

1 If the Court please, as to the matter of Horace
2 Doyle Barnett testifying, we do not believe he can
3 be forced to take the witness stand over the objection
4 of his Counsel.

5 BY MR. WATKINS:

6 Your Honor, I'm sure that is correct from the research
7 ing I've done on the cases; however, I don't repre-
8 sent Doyle Barnett.

9 BY THE COURT:

10 Well, we hadn't quite gotten to that point, but
11 we'll just get to it now. Let's see what the law
12 in on that because I would think they could call
13 him subject to his right to refuse to answer any
14 question that might incriminate him. Do you have
15 some law on that?

16 BY MR. WATKINS:

17 Your Honor, in order to save time, may I proceed
18 with my motion and make my record?

19 BY THE COURT:

20 Sure.

21 BY MR. WATKINS:

22 May it please the Court, on behalf of Frank J.
23 Herndon for the record at this time, I respectfully
24 move the Court to renew the motion for a mistrial
25 and in support there of, by specific reference refer

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the medical record now in evidence as exhibit 1 to Herndon defense, and by specific reference to the testimony of Dr. Rayner in chambers and at this time I want to call a nurse for about three minutes to establish by her testimony that during the progress of this trial, under directions of the physician, that Frank Herndon has been taking hypos, marcotics, as much as two or three or perhaps as high as four within a day or certain period of time and that when he is not in the courtroom he is immediately returned to the hospital where he also takes hypos and it is our position that it has affected his alertness and affected his ability to defend himself in this case, and I would like to call Mrs. Braham to show that these shots are being given.

BY THE COURT:

Let her come around and be sworn.

BY THE WITNESS:

I don't swear.

BY THE COURT:

What is your objection of being sworn. Do you object to telling the truth?

BY THE WITNESS:

I am going to tell the truth anyway.

BY THE COURT:

1 Well, do you have some kind of religious scruples
2 against swearing that you are going to tell the truth
3 even?

4 BY THE WITNESS:

5 I do tell the truth but I do have religious scruples
6 about swearing.

7 BY THE COURT:

8 Well, you are not swearing at anybody, you are just
9 swearing that you are going to tell the truth.

10 BY THE WITNESS:

11 My religion does not swear at all.

12 BY THE COURT:

13 Well, I'll let you affirm, but of course, you are
14 held to the same strict accountability of perjury just
15 as if you were swearing, do you understand that?

16 BY THE WITNESS:

17 Yes sir.

18 SARAH LOU BARHAM, affirmed for and on behalf of
19 defendant, Frank J. Herndon, testified as follows:

20 BY MR. WATKINS:

21 May it please the Court, this is Mrs. Barham, and I'm
22 not certain what her first name is.

23 Q. What is your first name?

24 A. Sarah Lou.

25 Q. Mrs. Sarah Lou Barham.

1 Q. What is your profession, Mrs. Barham?

2 A. I am an L. P. N.

3 Q. And have you been in attendance at this trial
4 with Frank J. Herndon?

5 A. I have been on two occasions, this makes the third
6 occasion.

7 Q. Tell the Court whether or not you have been in
8 attendance as his nurse, someone else has been
9 in attendance as a nurse for you?

10 A. Yes sir.

11 Q. Tell the Court whether or not, you along with the
12 other nurses, have administered hypos to him
13 during the progress of the trial of the case?

14 A. I have administered one hypo.

15 Q. How many did he receive yesterday?

16 BY MR. HAUBERG:

17 We object, unless she knows.

18 BY THE COURT:

19 Yes, Lady you can only tell what you personally know.

20 BY THE WITNESS:

21 A. I administered one shot yesterday at 10:05.

22 Q. And was there other nurses also in attendance
23 with him yesterday?

24 A. Yes sir there was one other nurse.

25 Q. And when you returned to the hospital was Frank

1 J. Herndon returned to the hospital?

2 A. I was relieved by Mrs. Oakland yesterday at
3 3:15.

4 Q. Have you had an opportunity to review his medical
5 chart to see how many hypos he had yesterday?

6 A. I couldn't say exactly how many he had yesterday.

7 Q. Have you had an opportunity to review his chart?

8 A. I reviewed it briefly but I don't know how many
9 he had.

10 Q. Do you have any idea as to how many hypos he had
11 yesterday?

12 BY MR. HAUBERG:

13 We object to her ideas.

14 BY THE COURT.

15 I'll let her tell what her best judgment is.

16 BY MR. WATKINS:

17 Q. You may answer.

18 A. I know he had one at 10:05 and another about
19 3:15.

20 Q. You know he had two?

21 A. Yes sir.

22 Q. Do you know where he has any hypos when he is
23 in the hospital?

24 A. Yes he had one last night at 9:40.

25 Q. Do you know whether or not he's been in the

1 hospital when he has not been here in the court-
2 room? Since October the 9th?

3 A. Will you repeat the question?

4 Q. Do you know where he is in the hospital when he
5 is not in the courtroom. Is he being returned
6 to the hospital every day?

7 A. Yes sir, he is being returned to the hospital by
8 the nurse that is in attendance.

9 Q. Now tell the Court whether or not these shots
10 that he is taking is a narcotic?

11 A. Yes sir, this shot that he is taking is a narcotic.

12 Q. You may cross examine the witness.

13 CROSS EXAMINATION

14 BY MR. HAUBERG:

15 Q. Mrs. Barham, the only two hypos that you have
16 given him is the one that you gave him yesterday
17 morning at 10:05?

