

attention to Plaintiff's Exhibit Number 1.

A. May I have the question again?

Q. Do you know whether or not the Federal marshals gassed Faulkner Hall on September 30, 1962, requiring their evacuation of said hall?

A. About what time would this have been?

Q. Any time between eight o'clock and one A.M.

A. No.

Q. You would not deny such, would you?

A. I have no personal knowledge of this incident that you have just referred to.

Q. Did you ever authorize or give instructions to your marshals to leave either their position at Baxter Hall or the Lyceum Building after eight P.M., September 30, 1962, to converge upon Faulkner Hall?

A. Did I give an order?

Q. Yes.

A. To marshals from Baxter Hall or the Lyceum to converge on Faulkner Hall?

Q. Yes.

A. No, sir.

Q. Did you ever give any instructions during the night of September 30, 1962, for marshals to leave their positions at either Baxter Hall or the Lyceum?

A. Positions to where?

Q. To any position. Did you ever authorize them to leave?

A. Insofar as Baxter Hall is concerned, the actual leaving of

of the hall and going elsewhere, no. As to deputy marshals in front of the Lyceum, several times during the night I did, and on several occasions I headed groups of Federal marshals that walked down there into the grove to try to disburse crowds that were throwing these rocks, bottles, bricks, Molotov cocktails. Several times during the night I did that, and if I didn't, I authorized it.

Q. Did you authorize them to go into any other direction on September 30, 1962?

A. Well, there were several forays made in the vicinity of the grove, and up on the northwest corner here several times during the night we took patrols and went down past Peabody Dorm. That would be down about as far as -- Peabody Building. Excuse me.

Q. What time would you approximate this?

A. I recall about -- Down around Peabody Building would be about between two, three, four o'clock in the morning.

Q. That is October 1, 1962?

A. Yes.

Q. All right.

MR. EARDLEY: Let the record show the Peabody Building is not northwest, is it?

MR. CATES: It is literally north.

MR. EARDLEY: North of the Lyceum Building.

MR. CATES: Yes.

- Q. Did you ever authorize any other movement of the marshals or other personnel on September 30, 1962?
- A. Movement as to what?
- Q. To any direction.
- A. Also several times during the evening on the southeast part of the Lyceum we sent some groups down there to break up mobs that were forming, down in the vicinity of the Engineering School, but not beyond that. But that in effect would be it. As to Baxter Hall, giving orders for men to take a group of men and go in a certain direction of the area there, no, I did not.
- Q. So any action that they took would be on their own? Is that correct?
- A. Well, they were under the leadership up there of a deputy marshal who was in complete charge that particular night.
- Q. Do you know whether Mr. Robert F. Kennedy had any conversation with Senator Yarborough?
- A. I don't know.
- Q. Do you know whether Mr. Robert F. Kennedy had any conversation with any state personnel on September, 30, 1962, in the Lyceum Building?
- A. Of my own knowledge?
- Q. Yes.
- A. No, sir.
- Q. What was Mr. Doar's assignment on that day, September 30th?
- A. Mr. Doar's assignment was to accompany Mr. Meredith from the Millington Naval Air Base down to Oxford, and originally was to escort him to the Lyceum for the

purpose of being registered. Later on when the plans were changed, he took him to Barker Dormitory.

Q. What was Mr. Katzenbach's assignment on September 30, 1962?

A. Well, because of his rank, the fact he is the Deputy Attorney-General of the United States and second in command only to the Attorney-General, his mere presence there and the position that he held would automatically put him in command of the entire operation there.

Q. To your knowledge, did the plaintiff, Cyril Faneca, provoke any action on behalf of any marshal on September 30, 1962?

MR. EARDLEY: You haven't established yet whether he even knows Mr. Faneca. How can he testify about what he did or did not do if he doesn't happen to know him?

Q. Would you answer the question?

A. I don't know Mr. Faneca. I have no recollection of ever meeting him, ever seeing him.

Q. So you have no knowledge of whether he did or did not provoke any action on behalf of the marshals? Is that correct?

A. That is correct.

Q. I believe you testified, Mr. McShane, that you saw no brutality inflicted upon any of the students on September 30, 1962?

A. That is correct.

- Q. Then a statement in Life Magazine dated 12 October 1962 to the effect, and I quote, "Inside the Lyceum four prisoners were hustled in. The fourth man in line is thought to be a sniper. As he moved in the hall in handcuffs, marshals say 'Bastard, bastard.' 'You never saw the inside of the University before,' snarled one. 'Start a war, will you.' The man is kicked down the hall." Would that be an improper statement?
- A. I never saw anything like that occur.
- Q. So Life Magazine is incorrect?

MR. EARDLEY: That is argumentative, has nothing to do with his testimony. He is not testifying what Life Magazine saw or didn't see. He is just saying he didn't see that. He is not stating nor is he required to comment on what newspaper writers or magazine writers may write.

- Q. Would you answer the question?
- A. I have no knowledge of those facts.

--Five minute recess--

After Recess

MR. CATES CONTINUES:

- Q. What particular court order were you operating under, if any, on September 30, 1962?
- A. I believe it was a court order of the Fifth Circuit Court of Appeals.
- Q. You don't know which one?
- A. No, sir.

Q. Nor do you know the contents of that order?

A. Well, I believe the court order -- and I'm going to use layman's language, if I may -- was to the effect we were to escort Mr. Meredith to the University for the purpose of having him registered and to provide for his safety.

Q. You are sure of that?

A. I'm not too sure, but it is my belief. Again, as I say, as a layman.

Q. You really just don't know. Isn't that true? Other than that you were operating under some order from the Fifth Circuit?

A. I'm not going to be definite, and yet I have a recollection there was some court order.

Q. Did you ever release any students who were arrested on September 30th without any warrant at a later date without preferring any charges against them?

