

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

CRIMINAL DIVISION

CASE NO. 75-10539

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STATE OF FLORIDA, :
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 Plaintiff, :
 :
 -vs- :
 :
 RAMON DON ESTEVEZ, :
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 Defendant, :
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DADE COUNTY FLA.
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Public Defender's Office
1351 Northwest 12th Street
Miami, Florida
Monday, February 9, 1976
3:45 O'clock P.M.

DEPOSITION OF DANIEL BENITEZ,

taken before JOSEPH S. SCHWARTZ, Court Reporter
and Notary Public in and for the State of Florida
at Large, pursuant to Notice of Taking Deposition
filed in the above-styled cause.



APPEARANCES:

RICHARD GERSTIEN, ESQ.,
State Attorney
BY: JAMES WOODARD, ESQ.,
Assistant State Attorney
On behalf of the Plaintiff

MECHANIC & GOLDSTEIN, ESQS.,
Attorneys for the Defendant
BY: STEVE MECHANIC &
STEVE GOLDSTEIN, ESQS.

I N D E XWITNESSDIRECTCROSS

Daniel Benitez

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Thereupon --

DANIEL BENITEZ

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

DIRECT-EXAMINATION

BY MR. MECHANIC:

Q Would you please state your name and official occupation?

A Yes, sir, Daniel Benitez, detective with the Dade County Public Safety Department.

Q On what appears to be the date of October 21 do you recall an incident happening on that day and that would be in the year 1975?

A Yes.

Q What day was that, and was that a Sunday?

A Tuesday.

Q You are in the Organized Crime Bureau?

A That is right.

Q What information did you receive



— or how did you come about it and that is saying to yourself "We will go out to the Pirhanna-Diesel Company on that date on the 21st?

A. We were told by our boss.

Q By who?

A. Vetterick.

Q Told what?

A. To check out the reports that we had gotten on Don Estevez having weapons.

Q When did you get those reports?

A. Through the routine channels and some days before.

Q Did you personally see those reports?

A. I saw some of the reports.

Q Some; I only know of one report?

A. That is the one I had seen.

Q That is Vetterick's report?

A. Yes, that is the one I had seen.

We had gotten by word of mouth that something was going on.

Q The one you read and approximately
— how long prior to the time you went out there did



— you read it?

A. A few days before and then just on the same day, I believe.

Q At the time you read it a few days before did you discuss this with your superior?

A. No, not really and I just read it for information and then he said to check it out.

Q He said to check it out three or four days later?

A. They normally put it in your box and you get it and there is a note on it and he said to check it out.

Q You got that note on the same day you went out there?

A. Before and then a couple of days later.

I was asked about it and then he said for us to go out there.

Q The sergeant said that but he did not go with you?

A. No.

Q What was your intentions in going out there and what were you planning on doing?



A. To check out the report.

Q. Assuming the report was accurate then what would you have done?

A. If there was a violation we would arrest him if we could observe a violation.

Q. Was there anything stopping you as any emergency situation and stopping you from the time you read the report or discussed it and the time you went out there and was there anything stopping you to get a warrant from searching Pirhanna-Diesel Company?

A. On the day I went?

Q. Or any day you chose to go?

A. There was no emergency.

Q. No one said to you, "Hey, Officer, you had better go now because the guns will be hidden in the next 20 minutes?"

A. No.

Q. You had no such information?

A. No.

Q. So it was your brother, Vasquez, and Rapado who went out there?

A. That is right.



Q Whose idea was it to take Mr. Keller?

A I don't know and he had been his probation officer and we asked him if he knew anything about it and he said that he would like to go.

Q What was his answer?

A He said he had heard something about it and he was contacted and he knew somehow.

Q Do you have any personal knowledge of any prior bomb or any other type of threats against Mr. Don Estevez or the factory?

A Yes, sir, a couple of them but not the exact dates.

Q You personally know about that?

A Yes.

Q Did you personally follow up on any of them?

A No.

Q Were they bomb threats, and do you know that?

A Well, to the best of my recollection there was one actual bombing, and I believe there was another bomb threat where a bomb was found



and defused.

Also, sir, there was a threat against his life that came into our communication section a few months before that.

Q The threat against his life and did that have anything to do with a press conference or a meeting that he was going to and you and the O.C.B. received an assassination threat against him?

A The Communications Bureau received that and I was advised of it.

When I was advised of it I contacted Mr. Don Estevez about it.

