

U. S. DEPARTMENT OF LABOR

IMMIGRATION SERVICE

DISTRICT No. 25

ADDRESS YOUR REPLY TO
DISTRICT DIRECTOR
AND REFER TO

No. 5091/1120

OFFICE OF DISTRICT DIRECTOR

EL PASO, TEX.

April 16, 1931.

601
670

smuggling

Commissioner-General of Immigration,
Washington, D. C.

APR 30 1931

MAY 15 1931

There is transmitted herewith, in quintuple, record of investigation covering a gun fight between Patrol Inspectors Charles Askins Jr., Brett B. Harff, C. J. McKatt and unknown persons at about 8:00 p.m. on the 10th instant near the foot of Park Street, this city.

The record herewith clearly indicates that the officers involved were amply justified in returning the fire of the smugglers, and did not violate outstanding instructions relative to the use of firearms.

G. C. WILMORE *[Signature]*
District Director of Immigration
El Paso District.

Incl. 231504

*F.H.
E.D.
C.9*

U. S. DEPARTMENT OF LABOR

IMMIGRATION SERVICE

Office Chief Patrol Inspector
El Paso, Texas
April 14, 1931

RECEIVED
OFFICE OF INSIDENT INVESTIGATION

APR 16 1931
IMMIGRATION SERVICE
EL PASO, TEXAS

IN ANSWERING REFER TO

400773 4001/18 4013/426

No.

District Director,
U. S. Immigration Service,
El Paso, Texas.

There are being transmitted herewith statements of Patrol Inspector CHARLES ASKINS JR., concurred in by Patrol Inspectors BRETT B. HURFF and C. J. MCNATT and MARTIN GARCIA, Mexican alien liquor runner, together with newspaper clippings, all concerning an exchange of shots between the above officers and unknown parties in Mexico at about 8 P.M. on the night of the 10 instant. After this encounter there was seized by our officers, 21½ gallons of alcohol, 16½ gallons of Sotol, 48 pints of whiskey and 12 pints of Tequila.

At about 8 P.M. on the 10th instant the above named officers, concealed behind an embankment about 30 yards from the levee which constitutes the river bank at the foot of Park Street, this city, heard sounds indicating that smugglers had emerged from the river, and set down cans and bottles on the American bank. Quietly waiting, the officers soon saw coming over the levee from the river bed, the outline of two men, one of whom, in the darkness, appeared to be carrying a load. Upon being challenged, one of the men, Martin Garcia, Mexican alien, surrendered but the other who had appeared to be loaded, escaped by running to the river's edge and splashing through the water to the Mexican bank. Others, unseen by the officers, were also heard to make their way through the water to Mexico. Immediately upon the smugglers arrival on the Mexican bank, much activity commenced, lights were flashed, curses shouted, and as the officers endeavored to collect the liquor dropped by the smugglers, persons on the Mexican levee opened fire on the officers. It will be noted that the alien, Martin Garcia, stated that the shooting was done by the Mexican Fiscal Guards, his belief supporting that statement being based on the fact that a few moments previous he had seen "Fiscales" on the Mexican bank, when they endeavored to collect money from the leader of the smugglers; and because none of the smugglers were armed. In this connection, Garcia states that the "Fiscales" were armed with both revolvers and rifles. Testimony indicates that about 25 shots were fired, about 15 of which were fired by our officers. None of our officers were injured in this encounter and as far as is known, no casualties were incurred by the smugglers.

Martin Garcia, together with the liquor above mentioned, were delivered to the office of the Chief Mounted Inspector of Customs on the 11th instant and the receipt of Grover G. Webb taken.

G. W. Linnenkohl
Acting Chief Patrol Inspector

GWL:W

statement of Patrol Inspector CHARLES ASKINS, Jr., concurred in by Patrol Inspectors BRETT B. HURFF and C. J. McNATT, as made before Acting Chief Patrol Inspector G. W. Linnenkohl, in the office of the Chief Patrol Inspector, El Paso, Texas, April 13, 1931.

