

portion of it.

1  
2 BY THE WITNESS:

3 It may be that I don't have it here with me in the  
4 courtroom. I know I've seen the documents within the  
5 last two days, and it may be that its outside the  
6 courtroom.

7 BY MR. WEIR:

8 Q Why is it that you have all of your other records  
9 and you don't have one on this particular occasion  
10 to show me?

11 A Well, I expected if I testified I would testify  
12 as to my conversation with Mr. Barnett. I had  
13 no idea that I would be testifying about what  
14 Mrs. Barnett said.

15 BY THE COURT:

16 I think we are getting away from the subject too  
17 Mr. Weir.

18 BY MR. WEIR:

19 Q Why didn't you let Mr. Barnett go with you and  
20 explain himself to his wife why he was being  
21 delayed?

22 BY THE COURT:

23 We are just trying to find out about this statement  
24 now so let's don't get off on that trial.

25 BY MR. WEIR:

1 BY MR. WEIR:

2 OH, I thought I could---

3 BY MR. WEIR:

4 No sir, let's get back on the right trail, that's  
5 all we are concerned with right now.

6 BY MR. WEIR:

7 Oh excuse me.

8 BY THE WITNESS:

9 A No sir, I do not have the document with me. I  
10 can get it though.

11 BY THE COURT:

12 No sir, we don't need it. Ask him something else  
13 Counsel.

14 BY MR. WEIR:

15 Q I will go ahead on and proceed on to another  
16 point Judge.

17 BY THE COURT:

18 Well that's what I'm telling you to do.

19 BY MR. WEIR:

20 Q Well you did say on a different occasion when  
21 Mr. Barnett made this purported statement that  
22 you went to his home and talked to his wife and  
23 left him away from home didn't you?

24 BY MR. HAUBERG:

25 We object.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

that's

h me. I

ng else

nother

on when

ent that

wife and

A I did not say that.

Q Well, you went to his home then, you did?

A I have no memory of that. If I did go it was just to explain why he was being delayed, why he had not come home. I have no memory of going.

Q On the occasion he is said to have made this statement you say you interviewed him twice on that day?

A No sir.

Q What day was it that you interviewed him twice?

A The following day.

Q The following day. Well what day was it that he give this purported statement.

A The 20th.

BY THE COURT:

What was the occasion of going back to talke with him when you already had a statement?

BY THE WITNESS:

21st, we made an appointment for him to come back on the 21st because we wanted to show him some photographs of some people that he had mentioned that we did not have with us on the 20th when he gave the statement. He came back on the 21st, and also for him to bring the rifle that he mentioned.

BY MR. WEIR:

1 A Its a photocopy of a check.

2 Q And who is it payable to and who signed it?

3 BY MR. HAUBERG:

4 Your Honor we would like to see that before he starts  
5 testifying about it.

6 BY THE COURT:

7 All right, show it to him Counsel

8 BY MR. ALFORD:

9 Q Who paid that check?

10 A James A. Wooten.

11 Q Who is the payee?

12 A Doyle Barnett.

13 Q Doyle Barnett. That's the name of the man that  
14 signed the statement isn't it?

15 A That's the same name, yes sir.

16 Q What's the amount of the check?

17 A Two hundred dollars?

18 BY MR. HAUBERG:

19 If the Court please we would like for Counsel  
20 to show the date of this check.

21 BY THE COURT:

22 Give him the date of the check.

23 BY THE WITNESS:

24 Q 12-18-64.

25 BY MR. HAUBERG:

1 available for interviews which occurred days after  
2 the statement?

3 BY THE COURT:

4 Whose idea was that?

5 BY THE WITNESS:

6 To pay him?

7 BY THE COURT:

8 Yes sir, that you pay him at all?

9 BY THE WITNESS:

10 I discussed it with him. Inspector Sullivan who was  
11 running this investigation.

12 BY THE COURT:

13 That doesn't answer my question.

14 BY THE WITNESS:

15 Whose idea was it?

16 BY THE COURT:

17 Whose idea was it to pay him, did he ask you for  
18 pay or was it your idea to just pay him without  
19 him asking you or how did you happen to arrive at  
20 three hundred dollars.

21 BY THE WITNESS:

22 Well, Doyle and I were discussing his financial  
23 situation. After he was arrested in this case and  
24 he appeared and stated he feared for his life on  
25 December 10th, it appeared that, this was after he

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

was arrested and he feared for his life on  
December the 10th after it appeared that he  
might have given a statement and he had a fear  
for his life he left his employment and went to  
Arkansas to live with his in-laws, he explained  
to me his financial situation, and I was at that  
time requesting that he see me quite often. As  
to whether or not it was my idea I believe I  
discussed it with Inspector Sullivan and said  
this man is in financial need and he is making  
himself available to me for interviews, he's  
left his job because he fears for his life---

BY THE COURT:

In other words, it was your idea?

BY THE WITNESS:

Yes sir, I would say it was my idea.

BY THE COURT:

And whose idea was it to give him three hundred dollars?

BY THE WITNESS:

Well, I'm the one who judged the amount to give him.

BY THE COURT:

Did he ask you for any specific amount?

BY THE WITNESS:

He did not.