Q Personally?

A Yes.

Q You told him that if he goes to this thing that there is a threat against him?

A Right.

Q What did he say to you?

A He said he would go anyway and would appreciate whatever help we would render to him.

He said that he was not afraid



and that he had been threatened before and he brought up the fact that he had been bombed before also.

Q Now, sir, directing your attention to this Pirhanna-Diesel Corporation I show you a photograph of what purports to be the warehouse area.

Now, when you got there at any of the times when you got there did you ever see anything similar to that insofar as storage of goods and boxes and supplies?

A There were a lot of stored up boxes.

It looks close to what I had seen.

Q Did you personally ever check out any of that stuff and what it was?

A What do you mean?

Q Did you look at it?

A Do you mean open it?

Q Yes.

A I had no reason to.

Q Did anyone tell you what it was?



A. The one time I was there he had said it was packages.

Q. Are you familiar with the operation called Pueblo de Cuba?

A. Yes, sir, I had heard about it. You see, this was on the news and that is what prompted the assassination threat and I was not too concerned with it.

Q. Are you aware then, that the supplies and the goods and medicines were supposed to be taken over to the prisoners over there?

A. I knew it was being taken over but I didn't know who it was being taken over to.

I knew that there were some people who were sending some stuff to Cuba.

Q. Do you know anything about this boat, and is the Niveas Boat?

A. No.

Q. Did you find out what that boat was being built for?

A. Yes.

Q. What was that boat being built for?

A. For the operation Pueblo de Cuba.



Q That boat was being built while you were there on certain occasions on the premises?

A To the best of my recollection, yes, sir.

Q Did you ever personally talk to Vetterick?

A I cannot recall if I spoke to him before going to court or at some time after the incident occurred.

Q the property of the Pirhanna-Diesel Company Shipyard is enclosed by fences?

A One part of it is.

Q Well, when you say part of it, and this is the picture and can you see that?

A Yes.

Q The part where the boat is built?

A Yes.

Q That would be the open part?

A Yes.

Q It is enclosed?

A Right.

Q This part, and that is the actual building per se does not have a fence around it



— and that is the building itself?

A. No, not the entire building.

It is the back and one side and that is the right side as you look at the front of the building.

Q. But to get into this building if these gates were closed would be through the front door itself and that would be the only way?

A. Right, the only way I would try to do it.

Q. Now, Officer, when you went there it was about what time?

A. Five o'clock.

Q. The front door, and I imagine you went to the front door?

A. Yes.

Q. Was the gate opened or closed, and do you recall that?

A. To the best of my recollection it was opened.

Q. So you went in the front door and was the front door opened or closed?

A. Opened.



Q What did you first see and what did you personally observe?

A There were two tables and there was a lady sitting at the table and that is at the first table nearest to the one to the door.

Q A secretary?

A Yes.

Q What else?

A Then as I brought my face up I saw beyond the frame of the other door past the threshold there was another door.

At that time I observed Mr. Don Estevez working on some wood or something but it was some material.

Q Then to your right would have been the office?

A Yes.

Q That is the only office in that place, is it not?

A To my knowledge, yes, sir.

Q Was the office door opened or closed?

A That was closed.



Q Do you know if it was locked?

A No, sir.

Q Are there any signs outside of that office door that says "Office?"

A I didn't pay any attention to it and I don't seem to recall any.

Q How about a sign that says "Ramon Don Estevez?"

A Not that I can recall.

Q So what happened next?

A I identified myself to Don Estevez who recognized myself and Mr. Keller.

Q He knows you, doesn't he?

A Yes, but I always identify myself anyway so they know I am on business and not just happening to stroll by.

Q All right, continue.

A So I identified myself and he recognized me.

At the same time I was identifying myself he said, "Hi," and then he saw Mr. Keller and then I explained to him that I was there on a complaint being made about him having some



— weapons.

Then he asked us into the office.

Q Did he ask you to elaborate or to explain?

A Well, we did not stand there and talk.

He walked over to us and he said, "Let us go into the office."

So I guess he would ask me when we got into the office.

Q How did you get into the office?

A He opened the door and asked us in.

Q With a key?

A No, he just turned the knob.

Q When you entered the office describe what you saw and what was straight ahead?

A Well there was a couch.

Then on the couch there were four rifles leaning against the wall.

Q You had no trouble in seeing them?

A No, no trouble.

Q There was no attempt to conceal



— them in your opinion?

