

IN THE CRIMINAL COURT OF RECORD
IN AND FOR DADE COUNTY, FLORIDA

NO. 72-7137

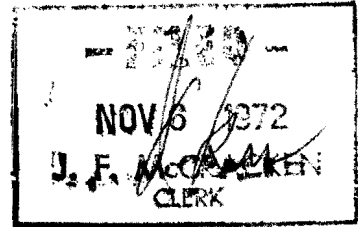
STATE OF FLORIDA,

Plaintiff,

v.

RAMON DONESTEVEZ,

Defendant.



----- X

North Conference Room
Metropolitan Justice Building
1351 Northwest 12th Street
Miami, Florida
Tuesday, October 24, 1972
10:30 o'clock a.m.

DEPOSITION OF GEORGE R. HAVENS

Taken before James E. Ries, Notary Public
for the State of Florida at Large, pursuant to Notice
of Taking Deposition filed in the above cause.

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APPEARANCES

WILLIAM TUNKEY, ESQ., Assistant
State Attorney, on behalf of
the State of Florida.

ROBERT C. JOSEFSBERG, ESQ., of
the firm of Pearson & Josefsberg,
P.A., on behalf of the Defendant.

I-N-D-E-X

<u>Witness</u>	<u>Direct</u>	<u>Cross</u>
George R. Havens	3	--

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1 Thereupon--

2 GEORGE R. HAVENS

3 was called as a witness by the Defendant, and having
4 been first duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. JOSEFSBERG:

7 Q Please state your name and occupation.

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

10 Q Mr. Havens, in your capacity with the
11 Public Safety Department have you had occasion to be
12 the lead investigator and responsible for the case
13 that is the subject matter of these depositions?

14 A Yes, sir.

15 Q When did this case first open on the
16 files of the Public Safety Department?

17 We have already determined--

18 A This was on the 12th day of September
19 1972.

20 Q On Tuesday, September 12, 1972 did Mr.
21 Canto appear at your office after you received a phone
22 call from Special Agent George Davis of the FBI?

23 A Yes, sir.

24 I did not receive the phone call;

1 Sergeant Oller received the phone call and at approxi-
2 mately 1 o'clock p.m. Mr. Canto appeared at our office.

3 I was advised by Sergeant Vincent Oller
4 that the subject did not speak English and that he
5 would translate.

6 Q The call from Special Agent Davis of
7 the FBI to the best of your knowledge was made that day
8 to Mr. Oller?

9 A Yes, sir.

10 Q The 1 o'clock appointment was pre-
11 arranged apparently by Mr. Davis?

12 A I don't know the answer to that ques-
13 tion, sir. All I know is he appeared at my office at
14 1 o'clock.

15 Q Were you expecting him at 1?

16 A Yes.

17 Q Did Mr. Oller tell you that Canto would
18 be there at 1?

19 A Yes, sir.

20 Q At that time was a statement taken from
21 Mr. Canto?

22 A An oral statement was taken.

23 Q What did he say?

24 A Mr. Canto advised me and Sergeant Oller-

1 Q While you are talking, I want you to
2 feel free to refer to your notes to be as specific as
3 you can to what he said to you.

4 A Yes, sir.

5 Mr. Canto advised myself and Sergeant
6 Oller that on the 1st of September 1972, which would
7 have been a Friday, that he, Canto, received a tele-
8 phone call from a subject known to him as Ramon
9 Donestevez, and that he knew Mr. Donestevez because he
10 had purchased a boat from him, and that he had talked
11 to Mr. Donestevez many times.

12 Canto advised that Mr. Donestevez ad-
13 vised him he wanted him to come to his boat factory in
14 Perrine. It was called the Piranha Diesel Corporation.

15 Mr. Canto advised me that he believed
16 that Mr. Donestevez wished him to come to his boat
17 factory relative to a boat which had been manufactured
18 by Piranha Diesel, Mr. Donestevez, and had been reported
19 as stolen from Mr. Canto in the City of Miami.

20 He advised that he arrived at the boat
21 factory at approximately 9 p.m. and when he entered
22 the factory, that two men drew automatic pistols on
23 him, and that they set him down in the main office
24 area of Piranha Diesel sales, and that shortly thereafter

1 Mr. Donestevez entered the office wearing a pair of
2 green fatigues, boots--he described him as being
3 dressed like Fidel Castro. He was wearing an auto-
4 matic pistol.

5 He advised us that Mr. Donestevez told
6 him to sit down and that they were going to discuss
7 a trip which Canto was going to help him make to
8 Havana, Cuba.

9 At that point Canto advised Donestevez
10 told him that they wanted some money, they wanted him
11 to give them \$800.

12 He said he didn't have any money. At
13 that point Canto advised that Donestevez removed from
14 a wall a rifle, which he described as having a folding
15 stock.

16 He drew a picture of it, and it appeared
17 to be an AR 15, a fully automatic rifle.

18 Q Have you retained that picture?

19 A No, sir, he just drew a little sketch
20 of what the rifle looked like.

21 We would ask him specific questions as
22 to the description of the rifle and he would say it
23 had a long barrel, it had--basically he was describing
24 the rifle, and when it ended up, it appeared it would

1 be an AR 15 rifle.

2 He said it was an automatic, and he
3 described how you put a shell into the chamber.

4 He then advised at that point that the
5 other two subjects removed from him his watch, his
6 ring, an ID bracelet, and that they left and they went
7 outside the building.

8 Shortly thereafter they returned inside
9 the building with a .38 caliber revolver which he had
10 in his car, a Rossi revolver.

11 At that point he advised that Donestevez
12 told him that he would have a specific amount of time
13 to procure the money, and if he didn't get the money,
14 that they were going to fill him full of lead. Those
15 were his words.

16 He said he was frightened, he was
17 afraid, and they told him he better not call the
18 police, and then he went home.

19 Q Will you continue to tell me what if
20 anything he said to you additionally at the time of
21 this first interview on September 12th?

22 A Yes, sir. I am referring to my notes,
23 if I might.

24 Mr. Canto advised us that he went to

1 the FBI to report this crime a day or two after it
2 happened, and that he was interviewed by FBI agents,
3 and that he was shown a group of photographs of people.

4 He knew Ramon Donestevez and he was
5 shown a group of people who allegedly associated or
6 worked for or were known to be with Donestevez.

7 He advised he picked out two pictures
8 as being the ones who were the ones who actually
9 pulled the guns on him at the boat factory.

10 One was Emelio Navarro and the other
11 was Ruiz Alfredo--Alfredo Ruiz.

12 That was the extent of his conversation
13 on the first date that he had at our office.

14 Q He told you that on September 2nd or
15 3rd he went to the FBI and advised them of extortion
16 and the violation of the neutrality laws of the United
17 States of America, and that he identified photographs
18 of three people who were the perpetrators of this
19 crime?

20 MR. TUNKEY: Objection. It calls for a legal
21 conclusion.

22 I instruct the witness not to answer.

23 MR. JOSEFSBERG: You are instructing him not
24 to answer?

1 MR. TUNKEY: Yes, sir, based upon that one
2 part of the question wherein you state there was a
3 violation of the Neutrality Act--was that it?

4 Q (By Mr. Josefsberg) Did he tell you
5 that he told them that he was told this money was for
6 the purposes of invading Cuba?

7 A Mr. Canto advised me that he went to the
8 FBI office and that he talked to FBI agents, that he
9 was shown a group of photographs, two of which he
10 picked out as being the subjects, including Ramon
11 Donestevez who had robbed him at gunpoint.

12 And that is the extent of the information
13 which I received from Mr. Canto relative to his inter-
14 view at the FBI.

15 Q He never told you what he told them?
16 Did he just go in there and say "I would like to see
17 a photograph of three men I may have seen the other
18 day"?

19 A No, sir. He advised us that he went to
20 the FBI to report that he had been robbed by three
21 people.

22 Q Did he tell you that he did not tell
23 them about the Cuban aspects of this?

24 A No, sir, he didn't advise me of that.

1 Q When he said the FBI had photographs of
2 associates of Mr. Donestevéz, did he say whether they
3 were robbery associates, business associates or revolu-
4 tionary associates?

5 A He didn't say.

6 Q Did he tell you who at the FBI he had
7 spoken to?

8 A No, sir.

9 Q Have you determined since then who it
10 was?

11 A I have not, no, sir.

12 Q Has anyone under your direction and
13 control?

14 A No, sir.

15 Q Have you received the three photographs
16 from the FBI?

17 A Yes, sir.

18 Q From whom did you receive them at the
19 FBI?

20 A I got them from Sergeant Oller.

21 Q Do you know from whom he received them?

22 A No, sir.

23 Q Do you have copies of those photos?

24 A Yes, sir.

1 MR. TUNKEY: Let the record reflect that
2 pursuant to Rule 4, Discovery, we are showing or going
3 to show Mr. Josefsberg those pictures which Sergeant
4 Havens has in his possession at this time.

5 MR. JOSEFSBERG: Let the record reflect that
6 Rule 4, Discovery, was due a long time ago, and I am
7 seeing them now but I have not been shown them or
8 advised of them beforehand.

9 MR. TUNKEY: Let the record reflect that Mr.
10 Josefsberg has at no time made an appointment with me
11 to inspect, copy or view any physical evidence.

12 This is the first opportunity that I
13 have had to show him these items, and I of course have
14 no objection at any time in the future reaching a
15 mutually agreeable time to view all of the evidence
16 in this case.

17 MR. JOSEFSBERG: Then we will also put in the
18 record a letter of October 6, 1972 requesting the
19 opportunity for such an appointment which was sent to
20 Mr. Tunkey.

21 Apparently he has been out of the
22 country since that time and his office hasn't even
23 bothered to reply to my letter, and that's right, I
24 have made no appointment because I left some messages

1 there and he told me he wasn't there and he never
2 replied to my letter.

3 But we will put a copy in the record
4 since you have raised the issue that I haven't made an
5 appointment.

6 Do you have a copy? I see the October
7 6th letter right on top of your file.

8 MR. TUNKEY: Yes.

9 MR. JOSEFSBERG: Then it was received by
10 your office. Is it stamped in?

11 MR. TUNKEY: Yes, October 11th.

12 MR. JOSEFSBERG: This is now October 24th.
13 You have been out of the country since then, right?

14 MR. TUNKEY: No, that is not right; I have
15 been out of the State however.

16 Are you finished with the photographs?

17 MR. JOSEFSBERG: No.

18 Are these photos being given to me pur-
19 suant to Rule 4, or will copies be furnished later?

20 MR. TUNKEY: Rule 4 provides you may make
21 copies at your own expense.

22 MR. JOSEFSBERG: May I have them, and I will
23 make copies?

24 MR. TUNKEY: You may have them to make copies

1 when Sergeant Havens is able to do that.

