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SCIAMBRA, ANDREW J.
HYPNOSIS, RUSSO, PERRY
OSWALD, LEE, POST RUSSIAN PERIOD, POLITICAL & SUBVERSIVE
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2014

CRIMINAL DISTRICT COURT
PARISH OF ORLEANS
STATE OF LOUISIANA

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

EXCERPT OF
PROCEEDINGS IN OPEN COURT,
AFTERNOON, FEBRUARY 12, 1969

Charles A. Neyrey,
Reporter

Testimony of Andrew Sciambr

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

Dietrich & Pickett, Inc.
Stenotypists

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

Reference copy, JFK Collection: HSCA (RG 233)

1 WEDNESDAY,

2 FEBRUARY 12, 1969

3
4 THE COURT RECONVENED AT 1:30 o'clock p.m.

5ooo....

6
7 ANDREW J. SCIAMBRA,
8 recalled to the witness stand, continued to
9 testify as follows:

10 THE COURT:

11 Is the State and Defense ready to
12 proceed?

13 MESSRS. DYMOND & ALCOCK:

14 Yes.

15 THE COURT:

16 Mr. Sciambra, your oath is still
17 binding.

18 MR. ALCOCK:

19 Your Honor, I believe the postulate
20 of the case is that Defense
21 Counsel could view S-25, and
22 I will now let the witness look
23 at it and see if he recognizes
24 it without saying what it is.

25 THE WITNESS:

Reference copy, JFK Collection: ESCA (RG 233)

1 I do.

2 BY MR. ALCOCK:

3 Q Mr. Sciambra, is this the memorandum

4 prepared by yourself and Mr. Oser?

5 MR. WILLIAM WEGMANN:

6 I object to him leading the witness.

7 THE COURT:

8 You are leading the witness.

9 MR. ALCOCK:

10 I will rephrase the question.

11 BY MR. ALCOCK:

12 Q What does this memorandum represent to
13 you?

14 A This is the first memorandum that Mr. Oser
15 and I dictated.

16 Q Do you recall what day that was you dic-
17 tated the memorandum?

18 A February 28.

19 Q Now without going into the context of the
20 memorandum what area or what inter-
21 view were you allegedly covering when
22 you dictated this memorandum?

23 A I was covering my first interview with
24 Perry, parts of it.

25 Q When was that?

Reference copy, JFK Collection: ESEA (NG 455)

1 A In Baton Rouge on February 25.
2 Q Referring to S-25, the memorandum shown
3 you?
4 A I was referring to the sodium pentathol
5 interview with Perry which was also
6 on February 27.
7 Q Were you present during the administration
8 to Perry Russo of sodium pentathol?
9 A Yes, sir.
10 Q Were you present the entire time?
11 A Yes.
12 Q Were you taking notes during the inter-
13 view?
14 A Not me, no.
15 Q Was Mr. Oser to your knowledge?
16 A He was.
17 Q And did you have occasion subsequent to
18 then to dictate a memorandum in con-
19 junction with Mr. Oser relative to
20 what transpired at the sodium penta-
21 thol interview?
22 A I did.
23 Q Is that what you identify as S-25?
24 A It is.
25 Q Again, Mr. Sciambra, without goin'

NUB

1 the nature of the contents of the
2 memorandum, I'm going to ask you just
3 to quickly peruse it at this time.

4 A. (Witness complies.)

5 Q Having read the memorandum, Mr. Sciambra,
6 do you see any errors or omissions
7 comitted by yourself in the compila-
8 tion of this memorandum?

9 A I do.

10 Q What would that be?

11 MR. WILLIAM WEGMANN:

12 I object, Your Honor.

13 THE COURT:

14 On what grounds?

15 MR. WEGMANN:

16 On the grounds that he is now attempt-
17 ing to get the contents of the
18 memorandum in the record which
19 is hearsay.

20 MR. ALCOCK:

21 I asked him, Your Honor, I think my
22 question was whether or not
23 there were any errors or omis-
24 sions committed by him and not
25 anything said by the person

Reference copy, JFK Collection.

interviewed.

MR. WEGMANN:

You're finished?

MR. ALCOCK:

Yes.

MR. WEGMANN:

He then said "yes, I do," or "did,"
and then I believe Mr. Alcock
asked him what they were and
that is the question I am ob-
jecting to.

THE COURT:

Is not the memorandum a dictation by
this witness?

MR. WEGMANN:

No, sir, it is not.

THE WITNESS:

It is.

MR. WEGMANN:

He testified it was dictated by both
Oser and himself.

THE COURT:

Was it dictated by Mr. Sciambra or
dictated both by Mr. Oser and
Mr. Sciambra?

Reference copy, JFK Collection: HSCA (RG 233)

1 BY MR. ALCOCK:

2 Q Mr. Sciambra, were you present during the
3 entire time either you or Mr. Oser
4 were dictating any portion or the
5 entire statement?

6 A I was.

7 Q And the errors or omissions you are ad-
8 dressing yourself to would have been
9 committed by yourself or Mr. Oser,
10 if you can recall?

11 A By me.

12 MR. ALCOCK:

13 I still believe Your Honor, he has a
14 right to say what the error is.

15 THE COURT:

16 I think the position is whether or
17 not Mr. Sciambra can tell us
18 while on the stand what he dic-
19 tated and what errors he made
20 without referring to anything
21 Mr. Oser may have said.

22 MR. DYMOND:

23 If The Court please, it is our posi-
24 tion that in order to have him
25 testify to what the errors are

1 he would have to refer to what
2 is in the memorandum as opposed
3 to what was said by a witness
4 under the influence of sodium
5 pentathol and what a witness
6 says under the influence of
7 sodium pentathol is clearly in-
8 admissible, which has been held
9 in the case of Lindsay versus
10 The U.S.

11 THE COURT:

12 I am familiar with that 9th Circuit
13 case.

14 MR. DYMOND:

15 And also Knight versus State.

16 THE COURT:

17 I understand the legal position, Mr.
18 Dymond and Mr. Wegmann is that
19 you cannot use the results, or
20 to rephrase it you have to have
21 the witness and you can't have
22 him corroborate himself.

23 MR. DYMOND:

24 That is right.

25 THE COURT:

1 That is not what we have with Mr.
2 Sciambra. While I understand
3 the legal status at this moment
4 is that Mr. Alcock is asking Mr.
5 Sciambra to state on the witness
6 stand, either as a self-serving
7 declaration, what he dictated.
8 That is not hearsay as to what
9 he did.

10 Now if after he said he dictated it
11 and he said he made a mistake
12 and wants to correct it, that
13 is something else but I will not
14 permit him to state what Mr.
15 Oser said. If you understand.

16 MR. DYMOND:

17 In order to permit him to correct it
18 the only way he could do that is
19 to permit him to testify to what
20 this witness said while under
21 the influence of sodium penta-
22 thol and that is the only way he
23 could possibly correct it.

24 THE COURT:

25 I haven't read the statement.

Reference copy, JFK Collection: ESCA (RG 233)

1 MR. DYMOND:

2 It would be right in the teeth of
3 these two decisions.

4 THE COURT:

5 May I see the statement?

6 MR. WILLIAM WEGMANN:

7 He testified this is a sodium penta-
8 thol memorandum.

9 THE COURT:

10 I haven't seen this exhibit. You
11 have had the benefit of seeing
12 it and I haven't.

13 This memorandum is typed in A. J.
14 Sciambra and the "I" in the
15 memorandum refers to you, is
16 that correct?

17 THE WITNESS:

18 Yes.

19 MR. ALCOCK:

20 I'm not trying to pull the wool over
21 the Court's eyes and I will ad-
22 mit this is the result of what
23 transpired at the sodium penta-
24 thol administration. Mr. Sciambra
25 is recounting, and if I am

1 incorrect Mr. Sciambra can cor-
2 rect me, but what, what Perry
3 Russo said during the sodium
4 pentathol interview and he's
5 not trying to fool the Court.
6 This is what this is.

