

1 BY MR. ALFORD:

2 Yes sir.

3 BY THE COURT:

4 Yes sir, and it stands overruled.

5 BY MR. OWEN:

6 Q Now, will you tell the Court and Jury just what
7 you did?

8 A On the morning of August the 4th, 1964, approxi-
9 mately ten miles southwest of Philadelphia,
10 Mississippi on Mississippi Highway 21, I was
11 stationed there at approximately 7:40 in the
12 morning for the purpose of meeting a convoy of
13 heavy earth moving equipment which was proceeding
14 from Jackson, Mississippi. The convoy arrived
15 and I proceeded then to the point where this
16 photograph, a point immediately adjacent to this
17 photograph in the area of this photograph and at
18 8:15 that morning, I ordered and directed this
19 convoy on this property which is reflected in this
20 photograph.

21 Q Now, what did you do on that property?

22 A I proceeded to the dam site which was located back
23 off of Highway 21 and caused the dam to be opened
24 up with the use of this equipment and located
25 three bodies

1 Q Is that which you described in that picture the
2 dam which you located?

3 A Yes.

4 Q Did you take the picture?

5 A I did.

6 BY THE COURT:

7 Did you take that picture?

8 BY THE WITNESS:

9 I did, Your Honor.

10 BY THE COURT:

11 Is it an accurate representation of the subject matter
12 of the picture?

13 BY THE WITNESS:

14 It is.

15 BY MR. AFLROD:

16 Your Honor please we would interpose an objection
17 to the introduction of this photograph.

18 BY THE COURT:

19 I'll overrule your objection and let it be entered and
20 marked.

21 (Whereupon exhibit entered into evidence and marked

22 P-30)

23 BY MR. OWEN:

24 Q If you would look at this exhibit 9 over here
25 can you identify on that exhibit where that

1 location is?

2 A. Yes I can.

3 Q. Staying where you are, describe to us where it is.

4 A. Coming west out of Philadelphia, Mississippi on
5 the highway leading out which I believe is Highway
6 19, I can't read it from here, there are two
7 green house like markers up there, immediately to
8 the left of the left most green marker on the map
9 is a road that turns south which is highway 21,
10 immediately below where it turns south there is
11 a brown road leading to the right. In the area
12 of the left of the intersection of that brown
13 road and about a half mile into the area to the
14 left or west of highway 21 is the general area
15 where the dam is located.

16 Q. May the witness put a marker on the map?

17 BY THE COURT:

18 Yes sir.

19 BY MR. OWEN:

20 May the witness write the word dam on the marker?

21 BY THE COURT:

22 All right. Are all of the jurors staying here in
23 Meridian at night? How many of you who go home live
24 further than fifty miles?

25 BY A JUROR:

1 Eight-five miles.

2 BY THE COURT:

3 Where is that?

4 BY THE JUROR:

5 Brandon.

6 BY A JUROR:

7 I live about 160 miles.

8 BY THE COURT:

9 Where is that?

10 BY THE JUROR:

11 Moss Point.

12 BY THE COURT:

13 And you go home every night?

14 BY THE JUROR:

15 No sir.

16 BY THE COURT:

17 That was my question as to the ones who went home
18 every night. And you do go to Brandon every night?

19 BY MR. ALFORD:

20 If it please the Court, we interpose the same objection
21 that we did this morning as they are not using the
22 same colored markers that they started out with.

23 BY THE COURT:

24 All right, I'll overrule that objection.'

25 BY MR. OWEN:





1 Q. I hand you this photograph and ask you if you
2 recognize it?

3 A. I do.

4 Q. Would you describe it?

5 A. This is a photograph of the actual dam in which
6 the three bodies were located.

7 Q. Do you know whether or not that was taken before
8 or after the bodies were located?

9 A. It was taken before.

10 Q. What day?

11 A. It would have been on the morning of August 4,
12 1964.

13 Q. Is that a fair representation of that dam on
14 the morning of August 4, 1964?

15 A. It is.

16 Q. I would like to have it marked and entered into
17 evidence.

18 BY MR. ALFORD:

19 Your Honor we would interpose an objection.

20 BY THE COURT:

21 I'll overrule your objection and let it be entered
22 and marked.

23 (Whereupon exhibit entered into evidence and marked

24 P-31)

25 BY MR. QUINN.

1 Q I hand you another photograph and ask if you
2 recognize that one?

3 A I do.

4 Q Would you describe it?

5 A Its a photograph taken at the dam at the onset
6 of the digging operation as it occurred on
7 August 4, 1964.

8 Q Is that a fair and accurate representation of the
9 early, uh, when the digging started on that day?

10 A It is.

11 Q I would like to have it marked and introduced into
12 evidence.

13 BY THE COURT:

14 You may hold these pictures up to the jury if you
15 want them to see them Counsel from time to time.

16 BY MR. ALFORD:

17 If the Court please, we would interpose an objection
18 if the Court please.

19 BY THE COURT:

20 I'll overrule your objection and let it be entered
21 and marked.

22 (Whereupon exhibit entered into evidence and marked

23 P-32)

24 BY MR. OWEN:

25 Q I hand you another photograph and ask if you

1 recognize that?

2 A. I do.

3 Q. And what is that?

4 A. Yes, this is a photograph of a hole we excavated
5 in the dam on the morning of August 4, 1964.

6 Q. And is that a fair and accurate representation of
7 that location on that day?

8 A. Yes, it is.

9 Q. We would offer that into evidence also.

10 BY MR. ALFORD:

11 If it please the Court, we interpose an objection
12 to that photograph.

13 BY THE COURT:

14 Allright and I'll overule your objection and let it
15 be entered and marked.

16 (Whereupon exhibit entered into evidence and marked
17 P-33)

18 BY MR. OWEN:

19 Q. I hand you these other photographs and ask
20 you if you recognize those as to what you did
21 that day in connection with the recovery of those
22 bodies.