2 THE WITNESS: I will make you copies of them.

3 MR. JOSEFSBERG: That is what I asked for.

4 MR. TUNKEY: That's fine, as I said I would
5 do with all the other photographs.

6 MR. JOSEFSBERG: That's fine.

7 I said, will you make me copies?

8 MR. TUNKEY: Yes.

9 MR. JOSEFSBERG: You said no; you said you
10 would let me make them.

11 MR. TUNKEY: I said I wouldn't let you take
12 them. I don't think we need to quibble about this
13 though.

14 Q (By Mr. Josefsberg) When did you
15 receive those photographs from the FBI?

16 A The day that Mr. Canto came to my office.
17 I believe Sergeant Oller had them in his possession.

18 Q Do you know how he received them?

19 A No, sir.

20 Q What if anything else did he tell you?

21 A "He," Mr. Canto?

22 Q Yes.

23 A Only what I have related so far.

24 Q Did you make a report of what he had

1 told you?

2 A Yes, sir.

3 Q Have you since that time studied and
4 reread the report, and does it accurately reflect his
5 allegations as stated on September 12, 1972?

6 A Yes, sir.

7 Q What did you do after that?

8 A We began an investigation.

9 We took it upon ourselves to institute
10 an investigation. Mr. Canto then contacted Sergeant
11 Oller and advised him that he had received a letter in
12 the mail alleging that it was--it was demanding of some
13 money and threatening his life.

14 Sergeant Oller requested Mr. Canto
15 bring this letter to our office, which he did.

16 Q Sergeant, do you recall back on Septem-
17 ber 12th either you or Mr. Oller asking Mr. Canto if
18 he had received anything in writing from these people?

19 A No, sir.

20 Mr. Canto came to our office and advised
21 us that he had received a letter. The letter was
22 written in Spanish and he gave the letter to Sergeant
23 Oller.

24 Sergeant Oller translated the letter.

1 The letter was dated 9/9/72. It was typewritten.

2 Q That is the letter and envelope which
3 has been furnished to me with the State's Rule 4
4 compliance?

5 A Yes, sir.

6 Q Have you since that time had the letter
7 and/or envelope dusted for fingerprints?

8 A Yes, sir.

9 Q Have you found any?

10 A None of value, no, sir.

11 Q Have you compared the writing on the
12 envelope or the typing on the letter with any known
13 typing or handwriting?

14 A Yes, sir.

15 Q With whose?

16 A We attempted during the execution of
17 a search warrant to recover a typewriter--there were
18 three in Mr. Donestevéz' boat factory.

19 However those were apparently inopera-
20 tive or hadn't been used for an extensive period of
21 time, primarily because of dust and cobwebs that were
22 on them.

23 One of them was inoperable, it didn't
24 work at all.

1 Q In other words, even without any exper-
2 tise you knew those couldn't be the typewriters in
3 question?

4 A They didn't appear to be. I don't think
5 they could have been used in months, and the letter was
6 dated and postmarked on the 9th of September.

7 The only thing which I have that Mr.
8 Donestevez signed is a property receipt. His signature
9 is a big round circle with a long line.

10 Q Have you taken any handwriting exemplars
11 from Mr. Canto?

12 A From Mr. Canto?

13 Q Yes.

14 A No, sir, I have not.

15 Q Have you determined what type of type-
16 writers he owns?

17 A No, sir.

18 Q Have you furnished any typing or hand-
19 writing specimens to any handwriting or typing expert?

20 A Yes, sir, I have sent them the letter.
21 However, we don't have the typewriter or standards to
22 compare with.

23 I don't have any of Mr. Donestevez'
24 handwriting, nor I don't have a typewriter which was

1 used allegedly to type this.

2 Q Nor have you sought any handwriting and
3 typing from Mr. Canto, is that correct?

4 A That's correct--well, no, that is not
5 quite correct.

6 I do have some banking records from Mr.
7 Canto, an application for a loan, but I don't see any
8 necessity--I didn't feel and I still don't feel there
9 is any necessity to compare these against the handwrit-
10 ing in the letter.

11 Based on the subsequent investigation
12 and based on conversation which I overheard of a tape,
13 there is no doubt in my mind that Mr. Canto didn't
14 write these, he didn't do this.

15 Q What is the next thing that happened
16 after you got that?

17 A The letter was translated by Sergeant
18 Oller. Would you like me to read into the record what
19 it says?

20 MR. TUNKEY: I already provided a copy and
21 one is in the Court file, and there is only one such
22 letter and envelope.

23 MR. JOSEFSBERG: For the record, I don't
24 think I received a translated copy, but I was previously

1 shown one.

2 Just sent me a translated copy.

3 MR. TUNKEY: Yes.

4 MR. JOSEFSBERG: But I have previously been
5 shown it.

6 MR. TUNKEY: It is also I might add part of
7 the record at the preliminary hearing, and you do have
8 a transcript of that I would assume.

9 If you recall it was read into the
10 record at the preliminary hearing by a different
11 interpreter.

12 Q (By Mr. Josefsberg) What happened then?

13 A According to the letter, Mr. Canto
14 would be contacted by telephone advising him where to
15 bring the \$800, also advising him if he did not bring
16 the \$800 that they were going to dynamite his house
17 and his car and they were going to fill him full of
18 lead, kill him.

19 We received permission from Mr. Canto
20 to monitor telephone calls at his house.

21 We gave Mr. Canto an electronic record-
22 ing device with a device where he could monitor phone
23 calls and instructed him on how to use it and advised
24 him to take the tape recorder home in the event that

1 he received a call prior to the 15th.

2 After that time myself and Sergeant
3 Oller discussed the feasibility of having Mr. Canto
4 receive a call at his house, and we decided it would
5 be better if we placed the call to Mr. Donestevéz and
6 we monitored the call ourselves; that way it would
7 eliminate any problem with any monitoring the call,
8 or it would eliminate the problem of possibly a mal-
9 function.

10 We felt this would be an important part
11 of this case.

12 So on the 14th of February 1972 at
13 9:30 a.m., in my office we made a tape recorded con-
14 versation where Mr. Canto called Mr. Donestevéz at his
15 boat factory.

16 Q You furnished me with a translation of
17 that conversation, right?

18 MR. TUNKEY: Right, and also a copy of the
19 tape recording.

20 Q (By Mr. Josefsberg) Let's backtrack and
21 get the dates straight.

22 When did Mr. Canto bring you the letter
23 and envelope?

24 A The 12th of September.

1 Q On the first day he came into see you?

2 A No, sir.

3 The 12th of September he brought the
4 letter back.

5 MR. TUNKEY: Are you saying he saw you twice
6 that day?

7 THE WITNESS: No, sir; he saw us twice, once
8 when he came in and made the original report to us and
9 we made the original investigative report.

10 He made the original allegations then.
11 The next time he returned was when he returned with a
12 letter.

13 Q (By Mr. Josefsberg) When was that?

14 A That was on the 12th.

15 Q When was the first day he came in?
16 Because you already testified the first time he ever
17 came was Tuesday, September 12th at 1 p.m.

18 A You're correct and I am in error.

19 He returned at 1 p.m. He then came
20 back that afternoon and advised that when he had re-
21 turned to his home, he had received the letter, and he
22 brought the letter back to us.

23 This was both on the 12th of September.
24 Two times he saw us on the 12th.

1 Q Did you give him a receipt for the
2 letter?

3 A Yes, sir.

4 Q Could you look at that receipt and see
5 the date on it?

6 A Yes, sir.

7 (After examining documents.) It is
8 apparently still the one that is in the lab report.
9 I gave him a receipt that date but I don't have a
10 copy of the receipt.

11 I gave him a receipt the date I received
12 the letter and I submitted the letter from myself up
13 to the Crime Lab for latent analysis.

14 I apparently gave them the entire copy
15 of the property receipt and have not received from them
16 my copy.

17 Q Have you written a memo indicating that
18 he returned on September 12th which refreshes your
19 recollection and makes you sure that he came in a
20 second time on September 12th, or is that just a matter
21 of your memory?

22 A I am almost certain that he returned that
23 afternoon.

24 If he didn't return that afternoon it

1 was the next morning.

2 Sergeant Oller talked to him. I can't
3 speak Spanish.

4 Every time that we ever talked to him
5 I had to have a translater there. I would be able to
6 advise you as to the exact date as soon as I get my
7 copy of the property receipt on the letter.

8 Q And the next time you saw him was on
9 the 14th when he came in at your request--

10 A Yes, sir.

11 Q --because you and Sergeant Oller weren't
12 completely happy with him doing taping at his home, you
13 would prefer it where you could control the situation?

14 A Yes, sir.

15 Q On the 14th he came in at your request,
16 not in order to turn in a letter or an envelope?

17 A No, sir, not to my knowledge. I could
18 be in error.

19 I wouldn't know until I get a copy of
20 the property receipt, which I don't have here.

21 But I do know when he came in that
22 Sergeant Oller and I had discussed the probability of
23 him making the call from his home, and we decided that
24 wasn't the best way to do it, and that we would control

1 the telephone conversation, which we did at 9:35 a.m. --
2 9:25 a.m.

3 Q What happened after that phone call of
4 September 14th?

5 A Mr. Canto was instructed on the tele-
6 phone to bring the money, after advising Mr. Donestevéz
7 that he had the money.

8 MR. TUNKEY: I object. I don't think you
9 are being responsive to the question.

10 Q (By Mr. Josefsberg) What you are doing
11 is, by way of background you are saying that in the
12 conversation Donestevéz and Canto made certain arrange-
13 ments?

14 A That's correct.

15 Q And therefore "We did the following"?

16 A That's correct.

17 Q We know what is in the transcript.

18 A Yes, sir.

19 Q So why don't you just say "Based upon
20 the transcribed conversation we did the following"?

21 A Exactly as Mr. Josefsberg just said, we
22 did the following:

23 We had Mr. Canto come to Mr. William
24 Tunkey, Assistant State Attorney's office, where a

1 sworn deposition was taken.

2 Sergeant Oller translated, Mr. Tunkey
3 asked the questions.

4 And based on that information we pre-
5 pared warrants, robbery warrants, for Mr. Ramon Donestev
6 Mr. Emelio Navarro and Mr. Alfredo Ruiz.

