

- FILED -
JUN 4 1973
RICHARD P. ENINKER
CLERK

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

No. 72-7137B (Baker)

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

Miami, Florida
Wednesday, March 14, 1973

The above-entitled cause was resumed
before the Hon. Paul Baker, and a jury, at the
Metropolitan Justice Building, Miami, Dade County,
Florida, on Wednesday, March 14, 1973, commencing at
11:12 A. M.

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THE COURT: Mr. Ferrer, you may continue with your cross examination.

MR. FERRER: Your Honor, at this time I don't have any further questions.

THE COURT: No further questions of this witness?

Redirect?

MR. TUNKEY: Just a few questions, Judge.

REDIRECT EXAMINATION

BY MR. TUNKEY:

Q Mr. Canto, when you were at the factory on the 1st day of September, did you see Mr. Navarro clearly?

A Yes, sir.

Q For how long were you there in the office with him?

A For a space of over one hour and some minutes.

Q All right. Now, as I understand it, you first went to the FBI; is that correct?

A Yes, sir.

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Q Did they then instruct you to go see Sgt. Havens at the Sheriff's Department?

A Yes. Yes, they told me what department to go.

Q Now, Mr. Canto, when you saw that gun or I should say that AR18 that you referred to being held by Mr. Donestevéz, did you later draw a picture of it for Sgt. Havens?

A Yes, sir.

Q Is that how you then learned the name of the weapon?

A I was kind of confused between the 15 and 18. They are more or less alike.

Q All right. And would you recognize that weapon if you saw it again, sir?

A Yes, sir.

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

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

THE COURT: Mr. Ferrer seen it?

MR. TUNKEY: I am going to show it to

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him. He has seen it, I will show it to him again.

(Showing to Mr. Ferrer.)

BY MR. TUNKEY:

Q Mr. Canto, I show you State's Exhibit 1-K for Identification, a photograph, and ask you if, in that photograph, you see the AR18 you have referred to?

A This is the rifle (indicating).

Q Do you recognize the building behind that rifle?

A Judging by the shape of the wall, yes.

Q Which building is it?

A The factory.

MR. TUNKEY: Move to introduce 1-K.

MR. FERRER: No objection.

THE COURT: Admit it without objection.

THE CLERK: State's Exhibit 7.

(Thereupon State's Exhibit 1-K for Identification was admitted into Evidence as State's Exhibit 7.)

BY MR. TUNKEY:

Q Mr. Canto, would you step down from the stand and show the jury which weapon you are

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referring to as being the AR18 in this picture.

(Witness complies.)

This is the rifle, AR18 (showing to jury).

MR. TUNKEY: Thank you. That is all.

THE COURT: Recross.

RE CROSS EXAMINATION

BY MR. FERRER:

Q Now, Mr. Canto, how do you know that this is the same AR18 that Mr. Donestevéz pointed at you?

A This is an AR18.

Q That doesn't answer my question.

A To me it is the same one.

Q How do you know it is the same one?

A Because it is the same rifle.

Q Why?

A Because I saw it.

Q Is there anything special about the rifle in that photograph that would distinguish it from any other AR18?

A That question is very--to me it is the same thing.

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Q All right. If I were to put three or four different AR18's right beside that in the same way that that one is against that wall, would you recognize this one among the others?

A Tell him that not even the owner of the rifle could recognize it that way.

Q So, actually, you don't know if that is the rifle that Mr. Donestevéz had pointed at you on the night of September the 1st?

A Well, I say this is the rifle. To me that is the rifle.

MR. FERRER: How do you know it is the rifle?

MR. TUNKEY: Objection, argumentative, repetitious.

THE COURT: Sustained. You are guilding the lily. I think that what the witness is trying to say is that it looks like the rifle. I don't think there is any way in a photograph that we can determine if it is the same rifle.

MR. FERRER: No further questions.

MR. TUNKEY: Nothing further from the State.

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May this witness be excused?

THE COURT: Call your next witness.

MR. TUNKEY: Sgt. Keller.

(Witness excused.)

Thereupon--

RICHARD ANTHONY KELLER,

was called as a witness on behalf of the State of Florida, and having been previously duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. TUNKEY:

Q Please state your name, please, sir, and your official occupation.

A Richard Anthony Keller, Police Sergeant, Dade County Public Safety Department.

Q How long have you been so employed, Sergeant?

A I have been with the County approximately four and a half years.

Q Directing your attention to the month of September, 1972, Sergeant, to what unit or division within the Sheriff's Department were you assigned at that time?

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A At that time I was assigned to the Technical Support Unit of the Organized Crime Bureau.

Q As of that time, how long had you been in the Technical Support Unit of the Organized Crime Bureau?

A Two years.

Q Explain to the jury what you mean by Technical Support, first of all.

A Well, in the Technical Support Unit, our function is to assist investigative personnel with electronic and photographic surveillances.

Q And that is how you were so employed in September of '72?

A Yes, sir.

Q Directing your attention, sir, to the 15th day of September, 1972, did you have occasion to be in the Perrine area, Dade County, Florida?

A Yes, I did.

Q Precisely where were you on that date?

A We were at a factory owned by a Mr. Donestevez, which was on Banyan Street, I think it was 9970 Banyan Street.

Q In Perrine, Dade County, Florida?

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A Yes, sir.

Q Now, on that date, sir, did you have occasion to take a series of photographs of Mr. Donestevez, who was later identified to you, and Mr. Canto, the witness who just left this room?

A Yes, I did.

MR. TUNKEY: Excuse me, your Honor.

It just came to my attention that Mr. Canto is remaining within the courtroom and I would instruct--

(Mr. Canto leaves courtroom.)

BY MR. TUNKEY:

Q In any event, is that the man that you took pictures of there?

A Yes, sir.

Q I show you what has previously been introduced in evidence as State's 5, a series of 13 photographs, and ask you, first of all, if you took them (showing to witness)?

A Yes, I did.

Q Now, I notice, sir, that on the front of these photographs there are, in red circles, a series of numbers and also that on the back there are the initials R. A. K., and then underneath the

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initials, various numbers, 13-A, for instance, 20-A, 19-A.

Who placed the numbers and initials on the back?

A I did.

Q What is the significance of the numbers 19-A, 20-A, et cetera?

A They are the frame numbers on the negative which would indicate the sequence that the pictures were taken in.

Q Could you now place these pictures in the sequence in which you took them, please, starting from the beginning, of course, and the last one at the bottom.

A (Witness' complies.)

Q Are they now in proper order?

A Backward, have to go frontwards.

(Slight pause.)

Q Are they now in proper order?

A Now they are in proper order, this being the first picture.

MR. TUNKEY: I would request, your Honor, that the Clerk maintain them in this condition

until the jury has the opportunity to see them during their deliberations.

THE COURT: Granted.

BY MR. TUNKEY:

Q Now, Sgt. Keller, did you also on this date have occasion to outfit or equip Mr. Jose Canto with what is known as a body recording device or monitoring device?

A Yes, I did.

Q Okay. And did you subsequently overhear conversations which were emitted from that transmitter?

A Yes, sir.

Q Between Mr. Donestevéz, on the one hand, and Mr. Canto, on the other?

A Yes, sir.

Q That was reduced to a tape recording?

A Yes.

Q Did you mark that tape recording after you had--

A Yes, I did, I marked the tape recording.

Q --finished the recording?

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Did it cover the entire conversation from its inception until its conclusion?

A Everything that was transmitted was recorded.

Q I refer you now to State's 6, I believe it is, in evidence, and ask you if that is the tape recording to which you have reference (showing to witness)?

A Yes, it is.

Q Basically, sir, was that the extent of your participation in this case?

A Yes, it is.

MR. TUNKEY: That is all.

THE COURT: Cross.

CROSS EXAMINATION

BY MR. FERRER:

Q Officer, when you took these photographs, did you attempt to photograph every person that was in front of the door when Mr. Canto went to the factory?

Let me rephrase the question: Would these photographs show every person that was at the door of the factory at the time that the photographs

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were taken?

A Everybody that would be visible to me.

Q Right. And do you know the defendant, Mr. Navarro?

A No.

Q On that date, were you aware that there was a person involved in this case or in that investigation by the name of Navarro?

A No, I was not aware.