23 A. Yes, this is a series of seven photographs that
24 were taken during the exhumation of the three
25 bodies. They are fair and accurate representation

1 of what we say that day.

2 Q I would like to offer each one of them and have
3 them introduced and marked and then handed to the
4 witness for questioning.

5 BY THE COURT:

6 Is the order in which you handed them to him of any
7 importance?

8 BY MR. OWEN:

9 They are in sequence, Your Honor.

10 BY THE COURT:

11 Keep those in sequence and hand them to Counsel for
12 examination, and then be sure they are like you want
13 them.

14 BY MR. ALFORD:

15 If the Court please, we would like to ask that the
16 jury be retired.

17 BY MR. BUCKLEY:

18 We have an objection to make, Your Honor, and it
19 would be futile to make it in the presence of the
20 jury in other words the basis of our objection would
21 be futile.

22 BY THE COURT:

23 Well, you have one other matter that I am going to
24 let you make a proffer about and I'm going to take

25

1 that matter with the Court at that time, so you
2 made an objection to the introduction of each one
3 of those photographs?

4 BY MR. ALFORD:

5 If Your Honor please that's the objection that we
6 would like to raise out of the presence of the jury
7 these seven last pictures before they are passed
8 around.

9 BY THE COURT:

10 Let me see those. You mean a different objection
11 from the ones that you have been previously making?

12 BY MR. ALFORD:

13 All, yes sir.

14 BY THE COURT:

15 All right, I'll let the jury go to their room.

16 (Whereupon jury excused from the courtroom at 3:05)

17 FOLLOWING PROCEEDINGS HELD IN ABSENCE OF JURY:

18 BY THE COURT:

19 I want to say this for the benefit of Counsel for
20 these defendants. Your defendants can move in and
21 out of the courtroom if they wish to do so, I'm not
22 going to try and have the Marshal police them but
23 when they leave this courtroom they are waiving their
24 right and irrepably so, otherwise I'm going to have
25 a different rule about it. Does Counsel understand

1 that all right, because I've noticed them going
2 in and out and I haven't said anything about it
3 but I want to be sure there is no point made
4 about them not being present at all times during
5 every strategic thing that happens in this lawsuit.

6 BY MR. WATKINS:

7 Your Honor please, the only comment that I, as Counsel
8 for Mr. Frank Herndon is, Your Honor please, is that
9 my client's leaving the courtroom is not necessarily
10 volunteer, as Your Honor has already listened to his
11 medical evidence.

12 BY THE COURT:

13 Well, I really wasn't talking about him.

14 BY MR. WEIR:

15 Your Honor please, with reference to the attorneys
16 whenever we have associate counsel representing the
17 same defendants can the other counsel be outside
18 conferring as long as we have a representative inside
19 the courtroom while the trial is going on?

20 BY THE COURT:

21 I don't believe so because as you will remember the
22 defendants invoked the rule and I don't believe that's
23 proper at all and the rule is invoked for counsel to
24 be shuttling in and out of the courtroom because
25 where there is anything that actually happens or not

1 it certainly gives the appearance and certainly
2 creates a possibility if not a probability of
3 passing on something that is being said in this
4 courtroom which would be a violation of the rule.

5 BY MR. ALFORD:

6 Yes, Your Honor, and we understand that. The only
7 question was since there are several defendants in
8 here and when our turn comes to present our defense
9 some Counsel might be out getting witnesses lined up
10 in order to save the time for another defendant other
11 than the one putting on his defenses is what Mr. Weir
12 has reference to.

13 BY THE COURT:

14 I knew what he was talking about. Of course, the
15 Marshal is going to get those lined up and he is
16 going to keep them lined up as he does the government'
17 witness so Counsel is not going to have any respon-
18 sibility as to that but you gentlemen invoked the
19 rule and I think I should enforce it strictly.

20 BY MR. WEIR:

21 Your Honor please if we left for some other purpose
22 would that be permissible?

23 BY THE COURT:

24 Yes. All right, you say you want something to go
25 on record?

1 I believe it is respect to these photographs there
2 are seven in number.

3 BY MR. WATKINS:

4 That is correct, Your Honor, this objection is pointed
5 to those photographs that purportedly contain a
6 gruesome representation of allegedly dead bodies.
7 We respectfully submit that these photographs if they
8 have any probovative value tends toward charges not
9 made here and charges on which these parties are not
10 being tried and because of that, such gruesome picture
11 would be so highly inflmanatory that it would be so
12 prejudicial that it would violate the right and due
13 process of a fair trial. Its not necessary at all
14 to introduce those pictures in order to establish the
15 death as alleged, that they are not the best evidence
16 of establishing that point, they are used solely to
17 prejudice the jury against the defendants if they
18 thought they might be connected to an alleged murder
19 of some kind.

20 BY THE COURT:

21 Well I don't think the Court should tell either side
22 what evidence to put on or how to marshal their
23 evidence and to make their proof in the most con-
24 vincing fashion, this does present some gruesome
25 details but I don't believe that would necessarily

1 spell out the contentions which you make that
2 it shouldn't be offered into evidence. I think
3 while I am addressing myself to this point that I
4 think there should be a limit to that. I under-
5 stood that the government had some other evidence
6 that I'm not sure about its necessity nor its
7 advisability nor its propriety of being offered,
8 but we'll get to that and I'll overrule your
9 objection on the point. Is that what you had in
10 mind, Mr. Alford?

