

- FILED -
JUN 4 1973
ROBERT DE BRINKER
CLERK

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND ABOUT
COUNTY, FLORIDA
CRIMINAL DIVISION

No. 72-7137B (Baker)

STATE OF FLORIDA, :
 :
 Plaintiff, :
 :
 vs. :
 :
 EMILIO NAVARRO, :
 :
 Defendant. :
 :
 - - - - - X

EXCERPT

Miami, Florida
Tuesday, March 13, 1973

The above-entitled case came on for trial before the Hon. Paul Baker, and a jury, at the Metropolitan Justice Building, Miami, Dade County, Florida, on Tuesday, March 13, 1973, at approximately 10:30 A. M., pursuant to notice.

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APPEARANCES:

WILLIAM TUNKEY,
Assistant State Attorney,
State Attorney's Office,
Metropolitan Justice Building,
Miami, Florida,
on behalf of the State of Florida.

JULIO FERRER, ESQ.,
on behalf of the Defendant.

ALSO PRESENT: FAUSTO OSSORIO, Interpreter.

- - - - -

I N D E X

<u>Witnesses</u>	<u>Direct</u>	<u>Cross</u>	<u>Red.</u>	<u>Rec.</u>
Jose L. Canto	3	62	122	125
Richard Anthony Keller	127	132	--	--
George Ray Havens	135	147	158	--
Haroldo Perez	160	162	--	--
Daisy Perez	171	174	--	--
Ida DeLeon	176	179	--	--
Eslivia Navarro	181	183	--	--
Emilio Navarro	188	202	212	214

EXHIBITS

<u>State's</u>	<u>Evidence</u>	<u>Identification</u>
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EXHIBITS (CONT'D.)

<u>State's</u>	<u>Evidence</u>	<u>Identification</u>
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* * * * *
Thereupon--

JOSE L. CANTO,
was called as a witness on behalf of the State of
Florida, and having been first duly sworn, testified
through the interpreter as follows:

DIRECT EXAMINATION

BY MR. TUNKEY:

Q Please state your name.

A Jose L. Canto.

Q Where do you live, Mr. Canto?

A 4311 Southwest 2nd Terrace.

Q For how long have you lived in Miami?

A Since 1960.

Q And before 1960, where were you living
at that time?

A Cuba.

Q Mr. Canto, I will ask you, even though
you are speaking through an interpreter, to keep your
voice up.

A All right.

Q Mr. Canto, directing your attention to
the latter part of 1971 and the early part of 1972,

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sir, how were you employed during that time?

A '71 and '72?

Q Yes, sir.

A Here.

Q Yes. How were you employed?

A I have a business of renting omnibus,
buses.

Q Are you still in that business today?

A Yes, sir.

Q Now, directing your attention, Mr.
Canto, to the month of February, 1972, sir, did you
have occasion during that time to come into contact
with a co-defendant in this case, Ramon Donestevez?

A In what month did you say?

Q February of 1972?

A Yes.

Q Where did you see Mr. Donestevez at
that time?

A In his factory.

Q Where is Mr. Donestevez' factory?

A Perrine, Banyan Street, B-a-y-a-n,
(phonetic)

Q Is that Banyan or Bayan?

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A Bayan but I don't know how to pronounce it.

Q Okay. Fine.

What occasioned your going to Mr. Donestevez' factory in February of 1972?

A Because I wanted to be, to have the, to take delivery of my boat.

Q From whom had you purchased this boat?

A Mr. Ramon Donestevez.

Q Sir, to your knowledge, what was the name of this boat factory?

A Piranha Boat.

Q Who was the head of Piranha Boats?

A The boss?

Q Yes.

A Mr. Ramon Donestevez.

Q All right, sir.

Did, in fact, you take delivery of your boat in February or so of 1972 from the Piranha Boat Company?

A No, I took delivery in the first days of March, somewhere around there.

Q Of 1972?

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A Yes, '72.

Q Where did you take your boat upon getting it from Ramon Donestevez?

A To my house.

Q At the address you previously gave us?

A Yes, sir.

Q How long did you have that boat, Mr. Canto?

A Approximately 20 days, more or less.

Q Now, what happened after 20 days, more or less?

A It was stolen.

Q From where?

A Flagler and 16th.

Q What is at Flagler and 16th Street or 16th Avenue?

A It's a garage.

Q Now, since that time, have you ever seen your boat, Mr. Canto?

A No, sir.

Q As of the time that your boat was stolen, was Mr. Donestevez paid in full for the boat?

A Yes, sir.

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Q Had you paid in cash?

A Yes, sir; cash.

Q Was a portion of that cash from financing?

A No, he got the whole amount, cash.

Q Mr. Canto, where did you get the cash?

A From the bank, it was given to me.

Q How large a boat was this?

A 24 foot and a few inches, close to 25 feet.

Q Was this a pleasure craft?

A Yes.

Q Now, as of the time that your boat was stolen, did you know the defendant, Emilio Navarro?

A Yes, sir.

Q For how long had you, at that time, known Emilio Navarro?

A From the first time I went to the factory.

Q Where did you first meet Emilio Navarro?

A Working as an employee at the

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factory.

Q Who introduced you to Mr. Navarro?

A Nobody.

Q When you say "the factory," where you met Mr. Navarro, what factory are you talking about?

A Piranha Boat Factory.

Q Now, do you see Mr. Emilio Navarro in the courtroom today, Mr. Canto?

A Yes sir; that man there (pointing).

Q For the record, indicating the defendant, Emilio Navarro.

Now, Mr. Canto, after your boat was stolen, did you go back and tell Ramon Donestevez that your boat had been stolen?

A Yes, sir; I explained the situation to him.

Q When did you do that?

A It was stolen on Saturday, so the following Monday I went there to see him.

Q Would that be in March of 1972?

A Yes, sir.

Q When did you next see Ramon Donestevez?

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A Some months afterwards.

Q Do you recall the month?

A About three months and a few days,
more or less.

Q Approximately in June of 1972?

A More or less, yes.

Q Where did you see Mr. Donestevéz in
June of 1972?

A In the Piranha Boat Factory.

Q At that time was Mr. Navarro there,
also?

A On that occasion, I did not go into
the factory, I went into his office.

Q What was your conversation with Mr.
Donestevéz?

A I wanted to explain to him how do I
go about collecting because he was the one who had
the boat insured, I was his friend and I wanted to
see if he could accelerate my collecting for the boat,
for losing it.

Q Were you successful in accelerating
the payment to you of the funds due you by the
insurance company?

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A Yes, I got paid for it about four months afterwards, more or less.

Q By the insurance company?

A Yes, sir.

Q Now, as of that time, did you have a grudge against the defendant, Emilio Navarro?

A No, sir.

Q Was he a friend of yours?

A No, sir.

Q Did you have a grudge at that time against Ramon Donestevez?

A No, sir.

Q As of that time, were you active in any type of political activity?

A No, sir.

Q Now, directing your attention, Mr. Canto, to the month of September, 1972, did you have any contact in that month with Ramon Donestevez?

A Yes, sir.

Q What was the first contact you had in September of 1972 with Ramon Donestevez?

A I received a call at my home at night.

Q At what time?

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A Around 8 o'clock at night.

Q What date was this on?

A The 1st of September, 1972.

Q Now, is your phone number listed in the telephone book, Mr. Canto?

A Yes, sir.

Q How did Mr. Donestevez know where you lived?

A When I just fill my application, I have to put all my personal data.

Q Did you recognize the voice on the telephone that evening?

A Yes, sir.

Q Whose voice was it?

A Mr. Ramon Donestevez.

Q Did Mr. Donestevez identify himself to you?

A Yes, sir.

Q How?

A With his name.

Q Please tell the jury, Mr. Canto, what the conversation with Mr. Donestevez was that evening.

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A He told me if I could please go over to see him immediately because he had something very important to talk to me about.

I asked him what was it all about. He told me he could not talk any farther because he had a customer with him but it was very important for me not to fail to go.

Q I did not understand the last thing you said, Mr. Ossorio.

THE INTERPRETER: "For me not to fail to go there."

BY MR. TUNKEY:

Q All right. Now, as a result of that phone conversation, Mr. Canto, did you go anywhere?

A Yes, sir.

Q Where?

A To the factory of boats, Piranha.

Q Did you, in fact, arrive at the Piranha Boat Company in Perrine?

A Yes, sir.

Q Approximately what time?

A More or less 9:15.

Q A. M., or P. M.?

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A P. M., night.

Q How long did it take you to drive from your home to the boat company?

A 30 minutes, more or less.

MR. TUNKEY: Would you please mark this for identification.

THE CLERK: 1-A for Identification.

(Thereupon the photograph referred to was marked as State's Exhibit 1-A for Identification.)

BY MR. TUNKEY:

Q Mr. Canto, I am showing you what has been marked State's Exhibit 1-A for Identification.

I would ask you if that truly and accurately depicts the area and the building that is known as Piranha Boat Factory, that you have previously referred to (showing to witness)?

A Yes, this is the factory here.

Q Is that basically how it appeared on the 1st day of September, 1972?

A Yes, sir.

MR. TUNKEY: Thank you. I move into evidence State's 1-A for Identification, your

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Honor.

MR. FERRER: Objection, Judge.

THE COURT: What grounds?

MR. FERRER: Your Honor, this factory is located in Perrine and on the Bill of Particulars, the State claims that the factory is in Miami, not in Perrine, Judge.

THE COURT: That is not a reason to keep out the picture.

Overruled, admit it.

THE CLERK: State's Exhibit 1.

(Thereupon State's Exhibit 1-A for Identification was admitted into Evidence as State's Exhibit No. 1.)

BY MR. TUNKEY:

Q Mr. Canto, would you please step down from the stand and show the jury which building in this picture is the Piranha Boat Company?

A Right here (indicating).

Q Thank you.

Where did you park your car when you got to the boat company that night?

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A Where did I park?

Q Yes, in relation to the building.

A In front of it.

Q Did you leave your car?

A Yes, sir.

Q Where did you go?

A When I was about to knock there at the door, Mr. Donestevez opened the door.

Q Now, did you have an opportunity at that moment to see how Mr. Donestevez was dressed?

A Yes, sir.

