

1 it was used in the actual course of business
2 and the entries made or within any reasonable
3 time after the facts purported to be shown there
4 occurred?

5 A. No, I would not.

6 Q. You never have gone through it until you were told
7 to bring it down here?

8 A. That's right.

9 Q. Did you testify before a federal grand jury?

10 A. No, I didn't.

11 Q. You do know Mrs. Chisolm, that this jail docket
12 was kept by the United States Government for a
13 period of some time?

14 A. Yes sir.

15 Q. Say some two or three weeks?

16 A. I don't recall.

17 Q. Well, about how long?

18 A. I don't remember, but I know I had to call and
19 ask them how long they were going to keep it and
20 we had to get another docket, it was some time.

21 Q. I believe that's all, the Sheriff's attorney may
22 have something.

23 BY MR. McINTIRE:

24 May I ask her some questions, Your Honor?

25 BY THE COURT:

1 You surely may.

2 FURTHER CROSS EXAMINATION

3 BY MR. McINTIRE:

4 Q. Mrs. Chisolm, I believe you stated that you were
5 the office deputy, is that right?

6 A. That's right.

7 Q. What do your duties consist of in the office?

8 A. Keeping the books, writing tax, selling tags,
9 keeping up with the taxes, reports, some general
10 office duties.

11 Q. Do you have anything at all to do with the
12 criminal department?

13 A. No, do you mean by that the arresting?

14 Q. You have nothing to do at all in the criminal
15 department?

16 A. No.

17 Q. And these books that were introduced into evidence
18 here, do you have anything at all to do with
19 those books?

20 A. No sir, I don't. I file them until the auditor
21 asks for them the time they bring them in, I
22 never look at them.

23 Q. You don't ever even look at them?

24 A. No sir, I don't have any occasion to.

25 Q. Where are the books kept?

1 A In my filing cabinet.

2 Q I see this jail docket that has been entered into
3 evidence that there are several pages that have
4 not been written on nor used, could you tell us
5 the reason that those pages have not been used?

6 A That was during the time that the books were
7 carried before the grand jury in Biloxi and of
8 course we had to get a new docket book.

9 Q They kept your books so long that you had to get
10 a new one, is that correct?

11 A Yes sir.

12 Q I have no further questions.

13 (Whereupon witness excused)

14 BY MR. DOAR:

15 If it please the Court, I would like to offer into
16 evidence the three birth certificates of Michael
17 Schwerner, Andrew Goodman and James Chaney.

18 BY THE COURT:

19 All right, show those to the other side.

20 BY MR. WEIR:

21 Your Honor, at the proper time we would like to
22 object to these birth certificates that have been
23 offered.

24 BY THE COURT:

25 On what grounds?

1 BY MR. WEIR:

2 Your Honor please, they are not authenticated, these
3 from out of state, I believe one of them is certified
4 by New York, or undertaken to be certified from an
5 official in the state of New York, but not properly
6 we submit.

7 BY THE COURT:

8 Let me see those. I understand your objection goes
9 to these certificates of birth from New York, because
10 you say they are not properly certified under the
11 Acts of Congress.

12 BY MR. WEIR:

13 That's right, under the Act of Congress.

14 BY THE COURT:

15 But you don't make any objection to the certificate
16 from the Mississippi Department?

17 BY MR. WEIR:

18 Except on the grounds that we submit it is not
19 relevant and that its admissibility has not been
20 connected, not sufficient proof at this time.

21 BY THE COURT:

22 I don't think these New York certificates has to
23 be certified like we use to have them under the Acts
24 of Congress, under the new rules of procedure in the
25 Federal Court, they need only to be certified like

1 you would on instruments in Mississippi, and I'll
2 overrule your objection in its entirety and ad-
3 mit these three birth certificates of Chaney,
4 Schwerner, and Goodman and let them be entered
5 and marked serially.

6 (Whereupon exhibits entered into evidence and
7 marked P-15, 16, & 17)

8 MINNIE LEE HERRING, called as a witness for and on
9 behalf of Plaintiff, was sworn and testified as
10 follows:

11 DIRECT EXAMINATION

12 BY MR. OWEN:

13 Q. Would you state your name please?

14 A. Mrs. Minnie Lee Herring, I live in the Neshoba
15 County Jail, 422 Myrtle Street, Philadelphia,
16 Mississippi.

17 Q. What kind of work do you do?

18 A. Well, I practically do it all.

19 Q. What?

20 A. Well, cook and everything, I help my husband.

21 Q. Where?

22 A. In the jail. We have living quarters there in the
23 jail.

24 Q. You operate the jail?

25 A. Yes.

- 1 Q How long have you been doing that?
- 2 A Well it will be twelve years the second day of
- 3 January, this coming January.
- 4 Q Were you on duty at the jail on June 21st, 1964?
- 5 A Yes sir.
- 6 Q Let me hand you exhibit 14, do you recognize that
- 7 page in that book?
- 8 A Yes, I do.
- 9 Q Would you tell the Court and Jury what that book
- 10 is and what that page is?
- 11 A Well, this is a jail docket that we have to keep.
- 12 Q Who keeps that book?
- 13 A Well, my husband and I keep it, we keep it there
- 14 at the jail.
- 15 Q Who makes the entries in that book?
- 16 A Well, sometimes he does and sometimes I do.
- 17 Q And that is kept in the ordinary course of your
- 18 operation of the jail?
- 19 A Yes sir.
- 20 Q On that page, let me ask you this. Did you ever
- 21 meet a person named Michael Schwerner?
- 22 A Yes I met him, I was there when they brought him in
- 23 Q Did they bring in more than one person?
- 24 A Yes, they brought Goodman, Schwerner and Chaney.
- 25 Q Do you remember what date they brought them in?