18 A. The only hypo that I have given him during the
19 Court session was at 10:05 yesterday morning.

20 Q. And the 9:40 one that you mentioned, that was
21 9:40 last night?

22 A. Yes sir, he was back in the hospital and he has
23 not had a hypo since 9:40 last night.

24 Q. So he has not had any this morning?

25 A. No sir.

1 Q So you are not attempting to tell the Court that
2 since you are not a doctor what affect this has
3 on his mental competency at this time, are you?

4 A That's right, I'm not.

5 Q Now, have you given him any other hypos during
6 the entire time this trial started on last
7 Monday morning, October 9th?

8 A Let me chart my chart on that.

9 Q But you of your own personal don't know of any
10 other hypo that he has been given during that time?

11 A I couldn't specify that without the record.

12 Q Just one moment, please. Can you tell us whether
13 administered, do you
14 the hypo that you have/considered are pain killers?

15 A Yes sir.

16 Q Do you, do you not, know that that is the type
17 hypos administered?

18 A Yes sir.

19 Q Now, you have seen/him here and have been here in
20 the courtroom during and throughout part of the
21 trial?

22 A Beg your pardon?

23 Q You have seen him and observed him here in the
24 courtroom when you have been with him, have you not?

25 A This is my third occasion.

26 Q Third occasion here with him?

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A. Yes sir.

Q. You have talked with him off and on, have you not?

A. Well, yes sir.

Q. He has whispered to you off and on during the trial occasionally where he wants to go out or he needs water or anything?

A. Yes sir.

Q. And from his request he has been going out of the courtroom on occasion, and on the times he has gone out of the courtroom has he known what he was talking about?

A. Yes sir.

Q. And do you tell us that he went out on more than one occasion?

A. Yes sir.

Q. And can you give us your best recollection of how many times he might have gone out of the courtroom and come back?

A. I'm not sure but I think it is three times.

Q. And over what period of time has that occurred?

A. I have been with him two hours on the first day and seven hours on the second day and then this morning.

Q. Now the narcotic in the hypos that you say you gave him were for pain?

1 A. Yes sir.

2 Q. And did it relieve the pain, could you tell if
3 he got any relief from the pain after he got
4 it?

5 A. He seemed to.

6 Q. Had he complained a good bit to you during the
7 time he has been sitting over there?

8 A. No sir.

9 Q. He has not?

10 A. No sir.

11 Q. Could you tell whether or not he was listening
12 to what was going on in the courtroom?

13 A. It appeared to me that he was listening to every-
14 thing that was going on, or most every word.

15 Q. And when he would go out of the courtroom would
16 you go out with him?

17 A. Yes sir.

18 Q. Where would he go, would he leave the building?

19 A. No sir, he would have to go to the restroom.

20 Q. Go the restroom.

21 Q. Did he go to the water fountain?

22 A. No.

23 Q. And would he go to the drink machine and get a
24 drink?

25 A. Not with me, no.

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Q Now he did go out of the courtroom on an occasion or two with one of the Deputy Marshal, did he not?

A I can't say about that.

Q But whenever he felt like he wanted to go out he would apprise you of that?

A Yes sir.

Q And that was all right with you, wasn't it?

A As long as it pleased the Court.

Q In other words, that was what you were here for?

A Yes sir.

BY THE COURT:

Do you know what effect those drugs that you were administering had on the mind and nervous system of the patient?

BY THE WITNESS:

Yes sir, but I believe that would have to fall under the doctor's category.

BY MR. HAUBERG:

I believe that's all.

REDIRECT EXAMINATION

BY MR. WATKINS:

Q Mrs. Barham, do you know how many more nurses have been in attendance with him other than yourself?

A I do know three nurses have been in attendance and I believe there was another, I was told there

1 was another one. Would you like for me to name them?

2 Q Yes.

3 A Mrs. Snowden, Mrs. Ogle and Mrs. Gibson.

4 BY MR. WATKINS:

5 Your Honor please, this is all we have and I would
6 like to ask the Court's permission to introduce the
7 up-to-date medication which I have in transient here
8 at this time which I offered into evidence heretofore
9 two days ago does not bring it up to date. I don't
10 have it just this moment, but if I could call for
11 it when it gets here I would appreciate it, other-
12 wise, I rest my motion.

13 BY THE COURT:

14 Well, you are not much in a position to offer an
15 exhibit you don't have.

16 BY MR. WATKINS:

17 That's true, sir.

18 BY THE COURT:

19 I'll give you time to get it.

20 BY MR. WATKINS:

21 Thank you sir.

22 (Whereupon witness excused)

23 BY MR. WEIR:

24 Your Honor please, may I address the Court?

25 BY THE COURT:

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1 Yes sir.

2 BY MR. WEIR:

3 Your Honor, in view of the Government's position here
4 about Horace Doyle Barnett, and I have talked with
5 co-counsels and if it is all right with the Court
6 and I understand the Government has objected anyway
7 as to defendants Price, Burrage, Killen, Sharpe, Willis
8 Posey, and E. T. Barnett, we would like to withdraw
9 the witness Horace Doyle Barnett and not call him,
10 if we won't be prejudiced by the fact that we do not
11 call him.