7 MR. WILLIAM WEGMANN:

8 That is what the objection is aimed
9 at.

10 MR. DYMOND:

11 Your Honor, I'd also like to point
12 out those cases go into greater
13 detail explaining why sodium
14 pentathol evidence is inadmis-
15 sible.

16 THE COURT:

17 I read this Temple Review and that
18 covers the point.

19 MR. WILLIAM WEGMANN:

20 And agrees with what we are stating.

21 MR. ALCOCK:

22 Your Honor, I would like to make the
23 statement for the record that
24 at this time I would offer the
25 statement in evidence and if

Reference copy, JRA 100-100000

1 the Court rules it inadmissible
2 I think in fairness to the
3 defendant I would like to also
4 offer it in evidence.

5 MR. DYMOND:

6 To which exhibit we object on the
7 grounds it is supposedly a so-
8 dium pentathol statement.

9 MR. ALCOCK:

10 Before the Court rules on S-11 and
11 S-12 that is marked for identi-
12 fication purposes, did you not
13 make the statement you used
14 those typewritten documents to
15 use?

16 MR. DYMOND:

17 If the Court please that is actually not
18 a verbatim transcript. This is
19 nothing but a statement from
20 memorandums and from notes as
21 to what supposedly was said by
22 this witness while actually
23 under sodium pentathol.

24 THE COURT:

25 The first objection is the wit

Reference copy, JFA

1 shouldn't be able to use a memo-
2 randum prepared by him to bol-
3 ster his testimony and that the
4 best evidence is while he is on
5 the witness stand.

6 MR. ALCOCK:

7 I think the Court has put its finger
8 on the issue quite properly
9 yesterday when we were referring
10 to the transcript of the hyp-
11 notic session. He was going
12 to introduce those and attempted
13 to do so. Yesterday his posi-
14 tion was that he was going to
15 allow them in evidence and allow
16 his expert to view the questions
17 and answer. His objection at
18 this time is that the memorandum
19 in essence is what Perry Russo
20 said under sodium pentathol.

21 If it is objectionable here and in-
22 admissible, it is equally inad-
23 missible to introduce the
24 transcript of the hypnotic
25

Reference copy, JFK Collection: 100-44-10000

1 session and this is what they
2 have been arguing all along.
3 THE COURT:
4 The transcript as to what Dr. Fatter
5 did.
6 MR. ALCOCK:
7 The exhibits marked by Defense which
8 were the actual transcripts of
9 the questions and answers by
10 Mr. Perry Russo while under a
11 hypnotic trance. If this is
12 not admissible, that is not
13 admissible.
14 THE COURT:
15 They have a copy of your DA file that
16 your stenographer took in the
17 District Attorney's office?
18 MR. ALCOCK:
19 They have a copy of the hypnotic
20 session.
21 THE COURT:
22 And that -- do you intend to use
23 those documents in corroboration
24 of your own expert?
25 MR. ALCOCK:

1 They haven't introduced them yet but
2 it's certainly on the same prin-
3 cipal.

4 MR. DYMOND:

5 But you can't make something admis-
6 sible that is inadmissible.

7 MR. ALCOCK:

8 But I think that the opportunity
9 should be given.

10 THE COURT:

11 Just give me a minute because I think
12 I know the legal principle in-
13 volved.

14 I understand that earlier this morn-
15 ing Mr. Oser made the allegation
16 that the testimony of Dr. Chetta
17 was offered not to show the
18 credibility of Perry Raymond
19 Russo nor to show that he was
20 speaking the truth but merely
21 to show that Dr. Chetta gave
22 these various tests and was
23 present to firmly conclude that
24 the man was sane and that was
25 the only purpose and that is what

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As I understand the status of the case you are asking Mr. Sciambra to bolster and give credence and truth to the statements made by Russo under the influence either of sodium pentathol or a hypnotic influence.

MR. ALCOCK:

Your Honor, I feel it is also corroborative of the testimony of Mr. Sciambra due to the fact that the so-called Sciambra Memorandum was not the first memorandum and that this was the first one and that the content of this memorandum very clearly and is very crucial to the Sciambra Memorandum in this case.

THE COURT:

I think I will sustain the objection to this exhibit which cannot be received in evidence but I'll not stop the State from proceeding to question the witness on

Reference copy, JFK Collection: BSA (no)

1 what he did and what he said
2 as that is not objectionable,
3 that is not hearsay and I will
4 agree with the Defense that
5 State-25 cannot be received in
6 evidence.

7 MR. ALCOCK:

8 Certainly I don't want the Court to
9 commit itself in advance but I
10 assume that the Court will as-
11 sume the same posture when an
12 attempt is made to have anybody
13 testify for Defense Counsel to
14 the exhibit he's objecting now
15 to even if it was an exact
16 transcript it is hearsay and it
17 will be hearsay later on if that
18 is the Court's ruling.

19 MR. DYMOND:

20 We can cross that bridge when we get
21 to it.

22 THE COURT:

23 You may go into the question of prior
24 contradictory statements. It
25 is not a transcript of something

Reference copy, JFK Collection: ESCA (RG 233)

1 like a stenographer, it is more
2 a transcript of notes.

3 MR. WILLIAM WEGMANN:

4 I suggest we cross that when we get
5 to it.

6 THE COURT:

7 I can't anticipate what will happen.
8 You want this back, S-25, or
9 Counsel has a copy?

10 MR. WILLIAM WEGMANN:

11 He gave it to us to read at lunch
12 time.

13 BY MR. ALCOCK:

14 Q Mr. Sciambra, during the course of the
15 sodium pentathol interview, did you
16 propound any questions to Perry
17 Russo?

18 A I did.

19 Q Can you tell us what questions you
20 propounded?

21 MR. DYMOND:

22 We object to this. This is attempt-
23 ing to indirectly do what --

24 MR. ALCOCK:

25 This is what the Court announced we

1 can do.

2 THE COURT:

3 I ruled he can state what he did but
4 not what Perry Raymond Russo
5 said. That is the position
6 I've taken all morning.

7 A I asked Perry if he could tell me in more
8 details about the meeting in Dave
9 Ferrie's apartment between Dave
10 Ferrie, Leon Oswald and Clem Ber-
11 trand.

12 BY MR. ALCOCK:

13 Q You recall any other questions you pro-
14 pounded on this occasion?

15 A Essentially I went over some or not all
16 that we talked about in Baton Rouge.
17 I was specifically more concerned
18 with the meeting that took place in
19 Dave Ferrie's apartment between Clem
20 Bertrand, Leon Oswald and Dave
21 Ferrie than anything else.

22 Q Mr. Sciambra, getting back to the memoran-
23 dum identified as State & Defense
24 20, were you in court yesterday when
25 Mr. Russo testified?

Reference copy, JFK Collection: 850A 100

Reference copy, JFK Collection: HSCA (RG 435)

1 A Which is State & Defense 20?

2 Q That would be the so-called Sciambra
3 Memorandum.

4 A Yes, I was.

5 Q Mr. Sciambra, did you acknowledge that
6 the omissions and mistakes testified
7 to yesterday were the result of your
8 commenting on the words of Perry
9 Russo --

10 MR. DYMOND:

11 I object as leading, the very form
12 of it.

13 BY MR. ALCOCK:

14 Q Did you hear the testimony relative to
15 any omissions and errors?

16 A I did.

17 Q Would those omissions or errors be the
18 result of your work product?

19 A These omissions and errors and inaccura-
20 cies would be the result of my trying
21 to report in my own words what Perry
22 Russo told me on February 25 and plus
23 physically not as concerned with
24 the descriptions in the second memo-
25 randum as the first memorandum being

21

1 that the first memorandum also handled
2 the Ferrie, the party that took place
3 in Ferrie's apartment.

4 MR. DYMOND:

5 I object to that, Your Honor, and
6 ask that the Jury be instructed.
7 He is testifying to the content
8 of the memorandum which you
9 ruled is inadmissible.

10 MR. WEGMANN:

11 He is testifying to what Russo told
12 him when he is therefore doing
13 indirectly what you told him he
14 couldn't do directly.