- 1 A. It was on Sunday afternoon, the 21st of June.
- 2 Q. What year?
- 3 A. 1964.
- 4 Q. About what time did they bring them in?
- 5 A. Well, it was about 4:00 o'clock.
- 6 Q. Who brought them in?
- 7 A. Price.
- 8 Q. Price?
- 9 A. Cecil Price.
- 10 Q. Deputy Price?
- 11 A. Yes.
- 12 Q. Do you see him here in the courtroom?
- 13 A. Yes.
- 14 Q. Would you point him out?
- 15 A. Sitting by Billy Wayne Posey, my nephew.
- 16 Q. That is Billy Posey wearing glasses?
- 17 A. That's right.
- 18 Q. And Cecil Price is sitting right by him?
- 19 A. That's right.
- 20 Q. Did Deputy Price indicate to you why he had brought
- 21 them to jail?

22 BY MR. BUCKLEY:

23 Your Honor, if it please the Court I object. Now thi

24 uh he's asking a question of the witness which is fir

25 of all leading, and then calling for a conclusion

on the part of the witness by indicating?

1
2 BY MR. OWEN:

3 Q Did he tell you?

4 BY THE COURT:

5 I'll let him rephrase his question.

6 BY MR. OWEN:

7 Q Did he tell you why he brought them to jail?

8 BY MR. PEGFORD:

9 Your Honor, we object on the grounds it would be
10 hearsay, and we object to it on those grounds.

11 BY THE COURT:

12 Overruled.

13 BY MR. OWEN:

14 Q You may answer the question.

15 A Well he told us to book Chaney for speeding, and
16 the other two were being held for investigation.

17 Q Did he tell you investigation for what?

18 A Well, no he didn't.

19 Q Now did you then put them in jail?

20 A Yes sir.

21 Q How about their personal belongings what happened
22 to those?

23 A Well, they generally keep their billfolds and
24 things.

25 Q Who is they?

1 A. Well the law, if the City brings them to our
2 jail they keep their belongings, and a lot of
3 times we keep them there at the jail.

4 Q. What happened to their personal belongings of
5 these three boys.

6 A. Well when Price came back out he had a little box
7 with their belongings in there, each one of them
8 reached in and got their billfolds, and I had
9 their driver's license and they put them in their
10 billfolds.

11 Q. The only thing you had of theirs at the jail was
12 what?

13 A. Their driver's license.

14 Q. How about their car keys?

15 A. I didn't have their car keys.

16 Q. Now, did these boys give you any trouble up in
17 the jail?

18 A. Not a bit in the world.

19 Q. After they were put in jail did you see Cecil
20 Price that afternoon?

21 A. Well, I don't believe, yes I did. He came back
22 by in just a little while and brought in George
23 Rushing, he and Mr. Warren.

24 Q. Mr. who?

25 A. Mr. Warren, Leonard Warren.

1 A. Who is Mr. Warren?

2 Q. Well he's the Justice of the Peace, he had come
3 there to fix out some warrants, and the old nigger
4 had been there so much he just wobbled on in
5 while they fixed out the warrant.

6 Q. Do you remember the name of the negro that was
7 arrested?

8 A. George Rush.

9 Q. And who arrested Rush?

10 A. Cecil Price.

11 BY MR. BUCKLEY:

12 Your Honor I object, I don't see the relevancy of this

13 BY MR. OWEN:

14 I'll withdraw the question.

15 BY THE COURT:

16 Sustain the objection.

17 BY MR. OWEN:

18 Q. Who brough Rush to the jail?

19 A. Well Cecil was driving the car and so Leonard, he
20 walked to the door of the jail with him.

21 Q. Both of them brought him?

22 A. Yes, they did.

23 Q. Now when you make an entry on that, let me ask
24 you this, when they bring somebody to the jail
25 what kind of entry do you make on that docket?

1 BY MR. PIGFORD:

2 Object, Your Honor, unless it has something to do
3 with the issues here.

4 BY THE COURT:

5 I'll let him show the course of practice in keeping
6 with these jail dockets, you may proceed, overruled.

7 BY MR. OWEN:

8 Q. How do you make entries when they bring somebody
9 to jail?

10 A. Well, we just book them for whatever they are
11 charged with.

12 Q. All right.

13 A. And of course, whenever they get out we mark them
14 out, when they are let out.

15 Q. If you will take that jail docket and go from
16 left to right to the names of Schwerner, Chaney
17 and Goodman, do you see their names on that page?

18 BY THE COURT:

19 I think you will be well to refer to your exhibit
20 14. Did you hear what we said, all three of us were
21 talking at the same time, Counsel was talking at the
22 same time I was.

23 BY THE REPORTER:

24 I got what you said.

25 BY THE COURT:

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All right, Counsel he didn't get what you said, so start over again.

BY MR. OWEN:

Q Looking at exhibit 14, will you start from left to right and indicate to the Court and Jury how you make the entries in the jail docket.

BY MR. BUCKLEY:

Your Honor, if it please the Court, I object, this has been introduced and therefore it speaks for itself, the record is the best evidence.

BY THE COURT:

Overruled, go ahead Mr. Owen.

BY MR. OWEN:

Q You may answer.

A What was the question?

Q On exhibit 14 if you start from the left side of the page moving right would you indicate to the Court and Jury how you make entries in the jail docket and what they mean?

A Well, when the law brings one in they always tell us what they are charged with. Most of the time they have a warrant and sometimes they just have a ticket, so we book these people and whatever they say they are charged with, and if they want their tickets we always give them to them whenever

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they get ready to get out.

Q Does that book indicate who the arresting officers are?

A Oh, yes sir.

