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FERRIE, DAVID
STATE OF LOUISIANA V. CLAY L. SHAW
RUSSO, PERRY RAYMOND
RYAN, JOSEPH P.
OSWALD, LEE, POST RUSSIAN PERIOD, POLITICAL & SUBVERSIVE
ACTIVITIES
THREAT, KENNEDY, JOHN

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RELEASED PER P.L. 102-886 (JFK ACT)
NARA DATE 11/23/93

002011

CRIMINAL DISTRICT COURT

PARISH OF ORLEANS

STATE OF LOUISIANA

.....

STATE OF LOUISIANA	.	198-059
VS.	.	
	.	1426(30)
CLAY L. SHAW	.	
	.	SECTION "C"

.....

PROCEEDINGS IN OPEN COURT,
Tuesday, February 11, 1969

B E F O R E : THE HONORABLE EDWARD A. HAGGERTY, JR.,
JUDGE, SECTION "C"

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Stenotypists

333 ST. CHARLES AVENUE, SUITE 1221
NEW ORLEANS, LOUISIANA 70130-522-3111

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I N D E X

WITNESS:	DIRECT	CROSS	REDIRECT	RECROSS
Joseph P. Ryan	251	--	--	--
PERRY RAYMOND RUSSO		253	481	492

EXHIBITS

EXHIBIT	IDENTIFIED	OFFERED	RECEIVED
D-1		368	368
D-2		368	368
D-10	359	361	361
D-11	359	361	361
D-12	470		
D-13	473		
S-12-T		506	506
S-13-T		506	506
S-15-T		505	505
S-16-T		507	507
S-17-T		507	507
S-18		509	509
S-19		505	505
S-21	483	504	504
S-22	483	504	504
S-23	483	504	504
S-24-T		507	507

1 Pursuant to the adjournment of
 2 Monday, February 10, 1969, the proceedings
 3 in open Court were resumed at 9:00 o'clock
 4 a.m., on Tuesday, February 11, 1969,
 5 appearances being the same as heretofore
 6 noted in the record

7 THE COURT:

8 I trust you gentlemen had a good night.
 9 Let it be noted in the record that the
 10 Jury is here, the Defendant is here,
 11 all counsel are present.

12 Is the State and Defense ready to proceed?

13 MR. ALCOCK:

14 The State is ready.

15 MR. DYMOND:

16 We are ready.

17 MR. ALCOCK:

18 The State would ask it be allowed -- a
 19 subpoena duces tecum had been issued
 20 yesterday, and we have a return today,
 21 and in conjunction with that I would
 22 like to call Mr. Ryan to the stand.

23 THE COURT:

24 Mr. Ryan, step up, please.

25 JOSEPH P. RYAN,

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 NAME *PHB*
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was examined and testified as follows:

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DIRECT EXAMINATION

BY MR. ALCOCK:

Q State your full name and occupation.

A My name is Joseph P. Ryan, Director, Office of
Personnel, New Orleans Post Office.

Q How long have you been employed by the Post
Office, Mr. Ryan?

A Twenty-nine years.

Q Mr. Ryan, did you come to Court today prepared
to honor the subpoena duces tecum served
upon the Post Office yesterday by the
Orleans Parish District Attorney's Office?

A I am ready.

Q May I see what you have brought with you in
response to that subpoena, may I have a
few moments, Your Honor, to peruse it?

THE COURT:

Yes.

BY MR. ALCOCK:

Q I notice in glancing over the material that you
have submitted to us in response to our
subpoena duces tecum, referring you
specifically to Post Office Department Form
3546, with which you have provided us, you

1 have provided us with a copy of this back
2 part, and would it be possible also to get
3 a copy of the front, we can make it in our
4 office.

5 A Yes, I see no reason why not.

6 MR. ALCOCK:

7 Other than that, the State is satisfied
8 with the return on the subpoena duces
9 tecum.

10 THE COURT:

11 Are you going to take these from him and
12 put them in the record?

13 MR. ALCOCK:

14 It has not been introduced into evidence,
15 this is just our subpoena to him for
16 our use in the case. If you want to
17 keep them --

18 THE COURT:

19 Do you wish to mark them for identification
20 purposes?

21 MR. ALCOCK:

22 Not now.

23 THE COURT:

24 You are satisfied with the return?

25 MR. ALCOCK:

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Yes, Your Honor.

THE COURT:

Have you any questions, Mr. Dymond?

MR. DYMOND:

No questions.

THE COURT:

For the record, that was a return on a subpoena duces tecum served on the Postmaster, Paul V. Burke, and this return was made by his representative, Mr. Ryan.

Are you ready to proceed?

MR. ALCOCK:

Yes, Your Honor.

MR. DYMOND:

We are ready.

THE COURT:

Let's call Mr. Russo.

Just for the record, the previous oath you took yesterday is still binding on you, sir.

You may proceed.

PERRY RAYMOND RUSSO,

a witness called by and on behalf of the State, having been sworn and having testified previously,

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resumed the stand for a continuation of the

CROSS-EXAMINATION

BY MR. DYMOND:

Q Mr. Russo, on direct examination yesterday did you tell the entire story as you recollect- ed it in connection with the meeting which you say took place on Louisiana Avenue Parkway in September of 1963?

A To Sciambra in Baton Rouge?

Q No, on your direct testimony yesterday, when questioned by Mr. Alcock.

A Well, what -- I don't know the -- exactly what information you want.

Q I want to know whether you gave a complete account of this party and what has been termed a conspiratorial meeting when you testified on this direct examination under questioning by Mr. Alcock.

A Well, I don't know, I answered the questions, I tried to answer the questions he asked. I don't know if there were any omissions in there, though.

Q To your knowledge, in his questioning did he leave out anything?

A Not apparently.

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1 Q In other words, you are not able to name any-

2 thing that he did not cover in his question-

3 ing of you concerning this meeting and

4 party. Is that right?

5 A No, not immediately.

6 Q I see. Now, Mr. Russo, during the meeting which

7 you say took place after the other guests

8 left, did you contribute anything at all

9 to the conversation?

10 A No, I was most of the time going in and going

11 back out down the street, down to the

12 street a lot of times. I didn't hear the

13 entire conversation.

14 Q So you were in and out then during this time

15 when you say these people were talking. Is

16 that right?

17 A Yes.

18 Q And of course you would not know what went on

19 when you were out of the room, would you?

20 A Right, no.

21 Q Would I be correct then in saying, Mr. Russo,

22 that you only heard portions or fragments

23 of the conversation which took place there

24 in view of the fact that you were in and

25 out of the room?

1 A Yes.

2 Q And then you would not purport to have heard
3 the entire conversation as a matter of
4 continuity, would you?

5 A No.

6 Q Now, Mr. Russo, referring to what you did hear
7 of this conversation between the parties
8 whom you say were Leon Oswald, Clem
9 Bertrand and David Ferrie, was there ever
10 any actual agreement to kill John F.
11 Kennedy?

12 MR. ALCOCK:
13 I object to the question.

14 THE COURT:
15 I sustain the objection. That is a ques-
16 tion for the Jury to decide.

17 MR. ALCOCK:
18 My objection is based upon the fact that
19 agreement can be reached between per-
20 sons using different words, it is a
21 meeting of the minds, and as the Court
22 points out, this is something for the
23 Jury to determine. This man can't
24 state whether or not there had been
25 agreement between these men, and

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1 additionally --

2 MR. DYMOND:

3 I will break the question down, if the
4 Court please.

5 BY MR. DYMOND:

6 Q In your presence, did David Ferrie ever agree
7 to kill the President of the United States,
8 John F. Kennedy?

9 A He said, "We will kill him."

10 Q He had said that many times before, had he not?

11 A Right.

12 Q As a matter of fact, he had made that direct
13 statement to you alone, had he not?

14 A Right.

15 Q Did Leon Oswald ever, in your presence, agree
16 to kill the President of the United States?

17 A No.

18 Q Did Clem Bertrand ever agree to kill the
19 President of the United States?

20 A No.

21 Q Would I be correct in saying then that you never
22 heard anyone actually agree to kill the
23 President of the United States?

24 A Well, when you say "agree," it is the problem,
25 that is the word "agree," you know, I mean,

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all I do is hear people talking about it,
I don't know if they agreed or not. It
would seem to me they were in agreement
as far as certain things were concerned,
I don't know if they actually -- I can't
remember either any of the three ever
saying yes, this is how we will do it,
let's do it this way.

Q Did you ever hear anybody say, "We will do it"?

A Dave Ferrie, "We will get him."

Q "I will get him" or "We will get him," the
same he had said many times before?

A "We will get him," he didn't say, "We will do
it."

Q When was the first time you ever heard Dave
Ferrie say that?

A Oh, sometime in the Summer.

Q Several months before this meeting that you
have reference to. Is that correct?

A Well, it was between, you know, June and July
or August.

Q When Ferrie told you this individually, as you
have testified, did you ever agree with
Ferrie that it was a good idea, tacitly
go along with him?

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1 A I told him that it would be extremely difficult 259
2 to do something like that, and that he
3 didn't have much hope of success.
4 Q Did you ever verbally indicate disagreement with
5 the idea, Mr. Russo, when Ferrie told you
6 this privately?
7 A Well, I told him it would not be possible.
8 Q But you never did say that it was not a good
9 idea or affirmatively state that you would
10 not help him, did you?
11 A Well, all he was doing was lecturing, and he
12 would state this -- there are two things,
13 the front and the back of the auditorium,
14 this idea of his, where the back man fires
15 a shot just to attract attention, a real
16 quick shot, and almost instantly a man in
17 front fires a dead-end shot for the
18 speaker, that would be in the front of
19 the auditorium, and it was not much of a
20 conversation, he just stated the facts.
21 I said, "Well, that is impossible."
22 Q And it was quite common for Ferrie to lecture
23 in this way as you have put it, was it not?
24 A Right.
25 Q In all fairness, would you say he may have been

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1 just lecturing at this meeting?

2 A I can't really say he was lecturing or not. He
3 seemed to be talking with the Defendant
4 and also with Oswald, with some exchange
5 from him.

6 Q Just as he had talked to you on previous occa-
7 sions. Is that right?

8 A On one occasion, yes.

9 Q And actually there was some exchange on that
10 occasion and you told him that you didn't
11 think it would be possible and so forth,
12 was there not?

13 A Right.

14 Q Now, Mr. Russo, Dave Ferrie was what you would
15 term an emotional man, was he not?

16 A No.

17 Q He didn't get excited and talk about things
18 and repeat himself upon many occasions?

19 A Well, he repeated himself on quite a few occa-
20 sions, but he had a very good analytic
21 brain, and, no, he did not get very
22 emotional about things, he would talk at
23 great length, at times he would get a
24 little -- where he would be trying to prove
25 a point and use his hands to get over the

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subject, whether it be about -- well, what-
ever he wanted to talk about.

26

Q You would term him an opiniated man, would you
not?

A Opiniated, yes.

Q Was he vociferous about his opinions, did he
speak about them a great deal, he expressed
his opinions a great deal, tried to convert
people to his opinions a great deal?

A In certain areas.

Q What do you mean when you say "In certain
areas," any particular --

A He had a peculiar philosophy where his interests
were. He had a peculiar philosophy in
politics, he had, to me, a strange
philosophy as far as the rationale of
religious convictions, he talked a great
deal about scientific things, but, I don't
know what he talked about most of the time,
he talked a little bit about cancer, he
talked a little bit about -- quite a bit
about hypnosis, things of this sort, those
are the things that interested him and he
did talk about them at some length, but at
that time he was trying to prove a point,

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not really trying to convert someone,
but he did know quite a bit about the sub-
ject that he talked about.

Q Being the opiniated man that you say that
Ferrie was and with this tendency to ex-
press his opinions as you have described,
is it not a fact that he would not be out
of character at a party of this kind saying
that the President should be killed and
"We will get him," as he said many times
before?

A Are you asking me was he out of character for
that?

O That is correct, yes.

A No, I don't think so.

Q In other words, that was something that you,
knowing David Ferrie, would have more or
less expected, isn't that right?

A More or less.

Q What you heard that night came as no great
shock to you, did it?

A No, I agree.

Q As a matter of fact, Mr. Russo, if you had really
taken this as a serious threat upon the
life of President Kennedy, wouldn't you

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have gone and reported it to the FBI or
 the Secret Service, if you had really
 thought the President was going to be
 killed as a result of this?

A Probably if it was the first time I ever met
 Dave Ferrie I would have, but this was
 preceded by 18 or 20 months.

Q But in view of the fact that you knew Dave
 Ferrie, you didn't take it seriously.
 Isn't that right?

A Well, Dave Ferrie was the type of person you
 really didn't know whether you could take
 him seriously or not. In many instances
 he backed up what he would claim. If I
 could reflect back to Kenner, on that dis-
 cussion on politics, where I was a Freshman
 or a Sophomore in college, I felt that I
 knew quite a bit about everything there was
 to know about political theory, and he just
 put me in my seat, he quoted book, chapter
 and verse, and later I found out he was
 right, I didn't look at the book and turn
 to Page 368, Paragraph 2, but in several
 ways he did back up what he said, and this
 hypnosis, he backed that up, I am sure it

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was not fake, I don't think it was fake
or anything, and you couldn't really tell
because some of the fantastic things that
he said at the same time you could not --
I just sat there, I didn't have any real
opinion whether he would back anything he
said up, but I would not be surprised if
he did because he had backed things up
before.

Q Actually, though, it was your knowledge or
intimate knowledge of Dave Ferrie that
kept you from taking this seriously enough
to report it. Isn't that correct?

A Let me just explain my position with Dave
Ferrie. In other words --

MR. ALCOCK:

I don't think that connects with the evi-
dence in this case, he did report it
to us.

MR. DYMOND:

The witness is under cross-examination, I
will get to the date of reporting, I
full well realize he reported it to
the District Attorney's office.

THE COURT:

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You may proceed.

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Mr. Russo was about to explain his answer,
and you can go ahead.

A In other words, Dave Ferrie was a character,
not indifferent to it, but almost, out of
-- somewhat I avoided the man mentally
because he had a brilliant mind and he
could sort of envelop and strangle a con-
versation or influence direction of thought
because he might be able to prove it was
wrong, and he did claim quite a few things
that I didn't know if he backed up or not,
he claimed he was in the Bay of Pigs to
me, and I heard somewhere that he claimed
that he was not. I don't know if he was
in the Bay of Pigs, he claimed he flew
down to Mexico and Cuba, these things I
don't know, I could not test, but the
problem with Ferrie was that along with
the claims he had this appearance, he had
no -- it looked to me no apparent purpose
but on the other side of the coin he did
back up the things, things that just --
when I came into contact with him, he did
back these things up, he was well read in

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1 religious matters, he could quote book,
2 chapter and verse on political stuff and
3 things that I was interested in, and he
4 did back himself up in this area, and he
5 also had a medical lab. Now, I couldn't
6 understand a man having a medical lab and
7 not really knowing what he is doing down
8 there, but he said he was a doctor or he
9 had extensive knowledge in surgery and
10 things of that sort, and what could he
11 back up and what couldn't he, and I just
12 pretended to be indifferent to his claims
13 and talks and things like that, it just
14 went in one ear and out the other, as far
15 as validity I didn't know which way to take
16 it.

17 BY MR. DYMOND:

18 Q And for approximately four years you were in-
19 different to what you heard going on at
20 this meeting, weren't you?

21 A Approximately.

22 Q And would you say it would be accurate to say
23 this went in one ear and out the other?

24 A Well, no, I am using that in the sense that
25 what he was saying, whether or not to accept

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it, whether to accept it literally as to what he was claiming to do or what he had claimed to have done before, but between those, that period of time, Oswald died a couple of days right after Kennedy got shot, and when the FBI got on the television and said it was all over with, they had solved the crime or the Dallas police or whoever it was said that, quite a few people said that, I considered it a closed case, no one else was involved, intersted, and I couldn't really point to Ferrie and say he was, I did not -- the FBI said everybody is cleared except Lee Oswald and Jack Ruby was not a friend of his or was not involved, and I --

Q Mr. Russo, knowing yourself that you do, would you have remained indifferent for four years to what you considered a serious formulated plan to kill the President?

A The plan, you know, as I told you, I was walking in and out, and the reason that I initially got into the thing was because of the D.A.'s office, which was mentioned in Baton Rouge, well, mentioned the name of Dave

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Ferrie, or his picture came in the paper,
one of them, and the day before, I think
it was the day before he died I wrote a
letter, but I never mailed it until a
couple of days later, and that is when it
appeared to me that other people, Dave
Ferrie for one, might be involved in the
killing of President Kennedy.

Q And you had been indifferent toward this thing
for about four years up until that time,
had you not, sir?

A No one, right, no one contacted me.

Q Actually, you had not really worried about it,
had you?

A No, I didn't worry about it.

Q Actually you didn't really worry about it right
after you heard it, did you?

A When Oswald was arrested, I told a couple of
friends that I knew him, or it looked like
I knew him, I thought it was the same guy,
or when he was shot, one or the other, and
then of course all the hurrah on the news
and television and newspapers that he was
the only man, I was finding out what the
Warren Commission was saying -- that was

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1 next year.

2 Q I am talking about the period between mid-
3 September and November 22, 1963, you did
4 not worry about this, did you?

5 A Oh, between that period of time?

6 Q Right.

7 A No.

8 Q As an American citizen, wouldn't you have
9 worried, wouldn't you have been concerned
10 if you had thought there was brewing a plot
11 to kill your President?

12 A Well, if I could answer it this way, Mr. Dymond:
13 Judge Perez recently said something about,
14 a year or so ago, that he felt there was
15 a plot to kill him, and unless someone
16 were to name a person, unless Judge Perez
17 were to name a person that was involved,
18 this man looked like -- I am going to
19 arrest him and charge him with so and so,
20 and if he were connected, I have heard
21 people say that Judge Perez would be better
22 dead than alive, better under the swamp
23 than on top of it, I heard that on several
24 occasions and quite often back in '63 and
25 the prior years there was quite a few

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1 things that the schools were being -- the
2 schools were being desegregated, there was
3 a lot of hurrah about that and quite often
4 I heard the remark, "If I had a gun I would
5 shoot President Kennedy," or the no good
6 so-and-so should be dead, so between
7 September and November of 1963, again I
8 put the remark on the shelf.

9 Q Now, although you were a Republican, Russo,
10 and I don't know whether you agreed or
11 disagreed with President Kennedy's policy,
12 but you certainly did not want to see him
13 dead, did you?

14 A No, sir.

15 Q And as an American citizen, wouldn't you have
16 worried between mid-September of '63 and
17 November of '63 if you had actually thought
18 that there was in existence a plan to kill
19 your President?

20 A Well, in mid-September, if I had thought again,
21 again if I had met Dave Ferrie for the
22 first time then I would probably have called
23 the New Orleans Police or somebody and told
24 them this is what I heard, take it for what
25 it is worth, but I had known Dave Ferrie

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for a little while before.

Q And because of your knowledge of Dave Ferrie, you didn't do that, you didn't see fit to do it, you didn't think it was necessary. Is that right?

A That is one of the reasons.

Q Now, Mr. Russo, you say that there were ten or 12 people at this party before the crowd started to disintegrate.

A About eight or ten.

Q About eight or ten. Can you give me the names of any of those people other than Clem Bertrand, David Ferrie, Leon Oswald, and yourself?

A Oh, there was this -- well, there were two Spanish-looking guys who I remember.

Q You can't say who they were?

A They were introduced, one name that I remember and the other name I am not sure, these was Julian, a Manuel.

Q Of course you realize both of those are very common Latin names.

A Yes.

Q And you can't give us the names of any other people there?

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A No.

Q Weren't you mingling in this crowd, wouldn't you associate with these people?

A Not really.

Q Were you standing off to yourself, or what?

A No, essentially I would be talking or probably watching Dave Ferrie walk up and down when I was inside. Of course at that time that you are talking about I was inside.

Q Were you fascinated about what you heard going on, why would that attract your attention?

A Well, Dave Ferrie monopolized the conversation, he gave it impetus and direction, so to speak, and, for example, one night I was standing on the corner of Canal and Decatur and along comes Ferrie and some others, and I later on got the impression from talking to Allen Landry that they were going out to find something to do or something, and you could not exactly know what you could expect from Ferrie the next time, so he paces up and down the floor and talks about Kennedy.

Q Hearing Ferrie talk is nothing new for you, you heard this on many occasions, had you not?

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A Well, I might answer that question a little

bit better, he did have a fascinating way
of talking or a mind, anyway.

Q In other words, would it be a fair statement for
me to say that there is no one alive and
available to testify about this party that
you can name except yourself and the man
whom you have termed Clem Bertrand --

MR. ALCOCK:

That is difficult for this man to answer.

MR. DYMOND:

That he can name, Your Honor.

MR. ALCOCK:

He named two, he does not know if they are
alive or dead.

THE COURT:

I think the objection is well taken, I
can't repeat his testimony, Mr. Dymond,
he just gave you the names of two
persons.

MR. DYMOND:

He gave me two very common Latin names,
and if the Court please, there are
probably millions of Julians and
Manuels.

THE COURT:

Just like John and Robert.

MR. ALCOCK:

He named some other persons, Your Honor,

I don't want to go into.

BY MR. DYMOND:

Q So you don't know of anybody else you can name
who could be called here to confirm that
party or meeting, do you, Mr. Russo?

A No.

Q Now, Mr. Russo, in the Sciambra memorandum, I
take it you know what I am talking about
when I refer to it like that?

A Yes.

Q In the Sciambra memorandum, you refer to this
Leon Oswald as having dirty-blond hair.
Do you say that that was an error when that
was placed in there?

A I had made a correction on that yesterday.

Q Is it your testimony that you never mentioned
the description "dirty-blond hair"?

MR. ALCOCK:

I object, I am objecting to the question,
Mr. Russo from the stand corrected
that yesterday.

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MR. DYMOND:

Certainly I am not deprived of the right
to cross-examine.

MR. ALCOCK:

Not over and over the same subject.

BY MR. DYMOND:

Q Is it your testimony that in your conversation
with Mr. Sciambra on the 25th of February
in Baton Rouge, 1967, that you never gave
the description "dirty-blond hair"?

A Well, yesterday when I was correcting the memo-
randum, I think I said that the impression
I gave to Sciambra in Baton Rouge, said
he was a dirty beatnik style, I don't think
I mentioned hair color, though I might have,
it was probably toward the brown side, I
don't think I could have said dirty-blond,
although that would make it brown.

Q You are saying you did not mention hair color
at all or the dirty blond is incorrect,
an incorrect relation of what you said with
respect to hair?

A I am saying probably both, but if it -- his hair
was messed up, probably was not the color,
but I don't think we did, I don't recall

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that we did go into the color, but if we did it would have been a brownish, of course dirty blond would be synonymous with brown.

Q If you were asked to describe Leon Oswald's hair at this time, how would you describe it?

A Brown.

Q Brown, light brown or dark brown?

A Oh, just brown.

Q Just brown. Did you ever tell Mr. Sciambra that the man had a husky beard?

A I made a correction on that, we talked about the beard, and as far as that word may have come up in trying to pull a word out of the air, trying to get a word to fit it, we never did to this day -- don't have a word because it was not a beard and not whiskers, it was something else, and we had a photo, I had to pull a word out to describe it.

Q Are you still unable to give us a word to describe the beard?

A No, but I would be open to suggestion about that.

Q Would you say it was a bushy beard?

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A No, it was not a bushy beard.

Q Would you say it was a neat beard?

A No, it was not a neat beard because it had spots.

MR. ALCOCK:

The witness testified, one, it was not a beard, it was something between a beard and a growth of whiskers, he never termed it a beard.

MR. DYMOND:

If the Court please, the witness has not testified that there was no beard. I am trying to get him to describe now what kind of beard it was, and by his very testimony he cannot find the adjective for it, he said he is open to suggestion and I am suggesting a few.

MR. ALCOCK:

This man testified yesterday, I remember it quite distinctly, he said it appeared to be a growth of whiskers two or three days.

MR. DYMOND:

The man is on the stand now, and if the man

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wants to say that, let him say it.

BY MR. DYMOND:

Q You would not deny now that you described this man as having had a beard, would you, Mr. Russo?

A On some occasions I have, although that is not the best word for it.

Q And you still don't know what the best word is?

A No, but, in other words, probably, and you have seen probably some people in town that have just long beards, that to me is a full beard, and they have this beard that Mr. Plotkin has which would not be it again, and that is not it either, it is just a growth, it could be called a beard and there were spots on it where it just -- he didn't grow hair.

Q Would it be incorrect in terming that an unkept beard?

A That would be it.

Q That would be about as close as you could get?

A Three or four days' growth.

Q Now, you feel fairly confident in saying that this was at least a three or four-day growth of beard. Is that correct?

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A Oh, well, I mean, I can't really tell how long
it was, that would be a good statement that
I probably would stand by.

Q Now, was the beard the same color as the hair
that the man had, or was it darker?

A It seems to be a little bit, just didn't seem
to be the same as the hair.

Q Now, just what difference would you describe
as between the two, which one was darker
and which one lighter?

A I am not sure, I am not real sure on that, but
it didn't appear to be the same as the
hair.

Q The beard?

A It was not, in other words, it was not a fake
beard, I didn't think, it could have been
I mean, it just did not appear to be the
same color.

Q The beard, did it have any traces of white in
it?

A Of white, gray hair? Maybe, I don't think so,
there were spots of white.

Q Did the sideburns extend into the beard?

A Well, it was a messed-up appearance, I don't
really recall whether the sideburns did or

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not, or whether it was just messed up.

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Q Now, Mr. Russo, with regard to your testimony that you saw Mr. Shaw at the filling station on Veterans Highway, and with particular reference to the Sciambra memorandum, and more particularly at the top of Page 3 of this memorandum --

A Page 3?

Q Right, you are going to have to go back to the previous page.

A Page 2.

Q Where the memorandum reflects that you saw Mr. Shaw in the Veterans Highway filling station some six months after a date in 1962, which would place it well before the mid-September meeting that you have described --

A On Page 1 or Page 2 now?

Q Page 2, running into Page 3, if you would read Page 2 you will get the continuity of it, six months from 1962, do you see what I am referring to now?

A Yes, I have about what you are talking about, yes.

Q I take it that you agree that this memorandum

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1 indicates that your seeing Shaw at the
2 Veterans Highway filling station occurred
3 well before mid-September of '63?

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4 A Yes, I said that I was wrong, I thought -- my
5 initial recollection was that it was in
6 1962.

7 Q In other words, the error you attribute to
8 yourself rather than to the author of the
9 memorandum?

10 A The date, the date of it.

11 Q Now, referring to the testimony in the prelimi-
12 nary hearing wherein you state that your
13 seeing Mr. Shaw in the Veterans Highway
14 filling station occurred after President
15 Kennedy was assassinated.

16 A Right.

17 Q Is that the statement to which you subscribe
18 at this time?

19 A My initial recollection in Baton Rouge with
20 Sciambra was that it was '62, and then I
21 thought about it later on and then I told
22 him it was '64, I think the early part of
23 '64 or the middle of '64.

24 Q So then on that event you have roughly a two-
25 year error in your judgment as to when you

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saw Mr. Shaw on Veterans Highway. Is that correct?

A On Veterans Highway, approximately.

Q When did you discover that you were wrong about that?

A When did I discover that I was wrong?

Q Yes.

A I am not real sure of when.

Q Had you ever seen the Sciambra memorandum before coming to Court as a witness in the present trial of this case?

A James Phalen showed it to me in Baton Rouge.

Q Did you note that in the Sciambra memorandum when Phalen showed it to you?

A '62, yes, -- I am not sure whether he had asked the question or not, but it was an error at that time because that was after the preliminary hearing, and after the preliminary hearing, you know, he came up the 18th or 20th of March, and he did point out some errors in it, or apparent contradictions, and I don't know if he pointed that out or not, but if he would have, I would have cleared that up for him.

Q In other words, you are testifying now that you

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1 do not know whether in reviewing this
2 memorandum with Mr. Phalen you pointed
3 that out as an error. Is that correct?

4 A If he asked me about it, I am sure I did, but
5 it had been corrected by my testimony under
6 the preliminary hearing which was a week
7 before, or four or five days before.

8 Q Mr. Russo, isn't it a fact that in your conver-
9 sation with Mr. Sciambra wherein this
10 memorandum was reviewed by the two of you,
11 that you pointed out only a couple of
12 minor, practical typographical errors and
13 had a slight discussion with him on the
14 question of how many times you had seen
15 Mr. Shaw?

16 A What are you talking about?

17 Q When Sciambra reviewed the memorandum with you
18 in Baton Rouge --

19 MR. ALCOCK:

20 Objection.

21 BY MR. DYMOND:

22 Q Mr. Phalen, not Mr. Sciambra.

23 A That was the -- he only pointed out a couple of
24 things that he felt were apparent contra-
25 dictions, and the major one was this twice

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1 as opposed to three times, if he would have 284
2 gone down and -- word for word, we would
3 have found by your count 26 notations.

