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about three affidavits in about five days and give the government five days to respond.

BY MR. ALFORD:°

Very well, Your Honor. Your Honor may I just make one other statement in regard to this statement about Price's name being mentioned?

BY THE COURT:

Yes sir.

BY MR. ALFORD:

Sincerely and earnestly that is one of the most serious things that happened during this entire trial is that his being having mentioned there. I don't attribute any intention on Counsel's part to the statement being made but I do say that the fact of it and however it was made was the most grave, and serious and prejudicial thing that happened, his name being in that statement, wherein it had been completely blocked out and we say in all sincerity that was most prejudicial to Mr. Price which reflected in his conviction, and we sincerely ask that we be granted a new trial for Mr. Price.

BY THE COURT:

Well I'm asking the reporter to give me enough of that statement in context that I can understand it and I'll take that transcript and I'll

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take that transcript and I'll take the statement that Mr. Doar was reading from and see what the reasonable effect that would have been.

BY MR. ALFORD:

May I make another observation and that is this. When the statement was read I immediately made a motion for a mistrial and I would like for the Court to get the Court Reporter's transcript on that. If I remember correctly it was overruled at that time and no comment was made to the jury other than overruled.

BY THE COURT:

Bill, just give me enough of that so I can understand what he's talking about. All right Court will stand in recess.

(Whereupon the Court took a recess)

1 FRIDAY, DECEMBER 29, 1967 IN JACKSON, MISSISSIPPI:

2 BY THE COURT:

3 When the Clerk calls your names, you defendants
4 may come around;

5 BY THE CLERK:

6 Sam Holloway, Bowers, Jr.; Alton Wayne Roberts;
7 Cecil Ray Price; Billy Wayne Posey; Jimmy Arledge;
8 Jimmy Snowden; Horace Doyle Barnett.

9 BY THE COURT:

10 Let their attorneys come around too.

11 (Attorneys approached the bench)

12 BY THE COURT:

13 Let the record show that all defendants are present
14 in present and by Counsel. All right, Mr. Hauberg.

15 BY MR. HAUBERG:

16 May it please the Court, at a previous time at
17 Meridian, Mississippi on October 20th, 1967 a jury
18 verdict of guilty was returned as to each one of
19 these seven defendants, appearing before you now.
20 The case was passed over for a presentence report
21 and they are now before the Court for the purpose
22 of sentencing.

23 BY THE COURT:

24 All right, I'll take them up in the manner which
25 you have them listed here. Sam Holloway Bowers, Jr.

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is that your correct name sir?

BY DEFENDANT BOWERS:

Yes sir.

BY THE COURT:

Do you have any statement you wish to make to the Court in mitigation of sentence?

BY THE DEFENDANT:

No sir.

BY THE COURT:

Does Counsel have any statement you wish to make?

BY MR. BUCKLEY:

Your Honor, if it please the Court, I don't know of anything I could say in mitigation of sentence as you are well informed from the Parole and Probation office, other than I would like to ask this Court's mercy on my defendant client, as I believe he's deserving. This is my belief

BY THE COURT:

Of course, when I ask for these presentence reports and I say this for the benefit of all the defendants, I expect that you will be afforded and that you will avail yourself of an opportunity that you will give the Probation Officer all the information that you can, and you would probably be in a good position to give him that information

1 better that time than at this time being under
2 pressure. Alton Wayne Roberts, is that your
3 correct name sir?

4 BY THE DEFENDANT ROBERTS:

5 Yes sir, it is.

6 BY THE COURT:

7 Do you have any statements that you wish to make
8 sir? In mitigation of sentence?

9 BY MR. ROBERTS:

10 No sir, I don't.

11 BY THE COURT:

12 Does Counsel have any statement that he cares
13 to make.

14 BY THE COURT:

15 Cecil Ray Price, is that your correct name sir?

16 BY THE DEFENDANT PRICE:

17 Yes sir, it is, Your Honor.

18 BY THE COURT:

19 Do you have any statement you wish before
20 mitigation of sentence?

21 BY MR. PRICE:

22 No sir, Your Honor, except that I have a wife
23 and family at home and I would like to have a
24 chance to go back home so I could make a living
25 for them.

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1 BY THE COURT:

2 Does Counsel have any statement that he carries to
3 make?

4 BY MR. ALFORD:

5 No sir.

6 BY THE COURT:

7 Billy Wayne Posey, is that your correct name?

8 BY MR. POSEY:

9 Yes sir.

10 BY THE COURT:

11 Do you have any statement you wish to make in
12 mitigation of sentence?

13 BY MR. POSEY:

14 Well, I have a wife and four kids, and I would
15 appreciate as much leniency as possible.

16 BY THE COURT:

17 Does Counsel have any statement you care to make?

18 BY MR. ALFORD:

19 No sir.

20 BY THE COURT:

21 Jimmy Arledge, is that your correct name?

22 BY MR. ARLEDGE:

23 Yes sir.

24 BY THE COURT:

25 Do you have any statement you care to make in

Yes sir.

1
2 BY THE COURT:

3 Do you have anything to say in mitigation of
4 sentence?

5 BY MR. BARNETT:

6 Your Honor, I have a wife and two fine boys
7 that I would like the opportunity to make a living
8 for.

9 BY THE COURT:

10 Does Counsel have any statement you wish to make
11 in this matter?

12
13 BY MR. COVINGTON:

14 Your Honor please I don't think I would have any-
15 thing to add what the Probation Officers have
16 in their report, I would say this though I believe
17 that Mr. Barnett is a fine person and I believe
18 that the presentence investigation will reflect
19 that.

20 BY THE COURT:

21 Well going back down the line to Sam Holloways,
22 Jr., I sentence you to the custody of the Attorney
23 General of the United States for ten years and
24 specify that you may become eligible for parole
25 time
26 at such/as the Board of Parole may determine. That

2/12

1 is an indeterminate sentence, and the terms of
2 your sentence depends entirely upon you for you
3 to become eligible for parole at the institution,
4 but the time of your service depends entirely
5 on you and your behavior and I'll explain that
6 sentence to you. I wish to advise you that even
7 though you have Counsel under the Rule its my
8 duty to tell you that you have a right to appeal
9 to the United States Court of Appeals for the
10 Fifth Circuit and I understand that most of you
11 have already given notice of your appeal but I
12 advise you which I am required to do that even
13 though you have abled Counsel representing you
14 that if you are unable to pay the cost of an
15 appeal and can convince the Court of this you
16 may appeal in forma pauperis and I understand
17 some request has already been made as to that and
18 I'll hear each of you that want to be heard
19 immediately after sentencing.