Q Now, what does that book indicate with respect to this negro that was brought in?

A You mean George Rush?

Q Right.

BY MR. BUCKLEY:

If the Court please, Your Honor, we object and this is the same objection we tried to make a while ago, the name of the person is on the record and it will speak for it self.

BY THE COURT:

I don't see the relevancy of this. You asked this witness a question about this same individual a while ago, and then withdrew it, I'll sustain the objection.

BY MR. OWEN:

Q Now, did---

BY THE COURT:

Is the examination of this witness contemplated to be rather long?

BY MR. OWEN:

Oh, it'll take another ten minutes for me, Your Honor.

1 BY THE COURT:

2 I'll, I believe we'll take a fifteen minute recess
3 right at this time. I will let the jurors go to
4 their jury room before anyone else leaves the court-
5 room.

6 (Whereupon Jurors excused from the courtroom)

7 (Whereupon the Court took a recess at 10:37 A. M.
8 for fifteen minutes)

9 AFTER RECESS:

10 BY MR. OWEN:

11 Q. Mrs. Herring, now what time did you say these
12 people were brought in?

13 A. It was around 4:00 o'clock.

14 Q. Did anyone come with him?

15 A. They didn't anyone come in the jail with him.
16 There was someone out in front of the jail.

17 Q. Who was out in front of the jail?

18 A. Well it was Mr. Powe and Mr. Hughes out in front
19 of the jail.

20 Q. Who are they?

21 A. They are Highway Patrolmen.

22 Q. From where?

23 A. Philadelphia, Neshoba County.

24 Q. Now, after you placed them in jail, did Mr. Price
25 interview them or did anybody interview them?

1 A No, no one talked to them while they were in jail.

2 Q Do you recall what time they were released?

3 A 10:30 at night.

4 Q Can you tell the Court and Jury who released them?

5 A Well, Price came into the jail and up in the hall
6 to our quarters at 10:30 and said, "Mr. Herring,
7 Chaney wants to pay off, and he said, we'll let
8 him pay off and we'll release them all." Well,
9 my husband opened the door and he walked around
10 the white boys were in the front cell and the
11 colored boy was on the back, so he walked around
12 the bars and asked the colored boy if he wanted
13 to pay off, and Chaney asked him how much was it
14 and he told him it would be twenty dollars. Well,
15 he didn't have the \$20.00 on him so he borrowed
16 it from Schwerner and paid the fine, and so my
17 husband wrote the receipt and Cecil went back
18 and unlocked the combination and let them out
19 and walked on out in the little hall. He had
20 their belongings in a little box, and I had their
21 driver's license, so each one of them reached
22 in and got their billfolds, and put their driver's
23 license in their billfolds, and my husband gave
24 them the receipt and Price told them, "see how
25 quick you all can get out of Neshoba County,"

1 and they thanked him and went on out.

2 Q If a person is arrested on a ticket and not a
3 warrant, do you have to keep one copy of the ticket

4 A Well I tell you now usually when they give tickets
5 like that they usually give the violator a ticket.

6 Q What about the copies?

7 A Well, the copies always are left in the book.

8 Q All the copies?

9 A Yes sir.

10 Q Do you keep any copies at the jail house?

11 A Well, we have a receipt book and we usually give
12 them the top receipt and the yellow one is left
13 in the book.

14 Q In your book?

15 A Yes sir. See here, when you tear the white one
16 out it automatically leaves the yellow one in.

17 Q Now, that day did you see Cecil Price give either
18 of those boys a ticket?

19 A No, I didn't.

20 Q Was there a ticket shown you by any of them?

21 A No, I suppose he gave it to him when he arrested
22 him.

23 Q You never saw the ticket?

24 A No, I didn't see the ticket.

25 Q Let me ask you one other question. If a person

1 is arrested and given a speeding ticket, can they
2 make bond and pay you?

3 BY MR. BUCKLEY:

4 If the Court please, we object to that. There has
5 been no evidence to show that they were tendered
6 or refused a bond.

7 BY THE COURT:

8 What's the relevancy of that.

9 BY MR. OWEN:

10 Well, Your Honor, I would like to show the
11 ordinary practices as to how you get out of jail
12 in Neshoba County.

13 BY THE COURT:

14 All right, I'll overrule your objection.

15 BY MR. OWEN:

16 Q Now, is it always necessary for the Sheriff or
17 the Deputy Sheriff to be around when a person
18 is released or makes bond.

19 A No, they are not always around, if it is a
20 little bond they have told us that we would know
21 just as well as they did what to do and for us
22 to go ahead and accept the bond and let them out.
23 They either make bond or pay off one.

24 Q And it doesn't require the Sheriff's or Deputy

- 1 A No, they've told us to always go ahead and
2 accept the bond, you see. Now, if its over
3 a hundred dollar bond we don't accept it.
- 4 Q But this was smaller than a hundred dollar
5 bond?
- 6 A It would have been.
- 7 Q Now, who has the authority to release people
8 when they are being held for investigation?
- 9 A Well, they always come and tell us. We never
10 ask them any questions. We just hold them
11 until they call and tell us to turn them out.
- 12 Q What does your entry there on government's
13 exhibit 14 show the reason for their release?
- 14 A Well, I just figured they got through with their
15 investigation?
- 16 Q What does your book reflect?
- 17 A What do you mean, paid out or made bond?
- 18 Q What entry did you make?
- 19 A Well they just stay until they pay off or make
20 bond.
- 21 Q Is that reflected in your book, what did you
22 write for being the reason they were released?
- 23 A Well, this is James Chaney, the 21st of June,
24 paid fine.
- 25 Q What about the other two?