BY MR. WEIR:

1 Q. Now did Agent Rask know about you paying him?

2 A. He did not.

3 Q. Was he with you at all in the same town when you  
4 paid Horace Doyle Barnett?

5 A. No sir, he was not.

6 Q. Where was he at?

7 A. Agent Rask left the Shreveport area on the 21st  
8 or 22nd of November and I have no knowledge of  
9 his whereabouts after that time.

10 Q. Rask knows now that you paid him?

11 A. If he does I'm not aware of it.

12 Q. Have you not told him that you give him this  
13 money?

14 A. I have no memory of discussing with Mr. Rask  
15 any payments.

16 Q. Now, in reference to Mr. Barnett's wife's  
17 condition, isn't it factual that Horace Doyle  
18 Barnett told you and Mr. Rask on the occasion  
19 this statement is said to have been taken that  
20 his wife was pregnant and she was expecting to  
21 give birth to a child within a, uh, less than  
22 twelve days, probably right at that time, and  
23 he needed to be at home? Something like that/

24 A. I have no memory of any conversation like that?

25 Q. Well, do you deny it?

1 BY MR. HAUBERG:

2 If the Court please, we object.

3 BY THE COURT:

4 Sustained.

5 BY THE WITNESS:

6 A Mr. Barnett could have gone home anytime he  
7 wished.

8 BY MR. WEIR:

9 Q Well, you all left and went to his house and  
10 didn't carry him with you to explain why you  
11 were being delayed, why didn't he go and explain  
12 to her?

13 BY MR. HAUBERG:

14 We object to that.

15 BY THE COURT:

16 He may answer.

17 BY MR. WEIR:

18 Q Why didn't he go home to his pregnant wife  
19 and explain to her why he couldn't come home?

20 A I testified that I have no memory of going to  
21 the house, but if I did go, and if someone else  
22 remembers that I went, the only possible reason  
23 I would have for going would be to explain why  
24 he was being delayed.

25 BY THE COURT:



1 You don't have to confecture, we're just interested  
2 in knowing what you know and if you don't know anything  
3 you surely can't testify.

4 BY THE WITNESS:

5 Your Honor, I have no knowledge or no memory of going  
6 there.

7 BY MR. WEIR:

8 Isn't it a fact that every agent of the Federal Bureau  
9 of Investigation has a detailed log showing exactly  
10 the time and date and place and what happened on  
11 anything that is done while an official investigation  
12 is being carried on?

13 A That statement is not exactly correct.

14 Q All right, what is the truth about it then?

15 A The truth is that anytime we interview a person  
16 that may be a defendant we keep what we call an  
17 interview log. It has the time we started the  
18 time it stops, the time the statement is taken  
19 and where it is taken.

20 Q All right sir, now with reference to anytime you  
21 are on official duty don't you keep a detail log  
22 showing the time and place and what's done?

23 A You are speaking of an administrative matter---

24 Q Your daily report, showing in detail what happened  
25 on that day? You kept one and Mr. Rask kept on

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

that particular day didn't you?

A Yes sir.

Q All right, where's it at?

A The daily report that is kept has nothing to do with the case.

Q Then that's not what I asked you? Where's it at?

A The report is at my headquarters.

Q Well, do you have it?

A I do not have them.

Q Well does the Federal Attorney here have it?

A If he has it I'm not aware of it.

Q If the Court please, I move the Court to require the Federal Bureau of Investigation and the United States Attorney to let us examine those documents for the purposes of use in cross-examining this witness if they have such a log.

BY THE COURT:

Would your daily report made on the date on which this statement was made available to you in Meridian, Mississippi?

BY THE WITNESS:

not  
It is/ Your Honor.

BY THE COURT:

Do you know where it is?

BY THE WITNESS:

If it exists its in my office in New Orleans  
We send them to our headquarters and they keep  
them a certain length of time, this is an  
administrative thing that has nothing to do with  
the case. It accounts for my time only.

BY THE COURT:

Yes sir, that's what he wanted to see for clarification  
of what you were testifying about. As I recall you  
said you had seen an excerpt from that report which  
contained one or two paragraphs just a few days ago  
is that right?

BY THE WITNESS:

That one is here, Your Honor. Its just outside the  
door, Your Honor.

BY THE COURT:

All right, what is that one?

BY THE WITNESS:

That's the interview of Mrs. Barnett.

BY THE COURT:

Well would that refresh your memory to see that?

BY THE WITNESS:

It would refresh my memory to know who all was present  
when I talked with Mrs. Barnett.

BY THE COURT:

All right, you may get that. (Witness excused from

the witness stand)

1  
2 BY THE COURT:

3 Gentlemen while we are waiting for him to get the  
4 report, I might say this at this point. We are going  
5 to revise our program just a little bit. We will  
6 observe the same general plan this afternoon that  
7 we have on other days but we'll go to nine o'clock  
8 tonight and we will start at 8:30 Saturday morning,  
9 because we are dragging again.

10 (Witness returned to courtroom and witness stand)

11 BY MR. WEIR:

12 May I examine the report myself?

13 BY THE COURT:

14 Is there anything in there that is secret and doesn't  
15 relate to this case? Just read the part that relates  
16 to your interview with Mrs. Barnett.

17 BY THE WITNESS:

18 Virginia Barnett, General Delivery, Cullen, Louisiana  
19 furnished the following information:

20 BY MR. HAUBERG:

21 If the Court please we would like to ask for the  
22 date on that?

23 BY THE WITNESS:

24 It was on November 21st, 1964.

25 BY THE COURT:

That's the day after the statement, isn't it?

