

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

NO. 72-7137

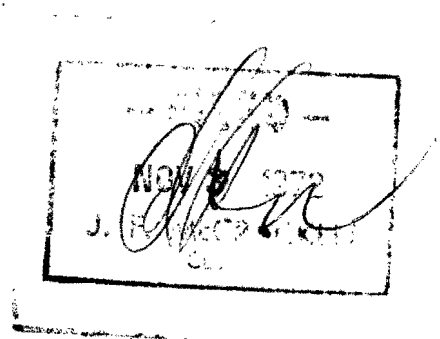
STATE OF FLORIDA,

Plaintiff,

v.

RAMON DONESTEVEZ,

Defendant.



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North Conference Room
Metropolitan Justice Building
1351 Northwest 12th Street
Miami, Florida
Tuesday, October 24, 1972
3:30 o'clock p.m.

DEPOSITION OF KENNETH WEST

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>
Kenneth West	3	--

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1 Thereupon--

2 KENNETH WEST

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 full name and occupa-
8 tion.

9 A Kenneth West, Dade County Public Safety
10 Department, Organized Crime Bureau.

11 Q Mr. West, pursuant to your employment
12 did you have occasion on September 15, 1972 to partici-
13 pate in a case in which Sergeant Havens was lead in-
14 vestigator involving one Ramon Donestevéz, Ruiz and
15 Navarro?

16 A I was.

17 Q Did you get involved in the case prior
18 to the 15th?

19 A No, sir, I didn't.

20 Q Do you recall when you were contacted
21 to make yourself available for a surveillance on the
22 15th?

23 A It was that morning.

24 Q Did you thereafter have a meeting

1 somewhere in the southwest near the premises in ques-
2 tion, a last minute briefing session with approximately
3 14 officers involved, and discuss their different
4 functions at the scene?

5 A Yes, sir.

6 Q What was your function?

7 A My function was, I was operating a
8 panel truck which is equipped with a camera and sound
9 equipment.

10 I was driving this particular truck with
11 two other officers within the vehicle itself.

12 My instructions were to go to the scene,
13 take photographs and monitor any voice transactions
14 between the two subjects.

15 Q Did you in fact transcribe the meeting—
16 did you in fact record the meeting between Donestevéz
17 and Canto in its entirety?

18 A The officer that was operating the
19 machine did, yes, sir.

20 Q Did you take photographs of portions of
21 the meeting?

22 A The third officer did, yes, sir.

23 Q Do you know if they were still photo-
24 graphs or movie pictures, and if you don't remember

1 tell me you don't remember.

2 A I'm not sure whether it was stills or
3 motion.

4 Q The other two men who were in the truck
5 with you were Fernandez and Keller, correct?

6 A That's correct.

7 Q Did you personally listen to what was
8 happening between the two, but was it rather meaning-
9 less because it was entirely in Spanish and you don't
10 speak Spanish?

11 A That's correct.

12 Q Did you view what was occurring?

13 A Yes, sir, I could.

14 Q Was Mr. Donestevéz within your sight
15 at all times until he walked back into the premises?

16 A Yes, he was.

17 Q Did you ever see him receive an envelope?

18 A Yes, I did.

19 Q Did he open that envelope in your view?

20 A No, sir. When he received the envelope
21 he stepped back inside the doorway.

22 Q Then what happened?

23 A A few moments passed and then Mr.
24 Donestevéz come back to the doorway and physically

1 pitched another object back to the other subject.

2 Q Then are you saying for a period of
3 time he was out of your view?

4 A Yes, he was.

5 Q About how long was that?

6 A I didn't exactly time him but I would
7 say two or three minutes, maybe four.

8 Q After you folks saw Canto leave, what
9 did Donestevéz do?

10 A He went back inside the building and
11 closed the door.

12 Q Did he look out again?

13 A That I couldn't say. I didn't observe
14 him look out.

15 Q With you was Officer Fernandez who
16 does speak Spanish?

17 A That's correct.

18 Q Did he communicate with Sergeant Havens,
19 who was in a vehicle with Sergeant Oller, who also
20 speaks Spanish?

21 A I couldn't really say because they
22 were talking in Spanish, so what was said I don't know.

23 Q Who gave the signal to move in?

24 A I believe that was Sergeant Havens.

1 Q Did he do that after Fernandez con-
2 firmed that which the three of you in your panel truck
3 had seen, mainly that Canto had in fact left?

4 A Yes.

5 Q Immediately thereafter did their red
6 car come out of the alley and did they arrive right
7 at the premises?

8 A Are you referring to Sergeant Havens'
9 vehicle?

10 Q Right.

11 A Yes, he did, he drove right to the
12 front door.

13 Q How long after they got there did you
14 get there?

15 A I was almost directly across the street
16 from the scene, and I just made a U-turn and pulled
17 up directly behind them.

18 At this time they were already out of
19 the car and knocking on the door.

20 Q What happened then?

21 A At that time I left my vehicle and
22 went to the east--the southeast side of the building
23 to observe the rear portion of the building.