20 BY MR. HAUBERG:

21 Your Honor do you plan to mention anything about
22 being released under bail. I know that the
23 statute after conviction the Bail Reform Act may
24 be still applicable but if the Court and Judge
25 have reason to believe that no one or more of the

1 conditions of release will reasonably assure the
2 person will not flee or imposes a danger to any
3 other person or to the community, its left up to
4 the discretion of the Court in connection with
5 bail under those conditions.

6 BY THE COURT:

7 Yes, as to Mr. Sam Holloway Bowers, Ur., I will
8 fix his bond under the Bail Reform Act of 1966
9 in the amount of ten thousand dollars, I'll let
10 him be released upon his own recognizance upon
11 his execution of that bond which Congress authori-
12 zed on June the 22nd, 1966, that bond to be made
13 with and approved by the United States Commissioner
14 here in Jackson, and I explicitly require that that
15 bond have a condition in it that this defendant
16 not at any time leave the county of his residence
17 pr place of business except with the prior written
18 consent of the Probation Officer, as I understand
19 it your business in at Laurel, isn't it?

20 BY MR. BOWERS:

21 Yes sir.

22 BY MR. BUCKLEY:

23 Your Honor, may it please the Court, he does
24 have some machines in some of the adjoining
25 counties.

1 BY THE COURT:

2 What county is that?

3 BY MR. BUCKLEY:

4 Jasper County and Forrest County.

5 BY THE COURT:

6 Now, what counties do you have this business in?

7 BY MR. BOWERS:

8 Forrest, Jones and Jasper counties.

9 BY THE COURT:

10 The bond may authorize him to look after his
11 business in Jones, Forrest, and Jasper, is that
12 right?

13 BY MR. BOWERS:

14 Yes sir.

15 BY THE COURT:

16 And if of course, some emergency should arise the
17 Probation Officer should be contacted and get his
18 permission in writing with he will take up with
19 the Court and I will call your attention to theth
20 fact that this bond is real easy to make but
21 the provision is if you violate the terms or
22 provisions or the condition of this bond you are
23 subject to a fine of five thousand dollars and
24 a sentence for as long as five years in the
25 penitentiary or both and you are also subject to

1 the orders of this Court for contempt upon a
2 violation of a provision of the bond and the bond
3 may be cancelled at any time, and your right to
4 remain at lodge is revoked at any time the Court
5 find just cause for that, you understand that,
6 don't you?

7 BY MR. BOWERS:

8 ~~XXXXX~~ Yes sir.

9 BY THE COURT:

10 All right, Alton Wayne Roberts, I sentence you
11 to the custody of the Attorney General of the United
12 States for ten years and specify that you may become
13 eligible for parole at such time as the board
14 of Parole may determine. And as to you likewise,
15 Mr. Roberts, I will let you be released on a
16 Bail Reform Act bond of ten thousand dollars
17 to be made with and approved by the United
18 States Commissioner here in Jackson, and I
19 will state likewise it is to contain the condition
20 that you not go outside the county of your
21 residence and place of business except with the
22 prior written approval of the Probation Officer,
23 now do you have a business outside of Lauderdale
24 County?

25 BY MR. ROBERTS:

1 Yes sir, I do, I work in Lauderdale County, Newton
2 County, Leake County, Kemper County, Neshoba
3 County and sometimes Scott and Winston counties.

4 BY THE COURT:

5 In what kind of business?

6 BY MR. ROBERTS:

7 In the mobile home business sir. In other words
8 sir, I have to go to my customers sir.

9 BY THE COURT:

10 Yes, I know that, and you are engaged in that kind
11 of business now?

12 BY MR. ROBERTS:

13 Yes, Your Honor.

14 BY THE COURT:

15 As long as you are going to do what you are
16 are supposed to do and make a living that's
17 all right, I just want to keep you out of
18 devilment, and I likewise tell you as I am
19 required to tell each one of you that it is
20 rather easy to make that bond, I don't know
21 why we have such an act but we do have it and it
22 is really easy to make it but its vicious in its
23 provision about violating it because you can be
24 sentenced as long as five years and fined for as
25 much as five thousand dollars, its an appearance
bond, its nothing but an appearance bond but
you are supposed to abide by it and conform with

1 it all times and I just hope you will bear that
2 in mind. I likewise wish to advise you that though
3 you have Counsel that you have a right to appeal
4 this decision to the United States Court of Appeals
5 for the Fifth Circuit, if you have not already
done so, have you already done that?

6 BY MR. ROBERTS:

7 I think so, sir.

8 BY MR. GOLDMAN:

9 We have, sir.

10 BY THE COURT:

11 The only effect for that is that you can probably
12 get your time start running to get your record
13 down to New Orleans because I believe you have
14 forty days to get your record down to the Court
of Appeals, is that right Bill?

15 BY THE REPORTER:

16 Yes sir, but it would be impossible to have this
record down there in forty days.

17 BY THE COURT:

18 Well, I'll extend your time so just treat your
19 appeal as having been timely made, I haven't
20 checked to see when you are supposed to make your
21 appeal but it will be treated as made timely, you
22 not only have that right to appeal but you have
23 a right to take an appeal as a pauper if you can
24 satisfied the Court and I know you are a pauper
25 and unable to pay the cost of an appeal and as to
that I'll hear you later.

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BY MR. ROBERTS:

Thank you sir.

BY THE COURT:

Cecil Ray Price, I sentence you to the custody of the United States for six years and specify that you may become eligible for parole at such time as the Board of Parole may determine. You have a right to appeal that sentence to the United States Court of Appeals for the Fifth Circuit and you have the right to appeal that without cost if you can satisfy the Court under oath that you are unable to pay such cost. As I understand it you have already taken an appeal, is that right?

BY MR. PRICE:

That's right.

