

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

JOHN NICHOLS,

Plaintiff

v.

THE UNITED STATES OF AMERICA;
JAMES B. RHOADS, ARCHIVIST OF THE
UNITED STATES, GENERAL SERVICES
ADMINISTRATION, AND JOHN H. CHAFEE,
SECRETARY OF THE NAVY,

Defendants

No. T-4761

AFFIDAVIT OF JAMES B. RHOADS

DISTRICT OF COLUMBIA)

CITY OF WASHINGTON)

) ss

James B. Rhoads, being duly sworn, deposes and says:

1. I am the duly appointed Archivist of the United States and, as such, I am the head of the National Archives and Records Service, one of the five operating services of the General Services Administration, an agency of the United States of America. My office is located in the Archives Building, 7th Street and Pennsylvania Avenue, N. W., Washington, D. C. The following statements are based upon information acquired by me in connection with my services as Archivist and Deputy Archivist.

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2. As Archivist of the United States, pursuant to authority delegated to me by the Administrator of General Services, my responsibilities include the custody and preservation of all documents and other articles on deposit in the Archives of the United States, including the clothing of former President John F. Kennedy, consisting of a coat (CE 393), shirt (CE 394), and necktie (CE 395), the x-rays and photographs taken in connection with the autopsy of former President John F. Kennedy, and the rifle (CE 139), cartridge (CE 141), cartridge cases (CE 543, CE 544, CE 545), clip (CE 575), bullets and bullet fragments (CE 399, 573, 842, 843, and 856) which were Warren Commission exhibits, a copy of the Zapruder film, and a map of Dealy Plaza, Dallas, Texas, (CE 882), all of which were referred to in the complaint filed in the above-entitled action. I do not have the spectrographic analysis referred to in paragraph 5(h) of the complaint.

3. Said clothing, x-rays, and photographs were transferred to the United States of America for deposit in the National Archives of the United States by the executors of the estate of the late President John F. Kennedy by letter agreement dated October 29, 1966, executed by Burke Marshall, on behalf of the executors of the estate of John F. Kennedy, and by Lawson B. Knott, Jr., Administrator of General Services, on behalf of the United States of America. A copy of said

letter agreement is attached hereto as Exhibit (A). As authorized by (pages 44 U. S. C. 2107 said letter agreement, the validity of which has never 12-18) been challenged by the Government of the United States, contains restrictions on the inspection of or access to said clothing, x-rays, and photographs. Said restrictions having been accepted on behalf of the United States of America, compliance therewith is required by the letter agreement and by law.

4. Pursuant to said agreement, access to the articles of clothing is limited to certain Government officials and to serious scholars or investigators of matters relating to the death of the late President for purposes relevant to their study thereof, and the Administrator of General Services is authorized to deny requests for access, or to impose conditions he deems appropriate on access, in order to prevent undignified or sensational reproduction of the articles of clothing (paragraph I(2)). The agreement also provides that, in order to preserve these articles against possible damage, the Administrator is authorized to photograph or otherwise reproduce them for purposes of examination, in lieu of the originals, by such persons as are authorized to have access thereto (paragraph III(1)). In addition, the Administrator is authorized to impose such other restrictions on access to and inspection of said articles of clothing as he deems necessary and appropriate to fulfill the objectives of the agreement and his statutory responsibility under the Federal Property and Administrative Services Act of 1949, as amended, to pro-

vide for the preservation, arrangement, and use of said materials transferred to his custody for archival administration (paragraph VI).

5. Paragraph VII of the letter agreement provides that all "duties, obligations and discretions" of the Administrator under the agreement may be delegated to the Archivist of the United States. As stated above, as Archivist of the United States, I have been delegated such authority. Pursuant thereto I have determined that (a) serious scholars or investigators authorized to have access pursuant to paragraph II(2)(b) may view photographs of said articles of clothing, but may not inspect or examine the articles of clothing themselves; and (b) in no event shall said articles of clothing be released to the custody, temporary or otherwise, ^{of} ~~to~~ any such scholars or investigators for any purpose.


6. Under the restrictions imposed in paragraph II(2) of said letter agreement, the plaintiff may not be permitted to have access to the x-rays and photographs referred to above, and custody of said x-rays and photographs, temporary or otherwise, may not be given to the plaintiff for any purpose.

