

TAPE RECORDED TELEPHONE CONVERSATION BETWEEN RAFAEL ANTONIO PEREZ AND ATTORNEY WINSTON KEVIN MCKESSON AND SGT. ROMERO OF THE LOS ANGELES POLICE DEPARTMENT.

CASE NO.:	BA109900
CASE NAME:	People vs. Rafael Antonio Perez
CHARGE:	Not listed
DATE:	Unknown
TIME:	Unknown
TAPE NO.:	228161
DEPUTY D.A.:	Richard Rosenthal
D.A. UNIT:	S.I.D.

LEGEND:

R - Sgt. Romero
M - Atty. McKesson
P - Rafael Antonio Perez
U - Unidentified Voice
*** Unintelligible

TRANSCRIPT PROVIDED BY

Los Angeles County District Attorney's Office

March 2000

sam

R Okay. This tape-recorded interview is for Complaint Investigation CF# 99-4626. Today is February the 29th, year 2000, and the time is 1545 hours.

This interview is being -- uh, it's a telephonic interview. And it's being tape-recorded from Internal Affairs Group South Section. The person to be interviewed is Mr. Rafael Perez. The interview is being tape-recorded on Tape No. 228161, Side A. And the interview is being conducted by Sgt. Romero,

26914.

Also part of this conversation is Perez' attorney, Mr. Winston McKesson. And I just want to verify that both of you are aware that we are recording this conversation.

P I am aware.

M Yes, I'm aware.

R Okay. Thank you. What -- what I need to do here, uh, Rafael, is clarify just one issue with regards to the arrest that occurred with a Mr. Sanchez. And let me read the transcripts that -- that have to do with that particular issue. Okay?

P Okay.

R I'm gonna start of Page 80. And that's gonna be, uh, starting with, uh, Line -- let me take a look here. Okay. That's gonna be Line 15, Page 80. And this is what it reads. It says:

"I think -- uh, this is you -- I think he may have put it in his po- -- in his pocket himself. He was gonna be - - he was gonna be the one booked, uh, for the evidence, while I wrote the report."

U ***.

R "Okay. And that's when he eventually did book the evidence?" And you say, "Yes, sir."

"Now, with regards to this, the recovery of this

cocaine from another person, was Tovar aware that you had recovered that from someone else during a separate encounter?"

"Uh, I did not have an independent recollection as to Tovar being right there when I recovered it. You're asking me was Tovar there when I recovered it from somebody else, right?"

"Yes."

"I don't remember Tovar. You know, I'm -- I'm not saying that wasn't. It's just I don't remember. I don't have an independent recollection of him being there."

"Uh, did you recall if Tovar had an independent -- an opportunity to review the arrest report before it was submitted for approval?"

"He -- my standard practice, like I said on many other occasions, it is to always, always have my partner read the reports before we turn them in and make copies, and things like that. I want to make sure that we're on the same page. And then, later on, what -- what I wrote, in case we're asked later for the -- for a reason."

Okay. So, with regards to that part of it --

P Uh-huh.

R -- now, let me just kind of bring you right into the area that we're looking at.

P Right.

R Tovar has chased this person, uh, known as Capone.

P Uh-huh.

R He -- you see him fall.

P Right.

R Uh, Tovar gets back up and he walks back to your -- to where you are; right?

P Right.

R So, the two of you are standing there now with this other person, Sanchez?

P Right.

R Now, between the time that you -- that you, uh, got out of the car and secured Sanchez, and Tovar ran down the street, now, between that time and when Tovar actually returned back to you and made contact, --

P Right.

R -- did you talk, or did you say anything to Sanchez about this cocaine that was gonna be placed on him?

M Say anything to Sanchez?

R Right.

P I --

R And what I mean is, when you're both isolated, right. It's you and Sanchez standing at the corner of Burns and Virgil. Did you discuss anything with Sanchez about that cocaine that you would eventually plant on him?

M Let -- let me -- let me say this, officer. Uh, and

-- uh, I don't know how to say this. But the problem I'm having right now is, when -- when I spoke with Richard Rosenthal -- and I haven't spoken to Ray. So, I haven't prepared him for this.

R Right.

M The problem I'm having now is, when I spoke to Richard Rosenthal, he told me you guys had a specific area in which you wanted to cover.

R Right.

M And -- and I understood that. And I said, "That's fine." Uh, he told me there was a statute of limitations running.

R Right. Right.

M And even though you guys had spoken to him several times, there were certain things that weren't cleared up.

R Mmnh-mmnh.

