

1 BY THE COURT:

2 Is it customary when a person is arrested for speeding
3 that you arrest the other occupants of the car too?

4 BY THE WITNESS:

5 No everytime, as far as speeding, no sir.

6 BY MR. ALFORD:

7 Q Sir, I hand you exhibit 3 to the testimony of Mrs.
8 Frank Chisolm and ask you if you recognize that
9 form of ticket there?

10 A I do, its one of the Sheriff's department and the
11 Constables all use.

12 Q Is that not one used other than by the Mississippi
13 Highway Patrol that is set out or specified
14 by the State Department of Audit to make arrests
15 or other violation?

16 A It is.

17 Q And you are familiar with that form are you not?

18 A I am.

19 Q Sir, I would like for you to look at exhibit numbe
20 PQ13 to thes testimony of Mrs. Frank Chisolm
21 and I ask you sir if that's not a standard arrest
22 ticket there?

23 A It is.

24 Q And I ask you sir if that ticket does not pertain
25 to James Chaney?

- 1 A. It is.
- 2 Q. And what is the charge there?
- 3 A. Speeding.
- 4 Q. And what is the date on there sir?
- 5 A. 6-21-64.
- 6 Q. That would be the 21st day of June, 1964, is that
- 7 correct sir?
- 8 A. Yes.
- 9 Q. Now Mr. Poe, after you had assisted Mr. Price,
- 10 you and Mr. Wiggs in making the arrest of Mr.
- 11 Chaney, Mr. Schwerner and Mr. Goodman, did you
- 12 recognize who these people were at that time?
- 13 A. I did not/
- 14 Q. You just knew they were two whites and a negro
- 15 is that correct?
- 16 A. It is.
- 17 Q. And you and Mr. Wiggs left the vicinity of the
- 18 jail and went to the vicinity of the court square?
- 19 A. We went to the police station first and then over
- 20 to the east side of the courthouse.
- 21 Q. Now, when you went to the police station what
- 22 disposition was made of this station wagon?
- 23 A. It was parked in the parking lot at the police
- 24 station.
- 25 Q. Was that a parking lot that is normally served

1 for cars of occupants or drivers incarcerated
2 in the jail?

3 A. It is on the weekends.

4 Q. On the weekends, and that parking lot is it or
5 not big enough to hold several automobiles?

6 A. It is.

7 Q. And is that not a routine operation of people in
8 that vicinity as I said drivers who had been in
9 jail over the weekends?

10 A. It is.

11 Q. Now, as you proceeded to the city hall, was or not
12 that station wagon placed in that parking lot?

13 A. It was.

14 Q. Who placed it in there?

15 A. I don't know where Patrolman Wiggs did, he drove
16 it up there, he did as far as I know.

17 Q. And then whenever he had left the station wagon
18 down there in that parking lot there bysides the
19 City Hall, where did you and he go?

20 A. We went to the east side of the courthouse and
21 talked to Inspector King.

22 Q. Then later on you heard some traffic somewhere
23 over in the evening around 6:00 o'clock P. M.
24 in regard to this disturbance out on 488, is
25 that correct, is that what you testified to?

- 1 A. Yes sir, it is.
- 2 Q. Did you know the nature of that disturbance?
- 3 A. It was disturbance out on the Kilpatrick place,
4 that's all I know.
- 5 Q. And they were calling for the assistance of the
6 Sheriff or the Sheriff's Deputy, is that correct?
- 7 A. It was.
- 8 Q. And as far as you know somebody responded to it?
- 9 A. As far as I know somebody did, I don't know who.
- 10 Q. Now, I would like to ask you sir, was anything,
11 did you see anything out of the way there at
12 Philadelphia there that afternoon, unusual
13 traffic flowing or anything?
- 14 A. I did not.
- 15 Q. Uh, and you and Mr. Wiggs continued to patrol
16 as you normally do in the course of business that
17 afternoon?
- 18 A. Right.
- 19 Q. Now, I believe you testified that you saw Mr.
20 Price place all three of these people in the jail,
21 is that right?
- 22 A. He went down the hall with him, or them, we
23 left.
- 24 Q. And did he not he tell you he had one of them
25 for speeding and the other two for investigation

- 1 on a certain matter?
- 2 A. He did later on there at the car when we were
- 3 talking to Inspector King.
- 4 Q. And what was that investigation for?
- 5 A. Church burning.
- 6 Q. Had or not a church been burned in that vicinity?
- 7 A. I didn't know anything about it.
- 8 Q. Then he was the one that told you he was investi-
- 9 gating a church burning?
- 10 A. Right.
- 11 Q. Is that or not customary for anyone where there
- 12 has been arson committed to take people and arrest
- 13 them for investigation of felonies.
- 14 A. That's his job.
- 15 Q. That's his responsibility and you are familiar
- 16 enough with peace officers to know this do you
- 17 not?
- 18 A. Right.
- 19 Q. Now sir, later on in the afternoon on toward
- 20 night, did you all make other roads other than
- 21 there in town?
- 22 A. Yes sir, we patrolled the whole county.
- 23 Q. The whole county. Then you say you normally go
- 24 off duty at 10:00 o'clock?
- 25 A. Right.

1 Q Or shortly thereafter, and until you go off duty
2 isn't it customary for the highway patrol to sat
3 up there at either east of town, west of town,
4 south of town or north of town?

5 A Yes sir, we sit at all places.

6 Q And has or not there been a lot of traffic vio-
7 lations in the nature of drag racing or unusual
8 speeding in two or three locations in Neshoba
9 County on Sunday nights?

10 A It has.

11 Q Was or not one of those locations out east of
12 town on highway 16?

13 A East and south.

14 Q East and south on highway 19.

15 Q Tell the Court and Jury whether or not there is
16 a drive-inn cafe between Pilgrim's Store and
17 the City of Philadelphia which is quite popular
18 for younger people to congregate in the nighttime?