1 A Well, I guess they had finished their investi-
2 gation.

3 Q What entry did you make there?

4 A Released after investigation.

5 Q Now, did Price tell you he had made any investi-
6 gation?

7 A Well, they didn't make any at the jail but they
8 have before they brought them in.

9 Q But did he, how did you know to put that entry
10 in?

11 A Well, he told us to book Chaney for speeding
12 and to book the other two for investigation.

13 Q Well, how did you know to put that in after
14 you released them?

15 A Well, that's what he said.

16 Q Let me hand you this.

17 BY THE COURT:

18 Handle those exhibits for him, Mr. Marshal.

19 BY MR. OWEN:

20 Q Do you recognize this?

21 A Yes, those are the records on fines that Leonard
22 Warren gave us. He's in the National Guard and
23 he has to be out of town a lot, and a lot of
24 time people want to pay their fines and get out
25 of jail.

1 Q Fines for what kind of offenses?

2 A Well, speeding, driving without a tag, driving
3 while intoxicated, public drunk, such as that.

4 Q It was sticking up over that place there between
5 the jail residence and the jail.

6 Q Now on those basis, you can release a person
7 from jail if they meet those----

8 A Well, we have been doing that all these twelve
9 years, when they pay off, or make bond we go
10 ahead and release them because a lot of times
11 we can't get ahold of the law.

12 Q Thank you, Mrs. H^Erring.

13 BY THE COURT:

14 Any cross examination?

15 BY MR. BUCKLEY:

16 Your Honor, we would like to interpose an objection
17 as to the basis between the Justice of the Peace and
18 the Jailer and not the Sheriff and the Jailer, there
19 is nothing to show this is official between the Justice
20 of the Peace and the Jailer.

21 BY THE COURT:

22 I'll overrule your objection. You may cross.

23 BY MR. WEIR:

24 CROSS EXAMINATION

25

- 1 Q. Mrs. Herring, I believe, you say that Leonard
2 Warren is the Justice of the Peace of District
3 One of Neshoba County, Mississippi?
- 4 A. That's right.
- 5 Q. And this is true that he's hard to find at times?
- 6 A. Well, they all are sometimes, sometimes you can't
7 find any of them.
- 8 Q. Judge Warren is hard to find on Sunday.
- 9 A. Well Yes.
- 10 Q. Judge Warren operates another kind of business
11 there also?
- 12 A. Yes.
- 13 Q. And he goes hunting and fishing quite often.
- 14 A. I reckon he's like all the rest of them he goes
15 every chance he gets.
- 16 Q. But he is hard to find at times.
- 17 A. Well its hard to find any of them sometimes and
18 I guess that was one of the times.
- 19 Q. Yes sum. Sometimes when they bring in a prisoner
20 you just write the names down on a piece of paper
21 and then later on you make the entry in that
22 docket book there, don't you?
- 23 A. Well, I tell you a lot of times when the law
24 brings them in they write their names and stuff
25 on a piece of paper

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Q Well have you ever done that?

A Yes, I have. I sure have.

Q How often does that happen Mrs. Herring?

A Well not too often because I generally go right on to the books and docket it when they bring them in, so I can keep it straight.

Q Does the law officers write it on a sheet a paper and then you docket it on your books? How often does that happen?

A Well, not too often.

Q Quite often?

A Well, not too often.

Q If the Court please, will you indulge me just a moment?

Mrs. Herring, are you related to me any way?

A You're my son-in-law.

Q That's all.

BY THE COURT:

I'm going to say to the Counsel for the defendants as officers of this Court, I'm going to say to you that if you think it is absolutely imperative that you ask some questions, I'm going to let you do it under those circumstances.

REDIRECT EXAMINATION

BY MR. OWEN:

1 Q. Mrs. Herring, you stated on cross examination
2 that at times these people are hard to find, on
3 that Sunday of June the 21st, how many times did
4 you see Cecil Price?

5 A. Well I saw him when he brought George Rush in
6 and then I saw him when he brought them in.

7 Q. Who do you mean by them?

8 A. Well, Schwerner, Goodman & Chaney.

9 Q. Had you seen them before, uh, had you seen him
10 before then?

11 A. I saw him when he brought the boys in.

12 Q. What boys are you referring to?

13 A. Well, Chaney, Schwerner-----

14 BY MR. PIGFORD:

15 Your Honor, we don't understand who Counsel is asking
16 who she had seen, if it is M_r. Price, Mr. Warren
17 or who?

18 BY THE COURT:

19 Well, I'll let you rephrase your question and be a
20 little bit more specific.

21 BY MR. OWEN:

22 Q. How many times and when did you see Cecil Price
23 that day?

24 A. Well, I saw him when he brought those three boys
25 in and I saw him when he came back and brought

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the nigger in, George Rush.

Q. Did you see him later?

A. Not until he came back that night about 10:30.

Q. Did you see him after that?

A. Yes, I saw him. He came in and brought somebody. Wait, I can't think. Yes here it is. They came in brought Richard something, Jim something, I can't say their names, and Jim, no, Will Sullivan.

Q. Now, you say they came in, who is they?

A. Well Price and Deputy Sheriff Rainey?

Q. Who?

A. Deputy Rainey, I mean Sheriff Rainey. Let's see now, it was Rainey, Price and Warren, I believe that was all.

Q. Now, what time was this?

A. Well it was about ten minutes until twelve. After I went in the house I went on in the living room after we locked them up and the docket was on the table and I looked at the clock, and we marked them put on the 21st, of course we got paid for that day and if it had been five minutes after midnight we would have got that day on there

BY THE COURT:

Counsel, that' doesn't sound to me like it is rebuttal
(Mr. Owen sat down)

1 BY THE COURT:

2 Anything else from this witness?

3 BY MR. WEIR:

4 Just a moment Your Honor, I have another question.

5 BY THE COURT:

6 Stand right where you are and ask your question, I
7 don't want you to get wind up again.

8 RE CROSS EXAMINATION

9 BY MR. OWEN:

10 Q Mrs. Herring, there was not much difference in
11 the time from when George Rush was placed in jail
12 than from the time these three people you testified
13 about was put in was it?