11 BY MR. ALFORD:

12 Yes sir, on the grounds that it would be pre-
13 judicial to the defendants and I would like to
14 interpose an objection to the introduction of
15 these pictures along with the introduction of
16 other pictures that we previously objected to on
17 the grounds that they were obtained from an
18 illegal search which I made a continuing objection

19 BY THE COURT:

20 Yes sir.

21 BY MR. ALFORD:

22 And I move to exclude them on that ground.

23 BY THE COURT:

24 I believe Judge Russell and I have agreed on that
25 without conferring on the point and we reached

1 the same conclusion that it was not an illegal
2 search and I believe that is correct and I'll
3 overrule your objection and do you want Mr.
4 Alford at this point to make the proffer that
5 you said you wanted to earlier today? I'll
6 let you make that now.

7 BY MR. PIGFORD:

8 Your Honor before you do that, would you allow us
9 to make this further motion that if the Court allows
10 these photographs to be introduced, the seven that
11 have been admitted, the government could introduce
12 one of those photographs instead of seven of them
13 and we further suggest that the government can prove
14 what it needs to prove without the proof of the
15 death of these people without this type of evidence.

16 BY THE COURT:

17 Well I don't think I should tell you or the govern-
18 ment either about what evidence you should use. I
19 don't believe this is so accumulative, I don't believe
20 it is so infl~~amm~~atory as to be unfair to show a
21 condition as it actually existed and if its that
22 bad and if anything is wrong with what is shown I'll
23 hear you about that but what is shown is accurate
24 and proper if its that bad I see no propriety in the
25 Court trying to suppress some it, so I'll overrule

1 your objection.

2 BY MR. PIGFORD:

3 We have one further ground for our objection. We
4 ~~object to it being introduced unless there is evidence~~
5 as to who these bodies were, there has been no
6 identification of them they are just showing three
7 bodies there, and we think it is improper because
8 it has not been connected with this case to allow
9 introduction of these bodies.

10 BY THE COURT:

11 Well of course, if the government rested at this
12 point they probably would be in trouble but they
13 haven't rested yet so we will just await that time
14 so I'll overrule your objection and invite your
15 apprehension about what a jury might inter what
16 has been shown by these photographs they will be told
17 very carefully and very distinctly and I hope under-
18 standingly what these people are being tried for. All
19 of these instructions will be considered together and
20 I'll invite instructions from the defendants and the
21 government too and I do now invite those instructions
22 as soon as you can give them to me, I don't need too
23 many but I would like to have some in your own language
24 that you would like to have told the jury, just exact
25 what you want me to say to the jury in your language

1 and I invite that. But I would like to have that
2 as soon as I can get them so I'll have some opportunit
3 to study them but that will come after the arguments.
4 I now invite you Mr. Alford to make your proffer.

5 BY MR. ALFORD:

6 If the Court please, I would like to ask the Clerk to
7 let me have those affidavits and those indictments.

8 BY THE COURT:

9 I beliee since we have concluded about these seven
10 photographs that I will overrule these objections and
11 let these seven photographs in the order which they
12 are handed to the Clerk be marked and they may be
13 shown generally to the jury like we have shown them
14 to the rest of them.

15 (Whereupon exhibits entered into evidence and marked
16 P-34, 35, 36, 37, 38, 39, & 40)

17 BY MR. ALFORD:

18 May I proceed now, Your Honor.

19 BY THE COURT.

20 Yes, just state in the record what you would prove
21 if you were allowed to do so.

22 BY MR. ALFORD:

23 Comes now the defendants, Cecil Ray Price, Olen Lavell
24 Burrage, Edgar Ray Killen, Billy Wayne Posey, Jerry
25

1 McGrew Sharpe, and E. G. Hop Barnett, and would show
2 unto the Court if allowed to prove evidence on the
3 4th day of December, 1964 Mr. John Proctor, Special
4 Agent with the Federal Bureau of Investigation did
5 make a sworn complaint in violation of United States
6 Code 18, Section 241 wherein among others the names
7 Jimmy Lee Townsend, Otha Neal Burkes and Oliver
8 Richard Warren, Jr., charging them substantially
9 with the same offense to which these defendants are
10 now standing indicted and being tried, less and
11 for the difference that Mr. Otha Neal Burkes, Mr.
12 Jimmy Lee Townsend, and Mr. Oliver Richard Warren, Jr.,
13 are not now charged with this offense and further
14 in addition to these parties named here Mr. E. G.
15 Barnett is now charged and also Mr. Richard Andrew
16 Willis is also now charged, which is an inconsistency
17 on the part of Mr. John Proctor, the Special Agent
18 in charge. Further that there appears two indict-
19 ments being number 5215 and 5216 in the Southern
20 District Court of the Southern District of Mississippi
21 Eastern Division, the indictment charges a violation
22 of 18 United States Code, Section 241 and 18 United
23 States Code, Section 2242 and 271 wherein these
24 defendants are charged with an offense and indicted
25 thereunder which does not include Mr. Otha Neal

1 Burkes or Mr. Oliver Richard Warren, but does include
2 Mr. Richard Andrew Willis showing an inconsistency
3 and said indictments having later been dismissed and
4 another indictment brought which is numbered 5291
5 wherein Jimmy Lee Townsend has been omitted and E. G.
6 Barnett has been added thereto which is an inconsistent

7 BY THE COURT:

8 Are you claiming that the government is inconsistent
9 or the witness would have been consistent or both?

10 BY MR. ALFORD:

11 Both.

12 BY MR. PIGFORD:

13 The defendant Akins joins in with this proffer, Your
14 Honor.

15 BY THE COURT:

16 Well all of you join in under the rule that I have
17 stated in the record unless you disassociate yourself.
18 Gentlemen, I believe my original ruling is correct. I
19 see no inconsistency there, I see certainly nothing
20 that a witness could be impeached by by what he said
21 in making a complaint and by what a grand jury did,
22 he wouldn't have much control over that, and now
23 having understood your objection and understanding
24 your proffer, my decision is the same that this
25 testimony would be incompetent and is rejected.

