

AFTERNOON SESSION

(Thereupon the hearing resumed at 1:30 o'clock p.m., pursuant to which the following proceedings were had in the presence of the jury:)

THE COURT: All right, gentlemen.

The Government may proceed.

MR. MORRIS: I will call Mr. Sandridge.

THEREUPON--

H. W. SANDRIDGE,  
called as a witness on behalf of the Government,  
having first been duly sworn, was examined and  
testified as follows:

DIRECT EXAMINATION

BY MR. MORRIS:

Q Please state your full name, address  
and occupation.

A H. W. Sandridge, 4103 East 9th Lane,  
Hialeah. I am early night manager, Western Union  
Telegraph Company, 230 North Miami Avenue.

Q Mr. Sandridge, how long have you been  
employed in your present position?

LEONARD LAIKEN

OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Sandridge - direct

A With the title or my--

Q Your present position.

A About seven years.

Q How long have you been with Western Union?

A Approximately thirty-two years.

Q What are your primary duties in your present job?

A I work in waiting on customers, answering complaints, money order department.

Q When you say waiting on customers, what does that entail?

A When they come to the counter, any business transaction with the Telegraph Company, I wait on them.

Q I show you Government's Exhibits 1, 2 and 3 and ask you whether you can identify those documents or not.

A Yes, sir, I can.

Q Have you seen them before?

A Yes, sir, I have.

Q When is the first time that you saw

LEONARD LAIKEN

OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Sandridge - direct

those documents?

A It would be approximately 10:24 p.m. on June 6.

Q Would you describe the circumstances under which you received those documents or how you happened to see them?

A There was this gentleman came into our lobby, in our lobby, to the counter.

Q Where is that, sir?

A At 230 North Miami Avenue.

Q All right, sir.

A He came into the office and walked in through the door, placed them on the counter and handed me the telegrams. I asked him if he wanted them to go straight or night letter. He said "Night letter" and I word checked them, counted them, rated them and took his money and logged them in on my cash sheet and put them into the traffic department for transmission.

Q Mr. Sandridge, would you please look around the courtroom and see if you can see the man who brought those documents in to you?

Sandridge - direct

A Yes, sir. That gentleman sitting there in the blue suit.

Q In relation to this table, where is he, sir?

A Directly across here.

Q Facing you?

A Yes, sir.

Q This gentleman here?

A Yes, sir.

MR. MORRIS: Let the record show that the witness indicates the defendant Orlando Bosch Avila.

THE COURT: All right, sir.

MR. MORRIS: I have no further questions.

THE COURT: Cross examination?

MR. GREENSPAHN: Yes, sir.

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q What time exactly was it on the evening of June 6th that the gentleman came in with the exhibits that you have there?

Sandridge - cross

A I don't know the exact time, sir. On night letters, we take them--we have a little well we place them in, and then when we log them in, put them on a cash sheet, we stamp them. But it would be sometime between 9:30 to 10:24, I would say.

Q Who else was working at the Western Union office at 230 Miami Avenue on that evening?

A It would be approximately twenty employees. That includes traffic. No one in my department.

Q Was there anybody else assisting you during that period of time on the counter taking messages as they came in?

A Not that I recall, sir.

Q How many messages did you receive between the hours of four o'clock in the afternoon and twelve o'clock in the evening on June 6, if you recall?

A Well, I can only estimate. I don't know on that particular day. I would have to get my cash sheet out and take it from my cash sheet. I

Sandridge - cross

would say approximately thirty-five to forty.

Q Would you have that sheet that you are referring to with you here today?

A No, sir, I do not.

Q Were you directed to the exhibits that you have in your possession now by any special reason other than they were presented to you by the man who brought them in? Was there anything that caused your attention to be drawn to those exhibits at that time?

A Well, it is quite a large transaction from what we usually get over the counter; that is, money-wise as well as the length of the message. And also it is very, very seldom do we get a good clean clear typed copy. Generally they are handwritten.

Also, I was curious to note, seeing that they were going to be heads of a government and, not being able to read Spanish, I was curious to know what was in them.

Q Did you make any inquiry directed to satisfying that curiosity?

A No, sir.

Q Do you have people at your office who

Sandridge - cross  
are bilingual and spoke Spanish?

A Not in my department. Some in the back, in Traffic.

Q You were aware of the fact that they were in the back?

A Yes.

Q Did you make any effort at that time to take these telegrams back to them?

A No, sir.

Q Will you describe, based upon your independent recollection of the events of June 6th, your recollection of the individual who presented himself with these telegrams?

A There wasn't nothing between--do you mean conversation or something?

Q His appearance, any mannerisms on his part, his conversation, anything that would be of a descriptive nature.

A His coat, other than a suit coat; and wearing the same glasses he has on now. And nothing other than that.

Q Were there any physical traits or

Sandridge - cross

blemishes that you noticed?

A No, sir.

Q Did you have occasion, subsequent to the evening of June 6, to be asked if you could make an identification of any person as that person?

A Yes, sir.

Q When was the first time that you were so asked?

A I think it was the following day.

Q By whom was that?

A An FBI agent came into the office.

Q Do you recall that agent's name, sir?

A I believe it was Mr. Davis.

Q Did Mr. Davis ask you at that time if you could state descriptively anything about the person that had brought in the telegrams?

A Yes.

Q Did you at that time give any type of description to Mr. Davis?

A Yes, sir.

Q What was the description that you gave him, if you recall?



Sandridge - cross

A Approximately 160 to 180 pounds, forty-five to fifty years old, Latin appearance, a suit coat, and a gold band on his watch. I think that was about it.

Q Was that the first time you spoke to anybody from the FBI about this incident?

A Yes, sir.

Q Do you recall whether you indicated whether you had had conversation with the man that brought the telegrams in?

A He didn't ask me if I had conversation with him. He asked me if there was a language barrier.

Q Do you recall your answer?

A I said no, there was not enough conversation to have a problem.

Q Did you at that time advise the FBI that the person that came in had a Spanish accent?

A I believe I did.

Q Were you shown any pictures at that time?

A Yes, sir.

Q Do you recall how many there were?

Sandridge - cross

A I estimate eight or ten--between eight and twelve.

Q And of those many pictures, were you able to identify any person as being the person that you saw come in?

A I picked out--threw aside all but two pictures.

Q Do you recall who those pictures were of?

A No, sir, I don't.

Q Why did you select--

A At the time when I put them aside, these two aside, I said it could be either one of these two people.

Q Did you have occasion after that date--that is, after all this happened--to again be interrogated by the FBI or any other Government agency relative to the identification of the man who came in with the telegrams?

A Yes, sir.

Q When was that, if you recall, sir?

A Several days later.

## Sandridge - cross

Q At that time were you shown photographs?

A Yes, sir.

Q How many?

A Approximately, I would say, eight or twelve more.

Q Was each of these eight or twelve photographs of a different person?

A That I don't recall.

Q Do you recall whether you, in that eight- or twelve-grouping of photographs, you saw the same photograph of the same person more than once?

A That same photograph that I laid aside, I don't know whether it was the same snapshot or not. But the same pictures was also in the next group.

Q Do you recall at that time whether you gave any further identifying characteristics of the individual by a description other than you had before?

A Not that I recall. I don't recall it if I did.

Q Do you recall at that time whether or

Sandridge - cross

not you were asked if the individual had a noticeable Spanish accent?

