Thank you very much.

Q But I do not want to cause you any grief or tragedy, but I still have to do my job and the only way to do it is to ask the questions. I will not dwell on your personal problems or tragedies in any way whatsoever.

Did the police ask you questions and write down your answers if you know?

A I do not remember.

Q Did the police ask you to sign any papers at the scene of the tragedy?

A No.

Q Have the police ever asked you to come to the police station and give a statement or talk with

them in the presence of a Court Reporter, such as a Person with a little machine as we have here today?

A No.

Q Have you ever appeared in the Office of the State Attorney, that is, in Mr. Kaye's office and given a statement under oath to an Assistant State Attorney, not necessarily Mr. Kaye perhaps but someone else?

A No. I asked to talk to the Assistant State Attorney.

Q Was your request granted?

A No, they asked me for my telephone number. They told me that they would call me and he never did.

Q Who did you ask to speak to when you called the State Attorney?

A Just for the State Attorney.

Q You mean the State Attorney, Richard E. Gerstein?

A I don't know. I did not know who I wanted to talk to but I wanted to talk to the Assistant State Attorney that was in charge of this investigation.

Q Were you successful in that endeavor?

A No.

Q Have you ever talked with an Assistant State Attorney with regard to this case that you recall?

A "No."

"MR. KAYE: She talked to me."

Q (By Mr. Stedman) Have you talked to Mr. Kaye?

A Yes, the day I came over here before.

Q At the time that you talked to Mr. Robert Kaye, who I will tell you is an excellent Assistant State Attorney, did he take your statement with a Court Reporter being present?

A No.

Q Has Mr. Kaye or any person in the State Attorney's Office asked you to write out your statement on a piece of paper, sign it and give that piece of paper to them?

A No.

Q What was it that you wanted to speak with the Assistant State Attorney or whoever was in charge of the case about?

A I wanted to find out how they were going to proceed with the trial.

Q Did you have any specifics or unique information that you believed that you wanted to impart to the State?

A I wanted to tell him that there was a witness to the incident.

Q Were you ultimately successful in telling Mr. Kaye or some other person that?

A Yes, then he told me that it is right here on the list.

Q What witness did you want to advise Mr. Kaye about?

A A girl that happened to pass by the hospital at the moment of the incident.

Q How did you find out about that child?

A From the very first moment I found out there was a witness to the incident.

Q Who told you that?

A The Police Officers themselves told me and some other person because they put the name down.

Q Did anyone ever tell you that there

was an identification witness to this tragedy?

A Yes, I was told that this child happened to pass by at the time of the incident and they took her name and everything.

Q Were you ever told that there was an identification witness?

A I guess that if she saw it, she could identify who it was.

Q Is that your guess or did anyone tell you that?

A Yes, I guess if a person sees something going on that she could identify the person who did it.

Q I appreciate your assumption, but I want to find out if anyone told you that there was an identification witness.

A I was told a girl passed by at that moment.

MR. KAYE: We will raise an objection at this point, because the question has been asked and answered.

MR. STEDMAN: Don't answer it.

Q (By Mr. Stedman) Have you made any independent investigation with regard to this case on

your own?

A No.

Q Have you gone out and physically attempted to converse or meet with any of the prospective State's witnesses with regard to this case?

A No.

Q Have you sent anybody or had anybody on your behalf, to your knowledge, gone out and make any field investigation or attempt any interrogation of any persons?

A No.

Q Have you hired or retained the services of any private investigator or detective or any other person of such caliber to do any endeavors on your behalf?

A No.

Q Are you aware, if you are, of any person who is attempting to interrogate or investigate the Pragmatistas with the exception of the police agencies?

MR. KAYE: I am going to object to that. Don't answer the question because it may very well involve --

MR. STEDMAN: With the exception of
the police agencies.

MR. KAYE: She may not be fully aware
of the difference of a police agency and a personal
investigator.

MR. STEDMAN: I won't argue with you.
Certify the question.

I have asked a question and the
Assistant State Attorney has objected to it and told
the witness not to answer the question. We are going
to certify it to the Judge for an answer. If the
Judge rules that my question is proper then she can
answer it at a later date.

If the Judge rules that my question
is improper, she will never have to answer the ques-
tion.

Mr. Osorio, please tell her that.