12 BY THE COURT:

13 I don't understand you.

14 BY MR. WEIR:

15 You know we asked you first to let us call Horace
16 Doyle Barnett as a witness and now we are asking for
17 permission to withdraw that request. The Government
18 has objected to it and also Counsel for Mr. Barnett
19 has objected to it.

20 BY THE COURT:

21 Well the Government didn't exactly object they just
22 counselled against it?

23 BY MR. WEIR:

24 Yes sir. But we don't want to be prejudiced by the
25 fact that we called him and withdrew him, we just

1 want to be put back in the same position that we
2 were to start in.

3 BY THE COURT:

4 I think the best way to do that is the least said
5 about it the better maybe.

6 BY MR. WEIR:

7 Yes sir. That's right Judge. Is it all right with
8 the Court for us to withdraw that request?

9 BY THE COURT:

10 Yes sir, now Your Honor please, we do at this time
11 renew every objection and motion that these defendants
12 have made during the trial of this case whether it
13 was while the Government was putting on their case
14 or while defendants were putting on their case. <

15 BY THE COURT:

16 Well, I don't know specifically what motions you are
17 talking about, but I don't know any better than what
18 I said everytime you made any point I ruled against
19 you on and it will be repeated.

20 BY MR. WEIR:

21 Now, Your Honor please, we move the Court to grant
22 defendants, Price Burrage, Killen, Posey, Sharpe
23 Willis and E. G. Barnett a severance in the case
24 and enter a mistrial and give each one a new trial
25 and separate trial from the other defendants.

1 BY THE COURT:

2 Well I think I've ruled on that request several times
3 and this is a motion that just won't die, will it?

4 BY MR. WEIR:

5 Well, Your Honor, I feel that we should show diligence
6 with reference to making our record, Your Honor.

7 BY THE COURT:

8 Yes sir, I just don't know how in the world anybody
9 can be fair and try a conspiracy case without having
10 everybody alleged to be connected with the con-
11 spiracy in the trial because it would be utterly
12 inconceiveable in any sense of fairness, and ever
13 let it be said there may be several trials of people
14 who are said to be involved in a conspiracy with
15 several different result without the same origin.
16 I feel very strongly about that and I feel so strongly
17 about it that the Court devoted considerable time
18 and thought and attention and care to the examination
19 of those statement that were offered in evidence by
20 the co-conspirators to be absolutely sure as anyone
21 could humanly be sure that there was nothing in those
22 statements which intimidated any other defendant and
23 I don't believe anything is left in anyone of those
24 statements which did incriminate another defendant.
25 If anything had been left in any one of those state-

1 ments which did incriminate another defendant I think
2 unquestionably your motion for severance would be
3 sustained, but anything that was even questionable
4 or doubtful in that statement whether either one of
5 the parties named in the indictment, the names of
6 whom I right now don't recall, any statement which
7 would questionably indicate another defendant was
8 stricken out, in other words I gave the other defen-
9 dants the benefit of every doubt or tried to do
10 I'm not aware of any failure in that connection, so
11 I'll overrule your motion.

12 BY MR. PIGFORD:

13 Your Honor, the defendant, Bernard L. Akin joins
14 in with that motion, Your Honor.

15 BY THE COURT:

y 16 All right, that is likewise overruled. Do the
17 other parties wish to make an announcement now as
18 to whether you rest or not do you want to take
19 a little conference and then say about that?

20 BY MR. BUCKLEY:

e 21 Your Honor, if it please the Court, we would like
22 a conference if we may before we make an announcement.

23 BY THE COURT:

24 All right, we'll take a fifteen minute recess.

25 (Whereupon the Court took a 15 minute recess at 10:35
A. M. on October 17, 1968.)

1 After Recess:

2 BY MR. BUCKLEY:

3 May it please the Court, I have one additional witness.

4 BY THE COURT:

5 All right.

6 BY MR. McINTIRE:

7 Your Honor, if it please the Court, I believe that is
8 one of my witnesses.

9 BY THE COURT:

10 Well you may examine her.

11 BY MR. McINTIRE:

12 I'm not going to use her, Your Honor.

13 BY THE COURT:

14 All right, stand aside.

15 BY MR. BUCKLEY:

16 May I proceed, Your Honor, I have an additional witness.
17 BEVERLY RAWLINGS, called as a witness for and on behalf
18 of defendants, was sworn and testified as follows:

19 BY MR. BUCKLEY:

20 May it please the Court, the name of this witness is
21 Mrs. Beverly Rawlings.

22 DIRECT EXAMINATION

23 Q Where do you live, Mrs. Rawlings?

24 A Out near Russell, Mississippi.

25 Q What county is that?

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A. Lauderdale County.

Q. Do you know James Jordan who formerly resided in Meridian, Mississippi?

A. Yes sir.

Q. Was he called Jordan or Jorden?

A. Jordan.

Q. Do you know where he lived when he lived here?

A. Yes sir.

Q. Did you know him before he moved from here?

A. Yes sir.

Q. Approximately how long?

A. For the time he was living on 35th Avenue.

Q. Tell us what relation you are to the sister who runs the drug store on 8th Avenue?

A. She's my sister.

Q. What is her name?

A. Mrs. McCormick.

Q. Mrs. Gladys McCormick?

A. That is right.

Q. And tell us whether or not her husband is now deceased?

A. Yes sir.

Q. And what's the name of her business?

A. Its Accounts and Sundries.

Q. All right tell us whether or not you had a

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1 conversation with James Jordan back in December
2 of 1964 in the presence of these parties we have
3 mentioned, Mr. and Mrs. McCormick? I'm sorry,
4 around September 1964, regarding his involvement
5 in this case?