15 THE COURT:

16 Gentlemen, we are on a very thin
17 line. He can testify what he put in
18 this memorandum and give us the
19 reasons why he did it but he
20 cannot tell us what Russo told
21 him and that is not hearsay and
22 doesn't violate Article 434 on
23 hearsay but he can't tell us
24 what Russo said.

25 MR. DYMOND:

Reference copy, JFK Collection: HSCA (RG 233)

1 Your Honor, you say he can testify
2 to what he put in his memoran-
3 dum. It is the contention of
4 this witness he can reveal what
5 Russo told him while under
6 sodium pentathol but he cannot
7 testify to what he put in his
8 memorandum because that is
9 testifying as to what Russo told
10 him.

11 THE COURT:

12 He can testify that he dictated the
13 memorandum and generally what
14 it contains but he can't testify
15 in detail as to what Russo told
16 him.

17 MR. DYMOND:

18 That is exactly what he is doing.

19 THE COURT:

20 Then I sustain your objection.

21 BY MR. ALCOCK:

22 Q Mr. Sciambra, when you say "first" or
23 "second" memorandum, would you please
24 explain to us what you mean.

25 A When I say first memorandum I am referring

Reference copy, JFK Collection: HSCA (RG 233)

1 to the memorandum pertaining to the
2 sodium pentathol interview dictated
3 on the morning of February 28.

4 When I say second, I am referring to
5 the one that began that morning and
6 ended by the arrival of Perry Russo
7 and which was completed seven to ten
8 days later. That memorandum is the
9 one that Mr. Dymond has labeled the
10 Sciambra memorandum.

11 Q Now, Mr. Sciambra, have you ever met James
12 Phelan?

13 A I did.

14 Q Do you recall when you first met him?

15 A It was sometime around the preliminary
16 hearing, but I don't remember exactly
17 the date.

18 Q To your knowledge did you know that Mr.
19 Phelan was going to interview Perry
20 Russo in March 1967?

21 A Did I know what?

22 Q To your knowledge did you know that he
23 was going to interview Perry Russo
24 in March of '67?

25 A I was the person that set up the interview.

Reference copy, JFK Collection:

1 Q Were you present at any time during the
2 course of that interview?

3 A In Baton Rouge?

4 Q In Baton Rouge.

5 A I wasn't.

6 Q Directing your attention once again to
7 the interview with Perry Russo on the
8 date of February 25, 1967, did you
9 mention the name Clay Shaw?

10 A I did not mention any names of any photo-
11 graphs that I showed Perry Russo.
12 Whenever I interview anybody I never
13 mention names; I just show them the
14 photographs and if they identify that
15 they tell me.

16 MR. ALCOCK:

17 Now, Your Honor, rather than getting
18 into a shouting match, may I
19 understand the Court's position
20 that I may not ask Mr. Sciambra
21 anything that Russo did or said
22 at the time of this interview
23 on February 25. Is that the
24 Court's ruling?

25 THE COURT:

Reference copy, JFK Collection.

1 I think he can testify to a physical
2 fact as something that happened
3 in his presence, what happened,
4 but he can't testify to any
5 verbal or oral testimony, but
6 he can testify if someone did
7 an act, he can say he witnessed
8 it and that he did such and such
9 and that would not violate the
10 hearsay rule.

11 In other words to go further: Under
12 Article 434 hearsay evidence is
13 inadmissible evidence except as
14 otherwise provided in this Code,
15 however, in State versus Morgan
16 -- a witness may tell all that
17 he and others did in conducting
18 an experiment but not what others
19 said on that occasion.

20 MR. ALCOCK:

21 I appreciate the hearsay rule but
22 generally without going into a
23 lengthy argument this might well
24 be an exception for this reason,
25 that Perry Russo was examined

Reference copy, JFK Collection: ESCA (RG 233)

1 extensively and was attempted
2 to be impeached by Mr. Sciam-
3 bra's memorandum and it seems
4 to me only fair that we allow
5 Mr. Sciambra to say what was
6 told to him and why the errors
7 are in the memorandum.

8 THE COURT:

9 You are bringing up a new point. In
10 other words let me hear Mr.
11 Alcock out on this and I will
12 be happy to hear, I will be
13 happy to hear your objection.

14 I think you brought up a new facet.

15 In other words, as I understand
16 your position, your posture at
17 this moment is that when you
18 came up with this memorandum
19 called roughly the Sciambra
20 Memorandum, and you offered to
21 introduce it as an exhibit it
22 was joined in by the Defense as
23 State & Defense 20, and then the
24 Defense was permitted to minute-
25 ly interrogate Russo as to the

Reference copy, JFK Collection: ESEA (NO 400)

1 contents of this whole memoran-
2 dum.

3 As I take it now, Mr. Alcock, your
4 position is that that opened
5 the door as to what is hearsay
6 and what is not when he cross-
7 examined Russo and now your
8 position is that since he opened
9 the door you should be able to
10 examine Mr. Sciambra on the
11 memorandum itself.

12 MR. ALCOCK:

13 That is my position.

14 THE COURT:

15 That is a new facet and I agree with
16 your position on that.

17 MR. DYMOND:

18 Don't we get a chance to argue?

19 THE COURT:

20 Yes.

21 MR. DYMOND:

22 If the Court please, the law specifi-
23 cally states that when a witness
24 in a criminal case testifies on
25 any point that he may be

Reference copy, JFK Collection: HSCA (NO 44-38861)

1 cross-examined on anything in
2 the entire case. Now how we
3 can open the door, any doors
4 by cross-examining Perry Russo
5 on a statement or a memorandum
6 of what he is supposed to have
7 said at a certain time, I don't
8 know.

9 The Code specifically sets forth,
10 and Your Honor was about to read
11 it, the exception to the hearsay
12 rule and I don't think the Court
13 will find any such exception as
14 this urged.

15 THE COURT:

16 Mr. Dymond, I may take issue with
17 you as to this memorandum as to
18 when it was offered by the State
19 I would have refused to have
20 permitted it to be introduced
21 but you joined in it. It would
22 not have been part of the case
23 if you had objected.

24 MR. DYMOND:

25 Certainly we wanted it in evidence.

Reference copy, JFK Collection: HSCA (RG 233)

1 THE COURT:

2 You wanted to use it to cross-examine
3 Russo.

4 MR. DYMOND:

5 That is correct and it has been read
6 to the Jury and to be used for
7 cross-examination that does not
8 create a new exception to the
9 hearsay rule.

10 THE COURT:

11 Also now you have opened the door by
12 using this memorandum for pur-
13 poses of cross-examination and
14 now you want to refuse the State
15 the right to examine the man who
16 made the statement.

17 MR. DYMOND:

18 Your Honor, it is the Court's deter-
19 mination that we opened the door
20 to hearsay by merely cross-
21 examining the witness?

22 THE COURT:

23 You used the contents of the memoran-
24 dum to cross-examine Russo and
25 I am going to permit the State

Reference copy, JFK Collection: ESKA (KJ 400)

1 to use the contents to examine
2 Mr. Sciambra who was the one who
3 wrote the memorandum.
4 Let me make my ruling.
5 MR. WILLIAM WEGMANN:
6 May we submit an argument --
7 THE COURT:
8 Certainly.
9 MR. WEGMANN:
10 I was just getting up. When that was
11 put in evidence, put in evidence
12 by the State in Direct Examina-
13 tion and that was not put in on
14 cross-examination of Russo, but
15 it was put in on the Direct
16 Examination. Another thing at
17 this time any statement that was
18 put in the record based on what
19 one person would say to another
20 person or what another person
21 told him, that is the rankest
22 kind of hearsay and the opposite
23 of your ruling before lunch.
24 THE COURT:
25 I disagree with you. Mr. Dymond

1 counted allegedly 26 errors,
2 where errors, omissions, excep-
3 tions or inconsistencies
4 occurred. Since he used the
5 memorandum extensively to
6 cross-examine Russo, and it was
7 offered by the State and joined
8 in by the Defense, you made no
9 objection, because if you had
10 objected I don't know what the
11 ruling would have been but cer-
12 tainly I don't think it would
13 have been received in evidence
14 without your joining in.