14 A I guess it was about thirty minutes difference.

15 Q Now, Mr. Price never did come inside the jail
16 house did he?

17 A No, he sat out in the car and Leonard brought
18 them in and my husband took them and locked them
19 up.

20 Q Now something is in front of the jail instead of
21 glass isn't it?

22 A Oh, yes, brick.

23 Q And you didn't get outside the jail did you?

24 A I believe Laurel, I was sitting in the yard when
25 they came up.

- 1 Q In other words you are positive that Mr. Price
2 didn't get out of the car?
- 3 A No, he didn't, he sat out there in the car.
- 4 Q And the only person that came in the jail with
5 the prisoner was who?
- 6 A Leonard Warren. He got out of the car and walked
7 in the hall there between the jail and the hall and
8 the old nigger had been there so much he knew where
9 he was so he just went staggering on in.
- 10 Q And the time element was not over thirty minutes?
- 11 A I don't believe it was. It was just a few
12 minutes.
- 13 Q Now, was this one of those occasion where the
14 names were put down on a piece of paper and then
15 transferred to your docket?
- 16 A I don't remember.
- 17 Q You couldn't say it was or you couldn't say it
18 wasn't.
- 19 A No Laurel, I couldn't say, we lock up so many.
- 20 Q The fact of the business is you do make mistakes
21 do you not?
- 22 A I'm subject to mistakes.
- 23 Q And you frankly admit it don't you?
- 24 A That's right.
- 25 Q And you wouldn't attempt to tell the Court and

1 Jury that that docket is absolutely correct, would
2 you?

3 A. Well I'll tell you, I'm subject to mistakes just
4 like everybody else-----

5 BY MR. WEIR:

6 And you don't tell----

7 BY THE COURT:

8 Mr. Weir, let her finish her answer, I don't think
9 she had finish. You may finish your answer Lady.

10 BY THE WITNESS:

11 A. Well, I'm subject to mistakes just like everyone
12 else and my hearing is not as good as it used
13 to be and my husband can't hear anything.

14 Q. Well, has your husband recently undergone serious
15 hospitalization?

16 A. Well, he stayed in the hospital ten days.

17 Q. What condition is your husband's health?

18 A. Well, he has heart trouble, hardening of the
19 arteries.

20 Q. Mrs. Herring, what kind of medication do you have
21 to take?

22 A. Well, I take fifty units of insulin every morning
23 and I take----

24 BY MR. HAUBERG:

25 Your Honor, we object to that.

1 BY THE COURT:

2 Yes, I sustain the objection.

3 BY THE WITNESS:

4 And I take---

5 BY THE COURT:

6 Just a minute, Lady, I sustained the objection and
7 you don't answer when an objection is sustained.

8 BY THE WITNESS:

9 I'm sorry.

10 BY MR. WEIR:

11 Q. M^Rs. Herring, how long have your health been as
12 it is now?

13 A. Well----

14 BY MR. HAUBERG:

15 We object to that, Your Honor.

16 BY THE COURT:

17 I sustain the objection.

18 BY MR. WEIR:

19 Q. Does it affect your ability to keep records
20 accurately?

21 BY MR. HAUBERG:

22 We object to that, if the Court please.

23 BY THE COURT:

24 I'll let you answer that.

25 BY MR. WEIR:

1 Q And how long has it been subject to that?

2 A Well, I have been a diabetic since 1964. I thought
3 I had high blood pressure.

4 Q It was about this time that you found out about
5 your health?

6 A Yes when all this happened my sugar was so high
7 I collapsed and while I was in the hospital I
8 started taking pills.

9 BY MR. HAUBERG:

10 We object to that, if the Court please as being
11 immaterial.

12 BY THE COURT:

13 Yes, I'll sustain the objection.

14 BY MR. WEIR:

15 Q Mrs. Herring, on the occasion that Rush was
16 brought in was Judge Warren/necessary that he
17 leave immediately?

18 A Yes, someone had called from the courthouse
19 and wanted to make some warrants, and he went
20 to the office to make out the warrants.

21 Q And did he make that statement to you that it
22 was urgent to leave and go to the courthouse?

23 A Yes, he did.

24 Q One other question, Your Honor.

25 BY THE COURT:

1 Counsel, we are not going to keep on examining
2 witnesses, after Counsel finishes examining witnesses
3 in chief and cross examination, we are just going
4 to hold it in rebuttal and cross rebuttal, we are
5 not going to start all over like we are doing now.

6 BY MR. ALFORD:

7 If the Court please, Mr. Owen asked her some questions
8 about some people being arrested around midnight and
9 that is the question that we wanted to ask her.

10 BY THE COURT:

11 Well, you haven't asked her anything about that so
12 far.

13 BY MR. WEIR:

14 I am about to posed that question now, If His Honor
15 will permit me to.

16 BY THE COURT:

17 All right, go along.

18 BY MR. WEIR:

19 Q. Mrs. Herring, about midnight on the 21st of June
20 or something thereafter, around midnight, did
21 Cecil Ray Price and Clayton Livingston, the
22 Constable of District One, did they bring in
23 two prisoners by the name of Joseph Dominick and
24 Richard Talbert?

