

Statement made by Patrol Inspector Curtis D. Mosley before Chief Patrol Inspector Herbert G. Horsley at Border Patrol Headquarters December 29, 1933.

Present:

H. G. Horsley	Chief Patrol Inspector	Examining Officer
G. W. Linnenkohl	Asst. Chief Patrol Inspr.	
C. D. Mosley	Patrol Inspector	Witness
W. R. Lockett	Clerk	Stenographer

Office of District Director
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Examining officer addressing witness:

JAN 5 - 1934

You are advised I desire to take a statement from you concerning the gunfight had with smugglers at about 9:00 PM the 27th instant near the foot of Raynor Street, Cordova Island, El Paso, Texas, in which Patrol Inspector Bert G. Walthall was killed and Inspector Louis A. Smith wounded.

Witness after being first duly sworn testified as follows:

- Q. State your name and occupation. A. Curtis D. Mosley, Patrol Inspector.
- Q. What was your duty assignment on the 27th instant? A. To scout the International boundary line in company with Patrol Inspectors Bert G. Walthall and Louis A. Smith in the vicinity of Cordova Island from 4:00 PM until 12:00 midnight.
- Q. Relate fully circumstances surrounding the above mentioned fight. A. I was in charge of the scouting detail above mentioned and we left headquarters at 4:00 PM in a Government car in full uniform to scout our assigned territory. We scouted the streets and alleys adjacent to the International Boundary Line and at dusk we left our car and took up a position near the International Line between Cobada and Luna Streets watching the suspicious activities on the part of aliens in Mexico for a period of about an hour. It seemed that nothing would develop in that locality and we returned to our car and continued scouting the alleys and streets adjacent to the line which we observed from these positions. At about 8:45 PM we drove into an alley leading to the line between San Marcial and Estrella Streets and from this point we saw two men carrying loads cross the line from Mexico into the United States at Raynor Street, which is about a block and a half west of our position. While proceeding to the point where the smugglers had crossed we saw the lights of a car and suspicious activity around the car leading us to believe that the men when we had seen crossing were entering the car. We approached this car as they were coming out of the alley with their headlights on full and attempted to stop them by blowing our horn at them and finally were forced to stop to prevent them crashing into us, whereupon the smugglers' car took off north on Raynor Street. We followed them for approximately a block and a half when they pulled in to the curb and stopped, with us closely following. We ran up alongside their car a few feet from them and also stopped. I was driving our car. Inspector Walthall was on the front seat with me and Inspector Smith in the rear seat. Inspectors Walthall and Smith got out on the right side next to the smugglers' car and I on the left. As we alighted, the men in the smugglers' car opened fire. Just as we alighted I saw the men in the car

bringing guns into position to fire upon us and I shouted to my companions to look out for the guns. Almost instantly they opened fire, apparently striking Inspectors Walthall and Smith at the same time. Inspector Walthall was apparently killed almost instantly and Inspector Smith was knocked back into the car and stunned from the gunshot wound received in the head. I immediately passed around to the right side of the car and opened fire, firing in all some seventeen times. Most of the shots took effect on the smugglers' car, subsequent developments showing that one of the smugglers had been killed and two wounded. The smugglers' car started to move as I approached the right side near it and I immediately opened fire with my rifle, halting the car, it having moved about three feet. I emptied my rifle at the occupants of the car whom I had seen with guns in their hands firing at us. I was shooting at the left side of the smugglers' car. After emptying my rifle I attempted to reload and the car started moving off. Instead of reloading my rifle I drew my pistol, firing several shots into the car as it moved away. It proceeded up the street about half a block and halted for a few seconds and then proceeded on north over the canal up Rayner street out of my sight, zigzagging from side to side on the street. During the period of time I was firing at the smugglers, Patrol Inspector Walthall was lying on the ground on the right side of our car near the rear right wheel and Patrol Inspector Smith was on the back seat of our car. After the smugglers' car had disappeared I turned my attention to my companions, discovering that Patrol Inspector Walthall was apparently dead or dying, and I called to Smith asking "where are you, Smith?" He answered from the back seat saying that he was shot. I asked him how badly he was wounded and he answered that he was shot in the head. I asked him if he thought he would be all right for a few minutes until I could get help and he answered "Yes". About that time three boys about twelve or fourteen years old were coming down the street. I called them to me and asked them if they could help me and they said "Yes, is there someone hurt?" I told them to get to a telephone as fast as they could and call police headquarters and a hospital and notify the police that there were two Federal officers shot at Finlay and Rayner Street. They had hardly left the scene, running to telephone, when a man came out of a house right at the scene and said "Here's a phone in this house if you want to use it." I immediately ran to the phone, notified our headquarters of the incident and returned to the car. I assisted Inspector Smith into the front seat of our car and was in the act of placing Inspector Walthall in the rear seat to rush them to a hospital when a police car and a car from our headquarters arrived almost simultaneously. The police placed Inspector Smith in their car and our officers placed Inspector Walthall in their car, rushing them to the hospital. I was left on the scene with a number of policemen, deputy sheriffs and other officers who had arrived by this time. One of the policemen came to me and told me that Border Patrol headquarters wanted me to call them as soon as possible. I went to the telephone, called headquarters, having some difficulty however in getting in touch with headquarters. When they answered my call they told me that a car had had an accident at 3000 Magoffin Street approximately 300 yards due north and I immediately rushed out to my car, notifying all officers present and taking Patrol Inspector Glance with me proceeded to the scene of the collision and there immediately recognized the car as being the one we had the fight with at Finlay and Rayner Streets a few minutes before. In the car was a Mexican man apparently dead sitting in the front seat with his head hanging over the back of the seat. In the back seat there were two sacks apparently containing square