15 MR. WEGMANN:

16 We would like an opportunity to argue
17 out of the presence of the Jury.

18 THE COURT:

19 My ruling has been made and you can
20 take your bill of exception.

21 I am going to rule that you can ques-
22 tion -- Mr. Alcock can question
23 the witness Mr. Sciambra on the
24 Exhibit State & Defense 20 for
25 whatever purposes you have in

Reference copy, ...

1 that memorandum and this will
2 overrule your objection.

3 MR. WEGMANN:

4 For purposes of clarification, is it
5 also your ruling that Mr.
6 Alcock may elicit statements
7 made by Mr. Russo to Mr. Sciam-
8 bra outside the presence of this
9 defendant in Baton Rouge,
10 Louisiana?

11 THE COURT:

12 No, sir. No, sir. I will have to
13 rule as the questions are put.
14 He would have to stay within
15 the bounds. I don't want him
16 testifying -- Mr. Alcock wants
17 to question him on these errors,
18 omissions, or inconsistencies.

19 MR. WEGMANN:

20 Your Honor, if I am wrong, Mr.
21 Alcock, please correct me. It
22 is my understanding that Mr.
23 Alcock now wants to go into the
24 area of what Perry Russo re-
25 portedly told Mr. Sciambra in

Reference copy, JFK Collection: 100-104701-1000

33

Reference copy, JFK Collection: HSCA (AG 455)

1 Baton Rouge.

2 THE COURT:

3 Let me send the Jury upstairs and I

4 will hear arguments on it and

5 I will rule.

6 (THE JURY WAS EXCLUDED FROM THE

7 COURTROOM.)

8 MR. DYMOND:

9 Your Honor --

10 THE COURT:

11 Let me hear Mr. Alcock first and then

12 I'll be glad to hear your part.

13 MR. ALCOCK:

14 Your Honor, what I was attempting to

15 do, as Mr. Dymond stating during

16 his examination there were some

17 26 errors or omissions and at

18 one point he even asked whether

19 or not there was anything cor-

20 rect in the memorandum.

21 It is my position that Mr. Sciambra

22 should be able to go down the

23 memorandum and explain how the

24 errors found their way in the

25 memorandum. I will admit that

34

Reference copy, JFK Collection: 100-100000-100000

1 indirectly there might be some
2 inferences as to what was said
3 but I think it's only fair that
4 Mr. Sciambra be given an oppor-
5 tunity to explain how these
6 errors crept in, if they were
7 omissions or errors.

8 We have the Jury to understand at
9 this junction that the memoran-
10 dum is fraught with errors and
11 I think this man should be able
12 to be given an opportunity to
13 correct that.

14 MR. WEGMANN:

15 If the Court please, within the
16 bounds of legality. We don't
17 want to not allow Mr. Sciambra
18 time to explain anything.

19 THE COURT:

20 That is what I understood.

21 MR. WEGMANN:

22 As long as the Court rules that Mr.
23 Sciambra can be kept from tes-
24 tifying to what Mr. Perry
25 Raymond Russo told him.

1 THE COURT:

2 The Jury is out so we are not comment-
3 ing on the testimony.

4 MR. WEGMANN:

5 How can Mr. Sciambra explain errors,
6 omissions, or exceptions unless
7 he says what Mr. Russo told him?

8 THE COURT:

9 That is exactly what he said.

10 THE WITNESS:

11 I think I can if given the opportuni-
12 ty.

13 THE COURT:

14 If it can be done without saying --

15 MR. WEGMANN:

16 I don't think it is possible. How
17 he could it is beyond me.

18 THE COURT:

19 This was used extensively to impeach
20 Perry Russo and it seems again
21 only proper for this man to
22 testify as to how the errors
23 got in and it would be difficult
24 to present the same from the --
25 but I think it ought to be that

Reference copy, JFK Collection:

1 he be given an opportunity to
2 do so.

3 MR. ALCOCK:

4 I think there is a parallel as to
5 when the defense calls for a
6 police report from the State
7 as was done in the Sbisa case.
8 In that case they laid a pred-
9 icate because they wanted the
10 police reports for the primary
11 purpose of impeaching the wit-
12 ness.

13 As you recall in the Sbisa case,
14 Bentley Byrnes was the attorney
15 and he called for the police
16 report which was fraught with
17 hearsay as to what other people
18 said and the whole report went
19 in. Sometimes they would like
20 to get the report from the
21 District Attorney and only use
22 that paragraph that is favorable
23 but when the whole report is
24 hearsay I don't think it should
25 be permitted to be read to the

Reference copy, JFK Collection: BSCA (RG 233)

Reference copy, JFK Collection:

1 Jury but that is exactly what
2 happened.

3 Then he started to interview him,
4 you joined in and made it
5 State and Defense 20 and you
6 read it to the Jury and you mean
7 to tell me that it is not hear-
8 say what he told people and
9 what people told him. On its
10 face isn't it fraught with
11 hearsay?

12 MR. WILLIAM WEGMANN:

13 Your analysis as in the Sbisca case,
14 the record was read -- I believe
15 it is almost impossible for him
16 to do what the Court suggests.

17 THE COURT:

18 I agree but he says he thinks he can
19 go through the memorandum and
20 give a reason why the errors
21 were included in the memorandum.

22 MR. DYMOND:

23 As far as this Sciambra report or
24 not being fraught with hearsay,
25 I think Your Honor is overlooking

1 the fact that when it was in-
2 troduced the person that was
3 giving this information was on
4 the witness stand and therefore
5 it was not hearsay there.

6 THE COURT:

7 But it had what Mr. Sciambra said
8 and not only what Russo said.

9 MR. WILLIAM WEGMANN:

10 Your Honor, if the State feels it can
11 go ahead without using hearsay,
12 without relating what Perry
13 Russo said -- I will ask the
14 witness to refrain from that,
15 and we have no objections.

16 THE COURT:

17 Nowhere in criminal cases can a
18 witness use his own statement
19 to bolster his testimony which
20 is the best evidence as to what
21 he orally says and not what is
22 written down.

23 JURY RETURNED TO OPEN COURT.

24 *** NO HIATUS HERE--TRANSCRIPT CONTINUES
25 ON PAGE 46 ***

Reference copy, JFK Collection: HSCA (RG 226)

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NOTE: PAGES INADVERTENTLY MISNUMBERED -
NO HIATUS HERE.

Reference copy, JFA 0000000000

Reference copy, JFK Collection: ESCA (RG 233)

96
1 (JURY RETURNED INTO OPEN COURT.)

2 THE COURT:

3 What is the status of the matter as
4 of this time?

5 MR. ALCOCK:

6 The State, what the State is attempt-
7 ing to do is have Mr. Sciambra
8 read the memorandum not to the
9 Jury but to himself to, to re-
10 view it to himself and when he
11 came upon something he thought
12 was an error that crept into
13 the memorandum he can explain
14 how the error came in the
15 memorandum and I ask that Mr.
16 Sciambra not relate to the Jury
17 anything that Perry Russo told
18 him.

19 THE COURT:

20 You understand gentlemen, and you
21 may proceed.

22 BY MR. ALCOCK:

23 Q Now I show you, Mr. Sciambra, a document
24 which has been, an exhibit which has
25 been marked as State and Defense 20

Reference copy, JFK Collection: HSCA (NO 4444)

and ask you to read this and note any errors or omissions that you can see in that document that resulted from your own personal actions rather than what may or may not have been told you.

A On my copy I had marked the errors or inconsistencies that Mr. Dymond pointed out yesterday.

Q You have your copy with you?

A I have it in my possession and I don't know if these are all but I have twenty-six but I think it would be a lot easier to go down that memorandum and explain those inconsistencies.

Q If it would be agreeable to the Court and Defense just let him look at the memorandum and see if it is the same memorandum and if it is his memorandum.

MR. DYMOND:

No objection.