4 Q Isn't it a fact that he let you read the memo-
5 randum at that time and asked you to point
6 out every error you claimed existed in it?

7 A It is a fact we talked about three hours with
8 the exception of a half hour in there, and
9 during that period of time we talked quite
10 a bit about the preliminary hearing, we
11 talked about several other odds and ends
12 of things that I knew and that are not im-
13 portant to the case, and then finally he
14 said, "I want to show you this memorandum,"
15 and this was Sciambra's, and there are
16 some errors, and I did not read it from
17 start to finish, we had been there for two
18 and a half or three hours, the District
19 Attorney's Office had notified me he was
20 coming up, and he did have this one word
21 "twice" underlined or circled and under-
22 lined, and an arrow drawn to the side, and
23 that is what I thumbed through and looked
24 at it and he said, "Does everything seem
25 correct," and I said, "Well, with some ex-

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ceptions," I said essentially it seems
some of these things we talked about in
Baton Rouge, I said there were a few
errors, and he said what about this, and
he pointed out a couple of things like
that, the big thing to him was that "twice."
He said, "What about this," and I said,
"Well, that was an error on Sciambra's
part," I said, "He kept very few notes in
Baton Rouge."

Q It's your testimony then when you met with
Mr. Phalen in Baton Rouge, that you did not
read the entire Sciambra memorandum?

A Word for word, absolutely not.

Q Now, Mr. Russo, to your knowledge, when did you
first call to anyone's attention that there
was a two-year error on your estimate as
to when you said you had seen Mr. Shaw on
Veterans Highway in the Sciambra memorandum?

A I am not sure when I first saw the memorandum.
Now, this is Sciambra's memorandum, and
you could probably ask him when this -- he
first showed it to me, but I am not real
sure because I really didn't -- this was
something that was in the background.

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Q Do you remember having called that two-year error to anyone's attention prior to yesterday?

A Prior to yesterday, oh, sure.

Q When?

A Well, I called it to Phalen's attention back in '67, for one, I am sure that I had discussions with the District Attorney's Office, but I could not say exactly when, because that was just an error, initially when Sciambra came up he sat down with his briefcase and we talked for two hours, and after we finished he wanted to rush back and talk to Garrison, and we didn't have the greatest amount of time, so I don't know exactly when this memorandum was drawn up, on Monday, I think, the 27th, I don't even know when I saw it first, I know Phalen had a copy of it.

Q Now, you testified just a moment ago that you were sure you called this to Mr. Phalen's attention.

A Absolutely.

Q Now, would that be during this meeting with you in Baton Rouge or during one of several

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other meetings that he had with you?

A This was in Baton Rouge, I am sure we perhaps brought it up again in Baton Rouge, but he was up there for one night and that was it, and in New Orleans it was for several nights.

Q It is your positive testimony that you did call that two-year discrepancy to the attention of James Phalen in Baton Rouge?

A I didn't say it was a two-year discrepancy, I told him it was an error. Now, 1962, if he asked me about '62, yes, I told him, I might definitely -- I told him twice versus the three times, twice was the error on Sciambra's part for reasons I don't know, I made that clear to Sciambra, that was one of the reasons he asked me if I could come to New Orleans the following Monday, on the 27th. As far as the 1962, was concerned, if he asked me about it, because we didn't go over this word for word, I picked it up, he said, "Here, are you familiar with it," and I think I was familiar with it at that time, I had probably seen it before, and so I went down

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the line on it, not every page and not every word.

Q When was it that you had a discussion with David Ferrie on Bourbon Street concerning his seeing Al Landry?

A I will say 1961 or 1962.

Q 1961 or 1962?

A Yes.

Q Would I be fair in saying late '61 or early '62?

A Well, yes, you asked that yesterday, and I am not sure, you could probably ask Policeman Jano because he was the one that was involved with that particular case.

Q Now, in this Sciambra memorandum, you relate the seeing of Mr. Shaw on Veterans Highway to the incident on Bourbon Street with David Ferrie, saying it was about six months after that that you saw Mr. Shaw on Veterans Highway. Is this entire relationship invalid, or what?

A No, I don't relate anything, that is Sciambra's relationship there. I don't have anything to do with relating that together, and, secondly, as I was attempting to give some sort of continuity to him in Baton Rouge,

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when I said 1962, that was a flat error on my part, and which later on was corrected, and I am willing to admit it was an error, but as far as the words, I did not write those down.

Q But when you say 1962 now, in connection with your dispute with Ferrie on Bourbon Street, that is not an error, is it, 1961 or 1962?

A 1962?

Q Yes.

A Now, Landry went into the Air Force in '62, I think, and it was probably -- I don't, I have a tendency to say it was '61 more than '62, but I am not real sure.

5 Q The statement that the seeing of Mr. Shaw on
6 Veterans Highway was six months after the
7 Bourbon Street incident with Ferrie, is
18 that the part that is in error?

19 A On the Veterans Highway, yes.

20 Q Do you have any way of explaining that error,
21 I mean, was it your error, Sciambra's
22 error, or how did it come about?

23 A Well, I was trying to give him some sort of
24 continuity or understanding as to people
25 he wanted names of, friends of mine, where

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did I know these people and these photographs, things of that sort, and I was attempting to give him some sort of a continuity on this thing, and when he wrote this memorandum, Monday, I think, and of course that is his concern there, he did not keep a great amount of notes, that is probably where the error came from, but he did keep just a legal pad, and he kept some scribblings on that.

Q As a matter of fact, he took quite a few notes on the legal pad, didn't he, Mr. Russo?

A I would not say so, no, I would not say quite a few.

Q He had addresses and phone numbers and names which were rather difficult to spell, is that correct?

A Well, Kershenstine is a name that is difficult to spell, but how many pages of notes do you have on that top pad, on your handwritten pad, please?

Q Oh, I have quite --

A You have a bunch of them, eight or ten, he did not keep eight or ten, he did not.

Q How many did he keep?

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A Maybe a couple of pages, maybe a page, maybe two or three pages.

Q You don't know how many pages he kept?

A I do know that he did take notes or just very rarely scribbled on a piece of paper, on the yellow legal pad, but how much that eventually was, I could not see more than a page, two and a half or maybe three at the most.

Q Did you ever see these notes Mr. Sciambra took?

A No.

Q But you are able to tell approximately how many notes or what quantity of notes he took.

Is that right?

A If I could use a pen and pencil, I will show you something. In other words, this is what he did, he sat there with his briefcase on his knees like this, he had a yellow pad of paper there and 20 or 30 photographs or how many photographs he had here, a couple of books underneath that, and, well, this is what he did, I mean, Sergio Atacha, and it was big handwriting, and he would take up this line and Tim Kershenstine, 943849, stuff like that, and he probably went on

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the second page, but I was not even watching, he did not stand there and copy about ten or 12 pages, and every word I said he didn't copy down.

Q In other words, Mr. Russo, the notes that you saw Mr. Sciambra take would not have revealed the content of what you told him. Is that right, they were not sufficient?

A That is what I would say.

Q Therefore, there would have been no necessity to burn these notes to keep somebody from telling what you had told Mr. Sciambra?

MR. ALCOCK:

Objection, Your Honor, this matter is not in evidence.

THE COURT:

I believe you are assuming an answer that has not as yet been given.

MR. DYMOND:

We withdraw the question.

We are asking that the gun be brought in.

Do you want to take a 10:00 o'clock break now?

THE COURT:

Yes, now is a good time for a break.

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(Whereupon, a brief recess was taken.)

AFTER THE RECESS:

THE COURT:

Is the State and Defense ready to proceed?

MR. DYMOND:

Yes, Your Honor.

MR. ALCOCK:

Yes.

THE COURT:

Please check the bolt action.

BY MR. DYMOND:

Q I show you a rifle which was exhibited to you yesterday by the State, and I ask you whether you are able to testify that that is the same type rifle that you saw Leon Oswald cleaning upon one occasion in the apartment on Louisiana Avenue Parkway.

A That it is exactly the same?

Q Yes.

A No, I don't know if it would be exactly the same or not.

Q Are you able to point out any difference between this rifle and the one which you saw him cleaning?

A I did not look at the rifle very closely, I

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couldn't point out any differences.

Q Now, in the course of cleaning it, did he have the rifle dismantled or was it all in one piece?

A Oh, he was just polishing it or wiping it, it was all in one piece at that time.

Q Was he polishing or wiping the wooden portion of the rifle or the metal portion, or both?

A I don't know, I don't know which he was just -- he was just wiping all over, really, could have been polishing or just wiping, probably all over.

Q And it's your testimony then that all that you can say is a similar rifle. Is that correct?

A Right, and the bolt action of course, this right here, this sight is more like it, and this kind of a grain to it or plastic, something along this line.

Q Now, do you recall the rifle that was exhibited to you during the preliminary hearing in this matter?

A A little bit.

Q Could you say that rifle was more or less similar to the one which you saw Leon Oswald

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with than this rifle?

A No, this was more like it.

Q Would you point out the points of greater similarity.

MR. ALCOCK:

I object unless he is exhibited the rifle he was asking him to compare.

MR. DYMOND:

I have asked him whether he remembers the rifle and he said yes.

THE COURT:

If the witness has a distinct memory for it, he can answer the question; if he does not, that is something else.

THE WITNESS:

As I said in the preliminary hearing, I said the scope on the rifle that I was shown in the preliminary hearing, the barrel was too big and also the end of the stock was indented, and the Oswald rifle was not.

BY MR. DYMOND:

Q Was not indented. Is this the portion of the stock to which you refer?

A This part of it. In other words, had an indent

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on the one that I was shown, a groove, I guess, for the arm or shoulder and it was not that way with Oswald's rifle.

Q I show you now the rifle which I am informed is the one which was exhibited to you in the preliminary hearing, and I ask you to show us on this rifle the indentation to which you referred.

A Right here (indicating).

Q I see, so you would say then that this rifle is less similar?

A Right.

Q However, you would not say either one of these rifles is the rifle that you saw Leon Oswald polishing. Is that right?

A Right.

Q Now, Mr. Russo, at this meeting of mid-September 1963, did you see any rifle at that time?

A At that time, no.

Q You did not?

A No.

Q So the only time that you actually saw a rifle was on a previous occasion when you visited the apartment at 3330 Louisiana Avenue Parkway and saw the man whom you say is

Leon Oswald polishing a rifle. Is that correct?

A Well, I saw what appeared to be a rifle bag when I was leaving, but the only time I saw the rifle was that first time you are referring to, yes.

Q Would you describe the rifle bag to which you have made reference.

A Well, I am not sure it was a rifle bag or not, and if it would have been, the gun had to have been dismantled.

Q Approximately how long was this thing that you suspected of being a rifle bag?

A I guess about three feet.

Q About three feet long?

A About three feet.

Q You said it was not long enough to hold either one of the rifles?

A No, unless it was taken apart. It may not have been, I am not sure.

MR. DYMOND:

If the Court please, yesterday the State said that it would make every effort to locate the original of the letter written by Mr. Russo to the District

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Attorney. I would like to now be informed whether that letter has been located.

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1 MR. ALCOCK:

5 We have not been able to locate it, Your
6 Honor. I don't know anyone who ever
7 saw the letter.

8 MR. DYMOND:

9 I take it then we can assume it cannot be
10 located?

11 THE COURT:

12 Find out from the witness to whom it was
13 addressed and you said to whom it may
14 concern, but how was the letter
15 addressed?

16 BY MR. DYMOND:

17 Q To whom did you address the letter which you
18 wrote on the 21st of February?

19 A The inside letter was just "To Whom it may
20 Concern," but the outside envelope was
21 either to the District Attorney's Office
22 or to the District Attorney Jim Garrison,
23 2700 Tulane Avenue.

24 Q 2700 Tulane Avenue, New Orleans, Louisiana?

25 A Right, 70119.

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1 Q 70119. You even had the Zip Code on it? 299
2 A I don't know if I put the Zip Code on it or
3 not, but I know the Zip for this area.
4 Q You did have the correct address, 2700 Tulane
5 Avenue?
6 A Yes.
7 Q You have confirmed that is the proper address
8 of this building. Is that correct?
9 A Well, I called Information from Baton Rouge
10 to get the address, and that is the
11 address they gave me, I called from Baton
12 Rouge, called Information in New Orleans
13 and that is the address they gave me.
14 Q You say the letter was never returned to you.
15 Is that correct?
16 A No.
17 Q Now, Mr. Russo, I think you testified yesterday
18 that Sandra Moffett was practically a con-
19 stant companion of yours back in 1963. Is
20 that right?
21 A Well, you know, I will say the same thing I
22 said yesterday, in other words, I did
23 essentially the same thing every week, you
24 know, and approximately with the same
25 people, but sometimes, for example, I might

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1 not see someone for three weeks, but then
 2 I might see them for five days in a row,
 3 and at that time and under those circum-
 4 stances I would consider it a constant thing
 5 more or less because no one, to my know-
 6 ledge, except at certain times, left town,
 7 no one -- if I knew they left town, then
 8 of course it would not have been a constant
 9 thing, but no one, to my knowledge, had
 10 left town that I associated with.

11 Q Was Sandra the only girl that you were going
 12 with at that time?

13 A There was another girl, Marilyn Perer, that was
 14 on and off for a period of time up to
 15 '65.

16 Q But you would say that Sandra was your primary
 17 or your main female companion at that time.
 18 Is that correct?

19 A Well, I don't know, maybe. I am not sure of
 20 that. That is hard to say, you know, she
 21 thought so.

22 Q Did Sandra think that you were not going out
 23 with any other girls at that time or not?

24 MR. ALCOCK:
 25 Objection.

RELEASED PER P.L. 102-886 (JFK ACT)
 NAME ALCOCK DATE 11/23/93

1 BY MR. DYMOND:

2 Q Did you lead Sandra to believe that you were

3 not going out with other girls at that

4 time?

5 A She knew about Marilyn, she did not know that

6 much about Adele.

7 Q Adele Marquer?

8 A Now, Adele Laporte then.

9 Q But you did testify yesterday that Sandra was

10 almost a constant companion.

11 A I would consider it that.

12 Q How long had this relationship gone on, Mr.

13 Russo?

14 A Until 1965.

15 Q In other words, you went with Sandra very

16 often then between 1963 and 1965?

17 A Oh, no, before that, about 1960.

18 Q About 1960 to 1965?

19 A Right.

20 Q So that would be four or five years?

21 A Right.

22 Q Is that correct?

23 A Right.

24 Q Now, where did Sandra live at that time during

25 1963, Mr. Russo?

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1 A She lived at several places, she lived around
2 Canal and Broad, she lived uptown, she
3 lived different places.
4 Q Now, around Canal and Broad, would you be a
5 little bit more specific?
6 A You asked me that in the preliminary hearing
7 and I really didn't know the name of the
8 street. I think it was Cleveland Street,
9 which runs parallel with Canal.
10 Q Cleveland Avenue?
11 A I think it is that broad street, I think it is
12 called Cleveland Street, it is one block
13 or two blocks over Canal towards Tulane
14 Avenue.
15 Q You went with her for four or five years and
16 did not know what street she lived on,
17 Mr. Russo?
18 A Again, well, she did come to my house most of
19 the time.
20 Q Well, when you would go up to Tulane, say, to
21 play basketball or go to Loyola to play
22 basketball and Sandra would go with you,
23 wouldn't you go by her house and pick her
24 up?
25 A Sometimes, but, you see, she wanted to go over

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all of the time, from early in the morning 303
or whenever I got home from school, she
wanted to go over and sometimes we would
pick her up, and I would say maybe two
or three times we picked her up at that
time.

Q You only picked her up two or three times. How
long did she live there?

A I don't know how long she lived there.

Q Approximately, I don't expect you to be exact.

A I don't know.

Q Would it be a year?

A Well, probably a year.

Q And in the space of --

A Well, a relative of hers lived there, a relative
of hers lived there.

Q And with her living there almost a year, and she
being almost your constant companion, you
only picked her up two or three times, you
say?

A Understand, now, that the apartment on Elysian
Fields where I lived, that is where all of
the time people came over, they always came
over there, we would have a small party or
have a couple of drinks or something like

1 that, or basketball, after a basketball
2 game, everybody came over to that apart-
3 ment, and it was just -- that was my
4 routine, I didn't do it any differently.

5 Q Now, as I recall your testimony on the pre-
6 liminary hearing, you could not tell us
7 what street Sandra lived on. How have
8 you since found out it was Cleveland Street?

9 A Well, I just went over there and I think it is
10 Cleveland, I am not sure, but I know it is
11 right off of Canal and Broad, and it would
12 probably be the first or second street, and
13 my recollection was that it was a one-way
14 going towards the Lake, which would be
15 Cleveland.

16 Q You say you went over there and looked for the
17 house, or what?

18 A Yes.

19 Q Did you find the house?

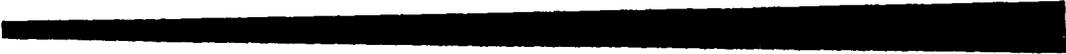
20 A No, not so I could say it was the house.

21 Q When was it approximately that Sandra moved away
22 from that house, Mr. Russo?

23 A I don't know.

24 Q But your constant, practically constant com-
25 panion lived in the same house for approxi-

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1 mately a year and you could not go back
 2 there now and find that house?
 3 A Well, I went over there two or three times and
 4 I am not sure she lived there for a year,
 5 I suppose she lived there for a year. She
 6 didn't have a phone, she called me.
 7 Q Now, Mr. Russo, you testified that you saw
 8 Ferrie approximately three times in the
 9 month of September, 1963. Is that cor-
 10 rect?
 11 A I saw Ferrie?
 12 Q Right.
 13 A Oh, a couple more times than that.
 14 Q How many would you say now?
 15 A Oh, I don't know, about a little bit more than
 16 that, I don't think I testified to three
 17 times I saw Ferrie.
 18 Q Well, if you were asked now how many times did
 19 you see Ferrie in September of 1963 --
 20 A I would say four or five.
 21 Q Four or five times?
 22 A Yes.
 23 Q Will you tell us the first time that you saw
 24 Ferrie in September of '63?
 25 A Probably he came over to my house, I am not

30

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1 real sure, nothing is very distinct about
2 it. It was the same, probably he came over
3 to the house.

4 Q You say probably. What are you basing that
5 probability on?

6 A Because I don't really recall, it was either,
7 you know, just the same old stuff with base-
8 ball, because right around the time, the
9 tail end of September we were playing for
10 Parish Finance baseball team up at the
11 Audubon League, and the League ended in
12 August, I think, and we went on to play
13 additional baseball or exhibition games,
14 and it would probably have been the early
15 part of September, I don't know the exact
16 date or why he came over, just dropped in.

17 Q As a matter of fact, Ferrie had free access to
18 your house at any time of the night or day,
19 did he not?

20 A He would come over, no one had any keys or could
21 get in without me being there.

22 Q But he had an open invitation?

23 A Yes.

24 Q And you had an open invitation to his house,
25 didn't you?

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1 A Right.

2 Q Were you ever Ferrie's roommate, Mr. Russo?

3 A No.

4 Q You never were?

5 A No.

6 Q Now, before mid-September, 1963, do you remember
7 any other specific occasions on which you
8 saw David Ferrie?

9 A Before mid-September?

10 Q During the month of September.

11 A He came to a couple of baseball games, he just
12 stopped for five minutes, did not come to
13 watch the ball game.

14 Q Baseball games where?

15 A We played at Rhome Park, Pontchartrain Park,
16 Audubon, I don't know which park he came
17 at, just walked up and looked, stayed a
18 few minutes, said hello and left, he came
19 over to my apartment several occasions
20 during the summer.

21 Q You are talking about during the month of
22 September now?

23 A Oh, no, I thought you were talking about before
24 September.

25 Q During the month of September.

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1 A I don't know if he came to any baseball games
2 during the month of September.
3 Q Do you remember any other specific occasion
4 upon which you saw him?
5 A Definitely in the month of September?
6 Q Right.
7 A I would be deducting, but I probably saw him a
8 couple more times, but nothing very dis-
9 tinctive about it.
10 Q You can't remember any other specific occasions?
11 A Except up at his apartment the four times, ex-
12 cept those four times you are talking
13 about, right?
14 Q Well, when was the first of those four times?
15 A Somewhere around the middle of the month.
16 Q Around the middle of the month?
17 A Yes.
18 Q Was that the first time you had seen him in
19 September at his apartment?
20 A Oh, no, I don't think that was the first time,
21 that was the first time he had any mention
22 of a roommate, that struck me funny because
23 I never heard him say he had a roommate.
24 Q Now, to the best of your recollection, when was
25 the first time during the month of Septem-

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ber, 1963, that you saw Ferrie at his apartment?

A Well, I would say, I mean, give you an approximate, early part of September, I don't know why I would say that, I couldn't associate anything with it, except that I was probably up there in the early part of September.

Q You can just say you were probably up there, but you cannot say specifically. Is that correct?

A Right.

Q Now, prior to the middle of September, can you name any other specific occasions upon which you were at Ferrie's apartment and saw him?

A Well, nothing specifically, I don't associate it with anything.

Q Now, Mr. Russo, in an attempt to pinpoint the date of this party and meeting, are you able to relate that to your registering for the September, '63 term of school?

A No, it is in between a couple of things, the baseball season officially was over in August, and we continued to play and we played in through the first week of

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September, and then after that it was just practice, no teams were played, everybody was going over to school and between that and registration of the first week of school, that occurred up at Ferrie's apartment.

Q You remember having registered for school in September of 1963?

A Not specifically, no.

Q For your information, registration actually was on September 14, 1963, and does that assist you in trying to pinpoint the date?

A No, that would be all right.

Q Can you still not tell us whether the party and meeting which you have described was before or after you registered at Loyola for 1963, the 1963 term in September?

A No, it was before we got into -- as I just said, the first week of school, whenever we got past the preliminary stuff, registration is just, you know, just several hours you put in up there, sign up for your classes.

Q Are you able to tell us what day of the week that this was, a Monday, Tuesday, Wednesday, Thursday, Friday, Saturday, Sunday, this

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party and meeting that you have described
took place?

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A No.

Q Are you able to tell us whether it was on a
weekend?

A No, the weekend and the week days were about
the same at that time, you know what I
mean.

Q Are you able to tell us whether it was the
first, the second, the third, or the
fourth week in September?

A No.

Q Are you able to tell us what time of night you
got there and what time of night you left?

A Well, I know it was late in the evening when I
got there, I am sure it was after 12:00
o'clock when I left.

Q Are you certain this was in September, or could
it have been in October, Mr. Russo?

A Could it have been in October?

Q That is correct.

A No, we would have been fully in class then, you
know, classes would have been --

Q Well, you still had time off when you were in
classes, I mean, you didn't spend every --

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1 A Really, if someone wanted to pass over, it had
2 to be a quick shot, except under rare
3 circumstances. Again, in April, we would
4 start all over, again playing for the base-
5 ball team next April, but not very often,
6 just a five-minute session. If someone
7 wanted to come over -- I did not go too
8 much, except sometimes to basketball games,
9 Tulane basketball games or football games.
10 Q Now, it's your testimony that when you left
11 this meeting, Leon Oswald was still there.
12 Is that right?
13 A Yes.
14 Q Clem Bertrand was still there?
15 A Right.
16 Q David Ferrie was still there?
17 A Right, he lived there.
18 Q And you don't know how you got home from this
19 meeting. Is that right?
20 A I think I caught a bus.
21 Q You don't remember?
22 A No.
23 Q Could somebody have given you a ride?
24 A Probably.
25 Q Had all of the other guests left?

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1 A They had left sometime before.

2 Q They had left before you left?

3 A Right.

4 Q Could Ferrie had given you a ride home?

5 A That is possible. But I just don't think so,

6 he was not the type to walk out with

7 people he had around him.

8 Q You would not say that Clem Bertrand gave you a

9 ride home, would you?

10 A No.

11 Q Could Leon Oswald have given you a ride home?

12 A Oh, no.

13 Q Well, then, would not it be a certainty that

14 nobody gave you a ride home if everybody

15 but those three had left?

16 A Well, it is possible that one or the other gave

17 me a ride home, but I am inclined to say I

18 don't think so, I don't remember that. I

19 am not sure how I got home. I could have

20 hitchhiked home.

21 Q Mr. Russo, do I understand you correctly that

22 you say these three men, Leon Oswald, Clem

23 Bertrand, and David Ferrie were the only

24 ones left at that party when all of the

25 other guests had left except you, and that

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you are not certain whether one of those men gave you a ride home?

A If I could explain it this way, a few weeks ago --

Q Would you please answer it and then explain it.

A No, I am not certain who gave me a ride home. Last year Art Heyman of -- a basketball player for Pittsburgh, I think he plays for, he jumped into the stands and punched a guy for riding him, you know. I have a habit of riding basketball players just out of general practice, this is right now, I go essentially to the basketball games with the same people, and all of those people that I go with, that particular night they were asking me who I went with and how I got there, but I could not be altogether sure, but I can say Art Heyman jumped in the stands and punched the guy and he hit the wrong guy at that, but probably Joe Jackson was there and probably Philip Hatose was there and probably Niles Peterson was there and probably Cathy Walden and a couple of others, but which one of those I was with, I know I went home

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that night in my own car, but who said what, I am not sure, these people I associated with every day.

Q And you would say that that situation is similar to your not remembering whether or not one of the three conspirators to kill the President of the United States rode you home from the conspiratorial meeting. Is that correct?

A I don't call them conspirators, no, I don't know who rode me home, I may have caught a bus or hitchhiked or not.

Q You do not call them conspirators?

A I have never used that word.

Q You would be reluctant to call them conspirators?

MR. ALCOCK:

Objection.

THE COURT:

I sustain the objection.

BY MR. DYMOND:

Q Now, Mr. Russo, did you say that you have or you have not seen David Ferrie since the assassination of President Kennedy on November 22, 1963, in Dallas?

A Well, you are asking me from Sciambra's memoran-

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1 dum? 816

2 Q I am asking you now --

3 A That is absolutely incorrect, I gave the same
4 answer I gave yesterday, I don't know
5 where that came from.

6 Q Do you have your copy of the memorandum, Mr.
7 Russo? Now, Mr. Russo, I refer you to the
8 statement contained in the last sentence
9 of the top part on Page 6, to this effect:
10 "Russo says that he has not spoken with
11 Ferrie since the assassination." Now, you
12 say that is absolutely not true. Is that
13 correct?

14 A Yesterday I said that I didn't even know where
15 this came from except in the mass confusion
16 in Baton Rouge. I mean, I have seen Ferrie
17 several times after the assassination.

18 Q To your knowledge, did you tell Mr. Sciambra
19 anything that could have been confused or
20 mistaken so as to make him make a definite
21 dogmatic statement like that in this memo-
22 randum?

23 A No, not to my knowledge. I mean, perhaps it was
24 just confusion.

25 Q So you would not know where that statement came

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from at all, would you?

A Right.

Q But it is your testimony now that you did see
and you did speak to Dave Ferrie after the
President was assassinated?

A Absolutely.

Q Did you discuss the assassination with him?

A I didn't discuss anything with him, no.

Q You spoke to him, didn't you?

A Well, again I am saying the same thing I said
before, I listened to him, and that is
what most of the conversations were about,
his conversations.

Q These meetings that you had with him there,
these meetings were the same as many other
ones have been. Is that correct?

A Well, when I saw him afterwards?

Q Yes.

A Right. I mean, if he dropped in over at the
house on Elysian Fields or something, yes,
he would come in, he might be talking
about -- well, he could be talking about
anything.

Q Where did you see Dave Ferrie after the assassi-
nation?

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1 A Probably -- I am almost sure it was over at my
2 house several times.

3 Q Over at your house. Where were you living then?
4 A On Elysian Fields.

5 Q Was it in keeping with the open invitation that
6 he had that he came there at that time?
7 A Well, everybody had an open invitation to come
8 over, I guess their -- it was in line with
9 that.

10 Q So he did come into your house at that time?
11 A Well, the side apartment.

12 Q I beg your pardon?
13 A The side apartment is attached to the house.
14 Q Into your apartment?
15 A Yes.

16 Q Did he sit down?
17 A I am sure he did.

18 Q In other words, you had a visit with him. Is
19 that correct?
20 A Right.

21 Q Now, upon that occasion, which was after President
22 Kennedy had been killed, after what you had
23 heard up on Louisiana Avenue Parkway did you
24 have any occasion to discuss with Dave
25 Ferrie at that time the killing of President

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Kennedy?

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A No, at that time he was very bitter, you know, or he seemed to be changed quite a bit than he was before. Of course before he had a good mind, but he apparently lacked purpose, that was my idea. Again in '64 or late '64, whenever he came over, he was just a different person, he was not the same like he was before.

Q You didn't see fit to ask him whether he had killed President Kennedy or whether he knew who killed him or anything like that?

A I didn't see fit to ask him anything, he talked and grumbled about the D.A., grumbled about the Police Department in general, grumbled about the FBI.

Q What was he grumbling about with respect to the District Attorney?

MR. ALCOCK:

I object to hearsay.