A Again I think they asked me if--I don't recall whether he asked me if this man had a Spanish accent. They asked me if I had a language barrier.

Q What was your answer to that, sir?

A "None."

Q Did you indicate whether there was any noticeable accent of any sort at that time?

A No, sir, other than I told him he was Spanish. I don't know whether I told him he had spoke Spanish to me. I don't know.

Q Were you able to verbally describe the individual by age to the FBI?

A When the first agent asked me a description, I gave him a description of approximately forty-five to fifty, if I recall.

Q What about height and weight?

A Five foot ten, if I recall correctly--approximately five foot ten, and 180 pounds--170 or 180 pounds.

Sandridge - cross

Q Did you notice or do you recall, subsequent to that first interrogation by the FBI, any physical blemishes of any sort?

A No.

Q Did you remark again about the glasses that this individual wore?

A Yes, sir. He asked me about if he had on glasses. I said yes, sir, he had on horn rimmed glasses, a little larger than mine, similar to mine. I gave a description.

Q And as I see it, you have on what appear to be gray or black glasses with a clear bottom on each lens, is that a fair statement?

A I don't really know, myself.

Q Take a look and see if I am describing it correctly.

A Yes, sir.

Q Is that the type of glasses that the man was wearing at that time?

A No. I said they were a little heavier glasses, not like what I have on.

Q What about color-wise? Was it the

Sandridge - cross

same?

A He didn't ask me the color.

Q How about your recalling for me what color they were, if you can recall?

A I think I told him they were darker in color than mine.

Q Would that be a darker gray or a darker black than yours, is that what you are referring to?

A I don't know the color. It was just darker. So far as color is concerned, I don't know.

Q Well, let me ask you as of your recollection as of that time. Do not tell me what you remembered for the FBI, but what you independently remember. What color were the glasses frames that you identified?

A I would say dark brown.

Q Dark brown?

A Yes, sir.

Q And were they complete frames, were they partial frames or do you recall?

A Complete frames.

Sandridge - cross

Q Like yours?

A Yes.

Q What other characteristics, if any, did you note?

A None.

Q Did the man have on a tie?

A Yes.

Q He had on a tie?

A I am certain a tie and a suit coat.

Q You are absolutely sure of that, from your recollection, that there was a tie?

A As far as my recollection is concerned.

Q Were there any gloves or anything covering his hands?

A No, sir.

Q Did you personally observe this man touching--physically touching--the three telegrams that you have before you, the exhibits?

A Yes, sir.

Q In your presence would you say that he handled them thoroughly and that his hands or his fingers were on them each independently several times?

Sandridge - cross

A He brought them in in his hands,  
laid them on the counter.

Q Did you see him when he laid them on  
the counter?

A Yes, sir.

Q Did he hand them or lay them on the  
counter one at a time?

A I don't recall that.

Q Did you have occasion subsequent to  
the second time that you were interrogated to be  
taken to a place for the purpose of making an  
identification?

A Yes, sir.

Q What place was that?

A The Miami Colonial Hotel.

Q Who took you to that place?

A An FBI agent.

Q Do you recall the name of the agent?

A Mr. Tucker.

Q What instructions, if any, had been  
given before being taken to that place?

A Well, I actually wasn't given no

LEONARD LAIKEN

OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101



Sandridge - cross

instructions. He called me and asked me if I would be willing to go down to the hotel; that he wanted to know--there was a meeting at the hotel, and he would like for me to come down with him there to see if I could pick out or identify the person that brought the telegrams to the office. And I agreed.

Q Now, sir, the very first time that you were asked to make an identification on June 7th, were you able to make a specific identification of any individual based on any of the photographs that were given to you?

A He asked me if I could identify this person, and I said, I told him that I thought I could, but I would rather, to satisfy myself, see this person rather than commit myself.

Q You told him then that you could not make a specific identification on the basis of the photographs, is that a fair statement?

A I didn't tell him that. But that is what I had rather do, is make a personal identification.

Q And between the time that that

Sandridge - cross

occurrence took place and the time that you went to the Miami Colonial Hotel, you saw at least two different sets of photographs?

A Yes.

Q Now, when you got to the hotel, what did you do?

A I met him at the hotel; we went in the lobby, and we sat down in the lobby of the hotel and just sat there. He said, "There will be some people coming in and out, and I want you to observe them and see if you can pick out the party that sent the telegrams."

Q Did you have any occasion on that day or shortly before that date to again see the photographs?

A No, sir. The photographs I seen twice--the following evening, I believe, and several days afterwards.

Q What happened when you presented yourself to the Miami Colonial Hotel?

A Well, we sat there in the lobby some fifteen minutes and this gentleman walked in and sat

Sandridge - cross

down cater-corner across from us; and I recognized him immediately. And I said to him, I said, "Yes."

He said, "You are absolutely sure?"

I said, "Yes, sir." And I said that-- he wasn't facing--he was facing me. I don't believe he had seen him. And the gentleman sat down in that chair a while and he got up and walked out and was out some five minutes, and then he came back in again and sat down. And we sat there for some, I guess we was in the lobby at least twenty or thirty minutes. And he went up--there was a group of people came in and they went in, up the elevator, and we left the hotel lobby.

Q Was that identification at that time, to the best of your recollection, based upon your independent recollection of what you had allegedly seen on June 6, or was it based upon your observations of the photographs on two separate occasions of Orlando Bosch?

A No. It was based on the transaction, because I told him that I was positive that that was-- but then I wanted--there was thirty or forty people

LEONARD LAIKEN

OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Sandridge - cross

a day that comes in our lobby, and I said, "I don't want to identify someone that I may have waited on previously or afterwards," and I said, "I'm sure that's the man," but I said, "I may have waited on him at another time. So let me think about whether he was definitely the man that gave me these telegrams."

He may have been in the lobby, you know, prior or afterwards. So I went home and I thought about it until the following day, and I recalled some other things that brought him in my mind--the appearance of him, that kind of roughness in his skin, stuff like that. And I recalled that I had noticed as well the watchband on his arm. I knew I noticed when he reached to give me the money to pay for these, his coat sleeve came up, I remembered that. And so I called the agent and I told him that there was no question in my mind about it.

Q -- How many people had been in there between the hours of four and midnight on June 6?

THE COURT: He said about thirty-five.

BY MR. GREENSPAHN:

Q Did you say that, sir?

LEONARD LAIKEN

OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Sandridge - cross

THE COURT: Yes, sir. He testified to that. Let's not repeat questions.

BY MR. GREENSPAHN:

Q Were there any other persons in there that you could now recall or made an effort to recall at any previous time by description?

A Well, if you could point out a transaction, I might be able to tell you. But just offhand, I mean, just like that at this late date, I couldn't.

MR. GREENSPAHN: Your witness.

THE COURT: All right. Redirect?

REDIRECT EXAMINATION

BY MR. MORRIS:

Q Mr. Sandridge, can you state whether or not identifying people is any part of your responsibility in your job?

A Yes, sir; about fifty percent of them.

Q In what connection?

A With money orders, paying money orders. We have to record the description and identification of the person we pay money orders to.

LEONARD LAIKEN

OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Sandridge - redirect

Q Can you state again or, put it this way, can you state today that your identification of Dr. Bosch is based upon your present independent recollection of the individual who brought these telegrams into the office?

A Yes, sir.

MR. MORRIS: Thank you, sir.