THE WITNESS:

First of all, Your Honor, to fully

Reference copy, JFK Collection: NSUA (NS 100-100000)

1 explain and for the Jury to
2 understand the inconsistencies
3 and the necessity of the state-
4 ment I think they should first
5 be told and I should go into the
6 detail and circumstances under
7 which I dictated this particular
8 memorandum.

9 THE COURT:

10 I thought you covered that before.

11 You did -- you did dictate it
12 intermitently, not at one time
13 and is that what you are talking
14 about?

15 THE WITNESS:

16 Yes, sir.

17 THE COURT:

18 Okay.

19 THE WITNESS:

20 First thing, and it may not all be
21 included and if you have a ques-
22 tion, point it out.

23 First of all I think it was -- may I
24 read the parts -- "He said he
25 went to Landry's house to try to

1 locate him --

2 THE COURT:

3 What page is that on?

4 THE WITNESS:

5 Here.

6 THE COURT:

7 Okay. I see it.

8 THE WITNESS:

9 He was told, and this is referring
10 to Russo when he went to Landry's
11 house to try to locate him, he
12 was told at the time by Landry's
13 mother that Ferrie had taken
14 Landry out of the country and
15 she didn't know where. I be-
16 lieve there was some objection
17 or some inconsistency as to the
18 reason why Perry went to
19 Landry's home or where Ferrie
20 had taken Landry out of the
21 country but the essence is cor-
22 rect.

23 Perry went to Landry's house looking
24 for Landry.

25 MR. DYMOND:

1 We are getting into what Russo al-
2 legedly said.

3 THE WITNESS:

4 I am pointing out the essence, I am
5 pointing out how I described it
6 in my own words as to what
7 Perry told me.

8 MR. DYMOND:

9 If Your Honor please, this is the
10 very difficulty we anticipated
11 in trying to do this and as I
12 said before maybe he can do it
13 but I frankly don't see how
14 Mr. Sciambra can explain these
15 inconsistencies without getting
16 into what Perry Russo told to
17 him and that was the basis of
18 our initial objection.

19 THE COURT:

20 I cannot by the highest stretch of
21 legal imagination figure how he
22 can explain these without refer-
23 ring to what he was told.

24 MR. DYMOND:

25 I don't see how he can either, Judge.

Reference copy, JFA 001100000

1 THE COURT:

2 The only purpose you used in the memo
3 exclusively, not exclusively but
4 you did use it in your cross-
5 examination of Russo.

6 MR. ALCOCK:

7 If the Court please I might also
8 point out that Perry Russo has
9 been on the stand and he testi-
10 fied to what he told Sciambra.
11 Russo pointed out each one of
12 these things that were in error
13 in that memorandum.

14 THE COURT:

15 Would not this be a statement made
16 at an unsuspecting time and
17 would corroborate the testimony
18 of the witness?

19 MR. DYMOND:

20 But he has had an opportunity to ex-
21 plain it and now we have this
22 witness on the stand and we are
23 eliciting completely hearsay
24 testimony that somebody told me
25 such and such and such and such.

1 MR. ALCOCK:

2 We have the situation where the man
3 already testified, Your Honor,
4 and that somebody told him some-
5 thing and that person is not in
6 the courtroom and has been sub-
7 jected to cross-examination,
8 this person was already sub-
9 jected to cross-examination.

10 MR. DYMOND:

11 If the Court, had the authorities of
12 our law intended for a situation
13 such as this to constitute an
14 exception to the hearsay rule
15 it would certainly be right in
16 the book where Your Honor was
17 looking but you are unable to
18 read that exception.

19 THE COURT:

20 There are many, many exceptions.

21 MR. DYMOND:

22 They are scattered throughout and
23 you can look at all of them and
24 you won't find this one.

25 MR. ALCOCK:

Reference copy, JFK Collection: HSCA (RG 233)

1 Your Honor, I'm just attempting to
2 allow Mr. Sciambra to explain
3 the nature of the errors that
4 are in this record. I was not
5 attempting to have him relate
6 everything Russo told him.

7 Russo has been subjected to cross-
8 examination. As a result of
9 this memo joined in by Defense
10 Counsel and us and it seems only
11 fair and proper for this man to
12 be allowed to explain to the Jury
13 the nature of those errors.

14 MR. DYMOND:

15 By way of objection, we have no ob-
16 jection to Mr. Sciambra going
17 through this memo and referring
18 to each error and saying that is
19 not what Perry Russo told me.
20 To do that we have no objection
21 but for him to be following that
22 with what Perry Russo told him
23 -- Mr. Sciambra is not on trial
24 and it is not so.

25 MR. ALCOCK:

Reference copy, JFK Collection: HSCA (RG 233)

1 I don't quite understand that.

2 THE WITNESS:

3 May I say something?

4 THE COURT:

5 You keep quiet because you've said

6 too much already.

7 Mr. Alcock, I do not recall having

8 this legal proposition presented

9 to me before but from looking

10 at the criminal law as being a

11 search for truth and not a de-

12 bating game among the lawyers

13 I am going to allow Mr. Sciambra

14 to explain and if it includes

15 hearsay in the 26 errors then I

16 will permit it and Counsel for

17 the Defense can take his bill

18 of exception each time he wants

19 and I will rule that way, that

20 Defense Counsel has opened the

21 door by cross-examining Russo

22 on the entire statement and it's

23 only fair to take the author of

24 the statement right on the law

25 when he's on the witness stand

Reference copy, JFK Collection: HSCA (RG 233)

1 and under oath to explain as to
2 why those errors crept in that
3 memorandum.

4 That is my ruling, and you can ob-
5 ject each time.

6 MR. DYMOND:

7 Your Honor, I see no reason for ob-
8 jecting each time but I can
9 object for the whole. Probably
10 or possibly I will object each
11 time but first of all we would
12 like to object to the Court's
13 ruling, reserving a bill of ex-
14 ception to it making the ques-
15 tions propounded by the State
16 and the answers given by this
17 witness, the ruling of the
18 Court, and the Defense's reasons
19 for the objections together with
20 the rest of the record up to this
21 time parts of the bill.

22 THE COURT:

23 You may proceed, Mr. Alcock.

24 BY MR. ALCOCK:

25 Q Proceed, Mr. Sciambra.

Reference copy, JFK Collection: HSCA (RG 233)

1 A Starting off this again, Your Honor, as I
2 was saying before, where I say he
3 came, Perry went to Landry's house
4 to try to get him and he was told at
5 the time by Landry's mother that
6 Ferrie had taken Landry out of the
7 country and -- I don't remember ex-
8 actly what Perry said was inconsis-
9 tent or left out but the essence of
10 that sentence is correct 'cause in my
11 own words I was trying to get across
12 the fact that Perry went to Landry's
13 house looking for Landry and that
14 Landry's mother told him that Landry
15 was not there.

16 If she said out of the country or not, I
17 don't know.

18 MR. WILLIAM WEGMANN:

19 We are going to object to what she
20 said.

21 THE COURT:

22 I didn't hear.

23 THE WITNESS:

24 The essence of that sentence is cor-
25 rect because the main point is

that Perry --

MR. WEGMANN:

We object to the witness saying what
the main point is.

THE COURT:

Just say correct and not correct and
make a short explanation and go
to the next one giving your im-
pression of what somebody told
you is not correct.

THE WITNESS:

"After the demonstration Ferrie showed
him and Landry five diplomas
that --"

THE COURT:

Would you mind referring to the page
and paragraph you are testifying
from, Mr. Sciambra?

THE WITNESS:

Fine.

The last line after the demonstration,
showed him and Landry five di-
plomas and said that he had re-
ceived his Ph.D in two of these
subjects. That was also pointed

Reference copy, JFK Collection.

58

1 out by Russo and I don't remem-
2 ber what the inconsistency was
3 but I don't think it is impor-
4 tant at any rate, anyway.