7 Q Were those filed and were arrest war-
8 rants issued?

9 A Yes, sir.

10 Q On September 14th?

11 A Yes, sir.

12 Q Who was given the responsibility of
13 executing those warrants?

14 A They were directed to my attention.

15 Q You received them on September 14th?

16 A Yes, sir.

17 Q After receiving those warrants--strike
18 that.

19 In the preliminary conversation of
20 September 12th was any exact amount of money mentioned
21 by Mr. Canto, as to how much he was instructed to re-
22 turn with?

23 THE WITNESS: Repeat the question (addressing
24 the Reporter).

1 (The pending question was
2 thereupon read by the Re-
3 porter as above recorded.)

4 THE WITNESS: He was advised that he had to
5 pay \$800 on the phone call of the 14th when he called;
6 he said, "I have the money."

7 Q (By Mr. Josefsberg) But on September
8 12th he came in and told you about an event that had
9 transpired on September 1st?

10 A Yes, sir.

11 Q I would like you to look at your notes
12 of that date and see if anywhere in there you have the
13 figure \$800.

14 A I believe there is.

15 (After examining documents.) Yes,
16 Canto advised us that Navarro stated to him--this is
17 in quotes--"You will have to leave with us something
18 you possess in order to guarantee you will bring us
19 the \$800."

20 Q Getting ahead to September 14th, after
21 you received the arrest warrants against three gentle-
22 men, the three subjects for robbery, what happened
23 next?

24 A Originally the transaction was to take

1 place at 6 o'clock p.m.

2 Q On what day?

3 A This was on the 15th of September. This
4 would be the date of the payoff.

5 At approximately 7:30 in the morning--

6 Q Let's backtrack a minute.

7 Did you do anything about getting a
8 search warrant?

9 A Yes, sir.

10 Q Tell me what you did.

11 A Based on the phone call which was made
12 on the 14th, whereas Mr. Canto was advised by Mr.
13 Donestevez that if he paid him \$800, that he had his
14 personal assurance, "he," Donestevez' personal assurance
15 that he would return to him his jewelry, he said he
16 would have it there for him, and they made arrangements
17 to meet at Mr. Donestevez' boat factory.

18 Based on this updated probable cause,
19 I contacted Mr. Tunkey and procured a search warrant
20 for the business.

21 Q What do you mean "updated"? When you
22 first saw him, Mr. Tunkey, you already had that infor-
23 mation.

24 A The phone call was made on the 14th.

1 That would be the updated information.

2 The original robbery took place on the
3 1st. I had no reasonable ground to believe that the
4 stolen property would still be in the same location
5 from the 1st to the 14th of September.

6 On the 14th of September I had reason-
7 able ground to believe that the property would be
8 there.

9 Q You had reasonable grounds to believe
10 it was there, or that you could cause it to be there?

11 A No, I had reasonable grounds to believe
12 it would be there.

13 Mr. Canto--

14 Q That it was there or it would be there?

15 A Mr. Donestevéz advised Mr. Canto that
16 he had his personal assurance that when he brings the
17 money there, that he would have the jewelry there for
18 him.

19 I assumed therefore when they agreed
20 on where it would be, it would be the boat factory.

21 Q As a matter of fact that conversation
22 of the 14th, Mr. Donestevéz said "I don't have it, but
23 you have my assurance that I will have it here when
24 you bring the money"?

1 A That's correct.

2 Q So on the 14th you and everyone under
3 your direction and control had probable cause to be-
4 lieve that it was not at the Piranha boat factory?

5 A However I had probable cause and reason-
6 able grounds to believe that it would be there on the
7 15th when we would make payment and execute the search
8 warrant.

9 Q It would be there if what?

10 A It would be there, not "if"; it would
11 be there when he paid the money.

12 Q According to the conversation of the
13 14th, were there to be any other phone calls?

14 A No, sir.

15 Q No one was to call each other to con-
16 firm it?

17 A No, sir.

18 Q According to the conversation of the
19 14th, the payoff and return of property was to be at
20 what time and place?

21 A 6 o'clock p.m.

22 Q September 15th?

23 A Yes, sir.

24 Q At the Piranha boat factory?

1 A Yes, sir.

2 Q And you had probable cause to believe
3 that at that time the property would be there?

4 A Yes, sir.

5 Q And did you have any cause to believe
6 when it would be there prior to that time?

7 A Let me review my report. The answer
8 is correct.

9 Q What?

10 A My answer is correct, that I had reason-
11 able grounds to believe it would be there at 6 o'clock
12 on the 15th.

13 Q And did you have any ground to believe
14 where it would be prior to then was my question.

15 A I would have to answer your question
16 yes with an explanation.

17 Yes, because at 7:30 a.m., Mr. Canto
18 advised us that he had received a telephone call from
19 Mr. Donestevéz who advised him that he would bring the
20 money there no later than 10 a.m. on the 15th.

21 Q Let's talk about on the 14th when you
22 got the search warrant.

23 On the 14th you didn't have a 7:30 a.m.
24 conversation of the 15th, you had only a transcribed

1 conversation of the 14th--

2 A Yes, sir.

3 Q --and everything else you had in your
4 file up to that time, and based upon that did you know
5 where that property would be between the afternoon of
6 September 14th and 6 p.m. on Friday, the 15th?

7 A No, sir.

8 Q But you did know where it wouldn't be,
9 didn't you?

10 MR. TUNKEY: Objection, speculation and it
11 calls for a conclusion.

12 I instruct the witness not to answer.

13 Q (By Mr. Josefsberg) Were you told
14 where it would not be?

15 MR. TUNKEY: If he was actually told where
16 it would not be--

17 Q (By Mr. Josefsberg) Did you listen to
18 a conversation stating where it was not?

19 A Yes, sir.

20 Q And where was it not?

21 A It was not at Piranha.

22 He says, his exact words was, "I don't
23 have it here now but you have my assurances that I will
24 have it for you."

1 Q And based upon that, a search warrant
2 was issued stating that such property is being con-
3 cealed at those premises, right?

4 MR. TUNKEY: I object to that.

5 The search warrant will speak for it-
6 self as to what it actually says.

7 MR. JOSEFSBERG: You're right, it will.

8 Q (By Mr. Josefsberg) On Friday--did you
9 read the search warrant on the 14th?

10 A Yes, sir.

11 Q On Friday the 15th, it had been previously
12 arranged you would meet with Canto before 6 p.m. and
13 you would go over there and cover the whole thing,
14 right?

15 A Yes, sir.

16 Q Did you give him a tape to cover any
17 phone conversations if any were made to him at his
18 home?

19 A No, sir.

20 Q When did you next hear from Mr. Canto?

21 A Approximately 7:30 a.m., he contacted
22 us and advised us that he had received a telephone
23 call from Mr. Donestevéz, and Mr. Donestevéz advised
24 him that he had better have the money there by no later

1 than 10 o'clock on that date, 10 a.m.

2 Q And did he tell you what he told Mr.
3 Donestevez, if anything?

4 A He told him he would try to get it
5 there as soon as he could.

6 Q Then what did you do?

7 A Based on that information I had a meet-
8 ing with the officers who would be executing the arrest
9 and search warrants.

10 We placed at 9:30 a.m. an electronic
11 transmitting device on Mr. Canto with his permission.

12 We instructed Mr. Canto to proceed to
13 the boat factory, and if he would receive his money,
14 he was to pay Mr. Donestevez the \$800--

15 MR. TUNKEY: Excuse me.

16 Read that answer back (addressing the
17 Reporter).

18 (The answer referred to was
19 thereupon read by the Reporter
20 as above recorded.)

21 THE WITNESS: I meant if he would receive
22 his jewelry, he would give Mr. Donestevez the money.

23 We had a meeting between all investigat-
24 ing officers at 117th Avenue and Quail Roost Drive to

1 once again brief them on the area that they were going
2 to be in, who the people that they would be looking
3 for were, and what they could expect during the execu-
4 tion of the warrants.

5 Q (By Mr. Josefsberg) Would you please
6 give me a list of who those officers were and what
7 their duties were?

8 A Yes, sir.

9 There was myself, Sergeant Oller, we
10 would be the lead investigators.

11 There would be Officer Fernandez and
12 Officer Keller, Officer West--

13 Q In what capacity were Fernandez, Keller
14 and West there? Did they have specific assignments?

15 A Yes, sir, they were in a monitoring
16 vehicle and photographing vehicle which would be parked
17 adjacent to the Piranha boat sales. This was a truck.

18 Q Who else?

19 A There was Sergeant Harold Applegate,
20 two detectives from the Southern District and--

21 Q Two South End detectives?

22 A Yes.

23 Q What was their responsibility?

24 A Their responsibility was covering the

1 rear of the Piranha boat sales.

2 And there were two detectives from the
3 Robbery Section who were also covering the east side
4 of the Piranha boat sales.

5 Q Who were they, Lazzeri and Sommerhoff?

6 A No, sir, Lazzeri and Sommerhoff were
7 also with myself. Their responsibility was covering
8 the front door.

9 Q Give me the names of the two men from
10 Robbery?

11 A One of them was Detective Bosworth and
12 the other one I don't even recall.

13 Their only responsibility was in the
14 event that someone came out from the boat factory or
15 attempted to escape during the execution of the search
16 warrant, they were to stop those people, and that was
17 it.

18 Q Anyone else?

19 A No, sir.

20 Q Was there anyone there from any federal
21 agencies?

22 A Not at that time.

23 Q Was anyone there from the Miami Police
24 Department?

1 A No, sir.

2 Q Was anyone there from the Public Safety
3 Department ID Section?

4 A No, sir.

5 Q Then was it exactly 12 men including
6 yourself?

7 A Yes, sir, I believe so.

8 Q Where were you positioned?

9 A I was northeast of the main factory area,
10 on the side road.

11 Q At what time did Mr. Canto arrive at
12 the factory?

13 A 11:35 a.m.--well, 11:35 or 11:40, some-
14 where in there.

15 Q Did you hear the monitoring?

16 A Yes, sir.

17 Q Did you have another electronic device
18 which transmitted it from Fernandez, Sommerhoff and
19 West--excuse me--from Fernandez, West and Keller to
20 you?

21 A The main recording device was located
22 in the surveillance vehicle which was parked adjacent
23 to the factory.

24 We had a portable monitoring device

1 which was in our vehicle where we could also overhear
2 the conversation.