1 Anything further in the absence of the jury?

2 BY MR. ALFORD:

3 Your Honor please, I understand this witness is still
4 not finished under direct examination, therefore, we
5 still reserve our right for a continuing objection
6 to all of this.

7 BY THE COURT:

8 Oh yes, I thought since the jury was out if you had
9 anything else?

10 BY COUNSEL:

11 Oh, no sir.

12 BY THE COURT:

13 All right, we'll take about a ten minute recess and
14 reconvene in here at 3:30.

15 AFTER RECESS:

16 BY MR. OWEN:

17 Q. Mr. Cochran, if you will identify those by
18 exhibit number and hold them up and explain
19 briefly the recovery of those bodies?

20 BY MR. PAGFORD:

21 May it please the Court we would renew our objection
22 to these photographs in the presence of the jury.

23 BY THE COURT:

24 All right, have they been entered into evidence and
25 marked?

1 BY MR. OWEN:

2 Yes, Your Honor.

3 BY THE COURT:

4 I'll overrule your objection and I don't think you
5 need to explain too much, I believe the pictures are
6 pretty clear it seems to me.

7 BY MR. OWEN:

8 Just briefly, Your Honor.

9 BY THE COURT:

10 All right, you may proceed.

11 BY THE WITNESS:

12 Q Exhibit 32 is a photograph of the dam site looking
13 on the south side of the dam showing the heavy
14 equipment in place prior to the beginning of the
15 digging. Exhibit 33 shows the pit that was opened
16 up in connection with the exhuming of these bodies
17 and it was taken at a time just following the
18 using of the heavy equipment where we began to
19 dig by the use of hand instruments. Exhibit 34
20 is another view in the pit from the top showing
21 the agents removing the soil in the area of the
22 bodies. Exhibit 35 is a photograph of the
23 bobts of the first body that we uncovered, this
24 is the point at which we began to utilize hand
25 equipment. Exhibit 36 is a photograph of the

1 first body that was uncovered. Exhibit 37 is a
2 photograph of all three bodies after they had been
3 uncovered and prior to moving them. Exhibit 38
4 is a photograph of the first body as it was placed
5 in the body bag prior to transporting it to
6 Jackson, Mississippi.

7 BY MR. WATKINS:

8 Now if Your Honor please for the record on behalf
9 of the defendants we respectfully move the Court
10 for a mistrial in this case for the reasons that
11 the gruesome evidence exhibited to the jury has
12 not been connected in this case as relating to
13 any party in the indictment and for the further
14 reasons that were assigned to Your Honor in the
15 absence of the jury.

16 BY THE COURT:

17 All right, your objection is overruled.

18 BY MR. OWEN:

19 Q. In connection with that exhibit, with reference
20 to the first body, did you make any effort to
21 determine whether there was any identification
22 on that body?

23 A. I did.

24 Q. What did you do?

25 A. When the body was uncovered it was obvious

1 according to the body's position that is it was
2 lying on its stomach and in his left hip pocket
3 there was a billfold.

4 Q. What did you do?

5 A. I removed the billfold and examined the Selective
6 Service Card therein.

7 Q. Do you have that with you now?

8 A. I do.

9 Q. Would you describe that?

10 A. Its the Selective Service card of Michael Henry
11 Schwerner, Selective Service Number 30-10-39-1172.

12 Q. Is that the card that you removed from the first
13 body?

14 A. It is.

15 Q. I would like to have that marked and entered
16 into evidence.

17 BY MR. ALFORD:

18 If the Court please we would interpose an objection
19 to the introduction of that exhibit, that card, on
20 the grounds of the illegal search and for the further
21 grounds there has been no connection.

22 BY THE COURT:

23 I'll overruled the objection and let it be entered
24 andmarked.

25 (Whereupon exhibit entered into evidence and marked

1 P-41)

2 BY MR. OWEN:

3 Q Take the next photograph.

4 A Exhibit 39 is a photograph of the second body
5 as it was placed on the body bag for sealing
6 and transporting the body to Jackson, Mississippi.

7 Q Did you make any effort in connection with that
8 body to establish any identification for it?

9 A Yes.

10 Q What did you do?

11 A Again this body was lying face down adjacent to
12 the body identified as Michael Henry Schwerner
13 and in the right hip pocket of the trousers on
14 this body was a billfold containing a Selective
15 Service Card.

16 Q Where is that card?

17 A I have it right here.

18 Q Would you describe that?

19 A It is a Selective Service Card of Andrew Goodman,
20 Selective Service number 50-13-43-568.

21 Q Is that the card that you examined that you
22 found in the billfold of the second body?

23 A Yes, it is.

24 Q I would like to make it and introduce it into
25

1 BY MR. ALFORD:

2 Defendants would like to raise the same objection.

3 BY THE COURT:

4 Overruled. Let it be entered and be marked.

5 (Whereupon exhibit entered into evidence and marked
6 P-42)

7 BY MR. OWEN:

8 Q I would like for those to be shown to the jury.

9 BY THE COURT:

10 Well they are just Selective Service cards, just
11 hold them up they are like all other cards. All
12 right.

13 BY MR. OWEN:

14 Q You may go on.

15 A Exhibit 40 is the photograph of the third body
16 as it was placed on the body bag prior to sealing
17 and removal to Jackson, Mississippi.

18 Q Now, after you completed the recovery, what did
19 you do?

20 A I notified Inspector Sullivan that we had com-
21 pleted the exhumation and had gone as far as we
22 could go, at that time.