19 A It is.

20 Q And does not that create quite a bit of congestion
21 and traffic hazards in that area?

22 A It does.

23 Q And does not this congestion contribute to the
24 danger to the use of highway 19 in the vicinity
25 of Pilgrim's Store?

- 1 A It does.
- 2 Q And is or not that a place where you and Mr. Wiggs
3 the other highway patrolman try to prevent
4 traffic violation and in turn loss of lives and
5 injuries on highways in that area?
- 6 A It is.
- 7 Q In other words, there is nothing unusual about
8 you being there that night at 10:00 o'clock or
9 shortly thereafter on June 21st, 1964?
- 10 A Pilgrim's Store?
- 11 Q Yes sir.
- 12 A We sit there a lot.
- 13 Q That's routine with you, is it not?
- 14 A Yes sir.
- 15 Q Now sir on this occasion when someone stopped
16 and asked you where was Price did you, or was
17 that an unusual request of you, has that been
18 made of you about other peace officers?
- 19 A Lots of times.
- 20 Q And there was nothing unusual about that?
- 21 A I didn't that night.
- 22 Q Did you see any unusual activity on that road
23 at that time?
- 24 A I did not. Traffic was just heavy.
- 25 Q Traffic was heavy, people were traveling on that

1 road that night. Now I believe you testified
2 that you received from your control station
3 which is located where, Mr. Poe?

4 A. Meridian.

5 Q. Is that your district headquarters of the highway
6 patrol?

7 A. Yes sir.

8 Q. And from there sir, where were you directed to
9 go?

10 A. Go to the county line on 15 north.

11 Q. And that is to the north of Philadelphia isn't
12 it. Is that near a community called Stillo?

13 A. It is.

14 Q. And did you go?

15 A. I did.

16 Q. And would you tell this court and jury whether
17 or not you saw anything unusual out in that
18 area at the time you were staying there at
19 Pilgrim's store or when you left to go north?

20 A. I didn't see anything out of the way.

21 Q. If the Court will indulge me just a moment.
22 If it please the Court, Mr. Weir has a series
23 of about six questions he would like to ask.

24 BY THE COURT:

25 All right.

FURTHER CROSS EXAMINATION

BY MR. WEIR:

Q Mr. Poe, the color of the hair of all three of these parties was black wasn't it?

A I don't remember.

Q You never noticed.

A I didn't pay that much attention to them.

Q You can not positively swear on your oath that you saw Billy Wayne Posey on the night of June the 21, 1967.

A I didn't, what year and what date?

Q On June 21, 1967 you can't vouch

BY ASSOCIATE COUNSEL:

1964.

BY MR. WEIR:

Q Excuse me, 1964.

BY THE COURT:

Ask your question over Counsel, let's get straight here for once, take your time.

BY MR. WEIR:

All right Your Honor, I'm sorry, forgive me, Your Honor.

BY THE COURT:

Go along.

BY MR. WEIR:

1 Q. You can not now positively swear under your oath
2 that on June 21, 1964 you saw Billy Wayne Posey?

3 A. I didn't know him that night.

4 Q. Well, you can't positively swear now that you saw
5 him at that time, as far as being certain can you?

6 A. As far as being certain, no, but I say it was.

7 Q. What?

8 A. In my opinion, yes.

9 Q. But you are not swearing to a actual fact that it
10 was are you?

11 BY THE COURT:

12 Everything he's saying he's swearing to, Counsel.

13 BY MR. WEIR:

14 All right then, if Your Honor please, I 'll state
15 it this way.

16 Q. Are you positive it was?

17 A. I say he looks like the man I saw down there that
18 night.

19 BY MR. HAUBERG:

20 If the Court please I think he has a right to give
21 his best recollection.

22 BY THE COURT:

23 I think that's correct, and he's right to state who
24 in his best judgment that person was at this time and
25 if he didn't know at that time and he has since found

1 out his identity of that person, he has the
2 right to state his knowledge of the identity of
3 that person. All right.

4 BY MR. WEIR:

5 May I ask him then, Your Honor, if you are just
6 testifying to opinion and judgment and not what you
7 just actually know, is that correct?

8 A Ask that again.

9 Q You can't actually identify that person that you
10 saw on June 21, 1964 as being Billy Wayne Posey.

11 A That's who I have found out to be.

12 BY MR. HAUBERG:

13 We object.

14 BY THE COURT:

15 He's answered the question.

16 BY MR. WEIR:

17 Q Now, you say you had chased this vehicle involved
18 before, the red vehicle?

19 A One that looked like it.

20 Q Who was driving the vehicle when you checked it
21 before?

22 A Jerry Sharpe.

23 Q You never chased Billy Wayne Posey?

24 A Not as I know of.

25 Q Well, you've never chased Billy Wayne Posey at

1 all have you?

2 A. Not that I know of.

3 Q. You never did stop the vehicle?

4 A. I did not.

5 Q. At the time you saw Mr. Willis he was in the
6 City limits wasn't it?

7 A. Right.

8 Q. And that was his place to be wasn't it?

9 A. Right.

10 Q. Did Inspector King, your Superior to you, have
11 any reward money to offer in this case?

12 BY MR. HAUBERG:

13 We object to that if the Court please.

14 BY THE WITNESS:

15 A. Not that I know of.

16 BY THE COURT:

17 Witness when Counsel asks you a question and Counsel
18 objects, you wait until the Court rules on the objection.

19 BY THE WITNESS:

20 Yes sir, I'm sorry.

21 BY MR. WEIR:

22 Q. Did anyone have any reward money in your presence
23 or your knowledge?

24 A. Not that I know of.

25 Q. It never was mentioned in your presence at any

1 time?