25 A. Let's see. Price? Price brought in Will

1 Sullivan, the Sheriff and Warren, drunk and
2 disturbance, and Joseph or Jimmy, he was booked
3 by Livingston

4 Q. That's Dominick?

5 A. Yes.

6 Q. Was Mr. Price there when Mr. Dominick was brought
7 in?

8 A. Well I tell you, they were all there about the
9 same time.

10 Q. Who did Price bring in, Cowan?

11 A. I believe Livingston brought them in. Let me
12 see. No, the Sheriff and Mr. Moore brought Huell
13 Sullivan in, that's right, and Richard Cowan,
14 that was Livingston, they got him for trespassing
15 and Joseph Dominick, they got him for trespassing.

16 Q. Is Mr. Livingston the one on the docket there
17 that brought them in?

18 A. Yes, Livingston and the Sheriff.

19 Q. Does it show Price there?

20 A. Yes, Price brought in, let me see, I was there.

21 BY THE COURT:

22 I want Counsel to know that the questions he is
23 asking at this time are questions to be asked on
24 cross examination and not at this time, but I am
25 going to let you do it this time and you may not

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like this rule, but I am going to hold you strictly to the rules of evidence, you are going to have the right to cross examine and then you will have a chance for rebuttal, and that's all, you are not going to start all over with a witness.

BY MR. WEIR:

This is my last question, Your Honor.

BY THE COURT:

I don't believe that, but go ahead.

BY MR. WEIR:

Q. Well Price did bring in a prisoner about midnight on June the 21st, 1964, didn't he?

A. Well, they all came in about the same time. They brought in Huell Sullivan and those other two boys, they all came in about the same time.

Q. Well, was Price one of them?

A. Yes, he was one of them, I don't know where he brought, or helped bring them in or not.

Q. Thank you.

BY THE COURT:

Next witness.

JOHN H. PROCTOR, JR., called as a witness for and on behalf of Plaintiff, was sworn and testified as follows:

DIRECT EXAMINATION

1 BY MR. OWEN:

2 Q State your name for the record?

3 A John H. Proctor, Jr.

4 Q What do you do, Mr. Proctor?

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

7 Q How long have you been with the Federal Bureau
8 of Investigation?

9 A Sixteen years.

10 Q Where are you stationed, Mr. Proctor?

11 A I am Senior Resident Agent in Meridian,
12 Mississippi.

13 Q How long have you been here?

14 A Since November, 1962.

15 Q Now, did you or did you not make certain investi-
16 gation involving this case?

17 A I did.

18 Q Could you state whether or not you received
19 certain information concerning a burned vehicle
20 involved in this case?

21 A I did receive some information.

22 Q When did you receive that information?

23 A On June 23, 1964.

24 Q What information did you receive?

BY MR. BUCKLEY:

1 We object Your Honor as to the information he received
2 this would be hearsay.

3 BY THE COURT:

4 Overruled, go ahead.

5 BY MR. OWEN:

6 Q. What information did you receive?

7 A. I received information regarding a 1963 Ford
8 Station Wagon.

9 Q. Did you check that information out?

10 A. I did.

11 Q. What did you do?

12 A. I went to a location on Highway 21 between
13 Philadelphia, Mississippi and Preston,
14 Mississippi and located a 1963 Ford Station Wagon
15 bearing 1964 Hinds County License H25503.

16 Q. Do you have that license plate with you?

17 A. I do.

18 Q. Can you identify that?

19 A. I can.

20 Q. Identify that for us.

21 Q. This is Mississippi license H-25503, Hinds
22 County, October, 1964.

23 Q. Now, where did that plate come from?

24 A. This plate came from the rear of a 1963 Ford

1 miles from Philadelphia, Mississippi between
2 there and Preston, Mississippi.

3 Q I would like to offer this.

4 BY THE COURT:

5 Just turn around and show it to Counsel I think that
6 will be sufficient.

7 (License plate shown to opposing Counsel)

8 BY THE COURT:

9 All right, it may be entered and be marked.

10 (Whereupon exhibit entered into evidence and marked
11 P-19)

12 BY MR. OWEN:

13 Q Would you look at exhibit 9, which is this map
14 over here, can you describe from exhibit 9 where
15 you found that station wagon?

16 A Yes, the station wagon was located on Highway 21
17 depicted on the map in the upper right hand
18 corner of this drawing.

19 BY MR. OWEN:

20 I would like permission from the Court for the witness
21 to be allowed to step over by the map and mark that
22 location on the map.

23 BY THE COURT:

24 All right.

25 BY MR. ALFORD:

1 If it please the Court we would like to offer an
2 objection to the type of marker that he has started
3 out using this day which is the green marker that
4 he used yesterday. We submit that that is prejudicial

5 BY THE COURT:

6 Prejudicial how?

7 BY MR. ALFORD:

8 That he is using one color for one thing and one
9 color for another, which places different emphases
10 on different locations.

11 BY THE COURT:

12 I'll overrule your objection.

13 BY MR. ALFORD:

14 And I would like to raise another objection, Your
15 Honor, and that is he's going beyond the blank out
16 area of the map which does not show a consistent
17 and coordinating depiction of where this location
18 is in comparison to the rest of the map because the
19 map has a blank location in it, two different locations
20 from the City of Philadelphia and where this location
21 is.

22 BY THE COURT:

23 The witness hasn't located it yet.

24 BY MR. ALFORD:

25 He said the right hand corner of the map is the

1 Court please.

2 BY THE COURT:

3 Yes, I understood him to say that. I will let him
4 locate it and see what you say about that.

5 BY MR. ALFORD:

6 Your Honor, I would like to renew my objection.

7 BY THE COURT:

8 Well, I'll overrule your objection, I think his
9 statement about being in the northeast corner is
10 pretty accurate but he's got it on a road or north
11 of a road in an area which is on the map so I'll
12 overrule your objection. Does that red sticker that
13 you put on there have something written on it?