Q Were you instructed just to photograph Mr. Canto and Mr. Donestevez?

A I am sorry. Would you repeat that?

Q Were you instructed to photograph only Mr. Canto and Mr. Donestevez?

A No, I didn't receive that type of instruction.

Q No. Do you know this person sitting here (indicating)?

A No.

Q You have never seen him before?

A Not to my knowledge.

Q Did you listen to these tapes after they were taken?

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A Yes, I listened to the tape after.

Q How many times did you listen to them?

A I ran through the tape twice immediately after the recording was made.

Q Do you remember if the name Navarro was mentioned in these tapes?

A I don't recall.

Q You don't recall?

A (Negative shaking of head.)

MR. FERRER: No further questions, your Honor.

THE COURT: Any redirect?

MR. TUNKEY: None.

THE COURT: You are excused, sir. Call your next witness.

MR. TUNKEY: Sgt. Havens.

(Witness excused.)

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Thereupon--

GEORGE RAY HAVENS,
was called as a witness on behalf of the State of
Florida, and having been previously duly sworn,
testified as follows:

DIRECT EXAMINATION

BY MR. TUNKEY:

Q Please state your name, sir.

A George R. Havens, Police Sergeant,
Dade County Public Safety Department.

Q For how long have you been so employed?

A Eight years.

Q And to what division or section within
the Sheriff's Department are you assigned?

A I am supervisor in the Intelligence
Section of the Organized Crime Bureau.

Q Were you so employed during the month
of September, 1972?

A Yes, sir.

Q During that time, did you have occasion
to be assigned to the investigation of an alleged
robbery of one Jose L. Canto?

A Yes, sir.

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Q When did you first become assigned to that case, Sergeant?

A Approximately 9 A. M., September 12, 1972.

Q From what agency, I should say from what other agency, if any, did you first receive any information concerning this offense?

A Federal Bureau of Investigation.

Q Approximately when was that?

A This would have been approximately two days prior to the 12th, somewhere around the 10th of September, 1972.

Q Was the investigation turned over to you because this involved State crimes as opposed to Federal crimes?

A Yes, sir.

Q At that time or shortly thereafter, did you have occasion to come into contact with Jose L. Canto, the man who has already testified in this cause?

A That is correct, sir.

Q And Sgt. Havens, now, directing your attention to the 12th day of September, 1972, on that

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date did you have occasion to be present in your office with Mr. Canto?

A 12th day of September?

Q Yes, sir.

A Yes, sir; I did.

Q Please tell the jury what preparations or investigative steps that were taken on that date with Mr. Canto.

A Through an interpreter, Sgt. Vincent Oller, I made arrangements for Mr. Canto to come to my office.

At approximately 9 A. M., he arrived.

I had a conversation with him where the allegations were related to me.

Q Would this be concerning the events of Septmeber 1st, 1972?

A Yes, sir.

Q At that time, sir, had any parties become known to you as possible suspects in this particular alleged crime?

A Yes, sir.

Q What people, if any, were identified to you that are here today?

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A The gentleman in the gray coat, Mr. Navarro, and another gentleman by the name of Ramon Donestevez.

Q Now, Sgt. Havens, did you subsequently have occasion to be present when a phone call was made by Mr. Canto, under your supervision, to Mr. Ramon Donestevez?

A I did, sir.

Q What date was that done on?

A September 14th, 1972.

Q Between the 12th and the 14th, had you received any further information from Mr. Canto concerning this offense?

A I had, sir.

Q What was that?

A Mr. Canto returned to my office on the 13th of September, 1972. He had in his possession a letter which he alleged that he had received upon his return home from work.

Q Would that, sir, be the letter that has now been marked as State's 3 in Evidence, and envelope, I should say, it is a cumulative exhibit?

A That is correct, sir. I placed my

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initials, G. R. H., in the right-hand side on both the envelope and the letter, which is in Spanish.

Q I notice there are numbers on each, 151548Q. That same number appears on both pieces of paper.

Who placed those numbers there?

A Those were placed by latent analyst examiner, William Miller.

The number is the Public Safety Department case number that this investigation was conducted under.

Q Based upon the investigative steps that you had taken through, to and including the 14th of September, 1972, what, if anything, did you do on the 15th of September?

A On the 15th day of September, 1972, based on additional conversation which I had with Mr. Canto, I procured arrest warrants and a search warrant for the factory located at 9970 Banyan Street, in Perrine, Florida, the Piranha Diesel Corporation.

I had Armed Robbery Arrest Warrants for Mr. Emilio Navarro, gentleman in the gray suit, and for Mr. Ramon Donestevéz.

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1005 LANGFORD BUILDING - MIAMI, FLORIDA 33131

Q Now, Sergeant, on that date, did you, in fact, arrest those two individuals or did someone do it at your direction?

A Mr. Ramon Donestevéz was arrested by myself; Mr. Navarro was arrested by another person at my direction.

Q Now, at the time of this arrest of Mr. Donestevéz at the Piranha Diesel Company or factory, the boat factory, as it has been referred to, in Perrine, did anything unusual come to your attention, Sgt. Havens?

A Yes, sir; it did.

Q What was that?

A During execution of a search warrant, I found an AR18 rifle which had been previously been described as the weapon used in the armed robbery; I found an automatic pistol, which had previously been described to me as possibly being used in the armed robbery; I found sets of green Army fatigues, which had previously been described to me as being worn by one of the perpetrators of the armed robbery, and I found other items throughout the factory.

Q I show you what has been previously

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1005 LANGFORD BUILDING - MIAMI, FLORIDA 33131

marked as State's 7 in Evidence and ask you if there is, in that picture, the AR18 rifle to which you specifically refer?

A Yes, sir; there is. It is a rifle located on the right-hand side of the photograph standing up, leaning against the building.

Q And what building is that?

A Piranha Boat Sales, 9970 Banyan Street, Perrine.

Q Did you find any other unusual weapons or ammunition there?

A Yes, sir.

Q What?

A 20 millimeter cannon.

Q How long is that?

A It is a very large weapon, it mounts on a tripod or mounts on a boat or mounts on the top of a vehicle.

Found a .30 caliber machinegun, several thousand rounds of ammunition, detonator cord, other military type equipment.

Q Now, Sgt. Havens, did Mr. Canto go with you to the factory on the 15th of September?

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1005 LANGFORD BUILDING - MIAMI, FLORIDA 33131

A He did, sir.

Q How did he get there?

A Drove his own personal vehicle at my instructions.

Q Did he have anything with him that you had given him?

A Yes, sir.

Q What was that?

A \$800 in official advanced funds from the Public Safety Department.

Q Why had you given Mr. Canto \$800?

A Pursuant to the original meeting, which took place on September 1st between three individuals and Mr. Canto, pursuant to a telephone call which we monitored and recorded on September 14th, Mr. Canto was instructed to bring \$800 to Mr. Donestevéz no later than 10 A. M. on September 15th.

With this information, we procured \$800 in official advanced funds. I copied the numbers of the denominated bills, placed them in a white envelope, which I sealed myself and personally gave to Mr. Canto approximately five minutes before he proceeded to the boat factory.

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(Formerly known as Driest Reporting Service)

1005 LANGFORD BUILDING - MIAMI, FLORIDA 33131

Q Did you notice, did Mr. Canto subsequently turn that money over to Mr. Donestevez pursuant to those instructions previously received from Mr. Donestevez?

A Yes, sir.

Q Was it after that that Mr. Donestevez was arrested and Mr. Navarro also?

A Yes, sir.

Q How large a building is this Paranha Diesel Corporation building?

A Dimensionally I couldn't tell you. I would say, conservatively, it would be three times as large as this courtroom.

Q What was within the main part of the building?

A Immediately upon entering the building on the right-hand side just as you walked through the main door, which is a large steel enclosure, is a small office with a desk, file cabinets, general office equipment.

Directly to the left of that behind that office is a main warehouse working type area where there is a large number of crafts which are

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apparently under construction.

Q What do you mean by "crafts"?

A Boats.

Directly to the right of that is a large open work area with the same type of equipment, boats apparently in an assembly line type of operation where they would go from one position to the next until they would be completed out in the outer yard.

Q So we can put some definition on it, what do you mean by "large crafts" or "large boats"?

A Most of the crafts that were under construction upon the date we executed the warrant would be in excess of 25, 30 feet.