2 A. As far as the money, no.

3 Q. Would the Court indulge me just a moment? Uh,
4 if the Court please, that's all.

5 BY MR. MCINTIRE:

6 Your Honor, I would like to ask him some questions.

7 BY THE COURT:

8 All right.

9 BY MR. MCINTIRE:

10 Q. Mr. Poe, on the date of June 21, 1964 did you
11 ever have an occasion to see Sheriff Lawrence
12 Andrew Rainey?

13 A. I did not.

14 Q. Thank you.

15 REDIRECT EXAMINATION

16 BY MR. OWEN:

17 Q. When you were presence with Mr. Schwerner, Goodman
18 and Chaney, did they give you or Mr. Price any
19 trouble?

20 A. They didn't me.

21 Q. And did they to Mr. Price as far as you know?

22 A. As far as I know they didn't.

23 Q. Now, uh, uh, do you see Jerry Sharpe in this
24 courtroom?

25 A. I do.

1 Q. Could you point him out?

2 A. He's number seven from the left.

3 Q. Number seven from the left.

4 Q. Well there he is.

5 Q. What kind of hair does he have? How is it cut?

6 A. Its cut short, dark.

7 Q. He's next to somebody wearing what kind of
8 clothes?

9 A. Which one are you talking about?

10 Q. Either side.

11 A. Well, he's next to Olen Burrage.

12 Q. Whose on the other side?

13 A. I don't know him.

14 Q. What kind of clothes does he have on?

15 A. He has on a sweater and a white shirt.

16 Q. What color seater?

17 A. Grey, I would say.

18 Q. Now, you say you chased Jerry Sharpe in this car?

19 A. He had the car at the time, I can't say Jerry
20 was driving.

21 Q. Now in 1964 do you know where Billy Wayne Posey
22 worked?

23 BY MR. ALFORD:

24 If the Court please that's not proper redirect.

25 BY THE COURT:

1 It doesn't seem to me to be rebuttal either, but go
2 along.

3 BY MR. OWEN:

4 Q In the summer of 1964 do you know where Posey
5 worked?

6 A Yes, at a service station.

7 Q Where?

8 A Williamsville.

9 Q Now, did you ever see this car parked at that
10 service station?

11 BY MR. BUCKLEY:

12 Your Honor if it please the Court, we object to
13 the car, its not a defendant here and he has testified
14 that he never knew who was driving, he only knew
15 who the car belonged to.

16 BY THE COURT:

17 Well, I'll overrule your objection.

18 BY MR. OWEN:

19 Q Had you ever seen that car there at that service
20 station?

21 A I saw one out/that looked like it.
 there

22 Q Same make? Same color?

23 A It was.

24

25

1 BY MR. ALFORD:

2 We object to this, Your Honor, this is not redirect
3 examination.

4 BY MR. HAUBERG:

5 Your Honor, may I say this, I noted on cross examina-
6 tion by Mr. Weir that he did say Jerry Sharpe
7 was driving the car, I think its proper redirect
8 examination.

9 BY MR. ALFORD:

10 I don't think this is proper.

11 BY THE COURT:

12 I'll let him pursue this for a while, go along.

13 BY MR. OWEN:

14 Q. Now can you tell us approximately where you saw
15 this car, approximately where that service station
16 is, Posey's station?

17 A. Its at Williamsville, its about a mile southwest.

18 Q. Of what?

19 A. Of Philadelphia.

20 Q. That's all.

21 BY MR. WEIR:

22 Your Honor, there is just one other question.

23 BY THE COURT:

24 I never heard you ask just one question.

25 BY MR. WEIR:

- 1 Q Mr. Poe, you have never given Jerry McGrew Sharpe
2 a ticket for anything in your whole life have you?
- 3 A I have not.
- 4 Q So you have never caught him driving that vehicle
5 or any other vehicle?
- 6 A I have not.
- 7 Q And you don't say for a fact that he has ever even
8 driven that vehicle?
- 9 A I've seen him drive it.
- 10 Q But not speeding?
- 11 A No.
- 12 Q But that was before June the 21, 1964 that you
13 saw him?
- 14 A Well it might have been since or it might have
15 been before.
- 16 Q Well he didn't even own it before then did he?
- 17 A I don't know.
- 18 Q And he don't own it now, does he?
- 19 A No, he don't own it.
- 20 Q And you have never given him a speeding ticket?
- 21 A I have not, I've had reports on him.
- 22 Q Well, do you have some grudge against Mr. Sharpe?
- 23 A I do not.
- 24 Q That's just hearsay what you've heard, you haven't
25 ever caught him speeding have you?

1 A. That's right.

2 Q. I believe that's all, Your Honor.

3 (Whereupon witness excused)

4 BY THE COURT:

5 Members of the Jury, I will excuse you until 1:30
6 with the same understanding that we've had each time.

7 (Whereupon Jurors excused from the courtroom.)

8 BY THE COURT:

9 We'll take a recess until 1:30.

10 (Whereupon the Court took a recess at 12:15 P. M.
11 for lunch)

12 AFTER NOON RECESS:

13 VINCENT V. COYLE, called as a witness for and on
14 behalf of Plaintiff, was sworn and testified as
15 follows:

16 DIRECT EXAMINATION

17 BY MR. OWEN:

18 Q. Would you state your name please?

19 A. Vincent V. Coyle.

20 Q. What is your occupation?

21 A. Special Agent, Federal Bureau of Investigation.

22 Q. How long have you been with the F. B. I?

23 A. Five years.

24 Q. Were you assigned to conduct certain investigations
25 in this case?

1 A Yes I was.

2 Q Did you receive any kind of material to take to
3 the F. B. I. Laboratory in connection with this
4 case?

5 A Yes I did.

6 Q When did you receive it?

7 A On June 25th, 1964.

8 Q And from whom did you receive it?

9 A Special Agent Jay Cochran.

10 Q And what was the condition did you receive this
11 material?

12 A It was in a sealed package.

13 Q Were you instructed what was in the sealed package

14 BY MR. BUCKLEY:

15 Your Honor if it please the Court, I object unless
16 he knows what was in the package.

17 BY THE COURT:

18 I'll let him tell what he knows.

19 BY MR. OWEN:

20 Q Did you inventory it anyway?

21 A Yes sir,

22 Q What did it purport to contain?

23 A Special Agent Cochran told me it contained a
24 wrist watch----

25 BY MR. ALFORD:

1 Your Honor, we object to what somebody told him.

2 BY THE COURT:

3 I'll sustain the objection.

4 BY MR. OWEN:

5 Q. Where did you take the package?

6 A. I carried the package to the F. B. I. Laboratory
7 in Washington, D. C., where I gave the package
8 to Joseph Gormley.