6 BY MR. HAUBERG:

7 We object, if the Court please this would be
8 hearsay.

9 BY MR. BUCKLEY:

10 Your Honor, if the Court please, I understand
11 or rather I believe I asked him on the witness
12 stand whether or not he had that conversation
13 and I told him I would not try to repeat it
14 verbatim the conversation but I asked him if
15 he had such conversation, and he distinctly de-
16 clared that he had not.

17 BY MR. HAUBERG:

18 If the Court please no names were mentioned as
19 to who was present, and no date was mentioned.

20 BY MR. BUCKLEY:

21 Your Honor, as I recall the question, I asked
22 him the names and I told him the date that they
23 had a memorial service for the three Civil Rights
24 Workers in the neighborhood of Sugarline Race
25 Track about the 1st of September, 1964, I did

1 and that I did not recall the exact date.

2 BY THE COURT:

3 Well I believe I'll let the reporter check back in
4 the witnesses' testimony, I believe that would be a
5 little more dependable. How long would it take you
6 to do that Bill? I recall something about the
7 question you mentioned there so I believe I'll let
8 her answer.

9 BY MR. BUCKLEY:

10 Q Tell me whether or not you had a conversation with
11 Mr. Jordan on or around the first of September
12 of 1964 regarding his knowledge of this case?

13 A Yes sir.

14 Q Would you be able to state more specifically than
15 I have what the time and place was?

16 BY MR. HAUBERG:

17 If it please the Court according to my recollection
18 he did not set a date and time nor did he name
19 the individuals present, when he was questioning
20 the witness.

21 BY MR. BUCKLEY:

22 I did not, if it please the Court I asked him about
23 September 1, 1964, I told him he was not restricted
24 to the date.

25 BY MR. HAUBERG:

1 May it please the Court, as I recall there was
2 no mention of any date nor a specific place.

3 BY THE COURT:

4 I don't remember this witness' name being mentioned
5 but I recall him asking him if he had some conver-
6 sation with some people whose name he did ask him
7 and he said he didn't have the conversation. I'll
8 overrule your objection.

9 BY MR. BUCKLEY :

10 Q. Mrs. Rawlings, would you be able to give us
11 a more specific date than September 1, 1964?

12 A. I don't know if that was the exact date or not
13 I do know it was the night they had the memorial
14 service for James Chaney.

15 BY MR. HAUBERG:

16 We renew our objection, if the Court please, because
17 the date and time still has not been stated.

18 BY THE COURT:

19 Well, she said it was the time that the memorial
20 service was had.

21 BY MR. HAUBERG:

22 If the Court please we don't know what date it was
23 nor when it was.

24 BY THE COURT:

25 I think that was part of the question that the wit-

1 ness Jordan was asked, in other words he was given
2 that as a time when he was alleged to have had the
3 conversation. I'll overrule the objection.

4 BY MR. BUCKLEY:

5 Q. What, if anything, did Mr. Jordan say in regard
6 to this case there?

7 A. Well we were preparing to leave the store that
8 night.

9 Q. We who?

10 A. My sister and myself and her husband had walked
11 out of the store with us. We were going to get
12 something to eat and we were going to return and
13 as we started across to the car we ran into Mr.
14 Jordan who was driving up north on 35th Avenue and
15 he stopped and he asked us where we were going and
16 we said we were going to get something to eat and we
17 were coming back and stay with Mack. That's my
18 sister's husband, Mr. McCormick, and he said,
19 "you all go on home, I will stay here with Mack,
20 and he said I'm way past due now anyway, I'm
21 looking for the F. B. I. to pick me up most any-
22 time ." We asked him why? And he said, "You'll
23 find out." Then he said, "I just as soon kill
24 another nigger now as not."

25 Q. He said what?

1 A. He said, "I just as soon kill another nigger
2 right now."

3 Q. All right, will you tell the Court and Jury
4 whether or not you know his general reputation
5 in the community in which he resided at that
6 time for truth and veracity?

7 A. Its bad.

8 BY MR. HAUBERG:

9 We object, if the Court please, and we further
10 object to the question because he is referring to
11 his reputation at that time and not the time he
12 testified here in Court.

13 BY THE COURT:

14 Yes, I'll let you reask the question. She answered
15 something else.

16 BY MR. BUCKLEY:

17 Yes sir.

18 Q. Just tell me yes or no. Mrs. Rawlings, based
19 upon your familiarity with Mr. Jordan and the
20 people in the general Lauderdale area, and
21 Meridian area, based upon your knowledge of them
22 and him, would you tell me whether or not you
23 know his general reputation in the community in
24 which he resided for truth and veracity, just
25 answer yes or no.

1 BY MR. HAUBERG:

2 We object, if the Court please, as to the time of
3 this reputation.

4 BY THE COURT:

5 All right, ask her the time.

6 BY MR. BUCKLEY:

7 Based upon the time that you knew him here in Lauder-
8 dale County, when he resided here in Lauderdale
9 County.

10 BY MR. HAUBERG:

11 We object, if the Court please.

12 BY THE COURT:

13 I'll let her answer.

14 BY THE WITNESS:

15 A Yes, I know was it good.

16 Q Would you tell me if it was good or bad?

17 A His reputation was bad.

18 Q Would you tell me whether or not based upon your
19 knowledge his general reputation in the community
20 in which he resided for truth and veracity, you
21 would give his testimony under oath in a court
22 of law full favor credit, tell me whether or not
23 you would do that?