Q How was he dressed?

A He had the fatigue uniform, that's the one they use in Cuba, Fidel's Army.

Q Now, after being met at the door by Mr. Donestevez, where did you go inside the factory?

A To the office, his office.

Q As you go through the front door, is the office on the right or the left?

A To the right.

Q Did you go into that office?

A Yes, sir.

Q When you first went into that office,

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did you see anyone else in the office at that moment?

A No.

Q When you first got into the office, did you remain standing or did you sit down?

A He told me to sit down.

Q Did you?

A Yes, sir.

Q Now, at the time that you came into the office and sat down, were you armed?

A No, sir.

Q Did you have a gun in your car that evening?

A Yes, sir.

Q Where was it?

A Glove compartment.

Q Did you bring the gun with you that night simply because you were going to the factory or do you always carry it there?

A Not always, sometimes when I go out at night.

Q Did you specifically take it from your home and put it in your car that evening?

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A I don't remember whether I took it out or I had it in the glove compartment from the night before because I use two cars.

Q In any event, Mr. Canto, when you went into the office or went to the office that night, did you have any fears of being physically abused?

A No.

Q Now, after you sat down in the chair, Mr. Canto, tell the jury what happened.

A When I sat down, then Mr. Navarro came around with a gun, a pistol.

Q How was Mr. Navarro dressed at that time?

A Just normal dress.

Q Was there anybody else present at that moment?

A Yes , sir.

Q Do you know who that person was?

A No.

Q Had you ever seen that third person before?

A No.

Q How was the third person dressed?

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A Normal.

Q Now, did this third--was this third person armed, also?

A Yes, sir.

Q Where did Mr. Navarro and this third person come from; if you know?

A From inside.

Q And once you first saw them, what did they do with the guns they had?

A Told me not to move.

Q They told you not to move?

A Yes, not to move.

Q Were the guns aimed at any particular direction?

A Yes, sir: Towards me.

Q Now, shortly thereafter, did you see Mr. Donestevez again?

A At that time when this gentleman was aiming at me, he pulled out a gun.

Q "He" who did.

A Mr. Ramon Donestevez.

Q Now, go ahead and tell the jury what Mr. Navarro and Mr. Donestevez and this third person,

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who you don't know, did and said from that point on.

A Mr. Donestevéz pulled out a gun on me. I asked him what the heck he was going to do, if he was crazy, and he told me that wasn't a game, that he was very serious, that they need for some military action that they were going to take part on, they needed my contribution and that contribution had to be made one way or the other.

Q When?

A The 1st of September.

Q Go on.

A Then I told him I had no money, that I had it invested.

Then he told me I wasn't going to leave the place alive if I didn't get him the money.

Then Mr. Navarro said, "Let's take the pieces of yours away from him and give him some time so he got the money, could get the money."

Q Take some pieces of what?

A Jewelry.

Q Who said that?

A Mr. Navarro did.

Q After Mr. Navarro said that, what

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happened?

A I resisted because I did not want to give them my jewelry.

Q Go on.

A Things were getting worse, I knew they were going to take them away from me one way or the other, so then I had to give them up and then Mr. Donestevez just played with his gun twice--once.

Then the bullet that he had on the chamber fell on me, then I noticed that the pistol was already cocked, I noticed that.

Then that thing was getting serious for me, since I kept resisting because I didn't want to give my jewelry.

Mr. Ramon Donestevez got ahold of a rifle.

Q Describe the rifle.

A 1R18--AR18.

Q Was that an automatic weapon?

A Yes, sir.

Q Go on.

A Then he just cocked it.

Q After he cocked the gun, what happened

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with your jewelry?

A Then I just have to give him my jewelry.

Q Were you in fear of your life at that time, Mr. Canto?

A Yes, sir.

Q Did you feel they would shoot you if you resisted?

A Yes, sir.

Q Where was this rifle?

A Was behind his desk.

Q When you say--there were three people there, so if you tell us, instead of using "his" or "he" or the third person, use names.

Who is "he"?

A Mr. Ramon Donestevéz was the one that cocked the rifle.

Q Now, did you, in fact, turn over your jewelry to anyone?

A I put them on top of the desk, he told me to put them on the desk.

Q And did you?

A Yes, sir.

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Q What items of jewelry did you put on the desk?

A I put up my ring, diamond ring, a watch and an identification bracelet.

Q Now, before the evening was over, Mr. Canto, was anything else taken from you?

A Yes, sir. They searched me.

Q Did they take anything off your person?

A The key to my car.

Q Who did that?

A Mr. Navarro.

Q After Mr. Navarro took the key to your car, did he stay in the office?

A No, sir.

Q Where did he go?

A To my car.

Q Did you see Mr. Navarro again?

A Yes, sir.

Q Where did you next see him?

A When he came back.

Q Did he have anything with him that he didn't leave with?

A My revolver.

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Q After your jewelry had been taken off and put on the table and after your revolver had been taken from the car, how much longer did you remain in the office at the Piranha Boat Company?

A I left there about 11 at night.

Q Before you left, were you told anything, Mr. Canto?

A Yes.

After, there were some mention, some offensive words and--

Q Please tell the jury what was told to you by the people who were there at the Piranha Boat Company.

A Among other things, Mr. Navarro told me that the money was going to be used to liberate a country that I did not deserve and things like that.

Q How much money were you talking about, Mr. Canto?

A Money?

Q Yes.

A About what?

Q How much money had they asked you to give as a contribution?

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A \$800 because that was the amount of money that they needed to buy four rifles. They cost \$200 apiece.

Q Now, also, before you left, Mr. Canto, were you told when you had to come up with the \$800?

A 15 days.

Q Were you told what would happen if you didn't come up with the money in 15 days?

A No, not at that time.

They told me not to make any comment about that and nothing would happen if I give them the money.

Q Were you later told what would happen if you didn't come up with the money?

A I receive a letter.

MR. TUNKEY: Mark this for identification.

THE CLERK: The gun is 1-B for Identification; the watch is 1-C for Identification; the bracelet is 1-D for Identification.

(Thereupon the items referred to were marked as State's Exhibits 1-B, 1-C and 1-D, respectively, for Identification.)

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MR. TUNKEY: For the record, your Honor, the gun is cleared.

THE CLERK: The ring is 1-E for Identification.

(Thereupon the item referred to was marked as State's Exhibit 1-E for Identification.)

BY MR. TUNKEY:

Q Mr. Canto, showing you what has been marked as State's Exhibit 1-B for Identification--

MR. FERRER: Objection, your Honor.

The defendant is not charged with stealing that weapon, just the bracelet, the ring and the watch, Judge.

MR. TUNKEY: It is res gestae, your Honor.

THE COURT: I am going to sustain the objection.

MR. TUNKEY: He can identify it.

MR. FERRER: Your Honor, can the gun be taken outside the--

THE COURT: Yes.

MR. TUNKEY: I would ask that the

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Clerk retain it for the time being, your Honor.

THE COURT: For the time being.

BY MR. TUNKEY:

Q Mr. Canto, showing you what has been marked as State's Exhibit 1-C for Identification, a watch, I ask you if you can identify that as the watch that was taken from you that evening?

A This is my watch.

Q Showing you now, Mr. Canto, what has been marked State's 1-D for Identification, a bracelet, I ask you if you can identify that as the bracelet that was taken from you that night (showing to witness)?

A Yes, sir; that is mine.

Q How do you identify that?

A It shows the date I was born and it shows also my nickname and this is my name, my initials.

Q Also showing you, Mr. Canto, what has been marked as State's 1-E for Identification, a ring, I ask you if that is the same ring that you have referred to as being taken from you on the night of September 1st, 1972?

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A This is my ring. I had it for ten years.

MR. TUNKEY: Thank you.

Your Honor, move into evidence the items marked State's Exhibits 1-C, D and E, for Identification.

THE COURT: Admit them, cumulatively, State's 2.

(Thereupon State's Exhibits 1-C, 1-D and 1-E for Identification were admitted into Evidence as State's Exhibit 2.)

BY MR. TUNKEY:

Q Now, what time did you arrive home that night, Mr. Canto?

A About 11:30, more or less.

Q Mr. Canto, you mentioned that subsequent--or I should say after September 1st--that you received a letter; is that correct?

A Yes, sir.

Q Before you received that letter, had you been in contact with Sgt. Ray Havens of the Organized Crime Bureau of the Public Safety Department?

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A Yes, sir.

Q Had you told him what had occurred on September 1st, 1972?

A Yes, sir.

Q Now, Mr. Canto, do you recall going to see Sgt. Havens on or about the 12th day of September, 1972?

A Yes, sir.

Q Was that the first time you saw and talked with Sgt. Havens?

A Yes.

Q As of the time that you first spoke with Sgt. Havens, had you received the letter yet?

A No.

Q When did you receive the letter in relation to that first conversation with Sgt. Havens?

A I think I received it on the 12th, more or less, when I came back home.

Q When you returned home from seeing Sgt. Havens?

A Yes, after I saw him.

Q After you got the letter, what did you do with it?

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A I took it over there.

Q Over where?

A To the office of the Sergeant.

Q Did you give him the letter?

A Yes, sir.

I received the letter on the 12th or 13th--I do not remember, I think it was on the 12th--yes, I think it was on the 12th.

Q Mr. Canto, I show you what has been marked as State's 1-F for Identification, what appears to be an envelope pulled apart and a one-page letter, and ask you if you can identify it?

(Thereupon the document referred to was marked as State's Exhibit 1-F for Identification.)

(Showing to witness.)

A This is the letter.

Q Is that also the envelope?

A Yes, sir.

Q Now, do you see anything on the envelope or the letter that was not there when you first received it?

A No, everything is here.

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Q All right. Were these numbers at the bottom right-hand corner of the letter there when you received it?

A No, I don't think so.

Q How about the same numbers appearing in the middle right-hand side of the envelope?

A No, I don't remember those numbers.

Q Other than those two numbers, is the envelope and the letter exactly the same as when you received it?

A Yes.

Q Do you recall basically what it was the letter told you?

A Well, on sort of a threat, telling me not to comment about this with anyone because otherwise they were going to kill me and bomb my house.

Q How was the letter signed?

A "The Three."