A. I myself, personally?

Q. Well, you or anyone under your control.

A. Not I personally. And there is a possibility maybe someone under my control may have done that.

Q. Did any students who were arrested on September 30, 1962, request that you release them?

A. A request to me personally?

Q. Yes.

A. No, sir.

Q. Did you hear of any request through your chain of command?

A. For the release of the student?

Q. Yes.

MR. CATES: I don't have any further questions.

MR. EARDLEY: Okay. Thank you, Mr. McShane. No questions.

COURT REPORTER'S CERTIFICATE

CYRIL T. FANECA, JR.

VS.

No. 2604

UNITED STATES OF AMERICA

I, D. B. JORDAN, Official Court Reporter for the Southern District of Mississippi, do hereby certify that the foregoing one hundred and four pages constitute a true and correct transcript of the testimony of JAMES JOSEPH PATRICK MCSHANE, had upon the taking of his DEPOSITION by the plaintiff in the above-entitled cause, on December 11, 1962, in the Grand Jury Room of the Post Office Building in Biloxi, Mississippi, in the Biloxi Division of the Southern District of Mississippi.

WITNESS my signature, this the 4th day of January, 1963.


D. B. JORDAN

CERTIFICATION UNDER RULE 30(f)

The undersigned officer hereby certifies that upon the taking of the foregoing deposition at the time and place mentioned above, the witness, James P. McShane, was duly sworn by me and that the deposition is a true record of the testimony given by the witness in accordance with the certificate of the court reporter taking the same, D. B. Jordan, the presence of the undersigned being given during the taking thereof. This the ____ day of January, 1963.

Mrs. Irene Humphreys,
Chief Deputy Clerk,
U. S. District Court,
Biloxi, Mississippi

I have read the foregoing pages and find them to be true and correct.

This the ____ day of _____, 1963.

James P. McShane

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
MISSISSIPPI, BILOXI DIVISION

CYRIL T. FANECA, JR.

VS.

No. 2604

UNITED STATES OF AMERICA

DEPOSITION OF

CYRIL T. FANECA, JR.

APPEARANCES:

Hon. Edward L. Cates, Attorney, Box 2005,
Jackson, Mississippi,
For Plaintiff.

Hon. Carl Eardley, Asst. Attorney-General,
Department of Justice, Washington, D. C.;
Hon. Robert E. Hauberg, U. S. Attorney,
Jackson, Mississippi; and
Hon. E. R. Holmes, Assistant U. S. Attorney,
Jackson, Mississippi;
For Defendant.

Court Reporter's Transcript of the testimony of the Plaintiff,
Cyril T. Faneca, Jr., in the above-named cause, had upon the
taking of his deposition on the 12th day of December, 1962,
in the Grand Jury Room, Post Office Building, Biloxi,
Mississippi, in the Southern Division of the Southern Dis-
trict of Mississippi, before Mrs. Irene Humphreys, Chief Deputy
Clerk for the United States District Court for the Southern
District of Mississippi, who administered the oath to the witness.

(The witness was sworn by the Clerk, Mrs. Irene
Humphreys.)

MR. EARDLEY: This is the deposition of the plaintiff,
Cyril T. Faneca, Jr., which is being taken pursuant
to the Order of the Court, dated November 27, 1962.
I would like to have Mr. Faneca read his deposition
and make any corrections which he finds necessary. I
don't require his presence anywhere when he signs it --
he can sign it wherever he happens to be -- and I don't
require any notary, but I do want him to receive and
read the deposition.

MR. CATES: No objection.

CYRIL T. FANECA, JR., having been duly sworn, testified as
follows:

EXAMINATION BY MR. EARDLEY:

Q. Mr Faneca, what is your age?

A. 21.

Q. Are you a school man?

A. Yes, sir.

Q. And going to Ole Miss?

A. Yes, sir, that is correct.

Q. What is your present class?

A. Junior.

Q. Have you been at Ole Miss continually from a freshman?

A. No, sir.

Q. Where did you go first?

A. Perkinson Junior College.

Q. Would you spell that for me?

A. (Witness spells.)

Q. Is that in Mississippi?

A. Yes, sir, it is.

Q. And you went there what? First year or first two years?

A. I went there for the first year.

Q. And that, I gather, is coeducational?

A. Yes, it is.

Q. And Ole Miss is coeducational?

A. Yes, sir.

Q. Have you read the Complaint which you filed in this case?

A. Yes, I have.

Q. I want to first ask you to tell me a little about the injuries which you sustained on the night of September 30th. I'm only talking about the night of September 30th. First, tell me the doctor who treated you that night.

A. I was not treated by a physician.

Q. You were not treated by a doctor?

A. No, sir.

Q. Were you treated by a doctor the next day?

A. No, sir, I was not.

Q. Were you ever treated by a doctor for anything that happened

that night?

A. No, sir, I was not.

Q. Did you ever go to a hospital for treatment?

A. No, sir.

Q. So therefore you have no hospital or doctor bills to produce?

A. That's correct.

Q. According to your Complaint, you suffered headache, nausea and temporary blindness?

A. That's correct.

Q. Are these all of the injuries which you recall?

A. No, sir.

Q. They are not?

A. No, sir.

Q. What are the other injuries?

A. An irritation of my throat -- a cough --

MR. CATES: To clarify that, do you mean physical or constitutional injuries?

MR. EARDLEY: Everything I'm talking about now is about his physical pain and suffering.

Q. You had a cough?

A. Yes, sir.

Q. Was Ole Miss in session on October 1? That was the following day, Monday?

A. Yes, it was.

Q. Did you attend classes that day?

A. No, sir, I did not.

- Q. Did you attend classes on October 2?
- A. I attended some classes.
- Q. On October 1, most of the classes were cancelled because of the presence of tear gas on the campus?

MR. CATES: I don't know that he can answer that.