24 BY MR. HAUBERG:

25 We object.

1 BY THE COURT:

2 Sustained.

3 BY MR. BUCKLEY:

4 That's all.

5 CROSS EXAMINATION

6 BY MR. HAUBERG:

7 Q. Mrs. Rawlings, When did you say this happened?

8 A. On the night of the memorial that was held for
9 James Chaney?

10 Q. What year was that?

11 A. Well it was the year that his body was brought
12 back, I believe it was in 1964.

13 Q. Do you presume that or do you actually know that?

14 A. Oh man, I don't write down the dates of things,
15 I have no reason to.

16 Q. Well you/know where it was 1964 or 1965, do you?
don't

17 A. Does that make any difference, it was the night
18 that the memorial services were held, I know that.

19 Q. Do you know the night the memorial services were
20 held?

21 A. The day, no sir, I do not.

22 Q. You don't even know the year, do you?

23 A. Does that have any bearing on it?

24 BY THE COURT:

25 Answer his questions.

1 BY THE WITNESS:

2 I believe it was '64.

3 BY MR. HAUBERG:

4 Q You believe it was '64 but you are not positive?

5 A I'm sure it was.

6 Q All right, how did you become sure it was 1964?

7 A I'll have to think just a few minutes. My
8 brother-in-law died in 1964 so it had to be
9 1964.

10 Q It had to be 1964?

11 A Yes sir. He died in 1965.

12 Q Who died?

13 A My brother in law, Mr. McCormick.

14 Q Where is this drug store located?

15 A 35th Avenue and 8th Street.

16 Q Where was it you say this conversation took
17 place?

18 A Just outside the drug store in the street.

19 Q Here in Meridian?

20 A Yes sir.

21 Q When was the first time that you were asked to
22 recall that date and conversation?

23 A You just asked me.

24 Q You have discussed this matter with someone else?

25 A No sir.

1 Q You haven't discussed it with any lawyers?

2 A No sir.

3 Q And how did you know to come to Court?

4 A Well I talked with one of the boys that is a
5 brother to one of the defendants.

6 Q Did anyone ask you to come up to Court?

7 A No sir.

8 Q Well how did you know when to come and actually
9 to come?

10 A Well I came myself this morning and I came myself
11 and asked for Mr. Buckley.

12 Q Was that the first contact you had had with Mr.
13 Buckley?

14 A Yes sir that's right.

15 Q You haven't talked with anyone else about it?

16 A No sir, pther than my sister.

17 Q Mrs. McCormick?

18 A Yes sir.

19 Q And when did you talk with her about it?

20 A Couple of days ago.

21 Q Now you say you learned about this in 1964, why
22 didn't you report it to one of the F. B. I. Agents
23 or the Police Department?

24 BY MR. BUCKLEY:

25 To which I object, Your Honor, this is not relevant.

1 It is not material.

2 BY THE COURT:

3 I'll let her answer, overruled.

4 BY THE WITNESS:

5 A I didn't see any reason for me to go and tell
6 them everything I knew. I don't tell everything
7 I know.

8 Q Well, if you had information that a serious crime
9 had been committed----

10 A I didn't know at that particular time that it was
11 all that important, but I asked him why was he
12 saying that and he never would tell us. He said
13 "You'll find out."

14 Q Well actually you didn't believe him did you?

15 A I didn't know what the score was.

16 Q Would you answer my question please?

17 A Well I had no reason to doubt him and I had no
18 reason to believe him.

19 Q Are you telling this Court and Jury that you
20 either believed it or you didn't believe it?

21 A Well I feel sure something was wrong or he would
22 never have made that statement.

23 Q Now will you answer my question?

24 A Yes sir.

25 Q Did you believe him?

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1 A. Yes sir.

2 Q. You did believe him?

3 A. Yes sir.

4 Q. Now did you talk with Mr. McCormick about this?

5 A. Before his death, yes sir.

6 Q. So you have discussed it with people?

7 A. Well back then.

8 Q. How many other people did you discuss it with

9 back then?

10 A. Nobody else.

11 Q. So the only two people that you discussed this with

12 was your sister, Gladys McCormick and her husband?

13 A. That's right.

14 Q. And you haven't discussed it with anyone else?

15 A. No sir.

16 Q. Did you say a few minutes ago that you had said

17 something about it to one of the relatives of

18 one of the defendants?

19 A. I spoke with him about having talked to this boy

20 that night.