A. No.

Also to the left would be a desk which I have seen him sit at on previous occasions.

Q Did you ever see anybody else sitting at that desk?

A. No.

Then to my right there was a cabinet, and that would be a wooden cabinet. I think they were gray in color.

Q All right, now how about any chairs?

A. I think there was a couple right in front of the desk.

Q Ramon walked in first and then the police?

A. Yes, I believe so.

Q Where did you go, and did you sit down or what did you do?

A. Stood around.

Then I told him, and I said "You know, those are the weapons."



Q What did he say?

A He did not say anything.

I think he nodded meaning yes and he said "Yes, they are for the security guards," or something like that.

Q Did you follow up on that statement, and did you ever question anybody about the fact of the security guards being there like Marin?

A On that date you mean?

Q Yes.

A At that time I did not but later on I did.

Q What happened with these guns after you saw them?

A We took the magazines out of them and rendered them safe.

They were one round chambers and fully loaded magazines on them.

BY MR. GOLDSTEIN:

Q Who did that?

A Well I know I did one and I think



everybody did one and maybe three of us did it.

I know that there were two or three of us who did it.

Q Then what happened?

A Then I asked him what they were doing there.

Again he said that they were with the factory.

He also said that they were not his and that they were there for the security guards.

Then I asked him if there were any other weapons in the factory, and he said that the secretary outside had one.

I asked him if I could go outside and get it for our safety and he said that he had no objection to it.

Q Did he go out with you?

A No, sir, I do not think so.

Q Did you go out and get it?

A Yes, I asked the secretary and she had --

Q Is that Van Buren?



A. There is another one.

BY MR. MECHANIC:

Q Please go ahead.

A. Then she opened her drawer and I think it was the top right hand drawer on the desk and opened it and pulled out a little metal box.

Then she lifted the container and is the coin tray and underneath it was a little sterling .22.

Q Was this a cash box?

A. Yes.

Q Was it registered to her and did you determine that?

A. No, sir, and it was registered to the Pirhanna-Diesel Boat Company.

Q Whose name appeared on it?

A. I would have to look through it.

Q Did Ramon Don Estevez's name appear on it?

A. No, sir.

Q Then what?

A. I checked it and I asked her if



— she always kept it and she said "Yes," and I asked her if she was the only one who had access to it.

Then I said, "Okay," and then I placed it back in the tray and I placed it back on the tray.

I placed it back in the box and she put the tray on top of it.

Then she put it back into the drawer and closed the drawer.

She said that she had it there in case some other blacks would walk in.

Q This is a predominately black area?

A. Yes.

Q Relatively a high crime area?

A. I would assume it would be.

BY MR. GOLDSTEIN:

Q Then what happened after that?

A. Well I went back inside of the office.

Q When you went out to the secretary to get that gun did everybody else remain in the office?

— A. I don't recall.



Q Do you know where Ramon was at that time?

A I believe in the office.

Q When you were in the office the first time did you have an occasion to look at or examine the desk?

A Just generally.

I know there was a bayonett on it.

Q How about any of the drawers?

A Do you mean to go behind the desk; I did not go behind the desk.

Q From where you were at any point in time could you see behind the desk?

A No unless I got to the wall or around to where there is, you know, like a little room off to the side of one of the desks.

The only way you could see is if you went to that little room or to go by the walls.

So, sir, it is like this, and you would have to go around. (Indicating.)

BY MR. MECHANIC:

Q Was he sitting at that desk?



A. I do not recall.

BY MR. GOLDSTEIN:

Q After you checked out the gun then what happened next?

A I believe I went to the office and asked him if there were any other guns.

Q Everybody stayed in the office while you went out to check the gun?

A I am not sure.

Q When you went back in everybody was still there?

A I am not sure if they went back in when I came back in or if they were out by the door.

Q You went back in the office and then what happened?

A I asked him were there any other guns and he said, "No."

I asked him if there were any other security guards on the premises and he said that there were.

I believe we walked outside and spoke to Marin.



Then we walked out and we went through the threshold.

Then on walking through this time and when I got to the table there was a gun there and there was some clothing or something like a torn shirt or rags and there was a baseball cap and there was a revolver there and I picked it up and unloaded it.

BY MR. MECHANIC:

Q Was it in plain view?

A The butt.

I know what a revolver looks like.

You see, I know what a revolver looks like from having seen a few and I knew it was a gun when I saw it.

So I picked it up and asked him, "What about this, you told me there were no other guns."