5 MR. DYMOND:

6 Your Honor, we object.

7 THE WITNESS:

8 I meant then the essence of that.

9 THE COURT:

10 Do you find that is in error -- do
11 you have it marked off as an
12 error?

13 MR. ALCOCK:

14 Yes, we have checked it off as an
15 error.

16 THE COURT:

17 You see then how important it is --

18 MR. DYMOND:

19 I agree with you.

20 THE WITNESS:

21 Okay. I was explaining in my own
22 notes the essence which was to
23 show that Ferrie --

24 MR. DYMOND:

25 We're going into the same thing again.

Reference copy, JFK Collection: ESCA (20 444)

1 THE COURT:

2 We don't want a blow by blow descrip-
3 tion but the essence is the way
4 to get around it. I don't want
5 the actual words that Perry said
6 on that occasion.

7 MR. WILLIAM WEGMANN:

8 He is interpreting the witness.

9 MR. SCIAMBRA:

10 I am giving you what was in my mind.

11 THE COURT:

12 Don't answer back, Mr. Sciambra, as
13 now you are a witness and not
14 an Assistant District Attorney.

15 Gentlemen, I have ruled he can go in
16 the statement and give his
17 explanation, if any, give his
18 explanation. He has to give an
19 impression or how can he give
20 his explanation without going
21 into his mental faculties as to
22 what his impression was. I
23 don't think it is objectionable.

24 MR. DYMOND:

25 Your Honor, you're going to permit

1 him to interpret the statement
2 and certainly that is not the
3 function of a witness.

4 THE COURT:

5 He is reading the statements and
6 then is interpreting them.

7 MR. ALCOCK:

8 He can interpret what he wrote. He
9 is the author of the memorandum.

10 MR. DYMOND:

11 The best evidence is what he wrote.

12 THE COURT:

13 Yes, I agree with you, Mr. Alcock
14 and I am going to permit him to
15 interpret what he meant when he
16 dictated it. If it is in error
17 and if not he can go on to other
18 matters marked off.

19 MR. DYMOND:

20 To which ruling Counsel for the Defense
21 objects and reserves a bill of
22 exception making the objection,
23 the reasons stated, and the
24 Court's ruling on the question
25 of the testimony of this witness

Reference copy, JFK Collection: HSCA (RG 233)

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and all testimony up to now
parts of the bill.

THE COURT:

This is an unusual situation where an
Assistant District Attorney is
in court here and the way his
memorandum is being used and
then when he assumes the role
of witness then he may explain.
I had a job as an assistant
district attorney and I think
he should be allowed to explain
his errors. I think the door
was opened when you used it for
cross-examination. I will per-
mit it.

You may proceed, Mr. Alcock.

BY MR. ALCOCK:

Q Mr. Sciambra?

A As I said before, Your Honor, on the top,
I don't exactly remember what the
inconsistency was but the purpose and
essence of that is to show that Perry
was --

MR. WEGMANN:

11/15/93

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Your Honor, I object again and if
this witness is allowed --

THE COURT:

I have ruled on it. How can he explain the inconsistencies if we don't know that the inconsistency is?

A (Continued) Down here at the bottom of the page, the last paragraph, "He said that Landry had told him that Ferrie used to hypnotize him and give him post-hypnotic suggestions."

THE COURT:

Where is that located?

THE WITNESS:

At the bottom of the page.

THE COURT:

I have it. I see it.

A (Continued) Now, if I remember correctly, Perry said that Landry didn't tell him that. I remember that Perry had told me that Landry had said that Ferrie had hypnotized some of them so actually the essence of that is correct if, if not a word by word

Reference copy, JFX Collection: HSCA (100-100000-100000)

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1 Perry said battery trouble, but the
2 essence of that is that he was having
3 automobile trouble and it doesn't
4 make any difference.

5 THE COURT:

6 If it was automobile trouble.

7 THE WITNESS:

8 Yes.

9 A (Continued) In the middle of the page,
10 page 3, talking about the pronograph-
11 ic film, "He said that he would have
12 to get \$150.00 a roll for the film
13 because it was pretty risky going
14 in and out of Cuba."

15 I think there was some discrepancy in the
16 price and I remember it as \$150.00
17 and it may have been 149 or 100 or
18 125 but the discrepancy is in the
19 price. The essence --

20 THE COURT:

21 Don't go into that.

22 A (Continued) Then Russo said that "He
23 took this film and sold it to someone
24 who he believes eventually sold it to

" the essence was that it

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1 was actually sold by Perry Russo.
2 Perry admitted that and I have it
3 down as an inconsistency on the sheet
4 but it doesn't matter who brought
5 -- who bought and who sold the film
6 but the essence was that the film
7 was sold and that is the essence of
8 that sentence or sentences.

9 Further down on the page, Page 3, "He
10 also admitted to Russo for the first
11 time that he was a homosexual and he
12 wanted to know if Russo would be will-
13 ing to take the drug. Russo said
14 that he did not care to take the
15 drug."

16 Perry said that Ferrie never admitted he
17 was a homosexual. The reason I may
18 have gotten it in there in my own
19 words is that at all times Perry was
20 perfectly aware that Ferrie was a
21 homosexual, and because he told me
22 that I may have put it down that he
23 admitted it to him and I don't know
24 if he ever admitted it to him but the
25 essence was that Perry was aware that

1 Ferrie was a homosexual and then fur-
2 ther that Russo said that he did not
3 care to take the drug.

4 I think Perry said that Ferrie never
5 bugged him to take the drug. The
6 essence of that sentence is that
7 Ferrie did at least have some inter-
8 est in other people taking drugs.

9 Further on down, "One day he and Kenny
10 Carter, a colored boy who used to
11 attend Loyola University and who he
12 believes attends LSUNO, were in his
13 apartment on Elysian Fields when
14 Ferrie came in with two Cubans who
15 were dressed in green fatigues."

16 Perry said that it may have been Kenny
17 Carter or someone else but the es-
18 sence of that sentence is correct.
19 Ferrie came to his apartment with
20 two Cubans to visit with him while
21 Perry was with someone else.

22 Turning to Page 4, "Russo said --" the
23 second paragraph -- "Russo said that
24 he did not see Ferrie again until he
25 went to his Louisiana Avenue Parkway

apartment with Kenny Carter looking for him." I believe the inconsistency was that Perry said he didn't know if it was Kenny Carter, and 'cause he mentioned Kenny Carter I assumed it was Kenny Carter.

At any rate the essence is that he didn't see Ferrie again until he went to Ferrie's apartment looking for him with whomever he was with.

Then he said, the next inconsistency which is a couple of lines further on down, "He," -- meaning Russo -- "He said Ferrie mentioned his name, but he can't remember it right now." Now here he was referring to the name of the roommate which was Leon, obviously Perry had to hear the name --

MR. DYMOND:

I object to this as argumentative.

THE WITNESS:

Okay.

A (Continued) If you turn to Page 7 you can see on the third line referring to Perry that the "name Leon really

1 rings a bell," and if the name Leon
2 really rings a bell then he must
3 have --

4 MR. DYMOND:

5 I object again.

6 A (Continued) The essence of that is cor-
7 rect; that Perry was aware of the
8 name Leon.

9 MR. DYMOND:

10 We object to that again.

11 THE COURT:

12 Strike that.

13 MR. DYMOND:

14 I ask the Jury be instructed to dis-
15 regard the statement.

16 THE COURT:

17 You are so instructed not to regard
18 the statement just made by the
19 witness.

20 A (Continued) He said, still on Page 4,
21 "He said the roommate" -- referring
22 to Perry -- "He said the roommate
23 had some sort of dirty blond hair
24 and a husky beard which appeared to
25 be a little darker than his hair."