MR. TUNKEY: At this time, I move into evidence State's Exhibit 1-F for Identification, the envelope and the letter, cumulatively.

MR. FERRER: No objection.

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THE COURT: Admit it without objection.

THE CLERK: 1-F is State's Exhibit 3.

(Thereupon State's Exhibit 1-F
for Identification was admitted
into Evidence as State's Exhibit
No. 3.)

BY MR. TUNKEY:

Q Showing you State's 3 in Evidence,
Mr. Canto, referring specifically now to the envelope,
do you know who the Miguel Perez, listed as the
return addressee, is?

A No.

Q Do you know whether or not such a
person exists?

A I don't know it.

Q All right.

MR. TUNKEY: Now, at this time, your
Honor, I would move that Mr. Ossorio, inasmuch as the
letter is written in Spanish, that Mr. Ossorio
translate the letter to English and publish it to the
jury.

THE COURT: It is written in Spanish
entirely?

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MR. TUNKEY: I will ask the witness that just to clarify.

In what language, Mr. Canto, is the letter written?

THE WITNESS: In Spanish.

MR. TUNKEY: Renew my motion.

THE COURT: Granted. Mr. Ossorio can read it.

THE INTERPRETER (reading): "9-9-72.

"The place where we will meet I will tell you by telephone on the 15th. Try to bring the \$800, this is not a game."

I think it is misspelled, spelled C-r-e-e-o instead of C-r-e-o.

". . . that you would not dis-realize that on the 15th we do not receive the money we are going to bomb out your house and car and we are going to fill your"--well, it is misspelled--anyway, "your stomach or your belly with lead. Be careful with your pice," meaning "your mouth,"

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because always will be people to make
you pay for it."

BY MR. TUNKEY:

Q "There will always be people to make
you pay for it?"

THE INTERPRETER: "To make you pay for
it."

MR. TUNKEY: Go on.

THE INTERPRETER: Signed, "The Three."

BY MR. TUNKEY:

Q Now, when you received this letter,
Mr. Canto, did you immediately report this threat to
the police?

A Yes, sir; I took the letter over there.

Q You gave it to the police?

A Yes, sir.

Q Now, Mr. Canto, directing your atten-
tion to the 14th day of September, 1972, on that date,
did you again go to Sgt. Havens' office and make a
phone call?

A Yes, sir.

Q Who did you call?

A To Mr. Ramon Donestevéz.

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Q To your knowledge, sir, was that phone call tape recorded?

A Yes.

Q Did you consent or agree to have the call tape recorded?

A Yes, sir.

Q To your knowledge, did the tape recording or did the tape recorder take down everything during the course of your conversation with Mr. Donestevez?

A All of it.

Q Did you keep the tape, yourself, or did Sgt. Havens keep it at that time?

A No, the Sergeant kept it.

Q Have you had a chance since that conversation to listen to the tape recording and to see if it truly and accurately reflected the entire conversation?

A Yes, sir.

Q Did it?

A Yes, sir.

MR. TUNKEY: I would like this marked for Identification, please.

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THE CLERK: 1-G for Identification.

(Thereupon the item referred to was marked as State's Exhibit 1-G for Identification.)

MR. TUNKEY: At this time, your Honor, I would move that we interrupt Mr. Canto's testimony, that I call Sgt. Havens to testify as to the integrity of the tape.

THE COURT: What do you mean by "The integrity of the tape"?

MR. TUNKEY: That he has had it in his custody since the time it was taken, that it has not been tampered with or added to.

MR. FERRER: I will stipulate that it is the original tape and it is in the same condition as it was when it was taken.

MR. TUNKEY: Fine.

THE COURT: It is unnecessary to call Sgt. Havens in the face of the stipulation.

MR. TUNKEY: At this time, your Honor, I would move the tape recording, which is marked as State's Exhibit 1-G, into Evidence, and that it be played to the jury and translated by Mr. Ossorio.

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THE COURT: Admit it without objection.

THE CLERK: 1-G is State's Exhibit 4.

(Thereupon State's Exhibit 1-G
for Identification was admitted
into Evidence as State's Exhibit
No. 4.)

MR. TUNKEY: May I ask Sgt. Havens to
assist me in setting up the tape so it may be started
at the beginning?

THE COURT: Is the tape in English or
Spanish?

BY MR. TUNKEY:

Q Mr. Canto, did you speak with Mr.
Donestevéz on the phone in English or Spanish?

A No, in Spanish.

THE COURT: Have you heard the tape,
Mr. Ferrer?

MR. TUNKEY: I have provided copies
to both counsel, your Honor.

MR. FERRER: Yes, your Honor.

THE COURT: All right. Then if there
is no objection, you can play it. Mr. Ossorio would
have to translate it. I don't know how fast it goes

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but is there a way--

MR. TUNKEY: To stop it?

THE COURT: Is there a way to stop it so that Mr. Ossorio can translate it intelligently to the jury?

MR. HAVENS: Yes, sir.

We may run approximately two or three paragraphs and then I will stop it and let him translate it and continue on.

THE COURT: Mr. Ferrer, if there is any objection to the accuracy of the translation, as far as you are concerned, let me know.

MR. FERRER: Yes, your Honor.

THE COURT: Proceed.

MR. TUNKEY: Is it loud enough from this point for the jury to hear?

MR. HAVENS: Yes.

THE INTERPRETER: "My name is Jose L. Canto. The date is the 14th of September, 1972.

"Right now it is 9:25 in the morning. I am going to call Mr. Ramon Donestevez."

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Wait a minute. You better hold up for a second. I am going to confuse her if I talk at the same time. It is going to be very confusing for her.

"I am going to call on the phone 233-5554. I am giving permission this way so this conversation could be listened to or recorded."

(Phone ringing in tape.)

"Piranha"?

I didn't hear that very well.

MR. TUNKEY: Your Honor, if I might suggest this, I believe that Sgt. Havens has had a person who speaks Spanish and English make a translation into English of the tape recording and perhaps if--I have supplied that translation to counsel also. Perhaps if we could go ahead and play the tape all the way through, give Mr. Ossorio that translation and let him see if it is a fairly true and accurate translation of the conversation, and if so, then simply read the written translation back. It might be more simple to do it that way.

THE COURT: Except by stipulation by counsel under the case of State v. Gussie (phonetic),

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a transcript cannot go before a jury, the best evidence being the tape.

MR. TUNKEY: I am not moving the transcript into evidence, I am merely using it as a written vehicle whereby Mr. Ossorio could then read to the jury what was said, in English.

* * * * *

THE INTERPRETER: "Piranha. Please, Ramon Donestevez.

"This is the one talking.

"Mr. Donestevez, this is Canto.

"Canto?

"Yes.

"Listen, I have arranged the money. Where can we meet?

"Listen Mr. Donestevez, the problem is that the jewelry, you know, I want them back.

"Of course, you will have them back. I give you my word.

"Then I have--how do you call it-- the money. Tell me where we can meet.

"We don't want that money, you

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understand, we want just to get those gold--for you to come with us and get some pieces of iron that we are going to get and that's the money we have to give for them.

"Well, Donestevéz, you know that I had a very hard time, I was very frightened over there with you people and I don't want any of that any more. I'll give you the money, to whoever you indicate I give it, to you or to whoever you indicate. I don't want to have anything to do with the iron pieces.

"I don't want to take part of any of that, those things, you know. That's not my problem. Do you understand?

"Well, when are you going to have it?

"Tomorrow I have it because I am going to go to the bank to get it. But I don't know, maybe the bank will say to me something, who knows, and then I have tomorrow.

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"Well, then, tomorrow when you have the money, you tell me when you have it."

He said yes.

"And then you let me know when you have it so we can get together.

"No. Tell me the time right now. If I--I'll have the money today. I was told to go and get it.

"Then about 3 o'clock you come over here, you give it to me, I will give you back that--

"Well, I think it would be better tomorrow because may be some complications with the guys and it would be better if we could do it tomorrow. That's why I'm telling you something might come up. Tomorrow."

This is Mr. Canto talking.

"Tell me tomorrow, anywhere you want to, anywhere."

This is Mr. Canto.

"3 o'clock right here."

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This is Mr. Donestevéz, allegedly.

I don't know.

"Don't make me go back there.

"Where shall we meet?

"Anywhere you want."

Mr. Canto says this:

"Isn't there a Royal Castle there on the corner? Anywhere you want.

"Right there on the corner, isn't there a Burger King, one of those?

"A Burger King?"

This is Mr. Donestevéz.

"Anywhere you tell me, anywhere you want."

Mr. Canto.

"Well, tomorrow you call me and we get together tomorrow about where.

"Well, okay. I will call you tomorrow."

This is Mr. Canto.

"Tomorrow you call me at what time?

"At the time I be ready to go. It could be about 10 in the morning, more or

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less."

Mr. Canto.

"Well, it could be 9, 9:30 or 10.

Do you understand?"

Mr. Canto.

"I want you to give me time because I have to get a, send for that, I have to send for it. Give me an exact time so I could have that here to give it to you. I will give it to you personally."

Mr. Donestevéz.

"It all depends on the time I get up because if I tell you at 9 o'clock and I get up at 10--"

And then Mr. Donestevéz says:

"Well, we'll let it go for more safer, safety, we can do it at 6 so there will be no problem in the afternoon, so there will be no problem of any kind, to hell.

"Okay.

"Okay.

"Okay.

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"6 o'clock in the afternoon."

Donestevez.

"At 6. Well, I'll call you so you can tell me where you are going to give it to me."

And Donestevez said, "Okay."

"Okay."

"Well, good-bye."

"Good-bye."

MR. TUNKEY: Thank you.

Your Honor, for the time being, could I leave the tape recording, itself, with the Clerk? I believe there is other evidence it will be needed for.

THE COURT: Yes. I think, as a matter of proper preservation of evidence, it should be that way.

MR. TUNKEY: Thank you.

BY MR. TUNKEY:

Q Mr. Canto, during that conversation with Mr. Donestevez, there was a reference to irons and pieces of iron. What is that?

A Weapons.

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Q Also during that conversation Mr. Donestevez referred to giving you back "it" and "that." What was he referring to?

A To the jewelry.