21 Q. Who?

22 A. Mr. Raymond Roberts.

23 Q. What relation is he to any of the defendants?

24 A. He's a brother.

25 Q. A brother to Wayne Roberts?

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1 VERNELL AMANDA WOLFF, called as a witness for and
2 on behalf of defendants, was sworn and testified
3 as follows:

4 DIRECT EXAMINATION

5 BY MR. GOLDMAN:

6 May it please the Court, the name of this witness
7 is Vernell Amanda Wolff, W O L F F.

8 BY MR. GOLDMAN:

9 Q Where do you live?

10 A I live at D-8 Highway Village here in the
11 City.

12 Q Meridian?

13 A Right.

14 Q Mrs. Wolff, on June 21st, 1964 where did you
15 live?

16 A I lived at D-8 Mt. View Village, City, Meridian.

17 Q Do you know Alton Wayne Roberts?

18 A Yes, I do.

19 Q Did you know him at that time?

20 A Yes I did.

21 Q Are you related to him?

22 A He's my nephew.

23 Q Did you see him on the day of June 21st, 1964?

24 A Yes sir, I sure did.

25 Q Would you tell the Court and Jury under the

2285

1 Circumstances which you saw him on that day?

2 A. Well he lives right next door to me and they had
3 been out to his wife's people in Hickory and they
4 came back in around 5:30 or 6:00 o'clock, I
5 couldn't pinpoint the time and a friend of his
6 and I were talking to them living right next
7 door, and a friend of his drove up, and I went
8 on back into my house.

9 Q. Do you about what time this was?

10 A. Well, it had to be about 6:30 about that time.
11 Then Whalen left and how come me to know that he
12 had drove up because he had an old broken muffler
13 then I walked back over to Wayne's house, my
14 nephew, and my brother and my other nephew were
15 coming in from Florida, and we were talking and that

16 is why I remember it so well because we were
17 wondering about what time they would get in.

18 Q. Did you see Mr. Roberts again that night?

19 A. Yes sir.

20 Q. All right, tell us about it.

21 A. Well, Whalen come back, he and his wife, this
22 friend of Wayne's, until about 10:30 or 11:00
23 o'clock, I just couldn't pinpoint the time down
24 so I walked back over there and told Wayne that
25 my brother had not gotten in yet, and I said,

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let's play some cards so we played Canasta,
and we played Canasta until about 12:30 and I
said I don't think they are coming in so I'm
going on home and go to bed, so I walked out of
his back door into my backdoor, which I live in
a double project house, and Wayne and Linda said
they were going to bed.

Q. Now was that on June 21st, 1964?

A. Yes sir.

Q. Thank you, that's all.

CROSS EXAMINATION

BY MR. DOAR:

Q. Mrs. Wolff, when was the first time you were asked
to recall June 21st, 1964?

A. The first time that I was asked to----

Q. To recall the events that happened on June 21st,
1964?

A. After the arrest of the men, that would be the
later part of November or December of that year.

Q. And who asked you to recall that?

A. My nephew and I were talking.

Q. Is that Wayne Roberts?

A. That's right.

Q. And did you talk with him again about that?

A. No, I didn't have any cause to talk to him about

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it.

Q. When were you asked to come up and testify?

A. Just this morning, off my job.

Q. Just this morning?

A. Yes sir.

Q. And not before this morning?

A. No sir.

Q. But you are sure of having talked with Wayne Roberts and mindful of having seen him and reminded him of having seeing him----

A. No, I haven't reminded him of having see him--

Q. I thought you said you discussed it with him.

A. Oh, I thought you meant this morning.

Q. Oh, no, I meant several years ago after he was first arrested he came to you and asked you if you remember?

A. After he was arrested.

Q. And you told him exactly what you told us here this morning?

A. Well, its the truth I couldn't tell anything else different.

Q. Did you tell him that?

A. Did I tell him?

Q. Yes.

A. I don't think I told him that that thoroughly

1 but we talked about it, and I asked him a little
2 something about it and that's all.

3 Q What did you ask him about?

4 A Well I asked him if he was guilty and he said no
5 and I said I don't figure you were because you
6 couldn't have been there.

7 Q And you say that you were at your home that day?

8 A That's right.

9 Q Who was with you?

10 A My son.

11 Q What's his name?

12 A Gregory Dale Wolff.
your

13 Q What is/relationship to Wayne Roberts?

14 A He's my nephew.

15 Q How is that relationship?

16 A His father and I are brothers and sisters.

17 Q And you know him well?

18 A Yes, I know him real well, I've been knowing
19 him every since he was born.

20 Q And you lived next door to him for how long?

21 A Well he lived up above me and then he moved by
22 me but he's been living in the vicinity around
23 me at that time for a year.

24 Q And you visited back and forth between you?

25 A Yes sir.

1 Q And you've lived near Wayne Roberts for all
2 these years?

3 A No, I moved around from here and stayed a year
4 and a half over in Louisiana.

5 Q And did you see him while you were away?

6 A Yes I saw him at times when I was away.

7 Q And who else was there that evening?

8 A Well Whaler McMullen was there that evening.

9 Q Who?

10 A Whalen McMullen.

11 Q Anyone else?

12 A He was there first and then he left and come
13 back with him wife.

14 Q Did you see anyone else there?

15 A Not that I can remember. Just me, Wayne, his
16 wife, my son, and his children.

17 Q That's all?

18 A Yes sir.

19 Q Thank you.

20 (Whereupon witness excused)

21 BY MR. GOLDMAN:

22 May it please the Court, on behalf of Wayne Roberts
23 we rest.

24 BY THE COURT:

25 All right.

1 BY MR. ALFORD:

2 May it please the Court on behalf of Cecil Ray Price,
3 Olen Lavelle Burrage, Edgar Ray Killen, Billy Wayne
4 Posey, Jerry McGrew Sharpe, Richard Andrew Willis
5 and E. G. Hop Barnett, the defense rests.