THE COURT:

I sustain the objection.

BY MR. DYMOND:

Q Was this the only time that you saw Dave Ferrie after the assassination?

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1 A I saw him a few times, I am not sure how many.
2 Q Can you give us an approximation?
3 A I saw him at the service station, you already
4 know that and perhaps five, six, or seven
5 times after that, not too many.
6 Q Now, in all of these five, six, seven or eight
7 times that you saw Dave Ferrie after the
8 assassination, was there ever any dis-
9 cussion of the assassination of President
10 Kennedy?
11 A No. The times that we met were for very short
12 periods, and he was a broken person in '64
13 and '65, I thought. When we met I was
14 generally on the run most of the time be-
15 cause Charlton Lyons, this thing was coming
16 up, of course that was, I think in March,
17 and then they had the national elections
18 and all that kind of stuff, Goldwater
19 election in '64, and also this other thing
20 I was involved in during the summer months,
21 in '64 it was baseball, the baseball team,
22 again in '65, and '63 and '64 was my
23 graduating year, and whenever he came over
24 it would not be more than three or four or
25 five minutes at the most, maybe a little

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1 bit longer.

2 Q And to the best of your recollection, the
3 assassination was never discussed. Is
4 that correct?

5 A No.

6 Q Did he ever ask you, "For goodness sake, keep
7 quiet about what you heard up on Louisiana
8 Avenue Parkway"?

9 MR. ALCOCK:

10 Objection, Your Honor, Mr. Dymond knows
11 that is hearsay.

12 THE COURT:

13 Sustained.

14 MR. DYMOND:

15 I don't think that is hearsay on Your
16 Honor's previous ruling on a point
17 of similarity yesterday.

18 THE COURT:

19 The acts and declarations of each co-
20 conspirator, a conspiracy, if one did
21 actually exist, it was at an end after
22 the commission of the intended crime.

23 MR. DYMOND:

24 To which ruling, if the Court please,
25 Counsel for the Defense reserves a

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NARA *[Signature]* DATE 11/23/93

1 bill of exception, making the question
2 the objection, the ruling of the Court
3 a part of the bill.

4 Now, if the Court please, in order for me
5 to perfect this bill, I am going to
6 have to get an answer from the wit-
7 ness, which of course would have to
8 be done out of the presence of the
9 Jury.

10 MR. ALCOCK:

11 There is no provision in the law for such
12 a procedure.

13 MR. DYMOND:

14 Unless we do that, the Supreme Court has
15 no way of knowing in the event of
16 appeal what testimony we were deprived
17 of.

18 MR. ALCOCK:

19 The question is quite obvious, what did
20 this man say in 1964, and the objec-
21 tion is to hearsay, the Court has sus-
22 tained it, and what he is going to say
23 is totally immaterial. The Court can
24 determine, I am sure, the Supreme
25 Court can determine whether or not as

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a matter of law that was hearsay,
whatever the response was.

MR. DYMOND:

If the Court please, as you well know,
whether it is hearsay or not would
be completely immaterial to an
appellate court unless the appellate
court found it was harmful, prejudicial,
to keep that out of evidence.

THE COURT:

You are asking to have the Jury go upstairs
so you can perfect your bill?

MR. DYMOND:

They can go back in the anteroom, I can get
this in a matter of 30 seconds.

THE COURT:

Let me make one statement for the record
so that the record will show what
happened. The Court sustained an ob-
jection by the State on the grounds
that the evidence sought to be elicited
was hearsay, primarily because the
conspiracy, if one actually existed,
it was at an end after the commission
of the intended crime; however, De-

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fense Counsel requested the Court to
remove the Jury so he could ask cer-
tain questions of the witness to per-
fect his bill of exception, and that
is the status of the case as of this
moment.

MR. DYMOND:

I might say out of the presence of the
Jury, and I would like to refer Your
Honor to the Enganic (?) case with
which you are familiar.

THE COURT:

I prosecuted the case.

MR. DYMOND:

Co-conspirators were held for the actions
of co-conspirators after the actual
commission of the crime.

THE COURT:

The Code states specifically they are
liable for the actions up until the
time the conspiracy comes to a con-
clusion.

MR. DYMOND:

Right up until the time of arrest, Your
Honor.

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MR. ALCOCK:

Referring to the Code, Article 844 of
the Louisiana Code of Criminal Pro-
cedure, I think that article is quite
clear in where it states in Paragraph
(b) a form of bill of exception shall
contain only the evidence necessary
to form the basis for the bill, and
the only evidence necessary to form
the basis for this bill is the pro-
pounded questioning, my objection, and
the Court's ruling. There is no pro-
vision in this law to have counsel
have this question answered for the
benefit of an appellate court, should
it be necessary. If that is the case,
Your Honor, any time Defense Counsel
wanted to reserve a bill, knowing the
testimony would not be proper, although
the Jury might be removed, he could
still get in what he wanted to get in-
to the record.

MR. DYMOND:

It's on the basis of that very article that
we contend we do have a right to do

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this, this is testimony that is
necessary to make up the bill of ex-
ception.

THE COURT:

I will permit you to proceed in this
matter for this reason: You feel
that the answer to be sought from the
witness may have a great bearing on
your bill to be considered by the
Court. I will permit you to proceed.

BY MR. DYMOND:

Q At any of these meetings, wherein you saw David
Ferrie and spoke with him, after the
assassination of President Kennedy, did he
ever caution you to keep quiet about what
you had heard on Louisiana Avenue Parkway?

A No.

MR. DYMOND:

That's all.

THE COURT:

Bring the Jury back in.

MR. DYMOND:

We will ask that that answer be made part
of the bill too.

Now, if the Court please, in the presence

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1 of the Jury, I would like to reserve 327
2 my bill of exception, making the
3 Defense question, the State's objec-
4 tion, the reasons for their objection,
5 the answer of the witness which was
6 taken outside of the presence of the
7 Jury, and the Court's ruling and the
8 entire record up until this point,
9 parts of the bill.

10 THE COURT:
11 All right.

12 BY MR. DYMOND:
13 Q Now, Mr. Russo, how many times in total did
14 you see the man whom you termed Leon
15 Oswald?
16 A Four.
17 Q Four times?
18 A Four times.
19 Q Let's go back to the first time that you ever
20 saw him. Would you relate the circumstances
21 surrounding that incident.

22 MR. ALCOCK:
23 I object to this at this time. I realize
24 that Counsel has wide latitude on
25 cross-examination, but I feel that we

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have been down this path before,
and that this is highly repetitious.
We went into this yesterday, we went
into this today, how many times are
we going to go over this ground?

MR. DYMOND:

This series of questions does have a purpose and will be connected up.

THE COURT:

You may proceed.

BY MR. DYMOND:

Q Would you give us the circumstances surrounding your first meeting with Leon Oswald.

A Well, I went up to Ferrie's apartment, I think I was in Ferrie's automobile, and Oswald, or at least the guy I had never met was on the front porch rocking or sitting, and we went up the staircase into the house and he introduced me, and at that time he was polishing or wiping a rifle, and he didn't stay there long, he left after a little bit.

Q You say you were introduced to him at that time?

A Yes.

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1 Q Now, had you arrived at the house with David
2 Ferrie?

3 A I am not sure, I think I did that night, but I
4 remember he said something about the guy
5 up on the porch, you know, at nighttime.

6 Q You say this was nighttime. Is that right?

7 A Oh, yes.

8 Q Could you approximate the time of night?

9 A No.

10 Q Could you tell us approximately what date this
11 was?

12 A No, it was in September, right before the party,
13 that was the first time I had ever seen
14 the guy.

15 Q You say it was in September of 1963?

16 A Right.

17 Q At that time did you have any conversation with
18 Leon Oswald?

19 A Well, there was antagonism, he just didn't seem
20 to take towards being very social.

21 Q Now, when was the next occasion on which you
22 saw him?

23 A A few nights later.

24 Q About how many?

25 A Two or three nights, three nights.

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- 1 Q Two or three nights later?
- 2 A Yes.
- 3 Q What were the circumstances surrounding that?
- 4 A Well, I was coming back from uptown, I think
5 playing basketball and we came in and
6 everybody was, you know, the night of
7 that meeting, with everybody --
- 8 Q So the night of the meeting was the second time
9 that you had seen him. Is that right?
- 10 A Right.
- 11 Q On the night of this meeting and the party, did
12 you hear Oswald introduced to anyone?
- 13 A The night of the meeting and the preceding night
14 he was introduced to me.
- 15 Q The night of the meeting and the party which
16 preceded it?
- 17 A The night of the meeting is the same as the
18 party, right, and the previous time that
19 I went up there.
- 20 Q On the night of the party and meeting, did you
21 hear Leon Oswald introduced to any of the
22 other guests?
- 23 A No, they were there already, I am sure he was,
24 Dave Ferrie took pains to introduce him.
- 25 Q Did you hear him referred to by name that night?

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1 A No, I don't think so.

2 Q Did you know his name that night?

3 A I had been introduced to him a couple of nights
4 before.

5 Q So you remembered his name?

6 A It was the same guy, yes.

7 Q Now, after the night of the party and meeting,
8 when was the next time you saw Leon Oswald?

9 A Several days later.

10 Q Several days later. What were the circumstances
11 surrounding that?

12 A Well, I just dropped in, and he evidently was
13 having trouble with his wife or something
14 to that effect and I left.

15 Q Who else was there?

16 A Ferrie.

17 Q Just Ferrie and Leon Oswald?

18 A Right.

19 Q Did you know his name at that time?

20 A Well, it was the same guy that had been intro-
21 duced to me.

22 Q Then the last time that you saw Leon Oswald,
23 when was that?

24 A Just a day or so after that, a few days after
25 that.

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- 1 Q What were the circumstances surrounding that?
- 2 A Again I just dropped in, that was probably --
- 3 I was probably uptown, might have been the
- 4 first week of class or would have been the
- 5 registration time period or anything right
- 6 along there, because I was going uptown
- 7 for the last time, I think it was during
- 8 the day.
- 9 Q You heard his name mentioned that time?
- 10 A No.
- 11 Q Did you have any conversations with him?
- 12 A No.
- 13 Q It is your testimony that he was about to leave
- 14 for Houston at that time?
- 15 A I heard the name Houston mentioned, I am not
- 16 sure whether he was going, but he was
- 17 leaving.
- 18 Q Who mentioned the name Houston?
- 19 A Dave Ferrie.
- 20 Q Of course you knew what Leon Oswald's name was
- 21 at that time, didn't you?
- 22 A Right.
- 23 Q Now, right after President Kenney was assassi-
- 24 nated, would I be correct in saying that
- 25 you heard the name Lee Harvey Oswald on

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1 television many times, on radio and saw
2 it in the newspapers?

3 A Right. Well, that is in line with what I was
4 asked on WAFB Television, the transcript
5 you read to the Jury, about Lee Harvey
6 Oswald. It is true that I did not know
7 a Lee Harvey Oswald and I have stuck to
8 that since. The guy that I knew was Leon
9 Oswald, and when Sciambra showed me the
10 photograph, essentially it was the same
11 guy, but that was Lee Harvey's photograph
12 there.

13 Q Had you connected the two names at all, the
14 identity, the fact that the two last names
15 were identical before that?

16 A I told a couple of friends of mine that I knew
17 him or I had known him.

18 Q Oh, you did?

19 A Right.

20 Q What friends did you tell this to?

21 A My cousin recalled it, and probably I told
22 several people that, but probably I am
23 almost sure I told my cousin, because he
24 mentioned it to me, and probably I told
25 some people at school, but I am not sure

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who they were.

1 Q Now, you have testified that Leon Oswald was
3 Ferrie's roommate at that time.

4 A That is the way Ferrie introduced him.

5 Q And that is what you have termed Leon Oswald
6 in your previous statements concerning this
7 case, haven't you?

8 A Oh, on the stand, yes.

9 Q Now, I refer you to the second paragraph on
10 Page 4 of the Sciambra memorandum.

11 A Second paragraph, yes.

12 Q Composing, on the fifth line of this second
13 paragraph, I will read the statements made,
14 "He said that Ferrie introduced him to some
15 one he called his roommate. He said
16 Ferrie mentioned his name but he can't re-
17 member it right now." Now, did you correct
18 that statement when you went through the
19 Sciambra memorandum making corrections
20 yesterday?

21 A I corrected the essence of the paragraph, although
22 I don't have my copy here, but I corrected
23 the essence of the paragraph, that this is
24 some -- some of this essentially was pre-
25 viously what we were talking about and some

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1 of it was not, it did not clearly bring
2 into focus what we talked about.

3 Q Your testimony now, Mr. Russo, is that you did
4 not tell Mr. Sciambra in Baton Rouge that
5 you could not remember the name of Ferrie's
6 roommate?

7 A Is it my testimony that I did not?

8 Q Is it your testimony that you did not tell Mr.
9 Sciambra that you were unable to remember
10 the name of Ferrie's roommate?

11 A Are you asking two negatives now? I don't
12 understand.

13 Q I will try to rephrase it.

14 A Would you put it in the affirmative, an
15 affirmative question.

16 Q Is it your testimony at this time that the
17 statement contained in this memorandum to
18 the effect that you were unable to remem-
19 ber the name of Ferrie's roommate is in-
20 correct?

21 A That statement is incorrect.

22 Q Is that statement contrary to the statement
23 concerning this that you made to Mr.
24 Sciambra?

25 A This is, well, part of it is right, part of it

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1 is not. I picked the whole paragraph and
2 said the essence of this paragraph is
3 incorrect, some of it is right and some
4 of it is not.

5 Q Did you tell Mr. Sciambra that you knew the
6 name?

7 A Right, I did.

8 Q Of Ferrie's roommate?

9 A Right.

10 Q Did you give Mr. Sciambra the name of Ferrie's
11 roommate?

12 A Yes.

13 Q And still you do admit in his memorandum Mr.
14 Sciambra says that you were unable to re-
15 member that name?

16 A Well, I am not going to hold by that memorandum,
17 that is for Mr. Sciambra to answer about
18 that.

19 Q I will ask you, you have read this memorandum
20 over, you read it yesterday?

21 A Right.

22 Q Is there any statement in this memorandum identi-
23 fying Ferrie's roommate as Leon Oswald?

24 A Well, towards the back of the statement, as I re-
25 call it in there, I am not looking at the

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statement now --

3 Q I ask that you look at the statement now and
4 tell me where you can find any place in
5 there where it does.

6 A Leon is mentioned right in the back, but that
7 is not when we mentioned it, the last page,
8 Page 7, and that is the only place it is
9 mentioned.

10 Q Would you read the portion that you claim
11 clarifies that.

12 A Well, I am not saying it verifies it, but it is
13 the only place, he says that the name Leon
14 really rings a bell, you see that on the
15 third line, that is the only place it was
16 mentioned in here.

17 Q Now, is it your testimony that you told Mr.
18 Sciambra that the roommate's name was
19 Leon Oswald?

20 A I told him, right.

21 Q And of course you don't know why it would not
22 be in his memorandum, do you?

23 A No.

24 Q Now, Mr. Russo, I would like to ask you whether
25 you were acquainted with certain people
in connection with your acquaintance with

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1 David Ferrie. Did you ever know a man
2 or boy by the name of Tommy Compton?
3 A I knew one by the name of Tommy, but I don't
4 know the last name.
5 Q Do you know whether or not Tommy Compton ever
6 roomed with David Ferrie?
7 A Ever rolled what?
8 Q Roomed, was a roommate of David Ferrie?
9 A The only roommate that I know was Oswald.
10 Q Did you ever know a man or boy by the name of
11 Layton Martens?
12 A I know him now, I did not know him then, no.
13 Q When did you first make his acquaintance?
14 A I guess about a year ago, a year and a half ago.
15 Q Now, since your meeting Layton Martens about a
16 year or a year and a half ago, did you ever
17 have any conversations with him?
18 A We have.
19 Q In your meetings or your acquaintance with
20 Layton Martens, your conversations with him,
21 have you ever discussed this case, Mr.
22 Russo?
23 A Oh, a little bit.
24 Q Mr. Russo, do you recall on August 15, 1968,
25 picking up Layton Martens in your automobile

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as he was walking in the French Quarter?

A Probably, you know, if I saw him on the street

I would have stopped, I am sure.

Q I take it you are not sure of the date?

A Of the date, no.

Q I am going to ask you whether you made certain

statements to Layton Martens upon that

occasion. First, referring to this case,

"This is the most blown-up and confused

situation I have ever seen." Do you re-

call having made such a statement?

A Something similar to that, not exactly those

words, yes.

Q But you did say something similar to that. Is

that correct?

A Right.

Q Did you also make this statement, "I don't think

any of these people involved excepting

Sheridan and Townley should be convicted

of anything because they didn't do any-

thing"?

A No, what we were talking about --

Q I am asking you whether you made that statement.

THE COURT:

You --

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1 MR. DYMOND:

2 I will ask the answer to the question and
3 then an explanation.

4 THE COURT:

5 I was about to tell him that, answer the
6 question, answer the question either
7 yes or no and then you are able to
8 explain.

9 A Yes.

10 BY MR. DYMOND:

11 Q Now, if you care to explain, go ahead.

12 A The explanation is this: During the period of
13 '67 all the way up to the summer, there
14 were three phonies that used to come over
15 to the house, one was James Phelan, he had
16 the pretense of being a newspaper reporter,
17 he was attempting to interfere with the
18 investigation, he was followed on his
19 heels by Rick Townley of WDSU and Walter
20 Sheridan, I guess he is of NBC and not
21 WDSU, and right in quick succession these
22 people came along, not attempting to report
23 any news at all, attempting to create news
24 or change testimony or to force a change
25 in testimony or asking me to change it,

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1 things like that, and that is essentially
2 what I was stating then, three people,
3 of course, others too, but these three
4 were serious, they told me they would cut
5 Garrison down and he couldn't get elected
6 dogcatcher, the only thing they were after
7 was busting Garrison down to his knees.

8 I told Layton Martens on several occasions
9 essentially the same thing, I said that
10 of course Phalen initially was trying to
11 report the news, but where he went bad I
12 don't know, and Walter Sheridan didn't re-
13 port anything and Rick Townley didn't have
14 any serious attempts to report either,
15 they were trying to make the news, being
16 like the midget that slayed the dragon or
17 whatever it was. I don't know what role
18 they were playing, but I told him, I said,
19 "Rick Townley and Walter Sheridan, both
20 of them are scum, and I would like to see
21 both of these two in jail."

22 Q But you did make the statement, "I don't think
23 any of the people involved excepting
24 Sheridan and Townley should be convicted
25 of anything because they didn't do any-

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1 thing"?

2 A Absolutely.

3 Q You said that? I ask you whether you made
4 this statement on that occasion: "I
5 really didn't know Ferrie very well, but
6 I did meet him, he was with Emilio Santana
7 and another blond-haired man named Lauren."

8 A Named what?

9 Q Lauren, L-a-u-r-en.

10 A I don't remember that name at all, I do remember,
11 and in our discussions -- I will skip
12 Emilio Santana for a minute, no, that
13 statement I did not make.

14 Q You did not make?

15 A No, I just wanted to answer your question.
16 Layton Martens told me essentially, "This
17 is the way I knew Dave Ferrie," and I said,
18 "Well, I didn't know him like that at all,
19 this is the way I knew Dave Ferrie," and
20 he said he didn't know him like that, and
21 his summation was that Dave Ferrie had these
22 multi-aspects to his personality and having
23 that, and I said, "Well, that is true, I
24 probably didn't know him real well," be-
25 cause I didn't know any of the things he

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1 told me and they were alien, as far as
2 my knowledge of Dave Ferrie, they were
3 alien to his personality.

4 Q I ask you whether you made this statement on
5 that occasion: "I met Ferrie through Allen
6 Landry's parents, his mother in particular,
7 she insisted that Ferrie was a homosexual
8 and was trying to take Al away from home,
9 she hated him."

10 A The Landrys?

11 Q Yes.

12 A Essentially that, yes.

13 Q I now ask you whether you recall having seen
14 Layton Martens approximately two days
15 after the first incident which I have re-
16 called to you.

17 A Well, I am not sure of the date.

18 Q More particularly on August 17, 1968, at
19 approximately 11:30 p.m.

20 A I am not sure of the date, no.

21 Q But you did see him shortly after that?

22 A I saw him on several occasions, yes.

23 Q On your next meeting with Layton Martens, I want
24 to ask you whether you made these state-
25 ments: "I have made most identifications

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1 on the basis of photographs alone."

2 A Well, absolutely right.

3 Q The next one, "I am sure of the identification
4 I made of Shaw but not 100 per cent. I
5 want to meet with him to make absolutely
6 sure, but I am afraid to. It could have
7 been Bannister and Lewallen."

8 A No, that is absolutely false.

9 Q You say you did not say that. Is that right?

10 A Yes, I will give you what I said in line with
11 that.

12 Q All right.

13 A James Phalen made it a big point that he felt
14 it was Bannister. Now, Lewallen's name
15 did not come up until Walter Sheridan,
16 Rick Townley showed a picture of Lewallen
17 to me, but Phalen made a big point of this,
18 and I was talking to Martens about it and
19 I told him essentially that I said I was
20 sure 100 per cent, but I said in a case
21 like this you have to be sure 1,000 per
22 cent, and I said that Phalen went as far
23 as setting up not an appointment, but over
24 in Biloxi, which the D.A.'s Office knew
25 about because they bugged the house, they

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1 had it watched and they had tape-recorded
2 the conversations, but they knew, and Mr.
3 Phalen was going to set up in the Town of
4 Biloxi or Gulfport or Bay St. Louis where
5 the Defendant would be there and I would
6 happen to drop into the same motel or some-
7 thing along that line, and I told Layton
8 Martens in a case as serious as this, you
9 would have to be 1,000 per cent sure
10 although it was impossible to be that, but
11 I was 100 per cent sure. Does that make
12 sense?

13 Q Isn't it true that you asked this meeting with
14 Shaw be set up?

15 A You are talking about with Phalen?

16 Q I am talking about the meeting with Phalen.

17 A I am not real sure of who initiated that. I
18 added it probably in a general sense, and
19 he said, "Well, --" the best way and the
20 impossible way of course would be for me
21 and Shaw to get together, I said if that
22 is possible, and I said it is not, and he
23 let it drop, and Phalen came the next day
24 and said, "Well, I have it set up for this
25 weekend, I can get Shaw to go over to

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1 Biloxi or be in Biloxi," and he said, "You 346
2 can just drop in," and I said, "Well,
3 that won't work because Shaw would have
4 a wall that thick in front of him, it
5 would serve no apparent purpose, the only
6 way you could know a person is to have
7 it unmolested and unharassed, and in the
8 particular position he is in, it just
9 would not be a free conversation.

10 Q Shaw agreed to meet with you on that occasion,
11 didn't he?

12 A I don't know if Shaw did or he didn't. I am
13 just telling you what Phalen said.

14 Q But you did want, you did want to meet with
15 Shaw to get 1,000 per cent sure as you
16 have said. Is that correct?

17 A No, I said I was 100 per cent sure, but I say
18 in a case of this magnitude, I was talking
19 about from my own aspects, so much pressure
20 being applied from people, from WDSU and
21 from NBC and of course James Phelan, just
22 a tremendous amount of pressure to alter
23 your testimony, because they were sure they
24 were right, they were sure that Shaw was
25 not there and it was probably Bannister or

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1 Lewallen or somebody else, maybe, and that 347
2 I said in a case of this magnitude, you
3 should be 1,000 per cent sure, but in a
4 criminal court you can't be, you can only
5 be 100 per cent.

6 Q Would it be fair for me to say you wanted to be
7 surer than you were?

8 A Would it be fair to say? No, it would not be
9 fair to say that, no.

10 Q Well, 1,000 per cent would be more sure than
11 100 per cent?

12 A In a different way, it is this way: I went into
13 great explanation with Phalen, I don't know
14 if I talked to Layton Martens about this,
15 but I went into a long explanation with
16 Phalen from the period of February 25th
17 on, when I saw him it was late -- well,
18 May, and of course Townley and Sheridan
19 were in June, but I went into a long ex-
20 planation of black versus color about what
21 I thought of the whole situation, I said
22 this had been a personal turmoil for many
23 people of course as well as for the De-
24 fendant too, but as many people that were
25 calling, I didn't mind Ken Elliot or Alec

1 Gifford or Jim Kemp, they would just ask
2 questions and let it go at that, but these
3 people from WDSU didn't, they tried to
4 alter the news and get down to making the
5 news, and I was not only 100 per cent sure
6 because I said that instantly upon seeing
7 Mr. Shaw stick his head out of the door on
8 1313 Dauphine Street, but I said it would
9 probably be -- this is theoretical, and
10 of course this is just theoretical, it is
11 a good thing if you could be 1,000 per
12 cent sure.

13 Q Well, 1,000 per cent in your way of putting it
14 would be surer than 100 per cent?

15 A Well, 100 per cent is completely sure.

16 Q What do you mean by 1,000 per cent?

17 A 1,000 per cent is something that you can never
18 reach, if you really want to know. Let's
19 suppose there is a man that is walking
20 around in the City of New Orleans 54 or 55
21 and has white hair and the same structure,
22 the same physical structure, let's suppose
23 there is a man, I haven't seen him, I have
24 seen the Defendant. Now, that I am sure of,
25 and I saw him at Dave Ferrie's apartment and

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1 I saw him with Oswald and Ferrie and they 349
2 shot the breeze about killing the President.
3 No, if there is a man and he would walk in-
4 to this door right now and he would look
5 similar to the Defendant, then I would have
6 to think it over, but at this point I am
7 absolutely sure 100 per cent that the De-
8 fendant is the man that was there.

9 Q You say the Defendant is the man who was there
10 shooting the breeze about killing the
11 President. Is that right?

12 A Right, in September you are talking about?

13 Q Now, to use your words, Mr. Russo, didn't you
14 say that you would like to get in a room
15 with Shaw and hear him talk and --

16 A Again I want to get to the theoretical concept
17 of justice that I have, yes. The best
18 thing to do would be to get into a man's
19 mind and think what he thinks, but that is
20 not possible either, and I was trying to
21 give an example of this to -- if you are
22 referring to Layton Martens, I am referring
23 to James Phalen because I told him the same
24 thing essentially, the thing is you can
25 never be too sure.

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(A pause in the trial while the Reporter added a new pad of Stenographic paper.)

BY MR. DYMOND:

Q Now, Mr. Russo, did I understand you to say that this last statement here, "It could have been Bannister and Lewallen" was impossible because you didn't know of Lewallen at that time?

A No, Rick Townley showed me a picture of Lewallen, and I think the District Attorney's Office showed me a picture of Lewallen, but they didn't name anybody, they just showed me pictures.

Q Did the picture that you were shown have a beard on the face of Lewallen or not?

A Rick Townley's picture, yes.

Q Do you recall the picture of Lewallen having been shown to you by me during the preliminary hearing in this case?

A Oh, yes, you showed it also, right, correct.

Q So, as a matter of fact, you did know about Lewallen, you did?

A You did show it to me.

Q At the time you were talking with Layton Martens?

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1 A This is '68, right, you are giving me a '68
2 date, August?
3 Q August 17, 1968.
4 A You are right.
5 Q Now, you say the District Attorney also showed
6 you a picture of Lewallen. Is that right?
7 A The District Attorney?
8 Q Yes.
9 A Yes, I guess. Now, I am not sure.
10 Q Did that picture have a beard on it or not?
11 A Well, I have seen so many pictures, I suppose
12 one of those, and there were several with
13 beards on them, several people.
14 Q Did the District Attorney ever put a beard on
15 the picture of Lewallen, that is, draw it
16 in and in either ink or pencil?
17 A No beards were put on any pictures, and I don't
18 know, no one was identified in the pictures.
19 Q The only picture that you saw a beard put on was
20 the picture of Lee Harvey Oswald. Is that
21 correct?
22 A Right.
23 Q Now, I am referring to the same occasion of your
24 talking with Layton Martens now, Mr. Russo,
25 and I will ask you if you made this state-

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ment: "I am afraid to make any move because
no matter what move I make, one side or the
other will come after me resulting in
criminal actions against me."

A What do you want to know?

Q Did you make that statement to Layton Martens?

A No.

Q You deny that?

A Yes.

Q I ask you whether you made this statement:

"I was supposed to be given \$25,000.00 by
Garrison."

THE COURT:

When you bring up prior contradictory state-
ments, you have to acquaint the wit-
ness of when it was said, to whom it
was said, and under what circumstances.

MR. DYMOND:

We have done that, Judge.

THE COURT:

You haven't been as to who --

MR. DYMOND:

All of this is to Layton Martens.

THE WITNESS:

I do.

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1 BY MR. DYMOND:

2 Q "I was supposed to be given \$25,000.00 by
3 Garrison for helping him out, but thus
4 far I have only received \$300.00."

