

Statements of Witnesses - Domingo Benavides, April 27, 1964, 6 H444-54.

Questioner: Asst. Counsel Belin

Domingo is a 26-year-old, 10th-grade educated. He served 3 years in the Navy and left without an honorable discharge, employed at the time of the assassination as a mechanic for Mr. Hartis, at Dootch Motors, where he had been employed off and on for about 3 years. (p.445)

He had a job to repair a car that broke down in the middle of the street. It happened between Jefferson and 10th. It was after lunch and he had left for the parts only to recall that he had not <sup>recorded</sup> reported the number of the carburetor he had to replace. So he had circled back to the stranded car to obtain the number. (p.446)

He had gotten almost to the corner of 10th and Denver (Denver is next to Patton) going toward Patton when he saw a police car in the next block about 2 houses from the corner of Patton Street. Then, "I then pulled on up and I seen this officer standing by the door. The door was open to the car, and I was pretty close to him, and I seen Oswald, or the man that shot him, standing on the other side of the car."

His description continues, "The other man was standing to the right side of the car, riders side of the car, and was standing right in front of the windshield on the right front fender. And then I hear the shot. Actually, I wasn't looking for anything like that, so I heard the shot, and I just turned into the curb. Looked around to miss a car, I think... hitting the curb, and I ducked down, and then I heard two more shots." His vehicle stopped "about 15 foot, just directly across the street and maybe a car length away from the police car." (p.447) His vehicle had just not quite reached a point on the opposite side of the street from that of the police car. He saw the policeman fall after the third shot "... then I seen the man turn and walk back to the sidewalk (he had earlier said the police car had stopped away from the curb) and go on the sidewalk and he walked maybe <sup>5</sup> five foot and then kind of stalled. He didn't

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exactly stop. And he threw one shell and must have took five or six more steps and threw the other shell up, and then he kind of stepped up to a pretty good trot going around the corner."

At ~~first~~<sup>first</sup> he feared getting shot himself so he didn't immediately leave his truck. He repeats he saw the policeman as he was falling (p.448).

After taking a look at the fallen policeman, he reported on the police radio, at first without getting an answer, and then when the dispatcher did reply, he gave the address of the shooting. He then turned and walked off. He then decided to go back. It had occurred to him to pick up the shells "and then I thought I'd better not." Then it seems as though he did pick up the shells for he said "so when I came back, after I had gotten back, I ~~pick~~<sup>ck</sup>ed up the shells." As the man turned the corner, "he was putting another shell in his gun ... I mean he was acting like. I didn't see him actually put a shell in his gun, ... maybe he was trying to take out another shell," (p.449)

Then Benevides said, "As I saw him, I really - I mean really got a good view of the man after the bullets were fired, he had just turned. He was just turning away. In other words, he was pointing toward the officer, and he had just turned away to his left, and then he started..." He also saw the man "catty-cornered across the yard."

With respect to the empty cartridges, "...I knew exactly where they was at, and I went over and picked up one in my hand, ~~and~~ not thinking and I dropped it, that maybe they want fingerprints off it, so I took out an empty pack of cigarettes I had and picked them up with a little stick and put them in this cigarette package; a chrome looking shell." Belin asks him again about the chrome looking shell and he reaffirms it.

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I do not anywhere recall a description of the appearance of the shells found at the Tippit scene. Most people assume that empty cartridge shells are of brass. I have, until this moment; hence, I had thought nothing of the lack of reference to a chrome finish. Benavides then on his own initiative begins to give a description of the man, describing him as about 5 feet 10 to 11, "and he had a light-beige jacket, and was lightweight ... It seemed like it was a zipper-type jacket." The trousers were dark and the shirt was dark in color, "but I don't remember exactly what color." (p.450)

He describes the man as of "average weight" and with hair about the color of Mr. Belin's (Mr. Belin does not, at least at this point, put the color of his own hair in the record), and "his hair was a little bit curlier."

Unless we know how curly Belin's hair is, of course, we don't know how curly "a little bit curlier" is. By no stretch of the imagination could Oswald's hair have been called curly in any degree. Note also that this coincides with the description of Helen Markham in her taped telephone conversation with Mark Lane. Note also that the Commission acknowledges Mrs. Markham's description and she, in fact, repeated it before the Commission, of the hair of the man she saw shoot Tippit as a little bit bushy. The Commission tries to explain this away by saying Oswald's hair was disheveled and hence would give a curly appearance.

The complexion, Benavides says, was "a little bit darker than average". Again he compares it to Belin's, saying "I would say he is about your complexion, sir. Of course, he looked, his skin looked a little bit ruddier than mine." At this point Belin indulges in a most inappropriate humor, saying "I might say for the record, that I was not in Dallas on November 22, 1963." Belin then asks, "Did he look like me?"

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Benavides replied, "No; your face, not your face, but just your size." and again Belin, with total disregard for his position and function, said, "Okay, well, I thank you. I was flying from St. Louis to Des Moines, Iowa, at about this time. Is there anything else?" Benavides remembered "the back of his head seemed like his hairline was sort of - looked like his hairline sort of went square instead of tapered off, and he looked like he needed a haircut for about 2 weeks, but his hair didn't taper off, it kind of went down and squared off and made his head look flat in back."