9 BY MR. ALFORD:

10 Your Honor, I didn't get that last name.

11 BY THE COURT:

12 Can't you hear over there?

13 BY MR. ALFORD:

14 I didn't hear the last name and I didn't get the
15 name of the witness exactly.

16 BY THE COURT:

17 You are Mr. Coyle?

18 BY THE WITNESS:

19 Yes sir.

20 BY MR. ALFORD:

21 The person he said he carried the package to.

22 BY MR. OWEN:

23 Joseph L. Gormly.

24 Q. And who is he?

25 A. Special Agent with the F. B. I.

Q.

1 Q. And where was he?

2 A. He was at the F. B. I. Laboratory in Washington,
3 D. C.

4 Q. Can you say whether or not the package was in
5 the same condition when you receive it until
6 you handed it to Mr. Gormley?

7 A. Yes ----

8 BY MR. ALFORD:

9 Your Honor, he's leading and we object to it.

10 BY THE COURT:

11 Overruled.

12 BY THE WITNESS:

13 A. Yes it was in the same condition when I delivered
14 it to Mr. Gormley.

15 Q. When did you deliver it?

16 A. It was delivered on the morning of June 26, 1964.

17 Q. That's all.

18 BY THE COURT:

19 Any cross examination?

20 You may stand aside.

21 (Whereupon witness excused)

22 JOSEPH LEO GORMLEY, called as a witness for and on
23 behalf of Plaintiff, was sworn and testified as
24 follows:

25 DIRECT EXAMINATION

1 BY MR. OWEN:

2 Q State your name please?

3 A Joseph Leo Gormley.

4 Q What is your occupation?

5 A I am a Special Agent with the Federal Bureau of
6 Investigation.

7 Q Where do you work?

8 A In the Laboratory at Washington, D. C.

9 Q In connection with this case, was certain evidence
10 handed over to you?

11 A Yes sir, I did.

12 Q From whom did you receive it?

13 A Special Agent Vincent Coyle.

14 Q Now, when did you receive it?

15 A On June 26, 1964?

16 Q What was the condition of it when you received it?

17 A It was in a sealed package.

18 Q And to whom, uh, did you open this package or
19 did you give it to someone?

20 A I opened the package, and I gave the, one item
21 to Special Agent Loroach.

22 Q What item did you give to Special Agent Loroach?

23 A It was a ----

24 BY MR. ALFORD:

25 If the Court please, we would like to interpose an

1 objection to any package given to him by Mr.
2 Coyle or anyone else until it is properly
3 authenticated or the proper predicate laid for
4 his testimony.

5 BY THE COURT:

6 I'll overrule your objection, go ahead.

7 BY MR. OWEN:

8 Q. What did you give Agent Lorocho?

9 A. A sealed package.

10 Q. And did you give anything else to anybody else?

11 A. I gave several packages to George Berley.

12 Q. When were these packages given to these agents?

13 A. On June 26th, 1964.

14 Q. What was the condition of the package when you
15 gave it to George Berly?

16 A. Those packages ~~were~~ opened in the presence of Berley

17 Q. What was contained in them?

18 A. There was contained ----

19 BY MR. ALFORD:

20 Just a minute, Your Honor, may we have an objection
21 to this, a continuing objection?

22 BY THE COURT:

23 I'll overrule your objection to that question.

24 BY MR. OWEN:

25 Q. What was in these packages?

1 A. There was a gasoline cap, two door locks, two
2 automobile door locks, and a different lock and
3 five keys and a key ring.

4 Q. Who is George Berley?

5 A. He is a Special Agent with the Federal Bureau of
6 Investigation assigned to the Laboratory.

7 Q. Where?

8 A. In Washington, D. C.

9 Q. That's all.

10 BY THE COURT:

11 Any cross examination?

12 BY MR. ALFORD:

13 No sir.

14 (Whereupon witness excused)

15 FREDERICK A. COOK, called as a witness for and on
16 behalf of Plaintiff, was sworn and testified as
17 follows:

18 DIRECT EXAMINATION

19 BY MR. OWEN:

20 Q. State your name please?

21 A. Frederick A. Cook.

22 Q. What is your job?

23 A. Special Agent with the Federal Bureau of
24 Investigation.

25 Q. How long have you been with the F. B. I.

- 1 A. Sixteen years.
- 2 Q. In connection with your duties with the F. B. I.
- 3 were you assigned to certain investigation in
- 4 this case?
- 5 A. Yes sir.
- 6 Q. In connection with that investigation were you
- 7 ever asked to carry certain items to the laboratory
- 8 in Washington, D. C.?
- 9 A. Yes sir.
- 10 Q. Who asked you to do that?
- 11 A. Mr. Jay Cochran.
- 12 Q. Who is Jay Cochran?
- 13 A. Special Agent with the F. B. I.
- 14 Q. And what was the condition of the items which he
- 15 asked you to carry?
- 16 A. They were wrapped and sealed at the time I got
- 17 them.
- 18 Q. And when did you get them?
- 19 A. On August 5th, 1964?
- 20 Q. And from whom?
- 21 A. From Mr. Jay Cochran.
- 22 Q. And where did you take them?
- 23 A. Washington D. C., to the F. B. I. Laboratory.
- 24 Q. And to whom did you give them?
- 25 A. Mr. George Berley, a Special Agent assigned to the

1 Laboratory in Washington, D. C.

2 Q And what was the condition of the package when
3 you gave it to Mr. Berley?

4 A They were sealed.

5 Q That's all.

6 BY THE COURT:

7 Any cross examination?

8 BY OPPOSING COUNSEL:

9 No sir.

10 (Whereupon witness excused)