(Thereupon, the Interpreter
complies, in Spanish.)

MR. STEDMAN: The question has been
asked and the objection is made and the record is
there for the Judge.

Q (By Mr. Stedman) On the day that your

husband met his demise, what was his reason or purpose for going to Variety Children's Hospital, if you know?

A We had one of our sons there who was gravely ill.

Q Was that child, at that time, confined to Variety Children's Hospital?

A Yes.

Q How long, in point of time, had your child been in the hospital as of that unfortunate day?

A We took him for three days in a row before that and then that day they decided that he should remain in the hospital.

Q By that, you mean that he had been there three days previously as an out-patient?

A Yes, as an out-patient but that day the Doctor decided that he should remain there.

Q As a resident patient?

A Yes.

Q What time of day did you take your son on the fourth day when it was decided that he should remain there?

A I took him first about 8:30 in the

morning and then my husband went there.

Q You drive and operate a vehicle yourself?

A Yes.

Q Did you leave your child there and you depart the hospital?

A No. I remained there.

Q Were you there at the time that your husband met his death?

A Yes, but they did not allow me to go out there.

Q But you were physically there at that time?

A Yes.

Q Did you and your husband go to the hospital together or did your husband come separate and apart from you?

A He came by himself.

Q Do you know if your husband brought any other person with him at that time and place?

A No one. He was by himself.

Q Had your husband been in to see the child and was he leaving the hospital at the time that

he met his demise?

A Yes.

Q Approximately what hour of the day was it, if you recall without bearing too heavily upon it?

A One o'clock.

Q Do you know if your husband had his weapon with him at that time?

A No. He had it in the trunk of the car.

THE INTERPRETER: Sometimes she means maletero, which means trunk, and sometimes the glove compartment.

MR. STEDMAN: Well, we put it in the record that the word has a convertible term, it has a double interpretation. It could be interpreter as the trunk of the car.

THE INTERPRETER: Sometimes she says maletero, which is the trunk of the car and sometimes she says compartimento guante, which means glove compartment.

Q (By Mr. Stedman) On the day that your husband met his death, where did he have the gun, if

you know?

A I already mentioned to you that it was in the glove compartment.

Q Was that glove compartment of the vehicle that he was operating on that day, the type that has a lock on it?

A Yes, and he had a key.

Q A lock and a key?

A Yes.

Q Did the lock and key operate and function properly to your knowledge?

A Yes.

Q Was the gun, to your knowledge, kept loaded in the glove compartment locked?

A Yes, it was loaded.

MR. KAYE: That is a two-fold question.

Q (By Mr. Stedman) Who was it that first told you that your husband was the victim, if you recall?

A I was next to my son, who was in a stretcher. He was going to be taken upstairs. Then a nurse came over and took me to some other room, and this was a nurse that I know, because I always take

my kids there and then she told me, "Your husband had an accident."

I wanted her to tell me what was the accident. I thought it was a car accident. Then they took me to some other room and they told me that they could not allow me to get out, that later on they would allow me to go out, because they were waiting for the ambulance.

I thought that he had a car accident when he was going outside of the hospital. Then, finally, another girl that I know that works there told me finally, "Your husband was shot. Somebody shot him and he is very gravely ill."

Then I insisted for them to let me out because they would not allow me to go out. Neither would they allow me to go to my child. I wanted them to either let me go out or be with my child. They told me that my child was being taken care of properly already, and for me, if I could call some friend or some relative, so that they could come over and keep me company.

Q All of this was done by hospital personnel, not police?

A Yes. My mind was just a blank. I could not remember anything. I could not remember my telephone number or anything like that. They asked me if it would be all right if I would feel better if they brought the other kids to me and I said, yes, and they did.

Then the police came over to ask me questions. They gave me some pills for my nerves in the interim. Then the police came over to ask me questions and then I told him whatever I knew, whatever I could answer at that time because I was feeling very bad.

Q I have here a list of 16 questions written in Spanish. Since I don't read Spanish, I am going to have Mr. Osorio in the presence of Mr. Kaye read the questions first in English for the Court Reporter. Then I will have him translate or to put it otherwise, read the question to you in Spanish and then you give him your answer in Spanish, if you can, and he will translate your answer then into English for the record.