5 A All right, now, yes, I said that.

6 Q You did say that?

7 A Yes, and there needs to be a long explanation
8 of that one. Phalen asked me about that,
9 WDSU asked me about that, and Walter
10 Sheridan told me, you know, I was getting
11 money, and I in 1968, when I talked to
12 Layton Martens, I said, "These characters
13 said that, they felt I was getting paid
14 paid off," two rumors, one I was going to
15 get \$25,000.00 and the other I had gotten
16 \$5,000.00 before and I would get \$5,000.00
17 after the Defendant was convicted, those
18 were the two rumors, but, you know that
19 guy from WDSU had the gall to ask me that,
20 and so if I said that, he just was cutting
21 off the first part of the sentence, I said
22 they said I was getting \$25,000.00.

23 Q You deny that you told him that you were sup-
24 posed to be given \$25,000.00 by Garrison
25 for helping him out, but that thus far you

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had received only \$300.00?

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2 A Absolutely. With the understanding that, you
3 know, like I told you I said it.

4 Q Now, as a matter of fact, as of that date, had
5 you received \$300.00?

6 A In August of 1968?

7 Q That is correct.

8 A During the preliminary hearing I was down here
9 for about -- before the preliminary hearing
10 a little while, right afterwards I was here
11 for about three weeks with no -- doing no
12 work at all, and the District Attorney
13 covered expenses up to \$300.00, and twice
14 after that, once with the Dean Andrews
15 trial, while I was on subpoena, and I think
16 the District Attorney's Office, some kind
17 of check for about \$45.00 or \$50.00.

18 Q How long were you here for that time?

19 A Four days, I think, four days, and there was only
20 one other time, similar amount.

21 Q When was the other occasion?

22 A I can't -- a hearing that you were having.

23 Q And what was the total amount you received on
24 those occasions?

25 A Approximately the same amount, \$50.00 or \$60.00

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or \$70.00.

Q On each occasion?

A No, two, one was about \$50.00 and the other was \$60.00 or \$70.00, and the other before the preliminary hearing for three or four weeks, I missed work, they paid \$300.00.

Q Now, I ask you whether on that same occasion you made this statement to Layton Martens: "I am going to California very soon to get away from this."

A Absolutely, I made that statement. Do you want to know why? I had been planning to go to California since Mr. -- before Mr. Shaw was indicted, I planned to go to California that summer, and there were several hearings of course, and the trial was delayed and I put it off until the next summer, and there were more hearings and the trial was again delayed and I put it off to this coming summer, "to get away from it all," absolutely, but I had every intention of returning.

Q I want to ask you whether you made that statement to Layton Martens on the same occasion "I am not real sure if they were plotting

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against Castro or Kennedy."

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2 A A qualified yes, very qualified.

3 Q Did you, first of all, did you make that state-
4 ment, Mr. Russo, and then you may explain
5 it.

6 A Well, all right, yes, let me put it yes and I
7 am going to say no afterwards, and I want
8 to say yes, but it depends, in other words,
9 Ferrie talked about Castro too, you see,
10 and he thought Castro was a good thing in
11 Cuba, but he wanted to replace him, he
12 thought Che Guevera was better and actually
13 what he wanted, he had a long philosophy
14 about that too, and I told Layton Martens,
15 I said they were plotting both to get
16 Castro and Kennedy, and I said of course
17 with these broad generalizations they were
18 talking about, no specifics at all as to
19 when and where, and they were plotting to
20 get Castro too as well as Kennedy.

21 Q So actually you told him, you were referring to
22 the night in question on Louisiana Avenue
23 Parkway, weren't you?

24 A No, referring to the whole year.

25 Q The whole year?

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1 A The time I knew -- that year intensively during
2 the summer.

3 Q Referring to the summer of 1963?

4 A '63, right, I mean, Castro was mentioned proba-
5 bly up there at the meeting where the
6 Defendant was, but not a great -- I don't
7 remember anything specifically being said
8 about Castro, but I know days before Ferrie
9 talked about Castro, sometimes he talked
10 about the Gueverian Reform was a good
11 thing, sometimes he talked about the
12 economics of Cuba and sometimes he talked
13 about Castro had to go.

14 Q So when you told Layton Martens that you were
15 not sure whether they were plotting to get
16 Kennedy or Castro, you were referring to
17 the summer of 1963 in general?

18 A It would probably be the whole thing.

19 Q Were you referring to any other time that more
20 than one person got together and planned to
21 kill somebody, and if so, what specific time?

22 A No, nobody much talked around Ferrie. He came
23 over and said quite a few things about kill-
24 ing people or killing Presidents.

25 Q Now, during the summer of 1963, did you attend

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1 any other parties or meetings where there
2 would have been anything that went on that
3 could have been interpreted as a plot to
4 kill anyone?

5 A No, except broad generalized remarks that Ferrie
6 made. It was not at a meeting or party
7 or anything else, sometimes he would pass
8 over, and if I happened to be reading or
9 studying or working with the basketball
10 team or anything like that, he might get
11 on the subject.

12 Q Now, Mr. Russo, in your statement that you made
13 to Layton Martens, you said you were not
14 sure whether they were plotting to kill
15 Castro or Kennedy, and in using the word
16 "they," you would be referring to more than
17 one person, would you not?

18 A Right.

19 Q Therefore, you would not have made that
20 reference had you been referring to only
21 David Ferrie having made the statement,
22 would you?

23 A Oh, well, I mean if I am including the whole
24 year, surely I would say "they," because
25 we did not break it down.

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1 Q And your statement referring to the entire 359
2 summer of 1963 and not knowing whether
3 they were plotting to kill Castro or
4 Kennedy would have included the party up
5 at David Ferrie's house and the meeting
6 that you described which took place after.
7 Is that right?
8 A Yes.
9 Q Now, is it your testimony that you did not know
10 James Lewallen at all?
11 A No, I did not.
12 Q Mr. Russo, I show you a photograph which I have
13 marked for identification "D-10," purporting
14 to be a photograph of James Lewallen, and
15 I will ask you whether or not that looks
16 familiar to you.
17 A No, I have seen a similar photograph.
18 Q To your knowledge, have you ever seen the person
19 depicted by that photograph?
20 A No.
21 Q I take it you never talked to him either then.
22 Is that right?
23 A No, I don't think so.
24 Q Now, I show you another photograph which I have
25 marked for identification "D-11," purport-

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1 ing to be a photograph of the same
2 person and ask you whether you recognize
3 the person depicted by that photograph.

4 A This, the smaller photograph, D-11, looks like
5 that I could have possibly seen this man,
6 but not "D-10."

7 Q Referring to the photograph which I have marked
8 for identification as "D-11," would you
9 say that the hair shown on the individual
10 in that photograph was just about as thick
11 or thicker or not as thick as the hair of
12 the person whom you have described as
13 Leon Oswald?

14 A No, I'm not real sure of the differences, it
15 seems that the other hair was messed up,
16 -- I couldn't say if it was lighter or
17 heavier.

18 Q I am not referring to color, now.

19 A No, well, thicker or lighter?

20 Q I will ask you the same question concerning the
21 photograph marked for identification, "D-10."

22 A This looks a little heavier.

23 Q That would be heavier than the hair of Leon
24 Oswald?

25 A Right.

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MR. DYMOND:

If the Court please, in connection with the testimony of this witness, we would like to offer, file, and produce in evidence the two photographs which we have marked for identification "D-10" and "D-11."

THE COURT:

Any objection?

MR. ALCOCK:

No objection.

THE COURT:

Let them be received in evidence. (Whereupon, the photographs offered by Counsel were duly marked for identification as "Exhibit D-10" and "Exhibit D-11" and received in evidence.)

BY MR. DYMOND:

Q Did you ever know a man or a boy by the name of Alvin Beauboeuf?

A No, sir.

Q Have you been introduced to a person at David Ferrie's house by the name of Alvin Beauboeuf?

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1 A No, not that I know of. I have only seen one
2 picture of Beauboeuf in the newspaper, and
3 from that picture I don't know.

4 Q Would you be willing to state that during the
5 year 1961, the year 1962 and the year 1963,
6 that Alvin Beauboeuf never lived with David
7 Ferrie?

8 A Would I be willing to state that?

9 Q Yes.

10 A I don't even know him.

11 Q During those years, were you in a position
12 concerning your association with Ferrie,
13 to be aware of the fact that a particular
14 individual was living with him?

15 A No, I would not be aware of that, no.

16 Q During which of those years do you feel that you
17 would have been aware of --

18 A Only when he told me. You see, always he had
19 people around him, sometimes he had Spanish
20 people, sometimes younger people, he always
21 had people around, and if you wanted to pick
22 out one of them, this guy is his roommate
23 for six months and this guy is the roommate
24 for the next six months, the only time I
25 ever knew he had a roommate was this guy

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1 Oswald.

2 Q During the year 1963, considering the frequency
3 of your visiting at David Ferrie's home,
4 do you feel that a person could have been
5 living there with him without your knowing
6 about him, living there for a period of six
7 months or more?

8 A Conceivably.

9 Q Did you ever know a man by the name of Melvin
10 Coffey?

11 A I never seen a picture of him, I have been
12 asked that before.

13 Q I take it you never met Coffey in person?

14 A Not by name, I haven't seen a photograph that
15 I could really tell you that anyone ever
16 told me this is a photograph of Melvin
17 Coffey. I never heard that name.

18 Q Did you know Maurice Brundy?

19 A I do now.

20 Q Did you know him back in 1963?

21 A No.

22 Q Did you know any of Dave Ferrie's friends?

23 A Well, they had many worlds, even Layton Martens
24 said that, many worlds they belonged in.

25 Q Well, I will be more specific and ask you whether

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you knew any of the friends who frequented

David Ferrie's home during the year 1963.

3 A Some, not by name, I didn't see them, you know,

4 I would just see people.

5 Q Did David Ferrie introduce you to people at his

6 home?

7 A Yes.

8 Q And you don't remember any names?

9 A Nobody stuck out, it was just the same crew, if

10 he was over at the house he just was with

11 one or two people most of the time, none

12 of these people ever amounted to anything.

13 Q Is it your testimony that you cannot now name

14 one friend of David Ferrie's whom you met

15 at his home other than Leon Oswald and

16 Clem Bertrand and the two Mexicans?

17 A There was a young guy named Tommy, it might have

18 been the Tommy that you were referring to,

19 I don't know, that would be about all of the

20 names that I would want to say definitely.

21 Q You can't name any others?

22 A No.

23 Q You had an open invitation to David Ferrie's

24 house and he had an open invitation to

25 yours?

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1 A As I stated in the preliminary hearing and what
2 I said to you, of the 20 or 30 times that
3 I was over there, I might have not stayed
4 over five minutes on half of them or two-
5 thirds of them and the other few times I
6 did stay for some period of time.

7 Q Have you ever known a man by the name of Guy
8 Bannister?

9 A I have seen him somewhere, I have seen photo-
10 graphs of the man. I have seen him some-
11 where.

12 Q Did you say that you have met Guy Bannister,
13 or have you just seen pictures of him?

14 A I have seen him but just where I am not familiar
15 it may have been with Ferrie, I don't know.

16 Q You can't tell us where you saw him with Ferrie?

17 A Well, I am not sure it was with Ferrie, I have
18 seen him somewhere, though.

19 Q Mr. Russo, I show you a photograph which I have
20 previously marked for identification "D-1,"
21 and ask you whether this is the person
22 you remember having seen as Guy Bannister.

23 A Well, I mean, I never saw anyone as Guy Bannister,
24 but I think I have seen this man, yes.

25 Q I show you another photograph of the same indi-

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vidual which I have marked for identifica-
tion as "Defense 2," purporting to be a
photograph of Guy Bannister, and ask you
whether you have seen that man.

A Right, I think I have.

Q I ask you to search your memory and tell us
whether it is possible that you can tell
us where you saw Guy Bannister and under
what circumstances.

A Well, I thought about this for a long time, and
I just can't place him, I was thinking
politically, perhaps, and I said no, I
didn't see him anywhere there, and I thought
about Ferrie, and it is possible that I
could have seen him with Ferrie, but I am
just not sure where I had seen this man
before.

Q Would your memory be able to tell us if you saw
him with Ferrie, possibly where he was?

A If I could remember I saw him with Ferrie, proba-
bly I could think of where, I am sure.

Q Are you unable to do that?

A I thought about this for sometime, I know I was
never formally introduced to him.

Q Do you recall whether or not this man had a hat

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on when you saw him?

A No, I don't recall.

Q Do you recall whether he had white hair --

A Whether he had white hair?

Q Yes.

A Yes.

Q He did have white hair. Do you recall approxi-
mately how tall a man he was?

A Oh, no.

Q Do you recall his approximate build and weight?

A No, I don't, but I have a feeling, though, I
don't want to stand by this, I have a feel-
ing he was in -- might have been in an
automobile that I saw him in around the
house, I am not going to say that.

Q Would you be able to recollect as to whether he
was a fat man, a skinny man, or a normally-
built man?

A No.

Q You would not?

A No.

MR. DYMOND:

If the Court please at this time, we would
like to offer, file, and introduce into
evidence the two photographs which have

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1 been previously marked "Defense 1"
2 and "Defense 2," but have not pre-
3 viously been introduced.

4 MR. ALCOCK:

5 They haven't been identified, have they?

6 MR. DYMOND:

7 They have been identified as photographs
8 of Guy Bannister and the witness said
9 he may have seen him with Ferrie.

10 THE COURT:

11 I will receive them in evidence.
12 (Whereupon, the documents referred
13 to by Counsel as "Exhibit D-1"
14 and "Exhibit D-2" were received
15 in evidence.)

16 BY MR. DYMOND:

17 Q Mr. Russo, have you ever known an attorney by
18 the name of G. Wray Gill?

19 A No.

20 Q Have you ever known an attorney by the name of
21 Jack Wasserman, W-a-s-s-e-r-m-a-n?

22 A No, I don't think.

23 Q Never have?

24 A No.

25 Q 'Now, getting back to your testimony of yesterday,

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did you state that you very frequently played basketball up at Tulane and Loyola in the evening?

4 A Well, once or twice a week.

5 Q And I think you named a group of people with
6 whom you usually played. Is that right?

7 A Well, this was over a period of several years,
8 yes.

9 Q Would you mind naming these people again?

10 A That I played basketball with? Well, Kenny
11 Carter, Joe Cook, Butch Larone was there,
12 King, Louie Gremillion, David Evelyn, my
13 cousin, Lefty Peterson, O. J. Lecour from
14 Tulane.

15 Q How about Mike Ogden?

16 A Oh, no.

17 Q You didn't name him yesterday.

18 A That, I was trying to -- let me clear that up
19 so I might be able to explain that. He was
20 in relation to the political stuff, he was
21 a Republican, I knew Mike, that is the only
22 way I knew him. That was about getting in-
23 volved with the Republicans in late '63 and
24 early '64 when I started getting involved
25 with the Republicans.

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- 1 Q Now, Mr. Russo, if you had thought that this
2 was a serious threat on the life of
3 President Kennedy which was hatched up
4 on Louisiana Avenue Parkway, would your
5 loyalty to David Ferrie have prevented your
6 reporting it to the local authorities?
- 7 A Well, I had no loyalty to David Ferrie.
- 8 Q So I take it it would not have prevented your
9 doing so. Is that correct?
- 10 A Right.
- 11 Q Would there have been anything to prevent your
12 reporting it to the local authorities at
13 that time in order to possibly prevent a
14 tragedy, if you had considered this a
15 serious threat, it a serious threat?
- 16 A Right about September, before November?
- 17 Q That is correct.
- 18 A For a while, no.
- 19 Q Would I be fair in explaining your reason for
20 not reporting it by saying that you did
21 not consider this a serious threat to the
22 life of President Kennedy?
- 23 A Well, you don't know how to -- in other words,
24 you could not tell how to take Ferrie, you
25 know, whether it was an academic discussion

1 or whether it was something serious, there 371
2 was always the key to his personality.
3 Quite a few things he did back up and quite
4 a few things I don't know if he did or
5 didn't, but some of them were so fantastic
6 such as invading Cuba, I couldn't tell if
7 he was going to invade Cuba or not, and my
8 tendency would be to say that he would not,
9 and so, I mean, when it gets down to sitting
10 down and talking with a man and saying if
11 he is serious or not, it's hard to say. I
12 mean, it is just hard to say.

13 Q As a matter of fact, I believe Ferrie even made
14 a one-man submarine propelled by paddles
15 which were operated with your hands. Is
16 that correct?

17 MR. ALCOCK:

18 Objection, that is not in evidence.

19 THE WITNESS:

20 I don't know if it is, I heard --

21 MR. ALCOCK:

22 It is assuming something that is not in
23 evidence.

24 MR. DYMOND:

25 I withdraw that.

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1 BY MR. DYMOND:

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2 Q Now, I take it then that you didn't know whether
3 they were just shooting the breeze, whether
4 this was a bull session or what it was?

5 A Correct.

6 Q And you just didn't consider it important enough
7 to report. Is that right?

8 A Right.

9 Q Mr. Russo, referring now again to the Sciambra
10 memorandum, and more specifically to the
11 third paragraph --

12 A Page What?

13 Q On Page 1, on Page 1, yes, this statement, "Russo
14 said that he and Landry and a small group
15 of other boys used to always pal around
16 together, and that it was common knowledge
17 to everyone that Ferrie was a homosexual,
18 and that Russo and his buddies were trying
19 to alienate Landry from Ferrie." I think
20 you corrected that yesterday by saying that
21 you had never said that Ferrie was a homo-
22 sexual.

23 A I said that Ferrie had never said that, Ferrie --

24 THE COURT:

25 You said Ferrie never admitted to you --

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1 THE WITNESS:

2 He never stated anything near along those
3 lines, although I didn't go into this,
4 this is not exactly the situation
5 either.

6 BY MR. DYMOND:

7 Q Yesterday you said that you had not said that
8 Ferrie was a homosexual. Isn't that
9 right?

10 A I said that Ferrie had not said that.

11 Q And are you saying now that Ferrie never ad-
12 mitted to you he was a homosexual?

13 A Oh, no.

14 Q Never. I refer you to the same Sciambra memo-
15 randum on Page 4, approximately 15 lines
16 from the bottom of the page, wherein you
17 have given an account of Ferrie having told
18 you he used an aphrodisiac on his roommate
19 that aroused the roommate sexually and he
20 had intercourse with his roommate. Is
21 that correct?

22 A No. The only -- he said it worked like a --
23 that is the nearest he ever came to saying
24 it, I made a point of this down in New
25 Orleans, probably, the nearest he ever

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came to saying that, but he didn't say anything about intercourse at all.

Q Is that another correction?

A Right down on Page 2, this is the same thing essentially, I figured I corrected that here on Page 2 at the bottom sentence, "He also said that Ferrie essentially confessed to him he used hypnosis for sexual purposes," I said that is not correct, and another thing, on Page 3, "He also admitted to Russo for the first time that he was a homosexual and he wanted to know if Russo would be willing to take a drug," and I said that is incorrect.

Q That is absolutely not correct?

A Right, and, you know, I just say that --

Q Now, this statement which I shall read to you right now, "Ferrie told Russo that he had been trying the aphrodisiac drug on his roommate and it worked perfectly, he said that he and his roommate laid in bed naked and he gave the drug to his roommate and the roommate became very passionate and aggressive and had intercourse with Ferrie. Are you now saying that is an incorrect

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statement?

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1
2 A I covered it essentially with the first two,
3 this is what -- "Ferrie told Russo that
4 he had tried the aphrodisiac drug on his
5 roommate and it worked perfectly," that
6 is about it. I essentially covered it
7 with the other corrections, covered that,
8 Ferrie never ever said that.

9 Q Are you saying now that Ferrie did not tell you
10 that he had intercourse with his roommate?

11 A He said the roommate tried, that is the nearest
12 he came. Now, he never said he did.

13 Q So then this memorandum is in error once again
14 in saying that you told Mr. Sciambra that
15 Ferrie had told you that he had intercourse
16 with his roommate. Is that right?

17 A Probably, that is probably just deduction up
18 there in Baton Rouge, because I don't re-
19 member that.

20 Q Is there anything right about this memorandum,
21 Mr. Russo?

22 A Well, do you want to go down it page by page?

23 Q Now, getting to the portion of the memorandum
24 which relates the incident concerning
25 pornographic film, you have located that?

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A Right, Page 3.

Q Is it your testimony now that you did not sell this film as related in this memorandum?

A Yes, I did.

Q You did sell it?

A Correct.

Q To whom did you sell it?

A To a man in Baton Rouge who was a seaman. You see, the correction I made essentially here, if you look right toward the middle, I made two corrections on the page, "He said that he would -- " Ferrie said, "He said that he would have to get \$150.00 a roll for the film because it was pretty risky going in and out of Cuba," and that \$150.00, I don't know where that came from, and a little on further, about "Russo said he took the film and sold it to someone whom he said -- " sold it to a seaman, and, as I recall it, I sold it to a seaman.

Q You sold it directly to a seaman?

A Yes, or a guy that had been on a ship.

Q You sold it for \$150.00?

A No.

Q How much did you sell it for?

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1 A \$40.00, \$30.00.

2 Q Did you split the money with Ferrie?

3 A No, I was in Baton Rouge at the time, this is

4 in Baton Rouge.

5 Q Well, Ferrie was not to get any money out of

6 the sale of this film?

7 A Well, I forgot about it after he brought it

8 over, he never did bring the subject up

9 again, he left the film there and forgot

10 about it.

11 Q And Ferrie told you he had to get \$150.00 for

12 the film because of the risk involved in

13 getting it out of Cuba?

14 A Not that particular time, he said he could get

15 as many as needed out of Cuba, and he said,

16 you know, there has to be a pretty good

17 price, but \$150.00, I don't know about that,

18 and that is the only one he ever brought,

19 over.

20 Q He expected to be compensated for the trouble

21 that he went to and the risk he went to in

22 getting the film. Is that right?

23 A Well, I guess so.

24 Q And he never did get any part of the money that

25 you sold the film for?

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1 A That was, gee, 19 -- whatever it was when he 378
2 brought it over, I didn't sell it until '67,
3 '68, '67.
4 Q Did you and Ferrie or you by yourself sell any
5 other film of this nature?
6 A Movies?
7 Q Yes.
8 A No.
9 Q How about still pictures?
10 A Sell any still pictures?
11 Q Yes.
12 A Never.
13 Q Never did?
14 A No.
15 MR. DYMOND:
16 Your Honor, the next subject that I am going
17 to get on will take a little while. I
18 see we are right before 12:00 o'clock.
19 THE COURT:
20 That is a good time to stop.
21 Would you take charge of the Jury.
22 Gentlemen, we are going to recess in a
23 moment for the noon lunch. Again I must
24 admonish you and instruct you not to
25 discuss the case amongst yourselves

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or with anyone else.
You can take them out, Sheriff, the bus is
ready, take charge of the Jury.
You are released under your bond, Mr. Shaw,
the witness is excused until 1:30.

(Whereupon, a luncheon recess
was taken.)

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AFTERNOON SESSION

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THE COURT:

Let the record show that the Jury is back, Defendant is present, both counsel are present. Are the State and Defense ready to proceed?

MR. DYMOND:

Yes, sir.

MR. ALCOCK:

Yes, sir.

THE COURT:

Let it be noted that I have advised the witness that his previous oath is still binding.

BY MR. DYMOND:

Q Mr. Russo, referring again to the Sciambra memorandum, the bottom of page 4 --

A Bottom of what page?

Q Page 4.

A Thank you.

Q Wherein appears this statement and it is about six lines from the bottom, "Russo said that he believes that Kershenstine, Kenny Carter, and maybe Niles Peterson, and Landry would know more about the

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1 roommate and be able to recognize him."
2 Did you state that to Mr. Sciambra in
3 Baton Rouge?
4 A Essentially, yes.
5 Q Now why did you believe or would you believe
6 that these parties would know more about
7 this roommate?
8 A I didn't say no more than I did, they would know
9 more about the roommate and be able to
10 recognize him.
11 Q Why would they know about the roommate?
12 A What Andy said, Sciambra had asked me in Baton
13 Rouge who I associated with and similar
14 questions, whom I associated with, the
15 names of the people that he might contact,
16 things of that sort, and I told him that
17 Kershenstine, Carter and for sure Al and
18 Peterson.
19 Q Did Niles Peterson ever go with you to Dave
20 Ferrie's apartment when this roommate
21 was there?
22 A I think he did.
23 Q You don't know?
24 A I am not sure.
25 Q What makes you think he did?

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1 A I, 'cause he was around me about that period
2 of time.

3 Q Was that the only reason you have, you have no
4 specific recollection of his going there
5 with you on the occasion when you saw
6 this roommate?

7 A No, but it is possible he was with me.

8 Q That is just a possibility?

9 A Right.

10 Q And so on the preliminary hearing when you
11 testified he definitely went inside the
12 party with you --

13 A I testified to that after the badgering. You
14 forced me in that position and I said the
15 people I associated with probably were
16 Peterson and probably Moffett.

17 Q By badgering you, you mean by asking you quite
18 a number of times the same --

19 MR. ALCOCK:
20 I object --

21 MR. DYMOND:
22 If The Court please he used the terminol-
23 ogy, "badgering."

24 MR. ALCOCK:
25 I am objecting to this area because we

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1 have been over and over this and it
2 is highly repetitious.

3 MR. DYMOND:

4 If The Court please this is only the second
5 time this is touched on.

6 THE COURT:

7 I can't comment on it at all but you have
8 covered the subject matter either
9 yesterday afternoon and this morning
10 and I see no reason to repeat it.

11 MR. DYMOND:

12 This is the first time I have been accused
13 of badgering a witness.

14 MR. ALCOCK:

15 You used the word.

16 MR. DYMOND:

17 He used it first.

18 THE COURT:

19 Read the question and answer.

20 THE REPORTER:

21 Question: "And so on the preliminary
22 hearing when you testified he defi-
23 nitely went inside the party with
24 you --"

25 Answer: "I testified to that after the

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badgering. You forced me in that position and I said the people I associated with probably were Peterson and probably Moffett."

MR. ALCOCK:

My objection is not badgering but repetitious. I can remember this is exactly where we ended yesterday's session where Mr. Russo was read back those portions of the preliminary hearing where he felt that Counsel had forced him to make a statement.

MR. DYMOND:

At this time I am objecting to the word "badgering". I have been accused of badgering and I want to know what it means.

THE COURT:

I think we all know what the word badgering means.

MR. DYMOND:

What does it mean?

THE COURT:

We can get the dictionary out.

(To the witness) What do you mean

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1 by badgering?

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2 THE WITNESS:

3 I attempted to answer the question he had
4 asked on two or three prior occasions
5 when he had asked me who was there
6 and I had said I didn't know, what
7 do you mean and he said what do you
8 mean you don't know and he said,
9 rather I said I was with a bunch of
10 friends again without trying to say
11 who it was and finally he said was
12 one of those friends Peterson and I
13 said yes it was Peterson.

14 BY MR. DYMOND:

15 Q Come on, Mr. Russo, didn't you state at the
16 preliminary hearing "I can definitely say
17 "Sandra Moffett was there and definitely
18 Nils Peterson"?

19 A Only after those questions, the questions I
20 pointed out to you were asked.

21 Q Then if somebody will ask you something enough
22 times you will give them the answer they
23 want?

24 MR. ALCOCK:

25 I object as that is arguing with the

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witness.

THE COURT:

That is arguing with the witness.

BY MR. DYMOND:

Q Now do you remember then at any time when
Kenny Carter went to David Ferrie's apart-
ment with you when the roommate was there?

A Not definitely, no.

Q Do you remember at any time when Kershenstine
went to the apartment with you when the
roommate was there?

A Not definitely, no.

Q Do you remember at any time when Al Landry
went to the apartment with you when the
roommate was there?

A No.

Q So therefore there would be no material basis
for that statement read to you that you
gave to Mr. Sciambra?

A Except these people were people I associated
with and these people were -- would
probably remember so and so or such and
such and might have run into one of the
people. Sciambra asked me this in Baton
Rouge.

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1 Q Would you tell us why you didn't give him
2 Sandra Moffett's name whom you termed her
3 as almost a constant companion?

4 MR. ALCOCK:

5 I object as there is no evidence that he
6 mentioned that about Sandra Moffett,
7 or that he mentioned that to Andrew
8 Sciambra --

9 MR. DYMOND:

10 I will ask him that.

11 BY MR. DYMOND:

12 Q Did you mention Sandra Moffett's name as a
13 person who would know about the roommate?

14 A During the conversation I termed Sandra Moffett
15 as somebody who would probably know.

16 Q That would be another error in the memorandum
17 if that wasn't included in the wording.

18 A Not essentially because this might be an omis-
19 sion and to this point it might not be
20 there.

21 Q What other names did you mention who might
22 recognize the roommate?

23 A I don't recall, I might have mentioned some
24 others but I don't recall offhand.

25 Q Did you testify that after President Kennedy

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1 was assassinated you remarked to several
2 of your friends that you recognized the
3 guy that did it?

4 A Yes, I said -- I said I think I know that man
5 or knew that man.

6 Q Still after that you had to go through the
7 routine of putting a beard on Lee Harvey
8 Oswald before you identified the picture?