Q Now, did you hear from Mr. Donestevez again after that conversation on the 14th of September?

A Yes, sir.

Q When was the next time you heard from him?

A On the 15th about 7 in the morning.

Q Where were you?

A My home.

Q How ~~were~~ you contacted?

A He called me on the phone.

Q Tell the jury what Mr. Donestevez told you on the morning of the 15th of September, 1972?

A That I have to take the money to him, to the factory, he would not accept any other place.

Q Did he tell you what time to be there?

A Yes, for me to be there at 9 in the morning.

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I told him it was impossible at that time for me.

Q Go on.

A Because the bank was going to be open at 9:30 and I had my money in the bank.

Q All right. Now, after you received that phone call, Mr. Canto, where did you go?

A To the police immediately.

Q To Sgt. Havens?

A Yes.

Q Did you tell Sgt. Havens about that phone call at 7 o'clock in the morning?

A Yes, sir.

Q After you spoke with Sgt. Havens, where did you go?

A Well, we went to Perrine.

Q Now, before you went to Perrine, was anything placed on your body?

A Yes, they put some equipment for--

Q Some equipment for what?

A For recording.

Q Recording equipment on your person?

A Yes, sir.

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Q Approximately what time did you arrive in Perrine?

A Around 11 in the morning, more or less.

Q Where did you go in Perrine?

A To the factory, Mr. Ramon Donestevéz' factory, Piranha Boat.

Q How did you get there, in what vehicle?

A The police took me.

Q How did you get to the actual factory, itself?

A In my car.

Q When you say with the police, do you mean the police were near you in other cars?

A Yes, besides the police officer was with me.

Q When you actually drove up to the factory, was there a police officer in your car?

A No, sir.

Q Just a second.

Now, what did you do when you got to the factory, Mr. Canto?

A When I got to the factory, I stopped my car. I called for Mr. Ramon Donestevéz, he came

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to the door. Then we started the conversation.

Q What was the conversation?

A He told me to come in, I told him I wasn't coming in.

He asked me if I had the money, I said yes, for him to give me my jewelry back.

He said no, that first I have to give him the money.

Then I gave it to him. Then he threw at me the jewelry.

I told him that with that, everything was finished, that I wanted no more problems, no more trouble and nothing else.

At the beginning--I forgot to say something--when I got there, he saw one of the patrol cars and he asked me what was that car doing there. I told him I did not know.

That's all.

Q All right. Now, you say that you got back jewelry. Was this the same jewelry that had been taken from you on September 1st?

A Yes, sir. Yes, sir.

Q The same items here (showing to

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witness)?

A Yes, sir.

Q Did you get anything back besides the jewelry?

A A revolver.

Q Is that the same revolver that had been taken from you on the 1st of September?

A Well, yes--I would like to see it.

Q Have that marked.

How was the jewelry wrapped up?

A They were in a paper cup.

MR. TUNKEY: 1-H.

THE CLERK: 1-H for Identification.

(Thereupon the item referred to was marked as State's Exhibit 1-H for Identification.)

THE WITNESS: With some clip, clips on it.

THE CLERK: Do you want it all together?

MR. TUNKEY: Yes.

BY MR. TUNKEY:

Q Is this the paper cup and paper that

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you are referring to, Mr. Canto?

A Yes. The jewelry was in here and the revolver was here.

Q In the newspaper?

A Yes, in the newspaper, the revolver was.

MR. TUNKEY: Would you mark these photographs, cumulatively, as 1-I?

THE CLERK: 1-I, Cumulative, Identification.

(Thereupon the items referred to were marked as State's Exhibit 1-I for Identification, Cumulative.)

Q Mr. Canto, since the 15th of September, have you had the opportunity to see some photographs of that transaction wherein you gave Mr. Donestevéz \$800 and he gave you back your jewelry and your gun?

A Yes.

Q I show you what has been marked as a cumulative exhibit for identification, State's 1-I, a series of 13 photographs.

I will ask you to look at them all in

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this order and ask you if they truly and accurately represent the transaction that you had between yourself and Mr. Donestevéz on that date (showing to witness)?

A Do I look at them all?

Q Yes, in that order.

A (Witness complies.)

I saw them all.

Q Do those photographs truly and accurately represent what occurred between you and Mr. Donestevéz on that day, the 15th of September, 1972?

A Yes, sir.

MR. TUNKEY: Move to introduce them, your Honor, as a cumulative exhibit.

THE COURT: Has Mr. Ferrer seen them?

MR. FERRER: I have seen them, I have no objection.

THE COURT: Admit them without objection.

THE CLERK: 1-I is State's Exhibit 5.

(Thereupon State's Exhibit 1-I for Identification was admitted into Evidence as State's Exhibit 5.)

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MR. TUNKEY: Just keep them there.

Thank you.

BY MR. TUNKEY:

Q Now, since you left with your jewelry and your gun that day, have you had an opportunity to hear the tape recording of the conversation between yourself and Mr. Donestevéz at the factory that day?

A Yes, sir.

Q Did that tape recording truly and accurately reflect the entire conversation between yourself and Mr. Donestevéz on the 15th of September?

A Yes, sir.

MR. TUNKEY: May I have this marked for identification, please.

THE CLERK: 1-J for Identification.

(Thereupon the item referred to was marked as State's Exhibit 1-J for Identification.)

THE COURT: Let me interrupt just for a moment to ask a question, Mr. Tunkey.

Approximately how much longer, including the playing of the tape, is your direct examination going to take?

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MR. TUNKEY: Ten to fifteen minutes.

THE COURT: Mr. Ferrer, in consideration of the fact that you have to be in another court at 2 o'clock, and I am taking into consideration the fact that we have to make arrangements for the jury for lunch, would you prefer to recess after the direct examination of the State's witness and have cross examination this afternoon, or would you prefer to cross examine right away?

MR. FERRER: I would prefer to cross examine this afternoon, Judge.

THE COURT: All right. Then while the tape is being set up, let's take a five-minute recess, let the jury refresh themselves.

They have been sitting there an awfully long time.

(Thereupon a brief recess was taken after which the following proceedings were had:)

THE COURT: Let's have the jury back in, please.

MR. FERRER: For the record, the defendant's wife is in the courtroom and Mr. Tunkey

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has indicated he has no objection to her being present during the testimony of the Government witnesses.

MR. TUNKEY: Correct.

THE COURT: Okay. Fine.

Bring them in.

Is this something that is going to have to be interpreted, as well?

MR. TUNKEY: Yes.

THE COURT: How long?

MR. TUNKEY: No more than five minutes at the most. At the most.

(Thereupon the jury returned to the courtroom.)

MR. TUNKEY: State concedes the presence of the jury and its alternate, waives polling, notes the presence of the counsel and defendant in open court.

THE COURT: Proceed, Mr. Tunkey.

MR. TUNKEY: This has been marked for identification?

THE CLERK: Yes.

MR. TUNKEY: Your Honor, at this time, having identified this tape recording, I would move

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it in, State's 1-J for Identification, into evidence, and then would request that Mr. Ossorio again play it and translate it.

THE COURT: All right. That is the same procedure as used before.

MR. TUNKEY: Yes, State's 4, the other tape.

THE COURT: Is that agreeable?

MR. FERRER: Yes, it is.

THE COURT: All right.

THE CLERK: 1-J is State's Exhibit 6.

(Thereupon State's Exhibit 1-J for Identification was admitted into Evidence as State's Exhibit No. 6.)

MR. TUNKEY: Do you remember how to use it?

THE INTERPRETER: Yes, I am becoming an expert at it.

MR. TUNKEY: Fine.

(Thereupon the tape was played to the jury at which time the following was translated by Fausto Ossorio, Interpreter.)

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THE INTERPRETER: The defendant says that is him blowing the horn.

MR. TUNKEY: Who? The witness?

THE INTERPRETER: I mean the witness. I said the defendant by mistake. I am sorry.

"Ramon.

"All right, my brother."

THE WITNESS: No.

THE INTERPRETER: I thought he said, "All right, my brother," and he says that he said, "I am not going in, my brother."

"I don't go inside, my brother."

That is the witness.

"No, no, no, no, no. What happened that night, I don't want any more trouble, any more torment or anything like that."

The witness.

"Whose car is that car there, the red car?"

The other party.

"I don't know who that car belongs to.

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"Do you have money?"

"Yes. . ."

"Listen, Ramon, listen to this well.
Do you have my jewelry? I have the money.

"Give me the money.

"No. Bring them to me, I will
give you the money, bring it to me.

"Come so you can see, look at them,"
and the witness said:

"No, I don't go inside there,
my brother. No, no, no, no.

"Here, take this, I don't want to
get in there any more.

"I don't want to go in there.

"Take this.

"I don't want any more trouble,
I don't want any more problems. I am
going to give you this with the one
condition.

"Come over here. I am not going
to do anything to you."

And the witness says, "No, no, my
brother, no.

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"That gun, you are not going to put it on me again. No, no, no, no, I don't want any more of that trouble.

"You are going to get me sick of my nerves," the witness.

"If you are playing fair, I am playing fair."

That is the other party.

"Look, I am going to give you the money, don't call me at my home any more. I don't want any more little messages, I don't want any more, I don't want any more ticky ticky."

That means, conversation, problems, I guess.

". . . with the organization or with you or with anybody else. I want to put an end to this business already and right now."

And then the other party says:

"Give it to me."

And he says, "You throw it to me."

And the witness says, "I want to

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leave right now. Take it. I don't want any more tragedies. You know I am not a revolutionary, I don't go for that, either. This is the whole thing, I had a hard time getting it."

MR. TUNKEY: Excuse me. If I can interrupt the tape at this point, stop it.

THE COURT: Stop it.

BY MR. TUNKEY:

Q Mr. Canto, what was Mr. Donestevez doing during that particular pause?

A He was counting the money.

MR. TUNKEY: Fine. You can continue with the tape now.

(Playing of tape resumes.)

THE INTERPRETER: "Here. Here, horse."

That is an old saying among Cubans, they call, instead of saying pal or something, they say "horse."

And the witness says:

"No. I want to leave.

"Listen. Wait, wait.

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"The watch is an Omega. That's mine. The bracelet is the same one, the ring is the same one."