Mr. Osorio, here is the list. Go one by one.

(There following questions were posed to the witness by the Interpreter from the referred to list as requested by counsel.)

Q (By The Interpreter) Number one, if your husband told you why Lesnick was opposed to withdraw the charges against me?

MR. STEDMAN: Read the question. Don't get into a discussion and tell her to answer it if she can.

MR. BARONE: Explain that these are questions that have been posed by Mr. Hernandez in Spanish to the benefit to ask the lady.

THE WITNESS: I don't know anything about that.

Q (By The Interpreter) Number two. The husband said that Lesnick was the one who had to take care of his problem since he was the one that knew a lot of persons that had a lot of influence in the judicial system.

MR. KAYE: I don't understand the question, unless there is a question.

MR. STEDMAN: If she understands it,

she can answer it.

(Thereupon, the last pending question was read back by the Interpreter, as above recorded.)

Mr. KAYE: Ask her if she understands the question.

THE WITNESS: Well, all I know is that after he was hit with the chair several friends of his came over to ask him to withdraw the charges.

MR. BARONE: Several friends of his, that means nothing to us. Don't use "his" and "they" and "them". Tell us who they are.

THE WITNESS: I don't know who they are. I only know they came.

MR. KAYE: Whose friends?

THE WITNESS: My husband's friends.

Q (By The Interpreter) Who were those persons that your husband is referring to?

MR. BARONE: That would be in reference to the people that were persons of influence and friends of Lesnick in the judicial power.

THE WITNESS: I don't know anything about that.

Q (By The Interpreter) Number four.

Why Mr. Lesnick got angry when since the business of the dealing of Jorge Gonzalez Bombillo called him to tell him he did not want to charge me, to accuse me.

A I don't know anything about that.

Q (By The Interpreter) Number five. Why

Lesnick wanted me to use the document forcing me to sign it and your husband did not want me to do that?

A I don't know anything about that.

Q (By The Interpreter) Number six. When

you (referring to Mrs. Nieves) took the letters to the post office of Coral Gables, letters that were addressed to Mr. McGovern, those letters Lesnick was forcing you to take them over or he was the one who wanted you to do that?

A I took letters from my family to the post office and never did take any letters to any politicians, McGovern or anything like that.

Q (By The Interpreter) Number seven.

If your husband wrote letters to Frank Chavez and Maikol Harrington?

A I don't know any of those names.

Q (By The Interpreter) Number eight. Since he did not write English, if he wrote those letters by order of Mr. Lesnick?

A No. I don't know what letters that they are referring to.

Q (By The Interpreter) Number nine. Those letters that were written by Lesnick or his secretaries?

A I don't know anything about that.

Q (By The Interpreter) Number ten. How many times he took a trip to Montego Bay, Jamaica? It was more than two occasions.

MR. BARONE: Making reference to Mr. Nieves.

THE WITNESS: Only once.

Q (By The Interpreter) Number 11. How many trips he took to Panama?

A Never.

Q (By The Interpreter) Number 12. He met in Montego Bay, Jamaica, his brother and with Tomas Tomasevich.

A Not that I know of.

Q (By The Interpreter) Number 13. How

many trips did he take to Cuba?

A None.

Q (By The Interpreter) Number 14. What was the relationship between him and R. Donestevéz?

A None. I never saw him.

Q (By The Interpreter) Number 15. When Lesnick sent him to those places he always gave him some money?

A Not that I know of.

Q (By The Interpreter) Number 16. The money that Lesnick gave him was on the basis of a payment for a loan or a payment for his work?

A He never gave him any money. Only he paid part of the funeral expenses.

(Thereupon, the reading of the question from the list by the Interpreter was concluded.)

DIRECT EXAMINATION (Continued)

BY MR. STEDMAN:

Q When you say he paid for the funeral, part of the funeral expenses, who are you talking about?

A Max Lesnick.

Q How much, if you know?

A Part of the funeral expenses. I don't know how much was paid but it was paid between two or three friends.

MR. STEDMAN: I have no further questions.

DIRECT EXAMINATION (Continued)

BY MR. BARONE:

Q Mrs. Nieves, what does your formal education consist of?

A I have very little education, not very much.

Q How far did you go in school?