BY THE WITNESS:

Yes sir.

BY MR. WEIR:

I thought he had one on the 20th Judge.

BY THE COURT:

That's what I thought. Do you have one on the 20th?

BY THE WITNESS:

This is the only one that I have listed as an interview with Mrs. Barnett. This is the only time that she was interviewed for information.

BY MR. ALFORD:

Your Honor please, we are not asking for information, we want to know about his going to see Mrs. Barnett to tell her where Horace Doyle was on the 20th, and that's the question we asked him about that he kept hedging about.

BY THE COURT:

Do you have anything on there about you going to talk with Mrs. Barnett on the 20th of what is that? What's the date again please?

BY THE WITNESS:

This date is the 21st of November, 1964.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

By The Court:

All right now, what we were interested in were your notes on the 20th of November, 1964, how do you happen to have just a page on the 22nd and, the 21st and you don't have the 20th?

BY THE WITNESS:

Your Honor, this is the only time that I interviewed Mrs. Barnett for information in this case.

BY THE COURT:

Well, the question is not about an interview the question is to the visit?

BY THE WITNESS:

Yes, Your Honor, but I have no memory of going to Mrs. Barnett's house; however, if I had gone to her house to tell her her husband was going to be a hour late or two hours late I would not have recorded it because it could never have been evidence, and it wouldn't be in the form of a written report.

BY THE COURT:

In other words you just record that which you regard as evidence?

BY THE WITNESS:

Yes sir.

BY MR. HAUBERG:

were your  
to you  
l, the 21st

interviewed

interview

of  
r, if  
er husband  
urs late  
it could  
dn't be

high you

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

If the Court please we are going to object to the 21st day of November because that date is not in issue here anyway.

BY THE COURT:

Yes, that's right, that's sustained.

BY MR. WEIR:

A Now, you did leave the motel about 8:00 o'clock and go to Mr. Barnett's home though and come back and tell him he could go when he got through signing the statement or words to that affect didn't you?

BY MR. HAUBERG:

If the Court please he hasn't testified to that.

BY THE COURT:

Sustained.

BY MR. WEIR:

Q Well did you leave the motel that night around 8:00 o'clock while Agent Rask and Mr. Barnett were together?

A I have no memory of that and I'm sure I did not.

Q And you are just as sure of that as everything else you've testified to?

A I have the interview log that you have mentioned that should show whether or not I left the motel.

Q That's what I want you to get up?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Q And how long would it take you to get that?

A It would only take from thirty seconds to a minute.

BY THE COURT:

All right go get it.

BY MR. WEIR:

Go get it.

(Whereupon witness excused from witness stand)

(Witness back on stand)

BY MR. WEIR:

Q Agent Wooten, did you tell the Judge a while ago that you didn't have that instrument that it didn't exist?

A I did not.

Q Just what did you tell the Judge about that, I thought the Judge asked you about that?

A The Judge spoke to me about which you called a daily report.

Q Well---

BY THE COURT:

Let's get into what he's got, I'm not interested in anything else but what you've got.

BY MR. WEIR:

Q May I see that please?

BY THE COURT:

No sir.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

BY MR. WEIR:

I wouldn't know how to question him without seeing it.

BY THE WITNESS:

Your Honor, this goes into the time the interview with Doyle Barnett started, the time of advising of his rights--

BY THE COURT:

Is that your report?

BY THE WITNESS:

This is the interview log.

BY THE COURT:

Interview log?

BY THE WITNESS:

Yes sir.

BY THE COURT:

What does that tender to reveal?

BY THE WITNESS:

It reveals the time the man was interviewed, the place and whether or not he made any request or complaint during the interview, the time the statement was begun, the time he started reading it, and--

BY THE COURT:

Does it show what you did with regards to

advising him of his rights?

1  
2 BY THE WITNESS:

3 Yes sir.

4 BY THE COURT:

5 I'll let you hand that to Counsel. I believe I'll  
6 just let you read it so everyone can get it all  
7 at one time.

8 BY MR. WEIR:

9 Judge, I notice its about three pages, and he's  
10 only handing me one page and he's holding the  
11 other pages.

12 BY THE WITNESS:

13 Yes, Your Honor, there are other pages. One is  
14 the interview log of the interview of the 19th  
15 the other two are the interview logs for both  
16 the interviews for the 21st.

17 BY THE COURT:

18 Well, what do you have for the 20th?

19 BY THE WITNESS:

20 The 20th? It shows that 11-20-64 that Horace  
21 Doyle Barnett of Cullen, Louisiana, was inter-  
22 viewed by Special Agents Henry Rask and James  
23 a Wooten at the Holiday Motel, Room 19, Spring  
24 Hill, Louisiana as follows: 3:00 P. M. the  
25 interview began. 3:01 P. M., Barnett was

1 advised of his rights; by Special Agent Rask as  
 2 set forth in the signed statement that he fur-  
 3 nished. 5:20 - Barnett/<sup>was</sup>asked if he was hungry  
 4 or thirsty, and he said he was thirsty and he  
 5 was given a Coco-Cola; at 5:21, S/A Rask began  
 6 preparing the statement; at 8:15 P. M. the  
 7 statement was finished and given to Barnett to  
 8 read and to make any changes or corrections.  
 9 At 8:42, Barnett finished reading the written  
 10 statement and added a closing paragraph and  
 11 signed the statement. At 8:56 the interview  
 12 was terminated.