6 BY MR. McINTIRE:

7 Your Honor, if it please the Court on behalf of Sheriff
8 Lawrence Andrew Rainey the defense rests.

9 BY MR. BUCKLEY:

10 May it please the Court, the defendant, Sam Bowers,
11 rests, Your Honor.

12 BY MR. LEWIS:

13 May it please the Court, the defendant, Herman Tucker,
14 rests.

15 BY MR. WATKINS:

16 May it please the Court as to Frank Herndon, if
17 your Honor please, at this time I now offer the
18 medical, uh medication record that the Court allowed
19 me to obtain and ask that it be marked in evidence
20 in support of my motion.

21 BY THE COURT:

22 It may be entered and marked.

23 (Whereupon exhibit entered into evidence and marked

24 D-11)

25

1 BY MR. HAUBERG:

2 If the Court please, we notice that is a photocopy
3 and we raise no objection. I understand that is
4 a true copy of the original record.

5 BY MR. WATKINS:

6 Yes Your Honor, that is a true copy of the original
7 record.

8 BY THE COURT:

9 All right, how many pages are there in that record?
10 Let the record show how many pages are there.

11 BY THE CLERK:

12 Seven pages.

13 BY THE COURT:

14 Seven pages, all right.

15 BY MR. WATKINS:

16 Then if Your Honor please as to Frank J. Herndon, we
17 now rest, except we respectfully request that the
18 Court make a ruling on our motion which we made
19 outside the presence of the Jury.

20 BY THE COURT:

21 Well I'll overrule that motion of Mr. Herndon.

22 BY MR. WATKINS:

23 Yes sir.

24 BY THE COURT:

25 Now, is that all the defendants, have all the

1 defendants rests?

2 BY ALL DEFENSE COUNSEL:

3 Yes sir.

4 BY THE COURT:

5 Let the record show then that all defendants have
6 rested. Does the Government have anything in rebuttal?

7 BY MR. DOAR:

8 Yes Your Honor, we have two witnesses.

9 BY THE COURT:

10 All right.

11 REBUTTAL TESTIMONY

12 WILLIAM E. LOGG, called as a witness for and on
13 behalf of Plaintiff as a rebuttal witness, was sworn
14 and testified as follows:

15 BY MR. OWEN:

16 May it please the Court, the name of this witness is
17 William E. Logg. L O G G.

18 Q Mr. Logg, what is your occupation?

19 A I'm a Special Agent with the F. B. I.

20 Q How long have you been a Special Agent with the
21 F. B. I.

22 A Sixteen years.

23 Q Now in connection with your duties with the F. B. I.
24 were you involved in making an investigation in
25 this case?

1 A. I did.

2 Q. Did you ever have a conversation with Mr. Hope
3 Barnett?

4 A. Yes, I did.

5 Q. Now, did you inquire of Mr. Barnett about his
6 whereabouts on the 21st day of June, 1964?

7 A. Yes, I did.

8 Q. When did you have that conversation with him?

9 A. Mr. Barnett was interviewed on July 4, 1964.

10 Q. And would you tell the Court and Jury what Mr.
11 Barnett told you as to his whereabouts on the
12 afternoon of June 21st, 1964?

13 BY MR. BUCKLEY:

14 To which we object, if the Court please, in regard
15 to all the defendants, except the one they are
16 making reference to.

17 BY THE COURT:

18 Yes, I'll hear the testimony only as against Mr.
19 Hop Barnett and that will not be competent or ad-
20 missible against any of the other defendants and
21 will not be chargeable to the others whether it be
22 good or bad.

23 BY MR. OWEN:

24 Q. Proceed and tell the Court and Jury what he told
25 you about his whereabouts that afternoon?

1 BY MR. WEIR:

2 Your Honor please, may it please the Court, we don't
3 think this is proper rebuttal.

4 BY THE COURT:

5 Overruled.

6 BY MR. OWEN:

7 Q You may proceed.

8 A Mr. Barnett stated that he had, on that morning,
9 visited Mr. Henry Cannon, a friend of his who had
10 suffered a stroke. He remained at the Cannon
11 residence and had lunch. After lunch, Mr. Barnett's
12 wife and children arrived in a pick-up truck of
13 the Barnetts and Mr. and Mrs. Barnett then stayed
14 until about 4:30 or 5:00 o'clock. The Barnett
15 children took the automobile which Mr. Barnett
16 had traveled in to see Mr. Cannon, and they departed
17 to go swimming. Mr. and Mrs. Barnett, in the pick-
18 up truck drove into Philadelphia, Mississippi,
19 where they had a coca-cola, then returned to the
20 Barnett residence on the Spring Creek Methodist
21 Church Road. Mr. Barnett remained there for a
22 few minutes, he said, he then returned to
23 Philadelphia to the McClain-Hayes Funeral Home
24 intending to pay his respects to the family of
25 Alex Rich. He was unable to find a parking place-

1 BY THE COURT:

2 I think you had better show some preliminary as to
3 testimony like this and I'll give you an opportunity
4 to do that before proceeding into the substance of
5 the testimony. This man is a defendant, and the
6 Supreme Court of the United States has announced some
7 safeguards that they are entitled to benefit of, so
8 I'll let you ask him about those things first.