9 MR. ALCOCK:

10 That is not the testimony in this record
11 and Mr. Dymond knows it.

12 THE COURT:

13 I can't comment as to what is or is not.

14 MR. DYMOND:

15 I think it is the testimony.

16 MR. ALCOCK:

17 It is not Your Honor.

18 THE WITNESS:

19 I --

20 BY MR. DYMOND:

21 Q Is it not a fact that they had to put a beard
22 on --

23 THE COURT:

24 Rephrase your question.

25 BY MR. DYMOND:

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1 Q Is it not a fact the police or Mr. Sciambra
2 had to put a beard on the photograph of
3 Lee Harvey Oswald before you identified it
4 as being the roommate?

5 A In Baton Rouge I identified the photograph he
6 pulled out, the one he had with him and
7 except for the fact that the photograph
8 he showed me in Baton Rouge did not have
9 whiskers.

10 Q Then he came back to New Orleans and had the
11 beard drawn in on another photograph
12 before you identified it?

13 A Yes. It may have been the same photograph
14 enlarged, I'm not sure.

15 Q As a matter of fact you had seen Leon Oswald
16 without a beard?

17 A Only under the circumstances when he turned
18 to the left or right, one or the other
19 turned and I knew it was the same man.

20 Q You said you were in his presence for five
21 minutes then?

22 A Yes, sir at the approximate most.

23 Q Did you tell Mr. Sciambra you had never been
24 hypnotized, Mr. Russo, actually?

25 A Did I tell I had never been hypnotized?

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NAME *Smith* DATE 11/23/92

1 Q Yes.

2 A You're talking about in Baton Rouge?

3 Q That is right.

4 A I don't know if we covered the subject except
5 what is stated here and I made a correction
6 to that extent. On page 7 he said, "He
7 said that he had been hypnotized like
8 this before and it had helped him to recall
9 and that he would be glad to do it for
10 us," and he was talking about me and I
11 said no, that was not right that a couple
12 of people had tried to hypnotize me,
13 Dave Ferrie for one and another being
14 Irwin Moreau.

15 Q When other people tried did it make you remember
16 things more vividly than before?

17 A I don't think they hypnotized me.

18 Q What made you remember things more vividly
19 if you had not been hypnotized?

20 A With the Moreau and Ferrie --

21 Q Right.

22 A I don't think they hypnotized me.

23 Q I am reading to you from the first paragraph
24 on the top of page 7, "He also said that
25 if he were hypnotized he may have total

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1 recall on names and places and dates. He 391
 2 said that he had been hypnotized like
 3 this before and it had helped him to
 4 recall and that he would be glad to do it
 5 for us."
 6 Do you deny telling Mr. Sciambra
 7 that?
 8 A I made a correction on that yesterday.
 9 Q You deny that?
 10 A I denied it yesterday.
 11 Q You deny that you suggested to Mr. Sciambra
 12 that you be hypnotized?
 13 A Do I deny what?
 14 Q That you suggested to Mr. Sciambra that you be
 15 hypnotized.
 16 A I suggested that was an avenue of approach,
 17 yes.
 18 Q Why did you say you wanted to be?
 19 A I didn't say I wanted to be.
 20 Q Why did you suggest it?
 21 A He was asking me for more names and dates and
 22 most of it was names, dates, where, the
 23 people and what conversation went on and
 24 things of that sort and I told him what I
 25 understood about hypnosis and that it

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1 induced recall and if they could get a
2 professional in New Orleans or up there
3 I would be glad to submit to it.

4 Q How did you know that it produced recall?
5 A I read on it and heard Ferrie talk about it.
6 Q And as a matter of fact you were subsequently
7 hypnotized by a representative of the
8 District Attorney's office?

9 A Right.

10 Q How many times were you hypnotized, Mr. Russo?
11 A I think three.
12 Q Three times, when was the last time?
13 A I don't recall.
14 Q You don't remember the date?
15 A No.

16 MR. DYMOND:

17 May I have that Kemp transcript, the Kemp
18 television transcript, it is the
19 thicker of the two transcripts.

20 BY MR. DYMOND:

21 Q Now, Mr. Russo, you have described this room-
22 mate as being a person not very talkative
23 and who didn't have much to say to anybody,
24 is that correct?
25 A Right.

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1 Q As a matter of fact you told Mr. Sciambra the
2 roommate never talked to anybody, is that
3 right?

4 A In Baton Rouge?

5 Q Yes.

6 A No, I don't think I told him that.

7 MR. ALCOCK:

8 Your Honor, if Mr. Dymond is going to ask
9 this witness a question, or read
10 portions of the interview, I would
11 like to be given an opportunity to
12 see that.

13 MR. DYMOND:

14 I am about to read from the Kemp trans-
15 cript.

16 MR. ALCOCK:

17 We don't have a copy of it.

18 (Document exhibited to Counsel
19 for the State.)

20 BY MR. DYMOND:

21 Q I am reading a question and an answer from the
22 transcript of your television interview
23 with Mr. Jim Kemp, transcript of which has
24 been introduced in evidence:

25 "Did you ever talk to any of the

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1 associates of Ferrie other than the
2 fellow you knew, did you meet anybody else?

3 Answer: He had a roommate on the street
4 parallel with Louisiana Avenue and I don't
5 know the name of the street, which one it
6 is, it may be Louisiana Avenue Parkway,
7 but anyway he had a roommate and I talked
8 to him on several occasions but he was
9 just stale as regards to politics it seemed
10 to me. He talked about everything else."

11 Would you explain to us why in one
12 instance you said he never talked to any-
13 body and another you said he talked about
14 everything else but politics?

15 A Essentially I talked about not much else than
16 politics, that is true, that is he'd talk
17 about everything else and wouldn't join
18 in about politics and that was my particu-
19 lar interest at the time.

20 Q And that is your explanation as to why you say
21 on one instance he didn't talk to anybody
22 and the other he talked about everything
23 else?

24 A He talked to people.

25 Q And it was about everything else?

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NARA *Shelley* DATE 11/23/93

1 A But I didn't consider him very talkative, no.
2 Q Now, Mr. Russo, when did you first see this
3 Sciambra memorandum?
4 A Uh, I'm not real sure of that, I know it was
5 between, the latest was March 20 when
6 Jim Phelan came up to Baton Rouge, but I
7 probably seen it earlier.
8 Q You had seen it before that?
9 A Yes.
10 Q Did you ever tell Mr. Sciambra that Ferrie
11 used hypnosis for sexual purposes?
12 A Did I?
13 Q Or that Ferrie told you that.
14 A No, Landry had told me that.
15 MR. ALCOCK:
16 Your Honor, I am objecting to this line
17 as repetitious.
18 MR. DYMOND:
19 That particular question is answered
20 already and it wasn't repetitious
21 anyway.
22 MR. ALCOCK:
23 I'm quite sure it was.
24 BY MR. DYMOND:
25 Q Now, Mr. Russo, did you testify this morning

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that the color of the beard and the hair
on this roommate were about the same?

A Well --

MR. ALCOCK:

Object, Your Honor, as it is repetitious.

THE COURT:

Let me call attention to Article 369 of
the Code of Procedure which states:
"In the discipline of his court, the
trial judge is vested with a sound
discretion to stop the prolonged,
unnecessary and irrelevant examination
of a witness, whether such examina-
tion be Direct or Cross and even
though no objection be urged by
Counsel."

One of the footnotes states:
"The Judge may stop Counsel from in-
definitely prolonging a cross-
examination by repeatedly going over
the same matter." State v. Kuntz
(Spelled phonetically.) The Trial
Judge may rule out the useless repe-
tition of evidence, and the State's
objection is covered by this matter.

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1 MR. DYMOND:

2 I haven't covered this particular point.

3 BY MR. DYMOND:

4 Q Did you testify this morning that the beard
5 and the hair on this roommate were approxi-
6 mately of the same color?

7 A No.

8 Q What was your testimony in that respect?

9 A I stated there was a difference.

10 Q Which was darker?

11 A I'm not sure.

12 MR. ALCOCK:

13 Your Honor, if this isn't repetitious,
14 Mr. Dymond is asking him what his
15 testimony was this morning and obviously
16 we have gone over that and it is
17 obviously repetitious.

18 THE COURT:

19 I agree with you if he said he testified
20 to this this morning.

21 MR. DYMOND:

22 The last question was never testified to
23 this morning and the last one has been
24 answered already anyway.

25 BY MR. DYMOND:

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NAME W. H. H. DATE 11/23/93

1 Q Do you deny that you told Mr. Sciambra in Baton 398
2 Rouge that the beard was a little darker
3 than his hair?
4 A I don't deny or affirm it. I'm not sure
5 exactly what I told him in Baton Rouge
6 about the difference except there was a
7 difference.
8 Q Would there be any reason for you to have known
9 then and not now?
10 A I have a feeling the, it was darker, rather
11 the beard was lighter but I'm not sure
12 right now.
13 Q You say you have a feeling the beard was
14 lighter?
15 A Yes.
16 Q What I'm asking you is whether you told
17 Mr. Sciambra in Baton Rouge that the beard
18 was darker?
19 A That the beard was darker?
20 Q That is correct.
21 A I don't know.
22 Q Oh, there is one other point I want to clarify
23 and that is with respect to the clothing,
24 and particularly the jacket, which you
25 stated that Mr. Shaw had worn at the

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1 National Street Wharf. Would you be a
2 little more explicit in your description
3 of that?

4 A Well, I think the jacket was some sort of
5 striped jacket or something to that
6 effect, I'm not real sure of the pants
7 except they were dark.

8 Q Could you tell us what color the jacket was?

9 A No, I saw a stripe or line in it.

10 Q Could you tell us whether it was light or dark
11 in color?

12 A No, I am not sure.

13 Q Mr. Russo, did you say that this roommate
14 was present in David Ferrie's apartment
15 in the month of October 1963?

16 A Did I say he was present?

17 Q Right.

18 A I am not sure exactly when -- You mean the
19 last time I saw him?

20 Q That is correct.

21 A I'm not sure exactly when I first, I am first
22 inclined to think October and in fact I
23 think I testified to that fact in the
24 preliminary hearing -- I'm not sure
25 whether it was October or late September

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1 but my original recollection was I thought 400
2 I saw him in September and then I thought
3 possibly I saw him in October.
4 Q I am reading to you from page 196 and 197 of
5 the transcript of the preliminary hearing:
6 "Question -- ' I am talking about
7 the one at the end of September or
8 October as you stated in the month before
9 the Kennedy assassination.
10 "Answer I don't really recall.
11 "Question -- When would you say was
12 the last time before the assassination
13 that you saw Oswald?
14 "Answer -- Somewhere around the
15 beginning of October, maybe late Septem-
16 ber, beginning of October.
17 "Question -- The beginning of October?
18 "Answer -- Yes, sir.
19 "Question -- You are sure about that?
20 "Answer -- I am putting it in context
21 with other things, yes."
22 Now would you tell me why on the
23 preliminary hearing you stated that Oswald
24 was here in Ferrie's apartment in October
25 and you say now you cannot say?

1 A I am saying late September, early October, the 401
2 initial recollection was that it was
3 September. I felt a little different
4 about it because of classes and I felt it
5 was October when I last saw him and it
6 was one or the other. I am inclined to
7 say just exactly when the last time was.
8 As I said I stated at the preliminary
9 hearing I thought it was October or late
10 September.
11 Q Mr. Russo, since the preliminary hearing haven't
12 you learned that Oswald left New Orleans
13 never to return on September 25 and that
14 is the reason you are not saying October
15 now?
16 A During the preliminary hearing you mentioned
17 it was September 25.
18 MR. ALCOCK:
19 I object because it is assuming a fact
20 not in evidence.
21 MR. DYMOND:
22 If The Court please, I can ask him whether
23 something is a reason for his having
24 changed his testimony.
25 THE COURT:

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1 now that he was here in October?

2 A No.

3 Q That isn't it? Is that right?

4 A That's right.

5 Q I am reading to you from your preliminary
6 hearing testimony on page 202 of the
7 transcript: "Question -- You still say
8 it was in October that you heard this
9 second threat from Ferrie?
10 "Answer -- I heard, yes, sir.
11 "Question -- And that Oswald was
12 present, is that right?
13 "Answer -- At one of the times, yes.
14 "Question -- In October, is that
15 right?
16 "Answer -- I would say in October,
17 yes, sir."
18 MR. ALCOCK:
19 I object, Your Honor, as I think the
20 witness has already answered that
21 question.
22 MR. DYMOND:
23 It is on a different portion of the
24 testimony and I was going to ask him
25 whether his explanation to this

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1 discrepancy would be the same as to
2 the previous one.

3 THE COURT:

4 I will permit it.

5 BY MR. DYMOND:

6 Q Is your explanation for this discrepancy the
7 same as the other?

8 A If you will phrase the question.

9 Q Phrase what question?

10 THE COURT:

11 Rephrase the question.

12 THE WITNESS:

13 Rephrase it as you did before and I will
14 answer that.

15 BY MR. DYMOND:

16 Q Do you deny having testified as I read to you
17 from page 202 of the transcript in the
18 preliminary hearing?

19 A Do I deny having testified to that?

20 Q Yes, that is correct.

21 A No.

22 Q And you say now you cannot say that Oswald
23 was here in October?

24 A That is not the same question you had asked.

25 I am saying it was either late September

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1 of early October.

2 Q What I'm asking you is why you are changing
3 your testimony?

4 A I said late September or early October.

5 Q Why are you changing your testimony now from
6 that which you gave at the preliminary
7 hearing?

8 A I don't think I am essentially.

9 Q You care for me to read it again?

10 A No, I understand exactly what you read and I
11 say the same thing now, late September or
12 early October.

13 Q Permit me -- "You still say it was in October
14 you heard this second threat from Ferrie?
15 "Answer -- I heard, yes, sir.
16 "Question -- And that Oswald was
17 present, is that right?
18 "Answer -- At one of the times, yes.
19 "Question -- In October, is that
20 right?
21 "Answer -- I would say in October,
22 yes, sir."
23 Does that say that Oswald was here
24 in October?

25 A Late September, early October, essentially the

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same, yes.

Q What just says late September?

A What you just read said late September or early October and if that says October, I'm not arguing with you.

Q I exhibit to you page 202 of your testimony at the preliminary hearing pointing out to you where -- I'm pointing from there and ask you to read that page.

A Can I read a little bit before?

Q I read you from page 202.

A Not here, late September.

Q You did say it was in October?

A Before and after I said late September and early October which is essentially the same thing as I am saying right now.

Q Mr. Russo, were you living here in New Orleans when David Ferrie was arrested right after the assassination?

A Yes, sir.

Q Did you see it in the paper?

A The assassination or the arrest?

Q The arrest of David Ferrie.

A No.

Q Did you know he was arrested?

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1 A No, I didn't know it.

2 Q When did you first find out about that?

3 A Probably right around the first week I was
4 down here in New Orleans from Baton Rouge,
5 '67, 1967.

6 Q In other words Dave Ferrie was arrested right
7 after the assassination and you didn't
8 find out about it until 1967?

9 A Right.

10 Q And that is the same Dave Ferrie that was a
11 close friend of yours and he had an open
12 invitation to your home and you had an
13 open invitation to his?

14 A Yes.

15 MR. ALCOCK:
16 That was a question?

17 MR. DYMOND:
18 Yes.

19 BY MR. DYMOND:
20 Q Now, Mr. Russo, you have testified previously
21 that you do know Mr. Jim Phelan, is that
22 correct?

23 A Right.

24 Q When was the first time that you saw
25 Mr. Phelan?

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1 A It was right after the preliminary hearing, 408
2 Sunday evening, I think.
3 Q Would March 21, 1967 at your home in Baton
4 Rouge refresh your memory to that?
5 A If that be approximately right.
6 Q Would it be approximately right, is that
7 correct? About what time of day did
8 Mr. Phelan come to your house?
9 A In the evening.
10 Q Is that the occasion upon which you say
11 Mr. Matt Helms was present?
12 A Yes, sir, the photographer.
13 Q On that occasion did you tell Mr. Phelan that
14 in the letter that you wrote to Garrison
15 you said merely, "I had occasion to meet
16 Ferrie and some of his friends and I am
17 willing to tell you what I know about them"?
18 A Not exactly but that is one of the things I
19 said.
20 Q Did you tell them there was more to the content
21 of the latter than you mentioned?
22 A I don't know exactly what was asked about the
23 letter that I wrote Garrison, and I knew
24 Ferrie and was willing to co-operate and
25 would they have somebody out of the DA's

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1 office contact me.

2 Q Did you admit to Mr. Phelan that in that letter
3 you didn't mention Shaw, Bertrand, or
4 Oswald?

5 A I didn't know who Shaw was.

6 Q Did you admit to Mr. Phelan at that time the
7 letter did not mention Shaw, Bertrand,
8 Oswald or an assassination plot at
9 Ferrie's apartment?

10 A Right.

11 Q You admitted that to Mr. Phelan?

12 A Yes.

13 Q At that time?

14 A Yes.

15 Q Did you also have a discussion on that same
16 occasion with Mr. Phelan concerning the
17 interview that you had given to Mr. Bill
18 Bankston a reporter for the Baton Rouge
19 State Times?

20 A Several things were covered and he probably
21 mentioned that, I have a recollection he
22 brought Bankston's name in the conversa-
23 tion in May, not March.

24 Q At that time did you give to Mr. Phelan as an
25 explanation for your granting of an

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1 interview to Bankston the fact that you 410
2 wanted to get the whole story down with
3 somebody?
4 A You're emphasizing the word "whole," no.
5 Q Forget the emphasis.
6 A I told him I had called the Baton Rouge
7 Detective Bureau on that Friday or sometime
8 around 11:00 o'clock in the morning when I
9 decided against coming to New Orleans, it
10 wouldn't be April it'd be May and I talked
11 to someone at the Baton Rouge Detective's
12 Bureau and I asked them could I make a
13 statement and they said to me when are you
14 going to New Orleans and I said I am going
15 again in a couple of weeks, and Mr. Phelan
16 at that time, I had talked with a couple
17 of friends of mine and told them a little
18 bit and I then said I will call up the
19 newspapers and tell them about it, and I
20 didn't know Mr. Bankston and all I know is
21 he answered the phone and I said to him
22 "Will you come down" and he said we will
23 send somebody.
24 Q Did you tell Mr. Phelan you wanted to get the
25 whole story down with somebody --

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A I said I wanted to give a statement to somebody 411

so it would get to Garrison, I don't know
about the whole story.

2

Q Up to that time had you telephoned Garrison
and talked to him?

A The New Orleans Office I don't think, I may
have tried Friday, I'm not sure.

Q So in other words before you telephoned Garrison
you telephoned the television station?

A I telephoned the Baton Rouge Detective Bureau.

Q And also the Baton Rouge States-Times and how
about the television station?

A I didn't call the television station.

Q No. How about the Baton Rouge States-Times?

A I called them.

Q Before you talked to Garrison, is that correct?

A Yes.

Q Was it during this same visit by Mr. Phelan
that he showed to you the copy of the
Sciambra memorandum?

A He had a copy, yes, sir.

Q Did he hand that to you and show it to you and
permit you to read it?

A He did.

Q Is it your testimony you did not read that

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1 complete memorandum?

2 A Not word for word, no.

3 Q At that time what did you say?

4 A Not word for word, no.

5 Q Did you thumb through it or what did you do?

6 A Just took it and looked through it quickly and

7 he had asked me before that if I would

8 look through it and see if any of the

9 contents were not correct and then on the

10 back page one part caught my eye where he

11 had circled something and had a line

12 under it and an arrow to the left or right

13 side with notes on it and when I came to

14 that I told him that was not so.

15 Q Did Mr. Phelan tell you he was in the process

16 of writing an article for the Saturday

17 Evening Post?

18 MR. ALCOCK:

19 I'm going to object to anything that

20 Mr. Phelan might have said.

21 MR. DYMOND:

22 If The Court please, Mr. Phelan is going

23 to be available to testify.

24 THE COURT:

25 You can then ask the question when he

412

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1 takes the stand.

413

2 BY MR. DYMOND:

6

3 Q Then you deny that you made only four minor
4 corrections in the Sciambra memorandum
5 when Mr. Phelan handed it to you?

6 A Most of the time centered around other things
7 and not around the memorandum and most of
8 the time around the part that was circled,
9 the word "twice" I think on page 5 or 6.

10 Q Weren't you checking that memorandum for
11 accuracy?

12 A For accuracy, I was told to look it over and
13 see if there were any glaring mistakes,
14 some omissions, some corrections and
15 essentially a lot of stuff was correct.

16 Q Didn't you point out four inaccuracies?

17 A I may have pointed out four but the one he was
18 interested in was the one "twice."

19 Q And you say that the statement contained in
20 that memorandum to the effect that you had
21 seen this defendant only twice was circled
22 by him in pencil?

23 A I don't think pencil, I think it was ink.

24 Q It was ink?

25 A It was.

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Reference copy, JFK Collection: HSCA (RG 233)

But you -- had you spoken to any representative of the District Attorney's Office prior to Mr. Phelan coming to Baton Rouge?

I had.

And you had been informed he was coming and informed of the purposes of his visit?

I had.

To whom had you spoke?

Well; perhaps a couple of people, I know I talked to Andrew Sciambra and another too but at that time I didn't know everybody in the office.

That is the Mr. Sciambra that wrote the memorandum?

Correct.

Is it not a fact that when you noticed the statement that you had seen this Defendant only twice you should have said that you should have said that I should have said three times?

A I should have said to him?

Q To Mr. Phelan.

A What do you mean, when he was up there and he asked me that?

Q Yes.

Q Is it not a fact that you invited

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1 A I said definitely it was an error twice was
2 wrong and I should have said three
3 times.
4 Q Is it not a fact you admitted to him that you
5 had told Mr. Sciambra of only seeing him
6 twice?
7 A That is an error.
8 Q You deny that?
9 A Absolutely.
10 Q Did you receive a phone call from Mr. Phelan
11 while he was in New York subsequent to this
12 interview?
13 A I received several phone calls from him, it was
14 probably subsequent to the interview, yes
15 it was.
16 MR. ALCOCK:
17 Your Honor, I am going to object to any-
18 thing along this line unless he
19 received a sufficient amount of phone
20 calls to recognize the voice of
21 Jim Phelan but somebody who identifies
22 himself as Jim Phelan, he wouldn't
23 know whether it was.
24 BY MR. DYMOND:
25 Q Is it not a fact that you invited the person

415

16

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1 on the other end of that telephone, whom
2 you believed to be James Phelan, to drop
3 down and see you when he got back to New
4 Orleans?

5 A When I was on North St. Patrick Street, you're
6 talking about later on?

7 Q I am talking about after the March 21 visit,
8 yes.

9 A Yes.

10 Q You did invite him to drop by?

11 A I told Matt Helms or somebody that knew him
12 to tell him to call me and he returned my
13 phone call and said, I said when you're in
14 New Orleans why don't you check me out.

15 Q When Mr. Phelan got back to New Orleans in
16 late April of 1967 as a matter of fact
17 did you not see him on five or six visits?

18 A Not long visits, four of them were long visits
19 and two, if I saw him two other times they
20 were probably for a few minutes, yes.

21 Q Where were most of the visits?

22 A 619 North St. Patrick.

23 Q Do you remember on one occasion upon which
24 Mr. Phelan took you to dinner out at
25 Fitzgerald's?

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1 A Fitzgerald's yes.

2 Q Yes. Do you remember another occasion upon
3 which you and Mr. Phelan went down to the
4 corner poolroom and played a few games of
5 pool?

6 A Right, yes.

7 Q On the night after you played pool with
8 Mr. Phelan do you deny that you made this
9 statement to him: "If Garrison knew what
10 I told my priest in Baton Rouge after the
11 Shaw hearing he would go through the
12 ceiling"?

13 A No, I don't deny making that statement but it
14 needs somewhat of an explanation in con-
15 text. I had told quite frankly many people
16 this, and let me give you a little backup
17 also.. I told Phelan a great deal about
18 colored versus, black and white, something
19 I mentioned today as to how I felt of the
20 period of time from February 24 wherein I
21 got involved all the way up until the time
22 he was there and also past that time
23 actually. -- If you were at a basketball
24 game or the fights you have a lot of
25 vague memories and recollections that you

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1 have of that occasion, but from February
2 24 until that time my whole association in
3 this case as the accuser of the Defendant,
4 or witness against the Defendant, had been
5 what I called a blank grey area and I would
6 rather have if I could pull myself out of
7 it and I went into a long explanation of
8 that to him. Now, if you will repeat just
9 exactly the statement I made --

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10 Q "If Garrison know what I told my priest in Baton
11 Rouge after the Shaw hearing he would go
12 through the ceiling."

13 A Essentially what I told the priest was that,
14 and I'd like to be out of it, such a per-
15 sonal turmoil and upheaval in my own
16 personal world and that it would not be
17 the same whether Mr. Shaw was found guilty
18 or not, that had no bearing, that my life
19 would never be the same because there were
20 so many news people, some with other motives
21 such as DSU and NBC that not only reported
22 the news incorrectly but quite often
23 attempted to make news, things of this
24 sort.

25 Q Why did you think that would make Mr. Garrison

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go through the ceiling?

419

1
2 A It seemed like they had got me in a crossfire
3 and I didn't want to name names and that
4 if I could have avoided the whole thing
5 I'd rather not remember anything.

6 Q You deny in that same conversation you went on
7 and volunteered to Mr. Phelan that you
8 told the priest that you wanted to sit
9 down alone with Shaw in a room and listen
10 to him breathe and talk to him and ask him
11 some questions so you could resolve doubts
12 about your identification of him?

13 A Pardon?

14 Q You deny having told that to Mr. Phelan?

15 A That I told that to the priest?

16 Q Right.

17 A Right, sure I probably did tell him that as
18 well as the priest but for the same reason
19 I told you this morning the 1,000 percent
20 against 100 percent -- sure it was the, the
21 man on Louisiana Avenue Parkway, although
22 if justice could be had, absolutely --
23 absolute justice, if I could be present
24 and smell and talk to him about things
25 you could jointly talk about so that I

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could come to an understanding of the
Defendant. I told that to Phelan.

Q You say you told the priest you wanted to
resolve doubts about your identification
of Shaw?

A I never told him that, I told him I would like
to be out of it, I would like to get my
life back in order, business and my job,
I had to get that back in order.

Q Now you are denying you told Phelan that you
told the priest you wanted to resolve
doubts about your identification?

A Wanted to resolve doubts?

Q That is right.

A Again I probably said that but in relation to
what I just told you about 1000 percent
versus 100 percent and I used that 100
percent to -- 1000 percent versus 100 per-
cent to many people I talked to.

Q Then you are not denying you told the priest
you had doubts about your identification?

A Doubts is a negative and positive is -- I'd
rather be more sure than just sure if that
makes sense.

Q Not much, no.

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THE COURT:

Don't pursue the area.

BY MR. DYMOND:

Q Is it not a fact that it was shortly after this conversation with Mr. Phelan that a tentative appointment was set up where you were to meet with Mr. Shaw outside the presence of attorneys?

MR. ALCOCK:

Object, Your Honor, as repetitious.

MR. DYMOND:

If The Court please there is another question following.

THE COURT:

Read the question back.

THE REPORTER:

Question: "Is it not a fact that it was shortly after this conversation with Mr. Phelan that a tentative appointment was set up where you were to meet with Mr. Shaw outside the presence of attorneys?"

MR. ALCOCK:

That was gone into at length this morning.

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1 MR. DYMOND:

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2 If The Court please I intend to tie it up
3 and show the relevancy.

4 THE COURT:

5 Is that statement correct or not? Is that
6 correct?

7 THE WITNESS:

8 You're asking me if an appointment was
9 set up?

10 BY MR. DYMOND:

11 Q A tentative appointment set up.

12 A Not to my knowledge, it was definitely set up.

13 Q It was set up?

14 A That is the way Phelan expressed it to me, it
15 was definitely set up for somewhere on
16 the Mississippi Gulf Coast.

17 Q At whose request?

18 A That again I made no specific request but it
19 was the kind of thing for this 1000 percent
20 versus a hundred to eliminate all barriers
21 between myself and the Defendant, and all
22 of a sudden Phelan comes up the next day,
23 or a couple of days later and said "It
24 has been set up for that night or
25 tomorrow," and I said "Don't take me

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1 serious, it's not possible and it would
2 put me in, it would be impossible because
3 Garrison's office knew exactly well that
4 Phelan was talking to me about it and
5 they were tape recording the conversations.

423

6 Q How did they get to tape record the conversa-
7 tions?

8 A What?

9 Q How did Garrison's representative get tape
10 recordings of these conversations?

11 A I told them he had called me and had said he
12 will check in and they said let us know
13 when he does come to the house because we
14 want to find out how far he will go and
15 they would set up bugging devices in the
16 house.