14 BY THE WITNESS:

15 Yes sir.

16 BY THE COURT:

17 °What does it have written on it?

18 BY THE WITNESS:

19 1963 Station Wagon.

20 BY THE COURT:

21 All right.

22 BY MR. OWEN:

23 Q. I hand you a document and ask you if you can
24 identify it?

25 A. Yes. I can.

1 Q What is it?

2 A This is a location, excuse me. This is a location
3 of where the 1963 Ford Station Wagon was located
4 on Highway 21 between Philadelphia, Mississippi
5 and Preston, Mississippi in the Bogue Chitto
6 Swamp.

7 Q Is that an accurate representation of what you
8 purport it to be?

9 A Yes, it is.

10 Q I would like to have this marked and entered into
11 evidence.

12 BY THE COURT:

13 Show it to Counsel, if you have other pictures there
14 just show all of them to Counsel. Do you have
15 anything to say about the first picture?
16 That photograph of that area may be entered into
17 evidence and be marked.

18 (Whereupon exhibit entered into evidence and marked
19 P-20)

20 BY MR. OWEN:

21 Q Would you hold that photograph up and turn it
22 around and point out the location of that station
23 wagon.

24 A Yes, I can. It was located at this point.

25 Q And do you know how far from the road that was?

1 A. It was located approximately 90 feet from the
2 center of the road.

3 Q. For the record the witness indicated the location
4 right in the center of the photograph.

5 BY MR. BUCKLEY:

6 Your Honor please, I object to that, I don't think
7 Counsel should testify for the witness.

8 BY THE COURT:

9 Well, I'll let the witness put a circle around the
10 location where he says it was located.

11 (Witness places mark on exhibit)

12 BY THE COURT:

13 All right, Mr. Owen.

14 BY MR. OWEN:

15 Q. Can you identify that picture the Marshal is
16 handing to you?

17 A. Yes, I can.

18 Q. What is that a picture of?

19 A. This is a photograph of the 1963 Station Wagon
20 that I located off Highway 21 on June 23, 1964.

21 Q. June what?

22 A. June 23, 1964?

23 Q. Is that an accurate representation of what it
24 purports to be?

25 A. Yes, it is.

1 Q I would like to have that photograph marked
2 and entered into evidence.

3 BY THE COURT:

4 All right, let that photograph be entered and marked.
5 (Whereupon exhibit entered into evidence and marked
6 P-21)

7 BY MR. OWEN:

8 Q Take the next photograph now, can you describe
9 that?

10 A Yes, I can. This is a photograph of the 1963
11 Ford Station Wagon which I located on Highway 21
12 between Philadelphia, Mississippi and Preston,
13 Mississippi.

14 Q Is that a fair representation of what it purports
15 to be?

16 A It is.

17 Q I would like to have that entered and marked.

18 BY THE COURT:

19 It may be entered and marked.
20 (Whereupon exhibit entered into evidence and marked
21 P-22)

22 BY MR. OWEN:

23 Q Can you look at the next photograph the Marshal
24 is holding there and tell us what that it?

25 A T can

1 Q. What is that?

2 A. This is a photograph of a 1963 Ford Station
3 Wagon, showing a rear view of this Station Wagon,
4 and also showing the license number of the
5 Station Wagon which is Mississippi 1964 Hinds
6 County H-25503.

7 Q. Now is that a fair representation of what it
8 purports to be?

9 A. It is.

10 Q. I would like to offer it as an exhibit.

11 BY THE COURT:

12 It may be entered and be marked.

13 (Whereupon exhibit entered into evidence and marked
14 P-23)

15 BY MR. OWEN:

16 Your Honor, would it be permissible for these
17 pictures to be shown to the jury?

18 BY THE COURT:

19 I don't know that it would be meaningful at this
20 time but you may hold them up one at the time and
21 let the Jury see them.

22 (Photographs shown to Jury)

23 BY MR. OWEN:

24 Q. I ha~~ad~~d you another photograph and as if you
25 recognize this?

1 A. Yes, I do.

2 Q. What is that?

3 A. This is a photograph showing the area of Highway
4 21 where the 1963 Ford Station Wagon was located
5 as well as showing the immediate area around
6 its location.

7 Q. Is that a fair representation of the Station
8 Wagon and the immediate area surrounding it?

9 A. It is.

10 Q. I would like to have this photograph marked.

11 BY THE COURT:

12 Show it to the jury and then let her mark it.

13 That photograph may be entered and marked.

14 (Whereupon exhibit entered into evidence and marked
15 P-24)

16 BY MR. OWEN:

17 Q. Now, if you will take exhibit 24 and turn it around
18 and indicate which direction on that picture, if
19 you will hold it up, which direction is Philadelphia
20 in that picture?

21 A. Philadelphia is in this direction.

22 Q. Would you hold it up and point so the jury can
23 see it?

24 A. Its in this direction, to the left.



1 is the item on the highway there where you have
2 your finger?

3 A. This is a bridge across a small stream.

4 Q. Are there any other bridges around in that area?

5 A. Yes.

6 Q. Where?

7 A. There is a second bridge going toward Philadelphia
8 immediately down the road a short piece.

9 Q. How far is that from Philadelphia?

10 A. Approximately 13 miles.

11 Q. Can you locate on that picture where the station
12 wagon was located?

13 A. Yes I can. It was located at this location.

14 Q. Would you mark that?

15 BY THE COURT:

16 Make a large circle, Mr. Proctor.

17 (Witness places marking on photograph, P-24)

18 BY THE COURT:

19 I believe we'll take a recess now for lunch until
20 1:15. I will excuse the jury and let you disburse
21 with the same understanding that we have had each
22 time and I want you to be very careful to observe
23 out agreement and I will now let the jury pass out
24 now, let them pass out first, Mr. Marshal.

