

filed.

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

CRIMINAL DIVISION

CASE NO. 75-10539

STATE OF FLORIDA, :
 :
 Plaintiff, :
 :
 -vs- :
 :
 RAMON DON ESTEVEZ, :
 :
 Defendant. :
 -----X

FILED
CLERK OF DISTRICT COURT
DADE COUNTY, FLA.
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76 FEB 27 PM 3 31

Public Defender's Office
1351 Northwest 12th Avenue
Miami, Florida
Monday, February 9, 1976
5:00 o'clock P.M.

DEPOSITION OF JOSEPH BENITEZ

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

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APPEARANCES:

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

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

I N D E XWITNESSDIRECTCROSS

Joseph Benitez

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Thereupon --

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

DIRECT-EXAMINATION

BY MR. MECHANIC:

Q Please state your name and
occupation?

A. Joseph Benitez, detective with
the Dade County Public Safety Department.

Q For how long have you been so
employed?

A. Since 1972.

Q With the Organized Crime Bureau
all of that time?

A. No.

Q With O.C.B. at all times?

A. No.

Q How long have you been in O.C.B.?

A. Since about the beginning of
October.

Q On what appears to be the date



— of October 21, do you recall that date?

A. Yes.

Q Did you and your brother and Vasquez and Rapado and a probation officer go out to the Pirhanna-Diesel Corporation?

A. Yes, that is correct.

Q Why on that day?

A. I was up there and I was fairly new.

I understood we had information of a Mr. Don Estevez who had a boat company over in the Perrine area.

It is also my understanding that he had previously been convicted of being a felon.

We had received information that he had some weapons in his possession.

So, at which time we were told to go over there and ascertain and to see if it was factual and to see if there were weapons over there.

Q Who told you that?

A. I got it second hand but I knew
— I was going with them.



Q How about Officer Vetterick and did you ever hear that name before?

A I heard of him since afterwards and after that case, but I, myself, I do not know him personally.

Q Did you ever read the report that he had written up?

A No.

Q So all of the information you received was second hand and just people telling you things?

A All of the information I received was through police channels.

I did not get it directly through anybody and I got it through the group working activities with and I don't remember where it came from.

Q Approximately how long before the date of the 21st did you receive this information?

A It is hard to say and I had not been there that long.

Q A day?

A I do not know.



Q You didn't receive it and then go?

A I, personally, did not.

Q The sergeant told you to go and check it out, is that correct?

A I do not who told me.

Q Whoever told you when he told you did you go and check it out right then and there?

A I checked it out when the squad decided they would go.

Q You got there about what time?

A I don't remember and it was in the afternoon.

Q Was it daytime?

A Yes.

Q Was it still light out?

A Yes.

Q The front door -- you took two cars or what?

A Right.

Q Who was the first one in?

A I do not know.

Q The door to the building and that



— is the gate and was it opened or closed where they built the boats?

A. I don't know, I didn't pay any attention to that.

Q. You do not know?

A. I do not know.

Q. In other words, sir, I am speaking about this gate?

A. I don't know.

Q. The door leading in was that opened or closed?

A. Yes.

Q. That is yes it was opened?

A. Yes.

Q. You all went in?

A. That is right.

Q. What was the next thing that happened after you got in?

A. I was near the back and I remember a few of the officers had gone in front of me.

Q. Isn't there a secretary that sits right by that door and sits by a desk that is a desk of a secretary?

—



A. Yes, sir, and I don't know if she was there when I came in.

Q All right, continue.

A. I recall Don Estevez or who I learned was Don Estevez later on who came towards us.

Some of the other officers were already inside.

The very next thing I knew is that they went into what we believe is his office and later on determined it to be his office.

Q The officer acknowledged him and he acknowledged the officer and then you started to walk towards each other?

A. That is right.

Q You met at some midway point?

A. I did not meet.

Q They met?

A. Yes, sir.

Q The office that you are speaking of is to your right?

A. In front of me and the office and it is to my right as I go through the door.



Q. The office door was that opened or closed?

A. Don't remember.

Q. Were there any signs outside saying "Office?"

A. I couldn't tell you.

Q. Was there any sign saying "Ramon Don Estevez?"

A. I don't believe so.

Q. You got in whether it was opened or closed and you are in the office and that is all four or five of you are inside?

A. Right.

Q. What did you observe?

A. Well, when I was inside there were some weapons leaning against a couch.

However, I am not a firearms expert and I know there were weapons.

Q. Were you going down there to arrest him if those reports turned out to be factual?

A. If he is a probationer and if it is factual, then yes, sir.

Q. What if he was not a probationer



and there were weapons found there?

A. It depends on the circumstances.

I was told so many things, and I checked out so many things, and if I had probable cause I would make the arrest.

Now, if you are saying it is something else, then well --

Q. Was it your intention if the report checked out, and was it your intention to go down there to arrest him?

A. I was there as a backup officer.

Q. So you are in the office, and you see the guns in plain view on the couch, of leaning against the couch, and then what happened?