17 Q You had bugging devices on your phone?

18 A No, they set up the tape recorder in the hall
19 closet and spike mikes and --

20 Q And every time Phelan called you you turned it
21 on, this bugging device?

22 A And every time he would come over also.

23 Q And you bugged the conversations when he took
24 you to dinner or when you were shooting
25 pool?

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1 A Most of the conversations we had were in the
2 house, any lengthy conversations, although
3 we did go down to the poolroom and
4 Fitzgerald's Restaurant.

5 Q All these conversations in the house with
6 Phelan were bugged?

7 A They were taped.

8 MR. DYMOND:

9 If The Court please at this time we would
10 like to move for the production of
11 the tapes of these telephone conver-
12 sations.

13 MR. ALCOCK:

14 For what purposes, Your Honor?

15 MR. DYMOND:

16 I think we can find out precisely what
17 went on these conversations.

18 MR. ALCOCK:

19 It seems to me we are dabbling in a lot
20 of hearsay.

21 MR. DYMOND:

22 I waive our objection to any hearsay.

23 THE COURT:

24 That is going to be a very peculiar
25 situation.

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MR. ALCOCK:

Your Honor --

THE COURT:

You waive when you wish to waive and when
you don't wish to you don't waive.

MR. DYMOND:

If The Court please, we don't know what
is in those recordings but we will
take our chances.

THE COURT:

What is the State's position?

MR. ALCOCK:

The State just doesn't see a legal purpose
for the introduction of these tapes
and no real reason to offer them to
The Court. Frankly I haven't heard
the tapes but it seems to me we are
going into a lot of hearsay. If
Mr. Phelan wants to testify,
Mr. Dymond stated he will be here and
will testify.

MR. DYMOND:

Mr. Phelan's testimony is hearsay?

MR. ALCOCK:

The best evidence is for Mr. Russo to

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give his half and Mr. Phelan his
half and then The Court is then given
the full contents of the conversation.

426

THE COURT:

It could be fraught with hearsay.

MR. DYMOND:

My objection is merely I think the Jury
would like to hear precisely what
went on.

THE COURT:

Let me read Article 493 of the Code of
Civil Procedure. It is under evidence,
493, "Whenever the credibility of a
witness is to be impeached by proof
of any statement made by him contra-
dictory to his testimony, first he
must be asked whether he has made
such a statement and his attention
must be called to the time, place,
and circumstances and to the person
to whom the alleged statement was
made in order that the witness may
have an opportunity of explaining that
which is prima facie contradictory.
If the witness does not distinctly

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1 admit making such statement, evidence 427
2 that he did make it is admissible."

3 You are going far afield from
4 this article because you are asking
5 me to force the State to present to
6 you exhibits that you don't know at
7 this moment what they contain, fur-
8 nish you with ammunition to show that
9 Mr. Russo is making a contradictory
10 statement today from what he told
11 Mr. Phelan. In other words you are
12 on a hunting or fishing expedition
13 hoping that something will develop
14 aside from the notes you have after
15 speaking with this witness Mr. Phelan.
16 Apparently he told you his side of
17 the conversation and you have used
18 part of it to impeach the credibility
19 of the witness by proving he made
20 contradictory statements and
21 Mr. Alcock stated that Mr. Russo can
22 give his side and Mr. Phelan can give
23 his side. If on the other hand you
24 have written before you certain ideas
25 or thoughts or exact words Mr. Russo

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1 said to Mr. Phelan you can use them
2 now but I'm not going to grant your
3 request that you can go on a hunting
4 expedition. I sustain the objection.

5 MR. DYMOND:

6 To which ruling we respectfully object and
7 reserve a Bill of Exception making
8 the motion by the Defense, the State's
9 objection to it and The Court's
10 ruling and all the testimony up to
11 this time parts of the bill.

12 BY MR. DYMOND:

13 Q Is it not a fact that when you decided not to
14 go through with this scheduled meeting that
15 you told Mr. Phelan you didn't want to go
16 through with it because news might leak
17 through to Garrison?

18 A Garrison knew exactly that it was being set up.

19 Q I'm asking you whether you told Mr. Phelan that
20 was your reason for not going through with
21 it.

22 A That may have been part of it.

23 Q Did you tell him that?

24 A I am not sure that is exactly the reason I
25 gave, no.

RELEASED PER P.L. 102-686 (JFK ACT)
NARA *Smith* DATE 11/23/93

1 Q To your knowledge did Mr. Phelan know that his 429
2 conversations were being tapped or taped?
3 A No.
4 Q How about phone calls?
5 A No.
6 Q Calling your attention now, Mr. Russo, to the
7 particular evening you had dinner at
8 Fitzgerald's, and to further refresh your
9 memory, Steve Darby went to dinner with
10 you at Fitzgerald's?
11 A Yes, sir, right.
12 Q Later on in the evening after dinner do you
13 deny you made this statement to
14 Mr. Phelan: "I lied to you about why I
15 didn't want to meet with Shaw. I was
16 afraid if I talked to him I would know he
17 wasn't the man. What could I do then? I
18 could go on the run to Mexico or Califor-
19 nia and become a beatnik but I couldn't
20 run from myself"?
21 A I deny that.
22 Q You deny that?
23 A Yes.
24 Q You deny having said that?
25 A Right.

RELEASED PER P.L. 102-886 (JFK ACT)
NARA *AKB* DATE 11/23/93

1 Q The incident which I am about to relate occurred 430
2 towards the end of the frequent visits made
3 to you by Mr. Phelan. Is it not a fact
4 that you and he had a conversation about
5 your testimony concerning Mr. Shaw's trip
6 to the West Coast?
7 A That we, that Phelan and I had a conversation
8 about his trip to the West Coast?
9 Q Yes, about Mr. Shaw's trip.
10 A Phelan argued with me to some extent.
11 Q He argued with you?
12 A Yes.
13 Q Do you deny that in answer to his argument you
14 said that you had picked up a lot of infor-
15 mation from Garrison's people just from
16 the way they asked questions?
17 A That I picked up information from Garrison's
18 people?
19 Q That is correct.
20 A I don't think that would be an accurate
21 description of what was said.
22 Q You are denying having said that?
23 A Correct and I deny -- what he meant, it could
24 have been something similar to that.
25 Q Just what did you say?

RELEASED PER P.L. 102-626 (JFK ACT)
NARA *Shea* DATE 11/23/93

1 A Phelan always prefaced things with this state- 431
2 ment that District Attorney Jim Garrison,
3 that the District Attorney had a peculiar
4 habit of after using a person extensively
5 that he would turn on that person and he
6 said that once Shaw gets found innocent,
7 once he ever gets to trial and Shaw is
8 acquitted by the Jury there, then Garrison
9 will turn on you and ride you and file
10 charges so that he could get off the hook
11 and frequently he prefaced his statements
12 with that and if you'll get down to this
13 particular time --
14 Q I have picked up a lot of information from
15 Garrison's people just from the way they
16 asked questions.
17 A We talked quite a bit, well, at different times
18 and I don't know if this was after
19 Fitzgerald's --
20 Q After leaving Fitzgerald's.
21 A We talked several times and quite frequently and
22 about how much did I tell Sciambra and how
23 much initially and how much later on and I
24 told him essentially the things I told you,
25 or told you that I had told him, and I told

RELEASED PER P.L. 102-686 (JFK ACT)
NARA *MLB* DATE 11/23/93

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him some of the things were not hard to pick up or hard to follow and I don't know if I worded that correctly or not.

Q Do you deny that very shortly after that you made this statement to Jim Phelan, this is on the same occasion, same business, "I am a pretty sensitive guy and besides when they got through asking me questions I asked them a lot of questions like "Why is this man important" and so on and I also read every scrap the papers printed about the case before the Shaw hearing."?

A Some of that is accurate and some not.

Q What isn't?

A I asked a lot of questions after the initial questioning and reading the papers. A lot of, most of the people I associate with now know I don't read the papers mostly concerning the trial.

Q I am referring now to the last visit made by Mr. Phelan.

A Somehow or another you seem to have skipped about three at the house. You haven't covered the house yet.

Q The last one on May 28, 1967, do you deny that

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RELEASED PER P.L. 102-586 (JFK ACT)
NARA *[Signature]* DATE 11/23/92

1 you told Mr. Phelan these words: "I do
2 not know the difference between reality
3 and fantasy and I have told my roommate
4 Steve about it and brooded about it"?

5 A That is accurate with some explanation.

6 Q First of all, did you tell Phelan you didn't
7 know the difference between fantasy and
8 reality?

9 A You are taking that out of context.

10 Q Go ahead.

11 A And this, this is at the time that DSU's
12 Rick Townley was beginning to come around
13 and other newsmen always trying to split
14 hairs and Jim Phelan and a few others
15 were telling me about how Garrison was
16 going to get me when Shaw was found
17 innocent. I told him that it was hard
18 to distinguish fact and fantasy and I
19 went on a little further and I told him
20 that with this -- from that initial
21 barrage of newsmen, that it was hard to
22 distinguish fact and fantasy and I went
23 on a little further and told him it would
24 probably help me out if I could get away
25 from all of this, get away from it all

RELEASED PER P.L. 102-586 (JFK ACT)
NARA *SHL* DATE 11/23/93

1 for a couple of weeks and relax and stay
2 away from the newspapers and again he
3 pulled that out of context.

4 Q Mr. Russo, if you wanted to stay away from
5 reporters, why did you even suggest to
6 Phelan that he come by?

7 A The District Attorney's Office was interested
8 in how much and how far he would go.

9 Q You were just acting as an agent for the
10 District Attorney's Office collecting
11 information on Phelan?

12 A Initially Phelan had come up to Baton Rouge
13 and at that time they weren't interested
14 in how far he would go but after that I
15 met Phelan and I didn't tell him not to
16 come down, he seemed reasonable enough and
17 I thought he was responsible.

18 Q You actually told him to come down?

19 A I told, I think it was Matt Helms, you have to
20 ask him, if he saw him to tell him to call
21 me.

22 Q It was your testimony that because you were
23 being set upon by reporters that you didn't
24 know the difference between fantasy and
25 reality and still you were able to tell

RELEASED PER P.L. 102-686 (JFK ACT)
NARA *[Signature]* DATE 11/23/92

1 him to call you?

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2 A It is sometimes hard when persons are on you
3 to split hairs and everybody was saying
4 I was lying and that it was Guy Bannister
5 or James Llewellyn at Dave Ferrie's and
6 that didn't you say this or that and it
7 was a constant barrage and they told me
8 not to talk to anybody but that Phelan
9 was okayed on the 20th or 21st and it was
10 all right to talk to him and after that,
11 after he called me when I was in New
12 Orleans and said he was coming over I
13 called them and they said to stall him a
14 little bit and we are going to go to your
15 place and we will tape the conversation.

16 Q Were you stalling him a little bit?

17 A I was stalling him the first day.

18 Q Did you further tell Phelan on this same occa-
19 sion, "Everything you have commented on
20 about my testimony has been bouncing inside
21 my head and I am much more critical of
22 myself than you are"?

23 A That was a leading statement I told them, yes,
24 sir.

25 Q What was?

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NARA *[Signature]* DATE 11/23/93

1 A If that, every day that he was over the night
2 before someone from the District Attorney's
3 Office would come over and pick up the
4 tape and that statement was to make him
5 think he was starting to get somewhere in
6 breaking me down and my testimony and to
7 get at Garrison and that was supposed to
8 be when it was done under sodium pentathol
9 or hypnosis and that was the statement that
10 some makes sense and some doesn't.

11 Q It is your testimony that you were just baiting
12 Phelan along?

13 A Not baiting, no. They were interested in how
14 far he'd go and I was interested in that
15 too.

16 Q Did you also tell him at that time that if you
17 changed your story on the positive identi-
18 fication of Shaw, or even eased up on it,
19 that Garrison would clobber you?

20 A He said this, I want to preface just a little
21 bit of that --

22 Q Just answer yes or no and then you can explain.

23 A Not exactly, no.

24 Q All right, you can explain.

25 A He said this, if you will, first of all he

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NARA *Shelton* DATE 11/23/93

1 tried to ask me and would say I understand 437
2 it is possible you have been led under
3 drugs and hypnosis and he showed me the
4 papers of big people, certain doctors who
5 would testify for the Defense against the
6 State's case, and those names were just
7 halfway scratched out and he said they
8 were highly reputable and educated people
9 and so on and he played it that way -- that
10 didn't throw me at all and then he changed
11 his tactics and said if you were to say
12 it was possible, one step removed, if you
13 were to say it is possible then you come
14 to me in New York, talk to a lawyer, just
15 talk to a lawyer and I will cover your
16 expenses coming to New York and then of
17 course we would have to deny it from there.
18 I said if I did, if I did do anything
19 like that Garrison would clobber me over
20 the head. That way, yes.
21 Q You didn't say it the way I read it to you,
22 right?
23 A No.
24 ... At the hour of 2:45 o'clock p.m. the
25 Court recessed until 3:10 o'clock p.m. ...

RELEASED PER P.L. 102-586 (JFK ACT)
NARA *[Signature]* DATE 11/23/93

1 THE COURT:

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2 I would like to make one announcement
3 before pulling the Jury down, that
4 it has been brought to my attention
5 that one of the news media people
6 have seen fit to violate my guidelines.
7 When Mr. Russo, before he came back
8 to take the stand he approached him
9 and made some comment about his
10 testimony. I am not going to do
11 anything about it at this moment but
12 if it comes to my attention again
13 that my guidelines have been violated
14 I am going to have that reporter's
15 credentials, his admission credentials
16 taken up so he cannot enter this
17 courtroom. I hope it will not
18 happen again.

19 All right, is the State and
20 Defense ready to proceed?

21 MR. DYMOND:

22 Yes.

23 MR. ALCOCK:

24 Yes.

25 BY MR. DYMOND:

RELEASED PER P.L. 102-526 (JFK ACT)
NARA *[Signature]* DATE 11/23/93

1 Q Mr. Russo, do you recall having had an inter-
2 view with Mr. George Lardner, a reporter
3 for the Washington Post?
4 A Yes, sir.
5 Q More particularly on or about June 20, 1967?
6 A I am not real sure, there were so many of them.
7 Q An interview of which we have information that
8 it took place, it was in June in New
9 Orleans at your home?
10 A Yes, on North St. Patrick.
11 Q Would you tell me whether the interview with
12 Mr. Lardner was taped?
13 A The taping machine was still there and I'm not
14 sure whether it was taped or not. I am
15 under the impression it was but I'm not
16 real sure of that.
17 Q You say you think it was taped?
18 A I think, I'm not sure of that.
19 Q How often did you deliver tapes to the District
20 Attorney's Office?
21 A Most of the time someone would come pick them
22 up whenever I got a full tape.
23 Q How frequently did that come about?
24 A I was in touch with someone every day.
25 Q Who usually?

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NAME DATE 11/23/93

1 A Sal Scaccia, Andrew Sciambra, I can't think of 440
2 some of the other people.
3 Q Who did you usually get in touch with at the
4 District Attorney's office?
5 A Either Scaccia or Sciambra.
6 Q I am referring to the interview with Mr. Lardner,
7 you do recollect that interview?
8 A Right.
9 Q Do you deny that during the course of this
10 interview that you told Mr. Lardner that
11 you were willing to disclose weaknesses
12 in your testimony for a price?
13 A I absolutely deny that.
14 Q You deny that flatly?
15 A Absolutely.
16 Q You deny making this statement to Mr. Lardner?
17 "I am looking for guarantees, I am inter-
18 ested in me, my job and me"?
19 A I didn't use looking for guarantees, I said I
20 was looking for the job but it was in
21 jeopardy.
22 Q But you deny making the statement I just read
23 to you?
24 A In essence, yes, but I was interested in my job.
25 In essence that statement is incorrect.

RELEASED PER P.L. 102-826 (JFK ACT)
NARA *Smith* DATE 11/23/93

1 Q I'm not talking about in essence but whether
2 you deny making the statement "I am look-
3 ing for guarantees, I am interested in me,
4 my position and me."?
5 A Part of it is right and part of it is incorrect.
6 Q In other words you deny having made that entire
7 statement?
8 A I deny having made the entire statement, yes.
9 Q Do you deny making the statement to Mr. Lardner
10 on this occasion that there were certain
11 weaknesses or holes surrounding your
12 testimony?
13 A I'm not sure if I said that to Mr. Lardner or
14 Phelan at that time because Phelan was
15 before that a little bit. At that -- no,
16 I didn't say that, no, not to Mr. Lardner.
17 Q You did not say that to Mr. Lardner?
18 A No.
19 Q Did you ever say that to anybody?
20 A No, I discussed the approach to the cross-
21 examining of me and what I would think
22 would be weaknesses in my testimony.
23 Q What reporter, with what reporter did you
24 discuss that?
25 A I think in general I may have mentioned it, but

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RELEASED PER P.L. 102-686 (JFK ACT)
NARA *gls* DATE 11/23/93

1 not that particular phraseology, but I
2 may have mentioned that to some degree
3 with Mr. Lardner.

4 Q Did you make this statement, "Garrison doesn't
5 know what they are. I know what they
6 are"?

7 A That is absolutely incorrect. The District
8 Attorney's Office does know.

9 Q Did you tell Mr. Lardner that you had no inten-
10 tion of disclosing the weaknesses to any
11 newsmen without getting something in return
12 and you were dissatisfied with the
13 \$3,000.00 Garrison's office gave you for
14 expenses?

15 A Mr. Lardner asked me about rumors --

16 Q Do you deny making that statement?

17 A Absolutely.

18 Q Now you can explain.

19 A Mr. Lardner said he had heard rumors of a
20 great deal of money and he didn't know
21 them from fact and he had heard a rumor
22 about my being paid \$5,000.00, I don't
23 remember 3,000.00, he said about \$5,000.00
24 before and \$5,000.00 after and another
25 was heard about \$25,000.00.

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NARA *[Signature]* DATE 11/23/93

1 Q You deny having said this to Mr. Lardner at
2 the end of the interview, "If you say
3 anything about this I am going to have to
4 call you a liar"?

5 A If I say anything about this to Lardner?

6 Q I asked you whether you made this statement to
7 Mr. Lardner, "If you say anything about
8 this I'm going to have to call you a
9 liar"?

10 A That is wrong.

11 Q You deny having said that?

12 A Yes.

13 Q Were you trying to gather any material on
14 Mr. Lardner for the District Attorney, the
15 District Attorney's office?

16 A If Lardner's interview was in June, the District
17 Attorney's Office instructed me they prefer
18 I tape all conversations with newsmen and
19 I was playing along their lines to see
20 how far these people would go.

21 Q Did you tell Mr. Lardner you were taping them?

22 A No, -- did I tell him I was taping him -- I'm
23 not sure.

24 Q Did you tell Mr. Phelan?

25 A Absolutely not.

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RELEASED PER P.L. 102-696 (JFK ACT)
NARA *SMK* DATE 11/23/93

1 Q Now, did you have any reason to gather infor-
2 mation for the District Attorney's Office
3 or to be taping your conversation with
4 Sergeant Edward O'Donnell of the New
5 Orleans Police Department?
6 A No, sir, I saw Mr. O'Donnell at his office.
7 Q You weren't gathering information against him
8 for the District Attorney's Office?
9 A No.
10 Q Were you taping his conversation?
11 A No.
12 Q Is it not a fact that in mid-June 1967
13 arrangements were made for Mr. O'Donnell
14 to administer a polygraph or lie detector
15 test to you?
16 A Well --
17 MR. ALCOCK:
18 I object. Mr. Dymond knows better than
19 to refer to that.
20 MR. DYMOND:
21 If The Court please I have no intention
22 of trying to get in evidence any
23 product or result of a polygraph
24 test because I know that is inadmis-
25 sible. The only purpose is to

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RELEASED PER P.L. 102-586 (JFK ACT)
NARA *MSA* DATE *11/23/92*

RELEASED PER P.L. 102-886 (JFK ACT)
NARA *[Signature]* DATE 11/23/93

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identify the occasion to which I am
going to refer to in this question.

THE COURT:

It was obvious that was his intention
because I know Mr. Dymond knows full
well, and he mentioned that he knows
full well.

MR. ALCOCK:

That is not a proper reference to a lie
detector test or the results 'cause
he knows they are not admissible in
any court throughout the United States
and for this reason he could have
called the witness' attention to this
by some other means, because the only
reason is the affect this would have
on the Jury.

THE COURT:

I don't know what affect it's supposed to
have. You are trying to set up a
time, place and circumstance?

MR. DYMOND:

That is correct.

THE COURT:

As to when it occurred?

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MR. DYMOND:

Yes.

THE COURT:

All right, but don't refer to it again.

BY MR. DYMOND:

Q Is that not a fact, Mr. Russo?

A Yes, sir, I am not sure of the date.

Q Is it not also a fact that you expressed a
desire to meet with Sergeant O'Donnell
beforehand?

A To the District Attorney's Office?

Q Yes.

A Right.

Q Is it not also a fact that such a meeting was
arranged between you and Sergeant
O'Donnell?

A In other words just to talk to the man?

Q Correct.

A Yes.

Q And you had this meeting with Sergeant O'Donnell
and it lasted for approximately one hour,
is that correct?

A About that.

Q And this is -- was on or about June 16, 1967,
would you agree with that?

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NARA *Hub* DATE 11/23/93

1 A Approximately.

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2 Q Is it not a fact that on Monday, June 19, 1967
3 you again went to Sergeant O'Donnell with
4 keeping with the original plan or arrange-
5 ment that had been made?

6 A A few days later. I would accept your dates
7 on that.

8 Q Is it not also a fact that Sergeant O'Donnell
9 conducted an interview with you from
10 approximately 1:45 to 3:45 that afternoon?

11 A I didn't think it was that long but I would say
12 it was about one hour or one hour and a
13 half.

14 Q Now, Mr. Russo, I am not asking you any ques-
15 tions about what transpired during any
16 alleged tests, but I am talking about the
17 latter part now of your visit with
18 Sergeant O'Donnell on this same day. Have
19 I made that clear?

20 A All right.

21 Q Is it not a fact that you stated to
22 Sergeant O'Donnell in the course of this
23 interview that you were under a great deal
24 of pressure and you wish you had never
25 gotten involved in this mess?

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NARA *CRS* DATE 11/23/93

1 A That is correct.

2 Q That is correct?

3 A And I went into great lengths to talk about the
4 pressures.

5 Q Is it not a fact that in response to a question
6 by Sergeant O'Donnell as to whether Clay
7 Shaw was at the party which you have
8 described, you replied "Do you want to know
9 the truth?" and when he said "Yes," you
10 said "I don't know if he was there or
11 not"?

12 A Uh, with some explanation the statement is
13 accurate.

14 Q Did you say that?

15 A With some explanation, yes.

16 Q All right.

17 A We had talked about the pressures and in
18 essence I remember telling him about
19 Phelan and some of the other people around,
20 I think Sheridan had been around by the
21 time I saw O'Donnell and I went through a
22 great explanation about this, and at that
23 particular time in June, whatever it was,
24 that it was hard to distinguish, I said
25 all these people are pressing me and saying

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1 I am wrong and inaccurate and other things, 449
2 that it was hard to tell whether he was
3 there or not.

4 Q You did tell him you didn't know whether
5 Mr. Shaw was there or not?

6 A After explaining the pressures, yes.

7 Q Is it not also a fact that you stated to him
8 that if you had to give a yes or no
9 answer as to whether Mr. Shaw was at the
10 party you would have to say no?

11 A Again with the same explanation that I have
12 given you.

13 Q First of all did you say that?

14 A Probably, maybe not those exact words you are
15 quoting there but in essence the same
16 thing. In line with, in line with what I
17 said essentially about the pressures,
18 this was at the time of Sheridan and
19 Townley and right at the end of Phelan,
20 of the Phelan thing, there wasn't much
21 they didn't do to muddy my testimony and
22 accordingly I told him that.

23 Q Is it not a fact that when he asked you why
24 you had come to court and positively
25 identified Shaw at the preliminary hearing

RELEASED PER P. L. 102-586 (JFK ACT)
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1 that you stated that it was because Dymond,
2 meaning me, turned you on, as you put it,
3 by asking you whether you believed in God?

4 A I told him something along that line.

5 Q Did you tell him that?

6 A Yes. I said, and I might paraphrase it and it
7 might be a lot quicker, and I said you had
8 gone for the juggler vein and that I didn't
9 care to discuss that, and you asked me sev-
10 eral questions I thought were out of line
11 or out of bounds and you went into the
12 examination of that area. The acutal
13 question of splitting hairs, you never
14 did split hairs, the argument was re truth
15 versus untruthfulness, whatever you care
16 to call it. At that time when I talked to him
17 I told him essentially something along
18 those lines.

19 Q Is it not a fact that when he asked you whether
20 the conversations that you heard at Dave
21 Ferrie's apartment sounded like a legitimate
22 plot to assassinate President Kennedy, you
23 stated "no it did not"?

24 A I stated - - - you wanted me to answer that
25 question?

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1 Q Yes.

2 A Can I have it repeated?

3 Q Yes. Is it not a fact that when Sergeant
4 O'Donnell of the New Orleans Police Depart-
5 ment asked you whether the conversation you
6 ...that you had heard at Dave Ferrie's
7 apartment sounded like a legitimate plot
8 to assassinate President Kennedy you
9 stated, "No, it did not."

10 A Yes, with an explanation of this sort. We
11 discussed at great length, for a great
12 length of time about Dave Ferrie himself
13 and his leaning towards the sensationism
14 and toward the spectacular and we were
15 splitting hairs about that, did or didn't
16 I and said maybe, maybe not, and could it
17 have been serious, and that Dave Ferrie
18 would pick up on some things and I
19 said probably it wasn't a serious thing.

20 Q Is it not a fact in, rather on that same occasion
21 you volunteered the statement that it appear-
22 ed to you to be another bull session like
23 they were always having?

24 A The word "bull session"?

25 Q Right.

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NARA DATE 11/23/93

- 1 A I used the word "shooting the bull". I don't
2 use the word "bull session" that much.
- 3 Q Then you deny you said that?
- 4 A In essence it is correct. I am not sure of that
5 terminology. Again the same explanation
6 you really didn't know Ferrie -- I had asked
7 O'Donnell if he knew Ferrie and you
8 couldn't really know Ferrie, and did he
9 know Ferrie, his fantastic appearance,
10 he had little hair and was bald with a
11 spotted scalp and at one time was a pretty
12 good pilot people said and again some of
13 the things he claimed he had done he backed
14 up and some, some he didn't.
- 15 Q Am I to understand that your statement you just
16 made as an admission you did say it
17 sounded like another bull session like
18 they always had?
- 19 A Not always had. The same thing I explained to
20 you, this is essentially what was said and
21 essentially what was said and Ferrie was,
22 I don't know how to explain the type of
23 human being he was.
- 24 Q You would deny making the statement this
25 appeared to you, it appeared to be a bull

RELEASED PER P.L. 102-586 (JFK ACT)
NARA *guc* DATE 11/23/93

1 session to you?

2 A That is acceptable.

3 Q That is acceptable and that is what you said?

4 A Not the exact words. It is acceptable.

5 Q I am using it as a quote.

6 A No, I don't know if I used those words, no.

7 Q Is it not a fact when you were asked to de-
8 scribe the conversation you heard at
9 Dave Ferrie's apartment that you stated
10 that this was very vague in your mind and
11 you could not at this time say what who
12 was saying?

13 A In June 1967, is that right?

14 Q That is correct.

15 A That at this time I could not say who was
16 saying what?

17 Q You admit saying that?

18 A With the explanation, with the pressures of
19 Rick Townley and Phalen and the rest of
20 them, yes, sir.

21 Q Do you deny that at this same meeting with
22 Sergeant O'Donnell with the New Orleans
23 Police Department you expressed to him a
24 desire to meet Clay Shaw?

25 A I told him about the thing I discussed with

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1 Phelan about it. You quote me what he
2 says and I will answer.

3 Q I don't have a quote but did you tell him you
4 wanted to meet Shaw?

5 A I told him about Phelan, the Phelan thing and
6 what actually transpired with Phelan.

7 Q Then you would deny you told him you wanted
8 to meet with Clay Shaw?

9 A Again the 1000 percent versus the 100 percent.
10 I don't think I could deny that and I told
11 that to Phelan that that would be the
12 best thing possible if I could.

13 Q You were not -- You were trying to bait Phelan
14 though?

15 A Not initially.

16 Q Not initially?

17 A When I met him on March 21 he just came up and
18 I was told by the District Attorney's
19 Office he was okay.

20 Q You had no reason to bait or get Sergeant
21 O'Donnell?

22 A Not Sergeant O'Donnell, no.

23 Q Was it not a fact that when Sergeant O'Donnell
24 asked you why you wanted to meet with
25 Clay Shaw you told him you would like to

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talk with Clay Shaw to size him up to determine whether he was the kind of person that would take part in such a plot.

A Essentially yes, sir. I was making a judgment play, not judge or jury and if that were possible that it would be a good thing but it is not possible and that's the same thing I told Phelan.

Q It was not possible to meet with Shaw?

A Not possible because there would be a 10 foot barrier of concrete between us. What could we discuss except the assassination?

Q Is it not also a fact that you told Sergeant O'Donnell you would like to know Mr. Garrison's complete case against Clay Shaw?

