

Exculpating evidence in FBI files, from recollection, with allegations against Ray

I do not recall that the FBI ever prepared any formal statement of allegations other than in the Birmingham indictment. In it the conspiracy charge, necessary to make the federal civil-rights act apply, is that he planned to go hunting with his brother in Wisconsin. Once Ray was charged with a crime in Tenn., the FBI wanted to withdraw what it filed in Birmingham but the Department opposed it. (Until I persuaded Fensterwald to file a demand for trial in Birmingham.) What Tennessee said about the crime, along with a great number of irrelevancies, is in the guilty-plea hearing the transcript of which is in my case 3-drawer file. I think with the appropriate extracts xeroxed separately.

Ray rented a room in the flophouse at 422 1/2 S. Main St.

There is no proof of this. He was never identified as the man who rented it. He selected that room because it provided a good place from which to shoot King.

It did not. He would have had to be mostly out of the window, into the passageway between two buildings. The passageway was at right-angles to where it is conjectured King would have been so Ray would have been visible and the shooting at least difficult. *If he did not fall out the window.*

Charles Stephens, an alcoholic allegedly identified Ray as Ray was allegedly fleeing.

Stephens in fact did not identify Ray. The affidavit the FBI took from him was not used at the extradition hearing in London. The second of two taken by DJ's civil rights attorneys was and none of the affidavits identifies Ray. In fact when the FBI showed him a picture of Ray he refused to identify it as of the man he is said to have said he saw. (He was so drunk he saw nobody and did not even know what had happened when a reporter spoke to him outside the DA's office much later.) CBS had and suppressed a filmed interview in which the picture is shown to Stephens and he made negative identification, not the guy. CBS finally aired this footage for the first time in a "special" in which I refused to appear after spending some time trying to help CBS. This was after the evid. hearing, in ~~1975-6~~ about 1976. I have the transcript.

Ray bought binoculars at the York Arms Co. that were found in the bundle. *What a bundle! I have contents + some fix, FBI. Including bobby pin!* He did but they could not use the <sup>one</sup> witness who could make the identification.

He had been released from a mental hospital. So, nobody ever placed Ray in Memphis.

Ray allegedly lurked in the bathroom from which he fired a single shot that was fatal. There were no Ray fingerprints in the rented room or bathroom. The <sup>rifle</sup> file allegedly made a mark on the inside of the old and hard windowsill, which the police removed. The FBI lab reports says this mark, a large dent, larger than the rifle's muzzle, could have been made if the rifle were sideways when it made it. Silly and false. I produced an expert witness, Herbert McDonnell, <sup>Criminalist</sup> who testified that it was not possible to state even what "class" of device or instrument made the dent. (Which

had probably <sup>b</sup> been there for years.) The rifle allegedly pushed the window screen out but the lab detected no sign of this on the rifle, its report says. The lab said only that the portion of bullet that was recovered from King's body could have been fired from that rifle but that it lacked sufficient marks for identification. McDonnell testified that it did and that given that rifle to test fire and recover bullets for comparison he could testify positively whether or not the bullet had been fired from that rifle. The FBI did not test-fire it. Or make the standard test, swab the barrel to determine whether or not it had been fired since last cleaned. (My recollection on this is not certain.) It did test-fire a wide variety of other rifles, including a different rifle that Ray had purchased and returned and which could not be fired until the FBI itself removed the encrustation of the preservative, cosmoline. In addition to my saying the lab reports include no test firing, there is either a letter from the DJ chief of appeals or this is in his testimony as a DJ witness in CA 75-1996.

Ray allegedly fled, after making up a bundle that required more time than he had before it was found outside the second-hand record shop of Gay Warren Canipe. Canipe is said to have heard his car's tires screech as it left the curbside near his store. There is no such affidavit and this is false. I interviewed Canipe on this twice, once with Jim Lesar present, when he denied having said any such thing and once with Les Payne of Newsday with me when he was much more explicit in his denial, as I remember, something like "Anybody who says I said I heard screeching tires is a liar." The FBI's interviews with more than a half-dozen of the bar in the flophouse all include the fact that Ray's car was not there. I produced several witnesses at the hearing who so testified, each with a positive means of recollection, Lloyd Jowers, owner of the bar, who could not park where it is alleged Ray's car may have been because another car was parked there and Jame McCraw (Craw), cab driver who had come to pick Stevens up and drive him to a liquor store, who also had to park double for the same reason. McCraw also testified that Stephens was so drunk, even for Stephens, that he refused to take him, phoned this in to his dispatcher, who sent him on another call and almost immediately ordered all cabs to avoid the area of the crime. The FBI claims it did not get the cabbie's log or the dispatcher's but McCraw told me that it had. The story on Ray dropping the bundle is that he saw police cars parked at the firehouse on the corner. I was told that part of the hedge there had been cut off to make this appear to be possible, I saw the stubs of wood never removed and I think I have a picture reflecting this. The FBI's story is that the bundle was found by a deputy Vernon Dollahite. Its own report indicates it was impossible for Dollahite to have done all he did first and still have been the first to see the bundle. It was found by another deputy

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much earlier. I produced him as a witness. I've forgotten his name, Lesar and I timed how long it would have taken him, about 45 seconds. The police witness at the guilty-plea hearing, Inspector Zarkary, testified that it is he who found the package and he wasn't even near there. It took him at least 15 minutes to get there. On the shot coming from that bathroom window, the FBI's reports of its interviews with the firemen and police on a rest stop at the firehouse, perhaps as many as 10, state that the shot came from the empty lot area next to the firehouse, or the parking lot there. Bertie Reeves also told the FBI this. His room was on the firehouse side of the building.

It was not possible to even get the rifle into firing position from the bathroom. That would have required some means of standing on the inside lip of an old bathtub with the rifle then sticking far out the window, with many possible witnesses at the motel facing it, or without <sup>this</sup> the rifleman in part inside the wall, if he'd had the ~~muzzle~~ <sup>muzzle</sup> at the dent. And there was no sign of firing on the windowsill. With the rifle <sup>there</sup> the bullet would have had to have gone through the wall to get at ~~king~~ <sup>ing</sup>. Inside windowsill, shooting at a downward angle.

Ray's fingerprints were on the rifle only none where he would have held it to aim and fire it and after all, he did buy it. He obviously had to handle it then. The rifle had only the empty cartridge in it. It came with a clip to hold extra bullets but there were none. If I remember correctly, also no clip. (Some cocky assassin, huh? Needs only one shot and none to help escape!)

Pictures were taken almost as soon as the shot was fired, by a news photographer and by one on assignment for Public TV, Joseph Louw. (I have both) They show the bathroom window almost closed, open 3-4 inches. The police said this and the FBI reported it to HQ. Not nearly enough space for the rifle and to be able to see through the scope. And the scope was set at the opposite extreme for that distance. I have the FBI report on the setting and the manufacturers' catalogue showing how wrong it was set. While it can be said that the police changed the adjustment, they should not have and knew it and had no reason to. *no FBI explanation of setting*

Speaking of what I have raises where I have it. The files are like Topsy, and they grew a little Turvey. First I was still Ray's investigator, so I had "lead" files that under other circumstances would have had different titles. Then I had to move the legal files out of my office to have room for the records of the FOIA lawsuits. I also have an earlier file, Frame-Up ff., to which I also added. If any of the lab work is not in the file cabinet in my office a main lab report is Serial 1256 in 44-38861, Section 10. We have not located a large collection of copies of lab reports, about 1,000 pages. Mostly irrelevant.) I'm tiring, having started this 7 hours ago. I'll probably add more when I think of it.