THE COURT: Thank you, sir. You may step down.

(Witness excused)

THE COURT: Call your next witness.

THEREUPON--

3-1

EDGAR BARRETT, JR.,  
called as a witness on behalf of the Government and,  
having first been duly sworn, was examined and  
testified as follows:

THE CLERK: Please state your full  
name, address and occupation.

THE WITNESS: Edgar Barrett, Jr.,  
320 Georgia Street, Hollywood, Florida. I am a  
teletype operator with Western Union.

DIRECT EXAMINATION

Barrett - direct

BY MR. MORRIS:

Q Mr. Barrett, how long have you been employed in your present position?

A Thirteen years.

Q How long have you been employed in the Miami office?

A One year.

Q Mr. Barrett, I am going to show you Government's Exhibit No. 5 and ask you if you can identify that document.

A Yes, sir, I can, sir.

Q What is it, sir?

A That is a number sheet we use or a log sheet when we sign into our work and when we sign out.

Q Are any of the entries on that document made by you on that particular document?

A Yes, sir; the first two.

Q Will you be a little more specific and tell us what the first two are?

A Well, I signed it at 11:34 and out at 2:00 a.m. And I signed in at 2:16 a.m. and out at

Barrett - direct

4:00 a.m.

Q Would you show the jury, please, just which part of this document that is. Will you hold it up for the jury to see and indicate?

A Those first two.

Q The lines which are indicated by the letters "TB"?

A Yes.

Q I show you Government's Exhibit Nos. 2 and 3 and ask you if you can identify those documents.

A Yes, I can.

Q What are they?

A The first one is a message going to London, England, that I sent. And it has my writing on it.

The second one is going to Madrid, Spain, and has my writing on it. Those were both sent within the tour of duty that I worked.

Q Mr. Barrett, what connection, if any, is there between these two documents--the two telegrams and the other document which has your writing on it?



Barrett - direct

A This here is just a record of what we sent. And, of course, the numbers on here coincide with this record.

Q What does that mean, Mr. Barrett?

A That means that I sent them.

MR. MORRIS: That is all.

THE COURT: All right, sir. Cross examination.

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Mr. Barrett, are you Spanish-speaking?

A No, sir.

Q When you received the forms that are now in evidence as Exhibits 1, 2 and 3 for the Government, that is, the telegrams, did you receive any instruction with them other than to send them?

A No, sir.

Q Did you talk to any person in your office about them?

A No, sir.

Q Did you have occasion, subsequent to the sending of these, to talk to any person in your

LEONARD LAIKEN

OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Barrett - cross

office about them?

A No, sir.

Q Do you know the last witness that we had in here--Mr. Sandridge?

A Yes, sir.

Q Have you discussed with Mr. Sandridge, since June 6, 1968, the sending of these telegrams?

A No, sir.

Q Have you discussed with any other person anything relevant to or about these cablegrams?

A No, sir.

Q Your only connection with this, then, is the actual sending of them?

A Yes, sir.

Q What intermediate steps are there, if you know, between the time the telegrams are received at your office over the counter and ultimately transmitted to you for transmission?

A Well, those, I believe, are both night letter cables, and they would go into a file which at that time I would handle.

LEONARD LAIKEN

OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Barrett - cross

Q It would go directly from the customer to Mr. Sandridge to you?

A Yes.

Q After the exhibit itself left you, where would it go?

A It would go into another file and then to our service department.

Q Do you know how many people handle these?

A Well, at that time of night, I would say about four.

Q Showing you Government's Exhibit No. 5, can you tell how many wires went out on the basis of the notations made by you during your tour of duty in the morning hours of June 7, 1968?

A The total number would be 198.

Q Of that total number, were there any others, to your recollection, that were in the Spanish language?

A Quite a few, yes, sir.

Q Is that a normal and usual situation down at the office at 230 North Miami Avenue?

Barrett - cross

A Yes, sir, it is normal.

Q Many of your customers are Spanish-speaking?

A Yes.

MR. GREENSPAHN: Thank you, sir.

I have no further questions.

THE COURT: Redirect?

MR. MORRIS: No redirect.

THE COURT: Thank you, sir. You may step down.

(Witness excused)

THE COURT: Call your next witness.

THEREUPON--

DAVID MORRIS RICH,  
called as a witness on behalf of the Government and,  
having first been duly sworn, was examined and  
testified as follows:

THE CLERK: Please state your full  
name, address and occupation.

THE WITNESS: David Morris Rich,  
621 Jann Avenue, Opa-locka. I am an automatic  
operator with Western Union.

Rich - direct

DIRECT EXAMINATION

BY MR. MORRIS:

Q How long have you been so employed,  
Mr. Rich?

A For two years.

Q What are your duties in that position?

A Well, I send and receive telegrams for  
Western Union; personal telegrams, business telegrams.

Q Where is your office located, sir?

A 230 North Miami Avenue.

THE COURT: How do you send them?

By Morse International Code or by--

THE WITNESS: By teletype.

BY MR. MORRIS:

Q Mr. Rich, I show you Government's  
Exhibit No. 1 and ask you whether you can identify  
that document.

A Well, I do, yes. I have seen it.

Q Well, do you know what it is?

That is what I am asking you.

A Yes, sir.

Q What is it?

LEONARD LAIKEN

OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Rich - direct

A It is a message to Mexico; a telegram to Mexico.

Q I show you Government's Exhibit No. 5 and ask you if you can identify that document.

A Yes.

Q What is that, sir?

A It is a number sheet used to identify the position that we send telegrams on.

Q Now, can you determine, by examining that document, whether any of the entries on it were made by you?

A Yes, sir.

Q Would you indicate, please, to the jury exactly which of those entries were made by you. Just hold it up and point to them.

A Well, there are two of them on here that I did--the third one down and the fourth one down. I signed out and in at 8:00 o'clock in the morning.

Q Are those the ones that begin with the initials "D. R."?

A "D. R."

Rich - direct

Q What connection, if any, is there between these two documents that you have in front of you?

A Well, this is this number on this message here.

Q What number is that, sir?

A 219.

Q Yes, sir.

A 219 is the number of this message.

The number of the message that I signed in for over here, between the hours of five and eight o'clock-- I signed in on the 202nd message and I signed out on the 331st. I sent all the messages in between there; and that is one of them.

THE COURT: When you say you sent them, what do you mean?

THE WITNESS: I punched it out on the teletype machine, and the tape goes through another machine and sends that to Atlanta.

MR. MORRIS: You may inquire.

THE COURT: Cross examination?

Rich - cross

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Mr. Rich, what were your hours of duty on the night of June 6?

A My normal hours are 6:30 in the morning until 3:00 o'clock in the afternoon, but I was working overtime. I had come in early. I think I came in around three or four o'clock that day in the morning.

Q Three o'clock in the morning?

A It was around three or four. I'm not sure.

Q And using No. 219, which you have already identified, can you give us some indication as to approximately what time of the day or night it was transmitted by you?

A Yes. If you will show it to me, it has the time on it.

This red time stamp shows 5:25, I think. And I signed in at 5:00 o'clock. So 25 minutes after I started, I took this message.

Q Is that A.M. or P.m?

LEONARD LAIKEN

OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101



Rich - cross

A That is in the morning--A.M.

Q That would be June 7th?

A Right.

Q All right, sir. Now, based upon your training and your experience and your work history at Western Union, what would be the time interval from the time that the message was received at the counter until it came to you for transmission?