11 RODNEY HARRISON, called as a witness for and on behalf
12 was sworn and testified as follows:

13 BY MR. DOAR: DIRECT EXAMINATION

14 BY THE COURT:

15 She asked you if you swear to tell the truth or
16 are you going to come up here and tell us something
17 else?

18 BY THE WITNESS:

19 No sir, any question that I can remember.

20 BY THE COURT:

21 Is there any particular reason why you don't want
22 to take a regular oath up here?

23 BY THE WITNESS:

24 No sir.

25 BY THE COURT:

1 Are you going to tell the truth up here or not?

2 BY THE WITNESS:

3 I'm going to tell the truth.

4 BY THE COURT:

5 All right, take the stand.

6 BY MR. DOAR:

7 Q Will you tell the Court and Jury your full name?

8 A Rodney Harrison.

9 Q Mr. Harrison, will you lean forward and speak
10 distinctly so everyone in the courtroom can hear
11 you. Where do you live?

12 A Pachuta.

13 Q What county?

14 A Clarke.

15 Q How old are you?

16 A Thirty two.

17 Q What is your occupation?

18 A Truck driver.

19 Q Where did you live in 1964?

20 A Neshoba County.

21 Q And how long had you lived there?

22 A I lived there for a year and a half or maybe a
23 little over.

24 Q Are you married or single?

25 A Married.

- 1 Q Do you recall seeing a fire on highway 19 on
2 the night of June 21, 1964?
- 3 A I remember seeing a fire on a Sunday night. It
4 was in June but I don't remember the date.
- 5 Q Can you fix the date with respect to the date
6 these Civil Rights Workers were missing?
- 7 A No, I don't remember the date, I do know they
8 were missing when the station wagon was found.
- 9 Q Can you tell me whether or not you were driving
10 on highway 21 on that night?
- 11 A I wasn't driving, I was riding with another
12 fellow.
- 13 Q Where were you coming from?
- 14 A Philadelphia.
- 15 Q Which direction were you driving?
- 16 A Northeast.
- 17 Q Where did you see the fire?
- 18 A It was on the left side of the road off 21.
- 19 Q Would that be on the north or south side of
20 the road?
- 21 A Well that would be on the south side.
- 22 Q You are going from Philadelphia?
- 23 A Going from Philadelphia.
- 24 Q And that would be on the south side of the road?
- 25 A I guess that's right, let's see, well it was on

1 the left going northeast on 21.

2 Q Now think about that, which side of the road
3 would that be?

4 BY MR. WEIR:

5 We object to his leading, Your Honor.

6 BY THE COURT:

7 Overruled.

8 BY THE WITNESS:

9 A Well it was on the left side, I guess it would be
10 south.

11 BY THE COURT:

12 Do you know the directions where you were at that
13 time? North and South and East and West?

14 BY THE WITNESS:

15 Well, I know which way the road runs.

16 BY THE COURT:

17 Well generally is what he's asking you.

18 BY MR. DOAR:

19 Q Going northeast from Philadelphia on your left,
20 what did you see?

21 A Well, it was just a little fire on a station
22 wagon, I was asleep and the other fellow woke
23 me up and I was still half asleep, and I don't
24 remember much about it but it was a little fire.

25 Q Can you fix where that was on the highway?

- 1 A. No, I can't.
- 2 Q. Now, what did you do then?
- 3 A. We went about approximately four or five miles
- 4 up the road, stayed up there about fifteen
- 5 minutes approximately fifteen minutes and then
- 6 we came back.
- 7 Q. Can you give me your best judgment as to the
- 8 time when you saw the fire?
- 9 A. I can not.
- 10 Q. Was it at nighttime?
- 11 A. It was in the night time but I do not know the
- 12 time.
- 13 Q. What did you see when you came back, if anything?
- 14 A. Well, it was burning more when we came back than
- 15 when we went on.
- 16 Q. Could you tell what kind of station wagon it was?
- 17 A. I could not.
- 18 Q. Did you see anyone around there?
- 19 A. No sir, there was no one that I seen.
- 20 Q. Did you see any cars on the highway there?
- 21 A. No, there was a car left there before we got to
- 22 it.
- 23 Q. Which direction was that car going?
- 24 A. It went back towards Philadelphia.
- 25 Q. And who was with you?

1 A Raymond Dallas and a colored fellow.

2 Q What was his name?

3 A The colored fellow?

4 Q Yes.

5 A I don't even know. I knew at the time but I don't
6 now.

7 Q Are you able to give us any kind of description
8 of that car that left and went back toward
9 Philadelphia?

10 A No, none whatsoever.

11 Q May I have just a moment, Your Honor?

12 BY THE COURT:

13 Yes sir. Are you scared to testify up here today
14 is something wrong with you are you just acting
15 normally?

16 BY THE WITNESS:

17 Well normal I guess you would say,

18 BY THE COURT:

19 Are you excited?

20 BY THE WITNESS:

21 No sir.

22 BY THE COURT:

23 Are you scared of anybody?

24 BY THE WITNESS:

25 No sir.

1 BY THE COURT:

2 Did you come up to tell the truth?

3 BY THE WITNESS:

4 Yes sir.

5 BY THE COURT:

6 Are you going to tell the whole truth or just part
7 of it?

8 BY THE WITNESS:

9 Well I'm going to tell the whole truth.

10 BY THE COURT:

11 All right.

12 BY MR. DOAR:

13 Q Do you remember about what time it was when you
14 left Philadelphia that night?

15 A No, I don't. I just couldn't say about the time,
16 I didn't have a watch and I just could not say
17 about the time.