He said, "That is Marin's."

Then I asked Marin if he had an identification for it, and he showed me an expired identification card.



He showed me an expired identification card from an old detective agency that had changed and that is what he had insofar as I know.

Q Did he acknowledge ownership of the gun?

A Yes.

Q Was it registered to him?

A Yes, sir, he showed me papers and a receipt or something that he had purchased it.

Q You checked all of these receipts out later, didn't you?

A Yes, sir, I checked out the gun by radio and the gun came back.

Q Wasn't Marin working in that work area?

A Yes, sir, he was by Don Estevez. He was by the work area when I went the second time.

Q So when you found this gun you spoke to Marin?

A We went back into the office.

BY MR. GOLDSTEIN:

Q How long a period of time was



— it between the time when you left the office to go talk to Marin and then found the gun and returned to the office?

A. I would have to guess, about a minute?

You see, it is not far at all and it is just walking out like so.

I said to Don Estevez that I would like to talk to him and then we went back into the office.

Q. As you turned and went towards the office could you see where the other officers were?

A. If I could I do not remember what they were doing.

Q. Did you see Officer Vasquez?

A. I could have seen him but I do not recall what he was doing.

Q. So then you headed back to the office with Don Estevez?

A. That is right.

Q. What happened next?

A. We just talked for a couple of



minutes.

Q What did you talk about?

A Just about the guns and what they were there for and for the security guards.

Q What did he tell you about the guns?

A He just said that they were not his.

He said that they were for the security guards at night.

BY MR. MECHANIC:

Q Do you have any reason to believe personally or otherwise and did you ever see him touching them or patrolling the premises with them on any occasion?

A I have reports but it is hearsay.

Q Have you ever seen, and that is you, personally, and have you ever seen Ramon in any way controlling these weapons?

A Well --

Q You have made more than one trip out to that factory?



A. Yes.

I have not seen him myself, no, sir.

BY MR. GOLDSTEIN:

Q Then what happened after that; you were discussing the weapons with Don Estevez in his office and what happened after that?

A I believe one of the detectives or a couple of them went over and began looking at some of the plaques on the wall again.

So they were generally looking and then I think we asked him if we could look since we found that gun and did he mind if we have a look to see if there were any other weapons and he said to us that he did not know if there was anything else around. So we just looked.

BY MR. MECHANIC:

Q Did he say there is nothing else and he did not know if there is anything else, is that what you are saying to us?

A No, sir, we asked him and he said that he did not know that that gun was there underneath the baseball cap.

Q That is Marin's gun?



A. Right.

Q. Go on.

A. But later on he said that he knew.

That he knew about it, but he had not thought about it when we were there.

That he did not recall or he did not think it was important and I don't know why.

BY MR. GOLDSTEIN:

Q. You asked him if you could look around?

A. Yes, I asked him if we could take a look around.

Then he said yes, that we could, and so we moved around the office and looked.

BY MR. MECHANIC:

Q. Not you?

A. It is a small office and I was standing there.

BY MR. GOLDSTEIN:

Q. What happened then?

A. I think Detective Vasquez



— found a Browning in his desk but I did not see him find anything and I did not see him finding it and I just know that he found it.

BY MR. MECHANIC:

Q So other than the three or four and is that how many plaques there were?

A. Yes, three or four.

Q Did you personally go up and look at them?

A. Yes.

Q They were merit awards for boat building?

A. Yes.

Q In honor of Ramon?

A. Yes.

Q Other than that and with the name Ramon was there anything else?

A. There was some picture that he had his photograph on.

It was in front of a boat that he had the photograph on, and there were three or four things.

— Q I mean other than the plaques



and I mean was there a paper weight on his desk that said "Property of Ramon," or a letter opener?

A. I did not look for any.

Q Did you see any?

A. I cannot recall.

Q Other than the outside area where the boat was being built, and this is the exposed area to the weather and these storage areas are there, sir, and other than that there is the office that we are speaking of, correct?

A. I do not understand.

Q I want to know if we have the outside area where the boat is being built.

Now we have the inside area where that stuff is stored and inside this area is an office and it is his office, correct?

A. No, sir, it is and there is a big warehouse where all of the packages are.

You see, that would be like the back of the office.

There is a little closet on one side which at one time there was a bomb threat and there



— were dogs in there.

Q Is that a solid thing?

A It is a door but it is not solid like cement or like a cement wall.

