

U.N. CONFESSIONS ARE HELD INVALID

3 Accused of Firing Bazooka
Denied Rights, Judge Rules

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By PETER KIHSS

The confessions in which three Cubans allegedly admitted having fired a bazooka toward the United Nations last Dec. 11 were ruled invalid yesterday.

In making the ruling, Justice J. Irwin Shapiro said in Supreme Court, Queens, that the statements had been taken in denial of the men's constitutional rights.

District Attorney Frank D. O'Connor's office said last night it was exploring the possibility of an appeal.

A spokesman said Justice Shapiro's decision appeared to go beyond other cases in suggesting it was up to a prosecutor to "invite" a defendant's lawyer to be present when his client was being questioned and making statements.

In cross-examining a detective, Peter James Johnson, the Cubans' lawyer, brought out that one defendant—Julio Carlos Perez—had worked for the Central Intelligence Agency in Cuba for four months in 1958. As a result, Mr. Perez was taken before a firing squad in 1959.

The squad fired a volley. The bullets were blanks, but Mr. Perez was so affected that he required psychiatric treatment before he finally got out of Cuba in 1960, according to this version.

Yesterday's hearing arose from a motion by Mr. Johnson for a hearing on the voluntariness of the confessions made to the detective, William Reilly of

the Long Island City, Queens, precinct and to the prosecutors.

The Cubans, Mr. Perez and the brothers Ignacio and Guillermo Novo, allegedly said they had fired a shell from the Queens shore into the East River to divert attention from a speech that Maj. Ernesto Che Guevara, a chief aide of Premier Fidel Castro, was making to the General Assembly.

Mr. Johnson asserted that detectives had known he was the Cubans' lawyer since Dec. 15, when he took his clients away from the station house after they had first been questioned and had denied firing the bazooka.

Prosecutor Phoned

He told the court that Assistant District Attorney Francis X. Smith had even telephoned his office Dec. 22 to report the Cubans had been taken into custody that day.

Despite this, Mr. Johnson said, he was refused permission to be with the Cubans from 6:15 P. M. on Dec. 22, when he arrived at the station house, until they were booked, about 11 P. M.

Mr. Johnson, who has taken up the Cubans' case without fee, cited a number of precedents against accepting confessions.

One was a 1963 Court of Appeals decision—People v. Donovan—that sent a Queens case back for retrial because an accused had not been allowed to see a lawyer he did not even know his family had retained.

Another was the United States Supreme Court's 1964 reversal of the Illinois murder conviction of Danny Escobedo who had asked for and been refused permission to see a lawyer waiting in a station house.

The Cubans were indicted last Jan. 25 on two felony charges, possession and use of a dangerous weapon, and three misdemeanor charges, disturbing a lawful meeting, conspiracy and violation of the fireworks law.

Mr. Johnson said he would move today before Supreme Court Justice Albert H. Boach to dismiss the indictments on the ground that "the underpinnings of the case are gone."