There was one in there which would probably be in excess of 50 feet.

Q Were these fiberglass hull boats?

A Yes, sir.

Q Sgt. Havens, were you successful in recovering from Mr. Donestevéz the \$800 that Mr. Canto had given him?

A No, sir.

Q Did you recover the envelope in which the money had previously been contained?

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(Formerly known as Driest Reporting Service)

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A Yes, sir.

Q Where did you find that?

A In the office, main office portion of the area directly next to the commode.

Q Was the envelope in an opened or unopened condition?

A Opened.

Q A commode, toilet?

A Yes, sir.

Q You were unsuccessful in recovering the money?

A That is correct.

Q Had you, prior to giving the money to Mr. Canto, physically copied or in some fashion recorded the money which you had given to Mr. Canto which he subsequently gave to Mr. Donestevez?

A Yes, sir; I made a Varifax copy of every one of the bills.

Q This is some type of copying machine; is it?

A Yes, sir; photocopying machine.

MR. TUNKEY: Have this marked for identification, please.

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

BY MR. TUNKEY:

Q I show you, sir, what has been marked as State's Exhibit 1-L for Identification and ask you if this is, as you say, the Varifax or Xerox type copy you are referring to of the monies that you gave to Mr. Canto that day (showing to witness)?

A This is a Varifax copy.

To say that these are the exact bills, I would not be able to say unless I checked my notes where I have the originals, the original copy.

Q Are these your notes here?

A Yes, sir.

(Handing documents to witness.)

That is correct, sir.

The reason I could identify this is because the bills were placed in numerical order, the first being a \$50 bill, Serial No. KOO313024A, and the rest of the bills are the same serial numbers as those which I photocopied on September 15th.

MR. TUNKEY: Move to introduce State's

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1005 LANGFORD BUILDING - MIAMI, FLORIDA 33131

Exhibit 1-L.

MR. FERRER: No objection.

THE COURT: Admit it without objection.

THE CLERK: State's Exhibit No. 8.

(Thereupon State's Exhibit 1-L for Identification was admitted into Evidence as State's Exhibit 8.)

MR. TUNKEY: That is all.

THE COURT: Cross.

CROSS EXAMINATION

BY MR. FERRER:

Q Officer, after Mr. Canto left Mr. Donestevez on the 15th of September, did you search him?

A Not at that time, sir.

Q When did you search him?

A Approximately 30 minutes later.

Q And during this 30 minutes, was Mr. Canto under your custody or were you able to observe him during all this 30 minutes?

A No, sir.

Q Did you see Mr. Canto give Mr. Donestevez the \$800?

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1005 LANGFORD BUILDING - MIAMI, FLORIDA 33131

A No, sir.

Q Of your own knowledge, do you know if he gave it to him?

THE COURT: Well, if he didn't see it, I don't know how he could know of his own knowledge.

MR. FERRER: That is correct, your Honor.

THE WITNESS: Only what I overheard over a transmitting device would be the answer.

BY MR. FERRER:

Q Now, Sergeant, you stated that you asked the department to check this letter for fingerprints; is that correct?

A That is correct, sir.

Q Were there any fingerprints found on this piece of paper, of the Defendant Navarro?

A No, sir.

Q You conducted the search of the premises where the boat factory is located; correct?

A Yes, sir.

Q Now, could you tell me where in the factory did you find the AR18 rifle?

A Yes, sir.

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(Formerly known as Driest Reporting Service)

1005 LANGFORD BUILDING - MIAMI, FLORIDA 33131

Q Where?

A The main office portion directly to the right of the main door, directly behind the desk leaning up against the wall.

Q It was inside the office?

A That is correct, sir.

Q It was behind the desk?

A That is correct, sir.

Q Well, was it laying on the floor?

A No, sir.

Q It was against the desk?

A No, sir; leaning against the wall.

Q Leaning against the wall.

Do you know if Mr. Donestevéz kept that rifle there on other occasions except on the 15th?

A I have no idea, sir.

Q Did you find a 9 millimeter gun there, pistol?

A No, sir; I did not find a 9 millimeter gun.

Q Do you know how many persons searched the building?

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1005 LANGFORD BUILDING - MIAMI, FLORIDA 33131

A Yes, sir.

Q Could you tell me?

A Yes, sir: Five.

Q Five. Based on your experience as a police officer, could you tell me if, in your opinion, you conducted a thorough search of that building?

A You want my opinion?

Q Yes.

A Yes, sir.

Q And that the search was conducted by members of the Public Safety Department under your authority and that they conducted the search in a professional manner?

A Well, no, sir, it was not under my authority.

It was under authority of a search warrant, I was supervising the investigation.

Q Well, under your instructions?

A That is correct, sir.

Q Did you find any ammunition at the factory of a 9 millimeter caliber?

A Yes, sir; I found a large amount of ammunition at the factory.

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Q 9 millimeter?

A There were several thousand rounds of ammunition.

Q I am asking if you found any 9 millimeter ammunition in the factory.

A Yes, sir.

Q Did you list it in the return and inventory of the search warrant, those 9 millimeter ammunition that you found at the factory?

A No, sir. I believe I listed it as "several thousand rounds of ammunition," 2,100 and something, I believe.

Q Do you have within your notes a copy of the return and inventory of the search warrant?

A Yes, sir.

Q Is it signed by you?

A I have to check, sir.

Q Sure.

A No, sir. It is initialed; the copy that I have is not signed by me.

Q Do you remember if you signed this return?

A I don't recall, sir.

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Q You don't. Because mine isn't signed.

THE COURT: The original should be in the Clerk's file.

BY MR. FERRER:

Q Did you prepare that report?

A Yes, sir.

Q Now, I call your attention to No. 8 on your report.

A Yes, sir.

Q Could you tell me what it reads, please?

A Yes, sir. No. 8 reads: "One wooden box containing 1,260 rounds of 7.62 ammo."

Q Is that 9 millimeter ammo?

A No, sir.

Q That is 7.62; is that the caliber?

A Yes, sir.

Q Now, prior to the 15th of September, had Mr. Canto told you that he had seen those three persons, the Defendant Navarro and Donestevéz and the third person at the factory, with 9 millimeter pistols?

A He advised me that the three subjects

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1005 LANGFORD BUILDING - MIAMI, FLORIDA 33131

at the factory were armed; that Mr. Donestevéz was armed with an automatic pistol and also an AR18 rifle, and that the other two subjects were armed. I don't recall if he knew the exact caliber of the weapons, I believe he said they were automatics.

Q How many 9 millimeter bullets did you find at the factory?

A I don't know, sir.

No. 9 indicates a mirror-glazed box containing approximately 1,000 rounds of ammunition. There was numerous types of ammunition in this box.

Q Do you remember this 1,000 rounds of ammo, the caliber of this ammunition?

A My answer would be the same, sir: I did not delineate the types of caliber in there. I only counted that there was approximately 1,000 rounds of ammunition. It was various calibers, 9 millimeter, .38 automatic, 222, 7.62, .38 caliber, other types of ammunition.

Q Could you tell me why did you specifically state that you found 1,260 rounds of 7.62 millimeter ammunition?

A Why did I put that down?

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Q Yes.

A Because that is what I found in a wooden crate, a filled wooden crate containing 1,260 rounds of 7.62 ammunition. This fit the machine gun I found.

Q Did you participate in the arrest of the Defendant Navarro?

A No, sir.

Q Did you procure a warrant for his arrest?

A Yes, sir.

Q Did you instruct anybody to arrest him?

A Yes, sir.

Q Who did you instruct to arrest Mr. Navarro?

A I instructed Detective Fernandez and Sgt. Oller of our Spanish Speaking Unit.

Q Did you procure a search warrant for the Defendant Navarro's house?

A No, sir.

Q Did you instruct the officers that were to arrest Navarro to search his house?

A No, sir; that is illegal.

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Q You didn't?

A No, sir.

Q Do you know, of your own knowledge, if a 9 millimeter gun was found in the Defendant Navarro's house?

MR. TUNKEY: Objection, Judge. He just said that he didn't search the house, it would be illegal to do so, and now he wants to know if he searched the house and found a gun.

THE COURT: Sustained. If he didn't search it, he couldn't find it.