3 We were not recording it; we were just
4 overhearing it.

5 Q Who were you with?

6 A Sergeant Oller and Lieutenant Sommerhoff.

7 Q I thought that Sommerhoff and Lazzeri
8 had the responsibility of the front door.

9 A That's correct.

10 Q Where was Lazzeri?

11 A I don't know whose vehicle he was in.

12 Q But you were with Sommerhoff and Oller?

13 A Yes, sir.

14 Q Were you able to view the situation?

15 A Originally we thought we would be able
16 to.

17 However, we had to back down an alley
18 and there was a conversation between Mr. Canto and
19 Mr. Donestevéz where Mr. Donestevéz was asking him whose
20 red car is that over there, and we were in a red vehicle,
21 so we backed down an alley.

22 We were unable to see him.

23 Q Was Mr. Canto given specific instructions
24 not to go into the factory?

1 A No, sir, he was not given those specific
2 instructions, but he was afraid. He didn't want to go
3 in there.

4 Q Did your electronic device also permit
5 communication between the different vehicles and
6 surveilling people?

7 A We had other communications devices to
8 do that. We didn't transmit over the bug frequency.

9 Q Who if anyone gave the ultimate signal
10 or decision to move in?

11 A I did.

12 Q Was that based upon your hearing that
13 the transaction had finished and your confirmation
14 that it had finished as received in any message from
15 the people in the monitoring and photographing vehicle?

16 A Yes, sir.

17 Q Specifically did one of them tell you
18 "It's over. Let's go"?

19 A Once again the conversations are in
20 Spanish. Sergeant Oller was advising us of what was
21 being said over the bug.

22 At the end of that conversation
23 Detective West advised that Canto was leaving, and at
24 that point based on a prearranged signal, I advised

1 all the units to move in, which we did.

2 Q Who was the first unit to get to the
3 front door?

4 A I was.

5 Q Meanwhile you had Applegate and two
6 South End detectives covering the rear?

7 A Applegate, two South End detectives
8 and the Robbery Unit.

9 Q Bosworth and someone else?

10 A Yes, sir.

11 Q Did those five people remain outside or
12 did they eventually ever come in?

13 A I know who the other detective was; it
14 was Detective Askew--no, correction. Askew was a
15 uniform man.

16 We had one uniformed car which we had
17 stationed about a half a block down. I didn't want any
18 probability of anyone there not knowing we were the
19 police, so I had a uniformed car there.

20 Q That is in addition to everyone else,
21 is that correct?

22 A That's correct.

23 Q Askew plus another uniformed man?

24 A No, Askew is the uniformed man.

1 Q He was alone?

2 A Yes, sir. He was in a marked uniformed
3 car in uniform.

4 Q Bosworth, this other Robbery man,
5 Applegate and the two other South End men, did they
6 remain in the rear throughout this entire thing, or
7 did they ever come in?

8 A I believe once--there is another person
9 I neglected to mention. I'm sorry.

10 It was Detective Bierne, Frank Bierne,
11 and Detective Eiland. They work on my squad. They
12 were also along.

13 The only time they would have entered
14 was after we secured the building. They may have
15 walked through, but I don't let people walk around a
16 building.

17 There's another one I forgot too,
18 Detective John Sampson. But that's all.

19 Is that 14?

20 Q 14 plus you?

21 A Yes, sir.

22 Q What happened when you got to the front
23 door?

24 A I instructed all units to move in, and

1 I was approximately a hundred yards away.

2 I drove my vehicle up to the side of
3 the building, which would be located on the northeast
4 corner.

5 I got out of my vehicle with Lieutenant
6 Sommerhoff and Sergeant Oller. We ran to the front
7 door. The front door was closed.

8 I knocked on the door. I announced
9 "Police officers." I announced our purpose.

10 I announced we were there to execute
11 a search warrant. I said I had arrest warrants.

12 I received no response. I knocked on
13 the door again. I received no response.

14 This was a metal door. Sergeant Sommer-
15 hoff took the butt of a shotgun and knocked on the door.
16 We didn't get any response.

17 This maybe took a minute or a minute
18 and a half.

19 At that point Detective Fernandez came
20 over to me and advised me that Donestevez was standing
21 up on something, he didn't know what it was, and when
22 people started coming in, when the units started moving
23 in, that he had hastily hurried down this whatever he
24 was standing on and ran in toward the building and

1 closed the door.

2 The door was bolted. I tried to knock
3 on the door. I tried to kick on the door, but I
4 couldn't move the door.

5 So for approximately five minutes, with
6 banging and knocking and calling out, yelling over the
7 fence, Mr. Donestevez appeared at the front door and
8 opened the door.

9 Q Did Fernandez tell you where he saw Mr.
10 Donestevez standing, on a platform or a ladder type
11 thing?

12 A Yes, sir.

13 Q Was that outside of the factory but
14 inside the metal gates?

15 A That's correct.

16 Q And that platform would be immediately
17 west of the factory?

18 A Well, the factory per se, the inside
19 building, yes.

20 After we got inside, I went and looked
21 at it, and it's a ramp like you go up to get inside of
22 a boat, and it is directly next to the interior of the
23 building, right next to it.

24 Q It is immediately to the west of the

1 factory?

2 A That's correct.

3 Q And it is inside a part where there is
4 a large gate that you can drive into, immediately to
5 the west of the enclosed part of the factory?

6 A Yes, sir.

7 Q During this time did anyone--during this
8 five minutes--did anyone attempt to leave the factory?

9 A No, sir. The door remained bolted and
10 shut.

11 Q Did your people on surveillance in the
12 rear attempt to move in?

13 A They were in position. There's no doors
14 back there.

15 Q When did the uniformed police car with
16 the blinker top come on the scene?

17 A As soon as I advised everybody to move
18 in, we all arrived--I would say I arrived first and
19 then it would be a matter of maybe ten seconds before
20 all the other units were on the scene.

21 Everyone was in position within ten
22 seconds.

23 Q Then they were waiting out there for
24 five minutes?

1 A Yes, sir.

2 Q Where was Canto?

3 A He drove off in his vehicle.

4 Q By prearrangement?

5 A Yes, sir.

6 Q Did you know at that time whether he
7 received back all of his property?

8 A I did later, approximately 30 or 40
9 minutes later I determined that he had gotten all his
10 property back.

11 I determined this by leaving the boat
12 factory and going to Station 4 in Perrine, where I
13 along with Sergeant Oller interviewed Mr. Canto.

14 Q But by prearrangement and by listening
15 to the tape you knew he had received it back, hadn't
16 you?

17 A It appeared that he had probably gotten
18 his property.

19 I think they said on there "It's here"
20 and gave him according to the tapes he gave him a cup
21 and then he gave him a package which was rolled up,
22 which we later determined the package contained the
23 gun, this .38 revolver.

24 There is only one thing which I am

1 neglecting to mention here, and which you didn't ask
2 me, which I think is important, and that is:

3 When I met Mr. Canto and the other
4 investigators at 117th Avenue, I had taken from official
5 County funds \$800 and Xeroxed a copy of them so I would
6 have the serial numbers of the bills, the denominations
7 of the bills, and I put that in a white envelope, a
8 plain white envelope, which I wiped and which I sealed
9 myself and gave that to Mr. Canto and he put it in his
10 front pocket.

11 I was instructed by Detective West and
12 Keller, who were monitoring the device from across the
13 street, that Mr. Canto had handed him the white en-
14 velope.

15 Q You were also instructed by them that
16 Donestevez had handed Canto the property?

17 A Yes, sir.

18 Q You were instructed that they had
19 exchanged that which they were supposed to exchange?

20 A Allegedly.

21 Q Now we have got you in there after
22 five minutes.

23 Where was Mr. Donestevez when you went
24 in there?

1 A He opened the front door. This was
2 directly inside the door, maybe a foot or two feet
3 inside the door. The door swings in.

4 Q Did you know prior to that time who
5 else if anyone was in there?

6 A No, sir.

7 Q Did you know during those five minutes
8 where Mr. Donestevéz was inside the factory?

9 A No, sir.

10 Q Your five-minute estimate, is that a
11 guess or is that--

12 A That is going to be a minimum amount of
13 time, by the time we first knocked on the door, banged
14 on the door, yelled over the fence.

15 The dog was barking inside there. Be-
16 fore the door was opened it took an absolute minimum
17 of five minutes.

18 Q Did you hear any noise from inside?

19 A Sure, there was a dog barking, a big
20 dog too.

21 Q Anything else?

22 A No, sir.

23 Q Are you sure it wasn't a little dog with
24 a big bark?

1 A No, sir, it was a big dog with a big
2 bark.

3 Q Did you hear a toilet flush?

4 A No, sir.

5 Q When you walked in and Mr. Donestevéz
6 was right there, what did you say or do?

7 A I advised Mr. Donestevéz who I was.
8 I showed him my identification. The uniformed man was
9 right there beside me.

10 I advised Mr. Donestevéz that we had
11 search warrants and arrest warrants, and advised him
12 to put his hands on the wall.

13 At that point other investigators came
14 into the door, went into the building to secure the
15 building, and there were a lot of other people in there,
16 also in an attempt to locate the other two subjects
17 which we had arrest warrants for, Mr. Navarro and Mr.
18 Ruiz.

19 Q How many of you went into the premises
20 from the front?

21 A I would say about six.

22 Q By prearrangement did they cover dif-
23 ferent portions?

24 A No, sir, they did not because from the

1 best description Mr. Canto could give us of the inside
2 of the factory, he gave us the description as to where
3 the office was.

4 I was right next to the office with
5 Mr. Oller, but I went down there prior to the execution
6 of the search warrant and looked at the building.

7 It's an immense building, a very large
8 building, and the other officers were instructed that
9 once they were in there, as we do in all search war-
10 rants, they check every room, every place where a sub-
11 ject could hide.

12 If we had any problems with anybody at
13 all inside the building, they are instructed how to do
14 this and went to do this, which they did.

15 After a moment or two when the building
16 was secured, we took all the subjects and we moved
17 them out in front of two large boats which were being
18 built, and at that point we searched them down for
19 weapons.

20 We didn't find any on any of the sub-
21 jects.

22 Mr. Donestevéz said "Leave them alone,
23 they don't have anything to do with this, they just
24 work here."

1 He spoke very good English. I asked him
2 at that point whether or not he understood English,
3 and he said yes, he did.