A. There was some conversation between Detective Benitez, my brother, and Mr. Don Estevez.

Then at which time Mr. Don Estevez acknowledged and recognized him to be a police officer from a previous incident wherein my brother had been there.

I believe that Don Estevez had been threatened or bombed or something like that



— and my brother had responded to that.

Then after acknowledging or recognizing his identity and the purpose of my brother being there which was explained to him regarding the weapons in the specific place then Mr. Don Estevez said that some other officers had already been there before.

Q Do you know if he was referring about Officer Vetterick?

A I have no idea.

Q He is telling your brother this?

A Yes, sir.

Then from that point on I remember Mr. Don Estevez making several telephone calls.

I believe it was to the back but I do not know where the phone calls were made to.

Then his son or who I believed to be his son had come in out of the office.

Then there were some other guys who were coming in to see him and I don't know --

Q Guys?

A They kept on knocking on the door

— and he would say "Excuse us."



Q From what?

A. Then from that point on the weapons were checked out.

I was standing there when they were checked out and they were loaded and they were operable.

Then my brother asked if there were any other weapons on the premises and he said that there was one small gun outside in the secretaries' office.

Then after that was recovered and checked out and then he indicated that there were no other weapons.

He stated to us that there were no more weapons.

Now, sir, in the process of it Mr. --

Q Did he state that there were no more or that there were no more that he knew of?

A. He said that there were no more.

Q Were these all that you have seen so far?

A. I have no idea.



Q I thought you said you checked them all out?

A I checked them out and they were operable.

Q As to the weapons themselves and not the registrations?

A Yes, it is not my case, you know, and I was the assisting officer at this point.

Q Go on.

A After the weapons were checked out and while in the process of speaking to Mr. Don Estevez he had been getting some items out of his drawer in a desk where we were standing in front of.

I was around the right side near Mr. Don Estevez and I happened to have read some of the items that were framed behind him with his name on it.

I guess it was in regard to some workmanship in regard to boat building or something like that.

Detective Vasquez was immediately to me and closer to Mr. Don Estevez than I was.

The next thing I knew was that



— he had Mr. Don Estevez pull the drawer and the next thing I knew was that Detective Vasquez had the weapon.

Q It was Don Estevez and you who were standing there?

A Yes.

Q Don Estevez is using that drawer, and Vasquez was closer to the drawer than you and he and then he saw the gun?

A Vasquez was on an angular position. My immediate area of attention was the wall and I was reading what was on it.

Q You saw Vasquez reach in and take the gun?

A The first thing I saw was Mr. Don Estevez pull out a portion of the drawer and that is a portion of the furthestmost draw and the next thing I knew was that Vasquez had the weapon and that was a Browning type weapon.

Then Mr. Don Estevez was asked if he had stated that there were no other weapons and I don't remember what his answer was.

Q You are sure of what you just



— told me?

A. That is right.

BY MR. GOLDSTEIN:

Q. Where was Don Estevez just prior to this last gun being found?

A. Sitting behind the desk.

Q. Was his chair pulled up to the desk or was he sitting away from it?

A. The chair was pulled up to the desk.

Q. Were his legs underneath it?

A. Yes, he was going through some of the items on the desk top and within the drawers of it.

Q. You said that Don Estevez reached over to take or to a particular drawer and what did he do?

A. He had been using a drawer.

Q. Which drawer, and that is presuming that this desk right over here in front of you is the desk, and which drawer are we speaking of?

A. There is a center drawer and then — on the right hand side there is a smaller drawer.



Q On the top?

A Right.

Q The top right hand drawer?

A That is right.

Q That is as you would be sitting behind the desk?

A Yes.

Q What happened next?

A Mr. Don Estevez had taken some items and the items that he had taken from whatever drawer, I don't remember and the next thing I realized is that Vasquez catches the drawer.

He does not go in and pull out the gun, and Vasquez does not pull the gun out of the drawer and he has not closed the drawer and the gun is readily visible from where Vasquez is at.

Q Did you see the gun?

A Yes, sir, and I saw it when he pulls and when he takes the gun out.

I am not saying that Don Estevez went for a gun and I am not saying that at all.

He had been working on his desk,



and he had taken some things out of the middle drawer.

He had taken out some money and he gave his son some items.

Q Which drawer?

A He had been working out of this drawer and further --

Q The center and top right drawer?

A Yes.

Q Go on.

A I don't remember which drawer he was working with when Vasquez observed the gun.

That is on the right hand side which was and he would not have been able to see it.

He would not have been able to see it had that drawer been closed.

The only reason it was visible was because it had been opened and shut because Don Estevez went through some other items.

Q Were there any guns in any of the other drawers?

A I was standing there when Vasquez checked it and I didn't see any.



Q Vasquez searched all of the other drawers?

A. He asked him.

Q Vasquez searched the other drawers?

A. He asked him and he said, "I thought you said there were no other guns in here," and I don't remember what Don Estevez replied to that.

Then at that point I believe Vasquez asked him to move his chair back and he checked the other ones.

Q He found no other guns?

A. No, sir, he didn't find any other guns not in that desk.

Q You mentioned earlier that Don Estevez's son was in and out of that office while you were in there talking?