BY THE COURT:

And I also think you have an application here for some help on your cost and I will also hear you on that. I will fix your bond under the Bail Reform Act, a personal recognize bond, to be approved by the United States Commissioner here in Jackson, and likewise to contain the condition that you shall not at any time go beyond the confines of your county of residence and place of business without the expressed written consent of the Probation Officer. As I understand it, you live in Philadelphia and work there do you not?

BY MR. PRICE:

I work in the Sheriff's Office Neshoba County and

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I have to go all over the State of Mississippi in my work, either transporting or bringing back prisoners.

BY THE COURT:

Well, are you going to be a Deputy under the new Sheriff?

BY MR. PRICE

Well, I don't know yet, he hasn't hired anybody and I'm still hoping.

BY THE COURT:

I believe I'll leave it like that, when I fix these conditions in these bonds I have some request for enlargements, some of them have various emergency happenings and I see that they are respected. Now this bond I've explained that to you haven't I?

BY MR. PRICE:

Yes sir.

BY THE COURT:

Billy Wayne Posey, I sentence you to the custody of the United States for six years and I specify that you may become eligible for parole at such time as the Board of Parole may determine. You have a right also if you have not already done so to appeal that decision to the United States Court of Appeals for the Fifth Circuit and to take an appeal without prepayment of cost if you can convince the Court under your oath that you are entitled to appeal under this statute. I fix your bond at six thousand dollars likewise to be

1 a personal recognizance bond condition likewise 1
 2 that you at any time go beyond the confines of 2
 3 your county of your residence and place of busines 3
 4 without the prior written consent of the Probation 4
 5 Officer and I caution you likewise, as to the 5
 6 penalty for violating that bond, the penalty is 6
 7 five years and five thousand dollars.. I'm not 7
 8 sure that statute is a very sound tool or instru- 8
 9 ment in the administration of justice. It has 9
 10 been very costly to the United States Government 10
 11 and hasn't proved its worth, I wouldn't open the 11
 12 door to start with but since we have it I believe 12
 13 the statute calls for the maximum sentence in 13
 14 case of violation of it, I haven't had a chance to 14
 15 use that tool yet, but that's exactly what I 15
 16 intend to do the very first time somebody violate 16
 17 one of those bonds he's going to get the maximum. 17

18 BY THE COURT:

19 Jimmy Arledge, I sentence you to the custody of 19
 20 the Attorney General of the United States and 20
 21 specify that you may be come eligible for parole 21
 22 at such time as the Board of Parole may determine. 22
 23 You have a right to appeal that decision to the 23
 24 United States Court of Appeals for the Fifth 24
 25 Circuit and without prepayment of cost if you can 25
 convince the Court under your oath that you are
 unable to pay your cost. I fix your bond and I
 will let you make a new bond in the amount of five
 thousand dollars and condition according to the

the statute and further condition that bond that you not at anytime go beyond the confine of the county of your residence and place of business without the prior written consent of your Probation Officer, and I believe I have sufficiently explained the penalty, you understand that don't you?

BY MR. ARLEDGE:

Yes sir.

BY THE COURT:

There is some question whether or not your name is JIMMIE OR JIMMY?

BY MR. ARLEDGE:

I've always spelled it with a y.

BY THE COURT:

All right.

BY THE COURT:

Jimmy Snowden, I sentence you to the custody of the Attorney General of the United States for three years and specify that you may become eligible for parole at such time as the Board of Parole may determine. You likewise are entitled to appeal this decision to the United States Court of Appeals for the Fifth Circuit and you are entitled to do so without prepayment of cost if you can convince the Court under oath that you are entitled to that benefit. I likewise fix your bond at five thousand dollars, a new bond, likewise conditioned that you shall not go beyond the confine of your county of residence and business without the prior written consent of your Probation Officer

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and you understand the conditions and penalty of
the terms of that bond?

BY MR. SNOWDEN:

Yes sir.

BY THE COURT:

Doyle Barnett, I sentence you to the custody of
the Attorney General of the United States for
three years and specify that you may become eligible
for parole at such time as the Board of Parole
may determine. You are entitled to appeal that
decision to the United States Court of Appeals
for the Fifth Circuit without prepayment of cost
if you can convince the Court under your oath that
you entitled to the benefit of that statute. I
fix your bond likewise at five thousand dollars
a personal recognizance bond under the Bail
Reform Act to be made before and approved by the
United States Commissioner here in Jackson, and
likewise to contain the condition that you shall
not go beyond the confines of your residence and
place of business without the prior written
consent of your Probation Officer, and you like-
wise understand the condition rather the penalty
for violating that bond don't you Mr. Barnett?

BY MR. BARNETT:

Yes sir.

BY MR. COVINGTON:

If it please the Court the reference to the county
I understand he lives in Louisiana and I have not

had the contact with him that I should have to be able to explain his present situation, I believe he would be able to explain that better than I.

BY THE COURT:

Well, we will substitute county with the word Parish, is that all right Mr. Barnett? Do you have a situation, Mr. Barnett?

BY MR. COVINGTON:

Doyle would you tell the Court where you work and where you live and explain the fact that you live and work in two different parish.

BY MR. BARNETT:

I live in Bossier Parish, Louisiana, and I work in Caddo Parish.

BY THE COURT:

That's just across the river, isn't it?

BY MR. BARNETT:

My home is just about, well I drive about thirty miles from my home to my work through Bossier Parish going to work.

BY THE COURT:

Well, your bond may authorize you to go in Caddo and Bossier County Parish.

BY MR. BARNETT:

Your Honor, my wife's folks live about two miles in Arkansas above my home in Lafayette County Arkansas, and I would like for you to grant me the privilege for me to go up there. We just live about four or five miles apart, but I wish

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1 you would grant me permission to go up there some.
BY THE COURT:

2 We will just put it for visits. What County is that?

3 BY MR. BARNETT:

4 Lafayette County.

5 BY THE COURT:

6 All right. I think these defendants might just
7 go to your office Mr. Hauberg and prepare these
8 bonds.

9 BY MR. HAUBERG:

10 We will have to get the form of bonds from the
11 Clerk's office, Your Honor.

12 BY THE COURT:

13 Well I think the Commissioner ought to prepare the
14 bonds and he can bring them down to your office or
15 the Marshal's office and have them executed.