4 I advised him in English of his Con-
5 stitutional rights.

6 Q Did anyone read the search warrants?

7 A Yes, sir.

8 Q Did you read the arrest warrants?

9 A Yes, sir.

10 Originally the search warrant--I asked
11 Detective Fernandez to come in here, because I didn't
12 know whether Mr. Donestevez understood English or not.

13 He started to read the search warrant
14 in Spanish, and I inquired as to whether Mr. Donestevez
15 spoke English, and he advised me he spoke fluent
16 English, and prior to that he advised me to leave the
17 people alone, that they didn't have anything to do with
18 it.

19 And at that point we read the search
20 warrant in English, and also advised him of the arrest
21 warrants, and I advised him of his Constitutional
22 rights, and he requested to be able to contact an
23 attorney.

24 Q Was that request granted?

1 A Not at that time, not right then.

2 However, a few minutes later he attempted
3 to contact an attorney. I don't know his name. It
4 wasn't you though. It was a Cuban attorney.

5 As a matter of fact, I spoke to the
6 attorney on the phone myself.

7 Q Then what happened?

8 A After we were in the building maybe a
9 minute, Detective West advised me that upstairs--

10 Q Detective West went upstairs?

11 A Yes, sir.

12 Q Why?

13 A He was looking for Mr. Ruiz or Mr.
14 Navarro, checking the building to make sure there were
15 no other people there.

16 This was during the original entering
17 of the building to secure all the people inside.

18 Q He went up there in order to look for
19 Mr. Ruiz?

20 A Yes, sir, or anyone else who happened
21 to be up there.

22 Q Did you have any grounds for believing
23 that Mr. Ruiz was there?

24 A Only what Mr. Canto had advised us,

1 that they had been there that night, and I had arrest
2 warrants for them, so I was going to check as to
3 whether or not they were there. But they were not.

4 Q Therefore everyone of the officers
5 involved had been shown pictures of Ruiz and Navarro?

6 A No, sir.

7 Q How were they going to know who these
8 other people were?

9 A Their instructions were, they were to
10 secure anyone that was in that building.

11 Q Anyone?

12 A Yes, sir.

13 Q Why?

14 A We were doing the execution of a search
15 warrant. I don't want any evidence to be destroyed
16 or removed.

17 I didn't want anyone to be harmed or
18 injured in any way, and it is routine when we enter
19 a place that is to be searched, we secure everyone
20 in that building until everyone in that building knows
21 we are police officers, our purpose and our intent,
22 and we make certain that they are not carrying any
23 weapons and that no one is injured.

24 Q You secure people in premises to be

1 searched?

2 A That's correct.

3 Q In the same way whether you have war-
4 rants for their arrest or not?

5 A No, I wouldn't say that exactly.

6 I don't make a complete thorough search
7 of everybody. I don't ask them a bunch of questions.
8 If they are not there, they are not the people I am
9 interested in looking for.

10 Q What would West do differently if he was
11 just removing someone from an area or if he apprehended
12 Ruiz or Navarro?

13 A He would arrest Ruiz and Navarro. Any-
14 one else he would--no, that is not correct.

15 Their instructions, which the officers
16 received from me, was that they were to go into the
17 building, they were to stop anyone who was in the build-
18 ing and we were to move them to a central location
19 where we could determine whether any of these people
20 were Ruiz or Mr. Navarro. I didn't know them.

21 Q Who had the photos?

22 A I did.

23 Q You told the others that one of their
24 jobs was to try to find Ruiz and Navarro?

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A No, sir.

Their instructions was to enter that building and make that building safe for all police officers and all the other people that were in there.

Q In order to effectuate the search warrant?

A That's correct.

Q Was West upstairs while you were first reading the warrant to Mr. Donestevez?

A I would say it would probably be during that time.

Q As a matter of fact, didn't West go immediately upstairs as he entered the premises?

A I don't know where he went when he entered the premises.

Officers fanned out in different directions. There was a lot of people in that place. That was a big factory.

Q But West was the one that went upstairs?

A Yes, sir.

Q Did anyone go with him?

A Not to my knowledge.

Q When he came down, did he tell you whether he found anyone upstairs?

1 A He said he didn't find anyone, but he
2 said there was a lot of stuff up there.

3 Q Was he looking for stuff up there?

4 A No, he was looking for people up there.

5 Q Did he tell you how he happened to see
6 things?

7 A Yes, sir.

8 Q How?

9 A He says when he was up there, he said
10 leaning against a case up there was a machine gun, and
11 he said laying out on the floor was a great big thing
12 with a gigantic barrel that looked like a cannon.

13 Q Did he say he saw anything else?

14 A No, sir.

15 Q You don't recall the exact time when
16 he came down and told you that as it relates to when
17 you were reading the rights or warrants to Mr. Dones-
18 tevez?

19 A It was within the same time. All this
20 took place within a minute.

21 Q Did you find Ruiz or Navarro there?

22 A No, sir, they were not there.

23 Q Had you tried to find them at their
24 homes on the 14th?

1 MR. TUNKEY: Objection, immaterial.

2 Q (By Mr. Josefsberg) Had you tried?

3 THE WITNESS: Should I answer the question?

4 MR. TUNKEY: Go ahead and answer it.

5 THE WITNESS: No, sir.

6 Q (By Mr. Josefsberg) Why not?

7 MR. TUNKEY: To that I object and I am

8 instructing the witness not to answer. It goes to a

9 state of mind.

10 Q (By Mr. Josefsberg) Do your records

11 reflect where you could locate Emelio Navarro?

12 A I thought he worked for Ramon Donestevez.

13 Q Did you have a home address on him?

14 A I think so.

15 MR. TUNKEY: At that time?

16 THE WITNESS: Yes, sir.

17 Q (By Mr. Josefsberg) What if anything

18 did you do to effectuate that arrest at his home?

19 A That day?

20 Q The 14th.

21 A I didn't do anything.

22 Q What if anything did you do to effectuate

23 his arrest on the 15th?

24 A I sent two detectives to his house to

1 try to arrest him after he wasn't at the boat factory.

2 Q When did you send them?

3 A As soon as I found out he wasn't at the
4 boat factory.

5 Q What about Alfredo Ruiz?

6 A Both of them, I sent two detectives to
7 each of their houses.

8 Q What happened then after West came down
9 and told you that, and you either had or were advising
10 Donestevez of his rights?

11 A At the termination of the rights warning
12 and the warrants being read to Mr. Donestevez, at that
13 point we began a systematic search of the building,
14 starting in the front office which was directly where
15 we were at the time.

16 Q Did you have him outside or in the front
17 office?

18 A He was in the doorway.

19 MR. TUNKEY: Which doorway?

20 THE WITNESS: The doorway to the front
21 office.

22 Q (By Mr. Josefsberg) There are two door-
23 ways to the front office.

24 A There is a doorway that opens into it,

1 and there is a doorway that goes into the office.

2 He was leaning against--there is a file
3 cabinet in there, and he was leaning against the file
4 cabinet in the office.

5 Q Which is near to the front door, the
6 front entrance as you come in?

7 A Yes, sir. It would be actually the
8 northwest door.

9 Q Hadn't you actually moved him in there
10 for him to make that phone call?

11 A No, sir. I moved him in there against
12 that wall and shook him down for a weapon.

13 Q I thought you said you moved everyone
14 outside.

15 A No, sir. I didn't say that.

16 Q You had him then in the hallway area
17 near the front entrance?

18 A That's correct. That is where he was
19 standing when he opened the door.

20 Q Then you proceeded to go into his office
21 with him?

22 A When we were doing the search, yes, sir.
23 I put him up against the wall, which is
24 directly next to the door leading into the office,

1 searched him, and he had no weapons and I read the
2 search warrant and he was advised of his Constitutional
3 rights there, where he remained.

4 Q Then on what authority did you start
5 looking into his office?

6 A I had a search warrant for jewelry.

7 Besides that, \$800, the proceeds of a
8 crime, had been given to him five minutes before I got
9 inside the building.

10 Q Did you know where that jewelry was at
11 that time?

12 A No, sir.

13 MR. TUNKEY: Objection. That is repetitious.
14 We have gone over this.

15 Q (By Mr. Josefsberg) Were you searching
16 for that jewelry?

17 A Yes, sir, and the gun.

18 Q Just so we understand each other, it is
19 your testimony that one of the things you were doing
20 in the office was searching for the jewelry and gun
21 that were the property of Mr. Canto?

22 A That is one of the things I was doing,
23 yes, sir.

24 Q You had officers with you who had

1 surveilled that that had been returned to Mr. Canto--

2 MR. TUNKEY: Objection. It has never been
3 stated it was returned.

4 It was stated there was a wrapped up
5 package given to Mr. Canto, as I recall.

6 Q (By Mr. Josefsberg) You had a pre-
7 arranged understanding with Mr. Canto that he was to
8 let you know if he didn't receive it?

9 A No, sir. Mr. Canto was instructed that
10 if he received it, he was to get some of his jewelry
11 back--primarily he was interested in his ID bracelet.
12 It had some significant inscription on it, it had some
13 sentimental value to him and he was interested in that.

14 He was given allegedly a package, he
15 was given a cup, a cup which contained some jewelry,
16 and he was also given some gun.

17 We executed the search warrant, and
18 after approximately a half hour I didn't discover any-
19 thing in that office other than some green fatigues,
20 a .45 caliber revolver, an AR 80 rifle, a whole bunch
21 of ammunition.

22 I found the envelope which my money was
23 in directly next to the bathroom commode or sink, and
24 after I didn't find anything in that office, myself and

1 Sergeant Oller decided we would go to Station 4 in
2 Perrine and talk to Mr. Canto to see--to interview him
3 as to what happened, if anything else was said or any-
4 thing else he had seen or heard that we didn't see or
5 hear.

6 We went there to Station 4 in Perrine
7 and when we got there we talked to Mr. Canto, and Mr.
8 Canto said he had received all of his jewelry back and
9 that he received his gun back.

10 I went out to his car, I got the stuff
11 from his car, and everything which had been listed on
12 the search warrant was there including the gun.

13 I returned back to the boat factory and
14 ordered the search stopped. We got the stuff we were
15 looking for.

16 Q What time did you folks leave the
17 factory?

18 A I don't know exactly. It would have
19 been probably an hour or an hour and a half after.

20 Probably within an hour or an hour and
21 a half maximum from the original time we came there
22 for the case to the time we drove away with Mr. Dones-
23 tevez.