- Q. Do you know whether any classes were cancelled?
- A. My classes were cancelled.
- Q. That is the reason you didn't go. Were you locked up anywhere?
- A. No, I wasn't locked up anywhere, no, sir. I just didn't go to classes.
- Q. Where did you spend that night?
- A. Spent that night in my room.
- Q. In the dormitory?
- A. That's correct.
- Q. What is the name of the dormitory?
- A. Mayes-A Dormitory.
- Q. This is September 30th. What time did you go to bed?
- A. I went to bed around one or one-thirty.
- Q. That morning?
- A. Yes, sir.
- Q. When did you have your first attack of nausea?
- A. Well, it was immediately following the firing of the gas.
- Q. What time was that, approximately?
- A. Approximately seven o'clock, I'll say.
- Q. And you were on the campus at that time?

A. That's correct.

Q. And at the Lyceum Building?

A. When?

Q. Whatever the time was that the tear gas was fired.

A. I was in front of the Lyceum Building when the gas was fired.

Q. When did you have your attack of nausea with relation to the time of firing? Was it immediately?

A. No, sir.

Q. When was it? How much later? Ten minutes, an hour, two hours, or what?

A. Well, I don't remember exactly how much later. I was irritated immediately, and I would say within a short time, within 15 or 20 minutes or a half hour.

Q. Did you vomit?

A. No, sir, I didn't.

Q. When you say "nausea," you mean your stomach was upset?

A. Yes, sir.

Q. But you didn't vomit?

A. That's right.

Q. What did you take for your nausea?

A. Well, at the time I didn't have anything to take.

Q. You didn't take anything?

A. No, sir.

Q. Did you have nausea the next day?

A. Yes, sir.

Q. Your stomach was upset? Is that it?

A. Yes.

Q. But you didn't throw up?

A. Yes, sir.

Q. You did throw up the next day?

A. Yes, sir.

Q. What time was that?

A. It was during the morning, early in the morning.

Q. Where were you at that time?

A. In my dormitory.

Q. Did you have an individual room?

A. No, sir.

Q. Who was your roommate on that occasion?

A. Leonard Blackwell, II.

Q. Leonard Blackwell?

A. Yes. Leonard Adam Blackwell, II.

Q. I suppose you went to the bathroom?

A. Yes, sir.

Q. Did you tell him you were vomiting?

A. I don't recall.

Q. Was he asleep at the time?

A. Yes, sir.

Q. Had you awakened feeling nauseated?

A. Well, it was pretty hard to sleep.

Q. Was there a lot of noise going on?

A. Well, not only the noise, but the gas.

Q. Was there gas at Hayes Hall?

A. Yes, sir.

Q. You don't really know, do you, whether the nausea you
suffered came from the gas around Hayes Hall or the

gas that was fired at the Lyceum if the nausea didn't occur until the next morning?

A. No, I guess there is no way of ascertaining.

Q. When did you get your headache?

A. Well, I got the headache that evening.

Q. Approximately what time?

A. Soon after the gas was fired, about an hour, I suppose.

Q. About an hour later?

A. Yes, sir, or a half hour.

Q. Where were you at that time?

A. At that time I was at the Ole Miss drive-in restaurant.

Q. Having something to eat?

A. Having something to drink.

Q. What do you mean? A cup of coffee, glass of milk, or are you talking about liquor?

A. I'm talking about soft drinks.

Q. What were you drinking?

A. A Coke.

Q. Who was with you at the time?

A. Miss Catherine Reeve Skeen.

Q. Was she with you during all this time? That is, during the time you were standing in front of the Lyceum and later on in the evening?

A. How much later?

Q. I know you left her before you went to the dormitory, but how much?

A. She was with me the major part of the evening.

Q. Were there just the two of you or a little group?

MR. CATES: Where?

MR. EARDLEY: At the Lyceum.

Q. I know there were a lot of people there, but was there a - 4 or 5 -
a party, or were you just on a single date?

A. It was a single date

Q. What did you take for the headache which you developed
a little later?

A. Aspirin.

Q. Where did you get the aspirin?

A. In my room.

Q. You went to your room before you went to the drive-in?

A. No, sir. I didn't take aspirin at that time.

Q. When did you take the aspirin?

A. I took the aspirin later on during the night.

Q. About what time?

A. I don't recall exactly. Probably would have been around
eleven or twelve o'clock.

Q. At the dormitory?

A. Yes, sir.

Q. And it would have been two tablets, I suppose?

A. I don't remember exactly whether it was two.

Q. Did you take aspirin the next morning?

A. Yes, sir.

Q. Did you have a headache the next morning?

A. That's right.

Q. When did your headache leave?

A. It came and went, so to speak. Would go away and come
back again.

- Q. Was it gone by that Monday night?
- A. I don't recall exactly.
- Q. You just don't remember. How many times did you take aspirin for the headache?
- A. I took the aspirin several times, every three or four hours. I don't remember exactly how many times.
- Q. Were you also taking that for the nausea?
- A. No, sir. I was just taking it primarily for the headache.
- Q. Does the school have an infirmary?
- A. Yes, it does.
- Q. Is there a doctor and a nurse there?
- A. Yes, sir, there is.
- Q. Did you go to the infirmary for advice as to what to take?
- A. No, sir, I didn't.
- Q. So it is fair to say, isn't it, that you weren't suffering any great pain?

MR. CATES: That is a conclusion.

MR. EARDLEY: He knows. No one will know except Mr. Faneca how much pain he was suffering, even the Court.

MR. CATES: I think he alleged in his Declaration that he was.

- Q. Well, were you or weren't you suffering great pain?
- A. Yes, I was.
- Q. If you were suffering great pain why didn't you go to a doctor to find out what could be done about it?
- A. I don't know. I didn't go to a doctor at the time.

- Q. You didn't go to a doctor at any time for this, did you?
- A. No, sir.
- Q. Now, let's go to the temporary blindness. When did that occur?
- A. Well, it occurred upon the firing of the gas.
- Q. In front of the Lyceum?
- A. No, sir.
- Q. Where was this?
- A. This was in front of the Commerce Building.
- Q. Now, we were back at where you were at the time you had this temporary blindness. Now, it was at Hayes?

MR. CATES: He said the Commerce Building.