16 BY MR. HAUBERG:

17 We will call the Commissioner and have him come
18 down there.

19 BY THE COURT:

20 How many of you defendants wish to take an appeal?
21 All of you have? All right now, how many of
22 you defendants wish to be heard on your motion
23 to appeal in forma pauperis? One, two, three,
24 four, five of you? Well, I think the other
25 defendants may be seated. I don't know what the
legal complication is, these fellows have been
convicted of a conspiracy and if one of them is
able to pay the cost, I don't know where the
opinion of the others would be entitled or not,

what about that Mr. Hauberg?

BY MR. HAUBERG:

Your Honor, I am inclined to agree with that.

BY THE COURT:

I'm not asking you to agree with me but if one partner has anything the others have to, isn't that right Counsel?

BY MR. ALFORD:

Are you talking to me Your Honor?

BY THE COURT:

Yes sir.

BY MR. ALFORD:

Mont Mars there in my law firm, if he's got it I have it, but we represent Mr. Price and Mr. Posey and we take the position that they are unable to take an appeal.

BY THE COURT:

Well if they are unable some of their co defendants are able, what position would that put them in?

BY MR. ALFORD:

I think they are in the same position, they are entitled to Counsel and to affect their appeal as an individual here.

BY THE COURT:

Well-

BY MR. ALFORD:

That's my reason, if Your Honor please, suppose one of these defendants elected not to appeal and proceed to serve that would not cut off this in-

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dividual to take an appeal and that;s out position
to show the Court this is an individual matter.

BY THE COURT:

Well you would have to make your argument on the
facts that exist before us and I'm talking about
a case where all of them are taking an appeal and
some of them are able to pay their cost.

BY MR. ALFORD:

Your Honor please, I understood that all of them
were appealing in forma pauperis.

BY MR. GOLDMAN:

Your Honor please, I believe my two clients didn't
understand the Court's question about appealing
their cases in forma pauperis.

BY MR. BUCKLEY:

Your Honor, I didn't file a motion on behalf of
my client, Mr. Bowers, but since I have found out
what the cost of an appeal is it would make any
one a pauper to have to pay it its much more than
I thought it was, and if I understand the law I
still have the time and the opportunity to do that
and it will still be timely.

BY THE COURT:

I'll let him take the stand if he wishes to do
so.

BY MR. BUCKLEY:

I don't know where he does or not, Your Honor,
I didn't have any idea about what the cost would
be Your Honor.

BY THE COURT:

I wasn't looking for that in my presentence report but as I recall one of the defendants couldn't take the oath could he? I don't know which one that is.

BY MR. BUCKLEY:

I haven't talked to Mr. Bowers.

BY THE COURT:

I don't think it is Mr. Bowers.

BY MR. HAUBERG:

If the Court please, the last thing that was served on me by Sam Holloway Bowers, Jr., was a notice of appeal and signed not by his attorney but signed only by him. There was no statement or request made for an appeal in forma pauperis.

BY THE COURT:

Well he said it wasn't. Well, I am going to give you an opportunity to file a motion in forma pauperis if you wish to do that.

BY MR. BUCKLEY:

Your Honor, I don't know where my client will want to do that, I just found out today what the appeal will probably cost or approximately what it will cost.

BY THE COURT:

Approximately how much will it cost?

BY MR. BUCKLEY:

I believe Mr. Davis told the record would probably cost something like twentyseven hundred dollars.

The record alone and that does not include the

BY MR. BUCKLEY:

Your Honor may it please the Court when we consider that will be timely anyway.

BY THE COURT:

I would consider it that way. I don't know what the thirteen gentlemen in New Orleans would do about it, they get sorta rather it becomes sorta their task after today but that would be my thinking about it, and what it will be dependent upon is whether you will be able to pay for it or not.

BY MR. BUCKLEY:

Your Honor, in view of that may we have a few minutes time? It we are going to do that it would seem useless on our part to argue it now due to the fact of the judgment and commitment here today Your Honor.

BY THE COURT:

Well it wouldn't be an exercise of futility insofar as I'm concerned because I wouldn't hear you but one time. I don't know what they would say about your bond but I know what I would say about whether you were entitled to appeal as a pauper or not.

BY MR. WEIR:

Your Honor please on behalf of Cecil Ray Price and Billy Wayne Posey we are ready to produce our proof that they are unable to pay the cost and need to appeal in forma pauperis at this time.

BY THE COURT:

In forma what?

1 BY MR. WEIR:

2 Pauperis.

3 BY THE COURT:

4 You are kinda giving that word a new twist, I
5 haven't heard it like that before.

6 BY MR. WEIR:

7 Well You know Your Honor, I'm just an old country
8 lawyer and I've been around Mr. Alford a good
9 bit lately and I've learned it from him.
10 We would like to produce whatever evidence we
11 need to today so we won't have to come back.

12 BY MR. BUCKLEY:

13 May we be excused Your Honor, so we can decide
14 what we want to do about our appeal?

15 BY THE COURT:

16 Well, I want to get this bond business straighten
17 out first. Mr. Hauberg, do you have one of
18 your assistants up here that can call Mr. Countiss.

19 BY MR. HAUBERG:

20 Joe Brown is in the office.

21 BY THE COURT:

22 Mr. Hauberg, you may tell Joe Brown to call the
23 Commissioner. Well, we will take one of these
24 up at the time. Who is the first in line? I
25 believe Mr. Roberts is. All right. Let the
record show first that we are fixing to take up
the application of Alton Wayne Roberts for an
appeal in forma pauperis, and he is to presently
be sworn and will be permitted to take the stand

the stand and testify about his or about that subject and Mr. Hauberg, what is your comment?

BY MR. HAUBERG:

Your Honor, I would like to dictate this motion in the record.

BY THE COURT:

Is this just for Mr. Roberts or all of them?

BY MR. HAUBERG:

All of them.

BY THE COURT:

All right.

BY MR. HAUBERG:

Comes the United States of America and moves the Court to deny any relief that any of the defendant may request and to deny their request for the defendants to proceed in forma pauperis for the following reasons. Number 1, that the affidavit submitted are not sufficiently or specific, number two, the motion and affidavits are mere conclusion number 3, motion and affidavit are insufficient.