23 Q Were the bodies removed?

24 A The bodies were undisturbed.

25 Q What did you do then?

1 A I waited the arrival of the Neshoba County
2 Coroner.

3 Q Did he arrive?

4 A He did.

5 Q Then what happened?

6 A He arrived and was there for approximately thirty
7 minutes arriving at sometime around 8:00 P. M.
8 that evening and left around 8:30 or 8:35, he
9 returned with a hearse and we proceeded then to
10 get persons to move the bodies loading them into
11 body bags, sealing them placing them in the back
12 of the hearse and to transport them to the
13 University of Mississippi Medical School Hospital
14 at Jackson.

15 Q Were you present during the autopsy of these
16 bodies?

17 A I was.

18 Q Who conducted the autopsy?

19 A The autopsy was conducted by Dr. William Feather-
20 stone, a private practicing pathologist in
21 Jackson.

22 Q Who else was present, if you recall?

23 A Sheriff Rainey was present, Deputy Sheriff Price
24 was present, four additional agents with the
25 Federal Bureau of Investigation, the Neshoba

1 County Coroner was present, Dr. Featherstone,
2 Dr. Ruell May, an oral surgeon in Jackson, the
3 professor of the pathology department of the
4 University of Mississippi Medical School and
5 two of his assistance, and in addition there was
6 a photographer from the Mississippi Highway
7 Safety Patrol.

8 Q. Now in connection with the autopsy, did the
9 autopsy physician furnish you anything?

10 A. He did.

11 Q. What did he furnish you?

12 A. He furnished me with five bullets removed from
13 the three bodies, one from the body of Schwerner,
14 one from the body of Goodman, and three from the
15 third body.

16 BY MR. HENDRICKS:

17 We object to that, Your Honor, he's only identified
18 two bodies.

19 BY THE COURT:

20 Do you know who the third body was?

21 BY THE WITNESS:

22 I do now, Your Honor.

23 BY THE COURT:

24 Can you describe the third body?

25 BY THE WITNESS:

1 The third body was that of a negro male which was
2 subsequently identified as James Chaney.

3 BY MR. WEIR:

4 We object to him testifying unless he, himself knows
5 that was the body of that person or not.

6 BY THE COURT:

7 I'll overrule your objection.

8 BY MR. OWEN:

9 Q. Did he furnish you anything else?

10 A. Yes, he furnished the samples of skin tissue,
11 from the chest area of each of the three decedents
12 He furnished me with the clothing they were
13 wearing, each of the three bodies.

14 Q. Was any of their clothing cut?

15 A. Yes.

16 Q. What?

17 A. The T-shirt that was on the third body, identified
18 as Chaney was cut up the back, this was/^{removed}prior to
19 the autopsy. He also furnished me with the first
20 joint of each of the three fingers of the bodies.

21 Q. For what purpose?

22 A. For the purpose of laboratory examination to
23 identify possibly on the basis of fingerprints.

24 Q. What did you do with this material?

25 A. This material was all maintained in the autppsy

1 room until I could transport it upon the com-
2 pletion of the autopsy to the Jackson Office of
3 the Federal Bureau of Investigation where it was
4 sealed in packages and turned over to Special
5 Agent Frederick Cook of the F. B. I.

6 Q. And when was that turned over to him?

7 A. Early on the morning of August 5, 1964.

8 Q. Now did you have any conversation with the oral
9 surgeon, Dr. May, who you mentioned was present?

10 A. I did.

11 Q. What was that conversation?

12 BY MR. WEIR:

13 I object to that.

14 BY MR. OWEN:

15 I'll withdraw it.

16 Q. Did you show him anything?

17 A. I did.

18 Q. What did you show him?

19 A. I showed him two sets of dental charts.

20 Q. Do you have those with you?

21 A. I do.

22 Q. Would you identify those please?

23 A. The two items that I have in front of me are
24 the dental charts furnished me for Andrew Goodman
25 and Michael Schwerner.

1 Q. What did you do with those charts?

2 BY MR. WEIR:

3 We object.

4 BY THE COURT:

5 Overruled.

6 BY MR. OWEN:

7 Q. What did you do with those charts?

8 A. I allowed Dr. May to examine them following the
9 completion of the charting of the dentention
10 of the mouths of Schwerner and Goodman.

11 Q. I would like to have those marked just for
12 identification at this time.

13 BY THE COURT:

14 Well, let's go along I don't think we need to
15 mark them for identification then offer them into
16 evidence.

17 BY MR. OWEN:

18 I'll offer them into evidence then Your Honor.

19 BY MR. PIGFORD:

20 Now Your Honor, we object this is a very serious
21 thing unless this witness can say they are accurate
22 as to the mouths of these particular people we don't
23 think it would be competent.

24 BY THE COURT:

25 I think you had better ask him a little bit more

1 about where he got them and what he knows about
2 them.

3 BY MR. OWEN:

4 Q. Where did you get those charts?

5 A. I got them from the New York Office of the
6 Federal Bureau of Investigation.

7 Q. Do you know where they got them?

8 A. I do.

9 Q. Could you tell us where they got them?

10 BY MR. HENDRICKS:

11 We object to that as being hearsay.

12 BY THE COURT:

13 Do you know where they got them?

14 BY THE WITNESS:

15 Yes sir.

16 BY THE COURT:

17 Overruled.

18 BY THE WITNESS:

19 A. From the two dentists who prepared them. The
20 dentists of Schwerner and Goodman.

21 BY MR. HENDRICKS:

22 We still say that's hearsay Your Honor.

23 BY THE COURT:

24 Overrule the objection. He says he knows and I'm
25 accepting that.

1 BY MR. ALFORD;

2 Your Honor please, with reference to these charts
3 this gentlemen says they were turned over to him by
4 the New York office, which he says they secured from
5 some dentist, and it was the office there, and this
6 goes far afield in establishing the authencity of
7 these two purported charts when the dentist who
8 made these are not here for cross examination for
9 us to find out, whose teeth they are and whose marks
10 are on them, and this gentlemen here, even though he
11 may be from the Federal Bureau of Investigation he
12 says that he knows but all he knows is the fact that
13 he has these and we submit that these should not be
14 in evidence as Mr. Schwerner has been in Mississippi
15 since February.