- Q. Oh, I see it. I have it here. It is close to the --
- A. -- Lyceum Building.
- Q. In fact, across the street?
- A. Yes, sir.
- Q. What happened there that caused you to get temporary blindness?
- A. I was fired upon with a gas projectile.
- Q. Could you come over here, or I'll come over there. --
I'm showing you now Plaintiff's Exhibit Number 1 to the testimony of Mr. McShane, and I'd like to have you mark on here the location at which you were standing, or wherever you were. I guess you were standing. At the Commerce Building. Mark it down there. We'll have several locations, so let's mark it 1.

A. You mean when I was first charged by the marshal?

Q. When whatever happened that gave you temporary blindness.

A. Approximately right here. (Marks)

Q. All right. Now put a circle around that and put your initials.

(Witness marks)

Q. So we have a dot with a circle which indicates the general area which you were at the time you suffered temporary blindness?

A. That's correct.

Q. This was due to the firing of some sort of gas projectile or grenade?

A. That's correct.

Q. Did this explode in your face?

A. No, sir, it exploded at my feet.

Q. At your feet?

A. That's right.

Q. How long did you stay in that vicinity?

A. Are you referring to after?

Q. When that exploded, did you move or just stand there?

A. Well, I tried to back off.

Q. You backed away?

A. Yes, sir.

Q. How far away did you back?

A. I don't recall exactly, sir. Backed away and turned in a different direction. Then my vision cleared up enough to where I could run.

Q. Then you ran away?

A. That's correct.

- Q. Because it was very unpleasant there?
- A. It was very unpleasant.
- Q. What time, approximately, was that, Mr. Faneca?
- A. This was approximately -- Well, it was dusk. That's the best way, as far as time.
- Q. Dusk? You mean it wasn't dark?
- A. It was not dark, no, sir. I could still ---
- Q. Are we still on September 30th?
- A. Yes, sir.
- Q. And it was not dark at this time?
- A. No, sir, it was not. It was getting dark.
- Q. Then it was before the Lyceum occurrence?
- A. No, sir, this was after the Lyceum occurrence.
- Q. Well, do you recall approximately what time it gets dark down here?
- A. Well, of course, it varies with the seasons.
- Q. I know, but this was just a month or two ago.
- A. I'm assuming around seven o'clock.
- Q. My understanding was it gets dark about six or six-thirty.
- A. I would assume around seven P.M. I would say between a quarter to seven and seven P.M.
- Q. Did this incident which resulted in your temporary blindness occur after the firing of the tear gas at the Lyceum Building or before the firing of tear gas at the Lyceum Building?
- A. It occurred after.
- Q. Afterwards?

A. Correct.

Q. And how long afterwards?

A. About four minutes or so, four or five minutes.

Q. Then you moved from one spot to another spot? Is that correct? In other words, you were in front of the Lyceum at one time?

A. Yes, sir, I was.

Q. And there was gas there?

A. Yes, sir.

Q. Then you moved to the Commerce Building?

A. No, sir.

Q. Where did you go then?

A. I went to the "Y" Building, Y.M.C.A. Building.

Q. Mark that.

(Witness marks)

Q. I'm not going to get into the chronology. All I'm trying to establish now is your injuries. You had the temporary blindness at the Commerce Building?

A. That is correct.

Q. Shortly after the Lyceum incident? Is that correct?

A. Yes, that's correct.

Q. And then you - within what, how many seconds, before you could see enough to run?

A. I don't know, sir. In the excitement of the moment, I lost track of the particular time, you know, just a few minutes or whatever it was. I don't recall exactly.

Q. Was your vision back to normal by ten o'clock?

A. Well, I wouldn't say it was normal because my eyes were irritated, red and blurred.

Q. You were irritated, naturally, with that gas. That's what

it's for.

A. That's right. I couldn't very well say it was normal.

Q. I'm talking about the blindness. How long was it before you could see? I know you are going to rub your eyes, and they were smarting and they hurt, because that is what tear gas is supposed to do. But could you see?

A. Yes, sir.

Q. And then you ran away?

A. That's correct.

Q. Was Miss Skeen with you at that time?

A. She was.

Q. Did she suffer temporary blindness too?

A. I don't know.

Q. You don't know?

A. No, sir.

Q. She didn't say anything about it to you?

A. Well--

Q. Did--

A. --Pardon, sir. We sort of took off at a fast walk around the Commerce Building.

Q. The two of you?

A. That's correct.

Q. And you didn't go to see a doctor about this temporary blindness?

A. No, sir.

Q. This was the result of the sudden explosion and the up-shooting of the gas?

- A. Well, severe inflammation, of the gas.
- Q. Now, I notice in your Complaint, Mr. Faneca, which you have read, you stated you have been damaged in the amount of \$40,000.00.
- A. That's correct.
- Q. And how did you break that down? What is it that is worth \$40,000.00 to you?
- A. What's worth \$40,000.00?
- Q. Yes. Was it the blindness?
- A. Well, when you take into consideration not only the blindness, nausea and headaches, and the inflammation of the respiratory tract, gave me a cough that persisted for over a week, but also what you might call emotional disturbance or mental anguish.
- Q. How much of this \$40,000.00 is physical anguish?
- A. --And the fact of my constitutional rights.
- Q. Well, you've got this into money, so I want to get it into money. How much is the physical anguish worth when you calculated this \$40,000.00?
- A. How much is the physical worth?
- Q. Well, yes. The sum total of your complaint, both physical and mental and constitutional, is \$40,000.00?
- A. That's correct.
- Q. So I want to find out how much is physical and how much is constitutional.
- A. I did not break it down.
- Q. Let's break it down now. How much are you asking for your headache?