25 (Whereupon jurors excused from courtroom.)

1 BY THE COURT:

2 We will wait until the Jurors get down on the elevator
3 as I don't want any crowding around the elevators
4 as I don't want any appearance of any impropriety
5 so we'll take a recess until 1:15.

6 (Whereupon the Court took a recess at 11:50 A. M.
7 until 1:15 P. M.)

8 BY MR. DOAR:

9 Your Honor, I wonder if Mrs. I'm sorry, Reverend
10 Johnson and Ernest Kirkland, I wondered if they might
11 be excused, Your Honor?

12 BY THE COURT:

13 Does the defendants know of any reason why they can't
14 be excused?

15 BY MR. BUCKLEY:

16 No sir.

17 BY THE COURT:

18 They may be excused.

19 BY MR. HAUBERG:

20 May it please the Court, Mrs. Chisolm also testified
21 this morning, and would it be possible for her to
22 be excused also?

23 BY THE COURT:

24 When a witness testifies here I assume they have told
25 all they know and it is certainly no reason for them

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to be kept here so they are automatically discharged.

AFTER RECESS:

BY MR. OWEN:

Your Honor, may I ask the witness one more question?

BY THE COURT:

Yes.

BY MR. OWEN:

Q Mr. Proctor, would you just describe the physical conditions of the Station Wagon when you found it on that day?

A The 1963 Ford Station Wagon, Fairlane, which I found on June 23, 1964 was in a burned condition. The interior of the car, the Station Wagon, was burned, the upholstery was burned, the seats were completely burned out and the windows in the Station Wagon were melted and there were areas of the station wagon, with the exception of a small area on the driver's side, had all the paint burned off of it.

Q Thank you.

CROSS EXAMINATION

BY MR. ALFORD:

Q Mr. Proctor, I believe you testified that you had been with the Federal Bureau of Investigation for how

1 A. Sixteen years.

2 Q. This Station Wagon had been reported to you or
3 someone had given you the information, is that
4 what you testified to?

5 A. Yes sir.

6 Q. Who gave you that information?

7 A. I received this information from Mr. Lonnie Hardin,
8 Superintendent of the Choctaw Indian Agency,
9 Philadelphia, Mississippi.

10 Q. Who gave him the information or do you know how
11 he received his information?

12 A. I do not.

13 Q. Did you pay anything for this information?

14 A. I did not.

15 Q. What did you do when you received this information?

16 A. I proceeded to the location that Mr. Hardin had
17 directed me to.

18 Q. And what did you find there?

19 A. I found a 1963 Ford Fairlane Station Wagon, bearing
20 1964 Mississippi license H-25503.

21 Q. You testified that you placed this orange marker
22 in the location where you found this vehicle, is
23 that correct?

24 A. That's correct.
25

1 Q. Now, if you look at this drawing up on the board
2 there, you find no connection between Highway 21
3 leading out of Philadelphia, do you sir?

4 A. The lines do not connect.

5 Q. Then there is a part missing from that map?

6 A. There is.

7 Q. And therefore a person looking at that map could
8 not get a good perspective as to distance from
9 Philadelphia to the location on that map?

10 A. I can get a true---

11 Q. If it please the Court, I respectfully request
12 the witness to answer my question.

13 BY THE COURT:

14 Answer his question.

15 BY THE WITNESS:

16 A. In my true opinion, yes, you can.

17 Q. Even though the curves and the demarcations are
18 not on that map?

19 A. Yes sir.

20 Q. You still do that from the map or from your
21 own knowledge of the road sir?

22 A. I would say from both.

23 Q. From both?

24 A. Yes sir.

25 Q. But you would rely on your mind there as to the

1 missing location there on that map, is that
2 correct?

3 A. The roads on the map are marked sir?

4 Q. Well there are curves and locations on the ground
5 that are not shown on that map, is that correct?

6 A. That is correct.

7 Q. Therefore you are having to draw from your personal
8 knowledge of the terrain there or your imagination
9 or one of the other, is that correct?

10 A. Yes sir that is correct.

11 Q. And a person that is not familiar with this area,
12 it would be impossible for him to take that map
13 and show himself how to mark that or to get to
14 that place would it not?

15 A. As I stated before, the roads are all marked.

16 Q. But on that map it is not marked is it?

17 A. Highway 21 which we have reference to is marked
18 sir?

19 Q. But it is void as to that blanked out area is it
20 not?

21 A. Yes sir.

22 Q. Now, I would like to ask you sir what time did
23 you arrive out there to look at this?

24 A. Approximately 1:30 P. M.

25 Q. On what date?

- 1 A. June 23, 1964.
- 2 Q. Who went with you sir?
- 3 A. Special Agent Henry McConnell.
- 4 Q. And who else?
- 5 A. Mr. McConnell and I proceeded to the location first
6 and other persons arrived later.
- 7 Q. Mr. Marshal, will you hand me that exhibit there?
8 Now sir, you testified and upon your testimony
9 some exhibits were introduced here, this exhibit
10 numbered P-20, who took this picture here?
- 11 A. Special Agent Dean Lyler.
- 12 Q. Is he in the courthouse today?
- 13 A. In the post office sir?
- 14 Q. Yes sir.
- 15 A. Yes he is.
- 16 Q. And who is this gentlemen standing here, in this
17 picture?
- 18 BY THE COURT:
19 What exhibit is that?
- 20 BY MR. ALFORD:
21 Exhibit number 20, Your Honor.
- 22 BY THE WITNESS:
23 A. That is Special Agent Henry McConnell.
24 Q. Nor Mr. Proctor, who took these other pictures,
25