24 Q It had to be before 1 p.m. then?

1 A I don't know what time it was, Mr.
2 Josefsberg.

3 Q Would you say there were a lot of news
4 media there then?

5 A Yes.

6 Q Who called them?

7 A I called out Public Information Officer
8 and advised him what we had, that we had executed a
9 search warrant and arrest warrants, that we had arrested
10 a Cuban male on charges of robbery and extortion, and
11 that during the execution we had discovered a large
12 amount of ammunition and weapons.

13 Our Public Information Office, it's a
14 matter of routine, they put it out on the teletype and
15 contacted the news agencies and they came down there
16 in droves.

17 Q Did Mr. West ever return back upstairs
18 to seize those items you discussed?

19 A He did when I went up there to get them.

20 Q You went with him?

21 A Yes, sir.

22 Q Let's go through the things that are in
23 the return and discuss when and where each of those
24 were found.

1 MR. TUNKEY: For the record, the original
2 of the search warrant and the affidavit for search
3 warrant and the inventory and return are all contained
4 within the Clerk's Office of the Criminal Court of
5 Record.

6 You made some request to have a copy of
7 those originals and to inspect the originals. That is
8 where they are.

9 Would you be able to do that yourself?

10 MR. JOSEFSBERG: Sure, because the ones
11 that were sent to me cannot be originals, they are
12 copies of originals.

13 MR. TUNKEY: They are copies of copies,
14 that's correct. However, they are accurate and com-
15 plete.

16 MR. JOSEFSBERG: In certain ways.

17 MR. TUNKEY: Yes.

18 MR. JOSEFSBERG: They are not signed.

19 MR. TUNKEY: That's correct.

20 Q (By Mr. Josefsberg) It says on this
21 thing which you signed and swore to that this is an
22 inventory of items taken pursuant to a search warrant.

23 Were those items taken pursuant to a
24 search warrant as you swore on September 15th?

1 A Yes, sir.

2 Q The first item, the blue steel .39
3 Colt semiautomatic, do you know where that was found
4 and by whom?

5 A Yes, sir.

6 Everything you will find on here
7 (indicating) was found by myself and Sergeant Oller.

8 The .38 caliber blue steel automatic
9 was found on Mr. Donestevez' desk.

10 Q On his desk or in it?

11 A In his desk, I believe it was the right
12 top drawer.

13 Q On what basis did you look inside his
14 desk?

15 A I was looking for a weapon and for
16 jewelry and for \$800 that I had seen go in the build-
17 ing, the proceeds of the crime.

18 Q That is a registered legal gun that you
19 picked up, isn't it?

20 A It's a legal weapon. However, it
21 exactly fits the description, and it was later identi-
22 fied by Mr. Canto as being the one which was held on
23 him by Mr. Donestevez.

24 Therefore it is the instrumentality of

1 a crime.

2 Q Were you searching for instrumentalities
3 of a crime?

4 A No, sir, but I found it, or I saw what
5 I had reasonable grounds to believe were in fact the
6 instrumentalities of a crime.

7 Q The next thing, the Armalite AR 80,
8 where was that?

9 A Hanging on a wall behind Mr. Donestevez'
10 desk.

11 Q In open view?

12 A Yes, sir.

13 Q On what basis did you seize that?

14 A Mr. Canto advised us that on the original
15 robbery, which took place on the 1st of September, that
16 weapon he described--which I believed to be either an
17 AR 80, an AR 18, or AR 50, he described as having a
18 folding stock, he described that weapon exactly as
19 being the one which had been held on him on the 1st
20 of September.

21 Q The Johnson automatic light machine gun,
22 where was that found?

23 A Upstairs.

24 Q That was first found by West?

1 A First seen by West, yes, sir.

2 Q Where upstairs was it?

3 A Leaning against a filing cabinet located
4 on the northwest end of the building.

5 Q No. 4, the cannon, nine pieces.

6 A Directly next to it on the floor, laying
7 on a big white canvas.

8 Q Where are Items 3 and 4 at the present
9 time?

10 A They were released to the United States
11 Treasury Department.

12 Q When?

13 A About three weeks ago.

14 Q Can you be anymore definite?

15 A Yes, sir.

16 (After examining documents.) I don't
17 have the exact date. It would be somewhere in the last
18 three weeks.

19 Q It was in October?

20 A Yes, sir, it would be October, either
21 the last few days of September or the first week of
22 October.

23 Q What other numbered items in here were
24 turned over to the Federal Government?

1 A That's all.

2 Q All the other items then are in the
3 possession of the Public Safety Department?

4 A Yes, sir.

5 Q No. 5, the U.S. Military knife and
6 sheath, where was that?

7 A Where was it?

8 Q Yes.

9 A That was in Mr. Donestevéz' office on
10 the floor next to a typewriter.

11 Q Was it in plain view or was it enclosed?

12 A No, it was laying on the floor in plain
13 view.

14 It was next--it was sitting on top of a
15 pair of green fatigues, pants and shirt as a matter of
16 fact.

17 Q Which were listed as No. 6?

18 A Yes, sir.

19 Q Those were not in a steel cabinet, were
20 they?

21 A No, sir. They were on the floor behind
22 Mr. Donestevéz' desk.

23 Q Did any of your officers photograph
24 these things before you seized them?

1 A We were making photographs of most of
2 the stuff, but I don't know whether these particular
3 items were photographed.

4 I don't believe they were--(examining
5 documents)--no, sir, they were not photographed, before
6 they were seized.

7 Q No. 7, the Navy gas mask.

8 A The Navy gas mask, that was in a metal
9 filing cabinet which was in Mr. Donestevéz' office.

10 Q The wooden box containing 1,260 rounds
11 of 7.62 ammo.

12 A It was in the hallway, the end of the
13 main portion of the boat factory next to the typewriter.

14 Q Was that right past the front door?

15 A About ten feet past the front door.

16 Q In plain view?

17 A No, it was underneath the typewriter
18 and a duplicating machine.

19 Q Was it disguised in any way?

20 A No, it was just a big wooden closed
21 box.

22 Q Did those rounds fit any of the weapons?

23 A Yes, sir.

24 Q What?

1 A It fitted the Johnson 7.62 automatic
2 machine gun.

3 Q So No. 3, the Johnson, was a 7.62?

4 A The ammunition would fit the Johnson.

5 Q That listed as Item No. 8 on your
6 inventory would fit the gun listed as No. 3?

7 A Yes, sir.

8 Q No. 9, the Mirrowglaze box, where was
9 that found?

10 A That was about two feet away from the
11 original box of ammunition laying up against the side
12 of the metal building.

13 Q Did that fit any of the weapons seized?

14 A Yes, sir.

15 Q Which?

16 A There was .38 caliber ammunition in
17 there, and there was AR 18 ammunition in there, and
18 there were some Johnson 7.62 ammunition in there.

19 There was also a lot of .30 caliber
20 ammunition in there.

21 Q Next, No. 10, where was that found?

22 A In the box containing the 1,000 rounds
23 of ammunition.

24 In No. 9 would be the box containing a

1 thousand rounds of ammunition, 36 clips and two clip
2 pouches and holsters. It was in a cardboard box.

3 Q No. 11, you are saying that was found
4 in the hallway downstairs inside the Mirrowglaze box?

5 A Yes, sir. That was all one cardboard
6 box containing all those items.

7 Q You personally found it downstairs?

8 A Myself and Sergeant Oller executed the
9 entire search warrant.

10 Q That wasn't previously found upstairs,
11 was it?

12 A No, sir.

13 Q No. 12?

14 A No. 12 was found in the cabinet in Mr.
15 Donestevez' office.

16 Q No. 13, the cup?

17 A I received that from Mr. Canto--correc-
18 tion, I'm sorry.

19 That was seized outside the Donestevez'
20 boat factory on the ground next to the door.

21 Q Was that taken pursuant to the search
22 warrant?

23 A After my conversation with Mr. Canto,
24 he advised us that he had received his jewelry back

1 and his gun back in a cup and a piece of paper, and
2 he checked the stuff and he had thrown the cup and the
3 piece of paper on the ground.

4 Q Where?

5 A Directly next to the door.

6 Q Outside the factory?

7 A Yes, sir.

8 Q Was that taken pursuant to the search
9 warrant?

10 A No, sir. That was removed because I
11 believed it possibly would have contained some prints
12 which would link Mr. Donestevéz with possession of the
13 jewelry and the gun, and also I wanted to see if anyone
14 else's prints would be on the stuff.

15 Q The piece of paper listed as part of
16 No. 13, what about that, where was that found?

17 A All of it was found right next to the
18 outside of the door.

19 Q What piece of paper was that?

20 A A piece of paper that the gun was
21 wrapped in.

22 Q No. 14 listed here, that is one piece
23 of paper containing gun listing and pricing.

24 A Yes, sir, I took that from Mr.

1 Donestevez' billfold.

2 Q Why?

3 A It had a listing of many, many weapons
4 which are illegal in this country, 50 millimeter
5 Howitzers, Thompson submachine guns, C-4's, hand
6 grenades.

7 Q Are those the sum total of what was
8 taken from the person and the premises?

9 A No, there is a white envelope too which
10 I found next to the bathroom.

11 Q Have you had that printed?

12 A Yes, sir.

13 Q Whose prints are on that?

14 A Jose L. Canto.

15 Q Anyone else's?

16 A Not enough points to identify.

17 Q Was anything else taken from the person
18 or the premises on the 15th?

19 A No, sir.

20 Q Did you receive any passport?

21 A No, sir.

22 Q Do you know the present whereabouts of
23 Mr. Donestevez' passport?

24 A No, sir.

1 Q Have you ever seen it?

2 A No, sir.

3 Q Did you see any type of radio, a 150
4 watt Simpson, in any boat?

5 A No, sir.

6 Q Did you see any radio capable of inter-
7 cepting the Cuban Army Radio Band?

8 A I don't know anything about any Cuban
9 Army Radio Band.

10 Q Did you see any large 94B Air Guide
11 compass?

12 A I don't even know what it is.

13 Q Did you see a Mark IV Ratheon depth
14 finder?

15 A I don't even know what it is. I didn't
16 see or take any of this stuff.

17 Q You have got listed as part of No. 7 a
18 Mark IV.

19 A That is a gas mask.

20 Q Were any personal records and papers
21 of Mr. Donestevéz taken?

22 A The only thing which I took from his
23 custody or control is that which I gave him an inventory
24 return for.

1 Q Plus the envelope?

2 A Plus the envelope.

3 Q Were any parts of a Savon 200 photocopy
4 machine taken?

5 A Yes, sir.

6 Q Why?

7 A It was in the box where all the ammuni-
8 tion was, and I told Mr. Donestevéz it was a mistake,
9 that that is absolutely no contraband and I would give
10 it back to him anytime he wants it back.