A I am not sure and I may have said that.

Q Would you deny saying that?

A No, I don't deny it.

Q Would you admit it?

A If I don't remember that part I don't admit it either.

Q You don't admit it?

A I don't either deny or admit it but I have said

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1 that to some people.

456

2 Q Would you deny that Sergeant O'Donnell asked
3 you why you wanted to know this and you
4 stated it would help you come to a
5 decision?

6 A Would you read me his quote on that, his state-
7 ment on that?

8 Q Do you deny that when Sergeant O'Donnell asked
9 you why you wanted to know Garrison's
10 complete case against Shaw you said it
11 would help you to come to a decision?

12 A I am not sure exactly at that point how far
13 we discussed that. I do remember making
14 remarks to him or him to me concerning
15 Shaw and I stated that I would like to
16 know the case against Shaw from a curious
17 view and at that time I was under a lot of
18 pressure about people splitting hairs,
19 everybody that had said that I was wrong
20 and I'd better straighten up and that
21 Garrison was going to turn around and
22 grab me --

23 Q I still don't know whether you told him you
24 wanted to know the rest of the case.

25 A Yes, I did probably say it but I'm not real

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sure.

457

Q You would not admit it then?

A Not admitting or denying it either.

Q Now, Mr. Russo, the date on which you came
down here from Baton Rouge, was that the
27th of February?

A That was a Monday, the 27th.

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e of
noon
on)

1 Q Were you hypnotized after you came down here
2 from Baton Rouge?
3 A Well, not that day, not that I remember that
4 day, no.
5 Q You say not that you remember that day?
6 A In other words, I don't think it was that
7 day, no, but I was hypnotized after I
8 came to New Orleans.
9 Q Do you remember when was the first time that
10 you were hypnotized after you came to
11 New Orleans?
12 A No. It wasn't but a few days later.
13 Q Would the date March 1, 1967 refresh your
14 recollection on it?
15 A As the first time?
16 Q Right.
17 A I thought it would have been earlier than
18 that, but perhaps it was.
19 Q By whom were you hypnotized?
20 A Dr. Esmond Fatter.
21 Q For whom was Dr. Fatter working and hypnotizing
22 you?
23 A Well, I guess the -- well, I don't know, I
24 just supposed it was the District Attor-
25 ney's Office.

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1 Q Well, were not the arrangements made with
2 you through the District Attorney's
3 Office?
4 A Yes. I supposed they worked for him (sic).
5 Q Where did this hypnotic session take place?
6 A Mr. Ward's office, Dr. Chetta's office.
7 Q I am talking about the first one.
8 A I think it was Dr. Chetta's office.
9 Q In Dr. Chetta's office?
10 A The Coroner's office.
11 Q Who was present?
12 A Sciambra was, I think Al Oser was, there was
13 a stenographer, Dr. Fatter, Dr. Chetta,
14 a couple of others -- a couple of others.
15 Q What was that?
16 A A few other people.
17 Q You say a stenographer was present during
18 that hypnotic session?
19 A I am almost sure there was a stenographer
20 there.
21 Q Do you know whether a transcript was made at
22 that session?
23 A I have seen a transcript of it purporting to
24 be that.
25 Q Who represented the document that you saw to

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1 be a transcript of the session?

2 A Well, I can't really say, it was just -- I
3 had gotten it from either somebody in
4 the DA's Office or one of the newsmen
5 gave it to me.

6 Q Would you recognize a transcript of that
7 session if I showed it to you?

8 A Would I recognize it as a copy of the copy
9 that I had?

10 Q Right.

11 A I could -- oh, I could probably take a guess
12 at it, I am not sure exactly word for
13 word. No, I couldn't do that.

14 (Document produced by Mr. Alcock
15 and handed to Mr. Dymond.)

16 BY MR. DYMOND:

17 Q (Exhibiting document to witness) Mr. Russo,
18 I show you what purports to be a copy
19 of a transcript of the first hypnotic
20 session of 3/1/67, having marked it for
21 identification "D-12," and I ask you to
22 review that and tell me whether you
23 recognize it.

24 A Well, I have seen something similar to this.
25 I am not sure it is exactly the same, no.

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1 (Whereupon, the document referred
2 to by Counsel was duly marked for
3 identification as "Exhibit D-12.")

4 THE COURT:

5 Gentlemen, will you two step up here a
6 moment.

7 (Messrs. Alcock and Dymond stepped
8 forward for a bench conference
9 off the record.)

10 BY MR. DYMOND:

11 Q Mr. Russo, did you get a copy of the trans-
12 cript of that hypnotic session?

13 A At one time I had a copy, yes, sir.

14 Q By whom was it given to you?

15 A I think it was the District Attorney's Office,
16 although I have seen some of the newsmen
17 have a copy, or part of it, anyway.

18 Q Do you still have that copy?

19 A Oh, no, I don't think so; I have some papers
20 but I don't think it was that.

21 Q Now, during this hypnotic session were you in
22 such a deep trance as to be unable at this
23 time to tell us whether these are the
24 questions propounded and the answers
25 given during that session?

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1 A Well, the transcript that I saw, you see --
2 I am put in a peculiar position -- from
3 the memory of what the questions were
4 and the answers I gave, no, but having
5 seen a transcript I will probably re-
6 member some of the stuff.

7 Q From the copy which you say was given to you
8 by a member of the District Attorney's
9 Office, that is, from having read that
10 copy, would you be able to identify this
11 copy which I have exhibited to you, as
12 a proper copy?

13 A As a proper copy, it looks all right. I
14 couldn't word for word, no. I mean it is
15 a proper copy, looks all right.

16 MR. DYMOND:

17 If the Court please, in connection with
18 the witness's testimony I would like
19 to offer, file and produce in evi-
20 dence this copy of the transcript
21 of the first hypnotic session.

22 MR. ALCOCK:

23 Your Honor, to which offer the State
24 objects on the grounds that it is
25 not in any manner, shape or form

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1 properly identified at this time.
2 This man testified that he was
3 probably in too deep a trance at the
4 time to recall the questions pro-
5 pounded to him or his answers. This
6 might be introduceable later on, and
7 I can assure Mr. Dymond that Dr.
8 Fatter will be a witness. Perhaps
9 at that time it might be admissible,
10 but not at this time.

11 MR. DYMOND:

12 If the Court please, we would have no ob-
13 jection to Mr. Alcock examining
14 this document to determine its
15 authenticity.

16 MR. ALCOCK:

17 Mr. Alcock wasn't present.

18 MR. DYMOND:

19 Well, you undoubtedly have a copy of the
20 transcript.

21 MR. ALCOCK:

22 That doesn't make any difference.

23 THE COURT:

24 Let me say there is no question the pri-
25 mary purpose of the offer, Mr.

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1 Dymond, is to show to the witness
2 proof of a contradictory statement
3 made at another time. Now his
4 attention has been called to the
5 time, place and circumstance.

6 MR. DYMOND:

7 If the Court please, may I point out --

8 THE COURT:

9 The question is was he compos mentis.

10 MR. DYMOND:

11 That isn't the purpose of this offer at
12 all, Your Honor, and I would not
13 feel free to state the purpose of
14 it in the presence of the Jury.

15 THE COURT:

16 The witness stated he was under hypnosis
17 at the time. He cannot state whether
18 he would remember making that state-
19 ment or not. Isn't that what he
20 stated a moment ago?

21 MR. DYMOND:

22 That is correct. If the Court please,
23 as I understand it, the Court's ob-
24 jection to the admissibility of this
25 is that it has not been identified

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1 as a true copy of the transcript?

2 THE COURT:

3 Well, I went further than the State went,
4 I went further and said that the
5 man is not in a position to be able
6 to say whether he made those state-
7 ments or not if he was under hyp-
8 nosis.

9 MR. DYMOND:

10 I understand that completely, Your Honor,
11 and, as I say, I can answer the
12 Court's objection but I don't think
13 I should do it in the Jury's
14 presence. However, with respect to
15 the objection that this is not
16 proven to be a true copy, I think
17 that that objection can be answered.

18 THE COURT:

19 I think so, too.

20 MR. DYMOND:

21 -- by my furnishing to the State for the
22 State's perusal, and if they are
23 satisfied it is a true copy, there
24 should be no objection on that basis.

25 THE COURT:

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We can do it on an easier basis than that. We can have the stenographer from the District Attorney's Office who took it, to certify it correct. That would be one way, but I am interested in the basis --

MR. ALCOCK:

Your Honor, perhaps to clarify this we should excuse the Jury and find out why he is trying to introduce it.

MR. DYMOND:

I will be happy to do that.

THE COURT:

Very well, we will excuse the Jury. (Whereupon, the Jury retired from the courtroom.)

MR. DYMOND:

If the Court please, Your Honor, before --

MR. ALCOCK:

Your Honor, before Mr. Dymond begins I would like the Sheriff to stand back there by the door and see if he can hear this, stand with the Jury and see if he can hear this and let us know.

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THE COURT:

Off the record.

(Discussion off the record.)

THE COURT:

You may proceed.

MR. DYMOND:

If the Court please, the purpose of our offering this transcript in evidence is not as a prior contradictory statement, our purpose in putting it in evidence is to have it as an exhibit to lay the foundation for further expert testimony. We have exhibited these transcripts to a competent psychiatrist and hypnotist of national repute, and we intend to show by his testimony that the type of suggestive questions put to Russo while under a hypnotic trance, medically would have the effect of completely destroying his credibility as a witness, his value as a witness, and would have the effect of implanting in his mind what the questioner wanted him to testify to

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1 and what was suggested to him by
2 the questioning. The only way that
3 we can do that is to get these
4 transcripts in evidence.

5 THE COURT:

6 I will hear from you, Mr. Alcock.

7 MR. ALCOCK:

8 Your Honor, the State's position on
9 that would be this: I don't think
10 Dr. Fatter is on trial nor are we
11 attempting to impeach Dr. Fatter.
12 What would that have to do with
13 this particular witness? That is
14 what I don't understand. Why
15 should they get it in while this
16 witness is testifying? If they want
17 to bring this up to Dr. Fatter, fine,
8 let them bring it up to Dr. Fatter
9 -- Dr. Fatter is going to take the
0 witness stand -- but this is no
time to present this document to
this witness.

MR. DYMOND:

If the Court please, as to what purpose
and what connection there is between

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1 this document and this witness, this
2 document together with the expert
3 testimony which we will furnish
4 will show the source of this wit-
5 ness's testimony, and for that rea-
6 son I think that it is very rele-
7 vant, at a time when this witness
8 is testifying, to offer it, and,
9 frankly, I don't think it makes a
10 great deal of difference whether it
11 is offered today, tomorrow, or the
12 next day.

13 MR. ALCOCK:

14 The source of this witness's testimony --
15 this witness has already testified
16 that essentially what he has told
17 this Jury is what he told Sciambra
18 on February 25, 1967. We are talk-
19 ing about March 1 now.

20 MR. DYMOND:

21 Of course, Your Honor, we are prepared
22 to show differently on that.

23 THE COURT:

24 To bring it to a head, I suggest you
25 mark it "D-12" for identification

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1 purposes only, and I will not per-
2 mit the document to be filed at
3 this time, but you can use it when
4 Dr. Fatter takes the stand and maybe
5 reoffer it so it will be in evidence
6 when your psychiatrist takes the
7 stand.

8 MR. DYMOND:

9 Mr. Alcock, may I ask whether Dr. Fatter
10 is going to be placed on the stand?

11 MR. ALCOCK:

12 Yes.

13 MR. DYMOND:

14 As long as we know Dr. Fatter is going
15 to be placed on the stand, we don't
16 mind waiting, it doesn't matter when
17 it is offered, we want it in evi-
18 dence.

19 THE COURT:

20 Mark it "D-12" for identification pur-
21 poses only, and bring the Jury in.

22 (Whereupon, the document referred
23 to by the Court was duly marked
24 by the Clerk as "Exhibit D-12-
25 For Identification Only," and the

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1 Jury was recalled.)

2 BY MR. DYMOND:

3 Q Now, Mr. Russo, I ask you whether again on

4 March 12, 1967 you were subjected to

5 hypnosis.

6 A I am not sure of the date, but I was subjected

7 again, right, a couple of days later.

8 Q Would you say that March 12 would be a likely

9 date or a close date?

10 A Well, it was before the preliminary hearings,

11 you know; I am not sure of the date

12 though, no.

13 Q Now, where did this hypnotic session take

14 place?

15 A Well, I am not sure which one you are referring

16 to. One was in --

17 Q The second one.

18 A One was in Mr. Ward's office, and I think two

19 were in Dr. Chetta's office.

20 Q Now, where did you say the first one was, Mr.

21 Russo?

22 A In Dr. Chetta's office.

23 Q And where would the second one have been?

24 A I am not sure on the chronology of it. I

25 think the second one may have been in

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1 Dr. Chetta's office also.

2 Q Do you remember who was present during this
3 second session?

4 A I am sure Dr. Chetta was, Dr. Fatter, a
5 stenographer; I am not sure which
6 Assistant was there at that time.

7 Q Do you know whether or not a transcript was
8 made of that meeting?

9 A Well, there was a stenographer there, I am
10 sure that there was.

11 Q Were you also given a transcript of the second
12 hypnotic session?

13 A Yes.

14 Q Do you still have that?

15 A I think they were bound together. No, I don't
16 have it. I think they were bound together
17 though, in other words, this is one, this
18 is two (indicating).

19 Q I see. Now, were you in such a deep hypnotic
20 trance upon the second occasion that you
21 would be unable to review a transcript
22 of that session and identify it as a true
23 and correct transcript?

24 A Yes.

25 Q If I were to show you what purports to be a

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1 transcript of that session, would you be
2 able to identify it as a result of having
3 reviewed the copy of that transcript
4 which was delivered to you by a repre-
5 sentative of the DA's Office?

6 A I could approximately identify it.

7 MR. DYMOND:

8 I show you this, Mr. Alcock (exhibiting
9 document to Counsel).

10 MR. ALCOCK:

11 All right.

12 MR. DYMOND:

13 We will mark this "D-13."

14 (Whereupon, the document referred
15 to by Counsel was duly marked for
16 identification as "Exhibit D-13.")

17 BY MR. DYMOND:

18 Q (Exhibiting document to witness) I show you a
19 document which has been marked for
20 identification "D-13," Mr. Russo, and I
21 ask you to examine it and tell me whether
22 that appears to be a true copy of the
23 transcript of the second hypnotic session.

24 A (The witness nodded affirmatively.)

25 Q Would you say that appears to be a correct

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1 copy, Mr. Russo?

2 A Yes, sir.

3 MR. DYMOND:

4 Your Honor, I will hold off on the

5 actual introduction of this one.

6 THE COURT:

7 All right.

8 BY MR. DYMOND:

9 Q Now, Mr. Russo, there was a third hypnotic

10 session, was there not?

11 A Right.

12 Q Now, where did this last one take place?

13 A In Charles -- in Mr. Ward's office.

14 Q In Mr. Ward's office?

15 A Yes, sir.

16 Q Who was present then?

17 A Dr. Fatter, Mr. Ward was in and out, and just

18 about -- you know, I am sure Sciambra

19 was there, some others, and a stenographer

20 initially.

21 Q You say there was a stenographer in the room

22 at that time, too?

23 A Well, there was when we began.

24 Q Were you furnished with a transcript of that

25 third session?

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1 A No transcript was ever taken so I was told.

2 Q I see.

3 MR. DYMOND:

4 If the Court please, at this time I
5 would like to ask of the State
6 whether such a transcript was made
7 and whether it will be furnished.

8 MR. ALCOCK:

9 Well, of course, Your Honor, Mr. Dymond
10 knows if we did have a transcript
11 I wouldn't necessarily deny him
12 access to it -- he knows as a matter
13 of law he is not entitled to it --
14 but, as I recall, there was no
15 transcript made because it was
16 terminated in the very beginning.
17 Perhaps -- although I wasn't there,
18 Mr. Sciambra was, perhaps he could
19 clarify it. I don't think there was
20 a transcript made.

21 MR. SCIAMBRA:

22 Your Honor, there wasn't a transcript
23 made of that particular session. I
24 don't know the exact details about
25 it, but Dr. Fatter had some problem

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1 in getting Perry to undergo hypnosis
2 for some reason.

3 THE COURT:

4 The main thing, there was not a transcript
5 made?

6 MR. SCIAMBRA:

7 No, Your Honor, there was no transcript
8 made.

9 BY MR. DYMOND:

10 Q Mr. Russo, have you ever been under psychiatric
11 treatment?

12 A Have I ever been under -- yes, sir.

13 Q When did that treatment commence?

14 A The first year of college, in October.

15 Q The first year of college?

16 A In October.

17 Q What year was that?

18 A '59.

19 Q '59. And under whose treatment were you?

20 A Dr. Max E. Johnson.

21 Q Dr. Max E. Johnson?

22 A Max, M-a-x.

23 Q I see. Does he still practice here in New
24 Orleans?

25 A I am sure he does.

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1 Q And how long did you remain under psychiatric
2 treatment?
3 A Twelve to 18 months.
4 Q Twelve to 18 months?
5 A It was on a consultation basis.
6 Q I see. How often would you consult with your
7 psychiatrist?
8 A Well, initially on a consultation basis
9 probably about two times a week.
10 Q About twice a week?
11 A Yes.
12 Q Now, after your active consultation period
13 ended with the psychiatrist, is it not a
14 fact that you had telephone consultations
15 with him for quite a lengthy time?
16 A Well, not for a lengthy time, only when I had
17 something that I wanted to discuss with
18 him.
19 Q And how long did that go on, sir?
20 A It was kind of spotty, I mean it was once in
21 '63 and once in '65, I am sure of that.
22 Q Do you remember when in '63 that was that you
23 consulted with him?
24 A Right after January 31.
25 Q After January 31?

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1 A Right after.

2 Q When was it in '65?

3 A I am not really sure of that, sir.

4 Q Have you consulted with him since 1965 at

5 all?

6 A No, I met him on the street, just talked to

7 him.

8 Q Have you ever telephoned him?

9 A Since '65?

10 Q Right.

11 A I don't think so, no.

12 Q Have you talked to any other psychiatrist since

13 1965?

14 A Only as far as someone up at LSU, just dis-

15 cussing psychiatry. I have always been

16 interested in psychology and psychiatry

17 and psychoanalysis.

18 Q But you were not under actual treatment?

19 A No. I discussed it for academic reasons.

20 MR. DYMOND:

21 Would Your Honor bear with us just one

22 moment, please?

23 (There was a brief pause in the

24 proceedings.)

25 BY MR. DYMOND:

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Q Mr. Russo, have you ever attempted to commit suicide?

A Never.

Q Do you know a man by the name of Mike Fitzpatrick?

A Mike Fitzpatrick? Yes, sir.

Q You knew him in 1962, didn't you?

A Oh, yes, sir.

Q Do you deny that in 1962 Mike Fitzpatrick came to your house, and when he got there your wrist had been cut and there was about a half inch of blood and a spot on the floor?

A (Exhibiting wrists) Mr. Dymond, I don't have any scars on my wrist.

Q Do you deny that?

A I deny that.

MR. DYMOND:

That is all.

MR. ALCOCK:

You have no further questions, Mr. Dymond?

MR. DYMOND:

No further questions.

THE COURT:

Reference copy, JFK Collection: HSCA (RG 233)

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1 Mr. Alcock, before you start, it is
2 about three minutes after 4:00 and
3 I think the news media would like
4 a break before you start on re-
5 direct. I don't know whether they
6 would like to have a five-minute
7 break now or wait until 4:30. I
8 think some of them, of course, re-
9 quested a break a half hour or so
10 ago, so unless somebody puts up a
11 hand to the contrary, we will go
12 along.

13 (Whereupon, several hands were
14 raised in the courtroom.)

15 THE COURT:

16 All right. We will take a five-minute
17 recess. Let the Jury remain in the
18 box here.

19 (Whereupon, a brief recess was taken.)

20 AFTER THE RECESS:

21 THE COURT:

22 Are the State and the Defense ready to
23 proceed?

24 MR. DYMOND:

25 Yes, sir.

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MR. ALCOCK:

The State is ready.

REDIRECT EXAMINATION

BY MR. ALCOCK:

Q Perry, I think that I recall on cross-examination that you mentioned the fact that David Ferrie had exhibited considerable knowledge in the field of medicine. Is that correct? Am I correct when I say that?

A Yes, he had a laboratory and he talked a great deal about medical things.

Q (Exhibiting photographs to witness) Perry, I am going to show you three pictures, which I have marked for purposes of identification as "State 21, 22" and "State 23," and I ask you to view these pictures, and I ask you if you recognize any of the objects exhibited in the pictures.

MR. DYMOND:

If the Court please, we object to this on the ground that it is completely irrelevant to the issues in this case. I think if Your Honor will examine the photographs you will see

RELEASED PER P.L. 102-696 (JFK ACT)
NARA *Qua* DATE 11/23/93

Reference copy, JFK Collection: ESCA (RG 233)

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what I mean.

(Photographs exhibited to the Court.)

THE COURT:

I would like to ask Mr. Alcock, do you intend to link this up with the --

MR. ALCOCK:

Your Honor, I think that these will demonstrate to the Court and the Jury that when Perry Russo said that he exhibited great knowledge in medicine and in the field of medicine and dabbled in it, that these pictures will corroborate that testimony.

THE COURT:

I will overrule the objection and permit it as corroborative evidence.

MR. DYMOND:

To which ruling Counsel objects and reserves a bill, making the State's offerings, S-21, S-22, and S-23, the Defense objection, the Court's ruling and the entire record up to now part of the bill.

RELEASED PER P.L. 102-596 (JFK ACT)
NARA *[Signature]* DATE 11/23/93

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1 (Whereupon, the photographs re-
2 ferred to by Counsel were duly
3 marked for identification as
4 "Exhibit S-21, S-22," and "Ex-
5 hibit S-23.")

6 BY MR. ALCOCK:

7 Q Do you recognize the objects depicted in
8 those pictures?

9 A The microscope and --

10 MR. DYMOND:

11 Now, if Your Honor please, we object
12 here on the ground that this witness
13 is not a medical expert by any
14 means and here we have him trying
15 to identify alleged medical equip-
16 ment.

17 MR. ALCOCK:

18 He is merely identifying the physical
19 objects.

20 THE COURT:

21 Overrule the objection. I feel it is not
22 necessary to have an expert to answer
23 the particular question.

24 MR. DYMOND:

25 To which ruling Counsel objects and re-

Reference copy, JFK Collection: ESCA (Pg 233)

RELEASED PER P.L. 102-686 (JFK ACT)
NARA *SMH* DATE 11/23/93

1 serves a bill, making the State's
 2 question, the Defense objection,
 3 reasons therefor, the Court's ruling,
 4 and the entire testimony and the
 5 same three exhibits and the record
 6 to date, part of the bill.

7 THE COURT:

8 He is not asking the witness for a medi-
 9 cal reply, he is asking for the re-
 10 ply of an average ordinary citizen.
 11 He is not asking an expert question
 12 which needs an expert answer.

13 All right, you may proceed.

14 BY MR. ALCOCK:

15 Q Go ahead.

16 A The microscope looks familiar, and the black
 17 box and these test tubes -- I am not
 18 sure about the container, the porcelain
 19 container I am not sure about, but the
 20 frame container for the tubes is familiar.

21 Q Where if anywhere did you see the objects
 22 that you have just identified?

23 A In Dave Ferrie's apartment.

24 Q Would that be on Louisiana Avenue Parkway?

25 A I think some medical things -- I think this

RELEASED PER P.L. 102-086 (JFK ACT)
 NARA DATE 11/23/93

Reference copy, JFK Collection: HSCA (Pg 233)

1 microscope (indicating) might have been
2 out at Kenner, too, but I think these
3 were at Louisiana Avenue.

4 Q All right. Now you were referring at that
5 time to State's Exhibit 22?

6 A Well, I mean this microscope in all three of
7 them.

8 Q You recognize the microscope to be the micro-
9 scope that was in Dave Ferrie's apart-
10 ment or --

11 MR. DYMOND:

12 Object to leading the witness.

13 THE COURT:

14 Rephrase the question.

15 BY MR. ALCOCK:

16 Q Do you recognize this to be the microscope or
17 a similar one?

18 A It appears to be the one or a similar one --
19 I am not sure exactly the same one, but
20 it looks like the one he had there.

21 Q Thank you. Now, Perry, at that time did you
22 know Clay Shaw?

23 A Was this on March 1?

24 Q March 1.

25 A I knew a man that I knew as Clem Bertrand.

RELEASED PER P.L. 102-686 (JFK ACT)
NARA DATE 11/23/93

Reference copy, JFK Collection: HSCA (RG 233)

RELEASED PER P.L. 102-526 (JFK ACT)

1 Q Did you know Clay Shaw as Clay Shaw, or Clay
2 Shaw as Clem Bertrand?

3 A I had been told in the previous week that --
4 MR. DYMOND:

5 Object to what he had been told.

6 THE COURT:

7 Objection sustained.

8 A I had learned the man's real name was --
9 MR. DYMOND:

10 Your Honor, I object. He is putting it
11 in just a different way.

12 THE COURT:

13 I sustain the objection.

14 BY MR. ALCOCK:

15 Q Did you know Clay Shaw as Clay Shaw, or Clay
16 Shaw as Clem Bertrand?

17 A I never knew anyone named Clay Shaw.

18 Q So when you responded to the question, do you
19 know Clay Shaw, and you responded no,
20 why did you respond no to that question?

21 A Because I didn't know Clay Shaw. I was intro-
22 duced to a man named Clem Bertrand.

23 Q Perry, in Baton Rouge on February 24, and
24 more specifically your interview with
25 Jim Kemp, during the course of that inter-

Reference copy, JFK Collection: SSCA (RG 233)

1 view with Jim Kemp did he exhibit any
2 photographs to you?

3 A In Baton Rouge?

4 Q Yes.

5 A No, sir.

6 Q Did he ask you to identify any photographs?

7 A No photographs were shown to me and he didn't
8 ask me to identify photographs.

9 Q Now referring to your interview with Mr.
10 Bankston, were you shown any photographs
11 and asked to identify any photographs?

12 A No. We talked in general about Dave Ferrie.

13 Q At that time, which would have been February
14 24, 1967, did you know anyone by the name
15 of Clay Shaw?

16 A On February 24?

17 Q Yes.

18 A I had never heard the name Clay Shaw before
19 in my life.

20 Q Perry, can you recall when you learned the
21 correct name of the Defendant before the
22 Bar?

23 A Would you repeat that?

24 Q Do you recall when you first learned the
25 correct name of the Defendant?

RELEASED PER P.L. 102-626 (JFK ACT)
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Reference copy, JFK Collection: ESCA (RG 233)

1 A It was sometime after the 27th, I would just
 2 say about the middle of the week.
 3 Q Did you learn it in Baton Rouge or in New
 4 Orleans?
 5 A I learned it in New Orleans.
 6 Q Now, Perry, did you identify the person de-
 7 picted in State's Exhibit No. 1 to
 8 Andrew Sciambra on February 25, 1967?
 9 MR. DYMOND:
 10 Your Honor, I again object to leading the
 11 witness.
 12 MR. ALCOCK:
 13 That is not leading, Your Honor.
 14 THE COURT:
 15 Rephrase the question.
 16 BY MR. ALCOCK:
 17 Q Did you identify any pictures for Mr. Sciambra
 18 on February 25, 1967?
 19 A Yes, sir.
 20 Q (Exhibiting photograph to witness) Is S-1 one
 21 of those pictures?
 22 A I am not sure if it is the exact picture, I
 23 think it was only the right half, it was
 24 an enlargement of the right half.
 25 Q And how did you identify the picture?

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Reference copy, JFK Collection: ESCA (RG 233)

1 A Well, he had the picture, several pictures
2 with him, or quite a few, and I pulled
3 this one out when he showed it to me,
4 and I said that I had known this man.
5 Q And did you say where you had known this man?
6 A I said that he was a roommate of Ferrie's.
7 Q Now, was this before or after any attempt was
8 made to draw any whiskers on the picture?
9 A This was in Baton Rouge, this was before,
10 although we did attempt to draw whiskers
11 at that time.
12 Q Was the identification made before the attempt
13 or after the attempt?
14 A Identification was made before the attempt.
15 Q Perry, can you tell us why in the interview
16 with James or Jim Kemp on February 24,
17 1967, you did not go into detail or into
18 the degree of detail that you have gone
19 into in this courtroom today?
20 A Well, this was at Channel 2 at Baton Rouge --
21 Channel 9 -- one or the other, one of the
22 two stations -- there are only two
23 stations up there -- and he had no photo-
24 graphs, it was just a general interview,
25 he had no photographs that he showed me.

RELEASED PER P. L. 102-626 (JFK ACT)
NARA DATE 11/28/93

Reference copy, JFK Collection: HSCA (RG 233)

1 He mentioned no names except Harvey Lee
2 Oswald's name. Of course, Dave Ferrie's
3 name, he mentioned that. He didn't go
4 into -- well, he had no photographs to
5 say, well, is this guy involved or that
6 guy involved, he didn't show me anything,
7 all he did was set it up and turn on a
8 camera and we started talking, or he
9 started asking questions.