24 I was around there approximately five to

1 maybe seven minutes before they advised me that they
2 were already inside.

3 At that time I left and come back around
4 and went in the front door.

5 Q What did you do then?

6 A I then assisted in securing the build-
7 ing, to check if there was any other subjects within
8 the building itself, which was a large warehouse type of
9 a building.

10 I went to the upstairs area, which is
11 sort of like a balcony.

12 On this balcony they have metal cabinets,
13 and then you could walk around the metal cabinets.

14 They had a lot of different equipment
15 and stuff like that up there, at which time I observed
16 what appeared to be an automatic weapon propped up
17 against one of the cabinets, and a large long steel
18 object which later was found to be a cannon, parts of
19 a cannon.

20 At this time I went back downstairs and
21 advised Sergeant Havens there was no one up there, and
22 what I observed, and then I went to my post to secure
23 the outside.

24 Q Did you see anything else up there on

1 the top?

2 A No, because my main object was to find
3 if anyone was up there, and these are some things I
4 saw that stood out, and I just pointed them out to him.

5 Q How long did you spend up there?

6 A I was up there for approximately five
7 minutes, not very long.

8 Q What subjects were you looking for up
9 there?

10 A I was just securing the building in
11 case there were other people, because we knew there
12 were parties inside the building, but how many we
13 wasn't sure of.

14 So we were just more or less clearing
15 every area of the building before we started to search.

16 Q And that is standard procedure for the
17 execution of a search warrant?

18 A Yes, it is.

19 Q Were you assigned anything about arrest-
20 ing people?

21 A Myself personally?

22 Q Yes.

23 A No, sir.

24 Q Did you know if anyone was to be

1 arrested at those premises?

2 A I knew that they had means or an arrest
3 warrant for a particular party, and a search warrant.

4 Q Who was the party for whom they had
5 the arrest warrant?

6 A I wasn't familiar with the arrest war-
7 rant. That was handled by Sergeant Havens.

8 Q Didn't you know who it was for?

9 A I wouldn't have known the fellow if he
10 had walked out in the street, because like I say, all
11 I was there for was as a support unit only.

12 Q But did you know the name of the person?

13 A Donestevez is all I knew, but that didn't
14 mean anything to me.

15 Q In order to insure that nothing can be
16 hidden during the execution of a search warrant, it is
17 standard procedure to secure the premises to make sure
18 that no one is in a position where they can destroy
19 evidence?

20 A That's correct.

21 Q And that was why you went upstairs?

22 A That's correct.

23 Q Did you have any other purpose for going
24 upstairs?

1 A No, sir, I did not.

2 Q How long after you got into the building
3 did you go upstairs?

4 A I went into the building and I imagine
5 I was in there maybe two or three minutes as we were
6 progressing to the rear of the building.

7 As you come through the building, it is
8 sort of like an overhang there, and as you come around
9 to the stairway, which I observed after I looked up
10 and saw the balcony, then I went up the staircase to
11 observe and see if there was anyone else up there.

12 That was the main purpose, that's all.

13 Q That is an exitless place up on that
14 balcony, it is all inside the premises?

15 A That's correct.

16 Q So no one can escape from there, nor
17 could anyone or anything disappear from there, can it?

18 A No, sir.

19 It was strictly for the purpose of
20 securing and be sure there is no one up there.

21 Q Did you have a description of this
22 upstairs area before you went in the building?

23 A No, sir, I did not.

24 Q When you got down, what did you tell

1 anyone?

2 A I just brought it to Sergeant Havens'
3 attention that I did observe what appeared to be an
4 automatic rifle sitting against the wall up there and
5 another object that appeared to be some sort of a
6 weapon.

7 At that time I didn't know what kind
8 of a weapon. It was laying on the floor.

9 Q Did you look for any jewelry, watches,
10 rings or anything like that?

11 A I didn't look for anything because I
12 wasn't on the search team.

13 Q Your job was to secure the premises so
14 the search team could execute a search warrant?

15 A That's correct.

16 Q Had you earlier seen Mr. Donestevéz
17 throw an envelope and something wrapped--excuse me--
18 throw a paper cup with some things in it and a news-
19 paper with something in it to Mr. Canto?

20 A As I stated before, when he came back
21 to the doorway after he had received the envelope, he
22 stepped back in the doorway and pitched something back
23 to the party outside, which was later on I believe
24 determined to be some jewelry or a watch or something

1 that belonged to that subject.

2 Q Later wasn't the cup and newspaper
3 discovered right outside the factory?

4 A Yes, it was.

5 Q Did you see Mr. Canto open up the cup
6 and take his property?

7 A I saw him open up something at that
8 time, but at the distance I was sitting, I couldn't
9 tell exactly what the object was.

10 But I did observe him open up two
11 objects and then drop them on the ground and then get
12 in his car and drive away.

13 Q Did you see him open the newspaper and
14 receive his gun inside?

15 A Like I say, he opened two different
16 objects. I couldn't describe them at the time, like
17 I say.

18 Q Was part of your surveillance to determine
19 whether this ring, watch and bracelet and gun did in
20 fact pass from Donestevéz to Canto?