That's the witness there talking.

"The revolver is the same one."

Somebody in the background says,
"Give him the revolver.

"Yes, it's the same one."

That's the witness.

"Well, Donestevez, I gave you that."

That is the witness.

". . . that what you asked of me.
I don't want anything else. Everything
is dead.

"Okay.

"Okay.

"All right.

"Well, okay, my brother."

That is the other party.

"Good luck."

The other party.

"Good-bye."

The witness.

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That is it.

MR. TUNKEY: Thank you, Mr. Ossorio.

THE INTERPRETER: You are welcome.

BY MR. TUNKEY:

Q Did you then leave in your car, Mr. Canto?

A Yes.

Q Where did you go?

A To the police station in Perrine.

Q Later on that same day, did you turn over to the police the bracelet, the watch, the ring and the gun?

A Yes, sir.

Q Now, Mr. Canto, did everything to which you have testified today take place here in Dade County, Florida?

A Yes, in Perrine. I don't know what county it belongs to, Perrine.

MR. TUNKEY: Okay. May I have a moment, Judge? Just a moment, Judge.

(Slight pause.)

BY MR. TUNKEY:

Q Just two more questions, Mr. Canto:

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In that last tape recording, who was the other party that was speaking?

A Mr. Ramon Donestevez.

Q Who was the other party speaking on the other end of the telephone in the first recording?

A Mr. Ramon Donestevez.

MR. TUNKEY: That is all.

* * * * *

CROSS EXAMINATION

BY MR. FERRER:

Q Mr. Canto, when was the first time that you met Mr. Ramon Donestevez?

A August, 1971.

Q Will you tell me on what occasion you first met him?

A Yes.

Q Please tell me.

A I went there to buy a boat.

Q Did you, in fact, buy a boat at that time?

A I filled an application, we have to wait for an answer from Washington in order to purchase the boat.

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Q Why do you have to wait for an answer from Washington?

A Because the boat was larger than 20 foot and I wasn't an American citizen at that time.

Q Is it the same boat that later on you received from Mr. Donestevez?

A Yes, sir.

Q How did you pay Mr. Donestevez for this boat?

A How much did I pay?

THE INTERPRETER: How.

THE WITNESS: I gave him some money down and the balance was financed through the bank.

BY MR. FERRER:

Q How much did you give him down?

A Four thousand four hundred and some dollars.

Q How did you pay this to him? By check or cash?

A He did not want to take a check.

Q So you paid him in cash?

A Yes.

Q Where did you get this cash from?

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MR. TUNKEY: Objection, immaterial.

THE COURT: Sustained.

MR. TUNKEY: Irrelevant.

BY MR. FERRER:

Q Mr. Canto, what is your occupation?

A I have a business of renting buses.

Q How long have you been in this business?

A Since 1964.

Q Do you own any of the buses used?

A Yes, sir.

Q Did you buy them?

A Yes, sir.

Q And when you bought these buses, did you pay in cash or in check?

MR. TUNKEY: Objection, immaterial.

It is irrelevant, very far afield.

THE COURT: Sustained, it is too far removed.

BY MR. FERRER:

Q For how many days did you have this boat?

A Approximately 20 days, more or less.

Q Could you tell me the reason why you

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didn't have this boat in front of your home?

A I have a complaint from the City stating that I have to take the boat out of there.

Q Who ordered you to take the boat?

THE INTERPRETER: I beg your pardon?

BY MR. FERRER:

Q Who ordered you to take the boat?

A A City employee.

Q Was it a policeman?

A No, no, no. The City Inspector.

Q Precisely what did he tell you?

A He gave me a piece of paper and he gave me a few days for me to remove that boat from there.

Q How many days?

A Two weeks, ten, fifteen days. That doesn't show in the paper.

Q Then when did you move the boat from your home to the gas station?

A The day before it was stolen.

Q Did you tell anyone you were going to move your boat?

A No.

Q Do you know if Mr. Donestevéz knew you

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were going to move the boat?

THE INTERPRETER: I beg your pardon,
Counsel?

BY MR. FERRER:

Q Do you know if Mr. Donestevez knew that
you were going to move that boat?

A No.

Q Do you have any idea as to who might
have stolen your boat?

A No.

Q After your boat was stolen, on how many
occasions were you to Mr. Donestevez' factory?

A Well, I went after the boat was stolen.
In total?

Q Yes.

A Five times in total counting the last
time I went there with the police.

Q That would include September the 1st,
also?

A September 15th.

Q Well, are you counting September 1st,
too?

A Yes, counting up to that date.

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Q So you went approximately three times to his factory before September the 1st?

A Yes, exactly three.

Q And in any of these occasions, did you see Mr. Navarro there?

A The first time I went there, I am not very sure. The first time I am not sure.

After the boat was stolen?

Q Right. Did you see him there after the boat was stolen?

A The times I went there, yes, he was working there.

Q How do you know he was working there?

A I have spoken to him there.

Q Where in the factory did you speak to him?

A Inside from there, where they are building the boat for me.

Q This was before the boat was stolen?

A Yes.

Q Now, my question is, after the boat was stolen, did you see Navarro at the factory?

A After the boat was stolen, all the

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interviews I had with that took place at the office.

Q But did you or did you not see Mr. Navarro at the factory after your boat was stolen?

A I don't remember that.

Q On how many occasions did you see him at the factory while your boat was being built?

A It's possible twice or three times, maybe.

Q And on these occasions, was he working on your boat?

A Well, I don't know if it was my boat because it was a shell.

Q And on these occasions, did you talk to him?

A Once, yes, I did talk to him, I remember.

Q Do you remember for how long a period of time you talked to him?

A A few minutes.

Q Do you remember what was the conversation about?

A About boat construction.

Q Did you discuss any politics with him?

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THE INTERPRETER: I beg your pardon,
Counselor?

BY MR. FERRER:

Q Did you discuss any politics with him?

A No.

Q Now, when you used to go there to see how your boat was coming along, would you tell me if you had any discussions about Cuban politics with Mr. Donestevez?

MR. TUNKEY: Objection, hearsay.

THE COURT: Well, rephrase it; in the presence of the defendant.

MR. FERRER: I will withdraw the question.

THE COURT: All right.

BY MR. FERRER:

Q On the occasions that you went to the factory to see how your boat was coming along, did you go into Mr. Donestevez' office?

A Yes. Once I went in there. I went there only once or twice, two times, possible three but not more.

Q When you filled out the papers for the

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application for the loan and for the permission that you were supposed to get from Washington, where did you fill out these papers?

A To his office.

Q Would you describe for me how Mr. Donestevez' office looked inside?

A Tell him I want to clear up something. When I went there the first time, the office was somewhere else.

Q It was not at the factory?

A Yes, but in different position or location.

Q Could you describe for me this office at any time that you went there when you went to fill out the papers?

A Well, he had an office, a small office in a place that looked like a trailer on top, just on top of--have some steps on it.

Q Did he have any guns hanging on the walls?

A No.

Q This AR15 rifle--

MR. TUNKEY: Excuse me, your Honor.

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That was not the testimony. It was an AR18.

MR. FERRER: 18?

BY MR. FERRER:

Q This AR18 rifle that you saw on the 1st of September, was this the first time that you saw this rifle at that office?

A Yes.

Q Now, was Mr. Donestevéz showing this rifle to you or was he pointing it out to you?

A No. He threatened me with it.

Q Now, and you testified that Mr. Navarro had a 9 millimeter pistol in his hand?

A Yes, sir.

Q How do you know it was a 9 millimeter gun?

A Because I am familiar with the weapons and I have a hunting license.

Q Do you own any weapons?

A Yes.

Q How many weapons do you have?

A Only one.

Q What weapon is it?

A A .30 caliber.

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CERTIFICATE OF REPORTER

STATE OF FLORIDA :
: SS.
COUNTY OF DADE :

I, KATHERINE POPE WYATT, do hereby certify that the cause of STATE OF FLORIDA, Plaintiff, versus RAMON DONESTEVEZ, Defendant, case numbers A-75-10539 and 72-7137 A, pending in THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT, IN AND FOR DADE COUNTY, FLORIDA, came on for arraignment and probation report before The Honorable ELLEN J. MORPHONIOS, as Judge, on December 18th, 1975; that I was authorized to and did report in shorthand the proceedings and evidence in said hearing; and that the foregoing pages, numbered from 1 to 174, inclusive, constitute a true and correct transcription of my shorthand report of the proceedings in said cause.

IN WITNESS WHEREOF I have hereunto affixed my hand this 24th day of January, 1976.


KATHERINE POPE WYATT,
Registered Professional Reporter.

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Q Is that a rifle?

A Yes, sir.

Q Could you tell me who was the maker of that 9 millimeter pistol?

A No, but it is an American type one.

Q What was special about this pistol or what characteristic it has that allowed you to identify it as a 9 millimeter pistol?

A First, the shell of a bullet fell on my lap when he just mounted it, and besides that, the gun had to be a Colt, Smith and Wesson, Llama or Smith and Wesson, American type.

Q But is the Llama an American pistol?

A No, Spain. It's made in Spain. It's just like the American one.

Q And by picking up the bullet, you could identify the caliber; is that it?

A I did not pick it up.

Q When the bullet fell in your lap, what did you do with it?

A It fell on the ground, on the floor.

Q How long was it in your lap?

A It hit me on the leg and fell down on

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the floor.

Q For how long were you watching this bullet?

A I don't have to observe it for a long time.

Q I didn't ask you if you need or if you don't need to observe it for a long period of time.

I asked you for how long did you observe the bullet?

A The first hit the table first, the bullet hit the table first, then it rolled down and fell on my lap and from there it went to the floor.

Q And during all this time you were looking at it?

A It was a matter of seconds, yes.

Q And this was enough time for you to determine the caliber of it?

A Yes.

Q Was it a hollow point?

A No.

Q Do you know what type of ammunition an AR18 uses?

A .22, .23.

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Q Short or long?

A The one we call bottle type.

Q Did anybody tell you that the weapon that Mr. Donestevéz showed you was an AR18?

A No. The AR18 is the one that you have the, the magazine, you turn it around.

Q Prior to that date, on how many occasions have you seen an AR18?