BY THE COURT:

Well, I'll overrule the government's objection or motion to that, these statutes are rather wholesome I suppose anyway they are supposed to be very broad and very liberally allowed, I have disallowed several appeals in forma pauperis for several reasons, first I thought the appeal was frivolous and second I didn't think the person was a pauper and the Fifth Circuit has disagreed with

1 so, I'll adopt their policy in this case. I'll
2 overrule your objection, that is not meaning that
3 this man or the others are entitled to the benefits
4 of the statute, I'm simply responding to your state-
5 ment about his application being rather general
6 and in conclusivory terms and I'm saying that I
7 don't know what the contentions of his application
8 is, but what I'm saying if he can convince me he
9 is a pauper then I will grant him the relief.

10 BY MR. HAUBERG:

11 I understand that Your Honor, but this is a pro-
12 cedure manner in brining this before the Court and
13 it requires them to put proof on, and not just to
14 take their application on their affidavits on the
15 face of the affidavit alone.

16 BY THE COURT:

17 I see, I don't ever do that. All right.

18 ALTON WAYNE ROBERTS, called as a witness and was
19 sworn and testified in his behalf as follows:

20 BY MR. GOLDMAN:

21 Q Mr. Roberts, are you a citizen of the United States?

22 A Yes sir, I am.

23 Q You filed an application in this cause stating you
24 are a pauper?

25 A I have sir.

Q Are you telling the Court that you desire to appeal
the conviction that has been had against you in this
cause?

A Yes sir, I do.

Q Would you tell the Court your financial status and as to whether or not you own any assets?

A Well, at the present time I am trying to purchase a trailer or rather pay the notes on a trailer that I purchased from the man I work for. I am paying this just like I am paying rent and I purchased this in April or May of this year, sir.

Q You are in the mobile trailer home business?

A I work for Akins Mobile Homes, sir, it is not my business but I work for Akins Mobile Homes.

Q In your opinion in dealing with trailers if you had paid anything down on this trailer would it have any value as a used trailer at this time?

A No sir, it would not.

Q What is your average monthly income, Mr. Roberts?

A Well, the counties in which I sell these trailers and I average approximately \$300 per month sir.

Q Is that before any expenses?

A Before.

Q Would you tell the Court your average monthly living expenses?

A It s above \$500 sir.

Q Andhow were you represented by Counsel in this case?

ASir, I filed in forma pauperis in this case, I had obtained Mr. Lester Williamson before the beginning of the Court and he received a judgship in Lauderdale and I was left without a lawyer and I did not have money to obtain one and had not paid him and I had to file in forma pauperis.

BY THE COURT:

1 Did I appoint you a lawyer in this case?

2 BY MR. ROBERTS:

3 I was appointed an attorney by the Commissioner but
4 if I understood him correctly he said it would have to
5 be approved by you sir.

6 BY MR. GOLDMAN:

7 Q Do you own any personal property Mr. Roberts?

8 A No sir I don't.

9 Q Do you have any money on hand?

10 A I might have five or six dollars on me sor.

11 Q Do you have any other income?

12 A From my wife sir, she works.

13 Q Where does she work?

14 A She works for Gilchrist Tractor Company in Meridian
15 and they have their home office here in Jackson.

16 Q What is her income?

17 A Sir, she makes approximately two or two hundred and
18 twenty dollars per month sir.

19 Q Is it your testimony that you and your wife's total
20 income is about the same as your living expenses?

21 A Sir, with our living expenses, counting our groceries
22 gasoline for our car and support of our children and
23 the upkeep of our home, we go in the hole every month.

24 Q Is there anyone in your family able to lend you this
25 money?

A Not to my knowledge sir.

Q Has anyone offered to help you in this appeal?

A Not to me personally sir, no sir.

Q Have you been told by us the approximate sum that is

required to file this appeal in this case?

A Yes sir.

Q Are you able to pay this sum?

A No sir, I certainly am not.

BY THE COURT:

I notice you have three small minor children, one of you own and two you have adopted and your wife, your wife is certainly not a dependent is she?

BY MR. ROBERTS:

No sir, she claims herself and I claim my self.

BY THE COURT:

Do you have anything Mr. Hauberg?

BY MR. HAUBERG:

Yes, Your Honor.

Q Mr. Roberts are you paid a salary?

A When I was working as a maintenance man I was paid a salary but when I went to work selling trailers I went to work strictly on commission and they gave me a draw if I fell behind in sales which I could draw \$75.00 per week on a draw sir, but I am to reimburse that draw when I make a sale.

Q And you work with Mr. B. L. Akin?

A Sir sir, and Mr. Earl Akins, sir.

Q How long have you worked for them?

A Since 1966 sir.

Q And you say its not a fact that you get \$65 or \$75 regularly?

A I said sir if I don't receive a sale I receive that amount, but I only carry home \$31.90 a week sir.

Q Let's just talk about what you receive as pay, your

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actual pay is \$75 a week where you sell anything or not?

A No sir that's not right.

Q Well what is your salary then?

A I receive \$75. a week before deductions are taken and Mr. Akins gets his part of the money out of it for the payment on the trailer sir.

Q So you do draw \$75 a week?

A Up to \$300 a month sir.

Q And in addition to that you get commissions on trailers that you sell?

A No sir, I do not.

Q You mean you get no commission at all?

A That's what I work for is commission, I'm not on salary, I'm strictly on a commission. In other words I'm just on a draw if I don't sell anything for three or four weeks I still can draw that \$75.00 but when I do sell it I have to reimburse him back out of my commission unless I exceed what I owe them.

Q Will you commission total more than \$75.00 a week?

A I haven't sold any trailers now.

Q And you wife is a bookkeeper for Galchrist Tractor Company?

A I don't know where she's a bookkeeper, stenographer or what.

Q But she gets paid every two weeks/

A That's correct sir.

Q And her salary runs about \$120.00 every two weeks.

— And you make about \$300 and she makes \$200 and that makes a total of about \$500 or \$510 per month?

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1 A That's for all our expenses, child care, car, groceries,
2 and all our living expenses we go in the hole every
3 month.