cans of liquor and a large Winchester rifle lying on the floor, cocked. Hoping to find the other two smugglers who had escaped at the time of the collision and leaving some of our officers with the car, I went with Mr. Collier and other officers to the home of Jose Estrada, who had been recognized as the dead man in the car. Upon arriving there we found a Mexican woman and two children and found a trail of blood over the floors leading into the back door through the house and into the bathroom, but the smugglers had apparently escaped before our arrival. I then accompanied Chief Patrol Inspector Horsley and other officers to 2710 Piedras Street to search for a wounded smuggler said to have been located there. Upon arriving we found nothing but learned that the smugglers' woman had been at this place and departed before our arrival, accompanied by the man and woman resident whose names are understood to have been Kale. As we had information of another wounded smuggler located at 171 Madison Street, we proceeded to that point and after a little difficulty in locating the house we entered and found Ramon Rice with his hand bandaged and his clothing and face bloody, Ruben Rice, bloody but not wounded, and Fidel Ortega with apparently a very serious head wound all crouching in a closet. Ramon and Ruben Rice were immediately brought to Border Patrol headquarters while Chief Patrol Inspector Horsley and myself carried Fidel Ortega, who was apparently seriously wounded, to the City-County Hospital. We returned within a few minutes to Border Patrol headquarters where an investigation of the affair was put under way.

- Q. Could you, upon arriving at the scene of the wrecked car, positively identify it as the car you had fired into at Finley and Rayner streets? A. Yes sir.
- Q. About how many times was this car struck by our officers' fire? A. It is hard to tell as the windows were all down except the fixed rear windows in the rear which were completely shot out. Some eight shots passed through the body of the car which were clearly discernable and it is probable that all of our shots passed through the car.
- Q. What was the distance between the two cars when this incident occurred? A. Approximately six feet.
- Q. Was the Government car approximately parallel with the smugglers' car? A. When we first stopped our front wheels were slightly ahead of theirs but when the fight started they moved up a few feet which brought them approximately parallel.
- Q. Were Inspectors Walthall and Smith completely out of the car when the firing began? A. Apparently Inspector Walthall had stepped down on the running board and Inspector Smith was in the act of getting out the door when the shots were fired from the smugglers' car.
- Q. Who fired first? A. The smugglers.
- Q. About what distance would this place Walthall from the men firing at him? A. Not more than four or five feet.
- Q. Were the front and rear windows down in the smugglers' car? A. Yes sir.
- Q. Were the windows also down in the Government car? A. Yes sir.
- Q. How many shots were fired by the smugglers? A. I am certain two shots were fired almost instantaneously while we were in the act of getting out of the car and I was so busy firing myself after that I do not know whether they fired again or not.
- Q. From what positions in the smugglers' car did they appear to be shooting? A. From both the front and rear seats.
- Q. Was it light enough for you to identify any of the smugglers in the car? A. All I could see was that they were Mexicans.
- Q. Do you think Inspector Walthall was killed by gunfire from the front or rear seat of the smugglers' car? A. I am certain that the shot that struck Walthall

- was fired from the front seat through the driver's window, and it is likely that the shot which struck Inspector Smith was fired from the rear seat, these shots coming from the left side of the smugglers' car, as we were on their left.
- Q. Do you know whether Inspector Walthall was killed before he could fire his gun?
A. Yes sir, I verified this when I found his fully loaded shotgun and pistol by his side.
- Q. Did Inspector Smith have an opportunity to fire? A. Yes sir, he fired once and it was subsequently found his gun had jammed.
- Q. After their car pulled away and while making your inspection of the vicinity did you find any arms? A. Yes sir, I found a short 30-30 caliber lever action Winchester rifle on the ground at a spot which would have been at the right side of the smugglers' car. It was covered with blood and there was also some blood on the ground around the gun.
- Q. Was this near the front or rear door? A. It would have been at a point opposite the front door of the smugglers' car.
- Q. Was it loaded? A. It had several cartridges in it and an empty shell in the barrel.
- Q. In your opinion how did this bloody rifle get out of the car on the ground?
A. I heard the door on the right side of the car slam and I am confident now that they attempted to get out of their car to assume better positions. I can't otherwise account for the blood being on the ground at the front door and the rifle there which was probably dropped by one of the seriously wounded men, either Estrada or Fidel Ortega.
- Q. You did not see any men leave the car as it went out of there? A. I know that they all went away with the car.
- Q. Could you determine definitely the number of men in the smugglers' car? A. As our lights shown on their car through their rear window I distinctly saw three heads, two on the front seat and one on the rear. As we pulled alongside the smugglers' car when they came to a halt I am positive there were two men in the front seat and I saw a man in the rear seat with a rifle bringing it up into a position to fire in our direction. At this point I told my companions to look out for their guns.
- Q. Could you tell which one of the men in the front seat was firing the rifle, the driver or his companion? A. The driver's companion, sitting at his right, raised his rifle and fired through the driver's window.

I certify above to be a true transcript of the record.

(Sgd) Wm. R. Lockett
Stenographer.