A I never saw it before. I am just referring to the one he had there.

Q No. I mean anywhere else.

A I have seen them in pictures, magazines.

Q Do you receive any magazines for hunters?

MR. TUNKEY: Objection--excuse me--
objection, immaterial, irrelevant.

THE COURT: Sustained.

BY MR. FERRER:

Q Do you always carry a weapon with you?

A No, not always, not in my person.

Q Do you always have it in your car?

A Sometimes since I bought it.

Q And before you bought this weapon, did

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you have any other weapon?

A Is he referring to the revolver?

Q Yes.

A No, only the rifle.

Q Have you ever owned a 9 millimeter gun?

A Belonging to me? No.

Q In your possession?

A I have seen them, I have them in my hand.

Q Now, why did you buy this revolver?

MR. TUNKEY: Objection, your Honor.

It is immaterial why he bought it.

THE COURT: Sustained--

MR. TUNKEY: Goes to state of mind.

THE COURT: --as to why.

BY MR. FERRER:

Q Now, you had this revolver in the glove compartment in your car; is that correct?

A Yes, sir.

Q And you had this revolver for about 20 days?

A More or less.

Q During this 20 days that you had this

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revolver, did you have it in the glove compartment of your car all these 20 days?

A No. Sometimes I had it at home.

Q Before having this revolver, did you have a weapon in the glove compartment of your car?

A No.

Q Is this the first time that you have carried, in the glove compartment of your car, a revolver?

A Yes.

Q Before September 1st, 1972, will you please tell me, as accurate as possible, on how many occasions you had met with Mr. Donestevéz?

MR. TUNKEY: Objection, repetitious.

THE COURT: Overruled.

Before the 1st of September?

MR. FERRER: Yes.

THE WITNESS: How many times I get together with--

BY MR. FERRER:

Q Yes.

A Three or four times, but since what date, from what date?

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Q Well, you said that you met Mr. Donestevez for the first time in August of 1971.

A Yes.

Q From August of '71 until September of '72, on how many occasions did you meet with him?

A From August to September, oh, no. Perhaps seven, eight or nine times. I can't remember.

Q Could you tell me what was the purpose of these meetings with Donestevez?

A Yes. When I received the paper from Washington authorizing me to buy the boat; the application that was filled for the purchase of the boat; when the bank answer me; when I pay him; the times I went there during the construction of this ship or boat; when he delivered the boat to me.

Q And isn't it correct that the purpose of all these meetings was a business purpose?

A Between him and I?

Q Yes.

A The purchase of the boat.

Q Exclusively the purchase of the boat?

A Exclusively.

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Q Now, you and Mr. Donestevez are not friends; are you?

A Well, we know each other.

Q Would you say that you are business acquaintances?

A I don't understand the question.

Q What I mean is, that the only relationship that ever existed between you and Mr. Donestevez was that of a business nature?

A The only one.

Q When was the last time that you saw Mr. Donestevez before September 1st, 1972?

A When I received the check from the insurance, I cashed it very close to his factory.

Q When was this?

A July or August, maybe, or August, July. I don't remember exactly.

Q How much was the check for?

A Three thousand and a half, more or less.

Q More or less 3,200, 500, 800?

A 3500, more or less, 3400.

Q Not more than 3400?

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A I don't remember.

Q How much did you pay as a down payment for the purchase of the boat?

A 4,436 with 97 cents, I think, I think, I believe.

Q Where did you cash this check for \$3,400 that you got from your insurance company?

A I cashed it at my bank.

Q Where is your bank?

A LeJeune and Flagler.

Q Is that close by Mr. Donestevez' factory?

A No.

Q Then you told me a moment ago that when you cashed the check you went by to see him because it was close by.

A No, he was referring to the check with which I gave him the down payment.

Q Did you give him a check for the down payment?

A No. I gave him a check as a deposit, as a guarantee that I could not back out on the deal.

Q How much was the check for?

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A For the same amount, 4,400 and some dollars.

Q And this check was to be, you say, as a guarantee that you will not back down from your obligation?

A Yes. Otherwise, he wasn't going to start building the boat.

Q Did he need this money to build the boat; if you know?

A I don't know.

Q Did he cash the check?

A No.

Q If it was to be a guarantee that you wouldn't back down from the obligation, do you know for any reason why the check wasn't cashed?

A He could not cash it.

Q Why?

A The check was postdated with the date that it was supposed to be, the boat was supposed to be delivered to me.

Q Now, on the day you cashed the check from the insurance company, you went to see Mr. Donestevez?

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A No, I went there to see with the check in my hand.

Q Before you cashed it?

A Yes, before I convert it into cash.

Q Why did you go and see him with the check in your hand?

A Just to tell him that I just got the check and to thank him for whatever he did for me in order to cash it, to get the money, if he did anything, and to ask him, since he had experience of these things, if that was correct that way, because they gave me about \$1,000 less.

Q How do you know that Mr. Donestevéz had experience in receiving payment from insurance companies?

A Because he has a boat factory.

Q Now, will you tell me where you were living on September 1st, 1972?

A 4311 Southwest 2nd Terrace.

Q That is Southwest 2nd Terrace between 43rd and 44th Avenues; correct?

A Yes.

Q And you received this call from Mr.

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Donestevez at 8 o'clock?

A What call?

Q On September 1st.

A Around 8 at night.

Q Where had you been prior to coming home that day?

A That's very hard. I cannot--I don't know.

In my work.

Q How long had you been home before Mr. Donestevez called you on September 1st?

A More or less about two hours, one hour and a half or two hours.

Q Now, Mr. Canto, what time do you get up in the morning to go to work?

A It depends. Sometimes, for example, at 5 o'clock in the morning. I go back to bed about 8:15, something like that.

Q Now, when you received this call from Mr. Donestevez on September 1st, he didn't tell you the reason why he wanted you to come to the factory; did he?

A When I received that call on the 1st

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of September, no, he just told me he had something very important to tell me.

Q But he didn't tell you what was this important thing?

A No.

Q Did he give you any little advance information at all?

A No.

Q For how long were you talking to him on the telephone?

A Very short time.

Q And then you drove to the factory; correct?

A Yes, sir.

Q Now, how long does it take you to drive from your home to Mr. Donestevéz' factory?

A More or less about 30 minutes.

Q Do you know approximately how many miles do you live from the factory?

A I--exactly, I don't know.

Q Do you remember how you got to the factory, I mean what street you took to get there?

A Yes.

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Q Could you tell me?

A Off Flagler, that is the street I live close by, expressway, out Dixie Highway until you hit the Banyan Street.

Q Did you ask Mr. Donestevéz to tell you what was this important thing he had to tell?

A Yes.

Q And what did he say?

A That he could not tell me because he had a customer in front, before him.

Q How many times did you ask him to tell you this important thing?

A Did I ask him?

Q Yes.

A At least more than once, I insisted I wanted to know what it was all about.

Q And he kept telling you that he couldn't tell you because he had some customers with him?

A That he had some people with him, that he could not tell.

Q Did you ask him to call you back?

A No.

Q Did you tell him, "I'll call you back"?

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A No.

Q You just took off and drove there;
right?

A I got dressed and went.

Q Why did you get dressed?

A Because I was about to take a bath.

Q Had you had dinner already?

A No.

Q Did you have to put shoes on?

A I don't remember that.

Q When Denestevez called you, were you
already in the bathroom?

A I was about to take a bath.

Q You said that you got dressed.
Precisely what pieces of clothing did
you put on?

A I suppose the pants, the shirt.

Q Did you put on a jacket?

MR. TUNKEY: Judge, excuse me. I am
going to object.

THE COURT: Sustained.

MR. TUNKEY: Thank you.

BY MR. FERRER:

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Q Please, Mr. Canto, could you make an effort and try to remember if that gun was already in the glove compartment or you took it with you from your house to the car when you drove to the factory that night?

A Sometimes I left the gun there for a couple of days because I forgot it and sometimes I took it in.

Q Yes, but that date, that specific date, did you have it in the car or you had it in the home?

A I don't remember exactly, but if I had it at home I would have taken it with me because Perrine is a lonely place.

Q How far from U. S. 1 is the boat factory?

A Approximately some 200 meters or maybe 300 meters.

Q Were you worried of anything when you drove to that factory that night?

THE INTERPRETER: I beg your pardon?

BY MR. FERRER:

Q Were you worried of anything when you drove to the factory?

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A No. The only thing I was feeling curious about what it was all about. I thought it was something in reference to my boat.

Q Now, when you got to the factory, Mr. Donestevez was the one that received you at the door; right?

A Yes.

Q And he led you upstairs to the office?

A No, no. The office at that time was down to your right.

Q Do you remember how Mr. Navarro was dressed when you got there?

A No. He looked to me just normal clothing.

Q Was he wearing an Army type uniform?

A No, he didn't look like that to me.

Q Was he wearing Army type boots?

A I did not notice that.

Q Do you remember how Mr. Ruis Maldonado was dressed?

MR. TUNKEY: Objection, your Honor, request side bar.

THE COURT: All right.

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(Thereupon counsel for the respective parties and the reporter approached the Bench and the following proceedings were had out of the hearing of the jury:)

MR. TUNKEY: So that your Honor might be familiar with what the question relates to, there was an initial tentative photo identification of a man named Ruis Maldonado.

He was arrested along with the Defendant Navarro and the Defendant Donestevéz.

At the preliminary hearing and the Magistrate hearing in this particular case, the witness, Mr. Canto, stated under oath that he was--he didn't know whether the man who was sitting there in court was the third person.

That person, Ruis Maldonado, had the charges dismissed against him as of that date.

He has subsequently been--killed himself. I just don't think it is relevant or material.

THE COURT: You can ask him what the third person was wearing but don't use the name "Maldonado," if he is not charged.

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(Thereupon the following proceedings
were had in the hearing of the jury:)

BY MR. FERRER:

Q Mr. Canto, there were two persons
inside Mr. Donestevez' office that night?

A Counting Donestevez, there were three.

Q Right. Now, one of these persons was
Donestevez, the other one was Mr. Navarro.

A Yes.

Q And the third person, do you remember
how the third person was dressed?

A I don't remember.

Q Now, Mr. Canto, you remember going to
the offices of the FBI here in Miami on September 5th,
1972?