11 Q He would like it back.

12 A There is no problem. That just hap-
13 pened to be inside the box.

14 It wasn't contraband, it wasn't stolen
15 or anything else.

16 Q Are there any other things that were
17 seized by you or the officers there under your custody
18 and control?

19 A Everything that was removed from that
20 building, it was taken out from and photographed and
21 loaded aboard a truck and taken downtown under my
22 supervision.

23 There was nothing removed from that
24 factory. As a matter of fact, the reason I stopped the

1 search warrant was, if we had continued it would have
2 destroyed that property.

3 We couldn't find the money so we stopped
4 the search warrant.

5 Q Did you take photos of how you left the
6 factory?

7 A No, sir.

8 Q What was done with all of Mr. Donestevéz
9 records?

10 MR. TUNKEY: Objection, immaterial.

11 I instruct the witness not to answer,
12 unless they were seized.

13 MR. JOSEFSBERG: It is immaterial if they
14 did anything with them?

15 MR. TUNKEY: You can ask him if he read his
16 records or if they were seized.

17 I'm objecting to the question the way
18 you phrased it.

19 MR. JOSEFSBERG: What if they were copied?

20 MR. TUNKEY: You may ask him that.

21 Q (By Mr. Josefsberg) What was done with
22 them?

23 MR. TUNKEY: Ask a more specific question.

24 Q (By Mr. Josefsberg) Did you go to any

1 of his cabinet drawers?

2 A Cabinet drawers?

3 Q Yes.

4 A Yes, sir.

5 Q What did you do in the cabinet drawers,
6 with the contents therein?

7 A I looked for jewelry, I looked for money
8 and looked for the gun.

9 Q What did you do with the records there
10 when you were finished looking?

11 MR. TUNKEY: When he was finished looking?

12 MR. JOSEFSBERG: Yes.

13 MR. TUNKEY: Objection, immaterial.

14 Q (By Mr. Josefsberg) Were they put back
15 in the cabinet drawer?

16 MR. TUNKEY: That is immaterial and I object
17 to that.

18 Q (By Mr. Josefsberg) Did you seize them?

19 A No, sir.

20 Q What did you do with them?

21 THE WITNESS: Should I answer the question?

22 MR. TUNKEY: Let me think.

23 THE WITNESS: I have no objection to telling
24 him.

1 They were dumped on the floor.

2 Q (By Mr. Josefsberg) Why?

3 A I was looking for a small envelope.
4 Originally I found the envelope and I was looking for
5 \$800 incash which could be concealed anywhere.

6 I was looking for a watch, a ring and
7 a bracelet which could be concealed anywhere.

8 Originally, after we initiated the
9 first search of the office and I found the envelope,
10 I even went as far as to tell Mr. Donestevéz that it
11 was going to be necessary that we go through every
12 single piece of paper and drawer in that place to find
13 the jewelry, to find the money which I had seen, over-
14 heard, and knew was inside that building, and he says
15 he doesn't know what I am talking about, all that was
16 in that envelope was a piece of paper, it was cut up
17 paper he said.

18 Q In the same breath that you said you
19 were looking for that \$800, you said you were looking
20 for the jewelry, the ring and the gun?

21 A I told him many times what we were
22 searching for in that building.

23 Q You told me you were looking for the
24 jewelry, the ring and the gun.

1 Is that right?

2 A I was looking for all of the jewelry
3 which had been removed from Mr. Canto.

4 Q You waited a half hour to go over to
5 Station 4?

6 A Yes, sir.

7 Q Did you call there?

8 A No, sir.

9 Q Why not?

10 MR. TUNKEY: Objection and I instruct the
11 witness not to answer.

12 Q (By Mr. Josefsberg) Was there a phone
13 of Donestevez' that was working?

14 A Yes, sir.

15 Q Were you in any rush to determine where
16 that property was?

17 A What property?

18 Q The ring, bracelet and gun.

19 A I don't understand your question, sir.

20 Q Were you concerned as to the whereabouts
21 of those items?

22 MR. TUNKEY: Objection as to whether he was
23 concerned. I instruct the witness not to answer. It's
24 immaterial whether he was concerned.

1 Q (By Mr. Josefsberg) Is it your testi-
2 mony you went to Station 4 to determine if Canto had
3 received those items back?

4 A If he got all his items back, yes.

5 Q Until you spoke to him--

6 A Plus I wanted to ask him whether there
7 was anything else which perhaps I may have not seen
8 or heard which might be beneficial in us locating
9 either the rest of the jewelry or my \$800, which I
10 had signed out for.

11 Q When Mr. Canto left did he go on his
12 own to Station 4?

13 A He was instructed where to go after he
14 left.

15 Q When was the next time after he left
16 that he was in any contact with any member of the
17 Public Safety Department?

18 A I can't answer your question.

19 The next time I talked to him was about
20 a half hour later.

21 He may have said hello, but he was
22 instructed where to go when he got there.

23 One of the officers at Station 4 was
24 given radio instructions that a subject would be

1 arriving there by the name of Jose Canto and what he
2 was dressed like, and he was to take that subject and
3 place him in the rear detective office.

4 Q Did anyone surveil that Canto went
5 directly there?

6 A No, sir.

7 Q Was ~~there~~ radio contact with Canto during
8 that period of time?

9 A I heard him drive off in his car. I
10 heard the horn blow.

11 I heard him drive away in his vehicle,
12 but after he got maybe a block or two away I couldn't
13 tell.

14 After he drove off I executed the search
15 warrant. I wasn't listening for him anymore.

16 Q Did any of the officers see the \$800
17 change hands?

18 A Detective West and Detective Keller
19 saw--as a matter of fact, it is even photographed in
20 there (indicating), the passing of the white envelope
21 which I had sealed and given to Mr. Canto.

22 It was given to Mr. Donestevez.

23 Q Did they see whether it was sealed when
24 it was given to Mr. Donestevez?

1 A I don't believe so.

2 Q Did they see him open it?

3 A Not to my knowledge.

4 Q They just saw him handed an envelope,
5 correct?

6 A That is basically correct.

7 Q When you went to see Canto, one of the
8 things you wanted to confirm was that he had given
9 the unsealed envelope with the money in it to Donestevéz?

10 A Absolutely.

11 MR. TUNKEY: Sealed or unsealed?

12 MR. JOSEFSBERG: Sealed.

13 MR. TUNKEY: You said "unsealed."

14 Q (By Mr. Josefsberg) I thought I said
15 "sealed," with the money in it.

16 A The envelope was sealed, and he explained
17 to me how Mr. Donestevéz opened the envelope up and
18 counted the money and said "Okay, it's all here."

19 Q Your officers stationed right across
20 didn't see that?

21 A No, because Mr. Canto advised me that
22 Mr. Donestevéz wanted him to come in the factory, and
23 he told him he wasn't coming in there anymore, that
24 the last time he was there he had too bad a scare.

1 He was instructed by Mr. Donestevez to
2 throw the money to him, and he said he threw the money
3 into him and Donestevez took the money, stepped inside
4 the office and opened up the envelope and said, "Okay,
5 it's all here."

6 He was inside the building.

7 Q Mr. Canto told you that Donestevez
8 counted it out loud and said "It's all here"?

9 A Yes, sir.

10 Q Just so I know where it is on the
11 transcribed tape which you have supplied, do you
12 remember where it was?

13 A Do I remember where it was?

14 Q Yes, in the conversation of the 15th.

15 A I don't speak Spanish, I don't know.
16 This is what Mr. Canto advised me.

17 He said he took the money, that he went
18 inside, he said "Okay, it's all here," and just a
19 minute later he came out and threw him a cup and a
20 minute later he threw him a piece of paper which con-
21 tained a gun.

22 Q Did Mr. Donestevez make any statements
23 to you?

24 A Yes, sir.

1 Q What did he say?

2 A Originally his first statement that he
3 made was extemporaneous, prior to being advised of his
4 Constitutional rights he advised me to leave the guys
5 alone in the back, that they didn't have anything to do
6 with it, they were employees, they didn't know any-
7 thing.

8 Then during the execution of the search
9 warrant, it was apparent that we were going to have to
10 go through every piece of paper in that office, and I
11 called Mr. Donestvez into the office and I explained
12 to him what was going on and what was happening and
13 the damage that was being done, that was taking place,
14 we were taking papers out of his drawers, we were going
15 through all of his desk drawers--

16 Q You were damaging the things?

17 A No. I said the damage that was going to
18 be done by going through these papers messing them up.

19 Q Were you messing them up?

20 A Not at that time.

21 He said, "Go ahead," he didn't know what
22 I was talking about, he never saw any envelope, he
23 doesn't know what I am talking about.

24 So we started executing the search

1 warrants--we continued with the execution of the search
2 warrants by going through each drawer by drawer, and
3 file by file.

4 Approximately five minutes after that,
5 I went in there and called Mr. Donestevéz back in and
6 I told him once again, I said, "We are going to have
7 to go through every single solitary drawer and file in
8 here to execute this stuff," and I advised him once
9 again that he didn't have to say anything to me.

10 He advised me that we were wasting our
11 time, that the only thing that the envelope contained
12 was cut up newspaper.

13 I said, "What did you do with the cut up
14 newspaper?"

15 He said, "I threw it down on the floor."

16 At that point I said, "We won't need
17 to talk to you any further," and he continued to try
18 to contact his attorney and we continued with the
19 execution of the search warrant.

20 When we arrived at Station 4, at my
21 office, he had talked to his attorney and I talked to
22 his attorney and--

23 Q Do you remember his name, whoever it
24 was?

1 A I think it was Diaz. It was a Cuban
2 attorney. I don't remember his name.

3 He wanted to know if he could speak to
4 me for a minute and I said "Yes, you can speak to me
5 for a minute."

6 So he said that this was all a mistake
7 and that Mr. Canto owed him some money for a boat, and
8 that Mr. Canto had told him that he would bring him
9 the money, and that Mr. Canto had insisted that he
10 hold his jewelry as collateral until he got the money.

11 That was the end of my conversation with
12 Mr. Donestevez. He denied ever talking to him other
13 than that.

14 Q Did you ask him about the 14th?

15 A No, sir.

16 Q What do you mean he denied ever talking
17 to him beside that?

18 A He denied ever threatening Mr. Dones-
19 tevez, ever sending any letter to Mr. Donestevez, ever
20 holding a gun on Mr. Donestevez or anything else.