13 BY THE COURT:

14 Does that purports to be everything that happened?

15 BY THE WITNESS:

16 Your Honor, I wouldn't say it was everything  
 17 that happened, it was the things that we are  
 18 required to record that are important. Any re-  
 19 quest or complaints, the time the statements  
 20 began, the time the interview began, but does  
 21 not purports everything that happened.

22 BY THE COURT:

23 Would you think going to the mans' home would be  
 24 as important as giving him a Coco-Cola?

25 BY THE WITNESS:

I believe I'll  
 get it all  
 s, and he's  
 lding the  
 es. One is  
 f the 19th  
 for both  
 at Horace  
 was inter-  
 and James  
 19, Spring  
 M. the  
 : was

I---

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

BY THE COURT:

If you had gone there, would you have recorded something as important as going to his home as when you recorded giving him a Coco-Cola?

BY THE WITNESS:

I probably would not have thought it was as important since it did not pertain to the man himself.

BY MR. WEIR:

Q Well, the fact that it was the man's wife who was pregnant and expecting the birth of a child at any moment, wouldn't you consider that important to him as getting a Coco-Cola?

A As important to Horace Doyle Barnett?

Q Yes.

A I wouldn't know exactly how to answer that sir.

Q Well you were able to give your opinion a while ago and I take it that you still can give an opinion, you are a man aren't you?

A I would say that a man's wife would be very important to him. I have told you I have no memory of going to his home, if I went to his home it would be at his request.

BY THE COURT:

1 BY THE COURT:

2 Well we don't have to conjecture about what you  
3 know, we just want to know what you know now.

4 BY THE WITNESS:

5 I have no memory of going to his home.

6 BY THE COURT:

7 You've told us that several times and I don't  
8 care to hear it anymore. Go along.

9 BY MR. WEIR:

10 Q Your Honor please, I would like to examine the  
11 instrument that he's read.

12 BY THE COURT:

13 Did you read all of it?

14 BY THE WITNESS:

15 Yes sir.

16 BY THE COURT:

17 Request declined.

18 BY THE COUNSEL WEIR:

19 What was that Judge?

20 BY THE COURT:

21 Declined.

22 BY MR. WEIR:

23 Declined?

24 BY THE COURT:

25 Yes sir.

1 BY MR. WEIR:

2 Q Why didn't y'all arrest Horace Doyle Barnett upon  
3 him giving y'all such a statement?

4 BY MR. HAUBERG:

5 We object to that if the Court please.

6 BY THE COURT:

7 What was the question please?

8 BY MR. WEIR:

9 Why they did not arrest anybody, in other words  
10 y'll didn't make any arrest or did you make any  
11 arrest?

12 A We did not.

13 BY THE COURT:

14 Of course, you are not before a jury now so I'll  
15 sustain the objection.

16 BY MR. WEIR:

17 Q Was he under arrest at the time the statement was  
18 given?

19 A No sir, he was not under arrest.

20 Q Who want and got this Coco-Cola for him?

21 BY THE COURT:

22 Do you think that's very important?

23 BY MR. WEIR:

24 I am advised it is, Your Honor please.

25 BY THE COURT:

1239  
1241

I don't think it is.

BY MR. ALFORD:

Your Honor please we have to right to know who left?

BY THE COURT:

Well, I wouldn't be impressed if I knew.

BY MR. WEIR:

Q On the 19th how long did you hold this man?

BY MR. HAUBERG:

We object to the wording of that question.

BY THE COURT:

Overruled.

BY MR. WEIR:

Q How long did the interview last on the 19th?

A On the 19th the interview lasted from 5:20 P. M. until 7:20 P. M.

Q And how long did it last the 18th?

A On the 18th, it lasted from 9:30 A. M. until 11:30 A. M.

Q How long did it last on the 17th?

A The 17th, I interviewed Doyle from 6:10 P. M. until 8:00 o'clock P. M.

Q And you all were armed on each of those occasions?

You and Agent Rask, or you were along?

BY THE COURT:

Barnett upon

ther words

make any

now so I'll

tatement was

im?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Were you wearing sidearms that were visible to anybody?

BY THE WITNESS:

No sir.

BY MR. WEIR:

You did have arms, that is pistol on you?

A. I always have a pistol available and I seldom wear it and would not have been wearing it at the time/

Q. Could you tell Mr. Barnett that he was a suspect or words to that effect?

Q. On which occasion?

Q. On the 19th we'll say?

A. I did not.

Q. Well what about the 19th?

A. No sir.

Q. What about the 19th?

A. No sir.

Q. Well what did you tell him was the explanation that you kept questioning him?

A. I told him I wanted to speak with him about the Klan in the Meridian area on the 17th when I interviewed him.

Q. Did you tell him you thought he knew something about it?



42  
sible to

1242  
1243

you?  
I seldom  
ing it at  
as a suspect

explanation  
im about the  
ch when I  
w something

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

A About the Klan?

Q Yes sir. Did you tell him you knew he might be a member?

A He told me he was a member.

Q Yes sir. And uh, just one minute, Judge.

BY THE COURT:

Did anybody display a gun there in the presence of Mr. Barnett at any time during this interview?

BY THE WITNESS:

No sir.