18 Q Was it dark?

19 A Oh yes, it was dark, but I couldn't say about the
20 time.

21 BY THE COURT:

22 Any cross examination?

23 BY MR. ALFORD:

24 Would you indulge us just a minute?

25 BY THE COURT:

1 Yes sir.

2 BY MR. ALFORD:

3 We have no questions, Your Honor.

4 (Whereupon witness excused)

5 GEORGE A. BERLEY, called as a witness for and on behal
6 of Plaintiff, was sworn and testified as follows:

7 DIRECT EXAMINATION

8 BY MR. DOAR:

9 Q Would you tell the Court and Jury your name please

10 A George A. Berley. B E R L E Y.

11 Q Where do you live?

12 A I live at 4116 Donnell Lane, Kensington, Maryland,
13 which is a suburb of Washington, D. C.

14 Q What is your occupation?

15 A I am a Special Agent with the Federal Bureau of
16 Investigation and I'm assigned to the F. B. I.
17 Laboratory at Washington, D. C.

18 Q What is your educational background?

19 A I received a Bachelor of Science Degree from Ford
20 University?

21 Q In what year?

22 A In 1941. At the time I entered the F. B. I.
23 Laboratory in 1942, I studied the work I'm now
24 doing under other examiners. Now this work is
25 called firearms identification, ---mark examina-

1 tions, explosives examinations, and glass
2 examinations. Now, as I said before I followed
3 a course of study in the F. B. I. Laboratory in
4 this type of work under other examiners for
5 approximately one year. Since that time, I've
6 made many thousands of examinations on my own.
7 I also, in the course of my work, have lectured
8 to Police Academies, Police Schools, Schools
9 run by the Federal Bureau of Investigation, for
10 the Special Agents, and I have also lectured at
11 specialized schools at the University of Georgia,
12 and the Western Reserve University in Cleveland,
13 Ohio.

14 Q. How are identifications of bullets made?

15 A. Basically when a bullet travels down through the
16 barrel of a gun the bullet surface will pick up
17 the foreign microscopic scratches present in
18 the innersurface of that gun barrel. Now based
19 upon my experience and the many thousands of
20 examinations that I have conducted as well as
21 those of other examiners in the same field, there
22 has never been two gun barrels that will leave
23 the same pattern of markings on bullets fired
24 from them, so if a bullet is fired from a gun
25 barrel, that bullet will often pick up markings

1 that is pick up as I commonly refer to as the
2 fingerprints of that weapon as it travels down
3 through the barrel and these fine microscopic
4 nitches and scratches present on the bullet surface
5 are characteristic of a particular gun barrel and
6 through comparisons, microscopic comparisons it
7 is possible to state conclusively whether or not
8 a particular bullet was fired from a particular
9 gun.

10 Q To what degree is an identification of a gun
11 made in that manner reliable?

12 A One hundred percent.

13 Q I wonder if the Deputy Marshal could hand me the
14 five bullet exhibits? Mr. Berley, I wonder if
15 you would look at exhibits 54 through 58 and tell
16 me if you recognize those?

17 A I do, yes.

18 Q And from whom did you receive those bullets?

19 A These were delivered to me in the F. B. I. Labora-
20 tory by Special Agent Cook.

21 Q And did you make an examination of each and every
22 one of those bullets?

23 A I did, yes.

24 Q What are their calibre of bullets?

25 A Well, first of all I found four of these bullets

1 exhibit number 54, 56, 58, and 55 were calibre
2 .38 S & W type hand bullets, commonly referred
3 to as hand load or reloads, that is, they have
4 not been manufactured by the leading manufacturing
5 companies in the country, such as Western,
6 Winchester, Remington, Peters and others. The
7 fifth bullet is a calibre 38 S & W lead bullet
8 of commercial manufacture.

9 Q Can you identify that exhibit by its number?

10 A Exhibit 57.

11 Q And did you make an examination of those bullets?

12 A I did, yes.

13 Q And would you tell the Court and Jury what you
14 found?

15 A I found that three of these bullets, well first of
16 all I found that four bullets, exhibits 58, 56,
17 54 and 55, as I stated before were calibre .38
18 S & W type reload bullets. I further found that
19 each of these bullets were fired out of a weapon
20 having what is referred to as five lands and
21 grooves, pushing to the right. Now, the manufactu
22 of a gun barrel the manufacturer will cut grooves
23 running down through the length of the barrel and
24 these grooves spiral or twist as they travel down
25 through the barrel. Certain manufacturers, for

1 instance Smith and Weston being one manufactures
2 hip weapons with five grooves twisting to the right
3 Colt, another firearms manufacturer rifles their
4 gun barrels with six grooves twisting to the
5 left. In this particular case I found that each
6 of these bullets, the four bullets, exhibits
7 58, 56, 54 & 55 had been fired from a weapon
8 having five lands and grooves twisting to the
9 right. I then, in regard to exhibit 57, I found
10 that this bullet had been fired from a weapon
11 having seven lands and grooves twisting to the
12 right and because of the differences in rifle
13 characteristics present on the surface from those
14 on the other four bullets, 58, 56, 54 & 55, I
15 concluded that the exhibit 57 could not have been
16 fired from the same weapon as the other four
17 bullets that I had received. I then compared
18 the bullets microscopically. In an examination
19 of this type I used a comparison microscope.
20 The comparison microscope that I used is actually
21 two microscopes connected at the top by a single
22 eye piece. When I looked down through that eye
23 piece running right through the center of the
24 eye piece is a fine hairline and that hairline,
25 or I should say to the left of that hairline, visible

1 to me through the eye piece, is the surface of
2 the bullet that I have placed under the left
3 microscope. Visible on the right side of the
4 eye piece is the, or is another bullet that I
5 have placed under the right microscope. Now it
6 is possible for me to move these bullets back
7 and forth as well as rotate them. For this
8 particular examination, I'm looking to see whether
9 or not the fine pattern of markings present on
10 the bullet surfaces are the same or different.
11 On a number of these bullets I found them to be
12 the same.

13 Q Let me ask you this. Can you testify with
14 respect as to how those bullets were marked with
15 respect to bodies number one, body number 2 and
16 body number 3? When you examined them?