16 BY THE COURT:

17 Do you agree with Counsel on the characterization of
18 your source of knowledge?

19 BY THE WITNESS:

20 I'm not sure, Your Honor, I know where they came from
21 and I have other knowledge which convinces me of it.

22 BY THE COURT:

23 Is it your personal knowledge or is it knowledge that
24 you got from some other source?

25 BY THE WITNESS:

1 Its knowledge from having met the two doctors.

2 BY THE COURT:

3 Did you talk with those two doctors about those charts?

4 BY THE WITNESS:

5 I did not but I was present during an interview with
6 them.

7 BY THE COURT:

8 I'll overrule your objection.

9 BY MR. WEIR:

10 Your Honor, may we have a continuing objection?

11 BY THE COURT:

12 Yes sir.

13 BY MR. WEIR:

14 We would also like to move the court to grant us
15 a mistrial.

16 BY THE COURT:

17 All right, I'll overrule that.

18 BY MR. WEIR:

19 Thank you.

20 BY MR. OWEN:

21 Q. Did Dr. May give you anything?

22 A. He did.

23 Q. Do you have that here?

24 A. I do.

25 Q. Excuse me, Your Honor, I would like to have those

1 Then they would be the best evidence, Your Honor
2 to introduce these matters.

3 BY THE COURT:

4 I think if he heard the doctor telling someone else
5 in his presence about the accuracy of these dental
6 charts, then I'll let him testify about them.

7 BY MR. ALFORD:

8 Your Honor, Mr. Owen hasn't asked him that question
9 yet.

10 BY THE COURT:

11 Well, he was trying to get the chart into evidence and
12 you objected to it, and I overruled your objection
13 and now I'm going to let them get in and he can start
14 asking him something, he can't ask but one question at
15 the time, but he can't do that very well when he gets
16 a lot of static.

17 BY THE COURT:

18 Those charts may be entered and be marked.

19 (Whereupon exhibits entered into evidence and
20 marked P-45 & P-46)

21 BY MR. OWEN:

22 Q. Can you identify those documents?

23 A. These are the -----

24 BY THE COURT:

25 First let Counsel see those charts for what they may

1 be worth. I doubt if any of us would know too much
2 about dental charts.

3 BY MR. OWEN:

4 Q Would you identify that document for us?

5 A Yes, these are the original notes covering Dr.
6 May's examination of the mouths of each of the
7 three bodies.

8 Q And did he furnish those to you?

9 A He gave these notes to me following the
10 completion of the autopsy.

11 Q Your Honor I would like to have those marked
12 for identification and then await Dr. May's
13 testimony.

14 BY THE COURT:

15 All right, that may be marked for identification.
16 How many pages are there?

17 BY THE WITNESS:

18 Three pages, Your Honor.

19 BY THE COURT:

20 All right, those three pages may be marked as one
21 exhibit for identification.

22 (Whereupon exhibit marked for identification as
23 P-4B)(P-46) P-47)

24 BY MR. PIGFORD:

25 Your Honor, is that for identification?

1 BY THE COURT:

2 Yes, only for identification.

3 BY MR. OWEN:

4 Q. Now this document being handed to you is what?

5 A. In addition to those three sets of original notes
6 with a card attached to them which records the
7 identity of the assistant of Dr. May who trans-
8 cribed what Dr. May said to him at that time is
9 that pf this assistant and Dr. May then affixed
10 his initials or name to this card which showed
11 the identity and this individual was the one who
12 transcribed his notes.

13 Q. I would like to have that marked for identificati

14 BY THE COURT:

15 All right that may be marked for identification.

16 (Whereupon exhibit marked P-48 for identification)

17 BY THE COURT:

18 All right, you may cross examine the witness.

19 BY MR. PIGFORD:

20 May it please the Court.

21 CROSS EXAMINATION

22 Q. Mr. Cochran, or Agent Cochran, I believe you say
23 you were a Special Agent in service with the
24 Federal Bureau of Investigation?

25 A. That's correct.

- 1 Q. What is your age?
- 2 A. I'll be forty years old next week.
- 3 Q. All right sir. Now, Agent Cochran I am interested
- 4 with reference to the photograph you took of the
- 5 dash and front seat of this automobile and I believe
- 6 that's government exhibit number 26, if the Marsha
- 7 will hand you that exhibit. I'll ask you sir
- 8 please sir if the picture of the dash and front
- 9 seat is government's exhibit number 26.
- 10 A. That's correct.
- 11 Q. And the picture that you took of the back seat
- 12 area is government's exhibit number 27?
- 13 A. That's correct.
- 14 Q. And I believe there was introduced governments
- 15 exhibit number 28, which was information on part
- 16 of the material that you found in this automobile
- 17 which you say is a watch.
- 18 A. I'm not sure about the exhibit number but I did
- 19 introduce a watch that was found in the debris,
- 20 it is exhibit 28.
- 21 Q. Now, you first saw this automobile located in a
- 22 garage at Philadelphia, Mississippi?
- 23 A. That's correct sir.
- 24 Q. Who advised or instructed you to go to that
- 25 location?