A Well, it would depend. That is a night letter and night letters are sent after all other messages have been sent of more importance. That would be one of the last things sent. That thing probably came--well, it had to come in before two o'clock that morning--some time on the 6th or before two o'clock on the 7th.

THE COURT: You do not mean they are more important. What you mean is the customer pays more?

THE WITNESS: That is more important.

BY MR. GREENSPAHN:

Q As a matter of course--and again within your experience as a teletype operator--have

Rich - cross

you, on occasion, received more than one consecutive telegram to be transmitted from what appears to be the same person?

A Yes.

Q Based upon your experience and your training, is it customary and usual when a customer brings in several things to be transmitted that they are, in fact, received by you simultaneously and transmitted simultaneously?

A Not necessarily.

Q In what instance, then, would the continuity be broken?

A After the messages come over the counter, the man that works the counter, whoever it is, throws them on a belt, and it comes down to a box, and the traffic supervisor puts these into a box and they can sit there, like this one--if it came in at ten o'clock, I think it was, it would wait until three or four o'clock in the morning in that box, and you don't--the supervisor sticks them into the box. So they can get separated by having other messages put in between them.

Rich - cross

Q Do you recall who was the traffic supervisor on that occasion?

A Yes.

Q Who was it?

A It was Mr. Meyers.

Q Is he still with the company?

A Yes. I believe he's on vacation right now.

Q Now, do you know how many people handled message No. 219 from the time it was received at the Western Union office?

A Well, normally there should be three: The person that took it over the counter, the supervisor, and me.

Q Have you had occasion, sir, to discuss this or Exhibits 1 and 2, which are the other telegrams purportedly sent by the same individual, with Mr. Sandridge of your office?

A No, sir.

Q Have you discussed these with anybody?

A Well, with the FBI man that talked to me and Mr. Morris.

MR. GREENSPAHN: I have no further questions. Thank you.

THE COURT: Redirect?

MR. MORRIS: No redirect, your Honor.

THE COURT: Thank you, sir. You may be excused.

(Witness excused)

THE COURT: Call your next witness.

THEREUPON--

KENNETH MORSE BERNAW,  
called as a witness on behalf of the Government,  
having first been duly sworn, was examined and  
testified as follows:

THE CLERK: Please state your full name, address and occupation.

THE WITNESS: Kenneth Morse Bernaw,  
Miami, Florida. I am presently with the United States Coast Guard.

THE COURT: Are you a yeoman, son?

THE WITNESS: Gunner's mate, sir.

DIRECT EXAMINATION

BY MR. BIERMAN:

Q Where are you stationed, Mr. Bernaw?

LEONARD LAIKEN

OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Bernaw - direct

A Coast Guard Base, Captain of the Port's office, in Miami Beach, Florida.

Q Were you on duty, sir, on September 16, 1968?

A Yes, sir, I was, standing on watch on the Polish merchant vessel POLANICA.

Q Did anything unusual occur, sir, that evening?

A Yes.

Q At what time?

A About a quarter to three in the morning. I was standing watch, and it appeared that a round--a rifle round hit on the causeway side of the boat. She was tied up at Dodge Island.

Q You said, sir, it appeared?

MR. GREENSPAHN: At this time we object and move to strike the answer as not responsive to the question. There is no proper predicate or foundation laid, for example, for an opinion by Mr. Bernaw as to the type of--

THE COURT: All right, sir. I will sustain your objection on the ground that the witness's

Bernaw - direct

qualifications are not shown.

Were you stationed on this vessel?

THE WITNESS: Yes, sir. We stand watches on them, and check people that come on board.

THE COURT: Were you on watch on this particular vessel?

THE WITNESS: Yes, sir, I was.

THE COURT: All right, sir. Counsel has asked you if during that time anything unusual happened.

THE WITNESS: Yes, sir. There was an explosion on the causeway side where she was tied up. She was tied up on Dodge Island.

BY MR. BIERMAN:

Q Without telling me, sir, what the sound sounded like, were you able to make an identification of the sound?

A Yes, sir. It was an explosion.

Q Did you, sir, serve with the Coast Guard on any duty other than in the United States?

A Yes. I served for a year and a day

Bernaw - direct

in Vietnam.

Q During the course of your serving in Vietnam, did you have the opportunity to judge, which I imagine you did, or to hear gunfire and recoilless rifle fire and mortar fire?

A Yes, sir, I have.

Q Are you, sir, able to distinguish in your mind the differences between the sounds of different types of guns?

A Yes, sir, I am. Being a gunner's mate and firing, I am pretty sure I can.

Q Did you receive training from the Coast Guard in the firing of artillery and such?

A In naval ordnance, yes, sir.

Q Sir, based upon your experience in Vietnam and your training, what would you say was the sound which you heard?

A It was a recoilless rifle round, because when I was in Vietnam, they fired many of them at us, and it's one sound you never forget.

Q Would you describe that sound for us?

A When it's coming, it sounds more like a jet coming in at you, like a screeching sound comes

Bernaw - direct

in.

Q Is there an initial sound and then another sound or--

A Well, it all depends how far away it is fired at you, but when it's in the air, when it gets where you can hear it, there's just no telling what part. You know exactly what it is.

Q Did you, sir, see the point of impact?

A Yes, sir. When the round hit, we ran over to the portside, the side on the causeway, and looked down to see where the round hit. It had exploded.

Q I show you, sir, what has been marked Government's Exhibit No.6 for identification and ask you if you can identify this.

A Yes, sir. That is the side of the boat.

Q Does this photograph, sir, accurately reflect something which you have seen in the past?

A Yes, sir, it does.

Q Is that what you observed?

A That was the side of the POLANICA



Bernaw - direct

where the round hit and exploded.

MR. BIERMAN: I would offer this into evidence as Government's Exhibit No. 6 for identification.

MR. GREENSPAHN: May it please the Court, I would move to strike the answer as not being responsive. And again, no proper predicate or foundation having been laid for it, identifying the boat or the vessel or the place of impact as being anything more than a boat or vessel. It calls for hearsay and it calls for a conclusion on the part of this witness for which no predicate has been laid.

THE COURT: I cannot agree with you. This witness said he was actually on watch, on deck. He heard the gun fired and shortly thereafter he made an identification and he says this is a true and accurate representation of what he saw at the time he looked down the side of the vessel.

Is that your testimony?

THE WITNESS: Yes, sir.

MR. GREENSPAHN: My objection only goes to the reference to the vessel as the POLANICA.

Bernaw - direct

There was no qualification of that.

MR. BIERMAN: This is going in as the boat upon which he was standing.

MR. GREENSPAHN: Yes, sir, I agree with you.

THE COURT: All right, sir. I will sustain the objection that at the present time as to this witness's identification of the vessel is that it was a Polish vessel.

MR. GREENSPAHN: Thank you, sir.

MR. BIERMAN: May I pass this to the jury?

THE COURT: Yes, sir.

BY MR. BIERMAN:

Q Did you know, sir, the name of the vessel upon which you were standing guard?

A Yes, sir. The vessel's name was the POLANICA.

MR. GREENSPAHN: Objection and move to strike as hearsay.

THE COURT: No, sir. It is over-ruled.

Bernaw - direct

BY MR. BIERMAN:

Q After having heard the impact and moving to that side of the boat, sir, did you observe anything in the water?