4 Q How many cars do you have?

5 A My wife has a car, sir I don't have one.

6 Q What kind of a car does she have?

7 A A 1965 Chevrolet.

8 BY THE COURT:

9 How do you get around in these counties that you say
10 you work in?

11 BY MR. ROBERTS:

12 My boss furnishes me with a car and I have to furnish
13 the oil and gas for it.

14 BY MR. HAUBERG:

15 Q Do you have a wife of your own?

16 A No sir, my wife has a car.

17 Q The only car in your family is your wife's 1965 Chevro-
18 let?

19 A Yes sir.

20 Q Now, how many times in the last two years have you
21 received any money from anyone to assist you or your
22 attorneys in this case on your behalf in connection
23 with the trial of this case?

24 A I don't know sir.

25 Q Well have you ~~youxxx~~ ^{received} any money to assist you?

A I have received money to assist my family and as I told
you I was in the hole every month.

Q Well how much have you been given?

A In the past two or three years I would say approxi-
mately three or four hundred dollars sir.

1 Q Was that \$500 sent to you by Mr. Sam Bowers either
2 directly or indirectly?

3 A Sir if someone sent me that much I never did receive
4 it.

5 Q Do you deny that someone brought you some money that
6 hadn't been sent by Sam Bowers?

7 A Sir I don't know who gave me the money, just some people
8 would come up and give me five or ten dollars.

9 Q But not any from Sam Bowers?

10 A Not to my knowledge sir.

11 Q Well, name some of the people that you have received
12 money from?

13 A I received money from my brother, from Mr. and Mrs.
14 McCrackin, Mr. Warner, one of two of the supervisors
15 in my county, I received some money from the police
16 department in Meridian, I received some money from
17 individuals who I don't know who they were in nickels
18 quarters, and dimes and I think the total was about \$21
19 and I was given some money from the citizens in Jackson
20 and what the amount was I don't recall.

21 Q What was the largest amount that you received at one
22 time?

23 A Probably a hundred or a hundred and fifty dollars.

24 Q Mr. Delman Dennis told the Court that he gave me \$200
25 one time, he gave me \$20 one time and I sure would
like to have the other \$180.00.

26 Q Who are some of these people that have given you money?

27 A I understand that one of them is a member of the United
28 Klan from Alabama, but I do not remember his name sir.

1 Q Tell the Court whether or not you attended a dance
2 and barbeque for the funds to go to the defense of this
3 particular lawsuit on November 6, 1967 at the Con-
4 federate Inn?

5 A I did not attend sir.

6 Q But you knew about it didn't you?

7 A I read it in the papers sir.

8 Q Well don't you know you talked to Mr. Brewer and Mr.
9 the afternoon that was held?

10 A Yes sir I talked to them that day.

11 Q And didn't he tell you they had had some donations from
12 some soft drink and beer distributors?

13 A Mr. Hauberg, being honest and truthful with you I
14 don't know who told me but somebody told me they were
15 trying to make up money. I believe I understood that
16 instead of controbuting money they were going to con-
17 tribute beer and drinks and let the people purchsse
18 the drinks and the money would be used as a donation.

19 Q Isn't that a fact that that was just one of the benefit
20 parties given to raise money to help out with this
21 transcript of the record you are talking about?

22 A No sir, it was not for that purpose, it was for our
23 families, because we all were in debt for the days we
24 had lost from our jobs because of the trials.

25 BY THE COURT:

26 Was that for all of them or just for the seven who were
27 convicted?

28 BY MR. ROBERTS:

29 For the seven sir.

1 Q Now wasn't it a fact that that was the headlines in
2 the Meridian Star, a newspaper at Meridian, Mississippi?

3 A I heard it was in there, I didn't read it sir.

4 Q Now, what about this other benefit party scheduled for.
5 November 15, 1967?

6 A Where was that sir?

7 Q Well, I ask you about that.

8 A Well I don't remember the specific date.

9 Q So you mean by that there were so many of these benefit
10 parties stage for you you don't remember the specific
11 dates do you?

12 A No sir, I heard that there was three.

13 Q Well, do you remember one at Edd's Drive-Inn on High-
14 way 19 North?

15 BY MR. GOLDMAN:

16 Your Honor, I would like to object to Mr. Hauberg's
17 line of questioning, the fact that they staged these
18 benefits don't actually bring money to these defendants
19 and it is our position that these benefits was for the
20 purpose of attorney's fees.

21 BY THE COURT:

22 Well that certainly is correct, but he is certainly entitled
23 to learn what happened to those funds.

24 BY MR. HAUBERG:

25 And further Your Honor, we would like to know if some of
these attorneys received some of those funds.

BY MR. ROBERTS:

A Sir, I would like to tell you the ones that I know
about that that will be it. The one you spoke of at

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Confederate Inn, Ed's Drive-Inn and I understand there was was one at Jackson, but I don't know if that is true or not, and I heard there was another one in Meridian, the only thing that I do know about are some jugs that had been put out for us and I think the total amount was \$300 that they had taken up in different place of businesses here in Meridian.

BY THE COURT:

How much of that did you get?

BY MR. ROBERTS:

Sir, there was a lawyer out of town that was paid with that money.

BY MR. HAUBERG:

Q What lawyer?

A A Mr. Stoner came down and talked to us.

Q But he didn't represent you or any of the other defendants, did he?

A No sir, he just came down and talked to us.

Q Do you remember the one at Rockhill Tavern south of Meridian?

A That was the one I was trying to think of sir, I don't know where they did or didn't.

Q So that makes four that you really know of including the one in Jackson, so how many did you attend?

A I attended the one in Jackson sir.

Q Is that the only one that you attended?

A Well, I told you I stopped by out at the confederate inn that evening before the thing even kicked off and I went to Mr. Watkins' house because he wanted to buy

1 a used trailer and I had heard of one from an
2 individual and I did stop by there and talked with
3 him.

4 Q Whoever in any case that put these parties on where
5 it was Mr. Brewer or who it was didn't they express to
6 you that this money was to be used for court cost
7 and lawyers fees?

8 A No sir, the only thing I know is they said they had
9 \$12,000.00 to help us out I don't know where it was
10 us or court cost or to pay the lawyers.