A Yes.

Q And do you remember talking to agents
of the FBI there in reference to this case?

A Yes.

Q Do you recall telling anybody there
that Donestevez' companions were also dressed in
fatigue uniform and Army boots?

A The one I remember perfectly is

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Mr. Donestevez.

Q Do you remember making that statement?

MR. TUNKEY: Object to the form of the question, your Honor.

THE COURT: Well, the answer before was not responsive, so I will overrule the objection.

THE WITNESS: The one I remember perfectly is Mr. Ramon Donestevez.

BY MR. FERRER:

Q When was the first time that you learned Mr. Navarro's name?

A At the FBI.

Q Were you shown any photographs?

A Yes, sir.

Q And you identified Mr. Navarro?

A Yes, sir.

Q Did you identify anybody else?

A I thought the other person but in the picture it looked different than in person.

Q Do you remember what type photograph, how big were the photographs that the FBI showed you?

A Well, a picture of regular size.

Q Is this a regular size picture?

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A No, smaller than that one.

Q In relation to this picture, how small?

A I would say about one-third of that size.

Q One-third of this size?

A One-third, one-fourth, something like that.

Q Have you ever identified that third person for sure, I mean have you ever, for sure, identified for a police lineup or anywhere that third person that was there that night?

A There was a picture that looked like that person.

They showed me several of them.

Q But the only one, besides Donestevez, the other two persons that were there, the only one that you are positive that was there is Mr. Navarro; is that correct?

A Yes, because I even talked to him before that.

Q Have you ever worked with Mr. Navarro?

A No, never.

Q Mr. Canto, will you tell me, when did

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you leave Cuba?

A In June, 1960.

Q Did you know Mr. Navarro in Cuba?

A I never saw him before.

Q Were you in any way involved in the
Castro Revolution?

A No.

MR. TUNKEY: I don't really object to
this except I think it is just totally outside the
scope of this trial. On that ground I will object,
scope.

THE COURT: Overruled. I think you
opened the door.

THE WITNESS: No.

BY MR. FERRER:

Q Did you have any political affiliations
with the Batista regime in Cuba?

A I never voted, never.

Q Did your family, immediate family have
any political affiliations with Batista?

MR. TUNKEY: Objection to what his
family did.

THE COURT: Sustained.

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BY MR. FERRER:

Q How far from the building did Mr. Donestevez meet you that night?

MR. TUNKEY: Objection, predicate.

We are talking about September 1st, that is fine.

MR. FERRER: September 1st.

MR. TUNKEY: Fine.

THE WITNESS: September the 1st?

BY MR. FERRER:

Q Yes.

A How is the question?

Q How far from the building did you meet with Mr. Donestevez on September the 1st?

A The building, his factory?

Q Yes, the factory building.

A In the principal door, main door.

Q Was he waiting for you at the door when you got there?

A No. The door was closed.

Q Was he outside the door?

A No.

When I parked the car, I was about to

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knock at the door, he opened the door.

Q Now, you testified that when Mr. Donestevéz and Mr. Navarro and that third person tried to take from your person a watch, your bracelet and your ring, that you resisted; is that correct?

A Yes, but it was, it was not a physical resistance.

Q What kind of resistance are you talking about?

A Just denying, refusing.

Q How did you refuse?

A Saying that, no, I wasn't going to give them the--

Q How many times did you tell them that you weren't going to give it to them?

A Several times.

Q And then you changed your mind because you realized that it was serious then; correct?

A Oh, yes.

Q Now, did they want your jewelry?

A Since they took them away from me, I assumed, yes.

Q But actually, didn't they ask you for

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money?

A Yes.

Q And the only reason that they took the jewelry was because you didn't have \$800 with you; is that correct?

A Yes.

Q And you reached an agreement with them that if you were able to obtain \$800, they were going to return this jewelry to you?

MR. TUNKEY: Excuse me. I object to the term "agreement."

It implies consent of both parties.

THE COURT: Sustained.

BY MR. FERRER:

Q They stated to you that if you were able to raise \$800 within 15 days, they were going to return your jewelry?

A Yes.

Q Did anyone told you that, even though you were able to obtain this \$800, they were going to keep this jewelry?

A No, they never told me that.

Q Now, Mr. Canto, I show you State's

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Exhibit No. 2, which is the watch that allegedly was taken on that night.

Could you please take a look at that watch and tell me if it is in the same condition it was when you gave it to Mr. Donestevéz (showing to witness)?

MR. TUNKEY: Objection. Counsel either stipulated or didn't object to its admissibility. It is too late now to go into predicate.

THE COURT: I don't think he is going into predicate. He may have other reasons.

Overruled.

MR. FERRER: Thank you.

THE COURT: You may answer the question.

THE WITNESS: Both hands fell off the watch. Could have happened that night when I took it off and throwed it, threw it on the table.

BY MR. FERRER:

Q When you gave it to them, was it broken?

A No, but that's very fragile.

Q Where did you buy that watch?

A Here.

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Q How much did you pay for it?

A I bought it secondhand.

Q Secondhand?

A Yes.

Q How much did you pay for it?

A I don't remember if it was \$80, 80,
100.

The watch is worth \$200.

Q Who did you buy it from?

A Downtown.

Q Who?

A I don't remember. A house in downtown.

Q Was it a jewelry store?

A Yes, a pawnshop.

Q Pawnshop. Did you get a receipt for
it?

MR. TUNKEY: I object, Judge, as to
where he bought it.

THE COURT: Sustained.

BY MR. FERRER:

Q Before September the 1st, 1972, on
how many occasions had Mr. Donestevéz called you at
your home?

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A Before September? Well, he only called me once at my home.

Q When?

A Well, he called me on the 1st of September, and after that he called me on the 15th of September.

Q But is it your testimony that the first time that you received a phone call in your home from Mr. Donestevéz was on September 1st?

A The 1st of September.

Q Were you expecting him to call you?

A The first of September?

Q Yes.

A No.

Q Do you remember if you had planned to work on the 2nd of September?

A I don't remember. The 2nd of September, it is possible.

I work on Saturdays and Sundays.

Q Were you working Saturdays and Sundays in the month of September, 1972?

A Yes, of course.

Q Now, Mr. Canto, when you walked into

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Mr. Donestevez' office, there were two persons in there: Mr. Navarro and somebody else?

A Yes, sir.

Q When you walked in, did they have their guns out?

A When I came in, this was only Mr. Donestevez and myself only.

Q When did they arrive?

A When I sat down.

Q Immediately after you sat down?

A Yes.

Q And the first time that you saw him that night, he had a gun in his hand?

A Yes, sir.

Q Did the other gentleman that was there have a gun in his hand?

A Yes, also.

Q Did Mr. Donestevez at this time have his gun in his hand?

A Yes, sir.

Q Who pulled out the gun first, Donestevez or Navarro?

A That man (indicating).

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Q Do you mean Mr. Navarro?

A Yes, sir.

Q Now, where was Mr. Navarro when you first saw him?

Was he in front of you or was he at your back or to your side?

A On my side here, on my left.

Q How do you know he had a gun in his hand?

A Because he put it on here (indicating).

MR. TUNKEY: Indicating the chest, left side.

BY MR. FERRER:

Q And at this time you were sitting down?

A Yes.

Q Did any conversation occur between you and Mr. Donestevéz from the door to the office?

A Yes.

Q Do you remember what was this conversation about?

A Well, it was a joke I use on him.

Q But it had nothing to do with money?

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A No.

Q Now, the first time that anybody that night asked you for money was once you were inside the office?

A Yes.

Q Did you and Mr. Donestevez discuss any help for the Cuban Anti-Castro Groups before you sat down?

A No, no, no.

Q Did you ever tell Mr. Donestevez before September 1st, 1972, that in case he needed some money, in order to fight Mr. Castro, you would be willing to help the cause?

A No.

Q Before September 1st, 1972, you and Mr. Donestevez never discussed any financial help that you might offer him in order to fight Castro; is that correct?

A No.

Q Did Mr. Donestevez, before September 1st, 1972, ask you for any monies in order to fight Castro?

A No.

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Q Now, when Mr. Donestevez came into the office, he was carrying the rifle?

A No.

Q When did he pick up the rifle?

A In the middle of the conversation.

Q Where did he pick it up from?

A From behind the desk.

Q Was it on the floor?

A I don't know. It was standing or laying down.

Q How tall is Mr. Donestevez' bureau?

A More or less the same height as that table there (indicating).

Q Do you know how long an AR18 is?

A I don't know the length exactly but it is not big.

Q Is it this tall (indicating)?

A No, smaller.

Q (Indicating).

A Perhaps, more or less.

MR. TUNKEY: Indicating about three feet.

BY MR. FERRER:

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Q Was the stock folded on this rifle?

A No, it was straight.

Q Now, while Mr. Navarro and this other person were pointing their guns at you, and Mr. Donestevez had this rifle in his hand, you said that Mr. Donestevez pointed to you with the rifle?

A First Mr. Donestevez, he had a gun, a pistol in his hand.

After that, he dropped the pistol and it was when he took the, picked up the rifle.

Q When he picked up the rifle, did he point it at you?

A Oh, yes.

Q Where to?

A Just in the front.

Q I mean did he point it to your head or to your chest or--

A In the middle.

Q In the middle of the chest?

A Just in front (indicating).

I can't tell you precisely.

Q He was standing in front of you with a rifle and he had it pointed at you?

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A Yes. So in case I should move a little bit this way, a little bit that way.

Q Did he cock the rifle?

A Yes.

Q Which hand did he use to cock the rifle?

A He just cock it like this and then he closed the magazine (indicating).

Q Did he use the left hand or the right hand to cock the rifle?

A I say he just cock it but I don't remember. That is a very difficult situation.

Q How do you know that he cocked it, then?

A Because it sounded.

Q And it was Mr. Donestevéz who also cocked the pistol?

A Yes.

Q And this was when that bullet jumped out of the gun into the table, into your lap and into the floor?

A That was the first weapon that he cock.

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Q Did Mr. Navarro cock his pistol?

A No. I didn't hear him do it.

Q Do you know if Mr. Navarro's pistol was ready to fire?