9 BY MR. FIGFORD:

10 We object anyway, Your Honor, we don't think this is
11 proper rebuttal.

12 BY THE COURT:

13 Well, I'll overrule that.

14 BY MR. OWEN:

15 Q Now, at the time that you interviewed Mr. Barnett,
16 did you identify yourself?

17 A Yes.

18 Q Did you indicate to him the purpose of your
19 interview?

20 A Yes, Mr. Barnett then said he would prefer to
21 be interviewed in the presence of his attorney,
22 Mr. Rayford Jones of Philadelphia, Mississippi.
23 We then waited until Mr. Jones could arrive at
24 his office. We advised Mr. Barnett that he
25 did not have to tell us anything and that anything

1 that he told us could, of course, be used against
2 him in a Court of Law. We then proceeded to interview
3 Mr. Barnett in the presence of Mr. Jones at Mr.
4 Jones' office.

5 Q Mr. Jones was Mr. Barnett's attorney?

6 A That is the attorney that he requested to be
7 present, Mr. Rayford Jones. I believe he was
8 County Attorney at Philadelphia at the time.

9 Q And this information that you are testifying
10 about was given in the presence of Mr. Jones?

11 A Subsequent to the arrival of Mr. Jones, we
12 didn't interview Mr. Barnett until we had all
13 gone into Mr. Jones' office.

14 Q Now, you indicated that he had gone to the Funeral
15 Home and couldn't find a place to park. Can you
16 tell us what he did then? 15

17 A He said he then drove in his pick-up truck and 16
18 parked in front of Johnson's Feed Store. 17

19 Q Then what happened? 18

20 A He spoke to a man that he recognized, am I 19
21 permitted to use the names of these people? 20

22 BY MR. ALFORD: 21

23 Your Honor please, we object to witness asking 22
24 questions. 23

25 BY THE COURT: 24

1 Yes, sustain the objection.

2 BY MR. ALFORD:

3 I didn't understand your ruling?

4 BY THE COURT:

5 Sustained.

6 BY MR. OWEN:

7 Q Who did he see?

8 BY MR. ALFORD:

9 Your Honor please, we object to the question.

10 BY THE COURT:

11 Just tell what Mr. Barnett is alleged to have said.

12 BY THE WITNESS:

13 A Mr. Barnett said he observed Deputy Cecil Price
14 parked in his '56 Chevrolet. He walked over to
15 Mr. Price and spoke to him. While he was speaking
16 to Mr. Price a radio call came in----

17 BY MR. ALFORD:

18 If the Court please, we object to this line of
19 questions, that involves someone besides Mr. Barnett.

20 BY THE COURT:

21 Well, I haven't heard the involvement yet, I'll
22 overrule the objection.

23 BY THE WITNESS:

24 A While he was speaking to Deputy Price a radio call
25 came in saying there was some trouble at the----

1 BY MR. BUCKLEY:

2 May it please the Court, we object to any radio
3 conversation.

4 BY THE COURT:

5 Overruled.

6 BY THE WITNESS (continuing)

7 A ...a radio call stating there was trouble at the
8 Kilpatrick Farm. Mr. Barnett said that he then
9 accompanied Mr. Price in Mr. Price's automobile
10 and they traveled to the Kilpatrick farm.

11 Q. Did Mr. Barnett indicate to you whether or not
12 Mr. Price had made any arrest that day?

13 A. Yes. Mr. Barnett advised----

14 BY MR. WEIR:

15 We object, if Your Honor please, no proper predicate
16 has been laid and we move the Court for a mistrial.

17 BY THE COURT:

18 Overruled.

19 BY MR. OWEN:

20 Q. You may proceed.

21 A. Mr. Barnett advised he asked Deputy Price if
22 he had any trouble that day? He stated he _____

23 BY MR. PIGFORD:

24 Object, Your Honor, to any conversation about
25 any other person.

1 BY THE COURT:

2 Yes, I'll sustain the objection. I'll just ask you
3 to delete as far as you can from your conversation
4 with Mr. Barnett any implication that he may have
5 involved any other defendant in this case here.

6 BY MR. OWEN:

7 Q Did the person or the individual he was with,
8 indicate to him any persons had been arrested
9 on that particular day?

10 BY MR. MOORE:

11 We move to strike this testimony, Your Honor, we
12 don't think this is in rebuttal.

13 BY THE COURT:

14 Well, I'll overrule your objection, I don't think
15 so far it is in rebuttal but I don't know what his
16 testimony is going to be.

17 BY THE WITNESS:

18 A Yes, he did.

19 BY MR. PIGFORD:

20 Then if the Court please, we would like to take
21 the report up outside the presence of the Jury
22 to determine whether or not its rebuttal or not.

23 BY THE COURT:

24 Well, I believe I'll overrule your objection.

25 BY MR. OWEN:

1 Q Did he give any indication as to who had been
2 arrested that day?

3 BY MR. HENDRICKS:

4 We object to that, if the Court please.

5 BY THE COURT:

6 Overruled.

7 BY THE WITNESS:

8 A Yes.

9 Q What did Mr. Barnett tell you he understood about
10 that?

11 BY MR. WEIR:

12 We object, if it please the Court, Your Honor, becaus
13 its hearsay.

14 BY THE COURT:

15 I'll let him answer.

16 BY THE WITNESS:

17 A He stated two white Civil Rights Workers and
18 one Negro Civil Rights Worker had been placed
19 in jail that day.

20 BY MR. MMORE:

21 We object, if the Court please, that's not in rebuttal.

22 BY MR. WATKINS:

23 Your Honor please, that's his case in chief. All
24 he's doing is rehashing the very first thing he tried
25 to establish when he came here.