11 Q Who was it that told you that?

12 A I don't know, they said they hoped that they could
13 raise that much but they didn't say where it was for
14 us, courtcost, lawyers or what, and as far as seeing
15 any of it I haven't.

16 Q Now, it was on November 11, 1967 that they had this one
17 over here in Jackson.

18 A I don't know sir.

19 Q And it took place down here on Highway 55 at the Travel
20 Inn motel didn't it?

21 A It took place at the Travel Inn, I don't know what high-
22 way it was one.

23 Q And you were present?

24 A I ate sir.

25 Q You didn't say anything?

A Yes sir, I made a talk.

Q But I didn't mention money in no wayhere.

Q But money was mentioned there was it not?

A I don't know.

Q But you were there were you not?

A I was there. I think I ate about four chickens there that night.

Q And you just ate the chicken and don't remember anything that was said there that night?

A Yes sir, there were several speakers there that night one of the City Commissioners of this City was there I'm pretty sure.

Q Now that was a \$10.00-----

BY THE COURT:

What's his name, I would be interested in knowing that?

BY MR. ROBERTS:

Oh, I don't know, Your Honor.

BY MR. HAUBERG:

Q It was Mr. Clark Horton, wasn't it?

A I don't know his name sir, I just know he was one of the City Commissioners.

BY THE COURT:

Was he there on silly business?

BY THE WITNESS:

I don't know sir. He made a talk as all I know.

BY THE COURT:

Maybe we ought to have him over here.

BY MR. HAUBERG:

Q This was a \$10 a plate fund raising dinner.

A I don't know sir.

Q You didn't pay anything because you were one of the honored guests were you not?

A I wouldn't say I was a honored guest.

Q Isn't it a fact that after dinner served a speech was

1 made and it was told that this money would go toward
2 the defende of white Christian citizens charged with
3 and being "persecuted under the so-called Civil Rights
4 Act of 1870"?

4 A No sir I didn't hear that

5 BY THE COURT:

6 I don't think you are finding out much about his finances
7 after that meeting?

8 BY MR. HAUBERG:

8 Q How much money did you get from that meeting?

9 A I haven't gotten any yet.

10 Q Just how much money have they picked up from these
11 meetings?

12 A Sir I don't know that.

13 Q Have you paid your attoeny any money at all?

14 A No sir.

14 Q Do you own any real estate?

15 A No sir, I don't.

16 Q Where do you park your trailer then?

17 A Its in my father-in-law's back yard, sir.

18 Q You are living on your father in law's place?

19 A Yes sir.

20 Q Have you made any effort to see if any in your community
21 would let you borrow money for your part of this record?

21 a Sir, there is no one in my neighborhood that could do
22 that.

23 Q If there are seven of you defendants in this particular
24 case and the cost to have the record transcribed is
25 \$2500, that would figure less than \$400 each?

A I don't know sir, I haven't figured.

Q Well that would be about right wouldn't it?

A Well the only thing I know until I came today was that it would cost us between \$25 and \$2500 and \$2700.

Q Well to divide that four ways that would be about \$400 wouldn't it?

A Yes sir.

Q And you are undertaking to tell this Court that you can't get up \$400 to pay your share of this record?

A Mr. Hauberg, if I could get up \$400 I would do it or I would try to pay my bills with it. My children are suffering right now by pressure that is being put on them by bill collectors. I've been to different loan companys and tried to consolidate bills and I haven't been able to because I've been convicted of this offense.

Q Who have you contacted to try and borrow the money for your part of the record?

A Mr. Hauberg, I haven't colntacted nobody because I have been under a pauper's oath and I thought I was still a pauper.

Q What lawyer did the Commissioner appoint for you over in Meridian?

A Mr. Mike Watkins and Mr. Dennis Goldman.

Q And you have not paid them anything?

A No sir, they haven't.

Q And you have not borrowed or tried to borrow any money to pay your part of it?

A No sir.

1 Q That's all Your Honor.

2 BY THE COURT:

3 I think the evidence in this case shows without any
4 substantial doubt that this man doesn't have any funds
5 to pay any part of his appeal and I find as a fact that
6 he is an indigent defendant and he is entitled to the
7 benefits of the statute which entitles him to appeal as
8 a pauper.

9 BY MR. GOLDMAN:

10 Your Honor, if you don't have any preference I would
11 like to proceed with my other two clients.

12 JIMMY ARLEDGE, sworn to testified on his behalf, testified
13 as follows:

14 BY MR. GOLDMAN:

15 Q Mr. Arledge, are you a citizen of the United States?

16 A Yes sir.

17 Q Are you desirous of an appeal in forma pauperis?

18 A Yes sir.

19 Q Would you tell the Court your earnings you derived
20 from your employment each month?

21 A \$225.00.

22 Q What is your job?

23 A I work in a steel yard for Jack Bates, Bates Steel Co.

24 Q What other income do you have?

25 A That's all.

Q Are you married?

A Yes sir.

Q Does your wife work?

A No sir.

Q Do you have any children?

A No sir.

Q Do you own any real estate?

A I'm paying for some.

Q Is that your home?

A Yes sir.

Q Do you own any equity in it or how long have you had it?

A About two years.

Q How much are your monthly notes on your home?

A \$50.00 a month.

Q Do you own any valuable jewelry or automobile or anything like that?

A No sir.

Q Do you have any cash on hand?

A Ten or fifteen dollars.

Q What do you figure your average cost of living for you and your wife is every month?

A I believe I mis-stated something a while ago. My living expenses are about \$200 or \$225 per month and I make about \$75.00 a week before taxes are taken out.

Q Have you redeived any sums from anyone or anywhere to be used on this appeal?

A No sir.

Q Have you received any funds from anybody whatever to help you finance yourself during the course of this trial?

A I received a \$75.00 check from someone in 64 or 65.

Q Do you owe anybody any money, do you have outstanding bills?

A Yes sir.

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Q Do you know about how much you do owe?

A Well, including my house it would be around seven or seventy five hundred dollars.

Q How much is your house?

A Sixty six hundred dollars is what I owe on it now.

Q Is there anyone in your family that you could borrow money from for the cost of this appeal?

A No.

Q Is there anyone in your family that is financial to help you?

A No.

Q How much have you paid your lawyers?