M And -- and I told him, you know, uh, "As long as they, you know -- you know, keep it limited to that and, you know, I'm on the phone." He's -- he's and I'm --

R Right.

M -- and I didn't mention, uh, the fact that -- that you have the transcripts in front of you. And I appreciate the fact that you brought those.

R Right.

M But, with all due respect, uh, Sgt. Romero, this is not -- this is not the area that -- that we were focusing on. And it's my understanding we weren't trying to focus on what was in Sanchez' frame of mind. 'Cause Sanchez would know if drugs were planted on him. I thought the question was to Tovar.

R No, it -- it is. And I didn't ask what was -- what Sanchez said to -- to Perez.

M No. No, I'm not trying to say it's not relevant.

R Right.

M But the problem is, you know, this is not what I was told was going to --

R Right.

M -- be the subject of inquiry.

R Right.

M And, see, the problem I'm having, with all due respect, is personally I really think that these issues -- and I'm not saying anything, because we're cooperating --

R Right.

M -- have been that we're beating a dead horse over and over again.

R Right. I understand.

M And -- and then, it seems like we're starting to beat it all over, too.

R Right.

M Because when I was told the focus was going to be on Tovar's state of mind, the first question is --

R Right.

M -- what was said to Sanchez when Tovar wasn't there.

R Right. Right. Okay. Well, let's -- let's -- let's go -- let's move beyond that. Let's just go right to that question then.

Now, when Sanchez returned back to you and made contact, --

P Sanchez returned back to me?

R I'm sorry, not Sanchez.

P Tovar.

R Tovar.

P Tovar?

R When Tovar returned back to you.

P Okay.

R And you're -- the three of you are standing there.

P Right.

R Now, how is it that -- explain to me, the best that you can, how it is that you determined that Tovar was aware that that cocaine that was, uh, eventually booked against Sanchez, that that cocaine was not recovered from Sanchez' person? I mean, how -- how can you help me to determine that?

P Uhm, basically, by our -- and I can't, you know, --

I won't be able to just give you word-for-word what our conversation was --

R Right.

P -- with me and Tovar. But, basically, it was one of those things where I was laughing at him for -- for having fallen.

R Right.

P Having run and ripped his pants, and all that. And, uhm, it was, basically, that, "Well, what do you want to do with this guy?"

R Mmnh-mmnh.

P That type of discussion.

R Right.

P Uh, and then, it was sort of like we discussed it with him. Me and Tovar both discussed it with Sanchez that he's gonna have to pay the price for his buddy running.

R Mmnh-mmnh.

P Uh, and, at that point, uhm, it was real clear what we were gonna do, as far as our discussion with me and Tovar.

R Mmnh-mmnh.

P And then, me having, uh, handed him what I had in my shirt pocket, uhm, it was -- it was very clear that, uh, you know, never, at no time, did I talk to Tovar and say, "Hey, while I was searching him, or while I detained him, or while I

walked up on him, he discarded this, or discarded that."

R Right.

P 'Cause that never occurred. So, I would have never been able to say something like that.

R Right. Right.

P Uh, it was more to the effect that he, you know, ran and -- and fell. And he was pissed off. And he -- we wanted to know who the -- the guy was that ran. Uh, Sanchez wouldn't tell us. And then, basically, our discussion led to, uh, well, he's gonna have to go. He's gonna have to pay the price for his, uh -- for the other guy running.

R Right.

P And me and Tovar were -- I mean, we were on the same page on that one.

R Okay. So, there's really, then, no doubt in your mind that Tovar was -- his state of mind was that he knew that that cocaine did not come from Sanchez?

P Oh, I'm -- I'm -- there's no doubt. I mean, there's been other cases where it is possible that -- well, actually, there aren't too many. I mean, this is pretty -- this is clear cut. This is a matter of --

R Right.

P -- he paid the price for the other guy running.

R Right.

P There's no -- there's no doubt. There's no ambivalence (sic). There's no, nothing on this one. It's -- it's very clear.

R Okay. Okay. No, that's -- I think that's, uh, that's it.

M I beg your pardon?

R Uh, are you still there, Mr. --

M Yeah, I'm here.

R Okay. Uh, I think that's it.

M Okay.

R I think that'll do it. Uh, what we'll do, then, is, uh, we'll go ahead and conclude the interview.

M Okay.

R It's, uh, 15 -- 1555 hours.

P Okay.

R And it's February 29th. And this interview -- this telephonic interview is going to conclude now. Let me go ahead and turn off the tape.

P Okay.

(Tape No. 228161 ended.)

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