- A. I can't break it down, sir.
- Q. Is it your headache and your physical ailments you are really complaining about, or is it the deprivation of your constitutional rights?
- A. A combination of both. Not only the headache, but also the psychological effect, mental. I'm a fairly high strung person, in the first place, and I was extremely upset.
- Q. Have you been to see a psychiatrist?
- A. No, I have not.
- Q. You look very normal. You haven't been to see a psychiatrist at any time in your life, have you?
- A. No, sir, I have not. I do have high blood pressure, and my pressure did go up considerably.
- Q. Well, that's something we have in common. Did you have any assistance in arriving at the amount of your damage? Did your father help you?
- A. No, sir. The \$40,000.00 is the amount I arrived at with my attorneys.
- Q. With your lawyers?
- A. Yes, sir.
- Q. Since October 2nd, how many days have you missed from school?

MR. CATES: You ought to clarify that.

- Q. I don't mean by reason of the fact you had an aunt that died and you went to the funeral, but by reason of any illness.

A. Well, I missed classes several times during the first week, the week of September 30th.

Q. You mean you missed certain classes? Was there any day you didn't go to school other than October 1st?

MR. CATES: Due to the injuries received?

MR. EARDLEY: Right.

A. Well, I didn't feel up to going to classes several days during that week.

Q. Whether you felt it -- or did you go?

A. I did not go.

Q. Was there any one day where you didn't go to any classes at all, or did you just go to some classes and skip others, on a given day?

MR. CATES: Because of --

MR. EARDLEY: --Because of whatever the reasons were. I'll go into the reason if I can get the answer.

A. I don't recall.

Q. You don't recall?

A. No, sir.

Q. Now, I'm going to get off the matter of your injuries for a moment and go into the question of this riot.

You stated you lived at Mayes Hall?

A. That's correct.

Q. Which is on the campus. And approximately how far is it from the Lyceum Building?

A. Several hundred yards.

- Q. Now, I'm going to start to -- and you'll have to do the best you can because I'm sure you didn't stop-watch all your movements that day because you didn't know what was going to happen.
- A. That's correct.
- Q. But let's start in the afternoon. Did you by any chance happen to hear the mayor ask people to stay away from the campus that day?
- A. No, sir, I did not.
- Q. Did you know anything about it? Did anybody tell you the mayor got on the radio and asked people to stay away?
- A. No, sir, I did not.
- Q. Where were you approximately at two o'clock on Sunday, two in the afternoon?
- A. At two o'clock ---
- Q. Let's figure it by your Sunday meal. When do you have your Sunday meal?
- A. Well, I got up rather late Sunday morning, and I must have eaten between twelve and one-thirty.
- Q. Where do you eat?
- A. In the cafeteria.
- Q. School cafeteria?
- A. Yes, sir. From there I went, if I'm not mistaken, I went over to my fraternity house for about two hours or so.
- Q. You live in the dormitory but you still belong to a fraternity?
- A. That's correct.
- Q. Where is that located? Just mark an "X" somewhere in the general vicinity.
- A. It's somewhere in here. ((Marks))

Q. That's a square with an "X" in it which indicates the general vicinity of this fraternity, which is what? What is the name of it?

A. Beta Theta Pi.

Q. I don't want to misquote you because I don't recall how long you said you stayed there.

A. One or two hours, I'm not sure.

Q. Were you with friends there and fraternity brothers?

A. I didn't go there with them, but there were somewhere.

Q. What did you spend your time doing?

A. I don't remember exactly.

Q. Playing ping-pong or --

A. Talking, watching T.V., or something.

Q. Did you at that time know that Meredith was coming on the campus that day?

A. I did not know he was coming on the campus.

Q. Had you been told? Was there discussion at the fraternity about Meredith coming to the campus that day?

MR. CATES: What is the relevancy of that?

MR. EARDLEY: If you want to object, go ahead.

MR. CATES: Yes, I object to it, so the record will be straight.

Q. Do you remember, Mr. Faneca, whether you discussed Meredith and his coming to the campus, at the fraternity house that day?

MR. CATES: Object to that.

Q. Answer, please.

A. Pardon?

Q. Go ahead and answer. These are formal objections for the record so that if we ever come to a trial counsel can raise the point.

MR. CATES: He said he didn't know. I don't see how he could discuss something he didn't know anything about.

MR. EARDLEY: He said he didn't know, wasn't positive, but there might have been discussions about it.

A. I don't recall specifically any specific discussions. His name may have been mentioned, but I couldn't say anything specific.

Q. Was there any discussion at that time about what you fellows could do to stop him from coming?

MR. CATES: We object to that. You have to show first that he was attempting to stop Meredith.

MR. EARDLEY: I don't know whether he was or not. This is discovery.

Q. Was there any discussion about how you could stop this from

happening?

A. No, sir, there waan't.

Q. Now, you had lunch, I think you said, late. I think you finished around one-thirty, or something like that?

A. Somewhere in there.

Q. And then you had a couple of hours at the fraternity house; that would bring it up to three-thirty or four o'clock. Is that about right?

A. Yes, sir.

Q. Where did you go from the fraternity house? Incidentally, do you remember the names of any of your brothers who were there that afternoon?

A. No, sir.

Q. You don't remember?

A. Not particularly, no, sir.

Q. What did you do after you left? You left, obviously.

A. Yes, sir. I left somewhere about three or three-thirty. I don't remember for sure. And went to my dormitory.

Q. That is where you sleep?

A. Yes, sir.

Q. Is that where you also study?

A. Sometimes.

Q. That is where you keep your books most of the time?

A. For the most part.

Q. Did you walk from the fraternity house or did you drive?

A. I drove.

Q. Do you have a car on the campus?

A. Yes, I do.

Q. Did you drive then to the restaurant to eat, cafeteria to eat, or did you walk, if you remember?

MR. CATES: He testified he had already eaten.

MR. BARDLEY: I'm trying to find out his means of travel, whether he was walking or driving.

A. I don't recall. Are you referring to when I went down to the cafeteria?

Q. Yes, to eat lunch. Did you drive or walk down?

A. I don't recall.

Q. You don't remember. Do you know whether you walked from the fraternity house to the dormitory or whether you drove?

A. I drove.

Q. You drove to the dormitory. And did you take anybody with you or were you driving alone?

A. I was driving alone.

Q. Why were you going back to the dormitory?

A. Well, I was going back. I don't have any particular plan that I follow every day, but at the time I decided I was going back.