21 Q But he did not deny making arrangements
22 on the 14th to meet with him on the 15th, did he?

23 A I didn't ask him anything about that.
24 It appeared to me everything he said

1 was contradicting; every time he said something he was
2 contradicting what he said before.

3 Besides that--

4 Q Was this the attorney or Donestevez
5 talking?

6 A This was Mr. Donestevez.

7 Q Did you make a memorandum of what he
8 said at that time?

9 A Yes, sir. That is in the original
10 report.

11 MR. JOSEFSBERG: I assume the State will
12 furnish me with a copy of Mr. Donestevez' statements?

13 MR. TUNKEY: No. I will allow you to ask
14 Sergeant Havens what it was he asked and what it was
15 Donestevez said, unless of course you are talking
16 about some type of a formal statement, whether it was
17 with a Court Reporter or a tape recorder.

18 MR. JOSEFSBERG: This is his memorandum of
19 what was said.

20 MR. TUNKEY: I have no objection to your
21 reading that part of his official report into the
22 record.

23 MR. JOSEFSBERG: That is all I want.

24 THE WITNESS: Following the conversation

1 between Mr. Donestevéz and the attorney, Donestevéz
2 requested to speak to this writer in person and ad-
3 vised the following information:

4 That Canto owed him \$4,000 and agreed
5 approximately three weeks ago to pay him a portion of
6 the money and had agreed to give him his jewelry as
7 collateral.

8 Donestevéz advised Canto gave him an
9 envelope which was empty except for cut up newspaper,
10 and that he didn't have any knowledge of anything which
11 was in the envelope.

12 I requested to know whether he would be
13 willing to take a lie detector test, which he refused.

14 That is the extent of my conversation
15 with him.

16 Q (By Mr. Josefsberg) How many statements
17 have been taken from Mr. Canto?

18 A One formal sworn statement in the State
19 Attorney's Office and another statement the day of the
20 execution of the search warrant.

21 Q And there was one statement taken from
22 him the first day you met, September 12th?

23 A Yes, sir, but that is not a formal
24 sworn statement. That is his complaint of an allegation.

1 Q For what purpose was one formal state-
2 ment taken on the day of the execution of the search
3 warrant?

4 MR. TUNKEY: Objection to the question, as
5 to what purpose it was taken for.

6 Q (By Mr. Josefsberg) Who took it?

7 A Sergeant Oller.

8 Q Were you present?

9 A No, sir. I was sitting outside.

10 Q Where was it done?

11 A In my office.

12 Q Was it related to this case?

13 A Yes, sir.

14 We wanted to know--we asked him what
15 time he arrived, whether or not he had been given
16 official advanced funds, whether or not he had been
17 given his jewelry and exactly what took place.

18 Q Have you had occasion to investigate
19 the purchase and payment of a boat by Canto from
20 Donestevez?

21 A Yes, sir.

22 Q Following Mr. Donestevez' lead allega-
23 tion, have you attempted to determine whether any
24 money was owing between Canto and Donestevez during

1 September of 1972?

2 A Yes, sir.

3 Q Have you been furnished with any proof
4 that this boat had been paid for?

5 A I subpoenaed and received all of Mr.
6 Canto's bank records.

7 I also got the loan receipt for the
8 boat and the insurance payoff on the boat, and accord-
9 ing to that information, Mr. Donestevez was paid in
10 full for the boat and there was no money owed.

11 In order to check the validity, based
12 on a conversation which I had, eliminating any pos-
13 sibility that this alleged extortion and robbery was
14 the result of money owed, I subpoenaed Mr. Canto's
15 bank records for a three-month period prior and after
16 the sale.

17 The only indication which I find is
18 that money to pay Mr. Donestevez was withdrawn, and
19 there was absolutely no deposits back in his account
20 of any amount of money after that time.

21 MR. JOSEFSBERG: I assume the records refer-
22 red to will be furnished pursuant to Rule 4?

23 MR. TUNKEY: I don't think so.

24 MR. JOSEFSBERG: Is there any reason why you

1 don't think so?

2 MR. TUNKEY: I just haven't made up my mind
3 about it. I am not so certain it is part of the State's
4 case.

5 It might be part of the State's case at
6 a later time.

7 Q (By Mr. Josefsberg) May I please see
8 the final payment check from Mr. Canto to Mr. Dones-
9 tevez?

10 A Yes, sir.

11 MR. TUNKEY: Do you have it?

12 THE WITNESS: Yes, I have a copy of it.

13 Q (By Mr. Josefsberg) That is a check
14 payable to Mr. Canto himself, right?

15 A Yes, sir.

16 Q Is there an endorsement on the back
17 of it?

18 A Jose Canto. That is Mr. Canto's
19 signature.

20 I questioned him as to the payee on the
21 check, and he advised me that Mr. Donestevez advised
22 him he wouldn't accept a personal check, that he only
23 wanted cash, and that's why he cashed the check.

24 Q Did he tell you where he gave that cash

1 to Mr. Donestevez?

2 A Not that I remember.

3 Q Did he tell you where he cashed the
4 check?

5 A No, sir, I don't recall.

6 Q You have checked his records for a
7 three-month period after February 11th and you find
8 no cash deposits?

9 A That's correct.

10 Q What accounts have you checked?

11 A All the accounts that I can find where
12 Mr. Canto banks, which is the Republic National Bank.
13 I checked his personal account and his
14 business account.

15 Q Have you checked any of Mr. Donestevez'
16 accounts yet?

17 A I have contacted you by telephone and
18 you advised me that you would supply me with that
19 information.

20 However, I would be most happy to do
21 that.

22 MR. JOSEFSBERG: For the record, it is Midway
23 National Bank.

24 THE WITNESS: Personal and business account?

1 MR. JOSEFSBERG: He has no personal account.

2 MR. TUNKEY: What is this for?

3 MR. JOSEFSBERG: This is Donestevez' company
4 account, and he has no personal checking account.

5 MR. TUNKEY: You are offering to let us
6 subpoena the records from that business checking
7 account?

8 MR. JOSEFSBERG: You are permitted to, except
9 you wouldn't know what bank to subpoena unless I told
10 you.

11 MR. TUNKEY: Are you saying you don't object
12 to us doing it?

13 MR. JOSEFSBERG: I have no standing to object
14 to anything you people do.

15 MR. TUNKEY: You do, inasmuch as you are his
16 attorney, and inasmuch as any subpoena directed to this
17 particular account would be for the purpose of this
18 particular case in which you represent him.

19 MR. JOSEFSBERG: I object to your subpoenaing
20 witnesses. I object to your subpoenaing evidence. I
21 object to your doing anything in preparation for this
22 case.

23 MR. TUNKEY: Okay. Thank you for telling us
24 what bank he banks at.

1 MR. JOSEFSBERG: I may as well save you time.

2 MR. TUNKEY: Assuming of course that that
3 is the only bank.

4 Q (By Mr. Josefsberg) Is there anything
5 else relevant to this case about which I have not asked
6 you?

7 MR. TUNKEY: I object to the question as
8 being overly broad and vague and uncertain.

9 Q (By Mr. Josefsberg) Can you answer it
10 anyway?

11 A To the best of my knowledge I think you
12 have covered it quite aptly.

13 Q Let me just ask you this about the other
14 people--

15 A One other thing which I am certain you
16 are aware of and you may have neglected to ask me was,
17 at the preliminary hearing where Mr. Donestevéz and
18 Mr. Navarro were identified, Mr. Ruiz was not identified
19 by Mr. Canto and was released.

20 Q I was going to ask you about that.
21 Prior to Mr. Canto's failure to identify
22 Ruiz, were you aware that he could not identify him?

23 A No, sir.

24 This was the purpose, the primary

1 purpose of him identifying them at the preliminary
2 hearing.

3 Q Before then based upon photographic
4 identification, you had had a warrant issued?

5 A That's correct.

6 Q Have you found the third person?

7 A No, sir.

8 Q Are you looking for the third person?

9 A Yes, sir.

10 Q And it is definitely not Ruiz?

11 A Mr. Canto could not identify him.

12 Q Did Mr. Canto tell you whether that
13 check dated February 11, 1972 was in fact cashed on
14 that date?

15 A Not that I recall.

16 Q Did Mr. Canto discuss with you the fact
17 that he had a personal attorney?

18 A Not that I recall.

19 Q Did the existence of a personal attorney
20 of Mr. Canto come into this investigation in any way?

21 A This is the first I heard of it just
22 now.

23 Q I was going to ask you if Mr. Canto
24 ever explained why he waited from September 1st to the

1 12th to report this matter, but according to your
2 original statement, he said he went a day or two after
3 the incident to the FBI--

4 A That's correct.

5 Q --so there would be no reason for you
6 to ask him that which I was going to discuss, is that
7 right?

8 A That's correct.

9 I was primarily concerned with the
10 information which he gave me, and on the date he gave
11 us that information we began an investigation.

12 MR. JOSEFSBERG: I have no further questions.

13 MR. TUNKEY: No questions.

14 We will waive the formalities.

15 (Reading, subscribing and
16 notice of filing waived.)

17 (Thereupon the taking of the
18 deposition was concluded.)

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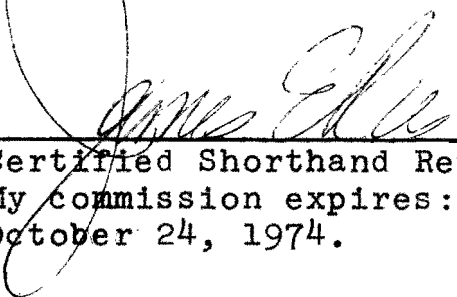
CERTIFICATE OF NOTARY

STATE OF FLORIDA:
 : SS.
COUNTY OF DADE:

I, JAMES E. RIES, being a Notary Public for the State of Florida at Large, do hereby certify that I reported the deposition of George R. Havens, a witness called by the defendant in the above-styled cause; that the said witness was duly sworn by me; that the reading and subscribing of the deposition was waived by said witness and by counsel for the respective parties; that the foregoing pages, numbered from 1 to 93, inclusive, constitute a true record of the deposition by said witness.

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

WITNESS my hand and official seal in the City of Miami, County of Dade, State of Florida, this 5 day of November, 1972.



Certified Shorthand Reporter.
My commission expires:
October 24, 1974.