BY THE COURT:

Was any kind of force or threats used at all toward this man while you were taking his statement?

BY THE WITNESS:

No sir, he was very cooperative

BY THE COURT:

Did you use any kind of pressure on him to get him to give you the statement or sign the statement?

BY THE WITNESS:

No pressure whatsoever.

BY THE COURT:

All right gentlemen I've heard just about all I care to hear about this.

1 BY MR. WEIR:

2 Well, in view of the Court's ruling, that's all.

3 BY THE COURT:

4 Well, if you've got another question, but ask  
5 him something that relevant now.

6 BY MR. WEIR:

7 Q. He did tell you about this incident on the 19th  
8 didn't he Mr. Barnett?

9 A. No sir, he did not.

10 Q. There wasn't any need to advise him of his rights  
11 on the 17th as you call it was it?

12 A. Yes sir, there was a reason.

13 Q. What reason was it?

14 A. Because I realized he was a member of the Klan  
15 and I was interviewing him as a possible suspect  
16 and I advised him of his rights.

17 Q. He didn't have any attorney present?

18 A. No sir, he did not.

19 BY THE COURT:

20 When you got this statement from Mr. Barnett were  
21 you getting it for evidence in this case?

22 BY THE WITNESS:

23 This statement on the 20th?

24 BY THE COURT:

25 Yes sir.

that's all.

1 BY THE WITNESS:

2 Yes sir, we were.

3 , but ask

4 BY THE COURT:

5 In other words that was your purpose for getting  
6 it to use it in evidence in this case?

7 on the 19th

8 BY THE WITNESS:

9 Yes sir.

10 BY THE COURT:

11 of his rights

12 So you had quit investigating and you had gone  
13 to looking for evidence to use against him in  
14 this case?

15 BY THE WITNESS:

16 of the Klan

17 On the 20th when he entered the room he told us

18 sible suspect

19 I know what you're after. Up until this time  
20 this case had not been mentioned to him.

21 BY THE COURT:

22 ?

23 Did you understand my question?

24 BY THE WITNESS:

25 . Barnett were

26 Yes, Your Honor, I believe I do.

27 case?

28 BY THE COURT:

29 I want to know whether you were still investigating  
30 or had quit investigating him and had gone to  
31 try and look for some evidence to convict him on?

32 BY THE WITNESS:

33 At the time he gave us the statement I was well

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

aware that this would be used as evidence against him.

BY THE COURT:

But do you know as far as you were concerned had passed out of the investigatory stage and had gone into the accusatory stage? Do you understand my talking?

BY THE WITNESS:

I'm not sure I do, Your Honor.

BY THE COURT:

Well there is some difference and it makes some difference about whether or not you were simply investigating this case to find out what you could about this case and as to whether or not it had passed that stage and gone into the stage where your department was looking for evidence to convict the person of the charge. Now, my question is which stage were you in when you took this statement on him? November, 1964?

BY THE WITNESS:

Your Honor, on November the 20th when we took the statement we were well aware of the fact that Horace Doyle Barnett was involved in this case and I would say that we were looking for evidence.

ence against

ncerned had

and had gone

derstand my

makes some

ere simply

hat you could

not it had

tage where

nce to

w, my

hen you

, 1964?

we took

he fact

d in this

king for

BY MR. WEIR:

Q Well actually weren't you aware on the 17th that he was connected with the case?

A No sir, I wouldn't say that.

Q Well, you were before the 20th, when was it, the 18th or 19th that you decided that he was?

A I knew it on the 19th.

Q Yes sir. On the 19th day and before the 20th even you knew he was a prime suspect in this case, didn't you?

A On the 19th.

BY THE COURT:

Did you tell Mr. Barnett that?

BY THE WITNESS:

No sir.

BY THE COURT:

You never did tell him that?

BY THE WITNESS:

On the 19th?

BY THE COURT:

No, on the 20th. Let me see, did you tell Mr. Barnett before you started taking his statement that you were satisfied that he was connected with the incident you were investigating and that you wanted to talk to him to see if he would

1 give you some evidence to convict him on?

2 BY THE WITNESS:

3 Your Honor, I'm sure I understand just what  
4 you want. Could I briefly state what I knew  
5 and why?

6 BY THE COURT:

7 Yes, very briefly.

8 BY THE WITNESS:

9 On the 20th, when he entered the motel room, he  
10 said, I know what you are really after and I'm  
11 going to tell you about it, add as to what I told  
12 him I don't know except we advised him of his  
13 rights again, but we were well aware of the fact  
14 that he knew what we wanted to know, and I'm  
15 sure that sometime during the interview we,  
16 before the interview got into any length of time,  
17 we told him, yes we knew.

18 BY THE COURT:

19 Then you don't feel that you slipped up on him  
20 or took advantage of him in anyway?

21 BY THE WITNESS:

22 No sir, he was well aware of it on the 19th of  
23 what we were after.

24 BY THE COURT:

25 Any questions by the government?

him on?

BY MR. HAUBERG:

No, Your Honor.

just what

BY MR. HENDRICKS:

what I knew

May I ask him one question?

BY THE COURT:

Yes sir.