A The eighth grade, but I took some secretarial training, education courses. I was educated in a nun's convent.

Q It is my understanding that all of your family, other than your children, are still in Cuba; is that right?

MR. KAYE: The question has been asked and answered.

THE WITNESS: Yes.

Q (By Mr. Barone) Is that the same with

your husband?

MR. KAYE: I object. The question has been asked and answered.

THE WITNESS: Yes.

Q (By Mr. Barone) Is any member of either family in jail in Cuba?

A No.

Q Did your husband ever work for Max Lesnick?

A Never.

Q What about the articles that appeared in Mr. Lesnick's paper; who wrote those?

A It was written right there at the magazine office, he and my husband was interrogated in front of some tape recording machines and things like that. They asked him questions.

Q Did your husband ever receive any money for those articles that appeared in the paper of Mr. Lesnick?

A No.

Q Did your husband ever live in New Jersey?

A No.

Q Was your husband ever arrested and charged with any crimes in New Jersey?

A No.

Q In the vehicle that your husband was driving on February 21, 1975, the date of his death, there was some union cards in the trunk.

A Just from his job.

Q They appeared to be some strike cards?

A Yes, because that was work he was hired to do. How do you call it?

Q Pickets?

A Picketing, yes.

Q Then I would assume that he was involved in union activities?

A No, but he was forced by the union in order to give him a job later on or afterward.

Q The car that belonged to Alberto Rodriguez was removed from the scene on the day of the shooting?

A I was the one who took it with a friend of my husband. We took it to the house and then I just gave it back.

Q Is Alberto Rodriguez a Cuban or Puerto

Rican?

A Cuban.

Q Is he involved in any political activities that you know of?

A He was a friend of my husband and he was in agreement with the position that my husband had.

Q Do you know William Salon?

A No, I heard his name mentioned but I do not know him.

Q Do you know if he was a friend of your husband?

A No.

Q Are you aware of any meetings that Mr. Valentin Hernandez had with your husband?

A No. They were not friends.

Q After the incident with the chair, are you aware of any meetings that Mr. Hernandez had with your husband and Mr. Lesnick?

A I don't know anything about that. Wait a minute. I know that they tried to have my husband withdraw the charges, but I don't know what came out of that.

Q Did you know a Mr. Limon or Mr. Limus?

A No.

Q Do you know the man who was with your husband at the time of the alleged attack with the chair took place?

A Mike Lemus, L-e-m-u-s. He is a security man.

Q Do you know where Mr. Lemus is today?

A No, I have not heard of him for a long time.

Q The confrontation with Mr. Lazo at the Grand Union, was there any physical contact or touching between Mr. Nieves and Mr. Lazo?

A No, just talking.

Q Does the name Galindo mean anything to you relative to that incident at the Grand Union?

A I don't know if that is the name of the man who was with Lazo or not. I know that he was an employee of Canada Dry.

Q Do you know Abilio Carrera?

A Yes.

Q Was he a friend of your husband?

A Yes.

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Q When was the last time you saw him?

A I saw him the day they were summoned for the trial. I saw him here.

Q Is he a social friend of the family?

A He lives far away. We don't see each other very often.

Q Do you know Jose Hernandez who used to live in Hialeah?

A I don't remember.

Q What about Salvador Aldereguia?

A Yes.

Q What do you know him from?

A I have not seen him in a long time. I knew him from seeing him with Luciano.

Q Do you know his present whereabouts?

A No.

MR. BARONE: That's all I have.

MR. KAYE: I have no questions.

I guess we will waive.

(Thereupon, the deposition
was concluded.)

(Reading, signing and notice
of filing waived.)

CERTIFICATE

STATE OF FLORIDA)


SS

COUNTY OF DADE)

I, LONNIE C. MORRIS, a Notary Public in and for the State of Florida at Large, do hereby certify that I reported the deposition of MILAGROS NIEVES, a witness called by the Defendant in the above-styled cause; that the said witness was duly sworn by me; and that the foregoing pages, numbered from 1 to 73, inclusive, constitute a true record of the deposition by said witness.

I further certify that I am not an attorney or counsel of any of the parties, nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the action.

WITNESS my hand and seal at Miami, Florida, this 20th day of November 1977.



Notary Public, State of Florida
at Large
My Commission expires: 7/5/81