BY MR. FERRER:

Q Who made the decision, if you know, not to search the defendant's house?

A Sir, I can't answer your question. I don't know who made that decision.

We were not armed with a search warrant and to serve an arrest warrant on a defendant and search his house is an illegal search, it is against the law.

Q Who made the decision to procure an arrest warrant for the Defendant Navarro?

A I did, sir.

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Q Were you the officer in charge of the case?

A Yes, sir.

Q If there was to be a search of the defendant's house, were you the officer to authorize it or to procure the warrant to search his house?

MR. TUNKEY: Objection.

THE COURT: Wait a minute.

MR. TUNKEY: I am waiting.

THE COURT: Have you finished the question?

MR. FERRER: I will just strike the question.

THE COURT: Go ahead.

BY MR. FERRER:

Q If there were to be a search of this house, of the defendant's house, were you the person to decide that?

MR. TUNKEY: Objection, your Honor. First of all, it assumes facts not in evidence; that is, that there was any evidence to sustain a search of the Defendant Navarro's house.

MR. FERRER: Not saying if the house

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was searched or wasn't. What I am getting at is whether or not a warrant was procured to search the home, and if it wasn't, why, why not?

MR. TUNKEY: If he is going to ask why not, that is fine.

THE COURT: If you want to ask him, "Was there a warrant," you can ask him that and then you can follow with your other question.

We will concede that he had the authority to apply for one if he felt he had probable cause. You can ask him if he applied for one.

MR. FERRER: I already asked that question.

BY MR. FERRER:

Q Did you apply for a warrant to search the defendant's house?

A No, sir.

Q Why didn't you?

A I had no probable cause to search the defendant's house. You must have probable cause to procure a search warrant.

MR. FERRER: No further questions.

THE COURT: Redirect.

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REDIRECT EXAMINATION

BY MR. TUNKEY:

Q Do you know the country of origin or the manufacturer's country for an AR18?

A Yes, sir.

Q What is it?

A Colt Arms Company, United States of America.

Q Now, just briefly on this point about whether or not you personally or someone at your direction searched the home of the Defendant Navarro at the time of his arrest.

First of all, was he arrested at his home?

A Yes, sir.

Q Second of all, did you have any evidence at the time of the arrest of the Defendant Navarro to show that any of these alleged illegal activities took place at his home?

A No, sir; none.

Q To what location had all of your evidence as to illegal or alleged illegal activities gone?

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A 9970 Banyan Street, the Piranha Boat Company, Perrine.

Q Is that why you then told this jury that you had no probable cause to obtain a search warrant for the Defendant Navarro's home?

A That is correct, sir.

MR. TUNKEY: That is all.

THE COURT: Any recross?

MR. FERRER: No, your Honor.

THE COURT: You may stand down.

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

THE COURT: Yes.

(Slight pause.)

MR. TUNKEY: At this time, your Honor, I move into evidence State's Exhibit 1-H for Identification, the cup and newspaper.

MR. FERRER: No objection.

THE COURT: Admit it without objection, State's 9.

THE CLERK: State's Exhibit 9.

(Thereupon State's Exhibit 1-H for Identification was admitted into Evidence as State's Exhibit 9.)

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MR. TUNKEY: People of the State of
Florida rest their case.

* * * * *

Thereupon--

HAROLDO PEREZ,
was called as a witness on behalf of the defendant,
and having been previously duly sworn, testified
through the interpreter as follows:

DIRECT EXAMINATION

BY MR. FERRER:

Q Sir, will you please state your name
and address.

A Haroldo Perez, 412 East 20th Street,
Hialeah.

Q Mr. Perez, do you know the defendant,
Mr. Navarro?

A Yes, sir.

Q I call your attention to September 1st,
1972.

On or about 9 o'clock at night, did
you have occasion to see Mr. Navarro?

A Mr. Navarro called me in the middle of
the week to invite me to dinner.

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MR. TUNKEY: Objection.

MR. FERRER: On the 1st of September?

MR. TUNKEY: It is hearsay, not responsive. Move to strike it.

THE COURT: Sustained.

BY MR. FERRER:

Q Did you see Mr. Navarro on the 1st day of September, 1972?

A Yes, sir.

Q Where did you see him?

A His house.

Q At what time did you see him?

A 8, 8:30.

Q For how long was Mr. Navarro with you on that night?

A Until we finished our dinner and then after that we went out on a boat fishing.

It was about 12, 12:30 at night.

Q And during all this time, was Mr. Navarro with you?

A Yes, sir.

Q Do you know who else was present?

A My wife and Mr. Navarro's wife and

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another couple.

MR. FERRER: No further questions.

THE COURT: Cross.

CROSS EXAMINATION

BY MR. TUNKEY:

Q Where does Mr. Navarro live?

A I think it is 425 Southwest 63rd
Avenue.

Q How long have you known Mr. Navarro,
Mr. Perez?

A Two or three years.

Q Did you first meet him in this country?

A Yes, sir.

Q Are you employed, Mr. Perez?

A Yes, sir.

Q Where?

A Golden Beverage.

Q Golden Birds (phonetic)?

A Golden Beverage.

THE INTERPRETER: Beverage?

THE WITNESS: Yes, beverage.

THE INTERPRETER: Golden Beverages.

BY MR. TUNKEY:

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Q Do you know how the defendant was employed in the months of August, September and October of 1971?

A Since I know him, he has been working construction.

Q To your knowledge, has he ever worked for a man named Ramon Donestevez?

A I don't know.

Q Do you know Ramon Donestevez?

A By sight, yes.

Q Have you met him after being introduced to him by the defendant?

A That the defendant introduce me to him?

Q Ramon Donestevez.

MR. FERRER: Objection, your Honor.
The witness never said that he has been introduced to Donestevez.

THE COURT: No, he just asked him if he did.

You can answer that yes or no.

THE WITNESS: I was never introduced to Mr. Donestevez.

BY MR. TUNKEY:

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Q Were you with Mr. Navarro when you saw Mr. Donestevez?

A In court, yes.

Q How about before that?

A I heard about him but I didn't know him at that time.

Q Who do you say went out fishing that night?

A We did not go fishing that night.

Q What night?

A On Friday night we went over to Navarro's house to make plans to go out fishing the following day, Saturday.

Q Didn't you just testify that you went fishing on Friday night, Mr. Perez?

A No, sir; I went over to Mr. Navarro's for dinner.

Q Did you work that day?

A Yes, I did.

Q What time did you get off work?

A I don't have time for to go out or in from my work, my job. I don't have a specific time to go in or out.

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Q Yes, but what time did you get off work that day?

A Regularly I finish working about 3 in the afternoon.

Q No, not regularly, Mr. Perez.
What time did you get off of work September 1st, 1972?

A I cannot tell you exactly because I am a salesman, I work on commission. I cannot tell you exactly what time that was.

Q When was the next day after September 1st that you saw the defendant in this case, Navarro?

A Saturday we were going to go out fishing.

Q When did you next see him after that?

A The following week.

Q What date was that?

A I don't remember.

Q When was the last time you had seen Navarro before September the 1st?

A The week before that.

We see each other every week because I work around his house.

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Q What date was it that you saw him the week before?

A It was on a Friday.

Q What date was it?

A I don't remember.

Q Have you spoken to Mr. Navarro about your testimony in this case, Mr. Perez?

A Mr. Navarro came over to tell me that he needed for me to tell in court what we were doing that night.

Q When did Mr. Navarro do that, Mr. Perez?

A After he went out on bond.

Q That was some month or so after he had been arrested; correct?

A Something like that, more or less.

Q Pardon?

A Something like that, more or less.

Q When did you first learn that Mr. Navarro had been arrested?

A I was--I learned about it when I went over to his house, it came out on the paper and the radio.

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Q The same day, in other words?

A Following day.

Q Did you go to the police at that time, Mr. Perez, and tell them what you supposedly know about this case?

A No, because I didn't expect to become a witness.

Q You are, though; aren't you?

A Yes.

Q And you claim to know where he was on this date, September 1st; don't you?

A Yes, sir.

Q And didn't you think it was important to tell that to the police as soon as you found out he had been arrested?

A I didn't imagine it was necessary, important.

Q Did you ever come to the State Attorney's office, to my office, and tell me what you knew about this case?