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1 The essence of that sentence is that
2 the roommate was or had dirty blond
3 hair and also that the beard he de-
4 scribed it as a three to four day
5 growth of beard, a three to four day
6 growth of beard to me, that would
7 be --

8 THE COURT:

9 Don't go into that.

10 THE WITNESS:

11 What he describes as a three to four
12 day growth I describe as husky.

13 A (Continued) He described it as darker
14 than his hair, but the main point
15 was that the beard was different than
16 his actual hair. The essence of that
17 was -- my interpretation was of a
18 three or four day growth is different
19 than --

20 MR. WILLIAM WEGMANN:

21 I object, Your Honor.

22 THE COURT:

23 Go to the next one.

24 A (Continued) Further on down he said the
25 roommate appeared to be cruddy and

1 Perry said he never used the word
2 "cruddy," he used the word dirty.
3 I used cruddy and if there is any
4 difference --

5 MR. WILLIAM WEGMANN:

6 Where are you reading from?

7 THE WITNESS:

8 The middle of Page 4.

9 A (Continued) The next thing he said a
10 little further on down he mentioned
11 this, "Ferrie told him not to worry
12 about it because he was a funny guy
13 and didn't like to talk to anybody,
14 all he did was sit down on the porch
15 in the dark and think and read books
16 all the time."

17 I don't know what the inconsistency is
18 there but the essence of that is --

19 MR. WEGMANN:

20 I object if he doesn't even know
21 what the inconsistency is.

22 THE WITNESS:

23 There was an inconsistency but what
24 it was I don't know. Further
25 on down. "Ferrie told Russo he

1 had tried the aphrodisiac drug
2 on his roommate and it worked
3 perfectly.

4 A (Continued) He said he and the roommate,
5 meaning Ferrie and the roommate,
6 laid in bed naked and he, Ferrie,
7 gave the drug to his roommate and
8 that he had intercourse with Ferrie."

9 Now Perry said yesterday --

10 MR. DYMOND:

11 We object to his reiterating the
12 testimony.

13 THE WITNESS:

14 I am pointing to inconsistencies.

15 THE COURT:

16 What is the inconsistency?

17 THE WITNESS:

18 The inconsistency was that Perry said
19 that Ferrie never told him he had
20 intercourse with Leon. The
21 essence is that Ferrie and the
22 boy lay in bed and that he gave
23 Leon an aphrodisiac drug and
24 whether or not Ferrie and his
25 roommate actually had intercourse

1 was --

2 MR. DYMOND:

3 I know of no way -- in view of the
4 fact that Russo had an oppor-
5 tunity to explain and now I
6 think that his legal position
7 now is that he is refuting what
8 Russo had to say.

9 MR. WEGMANN:

10 This is what he's doing and what
11 he's testifying to.

12 THE COURT:

13 I'm sorry.

14 MR. DYMOND:

15 He is interpreting things into the
16 statement that don't even ap-
17 pear in the statement. He is
18 reading into the statement things
19 that are not there.

20 MR. ALCOCK:

21 As the Court pointed out originally
22 the inconsistencies were pointed
23 out by Russo. This is the very
24 nature and reason for going over
25 this now to go over the

1 inconsistencies brought out by
2 Mr. Dymond on cross-examination
3 of Russo. How could we get the
4 inconsistencies in unless we
5 say what Perry Russo said yes-
6 terday as to what he termed
7 inconsistencies or omissions.

8 MR. WILLIAM WEGMANN:

9 If it is Mr. Alcock's position that
10 first of all that he never said
11 these inconsistencies why
12 weren't they originally brought
13 up by Mr. Russo on Direct Exami-
14 nation by Mr. Alcock. I admit
15 we cross-examined on them. If
16 it is Mr. Alcock's legal position
17 now that he is impeaching his
18 own witness, Perry Russo, this
19 is entirely correct but this is
20 not the posture he put before
21 the Court initially.

22 THE COURT:

23 I think he is trying to have Mr.
24 Sciambra state why he put this
25 in his memo, he's trying to

1 explain the errors and assump-
2 tions.

3 THE WITNESS:

4 That is correct.

5 MR. DYMOND:

6 He certainly doesn't have a right to
7 refute Russo's testimony.

8 MR. DYMOND:

9 He is in the position of having been
10 in this courtroom while the
11 witness was here yesterday
12 testifying.

13 THE COURT:

14 I checked that out under Article 371
15 and he is an attorney and did
16 not anticipate that he would be
17 called.

18 MR. DYMOND:

19 We have not raised the exception be-
20 cause of the law but by the same
21 token because it is an exception
22 what he says and does as a wit-
23 ness is strictly limited and he
24 can't violate the bridge given
25 to him as an attorney by

1 recounting what someone said he
2 had no right to hear except for
3 the fact he was in the court-
4 room.

5 MR. ALCOCK:

6 I don't know of any provision like
7 that. It seems there's an awful
8 lot of provisions that you're
9 coming up with.

10 MR. DYMOND:

11 Coming under the exception of
12 Article 371 that is the bridge.

13 THE COURT:

14 That is what he said that he is
15 coming under the exception and
16 I can't tell him to disabuse his
17 mind.

18 MR. DYMOND:

19 He doesn't have to disabuse his mind
20 but by the same token he can
21 make -- not make statements
22 that are not even in the memo-
23 randum.

24 THE COURT:

25 He is in an unusual position. You

1 may proceed and we will cross
2 each bridge as we get to it.

3 A (Continued) The last thing as to whether
4 or not there was an intercourse or
5 not --

6 MR. WEGMANN:
7 Where are you?

8 THE WITNESS:
9 Perry said yesterday --

10 MR. WEGMANN:
11 Where are you?

12 THE WITNESS:
13 Same place.

14 MR. WEGMANN:
15 And where is that?

16 THE WITNESS:
17 On Page 4 where they laid in bed
18 and they had intercourse, I
19 think Perry said the inconsis-
20 tency was that Ferrie never told
21 him he had intercourse with
22 Leon.

23 A (Continued) The essence of that sentence
24 was that they lay in bed naked --

25 THE COURT:

1 Don't go into that 'cause we can read
2 that.

3 A (Continued) As a result of being in bed
4 naked and that the intercourse was
5 had and whether Perry said it or not
6 I don't know.

7 MR. DYMOND:

8 Now he's going into this man opinion
9 that from the facts and from
10 what he heard this is what
11 happened.

12 THE COURT:

13 I'm going to permit him to do it
14 anyhow.

15 MR. DYMOND:

16 To which the Court, reserves a bill
17 of exception making the objec-
18 tion, the Court's ruling and all
19 the testimony part of the bill.

20 THE COURT:

21 Get along with your memo.

22 A (Continued) The next inconsistency, fur-
23 ther on down, is where "Ferrie re-
24 peated that these Cubans who were
25 coming to his apartment were jungle

1 fighters and would help liberate
2 South America. I think there was an
3 inconsistency and what Perry refers
4 to as "South Americans," and that
5 everything out of the country is
6 South American to him. That was the
7 inconsistency.

8 Next in the middle of Page 5, I can re-
9 call that "Russo said that he re-
10 membered once going to the Nashville
11 Street Wharf to hear J.F.K. make a
12 speech and he remembers that he saw
13 a Secret Service man guarding the
14 President every five or ten feet."

15 I think Perry said yesterday that he
16 didn't see a Secret Service man
17 guarding the President every five or
18 ten feet but he said he did see
19 Secret Service men who were not
20 looking at the president but looking
21 at the crowd and I put it down as
22 every five or ten feet.

23 THE COURT:

24 You may proceed.

25 A (Continued) In essence the essence there

is correct.

THE COURT:

Don't go into the essence, you explained it.

A (Continued) Ferrie said he knew of a type of drug -- this is at the bottom of Page 5 -- "Ferrie said that he knew of a type of drug which once it got into the blood stream would cause physical reaction that would result in extensive brain damage or blood clot and eventual death." That is exactly how I remember it.

THE COURT:

Go to the next one.

A (Continued) "Russo said that in September and October of 1963 Ferrie got worse in his speeches about an assassination." That is exactly how I remember it. He said something about the correct point in September, but that's exactly the way I remember it.

MR. DYMOND:

We object to that.

THE COURT:

1 That is the way he remembered it.

2 Go on to the next one.

3 A (Continued) The next one is at the bottom
4 of the first paragraph of Page 6
5 where he said "Russo said that he
6 hasn't spoken with Ferrie since the
7 assassination." I remember Russo
8 saying that he had seen Ferrie after
9 the assassination but did not speak
10 about the assassination and I put it
11 down that Russo hadn't spoken with
12 him since the assassination, for that
13 reason.