You see, it is like all made out of corrugated steel.

Q Nobody could live in there or work in there, could they?

A I do not know and there were dogs in there.

I went to open it and then he said that the dogs were in there.

Q Other than that can you think or give me your personal opinion as to where else guns, and that is assuming it is true that they were used for security from or by security guards, and where else would you have wanted them to have been placed?

A Where I?

MR. WOODARD: Objection.

BY MR. MECHANIC:

Q Where else could they have
— logically been placed?



A. In my opinion the trunk of the their cars and in the trunks of their cars.

Q Trunks of their cars?

A. Yes.

You see, they would go to work and then take it out and put it on and wear it.

That is, sir, unless it is like a bank and that would give you a longer --

BY MR. GOLDSTEIN:

Q All of the guns that were found, I presume, you subsequently checked them all out to determine who they were all registered to?

A. Yes.

Q Did you or did you not find any guns registered to Don Estevez?

A. That is correct.

Q You did not find any of the guns to be stolen or otherwise illegally purchased?

A. That is correct.

Q He has been charged with possession of firearms by a convicted felon and what is it that causes you to believe that he is guilty of such an offense?



What is it that you felt at the time gave you probable cause to believe he should be arrested for the crime?

MR. WOODARD: That is a factual question for the jury.

He told you all of the facts at least in response to all of the questions.

MR. GOLDSTEIN: Certify the question.

BY MR. MECHANIC:

Q Did you personally ever talk to that group of security people or whoever?

A. On that day?

Q No, subsequent to that?

A. Yes, sir, when he had the boat and the bombing attempt on his boat and when they returned back on the trip that they took and the boat was impounded and I gave him permission to unload some medicine that they said would spoil.

Q You spoke to these various people?

A. Yes.

Q Did you question them about their functions at the Pirhanna-Diesel Company?



A. I may have asked them a couple of questions about it and I did not specifically take a statement from them as to what they did.

Q. Do you have any information today that contradicts the fact that they in fact were working or employed as security guards there?

A. I do not understand.

Q. They have told you that they worked in that capacity?

A. Yes.

Q. That the guns were registered lawfully to them?

A. Yes.

Q. Do you have any evidence that tells you as to otherwise?

A. They were not security guards per se according to the law.

You see, they have to be registered and all of these things, and they have to take their identification pictures also.

Q. They do not work for any organized security companies like Wackenhut or other companies like that?



A. Yes.

Q But other than that?

A. I have to take their word that they are lawful.

Q And they all said that?

A. Well, I can't --

Q You know that Officer Vetterick had seen a man on parole with one of these weapons registered?

A. Right.

MR. MECHANIC: All right.

BY MR. GOLDSTEIN:

Q Were you the lead officer for lack of a better expression out of the group that was there?

A. Due to the fact I had been at the unit alone, I guess so.

Q You made a report of this incident?

A. Right.

Q How many reports were made of that particular incident;

Did each officer make a report or did you make it and everybody contributed to it?



A. We went as a team.

We prepared a report, and my report was prepared by myself.

Then I believe Vasquez, and I believe then there was another suppliment prepared by myself and Rapado or I believe by -- yes, Rapado.

MR. MECHANIC: Do you object to us getting copies of that?

MR. WOODARD: Yes, sir, very much so.

MR. GOLDSTEIN: I have nothing further.

MR. WOODARD: No questions.

Sir, do you waive?

THE WITNESS: We do not waive.

(Thereupon this deposition was concluded.)

Sworn to and subscribed before me
this _____ day of _____, 1976.

Notary Public

JOSEPH S. SCHWARTZ & ASSOC., Inc.
Certified Shorthand Reporters



CERTIFICATE OF REPORTER

STATE OF FLORIDA :

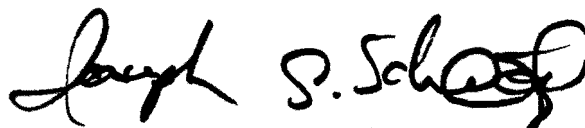
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COUNTY OF DADE :

I, JOSEPH S. SCHWARTZ, Court Reporter and Notary Public in and for the State of Florida at Large, do hereby certify that I reported the deposition of DANIEL BENITEZ, a witness called on behalf of 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 36, inclusive, constitutes a true and correct 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 official seal in the City of Miami, County of Dade, State of Florida, this 20 day of February, 1976.



Joseph S. Schwartz

My commission expires July 8, 1976.