A I never--I don't know anything about the State Attorney's office, I was never notified about anything.

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Q Do you know, Mr. Perez, that the police investigate crimes?

THE INTERPRETER: I beg your pardon, Counselor.

BY MR. TUNKEY:

Q Do you know that the police investigate crimes, Mr. Perez?

A Yes.

Q And do you know that State Attorneys prosecute crimes?

A Yes, sir.

Q Do you recall, Mr. Perez, what day of the week September 1st was, 1972?

A It was on a Friday.

Q What did you have for dinner on September 1st?

A A Cuban dish, Congri.

THE INTERPRETER: Which means beans and rice cooked together and pork.

BY MR. TUNKEY:

Q Do you recall how Mr. Navarro was dressed that night?

A I cannot remember that.

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Q Consider yourself a close friend of Mr. Navarro?

A Yes, sir.

Q And your wife, is she a close friend also of Mr. Navarro?

A Of his wife, yes. They have the same trade.

Q Do you have a calendar for 1972?
Do you have dinner at Mr. Navarro's house quite often?

A Sometimes they invite me, sometimes I invite them.

When there is something special we are planning to go out, something like that.

Like that day we got together because it was a Labor Day week end.

Q Would you ask him to answer my question.

A Uh-huh.

Q Do you eat together often?

A Yes, I said, yes, once in a while.

Q And there was nothing particularly special about that night; was there?

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A The only thing, that it was a long week end and he invited us so we could plan then.

The boat was broken and he just took me to show me the boat, that it was broken and it needed a part, that the leg did not go up.

Q The what?

THE INTERPRETER: The leg, whatever it is.

THE WITNESS: The following day--

BY MR. TUNKEY:

Q Excuse me.

MR. TUNKEY: Your Honor, this answer is no longer responsive. We are getting into a narrative. It is no longer responsive to my question at all. I move to strike.

THE COURT: Sustained. Ask him to answer the question directly.

BY MR. TUNKEY:

Q The boat was broken on September 1st?

A Yes, it was broken.

MR. TUNKEY: That is all.

THE COURT: Any redirect?

MR. FERRER: No, your Honor.

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THE COURT: The witness is excused.

(Witness excused.)

MR. FERRER: Daisy Perez. I believe the witness hasn't been sworn.

THE COURT: All right. Swear her through the interpreter.

Thereupon--

DAISY PEREZ,

was called as a witness on behalf of the defendant, and having been first duly sworn, testified through the aid of the interpreter as follows:

DIRECT EXAMINATION

BY MR. FERRER:

Q Ma'am, will you please state your name and address.

A Daisy Perez, 412/20th Street, Hialeah.

Q Are you married?

A Yes, sir.

Q Will you tell me your husband's name, please?

A Haroldo Perez.

Q Is your husband the gentleman that just walked out of here, ma'am?

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A Yes.

Q Do you know Mr. Emilio Navarro?

A Yes, sir.

Q Do you see him in court?

A Yes, sir.

Q Will you point to him for me.

A (Indicating)

MR. FERRER: For the record, indicating the defendant.

BY MR. FERRER:

Q Ma'am, I call your attention to the night of September 1st, 1972.

MR. TUNKEY: Objection. Excuse me, Mr. Ossorio.

Leading.

THE COURT: Overruled.

BY MR. FERRER:

Q Did you, on that night, have occasion to see the defendant, Mr. Navarro?

MR. TUNKEY: Objection, leading.

THE COURT: She can say yes or no.

THE WITNESS: What was the question?

MR. FERRER: Will you read back the

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question to her?

(Thereupon the pending question was read by the reporter as previously recorded.)

THE WITNESS: Yes, sir.

BY MR. FERRER:

Q Where did you see him?

A At his home.

Q Approximately do you remember at what time you saw him?

A We went over to his house at 7:30 or 8 or 8:30, I cannot remember exactly.

Q And at what time did you leave his house?

A Around 12:30 or 1 o'clock in the morning.

Q And between the time that you got there and the time that you left, what did you do?

A We had dinner there, they invited us to dinner.

Then after that, his wife and myself, we just started talking about beauty parlors.

Q Do you remember what you had for

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dinner there?

A Is a Spanish dish, meal.

Q What was the name of the dish?

A Spanish meal.

Q Do you remember exactly what was this Spanish meal?

A We had some Congri and some meat.

Q Do you know who cooked this?

A Mrs. Navarro.

Q In your opinion is she a good cook?

A Yes, sir.

MR. FERRER: No further questions.

THE COURT: Cross.

CROSS EXAMINATION

BY MR. TUNKEY:

Q Mrs. Perez, you have discussed your testimony in this case with your husband; have you not?

A Yes.

Q On several or numerous occasions?

A Yes.

Q As recently as last night you discussed it; right?

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A Yes, sir.

MR. TUNKEY: Move to strike the entire testimony of this witness and the last witness on the grounds they have violated the witness rule, your Honor.

MR. FERRER: I object, your Honor, on the grounds that she wasn't sworn in as a witness, Judge, and they didn't discuss what was going on in here.

THE COURT: Her husband was and I admonished everybody not to discuss it.

Strike it. Jury will disregard this witness' entire testimony.

MR. TUNKEY: Nothing further from the State of this witness.

THE COURT: Witness is excused.

Jury will also disregard her husband's testimony.

(Witness excused.)

MR. FERRER: Will you call Ida DeLeon.

THE COURT: Has this witness been sworn?

MR. FERRER: No, she hasn't been

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sworn.

Thereupon--

IDA DeLEON,

was called as a witness on behalf of the defendant,
and having been first duly sworn, testified through the
aid of the interpreter as follows:

DIRECT EXAMINATION

BY MR. FERRER:

Q Ma'am, will you please state your name
and address.

A Ida DeLeon, 435 Southwest 63rd Avenue.

Q Do you know the defendant, Mr. Navarro?

A Yes.

Q Did you have occasion to see the
defendant on the 15th day of September, 1972?

A Yes.

Q Will you tell the Court under what
circumstances you saw him?

A Yes.

Q Will you please tell?

A I live next to him, to them, and I
take care of their child.

I saw him when he came back from work

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that day.

I saw three gentlemen, they knocked at the door, his door.

Then when the three men came out with him, then when they took the car, they stop in front of my house, they call my mother and they told her that they were taking Emilio to jail, to notify his wife.

My mother asked them where they were taking him. They told her that across the street from the Cedars of Lebanon.

Q What did you do after they took Mr. Navarro to jail?

A I went to his house, their house.

Q Did you have a key to get into his house?

A Yes.

Q Prior to September 15th, 1972, on how many occasions have you been to Mr. Navarro's house?

A Every day.

Q Are you familiar with the way the house is kept?

MR. TUNKEY: Objection. Immaterial, irrelevant.

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THE COURT: What is the relevance?

MR. FERRER: I will tie it up, your Honor, to a search that was conducted on the defendant's house.

* * * * *

THE COURT: Overrule the objection.
She can answer the question.

THE WITNESS: In what sense?

BY MR. FERRER:

Q I meant, were you familiar with the house, itself, with the interior of the house?

A Yes.

Q And when you went in after Mr. Navarro was taken to jail, did you notice anything unusual about the house?

A Yes.

Q Will you tell me what was unusual about the house?

A The drawers in the bedroom, they were open. The clothes out of the drawers.

The mattress was moved, it was out of its place. They had some papers on top of the table in the dining room.

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Q Anything else?

A No.

MR. FERRER: No further questions.

THE COURT: Cross.

MR. TUNKEY: May I have a moment, your Honor?

CROSS EXAMINATION

BY MR. TUNKEY:

Q Ma'am, how long were the police inside the house; if you know?

A I think it was about half an hour, I figure that, but I didn't know it was the police.

Q You didn't know it was the police?

A No, sir.

Q And then you don't really know how long they were in there; do you?

A No, because I wasn't checking the time they were there.

Q Did you see Mr. Navarro when he left with the police?

A Yes.

Q Was he walking by himself?

A Yes.

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Q He hadn't been beaten up or anything;
had he?

A No.

Q You didn't see anybody mistreat him?

A No.

MR. TUNKEY: That is all. Nothing
further.

MR. FERRER: Nothing on redirect.

THE COURT: You may be excused.

(Witness excused.)