Q. Well, maybe we can get at it this way: What did you do when you got back? Did you start studying?

A. No, sir. I believe I attempted to telephone Miss Skeen.

Q. For a date?

A. Well, we had already had a date. It was just to affirm the time.

Q. How long did you stay in the dormitory?

A. Hour and a half, or so.

Q. So you were in the dormitory until approximately five o'clock?

A. I left about a little before five.

Q. A little before five?

A. Yes, sir.

Q. And was your friend Mr. Blackwell there at this time?

A. Wait a minute. I didn't leave before five; I left there after five. I left after five.

Q. You left after five. But was it closer to six or closer to five?

A. It was closer to six.

Q. Was Mr. Blackwell in the dormitory during this time that you were there from three-thirty to a quarter to six?

A. I don't believe so.

Q. In other words, you were alone? Were you alone in your room?

A. Well, I don't know if I was alone for the whole time, but Mr. Blackwell was not in the room.

Q. And were you studying? Was that what you were there for?

A. Partly.

Q. Somewhere in the neighborhood of six o'clock you drove away from the dormitory?

A. Yes, sir.

Q. Where did you go?

A. Well, I drove with the intention of going to pick up or see Miss Skeen. I drove and parked my car --

Q. Where did she live?

A. She lives in Hefley Dormitory.

Q. And your intention was to go pick her up?

A. Yes, sir.

Q. You didn't make it?

A. Not at that time.

Q. You saw something en route?

A. Yes, sir.

Q. You saw Federal marshals?

A. Yes, sir.

Q. Were you diverted from going directly to Hefley Hall?

A. I stopped, parked my car over by the Music Building.

Q. You parked your car by the Music Building?

A. That's right. I don't believe the name of it is on here.

It just says "Music Home Economics."

Q. How far is that from Hefley Hall? A pretty good walk, isn't it?

A. About 200 yards, I suppose.

Q. Why didn't you drive right to Hefley Hall?

A. I was curious to find out what was happening.

Q. What was going on.

A. Yes.

Q. When you parked your car there, you didn't go then directly to Hefley Hall?

A. No, sir, I did not.

Q. You walked back, did you, toward the Lyceum Building?

A. Yes, sir.

Q. Was anybody with you at this time or were you alone?

A. I was alone.

Q. What is the name of the street in front of the Lyceum? Is that Engineering Drive?

A. No, sir.

Q. What do they call it?

A. I believe it's University Avenue.

Q. All right. Did you walk back to University Avenue?

A. I walked from the street -- I parked the car by Keek and walked on the side street between the Commerce Building and Peabody.

Q. You are now tracing your movements with a pen on that exhibit, are you not?

A. Yes, sir.

Q. So approximately what time was this?

A. This was about six o'clock.

Q. I'm just guessing, but I guess you came back later. This was just a preliminary look-see, wasn't it?

A. Yes, sir.

Q. So we are going to have another marking later, so let's mark this as the "six o'clock walk."

A. (Witness marks)

Q. You got down to the University, and did you see Federal marshals there?

A. Yes, sir, I did.

Q. Approximately how many were there?

A. A couple of hundred, I would say.

Q. Where were they?

A. They were lining up.

Q. In front of the Lyceum Building?

A. Yes, sir.

Q. Did you see them get out of the trucks?

A. I saw some of them get out of the trucks.

Q. And line up?

A. Yes, sir.

Q. What were they wearing?

A. They were wearing white helmets, big sort of faded orange vests, with tear gas grenades, gas projectiles, stuck in them.

Q. Little gas guns?

A. No, sir.

Q. Cartridges for --

A. Cartridges for gas guns.

Q. Were you familiar with this equipment before?

A. I'm familiar with tear gas grenades, yes, sir.

Q. Was that through R.O.T.C.?

A. No, sir. Due to my time I spent in the Marine Corps.

Q. When was that?

A. Well, I'm still in the Marine Corps Reserves.

Q. Did you attend a camp of some kind?

A. I went six months on active duty, and I go to summer camps.

Q. So that in the course of your Marine Corps service, you became familiar with tear gas equipment?

A. Yes, sir.

Q. Have you had occasion yourself to use it? I mean in practice; not against people.

A. Yes.

Q. And you were thoroughly familiar with the effects of tear gas?

A. Well, I was familiar. I wasn't "thoroughly."

Q. I mean you had never been gassed yourself, but you knew the purpose?

- A. I had encountered small doses of it.
- Q. You had yourself?
- A. Yes, sir.
- Q. But you were aware of the purpose and function of tear gas?
- A. Not technically, but generally.
- Q. You know that tear gas was used to disburse crowds?
- A. Well, I know it is used to inflame your glands and make your eyes swell.
- Q. Now, how long did you stay down there at six o'clock?
- A. Roughly thirty minutes.
- Q. Thirty minutes. Were you joined by any of your classmates or schoolmates?
- A. Well, of course, I wasn't joined --
- Q. Did you see any?
- A. Yes, sir.
- Q. Can you identify any of them?
- A. I'm not certain. I couldn't say beyond a shadow of a doubt.
- Q. Didn't you talk to some of your classmates? It was quite an exciting event?
- A. Yes, sir.
- Q. And didn't you talk to some of the people you knew about this?
- A. I talked to several people.
- Q. Who were they?
- A. I don't remember exactly now who they were.
- Q. What is your best recollection?
- A. I may have talked to a Mr. Carl Godchaux.

A. I believe it's University Avenue.

Q. All right. Did you walk back to University Avenue?

A. I walked from the street -- I parked the car by Meek and walked on the side street between the Commerce Building and Peabody.