P R E S E N T

G. W. Linnenkohl	Acting Chief Patrol Inspector	Examining Officer
Charles Askine Jr.	Patrol Inspector	Witness
Brett B. Hurff	Patrol Inspector	Witness
Chloe J. McNatt	Patrol Inspector	Witness
W. G. Wailes	Clerk-Typist	Stenographer

BY THE EXAMINING OFFICER:

You are each advised that I desire to take a statement from you concerning an exchange of shots between yourselves on one hand and unknown persons on the other, at about 8 P.M. on the night of the 10th instant, in the vicinity of Park Street, Rio Grande Oil Company, and the Rio Grande river, after which was seized 19 gallons and 10 quarts of alcohol, 13½ gallons and 12 quarts of Sotol, 48 pints of whiskey and 3 quarts and 6 pints of Tequila.

WITNESS FIRST BEING DULY SWORN TESTIFIED AS FOLLOWS:

- Q. State your name and occupation? A. Charles Askine Jr., Immigration Patrol Inspector, Border Patrol, El Paso, Texas.
- Q. What was your duty assignment on the 10th instant? A. I was assigned to duty with Inspectors Brett B. Hurff and C. J. McNatt and we were assigned to guard the border in the vicinity of the Payton Packing Company from 4 P.M. to 12 P.M.
- Q. Please state the circumstances leading up to the above mentioned gun fight? A. At about 8 P.M. on the evening of March 10th, myself and the two afore mentioned Inspectors were guarding the border at the foot of Park Street. At about this time we heard the smugglers leave the river on our bank and apparently set down their load. Shortly thereafter two men appeared on the levee coming from the direction of the sounds above mentioned and from Mexico. To us it seemed that one of these men was carrying a load of something. We rushed these men, capturing one of them at about 30 yards from the river levee. While Inspector McNatt detained the prisoner, Inspector Hurff and I pursued the other to the waters edge. He escaped. At the time this man ran to the bank, others were heard to cross the river to Mexico. Men then appeared on the Mexican levee with flashlights and we heard much loud talking and cursing. We then made our prisoner sit down on our levee and made a search for the liquor which we found on the edge of the river. At this time shots were fired at us from the opposite shore. We returned the fire. Some 25 shots were fired by both parties on both sides, we ourselves, shot about 15 of them. When we asked our prisoner who was firing at us he informed us that it was the Fiscales (Mexican Fiscal Guards). As soon as the firing ceased, one officer was sent for the car which was some distance away and upon his return with it, the liquor together with the prisoner, was loaded and immediately brought to Border Patrol Headquarters.
- Q. Was there anyone injured during this encounter? A. None of the Officers were injured and owing to the darkness and conditions it is not believed that any of the smugglers were hit by bullets.
- Q. What was the name of the Mexican alien whom you state you apprehended? A. Martin Garcia.

statement of Patrol Inspector CHARLES ASKINS JR. (continued)

- Q. Did he tell you he knew that it was the Fiscal Guards who were doing the shooting from the Mexican bank? A. He told us that just before crossing the river he saw two Fiscal Guards who were both armed with rifles and pistols and who attempted to collect money from the leader of the smugglers before allowing them to cross the river to the United States. When asked, Garcia stated that none of the smugglers were armed and during the exchange of shots, Garcia immediately stated that it was Fiscales who were doing the shooting.
- Q. Who fired the first shot? A. The first shot in the encounter was fired by persons on the Mexican levee at the time we were trying to collect the liquor and were in an exposed position.
- Q. Were there any witnesses other than yourselves and the Mexican alien to this shooting? A. As far as I know there were none.
- Q. How were you armed? A. I was armed with a rifle, Inspector Hurff with a shotgun and Inspector McNatt with a rifle.

EXAMINING OFFICER ADDRESSING Patrol Inspector Brett B. Hurff: You have heard the statement of Patrol Inspector Askins. Is it true in every respect and have you anything to add thereto? A. I concur with Inspector Askins and have nothing to add to his statement.

EXAMINING OFFICER ADDRESSING Patrol Inspector Chloe C. McNatt: You have heard the statements of Patrol Inspectors Charles Askins and Brett B. Hurff. Are they true in every respect and have you anything to add thereto? A. They are true in every respect and I have nothing to add.

I certify that the above is a correct and complete transcript of my notes as taken by me in the above mentioned case.