MR. FERRER: Would you call Eslivia
Navarro, please.

THE COURT: Has she been sworn?

THE INTERPRETER: I really don't know,
your Honor.

THE CLERK: Has she been sworn,
Counsel?

MR. FERRER: Yes, she has been sworn.

THE COURT: Ask her to have a seat.

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Thereupon--

ESLIVIA NAVARRO,
was called as a witness on behalf of the defendant,
and having been previously duly sworn, testified
through the aid of the interpreter as follows:

DIRECT EXAMINATION

BY MR. FERRER:

Q Ma'am, will you please state your name
and address.

A Eslivia Navarro, 425 Southwest 63rd
Avenue.

Q Do you know the defendant, Mr. Navarro?

A Yes.

Q In what capacity?

A In what sense? He is my husband.

Q I call your attention to September 1st,
1972.

Did you, on that day, have occasion to
see your husband?

A Yes, of course.

Q When did you see him?

A When he came back from work.

Q What time did he come back from work?

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A Around 5, 5:30.

Q Was he home at this time?

A Yes.

Q Do you know if he stayed home that night?

A Of course, yes.

Q How do you know it?

A Because I was with him and we had people invited to dinner.

Q Do you remember the names of the dinner guests?

A Yes.

Q Will you tell me?

A Haroldo Perez, Daisy Perez, Ondina Masso and Jose Masso.

Q For how long did your husband stay home that night?

A All night. He didn't go out.

Q Do you remember what you cooked for your guests that night?

A Yes.

Q Can you tell me?

A Yes. We have Congri and some pork,

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baked pork.

Q Roast pork?

A Yes, roast pork.

Q How many dinner guests did you have?

A Four persons, myself, my husband and
the two kids.

Q Did all your guests come?

A Yes.

MR. FERRER: Thank you. No further
questions.

THE COURT: Cross.

CROSS EXAMINATION

BY MR. TUNKEY:

Q Mrs. Navarro, it is not unusual for you
to have Congri; is it?

A No, because that is a Cuban dish, very
common. That's the thing I cook best.

Q Thank you. What was the name of the
other two people that were there that night?

A Jose Masso, Ondina Masso, Haroldo
Perez and Daisy Perez.

Q Masso, am I saying that right?

A Yes, Masso.

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Q They live here in Miami?

A Yes, they moved from Puerto Rico over here. They live in Miami now but they are not here now.

Q Do you know where they are now?

A I imagine in Puerto Rico.

Q How long have you been married to the defendant?

A 12 years.

Q And you would then know where he was working in August and September, October, November, through, let's say, December or so of 1971?

A Yes, in different construction jobs he work.

Q Do you know Ramon Donestevéz?

A Yes.

Q Did you know him before your husband got arrested?

A Yes.

Q For how long have you known him?

A I didn't know him very well. I met him September, '72, something like that.

I don't know if it was '71 or '72.

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The last year--last year--'71.

Q The year before your husband got arrested?

A More or less.

Q Do you know where Mr. Donestevéz' boat factory is?

A Yes, of course, I do.

Q You have been there yourself?

A Yes.

Q Were you there with your husband?

A Yes.

Q Do you know a Mr. Jose Canto?

A No.

Q To your knowledge, does your husband or did your husband, before he got arrested in this case, know Jose Canto?

A The truth of the matter is that I don't know that.

Q You know of no grudge that existed between your husband, on the one hand, and Mr. Canto, on the other, before your husband got arrested; do you?

A I knew that he had an argument, some

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kind of trouble with someone about political matters, but he never tells me those things because he knows I get very nervous about it.

Q Your husband had troubles, you mean?

A He had trouble with someone, yes.

Q Where did you eat dinner last night, Mrs. Navarro?

A What did you say?

Q Where did you have dinner last night?

A Last night?

Q Yes.

A My house.

Q After dinner, did you sit around and have conversation with your husband and with Mr. Haroldo Perez and Mrs. Daisy Perez?

A No.

Q Now, you have mentioned that your husband had some political involvement or political troubles.

Was he having these troubles or these political troubles right around the 1st of September of 1972?

A No, it was before.

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Q A month before?

A Yes, months before.

I can't tell you exactly the day but
it was months before.

Q How many legal guns does your husband
own, that are registered?

A None.

Q No legal guns?

MR. FERRER: Objection, your Honor.

THE COURT: Sustained.

MR. FERRER: Calls for a conclusion.

THE COURT: Strike the answer.

MR. TUNKEY: That is all.

THE COURT: Any redirect?

MR. FERRER: No, your Honor.

THE COURT: Witness is excused.

MR. FERRER: The defendant will take
the stand now, Judge.

THE COURT: All right.

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Thereupon--

EMILIO NAVARRO,
was called as a witness in his own behalf, and having
been first duly sworn, testified through the aid of
the interpreter as follows:

DIRECT EXAMINATION

BY MR. FERRER:

Q Sir, will you please state your name
and address.

A Emilio Navarro, 425 Southwest 63rd
Avenue.

Q Mr. Navarro, where were you born?

A Cuba.

Q How old are you?

A I am 35 years old.

Q When did you leave Cuba?

A Around 11 or 12 years ago.

Q When you left Cuba, you came to the
United States?

A I just came out as a political exile
through an embassy.

Q Where did you go from Cuba?

A Brazil.

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Q And from Brazil, did you come to the United States?

A Yes, of course.

Q When did you enter the United States?

A 1963.

Q As a regular immigrant?

A Yes, of course.

Q Mr. Navarro, are you employed now?

A Yes, sir.

Q Who do you work for?

A Temen Construction. It is a construction company.

Q What do you do there?

A I am a carpenter.

Q Were you a carpenter in Cuba?

A In Cuba I was working hardwares in the beginning, but when the revolutionary process came over in Cuba, I got a high position with the government of Fidel Castro.

MR. TUNKEY: At this point I am going to object, it is not responsive any further. It is a narrative, he is making a narrative statement. I object.

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THE COURT: All right. Ask specific questions.

Sustain the objection.

BY MR. FERRER:

Q Were you employed on September 1st, 1972?

A Yes, sir.

Q Who were you working for then?

A LaMadrid Construction.

Q What were your duties at that construction?

A Carpenter, construction.

Q Since you have been in the United States, have you always been employed?

A Always.

Q As a carpenter?

A In carpentry, maintenance, everything related with carpentry.

Q Mr. Navarro, do you know a person by the name of Luis Canto?

A Yes, I knew him in one opportunity, one occasion.

Q When did you first meet Mr. Canto?

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A In the months of April, around the months of April I was with Mr. Donestevez talking about the purchase of a boat.

Q April of what year?

A 1972.

Q Who introduced you to Mr. Canto?

A We were talking there. We have been worked up on political business or matters.

I told him that I had a high position in Cuba and I defected from there due to the situation that was prevailing with the government.

We was start talking something about politics and we had a small arguments.

Q Did you see Mr. Canto after that day?

A Yes, I saw him.

Q Where did you see him?

A I saw him at the same factory of Mr. Donestevez.

Q Do you remember on what date?

A About two months before I was arrested or a month after--before I was arrested.

Q Could you tell me in what month?

A Around August it was, more or less.

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Q Did anything unusual happen between you and Mr. Canto on that occasion?

A Yes, sir.

Q Would you tell me what was it?

A We just got there together and we started all over again.

It was a very discomposed situation. He just use some profane language around me, about my person.

We were arguing, the argument got kind of hot. We didn't have a fight because somebody interfered.

Q Who interfered?

A A friend of mine that was there talking with us.

Q Did Mr. Canto make any threats to you at that time?

A Yes, sir. He said that he was going to charge me of being a Communist.

Q Did he say anything else?

A He said a lot of things there but since there are ladies present here--

Q What were you doing at Mr. Donestevéz'

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factory on that day?

A I was repairing my boat.

Q Who did you purchase this boat from?

A Through Mr. Ramon Donestevez.

Q Now, on these two occasions that you saw Mr. Canto at Mr. Donestevez' factory, do you remember at what time you saw him?

A In the afternoon it was.

Q Have you ever seen Mr. Canto at Donestevez' factory at night?

A No, sir.

Q Were you employed by Mr. Donestevez in the month of August, 1972?

A No, sir.

Q Were you employed by Mr. Donestevez in the month of April, 1972?