10 Q Would that be the same reason why you did not
11 go into this detail with Mr. Bankston?

12 A Well, Mr. Bankston was interested in Dave
13 Ferrie. He indicated an interest in
14 Lee Harvey Oswald, which I was not going
15 to tell him I knew Lee Harvey Oswald.
16 I had known a Leon Oswald, and I maintain
17 that to this point right now, and he
18 didn't have any photographs either, none
19 of them had any photographs, all they
20 did was just talk.

21 Q Perry, do you realize the seriousness of this
22 charge?

23 MR. DYMOND:

24 I object to that, Your Honor.

25 THE COURT:

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Reference copy, JFK Collection: HSCA (70 233)

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I sustain the objection.

MR. ALCOCK:

On what ground, Your Honor? I would like
to know the ground for the objection

THE COURT:

It makes no difference what he thinks.
There is law on it, and the law is
serious, the law makes it out to be
a crime.

BY MR. ALCOCK:

Q Perry, are you today identifying the Defendant
Clay Shaw as the same man that you saw
in Ferrie's apartment in mid-September,
1963, who was identified to you as Clem
Bertrand?

MR. DYMOND:

Object as a leading question.

THE COURT:

Overrule the objection.

MR. DYMOND:

To which ruling Counsel reserves a bill
of exception, making the State's
question, the Defense objection, the
Court's ruling, the reason for the
objection, and the entire record

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up until this point part of the
bill.

BY MR. ALCOCK:

Q Answer the question.

A The question is whether Clay Shaw and Clem
Bertrand are one and the same? They are.

MR. ALCOCK:

No further questions.

THE COURT:

All right. You may step down.

MR. DYMOND:

Your Honor, I have a few questions.

THE COURT:

Very well, you may recross.

RE-CROSS-EXAMINATION

BY MR. DYMOND:

Q Mr. Russo, were you not permitted to look at
Clay Shaw through a one-way glass in the
District Attorney's Office?

MR. ALCOCK:

Object, Your Honor. This was not brought
out on redirect. He can only go on
recross on what was brought out on
redirect.

MR. DYMOND:

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1 If the Court please, this was brought
2 out on redirect and has to do with
3 his not knowing who Clay Shaw was
4 on March 1.
5 THE COURT:
6 I will permit the question.
7 BY MR. DYMOND:
8 Q Do you remember the question?
9 A Did I identify Clay Shaw through a one-way
10 mirror?
11 Q Yes.
12 A Is that correct, or similar to that?
13 Q On March 1, 1967 in the District Attorney's
14 Office.
15 A I am not sure of the date -- I am almost sure
16 it was March 1 -- but yes, I did.
17 Q Is it not a fact that Clay Shaw was sitting
18 in one of the offices that you were in
19 another portion of the District Attorney's
20 Office in general, and were able to see
21 through what from the inside of the office
22 where Clay Shaw was appeared to be a
23 mirror?
24 A Right.
25 Q Is it not a fact that you were told who this

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subject was who was sitting in there
 at that time?

MR. ALCOCK:
 Objection.

THE COURT:
 I will permit the question. On what
 grounds?

MR. ALCOCK:
 Hearsay.

THE COURT:
 I will permit it.

THE WITNESS:
 Would you repeat that?

BY MR. DYMOND:

Q Is it not a fact that when you were permitted
 to look at Clay Shaw through this one-
 way glass, you were told who he was?

A I had been told that before, probably was told,
 or I heard the name at that same time
 also.

Q That was on March 1? Right?

A I had been told -- I think if I came down to
 New Orleans on the 27th, I was probably
 told the next day or the day after.

Q What you were told was what Clay Shaw's real

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 NARA DATE 11/23/83

Reference copy, JFK Collection: ESCA (RG 233)

- 1 name was, one day or two days after you
2 got down here?
- 3 A The middle of that week it would probably be.
- 4 Q But you did know his real name when you looked
5 at him?
- 6 A His name to me is Clem Bertrand, I am not
7 going to claim him as Clay Shaw right
8 now.
- 9 Q Were you not informed by a representative
10 of the DA's Office that you were looking
11 at Clay Shaw through a one-way glass?
- 12 A No District Attorney walked in there and said
13 you are looking at Clay Shaw through a
14 one-way glass, I am sure of that.
- 15 Q Did anyone inform you of the actual name of
16 the man you were looking at?
- 17 A I said that they did, someone did.
- 18 Q Now, is it not a fact that the interview which
19 was conducted by Korbelt and the other re-
20 porter on the steps of the courthouse,
21 was taken as you were leaving the court-
22 house that day?
- 23 A Right.
- 24 Q Is it not a fact then that you did know the
25 correct name of Clay Shaw when you --

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Reference copy, JFK Collection: HSCA (RG 233)

1 A No, I didn't know Clay Shaw and I don't know
2 Clay Shaw right now.

3 Q Let me ask the question before you answer it.
4 THE COURT:
5 Cut the screaming down. We can do
6 better talking low. Let him finish
7 the question and then you can answer
8 it.

9 BY MR. DYMOND:

10 Q If you had been told this man's correct name
11 when you were looking through the one-
12 way glass in the DA's Office, and this
13 interview was taken when you were leaving
14 this building, why didn't you know his
15 correct name then?

16 A Because I never was introduced to a man named
17 Clay Shaw, I was introduced to Clem
18 Bertrand and that is still the name that
19 he goes under to me right now.

20 Q You wouldn't be splitting hairs on this, would
21 you?

22 MR. ALCOCK:
23 Object, Your Honor.

24 THE COURT:
25 That is argument.

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THE BAILIFF:

Order, order, please!

BY MR. DYMOND:

Q Do you still say you weren't told that was
Clay Shaw you were looking at?

MR. ALCOCK:

Objection. He has answered the question.

THE COURT:

He has answered the question. I sustain
the objection. Cool it down, please.
Gentlemen. We can do just as well
by keeping our voices down.

MR. DYMOND:

Your Honor, when somebody tries to talk
when you are still asking a question,
you have to raise your voice to be
heard.

BY MR. DYMOND:

Q Now, in talking about your interview with
Jim Kemp up in Baton Rouge, you say you
didn't mention the name Lee Harvey Oswald
because you had known a Leon Oswald? Is
that right?

A Right.

Q Isn't it a fact that you also did not mention

Reference copy, JFK Collection: HSCA (RG 233)

1 anything about a plot meeting or a
2 conspiracy meeting?
3 MR. ALCOCK:
4 Objection. He has answered the question.
5 MR. DYMOND:
6 If the Court please, the State went into
7 this on redirect.
8 MR. ALCOCK:
9 And he answered the question.
10 MR. DYMOND:
11 I would like to go into it now.
12 MR. ALCOCK:
13 He has answered the question.
14 BY MR. DYMOND:
15 Q Isn't it a fact --
16 MR. ALCOCK:
17 Objection.
18 MR. DYMOND:
19 You have been overruled.
20 MR. ALCOCK:
21 I have not been overruled.
22 THE COURT:
23 If it has been brought out on redirect --
24 and I think it has been -- what
25 questions were put by the reporters,

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NARA DATE 12/23/23

Reference copy, JFK Collection: ESCA (RG 233)

1 without pictures -- I believe Mr.
2 Dymond is referring to the same
3 interview on recross, and he should
4 be permitted to go into it. There-
5 fore I overrule the State's objec-
6 tion.

7 BY MR. DYMOND:

8 Q Would you answer the question, please.

9 A Would you read the question?

10 (Whereupon, the pending question
11 was read back by the Reporter.)

12 A To Jim Kemp?

13 BY MR. DYMOND:

14 Q Right.

15 A Jim Kemp never asked me anything along those
16 lines.

17 Q I see. But in spite of that you told your
18 friends after the assassination that Leon
19 Oswald and Lee Harvey Oswald were the
20 same person, is that right?

21 MR. ALCOCK:

22 Objection, Your Honor. That wasn't
23 brought out on redirect.

24 MR. DYMOND:

25 It is in relation to the question I just

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1 finished asking.

2 THE COURT:

3 Overrule the objection.

4 A I told some friends of mine I think I knew

5 that man.

6 BY MR. DYMOND:

7 Q Still you didn't mention anything about this

8 to Jim Kemp? Right?

9 A Right.

10 THE COURT:

11 Now I am going to intercede. He only

12 answered the questions that were

13 put to him, he didn't volunteer

14 anything. That is what I understand.

15 MR. DYMOND:

16 If Your Honor please, we object to the

17 Court commenting on the evidence,

18 we do, and we move for a mistrial.

19 THE COURT:

20 Well, it is denied.

21 MR. DYMOND:

22 -- on the ground that the Court commented

23 on evidence, and reserve a bill of

24 exception to the Court's ruling,

25 making the Court's comment and the

Reference copy, JFK Collection: ESCA (RG 233)

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entire record up to this time part
of the bill.

THE COURT:

Very well.

BY MR. DYMOND:

Q Now, Mr. Russo, you say that you made the
identification of the Oswald photograph
in New York as being the same as Leon
Oswald, before the whiskers were put on?
Is that right?

MR. ALCOCK:

Objection, Your Honor. New York is not
involved in this.

BY MR. DYMOND:

Q In Baton Rouge?

A Yes, sir, in Baton Rouge, yes.

Q Is that correct?

A Yes, sir.

Q You say that, and do you also say that when
you saw Lee Harvey Oswald's picture on
television and in the newspapers after
the assassination, you did not identify
it as being Leon Oswald?

A I told some of my friends that I think I had
known that man.

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NARA DATE 12/23/93

Reference copy, JFK Collection: ESCA (RG 233)

- 1 Q And is it your testimony that you sat in, or
2 listened in, on a conspiratorial meeting
3 with a man whom you saw represented in
4 the paper and on television as the killer
5 of President Kennedy, and didn't report
6 it at that time to any law enforcement
7 agent? Is that right?
- 8 A No, I never said anything about a conspiracy;
9 I didn't sit in on any conspiracies.
- 10 Q Now with respect to your interview with Mr.
11 Bankston up in Baton Rouge, is it your
12 testimony that you didn't mention any-
13 thing about this party or this meeting
14 because he seemed to be interested only
15 in Ferrie?
- 16 A No, it wasn't totally interested in Ferrie,
17 but he wasn't even interested in me
18 initially until something came over the
19 teletype about Dave Ferrie, and he was
20 interested at that time, said, "Well, we
21 will take a statement," and so for the
22 next 30 or 40 minutes we sat there and
23 talked.
- 24 Q As a matter of fact, you called Bankston, he
25 didn't call you?

Reference copy, JFK Collection: ESCA (RG 233)

RELEASED PER P.L. 102-626 (JFK ACT)

5

1 A I called the State Times; I don't know if I
2 talked to him on the phone or not.

3 Q You called his newspaper, is that correct?

4 A Right.

5 Q And you had your story to tell and you told
6 it? Isn't that right?

7 A That I knew Dave Ferrie, yes.

8 MR. DYMOND:
9 That is all.

10 MR. ALCOCK:
11 Your Honor, in connection with the testi-
12 mony of this witness, the State
13 would like to offer and file and
14 introduce into evidence the follow-
15 ing exhibits: --

16 MR. DYMOND:
17 I don't know these by number, Mr. Alcock.

18 MR. ALCOCK:
19 I will bring them up.

20 MR. DYMOND:
21 All right.

22 MR. ALCOCK:
23 I may not have them in exact order.
24 "S-23" which purports to be a
25 picture of --

1 THE COURT:

2 What is the number of it?

3 MR. ALCOCK:

4 "S-23," which purports to be a picture
5 of the microscope identified by the
6 witness on the stand.

7 THE COURT:

8 Let's take them one at a time. Is there
9 any objection?

10 MR. DYMOND:

11 Yes, Your Honor. We object to the pic-
12 tures of the medical equipment, we
13 make the same objection of lack of
14 relevancy.

15 THE COURT:

16 I will overrule the objection, so you
17 can offer "S-21," "S-22," and
18 "S-23" over the objection. They
19 will be permitted to be offered.

20 MR. DYMOND:

21 Very well. We would like to reserve a
22 bill of exception to their introduc-
23 tion, making the photographs, the
24 objection, the reason for the ob-
25 jection, the Court's ruling, and the

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Reference copy, JFK Collection: ESCA (RG 233)

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1 entire record up until now part of
2 the bill, also making the exhibits
3 part of it.
4 THE COURT:
5 Are you taking three separate bills?
6 MR. DYMOND:
7 I think we can make that one bill.
8 THE COURT:
9 All right. One bill.
10 MR. ALCOCK:
11 "S-19" purports to be a picture of Lee
12 Harvey Oswald with certain altera-
13 tions to the face.
14 MR. DYMOND:
15 No objection.
16 THE COURT:
17 Let it be received.
18 MR. ALCOCK:
19 "S-15-Trial" purports to be a picture of
20 the dining room of the apartment of
21 David Ferrie.
22 MR. DYMOND:
23 No objection.
24 THE COURT:
25 Let it be received.

Reference copy, JFK Collection: HSCA (FG 233)

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NARA DATE 11/23/73

Reference copy, JFK Collection: HSCA (RG 233)

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MR. ALCOCK:

"S-13-Trial" which purports to be a picture of the living room of the apartment of David Ferrie.

MR. DYMOND:

No objection.

THE COURT:

Let it be received.

MR. ALCOCK:

"S-11," which purports to be a picture of the outside front of the apartment of David Ferrie.

MR. DYMOND:

No objection.

THE COURT:

Let it be received.

MR. ALCOCK:

"S-12-Trial," which purports to be a picture of the hallway in David Ferrie's apartment.

MR. DYMOND:

No objection.

THE COURT:

Let it be received.

MR. ALCOCK:

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"S-24-Trial," which purports to be a picture of the hallway of David Ferrie's apartment.

MR. DYMOND:

No objection.

THE COURT:

Let it be received.

MR. ALCOCK:

"S-16-Trial," which purports to be a picture of David Ferrie.

MR. DYMOND:

No objection.

THE COURT:

Let it be received.

MR. ALCOCK:

And "S-17-Trial," which purports to be a picture of two detectives leading Lee Harvey Oswald out of the jail in Dallas, Texas.

MR. DYMOND:

No objection.

THE COURT:

Let it be received.

MR. ALCOCK:

The State would like also to offer, file

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and introduce into evidence, having marked same for purposes of identification, "S-18," which purports to be a Mannlicker-Carcano rifle with a telescopic sight.

MR. DYMOND:

To which we object, Your Honor. This rifle does not purport to have any direct connection with the case. It is our contention that it is completely irrelevant to the issues in the case.

THE COURT:

Overrule the objection.

MR. DYMOND:

To which ruling Counsel objects and reserves a bill of exception, making the objection, the Court's ruling, together with the reasons therefor, and the Exhibit S-18, together with the entire record up until this point, part of the record.

THE COURT:

I understand, Mr. Alcock, that the exhibit is being offered as being

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similar to?

MR. ALCOCK:

Yes, yes.

THE COURT:

All right. You didn't say that. It is similar to but not the original?

MR. ALCOCK:

It is a Mannlicker-Carcano rifle but it is similar.

THE COURT:

Yes, similar.

MR. DYMOND:

If Your Honor please, I would like to point out that there is nothing in the record to identify this as a Mannlicker-Carcano rifle.

MR. ALCOCK:

All right. Just put it as a rifle. Your Honor, I think Mr. Russo is excused, isn't he?

THE COURT:

I am waiting for you to tell me. You have no further questions?

MR. ALCOCK:

No, I have no further questions.

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(Witness excused.)

THE COURT:

Mr. Alcock, I am checking on your Exhibit S-20. What exhibit is that, Mr. Sullivan?

THE CLERK:

It went in on S- and D-20.

MR. ALCOCK:

Your Honor, in connection with the testimony of the witness Perry Russo, and in consideration of the fact that Dr. Chetta is now deceased, the State would at this time ask permission of the Court to have Mr. Alvin Oser, Assistant District Attorney, the man who examined Dr. Chetta in the preliminary hearing, read into the record his testimony then given.

MR. DYMOND:

Your Honor, we object.

THE COURT:

State your reasons why.

MR. DYMOND:

Well, I think the Jury should be removed

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1 for this objection, if the Court
2 please.
3 THE COURT:
4 All right. Take the Jury in my office.
5 (Whereupon, the Jury was excused
6 from the courtroom.)
7 THE COURT:
8 I am faced with Article 295. I guess
9 you are aware of it.
10 MR. DYMOND:
11 I am aware of it.
12 THE COURT:
13 I will be glad to hear your objection.
14 MR. DYMOND:
15 Your Honor, this objection is not based
16 upon Article 295, which deals with
17 preliminary hearings, at all. We
18 realize that ordinarily the testimony
19 of a deceased witness which has been
20 previously taken at a preliminary
21 hearing, is admissible on the trial
22 of the case, but we object to this
23 on the basic admissibility of this
24 testimony because of its very nature,
25 that is, were the same testimony to

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1 be offered from the lips of Dr.
2 Chetta, we do not feel that it
3 would be admissible here. This
4 testimony purports to be in large
5 part statements of the witness
6 Perry Raymond Russo while he was
7 under the influence of the drug
8 sodium pentathol which had been
9 administered by Dr. Chetta, and
10 that actually the Court would have
11 to read the entire testimony of Dr.
12 Chetta from the transcript of this
13 preliminary hearing in order to
14 properly pass upon this objection.
15 We objected to this testimony at
16 the preliminary hearing, but, of
17 course, being a preliminary hearing,
18 the testimony was permitted, but this
19 is a trial before a Jury here now.

20 MR. OSER:
21 Your Honor, will the Court hear the
22 State?

23 THE COURT:
24 The Court would like to hear the State,
25 certainly.

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1 MR. OSER:

2 Your Honor, the State's position in the
3 matter is that what is in the pre-
4 liminary hearings -- Mr. Dymond has
5 opened the door on the question of
6 sanity or insanity of the witness
7 Perry Russo, so the State would
8 like to quote the case of People
9 vs. Esposito, 287 N.Y. 289, 39 N.E.
10 2, 1925, decided in 1942, and in
11 this particular case the testimony
12 was admitted by a psychiatrist
13 based on the reactions and informa-
14 tion received from the defendant
15 while under the influence of drugs
16 and sodium pentathol, which is
17 truth serum, and in this particular
18 case the doctor used this as one of
19 the aids and means by which he
20 tested and determined whether or
21 not the defendant was sane or insane
22 and this is the reason that the
23 testimony of Dr. Chetta is being
24 offered. This is further covered,
25 if Your Honor please, in the Temple

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Law Review, Volume 35, Page 401.

THE COURT:

Can I get a copy of the Temple Law
Review article?

MR. OSER:

I believe Judge Bagert still has a copy.

MR. WILLIAM WEGMANN:

I have a copy of it and I have no objec-
tion to submitting it to the Court,
because I think --

THE COURT:

A copy of what?

MR. WEGMANN:

Of the Law Review article he is talking
about -- because I think it proves
exactly the opposite.

THE COURT:

I will hear Mr. Dymond.

MR. DYMOND:

I don't think, if the Court please, that
the Esposito case is applicable
here at all. In the first place,
Counsel is contending by asking a
witness whether he has had psychia-
tric treatment, that I have opened

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the door as to his sanity. You will probably get resentment from a lot of people in this courtroom if you questioned the sanity of each one who has consulted with a psychiatrist.

THE COURT:

Well, to the layman, whether you believe it or not, to the layman a person who goes to a psychiatrist, they do think something is wrong with them; whether he is nuts or not, that is something else.

MR. DYMOND:

Your Honor, further the sodium pentathol

THE COURT:

I know what sodium pentathol is.

MR. DYMOND:

-- test has nothing whatsoever to do with sanity or insanity. This is testimony concerning material which was obtained from this witness in the form of testimony while under the influence of this drug. I know of no case in the history of our juris-

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prudence where such testimony has been admitted in evidence. We don't know what effect the administration of this drug has on a witness, the Jury doesn't, the Court doesn't, and I don't think that you will find a case in the annals of our country where a court has said yes, put a man under sodium pentathol, or a drug, and get him to talk and then that testimony is admissible in evidence.

THE COURT:

Let me read to you, irrespective of your saying you are not alluding to Article 295, it seems like that article covers it very nicely. I am going to read it.

MR. DYMOND:

We have no argument with 295.

THE COURT:

I am going to read it for the record.

Take this down.

"295. Admission of Transcripts and

Other Proceedings. The transcript

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of the testimony of a defendant who has testified at a preliminary examination is admissible against him upon the trial of his case, or, if relevant, in any subsequent judicial proceedings.

"The transcript of the testimony of any other witness who testified at the preliminary examination is admissible for any purpose in any subsequent proceedings in the case on behalf of either party. If the Court finds that the witness is dead, too ill to testify, absent from the state, or cannot be found, and that the absence of the witness was not procured by the party offering the testimony --

MR. DYMOND:
Your Honor --

THE COURT:
Let me finish reading.
" -- the transcript of testimony given by a person at a preliminary examination may be used by any party in a subse-

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quent judicial proceedings for the purpose of impeaching or corroborating the testimony of such person as a witness."

(Reporter's Note: The above quotation transcribed from the notes as they lie; the reader is referred to the source.)

THE COURT:

Now, you have used the transcript of that hearing in attacking or impeaching the testimony of Perry Russo. You were also present at this preliminary examination and hearing, and you offered whatever objections you had to Dr. Chetta's testimony -- I am sure you must have.

MR. DYMOND:

Your Honor, in answer to that I would like to say this: Yes, we did offer objections and we were met with the answer that "This is a preliminary hearing."

THE COURT:

The same rules of evidence apply.

MR. DYMOND:

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I beg your pardon.

MR. WILLIAM WEGMANN:

No, they were not applied.

MR. DYMOND:

They were not applied. If Your Honor will examine this transcript, you will see that upon numerous occasions we objected to hearsay evidence on this preliminary hearing. We were met with argument by the State that this is a preliminary hearing and that hearsay evidence can be introduced at a preliminary hearing, and the three-judge panel so ruled. If Your Honor will examine this transcript, it will bear me out. And we have another situation here where evidence was admitted on the preliminary hearing because it was a preliminary hearing. We are confronted here with exactly the situation that we feared we would be confronted with.

THE COURT:

Well, was the argument advanced to the

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three-judge court of the possibility of that testimony being read at subsequent trial?

MR. DYMOND:

Absolutely, absolutely it was, and the record reflects it.

THE COURT:

In its entirety?

MR. WILLIAM WEGMANN:

And you will find a very detailed argument at the very beginning of Russo's testimony, as to what was going to be done.

THE COURT:

I am ready to rule. I will overrule your objection, I will permit the reading of this under Article 295.

MR. DYMOND:

Your Honor, may we ask that before you make such a ruling as this --

THE COURT:

I have already made it.

MR. DYMOND:

I will ask you to retract it then and permit us to research this point and

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furnish you with authorities to-
morrow morning. I mean this ruling
is absolutely contrary to anything
that was anticipated in this pre-
liminary hearing.

THE COURT:

From a purely legal situation, you made
the objection anticipating that
the transcript could be read at a
subsequent judicial proceeding, and
you tell me the reason it was per-
mitted is because they agreed it
was hearsay but although it was
hearsay that it was permitted be-
cause it was a preliminary examina-
tion?

MR. DYMOND:

That is correct, and we said, "Yes, but
suppose a witness dies and they try
to introduce this as evidence on
trial of the case?" They said, "Oh,
no, you will be able to object on
whatever legal ground you have."

THE COURT:

Is that in the transcript?

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MR. DYMOND:

That is in the transcript, yes.

MR. WILLIAM WEGMANN:

I think you have got to read the transcript.

THE COURT:

I will have to read it.

MR. DYMOND:

There is no other way out.

THE COURT:

Can you pinpoint the section? I don't have a transcript.

MR. DYMOND:

We can find that section without any trouble, yes.

THE COURT:

Does the State have an extra copy, or is the transcript in the Clerk's Office?

MR. ALCOCK:

Your Honor, I would like to point out to the Court perhaps my appreciation of what transpired at the preliminary hearing is different from Defense Counsel's -- perhaps it is -- but I remember I had long and strenuously

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1 argued the point that hearsay was
2 admissible in a preliminary hearing
3 because there we were only deciding
4 whether or not there was probable
5 cause --

6 MR. DYMOND:

7 That is correct.

8 MR. ALCOCK:

9 -- and I analogized this to be probable
10 cause on a search warrant and a
11 motion to suppress. However, I was
12 overruled, hearsay was excluded.
13 The only conversations that were ad-
14 mitted was after the Court deemed
15 that we had prima-faciely proved a
16 conspiracy, and I can point that out
17 to the Court in the transcript, be-
18 cause I know I argued that point
19 long and loud and lost it.

20 MR. DYMOND:

21 Your Honor, I don't think there is any
22 point in Mr. Alcock and me standing
23 here arguing what is in the tran-
24 script when we can look at it and
25 see what is in it.

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THE COURT:

I will get a copy somewhere, perhaps from the Clerk's Office. I would like for you, if you can, to cite me the particular pages.

MR. DYMOND:

Given a few minutes I am sure we can.

MR. WILLIAM WEGMANN:

I believe if you will read Dr. Chetta's testimony you will find the citation of the Court's authorities and every thing else in there.

THE COURT:

What is this evidence --

MR. WEGMANN:

I have a copy of the Law Review article which is underlined.

MR. OSER:

My questions to Dr. Chetta were based on hypothetical questions and not what Russo told Dr. Chetta. There is no testimony in there by Dr. Chetta as to what Russo told him. His answers were to my hypothetical questions to the expert, Dr. Chetta, at the time,

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not what Mr. Dymond said.

THE COURT:

I understood you wanted to read the entire testimony of Dr. Chetta to the Jury?

MR. DYMOND:

Correct.

THE COURT:

I understand the State wishes to read the entire --

MR. OSER:

But all my questions were propounded on the basis of hypothetical questions.

THE COURT:

I will tell you what I think. The suggestion by Mr. Dymond probably is a solution to the problem we have now, I would think. I will take the testimony and also this exhibit you have. Do you have anything? You submitted me two citations, Mr. Oser. Do you have a brief on them or a memorandum on them?

MR. OSER:

The Esposito case, Your Honor, is covered

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1 in the Temple Law Quarterly.

2 THE COURT:

3 Which is what you have?

4 MR. WILLIAM WEGMANN:

5 If we are going to argue it tomorrow

6 morning, I would like to have a

7 copy of it so we can review it.

8 MR. DYMOND:

9 Do you want to make a copy for the Court?

10 THE COURT:

11 We will make a couple of copies. Have a

12 couple of copies made. We will get

13 it in the next ten minutes.

14 Do you have any other witnesses you want

15 to put on now?

16 MR. ALCOCK:

17 No, Your Honor.

18 THE COURT:

19 All right. I will recess until tomorrow

20 morning, and I will read the

21 transcript plus the authorities,

22 and when we get here tomorrow morn-

23 ing, I will permit both sides to be

24 heard in argument on it. Now, we

25 are only contending about the testi-

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mony of Dr. Chetta?

MR. WILLIAM WEGMANN:

Well, the argument about the hearsay that Mr. Alcock points out was originally made -- if you wait a second I can tell you where, because there is a long colloquy that went on. I believe, Judge, if you will read the very beginning of Perry Raymond Russo's testimony, which begins at Page 20, you will find the colloquy between Alcock --

MR. ALCOCK:

You will find the answer on Page 41.

MR. WILLIAM WEGMANN:

You will find eventually what was done, but you will find what took place in the comments of the three-judge court.

THE COURT:

To Page 41?

MR. WEGMANN:

I don't say it ends there, Judge. I am afraid it is a long night of reading.

THE COURT:

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Where is Dr. Chetta's testimony?

MR. DYMOND:

It is indexed.

THE COURT:

All right. Do you have more than one
copy of it, Mr. Oser?

MR. OSER:

No, sir.

THE COURT:

It would be in Judge Bagert's Court.

Could you let me have your copy
overnight? I will let you have it
back tomorrow morning.

MR. OSER:

Yes, sir (handing document to the Court).

THE COURT:

All right. Bring the Jury down. I am
going to have to tell them we are
adjourning for the night.

(Whereupon, the Jury returned to
the courtroom.)

THE COURT:

Gentlemen of the Jury, a legal point has
come up that has to be researched by
myself tonight, I have to refer to

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the transcript that was made of a preliminary hearing in the matter. Rather than keep you gentlemen up there, it is 5:00 o'clock now and we are sending for the agents to take you back to the motel. Do not discuss the case among yourselves or with any other person.

Mr. Shaw, you will be released on your same bond, and Court will be adjourned until tomorrow morning at 9:00 o'clock.

. . . . Thereupon, at 5:00 o'clock p.m., the proceedings herein were adjourned to Wednesday, February 12, 1969 at 9:00 o'clock a.m.

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