A I would say between \$350 and \$450, not over \$450.00. And that is for about a three year period?

A Yes sir.

Q I believe that's all Your Honor.

BY THE COURT:

Do you have any life insurance?

A No sir.

Q Do you have any savings account?

A No sir.

Q Does anybody owe you anything?

A No sir.

Q Let's see, you are a welder aren't you?

A Well, I'm a welder's helper.

Q What is your weekly take home pay?

A Well it has been for the past couple of months it runs about \$50 to \$60 a week, we are on forty hours and sometimes we work more than forty hours.

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Q All right, Mr. Hauberg, you may question the witness.

BY MR HAUBERG:

Q You say you have paid about \$350 to \$450 for attorney fees, is that right?

A Right

Q Have you paid anything for additional cost for witness fees or anything of that kind?

A No sir. I haven't.

Q Do you know how much your lawyers may have received from others or any other organization for the purpose of representing you in this case?

A I don't know of any.

Q You don't say they haven't received other fees?

A Well, I don't know of any.

Q Well now didn't you use to work for a laundry?

A Yes sir.

Q How long have you worked for Bates Steel?

A About six months.

Q Who did you work for before then?

A Well those are the last two jobs that I have had over the last year.

Q And you say you have a job that pays you about \$225 a month?

A Well it runs about \$55 or \$65 a week.

Q All right, now are you married?

A Yes sir.

Q Does your wife work?

A No sir.

Q Do you own an automobile?

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A Right.

Q What kind do you own?

A 60 DeSoto.

Q And you don't owe anything on that?

A I still owe some on it yes sir.

Q How much?

A Probably \$100 or \$150.

BY THE COURT:

Did you buy that second hand?

A Yes sir.

Q What's the value of that car?

A I don't know but I imagine around \$300.00. Maybe not that much.

Q Its still in debt, what you owe on it

A Yes sir.

BY MR. HAUBERG:

Q What was your idea as to the result of these rallies and barbeques that were being held for the purpose of raising money?

A Well, I never really did hear what they were going to do with it.

Q How many of those did you attend?

A Just the one in Jackson.

Q That was the only one that you attended?

A Right.

Q Do you know where your lawyers got any money from it?

A They haven't told me if they did.

Q Did you make a speech at that meeting?

A No sir, I did not.

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Q Have you undertaken to find out how much it would cost to get your share of this record transcribed?

A No sir all I know is what the lawyer told me.

Q And you are telling this Court that you couldn't get up about \$400 to pay your part of this record?

A Well I don't know where I could get it.

Q You don't have any people there that would lend you any money for that purpose?

A I don't think I have.

Q What kind of living expenses do you have?

A Well, my house note, utilities groceries.

Q And you are buying your home?

A Yes sir.

Q And how long have you been paying on it?

A About two years.

Q And how much are your payments?

A Fifty dollars.

BY THE COURT:

Does that fifty dollars cover the taxes and insurance?

A Yes sir, I suppose so. Wait, I had to pay the insurance on it this year.

BY MR. HAUBERG:

Q But your taxes are included in the fifty dollars?

A Yes sir, no, I believe I had to pay them last year.

BY THE COURT:

Q Is this a new house?

A No sir, its about fourteen or fifteen years old.

Q Did you pay something down on it in addition to the amount that you borrowed on it?

1 A No sir, I don't understand your question.

2 Q Well did you make a down payment on it with some
3 money of your own or did you borrow all that was
4 owing on the house?

5 A No sir, this man got the house, I started renting it
6 first and I asked about buying it, and he had to pay
7 for it so he just let me take up his notes to the
8 bank. I just took over his loan on it.

9 Q Did he give you or your wife a deed to the property?

10 A Both of us.

11 Q How many acres to the house?

12 A 275 feet one way and 90 feet the other way.

13 Q This house is in the country isn't it?

14 A Its in town.

15 Q What town?

16 A Meridian, Mississippi.

17 Q What would you say would the fair and reasonable value
18 of your house and lot?

19 A I wouldn't know.

20 Q Well you are the owner and you would have the right
21 to place a value on it.

22 A Well I would say five or six thousand.

23 Q How close is it to a railroad?

24 A About three blocks.

25 Q And you say it is not worth as much now as it was
when you bought it?

A No sir.

Q Is it on a paved street?

A Yes sir.

Q All right, Mr. Hauberg;

BY MR. HAUBERG:

Q Did you have any conversation with these other defendants as to what was happening to the money that was being raised at these various meetings?

A No sir, I did not.

Q Didn't you want to find out?

A No sir.

Q You mean to say they were raising money for your court cost and you didn't find out about it?

Q Well if they were I would like to have my part of it I don't know whether or not they are raising any of it, as far as I know they are not.

Q Well the meeting that you attended over here in Jackson that was the purpose of it?

A I heard it was.

Q Well you were a honored guest and you didn't have to pay for your food?

A I don't know if I was a honored guest or not but I didn't pay for the food.

Q You didn't hear them discussing that the money they were raising was for the defense of this case?

A I didn't hear anything about it if they did.

Q You didn't hear any of the defendants thank them for the money they were raising?

A No sir.

Q You didn't hear about these meetings being raised for lawyers over in Meridian or not and if so, didn't you ever inquire about where your share of it was?

1 A No sir.

2 Q Why not?

3 A Well I didn't know they were raising money for that
4 or not.

5 Q You knew they were using you and the other defendants
6 as guests for the purpose they were trying to raise
7 funds?

8 A No sir.

9 Q What is the total amount that you said you had received
10 during the period of time that you got into this
11 trouble?

12 A I would say about a hundred twenty five dollars.

13 BY THE COURT:

14 Do you know of anybody who has any money that is intended
15 to be turned over to you in connection with this case?

16 A No sir, not that I know of. I surely don't.

17 BY MR. HAUBERG:

18 Q Were you familiar with the Meridian Star headlines
19 about the benefit being staged for you men?

20 A I believe I heard about that.

21 Q Well, did you try to find out what money was raised
22 from the benefit of that?

23 A No sir.

24 BY THE COURT:

25 Are you working regularly now?

A Yes sir.

Q And have you been working regularly since the
trial of this case?

A Yes sir, most of the time I'm on a forty hour shift.