A No, sir. I was working for a construction company which name is ElMadrid Construction. I have the address here if they want it.

Q Were you in Mr. Donestevez' factory on September 1st, 1972, on or about 9 o'clock at night?

A September the 1st?

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Will you please repeat the question?

I did not get it.

Q Were you at the factory of Mr. Donestevez on the night of September 1st, 1972?

A No, sir.

Q Have you ever seen Mr. Canto at the boat factory of Mr. Donestevez that night?

MR. TUNKEY: Repetitious. I object.

THE COURT: Well, the first question referred to a specific date. This is generally. I will overrule it. He can answer yes or no.

THE WITNESS: No.

BY MR. FERRER:

Q Mr. Navarro, do you own a 9 millimeter gun?

A No, sir.

Q Do you own any gun?

A No weapon at all but--

Q Were you arrested on the 15th day of September, 1972?

A Yes, sir.

Q Do you remember who arrested you?

A Not the names but the faces, yes.

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Q Where were you arrested?

A At my house after I just came back from my job.

Q Do you remember the circumstances surrounding your arrest?

A I was in the house, I was taking a bath, I just got through with the construction.

They knocked at the door, then my mother-in-law opened the door and three men just broke into the house.

One went to one side, the other went to the other side. I don't know, at that time I was coming out from the bathroom.

One of them told me I was under arrest so I said okay.

So I asked them to show me something because at the beginning I thought it was an assault.

Then they showed me a badge and they told me they were members of the Police Department and the first time, I did not see them very well, I asked them to show them to me for the second time, and in that interim, while he was showing me the badge, there was one of the three that began to search

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all the drawers, the mattress in the house, my bedroom.

They went to the other bedrooms, they searched everything completely.

In the meantime, I was practically without any clothes.

I asked them if they would allow me to get dressed. Then they allow me to get dressed.

So I went, every time I tried to get hold of something they just interfered, so what I did was just to sit down on the bed and told them just to give me the things because since I was an officer, I was an officer in the Army, I know that any movement that people think could consider suspicious, they could fire and shoot you, so they were just giving me the clothes until I just changed.

When I left the house, they already search all the house, the rear door of my house was open and I just went there to close it.

One of them told me that, no, they were going to close it themself.

Then they went around, they search it, and they went, then went--excuse me.

When they were about to take me out

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of the house, they were going to put the handcuffs on me.

I told them to please not to handcuff me because I am a person, I am not a criminal.

My son was outside playing, I did not want my son to receive a shock when he see me handcuffed coming out of the house, and when one of them agree to my request.

We went out, the three of us, we got into the car, they brought me over here and during the time I was arrested they asked me questions about Canto and Donestevéz. I told them I didn't know anything related to that.

So he told me that, "There is a charge, an accusation against you for robbery and participating in robbery."

I told them, I said, "You have arrested me here in my house."

Well, they took me to the station, they asked me a lot of questions and some pressure, so I could offer myself as a State witness for the State, otherwise, I was going to receive several years in jail, but if I don't know anything, I cannot--

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I told them I would cooperate with them if--but if I know nothing, how could I just offer myself as a witness for the State with something I don't know anything about.

Q Now, Mr. Navarro, when the officers came to your house, you said you were getting out of the bathroom; is that correct?

A Yes, sir.

Q Were you shown any paper by these officers?

A They showed me a paper from far away.

Q Did they tell you what that paper was all about?

A They told me that it was a warrant for my arrest.

Q Mr. Navarro, do you remember where were you on the night of September 1st, 1972?

A In my house.

Q Was anybody else there with you?

A Yes, sir.

Q Would you tell me who?

A Two couples, my wife and myself.

Q Do you know the names of these two

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couples?

A Yes, of course.

Q Will you tell me?

A Daisy Perez, Haroldo Perez. That is the first couple.

Ondina Masso, Orlando Masso or Jose Masso, Orlando Jose Masso.

Q Do you know where Mr. and Mrs. Masso are now?

A No, because when I went out under bond on this case, I wanted them to testify but I suppose they are in Puerto Rico now, I don't know really because I have been working.

Q Mr. Navarro, I show you State's Exhibit No. 7. I ask you to take a look at it and tell me if there is any object in that picture that is familiar to you (showing to witness)?

A Yes, of course.

Q Will you tell me what it is?

A A weapon.

Q Have you see that weapon before?

A Well, precisely that weapon--just weapons that look like that.

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Q Where have you seen a weapon that looks like that one before?

A On the wall of the office of Mr. Donestevez.

Q Is this the office inside the factory?

A Yes, inside the factory.

Q How many occasions you have seen a gun like that on the wall of Mr. Donestevez' office?

A Well, on several occasions, I told him that that type of weapon that he had--well, that he shouldn't have it there.

Q Now, I show you State's Exhibit 3, which is a letter. Have you seen that letter before (showing to witness)?

A Never.

Q Did you write that letter?

A Never.

Q Do you know how to type?

A No, sir.

Q I show you some handwriting in the envelope. Is that your handwriting?

A No, sir.

Q I now show you State's Exhibit No. 2.

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It is a composite exhibit consisting of a ring, a watch and a bracelet.

Could you tell me if you have ever seen that watch, that ring or that bracelet before today (showing to witness)?

A No, sir.

Q Didn't you see it yesterday?

A I saw it when they were showing it here.

Q But except outside of seeing it in this courtroom, have you ever seen it out of this courtroom?

A No, sir.

MR. FERRER: Can I have a minute, your Honor?

* * * * *

BY MR. FERRER:

Q Mr. Navarro, besides yourself and your mother-in-law, was there anybody else in your home when you were arrested?

A My son was there. My son just through with his dinner and turn off the television. About that time he went out.

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Q Was your son in the house while the officers were there waiting on you?

A Not at that time. He was out.

MR. FERRER: No further questions.

THE COURT: Cross.

CROSS EXAMINATION

BY MR. TUNKEY:

Q Did you know Mr. Donestevéz in Cuba?

A No, sir.

Q In what year did you first meet him?

A A few years back.

Q 1971?

A Yes, sir.

Q Did you meet him because of a common affiliation in a political organization?

A No, sir. It was about purchasing a boat.

Q Did you purchase a boat from him?

A Yes, sir.

Q When did you do that?

A That was in September.

Q Of 1971?

A Yes, sir.

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Q What kind of a boat did you buy from him?

A A Piranha 22.

Q 32-foot boat?

A 22 feet and some inches.

Q Now, you say that back in April and August of 1972, that during those months you were at the boat factory, also; is that right?

A Yes, sir.

Q Working on your boat?

A Yes, sir. I was again purchasing a boat.

Q And you also stated on direct examination, Mr. Navarro, that on one, at least one of these occasions, you were actually working on your boat; is that correct?

A Yes, of course.

Q And when you were working on your boat, you were dressed in work type clothing; weren't you?

A Regular working clothes I use, that I use in construction.

Q Well, when you say "in construction,"

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those are the same kind of work clothes or similar to the work clothes being worn by the people who worked at the boat factory; weren't they?

A No, sir. The construction work is a hard pants, strong pants.

Q Strong pants?

A Yes, strong pants.

Q Now, you first met Mr. Canto in April of 1972?

A Yes, sir.

Q And at that time you had a talk with him; is that right?

A Yes, just a light conversation.

Q How long did you talk with him?

A I cannot precisely--

Q 15 minutes?

A Tell him I cannot tell him precisely how long.

Q Well, was it more or less than 15 minutes?

A I cannot say precisely.

Q Was it during the daylight hours that you were speaking with him in April?

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A In the afternoon.

Q Is that the daylight hours?

A Yes, in the afternoon.

Q Again you saw him in August at the boat factory; is that right?

A Yes.

Q How long were you speaking with him on that particular occasion?

A There we had a very hot argument. I cannot tell you for how long it was.

Q You wouldn't forget Mr. Canto's face after that argument; would you?

A Never.

Q And he was just as upset as you were?

A He was more upset than I was because he even called me a Communist. I did not offend him in that way.

Q Well, you had been a Communist so that wasn't really a lie; was it?

A I never--I never been a Communist.

Q Did you work for Castro?

A At the beginning I was working for the government for Castro because I was involved in the

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revolution. That doesn't mean I ever belong to the Communist Party.