MR. TUNKEY: Judge, I object.

THE COURT: Sustained.

BY MR. FERRER:

Q Mr. Canto, I show you State's Exhibit No. 3, which is the letter that you allegedly received around the 11th or the 12th of September, 1972 (showing to witness).

Is the color on that paper the same that it was when you received it?

MR. TUNKEY: Objection, this goes to predicate. It has already been stipulated to.

THE COURT: Overruled.

THE WITNESS: When I received this letter, as soon as I receive it, I look at it, I took it immediately to the police. I saw it only once. I don't remember.

BY MR. FERRER:

Q Do you remember what was the color of the paper in this letter when you got it, what was

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the color? Was it white, pink, red?

A No, no. I don't remember that. I remember about the contents and that I took it to the police.

Q Do you own a typewriter?

A Yes.

Q How many?

A At this time I have two only.

Q Where do you have them? At home?

A One in my house and one in my office.

Q Could you spell the word "butch" in Spanish for me?

A Buche, b-u-c-h-e.

Q Could you spell the word "haintay" for me in Spanish?

THE INTERPRETER: What word, Counselor?

BY MR. FERRER:

Q The word "haintay, haintay."

A Yes, g-e-n-t-e.

Q Do you know a person by the name of Miguel Perez?

A No.

Q Do you have any idea who might have

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written this letter?

A (Shrugging shoulders.)

I suppose--I don't know but I always thought they were they.

Q Did you write that letter?

A I beg your pardon?

Q Did you write that letter?

A No.

Q Can you type?

A Yes.

Q Do you use all your fingers when you type?

A (Affirmative nodding of head.)

Q Have you had training?

A What did he ask me?

THE INTERPRETER: Don't shake your head, you have to give an answer. She doesn't know.

BY MR. FERRER:

Q Do you use all your fingers when you type?

A Yes.

Q Have you received training for typing or have you taken typing lessons, I should say?

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A Yes.

Q Where?

A Cuba.

Q Where in Cuba?

MR. TUNKEY: Judge, I object. We are getting so far--

THE COURT: Sustained as to where.

BY MR. FERRER:

Q When you called Mr. Donestevez on the telephone on September 14th, where were you?

A At the police.

Q Did anybody there tell you what to say to Mr. Donestevez?

A No.

Q Did anybody in any way instruct you in what to tell him?

MR. TUNKEY: Objection, immaterial. Hearsay.

THE COURT: Sustained.

BY MR. FERRER:

Q Who gave you the money that you gave to Mr. Donestevez?

A The police.

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Q Did you ever have any doubts in your mind that they would not give this back to you if you paid them the \$800?

MR. TUNKEY: Objection. Whether he had any doubts in his mind or not is immaterial.

THE COURT: Sustained, state of mind.

BY MR. FERRER:

Q Did you and Mr. Donestevéz ever discuss any plans in order to steal your own boat?

A No.

MR. TUNKEY: I object, your Honor. It is like asking him if he still beats his wife. It is that kind of a question.

THE COURT: No, it isn't.

"Do you still beat your wife" presupposes either, yes, that you do, no, that you have in the past.

All he asked him was, did he ever discuss stealing the boat with Mr. Donestevéz.

He can answer it yes or no.

MR. TUNKEY: The stealing of a boat-- yes, your Honor.

THE WITNESS: Would you repeat the

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question, please?

BY MR. FERRER:

Q Did you and Mr. Donestevéz ever discuss the stealing of your own boat?

A No.

Q Do you remember who was the insurance company that insured your boat?

A Allstate.

Q Do you remember the name of the agent that sold you the insurance?

MR. TUNKEY: Objection, immaterial.

THE COURT: Sustained as to the name of the agent.

BY MR. FERRER:

Q A little while ago, you said that Mr.--you went to thank Mr. Donestevéz for anything that he might have done in helping you recover the monies that you received from your insurance company.

MR. TUNKEY: Objection. There is no question before the Court.

MR. FERRER: I haven't finished.

MR. TUNKEY: I didn't think so.

THE COURT: Well, let him finish.

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MR. TUNKEY: All right.

THE COURT: He is restating his testimony, I assume.

Presupposes a question. What is the question?

BY MR. FERRER:

Q Of your own knowledge, do you know if Mr. Donestevez did anything in order to help you get the insurance for your boat?

MR. TUNKEY: Objection, repetitious.

THE COURT: Overruled.

THE WITNESS: How is the question?

BY MR. FERRER:

Q Of your own knowledge, do you know if Mr. Donestevez did anything to help you recover the insurance on your boat?

A I know already that he contributed to it or that he helped.

Q How did he help?

A Otherwise, I have to put the case in the hands of my attorney.

Q I didn't understand your answer. Did you say that he helped you?

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A I asked him, since he was the one who did all the work on it, in order to obtain the insurance for the boat as well as the financing from the bank, to please try to finish that.

Q And of your own knowledge, did you know if he did anything about it?

A No, I ignore that.

Q Do you, of your own knowledge, know why you received only \$3,400 from the insurance company instead of \$4400 to cover for your own down payment?

A Well, they claim it was on account of depreciation and the use of it and it wasn't \$3400, it was more or less, I don't remember exactly how much it was.

Q Now, Mr. Canto, you were on the factory on the night of September 1st, 1972?

A Yes.

Q When was the first time that you talked

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to the authorities in reference to what happened to you that night?

A On the day, the 5th of September.

Q Who did you talk to on the 5th of September?

A It was a Federal Agent, I think it was.

Q Why did you go to the FBI?

MR. TUNKEY: Objection.

THE COURT: Sustained.

MR. TUNKEY: Thank you.

BY MR. FERRER:

Q Mr. Canto, is this revolver that you own registered to your name?

A The boat?

Q The revolver.

A No. I bought it just in a little while back.

Q Who did you buy it from?

A From Mr. Luis R. Martinez.

Q How much did you pay for it?

MR. TUNKEY: Objection, irrelevant, immaterial.

THE COURT: Sustained.

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BY MR. FERRER:

Q Did Mr. Martinez tell you that you were supposed to register this revolver?

MR. TUNKEY: Objection, hearsay, immaterial.

THE COURT: Sustained.

BY MR. FERRER:

Q After September the 1st, 1972, did you ever see Mr. Navarro again?

A No.

Q Except when you met him in court?

A No, I saw him again on the 15th of September.

Q You saw him on the 15th of September. Where did you see him?

A I think when he was incarcerated.

Q Where was this?

A I don't know, I am not sure whether it was Donestevéz or both of them. They were in the cell at the police station.

Q Did you, on the 15th of September, see a third person that was in that office on September 1st?

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A No.

Q Do you recall a preliminary hearing in front of Judge Winton in this building, on the second floor, on September 22nd, 1972?

A Yes, there was a preliminary hearing.

Q Did you, on that date, saw Mr. Donestevez?

A Yes, sir.

Q Did you, on that date, saw Mr. Navarro?

A Yes, sir.

Q Did you, on that date, saw this third person that was in the office on September 1st, 1972?

A No, that man didn't look to me like the one.

Q However, this was the same person that you identified for the FBI?

MR. TUNKEY: Objection. He never said he identified any person. He was talking about photographs and there is a difference.

THE COURT: Sustained. Rephrase it.

BY MR. FERRER:

Q Is the person, that third person that you saw in that hearing the same person that was at

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the factory on September 1st, 1972?

A Well, in the picture it looked like the one to me, but in person it did not.

Q Would it be correct to say that when you were shown some pictures of this person, you thought that he was the person that was at the factory?

A It looked like the one. I only said that he looked like the one.

Q But when you saw him in person, he wasn't the person that was at the factory?

A It looked like the one.

Q Do you remember how many pictures of that person were shown to you by the FBI?

A Well, he showed me several of them.

Q How many?

A But of the same person?

Q Yes.

A Of the same person, I think it was only one.

I do not remember.

Q How many pictures were you shown of Mr. Navarro?

A I think it was one of each person.

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It looks to me like that.

Q Did the members of the Sheriff's Department show you any photographs?

A Yes.

Q Did they show you a picture of Mr. Navarro?

A Yes, sir.

Q How many?

A I think it was also one of each person.

Q And this picture that they showed you of Mr. Navarro was the same picture that you saw at the FBI?

A They looked very much like.

Q And they showed you a picture of this other person that was the same person whose picture had been shown to you by the FBI?

A They looked to me they were the same pictures, but they were the same persons.

Q It was the same person?

A The very same persons.

Q Could you describe for me this third person that was at the factory that night--not for

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me but for the jury, please?

MR. TUNKEY: Objection to the second to last question, I object, it is immaterial. The person is not on trial, is not charged, he hasn't been identified.

THE COURT: Sustained.

MR. FERRER: Your Honor, may I approach the Bench, please?

* * * * *

THE COURT: All right, Mr. Ferrer, you can ask the question.

BY MR. FERRER:

Q Mr. Canto, can you identify the third person that was in the factory on September 1st?

A It's a long time pass by already, it's very difficult.

It is very difficult when you see a person at night and that person is making some efforts to conceal himself, to--in the comparison when you know the person and you have seen that person.

Q This third person that was that night at the factory, had you seen him anywhere before any time before that?

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A No.

Q Now, Mr. Canto, I mentioned to you this preliminary hearing that was had before Judge Winton on September 22nd, 1972.

Do you remember Mr. Josefsberg--

MR. TUNKEY: Page?

MR. FERRER: What?

MR. TUNKEY: Page.

MR. FERRER: Page 26, top, asking you the following question:

"Did you know the other two gentlemen?"

Referring to the other two persons that were in the office of Mr. Donestevez, and you giving him this answer:

"One of them, yes, I worked with him and the other, I realize I saw him once in a while, maybe once out of two times."

Do you remember that answer?

A Would you read that again, please?

Q Do you remember Mr. Josefsberg asking you this question:

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"Did you know the other two gentlemen?"

A To what men did you refer?

Q The other two persons in addition to Mr. Donestevez.

MR. TUNKEY: Objection to that. That is not in the transcript and I don't know that that is correct. Counsel can't add to what is on the paper.

THE COURT: Sustained.

* * * * *

(Thereupon the trial was adjourned to March 14, 1973, at 11:12 A. M.)

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