7. The National Archives and Records Service, through the National Archives and the Presidential Libraries, for which it is responsible, performs a very valuable service both for important public figures who give their papers and other historical materials

to the United States and for scholars who will eventually use these materials as basic sources for research. It provides secure storage for the papers and other historical materials and a professional staff to arrange and index such papers and other historical materials so as to make them more useful to scholars who will use them. The authority of the National Archives and Records Service to accept such gifts of papers and other historical materials subject to whatever conditions of limited access may be requested by the donor ensures that, during the period when a degree of sensitivity attaches to discussion of events and personalities, the rights of privacy of the donor and of persons discussed in the papers are fully protected. It also ensures that valuable collections of papers and other historical materials will be saved and, with the passage of an appropriate period of time, will be made available to writers, scholars, and other interested persons for research use. To permit the confidential restrictions to be violated would completely destroy public confidence in the Federal Government's ability and willingness to honor its commitments to donors of papers, oral history transcripts, and other historical materials. If this confidence is destroyed, the validity of the whole concept of the National Archives and Presidential Libraries will be placed in question, and the future development of these and similar institutions will be

imperiled. If public figures no longer can be assured that their interests will be protected when their papers and other historical materials are deposited in public institutions, they will cease to place important and sensitive materials in such institutions. The result will be a drying up of basic research resources in history, economics, public administration, and the social sciences generally, and consequent damage to the cause of education, culture, and public enlightenment.

8. The Warren Commission Exhibits referred to above were transferred to the National Archives pursuant to the Act of November 2, 1965 (Public Law 89-318, 79 Stat. 1185), and the order of the Acting Attorney General, dated October 31, 1966 (31 F.R. 13968), issued pursuant to that Act. Section 4 of the Act of November 2, 1965, provides that these items, together with others, shall be placed under the jurisdiction of the Administrator of General Services for preservation under such rules and regulations as he may prescribe. Pursuant to the authority delegated to me by the Administrator, as stated above, I have determined that (a) three dimensional articles held in the National Archives pursuant to the Act of November 2, 1965, including the rifle, clip, cartridges, bullets and bullet fragments referred to above, may be viewed by researchers but may not be handled either manually or

with instruments for the purpose of testing or otherwise; (b) none of said articles shall be taken from the Archives building for any reason by anyone except an authorized employee of the Federal Government, subject to my approval; and (c) in no event shall custody of such articles, temporary or otherwise, be given to any other person for any purpose. The foregoing rules with respect to such articles are necessary to prevent loss, damage, destruction, or alteration to which such articles would be subjected ^{if} they were permitted to be handled, transported, or tested. Adherence to the foregoing rules and continued, uninterrupted custody of such articles by the National Archives is imperative in order to permit the full discharge of the responsibilities imposed by the Act of November 2, 1965, for the secure preservation of the articles. Shortly after the Warren Commission ^{ceased to exist} items of evidence, including the Exhibits hereinbefore referred to, were transferred to the National Archives, ^{and} the National Archives and Records Service informally provided regulations for reference service on such items of evidence to those officials of the National Archives and Records Service having responsibilities with respect to those items. A copy of said regulations is attached hereto as Exhibit (B)  (page 19)

9. The above-mentioned x-rays and photographs, articles of clothing, and Exhibits 399, 573, 842, 843, 856, 139, 141, 543, 544,

545, and 575 were acquired and are preserved, subject to all restrictions applicable thereto, solely for reference purposes as materials having permanent historical and evidentiary value.

10. Requests made by the plaintiff for access to the autopsy x-rays and photographs were denied by the Archivist of the United States by letters to the plaintiff dated July 21, 1967, and October 5, 1967, copies of which are attached hereto as Exhibits (C) and (D) respectively. The requests of the plaintiff to allow him to have Exhibits 399, 842, and 843 analyzed by neutron activation and to measure Exhibit 856 were denied by the Acting Director, Diplomatic, Legal, and Fiscal Records Division, National Archives and Records Service, by letter to the plaintiff dated June 28, 1968, a copy of which is attached hereto as Exhibit E. Plaintiff's request to study the autopsy x-rays and photographs and to have temporary custody of Exhibits 399, 573, 842, 843, and 856, together with the articles of clothing hereinbefore described, for submission to neutron activation analysis was denied by the Archivist on January 17, 1969, by a telegram which was telephoned to the Western Union Telegraph Company for dispatch to the plaintiff. Plaintiff's request to examine and fire the rifle (Exhibit 139) and to examine and study the clip (Exhibit 575), and to study, photograph, and

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submit to neutron activation analysis Exhibits 543, 544, 545, and 141 was denied by letter dated February 6, 1970, a copy of which is attached hereto as Exhibit F. (page 23)

11. The 8 mm motion pictures of the assassination of the late President Kennedy filmed by Mr. Abraham Zapruder together with individual frames will be shown to plaintiff at his request on the same basis as they are shown to other researchers; that is during normal working hours at the building housing the Archives of the United States in Washington, D.C. A copy of the large scale map of Dealy Plaza in Dallas, Texas (CE 882) will be furnished to plaintiff upon request.



JAMES B. RHOADS

Subscribed and sworn to before me this 29th day of July, 1970.



Notary Public

My Commission expires: August 31, 1974