BY MR. HENDRICKS:

otel room, he

Q If you didn't slip up on him why did you put it in writing and have him sign it?

fter and I'm

A That's--

to what I told

Q You just wanted to use it in evidence against him in this trial, didn't you?

him of his

A That's not slipping up on him.

re of the fact

Q You don't call that slipping up on him?

w, and I'm

A Well, certainly not. The man was conscious-stricken, he wanted to give us a statement. He said he was only sorry he couldn't give it to Mr. Hoover.

review we,

Q How could you tell he was conscious-stricken?

length of time,

A I'm sure he was.

ed up on him

Q Isn't it true that you all told him somebody had already told you that he might as well tell?

the 19th of

A No, that's not true at all.

Q But you were out to get evidence and you get evidence, didn't you?

1 BY MR. HAUBERG:

2 If the Court please that's an opinion of the  
3 witness.

4 BY THE COURT:

5 Yes, I'll sustain your objection.

6 BY THE COURT:

7 Gentlemen, I think I've found out enough about  
8 this matter it looks to me like the "Bureau took  
9 a statement from this man after advising him of  
10 every legal right that he had and I think that  
11 this man knowingly and understandingly and  
12 intelligently told these people in a statement  
13 which I have not had an opportunity yet to read  
14 exactly what he knew and intended to tell them  
15 and I think the statement was completely free  
16 and voluntary and I think that the statement  
17 is admissible in evidence against Mr. Barnett  
18 only but not admissible of course as to the other  
19 defendants, and that will be the ruling.

20 BY MR. WATKINS:

21 If the Court please, we have one more assignment  
22 to make as to the objection of the admissibility  
23 of that statement and that is this. That the  
24 contents of that statement is inconsistent  
25 with the government's witness as of yesterday,



on of the

Mr. Jim Jordan, and can not impeach his own witness and for that reason we object to it.

BY THE COURT:

Well, that's a question for jury to resolve in weighing evidence, I'll overrule that objection.

You may bring the jury back.

ough about

BY MR. WEIR:

Judge, would you grant us just about three minutes here to confer around the table because its a very serious matter.

"Bureau took

rising him of

think that

gly and

a statement

yet to read

o tell them

etely free

statement

c. Barnett

s to the other

ling.

BY THE COURT:

I know it is all of this is a very serious matter. All right, go along and confer.

BY MR. HENDRICK:

May it please the Court, if the Court holds that this statement is admissible we hold on behalf of the other defendants that everything pertaining to the other defendants be blocked out before it is tendered to the jury.

BY MR. WERI:

If the Court please on behalf of the defendants, Price, Burrage, Killen, Posey, Sharpe, Willis and E. G. Hop Barnett we would like to call Horace Doyle Barnett to the stand outselves to prove that the statement was not free and voluntary

re assignment

admissibility

That the

sistent

yesterday,

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

and is not admissible.

BY THE COURT:

I'm through with that motion. I offered you that opportunity a few minutes ago and you've heard me decide the motion and that motion is denied.

BY MR. WEIR:

Your Honor please, I could not present him as he was a defendant and I understood the other side ---

BY THE COURT:

I've already passed on the question so that's out. I'm not going to go back and try it again.

BY MR. WEIR:

Then if the Court please, I move that the Court grant a severance in this case for defendants Price, Killen, Posey, Burrage, Sharpe, Willis, and E. G. Hop Barnett from this defendant, Horace Doyle Barnett and grant them a separate trial from him because from this purported statement would be prejudicial to my clients.

BY MR. FIGFORD:

We also join in that motion on behalf of

our client, Mr. B. L. Akin.

BY MR. WATKINS:

Of course, all of the defendants join in that motion, Your Honor.

BY THE COURT:

I understand that.

BY MR. WEIR:

If the Court please, I have some authority, not fight before me, but there is some authority to the effect if the Honor would like to have it.

BY THE COURT:

Well that is a matter addressed to the sound discretion of the Court. I would like to examine that statement before passing upon it because if it is a statement that can be blocked out I would like to see that. It was indicated in conference yesterday that maybe if all the matters pertaining to the other defendants was blocked out that it might not make sense and I don't know what I would say about that, but ordinarily I would say a conspiracy trial such as this ought to be conducted against all the defendants, because it would be utterly unconceivable for my mind that you would have

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

several different trials of a conspiracy because  
you might reach different result and some or maybe  
all of the case, and that certainly wouldn't be  
right. Let me see that statement. (Statement  
handed to Court.) I don't believe I've heard  
Mr. Doar. What would you say as to whether or  
not that statement would bear blocking out to  
all reference to these other defendants and still  
make some sense.

BY MR. DOAR:

If it please the Court, I believe it would Your  
Honor and I have a blocked out statement here  
for inspection of the Court and Counsel.

BY THE COURT:

I don't believe these other people ought to be  
prejudiced a bit by a statement that one of the  
co-defendants made and frankly that would be  
strong infidential with me whether the statement  
of Mr. Barnett could be blocked out.

BY MR. DOAR:

I believe it can, Your Honor.

BY MR. WEIR:

Your Honor please, I would like to call to the  
Court's attention the fact that there is a  
very severe variance in the statement made by

rather the purported statement made by Travis Barnett, I mean Horace Doyle Barnett, and in the testimony made by certain government witnesses and that we should be given the advantage of the inconsistencies, I submit, Your Honor, if the Court puts it in, of course we are subject to it.

BY THE COURT:

I certainly think you would be entitled to that the fact there is an inconsistency wouldn't mean it wouldn't be competent.

BY MR. WEIR:

Yes if the Court please, but I did want the Court to know there is a very inconsistency between the two.