A. Right.

Q What was he doing?

A. There was some problem with a boat that they were building and he came in to inquire about something.



Q To ask Ramon about something?

A That is right, and also there was a guy by the name of Barbillo over there and I am not saying specifically, and that is at the time that we were interviewing him he came in with a message regarding something.

Now, when we left Don Estevez told this fellow Barbillo to make sure that he slept in the place to check it out and stay there on the premises and secure them.

What was happening is they were just getting orders from him as to what to do.

BY MR. MECHANIC:

Q Now, the plaques that you were looking at --

A It was not a plaque.

Q The things that are framed and you may call them whatever you wish, and that is what we are speaking of that was on the wall?

A Right.

Q Was there anything, and was there anything on Ramon's desk such as a letter opener or paper weight or a nameplate?



A. I don't remember and I was near the bathroom and there is a filing cabinet and there is the wall and that is what I was reading at that point.

Now that is when I observed Vasquez and he had already made his move and realized what was in that drawer and I was just reacting only after what he had prompted my vision to see.

Q Do you have any knowledge either by it being personal or having personally spoken to these people or over hearing these conversations, and that is about them being security guards on these premises such as Barbillo?

A. I don't understand that.

Q Well, there are certain people, and do you know Alberto Marin?

A. No.

Q Do you know Armando Barbillo?

A. I met him.

Q Do you know Pedro Don Estevez?

A. Is that one of his sons?

Q Brother.



A. I don't know him.

Q Did you speak to any people who said to you they were security guards for that property.

A. No.

Q You had nothing to do with the checking out of the ownership or registration of those guns?

A. No, sir, I was there as a backup officer.

Q You saw no nameplaques or any nameplates on the desk that said "Ramon Don Estevez?"

A. I don't recall.

BY MR. GOLDSTEIN:

Q You said you went into an office that you believed at the time was Don Estevez's office and you later determined it was his office?

A. Yes.

Q Please explain that to me?

A. When we went in he said to come into the office and we went into the office and I believe that the door to the office had some kind of glass on it.



Now, I am not so sure if the door was closed and if it was closed.

It was not locked and there was no big thing about getting into the office.

I was looking at the items on the back and that is right behind the desk and also what was on the wall.

I read his name on there. It was at that time when I had presumed that that was his desk.

Then later on I found out when my brother had been there in the past that he had referred to that as his office and that he had referred to that as being his office and that being his desk.

Q That is something you heard?

A Like I said, this is something I determined later on from it and this is in my opinion which was reaffirmed and I don't remember if there was anything specific.

Q At the time you were in the office and the guns were found you were looking at the



names and the framed items?

A. Guns were not found and don't put it wrong.

Q. Guns were found while you were there that day while you were looking on the wall and you were noticing his name on certain plaques?

A. Yes.

Q. Were you concerned at that time about whether or not you could substantiate that Don Estevez had possession of these guns?

A. Well --

The weapons against the sofa were in what in my opinion was his office.

Q. At that time what lead you to believe it was his office at that time?

A. At that time when he came in and said "Let's go into the office."

Then he said that he wanted to go to the bathroom.

Then he sat behind the desk and that was the only desk within the office.

He seemed to go through that desk as if he knew where everything was on that



— desk.

He picked up his own personal notes and made phone calls.

I do not think people throw things on the desk that anybody else can use because you would have to use it and it would be hard and you would have a hard time doing that.

Q Did you find any other office in that building?

A. No.

Q At the time were you concerned about the issue of possession?

A. At the time I was concerned first of all with my safety if there was in fact a convicted felon in there with a firearm.

You see, that was the first thing that went through my head.

Now, when we saw the weapons as I remember the first thing that I, myself, was concerned with was checking to see if they were, in fact, loaded.

I think my brother or Vasquez checked to see if they were loaded and I was



— right there when that was done.

Then the next thing was the Browning and that was the major issue because it was readily accessible to him from where he was sitting.

MR. GOLDSTEIN: I have nothing further.

MR. WOODARD: No questions.

THE WITNESS: I do not wiave reading.

(Thereupon this deposition was concluded.)

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

Notary Public



CERTIFICATE OF REPORTER

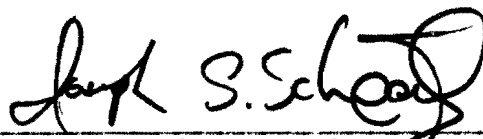
STATE OF FLORIDA:

:
COUNTY OF DADE :

I, JOSEPH S. SCHWARTZ, Court Reporter and Notary Public in and for the State of Florida at Large, do hereby certify that I reported the deposition of JOSEPH BENITEZ, a witness called on behalf of the Defendant in the above-styled cause; that the said witness was duly sworn by me; and that the foregoing pages, numbered from 1 to 25, inclusive, constitute a true and correct record of the deposition by said witness.

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

WITNESS my hand and official seal in the City of Miami, County of Dade, State of Florida, this 20 day of February, 1976.



Joseph S. Schwartz

My commission expires July 8, 1976.