- 1 A. Inspector Jpseph Sullivan.
- 2 Q. What date was it that you first went there to
3 look at this automobile.
- 4 A. June 24th, 1964.
- 5 Q. What time did you arrive there on June 24th, 1964?
- 6 A. Approximately one or two o'clock in the afternoon.
- 7 Q. Where was the station wagon when you arrived?
- 8 A. It was locked inside a shed that was attached
9 or rather a part of Sokes Body Shop at Philadelph:
10 Mississippi.
- 11 Q. Do you know how long it had been in that garage?
- 12 A. Approximately, yes.
- 13 Q. Were you then when it was put in that garage?
- 14 A. I wasn't.
- 15 Q. Were you present when it was transported from
16 where it was found?
- 17 A. I was not.
- 18 Q. Do you happen to know whether it contained all
19 of the items that you saw in it when it was
20 found?
- 21 A. I know it did not contain all the materials in
22 it at the time it was found.
- 23 Q. Did you remove any of the materials from it befo:
24 this date?
- 25 A. I couldn't have done that.

- 1 Q. Why?
- 2 A. Because I examined it at 4:30 in the morning on
- 3 June 24th in the F. B. I. office at Meridian,
- 4 Mississippi, debris that had been taken from that
- 5 car, samples of debris.
- 6 Q. By some other agent?
- 7 A. That's correct.
- 8 Q. Now, Mr. Cochran, you took this picture of the
- 9 dash and front seat which is exhibit number 26
- 10 and you took the picture of the back seat area
- 11 and you have testified that some of the material
- 12 that were in the automobile were consumed, is that
- 13 your testimony?
- 14 A. No, I think my testimony was that all of the
- 15 material was in the automobile was consumed except
- 16 that which had a farish or iron base to it, steel.
- 17 Q. I see. What materials are you speaking of or
- 18 what materials do you mean when you say those
- 19 other than that were consumed, what were those
- 20 materials if you know?
- 21 A. Well the fabric of the upholstery, and the plastic
- 22 are used in the dash and for the speedometer, the
- 23 carpets on the floor, the paddings on the door,
- 24 the headliner of the car.
- 25 Q. Were all the plastic materials inside the car

- 1 consumed?
- 2 A. I would have to know what you mean by consumed?
- 3 Q. Well I'll ask you what you mean by consumed as I
- 4 believe you said they were consumed except other
- 5 than iron material.
- 6 A. By that I mean they were burned into unrecognizabl
- 7 shapes.
- 8 Q. All right sir. What shape was the plastic over
- 9 the speedometer when you first saw it?
- 10 A. I don't recall identifying the plastic in the
- 11 speedometer in the debris.
- 12 Q. What other plastics were in an identifiable shape.
- 13 Q. Well if they were in an unidentifiable shape I
- 14 couldn't tell, I wouldn't know.
- 15 Q. Now, you took this colored photo on what date
- 16 please sir?
- 17 A. Which photo are you referring to sir?
- 18 Q. The colored photo.
- 19 A. They were taken on the 10th of July, 1964.
- 20 Q. Now the photograph that you took of the front
- 21 seat and the back seat area, they were taken when
- 22 you first saw the automobile?
- 23 A. That's correct.
- 24 Q. And was it that you waited some fourteen or fifteen
- 25 days to take the colored photograph?

- 1 A. I was referred to some responsibility at the time
2 and the fact that the light in that particular
3 garage was not the best for colored photography.
- 4 Q. Did you try to make it the best for colored
5 photography before you took this picture?
- 6 A. No.
- 7 Q. Then if you had taken it in the best light that
8 you could it would not show as it now shows in
9 this colored photograph?
- 10 A. In taking colored photography light doesn't have
11 anything to do with the production of color to
12 change colors from what they really are.
- 13 Q. But the light does have an affect on what color
14 is developed on the photograph does it not?
- 15 A. You are absolutely right.
- 16 Q. Now this was taken inside of a garage was it not?
- 17 A. Correct.
- 18 Q. Now, you took the colored photograph yourself?
- 19 A. I did.
- 20 Q. Are you a expert photographer?
- 21 A. If you mean that by a legal definition if I have
22 ever qualified as an expert phogographer?
- 23 Q. Yes sir.
- 24 A. Never. I have had considerable training in the
25 making of photographs.

1 Q Then your testimony then as to the fair and
2 representation of this automobile in this colored
3 photograph is not as an expert in photography is
4 it?

5 A No, its given as one who saw the car on any
6 occasion forming a visual picture of the blue
7 color and by transferring it to a colored photo-
8 graph.

9 Q That's your best recollection?

10 A Yes sir.

11 Q And you saw it there many times?

12 A Many many times.

13 Q Before you took the picture?

14 A That's correct.

15 Q Now is there anything in this picture, this
16 color photograph exhibit number 29 indicating
17 any fire patterns on this automobile?

18 A May I see the exhibit please? (Exhibit handed
19 to witness) Yes there is on exhibit 29.

20 Q What is it please sir?

21 A The complete charring of the paint in areas of
22 the left fender front fender, the right side of
23 the hood.

24 Q Would you take, uh, when you say charring do you
25 mean blackening of it in the photograph?

- 1 A No not by charring because all things don't turn
2 black when they are charred.
- 3 Q Yes sir.
- 4 A And the charred areas and discolored areas from
5 heat appearing on the hood, on the left front
6 door?
- 7 Q Now, is that shown there on that photograph?
- 8 A It is.
- 9 Q It would be far more plainer if you were looking
10 at the car though would it not?
- 11 A No I don't know that it would be anymore plainer.
- 12 Q What is the color of the charred area you are
13 referring there?
- 14 A Its a gray action area,
- 15 Q What color is it on the actual true object?
- 16 A Very close to the same.
- 17 Q But not the same?
- 18 A Not identical but it is a fair and accurate
19 representation of the color of the charred areas.
- 20 Q And what does that indicate to you, the charred
21 areas there on that photograph?
- 22 A It indicates to me that something foreign was
23 there which burned, but did not partially burn
24 the blue paint immediately adjacent to it, which
25 had an accelerant.