Now that Mr. Belin is beginning to get the first identifiable characteristics, the first really meaningful description, what does he do? He switches the subject back to the shells and asks Benavides what he did with them. Benavides gave them to an officer.

After Benavides describes the age of the officer to whom he gave the shells as "maybe 24," Belin is reminded to ask the age of the Tippit murderer, and Benavides replied, "I figured he was about 25." Benavides left as soon as he gave the shells to the officers without telling them what he had seen. About 4 o'clock "two officers came by and asked for me. ... and I was trying to hide from the reporters because they will just bother you all the time. Then I found out that they thought this was the guy that ~~he~~ killed the President. At the time I didn't know the President was dead or he had been shot. So I was just trying to hide from the reporters and everything, and these two officers came around and asked me if I'd seen him, and I told him yes, and told (p.451) them what I had seen, and they asked me if I could identify him, and I said I don't think I could. At this time I was sure, I wasn't so sure that I could or not. I wasn't going to say I could identify and go down and couldn't have."

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Belin wants to know "Did he ever take you to the police station and ask you if you could identify him?" Benavides replied, "No; they didn't."

At this point Belin abandons what should have been an obviously hot lead. Why didn't the police either compel Benavides to go down, as they could have, or explain to him that it wasn't essential (if this, indeed, was the attitude of the police) that he make a positive identification.

Benavides describes his conversation with Callaway in which Callaway wanted Benavides to chase the killer, Callaway armed with the dead policeman's pistol.

As an appraisal of Callaway, and I should have included this in the summary of his deposition, on 3 H 356, when asked why Searcy hadn't followed Tippit's killer, Callaway quoted Searcy as saying, "something about 'Follow him, hell. That oman will kill you. He has a gun.'" Callaway's comment was "I never could figure out why he didn't just follow that man. You could follow 50 yards behind him and keep a guy in sight. Chances are you wouldn't get killed 50 yards away." (My emphasis)

With further reference to Callaway, note this testimony of Benavides: "And so Ted then got in the taxicab and the taxicab came to a halt and he asked me which way he went. I told him he went down Patton Street toward the office, and come to find out later Ted had already seen him go by there." Actually, Benavides does not know what Ted saw. He knows only what Ted said he saw. In order to get to where Benavides was, Callaway had to go in the opposite direction from that in which Tippit's killer was going. The taxicab was parked at the corner, Benavides was where the killing had taken place, and everybody who saw it agrees that the killer had gone past the taxicab on the street on which it was parked. If Benavides is truthful here, and there would seem to

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be no reason not to believe him, this casts doubt upon Callaway and possibly Scoggins. (P.452)

Shown Exhibit 163, the jacket, Benavides said, "I would say this looks just like it. Looks like he had laundried it, but it looks like it was a newer coat than that." Shown the shirt, Exhibit 150, Benavides said, "I think the shirt looked darker than that. I... I couldn't tell at the time because he had the jacket on there. That was a waist-type jacket, wasn't it?" Benavides then volunteers this: "I think there was another car that was in front of me, a red Ford, I believe. I didn't know the man, but I guess he was about 25 or 30, and he pulled over. I didn't never see him get out of his car, but when he heard the scare, I guess he was about six cars from them, and he pulled over, and I don't know if he came back there or not."

There is no evidence any public authority had any interest in pursuing this clue to another witness. (p.453)

Belin does himself no credit in telling Benavides, "You and I never met before today, did we, except that one day when we were around to see Ted Callaway and he introduced you at Dootch Motors and we chatted for 3 or 4 minutes there?" Benavides agreed.

What kind of a witness would Benavides have made the police?  
Note this exchange:

"Mr. Belin. Now you have a right, if you want to, to come back and read the deposition and sign it, or you can just rely on the court reporter's accuracy and waive the signing of it. Do you want to waive it or not?"

Mr. Benavides. I would like to read it.

Mr. Belin. All right.

Mr. Benavides. Maybe I could add something I didn't add.

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Mr. Belin. All right, I will ask the court reporter to try and get in touch with you."

And at the very conclusion, when Belin thanks him for his cooperation, Benavides replies, "That is the reason I wanted to read this, in case I might have left out something."

Benavides is clearly one of the most willing of all the Commission's many witnesses. He has come closest of all to giving a description of the man who killed Tippit. He is not only willing, he is anxious. The only reason he had declined, as indeed he did decline, to go to the lineup was because he wanted to be absolutely certain of his identification. It is clear from his testimony that he thought he had to. ~~At~~ At no point does he say he refused to go down or that he even declined to go down. He said merely, "I wasn't going to say I could identify and go down and couldn't have."

How does the Commission represent this in the report? On p.166 appears the following language: "When questioned by police officers on the evening of November 22, Benavides told them that he did not think that he could identify the man who fired the shots. As a result, they did not take him to the police station."

~~How can Belin possibly excuse him for having declined to go down to the lineup? He is not only willing, he is anxious. The only reason he had declined, as indeed he did decline, to go to the lineup was because he wanted to be absolutely certain of his identification. It is clear from his testimony that he thought he had to. At no point does he say he refused to go down or that he even declined to go down. He said merely, "I wasn't going to say I could identify and go down and couldn't have."~~