17 A I can, yes sir.

18 Q In your testimony would you refer as well to
19 body number 1 and the exhibit number for the
20 convenience of the Court and Jury.

21 BY MR. HENDRICKS:

22 We object to that, Your Honor, what body it is.

23 BY THE COURT:

24 How do you have those bullets identified by you
25 personally?

1 BY THE WITNESS:

2 By the cue number which I placed on them, Your Honor.
3 And my initials.

4 BY THE COURT:

5 And have you examined those exhibits here in Court?

6 BY THE WITNESS:

7 I have, yes sir.

8 BY THE COURT:

9 And you see your identifying marks on those exhibits
10 and what numbers have been assigned to them here?

11 BY THE WITNESS:

12 I do, Your Honor.

13 BY THE COURT:

14 I'll let you tie those in, and overrule your
15 objection.

16 BY THE WITNESS:

17 A. The first bullet which is marked bullet number
18 1 in this envelope---

19 Q. What exhibit number is that?

20 A. Exhibit 54 was a bullet removed from body number
21 1.

22 BY MR. ALFORD:

23 We object to that Your Honor, unless he knows of
24 his own knowledge which body it came from, I don't
25 think the proper predicate has been laid.

1 BY THE COURT:

2 How do you know that, thebullet that was removed from
3 body number 1?

4 BY THE WITNESS:

5 This bullet, Your Honor, when I received it and
6 examined if, of course, I put my own markings on
7 it, and it was reported to me as having been removed
8 from bodynumber 1.

9 BY THE COURT:

10 Yes, I'll sustain your objection as to that, but
11 anything that you could say about anyone of these
12 bullets that you could tie it into an official
13 exhibit from this Court I'll let you tie it in that
14 way, but not to tie it in to a body when you don't
15 know where the bullet came from of your own knowledge.
16 Sustained.

17 BY MR. DOAR:

18 Your Honor, the prior testimony was that when the
19 bullets were removed from the body they were marked
20 and then they were transferred to the Lab.

21 BY THE COURT:

22 Well, those people were testifying of his own knowledg
23 and he must do the same. Go ahead Mr. Doar.

24 BY MR. DOAR:

25 Can the witness testify to the bullet as containing

1 the marks when he received them?

2 BY THE COURT:

3 Yes sir.

4 BY MR. ALFORD:

5 Now Your Honor please we object to his testifying
6 and asking a question in front of the witness.

7 BY THE COURT:

8 Well I thought I made it perfectly clear that you
9 could testify about those bullet numbers in this
10 court, where its plaintiff's exhibit, what is that
11 bullet number?

12 BY THE WITNESS:

13 Bullet number 1 is P-54.

14 BY THE COURT:

15 I'll let you do that, but I don't think you would
16 have any way of knowing of your own knowledge without
17 relying on what somebody told you where that bullet
18 came from so to that extent its sustained.

19 BY MR. DOAR:

20 Q How was exhibit number 54 marked when you received?

21 A It was marked on the base with a one and what
22 appeared to be the initials of W. F.

23 BY THE COURT:

24 Yes, all right.

25 BY MR. DOAR:

- 1 Q What did you do then with your examination?
- 2 A I--
- 3 Q Excuse me, your examination of that bullet. Did
- 4 you examine that bullet along with another bullet?
- 5 A I compared this bullet with bullets 55, 56, & 58.
- 6 I made no comparison with 57 because the rifling
- 7 on 57 was entirely different from those on 54, 55,
- 8 56 & 58 and therefore, could not have been fired
- 9 from the same gun.
- 10 Q And what was your findings?
- 11 A I concluded that bullet 54, the bullet 55, the
- 12 bullet 56 were all fired from the same weapon.
- 13 Q And what did you conclude with respect to bullet
- 14 57?
- 15 A Bullet 57, I found had rifling characteristics
- 16 present on its surface, characteristics of those
- 17 produced by an English-type or English-made
- 18 revolvers such as the infield Webley or Webley
- 19 Forsberry revolver and possibly others.
- 20 Q Did you make any comparisons between exhibits
- 21 number 57 & 58?
- 22 A No, I did not, because exhibit 58 again had
- 23 rifling characteristics agreeing with those
- 24 present on exhibits 54, 55, & 56, and this
- 25 bullet could have been fired from the same

1 gun as 54, 55 & 56, however because of its
2 utilization it was not sufficient microscopic
3 markings remaining on its surface to permit a
4 definite conclusion in this regard. With regard
5 to exhibit 57 exhibit 58 and 57 were fired from
6 different weapons.

7 Q What type of weapons were all of the bullets
8 fired?

9 A From a .38 caliber weapon.

10 Q Pistol?

11 A Well, revolver type.

12 Q Did you receive any other material from Agent
13 Cook?

14 A I did, yes sir.

15 Q What material was that?

16 A I received clothing from the three victim's bodies
17 I received fingers, tissues, some film, some
18 keys, and a fing, as I recall.

19 Q Did you make any examination of the clothing
20 and of the tissues?

21 A I did, yes.

22 Q What examination did you make and what was the
23 purpose of your examination?

24 A The purpose was to determine whether or not
25 there was any powder residues present around

1 the holes the garments and in and around the holes
2 of the skin tissues that I received.

3 Q. What training have you had to be able to make
4 that type of examination?

5 A. At the time I entered the F. B. I. Laboratory
6 I had studied this particular area of firearms
7 identification. I conducted and studied and
8 made tests of power residue determination and
9 since that time I have conducted many hundreds
10 of examination in this area myself.

11 Q. What is the significance of powder residue on
12 the clothing or around the wound of entry to the
13 body?

14 A. If present you can determine the distance at
15 which a gun was held from the garment or the skin
16 at the time it was fired.