A Yes, sir. We had a 40-footer that was on a waterside surveillance, and she was in the water and she had a spotlight on, and she put it on where the round had hit, and she ran over on the causeway and shined the light on the side of the MacArthur Causeway, about a quarter of a mile either way of where we were docked, looking for things.

Q Do you, sir, board all vessels which come into the Miami Port?

A We board and stay on board all bloc vessels which come in, most of the tankers and freighters that come into Miami and Fort Lauderdale and the West Palm Beach area.

Q What do you mean, sir, when you say "bloc vessels"?

A All your Communist vessels, Polish vessels, et cetera.

Q You do not, then, sir, remain aboard

Bernaw - direct

American vessels when they come in?

A No, sir, we don't.

MR. BIERMAN: I have no further questions.

THE COURT: Cross examination?

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Do you know, sir, the purpose for your being required to board, and maintain watch on these Communist vessels that come into our ports?

A Yes, sir.

Q What is it, sir?

A We check. We go aboard as soon as they tie up. We go aboard with Customs and Immigration. And our primary purpose is to go aboard with radioactive equipment to see if they have any nuclear warheads, et cetera. And we log all people that come on board and go off and check packages that come off and go on and we check the cargo and make sure that they meet our safety standards, et cetera.

Q Approximately how high up from the

Bernaw - cross

water level were you standing, Mr. Bernaw, when all of this happened?

A I believe it's about 20 feet or so.

Q Did you have a clear and unobstructed view of the MacArthur Causeway and the adjacent area to it?

A Yes, sir.

Q When you heard the sound of the explosion that you described, did you immediately look to the MacArthur Causeway?

A Yes, sir.

Q Was there illumination there, either by moonlight or otherwise?

A I believe the moon was out, and streetlights, and there were other lights to our back on the port, the lights shining.

Q What, if anything, did you see of an unusual nature?

A We looked over on the causeway after we looked down on the portside, and we didn't see anything on the causeway. But we had a 40-footer that ran over. I don't know if they saw anything.

Bernaw - cross

Q Were you using the naked eye or were you using some optical equipment?

A It was just the naked eye, sir.

MR. GREENSPAHN: I have nothing else.

Thank you.

MR. BIERMAN: Just one question, Mr. Bernaw.

Did you find any nuclear warheads or other objectionable items on this boat?

THE WITNESS: No, sir.

MR. GREENSPAHN: Objection as not material or relevant.

THE COURT: I will sustain the objection. I do not think it makes any difference.

MR. BIERMAN: No further questions.

THE COURT: Thank you, sir. You may be excused.

(Witness excused)

THEREUPON--

NORBERT TINSLEY,  
called as a witness on behalf of the Government,  
having first been duly sworn, was examined and

Tinsley - direct

testified as follows:

THE CLERK: Please state your full name, address and occupation.

THE WITNESS: Norbert Tinsley. I live in Miami. I work for the Coast Guard.

DIRECT EXAMINATION

BY MR. BIERMAN:

Q Were you on duty, sir, on September 16 of this year?

A Yes, sir.

Q Where were you?

A I was aboard the Polish motor vessel POLANICA.

Q Did anything unusual occur--where were you, first, on the vessel?

A I was on the dockside of the ship near the gangway.

Q Did anything unusual occur?

A Yes, sir. There was an explosion occurred.

Q When was that, sir?

A It was about fifteen minutes of three,

LEONARD LAIKEN

OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Tinsley - direct

around there.

Q Did you, sir, then observe where the explosion was?

A Yes, sir.

MR. BIERMAN: Mark this as Government's Exhibit No. 7 for identification.

(Thereupon the photograph referred to was marked for identification as Government's Exhibit No. 7.)

BY MR. BIERMAN:

Q Did you observe anything else in the water, sir?

A Nothing that I could see in the water, no.

Q Did you see any other Coast Guard personnel?

A Yes, sir. There was a patrol boat off the side of the ship.

Q I show you, sir, what has been marked Government's Exhibit No. 7 for identification and ask you if you recognize that, sir.

LEONARD LAIKEN

OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101



Tinsley - direct

A Yes, sir.

Q Does that actually depict something which you had seen?

A Yes, sir.

Q You had seen it?

A This was the indentation in the ship.

Q When you say "the indentation of the ship," are you referring to the POLANICA?

A Yes, on the POLANICA itself, yes, sir.

MR. BIERMAN: We would offer Government's Exhibit No. 7 for identification into evidence.

MR. GREENSPAHN: It seems to be a duplication of the other picture and, accordingly, I object.

THE COURT: Objection overruled.

(Thereupon the photograph referred to was received in evidence as Government's Exhibit No.7.)

BY MR. BIERMAN:

Q Other than what you have testified to,

Tinsley - direct

at the time of the explosion did you notice anything else on board?

A No, sir, except personnel of the ship fishing and that was about all.

MR. BIERMAN: I have nothing further.

THE COURT: Cross examination?

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q How many other Coast Guard officers or men were stationed aboard the POLANICA at the time that you were on?

A One other.

Q Was that Mr. Bernaw?

A Yes, sir.

Q That was the witness just a few minutes ago?

A Yes, sir.

Q Prior to the explosion that you heard, did you observe any unusual activity in and about the vessel itself or about the dock area?

A No, sir, none other.

Q Did you observe any unusual activity

Tinsley - cross

on MacArthur Causeway or the adjacent land area?

A No, sir.

Q After this explosion occurred, what did you do?

A Well, of course, we tried to contact our base to report it, and then I went over to the side of the ship and looked down to the area where the paint was removed.

Q Immediately before the explosion did you observe either by sight, by hearing or by any of your other senses, anything unusual?

A No, sir.

Q Did you at any time have an awareness of the fact that there was a Coast Guard patrol boat in the water very close to the location of the vessel that you were on?

A I knew they were out there. I didn't know exactly in what position, but I knew they were there.

Q And based upon your observation, after the explosion, did that patrol boat turn its lights on directly, its spotlight on anybody or anyplace?

Tinsley - cross

A It directed its searchlight on the area of impact.

Q And for how long a period of time did those lights remain on the area of impact?

A Probably five minutes; five or six minutes.

Q Then did the lights go out or did they shift position?

A Of course, they moved about the area trying to spy anything that might be around there.

Q Referring now to the MacArthur Causeway area.

A They had it headed in that general direction.

Q Were you up on the main deck of the vessel?

A I was on the main deck.

Q At the time this was happening?

A Yes.

Q Did you look out at the MacArthur Causeway at the time that the Coast Guard vessel's lights were out on the causeway?

Tinsley - cross

A I looked in that general direction,  
yes, sir.

Q Did you see anything unusual at that  
time?

A No.

MR. GREENSPAHN: Thank you, sir.  
I have nothing else.

THE COURT: Redirect?

MR. BIERMAN: Nothing further.

THE COURT: Thank you very much, sir.  
You may be excused.

(Witness excused)

THE COURT: Ladies and gentlemen, I  
am going to call a recess for about ten minutes at  
this time. The instructions which I have given you,  
of course, are and will be applicable.

Court will be in recess for ten  
minutes.

(Thereupon a short recess was  
taken, pursuant to which the  
following proceedings were  
had:)

THE COURT: Call your next witness,  
please.

THEREUPON--

LARRY STEPHEN HARDIN,  
called as a witness on behalf of the Government,  
having first been duly sworn, was examined and  
testified as follows:

THE CLERK: Please state your full  
name, address and occupation.