Q. You are now tracing your movements with a pen on that exhibit, are you not?

A. Yes, sir.

Q. So approximately what time was this?

A. This was about six o'clock.

Q. I'm just guessing, but I guess you came back later. This was just a preliminary look-see, wasn't it?

A. Yes, sir.

Q. So we are going to have another marking later, so let's mark this as the "six o'clock walk."

A. (Witness marks)

Q. You got down to the University, and did you see Federal marshals there?

A. Yes, sir, I did.

Q. Approximately how many were there?

A. A couple of hundred, I would say.

Q. Where were they?

A. They were lining up.

Q. In front of the Lyceum Building?

A. Yes, sir.

Q. Did you see them get out of the trucks?

A. I saw some of them get out of the trucks.

- Q. Is he a student?
- A. Yes.
- Q. Is he a classmate of yours?
- A. Yes.
- Q. Still attending Ole Miss?
- A. Yes, sir.
- Q. Living in the same dormitory?
- A. No, sir.
- Q. Belong to the same fraternity?
- A. No, sir.
- Q. A classmate?
- A. Yes, sir.
- Q. Anybody else?
- A. No, sir, not that I recall.
- Q. You can't remember?
- A. I can't remember the names.
- Q. That's all you did? Just stand there and watch and talk to this fellow?
- A. Well, as I said, I'm not positive I talked to Mr. Godchaux.
- Q. I mean to the best of your recollection.
- A. I walked around and asked questions.
- Q. How big a crowd was there at that time? I'm talking about civilians, students, outsiders, civilians --

MR. CATES: You are assuming something there in your question.

- Q. How many people were there other than either Federal

marshals or state troopers?

A. I'll say there were several hundred students.

Q. Several hundred students?

A. Yea, sir.

Q. How many state patrolmen did you see at that time?

A. How many did I see?

Q. Yes.

A. Well, I saw, I suppose, around twenty, roughly, stationed around the Lyceum, and I saw some coming in in cars.

Q. Where were they stationed? Did they have a line or were mingling with the crowd or what were they doing?

A. They were in front of the marshals.

Q. They were in front of the marshals?

A. Yes, sir.

Q. How far in front?

A. I don't know exactly. They were between the marshals and the people.

Q. Where were the people? Mostly standing in the grove area?

A. The people that I saw were standing along here.

MR. BARDLEY: The witness is pointing to the street next to Peabody Building and the grove area. Is that correct?

THE WITNESS: That is correct.

Q. Were these state policemen in a line?

A. They weren't shoulder to shoulder. They were spread out.

- Q. But were they in a straight line across the front of the building?
- A. It wasn't perfectly straight. I mean, it was staggered.
- Q. And was the space between the marshals and the state policemen free of other people?
- A. There may have been some deputy sheriffs in there also.
- Q. Were people and the students in between the marshals and the state police?
- A. Not that I saw.
- Q. Was there any disturbance at that time? What was going on? Anything at all, other than people just standing there looking?
- A. Could you be more specific?
- Q. Just tell me what happened. Was there shouting? Was there cursing? Was there throwing? What was the scene as you saw it?
- A. Well, for the most part, I would assume that everyone appeared surprised, to me, and curious, I would say. I'll say shocked. Everyone was, from my viewpoint, confused because of what they were seeing.
- Q. You had not anticipated Meredith coming to the campus that day?
- A. No, sir, I had not.
- Q. And you hadn't known about it until you arrived down there at six o'clock?
- A. That's correct.
- Q. And you hadn't known anything about the marshals coming on Sunday?

A. No, sir.

Q. So that when you arrived there at six o'clock this was all a big surprise to you?

A. Yes, sir.

Q. And you were curious?

A. Yes, sir.

Q. And did you inquire as to whether Meredith was coming that day, when you saw this big crowd of marshals?

A. I don't remember specifically asking if he was coming that day.

Q. Did you see any hostile actions by anybody at that time toward the Federal marshals?

A. No, sir, I did not.

Q. None whatsoever?

A. That's right.

Q. There was no shouting, no cursing?

MR. SATES: Define what you mean by "hostile."

In other words, you are assuming this is hostile.

Q. Was there any shouting of such phrases as "Nigger lovers" at the marshals?

A. Not that I recall hearing.

Q. The crowd was quiet?

A. I wouldn't say quiet.

Q. They were talking and not shouting? Is that it?

A. They may have been giving a few hotty-toddies.

Q. A few what?

A. It's a school cheer.

Q. Oh. What do you call it?

A. Hotty-toddies.

Q. How do you spell it?

MR. CATES: H-o-t-t-y T-O-d-d-y.

Q. So the only shouting you heard that you can recall was this hotty-toddy yell?

A. That's correct.

Q. And this was given by the students?

A. Yes. I don't remember any of the marshals --

Q. Joining in. Were you one of the students shouting this?

A. No, sir, I was not.

Q. You didn't see anybody throwing anything toward the marshals?

A. No, sir.

Q. Either in the way of cigarette butts or eggs or gravel or rocks or pop bottles or lead pipe or anything?

A. No, sir.

MR. CATES: Let the record show to all those questions he was shaking his head in the negative. You didn't give him a chance to answer whether he saw an egg thrown or a bottle or --

Q. Well, did you see anything thrown of any description at any time during this six o'clock venture of yours down there?

A. At the six o'clock venture I did not see anything thrown toward the marshals.

Q. And the crowd, in your judgment, was well in control by the state police?

A. Yes, sir.

Q. And you left there approximately at six-thirty?

A. Yes. Roughly, six-thirty or a few minutes before six-thirty.

MR. BARDLEY: We forgot to mention at the start that we are continuing the agreement we had yesterday that these will be sealed depositions.

MR. CATER: No objection, for the record or otherwise.