17 Q. Could you tell the Court and Jury what your
18 examination consisted? What you found?

19 And Identifying the clothing and the tissue that you
20 examined?

21 A. Among the items I received, as I said, I received
22 tissue from three bodies that appeared to have
23 bullet wounds, I received two shirts and a T-
24 Shirt with which had holes in them. I also
25 received the pants, socks and underwear of the

1 three victims and examined all of the holes and
2 etc., in these items. Now, in one of the bases
3 of the skin tissue, which was identified to me
4 as being from body number one--

5 BY MR. ALFORD:

6 Your Honor please, we object to his testifying as
7 to which body.

8 BY THE COURT:

9 Yes, I don't believe you could tie it in with a
10 body, but I'll let you identify it in any other
11 way that you may be able to identify it of your
12 own knowledge.

13 BY MR. DOAR:

14 If the Court please, he testified that this is
15 the skin tissue that was identified or marked on as
16 being from body number 1. Previous witnesses have
17 testified that when the tissue was removed it was
18 placed in a container and marked body number 1, and
19 then it was transferred through two agents to this
20 agent for examination.

21 BY THE COURT:

22 I believe I'm going to let you identify it that a
23 way. I will reverse myself on that. Go ahead.

24 BY THE WITNESS:

25 A One of the pieces of skin tissue which was

1 identified as being from body number one, I
2 examined microscopically and chemically. I found
3 powder residues in this wound. I also received
4 a khaki shirt which was in a bag marked body number
5 two.

6 BY MR. ALFORD:

7 We object to that, Your Honor.

8 BY THE COURT:

9 I will allow you a continuing objection to this
10 testimony and it will be overruled.

11 BY THE WITNESS:

12 A. The examination of the khaki shirt, I found a
13 hole and I conducted again, both a microscopic
14 and chemical test on the area surrounding this
15 hole, I found a hole just above the left pocket
16 of the shirt. Upon microscopic examination, and
17 of course visible to the eye as well was a large
18 smokering, based upon the microscopic and chemical
19 examination of the area around this hole I found
20 again powder residues. In the T shirt, which
21 was identified to me as, or rather contained in
22 a bag marked body number 3, I found a hole in
23 the left upper side of the T shirt again with a
24 large smoked deposit. Again I examined this
25 hole both microscopically and chemically and based

1 upon the result of such test, I concluded that
2 each of these holes were produced by a gun
3 muzzle having been placed up against the skin or
4 the garments or within approximately one inch of
5 them at the time the shot was fired producing the
6 holes themselves.

7 Q Did you receive, I'll withdraw that question.
8 Did you receive any, I'll withdraw that question
9 also. Did you examine the pants in the bag
10 not marked by anyone?

11 A I did, yes.

12 Q Did you find anything in the pant pocket?

13 A Yes, I did.

14 Q What did you find?

15 A Among the things that I found in the pants
16 pocket was a wallet. I also found some coins
17 some keys, and two ball point pens, and a
18 cigarette lighter.

19 Q Did you receive some locks from Agent Cook or
20 from any other agent off a 1963 Ford Station
21 Wagon.

22 Q No, not from Agent Cook, I received locks from
23 Special Agent Formley of the Laboratory and I
24 also received a lock through the mail from the
25 F. B. I. Office in Meridian, Mississippi.

1 Q Did you determine whether or not the keys in
2 the pants pocket of body number one fit the
3 locks that you received?

4 A I did, yes sir.

5 BY MR. WEIR:

6 We object, if Your Honor please.

7 BY THE COURT:

8 Overruled.

9 BY MR. DOAR:

10 Q What did you find?

11 A Well on the ring of keys I removed from the pant
12 pocket I found key forward car keys and I found
13 a gas cap key, a Myers gas cap key. In the
14 shipment, rather amongst the evidence which was
15 turned over to me by Special Agent Joe Gormley,
16 the ignition lock, the left and right door lock
17 and the gas cap lock from the burned stataion
18 wagon. In the mail I received the tailgate
19 tail lock from a burned station wagon. I found
20 that the----

21 BY MR. WEIR:

22 Your Honor we object to something he received inthe
23 mail without further qualification.

24 BY THE COURT:

25 Well, I'll let him tell us what his findings were.

1 Your objection is overruled. Go along.

2 BY THE WITNESS:

3 A I found that the round headed key, which I found
4 in the pant pocket from body number 1 fitted the
5 tailgate lock which I received from the burned
6 station wagon.

7 BY MR. HENDRICKS:

8 We object to his referring to the burned station
9 wagon unless he has personal knowledge of this.

10 BY THE COURT:

11 I'll overrule your objection.

12 BY THE WITNESS:

13 A I found that the square headed key was made an
14 fitted the ignition lock and the two door locks
15 that I had received. I found that the Myers
16 gas cap key on the key ring that I removed from
17 the pocket of body number one fit the gas cap
18 lock removed from the burned station wagon. Now
19 there were only two of the locks that I received
20 that were in working order. The tailgate lock
21 and the left front door lock were not burned,
22 so in this particular case, I merely tried the
23 keys in these locks and found that they would
24 work. The ignition and the right door lock as
25 well as the gas cap lock had melted from the

1 heat of the fire. After taking these locks apart
2 and examining their mechanism to see if they
3 agreed with the cuts in the key, the keys that
4 I had received. I found that they did and in this
5 way I was able to conclude that the Myers key
6 was made for and fitted the gas cap lock and
7 square headed key was made for and fitted the
8 ignition, right door lock, and of course, the
9 left door lock.

10 Q Do you have those keys with you?

11 A I do.

12 Q Would you hand them to the Deputy Marshal? Mr.
13 Berley are you holding your hand the burned car
14 keys that you have heretofore referred to?

15 A Not the burned car keys. These are the keys
16 that I found in the victim's pocket.

17 Q Do you hold those keys in your hand?

18 A I do, yes sir.

19 Q Would you hand them to the deputy marshal to
20 hand to the clerk, I would like to have them
21 marked and entered into evidence.

22 BY THE COURT:

23 Show them to Counsel.

24 BY MR. ALFORD:

25 We've seen them Your Honor and we object to them