THE WITNESS: Larry Stephen Hardin,  
Miami Beach, U. S. Coast Guard.

DIRECT EXAMINATION

BY MR. BIERMAN:

Q Mr. Hardin, were you on duty on  
September 16, 1968?

A Yes, sir, I was.

Q Where were you, sir?

A From twelve to eight in the morning.

Q Where were you?

A On a Coast Guard 40-footer.

Q When you speak of a Coast Guard 40-  
footer, are you talking about a patrol boat in the  
water?

Hardin - direct

A Yes.

Q Where were you patrolling?

A Up and down the Polack ship.

Q Did anything unusual occur?

A Yes. It was shelled.

Q Speak up, if you would, sir, so that the last man in the last seat on the jury can hear you.

A Yes. The ship was shelled.

Q As a result of that, what did you do aboard your ship or aboard your vessel?

A We looked around with the searchlight over to the causeway and places like that. We just seen cars going by, but we couldn't tell for sure if anything stopped or not.

Q Were you able to find anything in your search?

A No, we wasn't.

MR. BIERMAN: Mark this as Government's Exhibit 7B, please.

(Thereupon the photograph referred to was marked for

Hardin - direct

identification as Government's  
Exhibit No. 7B.)

BY MR. BIERMAN:

Q What was the name of the ship you were  
patrolling?

A The POLANICA or the POLANICA, I think.  
I can't pronounce it right.

Q Do you know how to spell it offhand?

A P-O-L-something.

Q P-O-L-something was your answer?

A Yes. I'm not sure how to spell it.

Q I show you, sir, what has been marked  
Government's Exhibit 7B and ask you, sir, if you  
recognize that photograph.

A Yes, sir, I do.

Q Does that depict something which you  
have seen before, sir?

A Yes.

Q What does that depict?

A The ship that we was patrolling.

MR. BIERMAN: I offer Government's  
Exhibit 7B into evidence.



Hardin - direct

MR. GREENSPAHN: All right, sir.

The same objection as was raised as to the other photographs, your Honor.

THE COURT: Objection overruled.

It will be received in evidence as Government's Exhibit 7B.

(Thereupon the photograph referred to was received in evidence as Government's Exhibit No. 7B.)

BY MR. BIERMAN:

Q Showing you Government's Exhibit 7B in evidence, would you, sir, take this marking pencil and mark approximately where it was shelled. Make a circle, if you would, please.

A [Indicating]

Q That would be approximately below the bridge, is that correct?

A Yes, sir.

MR. GREENSPAHN: Objection, your Honor. Everything and anything between the waterline and the bridge is below the bridge; that is, on the hull of the ship, not on the main deck.

Hardin - direct

MR. BIERMAN: I will rephrase my question, sir.

BY MR. BIERMAN:

Q Was it in the area, sir, of the bridge?

A Yes, it was.

MR. BIERMAN: May I have permission to pass this to the jury?

THE COURT: Yes, sir.

BY MR. BIERMAN:

Q Sir, in your experience with the Coast Guard, what function does the bridge serve?

A Well, the bridge of the Polack ship, you mean?

Q Yes, the Polish vessel.

A Well, it serves for the steering of the ship. That is where you man it from.

MR. BIERMAN: I have no further questions.

THE COURT: Cross examination?

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Mr. Hardin, did you have an opportunity to go aboard this Communist vessel?

Hardin - cross

A No, I didn't.

Q Have you ever been aboard a prototype Communist vessel, one that looked like this?

A No, I haven't.

Q Do you know by description, sir, what kind of vessel this is, the tonnage disbursement, any type of descriptive statement as to what kind of vessel this pictorialized vessel is?

A Only by seeing it. That's the only way I recognize it.

Q Do you know of your own knowledge, with particular regard to the Polish Communist ship, where the steering mechanism was, where the boilers were, where the engines were?

A Not directly, but that is where most ships are manned from.

Q You do not know where they were on this ship, though?

A No, I have never been on the ship.

Q Mr. Hardin, how long have you been in the United States Coast Guard Station at Government Cut?

Hardin - cross

A Five months.

Q During that period of time, have you served on board patrol vessels with regularity?

A Yes.

Q Have you patrolled the same general area that your patrol boat was in on the night that this all happened?

A We patrol that area every night.

Q What are the areas within that area that you patrol?

A Up and around Dodge Island and over by the piers.

Q Were you near the Polish vessel for any particular reason at the time you heard this explosion?

A Yes. We was there to patrol.

Q To patrol the boat?

A Yes.

Q And at what time did you come on watch that night?

A Twelve o'clock.

Q Until what time were you to stay on

LEONARD LAIKEN

OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Hardin - cross

watch?

A Until eight the next morning.

Q What were your duties during the course of that watch?

A Keeping an eye on the ship and looking around for suspicious boats and on the causeway, anything suspicious.

Q Do you know why it was that you were keeping an eye on the ship? Were you looking for suspicious people on board the vessel or suspicious activity on the vessel or were you looking for other suspicious activities?

A I was looking for other suspicious activities.

Q How many other people were on watch with you at that time?

A We had three guys on the boat--me and the engineer and the coxswain. We took shifts on watch. And I happened to be on the shift to watch.

Q Speak up a little louder so we can all hear.

A I was on the shift when it was shelled.

Hardin - cross

Q Could the others on the vessel have a clear and unobstructed view of the waterway and of the MacArthur Causeway during your period of watch?

A No, they couldn't.

Q Were you looking at the area of the MacArthur Causeway across from or immediately north of the Polish vessel immediately before this shell exploded?

A I was going right down the side of the ship when it happened.

Q When this happened, which way were you looking?

A I was looking alongside the ship there.

Q Did your attention divert itself then back to the MacArthur Causeway? Did you look back to the causeway?

A Not right then it didn't. But right after this explosion, I did.

Q Right after?

A Yes.

Q Did you turn a spotlight or any type of illuminating device on the MacArthur Causeway?

Hardin - cross

A Yes.

Q What kind of light was it?

A It was a floodlight, spotlight.

Q In what area of MacArthur Causeway, with particular reference to the Polish vessel, did you immediately look?

A Straight across from where it hit.

Q Will you describe to me what you saw, if anything?

A Well, I seen a bunch of cars going. I couldn't tell for sure if they was all moving. There was a few cars going back and forth.

Q Did you see any people?

A It was kind of dark. We couldn't tell for sure. We could see cars going back and forth.

Q And then what did you do?

A We just kept patrolling up and down there and kept looking on the causeway.

Q Did you call anybody? Did you call for assistance of any sort?

A No. We called the base as soon as it

Hardin - cross

happned.

Q From what you saw--and you were right next to the vessel--the hull of the vessel was not ruptured, was it?

A No, it wasn't ruptured. It was dented in. There was an indentation.

Q Indented like a dent in an automobile from hitting another automobile?

A Yes.

MR. GREENSPAHN; Thank you, sir.  
I have nothing else.

THE COURT: Redirect?

REDIRECT EXAMINATION

BY MR. BIERMAN:

Q Just very briefly, Mr. Hardin, where was your patrol boat at the moment of impact, sir?

A About fifteen feet to the--well, the ship was--

Q -- I show you Government's Exhibit 7B again and ask you to mark with this marking pencil exactly where your boat was.