Q. Let's continue with your movements on that fatal night.

A. Yes, sir.

Q. You left the area at what? Six-thirty, approximately?

A. Approximately six-thirty.

Q. Was it still light?

A. Yes, sir, it was.

Q. Had the sun gone down, to the best of your recollection?

A. It was approaching dusk, but it was still light.

Q. No lights were on anywhere on the building there?

A. Not that I recall.

Q. Do you know whether at the time you left Mr. Meredith had arrived on the campus?

A. No, sir, I don't.

Q. You don't know anything about that? You didn't see him arrive yourself?

A. No, sir, I didn't.

- Q. When you were standing there and during that half hour did you move around or just stand there and watch it?
- A. I moved around a little bit.
- Q. Then you went back to get your car, I guess?
- A. No, sir.
- Q. Then you walked back to Mayes Hall?
- A. No, sir, I didn't go back to Mayes.
- Q. Where did you go?
- A. I walked over to Hefley to pick up Miss Skeen.
- Q. What was the time of your date?
- A. Somewhere around six-thirty or six-thirty-five.
- Q. That was the time you told her you would pick her up?
- A. No, I don't recall setting a specific time to pick her up.
- Q. Was it a dinner date?
- A. It was a movie date.
- Q. In other words, you were not going to eat after your noon meal?
- A. No, sir, I don't guess I was. Well, I don't always eat supper.
- Q. At any rate, you didn't have any meal after your twelve-thirty or one-thirty meal, and you were picking her up to take her to a movie that night?
- A. That's correct.
- Q. In Oxford?
- A. Yes, sir.
- Q. And you walked back. Why didn't you go get your car? You were going to drive, weren't you?

- A. Yes, sir. Well, the car was parked over at Meek, which is close to the girls' intramural field, and I could just cut across the girls' intramural field and pick Kitty up.
- Q. So you went to Hefley Hall?
- A. And of course I wanted to tell her what was happening.
- Q. You did pick her up?
- A. Yes, I did.
- Q. And that was around six-thirty or six-forty?
- A. Around six-thirty sometime.
- Q. Did you leave Hefley Hall then? Was she ready and waiting for you?
- A. She was ready, yes, sir. We left.
- Q. Right away? You didn't wait any time there?
- A. No, sir.
- Q. And did you walk over to your car then?
- A. No, sir, we walked --
- Q. --I guess you told her what was going on?
- A. Yes, sir. Of course, I told her, we were very curious and surprised, and she was equally surprised, and I wanted to go over and show her.
- Q. Then you walked back, did you?
- A. Yes, sir, I walked over to the Lyceum.
- Q. Again?
- A. Yes, correct.
- Q. About what time would you say you arrived there this time?
- A. This was approaching a quarter of seven or so. It was approaching dusk.

- Q. Were you on daylight saving time at that time or daylight standard?
- A. No, sir, we don't have daylight saving.
- Q. Oh, you don't have that. And, to cut this a little shorter, you never did get to your car that night? I mean, I gather the trouble you had all took place after you and Miss Skeen got down there? You never got to a movie, did you?
- A. No, sir. I picked up Miss Skeen and we walked over to the grove in front of the Lyceum to see what was happening.
- Q. What was going on?
- A. Yes, sir.
- Q. And how long were you there?
- A. And we were there just a few minutes watching. By this time more marshals had come in and more students, and we were there watching what was happening.
- Q. How long were you there?
- A. Just a few minutes.
- Q. Just a few minutes?
- A. Yes, sir.
- Q. Had the situation changed in any way from the time you left at six-thirty until when you got back?
- A. Yes, sir. The number of the marshals had increased, perhaps even doubled, but I'm not certain. There were more highway patrolmen there and more students there also.
- Q. Can you estimate the number in the crowd in front of the Lyceum?
- A. I'd say there was over a thousand students there.
- Q. Over a thousand?

A. Yes, sir.

Q. Had the spirit of the crowd changed in any respect or were they just shouting hotty-toddies?

A. The crowd was still giving hotty-toddies, and everyone was excited, and still people had just been coming on the campus from the ball game and were shocked, and the crowd was similar to what it would have been on previous occasions for the past few weeks.

Q. Did you see any missiles thrown of any description?

A. No, sir. The only thing I saw were cigarette butts flicked.

Q. Toward the marshals?

A. Yes, sir.

Q. And nothing else?

A. No, sir, I did not. And then the state troopers pushed us back over the curb further away from the marshals.

Q. Were you in the front line of this crowd?

A. I was in the front, yes, sir, in front of the Lyceum, and we were pushed back, as I said.

Q. By the state troopers?

A. By the state troopers.

Q. Were they shouting any epithets at the marshals?

A. I don't remember exactly. They were singing a few songs.

Q. Would you say this was a festive crowd, just having a good time?

A. I'd say it was a sort of a pep rally atmosphere.

Q. At this particular time when you came back, did you know or were you told that Meredith had arrived on the campus?

A. No, sir.

Q. Were you told or did you know that Meredith was expected on the campus?

MR. CATES: How could he know that if he hadn't been told?

Q. Did you have any information at all about Meredith?

A. No, sir, I didn't have any information.

Q. Why did you think the marshals were there?

A. Why?

Q. Yes.

A. Well, --

MR. CATES: Why did he think the marshals were there? Let's pinpoint it to what he knows.

Q. What were the marshals there for? Did you discuss this at all with Miss Skean?

A. I did not know why the marshals were there.

Q. And you didn't anticipate they were there because Meredith was on the campus?

MR. CATES: What did he know.

Q. Did you know anything about it?

A. I did not know that he was coming.

Q. Did anyone tell you Meredith was expected?

MR. CATES: That is hearsay.

MR. BARTLEY: You can make your objection, if you want.

Q. Did anyone tell you Meredith was expected?

A. There were rumors, yes, sir.

Q. When did you first learn, if you ever did learn,
that Meredith was on the campus?

MR. CATES: We object.

Q. Go ahead.

A. I learned that Meredith was on campus October 1st.

Q. You did not that night of September 30th?

A. No, sir, I did not.

Q. About how many state policemen did you see at that time?

A. I saw around forty.

Q. Around forty?

A. Yes, sir.

Q. Approximately how many marshals?

A. Over three hundred, I would say.

Q. In front of the Lyceum or around it? Were they at this
time around it?

A. They were surrounding the Lyceum.

Q. Were they arm in arm?

A. Shoulder to shoulder.

Q. Shoulder to shoulder all the way around?

A. Yes, sir.