BY THE COURT:

I understood Mr. Watkins to say that.

BY MR. McINTIRE:

Your Honor on the blocking out of the names in this statement, I see that are some titles affixed to some names and we would respectfully request that those titles be removed also.

BY THE COURT:

Those what? I didn't understand you Counsel.

BY THE COURT:

Those titles that are affixed to some of the

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

names, Your Honor, we would ask that they be blocked out also.

BY MR. ALFORD:

Your Honor please, we would like to have a conference and see those suggestions that are being blocked out.

BY THE COURT:

All right, let's, do you have one of those statements blocked out?

BY MR. DOAR:

Yes, Your Honor.

BY THE COURT:

Show them the one you are going to show me.

BY MR. DOAR:

May I have about two minutes to make all the copies conform with this one?

BY THE COURT:

Yes, you surely may.

BY MR. WATKINS:

May it please the Court, I've been advised by Counsel that this witness just on the witness stand that some correction was made and some memorandum written on the back of the confession. I didn't understand that myself, I don't know what he said but the copy that I've been furnished

: they be

with does not have anything on the back and for that reason we would like to see the original at this time if we may.

have a

BY THE COURT:

: that are

I don't believe he said Counsel that anything was written on the back of the statement. He said that something was added to the statement before he would sign it, that that was his correction.

: those

BY MR. WATKINS:

Oh, I see.

show me.

BY MR. WATKINS:

I didn't think he said it either, Your Honor, but Counsel also seemed to think he did.

, all the

BY MR. ALFORD:

He said he wrote a paragraph.

advised by

BY THE COURT:

He said he wrote a paragraph, but he didn't say he put it on the back.

e witness

BY MR. HAUBERG:

and some

Your Honor, that is the practice of the F. B. I. to have the individual to write that paragraph and as I recall it the last paragraph was the statement a copy of which was furnished to Counsel a long time ago.

e confession.

on't know

been furnished

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

BY MR. WATKINS:

That was my understanding, Your Honor, I was just trying to make sure.

BY MR. HENDRICK:

May we have a little longer off at six o'clock?

BY THE COURT:

Are you through with that Mr. Doar?

BY MR. DOAR:

Almost Your Honor.

BY THE COURT:

All right. I don't believe you need to make copies. Show Counsel what you are interlining and they can make theirs conform with that and I would like to see what you are doing. Just be absolutely sure that there is nothing left in that statement that would implicate any of these other defendants, that's what I'm suggesting.

BY MR. ALFORD:

If the Court please, I understand that we are going to be afforded time to examine these are we not?

BY THE COURT:

You sure will. I want to see if you can remove it to a point by removing these other people and still leave it Mr. Barnett's statement.



BY MR. HENDRICKS:

They have blocked it our Your Honor where it can't be read.

BY MR. DOAR:

Wait I haven't finished.

BY THE COURT:

He's just showing you what he's going to block out. Get what you want out, I think the statement ought to be rewritten to have that completely out, not just covered or taped because sometimes people can lift tapes and see something under it and I wouldn't want that to happen.

BY MR. DOAR:

Would we just use blank and blank?

BY THE COURT:

Yes sir.

BY THE COURT:

You might could use some masting and make a photocopy of it and still have your signature on it. I've been trying to clean up all of these old criminal cases because I think these defendants are entitled to a speedy trial and I don't think these have had a speedy trial.

BY MR. WATKINS:

It's gone pretty fast after it got started.

1 BY THE COURT:

2 I hope it hasn't been too fast, Mike. This  
3 agreement about blocking out those names in  
4 that statement in a test that I've given you  
5 because I've simply said there should be no  
6 reference whatsoever to any one of these defendants  
7 and that shouldn't be hard to understand.

8 BY MR. HENDRICK:

9 Your Honor there may be some things that we  
10 might think should be marked out that they  
11 don't mark out.

12 BY THE COURT:

13 Well, those are the things I'll take up with  
14 you. I will take up the blocking out and the  
15 criticism of the blocking out with Counsel in  
16 chambers.

17 (Whereupon the Court took a recess for lunch  
18 at 11:50 A. M.)

19 AFTER RECESS:

20 HENRY RASK, recalled to witness stand on behalf of  
21 Plaintiff, having been sworn and testified as follows:

22 (JURY BACK IN COURTROOM)

23 BY MR. DOAR:

24 Q Will you tell the Court and Jury your name?

25 A Henry /Rask.

Q What is your occupation?

A Special Agent, F. B. I.

Q How long have you been a special agent with the Federal Bureau of Investigation?

A Since April 29, 1963.

Q Were you a Special Agent in the year 1964?

A Yes sir.

Q And were you signed to work on the case of the three missing civil rights workers in Neshoba County, Mississippi?

A Yes sir.

Q Were you in the State of Louisiana in November 19, 20, & 21, 1964?

A Yes sir.

Q Do you know Horace Doyle Barnett?

A Yes sir.

Q Did you interview him on November 20th?

A Yes sir.

Q Did you take a statement from him on that day?

A Yes sir.

Q And where was this statement taken?

A In a motel near Springhill, Louisiana.

Q And what were the circumstances of him coming to the motel room?

A Well, we had contacted Mr. Barnett on the 19th

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

and had talked to him at that time but we had to terminate our interview on account of his employment, he's a truck driver and he had to take a trip from Louisiana where he was working there to Texas and back that night, and upon his return from that trip he contacted us and we met him at the motel.