A It was about fifteen feet, about there

LEONARD LAIKEN

OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101



Hardin - redirect

(indicating).

Q Do you know, sir, what the effect would have been had your boat been struck by this same missile?

MR. GREENSPAHN: If it please the Court, I object.

THE COURT: I will sustain the objection.

MR. BIERMAN: We have nothing further.

THE COURT: Thank you, sir. You may be excused.

MR. GREENSPAHN: If it please the Court, may I have recross on this one point?

THE COURT: I will permit you to ask it on the basis of questions if they relate to matters that were brought out on redirect.

MR. GREENSPAHN: I believe so.

RECROSS EXAMINATION

BY MR. GREENSPAHN:

Q Knowing your position on the photograph there in terms of footage away from the Polish vessel, did you hear anything unusual before the

Hardin - recross

explosion, sir?

A No.

MR. GREENSPAHN: Thank you, sir.

Thank you.

THE COURT: You may be excused.

(Witness excused)

THE COURT: Call your next witness,  
please.

THEREUPON--

THOMAS STICKNEY,

called as a witness on behalf of the Government,  
having first been duly sworn, was examined and  
testified as follows:

THE CLERK: Please state your full  
name, address and occupation.

THE WITNESS: My name is Thomas  
Stickney, Special Agent of the Federal Bureau of  
Investigation. I live on Key Biscayne.

DIRECT EXAMINATION

BY MR. MORRIS:

Q Agent Stickney, how long have you been  
employed with the FBI, sir?

LEONARD LAIKEN

OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Stickney - direct

A I have been employed with the FBI for a little over sixteen years.

Q In the Miami office, sir, other than investigating, do you have any additional duties?

A Yes, sir, I do. I do a great deal of photographic work. I am a police instructor in photographic work.

Q I show you, sir--if you would step down, with the Court's permission?

THE COURT: All right, sir.

BY MR. MORRIS:

Q I show you what has been marked Government's Exhibit No. 8 for identification. I will ask you if you have ever seen this before.

A Yes, I have.

Q When and where did you see it?

A I saw this on September 16, 1968, just several feet out on the north side of the MacArthur Causeway.

Q Where was it, sir, when you first saw it?

A In the shallow water less than six feet

Stickney - direct  
or approximately three to six feet from the shore.

Q Do you know what that is, sir?

A Yes, sir. This is a 57 millimeter  
recoilless rifle.

MR. GREENSPAHN: If it please the  
Court, I move to strike the answer. There has been  
no proper predicate or foundation for the expression  
of the opinion of the witness.

THE COURT: Well, I think he can  
answer that question. I will overrule the objection.  
BY MR. MORRIS:

Q In your training with the FBI, did you  
study any weaponry?

A Yes, I did.

Q On how many occasions have you been in  
FBI training?

A About fifteen times; that is, regular  
training plus all the other types of special firearms  
not to mention about twelve types of special training  
in firearms.

Q During the course of that training,  
have you ever seen a recoilless rifle before or a

Stickney - direct

picture of it?

A I have seen photographs, and I saw one of these several years ago at Ramey Air Force Base or one similar to it.

MR. MORRIS: Your Honor, I would offer Government's Exhibit 8 for identification in evidence.

MR. GREENSPAHN: I would object for a number of reasons. No foundation has been laid for it. The materiality and the relevancy have not been established as of this point as to these defendants.

THE COURT: Well, I think a foundation has been laid for it. I do not think, however, that it has been connected to any of the defendants at the present time. I will overrule the objection subject to it being connected to one or more of the defendants. And if it is not done, I will grant a motion to strike it.

MR. GREENSPAHN: Thank you, sir.

BY MR. MORRIS:

Q Agent Stickney, at the time that you recovered this object or subsequent thereto, did you make an examination of it?

Stickney - direct

A Yes. After it was taken from the water, I made the note that part of it was protruding from the water when I found it. I examined it and noted that it had some oriental, possible Japanese or Chinese figures, and it had a serial number on it, a number that appeared to me--I took it to be serial No. 100334, as I recall.

Q Would you point out where on this recoilless rifle there are those markings?

A Right here.

Q Indicating the bottom end?

A Right. It is right where the projectile goes into the breech end, as compared with the muzzle end.

Q Did you take any photographs of the point of recovery?

A Yes, I did. I took quite a series of photographs of the whole area.

MR. MORRIS: Will you mark this as Composite Exhibit No. 9, please?

(Thereupon the photographs  
referred to were marked as

Stickney - direct

Government's Exhibit No. 9  
for identification.)

BY MR. MORRIS:

Q I show you, sir, four photographs  
which have been marked Composite Exhibit 9 for  
identification and ask you if you recognize these.

A Yes, sir, I do. These are photographs  
that I took on that date we recovered the rifle.

Q Did you supervise their development?

A I did.

THE COURT: That is not necessary.  
Are they true and accurate representations of the  
area at the time you took the photographs?

THE WITNESS: Yes, sir, your Honor, it  
is.

THE COURT: That is all that is  
necessary.

BY MR. MORRIS:

Q When was it that you took these?

A I took these within just a few minutes  
after the time that this was recovered on September  
16, 1968.

Stickney - direct

MR. GREENSPAHN: No objection.

THE COURT: Let me look at them.

BY MR. MORRIS:

Q Was there anything in this gun at the time that you found it?

A Yes. There was an article in it, and there were some articles attached to it.

Q Would you describe it as it was when you first saw it?

A It was still in the water. I pulled it out of the water. I noticed on the muzzle end there was some adhesive tape which I judged to be one-inch medical adhesive tape, strapping onto that a small piece of bent wire; and it is my impression that it was a makeshift sight.

Q Showing you, sir, Government's Exhibit 8A and 8B for identification--

A Yes. This is the tape with my initials on it; and the wire from the muzzle end.

Q Where was that, sir?

A That was right on the very tip of the muzzle.



Stickney - direct

Q Did it form a V, is that right?

A Right. I would say approximately half of it was laid along the top of the barrel, along about there, with the other half protruding up vertically.

Q In other words, it would be like this (indicating)?

A This is true. And the tape was around the muzzle end of the gun, holding the wire onto it.

MR. GREENSPAHN: Your Honor, the same objection to both of the proffered exhibits. They are not material or relevant to any of these named defendants.

MR. MORRIS: We offer them subject to being stricken.

THE COURT: I will overrule the objection and admit them subject to them being connected up.

(Thereupon the tape and the gun-sight were received in evidence as Government's Exhibits Nos. 8A and 8B.)

Stickney - direct

BY MR. MORRIS:

Q Was anything found within the gun, sir?

A Yes, there was. There was a shell casing. On opening the breech end, this empty or fired casing was found; and I have initialed that.

MR. MORRIS: Mark this for identification, please.

(Thereupon the casing referred to was marked as Government's Exhibit No. 8C for identification.)

BY MR. MORRIS:

Q Will you show us, sir, where this was in the gun.

THE COURT: He said it was in the breech of the gun at the time he found it.

BY MR. MORRIS:

Q Was anything else recovered, sir, at the time you recovered it?

A Yes. The two articles you are holding in your hand.

Stickney - direct

MR. MORRIS: Will you mark these as Plaintiff's Exhibits 8D and E?

(Thereupon the items referred to were marked as Government's Exhibits Nos. 8D and 8E for identification.)

BY MR. MORRIS:

Q Agent Stickney, what do you call Exhibit 8D?