- 1 Q. Now Mr. Cochran, I want to ask you this please
2 sir, when was it that you investigated these
3 aircraft crashes or fires, that is in the period
4 of time?
- 5 A. Beginning from 1959 through May of 1964 in-
6 volving as I said seven major airline crashes.
- 7 Q. All of these investigations that you made before
8 this investigation?
- 9 A. Yes sir.
- 10 Q. Now, I believe you also testified that you had
11 no formal training with reference to fire patterns
- 12 A. Yes, I believe I did, that's correct.
- 13 Q. That's the truth isn't it?
- 14 A. Yes sir.
- 15 Q. And you are testifying about any fire patterns
16 that you may testify about on this automobile
17 except from and alone from your earlier experience
18 in investigating aircraft fires?
- 19 A. Would you repeat the question please?
- 20 Q. The testimony that you have given as to fire
21 patterns that you observed on this automobile is
22 based on your experience alone in your investi-
23 gating aircraft accidents in which there was fire?
- 24 A. Insofar as on the scene examinations this is
25 correct.

- 1 Q. Is there any difference in the paint used on
2 automobiles than on aircraft which you investigate
- 3 A. I would have to say I don't know.
- 4 Q. You do not know, do you? Did you prior to this
5 incident investigate fire patterns on an ayto-
6 mobile?
- 7 A. I can not recall having investigated a case identi-
8 cal, involving an automobile subjected to identifica
9 treatment as that in this case.
- 10 Q. Then this is the first investigation that you've
11 made on an automobile about which you observed
12 a pattern that you had made up until this time?
- 13 A. I had an occasion to examine burned automobiles,
14 but not of this exact nature involved in this case
- 15 Q. Is that prior to this case?
- 16 A. Yes.
- 17 Q. Now, Agent Cochran, you took the back and front
18 seat area photograph on the same date?
- 19 A. The black and white, yes, exhibits 26 & 27.
- 20 Q. I believe you say you took those on the 26th of
21 June, 1964, is that correct?
- 22 A. No, I don't believe I said the 26th of June.
- 23 Q. When was it taken?
- 24 A. It was taken on the 24th of June, just incidental
25 to my original examination of the car.

- 1 Q Were you present when this car was physically
2 removed that is did you accompany this automobile
3 from the location in which it was found when it
4 was physically removed to this garage?
- 5 A I have already answered that question in the
6 negative, I did not, I never saw it until the
7 afternoon of the 24th?
- 8 Q I'm sorry, I thought you just said you had never
9 examined it. Now, the government's exhibit number
10 28, would you hand that to the witness please?
11 Would you open it so you can examine it as I
12 ask you a question please sir? Is there any
13 significance to this watch other than the fact
14 that the hands are set at 12:30?
- 15 A The hands are at approximately 12:45 that the
16 significance of it was that it was found in the
17 debris from the car, now any further significance
18 I don't believe I have testified to.
- 19 Q You wouldn't know who owned the watch?
- 20 A Of my own knowledge I would not.
- 21 Q All right, can you tell us of what material
22 it is made from, the face of it?
- 23 A No, not for certain.
- 24 Q Did it burn?
- 25 A The surface material of the watch burned I would

1 say it was a steel but I'm not sure.

2 Q. But you do not know that?

3 A. No, I don't know it for a fact.

4 BY THE COURT:

5 What kind of watch is that?

6 BY THE WITNESS:

7 Its a seventeen jewel watch made the Ronan Manufact-
8 uring Company in Switzerland, distributed by
9 a company in New York City.

10 BY THE COURT:

11 Is it a pocket watch or a wrist watch?

12 BY THE WITNESS:

13 No sir, its a wrist watch.

14 BY MR. FIGRORD:

15 Q. Can you tell us Mr. Cochran whether or not the
16 heat that this watch withstood is comparable
17 or not comparable to the heat that you in your
18 opinion the inside of the automobile withstood?

19 A. I think that this watch was in that car, yes sir.

20 Q. Do you have any opinion about it or are you
21 competent to testify about whether or what----

22 A. Yes, I have an opinion on it, yes. When we dis-
23 covered this watch it was encrusted with other
24 material that were consumed during the course of
25 the fire to such an extent that in my opinion

1 it could not have been burned outside and thrown
2 into the car, it had to occur within the automo-
3 bile.

4 Q. Can you tell us please sir what material this
5 watch was encrusted in when you say you found it?

6 A. It was encrusted in fabric material which had
7 solidified around it.

8 Q. And where in the car did you find this watch?

9 A. In the area under beneath the front seat, the debris
10 that was removed from underneath the front seat.

11 Q. Where had this watch been since you recovered it
12 from the station wagon?

13 A. In the F. B. I. Laboratory in Washington, D. C.

14 Q. It has not been under your care?

15 A. No sir.

16 Q. Do you know whether anybody has handled the watch
17 other than yourself?

18 A. Yes sir.

19 Q. But you did not have its custody?

20 A. I made an examination of the watch on the 25th
21 of June and forwarded it to the F. B. I. Laboratory
22 in the custody of Special Agent Coyle who turned
23 it over to a laboratory examiner and it has been
24 in his custody ever since.

25 Q. You would not know if anyone has tried or attempted

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to remove any of its evidence.

A. I don't know whether anybody has tried or attempted to do that, the hands are approximately in the general condition as they were when I scraped off the debris and made the reading of the hand condition.

Q. Was there debris on top of the hands?

A. Yes sir.

Q. You do not know whether anybody else has attempted to scrape it off one way or another since you turned it over to Agent Coyle?

A. No sir.

Q. You couldn't testify about that?

A. No sir, except the hands are in the same position they were in when I first discovered the watch.

Q. Now the hands that are left there are very short, that is that portion left there is very short are they not?

A. True.

Q. How did you determine that the hands indicated 12:45?

A. Gained upon my knowledge gained while serving in the United States Army it is a mechanical peculiarity of the watch, but the minute hand is always on top, so the up position of the top