14 MR. DYMOND:

15 I object, Your Honor.

16 MR. ALCOCK:

17 It was his impression and there is
18 a difference between from seeing
19 somebody and talking to him and
20 why do you object to that?

21 MR. DYMOND:

22 Now he's getting ready to interpret
23 and explain his own testimony.

24 THE COURT:

25 That is what I permitted him to do

from the very beginning.

MR. DYMOND:

He puts down one thing and his explanation is something else.

THE WITNESS:

Mainly the point I was pointing out, Your Honor, is that in my notes that were dictated concerning what Perry Russo told me I put it in my words and not Perry's words. If there is a difference in interpretation between Mr. Dymond and Mr. Russo and between me.

Actually, the essence of everything is the same.

THE COURT:

You may go to your next one.

A (Continued) A little further down "The first person he picked out was Arcacha Smith and he said that Arcacha looked very much like the Cuban in the pronographic film." That is what I remember as Perry told it to me.

1 THE COURT:

2 Go to the next one.

3 A (Continued) The next one is "He then
4 called his brother, Steve over to
5 look at Arcacha's picture and asked
6 him if that face was familiar to him"
7 and said that Steve wasn't his ac-
8 tual brother, it was his "soul
9 brother."

10 I left out "soul."

11 Right here a little further on down in
12 the paragraph, "The next picture that
13 he identified was that of Clay Shaw.
14 He said that he saw this man twice."
15 That is obviously wrong because he
16 said he saw the man three times and
17 he didn't identify him as Clay Shaw
18 but he identified him, Clay Shaw, as
19 Clem Bertrand.

20 THE COURT:

21 Go to the next one.

22 A (Continued) The next discrepancy was that
23 "Shaw had on a corduroy type jacket."
24 I think that Perry said he wasn't
25 sure but I thought he said corduroy

1 but the point is that he had a jack-
2 et on.

3 The next one, "The third picture that
4 Russo identified was that of Lee
5 Harvey Oswald." I think he said he
6 did not identify the picture as Lee
7 Harvey Oswald but as Leon Oswald,
8 Leon instead of Lee, which the es-
9 sence is he did identify the picture.
10 Once again I point out the word "cruddy,"
11 he said he used the word dirty and I
12 used the word cruddy.

13 A bushy beard -- I think a three or four
14 day growth of beard is bushy but he
15 doesn't evidently.

16 The next discrepancy he says "Robert
17 Lemoyne lives in the vicinity of
18 Nichols High School as he was in
19 contact with Ferrie around that time.
20 I think he said he made a mistake and
21 it wasn't Robert Landry he told me
22 it was Robert Landry but he told me
23 it was Robert Lemoyne.

24 MR. DYMOND:

25 The witness is now attempting to

1 correct Perry Russo's inten-
2 tion.

3 MR. ALCOCK:

4 He said his impression is that the
5 information is not correct.

6 MR. DYMOND:

7 He said he thinks that it was Russo
8 made the mistake instead of
9 saying Robert Landry and he said
10 Robert Lemoyne is what he told
11 him.

12 THE COURT:

13 That is for the Jury to determine.
14 You heard Russo's testimony.

15 A (Continued) The next thing in the testi-
16 mony, he said that "The man Leon
17 rings a bell." "He said the name
18 Leon really did ring a bell."

19 Also he said that "If he were hypnotized
20 he may have total recall of names
21 and places and dates."

22 There was a discrepancy because we had
23 actually talked about hypnosis and
24 Perry told me a little about hypnosis
25 and that he was somewhat familiar

1 with it and that Ferrie had tried to
2 hypnotize him and there was a dif-
3 ference of opinion as to whether
4 Ferrie was successful or not.

5 In -- because of all of that talk about
6 total recall and Perry said he'd be
7 willing to undergo hypnosis if we
8 would get a qualified doctor or
9 hypnotist. The essence is correct
10 if not word for word.

11 MR. ALCOCK:

12 All right. I believe that covers it.

13 BY MR. ALCOCK:

14 Q All right, Mr. Sciambra, does this memo-
15 randum represent everything that he
16 told you?

17 A No, it doesn't. We actually talked for
18 two and a half to three hours.

19 MR. DYMOND:

20 We are still going to object to him
21 adding to this memorandum.

22 THE WITNESS:

23 Your Honor, I can explain my answer.

24 MR. DYMOND:

25 What, in addition to this Perry Russo

-- what Perry Russo told him?

MR. WEGMANN:

We cannot do that.

THE COURT:

He said he spoke to him for two and
a half hours.

BY MR. ALCOCK:

Q And does, it does not represent everything
he told you?

A It does not.

Q Mr. Sciambra, later on, specifically in
April or May 1967 did you have occa-
sion to talk with Perry Russo con-
cerning James Phelan?

A Yes, I did.

Q And don't say what Perry Russo said but
what did you tell Russo at this
time?

A I told Perry Russo that if Phelan wanted
to go over to his house and talk to
him to let Phelan come over but be-
fore he would let Phelan come over
to let the District Attorney's office
install bugging devices in the
apartment and I told Perry Russo to

1 lead Phelan on to see exactly how far
2 Phelan would go in trying to influ-
3 ence his testimony.

4 Q Did you personally install any equipment?

5 A I did not personally install the taping
6 device but I went over with a member
7 of the District Attorney's office,
8 I believe it was George Eckart, that
9 installed the bugging device.

10 Q Why did you instruct Russo --

11 A Very simply 'cause he we were in a posi-
12 tion --

13 MR. DYMOND:

14 I object.

15 THE COURT:

16 What was the question?

17 MR. DYMOND:

18 Why he instructed Perry Russo along
19 those lines.

20 THE COURT:

21 I will sustain the objection.

22 THE WITNESS:

23 It was very simple.

24 MR. DYMOND:

25 I objected to it, Your Honor, and you

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sustained me.

MR. ALCOCK:

Your Honor, this isn't calling for
an opinion, it is calling for
a fact from this witness as to
why he took certain actions.

This isn't calling for an opinion
but an action that a witness
took.

THE COURT:

That would be for argument. You can
explain it to the Jury as to why
it was done.

MR. ALCOCK:

He can testify --

THE COURT:

He can testify it was done but the
reason why can be explained in
argument.

MR. ALCOCK:

Even though the reason is peculiar
to him?

THE COURT:

It can be used as an argument.

MR. ALCOCK:

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1 In any case, Your Honor -- why do you
2 do this? Why do you step down
3 from the step. And I step down
4 because I want to get down.
5 That is the reason for doing
6 something. That is all I am
7 asking.

8 THE COURT:

9 Let me see if I understand that --
10 Mr. Alcock's position. In other
11 words they wanted to take down
12 everything that Phelan said so
13 they could explore everything he
14 had on his mind.

15 MR. ALCOCK:

16 That is what we are trying to elicit
17 from the witness.

18 THE COURT:

19 Let the reason for doing anything
20 be a fact, but the reason -- if
21 it is an opinion or belief or
22 suspicion, that is another thing
23 and that is inadmissible.

24 MR. ALCOCK:

25 In an armed robbery case we ask the

1 man why did he put his hands up
2 and the reason is the man had a
3 gun in his back. That is ad-
4 missible.

5 MR. DYMOND:

6 But this is not a physical fact but
7 a mental appreciation.

8 MR. ALCOCK:

9 That he put a gun in his back is a
10 physical fact. What if a man
11 says "Put your hands up" with-
12 out a gun? Why do you put your
13 hands up? Because the man told
14 you to put your hands up and you
15 assume he had a gun.

16 THE COURT:

17 Go on to something else. I am not
18 going to permit you to go into
19 that because then we will go
20 into the whole part of the
21 District Attorney's office that
22 Mr. Phelan had anything to do
23 with it and what they thought
24 about the case and I am cer-
25 tainly not going to open that

1 door.

2 We'll take a short recess.

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