A These are two pieces of a canister, an empty canister, which would be used to contain a live round of 57 millimeter ammunition. These were found within several feet but in deeper water, just out from the location where the gun was found.

Q Did you observe these being brought up?

A Yes, I did.

MR. MORRIS: We would offer Exhibits 8D and 8E in evidence subject to the same restriction as to connection.

MR. GREENSPAHN: The same objection as to relevancy and materiality.

Stickney - direct

THE COURT: All right, sir. The same ruling.

(Thereupon the items referred to were received in evidence as Government's Exhibits Nos. 8C, 8D and 8E.)

MR. MORRIS: We have nothing further.

THE COURT: Cross examination?

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Mr. Stickney, do you know the vintage of that apparatus?

A The vintage? No, I do not.

Q Have you ever personally operated, fired or constructed one of those things?

A I have not.

Q Do you know the age of the casing or the container that you have identified?

A No, I do not. I do know that it is American-made from having looked at the markings on the canister.

Q You are talking now about the shell or the casing?

Stickney - cross

A I am talking about the canister.

Q How about the shell? Is that American-made?

A I don't recall.

Q In your training that you told us about, when you became acquainted with 57-millimeter recoilless rifles, did they all have similar markings to the markings you have observed on this one?

A I don't recall whether they did or not.

Q After the discovery was made of these various items that you have identified, do you recall whether any fingerprints were found, either latent or otherwise, on any of the items--the gun, the casing, or the box in which the shell allegedly came from?

A There were some smudged latents, as I recall, on the muzzle end, the part that was protruding from the water.

Q Did you personally have anything to do with bringing out that latent fingerprint?

A I did not.

Q Do you know if that latent fingerprint was sent for laboratory analysis to the Washington

LEONARD LAIKEN

OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Stickney - cross  
office of the FBI?

A I observed those latents being lifted and I packaged them and, as I recall, they were sent to Washington.

Q Do you know where the print itself that was lifted or where a photograph of such a print might now be?

A I do not.

Q Have you seen a photograph or have you seen the lifted print subsequent to the date that you found it?

A I have not.

Q Did you take any other photographs at the scene other than those that have been put into evidence?

A Yes, I did.

Q What were those photographs of?

A They were photographs of the general area showing the--from the location from where the recoilless rifle was found over across the Miami Ship Channel to the Dodge Island wharf where the POLANICA was berthed. I photographed all angles,

Stickney - cross

within my judgment, which tended to show the ship in relation to where the gun was found.

Q Is it a fair statement that you found the gun directly north of the Polish Communist ship?

A That would not be a fair statement.

Q All right. Tell me where you found the 57 millimeter rifle.

A That was found just in a northerly direction. The ship was pointed east, and it was slightly toward the bow end opposite the north.

Q Do you know what the effective distance fired from a mechanism such as this a shell or cartridge can go?

A I do not.

Q At the scene did you find anything else that might be of interest to you in the course of your investigation?

A I'm sorry. I don't understand what you mean.

Q You found the items that are identified?

A Yes, I did.

Q On one of the items there was a fingerprint. Was there anything else of any

Stickney - cross

investigative value that you found at the scene?

A At the time it was considered to be of investigative value; articles.

Q What articles were there, sir?

MR. BIERMAN: Your Honor, I object to this whole line of questioning as going beyond the direct examination.

MR. GREENSPAHN: He talked about what he found and what he saw and what he photographed.

THE COURT: I will overrule the objection. Go ahead, sir.

A I found a large bath towel, I found an assortment of beer cans, coke cans, some old cigarette butts. And there was an impression from a very poor shoe impression.

Q Was there anything unusual about that impression of a shoe?

A No, I don't believe so.

Q Was it a straight sole or was it a rippled sole?

A It was a rippled sole.

Q Were you able to make an identification



Stickney - cross

of any person by reason of that shoe impression?

A Not to my knowledge

Q Was there anything else of present investigative value found at the scene?

A I'm sorry. I don't know what you mean by present investigative value.

Q Let me rephrase the question. Was there anything else considered by you or your colleagues to be of material or relevant purpose in making an identification as to the possessors of this instrument at the time of the shelling of the Polish ship?

THE COURT: I am going to limit the question to this witness and not as to his colleagues. I do not know how he is in possession of testimony as to what his colleagues might have thought.

MR. GREENSPAHN: Yes, sir. I agree.

A Are you asking me if there was additional evidence that is germane to this?

BY MR. GREENSPAHN:

Q That was found at the scene at the time that you were there and that was observed by you.

Stickney - cross

A I packaged all this evidence and I sent it to the FBI laboratory. Now, I didn't make any such examination of the evidence.

THE COURT: The question, sir, is not what you did, but was there anything else other than what you told us about that you found at this time and place.

THE WITNESS: There may have been, but that is all I recall. The evidence that I have named to the defense counsel here is all that I recall. If there is more, there is a list. I made a list of this evidence.

BY MR. GREENSPAHN:

Q Mr. Stickney, did you find fingerprints on anything other than the muzzle of this 57 millimeter rifle?

A No, I didn't and I don't--the gun and several portions--I guess it was the canister--were all that were dusted. I made no fingerprint examinations of the cans, things of that nature. They were packaged as latent evidence and shipped to our identification division for more expert people to

## Stickney - cross

examine.

Q What did you call this?

A A shell casing, cartridge. An empty shell casing.

Q The empty shell casing. With regard to this, where was this found? Was it in the water or was it on dry land?

A Well, it was in the water, in the breech of the gun.

Q And the canister?

A That was found in the water.

Q How about the other pieces that have been identified? Were they also in the water? The top of the canister, for instance.

A Yes, those articles were in there.

Q The small piece of bent metal?

A No. That was on the muzzle end of the gun which was protruding or was a couple of feet from the water.

Q And finally, what is this piece of tape?

A A piece of tape. That was on the

Stickney - cross

muzzle end, also. It was not in the water.

Q When you saw this piece of tape, was it dry or was it wet?

A It was dry, as I recall.

Q Did your connection with or investigation of this case cease at this point; that is, at the point of recovery and the point that you photographed the 57 millimeter recoilless rifle?

A No, it did not.

Q Did you have any further opportunity to investigate physical evidence in this case?

A I did not.

MR. GREENSPAHN: May I have one minute, sir?

THE COURT: Yes, sir.

MR. GREENSPAHN: That is all I have.

THE COURT: Redirect examination?

REDIRECT EXAMINATION

BY MR. BIERMAN:

Q Sir, in relation to the point of impact on the POLANICA, if you were to draw a line directly from that point going outward toward the causeway, and if you were to draw it to the place

Stickney -redirect

where the gun was recovered, would you, sir, mark a directional line from that as to where the gun was recovered?

A Yes. I would say that from the point of impact it would be to a north-northeasterly direction.

Q I am not very good on directions, sir. Is that closer to Miami Beach?

A It is closer to Miami Beach, yes, sir, it is.

Q Was that, sir, on the same side of the causeway or on the opposite side of the causeway?

A (No response)

Q I notice your arrow is continuing, is that correct?

A Yes. In this photograph, the foreground depicts the eastbound two lanes of MacArthur Causeway. Then there is a median full of trees and brush, and then there is across there the westbound two lanes, and then further to the north is where the gun was located in the water.

Q And that is in the water closest to the people coming from Miami Beach to Miami, is that