21 A Well, I was familiar with the fact that
22 he had this property previous, that he had taken from
23 him, and our main objection was to surveil and more
24 or less protect our victim in case some problems come

1 about.

2 That's the reason why he was wired and
3 the reason why we were in surveillance.

4 That was the main purpose.

5 Q Were you alerted to and did you in fact
6 notice that Canto gave a white envelope to Donestevez?

7 A Yes, I observed the white envelope be-
8 ing exchanged between the two, yes, sir.

9 Q Were you told that there would be an
10 exchange and that Donestevez--it was anticipated--
11 would give something back to Canto?

12 A Yes, that was determined in our office
13 in our briefing when Sergeant Havens put the money in
14 the envelope, sealed it and handed it to the victim
15 at that time.

16 Q Was there any question in your mind but
17 that the envelope with the money was handed to Dones-
18 tevez?

19 A No, there was no question because the
20 subject handed it straight out to him.

21 It was in plain view from where I was
22 at, and it was easily determined it was the envelope.

23 Q From that distance you could tell it
24 was in fact the envelope?

1 A The distance I was from him, you could
2 observe the white envelope.

3 Like I say, when the guy pitched that
4 stuff back to him, it was hard to tell what it was
5 just by flying through the air, it was too dark and
6 I couldn't tell you exactly what they were.

7 Q But it had been prearranged that Canto
8 wouldn't leave if he didn't receive his property, is
9 that correct?

10 A Yes, sir.

11 Q So once he opened it and looked and
12 left, you knew he had received back his property?

13 A Yes, sir, that is probably common knowl-
14 edge I guess.

15 Q Right, and he had been told beforehand
16 that if for instance his watch was missing, he should
17 say "Where is my watch? That is not here," and he
18 shouldn't leave until he got it all back, is that
19 correct?

20 A Well, I can't answer yes or no, other
21 than the fact I knew he was supposed to get his
22 property back once he gave the man the money.

23 What went on as far as the conversation
24 is something I couldn't tell you.

1 Q And if he didn't get all his property
2 back, he wasn't supposed to leave yet, is that correct?

3 A I can't answer it because I don't recall
4 exactly; whether it was that touchy or not, I don't
5 recall.

6 Q How many people were inside the premises
7 if you remember?

8 A I don't really know. It is not that
9 I don't remember, I don't know how many people were
10 in there.

11 Q What did you do after you secured the
12 upstairs?

13 A Like I say, I come back down and in-
14 formed Sergeant Havens that the upstairs was secure,
15 there was no one up there, and what I observed.

16 Then I went back outside to secure the
17 outside area.

18 Q How long did the police remain on the
19 premises?

20 A I imagine we was there a couple hours.
21 I don't know exactly.

22 Q Did you ever see Canto again after that?

23 A I saw him one time on the scene and
24 then I saw him one time in the office when he came into

1 the office.

2 Q On the scene you saw him?

3 A He come back after everybody was more
4 or less getting ready to leave.

5 The best I can remember, they had
6 already secured the scene and everybody was getting
7 ready to leave, and he come back or somebody brought
8 him back, I'm not sure.

9 Q Why, if you know?

10 A I don't know, I don't have any idea.

11 Q Do you know when Havens saw him after
12 he left?

13 A No, I don't.

14 Q Did Havens remain there continually?

15 A I really couldn't answer that question
16 because I wasn't right with Ray during the whole thing,
17 because Ray was primarily inside and I was outside.

18 After they started taking what stuff
19 we confiscated, we started loading it back in the
20 truck, and then we all started dispersing, so I really
21 couldn't tell you whether Ray was there when I left
22 or not.

23 I imagine he was because he was handling
24 the main report. I really don't know.

1 Q Was your participation in this case
2 solely on September 15th at the search warrant and
3 arrest?

4 A That's right.

5 Q Is there anything else that you par-
6 ticipated in this case about that I haven't asked you
7 about?

8 A Like I say, all I was involved with was
9 more or less the supporting unit, to go in and secure
10 the building, and that was it.

11 As far as the search, I had no real
12 previous knowledge or even past, so I can't assist
13 you that way.

14 Q Your job was to make sure the premises
15 were secure for the search?

16 A That's right, that's all.

17 Q You weren't there to arrest anyone,
18 you didn't know who was to be arrested, that was some-
19 one else's duty?

20 A That's right, the search team and the
21 serving of the warrant, which was under Ray Havens'
22 jurisdiction.

23 MR. JOSEFSBERG: I have nothing further.

24 MR. TUNKEY: That is all.

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Q (By Mr. Josefsberg) Has anyone discussed this case with you in the last 24 hours?

A No.

Q Is your memory pretty clear on it?

A I have told you everything I know about the whole thing.

MR. JOSEFSBERG: Thank you.

(Reading, subscribing and notice of filing waived.)

(Thereupon the taking of the deposition was concluded.)

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