Q About what time of the day was it?

A Around 3:00 o'clock.

Q Was anyone with you?

A Yes sir, James Wooten.

Q And did you thereafter take a statement from him?

A Yes sir.

Q Prior to that did you advise him of his rights before making a statement to agents of the Federal Bureau of Investigation?

A Yes sir.

Q What did he say? Rather, what did you say to him?

A I advised him that he did not have to make a statement, that any statement he made could be used against him in a court of law and that he had the right to consult with an attorney.

Q What did he say to you, if anything?

BY MR. COVINGTON:

We object to anything that he might have said?

BY THE COURT:

With respect to what you were talking to him about that is as to his rights, you may answer that.

BY THE WITNESS:

Q. Uh, he indicated that he wanted to make a statement.

Q. And how long did he remain with you that day or how long did it take you to obtain a statement?

A. Mr. Barnett informed me of the facts as to the statement, and then I discussed the facts with him and made sure I had everything clear, and then I reduce it to writing and then discussed the facts with him as we wrote them down, rather when I wrote them down, and the statement, well, Mr. Barnett left the motel room about 8:56, I believe it was.

Q. And before leaving the hotel room did he read over the statement?

A. Yes sir.

Q. What are the circumstances and the method and procedure of obtaining a signed statement?

A. Well an agent talks with the person that is going

1 to give the statement---

2 BY MR. WATKINS:

3 We object to the procedure, Your Honor.

4 BY THE COURT:

5 Yes, just tell us what you did in this case.

6 BY THE WITNESS:

7 A I talked to Mr. Barnett about the circumstances  
8 involved that we were interested in and he ex-  
9 plained those facts in detail and then it was  
10 reduced to writing.

11 Q Then after the statement was reduced to writing  
12 can you tell me whether or not Horace Doyle  
13 Barnett went over the statement?

14 A Yes sir. He read the statement and corrections  
15 were made in the statement and he initialed each  
16 correction.

17 Q And did he thereafter sign the statement?

18 A Yes sir, he wrote a paragraph at the end of  
19 the statement and then he signed it.

20 Q Prior to this interview or at the time this inter-  
21 view started, did you make any promises to Horace  
22 Doyle Barnett?

23 A No sir, I did not make any promises.

24 Q Did you use any force in obtaining the statement?

25 A No sir.

Q Did you make any threats to Mr. Barnett in connection with making the statement?

A No sir.

Q During the taking of this statement was Horace Doyle Barnett free to leave the room at anytime?

A Yes sir.

BY MR. WATKINS:

Object, Your Honor, that calls for a conclusion.

BY THE COURT:

Overruled.

BY MR. WEIR:

We object to his leading too.

BY THE COURT:

Overruled.

BY MR. DOAR:

Q Did you say after he read over the statement that he then signed it?

A Yes sir.

Q Do you have that statement with you?

A Yes sir I do.

Q May I have that marked, Your Honor?

BY THE COURT:

Do you gentlemen wish to make any objections?

BY MR. COVINGTON:

May it please the Court we object to the statement

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

being marked as an exhibit and ask that the Court  
exclude it at this time.

BY THE COURT:

Do you want to make any further record than  
what you have already made?

BY MR. COVINGTON:

Not at this time, Your Honor.

BY THE COURT:

You may treat and consider the record that you've  
already made as a record now before the Court  
and the Court will make the same ruling on  
your motion that it made in the absence of the  
Jury.

BY MR. WATKINS:

Yes sir, Your Honor, the basis of our objection  
at this time stated in the reason before.

BY THE COURT:

That's what I'm saying, that's the record and  
my ruling will be the same right now and your  
objections noted. All right, that statement  
with the deletion from it may be entered and  
marked.

(Whereupon exhibit entered into evidence and  
marked)

BY MR. WEIR:



1266  
 at the Court  
 Your Honor please, is he just offering it for identification?

BY THE COURT:

No he's offering it into evidence.

BY MR. WEIR:

1267  
 We object then if Your Honor please for our defendants and move the Court to grant us a severance and a mistrial too.

BY THE COURT:

Well, we spent quite a time in chambers on this matter and I think I've stated in the record without restating it here in the presence of the jury about my reaction to it. With effort expended on it with the view of not having a severance so I'll overrule both objections, both your objection to the evidence and your objection to a severance.

BY MR. WEIR:

May the objection and motion continue instead of making it each time?

BY THE COURT:

Well I don't think the question is going to rise again, you made your objection to the admissibility of it and I've overruled it so that'll never arise again.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

BY MR. WEIR:

Thank you.

BY THE COURT:

All right.

BY MR. BUCKLEY:

Your Honor for the record May I make my objection on the record and the reasons for it?

BY THE COURT:

Yes sir.

BY MR. BUCKLEY:

That being that the evidence in this statement except for the defendant making this statement, that this statement be confusing to the jury and we say misleading to them with the deletion and omissions and will be highly prejudicial to these defendants.

BY THE COURT:

Well, I don't agree to that. Of course I didn't strike out all of the defendants. It is someone else in there other than the defendant and the jury have been instructed and they are now specifically instructed and they will be again later specifically instructed to not treat or regard this statement of Mr. Doyle Barnett of any evidence or proof of anything whatsoever