(Signed) W. G. Wailles
Stenographer

Statement of MARTIN GARCIA, Mexican alien, made in the office of the Chief Patrol Inspector, El Paso, Texas, at 10 P.M., April 10, 1931, before Acting Chief Patrol Inspector, G. W. Linnenkohl.

P R E S E N T

G. W. Linnenkohl	Acting Chief Patrol Inspector	Examining Officer
Brett B. Hurff	Patrol Inspector	Act. Spanish Intrpr.
Charles Askins Jr.	Patrol Inspector	Witness
W. G. Wailes	Clerk-Typist	Act. Stenographer
Martin Garcia	Alien	The Deponent

EXAMINING OFFICER ADDRESSING MARTIN GARCIA:

You are advised that I am an Acting Chief Patrol Inspector in the service of the United States Government, and I desire to take a statement from you relative to your apprehension this evening and the seizure of a quantity of contraband alcoholic liquors in the vicinity of the Rio Grande Oil Company, Park Street area, this city. This statement, if made, should be voluntary on your part and may be used against you in subsequent proceedings. Are you willing to make such a statement? A. Yes Sir.

ALEIN FIRST BEING DULY SWORN TESTIFIED AS FOLLOWS IN THE SPANISH LANGUAGE

Q. State your name, age, occupation and citizenship?

A. Martin Garcia, age 23, occupation, sectionhand and laborer, nationality, Mexican.

Q. Where were you born? A. Monterrey, Neuvo Leon, Mexico.

Q. When and where did you last enter the United States?

A. I entered the United States in the vicinity of Park Street, tonight at about 7.30.

Q. What was your purpose in coming and what was your destination?

A. Some men with liquor on the Mexican bank of the river sent me over to look for American officers and I was to signal them in the event the coast was clear so that the liquor could be brought over.

Q. Did you signal? A. Before I had time to signal the officers captured me.

Q. Were you alone at this time or were you accompanied by others?

A. I was accompanied by a Mexican by the nickname of "Dientes."

Q. What was his mission? A. His mission was to notify the smugglers if the coast was clear.

Q. Did you or your companion carry any liquor into the United States upon this occasion? A. Dientes carried a load of liquor, I didn't carry anything.

Q. Do I understand you to say that you and Dientes crossed the river close together? A. I came a little ahead.

Q. Was Dientes accompanied by other smugglers or did he cross from Mexico alone? A. Dientes came a little ahead of the others.

Q. The officers involved in this apprehension state that a shooting affair took place at the time of your apprehension or shortly thereafter. State what you know of this affair.

A. I was sitting on the American levee with the two officers who apprehended me when the first shot was fired.

Q. Who fired the first shot in this encounter? A. The Fiscales opened up from the Mexican side. They were the only men who had arms over there.

Statement of MARTIN GARCIA (continued)

- Q. How do you know that it was the Fiscales (Mexican Fiscal Guards) who commenced the shooting? A. None of the smugglers were carrying arms and I saw two Fiscales on the Mexican bank of the river when I started across in advance of the liquor smugglers.
- Q. How were the Fiscales armed? A. I think they had 38 caliber pistols and they were carrying rifles.
- Q. State, if you know, the names of these Fiscal Guards? A. One is called Jose, the others names I do not know.
- Q. Describe these two Fiscal Guards? A. They were of medium height, medium build, smooth shaven, puttees and breeches and leather jackets, Stetson style hats.
- Q. Do you know the names of any of these other smugglers who participated in this deal? A. One of them is nicknamed "Tula," I do not know the others by name.
- Q. How far from the point where the liquor was found were you apprehended? A. About 30 yards.
- Q. How long has it been since you have had honest employment?
- A. Since the 3rd of March, 1930. I worked in Kansas last March, 1930.
- Q. Who was the owner of this liquor that was brought over this evening? What was its destination? A. It was going to Leonzo Gonzalez who lives near the canal on Hill Street, I believe.
- Q. Who was to pay you for your work this evening? A. I was to receive no money. I have been working for those fellows about one month.
- Q. What fellows? A. Leonzo Gonzalez but I did not bring anything over with me tonight.

I certify that the above is a correct and complete transcript of my notes as taken by me in the above mentioned case.

(Signed) W. G. Wailes,
Acting Stenographer.