Q Well, then, you just acted very upset here, Mr. Navarro.

I assume from the fact that you are upset about what I said, that you feel strongly against the Castro government; is that right?

A Yes, sir.

Q And if you could, you would like to see it changed; wouldn't you?

A He change?

Q If you could, would you like to see the Castro government out of power?

A Tell him I would like to see all the Cubans well without fighting.

Q With or without Mr. Castro?

A Without Castro because Castro took Communism into the Island after 1960 or '62.

Castro's policy was never Communist from the beginning.

Q Tell him I don't want to get into a political debate with him.

A But he is asking me about it, though.

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Q Well, I wasn't.

Would it be fair to say that Mr. Canto held the same beliefs that you do?

A Could be.

Q Well, he wasn't telling you that he liked Castro; was he?

A No.

Q You didn't actually fight, you didn't come to blows that day; did you?

A No, no blows.

Q Mr. Canto didn't owe you any money; did he?

A Not to me, no. Never.

Q And you didn't owe him any money?

A No, I didn't owe him anything, either.

Q Did you know anybody who Mr. Canto owed money to?

A I don't know.

Q Now, Mr. Navarro, what day of the week were you arrested on?

A 15th of September. It's been the first time I was arrested in my life.

Q You don't recall offhand what day of

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the week that was; do you?

A A Wednes--Friday.

MR. TUNKEY: He said Wednesday first?

THE INTERPRETER: No, sir; I was the one who made that mistake.

MR. TUNKEY: Okay, fine. Thank you.

BY MR. TUNKEY:

Q Now, Mr. Navarro, as I understand it, when you got arrested you spoke with the police; is that right?

A Yes.

Q Do you recall seeing Sgt. Havens on that day?

A No, sir.

Q Are you saying you don't remember or you did not?

A He was not there that day.

Q Well, did you see him later that day after you went to the police station?

A Well, there were so many persons. Even Canto was there.

Q You don't remember?

A No, I don't remember.

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Q Do you recall whether or not you told the police if you knew Mr. Donestevéz?

MR. FERRER: Objection, your Honor.

THE COURT: Sustained.

BY MR. TUNKEY:

Q Did the police read you and tell you what your rights were when you got arrested?

A At the beginning, no.

Q Well, what do you mean by "At the beginning"?

A When they came into my house.

Q Right. But after that they told you what your rights were?

A Just in the office or sometime passed by after they were pressing me with questions.

Then one of them asked, "Did you tell him," and then one of them told me about my rights.

Q And you understood them; did you?

A Well, imagine. At that time, one is arrested and one is pressed with questions, the only thing I remember, that I was drinking a lot of water because I had a lot of sun that day working.

I asked them to excuse me and to allow

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me to have some water and they allowed me to have some water.

If he was present, I don't know about that. He could testify to that effect.

Q Did you tell the police that you didn't know Mr. Canto as of that day?

MR. FERRER: Objection, your Honor.

THE COURT: Sustained.

BY MR. TUNKEY:

Q All right, Mr. Navarro, after you had a chance to calm down after you were arrested, did you ever go back to the police or the State Attorney's office and tell them where you supposedly were on the 1st day of September, 1972?

A The way they treated me at the beginning, I didn't believe that--well, I saw them with such animosity against me.

Q I didn't understand that.

THE INTERPRETER: Neither did I.

MR. TUNKEY: Well, could you repeat-- I would ask that the reporter repeat it.

THE COURT: I think what the interpreter is saying, he translated it, he didn't

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understand what the witness was saying.

Rephrase the question, see if you can get an intelligent answer.

BY MR. TUNKEY:

Q Mr. Navarro, based upon your military experience in Cuba, you know what an AR18 is; is that right?

A In Cuba that type of weapon, they have some other type of weapons.

Q Similar to it?

A Yes, sir.

Q And when you saw that weapon that you identified in the picture, State's 7, the one that you saw at Mr. Donestevéz' factory, you knew that was an automatic weapon; didn't you?

A Not precisely. It was on the wall. I go there to look at the switch because it shows on the switch.

Q You saw other guns there, too; didn't you?

A He told me he had some other weapons but that is something that does not concern me.

MR. TUNKEY: That is all.

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THE COURT: Redirect.

MR. FERRER: Yes, your Honor.

REDIRECT EXAMINATION

BY MR. FERRER:

Q Now, Mr. Navarro, you got pretty upset when Mr. Tunkey called you a Communist.

A Yes, sir.

Q Have you ever been a member of the Communist Party in the United States?

A No, sir.

Q Have you ever been a member of the Communist Party in Cuba?

A No, sir.

Q Have you, as an officer, as a former officer of the Castro Regime, done anything officially in this country against the Communist infiltration in Cuba?

A No.

Q Have you been to any committees of the government of the United States to testify as to the Communist infiltration of Cuba?

THE INTERPRETER: I am sorry, Counsel.

BY MR. FERRER:

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Q Have you been before any committee of the government of the United States to testify as to Communist infiltration in Cuba?

A Yes, sir; at the Senate.

Q Which committee?

A At the Committee of Internal Security of this nation.

Q And did you testify there against the Communist infiltration of Cuba?

A Yes, and also in Latin America and--

Q Have you worked with any branch of the United States Government in Latin America against Communism?

A Not officially but I cooperated with--

Q When you were in Brazil, were you in touch with officers of the American Embassy in Brazil?

A Yes, sir.

Q And what was the object of your contacts with the American Embassy in Brazil?

A To try to make contact with some delegations in Cuba.

I gave some information to the people

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at the Pentagon, some other things, that due to the fact that I have to protect my person, for my personal security, I would not like to talk about.

Q Just one question: Was any of these activities that you carried on in Brazil together with members of the American Embassy in favor of Communism?

A Against Communism.

Q How many times were you before the Senate Committee?

MR. TUNKEY: Objection, immaterial.

THE COURT: Sustained.

MR. FERRER: No further questions, your Honor.

RECROSS EXAMINATION

BY MR. TUNKEY:

Q Just one further question: Mr. Navarro, then as I understand your testimony, you would do almost anything to see that Castro is overthrown; is that a fair statement?

A As long as that it was done legally.

MR. TUNKEY: That is all.

REDIRECT EXAMINATION

Q One question: In order to fight

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Castro, would you put a gun to the head of a person and take his jewelry from him?

MR. TUNKEY: Objection.

THE WITNESS: No, senór.

MR. TUNKEY: It is an ultimate issue of fact.

THE COURT: Overruled. That is the only thing this case is about and I have listened to politics for three days.

MR. TUNKEY: It is outside the scope of recross.

THE COURT: Overruled.

MR. FERRER: Nothing further.

THE WITNESS: I am not a criminal.

THE COURT: Anything further from this witness?

MR. FERRER: Not from the defense.

THE COURT: You may stand down.

(Witness excused.)

* * * * *

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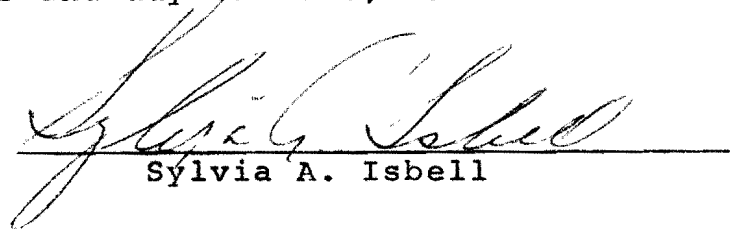
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CERTIFICATE

STATE OF FLORIDA)
 : SS.
 COUNTY OF DADE)

I, SYLVIA A. ISBELL, do hereby certify that the case of State of Florida, Plaintiff, vs. Emilio Navarro, Defendant, pending in the Circuit Court of the Eleventh Judicial Circuit of Florida, Criminal Division, in and for Dade County, Case No. 72-7137B, was tried before the Hon. Paul Baker, as Judge, and a jury, on March 13 and 14, 1973; that I was authorized to and did report in shorthand the proceedings and evidence in said trial; and that the foregoing pages, numbered from 1 to 215, inclusive, constitute a true and correct transcription of my shorthand report of an excerpt of the proceedings of said case.

IN WITNESS WHEREOF I have hereunto affixed my hand this 2nd day of June, 1973.


 Sylvia A. Isbell

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